

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

October 15, 2013

7:00 PM

Commission Chambers

Present were: Mayor Ed Kelley, Commissioners James Stowers, Troy Kent, and Bill Partington, City Manager Joyce Shanahan, Assistant City Manager and Public Works Director Theodore 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. Employee Appreciation Day
- 5. AUDIENCE REMARKS - REGARDING ITEMS NOT ON THE AGENDA**
- 6. APPROVAL OF MINUTES**
 - A. Minutes from City Commission Meeting – October 1, 2013
- 7. COMMUNITY REDEVELOPMENT AGENCY**
 - A. **RESOLUTION NO. 2013-183** : A RESOLUTION OF THE CITY COMMISSION, ALSO ACTING AS THE COMMUNITY REDEVELOPMENT AGENCY, OF THE CITY OF ORMOND BEACH, FLORIDA, AUTHORIZING THE EXECUTION OF A BUILDING IMPROVEMENT GRANT AGREEMENT BETWEEN THE AGENCY AND TOMBLIN HOLDINGS, LLC.; FOR THE PROPERTY AT 194 EAST GRANADA BOULEVARD; AND SETTING FORTH AN EFFECTIVE DATE.
Staff Contact: Ric Goss, Planning Director (386-676-3238)
- 8. CONSENT AGENDA**

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

 - A. **RESOLUTION NO. 2013-183** : A RESOLUTION OF THE CITY COMMISSION, ALSO ACTING AS THE COMMUNITY REDEVELOPMENT AGENCY, OF THE CITY OF ORMOND BEACH, FLORIDA, AUTHORIZING THE EXECUTION OF A BUILDING IMPROVEMENT GRANT AGREEMENT BETWEEN THE AGENCY AND TOMBLIN HOLDINGS, LLC.; FOR THE PROPERTY AT 194 EAST GRANADA BOULEVARD; AND SETTING FORTH AN EFFECTIVE DATE.
Staff Contact: Ric Goss, Planning Director (386-676-3238)
 - B. **RESOLUTION NO. 2013-185** : A RESOLUTION AUTHORIZING THE EXECUTION OF A RELEASE OF SPECIAL MASTER ADMINISTRATIVE FINE/LIEN FOR CODE VIOLATIONS ON PROPERTY LOCATED AT 78 BECONTREE COURT, ORMOND BEACH, VOLUSIA COUNTY, FLORIDA (PARCEL ID NO. 4125-04-00-0780); AND SETTING FORTH AN EFFECTIVE DATE.
Staff Contact: Andy Osterkamp, Police Chief (386-677-0731)

- C. **RESOLUTION NO. 2013-187** : A RESOLUTION PURSUANT TO SECTION 14-98, LIENS, OF THE CITY OF ORMOND BEACH CODE OF ORDINANCES AUTHORIZING THE IMPOSITION OF A LIEN AGAINST THE REAL PROPERTY OWNED BY WILLIAM G. PHILLIPS, JR., AND WILLIAM G. PHILLIPS, III LOCATED AT 105 HICKORY HILLS CIRCLE, ORMOND BEACH, VOLUSIA COUNTY, FLORIDA (PARCEL ID NO. 4242-72-00-0090) FOR COSTS INCURRED BY THE CITY TO TERMINATE OR ABATE A SITE MAINTENANCE VIOLATION; AND SETTING FORTH AN EFFECTIVE DATE.

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

- D. **RESOLUTION NO. 2013-188** : A RESOLUTION PURSUANT TO SECTION 14-98, LIENS, OF THE CITY OF ORMOND BEACH CODE OF ORDINANCES AUTHORIZING THE IMPOSITION OF A LIEN AGAINST THE REAL PROPERTY OWNED BY FRED UPTHAGROVE A/K/A FREDERICK JAMES UPTHAGROVE AND MISTY UPTHAGROVE LOCATED AT 345 SOUTH CENTER STREET, ORMOND BEACH, VOLUSIA COUNTY, FLORIDA (PARCEL ID NO. 4242-01- 06-0320) FOR COSTS INCURRED BY THE CITY TO TERMINATE OR ABATE A SITE MAINTENANCE VIOLATION; AND SETTING FORTH AN EFFECTIVE DATE.

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

- E. **RESOLUTION NO. 2013-189** : A RESOLUTION PURSUANT TO SECTION 14-98, LIENS, OF THE CITY OF ORMOND BEACH CODE OF ORDINANCES AUTHORIZING THE IMPOSITION OF A LIEN AGAINST THE REAL PROPERTY OWNED BY ANDREA BRYANT LOCATED AT 397 COLLINS STREET, ORMOND BEACH, VOLUSIA COUNTY, FLORIDA (PARCEL ID NO. 4242-66-00-0210) FOR COSTS INCURRED BY THE CITY TO TERMINATE OR ABATE A SITE MAINTENANCE VIOLATION; AND SETTING FORTH AN EFFECTIVE DATE.

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

- F. **RESOLUTION NO. 2013-190** : A RESOLUTION PURSUANT TO SECTION 14-98, LIENS, OF THE CITY OF ORMOND BEACH CODE OF ORDINANCES AUTHORIZING THE IMPOSITION OF A LIEN AGAINST THE REAL PROPERTY OWNED BY DANIEL E. COLLINS AND KAYE COLLINS LOCATED AT 870 NORTH LINDENWOOD CIRCLE, ORMOND BEACH, VOLUSIA COUNTY, FLORIDA (PARCEL ID NO. 3242-15- 07-0040) FOR COSTS INCURRED BY THE CITY TO TERMINATE OR ABATE A SITE MAINTENANCE VIOLATION; AND SETTING FORTH AN EFFECTIVE DATE.

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

- G. **RESOLUTION NO. 2013-191** : A RESOLUTION AUTHORIZING THE EXECUTION OF A SATISFACTION OF A COMMUNITY DEVELOPMENT BLOCK GRANT IMPACT FEE LIEN FOR PROPERTY LOCATED AT 262 WILLOW PLACE, ORMOND BEACH, VOLUSIA COUNTY, FLORIDA; AND SETTING FORTH AN EFFECTIVE DATE.

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

- H. **RESOLUTION NO. 2013-192** : A RESOLUTION REAPPOINTING HILDEGARD HILL AS A MEMBER TO SERVE AS A COMMISSIONER OF THE ORMOND BEACH HOUSING AUTHORITY; SETTING FORTH TERM AND CONDITIONS OF SERVICE; AND SETTING FORTH AN EFFECTIVE DATE.

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

I. **FY 2013-2014 Edward Byrne Memorial Justice Assistance Grant (JAG) Approval of Funding Distribution**

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

Disposition: Approve as recommended in the City Manager memorandum dated October 15, 2013.

9. **PUBLIC HEARINGS**

- A. **ORDINANCE NO. 2013-63** : AN ORDINANCE AMENDING CHAPTER 1, GENERAL ADMINISTRATION, OF ARTICLE III, DEFINITIONS AND ACRONYMS, SECTION 1-22, DEFINITION OF TERMS AND WORDS, BY ADDING THE DEFINITION OF INTEGRATED MANAGEMENT PRACTICE AND LOW IMPACT DEVELOPMENT; BY AMENDING CHAPTER 3, PERFORMANCE STANDARDS, ARTICLE II, ENVIRONMENTAL PROTECTION STANDARDS, SECTION 3-18, SURFACE WATER RUNOFF CONTROL, TO ADD SUBSECTION "L" TITLED "LOW IMPACT DEVELOPMENT (LID) PRACTICES"; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE. **(SECOND READING)**

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

- B. **ORDINANCE NO. 2013-62** : AN ORDINANCE AMENDING CHAPTER 1, GENERAL ADMINISTRATION, OF ARTICLE II, ADMINISTRATION AND ENFORCEMENT, SECTION 1-20, CODES AND STANDARDS ADOPTED BY REFERENCE, BY ADOPTING BY REFERENCE THE "LOW IMPACT DEVELOPMENT MANUAL FOR THE CITY OF ORMOND BEACH", THE "ORMOND BEACH DOWNTOWN DESIGN GUIDELINES", AND THE "ORMOND BEACH MULTI-MODAL STRATEGY"; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE. **(SECOND READING)**

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

- C. **RESOLUTION NO. 2013-193** : A RESOLUTION AUTHORIZING THE EXECUTION AND ISSUANCE OF A DEVELOPMENT ORDER FOR A SPECIAL EXCEPTION REGARDING "DIMITRI'S BAR DECK & GRILL" RESTAURANT LOCATED AT 790 SOUTH ATLANTIC AVENUE, WITHIN THE B-7 (HIGHWAY TOURIST COMMERCIAL) ZONING DISTRICT, TO ALLOW OUTDOOR ACTIVITIES TO INCLUDE LIVE MUSIC; ESTABLISHING CONDITIONS AND EXPIRATION DATE OF APPROVAL; AND SETTING FORTH AN EFFECTIVE DATE

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

- D. **ORDINANCE NO. 2013-64** : AN ORDINANCE ANNEXING CERTAIN REAL PROPERTY INTO THE CITY OF ORMOND BEACH, SAID PROPERTY CONSISTS OF APPROXIMATELY 18.7 ACRES AND BEING GENERALLY LOCATED ALONG THE WEST SIDE OF WILLIAMSON BOULEVARD APPROXIMATELY 2,400 LINEAR FEET SOUTH OF WEST GRANADA BOULEVARD AND BEING COMMONLY LOCATED AT 390 WILLIAMSON BOULEVARD, INCLUDING THAT PORTION OF WILLIAMSON BOULEVARD ABUTTING THE PROPERTY; REDEFINING THE TERRITORIAL BOUNDARIES OF THE CITY OF ORMOND BEACH TO INCLUDE THE PROPERTY; RE-DESIGNATING THE BOUNDARIES OF ZONE 3 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)

- E. **ORDINANCE NO. 2013-65** : AN ORDINANCE ANNEXING CERTAIN REAL PROPERTY INTO THE CITY OF ORMOND BEACH, SAID PROPERTY BEING GENERALLY LOCATED ALONG THE WEST SIDE OF NORTH U.S. HIGHWAY 1, WEST OF THE SOUTHBOUND ENTRANCE TO INTERSTATE 95 AND BEING COMMONLY LOCATED AT 1451, 1453, 1455, 1457, AND 1459 NORTH U.S. HIGHWAY 1, REDEFINING THE TERRITORIAL BOUNDARIES OF THE CITY OF ORMOND BEACH TO INCLUDE THE PROPERTY; REDESIGNATING THE BOUNDARIES OF ZONE 1 OF THE CITY OF ORMOND BEACH TO INCLUDE THE PROPERTY; PROVIDING FOR TRANSMISSION; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

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

- F. **ORDINANCE NO. 2013-66** : AN ORDINANCE AMENDING THE FUTURE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP TO CHANGE THE DESIGNATION OF ONE (1) PARCEL OF REAL PROPERTY TOTALING +1.01-ACRES LOCATED AT 1535 NORTH US HIGHWAY 1, FROM VOLUSIA COUNTY "COMMERCIAL" TO ORMOND BEACH "LOW INTENSITY COMMERCIAL"; PROVIDING FOR CONFLICT; AUTHORIZING TRANSMITTAL; AND SETTING FORTH AN EFFECTIVE DATE.

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

10. FIRST READING OF ORDINANCES

- A. **ORDINANCE NO. 2013-67** : AN ORDINANCE AMENDING CHAPTER 4, ALCOHOLIC BEVERAGES, SECTION 4-5, HOURS; BY PROHIBITING THE SALE OF ALCOHOLIC BEVERAGES BETWEEN THE HOURS OF 2:00 A.M. AND 7:00 A.M. EACH DAY; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; SETTING FORTH AN EFFECTIVE DATE.

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

- B. **ORDINANCE NO. 2013-68** : AN ORDINANCE AMENDING SECTION 22-115, FEE IMPOSED; SCHEDULE, OF CHAPTER 22, WATER AND SEWERS, OF THE CODE OF ORDINANCES, PROVIDING FOR A CONTINUATION OF ANNUAL ADJUSTMENTS TO WATER AND SEWER IMPACT FEES BASED UPON CAPITAL COSTS; REPEALING ALL ORDINANCES IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

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

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

Pastor Maria Cox, Faith Lutheran Church, gave the invocation.

Item #3 – Pledge of Allegiance

Mayor Kelley led the Pledge of Allegiance.

Item #4A – Employee Appreciation Day

Mayor Kelley stated that the week of October 21 through October 27, 2013, had been designated as Florida City Government Week; which was part of the Florida League of Cities ongoing effort to raise public awareness about the services that cities performed and educate the public on how city government worked. He stated that the employees of the City of Ormond Beach were the city's ambassadors and provided important and

essential community service on a daily basis during both routine and emergency situations. He explained that the City Commission recognized the City of Ormond Beach employees as the city's most valuable assets and desired to recognize and honor them.

Ms. Shanahan thanked Mayor Kelley for the proclamation. She stated that next Wednesday the city would hold an Employee Appreciation Day picnic at The Casements for the city's employees.

Item #5 – Audience Remarks

Mr. Joe Lipscomb stated that he had not had any intention of attending the meeting that evening until he listened to the news on television that evening, which upset him. He stated that he wanted to observe government of the people where legislators could come together and debate, and while they may not agree, could go away friends. He stated that he saw that in Ormond Beach's City Commission and wanted to commend them. He explained that the Commission reinforced his faith in government. He stated that he was disgusted that people could not legislate in civil tones. He stated that the City Commission listened to the people and legislated by consensus. He noted that he knew that the members of the Commission did not always agree but that they always came up with a solution as to what was best for the people. He stated that it made him feel good to watch them operate peacefully.

Mayor Kelley thanked Mr. Lipscomb for his comments. He stated that after viewing some of the recent news himself, he thought that if the City Commission was put in charge of the United States and allowed to put their directors in the departments they could solve all of the problems in a heartbeat. He explained that while the members of the Commission did not always agree, they knew how to work together to solve the mutual issues for the betterment of all residents of the city.

Item #6A – Approval of Minutes

Mayor Kelley advised that the minutes of the October 1, 2013, 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 – Community Redevelopment Agency

Mayor Kelley explained that the City Commission served as the Community Redevelopment Agency (CRA) for the Downtown Redevelopment Area, and as such, must review related items and make a recommendation as the CRA prior to the City Commission public hearing; therefore, the City Commission meeting would be recessed, and a meeting of the Community Redevelopment Agency convened. He explained that once the recommendation was made, the CRA meeting would be adjourned and the City Commission meeting reconvened.

Mayor Kelley stated that the City Commission meeting was recessed, and he called the meeting of the Community Redevelopment Agency to order at 7:07 p.m. for discussion of Resolution No. 2013-183. He opened the item for a public hearing.

Item #7A – Downtown Grant, 194 East Granada Boulevard

City Clerk Scott McKee read by title only:

RESOLUTION NO. 2013-183

A RESOLUTION OF THE CITY COMMISSION, ALSO ACTING AS THE COMMUNITY REDEVELOPMENT AGENCY, OF THE CITY OF ORMOND BEACH, FLORIDA, AUTHORIZING THE EXECUTION OF A BUILDING IMPROVEMENT GRANT AGREEMENT BETWEEN THE AGENCY AND TOMBLIN HOLDINGS, LLC.; FOR THE PROPERTY AT 194 EAST GRANADA BOULEVARD; AND SETTING FORTH AN EFFECTIVE DATE.

Mr. Ric Goss, Planning Director, stated that the applicant wished to do a complete façade renovation which would include all new shutters and awnings. He noted that the non-conforming sign at the location would also be replaced with a monument sign. He explained that the project, if approved, would begin 60 days after the execution of the agreement. He noted that the project had to be completed by November of next year.

He stated that Ormond Beach Main Street reviewed the application and recommended approval and that staff also recommended approval.

The motion passed by voice vote.

Mayor Kelley closed the public hearing, adjourned the CRA meeting, and reconvened the City Commission meeting at 7:09 p.m.

Item #8– Consent Agenda

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

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

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

Item #8H – Ormond Beach Housing Authority Appointment

Mayor Kelley noted that he had recently had the opportunity to appoint two new members to the Housing Authority Board. He stated that there had been a lot of progress made in the search for a new director, and he thought that there would be a big difference in how the residents were served.

Item #9 – Public Hearings

Mayor Kelley opened the public hearings.

Item #9A – Low Impact Development Stormwater Management, LDC Amendment

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2013-63

AN ORDINANCE AMENDING CHAPTER 1, GENERAL ADMINISTRATION, OF ARTICLE III, DEFINITIONS AND ACRONYMS, SECTION 1-22, DEFINITION OF TERMS AND WORDS, BY ADDING THE DEFINITION OF INTEGRATED MANAGEMENT PRACTICE AND LOW IMPACT DEVELOPMENT; BY AMENDING CHAPTER 3, PERFORMANCE STANDARDS, ARTICLE II, ENVIRONMENTAL PROTECTION STANDARDS, SECTION 3-18, SURFACE WATER RUNOFF CONTROL, TO ADD SUBSECTION “L” TITLED “LOW IMPACT DEVELOPMENT (LID) PRACTICES”; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kent, for approval of Ordinance No. 2013-63, on second reading, as read by title only.

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

Item #9B – Section 1-20, Codes and Standards Adopted by Reference, LDC Amendment

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2013-62

AN ORDINANCE AMENDING CHAPTER 1, GENERAL ADMINISTRATION, OF ARTICLE II, ADMINISTRATION AND ENFORCEMENT, SECTION 1-20, CODES AND STANDARDS ADOPTED BY REFERENCE, BY ADOPTING BY REFERENCE THE “LOW IMPACT

DEVELOPMENT MANUAL FOR THE CITY OF ORMOND BEACH”, THE “ORMOND BEACH DOWNTOWN DESIGN GUIDELINES”, AND THE “ORMOND BEACH MULTI-MODAL STRATEGY”; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Stowers, for approval of Ordinance No. 2013-62, on second reading, as read by title only.

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

Item #9C – 790 South Atlantic Avenue, Outdoor Music

City Clerk Scott McKee read by title only:

RESOLUTION NO. 2013-193

A RESOLUTION AUTHORIZING THE EXECUTION AND ISSUANCE OF A DEVELOPMENT ORDER FOR A SPECIAL EXCEPTION REGARDING “DIMITRI’S BAR DECK & GRILL” RESTAURANT LOCATED AT 790 SOUTH ATLANTIC AVENUE, WITHIN THE B-7 (HIGHWAY TOURIST COMMERCIAL) ZONING DISTRICT, TO ALLOW OUTDOOR ACTIVITIES TO INCLUDE LIVE MUSIC; ESTABLISHING CONDITIONS AND EXPIRATION DATE OF APPROVAL; AND SETTING FORTH AN EFFECTIVE DATE.

Mr. Goss stated that the application before the City Commission was for an outdoor activity special exception, noting that music was treated as such. He stated that Mr. Dimitri Bourtzakis had filed an application for outdoor music on the third deck of his restaurant (Dimitri’s), requesting permitted hours of 11:00 a.m. to 10:00 p.m. Monday through Sunday. He explained that the city went to the location on August 26, 2013, to perform a noise assessment test and took two readings, one which was a baseline reading without music to determine common noise and a second reading with music. He stated that noise was regulated by the city’s *Code of Ordinances*. He explained that the restaurant was classified as commercial use/tourist use so the permitted decibel level between 7:00 a.m. and 10:00 p.m. was 65 decibels and between 10:00 p.m. and 7:00 a.m. was 60 decibels.

Mr. Goss stated that the readings taken during that test were generally within the decibel level allowed by the code. He noted that both readings were based upon what the conditions on the test day only. He explained that during the test there was a performer with an instrument, the speakers were pointed eastward, and the music was at a relatively low volume. He reiterated that the noise test indicated that during the assessment the noise levels were well within the permitted limits. He stated that the Planning Board reviewed the application the previous month and approved it by a 6-1 vote. He stated that the board considered the objections from some of neighbors and concluded that while there may be impacts on residential districts, they could be properly managed by the applicant. He stated that the board reasoned that Mr. Bourtzakis would manage the music.

Mr. Goss stated that the Planning Board and city staff made some recommendations for approval of the application which included limiting the musicians to no more than two instruments at a time, the speakers would have to face eastward, there could be no bass, and that no karaoke be allowed. He stated that staff made another recommendation which was not included by the Planning Board; which was that if there were two demonstrated violations Mr. Bourtzakis would lose his outdoor music special exception. He noted that the violations would then have to go through the Special Magistrate process. He stated that he could answer any questions from the Commission regarding the noise assessment, Planning Board’s review, and staff’s recommendations.

Mayor Kelley clarified that if there were two violations that the applicant would go through code enforcement and thr Special Magistrate proceedings.

Mr. Goss stated that the music would stop at the time of the second violation. He explained that the applicant would then go through the Special Magistrate process, and if he was found to be in violation, he would lose the permit for the outdoor music.

Mayor Kelley noted that even if the second violation was not ultimately upheld, at the time of the second violation the music would have to stop until it could go to the Special Magistrate.

Commissioner Kent stated that he was looking at the map regarding the decibel test and asked Mr. Goss to clarify his statement that the results were well within the allowed limits.

Mr. Goss stated that the readings generally were within the limit. He noted that there were points where they were over the limit.

Commissioner Kent stated that what he read from the staff report was that in the residential district the decibels could not be more than 60 and in the tourist/commercial area they could not be more than 65. He asked Mr. Goss if that was correct.

Mr. Goss replied that Mr. Bourtzakis was treated as a commercial/tourist use and could have a decibel reading of up to 65 under the ordinance between 7:00 a.m. and 10:00 p.m. He explained that after 10:00 p.m. and before 7:00 a.m. the limit was 60 decibels.

Commissioner Kent stated that in table one, on page 450 of 584 in the agenda packet, it said that the residential sound limit between 7:00 a.m. and 10:00 p.m. was 60 decibels. He noted that the commercial or tourist limit for those hours was 65 decibels. He stated that on the map he saw a range of readings from 64 to 66, 71 to 74, and 64 to 67. He stated that he was not sure why there was a range as he believed that decibel meters provided a number.

Mr. Goss stated that the first test was performed without music at all. He explained that there were air-conditioning units, cars, and other things that contributed to the noise. He stated that when the music was added, the readings went up a couple of decibels.

Commissioner Kent stated that he wished that the staff report would have reflected that the limit had been reached.

Mr. Goss stated that the test was based upon a snapshot of what was observed the evening of the testing. He noted that it was very possible that if there was a full band playing it would be over the decibel limit. He stated that during the test there had been one musician and the recommendation was to limit that to no more than two musicians.

Commissioner Kent stated that he did not understand that logic. He noted that one musician was registering at the allowed limit and stated that he did not understand why two would then be allowed especially when the decibel levels with two musicians were not tested. He explained that he was not trying to be critical of Mr. Goss or how the test was performed, but he wished it had been more exact. He noted that he personally loved the restaurant and thought that the deck being added when Andy Romano Beachfront Park was approved was a smart move by the owner. He explained that there were residents who lived next to the restaurant that would have to deal with it every day. He expressed his displeasure with the test that was performed and stated that he felt it was now useless since the proposal was to allow for two musicians when only one had been at the sound test. He explained that he had requested clarification on the decibel limits because he noted that there were levels present above those which were allowed and that staff was still recommending approval.

Mr. Goss explained that a range was given because the meter was going back and forth with its readings.

Commissioner Kent stated that he understood that.

Commissioner Partington moved, seconded by Commissioner Stowers, for approval of Resolution No. 2013-193, as read by title only.

Mr. David Lanham, 792 Marvin Road, stated that projects were judged by their merits and suitability. He asked if it met Ormond Beach's suitability standards to have an open air bar and deck three stories high playing music with the ocean wind pushing the sound back. He noted that there were a row of neighboring restaurants that were probably zoned the same as Dimitri's and he asked if it would be suitable for them to have similar situations as houses were also close to them. He stated that the proximity of the applicant restaurant to residential homes was significant. He agreed with Commissioner

Kent that testing with one musician when the applicant wanted two was not in the framework of suitability. He noted that allowing the applicant to proceed could set a precedent for future applications.

Mayor Kelley stated that he personally did not worry about setting precedence as each action the Commission took depended on the merits of that situation. He stated that he did not think because one exception was granted that they would have to do it for everyone.

Ms. Joan Fox, 180 Marvin Road, stated that she enjoyed going to Dimitri's and that she thought the rooftop deck was a great addition, but she expressed her concern over the noise. She explained that she was present when the decibel level was first being checked in August. She stated that the level ranged from 63 to 69 at which point it started to rain and the test stopped. She noted that the test was performed with one musician playing a slow, quiet song. She stated that the restaurant advertised a happy hour and she was concerned that the addition of music would make more of a party atmosphere. She stated that if the Commission approved the application she hoped that the nights would be limited because she thought that seven nights a week was asking a lot of the residents. She explained that the citizens chose to live in Ormond Beach and did not want to be in Daytona Beach and that she thought that was what they would become if the city started to be known as a party place. She hoped that the Commissioners would all consider whether they would want the music near their homes.

Mayor Kelley stated that two musicians would not necessarily increase the decibel level if they were both playing at the same level. He stated that scientifically it could not increase unless one increased the volume at which they were playing.

Ms. Theone Wilkenson, 242-246 Benjamin Drive, passed some photographs among the Commission showing how close homes were to the restaurant. She objected to the music being allowed. She noted that she had already experienced issues with the restaurant regarding noise. She stated that when the deck was built it was originally built as an observation deck and there was no music allowed. She explained that the restaurant had been in violation approximately four times in 2012. She stated that the tenant of the property she owned called the police the night of July 12 as the music and a crowd of people on the deck were so loud that she could not even hear her television with the air-conditioning on and the windows closed. She stated that the police arrived at 9:20 p.m. and shut the music off. She stated that there had been three calls that night about the restaurant. She noted that the restaurant already had music inside the restaurant. She stated that having music on an open rooftop where the wind would blow the sound in the direction of homes, regardless of the direction of the speakers, would negatively impact those homes.

Ms. Wilkenson explained that her tenants did not want to come home from work every day and have to listen to someone else's music seven nights a week. She opined that the decibel testing that was done was limited and did not even cover the area where her property was located. She stated that the owner had demonstrated that he could not control the music and would not be able to control large crowds of people on the rooftop drinking, singing, and getting rowdy. She noted that Mr. Bourtzakis could not legally monitor the decibel levels with his cell phone as he had stated to the Planning Board that he would do. She noted that Mr. Wigley with the Planning Board had stated that there was not the manpower to regulate the music with decibel meters and that it would be unenforceable. She explained that the applicant was currently in violation and had music on the deck a couple months prior. She stated that she purchased her property in Ormond Beach because of the zoning laws and because it was a family-oriented area. She strongly urged the Commission to vote against the variance as she felt it would adversely impact the residents and the downgrade the neighborhood.

Mayor Kelley stated that he had the mobile app on his cell phone which read decibels. He stated that it was very accurate when compared to the machines that were used for testing. He stated that he used the app when Ms. Wilkenson was speaking and it registered between 62 and 71 decibels.

Mr. Dimitri Bourtzakis, 790 S. Atlantic Avenue, owner of Dimitri's restaurant, thanked his neighbors for coming in and giving their input. He stated that he respected all the noise ordinances and did not want to violate them. He explained that he did not want to do live band music on the deck and that he just wanted to do light jazz and small steel drums island type music which would be barely amplified. He stated that he had done some research on his own, which was not documented, and he found that when trucks came

by A1A there was a tunnel effect between his restaurant and the Peppers restaurant next door where the truck noises were amplified into the back of the neighborhood. He explained that the noise on top from his deck would disperse around and not come back down into the neighborhood. He noted that when his stereo was on, you normally could not hear it past his parking lot.

Mr. Bourtzakis stated that he understood that there were houses next door to him on the north side so that was why he tried to keep the music mostly in the front of the building with the speakers facing away from those properties. He stated that he wanted to have a respectable restaurant and noted that he had put a lot of money into it and wanted to continue to put money into it and into Ormond Beach. He addressed Ms. Wilkenson's assertion that he had been in violation four times. He stated that he believed the time Ms. Wilkenson was referring to was when a woman upstairs brought her own stereo and sang "Happy Birthday" to her daughter with a microphone. He stated that he could not control what people did at that level but if he had known about it he would have told her that she could not do so. He apologized for not saying anything to that patron.

Commissioner Partington stated that right before the meeting he had driven by Dimitri's restaurant to take another look at the situation. He noted that a few months prior he had been to dinner there with his wife for his 20th wedding anniversary and enjoyed the dinner and view from the deck. He stated that he had spoken to Mr. Lanham by phone and read an email from Ms. Wilkenson and that he could see the issue from both sides. He expressed his disappointment that the item came before the Commission on a night where only four members of the Commission were present, noting that the applicant had spent thousands of dollars to get the application before them and was not receiving the benefit of a full Commission. He noted that was not anyone's fault and was just the way things happened sometimes. He stated that he mentioned that because he was thinking about continuing the item and would explain why he wanted the item continued.

Commissioner Partington explained that there had been two previous exceptions for outdoor music that were permitted: RiverGrille and the Tiki Bar at the restaurant that was formerly Caffeine. He noted that this application could not be treated the same as they were all different locations with different circumstances. He explained that RiverGrille had a greater barrier between it and residential areas and Caffeine had a barrier but also had the support from the neighborhood, which made it easier to approve. He stated that he was thinking about possibly continuing the item to not only allow for the full Commission to be present but also for another sound test to be performed which would be similar to the test done for the RiverGrille. He explained for that test the entire Commission had gone to different locations and listened to different levels of music. He stated which was very helpful as they heard the actual impact.

Commissioner Partington stated that he grew up in Ormond Beach in the Forest Hills neighborhood off of Nova Road. He explained that across the street from that area was now a bank but used to be the YMCA Swimming Pool, which had a tower where they announced the swim meets on the weekends. He stated that in Forest Hills, a half mile away across the street, they could hear the tower all day on Saturdays. He noted that while the noise was not terrible, it was an annoyance and interrupted the quiet enjoyment of their property. He stated that when he drove by Dimitri's before the meeting, it refreshed for him how close the homes were located to the restaurant with no buffering. He stated that he might be willing to consider different, more limited times for the music to be allowed, such as 4:00 p.m. to 8:00 p.m. on Sunday through Thursday and 11:00 a.m. to 10:00 p.m. on Friday and Saturday. He noted that he was unsure if the applicant or residents would be interested in those hours instead of the ones offered in the application.

Commissioner Stowers stated that the biggest issue he saw in comparing the previously permitted locations and this one was the proximity of residential homes. He stated that looking at the decibel measurements from the test, he was concerned about the lack of existing noise in the previously approved locations. He explained that if he made a 60 decibel sound as sustained background noise and someone else starting singing at 60 decibels those sounds would just cancel out. He explained that for a crowd to hear the other singer over his sustained background noise, they would have to elevate their sound higher. He stated that seemed like a recipe for failure to him, because some of the decibel readings without music playing were already in the peak range. He stated that in order to play audible music it would have to be played at a level that at least met that threshold if not exceeded it, just to be heard.

Commissioner Stowers noted that he loved Dimitri's and actually ate there quite often. He stated that he liked Commissioner Partington's idea of continuing the item for the reasons he had mentioned including having another test performed. He expressed his belief that this item presented a different set of circumstances than previous approvals because of the background noise issue. He stated that he felt that they could be setting up a scenario where the code would clearly be violated and it would be a painful descent into that process. He explained that if they could come up with a solution that anticipated that, he would rather do so than force everyone to go through that exercise.

Commissioner Kent noted that some residents had called him about the issue and that he had spoken with them. He stated that he did not speak to the applicant but would have been happy to. He stated that he had been to Dimitri's and really enjoyed the restaurant. He noted that he was also a lover of music and liked to hear music while he ate. He referenced the experience that Commissioner Partington had as a child with the tower. He stated that the height of the music was concerning to him. He noted that the restaurant could have existed when many of the homes were built behind it, but he was not sure if that was the case. He explained that when something was requested that was outside of the code it had to go before the City Commission. He noted that the restaurant in question was in the zone he represented and that he lived less than a mile from the restaurant. He stated that he did not understand the applicant's assertion that he wanted to do relaxing dinner music but also was requesting karaoke to be allowed. He stated a point of emphasis for him was that when the nearby homes were purchased there was not a deck with music located there. He stated that was important to him.

Commissioner Kent stated that when people complained about the Airport he had no sympathy for them because they purchased homes next to the already existing Airport. He noted that he felt the same about the railroad tracks. He stated that with respect to continuing the item, he would be in favor of doing so if the restaurant was located in Commissioner Boehm's district, which it was not. He stated that the Commission had good information in front of them now. He stated he was not sure if it was the Commission's desire to continue the item because they feared how the results might turn out. He explained that there were rules in place regarding a Commissioner being absent, noting that two Commissioners could actually be absent as long as three were in attendance to make a legal quorum. He noted that some people in attendance did not live in the city and rented their properties out and had to drive in for the meeting.

Commissioner Kent stated that he personally would not be agreeable to listening to any type of music seven nights a week. He stated that the Mayor's app was reading the decibels of him speaking and was registering between 73 and 74. He noted that was fairly loud and he would not want to hear it even two days a week, the reason being that it was not there before. He explained that he was not against Dimitri's and wanted the restaurant to be successful but did not want to make residents suffer for it. He stated that he loved that Mr. Bourtzakis thanked the residents when he spoke and said that he wanted to be a good neighbor to them. He explained that he did not want to live next to the music and listen to it every day, and because he did not want to he was not going to make any of his constituents either.

Mayor Kelley stated that he thought Commissioner Kent made good points with respect to whether the item should be continued. He noted that he thought they could go through more testing, but he believed that regardless of what that testing showed those who opposed it would continue to do so. He stated that if the item was continued more money would be spent to do more testing. He asked Mr. Goss if the city had performed the testing themselves; whereby, Mr. Goss stated that they had.

Commissioner Partington expressed the feeling that he did not have all the information that he would like to have before he voted. He noted that he was not afraid of anything except not having enough information. He stated that from a fairness and due process perspective when an applicant brought an application to a board, he thought it was fair for them to presume that the entire board would be present and hear from all sides before they made their decision. He stated that he may not be in total agreement with Dimitri's, but as an individual who tried to be fair to both sides it made sense that they would pay their thousands of dollars and expect to have a full and fair hearing. He explained that he would be inclined to continue the item and have a sound test with the actual conditions of the music the applicant was requesting. He stated that after he was able to stand at the edge of the property during the sound test, he could say that he either did not want to live next to it or that it would not be so bad for limited time periods. He stated that he could not currently say either way since he had not heard it.

Mayor Kelley stated that the testing only included one musician, but he thought they could all assume or agree that two singers at the same level would be registering the same.

Commissioner Kent stated that Mayor Kelley needed to help him understand that logic. He explained that he did something with his fifth graders every year where he had them do something with their hands, and when one did it you could not hear it, but when they all started doing it you could.

Mayor Kelley stated that a noise was made at a certain level until something louder than that noise was created. He explained that if a band was playing and all the instruments were playing at the same level it would stay the same and if something else was added that was louder than that level you would then hear that. He stated that when a motorcycle went by it was louder than the current background noise and would raise the level that was registering.

Commissioner Kent noted that he looked at it differently. He stated that he and Mayor Kelley talking at the same time at the same level seemed louder than just one of them speaking. He explained that he thought about how bands would have one instrument playing, then add in a second one and how the sound got louder.

Mayor Kelley stated that when the testing was done for RiverGrille, he was in the neighborhood behind the railroad tracks and a motorcycle going by or a lawnmower operating was a lot louder and would drown out any of the sounds at a different decibel level coming from the RiverGrille. He asked what the range was for the sounds from traffic and other ambient surroundings.

Mr. Goss stated that it was loud and went up to 72 and 76 decibels at times without music. He noted that was because of the normal traffic. He referenced that one of the audience members had said that the test was not performed in their neighborhood. He explained that the code stated that measurements needed to be taken at the property line from the commercial property to the residential area and that was where it was done. He stated that they were not required to go into the neighborhood and noted that perhaps they should have done so, but the code was followed as to how the measurement was to be made.

Mayor Kelley noted that there was a motion on the floor for discussion. He asked City Attorney Randy Hayes if that motion would need to be withdrawn if a motion were to be made to continue the item.

City Attorney Randy Hayes stated that the motion for continuance would take precedence.

Commissioner Partington asked if there would be any additional costs to the applicant if another test was performed; whereby, Mayor Kelley stated that there would not.

Mr. Bourtzakis stated that he had been listening to the conversation the Commission had been having. He addressed Commissioner Kent bringing up the karaoke requested in his application and stated that the karaoke was in there to see if it could be allowed, but he was comfortable with it not being permitted and was no longer seeking it. He stated that the level rising with two musicians at the same level instead of one only happened in a closed environment where it echoed. He explained that the only building off which the sound could echo was the Georgian Inn, which was significantly far away. He noted that most of the traffic on A1A would be a lot louder than the music that he would be playing upstairs. He stated that the patrons on the deck would be listening to the speakers that were close by them and noted that if a motorcycle went by on A1A, it would be louder than the music but people on the deck could still hear the music and it would not have to be turned up.

Mr. Bourtzakis stated that he did not want to have three or more musicians performing on the deck at a time. He stated that he wanted to only have one or two at a time. He noted that an act with two vocalists recently appeared on the X-Factor television show competition and that the artists were from the Daytona Beach area. He explained that he had met them, and they expressed a desire to come play at his restaurant. He stated that he was not interested in playing hard rock and roll music and preferred jazz or other softer styles. He stated that his intention was not to make his neighbors angry and that doing so would result in him losing his license after two violations. He noted that he had spent three thousand dollars to obtain the permit. He asked the Commission to trust him

as they had trusted other restaurants and provide him with the permit. He stated that the worst case scenario would be that it would get revoked after two violations.

Commissioner Partington stated that he could vote on the ordinance that evening if the hours were amended to 4:00 p.m. to 8:00 p.m. Sunday through Thursday and 11:00 a.m. to 10:00 p.m. Friday and Saturday. He noted that he felt like they would almost be setting Mr. Bourtzakis up for failure as two demonstrated code violations revoked the special exception.

Commissioner Kent stated hearing Mr. Bourtzakis speak did not change his mind. He explained that he understood why Commissioner Partington wanted to change the hours to 4:00 p.m. to 8:00 p.m. He stated that to him those hours were the time that people got home from work and sat down with their families to have dinner. He noted that unfortunately that would also be the time that was most advantageous for the restaurant. He stated that if he lived next to the restaurant himself he would be in the audience and be very upset that the approval of the music was even being considered. He again noted that the situation was different from the RiverGrille and Caffeine. He noted that the Commission did not have anyone come before them to object when they approved Caffeine's exception. He stated that he felt some members of the Commission may want to let Mr. Bourtzakis try it out since he paid his fees. He stated that he did not want the residents in that neighborhood to have to deal with the music even for one night.

Commissioner Stowers noted that there had been some comments regarding what kind of music would be played. He stated that he wanted to bring the discussion back to the objective measurement of the city's noise ordinance. He noted that regardless of the type of music the limit was 65 decibels until 10:00 p.m. He stated that he thought part of the reason these types of requests were controversial was because of the unknown factor. He stated that he believed that the applicant was comfortable with going through the process while knowing that two violations would result in the permit being pulled. He stated that the Commission could not say how loud it would be the first night there was a musician performing and whether or not it would exceed the existing noise around the area. He stated that the only way they could know that for sure would be if it was approved tonight and a complaint was filed reporting a violation. He explained that he did not think that the Commission should try to anticipate what would happen and deny it on the basis that they believed it would fail without knowing for certain. He stated that having two violations resulting in the music stopping was a high standard which gave the permit more enforcement than others he could recall.

Commissioner Kent clarified that he was not insinuating that Mr. Bourtzakis would fail and was the reason to not approve the exception. He stated that he was insinuating that he personally did not want to live next to the music for one day and did not want to listen to any type of music in or around his home that he did not turn on himself.

Commissioner Partington moved, seconded by Commissioner Stowers, to amend the hours allowed in the development order in Resolution No. 2013-193 to Sunday through Thursday from 4:00 p.m. to 8:00 p.m., and Friday and Saturday from 11:00 a.m. to 10:00 p.m. only.

Mayor Kelley asked for the vote to be called on the amendment to the resolution.

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

Mayor Kelley asked for the vote to be called on the underlying motion to approve the resolution.

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

Item #9D – 390 Williamson Boulevard Annexation (San Marco Apartments)

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2013-64

AN ORDINANCE ANNEXING CERTAIN REAL PROPERTY INTO THE CITY OF ORMOND BEACH, SAID PROPERTY CONSISTS OF APPROXIMATELY 18.7 ACRES AND BEING GENERALLY LOCATED ALONG THE WEST SIDE OF WILLIAMSON BOULEVARD APPROXIMATELY 2,400 LINEAR FEET SOUTH OF WEST GRANADA BOULEVARD AND BEING COMMONLY LOCATED AT 390 WILLIAMSON BOULEVARD, INCLUDING THAT PORTION OF WILLIAMSON BOULEVARD ABUTTING THE PROPERTY; REDEFINING THE TERRITORIAL BOUNDARIES OF THE CITY OF ORMOND BEACH TO INCLUDE THE PROPERTY; RE-DESIGNATING THE BOUNDARIES OF ZONE 3 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.

Mr. Goss stated that this item was an administrative annexation based upon contiguity with the city. He stated that some right of way was taken in to ensure police and fire enforcement. He noted that the annexation involved 260 units and that staff recommended approval.

Commissioner Partington moved, seconded by Commissioner Stowers, for approval of Ordinance No. 2013-64, on first reading, as read by title only.

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

Item #9E – Gardens Business Center Annexation

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2013-65

AN ORDINANCE ANNEXING CERTAIN REAL PROPERTY INTO THE CITY OF ORMOND BEACH, SAID PROPERTY BEING GENERALLY LOCATED ALONG THE WEST SIDE OF NORTH U.S. HIGHWAY 1, WEST OF THE SOUTHBOUND ENTRANCE TO INTERSTATE 95 AND BEING COMMONLY LOCATED AT 1451, 1453, 1455, 1457, AND 1459 NORTH U.S. HIGHWAY 1, REDEFINING THE TERRITORIAL BOUNDARIES OF THE CITY OF ORMOND BEACH TO INCLUDE THE PROPERTY; REDESIGNATING THE BOUNDARIES OF ZONE 1 OF THE CITY OF ORMOND BEACH TO INCLUDE THE PROPERTY; PROVIDING FOR TRANSMISSION; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Stowers, for approval of Ordinance No. 2013-65, on first reading, as read by title only.

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

Item #9F – 1535 North US Highway 1, Land Use Map Amendment

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2013-66

AN ORDINANCE AMENDING THE FUTURE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP TO CHANGE THE DESIGNATION OF ONE (1) PARCEL OF REAL PROPERTY TOTALING +1.01-ACRES LOCATED AT 1535 NORTH US

HIGHWAY 1, FROM VOLUSIA COUNTY "COMMERCIAL" TO ORMOND BEACH "LOW INTENSITY COMMERCIAL"; PROVIDING FOR CONFLICT; AUTHORIZING TRANSMITTAL; AND SETTING FORTH AN EFFECTIVE DATE.

Mr. Goss stated that this item was an administrative request for a land use plan amendment pursuant to an earlier annexation. .

Commissioner Partington moved, seconded by Commissioner Stowers, for approval of Ordinance No. 2013-66, on first reading, as read by title only.

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

Mayor Kelley closed the public hearings without objection.

Item #10A – Ordinance Amending Section 4-5 of Code of Ordinances Regulating Hours of Sale of Alcohol on Sunday

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2013-67
AN ORDINANCE AMENDING CHAPTER 4, ALCOHOLIC BEVERAGES, SECTION 4-5, HOURS; BY PROHIBITING THE SALE OF ALCOHOLIC BEVERAGES BETWEEN THE HOURS OF 2:00 A.M. AND 7:00 A.M. EACH DAY; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Stowers, for approval of Ordinance No. 2013-67, on first reading, as read by title only.

Mayor Kelley relayed a story where a gentleman came up to him during a break at church and said he and his wife and another couple were wanting to go to Bonefish Grill for lunch and asked if this ordinance had been passed yet during which he told them they would have to wait a couple weeks. He noted that the party did not wish to go to that restaurant that morning unless they could order alcohol.

Commissioner Kent stated that the ordinance would help keep business in Ormond Beach and was long overdue.

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

Item #10B – Water and Sewer Impact Fee Capital Cost Adjustment

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2013-68
AN ORDINANCE AMENDING SECTION 22-115, FEE IMPOSED; SCHEDULE, OF CHAPTER 22, WATER AND SEWERS, OF THE CODE OF ORDINANCES, PROVIDING FOR A CONTINUATION OF ANNUAL ADJUSTMENTS TO WATER AND SEWER IMPACT FEES BASED UPON CAPITAL COSTS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kent, for approval of Ordinance No. 2013-68, on first reading, as read by title only.

Mayor Kelley stated that he thought the information included in the agenda packet for the item was very detailed and showed the years of the increase based upon inflation. He stated that he thought that was very complete and that he appreciated Finance Director Kelly McGuire's thoroughness.

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

Item #11 – Reports, Suggestions, Requests

Downtown Median Improvements

Ms. Joyce Shanahan, City Manager, stated that Medjool palms had been added to the medians downtown. She explained that the work would stop for the week because of Biketoberfest and that next week the uplighting would start. She noted that the Medjool palms would be tied for at least 30 days to give the root-ball a chance to regenerate. She stated that they were excited about what was to come with the project.

Commissioner Kent asked Ms. Shanahan if Landscape Architect Paul MacDonald was involved in the project; whereby, Ms. Shanahan reported that Mr. MacDonald was at the site every day.

Legislative Priorities

Ms. Shanahan stated that she had passed a flyer out to the Commission containing their legislative priorities, which they had approved in an agenda item at an earlier meeting. She explained that the next day was the legislative delegation meeting and that flyers would be taken to it. She stated that the city was asking the legislature to do no harm by keeping local governments whole and helping them with pension reform.

Mayor Kelley stated that there would be discussion regarding sales tax and communication tax. He stated that he was going to present what his taxes were on his cable and on his cell phone and ask the legislature to only cut the sales tax and state tax but leave the local government tax alone. He stated that he felt that there would be a proposal to cut taxes and they would only cut the local government's portion instead of the states, which would cut the city's ability to have revenue at their level.

Ms. Shanahan stated that in 2000 or 2001 the communication services tax system was revamped and the state took it over. She stated that it used to be that localities had individual franchise fees on telephone providers and cable providers. She stated that was a significant revenue source for the city and if they lost that it would be a big problem moving forward.

John Anderson Drive

Ms. Shanahan stated that work had started and was ongoing on John Anderson Drive. She noted that it had so far been quiet and hoped it stayed that way.

Hand Avenue Project

Ms. Shanahan stated that the last part of the project was being paved and was almost ready to be opened. She stated that they had not installed the hand rail over the bridge yet, but the end was drawing near and she thanked the residents for their patience.

City Manager Field Day

Ms. Shanahan stated that she would be doing a field day with the Fleet Department on Thursday, October 24, 2013. She stated that they assured her that they saved the grimmest and dirtiest jobs for her.

Citizens for Ormond Beach

Commissioner Stowers thanked the Citizens for Ormond Beach (COB) for holding their annual dinner the past week. He stated that it was a great event as it always had been and that COB did a great job in the community of being the voice of the citizens.

Code Enforcement

Commissioner Stowers thanked Neighborhood Improvement Manager Joanne Naumann for her quick response and efforts with some code enforcement issues. He stated that he had received a call about a property which was in pretty bad shape and had been working with Ms. Naumann on some of the most egregious properties in the community.

City Commission

Commissioner Kent thanked Mayor Kelley for the vote of confidence that the City Commission could solve all of the nation's problems, as he also believed so. He stated it was amazing how ineffective things seemed to be when there were 535 egos in one city.

Item #12 – Adjournment

The meeting was adjourned at 8:23 p.m.

APPROVED: November 5, 2013

BY:

Ed Kelley, Mayor

ATTEST:

J. Scott McKee, City Clerk