

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

**July 19, 2011**

**7:00 p.m.**

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

**A G E N D A**

**1. CALL TO ORDER**

**2. INVOCATION** – Pastor Ronald Todd, Harbor Baptist Church

**3. PLEDGE OF ALLEGIANCE**

**4. ADOPTION OF FY 2011-2012 PROPOSED MILLAGE RATES**

**A. Resolution No. 2011-100** – A resolution adopting proposed millage rates for the 2011-2012 fiscal year; establishing the date, time and place for the first public hearing on the proposed millage rates and the tentative budget; directing communication; expressing legislative intent; and setting forth an effective date. *(Finance Director)*

**5. PRESENTATION** – Awards for Civic Excellence *(Chamber of Commerce)*

**6. AUDIENCE REMARKS** – Regarding items not on the agenda.

**7. APPROVAL OF MINUTES**

**A.** Minutes from the City Commission meeting – July 5, 2011

**8. 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. 2011-101** – A resolution 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 located at 65 Putnam Avenue, Ormond Beach, Volusia County, Florida (PARCEL ID NO. 4240-01-17-0130) for costs incurred by the City to terminate or abate a site maintenance violation; approving a Satisfaction and Release of Lien form; authorizing the execution and recordation of a Satisfaction and Release upon payment of the lien; and setting forth an effective date. *(Neighborhood Improvement Manager)*

**B. Resolution No. 2011-102** – A resolution authorizing the execution of a quitclaim deed in favor of Markham T. Van Cleef and Peggy A. Van Cleef, releasing a portion of a twenty-foot (20') drainage easement located on the southeast side of Lot 46, Shadow Crossings, Unit 2, of Hunters Ridge subdivision, Phase I (17 Foxfords Chase); and setting forth an effective date. *(Planning Director)*

**C. Resolution No. 2011-103** – A resolution consenting to the assignment of a continuing contract for survey services between the City and Consolidated Survey, Inc.; assigning said contract to ATS land Surveying, LLC; approving and authorizing the execution of a Consent to Assignment and Amendment to Continuing Contract for the limited purpose of acknowledging the correct identity of the entity providing survey services under the contract; and setting forth an effective date. *(Acting City Engineer)*

**D. Resolution No. 2011-104** – A resolution accepting a bid from Masci General Contractor, Inc. regarding the Selden Avenue Improvements project, under Bid No. 2011-08; authorizing the execution of a contract and payment therefore; rejecting all other bids; and setting forth an effective date. *(Acting City Engineer)*

**E. Resolution No. 2011-105** – A resolution accepting a proposal from Zev Cohen & Associates, Inc. for engineering services regarding the Central Park Lake Interconnects; authorizing the execution of a work authorization and payment

therefore; and setting forth an effective date. (Total cost of engineering services \$98,958.10; 75% FEMA and \$24,739.52 City) (*Acting City Engineer*)

**F. Resolution No. 2011-106** – A resolution authorizing the execution of a modification (Number Two) to subgrant agreement between the Division of Emergency Management and the City regarding the Hazard Mitigation Grant Program; and setting forth an effective date. (City's match increase by \$418,203; total match \$993,487) (*Grants Coordinator*)

**G. Resolution No. 2011-107** – A resolution authorizing the execution of an "As Is" contract for Sale and Purchase between Jessie S. Lemoyne and the City of Ormond Beach, for the purchase of certain property located at 68 Lake Park Circle, Ormond Beach, Volusia County, Florida (Parcel ID Number 4242-68-02-0340); setting forth an effective. (\$135,000) (*Acting City Engineer*)

**H. Cooperative Chemical Purchase** (*Utilities Manager*)

DISPOSITION: Approve as recommended in City Manager memorandum dated July 14, 2011.

**I. Towing Contract** (*Police Chief*)

DISPOSITION: Approve as recommended in City Manager memorandum dated July 14, 2011.

**J. WWTP Emergency Pump Rental** (*Utilities Manager*)

DISPOSITION: Approve as recommended in City Manager memorandum dated July 14, 2011.

**K. Assistance to Firefighters Grant** (*Grants Coordinator*)

DISPOSITION: Approve as recommended in City Manager memorandum dated July 14, 2011.

**L. City Manager Attendance to the Alliance for Innovation 3<sup>rd</sup> Annual BIG Ideas Weekend** (*City Manager*)

DISPOSITION: Approve as recommended in City Manager memorandum dated July 14, 2011.

**M. Monument Sign for Ormond Beach Sports Complex** (*Leisure Services Director*)

DISPOSITION: Approve as recommended in City Manager memorandum dated July 14, 2011.

## 9. PUBLIC HEARINGS

**A. First Reading of Ordinance No. 2011-15** – An ordinance authorizing the execution and issuance of a First Amended Development Order for the "Tuscany" also known as "The IL Villaggio" subdivision, a Planned Residential Development located on West Granada Boulevard to the west of the Indian Springs Subdivision and east of the Breakaway Trails subdivision; authorizing an amendment to the required recreational amenities; ratifying and affirming the development order by approved by Resolution No. 2003-17 and the preliminary plans and final plat approved by Ordinance No. 2004-30; establishing conditions and expiration of approval; and setting forth an effective date. (*Planning Director*)

**B. First Reading of Ordinance No. 2011-19** – 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 +1.31-acres located at 1520 North US Highway 1 (Parcel ID No. 3136-01-61-0010), from Volusia County "Commercial" to Ormond Beach Low Intensity Commercial"; repealing all inconsistent ordinances or parts thereof; and setting forth an effective date. (*Lil Champs*) (*Planning Director*)

- C. First Reading of Ordinance No. 2011-20** – 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  $\pm 2.16$ -acres located at 1521 North US Highway 1 (Parcel ID No. 3136-01-37-0010), from Volusia County "Commercial" to Ormond Beach "Low Intensity Commercial"; repealing all inconsistent ordinances or parts thereof; and setting forth an effective date. (*RaceTrac*) (*Planning Director*)
- D. First Reading of Ordinance No. 2011-21** – 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 +2.58-acres located at 1530 North US Highway 1 (Parcel ID No. 3136-01-62-0050), from Volusia County "Commercial" to Ormond Beach "Low Intensity Commercial"; repealing all inconsistent ordinances or parts thereof; and setting forth an effective date. (*McDonalds*) (*Planning Director*)
- E. First Reading of Ordinance No. 2011-22** – 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 +1.42-acres located at 1545 North US Highway 1 (Parcel ID No. 3136-01-36-0020), from Volusia County "Commercial" to Ormond Beach "Low Intensity Commercial"; repealing all inconsistent ordinances or parts thereof; and setting forth an effective date. (*Cheaters*) (*Planning Director*)
- F. First Reading of Ordinance No. 2011-23** – 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 +2.74-acres located at 1560 North US Highway 1 (Parcel ID No. 3136-01-63-0020), from Volusia County "Commercial" to Ormond Beach "Low Intensity Commercial"; repealing all inconsistent ordinances or parts thereof; and setting forth an effective date. (*Fruit Store*) (*Planning Director*)
- G. First Reading of Ordinance No. 2011-24** – 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 +2.19-acres located at 1561 North US Highway 1 (Parcel ID No. 3136-01-17-0010), from Volusia County "Commercial" to Ormond Beach "Low Intensity Commercial"; repealing all inconsistent ordinances or parts thereof; and setting forth an effective date. (*Wendy's*) (*Planning Director*)
- H. First Reading of Ordinance No. 2011-25** – 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 +2.46-acres located at 1567 North US Highway 1 (Parcel ID No. 3136-01-18-0010), from Volusia County "Commercial" to Ormond Beach "Low Intensity Commercial"; repealing all inconsistent ordinances or parts thereof; and setting forth an effective date. (*Econo Lodge*) (*Planning Director*)
- I. First Reading of Ordinance No. 2011-26** – 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 +0.36-acres located at 1570 North US Highway 1 (Parcel ID No. 3136-01-63-0030), from Volusia County "Commercial" to Ormond Beach "Low Intensity Commercial"; repealing all inconsistent ordinances or parts thereof; and setting forth an effective date. (*Waffle House*) (*Planning Director*)
- J. First Reading of Ordinance No. 2011-27** – 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 +7.07-acres located at 1571 North US Highway 1 (Parcel ID No. 3136-01-19-0010), from Volusia County "Commercial" to Ormond Beach "Low Intensity Commercial"; repealing all inconsistent ordinances or parts thereof; and setting forth an effective date. (*Comfort Inn*) (*Planning Director*)
- K. First Reading of Ordinance No. 2011-28** – 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 +0.76-

acres located at 1576 North US Highway 1 (Parcel ID No. 3136-01-63-0010), from Volusia County "Commercial" to Ormond Beach "Low Intensity Commercial"; repealing all inconsistent ordinances of parts thereof; and setting forth an effective date. (*Sunoco & Fruit Stand*) (*Planning Director*)

## 10. STAFF ACTION ITEMS

A. **John Anderson Drive** (*Acting City Engineer*)

B. **Commission Zone Redistricting** (*Planning Director*)

DISPOSITION: Approve as recommended in City Manager memorandum dated July 14, 2011

## 11. DISCUSSION ITEMS

A. **Federal Trails Program** (*City Clerk*)

B. **Appeal of Planning Director Non-conforming Determination** (*143 Ocean Shore Blvd*) (*Planning Director*)

## 12. REPORTS, SUGGESTIONS, REQUESTS (Mayor, City Commission, City Manager, City Attorney)

## 13. ADJOURNMENT

### Item #1 – Meeting Call to Order

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

### Item #2 – Invocation

The invocation was given by Pastor Ronald Todd, Harbor Baptist Church.

### Item #3 – Pledge of Allegiance

The Pledge of Allegiance was led by Mayor Kelley.

### Item #4 – Adoption of FY 2011-2012 Proposed Millage Rates

#### RESOLUTION NO. 2011-100

A RESOLUTION ADOPTING PROPOSED MILLAGE RATES FOR THE 2011-2012 FISCAL YEAR; ESTABLISHING THE DATE, TIME AND PLACE FOR THE FIRST PUBLIC HEARING ON THE PROPOSED MILLAGE RATES AND THE TENTATIVE BUDGET; DIRECTING COMMUNICATION; EXPRESSING LEGISLATIVE INTENT; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Kelley stated the proposed millage rate for the City of Ormond Beach necessary to fund the Fiscal Year 2011-2012 budget is 3.8933 mills; the proposed rate was equal to the rollback tax rate of 3.8933 mills; the proposed debt service millage rates are 0.1157 for the 2002 General Obligation Bond Sinking Fund, 0.0475 mills for the 2003 General Obligation Bond Sinking Fund, and 0.1449 for the 2010 General Obligation Bond Sinking Fund. The Mayor stated this was not a tax increase, but neutral with the same amount of revenue for FY 2010-2011. He stated this was a public hearing and there were no requests to speak prior to the adoption of the proposed millage rate.

**Commissioner Kent moved, seconded by Commissioner Boehm, for approval of Resolution No. 2011-100, to adopt a proposed operating millage rate of 3.8933, and debt service millage rates of 0.1157, 0.0475 and 0.01449.**

Mayor Kelley stated the proposed operating millage rate of 3.8933 mills was equal to the rollback millage rate of 3.8933 mills. He stated the resolution also included adoption of the proposed debt service millage rate of 0.1157 for the 2002 General Obligation Bond Sinking Fund, 0.0475 mills for the 2003 General Obligation Bond Sinking Fund, and 0.1449 for the 2010 General Obligation Bond Sinking Fund.

Call Vote:	Commissioner Stowers	Yes
	Commissioner Kent	Yes

	Commissioner Boehm	Yes
	Commissioner Partington	Yes
Carried.	Mayor Kelley	Yes

Mayor Kelley stated the tentative operating millage rate was set at 3.8933 mills which was equal to the rollback millage rate of 3.8933. Mayor Kelley stated, hearing no objections, the public hearing was closed.

Item #5 – Presentation of ACE Awards

Tony Capozzi, Executive Director of the Chamber of Commerce, explained the Achievement in Civic Excellence award before announcing the winners as Clarisa Derrick, Ormond Beach Middle School, and Priya Gurjak, Hinson Middle School. He reported that Clarisa was a member of OBMS basketball team, National Junior Honor Society, and Pizza with the Principal, as well as, winning honor roll and Principal Awards throughout each grading period at OBMS. He stated she was an active member of Raven Kids and Outreach Ministries. He reported a few of Priya Gurjak's school activities were Student Government Association, Math Counts and Orchestra; in the community, she participated in the Downs Syndrome Buddy Walk, Halifax Holiday Tree, International Coastal Clean-Up, Pasta for Pennies, and Embry-Riddle Math and Science Tutor Program.

Item #6 - Audience Remarks

Mike Scudiero, 42 Circle Creek Way, stated he was here as a parent to appeal to a sense of fairness. He explained the Pop Warner football program was not able to accommodate all the children interested in playing football; therefore, a new Ormond Beach Pride football league association was started with three teams that were scheduled to start playing in August. He requested that Ormond Beach Pride be extended the same courtesy as other not-for-profit organizations and to be allowed to use the sports fields for practice free of charge. He stated the revised policy change that spelled out the charges to Ormond Beach Pride was changed the previous day, Monday, July 18.

Mayor Kelley suggested Mr. Scudiero speak with the City Manager to work on the issue.

Commissioner Kent stated he spoke with City Manager Shanahan and learned that Ormond Beach Pride needed to show paperwork that they were a not-for-profit organization.

City Manager Shanahan stated she did not have the authority to waive the fee. She stated she would be happy to work with Mr. Scudiero, but there were a limited number of fields and there were already a number of sports organizations that had agreements with the City; therefore, she asked for direction from the Commission.

Mayor Kelley suggested if any action was required from the Commission after the City Manager met with Mr. Scudiero, a special meeting could be held to handle any changes to policy.

City Manager Shanahan stated the City would likely bill Ormond Beach Pride for the fee rental until the resolution of the issue, which would not require any money up front from the organization.

Mr. Scudiero stated the organization had a backup plan, which would cover the first two weeks; therefore, the two week time period to allow the City to resolve the issue was fine with his organization.

Item #7 – Approval of the Minutes

Mayor Kelley advised the minutes of the July 5, 2011, regular meeting had been sent to the Commission for review, and were on the City's website for public review. He asked for any corrections, additions, or omissions. He stated that hearing no corrections, the minutes would stand approved as presented.

Item #8 – Consent Agenda

Mayor Kelley 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.

The Mayor stated Item #8A was pulled from the agenda because the charges for the site maintenance had been paid.

Commissioner Stowers requested Items #8B, #8F and #8G be pulled for discussion.

**Commissioner Partington moved, seconded by Commissioner Kent, for approval of the Consent Agenda, minus Items #8A, #8B, #8F and #8G.**

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

Item #8B – Release of Lien

City Clerk Joshua Fruecht read by title only:

RESOLUTION NO. 2011-102

A RESOLUTION AUTHORIZING THE EXECUTION OF A QUITCLAIM DEED IN FAVOR OF MARKHAM T. VAN CLEEF AND PEGGY A. VAN CLEEF, RELEASING A PORTION OF A TWENTY-FOOT (20') DRAINAGE EASEMENT LOCATED ON THE SOUTHEAST SIDE OF LOT 46, SHADOW CROSSINGS, UNIT 2, OF HUNTERS RIDGE SUBDIVISION, PHASE I (17 FOXFORDS CHASE); AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Partington moved, seconded by Commissioner Kent, for approval of the Resolution No. 2011-102.**

Commissioner Stowers stated his law firm represented the Van Cleefs on this matter; therefore, he stated he would abstain from the vote.

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

Item #8F – Hazard Mitigation Grant Program

City Clerk Joshua Fruecht read by title only:

RESOLUTION NO. 2011-106

A RESOLUTION AUTHORIZING THE EXECUTION OF A MODIFICATION (NUMBER TWO) TO SUBGRANT AGREEMENT BETWEEN THE DIVISION OF EMERGENCY MANAGEMENT AND THE CITY REGARDING THE HAZARD MITIGATION GRANT PROGRAM; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Partington moved, seconded by Commissioner Kent, for approval of the Resolution No. 2011-106.**

Commissioner Stowers stated he had questions regarding Item #8G and how it related to Item #8F; Item #8F being related to the FEMA grant and Item #8G being where a portion of the grant would be allocated. He stated he was advised to pull both items, but his questions related to Item #8G.

Mayor Kelley stated this item was laid aside on the table.

Item #8G – Purchase of 68 Lake Park Circle

City Clerk Joshua Fruecht read by title only:

RESOLUTION NO. 2011-107

A RESOLUTION AUTHORIZING THE EXECUTION OF AN "AS IS" CONTRACT FOR SALE AND PURCHASE BETWEEN JESSIE S. LEMOYNE AND THE CITY OF ORMOND BEACH, FOR THE PURCHASE OF CERTAIN PROPERTY LOCATED AT 68 LAKE PARK CIRCLE, ORMOND BEACH, VOLUSIA COUNTY, FLORIDA (PARCEL ID NUMBER 4242-68-02-0340); SETTING FORTH AN EFFECTIVE.

**Commissioner Kent moved, seconded by Commissioner Boehm, for approval of the Resolution No. 2011-106.**

Commissioner Stowers stated this property has had flooding issues for a number of years and was currently deemed uninhabitable. He reported the appraisal in the staff report stated the property was appraised at \$135,000 at the time of the No Name Storm in 2009 when the damages occurred. He stated there were comparative sales in the vicinity at 16 Pine Trail for \$65,000; 350 South Central Street for \$85,000; and 378 First Street for \$65,000; therefore, \$135,000 for an uninhabitable, flood-prone house was not appropriate, even though the City would pay only \$33,000 with the FEMA grant paying the difference. He suggested the City should not rescue the bank by paying at least double what the property was worth, but to let the bank foreclose on the property, and then the City could buy it for much less because the property certainly was not worth \$135,000.

Commissioner Kent stated the comps were not appropriate for this property and he would like to hear from staff on this issue.

City Manager Shanahan stated this property would allow the interconnect of the lakes and she explained other properties in the area had easements with large trees, which would inhibit the placement of the interconnect pipes. She stated the FEMA grant program provided incentive for property owners not to continue to rebuild on flood-prone lots by paying the pre-flood value for the property. She stated the City would purchase the property, demo the house, which was a requirement of the FEMA grant to ensure no home, would be built on this lot in the future; this would provide clear access to install the pipe.

Commissioner Partington stated this area, which took the brunt of the storm, was in his zone. He stated he had known Mrs. Lemoyne for 30 years and she was a great lady. He stated she was forced to move from her house, and she was the only homeowner that lost the ability to live in their home. He stated the City had a responsibility to her because the flooding issues had not been addressed prior to the 2009 storm. He pointed out that FEMA rules required the sale to be handled in this manner and it was a step in the right direction. He reminded that the property was important as a component of a plan that was ongoing for seven years to make the area essentially flood-proof.

Commissioner Boehm agreed with Commissioner Partington statements. He stated on a straight equity issue, Commissioner Stowers made a valid point, but this property was part of a significant project undertaken to stop flooding in that area and improve the City throughout that area, this was something the City needed to do now before further flooding.

Mayor Kelley stated he had the same concerns as Commissioner Stowers, but this was an integral part of the stormwater plan to prevent flooding in this area.

Commissioner Stowers stated he had reservations and he wanted to discuss the issue, which he could now support after hearing from the other Commission members.

Vote on Item #8G.

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

Vote on Item #8F.

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

Mayor Kelley stated that with the agreement of Commission, he would like to hear Item #9A, and then, proceed to Item #10A to allow one of the principal to leave to attend to his father. The other members indicated agreement.

Item #9A – First Amended Development Order for “The IL Villaggio” Subdivision

City Clerk Joshua Fruecht read by title only:

ORDINANCE NO. 2011-15

AN ORDINANCE AUTHORIZING THE EXECUTION AND ISSUANCE OF A FIRST AMENDED DEVELOPMENT ORDER FOR THE "TUSCANY" ALSO KNOWN AS "THE IL VILLAGGIO" SUBDIVISION, A PLANNED RESIDENTIAL DEVELOPMENT LOCATED ON WEST GRANADA BOULEVARD TO THE WEST OF THE INDIAN SPRINGS SUBDIVISION AND EAST OF THE BREAKAWAY TRAILS SUBDIVISION; AUTHORIZING AN AMENDMENT TO THE REQUIRED RECREATIONAL AMENITIES; RATIFYING AND AFFIRMING THE DEVELOPMENT ORDER BY APPROVED BY RESOLUTION NO. 2003-17 AND THE PRELIMINARY PLANS AND FINAL PLAT APPROVED BY ORDINANCE NO. 2004-30; ESTABLISHING CONDITIONS AND EXPIRATION OF APPROVAL; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Kelley stated this is a public hearing and he asked Planning Director Ric Goss to speak on the issue.

Planning Director Ric Goss stated the issue before the Commission was an agreement between The IL Villaggio investors and the HOA that was discussed last month. He reported there were some members of the HOA that did not support the agreement before the Commission due to the costs. He stated he received notification that the HOA was willing to join the development order with regard to the park amenity only to ensure that when the 30<sup>th</sup> lot sale or 30<sup>th</sup> building permit was issued, whichever, was the trigger, there would be no issue regarding the amenities to be built. He stated there were still some issues outstanding to be determined.

Paul Holub, managing member of the Villaggio investors, stated, although the issue of Villaggio investors being the developer or not had not been resolved, it was clear something needed to be done. He stated the problem started in 2003-04 when Vince Viscomi developed this subdivision and identified a small parcel outside the community gates to be used for the recreational feature. He explained the issue was further confused by the developer's failure to identify the parcel on the plat or in any recorded documents. He stated no recorded documents reflected a pool, a clubhouse or anything of that nature. He stated the ordinance, which was not recorded, referenced a clubhouse, not a pool, and pavers once the 30<sup>th</sup> building permit was issued. He admitted that by buying the lots, Villaggio investors accepted some of this burden. He reported this matter had been to staff for their support, as well as the Planning Board for support for their proposal. He stated a revised proposal was submitted to the HOA and the City, with most of the issues of concern resolved. He stated there were some small issues still under discussion: (1) cost, which Mr. Holub stated was not relative, because Villaggio agreed to pay any assessment of the current 16 lot owners, with \$1,000 per lot paid into escrow as a deposit toward the cost of the amenity with no refund to Villaggio should the cost be less than \$1,000 per lot; (b) guarantee of payment by Villaggio - once the 30<sup>th</sup> lot was sold, the owners would vote on the amenity to be built, which would have to met City standards, at which point Villaggio could not move forward with the sale of any of their remaining lots until the determined amenity was under construction because no building permits would be issued if the amenity was not at least under construction; (c) a pocket park – Villaggio would like to leave this as an option; (d) the 30<sup>th</sup> lot sale or 30<sup>th</sup> building permit question – Mr. Holub recommended the trigger be the 30<sup>th</sup> lot sold and gave as an example that of the last two lots sold, one planned never to build and the other was out of state but would not build for some years. He stated the 30<sup>th</sup> lot sale was more definitive, the 30<sup>th</sup> building permit was more of an unknown and Villaggio's hands would be tied, if the trigger was based on the 30<sup>th</sup> building permit. He stated Villaggio had included a disclosure in their sales contract that an assessment would be forthcoming and a disclosure was included in the covenants; and (e) the location of the amenity, because Parcel F bordered on SR40, which was not a conducive location for a recreational pool area, due to noise and potential hazard from vehicle accidents. He asked the Commission to approve Villaggio's request, based on staff's recommendation.

Commissioner Kent asked if Villaggio would have one vote or one vote for each of the 20 lots when the 30<sup>th</sup> lot was sold.

Mr. Holub stated the HOA encouraged Villaggio to vote for each lot they owned at the time of the vote. He stated when the owners were polled by written affidavit, the majority indicated they did not want a pool and clubhouse, not only because of the costs and the liability, but they did not feel they would use it.



Commissioner Kent asked about the family that built out their lot without a pool due to the expectation of a community pool.

Mr. Holub stated the ordinance specifically stated a clubhouse, not a pool and the ordinance was not recorded.

Commissioner Boehm suggested amending the ordinance to include the changes requested by Villaggio to resolve this issue.

Mr. Holub stated the staff report stated the 30<sup>th</sup> lot sale and the ordinance stated the 30<sup>th</sup> building permit. He stated the request was for the sale of the 30<sup>th</sup> lot, with a time certain meeting where a vote for the amenity would determine the type of amenity to be built within 180 days thereafter.

City Attorney Hayes stated the Commission had before them, an ordinance and a development order. He stated he stood by his legal opinion of the developers' right. He reviewed the proposed changes:

1. Page 3 of the ordinance, 2<sup>nd</sup> Whereas clause, end of the second to the last line: "The application seeks to allow the Tuscany (IL Villaggio) subdivision Home Owners Association (HOA) to select the exact type of recreational facility by majority vote with the construction to be completed within 240 days after the ~~Certificate of Occupancy~~ sale of the ~~31<sup>st</sup> home~~ 30<sup>th</sup> lot within of the subdivision, and"
2. Page 5 of the development order, Paragraph 3: "~~Within 90 calendar days of the issuance of the building permit for the construction of the 31<sup>st</sup> home~~ sale of the 30<sup>th</sup> lot within the subdivision. . . . "
3. Page 5 of the development order, Paragraph 4: "~~Within 180 calendar of the issuance of the building permit for the construction of the 31<sup>st</sup> home of the subdivision~~ recreational facility, the selected recreational amenity shall be ~~submitted for permitting to the Site Plan Review Committee~~ completed."
4. Page 5 of the development order, Paragraph 5: "~~Within 360~~ 240 days of the ~~issuance of the building permit for the construction of the 31<sup>st</sup> home of the subdivision~~ sale of the 30<sup>th</sup> lot, the selected recreational improvement shall be completed and Certification of Completion or Occupancy shall be obtained."
5. Page 9 of the ordinance, Section One: ". . . The approval shall allow the Tuscany (IL Villaggio) subdivision Homeowners Association (HOA) to select the type of recreational amenities ~~within the pocket park~~ facility by majority vote; ~~construction to be completed~~ selection of the types of recreational facilities shall be voted upon after the ~~Certificate of Occupancy of the 31<sup>st</sup> home~~ sale of the 30<sup>th</sup> lot within of the subdivision, ~~or within 3 years from approval of the final review which shall be~~ and final review conducted by the City Site Plan Review Committee or the City Commission, as circumstances may require. Construction shall be completed within 240 days of the sale of the 30<sup>th</sup> lot."

Louis LaTulippe, 39 Apian Way, father of two young children, stated he was told when he bought his lot five years ago there would be a pool and clubhouse. He stated he wanted a pool, not a pocket park, and he was against any changes in the agreement.

Lou Roppolo, 52 Apian Way, commended the Commission for their objectivity and concern for the residents of IL Villaggio and the implied commitment of the original developer. He stated the Villaggio investors rescued owners from fiscal disaster due to the original developers withdrawing from the property. He stated Villaggio investors did not take over as the subsequent developer, did not take over the HOA, and have been a valuable partner to the HOA. He stated the decision as to the recreational facility should be the decision of the residents at the time of the sale of the 30<sup>th</sup> lot. He stated Villaggio investors had presented a very fair offer to resolve this issue.

Gregory Oakwood, 79 Apian Way, and Michael Zaharius, 25 Apian Way, chose not to speak.

Michael Pyle, 43 Apian Way, stated the original owners were grateful for the IL Villaggio Investors, LLC, for bailing out the community. He stated the original developer did not discuss a pool and clubhouse, other than as a vague possibility in the distant future. He stated if the ordinance and documentation was fair, the HOA would probably be in agreement.

Darren Elkind, representing Gregory Oakwood, stated his client was in agreement with the mechanism to resolve the issue of the recreational facility, but there were a few housekeeping issues to be addressed: (1) architectural controls – this was a unique community and there should be no changes in the architectural standards, but asked this be added to the ordinance; (2) sale of 30<sup>th</sup> lot was agreeable to his client; (3) timing of the payment by IL Villaggio for the additional lots being sold should be made at the time of the sale of the lots to avoid the first 16 owners not paying toward the selected amenity and 14 owners who would pay the full assessment; and (4) a pool including a clubhouse with two restrooms would cost \$172,000 or \$3,200 per lot, as opposed to Mr. Holub's \$1,800 per lot estimate without a clubhouse. He reported Mr. Oakwood offered to purchase a lot from IL Villaggio at their cost and was upset that they would not accept his offer and Mr. Oakwood hired him as his attorney, but now Mr. Oakwood has worked well with everybody and was supportive of his neighbors. He stated Mr. Oakwood was not in favor of the agreement as it stood.

Mr. Holub stated he would not object to minor changes in the architectural standards with City staff approval being sufficient, rather than coming back to the Commission.

Joseph Daprile, 59 Deep Woods Way, an investor of IL Villaggio, LLC, stated Mr. Oakwood was attempting to shakedown the owners of IL Villaggio, LLC, because Mr. Oakwood wanted to purchase the lot next to his own for \$17,500. Mr. Daprile stated Mr. Oakwood hired Mr. Elkind, because Mr. Oakwood was not allowed to purchase a lot from IL Villaggio at their cost.

Mr. Holub summarized that the investors' intent was not to change the architectural nature of the community, that any minor changes could be approved by staff, and IL Villaggio had assisted the HOA in changes to clarify the standards. He stated the assessments should be paid when the selected amenity was determined, the assessment would be included in a recorded covenant document, and disclosed in their contracts for any lots sold. He suggested it would not be equitable for the remaining lot sales to deposit \$1,000 toward the assessment at the time of the sale. Mr. Holub stated that should the assessment be below \$1,000 per lot, any money deposited by IL Villaggio into escrow would not be returned to them, but used by the HOA for other purposes. He agreed the recreational feature should be decided by the owners, but a price could not be determined for a pool until the engineer designed the facility due to the wide range of costs depending on the required flow rate for the size of the pool.

**Commissioner Boehm moved, seconded by Commissioner Partington, for approval of the Ordinance No. 2011-15, on first reading, as read by title only.**

**Commissioner Boehm moved, seconded by Commissioner Partington, to amend the ordinance, as previously stated by the City Attorney.**

Commissioner Boehm stated the investor group made a substantial investment to rescue a failing subdivision; and it would be in the IL Villaggio's best interest to put the best amenity in the subdivision when the 30<sup>th</sup> lot was sold. He stated Mr. Holub was a well known, quality builder who had built a lot of quality projects in this community. He stated the property owners should factor in the cost for building the amenity and the future maintenance costs when they vote on the selected amenity. He stated Mr. Holub and his investors wanted the best community possible to assist in the sale of their remaining lots and he supported the ordinance as amended.

Commissioner Partington stated this situation would be a good case study for a third year law student as an example of what can happen when a buyer does not do their due diligence before a purchase. He stated it was unfortunate the property owners were promised a pool and clubhouse, when that was not the intent. He would support the ordinance as amended, because it was equitable for all parties.

Commissioner Stowers stated this was a planned residential development and he asked if the pool and clubhouse were in the development order.

City Attorney Hayes stated it was in the documents, including the site plans approved as part of the preliminary plat, but not in the recorded plat.

Commissioner Stowers stated he had discussed the issue of the 30<sup>th</sup> lot sold or the 30<sup>th</sup> building permit with Mr. Holub, and he agreed it was unworkable to require the 30<sup>th</sup> building permit to be the trigger. He asked Mr. Holub if he was agreeable to include a requirement that it be the 30<sup>th</sup> individual lot purchase, but not a block purchase to a developer.

Mr. Holub stated he would want to count any lot purchased toward the 30<sup>th</sup> lot sold. He expressed that it was not worth it to the investors to create a bogus sale to reach the 30<sup>th</sup> lot sold.

Commissioner Stowers stated he would be in favor of allowing Mr. LaTulippe to apply for a variance to allow him to build a pool on his lot and the assessment would be paid for him by the investors group.

Commissioner Kent stated he agreed with the City Attorney memo and he supported the amendments, but did not like it. He stated he would favor a special exception for Mr. LaTulippe to build a pool on his lot.

Mayor Kelley stated he supported the amendments under discussion; and he stated the investors would not back out of the agreement while holding 20 lots.

Vote on the amended motion.

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

The City Attorney inquired as to a desire to incorporate the architectural standards in the development order. He stated the proposal was to have any minor changes to the architectural standards be handled by staff and any major changes would come back to the Commission.

Mayor Kelley asked if the current architectural standards were included in the development order.

City Attorney Hayes stated they were not in the development order.

Mayor Kelley suggested that since the standards were not in the current development order, the standards should not be included in the amended development order.

Commissioner Boehm stated he wanted to vote on the issues before the Commission and other issues could be discussed at a later time.

The consensus of the Commission was not to involve themselves in the architectural standards.

Vote on the main motion.

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

Without objection, Mayor Kelley closed the public hearing and called for a 5 minute recess at 9:15 p.m. Mayor Kelley reconvened the meeting at 9:20 p.m.

#### Item #10A – John Anderson Drive

Acting City Engineer John Noble stated on June 22, 2010, the Commission awarded a professional services agreement to Ghyabi and Associates in the amount of \$699,516.70 for services to design the John Anderson Drive project, which included full reconstruction of John Anderson Drive with curb and gutter, stormwater system upgrades, water and sewer upgrades, and a 5-foot sidewalk; on April 21, 2011, a proposal plan was presented to the public where concerns were raised regarding the sidewalk and tree impacts, as a result of the sidewalk construction. Mr. Noble stated that after the meeting, the consultants considered possible options based on the citizens' concerns.

Walter Kloss, Vice President of Ghyabi & Associates, discussed the presentation showing the inadequacies of the road as a collector roadway. He stated the existing stormwater system was inadequate, causing the roadway to be flood-prone even during typical rainfall events, and deterioration of the roadway was occurring due to the water table at or near the ground level surface in most areas. He stated there were minimum sidewalks located in the area, which was

unsafe for pedestrian traffic. He stated there were utility improvements necessary to the water system to improve the water quality and the water pressure, as well as sewer improvements needed. He stated the improvements included upgrades to the roadway, such as, curb and gutter; 11-foot traffic lanes; elevation of the roadway to reduce the flooding and to protect the pavement; water and sewer improvements; a 5-foot sidewalk; and conduits under the driveways for irrigation of the tree mitigation project. He stated the design goal of the project was to protect and save hardwood trees, and minimize the impact on the trees by considering placing the sidewalk within proposed easements. He stated based on the current design with all the proposed easements granted, there would be 49 hardwoods and 75 palms that would be removed by the project for a total of 124 trees; if no easements were granted for the sidewalk, there would be 67 hardwoods and 81 palms removed. He reported the roadway would be shifted slightly to the west to protect the significant trees on the east side of the roadway. He summarized the concerns expressed at the April meeting as: a loss of trees due to the roadway realignment and the addition of the sidewalk; sidewalks were unnecessary; sidewalks were needed for pedestrian safety; this was a scenic roadway which required tree planting in advance of the improvements; non-malleable were not bicycle friendly; lack of traffic calming devices; and the proposed design will encourage speeding. He stated some methods to address the citizens' concerns were: maintain the arborist during construction to assist in saving trees; develop a tree mitigation plan to include a positive net increase in the total number of trees; the minimum standard for a collector road was 11-foot lanes which would be no appreciable difference in impacts from a 10-foot lane; and traffic calming devices, such as colored or textured pavement along the roadway.

Commissioner Boehm confirmed the design included traffic lanes that were 10-foot with a curb and gutter, which would be a 4-foot setback for the FPL poles, and a different curb style would require a 10-foot setback, which would be a much more substantial tree impact.

Linda Neubauer, 487 John Anderson Drive, stated they had built a home on John Anderson Drive 24 years ago, and although she could appreciate the progress over the years, she was concerned that the sidewalks, which were necessary, could be in jeopardy. She stated family safety required sidewalks for pedestrians. She stated that speeding was common on John Anderson Drive, and asked for two stop signs, one at Neptune and one at Amsden, and traffic calming devices.

Laura Jones, 59 Amsden Drive, stated she was dedicated to this issue and collected more than 200 signatures of those opposed to sidewalks. She asked when the decision was made to put the sidewalk on the east side of the road and the reason for that decision. She stated sidewalks would not be a plus for John Anderson Drive, but would take away from John Anderson Drive.

Mayor Kelley stated the sidewalk was planned for the east side of the road, because the road was being shifted to the west to lessen the impact on the trees.

Robert Merrill, 599 John Anderson Drive, commended Commissioner Stowers for his excellent work and for the many hours he spent talking with the residents. He did not understand why the road needed to be widened and it would not make it safer. He stated the stormwater drainage did need to be improved, but high curbs were dangerous for bicyclists not able to pull off the road to get out of the way of a car. He stated he hoped the City did not pull out trees unnecessarily.

Kevin Connors, 769 John Anderson Drive, stated he lived here from 1969 and had seen many changes. He stated John Anderson Drive was a disgrace and a sidewalk would not make it better. He stated it was an unnecessary expense and the sidewalk would not be used. He stated the City needed to maintain its high quality standard of life and he did not understand why the entire City was able to vote on what happened on John Anderson Drive, rather than just Zone 1.

John Payne, 290 John Anderson Drive, did not speak.

Patrice Stoves, 459 John Anderson Drive, expressed her opposition to the expansion of John Anderson Drive, and she commended Commissioner Stowers' attempt to make one on one contact with the residents. She stated the City could not afford the expansion. She stated speeding could be controlled with speed bumps. She stated the expansion would change the look and feel of the street if the trees were removed.

Murray and Barbara Steinberg, 697 John Anderson Drive, stated they moved to John Anderson Drive in 2003, because it was one of most unique streets in the country. They expressed no

matter which of the three options were built, a lot of trees would be removed. They advocated minimizing the removal of trees; and to use the money for sidewalk to bury the utilities or buy more stop signs. They predicted an increase in crime if sidewalks were installed, due to the increase in traffic. They stated elevation of the roadway would increase the drainage problem on their property. They expressed concern regarding a special tree in their yard which was marked for removal, and they stated they had suggested a technique to preserve trees rather than remove them. They stated that the sidewalks were superfluous, and an unnecessary expense.

Lou Lumaghi, 1 Cliffside Drive, suggested that if the City had send out a questionnaire beforehand, the Commission would know what the citizens wanted.

Stacy Atkins, 741 John Anderson Drive, stated she had lived on John Anderson Drive all her life, and she stated a lot of people were annoyed that they did not know about this meeting, and it was not publicized enough. She stated the project started with a drainage issue that Mayor Costello steamrolled ahead. She stated the City should fix the drainage problems. She stated she did not want sidewalks or road improvements; and she did not understand why the residents did not get a vote on this issue.

Mayor Kelley explained that once the design reached to 60% design there were concerns which needed to be considered. He stated this project did not start with Mayor Costello, but had been ongoing for a number of years, and the meetings had been thoroughly publicized in the newspaper and on the City's website.

Barry Kalin, 100 John Anderson Drive, stated he lived on John Anderson Drive about 40 years, since 1963 and it was a beautiful street. He stated he knew drainage improvements were needed, but asked the road not be changed anymore than necessary. He stated the major issue for him was the taking of any property to widen the road or put in sidewalks. He stated the safety issues could be resolved by putting in more stop signs.

Matt Roth, 395 Idlewood Dr, stated he lived here for 42 years, and was surprised there was not more support for a sidewalk for the safety of children and pedestrians. He stated a tree mitigation plan could reduce the tree impact in the long run.

Mayor Kelley explained there was a tree mitigation plan in place that would probably provide for more trees than would be removed.

Sam Cromartie, 236 John Anderson Drive, stated he lived on John Anderson Drive over 25 years, and moved there due to the beauty of the road. He stated it broke his heart that the esthetics would be destroyed. He stated the road might be better mechanically, but it would not be as beautiful. He stated the majority of the people were opposed to this project.

Thomas Wacker, 864 John Anderson Drive, chose not to speak.

Anthony Conte, 450 John Anderson Drive, asked the overall width of the right-of-way, and was it equal on both sides. He stated if people wanted sidewalks, they should move to Breakaway Trails. He stated the sidewalk would be superfluous because there were no sidewalks on the side streets. He stated the mitigation plan would not replace two large oak trees in his yard that were seven and eight foot in circumference. He agreed the street needed to be paved, and certain areas of the road needed drainage issues resolved. He stated the road was scenic and beautiful, and a wider road would increase the speed of traffic.

Rob Pepper, 470 John Anderson Drive, chose not to speak.

Scott Cichon, attorney for Susan King, 715 John Anderson Drive, stated she was against widening the road and an against a sidewalk.

Jenny Sorack, 1031 John Anderson Drive, stated they bought their house because of the nature of John Anderson Drive. She stated they had a double trunk live oak in their front yard that mitigation could not replace. She agreed with the road and drainage improvements, but she was opposed to sidewalks. She stated she did not want John Anderson Drive to turn into Fort Lauderdale. She stated she also opposed high curbs.

Steve Sorack, 1031 John Anderson Drive, suggested one-way traffic on John Anderson Drive.

Joan Cavanaugh, 687 John Anderson Drive, agreed with most of the speakers. She stated she wanted no sidewalks, no widening of the road, and she did not want any trees removed. She

expressed she was concerned about stormwater drainage system because the major swale would be directly in front of her home.

Scott Cichon, 761 John Anderson Drive, stated he wanted to point out there were costs for widening roads and sidewalks, and for maintaining the sidewalks. He asked the Commission not to spend tax dollars on something the citizens did not want. He stated a lot of fill dirt would be necessary to put in sidewalks. He stated the comp plan required tree mitigation begin three to five years in advance of construction. He suggested changing the designation of John Anderson Drive from being a collector road.

Michael Chase, 845 John Anderson Drive, stated he favored sidewalks for the children, but wanted to conserve as many trees as possible. He pointed out that the tree report indicated a number of trees marked to be removed were diseased trees or invasive species of trees.

City Manager Shanahan stated staff needed direction as to how they should proceed with the project; the three options being: (1) keep the road at the current elevation and current alignment; (2) keep the road without a sidewalk at the current elevation and current alignment; or (3) keep the proposed design engineer drawing with modifications to the elevation in order to insure the life of the road and to provide some necessary widening to accommodate the curb and gutter, which was a part of the drainage system.

Commissioner Stowers stated he attended the April 21, 2011 public meeting where there were changes to be made to the 60% design, which were to change to tree impact, to change the width of the road from 10-foot to 11-foot, as well as, an outcry from citizens, who did not want a sidewalk. He stated the decision was made to put the project on hold, during which time he talked to the residents and reviewed minutes of meetings where the project was discussed and approved. He stated he documented the information he received from residents and attempted to correct any misinformation about the project. He reported after speaking to as many people as possible, he concluded the residents south of Colonial Circle were equally divided on the issue of sidewalks and north of Amsden Drive, the majority of residents opposed sidewalks. He stated south of Colonial Circle, four easements would be needed to allow the sidewalk to meander around the trees; three of the four might grant an easement; while north of Amsden Drive, twelve easements would be necessary and more difficult to obtain due to the opposition to the sidewalks in this area. He reported four properties east of John Anderson Drive and south of Colonial Circle would require heavy fill dirt for installation of a sidewalk and twelve properties east of John Anderson Drive and north of Amsden Drive would require heavy fill dirt. He stated he would like to speak with the local FPL government official regarding the curb issue and the placement of power poles, because he favored Miami style curbs, but had not heard there would be a different setback for the different curb styles. He suggested leaving trees that were impacted by the project to determine whether they would survive, as they could be removed later, and in the meantime, trees could be planted to mitigate any trees lost. He stated he was supportive of only two options as most representative of the views of the residents: (1) having a sidewalk connect from the south project boundary to Colonial Circle where the existing sidewalk stopped, with no sidewalk north of Amsden Drive; or (2) no sidewalk.

Commissioner Kent stated he thought this issue was resolved a couple of years ago. He stated he discussed this project with staff, and he concluded he preferred one-way traffic, which was safer and did not impact the trees. He stated the road had major issues, especially when it rained. He stated people had died on that road and he would never bicycle on John Anderson Drive due to the danger. He stated he had not favored a sidewalk until the discussion of the tree mitigation plan, he was now undecided. He stated he was not interested on putting a band-aid on John Anderson Drive. He stated he liked Commissioner Stowers' idea for the sidewalk. He expressed favor for re-aligning the road, F-style curbs, 11-foot lanes, and Commissioner Stowers' sidewalk idea.

Mayor Kelley confirmed that Commissioner Stowers favored 10-foot lanes and was undecided regarding curbing, until further conversations were held with FPL.

Commissioner Boehm inquired as to the width of the right-of-ways.

Action City Engineer John Noble stated the right-of-way averaged 50-foot wide.

Commissioner Boehm questioned where the easements were needed beyond the right-of-way.

Mr. Noble explained it was where the sidewalk meandered behind the trees beyond the right-of-way, and at most would be five feet beyond the right-of-way. He clarified the 50 feet was measured from the right-of-way line on the east side to the right-of-way line on the west side.

Assistant City Manager Ted MacLeod explained the roadway meandered from side to side of the 50-foot right-of-way.

Commissioner Boehm expressed opposition to a sidewalk because he stated the sidewalk would be awful, due to the way it would be required to meander through people's property. He expressed concern as to the appearance of the road if it was widened. He stated John Anderson Drive was a unique road and the City should deal with the drainage issues, but not widen the road to maintain the character of the road. He stated more stop signs would stem speeding.

Commissioner Partington stated he was opposed to the sidewalk, but the City needed to deal with the drainage issues, and improve the road. He stated he favored keeping the meandering nature of the road and to make Halifax Drive the collector road, and designate John Anderson Drive as a scenic route.

Mayor Kelley stated his concerns were that the road must be fixed, and the drainage problem must be addressed. He stated the Miami curb was not going to solve flooding issue, but he would support curb and gutter. He stated the primary issues were safety and the integrity of the road; therefore, the road needed to be 11-foot wide, and without a sidewalk, speeding would not increase.

Commissioner Stowers stated based on what he heard from Commissioner Boehm, he would have to vote for no sidewalks. He stated he wanted to maintain the meandering road with 10-foot lanes. He expressed either curb style was all right with him. He stated he wanted to explore the idea of stop signs on Amsden Drive and Neptune Drive. He stated Halifax Drive was intended to be the collector road, not John Anderson Drive.

**Commissioner Stowers moved, seconded by Commissioner Boehm, to remove the sidewalk from the design plan, proceed with 10-foot wide roadway, and use F-style curb.**

Mayor Kelley stated he wanted the Commission to consider 11-foot lanes for compliance and safety reasons.

Commissioner Kent expressed support for 11-foot lanes.

Commissioner Partington expressed his support for 10-foot wide lanes.

Mayor Kelley stated the City was making a mistake by not bringing the roadway into compliance.

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

Mayor Kelley called for a five minutes recess at 11:32 p.m.; and reconvened the meeting at 11:38 p.m.

#### Item #11B – Appeal of Planning Director Non-conforming Determination

City Clerk Joshua Fruecht swore in Planning Director Ric Goss and George Arnold, owner of the subject property at the suggestion of the City Attorney.

Planning Director Ric Goss explained the item was an appeal of a non-conforming determination that he made, filed by Shubin and Bass for George Arnold, property owner at 143 Ocean Shore Boulevard. He stated on April 18, 2011, Shubin and Bass requested a non-conforming determination with regards to a cottage unit in the front of the subject property. He stated there were two issues: (1) a non-conforming determination, regarding the front and side yard setbacks; and (2) a meter that was separately metered with regards to the cottage unit itself. He stated the front and side yard setbacks were found non-conforming. He explained the request to FPL for records, produced a letter that stated, "the meter for the guest house located at 143 Ocean Shore Boulevard was installed on August 15, 1995." Based on that letter and with

no further backup materials, he found the ordinance at that time, which was from 1978, required the meter be through the primary structure for an accessory unit. He stated he wrote a non-conforming determination letter on May 20, 2011, finding partially for the applicant for the rear and side yard setbacks; however, he found the meter installed in 1995 was unlawful. He stated an appeal letter was received June 17, 2011, containing two issues: (1) the degree of non-conformance, relative to the rear and side yard setbacks; and (2) the metering issue. He explained due to the lack of boundary survey, aerial GIS analysis was used to determine setbacks; then, as part of a public request received, permits relative to 143 Ocean Shore Boulevard were reviewed, an uncertified boundary survey was located, which showed a 7-foot front yard setback and a 5-foot side yard setback. He stated the setback issue was resolved. He stated in regard to the meter, the appeal letter of the applicant stated the letter from FPL was not shared with the applicant prior to the written determination. He stated the letter was discovered upon the applicant's request for a non-conforming determination; and the information was included in the determination letter to the applicant. He stated there was no further documentation, which was unusual. Mr. Goss stated there was an affidavit from Mr. Parks, who responded to the FPL letter, which stated the meter was installed in 1995, "the work was conducted by FPL, which consisted of replacing the glass dome meter that had previously been removed from the existing fully wired electrical box with the accessory unit." He stated that was an indication the meter had been removed at some time prior to that work by FPL; thereby, the non-conformity with regard to the meter had been extinguished. He stated this was not a case of non-conforming use; therefore, the abandonment provisions of the code under Section 266 of the Land Development Code do not apply, but the cottage unit does not meet the performance standards for an accessory apartment. He stated there was a provision in the code under the definition for non-complying with regard to performance standards, and the code throughout stated conforming uses might not meet the standards, but when the property was repaired, the property must be brought up to current standards. He suggested that whether the meter was installed by FPL in 1995 or if it was a replacement meter that had been removed as indicated in the affidavit, it was a distinction without a difference, and the meter should have been put through the main house at that time. He reported there were three electrical permits, one was in August 2, 1995, which did not reference the unit, but that it was for replacement of the electrical panel and one in August 11, 1995, which was for a replacement of the electrical panel in the main house. He stated the assumption was the replacement of the panel that was not in the main house had to have been for the accessory unit; therefore, by August 1995, the cottage unit had a new electrical panel and meter. He requested the Commission uphold the determination that the rear and side yard setback were non-conforming and the meter was not a legal non-conformity, but a performance standard that the non-compliance and non-conformance was extinguished when the meter was removed.

Commissioner Partington stated he was attempting to determine the practical effect on the meter if the Commission supported the determination.

Mr. Goss explained that the cottage unit would have power through a meter at the main house, as with the water and sewer. He stated code had always required water, sewer and metered electrical to be through the main unit to the accessory apartments.

Deana Falce, Shubin and Bass, 46 SW First Street, Miami, FL, attorney for the property owner, stated the applicant was asking the Commission to find non-conformity for the guest house, as to the structure only; a finding for a non-conforming structure, as regarding the separate electric meter, and to affirm the setbacks as a legal non-conformity. She stated a section of the Land Development Code allowed for the flexibility in a situation where the code changed, and the City could not expect the property owners to continually come up to code. She agreed her client only had a problem with the calculation of the exact measurements for the setbacks; both parties now agree that the setbacks were seven feet for the front and five feet for the side yard setbacks. Ms. Falce asked for the determination that the electric meter was a legal non-conformity, as a separate meter for the guest house. She stated there was no competent substantial evidence presented that the meter was ever metered through the main house. She stated that initially Mr. Goss asked that a draft letter of determination be submitted, which was why no additional background information was provided. She stated had Mr. Goss requested further information, it could have been supplied or any questions could have been answered. She stated Mr. Arnold would be able to testify as to the circumstances of the 1995 meter situation, which was a repair of the existing meter. She explained that there were two ways abandonment could occur: (1) if the structure was destroyed at least 50%, which it obviously was not the case; and (2) if it was abandoned for six consecutive months, or for a total of 18 months within a two year period, and there was no evidence that it was abandoned for that long. She stated the glass dome was repaired in 1995, with no evidence it was ever metered through the main house. She stated an issue that was not addressed in the letter of determination was



that the guest house does not have a first floor garage, which was a requirement for a principal structure of less than 3,266 square feet under the new accessory dwelling code. She stated Mr. Arnold's principal dwelling was less than that requirement, and the guest house never had a garage; therefore, she asked for a determination of a legal non-conformity relative to the lack of a first floor garage. Ms. Falce objected to the requirement for a deed restriction to be recorded, as it was unnecessary, because Florida law already acknowledged and found that when future owners purchase this property, they would be on notice and have notice of the current code. She stated that should the code change in the future, the restriction would not apply and would affect Mr. Arnold's future value of the property.

Commissioner Stowers stated the applicant's position was that it was a non-conforming structure, the code definition of which was, ". . . any structure for which was legally permitted and existing that is non-conforming by the terms of this code due to restriction of area, lot coverage, height, required yards or location on the lot . . ." He stated the electric meter did not fall into any of those. He expressed he did not understand how Ms. Falce could attempt to attach an electric meter into that definition of a non-conforming structure, in order to get to the non-conforming regulations. He stated he had discussed with Mr. Goss that there was non-conforming use in the same definition section, and there was the non-complying structure or site, which were not the same. Commissioner Stowers stated he could not understand how this would be a non-conformance and not simply a non-compliance. He stated this was a permitted use that provided for certain things, one of which was metering through the primary residence; therefore, he did not understand what was gained by not following the provision.

Ms. Falce stated with regard to the definition, they believed it fell under, ". . . required yards or location on the lot, or other requirements concerning the structure, then such non-conforming structure may continue, if it remains otherwise conforming."

George Arnold, 143 Ocean Shore Boulevard, presented and discussed photos of the house on the overhead projection. He stated he purchased the home in 1995 from a family that had owned it for three generations, and it needed a lot of work. He stated the guest house had a separate electric meter, which had been vandalized between the time of the contract and the time of the closing. He stated he wanted a separate meter to be able to rent the guest house, and not having a separate meter devalued the property, as well as, made it difficult to rent. He explained the main house was built in 1928 and metered to the pole to the north; the guest house was built in 1931 and metered to the pole to the south. He asked the Commission to confirm he had a legal non-conformity, as to the setbacks, the metering, and the lack of a garage for the guest house.

Commissioner Boehm asked the Planning Director the purpose of the requirement for the secondary dwelling to be metered through the main dwelling.

Mr. Goss stated in his five years with the City, the Commission had struggled with the issue of accessory dwellings. He stated until about a year and a half ago, the City did not allow the rental of accessory apartments except to a family member, when, the Commission decided to relax the rules to allow the owner to rent one of the units for revenue. He stated since 1978, the metering had to be done through the main dwelling. Mr. Goss clarified that when he originally spoke with John Shubin on March 1, 2011, the discussion was regarding the non-conformity as to setbacks only; the meter was never discussed. He stated the meter only came up in the letter of March 24, when it was presented that one meter was unacceptable to Mr. Arnold. He stated the unintended consequence of using the abandonment clause in the code for conforming uses and calling them non-conforming, was there were thousands of cases in the City that were permitted and conforming uses that don't meet the performance standards that would be required to come up to standard.

Commissioner Boehm inquired if the property owner could live in the main unit and rent the accessory unit by current code.

Mr. Goss stated that was correct.

Commissioner Boehm stated the benefit of a separate meter would allow the property owner to rent one of the units and know what the electric costs were. He stated he believed the purpose of the code was to prevent the renting of accessory units, but now it was acceptable to rent the unit because the situation that changed.

Commissioner Kent stated he was in favor of all of Mr. Arnold's requests: the setbacks, the separate meter and the garage because he was allowed to rent the accessory unit.

Commissioner Partington asked for information regarding the garage.

Mr. Goss stated it had not been an issue and he did not have details regarding the garage, but he had no objection to the lack of garage.

Commissioner Partington stated he was inclined to support Mr. Goss' determination, but inquired how to change the code to allow the accessory units to have a separate meter.

Mr. Goss stated it would take direction from the Commission; it was a policy decision, which they could request.

Mayor Kelley suggested it might not be the best time to discuss a policy change and it could be brought back to the Commission at a later date when staff could provide information.

Commissioner Stowers stated the item was an appeal of the Planning Director's determination and he was supportive of the setbacks, the garage issue was a non-issue, but the metering was the issue. He stated Commissioner Boehm brought up a good point in that the drafters of the current code were limiting the use of the accessory unit to family members only, and the unintended consequence of that regulation related to allowing a non-family member to rent the unit, but the single meter provision was still a part of the code; therefore, he would support revisiting the code to modify those provisions. He stated he was interpreting it as a compliance issue, not a conforming structure or conforming use issue; therefore, he was in favor of supporting Mr. Goss' determination, but at the same time, he was supportive of changing the regulations to address this issue.

City Manager Shanahan suggested the modification of the code could be handled as a discussion item; therefore it should be removed from the table.

Commissioner Stowers stated he presented the issue due to the court reporter's presence and he wanted all the information on the record.

Commissioner Boehm stated sometimes it was necessary to be practical; therefore, he did not want to require Mr. Arnold to meter the electricity for both units through one meter and then, require him to apply to install a separate meter after the code was revised to allow a separate meter. He expressed his belief that the meter was installed in 1931, broke in 1995, and Mr. Arnold had it repaired, with no intention of circumventing the compliance regulations. He stated he did agree with Mr. Goss' determination, but it was not practical to have the meter removed and then, reinstalled.

Mayor Kelley stated this discussion came up during his previous time on the Commission, and the reason for not allowing a separate meter was to deter duplex units on every available lot. He discussed whether the meter was a replacement or whether it was an installation.

Commissioner Boehm stated Mr. Parks, who was there at the time of the work, and said the meter was replaced; therefore, he concluded a meter had been there for at least 60 years.

Mr. Goss explained the entire code required if work was being done to a site, the entire site needed to be brought up to code standards, as much as possible, and at the time the work was done, the requirement was that the metering was to be through the primary structure.

Commissioner Partington stated as to the meter, he would find in favor of the applicant, but he was not certain he wanted to revisit the issue of modifying the code.

Commissioner Kent stated in his neighborhood, short-term rentals were not permitted, but on A1A there were homes being offered for short-term rentals.

Mr. Goss explained in residential areas, transient accommodations were not allowed; the Commission made that determination years ago.

Commissioner Boehm spoke to the applicant's attorney regarding their opposition to recording a deed restriction and he inquired as to the negative of the recording of the deed restriction.

Ms. Falce stated the concern was that should the code change, the recorded deed restriction would still be tied to the current code to which there were several items of non-compliance.

City Attorney Hayes suggested the Commission not get lost in what changes might be made to the code in the future, but focus on this issue specifically. He stated there were a couple of issues that arose which were not part of the appeal: (1) the garage, which they should not consider; and (2) the deed restriction, which was not a part of the appeal.

Ms. Falce stated she wanted to reserve these items for any further consideration.

City Attorney Hayes stated the letter of appeal addressed only the setbacks, which have been resolved, and the issue of the meter, which was to be determined by the Commission.

**Commissioner Partington moved, seconded by Commissioner Kent, to find a lawful non-conforming use.**

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

Item #9B – amending the FLUM 1520 North US1

City Clerk Joshua Fruecht read by title only:

ORDINANCE NO. 2011-19  
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 +1.31-ACRES LOCATED AT 1520 NORTH US HIGHWAY 1 (PARCEL ID NO. 3136-01-61-0010), FROM VOLUSIA COUNTY "COMMERCIAL" TO ORMOND BEACH "LOW INTENSITY COMMERCIAL"; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Kelley stated this is a public hearing and there were no requests to speak.

**Commissioner Kent moved, seconded by Commissioner Boehm, for approval of the Ordinance No. 2011-19, on first reading, as read by title only.**

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

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

Item #9C – amending the FLUM 1521 North US1

City Clerk Joshua Fruecht read by title only:

ORDINANCE NO. 2011-20  
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 ±2.16-ACRES LOCATED AT 1521 NORTH US HIGHWAY 1 (PARCEL ID NO. 3136-01-37-0010), FROM VOLUSIA COUNTY "COMMERCIAL" TO ORMOND BEACH "LOW INTENSITY COMMERCIAL"; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Kelley stated this is a public hearing and there were no requests to speak.

**Commissioner Partington moved, seconded by Commissioner Boehm, for approval of the Ordinance No. 2011-20, 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

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

Item #9D – amending the FLUM 1530 North US1

City Clerk Joshua Fruecht read by title only:

ORDINANCE NO. 2011-21  
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 +2.58-ACRES LOCATED AT 1530 NORTH US HIGHWAY 1 (PARCEL ID NO. 3136-01-62-0050), FROM VOLUSIA COUNTY "COMMERCIAL" TO ORMOND BEACH "LOW INTENSITY COMMERCIAL"; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Kelley stated this is a public hearing and there were no requests to speak.

**Commissioner Kent moved, seconded by Commissioner Boehm, for approval of the Ordinance No. 2011-21, 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 stated without objection, the public hearing was closed.

Item #9E – amending the FLUM 1545 North US1

City Clerk Joshua Fruecht read by title only:

ORDINANCE NO. 2011-22  
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 +1.42-ACRES LOCATED AT 1545 NORTH US HIGHWAY 1 (PARCEL ID NO. 3136-01-36-0020), FROM VOLUSIA COUNTY "COMMERCIAL" TO ORMOND BEACH "LOW INTENSITY COMMERCIAL"; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Kelley stated this is a public hearing and there were no requests to speak.

**Commissioner Boehm moved, seconded by Commissioner Kent, for approval of the Ordinance No. 2011-22, on first reading, as read by title only.**

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

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

Item #9F – amending the FLUM 1560 North US1

City Clerk Joshua Fruecht read by title only:

ORDINANCE NO. 2011-23

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 +2.5-ACRES LOCATED AT 1560 NORTH US HIGHWAY 1 (PARCEL ID NO. 3136-01-36-0020), FROM VOLUSIA COUNTY "COMMERCIAL" TO ORMOND BEACH "LOW INTENSITY COMMERCIAL"; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Kelley stated this is a public hearing and there were no requests to speak.

**Commissioner Stowers moved, seconded by Commissioner Partington, for approval of the Ordinance No. 2011-23, on first reading, as read by title only.**

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

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

Item #9G – amending the FLUM 1561 North US1

City Clerk Joshua Fruecht read by title only:

ORDINANCE NO. 2011-24

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 +2.19-ACRES LOCATED AT 1561 NORTH US HIGHWAY 1 (PARCEL ID NO. 3136-01-17-0010), FROM VOLUSIA COUNTY "COMMERCIAL" TO ORMOND BEACH "LOW INTENSITY COMMERCIAL"; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Kelley stated this is a public hearing and there were no requests to speak.

**Commissioner Boehm moved, seconded by Commissioner Stowers, for approval of the Ordinance No. 2011-24, 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

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

Item #9H – amending the FLUM 1567 North US1

City Clerk Joshua Fruecht read by title only:

ORDINANCE NO. 2011-25

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 +2.46-ACRES LOCATED AT 1567 NORTH US HIGHWAY 1 (PARCEL ID NO. 3136-01-18-0010), FROM VOLUSIA COUNTY "COMMERCIAL" TO ORMOND BEACH "LOW INTENSITY COMMERCIAL"; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Kelley stated this is a public hearing and there were no requests to speak.

**Commissioner Stowers moved, seconded by Commissioner Partington, for approval of the Ordinance No. 2011-25, 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 stated without objection, the public hearing was closed.

Item #9I – amending the FLUM 1570 North US1

City Clerk Joshua Fruecht read by title only:

ORDINANCE NO. 2011-26

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 +0.36-ACRES LOCATED AT 1570 NORTH US HIGHWAY 1 (PARCEL ID NO. 3136-01-63-0030), FROM VOLUSIA COUNTY "COMMERCIAL" TO ORMOND BEACH "LOW INTENSITY COMMERCIAL"; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Kelley stated this is a public hearing and there were no requests to speak.

**Commissioner Partington moved, seconded by Commissioner Boehm, for approval of the Ordinance No. 2011-26, on first reading, as read by title only.**

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

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

Item #9J – amending the FLUM 1571 North US1

City Clerk Joshua Fruecht read by title only:

ORDINANCE NO. 2011-27

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 +7.07-ACRES LOCATED AT 1571 NORTH US HIGHWAY 1 (PARCEL ID NO. 3136-01-19-0010), FROM VOLUSIA COUNTY "COMMERCIAL" TO ORMOND BEACH "LOW INTENSITY COMMERCIAL"; REPEALING ALL INCONSISTENT ORDINANCES OF PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Kelley stated this is a public hearing and there were no requests to speak.

**Commissioner Boehm moved, seconded by Commissioner Partington, for approval of the Ordinance No. 2011-27, on first reading, as read by title only.**

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

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

Item #9K – amending the FLUM 1576 North US1

City Clerk Joshua Fruecht read by title only:

ORDINANCE NO. 2011-28  
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 +0.76-ACRES LOCATED AT 1576 NORTH US HIGHWAY 1 (PARCEL ID NO. 3136-01-63-0010), FROM VOLUSIA COUNTY "COMMERCIAL" TO ORMOND BEACH "LOW INTENSITY COMMERCIAL"; REPEALING ALL INCONSISTENT ORDINANCES OF PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Kelley stated this is a public hearing and there were no requests to speak.

**Commissioner Boehm moved, seconded by Commissioner Stowers, for approval of the Ordinance No. 2011-28, 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

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

Item #10B – Commission Zone Redistricting

City Manager Shanahan stated this item was before the Commission to be finalized.

Commissioner Stowers explained he was presenting a map, Option #8B, to the Commission for their consideration, where he asked staff to pull in some of the western undeveloped area due to future potential growth.

Commissioner Kent stated he was presenting a map entitled Option #8C, and discussed his reasoning.

City Manager Shanahan suggested she could combine Option #8B and #8C for Option #8D.

Commissioner Boehm stated the goal was to distribute the population, as evenly as possible, among the four zones.

After discussion, Mayor Kelley, Commissioner Kent, Commissioner Boehm and Commissioner Partington agreed with Option #8.

Commissioner Stowers stated the size of Zone 1 on Option 8 was geographically massive in comparison.

Mayor Kelley stated with the majority of the Commission in agreement, Option 8 would move forward.

Item #11A – Federal Trails Program

City Manager Shanahan stated that the item was asking for support of the County Resolution No. 2011-67, which opposed the change in the allocation system of funds regarding the Federal Trails Program.

Mayor Kelley stated the consensus was to support the County.

Item #12 – Reports, Suggestions, Requests

City Manager Updates

City Manager Shanahan reminded the Commission that the next regular meeting was on Wednesday, August 3, because Tuesday, August 2 was National Night Out. She stated staff was preparing a workshop on the changes that House Bill 7207 will bring to DCA, the date and

time was to be determined. She stated on Thursday, July 21, she would be making a presentation to the County Council at their request, along with representatives from Zev Cohen and Associates, regarding the beachfront park to allow them to provide feedback on amenities and concession, and possibly the driving on the beach in front of the park issue.

Item #13 – Close the Meeting

The meeting was adjourned at 1:10 a.m.

APPROVED: August 3, 2011

BY: Ed Kelley, Mayor

ATTEST:

Joshua Fruecht, City Clerk