

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

September 20, 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 City Clerk Joshua Fruecht.

A G E N D A

- 1. CALL TO ORDER**
- 2. INVOCATION** – Rabbi David Kane, Congregation Bnai Torah.
- 3. PLEDGE OF ALLEGIANCE**
- 4. ADOPTION OF FY 2011-2012 MILLAGE RATES AND TENTATIVE BUDGET**
 - A. Resolution No. 2011-130** – A resolution establishing the final millage rates to be levied for Fiscal Year 2011-2012; directing certification; expressing legislative intent; and setting forth an effective date. (*Finance Director*)
 - B. Second Reading of Ordinance No. 2011- 34** – An ordinance adopting the Annual Budget for the 2011-2012 Fiscal Year beginning October 1, 2011 and ending September 30, 2012; repealing all inconsistent ordinances or parts thereof; and setting forth an effective date. (*Finance Director*)
- 5. PROCLAMATION**
 - A.** Kiwanis Club of Ormond Beach – 50th Anniversary
- 6. AUDIENCE REMARKS** – Regarding items not on the agenda.
- 7. APPROVAL OF MINUTES**
 - A.** Minutes from the City Commission meeting – September 6, 2011
 - B.** Minutes from the Special City Commission meeting – September 14, 2011
- 8. COMMUNITY REDEVELOPMENT AGENCY**
 - A. Resolution No. 2011-145** – A resolution of the City Commission, also acting as the Community Redevelopment Agency, of the City of Ormond Beach, Florida, authorizing the execution of change order number one (1) to that contract awarded to Chinchor Electric, Inc., regarding the installation of decorative light poles for the downtown streetscape lighting project, by increasing the contract price by \$10,776.06; and setting forth an effective date. (*Acting City Engineer*) (**See Item #13A**)
- 9. 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. 2011-131** – A resolution authorizing the acceptance of a grant award from the State of Florida, Office of the Attorney General regarding funding for the City’s Victim’s Advocate Program; authorizing the execution of an agreement between the State of Florida and Office of the Attorney General; and setting forth an effective date. (*Chief of Police*)
 - B. Resolution No. 2011-132** – A resolution authorizing the execution of a license to trim and maintain existing vegetation between the City and Tomoka Holdings, LLC; setting forth an effective date. (*Leisure Services Director*)
 - C. Resolution No. 2011-133** – A resolution authorizing the renewal of a lease and use agreement for the Ormond Beach Tennis Center between the City of Ormond Beach and Gary Heatwole Tennis, Inc.; authorizing the execution of a lease agreement therefore; and setting forth an effective date. (*Leisure Services Director*)

- D. Resolution No. 2011-134** – A resolution authorizing the execution of a cooperative economic development agreement between the City and Team Volusia Economic Development Corporation; repealing the existing agreement with Team Volusia Economic Development Corporation; and setting forth an effective date. (*Economic Development Director*)
- E. Resolution No. 2011-135** – A resolution authorizing the execution of change order number one (1) to that contract awarded to Saboungi Construction, Inc., regarding the Rima Ridge Well Field Expansion Project (Wells 54, 55 and 56), by increasing the contract price by \$20,875.44; increasing the contract time by 150 days; and setting forth an effective date. (*Acting City Engineer*)
- F. Resolution No. 2011-136** – A resolution accepting a proposal submitted by Brown & Brown of Florida, Inc., for the purchase of commercial general liability, crime, accidental death & dismemberment, professional liability, and tulip (special event) insurance coverage; authorizing the payment therefor; and setting forth an effective date. (*Human Resource Director*)
- G. Resolution No. 2011-137** – A resolution accepting the proposal of Pennington, Moore, Wilkinson, Bell & Dunbar, P.A., regarding legislative lobbying services; authorizing the execution of an agreement and payment therefor; rejecting all other proposals; and setting forth an effective date. (*Economic Development Director*)
- H. Resolution No. 2011-138** – A resolution establishing a Fund Balance Policy for the City of Ormond Beach; and setting forth an effective date. (*Finance Director*)
- I. Resolution No. 2011-139** – A resolution authorizing the execution of an animal housing agreement between the City and Flagler Humane Society, Inc.; and setting forth an effective date. (*Chief of Police*)
- J. Resolution No. 2011-140** – A resolution authorizing the purchase of various chemicals for the City's water and wastewater treatment plants under a cooperative bid solicited by several local cities; authorizing payment therefor; and setting forth an effective date. (*Public Works Director*)
- K. Resolution No. 2011-141** – A resolution authorizing the execution of a joint participation agreement between the City and the Florida Department of Transportation regarding an obstacle (trees) clearing project at the Ormond Beach Municipal Airport; and setting forth an effective date. (*Economic Development Director*)
- L. Resolution No. 2011-142** – A resolution authorizing the execution of a quitclaim deed in favor of Joseph D. Weber and Julieann M. Weber, releasing a two and one-half-foot portion of a seven and one-half-foot utility, drainage and maintenance easement located on the rear of Lot 17, Creekside Planned Residential Development (110 Creek Forest Lane); and setting forth an effective date. (*Planning Director*)
- M. Resolution No. 2011-143** – A resolution establishing and authorizing the implementation of a vehicle allowance program for the City Commission; and setting forth an effective date. (*Finance Director*)
- N. Resolution No. 2011-144** – A resolution approving a mediation settlement agreement regarding Wiring Technologies, Inc. v. City of Ormond Beach; authorizing the execution of a settlement agreement and any and all documents incidental thereto; authorizing payment relative thereto; and setting forth an effective date. (*Assistant City Attorney*)
- O. Requests for CPI rate increases from Waste Management, Inc. of Florida, Services Rendered, Inc., Flair Service, Inc. and Economy Electric Company, Inc.**

 - 1. Resolution No. 2011-146** – A resolution authorizing a cost-of-living increase based on the consumer price index pursuant to the solid waste, yard waste, recycling and roll-off collection and disposal services agreement between the City of Ormond Beach and Waste Management, Inc. of Florida; and setting forth an effective date. (*Public Works Director*)

DISPOSITION: Disapprove as recommended in City Manager memorandum dated September 15, 2011.

2. **Resolution No. 2011-147** – A resolution approving a cost-of-living increase in the rate paid by the City to Services Rendered, Inc., for janitorial services; and setting forth an effective date. (*Leisure Services Director*)

DISPOSITION: Disapprove as recommended in City Manager memorandum dated September 15, 2011.

3. **Resolution No. 2011-148** – A resolution approving a cost-of-living increase in the rate paid by the City to Flair Service, Inc., for HVAC services; and setting forth an effective date. (*Leisure Services Director*)

DISPOSITION: Disapprove as recommended in City Manager memorandum dated September 15, 2011.

4. **Resolution No. 2011-149** – A resolution approving a cost-of-living increase in the rate paid by the City to Economy Electric Company, Inc., for electrical services; and setting forth an effective date. (*Leisure Services Director*)

DISPOSITION: Disapprove as recommended in City Manager memorandum dated September 15, 2011.

- P. **Specifications for Construction Management at Risk Services, RFQ No. 2011-29** (*Acting City Engineer*)

DISPOSITION: Disapprove as recommended in City Manager memorandum dated September 15, 2011.

- Q. **Specifications for Airport Road Forcemain and Reclaimed Watermain Improvements Project, Bid Number 2011-30** (*Acting City Engineer*)

DISPOSITION: Disapprove as recommended in City Manager memorandum dated September 15, 2011.

- R. **Report identifying all alternative standards and administrative relief granted by Planning Department** (*Planning Director*)

DISPOSITION: Disapprove as recommended in City Manager memorandum dated September 15, 2011.

- S. **Riverside Drive Closures for 2011-2012** (*Leisure Services Director*)

DISPOSITION: Approve as recommended in City Manager memorandum dated September 15, 2011.

10. PUBLIC HEARING

- A. **Ordinance No. 2011- 35** – An ordinance amending Paragraph C, Official Zoning Map, of Section 2-01, establishment of Zoning Districts and Official Zoning Map, of Article I, Establishment of Zoning Districts and Official Zoning Map, of Chapter 2, District and General Regulations, of the City of Ormond Beach *Land Development Code*, by amending the Official Zoning Map to rezone certain real property totaling 0.86-acres located at 1142 North US Highway 1, from Volusia County I-1 (Light Industrial) to Ormond Beach I-1 (Light Industrial), authorizing revision of Official Zoning Map; repealing all inconsistent ordinances or parts thereof; and setting forth an effective date. (*Planning Director*)

11. SECOND READING OF ORDINANCE

- A. **Ordinance No. 2011- 36** – An ordinance amending Chapter 14 of the Code of Ordinances of the City of Ormond Beach, Florida, by establishing Article XI,

Use of Temporary Cover for the Temporary Protection of Structures, including Section 14-104, Purpose; Section 14-105, Definitions; and Section 14-106, Use of Temporary Cover Authorized; providing a regulatory purpose, definitions, and conditions for the use of temporary cover to protect structures during storm and catastrophic events; providing for enforcement; providing for severability; providing for conflicting ordinances; and setting forth an effective date. (*Planning Director*)

12. FIRST READING OF ORDINANCE

- A. **Ordinance No. 2011- 37** – An ordinance amending chapter 22, waters and sewers, article vii, water conservation regulations, of the code of ordinances, by amending section 22-180, definitions, and renaming section 22-180, intent and purpose; repealing section 22-181, declaration of water shortage, and renaming section 22-181, definitions; repealing section 22-182 levels of water conservation and water shortage, and renaming section 22-182, landscape irrigation schedules; repealing section 22-183, base water conservation and use provisions, and renaming section 22-183, exceptions to the landscape irrigation schedules; repealing 22-184, general water use prohibitions, and renaming section 22-184, additional requirements; repealing section 22-185, exemptions, and renaming section 22-185 variances from specific day of week limitations; repealing section 22-186, variances, and renaming section 22-186, application of ordinance; adding section 22-187, immunity of enforcement officer; adding section 22-188 penalties and enforcement; repealing all inconsistent ordinances or parts thereof; providing severability; and setting forth an effective date. (*Public Works Director*)

13. RESOLUTION

- A. **Resolution No. 2011-145** – A resolution of the City Commission, also acting as the Community Redevelopment Agency, of the City of Ormond Beach, Florida, authorizing the execution of change order number one (1) to that contract awarded to Chinchor Electric, Inc., regarding the installation of decorative light poles for the downtown streetscape lighting project, by increasing the contract price by \$10,776.06; and setting forth an effective date. (*Acting City Engineer*)

14. STAFF ACTION ITEM

- A. **Legislative Action Agenda for Volusia County Legislative Delegation** (*Assistant City Manager*)
- B. **SR40 Median Landscaping Improvements from I-95 overpass to western City limits** (*Acting City Engineer*)

15. REPORTS, SUGGESTIONS, REQUESTS (*Mayor, City Commission, City Manager, City Attorney*)

16. ADJOURNMENT

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 Rabbi David Kane, Congregation Bnai Torah.

Item #3 – Pledge of Allegiance

The Pledge of Allegiance was led by Mayor Kelley.

Item #4A – Adopting FY 2011-2012 Proposed Millage Rates

City Clerk Joshua Fruecht read by title only:

RESOLUTION NO. 2011-130

A RESOLUTION ESTABLISHING THE FINAL MILLAGE RATES TO BE LEVIED FOR FISCAL YEAR 2011-2012; DIRECTING CERTIFICATION; EXPRESSING LEGISLATIVE INTENT; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Kelley stated the proposed millage rate for the City of Ormond Beach necessary to fund the Fiscal Year 2011-2012 Budget was 3.8933 mills; the proposed debt service millage rates were 0.1157 for the 2002 General Obligation Bond Sinking Fund, 0.0475 for the 2003 General Obligation Bond Sinking Fund and 0.1449 for the 2010 General Obligation Bond Sinking Fund. The Mayor stated this was the rollback rate, and according to the State definition, "no tax increase."

Mayor Kelley stated this was a public hearing and invited members of the public to speak or ask questions prior to the adoption of the final millage rate and budget.

Ed Connor, 1010 John Anderson Drive, stated he represented a silent minority, a group of property owners holding properties valued in excess of \$300,000, which according to the Property Appraiser comprised about 2.9% of all the property owners in Volusia County and about 30% of all property revenues. He stated at the other end of the spectrum comprised about 60% of the properties, which paid less than 50% of revenues after exemptions. He called this a progressive tax system. He stated the damage to the economy by a progressive tax system was due to the combined impact of over 40 taxing authorities, which put Volusia County among the highest in Florida, deterring residents and businesses from staying in Volusia County. He reported each time a high-end home was lost, it caused a ripple affect through the entire economy, resulting in the loss of jobs and revenue. He stated those were the people that needed protection; and he stated, "be nice to millionaires because they drive the economy."

Jim Cameron, Senior Vice President of Daytona Regional Chamber of Commerce, stated the results of the Chamber's survey sent to businesses in July showed all the cities in Volusia County were "just hanging on." He stated Ormond Beach had a good budget committee with a good transparent process, and he stated the City had done a good job by being the third lowest in the County; and he asked the Commission to continue to sharpen their pencils.

Marvin Miller, 40 Riverside Drive, thanked Jim Cameron for providing his overview. He stated the Commission was on the same page as he was, but he stated a tax millage increase on depreciated property was still a tax increase. He thanked City Manager Joyce Shanahan for the great job she did with tightening up the budget.

Commissioner Boehm moved, seconded by Commissioner Partington, for approval of Resolution No. 2011-130, with an operating millage rate of 3.8933 mills and debt service millage rates of 0.1157, 0.0475, and 0.1449.

Mayor Kelley stated the proposed operating millage rate was 3.8933 mills was equal to the rollback millage rate, and the tentative debt service millage rates of 0.1157 for the 2002 General Obligation Bond Sinking Fund, 0.0475 for the 2003 General Obligation Bond Sinking Fund and 0.1449 for the 2010 General Obligation Bond Sinking Fund.

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

Mayor Kelley stated the operating millage rate was set at 3.8933 mills, was equal to the rollback millage rate.

Item #4B – Adopting FY 2011-2012 Proposed Annual Budget

City Clerk Joshua Fruecht read by title only:

ORDINANCE NO. 2011-34
AN ORDINANCE ADOPTING THE ANNUAL BUDGET FOR THE 2011-2012
FISCAL YEAR BEGINNING OCTOBER 2, 2011 AND ENDING SEPTEMBER 30,
2012; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF;
AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Stowers, for approval of Ordinance No. 2011-34 to adopt a budget of \$83,690,191.00, on second reading, as read by title only.

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| Call Vote: | Commissioner Kent | Yes |
| | Commissioner Boehm | Yes |

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| | Commissioner Partington | Yes |
| | Commissioner Stowers | Yes |
| Carried. | Mayor Kelley | Yes |

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

Item #5 – Kiwanis Club of Ormond Beach – 50th Anniversary

Mayor Kelley read a proclamation honoring the Kiwanis Club of Ormond Beach on their 50th anniversary. He reported Kiwanis was a global organization of volunteers dedicated to changing the world one child and one community at a time; believing when you gave a child a chance to learn, experience, dream, grow, succeed, and thrive, great things happened. He stated Kiwanis Clubs had served the children of this community for 50 years through programs and scholarships at Seabreeze High School, PACE Center, Family Renew, Friends of the Library, Jewish Federation, Begin Again and Take Stock in Children; and he stated all citizens commended the Kiwanis Club and everything they did.

Item #6 - Audience Remarks

There were no requests to speak.

Item #7 – Approval of the Minutes

Mayor Kelley advised the minutes of the September 6, 2011, regular meeting and the September 14, 2011 Special 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.

Item #8A – Community Redevelopment Agency

Mayor Kelley explained the City Commission served as the Community Redevelopment Agency (CRA) for the Downtown Redevelopment Area, and as such, must review this 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 recommendation was 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 7:23 p.m. for discussion of Resolution No. 2011-145 relative to the installation of decorative light poles for the Downtown Streetscape Lighting Project.

Commissioner Kent recommended denial of the request for a change order, because the contractor should have known what to expect going into the job.

City Manager Shanahan noted the work had been completed.

Commissioner Partington stated things happened, and staff knew the Commission and the City Manager did not like change orders. He stated the expectation was the contractors should be aware of potential problems, and he asked what precipitated the need for a change order.

Acting City Engineer John Noble explained the poles were 25 years old and it could not be determined the conditions until the poles were down and the level of corrosion could be determined, at which point it was decided to replace them. He explained the contractor did the work at a good price and the funds were available, so they went ahead with the project.

Commissioner Partington stated he appreciated the explanation and along with the City Manager memorandum, he moved to recommend approval of the change order.

Commissioner Boehm seconded the recommendation.

Commissioner Stowers stated the percentage of the increase of the change order relative to the total contract was a little odd with a \$10,000 change order on a \$34,000 contract. He stated if a contract was increased by a third, it should have been built into the original price.

Mayor Kelley expressed concern that the higher bidders' bids would have included the additional work.

Mr. Noble explained the higher bidders' bids were for the same specifications as the lowest bidder and the specifications did not indicate replacement of the wiring and transformers.

Mayor Kelley stated something should be done with the bid process that would eliminate almost all of the change orders.

City Manager Shanahan stated she appreciated how the Commission regarded change orders, but there were times when conditions were not clear before work was begun. She stated staff worked very hard to limit the changes and staff did negotiate to reduce the costs. She stated the job could be halted, until the item came back to the Commission to approve a change order, but that created delays.

Commissioner Kent stated he felt better after hearing the others speak. He stated that by discussing change orders, staff would be held accountable.

A voice vote was recommended four to one for approval of Resolution No. 2011-145.

Mayor Kelley adjourned the CRA meeting and reconvened the City Commission meeting at 7:34 p.m.

Item #9 - 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.

Commissioner Boehm requested Items #9B be pulled for comment, and #9O1 be pulled for discussion.

Commissioner Kent requested Items #9C, #9E, #9G and #9S be pulled for discussion.

Commissioner Partington moved, seconded by Commissioner Kent, for approval of the Consent Agenda, absent Items #9B, #9C, #9E, #9G, #9O1, and #9S.

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

Item #9B – License to trim and maintain existing vegetation

RESOLUTION NO. 2011-132

A RESOLUTION AUTHORIZING THE EXECUTION OF A LICENSE TO TRIM AND MAINTAIN EXISTING VEGETATION BETWEEN THE CITY AND TOMOKA HOLDINGS, LLC; SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kent, for approval of Resolution No. 2011-132, as read by title only.

Commissioner Boehm stated the public did not always get the background information on Consent Agenda items; and he stated he was someone who had long applauded public/private partnerships. He stated the Ormond Beach Sports Complex had had a problem since Hull Point installed their sign which blocked the Sports Complex sign, but now, Tomoka Holdings had very graciously allowed the City to clear a 30' by 30' area to place a monument sign where it could be seen.

Mayor Kelley stated he wished there was a way to make the sign taller.

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

Item #9C – Ormond Beach Tennis Center lease

RESOLUTION NO. 2011-133

A RESOLUTION AUTHORIZING THE RENEWAL OF A LEASE AND USE AGREEMENT FOR THE ORMOND BEACH TENNIS CENTER BETWEEN THE CITY OF ORMOND BEACH AND GARY HEATWOLE TENNIS, INC.; AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT THEREFORE; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Boehm, for approval of Resolution NO. 2011-133, as read by title only.

Commissioner Kent suggested the City might consider looking at other arrangements with regards to the Tennis Center where the City would get a share of the income. He stated it cost \$10 per hour per person to play at the Tennis Center.

Mayor Kelley stated, as a partner/minority shareholder in the Trails Tennis Center, he suggested the City should not get involved in the tennis business, because the maintenance on clay courts was expensive. He explained the Tennis Center offered annual memberships so players did not all have to pay \$10 an hour.

City Manager Shanahan stated in a former position, she was involved in a city-owned tennis center and they could not wait to get out of the business, but unfortunately, they could not get anyone to bid.

Mayor Kelley stated it was a good idea to keep it on the radar to be monitored.

Commissioner Kent stated he was not advocating for the City to take back management of the Tennis Center, but he was advocating for the City to renegotiate the lease for a better position for the City.

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

Item #9E – Change Order relative to Rima Ridge Well Field Expansion Project

RESOLUTION NO. 2011-135

A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NUMBER ONE (1) TO THAT CONTRACT AWARDED TO SABOUNGI CONSTRUCTION, INC., REGARDING THE RIMA RIDGE WELL FIELD EXPANSION PROJECT (WELLS 54, 55 AND 56), BY INCREASING THE CONTRACT PRICE BY \$20,875.44; INCREASING THE CONTRACT TIME BY 150 DAYS; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Boehm, to approve Resolution No. 2011-135, as read by title only.

Commissioner Kent stated he would not support the change order.

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| Call Vote: | Commissioner Partington | Yes |
| | Commissioner Stowers | Yes |
| | Commissioner Kent | No |
| | Commissioner Boehm | Yes |
| Carried. | Mayor Kelley | Yes |

Item #9G – Legislative Lobbying Services

RESOLUTION NO. 2011-137

A RESOLUTION ACCEPTING THE PROPOSAL OF PENNINGTON, MOORE, WILKINSON, BELL & DUNBAR, P.A., REGARDING LEGISLATIVE LOBBYING SERVICES; AUTHORIZING THE EXECUTION OF AN AGREEMENT AND PAYMENT THEREFOR; REJECTING ALL OTHER PROPOSALS; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Stowers, for approval of Resolution No. 2011-137, as read by title only.

Commissioner Kent stated in the current economic climate, Tallahassee did not have money to lobby for and the City had two strong advocates in Tallahassee with Senator Evelyn Lynn and Representative Fred Costello; therefore, he was not in favor of spending \$32,000 for legislative lobbying services.

Mayor Kelley stated he looked at it differently from working with representatives in Tallahassee, and he stated a lobbyist could get the Commission in the door to speak with the people making the decisions. He stated the City needed any help available and a lobbyist had access to information that the City might not have, and a lobbyist was of value to the City.

Commissioner Partington agreed with the Mayor. He stated after walking the halls with the Sam Bell and Doug Bell as lobbyist, he understood their value with various administrative agencies such as St. Johns River Water Management or Department of Community Affairs, and their services paid off for the City.

Commissioner Kent stated he enjoyed Sam Bell and Doug Bell and they were influential, but he stated our representatives, Representative Costello and Senator Lynn, were both Republicans in a Republican controlled state legislature; and he stated the City could save \$32,000.

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| Call Vote: | Commissioner Kent | No |
| | Commissioner Boehm | Yes |
| | Commissioner Partington | Yes |
| | Commissioner Stowers | Yes |
| Carried. | Mayor Kelley | Yes |

Item #901

RESOLUTION NO. 2011-146

A RESOLUTION AUTHORIZING A COST-OF-LIVING INCREASE BASED ON THE CONSUMER PRICE INDEX PURSUANT TO THE SOLID WASTE, YARD WASTE, RECYCLING AND ROLL-OFF COLLECTION AND DISPOSAL SERVICES AGREEMENT BETWEEN THE CITY OF ORMOND BEACH AND WASTE MANAGEMENT, INC. OF FLORIDA; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Boehm explained the circumstances of the Waste Management, Inc. (WM), request being a five-year contract, which allowed a cost-of-living increase in the third year. He stated the request included an explanation from WM that their cost of diesel increased 56%, cost of collection trucks increased 29%, 15% increase for lubricants, 31% increase for tires, and a 2.5% increase in personnel costs, while asking for a 2.8% CPI adjustment covering two years. He requested an explanation as to why staff did not recommend the increase.

City Manager Shanahan stated the City had increases as well, and had tightened the budget in response. She stated the City was asking the City's vendors to be as austere and to tighten their budgets.

Mayor Kelley stated WM deserved an increase, because they did a wonderful job and received high approval rates from the citizens.

Commissioner Boehm moved, seconded by Mayor Kelley, to deny staff recommendation, thereby approving a 2.68% cost-of-living increase.

Commissioner Boehm pointed out there was approximately a \$2M reserve in the Solid Waste Fund, as well as reserves in the other utility funds, and it would cost \$108,951 for the increase, which was preferable to the citizens paying more.

Mayor Kelley stated Commissioner Boehm comments made sense and it was not costing the residents. He stated the fund balance was due to savings generated by revenues from WM to the City, and the City received great value for the cost of services. He stated the amount the increase would cost to keep the good service and value was justified.

Commissioner Kent stated WM was a great company and deserved an increase, but he agreed with the tightening of the belt.

Commissioner Partington stated he would support the increase, being swayed by the reasoning of Mayor Kelley and Commissioner Boehm. He stated he had been impressed by the quality of service provided by Waste Management over the last several years.

Commissioner Kent asked for clarification on the motion.

City Attorney Randy Hayes clarified the motion was to deny the staff recommendation to deny the request for an increase; a "yes" vote would be for approval of the increase.

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| Call Vote: | Commissioner Stowers | Yes |
| | Commissioner Kent | No |
| | Commissioner Boehm | Yes |
| | Commissioner Partington | Yes |
| Carried. | Mayor Kelley | Yes |

City Manager Shanahan stated from a staff perspective, they were very appreciative of Waste Management, because they did a wonderful job for the community; and in particular, Libby did a marvelous job of customer service.

Item #9S – Riverside Drive Closures

City Clerk Joshua Fruecht explained the item was for the Riverside Drive closures for 2011-2012.

Commissioner Kent stated a recent study showed that Riverside Drive helped relieve traffic on Granada Boulevard. He stated he supported the new event, St. Patrick's Day event, which would bring the total number of days closed to 28 days a year, and he wanted that on the record.

Commissioner Boehm added that it was terrific the City had developed enough programs to require Riverside Drive be closed for 28 days. He applauded Ormond MainStreet and Leisure Services Director Robert Carolin and his staff as the driving force behind the number and quality of programs in the City.

Mayor Kelley stated Commissioner Boehm said it best and he would not have a problem if it was 48 days closed for activities that showed the community spirit and expanded the quality of life issues for some people.

Commissioner Partington moved, seconded by Commissioner Kent, for supporting staff recommendation for the Riverside Drive closure schedule for 2011-2012.

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

Item #10A – Amending zoning map for 1142 North US1

City Clerk Joshua Fruecht read by title only:

ORDINANCE NO. 2011-35

AN ORDINANCE AMENDING PARAGRAPH C, OFFICIAL ZONING MAP, OF SECTION 2-01, ESTABLISHMENT OF ZONING DISTRICTS AND OFFICIAL ZONING MAP, OF ARTICLE I, ESTABLISHMENT OF ZONING DISTRICTS AND OFFICIAL ZONING MAP, OF CHAPTER 2, DISTRICT AND GENERAL REGULATIONS, OF THE CITY OF ORMOND BEACH *LAND DEVELOPMENT CODE*, BY AMENDING THE OFFICIAL ZONING MAP TO REZONE CERTAIN REAL PROPERTY TOTALING 0.86-ACRES LOCATED AT 1142 NORTH US HIGHWAY 1, FROM VOLUSIA COUNTY I-1 (LIGHT INDUSTRIAL) TO ORMOND BEACH I-1 (LIGHT INDUSTRIAL), AUTHORIZING REVISION OF OFFICIAL ZONING MAP; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

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

Commissioner Boehm moved, seconded by Commissioner Stowers, for approval of the Ordinance No. 2011-35, on second reading, as read by title only.

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

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

Item #11A – Use of temporary cover

City Clerk Joshua Fruecht read by title only:

ORDINANCE NO. 2011-36

AN ORDINANCE AMENDING CHAPTER 14 OF THE CODE OF ORDINANCES OF THE CITY OF ORMOND BEACH, FLORIDA, BY ESTABLISHING ARTICLE XI, USE OF TEMPORARY COVER FOR THE TEMPORARY PROTECTION OF STRUCTURES, INCLUDING SECTION 14-104, PURPOSE; SECTION 14-105, DEFINITIONS; AND SECTION 14-106, USE OF TEMPORARY COVER AUTHORIZED; PROVIDING A REGULATORY PURPOSE, DEFINITIONS, AND CONDITIONS FOR THE USE OF TEMPORARY COVER TO PROTECT STRUCTURES DURING STORM AND CATASTROPHIC EVENTS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING ORDINANCES; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Boehm, for approval of the Ordinance No. 2011-36, on second reading, as read by title only.

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

Item #12A – Water conservation

City Clerk Joshua Fruecht read by title only:

ORDINANCE NO. 2011-37

AN ORDINANCE AMENDING CHAPTER 22, WATERS AND SEWERS, ARTICLE VII, WATER CONSERVATION REGULATIONS, OF THE CODE OF ORDINANCES, BY AMENDING SECTION 22-180, DEFINITIONS, AND RENAMING SECTION 22-180, INTENT AND PURPOSE; REPEALING SECTION 22-181, DECLARATION OF WATER SHORTAGE, AND RENAMING SECTION 22-181, DEFINITIONS; REPEALING SECTION 22-182 LEVELS OF WATER CONSERVATION AND WATER SHORTAGE, AND RENAMING SECTION 22-182, LANDSCAPE IRRIGATION SCHEDULES; REPEALING SECTION 22-183, BASE WATER CONSERVATION AND USE PROVISIONS, AND RENAMING SECTION 22-183, EXCEPTIONS TO THE LANDSCAPE IRRIGATION SCHEDULES; REPEALING 22-184, GENERAL WATER USE PROHIBITIONS, AND RENAMING SECTION 22-184, ADDITIONAL REQUIREMENTS; REPEALING SECTION 22-185, EXEMPTIONS, AND RENAMING SECTION 22-185, VARIANCES FROM SPECIFIC DAY OF WEEK LIMITATIONS; REPEALING SECTION 22-186, VARIANCES, AND RENAMING SECTION 22-186, APPLICATION OF ORDINANCE; ADDING SECTION 22-187, IMMUNITY OF ENFORCEMENT OFFICER; ADDING SECTION 22-188, PENALTIES AND ENFORCEMENT; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Stowers moved, seconded by Commissioner Partington, for approval of the Ordinance No. 2011-37, on first reading, as read by title only.

Commissioner Boehm stated the public should understand the change was from two days a week to one day a week per St. Johns River Water Management District directive.

Assistant City Manager Ted MacLeod explained that during the cooler time of the year, it was better to water only once every two weeks to prevent complications and problems with the landscaping.

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

Item #13A – Change order regarding the downtown streetscape lighting project

City Clerk Joshua Fruecht read by title only:

RESOLUTION NO. 2011-145

A RESOLUTION OF THE CITY COMMISSION, ALSO ACTING AS THE COMMUNITY REDEVELOPMENT AGENCY, OF THE CITY OF ORMOND BEACH, FLORIDA, AUTHORIZING THE EXECUTION OF CHANGE ORDER NUMBER ONE (1) TO THAT CONTRACT AWARDED TO CHINCHOR ELECTRIC, INC., REGARDING THE INSTALLATION OF DECORATIVE LIGHT POLES FOR THE DOWNTOWN STREETScape LIGHTING PROJECT, BY INCREASING THE CONTRACT PRICE BY \$10,776.06; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Boehm moved, seconded by Commissioner Partington, for approval of Resolution No. 2011-145, as read by title only.

Mayor Kelley stated this item received a four to one recommendation for approval from the CRA.

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| Call Vote: | Commissioner Kent | No |
| | Commissioner Boehm | Yes |
| | Commissioner Partington | Yes |
| | Commissioner Stowers | Yes |
| Carried. | Mayor Kelley | Yes |

Item #14A – Legislative Action Agenda for Volusia County Legislative Delegation.

Assistant City Manager Ted MacLeod explained this item was the annual legislative delegation program to discuss the City's interests. He stated staff would prepare a presentation for the Mayor to present before the delegation.

City Manager Shanahan explained that last year, staff prepared a one-page fact sheet that was handed out to the delegation members, and will do so this year.

Commissioner Partington moved, seconded by Commissioner Boehm, for approval of the items.

Commissioner Kent asked if there have been any success with the fact sheet.

City Manager Shanahan stated with Chapter 175 and 185, there was a limit to the number of hours of overtime for final pension calculation, which she believed was successful. She stated an ad valorem tax rebate was requested and granted.

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

Item #14B – SR40 Median Landscaping Improvements from I-95 overpass to western City limits.

City Manager Shanahan stated staff was requesting authority to apply for funding through FDOT for the landscaping improvement project from I-95 overpass to the City's western limit on SR40.

Commissioner Partington moved, seconded by Commissioner Boehm, for authorization to apply for grant funding for the project.

Commissioner Boehm stated staff's request was relative to an irrigation system, which was quite expensive, and FDOT would not fund irrigation systems at this time.

Assistant City Manager MacLeod clarified the recommendation was to put this project in the 5-year improvement process, due to the expense of the project being \$350,000 for the irrigation system, and without irrigation, the project will not be successful; therefore, the recommendation was to include it in the CIP next budget year.

Betty Weite, President of Breakaway Trails HOA, asked the Commission to consider the number of residents west of I-95, and this was a gateway to the City for visitors from the west. She suggested using native plants that did not require irrigation.

Commissioner Kent asked the water source for irrigation of this landscaping.

Assistant City Manager MacLeod stated potable water could be used, or irrigation wells, but the project was only in the concept stage.

Commissioner Boehm noted that in 2002, the request was made to landscape west of I-95 to Tymber Creek Road, and the City determined not to do it at that time, but it was part of the 5-year plan since 2002-03. He pointed out the City's growth in the last ten years was west with subdivisions and churches bringing a lot of traffic on SR40 without any landscaping improvements which were long overdue. He stated this request did not require any matching funds; therefore, he stated there was no harm in applying for the grant. He stated the US1 landscaping project without irrigation showed crepe myrtles and grasses would grow without irrigation and this could be done on SR40.

Commissioner Kent stated he supported getting the grant, and he stated the irrigation system was necessary for the success of the landscaping.

Commissioner Stowers stated he was in favor of putting in some minimal landscaping that did not require irrigation now, rather than waiting for the results of the County's widening plans, as better landscaping could be installed later.

City Manager Shanahan stated the City could not make the improvements and apply for a grant after. She stated there was no way to speed up the process, because FDOT had to approve any improvements before the work was done.

Assistant City Manager MacLeod stated a plan could be designed without irrigation.

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

Item #15 - Reports, Suggestions, Requests

Movies on the Halifax

City Manager Shanahan announced the next Movies on the Halifax event was October 7 with Monster Mansion with Eddie Murphy.

Tree

Assistant City Manager MacLeod stated a tree at Rockefeller Gardens had become a hazard and must come down. He stated the removal was scheduled for Thursday, September 22. It would be replaced by a Cathedral oak.

Veterans

Commissioner Partington stated he visited the Ormond Art Museum when Susan Richmond was giving a tour with the first stop at the WWII veterans' plaque. He asked staff to develop a plan to honor the WWII veterans. He suggested some ideas to honor the veterans and to show appreciation for all the veterans did.

Commissioner Kent stated he and Andy Romano met with Susan Richmond. He read an article from Hometown News, dated Friday, May 11, 2007, Remembering the fallen soldiers, by Marian Tomblin:

"The cannon boomed; the preacher prayed. The bagpipes wailed. And I cried. Little shuddering gasps at first, but nothing could stop my tears once they started falling. It was that kind of a ceremony.

Last Sunday, my 8-year-old son and I took out place under the oaks at Pilgrims Rest Cemetery to join a host of others in a beautifully solemn observance of the Confederate Memorial Day.

Now I don't care if your ancestors hail from the North or from the South, from the far East or the wild West. To see people – young and old – take time out of their busy (some would say sacred) weekends to honor our fallen was touching. It was right – with a capital R. And it was so important to me to share this patriotic ceremony with my child. Public acknowledgement of our veterans' sacrifices has not always been the rule. As recently as 10 years ago, a certain sector of our armed forces and its contributions was ignored. Donald O'Lone of the Halifax Area Veterans Council was kind enough to share with me the following:

'After World War II, the city of Ormond Beach produced a bronze plaque listing the names of Ormond citizens who served in the military. However, it seems that African-Americans who were from the area, and who had served their country during the war, were excluded from the plaque's listing of names. In 1998, during the administration of Dave Hood, that oversight was corrected. A new bronze plaque was recast to include the names of all Ormond's citizens who served in World War II. That plaque now resides in the main lobby of the Ormond Memorial Art Gallery and Museum.'

Ormond Beach was the first "Southern" city in Florida to correct such a wrong. Ormond Beach set the trend from other Florida cities and towns to update their respective WWII commemorative memorials. This dramatic historical action made state and national news."

Commissioner Boehm stated he had also met with Ms. Richmond, and as a Vietnam veteran, he was thrilled to see the markup of the Vietnam Memorial; and she showed him the Korean War Memorial. He stated it was exceptional the City was recognizing their veterans and how it was being done, putting the City in the forefront of veterans recognition.

Redistricting

Commissioner Boehm reported there was a Florida senatorial election that impacted Volusia County. He stated he passed two precincts that were open, and he understood the last time this election was held 14 people in Volusia County and two people in Flagler County voted. He stated this was due to a small area being part of a Jacksonville senatorial district. He stated it showed you were not getting representation with the current districts, and it was expensive to open two precincts with so few voters. He reported hearing a petition was circulating that the county had missed the deadline for submittal, and a judge was going to have to determine the redistricting issue.

Mayor Kelley reported there were 14,000 residents in Volusia County that were represented by District 1, incumbent Tony Hill, and that was pretty expensive for 14 votes.

Consent Agenda

Mayor Kelley suggested in the future, any comments could be made after the consent agenda was approved, rather than pulling an item for comments.

Discussion Item

Commissioner Kent requested a discussion item on a future agenda regarding a method to let the community know of criminal activity in their neighborhood.

Mayor Kelley stated the Trails had a newsletter that reported crimes in the subdivision, and Commissioner Kent's idea was a good idea.

Dais and Cameras

Mayor Kelley stated City Manager Shanahan was working on updating the monitors and adding large screens in the Chambers.

Item #16 – Close the Meeting

The meeting was adjourned at 9:00 p.m.

APPROVED: October 4, 2011

BY: Ed Kelley, Mayor

ATTEST:

Joshua Fruecht, City Clerk