

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

December 4, 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 Scott McKee.

A G E N D A

- 1. CALL TO ORDER**
- 2. INVOCATION**
- 3. PLEDGE OF ALLEGIANCE**
- 4. PRESENTATIONS AND PROCLAMATIONS**
 - A. Employee of the Year – Paul MacDonald
- 5. AUDIENCE REMARKS - REGARDING ITEMS NOT ON THE AGENDA**
- 6. APPROVAL OF MINUTES**
 - A. Minutes from City Commission meeting – November 20, 2012
- 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. 2012-174** : A RESOLUTION AUTHORIZING THE EXECUTION OF A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF ORMOND BEACH AND THE ORMOND BEACH GENERAL EMPLOYEES ASSOCIATION, OPEIU (LOCAL 115 AFL-CIO, CLC); SETTING FORTH AN EFFECTIVE DATE.

Staff Contact: *Shelly Arzola, Human Resources Director (386-676-3202)*

- B. RESOLUTION NO. 2012-175** : A RESOLUTION AUTHORIZING THE EXECUTION OF A WATER, SEWER AND ANNEXATION AGREEMENT BETWEEN THE CITY AND JOMORGAN CHASE BANK, NATIONAL ASSOCIATION; PROVIDING FOR RECORDATION; AND SETTING FORTH AN EFFECTIVE DATE.

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

- C. RESOLUTION NO. 2012-176** : A RESOLUTION AUTHORIZING THE EXECUTION OF A UNDERGROUND EASEMENT DEED IN FAVOR OF FLORIDA POWER & LIGHT COMPANY GRANTING A 2,883 SQUARE FOOT EASEMENT AT 1 NORTH BEACH STREET FOR THE INSTALLATION OF UNDERGROUND UTILITIES; AND SETTING FORTH AN EFFECTIVE DATE.

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

- D. RESOLUTION NO. 2012-177** : A RESOLUTION AUTHORIZING THE EXECUTION OF AN UNDERGROUND EASEMENT DEED IN FAVOR OF FLORIDA POWER & LIGHT COMPANY FOR THE INSTALLATION OF UNDERGROUND UTILITIES AT 22 SOUTH BEACH STREET; AND SETTING FORTH AN EFFECTIVE DATE.

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

- E. **RESOLUTION NO. 2012-178** : A RESOLUTION AUTHORIZING THE EXECUTION OF A UNDERGROUND EASEMENT DEED IN FAVOR OF FLORIDA POWER & LIGHT COMPANY GRANTING A 723 SQUARE FOOT EASEMENT AT 100 NEW BRITAIN AVENUE FOR THE INSTALLATION OF UNDERGROUND UTILITIES; AND SETTING FORTH AN EFFECTIVE DATE.
- Staff Contact: Ric Goss, Planning Director (386-676-3238)*
- F. **RESOLUTION NO. 2012-179** : A RESOLUTION AUTHORIZING THE EXECUTION OF AN UNDERGROUND EASEMENT DEED IN FAVOR OF FLORIDA POWER & LIGHT COMPANY FOR THE INSTALLATION OF UNDERGROUND UTILITIES AT 156 NEW BRITAIN AVENUE; AND SETTING FORTH AN EFFECTIVE DATE.
- Staff Contact: Ric Goss, Planning Director (386-676-3238)*
- G. **RESOLUTION NO. 2012-180** : A RESOLUTION AUTHORIZING THE EXECUTION OF AN UNDERGROUND EASEMENT DEED IN FAVOR OF FLORIDA POWER & LIGHT FOR THE INSTALLATION OF UNDERGROUND UTILITIES AT 164 WEST GRANADA BOULEVARD; AND SETTING FORTH AN EFFECTIVE DATE.
- Staff Contact: Ric Goss, Planning Director (386-676-3238)*
- H. **RESOLUTION NO. 2012-181** : A RESOLUTION AUTHORIZING THE EXECUTION OF AN UNDERGROUND EASEMENT DEED IN FAVOR OF FLORIDA POWER & LIGHT COMPANY FOR THE INSTALLATION OF UNDERGROUND UTILITIES LOCATED AT 170 WEST GRANADA BOULEVARD; AND SETTING FORTH AN EFFECTIVE DATE.
- Staff Contact: Ric Goss, Planning Director (386-676-3238)*
- I. **RESOLUTION NO. 2012-182** : A RESOLUTION AUTHORIZING USE OF THE CITY'S SEAL BY CENTRAL FLORIDA PARTNERSHIP FOR PROMOTIONAL ACTIVITIES IN CONNECTION WITH THE "OPEN FOR BUSINESS" PROGRAM; SETTING FORTH AN EFFECTIVE DATE.
- Staff Contact: Joe Mannarino, Economic Development Director (386-676-3266)*
- J. **RESOLUTION NO. 2012-183** : A RESOLUTION PURSUANT TO SECTION 14-98, LIENS, OF THE CITY OF ORMOND BEACH CODE OF ORDINANCES AUTHORIZING THE IMPOSITION OF A LIEN AGAINST THE REAL PROPERTY OWNED BY JAMES T. MARZELLA AND RUTH A. MARZELLA LOCATED AT 744 EAST RIVER OAK DRIVE, ORMOND BEACH, VOLUSIA COUNTY, FLORIDA (PARCEL ID NO. 3242-05-25-0180) FOR COSTS INCURRED BY THE CITY TO TERMINATE OR ABATE A SITE MAINTENANCE VIOLATION; AND SETTING FORTH AN EFFECTIVE DATE.
- Staff Contact: Joanne Naumann, Neighborhood Improvement Manager (386-615-7069)*
- K. **RESOLUTION NO. 2012-184** : A RESOLUTION AUTHORIZING THE SUBMITTAL OF A FINAL GRANT APPLICATION TO THE COUNTY OF VOLUSIA UNDER THE ECHO GRANTS-IN-AID PROGRAM FOR FUNDING ASSISTANCE REGARDING THE CONSTRUCTION OF AN ENVIRONMENTAL LEARNING CENTER IN CENTRAL PARK IV; AUTHORIZING THE EXECUTION OF ALL DOCUMENTS INCIDENTAL THERETO, INCLUDING ANY CONTRACT NECESSARY FOR THE CITY TO ACCEPT THE GRANT AWARD; AND SETTING FORTH AN EFFECTIVE DATE.
- Staff Contact: Loretta Moisiso, Grants Coordinator/PIO (386-676-3315)*

- L. **RESOLUTION NO. 2012-185** : A RESOLUTION AUTHORIZING THE EXECUTION OF AN INTERLOCAL AGREEMENT WITH THE COUNTY OF VOLUSIA FOR THE MAINTENANCE OF TRAFFIC CONTROL DEVICES WITHIN THE CITY OF ORMOND BEACH; SETTING FORTH AN EFFECTIVE DATE.

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

- M. **RESOLUTION NO. 2012-186** : A RESOLUTION AUTHORIZING EXECUTION OF A COMMUNITY DEVELOPMENT BLOCK GRANT SUBRECIPIENT AGREEMENT FOR FISCAL YEAR 2012-2013 BETWEEN THE CITY AND THE COUNTY OF VOLUSIA; AND SETTING FORTH AN EFFECTIVE DATE.

Staff Contact: *Loretta Moisiso, Grants Coordinator/PIO (386-676-3315)*

- N. **RESOLUTION NO. 2012-187** : A RESOLUTION AUTHORIZING THE EXECUTION OF A MEMORANDUM OF AGREEMENT BETWEEN THE CITY AND THE DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES, FOR THE PROVISION OF GRANT FUNDS IN THE AMOUNT OF \$24,500.00 TO BE USED FOR THE PURCHASE OF LAPTOPS AND MOUNTING HARDWARE FOR PATROL VEHICLES; AUTHORIZING THE EXECUTION OF ALL DOCUMENTS NECESSARY AND INCIDENTAL THERETO, INCLUDING ANY CONTRACT NECESSARY FOR THE CITY TO ACCEPT THE GRANT AWARD; AND SETTING FORTH AN EFFECTIVE DATE.

Staff Contact: *Loretta Moisiso, Grants Coordinator/PIO (386-676-3315)*

- O. **RESOLUTION NO. 2012-188:** A RESOLUTION APPROVING A SETTLEMENT PROPOSAL REGARDING THE WORKERS' COMPENSATION CLAIM OF WILLIAM HERIC; AUTHORIZING THE EXECUTION OF A SETTLEMENT AGREEMENT AND ANY AND ALL DOCUMENTS INCIDENTAL THERETO; AUTHORIZING PAYMENT RELATIVE THERETO; AND SETTING FORTH AN EFFECTIVE DATE.

Staff Contact: *Randal Hayes, City Attorney (386-676-3217)*

- P. **RESOLUTION NO. 2012-189** : A RESOLUTION AUTHORIZING THE EXECUTION OF A FEDERALLY-FUNDED SUBGRANT AGREEMENT BETWEEN THE CITY AND THE STATE OF FLORIDA, DIVISION OF EMERGENCY MANAGEMENT, FOR THE PROVISION OF GRANT FUNDS IN THE AMOUNT OF \$277,473.00 TO BE USED FOR THE RIVERSIDE DRIVE DRAINAGE IMPROVEMENTS PROJECT; AUTHORIZING THE EXECUTION OF ALL DOCUMENTS NECESSARY AND INCIDENTAL THERETO, INCLUDING ANY CONTRACT NECESSARY FOR THE CITY TO ACCEPT THE GRANT AWARD; AND SETTING FORTH AN EFFECTIVE DATE.

Staff Contact: *Loretta Moisiso, Grants Coordinator/PIO (386-676-3315)*

- Q. **RFP Ormond Beach Aerial Fireworks Display**

Staff Contact: *Robert Carolin, Leisure Services Director (386-676-3279)*

Disposition: Approve as recommended in the City Manager memorandum dated December 4, 2012.

- R. **Xylem Water Solutions USA, Inc. – Flygt Products Sole Source Procurement Notice of Anticipated Annual Expenditures in excess of \$25,000**

Staff Contact: *Dave Ponitz, Utilities Manager (386-676-3305)*

Disposition: Approve as recommended in the City Manager memorandum dated December 4, 2012.

- S. **Aquatic Weed Maintenance and Ditch Cleaning**
Staff Contact: Theodore MacLeod, Assistant City Manager (386-676-3200)
Disposition: Approve as recommended in the City Manager memorandum dated December 4, 2012.
- T. **North Central Park Lake Interconnects – Division Avenue and Hammock Lane, Bid No. 2013-01**
Staff Contact: John Noble, City Engineer (386-676-3269)
Disposition: Approve as recommended in the City Manager memorandum dated December 4, 2012.
- U. **Airport Business Park Conservation Easements Recording**
Staff Contact: John Noble, City Engineer (386-676-3269)
Disposition: Approve as recommended in the City Manager memorandum dated December 4, 2012.
- V. **Release of Brighthouse Networks Franchise Bond**
Staff Contact: Scott McKee, City Clerk (386-676-3340)
Disposition: Approve as recommended in the City Manager memorandum dated December 4, 2012.
- W. **Legislative Action Agenda for Volusia County Legislative Delegation**
Staff Contact: Joyce Shanahan, City Manager (386-676-3200)
Disposition: Approve as recommended in the City Manager memorandum dated December 4, 2012.
- X. **Budget Status Report for April 2012 – June 2012**
Staff Contact: Kelly McGuire, Finance Director (386-676-3226)
Disposition: Approve as recommended in the City Manager memorandum dated December 4, 2012.

8. PUBLIC HEARINGS

- A. **RESOLUTION NO. 2012-190** : A RESOLUTION AUTHORIZING THE EXECUTION OF A WATER, SEWER AND ANNEXATION AGREEMENT BETWEEN THE CITY AND MICHAEL ALAN CARSON, INC.; PROVIDING FOR RECORDATION; AND SETTING FORTH AN EFFECTIVE DATE.
Staff Contact: Ric Goss, Planning Director (386-676-3238)
- B. **RESOLUTION NO. 2012-191** : A RESOLUTION AUTHORIZING THE ACCEPTANCE OF A PUBLIC SIDEWALK EASEMENT DEED FROM TRIEBEL FAMILY ENTERPRISES, INC., D/B/A “JIMMY JOHN’S GOURMET SANDWICHES” ON PROPERTY LOCATED AT 300 WEST GRANADA BOULEVARD; AND SETTING FORTH AN EFFECTIVE DATE.
Staff Contact: Ric Goss, Planning Director (386-676-3238)
- C. **RESOLUTION NO. 2012-192** : A RESOLUTION AUTHORIZING THE EXECUTION AND ISSUANCE OF A DEVELOPMENT ORDER FOR A SPECIAL EXCEPTION TO ALLOW OUTDOOR ACTIVITY TO INCLUDE ITINERANT VENDING AND LIVE ENTERTAINMENT DURING SPECIAL EVENTS AT THE KICK START SALOON, LOCATED AT 906 NORTH US HIGHWAY 1 AND BEING SITUATED WITHIN THE B-8 (COMMERCIAL) ZONING DISTRICT; ESTABLISHING CONDITIONS AND EXPIRATION DATE OF APPROVAL; AND SETTING FORTH AN EFFECTIVE DATE
Staff Contact: Ric Goss, Planning Director (386-676-3238)

- D. **ORDINANCE NO. 2012-40** : AN ORDINANCE AMENDING PARAGRAPH C, OFFICIAL ZONING MAP, OF SECTION 2-01, ESTABLISHMENT OF ZONING DISTRICTS AND OFFICIAL ZONING MAP, OF ARTICLE 1, ESTABLISHMENT OF ZONING DISTRICTS AND OFFICAL 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 5.842 ACRES LOCATED AT 146 NORTH ORCHARD STREET, FROM PROFESSIONAL OFFICE/HOSPITAL (B-1) TO LIGHT INDUSTRIAL (I-1), AUTHORIZING REVISION OF OFFICIAL ZONING MAP; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

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

9. FIRST READING OF ORDINANCES

- A. **ORDINANCE NO. 2012-41** : 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, SOUTH OF THE SOUTHBOUND ENTRANCE TO INTERSTATE 95 AND BEING COMMONLY LOCATED AT 1608 NORTH U.S. HIGHWAY 1; REDEFINING THE TERRITORIAL BOUNDARIES OF THE CITY OF ORMOND BEACH TO INCLUDE THE PROPERTY; REDESIGNATING THE BOUNDARIES OF ZONE 1 OF THE CITY OF ORMOND BEACH TO INCLUDE THE PROPERTY; SETTING FORTH ZONING, PRIVILEGES AND OBLIGATIONS REGARDING THE PROPERTY; PROVIDING FOR TRANSMISSION; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

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

- B. **ORDINANCE NO. 2012-42** : 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 425 LINEAR FEET NORTH OF INTERSTATE 95 AND BEING COMMONLY LOCATED AT 1622 NORTH U.S. HIGHWAY 1; REDEFINING THE TERRITORIAL BOUNDARIES OF THE CITY OF ORMOND BEACH TO INCLUDE THE PROPERTY; REDESIGNATING THE BOUNDARIES OF ZONE 1 OF THE CITY OF ORMOND BEACH TO INCLUDE THE PROPERTY; SETTING FORTH ZONING PRIVILEGES; PROVIDING FOR TRANSMISSION; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

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

- C. **ORDINANCE NO. 2012-43** : 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 693 LINEAR FEET WEST OF INTERSTATE 95 AND BEING COMMONLY LOCATED AT 1626 NORTH U.S. HIGHWAY 1; REDEFINING THE TERRITORIAL BOUNDARIES OF THE CITY OF ORMOND BEACH TO INCLUDE THE PROPERTY; REDESIGNATING THE BOUNDARIES OF ZONE 1 OF THE CITY OF ORMOND BEACH TO INCLUDE THE PROPERTY; SETTING FORTH ZONING PRIVILEGES; PROVIDING FOR TRANSMISSION; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

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

- D. **ORDINANCE NO. 2012-44** : AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, AMENDING DIVISION 2, RATES AND CHARGES, OF ARTICLE I, WATER, OF CHAPTER 22, WATER AND SEWERS, OF THE CODE OF ORDINANCES BY CREATING SECTION 22-34, BILLING ADJUSTMENTS FOR COMMERCIAL (INDUSTRIAL) ACCOUNTS; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

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

- E. **ORDINANCE NO. 2012-45** : AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE IX, FINANCIAL MATTERS, OF THE CODE OF ORDINANCES, BY AMENDING SECTION 2-300, METHODS OF SOURCE SELECTION; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

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

- F. **ORDINANCE NO. 2012-46** : AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, RELATIVE TO THE GENERAL EMPLOYEES' PENSION PLAN, AMENDING ARTICLE I, IN GENERAL, OF CHAPTER 16, PENSIONS AND RETIREMENT, OF THE CODE OF ORDINANCES; AMENDING SECTION 16-1, DEFINITIONS BY AMENDING THE DEFINITION OF MEMBER; AMENDING SECTION 16-2, MEMBERSHIP; AMENDING SECTION 16-21.8, DEFERRED RETIREMENT OPTION PLAN; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

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

- G. **ORDINANCE NO. 2012-47** : AN ORDINANCE SETTING FORTH A PROPOSED AMENDMENT TO SECTION 11-1, FLUORIDATION OF WATER SUPPLY, OF ARTICLE I, IN GENERAL, OF CHAPTER 11, HEALTH AND SANITATION, OF THE CODE OF ORDINANCES, BY REPEALING A REQUIREMENT THAT FLUORIDE BE ADDED TO THE CITY'S PUBLIC WATER SYSTEM; PROHIBITING THE DEPARTMENT OF PUBLIC WORKS/DIVISION OF PUBLIC UTILITIES FROM ADDING FLUORIDE TO THE CITY'S PUBLIC WATER SYSTEM; PROVIDING FOR AND CALLING A MUNICIPAL REFERENDUM ELECTION BY MAIL BALLOT OF THE REGISTERED ELECTORS OF THE CITY OF ORMOND BEACH, FLORIDA, TO BE HELD ON MARCH 19, 2013; PROVIDING SEVERABILITY; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Staff Contact: Scott McKee, City Clerk (386-676-3340)

10. SECOND READING OF ORDINANCES

- A. **ORDINANCE NO. 2012-38** : AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, AMENDING CHAPTER 12, BUSINESS REGULATIONS, CREATING ARTICLE XV, SALE OR DISPLAY OF HERBAL INCENSE AND BATH SALTS; BY ADDING SECTION 12-394, DEFINITIONS; BY ADDING SECTION 12-395, SALE, DISPLAY, OR DISTRIBUTION PROHIBITED; BY ADDING SECTION 12-396, REMEDIES AND PENALTIES; AND PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

Staff Contact: Randal Hayes, City Attorney (386-676-3217)

- B. **ORDINANCE NO. 2012-39** : AN ORDINANCE AMENDING SUBSECTION A, ZONING MAP, OF CHAPTER 2, DISTRICT AND GENERAL REGULATIONS, ARTICLE I, ESTABLISHMENT OF ZONING DISTRICTS AND OFFICIAL ZONING MAP, SECTION 2-03, OFFICIAL ZONING MAP AND ZONING DISTRICTS, OF THE CITY OF ORMOND BEACH LAND DEVELOPMENT CODE, BY REZONING ONE PARCEL OF REAL PROPERTY TOTALING ±4.6 ACRES LOCATED AT 1634 NORTH US HIGHWAY 1 FROM VOLUSIA COUNTY B-6 (HIGHWAY INTERCHANGE COMMERCIAL) TO ORMOND BEACH B-7 (HIGHWAY TOURIST COMMERCIAL); AUTHORIZING REVISION OF THE OFFICIAL ZONING MAP; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

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

11. STAFF ACTION ITEMS

- A. CARBON SOURCE BID PROTEST

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

12. REPORTS, SUGGESTIONS, REQUESTS

13. ADJOURNMENT

Item #1 – Meeting Call to Order

Mayor Kelley called the meeting to order at 7:01 p.m.

Item #2 – Invocation

Mayor Kelley gave the invocation.

Item #3 – Pledge of Allegiance

Mayor Kelley led the Pledge of Allegiance.

Item #4 – Employee of the Year – Paul MacDonald

Ms. Joyce Shanahan, City Manager, stated that it was her great pleasure to announce that the City of Ormond Beach's Employee of the Year was Landscape Architect Paul MacDonald. She asked Mr. MacDonald, his wife Kate, and two daughters Renee and Gabrielle to come forward. She explained that as the city's Landscape Architect, Mr. MacDonald was responsible for general city-wide landscaping issues and reviewed projects as a member of the Site Plan Review Committee. She stated that downsizing had occurred over the last couple of years and Mr. MacDonald handled much additional work and did so with a can-do attitude. She stated that Mr. MacDonald had outstanding problem-solving skills and looked to find creative solutions that resulted in cost savings to the city. She stated that he had been instrumental in obtaining numerous grants and designing and implementing landscaping projects such as Central Park Trails, boardwalk and fishing pier, and the new boundless playground at Airport Road. She noted that playground was colorful, exciting, and had been recognized in a national magazine. She stated that Mr. MacDonald designed the splash park at South Ormond Neighborhood Center, co-managed the Rockefeller Gardens improvements, and was currently working on Hand Avenue, John Anderson Drive, and the Andy Romano Beachfront Park. She stated that Mr. MacDonald also undertook a major project to re-write the city's landscaping specifications to send them out to bid, which took many months of work. She stated that Mr. MacDonald was a true asset to the city and the community. She explained that he was referred to as "the nucleus" in his department. She thanked Mr. MacDonald for his service and stated that the city was proud of him.

Mayor Kelley stated that the Commission did not get to vote for the Employee of the Year, but if they did, he believed they would have unanimously voted for Mr. MacDonald. He presented Mr. MacDonald with a plaque and a gift certificate. He showed Mr. MacDonald the plaques that would hang in the atrium to recognize him.

Mr. Paul MacDonald, Landscape Architect, stated that he was speechless and very thankful for the recognition.

Mayor Kelley stated that Mr. MacDonald made the city look good and that his touch was visible everyday in the landscaping in the city. He thanked Mr. MacDonald for his service.

Item #5 – Audience Remarks

Ms. Janet Ivanhoe, 281 Ocean Shore Boulevard, stated that she was the owner of 12 properties in Ormond Beach. She stated that her tax bill for 2012 was \$37,000. She noted that she usually did not like to tell people that information, especially if there were attorneys listening. She stated that she had a master's degree in psychiatric social work from Simmons College in Boston and was a licensed clinical social worker registered in Florida and Massachusetts. She stated that she was trained by Harvard Medical School psychiatrists. She stated that she owned a nightclub in Ormond Beach. She explained that she was telling the Commission that information so they knew that she had good clinical skills. She stated that she was very upset. She stated that the Commission probably knew about her story which involved a dog named Lady that she had rescued from Second Chance Shelter in Deland because no one could afford to pay for her heartworm treatment.

Ms. Ivanhoe stated that she took the dog into the nightclub and she, along with her employees, nursed the dog back to health. She stated that as the dog was recovering, an employee came in and told her they would be taking the dog home. She explained that it did not turn out that way and that the dog had been placed in an abusive situation. She stated that Lady had been given to one of her employees that had post traumatic stress disorder and was obsessed with the dog. She stated that she tried to retrieve the dog from the situation but was unable to do so. She explained that she made a police report and wrote to the Chief of Police, copying both the Mayor and the City Attorney. She stated that no one paid any attention to her. She stated that the outcome of Lady was not very pleasant but it was one that she had predicted based on her clinical skills.

Mayor Kelley stated that he understood the story and knew Ms. Ivanhoe very well. He stated that he or the City Manager would be willing to meet with her later or at the end of the meeting. He stated that he would give her all the time that she needed then but that he could not currently because of the three-minute audience remarks speaking limitation.

Ms. Ivanhoe stated that she would like to bring the issue up in the future at another meeting, perhaps as an item on the agenda. She asked if that was possible.

Mayor Kelley stated that they could speak to the City Manager and City Attorney about it. He stated that Ms. Ivanhoe was welcome to speak to any of the Commission or staff any time.

Ms. Ivanhoe stated that she just wanted people to be held accountable.

Mayor Kelley stated that he understood and that the city was willing to work towards that.

Mr. Glenn Jaspers, 160 Ocean Terrace, asked if there was a propensity to incorporate unrealistic requirements to an ordinance in order to placate the objections of a majority and thus satisfy the demands of a vocal minority. He stated that mantra gave rise to difficult if not unenforceable requirements and relied principally on mounting complaints for resolution. He noted that it gave law enforcement a difficult task in determining violations when not directly observed. He stated that he himself finally received city support when he photographed a repeated violation and sent copies to the Commission and the City Manager. He stated that the obvious rules were repeatedly violated.

Mr. Jaspers stated that last Sunday he exercised over and under the Granada Bridge while carefully watching where he stepped. He explained that he observed seven people with animals, two on prescribed leashes, two with no leashes, and three with reel type leashes used illegally per the ordinance handout he mentioned. He stated that he supposed he should start carrying a camera with him. He stated that when he served in Southeast Asia he had no choice but to look out for things that could bite. He stated that in the United States he expected them to be in their own environment. He stated that his responsible neighbor had two great danes that you would never know were there. He stated that he liked dogs but he hated to see Ormond Beach going to the dogs. He asked that Ormond Beach put muscle in their ordinance.

Mr. Shawn Flaherty, General Manager of Riptides Raw Bar and Grill, 869 S. Atlantic Avenue, stated that he was approached by Mr. Patrick Daughtery about the proposed doggy dining ordinance. He stated that he wanted to show his support. He stated that he was a former resident of Celebration, Florida, where the ordinance was passed. He stated that they found quite a bit of camaraderie amongst both elderly and young people who treated their dogs as family. He stated that he would like to see it passed in Ormond Beach.

Item #6 – Approval of the Minutes

Mayor Kelley advised that the minutes of the November 20, 2012, regular meeting had been sent to the Commission for review, and were on the city’s website for public viewing. He asked for any corrections, additions, or omissions. He stated that hearing no corrections, the minutes would stand approved as presented.

Item #7 – 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 Partington requested to pull item 7K from the Consent Agenda.

Commissioner Kent moved, seconded by Commissioner Boehm, for approval of the Consent Agenda absent item 7K.

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

Item #7K – Volusia County ECHO Grant – Final Submittal – Environmental Learning Center

City Clerk Scott McKee read by title only:

RESOLUTION NO. 2012-184
 A RESOLUTION AUTHORIZING THE SUBMITTAL OF A FINAL GRANT APPLICATION TO THE COUNTY OF VOLUSIA UNDER THE ECHO GRANTS-IN-AID PROGRAM FOR FUNDING ASSISTANCE REGARDING THE CONSTRUCTION OF AN ENVIRONMENTAL LEARNING CENTER IN CENTRAL PARK IV; AUTHORIZING THE EXECUTION OF ALL DOCUMENTS INCIDENTAL THERETO, INCLUDING ANY CONTRACT NECESSARY FOR THE CITY TO ACCEPT THE GRANT AWARD; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Boehm, for approval of Resolution No. 2012-184, as read by title only.

Commissioner Partington stated that he had been speaking to former Commissioner Joyce Ebbets, who previously held his Commission seat. He stated that she had taken pictures which he would give to Ms. Shanahan for possible inclusion with the grant application. He stated that Ms. Ebbets was a wonderful speaker and her passion came through her words. He wanted to read a paragraph from the correspondence she had sent to him along with those pictures. He read as follows:

“My interest is ever constant in having this living classroom for the preservation and protection of our unique surroundings along with education of all who will have access for decades to come. We are blessed with an environmental treasure and ECHO can certainly be the catalyst to a meaningful addition for all ages, abilities, and nature loving residents and visitors. May ECHO, Florida, and Ormond Beach act forever as good stewards of these treasures.”

Call Vote:	Commissioner Stowers	Yes
	Commissioner Kent	Yes
	Commissioner Boehm	Yes

Carried.	Commissioner Partington	Yes
	Mayor Kelley	Yes

Item #8 – Public Hearings

Mayor Kelley opened the following items for public hearing.

Item #8A – 2376 John Anderson Drive Annexation Agreement

City Clerk Scott McKee read by title only:

RESOLUTION NO. 2012-190
 A RESOLUTION AUTHORIZING THE EXECUTION OF A WATER, SEWER AND ANNEXATION AGREEMENT BETWEEN THE CITY AND MICHAEL ALAN CARSON, INC.; PROVIDING FOR RECORDATION; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Boehm moved, seconded by Commissioner Stowers, for approval of Resolution No. 2012-190, as read by title only.

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

Item #8B – 300 West Granada Boulevard, Jimmy Johns Sidewalk Easement

City Clerk Scott McKee read by title only:

RESOLUTION NO. 2012-191
 A RESOLUTION AUTHORIZING THE ACCEPTANCE OF A PUBLIC SIDEWALK EASEMENT DEED FROM TRIEBEL FAMILY ENTERPRISES, INC., D/B/A “JIMMY JOHN’S GOURMET SANDWICHES” ON PROPERTY LOCATED AT 300 WEST GRANADA BOULEVARD; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Boehm, for approval of Resolution No. 2012-191, as read by title only.

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

Item #8C – 906 North US Highway 1, Kickstart Saloon, Special Exception

City Clerk Scott McKee read by title only:

RESOLUTION NO. 2012-192
 A RESOLUTION AUTHORIZING THE EXECUTION AND ISSUANCE OF A DEVELOPMENT ORDER FOR A SPECIAL EXCEPTION TO ALLOW OUTDOOR ACTIVITY TO INCLUDE ITINERANT VENDING AND LIVE ENTERTAINMENT DURING SPECIAL EVENTS AT THE KICK START SALOON, LOCATED AT 906 NORTH US HIGHWAY 1 AND BEING SITUATED WITHIN THE B-8 (COMMERCIAL) ZONING DISTRICT; ESTABLISHING CONDITIONS AND EXPIRATION DATE OF APPROVAL; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Boehm moved, seconded by Commissioner Stowers, for approval of Resolution No. 2012-192, as read by title only.

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

Item #8D – 146 North Orchard Street Rezoning

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2012-40

AN ORDINANCE AMENDING PARAGRAPH C, OFFICIAL ZONING MAP, OF SECTION 2-01, ESTABLISHMENT OF ZONING DISTRICTS AND OFFICIAL ZONING MAP, OF ARTICLE 1, ESTABLISHMENT OF ZONING DISTRICTS AND OFFICAL 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 5.842 ACRES LOCATED AT 146 NORTH ORCHARD STREET, FROM PROFESSIONAL OFFICE/HOSPITAL (B-1) TO LIGHT INDUSTRIAL (I-1), AUTHORIZING REVISION OF OFFICIAL ZONING MAP; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Boehm, for approval of Ordinance No. 2012-40, 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 closed the public hearing.

Item #9A – 1608 N US Hwy 1 (Days Inn/Scottish Inns)

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2012-41

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, SOUTH OF THE SOUTHBOUND ENTRANCE TO INTERSTATE 95 AND BEING COMMONLY LOCATED AT 1608 NORTH U.S. HIGHWAY 1; REDEFINING THE TERRITORIAL BOUNDARIES OF THE CITY OF ORMOND BEACH TO INCLUDE THE PROPERTY; REDESIGNATING THE BOUNDARIES OF ZONE 1 OF THE CITY OF ORMOND BEACH TO INCLUDE THE PROPERTY; SETTING FORTH ZONING, PRIVILEGES AND OBLIGATIONS REGARDING THE PROPERTY; PROVIDING FOR TRANSMISSION; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Boehm moved, seconded by Commissioner Stowers, for approval of Ordinance No. 2012-41, on first reading, as read by title only.

Item #9B – 1622 North US Hwy 1 (Days Inn/Scottish Inn) Annexation

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2012-42

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 425 LINEAR FEET NORTH OF INTERSTATE 95 AND BEING COMMONLY LOCATED AT 1622 NORTH U.S. HIGHWAY 1; REDEFINING THE TERRITORIAL BOUNDARIES OF THE CITY OF ORMOND BEACH TO INCLUDE THE PROPERTY; REDESIGNATING THE BOUNDARIES OF ZONE 1 OF THE CITY OF ORMOND BEACH TO INCLUDE THE PROPERTY; SETTING FORTH ZONING PRIVILEGES; PROVIDING FOR TRANSMISSION; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Boehm, for approval of Ordinance No. 2012-42, on first reading, as read by title only.

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

Item #9C – 1626 N US Hwy 1 (Dairy Queen) Annexation

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2012-43

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 693 LINEAR FEET WEST OF INTERSTATE 95 AND BEING COMMONLY LOCATED AT 1626 NORTH U.S. HIGHWAY 1; REDEFINING THE TERRITORIAL BOUNDARIES OF THE CITY OF ORMOND BEACH TO INCLUDE THE PROPERTY; REDESIGNATING THE BOUNDARIES OF ZONE 1 OF THE CITY OF ORMOND BEACH TO INCLUDE THE PROPERTY; SETTING FORTH ZONING PRIVILEGES; PROVIDING FOR TRANSMISSION; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Stowers moved, seconded by Commissioner Partington, for approval of Ordinance No. 2012-43, 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

Item #9D – Water and Sewer Ordinance Amendment-Billing Adjustments

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2012-44

AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, AMENDING DIVISION 2, RATES AND CHARGES, OF ARTICLE I, WATER, OF CHAPTER 22, WATER AND SEWERS, OF THE CODE OF ORDINANCES BY CREATING SECTION 22-34, BILLING ADJUSTMENTS FOR COMMERCIAL (INDUSTRIAL) ACCOUNTS; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Boehm moved, seconded by Commissioner Partington, for approval of Ordinance No. 2012-44, 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

Item #9E – Purchasing Threshold

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2012-45

AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE IX, FINANCIAL MATTERS, OF THE CODE OF ORDINANCES, BY AMENDING SECTION 2-300, METHODS OF SOURCE SELECTION; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF;

PROVIDING SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Boehm moved, seconded by Commissioner Stowers, for approval of Ordinance No. 2012-45, 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 #9F – General Employees' Pension Modification

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2012-46

AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, RELATIVE TO THE GENERAL EMPLOYEES' PENSION PLAN, AMENDING ARTICLE I, IN GENERAL, OF CHAPTER 16, PENSIONS AND RETIREMENT, OF THE CODE OF ORDINANCES; AMENDING SECTION 16-1, DEFINITIONS BY AMENDING THE DEFINITION OF MEMBER; AMENDING SECTION 16-2, MEMBERSHIP; AMENDING SECTION 16-21.8, DEFERRED RETIREMENT OPTION PLAN; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

Commissioner Boehm moved, seconded by Commissioner Partington, for approval of Ordinance No. 2012-46, on first reading, as read by title only.

Mayor Kelley stated that he appreciated all of the hard work by the City Manager, City Attorney, and staff to negotiate fair adjustments to the pension.

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

Item #9G – Referendum Election for Fluoridation Ordinance

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2012-47

AN ORDINANCE SETTING FORTH A PROPOSED AMENDMENT TO SECTION 11-1, FLUORIDATION OF WATER SUPPLY, OF ARTICLE I, IN GENERAL, OF CHAPTER 11, HEALTH AND SANITATION, OF THE CODE OF ORDINANCES, BY REPEALING A REQUIREMENT THAT FLUORIDE BE ADDED TO THE CITY'S PUBLIC WATER SYSTEM; PROHIBITING THE DEPARTMENT OF PUBLIC WORKS/DIVISION OF PUBLIC UTILITIES FROM ADDING FLUORIDE TO THE CITY'S PUBLIC WATER SYSTEM; PROVIDING FOR AND CALLING A MUNICIPAL REFERENDUM ELECTION BY MAIL BALLOT OF THE REGISTERED ELECTORS OF THE CITY OF ORMOND BEACH, FLORIDA, TO BE HELD ON MARCH 19, 2013; PROVIDING SEVERABILITY; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Stowers, for approval of Ordinance No. 2012-47, on first reading, as read by title only.

Mr. Sandy Dunn, 5 Tomoka Trail Road, thanked the Commission for allowing him to speak. He stated that he was not there to speak for or against fluoridation. He stated that he was there to address the timing of the proposed referendum. He noted that he spoke to Mr. Ted MacLeod, Assistant City Manager and Public Works Director, and learned that fluoridation had been in existence for over 50 years in Ormond Beach. He stated that he read in the newspaper that it would cost \$45,000 to hold a special election

for the proposed referendum. He stated that he felt that was ludicrous and did not think that anyone in the room really knew what happened during fluoridation. He stated that debating an issue without proper knowledge was really sick. He stated that to spend \$45,000 for a special election on an issue that no one knew anything about was even sicker. He stated that he would suggest, since fluoride had been in the water for 50 years as voted on by the people, to wait until a regular election to have the referendum and save the \$45,000. He stated that the city should let everyone be educated on the pros and cons of fluoridation in the meantime. He explained that personally he had well water and would not be affected. He asked that the Commission not pass the item. He stated that he was sure that staff could take that \$45,000 and divide it by the number of employees or pay for something else with the funds.

Commissioner Partington stated that he did not know that it was ludicrous to consider the referendum, but there needed to be some resolution to the fluoridation issue. He stated that every year, at multiple meetings each year, for the past nearly ten years he had served, fluoride had been discussed in some form or another. He stated that at some point it needed to come to an end and the city needed to move on. He stated that he was not happy about the cost of the special election but noted that the Commission had previously stated that they had wanted to hold an election and he was prepared to go forward with it. He stated that according to the Volusia County Supervisor of Elections Ann McFall, who controlled the cost of the election, there were 29,468 registered voters in the City of Ormond Beach. He stated that when the cost to prepare, print, mail, and tabulate the ballots was then calculated to be about \$1.53 per registered voter. He stated that he did not think that was an entirely unreasonable cost but that he would certainly like to have that reduced in half or lower if the governor were to order a special election for a seat on the Soil & Water Conservation District.

Commissioner Partington stated that he was open to other options, if there were any, such as delaying the referendum a couple of months to save money. He stated that he did not see delaying it well into the future as an option. He noted that he did feel that it was an important enough issue that it needed to have a resolution. He stated that he would be comfortable voting, but that the decision to handle the issue as a referendum was made by their forefathers 50 years ago and it was an important decision. He stated that he felt it was important that the residents of the City of Ormond Beach decide and he was prepared to let the people vote. He stated that he thought that sooner rather than later was the best way to go.

Commissioner Stowers stated that he was in agreement with Commissioner Partington. He stated that the issue had taken on a life of its own. He stated that his concern was what the residents thought and how they felt about the issue. He stated that the emails received from around the country and the comments from a few loud people coming to the meetings were not an accurate reflection as to what the residents of Ormond Beach wanted. He stated that the Commission had been cautious with the John Anderson Drive project to ensure trust in the process and that the people had a voice. He stated that it was an investment not only in local government but in the public's trust. He stated that as Commissioner Partington noted, it had been fifty years since the initial referendum and enough residents had brought it up where he was comfortable getting that level of information through a new referendum. He noted that he had also said before that he would be comfortable with a straw referendum. He stated that the issue did not have to do with his willingness to vote on the issue but about getting the information. He stated that he was open to either process.

Commissioner Kent stated that he woke up and asked himself how the fluoride issue in Ormond Beach got so stirred up. He stated that for the ten years he had served as Commissioner, a man had been coming in almost that entire time about once a month complaining about fluoride. He stated that shamefully he had not really listened to that man or taken him seriously. He explained that then the Centers for Disease Control (CDC) and American Dental Association (ADA) told parents to stop giving fluoridated water to their infants. He stated that about two years later the CDC and ADA then changed the amount of fluoride that was acceptable to have in the water supply. He stated that those events were two strikes and he told himself that he would not allow a third. He explained that he then started doing some investigating and sent a letter to the city's chemical supplier asking some questions about the chemical they supplied to the city to put in the water. He stated that the main points were asking if it was safe, effective, and if the company would be responsible for the product they were selling. He stated that he never received a response. He stated that he sent the same letter to 46 other companies that did business in North America and still heard nothing.

Commissioner Kent stated that he was told by Mayor Kelley that he did not receive a response because he alone sent the letter and that if the entire Commission sent it then maybe it there would be a response. He noted that Commissioner Partington mentioned that the Commission had stated that they would hold a special election for the referendum and that they should do it because they had said they would. He stated that the Commission also agreed to send his letter with all of their signatures, along with the City Manager and City Attorneys' signatures. He stated that later on that month the rest of the Commission then decided that they did not want to send the letter because they felt it would be futile to do so. He stated that he questioned if their concern was that their feelings would be hurt. He stated that Commissioner Partington had previously mentioned that he wanted to have the chemical that arrived at the city facility batch tested and he applauded him for that. He noted that the chemical that the city purchased was hydrofluosilicic acid and not fluoride. He wondered what the status of the request to batch test was.

Commissioner Kent stated that he could not agree with Mr. Dunn more. He stated that it was not only ludicrous to spend that amount of money on the referendum but that he would also say that it was shameful. He stated that Mr. Dunn hit the nail on the head when he had commented that everyone still did not have enough information about the subject. He stated that more learning still needed to be done. He stated that he had proposed a water additive accountability ordinance to the Commission. He stated that the ordinance dealt with the addition of anything to the water to treat humans. He stated that other Commission members had noted that chlorine was added to the water and that chlorine could kill a person. He noted a distinct difference in that and hydrofluosilicic acid. He explained that chlorine was added to the water to kill bugs and germs in it and that hydrofluosilicic acid was added to the water to treat people and not the water. He stated that the proposed ordinance had stated that if anything was added to the water to treat humans and not the water that it could not be something that would do any harm to humans. He stated that he did not know what the problem had been with that. He stated that the ordinance could not even come up for discussion. He stated that the letter and ordinance were on the agenda for discussion but were not even discussed because the discussion went off track to having a referendum vote because people were tired of talking about the issue. He stated that he was tired of not getting a response from the chemical supplier.

Commissioner Kent stated that if the city had to wait to have the vote during a regular election then so be it. He stated that they could spend those funds elsewhere and much more appropriately. He stated that if there was to be a vote, and they still did not have answers to his questions, then he did not feel that they would be honest with their residents, if they used the word fluoride and the chemical was hydrofluosilicic acid. He stressed that he hoped that research would be done. He stated that it was a silica fluoride and in order to get the phosphorus away from it, sulfuric acid had to be poured over the ore and then water was put on it to end up with the slurry of hydrofluosilicic acid, which was what was put into the city water. He stated that the city was not putting sodium fluoride into the water. He explained that most often sodium fluoride was what was in toothpaste. He stated that people needed to be made aware of that. He noted that the referendum question should include the term "hydrofluosilicic acid."

Commissioner Kent stated that he did not know what was wrong with asking the chemical company whether or not the chemical was safe and effective. He stated that he had never publicly said he was against fluoride. He stated that he had said that his family brushed their teeth with fluoridated toothpaste but they followed the directions on the tube and spit it out. He stated that if you swallowed it, the directions say to contact a poison control center. He stated that he did not know what the problem was with asking the questions and getting answers. He asked if a representative from Harcros Chemical was present at the meeting that evening. He stated that he thought perhaps that they would show up and give him the information that he desired. He stated that he was not in favor of spending money for a special election. He stated that if the issue did go to a vote, he wanted to make sure that it did so using the correct terminology and he would prefer that it happen during a general election instead of with a mail ballot. He stated that most people threw away their mail and did not even read it. He stated that he would love to see the numbers of people who actually responded to a mail ballot from the Supervisor of Elections because he knew it was usually dismally low.

Commissioner Boehm stated that he did not think when the Commission had discussed holding a referendum previously that they knew the cost. He stated that he was certainly amazed when he saw the figures provided by the Supervisor of Elections. He stated that he had anyone who contacted him question why the decision was needed so

urgently that a \$45,000 taxpayer funded special election needed to be held when fluoridation of the water had been in effect for over 50 years. He stated that he was in agreement with Commissioner Kent. He stated that, as far as he was concerned, the question could wait until a general election. He stated that there was no need to spend \$45,000 to answer it now. He stated that fluoride would continue to be in the water until the question was answered.

Mayor Kelley stated that fluoride had been in the water over fifty years. He stated that he had repeatedly asked the person who came to the meetings and spoke about fluoride to provide information about people in Ormond Beach who have had concerns with their teeth due to the fluoride in the water. He stated that he had never had one person come or been presented with even one single case of fluorosis in Ormond Beach. He stated that he had spoken to a number of dentists who stated that they rarely treated fluorosis. He stated that he read about a dentist in Port Orange that stated that the patients he treated from the City of Edgewater, which did not fluoridate the water, had an approximately 40% higher incidence of cavities than those he treated from Port Orange. He stated that he realized that was an anecdotal situation but that no one had given them any information about issues with their teeth because of Ormond Beach water. He stated that not one single person had ever come forward.

Mayor Kelley applauded Commissioner Kent for doing his research. He stated that he had done research as well. He stated that he was tired of hearing about people going on the internet and becoming experts because they read something. He stated that it was important to check sources and facts to determine how valid the information was. He stated people did not often connect that. He stated that he could not justify spending \$45,000 to allow people to vote on something that they were not educated about and was not critical. He stated that he would propose those funds be saved and to put the question on a general election ballot. He stated that would give plenty of time for people to become educated and better understand the issue. He stated that it made no sense to spend that money when they could wait until the next general election and noted that there had been no complaints about the fluoride. He stated that if someone was concerned about the fluoride they could elect to not drink the water. He noted that while doctors recommended that infants not be given city water, they recommended that for more than one reason. He stated that it also was because of potential germs. He stated that the University of Florida Medical School recommended that children be given fluoridated water beginning at age one when their teeth were starting to come in. He stated that he received that information today. He stated that the city had received an offer from an organization to offer workshops and education on the issue.

Commissioner Partington stated that he agreed with postponing the referendum. He stated that there could be multiple workshops and he knew that the Citizens for Ormond Beach were also willing to hold educational unbiased forums. He stated that people could also continue to speak to the Commission at meetings. He noted that perhaps after a year they would all be so educated on the topic that they would not even need to have a vote. He addressed that Commissioner Kent had spoken about the letter to the chemical supplier that was drafted for their signature. He stated that if he had been the chemical company's attorney, he would tell them to ignore that letter if they received it. He stated that he could not in good faith send a letter that he would advise his client to not respond to. He stated that was why he thought that it was futile and waste of time. He stated that he would clearly not advise his client to answer a letter that was as loaded with language such as the one presented.

Commissioner Kent stated that he appreciated Commissioner Partington's comments. He noted that he sat on the dais with five attorneys. He stated that he did not take personal offense when Commissioner Stowers had mentioned previously that he would tell his client not to respond to the letter. He stated that he understood the comment from an attorney's perspective but from a humanistic standpoint he shuddered at it. He stated that should speak volumes that attorneys would tell clients not to answer a letter because it was so loaded. He stated that the letter asked if the product was safe and effective and if the client would take full responsibility if something went wrong. He stated that he understood why other Commissioners felt the way they did and appreciated and respected their opinions.

Commissioner Boehm asked the City Attorney if they should vote no on the ordinance or withdraw it.

Mr. Randy Hayes, City Attorney, stated that the Commission could withdraw the item or continue it indefinitely.

answer any questions regarding the matter. She stated that staff was recommending that the protest be denied.

Commissioner Partington moved, seconded by Commissioner Boehm, to deny the protest.

Commissioner Stowers stated that he reviewed the item and spoke to Ms. Shanahan about it. He stated that he kept returning to the general description of services and the percent glycerin. He stated that the bid was put out, received, and then afterwards changed to fit within the parameters. He stated that he felt that was one of the specific parameters that was material to the bid. He stated that it was not responsive, as he felt like he was heading in the direction of being on the side of the bid protest.

Commissioner Boehm asked Mr. Ponitz if he was satisfied that the product he received from Environmental Operating Solutions met the bid requirements for the product discussed in the protest; whereby, Mr. Ponitz stated that he was, based on the information received.

Mayor Kelley stated that he thought that lawyers had the ability to see multiple sides. He stated that he thought that the way that the bid was put out gave the flexibility to respond in the way that it was responded to.

Mr. Hayes stated that was also his understanding from speaking with staff about it.

Mayor Kelley stated that he knew the issue arose before in instances and that in the bid it was written that the bidder would have the right to submit something comparable and stated that in this case that was what was done.

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

Item #12 – Reports, Suggestions, and Requests

Cancellation of December 18, 2012 City Commission Meeting

Mayor Kelley stated that he spoke to Mr. Hayes about cancelling the second meeting in December. He stated that Mr. Hayes had informed him that it would require a member of the Commission making a motion to do so, receiving a second, and then the motion carrying by a super majority vote.

Ms. Shanahan stated that there was nothing on the agenda that could not be moved until January.

Commissioner Kent moved, seconded by Commissioner Partington, to cancel the City Commission Meeting scheduled to be held on December 18, 2012.

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

Employee of the Year

Ms. Shanahan congratulated Mr. MacDonald again on being named Employee of the Year. She stated that he had done an amazing job and his efforts were appreciated.

Upcoming Meetings

Ms. Shanahan stated that the first Commission meeting in January would be on January 8, 2013, because the first Tuesday fell on January 1, 2013, which was a holiday. She stated that the second meeting would be on January 15, 2013.

Movies on the Halifax

Ms. Shanahan stated that Movies on the Halifax would be on Friday, December 7, 2012, at 6:00 p.m. at Rockefeller Gardens and would be showing *Beethoven's Christmas Adventure*.

Holiday Parade

Ms. Shanahan stated that the Home for the Holidays Parade would be on December 8, 2012. She stated that the festivities would start at 5:30 p.m. with a reception in the atrium for parade participants. She stated that at 6:00 p.m. the tree lighting ceremony would be held and then the parade would start at 6:30 p.m.

Holiday at the Casements

Ms. Shanahan stated that the annual Holiday at The Casements would be on December 13, 2012, from 6:00 p.m. and 8:00 p.m.

Hand Avenue

Ms. Shanahan stated that the east and west sides of Hand Avenue had been re-opened. She stated that there was a temporary course of asphalt to allow businesses access to those first parts off of US1 and Nova Road. She stated that once the rest of the construction was completed they would add a final coat of asphalt.

Project ROMP (Renovate Ormond's Magic Forest Playground)

Ms. Shanahan stated that Project ROMP had raised almost \$40,000 and they had requested their matching funds from the city. She stated that, as per the Commission approved contract, the city would be writing a check for the matching funds to allow them to purchase some of the equipment needed. She stated that Project ROMP would continue to raise funds and as additional funds were raised, the city would match up to \$63,500. She stated that Project ROMP recently received their 501(3)c so they would be able to target larger corporations for donations.

Holiday Greetings

Ms. Shanahan wished everyone a Merry Christmas.

Mr. Ted MacLeod, Assistant City Manager and Public Works Director, wished everyone a Merry Christmas and a Happy New Year.

Mr. Hayes wished everyone a happy holiday.

Aesthetic Issues

Commissioner Stowers stated that he asked Ms. Shanahan about two aesthetic issues. He stated that the first was the blue water tower. He stated that he asked about the feasibility of painting the tower white and adding the Ormond Beach logo and perhaps the word's "Welcome to Ormond Beach". He stated that the other item was the two coquina small towers on North Beach Street. He stated that apparently they were in the county's right of way, but Ms. Shanahan stated that she would reach out to the county to inquire about possibly doing some type of lighting feature and adding the city logo.

Ms. Ivanhoe

Commissioner Kent stated that it was good to see Ms. Ivanhoe in the crowd. He stated that she was a wonderful business owner in Ormond Beach and he knew she was passionate about animals. He stated that he hoped they would find a resolution for her.

Employee of the Year

Commissioner Kent congratulated Mr. Paul MacDonald. He stated that he had the wonderful pleasure of getting to know him two years ago. He stated that he had been very unhappy with the appearance of the landscaping under the city's previous landscape provider. He stated that he met with Mr. MacDonald as a result and that he had spent about an hour and a half with him and that Mr. MacDonald had followed up with phone calls and emails. He stated that as a teacher, he really appreciated those that could teach someone about their subject in a way as gentle and careful as Mr. MacDonald did. He stated that he learned a lot from Mr. MacDonald and could still identify Asiatic jasmine when he was out driving. He noted that Mr. MacDonald designed the city's boundless playground and that he was really impressed with how he got his ideas. He stated that Mr. MacDonald had taken his daughter and visited playgrounds as far south as Cocoa Beach and as far north as Jacksonville to get ideas on what worked and what did not. He stated that was an example of why Mr. MacDonald was Employee of the Year.

Coffee with Commissioner

Commissioner Kent stated that Coffee with Commissioner Kent had been going on for about nine years. He reminded everyone that they were welcome to attend at his home at 130 Magnolia Drive. He stated that it was held on the first Monday of every month. He stated that the next one would be on January 7, 2012, at 4:30 p.m. until 5:30 p.m.

Holiday Greetings

Commissioner Kent wished everyone a Merry Christmas and happy holidays.

Employee of the Year

Commissioner Boehm stated that he had a great deal to do with the creation of the boundless playground and that he was suitably amazed at the landscaping that Mr. MacDonald did. He stated that the new t-ball fields at the sports complex were recently completed. He stated that in its original design there were no palm trees. He stated that Mr. MacDonald viewed the site and noted that it needed more shade and added them. He stated that he would swear that the t-ball complex looked like a major league spring training facility.

Mr. Dwight Durant

Commissioner Boehm stated that he also wanted to give kudos to Mr. Dwight Durant, who designed the facility at his own expense. He stated that was another one of the many services that Mr. Durant had provided to the city over the years and that he was a wonderful volunteer and citizen of Ormond Beach.

Public Safety Reporting Award

Commissioner Boehm stated that Mr. Chris Graham, the Ormond Beach correspondent for the Daytona Beach News-Journal, won a first place award in the public safety reporting category from the Florida Press Club for his reporting on the state prescription pill epidemic. He noted that the man that the News-Journal had assigned to Ormond Beach was a state award winner.

Meeting Preparation

Commissioner Boehm stated that he often mentioned during meetings that the Commission appeared to run through a large number of items rather quickly. He stated that one should never get the impression that the Commission had not thoroughly studied the items. He noted that the agenda packet for that evening's meeting totaled 1,270 pages and that it took him and his fellow Commissioners a long time to read it. He stated that after reading the agenda packet, the Commission spoke to staff about it. He stated that when he met with Ms. Shanahan, he knew he had at least half a dozen questions. He stated that receiving answers from staff before the meeting allowed the Commission to run their meetings more efficiently. He stated that they were not a rubber stamp group or a group that did not understand the issues. He noted that the Commission had gone through a particularly lengthy agenda that evening and that was why he wanted to make that point.

Mayor's Health & Fitness Challenge

Commissioner Boehm stated that there would be a preliminary warm-up to the Mayor's Health & Fitness Challenge held at 7:30 a.m. on December 8, 2012, at the Granada Beach Approach and that you would get to see Mayor Kelley in shorts and a t-shirt walking in one direction or another down the beach. He stated that he would encourage those considering joining the challenge to attend the walk on Saturday morning.

Holiday Greetings

Commissioner Boehm wished everyone a Merry Christmas and happy holidays.

Ms. Ivanhoe

Commissioner Partington stated that he spoke to Ms. Ivanhoe about her dog related issue on the phone for quite a while. He stated that he thought that the city should issue her a written apology, reimburse her for what she had spent caring for the dog, and then make a donation of at least \$1,000 to the Halifax Humane Society in her name and the dog's name. He stated that would be the fair, reasonable, and appropriate resolution for a situation that was outrageous. He stated that there was clearly bad judgment involved all the way around and that the issue had gotten totally out of hand on a number of occasions when it could have been resolved. He stated that the dog could not be brought back to life, but at a minimum he felt those items were due to her as a settlement package. He stated that Ms. Ivanhoe was welcome to speak to any Commission member separately or she could address them together at a meeting as a group, as the Sunshine Law provided.

Mayor's Health & Fitness Challenge

Commissioner Partington stated that he was going to participate in the Mayor's Health & Fitness Challenge. He stated that he thought that the entire Commission should support the Mayor and participate. He stated that he appreciated the packet of applications that the Mayor provided. He stated that Ms. Shanahan had assured him that the BMI and

body weight numbers would be closely guarded city secrets and kept strictly confidential. He stated that New Smyrna Beach had great success with a similar program.

Project ROMP

Commissioner Partington stated that Project ROMP was sprinting towards the finish line and had raised \$40,000. He stated that the group had just received their 501(c)3 which opened the door for donations from large companies. He stated that Brighthouse would be donating \$2,500 in the near future. He stated that donation would amount to \$5,000 with the city's match. He stated that Representative Fred Costello also pledged to raise \$2,500 which would also end up being \$5,000 with the city's match. He stated that Project ROMP had been an ongoing project for the last two and a half years, which he believed was longer than it should have gone on. He noted that it was amazing that the group was able to raise the funds that they did in the worst economy in anyone's appreciable memory. He stated that those Ormond Beach residents were very committed to restoring the park to the beauty that the children deserved. He stated that they hoped to have it completed by the end of February. He stated that Pine Trail was also doing a fundraising push selling donuts. He stated that hopefully Project ROMP would meet their \$60,000 fundraising goal in the New Year.

Water and Sewer Ordinance Amendment-Billing Adjustments

Commissioner Partington stated that he wanted to comment on item 9D: Water and Sewer Ordinance Amendment-Billing Adjustments. He stated that the ordinance contained a lot of legalese language. He applauded Ms. Kelly McGuire, Finance Director, Mr. Joe Mannarino, Economic Development Director, and staff for their efforts. He stated that no one could say that Ormond Beach was not business friendly when they read that ordinance. He stated that it had the ability to save some companies upwards of \$12,000 or \$15,000 a year. He stated that a city would not take money out of their own pocket unless they were business friendly or wanted to encourage businesses to come to Ormond Beach. He stated that it was a practical display of the city's commitment to businesses in the local community.

Pension Reform

Commissioner Partington stated that there had been an editorial in the newspaper about the pension issue. He stated that the issue had been chipped away at for at least the previous eight years. He likened the experience to trying to accomplish something with two hands tied behind your back. He stated that the Commission had been to Tallahassee multiple times in an attempt to get the legislature to untie their hands so that they could negotiate fairly with the unions and solve some of the problems with the \$40 million unfunded pension liability. He stated that item 9F, the settlement with the general employees, was another example of how they continued to chip away at the unfunded liability. He stated that the employees working with them to keep the city solvent and on good fiscal footing would keep the city from ending up like the Hostess Company.

Commissioner Partington explained that Hostess went into Chapter 11 bankruptcy and that the city was a corporation and could go into bankruptcy, also. He stated that the primary reason Hostess went into bankruptcy was because of steep costs associated with its unionized workforce. He stated that essentially that company was no longer able to pay its retiree benefits, which were costing it about \$1.1 million a month. He explained that a year ago Hostess stopped contributing to its pension plans and subsequently went into bankruptcy. He stated that a city could end up just like that and that was why they needed to be able to work with the employees to be able to come up with solutions that were equitable and sustainable. He stated that the way the law was presently, they were not able to do that. He stated that the employees also saw the problem and wanted to work with them. He noted their desire to be freed up to be able to come to resolutions. He stated that he wanted to stress that as the editorial had given a bit of the impression that they had not been doing anything about the unfunded liabilities.

Holiday Greetings

Commissioner Partington wished everyone a Merry Christmas and happy holidays.

Pension Reform

Mayor Kelley stated that he had multiple discussions with the City Manager and others regarding the pension issue. He stated that Commissioner Partington hit the nail on the head. He stated that he had pointed out to others that the city was asked to fairly negotiate contracts; however, the state put requirements of what they could and could not do. He stated that it was not fair that they could not use all of the tools in the toolbox

to negotiate a contract. He stated that the state had tied their hands. He stated that the state told them how much money that had to pay and what benefits had to be provided.

Mayor's Health & Fitness Challenge

Mayor Kelley stated that city staff and all of the sponsors had done a fantastic job with the Mayor's Health and Fitness Challenge. He stated that he hoped everyone would participate on January 6, 2013, at the first event. He stated that first prize was \$500 for the two categories: greatest weight loss in pounds or the greatest percent of weight loss in BMI reduction. He explained that the entry cost was \$25 and you got exams and screenings. He stated that participants would also receive a t-shirt and three-month memberships in several health clubs, including the Ormond Beach YMCA. He stated that all of the clothes that participants could no longer wear at the end of the three-month period could be donated to a charity that would take them. He stated that he had challenged all of the Mayors of Volusia County and had several who had accepted.

Water and Sewer Ordinance Amendment-Billing Adjustments

Mayor Kelley stated that he thought that the item was very creative. He stated that he often wondered if they evaluated the difference between billed water usage and billed sewer usage. He stated that working that for the businesses that could utilize it was a fantastic idea.

Lighting at the Casements

Mayor Kelley stated that he was at The Casements the previous Friday for the lighting and it was beautiful. He stated that every year they did an outstanding job.

Civil Air Patrol Dinner

Mayor Kelley stated that the previous evening he attended the annual Civil Air Patrol dinner. He stated that he was invited by Mr. Steven Lichliter, Airport Manager. He stated that the cadets were a fine group of young people and that a great group of adults volunteered their time to help them have a focus in life. He stated that last night they mentioned that they would like to be more involved in the city and he suggested that they could participate in Project ROMP.

Veterans' Memorials

Mayor Kelley stated that he had come across information that there were approximately 130 World War II veterans in Ormond Beach. He stated that the plaque in the Atrium listed about 80 names. He stated that he was making it his personal endeavor to recognize those other names. He stated that he found a way to contact them and would be pursuing that. He stated that he was also working on a small veterans' memorial which would probably start as a display case in the atrium. He stated that volunteers in the community wished for a greater recognition of the veterans. He stated that the veterans gave everyone the privilege of holding their positions.

Gateway Signage

Mayor Kelley stated that Ms. Shanahan had held meetings with a private individual that was going to assist the city in gateway signage. He stated that it would be significant.

Ms. Shanahan stated that she would like to workshop that item sometime after the first of the year. She stated that the design concept was being finished.

Pension Reform

Mayor Kelley stated that he would ask that each member of the Commission provide their thoughts and notes to Ms. Shanahan so that she could respond to a letter regarding the pension reform issue.

Commissioner Partington stated that after he sent his email he thought that maybe if the Mayor was to respond on behalf of everyone it might be better. He stated that he did not know the best way to handle it regarding the Sunshine Laws. He stated that suggestion was agreeable to him and that Ms. Shanahan could respond outlining their efforts over the last eight to ten years.

Mayor Kelley stated that he could not respond to Commissioner Partington's response. He stated that he felt that the people would like to know that they did know what they were facing, which was a huge unfunded pension liability and that they had been working very hard in negotiating that. He stated that he believed a response from the entire Commission and/or the City Manager was appropriate.

Holiday Greetings

Mayor Kelley wished everyone a Merry Christmas, happy holidays, and Happy Hanukkah.

Item #13 – Adjournment

The meeting was adjourned at 8:32 p.m.

APPROVED: January 8, 2012

BY:

Ed Kelley, Mayor

ATTEST:

J. Scott McKee, City Clerk