

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

March 15, 2012

7:00 PM

Commission Chambers

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

INVOCATION

3. PLEDGE OF ALLEGIANCE

4. AUDIENCE REMARKS - Regarding items not on the agenda.

5. APPROVAL OF MINUTES

The minutes from the City Commission meeting on March 15, 2012 will be available at the next regularly scheduled City Commission meeting.

7. CONSENT AGENDA

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

- A. Resolution No. 2012-32:** A RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT BETWEEN THE CITY AND CROWDER-GULF, INC., FOR DEBRIS REMOVAL, REDUCTION AND DISPOSAL SERVICES, UNDER COUNTY OF VOLUSIA RFP NO. 11-P-75JD; AND SETTING FORTH AN EFFECTIVE DATE.

*Staff Contact: Theodore MacLeod, Assistant City Manager /
Public Works Director (386-676-3200)*

- B. Resolution No. 2012-33:** A RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT BETWEEN THE CITY AND ASH BRIT, INC., FOR DEBRIS REMOVAL, REDUCTION AND DISPOSAL SERVICES, UNDER COUNTY OF VOLUSIA RFP NO. 11-P-75JD; AND SETTING FORTH AN EFFECTIVE DATE.

*Staff Contact: Theodore MacLeod, Assistant City Manager /
Public Works Director (386-676-3200)*

- C. Resolution No. 2012-34:** A RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT BETWEEN THE CITY AND PHILLIPS AND JORDAN, INC., FOR DEBRIS REMOVAL, REDUCTION AND DISPOSAL SERVICES, UNDER COUNTY OF VOLUSIA RFP NO. 11-P-75JD; AND SETTING FORTH AN EFFECTIVE DATE.

*Staff Contact: Theodore MacLeod, Assistant City Manager /
Public Works Director (386-676-3200)*

- D. Resolution No. 2012-35:** A RESOLUTION AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT BETWEEN THE CITY AND THE AMERICAN LEGION INC., CASSIN YOUNG MEMORIAL POST 267, FOR THE "OLD YOUTH COUNCIL BUILDING" LOCATED AT 156 NEW BRITAIN AVENUE; AND SETTING FORTH AN EFFECTIVE DATE.

*Staff Contact: Theodore MacLeod, Assistant City Manager /
Public Works Director (386-676-3200)*

- E. Resolution No. 2012-36:** A RESOLUTION EXTENDING THE TERM OF A SUBRECIPIENT AGREEMENT BETWEEN THE CITY AND GREAT KIDS EXPLORER CLUB, INC., REGARDING THE PROVISION OF COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING FOR TUTORING SERVICES TO BE PROVIDED TO LOW TO MODERATE INCOME AT RISK CHILDREN; AUTHORIZING THE EXECUTION OF FIRST AND SECOND EXTENSIONS TO SAID AGREEMENT; AND SETTING FORTH AN EFFECTIVE DATE.

Staff Contact: Loretta Moisiso, Grant Coordinator (386-676-3315)

F. Temporary Personnel Staff Services

Staff Contact: Kelly McGuire, Finance Director (386-676-3226)

DISPOSITION: Approve as recommended in City Manager memorandum dated March 15, 2012.

G. Motor Racing History Association Request

Staff Contact: Theodore MacLeod, Assistant City Manager / Public Works Director (386-676-3200)

DISPOSITION: Approve as recommended in City Manager memorandum dated March 15, 2012.

H. Budget Status Report for October 2011 - December 2011

Staff Contact: Kelly McGuire, Finance Director (386-676-3226)

DISPOSITION: Approve as recommended in City Manager memorandum dated March 15, 2012.

7. PUBLIC HEARINGS

- A. ORDINANCE NO. 2012-11:** AN ORDINANCE GRANTING A HISTORIC PRESERVATION AD VALOREM TAX EXEMPTION FOR IMPROVEMENTS TO HISTORIC PROPERTY LOCATED AT 160 EAST GRANADA BOULEVARD; REQUIRING THE EXECUTION OF AN AGREEMENT BETWEEN THE PROPERTY OWNER AND THE CITY; SETTING AN EXPIRATION DATE; AND SETTING FORTH AN EFFECTIVE DATE.

Staff Contact: Ric Goss, Planning Director (386-676-3238)

- B. RESOLUTION NO, 2012-37:** A RESOLUTION DECLARING THE INTENTION OF THE CITY COMMISSION TO CONSIDER VACATING A PORTION OF THE SOUTHWESTERLY SIDE OF FLAGLER ROAD RIGHT-OF-WAY LYING WEST OF NORTH US1, STARTING ON THE SOUTH SIDE OF MAGNOLIA STREET RUNNING SOUTH ALONG FLAGLER ROAD; ESTABLISHING A TIME CERTAIN FOR A PUBLIC HEARING; SETTING FORTH AN EFFECTIVE DATE

Staff Contact: Ric Goss, Planning Director (386-676-3238)

8. RESOLUTION

- A. Resolution No. 2012-38:** A RESOLUTION APPOINTING MEMBERS OF THE BROWNFIELD ADVISORY BOARD; SETTING FORTH TERMS AND CONDITIONS OF SERVICE; AND SETTING FORTH AN EFFECTIVE DATE.

Staff Contact: Joshua Fruecht, City Clerk (386-676-3340)

9. REPORTS, SUGGESTIONS, REQUESTS (City Manager, Assistant City Manager, City Attorney, City Commissioners, Mayor)

10. ADJOURNMENT

Item #1 - Meeting Call to Order

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

Item #2 - Invocation

Pastor Cord Bear, Tomoka Christian Church, gave the invocation.

Item #3 - Pledge of Allegiance

Mayor Kelley led the Pledge of Allegiance.

Item #4 - Audience Remarks

Mayor Kelley stated that there were no audience requests to speak.

Item #5 - Approval of the Minutes

Mayor Kelley advised that the minutes of the March 6, 2012, regular meeting would be available at the next regularly scheduled City Commission meeting on April 3, 2012.

Item #6 - Consent Agenda

Mayor Kelley advised that the actions proposed for the items on the Consent Agenda were so stated on the agenda. He asked if any member of the Commission had questions or wished to discuss any items separately.

Commissioner Kent requested that Item #G be pulled.

Commissioner Boehm moved, seconded by Commissioner Partington, for approval of the Consent Agenda absent Item #G.

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

Item #6G - Motor Racing History Association Request

City Clerk Joshua Fruecht read by title only:

Motor Racing History Association Request

Commissioner Kent stated that as he went through the document he noted that the request read "for 15 bricks" and on the memorandum it read "about 15 bricks." He asked whether that could mean 20 or 30 bricks since the word "about" was included.

Ms. Joyce Shanahan, City Manager, stated that the memorandum had been revised to read "up to 15 bricks." She stated that they had not been specific so staff amended the request to limit the bricks to 15.

Mayor Kelley stated that the revision had been sent to the Commission that day at about 4:00 p.m.

Commissioner Kent stated that was the reason he had not yet seen it.

Commissioner Kent moved, seconded by Commissioner Partington, for approval of Item #6G.

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

Item #7A - Tax Exemption Request for Historic Property

City Clerk Joshua Fruecht read by title only:

ORDINANCE NO. 2012-11

AN ORDINANCE GRANTING A HISTORIC PRESERVATION AD VALOREM TAX EXEMPTION FOR IMPROVEMENTS TO HISTORIC PROPERTY LOCATED AT 160 EAST GRANADA BOULEVARD; REQUIRING THE EXECUTION OF AN AGREEMENT BETWEEN THE PROPERTY OWNER AND THE CITY; SETTING AN EXPIRATION DATE; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Boehm moved, seconded by Commissioner Stowers, for approval of Ordinance No. 2012-11, on first reading, as read by title only.

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

Item #7B - Notice of Intent to Vacate - 99 Portland Street

City Clerk Joshua Fruecht read by title only:

RESOLUTION NO. 2012-37

A RESOLUTION DECLARING THE INTENTION OF THE CITY COMMISSION TO CONSIDER VACATING A PORTION OF THE SOUTHWESTERLY SIDE OF FLAGLER ROAD RIGHT-OF-WAY LYING WEST OF NORTH US1, STARTING ON THE SOUTH SIDE OF MAGNOLIA STREET RUNNING SOUTH ALONG FLAGLER ROAD; ESTABLISHING A TIME CERTAIN FOR A PUBLIC HEARING; SETTING FORTH AN EFFECTIVE DATE.

Commissioner Boehm moved, seconded by Commissioner Kent, for approval of Resolution No. 2012-37, as read by title only.

Mayor Kelley stated that he wanted to make one comment regarding information that had been clarified. He stated that vacating that portion still left it within the 50-foot right-of-way because it had been at 60 feet to start with.

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

Item #8A - Brownfield Advisory Board Appointment

City Clerk Joshua Fruecht read by title only:

RESOLUTION NO. 2012-38

A RESOLUTION APPOINTING MEMBERS OF THE BROWNFIELD ADVISORY BOARD; SETTING FORTH TERMS AND CONDITIONS OF SERVICE; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Partington, for approval of Resolution No. 2012-38, as read by title only.

Commissioner Stowers stated that he had waited to see if anyone else was going to appoint Michael Sznajstajler as their Brownfield Advisory Board appointment and that he had appointed him since no one else had. He stated that he was an attorney at the law firm of Cobb Cole and Mr. Sznajstajler was, as well. He stated that he did not particularly like the appearance of impropriety that might cause. He stated that his hope was that he could appoint instead Mr. Curtis Burkett from Zev Cohen & Associates. He stated he would do so in the hopes that the Commission would see the utility of having Mr. Sznajstajler appointed as the Commission at-large appointment. He explained that there was a further complication, which was that Cobb Cole had been working with Mr. Randy Hayes, City Attorney, on matters related to the US1 Corridor and Cheaters. He stated that Mr. Hayes informed him that the conflict could be waived based on disclosure with a two-thirds vote of the Commission. He stated that he would abstain from that

vote. He stated that his question was whether three of the Commissioners would vote in favor of Mr. Sznajstajler being the Commission appointment. He stated that he spoke to Mr. Sznajstajler about this. He explained that he continued to push for Mr. Sznajstajler's appointment because of his involvement at the state level with the Brownfield program. He stated that Mr. Sznajstajler had worked on legislation related to the Brownfield act. He believed he was a viable and good option for the Brownfield Advisory Board. He stated that he would remove his appointment of Mr. Sznajstajler and amend it to Curtis Burkett. He stated that he would understand if there was someone else that the Commission wanted to appoint in place of Mr. Sznajstajler, but he explained that he wanted to clarify the issues that had arisen regarding his appointment.

Commissioner Boehm stated that Mr. Sznajstajler had addressed a letter to him which included his qualifications and background. He stated that he may be the single most expert person on Brownfield that lived in Ormond Beach. He stated he felt it would be an enormous benefit to have a lawyer who served on the state Brownfield Advisory Commission and was an expert in that field to serve on the board. He stated that he was aware that there could be potential conflicts but he would trust in Mr. Sznajstajler's honesty to abstain, when necessary, if he thought there was a conflict that dealt with his law firm, just as Commissioner Stowers had abstained when he believed a conflict existed. He stated he would be happy to have Mr. Sznajstajler appointed as the Commission appointment.

Commissioner Partington stated that he agreed with Commissioner Boehm and would second a motion to appoint Mr. Sznajstajler as the Commission's appointment.

Mayor Kelley stated that there was also one more amendment to the appointments. He stated that Mr. Thomas MacDonald was the Ormond Beach Main Street (Main Street) nominee. He stated that Mr. Sznajstajler was nominated for the Commission appointment and that would be a separate motion.

Commissioner Kent moved, seconded by Commissioner Partington, to accept the Ormond Beach Main Street appointment of Mr. Thomas MacDonald to the Brownfield Advisory Board.

Mr. Hayes stated that the first thing that needed to be done with Mr. Sznajstajler's appointment would be to waive the conflict rules. He stated that there was an ordinance that stated that because he worked for the same firm that a Commissioner did and one that had a contractual relationship with the city, that the Commission needed to waive the conflict by a two-thirds vote. He stated that a motion would need to be made to waive the conflict and that motion would need to receive a second.

Commissioner Boehm moved, seconded by Commissioner Partington, to waive the conflict rules to allow the Commission to appoint Mr. Michael Sznajstajler as the Commission appointment to the Brownfield Advisory Board.

Mayor Kelley stated that he was concerned that Commissioner Stowers would not be able to vote on the underlying resolution.

Mr. Hayes stated that they could vote on the appointment of Mr. Sznajstajler separately and could then vote on the others so that Commissioner Stowers could vote.

Commissioner Boehm stated that Commissioner Stowers had moved to amend by withdrawing his original appointment and replacing it. He stated that the underlying motion they would vote on would have to be amended to add Mr. Burkett and remove Mr. Sznajstajler.

Mayor Kelley stated that Mr. Burkett would become Commissioner Stowers' appointment. He stated that they would vote on the appointment by the Commission separately with the Main Street appointment. He stated that it needed to be done that way otherwise Commissioner Stowers would not be able to vote on the other appointments.

Mr. Hayes suggested that they proceed to vote with all of the appointments except the Commission appointment. He stated that the Main Street appointment would just be a ratification of their appointment and could be included with the rest. He stated that all of the appointments except Mr. Sznajstajler could be treated under one motion.

Mayor Kelley called the vote for approval of Resolution No. 2012-38 with the amendment of the Main Street appointment to Mr. Thomas MacDonald and Commissioner Stowers'

appointment to Mr. Curtis Burkett. He stated that the motion had been made by Commissioner Kent and seconded by Commissioner Partington.

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

Mayor Kelley stated that the next vote would be to waive the conflict for the Commission appointment of Michael Sznajstajler. He stated that Commissioner Boehm had made the motion and Commissioner Partington had seconded it.

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

Mayor Kelley stated the next vote would be to appoint Mr. Sznajstajler as the Commission's appointment.

Commissioner Boehm moved, seconded by Commissioner Partington, to appoint Mr. Michael Sznajstajler as the Commission's appointment to the Brownfield Advisory Board.

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

Mayor Kelley thanked the Brownfield Advisory Board members that were present tonight and all of those that had volunteered to serve on the board. He stated that he felt that it was going to be very helpful to have their input. He stated that he felt that the board would be a good tool for Mr. Joe Mannarino, Economic Development Director.

Item #9- Reports, Suggestions, Requests

Cheaters Lawsuit

Mr. Hayes stated that the city had filed a lawsuit against the property owners of 1545 North US1, which was more commonly known as Cheaters. He stated that they did so for violations of the city zoning laws and laws regarding the type and manner of activities that may lawfully occur at that property. He stated that they would continue to proceed with that litigation, unless directed otherwise, and keep the Commission informed.

Passing of Harry Wendelstedt

Commissioner Kent stated that he wanted to thank the newspapers for their coverage on the life of Mr. Harry Wendelstedt. He stated that the articles were a great way for those who did not know him to learn about him.

Southwest Quadrant

Commissioner Kent stated that he met with Mr. Arnie Green, President of Arnie Green & Associates during the past week. He stated that Mr. Green had asked him exactly what the city wished to do with the Southwest Quadrant. He stated that he could not give him an answer. He stated that perhaps there should be a workshop about what they would like to see happen in that area.

Newspaper Recognition

Commissioner Boehm stated that the Commission frequently tried to recognize young people and other people who won awards in the city. He stated that he noticed that Mayor Kelley looked nice in a picture of the local section of the newspaper presenting awards to the Pop Warner Academic All Stars with Commissioner Stowers and Commissioner Kent standing up applauding behind him. He stated that he was pleased they received the recognition.

Cheaters Lawsuit

Commissioner Boehm stated that he wanted to give Mr. Hayes and staff credit relative to the lawsuit mentioned. He stated that there was a great deal of work done by the police

department prior to the filing of the lawsuit, over a significant number of months, and he did not hear a single word about it. He stated that it was done very well and that they had really documented their case and he wished the city every success with it. He wanted to commend the police department for the amount of effort they put into the undercover work that lead to the filing of that complaint. He stated it took a lot of work from them over a long period of time.

Senate Redistricting

Commissioner Boehm stated that he was also pleased to note that the Florida Supreme Court did not find that the Senate map was drawn appropriately, particularly in regard to the two districts that split Ormond Beach up. He stated that was what concerned him and the Commission and what they had voiced their disapproval about. He stated that he hoped when the new map was drawn that Ormond Beach would be more fairly treated and that they would have more of an opportunity to participate in an election to get a senator elected that would represent them, and not be split in half or represented by senators from Jacksonville.

Passing of Harry Wendelstedt

Commissioner Boehm stated that Commissioner Kent already referenced the newspaper's coverage of Mr. Wendelstedt's passing. He stated that the funeral service was amazing and had been attended by the Mayor and himself. He stated that again staff should get credit because they made the Performing Arts Center available on short notice, set it up, and coordinated the hundreds of people that were in attendance. He stated that Lohman's Funeral Home and the Wendelstedt family did a great job of putting together a great service. He added that he had never heard Kermit the Frog sing at a funeral before and he did not think he ever would again, but that was what Mr. Wendelstedt had wished and so that was what they heard.

Tomoka Basin State Park Event

Mayor Kelley stated that he had sent an email to each of the Commissioners asking if one of them could attend the upcoming Tomoka Basin State Park event. He stated he received a call from Tallahassee asking if someone could attend on March 27 and 28. He stated he had a conflict on the morning of March 28 and would be unable to attend. He asked Ms. Shanahan if she had any recommendations.

Ms. Shanahan stated that they could send someone from staff if that was the desire.

Mayor Kelley stated that they wanted him or a Commissioner to attend.

Commissioner Partington stated that he would be happy to attend.

Mayor Kelley stated he would inform them and thanked him for volunteering to attend.

Item #10 - Adjournment

The meeting was adjourned at 7:22 p.m.

APPROVED: April 3, 2012

BY: _____
Ed Kelley, Mayor

ATTEST:

Joshua Fruecht, City Clerk