

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

April 21, 2009

7:00 p.m.

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

A G E N D A

- 1) Meeting call to order by Mayor Costello.
- 2) Invocation by Father James Taylor, St. Mary's Episcopal Church.
- 3) Pledge of Allegiance.
- 4) **PRESENTATIONS:**
 - A) Employee-of-the-quarter award to Ken White, Information Systems Specialist.
 - B) Proclamations in honor of Jacob Beck and the Pop Warner Team Scholastic All American Achievement.
 - C) Proclamation in honor of The Casements Guild.
 - D) Proclamation in honor of the Pilgrim's Rest Cemetery.
 - E) Presentation by Rick Shiver – Downtown Streets Team.
- 5) **AUDIENCE REMARKS:**
- 6) **APPROVAL OF THE MINUTES** of the April 7, 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. 2009-41 authorizing the sole source procurement of a fireworks display from Fireworks by Santore, Inc.; accepting a certificate of general liability insurance; authorizing the execution of a contract. (\$36,500) (Leisure Services Director)
 - B) Resolution No. 2009-42 accepting the bid of Conephal, Inc., d/b/a Big Value Garden Center regarding the CDBG Beachside Palm Tree Planting and Irrigation project, authorizing the execution of an agreement and payment therefor; rejecting all other bids. (\$39,728 grant funding) (Acting City Engineer)
 - C) Resolution No. 2009-43 authorizing the renewal of a Solid Waste, Yard Waste, Recycling and Roll-off Collection and Disposal Services agreement and a Transfer Station Lease agreement between the City of Ormond Beach and Waste Management, Inc., of Florida. (\$4.5 million) (Public Works Director)
 - D) Resolution No. 2009-44 accepting the proposal of Hydro Designs, Inc., regarding cross connection control program management services; authorizing the execution of an agreement and payment therefor; rejecting all other proposals. (\$163,800) (Utilities Manager)
 - E) Resolution No. 2009-45 accepting the bid of Metrotech Corporation regarding a leak detection system; authorizing the execution of an agreement and payment therefor; rejecting all other bids. (\$58,125) (Utilities Manager)
 - F) Resolution No. 2009-46 accepting a bid from Masci General Contractors, Inc., for construction services regarding the Water Treatment Plant High Service Pump Variable Frequency Drive Conversion project under Bid No. 2008-34; authorizing the execution of a contract and payment therefor; rejecting all other bids. (\$286,500) (Utilities Manager)
 - G) Resolution No. 2009-47 authorizing the execution of a deductive Change Order Number One (1) to that contract awarded to C.E.M. Enterprises, Inc., regarding the Rockefeller Gardens Site and Drainage Improvements project, by decreasing the contract price by \$3,542.55. (\$1,012,790.45 total contract price) (Acting City Engineer)
 - H) Resolution No. 2009-48 authorizing the submittal of a grant application to the Volusia County Metropolitan Planning Organization for funding assistance relative to traffic signal interconnect

and coordination on SR40; authorizing the execution of all documents incidental thereto, including any contract necessary for the City to accept the grant award. (\$225,000 total project; \$168,695 MPO funding; \$56,232 local match) (Acting City Engineer)

- I) Resolution No. 2009-49 authorizing the submittal of a grant application to the Volusia County Metropolitan Planning Organization for funding assistance relative to audible pedestrian signals along SR5A; authorizing the execution of all documents incidental thereto, including any contract necessary for the City to accept the grant award. (\$115,000 total project; \$86,250 MPO funding; \$28,750 local match) (Acting City Engineer)
- J) Resolution No. 2009-50 authorizing the submittal of an on-line grant application in the amount of \$44,811 to the U.S. Department of Justice under the Recovery Act Edward Byrne Memorial Justice Assistance Grant Program; authorizing the execution of all documents incidental thereto, including any contract necessary for the City to accept the grant award. (Law Enforcement Equipment) (Police Chief)
- K) Resolution No. 2009-51 approving and authorizing the implementation of an Identity Theft Prevention Program (“Red Flag Rules”). (Finance Director)
- L) FY 2008-2009 budget results for the General Fund and the Water/Wastewater Fund. (Finance Director)

DISPOSITION: Approve as recommended in City Manager memorandum dated April 16, 2009.

8) **PUBLIC HEARINGS:**

- A) Ordinance No. 2009-06 authorizing the execution and issuance of a Fourth Amended Development Order for the “Capital Plaza” Planned Business Development located at 298 and 300 South Nova Road, modifying the Development Order regarding permitted hours of operation for the Planned Business Development known as “Capital Plaza,” establishing conditions therefore; ratifying and affirming the Development Orders; establishing conditions and expiration of approval. (Italian Village Restaurant) (Second Reading) (Planning Director)
- B) Ordinance No. 2009-07 amending Chapter 2, District and General Regulations, Article II, District Regulations, Section 2-08: Special Environmental (SE), Section 2-09: Rural Estate/Agricultural (REA), Section 2-10: Rural Residential (RR), Section 2-11: Suburban Residential (SR), Section 2-12: Residential Estate (R-1, Section 2-13: Single-Family Low Density (R-2), Section 2-14: Single-Family Low-Medium Density (R-2.5), Section 2-15: Single-Family Medium Density (R-3), Section 2-16: Neighborhood Preservation (NP), Section 2-17: Single-Family Cluster & Townhouse (R-4), Section 2-18: Multi-Family Medium Density (R-5), Section 2-19: Multi-Family Medium-High Density (R-6), Section 2-20: Reserved (T-1), Section 2-21: Manufactured Home (T-2), Section 2-22: Professional Office/Hospital (B-1), Section 2-23: Neighborhood Commercial (B-2), Section 2-24: Reserved (B-3), Section 2-25: Central Business (B-4), Section 2-26: Service Commercial (B-5), Section 2-27: Oceanfront Tourist Commercial (B-6), Section 2-28: Highway Tourist Commercial (B-7), Section 2-29: Commercial (B-8), Section 2-30: Boulevard (B-9), Section 2-31: Suburban Boulevard (B-10), Section 2-32: Light Industrial (I-1), Section 2-33: Reserved (I-2), Paragraphs D, Dimensional Standards, and L, Exceptions, of Section 2-35: Planned Residential Development (PRD); Paragraph H, Application and Review of Section 2-36, Planned Business Development; deleting Paragraph A, Minimum Floor Area and replacing with Single-Family Dwelling Exterior Infill Standards of Section 2-42, Design Standards; deleting Section 2-43, Dimensional Requirements for Single-Family Detached Homes by Zoning District; deleting Section 2-44, Dimensional Requirements for Duplex, Triplex, Townhouse, and Multi-Family Dwelling Units by Zoning Districts, and Section 2-45, Dimensional Requirements for Non-Residential Uses in Commercial and Light Industrial Zoning Districts of the Land Development Code. (Second Reading) (Planning Director)

9) **SECOND READING OF ORDINANCES:**

- A) Land Development Code Chapter 1 Amendments:
 - 1) Ordinance No. 2009-08 amending Chapter 1, General Administration, Article II, Administration and Enforcement, Section 1-13, Violations and Penalties, Section 1-14, Development Orders and Building Permits, Section 1-15, Planning Board, Section 1-16, Board of Adjustment and Appeals, deleting Section 1-17, Development Review Board, creating Section 1-17, Historic Landmark Preservation Board, amending Section 1-18,

City Commission/Public Hearings, Section 1-19, Appeals, deleting Section 1-20, Reserved, and creating Section 1-20, Codes and Standards Adopted by Reference, of the *Land Development Code*. (Planning Director)

2) Ordinance No. 2009-09 deleting Chapter 3, Performance Standards, Article V, Utility and Infrastructure Design Standards, Paragraph D, Street Design Standards, of Section 3-53, Street Design and Standards, renumbering the remaining paragraphs of the *Land Development Code*. (Planning Director)

3) Ordinance No. 2009-10 deleting references to the Development Review Board in Chapter 1, General Administration, Article V, Concurrency Management, Section 1-31, Concurrency Assessment, Chapter 2, District and General Regulations, Article III, General Regulations, Section 2-51, Public Safety, Chapter 2, District and General Regulations, Article V, Non-Conformance, Section 2-64, Non-Conforming Developed Sites, Chapter 2, District and General Regulations, Article VI, Overlay Districts, Section 2-70, Downtown Overlay, Chapter 3, Performance Standards, Article IV, Sign Regulations, Section 3-47, Business Premise Identification Signs, Chapter 3, Performance Standards, Article V, Utility and Infrastructure Design Standards, Section 3-53, Street Design Standards, Chapter 4, Plan Review and Subdivision, Article I, Site Plan Review Procedures, Section 4-03, Site Plan Review Committee (SPRC) Established, Chapter 4, Plan Review and Subdivision, Article I, Site Plan Review Procedures, Section 4-05, Site Plan Review, Chapter 4, Plan Review and Subdivision, Article II, Subdivision, Section 4-17, Preliminary Plat Approval Procedures, Chapter 4, Plan Review and Subdivision, Article II, Subdivision, Section 4-18, Final Plat Approval Procedures, of the *Land Development Code*. (Planning Director)

B) Ordinance No. 2009-11 amending Chapter 4, Plan Review and Subdivision, Article I, Site Plan Review Procedures, Paragraph D, Scope of Powers, of Section 4-03, Site Plan Review Committee (SPRC) Established, Paragraph B, SPRC Review of Application, of Section 4-05, Site Plan Review, and Section 4-06, Information to be Included in Site Plan Application, of the *Land Development Code*. (Planning Director)

10) **FIRST READING OF ORDINANCE** No. 2009-12 amending the annual budget for Fiscal Year 2008-2009 by amending the General Fund; the Stormwater Fund; the Grant Fund; the Lease Financing Fund; the Fire Station #91 Debt Service Fund; the Water/Wastewater Fund; the Water Plant Construction Fund; the Water Expansion Construction Fund; and the Insurance Fund. (Finance Director)

11) **RESOLUTIONS:**

A) Resolution No. 2009-25 authorizing the execution of a Collective Bargaining Agreement between the City of Ormond Beach and the International Association of Firefighters (I.A.F.F.), Local 3499. (Cont'd from 4/7/09 meeting) (Acting Fire Chief)

B) Resolution No. 2009-52 accepting a proposal from Quentin L. Hampton Associates, Inc., for engineering services regarding the North US1 Emergency Water Main Replacement project; authorizing the execution of a Work Authorization and payment therefor. (Not to exceed \$84,270) (Acting City Engineer)

12) **DISCUSSION ITEM:** Beneficial Communities funding. (Planning Director)

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

14) **CLOSE THE MEETING.**

Item #1 – Meeting call to order.

The meeting was called to order by Mayor Costello at 7:04 p.m.

Item #2 – Invocation

The invocation was given by Father James Taylor, St. Mary's Child Episcopal Church.

Item #3 - Pledge of Allegiance

The Pledge of Allegiance was led by Mayor Costello.

Item #4(A) – Employee of the Quarter

City Manager Joyce Shanahan introduced Ken White, Information Systems Specialist, as the Employee-of-the-Quarter for the second quarter of 2008-09. She explained that Ken moved to the area from New York in 1989 and started working for the City in 1992. She stated Ken had worked in Planning and Finance where he was named Employee of the Quarter in 1994. Ms. Shanahan stated since 1999 he had been an information systems specialist where his vast knowledge of the system and his professional demeanor had earned him many grateful fans among the staff. She stated Ken enjoyed spending his spare time working on home improvements projects and spending time with friends and family.

Mayor Costello thanked Ken and presented him with a city watch and a certificate. The Mayor explained the plaques commemorating his selection as Employee-of-the-Quarter would hang in the City Hall atrium.

Item #4(B) – Proclamations in Honor of Jacob Beck and the Pop Warner First Team All-American

Mayor Costello read a proclamation to honor Jacob Beck for being chosen to receive the Pop Warner First Team All-American achievement award for the fourth consecutive year and pointed out Jacob was the only Pop Warner athlete to achieve this distinction. The Mayor read a list of all the outstanding accomplishments, academically, civically and athletically, of this amazing young man.

Mike Mitchener, 24 Aldenwood Trail, explained it was a wonderful accomplishment to be chosen for the Pop Warner First Team All-American, when each year only thirty-five individuals from football and thirty-five individuals from cheerleading were chosen from 400,000 members for this distinction; therefore, it was an outstanding accomplishment for Jacob Beck to be chosen four years in a row. He stated to qualify for the First Team; an individual must maintain a 98 grade point average, as well as being a good citizen.

Mayor Costello read a proclamation to honor the other members of the Pop Warner All American Team for their many fine accomplishments.

Item #4(C) – Proclamation in Honor of The Casement Guild

Mayor Costello read a proclamation in honor of The Casement Guild's thirtieth anniversary. He reported the Guild was established in 1989 with twenty charter members. The Mayor stated the Guild now consists of fifty active members and twenty-three honorary members who have contributed over 5,700 volunteer hours thus far in 2009 which, if paid at minimum wage, would equal a savings of \$41,100 to the City.

Item #4(D) – Proclamation in Honor of the Pilgrim's Rest Cemetery

Mayor Costello read a proclamation to acknowledge the 100th anniversary of the Pilgrim's Rest Cemetery. The Mayor thanked Police Sergeant Toni Corn, Vice President of the cemetery association and Nancy Partridge, President of the cemetery association, whose family owned the property and donated the church to the City, for their efforts to preserve such an important landmark.

Item #4(E) – Presentation by Rick Shiver – Downtown Streets Team

Rick Shiver explained the origin of the program and the efforts to provide some of the area homeless with the basic needs; food, shelter, a bicycle for transportation, job skills, life skills and a purpose. Mr. Shriver stated the volunteers earned an opportunity to improve their situation in return for working to keep downtown Daytona Beach spotlessly clean. He stated the volunteers started work at 8:00 a.m., seven days a week, to sweep sidewalks and parking lots as well as clean the parks, the riverfront, and Manatee Island. Mr. Shiver stated he had come to ask the City, not for money, but for jobs for these volunteers who were striving for a new lifestyle as productive members of the community.

Item #5 - Audience Remarks

No one asked to speak.

Item #6 – Approval of the Minutes

Mayor Costello advised the minutes of the April 7, 2009, regular meeting had been sent to the Commission for review and, asked for any corrections, additions, or omissions. Hearing no objection, the Mayor stated the minutes were approved as submitted.

Item #7 – Consent Agenda

Mayor Costello advised that 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.

Mayor Costello stated Items 7(C) and 7(E) were pulled from the Consent Agenda.

Commissioner Kent moved; seconded by Commissioner Kelley, for approval of the Consent Agenda, absent Item #7(C) and Item #7(E).

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

The Mayor stated Item #7(C) and Item #7(E) should be on the agenda for the May 5, 2009 Commission meeting.

Item #8(A) – Fourth Amended Development Order for the Capital Plaza PBD

ORDINANCE NO 2009-06

AN ORDINANCE AUTHORIZING THE EXECUTION AND ISSUANCE OF A FOURTH AMENDED DEVELOPMENT ORDER FOR THE "CAPITAL PLAZA" PLANNED BUSINESS DEVELOPMENT LOCATED AT 298 AND 300 SOUTH NOVA ROAD, MODIFYING THE DEVELOPMENT ORDER REGARDING PERMITTED HOURS OF OPERATION FOR THE PLANNED BUSINESS DEVELOPMENT KNOWN AS "CAPITAL PLAZA", ESTABLISHING CONDITIONS THEREFORE; RATIFYING AND AFFIRMING THE DEVELOPMENT ORDERS; ESTABLISHING CONDITIONS AND EXPIRATION OF APPROVAL; AND SETTING FORTH AN EFFECTIVE DATE.

Nate McDonnell, 63 River Drive, expressed that remarks made by some of the Commission members at the last City Commission meeting relative to pressuring a developer were not appropriate in these difficult economic times. Mr. McDonnell stated the primary function of government with regards to business matters was to insure property rights and insure competition, not to regulate.

Patti Ann Welter, 303 Forest Hills Boulevard, stated the development was at the entrance to a subdivision that was being affected by the development and expressed concerns regarding code violations that had already occurred.

Commissioner Kelley moved for approval; there was no second to the motion.

Mayor Costello stated the motion failed due to the lack of a second and closed the public hearing.

Commissioner Gillooly moved; seconded by Commissioner Kelley, to reconsider Ordinance No. 2009-06.

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

Mayor Costello reopened the public hearing.

Commissioner Kelley moved for approval; seconded by Commissioner Gillooly, for discussion, of Ord. 2009-06.

Commissioner Kelley stated it was the staff's responsibility, not the Commission's, to insure that development orders were in compliance, rather than the Commission penalizing a successful business from opening additional hours. He stated traffic was not impacted; there was no traffic problem for the residents in the subdivision; and this was another good place to have lunch. He stated he was not defending the developer for non-compliance to the requirements of the development order, but to discuss what should happen with the next phase was not an issue until the issue came before the Commission. He stated the discussion of non-compliance was not relative; the issue at hand was only the application for extending the hours of operations. He expressed confidence that if there were other issues with the developer, Planning Director Ric Goss, Neighborhood Improvement and Legal would

handle the problem. Commissioner Kelley asked Ric Goss if there were any safety issues outstanding that should warrant not approving this request.

Ric Goss stated there were no outstanding issues that should prevent extending the hours of operations for the center and encouraged the Commission to support the extension of hours. He noted as far as Phase III, the other issues would be resolved; and this was a good business for that location.

Commissioner Kelley asked that the problems with the developer be handled when the issues arose but urged the Commission to allow this business to thrive.

Commissioner Gillooly stated the relevance of discussing the non-compliance issues was that the residents of the subdivision had the right to expect the City to enforce the conditions of the development order, and the Certificate of Occupancy for Phase III was going to be dependent on those conditions being met.

Mayor Costello stated that the “club” to force compliance by the developer for the next phase was the development order; it should not be the hours of operation for this business.

The Planning Director confirmed that a Certificate of Occupancy would not be issued for Phase III, which was Dunkin’ Donuts, until all conditions of the development order had been met.

Commissioner Partington stated he appreciated the Planning Director putting that statement on the record, and he appreciated that the interests of the residents and businesses were being considered.

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

Item #8(B) – Amending Zoning Districts of the Land Development Code

ORDINANCE NO 2009-07

AN ORDINANCE AMENDING CHAPTER 2, DISTRICT AND GENERAL REGULATIONS, ARTICLE II, DISTRICT REGULATIONS, SECTION 2-08, SPECIAL ENVIRONMENTAL (SE), SECTION 2-09, RURAL ESTATE/AGRICULTURAL (REA), SECTION 2-10, RURAL RESIDENTIAL (RR), SECTION 2-11, SUBURBAN RESIDENTIAL (SR), SECTION 2-12, RESIDENTIAL ESTATE (R-1), SECTION 2-13, SINGLE-FAMILY LOW DENSITY (R-2), SECTION 2-14, SINGLE-FAMILY LOW-MEDIUM DENSITY (R-2.5), SECTION 2-15, SINGLE-FAMILY MEDIUM DENSITY (R-3), SECTION 2-16, NEIGHBORHOOD PRESERVATION (NP), SECTION 2-17, SINGLE-FAMILY CLUSTER & TOWNHOUSE (R-4), SECTION 2-18, MULTI-FAMILY MEDIUM DENSITY (R-5), SECTION 2-19, MULTI-FAMILY MEDIUM-HIGH DENSITY (R-6), SECTION 2-20, RESERVED (T-1), SECTION 2-21, MANUFACTURED HOME (T-2), SECTION 2-22, PROFESSIONAL OFFICE/HOSPITAL (B-1), SECTION 2-23, NEIGHBORHOOD COMMERCIAL (B-2), SECTION 2-24, RESERVED (B-3), SECTION 2-25, CENTRAL BUSINESS (B-4), SECTION 2-26, SERVICE COMMERCIAL (B-5) SECTION 2-27, OCEANFRONT TOURIST COMMERCIAL (B-6), SECTION 2-28, HIGHWAY TOURIST COMMERCIAL (B-7), SECTION 2-29, COMMERCIAL (B-8), SECTION 2-30, BOULEVARD (B-9), SECTION 2-31, SUBURBAN BOULEVARD (B-10), SECTION 2-32, LIGHT INDUSTRIAL (I-1), SECTION 2-33, RESERVED (I-2), PARAGRAPHS D, DIMENSIONAL STANDARDS, AND L, EXCEPTIONS, OF SECTION 2-35, PLANNED RESIDENTIAL DEVELOPMENT (PRD), PARAGRAPH H, APPLICATION AND REVIEW OF SECTION 2-36, PLANNED BUSINESS DEVELOPMENT (PBD), DELETING PARAGRAPH A, MINIMUM FLOOR AREA AND REPLACING WITH SINGLE-FAMILY DWELLING EXTERIOR INFILL STANDARDS OF SECTION 2-42, DESIGN STANDARDS, DELETING SECTION 2-43, DIMENSIONAL REQUIREMENTS FOR SINGLE-FAMILY DETACHED HOMES BY ZONING DISTRICT, DELETING SECTION 2-44, DIMENSIONAL REQUIREMENTS FOR DUPLEX, TRIPLEX, TOWNHOUSE, AND MULT-FAMILY DWELLING UNITS BY ZONING DISTRICTS, AND SECTION 2-45, DIMENSIONAL REQUIREMENTS FOR NON-RESIDENTIAL USES IN COMMERCIAL AND LIGHT INDUSTRIAL ZONING DISTRICTS OF THE *LAND DEVELOPMENT CODE*; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved; seconded by Commissioner Gillooly, for approval of Ordinance No. 2009-07, on second reading, as read by title only.

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

Item #9(A)(1) – Amending the Land Development Code, Chapter 1, General Administration

ORDINANCE NO 2009-08

AN ORDINANCE AMENDING CHAPTER 1, GENERAL ADMINISTRATION ARTICLE II, ADMINISTRATION AND ENFORCEMENT, SECTION 1-13, VIOLATIONS AND PENALTIES, SECTION 1-14, DEVELOPMENT ORDERS AND BUILDING PERMITS, SECTION 1-15, PLANNING BOARD, SECTION 1-16, BOARD OF ADJUSTMENT AND APPEALS, DELETING SECTION 1-17, DEVELOPMENT REVIEW BOARD, CREATING SECTION 1-17 HISTORIC LANDMARK PRESERVATION BOARD, AMENDING SECTION 1-18, CITY COMMISSION/PUBLIC HEARINGS, SECTION 1-19, APPEALS, AND DELETING SECTION 1-20, RESERVED, AND CREATING SECTION 1-20, CODES AND STANDARDS ADOPTED BY REFERENCE OF THE *LAND DEVELOPMENT CODE*; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved; seconded by Commissioner Gillooly, for approval of Ordinance No. 2009-08, on second reading, as read by title only.

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

Item #9(A)(2) – Amending the Land Development Code, Chapter 3, Performance Standards

ORDINANCE NO 2009-09

AN ORDINANCE DELETING CHAPTER 3, PERFORMANCE STANDARDS, ARTICLE V, UTILITY AND INFRASTRUCTURE DESIGN STANDARDS, PARAGRAPH D, STREET DESIGN STANDARDS OF SECTION 3-53, STREET DESIGN AND STANDARDS RENUMBERING THE REMAINING PARAGRAPHS OF THE *LAND DEVELOPMENT CODE*; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved; seconded by Commissioner Gillooly, for approval of Ordinance No. 2009-09, on second reading, as read by title only.

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

Item #9(A)(3) – Amending the Land Development Code, Deleting Reference to the Development Review Board

ORDINANCE NO 2009-10

AN ORDINANCE DELETING REFERENCES TO THE DEVELOPMENT REVIEW BOARD IN CHAPTER 1, GENERAL ADMINISTRATION, ARTICLE V, CONCURRENCY MANAGEMENT, SECTION 1-31, CONCURRENCY ASSESSMENT, CHAPTER 2, DISTRICT AND GENERAL REGULATIONS, ARTICLE III, GENERAL REGULATIONS, SECTION 2-51, PUBLIC SAFETY, CHAPTER 2, DISTRICT AND GENERAL REGULATIONS, ARTICLE V, NONCONFORMANCE, SECTION 2-64, NON-CONFORMING DEVELOPED SITES, CHAPTER 2, DISTRICT AND GENERAL REGULATIONS, ARTICLE VI, OVERLAY DISTRICTS, SECTION 2-70, DOWNTOWN OVERLAY, CHAPTER 3, PERFORMANCE STANDARDS, ARTICLE IV, SIGN REGULATIONS, SECTION 3-47, BUSINESS PREMISE IDENTIFICATION SIGNS, CHAPTER 3, PERFORMANCE STANDARDS, ARTICLE V, UTILITY AND INFRASTRUCTURE DESIGN STANDARDS, SECTION 3-53, STREET DESIGN

STANDARDS, CHAPTER 4, PLAN REVIEW AND SUBDIVISION, ARTICLE I, SITE PLAN REVIEW PROCEDURES, SECTION 4-03, SITE PLAN REVIEW COMMITTEE (SPRC) ESTABLISHED, CHAPTER 4, PLAN REVIEW AND SUBDIVISION, ARTICLE I, SITE PLAN REVIEW PROCEDURES, SECTION 4-05, SITE PLAN REVIEW, CHAPTER 4, PLAN REVIEW AND SUBDIVISION, ARTICLE II, SUBDIVISION, SECTION 4-17, PRELIMINARY PLAT APPROVAL PROCEDURES, CHAPTER 4, PLAN REVIEW AND SUBDIVISION, ARTICLE II, SUBDIVISION, SECTION 4-18, FINAL PLAT APPROVAL PROCEDURES OF THE *LAND DEVELOPMENT CODE*; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved; seconded by Commissioner Gillooly, for approval of Ordinance No. 2009-10, on second reading, as read by title only.

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

Item #9(B) – Amending the Land Development Code, Chapter 4, Plan Review and Subdivision

ORDINANCE NO 2009-11

AN ORDINANCE AMENDING CHAPTER 4, PLAN REVIEW AND SUBDIVISION, ARTICLE I, SITE PLAN REVIEW PROCEDURES, PARAGRAPH D, SCOPE OF POWERS OF SECTION 4-03, SITE PLAN REVIEW COMMITTEE (SPRC) ESTABLISHED, PARAGRAPH B SPRC REVIEW OF APPLICATION OF SECTION 4-05, SITE PLAN REVIEW, AND SECTION 4-06, INFORMATION TO BE INCLUDED IN SITE PLAN APPLICATION OF THE *LAND DEVELOPMENT CODE*; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved; seconded by Commissioner Gillooly, to approve Ordinance No. 2009-11, on second reading, as read by title only.

Mayor Costello stated the ordinance received unanimous approval from the Planning Board.

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

Item #10 – Amending the Annual Budget for Fiscal Year 2008-2009

ORDINANCE NO. 2009-12

AN ORDINANCE AMENDING THE ANNUAL BUDGET FOR FISCAL YEAR 2008-2009 BY AMENDING THE GENERAL FUND; THE STORMWATER FUND; THE GRANT FUND; THE LEASE FINANCING FUND; THE FIRE STATION #91 DEBT SERVICE FUND; THE WATER/WASTEWATER FUND; THE WATER PLANT CONSTRUCTION FUND; THE WATER EXPANSION CONSTRUCTION FUND; AND THE INSURANCE FUND; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved; seconded by Commissioner Partington, to approve Ordinance No. 2009-12, on first reading, as read by title only.

Commissioner Kelley clarified that this issue was not affected by the items pulled from the Consent Agenda.

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

Item #11(A) Collective Bargaining Agreement with International Association of Firefighters

RESOLUTION NO 2009-25

A RESOLUTION AUTHORIZING THE EXECUTION OF A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF ORMOND BEACH AND THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS (I.A.F.F.) LOCAL 3499; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Costello pointed out there was a motion on the floor from the last meeting and he stated the item was open for discussion.

Commissioner Kent stated he had listened to the audio of the last meeting and stated each of the members had made some good arguments on both sides of the issue. He stated his concern was a multi-year contract in these uncertain economic times, and he did not feel it was a good idea to commit to a three year contract. Commissioner Kent stated he appreciated the comparative salaries and wanted the City to be in the mid-range of salaries in the area rather than at the top of the salaries.

Commissioner Kelley stated the City should pay what the City could afford to pay to get the best possible services, not necessarily tied to what other cities paid. He stated it might be an appropriate time to start giving raises on an individual basis, not an across-the-board increase. Commissioner Kelley stated that, generally, public employees were compensated better than a lot of private positions. He stated a three year contract would not allow the City to be flexible in renegotiating a reorganization to provide the best service.

Mayor Costello stated he could support a one year salary increase but would not vote to approve the three year contract because it did not allow for needed flexibility to make changes. The Mayor stated that should the motion fail, he would ask for a shade meeting and recommend the proposed contract be approved as a one year contract.

Commissioner Gillooly stated the financial impact for the three year contract would be \$200,000; her concerns were her fiscal responsibility as a member of the Commission and she stated \$200,000 was a minimum amount in relationship to what the Commission approved on other issues. She agreed changes were needed in the delivery of services, but stated those changes were only in discussions and were yet to be resolved. Commissioner Gillooly stated that in the spirit of good will and follow-through, this contract should be approved because it met the criteria the Commission established in the shade meetings.

Mayor Costello stated the contract did not contain everything the Commission directed staff to do; there were compromises. He stated he had no problem voting down this contract but would vote for the same conditions as a one-year contract while designing a new contract with options such as impact bargaining that allowed necessary changes to achieve optimum service delivery at an efficient cost.

Commissioner Gillooly stated that a one year contract would require immediate negotiations of a new contract, although there was no tangible plan as to what the Commission wanted.

Mayor Costello stated a new contract could contain options that allowed the flexibility to make the changes once it was determined the direction desired.

Commissioner Gillooly questioned whether the union would negotiate such a contract.

Mayor Costello stated if the union did not agree to the options the Commission wanted, then impasse would occur, and the City would impose the conditions.

Commissioner Partington stated he stood with his previous position to support the proposed contract because in a lot of ways it was the smartest way to go; it was equitable and sustainable over the next three years.

Commissioner Kent stated the \$200,000 impact was a problem for him because the economy had changed since the shade meetings, which meant there was less revenue for the City; and since the firefighters were at the top of the comparatives for the area, he could not favor a three year contract. Commissioner Kent asked the City Manager what she saw as the benefits for a three year contract.

The City Manager stated a three year contract provided continuity in the City's work force, avoided constantly negotiating and provided stability for the employees so they could focus on their jobs.

Commissioner Kent asked the City Manager if she saw the City having less money.

The City Manager stated there would be less money, and next year would be worse; until the economy rebounded there will be another three to four years before revenues stabilized or increased. She stated she was not one hundred percent for a three year contract. She stated the City did receive some significant concessions in this contract with regards to management issues but was not sure how willing the union would be to consider those. She agreed that the Commission could impose a contract, but the Commission needed to stand firm, if that was the way the Commission chose to go. She reminded the Commission that there was the mediation/arbitration step before a contract could be imposed, and all aspects of this contract may not necessarily be reopened for negotiations.

Commissioner Kelley pointed out since the negotiation of the contract started, the City had acquired a new City Manager, a new Acting Fire Chief and a new Acting Human Resources Director; those individuals who were paramount in the negotiations were no longer with the City. Commissioner Kelley stated there were going to be more requirements from the county and the state on the City's obligations, whether they be unfunded mandates or, basically, the local governments were on their own if they wanted something done.

Commissioner Gillooly stated the City's Fire Department provided a valuable service and was an excellent department, which explained the previous salary increases. She stated the City does not have enough tangible ideas to open negotiations at this point.

The City Attorney asked if the terms of the contract were acceptable other than the three year time period. He reminded the Commission the union had ratified the contract; therefore, the union might consider the contract for a one year period.

Mayor Costello stated it was different for each of the member; but he would support a one year contract while the next contract was negotiated.

The City Attorney stated if the Commission was agreeable to the contract other than a three year term, there would be no need for a shade meeting unless the Commission desired to reopen other issues in the contract. He suggested the union representative express the union's position on the possibility of a one year contract.

Jim Shaw, President of I.A.F.F., stated he would have to present the idea to the union members, but should the union be willing to ratify a one year contract, they would immediately be back at the table to negotiate the next contract. He stated the union had already been very responsible and fair in the negotiations due to the difficult economy times.

Commissioner Gillooly agreed that the budget was an issue, but the cost-of-living continued to increase for the employees. She stated the employees were entitled to an increase because more was being asked of them. She pointed out there had been major concessions negotiated with this contract, and a three year contract would allow both sides to know what to expect for the next three years. She suggested the City needed to come up with a solid plan to address any desired changes, then it should be presented to the union for their consideration.

Mayor Costello stated he knew some of the things that needed to be in the contract, such as staffing adjustments to focus on medical calls rather than fire suppression calls, or considerations for the possibility of regionalization. He stated he wanted a one year contract for now and wanted to include flexibility in the next contract.

Commissioner Gillooly agreed all of those issues needed to be considered but asked the Mayor if he thought the union would actually agree to a contract that allowed those options.

Mayor Costello stated he did not think that, which was why the City might have to impose the next one year contract. The Mayor stated he wanted the union to work with the City on something they would agree to but with the understanding that if they didn't, the Commission would have the will to impose something, because the City needed to have the ability to work with other entities to get something done.

Commissioner Kent stated he was concerned about the decrease in revenues while the expenses continued to increase; but although the employees deserved an increase, he did not know where the money for the increases would come from.

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

Item #11(B) – Accepting a Proposal for Engineering Services for the Emergency Water Main Replacement Project

RESOLUTION NO. 2009-52

A RESOLUTION ACCEPTING A PROPOSAL FROM QUENTIN L. HAMPTON ASSOCIATES, INC., FOR ENGINEERING SERVICES REGARDING NORTH US1 EMERGENCY WATERMAIN REPLACEMENT PROJECT, AUTHORIZING THE EXECUTION OF A WORK AUTHORIZATION AND PAYMENT THEREFOR; AND SETTING FOR AN EFFECTIVE DATE.

Commissioner Kelley moved; seconded by Commissioner Kent, to approve Resolution No. 2009-52, as read by title only.

Commissioner Gillooly asked the City Attorney to be aggressive in recouping the City's loss.

Mayor Costello stated he did not understand why there was even an issue; something happened, someone was responsible, and it was not the City.

Assistant City Manager Ted MacLeod stated the City had a very aggressive Deputy City Attorney.

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

Item #12 – Beneficial Communities Funding

Planning Director Ric Goss explained the request was presented to staff, but staff had no recommendation due to not having a funding source.

Commissioner Gillooly asked if the \$150,000 fund request was in-kind because the City would not charge a portion of the impact fees.

The Planning Director stated he would never suggest the City waive an impact fee because impact fees were based upon all the different types of housing. He stated there was a bill in the Legislature that would give the Commission the right to waive the fee and not jeopardize the impact fee, but currently there was no such bill. He recommended the fee be paid to the sewer fund, and the matching funds would come from another fund.

Mayor Costello stated if the City was committed to affordable housing, then the Commission should determine the level of financial support the City was committed to support. He suggested a one time expense from the reserve funds could be used to partner on this project.

Commissioner Gillooly stated before approval of the expenditure, the project would have to go through the required approval process; and the expenditure would only be paid if the project was approved for the grant funds being sought.

Mayor Costello stated it was a good investment if the City was committed to affordable housing.

Project Developer Craig Taylor, Beneficial Communities, 2226 Joanne Drive, Sarasota, stated it had been determined the best size for the project would be 120 units developed with housing tax credits. Mr. Taylor stated the City had supported a similar type development and a senior housing site near the first project. He explained one of the requirements for state funds was matching funds from the local municipality, which would qualify the project for a much larger matching allocation from the state to build a quality unit to be offered at a reduced rental rate. He stated the cost of the 120 unit project would be approximately \$18 million, which would generate property taxes of \$80,000 to \$100,000 a year, as well as revenues from sources such as building permits and sales tax generated by the spending of the new residents, and the City would receive a portion of that revenue as opposed to a portion of the property taxes on an undeveloped parcel. He stated it was a highly competitive process for the available funds derived from nationwide tax dollars to be spent in Florida; therefore, the state required the local government to show support by making a monetary contribution to the project. He stated the intent was to build quality work force housing with one, two, and three bedrooms that would rent for \$550 for a one bedroom to \$750 for a three bedroom to families with an annual income between \$17,000 and \$38,000 that were not subsidized rentals. Mr. Taylor stated the City would not have to spend the \$150,000 until Beneficial Communities received the grant award from the state, but the City's commitment would give them a competitive advantage in the selection process.

Mayor Costello stated should the Commission desire to immediately act on the request, there needed to be a motion to waive the Thompson Rule to allow an immediate vote, or the request could be brought back at a later date.

Commissioner Gillooly moved; seconded by Commissioner Kent, to waive the Thompson Rule to allow a vote.

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

Commissioner Gillooly moved; seconded by Commissioner Kent, to commit \$150,000 from the Reserve Fund as matching funds should Beneficial Communities receive a state grant award.

Mr. Taylor explained there was a form expressing the City's commitment that was due by May 26, 2009.

Mayor Costello called for a five minute recess.

After the recess, Commissioner Gillooly asked the request be on the May 5, 2009, agenda.

Commissioner Gillooly moved; seconded by Commissioner Kent, to have a resolution presented at the May 5, 2009, City Commission meeting.

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

Item #13 - Reports, Suggestions, Requests

City Manager Memorandum

Commissioner Kelley stated he liked the change to the City Manager memorandum, which included a dated signature of the individuals involved in each agenda item.

Meeting Dates

The City Manager stated the May 5, 2009, City Commission meeting agenda would include discussion regarding any changes to the meeting calendar for the summer due to the members' vacation scheduling. She confirmed the consensus of the Commission was to reschedule the budget meeting to Monday, September 14, at 7:00 p.m.

Ms. Shanahan suggested May 5 at 5:30 p.m. for a shade meeting to discuss the firefighters' contract.

Airport Noise Abatement Task Force

Mayor Costello suggested forming a task force consisting of near-by residents, airport tenants and representatives from the flight schools to report back in ninety days. He stated Airport Manager Steve Lichliter could be responsible for the organization of the task force, and the Commission should submit names of potential task force members.

Ms. Shanahan pointed out that members of the task force committee would be subject to sunshine laws, which was a critical issue since this was a really "hot button" issue.

City Attorney Randy Hayes explained the Sunshine Law issue was relative to the task the committee was assigned. He stated since the desire of the Commission was a fact finding committee that would make recommendations, the committee would be subject to sunshine laws. He stated staff would create a resolution to bring to the Commission.

Mayor Costello stated he preferred the City Manager to move forward with the committee rather than coming back to the Commission.

The City Manager asked the Commission for suggestions as to possible members.

Mayor Costello suggested each Commission member appoint one task force member, and the Airport Manager would appoint four members, bringing the task force to nine members.

Spay and Neuter Policy

Mayor Costello asked for a progress update on the resolution regarding a spay and neuter policy.

Chief Longfellow stated there were a couple of minor issues to be resolved; then it would come to the Commission on the second meeting in May. He stated it was very similar to the policy proposed by the County and adopted by Holly Hill.

FloridaRecovery.com

Mayor Costello stated he recently attended a conference at Bethune-Cookman University where it was stated the FloridaRecovery.com website should be reviewed daily due to the constant changes in the grants available.

South Ormond Neighborhood Center

Mayor Costello stated the 2nd IM Ormond Beach reunion was at the South Ormond Neighborhood Center on Sunday, April 26, and suggested the Commission members consider stopping by to show support.

Beach Parking Land

Mayor Costello asked for an update on the beach parking ballot. He stated the City and the Trust for Public Lands had been holding discussions, and he hoped to hear something in the next several weeks.

The City Manager stated staff had met with Bob Giddo from the Trust for Public Lands to discuss the Surfside property and Mr. Giddo was to contact the owners to determine their level of interest. Ms. Shanahan stated the results of the survey would be available sometime in June.

Mayor Costello inquired about the appropriateness of the City advertising an existing for-profit parking lot if it would prevent individuals' cars from being towed.

The City Manager stated the directional signage for available parking would be on the May 5 meeting agenda, and staff had taken care of the issue.

Item #14 – Close the Meeting.

The meeting was adjourned at 9:51 p.m.

APPROVED: May 5, 2009

BY: Fred Costello, Mayor

ATTEST:

Veronica Patterson, City Clerk