

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

September 4, 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 Scott McKee.

A G E N D A

- 1. CALL TO ORDER**
- 2. INVOCATION**
- 3. PLEDGE OF ALLEGIANCE**
- 4. ADOPTION OF FY 2012-2013 PROPOSED MILLAGE RATES AND TENTATIVE BUDGET**

- A. **RESOLUTION NO. 2012-120** : A RESOLUTION ADOPTING PROPOSED MILLAGE RATES FOR THE 2012-2013 FISCAL YEAR; ESTABLISHING A DATE TIME AND PLACE FOR A PUBLIC HEARING TO ADOPT FINAL MILLAGE RATES AND FINAL BUDGET; AND SETTING FORTH AN EFFECTIVE DATE.

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

- B. **ORDINANCE NO. 2012-34** : AN ORDINANCE ADOPTING THE ANNUAL BUDGET FOR THE 2012-2013 FISCAL YEAR BEGINNING OCTOBER 1, 2012 AND ENDING SEPTEMBER 30, 2013; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

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

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

- 6. APPROVAL OF MINUTES**

- A. Minutes from City Commission meeting – August 21, 2012

- 7. CONSENT AGENDA**

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

- A. **RESOLUTION NO. 2012-121** : A RESOLUTION ACCEPTING A PROPOSAL FROM FLORIDA HEALTH CARE PLANS, INC. FOR THE PROVISION OF EMPLOYEE HEALTH/MEDICAL BENEFITS SERVICES; AUTHORIZING THE EXECUTION OF A CONTRACT AND PAYMENT THEREFOR; AND SETTING FORTH AN EFFECTIVE DATE.

Staff Contact: Shelly Arzola, Human Resources Director (386-676-3202)

- B. **RESOLUTION NO. 2012-122** : A RESOLUTION ACCEPTING A PROPOSAL FROM STANDARD INSURANCE COMPANY FOR THE PROVISION OF EMPLOYEE DENTAL BENEFITS SERVICES; AUTHORIZING THE EXECUTION OF A CONTRACT AND PAYMENT THEREFOR; AND SETTING FORTH AN EFFECTIVE DATE.

Staff Contact: Shelly Arzola, Human Resources Director (386-676-3202)

- C. **RESOLUTION NO. 2012-123** : A RESOLUTION AUTHORIZING THE EXECUTION OF A INTERLOCAL AGREEMENT BETWEEN THE COUNTY OF VOLUSIA AND THE CITY OF ORMOND BEACH TRANSFERRING THE JURISDICTION OF PINELAND TRAIL FROM AIRPORT ROAD NORTHERLY TO TYMBER CREEK ROAD, UNDER CERTAIN CONDITIONS TO THE CITY OF ORMOND BEACH; PROVIDING FOR TRANSMISSION; AND SETTING FORTH AN EFFECTIVE DATE.

Staff Contact: *Theodore MacLeod, Assistant City Manager (386-676-3200)*

- D. **RESOLUTION NO. 2012-124** : A RESOLUTION REAPPOINTING KEN ARTIN AND AMANDA HAYES TO SERVE AS TRUSTEES OF THE CITY OF ORMOND BEACH MUNICIPAL POLICE OFFICERS' PENSION TRUST FUND; ESTABLISHING TERMS AND CONDITIONS OF SERVICE; AND SETTING FORTH AN EFFECTIVE DATE.

Staff Contact: *Lois Towey, Acting City Clerk (386-676-3332)*

- E. **Concentrate Monitoring and Disinfection Upgrades**

Staff Contact: *Dave Ponitz, Utilities Manager (386-676-3305)*

Disposition: Approve as recommended in the City Manager memorandum dated September 4, 2012.

- F. **2012 Business Visitation and Survey**

Staff Contact: *Joe Mannarino, Economic Development Director (386-676-3266)*

Disposition: Approve as recommended in the City Manager memorandum dated September 4, 2012.

8. PUBLIC HEARINGS

- A. **ORDINANCE NO. 2012-33** : 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 APPROXIMATELY 0.46 ACRES LOCATED AT 115 NORTH NOVA ROAD (PARCEL ID NO. 4221-00-01-0013), FROM "OPEN SPACE/CONSERVATION" TO "OFFICE PROFESSIONAL", REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

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

- B. **ORDINANCE NO. 2012-25** : AN ORDINANCE AMENDING CHAPTER 3, PERFORMANCE STANDARDS, OF ARTICLE VI, ARCHITECTURAL DESIGN STANDARDS, SECTION 3-66, PURPOSE AND INTENT; SECTION 3-67, IN GENERAL; SECTION 3-68, GENERAL DESIGN CRITERIA; SECTION 3-69, ARCHITECTURAL STYLE; AND SECTION 3-71, INDUSTRIAL DISTRICT EXEMPTIONS; AND CHAPTER 2, DISTRICT AND GENERAL REGULATIONS, ARTICLE II, DISTRICT REGULATIONS, SECTION 2-42, DESIGN STANDARDS BY AMENDING ARCHITECTURAL DESIGN STANDARDS; BY 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. SECOND READING OF ORDINANCES

- A. **ORDINANCE NO. 2012-32** : AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, AMENDING ARTICLE IV, POLICE OFFICERS' PENSION TRUST FUND, OF CHAPTER 16, PENSIONS AND RETIREMENT, OF THE CODE OF ORDINANCES; AMENDING SECTION 16-71, DEFINITIONS BY AMENDING THE DEFINITION OF SALARY; AMENDING SECTION 16-76, BENEFIT AMOUNTS AND ELIGIBILITY; AMENDING SECTION 16-80, OPTIONAL FORMS OF BENEFITS; AMENDING SECTION 16-98, DEFERRED RETIREMENT OPTION PLAN; PROVIDING FOR SEVERABILITY OF PROVISIONS; PROVIDING FOR CODIFICATION; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

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

10. STAFF ACTION ITEMS

- A. ANDY ROMANO BEACHFRONT PARK SIDING COLOR SELECTION

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

11. REPORTS, SUGGESTIONS, REQUESTS

12. ADJOURNMENT

Item #1 – Meeting Call to Order

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

Item #2 – Invocation

Rabbi Jerry Miller, Beth Judah Messianic Congregation, gave the invocation.

Item #3 – Pledge of Allegiance

Mayor Kelley led the Pledge of Allegiance.

Item #4A – Adoption of FY 2012-2013 Proposed Millage Rates and Tentative Budget

City Clerk Scott McKee read by title only:

RESOLUTION NO. 2012-120

A RESOLUTION ADOPTING PROPOSED MILLAGE RATES FOR THE 2012-2013 FISCAL YEAR; ESTABLISHING A DATE TIME AND PLACE FOR A PUBLIC HEARING TO ADOPT FINAL MILLAGE RATES AND FINAL BUDGET; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Kelley stated that, per Florida statute, he was required to state that the tentative millage rate for the City of Ormond Beach necessary to fund the Fiscal Year 2012-2013 budget was 4.0132 mills. He stated that the rate was equal to the rollback rate of 4.0132 mills. He stated that the tentative debt service millage rates were 0.1170 for the 2002 General Obligation Bond Sinking Fund, 0.0490 for the 2003 General Obligation Bond Sinking Fund, and 0.1470 for the 2010 General Obligation Bond.

Mayor Kelley stated that the tentative millage rate would be the same as the rollback rate and that it was not a tax increase. He stated that the item was open for a public hearing and that there were five members of the public who wished to speak about the tentative millage rate and/or the adoption of the budget.

Mr. Ed Connor, 1010 John Anderson Drive, stated that he was with Volusia Tax Reform. He stated that his intention was not to pick on the city as he felt that overall the city did a pretty decent job. He stated that at the end of the current cycle of budget hearings held throughout the county over the next 60 days by the county and 40 other taxing authorities, Volusia County would have the highest millage rate in the state of Florida. He stated that currently Volusia County had the second highest rate but would become number one. He stated that was damaging to the county. He stated that there was a picture in the newspaper the previous day showing a new company, HR Values, opening

in Debary. He stated that he was happy to see a new company opening up in the county since that was a rare occurrence. He stated that as he read the article he noticed that the company employed five people and that the rest were all public servants. He stated that it caused him to be dismayed that the company was being celebrated. He stated that in a year from now, five jobs would be good enough to be celebrated on the front page. He stated that he used to attend meetings to warn that a tipping point was approaching but now thinks that the tipping point was in the 1980s when consolidation was voted against. He stated that he thought that people realized then that if they consolidated they would eliminate public sector jobs. He stated that he figured it took four to five private taxpaying citizens to support one public sector job.

Mr. Connor stated that eight of the top 10 employers in Volusia County were government agencies. He stated that only Wal-Mart and Publix even made the top 10 but were well down the list. He stated that not only were most of the jobs in the county in the public sector but that those were the best paying jobs as well and so over a period of decades had attracted the best and brightest in the community. He stated that translated into the lack of a tax base and he did not believe that one would be established in the future. He stated that people bought on the Flagler County side of the line in Plantation Bay because they did not want to accept the millage rate in Volusia County. He stated that he realized that the city was only one of 40 taxing agencies but asked that before they voted for any tax increase in the city to bear in mind what was happening to the county. He stated that he would be letting loose on the school district in a few days because tax increases in the current economy were job killers.

Mayor Kelley stated that the city was not proposing a tax increase. He stated that the rate would be the rollback rate and would produce the exact same revenue as last year. He stated that no services would be cut. He stated that the Commission had worked very hard with the Budget Advisory Board, city staff, and City Manager Joyce Shanahan to develop the budget without any increase to taxes. He stated that he believed that if the speaker looked at his taxes he would probably find that they had gone down. He stated that his own had gone down. He stated that some may have a small increase but that the average city taxes for Ormond Beach was \$432 per year. He stated that he felt that was a bargain. He stated that the city did not control the other 39 taxing agencies and there was nothing they could do about them. He stated that he did not disagree that some of those other agencies' tax rates were too high.

Mr. Jim Bari, 1310 Oak Forest Drive, stated that although it was not a tax increase per se, it was still an increase in the rate. He stated senior citizens like him lived on mostly social security and had rising food expenses. He stated that he felt that they paid an unfair proportion of property taxes when compared to others. He stated that they had paid for their kids to go to school and it was time for them to not have to pay so much. He stated that his residence probably went down 15% in value, yet he was being taxed almost what he was taxed at the original value of the home. He wondered what would happen in five or ten years when the value went back up to what it was five years ago. He wondered if the tax rate would be kept the same then but did not believe that it would be. He stated that he thought that more commercial businesses needed to be brought to the city to alleviate the private property owner from paying all the taxes.

Mayor Kelley stated that the focus of the Commission was jobs. He stated that he would love to see the tax proportion between the residents and the businesses at 50/50. He stated that he thought the tax base was about 65% residential currently and asked Ms. Kelly McGuire, Finance Director, if that number was correct; whereby, Ms. McGuire stated that it was. He stated that it would help if there were more, thriving businesses and he encouraged everyone to patronize their local merchants.

Mr. Lou Lumaghi, 1 Cliffside Drive, stated that his complaint was that there was a lack of transparency about the budgeting process. He stated that he knew that the budget was in print and if you wanted to spend a few hours you could probably read through it. He stated that the public did not get the information until the budget was almost a done deal. He stated that he felt a lot of things were not covered in it, as well. He stated that he was struck by the fact that the Capital Improvement Program (CIP) listed the biggest ticket item as the Granada Boulevard median improvements for \$1,270,000. He stated that he was skeptical that would work and felt that it would create a terrific traffic jam and it would have to be re-done eventually for even more money. He stated that he felt that item should have been included under the Community Redevelopment Agency (CRA) for Main Street because it was tied in with that program.

Mr. Lumaghi stated that the budget did not divulge how much Ormond Main Street or the Ormond Crossings CRA cost, not just simply the taxes that were paid in but how much was spent on salaries and other operating expenses. He stated that those were the kind of things the public needed to know about. He stated that the Airport was tied up with the Sports Complex, which had a long history of difficulties. He stated that the public did not know anything about that either. He stated that he felt that the public forums that were held on the budget did not work and thought that they should be held in a different format rather than breaking into small groups, coming up with suggestions, and then leaving. He stated that there was no group dynamic or complaining about issues. He stated that he would like to see debate and for audience members to cross examine the budget process.

Mayor Kelley stated that two years ago the Commission held four separate Town Hall Budget Meetings, one for each zone. He stated that it was then reduced to two last year, two zones at each meeting. He stated that there were three people in attendance at one meeting and four at another. He stated that two of the three people at the first meeting were his friends and the other person was in the incorrect zone. He stated that the city was as transparent as any city could be. He stated that the budget process was started in March of each year, if not earlier. He stated that all the Budget Advisory Board meetings were open to the public, as well. He stated that every meeting was posted on the city's website. He stated that this was the time for comments to be made and he realized that everyone might not have been able to make their comments back in May. He stated that the process was ongoing and encouraged anyone who wanted to look at the budget and be a part of the process to get involved early and ask questions.

Mayor Kelley stated that in 2005 the general operating budget was about \$30 million, and this year it was about \$27 million. He stated that 10% had been cut off of the operating budget. He stated that the City Commission and City Manager did not want a tax increase. He stated that some citizens would pay more or less on their taxes based upon their home. He stated that he voted against Save Our Homes in 1992, as he thought that it was going to lead to a problem. He stated that now what was being paid in taxes was to catch up because of all the time when someone's home may have been worth \$250,000 but they were paying taxes on \$90,000. He encouraged citizen involvement and stated that the city advertised all the meetings and workshops on the budget. He stated that his phone number, as well as the other Commissioners', was listed, and that the City Manager also answered her phone. He stated that he also responded to his emails. He stated that none of the services in the city had been cut while the budget was reduced and the tax level was maintained.

Mr. Jay Magrave, 2245 Lipizzan Trail, stated that for the most part the city did a pretty good job. He stated that he lived in Ormond Beach and the value of his home went down by two-thirds and his taxes went up. He stated that he was not a mathematician but when more money came out of his pocket than the year before, that was an increase to him regardless of what it was called. He stated that as far as the quality of life in Ormond Beach, he only lived there because his wife liked it and if it was up to him he would live in Holly Hill. He stated that he was raised in Holly Hill and had lived in the area for 56 years. He stated that the Commission was just catching the brunt of his frustrations because the county, the hospitals, and the school systems all were doing a poor job. He stated that he knew that the Commission could do nothing about those entities. He stated that he still thought that there were places that the city could cut spending; he admittedly did not know where, but felt that there must be some other cuts that could be made.

Mr. Magrave stated that he was laid off six months ago after 18 years of service. He stated that his boss lived in Ormond Beach on John Anderson Drive. He stated that, because of Florida being a "right to work" state, his boss could take away his vacation and did not have to pay him his benefits, even though he was sure his boss could afford to. He stated that there were a lot of things that the city provided that they did not have to but that he, as a taxpayer, was paying for. He stated that he now had a new job but had to take a 20% reduction in salary to get it. He stated that he believed that some of the city's firefighters and police officers could be cut because the city was safe. He stated that Ormond Beach should do what Port Orange was doing and cut salaries. He stated that Washington, D.C., was cutting his retirement so the city should do the same for its employees. He stated that he would not be able to get a retirement and would have to work until he died.

Mayor Kelley stated that if citizens were to look at their trim notices they would see exactly what they were paying to each of the taxing authorities. He stated that about

50% of the taxes would be for the school district and the hospitals. He stated that the voters elected to tax themselves to have the benefit of Ormond Beach's Andy Romano Beachfront Park. He asked citizens to become involved with the budget process from the start. He stated that tonight they had already heard from more people than they had heard from at all the previous budget hearings.

Mr. Alan Burton, 915 Ocean Shore Boulevard, stated that he had some simple questions. He asked the City of Ormond Beach's net worth on September 30, 2010, and September 30, 2011, and what it was anticipated to be on September 30, 2012.

Ms. Shanahan stated that she could respond to that question. She stated that net worth was not a term used as far as a local government was concerned. She stated that according to the city's Comprehensive Annual Financial Report, the net assets in 2010 were \$209 million, in 2011 \$213 million, and that there was not yet an estimate for 2012.

Commissioner Kent moved, seconded by Commissioner Partington, for approval of Resolution No. 2012-120, as read by title only.

Mayor Kelley stated that the tentative operating millage of 4.0132 mills was equal to the rollback millage rate. He stated that the resolution also included the adoption of the tentative debt service millage rates of 0.1170 for the 2002 General Obligation Bond Sinking Fund, 0.0490 for the 2003 General Obligation Bond Sinking Fund, and 0.1470 for the 2010 General Obligation Bond.

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

Mayor Kelley stated that the operating millage rate was set at 4.0132 mills, which was equal to the rollback millage rate of 4.0132 mills.

Item #4B – Adoption of FY 2012-2013 Proposed Millage Rates and Tentative Budget

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2012-34
AN ORDINANCE ADOPTING THE ANNUAL BUDGET FOR THE 2012-2013 FISCAL YEAR BEGINNING OCTOBER 1, 2012 AND ENDING SEPTEMBER 30, 2013; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Boehm moved, seconded by Commissioner Partington, for approval of Ordinance No. 2012-34, 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 that, hearing no objections, the public hearing was now closed.

Mayor Kelley stated that the total budget in 2004-2005 was \$105,110 million and that the total budget for fiscal year 2012-2013 was \$787,787,547.

Item #5 – Audience Remarks

Ms. Lauren Wycuff, Outreach Representative, Early Learning Coalition of Flagler and Volusia, 230 N. Beach Street, Daytona Beach, stated that they wanted to personally thank the City of Ormond Beach for blessing their organization with a grant of over \$7,000. She stated that the local funding received went directly to their school readiness program. She explained that the school readiness program provided subsidized childcare for low income families and served children up to five years old. She stated that the program prepared the children for a successful future. She stated that they would receive a 16 to one match from the state with any local funding that they received. She stated that the \$7,440 that the city had provided would then become \$119,000. She

stated that childcare was very expensive and for one child to go to childcare for a year it would cost a little over \$4,000. She stated that for a low-income family that usually was a large percentage of their income. She stated that the program lowered the cost for those families and helped them become stable. She stated that keeping the children in childcare also helped the families to keep jobs. She thanked the city for partnering with them to provide that program. She stated that the donation would help over 30 children attend a school readiness program. She presented the Commission with a card from Ms. Laura Glacier, Executive Director, Early Learning Coalition of Flagler and Volusia.

Mr. Jim Schultz, 117 Harvard Drive, stated that he spoke about mercury last week. He stated that a Daytona Beach News-Journal article had gotten his attention and he was baffled how the many sources of mercury into our local environment could be missed. He stated that he believed in informed consent and that information should be right and facts should be checked. He stated that he had asked the city several questions through the Utilities Department. He stated that in San Francisco there had been a huge problem with mercury from dental amalgams going into the environment and contaminating their bay severely. He stated that mercury was incredibly toxic and except for plutonium, was the number one neurotoxin. He stated that dental offices were a main local source of mercury into the wastewater which went into sewage and either went into agricultural areas, landfills, or was incinerated so that it went back up into the air. He stated that it was a major issue and was very easy to eliminate. He stated that mercury sources could be eliminated nearly overnight just by putting an amalgam separator at the dental office. He stated that all of the dental societies have talked about how great the separators were and how they were going to use them but they never have done so. He stated that California and New York had strong laws and had enforced the implementation of amalgam separators. He stated that 50% of the lakes and rivers in Florida were contaminated with mercury. He stated that in 1986 dentists developed a gag rule where if a dentist even mentioned mercury they could be fined and lose their license. He stated that was the opposite of informed consent.

Mr. Patrick Daugherty, 30 Dix Avenue, stated that he wrote the Commission suggesting that the city adopt an ordinance permitting dog owners to take their dogs to restaurants that had outdoor patios. He stated that a state statute was adopted in 2009 that permitted municipalities and counties under certain circumstances to adopt such an ordinance. He stated that there were currently 42 cities and/or counties that had adopted such an ordinance. He stated that he circulated a petition at two restaurants in the city and received over 100 names of people endorsing it. He stated that the ordinance would only apply to dogs and no other animals. He stated that it also only applied to restaurants which had patios with outside access, so that patrons would not bring their dogs through an indoor dining area in order to get to an exterior patio. He stated that if the restaurant decided to participate, they must designate certain areas in which dogs were permitted and enforce some very simply common sense rules that were outlined in the statute. He stated that there were legal templates available for drafting an ordinance that had been used by other municipalities. He stated that he would like the Commission to take action on the proposal.

Mayor Kelley stated that the Commission had spoken about the idea before. He stated that there had not been any restaurants clamoring for such an ordinance and that they had only received one complaint regarding a dog outside a restaurant. He stated that the ordinance would create restrictions on the restaurant owners and cause them to have to obtain a license to allow dogs.

Ms. Shanahan stated that staff could draft something if they wished and she would await their further direction. Mayor Kelley stated that the item could be included in a general workshop.

Mr. Bob Behnke, 15 Malayan Sun Bear Path, stated that he wanted to speak about a situation that had been occurring for a number of years in the Bear Creek subdivision. He stated that a portion of Bear Creek bordered on the golf course. He stated that one particular residence, 188 Bearfoot Trail, was being pounded by golf balls. He showed an example of vinyl siding penetration and another piece that was penetrated and had a patch job. He stated that a neighbor was helping the single elderly woman who lived in that home make repairs on her home but that the damage had been going on for years. He stated that the Airport Manager had gone through all of his possible contacts and pursued every path he could pursue with no results. He stated that he was requesting that the Commission appoint someone with authority from the city to make an appointment with someone of authority from the golf course to sit down and resolve the issue. He stated that he would rather not have the issue get out of hand. He stated that

he would suggest that the tee near the residence be moved a little to the left or that signs could be erected to beware of the homes in the area when hitting golf balls. He also suggested that nets could be put up. He stated that the golf course was a tenant of the city. He stated that the problem had been ongoing for years and it was time that it was solved.

Mayor Kelley stated that he knew there was a possibility that Mr. Behnke would come and speak on the issue so he asked the City Attorney to look into it. He stated that City Attorney Randy Hayes provided him with a response citing Article 5.5 of the Lease Agreement which required the golf course operator to maintain liability insurance coverage for general liability purposes including property damage. He stated that Article 5.7 required the operator to hold harmless and indemnify the city from any claims to third persons that arose from golf course activities. He stated that Mr. Hayes advised that the lease did not specifically address situations in which errant golf balls could cause damage either to property or persons and aggrieved persons should pursue such claims against the golf course operator. He stated that Mr. Hayes went on to say that the claim could be treated on a case-by-case basis, much the same way the city dealt with its own claims, and that the homeowner would need to pursue their claim against the golf course operator.

Mayor Kelley stated that he himself had hit cars, houses, and windows when golfing. He stated that it was a hazard of golf. He stated that he was given the information from staff that it was an issue that would be between the homeowner and the operator of the golf course. He stated that the city could not make the lessee pay a claim, as the claim should go to the golf course operator or to the golfer himself.

Commissioner Kent stated that he did not think that Mr. Behnke's request was unreasonable. He stated that he applauded him for attempting to come to a resolution and help the situation. He stated that he also agreed with the Mayor's comments. He wondered if anyone from the city could help get the parties involved together to see if they could reach a resolution, even if that just meant a phone call to the golf course to see whom they needed to speak to. He stated that since the city owned the land and the golf course was the tenant they should help.

Ms. Shanahan stated that if that was the Commission's direction, she was happy to provide the contact information that the city had but she was not sure how helpful that would be to the homeowner.

Commissioner Boehm stated that he would suggest, as a lawyer, that Mr. Hayes write a letter to the golf course operator reciting the lease passages he had cited to the Mayor and advise them that the city had been notified of a complaint of repeated property damage caused by golfers. He stated that the letter could indicate that there had been a request made that the aggrieved party meet with the golf course operator for the purpose of seeking resolution. He stated that the letter could be merely advisory and not give the impression that the city would be involved in the discussion or meet with the parties. He stated that if the golf course received a letter from the City Attorney stating that a complaint had been received and that the city thought that the golf course should do something about it, he felt that the golf course operator would be more likely to take some action and contact the homeowner than if it was just let lie. He stated that Mr. Hayes could recite the lease paragraphs whereas the homeowner would not be proficient in doing so. He stated that the letter would make the golf course aware that the homeowner now knew the lease terms and was aware that they may have an enforceable claim for property damage. He stated that letters from attorneys tended to wake people up.

Mr. Hayes stated that depended on who you spoke to but that he would be happy to write the letter.

Mayor Kelley stated that the city understood the plight of the homeowner and he believed that they had already filed a claim against the city. He stated that the city was not at fault and he did not want to see the city stuck in the middle of the issue.

Commissioner Boehm stated that he thought that when Mr. Hayes would point out the hold harmless clause in the lease to the golf course operator, he would also be advising them that if a claim was filed that they would have no recourse against the city. He stated that in this case, he felt that Mr. Hayes writing the letter would be more effective than Ms. Shanahan.

Item #6 – Approval of the Minutes

Mayor Kelley advised that the minutes of the August 21, 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 #7 – Consent Agenda

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

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

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

Item #8 – Public Hearings

Mayor Kelley stated that the following items would be open for a public hearing.

Item #8A – 115 N. Nova Road Small Scale Land Use Map Amendment

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2012-33
 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 APPROXIMATELY 0.46 ACRES LOCATED AT 115 NORTH NOVA ROAD (PARCEL ID NO. 4221-00-01-0013), FROM "OPEN SPACE/CONSERVATION" TO "OFFICE PROFESSIONAL", REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Boehm moved, seconded by Commissioner Partington, for approval of Ordinance No. 2012-33, on second reading, as read by title only.

Commissioner Stowers stated that, as at the first reading, he needed to abstain from voting on the item. He explained that he represented Mr. Hall in certain matters outside of Ormond Beach.

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

Item #8B – LDC Amendment – Architectural Design Standards

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2012-25
 AN ORDINANCE AMENDING CHAPTER 3, PERFORMANCE STANDARDS, OF ARTICLE VI, ARCHITECTURAL DESIGN STANDARDS, SECTION 3-66, PURPOSE AND INTENT; SECTION 3-67, IN GENERAL; SECTION 3-68, GENERAL DESIGN CRITERIA; SECTION 3-69, ARCHITECTURAL STYLE; AND SECTION 3-71, INDUSTRIAL DISTRICT EXEMPTIONS; AND CHAPTER 2, DISTRICT AND GENERAL REGULATIONS, ARTICLE II, DISTRICT REGULATIONS, SECTION 2-42, DESIGN STANDARDS BY AMENDING ARCHITECTURAL DESIGN STANDARDS; BY REPEALING ALL INCONSISTENT ORDINANCES OR

PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Boehm, for approval of Ordinance No. 2012-25, on second 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 closed the public hearing.

Item #9A– Police Pension Ordinance Modification

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2012-32

AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, AMENDING ARTICLE IV, POLICE OFFICERS' PENSION TRUST FUND, OF CHAPTER 16, PENSIONS AND RETIREMENT, OF THE CODE OF ORDINANCES; AMENDING SECTION 16-71, DEFINITIONS BY AMENDING THE DEFINITION OF SALARY; AMENDING SECTION 16-76, BENEFIT AMOUNTS AND ELIGIBILITY; AMENDING SECTION 16-80, OPTIONAL FORMS OF BENEFITS; AMENDING SECTION 16-98, DEFERRED RETIREMENT OPTION PLAN; PROVIDING FOR SEVERABILITY OF PROVISIONS; PROVIDING FOR CODIFICATION; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Stowers, for approval of Ordinance No. 2012-32, on second reading, as read by title only.

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

Item #10A – Andy Romano Beachfront Park Siding Color Selection

Ms. Shanahan directed the Commission to the easel being brought in front of the dais by Mr. John Noble, City Engineer. She stated that the display board on the easel showed the four possible color selections for the hardy plank siding for the Andy Romano Beachfront Park. She stated that the roof and trim colors had already been selected by the architect and were also on the board. She stated that the Commission needed to select the siding color from the presented choices.

Ms. Shanahan stated that the design committee came up with the recommendation of the moss green color. She stated that the blue color choice was the one that was used by Volusia County in their recent beachfront parks and that the committee did not want to duplicate that. She asked the Commission which colors they preferred.

Mayor Kelley stated that the easiest way was to assign each color a number. He assigned them numbers one through four, starting from left to right. He asked any Commissioner in favor of number one to raise their hand; whereby, no hands were raised. He asked any Commissioner in favor of number two to raise their hand; whereby no hands were raised. He asked any Commissioner in favor of number three to raise their hand; whereby, Commissioner Stowers raised his hand. He asked any Commissioner in favor of number four to raise their hand; whereby, Commissioner Kent and Commissioner Boehm raised their hands. He noted that he and Commissioner Partington had not voted.

Commissioner Kent stated that he felt that Commissioner Partington and the Mayor were getting ready to choose number four.

Commissioner Partington stated that he was wondering why the Commission did not get to select the other three colors and only were able to choose the siding color.

Mayor Kelley asked who picked the other three colors; whereby, Ms. Shanahan stated that the architect had.

Mayor Kelley stated that the color the Commission selected needed to compliment the three previously selected colors.

Commissioner Partington asked why the selection committee had recommended option number three.

Mr. Noble stated that there were approximately 15 color samples that were then shortlisted. He stated that the shortlisted color samples were taken to Rockefeller Gardens to hold up against coquina rock in the sunlight. He stated that they eliminated a few more choices as a result. He stated that they then took the remaining color samples to the beach and held them up to the building under construction and narrowed the choices down even further. He stated that the selection committee then agreed to go with the moss color.

Mayor Kelley asked that the two choices that had not received any votes be covered up so that they could look at the two remaining siding color choices against the other previously selected colors.

Mayor Kelley, Commissioner Boehm, Commissioner Kent, and Commissioner Partington stated that choice number four best tied together with the color of the roof and the rock.

Mayor Kelley asked Commissioner Stowers if he could live with choice four; whereby, Commissioner Stowers stated that his only concern had been that since it was a darker color there could be a level of uneven fading.

Commissioner Partington asked Mr. Noble whether the siding would fade; whereby, Mr. Noble stated that it might fade just a little in the sunlight.

Mayor Kelley asked Mr. Noble to turn the display board around so that the audience could see it. He stated that the Commission selected the number four choice.

Item #11– Reports, Suggestions, Requests

Joint Planning Board Workshop

Ms. Shanahan stated that the joint workshop with the Planning Board would be held on Monday, October 1, 2012, at 7:00 p.m., at the Senior Center. She stated that the agenda would consist of survival swim proposed language, code amendment for the outside display of retail, and free standing signs and electrical signs.

Project Updates

Ms. Shanahan stated that city staff had updated the Commission on various engineering projects. She stated that the wastewater treatment plant project was 68% complete. She stated that the city recently received the \$2 million FAA grant they had been waiting on for Taxiway Alpha. She stated that the project had been bid out about 10 months ago and staff would be bringing it to the Commission to get an award on that. She stated that drawings were being finished for Halifax Avenue and that the bids had already been received. She stated that the ribbon cutting for the Tomoka State Park Trail Extension project would be on Saturday, September 8, 2012, at 10:00 a.m. She stated that it was a wonderful trail to the Tomoka State Park.

Movies on the Halifax

Ms. Shanahan stated that Friday, September 7, 2012, marked the three year anniversary of Movies on the Halifax. She stated that the movie would be *Yogi Bear*, and because there was a birthday celebration in the movie something special was planned.

Fluoridation

Ms. Shanahan stated that the City Attorney's office recently discovered that the fluoridation issue was decided by voter referendum in 1958. She stated that their office was researching if an amendment would need to be decided by another voter referendum or whether it could be amended by the code of ordinances.

Attorneys

Mr. Hayes stated that he did not know if anyone else had noticed, but now that Mr. Scott McKee, City Clerk, was on the dais there were five attorneys at the meetings.

Project ROMP

Commissioner Boehm stated that he recently read in the newspaper that Project ROMP (Renovate Ormond's Magic Forest Playground), which was supposed to have a major effort at the end of September to finish the project, was pushed back to January because the private group that was raising the money had not completed raising the funds necessary. He stated that as Project ROMP had evolved, it had gone from an \$80,000 project to \$127,000, because in essence everything in the playground would be replaced. He stated that he had been chairing the Leisure Services Advisory Board when the project first came forward, and at that time, he had appeared before the City Commission from the board with the proposal that the Commission make a \$40,000 matching grant to the private group's \$40,000. He stated that at that time the cost of the playground renovation was \$80,000. He stated that since the original proposal to the Commission was for a matching grant, he would suggest the Commission increase the grant amount to \$63,500 so that the Project ROMP group could complete their project. He stated that would mean contributing another \$23,500, since the total cost of the project had increased from \$80,000 to \$127,000.

Commissioner Boehm he would justify that contribution by pointing out that the playground was the city's facility. He stated that the private citizens had raised money and put crews together to build the playground to give to the city to be used by its citizens. He stated that he had no problem with the city creating a matching grant. He stated that, beyond the money itself, the private group would be donating hundreds of man hours of labor for free, for the purpose of creating something for future generations of the city. He stated that he strongly believed that was a very worthwhile endeavor and strongly urged the Commission to raise the grant amount so that the project could be completed.

Commissioner Partington stated that Commissioner Boehm's comments were music to his ears. He stated that he had seen over the past year and a half how hard the private group had worked and how hard city staff had worked to support them. He stated that just in the last few months the 501(3)c status was achieved and that any contributions to the organization would be tax exempt. He stated that he believed the Project ROMP group had raised money in the \$30,000 range. He stated that the group continued to work as hard as they could in a difficult economy to accomplish the renovation. He stated that he was 100% in support of increasing the grant and stated that he appreciated Commissioner Boehm making that suggestion.

Airport Business Park Power Issues

Commissioner Partington stated that he knew that there had been problems at the Airport Business Park with electrical power. He stated that he saw an email on his way in about one company that had a power outage on Sunday morning which they were still recovering from. He stated that fixing the power issues out there was a top priority. He stated that he knew that Economic Development Director Joe Mannarino was working on it but wanted to do whatever necessary to stress the importance of getting the issue fixed and having a consistent power source there, uninterrupted by winds or weather. He stated that the city was constantly asking the business community what could be done to help them and they did not ask a lot of them. He stated that this was a situation where businesses were incurring loss of operation and losing money from issues like damaged items stuck in the manufacturing cycle that would have to be thrown away.

Florida Power and Light (FPL) Smart Meters

Commissioner Partington stated that he was contacted by a constituent about the FPL smart meters. He stated that he told the constituent they were supposed to be able to opt-out of the program if they did not care to participate. He stated that after searching FPL's website he could not find how to do so. He stated that he felt that the Commission should at least discuss the smart meters. He stated that he knew that Port Orange had a recent discussion about it and were considering having an opt-in ordinance that would require citizens to say they would like the device instead of the opt-out situation currently in place. He stated that if there was an opt-out provision, then it should at least be an easy process to comply with.

Mayor Kelley asked Ms. Shanahan to put the smart meter item on an October meeting as a discussion item.

Ms. Shanahan stated that she provided the referenced constituent with a telephone number to opt-out and she would be happy to post the information on the city's website. She stated that the constituent was kind enough to provide her with a copy of a resolution that Volusia County created to opt-in rather than opt-out. She stated that she understood that the Public Service Commission would undertake the opt-in, as well. She stated that she could put the item on the first October meeting agenda.

Mayor Kelley asked Commissioner Partington if that was satisfactory; whereby, Commissioner Partington stated that it was. He stated that he had only heard from one constituent thus far but it was certainly worth looking into.

Ms. Shanahan stated that she had a lengthy conversation with Mr. Larry Volenec, Area Manager for External Affairs, Florida Power and Light, that day to talk about critical FPL issues within the city that needed to be resolved. She stated that she had received his full assurance that he was working on the issues.

Transparency

Commissioner Stowers stated that he had not heard about transparency in Ormond Beach for a couple of years but that it had been mentioned that evening. He stated that he wanted to thank the Daytona Beach News-Journal for posting the salary of any public employee on their website a year ago. He stated that he believed that information was still available, as well. He stated that as he heard the comments regarding transparency from a speaker earlier that evening, he went on the city's website. He stated that, as an example, if you clicked on John Anderson Drive on the front page, you saw minutes going back three years, engineering meetings, public meetings, and everything that was related to that project. He stated that was just the beginning and where you received your base information. He stated that anyone at the city or the Commission could be called for additional information or questions. He stated that any information could be requested because of the Sunshine Laws. He stated that information was everywhere.

Florida Power and Light (FPL) Smart Meters

Commissioner Stowers stated that he agreed with Commissioner Partington about the need to discuss the FPL smart meters. He stated that he was going to raise the issue himself. He stated that he compared it to a sales deal where the first month was free but then the clock started ticking in terms of fees, unless you opted out. He stated that he felt that FPL was hoping you would forget about it and not opt-out. He stated that it gave him some pause that there was only an opt-out and not an opt-in option from FPL. He stated that he would prefer an opt-in option. He stated that he had spoken to several people who had stopped him and said there was some kind of conspiracy with the meters. He stated that he hoped that there would be an opt-in which would prevent the need for those who did not want the meters to have to take extra measures to prevent their installation.

Budget and Tax Rate

Commissioner Stowers stated that around budget time there was often a level of frustration, as they heard that evening. He stated that he received a lot of calls from citizens, many regarding code enforcement issues. He stated that he would continue to be responsive and listen because he often found that people were most frustrated when they felt like they did not have a voice and no one was listening to them. He stated that due to state regulations such as 3% and Save Our Homes, when there was over-realization when property values were high, there would be under-realization when they were low and all sorts of mathematical calculations were involved. He stated that he bought his home in 2006 at the absolute peak and that his home value was at about 50%. He stated that his taxes were not going up but for someone who was over-realizing and was paying \$200,000 now on a \$600,000 home that 3% would be inching up each year. He stated that for those people there would be some increase based on state regulations.

Commissioner Stowers stated that he was sharing because the Commission understood the level of frustration. He stated that they were elected to review all the information, have numerous meetings, deal with the issues of transparently, and balance the best interest of the constituents and citizens of Ormond Beach. He stated that the Reserve Funds were in pretty good shape but until the economy started going in a better direction and property values stabilized, he would have a hard time saying that the taxes should be eaten away when there were so many areas of flux out there. He stated that he did not want to be in a position where a future Commission would be looking at a 15 or 20% tax increase. He stated that he was trying to do the best job for the citizens now and in the future. He stated that was the balancing act and why theirs was a thankless job.

Turn Lane at Airport Road and US 1

Commissioner Stowers stated that he wanted to give mad props to Ms. Shanahan and Mr. Ted MacLeod, Assistant City Manager and Public Works Director. He stated that a couple of months ago a resident in Bear Creek had spoken about an accident with a fatality at the corner of Airport Road and US1. He stated that someone had been taking a left hand turn onto Airport Road travelling north on US1. He stated that Ms. Shanahan and Mr. MacLeod had been working with the Florida Department of Transportation (FDOT) and Volusia County to try to address that situation and make that turn lane an actual designated left turn lane there that had a red light. He stated that the problem he noticed when he drove on it was that there was an incline which caused your perception to be thrown off. He stated that he received a call from a resident the day before and was able to call them back and say that FDOT and the county agreed to work with the city on that issue. He stated that the hope was that it could be resolved before Biketoberfest.

Bear Creek Golf Damage Issue

Commissioner Stowers addressed Mr. Behnke and stated that he would talk to him after the meeting, as well. He stated that when he was trying to do some work with his bank about a mortgage, his desperate plea was always for them to get him to someone that could actually make a decision. He stated that if he read what he was saying correctly he did not believe that Mr. Behnke knew who that person was. He stated that he understood the City Attorney's comments and that the city did not legally have a 'dog in the fight.' He stated that he also knew that the golf course operator was the city's tenant and that they obviously had some level of communication with them so he could call them and approach the issue. He stated that the resolution could be as simple as putting up a net. He stated that he was going to ask Mr. Robert Carolin, Leisure Services Director, whether the city had some nets from a ball field that they were not using that could be utilized. He stated that the city could coordinate and try to solve the issue without an ensuing legal fight.

Budget and Tax Rate

Commissioner Kent stated that he wanted to go on the record as saying that he would put the city's budget up in comparison to any of the other 15 cities in Volusia County. He stated that Ormond Beach had the best bang for your buck. He stated that the average homeowner paid a little over a dollar a day in city property taxes. He stated that Ormond Beach was a great place to live, raise a family, and retire.

Equinox

Commissioner Kent stated that it was 8:17 p.m. and now dark outside due to the equinox on September 22, which was all about the tilt of the Earth.

Florida League of Cities

Commissioner Kent stated that he knew that Commissioner Boehm and Commissioner Stowers could not make it due to other obligations but he wanted to thank Mayor Kelley and Commissioner Partington for attending the Florida League of Cities.

Fluoridation

Commissioner Kent stated that he spoke to Ms. Shanahan about a week ago and she had stated that the chemical bid would be on the agenda. He stated that he read through the agenda three times to try and find it before contacting Ms. Shanahan whereby she apologized because the bid would be on the next agenda on September 18, 2012. He stated that the bid did not mean that the chemicals had to be purchased, as Ms. Shanahan had said.

Commissioner Kent stated that each member of the Commission expressed publicly during the comments section of a Commission meeting that they had an interest in hearing and addressing more about the fluoridation issue, specifically hydrofluosilicic acid. He stated that he specifically requested to the City Manager that part of the discussion be on the quality of the product and compliance with state law for the product manufacturer. He stated that he presented a proposed ordinance for the Commission to review and discuss, not about the public policy of fluoridation but issues related to performing their due diligence, rather than being trapped in endorsements and statements by people who were unaccountable. He stated that the Commissioners were the ones who were accountable. He stated that at that time the Mayor stated that presenting the proposed ordinance in public and asking that it be placed on the agenda was not correct procedure. He stated that he thought about it and believed that normally when the Commission wanted an ordinance they would talk to staff, have it crafted, and then vote on it. He stated that he was a lawmaker in the City of Ormond Beach and that

it could be done that way. He stated that the Mayor and Commissioners directed staff to set up a date for a workshop. He stated that a workshop was acceptable as long as time was not wasted on the same rhetoric about the public policy instead of getting down to the performance of an actual manufacturer and their product.

Commissioner Kent stated that he had very specific questions for the manufacturer that he believed still deserved an answer, not only for him, but for each of the Commissioners and their constituents. He stated that one of those questions was whether the city was in compliance with law, which he felt needed to be answered before they voted on the purchase of the chemical. He stated that a notice had been received that made clear that the public policy was not the issue but asserted facts about the process and the actual chemical chosen. He stated that only the Commission could approve it and that they could not ignore those issues. He stated that Mr. Hayes wrote a letter stating that he could defend the public policy in court without addressing any of the compliance issues. He stated that he felt good that the City Attorney could play hardball and defend them. He stated that there had been no discussion of the issues presented and he did not recall the Commission ever making a determination to ignore that notice and/or asking the City Attorney to halt any further discussion based on a court ruling from Boynton Beach, where the judge in that case did not even know that fluoride could not be boiled out of water.

Commissioner Kent stated that he had a few questions for Mr. Hayes. He stated that he understood that Mr. Hayes' response to the constructive notice was intended to display that he was prepared to defend the city's authority to fluoridate. He stated that they recently learned that fluoridation was enacted in the city by voter referendum in 1958. He stated that he asked Mr. Hayes point blank in an email and also in person when he would know whether changes to fluoridation needed to be decided by voter referendum again or not. He stated that Mr. Hayes had been honest and told him he would get that information when he had time to as his office had been very busy. He stated that having read through the notice again, more thoroughly, and reading Mr. Hayes' response to Dr. Sidi Lemnoui, he could not find any instance where the notice challenged the city's ability or authority concerning the public policy. He stated that to him, it challenged any use of endorsements or assumptions of reliability as a substitute for accountability, specifically relating to the substances that were provided to the city, and for which the city made claims of safety and effectiveness to the public.

Commissioner Kent stated that the notice fit with his approach of doing the due diligence to get some answers directly from the manufacturing source. He stated that he did not see the notice demanding that the city revisit the decision to fluoridate and instead focused on assumptions concerning the selection of the actual chemical. He stated that in response to Mr. Hayes' invitation for questions related to his response to Dr. Lemnoui, he would ask the following. He stated that he understood that Mr. Hayes' response to Dr. Lemnoui was intended to be the official position of the city regarding the authority to fluoridate. He asked if it was also his intention that it also served as the official position of the city concerning the details that were asserted in the notice, and if so, asked if he missed a meeting, hearing, or discussion in which the Commission had determined to dispense with the notice without consideration of the details.

Mr. Hayes asked if there was a question; whereby, Commissioner Kent stated that there was.

Mayor Kelley stated that he knew that Commissioner Kent could say what he wanted to say but felt that they went through this issue before. He stated that a workshop had been requested; whereby, Commissioner Kent stated that he was getting to that. Mayor Kelley stated that he wanted the discussion to be held at a workshop.

Commissioner Kent stated that the problem was that at the next meeting the chemical bid would be on the agenda. He stated that he had a little more to say.

Mayor Kelley stated that there would be discussion at that meeting and that the Commission would have to authorize the purchase but it did not mean they had to actually go through with the purchase. He stated that the city was required to fluoridate by the vote of the people and they would have to decide whether or not to take it out. He stated that he would like to have a discussion where all of the Commission could share their thoughts, as tonight was not the time to do so. He stated that he wanted a workshop so they could all have an opportunity to speak and express facts.

Commissioner Kent stated that he felt that it was important to mention some of the issues that evening; whereby, Mayor Kelley stated that they had already been mentioned. Mayor Kelley stated that he had heard about fluoride for four years.

Commissioner Kent stated that if he put it into a different perspective, where they were going to great expense to develop an after-hour recreation facility for kids and after it was actually built, a constituent showed up and said that even though the concrete came from Dubai and Mexico and was certified, the manufacturer had not met certain standards. He asked what you they would have the constituent do or who he would speak to. He stated that Mr. Jim Schultz was a resident who came before the Commission fairly regularly to provide his information on the fluoridation issue during the public comment period. He stated that quite frankly he had not been moved to take any action. He stated that he was not aware of any action that anyone in the city had taken to either head or attempt to address the issues that he had presented.

Commissioner Kent stated that he had, however, sought specific answers directly from the city's current manufacturer and other manufacturers. He stated that he wanted a direct answer and the actual documents that the manufacturers submitted to merit meeting the standard for the city to purchase in the state. He stated that he did not want to hear anyone else's explanation, as that was not good enough for their stewardship of something that their constituents were captive consumers of every day. He stated that one reason he felt that it was important to share at that time was that it was his only time to talk to the Commission. He stated that things said to him on the dais marinated in his head when he went home.

Commissioner Kent told Mr. Hayes that he did not read through the entire Boynton Beach lawsuit but glanced through and saw that the judge ruled that the consumers could boil away fluoride in their water. He asked Mr. Hayes if they were counting on getting a judge that obviously did not know what he was talking about. He stated that anyone who had taken basic chemistry knew that you could not boil fluoride out of water and in fact boiling just increased the concentration in the water that was left. He stated that he felt that he read the notice a little differently than Mr. Hayes. He stated that he requested data that the manufacturers were to have already submitted to NSF International in order to merit the purchase of their product in their state. He stated that he wanted to know what they were hiding. He asked if perhaps the contents and impurities were different than they were lead to believe, or if the toxicological studies either still did not exist or they did and no one would like their findings. He stated that he did not know what the answer was, but he wanted answers to his questions. He stated that he was not anti-fluoride but was opposed to any company that dealt with the city and would not show the data sheets that had to be provided to the state. He thanked the Mayor for allowing him the time to speak.

Florida League of Cities

Mayor Kelley thanked Commissioner Kent for recognizing the time that he, Commissioner Partington, and Ms. Shanahan took to attend the Florida League of Cities. He stated that he felt that they picked up some valuable information. He stated that the other cities were in the same situation that the city was in but not in as good financial shape. He stated that all information regarding the Florida League of Cities workshops was online. He stated that Commissioner Partington, Ms. Shanahan, and he split up to go to as many workshops as possible. He stated that it was very well done. He stated that it was unfortunate that the first workshop, which Deland Mayor Bob Apgar said was the best one, was the one that was held at 8:00 a.m. on Wednesday morning and they did not get there in time. He stated that he suggested that in the future those speakers be held in the afternoon so that the cities who were travelling could attend them.

Greetings

Mayor Kelley congratulated Mr. McKee on his first night and told him it would get easier. He thanked his wife for sitting through the meeting. He stated that she had asked whether it would be a long meeting since they had already attended the Tomoka Christian groundbreaking and he told her it would be a short meeting of 30 or 45 minutes so she had decided to come with him.

Florida Power and Light (FPL) Smart Meters

Mayor Kelley stated that as far as the FPL smart meters, if it saved money on his bill he was fine with them. He stated that if they were tracking his phone conversations through it he was fine with that also, and if it created a magnetic field he was fine with that, as well. He stated that everyone was living longer than they ever were and the life

expectancy was 85. He stated that if someone wanted to opt-in or opt-out of it that was their choice. He stated that the Commission would discuss it and move on.

Business Park Power Issues

Mayor Kelley stated that the loss of electricity and power at the Airport Business Park was serious. He stated that a tree could be removed and replaced elsewhere if that was the source of damage that caused a power outage. He stated that they could not replace the lost production time of a company. He stated that they could not have businesses shutting down. He stated that a minute lost was a minute lost forever.

Item #12 – Adjournment

The meeting was adjourned at 8:34 p.m.

APPROVED: September 18, 2012

BY:

Ed Kelley, Mayor

ATTEST:

J. Scott McKee, City Clerk