

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

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**March 3, 2015**

**7:00 p.m.**

**Commission Chambers**

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Present were: Mayor Kelley, Commissioners James Stowers, Troy Kent and Bill Partington, City Manager Joyce Shanahan, Assistant City Manager and Public Works Director 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. AUDIENCE REMARKS - REGARDING ITEMS NOT ON THE AGENDA**
- 5. APPROVAL OF MINUTES**

A. Minutes from City Commission meeting – February 17, 2015

**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. 2015-57** : A RESOLUTION SUPPORTING THE VOLUSIA COUNTY ACTION PLAN SETTING FORTH GOALS TO IMPROVE WATER QUALITY IN VOLUSIA COUNTY; AND SETTING FORTH AN EFFECTIVE DATE.

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

- B. **RESOLUTION NO. 2015-58** : A RESOLUTION AUTHORIZING THE EXECUTION OF A SATISFACTION OF A COMMUNITY DEVELOPMENT BLOCK GRANT IMPACT FEE LIEN FOR PROPERTY LOCATED AT 109 SOUTH WASHINGTON STREET, ORMOND BEACH, VOLUSIA COUNTY, FLORIDA; AND SETTING FORTH AN EFFECTIVE DATE.

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

- C. **RESOLUTION NO. 2015-60** : A RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT RENEWAL OF A DEBRIS REMOVAL, REDUCTION AND DISPOSAL SERVICES CONTRACT BETWEEN THE CITY OF ORMOND BEACH AND PHILLIPS AND JORDAN, INC.; AND SETTING FORTH AN EFFECTIVE DATE.

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

- D. **RESOLUTION NO. 2015-61** : A RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT RENEWAL OF A DEBRIS REMOVAL, REDUCTION AND DISPOSAL SERVICES CONTRACT BETWEEN THE CITY OF ORMOND BEACH AND CROWDER-GULF, INC.; AND SETTING FORTH AN EFFECTIVE DATE.

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

- E. **RESOLUTION NO. 2015-62** : A RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT RENEWAL OF A DEBRIS REMOVAL, REDUCTION AND DISPOSAL SERVICES CONTRACT BETWEEN THE CITY OF ORMOND BEACH AND ASHBRIIT, INC.; AND SETTING FORTH AN EFFECTIVE DATE.

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

- F. **RESOLUTION NO. 2015-63** : A RESOLUTION ACCEPTING A PROPOSAL FROM QUENTIN L. HAMPTON ASSOCIATES, INC. TO PROVIDE ENGINEERING DESIGN SERVICES REGARDING THE LIME SILO DUST COLLECTOR REPLACEMENT PROJECT; AUTHORIZING THE EXECUTION OF A WORK AUTHORIZATION THERETO; AND SETTING FORTH AN EFFECTIVE DATE.  
*Staff Contact:* John Noble, City Engineer (386-676-3269)
- G. **RESOLUTION NO. 2015-64** : A RESOLUTION AUTHORIZING THE EXECUTION OF AN INSTALLATION AND ACCESS AGREEMENT BETWEEN THE CITY AND BRIGHT HOUSE NETWORKS, LLC; SETTING FORTH AN EFFECTIVE DATE.  
*Staff Contact:* Ned Huhta, IT Manager (386-615-7031)
- H. **2015 Roadway Resurfacing**  
*Staff Contact:* John Noble, City Engineer (386-676-3269)  
*Disposition:* Approve as recommended in the City Manager memorandum dated March 3, 2015.
- I. **Surplus IT Property for Civil Air Patrol Cadet Program**  
*Staff Contact:* Ned Huhta, IT Manager (386-615-7031)  
*Disposition:* Approve as recommended in the City Manager memorandum dated March 3, 2015.
- J. **Auto Renew Contracts (Radio Control Club & Artifacts Loan Agreement)**  
*Staff Contact:* Robert Carolin, Leisure Services Director (386-676-3279)  
*Disposition:* Approve as recommended in the City Manager memorandum dated March 3, 2015.
- K. **Auto Renew Three Sports Agreement Contracts**  
*Staff Contact:* Robert Carolin, Leisure Services Director (386-676-3279)  
*Disposition:* Approve as recommended in the City Manager memorandum dated March 3, 2015.
- L. **Riverside Drive Closure – MS Family Fun Walk 3/7/2015**  
*Staff Contact:* Robert Carolin, Leisure Services Director (386-676-3279)  
*Disposition:* Approve as recommended in the City Manager memorandum dated March 3, 2015.
- M. **RFP 2015-20 Interactive Voice Response (IVR) System**  
*Staff Contact:* Kelly McGuire, Finance Director (386-676-3226)  
*Disposition:* Approve as recommended in the City Manager memorandum dated March 3, 2015.
- N. **Budget Status Report for October 2014 - December 2014**  
*Staff Contact:* Kelly McGuire, Finance Director (386-676-3226)  
*Disposition:* Approve as recommended in the City Manager memorandum dated March 3, 2015.
- O. **Assignment of Legislative Services Contract**  
*Staff Contact:* Joyce Shanahan, City Manager (386-676-3200)  
*Disposition:* Approve as recommended in the City Manager memorandum dated March 3, 2015.

**7. PUBLIC HEARINGS**

- A. **ORDINANCE NO. 2015-10** : AN ORDINANCE AMENDING THE FUTURE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP TO CHANGE THE DESIGNATION OF 1.91±-ACRES OF REAL PROPERTY LOCATED AT 240 WILLIAMSON BOULEVARD FROM VOLUSIA COUNTY "COMMERCIAL" TO ORMOND BEACH "LOW INTENSITY COMMERCIAL"; PROVIDING FOR TRANSMITTAL; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE. **(SECOND READING)**

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

**8. RESOLUTIONS**

- A. **RESOLUTION NO. 2015-59** : A RESOLUTION APPOINTING A MEMBER TO THE LEISURE SERVICES ADVISORY BOARD; SETTING FORTH TERMS AND CONDITIONS OF SERVICE; AND SETTING FORTH AN EFFECTIVE DATE.

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

**9. STAFF ACTION ITEMS**

- A. **City Gateway Signs**

*Staff Contact: John Noble, City Engineer (386-676-3269)*

**10. DISCUSSION ITEMS**

- A. **Discussion on Code Enforcement Procedures**

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

- B. **Dangerous Dogs**

*Staff Contact: Joyce Shanahan, City Manager (386-676-3200)*

**11. REPORTS, SUGGESTIONS, REQUESTS**

**12. ADJOURNMENT**

Item #1 – Meeting Call to Order

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

Mayor Kelley announced that Commissioner Boehm was absent because he had been hospitalized over the weekend, but noted he had just been released. He stated that his thoughts were with Commissioner Boehm and his family and wished him a speedy recovery.

Item #2 – Invocation

Pastor Timothy Mann, Providence Church, gave the invocation.

Item #3 – Pledge of Allegiance

Mayor Kelley led the Pledge of Allegiance.

Item #4 – Audience Remarks

Mr. Jim Cameron, Executive Vice President of Government Relations, Daytona Regional Chamber of Commerce, handed out a flyer to the City Commission regarding the annual Volusia Days event which would take place on March 25, 2015. He explained that a bus would leave from Daytona International Speedway and take locals to Tallahassee to sit down with legislators, and also some other state department heads and cabinet members, to speak with them about issues that affected Volusia County. He noted that a smaller group would also be traveling to Tallahassee on their own on March 24, 2015 to meet with key house and senate committee members to speak about flooding issues

and economic development. He stated that those who were interested could contact him.

Mayor Kelley thanked Mr. Cameron for taking the initiative to make sure this event happened.

Mr. Jim Schultz, 117 Harvard Drive, stated that he read there was a national vaccine injury compensation program. He noted that he did not realize that 80% of those compensated were adults. He stated that shoulder injuries from vaccinations were increasing due to those less skilled at giving vaccinations doing so because they were highly incentivized to do so. He cited examples such as Walgreens and CVS. He explained that when the needle was inserted a little too high it went into the synovial tissue in the shoulder which triggered an immune response. He stated that it could lead to permanent disability but more often affected them for a month or a year and could make their arm non-functional. He claimed that Walgreens and CVS had been settling such cases and preventing that from being reported to the national vaccine injury compensation program.

Mr. Schultz stated that Mr. Mike Wallace reported on the total failure of the flu vaccine which occurred in 1976 and that the vaccine injury compensation program paid \$3.5 billion in damages for that. He stated that the government had only paid out \$3 billion in the 30 years or so years since that time. He noted that only one to ten percent of vaccine injuries ever were reported, explaining that he believed that was due to injured individuals not knowing that their injuries might be a result of vaccines and from doctors discouraging that idea. He stated that the piece he referenced by Mr. Wallace was a "60 Minutes" piece from 1979 and it was one of the best ones he had ever seen.

Item #5A– Approval of Minutes

Mayor Kelley advised that the minutes of the February 17, 2015, regular meeting had been sent to the Commission for review and were posted 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 #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 moved, seconded by Commissioner Stowers, for approval of the Consent Agenda.**

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

Item #7 – Public Hearings

Mayor Kelley opened the public hearing.

Item #7A – 240 Williamson Blvd. Land Use Map Amendment

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2015-10

AN ORDINANCE AMENDING THE FUTURE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP TO CHANGE THE DESIGNATION OF 1.91± ACRES OF REAL PROPERTY LOCATED AT 240 WILLIAMSON BOULEVARD FROM VOLUSIA COUNTY "COMMERCIAL" TO ORMOND BEACH "LOW INTENSITY COMMERCIAL"; PROVIDING FOR TRANSMITTAL; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kent moved, seconded by Commissioner Stowers, for approval of Ordinance No. 2015-10, on second reading, as read by title only.**

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

Mayor Kelley closed the public hearing.

Item #8A – Leisure Services Advisory Board Appointment

City Clerk Scott McKee read by title only:

RESOLUTION NO. 2015-59  
 A RESOLUTION APPOINTING A MEMBER TO THE LEISURE SERVICES  
 ADVISORY BOARD; SETTING FORTH TERMS AND CONDITIONS OF  
 SERVICE; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Kelley stated that Ormond Beach Youth Soccer’s nomination, Mr. Robert T. Bowling, was employed by Brown & Brown Insurance, which had a contractual relationship with the city. He explained that pursuant to Section 2-205 of the *Code of Ordinances*, the conflict of interest may be waived by a two-thirds vote of the Commission.

Mayor Kelley noted that Mr. Bowling would be required to abstain from voting on any issue before the Leisure Services Advisory Board that was perceived as conflict of interest.

**Commissioner Kent moved, seconded by Commissioner Stowers, for approval of Resolution No. 2015-59, as read by title only.**

Mayor Kelley asked for the vote to be called on waiving the conflict:

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

Mayor Kelley asked for the vote to be called on approving the resolution:

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

Item #9A – City Gateway Signs

Mr. Paul MacDonald, Landscape Architect, stated that two proposed signs were provided to the Commission for review. He stated that one design was for the gateway area of Granada Boulevard and Interstate 95. He explained that there would be two of those signs located on the wing walls. He stated that there were also four other locations selected for upright monument signs which would be approximately 15 feet tall and would be constructed using materials shown at Andy Romano Beachfront Park.

Mayor Kelley clarified the sign designs when they were displayed on the projection screens.

Commissioner Kent asked about the lighting of the signs.

Mr. MacDonald replied that they would be lit from the ground. He explained that the monument signs would be installed in the Granada Boulevard medians east of Williamson Boulevard, on south A1A, and on south US1.

**Commissioner Kent moved, seconded by Commissioner Partington, for approval of staff’s proposal for city gateway signs.**

Mayor Kelley thanked Mr. MacDonald and staff for their hard work. He noted that they worked diligently to get the signs for a good value. He explained that he may know other individuals who might want to contribute some of the funding for the signs. He stated that

he would ensure that the individual already willing to donate was able to see these sign designs.

Commissioner Partington stated that he appreciated staff and the Commission working together back and forth for some time to get the right designs in place. He noted that a decision could have been rushed but because they did not they were receiving a better value and a better project. He stated that when he met with the City Manager regarding the signs, he used a quote from the 1954 movie "My Fair Lady" and said "by George, I think she's got it!" He noted that Mr. MacDonald listened to the Commission and citizens' input and produced a great result.

Commissioner Kent stated that gateway signage had been discussed for probably over ten years. He noted that the Commission had actually reviewed one sign that was upwards of \$300,000 in cost and had sea creatures jumping out of water on it. He explained that he kept going back to The Casements' sign, which was built in-house by the city for \$750. He stated that city staff listened to what the Commission was saying and had great architectural components in the design and noted that it kept the theme of Andy Romano Beachfront Park. He stated that he was so pleased that the signs were going to happen and be built at an extremely reasonable cost.

Mayor Kelley noted that Ms. Shanahan and staff came up with a very pleasant design despite their earlier issues. He explained that he did not like the wing walls, but after seeing this rendering of it he felt it would look great.

Ms. Joyce Shanahan, City Manager, stated that the next step in the process was to apply to the Florida Department of Transportation (FDOT) for a CAF (community aesthetic feature) permit.

Mayor Kelley asked if there were plans for the one on US1 in the future; whereby, Ms. Shanahan confirmed that there was.

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

#### Item #10A – Discussion on Code Enforcement Procedures

Mayor Kelley stated that Commissioner Partington wanted to examine code enforcement procedure issues. He noted that the topic had been examined over the year, as well.

Commissioner Partington distributed some materials to members of the Commission that he would reference during his comments. He stated that there was no particular case that instigated his request for a discussion item on the subject. He explained that he had been discussing improving the code enforcement system for several years now. He noted that he thought there were improvements that could be made, and he disagreed with the premise in staff's memorandum in the meeting agenda packet introducing the discussion item that the city was strictly limited to Section 162 of the *Florida Statutes*.

Commissioner Partington stated that he wanted to primarily focus on two issues with the code enforcement system, the first of which was quicker enforcement by the use of process servers in appropriate cases, rather than mailing certified letters of violation notices. He explained that it took 20 to 30 days to receive notice presently, whereas a process server would accomplish that in two or three days, which would in turn speed up compliance. He stated that he also wanted to focus on cases that were capable of repetition, yet evading review. He explained that he thought the best way to do that was to have the city move to enforce judgment and get an agreement to enforce the extinguishment of the nuisance quicker than going through the entire code process again, as they would have to do if the issue was dismissed after initial compliance was gained. He further explained that this measure would be taken after compliance was gained in cases where there was likely to be a reoccurring problem in the future, noting that he had been privy to a few such cases each year for the past decade or so. He stated that the code enforcement officers would know which cases this would apply to.

Commissioner Partington stated that the point was to be responsive to residents that were suffering nuisances that violated the city's codes. He noted that the first item in the packet was the Naples, Florida, code enforcement website. He stated that he liked their code enforcement website better than the city's and cited the contact information and

mission statement as features he wished to emulate. He read the mission statement as follows: *"The mission of the code enforcement division is to enhance and sustain the quality of life of our citizens"*. He noted that they also listed the objective of the code enforcement department and read it as follows: *"The purpose of code enforcement is to promote, protect and improve the safety, health and welfare of our citizens and this is accomplished by providing equitable, expeditious and effective enforcement of city codes."*

Commissioner Partington stated that the next page was a page from St. Petersburg's code enforcement website. He explained that St. Petersburg used two code enforcement procedures, the Special Magistrate Board and either county or circuit court enforcement. He noted that in order to decide the appropriate process to utilize, consideration was given to the extent and nature of the violations including any potential health or safety hazards. He stated that he was asking for more attention to the appropriate process to follow considering those factors, as well as the potential for re-offense, for the city's own enforcement procedures. He noted that he believed the city's code enforcement officers could tell during their initial call response whether a violator would likely be a reoccurring problem or not.

Commissioner Partington explained that he disagreed with the way that staff presented this item in the agenda packet. He read from the staff memorandum in the agenda packet as follows: *"Code enforcement procedures are established under the Code of Ordinances pursuant to Florida Statute 162. The City Attorney advises that local government authority to deviate from the statutory requirements is somewhat limiting."* He noted that this was indicative of the pushback he had received from city staff members the entire ten years he had tried to discuss this topic. He stated that staff did not want to do anything different or change anything and instead wanted to do it the way it had always been done. He noted that he had provided the Commission with an advisory legal opinion which stated that the legislature's code enforcement procedures set forth in *Florida Statutes Chapter 162* were *an additional or supplemental means* of securing compliance with local codes and *did not* preempt or otherwise operate to prevent a city from enforcing its codes by other means. He explained that Chapter 162 could be followed and abided by, but cities had total permission and power to create solutions for their code enforcement issues.

Mayor Kelley confirmed with Commissioner Partington that the opinion was given by the Attorney General in 2001.

Commissioner Partington stated that *Florida Statutes Chapter 162* recognized the authority of a municipality to use alternate methods for the enforcement of its ordinances and codes, which was what he was asking staff to do. He suggested using a process server to speed up delivery of the notice and to go after a final judgment in appropriate cases in order to get an agreement to handle future code enforcement procedures quicker. He noted that he thought staff could come up with ideas.

Mayor Kelley stated that he thought the procedure was handled pretty quickly. He asked if it was not. He stated that the state controlled what the city could and could not do. He noted that Commissioner Partington was an attorney and probably read the documents more thoroughly than he did, but he understood that there was a process that had to be followed and noted that a second offense could be handled quicker.

Commissioner Partington stated that it could be quicker if the procedure was handled properly which he stated the city was not presently doing so. He explained that he thought that the violation should be taken to the county or circuit courts in appropriate cases to get agreements in order to have the authority not to enter the procedure for the second offense and to go ahead and enforce the city's codes by whatever means necessary.

Mayor Kelley asked Commissioner Partington to clarify if he was speaking about the second violation issued after an initially cured first offense; whereby, Commissioner Partington confirmed that he was. Mayor Kelley noted that this issue had been discussed for years, and he had attended several Special Magistrate hearings. He stated that he often wondered why the city only held Special Magistrate hearings every other month as that would delay proceedings.

Commissioner Partington stated that having the hearings more frequently, perhaps every month, would speed up the process. He noted that the last two pages in the materials he handed out were flowcharts of how the city handled code enforcement

complaints with site maintenance. He stated that the first chart showed a wait time from the certified receipt at between ten and 30 days *if ever*. He explained that was why he suggested using a process server. He asked for staff to bring back to the Commission some outside of the box options. He asked other members of the Commission to chime in if they agreed or had ideas. He noted that Ms. Shanahan participated in work days within the city and spent days in different departments observing and working with that team. He asked Ms. Shanahan to spend a day as a code enforcement officer in the neighborhood improvement division. He asked Ms. Shanahan to ask those officers what improvements they would make to enforce the city's codes and prevent reoccurring cases from happening. He noted that he felt those types of cases happened far too often. He stated that he received many calls about cases such as homes being rented out as vacation properties and dog issues, particularly at one home recently. He stated that the smallest amount of violations took up the most time and were the biggest offenders.

Commissioner Kent asked if the home Commissioner Partington mentioned was the one he had received emails about, including one that day saying that it was in compliance now.

Ms. Shanahan stated that there had been an issue of a dog-sitting service in a home. She stated that she believed that they may be in compliance presently, noting that they were several issues this week.

Commissioner Partington stated that there had been a couple of issues lately and the one he was speaking about he did not believe was the same one. He clarified that the one he had mentioned was where the dangerous dog issue arose from.

Mayor Kelley noted that individuals operating businesses in their homes against code regulations often suggested that they were receiving donations or just providing services free of charge to their friends and that it was difficult to enforce the code unless they were caught in the act. He noted that the state spelled out that individuals had a right to due process. He explained that he would be against changing their procedures in a way which would eliminate that. He stated that he would not want to be convicting individuals without due process. He stated that he would be interested in seeing an updated ruling or explanation of the Attorney General opinion from 2001 that Commissioner Partington had shared. He asked for it to be clarified whether they had to abide by *Florida Statutes* Chapter 162.

Mr. Randy Hayes, City Attorney, stated that there were multiple parts to the question. He explained that under the statute alternative forms of code enforcement could be used in addition to what was on the books. He explained that originally the city, like other cities, had a code enforcement board, which changed to the Special Magistrate system around 1998, as it was perceived to be more efficient. He stated that the Special Magistrate system had to comply with the same requirements as a code enforcement board would, including due process requirements, notice requirements, and curative periods. He stated that the ordinance the city presently had conformed to those statutory requirements.

Mr. Hayes explained that the city *was allowed*, as Commissioner Partington stated, to use alternative methods. He stated that one such alternative method would be a notice of violation in county court. He noted that he had tried that in the past and it worked but did not work well. He stated that he thought improvements to the present system that could be looked at would be from the operational aspect. He explained that the city's enforcement was complaint driven and officers were not patrolling for violations. He stated that by statute and by ordinance there had to be a curative period for the violator. He provided an example of a barking dog that was incessantly barking. He stated that if the dog was barking for ten minutes or more they could be given a notice to appear before the Special Magistrate. He stated that in that instance maybe ten or 15 minutes would be an appropriate period to obtain compliance and then issue a violation if they could not. He stated that if the example was someone failing to obtain a permit for the construction of a home, 24 hours might be an appropriate period. He noted that more substantial violations may need up to 30 days to be remedied. He stated that there was discretion built into the statutes for different circumstances.

Mr. Hayes stated that the barking dogs and dangerous dogs generated the most intensity for the neighbors for obvious reasons. He suggested shortening the response period for those types of violations. He stated that if the violation reoccurred, they could

still go to the Special Magistrate, which met once a month. He stated that the process could be expedited by convening those hearings once a week instead of once a month.

Mayor Kelley confirmed that the Special Magistrate met once a month with Mr. Hayes, noting that earlier he had mentioned that it was every other month.

Mr. Hayes stated that if they were convened weekly, or more frequently, those with notices of hearing would not have to wait 30 days to appear before the Special Magistrate, and also those who had not complied could get before the Special Magistrate sooner. He explained that once someone was found in violation they were not given a second cure period once the violation reoccurred and instead went straight to a Special Magistrate Hearing and the fines increased. He stated that a first time offender would incur fines anywhere from \$0 to \$250 per day per violation and repeat offenders, defined as someone who had been found by the Special Magistrate to have committed the same violation within a five-year period, would have their fine doubled up to \$500 a day.

Mr. Hayes noted that the process in county court would not be any quicker than it was before the Special Magistrate. He suggested the way to speed the process up was to hold more Special Magistrate hearings more frequently. He noted that the fines also captured the violators' attention. He stated that there were things that the city was continuing to evaluate in terms of improving the process. He explained that there were some violations that were by nature more problematic, including the dog issues. He stated that if the Commission desired the use of an alternative method, it was possible to do so; but he noted that he did not know that it would be more effective than the current process. He explained that was not blowback on his part but just his personal experience.

Mayor Kelley stated that one of the issues seemed to be the timing of the service of the notice of violation. He stated that a certified letter used to be received the next day.

Ms. Shanahan stated that the issue was whether or not the individual signed for it. She stated that currently the notice was being sent by certified mail and regular mail and delivery was presumed if the regular mail was not returned.

Mayor Kelley stated that he often had process servers that had to call him and track him down to serve him and suggested that may occur with other individuals, as well. He asked if the process server could leave the notice on the door.

Mr. Hayes stated that was a different system. He offered to read from *Florida Statutes* Section 162.12, as the city's ordinance conformed to that statutory requirement. He read as follows: "*All notices required by this part must be provided to the alleged violator by a) certified mail, b) hand delivery by the sheriff or other law enforcement officer, code inspector or other person, c) leaving notice at the violators' usual place of residence with any person residing therein who is above 15 years of age; in case of commercial premises, leaving the notice with the manager; and in addition to providing notice as set forth in the above, at the option of the magistrate or enforcement board, notice may be served by publication.*" He stated that those were the statute requirements for notice, but he explained that the city could do things to supplement that notice.

Mayor Kelley stated that the Commission had reviewed the process with Neighborhood Improvement Division Manager Joanne Naumann for years. He stated that he thought that it was what it was. He stated that the Commission could not make the results any different by doing it any faster.

Commissioner Partington stated that it was not getting better and he continued to hear about repeat violations, and as such he would continue to push for improvements for his residents that had to deal with these nuisances on a repeated basis when the city was failing to cure them as quickly as possible.

Mayor Kelley stated that was a different thing.

Commissioner Partington replied that it was not. He stated that he was making recommendations and asking staff to fix the problem. He stated that there were things that could be done that were not being done and that was why he was bringing this forward as an issue in the city.

Mayor Kelley noted that Commissioner Partington must receive more complaints than he did. He stated that if a violator was doing the same thing time and again it was one thing. He stated that if different people were doing similar violations that was another thing. He noted that he thought that most individuals would comply once they went through the enforcement process.

Commissioner Stowers noted that he dealt with some of these issues in his area of legal practice. He explained that he had clients who were both the recipients of violation notices, and also those who were the advocates of code enforcement against their neighbors. He stated that there was a high level of frustration in both areas and inevitably the end position of the individual involved was to call their elected official with their concerns. He noted that he knew that was part of what they signed up for as elected officials and he took it with a grain of salt. He stated that it was often one of the tougher parts of the job because sometimes personal squabbles turned into a city or political issue.

Commissioner Stowers stated that in every local government he had worked with clients in, there was a high level of frustration with the timing of the hearings. He explained that he had individuals who he advocated for who had neighbors that knew exactly when the time processes were and would call right before the time lapsed to receive another month extension. He stated that he would be open to looking at increasing the number of Special Magistrate hearings, even if they occurred biweekly. He noted that he believed a set fee was paid per meeting. He cited an example of a situation he handled back in November where he was told that the code enforcement hearing would not be until the first week of February due to the holidays. He noted that the violation had been one that was known since summertime, and his clients had to deal with the issue until February.

Commissioner Stowers stated that he thought the amount of the fine levied was up to the Special Magistrate. He noted that he found that in most cases the fines were not excessive, noting that code enforcement was not meant to be punitive but to bring the offender into compliance. He stated that he would be in favor of the Commission coming up with a list of the types of cases that were a priority, in terms of fines being levied at the higher range, he explained that it would not be specifically directing the Special Magistrate what to do but just informing them that the City Commission discussed the topic at a public meeting, spoke to their constituents and identified certain violations as ones which they felt should have higher fines levied. He noted that the Special Magistrate might reduce fines for items that the city felt strongly about. He explained that he had been to some Special Magistrate hearings in Ormond Beach and saw violations which he thought should receive higher daily fines, but in order to obtain compliance not receive them. He noted that he was not being critical of the Special Magistrate.

Mayor Kelley stated that he could remember a few instances where an individual had to go before the Special Magistrate and plead their case and promised to correct the issue. He went on to say that those individuals were given time to correct the issue and then two months passed before they went back to another Special Magistrate hearing. He asked if they were still in violation if they came into compliance. He noted that the issue was a frustrating one and he had lost sleep over it before. He stated that the city needed to do everything they could to bring the violators into compliance as reasonably as they could and with due process. He suggested that making the process move faster would improve it. He stated that he thought the Special Magistrate used to hold hearings every other month some time ago.

Mr. Hayes stated that the city wanted to improve the level of service and responsiveness and were not opposed to trying anything. He noted that he did not think anyone in the city would express reservations with the effectiveness of an idea because they just did not want to do it. He noted that city staff was paid to make sure the process ran efficiently. He noted that he had many years of experience in this area and felt that there were things that could be tried operationally first to see if that would help improve the process. He suggested that having the hearings occur more frequently would be a good start. He suggested that making a concerted effort to get findings of violation quickly, even if a fine was not initially assessed; and if the violation reoccurred, they would not receive another cure period and instead would receive a notice of hearing as a repeat offender. He noted that it could be possible to receive two hearings in a 30-day period, if that was the case.

Mayor Kelley asked if the state allowed the city to do that.

Mr. Hayes replied that it would conform to the state statute. He noted that there were avenues they could explore operationally first. He stated that if those did not work then they could revisit other options such as a new system or supplemental system. He explained that there had been instances of egregious violators, and his office had discussed whether it was more appropriate to take such violators to county court instead of the Special Magistrate. He noted that the drawback to that was the time involved, as the action had to be filed in county court and then served on the individual. He stated that it had been a long time since they had such an instance in Ormond Beach. He noted that staff heard the Commission's concerns and asked for the opportunity for staff to work on the issue.

Mayor Kelley stated that he thought that was what Commissioner Partington was asking for.

Ms. Shanahan stated that the website and the communication regarding the procedures with the complainant and violator could certainly be improved, also.

Mayor Kelley noted that Commissioner Stowers had mentioned violators working the system. He stated that he knew individuals knew the system and also that some individuals would go around finding violations and reporting them if they were cited themselves in retaliation.

Commissioner Kent stated that Ms. Naumann went and gave community informational presentations about code enforcement issues. He noted that she came with storyboards of 20 homes and asked the participants to find the homes with violations. He explained that he went to one of these sessions when he was first elected, noting that his zone in particular needed a lot of help since it did not have many gated communities with regulations. He noted that every home on her board had a code enforcement violation. He suggested that Ms. Naumann get out in the communities that had code enforcement problems to educate them.

Commissioner Kent noted that Mr. Hayes mentioned barking dogs and that he did not see anything in the meeting materials regarding that. He asked Mr. Hayes if he missed something. He stated that he was a dog lover and had inherited two small dogs. He explained that the two dogs, especially one of them, would bark at squirrels when they were outside. He noted that no one wanted to live next to someone with a dog incessantly barking, but at the same time, he felt that government should get out of his life a little bit. He stated that if the dog went out back and barked for a minute that was just what dogs did. He explained that 14 years prior, before he was elected and before Ms. Naumann headed code enforcement, he was told by the city that his large dog was barking unprovoked. He stated that he had asked the code enforcement official where they were when they heard this unprovoked bark, and they told him they were standing in front of his gate. He noted that the official was on his property and the dog was barking because he was on his property telling that person to back off. He stated that he wanted to note that Mr. Hayes mentioned this topic to see where they were going with it.

Mr. Hayes stated that he mentioned it because animal complaints tended to be some of the more challenging code enforcement complaints. He noted that in barking cases, sometimes code enforcement personnel showed up and the dog was no longer barking.

Commissioner Kent asked if there was something in the agenda packet he missed about dogs barking.

Mr. Hayes replied that there was not. He clarified that he brought it up as an example of an illustration of a complaint type. He explained that in the city's code an incessant barking dog would be barking for ten minutes or more. He noted that a complaint about that would still have to be documented by the code enforcement officer. He stated that if it was verified, a curative period would have to be given. He noted that for such an instance that period may be ten minutes; and if they could not comply, then they would be given a notice of violation and a hearing with the Special Magistrate.

Commissioner Kent stated that it would be extremely beneficial if Ms. Naumann performed more educational outreach. He stated that it had been very informative when he attended.

Mayor Kelley noted that a previous Zone 2 City Commissioner brought the barking dog ordinance about. He stated that he believed city staff had direction from the Commission on the code enforcement process.

### Item #10B – Dangerous Dogs

Commissioner Partington stated that at the first meeting in January, upon the first reading of the city's amendment to the dangerous dog ordinance, Commissioner Boehm brought up some concerns about the 'one free kill' policy. He noted that he had not thought that much about it at the time, but he stated that a few weeks ago in his zone a pit bull broke its chain and went to the neighbor's Yorkie and shook it violently, causing so much damage that the Yorkie had to be put to sleep that evening. He explained that it brought Commissioner Boehm's words to life for him when he saw how much the family loved their dog and how sad and depressed they were at its loss. He noted that pets were a member of a lot of peoples' families. He stated that he thought that Commissioner Boehm was right and requested that the Commission vote to make the topic a legislative priority. He stated that their lobbyist should know about it and that Ms. Shanahan could perhaps draft a letter to send from the Commission to their legislative delegation, or contact the delegation, to advocate eliminating the 'one free kill' rule on the dangerous dog legislation.

Mayor Kelley stated that it would not get on this year's legislative session, noting that they had already been informed of that. He further noted that it did not hurt to make them aware of it, however.

Ms. Shanahan stated that they could start by writing a letter.

Mayor Kelley stated that he was often frustrated by state regulations that cities had to abide by but that the state did not. He explained that it frustrated him when the city did not have control or input on local issues.

Commissioner Kent noted that he knew Commissioner Partington was preparing to make another trip up to Tallahassee. He stated that Commissioner Partington did a great job of getting his point across, and he hoped he would have an opportunity to also mention this when he was speaking to legislators. He noted that he thought it was important for Commissioner Partington to share his firsthand account.

Commissioner Partington asked Ms. Shanahan if she had the language to change; whereby, Ms. Shanahan stated that she did.

### Item #11 – Reports, Suggestions, Requests

#### Upcoming Workshop

Ms. Shanahan stated that she had some workshops that she needed to move around and did not know which workshop would be on March 17, 2015.

#### Strategic Planning

Ms. Shanahan stated that she was still working with Ms. Marilyn Crotty to schedule the Community Conversation Workshops with citizens prior to scheduling the City Commission's Strategic Planning Session.

#### June Meeting Date Change

Ms. Shanahan stated that the June City Commission meetings were scheduled for June 2, 2015, and June 16, 2015. She stated that Mayor Kelley had a conflict and had inquired about moving the June 16 meeting to June 23, 2015.

Mayor Kelley asked if it would affect any other members of the Commission if they moved the meeting date. He noted that there would be less of a break between the June meeting and single July meeting, if the date was moved.

The Commission confirmed that they were fine with the meeting date change.

Commissioner Kent asked Ms. Shanahan to have her assistant send an email with the date change so he could change his calendar.

#### Reel in the Fun Fishing Tournament

Ms. Shanahan stated that the Reel in the Fun Fishing Tournament was a great success. She noted that approximately 50 participants signed up and about 40 attended. She stated that sadly only 11 fish were caught, as it was not a good day for the fish to be biting. She cited Commissioner Kent's statement of that was why they called it fishing and not catching.

#### Hazardous Household Waste Amnesty Day

Ms. Shanahan stated that the Hazardous Household Waste Amnesty Day was wildly successful. She stated that a record 612 cars went through to drop off waste.

#### Shining Stars Pageant

Ms. Shanahan stated that the Shining Stars Pageant and Fashion Show made a video that would be put up on the website.

#### Community Gardens

Ms. Shanahan stated that registration began for the community gardens. She noted that the plots were more than halfway sold out.

#### Movies on the Halifax

Ms. Shanahan stated that *Maleficent* would again be the Movie on the Halifax on March 6, 2015.

#### Meeting with the Manager

Ms. Shanahan stated that Meeting with the Manager would be held on Monday, March 9, 2015, at 6:00 p.m. She noted that she would see if perhaps Ms. Naumann could join her.

#### Traffic Signal Mast Arm Painting

Ms. Shanahan stated that traffic signal mast arm painting would begin on Nova Road after Bike Week.

#### Signs at OBSC

Ms. Shanahan stated that there were new way-finding signs going up at the Ormond Beach Sports Complex.

#### Walking with the Manager

Ms. Shanahan stated that Mr. MacDonald had served as guest walker for Walking with the Manager the past week and they had walked the downtown and A1A to look at medians. She noted that there was good participation.

#### Gateway Signs

Ms. Shanahan thanked the Commission for their patience and for pushing staff hard with regards to the welcome signs. She stated that she believed they would be very proud of the result and were looking forward to getting started.

#### Reel in the Fun Fishing Tournament

Commissioner Partington noted that he heard Mr. Ted MacLeod, Assistant City Manager and Public Works Director, quietly say during the fishing tournament discussion that it was a good day for the fish.

Commissioner Partington stated that he attended the tournament as did Commissioner Kent. He stated that the children had a great time. He noted that a girl near him almost caught an eel that managed to escape on some weeds when it was being pulled in. He stated that he was told that would not have counted anyway since it was not a Florida Freshwater Fish and Game Commission approved fish.

Commissioner Kent stated that if it was on his kids' fishing pole, they would have had a hard time telling him that it was not a fish.

Commissioner Partington stated that the girl was excited and he was looking forward to seeing what would happen if she was able to get it on the dock as it was very active. He noted that it was a little overcast and not many fish were caught, but it was still a great time.

Mayor Kelley stated that Commissioner Kent started the idea of the fishing tournament. He thanked Commissioner Kent for that idea and for the idea of Movies on the Halifax. He explained that those ideas and the Commission each bringing different ideas to the table were part of what made the community great.

Commissioner Partington stated that the flyer that Commissioner Kent suggested be put in every elementary school child's backpack made all the difference in selling out the event. He noted that his daughter had received one of them. He

explained that during the tournament he took his nephew to the restroom and as he was waiting outside he overheard a woman say that she had intended to take her children to see the Globetrotters in Orlando and spend \$180 to do so, but when her child received the flyer for the fishing tournament he decided he wanted to do it instead. He noted that the woman saved \$180 and her children caught fish and had a great morning. He commended Commissioner Kent on that idea. He noted that Leisure Services Director Robert Carolin told him that now that they knew they could advertise with flyers in that manner, it would be a benefit for future appropriate programs.

#### Halifax Hospice Opening

Commissioner Partington stated that he attended the grand opening of Halifax Hospice in Ormond Beach. He noted that the facility was fantastic and was a \$6 million investment in the community. He stated that their only other similar facility on this side of the county was located in Port Orange. He stated that he thought in 50 years when he was 97 years old and probably in the facility, he could tell everyone that he was there when it opened. He stated that Mr. Rick Fraser joked that by that time he would have forgotten he was ever there.

#### Kiwanis / Community Gardens

Commissioner Partington stated that the International President of Kiwanis was in Ormond Beach and had presented a token of their 100 year anniversary for Mayor Kelley to put in his office. He explained that they toured Central Park and looked at the community gardens with the Presidents of the Ormond Beach and Daytona Beach Kiwanis Chapters. He stated that Mr. Alan Burton, President of the Ormond Beach Kiwanis, gave him a check for \$500 for a tree planted in memory of one of their members on Arbor Day, which he provided to Ms. Shanahan. He stated that the local Kiwanis chapter applied for a \$5,000 community grant for the community gardens, which was approved and would be forthcoming to the city.

Commissioner Kent noted that \$6,000 was needed to complete the community gardens project.

Commissioner Partington stated that the other \$1,000 was coming from the Daytona Beach Kiwanis. He noted that the Commission may not get an opportunity to have a community garden plot as they were selling very quickly. He stated that on the first day of registration there were individuals waiting in the parking lot for staff to open the doors. He suggested that those who wanted a plot needed to reserve it quickly before they sold out.

Mayor Kelley asked if the Commission would have their own; whereby, Commissioner Partington noted that he had mentioned the Commission having one if there was one available, but that he did not want to take the spot of someone else if it could be sold.

#### Commissioner Boehm

Commissioner Partington stated that his thoughts and prayers had been with Commissioner Boehm, his daughter and his entire family. He noted that he was glad that Commissioner Boehm was home and resting. He hoped that he received plenty of rest and looked forward to seeing him at the next meeting.

Commissioner Stowers stated that his thoughts and prayers were with Commissioner Boehm. He noted that he saw Commissioner Boehm the previous Friday at the YMCA, where he often ran into him. He stated that Commissioner Boehm was always asking about weight and giving him an update. He noted that he knew that Commissioner Boehm was probably thinking about the team and getting back to the YMCA. He hoped Commissioner Boehm would get better soon.

#### Alan Watts Passing

Commissioner Stowers noted that he attended the funeral of Mr. Alan Watts last week. He stated that it had been a huge outpouring of support. He explained that he mentioned Mr. Watts, not just because he was a colleague of his that he would always remember as one of the best lawyers he would ever know and someone he would always aspire to be like, but also for his role in Ormond Beach. He noted that he had been in attendance before he was on the City Commission when the Cheaters discussion began. He explained that he remembered the city reaching out to Mr. Watts for access to his brain to try and figure out how to navigate that process. He noted that Mr. Watts followed through and provided outstanding

service. He stated that Mr. Watts' vision came through. He explained that Mr. Watts was one of the founding fathers of impact fees in Florida and an advocate for the environment, as well as for balance. He stated that Mr. Watts would be missed by many but would certainly be missed by him.

Commissioner Kent stated that Commissioner Stowers had kind words about Mr. Watts and thanked him for sharing them.

#### Commissioner Boehm

Commissioner Kent stated that the Kent family had Commissioner Boehm and his daughter in their prayers. He noted that he was pleased to hear that Commissioner Boehm went home that evening.

#### Movies on the Halifax

Commissioner Kent stated that he and his son would be at Movies on the Halifax enjoying *Maleficent*, which was a great feel-good movie which he encouraged all to see.

#### Coffee with the Commissioner

Commissioner Kent stated that he wanted to have Ms. Naumann at his next Coffee with the Commissioner, which would be held on the first Monday in April. He stated that he would like to schedule Ms. Naumann to attend it once a year, as it would be something great for his community.

#### Reel in the Fun Fishing Tournament

Commissioner Kent stated that he had gone fishing with his son for four years. He explained that he started taking him when he was three and then stopped until he was well into being four years old, and he was now eight years old. He noted that this was the second tournament he attended with his son, and also the second one where his son did not receive a bite on his line. He stated that he knew how to catch fish and had bread, bologna and worms from his backyard as bait. He noted that when his son was hungry he could eat the bread and bologna. He stated that he knew that when the flyers for the tournament were delivered to the elementary schools that they would sell out the tournament. He noted that the tournament entries were limited to 40 teams. He explained that he did not want to turn away anyone who wanted to fish with their family. He stated that at one point he told his son that he was the winner of the tournament in his eyes because at eight years old he had been at the tournament for an hour and not complained one time.

#### Proclamations

Commissioner Kent stated that he was able to watch an ESPN Sports Center Special on the World Series umpires the past year. He noted that Mr. Hunter Wendelstedt from Ormond Beach umpired those seven games and did an excellent job. He stated that he would like for the Commission to honor Mr. Wendelstedt in the Commission Chambers with a proclamation. He noted that he had two more individuals he felt should be honored, as well. He stated that the first was Ms. Lisa Anderson, who was a four-time world professional surfing champion. He explained that Ms. Anderson had lived in Ormond Beach since she was a child. He stated that he wanted her to be honored for her professionalism, her contribution to the sport, and the way she represented herself and the community. He stated that the other person he wanted to honor was Mr. Brian Kelley, Mayor Kelley's son and member of the country duo Florida-Georgia Line. He explained that Brian had represented himself, his parents, and the community in such a positive way. He noted that he did not feel that Mayor Kelley should reach out to invite him and that all of these individuals should be contacted by staff to reach out and get them into the Commission Chambers for their proclamations.

Mayor Kelley stated that he would love to have Brian and that he and Ms. Shanahan had talked about trying to pursue that idea. He stated that Brian would love to come back and perform a concert for the community.

#### Future Fishing Tournament

Commissioner Kent noted that the next fishing tournament would be on the beach. He stated that the rules would need to be tweaked a little bit as children could not throw out surf rods by themselves, but they could reel them in. He explained that he wanted to make sure that was noted.

Bethune-Cookman The Cat Radio Station

Mayor Kelley stated that he attended the unveiling of the new radio station The Cat, formerly known as WELE, which radio personality Big John gave to Bethune-Cookman University. He noted that he thought it was a neat presentation. He stated that President Edison of Bethune-Cookman University had told him that he wanted to get Ormond Beach involved, and it was great they had their own radio station in Ormond Beach.

Reading

Mayor Kelley stated that the previous day he read to children at Tomoka Elementary for Dr. Seuss' birthday. He stated that it was a joy to do so. He noted that he believed the most important aspect of education was learning to read.

Item #12 – Adjournment

The meeting was adjourned at 8:25 p.m.

APPROVED: March 17, 2015

BY:

\_\_\_\_\_  
Ed Kelley, Mayor

ATTEST:

\_\_\_\_\_  
J. Scott McKee, City Clerk