

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

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**August 6, 2014**

**7:00 p.m.**

**Commission Chambers**

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Present were: Mayor Ed Kelley, Commissioners James Stowers, Troy Kent, Rick Boehm, and Bill Partington, City Manager Joyce Shanahan, Assistant City Manager and Public Works Director Ted MacLeod, City Attorney Randy Hayes, and City Clerk Scott McKee.

**A G E N D A**

**1. CALL TO ORDER**

**2. INVOCATION**

**3. PLEDGE OF ALLEGIANCE**

**4. PRESENTATIONS AND PROCLAMATIONS**

A. Police Chief's Commendation Award - Corporal Brent Hodge

B. Employee of the Quarter - Mike Demchak

**5. AUDIENCE REMARKS - REGARDING ITEMS NOT ON THE AGENDA**

**6. APPROVAL OF MINUTES**

The Minutes from the July 29, 2014 City Commission Meeting will be available for approval at the August 19, 2014 City Commission 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. 2014-125** : A RESOLUTION AUTHORIZING THE EXECUTION OF A RELEASE AND SATISFACTION OF A SPECIAL MASTER ADMINISTRATIVE FINE/LIEN FOR CODE VIOLATIONS ON PROPERTY LOCATED AT 31 BELLEWOOD CIRCLE, ORMOND BEACH, VOLUSIA COUNTY, FLORIDA; AND SETTING FORTH AN EFFECTIVE DATE.

*Staff Contact: Joanne Naumann, Neighborhood Improvement Manager (386-615-7069)*

B. **RESOLUTION NO. 2014-126** : A RESOLUTION AUTHORIZING USE OF THE CITY'S SEAL BY DEB CHESLOW CONSULTING FOR PROMOTIONAL ACTIVITIES IN CONNECTION WITH THE REMARKABLE RIVER RUN 5K EVENT; SETTING FORTH AN EFFECTIVE DATE.

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

C. **RESOLUTION NO. 2014-128** : A RESOLUTION AUTHORIZING THE EXECUTION OF AN INTERLOCAL FUNDING AGREEMENT BETWEEN THE CITY AND THE COUNTY OF VOLUSIA REGARDING THE N. US1 CORRIDOR MEDIAN BEAUTIFICATION PROJECT; AND SETTING FORTH AN EFFECTIVE DATE.

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

## 8. PUBLIC HEARINGS

- A. **ORDINANCE NO. 2014-30** : AN ORDINANCE AMENDING THE FUTURE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP TO CHANGE THE DESIGNATION OF ONE (1) PARCEL OF REAL PROPERTY TOTALING 4.64± ACRES LOCATED AT 640 N. NOVA ROAD, FROM "MEDIUM DENSITY RESIDENTIAL" TO "HIGH DENSITY RESIDENTIAL"; PROVIDING FOR CONFLICT; AUTHORIZING TRANSMITTAL; AND SETTING FORTH AN EFFECTIVE DATE.

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

- B. **ORDINANCE NO. 2014-31** : AN ORDINANCE APPROVING THE PRELIMINARY AND FINAL PLAT FOR "DEER CREEK PHASE FOUR UNIT B OF HUNTER'S RIDGE" SUBDIVISION WITHIN THE "HUNTER'S RIDGE" DEVELOPMENT OF REGIONAL IMPACT; ESTABLISHING CONDITIONS AND EXPIRATION DATE OF APPROVAL; AND SETTING FORTH AN EFFECTIVE DATE.

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

- C. **RESOLUTION NO. 2014-127** : A RESOLUTION AUTHORIZING THE EXECUTION AND ISSUANCE OF A DEVELOPMENT ORDER FOR A SPECIAL EXCEPTION TO ALLOW OUTDOOR LIVE MUSIC AT "THE BEACH BUCKET" RESTAURANT LOCATED AT 867 SOUTH ATLANTIC AVENUE, WITHIN THE B-6 (OCEANFRONT TOURIST COMMERCIAL) ZONING DISTRICT; ESTABLISHING CONDITIONS AND EXPIRATION DATE OF APPROVAL; AND SETTING FORTH AN EFFECTIVE DATE.

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

## 9. RESOLUTIONS

- A. **RESOLUTION NO. 2014-129** : A RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF A STIPULATION FOR SETTLEMENT BETWEEN THE CITY AND 1545 ORMOND BEACH, LLC AND 1545 OPERATIONS, INC.; AND SETTING FORTH AN EFFECTIVE DATE.

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

## 10. REPORTS, SUGGESTIONS, REQUESTS

## 11. ADJOURNMENT

### Item #1 – Meeting Call to Order

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

### Item #2 – Invocation

Chaplain Eddie Goncalves, Pastoral Care Department, Florida Hospital Memorial, gave the invocation.

### Item #3 – Pledge of Allegiance

Mayor Kelley led the Pledge of Allegiance.

### Item #4A – Police Chief's Commendation Award – Corporal Brent Hodge

Police Chief Andy Osterkamp introduced Corporal Brent Hodge and explained that he had served as the Police Department's Accreditation Manager over the past two years. He stated that Corporal Hodge was instrumental in the agency's success in obtaining reaccreditation in June 2014. He recognized the Police Department, both the sworn and civilian personnel, who played a role in the reaccreditation process. He explained that Corporal Hodge had to review over 200 standards each year for accreditation and update the department's policies and procedures. He noted that after the process was completed for one year, it would start again all over for the next year.

Chief Osterkamp stated that he was awarding Corporal Hodge with a Chief's Commendation Award, which was awarded to an employee for performance of their duties or an act that demonstrated competency and efficiency beyond what was reasonably expected. He stated that Corporal Hodge exceeded all of his expectations and went above and beyond. He explained that without Corporal Hodge's hard work and dedication, their reaccreditation would not have been as easy and flawless as it was. He noted that the department achieved a rating of 100% compliance on all applicable accreditation standards.

Ms. Joyce Shanahan, City Manager, noted that the individuals performing the accreditation review had marked no exceptions and said that the police department's standards were flawless.

Mayor Kelley congratulated Corporal Hodge and thanked Chief Osterkamp for his leadership.

Chief Osterkamp presented Corporal Hodge with a plaque, pen set, and challenge coin from the accreditation commission.

#### Item #4B – Employee of the Quarter – Mike Demchak

Ms. Joyce Shanahan, City Manager, announced that Mr. Mike Demchak was the Employee of the Quarter. She stated that Mr. Demchak's family moved to Ormond Beach in 1977. She stated that Mr. Demchak attended Seabreeze High School and then the University of Central Florida, where he received a Bachelor's Degree in Business Administration. She stated that Mr. Demchak began working for the city in 2007 as Community Events Coordinator. She noted that Mr. Demchak was responsible for a number of high profile events. She explained that because of Mr. Demchak's commitment and dedication, the city's spectacular events, such as the Memorial Day Remembrance Ceremony, Independence Day Celebration, Reel in the Fun Kids Fishing Tournament, Art in the Park, and the Home for the Holidays Parade, were successful. She stated that Mr. Demchak knew how to motivate and project a positive image for himself and the city. She noted that she knew from personal experience that Mr. Demchak had every event well handled. She introduced Mr. Demchak's wife and children. She congratulated Mr. Demchak.

Mayor Kelley congratulated Mr. Demchak and presented him with a plaque, watch, and envelope. He displayed the plaques that would hang in the atrium at City Hall signifying Mr. Demchak's designation as Employee of the Quarter.

#### Item #5 – Audience Remarks

Mr. Donald Cunningham, 15 N. Yonge Street, stated that when shoveling dirt into a dumpster a manager of his trailer park came up with a beer can and cigarette in her hands and attacked him. He stated that a few years earlier she was on the roof of a trailer with a rifle and was going to shoot someone but was eventually pulled off. He stated that digging holes and taking the dirt so that the stormwater did not run off into the sewers was a dangerous affair. He noted that he worked for a New Smyrna Beach landscaping company and went broke because no one got on board with him doing that. He explained that he thought that he would be a big success. but he went broke because there was not enough demand for the work he performed. He stated that there was widespread water pollution and it was critical to increase demand. He explained that he was putting a letter in the mail to an attorney and he would also send a copy to Mayor Kelley.

#### Items #6– Approval of Minutes

Mayor Kelley advised that due to the short time between the last City Commission meeting, on July 29, 2014, and this City Commission meeting, the minutes from the July 29, 2014, City Commission meeting would be available for approval at the August 19, 2014, City Commission meeting.

#### Item #7– Consent Agenda

Mayor Kelley advised that the actions proposed for the items on the Consent Agenda were so stated on the agenda. He asked if any member of the Commission had questions or wished to discuss any items separately.

**Commissioner Kent moved, seconded by Commissioner Boehm, for approval of the Consent Agenda.**

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

Item #7C – North US1 Corridor Beautification Project Funding Agreement

Commissioner Boehm stated that this agreement was another wonderful example of a public private partnership within the city. He cited the Magic Forest Playground, Casements Gazebo, and Ormond Garage as other examples. He explained that a group of business owners on North US1 raised \$20,000 to contribute towards the beginning of the beautification project.

Mayor Kelley stated that he, Ms. Shanahan, and City Attorney Randy Hayes had a meeting the previous day to follow up. He thanked County Councilman Doug Daniels for being a leader and working with them to have them contribute \$20,000. He stated that he hoped this would all lead to additional funds and plans to improve that area. He noted that it was the private group who stepped up initially and whose actions caused the rest to fall into place.

Item #8 – Public Hearings

Mayor Kelley opened the public hearings.

Item #8A – 640 N. Nova Road Small Scale Land Use Plan Amendment

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2014-30  
AN ORDINANCE AMENDING THE FUTURE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP TO CHANGE THE DESIGNATION OF ONE (1) PARCEL OF REAL PROPERTY TOTALING 4.64± ACRES LOCATED AT 640 N. NOVA ROAD, FROM "MEDIUM DENSITY RESIDENTIAL" TO "HIGH DENSITY RESIDENTIAL"; PROVIDING FOR CONFLICT; AUTHORIZING TRANSMITTAL; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Boehm moved, seconded by Commissioner Partington, for approval of Ordinance No. 2014-30, on first reading, as read by title only.**

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

Item #8B – Deer Creek, Phase 4B Preliminary & Final Plat

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2014-31  
AN ORDINANCE APPROVING THE PRELIMINARY AND FINAL PLAT FOR "DEER CREEK PHASE FOUR UNIT B OF HUNTER'S RIDGE" SUBDIVISION WITHIN THE "HUNTER'S RIDGE" DEVELOPMENT OF REGIONAL IMPACT; ESTABLISHING CONDITIONS AND EXPIRATION DATE OF APPROVAL; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kent moved, seconded by Commissioner Boehm, for approval of Ordinance No. 2014-31, on first reading, as read by title only.**

Commissioner Stowers

Call Vote:	Commissioner Boehm	Yes
	Commissioner Partington	Yes

	Commissioner Stowers	Abstain
	Commissioner Kent	Yes
Carried.	Mayor Kelley	Yes

Item #8C – Special Exception for Outdoor Music at The Beach Bucket

City Clerk Scott McKee read by title only:

RESOLUTION NO. 2014-127

A RESOLUTION AUTHORIZING THE EXECUTION AND ISSUANCE OF A DEVELOPMENT ORDER FOR A SPECIAL EXCEPTION TO ALLOW OUTDOOR LIVE MUSIC AT “THE BEACH BUCKET” RESTAURANT LOCATED AT 867 SOUTH ATLANTIC AVENUE, WITHIN THE B-6 (OCEANFRONT TOURIST COMMERCIAL) ZONING DISTRICT; ESTABLISHING CONDITIONS AND EXPIRATION DATE OF APPROVAL; AND SETTING FORTH AN EFFECTIVE DATE.

Mr. Steven Spraker, Senior Planner, stated that the Planning Board recommended approval. He explained that there had been one dissenting vote by a member who wanted the hours of operation to extend to 11:00 a.m. on Sundays. He stated that the resolution before them was written following the Planning Board recommendation which had the hours of Sunday from 4:00 p.m. to 8:00 p.m. He noted that there were two letters of objection included in the agenda packet, one from an individual who could not attend that evening and the other was from the Aliko Atrium Condominium.

Mr. Scott Studner, The Beach Bucket, 321 S. Atlantic Avenue, stated that the issue discussed at the Planning Board was that The Beach Bucket was unique compared to the other establishments granted special exceptions for outdoor music in that they were open every day for breakfast. He stated that they wished to have the hours begin on Sunday at 11:00 a.m., rather than 4:00 p.m. He explained that it made more sense to him to have the hours begin earlier on Sunday, and he stated he did not understand why it was originally written that the hours on Friday would begin at 11:00 a.m., since that was a work day, and not a Sunday. He further explained that the concern from the board had been that if the earlier time Sunday was granted, then The Beach Bucket would have different hours allowed than other establishments that had been granted outdoor music exceptions. He asked the Commission to take into account the differing circumstances, noting that his establishment was open seven days a week starting at 7:00 a.m. serving breakfast. He stated that the breakfast was a large part of their business on Sunday. He noted that the Commission had been very helpful by changing the liquor laws so that they could serve alcohol earlier on Sunday.

Commissioner Kent asked how the liquor law change was working out.

Mr. Studner explained that The Beach Bucket was keeping more business due to the law change, explaining that customers used to leave and go to Daytona Beach when they were informed they could not have an alcoholic beverage with their brunch. He noted that he believed that Publix was the biggest beneficiary of the law change. He asked the Commission to consider changing the Sunday allowable hours to begin at 11:00 a.m.

**Commissioner Partington moved, seconded by Commissioner Kent, for approval of Resolution No. 2014-127, as read by title only.**

Commissioner Boehm clarified that Commissioner Partington was moving to approve the resolution as drafted.

Mayor Kelley suggested that it was best to approve the resolution as presented and then revisit changing the hours for the entire ordinance at a later date. He noted that The Beach Bucket did seem to have a unique situation.

Commissioner Boehm noted that Dmitri’s and Riptides, two other outdoor music permitted restaurants, would also be open at 11:00 a.m. on Sunday for lunch. He stated that it would be inconsistent to approve different hours for The Beach Bucket than the other restaurants.

Mayor Kelley suggested they look at the regulations as a whole.

Commissioner Partington stated that it was an issue of being consistent and fair. He noted that he did not think that it would hurt The Beach Bucket's business, noting that the restaurant was packed on Sunday mornings. He stated that he could not think of anywhere else in Ormond Beach that had good quality food and service, with the view that The Beach Bucket had. He explained that some people considered Sunday a day of rest noting that The Beach Bucket was located close to condominium residences. He stated that he would be happy to revisit the issue in the future but at the present time he thought the best course of action would be to approve the resolution as currently presented.

Commissioner Kent agreed with Commissioner Boehm and Commissioner Partington. He noted that the Commission may want to discuss allowing earlier Sunday times for all of the permitted businesses at another time. He addressed Mr. Studner and asked him to remind them to reevaluate the issue of the times at a later date.

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

Mayor Kelley closed the public hearing without objection.

Item #9A – Settlement Agreement 1545 Ormond Beach LLC and 1545 Operations, Inc.

City Clerk Scott McKee read by title only:

RESOLUTION NO. 2014-129  
 A RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF  
 A STIPULATION FOR SETTLEMENT BETWEEN THE CITY AND 1545  
 ORMOND BEACH, LLC AND 1545 OPERATIONS, INC.; AND SETTING  
 FORTH AN EFFECTIVE DATE.

**Commissioner Boehm moved, seconded by Commissioner Stowers, for approval of Resolution No. 2014-129, as read by title only.**

Mayor Kelley thanked City Attorney Randy Hayes for his leadership in pursuing a resolution to the issue. He also thanked Attorney Tom Leek, Cobb Cole, for his work on the topic.

Commissioner Kent stated that he thought extremely highly of Mr. Hayes both personally and professionally, and stated that he did a great job with the issue, including by making the decision to hire Mr. Leek. He noted that while the process had been a long one, the resolution looked to be the right one.

Commissioner Boehm stated that the strategy employed by the city was unique. He noted that the other party involved was very familiar with the first amendment and with first amendment cases nationwide. He stated that he thought that the city was highly successful and credited Mr. Hayes and Mr. Leek for their work. He noted that the appearance of US1 would certainly improve if sometime in the future a pink building was no longer there and was replaced with a building more typical of Ormond Beach.

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

Item #10 – Reports, Suggestions, Requests

Upcoming Meetings

Ms. Shanahan stated that the next City Commission meeting would be on Tuesday, August 19, 2014. She reminded the Commission that they would have a shade meeting to discuss active litigation that day at 5:30 p.m. prior to the Commission meeting.

Ms. Shanahan reminded the City Commission of the revised meeting dates for September, noting that the Commission meetings would be held on Monday, September

15, 2014, and Monday, September 29, 2014, with a Brainstorming Session Workshop also being held on Monday, September 29, 2014, at 5:30 p.m.

#### US1 Interlocal Agreement

Ms. Shanahan stated that the city had drafted some talking points about the Interlocal Agreement. She stated that the US1 Business Coalition would be meeting with County Council members to garner their support on that initiative. She noted that she would be in attendance for that.

#### Medians

Ms. Shanahan stated that construction would begin on the medians on SR40 west of I-95.

#### OBSC Field House Dedication

Ms. Shanahan stated that the dedication for the Ormond Beach Sports Complex Field House would be on Friday, August 22, 2014, at 5:30 p.m.

#### US1 Interlocal Agreement

City Attorney Randy Hayes noted that he would be in attendance at the County Council meeting with Ms. Shanahan. He stated that the city would have a good show of support and hoped to get the Interlocal Agreement approved.

Mayor Kelley noted that he planned to be there as well.

#### Employee of the Quarter – Mike Demchak

Commissioner Kent congratulated Mr. Demchak. He noted that he attended junior and senior high school with Mr. Demchak.

#### Median Landscaping

Commissioner Kent stated that he had traveled outside of Ormond Beach in his vehicle the previous day, noting that was something he tried to avoid doing. He explained that he wished the entire Commission could have been with him to see the medians on US1 two cities south of Ormond Beach. He stated that he was appalled at the grass growing into the roadway. He noted that Ormond Beach had their medians finely landscaped down to the smallest detail.

#### Police Department Reaccreditation

Commissioner Kent stated that he appreciated Chief Osterkamp presenting Corporal Hodge with an award. He noted that the leadership started at the top and he felt that Chief Osterkamp was also a huge reason why the police department received accreditation again.

#### Coffee with Commissioner Kent

Commissioner Kent stated that the next "Coffee with Commissioner Kent" would be on Monday, September 1, 2014, at 4:30 p.m. at his home at 130 Magnolia Drive. He noted that he and Ms. Sue Parkerson would be waiting to greet any guests.

#### Leisure Services Staff

Commissioner Boehm stated that one of the special things about the city was the number of hours that Leisure Services worked to put together events for the city, which the citizens so greatly appreciated. He noted that he attended National Night Out the previous evening and that the event was well attended by the city's citizens. He thanked the Police Department and PAL for putting on the event. He explained that the event was held at night and Leisure Services personnel such as Mr. Demchak, Leisure Services Director Robert Carolin, and Assistant Leisure Services Director Stefan Sibley were there. He also cited the Independence Day Celebration as another example. He noted that Leisure Services was not a 9 to 5 department.

#### Pipe Replacement Project

Commissioner Boehm noted that Mr. Ted MacLeod, Assistant City Manager and Public Works Director, was often very quiet during meetings. He stated that he wanted to recognize Mr. MacLeod and his department. He explained that last week UCLA had a 93-year old water pipe burst, which left ten inches of water on the basketball court, ruining it. He noted that the City of Los Angeles had not bothered to replace that 93-year old pipe. He explained that Mr. MacLeod came to the Commission several years ago and told them that they needed to start replacing aged watermain pipes so that they did not burst. He noted that the Commission listened and that the city was currently in the middle of that replacement project. He stated that Ormond Beach would not have

93-year old pipes burst and buildings ruined. He stated that the city had an obligation to maintain water pipes and infrastructure. He cited the Wastewater Treatment Plant expansion as another example, noting that they presently had more capacity than necessary but noting that they would be better positioned for it in the future. He noted those items were not glamorous and would not get much publicity but were of great value to the citizens and important to do.

Tree House Masters Brian Kelley Episode

Commissioner Boehm stated that on August 15, 2014, at 10:00 p.m. on Animal Planet's television show "Tree House Masters," which was a show building unique tree-houses, would feature Mr. Brian Kelley, Mayor Kelley's son, and member of the country music duo Florida Georgia Line. He noted that Mayor Kelley and his wife were present for the filming also.

Florida Georgia Line

Commissioner Stowers stated that when he woke up the other day Florida Georgia Line was on the radio when his alarm went off. He stated that he went to make his daughter some macaroni and cheese and Florida Georgia Line was on the box promoting a foundation.

Cheaters Settlement

Commissioner Stowers noted that he recently spoke to Reporter Chris Graham from the Daytona Beach News-Journal about the settlement agreement with Cheaters. He stated that he remembered four years ago, before he was elected, that there was a standing room only crowd in the Commission Chambers at a meeting regarding the issue. He explained that he would never forget the gentleman from that establishment essentially telling the Commission before leaving that they would do whatever they wanted to do. He stated that it was hopefully the beginning of the end. He stated that it was very good for that area that they had such a positive involved group of business owners. He thanked Mr. Leek, Attorney Michael Sznajstajler, and Mr. Hayes for their work on the issue, but he also wanted to thank Attorney Alan Watts, who worked on the issue initially for quite some time.

Tree House Masters Brian Kelley Episode

Mayor Kelley stated that the host of "Tree House Masters" was the same in real life as he was on television. He stated that it was unique to think that a kid from Ormond Beach was getting a unique tree house built for him. He noted that the tree house had a recording studio, living area, guest bedroom, and was air-conditioned.

State of the City

Mayor Kelley noted that, similar to Commissioner Boehm's comments, part of the upcoming State of the City address dealt with the goings-on behind the scenes at the city such as taking care of water pipes that were expected but not often talked about.

Item #11 – Adjournment

The meeting was adjourned at 7:41 p.m.

APPROVED: August 19, 2014

BY:

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

ATTEST:

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