

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

**November 7, 2006**

**7:00 p.m.**

Present were: Mayor Fred Costello, Lori Gillooly, Troy Kent, Ed Kelley, and Bill Partington, City Manager Isaac Turner, City Attorney Randal Hayes, and City Clerk Veronica Patterson.

***A G E N D A***

- 1) Meeting call to order by Mayor Costello.
- 2) Invocation by Pastor Robbie O'Brien, Tomoka Beachside Church.
- 3) Pledge of Allegiance.
- 4) ***AUDIENCE REMARKS:***
- 5) ***APPROVAL OF THE MINUTES*** of the October 17, 2006, meeting.
- 6) ***PRESENTATION:*** Proclamation supporting National Hospice/Palliative Care Month.
- 7) ***INTERGOVERNMENTAL REPORTS:***
  - A) Metropolitan Planning Organization
  - B) Volusia Council of Governments

C) Water Authority of Volusia

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

A) Resolution No. 2006-234 accepting a proposal submitted by Brown & Brown Insurance to furnish commercial general liability (CGL) insurance coverage for claims asserted against the City of Ormond Beach arising from certain types of contractual obligations requiring the indemnification of private parties; authorizing the payment therefor.

B) Resolution No. 2006-235 authorizing the execution of an agreement between the City and Council on Aging of Volusia County, Inc., for the use of a site at the Senior Center for a nutrition program. (Meals-on-Wheels and Congregate Dining)

C) Resolution No. 2006-236 authorizing execution of a Community Development Block Grant Subrecipient Agreement for Fiscal Year 2006-2007 between the City and the County of Volusia. (\$105,211)

D) Resolution No. 2006-237 authorizing the execution of a letter contract and a contract for services between the City and the County of Volusia regarding funding assistance for a Teen Scene program at the Ormond Beach Middle School. (Edward Byrne Memorial Justice Assistance Grant for the Police Department Community Outreach Program - \$9,927.80)

E) Resolution No. 2006-238 authorizing the execution of a Intergovernmental Coordination and Review and Public Transportation Coordination Joint Participation Agreement between the City and the Florida Department of Transportation, the Volusia County Metropolitan Planning Organization, the City of New Smyrna Beach, the City of DeLand, Volusia County Council, and the East Central Florida Regional Planning Council regarding planning and funding of Volusia County transportation system projects.

F) Resolution No. 2006-239 authorizing the execution of a contract between the City of Ormond Beach and Hall Construction Company, Inc., regarding the Cassen Park Seawall Cap project. (Not-to-exceed \$36,768)

G) Resolution No. 2006-240 accepting a bid from Golf Specialties, Inc., for the purchase and delivery of clay for the Airport Sports Complex Softball Quad under Bid No. 2006-30; authorizing the execution of a contract and payment therefor; rejecting all other bids. (\$36,050)

H) Resolution No. 2006-241 authorizing the execution of Change Order No. 1 to that contract awarded to Hall Construction Co., Inc., regarding the Nova Community Park Restroom/Concession Stand Building Replacement project; by increasing the contract price by \$33,642 and increasing the contract time by 111 days. (\$151,497 total contract price; 261 total contract days)

I) Resolution No. 2006-242 authorizing the execution of a Takeover Agreement between the City, The Tuscan, LLC, and Arch Insurance Company relative to sanitary sewer service extension along State Road 40 near "The Tuscany" subdivision.

J) Resolution No. 2006-243 of the City of Ormond Beach and the North Mainland/Ormond Crossings Community Redevelopment Agency accepting a proposal from Tomoka Holdings, LLC, for the purchase and development or re-development of certain parcels of land in the North Mainland Ormond Crossings Community Redevelopment Area (Request for Proposal No. 2006-17); authorizing the conveyance of certain parcels of land and the execution of a Purchase and Sale Agreement relative thereto.

K) Approval of travel to attend the National League of Cities Congress of Cities and Expo in Reno, Nevada, December 6-9, 2006.

DISPOSITION: Approve as recommended in City Manager memorandum dated November 2, 2006.

- 9) **PUBLIC HEARING:** Resolution No. 2006-244 authorizing the execution and issuance of a Development Order for “Lowe’s Home Center” Special Exception on a site located at 1340 West Granada Boulevard, within the B-8 (Commercial) zoning district, permitting the use of eighteen (18) temporary storage containers for a three-month period; establishing conditions and expirations of approval.
- 10) **SECOND READING OF ORDINANCE** No. 2006-20 relative to rezonings of property, amending Section 1-18, City Commission/Public Hearings of Chapter 1, General Administration of Article II, Administration and Enforcement, of the *Land Development Code* by amending notification requirements for public hearings.
- 11) **FIRST READING OF ORDINANCES:**
  - A) Ordinance No. 2006-19 amending Chapter 3, Performance Criteria, Article IV, Sign Regulations, Section 3-48, Specialized Sign Standards, of the *Land Development Code* by allowing for additional signage for professional office uses in the Greenbelt Overlay District, subject to minimum criteria.
  - B) Ordinance No. 2006-21 amending Section 2-209, Sunset Review of Boards and Committees, of Article VI, Boards, Commission, Committees and Other Agencies, of Chapter 2, Administration, of the Code of Ordinances, by establishing sunset review dates for boards and committees.
  - C) Ordinance No. 2006-22 amending Chapter 2, Administration, Article VII, Code Enforcement, by amending Section 2-251, Definitions; by amending Section 2-255, Enforcement Procedure; by amending Section 2-258, Administrative Fines and Liens; by amending Section 2-262, Schedule of Civil Fines; by amending Section 2-265, Notices; by amending Section 2-267, Duration of Lien.
  - D) Ordinance No. 2006-23 amending the annual budget for the 2005-2006 fiscal year relative to the Pension Contribution Pass Through Fund and the Solid Waste Fund.
  - E) Ordinance No. 2006-24 amending Section 22-115 of Chapter 22, Water and Sewers, of the Code of Ordinances, by adjusting the water and wastewater impact fees.
  - F) Ordinance No. 2006-25 amending Section 1-32, Article V, Chapter 1; Section 1-22, Article III, Chapter 1; Section 1-26, Article IV, Chapter 1; and Section 3-53, Article V, Chapter 3, of the Land Development Code by creating a proportionate Fair Share Program for the City of Ormond Beach, eliminating inconsistent transportation concurrency study area references, by revising definitions and identifying a new fee for processing fair share agreements.
- 12) **DISCUSSION ITEMS:**
  - A) Leeway Trail park design and construction.
  - B) Funding for ACT Corporation.
- 13) **REPORTS, SUGGESTIONS, REQUESTS:** Mayor, City Commission, City Manager, City Attorney.
- 14) **CLOSE THE MEETING.**

Item #1 - Call to Order

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

Item #2 - Invocation

Pastor Robbie O’Brien, Tomoka Beachside Church, gave the invocation.

Item #3 - Pledge of Allegiance

Mayor Costello led the Pledge of Allegiance.

Item #4 - Audience Remarks

Flu Shot Availability

Fire Chief Barry Baker reported the Ormond Beach Fire Department had 2,600 doses of the flu vaccine available. He stated there would be a \$25 charge to cover the cost of obtaining the vaccine and staffing to administer the vaccine. Chief Baker advised the flu shots would be available from 8 a.m. to noon in the south parking lot of the Performing Arts Center, Saturdays at Lowe's Home Improvement Center, and in the City Hall atrium from 6:30 p.m. to 7:00 p.m. next Tuesday immediately prior to the next City Commission meeting.

Water and Sewer Impact Fees

Mayor Costello reported Item No. 11(E) was being pulled from the agenda.

Item #5 – Approval of Minutes

Mayor Costello advised the minutes of the October 17, 2006, meeting had been sent to the Commissioners for review and asked if there were any corrections, additions, or omissions.

Commissioner Gillooly stated on page 15571 on the fourth paragraph, the first sentence read as follows: "Commissioner Gillooly stated there was an incredible article in the *Automobile* magazine regarding the Birthplace of Speed event and Stanley Steamer." She reported while that was accurate, she had also mentioned that Mayor Costello mentioned this at the Ormond Beach Historical Trust, and she believed that it was important to include that recognition.

**Mayor Costello stated that the minutes were approved as amended.**

Item #6 – Proclamation Supporting National Hospice/Palliative Care Month

Mayor Costello proclaimed November 2006 as *NATIONAL HOSPICE/PALLIATIVE CARE MONTH* and urged all residents to join in supporting *Hospice Care* and observing *National Hospice/Palliative Care Month* by increasing understanding and awareness of care at the end of life.

Ms. Aleda Kleckaukas, Administrative Director, National Hospice/Palliative Care, thanked Mayor Costello for helping spread the word and for the City's support.

Mayor Costello stated his mother died under hospice care at home, and the hospice people were wonderful and made the experience much better than it could have been.

Item #7(A) and Item #7(B) - Metropolitan Planning Organization and Volusia Council of Governments

Mayor Costello reported he had forwarded any information he received from the Metropolitan Planning Organization (MPO) and Volusia Council of Governments (VCOG) to the Commission.

Item #7(C) - Water Authority of Volusia

Commissioner Kelley stated that today's election on the Charter amendments may determine the future of Water Authority of Volusia (WAV).

Item #8 - Consent Agenda

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

Mayor Costello reported he was asked to remove Item No. 8(K) for discussion.

Commissioner Gillooly requested removing Item Nos. 8(A) and 8(H) for discussion.

**Commissioner Partington moved, seconded by Commissioner Kelley, for approval of the Consent Agenda, minus Item Nos. 8(A), 8(H) and 8(K).**

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

Item #8(A) - Commercial General Liability (CGL) Insurance Coverage

RESOLUTION NO. 2006-234

A RESOLUTION ACCEPTING A PROPOSAL SUBMITTED BY BROWN & BROWN OF FLORIDA, INC. TO FURNISH COMMERCIAL GENERAL LIABILITY (CGL) INSURANCE COVERAGE FOR CLAIMS ASSERTED AGAINST THE CITY OF ORMOND BEACH ARISING FROM CERTAIN TYPES OF CONTRACTUAL OBLIGATIONS REQUIRING THE INDEMNIFICATION OF PRIVATE PARTIES; AUTHORIZING THE PAYMENT THEREFOR; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kelley moved, seconded by Commissioner Partington, to approve Resolution No. 2006-234, as read by title only.**

Commissioner Gillooly asked if Brown and Brown was the City’s general provider of insurance and if the City sends this out for bid or if Brown and Brown sends out for bids.

Mr. Randal Hayes, City Attorney, stated Brown and Brown was the City’s agent of record and they search the market for available providers of the coverage the City requires. He reported the City asked Brown and Brown to come up with a package, and this was the package they submitted. Mr. Hayes noted the Claims Committee reviewed the package, asked questions, and determined it was the best proposal to bring to the Commission.

Commissioner Gillooly noted she understood the background and the need, but was curious as to the process.

Mayor Costello advised he discussed the possibility of Volusia County and all of the municipalities combining to obtain excess liability coverage. He noted this would be investigated over the next year.

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

Item #8(H) - Nova Community Park Restroom/Concession Stand Building Replacement Project

RESOLUTION NO. 2006-241

A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. 1 TO THAT CONTRACT AWARDED TO HALL CONSTRUCTION CO., INC., REGARDING THE NOVA COMMUNITY PARK RESTROOM/CONCESSION STAND BUILDING REPLACEMENT PROJECT; BY INCREASING THE CONTRACT PRICE BY \$33,642 AND INCREASING THE CONTRACT TIME BY 111 DAYS; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Partington moved, seconded by Commissioner Kelley, to approve Resolution No. 2006-241, as read by title only.**

Commissioner Gillooly asked what would occur if the majority of the Commission would reject this proposal in that the work had already begun.

Ms. Judy Sloane, Public Works Director, stated if staff believed there was a possibility a proposal would not be approved, it would be brought to the Commission prior to the work being done. She noted in an effort to not delay the project, staff authorizes the work under these types of conditions; however, the formality of approval was needed for payment.

Commissioner Gillooly stated she understood the need for Commission approval and for the reason for the change; however, she asked if it would be difficult to obtain Commission approval prior to the work beginning.

Ms. Sloane stated a time delay would occur from the time staff would receive the information and the time it could be placed on an agenda of four to six weeks. She noted due to the

baseball schedule, staff did not wish to further delay this project. Ms. Sloane reported that in some situations the project cannot be stopped because the contractor would charge for any delays, although that would not have occurred in this instance. She noted this project was already behind schedule, and it was determined that there was no other way for staff to accomplish this building other than to proceed as they had.

Commissioner Gillooly reported that, in all practicality, she agreed with Ms. Sloane; however, she believed there was a flaw in the process.

Commissioner Kent commended Commissioner Gillooly for her excellent questions.

Mayor Costello stated this type of issue could be addressed in the Friday letter.

Mr. Hayes stated construction law was a complicated area, and contactors may seek additional compensation for unforeseen delays. He noted there was no way to determine all of the incidents that may occur, and this could be handled in two ways: the City could place a hold on a project until they receive Commission approval, but there were deadlines within the contract that may entitle the contractor to an adjustment in the time for the delay; and the other alternative would be for staff to handle the situation as they had been doing, which was asking for permission after the fact. Mr. Hayes advised staff would examine the process to try to make some improvements.

Mr. Turner explained that the City did not build contingencies into contracts, so whenever anything unexpected would occur, it needed to be brought back to the elected body for approval.

Ms. Sloane stated this type of information was included in the construction project report in the Friday letter.

Mayor Costello noted the construction project report was included in the Friday letter on a monthly basis.

Commissioner Kelley pointed out this was discovered in June, but the Commission did not learn of it for three to four months. He reported he understood the reason for this and that it was necessary, but to give 111 days more seemed excessive.

Ms. Sloane stated this was in the Friday letter when the garbage was found, but she did not do a Friday letter update when the cost was determined. She reported it was known that there was garbage in the pond for the Nova paving project, but staff was not able to work out an equitable price with P&S Paving. Ms. Sloane advised staff did not suspect they would find garbage at the location across the street.

Commissioner Kelley noted this should probably have been moved across the street and the property utilized for something else.

Ms. Sloane noted the field had just been renovated, and the total cost would have been something that would have to be considered.

Mayor Costello explained this Commission was not in office when this decision was made. He pointed out he tried to sell that piece of land and use the money to renovate other areas, but that was no longer an option.

Commissioner Gillooly recommended this be further discussed at the focus meeting.

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

Item #8(K) - Approval of Travel

**Commissioner Kelley moved, seconded by Commissioner Gillooly, to approve the travel as recommended by the City Manager.**

Mr. John Bornmann, 6 Windsor Drive, asked who would be going on this trip and what the cost to the taxpayers would be for the trip.

Mayor Costello replied Commissioner Partington would be going on the trip, but he did not know the cost.

Mr. Turner stated he would imagine the cost was approximately \$1,500, but he was not certain.

Mayor Costello stated there was a fund for continuing education.

Commissioner Kelley stated it was very important for the members of the Commission to be willing to take the time to learn because there are people outside of the community who may have more information.

Mayor Costello thanked Commissioner Partington for his willingness to try to learn more.

Commissioner Kent stated the time away from work should also be considered. He noted the attendees start at 7:00 a.m. and do not return until late at night from attending the various workshops. Commissioner Kent explained these meetings were very beneficial.

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

Item #9 - "Lowe's Home Center" Special Exception

RESOLUTION NO. 2006-244

A RESOLUTION AUTHORIZING THE EXECUTION AND ISSUANCE OF A DEVELOPMENT ORDER FOR "LOWE'S HOME CENTER" SPECIAL EXCEPTION ON A SITE LOCATED AT 1340 WEST GRANADA BOULEVARD, WITHIN THE B-8 (COMMERCIAL) ZONING DISTRICT, PERMITTING THE USE OF EIGHTEEN (18) TEMPORARY STORAGE CONTAINERS FOR A THREE-MONTH PERIOD; ESTABLISHING CONDITIONS AND EXPIRATIONS OF APPROVAL; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kelley moved, seconded by Commissioner Gillooly, to approve Resolution No. 2006-244, as read by title only.**

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

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

Commissioner Kelley stated this was an example of being a good neighbor and working with people who serve the community.

Commissioner Kent noted this made common sense.

Mayor Costello stated, in the future, should he not allow a representative to speak in the belief that the item would pass without comment and the item failed, he requested that the item be reconsidered so the representative could have the opportunity to speak to the Commission.

Item #10 - Amending Notification Requirements for Public Hearings

ORDINANCE NO. 2006-20

AN ORDINANCE RELATIVE TO REZONINGS OF PROPERTY, AMENDING SECTION 1-18, CITY COMMISSION/PUBLIC HEARINGS OF CHAPTER 1, GENERAL ADMINISTRATION OF ARTICLE II, ADMINISTRATION AND ENFORCEMENT, OF THE *LAND DEVELOPMENT CODE* BY AMENDING NOTIFICATION REQUIREMENTS FOR PUBLIC HEARINGS; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kelley moved, seconded by Commissioner Gillooly to approve Ordinance No. 2006-20, on second reading, as read by title only.**

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

Item #11(A) - Allowing Additional Signage for Professional Office Uses in the Greenbelt Overlay District

ORDINANCE NO. 2006-19  
AN ORDINANCE AMENDING CHAPTER 3, PERFORMANCE CRITERIA, ARTICLE IV, SIGN REGULATIONS, SECTION 3-48, SPECIALIZED SIGN STANDARDS, OF THE *LAND DEVELOPMENT CODE* BY ALLOWING FOR ADDITIONAL SIGNAGE FOR PROFESSIONAL OFFICE USES IN THE GREENBELT OVERLAY DISTRICT, SUBJECT TO MINIMUM CRITERIA; REPEALING ALL INCONSISTENT ORDINANCES AND PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kent moved, seconded by Commissioner Kelley, to approve Ordinance No. 2006-19, on first reading, as read by title only.**

Mr. Greg Antonich, 153 Dawn Drive, owner/developer of the Granada Professional Center, reported he wished to clarify the initial submission of the site plan. He noted Mr. Mark Dowst indicated he followed the staff recommendation as to how to proceed with this development in that the use was consistent with the zoning. Mr. Antonich stated the Planned Business Development (PBD) equivalent issue was mentioned at that last meeting, indicating that had the process been utilized, trade offs to obtain the signage would have been possible, and it was indicated that this project would not have met the criteria for those trade offs. He pointed out the landscape plan for this project included 94 trees and 41,040 plants, bushes, and shrubs. Mr. Antonich reported the caliper of all of the trees was being increased voluntarily. He advised the project had internal roof drains connecting to the underground drainage system; HVAC systems were all on the roof; stone accents were placed on the building; stones would be placed in the planters around the perimeter of the building; over 300 feet of metal awnings would be added; additional building and accent lighting was planned; doors and windows were storm rated; a stone paver entrance would be constructed; the entire 27,000 square feet was at the higher parking ratio for medical; the water main was extended 300 feet along Granada Boulevard; and they worked with the Ormond Beach Historical Trust to be certain they had parking access for the adjacent Three Chimney's site. Mr. Antonich reported these additions would make the site more aesthetically pleasing and were added to produce a quality project; therefore, he believed this project would have qualified for the trade offs required under the PBD process. He stated many of the properties would not qualify to switch to additional signage were this approved due to the ownership, size, and configuration. Mr. Antonich reported should another building qualify, the net result for the City could be positive because there would be new signs to code, and the signs would be more legible. He explained the real consideration was that the businesses coming into this development should be afforded the same considerations as the other new businesses on Granada Boulevard relative to signage where the precedent had already been set for two signs.

Ms. Nancy Lohman, 733 West Granada Boulevard, of Lohman's Funeral Homes, stated their business has grown to a point where they needed a corporate office, and a decision was made to invest in Ormond Beach, which was their hometown. She pointed out that part of the decision for anyone serving the community was the need for visibility. Ms. Lohman noted other buildings the same size in Ormond Beach have more than one sign. She stated investments must be perceived to be positive in order to grow a business environment, which would include signage. Ms. Lohman reported that instead of the developer creating a breezeway between the buildings and working around the codes as other developers had done, this developer was working with the City. She asked the Commission to give a 27,000 square foot building with 250 feet of frontage the same amount of signage that other projects had received.

Dr. Dinash Yanamadula, 25 Misner's Trail, stated signs are very important for the welfare of his patients and his business. He explained the volume of patients he would be able to see would increase in this facility. Dr. Yanamadula noted any delays in patients arriving for their



appointments while they try to find the building would ruin his schedule and may endanger his patients if he were forced to rush through his exams to keep to a schedule.

Ms. Rochelle Cannon, 276 Timberline Trail, stated Ormond Beach can not be anything if businesses were not able to grow. She noted at the last meeting it was recommended that signage be placed on the building, but the way the building was situated at the end of the complex, no one would be able to see the sign. Ms. Cannon advised she drove the greenbelt area and noticed a monument sign with 32 placards on Hand Avenue and Clyde Morris Boulevard. She reported the major cause of accidents at this location was due to elderly people slowing down to read the small signs. Ms. Cannon pointed out that the new office location had been a very unsightly lot that was now a beautiful project, and signage was essential for the businesses to grow and prosper.

Commissioner Kelley stated Mr. Mark Dowst was very thorough, knows the rules, and would have informed the developer to go the PBD route had he known two signs were needed. He noted had a different method been used, there would have been different results; but that was in the past and could not be changed. Commissioner Kelley reported he had been in business a long time, and he understood the value of signage. He pointed out in the beginning of the year he had advised the Commission and staff that the Ormond Beach sign regulations were not consistent; therefore, reviewing the sign ordinance was set as a goal, but it had not yet been addressed. Commissioner Kelley noted Dr. Yanamadula had no signage where he was located at Twin Lakes, but people found him to the point that he grew out of his business at that location. He explained doctors were destination businesses. Commissioner Kelley reported the problem he had with this ordinance was that the City was trying to change the sign ordinance for this one location, which was something he could not support. Commissioner Kelley encouraged staff to revisit the sign ordinances. He pointed out the other locations mentioned met what the codes required; but this did not meet the code requirements, and the City was being asked to change the code to meet the sign plan the developer was requesting. Commissioner Kelley recommended erecting a temporary sign stating: "725 Business Park" until the Commission could go through the process to consider all of the sign regulations.

Commissioner Gillooly stated this was a beautiful project and an asset to the City, but she concurred with Commissioner Kelley. She noted the choices made in this process have led Mr. Antonich to this point. Commissioner Gillooly recommended, if the Ormond Beach Historical Trust would not object, calling the site the "Three Chimney's Professional Center," and everyone would be able to find the location. She stated the City was always trying to work well with the business community, but this was a destination, and she could not support changing the regulations for this one project.

Commissioner Partington stated he originally opposed this at the last meeting, but he was now in favor of the change. He noted there were potentially three different ways to have the signage that was being requested. Commissioner Partington stated he did not believe one additional sign would make a difference. He advised he now had a good comfort level that this would not set a bad precedent. Commissioner Partington reported the adjoining property owner did not have a problem with the proposed signage; therefore, he would support this request.

Commissioner Kent noted Commissioner Gillooly and Commissioner Kelley made good points, but he would support this request. He stated he did not believe this would be precedent setting.

Mayor Costello asked Mr. Ervin how long it would take to have a new sign ordinance if the Commission would support that; whereby, Mr. Ervin replied it could probably not be done for approximately six months. Mayor Costello stated he did not favor making legislation for one person, but he also did not want to penalize the developer because the building was 27,000 square feet without a hallway; therefore, he would support this request.

Commissioner Kelley stated he considered this to be a "band aide" approach to this signage issue. He advised that he wanted to help the developer, but he could not support this when a choice could have been made earlier where the signage would have been accepted. Commissioner Kelley assured Mr. Antonich that he did a great job, but he would prefer allowing an exception for a temporary sign until the issue was thoroughly addressed. He reported he took a great deal of time studying this issue and had been criticized for doing so, but he explained that he would take as much time as was necessary to make certain he made the right decision.

Mayor Costello stated he would defend any Commission member in taking whatever time they believed was necessary to make the best decision on any issue. He reported had Mr. Antonich not been able to have the signage with a PBD or a hallway, he would not have approved this tonight.

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

Mayor Costello stated he would have more comfort if a developer were not penalized for constructing a single building as opposed to two buildings on the same site. He noted the same square footage should be allowed the same kind of signage.

Item #11(B) - Sunset Review of Boards and Committees

ORDINANCE NO. 2006-21  
AN ORDINANCE AMENDING SECTION 2-209, SUNSET REVIEW OF BOARDS AND COMMITTEES, OF ARTICLE VI, BOARDS, COMMISSION, COMMITTEES AND OTHER AGENCIES, OF CHAPTER 2, ADMINISTRATION, OF THE CODE OF ORDINANCES, BY ESTABLISHING SUNSET REVIEW DATES FOR BOARDS AND COMMITTEES; REPEALING ALL INCONSISTENT ORDINANCES AND PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kelley moved, seconded by Commissioner Gillooly, to approve Ordinance No. 2006-21, on first reading, as read by title only.**

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

Item #11(C) - Code Enforcement Amendments

ORDINANCE NO. 2006-22  
AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE VII, CODE ENFORCEMENT, BY AMENDING SECTION 2-251, DEFINITIONS; BY AMENDING SECTION 2-255, ENFORCEMENT PROCEDURE; BY AMENDING SECTION 2-258, ADMINISTRATIVE FINES AND LIENS; BY AMENDING SECTION 2-262, SCHEDULE OF CIVIL FINES; BY AMENDING SECTION 2-265, NOTICES; BY AMENDING SECTION 2-267, DURATION OF LIEN; REPEALING ALL INCONSISTENT ORDINANCES AND PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kelley moved, seconded by Commissioner Gillooly, to approve Ordinance No. 2006-22, on first reading, as read by title only.**

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

Item #11(D) - Amending the Annual Budget

ORDINANCE NO. 2006-23  
AN ORDINANCE AMENDING THE ANNUAL BUDGET FOR THE 2005-2006 FISCAL YEAR RELATIVE TO THE PENSION CONTRIBUTION PASS THROUGH FUND AND THE SOLID WASTE FUND; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kelley moved, seconded by Commissioner Kent, to approve Ordinance No. 2006-23, on first reading, as read by title only.**

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

Item #11(E) - Adjusting the Water and Wastewater Impact Fees

Mayor Costello reported this item was being pulled from the agenda.

Mr. Hayes stated this was staff generated, and it would be brought back the first meeting in December.

Item #11(F) - Creating a Proportionate Fair Share Program

ORDINANCE NO. 2006-25

AN ORDINANCE AMENDING SECTION 1-32, ARTICLE V, CHAPTER 1; SECTION 1-22, ARTICLE III, CHAPTER 1; SECTION 1-26, ARTICLE IV, CHAPTER 1; AND SECTION 3-53, ARTICLE V, CHAPTER 3, OF THE LAND DEVELOPMENT CODE BY CREATING A PROPORTIONATE FAIR SHARE PROGRAM FOR THE CITY OF ORMOND BEACH, ELIMINATING INCONSISTENT TRANSPORTATION CONCURRENCY STUDY AREA REFERENCES, BY REVISING DEFINITIONS AND IDENTIFYING A NEW FEE FOR PROCESSING FAIR SHARE AGREEMENTS; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Partington moved, seconded by Commissioner Gillooly, to approve Ordinance No. 2006-25, on first reading, as read by title only.**

Mayor Costello noted the Planning Board approved this unanimously. He noted this was a temporary ordinance in that staff would evaluate the County ordinance and may substitute it at a later date.

Commissioner Gillooly thanked Mr. Ervin for this thorough report and the detail provided in the minutes.

Commissioner Kelley stated the State legislation on Senate Bill 360 was a disaster, and he hoped the senators would do something about it. He noted the City would have to pay for this, and it was not known how it should be administered.

Mayor Costello noted this shifted a great deal of the cost to the cities, and that would be a problem.

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

Item #12(A) – Leeway Trail Park Design and Construction

Mr. Ervin displayed an aerial photograph showing the location of the Leeway Trail Park project and identified the surrounding areas including the Marshside project, the Enclave project, and the wastewater treatment facility site as designated by the Hunter’s Ridge Development of Regional Impact (DRI). He explained the issues that were addressed were the land, soil type, and cover, and a 300 x 300 square foot area was identified off Leeway Trail which would not have any impact on any of the wetlands and had basically no trees. Mr. Ervin reported this area had previously been used for silviculture. He then displayed a rough conceptual plan and explained there would be a paved driveway feeding in with grass parking, terminal islands, and sufficient buffering. Mr. Ervin noted this design could be expanded to the north and south with parking, a paved sidewalk feeding out to Leeway Trail should an additional path be provided, a mulch path, and a large open area for unscheduled play. He reported the approved Recreation Master Plan was considered. Mr. Ervin stated the cost would be \$150,000 to \$200,000 for basic

improvements, including the cost of playground equipment in close proximity to the parking lot. He reported this concept came from a desire to determine if something could be done quickly and effectively in this area, which was a concern addressed by Mr. Rick Lovell who was, at that time, a Planning Board member. Mr. Ervin noted Commissioner Kelley asked staff to determine if there was a quick and easy way for this developer to provide the City with a park. He stated there was a potential for improvements, and the City could either ignore the plans he just outlined and require the developer to pay impact fees for each home as they are developed, or possibly take the improvements in lieu of the impact fees, where they would come forward with cost estimates and the project would be done on a one-to-one trade basis. Mr. Ervin noted he could not get into the specifics of the Marshside project tonight as that would be continued to next week's meeting where it would have a public hearing. He asked if the Commission wanted staff to pursue taking impact fees or improvements in lieu of impact fees.

Commissioner Kelley stated his vision was adding small parks to benefit the projects and residents without spending much money, but this proposal dealt with a great deal of money. He asked if the City owned the property fronting Airport Road and if that property was marshy.

Mr. Ervin stated the City currently had a water tower on the site, and it was identified on the development plan as a smaller wastewater treatment site. He clarified this had been identified as part of the Hunter's Ridge DRI since 1989, but nothing other than the water tower was currently on the site.

Commissioner Kelley stated there were many people living in that area who do not have their own recreation area. He noted in that Pathways Elementary School can not be used due to the wetness, fencing, and access problems he had envisioned a place for people to play; however, it may be wise to determine if the people want this before spending such a large amount of money.

Mayor Costello stated in that this was Commissioner Kelley's zone, he would allow him to lead on this issue. He noted Mr. Rick Lovell stated people in this area did not have an open place to play, creating a needed. Mayor Costello asked if Commissioner Kelley questioned that this was the best use of the impact fee money.

Commissioner Kelley noted he had oversimplified this issue.

Commissioner Gillooly asked if this cost estimate included a profit margin. She reasoned the developer would be doing the work with crews that would already be on site for the construction of the subdivision. Commissioner Gillooly questioned if it would be fair to ask for a bottom-line price.

Mr. Ervin stated the costs provided were merely estimates based on the last job on which the City bid for Bahia sod, asphalt, and permitting. He noted these were not the costs a private developer would be facing in that they would probably be able to do this job for considerably less because of the City's purchasing and insurance requirements. Mr. Ervin advised this was based on the project being a City-sponsored constructed project. He stated something brought forward to staff through the master plan update was a lack of finish; therefore, staff tried to arrive at a solution to do something simple, but provide a high level of finish. Mr. Ervin explained the plan shown was basically an open field with Bahia sod, mulch, paved access, and grass parking, which was what the City required of the Breakaway Trails project in their recreation facility.

Commissioner Kelley noted that was why he believed it could be done for \$25,000 to \$30,000.

Commissioner Gillooly asked if this could be done in phases, particularly if a grant could be obtained using the impact fees as a match. She reported she considered this to be an excellent use of impact fees as it would benefit the residents and keep the funding in the zone where recreation was desperately needed.

Commissioner Kelley pointed out he merely questioned if this was the best use of the funds, but he was not indicating it would not be the best use of the funds.

Commissioner Partington stated he pictured this park on Airport Road in that the City owned that parcel. He noted he favored the concept and that the impact fees would stay in Zone 3, but would prefer it fronting on Airport Road. Commissioner Partington noted he was unaware this was a site for a future wastewater plant, and he recommended considering the odor issue if a wastewater plant were to be constructed on this City land. He stated this may not be the best location for a park.

Mr. Ervin reiterated this location was identified in 1989 as a part of the Hunter's Ridge DRI. He stated that as part of that exaction, the City obtained a 20-acre park to serve as a buffer from the residents of Durrance Acres. Mr. Ervin reported there was property on SR40 dedicated for a water treatment plant and another park. He explained the wastewater plant was to the north and the water plant to the west.

Ms. Sloane stated there were two parcels where the future Airport Road would intersect with SR40, and the parcel on the west side was designated for a future water treatment plant site and/or storage tank and booster pump station. She reported the property on the east of the road intersection, which was 80% wetlands, was designated for a park. Ms. Sloane reported the site on Leeway Trail and Airport Road was 20-acre site designated for a future wastewater treatment plant site. She noted this would be discussed at the workshop next Tuesday. Ms. Sloane advised odor control would need to be a consideration.

Mayor Costello asked if staff would be recommending this site be used for a future wastewater plant.

Ms. Sloane explained staff would recommend a wastewater treatment plant site, and this would probably be the prime location, although there were a couple of other options. She stated another site would be a site in Ormond Crossings. Ms. Sloane pointed out the City had asked for a 10-acre site to be set aside in the Ormond Crossings DRI.

Mr. Ervin stated when going through negotiations on developments of regional impact, the local government identifies future needs; however, if that property was not used for that purpose, the property owner had the right to take back the property and amend the DRI for a use acceptable to the City and the private property owner. He reported it may be possible to switch the water and wastewater plants so the park site drops to Airport Road and the wastewater site would go to the north; but if those 20 acres were not used for a wastewater treatment plant, the owner of the DRI had the right to petition for a change.

Mr. Edward Speno stated he would put on a traffic demonstration for the Commission next Tuesday for the Marshside project. He noted it was his intention to match the impact fees to construct the park project. Mr. Speno reported he intended to pick up the shortfall in funding.

Mayor Costello recommended delaying discussion of this issue until after considering Marshside. He noted the developer was willing to match the impact fees which would double the amount they would normally be required to pay to make certain the park was completed; however, he conjectured that if the Marshside project was not approved, the developer may not be willing to build the park.

Commissioner Kelley stated there also needed to be a discussion of the future wastewater plant and the possible complications that could occur.

Mr. Ervin noted there were more wetlands on the southern parcel than on the northern parcel, but either location had wetlands. He reported wetlands were an issue on how the site would be designed. Mr. Ervin explained a land swap with the School Board occurred in the area.

Mayor Costello asked if the City could partner with the School Board to develop some of the vacant land for the park.

Mr. Ervin stated there was approximately nine acres of vacant school land, and this park was to be one and one-half acres. He reported he would investigate that possibility.

Mayor Costello noted there was a wastewater workshop scheduled for 5:30 p.m. on Tuesday, November 14, and that discussion would help when making a decision on the Marshside project.

#### Item #12(B) – Funding for ACT Corporation

Mayor Costello reported he had supported placing a cap on funding community activities. He noted the County offered to match funding for ACT up to \$200,000 on what the cities contribute. Mayor Costello explained ACT had a shortfall and needed to lay off personnel and sell facilities. He reported the State was shifting costs to the local entities by decreasing what Medicaid would normally pay. Mayor Costello advised he would support this on a one-time-only basis, but would not support this a second time.

Commissioner Gillooly stated this organization had provided countless services to residents (431 in Ormond Beach), and due to governmental changes, they have been running in the red

for far too long. She reported Mrs. Miller was serving as the interim CEO, and her main focus was to make certain ACT remained solvent and could move forward. Commissioner Gillooly asked Ms. McGuire how the City could pay for this donation. She stated the e-mail requested a one-time \$12,500 donation, but based on population, they would be seeking approximately \$21,000. Commissioner Gillooly questioned if it would be fairer for all of the cities to pay using the number of clients being served on an annual basis.

Ms. Kelly McGuire, Budget Director, stated the City did not have the number of clients being served, but that information could be provided.

Mayor Costello explained the \$12,500 was the figure arrived at by dividing the \$200,000 amongst the cities; but he noted some cities have much smaller populations than others, so VCOG decided to charge by population, which was how MPO and VCOG assessments are paid. He noted he saw the rationale in using this method; however, he did not oppose paying on the basis of clients using the services in the various communities. Mayor Costello reiterated he could support a one-time payment of \$20,930.

Commissioner Gillooly compared this to the homeless assistance center in Daytona Beach in that the homeless problem was not particular to Daytona Beach; but Daytona Beach took the lead in agreeing to host this necessary facility, and it was Ormond Beach's responsibility to help support it. She recommended supporting this on a one-time basis, particularly because the County offered to match the dollars; however, she questioned how Ormond Beach would pay for it.

Mayor Costello pointed out it saved Ormond Beach money to support the homeless assistance center rather than handle the problem in Ormond Beach, and it would also save money to support this as well.

Ms. McGuire recommended considering funding this from the General Fund budget. She noted there had been a discussion regarding forfeiture funds, but those funds had already been committed to other items.

Commissioner Partington expressed concern that the State was creating an unfunded mandate where the cities must pay for the shortfall. He reported this would create a double taxation situation for people paying federal taxes into the Medicaid system and then the cities and County having to pay for what the Medicaid system should be paying and was not. Commissioner Partington noted he would oppose this tonight, but may consider changing his opinion with further study.

Mayor Costello stated he may not have supported this had he not seen the presentation at VCOG. He reported people need these services, and he would not penalize the people for the State's actions this year, but he would fight if this was to be a recurring expense. He noted this could be used to lobby the legislature because tax reform was coming.

Commissioner Kent stated no one ever wanted to oppose something such as this, but the Commission set a limit of \$75,000 for contributions, and that number had already been reached. He stated he was uncomfortable exceeding that figure and he would have preferred to know about this situation earlier so adjustments could have been made to accommodate ACT. Commissioner Kent advised he could not support this at this time.

Commissioner Kelley stated this was a difficult situation in that ACT may not survive until next year. He commended the service provided by ACT and their service probably would save Ormond Beach money over time. Commissioner Kelley reported he could approve \$12,500 if everyone else would pay their share to equal the \$200,000; however, if the other cities would not pay their fair share, he could not support the expenditure.

Mayor Costello noted the other cities would be working from the calculations based on population rather than each city paying the same amount; therefore, Ormond Beach's cost would probably be \$20,930 rather than the \$12,500.

Commissioner Gillooly noted she agreed with Commissioner Kent and Commissioner Partington, but this program was important, and if the City could do this without going into the reserve funds or creating an additional tax burden to the residents, she could support the full portion based on population with a proviso that ACT would secure the funds from the other cities. She noted ACT was at a critical point and this funding was needed.

Mayor Costello summarized two Commission members favored the \$20,930 expenditure; two Commission members opposed it because it was not budgeted, and one Commission member would favored \$12,500. He asked if the Thompson Rule applied so a motion could be made.

Mr. Hayes noted the Thompson Rule would not apply in this instance because it was on the agenda and no further information was needed. He advised a motion could be made.

**Commissioner Kelley moved to pay \$12,500 as a proportional share on a one-time basis to ACT with the proviso that every other city pays their population share or more.**

Commissioner Gillooly suggested rewording the motion. She noted it was hard to ask other cities to pay their proportionate share when Ormond Beach would not be paying its share. Commissioner Gillooly recommended deleting the proportional share language.

Mr. Hayes stated there was no second to the motion. He noted if there was a second, the Commission could consider Commissioner Gillooly’s proposal as an amendment.

**Mayor Costello noted the motion died for lack of a second.**

**Commissioner Kelley moved, seconded by Commissioner Gillooly, to allocate \$12,500 to ACT subject to all other sources outside the County contributing up to at least \$200,000.**

Mayor Costello noted he did not expect this to occur because Ormond Beach was short \$8,400; and if everyone else would contribute their population-based share, the contribution would be \$8,400 short of the \$200,000.

Commissioner Partington stated with the abovementioned condition, he could support this motion.

Mayor Costello reiterated this was a motion doomed to failure because the cities would be \$8,400 short of the \$200,000.

Commissioner Kelley noted Mayor Costello indicated the County may be willing to give more.

Mayor Costello stated the motion indicated the phrase “outside the County.”

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

Item #13 - Reports, Suggestions, Requests

Speaking at a School

Commissioner Partington reported he spoke to a fifth grade class in a Volusia County elementary school about being an attorney and a Commissioner. He thanked Mr. Turner for the pencils from the recycling department he was able to hand out to the students.

Mr. Tim Breneman

Commissioner Partington stated he went to Washington D.C. for Mr. Tim Breneman's burial with full honors at Arlington National Cemetery. He reported he presented the plaque and proclamation to Mr. Breneman’s wife, and she appreciated the efforts made on behalf of the City and Mayor Costello.

Speaking at Ormond Beach Middle School

Commissioner Gillooly stated she spoke to students at the Ormond Beach Middle School. She noted the students were very enthusiastic as she spoke about the Halifax Habitat for Humanity and the City government. She reported the students were planning to participate in a Habitat fundraiser at Ocean Walk and would paint at a house in Daytona Beach in December. Commissioner Gillooly stated the students’ enthusiasm and concern for their fellow citizens was a credit to their parents and teachers.

Affordable Housing Roundtable

Commissioner Gillooly thanked staff for the Affordable Housing Roundtable. She noted the roundtable was attended by the entire City Commission, members of the Neighborhood Improvement Advisory Board, and Planning Board along with Ms. Loretta Moisiso, Grants Coordinator. Commissioner Gillooly reported those in the audience included non-profit

representatives, people who work with affordable housing, realtors, an affordable home builder, developers, and officials on the Housing Finance Authority. She stated this was one of the best housing forums she had attended.

#### Florida League of Cities

Commissioner Gillooly stated she attended the Florida League of Cities workshop on community housing in Orlando. She noted the City paid for the fee to attend this workshop, and Halifax Habitat for Humanity would pay for all of the other workshops because these workshops were beneficial in her role as Commissioner and her position with the Halifax Habitat for Humanity. Commissioner Gillooly stated she appreciated the concern of Mr. Bornmann regarding the cost to the taxpayers for trips, but she commended Commission members who take time away from their businesses and families to learn from others at seminars and workshops, and she encouraged the Commission and staff to avail themselves of the continuing education. She noted the ideas that are brought back and the opportunity to discuss issues with other city representatives were invaluable.

#### Letter from the Mayor

Commissioner Kent recommended a policy be created where any student under the age of 15 who attended an entire meeting with excellent behavior would receive a letter from the Mayor thanking them for their behavior.

#### Fire Station #91

Commissioner Kent stated it was great to see Mayor Costello and Commissioner Kelley at the Fire Station #91 dedication. He reported this was a great event.

#### Schools

Commissioner Kent thanked Commissioner Gillooly and Commissioner Partington for speaking at the Volusia County schools.

#### Thanking Mayor Costello

Commissioner Kent thanked Mayor Costello for what he does for the City and the time he gives. He noted it was a pleasure working with Mayor Costello.

#### Building Height Amendment

Commissioner Kelley stated it seemed the CAN DO amendment passed.

#### Fire Station #91

Commissioner Kelley thanked Mayor Costello for allowing him and Commissioner Kent to do the uncoupling at the fire station opening when he could have done it. He agreed it was a great event.

#### Workshops

Commissioner Kelley thanked the Commission for attending workshops and seminars because whenever a Commission member attends such a meeting, they always learn something valuable and are able to share information with others.

#### Wastewater Workshop

Mr. Turner reminded the Commission of the November 14 Wastewater Master Plan workshop which would be held at 5:30 p.m. with the regular Commission meeting at 7:00 p.m.

#### Hinson Middle School

Mr. Turner stated 60 Hinson Middle School students would be coming to Ormond Beach City Hall on Tuesday, November 14. He noted Mayor Costello would be stopping by and a number of staff members would be visiting with the students.

#### Fire Station #91

Mr. Turner commended Chief Baker and Ms. Sloane for the great job at Fire Station #91 and for coming in under budget and on time.

#### Height Limit Referendum

Mr. Turner announced the height limit referendum vote was 6,380 or 57.28% "Yes" votes and 4,758 or 42.72% "No" votes, but it was not the final count.

Mayor Costello stated whichever way the election went, he asked staff to make certain the Land Development Code and Comprehensive Plan amendments would be started as soon as possible. He reported that even though he disagreed with CAN DO, they have far exceeded the grass routes activism, enthusiasm, and participation. Mayor Costello noted he was frustrated



that so many people tried to imply that the Commission did the wrong thing as they supported their position. He reported he believed the Commission was open, honest, and forthright.

Fire Station #91

Mayor Costello noted Commissioner Partington and he did the uncoupling on the Nova Road fire station; therefore, he thought it would be appropriated for Commissioner Kent and Commissioner Kelley do the uncoupling for this fire station.

Election Night Meetings

Mayor Costello recommended that, in the future, the City not have Commission meetings on an election night.

Iraq Duty

Mayor Costello urged people to get the word out to churches and civic clubs to honor those leaving for Iraq so they could be honored by the City.

Training Meetings and Workshops

Mayor Costello stated he discovered that the only way to go to good meetings was to go to all of the meetings. He honored people who spent their time to go to training meetings and workshops, and he wished he could go to more in an effort to do his job better.

Item #14 - Close the Meeting

The meeting was adjourned at 9:06 p.m.

APPROVED: December 5, 2006

BY: Fred Costello, Mayor

ATTEST:

Veronica Patterson, City Clerk