

**ORMOND BEACH CITY COMMISSION MEETING
HELD AT CITY HALL COMMISSION CHAMBERS
December 15, 2009 7:00 p.m.**

Present were: Mayor Fred Costello, Commissioners Ed Kelley, Troy Kent, and Bill Partington, City Manager Joyce Shanahan, Assistant City Manager Ted MacLeod, City Attorney Randy Hayes, and City Clerk Veronica Patterson. Absent: Commissioner Lori Gillooly.

A G E N D A

- 1) Meeting call to order by Mayor Costello.
- 2) Invocation by Rabbi Jerry Miller, Beth Judah Messianic Congregation.
- 3) Pledge of Allegiance.
- 4) **PRESENTATIONS:** Volusia Council of Governments.
- 5) **AUDIENCE REMARKS:**
- 6) **APPROVAL OF THE MINUTES** of the December 1, 2009, meeting.
- 7) **CONSENT AGENDA:** The action proposed is stated for each item on the Consent Agenda. Unless a City Commissioner removes an item from the Consent Agenda, no discussion on individual items will occur and a single motion will approve all items.
 - A) Resolution No. 2009-205 authorizing the execution of an Event Specific Operational Assistance Mutual Aid Agreement with the City of Daytona Beach, the Volusia County Sheriff's Office, and participating agencies. (Police Chief)
 - B) Resolution No. 2009-206 accepting the bid of AAA Fence Company of Daytona Beach, Inc., regarding the Southwest Quad Perimeter Fencing project at the Ormond Beach Municipal Airport; authorizing the execution of an agreement and payment therefore; rejecting all other bids. (100% FDOT grant - \$28,490) (Airport Manager)
 - C) Resolution No. 2009-207 accepting the proposal of Wilbur Smith Associates, Inc., regarding the preparation of an Energy Strategy and Plan (RFP 2009-20); authorizing the execution of an agreement; rejecting all other proposals. (100% Energy Efficiency and Conservation Strategy Block Grant - \$48,900) (Planning Director)
 - D) Resolution No. 2009-208 authorizing the submittal of a grant application to the Florida Department of Homeland Security under the Staffing Adequate Fire and Emergency Response (SAFER) grant program for assistance relative to funding two firefighter positions; authorizing the execution of all documents incidental thereto, including any contract necessary for the City to accept the grant award. (\$112,000 maximum funding) (Fire Chief / Grants Coordinator)
 - E) Letter of Support for the Halifax Heritage Byway Corridor Advocacy Group.

DISPOSITION: Approve as recommended in City Manager memorandum dated December 10, 2009.
 - F) Proposed Amendment to the Daytona Chamber of Commerce (Business Development Partnership) service contract.

DISPOSITION: Approve as recommended in City Manager memorandum dated December 10, 2009.
 - G) Community Development Block Grant (CDBG) – FY 2009-2010.

DISPOSITION: Approve as recommended in City Manager memorandum dated December 10, 2009.

8) **PUBLIC HEARINGS:**

- A) Resolution No. 2009-209 of the City Commission of the City of Ormond Beach, Florida, declaring an intent to amend the Comprehensive Plan based upon recommendations contained in the final Evaluation and Appraisal Report; authorizing transmittal. (Planning Director)
- B) Resolution No. 2009-210 authorizing the execution of a nonexclusive franchise agreement between the City and Sunshine Recycling, Inc., regarding the collection of construction and demolition debris. (Public Works Operations Manager)

9) **SECOND READING OF ORDINANCES:**

- A) Ordinance No. 2009-58 of the City of Ormond Beach, Florida, making determinations regarding the height of an existing building and the proposed building located at 51 South Atlantic Avenue, known as the Royal Floridian Condominium, and 53 South Atlantic Avenue, known as the Royal Floridian South Condominium, granting certain vested rights relative thereto. (Planning Director)
 - B) Ordinance No. 2009-59 of the City of Ormond Beach, Florida, making determinations regarding the height of an existing 95 unit building located at 89 South Atlantic Avenue, known as 89 Oceanfront Condominiums, granting certain vested rights relative thereto. (Planning Director)
 - C) Ordinance No. 2009-60 of the City of Ormond Beach, Florida, making determinations regarding the height of an existing 21 unit building located at 99 South Atlantic Avenue (Parcel No. 4214-28-00-2500), known as Oceanside 99 Condominium; granting certain vested rights relative thereto. (Planning Director)
 - D) Ordinance No. 2009-61 of the City of Ormond Beach, Florida, making determinations regarding the height of an existing 53 unit building located at 111 South Atlantic Avenue, known as Atlantis Condominium; granting certain vested rights relative thereto. (Planning Director)
 - E) Ordinance No. 2009-62 of the City of Ormond Beach, Florida, making determinations regarding the height of an existing 56 unit building located at 395 South Atlantic Avenue, known as Tidesfall Condominium; granting certain vested rights relative thereto. (Planning Director)
 - F) Ordinance No. 2009-63 of the City of Ormond Beach, Florida, making determinations regarding the height of two existing buildings containing 42 units located at 591 South Atlantic Avenue, known as Tropic Sun Towers Condominium; granting certain vested rights relative thereto. (Planning Director)
 - G) Ordinance No. 2009-64 of the City of Ormond Beach, Florida, making determinations regarding the height of an existing 104 unit building located at 759 South Atlantic Avenue, known as Georgian Inn Beach Club; granting certain vested rights relative thereto. (Planning Director)
 - H) Ordinance No. 2009-65 of the City of Ormond Beach, Florida, making determinations regarding the height of an existing 27 unit building located at 901 South Atlantic Avenue, known as Aliki Atrium Condominium; granting certain vested rights relative thereto. (Planning Director)
 - I) Ordinance No. 2009-66 of the City of Ormond Beach, Florida, making determinations regarding the height of an existing 156 unit building located at One John Anderson Drive, known as the Ormond Heritage Condominium; granting certain vested rights relative thereto. (Planning Director)
 - J) Ordinance No. 2009-67 of the City of Ormond Beach, Florida, making determinations regarding the height of an existing building located at 875 Sterthaus Drive (Parcel No. 4241-01-05-0070), and formerly known as the Ormond Memorial Hospital; granting certain vested rights relative thereto.
- 10) **FIRST READING OF ORDINANCE** No. 2009-68 amending Division 3, Purchasing, of Article IX, Financial Matters, of Chapter 2, Administration, of the Code of Ordinances, by creating Section 2-304, Local Vendor Preference Program; providing conditions and exemptions therefrom. (Finance Director)

11) **DISCUSSION ITEMS:**

- A) Timing of the annexation of a Volusia County project known as Imperial Foam located at 2360 Old Tomoka Road. (Planning Director)
- B) Aircraft Noise Abatement Task Force Report and Recommendations. (Airport Manager) (Audience members will be allowed to speak.)

12) **REPORTS, SUGGESTIONS, REQUESTS:** Mayor, City Commission, City Manager, City Attorney.

13) **CLOSE THE MEETING.**

Item #1 – Meeting Call to Order

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

Item #2 – Invocation

The invocation was giving by Rabbi Jerry Miller, Beth Judah Messianic Congregation.

Item #3 – Pledge of Allegiance

The Pledge of Allegiance was led by Mayor Costello.

Item #5 – Audience Remarks

Airport User Fees

Sean Daly, Northbrook, stated the idea on airport user fees for “touch and go” landings arose at a meeting of the Aircraft Noise Abatement Task Force and suggested the City implement the policy. He stated airport users throughout the state come here for “touch and go” practice and should pay for the service. Mr. Daly stated those already paying for hangar rent should not pay an additional fee, but others should pay.

Cumberland Flooding

Irene Todora, 340 Cumberland Avenue, stated her home had been damaged by flooding because the City allowed three homes in her neighborhood to be elevated. She stated her neighbors, the Whitleys, 350 Cumberland Avenue, had gotten a FEMA grant to elevate their home and pool with a proposed plan which included bringing in truckloads of fill dirt. She stated this issue had been discussed at a City Commission meeting in February, and the City understood the neighbors were concerned about the Whitleys’ proposed elevation that would cause more flooding for the neighbors. She reported that City Manager Shanahan had offered to have an independent engineer review the proposed plans to make a determination regarding any effects on neighboring properties.

Mayor Costello stated the City was paying for an independent engineer to review the Whitleys’ plans to ensure no neighboring properties would be negatively affected because the City was not going to allow any construction that would cause any additional water flow to neighboring properties.

Frank Todora, Daytona Beach Shores, formerly of 340 Cumberland Avenue, stated concern that the engineer, Mr. Kumar, at a meeting with staff did not know about the flooding situation with four homes on Cumberland Avenue. He stated these homes did not flood until the elevated homes on Putnam Avenue were allowed to be built.

H1N1 Virus

Jim Schultz, 117 Harvard Drive, stated the Center for Disease Control reported statistics on the H1N1 virus showed a sharp decline in cases, but the reporting had always been extremely inflated. He suggested using Vitamin D, which was a natural defense system, creating an antibiotic or antimicrobial effect.

Cumberland Flooding

Steve Berdeguer, 310 Cumberland Avenue, stated he grew up in the Cumberland/Putnam neighborhood and wanted the City to protect the neighborhood from flooding due to elevated construction allowed by the City.

Item #4 – Volusia Council of Governments

Mary Swiderski, Executive Director Of Volusia Council of Governments and Rafael Montalvo, Florida Consensus Center, made a presentation on Smart Growth by the VCOG Smart Growth Technical Advisory Committee.

Item #6 – Approval of the Minutes

Mayor Costello advised the minutes of the December 1, 2009, regular meeting had been sent to the Commission for review and asked for any corrections, additions, or omissions. The Mayor stated the minutes were approved as printed without objection.

Item #7 – Consent Agenda

Mayor Costello advised the action proposed for each item on the Consent Agenda was so stated on the agenda. He asked if any member of the Commission had questions or wished to discuss any item separately.

Commissioner Kelley requested Item #7D be pulled for discussion.

Commissioner Kent moved, seconded by Commissioner Partington, to approve the Consent Agenda, absent Item #7D.

Call Vote:	Commissioner Kent	yes
	Commissioner Kelley	yes
	Commissioner Partington	yes
Carried.	Mayor Costello	yes

Item #7D – Staffing for Adequate Fire and Emergency Response Program (SAFER) Grant

RESOLUTION NO. 20009-208

A RESOLUTION AUTHORIZING THE SUBMITTAL OF A GRANT APPLICATION TO THE FLORIDA DEPARTMENT OF HOMELAND SECURITY UNDER THE STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE GRANT PROGRAM FOR ASSISTANCE RELATIVE TO FUNDING TWO FIREFIGHTER POSITIONS; 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 Kent, for approval of Resolution No. 2009-208, as read by title only.

Eric Summerlad, International Association of Firefighters, Ormond Beach Fire Department, reminded the Commission that at the Town Hall meetings, the citizens made it clear they did not want reductions in the staffing or service levels of fire and police. He stated the Commission members understood and voted three to two not to reduce staffing, yet a week later, the Mayor spoke on television that Station #94 could be reduced in staffing and services; and the hook and ladder truck was removed from service. He stated that apparently two members of the Commission did not understand what the citizens wanted, and it was important for safety to maintain the staffing and service levels.

Mayor Costello stated the citizens never said not to reduce firefighter staffing, but that they valued them as assets and must be maintained. The Mayor stated the police and fire would absolutely be maintained because that was the core mission and core value. He stated the hook and ladder truck was replaced by a Quint, as recommended.

Commissioner Kelley stated by accepting the SAFER grant, the City was put in a box and not allowed flexibility in the future by requiring that current staff levels be maintained. He stated his life was saved by firefighters in Tennessee who responded in less than four minutes when he had a heart attack, experienced cardiac arrest and was revived in the ambulance on the way to the hospital. He stated he wanted to keep the options open to provide the best service possible,

maybe by consolidating services with other communities; but he did not want to be obligated to continue positions, if the positions were not needed. He stated, therefore, he could not support this grant request.

Commissioner Partington asked Fire Chief Skip Irby if the grant was awarded, did the City have to accept the funds, and if overtime would be reduced by filling two vacant positions.

Chief Irby stated the funds could be declined, but the staff numbers were currently down by two positions with possibly five more positions vacant due to the early retirement option. He explained the two positions funded by the SAFER grant would have to be filled.

Commissioner Kent stated he was comfortable supporting the grant request after hearing the Chief's remarks.

Mayor Costello stated he would support the grant request because the number one goal was for emergency medical saving of lives, and staffing should be arranged accordingly. The Mayor stated it was unsustainable for government to continue to maintain the current levels of spending for staff.

Commissioner Kelley asked for the numbers of the current staff.

City Manager Shanahan stated as of January 1, 2008, there were 53 career personnel, 15 officers and 53 NFPA; at the time of the application, there were 51 career personnel, 15 officers, and 49 NFPA support.

Loretta Moiso, Grants Coordinator, confirmed that staffing levels of 53 positions would have to be maintained for two years, or the funds would have to be paid back should the two positions be eliminated.

Mayor Costello stated the City would hire two firefighters with the grant funds to maintain 53, but the City would hire at least two out of the seven vacant positions anyway.

The City Manager pointed out the completion for the grant funds was very stiff; therefore, the City might not receive any grant funds.

Call Vote:	Commissioner Kent	yes
	Commissioner Kelley	no
	Commissioner Partington	yes
Carried.	Mayor Costello	yes

Item #8A – Comprehensive Plan Amendment

RESOLUTION NO. 2009-209

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF ORMOND BEACH, FLORIDA, DECLARING AN INTENT TO AMEND THE COMPREHENSIVE PLAN BASED UPON RECOMMENDATIONS CONTAINED IN THE FINAL EVALUATION AND APPRAISAL REPORT; AUTHORIZING TRANSMITTAL; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Costello stated this was a public hearing to transmit amendments to the City's Comprehensive Plan. He explained there was a sign-up sheet in the back of the room to receive information on this transmittal. The Mayor reported there was no one who wanted to speak on the item.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Resolution No. 2009-209, as read by title only.

Mayor Costello called for the vote after hearing no questions or comments.

Call Vote:	Commissioner Kelley	yes
	Commissioner Partington	yes
	Commissioner Kent	yes
Carried.	Mayor Costello	yes

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

Item #8B – Non-Exclusive Franchise Agreement for Construction and Demolition Debris

RESOLUTION NO. 2009-210

A RESOLUTION AUTHORIZING THE EXECUTION OF A NONEXCLUSIVE FRANCHISE AGREEMENT BETWEEN THE CITY AND SUNSHINE RECYCLING, INC., REGARDING THE COLLECTION OF CONSTRUCTION AND DEMOLITION DEBRIS; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, for approval of Resolution No. 2009-210, as read by title only.

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

Mayor Costello closed public hearing.

Item #9A – Building Height Exemption: Royal Floridian, 51 South Atlantic Avenue

ORDINANCE NO. 2009-58

AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, MAKING DETERMINATIONS REGARDING THE HEIGHT OF AN EXISTING BUILDING AND THE PROPOSED BUILDING LOCATED AT 51 SOUTH ATLANTIC AVENUE, KNOWN AS THE ROYAL FLORIDIAN CONDOMINIUM, AND 53 SOUTH ATLANTIC AVENUE, KNOWN AS THE ROYAL FLORIDIAN SOUTH CONDOMINIUM, GRANTING CERTAIN VESTED RIGHTS RELATIVE THERETO; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Kent, to approve Ordinance No. 2009-58, on second reading, as read by title only.

Call Vote:	Commissioner Kent	yes
	Commissioner Kelley	yes
	Commissioner Partington	yes
Carried.	Mayor Costello	yes

Item #9B – Building Height Exemption: 89 Oceanfront, 89 South Atlantic Avenue

ORDINANCE NO. 2009-59

AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, MAKING DETERMINATIONS REGARDING THE HEIGHT OF AN EXISTING 95 UNIT BUILDING LOCATED AT 89 SOUTH ATLANTIC AVENUE, KNOWN AS 89 OCEANFRONT CONDOMINIUMS; GRANTING CERTAIN VESTED RIGHTS RELATIVE THERETO; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Kent, to approve Ordinance No. 2009-59, on second reading, as read by title only.

Call Vote:	Commissioner Kent	yes
	Commissioner Kelley	yes
	Commissioner Partington	yes
Carried.	Mayor Costello	yes

Item #9C – Building Height Exemption: Oceanside 99 Condominium, 99 South Atlantic Avenue

ORDINANCE NO. 2009-60

AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, MAKING DETERMINATIONS REGARDING THE HEIGHT OF AN EXISTING 21 UNIT BUILDING LOCATED AT 99 SOUTH ATLANTIC AVENUE, (PARCEL ID NO. 4214-28-00-2500), KNOWN AS OCEANSIDE 99 CONDOMINIUM; GRANTING CERTAIN VESTED RIGHTS RELATIVE THERETO; REPEALING ALL INCONSISTENT ORDINANCES OF PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Kent, to approve Ordinance No. 2009-60, on second reading, as read by title only.

Call Vote:	Commissioner Kelley	yes
	Commissioner Partington	yes
	Commissioner Kent	yes
Carried.	Mayor Costello	yes

Item #9D – Building Height Exemption: Atlantis Condominium, 111 South Atlantic Avenue

ORDINANCE NO. 2009-61

AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, MAKING DETERMINATIONS REGARDING THE HEIGHT OF AN EXISTING 53 UNIT BUILDING LOCATED AT 111 SOUTH ATLANTIC AVENUE, KNOWN AS ATLANTIS CONDOMINIUM; GRANTING CERTAIN VESTED RIGHTS RELATIVE THERETO; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Kent, to approve Ordinance No. 2009-61, on second reading, as read by title only.

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

Item #9E – Building Height Exemption: Tidesfall Condominium, 395 South Atlantic Avenue

ORDINANCE NO. 2009-62

AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, MAKING DETERMINATIONS REGARDING THE HEIGHT OF AN EXISTING 56 UNIT BUILDING LOCATED AT 395 SOUTH ATLANTIC AVENUE, KNOWN AS TIDESFALL CONDOMINIUM; GRANTING CERTAIN VESTED RIGHTS RELATIVE THERETO; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Kent, to approve Ordinance No. 2009-62, on second reading, as read by title only.

Call Vote:	Commissioner Kent	yes
	Commissioner Kelley	yes
	Commissioner Partington	yes
Carried.	Mayor Costello	yes

Item #9F – Building Height Exemption: Tropic Sun Towers, 591 South Atlantic Avenue

ORDINANCE NO. 2009-63

AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, MAKING DETERMINATIONS REGARDING THE HEIGHT OF TWO EXISTING BUILDING CONTAINING 42 UNITS LOCATED AT 591 SOUTH ATLANTIC AVENUE, KNOWN AS TROPIC SUN TOWERS CONDOMINIUM; GRANTING CERTAIN VESTED RIGHTS RELATIVE THERETO; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kelley, to approve Ordinance No. 2009-63, on second reading, as read by title only.

Call Vote:	Commissioner Kent	yes
	Commissioner Kelley	yes
	Commissioner Partington	yes
Carried.	Mayor Costello	yes

Item #9G – Building Height Exemption: Georgian Inn, 759 South Atlantic Avenue

ORDINANCE NO. 2009-64

AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, MAKING DETERMINATIONS REGARDING THE HEIGHT OF AN EXISTING 104 UNIT BUILDING LOCATED AT 759 SOUTH ATLANTIC AVENUE, KNOWN AS GEORGIAN INN BEACH CLUB; GRANTING CERTAIN VESTED RIGHTS RELATIVE THERETO; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Ordinance No. 2009-64, on second reading, as read by title only.

Call Vote:	Commissioner Kelley	yes
	Commissioner Partington	yes
	Commissioner Kent	yes
Carried.	Mayor Costello	yes

Item #9H – Building Height Exemption: Aliko Atrium Condominium, 901 South Atlantic Avenue

ORDINANCE NO. 2009-65

AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, MAKING DETERMINATIONS REGARDING THE HEIGHT OF AN EXISTING 27 UNIT BUILDING LOCATED AT 901 SOUTH ATLANTIC AVENUE, KNOWN AS ALIKI ATRIUM CONDOMINIUM; GRANTING CERTAIN VESTED RIGHTS RELATIVE THERETO; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Ordinance No. 2009-65, on second reading, as read by title only.

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

Item #9I – Building Height Exemption: Ormond Heritage, One John Anderson Drive

ORDINANCE NO. 2009-66

AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, MAKING DETERMINATIONS REGARDING THE HEIGHT OF AN EXISTING 156 UNIT BUILDING LOCATED AT ONE JOHN ANDERSON DRIVE, KNOWN AS ORMOND HERITAGE CONDOMINIUM; GRANTING CERTAIN VESTED RIGHTS RELATIVE THERETO; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Ordinance No. 2009-66, on second reading, as read by title only.

Call Vote:	Commissioner Kent	yes
	Commissioner Kelley	yes
	Commissioner Partington	yes
Carried.	Mayor Costello	yes

Item #9J – Building Height Exemption: Former Ormond Memorial Hospital, 875 Sterthaus Drive

ORDINANCE NO. 2009-67

AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, MAKING DETERMINATIONS REGARDING THE HEIGHT OF AN EXISTING BUILDING LOCATED AT 875 STERTHAUS DRIVE (PARCEL NO 4241-01-05-0070), FORMERLY KNOWN AS THE ORMOND MEMORIAL HOSPITAL; GRANTING CERTAIN VESTED RIGHTS RELATIVE THERETO; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Kent, to approve Ordinance No. 2009-67, on second reading, as read by title only.

Call Vote:	Commissioner Kent	yes
	Commissioner Kelley	yes
	Commissioner Partington	yes
Carried.	Mayor Costello	yes

Item #10 – Local Vendor Preference

ORDINANCE NO. 2009-68

AN ORDINANCE AMENDING DIVISION 3, PURCHASING, OR ARTICLE IX, FINANCIAL MATTERS, OR CHAPTER 2, ADMINISTRATION, OF THE CODE OF ORDINANCES B CREATING SECTION 2-304, LOCAL VENDOR PREFERENCE PROGRAM; PROVIDING CONDITIONS AND EXEMPTIONS THEREFROM; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kent, to approve Ordinance No. 2009-68, on first reading, as read by title only.

Roger Patterson, 4 Robin Court, representative of the FAITH Organization which was a organization of faith communities, expressed gratitude to the Commission for action on this issue.

Commissioner Kelley stated this was discussed in 1996, and he wondered what had changed since then to allow this.

Assistant City Manager Ted MacLeod explained that previously under the professional procurement provisions, the City had a rating system that awarded points for location and price. He explained that price had to be eliminated. Mr. MacLeod stated proposals include a location criteria so preference was given for local businesses.

The City Attorney stated CCNA was a state statute which gave guidelines the City must follow, but this ordinances was for small purchases.

The City Manager stated a maximum amount was not established should the local business have more expenses than anticipated.

Commissioner Kelley stated that hopefully this measure would allow local businesses to be more competitive.

The City Attorney stated the ordinance allowed the City discretion to use the local preference criteria depending upon the best interest of the public.

Mayor Costello stated this was a wonderful idea that would allow local businesses to compete without creating unnecessary additional spending of tax dollars.

Call Vote:	Commissioner Kelley	yes
	Commissioner Partington	yes
	Commissioner Kent	yes
Carried.	Mayor Costello	yes

Item #11A – Imperial Foam Annexation Timing

Planning Director Ric Goss stated the City had received a request to provide water and sewer to land contiguous to the City. He stated City policy requires that land that is contiguous must annex in order to receive water and sewer. He explained the developer would like to receive City water but did not want to annex until the final phase of development or six years, whichever was first. He stated the developer was concerned how the City may perceive the fire codes as related to the property. Mr. Goss stated staff suggested City staff and County staff meet on-site for a review, but the developer had not responded; therefore, staff did not support waiving the annexation policy.

Mayor stated support for Option 1 which was to agree to applicant's proposal for annexation. He stated since the applicant was requesting expansion of an existing building and the expansion would create new jobs, he believed the current policy should be waived.

Dwight DuRant, P.E., Zev Cohen and Associates, representing the developer, stated the developer was hesitant to annex because it had been a struggle to work with two jurisdictions

for the last two years for site plan approval, and he did not want to deal with the same situation for the building portion of the expansion. He stated there was a perception the developer was hiding something, but that was untrue. The owner of Imperial Foam had gone through five expansions since starting in 1979, making necessary changes pointed out by two independent fire inspectors. He stated when a current improvement project on the roof was completed; the owner would like to have the City inspect the property. He stated their hesitancy was due to the difficulties of dealing with two jurisdictions during the building phase. He stated they would annex when the expansion was completed or six years, whichever came first, and requested some latitude to receive water services before annexing.

Commissioner Kent stated this situation was unusual because the Mayor spoke first and the Mayor supported the developer's request. He expressed disagreement with the Mayor that the City should change policies to accommodate developers. He stated he did not understand why this had come before the Commission, and he was uncomfortable because the issue was against City protocol.

The Planning Director explained that the applicant's request was denied by staff, but applicants have the right to request Commission review.

Mayor Costello stated he had requested the item be put on the agenda because he was interested in the jobs that would be created by the expansion.

Commissioner Partington stated he wondered what was going on that was not being said. He stated something was going on, and he was leaning toward Option 2 to require annexation at the end of the first phase.

Mr. DuRant stated the project was not getting a warm welcome from the City, and would like to get two issues on the record; they have in writing the City was not in favor of the expansion for a nonconforming use in a residential neighborhood, even though the business was established first and the neighbors like Imperial Foam; and Old Tomoka Road was a dirt road, and it was unclear whether the City would require the road to be paved, which would not be possible due to lack of right-of-way or drainage. He stated that if the City would ensure those two issues would not be issues, the applicant would annex after the end of the first phase.

The City Attorney clarified an approved development order from Volusia County for all three phases of the expansion would give the developer the right to develop the property per that development order after the property was annexed into the City.

Mr. DuRant explained their concern was should the applicant need additional changes to the development order after annexation into City, the review process would start over.

The City Attorney asked if the applicant anticipated the need to amend the development order before completion.

Mr. DuRant stated they did not anticipate any amendments, but the project was a Planned Commercial Development (PCD) which was subject to amendments, and they were trying to get the entire project approved before annexation.

Commissioner Partington asked the Planning Director to respond to the applicant's two issues, the paving of the dirt road and site plan approval.

Mr. Goss stated a meeting had been held with the County regarding three issues; (1) annexation as a result of service, (2) the County's issue with drainage, and (3) the unpaved road. He explained the only issue remaining was the annexation, which could be resolved by attaching the site plan for all three phases to the annexation agreement. He stated since he had been with the City, it had always been policy that an annexation agreement was required before providing service, and allowing this exception would create more such requests.

Commissioner Kelley stated this was not the first time this had happened. He noted in 1992, Ormond Towne Square was developed under the County before annexation into the City, and Chelsea Place was not annexed but received City services.

Mr. Goss stated the Chelsea Place annexation agreement was for service, but there was never a petition to the agreement, so the City had to wait for the petition to annex. He stated the annexation agreement had been revised to include the petition in the agreement for future requests.

Commissioner Kelley stated the standards should be made clear and precise, then the regulations followed. He stated the perception in the community was that the City changed the requirements dependent upon staff decisions.

Mr. DuRant stated the applicant anticipated issues because the building was an already constructed, dated facility, not new construction that could be designed to City standards.

Commissioner Kent questioned if requirements could change due to staff changes.

The City Attorney explained the development of a property was governed by the development order, which was the driving directive. He stated after annexation, the development order approved by Volusia County would be golden, but any modifications would be subject to City approval.

Commissioner Kent stated the development process should be streamlined and as easy as possible, as long as it was to the City's standards.

Mr. Harry Merriday, General Manager of Imperial Foam, stated they were in the process of designing a fire sprinkler system and would like to have water service.

Mayor Costello suggested the decision be delayed until the applicant's concerns could be addressed and staff could determine the appropriate language for the annexation agreement to include resolution of these concerns; then come back in sixty days.

The City Attorney stated the real question regarding the road was who had jurisdiction; if the City had jurisdiction over the road, the County would have to include a provision in the development order regarding improvements to the road because the City could not require that as a condition of annexation.

Mayor Costello recessed the City Commission meeting for a five minute break. The meeting was reconvened at 9:17 p.m.

Item #11B – Aircraft Noise Abatement Task Force Report & Recommendations

Airport Manager Steven Lichliter recognized the members of the Aircraft Noise Abatement Task Force (ANATF) for their efforts. He presented some background on the airport and explained the sources of information for the ANATF, including review of policies of other airports. He reported the ANATF held twelve meetings and two workshops, receiving input from interested parties. He stated Mr. Ted Baldwin, a consultant from Harris, Miller, Miller and Hanson, an aviation consulting firm with an exceptional degree of experience in environmental and noise control matters worked with the task force to formulate their recommendations to the Commission. Mr. Lichliter stated the recommendations were categorized as flight procedures, noise abatement and monitoring procedures, and miscellaneous recommendations. He noted staff had not formally evaluated the recommendations but would proceed at the Commission's direction.

Sean Daly, Northbrook, applauded the efforts of staff and the task force members. He stated all the recommendations were voluntary, and the problem with noise was there were too many aircraft in the area causing the tower to direct planes over his house. He stated it was not just about the noise but also about safety, and he urged the Commission to implement what the task force recommended.

Patrick Murphy, Sunrise Aviation, stated he was an aviation consultant specializing in flight schools. He stated Sunrise Aviation was willing to participate in the recommendations of ANATF and expressed appreciation for all the Airport Manager Steven Lichliter had done to resolve any issues.

The Mayor requested Sunrise Aviation determine the cost of painting their name on the underside of each plane to identify them as Sunrise Aviation planes, so neighbors would know that Sunrise was not causing problems.

Mr. Murphy stated they had provided Mr. Lichliter with the numbers of their aircraft and Sunrise was in the process of repainting the planes with their own paint scheme.

Mr. Al Perkins, 15 Cotton Mill Court, stated the problem in Ormond Lakes was not as great as some other areas, but in the six years he had lived there, the noise problem had increased each year. He encouraged the Commission to adopt the recommendations of the ANATF, but it would

be a mistake to believe the problems had been solved because there was no enforcement mechanism and the recommendations did not address the volume of aircraft.

Mr. Vince Kinzler, 16 Jolynn Drive, stated there were inhibiting aspects of the ANATF meetings because of prohibitions regarding what could be said. He stated many citizens believe that noise generated by the flight training schools was a symptom, not the true problem.

Mr. Terry Perkins, 108 Heritage Circle, stated the issue existed in an extremely complicated legal setting with federal, state, and local regulations. He stated the ANATF tried to balance what was legal and what was effective and hoped the Commission found the report and recommendations useful.

Mr. Larry Stout, 677 North Beach Street, expressed appreciation for what the ANATF and staff did to bring the concerns of citizens to light. He stated the issue was complicated, and although the tower had been a great improvement to deal with the increased traffic, the volume of traffic and noise must be addressed. He stated the recommendations would help, but the FAA would be the final authority on the issues.

The Mayor stated since the Commission was probably going to accept the recommendations and staff would bring back a cost benefit analysis of the recommendations, he stated the flight ops tracking system he had inquired about in a previous email, would be unnecessary because it would not provide any new information.

Commissioner Partington stated he would vote to accept the report and recommendations and thanked the ANATF and staff for their efforts. He stated several years ago, a longer runway was proposed and longer equaled quieter, but misinformation defeated the Commission's efforts for the longer, safer runway. He stated the overlay district was a step in the right direction, and the Commission and staff responded to citizen's concerns. He stated he would like to consider a displaced threshold, a part of the runway marked to indicate that it was used only for takeoffs, thereby allowing the pilot to use less of the actual runway to achieve greater altitude before leaving the air space of the airport. He stated this would add a measure for safety and provide some noise reduction. He suggested a cooperative effort with New Smyrna Beach and the County to create a landing strip for "touch and go" practice in an unincorporated, non-residential area of the county. He asked the City Manager to investigate and verify someone's claim that they could not have a conversation in their front yard due to air traffic.

The Mayor reported he had asked about a landing strip at a VCOG meeting, but had learned that landing fees could not be used to pay for a landing strip for "touch and goes."

Commissioner Kelley stated the Commission had considered several issues in the past, such as the requirement for a certain level of operation to justify FAA payment for the operation of the tower, and the tower had made it a lot safer. He pointed out three people were making 67% of complaints, and their neighbors were not making complaints. He stated the planes had a right to be there, and some noise should be acceptable. He commented that landing fees would have to be charged equally for everyone and would require staff efforts to collect and maintain records of the fees collected. He complimented Mr. Lichliter and City Manager Joyce Shanahan for their efforts, and he supported accepting the report and recommendations.

Mr. Ted Baldwin complimented staff and the ANATF and advised there was always a need for better communication.

Item #12 – Reports, Suggestions, Requests

Commissioner Kelley's Return

Commissioner Kelley stated he was really, really happy to be back and hoped no one ever had to experience a medical emergency as he had. He wished his wife, Mary Margaret, a happy birthday.

Commissioner Partington expressed he was glad to have Commissioner Kelley back because although, they did not always agree, he valued Commissioner Kelley's opinion and valued input.

Commissioner Kent stated he was really glad Commissioner Kelley was back.

Bill of Rights Day

Commissioner Partington stated it was the Bill of Rights Day, which celebrated the ratification of the first ten amendments to the Constitution. He stated the power of those ideas determined how the entire government functioned.

Christmas Parade

Commissioner Partington stated it was a fantastic parade that was very well run and enjoyed by everyone.

Mayor Costello suggested in the future, someone walking behind the parade could hand out candy because the children really looked forward to it.

Aircraft Noise Abatement Task Force

The City Manager stated she was impressed by the citizens of Ormond Beach who can have great disagreement but can have spirited discussions in a civil manner to reach a cooperative conclusion. She thanked Mr. Vince Kinzler for his leadership in a tough situation; she thanked Deputy City Attorney Ann Margret Emery for her legal advice, and Airport Manager Steven Lichliter for an excellent job done with the task force. She thanked the Civil Air Patrol for flying her in the flight pattern of the airport so she could understand the issues involved.

Cumberland/Putnam Avenues Flooding

The City Manager reported that Sandy Upchurch, who mediated several neighborhood disputes for the City, has agreed to meet with the residents and staff to try and reach some type of consensus on the flooding issue.

Item #13 – Close the Meeting

The meeting was adjourned at 10:13 p.m.

APPROVED: December 15, 2009

BY: Fred Costello, Mayor

ATTEST:

Veronica Patterson, City Clerk