

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

January 15, 2013

7:00 PM

Commission Chambers

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. PRESENTATIONS AND PROCLAMATIONS**
 - A. Home for the Holidays Parade Award Winners
- 5. AUDIENCE REMARKS - REGARDING ITEMS NOT ON THE AGENDA**
- 6. APPROVAL OF MINUTES**
 - A. Minutes from the January 8, 2013 City Commission Meeting will be available at the February 5, 2013 meeting.
- 7. CONSENT AGENDA**

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

- A. **RESOLUTION NO. 2013-34** : A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NUMBER ONE (1) TO THAT CONTRACT AWARDED TO UTILITY TECHNICIANS, INC., REGARDING THE TRANSFER STATION LIFT STATION UPGRADES PROJECT, BY INCREASING THE CONTRACT PRICE BY \$4,847.00; AND SETTING FORTH AN EFFECTIVE DATE.
Staff Contact: John Noble, City Engineer (386-676-3269)
- B. **RESOLUTION NO. 2013-35** : A RESOLUTION OF THE CITY OF ORMOND BEACH SUPPORTING THE PLANNING PROCESS TO UPDATE THE VOLUSIA COUNTY MULTI-JURISDICTIONAL LOCAL MITIGATION STRATEGY THROUGH THE DEVELOPMENT OF A REVISED INTEGRATED FLOODPLAIN MANAGEMENT PLAN, AND SETTING FORTH AN EFFECTIVE DATE.
Staff Contact: Ric Goss, Planning Director (386-676-3238)
- C. **Bid Specifications for 2" Water Main Replacement North Peninsula**
Staff Contact: John Noble, City Engineer (386-676-3269)
Disposition: Approve as recommended in the City Manager memorandum dated January 15, 2013.
- D. **Taxiway Alpha Relocation and General Airfield Improvements Project - Change Order #1**
Staff Contact: Joe Mannarino, Economic Development Director (386-676-3266)
Disposition: Approve as recommended in the City Manager memorandum dated January 15, 2013.

8. PUBLIC HEARINGS

- A. **ORDINANCE NO. 2013-2** : AN ORDINANCE AMENDING CHAPTER 1, GENERAL ADMINISTRATION, ARTICLE IV, SCHEDULE OF DEVELOPMENT REVIEW AND IMPACT FEES, OF CITY OF ORMOND BEACH THE LAND DEVELOPMENT CODE BY ADDING SECTION 1-26, MOBILITY FEE; AMENDING; ARTICLE V, CONCURRENCY MANAGEMENT, SECTION 1- 32 F, TRAFFIC CIRCULATION BY ADDING SUBSECTION (12); AMENDING SECTION 1-32 G, PROPORTIONATE FAIR SHARE PROGRAM FOR TRANSPORTATION AND PUBLIC SCHOOL FACILITIES, BY AMENDING SUBSECTIONS (1), (3) AND DELETING SUBSECTION (13), 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)

- B. **ORDINANCE NO. 2013-3** : AN ORDINANCE AMENDING CHAPTER 2, DISTRICT AND GENERAL REGULATIONS, ARTICLE IV, CONDITIONAL AND SPECIAL EXCEPTION REGULATION; BY AMENDING SECTION 2-57, CRITERIA FOR REVIEW OF SPECIFIC CONDITIONAL AND SPECIAL EXCEPTION, SUBSECTIONS R 5, RESTAURANT, TYPE "A"; R 6, RESTAURANT TYPE "B"; R 7, RESTAURANT TYPE "C"; AND R 8. RESTAURANT TYPE "D ARE DELETED IN THEIR ENTIRETY; BY ADDING SECTION 2-57 R 5, RESTAURANT TYPES BY PROVIDING A TABLE THAT CATEGORIZES THE REGULATIONS BY RESTAURANT TYPES AND A FLORIDA STATUTE 509.233 DOG DINING EXEMPTION FOR RESTAURANTS; PROVIDING FOR THE IMPLEMENTATION OF FEES; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

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

- C. **ORDINANCE NO. 2013-4** : AN ORDINANCE AMENDING CHAPTER 8, BUILDINGS AND CONSTRUCTION REGULATIONS, ARTICLE I, IN GENERAL, SECTION 8-10, APPLICATION PROCESSING FEES, PARAGRAPH (G) MISCELLANEOUS OF THE CODE OF ORDINANCES, BY CREATING A NEW SUBSECTION 11 ESTABLISHING A FEE SCHEDULE FOR REVIEW AND INSPECTION OF DOGGIE DINING LICENSES; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

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

- D. **ORDINANCE NO. 2013-5** : AN ORDINANCE AMENDING THE FUTURE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP TO CHANGE THE DESIGNATION OF SEVENTY-THREE (73) PARCELS OF REAL PROPERTY TOTALING +11.5-ACRES LOCATED AT 1- 103 BELLA VITA WAY FROM VOLUSIA COUNTY "COMMERCIAL" AND "URBAN MEDIUM INTENSITY" TO ORMOND BEACH "MEDIUM DENSITY RESIDENTIAL"; AUTHORIZING TRANSMITTAL;. REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

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

- E. **ORDINANCE NO. 2013-6** : AN ORDINANCE AMENDING THE FUTURE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP TO CHANGE THE DESIGNATION OF ONE (1) PARCEL OF REAL PROPERTY TOTALING +0.53-ACRES LOCATED AT 1428 NORTH US HIGHWAY 1 (PARCEL ID NO. 3136-01-58-0460), FROM VOLUSIA COUNTY "COMMERCIAL" TO ORMOND BEACH "LOW INTENSITY COMMERCIAL"; AUTHORIZING TRANSMITTAL; PROVIDING FOR CONFLICT; AND SETTING FORTH AN EFFECTIVE DATE.

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

F. **ORDINANCE NO. 2013-7** : AN ORDINANCE AMENDING THE FUTURE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP TO CHANGE THE DESIGNATION OF FOUR (4) PARCELS OF REAL PROPERTY TOTALING +3.97-ACRES LOCATED AT 1433, 1435, 1437 AND 1439 NORTH US HIGHWAY 1 FROM VOLUSIA COUNTY "COMMERCIAL" TO ORMOND BEACH "LOW INTENSITY COMMERCIAL"; AUTHORIZING TRANSMITTAL; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

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

G. **ORDINANCE NO. 2013-8** : AN ORDINANCE AMENDING THE FUTURE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP TO CHANGE THE DESIGNATION OF ONE (1) PARCEL OF REAL PROPERTY TOTALING +0.15-ACRES LOCATED AT 1438 NORTH US HIGHWAY 1 (PARCEL ID NO. 3136-01-58-0210), FROM VOLUSIA COUNTY "COMMERCIAL" TO ORMOND BEACH "LOW INTENSITY COMMERCIAL"; AUTHORIZING TRANSMITTAL; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

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

H. **ORDINANCE NO. 2013-9** : AN ORDINANCE AMENDING THE FUTURE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP TO CHANGE THE DESIGNATION OF ONE (1) PARCEL OF REAL PROPERTY TOTALING +0.72-ACRES LOCATED AT 1444 NORTH US HIGHWAY 1 (PARCEL ID NO. 3136-01-58-0190), FROM VOLUSIA COUNTY "COMMERCIAL" TO ORMOND BEACH "LOW INTENSITY COMMERCIAL"; AUTHORIZING TRANSMITTAL; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

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

I. **ORDINANCE NO. 2013-10** : AN ORDINANCE ANNEXING CERTAIN REAL PROPERTY INTO THE CITY OF ORMOND BEACH, SAID PROPERTY BEING GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF TYMBER CREEK ROAD AND AIRPORT ROAD AND BEING COMMONLY LOCATED AT 305 NORTH TYMBER CREEK ROAD; 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; SETTING FORTH ZONING, PRIVILEGES, AND OBLIGATIONS OF SAID PROPERTY; PROVIDING FOR TRANSMISSION; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

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

- J. **ORDINANCE NO. 2013-11** : AN ORDINANCE AMENDING CHAPTER 2, DISTRICT AND GENERAL REGULATIONS, OF ARTICLE II, DISTRICT REGULATIONS, SECTION 2.14.B.9.B, R-2.5, SINGLE-FAMILY LOW-MEDIUM DENSITY, TO REDUCE THE REQUIRED REAR YARD SETBACK TO 20 FEET, SECTION 2-15.B.9.B, R-3, SINGLE-FAMILY MEDIUM DENSITY TO REDUCE THE REQUIRED REAR YARD SETBACK TO 20 FEET; SECTION 2-17.B.9.B, R-4, SINGLE-FAMILY CLUSTER & TOWNHOUSE TO REDUCE THE REQUIRED REAR YARD SETBACK TO 20 FEET FOR SINGLE-FAMILY, CLUSTER, PATIO, ZERO-LOT-LINE, MULTI-FAMILY, DUPLEX, TRIPLEX, AND TOWNHOUSE TYPES OF USES; SECTION 2- 18.B.9.B, R-5, MULTI-FAMILY MEDIUM DENSITY TO REDUCE THE REQUIRED REAR YARD SETBACK TO 20 FEET FOR SINGLE-FAMILY, CLUSTER, PATIO, ZERO-LOTLINE, MULTI-FAMILY, DUPLEX, TRI-PLEX, AND TOWNHOUSE TYPES OF USES; SECTION 2-19.B.9.B, R-6, MULTI-FAMILY MEDIUM-HIGH DENSITY TO REDUCE THE REQUIRED REAR YARD SETBACK TO 20 FEET FOR SINGLE-FAMILY, CLUSTER, PATIO, ZERO-LOT-LINE, MULTI-FAMILY, DUPLEX, TRI-PLEX, AND TOWNHOUSE TYPES OF USES; 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)

- K. **ORDINANCE NO. 2013-12** : AN ORDINANCE AMENDING CHAPTER 3, PERFORMANCE STANDARDS, OF ARTICLE IV, SIGN REGULATIONS, SECTION 3-49, MASTER SIGN PLAN, BY DELETING THE SECTION IN ITS ENTIRETY TO BE REPLACED BY A NEW SECTION ENTITLED "SIGN VARIANCES", TO BE NUMBERED SECTION 3-47.B.2, BY AMENDING THE MAXIMUM HEIGHT OF MONUMENT SIGNAGE TO EIGHT (8') FEET; AMENDING SECTION 3-47.B.6 BY AMENDING THE MAXIMUM NUMBER OF TENANT PANELS FOR MONUMENT SIGNAGE TO EIGHT; BY AMENDING SECTION 3-47.C.4, BY AMENDING THE MAXIMUM NUMBER OF TENANT PANELS FOR POLE SIGNAGE TO EIGHT; SECTION 3-47.C TO ADD THE TERM "GROUND" TO THE SUBSECTION TITLE; AMENDING CHAPTER 1, GENERAL ADMINISTRATION OF ARTICLE III, DEFINITIONS AND ACRONYMS, SECTION 1-22, TO AMEND THE DEFINITION OF SIGN, MONUMENT; 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)

- L. **ORDINANCE NO. 2013-13** : AN ORDINANCE AMENDING CHAPTER 1, GENERAL ADMINISTRATION, ARTICLE III, DEFINITIONS AND ACRONYMS, BY ADDING WATER SURVIVAL INSTRUCTION; AMENDING CHAPTER 2, DISTRICT AND GENERAL REGULATIONS, ARTICLE II, DISTRICT REGULATIONS, BY ADDING AS A CONDITIONAL USE WATER SURVIVAL INSTRUCTION WITHIN THE RURAL ESTATE/AGRICULTURAL (REA), RURAL RESIDENTIAL (RR), SUBURBAN RESIDENTIAL (SR), RURAL ESTATE (R- 1), SINGLE-FAMILY LOW DENSITY (R-2), SINGLE-FAMILY LOW-MEDIUM (R-2.5), SINGLE-FAMILY MEDIUM DENSITY (R-3), NEIGHBORHOOD PRESERVATION (NP), SINGLE-FAMILY CLUSTER & TOWNHOUSE (R-4); MULTIFAMILY MEDIUM DENSITY (R-5), MULTI-FAMILY MEDIUM-HIGH DENSITY (R-6), MANUFACTURED/MOBILE HOME (T-1); AND MANUFACTURED HOME (T-2) ZONING DISTRICTS, AMENDING CHAPTER 2, DISTRICT AND GENERAL REGULATIONS, ARTICLE IV, CONDITIONAL USES AND SPECIAL EXCEPTIONS BY ADDING CONDITIONAL USE CRITERIA FOR WATER SURVIVAL INSTRUCTION; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

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

9. DISCUSSION ITEMS

A. Request for Rescission or Reduction of Four Special Magistrate Liens

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

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

Reverend Reginald Johnson, Historic New Bethel AME Church, gave the invocation.

Item #3 – Pledge of Allegiance

Mayor Kelley led the Pledge of Allegiance.

Item #4A – Home for the Holidays Parade Award Winners

Mayor Kelley introduced Mr. Brian Daly, Chairman of the Home for the Holidays Parade Committee. He stated that Mr. Daly moved to Ormond Beach in 1995, immediately joined the committee, and had served as Chairman from 1999 through 2012. He stated that Mr. Daly changed the parade from being held during the day to being held at night, which took a lot of time and negotiations. He explained that Mr. Daly believed that the parade had more holiday feeling at night with many colored lights and floats. He stated that through Mr. Daly's tenure as Chairman, the committee developed the President's Cup Award, which selected an outstanding business participating in the parade. He noted that the cup award was displayed at the winning business for the entire year. He stated that Mr. Daly's frequent quote during the duration of the parade was "Why are we stopped?" and that the committee even purchased a shirt for Mr. Daly with that saying that he wore on the night of the parade. He stated that Mr. Daly was a tremendous role model with a contagious energy who set high standards for those around him. He stated that Mr. Daly was very family oriented and had volunteered with the City of Ormond Beach for 18 years in many capacities, involving himself with the Senior Center, Senior Games, and The Casements, and that he had previously served on the Planning Board and the Ormond Beach Main Street Board.

Mayor Kelley proclaimed January 15, 2013, as a day to recognize Mr. Brian Daly in the City of Ormond Beach and urged all residents to join in acknowledging Mr. Daly for his outstanding accomplishments as the Home for the Holidays Parade Chairman and his dedication to Ormond Beach. He presented Mr. Daly with a plaque of the proclamation. He stated that Mr. Daly did a great job and that the parade was outgrowing itself. He stated that the number of entries even had to be limited that year. He stated that Ormond Beach was all about community involvement and volunteer spirit. He stated Mr. Daly could not be thanked enough.

Mr. Brian Daly, Chairman, Home for the Holidays Parade, stated that he was there to announce the prizes for the 22nd annual Home for the Holidays Parade. He stated that the Parade Committee would like to thank the judges, Ormond Beach Main Street, the Public Works Streets Department, the Fire Department, and most importantly, the Police Department, who worked very hard the night of the parade. He also thanked Mr. Robert Carolin, Leisure Services Director, Mr. Stefan Sibley, Recreation Manager, Mr. Mike Demchak, Community Events Coordinator, and Ms. Siobhan Daly, Casements Coordinator. He explained that they had limited the number of entries but still had over 100 of them with about 2,500 participants. He stated that for the second year the new bleachers that the city purchased were utilized and stated that it created a bowl atmosphere at the reviewing stand. He stated that for the first time the neighbors near the staging area had parties and came out and spoke to all the people and offered refreshments. He estimated that a crowd of over 10,000 people came out to view the parade. He asked that those in attendance receiving prizes stand as their names were called.

Mr. Daly stated that he would start with the prizes for the walkers. He stated that third place was Tomoka Elementary School, second place was Champion Elementary Honeybears, and in first place was Girl Scout Troop 122. He stated that the next category was vehicles, and that it was getting hard to differentiate between the vehicles and floats since there were so many. He stated that in third place was Aloha Marine, second place was the Yard Trainer, and in first place was Arrow Service and Towing. He explained that the hardest category for the judges to pick was the floats. He noted that there were probably 15 entries that could have won. He stated that the third place float was Professional Business Group, the second place float was Cub Scout Pack 54, and the first place float was the First United Methodist Church. He stated that Best of Show went to the Beach Bucket Restaurant. He asked Mr. Tony Capozzi from the Ormond Beach Chamber of Commerce to present the President's Cup Award, which went to the best business entry.

Mr. Tony Capozzi, Executive Director of the Ormond Beach Chamber of Commerce, stated that the winner of the President's Cup Award for best business entry had consecutively won the award for many years and while they did not win it the previous year, they had won Best in Show. He stated it was his pleasure to present the President's Cup Award again to Sparkle & Shine.

Item #5 – Audience Remarks

Mayor Kelley noted that there were no audience members who wished to speak.

Item #6 – Approval of the Minutes

Mayor Kelley noted that the minutes from the January 8, 2013, City Commission Meeting would be available at the February 5, 2013 meeting, due to the short turnaround time between meetings that month.

Item #7 – Consent Agenda

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

Commissioner Kent requested that item 7A be pulled from the Consent Agenda.

Commissioner Partington moved, seconded by Commissioner Boehm, for approval of the Consent Agenda, absent item 7A.

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

Item #7A – Transfer Lift Station

City Clerk Scott McKee read by title only:

RESOLUTION NO. 2013-34
A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NUMBER ONE (1) TO THAT CONTRACT AWARDED TO UTILITY TECHNICIANS, INC., REGARDING THE TRANSFER STATION LIFT STATION UPGRADES PROJECT, BY INCREASING THE CONTRACT PRICE BY \$4,847.00; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Boehm moved, seconded by Commissioner Stowers, for approval of Resolution No. 2013-34, as read by title only.

Commissioner Kent stated that he pulled the item to have the opportunity to vote "no." He stated that it should be no surprise to the Commission how he felt about certain change orders and the order in the resolution was one of them.

Mayor Kelley stated that it seemed strange to him that the person who created the plan was also the one who benefited and did not pick up the change. He stated that it seemed like when the contract was put out it should have been known that the issue existed.

Commissioner Kent stated that was his concern as well.

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

Item #8 – Public Hearings

Mayor Kelley opened the following items for public hearing.

Item #8A – Mobility Fees

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2013-02
 AN ORDINANCE AMENDING CHAPTER 1, GENERAL ADMINISTRATION, ARTICLE IV, SCHEDULE OF DEVELOPMENT REVIEW AND IMPACT FEES, OF CITY OF ORMOND BEACH THE LAND DEVELOPMENT CODE BY ADDING SECTION 1-26, MOBILITY FEE; AMENDING; ARTICLE V, CONCURRENCY MANAGEMENT, SECTION 1-32 F, TRAFFIC CIRCULATION BY ADDING SUBSECTION (12); AMENDING SECTION 1-32 G, PROPORTIONATE FAIR SHARE PROGRAM FOR TRANSPORTATION AND PUBLIC SCHOOL FACILITIES, BY AMENDING SUBSECTIONS (1), (3) AND DELETING SUBSECTION (13), REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Boehm moved, seconded by Commissioner Stowers, for approval of Ordinance No. 2013-02, 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 #8B – LDC Amendment: Doggie Dining

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2013-03
 AN ORDINANCE AMENDING CHAPTER 2, DISTRICT AND GENERAL REGULATIONS, ARTICLE IV, CONDITIONAL AND SPECIAL EXCEPTION REGULATION; BY AMENDING SECTION 2-57, CRITERIA FOR REVIEW OF SPECIFIC CONDITIONAL AND SPECIAL EXCEPTION, SUBSECTIONS R 5, RESTAURANT, TYPE “A”; R 6, RESTAURANT TYPE “B”; R 7, RESTAURANT TYPE “C”; AND R 8. RESTAURANT TYPE “D ARE DELETED IN THEIR ENTIRETY; BY ADDING SECTION 2-57 R 5, RESTAURANT TYPES BY PROVIDING A TABLE THAT CATEGORIZES THE REGULATIONS BY RESTAURANT TYPES AND A FLORIDA STATUTE 509.233 DOG DINING EXEMPTION FOR RESTAURANTS; PROVIDING FOR THE IMPLEMENTATION OF FEES; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Boehm moved, seconded by Commissioner Partington, for approval of Ordinance No. 2013-03, on second reading, as read by title only.

Mayor Kelley stated that he did not want residents in Ormond Beach to get alarmed that every restaurant would have doggie dining. He noted that in Daytona Beach there were

two places that had doggie dining, a frozen yogurt shop and a coffee shop. He stated that he did not think that Ormond Beach would be overrun with applicants for doggy dining.

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

Item #8C – City Code Amendment: Establishing Doggie Dining License Fee

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2013-04
 AN ORDINANCE AMENDING CHAPTER 8, BUILDINGS AND CONSTRUCTION REGULATIONS, ARTICLE I, IN GENERAL, SECTION 8-10, APPLICATION PROCESSING FEES, PARAGRAPH (G) MISCELLANEOUS OF THE CODE OF ORDINANCES, BY CREATING A NEW SUBSECTION 11 ESTABLISHING A FEE SCHEDULE FOR REVIEW AND INSPECTION OF DOGGIE DINING LICENSES; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Boehm moved, seconded by Commissioner Stowers, for approval of Ordinance No. 2013-04, on second 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 #8D – 1-103 Bella Vita Way Future Land Use Map Amendment

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2013-05
 AN ORDINANCE AMENDING THE FUTURE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP TO CHANGE THE DESIGNATION OF SEVENTY-THREE (73) PARCELS OF REAL PROPERTY TOTALING +11.5-ACRES LOCATED AT 1- 103 BELLA VITA WAY FROM VOLUSIA COUNTY "COMMERCIAL" AND "URBAN MEDIUM INTENSITY" TO ORMOND BEACH "MEDIUM DENSITY RESIDENTIAL"; AUTHORIZING TRANSMITTAL; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kent, for approval of Ordinance No. 2013-05, on first reading, as read by title only.

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

Item #8E – 1428 N. US Hwy 1 Future Land Use Amendment

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2013-06
 AN ORDINANCE AMENDING THE FUTURE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP TO CHANGE THE DESIGNATION OF ONE (1) PARCEL OF REAL PROPERTY TOTALING +0.53-ACRES LOCATED AT 1428 NORTH US HIGHWAY 1 (PARCEL ID NO. 3136-01-58-0460), FROM VOLUSIA COUNTY "COMMERCIAL" TO ORMOND BEACH "LOW INTENSITY

COMMERCIAL"; AUTHORIZING TRANSMITTAL; PROVIDING FOR CONFLICT; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Boehm moved, seconded by Commissioner Kent, for approval of Ordinance No. 2013-06, on first reading, as read by title only.

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

Item #8F – 1433, 1435, 1437, 1439 N. US Hwy 1 Future Land Use Map Amendment

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2013-07

AN ORDINANCE AMENDING THE FUTURE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP TO CHANGE THE DESIGNATION OF FOUR (4) PARCELS OF REAL PROPERTY TOTALING +3.97-ACRES LOCATED AT 1433, 1435, 1437 AND 1439 NORTH US HIGHWAY 1 FROM VOLUSIA COUNTY "COMMERCIAL" TO ORMOND BEACH "LOW INTENSITY COMMERCIAL"; AUTHORIZING TRANSMITTAL; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Boehm moved, seconded by Commissioner Stowers, for approval of Ordinance No. 2013-07, 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 #8G – 1438 N. US Hwy 1 Future Land Use Map Amendment

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2013-08

AN ORDINANCE AMENDING THE FUTURE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP TO CHANGE THE DESIGNATION OF ONE (1) PARCEL OF REAL PROPERTY TOTALING +0.15-ACRES LOCATED AT 1438 NORTH US HIGHWAY 1 (PARCEL ID NO. 3136-01-58-0210), FROM VOLUSIA COUNTY "COMMERCIAL" TO ORMOND BEACH "LOW INTENSITY COMMERCIAL"; AUTHORIZING TRANSMITTAL; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Boehm moved, seconded by Commissioner Stowers, for approval of Ordinance No. 2013-08, 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 #8H – 1444 N. US Hwy 1 Future Land Use Map Amendment

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2013-09

AN ORDINANCE AMENDING THE FUTURE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP TO CHANGE THE DESIGNATION OF ONE (1) PARCEL OF REAL

PROPERTY TOTALING +0.72-ACRES LOCATED AT 1444 NORTH US HIGHWAY 1 (PARCEL ID NO. 3136-01-58-0190), FROM VOLUSIA COUNTY "COMMERCIAL" TO ORMOND BEACH "LOW INTENSITY COMMERCIAL"; AUTHORIZING TRANSMITTAL; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Partington, for approval of Ordinance No. 2013-09, on first reading, as read by title only.

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

Item #8I – 305 N. Tymber Creek Road Annexation

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2013-10

AN ORDINANCE ANNEXING CERTAIN REAL PROPERTY INTO THE CITY OF ORMOND BEACH, SAID PROPERTY BEING GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF TYMBER CREEK ROAD AND AIRPORT ROAD AND BEING COMMONLY LOCATED AT 305 NORTH TYMBER CREEK ROAD; 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; SETTING FORTH ZONING, PRIVILEGES, AND OBLIGATIONS OF SAID PROPERTY; PROVIDING FOR TRANSMISSION; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Stowers, for approval of Ordinance No. 2013-10, on first reading, as read by title only.

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

Item #8J – LDC Amendment, Rear Setback in Residential Zoning Districts

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2013-11

AN ORDINANCE AMENDING CHAPTER 2, DISTRICT AND GENERAL REGULATIONS, OF ARTICLE II, DISTRICT REGULATIONS, SECTION 2.14.B.9.B, R-2.5, SINGLEFAMILY LOW-MEDIUM DENSITY, TO REDUCE THE REQUIRED REAR YARD SETBACK TO 20 FEET, SECTION 2-15.B.9.B, R-3, SINGLE-FAMILY MEDIUM DENSITY TO REDUCE THE REQUIRED REAR YARD SETBACK TO 20 FEET; SECTION 2-17.B.9.B, R-4, SINGLE-FAMILY CLUSTER & TOWNHOUSE TO REDUCE THE REQUIRED REAR YARD SETBACK TO 20 FEET FOR SINGLE-FAMILY, CLUSTER, PATIO, ZERO-LOT-LINE, MULTI-FAMILY, DUPLEX, TRIPLEX, AND TOWNHOUSE TYPES OF USES; SECTION 2-18.B.9.B, R-5, MULTI-FAMILY MEDIUM DENSITY TO REDUCE THE REQUIRED REAR YARD SETBACK TO 20 FEET FOR SINGLE-FAMILY, CLUSTER, PATIO, ZERO-LOTLINE, MULTI-FAMILY, DUPLEX, TRI-PLEX, AND TOWNHOUSE TYPES OF USES; SECTION 2-19.B.9.B, R-6, MULTI-FAMILY MEDIUM-HIGH DENSITY TO REDUCE THE REQUIRED REAR YARD SETBACK TO 20 FEET FOR SINGLE-FAMILY, CLUSTER, PATIO, ZERO-LOT-LINE, MULTI-FAMILY, DUPLEX, TRI-PLEX, AND TOWNHOUSE TYPES OF USES; REPEALING ALL INCONSISTENT

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

Commissioner Boehm moved, seconded by Commissioner Stowers, for approval of Ordinance No. 2013-11, 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 #8K – LDC Amendment, Signage

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2013-12

AN ORDINANCE AMENDING CHAPTER 3, PERFORMANCE STANDARDS, OF ARTICLE IV, SIGN REGULATIONS, SECTION 3-49, MASTER SIGN PLAN, BY DELETING THE SECTION IN ITS ENTIRETY TO BE REPLACED BY A NEW SECTION ENTITLED "SIGN VARIANCES", TO BE NUMBERED SECTION 3-47.B.2, BY AMENDING THE MAXIMUM HEIGHT OF MONUMENT SIGNAGE TO EIGHT (8') FEET; AMENDING SECTION 3-47.B.6 BY AMENDING THE MAXIMUM NUMBER OF TENANT PANELS FOR MONUMENT SIGNAGE TO EIGHT; BY AMENDING SECTION 3-47.C.4, BY AMENDING THE MAXIMUM NUMBER OF TENANT PANELS FOR POLE SIGNAGE TO EIGHT; SECTION 3-47.C TO ADD THE TERM "GROUND" TO THE SUBSECTION TITLE; AMENDING CHAPTER 1, GENERAL ADMINISTRATION OF ARTICLE III, DEFINITIONS AND ACRONYMS, SECTION 1-22, TO AMEND THE DEFINITION OF SIGN, MONUMENT; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Boehm moved, seconded by Commissioner Partington, for approval of Ordinance No. 2013-12, on first reading, as read by title only.

Commissioner Stowers stated that the original height limit was five feet with an additional two feet permitted for address and architectural embellishments and that the amendment would make the maximum limit eight feet without the additional two feet. He felt that could potentially cause a situation where there would be no incentive to add the address information on top of the sign. He noted that a lot of the signs on Granada Boulevard had address numbers on top. He stated that he was a little concerned that people would max out the eight feet and not include an address.

Mayor Kelley stated that they had discussed how the address was helpful for locating businesses at the workshop.

Mr. Ric Goss, Planning Director, stated that the issue had been discussed at a workshop. He stated that there had been concerns about the visibility. He stated that raising the sign height should alleviate that. He explained that the size of a monument sign was based on lot frontage. He stated that even though the sign limit was raised to eight feet, a sign would still be sized according to the lot frontage that the property had. He noted that it was still a requirement to have an address on the sign. He stated that the address could be placed on the top or the bottom of the sign. He stated that by having the sign raised either place could be seen.

Mayor Kelley stated that he personally thought it would have been better to have the address be required on the top of the sign.

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

Item #8L – Land Development Code Amendment, Water Survival Instruction

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2013-13

AN ORDINANCE AMENDING CHAPTER 1, GENERAL ADMINISTRATION, ARTICLE III, DEFINITIONS AND ACRONYMS, BY ADDING WATER SURVIVAL INSTRUCTION; AMENDING CHAPTER 2, DISTRICT AND GENERAL REGULATIONS, ARTICLE II, DISTRICT REGULATIONS, BY ADDING AS A CONDITIONAL USE WATER SURVIVAL INSTRUCTION WITHIN THE RURAL ESTATE/AGRICULTURAL (REA), RURAL RESIDENTIAL (RR), SUBURBAN RESIDENTIAL (SR), RURAL ESTATE (R- 1), SINGLE-FAMILY LOW DENSITY (R-2), SINGLE-FAMILY LOW-MEDIUM (R-2.5), SINGLE-FAMILY MEDIUM DENSITY (R-3), NEIGHBORHOOD PRESERVATION (NP), SINGLE-FAMILY CLUSTER & TOWNHOUSE (R-4); MULTIFAMILY MEDIUM DENSITY (R-5), MULTI-FAMILY MEDIUM-HIGH DENSITY (R-6), MANUFACTURED/MOBILE HOME (T-1); AND MANUFACTURED HOME (T-2) ZONING DISTRICTS, AMENDING CHAPTER 2, DISTRICT AND GENERAL REGULATIONS, ARTICLE IV, CONDITIONAL USES AND SPECIAL EXCEPTIONS BY ADDING CONDITIONAL USE CRITERIA FOR WATER SURVIVAL INSTRUCTION; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Boehm moved, seconded by Commissioner Stowers, for approval of Ordinance No. 2013-13, on first reading, as read by title only.

Commissioner Stowers opined that code enforcement regulations that were extremely difficult to enforce should not be included in the city's code. He stated that he felt that the regulation on the number of students would be unenforceable. He stated that he felt that it grew the code, was unnecessary, and that the parking provision would address that issue. He explained that the code required that cars only be parked in the driveway. He noted that there was also a provision that the instruction must be conducted by the resident of the dwelling where the lessons were provided. He stated that he felt that provision was an excellent addition. He stated that he would prefer to have item five removed altogether, but that he would not oppose the ordinance because of its inclusion.

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 – Request for Rescission or Reduction of Four Special Magistrate Liens

Ms. Joyce Shanahan, City Manager, stated that the request before them was from Mr. Fred Hudson to reduce or rescind four special magistrate liens.

Mayor Kelley asked if the liens should be reviewed separately.

Mr. Jim Morris, 750 Oak Heights Drive, Port Orange, attorney for Mr. Fred Hudson, stated that he thought that looking at the liens cumulatively would make sense because it was the totality of the circumstances that he wished for the Commission to see. He stated that individually the cases had been addressed at the code enforcement level. He stated that as the Commission reviewed their staff report they would see that it referenced Mr. Hudson's 30+ years of living and working in Ormond Beach. He stated that in that time Mr. Hudson had built stores, paid taxes, employed workers, and been a member of and contributor to the community in many ways. He stated that Mr. Hudson remained on US1 doing business and owning property during good times and bad, and noted that most recently times that were not so good.

Mr. Morris stated that Mr. Hudson was now faced with approximately \$22,000 in fines from code enforcement actions. He stated that it was important to note, as far as he knew, that Mr. Hudson was now in compliance on all of the issues in the staff report. He

stated that he thought that the staff report was a complete report and offered a summary of some of the circumstances and noted that Mr. Hudson would add a little more of his circumstances when he had a chance to speak.

Mr. Morris stated that he would like the Commission to consider, in general terms, the issues that were raised. He stated that Mr. Hudson placed an above-ground pool at his property without a permit. He stated that the pool happened to not conform to setbacks and when directed to relocate the pool Mr. Hudson did so. He stated that there was also a dock that Mr. Hudson made modifications to that he did not initially have a permit for but that he did ultimately obtain one. He stated that there was a fence that was improperly located which Mr. Hudson had relocated without a permit and then subsequently made the corrective actions required by the city. He stated that Mr. Hudson had illegal temporary signs and was fined for a six-day period of repeat violations. He stated that Mr. Hudson had paid some fines and those were itemized in the staff report. He stated that presently Mr. Hudson still faced about \$22,000 in fines due to the City of Ormond Beach. He stated that the violations that Mr. Hudson did not obtain permits for would probably be clear and obvious to those in municipal circles but perhaps not to those in another business that were not contractors. He stated that Mr. Hudson did not claim complete innocence but did claim other circumstances.

Mr. Morris explained that the code enforcement statute was a part of Florida law and that was how the city had the authority to undertake code enforcement actions and levy fines. He stated that the statute made it clear that a violation of the statute was a non-criminal violation. He stated that in his mind that meant that the statute did not have a punitive purpose and the intent of the statute was to improve and protect the public health, welfare, and safety of the public at large in an equitable and economic way. He stated that the statute did not specify whose equity and whose economy. He stated that he felt that it intended to look both at the public and the person who was accused of having a violation. He stated that when you considered the amount of money that Mr. Hudson was being charged to pay, he had to ask whether or not the Commission felt that amount of money for the magnitude of the violations was an equitable and a fair way to proceed. He stated that if he had any issue with the staff report, it was the use of the words "insufficient justification to rescind or reduce the fine." He noted that Mr. Hudson was in compliance and the object of the statute was to achieve compliance and not to be punitive.

Mr. Morris stated that he would suggest to the Commission that the fines were disproportionate to the activity. He stated that he thought that the Commission should consider a substantial reduction in the fines. He stated that city staff kindly offered outlines regarding other adjustments that the Commission had made previously, which were itemized in the referenced report. He stated that the Commission had found that a range of a 20% to 60% reduction in those fines was appropriate in those circumstances. He noted that Mr. Hudson had paid other fines and those were also referenced in the report. He stated that he felt that Mr. Hudson was now educated that he needed to obtain a permit for virtually any work he planned to do in the future, but he doubted that they would see that kind of activity from Mr. Hudson again. He stated that Mr. Hudson had detailed some of his personal issues in the letter contained in the staff report and that one of those issues was a bankruptcy of his business, from which Mr. Hudson had recovered. He stated that it was important to remember the contributions Mr. Hudson had made and that he was still in Ormond Beach employing workers and operating businesses that complimented the city.

Commissioner Boehm asked if he understood correctly that the pool was above the ground.

Mr. Morris responded that was correct and added that there was no hole in the ground. He stated that the pool was an expanded version of a kiddie pool.

Mr. Fred Hudson, 90 Raintree Lane, apologized for the situation occurring in the first place. He stated that there had been a tremendous number of personal and professional things going on in his life at the same time of the violations and that he was totally unaware. He noted that the Commission knew that he had lived in Ormond Beach for 35 years. He stated that his children all lived in Ormond Beach and that their businesses employed 405 people. He stated there had been some issues where they over expanded and had to close all of their stores except the ones in Florida. He stated that they had made a severe effort to make the remaining stores work, including two stores in Ormond Beach. He stated that he knew that the Commission knew that many years ago he had donated land in exchange for the old fire station. He stated that he

had always tried to help in any way he could with donations to the city and anything else that was asked of Hudson's Furniture or him personally. He stated that the code enforcement issues happened at a time where they were overlooked and that it would never happen again like that and had not happened before. He again apologized and stated that he would be willing to answer any questions.

Commissioner Kent stated that would like to hear from Ms. Joanne Naumann, Neighborhood Improvement Manager, and specifically hear about the pool, before he gave his opinion on the unfortunate situation. He asked if Ms. Naumann could also address the number of hours she thought her staff had logged dealing with Mr. Hudson's issues. He stated that there was also an email sent out recently that mentioned that Mr. Hudson still had code enforcement violations occurring at his business.

Ms. Naumann stated that when her department first encountered an issue of any kind they educated and provided brochures to the offender in order to let the them know what they could and could not do and whether they needed to obtain permits or not.

Mayor Kelley stated that he thought that Commissioner Kent wanted Ms. Naumann to speak about the pool.

Ms. Naumann stated that she was not aware that it was necessarily an above-ground pool. She stated that she did have a photograph of the pool and provided it to the Commission for their review.

Mayor Kelley stated that it was not noted in the staff report that it was an above-ground pool.

Commissioner Kent stated that the exact words had been that "a pool was constructed." He stated that he was perplexed.

Ms. Naumann stated that a permit was required in any event. She stated that the pool was not an above-ground pool like what was typically thought of, which was a tall, self-contained pool.

Commissioner Kent stated that the pool did not look above ground.

Ms. Naumann stated that there was a wood-raised deck encompassing the pool and a complete porch covering over the top of the structure. She noted that off to the right in the photograph, the dock that was referenced was also visible. She stated that in the case with the pool, her department had received a complaint and went and followed up and provided the appropriate information and direction, going through the enforcement process to attempt to get the structure to come into compliance. She stated that she could not provide specifics as to staff hours. She stated that was not something that was tracked.

Commissioner Kent asked if the pool was a soft-sided pool rather than a poured concrete pool.

Ms. Naumann stated that she had not personally been out to the property and that she did not know, but she did know that the work that was performed required a permit.

Commissioner Kent stated that he saw a lot of deck in the photograph; whereby, Ms. Naumann noted that there was a lot of wooden decking.

Commissioner Kent asked if the structure and pool were close to the waterway.

Ms. Naumann stated that the structure had to be relocated in order to meet the 50-foot setback from the waterway because it initially was built too close. She stated that it had been relocated and was currently in compliance.

Commissioner Kent asked Ms. Naumann if there were still violations by Mr. Hudson occurring.

Ms. Naumann stated that there were two outstanding violations at Mr. Hudson's businesses, one at 430 S. Yonge Street and one at 445 S. Yonge Street. She stated that one dealt with an A-frame that was put up without a permit, and the other was a banner sign erected without a permit. She stated that both instances were separate from the cases before the Commission that evening.

Commissioner Boehm asked what the dimension of the pool was. He stated that from the photograph it looked about the size of a hot tub; whereby, Mr. Hudson stated that it was four feet deep, six feet wide and eleven feet long.

Commissioner Boehm asked if it had been relocated to be in compliance; whereby, Mr. Hudson stated that it had.

Mr. Hudson addressed the outstanding issues and stated that he was not aware of the banner sign citation but that the A-frame was a plastic folding sign that sat in front of the door and he had no idea it was not in compliance. He stated that he was aware that it was being used but did not know anything about the banner.

Mr. Morris stated that he and Mr. Hudson did not contend any wrongdoing or improper action by city staff. He stated that they felt that staff had done the right thing. He stated that it was the magnitude of the fines they were asking to be considered given the nature of the violations. He stated that Ms. Naumann was extremely courteous and helpful.

Commissioner Stowers stated that the violations went through the code enforcement process. He stated that the code set forth a process that could be gone through at the circuit court level to appeal a determination by the special magistrate. He stated that he gave some weight to the fact that they were not in the appeal process. He noted that it had gone beyond that and was now not an appeal but a *request*. He stated that the special magistrate had done their job, and now the Commission was being asked to provide leniency. He stated that the liens could be looked at together in their totality but he chose to look at them individually.

Commissioner Stowers stated one lien was for Mr. Hudson's business at 445 S. Yonge Street. He read from the staff report:

"[Mr. Hudson] also states that the store manager was aware that the signs were prohibited but felt that getting business into the store provided greater benefit even knowing penalties would be imposed."

Commissioner Stowers stated that while he recognized the totality of the circumstances, that was a much different circumstance than the residential liens where there was not a willingness to violate the code by anyone associated with the violations. He stated that he felt that to significantly reduce that fine would potentially create an incentive for additional knowing violation of the code. He recognized that the action was not meant to be punitive. He stated that he felt stronger about keeping the entire \$1,500 fine for that lien.

Commissioner Stowers stated that the 90 Raintree Lane issue was a pool at a residential property. He stated that Mr. Hudson was given ten days to obtain the permits and 344 days passed. He stated that while he recognized that \$16,000 was significant for a residential code violation he thought that some fine would be warranted. He stated that he was receptive to some form of reduction on the two residential liens but felt less comfortable reducing the business fines.

Commissioner Partington stated that he agreed with what Commissioner Stowers said. He stated that he took into consideration what precedent there was for lien reductions. He stated that he thought that it might be reasonable to take the total outstanding amount of \$22,061.37 and subtract the \$1,500 from the business lien that should be paid in full. He stated that came to \$20,561.37 which he would then divide by two, which would be a 50% reduction, and add back the \$1,500 for a total of \$11,780.69. He stated that like the Commission had approved in Resolution 2010-33, the authorized reduction would only stand if paid within a certain period of time. He stated that for that particular instance it had been four months but felt it would be reasonable to give Mr. Hudson six months to pay the fine, which would be approximately \$2,000 a month. He stated that the fine would then have to be paid by June 15, 2013, but noted that was a Saturday, so that it would be due in full on Monday, June 17, 2013. He stated that if the fine was not paid by that date, the amount due would revert back to the full amount.

Commissioner Boehm stated that he did not think there would be much disagreement. He noted that he felt that the 35 Spanish Oak Lane lien was a lot of money for failing to move a fence two feet. He stated that he was in agreement with Commissioner Partington that the liens should be reduced. He stated that the "pool" was not much bigger than a hot tub. He stated that looking at the picture of the pool, it did not appear there were any neighbors close by and felt that there was someone who did not like Mr.

Hudson that must have turned him in. He stated that he thought that the delay in compliance was a result of Mr. Hudson's need to move all of the deck and pool away from the river. He stated that he was in sympathy and felt they were on the right track. He stated that he also felt that the violations at the furniture stores should be upheld. He stated that if they did not uphold those fines, then in essence they would be sending the message to the entire business community that they were all free to violate whatever codes they wanted and that the city would not do anything about it. He noted that was particularly the case because the store manager knew he was in violation and took an economic risk. He stated that he was in agreement with Commissioner Stowers and Commissioner Partington that Mr. Hudson would have to pay for taking a risk and doing something prohibited while knowing that it was prohibited. He stated that what Commissioner Partington suggested sounded pretty good to him.

Mayor Kelley stated that he felt differently knowing that the pool was above ground, even though it needed a permit. He noted that Mr. Hudson had done enough in the community to possibly know that it needed a permit. He stated that the structure appeared to be more decking than pool. He stated he felt that \$16,700 was way out of line for that offense and stated that he would like to take a look at that particular lien separately. He stated that he did not like some of the code enforcement regulations and numbers but that the code was what it was, and staff did a good job in trying to gain compliance. He noted that the \$1,500 fine on the 445 S. Yonge Street property could have originally been paid for probably \$200 or less. He stated that he did not think that Mr. Hudson was worried about the \$25 fine for the 430 S. Yonge Street property. He stated he would be more inclined to give leniency of the significant amount on the 90 Raintree Lane property.

Commissioner Partington stated that he felt that 50% was significant leniency in light of the 344 days of non-compliance.

Mayor Kelley asked Mr. Hudson if he was constructing the pool during that time. He asked Mr. Hudson if the pool was put in too close to the river, and if that was when he was first cited; whereby, Mr. Hudson stated that was correct.

Mayor Kelley stated that Mr. Hudson was then told that a permit was needed.

Mr. Hudson stated that he went through the appeal process to attempt to obtain a variance while the clock was still ticking on the violation and that was why compliance took so long. He stated that he would have dealt with those items if not for the fact that he was getting materials for bankruptcy sent to him in certified mail, which his attorney advised him that there was no need for him to go and pick up the certified mail since he worked in Orlando and the attorney received a copy. He stated that he never picked up any of his certified mail and all of the city's citations and notices had been sent by certified mail.

Ms. Shanahan stated that all of the liens were recorded separately and so the Commission needed to consider them separately. She stated that the final decision on any reductions would be brought back to the Commission for approval in the form of a resolution.

Mayor Kelley stated that he felt that the Commission agreed that Mr. Hudson should pay the \$25.45 fine for the 430 S. Yonge Street property. He stated that the Commission also felt that he should pay the \$1,500 fine for the 445 S. Yonge Street property.

Commissioner Kent noted that Mayor Kelley had mentioned that he did not like the numbers from code enforcement, but he personally did like the numbers from code enforcement. He explained that the only reason he looked at the totality of the liens was because Mr. Morris had requested that they do so. He stated that he was going to follow the extremely great wisdom of Commissioner Partington. He stated that he believed that the \$11,780.69 figure was more than a fair deal, and he liked the sunset provision that Commissioner Partington had mentioned because the Commission had done that before. He noted that the individual who had been given a reduction and sunset provision did not pay their reduced fine so it had reverted to the original amount. He stated that if the Commission wanted to break up each of the liens separately and discuss them they could do so, but he noted that Mr. Morris had requested they be considered collectively.

Mayor Kelley stated that Ms. Shanahan had stated they needed to address each lien separately.

Commissioner Kent stated that the City Manager was not the City Attorney and that they had not heard from him yet.

Mayor Kelley asked the City Attorney if the liens had to be looked at separately. He stated that the Commission could come up with a total number and then work it backwards to separate amounts among the liens.

Commissioner Kent stated that he was almost done speaking before Mayor Kelley interrupted him. He stated that he had the floor and asked if he could finish speaking. He explained that he was going to say that the liens could be broken up individually, if that was what was desired, as long as the total came out to \$11,780.69.

Mayor Kelley stated that was what he was trying to do.

Commissioner Kent stated that he was trying to say that but because he was interrupted it belabored the discussion. He noted that he hated the pattern he saw in the violations of an above-ground pool with no permit, modifications to the dock, a fence improperly located, illegal temporary signs, and now even more illegal temporary signs. He stated that he thought that a 50% reduction would be more than fair.

Mayor Kelley asked Commissioner Stowers if he was comfortable with Mr. Hudson paying the entirety of the \$25.45 and \$1,500 fines for the business properties.

Mr. Randy Hayes, City Attorney, stated that Mr. Ted MacLeod, Assistant City Manager and Public Works Director, had given him a suggestion. He noted that the Commission wished to keep the \$25.45 and \$1,500 fines as they stood which would leave the two residential fines. He stated that Mr. MacLeod had suggested that the Commission could just add those two fines together and apply a 50% reduction, noting that would get them to about the figure Commissioner Partington suggested. He explained that the Commission could come up with a way that was most convenient for them, and staff would figure out a way to make it work.

Commissioner Partington stated that he was agreeable. He stated that he was willing to reduce three cases by 50%, the two residential ones and the \$25.45 fine at 430 S. Yonge Street, but he stated that he knew that the \$25.45 was not a big deal.

Mayor Kelley stated that the feeling had been that the fines for signs at the businesses should be paid in full. He asked if anyone else wanted to reduce the \$25.45 fine and noted that he heard no response. He stated that the consensus on the other residential fines had been to reduce them by half.

Ms. Shanahan stated that the proposed payment date would be June 17, 2013.

Commissioner Stowers stated that he purposely did not give any figures for the residential properties earlier as he felt they were in a different category. He stated that now that he had an opportunity to hear what the rest of the Commission had to say about the residential fines, he felt that he fell more on the side of Commissioner Boehm. He stated that he recognized that the fence was a violation but noted it was just a fence on a residential property and had incurred a \$3,800 fine. He stated that he would be in favor of reducing that fine by more than 50%, even down to 25%. He stated that paying 25% of that fine would still be about \$800 for moving a fence. He noted that was still a lot of money. He stated that the fine for the 90 Raintree Lane property was \$16,706.03, which he felt was a little too much and favored reducing that fine in a similar range, maybe between 50% and 25% of the original total.

Mayor Kelley stated that he thought that would be more in line. He stated that there were two Commissioners who supported 50%. He asked Commissioner Boehm's opinion. He stated that he was more inclined to have Mr. Hudson pay 25% of the 90 Raintree Lane and 35 Spanish Oak Lane fees. He noted that would still be a substantial payment. He stated that the intent was not to be punitive, and he felt the fines were on the verge of being punitive.

Commissioner Partington stated that the intent of code enforcement was to gain compliance. He noted that 344 days, almost a year, had passed before compliance was achieved. He stated that he read the detailed orders of the general magistrates, considered all the staff time involved, noted the hearings, and noted the repeated violations. He stated that because of those things, he would not be comfortable going below 50%. He stated that Mr. Hudson had put the Commission in a bad position

because now residents could violate the code and just come before the Commission at a later date and have them reduce the fees by 60-80%. He stated that that was an awful situation to be in and noted that Mr. Hudson had repeat violations and continued to currently have violations. He stated that he appreciated Mr. Hudson living in Ormond Beach for 35 years and his contributions to the city but noted that the liens were still a huge mess which put the Commission in a bad position, but he was still willing to reduce the fees by half. He stated that he could not justify voting for a greater reduction than that.

Mayor Kelley noted that it was a bad position to be put in. He stated that he personally did not buy the certified mail excuse that Mr. Hudson had given. He stated that he was not connecting the business violations to the residential violations. He explained that he dissociated those two, because although they were by the same person, they were different activities. He asked Commissioner Boehm to weigh in on the residential fines.

Mr. Morris stated that he was not sure that Mayor Kelley heard what Mr. Hudson had said about the time to get a permit for relocation. He stated that Mr. Hudson estimated that it took 120 days to receive his permit for relocation.

Mr. Hudson stated that the appeal had to occur before he could go for the permit.

Commissioner Kent stated that the city had a streamlined permitting process. He stated that the city spent a lot of money changing it so permitting could occur quicker.

Mayor Kelley asked what the appeal was; whereby, Mr. Hudson stated that he was appealing to get a variance.

Mr. Ric Goss, Planning Director, stated that Mr. Hudson went before the Board of Adjustment and Appeals, which typically took between 30 to 45 days depending on when the appeal was filed. He stated that the board turned down Mr. Hudson's appeal for a variance.

Commissioner Boehm stated that Mr. Hudson had indicated that he was notified that the fence at 35 Spanish Oak Lane needed to be moved two feet. He asked if that notification occurred after Mr. Hudson's employee moved the fence the first time.

Mr. Hudson replied that was correct. He stated that his employee had moved the fence and thought he had it in the right spot. He explained that it was then surveyed and shown to still not be in the correct location.

Commissioner Boehm stated that Mr. Hudson did not obtain a permit for it when it was moved the second time, nor was it in accordance with code. He noted that Mr. Hudson was attempting to come into compliance by relocating it.

Mr. Hudson stated that was correct and that he was applying for a permit at the same time. He stated that his neighbor was right on the line, and he did not know how the fence was correct but that it was.

Commissioner Boehm asked Mr. Hudson if during the 344 days of non-compliance at the 90 Raintree Lane property if he was in the process of moving the pool and decking in order to obtain compliance.

Mr. Hudson stated that he was and was trying to get the structure surveyed to ensure that he was doing it correctly.

Commissioner Boehm asked what period of time it took to move the pool and decking from where it was to where it was currently; whereby, Mr. Hudson stated that 90 to 120 days were spent relocating it.

Commissioner Boehm stated that 90 to 120 days were spent appealing for a variance and then another 90 to 120 days were spent actually moving the deck and pool so that it was in compliance. He stated that he initially was in agreement with Commissioner Partington but was really struggling because he did not believe that Mr. Hudson was intentionally not complying. He noted that Mr. Hudson was asked to do a substantial change to his property in order to come into compliance which could not be done overnight. He stated that Mr. Hudson had to incur significant additional expense in order to do so and that he attempted to not have to by seeking a variance. He stated he was struggling with a 50% reduction to a \$16,000 fine for a pool that was not much larger

than a bathtub. He stated that as far as the fence went he thought that Mr. Hudson moved it in good faith and noted that when he found out it was not in the right place, he moved it again. He stated that he felt that it was really hammering people to go into that fine of detail. He stated that he was in favor of reducing the fine along with Commissioner Stowers and Mayor Kelley, and he would be willing to listen to a number but he would not suggest one. He stated that he felt they could go below 50%.

Commissioner Partington stated that would send the message to just put it in something illegally, come back to the Commission and complain that you had to do so much to come into compliance, that it took eight months to comply, and then the Commission would reduce the fee 60% to 80%, and you would come out financially ahead of the game. He stated that was the argument he could not buy into. He stated that Mr. Hudson was in the situation because of what *he* did. He noted that it set a bad precedent.

Commissioner Kent stated that not only did it set a bad precedent, but the cases had already been ruled on by the special magistrate and the fines had already been levied. He stated that Ms. Naumann and her staff worked with residents whenever they had issues or were out of compliance. He stated that he had actually attended a neighborhood meeting with Ms. Naumann where she had tried to give leeway to those working on obtaining compliance. He stated that the precedence that was being set was unsettling to him. He stated that he only knew Mr. Hudson from the fire station deal and that one of the last things Mr. Hudson had said to him was that station would be his headquarters and be open to the public. He stated that now the property was sold to someone else.

Mr. Hudson stated that he still owned it and it was open to the public.

Commissioner Kent stated that he thought that the \$11,780.69 figure Commissioner Partington gave was more than fair. He stated that the issue was not about using a fine tooth comb and being punitive, but it was about the fact that multiple violations had occurred, several for almost a year, and that staff had a tremendous amount of time invested, and the special magistrate had already ruled on the liens. He stated that he was concerned about the precedent that would be set for anyone who decided that they wanted to do things the way they wanted to and not the way Ormond Beach code said it should be done.

Mayor Kelley stated that he agreed but did not believe it would set a precedent. He stated that he believed it was a macro and not a micro situation.

Commissioner Partington stated that he thought when articles appeared in the newspapers the next day, it would be open season for violations. He stated that if the Commission would do it for a wealthy businessman, then they would have to treat the poor citizen in Ormond Beach the same way.

Commissioner Kent agreed with Commissioner Partington absolutely. He stated that he did not know if Mr. Hudson was a friend of Mayor Kelley's; whereby, Mayor Kelley stated that he was not.

Mayor Kelley stated that this was not the first time that a request for a reduction of a lien had come before the Commission.

Commissioner Boehm stated that he was not here when those past requests came, but he read in the staff report that that Commission made substantial reductions on all three of those past occasions.

Commissioner Kent stated that this reduction would be substantial, as well. He stated that each instance had different circumstances.

Commissioner Boehm stated that one of those reductions had been lowered from \$90,000 to \$1,600. He stated that he would think that was a very different circumstance.

Commissioner Partington stated that someone had just purchased that property and cleaned it up.

Commissioner Boehm stated that they would not be forgiving Mr. Hudson's fines. He stated that they were discussing how much they would ask Mr. Hudson to pay. He

stated that Mr. Hudson paying \$8,000 in fines was not going to cause a lot of citizens to go violate the code.

Commissioner Stowers stated that he looked at the issue in terms of equities. He noted that the violations were now liens and had passed the circuit court appeal period. He stated that for him it was now about what was reasonable and that he was trying to find that balance. He stated that he had another thought. He explained that he understood that the variance process for the pool took about 120 days out of the 344 days of noncompliance. He stated that if he reduced the 344 days to 214 days and then multiplied that as a \$50 a day fine and then cut it in half, which was Commissioner Partington's initial suggestion for a 50% reduction percentage, the remainder would come to \$5,350. He stated that the fence issue lacked the complexities of the pool issue without the variance dynamic. He stated that he would be comfortable reducing that fee to 25% of the original fine, which would be in the \$900 range. He stated that he did not think that a \$900 fine for a fence sent the message that it was open season for violations. He stated that those numbers with the addition of the business liens would total around \$7,800. He stated that he heard they were somewhere between 50% and under, and he was giving a gauge of where his comfort level was based on putting the circumstances into a framework that was workable and equitable.

Mayor Kelley stated that Mr. Hudson also had to pay for the surveys, permits, and all the necessary paperwork, which was what someone going through the normal process would have to pay.

Commissioner Partington noted that he had to pay those costs after he had already been found in violation.

Mayor Kelley stated that he understood that but if Mr. Hudson had done that in advance he still would have had to pay those costs. He stated that his permit fee was probably doubled because he obtained it after the fact; whereby, Mr. Goss stated that it was tripled according to building code.

Mayor Kelley stated that the point he was trying to make was that Mr. Hudson paid the permit fee. He stated that Mr. Hudson did not avoid the fees. He stated that they were dealing with a person who paid everything he should have and then more. He noted that the desire was for people to comply with the code and that it would have been much cheaper for Mr. Hudson if he would have complied initially. He stated that because Mr. Hudson had not been trying to escape those fees, he did not think that it was fair to penalize him and noted that now he was in compliance. He explained that the city was not trying to make money off of code violations. He stated that Ms. Naumann and code enforcement did a good job. He stated that he thought the fines were punitive and that the penalties should fit the crime. He stated that he did not think that the newspaper would say it was open season. He reviewed Commissioner Stowers' suggestions for fee reductions.

Commissioner Kent asked why Commissioner Stowers had suggested that Mr. Hudson pay 50% of the fees for the pool and deck violations and not 25% like he had suggested for the fence. He asked why it was not all consistent and stated that he was curious to hear the thoughts behind that suggestion.

Mayor Kelley stated that he thought there was less of a violation on the fence because Mr. Hudson tried to do the right thing by moving it.

Commissioner Kent stated that Mr. Hudson did not try to do the right thing on any of the violations, otherwise the Commission would not be in the uncomfortable situation they were in.

Commissioner Stowers stated that the fence was a single violation, meaning that a single provision of the code was violated. He explained that the complexities of the violations related to the pool, deck, dock, pavers, electrical work, and plumbing was multi-faceted and much more complex. He noted that Mr. Hudson failed to get permits for any of those items. He stated that he recognized that there were greater violations in that instance because there were more code provisions that were violated, and that was why he made the distinction between the 25% and 50%, and that was how he came up with those figures.

Commissioner Kent confirmed that the original total of the liens was \$22,061.37.

Mayor Kelley asked Commissioner Partington if it made any more sense now to know that Mr. Hudson paid all of the permit fees.

Commissioner Partington stated that it did not. He stated that he respected where the majority of the Commission seemed to be going but that he was concerned that it made a joke of the code enforcement process. He stated that for about the same or less than it would have cost Mr. Hudson to do it the right way originally, he put the city through a lot and came in with unclean hands with pending violations and in return would be receiving what looked to be a fantastic deal. He stated that he was uncomfortable with the 50% but willing to do it, but he could not agree to anything less than that.

Commissioner Stowers stated that his suggestion resulted in a total fine of \$7,810. He noted that Commissioner Partington initial suggestion was \$11,780.69. He explained that the difference between the two figures was about \$4,000. He stated that he did not know if that difference would be enough to consider the doors being open for more violations. He stated that he felt that \$7,810 was a big hit, and he would feel it greatly if he had to cut a check for that. He noted that he did not think they were far from a resolution.

Commissioner Boehm stated that he had made a living as a mediator for awhile. He explained that one of the things mediators did was try to find a middle ground. He stated that Commissioner Stowers mentioned that there was a \$4,000 difference between them. He stated that splitting the difference would put them somewhere between \$9,000 and \$10,000. He stated that he would suggest a \$9,000 number and that it could be broken down to \$1,000 for the fence lien, \$1,500 and \$25.45 for the business liens, and the balance of \$6,500 for the pool.

Commissioner Kent thanked Ms. Naumann for the staff report and compiling all of the background information. He stated that he felt that \$22,061.37 was way too high. He stated that he was originally at \$20,000 but that he would be willing to come down to \$11,780.69.

Mayor Kelley asked Commissioner Kent to look at the fact that the 120 days that Mr. Hudson was in the appeal process to try and obtain a variance he was penalized almost \$6,000. He stated that he did not feel that amount was justified while Mr. Hudson was appealing. He stated that he would agree to the \$9,000 figure Commissioner Boehm suggested. He stated that the fact that Mr. Hudson was appealing during 120 days of the non-compliance gave him some comfort as well as the fact that he paid triple permit fees and that everything was now in compliance. He stated that the other pending violations were not in the realm of their current discussion. He asked Commissioner Partington if \$9,000 would be agreeable to him.

Commissioner Partington stated that he could split the different of the \$4,000, which would come out to \$9,800, provided that it was paid within the six month period.

Commissioner Boehm stated that he would add another point since the 120 days of the variance was mentioned. He noted that the other difference was the length of time it took to move the pool and deck and obtain permits for it. He stated that it was impossible for Mr. Hudson to come into compliance immediately on that issue. He stated that someone could move a fence in one day. He stated that if three members of the Commission agreed to \$9,800, he would go along with that.

Commissioner Kent asked Ms. Naumann what her office would do if someone like Mr. Hudson, with his pool issue, called her and stated that they were working on getting their permits and working on getting their pool moved immediately.

Ms. Naumann stated that if her office had cooperation on the part of the property owner they would work with them to achieve compliance, but if time then went by without a result achieved, they would start going through the process, as they did in Mr. Hudson's cases. She stated that she did not want to interrupt the Commission's deliberations earlier because she tried to put all pertinent information in the report without including the entire history. She noted that as far as the pool violation was concerned, there was a significant amount of time from the time the case was initiated until the first contact was made with the Planning Department by Mr. Hudson to begin any type of a process.

Commissioner Kent asked how much time went by; whereby, Ms. Naumann stated that the case was initiated June 3, 2011. She stated that when code enforcement approached a case that they knew would require activity from another division, their

policy was to email photographs and background information to that department to let them know that the violator should be coming in to talk to them and to ask them to notify code enforcement when they did. She stated that in that particular case, it was not until April 2012 that they received notification that Mr. Hudson had contacted the Planning Department and met with Mr. Steven Spraker, Senior Planner, to begin the process.

Commissioner Kent noted that it nine months had passed.

Ms. Naumann stated that the initial order finding violation was issued in September 2011. She stated that they waited several months before they went to the first notice of hearing. She stated that if at that point there had been corrective action, then the special magistrate would have had the opportunity to note the amount of time needed for variance process and offer that amount of time before issuing failure to comply. She stated that there were a lot of things that passed by in these particular cases because things were not happening. She stated that while she may be speaking beyond what she should be, she had to say that once Mr. Hudson came into compliance with the pool and pool deck, she personally called him to tell him that he still had to get the permit for the dock in order to clear the case. She stated that she believed staff did everything that they possibly could to correct those violations.

Commissioner Kent stated that Ms. Naumann mentioned the special magistrate and that if they observed corrective action taking place, they could put things on pause and ask the Planning Department how much time would be needed to apply for a variance.

Ms. Naumann stated that if a person was actively working towards compliance they worked with them during that time.

Commissioner Kent stated that he needed someone to explain to him how to justify the lapse in time in that instance.

Mayor Kelley stated that from cases he had observed, it did not happen that often. He stated that he saw a woman try to come into compliance and move a fence when she could not get anyone to do so for a small amount of money and she had to pay the full fee. He asked Ms. Naumann if at any time the clock stopped from the time Mr. Hudson was cited.

Ms. Naumann stated that she did not have that level of detail with her as far as the complete chronology. She stated the order of violation was issued on September 26, 2011, for the 90 Raintree Lane property, and no one attended the hearing on behalf of the respondent.

Mayor Kelley asked if that was when the clock would have started.

Ms. Naumann stated that was when the special magistrate issued an order for compliance to be achieved within ten days. She stated that if no one showed up at the hearing, they would not issue the order from the date of hearing so that they could attempt to reach them. She stated that the order was executed on October 5, 2011, giving until October 15, 2011 to come into compliance. She explained that the fine could not be imposed until it went back to the special magistrate for failure to comply. She stated that the order imposing fine was done at the hearing on November 28, 2011. She noted that the fines were retroactive to October 16, 2011.

Mayor Kelley stated that there was no time the clock stopped.

Ms. Naumann stated that the respondent could have attended the hearings. She stated that when code enforcement went before the special magistrate for failure to comply, which occurred after they verified that no permits had been issued and that compliance had not been achieved, they submitted an affidavit of non-compliance and scheduled a hearing to impose a lien. She stated that was done on November 28, 2011. She stated that a notice of hearing went out so that the respondent had the opportunity to attend and state their case.

Commissioner Boehm stated that he understood that in order to come into compliance Mr. Hudson had to physically move the pool, paving, plumbing, and electrical work which would have been impossible to do in ten days.

Ms. Naumann stated that the only thing he had to do was obtain a permit.

Commissioner Boehm stated that was not what the order said. He stated that the order said that Mr. Hudson had to obtain compliance.

Ms. Naumann stated that compliance would be to obtain a permit for the work that needed to be done.

Commissioner Boehm stated that it was an unusual situation, and he agreed that Mr. Hudson was at fault for not appearing at the hearings. He stated that ordinarily someone just needed to obtain a permit or do a deed such as mow grass to be in complete compliance. He stated that in this instance Mr. Hudson physically had to move the pool, deck, plumbing, electrical and all kinds of things in order to come into compliance. He stated that the special magistrate did not know that. He stated that Ms. Naumann said herself that she never went out and saw the site.

Ms. Naumann stated that she had not personally but the department had photographs and documentation from the enforcement personnel that did.

Commissioner Stowers noted that the order stated that permits had to be obtained within ten days. He stated that the statute for code enforcement stated that a reasonable amount of time had to be given. He stated that whether that was a reasonable period of time or not was an argument to make to the special magistrate or to get on record and make to the circuit court in an appeals process. He noted that the issue was now past all that. He stated that the Commission was rehashing things that were not germane to what they were there to discuss, which was a *request*. He stated that all of those rules were out. He stated that the last number he had heard was \$9,800.

Mayor Kelley stated that he was trying to find a reason to justify reducing a fine that had been levied. He stated that he found justification in the appeal process and that it was a six-foot above ground pool. He stated that the situation was unique in that the pool had to be moved.

Commissioner Partington stated that \$9,800 was still a substantial penalty and less than half of the original total. He stated that he could not justify any of it. He stated that he was uncomfortable at 50%, but was willing to agree to that number to reach a resolution.

Commissioner Kent stated that they were only \$2,000 away from having a 5-0 vote.

Mayor Kelley stated that it was still punitive and not wrong. He stated that it was not like Mr. Hudson was "getting out of jail free." He stated that a \$16,700 fine for a six by four foot pool and a deck was not an invitation to open season to violation the code.

Commissioner Kent noted that the accurate dimensions for the pool were six feet by eleven feet and four feet deep. He stated that if you said it the other way, then it did sound like a bath tub.

Ms. Shanahan explained that the Commission did not need to vote but that staff needed to hear a consensus. She stated that she was hearing \$9,800.

Commissioner Stowers stated that they were at \$9,000 versus \$9,800. He stated that in full mediation fashion, he would offer \$9,400.

Mayor Kelley stated that he would agree with \$9,400.

Commissioner Kent stated that now they were only \$2,500 apart from a 5-0 vote when it came back as a resolution.

Commissioner Partington stated that he was still at \$9,800.

Commissioner Boehm stated that since Commissioner Kent was still at \$11,780.69 and not in the \$9,000 range, and since it would not be concluded otherwise, he would go with \$9,400.

Mayor Kelley directed Ms. Shanahan to bring back a resolution for a reduction of the fines to \$9,400 with Mr. Hudson paying in full the two business liens and splitting the cost of the other two accordingly.

Item #11 – Reports, Suggestions, and Requests

Martin Luther King Day

Ms. Shanahan stated that on Monday, January 21, 2013, the city would have a Martin Luther King Jr. Celebration at the South Ormond Neighborhood Center. She stated that it would be a breakfast that started at 9:00 a.m. She stated that City Hall would be closed that day.

Goals Workshop

Ms. Shanahan stated that on Tuesday, February 5, 2013, there would be a goals workshop prior to the Commission meeting. She stated that she would be asking each member of the Commission to send her their top five priorities and would be sending them an email before the end of the week. She stated that once she received those goals she would summarize them and send them with their workshop materials.

Financial Trends Workshop

Ms. Shanahan stated that on Tuesday, March 5, 2013, there would be a Financial Trends Workshop.

Andy Romano Beachfront Park

Ms. Shanahan stated that the ribbon cutting was scheduled for the Andy Romano Beachfront Park for Saturday, February 23, 2013.

Movies on the Halifax

Ms. Shanahan stated that Movies on the Halifax would be on Friday, February 1, 2013, and the movie would be *The Lorax*. She explained that film had previously been scheduled to be shown but was rescheduled due to inclement weather.

Meeting Preparation

Commissioner Boehm stated that he had mentioned several times since he had been on the Commission the amount of preparation that went into Commission meetings. He stated that the Commission had received a 717-page agenda packet that week and had received a 1,347-page agenda packet the previous week. He stated that a lot of items the Commission voted “yes” on without discussion, but it was not because they had not read a great deal of materials and received a great deal of information on the items prior to making their decision to vote. He noted that there was a lot of material supplied to them on the lien reduction request that they just spent a bit of time discussing and that they were referring to it and so it might have been a little bit confusing at times to listen to those references without the benefit of those listening having read all of that information. He stated that he would note that when the Commission received their agenda packets with the supporting material, they were placed on the city’s website and anyone prior to a Commission meeting who wanted to know what the Commission reviewed and what knowledge they were operating from could access the website, locate the agenda packet, and see what materials they were referencing.

Cat Show

Commissioner Partington stated that the Southeast Regional Cat Fanciers’ Association would be holding a cat show at the Nova Recreational Center that weekend. He stated that would bring a lot of economic activity to the city. He stated that exhibitors would be flying in, staying at hotels, and eating at restaurants. He stated that citizens could attend the show if they were looking for something interesting to do. He noted that usually such shows were held in larger cities but that the city staff was able to work with the association to work out a situation that was beneficial to them.

Property Maintenance

Commissioner Stowers stated that he had a resident contact him about a home across the street from theirs. He stated that the resident had a situation where the home owner across the street from them filed for bankruptcy and walked away from her home two and a half years before. He stated that the bank had been taking care of the abandoned home’s yard and little else. He stated that the resident had raised concerns about what was going on with that home that had no power for two and a half years later. He stated that she had asked him what the city could do to address those situations because property management companies were doing the absolute minimum to maintain the vacant homes. He stated that hopefully staff and the Commission could work on creative ideas for a solution. He noted that there was a home in his neighborhood that had the same issue. He explained that there was a reverse mortgage, the woman passed away in 2008 or 2009, and the home was still sitting there. He stated that there was a company that mowed the weeds but that was it and the roof was starting to fall in.

He stated that clearly the home had significantly deteriorated over the past three or four years and would probably ultimately have to be torn down. He stated that he felt like it was an issue that they needed to try and get creative on with a non-invasive solution.

Ms. Shanahan stated that the city did not allow people to live in a building with no running water or electricity. She stated that she appreciated Commissioner Stowers' frustration as it was shared throughout the community. She stated that they would look to see if there were creative ways to help those situations. She stated that one way to do that would be through property maintenance codes, and she would see if there were any other ways, as well.

Commissioner Kent stated that maybe code enforcement could put fines on property owners for letting their properties go into dire conditions.

Chamber of Commerce Dinner

Commissioner Kent stated that he was sorry that he would not be able to join the rest of the Commission at the Ormond Beach Chamber of Commerce Dinner. He stated that it was scheduled for the same evening as the Volusia County Schools Teacher of the Year Dinner. He stated that he was disappointed that no one on either end figured that out and put them on different nights. He stated that one of his coworkers was their Teacher of the Year.

Movies on the Halifax

Commissioner Kent stated that he was looking forward to *The Lorax* on February 1, 2013. He stated that two or three months in a row the movie had been cancelled for weather so he was hoping it would not be cancelled for February.

Police Officers and Fire Fighters

Commissioner Kent stated that he wanted to give a "shout-out" to the city's police officers and fire fighters. He stated that he wanted to remind everyone that the police officers put on a bulletproof vest every day before they went to work. He stated that the firefighters had to run into burning buildings and if you were ever sick and needed one, like his dad did a few years earlier, they were great to have around.

Fire Chief Mandarino

Commissioner Kent congratulated Fire Chief Bob Mandarino on his promotion and stated that he was very glad that the city had him as its Chief. He stated that he was proud to be there that evening for his reception, and he knew he would do a great job. He stated that he had to be the most hip Fire Chief this side of the Mississippi. He noted that a few years ago Chief Mandarino professionally competed in skateboarding. He stated that he almost wished he would get back into a competition so that they could tout that.

Pension Bills

Mayor Kelley asked if the Commissioners could look at the pension bills that were coming forward and send any communication they could to any elected person. He stated that he had already contacted Senator Dorothy Hukill once and had also sent something to the originator of the bill.

Transportation Planning Organization

Mayor Kelley stated that there was a Board Retreat for the Transportation Planning Organization (TPO) for part of the day on February 8, 2013. He stated that they would be discussing the focus of funding formulas and how it applied. He stated that they had an executive board meeting and had discussed new members and felt that they would not be adversely impacted as much as they thought they would. He stated that they would be discussing reapportionment at an upcoming meeting.

Volusia Council of Governments (VCOG)

Mayor Kelley stated that Volusia Council of Governments (VCOG) was doing a 360 review of VCOG and the Volusia League of Cities. He stated that he had been making his points, one of which was that the majority of the work that they had in VCOG had been relative to the Volusia League of Cities. He stated that they would spend a whole year evaluating how they could make it better and where they should go.

Item #12 – Adjournment

The meeting was adjourned at 9:12 p.m.

APPROVED: February 5, 2012

BY:

Ed Kelley, Mayor

ATTEST:

J. Scott McKee, City Clerk