

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

May 1, 2012 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

A. Pastor Kevin Mahoney, Rima Ridge Baptist Church

3. PLEDGE OF ALLEGIANCE

4. AUDIENCE REMARKS - REGARDING ITEMS NOT ON THE AGENDA

5. APPROVAL OF MINUTES

A. Minutes from City Commission meeting - April 17, 2012

6. 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. 2012-58** : A RESOLUTION AUTHORIZING EXECUTION OF AMENDMENT NO. 2 TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY AND ZEV COHEN & ASSOCIATES, INC. REGARDING THE DEVELOPMENT OF PARKING AND PARK FACILITIES FOR ORMOND BEACH'S ANDY ROMANO BEACHFRONT PARK PROJECT BY AUTHORIZING ADDITIONAL WORK FOR CONSTRUCTION ADMINISTRATION & INSPECTION SERVICES; AUTHORIZING PAYMENT THEREFORE; AND SETTING FORTH AN EFFECTIVE DATE.

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

- B. **Resolution No. 2012-59** : A RESOLUTION AUTHORIZING THE EXECUTION OF A FIRST AMENDMENT TO THE INTERLOCAL AGREEMENT FOR FIRE AND/OR RESCUE SERVICE MUTUAL AID WITHIN VOLUSIA COUNTY; AND SETTING FORTH AN EFFECTIVE DATE.

Staff Contact: Bob Mandarino, Acting Fire Chief (386-676-3333)

- C. **Resolution No. 2012-60** : A RESOLUTION AUTHORIZING THE EXECUTION OF A COMMUNITY DEVELOPMENT SUBRECIPIENT AGREEMENT BETWEEN THE CITY AND GREAT KIDS EXPLORER CLUB, INC. REGARDING TUTORING SERVICES FOR AT-RISK STUDENTS; AND SETTING FORTH AN EFFECTIVE DATE.

Staff Contact: Loretta Moisiso, Grants Coordinator/PIO (386-676-3315)

- D. **Resolution No. 2012-61** : A RESOLUTION AUTHORIZING THE EXECUTION OF A COMMUNITY DEVELOPMENT SUBRECIPIENT AGREEMENT BETWEEN THE CITY AND CWC MINISTRIES, INC. REGARDING A BACKPACK PROGRAM FOR AT-RISK STUDENTS; AND SETTING FORTH AN EFFECTIVE DATE.

Staff Contact: Loretta Moisiso, Grants Coordinator/PIO (386-676-3315)

- E. **Resolution No. 2012-62 :** A RESOLUTION AUTHORIZING THE SOLE SOURCE PROCUREMENT OF CONVEYOR SYSTEM PARTS FROM R.C. BEACH & ASSOCIATES, INC. REGARDING THE SLUDGE CONVEYOR SYSTEM AT THE WASTEWATER TREATMENT PLANT; AUTHORIZING THE APPROVAL OF A REQUISITION AND PAYMENT THEREFOR; AND SETTING FORTH AN EFFECTIVE DATE.
- Staff Contact:** *Dave Ponitz, Utilities Manager (386-676-3305)*
- F. **Resolution No. 2012-63 :** A RESOLUTION AUTHORIZING THE SUBMITTAL OF AN ONLINE GRANT APPLICATION IN THE AMOUNT OF \$11,478.00 TO THE UNITED STATES DEPARTMENT OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, UNDER THE EDWARD BYRNE JUSTICE ASSISTANCE GRANT PROGRAM; 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:** *Andy Osterkamp, Police Chief (386-677-0731)*
- G. **Resolution No. 2012-64 :** A RESOLUTION ACCEPTING A WARRANTY DEED FROM TAXCO, LLC, FOR PROPERTY LOCATED ALONG NEW BRITAIN AVENUE FOR RIGHT-OF-WAY PURPOSES; AND SETTING FORTH AN EFFECTIVE DATE.
- Staff Contact:** *Ric Goss, Planning Director (386-676-3238)*
- H. **Resolution No. 2012-65 :** A RESOLUTION AUTHORIZING THE EXECUTION OF A QUITCLAIM DEED IN FAVOR OF THE TRAILS, INC., A VOLUNTARILY DISSOLVED FLORIDA CORPORATION, TRANSFERRING ANY INTEREST THE CITY MAY HAVE RETAINED IN THE PROPERTY WHICH WAS DONATED FOR THE CONSTRUCTION OF A FIRE STATION WITHIN THE BREAKAWAY TRAILS DEVELOPMENT OF REGIONAL IMPACT; AND SETTING FORTH AN EFFECTIVE DATE.
- Staff Contact:** *Ric Goss, Planning Director (386-676-3238)*
- I. **Resolution No. 2012-66 :** A RESOLUTION AMENDING THE DATES AND TIMES FOR THE HOLDING OF REGULAR MEETINGS OF THE CITY COMMISSION OF THE CITY OF ORMOND BEACH, FLORIDA, FOR THE MONTHS OF JULY AND AUGUST 2012; PROVIDING FOR EXCEPTIONS THERETO; SETTING FORTH AN EFFECTIVE DATE.
- Staff Contact:** *Joshua Fruecht, City Clerk (386-676-3340)*
- J. **Budget Status Report for January 2012 - March 2012**
- Staff Contact:** *Kelly McGuire, Finance Director (386-676-3226)*
- Disposition:** Approve as recommended in the City Manager memorandum dated May 1, 2012.
- K. **Auto Renew Contracts**
- Staff Contact:** *Kelly McGuire, Finance Director (386-676-3226)*
- Disposition:** Approve as recommended in the City Manager memorandum dated May 1, 2012.

7. PUBLIC HEARINGS

- A. **SECOND READING OF Ordinance No. 2012-17** : AN ORDINANCE ANNEXING CERTAIN REAL PROPERTY INTO THE CITY OF ORMOND BEACH, SAID PROPERTY BEING GENERALLY LOCATED ALONG THE WEST SIDE OF NORTH U.S. HIGHWAY 1 APPROXIMATELY 825 LINEAR FEET NORTH OF INTERSTATE 95 AND BEING COMMONLY LOCATED AT 1634 NORTH U.S. HIGHWAY 1, SETTING FORTH ZONING, PRIVILEGES AND OBLIGATIONS REGARDING THE PROPERTY; REDEFINING THE TERRITORIAL BOUNDARIES OF THE CITY OF ORMOND BEACH TO INCLUDE THE PROPERTY; REDESIGNATING THE BOUNDARIES OF ZONE 1 OF THE CITY OF ORMOND BEACH TO INCLUDE THE PROPERTY; PROVIDING FOR TRANSMISSION; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

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

- B. **SECOND READING OF Ordinance No. 2012-18** : AN ORDINANCE ANNEXING CERTAIN REAL PROPERTY INTO THE CITY OF ORMOND BEACH, SAID PROPERTY BEING GENERALLY LOCATED ALONG THE EAST SIDE OF NORTH U.S. HIGHWAY 1 APPROXIMATELY 3,036 LINEAR FEET SOUTH OF THE NORTH U.S. HIGHWAY 1 AND INTERSTATE 95 RAMP BEING COMMONLY LOCATED AT 1433, 1435, 1437 AND 1439 NORTH U.S. HIGHWAY 1; SETTING FORTH ZONING, PRIVILEGES AND OBLIGATIONS REGARDING THE PROPERTY; REDEFINING THE TERRITORIAL BOUNDARIES OF THE CITY OF ORMOND BEACH TO INCLUDE THE PROPERTY; REDESIGNATING THE BOUNDARIES OF ZONE 1 OF THE CITY OF ORMOND BEACH TO INCLUDE THE PROPERTY; PROVIDING FOR TRANSMISSION; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

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

8. FIRST READING OF ORDINANCES

- A. **Ordinance No. 2012-19** : AN ORDINANCE AMENDING CHAPTER 2, DISTRICT AND GENERAL REGULATIONS, OF ARTICLE III, GENERAL REGULATIONS, SECTION 2-50, ACCESSORY USES AMENDING SUBSECTION E, DOCKS, BOATHOUSES AND BOAT LIFTS; AMENDING SUBSECTION G, COMMERCIAL VEHICLE STORAGE/PARKING; AMENDING SUBSECTION N, FENCES AND WALLS; AMENDING SUBSECTION R, GREENHOUSES; AMENDING SUBSECTION V, OUTDOOR STORAGE, PARKING, OR USE OF PERSONAL PROPERTY; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

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

9. STAFF ACTION ITEMS

- A. **Resolution No. 2012-57** : A RESOLUTION ACCEPTING A BID FROM SABOUNGI CONSTRUCTION, INC., FOR CONSTRUCTION SERVICES REGARDING ORMOND BEACH'S ANDY ROMANO BEACHFRONT PARK CONSTRUCTION PROJECT, UNDER BID NO. 2012-18; 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)

- B. CHARTER REVIEW COMMITTEE REPORT

Staff Contact: Joshua Fruecht, 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

Mayor Kelley gave the invocation.

Item #3 - Pledge of Allegiance

Mayor Kelley led the Pledge of Allegiance.

Item #4 - Audience Remarks

Mr. Jim Schultz, 117 Harvard Drive, stated that from 1932 to 1972 the U.S. Health Department ran an experiment on 400 African American sharecroppers called the Tuskegee Experiment. He stated that he felt that it was not an experiment but the Health Department securing 400 autopsies on syphilis patients. He stated that the department had wanted more knowledge on how syphilis killed people. He stated that he felt that the Health Department recruited those sharecroppers because they felt they were unimportant in society and would not be able to perceive that they were being used. He stated that the department gave them a stipend so that they could receive first class funerals and also autopsies to determine how the syphilis killed them. He stated that they were provided with no treatment, and in 1972 when the program was ended, the Health Department still supported it as a good program.

Mr. Schultz stated that the treatment prior to that time was mercury, which was known to be harmful and toxic even back in the time of the Romans. He stated that in 1863, Mr. William Hammond, the U.S. Surgeon General, outlawed all mercury compounds for medical doctors. He stated that he was quickly mustered out of the military because the U.S. Medical Association massively revolted because they wanted to keep using mercury compounds, primarily for syphilis. He stated that mercury was still being used in modern day medicine. He stated that the American Dental Association once considered it medical malpractice to put in a mercury filing, but that had since been changed to being the standard of care. He stated that not everything was done for the right reasons or worked in the long run. He stated that most dentists did not put a mercury separator on the water lines in their offices and he stated that dental offices were the leading cause of mercury in the public water. He stated that anyone wanting pristine water should talk to the dentists and see if they were willing to spend a \$1,000 for the separator. He stated that fluoridation was also a bad idea and he wondered when it would end.

Item #5A - Approval of the Minutes - April 17, 2012

Mayor Kelley advised that the minutes of the April 17, 2012, regular meeting had been sent to the Commission for review, and were 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 #6 - Consent Agenda

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

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

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

Mayor Kelley stated that the following items were now open for public hearing:

Item #7A - 1634 N. US1 (Super 8) Annexation

City Clerk Joshua Fruecht read by title only:

ORDINANCE NO. 2012-17
AN ORDINANCE ANNEXING CERTAIN REAL PROPERTY INTO THE CITY OF ORMOND BEACH, SAID PROPERTY BEING GENERALLY LOCATED ALONG THE WEST SIDE OF NORTH U.S. HIGHWAY 1 APPROXIMATELY 825 LINEAR FEET NORTH OF INTERSTATE 95 AND BEING COMMONLY LOCATED AT 1634 NORTH U.S. HIGHWAY 1, SETTING FORTH ZONING, PRIVILEGES AND OBLIGATIONS REGARDING THE PROPERTY; REDEFINING THE TERRITORIAL BOUNDARIES OF THE CITY OF ORMOND BEACH TO INCLUDE THE PROPERTY; REDESIGNATING THE BOUNDARIES OF ZONE 1 OF THE CITY OF ORMOND BEACH TO INCLUDE THE PROPERTY; PROVIDING FOR TRANSMISSION; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Boehm moved, seconded by Commissioner Kent, for approval of Ordinance No. 2012-17, on second reading, as ready by title only.

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

Item #7B - MBA Business Center (1433, 1435, 1437, and 1439 N. US1) Annexation

City Clerk Joshua Fruecht read by title only:

ORDINANCE NO. 2012-18
AN ORDINANCE ANNEXING CERTAIN REAL PROPERTY INTO THE CITY OF ORMOND BEACH, SAID PROPERTY BEING GENERALLY LOCATED ALONG THE EAST SIDE OF NORTH U.S. HIGHWAY 1 APPROXIMATELY 3,036 LINEAR FEET SOUTH OF THE NORTH U.S. HIGHWAY 1 AND INTERSTATE 95 RAMP BEING COMMONLY LOCATED AT 1433, 1435, 1437 AND 1439 NORTH U.S. HIGHWAY 1; SETTING FORTH ZONING, PRIVILEGES AND OBLIGATIONS REGARDING THE PROPERTY; REDEFINING THE TERRITORIAL BOUNDARIES OF THE CITY OF ORMOND BEACH TO INCLUDE THE PROPERTY; REDESIGNATING THE BOUNDARIES OF ZONE 1 OF THE CITY OF ORMOND BEACH TO INCLUDE THE PROPERTY; PROVIDING FOR TRANSMISSION; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Boehm moved, seconded by Commissioner Partington, for approval of Ordinance No. 2012-18, 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

Item #8A - LDC Amendments: Chapter 2, District & General Regulations, Article III, General Regulations

City Clerk Joshua Fruecht read by title only:

ORDINANCE NO. 2012-19:

AN ORDINANCE AMENDING CHAPTER 2, DISTRICT AND GENERAL REGULATIONS, OF ARTICLE III, GENERAL REGULATIONS, SECTION 2 -50, ACCESSORY USES AMENDING SUBSECTION E, DOCKS, BOATHOUSES AND BOAT LIFTS; AMENDING SUBSECTION G, COMMERCIAL VEHICLE STORAGE/PARKING; AMENDING SUBSECTION N, FENCES AND WALLS; AMENDING SUBSECTION R, GREENHOUSES; AMENDING SUBSECTION V, OUTDOOR STORAGE, PARKING, OR USE OF PERSONAL PROPERTY; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kent for approval of Ordinance No. 2012-19, 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

Item #9A - Andy Romano Beachfront Park, Bid No. 2012-18 - Bid Award

City Clerk Joshua Fruecht read by title only:

RESOLUTION NO. 2012-57

A RESOLUTION ACCEPTING A BID FROM SABOUNGI CONSTRUCTION, INC., FOR CONSTRUCTION SERVICES REGARDING ORMOND BEACH'S ANDY ROMANO BEACHFRONT PARK CONSTRUCTION PROJECT, UNDER BID NO. 2012-18; AUTHORIZING THE EXECUTION OF A CONTRACT AND PAYMENT THEREFOR; REJECTING ALL OTHER BIDS; AND SETTING FORTH AN EFFECTIVE DATE.

Ms. Joyce Shanahan, City Manager, stated that this item had been moved from the consent agenda because there were decision points in it. She stated that Mr. Paul Momberger, Zev Cohen & Associates, was present and could review with them the process and recommendations.

Commissioner Boehm stated that he would like to see what Alternates D, E, and F looked like and where they were within the plan.

Mr. Momberger showed the site plan that showcased the alternate options for the park. He stated that the recommendation was to pursue Alternates A, B, C, and G. He stated that Alternate A was the coquina gateway towers. He stated that Alternate B was specialty pavement on the central drive approaching the restroom buildings. He stated the entire balance of the parking lot that was in the base bid was asphalt and that Alternate C was to replace it with concrete which had a longer lifespan and did not get as hot.

Mr. Momberger stated that Alternate D was a large pavilion on the right side of the park and stated that it would be the biggest one, intended for a large group, and featured a BBQ grill. He stated it was not recommended currently but could be phased in at a later time. He pointed to the pavilion below it on the plan, which was Alternate E, with a standard six picnic table pavilion. He stated that there were already four like pavilions on the beachside area, so it was not recommended at this time. He stated that Alternate F was an overlook pavilion. He stated the one on the opposite side was intended just for viewing. He stated that another one was up on a dune crest, and Alternate F had ended up being cramped which he felt that might block the views of the pavilions behind it. He stated they did not recommend pursuing it as the one on the south side was much more effective for viewing.

He stated that Alternate G showed a coquina veneer up to waist level on the pavilions

which tied them in with the building, rather than just having the 6x6 posts. He stated that this was an alternate they were recommending. He stated that the last alternate had actually been the result of some confusion and so it was not being considered. He stated that Medjool palms would be located in the central drive and that the bidder actually put them in the base bid. He asked if the Commission had any questions on the alternates.

Ms. Shanahan stated that Saboungi Construction, Inc. ("Saboungi") was the low bidder with those alternates. She stated that if the matrix was done a different way without the alternates he would still be the low bidder. She stated that they did review his list of subcontractors, which would be unable to be changed without the city's permission; whereby Mr. Momberger stated that they were happy with the subcontractors presented.

Mayor Kelley stated that he was surprised that the cost of the veneers in the chosen bid was \$52,800. He stated that the other contractors had bid the veneer option as low as \$7,500 or \$12,000. He stated that he wondered why there was so much difference between the bids on that option.

Mr. Momberger stated that in speaking to the bidder they determined that he had applied the veneers to more columns than necessary when submitting his bid. He stated that they had yet to rectify that number but expected it to be lowered. He stated that one other bid had been \$90,000 and several others had been in the \$10,000-\$15,000 range.

Mayor Kelley stated that he would rather leave that option off than pay \$50,000 for it. He stated that he was also concerned about the number of possible change orders.

Mr. Momberger stated in his experience of dealing with Saboungi, they had not had any hidden or planned change orders. He stated that the only ones he had witnessed were intentional and self-inflicted or city requests. He stated that they had worked with them on several projects and had no issues. He stated that he had called their references and received a good report from Palm Coast regarding several projects they had done for them. He stated that he had specifically asked about change orders and was told there had been no issues.

Commissioner Boehm stated that he agreed with the Mayor regarding how widely the numbers varied on Alternate G. He stated that he would hate not to approve the contract. He asked whether they could separately consider that alternate if it came down from \$52,000 to \$20,000 or so, and reevaluate it at that time.

Mr. Momberger stated that he anticipated the deduction to bring the cost to about half.

Mayor Kelley stated he would not mind approving the contract without Alternate G and stated that they could add it back in at another time if they desired; whereby Ms. Shanahan stated that would require a change order.

Mr. Momberger stated that there would be a planned deductive change order occurring anyway when they purchased the materials.

Mr. Hayes stated that they could remove that alternate if they wanted to and could always have a self-inflicted change order later on.

Commissioner Kent stated that he wanted to talk about Alternate F, which was the overlook pavilion that was not being recommended because it was cramped. He stated that he recalled Commissioner Stowers talking strongly about balance when the design was first discussed. He stated that the site plan did not seem balanced having the one pavilion on the south side and not having one on the north side. He wondered if that alternate was something that the Commission should decide that they wanted.

Mayor Kelley asked what the cost of the additional pavilion would be; whereby Commissioner Kent stated it was \$22,000. Mayor Kelley stated that his idea would be to add that in and eliminate the veneer (Alternate G).

Commissioner Kent stated that the pavilion had been put there for a reason initially. He stated that he felt that they may be better served leaving it in.

Commissioner Boehm asked if it was possible for that pavilion to be further to the north or left. He stated that it did appear to be right in front of one of the pavilions behind it, where it would block the view. He stated that the one on the south side was further away and did not appear to block anything.

Mr. Momberger stated it could be moved but only a hair because there was a retaining wall at the boundary line separating the park from the beach approach right of way.

Commissioner Kent stated that he felt that it was a fantastic park. He stated that he did not have to have Alternate F but when he saw it being gone it felt the park lacked balance.

Mayor Kelley stated that was something that could be added later but then it would probably be double the cost; whereby Mr. Momberger stated that it might be a little more.

Commissioner Boehm asked whether you could see right through an overlook pavilion; whereby Mr. Momberger stated that you could and that the roof would be high enough to do so. Commissioner Boehm stated that the view would not be blocked then.

Commissioner Stowers stated that he felt that Alternates D, E, and F could be phased in at a later time. He stated that he did not remember any other pavilions being as large as Alternate D and he would like to see how many uses they got out of the other pavilions before they added that one. He stated that in regards to Alternate F, he liked balance but at the same time with the size of the site, the only time it made a difference was when looking at it from above. He stated that if you entered the property through the south sidewalk it would not be very noticeable that there was only one overlook on one corner. He stated that as far as Alternate G, he was concerned by the \$52,000 as it was not somewhat in line with the other bids. He stated that he would be in favor of removing that alternate and including in the motion that it may be added with a change order once the deduction was confirmed.

Commissioner Boehm moved, seconded by Commissioner Partington, for approval of Resolution No. 2012-57, as read by title only, including Alternates A, B, & C.

Commissioner Kent asked what would be done about Alternate G; whereby Mayor Kelley stated that it could come before them again and they could accept that as a change order, subject to approval, assuming that the price had decreased.

Commissioner Kent stated that he wanted to make sure it would be brought back before the park was opened; whereby Ms. Shanahan stated that they would bring it back in short order.

Commissioner Kent asked Ms. Shanahan to personally make sure that Mr. Paul McDonald, Landscape Architect, was living at the park so that there would be zero plant deaths and everything would be perfect.

Ms. Shanahan stated that lots of city staff would be living at the park, along with staff from Zev Cohen & Associates.

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

Item #9B - Charter Review Committee Report

Ms. Shanahan stated that the Chairman of the Charter Review Committee ("Committee") , Mr. Doug Thomas, was present and would briefly present the recommendations of the Committee. She stated that the Committee also consisted of Vice Chairman Pete Heebner, Mr. Norman Lane, Mr. Mike Scudiero, and Dr. Phillip Shapiro; whereby Mayor Kelley noted that four of them were present.

Mayor Kelley stated that he wanted to thank the Committee for the time they took to research and discuss the Charter.

Mr. Thomas stated that the Committee would like to thank the city's staff. He stated that Ms. Lois Towey, Assistant City Clerk, Mr. Fruecht, Ms. Shanahan and Mr. Randy Hayes, City Attorney, did an unbelievable job. He stated that they made the Committee's work very easy and that there was not anything that they needed that staff did not provide ahead of time. He commended Commissioner Stowers, Commissioner Kent, Commissioner Partington, and Mayor Kelley on their appointments to the Committee and stated that they were outstanding. He stated that the jury was still out on Commissioner

Boehm's appointment; whereby Mayor Kelley pointed out that Mr. Thomas was in fact Commissioner Boehm's appointment.

Mr. Thomas stated that as they reviewed the Charter they tried to look at it from two perspectives, that of a citizen living in Ormond Beach, and that of the elected officials and city staff. He stated that they attempted to determine the best of both worlds for those two entities. He stated that he would like to thank Mr. Heebner, Mr. Lane, Mr. Scudiero and Dr. Shapiro. He stated he would answer any questions from the Commission but felt that the report they had been presented was thorough and self explanatory. He stated that the one thing that he wanted to state publicly was that the Committee had felt that the current compensation for the Commission was not adequate for the future. He stated that any heat for that recommendation could be put on the Charter Review Committee.

Commissioner Stowers stated that his understanding was that in 2008 there was a referendum proposed on the issue of having an August primary and a November general election and that referendum had failed. He stated that he wanted to get the Committee's thoughts on why they were recommending that change be made again.

Mr. Thomas stated that they had discussed the issue quite extensively and felt that in the current economical and political situation there was concern that several candidates could be running but only two of them would be outstanding with maybe a third candidate who was just "viable." He stated in a "winner take all" situation, someone could have a tough time choosing between one of the two outstanding candidates and the third one which could make a difference in the election. He stated that the Committee felt that having a primary and a general election was more democratic and would give the people of Ormond Beach more of a say. He stated that the Committee had a strong opinion in favor of that recommendation.

Mayor Kelley stated that in 2008, they had also discussed changing the time of taking office, because if there was an election in August and one person was elected, they would not start serving until the third week in November. He stated that was one reason they had the election in November, and the other reason was that voter turnout was much higher in November. He stated of the last 15 elections, very few have had more than two candidates. He stated that in August, a lot of people were not in town and there would not be a large turnout and they would be lucky to get 22% of voters. He stated that another factor was the cost. He stated that he understood the Committee's perspective as he had been in an election before when there were four candidates and he finished second in the primary and if there had not been another election, he would not have been elected.

Mr. Thomas stated that they approached it in the sense that they were trying to make it easier for the best person to be elected. He stated that he understood the numbers and the concerns about having an August election but stated that school started in early August so a lot of families would be in town. He stated it was just a recommendation; whereby Mayor Kelley stated that if it had not been voted down four years ago so resoundingly then they might be more amenable to revisiting it.

Commissioner Partington stated that he agreed with Mayor Kelley. He stated that he was in favor of the recommended amendments to Section 3.08, Procedure, and Section 5.09, Commission zones, but not in favor of Section 5.06. He stated that because it was just decided within the last four years, the public would push back if it was brought before them again because they had already spoken on the issue. He felt they would get the same result but also irritate the voters.

Mr. Lane stated that one of the other points that had been discussed was that there really was almost no other place that had a "winner take all" election. He stated that almost all had run-offs in any government or other organization. He stated that it seemed to be a universal precedent and there was some wisdom behind that.

Mayor Kelley stated that all those running for a democratic or republican nomination in August were "winner takes all"; whereby Mr. Lane stated that was just for nominations. Mayor Kelley stated it could be "winner take all" overall, if one party did not present a candidate. He stated that they had gone through the August elections and seen the turnout being less than 20%. He stated that the November elections would be a greater turnout.

Commissioner Stowers stated his concern was that in August there would be three candidates with a 10% voter turnout and if one candidate did happen to get 50% of that vote then they would be declared the winner. He stated that would create a situation

where potentially 80% of the population did not vote in August, but the election would be over. He stated that the voters could show up in November wanting to vote and have to be told that it was already decided because of the 50% rule. He stated that even if 50% of the people did not vote a candidate in at the general election, it would still be the majority vote and it would still be a much larger percentage of voters. He stated that it would confuse people to propose the amendment again, as it was voted on four years ago. He stated that he was in favor of keeping that provision the same and following the other recommendations.

Commissioner Kent stated that he agreed with what Commissioner Partington said. He stated he wanted to thank the Charter Review Committee for their work.

Commissioner Boehm stated that he understood both arguments, because there was the possibility of someone being elected with 22% of the vote when there were four or five candidates. He stated that the electorate voted in 2008 in favor of a "winner take all" model and it was too soon to change that. He stated that he did want to point out one other thing, which was that it had been quite a number of years since a president in this country was elected with more than 50% of the vote. He stated that there had always been a third party siphoning off enough votes to ensure a victory of less than 50%. He stated that the presidential election was by tradition "winner take all" and that seemed to work.

Mayor Kelley thanked the Charter Review Committee for their recommendations and specifically thanked them for their recommendation regarding the scheduling of the meetings.

Mr. Thomas stated that the Committee felt it was an honor to serve.

Ms. Shanahan stated that they would bring back an ordinance with the two approved recommendations on it and that they would have the first reading at the May 15, 2012, meeting and the second and final reading on June 5, 2012. She stated that the referendums then had to be transmitted to the Supervisor of Elections by June 8, 2012.

Item #10- Reports, Suggestions, Requests

Saboungi Construction

Ms. Shanahan stated that Mr. Saboungi was present that evening. She stated that he was the successful bidder on the Ormond Beach's Andy Romano Beachfront Park project. She thanked him for attending.

Boundless Playground

Ms. Shanahan presented the Commission with a framed picture of the boundless playground. She stated that earlier that day at a staff meeting she had presented another framed picture to Mr. McDonald, who designed the playground. She stated that the company they had purchased the equipment from had been so pleased with the result that they used the photographs of the playground on the cover of their magazine. She stated that in recognition for Mr. McDonald's efforts, she wanted to thank him again publicly. She stated that they should all be very proud of the opportunity to be on a national catalogue. She stated that they would hang the framed picture wherever the Commission desired.

Upcoming Meetings and Workshops

Ms. Shanahan stated that on May 15, 2012, there would be a Town Hall Budget Meeting. She stated that meeting would encompass all zones and start at 5:30 p.m. in the Commission Chambers with a regular meeting following it. She stated that on June 4, 2012, there would be a Capital Improvement Projects (CIP) Workshop and on June 5, 2012, there would be a Southwest Quadrant Workshop followed by the regular meeting.

Project Status Updates

Ms. Shanahan stated that they were still waiting for FPL to give the cost estimate for the Granada underground utilities project. She stated that the mast arm replacements on SR-40 were being worked on. She stated that the 2" water main replacement project on South Peninsula Drive was under way. She stated that they had heard that day from the St. John's River Water Management District regarding the paving in Central Park and would bring those specifications to them on June 5, 2012, for review before putting it out to bid. She stated that Tymber Creek Phase I had been tentatively scheduled for advertisement by Volusia County for competitive bidding in May. She stated that they had also been working on a side street light conversion project on all the streets in the Community Development Block Grant (CDBG) zone and had just received the energy only conversion rate from Florida Power and Light (FPL). She stated that it looked like

they would save considerable energy costs by making the conversions to LED fixtures.

Art in the Park

Ms. Shanahan stated that Art in the Park would be from 10 a.m. to 4 p.m. Saturday, May 4, 2012, and Sunday, May 5, 2012, at Rockefeller Gardens.

Sidewalks on Ocean Shore

Commissioner Stowers stated that he met with Ms. Shanahan on Fridays prior to City Commission meetings. He stated that he had forgotten to mention to her about the sidewalks on Ocean Shore near Country Club Drive. He stated he drove by there and there were cracks in the sidewalk and spray paint around them.

Mr. McLeod stated that those were Florida Department of Transportation sidewalks; whereby Ms. Shanahan stated that they would coordinate with them regarding repairs.

Boats in Yards

Commissioner Stowers stated that he knew there had just been a Land Development Code workshop recently but he had gotten numerous calls in the past years from various residents that had boats in their front yard, side yard, or driveway griping about the fact that they have had to pay thousands of dollars to put a fence in to meet code. He stated he had had a fair number of calls about this. He wondered how many other residents also had the same issue. He stated that he certainly recognized that they did not want boats in front yards in Ormond Beach but he wondered if there was a creative solution to do something, perhaps in the side yard. He stated that he could try and come up with something for their next Ideas Workshop. He stated he wanted to inform the Commission so they could also try and think of a solution.

On the Boulevard

Commissioner Stowers stated that he attended Ormond Beach Main Street's On the Boulevard and had a great time. He stated that he liked the concept of having different artwork at each of the businesses. He stated that he went by Ms. Margaret Hodges' home, which was behind Hulls Seafood, and looked at her artwork. He stated that the event seemed to be well attended and stated that when Ormond Beach Main Street came up with an idea, they really took it to fruition.

Sign Removal

Commissioner Stowers stated that he wanted to give "mad props" to Ms. Shanahan. He stated that a resident had told him that they loved the new signs around downtown but that there was an ugly green parking sign directly in front of city hall and they asked him if there was anything he could do about it. He stated that he spoke to Ms. Shanahan about it and within a week it was down. He stated that the same individual came back to him and asked him if he had had the sign taken down, and he told him that he had spoken to the right person.

Dogs at Restaurants

Commissioner Kent stated that he received some communication from someone about allowing dogs outside at restaurants. He stated he knew they had briefly spoken about it in a workshop recently; whereby Ms. Shanahan stated that the Commission had stated they were not interested at that time but staff would be happy to bring it back if they desired. Commissioner Kent stated that now that he had spoken to this gentleman, he would like to discuss it further during the next Ideas Workshop.

Coffee with Commissioner

Commissioner Kent stated that the next Coffee with Commissioner would be at his home at 130 Magnolia Drive, May 7, 2012, from 4:30 p.m. to 5:30 p.m.

Central Park Paving

Commissioner Kent stated that he wanted to give Commissioner Partington "mad props" because Central Park was getting paved quicker because he brought it up.

Bridge Pavement Gap

Commissioner Kent stated that he took a photograph on his phone that he planned on sending to the rest of the Commission of the 3" dip at the base of the bridge that he had repeatedly spoken about. He stated that on the way in he was at a red light and was the first car so he had the opportunity to take the picture. He stated that he believed that dip had probably given countless people flat tires.

Boats in Yards

Commissioner Kent stated that he was anxious to hear what creative ideas Commissioner Stowers had about boats in side yards. He stated that he had never had one person complain about not being able to keep their boat in the nine years he had

been a Commissioner. He stated that he had heard many complaints about boats in yards looking horrible and looking like another local city, which he would not mention the name of. He stated that he would be open to hearing a creative solution but a short drive to the south cured him of allowing any boats in yards that were visible from the road. He stated some boats were beautiful but the majority of them were not.

Cardinal Drive Beach Approach Renovations

Commissioner Kent stated that the Commission may recall that last summer he spoke about an idea that Volusia County had regarding renovating the Cardinal Drive beach approach in the middle of the summer. He stated that the Commission had collectively agreed that they would send a letter to the county and ask that the work please not be performed in the highlight of summer since that was a major beach approach. He stated that the county had then stated that it would be done in the fall or the winter. He stated that he recently received a call because it was in the newspaper that Mr. Saboungi was awarded the contract by the county and that it would be closed in the summer for repairs. He stated that they had just had the discussion with the county to please not shut down the beach approach during the summer peak season. He likened it to shutting down Starbucks in the morning. He wondered why the county was not listening to them.

County Beach Pass

Commissioner Kent stated that he also had a message for anyone listening that would be running for County Council. He stated that he hoped one of them would adopt the idea that if someone paid county taxes that they should receive a beach pass. He stated that he was disgusted that he lived in the county and paid county taxes but had to pay to get on the beach. He stated that it aggravated him every time he paid and he usually decided to avoid doing so. He stated that he was fortunate he could walk to the beach. He stated that this past weekend he took the family over to the beach and had items he did not want to carry so he went in his vehicle. He stated that he decided to buy a season beach pass, which he had not done in over ten years. He stated that at the on-ramp he handed the gentleman his debit card to purchase a pass and was told they did not take debit cards. He stated that he only had \$5 in cash so he paid just to access the beach that day. He stated that he had no cash and his son then wanted ice cream but thankfully the ice cream truck took a debit card. He stated that he thanked the ice cream vendor for accepting debit cards. He stated that the vendor then told him that the county mandated that he have a debit card machine, which cost him \$600.

Commissioner Kent stated that the county lost out on \$20 for his beach pass because they did not make themselves do what they made all their vendors do. He stated that anyone running for County Council should get that fixed. He stated that they should also send anyone who paid county taxes a beach pass. He stated that he felt the beaches were better taken care of when the cities were in charge of them and as soon as the county took over they started charging a lot of money. He stated that whenever a resident paid county taxes they should receive a beach pass in the mail or, if the county did not want to waste the postage, have the taxpayer stop in a county office and pick up their pass.

Water Re-use Project

Commissioner Boehm asked Ms. Shanahan what the status of the re-use water project in Hunter's Ridge and Breakaway Trails was and when it would be done; whereby Ms. Shanahan stated that Mr. Dave Ponitz, Utilities Manager, could address the subject.

Mr. Ponitz stated that the project was moving along very well and they were laying a lot of pipe. He stated that the project was on schedule and he believed it was a nine to 12 month schedule. He stated that it was a very important project and he appreciated Commissioner Boehm's interest in it.

Commissioner Boehm stated that they were currently using potable water there but when they went to re-use water it would save a great deal. He stated that it was one of the most significant environmental and water projects that had been done in a long time.

Loop Trail Project

Commissioner Boehm stated that he also had a question about the loop trail system they were running out on SR40. He stated that he thought it was in phase three and should be completed later this year; whereby Ms. Shanahan stated that she would get the Commission an update on that project.

PAL

Commissioner Boehm stated he never failed to mention his favorite city affiliated organization, the Police Athletic League (PAL) program. He stated that he was thrilled that Mr. Thomas was their chairman and the reigning National PAL Volunteer of the

Year. He stated that he was also proud of Marissa Moss for being the National PAL Female Youth of the Year. He stated that for a small city like Ormond Beach they had an amazing PAL program. He stated that he wanted to add that the PAL 14 and under boys finished second in the state tournament for basketball.

Project Updates

Ms. Shanahan stated that she had been updated that the Airport Road project was scheduled to be completed in June 2013; whereby Mayor Kelley stated that should help with the cross connection problem they had out there. Ms. Shanahan stated that the sidewalks mentioned were scheduled to be completed in August of 2012 and that all of the information on the various projects was online.

Information Online

Mayor Kelley stated that everything that the Commission had access to was available online on the city's website. He stated that any question could be found online and that they were the most transparent city that he knew of. He stated that included numbers, budgets, regulations, ordinances, agendas, minutes, meeting recordings, and back-up materials.

SR40 / Granada

Mayor Kelley stated that when the state re-did SR40 / Granada Boulevard he wondered if they would look to see if stamped concrete might not be as much as a problem as bricks. He stated that he hit the brick yesterday and it was terrible.

Mr. Ted McLeod, Assistant City Manager and Public Works Director, stated that the state had issued a work order but it had yet to be done and they were following up with them.

Mayor Kelley stated that it would not even take two hours to fix it; whereby Mr. McLeod stated that because of the traffic in that location it would be quite an undertaking to coordinate.

Item #11 - Adjournment

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

APPROVED: May 15, 2012

BY: _____
Ed Kelley, Mayor

ATTEST:

Joshua Fruecht, City Clerk