

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

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**February 17, 2015**

**7:00 p.m.**

**Commission Chambers**

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Present were: Mayor 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. Ormond Beach Historical Society Art Presentation

B. Annual Audit Presentation FY 2014

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

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

**6. APPROVAL OF MINUTES**

A. Minutes from City Commission meeting – February 3, 2015

**7. CONSENT AGENDA**

The action proposed is stated for each item on the Consent Agenda. Unless a City Commissioner removes an item from the Consent Agenda, no discussion on individual items will occur and a single motion will approve all items.

A. **RESOLUTION NO. 2015-46** : A RESOLUTION AUTHORIZING THE SUBMITTAL OF A GRANT APPLICATION TO THE ST. JOHN'S RIVER WATER MANAGEMENT DISTRICT UNDER THE COOPERATIVE FUNDING INITIATIVE GRANT PROGRAM FOR FUNDING ASSISTANCE RELATIVE TO THE EXTENSION OF THE RECLAIMED WATER SYSTEM ON THE SOUTH PENINSULA; AUTHORIZING THE EXECUTION OF ALL DOCUMENTS INCIDENTAL THERETO, INCLUDING ANY CONTRACT NECESSARY FOR THE CITY TO ACCEPT THE GRANT AWARD; AND SETTING FORTH AN EFFECTIVE DATE.

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

B. **RESOLUTION NO. 2015-47** : A RESOLUTION ACCEPTING A PROPOSAL FROM DANELLA CONSTRUCTION CORPORATION OF FLORIDA, INC. TO PROVIDE CONSTRUCTION SERVICES REGARDING PHASE 3 OF THE FIBER OPTIC NETWORK INFRASTRUCTURE IMPROVEMENTS PROJECT; AUTHORIZING THE EXECUTION OF A WORK AUTHORIZATION THERETO; AND SETTING FORTH AN EFFECTIVE DATE.

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

C. **RESOLUTION NO. 2015-48** : A RESOLUTION ACCEPTING A BID FROM MCG SERVICES, LLC FOR CONSTRUCTION SERVICES REGARDING THE LAUREL OAKS STORMDRAIN EXTENSION PROJECT, UNDER BID NO. 2015-17; AUTHORIZING THE EXECUTION OF A CONTRACT AND PAYMENT THEREFOR; REJECTING ALL OTHER BIDS; AND SETTING FORTH AN EFFECTIVE DATE.

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

- D. **RESOLUTION NO. 2015-49** : A RESOLUTION AUTHORIZING THE EXECUTION OF A RELEASE OF "NOTICE OF VIOLATIONS OF SECTION 29-37 OF THE CODE OF ORDINANCES OF THE CITY OF ORMOND BEACH, FLORIDA, AS AMENDED" FOR PROPERTY AT 497 N. YONGE STREET; AND SETTING FORTH AN EFFECTIVE DATE.
- Staff Contact:** *Scott McKee, City Clerk (386-676-3340)*
- E. **RESOLUTION NO. 2015-50** : A RESOLUTION APPROVING A SETTLEMENT OF A PERSONAL INJURY CLAIM FILED BY THERESA SUSAN PENLAND (FERRARA); AUTHORIZING THE EXECUTION OF ALL PAPERS NECESSARY AND INCIDENTAL THERETO; AND SETTING FORTH AN EFFECTIVE DATE.
- Staff Contact:** *Randal Hayes, City Attorney (386-676-3217)*
- F. **RESOLUTION NO. 2015-51** : A RESOLUTION ACCEPTING THE PROPOSAL OF LATOUR ENTERPRISES, INC. D/B/A ECONOMY ELECTRIC COMPANY REGARDING ELECTRICAL SERVICES ON AN AS-NEEDED BASIS; AUTHORIZING THE EXECUTION OF A MISCELLANEOUS ELECTRICAL SERVICES AGREEMENT AND PAYMENT THEREFOR; REJECTING ALL OTHER PROPOSALS; AND SETTING FORTH AN EFFECTIVE DATE.
- Staff Contact:** *Robert Carolin, Leisure Services Director (386-676-3279)*
- G. **RESOLUTION NO. 2015-52** : A RESOLUTION ACCEPTING THE PROPOSAL OF AERIAL HYDRAULICS, INC., REGARDING VEHICLE AND EQUIPMENT MOBILE REPAIR AND PREVENTIVE MAINTENANCE SERVICES; AUTHORIZING THE EXECUTION OF AN AGREEMENT AND PAYMENT THEREFOR; REJECTING ALL OTHER PROPOSALS; AND SETTING FORTH AN EFFECTIVE DATE.
- Staff Contact:** *Kevin Gray, Public Works Operations Manager (386-676-3522)*
- H. **RESOLUTION NO. 2015-53** : A RESOLUTION ACCEPTING A PROPOSAL FROM MCKIM & CREED, P.A. TO PROVIDE ENGINEERING SERVICES REGARDING THE LIFT STATION 8M1 REHABILITATION PROJECT; AUTHORIZING THE EXECUTION OF A WORK AUTHORIZATION THERETO; AND SETTING FORTH AN EFFECTIVE DATE.
- Staff Contact:** *Dave Ponitz, Utilities Manager (386-676-3305)*
- I. **RESOLUTION NO. 2015-54** : A RESOLUTION ACCEPTING A BID FROM PROFESSIONAL PIPING SERVICES, INC. FOR PRESSURE MAIN CLEANING SERVICES, UNDER BID NO. 2015-22; AUTHORIZING THE EXECUTION OF A CONTRACT AND PAYMENT THEREFOR; AND SETTING FORTH AN EFFECTIVE DATE.
- Staff Contact:** *Dave Ponitz, Utilities Manager (386-676-3305)*
- J. **RESOLUTION NO. 2015-55** : A RESOLUTION ACCEPTING THE PROPOSAL OF COPYSOURCE, INC. D/B/A COPYTRONICS INFORMATION SYSTEMS REGARDING COPIER LEASE AND MAINTENANCE SERVICES; AUTHORIZING THE EXECUTION OF AN AGREEMENT AND PAYMENT THEREFOR; REJECTING ALL OTHER PROPOSALS; AND SETTING FORTH AN EFFECTIVE DATE.
- Staff Contact:** *Kelly McGuire, Finance Director (386-676-3226)*
- K. **Halifax Wrecking Co Inc C & D Roll Off Services Franchise Renewal**
- Staff Contact:** *Theodore MacLeod, Assistant City Manager (386-676-3200)*
- Disposition:** Approve as recommended in the City Manager memorandum dated February 17, 2015.

L. **Budget Status Report for July 2014 - September 2014**

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

**Disposition:** Approve as recommended in the City Manager memorandum dated February 17, 2015.

M. **FY 2015-16 Budget Calendar**

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

**Disposition:** Approve as recommended in the City Manager memorandum dated February 17, 2015.

N. **Approval of travel for City Commissioner**

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

**Disposition:** Approve as recommended in the City Manager memorandum dated February 17, 2015.

O. **Letter in Support of HB 379**

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

**Disposition:** Approve as recommended in the City Manager memorandum dated February 17, 2015.

8. **PUBLIC HEARINGS**

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

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

9. **SECOND READING OF ORDINANCES**

- A. **ORDINANCE NO. 2015-09** : AN ORDINANCE AMENDING SECTION 2-224, QUALITY OF LIFE ADVISORY BOARD, OF ARTICLE VI, BOARDS, COMMISSIONS, COMMITTEES, AND OTHER AGENCIES, OF CHAPTER 2, ADMINISTRATION, OF THE CODE OF ORDINANCES BY REDUCING THE SIZE OF THE BOARD AND AMENDING THE DUTIES OF THE BOARDS; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE. **(SECOND READING)**

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

10. **RESOLUTIONS**

- A. **RESOLUTION NO. 2015-56** : A RESOLUTION APPOINTING MEMBERS OF THE QUALITY OF LIFE ADVISORY BOARD; SETTING FORTH TERMS AND CONDITIONS OF SERVICE; AND SETTING FORTH AN EFFECTIVE DATE.

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

10. **REPORTS, SUGGESTIONS, REQUESTS**

11. **ADJOURNMENT**

Item #1 – Meeting Call to Order

Mayor Kelley called the meeting to order at 7:02 p.m.

### Item #2 – Invocation

Pastor Joseph Kim, Riverview United Methodist Church, gave the invocation.

### Item #3 – Pledge of Allegiance

Mayor Kelley led the Pledge of Allegiance.

### Item #4A – Ormond Beach Historical Society Art Presentation

Ms. Suzanne Heddy, Executive Director of the Ormond Beach Historical Society (“Historical Society”), stated that the Historical Society wanted to present a painting to the city. She noted that Mr. Barry Barnett, the artist, was with her that evening. She explained that Mr. Barnett should be familiar as he was the artist who painted a painting that hung in the reception area on the second floor of City Hall. She stated that Mr. Barnett also had paintings in county buildings and other important government buildings around the world. She noted that Mr. Barnett’s 92-year old mother was also in attendance, as was Ms. Lillian Rand, the new owner of Billy’s Tap Room. She stated that Mr. Barnett appreciated the support he received from Mr. Doug Rand and Ms. Lillian Rand to hold an art show at Billy’s Tap Room. She stated that Mr. Barnett also appreciated the work that the Historical Society was doing in preserving the unique culture and heritage of the beautiful city of Ormond Beach.

Ms. Heddy explained that Mr. Barnett had graciously decided to donate a fine art reproduction on canvas to the City of Ormond Beach of a painting that he recently sold to a local couple. She unveiled the painting on an easel at the front of the Commission Chambers.

Mayor Kelley thanked Ms. Heddy and Mr. Barnett.

Ms. Heddy explained that the painting was entitled “South of Timucua” and depicted two eagles trying to steal a fish from an osprey. She noted that the scene played out many times along the coast.

Mayor Kelley asked if there was a dedicated place where the painting would be displayed.

Ms. Heddy stated that she did not think there was and stated that Mr. Barnett would work with the City Manager’s office.

### Item #4B – Annual Audit Presentation FY 2014

Mr. Mike Sibley, Certified Public Accountant (CPA), James Moore & Company, stated that James Moore & Company served as the city’s independent auditors. He noted that they had met with each member of the Commission individually to go through the details of the audit. He explained that the financial statements for the audit were prepared by city management. He thanked Ms. Kelly McGuire, Finance Director, and Mr. Dan Stauffer, Assistant Finance Director, and the rest of the Finance staff for preparing the document. He stated that the city had received an unmodified opinion on their financial statements for the audit. He explained that was a clean opinion which noted that the financial statements were correct in all material aspects.

Mr. Sibley noted that as part of the standards an audit over the federal grants was also required and there were no findings or questionable costs associated with that testing. He stated that there were no management comments on the report over internal controls. He noted that there was nothing to report to the Auditor General. He explained that the Auditor General required a new report this year on the compliance with investment policies. He noted that there were no instances of non-compliance with the investment policies. He explained that all of their findings were very good and exactly what they should be.

Mr. Sibley noted that the Governmental Accounting Standards Board had been issuing new standards, regarding bond cost issuance treatment and new pension disclosures being implemented. He noted that they had been discussing the pension disclosure changes for probably the last three years. He stated that the disclosures and the financial statements were much more elevated than they had been in the past and the

new change would really impact things starting in the next year. He stated that the Stormwater Drainage Fund became a major fund and was reported slightly differently this year.

Mr. Sibley stated that the total General Fund Fund Balance was \$6.1 million. He noted that there were some non-spendable portions. He stated that the city budgeted to use \$1.1 million of the General Fund Fund Balance and used a little over \$400,000. He noted that the city's revenues were over budget because of some higher electric franchise fees. He stated that from an expense standpoint the city was on point or just under their expenses versus budget.

Mr. Sibley stated that the net investment income for the pension funds was \$9.9 million, noting consistent investment income the past few years. He noted that three years in a row there had been favorable variances, as the unfunded liability had been decreasing, which was due to city contributions, investment returns and some of the changes made to the pension funds. He referenced the pension disclosure changes he previously mentioned. He explained that the new method of calculation would take effect next year. He noted that the new method had been discussed at length previously. He stated that James Moore & Company was appreciative to serve as the city's independent auditors and was appreciative of staff and their efforts.

Commissioner Kent noted that he did not have any questions regarding the audit as Mr. Sibley and his partner had done a great job of reviewing it with him the previous day. He thanked them.

Mayor Kelley stated that four years ago the city's unfunded pension liability was \$39 million and was now down to \$33 million. He noted that over \$20 million of taxpayer money had been contributed by the city in addition to the returns. He stated that the unfunded liability for pensions was still substantial.

Commissioner Partington noted that he spent an hour and a half on the phone going over the audit with the auditors. He stated that he appreciated the detail each year and was always impressed with how well the city's finances were maintained. He stated that he agreed with Mayor Kelley about the pension liability. He explained that the \$6 million reduction over four years was still not enough of a reduction or reduced quickly enough. He stated that he was hopeful good results in the market and changes made by staff would assist in the reduction, but he noted that they should always be looking at ways to decrease the unfunded liability.

Commissioner Partington noted that the revenue from code enforcement liens had risen by almost \$100,000. He complimented the Commission, and specifically Commissioner Stowers, for pushing the issues raised by community groups of "zombie homes" and the effect that had on ramping up code enforcement. He stated that those liens were obligations owed to the city and were a positive sign of the Commission's response to its citizens and acting in the best way it could to help manage the problem.

Ms. Joyce Shanahan, City Manager, thanked James Moore & Company. She noted that they were consistent with their personnel which helped the audit be performed in a timely fashion. She issued a special thanks to Ms. McGuire and Mr. Stauffer, noting that they worked very hard and did a great job. She explained that not every local government in Volusia County actually produced their own report, noting that Ormond Beach was one of the very few who did. She further explained that the city did their own numbers and produced a book for the auditors to review, rather than having the auditors do the numbers for them.

Mayor Kelley stated that Ms. McGuire and Mr. Stauffer did the majority of the work and he thanked them. He noted that the city received a great report; whereby, Mr. Sibley confirmed they did.

#### Item #5 – Audience Remarks

Mr. Jim Schultz, 117 Harvard Drive, stated that he thought that maybe people should not be so subservient and trusting to a government that had a propensity to be deceptive at best and outright con men at worst. He stated that the government had a very strong position that the Earth was in a state of climate change, which was previously referred to as global warming. He stated that a researcher in India spoke about solar cycles and noted that the last two solar cycles had exceptionally long minimums. He noted that the whole solar system was dependent on the sun. He stated that there was a lack of solar flares in those two cycles. He stated that NASA went back and altered the old records

on solar peaks to alter their highs down and raise the current temperatures on their current records. He stated that in the 17<sup>th</sup> century there was a mini-Ice Age where there were no solar flares. He noted that too much trust was put in the government. He provided an example of the government putting a contaminant in the water “for your own good” and stated that one should think instead of just follow.

Mayor Kelley stated that he saw the five-year time lapse of activity on the sun that was on the internet the past week. He noted that the solar flares were visible. He stated that he read the same article that Mr. Schultz did about the temperatures. He stated that anywhere there were not hard fact, the temperatures were adjusted in the adjoining areas and made to deviate the same percentages as the areas they had hard temperatures for, noting that it was not in that many places.

Item #6A– Approval of Minutes

Mayor Kelley advised that the minutes of the February 3, 2015, regular meetings had been sent to the Commission for review and were posted on the city’s website for public viewing. He asked for any corrections, additions, or omissions. He stated that hearing no corrections, the minutes would stand approved as presented.

Item #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.

**Mayor Kelley stated that he wished to pull item 7E from the Consent Agenda.**

**Commissioner Kent moved, seconded by Commissioner Boehm, for approval of the Consent Agenda absent item 7E.**

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

Item #7E – Settlement of Personal Injury Claim (Penland)

City Clerk Scott McKee read by title only:

RESOLUTION NO. 2015-50  
A RESOLUTION APPROVING A SETTLEMENT OF A PERSONAL INJURY CLAIM FILED BY THERESA SUSAN PENLAND (FERRARA); AUTHORIZING THE EXECUTION OF ALL PAPERS NECESSARY AND INCIDENTAL THERETO; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kent moved, seconded by Commissioner Partington, for approval of Resolution No. 2015-50, as read by title only.**

Mayor Kelley stated that normally he would just make a comment about this type of item and not pull it for discussion, as it seemed like a good deal for the city on the surface. He noted that the settlement was to pay \$30,000 and that the city could go to trial and pay \$100,000. He stated that the Commission had situations where they had to meet with the City Attorney in closed sessions to evaluate these types of issues for settlements. He noted that it seemed like they were being held hostage by those types of issues. He explained that this situation involved a person falling on the pier because they stepped in bird excrement or water. He stated that the person had been going to the pier for four years. He asked when individuals would have to accept responsibility for their own actions. He asked when the city would stand up and fight someone on this. He noted he was sorry that the individual was hurt but that he did not think there was any way the city could ensure there was no water or anything slippery on a dock. He stated that the individual would enter at their own risk and understand that a dock would be wet.

Mayor Kelley stated that citizens continually sued the city for things like stepping in a hole on the road when they could have been walking on the sidewalk and received settlements. He noted that he was not an attorney but thought that if there was any

opportunity to win the case in court this would be one. He noted that the individual who slipped visited the dock area all the time and should know it was wet. He suggested taking the stand of not settling and sending a message to future litigants that the city would not be an easy mark for settlements.

Commissioner Kent stated that he had said the exact same thing many times.

Mayor Kelley noted that Commissioner Kent was one of the reasons he brought it up. He stated that it was easier to settle for \$30,000 than fight it, and he felt that would be the City Attorney's position.

Mr. Randy Hayes, City Attorney, stated that he would not characterize it as being easier to do it that way. He stated that he would be happy to prepare the case for trial if needed. He explained that the issues were similar to other issues the Commission had heard through the years. He noted that the numbers were what they were because of the expenses the plaintiff had incurred, explaining that often drove the value for settlement purposes. He stated that the city had asserted good defenses and believed in them. He stated that the initial demand was reduced to one that he felt was worth the City Commission's consideration, noting that it was at the upper limits of what he would be comfortable with. He stated that from a business perspective he thought the settlement was worth consideration.

Mr. Hayes explained that the way the issue was approached from a claims and risk management perspective was that if in the analysis of the liabilities and damages the value was reduced to a reasonable range to control your own destiny, there was a value to that, as opposed to having six members of a jury decide your fate outside of your control, regardless of how good you thought your defenses were. He stated that this was the Commission's opportunity to control how the matter was resolved. He explained that he would be happy to try the case if that was the Commission's desire but noted that they would lose control of the outcome at that point, as it would be up to the jury to decide. He noted that he would not have brought a higher proposed settlement to the Commission and that the original proposal was higher but was rejected in favor of a lower one. He stated that there was another slip and fall case over at the pier area with different factors and where the suit had not been filed. He noted that he did not want that to cloud the issue at hand as they were different issues, but he wanted to make the Commission aware of it.

Mayor Kelley stated that being right was not always the best thing to do. He explained that he paid an attorney to fight a speeding ticket he received in California because he was not guilty and he won, noting that he was lucky to win. He stated that he would rather spend \$500 to win and be right than to pay \$150 for a ticket that he did not deserve.

Mr. Hayes stated that it came down to how much they wanted to pay to fight on principles.

Mayor Kelley stated that he thought that in this instance he thought the city was right. He stated that there was no way the city could make sure there was no water or fish residue on a dock at any given time. He noted that the city cleaned as needed and thought staff did a great job of it. He stated that someone could catch a fish, clean it, walk away and then another individual could walk by and slip on it.

Mr. Hayes stated that was a good point. He explained that the issue for the jury would be whether the city did enough to maintain the dock in a safe condition for those visiting it.

Commissioner Partington asked Mr. Hayes if there was a signed log to put into evidence showing when city staff members walked the dock and ensured its safety.

Mr. Hayes stated that the city had evidence of an inspection program, noting that he did not want to get into a lot of detail for obvious reasons. He stated that he believed the program was applied in a reasonable manner but noted that he would not be the one that had the opportunity to make that determination at trial.

Commissioner Partington asked if, knowing the information that Mr. Hayes had, the Claims Committee decided that this settlement was a reasonable one.

Mr. Hayes stated that if they wanted to control their own destiny this was the best settlement option. He again reiterated that it was at the upper limits of what he would support, but he thought that it was in the range of a value that bore consideration and not from the perspective of liability but from the perspective of managing the risk.

Commissioner Partington asked if the plaintiff provided medical documentation including x-rays; whereby, Mr. Hayes replied that they did and it had been verified.

Commissioner Boehm noted that he worked in this type of legal practice for 37 years before retiring. He explained that he was involved in a lot of cases that settled on the basis that Mr. Hayes was discussing. He noted that he thought a lot of times that the right thing to do would be to go to trial. He stated that to demonstrate the shadow of a doubt, if he were the plaintiff he would point out that he walked over the dock 100 times before and saw the same black marks and they were never slippery before, but on the day he slipped it was; and he would say that the city must have always maintained it before, but they had not that day. He stated that the reason he offered that example was that Florida was a comparative negligence state. He explained that in a comparative negligence state the jury was able to assign a percentage between 0 and 100 for each party's fault. He further explained that if you were able to cast a shadow of doubt in a jury's mind they could choose to split the fault 50/50, and in a \$75,000 case, now the city would be paying \$37,500 plus case costs.

Commissioner Boehm explained that a jury was free to feel sympathetic. He stated that they would see the x-rays of the plaintiff with pins in her hand and hear the stories of what she could not do in her life anymore. He noted that if she was a good witness and a sympathetic person the inclination of the jury would be to give her something, even if they did not think the city was much at fault, as they would be thinking that the city had the money to afford it. He noted that he was not saying that the city did not have every right to fight this if they wanted to. He explained that the reasoning that Mr. Hayes and the Claims Committee was using was based on the fact that a jury, as long as the plaintiff's lawyer could create the impression that the city could have or should have done something and did not, the jury could split the verdict, or assign the city more fault out of sympathy for the plaintiff. He noted that there would not be anyone representing the city and testifying before the jury, but the plaintiff would be there as a real person, along with their family and their friends, to testify what this had been done to them.

Commissioner Boehm noted that he was on the Claims Committee for a long time and did this for a living. He explained that a lot of the factors that can cause a jury to decide one way or another were a roll of the dice, noting that if the jury really did not like the city's presentation they could even assign blame 80/20 or 100/0. He stated that the plaintiff's lawyer knew he did not have a very strong case otherwise he would not have settled it for \$30,000 with \$33,000 in medical bills. He noted that once the attorney took his fees out there would probably be a lien on some of those medical bills and so the plaintiff would not receive very much money at all.

Mayor Kelley stated that there was a lien on the bills.

Commissioner Boehm reiterated that the attorney was taking what he could get and getting out because he knew he would struggle.

Mayor Kelley noted that he made his point. He reiterated that he did not think it was fair or right that those who slipped and fell on areas they often traveled had to be paid off by the citizens.

Commissioner Kent stated that Mayor Kelley made a good point, as well.

Call Vote:	Commissioner Kent	No
	Commissioner Boehm	Yes
	Commissioner Partington	Yes
	Commissioner Stowers	Yes
Carried.	Mayor Kelley	No

Mayor Kelley noted the two non-lawyers on the Commission voted "no."

#### Item #8 – Public Hearings

Mayor Kelley opened the public hearing.

Item #8A – 240 Williamson Blvd. Land Use Map Amendment

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2015-10

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

Mr. Ric Goss, Planning Director, stated that this item was a city initiated land use change based upon a previously approved annexation. He explained that the subject property was located between Tire Kingdom and a restaurant on Williamson Boulevard. He stated that it was given the best land use required by policy. He stated that it was compliant with the Comprehensive Plan policy with regard to a good comparison of land use between the city and county. He stated that staff recommended approval.

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

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

Mayor Kelley closed the public hearing.

Item #9A – Quality of Life Board Amendments

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2015-09

AN ORDINANCE AMENDING SECTION 2-224, QUALITY OF LIFE ADVISORY BOARD, OF ARTICLE VI, BOARDS, COMMISSIONS, COMMITTEES, AND OTHER AGENCIES, OF CHAPTER 2, ADMINISTRATION, OF THE CODE OF ORDINANCES BY REDUCING THE SIZE OF THE BOARD AND AMENDING THE DUTIES OF THE BOARDS; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Boehm moved, seconded by Commissioner Partington, for approval of Ordinance No. 2015-09, on second reading, as read by title only.**

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

Item #10A – Quality of Life Advisory Board Appointments

City Clerk Scott McKee read by title only:

RESOLUTION NO. 2015-56

A RESOLUTION APPOINTING MEMBERS OF THE QUALITY OF LIFE ADVISORY BOARD; SETTING FORTH TERMS AND CONDITIONS OF SERVICE; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kent moved, seconded by Commissioner Boehm, for approval of Resolution No. 2015-56, as read by title only.**

Call Vote:	Commissioner Stowers	Yes
	Commissioner Kent	Yes

	Commissioner Boehm	Yes
	Commissioner Partington	Yes
Carried.	Mayor Kelley	Yes

Item #11 – Reports, Suggestions, Requests

Gateway Signage

Ms. Joyce Shanahan, City Manager, stated that the gateway signage issue would be brought back to the Commission at a future Commission meeting instead of at a workshop. She noted that she had spoken individually to each of the Commissioners regarding that topic.

Upcoming Workshops

Ms. Shanahan noted that the workshop for March 3, 2015, would be for Financial Trends, but she may have another topic added to it, perhaps ball field maintenance.

Reel in the Fun Fishing Tournament

Ms. Shanahan stated that the Reel in the Fun Fishing Tournament would be held on February 28, 2015. She stated that staff had taken out considerable public advertising, public service announcements, radio advertising, and paid newspaper announcements to promote the event. She noted that the city would be undertaking a second round of such advertising. She stated that about half of the slots allotted were presently filled.

John Anderson Drive

Ms. Shanahan stated that the John Anderson Drive project was just closed out. She stated that the original contract price was \$3.4 million and the ending price was \$3.1 million, noting that there was a net deductive change order of \$257,952.

Community Gardens

Ms. Shanahan stated that the community garden project was ready to kick-off. She noted that they had raised approximately \$6,000 and needed another \$6,000 to complete the project. She explained that they desired to get that accomplished before the growing season. She noted that the city had money in the budget to move around and would do so to make it available for the community garden.

Mayor Kelley asked if they were able to apply for a \$1,500 grant he had spoken about whereby, Ms. Shanahan stated that they were waiting to hear about it.

Ms. Shanahan stated that beginning on February 23, 2015, the community would have an opportunity to reserve a four foot by twelve foot space to grow a garden off of Hammock Lane for a \$30 fee. She explained the \$30 was a lot rental fee for the year.

Online Job Applications

Ms. Shanahan stated that the city started accepting online job applications online.

Human Resources Director

Ms. Shanahan stated that the city also secured a Human Resources Director, Ms. Claire Whitley, who would be coming to the city from Tallahassee and worked for the Division of Management Services. She stated that Ms. Whitley held a law degree from Florida State University. She noted that she would likely be starting in mid-March.

Set Backs for Bike Washes

Ms. Shanahan stated that she needed to seek some direction from the Commission regarding set-backs for bike washes or those types of activities. She asked if there was a consensus to explore an amendment to the code for that.

Commissioner Partington expressed his support.

Commissioner Kent suggested making the set back far enough to reach Daytona Beach.

Deposits for Additional City Utility Accounts

Ms. Shanahan stated that she received a request from a gentleman who owned multiple properties in the city. She explained that the way the utility deposit program worked was that each new account required a deposit, even if the person held current accounts that were in good standing. She asked if there was any interest in exploring the possibility of waiving the deposit for the additional account, if the individual already had an account in good standing.

Commissioner Kent expressed his support for that idea. ‘

Mayor Kelley noted that Florida Power and Light (FPL) had a similar policy.

#### Brainstorming Session

Ms. Shanahan thanked the Commission for their direction during the Brainstorming Session Workshop earlier that evening.

#### City Manager Birthday

Mayor Kelley wished Ms. Shanahan a happy birthday.

The Commission and audience sang Ms. Shanahan the “Happy Birthday” song.

#### Commissioner Boehm's Absence / Update

Commissioner Boehm noted that he missed the previous meeting and appreciated the kind words from the Commission that he read in the minutes. He stated that he was pleased to announce that two weeks post-transplant his daughter was doing very well. He stated that God willing she would continue to do well, noting it made an enormous difference in the individual's life.

Mayor Kelley stated that this was the fifth kidney transplant that Commissioner Boehm's daughter had received over 21 years.

Commissioner Boehm noted that she was on dialysis for three years prior to the transplant. He explained that her life was restricted when she was on dialysis. He noted that it was a miracle she received the transplant.

#### Andy Romano's Funeral Service

Commissioner Boehm stated that he regretted not being in attendance at the last meeting to hear Commissioner Kent speak about Mr. Andy Romano. He stated that he was able to attend Mr. Romano's funeral and was able to hear Commissioner Kent speak at the funeral and do a great job of it. He stated that the loss of Mr. Romano was the loss of one of Ormond Beach's all time great citizens.

#### Taste of Ormond

Commissioner Boehm noted that he also missed the Taste of Ormond event held by Ormond Beach Main Street (“Main Street”). He stated that everyone who attended thought that it was a marvelous event and extremely well planned. He noted that Main Street was justifiably renowned for their ability to put on events.

#### Patriots Super Bowl

Commissioner Boehm noted that he also was unable to acknowledge the World Champion New England Patriots winning the Super Bowl and share in that victory with Assistant City Manager and Public Works Director Ted MacLeod and Economic Development Director Joe Mannarino, both fellow Patriot fans. He thanked the Seattle Seahawks for ensuring the Patriots won at the end of the game.

#### Community Gardens

Commissioner Partington stated that starting February 23, 2015, at 7:30 a.m. citizens could visit the Leisure Services Registration Office and reserve their 4x12 garden space for a year for \$30. He stated that he expected the spaces to sell out; but if they did not, he wanted to purchase one for the Commission so they could be a part of the garden in a meaningful way. He noted that Commissioner Kent and Commissioner Stowers knew a lot about square foot gardening.

#### Reel in the Fun Fishing Tournament

Commissioner Partington stated that he hoped that the Reel in the Fun Fishing Tournament would continue to be promoted. He noted that he received a news release that day from the Florida Fish and Wildlife Conservation Commission promoting a free kids' fishing clinic. He stated that he thought it was so well written that he wanted to share a little bit of it and read as follows:

*“The free kids' fishing clinic promises a day of learning and fun, teaching children a lifelong hobby, installing appreciation for our marine environment and providing fun, family outings are the objectives for the fishing clinics. These free clinics enable young people to learn the basics of environmental stewardship, fishing ethics, angling skills, and safety. Kids' fishing clinics strive to achieve several goals, but the main objective is to create*

*responsible marine resource stewards by teaching children about the vulnerability of Florida's marine ecosystems. In addition, organizers hope to teach fundamental fishing skills and provide participants a positive fishing experience."*

Commissioner Partington noted that was exactly what happened at the fishing tournaments. He stated that they were fun and enabled residents to spend quality time with their families. He stated that he hoped to continue to advertise the event, even if a press release went out two times a day before the event.

#### Taste of Ormond

Commissioner Partington stated that he attended the Taste of Ormond and it was a fantastic event. He noted that 400 or 500 attended. He stated that it showcased the wonderful restaurants in Ormond Beach and was a great time.

#### Andy Romano's Funeral Service

Commissioner Partington stated that he missed Mr. Romano's funeral, which he hated to do, but he thought that Mr. Romano would understand because he was traveling for the city. He stated that he was sure that Commissioner Kent did a great job and would love to hear about it.

#### Washington D.C. Trip

Commissioner Partington stated that his trip to Washington, D.C., was good. He explained that having been in March and now in February he thought that the February trip was a better time to go to actually get face time with congress members. He noted that in March they seemed busier, and there were visitors from across the nation trying to meet with them. He stated that he was able to meet with 16 of the 27 individuals in the Florida delegation. He stated that they were pushing for a long-term transportation bill in order to plan and complete projects. He noted that he believed that Florida's legislative delegation got that, but the reality was that there would probably be a six or nine-month band-aid followed by the same until a different administration might be able to provide something longer term. He stated that the majority of those they spoke to understood the importance of tax-exempt municipal bonds. He explained that people invested in those bonds and it provided the city with the funds to make infrastructure improvements. He noted that there were a couple of congress persons who did not agree with that and further noted that in the Presidents' budget it again attacked those bonds.

Commissioner Partington stated that FEMA defunding was another issue discussed. He noted that the city had not been hit with it like Naples had, where ten years later FEMA approved projects were asked to be repaid. He noted that they were asking for clarity and common sense on that issue. He stated that the Waters of the U.S. proposed environmental rule tried to defining navigable waters which was an unfunded mandate in the multi-millions of dollars for cities. He stated they had asked for additional clarity on that, as well. He noted that the issue seemed to be divided along party lines. He stated that he thought their objectives were accomplished. He noted that the city did not have a federal lobbyist, so he felt it was good for at least one of them each year to go up to Washington, D.C., and meet face to face with staff or congress members to establish a working relationship.

Mayor Kelley asked if Commissioner Partington went on a one-day trip; whereby, Commissioner Partington stated that it was a two day trip, noting that he had previously gone for one-day trips. He explained that he went up Monday evening and came back Thursday morning, so he spent two full days there.

Mayor Kelley thanked Commissioner Partington for going and representing the Commission.

#### Captain Crimins' Graduation

Commissioner Partington stated that he received a press release from the police department dealing with Captain James Crimins graduating from the University of Louisville Southern Police Institute 72<sup>nd</sup> Command Officer Development Course. He suggested having cake and a graduation ceremony before one of the Commission meetings. He noted that he had always pushed for the city's officers to receive further education. He stated that rather than have a department full of high school diploma or GED recipients, he would prefer the most educated people possible represent the city. He congratulated Captain Crimins and Chief Andy Osterkamp.

#### Tallahassee Trip

Mayor Kelley thanked Commissioner Partington for leaving after the meeting to go to Tallahassee tomorrow to support and represent the city.

#### Audit

Commissioner Stowers thanked the auditors from James Moore & Company and Ms. McGuire and Mr. Stauffer.

#### TPO Citizen Committees

Commissioner Stowers stated that Ormond Beach had some citizen vacancies on the River to Sea Transportation Planning Organization (TPO) Committees, the Citizens' Advisory Committee and the Bicycle Pedestrian Advisory Committee.

Mayor Kelley noted that a representative had been appointed to the Bicycle Pedestrian Advisory Committee.

Commissioner Stowers noted that the Citizens' Advisory Committee still needed a representative.

#### Washington D.C. Trip

Commissioner Kent stated that he had seen Commissioner Partington in action in Washington, D.C., and thought he was a fantastic lobbyist for the city. He thanked him for taking time away from his family and work to represent the city. He stated that he agreed with Commissioner Partington that it meant a lot to elected representatives when they met other elected officials from their home communities. He noted that he had said to a congressman that if something was important to him it should be important to them, as the same people who voted him in also voted them in. He thanked Commissioner Partington for going to Tallahassee also.

#### Commissioner Boehm's Absence / Update

Commissioner Kent stated that while the Commission was sad that Commissioner Boehm missed a few events they were so pleased that it was for his daughter to get the opportunity for a transplant. He noted that he often said that his number one job in life was to be a good father to his son, Wyatt, and to show him how to grow up and be a man. He stated that Commissioner Boehm was teaching everyone what a good father did.

#### Reel in the Fun Fishing Tournament

Commissioner Kent noted that he was sure that the fishing tournament would be sold out. He stated that Commissioner Partington had wanted to expand the tournaments and they all needed to be on board with that. He stated that the event was about good family values. He requested that every elementary school in Ormond Beach have an event flyer delivered to their front office by Thursday, February 26, 2015. He noted that the School District would allow that as long as a disclaimer was placed at the bottom expressing that the Volusia County School Board was not affiliated with it. He stated that the flyer needed to be catchy, note that the event was free, and have all of the pertinent details. He stated that every fishing tournament should have that same advertising plan.

#### Andy Romano's Funeral Service

Commissioner Kent stated that he knew that it meant a tremendous amount to Mr. Romano's family that elected officials, as well as Ms. Shanahan and Mr. Hayes attended the funeral and showed the family how much Mr. Romano meant to the community.

Mayor Kelley stated that the service for Mr. Romano was great and Commissioner Kent did a fantastic honoring of him.

#### Audit

Mayor Kelley thanked Ms. McGuire and Mr. Stauffer again. He stated that the auditors told him what a great job they did and how they made their job easy. He stated that the city was well run and financially stable.

#### Item #12 – Adjournment

The meeting was adjourned at 8:10 p.m.

APPROVED: March 3, 2015

BY:

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

ATTEST:

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J. Scott McKee, City Clerk