

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

February 4, 2014

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 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. Florida Planning and Zoning Association Sustainability Award
 - B. Employee of the Quarter - Art Ross
- 5. AUDIENCE REMARKS - REGARDING ITEMS NOT ON THE AGENDA**
- 6. APPROVAL OF MINUTES**
 - A. Minutes from City Commission meeting – January 21, 2014
- 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. 2014-13** : A RESOLUTION AUTHORIZING THE EXECUTION OF AN UNDERGROUND DISTRIBUTION FACILITIES INSTALLATION AGREEMENT BETWEEN THE CITY AND FP&L REGARDING THE UNDERGROUNDING OF UTILITIES ALONG WEST TOWER CIRCLE AT THE AIRPORT BUSINESS PARK; AUTHORIZING PAYMENT THEREFORE; AND SETTING FORTH AN EFFECTIVE DATE.
Staff Contact: John Noble, City Engineer (386-676-3269)
- B. **RESOLUTION NO. 2014-14** : A RESOLUTION ACCEPTING A BID FROM TOMOKA CONSTRUCTION SERVICES, INC. FOR CONSTRUCTION SERVICES REGARDING THE CONCENTRATE MONITORING AND DISINFECTION UPGRADES PROJECT, UNDER BID NO. 2014-02; AUTHORIZING THE EXECUTION OF A CONTRACT AND PAYMENT THEREFOR; AND SETTING FORTH AN EFFECTIVE DATE.
Staff Contact: Dave Ponitz, Utilities Manager (386-676-3305)
- C. **RESOLUTION NO. 2014-15** : A RESOLUTION ACCEPTING THE PROPOSAL OF NATIONAL METERING SERVICES, INC., REGARDING THE CITYWIDE AUTOMATIC METER READING INSTALLATION PROJECT; AUTHORIZING THE EXECUTION OF AN AGREEMENT; REJECTING ALL OTHER PROPOSALS; AND SETTING FORTH AN EFFECTIVE DATE.
Staff Contact: Kelly McGuire, Finance Director (386-676-3226)
- D. **Auto Renew-Sunstate Meters**
Staff Contact: Kelly McGuire, Finance Director (386-676-3226)
Disposition: Approve as recommended in the City Manager memorandum dated February 4, 2014.

E. Budget Calendar FY 2014-15

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

Disposition: Approve as recommended in the City Manager memorandum dated February 4, 2014.

F. RFP for Central Park Canoe, Kayak & Paddleboard Concession

Staff Contact: Robert Carolin, Leisure Services Director (386-676-3279)

Disposition: Approve as recommended in the City Manager memorandum dated February 4, 2014.

G. Tomoka Marathon Sponsorship Request

Staff Contact: Robert Carolin, Leisure Services Director (386-676-3279)

Disposition: Approve as recommended in the City Manager memorandum dated February 4, 2014.

8. PUBLIC HEARINGS

- A. **RESOLUTION NO. 2014-16** : A RESOLUTION AUTHORIZING THE EXECUTION AND ISSUANCE OF A DEVELOPMENT ORDER FOR A SPECIAL EXCEPTION REGARDING THE "CURB APPEAL HARDSCAPING DESIGN CENTER" LOCATED AT 661 SOUTH NOVA ROAD WITHIN THE B-8 (COMMERCIAL) ZONING DISTRICT, TO ALLOW OUTDOOR ACTIVITY TO INCLUDE THE PERMANENT OUTDOOR STORAGE, DISPLAY, AND SALES OF MERCHANDISE; ESTABLISHING CONDITIONS AND EXPIRATION DATE OF APPROVAL; AND SETTING FORTH AN EFFECTIVE DATE.

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

9. DISCUSSION ITEMS

- A. **New LDC Use: Instructional Entertainment**

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

- B. **Volusia League of Cities (VLOC) Distinguished Service Awards 2014**

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

10. REPORTS, SUGGESTIONS, REQUESTS

11. ADJOURNMENT

Item #1 – Meeting Call to Order

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

Item #2 – Invocation

Pastor Doug Hautz, Ormond Beach Alliance Church, gave the invocation.

Item #3 – Pledge of Allegiance

Mayor Kelley led the Pledge of Allegiance.

Item #4A – Florida Planning and Zoning Association Sustainability Award

Mr. Tom Harowski, Surfcoast Chapter of the Florida Planning and Zoning Association, explained that the Florida Planning and Zoning Association promoted good planning and provided educational opportunities in planning. He noted that the Surfcoast Chapter covered Flagler and Volusia counties and had been one of the most active chapters in the state. He noted that high quality planning efforts were recognized annually by the chapter in a variety of categories. He stated that they were pleased to recognize the

City of Ormond Beach's low impact development (LID) ordinance with the sustainability award. He explained that the award recognized efforts to encourage green infrastructure and resource conservation. He stated that the city's LID ordinance promoted those goals by offering alternatives for stormwater management leading to more efficient land development. He noted that, to his knowledge, the ordinance was the first of its type to be adopted in Volusia County. He congratulated staff for their hard work in developing the program and the City Commission for adopting it. He stated that the LID ordinance would be one of the featured topics in a joint program with FPCA and the Florida Engineering Society.

Item #4B – Employee of the Quarter – Art Ross

Ms. Joyce Shanahan, City Manager, announced that Mr. Art Ross was the Employee of the Quarter. She stated that Mr. Ross was born and raised in Illinois. She stated that he moved to Florida in 1966, held an associate's degree from Tallahassee Junior College, and had attended the University of Florida. She explained that Mr. Ross worked for a grocery store, an engineering company, and then a paving company where he became project manager where he managed several road improvement projects that were contracted with the Florida Department of Transportation (FDOT). She stated that Mr. Ross began his career with Ormond Beach in 2004 as an inspector in the Engineering Division. She stated that he had been involved in numerous capital improvement projects where he applied his construction experience towards inspection duties and had been instrumental in resolving challenges faced in the field. She noted that he had been particularly helpful with inconvenienced residents during construction projects. She explained that Mr. Ross was polite and practical, and assisted in making the city's capital improvement projects a success. She noted that Mr. Ross was known as "Uncle Art" to coworkers because of his easy-going nature and he enjoyed fishing, golfing, diving, and spending time with family and friends.

Mayor Kelley congratulated Mr. Ross on being named Employee of the Quarter. He presented him with a plaque and a watch to commemorate the occasion and displayed the plaques that would hang in the City Hall atrium.

Item #5 – Audience Remarks

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

Item #6A – Approval of Minutes

Mayor Kelley advised that the minutes of the January 21, 2014, regular meeting had been sent to the Commission for review, and were on the city's website for public viewing. He asked for any corrections, additions, or omissions. He stated that hearing no corrections, the minutes would stand approved as presented.

Item #7– Consent Agenda

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

Commissioner Kent requested to pull item 7G from the Consent Agenda.

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

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

Item #7G – Tomoka Marathon Sponsorship Request

Commissioner Kent noted that in the item's memorandum in the agenda packet, it mentioned that Halifax Health would be the primary beneficiary for the event. He asked Leisure Services Director Robert Carolin what that meant.

Mr. Robert Carolin, Leisure Services Director, stated that he had asked the owner of the organization requesting sponsorship to attend the meeting and that he would be able to better answer that question.

Mr. Don Stoner, owner of Final Mile Race Management LLC, stated that there were two beneficiaries for the event: The Casements and the Halifax Health Foundation. He stated that the Halifax Health Foundation worked to improve medical care in the community.

Commissioner Kent asked what percentage of the proceeds The Casements would be receiving.

Mr. Stoner replied that he had spoken to The Casements about a fixed donation of \$2,000 for their work and for services such as the pancake breakfast that they would be offering. He stated that Halifax Health would be receiving whatever remained.

Commissioner Kent asked about the pancake breakfast.

Mr. Stoner stated that The Casements Guild would be offering a pancake breakfast that morning.

Commissioner Kent asked if they were doing that for free.

Mr. Stoner explained that the breakfast cost \$5 for those coming to the centennial celebration and that his organization would be paying for the race participants.

Commissioner Kent asked if Mr. Stoner had a projection of how many participants he expected.

Mr. Stoner stated that they expected to have between 1,000 and 1,500 participants. He noted that had been the turnout for comparable races in the area; such as the Lighthouse Loop Half Marathon in Port Orange, which they recently put on.

Commissioner Kent stated that he was excited about this type of race happening in the Ormond Beach area. He explained that if 1,000 participants paid at the early entrance rate, then the race would bring it about \$70,000.

Mr. Stoner stated that was probably accurate for the total race.

Commissioner Kent noted that figure was just for the full marathon, as he had not calculate in those who would be registering for the half marathon. He stated that out of that \$70,000 The Casements Guild would receive \$2,000. He asked how much Halifax Health would receive.

Mr. Stoner stated that if they received \$70,000 from the race, then Halifax Health would probably receive around \$20,000, depending on the cost of race expenses.

Commissioner Kent asked who would receive the other \$50,000.

Mr. Stoner replied that would go towards race expenses and the organization's fees for conducting the race, traffic safety, merchandise, and other expenses.

Commissioner Kent asked if traffic safety would be performed by the Ormond Beach Police Department.

Mr. Stoner explained that they had requested Ormond Beach Police to assist but some of the expenses they would incur would be things like coning, signage and barricades for traffic control. He noted other rental fees such as portable toilets. He stated that they currently estimated about \$57,000 in expenses. He noted it was difficult to ascertain how much an event would cost in its inaugural run.

Commissioner Boehm moved, seconded by Commissioner Partington, to open item 7G for discussion, which was a sponsorship request for the Tomoka Marathon.

Commissioner Kent stated that while he loved the idea of a marathon taking place in Ormond Beach, he was concerned about being asked to spend \$8,150 of taxpayer money for an event benefiting a for-profit limited liability corporation (LLC). He noted

that the memorandum mentioned that the \$8,150 would be for police, public works, The Casements, Fortunato Park, and Rockefeller Gardens. He stated that the race organization wanted the city to provide assistance in marketing the event. He stated that upon reading the request, he had asked himself if this was the role of government. He noted that the event had the potential to be held annually and stated that if they approved it once, it would surely come before them again for approval. He asked what the city would receive in return for their partnership.

Commissioner Kent noted that the city would be labeled a "Gold Sponsor," the highest level under Halifax Health, who was the presenting sponsor. He noted a list of the things the city would receive, as stated in the memorandum, these included a large logo on a sponsor banner, city logo and name on all marketing efforts, two banners, city logo or other recognition at the race awards, and verbal recognition at the start and finish of the race by the announcer. He noted that the organization also proposed to give the city ten free race entries. He stated that he did not find that fair and asked how it would be decided who they would go to. He stated that the memorandum went on to say that the city's logo would be on signs throughout the race and on race t-shirts, and that there would be city provided advertising and marketing items placed in racer's registration bags. He noted that as an additional benefit they would allow Mayor Kelley to be the honorary chairperson at the inaugural event. He explained that the city was not budgeted for this expenditure and would be dipping into their savings to spend taxpayer money on a race for a for-profit LLC.

Commissioner Kent asked how staff could recommend this to the Commission. He wondered how the city would be able to say "no" to any other group if they approved this request. He stated that it made him wonder why he did not think of this idea himself, and why he did not hold a race every month in a new city and let that city foot the bill. He explained that he did not believe this was a good way to spend taxpayer dollars and he could not and would not support it on the backs of taxpayers, noting that the city was constantly looking for cost savings. He noted that someone may challenge that the event was promoting health and fitness so he would note that they all participated in the Mayor's Health and Fitness Challenge; which was a homerun success for the community. He stated that he supported Mr. Stoner's endeavor and his company and if Mr. Stoner would write the city a check for the \$8,150, then he would be on board. He explained that he could not give Mr. Stoner a penny of taxpayer money for a for-profit organization. He noted that he would be voting "no" on the item.

Commissioner Stowers stated that he was in agreement with Commissioner Kent. He explained that he did not agree with the waiving of all permitting fees. He noted that the item may need to be continued to the next meeting, as they would be in a tough position to go line by line and negotiate the costs and terms at that time. He stated that he would be willing to discuss the terms if they could also discuss the \$2,000 contribution to The Casements versus the \$20,000 for Halifax Health Foundation. He stated that something a little more equitable for The Casements, perhaps an amount of money equal to the permitting fees, would be acceptable.

Commissioner Stowers noted that the city had some smaller race events held in the past where the police had assisted. He explained that sometimes people from around the county, state, and world would attend marathon events. He stated that to showcase Ormond Beach to 1,500 people would benefit the area through visits to restaurants and businesses afterward. He stated that as far as offering assistance to marketing the event, he would agree that would be a slippery slope to go down. He noted that adding it to the Mayor's Health and Fitness Challenge might be feasible, as that would not cost the city money, just staff time adding it to the city's website. He stated that he was willing to discuss these various concerns, depending on what the rest of the Commission wished to do.

Commissioner Boehm asked Police Chief Andy Osterkamp if he had provided an estimate of police costs. He asked how the \$8,150 figure was reached.

Police Chief Andy Osterkamp stated that he had not provided that number and had not yet done a staff study on how many police officers would be needed for the event. He stated that the \$8,150 figure was not strictly for police personnel. He stated that he spoke to a chief from another city that recently sponsored a similar event, and he told him that it did not require a large police presence as the group would bring in volunteers to help with directing traffic and coning. He stated that he would primarily look at closing one lane of the causeway to cross over and at major intersections like Granada

Boulevard and John Anderson and Beach Street and Granada Boulevard, they would want a uniformed police presence.

Commissioner Boehm asked Mr. Carolin what the permitting and rental fees would be.

Mr. Carolin stated that he spoke to Officer Lloyd Cornelius and he had estimated approximately how many officers would be required for that type of race. He noted that they did not do the exact math, but that it was somewhat close. He stated that he spoke to the permitting department also. He stated that he had the cost breakdown for the total amount but was not prepared to provide specifics at this time.

Commissioner Boehm clarified that that cost estimate was not being provided by the LLC but being provided by Mr. Carolin.

Mr. Carolin confirmed that was correct. He stated that all of those numbers were essentially a result of his communication with the permitting department. He stated that he did not possess that information currently at this meeting.

Commissioner Partington stated that he would be inclined to charge the normal fees. He stated that if there was an amount for a contributing sponsor and they decided to buy in at that sponsorship level, he could see going along with that, as well. He stated that otherwise he could not justify it to taxpayers with the information that they had been presented.

Mayor Kelley stated that he initially understood that it was a non-profit organization holding the race and not until they received the agenda packet did he realize that it was a for-profit event. He noted that he did not anticipate that it would be that kind of expense that it was to the city. He stated that he believed that the event would stimulate business and that if they did not want to stimulate business in the community then they could not allow it. He noted that he never realized that they would be waiving all the fees and providing police protection. He explained that he would be willing to compromise with picking up some of the costs. He stated that he knew that Mr. Stoner had probably already done a lot of advertising for the race and already had participants registered, including Ms. Shanahan.

Ms. Shanahan stated that she had already registered and paid for the half marathon. She stated that if the Commission was interested, the item could be tabled and brought back with additional information or be voted up or down. She noted that she was unsure if a different proposal could be derived from Mr. Stoner or not.

Mayor Kelley stated that he wished to see if the Commission could arrive at something workable that night, since timing was an issue. He stated that the biggest expense was the police costs and the waiving of the fees, noting that they did not know what the fees were. He asked Commissioner Kent if he would support the proposal if those costs were covered.

Commissioner Kent noted that he heard staff members say things like "not exact math" and "somewhat close." He stated that he did not make decisions on "somewhat close" and "not exact math" and that he now had more red flags going up. He clarified that he was in favor of bringing business to Ormond Beach but refused to spend a penny on an event with a for-profit organization. He noted that Mayor Kelley initially thought the event was not-for-profit. He stated that if that was the case, he would be having a much easier time swallowing it. He noted that his estimate of \$70,000 made from the race was accounting for all participants early registering at \$70 per person. He stated that if they were to register later, it would be at a cost of \$115 per person. He clarified that he was not against the race organization or against Halifax Health. He reiterated that he would not vote on information with not exact math and he would not spend a penny of taxpayer dollars for a for-profit organization. He noted that he did not think it was appropriate to do so, especially when the city would have to use its savings to pay for it.

Commissioner Partington stated that he was looking at the website for the race. He noted that it looked like it was happening in a month or so. He stated that it was exciting and noted that it was an event on the loop, which was a goal Commissioner Stowers had in their workshop that evening. He stated that he loved Halifax Health and was born there. He noted the difficulty was in balancing the for-profit aspect of it versus good stewardship of taxpayer funds in difficult times. He stated that he agreed that the event had potential to stimulate business. He stated that he thought there was a way they could figure out how to help but noted that whatever the hard costs were, he thought the

city needed to recoup those for the taxpayers. He stated that he did not think they wanted to be putting excess monies into a for-profit venture. He noted that the issue was balancing those interests. He stated that he did not know how they could get there this evening, but he would support it if they could.

Commissioner Boehm stated that he was troubled that before the item was brought to the Commission, it was assumed that they would approve it, noting that the organization already put it on their website and advertised it. He stated that the Commission had no detail, background, or information and then the item was put on the Consent Agenda for their approval. He stated that he was greatly troubled by that because they were being asked to spend taxpayer dollars. He explained that he was also troubled because at all of the festivals that were held at Rockefeller Gardens, the event participants were charged to put the events on, and now they were talking about waiving fees for this group, while all other past for-profit groups were required to pay. He asked what made this group special. He stated that he did not like the idea that they were going to be treated differently than everyone else. He stated that he was in agreement with Commissioner Kent and Commissioner Partington.

Mayor Kelley stated that the item could either be tabled and staff could come back with changes for review or they could make a motion to amend that the city's costs be covered and the group either accepts that or not.

Commissioner Kent stated that voting the item down would accomplish the same thing.

Mayor Kelley replied that voting it down would be different.

Commissioner Kent stated that he did not understand how that was different, noting that the item was just a request for sponsorship. He stated that if they voted it down, it would have the same outcome as asking it to be brought back covering all of the city's costs. He explained that if they voted the item down, then the organization would have to cover the costs, as the city would be declining to waive any fees.

Mayor Kelley stated that if they voted it down it would have to come back; whereby, Commissioner Kent stated that the event would happen whether they supported it or not.

Mr. Randy Hayes, City Attorney, stated that the request to the Commission was to waive the permitting fees and police service fees. He stated that he suspected that the event would go on one way or another. He noted that the Commission was not being asked to approve the event itself. He stated that the sponsorship request could be voted down, or the Commission could agree to endorse the marathon as long as they paid the normal fees, or they could try to strike a balance and negotiate away some of the fees. He stated that he suspected that would take some time, and Ms. Shanahan might need to sit down with the organization to do so.

Mayor Kelley stated that the city could give them back the ten free entries. He stated that the money for The Casements would offset some of the expenses. He noted that he would still like the city to be involved as a sponsor as he thought the community would see an economic benefit from the event. He stated that they were not speaking about a large amount of money. He wondered if the organization would be willing to cover the police costs. He asked Mr. Carolin if he had any idea of an approximation of the other fees.

Mr. Carolin stated that the police costs were about \$3,700 and that a little under \$3,000 was the rental fee for The Casements. He noted that the rest of the expenses were permitting fees.

Mayor Kelley clarified that the \$8,150 was the total expenses for police and other fees, not just for the police; whereby, Mr. Carolin confirmed that was correct.

Mayor Kelley stated that the organization could pay the city \$7,000 or some similar number.

Mr. Carolin stated that the organization would be able to provide alcohol, explaining that they wished to give each runner a beer, only if the city endorsed the event as a sponsor. He stated that if the city did not, then they would be unable to do so. He stated that the city could still endorse or be a sponsor in the event without waiving all of the fees.

Mayor Kelley stated that the total cost for the city would be about \$6,100, noting that The Casements would be receiving \$2,000.

Mr. Carolin clarified that it was not The Casements that would receive that money but the Casements Guild. He noted that the city would not actually be receiving those funds.

Mayor Kelley stated that he would not split hairs as the city received great benefits from The Casements Guild.

Ms. Shanahan stated that she appreciated the Commission's frustrations. She noted that staff had not been notified of the event until the last minute. She explained that she actually saw it on a website and signed up for it prior to knowing that the organization was planning on coming to the city to ask for sponsorship. She stated that the issue with not knowing how much police presence was needed had some to do with the ongoing construction on John Anderson Drive and where the runners would come back in on the return leg of the marathon. She stated that she understood the Commission's position about the for-profit aspect of the organization. She noted that the city did not request any free race entries. She stated that in other marathons where the city had been offered free entries, the city did not avail themselves of them; but if they had received them, they would have been provided to the wellness committee to do some type of drawing. She explained that if the Commission was interested in partnering with the organization to be a sponsor, staff could go back to them and try to work something out and bring it back to the Commission at the next meeting on February 18, 2014. She stated that if the Commission was not interested and just wanted the organization to pay their fees, then that was the message that they would send them.

Commissioner Stowers requested to have the floor. He stated that he would like to bring up later that night, during their closing comments, some sort of protocol for Commissioners having the floor and speaking. He explained that the Commission went through one time where each one of them was recognized and had a chance to speak and then when they went through a second time he was never recognized, although he tried four or five times to speak. He stated that he was interrupted over and over again before he had a second opportunity to speak.

Mayor Kelley asked if he had interrupted him; whereby, Commissioner Stowers stated that he had, with all due respect.

Mayor Kelley apologized for not recognizing him.

Commissioner Stowers stated that he would like to speak, noting that it was ten or fifteen minutes past the time in which he was attempting to address the issue. He stated that the discussion seemed to be going off the cuff on a number of items stemming from any punitive impacts from which they may or may not know what the applicant did or did not do, down to police costs, fees, and so on. He noted that the clock was ticking on the event already. He stated that regardless of anything they did that night, even if they tabled it, the organization had already demonstrated that they were going to hold the race. He stated that in his opinion, staff had the benefit of the Commission's numerous critical comments that evening, and if the item was tabled, they could decide whether they were going to come back in two weeks and ask for anything. He noted that he thought based on the comments that evening that they probably would ask for next to nothing or nothing at all. He stated that in his opinion, rather than continuing to try and nitpick amounts for a solution, they should allow the organization to proactively look at what the Commission said and come back, knowing now how they felt.

Commissioner Stowers moved, seconded by Commissioner Partington, to table item 7G, a sponsorship request for the Tomoka Marathon, until the second City Commission meeting in February on February 18, 2014.

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| 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 public hearings.

Item #8A – 661 South Nova Road Special Exception

City Clerk Scott McKee read by title only:

ORDINANCE NO. 2014-16

A RESOLUTION AUTHORIZING THE EXECUTION AND ISSUANCE OF A DEVELOPMENT ORDER FOR A SPECIAL EXCEPTION REGARDING THE “CURB APPEAL HARDSCAPING DESIGN CENTER” LOCATED AT 661 SOUTH NOVA ROAD WITHIN THE B-8 (COMMERCIAL) ZONING DISTRICT, TO ALLOW OUTDOOR ACTIVITY TO INCLUDE THE PERMANENT OUTDOOR STORAGE, DISPLAY, AND SALES OF MERCHANDISE; ESTABLISHING CONDITIONS AND EXPIRATION DATE OF APPROVAL; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Boehm moved, seconded by Commissioner Partington, for approval of Ordinance No. 2014-16, on first reading, as read by title only.

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

Item #9A – New LDC Use: Instructional Entertainment

Mr. Ric Goss, Planning Director, stated that a gentleman came to the Commission and requested to start a business called Painting with a Twist. He noted that the business was one which was located throughout the southeast, and that he was acquainted with one located on Central Avenue in St. Petersburg. He explained that the business taught art and quite frequently patrons would bring wine or beer and consume it while they were painting and that it was a social atmosphere promoting collaboration between the participants. He stated that the issue was that the city did not have that type of use and did not allow alcohol consumption unless the business held a license under the alcohol ordinance.

Mr. Goss stated that staff came up with a couple of options for how to proceed, one of which was to do nothing. He stated that there were Painting with a Twist locations that did not allow alcohol at all, some which allowed patrons to bring their own bottle (BYOB), and some that actually held beer and wine licenses. He noted that the applicant had indicated that he did not wish to have a beer and wine license and just wanted to enable patrons to be able to bring a bottle of beer or wine. He stated that the use could be classified within the school of arts, which they felt was very broad, or another option would be to create a use called instructional entertainment, which would be defined and have conditions placed on it. He stated that they kept that definition very narrow so only a finite number of uses could take advantage of that classification, specifically excluding those uses that they knew there would be conflicts with.

Mr. Goss stated that he received correspondence from the Legal Department indicating that even if the BYOB classification was approved, the business would still need to obtain a BYOB license which would cost about \$50, which would be criteria in the ordinance. He explained that the Legal Department also stated that possibly that could be put into the school of arts and then two definitions could be created, one which allowed BYOB and one which did not. He stated that staff wanted to know whether the City Commission thought it was a good use, in particular the BYOB. He stated that based upon the Commission’s direction, staff would come back to them with a code amendment, both in the Land Development Code (LDC) and also into the city’s Code of Ordinances.

Mayor Kelley asked if the applicant already had a location, noting he did not see that information in the agenda packet.

Mr. Goss stated that he did not, but based upon discussions with the applicant, they had identified locations where he had looked and they were B8, B9, and B10 zoned locations. He noted that nothing prevented the applicant from opening the business without the BYOB but he thought it would add to the ambiance of the situation.

Mayor Kelley joked that he imagined Picasso had a little wine while he was painting.

Commissioner Partington stated that he was inclined to allow the applicant to initiate the LDC amendment and pay the required fee, noting that he thought that was staff's recommendation.

Mr. Goss stated that the amendment could be city initiated, or because the applicant was the one requesting the amendment, he could initiate it and pay the costs associated with the advertising.

Commissioner Partington stated that he thought that was the fair way to do it since the applicant was the one requesting the amendment. He noted that there would be other art instruction services such as pottery making that would not want to have alcohol consumed.

Commissioner Stowers stated that he thought that some barrier of entry was not a bad thing. He stated that if they had a business plan and thought it would be successful, then they should go through the process of modifying the code to address it.

Commissioner Boehm stated that he agreed with Commissioner Partington.

Mr. Goss confirmed that staff would prepare an amendment, making sure the Legal Department reviewed it, and then bringing it to the Planning Board and then the City Commission in the next 45 to 60 days.

Item #9B – Volusia League of Cities (VLOC) Distinguished Service Awards 2014

Ms. Shanahan stated that this item was to review the nominations for the Volusia League of Cities' (VLOC) Distinguished Service Awards. She stated that in the agenda packet staff had provided all the nominations they had received and there were some that needed clarification. She stated that there was one nomination in the Administration category, which was for Assistant City Manager and Public Works Director Ted MacLeod. She stated that for the category of Economic Enrichment, Community Development, and Planning, the nomination was for Planning Director Ric Goss.

Mayor Kelley noted that the Commission approved of all the nominations.

Ms. Shanahan explained that there was one category in which there had been two nominations and they could only submit one. She stated that the category was Public Works and Utilities and the nominations received were for Mr. J. D. Davis and City Engineer John Noble. She joked that they would have to ask Mr. Noble to leave the room so that they could discuss the nomination.

Commissioner Boehm stated that he nominated Mr. Noble. He stated that he thought that Mr. Davis had an outstanding career with the city and was well merited being the Employee of the Year. He stated that as he explained in his nomination, due to what Mr. Noble characterized as value engineering, the city saved nearly \$5 million on major engineering projects. He explained that he thought that the effort of staff to save the city \$5 million merited the individual who oversaw that being considered for a countywide award. He recommended Mr. Noble be the nominee.

Commissioner Kent stated that he agreed with Commissioner Boehm.

Commissioner Stowers jokingly asked if Commissioner Boehm was sure he had retired as an advocate attorney. He stated that he agreed with Commissioner Boehm.

Commissioner Partington stated that he also agreed, noting that Mr. Davis was also a fabulous employee and hoped he would be with the city a long time.

Ms. Shanahan noted that Mr. Davis was in the Deferred Retirement Option Program (DROP) already.

Commissioner Partington stated that he would like Mr. Davis to be nominated again next year then, when he had been with the city for 40 years.

Ms. Shanahan stated that the other categories had one nominee each: Mr. Nate Quartier for Fire, and Ms. Christina Maguire, Risk Manager, for Community Activities and Risk Management. She confirmed the Commission was agreeable to those nominees. She stated that the nominee for Volunteer with Community Events was Mr. Brian Daly. She asked the Commission if they had any other nominees that they would like to add.

Commissioner Boehm stated that he had nominated Commissioner Partington in the Elected Official or Presidents' Award or Award of Excellence Category, not as a citizen, but in his role as Commissioner. He noted that he thought that Commissioner Partington went above and beyond the call of duty the previous year representing the city all over the United States. He stated that the Presidents' Award or Award of Excellence was the highest award he believed that was given, and he thought that Commissioner Partington deserved it but noted that he did not think that it should be a citizen category.

Mayor Kelley asked if that was an award given by the board or by nomination.

Ms. Shanahan stated that she did not know.

Commissioner Boehm stated that he thought they could nominate for that category but as he suggested when he made the nomination, if not, then he felt Commissioner Partington should be nominated for Elected Official of the Year.

Item #10 – Reports, Suggestions, Requests

Tomoka Marathon Sponsorship Request

Ms. Shanahan apologized for the misinformation and lack of direction on the marathon item and noted that staff would work something out, if there was something to be worked out.

Goals Workshop

Ms. Shanahan stated that she appreciated the Commission's time and efforts in their Goal Setting Workshop earlier that evening and thanked the Commission for their direction.

Movies on the Halifax

Ms. Shanahan stated that Movies on the Halifax would be held on Friday, February 7, 2014, and the movie shown would be *Despicable Me 2*.

Father Daughter Dance

Ms. Shanahan stated that Saturday, February 8, 2014, there would be a Father Daughter Dance at Nova Recreation Center.

Recognizing Commissioners to Speak

Mayor Kelley noted that he had a protocol he followed which the Commission had adopted. He stated that it was very difficult to always see all of the Commissioners. He stated that he would listen to the tape as he did not recall interrupting anyone. He apologized for cutting off Commissioner Stowers and for not recognizing him. He stated that he tried to let everyone go through the discussion on the first round before he let anyone else speak for a second time. He stated that he thought they were at a point where they were trying to decide what to do, and Commissioner Stowers' input would have been welcomed. He apologized again. He stated that sometimes when Commissioner Kent leaned forward he could not see Commissioner Stowers. He stated that he did not want anyone on the Commission to feel neglected.

City Manager Anniversary

Commissioner Boehm stated that Ms. Shanahan's fifth anniversary with the city had just passed. He stated that he thought the Commission would all agree that she had done an exemplary job. He stated that they certainly hoped she intended to make the rest of her career as the City Manager of Ormond Beach.

Civil Air Patrol Cadets

Commissioner Boehm stated the Ormond Beach Civil Air Patrol Cadet Color Guard Team competed at Patrick Air Force Base and won six trophies including first place in the 2014 Florida Winged Cadet Competition. He stated that he thought that they needed to be recognized at one of the City Commission meetings.

Beach Advisory Board / Beach Access Issues

Commissioner Boehm stated that he read in the newspaper the idea of resurrecting a Beach Advisory Board for the county, using elected officials from each of the beachside cities to provide advice. He stated that he certainly felt they needed input with the county and he would be willing to join that board for Ormond Beach. He stated that since Commissioner Kent was so passionate about the beach, he would certainly like him to be the city's representative to that board, if it was resurrected. He stated that he did believe that the county often sat over in Deland and did not pay much attention to them,

causing them to resort to screaming, yelling, and getting into the newspaper for anything to be done.

Safe Harbor Homeless Shelter

Commissioner Partington stated that he had asked the City Clerk to send each member of the Commission a copy of Daytona Beach's agenda item from a few months ago that included a draft resolution supporting the Safe Harbor Homeless Shelter concept. He asked the Commission if there would be support for the concept of such a shelter to divert homeless men and women from the criminal justice system and save millions in taxpayer dollars. He stated that the city would not be committing to any participation, financially or otherwise, but would just be supporting the concept of the program being utilized in Volusia County, and essentially asking the legislature for funding support. He stated that Daytona Beach and the Volusia Council on Governments (VCOG) had passed ordinances in support. He asked if there was support from the Commission to bring the item back.

Mayor Kelley stated that he thought VCOG prepared draft language for their ordinance, which Ms. Shanahan had. He asked the item to be prepared for discussion at the next meeting.

Beach Advisory Board / Beach Access Issues

Commissioner Stowers stated that in the Goals Workshop the Commission discussed beach access. He thanked Commissioner Kent for the passion and intensity in which he brought forth issues he was intense and passionate about. He stated that he thought it led to dialogue that ultimately led them to a necessary and positive place, noting that the beach access issue was no different. He stated that he had spoken to Commissioner Lentz from Daytona Beach, who had mentioned that there had been some discussions, and noted that he also read the Daytona Beach News-Journal article on the subject. He stated that he agreed with Commissioner Boehm regarding Commissioner Kent serving in the representative capacity if a Beach Advisory Board was re-established. He stated that he thought such a board could deal with a lot of issues throughout the beachside for all municipalities.

Commissioner Stowers stated that he did not want to speak for Commissioner Ken, but he thought the Millsap approach was really where the issue got started. He stated that the county's unwillingness to even discuss opening that approach was unacceptable. He noted that recently the County Council had showed a willingness to at least discuss an interim beach experiment with allowing dogs on the beach. He stated that got him thinking that perhaps they could have the City Manager send a letter to the county requesting a trial run of the Millsap approach being opened from May 1, 2014, to July 31, 2014. He stated that he would be willing to have the city offer to pay the difference if there was a shortfall on revenue. He explained that he had a hard time believing that there would be a shortfall because he believed there would be a lot of people willing to pay to go on the beach there so that they could walk ten feet to Andy Romano Beachfront Park, as Commissioner Kent had noted over a year ago. He stated that this idea was a way to shortcut some of the delay tactics and call their bluff on the revenue neutral issue, noting that, of course, the city would review the specifics to make sure they were not on the hook for an extensive amount of money.

Ms. Shanahan stated that the letter might be more effective coming from Mayor Kelley to the County Chairman than from her to the County Manager.

Recognizing Commission to Speak

Commissioner Kent stated that he did hear Commissioner Stowers try to speak a few times, and he would be better at alerting Mayor Kelley since he sat between them.

City Manager Anniversary

Commissioner Kent stated that he agreed with Commissioner Boehm about Ms. Shanahan's service to the city and truly hoped that she decided to finish her career in Ormond Beach.

Tomoka Marathon Sponsorship Request

Commissioner Kent noted that the marathon consent agenda item was totally out of character for Ms. Shanahan and he was shocked when reviewing it. He stated that she was better than that but noted that she was human. He stated that he was concerned that the item was on the consent agenda, noting that if no one had pulled it, it could have just gone through. He wondered if outside forces may have forced Ms. Shanahan's hand; whereby, Ms. Shanahan stated that there had been no such forces.

Sunoco Gas Stations

Commissioner Kent stated that the Sunoco gas station on the corner of Granada Boulevard and US1 looked great. He stated that he had not gotten gas there yet but had stopped in to get gum for his son and noted that it was very busy and had the best gas prices. He stated that the Sunoco on beachside was cheaper than many other gas stations and very nice looking, as well.

Beach Advisory Board / Beach Access Issues

Commissioner Kent stated that he was contacted last week to have lunch with County Councilman Josh Wagner and other representatives from coastal cities, including New Smyrna Beach Mayor Adam Barringer, Daytona Beach Commissioner Carl Lentz IV, and Daytona Beach Shores Council Member Billie Wheeler. He stated that they met for lunch and had a positive discussion. He noted that it took a lot of thought and time for him to come out with something as bold and brazen as wanting to take back the beach. He stated that he did so because there was one of two ways to get something done and he had been talking about it for 11 years with no results. He stated that he was not joking when he said the county was not a good partner and not a good ally.

Commissioner Kent stated that he also had met with Mr. Hayes and Ms. Shanahan and learned the cons about taking the beach back, which included the fact that there could be a long period of time where they would not be allowed to drive cars on the beach. He stated that his first response was that he could not drive on the beach now so what was the difference. He stated that he wanted the Commission to know that they were not alone with their beach issues and that every coastal community there had concerns of their own, albeit different ones. He stated that everyone agreed that access for Ormond Beach was imperative and noted that they were all baffled that we could not get the Millsap beach approach opened, including County Councilman Wagner. He stated that Mayor Barringer said that if the beach was closed in New Smyrna Beach, like it was in Ormond Beach, that it would be a "death blow" to their businesses. He stated that Councilman Wagner asked how many of them had been to New Smyrna Beach recently and he noted that he had been there. He stated that from Flagler Avenue to the inlet, which was roughly over two miles, you could not fit one person into a parking spot let alone a car, because they were jammed.

Commissioner Kent stated that it was no wonder to him that Ormond Beach's beachside had suffered. He noted beachside was starting to recover with Howard Johnson and other national brands coming in to invest. He stated that the city needed help from the county in the form of their opening the approaches. He stated that if the county would not help them by doing so, then they needed to get out of their way because he learned that they could open every single approach if they wanted, and pay for it; and while the county would receive revenue from that, the city could send them a bill for reimbursement. He noted that was the way it was written. He explained that he was told "good luck" in getting reimbursed but noted that the county had reserves with which to pay.

Commissioner Kent stated that the lunch participants believed that there needed to be a Beach Advisory Board, but that it needed to be comprised of elected officials. He stated that he told them that he would share what they talked about with the Commission and hopefully Ormond Beach would send the message that they wanted a Beach Advisory Board and a spot on that board. He asked the Commission if they knew how many beach approaches were opened that day and the day before in Ormond Beach. He stated that there were seven total city beach approaches, but noted that he considered the Harvard approach, which was just short of the Daytona Beach line, a Daytona Beach approach, so he considered there to be six. He stated that yesterday only two of the six were open, Granada and Cardinal.

Commissioner Kent explained that he also learned that it cost nothing for the county to open up a new beach ramp toll and that the county brought it \$1.8 million from beach tolls. He noted that Mayor Kelley had some great ideas about getting rid of the tolls. He stated that the company that provided the workers for the toll booths, who he assumed were paid around minimum wage, received half of the revenue. He stated that Councilman Wagner told him that it was nothing for the county to open another beach ramp. He asked the county why they were not doing it for Ormond Beach. He stated that he called the County Councilman who represented Ormond Beach, Councilman Doug Daniels, and noted that he had not received a call back from him. He stated that the last County Councilman did not call him back four times and then he voted for the current County Chair. He stated he asked Councilman Daniels to call him back and talk about getting the beach open.

Commissioner Kent stated that the county had a \$700 million plus budget. He stated that the beach was a broken system. He noted that as he was working getting A1A revitalized he was thinking that it must be a result of something the city was doing or not doing or the economy that hurt that area. He stated that yesterday it hit him when Mayor Barringer told him that if the county closed the beaches in New Smyrna Beach like they did in Ormond Beach it would be a "death blow" to his merchants. He explained that was what had happened in Ormond Beach and he had been taking it for years and was not going to take it anymore. He stated that he was not afraid and someone could run against him to get him out of his seat, but he refused to go another day where the beach was closed.

Commissioner Kent stated that it would take some time to correct and that he liked Commissioner Stowers' idea of opening Millsap for three months as trial. He stated that Ormond Beach residents knew that they better get to Andy Romano Beachfront Park or Tom Rennick Park before 10:00 in the morning if they wanted to park otherwise they had to go to Daytona Beach or Flagler Beach. He noted that those citizens did not even try to get on Ormond's other beaches because they knew the ramps were closed. He stated that the city's businesses had been suffering at the hands of the county. He explained that he had always been told that to open those approaches would cost the county money, but now he learned that it did not. He stated that he would be glad to serve on the Beach Advisory Board, if it was formed.

Mayor Kelley stated that the beach was special. He stated that the city tried to take the beach back in 1996 and he knew that it could not be done. He stated that there was too much for them to take it back, but what they needed was more access to the beach. He noted that they had all been working in their own ways to bring it about. He stated that he thought that Commissioner Kent got the county's attention. He noted that he and Ms. Shanahan had mentioned the Millsap approach to the county after they approved the traffic free zone in front of Andy Romano Beachfront Park. He stated that he would also support Commissioner Kent as the Beach Advisory Board representative, if that board was to come about. He thanked Commissioner Kent for taking the issue to heart.

Item #11 – Adjournment

The meeting was adjourned at 8:25 p.m.

APPROVED: February 18, 2014

BY:

Ed Kelley, Mayor

ATTEST:

J. Scott McKee, City Clerk