

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

June 21, 2011

7:00 p.m.

Present were: Mayor Ed Kelley, Commissioners James Stowers, Troy Kent, Rick Boehm and Bill Partington, City Manager Joyce Shanahan, Assistant City Manager Ted MacLeod, City Attorney Randy Hayes, and Acting City Clerk Lois Towey.

A G E N D A

- 1) Meeting call to order by Mayor Kelley.
- 2) Invocation by Father James Taylor, St. Mary's Episcopal Church.
- 3) Pledge of Allegiance.
- 4) **PRESENTATIONS:**
 - A) Chamber of Commerce Beautification Award
 - B) Proclamation in honor of Doug Thomas, National PAL Male Volunteer
- 5) **AUDIENCE REMARKS:**
- 6) **APPROVAL OF THE MINUTES** of the June 1, 2011, meeting.
- 7) **COMMUNITY REDEVELOPMENT AGENCY:**
 - A) Consideration of amending the 2010-11 Ormond Main Street Contract Agreement by increasing the funding by \$3,690. **(Item #11)**
 - B) A request for a First Property Improvement Grant Program extension of 120 days for Maria Bonita Parking Improvements, 9 North Yonge Street. **(Item #9A)**
 - C) A request for a First Property Improvement Grant Program extension of 120 days for Maria Bonita, 195 West Granada Boulevard. **(Item #9B)**
- 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. 2011-84 authorizing the execution of a Second Amended Soccer Facilities Lease Agreement between the City and Ormond Beach Soccer Club, Inc., regarding the use of certain City facilities for the provision and operation of youth soccer programs. (Leisure Services Director)
 - B) Resolution No. 2011-85 authorizing the execution of a First Amended Basketball Facilities Lease Agreement between the City and Ormond Beach Youth Basketball Association, Inc., regarding the use of certain City facilities for the provision and operation of youth basketball programs. (Leisure Services Director)
 - C) Resolution No. 2011-86 authorizing the execution of a Second Amended Baseball & Softball Facilities Lease Agreement between the City and Ormond Beach Youth Baseball & Softball Corp., regarding the use of certain City facilities for the provision and operation of youth baseball and softball programs. (Leisure Services Director)
 - D) Resolution No. 2011-87 authorizing the extension of an Interlocal Agreement with the cities of Daytona Beach and Port Orange regarding a jointly sponsored summer therapeutic recreation program for special needs children with disabilities; authorizing the execution of a consent to extension therefore. (not-to-exceed \$36,000)(Leisure Services Director)
 - E) Resolution No. 2011-88 establishing and authorizing the implementation of a Community Partnership Program. (Leisure Services Director)
 - F) Resolution No. 2011-89 approving an amendment to the contract between the City and Brasfield & Gorrie, LLC, for the limited purpose of deleting language regarding the Florida Department of Environmental Protection's State Revolving Fund Loan Program; authorizing the execution of an amendment to the contract consistent therewith. (Acting City Engineer)

- G) Resolution No. 2011-90 consenting to the assignment of a continuing contract for planning and design services between the City and Land Design Innovations, Inc.; assigning said contract to Littlejohn Engineering Associates, Inc.; approving and authorizing the execution of a Consent to Assignment and Amendment to Continuing Contract for the limited purpose of acknowledging the correct identity of the entity providing planning and design services under the contract. (Acting City Engineer)
- H) Resolution No. 2011-91 authorizing the purchase of Microsoft software from Software House International, under State of Florida ITN No. 11-252-001-H/Contract No. 252-001-09-1; authoring the execution of an agreement with Microsoft Licensing, GP, for the authorized use of said software; authorizing payment therefore. (\$161,190.00)(IT Manager)
- I) Resolution No. 2011-92 accepting proposals and authorizing the execution of contracts with two professional firms for information technology contracting services on an as-needed basis, under RFP 2011-11; rejecting all other proposals. (not-to-exceed \$29,000 annually) (IT Manager)
- J) Resolution No. 2011-93 authorizing the execution of a service agreement with iyeTEK, LLC regarding Electronic Traffic Crash Reporting Services. (Police Chief)
- K) Resolution No. 2011-94 accepting a bid from R&M Service Solutions, LLC, to provide fire hydrant replacement services under Bid No. 2011-14; authorizing the execution of a contract and payment therefore. (\$160,791.06)(Utilities)

L) Auto Renew Contracts (Finance Director)

DISPOSITION: Approve as recommended in City Manager memorandum dated June 16, 2011.

M) Budget Status (Finance Director)

DISPOSITION: Approve as recommended in City Manager memorandum dated June 16, 2011.

N) Renewal of Volusia County Cooperation Agreement 2011-12, 2012-13, and 2013-14; Community Development Block grant; HOME Investment Partnership Program.

DISPOSITION: Approve as recommended in City Manager memorandum dated June 16, 2011.

9) **PUBLIC HEARINGS:**

- A) Resolution No. 2011-95 of the City Commission, also acting as the Community Redevelopment Agency, of the City of Ormond Beach, Florida, authorizing the First Extension of One Hundred and Twenty Days for the Property Improvement Grant Agreement between the Agency and Taxco LLC. (9 North Yonge Street)(Planning)
- B) Resolution No. 2011-96 of the City Commission, also acting as the Community Redevelopment Agency, of the City of Ormond Beach, Florida, authorizing the First Extension of One Hundred and Twenty Days for the Property Improvement Grant Agreement between the Agency and Taxco LLC. (195 West Granada Boulevard) (Planning)
- C) Ordinance No. 2011-17 amending Chapter 2, District and general regulations, of Article I, Establishment of zoning districts and official zoning map, Section 2-02, future land use map designations and zoning districts, Table 2-2, future land use map designations and compatible zoning districts of the *Land Development Code* of the City of Ormond Beach by establishing corresponding compatible zoning districts with the newly created “low intensity commercial” comprehensive plan future land use designation; repealing all inconsistent ordinances or parts thereof. (Planning)
- D) Ordinance No. 2011-18 annexing certain real property into the City of Ormond Beach, said property being generally located along the west side of North U.S. Highway 1 approximately 2,300 linear feet north of the intersection of Airport Road and North U.S. Highway 1 and being commonly located at 1142 North U.S. Highway 1, including a portion of Railroad Street right-of-way; redefining the territorial boundaries of the City of Ormond Beach to include the property; redesignating the boundaries of Zone 3 of

the City of Ormond Beach to include the property; setting forth zoning, privileges and obligations of said property, providing for transmission. (Planning)

- 10) **SECOND READING OF ORDINANCE** No. 2011-16 amending Chapter 14 of the Code of Ordinances of the City of Ormond Beach, Florida, by establishing Article XI, titled "Maintenance of Structures"; providing for the general duty to maintain the exterior of structures; providing immunity of enforcement officers; providing for enforcement and penalties; providing for severability; providing for conflicting ordinances. (Second Reading) (Neighborhood Improvement Manager)
- 11) **RESOLUTION** No. 2011-97 of the City Commission, individually and acting as the Community Redevelopment Agency for the Central Business District and adjacent areas, authorizing the execution of an Amendment to Service Agreement between the City/Agency and Ormond Beach Main Street, Inc., for the limited purpose of increasing funding by \$3,690.00. (Planning Director)
- 12) **DISCUSSION ITEMS:**
 - A) City Manager Evaluation.
 - B) Opportunity Zone.
 - C) Redistricting in support of Ormond Beach be included entirely in District 26.
- 13) **REPORTS, SUGGESTIONS, REQUESTS:** Mayor, City Commission, City Manager, City Attorney.
- 14) **CLOSE THE MEETING.**

Item #1 – Meeting Call to Order

The meeting was called to order by Mayor Kelley at 7:00 p.m.

Item #2 – Invocation

The invocation was given by Reverend Willie Branch, Police Department Chaplain.

Item #3 – Pledge of Allegiance

The Pledge of Allegiance was led by Mayor Kelley.

Item #4A – Presentation of Chamber of Commerce Beautification Award

There was no representative from the Chamber to make the presentation.

Item #4B – PAL National Male Volunteer of the Year

Mayor Kelley reported Doug Thomas was selected nationally as the PAL National Male Volunteer of the Year; the selection was made by an agency outside of PAL, not the PAL Board of Directors. He stated a member of the National Board said that Ormond Beach PAL was the best PAL organization in the country. He stated Doug Thomas, who moved to the City in 1973, had worked to make the City a better place for its citizens, but specifically, its children. He reported that Mr. Thomas had served on the PAL Board of Directors for many years, meeting and often exceeding goals. He stated, as a strong advocate of the PAL program, Mr. Thomas had fought for the continuation of PAL during these difficult economic times when outreach programs were often considered in budget cuts. He stated Mr. Thomas exemplified the spirit of volunteering through his continuing participation at PAL fundraisings, activities and education programs. He stated Mr. Thomas, as a leader, motivator, and role model, gave time and effort, while creating a spirit that motivated others to donate their time and money. He reported Mr. Thomas had served on the Leisure Services Advisory Board, Planning Board, Quality of Life Advisory Board, Beach Advisory Board, and the Ormond Beach Youth Baseball and Softball Association.

Items #5 - Audience Remarks

Ms. Laura Jones, 59 Amsden Road, stated she was representing herself and Can Do, and requested there be no sidewalks on John Anderson Drive. She provided petitions with 200 signatures in that regard.

Item #6 – Approval of the Minutes

Mayor Kelley advised the minutes of the June 1, 2011, regular meeting had been sent to the Commission for review, and were on the City's website for public review. He asked for any corrections, additions, or omissions. He stated that hearing no corrections, the minutes would stand approved as presented.

Mayor Kelley stated the City Commission served as the Community Redevelopment Agency (CRA) for the Downtown Redevelopment Area, and as such, must review each CRA agenda item and make a recommendation as the CRA prior to the City Commission public hearing; therefore, the City Commission meeting would be recessed, and a meeting of the Community Redevelopment Agency convened. He explained that once the recommendations were made, the CRA meeting would be adjourned and the City Commission meeting reconvened.

Mayor Kelley stated the City Commission meeting was recessed, and he called the meeting of the Community Redevelopment Agency to order at 7:14 p.m.

Item #7A – CRA – Amending 2010-11 Main Street Agreement

Mayor Kelley explained the CRA would be considering three items; the first was amending the 2010-11 Main Street contract by increasing the funding by \$3,690;

Commissioner Boehm moved, seconded by Commissioner Stowers, for recommending Resolution No. 2011-97.

A voice vote was unanimous for recommending Resolution No. 2011-97.

Item #7B – CRA - First Property Improvement Grant Extension, 9 North Yonge Street

Mayor Kelley stated the next item was a request to extend the First Property Improvement Grant for 120 days for the Maria Bonita parking improvements at 9 North Yonge Street.

Commissioner Partington moved, seconded by Commissioner Boehm, for recommending approval of Resolution No. 2011-95.

A voice vote was unanimous for recommending Resolution No. 2011-95.

Item #7C – CRA - First Property Improvement Grant Extension, 195 West Granada Boulevard

Mayor Kelley explained this item was a request for the First Property Improvement Grant for an extension of 120 days for Maria Bonita at 195 West Granada Boulevard.

Commissioner Partington moved, seconded by Commissioner Stowers, for recommending approval of Resolution No. 2011-96.

A voice vote was unanimous for recommending Resolution No. 2011-96.

Mayor Kelley adjourned the CRA at 7:15 p.m. and reconvened the City Commission meeting.

Item #8 – Consent Agenda

Mayor Kelley advised 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 item separately.

Mayor Kelley stated he received a request to pull Item #8A.

Commissioner Boehm suggested that Item #8A was being pulled due to language in the lease agreement; therefore, Items #8B and #8C should also be pulled.

Commissioner Partington moved, seconded by Commissioner Stowers, for approval of the Consent Agenda, absent Items #8A, #8B and #8C.

Call Vote:	Commissioner Stowers	Yes
	Commissioner Kent	Absent
	Commissioner Boehm	Yes
	Commissioner Partington	Yes
Carried.	Mayor Kelley	Yes

Item #8A – Seconded Amended Soccer Facilities Lease Agreement

RESOLUTION NO. 2011-84

A RESOLUTION AUTHORIZING THE EXECUTION OF A SECOND AMENDED SOCCER FACILITIES LEASE AGREEMENT BETWEEN THE CITY AND ORMOND SOCCER CLUB, INC., REGARDING THE USE OF CERTAIN CITY FACILITIES FOR THE PROVISION AND OPERATION OF YOUTH SOCCER PROGRAMS; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Boehm, to approve Resolution No. 2011-84, as read by title only.

Mr. Robert Carolin, Leisure Services Director, explained the item was a lease agreement with the Ormond Beach Soccer Association, which was the same as the agreement with the other sports associations.

Mayor Kelley stated he wanted to discuss the language in the agreement that allowed no activity on a religious holiday.

Mr. Doug Wigley, 37 Forest View Way, stated the lease agreements were fantastic and he was grateful for the opportunity to participate in the Leisure Services' activities. He stated everyone was sensitive to other religions, but to include "any religious holiday" was too all encompassing. He stated he was looking to the Commission for guidance in accomplishing the intent of the agreement; and no one would be excluded from playing because they missed practice due to a religious holiday.

Commissioner Boehm stated the City had the ability to close facilities on any days, such as holidays.

Mr. Wigley explained the facilities were City parks, which belonged to the taxpayers, but the lease agreement was prohibiting any organized activities or games on religious holidays.

Commissioner Boehm suggested striking the paragraph under discussion.

City Manager Shanahan stated the issue arose several years ago when a young man felt he let his team down when he could not play on a religious holiday. She stated this led to the idea of no official practices or games on religious holidays.

Commissioner Boehm stated he was a Christian and he certainly recognized the Jewish community, but there were a lot of other religions that could request their holidays be recognized. He stated the City controlled the facilities and he personally would strike that paragraph in its entirety.

Commissioner Boehm moved to strike the paragraph in its entirety.

Commissioner Partington expressed a desire to discuss the issue further with Mr. Robert Carolin before seconding the motion.

Mr. Carolin explained the same intent with varying verbiage had always been used for all association leases to protect a child from the distress of letting his team down during a specific game that was scheduled on a religious holiday. He stated all organizations, soccer, basketball, baseball and softball, and Pop Warner, were obligated not to hold games or practices on City recognized religious holidays.

Commissioner Partington read the referenced paragraph, "The LESSEE shall not use the facilities for any organized games or practices on any religious holiday, (i.e., Christmas, Good Friday, Easter, Yom Kippur, Passover, Rosh Hashanah), without the prior written consent of the LESSOR for such use."

Mr. Carolin stated that in the past, the City had not given consent to any such request to avoid a difficult situation. He expressed confidence that the associations could handle this type of situation without punishing the child who could not attend, but the issue was the child and how the child felt.

Commissioner Boehm stated the teams practice and play every Sunday, and if a child missed the practice or game by being at a church service, they just dealt with it. He stated this was not needed.

City Attorney Randy Hayes stated the term, "Lessor" was the City through the Commission, which meant a waiver would have to be granted by the Commission, not the Leisure Services Director. He suggested an option to include restrictive language could read, "on the following holidays" by changing the word, "any" to "the following," or the words, "without the prior written consent of the Lessor for such use" could be stricken.

Commissioner Stowers agreed with Commissioner Boehm that the agreement was with the sports associations; therefore, it was not necessary to name holidays, because if the coaches were not good ambassadors in accommodating players, they would lose participants in the

league. He stated the City should not inject itself into the situation and the paragraph should be removed.

Mayor Kelley stated Mr. Sandy Koufax, a well known Hall of Fame baseball pitcher, would not pitch from sundown Friday night to sundown Saturday night because of his religious beliefs. He stated when he was growing up, he was not able to play in some games, but he was never chastised for it, and he believed the issue would resolve itself.

Commissioner Boehm moved, seconded by Commissioner Stowers, to approve amending the lease agreement to strike the last paragraph on Page 4, which reads, “The LESSEE shall not use the facilities for any organized games or practices on any religious holiday, (i.e., Christmas, Good Friday, Easter, Yom Kippur, Passover, Rosh Hashanah), without the prior written consent of the LESSOR for such use.”

Vote to amend the motion.

Call Vote:	Commissioner Boehm	Yes
	Commissioner Partington	Yes
	Commissioner Stowers	Yes
	Commissioner Kent	Absent
Carried.	Mayor Kelley	Yes

Vote on the amended motion.

Call Vote:	Commissioner Partington	Yes
	Commissioner Stowers	Yes
	Commissioner Kent	Absent
	Commissioner Boehm	Yes
Carried.	Mayor Kelley	Yes

Item #8B – First Amended Basketball Facilities Lease Agreement

RESOLUTION NO. 2011-85

A RESOLUTION AUTHORIZING THE EXECUTION OF A FIRST AMENDED BASKETBALL FACILITIES LEASE AGREEMENT BETWEEN THE CITY AND ORMOND BEACH YOUTH BASKETBALL ASSOCIATIONS, INC., REGARDING THE USE OF CERTAIN CITY FACILITIES FOR THE PROVISION AND OPERATION OF YOUTH BASKETBALL PROGRAMS; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Boehm, to approve Resolution No. 2011-85, as read by title only.

Commissioner Boehm moved, seconded by Commissioner Partington, to approve amending the lease agreement to strike the second to last paragraph of Section 4, on Page 3, which reads, “The LESSEE shall not use the facilities for any organized games or practices on any religious holiday, (i.e., Christmas, Good Friday, Easter, Yom Kippur, Passover, Rosh Hashanah), without the prior written consent of the LESSOR for such use.”

Vote on the amended agreement and the main motion.

Call Vote:	Commissioner Partington	Yes
	Commissioner Stowers	Yes
	Commissioner Kent	Abstain
	Commissioner Boehm	Yes
Carried.	Mayor Kelley	Yes

Vote on the main motion as amended.

Call Vote:	Commissioner Partington	Yes
	Commissioner Stowers	Yes
	Commissioner Kent	Abstain
	Commissioner Boehm	Yes
Carried.	Mayor Kelley	Yes

Item #8C – Second Amended Baseball & Softball Facilities Lease Agreement

RESOLUTION NO. 2011-86

A RESOLUTION AUTHORIZING THE EXECUTION OF A SECOND AMENDED BASEBALL & SOFTBALL FACILITIES LEASE AGREEMENT BETWEEN THE CITY AND ORMOND BEACH YOUTH BASEBALL & SOFTBALL CORP., REGARDING THE USE OF CERTAIN CITY FACILITIES FOR THE PROVISION AND OPERATION OF YOUTH BASEBALL & SOFTBALL PROGRAMS; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Boehm, to approve Resolution No. 2011-86, as read by title only.

Commissioner Boehm moved, seconded by Commissioner Partington, to approve amending the lease agreement to strike the last paragraph on Section 4, Page 4, which reads, “The LESSEE shall not use the facilities for any organized games or practices on any religious holiday, (i.e., Christmas, Good Friday, Easter, Yom Kippur, Passover, Rosh Hashanah), without the prior written consent of the LESSOR for such use.”

Vote on the amendment to the agreement.

Call Vote:	Commissioner Stowers	Yes
	Commissioner Kent	Yes
	Commissioner Boehm	Yes
	Commissioner Partington	Yes
Carried.	Mayor Kelley	Yes

Vote on main motion as amended.

Call Vote:	Commissioner Kent	Yes
	Commissioner Boehm	Yes
	Commissioner Partington	Yes
	Commissioner Stowers	Yes
Carried.	Mayor Kelley	Yes

Item #9A – First Property Improvement Grant Extension, 9 North Yonge Street

RESOLUTION NO. 2011-95

A RESOLUTION OF THE CITY COMMISSION, ALSO ACTING AS THE COMMUNITY REDEVELOPMENT AGENCY, OF THE CITY OF ORMOND BEACH, FLORIDA, AUTHORIZING THE FIRST EXTENSION OF ONE HUNDRED AND TWENTY DAYS FOR THE PROPERTY IMPROVEMENT GRANT AGREEMENT BETWEEN THE AGENCY AND TAXCO LLC; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Kelley stated this was a public hearing, and there were no requests to speak. He stated this item received unanimous approval for recommendation by the CRA.

Commissioner Boehm moved, seconded by Commissioner Kent, to approve Resolution No. 2011-95, as read by title only.

Call Vote:	Commissioner Boehm	Yes
	Commissioner Partington	Yes
	Commissioner Stowers	Yes
	Commissioner Kent	Yes
Carried.	Mayor Kelley	Yes

Mayor Kelley stated without objection, the public hearing was closed.

Item #9B – First Property Improvement Grant Extension, 195 West Granada Boulevard

RESOLUTION NO. 2011-96

A RESOLUTION OF THE CITY COMMISSION, ALSO ACTING AS THE COMMUNITY REDEVELOPMENT AGENCY, OF THE CITY OF ORMOND BEACH, FLORIDA, AUTHORIZING THE FIRST EXTENSION OF ONE HUNDRED AND TWENTY DAYS FOR THE PROPERTY IMPROVEMENT GRANT AGREEMENT BETWEEN THE AGENCY AND TAXCO LLC; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Kelley stated this was a public hearing, with no requests to speak. He stated the item received unanimous approval from the CRA.

Commissioner Partington moved, seconded by Commissioner Boehm, to approve Resolution No. 2011-96, as read by title only.

Call Vote:	Commissioner Partington	Yes
	Commissioner Stowers	Yes
	Commissioner Kent	Yes
	Commissioner Boehm	Yes
Carried.	Mayor Kelley	Yes

Mayor Kelley stated hearing no objection, the public hearing was closed.

Item #9C – LDC Amendment – Adding “Low Intensity Commercial” Land Use

ORDINANCE NO. 2011-17

AN ORDINANCE AMENDING CHAPTER 2, DISTRICT AND GENERAL REGULATIONS, OF ARTICLE I, ESTABLISHMENT OF ZONING DISTRICTS AND OFFICIAL ZONING MAP, SECTION 2-02, FUTURE LAND USE MAP DESIGNATIONS AND ZONING DISTRICTS, TABLE 2-2, FUTURE LAND USE MAP DESIGNATIONS AND COMPATIBLE ZONING DISTRICTS OF THE *LAND DEVELOPMENT CODE* OF THE CITY OF ORMOND BEACH BY ESTABLISHING CORRESPONDING COMPATIBLE ZONING DISTRICTS WITH THE NEWLY CREATED “LOW INTENSITY COMMERCIAL” COMPREHENSIVE PLAN FUTURE LAND USE DESIGNATION; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Kelley stated this was a public hearing, with no requests to speak; and the item received unanimous recommendation from the CRA.

Commissioner Partington moved, seconded by Commissioner Kent, to approve Ordinance No. 2011-17, on first reading, as read by title only.

Call Vote:	Commissioner Stowers	Yes
	Commissioner Kent	Yes
	Commissioner Boehm	Yes
	Commissioner Partington	Yes
Carried.	Mayor Kelley	Yes

Mayor Kelley stated without objection, the public hearing was closed.

Item #9D – 1142 North US Highway 1 Annexation

ORDINANCE NO. 2011-18

AN ORDINANCE ANNEXING CERTAIN REAL PROPERTY INTO THE CITY OF ORMOND BEACH, SAID PROPERTY BEING GENERALLY LOCATED ALONG THE WEST SIDE OF NORTH U.S. HIGHWAY 1 APPROXIMATELY 2,300 LINEAR FEET NORTH OF THE INTERSECTION OF AIRPORT ROAD AND NORTH U.S. HIGHWAY 1 AND BEING COMMONLY LOCATED AT 1142 NORTH U.S. HIGHWAY 1, INCLUDING A PORTION OF RAILROAD STREET RIGHT-OF-WAY; REDEFINING THE TERRITORIAL BOUNDARIES OF THE CITY OF ORMOND BEACH TO INCLUDE THE PROPERTY; SETTING FORTH ZONING PRIVILEGES, AND OBLIGATIONS OF SAID PROPERTY PROVIDING FOR TRANSMISSION; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Kelley stated this was a public hearing, and there were no requests to speak.

Commissioner Boehm moved, seconded by Commissioner Kent, to approve Ordinance No. 2011-18, on first reading, as read by title only.

Call Vote:	Commissioner Kent	Yes
	Commissioner Boehm	Yes
	Commissioner Partington	Yes
	Commissioner Stowers	Yes
Carried.	Mayor Kelley	Yes

Mayor Kelley stated without objection, the public hearing was closed.

Item #10– Maintenance of Structures

ORDINANCE NO. 2011-16

AN ORDINANCE AMENDING CHAPTER 14 OF THE CODE OF ORDINANCES OF THE CITY OF ORMOND BEACH, FLORIDA, BY ESTABLISHING ARTICLE XI, TITLED “MAINTENANCE OF STRUCTURES”; PROVIDING FOR THE GENERAL DUTY TO MAINTAIN THE EXTERIOR OF STRUCTURES; PROVIDING IMMUNITY OF ENFORCEMENT OFFICERS; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING ORDINANCES AND PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kent, to approve Ordinance No. 2011-16, on second reading, as read by title only.

Mr. Bill Robertson, 2 Archangel Circle, stated he had lived in the City for 30 years, most of which were spent in The Trails. He stated he had seen several hurricanes in that time, and he had never heard of any complaints relative to blue tarps or broken windows. He stated the homeowners associations could regulate these issues and he expressed concern regarding whether these regulations were actually needed. He stated having these discussions, because a few people complained, was opening up a can of worms, because of the residents who left the area for extended time periods and possibly return to a number of citations.

Ms. Barbara Morris, 320 Park Place West, stated Park Place had 96 townhomes with seven units in foreclosure. She discussed complications of this ordinance for the Homeowners' Association (HOA) which would require an amendment to their documents; and she explained the complicated process and expense required to do that. She stated it would be a burden for their community, which was already handling the expense of lawn care and maintenance on seven units where the mortgage companies were putting blue tarps over the roofs, sometimes leaving the tarps to rot.

Mayor Kelley clarified with her that her issue was just with the blue tarps on the foreclosed properties.

Mr. Doug Thomas, 132 River Bluff Drive, stated he was speaking only for himself, not for any boards or associations of which he was a member. He stated he sent an email to the Commission explaining his position on this issue. He stated he understood the plight of Park Place, but it was an association. He stated he remembered the difficulty the City had getting mortgage holders on foreclosed hotels to take action with noncompliant situations. He stated this ordinance would create many more problems than it would ever solve. He suggested the economic times were hard, but times would get better, but if this ordinance was passed, it would not end. He stated this was a bad thing, and urged the Commission not to pass this ordinance.

Mr. Marvin Miller, 40 Riverside Drive, stated Doug Thomas was right. He stated this ordinance put the City in the role of a HOA. He read from an email he sent to the Commission regarding the proposed ordinance, *“I just received a copy of the above proposed Ordinance. I guess I would call it: ‘ORDINANCE OF GOVERNMENT MAINTENANCE OF STRUCTURES,’ without recourse, costs, responsibility, and absolute authority to tell its citizens how they should and can manage and repair their homes or commercial property AT THEIR EXPENSE. We’ve all heard or read about government intrusion into its citizens lives, well this is prima facie #1 of a City doing its worst to ‘help.’ Less than 1% ORDINANCE, the other 99% of property owners without the 99%’s knowledge or approval. Page 1 of the above ordinance states ‘BE IT ENACTED BY THE PEOPLE OF THE CITY OF ORMOND BEACH, FLORIDA’ That’s far from the truth...before you pass such a costly, penalizing, interfering, ridiculous ordinance on the citizens of your City, you should make sure ‘all’ the citizens affected should be notified. That means all the property owners within the City limits of Ormond Beach. Keep in mind, all of those who do not live here, but have invested in Ormond Beach, and those who pay year round property expenses and visit for a few winter months. If I wanted medical advice I’d see a Doctor, legal advice, a Lawyer, well wouldn’t it make sense to have workshops that included property managers, Realtors, contractors, and a cross section of property owners. Without our input you have nothing but professional statute and ordinance writers making rules and regulations that make absolutely no sense or reason. Home owners associations and condominium developments can enforce their own rules. They do not have to drag the entire city and all it’s property owners down a sewer of ‘MAINTENANCE OF STRUCTURES’, with all the added costs to administrate and enforce. It just amazes me that we managed all these years without a City Ordinance dictating how we park or manage and repair our own property. Please do not pass this or any type of Ordinance taking away more of our property rights”* He stated most people want to take care of their homes, and he asked the Commission not to pass this ordinance.

Ms. Sue Parkerson, 110 North Beach Street, stated her home was not part of any HOA, and her neighbor passed away eight years ago, after the storms; and it had been empty and boarded up since, becoming a blight to the neighborhood. She stated the grass was mowed, but the screens on the front porch were hanging in shreds, a car with a flat tire was in the drive, until City Manager Shanahan arranged to have those problems resolved. She stated the house had created a huge rat problem for the entire neighborhood, a dozen of which have been killed in the last two weeks when they ventured off the property. She stated this ordinance would provide some relief for her and her neighbors.

Commissioner Partington stated there was an ordinance on the books called, “demolition by neglect,” which related only to historic structures. He stated this was not a new idea or something that other cities did not do, and when it was passed on first reading, it was with the understanding that there were changes that needed to be made. He stated he agreed with the blue tarp problem in Park Place, and he had asked staff to present something to the Commission to fix the problem, but this goes too far. He stated the City Attorney suggested keeping Sections 2 and 3, which dealt with plywood protection relative to hurricanes, and the tarps, retaining the extended time periods, which could be extended further for good cause. He stated staff needed something to use in dealing with the small number of properties that were a problem.

Commissioner Kent stated he liked hearing from the public and he liked the Mayor’s recommendation sent to the Commission, but he wanted to be able to help someone in Sue Parkerson’s situation. He confirmed with the City Manager that because something other than plywood was used to board up the windows on that house, the house could be “boarded up” indefinitely.

Commissioner Stowers stated that at last year’s goals meeting a lot of code enforcement issues were discussed, and citizens requested proactive code enforcement in the City, something with teeth. He stated staff submitted a comprehensive report, which stated there were a lot of regulations in place to deal with these issues. He suggested a couple of ideas to close any loopholes. He stated at the first reading of this ordinance, he had some concerns because it was status quo by adding more regulations, but not dealing with the issue. He stated teeth were not being added, just more regulations without teeth. He stated Ordinance 2010-49 from October 19, 2010, was unanimously approved by the Commission and dealt with outdoor storage, parking or use of personal property by providing standards for the parking of vehicles in yards of residential property. He stated that in his neighborhood, there were cars parked on the lawns everyday; he called Neighborhood Improvement a number of times, and he was told there was nothing they could do about it. He stated more government regulations were added, but nothing changed; therefore, the problem was not the ordinance, but the enforcement of the ordinance, and he would not support this ordinance. He stated the answer was not to add more regulations, but to enforce the ones already on the books. He stated he did not understand how the property on North Highland Avenue was not demolition by neglect with it being a historic property crumbling for the last eight years. He stated the Commission had to be ambassadors to monitor situations without an HOA to handle the problems. He stated the Commission was trying to be responsive, but this ordinance was not doing the job and the City had to be more proactive in code enforcement efforts.

Commissioner Boehm stated we were a society of laws, but we should not have laws we can not or will not enforce. He stated that if you were going to pass something that cannot be enforced, there was no purpose in passing it. He stated this ordinance was overkill to address tarps and plywood. He questioned when the 60 days started, when the tarps and plywood actually came down, and if this was enforceable. He stated he could not support this ordinance as drafted.

Mayor Kelley stated there were regulations on the books to manage some of these situations, which were not enforced. He stated he did not like the Special Masters process, and he did not like the time schedule of five days, when you may want to evaluate before five days. He stated it was hard to enforce when you did not know when the owner put up the tarp or plywood, or when it was taken down. He stated demolition by neglect would apply to the historic home across from Sue Parkerson’s home, and code enforcement proceedings should be handling that situation. He agreed with Commissioner Stowers that we did not enforce the regulations on the books.

Commissioner Kent stated without an amendment, he would not support this ordinance. He stated the Commission fixed problems, and he did not want to leave the meeting without a solution to the problem, possibly a workshop to address specific problems.

Mayor Kelley stated they all wanted to do something, such as the house he viewed on the north peninsula, which was deteriorating across the street from an expensive house. He stated the

owner stated he did not want to repair the home because his taxes would rise. He expressed that this might be much to do about nothing, if the regulations to deal with this situations were already in place.

Commissioner Partington stated if there were ordinances to deal with these issues, then why was the Commission even considering more regulations. He questioned if the proposed ordinance could be amended to have teeth to resolve citizens' complaints.

City Attorney Hayes polled the Commission to determine if they were willing to regulate tarps, and cloth materials placed on roofs to protect it during and after storm events for some designated period of time.

Commissioner Stowers stated he was mostly interested in an overhaul of code enforcement to be responsive to the problems before he was willing to add new ordinances. He suggested a monthly review by the Commission of code complaints to expedite a resolution.

City Attorney Hayes stated there were provisions to deal with structural deficiencies and historic homes, but a general property maintenance code was missing. He stated the Commission could determine if one was needed to address issues, such as cracks.

Mayor Kelley stated a workshop, as Commissioner Kent suggested, might be effective to explain what can and cannot be done.

Commissioner Kent stated code enforcement information was provided in the past through the Weekly Review, called the Friday Letter then.

City Manager Shanahan stated she would be happy to provide that information, and the report could be included in the Weekly Report.

Commissioner Boehm stated a workshop would be acceptable to him. He stated he did not think that something could be created that would be enforceable. He asked the City Attorney what would be done on day 61 to remedy the situation with a blue tarp, or if you issued a citation and the homeowner was unresponsive.

The City Attorney stated a citation would be issued, and if the problem was not corrected, it went to the Special Master, which took time, but that was the remedy, as governments had to offer due process. He suggested tarps could be prohibited all together, and during a time of emergency, the Commission could adopt an emergency resolution that would relax those standards, similar to what was done with the building permit issue after the hurricanes.

Commissioner Partington reported Wilbur-By-The-Sea forced "Prince Mongo" to remove items from his yard that were in violation of code, and he questioned how the County resolved this code violation. He stated it was not an issue of property maintenance, but of site nuisance.

Mayor Kelley stated it would be good to get all the questions addressed in a workshop, as well as covering the health and safety issues. He requested the City Attorney present better ways to handle violations at the workshop.

Call Vote:	Commissioner Boehm	No
	Commissioner Partington	No
	Commissioner Stowers	No
	Commissioner Kent	No
Not Carried.	Mayor Kelley	No

City Manager stated a workshop would be scheduled.

Item #11 – 2010-11 Ormond Main Street Contract Agreement

RESOLUTION NO. 2011-97

A RESOLUTION OF THE CITY COMMISSION, INDIVIDUALLY AND ACTING AS THE COMMUNITY REDEVELOPMENT AGENCY FOR THE CENTRAL BUSINESS DISTRICT AND ADJACENT AREAS, AUTHORIZING THE EXECUTION OF AN AMENDMENT TO SERVICE AGREEMENT BETWEEN THE CITY/AGENCY AND ORMOND BEACH MAIN STREET, INC., FOR THE LIMITED PURPOSE OF INCREASING FUNDING BY \$3,690.00; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Boehm, to approve Resolution No. 2011-97, as read by title only.

Mayor Kelley reported the CRA unanimously recommended approval.

Call Vote:	Commissioner Partington	Yes
	Commissioner Stowers	Yes
	Commissioner Kent	Yes
	Commissioner Boehm	Yes
Carried.	Mayor Kelley	Yes

Item #12A – City Manager Evaluation

City Manager Shanahan stated this item did not require action by the Commission, as it was a matter of notification. She thanked the Commission for the privilege to serve as the city manager, and she was grateful for the professional and thorough feedback she received from each of the Commissioners and looked forward to serving them in the future.

Mayor Kelley stated it was important to note that the City Manager received the Silver Award for City Manager of the Year from the Volusia League of Cities and she was President-Elect of the Florida City and County Managers Association. He stated in looking at the recap of assessments, the Commissioners did not all agree on everything, but the overall average rating of 4.63 out of a possible 5, was because of Joyce's skills and actions. He stated that without her direction, the City would not be in the best financial condition of any city in the County and many of the cities in Florida. He expressed pride in Joyce, and he stated he was happy with her as the City's manager.

Commissioner Kent stated he knew when she was hired that she would be an excellent asset for the City, and she hit a home run. He stated she had done an excellent job, and thanked her for what she did to reach out to citizens, and how quick to action she was when the Commission called upon her.

Commissioner Stowers stated he had a long conversation with the City Manager, but for the courtesy of the public, he expressed his full support of Ms. Shanahan.

Commissioner Boehm stated he thoroughly enjoyed her professionalism; she defended what she believed in; she cared strongly for the City and what it stood for; and she was the best City Manager he knew. He stated he was proud to work with her.

Commissioner Partington stated he chose "excellent" for most of his responses, and he stated it was abundantly clear, she was doing a great job for the City, and he was proud to work with her.

The City Manager stated she was extremely humbled by their remarks, but reminded the Commission that this was a team effort by strong direction from the Commission with a unified vision for the community, and the quality of the excellent staff that we all work together as a team to accomplish what we believe is in the best interest of the City.

Item #12B – Opportunity Zone

City Manager stated staff was requesting permission to explore the possibilities of developing an Opportunity Zone, which would provide certain economic development incentives that would be provided in the community. She explained the term used in other communities was "brownfield," which could provide an excellent opportunity for certain areas relative to economic development. She stated the organization responsible for marketing the old hospital property would be in full support of exploring this endeavor. She stated the request was to begin discussion in the community about developing an opportunity zone, which required public comment and ordinance development.

Commissioner Stowers stated the Olive Grove people requested this designation, but he was not sure they would qualify because they did not develop here due to these incentives.

Planning Director Ric Goss explained that the accountants for the Olive Grove recommended the idea to the staff.

Commissioner Stowers recommended staff be cognizant of the timing of the fiscal year because there were regulations regarding when one could be reimbursed for certain improvements or tax credits.

Planning Director Goss stated he was concentrating on educating the property owners at this point to ensure they understood the process. He explained part of the Downtown was selected

because there were several properties that were under-utilized with regard to the value of the property and the improvements on the land. He stated that statutes allowed for CRAs to be included in an opportunity zone; whereby, he included everything to the east and some of the industrial areas down behind the old hospital due to the \$2,500 for job creation, which may be developed into a health-related activity and would be eligible for a number of tax credits. He stated essentially, all the Downtown was under form based code for upper stories and mixed-use residential, supported by tax credits. He stated the Olive Grove was included due to their request, as well as a property on the corner.

Commissioner Boehm asked if there would be consideration, at some point, to include North US1, and would it benefit that area. Commissioner Boehm suggested that with the numerous annexations in that area, it might encourage development in that area.

Mr. Goss agreed, but one of the criteria was to keep the opportunity zone a relatively acceptable size. He stated he would not learn if the proposed area was acceptable until he spoke with Mr. George Houston. He expressed he would like to start with the Downtown and gain experience before starting other areas.

Commissioner Stowers stated Daytona Beach had a sizable area called the Aeropark, and Mr. George Houston would be willing to assist the City in navigating the process. He agreed with Commissioner Boehm that an opportunity zone could be tied to Ormond Crossings that would offer huge benefits for development.

Mayor Kelley stated he was not interested in anything that would increase low-income, work force, affordable housing projects, as the City did not need anymore affordable housing. He stated he would not support that idea due to all available houses. He stated he would rather support the US1 corridor or the hospital site as an opportunity zone, possibly jointly with the County.

The Planning Director explained the concept was geared to assist in mixed-use development, which was being advocated in the Downtown. He stated it was an excellent match with the CRAs, as an incentive to develop office/commercial space on the first floor and residential on the second floor to reduce the costs.

City Manager stated there would be plenty of opportunities to discuss the specifics of the opportunity zones, which contained specific incentives for job creation, and this would be another tool in the City's toolbox for economic development.

Item #12C – Public Redistricting Meeting

City Manager Shanahan explained that staff was requesting support for the entire City to be included in one district, District 26.

Mayor Kelley confirmed that the Commission was in agreement to support having the entire City in one district.

Commissioner Stowers inquired if the City got better representation by having two representatives.

Commissioner Boehm stated he did not think in our senatorial district the representatives knew where the City was, except on the map. He stated it was better to have one representative who would truly represent the City's interests.

Item #13 – Reports, Suggestions, Requests

City Manager Updates

Ms. Shanahan reminded everyone that July 5 at 5:30 p.m. was the continuation of the CIP workshop to discuss the unfunded items; July 18 was the Operating Budget Workshop, the time to be determined; June 27 was the economic development breakfast forum at 7:30 a.m. at Halifax Plantation and Golf Club; on Friday, July 1, the Movie-on-the-Halifax was Shark Tales; on July 4 was the City's fabulous Independence Day Celebration with fireworks at 9:30 p.m. and programming starting at 6:00 p.m.; on July 5 at 6:30 was a reception for the new City Clerk Joshua Fruecht in the atrium before his first meeting on his first day of work; on July 12 was another public meeting at the Casements for the Andy Romano beachfront park; and on July 13 a reception for the Fire Chief candidates was at 5:30 p.m. She stated staff was working with Volusia County on a joint planning agreement for the US1 corridor, which would come to the Commission at a later date.

Independence Day

Commissioner Kent reminded Mayor Kelley or Deputy Mayor Partington of his suggestion that they should address the City before the fireworks on July 4th.

Commissioner Boehm suggested all the Commission members stand together in support of the country and the City on July 4th, and wherever the Mayor was speaking, he would be standing behind him.

Commissioner Partington agreed that all the Commission members and their families should be there. He stated one of his most memorable occasions was when the Kent family and the Partington family did the countdown before the fireworks started. He stated it would be a great way to kick off the fireworks, if all the families did the countdown.

Email for Public Record

Commissioner Kent read an email he received from Francis T. P. Plimpton, who requested the email be read into the record. *"It is my duty to report a gross error in the article on the the Ames House written by Audrey Parente in the News Journal of June 20, 2011. I wish to state that I never described the condition of the Ames House as "poor." In fact since I was the landscape architect in charge of the restoration of the park in 1989, I have always admired the resiliency of the Ames House. I believe its use as the legal office to be more than adequate for the city rather than a commercial use. Please enter this clarification of the story in the record. Sincerely yours, Francis T. P. Plimpton, Jr., ASLA Ret."*

Doug Thomas

Commissioner Kent congratulated Doug Thomas on his PAL award, and stated it was great that Mr. Thomas and the Mayor were friends; therefore, it was wonderful the Mayor was asked to present the award at the convention in Las Vegas.

Commissioner Boehm stated he started working with Doug Thomas in January, 2004, on the Leisure Services Advisory Board, and had known him for a long time, but until the picture in the Weekly Review of him in a coat and tie, he was unaware Mr. Thomas owned a coat and tie. He stated the crowd chanted, "Sally, Sally, Sally," so everyone understood Mr. Thomas' wife was the one who drove him on all these years. He stated Mr. Thomas had won a County award and a national award, and was a legend in the City for all the work he did for the City.

Commissioner Stowers related a story about getting his normally nonresponsive father-in-law's attention when he mentioned to him that Ormond Beach's Doug Thomas won the PAL National Male Volunteer. He thanked Doug Thomas for all he had done and would continue to do for the community.

Community Partnership Programs

Commissioner Boehm stated, as an advocate of public/private partnerships, he was pleased and thrilled the Leisure Services Advisory Board and Leisure Services Director Robert Carolin came up with the Community Partnership Programs to further encourage businesses and citizens to participate with the city government to make this the best city possible.

Acting City Clerk

Mayor Kelley and Commissioner Kent both thanked Lois Towey for all she had done as Acting City Clerk.

Item #14 – Close the Meeting

The meeting was adjourned at 9:21 p.m.

APPROVED: July 5, 2011

BY: Ed Kelley, Mayor

ATTEST:

Lois Towey, Acting City Clerk