

**ORMOND BEACH CITY COMMISSION MEETING
HELD AT CITY HALL COMMISSION CHAMBERS
February 16, 2010 7:00 p.m.**

Present were: Mayor Fred Costello, Commissioner Lori Gillooly, 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.

A G E N D A

- 1) Meeting call to order by Mayor Costello.
- 2) Invocation Pastor Kevin Mahoney, Rima Ridge Baptist Church.
- 3) Pledge of Allegiance.
- 4) **PRESENTATIONS:**
 - A) Proclamation in honor of Cheyenne Conrad and Heather Larson for Girl Scout "Thinking Day."

- B) Certificate for “Achievement of Civic Excellence” presented to Chelsey Gonzales, Hinson Middle School.
- C) Comprehensive Annual Financial Report for the fiscal year ended September 30, 2009 (Audit Report).
- D) Presentation - Census 2010.

5) **AUDIENCE REMARKS:**

- 6) **APPROVAL OF THE MINUTES** of the February 2, 2010, 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. 2010-18 pursuant to Section 14-98, Liens, of the City of Ormond Beach *Code of Ordinances*, authorizing the imposition of a lien against the real property owned by Wachovia Bank, N.A., FL, and located at 863 Riverside Drive, Ormond Beach, Volusia County, Florida (Parcel ID No. 4223-14-02-0170) for costs incurred by the City to terminate or abate a site maintenance violation. (\$150)
- B) Resolution No. 2010-19 authorizing the execution of an acknowledgment and agreement with the Florida East Coast Railway, LLC, regarding lease payments for the use of a right-of-way at the railroad crossing on Granada Boulevard.
- C) Resolution No. 2010-20 accepting a bid from M. Gay Constructors, Inc., for construction services regarding the South Ormond Neighborhood Center Field Lighting Upgrade project, under Bid No. 2010-04; authorizing the execution of a contract and payment therefore; rejecting all other bids. (\$116,700)
- D) Budget results for the FY 2008-09 General Fund and Water/Wastewater Fund.

DISPOSITION: Approve as recommended in City Manager memorandum dated February 11, 2010.

- E) Budget calendar for the FY 2010-11 budget.

DISPOSITION: Approve as recommended in City Manager memorandum dated February 11, 2010.

- F) Emergency procurement from Thompson Pump Company.

DISPOSITION: Approve as recommended in City Manager memorandum dated February 11, 2010.

- G) Support of HB419 relative to homeowners’ associations.

DISPOSITION: Approve as recommended in City Manager memorandum dated February 11, 2010.

- H) John Anderson Drive roadway improvements.

DISPOSITION: Approve as recommended in City Manager memorandum dated February 11, 2010.

8) **PUBLIC HEARINGS:**

- A) Resolution No. 2010-21 of the City Commission, also acting as the Community Redevelopment Agency of the City of Ormond Beach, Florida, authorizing the execution of a Property Improvement Grant Agreement between the Agency and KJUMP, Inc. (Winn Dixie Shopping Center). (\$25,946.50)
- B) Resolution No. 2010-22 authorizing the execution and issuance of a Development Order for a Special Exception Redevelopment Plan for a Type “A” restaurant known as “Maria Bonita” located at 195 West Granada Boulevard and situated within the B-4 (Central Business) zoning district and Downtown Overlay District, to be constructed in two phases; authorizing waivers to the landscape buffer and signage requirements;

authorizing additional monument signage; establishing conditions and expiration date of approval. (Planning Director)

- C) Resolution No. 2010-13 of the City Commission of the City of Ormond Beach, authorizing the City to enter into a Stipulated Settlement Agreement with the Florida Department of Community Affairs regarding the Ormond Crossings Comprehensive Plan – remedial amendments. (Economic Development Director)
 - D) Ordinance No. 2010-06 of the City of Ormond Beach, Florida, adopting the Remedial Amendments for the City of Ormond Beach Comprehensive Plan; amending Goals, Objectives and Policies of the Future Land Use Element by creating and establishing the “Activity Center” land use category and establishing specific permitted uses, development intensities and required improvements for all “Activity Centers”; amending the Future Land Use Map to assign the designation of “Highway Tourist Commercial” and “Industrial” to approximately 155 acres of land located on the south side of US Highway 1, and spanning east and west of Interstate 95 (I-95); amending the Future Land Use Map to assign the designation of “Activity Center” to approximately 2,940 acres located south of the FEC railroad line, spanning east and west of Interstate 95 (I-95); amending the Goals, Objectives and Policies of the Transportation Element for the “Ormond Crossings Activity Center” by designating that area as a Transportation Concurrency Exception Area (TCEA) and establishing specific mobility strategies and improvements to the transportation network to mitigate for impacts resulting from the Ormond Crossings Activity Center; deleting previous provisions approved in 2005 pertaining to wetland and floodplain impacts in the Conservation and Coastal Management Elements; amending Objectives and Policies in the Recreation and Open Space Element by identifying specific improvements to be funded by the developer to mitigate for the impacts resulting from the development of the Ormond Crossings Activity Center; amending the Capital Improvements Element by including specific improvements required of the developer of the Ormond Crossings Activity Center in order to mitigate for impacts to the Emergency Management, Transportation, Utilities and Recreational Facilities of the City of Ormond Beach. (Second Reading)
 - E) Ordinance No. 2010-07 of the City Commission of the City of Ormond Beach, Florida, approving a Development Agreement between the City of Ormond Beach and Tomoka Holdings, LLC, as owner and developer; providing for the development of a 2,924 acre mixed-use development on property located on the south side of the Florida East Coast Railroad, spanning both sides of I-95, and north of the Ormond Beach Municipal Airport within the City of Ormond Beach, to be known as “Ormond Crossings”; authorizing the execution of the Development Agreement. (Second Reading)
 - F) Ordinance No. 2010-08 of the City of Ormond Beach, Florida, rescinding the Ormond Crossings Development of Regional Impact (DRI) Development Order (DO) approved by Resolution No. 2006-269. (Second Reading)
 - G) Ordinance No. 2010-12 granting to Florida Power & Light Company, its successors and assigns, a non-exclusive electric franchise for a period of thirty (30) years, imposing provisions and conditions relating thereto. (Second Reading)
- 9) **SECOND READING OF ORDINANCES:**
- A) Ordinance No. 2010-09 of the City of Ormond Beach, Florida, amending and restating Article I, in General, of Chapter 16, Pensions and Retirement, Sections 16-1 through 16-21.8 inclusive of the *Code of Ordinances*; providing for codification.. (Finance Director)
 - B) Ordinance No. 2010-10 of the City of Ormond Beach, Florida, amending and restating Article III, Firefighters’ Pension Trust Fund, of Chapter 16, Pensions and Retirement, Sections 16-40 through 16-69 inclusive of the *Code of Ordinances*. (Finance Director)
 - C) Ordinance No. 2010-11 of the City of Ormond Beach, Florida, amending and restating Article IV, Police Officers’ Pension Trust Fund, of Chapter 16, Pensions and Retirement, Sections 16-71 through 16-99 inclusive of the *Code of Ordinances*. (Finance Director)

10) **FIRST READING OF ORDINANCES:**

- A) Ordinance No. 2010-13 of the City of Ormond Beach, Florida, making determinations regarding the height of an existing 58 unit building located at 149 and 159 South Atlantic Avenue, known as Cove II, granting certain vested rights relative thereto. (Planning Director)
- B) Ordinance No. 2010-14 of the City of Ormond Beach, Florida, making determinations regarding the height of an existing 138 unit building located at 485 South Atlantic Avenue, known as Maverick Resort, granting certain vested rights relative thereto. (Planning Director)
- C) Ordinance No. 2010-15 of the City of Ormond Beach, Florida, making determinations regarding the height of an existing 119 unit building located at 621 South Atlantic Avenue, known as Casa Del Mar Beach Resort, granting certain vested rights relative thereto. (Planning Director)
- D) Ordinance No. 2010-16 of the City of Ormond Beach, Florida, making determinations regarding the height of an existing 54 unit building located at 145 South Atlantic Avenue, known as Plantation Cove, granting certain vested rights relative thereto. (Planning Director)
- E) Ordinance No. 2010-17 amending Chapter 1, General Administration, of Article III, Definitions, Section 1-22, Definition of Terms and Words, of the City of Ormond Beach *Land Development Code*, amending the definition of Transient Lodging, to clarify the minimum duration of renting residential property. (Planning Director)
- F) Ordinance No. 2010-18 amending Sections 2-322, Conditions, of Article X, Franchises and Public Utilities, of Chapter 2, Administration, of the *Code of Ordinances*, by amending the provision pertaining to grants and renewals of franchises. (Public Works Director)

11) **DISCUSSION ITEM:** City Commission meeting schedule for 2010.

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 7:01 p.m.

Item #2 – Invocation

The invocation was giving by Pastor Kevin Mahoney, Rima Ridge Baptist Church.

Item #3 – Pledge of Allegiance

The Pledge of Allegiance was led by Mayor Costello.

Item #4 – Presentations

Item #4(A) - Proclamation in honor of Cheyenne Conrad and Heather Larson for Girl Scout "Thinking Day"

Mayor Costello read a proclamation to honor Cheyenne Conrad and Heather Larson, two Girl Scouts from Troop #250, who dedicated at least 200 hours each on their service project entitled, Women in History, a museum quality exhibit on display at the Casements until March 10. The Mayor stated the exhibit was a visual exhibit of interest to all ages, which incorporated Girl Scout memorabilia to illustrate the timeline of the project, and was to honor their sister girl guides, as well as other Girl Scouts around the world for "Thinking Day."

Siobhan Daly, Cultural Center Coordinator at the Casements, stated the Casements was very pleased and proud to display the exhibit. She invited everyone to come see the exhibit and announced there was a special presentation on Saturday, February 20.

Item #4(B) - Certificate for "Achievement of Civic Excellence"

Mary Rhodes, Executive Director, Ormond Chamber of Commerce, awarded Chelsey Gonzales, Hinson Middle School, a Certificate of Achievement of Civic Excellence. She reported Ms. Gonzales had raised money to help Haiti; was part of the Student Government Association at Hinson Middle School; played the flute in the band; volunteered at Halifax Medical Center; and taught dance.

Item #4(C) - Comprehensive Annual Financial Report for the fiscal year ended September 30, 2009

Mike Sibley, of James Moore & Co., explained the presentation of the annual financial report showed the General Fund balance was \$8.3 million, with \$7.3 million in unreserved funds; the revenue fund was less than budgeted by \$196,000; and expenditures were less than budgeted by \$2.5 million, primarily due to salary and fuel cost reductions. He stated the three pension funds had net investment earnings of \$1,725,000, and all funded ratios deteriorated, based largely on the poor performance of the investments. He stated the only other fund deficits were in the Self Insurance Fund, which was based on estimates of possible claims, and the Airport Fund, where plans were in place to deal with the deficit. Mr. Sibley stated there were no instances of non-compliance with applicable requirements and any suggestions made to management had already been implemented. He stated the City received an "A" on the auditor's report, due to a lot of new policies aimed at efficiency.

Mayor Costello confirmed that not every client of James Moore & Co. received an "A" on the auditor's report.

Commissioner Gillooly suggested an audit of the transfer of funds in and out of the General Fund to identify and reevaluate the transfers; and specifically, a cost allocation analysis.

City Manager Joyce Shanahan explained that cost allocation distributed a portion of an expense to a department for their actual use of an expense attributable to all departments, such as the cost of hiring a new employee for Public Works was an expense generated by Human Resources, but allocated to Public Works.

Commissioner Gillooly stated it was almost as if the work was outsourced to the General Fund.

City Manager Shanahan stated the cost allocation reporting would be reviewed and updated.

Commissioner Gillooly stated the management letter reported that as of March, 2009, a fund balance reporting was required, as well as a definition with a summarization of where the fund balance was; and she assumed the City would implement these requirements.

City Manager Shanahan stated there were specific requirements as to how the fund balances were reported, which would provide greater definitions, but there was not a lot of flexibility in how the reporting was done.

Commissioner Kent stated it was impressive the City completed the audit early, and that the auditors complimented staff efforts to be leaner and more efficient. He stated Mr. Sibley explained the Water Fund transfers to him, but the necessary reporting needed to be available to explain the transfers. He stated that something must be done about the unfunded pension amounts.

Commissioner Kelley stated the biggest issue was the unfunded pensions, and he agreed something must be done. He complimented staff for all their efforts to reduce spending.

Commissioner Partington thanked the auditors, the City Manager, and the Finance Director for making the annual audit easy on the Commission.

Mayor Costello stated that with a \$28 million General Fund budget, staff came in at approximately 10% under the already reduced budget. The Mayor asked staff to identify what the investment revenue would need to be to cover the 8% the actuaries used to estimate pensions; and he asked what the per capita debt was compared to 10 years ago.

Mr. Sibley stated the per capita figures were on page 132 of the annual report.

Mayor Costello stated the per capita debt went from \$1,119 in 2000, to \$951 in 2010. The Mayor stated the Airport Fund deficit was a loan from the General Fund that was repaid as the land at the airport was sold or leased.

Commissioner Gillooly asked Mr. Sibley to clarify that even with the \$2 million reserve for fund stabilization; the General Fund would be at 15% for unreserved fund balance.

Mr. Sibley stated the unreserved, undesignated balance was closer to 18%, but 15% was the goal.

City Manager Shanahan thanked the auditors, Finance Director Kelly McGuire and Dan Stauffer for an excellent job done on the audit. The City Manager explained that the Finance Department contained the Budget Department; therefore, as soon as the budget was approved in September, staff started work on the audit, which was a monumental job.

Item #4(D) - Census 2010

Betty Holness, Volusia County Census Coordinator, explained the census process through a PowerPoint presentation. She explained the forms would be received in the second week of March and were required by law to be returned by April 1 to be counted. She stated the form consisted of only 10 questions, and the confidential information was important because it was used to establish state legislative districts and to determine the number of seats each state had in the U.S. House of Representatives; and an undercounting of just 1,000 people could cost local governments millions of dollars in revenues. She stated each person uncounted related to \$1,000 to \$1,500 in lost revenues.

Item #5 – Audience Remarks

Police Pensions

Rocco Bandell, 170 West Granada Blvd., Chairman of the Police Pension Fund, stated at the last meeting, February 2, 2010, the Commission received some paperwork that gave an example of a police officer retiring after 25 years of service with a monthly benefit of \$5,500; and comments were made about how incredible that amount was. He pointed out that the last annual report of the pension fund in March 2009, showed no member was receiving a monthly benefit that high; it was not an average, not a high, but used as an example. He stated the average monthly benefit of 45 retired members was \$2,677.50, as of the last report. He stated at the February 2, 2010, Commission meeting it was stated there was a 25% reduction in staff, but a 50% increase in pension costs over the past five years. He explained two issues related to those numbers; there were 25% less people contributing to the plan, which meant 25% less payroll, resulting in 25% less contributions by the City. He stated the most important factor contributing to the unfunded amount was the decline in the stock and bond markets; if the stock and bond markets increased, the City's contribution would be less than currently stated. Mr. Bandell referred to a remark at the February 2, 2010, meeting regarding the makeup of the pension boards that implied the pension boards were being stacked to favor the employees. He stated each board consisted of two members elected by active staff, two members appointed by the Commission, and one member elected by the specific board, which he stated was a fair makeup for the boards.

Mayor Costello asked the Finance Director to verify his statement that there were 25% less employees, but an increase in pension expenses; and asked about the \$5,500 monthly benefit figure used.

Commissioner Kent asked the Finance Director to determine where the \$5,500 monthly benefit figure came from.

Finance Director Kelly McGuire explained the memo did not state the \$5,500 example was average, nor did the memo state the benefit was "average." She explained the memo addressed a new benefit being proposed, based not on what retirees were making now, but on what affect the proposed change would make for future retirees. She stated a \$5,500 monthly benefit was based on the proposed change and was not out of the question.

Item #6 – Approval of the Minutes

Mayor Costello advised the minutes of the February 2, 2010, 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 Kent moved, seconded by Commissioner Kelley, for approval of the Consent Agenda.

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

Item #8A – Property Improvement Grant Program – Winn Dixie Shopping Center – Painting and Landscaping Improvements

Mayor Costello stated the City Commission served as the Community Redevelopment Agency (CRA), and must review this grant application and make a recommendation as the CRA prior to the City Commission public hearing; therefore, the City Commission meeting would be recessed and a meeting of the Community Redevelopment Agency convened. He explained once the recommendation as made, the CRA meeting would be adjourned and the City Commission meeting reconvened to hold the public hearing on each item.

Mayor Costello recessed the City Commission and called the meeting of the Community Redevelopment Agency to order at 8:02 p.m.

Mayor Costello stated he had no requests from anyone to speak to the CRA regarding Resolution No. 2010-21 relative to the Property Improvement Grant for the Winn Dixie Shopping Center for painting and landscaping improvements, and asked the CRA members for their recommendation.

Commissioner Kelley recommended, seconded by Commissioner Kent, for approval of Resolution No. 2010-21.

Mayor Costello called a voice vote, and announced that it was unanimous in favor of recommending approval.

Mayor Costello reconvened the City Commission meeting.

RESOLUTION NO. 2010-21

A RESOLUTION OF THE CITY COMMISSION, ALSO ACTING AS THE COMMUNITY REDEVELOPMENT AGENCY, OF THE CITY OF ORMOND BEACH, FLORIDA, AUTHORIZING THE EXECUTION OF A PROPERTY IMPROVEMENT GRANT AGREEMENT BETWEEN THE AGENCY AND KJUMP, INC.; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Costello stated Resolution No. 2010-21 received unanimous recommendation for approval by the CRA.

Commissioner Kelley moved, seconded by Commissioner Gillooly, for the approval of Resolution No. 2010-21.

Mayor Costello stated this request bordered on maintenance, but it was recommended by Ormond MainStreet; therefore, he would support it. He expressed concern that this property improvement grant might set a precedent, and asked MainStreet to consider what they wanted from this program.

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

Mayor Costello stated that seeing no objection, he would close the public hearing.

Item #8B – Special Exception, Maria Bonita, 195 West Granada Boulevard

RESOLUTION NO. 2010-22

A RESOLUTION AUTHORIZING THE EXECUTION AND ISSUANCE OF A DEVELOPMENT ORDER FOR A SPECIAL EXCEPTION REDEVELOPMENT PLAN FOR A TYPE “A” RESTAURANT KNOWN AS “MARIA BONITA” LOCATED AT 195 WEST GRANADA BOULEVARD AND SITUATED WITH THE B-4 (CENTRAL BUSINESS) ZONING DISTRICT AND DOWNTOWN OVERLAY DISTRICT TO BE CONSTRUCTED IN TWO PHASES; AUTHORIZING WAIVERS TO THE LANDSCAPE BUFFER AND SIGNAGE REQUIREMENTS; AUTHORIZING ADDITIONAL MONUMENT SIGNAGE; ESTABLISHING CONDITIONS AND EXPIRATION DATE OF APPROVAL; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Costello stated this was a public hearing for a special exception to the development order for Maria Bonita Restaurant, and the Planning Board unanimously recommended approval of Resolution No. 2010-22.

Commissioner Kent moved, seconded by Commissioner Kelley, for the approval of Resolution No. 2010-22, as read by title only.

Commissioner Kelley expressed appreciation for the discussion at the Planning Board regarding the design, which was outstanding to allow the Mexican theme of the restaurant.

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

Mayor Costello closed the public hearing with no objections.

Item #8C - Remedial Amendments for Ormond Crossings Stipulated Settlement Agreement

RESOLUTION NO. 2010-13

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF ORMOND BEACH, AUTHORIZING THE CITY TO ENTER INTO A STIPULATED SETTLEMENT AGREEMENT WITH THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS REGARDING THE ORMOND CROSSINGS COMPREHENSIVE PLAN – REMEDIAL AMENDMENTS; SETTING FORTH AN EFFECTIVE DATE.

Mayor Costello stated the only request to speak was from Glenn Storch, attorney for the developer, which he would set aside unless someone had questions for Mr. Storch.

City Planner Clay Ervin stated any concerns raised with the continuance of this item have been addressed with the Department of Transportation and Department of Community Affairs; and he stated the specific changes had been made to the Stipulated Settlement Agreement, Exhibit B, Attachment 1, on page 19 of 38, pursuant to the County’s request to strike one sentence and page 20 of 38 to correct a typographic error regarding which segment was ready.

Commissioner Kelley moved, seconded by Commissioner Kent, to approve Resolution No. 2010-13, as read by title only.

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

Mayor Costello closed the public hearing and recessed for five minutes to execute the necessary documents.

Mayor Costello reconvened the City Commission meeting at 8:15 p.m.

Item #8D – Remedial Amendments for Ormond Crossings (Activity Center)

ORDINANCE NO. 2010-06

AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, ADOPTING THE REMEDIAL AMENDMENTS FOR THE CITY OF ORMOND BEACH COMPREHENSIVE PLAN; AMENDING GOALS, OBJECTIVES AND POLICIES OF THE FUTURE LAND USE ELEMENT BY CREATING AND ESTABLISHING THE “ACTIVITY CENTER” LAND USE CATEGORY AND ESTABLISHING SPECIFIC PERMITTED USES, DEVELOPMENT INTENSITIES AND REQUIRED IMPROVEMENTS FOR ALL “ACTIVITY CENTERS”; AMENDING THE FUTURE LAND USE MAP TO ASSIGN THE DESIGNATION OF “HIGHWAY TOURIST COMMERCIAL” AND “INDUSTRIAL” TO APPROXIMATELY 155 ACRES OF LAND LOCATED ON THE SOUTH SIDE OF US HIGHWAY 1, AND SPANNING EAST AND WEST OF INTERSTATE 95 (I-95); AMENDING THE FUTURE LAND USE MAP TO ASSIGN THE DESIGNATION OF “ACTIVITY CENTER” TO APPROXIMATELY 2,940 ACRES LOCATED SOUTH OF THE FEC RAILROAD LINE, SPANNING EAST AND WEST OF INTERSTATE 95 (I-95); AMENDING THE GOALS, OBJECTIVES AND POLICIES OF THE TRANSPORTATION ELEMENT FOR THE “ORMOND CROSSINGS ACTIVITY CENTER” BY DESIGNATING THAT AREA AS A TRANSPORTATION CONCURRENCY EXCEPTION AREA (TCEA) AND ESTABLISHING SPECIFIC MOBILITY STRATEGIES AND IMPROVEMENTS TO THE TRANSPORTATION NETWORK TO MITIGATE FOR IMPACTS RESULTING FROM THE ORMOND CROSSINGS ACTIVITY CENTER; DELETING PREVIOUS PROVISIONS APPROVED IN 2005 PERTAINING TO WETLAND AND FLOODPLAIN IMPACTS IN THE CONVERSATION AND COASTAL MANAGEMENT ELEMENTS; AMENDING OBJECTIVES AND POLICIES IN THE RECREATION AND OPEN SPACE ELEMENT BY IDENTIFYING SPECIFIC IMPROVEMENTS TO BE FUNDED BY THE DEVELOPER TO MITIGATE FOR THE IMPACTS RESULTING FROM THE DEVELOPMENT OF THE ORMOND CROSSINGS ACTIVITY CENTER; AMENDING THE CAPITAL IMPROVEMENTS ELEMENT BY INCLUDING SPECIFIC IMPROVEMENTS REQUIRED OF THE DEVELOPER OF THE ORMOND CROSSINGS ACTIVITY CENTER IN ORDER TO MITIGATE FOR IMPACTS TO THE EMERGENCY MANAGEMENT, TRANSPORTATION, UTILITIES AND RECREATIONAL FACILITIES OF THE CITY OF ORMOND BEACH; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Costello stated this was a public hearing to adopt remedial amendments to the City's Comprehensive Plan regarding Ormond Crossings and stated a sign-up sheet was available in the rear of the Chambers for anyone who wanted to receive additional information from the Department of Community Affairs (DCR) regarding the adoption of the proposed Comprehensive Plan amendments.

City Planner Clay Ervin stated the changes identified in the remedial amendments carry over to this item, including a request from the School Board staff for clarity in that the developers were aware they were not exempt from any concurrency standards of the schools established by the City or Volusia County School Board, and this project must comply with all the requirements of the City of Ormond Beach Public School Facilities Element. He stated this was on the record to show there was understanding by the developers, the City and the School Board.

Rick Boehm, Chairman of Leisure Services Advisory Board, stated this was an outstanding example of a public/private partnership. He offered kudos to the developers for the things being done for the City. He explained there was a 17 acre piece of land known as, “the triangle,” located in the northeast corner of the City's Sports Complex; the triangle was necessary for Phase I of the Sports Complex. He stated the developer at that time, leased the triangle to the City for \$1 with the agreement that someday the City could purchase the land. He stated that within this agreement, the developers were now going to deed the property to the City within 90 days. He stated that thousands of people were using that land because the developers made it available to the City.

Commissioner Kelley moved, seconded by Commissioner Gillooly, for approval of Ordinance No. 2010-06, 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

Mayor Costello asked for any objections to closing the public hearing; hearing none, he stated the public hearing was closed.

Item #8E – Ormond Crossings Development Agreement

ORDINANCE NO. 2010-07

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF ORMOND BEACH, FLORIDA, APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ORMOND BEACH AND TOMOKA HOLDINGS, LLC, AS OWNER AND DEVELOPER; PROVIDING FOR THE DEVELOPMENT OF A 2,924 ACRE MIXED-USE DEVELOPMENT ON PROPERTY LOCATED ON THE SOUTH SIDE OF THE FLORIDA EAST COAST RAILROAD, SPANNING BOTH SIDES OF I-95 AND NORTH OF THE ORMOND BEACH MUNICIPAL AIRPORT WITHIN THE CITY OF ORMOND BEACH TO BE KNOWN AS "ORMOND CROSSINGS"; AUTHORIZING EXECUTION OF THE DEVELOPMENT AGREEMENT; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Costello stated this was a public hearing to consider the approval of a development order for Ormond Crossing, and he stated there were no requests from anyone to speak.

Commissioner Kelley moved, seconded by Commissioner Gillooly, for approval of Ordinance No. 2010-07, 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

Mayor Costello stated that hearing no objectives, the public hearing was closed.

Item #8F – Rescission of the Ormond Crossings Development of Regional Impact Development Order

ORDINANCE NO. 2010-08

AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, RESCINDING THE ORMOND CROSSINGS DEVELOPMENT OF REGIONAL IMPACT (DRI) DEVELOPMENT ORDER (DO) APPROVED BY RESOLUTION NO. 2006-269; REPEALING ALL INCONSISTENT ORDINANCES AND RESOLUTIONS OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Costello stated this was a public hearing and he stated he had no requests from anyone to speak.

Commissioner Gillooly moved, seconded by Commissioner Kent, for approval of Ordinance No. 2010-08, on second reading, as read by title only.

Mayor Costello stated the project had gone from 5,000 residential units to 3,000 residential units with 5 million square feet of business/industrial park, plus \$56 million of improvements that would not have been made under the original development order. The Mayor stated this was a wonderful thing for the City and provided a magnificent gateway to Central Florida. He thanked the developers for all their patience and for all they were doing with this public/private partnership.

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

Mayor Costello stated the public hearing was closed, with no objections.

Glenn Storch, of Storch, Morris & Harris, representing this applicant and the previous applicant, expressed gratitude for the continued support and cooperation of the City, which allowed the patience of the developer.

Item #8G – Florida Power and Light Franchise Agreement

ORDINANCE NO. 2010-12

AN ORDINANCE GRANTING TO FLORIDA POWER & LIGHT COMPANY, ITS SUCCESSORS AND ASSIGNS, A NON-EXCLUSIVE ELECTRIC FRANCHISE FOR A PERIOD OF THIRTY (30) YEARS; IMPOSING PROVISIONS AND CONDITIONS RELATIVE THERETO; AND SETTING FORTH AN EFFECTIVE DATE.

Greg Avakian, 161 Heritage Circle, stated his objection to the length of the contract. He stated thirty years was an extremely long time in today's age, due to the continued technologic changes. He asked if the franchise agreement was intertwined with the tariff rate.

Mayor Costello stated that certain items were in the tariff agreement and certain items were in the franchise agreement, but the franchise agreement does not influence what was in the tariff agreement, which was handled by the state. The Mayor stated the tariff agreement affected everyone the same; and if it were not for the "favored nations" clause in the franchise agreement, he would be more concerned about some of Mr. Avakian's issues.

Mr. Avakian stated this contract was not negotiated but was a "take it or leave it" deal, and under this contract, the City was the only entity excluded from getting into the business of supplying electric.

Commissioner Kelley stated he had had hours of discussions with Mr. Avakian, but the City does not want to be in the business of providing citizens with electricity. He stated the maintenance for one light pole was \$2,100 for 30 years, and the City could not put the pole up and maintain it for 30 years for that amount of money. He stated he weighed the facts and the actual cost of usage was minimal, at approximately fifty cents a pole, considering the cost of replacing poles, trimming vegetation around the poles, plus the liability involved. He stated the contract was non-exclusive and allowed the City the flexibility to entertain other suppliers. Commissioner Kelley stated that for the last 60 years, electricity had to be generated, stored and delivered in basically the same way, and until the technology progressed to the point that changed, we were faced with the delivery of power the way we currently deliver it. Commissioner Kelley stated FPL was the largest supplier of solar energy and solar farms, and their attempt to get approval for a nuclear power plant was denied.

Commissioner Kent moved, seconded by Commissioner Kelley, for approval of Ordinance No. 2010-12, on second reading, as read by title only.

Commissioner Gillooly stated for the record that nothing prohibited the City from seeking a source other than FPL for electricity. She stated that discussions across the board were about consolidation of services; therefore, to have the City providing electricity would be a step backwards. She stated it was important to note, the services provided by FPL and the innovative efforts shown by FPL in developing other energy sources, made FPL a good corporate citizen. She stated she had hesitation in changing the ordinance to state "shall" rather than "may," but the City Attorney had explained the change was for a standardization of contract language. She asked if the "favored nations rights" mentioned by Mayor Costello would allow the City to receive a higher franchise fee should another municipality in Volusia County received a higher franchise fee.

City Attorney Randy Hayes explained the "favored nation" clause would be triggered to allow negotiations for a higher franchise fee if another municipality within Volusia County received a franchise fee greater than 6%.

Mayor Costello stated his reasons for supporting this ordinance were that the contract was non-exclusive, which allowed another energy provider to compete with FPL; the "favored nation" clause; FPL had the lowest rate in the state out of 54 providers; and the City could not afford to purchase the infrastructure at a discounted rate.

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

Mayor Costello stated that hearing no objections, he closed the public hearing.

Item #9A – Proposed Changes – General Employees’ Pension Trust Fund

ORDINANCE NO. 2010-09
AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA AMENDING AND RESTATING ARTICLE I, IN GENERAL, OF CHAPTER 16, PENSIONS AND RETIREMENT, SECTIONS 16-1 THROUGH 16-21.8 INCLUSIVE OF THE CODE OF ORDINANCES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

Commissioner Kelley, seconded by Commissioner Gillooly, for approval of Ordinance No. 2010-09, 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 #9B – Proposed Changes – Firefighters’ Pension Trust Fund

ORDINANCE NO. 2010-10
AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA AMENDING AND RESTATING ARTICLE III, FIREFIGHTERS’ PENSION TRUST FUND, OF CHAPTER 16, PENSIONS AND RETIREMENT, SECTIONS 16-40 THROUGH 16-69 INCLUSIVE OF THE CODE OF ORDINANCES; PROVIDING SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Gillooly, for approval of Ordinance No. 2010-10, 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 #9C – Proposed Changes – Police Officers’ Pension Trust Fund

ORDINANCE NO. 2010-11
AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, AMENDING AND RESTATING ARTICLE IV, POLICE OFFICERS’ PENSION TRUST FUND, OF CHAPTER 16, PENSIONS AND RETIREMENT, SECTIONS 16-71 THROUGH 16-99 INCLUSIVE OF THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

Commissioner Gillooly moved, seconded by Commissioner Partington, for approval of Ordinance No. 2010-11, to include language to allow purchase of military service prior to employment if the member did not receive credited service for the time spent in the Armed Forces from any other private, governmental or military retirement or pension system, 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 #10A – Building Height Exemption: 149 South Atlantic Avenue, Cove II

ORDINANCE NO. 2010-13
AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, MAKING DETERMINATIONS REGARDING THE HEIGHT OF AN EXISTING 58 UNIT

BUILDING LOCATED AT 149 AND 159 SOUTH ATLANTIC AVENUE, KNOWN AS COVE II; 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, for approval of Ordinance No. 2010-13, on first reading, as read by title only.

Lucille Bornmann, 6 Windsor Drive, stated the land use plan allowed for a 75 foot height limit, and the citizens did not want any buildings higher than 75 feet. She stated the Commission was not listening to the citizens, and if the Commission allowed this change, it would open the doors to all developers to build over 75 feet.

Commissioner Gillooly explained the Commission was responding directly to what the citizens wanted, and this was an existing building when the height limit was imposed. She stated on November 2, 2008, the citizens overwhelmingly approved allowing the vesting of existing buildings to rebuild should the buildings be damaged. She stated the proposed exemptions were not for new buildings.

Mayor Costello explained the citizens voted in a referendum to allow the existing buildings to rebuild to the same height if they were destroyed.

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

Item #10B – Building Height Exemption: 485 South Atlantic Avenue, Maverick Resort

ORDINANCE NO. 2010-14

AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, MAKING DETERMINATIONS REGARDING THE HEIGHT OF AN EXISTING 138 UNIT BUILDING LOCATED AT 485 SOUTH ATLANTIC AVENUE, KNOWN AS MAVERICK RESORT; 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 Gillooly, for approval of Ordinance No. 2010-14, on first 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 #10C – Building Height Exemption: 621 South Atlantic Avenue, Casa Del Mar

ORDINANCE NO. 2010-15

AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, MAKING DETERMINATIONS REGARDING THE HEIGHT OF AN EXISTING 119 UNIT BUILDING LOCATED AT 621 SOUTH ATLANTIC AVENUE, KNOWN AS CASA DEL MAR BEACH RESORT; 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 Gillooly, for approval of Ordinance No. 2010-15, on first 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 #10D – Building Height Exemption: 145 South Atlantic Avenue, Plantation Cove

ORDINANCE NO. 2010-16

AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, MAKING DETERMINATIONS REGARDING THE HEIGHT OF AN EXISTING 54 UNIT BUILDING LOCATED AT 149 SOUTH ATLANTIC AVENUE, KNOWN AS COVE II; GRANTING CERTAIN VESTED RIGHTS RELATIVE THERETO; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Gillooly moved, seconded by Commissioner Partington, for approval of Ordinance No. 2010-16, on first reading, as read by title only.

Commissioner Gillooly stated these determinations were not taken lightly, but required due diligence and documentation on the part of the owners and the Planning Department.

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

Item #10E – LDC Amendment – Rentals in Residential Zoning Districts

ORDINANCE NO. 2010-17

AN ORDINANCE AMENDING CHAPTER 1, GENERAL ADMINISTRATION, OF ARTICLE III, DEFINITIONS, SECTION 1-22, DEFINITION OF TERMS AND WORDS OF THE CITY OF ORMOND BEACH *LAND DEVELOPMENT CODE* AMENDING THE DEFINITION OF TRANSIENT LODGING, TO CLARIFY THE MINIMUM DURATION OF RENTING RESIDENTIAL PROPERTY; REPEALING ALL INCONSISTENT CODE SECTION REFERENCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, for approval of Ordinance No. 2010-17, on first 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 #10F – Section 2-322, Franchises and Public Utilities, of the Code of Ordinances

ORDINANCE NO. 2010-18

AN ORDINANCE AMENDING SECTION 2-322, CONDITIONS, OF ARTICLE X, FRANCHISES AND PUBLIC UTILITIES, OF CHAPTER 2, ADMINISTRATION, OF THE *CODE OF ORDINANCES*, BY AMENDING THE PROVISION PERTAINING TO GRANTS AND RENEWALS OF FRANCHISES; BY REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, for approval of Ordinance No. 2010-18, on first 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 #11 – 2010 City Commission Meeting Schedule

Commissioner Kent thanked the City Attorney and the City Clerk for their research on qualifying requirements, and requested the June 15 City Commission meeting be changed to June 22.

Mayor Costello noted that no one had any objection and requested a resolution reflecting the change be brought to the Commission on the Consent Agenda.

Item #12 – Reports, Suggestions, Requests

Community Redevelopment Agency Funds

Commissioner Kelley stated when Community Redevelopment Agency funds were being used on maintenance of properties, the Commission should look at using the funds for problem areas, such as the gas station on Granada.

Commissioner Kent stated he had some hesitation regarding the CRA funds for maintenance, but he supported the issue due to the recommendation of MainStreet. He stated MainStreet needed to know that in the future, the Commission was not in favor of spending funds on maintenance.

Mayor Costello stated the Commission should do something to stimulate the next phase of Downtown; and the proposal to the Commission on the Consent Agenda was a “fix up,” not revitalization. The Mayor suggested a parking lot, a park, or a bus stop; and he stated there needed to be a plan.

City Manager Shanahan advised there was a Downtown Master Plan.

Mayor Costello stated the Master Plan should be updated, reviewed, changed and responded to, whatever was necessary to move forward.

The City Manager pointed out the Master Plan was updated two years ago, and she stated the Rockefeller Gardens project was recently completed with a significant use of TIFF funds.

Recognizing Long Term Employees

Commissioner Partington commented on the efforts of staff with the huge agenda packet and thanked staff for his tour of the water treatment plant and wastewater treatment plant. While at the plants, Commissioner Partington stated he met a number of employees who had devoted their careers to the City. Commissioner Partington suggested the City recognize and thank long term employees with 20 years or more.

John Anderson Improvement Project

Commissioner Gillooly appreciated staff for moving forward with the John Anderson improvement project.

Chamber of Commerce Annual Dinner

Commissioner Gillooly reported that at the Regional Chamber of Commerce Annual Dinner, Phil Maroney was awarded the Marvin Samuels Leadership Award.

Movies on the Halifax

City Manager Shanahan announced the “Movies on the Halifax” event was scheduled for March 5, and the movie was “Goonies.”

Commission Networking

Mayor Costello recommended the City purchase a table at several regional events, such as the Regional Chamber of Commerce Annual Dinner, the Ormond Beach Chamber of Commerce annual event, and the Crime Stoppers event for the Commission members and guests to attend because it was an excellent opportunity to build relationships in the community.

Jobs

Mayor Costello discussed the importance of job creation, and he stated that Ormond Crossings should help in that endeavor.

Census

Mayor Costello suggested each Commission member speak at four groups or more in support of citizens returning Census forms, which would provide the maximum tax dollars for the City.

Item #13 – Close the Meeting

The meeting was adjourned at 9:34 p.m.

APPROVED:

March 2, 2010

BY:

Fred Costello, Mayor

City Commission – February 16, 2010

ATTEST:

Veronica Patterson, City Clerk