

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

**August 15, 2006      7:00 p.m.**

Present were: Mayor Fred Costello, Lori Gillooly, Troy Kent, Ed Kelley, and Bill Partington, City Manager Isaac Turner, Assistant City Manager 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 July 31, 2006, special meeting and the August 1, 2006, regular meeting.
- 5) ***AUDIENCE REMARKS:***
- 6) ***INTERGOVERNMENTAL REPORTS:***
  - A) Metropolitan Planning Organization
  - B) Volusia Council of Governments
  - C) Water Authority of Volusia
- 7) ***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. 2006-153 appointing Carolyn Parker as a member to serve as a commissioner of the Ormond Beach Housing Authority; setting forth term and conditions of office.
  - B) Resolution No. 2006-154 authorizing the sole source procurement of an original piece of art for Riviera Park; authorizing the execution of an agreement between the City of Ormond Beach and Paul Baliker; authorizing payment therefor. (\$14,000)
  - C) Resolution No. 2006-155 authorizing the execution of Change Order No. 1 to that interlocal agreement between the Volusia County School Board and the City of Ormond Beach regarding the Ormond Beach Elementary parking lot, by increasing the price by \$31,175.99.
  - D) Resolution No. 2006-156 authorizing the execution of Change Order No. 1 to that contract awarded to Jones Mechanical Corporation regarding the Eimco clarifier renovations at the Wastewater Treatment Plant, by increasing the price by \$26,936.
  - E) Resolution No. 2006-157 of the City Commission, also acting as the Community Redevelopment Agency of the City, authorizing the execution of a Property Improvement Grant Agreement between the City of Ormond Beach Community Redevelopment Agency and GO SURF, Inc. (120 East Granada Boulevard - \$1,474.09)

- F) Resolution No. 2006-158 increasing the pay ranges and steps for non-bargaining unit classified and unclassified employees and officials by 3.0%; authorizing the implementation and granting of a one-step pay increase for all non-bargaining unit employees covered by a step plan; authorizing the implementation and granting of a 3.0% general wage increase to 500 Series (managerial) employees and authorizing the City Manager to administer a merit plan for those employees providing for additional increases from 0% to 3.25%; authorizing a 6.25% general wage increase to all other non-bargaining unit employees and officials not covered by a step plan.
- G) Resolution No. 2006-159 amending the Pay and Classification Plan.
- H) Resolution No. 2006-160 amending Section 8.05, Military Leave, and Section 18.11, Vehicle Usage, of the City of Ormond Beach Human Resources Policy.
- I) Resolution No. 2006-163 authorizing the execution of a Grant Agreement between the City and the Federal Aviation Administration regarding the Runway 17-35 overlay design project, the installation of runway end identifier lights, the design of a heliport, and a planning study to consider noise berms. (\$121,744 FAA grant funding; \$3,204 City funding)
- J) Review of FY 2005-06 budget status.

DISPOSITION: Approve as recommended in City Manager memorandum dated August 10, 2006.

- 8) **FIRST READING OF ORDINANCE** No. 2006-11 approving the final plat for “Deer Creek,” Phase One, of the “Hunter’s Ridge” Development of Regional Impact; establishing conditions and expiration dates of approval.
- 9) **RESOLUTIONS:**
  - A) Resolution No. 2006-161 appointing a member of the Planning Board; setting forth term and conditions of service.
  - B) Resolution No. 2006-162 authorizing the execution of a Supplemental Interlocal Agreement for the Construction of Finished Water Interconnects between the City of Ormond Beach and the Water Authority of Volusia regarding construction of the Williamson Boulevard interconnect. (\$304,812 total; \$138,562 STAG grant funding)
- 10) **DISCUSSION ITEMS:**
  - A) Off beach parking options.
  - B) Consolidated emergency dispatch services.
  - C) Emergency water plant purchases / water rate increase.
  - D) Transportation concurrency.
  - E) November Commission meeting date.
- 11) **REPORTS, SUGGESTIONS, REQUESTS:** Mayor, City Commission, City Manager, City Attorney.
- 12) Close the meeting.

Item #1 - Call to Order

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

Item #2 - Invocation

Mayor Costello gave the invocation.

Item #3 - Pledge of Allegiance

Mayor Costello led the Pledge of Allegiance.

Item #4 - Approval of Minutes

Mayor Costello advised the minutes of the July 31, 2006, special meeting and the August 1, 2006, regular meeting have been sent to the Commissioners for review and asked if there were any corrections, additions, or omissions.

**Mayor Costello stated that hearing none, the minutes are approved as submitted.**

Item #5 - Audience Remarks

Mayor Costello advised that, starting at the next meeting, the Audience Remarks portion would occur at the end of the meeting. He reported this would afford the Commission an opportunity to respond to the remarks made. Mayor Costello stated the Commission would also be able to invite staff to respond to the questions made by the citizens.

Truth

Mr. Lawrence Cook, 1529 North Beach Street, stated that when Mayor Costello assumed office he asked what he could do, and Mr. Cook's response was to do whatever he could do to see the truth was made known. Mr. Cook expressed disappointment that there was nothing Mayor Costello could do.

Mayor Costello stated he wished he could assist Mr. Cook, but the incident occurred 16 years ago. He explained that of the three major parties involved, one passed away, one retired, and the third moved away; therefore, there was nothing he could do.

Building Height Limit

Ms. Clair Hunter, 64 Kingsley Circle, stated that expecting the beach to stay the same was unrealistic, but the City could strive to preserve the charm that attracted each resident to Ormond Beach. She reported at the center of the building heights controversy was the decision to continue the City's current 75-foot height limit with flexibility for an additional 15 feet versus a rigid City-wide 75-foot height limit. Ms. Hunter noted a group of citizens banded together to form CAN DO who oppose anything but a strict height limit; however, a number of people indicated to her that had they known the consequences and ramification of such a restriction, they would not have signed the petition. She pointed out a vocal 3,400 CAN DO supporters did not speak for the other 34,600 residents of Ormond Beach. Ms. Hunter advised the City had the unique opportunity to work with one developer who was willing to work with the City, deed land for an oceanfront park, build a community center, provide off-beach parking, and provide underground utilities in exchange for the City allowing them to stack what they would have built on that 850 feet of oceanfront land on top of several other buildings with no additional density or traffic. She noted there would be open vistas, an architecturally themed array of buildings, and tax relief. Ms. Hunter reported the alternative would be a wall of 75-foot buildings, side-by-side, blocking the view and access to the beach. She stated Ormond Beach would be relegated to purchasing oceanfront property at top dollar, subsequently increasing taxes. She questioned how much the citizens would be willing to pay for that privilege without gaining underground utilities, a community center, and off-beach parking. Ms. Hunter explained the current tax base was comprised of approximately 70% residential and 30% commercial, and a strict 75-foot limit would negatively impact the City's ability to draw commercial concerns to Ormond Beach's northern and western boundaries, impacting the entire City, not only the oceanfront properties. She pointed out Ormond Beach already lost the hospital, good paying jobs, and 3,000 acres of Consolidated Tomoka Land Company land to Daytona Beach because of an inflexible Commission, and she urged the Commission not to drive new business and high paying jobs away as well. Ms. Hunter stated the beach was a great treasure, and the City had one opportunity to "get it right;" therefore, she applauded and encouraged the Commission's efforts to use innovative means to secure land for beachfront parks and off-beach parking. She reported a transfer of development rights and flexible height limit, while holding developers accountable, would ensure the children would have a beach to enjoy for years to come.

Ms. Linda Kane, 78 Ivanhoe Drive, reported Mayor Costello made a comment in response to a writer in the *Hometown News* regarding an accident in Daytona Beach Shores. She stated she considered his statement to be outrageous in that Mayor Costello was indicating that an Ormond Beach citizen had an accident on the beach in another City, and it was due to Ormond Beach being inaccessible. Ms. Kane stated Mayor Costello owed an apology to these people and to the citizens of Ormond Beach.

Mayor Costello stated he apologized to anyone who took his comment as a political ploy because that was certainly not his goal. He noted he was merely inferring that it was sad many residents had to leave Ormond Beach to go to other cities' beaches.

Mr. Thomas Blawn, 319 River Bluff Drive, stated he supported the City Commission's efforts to investigate and not rush the petition process. He noted he considered this one of the finest Commissions Ormond Beach has had in his 14 years of living in Ormond Beach. Mr. Blawn advised he was perplexed how anyone could oppose receiving 850 feet of oceanfront deeded property with an estimated value of \$15 million. He applauded the Commission for not weakening from their position.

#### Non-Union City Employees Increase

Mr. Phillip Maroney, 117 Atwood Lane, stated the Commission would be discussing a compensation adjustment for non-union City employees later this evening. He pointed out salaries make up the largest part of the budget, and they would cause challenges for future Commissions. Mr. Maroney noted the recommendation was for a 6¼% increase when the market was typically at 3% to 3½%. He advised he had expressed opposition to the increase in the union contracts, and he believed each circumstance should be considered separately rather than holding to the idea where if one group received an increase, the other groups received the same. Mr. Maroney stated the budget would call for a tax increase, and this could be an opportunity for the Commission to make a statement to bring salaries in line with market conditions. He reported he objected to employees who have reached the top step receiving a 3½% bonus.

Mayor Costello stated he would like to speak to Mr. Maroney regarding this issue later, but his vote tonight would honor those who chose not to unionize. He explained he made a commitment that he would treat those employees the same as the union employees.

#### Fluoridation

Mr. Jim Schultz, 117 Harvard Drive, provided the Commission with a flyer he obtained from an internet site regarding an anti-fluoride convention in New York. He stated one speaker from the NRC scientific review panel indicated she found the maximum contaminant level of fluoride allowed was not protective and should be less than 1.0. Mr. Schultz noted the NRC only looked at the issue of whether the 4.0 level was protective and a health effect of dental fluorosis.

Mayor Costello stated the NRC only discussed naturally occurring fluoride and recommended four parts per million was too high, which he agreed with, and he pointed out Ormond Beach was at one part per million. He noted this issue was all about concentration. He reported he looked forward to the Environmental Protection Agency (EPA) study, and stated that currently there was no definitive evidence of hip fracture. Mayor Costello advised that until the scientific community and the NRC as a body, as opposed to a single researcher, would come out with a recommendation, he would follow the body's recommendation.

#### Height Limit Amendment

Mr. Pat Opalewski, 168 Pointview Lane, offered his support to Mayor Costello and the Commission for their decision to carefully review the legal merit of the height limit amendment. He stated the Commission was doing the right thing by proceeding with caution to make certain the City would not open itself up to costly lawsuits and endless litigation. Mr. Opalewski advised a height limit already existed, and it belonged in the Land Development Code. He stated that placing the height limit in the Charter would remove the Commission's flexibility and negotiating power, closing the door on an opportunity to obtain amenities from a developer such as off-beach parking, open space, and streetscape. Mr. Opalewski stated something had to be done on south A1A in that it was an eyesore in its current condition. He reported the elected officials should be provided the latitude to make decisions noting the Mayor and Commission worked hard to come to a reasonable compromise, and the City would have to be a partner in the development process.

Ms. Alice Jaeger, 447 Triton Road, displayed a photograph of how high rises affect the beach creating shadows and affecting turtle nesting. She expressed concern regarding the Bray and Gillespie plan and the Commission's lack of interest in the importance of keeping the City's laws, which they took an oath to uphold when elected. Ms. Jaeger noted the Commission's commitment was powerfully demonstrated today in the courtroom and in hiring an expensive attorney to do a job the City Attorney could have done. She questioned who would pay for the attorney in Mr. Carter's case against the City; whether the Commission vote on a budgeted amount of money to spend on this litigation; and why it was critical for the City to allocate thousands of dollars to litigate against citizens who have followed all of the rules and wish to see the laws of the City protected. Ms. Jaeger reported the people have already expressed their desire for a 75-foot height limit, which was why it was in the Land Development Code; and

over 4,000 citizens signed a petition to reaffirm that desire. She questioned why money would be wasted on a public center on the beach when other buildings have served the City for years, and how the City would afford the maintenance and hurricane insurance. Ms. Jaeger asked if the Commission considered the irreparable damage done to the neighborhoods adjacent to the parking garages. She urged providing a beach park similar to the Tom Renick Park that citizens have already paid for with their tax dollars.

Mayor Costello stated most of the abovementioned issues had been addressed. He pointed out nothing on the west side would be built any higher than was currently allowed.

#### Police Department Issues

Ms. Patti Barker, 1105 Overbrook Drive, stated the Commission on Florida Law Enforcement Accreditation did not vindicate former Chief Mathieson's management of the Ormond Beach Police Department, and in his final report, Assessment Team Leader Robert Garlo stated "the team leader also explained to Mr. Turner that some aspects of his concerns and those of certain members of the community could not be and should not be completely evaluated as part of a CFA onsite process." She noted that was contrary to Mr. Mathieson's presentation and indicated the importance of a more in depth investigation. Ms. Barker reported that Mr. Mathieson indicated miscommunication with the Fire Department was his responsibility, but deflected personal blame by asserting that was not the reason why he refused to allow the officers to carry safety flares. She stated that was not a miscommunication but a fabrication in that the Fire Department never stated road flares posed a fire hazard as Mr. Mathieson reported at that time. Ms. Barker reported the current administration was incapable of full public disclosure, and that policy does not serve the community well.

#### Water Plant Issues

Ms. Barker advised she requested a tour of the water treatment facility two weeks ago to see the promised improvements, and Utility Manager Tim Sheahan confirmed the visit for August 10; however, less than two hours later she received a terse email from Ms. Sloane advising her staff obtained a copy of her recent complaint to the Florida Department of Environmental Protection, and she did not feel it was appropriate to allow her to tour the plant, thus the visit was cancelled. She stated Mr. Hayes defended Ms. Sloane's decision but admitted Ms. Barker had been denied access to the plant because she filed a complaint. Ms. Barker stated she considered this to be discrimination. She reported the Commission would discuss spending over \$1 million to fund emergency repairs to the water treatment facility, which would equate to a 6% increase in everyone's utility bill. Ms. Barker agreed emergency improvements must be funded immediately to insure a safe water supply; however, she took exception to the fact that this Commission would allow the same individuals who overlooked the negligence that brought Ormond Beach to this point to remain in positions of responsibility.

Mr. Isaac Turner, City Manager, stated the water was never unsafe as affirmed by not only City testing, but by a letter from the Department of Health and a Deland laboratory. He pointed out he would not have his family or anyone else drink unsafe water. Mr. Turner agreed that maintenance was not done as well as it should have been done. He noted it was interesting that he was attacked when he took personnel action and also when he did not take personnel actions. Mr. Turner reported he would place fault where he would determine it belonged, and he would hold his managers accountable to do the same. He stated there was a statement in the complaint Ms. Barker filed of alleged criminal negligence without citing anything specific. Mr. Turner explained that caused him concern; therefore, he did not want Ms. Barker's tour to occur until the Department of Environmental Protection and Department of Health made their inspections and issued their ruling. He advised Ms. Sloane immediately contacted the Department of Environmental Protection and Department of Health, urged them to come as soon as possible, and arranged an inspection this week. Mr. Turner reiterated he did not generally oppose people touring the plant; but due to the statement alleging criminal negligence without citing anything specific, he wanted the regulatory agencies to have access to the plant before allowing Ms. Barker to have a tour. Mr. Turner advised that if Ms. Barker was legitimately concerned, he would be willing to speak to her regarding those concerns.

#### Building Heights

Ms. Magi Sharifi, 210 Valencia Drive, stated that when Mayor Costello endorsed unconditional support for the Bray and Gillespie plan in May she would have preferred he had indicated that while this seemed to be a great project, the City should look carefully at all aspects of the proposal. She stated the proposal for the 75-foot height limit or nine story buildings had 76 units, and the condo and hotel tower would have 440 units for a difference of 364 units. Ms. Sharifi pointed out there would be 184,000 square feet for the three nine story buildings and 590,000 square feet for the condo and hotel tower. She stated she would have preferred Mayor Costello indicate at that May meeting that Bray and Gillespie was offering an 850 linear

foot park; however, there was only 668 feet shown. Ms. Sharifi advised there was not a great deal of parking at these sites and the plans indicate they would use side yard setbacks as well as parks for this. She reported Mayor Costello should have addressed the parking garages, urging the City to check with the School Board in that both parking garages were near schools. Ms. Sharifi pointed out egress would be onto the neighborhood streets, not A1A, causing additional traffic on the neighborhood streets. She noted the Daytona Beach parking garage was used by the homeless and people using drugs. Ms. Sharifi questioned the need for a community center. She stated that seven-story buildings can be just as architecturally pleasing as 18 and 19-story buildings. Ms. Sharifi reported there were numerous ramifications, such as environmental impacts and infrastructure of the beachside. She reported if the height limits were raised it would not be just for beachside—condos could be built anywhere in the City. Ms. Sharifi stated there was now an adversarial attitude that was not necessary. She pointed out the people voted for the Commission members because they believed they would do a good job for the City, and this was the only issue she had seen where a different attitude was being projected.

Mayor Costello stated he was studying the issue far more carefully than some believed. He advised he requested that after all of the public hearings occurred, which would be necessary before anything could happen, that the City hire outside architects, land development firms, and land use attorneys to review the proposals carefully to be certain the Commission had done a great deal more than simple due diligence. Mayor Costello concurred this was a huge undertaking with tremendous potential. He explained the transfer of development rights was not from one lot to its adjacent lot, but involved land on A1A south of Granada Boulevard including both the land on the west and east side of A1A. Mayor Costello reported staff was investigating the number of units and square feet for a transfer, and the numbers must be worked out between staff and the developer. He stated the 850-feet indicated should be “up to 850-feet” on both sides of A1A. Mayor Costello advised the City would obtain vistas over 1,200 feet so the beach would be seen unlike it was now. He advised he previously indicated he would not favor exits on side streets for parking garages. Mayor Costello noted staff must contact each neighborhood impacted to determine if they would want cul-de-sacs, one-way road, speed bumps, or other traffic calming devices. He reported work could be done to allow a favorable outcome for all concerned.

Mayor Costello explained he found it incredulous to hear what was being said regarding the community center because for years he heard people express a need for recreation and space on the beachside, and now when there was a potential to have that recreation space, some people were indicating they do not want it. He reported he believed there was absolutely no adversarial attitude on this Commission. Mayor Costello noted he and Commissioner Kent could be diametrically opposed on an issue without being adversarial, and he urged everyone to do the same. He stated people have a right to disagree without having an adversarial attitude. Mayor Costello urged gathering all of the facts, making an informed decision, and then moving on, making the best of that decision.

Mr. Turner stated staff was trying to compile a list of questions. He noted if staff had displayed an adversarial relationship, he apologized, and it would have to change. Mr. Turner advised there were many people who had concerns, and he urged Ms. Sharifi or anyone else to e-mail a copy of their concerns to City staff so they could follow up.

Mr. Turner apologized to the Commission, the citizens, and Ms. Barker for his last statement to her.

Mayor Costello stated while Mr. Turner was correct that he should not have made that statement, when someone was after a person's job he understood that people may say things they should not say.

#### Building Heights / Beachfront Redevelopment

Ms. Sarah Vandagriff, 4 Waterfront Circle, stated everyone speaking on the beachside issue had the same goal, which centered around the quality of life. She stated the Land Development Code took two years of public hearings to develop, and it was a good document. Ms. Vandagriff pointed out all those speaking now could have spoken then. She noted the Land Development Code provided the Commission, staff, and public the right to take advantage of opportunities that could not have been foreseen if the provisions had been in the Charter, and this was the purpose of the public hearings. Ms. Vandagriff noted Ormond Beach was very conservative as evidenced by requiring every site plan over 10,000 square feet to come before the Commission for a special exception, which was unlike any other city. She stated this public hearing process allowed people to voice their opinions. Ms. Vandagriff explained she believed the City had a good process to preserve its quality of life, and there was an opportunity for staff and the Commission to push a developer when a Charter amendment would not allow this. She stated

the shadows from the shorter buildings reach the beach casting a shadow; however, if there were fewer, slimmer, taller buildings, there would be room between the buildings where there would be no shadows.

#### Windstorm Insurance / Taxes

Ms. Vandagriff explained she owned an apartment complex in Ormond Beach, and there would be a \$38,000 increase in insurance from last year and a \$35,000 increase in property taxes so she would have to increase her rents to cover the increase. She stated she was pleading for the Commission to support the State should they call a special session regarding the wind pool and by supporting the roll back rate.

Mr. Greg Avakian, 161 Heritage Circle, reported the Commission had an item on the agenda regarding taxing the residents \$300,000 per year for 20 years to pay a debt service of \$3.5 million which would represent 30% of the cost the City and County would try to raise to purchase property. He stated \$300,000 for 20 years would equal \$6 million as opposed to the \$3.5 million indicated. Mr. Avakian questioned where the County planned to acquire this land for off-beach parking, especially since they would be under certain constraints in that they would need to purchase the land for the appraised value when they could be easily outbid by developers for that land. He noted the residents would be paying tax dollars for the County to acquire land that they would not legally be able to acquire. Mr. Avakian stated businesses are being hurt with the taxes, especially when the City could obtain this land for free. He urged the Commission to negotiate with developers before discussing a tax increase.

Mayor Costello explained Ormond Beach was working with Volusia County to obtain additional beachfront property. He stated there was a potential to obtain beachfront property where the County would pay 60% to 70% and the City pay 30% to 40% in a partnership. Mayor Costello noted while a final decision had not yet been made, he had indicated he would be willing to place money in the budget to purchase beachfront property for a beachfront park and off-beach parking. He reported he believed many Ormond Beach residents would support obtaining as much open space, beachfront property, and off-beach parking as possible. Mayor Costello advocated gaining as much beachfront land as possible from a transfer of development rights and through purchasing land. He explained as a \$100,000 home would actually cost \$200,000 or \$300,000 over 20 years, this \$3 million would cost \$6 million over 20 years. Mayor Costello noted the final numbers would remain unknown until the property could be located. He explained the \$300,000 was a placeholder so the County could be made aware the City was serious about partnering with the County.

Mayor Costello pointed out a shadow study and traffic study would be done as a part of this issue.

#### Building Height Limit

Mr. Scott Selis, 1 Watercliff Lane, stated this and future Commissions should not be hamstrung by a steadfast rule with no flexibility. He reported the density and number of units would not change. Mr. Selis advised the argument he heard from opponents of the plan was that if tall buildings were allowed, it would result in a wall of tall buildings on the beachfront. Mr. Selis pointed out that any good business person would want to maximize their profit; and if taller buildings would not be permitted, they would build as large a building as they possibly could on the property going to the extreme extent of the property, which would result in a row of buildings with little space between them. He explained the developer was proposing to take the same number of units that would have been allowed, placing them into a taller building, creating open space between the buildings, which made perfect logical sense. Mr. Selis questioned what the opponents of this plan would hope would occur, and the only solution he could conceive was that they were hoping that if there were a height limitation that there would not be any development, which was totally absurd. He stated no real estate investor would pour millions of dollars into beachfront property and not build anything to maximize their profit. Mr. Selis recommended the Commission retain its ability to remain flexible, allow future Commissions to remain flexible, and stand firm on their current path.

Mayor Costello reported that in the future he would start the audience remarks portion of the agenda by indicating that he would accept cards at that point, but would not accept any additional cards after the first speaker started their comments. He noted if this was not done people would merely respond to what was already stated.

Mr. Jeff Boyle, 613 Halifax Drive, reported he lamented the loss of the audience remarks at the start of the meeting and requested the Commission indicate the impetus of that decision. He pointed out he was the 14<sup>th</sup> speaker tonight with 10 addressing the building heights issue, Mayor Costello responded to eight comments, and the City Manager responded twice. Mr. Boyle stated in Mr. Selis' scenario, the City would be willing to toss their setback and

parking requirements for the seven story buildings to create this seven-story wall. He advised there was a report on the business page regarding a new State statute which required buildings over 75 feet to have emergency generator systems for their elevators and to have an emergency evacuation plan. Mr. Boyle reported he found it significant that the State saw fit to make the height limit requiring these measures at 75 feet. He stated even with these benefits, this would be done at a time when scientists, emergency experts, and insurers indicate no more tall buildings should be built on a barrier island. Mr. Boyle reported there was too much density along the sea coast.

Mayor Costello agreed this was about density, and the experts urged less density on the beach; however, this proposal would not increase the density on the beach. He asked the City Attorney to provide an update on the events of the day.

Mr. Randall Hayes, City Attorney, stated the issue that was continually being ignored was the constitutionality of the proposed ballot measure, which was the focus of the litigation. He reported his place was not to have an opinion on whether buildings should be 75 feet or higher, but he took an oath as a lawyer to uphold the constitution and the laws of Florida, and he was of the firm belief that this ballot measure was constitutionally infirm. Mr. Hayes advised he had an obligation to this community, this Commission, and his oath as a lawyer to see this through, which was what he intended to do. He stated he heard many mischaracterizations about the advice he provided to the Commission, the motives of the Commission; and it was unfortunate that this was what this situation had degenerated to, but hopefully there would be an opportunity to address some of these issues as the litigation continued. Mr. Hayes reiterated this was about the constitutionality of this measure, which was what people should be focused on. He reported he did not know who was paying the salary for CAN DO's lawyers, but he knew it was not the City. Mr. Hayes thanked the Commission for allowing him to retain Mr. Pelham, but he explained this was such a huge issue that even with Mr. Pelham, he was spending a great deal of his day on this issue, and other work remained undone or was done later than it should be done. He explained this issue transcended this community, affecting not only Ormond Beach but also local governments throughout the State of Florida. Mr. Hayes reported this was one of the most critically important issues this community or any other community in Florida would face, and Ormond Beach needed to find out the correct answer. He stated he was very comfortable in the City's analysis and what he believed the end result would be; however, the City could not know that until it would be judicially determined.

Mr. Hayes explained CAN DO filed a lawsuit against the City; the City counterclaimed; a discussion ensued about what CAN DO had mischaracterized as a "delay"; CAN DO filed a motion for emergency relief; and the hearing was held today. He stated CAN DO was seeking an order from the court to compel the Commission to put the proposed ballot question on the fall election as the parties continue to litigate the constitutionality of the issue. Mr. Hayes reported a decision should be received by Friday. He advised two possibilities existed: the City would either get an order supporting the City's position where CAN DO would most likely appeal, and the City would then file an appropriate response to that appeal; or should the City receive the unlikely adverse ruling, the Commission must decide whether or not to make an appeal. Mr. Hayes stated if the court would order the City to place the ballot question on the ballot in the fall, he would have to prepare a resolution, and the Commission must adopt it; however, the City would have to make the language work, and he did not know how to fix the constitutional deficiency in a ballot question. He reported for this reason, in the unlikely event the City should obtain an adverse ruling, he would strongly recommend the City appeal the decision.

Mayor Costello responded that if the Court were to find in favor of "CAN DO," he would prefer to let the people vote. He noted from the beginning he wanted the people to vote; but when he was told it would be a dereliction of duty, he changed his mind. Mayor Costello reported if it was deemed unconstitutional, he would not place it on the ballot; but if the court said to place it on the ballot, he was ready to comply. He stated he wanted to proceed past the debate on voting and move on to the debate on trading for open space, beachfront land, and off-beach parking with no increase in density. Mayor Costello noted he heard it said that the Commission was stating they have more authority than the people, which was not true because the Commission was simply saying the Commission could not place this amendment on the ballot because of its constitutionality, taking away private property rights so the people could not place it on the ballot either. He stated the people had equal or superior power to the Commission. Mayor Costello pointed out this had nothing to do with who generated the amendment.

Commissioner Kent agreed with Mayor Costello that the vote should proceed should the judgment come back for the "CAN DO" group. He noted how many months this was delayed from the time the petitions were signed and delivered to today's date.

Mr. Hayes explained it was February or March when this petition was first delivered to the City, and he did an initial memorandum in March, which was intended solely for informational purposes to provide general guidance on general principals of law. He stated the primary issue at that time dealt with vested rights and private property rights, and it was not intended nor did it address specific deficiencies with the proposed Charter amendment. Mr. Hayes reported the memo clearly indicated he would be issuing a more comprehensive memo supplemental to the March memo. He advised this was a very complex issue in that it had not been fully developed in the courts, and the decision of law was still developing around the issue. Mr. Hayes reported it took staff some time to do all of the research and analysis and to provide conclusions, but it had absolutely nothing to do with posturing by citizens or the Commission. He stated, at that point, the Commission approved a resolution directing him to file an Action for Declaratory Relief, and he made a decision not to file the action after a CAN DO representative delivered two alternative petition forms that the Commission did not have the opportunity to discuss because CAN DO filed suit before the Commission could meet. Mr. Hayes reported he was trying to deal with CAN DO in good faith, but the situation was being mischaracterized again and again as it was in the courtroom today, and he hoped to have the opportunity to set that record straight.

Commissioner Kent stated he appreciated Mr. Hayes's intensity and passion, and he looked forward to expressing his appreciation on Mr. Hayes' evaluation. He noted Mr. Hayes indicated a five month delay ensued, and in the interim the Commission decided to file a lawsuit against CAN DO to determine the legal sufficiency. Commissioner Kent asked how long the delay was between when the Commission decided to file a suite against CAN DO and when CAN DO filed a lawsuit against the City.

Mr. Hayes stated from the time the initial petition was delivered to the Commission to the date of his May memorandum he and his staff were involved with a substantial amount of research and analysis which took time because this was a very complicated constitutional issue. He explained if the Commission would determine this should be placed on the ballot, a resolution must be adopted, and he would need to figure out the ballot language; but he did not know how that could be done.

Mayor Costello recommended using the exact wording on the ballot in that the CAN DO group did not want the wording changed.

Commissioner Partington stated he did not have adequate information to make a decision tonight. He requested a special meeting be scheduled for Saturday or Monday to provide adequate time to review the judge's order and to discuss the constitutional impacts in Ormond Beach and Statewide with Mr. Hayes.

Commissioner Gillooly expressed agreement with Commissioner Partington's view. She reported the Commission addressed the issue of language before they voted to seek judicial review, and Mr. Hayes had tried at that time to come up with appropriate language. Commissioner Gillooly noted she had the same concerns then as she had now that should it be placed on the ballot, whether it would pass or fail, there would be a segment of the community who believed the City's language created the result; and she considered that unfair to those who would signed petition.

Mr. Hayes explained it would be the City's obligation to prepare proper ballot language, so to the extent there were deficiencies, those deficiencies must be fixed, and he did not know how to fix it because the language was constitutionally infirm. He clarified that the City could not merely take the language that was presented.

Commissioner Kent asked if the Commission could direct him to meet with CAN DO to find sufficient language.

Mr. Hayes reported that, initially, this was what he anticipated; however, the more involved he became in the analysis of this type of ballot measure, the more he was convinced there was not anything this Commission could do to place it on a ballot.

Mayor Costello requested that when Mr. Hayes received the results of the court proceedings, he was to contact the Commission and a special meeting would be called to provide him with direction.

Commissioner Kelley reported he attended the hearing today, and at the end of the proceedings the plaintiff put the judge on notice that he would appeal if CAN DO did not prevail. He advised that this proposal would violate the Growth Management Act, and the City Attorney and other attorney's he spoke to have indicated that nothing could be done to place something in the

Charter that would violate the State’s constitution. Commissioner Kelley clarified that cannot be fixed, and for the Commission to place something on a ballot that was unconstitutional for the people to vote on was a dereliction of duty. He advised he could not support allowing people to vote on something that was unconstitutional. Commissioner Kelley stated if a judge would allow this on the ballot until the underlying issues were examined, he believed it would ultimately be judged unconstitutional because it took away the power granted by the Growth Management Commission and the duties of this and other commissions around the State; therefore, he would support an appeal if necessary.

Mr. Hayes advised there was no need to rush for a decision, and the Commission could wait for a ruling.

Commissioner Kelley pointed out if the judge would rule it must be placed on the ballot, it would have to be in the County elections office by August 23 or August 24.

Mr. Hayes reported the deadline imposed by the County elections supervisor was for her to have any ballot language by August 25. He pointed out that under the Charter, the City needed only 12 hours notice to call a special meeting; however, on an issue as critical as this issue, the City would want to provide as much advance public notice as possible.

Mayor Costello recommended asking Mr. Turner’s secretary to poll the Commission regarding a meeting time.

Item #6(A) - Metropolitan Planning Organization and Item #6(B) Volusia Council of Governments

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

Item #6(C) - Water Authority of Volusia

Commissioner Kelley stated he had nothing new to report on the Water Authority of Volusia (WAV).

Item #7 - 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 No. 7(D) be removed from the consent agenda for discussion.

Commissioner Gillooly requested Item No. 7(F) be removed from the consent agenda for discussion.

Mayor Costello requested Item No. 7(E) be removed from the consent agenda for discussion.

**Commissioner Kent moved, seconded by Commissioner Partington, for approval of the Consent Agenda, minus Item Nos. 7(D), 7(E), and 7(F).**

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

Item #7(D) - Eimco Clarifier Renovations at the Wastewater Treatment Plant

RESOLUTION NO. 2006-156  
A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. 1 TO THAT CONTRACT AWARDED TO JONES MECHANICAL CORPORATION REGARDING THE EIMCO CLARIFIER RENOVATIONS AT THE WASTEWATER TREATMENT PLANT, BY INCREASING THE CONTRACT PRICE BY \$26,936; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Partington moved, seconded by Commissioner Kelley, to approve Resolution No. 2006-156, as read by title only.**

Commissioner Kent stated he would vote for this tonight, but he would be scrutinizing change orders very closely in the future. He noted the re-prepping, priming, and painting would entail ten man hours at a cost of \$740. Commissioner Kent reported staff could have done this task. He questioned if the \$5,328 for cutting, fabricating, splicing, and drilling was overcharged.

Mr. Turner advised a report would be included in the Friday letter to more fully explain this issue. He noted if a Commission member ever had any questions or needed clarification on such an issue, staff would gladly provide that information.

Commissioner Gillooly agreed that while certain skills may be required for some jobs, charging \$74 an hour for painting seemed excessive.

Mayor Costello noted the Commission would receive more information in Friday letter. He stated he assumed the prep portion was more of an issue than the priming or painting.

Commissioner Kelley explained he had been concerned about change orders since 1994. He questioned if the cause for change orders was incomplete instructions at the beginning of the bidding process or that something not being addressed. Commissioner Kelley reported he was comfortable with the \$74 per hour charge because it was unknown how many workers this would cover, and he would assume there would be more than one worker. He stated change orders in a year's time could be approaching \$1 million.

Commissioner Kent concurred with Commissioner Kelley. He questioned if bidders were giving lower bids anticipating change orders.

Mr. Turner explained there are times the equipment being worked on was old, and the bidders may not know the condition of the equipment. He noted the change orders the Commission sees are those that exceed the amount of the contract, but they do not see those under the contract cost, which did occur.

Ms. Judy Sloane, Public Works Director, stated a monthly report was provided to the City listing all of the construction contracts and anticipated change orders. She noted when construction work was required in an area not exposed, such as underground utilities and this clarifier, that until the equipment was taken out of service, drained, and inspected it would be difficult to accurately know what needed to be done.

Mr. Turner reported staff did a stringent amount of negotiations before they would agree to bring any change order forward.

Commissioner Partington stated he appreciated Commissioner Kent bringing up this issue. He asked how many bids were there for this project and what the range of the bids was.

Ms. Sloane reported there were three bids with a base bid and an hourly rate.

Commissioner Partington stated in dealing with staff he trusted that favorite bidders were not allowed to provide lower bids with the promise of change orders to make up the difference.

Mr. Turner reiterated a summary report on change orders was provided to the Commission. He explained that some of the pits at the treatment plant were 20 feet deep and in operation, making it difficult for bidders to accurately determine the costs. Mr. Turner noted it was not unusual for minor changes, and many times the changes are under bid.

Commissioner Kent noted he was pleased the costs could also go under bid. He asked if the bidders view the project prior to bidding the project. Commissioner Kent questioned why additional fees should be paid if it was not included in the contract since the bidder agreed to do the work for a certain price.

Mr. Ted MacLeod, Assistant City Manager, stated two methods could be employed—showing a contractor a job and explaining there would be nothing extra paid if something unexpected would occur or to bid with the possibility of a change order if something unexpected would occur, and the City uses the second method. He pointed out with the first method the bids would be a great deal higher to cover any unanticipated problems. Mr. MacLeod noted the second method had proven to be the better system because it would be fair and equitable paying the contractor for their work, and the City pays only for what needed to be done. He

explained staff scrutinized change orders carefully before bringing them to the Commission for approval.

Mayor Costello compared the situation to that regarding the roads, where the Commission was asked to fund a survey of the roads so lines could be accurately located; and the Commission refused that in the belief that change orders could occur, but they would be less expensive than the survey.

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

Item #7(E) - Property Improvement Grant Agreement with GO SURF, Inc.

RESOLUTION NO. 2006-157

A RESOLUTION OF THE CITY COMMISSION, ALSO ACTING AS THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY, AUTHORIZING THE EXECUTION OF A PROPERTY IMPROVEMENT GRANT AGREEMENT BETWEEN THE CITY OF ORMOND BEACH COMMUNITY REDEVELOPMENT AGENCY AND GO SURF, INC.; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kelley moved, seconded by Commissioner Kent, to approve Resolution No. 2006-157, as read by title only.**

Mr. Scott Tepper, 120 East Granada Boulevard, attorney and principal with Go Surf, Inc., stated getting the improvements for this building had been a very long and difficult process due to the contractor. He advised that in the original proposal they had money set aside for painting; but during the pressure wash, cracks were exposed, and some masonry work was knocked off. Mr. Tepper reported all of the signs for the tenants had to be removed. He stated stucco work was done hiding all of the imperfections and cracks. Mr. Tepper noted there was a miscommunication regarding whether work could start before it was approved by the Commission. He explained they had a contractor ready to proceed; the contractor cautioned there could be potential water leaks; the tenants were complaining their new clients could not find them because the signs were not up; and hurricane season was approaching, so the stucco work was initiated. Mr. Tepper stated the question was whether this cost would be covered under the grant if it was started before it was approved. He explained the \$1,474.09 would include the gutter work and landscaping work, but it would not include the stucco work, which cost approximately \$6,600. Mr. Tepper pointed out the building was much better with the work than had they only painted it. He requested this stucco work be included in the grant.

Mr. Clay Ervin, Planning Director, noted the staff report was self-explanatory.

Commissioner Kent questioned that had Mr. Tepper waited, the cost could be eligible for reimbursement; whereby, Mr. Ervin agreed it would have been reimbursed. Commissioner Kent stated this was a great program in the Tax Increment Financing (TIF) district. He noted he believed Mr. Tepper was trying to do the right thing to do this job before hurricane season; therefore, he would be willing to amend this application to award the \$4,809.09.

**Commissioner Kent moved, seconded by Commissioner Gillooly, to amend this application to award the \$4,809.09.**

Commissioner Gillooly applauded Mr. Tepper for making the improvements to the building. She reported she contacted staff to determine if there were any extenuating circumstances that caused Mr. Tepper to move forward before waiting for a vote. Commissioner Gillooly stated staff indicated they talked to Mr. Tepper specifically about waiting, but were unaware of any extenuating circumstances as Mr. Tepper was describing now. She asked what the timeframe was from when Mr. Tepper spoke to staff and he started the work.

Mr. Tepper stated he spoke to Mr. Michael Boucher, former Chief Planner, where he indicated he was hopeful the stucco would be approved, but there was a miscommunication. He noted this miscommunication was probably his fault. Mr. Tepper did not recall explaining to Mr. Boucher why he felt he had to do the work at that time. He explained he had a problem with the original contractor in that the project was approved by the City, but the contractor never

submitted any bids within the designated time period. Mr. Tepper reported the stucco work began two weeks ago.

Commissioner Gillooly asked if the City would be setting a precedent or if there was room for flexibility in extenuating circumstances to encourage people in the downtown to improve their buildings.

Mr. Ervin stated when the program was initiated one of the concerns identified by Main Street and the City Commission was that they did not want people to do work and retroactively ask for permission. He explained the goal was to be certain the type of work being done would be consistent with the goals and have both parties' fully aware on the outset how much the costs would be.

Commissioner Gillooly stated the stucco work was within the guidelines of what would have been approved. She noted the funds were available. Commissioner Gillooly noted she would prefer allowing flexibility for extenuating circumstances, yet she also understood staff's position.

Mr. Hayes stated there was nothing in the rules that would preclude the Commission from approving this due to extenuating circumstances, and it would not set a precedent.

Commissioner Partington noted this may not set a precedent, but others may want the same concession. He pointed out this grant returns some of the money spent for these projects. Commissioner Partington recommended Main Street investigate this issue again for a possible 60-day look back period to handle these types of situations or would if they prefer deferred maintenance to be covered by TIF funds. He advised this was not a great deal of money being considered. Commissioner Partington noted he would approve this, but requested staff send this back to Main Street to provide more direction.

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

Mayor Costello stated he approved this because it would have been covered had the proper procedure been followed. He agreed with Commissioner Partington to have Main Street provide direction to the Commission addressing the deferred maintenance issue and adding a provision where if extenuating circumstances should arrive, the Commission could consider approval without delaying the project for months.

Call Vote for the Underlying Motion:	Commissioner Partington	yes
	Commissioner Gillooly	yes
	Commissioner Kent	yes
	Commissioner Kelley	yes
Carried.	Mayor Costello	yes

Item #7(F) - Increase in Pay Ranges and Steps for Non-bargaining Unit Classified and Unclassified Employees and Officials

RESOLUTION NO. 2006-158

A RESOLUTION INCREASING THE PAY RANGES AND STEPS FOR NON-BARGAINING UNIT CLASSIFIED AND UNCLASSIFIED EMPLOYEES AND OFFICIALS BY 3.0%; AUTHORIZING THE IMPLEMENTATION AND GRANTING OF A ONE-STEP PAY INCREASE FOR ALL NON-BARGAINING UNIT EMPLOYEES COVERED BY A STEP PLAN; AUTHORIZING THE IMPLEMENTATION AND GRANTING OF A 3.0% GENERAL WAGE INCREASE TO 500 SERIES (MANAGERIAL) EMPLOYEES AND AUTHORIZING THE CITY MANAGER TO ADMINISTER A MERIT PLAN FOR THOSE EMPLOYEES PROVIDING FOR ADDITIONAL INCREASES FROM 0% TO 3.25%; AUTHORIZING A 6.25% GENERAL WAGE INCREASE TO ALL OTHER NON-BARGAINING UNIT EMPLOYEES AND OFFICIALS NOT COVERED BY A STEP PLAN; SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kent moved, seconded by Commissioner Partington, to approve Resolution No. 2006-158, as read by title only.**

Commissioner Gillooly stated she had a great deal of respect for many of the staff members, and she appreciated the work they do; but her duty was to represent the citizens, and watching out for their tax dollars was a major priority. She reported she could not approve an increase for the City Commission, and a general wage increase to the City Manager and City Attorney was not appropriate as the City Manager and City Attorney were dealt with separately.

Mr. Turner stated the funding in the budget for City Manager and City Attorney was in this resolution, but the actual increase would not occur if this were approved until direct Commission action after an evaluation.

Commissioner Gillooly expressed concern regarding lump sum bonuses for people at the highest step. She pointed out these were professional positions, and she was concerned with a 6.25% increase noting it should be no higher than 3.5%. Commissioner Gillooly stated these were good jobs with good benefits.

Mr. Turner stated when the Commission sets the contracts, staff reviews market data for union and non-union positions. He reported he believed it was important to treat the union employees the same as non-union employees. Mr. Turner explained Ormond Beach had been so successful in this that in the past year there was an effort to unionize some employees and the employees chose not to unionize because they were receiving the same benefits as those who were unionized. He noted the time to focus on the different groups was when the salary surveys were being done and when the union negotiations were in progress. Mr. Turner advised that starting last year the City implemented a merit program for the amount above the CPI with the 3% based on performance. He noted this was a foray into treating employees differently from what was done in the past. Mr. Turner pointed out positions were highly competitive, and the salary needed to remain highly competitive. He strongly recommended treating union and non-union employees the same, or it would encourage unionization. Mr. Turner urged that the conservatism be demonstrated as the City heads into the union negotiations, and that would affect the amounts of raises for the non-union employees as well.

Commissioner Gillooly noted agreement regarding equity, but she urged showing conservatism now.

Mr. Turner stated the amount given to union employees was quite healthy, and he hoped to be more modest at the next opportunity. He noted unions were aggressively looking for employees to unionize. Mr. Turner urged the employees be treated so well they would not feel the need to unionize.

Mayor Costello stated non-union employees were considered annually, and the union contracts were negotiated every three years. He reported that even though he voted against the union contract amount, he would support this to keep these employees the same. Mayor Costello stated he was pleased all Commission members had expressed a desire for conservatism for the upcoming contracts.

Commissioner Gillooly noted she understood and appreciated Mayor Costello's point. She asked if the department directors and division managers could be separated out from the non-bargaining general employees.

Mr. Turner stated that could be done, but he expressed grave concerns about that proposal.

Mr. MacLeod stated in the 500 series, which was made up of department directors and division managers, \$80,000 was budgeted last year for the 3¼% increase and \$57,000 was spent with \$23,000 not spent. He stated the average increase was 2.33%.

Mr. Turner concurred with the idea of conservatism, and stated that should this be the beginning of the negotiation period, he would have no objection. He pointed out the City had some outstanding, hard-working employees. Mr. Turner advised employees have obtained more grants than ever before and resurrected projects numerous times; therefore, he wanted to keep them highly motivated and well compensated.

Commissioner Kent reported he understood Commissioner Gillooly's concern. He pointed out there were also employees who had "dropped the ball" on major issues. Commissioner Kent noted that Mr. Turner had the discretion to give some employees 0%, and he expected that same attitude to continue this year in departments where major problems existed.

Commissioner Gillooly noted the unionized staff paid a certain percentage for dues, and the non-union employees do not have that cost factor.

Commissioner Kelley stated he did not support the other raises, but he did not wish to discriminate. He expressed concern relative to employees who have reached the limit for their rank, yet the limit keeps increasing. Commissioner Kelley noted there was only so much money that a City could pay. He stated pensions have and will continue to adversely affect the budget, and the more money given in salaries, the more liability the City would have for pensions. Commissioner Kelley reported when an employee reached their limit, they would receive a bonus, which should be annualized and optional the next year as opposed to being added to their base salary.

Mr. Turner reported that would be categorized as a one-time lump sum, and it would not be added to their base salary for the next year.

Mayor Costello explained it also did not figure into retirement.

**Commissioner Gillooly moved to amend the motion to limit the 500 series to a 3.5% increase. The motion died for lack of a second.**

Call Vote on the Original Motion:	Commissioner Gillooly	no
	Commissioner Kent	yes
	Commissioner Kelley	yes
	Commissioner Partington	yes
Carried.	Mayor Costello	yes

Mayor Costello called for a short break at 9:26 p.m., and he reconvened the meeting at 9:31 p.m.

#### Budget

Mayor Costello stated it was likely the City would have a \$840,000 positive variance, and he complimented staff for that achievement.

Mr. Turner stated in updating the budget figures, an additional \$200,000 in interest was discovered that had not been anticipated. He asked the Commission to utilize this amount to further reduce the tax rate, and staff would bring the Commission a proposal to accomplish that on September 6. Mr. Turner commended Budget Director Kelly McGuire, Finance Director Paul Lane, and Assistant City Manager Ted MacLeod who heard the Commission's direction and desire to find savings and were constantly seeking opportunities to achieve that goal.

Mayor Costello asked if the Commission had any objection to accepting the resolution reflecting that the millage was decreased enough for that \$200,000 increase in the interest.

Commissioner Gillooly expressed agreement with Mayor Costello regarding Option #2.

#### Item #8 – "Deer Creek," Phase One Final Plat

ORDINANCE NO. 2006-11  
AN ORDINANCE AMENDING APPROVING THE FINAL PLAT  
FOR "DEER CREEK," PHASE ONE, OF THE "HUNTER'S  
RIDGE" DEVELOPMENT OF REGIONAL IMPACT;  
ESTABLISHING CONDITIONS AND EXPIRATION DATES OF  
APPROVAL; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kelley moved, seconded by Commissioner Partington, to approve Ordinance No. 2006-11, on first reading, as read by title only.**

Commissioner Kent questioned if Ormond Beach would be facing the same issue Port Orange was facing regarding zero-lot-lines.

Mr. Ervin explained these standards were approved as part of the Hunter's Ridge DRI in the late 1980s, and at that time, zero-lot-lines were prevalent; however, they do have the flexibility of using traditional patio style lots. He stated these lots would not have an actual zero-lot-line, but it was a part of the Development Order that they could if they wanted to do so. Mr. Ervin reported he understood traditional units with side, rear, and front setbacks would be used while avoiding the zero-lot-line design.

Mr. Trace Hass, KB Home Gold Coast, LLC, advised that this decision had been made to develop a traditional product for this property with a minimum 10-foot side setback on the 60 and 80-foot products.

Mayor Costello questioned if the Commission needed to amend the code to avoid this in the future.

Mr. Ervin stated nothing was needed. He clarified one of the requirements staff had instituted when processing a subdivision was that the developers may have zero-lot-lines, but an easement would need to be granted through the plat to maintain the structure. Mr. Ervin noted when the structure in Port Orange was constructed, no such easement was granted.

Mayor Costello stated people need to know up front if their neighbor could or could not have a fence.

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

Item #9(A) - Planning Board Appointment

RESOLUTION NO. 2006-161  
 A RESOLUTION APPOINTING A MEMBER OF THE PLANNING BOARD; SETTING FORTH TERM AND CONDITIONS OF SERVICE; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley stated he only discovered this board vacancy on Thursday night. He advised he had tried to reach some people to discuss the possibility of an appointment. Commissioner Kelley pointed out there was no Planning Board meeting until after the Commission's September 5 meeting; therefore, there would not be an urgent need to make an appointment tonight. He recommended delaying this until the next meeting.

Mayor Costello noted Mr. Dino Paspalakis and Mr. Harold Briley have expressed a willingness to serve on this board. He reported he would prefer to have all of the names to be considered forwarded to the Commission.

Commissioner Gillooly stated there were no consequences to wait and it would provide an opportunity to discuss other possibilities.

Commissioner Partington concurred with Commissioner Gillooly, noting he tried to contact people about this appointment.

Mayor Costello requested the Commission provide the names of people willing to serve on the Planning Board to Mr. Turner who could compile a list to present to the Commission. He noted he would prefer to know who was interested in this appointment as soon as possible.

Commissioner Kelley pointed out the Commission previously had a workshop to discuss such possibilities.

Mayor Costello stated he considered this a product of an efficient staff; but since the board would not meet until after the next Commission meeting, the Commission could discuss this issue at its next meeting.

**Commissioner Kelley moved, seconded by Commissioner Gillooly, to continue Resolution No. 2006-161 to the September 6, 2006, meeting.**

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

Item #9(B) - Finished Water Interconnects with WAV – Williamson Boulevard

RESOLUTION NO. 2006-162  
 A RESOLUTION AUTHORIZING THE EXECUTION OF A SUPPLEMENTAL INTERLOCAL AGREEMENT FOR THE CONSTRUCTION OF FINISHED WATER INTERCONNECTS BETWEEN THE CITY OF ORMOND BEACH AND THE WATER

AUTHORITY OF VOLUSIA REGARDING CONSTRUCTION OF  
THE WILLIAMSON BOULEVARD INTERCONNECT; AND  
SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kelley moved, seconded by Commissioner Kent, to approve Resolution No. 2006-162, as read by title only.**

Ms. Sloane reported staff received notice today that the Environmental Protection Agency (EPA) approved the change order for the STAG grant funding for the portion identified in the memo provided in the packet.

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

Item #10(A) - Off Beach Parking Option

Commissioner Kent recommended approving Option A to fund the entire \$300,000 in the budget. He noted this would bring the roll back rate to 14.7%.

Commissioner Partington reported he favored Option B so the millage rate could be reduced as far as possible which was approximately 13.4%.

Commissioner Kent stated Option A and Option B would provide a decrease in the millage rate, but Option A would allow a decrease for the residential owners.

Ms. Kelly McGuire, Budget Director, stated the \$200,000 that could be added to next year's budget would reduce the tax rate to 14.7%. She reported the Commission was now at Option A. Ms. McGuire expressed concern with selecting Options B or C due to how it would affect the 2007-08 budget.

Commissioner Gillooly clarified that this would be a 20-year commitment, and she would prefer to have more public input before making such a commitment. She reported the only input she was aware of was a concern that if there was a project that would allow the City to gain beach access, it would not be feasible to encumber the people to pay tax dollars for beachfront land. Commissioner Gillooly noted she favored the City being in the position to have its own means of acquiring property should it become available. She reported she would rather not have only one option; therefore, she would support Option A to avoid setting up a problem for subsequent fiscal years.

Mayor Costello reported that once people he spoke to understood this was in addition to, and not instead of, acquiring land through the transfer of development rights, they were supportive. He pointed out the County would probably be paying on a two to-one basis, and most people want as much beachfront land as possible for open space.

Commissioner Kelley noted previous Commissions in the 1980s had opportunities, but in the early 1990s and 2000s the City was not able to do anything to acquire beachfront land. He reported any decision would probably have to go to a vote of the people through a bond.

Mayor Costello reported the City did not go for a bond for the fire station, so he did not believe it had to be bonded. He noted he was comfortable not going to a bond because, in the past, people had overwhelmingly approved land purchases.

Commissioner Kelley stated some people believe that if the City could acquire the land through other means, this may not be necessary, especially since this would be obligating residents to pay a certain amount of money well into future. He reported he had not had responses to this issue so he would not be able to judge adequately, but he would have favored Option C. Commissioner Kelley noted he could compromise and support Option B because he believed the Commission should determine if the people would be willing to dedicate the funds for this purpose.

Mayor Costello stated the purpose of this was to afford the public the opportunity to offer advice, and three Commission members have not changed their opinion and expressed support for Option A; therefore, the presentation on September 6 would include Option A, at which time this amount could be decreased. He encouraged anyone who opposed funding a placeholder of \$300,000 for beachfront land to contact the Commission.

Commissioner Gillooly pointed out it was important from a partnership with the County basis that the City have funds available. She noted should land become available, funds would be necessary to move quickly. Commissioner Gillooly encouraged people to express their opinions to the Commission on this issue.

Item #10(B) - Consolidated Emergency Dispatch Services

Mayor Costello stated staff was asking for the ability to negotiate consolidated emergency dispatch services, but not to make any decision on any proposal.

Fire Chief Barry Baker stated on June 13 the Commission expressed a desire to delay this decision for three years; however, a letter from Sheriff Johnson initiated this coming back to the Commission at this time. He reported this was strictly a timing issue in that there was no disagreement the City should move to consolidated communication at some time. Chief Baker explained that as of October 1, 2006, Sheriff Johnson would take over the ECC dispatch center in the County, which currently dispatched EVAC, County, and other fire agencies. He stated they were dispatching Daytona Beach fire at the sheriff's facility. Chief Baker advised Daytona Beach would be transferred to the ECC facility; therefore, on October 1 there would be two centers operating: one in Holly Hill to dispatch fire agencies and the second center would be the police center that the sheriff would dispatch off Route 92 west of Daytona Beach. He stated it was critical to note the link between these two centers because when someone would call with a 911 emergency, the call taker could automatically forward the call to either center without a transfer. Chief Baker advised it was not yet known when this transfer may take place. He stated the Public Safety Answering Point (PSAP) would remain in place until police could be moved over. Chief Baker reported Sheriff Johnson's proposal would be to move Ormond Beach fire over on a trial basis, and then move police over if the City was satisfied with the service. He advised this would increase the response time for the fire service because the PSAP would answer residents' calls at the Police Department, and they would transfer that call. Chief Baker stated another important issue was to make sure the call frequency that the ECC had would not be so overwhelmed that they could not handle Ormond Beach's calls. He reported the ECC handles 15,000 calls a year; and when they take Daytona Beach, they would have another 15,000 calls, doubling their load. Chief Baker stated Ormond Beach would have to be assured ECC could handle these 30,000 calls along with Ormond Beach's 6,000 calls annually.

Police Chief Michael Longfellow stated when 911 was dialed in Ormond Beach now, it would be picked up by a communications officer, and that person could dispatch for police and fire from the City facility. He noted should fire dispatch be moved elsewhere, the call must then be transferred, causing a 30 to 45 second delay. Chief Longfellow stated if fire would go to ECC and police to the sheriff, in the interim period this same situation would exist because they do not have the technical link yet for the call taker to enter that information into the computer for immediate dispersal.

Mayor Costello noted this could be a part of the negotiations where this would need to be in place before any move would be made.

Chief Longfellow reported that in meetings with Sheriff Johnson, he indicated his plan was to build one center that would house both entities, which was about three years away. He noted at that point there would be a call taker entering the information which would automatically go to the appropriate dispatch position in police, fire, or EMS.

Mayor Costello stated this request was just to investigate the situation to determine if the City wanted to make a move, and Ormond Beach could measure the difference in the response time now and when they would merge with ECC. He noted part of the negotiations should be that if they could demonstrate an acceptable response time for Daytona Beach, then Ormond Beach could probably expect the same.

Commissioner Kelley stated the Daytona Beach Police Department was not answering their own calls now.

Chief Baker stated Daytona Beach was now with the Sheriff.

Commissioner Kelley stated he did not consider this to be a similar situation in that a 911 call would come into the Police Department who would transfer it to ECC for fire and dispatch for police.

Chief Longfellow clarified that 911 calls would go to the sheriff's office because they were dispatching for Daytona Beach, but when Daytona Beach fire moves to ECC there would need

to be a transfer. He explained Daytona Beach 911 calls would go to the sheriff's office communications center, and the Fire Department would be dispatched from the EVAC building on Mason Avenue; therefore, it would be a similar situation.

Mr. Turner stated there were many dynamics occurring at this point. He noted the chiefs were expressing their concerns, but what was being requested was for permission to negotiate to determine what type of contract could be brought back. Mr. Turner reported that, at this point, staff was not certain whether they would recommend pursuing a contract.

Mayor Costello reported he was not pleased spending \$300,000 to \$500,000 for software for a two to three year window or to do a trial period with Sheriff Johnson without knowing what deal would be offered; therefore, he recommended approving negotiations without committing a vote for approval.

Commissioner Kent stated he respected and admired Sheriff Johnson, but there were costs associated with overtime.

Chief Baker noted Ormond Beach would have to repeat the steps taken with the ECS where the City would have to rebuild a database. He stated he was hopeful ECS would have saved the information to transfer to the ECC, but they erased it. Chief Baker noted this process previously took approximately three months.

Commissioner Kent stated residents deserve equivalent service to what they have now. He reported he wanted the call taker to dispatch calls without the delay in transferring the call causing the 30 to 45 second delay. Commissioner Kent noted with the volume of calls at the ECC, stacking of calls could occur.

Chief Longfellow stated stacking was more prevalent in police services than fire because not all of the calls were emergency calls.

Commissioner Kent recommended allowing all of the bugs to be worked out of the system with the additional calls before Ormond Beach would come into the system. He noted consolidation was a good idea, and he would support it in the future, but he wanted to wait the 18 to 24 months until it became more stable. Commissioner Kent asked if Ormond Beach could lose control of its fire units if they were serviced outside of the City.

Chief Baker stated Ormond Beach would lose some control any time this type of action would occur because the person who controlled dispatch has control over the units. He noted staff would try to build into a contract a requirement that there would be a minimal number of units retained within the City to serve the residents before honoring requests for assistance, but there was a risk, which was why comprehensive negotiations were so critical. Chief Baker pointed out County stations surrounding Ormond Beach were not staffed as Ormond Beach would prefer. He stated staff would discuss performance based contracts with national standards.

Mr. Turner stated there have been issues with the way the system operates now where Ormond Beach units would be called into the County to provide service.

Commissioner Kent reiterated he would prefer to wait 18 to 24 months to consider this issue.

Commissioner Kelley reported 83 calls were handled a day for fire based calls, which was not a large number of calls; therefore, he was not alarmed by the number of calls. He stated he was concerned about delay time, but not concerned about getting called out because the City now has mutual aid and mutual response. Commissioner Kelley reported the technology existed, but may not be in place to transfer a call more quickly than 45 seconds.

Chief Longfellow explained the caller would call Ormond Beach's 911 center, and Ormond Beach's call taker would have had to obtain the information to understand the call then transfer the call and the caller; would have to then inform the new call taker what was needed, which would take the additional time. He reported Ormond Beach's call taker would tell the call taker he was transferring the call and that the call was a 911 transfer from Ormond Beach for fire or a medical emergency, but the second call taker would have to garner all of the information they may need to dispatch the units.

Mr. Turner stated it was technically possible to screen information, which does not exist at the center, and it was a legitimate concern.

Commissioner Kelley reported he would be supportive of gaining information, but not necessarily approving this particular plan at this time.

Chief Longfellow advised another dynamic of this issue was that communications officers were leaving because of the uncertainty of their future.

Commissioner Partington noted he could see no harm in talking about this situation to hear the concerns.

Mayor Costello summarized that staff was instructed to pursue negotiations.

Item #10(C) - Emergency Water Plant Purchases/Water Rate Increase

Ms. Sloane stated there was a Volusia County Health Department inspection and Camp, Dresser and McKee (CDM) did an evaluation of the plant as well as the operation and maintenance staffing issue. She reported five items were identified that could not be funded through the existing operating budget. Ms. Sloane advised there was an error in the sum of table 1 which should be \$587,405, which matches the budget impact section of the report. She stated the items requested included the flow proportional chemical feeders that were scheduled to be included with the expansion project to meet the December 31 deadline for the Department of Health. Ms. Sloane reported the chlorine was at a higher cost since they could not advance the sodium hypochlorite chemical feeding equipment because the City was now using chlorine. She stated the CDM report also recommended the City reinstitute the re-carbonation process that introduces carbon dioxide into the treatment process. Ms. Sloane noted this was removed in the 1995-96 range due to the cost. She advised staff was also requesting a lime slurry feed pump system, which was identified in the Department of Health and CDM report. Ms. Sloane stated also requested were improvements in the SCADA system. She reported a much more in depth evaluation was being done on the SCADA system along with an investigation of the City-wide fiber optic project, and she anticipated additional funding requests to update that system in the future would be needed. Ms. Sloane explained staff was requesting additional operating costs partially for the chemicals to support the bulk sodium hypochlorite system along with the cost for the carbon dioxide on an annual basis, totaling approximately \$100,000 per year. She reported additional staff was also being requested. Ms. Sloane pointed out the CDM evaluation recommended consolidating maintenance. She noted the City currently had a maintenance foreman and two plant pump mechanics at the water plant and two plant pump mechanics at the wastewater plant, both supervised by the chief water plant operator or chief wastewater plant operator, along with two plant pump mechanics supervised by the supervisor of collections and reuse who were focused on the lift station maintenance. Ms. Sloane stated the CDM report recommended this maintenance activity be consolidated or organized under a supervisor of equipment maintenance. She reported staff was also requesting an additional treatment plant operator at the water plant. Ms. Sloane explained weekend staffing was currently one operator per shift with only five full-time operators. She noted this employee would enable the City to increase weekend staffing, which was the time the water demands are the highest.

Ms. Sloane reported the cost for the additional two mgd expansion was listed along with three options. She noted the temporary options for Option 1 or Option 2 would allow for the temporary facility to be incorporated into the ultimate facility. Ms. Sloane explained the cost listed was to operate the facility early and then have the contractor move the equipment into the permanent location. She noted the third option would be to add the two mgd in the current construction project design, which would delay the time to obtain the two mgd but would lower the cost. Ms. Sloane advised the City was going for the Senate Bill 444 grant funding, and additional information regarding the timing may affect the recommendation as to which option would be best. She stated staff would bring this information to the Commission when it was received.

Commissioner Gillooly asked if there would be an opportunity to shift the weekday staff to cover weekends.

Ms. Sloane stated it was difficult to cover all of the shifts with five operators. She noted they have been doubling up for the past several months, which resulted in overtime in order to accomplish the coverage.

Commissioner Kelley questioned the water demand being higher on weekend.

Ms. Sloane responded that demand was higher on Saturday.

Commissioner Kelley requested the empirical data that would indicate that to be a fact. He asked for an update of the reverse osmosis (RO) coming in on skids.

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Ms. Sloane stated that was what these costs were for, to bring them in for a temporary facility that would allow the skids to then be moved into a permanent facility.

Commissioner Kelley stated he understood the skids were already ordered and ready to go on line since Mr. Turner indicated they could be in place faster than the interconnects with Daytona Beach.

Mr. Turner explained the timeline he indicated would begin when staff received the approval.

Commissioner Kelley asked how much longer would be needed.

Ms. Sloane stated that once the contract was approved they could be brought on line in six months. She explained the actual design build estimates show six months because it did not entail just bringing the skids in, since there were some facilities that would have to be constructed.

Mr. Turner reported when the Commission indicated which option they favored, staff would bring a timeline that they would meet. He stated within the 6% rate increase being requested, staff could do all of the improvements noted as well as the additional temporary two mgd expansion. Mr. Turner advised staff was recommending continuing with the four mgd expansion.

Mayor Costello clarified this would include the two mgd on skids, making a total of four mgd, and would cost \$3,612,650, which would be included in the 6% increase.

Ms. Sloane stated the 6% would include the temporary two mgd design build of 4.6 million, but if the Commission selected the two mgd as part of the construction contract, it would be \$3,612,650 for the 5.85% increase.

Mayor Costello reported he could support that because it would provide the four mgd at \$1 million less.

Mr. Turner explained his concern was that there was peak usage on weekends, particularly Saturday mornings. He noted with the request for restrictions staff was trying to cut that peak to bring it down. Mr. Turner recommended not going another summer as the City was currently, relative to the capacity, until the plant was completed. He noted the interconnect would be in place by the end of this year, so by the next high use period, the interconnect would be in place. Mr. Turner stated another option was for a one mgd skid; however, he would recommend the two mgd temporary skid even at the additional \$1 million cost.

Mayor Costello questioned how comfortable Mr. Turner was that Ormond Beach would have the water available through the Daytona Beach interconnect since he did not favor spending \$1 million if the interconnect water was available; however, the residents needed to know the Commission would spend whatever was necessary to make certain the City had a safe and adequate supply of water.

Ms. Sloane advised the interconnect water on A1A was available through a contract with Daytona Beach. She reported Ormond Beach had discussions with Daytona Beach regarding the Williamson interconnect, and they have been very positive. Ms. Sloane explained Daytona Beach wanted Ormond Beach to be the contracting agency with WAV, and Daytona Beach would have a separate agreement with Ormond Beach. She noted the agreement was drafted and was with Daytona Beach's attorney for review. Ms. Sloane stated everything could be completed except for the valves and other equipment that would go in the vault.

Commissioner Kelley stated the interconnect with Daytona Beach could come in faster than the skid could come in, and it would make no sense to spend a million dollars for a temporary skid.

Mr. Turner stated that was technically correct, but he wanted to make certain the City had the water when they needed it without running into a problem with another city. He reported Ormond Beach currently had to ask Daytona Beach to turn on the interconnect, and thus far they have been very agreeable.

Ms. Sloane stated Daytona Beach was not willing to process this interconnect agreement because they wanted it to be in conjunction with the entire service area and settlement agreement. She cautioned the Commission that there was still work to be done on that interconnect.

Commissioner Kelley noted it was unknown if Ormond Beach would need an additional mgd temporarily. He noted Ormond Beach was only utilizing 5.57 or 5.58 and they have the ability to produce 8.1 mgd.

Ms. Sloane reported the flows last week were over eight mgd.

Mr. Turner advised there may be issues in completing the contract with Daytona Beach and securing the product when needed. He noted Holly Hill's system did not work.

Commissioner Kelley advised Holly Hill's system could work.

Mr. Turner agreed it could work, but it was not working now. He strongly recommended the one mgd skid because the City was facing situations where it was reaching its ability to produce water. Mr. Turner stated he had not seen a time where the City could produce eight mgd water out of that plant. He advised the plant produced 7.3 and 7.5 mgd, meaning the City was pulling more water out of the system than could be produced. Mr. Turner noted there were problems with the Leeway tank, and he reiterated his concern to produce more water if only on a temporary basis.

Commissioner Partington reported he favored the two mgd temporary because he did not want to be held hostage in negotiations on unrelated issues. He stated until WAV or another entity would be able to work out fair agreements for everyone, Ormond Beach must make the decisions to be self-sufficient.

Mayor Costello stated Commissioner Partington indicated he favored the 4.6 mgd with two mgd temporary, and Commissioner Kelley favored the future two mgd at 3.6.

Commissioner Gillooly noted her understanding of the temporary water was that it would come on line much more quickly than was now being reported. She stated Mr. Turner and his staff got the City out of a crisis, and the Commission addressed the issues. Commissioner Gillooly reported these are Mr. Turner's recommendation, and she wanted to support that because this was vitally important. She asked if it would be feasible to provide the one mgd temporarily.

Ms. Sloane stated the one mgd was certainly an option. She explained if the temporary option were to be done, it would provide the cost to move that skid into the permanent facility; but she did not have the cost to add the other mgd skid.

Commissioner Kent advocated the two mgd skids. He noted he did not see Daytona Beach holding Ormond Beach hostage. Commissioner Kent stated Ormond Beach was paying Daytona Beach for the water.

Mr. Turner stated Ormond Beach would be paying for the water, but the other issue was also true.

Mayor Costello reported he would support Commissioner Partington in recommending the 4.6 mgd because he saw the merit in clearly listening to Ms. Sloane's comment that the contract for the interconnect was being requested to be linked with other issues, and he did not want to be in a position where the City would have to yield to other issues because they have no other option. He noted he would rather take "heat" for investing the dollars in what was needed than take the "heat" for not providing what was needed. Mayor Costello noted should Ormond Beach obtain a signed contract with Daytona Beach for utilization of the interconnects before a certain date, he would gladly change direction.

Commissioner Gillooly agreed with Mayor Costello and noted this was another cost for the residents, and when considering the budget, the Commission must consider the whole picture.

Mayor Costello pointed out that by taking this action, it may help obtain grants. He asked staff to bring back a resolution as well as the cost for the 3.6 temporary, adding the one mgd later.

Commissioner Kelley stated he believed if the Daytona Beach Commission were consulted rather than the staff, Daytona Beach would not hold Ormond Beach hostage. He noted Ormond Beach had a great rapport with the Daytona Beach Commission and pointed out the Daytona Beach City Manager was initiating this request; but the Daytona Beach representative to WAV expressed a desire to work with Ormond Beach. Commissioner Kelley stated he hoped the Daytona Beach Commission could affect the position of their City Manager and every effort should be made.

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Ms. Sloane reported Daytona Beach did not state they would “hold Ormond Beach hostage,” but they have indicated they want the interconnect agreement for the Williamson Boulevard interconnect linked.

Commissioner Kelley stated that was their position months ago, but that position changed. He urged the Commission to make a plea to do the interconnect to save Ormond Beach \$1 million.

Mayor Costello recommended he and/or the Commission send the Daytona Beach Mayor and Commission a letter informing them that Ormond Beach was considering spending \$1 million for temporary skids unless Ormond Beach could be assured they would be able to obtain water from the interconnects under the same terms that Ormond Beach obtained water from the A1A interconnect and not linked to any other issue.

Ms. Sloane reported there would be better terms with the new agreement.

Mayor Costello reported Ormond Beach would also pledge to be reasonable to resolve all of the issues, but the interconnects should be a separate issue.

Commissioner Kelley stated Daytona Beach would want something from Ormond Beach.

Ms. Sloane pointed out the location of the interconnect was in the Ormond Beach service area, offering some leverage.

Mayor Costello clarified staff would prepare resolutions for 4.6 mgd, but a letter should go to the Daytona Beach Mayor and be copied to the City Manager.

Commissioner Kent recommended Mayor Costello hand deliver the letter at a meeting.

Mr. Turner noted if the Mayor would be unable to attend, he offered to hand deliver the letter.

#### Item #10(D) - Transportation Concurrency

Mr. Ervin reported he would be at Thursday’s County Council workshop to reiterate the City views. He noted a letter would be prepared regarding the impact fees, and staff would be working with Volusia County and the Consolidated Tomoka Land Company.

Mayor Costello stated Ormond Beach was blessed to have Mr. Ervin on the MPO with his concurrency knowledge. He noted he asked the MPO to discuss concurrency issues amongst municipalities, and there may be problems with this, but staff was investigating this issue to find possible ways to resolve some of these issues. Mayor Costello explained there were real issues coming soon, and other areas of the County would soon have these same issues regarding level of service disparity between adjacent governmental entities.

Mr. Ervin stated there was a meeting of the Technical Coordinating Committee today where it took six hours to finalize the priority list for one type of funding called the Transportation Regional Improvement Program, which was billed as how local governments could now supplant the monies that had been taken away from them when the SYS funding change came about. He reported Williamson Boulevard was identified as the number one criteria for the Volusia County MPO. Mr. Ervin noted there was \$60 million available for nine counties. He stated the amount of money available for transportation projects dropped considerably, and it was getting worse.

#### Item #10(E) - November Commission Meeting Date

Commissioner Partington recommended the meetings for November be changed to November 7 and November 14.

Commissioner Kelley recommended either November 7 and November 14 or November 17 and November 28.

Commissioner Kent stated he did not believe the meeting could be held on November 7 because it was election day.

Ms. Veronica Patterson, City Clerk, advised the City could have their meeting unless the City had an election. She stated the Commission would not be canvassing the election—the County would canvass the election.

Commissioner Kent reported he could support moving the meetings to November 7 and November 14.

Commissioner Gillooly asked why the meeting was being changed.

Commissioner Kelley stated the meeting was being changed due to the Thanksgiving holiday.

Commissioner Gillooly asked if the meeting would cause a problem for anyone.

Commissioner Kelley and Commissioner Kent indicated the meeting would cause a problem for them. Commissioner Kelley noted people normally take off Thursday and Friday for Thanksgiving.

Mayor Costello noted the Commission concurred to meet November 7 and 14. He asked if any changes needed to be made in December.

Commissioner Kelley stated the meetings were scheduled for December 5 and December 19. He recommended changing the December meetings to December 5 and December 12.

Mayor Costello stated he would not have a problem with either date.

Commissioner Kent concurred he would not have a problem with either date.

Commissioner Gillooly stated if there was not a major problem as stated for the November meetings when two Commission members would have a problem with a meeting date, she would prefer not making any changes.

Commissioner Kelley explained the Commission was considering moving the dates because of holidays.

Commissioner Gillooly stated December 19 was far enough ahead of the Christmas holiday that it should not interfere with the meeting and should remain unchanged.

Commissioner Kent recommended changing the meeting to December 5 and December 12.

Commissioner Partington agreed with Commissioner Gillooly and supported the meetings being held on December 5 and December 19.

Mayor Costello stated the consensus was to keep the meetings unchanged on December 5 and December 19. He asked Mr. Turner to include these changes in the Friday letter.

#### Item #11 - Reports, Suggestions, Requests

##### Positively Ormond Signs

Commissioner Kent praised the "Positively Ormond" signs.

##### Apology

Commissioner Kent stated Mayor Costello was good about taking criticism and apologizing when he believed it was necessary. He apologizes to Commissioner Kelley for getting excited tonight.

##### Coffee with the Commissioner

Commissioner Kent stated the "Coffee with the Commissioner" meeting was incredible and attended by approximately 20 individuals. He noted the next "Coffee with the Commissioner" would be held on Monday, December 4 at his home at 4 p.m.

##### Mayor Costello

Commissioner Kelley echoed Commissioner Kent's compliments to Mayor Costello. He noted Mayor Costello did a great job working with the School Board and other entities.

##### Wireless Communication

Commissioner Kelley stated he was grateful the City did not invest in the wireless communication because the costs were decreasing dramatically.

##### Mayor Costello

Commissioner Partington echoed Commissioner Kent and Commissioner Kelley's comments regarding Mayor Costello.

Commissioner Gillooly concurred with Commissioner Partington, Commissioner Kent, and Commissioner Kelley regarding Mayor Costello. She reported she attended a County meeting for the residents relative to the Tymber Creek Road expansion, and she was very impressed. Commissioner Gillooly stated the County provided a great deal of information. She explained she greeted Mayor Costello and went on the other side of the crowded room to avoid any perception of impropriety and discovered that there were some very emotional people who were about to have their lives disrupted, but Mayor Costello did not leave, staying to answer questions in a manner that made her proud to serve with him. Commissioner Gillooly reported she attended a great deal of events, and Mayor Costello always seemed to be there supporting Ormond Beach.

#### Pace Center for Girls

Commissioner Gillooly stated she attended a farewell for Ms. Carol Wick at the Pace Center for Girls. She noted Ms. Wick had done so much for the Pace Center and for the community. Commissioner Gillooly reported Bob Coleman from Florida Power and Light made a \$150,000 donation for the community room and other Pace projects. She stated this was a tremendous public/private partnership.

#### Height Limit Issue

Commissioner Gillooly stated the Bray and Gillespie plan was just a proposal, but some people seemed to believe that the plan was an approved plan. She concurred there were many questions that had to be addressed and advised there was a lengthy process that the City would go through.

#### Acknowledgements

Commissioner Gillooly thanked Mr. Hayes for stepping up and dealing with these difficult issues. She acknowledged Ms. McGuire for working with the department heads to find money in the budget.

#### Water Plant

Mr. Turner stated there would be an inspection of the water treatment plant Thursday, and a number of senior staff members would be in attendance. He noted there were a number of great things occurring at the plant.

#### Florida League of Cities

Mr. Turner stated he appreciated the opportunity to attend the Florida League of Cities meeting and would provide comments in the Friday letter regarding the meeting.

#### Charter Amendments

Mr. Turner noted Mayor Costello was instrumental in helping shape and craft some of the Volusia League of Cities responses to the Charter amendments. He noted not only was Mayor Costello doing well locally, other cities also have respect for him.

Mayor Costello stated he would forward the proposed resolution passed at the Volusia League of Cities Saturday morning meeting. He advised that he believed Ormond Beach had an opportunity to work with Chairman Frank Bruno and the County Council to obtain joint planning agreements where the County Council could make certain that they would let all of the municipalities know their intent. Mayor Costello reported municipalities were concerned that the County was trying to take over the water; the schools were trying to take over growth management planning; and the County was trying to take over comprehensive planning and land use. He noted, however, that while he was convinced that was not the County's intent, that was what the Charter amendments may allow them to do. Mayor Costello noted this was a very awkward position to be in, and there were unintended consequences that needed to be considered. He stated it would be good if the County could come up with their own amendments that would accomplish many of the tasks many agree need to be accomplished, where it would protect the municipalities and the County. Mayor Costello reported he was convinced Chairman Bruno was committed to trying to come up with a plan that would not appear that the County was being heavy handed. He suggested not taking definitive positions yet because it was unknown where it was headed. Mayor Costello reported this issue needed to be placed on an agenda for discussion, but he wanted to give the County Council as much time as possible to do something that would change his mind on some of the issues. He stated the Volusia League of Cities discussed forming a political action committee (PAC) to make certain everything was public. Mayor Costello noted the Volusia League of Cities asked the managers to come up with a strategy about these amendments.

Mr. Turner advised that the City Managers meeting was scheduled for August 23, but he believed a meeting would be called before that date.

Mayor Costello stated the City Managers would have recommendations for the Commission before the first meeting in September; whereby, Mr. Turner noted he was hopeful they would. Mayor Costello requested this be placed on the agenda for first meeting in September. He reported he would try to find out if the County would have any recommendations, and if that would not occur until after the meeting, the discussion could be delayed. Mayor Costello pointed out these amendments were from the Charter Review Committee, not the County. He explained the County can not change these six amendments, but they could add additional amendments.

Signage

Mayor Costello asked Mr. Ervin to contact him regarding the signage on a building on Granada Boulevard that was a 27,000 square foot building with approximately 250 feet of frontage. He reported the reason multiple signs were not permitted was because there was no break in this building. Mayor Costello noted he was not certain he would support a change for this building, but the owner asked the Commission to consider if they would permit this size building to have the size sign that they have now. He reported he wanted this to be considered as soon as possible.

Mayor Costello requested an update of the status of welcome signs be provided in a Friday letter.

Pace Center for Girls

Mayor Costello stated Mr. Bob Coleman and FPL gave the Pace Center for Girls \$150,000. He noted this did not come from rate-payer money but stock holder dividend money. He requested a proclamation or a letter be prepared to thank Bob Coleman and FPL for their donation.

Item #11 - Close the Meeting

The meeting was adjourned at 11:05 p.m.

APPROVED: \_\_\_\_\_ September 6, 2006

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

ATTEST:

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