

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

June 13, 2006 7:00 p.m.

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

A G E N D A

- 1) Meeting call to order by Mayor Costello.
- 2) Invocation.
- 3) Pledge of Allegiance.
- 4) Approval of the Minutes of the May 16, 2006, regular meeting and the May 29, 2006, emergency meeting.
- 5) **PRESENTATIONS:**
- 6) **AUDIENCE REMARKS:**
- 7) **INTERGOVERNMENTAL AND BUDGET ADVISORY BOARD REPORTS:**
 - A) Budget Advisory Board
 - B) Metropolitan Planning Organization
 - C) Volusia Council of Governments
 - D) Water Authority of Volusia
- 8) **CONSENT AGENDA:** The action proposed is stated for each item on the Consent Agenda. Unless a City Commissioner removes an item from the Consent Agenda, no discussion on individual items will occur and a single motion will approve all items.
 - A) Resolution No. 2006-117 accepting the bid of P&S Paving, Inc., regarding paving services for the 2006 Roadway Resurfacing project, under Bid No. 2006-19; rejecting all other bids; authorizing the execution of a contract between the City and P&S Paving, Inc., and payment thereunder. (\$407,357.12)
 - B) Resolution No. 2006-118 authorizing the execution of an ECHO Grants-in-Aid Letter Contract between the City and the County of Volusia regarding construction of a boardwalk in Central Park. (\$600,000 total project; \$300,000 ECHO funds; \$300,000 City funds)
 - C) Resolution No. 2006-119 authorizing the execution of an Urban and Community Forestry Grant Memorandum of Agreement between the City and the State of Florida, Department of Agriculture and Consumer Services. (\$32,250 grant funds; \$10,750 City funds for trees to be given away)
 - D) Resolution No. 2006-120 authorizing the execution of a letter approving the distribution of \$182,172 of Fiscal Year 2007 Federal Anti-drug Abuse Funds within Volusia County; authorizing the execution of an application for funding assistance.
 - E) Resolution No. 2006-121 terminating a Florida Recreation Development Assistance Program project agreement between the City and the Florida Department of Environmental Protection regarding improvements to Central Park; authorizing the transmittal of a termination letter. (Central Park land acquisition)

- F) Resolution No. 2006-122 authorizing the execution of an agreement between the City and Bermuda Estates @ Ormond Beach, L.L.C., for the construction on an entrance wall on the east corner of Bermuda Estates Drive and State Road 40 as approved by Resolution No. 2003-139.
- G) Resolution No. 2006-123 authorizing the sole source procurement of PEP tanks from Alpha General Services, Inc., regarding the West Ormond sewer collection system; authorizing the execution of a contract and payment therefore. (Not-to-exceed \$1,212.50 per unit; 120 new units and 70 rehabilitated units)
- H) Resolution No. 2006-127 authorizing the renewal of health insurance services with Florida Health Care Plans; authorizing the execution of an agreement and payment therefor.
- I) Review of FY 2005-06 budget status.

DISPOSITION: Approve as recommended in City Manager memorandum dated June 8, 2006.

- 9) **PUBLIC HEARING** on Resolution No 2006-128 approving and authorizing the removal of an historic tree on property located at 423 Oak Park Circle.

10) **RESOLUTIONS:**

- A) Resolution No. 2006-124 authorizing the execution of a first amendment to the agreement between St. Johns River Water Management District and the City for the North Peninsula Reclaimed Water Storage Tanks.
- B) Resolution No. 2006-125 authorizing the execution of a Cost Share Agreement between the City of Ormond Beach and St. Johns River Water Management District regarding the Water Treatment Plant Expansion project. (\$11,460,000 total project; \$4,360,000 in SJRWMD funding)
- C) Resolution No. 2006-126 authoring the payment of an invoice to the Water Authority of Volusia regarding construction services provided by McMahan Construction for the City's portion of finished water interconnects. (Interconnects between Holly Hill and Ormond Beach - \$51,391.79)
- D) Resolution No. 2006-129 pertaining to the proposed amendment to the Ormond Beach City Charter resulting from the petition drive of the Ormond Beach electorate regarding building height limits and restrictions; authorizing the directing the initiation of legal action to determine the legal sufficiency of the proposed amendment; ratifying and affirming all action taken to date.
- E) Resolution No. 2006-130 of the City of Ormond Beach and the North Mainland/Ormond Crossings Redevelopment Agency approving settlement offers regarding the acquisition of various parcels in the Ormond Crossings Redevelopment Area; authorizing the preparation and execution of any and all settlement documents deemed necessary relative thereto; authorizing payment therefor.

11) **DISCUSSION ITEMS:**

- A) Fire Department position request.
- B) Update on windstorm insurance.
- C) Update on consolidated dispatch service.
- D) Update on affordable work force housing analysis.
- E) Update on impact fees.
- F) Update on transportation planning issues and concerns.

- 12) **REPORTS, SUGGESTIONS, REQUESTS:** Mayor, City Commission, City Manager, City Attorney.

- 13) Close the meeting.

Item #1 - Call to Order

Mayor Costello called the meeting to order at 7:05 p.m.

Item #2 – Invocation

Mayor Costello gave the invocation.

Item #3 - Pledge of Allegiance

Mayor Costello led the Pledge of Allegiance.

Item #4 – Approval of Minutes

Mayor Costello advised the May 16, 2006, regular meeting and the May 29, 2006, emergency meeting have been sent to the Commissioners for review and asked if there were any corrections, additions, or omissions.

Mayor Costello asked if there was any objection to approving the minutes as submitted. Hearing none, he declared the minutes approved as submitted.

Item #6 – Audience Remarks

Building Height

Mr. Gregory Avakian, 161 Heritage Circle, reported the CAN DO website's opening page read as follows: "Make no mistake. Super high-rise buildings are coming to Ormond Beach oceanfront, riverfront, and all of Granada Boulevard." He noted on the morning radio talk show he heard Mr. Jeff Boyle, Chairman of CAN DO, define "super high-rise" as any structure exceeding 75 feet. Mr. Avakian pointed out that by this definition the Heritage was a super high-rise and Julian's building, over twice the number of floors as the Heritage, may be considered a "mega high-rise." He questioned if that was the method used in obtaining 3,400 signatures on the CAN DO petition.

Mr. Avakian reported his comments may last longer than five minutes and requested he be permitted to continue at the end of the meeting.

Off-beach Parking

Mr. Jeff Boyle, 614 North Halifax Drive, stated that in April he presented the Commission with a ten-year documented history of the City's failure to achieve an off-beach parking partnership with County government. He asked the Commission to consider new opportunities for partnership with the County. Mr. Boyle reported the lease at the church parking lot at the Neptune approach was successful. He stated beachgoers must cross only two lanes of A1A with the aid of a traffic light at a cost of over \$125,000 to Ormond Beach. Mr. Boyle pointed out the County still had not spent any money on land acquisition or capital construction for Ormond Beach. He stated the oceanfront had a desperate need for a beachfront parking facility similar to those built in other cities and in the County. Mr. Boyle advised properties are now available. He reported there were at least four single-family homes that display "for sale" signs, and two of those properties were adjacent, and another apparently vacant property without a "for sale" sign was adjacent to one of the other four aforementioned properties. Mr. Boyle questioned what land acquisition mechanism was now in place for County, City government, or both, to move quickly when properties come on the market. He noted the County had substantial funds to provide and has pledged to this Commission that the funds could be made available.

Mr. Boyle advised that the Race and Recreation Commission had listed off-beach parking as its top priority, and there was a possibility to obtain State grants as well. He questioned if the current budget contained a building fund to match other government agencies willing to partner with the City. Mr. Boyle reported he suspected the residents would approve a referendum for a bond to obtain such a facility or match the funds obtained from other governments. He recommended the City create a land-acquiring mechanism and budget mechanism.

Mr. Boyle explained the Royal Floridian was able to acquire a huge property near the Granada approach a few years ago for only \$300,000. He stated that lot had stood vacant for four to five years. Mr. Boyle advised the Commission approved the expansion of the Royal Floridian last fall with a unanimous vote, and construction would be starting soon. He noted that opportunity was gone, but other opportunities now existed. Mr. Boyle stated if the City was serious about true beach access from the east side of A1A, this was the time to act.

City Commission –June 13, 2006

Mr. Boyle requested moving Item 10(D) up on the agenda in that there were 80 to 85 people in attendance to hear that item.

Mayor Costello reported Mr. Boyle may be surprised to know that he did not disagree with anything he stated this evening.

CAN DO Petition

Mr. Glenn Jaspers, 160 Ocean Terrace, stated he was pleased to see the spirited, calm, collected, and orderly crowd, which had not always been the case in the past where people had to be escorted from the premises by the police. He reported the Commission had certain rights as a result of winning their seats, but he urged the Commission to consider Section 166.031 which read: "The governing body of a municipality may by ordinance, or the electors of a municipality may by petition, signed by 10% of the registered electors as of the last preceding municipal general election, submit to the electors of said municipality a proposed amendment to its Charter...." Mr. Jaspers stated the Commission already had petitions that had been authenticated, and it should go to a vote of the citizens.

Mayor Costello stated the CAN DO petition would be discussed later in the agenda.

Public Rights-of-way and Passive Parks

Mr. Pat Lemee, 280 South Halifax Drive, stated he and his family use the access at Ormond Parkway to the river. He advised these passive parks were very important to the people who do not go to the beach.

Fluoridation

Mr. Jim Schultz, 117 Harvard Drive, reported the Dental Fluorosis Index Scale considered fluoridation a failure if dental fluorosis exceeded 10% in the mildest of forms, and in the 1950s that percentage was greatly exceeded. He stated children now receive three times the amount of fluoride between water and food sources that they did in the 1940s and 1950s. Mr. Schultz defined fluorosis as a porosity of the enamel due to poisoning damaging of the tooth-forming cells so they can not produce the pearlescent enamel.

Mayor Costello stated he would be interested to have Mr. Schultz send him information relative to the amount of fluorosis that had been documented in areas where it had been added because the fluorosis typically seen was in natural areas.

Ormond Parkway Passive Park

Ms. Lee Dunkel, 94 Ormond Parkway, stated she could not understand why the City would want to take away the passive park at Ormond Parkway and exchange it for a four to six-story parking garage at the other end of Ormond Parkway. She noted the entire neighborhood gathers at that park on the Fourth of July holiday to watch the fireworks. Ms. Dunkel expressed hope the City would not take away the park, sell it, or close it as she was informed was a possibility.

Mayor Costello asked Ms. Dunkel to contact him later because he had not heard of such a possibility.

Water Issues

Ms. Pattie Barker, 1105 Overbrook Drive, Ormond Beach, stated that last week she and other residents voiced serious concerns regarding the safety of Ormond Beach's drinking water following a Health Department report which described deplorable conditions at the water treatment facility, but the Commission described a situation where staff members failed to "ring the bell" loud enough when bringing sensitive issues to their attention. She reported the record showed that on April 19, 2005, Ms. Sloane rang the bell loud and clear when she reported that the Health Department may have to implement a moratorium on general permits unless the City could prove requirements with usage. Ms. Barker stated Ms. Sloane told the Commission that the City exceeded the 75% rated treatment capacity quite often and that the City could not risk having inadequate water for its customers, reminding the Commission that regulatory requirements must be met. She noted Ms. Sloane told the Commission she was very uncomfortable with the current situation, and over one year later these issues still had not been adequately addressed, and Ormond Beach was faced with fines, possible sanctions, and a potential public health emergency.

Ms. Barker stated that last year she rang the bell in a repeated attempt to bring serious leadership problems in our Police Department to the Commission's attention, but Chief Mathieson retired with parties, plaques, and a standing ovation from the Commission while the promised independent review never occurred. She advised Chief Longfellow was a good man, and the people have new hope for the future; however, he had a difficult task ahead

of him, because for true change to be effective he would need Mr. Turner's support to make the senior staff changes necessary to correct the mistakes of the past and rehabilitate the Police Department.

Ms. Barker reported on the heels of the Police Department embarrassments came the highly publicized incident now known as the airport debacle, the leaking roof at the Nova recreation complex, flooding at The Casements, long-term maintenance issues at the water and sewer plants, a lack of adequate emergency equipment for police officers, unprecedented tax and utility rate increases, and a host of other issues facing the community. She stated the City has lapsed into a crisis mode running from one emergency to the next with no time or resources to focus on enhancing the community and no vision for the future. Ms. Barker noted annexations equating to substantial tax revenues are in jeopardy, future development was in question, and existing infrastructure was allowed to crumble. She stated despite Mayor Costello's contentions to the contrary, this was not effective management, but a government in crisis.

Ms. Barker reported last week citizens approached the Commission and demanded accountability for the mismanagement and leadership failures that led to the recent water crisis. She noted the citizens were told that rather than holding highly paid professionals accountable for their actions, an intervention was in order; but this attitude was lost on the taxpayers since they are tired of paying for the mistakes of the City. Ms. Barker noted the citizens have rung the bell loud and clear, sounded the alarm, and yet nothing has changed leaving people to wonder what other problems were waiting to blindside the people and what the next critical infrastructure problem would be. She stated she demanded accountability for the dereliction of duty of senior management and proper oversight of critical City services.

Mayor Costello stated there were many inaccuracies in Ms. Barker's statement. He asked Mr. Turner to address each issue in the Friday letter. Mayor Costello reported there was no public health emergency. He advised the Department of Health was at the 5:30 meeting along with St. Johns River Water Management District, and WAV who all repeatedly stated there was no public health emergency. Mayor Costello stated people could say whatever they wanted, if they would only get the facts straight. He reiterated the water had never been compromised, and there was no public health emergency.

Water Issues

Ms. Bonnie Emery, 44 Sanchez Avenue, stated the City had experienced water problems noting the boil water notice was not issued for no reason.

Mayor Costello stated the City has had boil water notices for years whenever a water main break occurred. He reported no one could control a water main break.

Ms. Emery reported she defined that as a health problem.

Mayor Costello reiterated that no community could control a water main break; they do occur, and they require a boil water notice.

Ms. Emery stated Ormond Beach had problems in the past with water mains, and it had outgrown its infrastructure. She noted the City has been adding high-rises, but had not kept up with the infrastructure, which would cause more problems in the future. Ms. Emery stated the City may fix the infrastructure, but they did not prioritize and gave as an example constructing a sidewalk that had to be torn up to place a pipe and then constructed again. She reported before worrying about high-rises the current infrastructure should be fixed.

Mayor Costello stated he would agree prioritization was important, but high-rises were totally irrelevant, since no one was advocating increased density.

Mr. Turner stated staff would meet with any individual or group at almost any time to discuss issues of concern. He reported the person over the inspectors from the Department of Health stated there was not a water safety issue in Ormond Beach; however, there were maintenance issues at the plant that must be addressed. Mr. Turner explained the Commission approved a plant expansion to provide more water and to improve the water treatment plant. He noted staff must do a better job of maintaining the current facilities, and there would be accountability. Mr. Turner reported he always tried to respond to citizens' requests for services to the greatest extent possible, and there was accountability from staff. He stated he did not rail on people at this dais as a professional courtesy, but staff was held responsible for their actions.

Mayor Costello requested moving Item 10(D) after the intergovernmental reports. No objection was voiced.

Item #7(B) Budget Advisory Board

Mr. Rick Lovell, 354 Applegate Landing, Budget Advisory Board Chairman, reported the Budget Advisory Board was asked to review two issues: evaluate the Fleet Maintenance operation to determine if contracting out the service would reduce costs while enhancing or maintaining services and to review defined contribution retirement plans. He stated in 2004, as part of a broad departmental review, the Budget Advisory Board performed a review of Fleet Operations and its responsibilities. Mr. Lovell advised that the review did not expose any obvious areas in which savings could be realized. He reported that during March and April of this year the Budget Advisory Board again reviewed Fleet Maintenance and other operations in the department. Mr. Lovell pointed out that four of the five members of the board were new to the board since the last review. He advised the Budget Advisory Board found no benefit in contracting any of the services or functions currently provided by Fleet Operations. Mr. Lovell stated this department developed a means of validating its operational costs as compared to the open market and kept its costs competitive while providing superior service.

Mr. Lovell advised that during this review the Budget Advisory Board members individually met with Fleet Operations management and personnel which were vital to fully understand Fleet Operation's responsibilities, and it was recommended to any member of the Commission who had not recently toured the facility. He explained the board reviewed the costs of individual maintenance and repair issues, how maintenance was scheduled and charged, inventory and parts control, and many other aspects. Mr. Lovell reported all questions were answered in detail, and any requested data was immediately made available. He commended the Fleet Operation's Department for its ability to track its extensive inventory of equipment and identify the cost to operate and maintain each individual piece of equipment in its care. Mr. Lovell pointed out the Budget Advisory Board determined this to be an integral part of the City's daily operation in that it provided services during natural disasters and other emergency situations and was a critical component to the day-to-day operations of the City. He advised the Budget Advisory Board was unanimous in its opinion that the Commission should not expend any money to study privatization of Fleet Operations unless or until the reports generated by Fleet Operations demonstrate a significant cost differential from the private sector.

Mr. Lovell stated that while the City's employees' retirement plans are comparable to those offered elsewhere, defined benefit plans were creating economic challenges throughout the country. He advised private and governmental agencies have been switching to defined contribution retirement plans which offer the employees the ability to create a retirement benefit that in some cases exceeds what the employee would have received under the defined benefits system while allowing the employer to manage and budget to pay a benefit package.

Mr. Lovell reported the Budget Advisory Board recommended the City establish a defined contribution retirement plan for new employees as well as any existing employees who wish to convert as soon as practical based on the financial feasibility analysis. He stated the pension boards and/or staff should ascertain options for defined contribution retirement plans for general employees, and the Commission should be prepared to provide guidance as to the City's budgetary commitment to the proposed plans. Mr. Lovell reported a combined defined contribution/defined benefit plan should also be considered. He stated the time required to become vested in the General Employees Retirement Plan was currently five years and should be reviewed to determine if any savings could be realized by changing the years of service required before an employee would become vested. Mr. Lovell advised that within the past hour he received information indicating that the difference between five, seven, and ten years was minimal; therefore, there was no impact under the current system, but there may be under a defined contribution plan.

Mr. Lovell stated in the 2007 budget, wages for all City employees would be \$18,162,000, and the City's contribution for the defined benefit retirement plans would be approximately \$2,107,623. He reported if the City were to terminate or eliminate the current defined benefit plans and institute a new defined contribution plan that contributed an automatic one percent of an employee's base salary and match up to five percent of the employee's base salary, the City's contribution would be no more than \$1,329,720, which was a saving of \$777,903. Mr. Lovell noted this example would not meet the criteria set by the Commission which wanted a plan to keep current employees under the current plan and a new plan for new employees. He reported changes to the retirement benefits for the Police and Fire Departments were complicated by the rules that govern the plans. Mr. Lovell stated if the existing plans were frozen, the amortization of unfunded accrued liability would need to continue at approximately \$800,000 a year for the next 30 years.

Mr. Lovell noted while current defined plans could be replaced by a single defined contribution plan, to do so could place the City in the position of being the only municipality in the region that

did not offer a defined benefit plan; and the effect this would have to the City's ability to hire and maintain the best candidates for its workforce was evident. He stated converting from the current retirement system to any new retirement plan would likely be a process that would take place over a number of years, and savings to the budget would likely be seen over the long term rather than immediately; however, the Budget Advisory Board recommend the pension boards and/or staff present the Commission with any options available that would reduce the City's budgetary responsibility to current or future defined benefit plans.

Mr. Lovell concluded by stating the Budget Advisory Board recognized that retirement benefits were important to the employees; however, the primary cause of the growth in the pay-in benefits portion of the City's budget was the City's cost to fund its defined benefit retirement program. He pointed out the City had limited financial resources and a responsibility to its citizens to control costs. Mr. Lovell stated the Board hoped the employees would recognize the City and its citizens could no longer afford to fund a defined benefit retirement plan, but were committed to providing a retirement plan that would be acceptable to the employee and affordable to the City.

Mayor Costello thanked Mr. Lovell and the entire Budget Advisory Board. He noted on a regular basis reports have indicated that cities go bankrupt or have financial difficulties because of their pension plans, and VCOG was looking into that issue. Mayor Costello concurred that this was not a short-term budget savings, but a long-term correction that would improve the long-term viability of the budget.

Item #7(B) Metropolitan Planning Organization

Mayor Costello stated that yesterday at the executive committee meeting of the Metropolitan Planning Organization (MPO) a potential amendment was discussed to take the stipulation that the County was to provide off-beach parking out of the County Charter. He advised that he informed Chairman Frank Bruno that he would work to make sure that amendment did not pass, but Chairman Bruno indicated he had not seen any documentation to that effect and agreed it should remain in the Charter. Mayor Costello reported the proposal was immediately rejected and did not receive any support. He noted he was pleased the County representatives understood the County owed Ormond Beach parking; they were looking for land to acquire; and he urged Mr. Boyle to contact him or someone else in the City to work to obtain the land he mentioned and any other available land. Mayor Costello cautioned that government had a tendency to work slowly and that appraised prices must be paid. He pointed out that the City lost an addition to Central Park because by the time the City obtained the grant, the price had increased.

Mr. Turner stated he and the County Manager, along with the two staffs, would be meeting to creatively examine any additional approaches to off-beach parking. He commended the County Manager and Councilman Carl Persis who arranged some discussions on the issue. Mr. Turner advised the meeting was scheduled for this Friday.

Mayor Costello stated the City Manager was working with the County Manager on this issue. He noted regardless of what happened with the CAN DO proposal, it was understood that the County owed Ormond Beach land, and any suggestions would be appreciated.

Item #7(C) Volusia Council of Governments

Mayor Costello stated the Volusia Council of Governments (VCOG) was conducting a salary survey and benefits assessment for the municipalities and Volusia County. He stated he had long ago recommended examining the defined benefits verses the defined contribution systems. Mayor Costello noted Ormond Beach was not the only community faced with this issue. He clarified that no one was advocating taking anything away from any existing employees; however, he would support creating a new culture for a government worker to be competitive with the private arena.

Item #7(D) – Water Authority of Volusia

Commissioner Kelley stated there was a special Water Authority of Volusia (WAV) meeting last Wednesday to discuss the ongoing mediation with Daytona Beach. He explained another mediation session would be held Monday and another WAV meeting was scheduled next Wednesday where, hopefully, the results could be reported.

Item #7(E) – Main Street Organization

Commissioner Kent stated the Ormond Main Street Organization had a very exciting meeting yesterday. He reported Ms. Maggie Sacks, the new executive director, was filled with energy. Commissioner Kent advised a fall festival was scheduled for Saturday, October 14, from 10:00 a.m. to 4:00 p.m. at The Casements for a chili/chowder cook-off with restaurants, the Fire Department, and the Police Department involved, and the Commission was invited to act as the judges. He noted a five kilometer race would also be a part of the event.

Commissioner Kent stated a tree lighting ceremony was scheduled for Saturday, December 9, in the City Hall courtyard. He reported the Ormond Main Street organization just applied for tax exempt status.

Item #10(D) – Building Height Limits Petition

RESOLUTION NO. 2006-129

A RESOLUTION PERTAINING TO THE PROPOSED AMENDMENT TO THE ORMOND BEACH CITY CHARTER RESULTING FROM THE PETITION DRIVE OF THE ORMOND BEACH ELECTORATE REGARDING BUILDING HEIGHT LIMITS AND RESTRICTIONS; AUTHORIZING THE DIRECTING THE INITIATION OF LEGAL ACTION TO DETERMINE THE LEGAL SUFFICIENCY OF THE PROPOSED AMENDMENT; RATIFYING AND AFFIRMING ALL ACTION TAKEN TO DATE; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Kelley, to approve Resolution No. 2006-129, as read by title only.

Mayor Costello explained this item was to discuss Section 166.031, which stated the following: “the governing body has the obligation to place proposed charter amendments to the vote of the electorate if the petition is legally sufficient in all material aspects.” He stated the City Attorney’s May 11, 2006, memorandum raised issues regarding the legal sufficiency of the proposed amendment.

Mr. Randall Hayes, City Attorney, reported this memo was intended to supplement the previous discussion, and the resolution was intended to implement the direction the Commission provided at the last Commission meeting.

Ms. Lois Spiess, 209 Osceola Avenue, stated her son, serving in the Army in Iraq, signed the petition when he was home in April and wished to vote on the issue through an absentee ballot when it was placed on the ballot. She added her own opposition to building above 75 feet in Ormond Beach. Ms. Spiess explained she lived five houses from A1A, and 12 to 19-story buildings would loom over the residents west of them, depriving those homeowners of privacy. She urged all buildings he held to the existing 75-foot limit because taxpayers had a reasonable expectation that there would be no radical change in building regulations.

Mr. Gregory Avakian, 161 Heritage Circle, Chairman of FACTS PAC, stated he was truly appreciative of democracy, and the reason a democracy worked was due to its checks and balances and the laws must be followed. He explained if anyone were uncertain if a law was being broken, it would not make sense to act when judicial clarification could be sought. Mr. Avakian stated this was a prudent action. He reported FACTS PAC supported the move for judicial clarification.

Mr. Jeff Boyle, 614 North Halifax Drive, representing CAN DO, stated the citizens first asked for this ballot question in 2005, and the Commission refused the request by a three to two vote. He explained CAN DO was formed in February to obtain the signatures, at which time the petition was submitted to the Commission. Mr. Boyle reported the Commission indicated some of those signing the petition had been misled by “lies,” and the Commission proposed its own Charter amendment that would expand the same Commission power the petition sought to reduce. He noted in March CAN DO collected 3,400 valid signatures that were subsequently certified by the County elections supervisor. Mr. Boyle advised that it then became the obligation of the Commission to schedule a referendum vote no later than November 7, but this Commission still did not set an election date 60 days after CAN DO won the right to have that election. He reported that the Commission now proposed to use taxpayer money to file a lawsuit against the same citizens the Commission was elected to represent. Mr. Boyle stated the Commission now asserted the words on the petition were out of sequence even though the Commission was responsible for sending the properly worded ballot question to the County.

Mr. Boyle reported the Commission's second objection questioned the right of the people to petition for a Charter restriction on the Commission power. He noted all Commission powers were derived from the Charter, and pointed out that the petition challenged the Commission's power to change the rules on building heights without voter approval. Mr. Boyle reported he was confident a judge would reject the Commission's arguments and reaffirm that all home-rule Charter power was derived from the people. He explained this resolution would require citizen money to defend the petition, and he requested the Commission stipulate it would reimburse the legal costs if a judge decided the Commission's lawsuit was wrong. Mr. Boyle reported the resolution to challenge the petition would deny the citizens' right to vote. He stated since Mayor Costello's proposal to high-rise the beach, which he negotiated away from the government sunshine, and through Commission comment for the past four months, there was a strong perception in the community that the lawsuit was not about the legality of the petition, but about denying the people the right to vote. Mr. Boyle advised the CAN DO people would vigorously defend the petition, and no matter what a judge may say, CAN DO and this issue would not go away.

Ms. Lucille Bornmann, 6 Windsor Drive, stated people have a right to expect preservation of the historic buildings and single-family neighborhoods, mixing the past with the new. She reported historic districts were a positive influence on property values. Ms. Bornmann noted high buildings would require more parking, and many times historic buildings are demolished to make room for parking. She pointed out that Florida was vulnerable to hurricanes, and the taller the building the stronger the winds, which can cause windows to blow out leaving the surrounding areas around the buildings very dangerous. Ms. Bornmann stated home insurance increases were due to damage to higher buildings and other hurricane problems. She pointed out other surrounding cities are limiting heights of buildings. Ms. Bornmann stated the City should not be for sale. She noted other cities commissions did not block their residents the right to vote for the quality of life they want for their families. Ms. Bornmann advised real estate was declining in value, and the City could have many empty condos on the beach. She objected to the taxpayers paying for all of the needs associated with increased development without having a voice. Ms. Bornmann stated the residents' tax dollars should not be used to sue the residents paying the taxes.

Ms. Linda Kalaydjian, 784 Peninsula Drive, stated Ormond Beach had something special, and it was rapidly disappearing and could be lost. She questioned why the City would prefer to give into money when the beach was so precious. Ms. Kalaydjian urged Ormond Beach not be built up like Miami and Boca Raton. She noted it was difficult to have a petition signed by so many people, and she did not understand why Ormond Beach would want to file a lawsuit against its own residents. Ms. Kalaydjian reported there was a creative way to solve this issue, which was similar to the way New York secured Jones Beach as a State Park. She pointed out Ormond's beach was a barrier island, and tall buildings should not be built on a barrier island. Ms. Kalaydjian reported this area was headed for 30 to 40 years of serious storms. She recommended examining the possibility of the City partnering with the property owners who were in jeopardy, possibly by the use of eminent domain.

Mr. Norman Lane, 1314 Northside Drive, stated the main arguments against the amendment related to preventing "condo canyons" on A1A and to secure open space on the beach. He questioned why condo canyons could not be prevented by the use of zoning rules, increasing the set-back rules, and decreasing the height limit, possibly to 35 feet. Mr. Lane asked why the City did not purchase property for open space. He reported Bray and Gillespie just bought a hotel for \$1.5 million, and the City should have bought it for this small amount of money with the assistance of grants and County funding. Mr. Lane noted preventing the passage of this petition would allow the Bray and Gillespie proposal to proceed.

Mr. Russ Nicastro, 2 Appaloosa Trail, reported 34,000 to 36,000 people had voted, and the petitions were approved by the elections supervisor so the people should be able to vote.

Mr. Chris Jessup, 139 Fairway Drive, stated that he was not aware of all of the legal issues about which Mr. Hayes expressed concern, but he believed people should have the right to vote.

Mr. Randall Hayes, City Attorney, stated this was a very emotional issue that tended to divide a community, but it was his job to examine the issues objectively and neutrally, and he had serious reservations as to the sufficiency of the language in the petition. He pointed out this Commission had a right and duty to make sure the petition was legally sufficient before it could go to a vote. Mr. Hayes noted he had reservations whether the petition would actually make it to a vote, which was why judicial clarification was needed. He reported in the face of his memorandum and analysis, he did not know what other position this Commission could take

other than to seek judicial clarification. Mr. Hayes advised this Commission would be derelict in its duties if it did otherwise. He reported the lawsuit was essentially a neutral suit where the City would be seeking clarification of certain issues regarding the sufficiency of the language, and the outcome must be determined before the Commission could proceed any further.

Commissioner Kent stated this lawsuit could cost between \$25,000 and \$50,000 depending on CAN DO's defense.

Mr. Hayes reported the cost would depend on a number of variables.

Commissioner Kent reported he was humbled to serve the people, and he thanked them for his position. He pointed out serving on the Commission was a public service. Commissioner Kent stated he took an oath, and he would represent what the people wanted. He urged his fellow Commission members to let the people vote.

Commissioner Partington stated if it was legal, the people would vote. He cautioned putting language on a ballot where serious legal concerns were noted when it could put the City in a position where if that failed language would be voted into law, the City would have to defend takings clauses, constitutional issues lawsuits, and Florida Statutes Bert Harris Act lawsuits that could cost the City hundreds of thousand of dollars in legal fees. Commissioner Partington questioned if a person truly cared about Ormond Beach, why they would want to put the City at such an enormous risk. He reported the proper procedure would be to ask a judge to make certain this was legally sufficient; and if it was legally sufficient, the people would vote. Commissioner Partington advised the Commission was sworn to perform a duty to make sure the Commission's actions would be justifiable and sustainable; and to do that, the Commission must take the emotion out of the issue and examine it in a purely legal perspective. He noted this resolution formalizes the action to assure that would occur, and he would support it.

Commissioner Partington urged people to push past "perception" because a City can not be run on perception; it must be run on hard solid facts. He explained perception was someone trying to spin a view to accomplish their goal. Commissioner Partington used the example of the people's concerns about Ormond Parkway when there was no plan to do so. He questioned who would put out such reckless lies, causing citizens to worry about something that had never been anticipated. Commissioner Partington urged examining the facts. He noted this was not to prevent the people from voting, and the Commission had a duty to uphold what was legal regardless of the consequences. Commissioner Partington pointed out the CAN DO leader came before the Commission stating he did not care what a judge would say, which was arrogant lawlessness. He reiterated the goal was not to block the vote, but to make certain what was voted on was legal with proper judicial review. Commissioner Partington noted he agreed with a great deal of what Ms. Kalaydjian stated because he also loved the beach, but people can not access the beach or park there. He pointed out signatures on a petition could be easy to obtain depending on how the people presented the issue. Commissioner Partington advised he would continue to support this tonight as it was the appropriate action to take.

Commissioner Gillooly stated the petition coming forward brought responsibilities for the Commission to accept and review it, but it also brought a responsibility to protect the interests of the City. She explained that once the legalities had been raised, it became incumbent upon the Commission to insure everything be reviewed and an impartial decision be made. Commissioner Gillooly noted the Commission owed this action to the entire City. She agreed wholeheartedly that this was an emotional issue, but the Commission did not have the luxury of viewing the issue in such a manner in that the people elected the Commission to insure they protect the City, which was why it was very important to move forward to obtain a judge's impartial decision. Commissioner Gillooly noted it was unfortunate the City had to go through an actual lawsuit, but that was the process that had to be followed. She pointed out this was a neutral lawsuit, and the Commission was not suing the citizens but trying to determine the legality of the issue. Commissioner Gillooly stated it was not a question of voting or not voting, but to question the legality of the issue, so when the issue did appear on the ballot, it would be in the proper form and would be handled correctly, respecting everyone in the City, not only those who signed the petition.

Commissioner Gillooly expressed concerns about costs. She questioned if the leadership of the amendment should have considered this and put more thought into the ballot language; but she noted once the City accepted the ballots, the City must then go to the next step. Commissioner Gillooly stated the next step was to review the legality of the question. She asked if there was still the opportunity for Mr. Hayes' office to handle this matter. Commissioner Gillooly reported she wanted to be certain the timeline would be accelerated as much as possible. She noted there were some issues the City had no control over, such as

Court related issues, but the attorney could certainly express the urgency with the court to obtain an answer so it could be placed on the ballot in November.

Mr. Hayes stated the estimated timeline provided was the best estimate that he could provide, and he would do his best to move the issue as quickly as possible; however, the City was dealing with variables over which he had no control. He noted while this should be a straightforward process, there was no way to provide any assurances it could be completed within a short period of time. Mr. Hayes agreed this could be done in house; however, this was a resource management issue. He noted other than himself he had one other attorney and three support staff with many other responsibilities, and this project would require resources to be taken away from other projects.

Commissioner Gillooly stated Mr. Hayes or another attorney would not know how the CAN DO leadership would respond in order to assure the timeframe would remain steady. She asked, in an attempt to accelerate the process, that the CAN DO leadership do everything possible to respond in a timely manner. Commissioner Gillooly noted she would assume cooperation in the case since this was a very important issue to them.

Mr. Hayes stated that was a possibility; however, regarding some of the issues that had been raised, this would require a decision from a judge. He stated, however, that with CAN DO's assistance, the process may be expedited.

Commissioner Gillooly asked if staff could supplement another attorney to reduce the cost.

Mr. Hayes reported he would do so.

Commissioner Gillooly noted Mr. Pelham complimented Mr. Hayes and his staff on the research he and his staff had done. She asked if it would be a savings in that staff had already done a considerable amount of research.

Mr. Hayes stated he would believe that to be true.

Commissioner Gillooly requested the Commission be advised of the costs as they were occurring.

Mr. Hayes explained that once the suit was filed, the staff had the ability to go into private attorney/client sessions and discuss the cost of litigation and settlement strategies.

Commissioner Gillooly reiterated she would stand by her vote and she believed she had the responsibility to every citizen to protect the City. She noted she respected the people and the fact they had the petition signed. Commissioner Gillooly stated the City took time and effort in reviewing the issue and would now move forward in the way it must.

Commissioner Kelley stated the City Attorney's opening statement was important where he indicated it was incumbent upon the Commission as the elected officials to make certain their actions were legal. He noted he took an oath to defend the constitution of the United States, the State of Florida, and to uphold the laws and ordinances of the City of Ormond Beach. Commissioner Kelley reported that in his opinion, he believed this was not legal; it violated the constitution of the State of Florida; and it would be prudent to proceed to make this determination rather than defending it later. He stated had those reviewing this issue chosen to use the Cocoa Beach or the Flagler Beach language, that may not have been an issue. Commissioner Kelley reported using the attorney Mr. Hayes selected was the appropriate action to take; and if the ruling would be that the City could proceed, the people would be able to vote. He advised he could not support something he believed was not legal and then defend the legal action to come with citizen's tax money.

Mayor Costello advised he would vote for this resolution to send this to court, although at the last meeting he would not have done so. He explained he was committed to letting the people vote, but in listening to his fellow Commission members and the City Attorney, he was now convinced mission allowed this amendment on the ballot and the residents approved the amendment, there would be legal challenges that would be upheld, which would place the City in a very problematic situation.

Mayor Costello noted at the last meeting he offered to work with the CAN DO people to try to amend the language to make the ballot question legal, but he was advised by many CAN DO representatives they had no interest in him doing so, and he retracted that offer. He advised he wanted this on the ballot because he wanted it voted down. Mayor Costello stated if people loved the beach, if they wanted beachfront property, if they wanted to be able to take their

grandchildren to the beach, and if they did not want condo canyons, they would vote this down because this was the only way to obtain \$35 million worth of oceanfront property. He noted Ormond Beach had an opportunity that would probably never occur again because the properties are now owned by a single developer.

Mayor Costello pointed out Ormond Beach solicited ideas for redevelopment of A1A. He noted he was disturbed by people indicating they were tired of the country being run by money and the beach was not for sale, because that had nothing to do with this. Mayor Costello reported the City asked for proposals on how to gain beachfront property with absolutely no increase in density, and the only way to exceed the current height limit was if they would deed property to the City for beachfront parks. He noted even if people oppose this proposal, they should speak accurately. Mayor Costello reported this proposal indicated that if the developer provided beachfront property to the City, they may transfer that existing density under the current codes onto other buildings. He advised he favored that because he wanted open space. Mayor Costello reported if a person did not live close enough to walk to the beach, most people could not get to the beach. He clarified the choice was not whether the people wanted high-rises or not, but whether the person wanted beachfront property and whether the City could afford to pay the \$35 million.

Mayor Costello explained should the County give Ormond Beach \$5 or even \$10 million, which was more than they paid to any other city, Ormond Beach could obtain a couple hundred feet of beachfront property. He reported he would continue to work with the County to get whatever beachfront property they could because the County owed it to Ormond Beach, and they were aware they owe Ormond Beach. Mayor Costello stated he knew of no other way to obtain 850 feet of beachfront property, so he wanted to have the vote, have it voted down, and let the City move on with an exciting project. He noted he was now convinced there were flaws with this amendment, so he could not support it, placing the City at risk.

Mayor Costello pointed out the more CAN DO would challenge this action, the longer it would take to process through the court system and the later the vote would occur. He stated the Commission was committed to placing this on the ballot in November and providing the opportunity to vote, but the Commission wanted to make certain what the people would vote on had legal sufficiency. Mayor Costello stated that should it pass and be challenged, it would withstand the legal challenge.

Commissioner Kent requested clarification on the Ormond Parkway issue. He asked if Ormond Parkway was a public right-of-way; whereby, Mr. Turner reported Ormond Parkway was a public right-of-way. Commissioner Kent reported if he ever stated something that was untrue he would be the first to apologize; but in a meeting a couple of months ago, Mr. Michael Boucher, Chief Planner, indicated they would come back with all of the public right-of-way on the river, including Ormond Parkway, and a recommendation to “dump” the rights-of-way and give them to the adjacent property owners. He noted Commissioners indicated they wanted to revisit the right-of-way issue and possibly get the properties back on the tax rolls. Commissioner Kent stated he reported this to his constituents, but he did not believe it to be a “lie.” He stated if he heard the incident wrong, he would apologize; but if he was right, he was proud the people came to speak up about something they supported.

Mayor Costello stated the issue he had referred to was when someone indicated the City planned to place a four-story condo at that location.

Commissioner Kent reported what the speaker indicated was that the park would be removed, and at the other end there would be a four-story hotel parking garage.

Mayor Costello noted the genesis of his comment was that he had not heard that issue discussed.

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

Mayor Costello called for a short break at 8:54 p.m. and he reconvened the meeting at 9:02 p.m.

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 Kent requested Item Nos. 8(C) and 8(I) be pulled for discussion.

Commissioner Partington moved, seconded by Commissioner Gillooly, for approval of the Consent Agenda minus Item Nos. Item 8(C) and 8(I).

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

Item #8(C) – Urban and Community Forestry Grant Memorandum of Agreement

RESOLUTION NO. 2006-119

A RESOLUTION AUTHORIZING THE EXECUTION OF AN URBAN AND COMMUNITY FORESTRY GRANT MEMORANDUM OF AGREEMENT BETWEEN THE CITY AND THE STATE OF FLORIDA, DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Kelley, to approve Resolution No. 2006-119, as read by title only.

Commissioner Kent thanked Commissioner Kelley and reported he was delighted to bring 800 trees back into the City of Ormond Beach. He asked how the people would obtain the forms to request the trees, and he asked that this information be publicized since many people lost a great number of trees.

Ms. Judy Sloane, Public Works Director, advised the Environmental Advisory Board and Mr. Richard Truitt, landscape architect and Chairman of the City’s Environmental Advisory Board, would manage this process. She reported Mr. Truitt and the board would determine how the information would be disseminated to neighbors, set criteria, and decide how prioritization would occur.

Commissioner Kent expressed concern that people would not be made aware of this program, and he recommended placing the information on the City’s website.

Mayor Costello recommended notification be through the newsletter, water bill, or some other method to make people aware of this opportunity.

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

Item #8(I) – Budget Status

Commissioner Kent stated he and Mayor Costello incorrectly assumed the minimum water used for residential customers was 10,000 gallons, and Commissioner Kelley believed the amount to be 7,000. He questioned how many residential customers use the 6,000 gallons of water per day that was the accurate minimum.

Commissioner Kelley stated 75% of the residential customers use 6,000 gallons per day.

Commissioner Kent reported his mother showed him a \$30 increase in the rate she paid over the past three years. He recommended the Commission examine the minimum number of gallons in the future.

Commissioner Kent asked if the Redevelopment Trust Fund was for renewal and replacement.

Mr. Turner explained that referred to the Tax Increment Financing (TIF) district money.

Commissioner Kent commended Chief Baker for addressing the firefighter overtime, but the projection of \$497,000 was a huge amount of money. He noted it seemed there were many injuries and illnesses every year. Commissioner Kent questioned if the firefighters were injured on the job and asked if the City needed a better education system. He questioned the firefighter injuries compared to the Police Department injuries.

Fire Chief Barry Baker stated while staff could always have more safety education, safety was taken very seriously. He reported he could not compare firefighters with police officers, but could report Ormond Beach's statistics were in line with national statistics of other firefighting agencies. Chief Baker stated rather than Ormond Beach being an anomaly, it was average.

Mr. Turner stated there were issues unique to fire service, and he suggested a short report in the Friday letter regarding the built-in overtime adding quite an amount to the total. He pointed out that last year Ormond Beach came in under budget, and the City was using some techniques that were being implemented this year. Mr. Turner reported this situation was being monitored very closely. He noted Chief Baker could be more specific regarding what type of injuries were being incurred in a private conversation. He advised Ormond Beach was considering stepping up some of the safety conscious levels with police and fire.

Chief Baker noted he took the overtime issue very seriously.

Mayor Costello stated there was a decrease in permits by \$175,000 which showed Ormond Beach was not promoting growth. He noted expenses were down \$300,000 through April, and an increase of \$275,000 in revenue from an increase of \$450,000 in franchise fees left a positive variance.

Commissioner Kent moved, seconded by Commissioner Kelley, to accept the budget update.

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

Item #9 – Removal of an Historic Tree at 423 Oak Park Circle

RESOLUTION NO. 2006-128

A RESOLUTION APPROVING AND AUTHORIZING THE REMOVAL OF AN HISTORIC TREE ON PROPERTY LOCATED AT 423 OAK PARK CIRCLE; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Kent, to approve Resolution No. 2006-128, as read by title only.

Commissioner Kent stated he would support this resolution even though he had not always supported removal of historic trees in the past. He explained the foundation of the home was being lifted up and buckled by this tree.

Commissioner Gillooly pointed out the report indicated that the homeowner tried to accommodate the tree until it became too much of a safety issue.

Commissioner Partington stated the removal of a tree he opposed recently was on a new lot where the homeowner could have saved the tree, but he could approve this tree removal.

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

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

Item #10(A) – North Peninsula Reclaimed Water Storage Tanks

RESOLUTION NO. 2006-124

A RESOLUTION A AUTHORIZING THE EXECUTION OF A FIRST AMENDMENT TO THE AGREEMENT BETWEEN ST. JOHNS RIVER WATER MANAGEMENT DISTRICT AND THE CITY FOR THE NORTH PENINSULA RECLAIMED WATER STORAGE TANKS; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Resolution No. 2006-124, as read by title only.

Mr. Joe Bourassa stated this resolution was merely for approval from the St. Johns River Water Management District to change the basic budgeting involved. He asked if the City would be going to construction on this project shortly or if it would be placed on hold as it had been previously.

Ms. Sloane stated the City had the grant for the storage tank; it was switched to the pond; and now the City decided to go to the mainland; therefore, staff was in the process of getting the design underway. She reported the City was not imminently ready for construction, but there was a schedule for the design and construction. Ms. Sloane offered to get back with Mr. Bourassa on the question as she did not have the information at this time.

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

Item #10(B) – Water Treatment Plant Expansion Project Cost Share Agreement

RESOLUTION NO. 2006-125

A RESOLUTION AUTHORIZING THE EXECUTION OF A COST SHARE AGREEMENT BETWEEN THE CITY OF ORMOND BEACH AND ST. JOHNS RIVER WATER MANAGEMENT DISTRICT REGARDING THE WATER TREATMENT PLANT EXPANSION PROJECT; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Gillooly, to approve Resolution No. 2006-125, as read by title only.

Mr. Joe Bourassa stated the reverse osmosis (RO) water was filtered through a state-of-the-art purification system and enhanced with minerals for a pure clean taste, but there was no need for RO to reduce the mineral content in the water because Ormond Beach already had excellent water due to the good clean aquifer. He considered having the workshop to discuss the RO system first as being backward because the actual question was why the City needed to expand.

Mayor Costello stated Mr. Bourassa had an opportunity to discuss the issue at length at the workshop, and unless there was new information, the Commission needed to move on.

Mr. Bourassa reported Mayor Costello informed him capacity could not be discussed at that time.

Mayor Costello noted if Mr. Bourassa wished to discuss capacity he could continue. He pointed out the Commission made a decision that it would expand and earlier tonight decided to continue with the RO plans. Mayor Costello clarified this issue was to execute a cost sharing agreement with the St. Johns River Water Management District to expand the plant.

Mr. Bourassa showed graphs of the water usage and indicated there was a decrease of 2.3% this year in one of the driest periods in history. He noted he did not see a need for the extra capacity based on any historical data. Mr. Bourassa stated there was a great deal of money involved. He noted 23% more water was being processed than the City was selling. He recommended slowing this project down for perhaps six months. Mr. Bourassa reported the Charter Review Commission was reviewing the water issue because WAV was falling apart, and he predicted the mediation would not produce an agreement with Daytona Beach. He

stated with Daytona Beach, South Daytona, and New Smyrna Beach leaving WAV, Ormond Beach should save its money as there would be no benefit to be a part of WAV since it would be collapsing. Mr. Bourassa reported what would occur would be to have another referendum similar to that of four years ago. He stated a Jacksonville Electric Agency (JEA) type regionalization would then be followed because they were able to keep their water prices down.

Commissioner Kelley stated the Department of Health made it clear the City had to do this expansion. He noted the figures Mr. Bourassa was giving regarding total usage did not take into account the water being sold for irrigation, and by including these figures, it was determined that the City was selling more water. Commissioner Kelley stated the Commission appreciated Mr. Bourassa's input, but the City must expand the water plant, and they had no choice in the matter. He reported if Mr. Bourassa's speculation regarding WAV's collapse was accurate, Ormond Beach would have great problems if it did not expand.

Commissioner Gillooly reported she appreciated the time Mr. Bourassa spent and understood his passion for this issue. She advised she would always listen to every side of an issue. Commissioner Gillooly announced that every water expert, staff member, and every regulatory agency that the City would need to work with attended the meeting, and they all indicated Ormond Beach had to expand. She stated while the historical tables were informative and needed to be reviewed, they have little meaning to a concerned citizen who nearly ran out of water a few weekends ago. Commissioner Gillooly noted agreement with the person who indicated the City had to be prepared for the situation that would place the City over the edge in capacity. She pointed out the Commission had already voted to move forward, and this resolution was relative to proceeding with a grant in the form of a cost sharing agreement which staff was able to secure to assist in the cost.

Mr. Gregory Avakian, 161 Heritage Circle, stated there had been a number of questions regarding the lime softening plant and the RO plant which were answered at the workshop tonight. He noted there was a loss of confidence in staff, and the key figures were questioned. Mr. Avakian compared the RO plant to a Ferrari. He reported there were questions such as the additional cost; would the City receive the grant they were requesting; did staff know how to service an RO plant; what would be spent on training; and was training included in the cost. Mr. Avakian noted, however, most issues were made clearer at the meeting. He expressed a hope that Mr. Turner would stay current with the training because the RO plant would be more complex.

Mayor Costello stated the issue was that the Commission can not deal in averages and must deal in maximum peak daily capacity.

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

Item #10(C) – Water Interconnects with Holly Hill

RESOLUTION NO. 2006-126

A RESOLUTION AUTHORIZING THE PAYMENT OF AN INVOICE TO THE WATER AUTHORITY OF VOLUSIA REGARDING CONSTRUCTION SERVICES PROVIDED BY MCMAHAN CONSTRUCTION FOR THE CITY'S PORTION OF FINISHED WATER INTERCONNECTS; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Resolution No. 2006-126, as read by title only.

Mr. Joe Bourassa questioned the capacity of this a new connection.

Ms. Sloane stated the line would be a six and eight inch connection, but she could not provide the capacity at this time.

Mayor Costello stated Ms. Sloane should provide this information, and he asked her to make certain Mr. Bourassa would also receive a copy.

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

Item #10(E) – Acquisition of Various Parcels in the Ormond Crossings Redevelopment Area

RESOLUTION NO. 2006-130

A RESOLUTION OF THE CITY OF ORMOND BEACH AND THE NORTH MAINLAND/ORMOND CROSSINGS REDEVELOPMENT AGENCY APPROVING SETTLEMENT OFFERS REGARDING THE ACQUISITION OF VARIOUS PARCELS IN THE ORMOND CROSSINGS REDEVELOPMENT AREA; AUTHORIZING THE PREPARATION AND EXECUTION OF ANY AND ALL SETTLEMENT DOCUMENTS DEEMED NECESSARY RELATIVE THERETO; AUTHORIZING PAYMENT THEREFOR; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Gillooly, to approve Resolution No. 2006-130, as read by title only.

Mayor Costello requested Mr. Hayes update the Commission on the status of the remaining parcels.

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

Item #11(A) – Fire Department Position Request

Chief Baker stated the City was in a unique position due to the deployment of Captain Thomas Lachausse to the Middle East where the Fire Department was requesting the Commission add a staff member, which would save the City \$14,000 a year. He stated the Department would further request the City be able to maintain this firefighter after Captain Lachausse’s return. Chief Baker reported this would enable staff to hire a quality employee. He noted there was a demand for quality firefighters at this time.

Commissioner Gillooly asked for clarification of Chief Baker’s memo which stated: “Additionally, the Fire Department has temporarily placed qualified employees in the vacant supervisory positions, thereby, saving additional overtime.” She questioned if this would be at their existing rate of pay.

Chief Baker explained someone would fill that position who was qualified to serve in that position without the promotional position, and they would be paid a higher salary to work that position, which would cut overtime costs significantly.

Commissioner Kelley stated there was a workshop last year on this issue, and he understood that hiring an additional employee would actually cost more than paying the overtime.

Chief Baker stated last year the City was looking at a scenario of hiring three employees with a SAFER grant. He stated the average number of people off work, in addition to the normally scheduled leave granted by the contractual agreement, was about 2 to 2.3, and the national average was 20% considering injuries and training leave. Chief Baker reported 15 people work on a shift with, statistically, three people per shift, and Ormond Beach was slightly over two. He explained since the three was more than the two, last year it would have been a wash since the City would have simply been shifting funds from an overtime account to a personnel account and would be paying about the same amount. Chief Baker reported this was different in that the City was not asking for more than what they would be able to fill on average.

Commissioner Kelley clarified this would be replacing a person who left to serve in the armed forces and then maintaining that person when the deployed employee returns.

Chief Baker stated the position would be eliminated through attrition. He noted Captain Lachausse’s deployment would be for a minimum of one to possibly three years.

Mayor Costello asked for a resolution to hire an additional firefighter.

Commissioner Partington moved, seconded by Commissioner Gillooly, to authorize the hiring of an additional firefighter.

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

Item #11(B) – Update on Windstorm Insurance

Mayor Costello recommended Option #2 which was to do nothing at this time.

Commissioner Partington moved, seconded by Commissioner Kent, to support Option #2.

Mr. Richard Brown, 656 Riverside Drive, stated if the wind-pool would be changed to the west bank of the intracoastal, it would place a great deal of commercial buildings at risk of being able to obtain insurance and would probably not help many homeowners. He noted this was not the appropriate time to act.

Mayor Costello stated he had been advised that residents west of I-95 and US1 could save dollars, but if that were to place other residential and commercial business owners at risk to obtain insurance, it would not be worth doing. He thanked staff for obtaining the information presented.

Mr. Turner commended Mayor Costello on his approach to this issue, but he explained staff noted “red flags,” and he appreciated allowing staff to bring the various viewpoints to the Commission.

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

Item #11(C) – Update on Consolidated Dispatch Service

Mr. Turner stated this was a critical issue, and he asked Chief Longfellow to explain the issue.

Police Chief Michael Longfellow stated three options were noted: Option #1 was to go with the Sheriff’s office dispatching for Daytona Beach, Holly Hill, Daytona Beach Shores, South Daytona, and DeLand in a three-year contract resulting in an approximate savings of \$550,333; Option #2 was for Regional Communications Center (RCC) dispatching with Port Orange, New Smyrna Beach, and Edgewater, resulting in an increase cost of \$1,173,000 over a three-year period; and Option #3 was to keep dispatch in house. He explained the Sheriff’s office was in the process of taking over another system entitled ECC and asked the City to withhold consideration of this option at this time until they conclude that conversion.

Mr. Turner stated if dispatch was kept in house, the City needed to make a major investment in upgrading the software, which could cost \$300,000 to \$400,000. He noted that would enhance the City’s ability to provide services, making the officers more efficient and productive. Mr. Turner advised this was being considered as part of the budget process; and depending on the Commission’s discussion tonight, staff would offer options during the budget discussions.

Commissioner Gillooly stated the only choice that made sense was Option #3 and to revisit the Sheriff’s office system at a later date when there would be no question of the quality of the system. She questioned if there would be an opportunity to purchase equipment needed and negotiate with the Sheriff’s office to provide them with the equipment when the contract was signed to join the system.

Chief Longfellow stated the Sheriff’s office had already made a purchase where it would not be economically feasible for a city the size of Ormond Beach to purchase. He pointed out this would not be available for another 18 to 24 months. Chief Longfellow noted RCC had a system, but it connected with agencies that were not geographically advantageous to Ormond Beach.

He stated the equipment Ormond Beach would purchase would not be compatible with either system, although the City could translate the information to obtain a historical database.

Commissioner Gillooly asked if the equipment would be needed to improve the service or to help in the reporting.

Chief Longfellow explained the equipment would be for both in that the service level would be “voiceless dispatch” where an officer would have the address on the screen and it could interface with Global Positioning System (GPS) systems showing the call on a map on the computer screen, and it could direct the officer as to what would be the shortest route. He stated the report-writing capability would allow an officer to complete the report in the car; send it to the officer’s supervisor for review and approval; and then send it directly into the mainframe system.

Commissioner Partington agreed Option #3 was the obvious choice, but requested staff to set up a tour of RCC and a ride-along with one of the RCC’s agencies. He recommended re-examining the issue in 18 months after the Sheriff’s office had its equipment in place and it was working well. Commissioner Partington stated at that time he would also like to take a tour of the Sheriff’s office’s system. He reported regionalization was the best way to go with cooperation between the municipalities to avoid jurisdictional problems. Commissioner Partington stated that learning more about the different types of dispatch would serve the citizens well.

Mr. Turner stated Chief Longfellow had visited agencies that currently use the system the Sheriff’s office would be purchasing. He stated there may be an agency using that system close to Ormond Beach, and staff would investigate and bring back that information. Mr. Turner noted staff would explain the features of the software staff was proposing to purchase, which would enable the Police Department to be the most productive and efficient. He stated he believed there was a need to purchase this equipment, if only for the two to four year period before consolidating.

Commissioner Kelley asked if this operational system was similar to the Sheriff’s office system the Commission considered last year.

Mr. Turner stated what was discussed was that the City would get site licenses free but would have to pay to use them. He noted that deal was not accepted. Mr. Turner stated negotiations would have to be made, but the indications that were now being received were that it would cost a great deal more to use the software.

Chief Longfellow stated the Sheriff’s office was changing its software and would stop giving its current software to contract agencies until they bring in the new system.

Commissioner Kelley pointed out the Sheriff’s office could not handle the City’s operation now. He stated it did not seem feasible to pay for the upgrade and then consider going to another system that would not be compatible.

Chief Longfellow noted he may have misspoken when he stated the system would be totally incompatible in that technology was not his field of expertise. He stated there were changes daily where systems could be merged, but he did not believe they could be merged today.

Mr. Turner stated the Police Department had been asking for this software for four years, and he believed it was time to make this investment. He reported it was possible some equipment could be sold and may be partially compatible saving some money, but it was just as likely the City would have to pay the full price. Mr. Turner noted staff would be recommending the City obtain these tools for the Police Department in the budget.

Commissioner Kelley noted the cost of purchasing new equipment was one reason he supported consolidating last year. He reported he understood the Police Department needed to be updated. He stated this expenditure would be spread out for three to four years, while the City may be joining the Sheriff’s office system in 18 months.

Mr. Turner stated he was chastised for indicating staff would bring back the fire dispatch in two to three years unless an opportunity could be found, and 18 months later an opportunity arose and staff brought the issue back. He reported he could not definitively indicate a time period, since it could be 18 months or three years or even longer; but this software investment needed to be made. Mr. Turner stated he believed it would be worthwhile if it was only used for a two to three year period.

Mayor Costello stated the Commission had not been given real choices because there were none at this point. He noted some Commission members have favored consolidated dispatch for a long time, and it probably would have saved the City a great deal of money had the conversion been made. Mayor Costello summarized Option #3 would pass and staff could bring costs for appropriate software, but he asked either Chief Longfellow or Mr. Turner to meet with Sherriff Ben Johnson and find out if there was a way to tie into his existing software if his software was better than Ormond Beach's software. He stated if Ormond Beach were to sign a contract indicating that when the conversion was completed, Ormond Beach would merge with them, he may be able to negotiate a better deal for Ormond Beach.

Chief Longfellow stated staff did broach this subject, and Sherriff Johnson he was not amenable to the idea.

Mr. Turner stated something that would impress Sherriff Johnson would be if he were able to participate in some discussion involving the Commission. He pointed out some of the prior discussions were handled poorly relative to professional courtesy. Mr. Turner expressed concern regarding the viability of the relationship, not only between staffs, but between the Sheriff and the Commission. He recommended a public meeting with dialogue and discussion with Sherriff Johnson.

Mayor Costello recommended making a motion to approve a contract with Sherriff Johnson indicating Ormond Beach would consolidate whenever they were ready and to ask for software and equipment in order to keep the dispatch in house until they would be ready to bring Ormond Beach into their system.

Mr. Turner requested Mayor Costello allow staff work to be done first and this brought back later.

Mayor Costello stated the cost had increased at least \$1 million, and he wanted to be proactive. He noted he believed Sherriff Johnson needed to know the City was serious, and he pointed out Sherriff Johnson was only embarrassed in the past dealing with Ormond Beach.

Mr. Turner pointed out there was a new Commission member, and this was a new issue. He noted the agency would be much improved by the time Ormond Beach would be considering joining their dispatch.

Commissioner Partington moved, seconded by Commissioner Gillooly, to accept Option #3.

Commissioner Gillooly urged Sherriff Johnson be made aware Ormond Beach was seriously watching the consolidation and was interested in working with him. She concurred with holding an open meeting with the Commission, department leadership, and Sherriff Johnson along with his representative.

Commissioner Kelley stated Option #3 included purchasing the equipment.

Mr. Turner stated the equipment would need to go through the budget process; therefore, the Commission would not be authorizing the acquisition of the equipment.

Commissioner Gillooly clarified this option did not include funding only to maintain the current level of service and control over dispatch issues.

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

Mayor Costello stated no one opposed having a meeting with the Sheriff's office; however, there would be no obligation on the part of Ormond Beach or Sherriff Johnson.

Chief Baker stated there were many dynamics occurring at this time with the County and ECC, and one agency would take over the other by October 1; therefore, he recommended waiting before asking the Sherriff to meet.

Mayor Costello noted that was good wisdom.

Item #11(D) – Update on Affordable Work Force Housing Analysis

Mr. Clay Ervin, Planning Director, reported there were two issues. He asked if staff should go into greater detail and analysis in the housing study, and if so, if staff should use outside assistance at a cost of \$40,000 to \$50,000. Mr. Ervin questioned if there were any of the 16 findings of the study that the Commission did not support.

Commissioner Gillooly stated the list of 16 was important because the issue demands the City have many strategies to achieve affordable housing. She noted the term “work force housing” had been considered a more politically aesthetic term than “affordable housing” that some considered to be an inferior product, and the difference was in the perception; however, these definitions were not accurate. Commissioner Gillooly noted the terms were now used interchangeably in housing discussions. She stated this was a serious problem with many layers. Commissioner Gillooly noted the increase in value of housing was an issue creating a turmoil. She stated she believed that she, as a citizen, had an obligation to work to eliminate substandard housing. Commissioner Gillooly pointed out the list of 16 recommendations included many initiatives and strategies, which was what was needed, because the problem was not a single segment of the population or in a single area. She expressed concern regarding revisiting the study because there was nothing tangible coming out of the first study.

Mr. Ervin noted that as the report indicated, the worst thing that could be done with a study was to build a false sense of expectations, which was why it was important to come up with realistic recommendations. He noted should the focus be policy driven, it should be followed through with. Mr. Ervin stated specific policies, cost, feasibility, and impacts should be identified. He pointed out housing had increased substantially, but the median incomes have flat-lined.

Commissioner Gillooly noted the list provided clear and specific issues the City could begin to address. She noted in other cities she worked with through her position with Halifax Habitat for Humanity, they were starting to ask new development for something back to help with affordable housing, and she would recommend Ormond Beach have a clearer plan and direction. Commissioner Gillooly noted this issue affects everyone. She suggested starting to adopt tangible projects with the available resources rather than spending money to update a study. Commissioner Gillooly recommended an open meeting with the Planning Board because they had been reluctant in the past to make any concessions in codes for affordable housing, and this may need to be seriously considered. She noted there were great opportunities. Commissioner Gillooly stated there have been discussions of mixed uses in the downtown. She pointed out affordable housing was not only the habitat housing for very low income families, but people with professions such as police, fire, nursing, and teaching.

Commissioner Kent stated the graph showed the entire picture. He commended Commissioner Gillooly’s passion on this issue and advised the Commission must determine how serious they would be willing to become about this issue.

Mr. Turner stated he had also been passionate about this issue for a long time. He stated the impetus to do something about this issue had to come from the Commission as a group for it to work. Mr. Turner noted individuals have different visions of work force/affordable housing, which was why staff was trying to come to some commonality in identifying the problem. He noted his goal was to bring the Commission to a unified position regarding what the vision was, where effort should be concentrated, and what differences they were trying to make in Ormond Beach. Mr. Turner explained this would take investments that may take the form of changing regulations or financial investments. He noted Mr. Ervin had hired an employee with experience in this area. Mr. Turner urged the Commission to have a plan so staff could then execute that plan.

Commissioner Partington expressed appreciation for Commissioner Gillooly’s leadership on this matter. He noted he would like to discuss all 16 recommendations in a joint Planning Board/ City Commission meeting where the Volusia Home Builders, environmental groups, and developers who have ideas that may help this work would attend. Commissioner Partington advised the study may be a component that the Commission could consider later.

Commissioner Kelley noted affordable housing did not currently exist for the average person, and anything the City would try to do must be done right. He noted former Mayor Hood had a passion and a vision, and what he did for the Halifax Habitat for Humanity in Ormond Beach and elsewhere was remarkable. Commissioner Kelley stated the Commission must concur on a vehicle to make the vision work, but what that vehicle should be, he did not know. He pointed out the Planning Board was different today than in 2002, and the housing economic conditions are a great deal different. Commissioner Kelley noted he was willing to examine the issue; but if concessions were made for one set of residents, another portion of the population would be

against it because it may increase the density in an area. He pointed out land costs are phenomenal, with a “starter” home costing \$300,000 to \$450,000. Commissioner Kelley advised he would prefer the Planning Board study this issue first and have a joint meeting to follow, if needed.

Mayor Costello stated what the City was tasked to do was provide emergency services such as police, fire, water, and sewer; but to make this a community, the most critical issue was work force, attainable, affordable housing. He clarified that Mr. Ervin was in essence telling the Commission not to ask him to work on the 16 recommendations unless they would be willing to vote for them when the room was full of people objecting to garage apartments, increased density, or other concessions that may have to be made to achieve the goals. Mayor Costello pointed out there were many good, hardworking people, who can not afford to buy houses, and he was ready to face the difficult issues, but if the remainder of the Commission was not prepared to make such a commitment, they should not encourage staff to continue.

Mayor Costello stated Ormond Beach now had the best opportunity it ever had due to Commissioner Gillooly’s association with Halifax Habitat for Humanity. He urged making this relationship a benefit to the City. Mayor Costello stated he would favor using the TIF funds to buy the southwest corner of US1 and Granada Boulevard and construct a four to six story Halifax Habitat for Humanity attainable housing structure with 800 to 1,100 square foot condos. He suggested asking Ormond Crossings to have 10% of their units to be affordable housing with the City waiving impact fees or making other concessions. Mayor Costello reported through attending Smart Growth seminars, he learned that a City did not obtain mass transit, a walkable downtown, shops, jazz clubs, and art galleries without density.

Mayor Costello summarized the consensus was to start with the Planning Board, finding out what other communities were doing for their people, and bringing a recommendation for the Commission to vote up or down that would make a difference for affordable work force housing. He tasked Commissioner Gillooly to find out who was doing something unique through her connections and present it to the Commission.

Mr. Turner recommended a planning public forum, possibly by Citizens for Ormond Beach, to educate the public that this was an issue, possible options, and to hear some of the public’s concerns, as well as a meeting with the Planning Board.

Mayor Costello reported the entire Commission was interested in finding out what they could do; it was not prepared to approve a study but to schedule forums with Halifax Habitat for Humanity and possibly Citizens for Ormond Beach, and to schedule a meeting with the Planning Board.

Commissioner Gillooly reported every city in the country was facing similar issues, and they can be overwhelming. She noted she favored regionalization. Commissioner Gillooly advised Halifax Habitat for Humanity had already made preliminary discussions regarding a possible forum on affordable housing with VCOG and other non-profit providers. She asked if she would be permitted to work with staff to plan such a forum.

Mayor Costello encouraged Commissioner Gillooly’s assistance.

Commissioner Gillooly noted staff had always been willing and receptive to Halifax Habitat for Humanity. She recommended starting with a creative pilot project.

Mayor Costello stated this issue was coming before VCOG. He stated he saw no conflict of interest since the Commission was asking for Commissioner Gillooly’s assistance, and he urged her to be a source of information, contacts, and ideas.

Mr. Ervin stated staff would bring back conformation relative to timing and process.

Item #11(E) – Update on Impact Fees

Mr. Ervin asked for direction regarding the seven recommendations provided.

Commissioner Kelley stated he served on the last impact fee board, and he learned a great deal. He noted the statement indicating the developer pays the impact fees was incorrect since the buyer of the property actually pays the impact fees. Commissioner Kelley reported homeowners pay the impact fees, and for this reason, he did not favor them. He stated impact fees were not fair, and he preferred a deed transfer fee that everyone would pay. Commissioner Kelley noted impact fees were high enough and had restrictions on how they could be used. He questioned with a projected growth of 1% to 1½% per year how much impact the growth would have on services.

Commissioner Kent expressed agreement with Commissioner Kelley.

Commissioner Partington advised he did not have a problem with the seven recommendations. He asked what most municipalities use relative to #7 regarding the Construction Cost Index versus the Consumer Price Index (CPI).

Mr. Ervin noted it was currently split between both, and he explained the CPI was basically used across the board for the past several years because construction goods have increased dramatically compared to the CPI. He reported many cities were now converting to that index.

Commissioner Gillooly expressed appreciation for the extensive report. She noted there was a \$65,000 home that Halifax Habitat for Humanity was struggling to keep at that cost while spending \$8,000 on impact fees. Commissioner Gillooly stated she would be reluctant to move forward on additional impact fees until other decisions could be made on affordable housing.

Mr. Ervin reported impact fees can not be waived; but if the City would identify a goal and policy to be implemented, the fee could be paid by the local government out of the General Fund.

Commissioner Gillooly asked if there was a way to delay the impact fees.

Mr. Ervin reported there was a program within the Community Development Block Grant eligible areas where, if it could be proven that the home being built was an affordable home, that a lien could be placed on the property to cover the costs. He noted if the original purchaser would sell the house and realized a capital gain, the lien would be implemented.

Mayor Costello stated he respected Commissioner Kelley's ideas, but this was one issue where he and Commissioner Kelley disagreed. He reported he had lived in five new homes and expected to pay impact fees. Mayor Costello compared this to a homeowner living on a road without water and sewer service where they did not pay for the service with the cost of the structure, but would pay for the water and sewer when they were hooked up. He stated current residents preferred new residents to pay toward the roads, water, and sewer. Mayor Costello stated he believed impact fees should come as close as possible to representing what it would cost the government to have that new structure regarding roads, sewer, police, fire, and other capital improvements. He advised he supported an additional fee for economic development/affordable housing to use to pay the impact fees for affordable housing projects. Mayor Costello noted an impact fee could not be waived, but it could be transferred from another fund. He recommended setting a cost to be considered affordable housing and anything under that level would not pay an impact fee.

Mayor Costello stated he supported new growth to pay its way, pointing out that over time new growth pays its way in the community with the jobs and the money the residents spend; but he was considering the government's cost. He reported, economically, new growth was a benefit to everyone; but if there would be growth, it should pay for itself. Mayor Costello advised he supported the highest local road fee that was legitimate, defensible, and real. He explained more cars on the road cost the government money because they need to resurface the roads sooner, and more homes cause a need for more bike trails and more sidewalks. Mayor Costello reported people complained about flooding, and a stormwater impact fee was needed to help correct areas that flood. He advocated charging a fee for anything that would cost the government money to fix, build, expand, or change. Mayor Costello pointed out he had advocated for years that in redevelopment areas, as well as work force housing or anywhere where the City was trying to stimulate growth, that he would favor incentives by transferring impact fees from another fund. He advised he seemed to be the only Commission member who had that position.

Commissioner Kelley stated the percent of money spent on water and sewer for refits as opposed to water and sewer for new growth was very different. He noted pipes would be replaced because of their age, which would not be the fault of a person who may build a new house in Ormond Beach. Commissioner Kelley reported the City had a stormwater requirement where stormwater must be retained on site by the developer; therefore, the stormwater fee could not be raised when it pays for the stormwater of the people who already live in Ormond Beach and did not pay anything for stormwater other than the monthly fees. He pointed out there was a limit to what could be done. Commissioner Kelley reported a developer develops a subdivision; a person builds a house; and the developer puts in the roads, not the City; but the City must maintain the roads, and the money to do that would come from the property taxes.

Mayor Costello pointed out the widening of Tymber Creek Road was in response to the new residents.

Commissioner Kelley noted that was a different situation in that this would not be the City's responsibility. He explained this referred to local, not County or State roads.

Mr. Ervin reported here have been successful challenges to local road impact fees, as well as to Volusia County School Board impact fees. He stated this will allow Ormond Beach to draw upon what Port Orange, Edgewater, and New Smyrna Beach had been able to accomplish. Mr. Ervin noted if there were no local road projects, it could be abandoned; however, there would be a need for widening and capacity enhancement projects such as intersection improvements and turn lanes at key intersections which were growth related improvements where local road impact fees could be used.

Mayor Costello reported the stormwater improvements at the Nova Recreation Center and the Airport Sports Complex should have come from the Stormwater Fund rather than the Recreation Fund. He reiterated wherever new growth causes the City to add capital investments, those new residents should be paying for those capital investments.

Mr. Ervin summarized the local road impact fee should be increased; the parks and recreation impact fees should be updated; stormwater impact fees should be studied with the Public Works staff; there was no need for fire, police, and cultural facilities fees; there may be an opportunity to use impact fees for economic development or affordable housing; and a recommendation was made to use a more representative index.

Item #11(F) – Update on Transportation Planning Issues and Concerns

Mr. Ervin stated staff identified five issues, and he asked if the Commission could support these issues. He reported traffic levels were meeting or exceeding level of service. Mr. Ervin explained the majority of traffic was originated from trips originating and ending elsewhere, and there was also a critical issue with major projects occurring in Daytona Beach.

Mayor Costello stated at the MPO meeting he recommended looking at level of service and concurrency, and the executive director indicated that was within the purview of the MPO. He reported he specifically spoke about the hospital, which was a project Ormond Beach wanted, but it still had impacts; and when projects were outside of the community, the development needed to pay for impacts and/or the community who received the impact fees for that development would need to pay for the improvements caused by that additional growth. Mayor Costello assured the Commission the MPO would study this issue.

Commissioner Partington recommended pursuing all five recommendations.

Mr. Turner noted this was an incredibly significant issue for this community. He reported staff was attempting to aggressively pursue what they believed was the Commission's position to be, which was to make certain the concurrency issues would be addressed. Mr. Turner advised this had the potential to cause conflicts with Ormond Beach's neighbors. He explained he understood the Commission wanted staff to challenge the projects as the developments go through the process until they make arrangements to meet the new capacity demands.

Mayor Costello stated Port Orange had the same issues Ormond Beach had regarding development outside of their community impacting the roads inside Port Orange. He advised he stipulated at the MPO meeting that the 3,000 acres west of I-95 and south of SR40 should not have any access on SR40 if the level of service would be diminished lower than it was set. Mayor Costello pointed out that if Ormond Beach was turning down developments, the City should not have to accept capacity from outside of the City. He reported the MPO executive committee agreed with that assessment, which was why they would discuss level of service and concurrency. Mayor Costello clarified he had no argument with development occurring in Daytona Beach's 3,000 acres, since they have the right to develop; but growth should go toward Daytona Beach, not Ormond Beach.

Commissioner Gillooly concurred with Mayor Costello.

Mr. Turner noted staff may get into a situation with Daytona Beach regarding the hospital. He reported there were discussions where the hospital could use the number of trips at their current location and transfer them to their new location.

Mayor Costello stated that could not occur, and they would be taken to court should they insist on that.

Mr. Turner noted staff would be vigorously challenging such discussions, and staff would keep the Commission apprised of the situation.

Mayor Costello advised he supported the hospital, but would not take capacity trips from the heart of the City and move them to an area that needed transportation improvements. He recommended that staff should bring a resolution before the Commission stating that whatever should cause trips, the transportation infrastructure must be improved by the agency in which the development was occurring and/or by the developer. Mayor Costello reported Ormond Beach's level of service should not be diminished by any development.

Commissioner Partington noted this may be an appropriate time to ask Daytona Beach for a joint meeting with their Commission to discuss these issues.

Commissioner Kent advised that the last time Ormond Beach and Daytona Beach met it was in Daytona Beach, and he recommended this time the meeting be held in Ormond Beach.

Mayor Costello noted he would be happy to meet with Daytona Beach at any time.

Mr. Ervin stated the MPO would not take issue with the hospital because the hospital was now in the development review process, and Ormond Beach staff was trying to relay what this and the previous Commission related, which was that the hospital was important; it did not want to slow the project down; and it did not want to jeopardize the road network. He noted there must be a way to take the impact fees the hospital would be paying to improve the whole network for everyone to benefit.

Mayor Costello recommended a resolution, if possible, for next week on the consent agenda, stating all of the issues mentioned tonight, which was that smart growth principals dictate regional concurrency asking for their support and offering to host the Daytona Beach Commission to discuss the issue. He stated this should then be sent to the Daytona Beach Commission and Daytona Beach officials as well as Holly Hill. No objection was heard to that proposal.

Audience Remarks

Amending the Land Development Code and Comprehensive Plan

Mr. Gregory Avakian, 161 Heritage Circle, reported 15 months ago he came to the Commission and indicated there was a small window of opportunity to have developers pay for property that would become parks; but market forces outside of the City's control were at play, and time was wasted. He stated Ormond Beach was not prepared to accept opportunities. Mr. Avakian reported the Planning Department indicated the Comprehensive Plan and Land Development Code needed to be "tweaked," and direction should be given to the Planning Department to make those adjustments and to include the necessary language allowing the transfer of density, heights, and the like, which could take well over a year for approval. He noted once this opportunity to gain 850 feet of beachfront would come before the Commission, the City would be far better prepared. Mr. Avakian advised he mentioned this idea weeks ago and was informed this would be political suicide under the current climate. He pointed out the silent majority who voted the Commission into office expected the Commission to do what was right for the City and would support the Commission with the exception of a few.

Mr. Avakian stated that if the CAN DO amendment passed in its present form, the Comprehensive Plan and Land Development Code would have to be changed; and if it failed on legal grounds or at the polls, the City would be a year ahead in redeveloping the beachfront and acquiring the 850 feet of beachfront property. He reported FACTS PAC was confident that this Charter amendment in its current format would fail to pass legal muster, and the silent majority would support this Commission now as in the recent past. Mr. Avakian advised he was told the Bray and Gillespie proposal was a once in a lifetime opportunity, but he considered this a gross understatement for when A1A was redeveloped, access to the beach would be secured for generations to come.

Item #12 – Reports, Suggestions, Requests

Chief Longfellow

Commissioner Gillooly congratulated Chief Longfellow on his promotion to Police Chief and stated she looked forward to working with him.

Budget Advisory Board

Commissioner Gillooly thanked Mr. Rick Lovell and the Budget Advisory Board for all of the work they put into the board. She also thanked Mr. Nicastro, who was her appointee to the

City Commission –June 13, 2006

Budget Advisory Board. Commissioner Gillooly noted the Board's recommendations help her to make a more informed decision.

Charter Amendment

Commissioner Gillooly reminded everyone that the Charter amendment would impact the entire City, not only A1A. She pointed out Ormond Beach had plans for economic development at the Ormond Crossings, which would be affected by this amendment.

Passive Parks

Commissioner Gillooly stated regarding the passive parks issue that she understood that Commissioner Kent gave a list to the Planning Department, and staff would come back to the Commission with recommendations to discuss. She advised she had been visiting some of the passive parks on the list because she shared Commissioner Kent's desire to keep the parks.

Mr. Ervin stated staff followed the recommendation from the Parks Master Plan, which was that the City had enough pocket parks, and the City should not add to them; but staff was not planning to eliminate all of them. He reported a clarification would be provided in the Friday letter along with an exact timeframe.

Halifax Habitat for Humanity

Commissioner Gillooly reported Halifax Habitat for Humanity did an incredible "Builders' Blitz" all across the country from June 5 through June 9 where they, along with homebuilders, built over 400 homes in five days. She reported ICI Homes built two homes with Halifax Habitat for Humanity in Daytona Beach, which proved there was a great opportunity for public/private partnerships.

Passive Parks

Commissioner Kent reported it was his understanding the passive parks he selected would be examined, but Mr. Michael Boucher, Chief Planner, stated the staff recommendation would be to eliminate them; therefore, he was anxious to read Mr. Ervin's report in the Friday letter.

Staff

Commissioner Kent thanked staff who attended the Commission meetings for what they do every day.

Chief Longfellow

Commissioner Kent congratulated Chief Longfellow, stating he was excited about this promotion and impressed by Chief Longfellow.

Coffee with the Commissioner

Commissioner Kent stated the next "Coffee with the Commissioner" would be held on Monday, July 3 at his home, 130 Magnolia Drive, at 4:00 p.m. and all are welcome to attend.

Sign-up Cards

Commissioner Kent reported the sign-up cards seemed to be a great success.

Chief Longfellow

Commissioner Kelley congratulated Mr. Turner on his wisdom in selecting Mike Longfellow as Police Chief and Chief Longfellow for accepting.

Department of Health Meeting

Commissioner Kelley thanked the Commission member who suggested someone on the Commission attend the Department of Health meeting, which was very insightful. He stated the City Manager and staff now know what needs to be done, and the Department of Health was very easy to work with. Commissioner Kelley reported the Department of Health laid out parameters of what was necessary, and staff did a good job in responding. He pointed out a number of issues were actually solved before the meeting commenced. Commissioner Kelley reported Ormond Beach had some maintenance problems that generated operational problems, but he believed staff would make the appropriate corrections.

Passive Park Issue

Commissioner Partington reported he was hopeful the passive park issue was just a misunderstanding, because it was certainly strange to have people discuss the issue when it was not on the agenda tonight. He noted his recollection was that after Mr. Boucher made the aforementioned comment, Commissioner Kent brought the issue up and a lengthy discussion ensued, and the basic direction the Commission had given was to not consider the parks on the river such as Ormond Parkway and Melrose for elimination. Commissioner Partington advised having people speak as if this park was already gone needed to be corrected. He stated this

situation was similar to the situation when business owners were told their business would be taken with eminent domain, bulldozed, and turned into parking lots, which were wild rumors with no basis in reality. Commissioner Partington explained this was the type of incident that was detrimental to the community and did not serve the public since the people become worried and excited about things that would not actually occur.

Chief Longfellow

Commissioner Partington congratulated Chief Longfellow. He reported it was good when someone worked hard and was promoted into a leadership position. Commissioner Partington commended Chief Longfellow for presenting the tropical storm updates that he found to be very informative.

Hurricane Preparedness

Commissioner Partington stated Citizens for Ormond Beach was holding a forum on June 24 in cooperation with City staff regarding hurricane preparedness. He reported there would be presentations, a cook out, and the City's equipment would be on display.

Citizens for Ormond Beach

Commissioner Partington reported Citizens for Ormond Beach would meet at his office at 6 p.m. on the second Monday in July where they would discuss the expanded educational forums that would be taking place in the next few years to provide information on the many issues of importance that Ormond Beach was facing. He stated Citizens for Ormond Beach could probably work in a forum on work force housing to discuss this important issue.

Passive Park

Mr. Turner stated there was a miscommunication regarding the passive park issue. He noted it certainly was not his intent to take a park that was being utilized. Mr. Turner advised this issue would be clarified in a Friday letter, and he apologized for any confusion.

Citizens for Ormond Beach Hurricane Preparedness Forum

Mr. Turner stated staff would find out the time for the Citizens for Ormond Beach Hurricane Preparedness forum, and they would be greatly involved in publicizing the event. He noted he was pleased Citizens for Ormond Beach was planning these forums to involve the public in issues that are important to the community.

Off-beach Parking

Mr. Turner stated City staff would be meeting with the County staff to discuss the off-beach parking issue. He noted he sensed a change in the County staff under the new County Manager's leadership, and it would be the City's first opportunity to work with him on a project.

Accountability

Mr. Turner reported staff could have done a better job, and accountability would be forthcoming. He advised he had a great reluctance to discuss such issues publicly, but would share information on these issues with the Commission privately. Mr. Turner noted he worked with Ms. Lorenda Volker, Human Resources Director, to make sure he was following the City's Human Resources Policy and with Mr. Hayes to minimize the opportunities for litigation.

Ormond Crossings

Mr. Turner stated the Commission received copies via e-mail of information that Mayor Costello and Mr. Ervin sent regarding the Department of Community Affairs (DCA) and Ormond Crossings issues. He pointed out this project continued to be a challenge; and while most times staff was able to address the issues without bringing them to the Commission, the items DCA was requesting were unrealistic in that they expected the developer to fix all of the area's past transportation problems rather than their proportional share. Mr. Turner reported staff requested Mayor Costello's assistance, and some of the legislators have been informed about these issues. He reported he would update the Commission through e-mail relative to this situation.

EMS Services

Mr. Turner stated the Flagler County Manager spoke to him regarding discussions with Ormond Beach relative to Ormond Beach providing fire/EMS services in Flagler County.

Water Issue

Mr. Turner stated staff was attempting to obtain temporary skids that could probably be used on a permanent basis, saving the City money. He reported staff engaged Daytona Beach regarding interconnects and received a favorable reception to that dialogue. Mr. Turner advised staff also spoke with WAV regarding water issues. He reported in the last few days staff received communications from Daytona Beach indicating they favored tying the interconnect

discussions directly to the wholesale water agreement discussion for the areas south of Granada Boulevard. Mr. Turner noted staff would obviously continue to pursue the interconnects as well as the skids, and he would speak to each Commission member individually about the ramifications of tying the issues together. He stated Ormond Beach was willing to pay for the interconnects; WAV was willing to commit grant dollars; but Ormond Beach must work through some issues with Daytona Beach. Mr. Turner assured the Commission he understood Ormond Beach had to obtain water capacity quickly. He noted staff would bring back options to achieve this goal.

Mr. Turner commended Ms. Sloane for the responses provided at the meeting with the Department of Health.

CIP Budget Process

Mr. Turner stated there would be a one-hour Capital Improvements Projects (CIP) meeting set up with each Commission member to review the budget and express any concerns. He noted any concerns could also be shared prior to the individual meetings via e-mail. Mr. Turner reported in this manner most questions would be answered and concerns addressed before the meeting next Tuesday. He commended Ms. Kelly McGuire, Budget Director, for doing a great job.

Chief Longfellow

Mayor Costello congratulated Chief Longfellow for his promotion to chief. He noted there would be a reception for Chief Longfellow next Tuesday prior to the City Commission meeting.

Apology

Mayor Costello apologized for being short tonight, and explained he allowed comments to upset him, which he should not have done. He noted phrases such as “lining his pockets” angered him. Mayor Costello pointed out the Commission was here at 11:38 p.m. because they wanted to be here working for the City and because they love their community.

Televising Meetings

Mayor Costello stated in light of his previous statement that it may sound strange, but he believed the City Commission meetings should be televised.

Sign-up Cards

Mayor Costello reported people were confused that they needed to fill out a card for each item on which they wished to speak. He requested that this message be relayed to the audience.

Plants

Mayor Costello stated he found it disheartening to see the dead plants by the school bus storage area after the Citizens for Ormond Beach and other organizations worked so hard to plant them. He reported the County School Board was to provide the irrigation and care for the plants.

Commissioner Partington stated an irrigation system was installed, and all the School Board had to do was turn the system on and off.

Mr. Turner reported he had an upcoming meeting with Dr. Smith and would bring up this issue.

Ormond Crossings

Mayor Costello reported he spoke to the County Council, Chairman Bruno, and the legislative delegation who were all concerned about the Ormond Crossings issue. He noted this was the ultimate in smart growth. Mayor Costello reported something must be done, but Mr. Turner urged waiting. He advised he would yield to Mr. Turner and Mr. Ervin, but action must be taken soon.

Interim Development Controls

Mayor Costello requested a discussion regarding interim development controls, better known as a moratorium. He stated he believed projects started under a specific set of criteria should be voted on under that criteria, but the Commission could change the criteria for future projects. Mayor Costello noted if the Commission believed there was a capacity issue around Tymber Creek Road, it should be made know up front before developers spend a great deal of money to design projects that would be ultimately rejected.

Item #13 – Close the Meeting

The meeting was adjourned at 11:44 p.m.

City Commission – June 13, 2006

APPROVED: July 11, 2006

BY: Fred Costello, Mayor

ATTEST:

Veronica Patterson, City Clerk