

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

**December 1, 2009**

**7:00 p.m.**

Present were: Mayor Fred Costello, Commissioners Lori Gillooly, Troy Kent, and Bill Partington, City Manager Joyce Shanahan, Assistant City Manager Ted MacLeod, City Attorney Randy Hayes, and Deputy City Clerk Lois Towey. Commissioner Ed Kelley was absent.

**A G E N D A**

- 1) Meeting call to order by Mayor Costello.
- 2) Invocation by Pastor Ronald Todd, Harbor Baptist Church.
- 3) Pledge of Allegiance.
- 4) **PRESENTATIONS:**
  - A) Employee-of-the-Year award to Chris Mason, Neighborhood Improvement Officer.
  - B) Certificate for "Achievement of Civic Excellence" presented to Katie Giacobbe, Hinson Middle School.
- 5) **AUDIENCE REMARKS:**
- 6) **APPROVAL OF THE MINUTES** of the November 17, 2009, meeting.
- 7) **CONSENT AGENDA:** The action proposed is stated for each item on the Consent Agenda. Unless a City Commissioner removes an item from the Consent Agenda, no discussion on individual items will occur and a single motion will approve all items.
  - A) Resolution No. 2009-196 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 located at 100 West Granada Boulevard for costs incurred by the City to terminate or abate a site maintenance violation. (\$100) (Neighborhood Improvement)
  - B) Resolution No. 2009-197 accepting a proposal submitted by Brown & Brown of Florida, Inc., for the purchase of Commercial General Liability (CGL) insurance coverage underwritten by Star Insurance Company; authorizing payment therefor. (\$59,028) (Risk Manager)
  - C) Courtyards at Ormond Planned Development sidewalk easements:
    - 1) Resolution No. 2009-198 authorizing the acceptance of a public sidewalk easement deed from Ormond DG, LLC, a Florida Limited Liability company, on property located at 145 North Yonge Street within the Courtyards at Ormond Planned Development. (Planning Director)
    - 2) Resolution No. 2009-199 authorizing the acceptance of a public sidewalk easement deed from Ormond Central Marketplace, LLC, a Florida Limited Liability company, on property located at 135 North Yonge Street within the Courtyards at Ormond Planned Development. (Planning Director)
  - D) Resolution No. 2009-200 authorizing the execution of a Local Agency Program Agreement between the City and Florida Department of Transportation regarding Phase II sidewalk improvements on West Granada Boulevard. (\$372,000) (Acting City Engineer / Planning Director)
  - E) Resolution No. 2009-201 authorizing the execution of an addendum with Shelley's Septic Tank, Inc., regarding a price increase in the rate paid for the treatment and disposal of liquid wastewater residuals. (\$0.10 per gallon) (Utilities Manager)
- 8) **PUBLIC HEARING:** Resolution No. 2009-202 of the City Commission, also acting as the Community Redevelopment Agency of the City of Ormond Beach, Florida, authorizing the execution of a Property Improvement Grant Agreement between the Agency and D. Richard Depew, President of Florida Sunset Cabinetry, Inc. (Planning Director)

9) **SECOND READING OF ORDINANCES:**

- A) Ordinance No. 2009-53 approving the final plat for “Deer Creek,” Phase Four, Unit A, of “Hunter’s Ridge” Subdivision, a Development of Regional Impact; establishing conditions and expiration dates of approval. (Planning Director)
- B) Ordinance No. 2009-54 repealing Section 1-25, General, and Section 1-26, Application processing fees, of Article IV, Schedule of Development Review and Impact Fees, of Chapter 1, General Administration, of the Land Development Code of the City of Ormond Beach. (Planning Director)
- C) Ordinance No. 2009-55 amending Chapter 8, Buildings and Construction Regulations, Article I, In General, of the Code of Ordinances of the City of Ormond Beach; by creating a Section 8-10, Application Processing Fees. (Planning Director)
- D) Ordinance No. 2009-56 amending Chapter 14, Offenses-Miscellaneous, of the Code of Ordinances, by adding Article X, Vehicle Parking/Nuisances, and Sections 14-103, Front Yard and Street-Side Yard Parking, thereunder; by establishing terms and conditions relative thereto. (Neighborhood Improvement Manager)

10) **FIRST READING OF ORDINANCES:**

- A) Ordinance No. 2009-57 amending Chapter 4, Alcoholic Beverages, Section 4-3, Sale, consumption, possession, etc., prohibited except on licensed premises; exceptions, of the Code of Ordinances. (Leisure Services Director)
- B) Ordinance No. 2009-58 of the City of Ormond Beach, Florida, making determinations regarding the height of an existing building and the proposed building located at 51 South Atlantic Avenue, known as the Royal Floridian Condominium, and 53 South Atlantic Avenue, known as the Royal Floridian South Condominium, granting certain vested rights relative thereto. (Planning Director)
- C) Ordinance No. 2009-59 of the City of Ormond Beach, Florida, making determinations regarding the height of an existing 95 unit building located at 89 South Atlantic Avenue, known as 89 Oceanfront Condominiums, granting certain vested rights relative thereto. (Planning Director)
- D) Ordinance No. 2009-60 of the City of Ormond Beach, Florida, making determinations regarding the height of an existing 21 unit building located at 99 South Atlantic Avenue (Parcel No. 4214-28-00-2500), known as Oceanside 99 Condominium; granting certain vested rights relative thereto. (Planning Director)
- E) Ordinance No. 2009-61 of the City of Ormond Beach, Florida, making determinations regarding the height of an existing 53 unit building located at 111 South Atlantic Avenue, known as Atlantis Condominium; granting certain vested rights relative thereto. (Planning Director)
- F) Ordinance No. 2009-62 of the City of Ormond Beach, Florida, making determinations regarding the height of an existing 56 unit building located at 395 South Atlantic Avenue, known as Tidesfall Condominium; granting certain vested rights relative thereto. (Planning Director)
- G) Ordinance No. 2009-63 of the City of Ormond Beach, Florida, making determinations regarding the height of two existing buildings containing 42 units located at 591 South Atlantic Avenue, known as Tropic Sun Towers Condominium; granting certain vested rights relative thereto. (Planning Director)
- H) Ordinance No. 2009-64 of the City of Ormond Beach, Florida, making determinations regarding the height of an existing 104 unit building located at 759 South Atlantic Avenue, known as Georgian Inn Beach Club; granting certain vested rights relative thereto. (Planning Director)
- I) Ordinance No. 2009-65 of the City of Ormond Beach, Florida, making determinations regarding the height of an existing 27 unit building located at 901 South Atlantic Avenue, known as Aliko Atrium Condominium; granting certain vested rights relative thereto. (Planning Director)

- J) Ordinance No. 2009-66 of the City of Ormond Beach, Florida, making determinations regarding the height of an existing 156 unit building located at One John Anderson Drive, known as the Ormond Heritage Condominium; granting certain vested rights relative thereto. (Planning Director)
- K) Ordinance No. 2009-67 of the City of Ormond Beach, Florida, making determinations regarding the height of an existing building located at 875 Sterthaus Drive (Parcel No. 4241-01-05-0070), and formerly known as the Ormond Memorial Hospital; granting certain vested rights relative thereto.

11) **RESOLUTIONS:**

- A) Resolution No. 2009-203 approving and authorizing severance compensation for firefighters meeting the eligibility requirements for normal retirement on or before May 1, 2010; establishing conditions of entitlement; making legislative findings.
- B) Resolution No. 2009-204 relative to the City Commission, also acting as the Community Redevelopment Agency, expressing concern regarding the validity of proposed Volusia County resolutions relating to the delegation to, and exercise by, municipalities of community redevelopment power.

12) **DISCUSSION ITEMS:**

- A) Modification of the existing purchasing ordinance to include a local preference component. (Finance Director)
- B) Hand Avenue bridge options.

13) **REPORTS, SUGGESTIONS, REQUESTS:** Mayor, City Commission, City Manager, City Attorney.

14) **CLOSE THE MEETING.**

Item #1 – Meeting Call to Order

The meeting was called to order by Mayor Costello at 7:00 p.m.

Item #2 – Invocation

The invocation was giving by Pastor Ronald Todd, Harbor Baptist Church.

Item #3 – Pledge of Allegiance

The Pledge of Allegiance was led by Mayor Costello.

Item #4A – Employee of the Year – Chris Mason

City Manager Joyce Shanahan introduced the Employee of the Year, Chris Mason, Neighborhood Improvement Division, and his family: wife, Sue; son Alex; and daughter, Nicole. Ms. Shanahan explained that Mr. Mason grew up in the area, attended school here and previously served as a Daytona Beach Police Officer before joining the City as a Neighborhood Improvement Officer, which was a difficult job enforcing the City's code of ordinances. She stated Mr. Mason always did an excellent job while maintaining a professional and pleasant demeanor. She stated he enjoyed boating, water sports and cooking; performing culinary duties for The National Night Out, Make a Difference Day, and the Police Department's Christmas lunch, but most of all, enjoyed his family.

Mayor Costello presented a plaque, gift cards, and a day off to Chris Mason as Employee of the Year, and thanked him for all he did for the community.

Item #4B - Certificate for "Achievement of Civic Excellence"

Ms. Mary Rhodes from the Ormond Beach Chamber of Commerce recognized Katie Giacobbe as the recipient of the "Achievement of Civic Excellence Award." Ms. Rhodes introduced Katie's parents, Doug and Gail Giacobbe, grandmother, Louise, and acknowledged Katie's many friends in attendance. Ms. Rhodes reported some of Katie's achievements, who was a seventh grade student at Hinson Middle School, included National Junior Honor Society, student board

member of the Hinson Middle School PTSA, a member of the student government, a student reporter at the Rally in Tally last year, and a volunteer with Ormond Beach Downs Syndrome Sports, as well as many more achievements.

Item #5 – Audience Remarks

Mayor Costello stated there was no one wishing to speak under Audience Remarks.

Item #6 – Approval of the Minutes

Mayor Costello advised the minutes of the November 17, 2009, regular meeting had been sent to the Commission for review and asked for any corrections, additions, or omissions. The Mayor stated the minutes were approved as printed without objection.

Item #7 – Consent Agenda

Mayor Costello advised the action proposed for each item on the Consent Agenda was so stated on the agenda. He asked if any member of the Commission had questions or wished to discuss any item separately.

**Commissioner Partington moved, seconded by Commissioner Kent, to approve the Consent Agenda.**

Call Vote:	Commissioner Gillooly	Yes
	Commissioner Kent	Yes
	Commissioner Partington	Yes
Carried.	Mayor Costello	Yes

Item #8 – Property Improvement Grant – 9 Washington Street

RESOLUTION NO. 2009-202

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 PROPERTY IMPROVEMENT GRANT AGREEMENT BETWEEN THE AGENCY AND D. RICHARD DEPEW, PRESIDENT OF FLORIDA SUNSET CABINETRY; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Costello explained the City Commission served as the Community Redevelopment Agency (CRA), and must review an item prior to the City Commission to make a recommendation to the City Commission. The Mayor recessed the City Commission meeting and called the CRA to order.

Commissioner Partington recommended approval of recommending Resolution 2009-220; Commissioner Gillooly seconded the recommendation.

Mayor Costello called for a voice vote, which was unanimous, for recommending approval of Resolution 2009-202.

Mayor Costello adjourned the CRA meeting and reconvened the City Commission meeting.

**Commissioner Gillooly moved, seconded by Commissioner Partington, for approval of Resolution No. 2009-202, as read by title only.**

Call Vote:	Commissioner Kent	yes
	Commissioner Partington	yes
	Commissioner Gillooly	yes
Carried.	Mayor Costello	yes

Mayor Costello closed the public hearing.

Item #9(A) – Final Plat for “Deer Creek”, Phase Four Unit A of “Hunter’s Ridge

ORDINANCE NO. 2009-53

AN ORDINANCE APPROVING THE FINAL PLAT FOR “DEER CREEK”, PHASE FOUR UNIT A OF “HUNTER’S RIDGE” SUBDIVISION A DEVELOPMENT OF

REGIONAL IMPACT; ESTABLISHING CONDITIONS AND EXPIRATION DATES OF APPROVAL; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Gillooly moved, seconded by Commissioner Kent, to approve Ordinance No. 2009-53, on second reading, as read by title only.**

Call Vote:	Commissioner Partington	Yes
	Commissioner Gillooly	Yes
	Commissioner Kent	Yes
Carried.	Mayor Costello	Yes

Item #9(B) – Deleting of Development Review Fee Schedule from Land Development Code

ORDINANCE NO. 2009-54  
 AN ORDINANCE REPEALING SECTION 1-25, GENERAL AND SECTION 1-26, APPLICATION PROCESSING FEES, OF ARTICLE IV SCHEDULE OF DEVELOPMENT REVIEW AND IMPACT FEES, OF CHAPTER 1, GENERAL ADMINISTRATION OF THE LAND DEVELOPMENT CODE OF THE CITY OF ORMOND BEACH; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kent moved, seconded by Commissioner Gillooly, to approve Ordinance No. 2009-54, on second reading, as read by title only.**

Call Vote:	Commissioner Kent	Yes
	Commissioner Partington	Yes
	Commissioner Gillooly	Yes
Carried.	Mayor Costello	Yes

Item #9(C) – Addition of Development Fee Schedule to the Code of Ordinances

ORDINANCE NO. 2009-55  
 AN ORDINANCE AMENDING CHAPTER 8, BUILDINGS AND CONSTRUCTION REGULATIONS, ARTICLE I, IN GENERAL OF THE CODE OF ORDINANCES OF THE CITY OF ORMOND BEACH; BY CREATING A SECTION 8-10, APPLICATION PROCESSING FEES; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Partington moved, seconded by Commissioner Gillooly, to approve Ordinance No. 2009-55, on second reading, as read by title only.**

Call Vote:	Commissioner Partington	Yes
	Commissioner Gillooly	Yes
	Commissioner Kent	Yes
Carried.	Mayor Costello	Yes

Item #9(D) – Amending the Code of Ordinances regarding Front Yard Parking

ORDINANCE NO. 2009-56  
 AN ORDINANCE AMENDING CHAPTER 14, OFFENSES-MISCELLANEOUS, OF THE CODE OF ORDINANCES, BY ADDING ARTICLE X, VEHICLE PARKING/NUISANCES, AND SECTIONS 14-103, FRONT YARD AND STREET-SIDE YARD PARKING, THEREUNDER; BY ESTABLISHING TERMS AND CONDITIONS RELATIVE THERETO; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kent moved, seconded by Commissioner Partington, to approve Ordinance No. 2009-56, on second reading, as read by title only.**

Mrs. Caj Pinero, 176 Seminole Avenue, stated her family chose to live in Ormond Beach after a lot of consideration. She explained her family worked hard for what they had, and she stated the proposed ordinance to require a paved or asphalt driveway was wrong in every sense of the word. She stated they parked a small motorcycle trailer and a small vehicle in their side yard, but like a lot of disabled people and people on a fixed income, they could not afford improvements for a side yard driveway.

Michelle Vanorsdale, 173 Carib Drive, stated she and her husband had been residents of the City for over 16 years in the same cul-de-sac. She stated all her neighborhood residents were struggling financially, and the proposed ordinance would affect 5 of the 12 houses. She pointed out the ordinance would affect the sale of homes without paved driveways. She stated there were no problems with the current situation, and the proposed changes would cause difficulties.

Ms. Sheila Chappell, 49 Woodmere Circle, stated her family lived in a small, older home and was horrified to read the article about this proposed ordinance. She stated her car would not fit into her garage because it was filled with hurricane supplies. She stated she had a narrow driveway that could not be widened due to an impediment, and her son had parked on the right-of-way since 1986, but did not block traffic. She suggested the proposed ordinance was a global solution to a local problem.

Mr. Erik Krallinger, 630 South Beach, stated he had a one car driveway and parked one car on the grass next to the driveway. He stated the proposed ordinance was ridiculous and went too far.

Mike McQuarrie, 6 Pine Valley Circle, stated he was speaking on behalf of the in-laws who owned property at 231 Rosewood. He expressed support for the proposed ordinance because his in-laws' property was located across the street from property zoned for a business, and customers of the business parked their cars pm the in-laws' property. He stated the signage to prevent this from happening had been removed. He inquired as to the difference between residential and business parking in the proposed ordinance.

The City Manager stated she was aware of the issue at 231 Rosewood, and explained the customers of the business were parking on the right-of-way, not obstructing traffic, in front of residential property, which was legal.

Mr. Rick D'Louhy, 108 Rio Pinar Drive, stated he had a number of relatives visit for the Thanksgiving weekend, some of whom parked on the side of the driveway. He stated sometimes he had visitors that may stay for an extended period of time, and was concerned regarding the 24 hour limitation for parking beside the driveway. He suggested the proposed ordinance was based on the size of the driveway, which was an inequity; and therefore, he did not support the changes.

Pat Behnke, 15 Malayan Sun Bear Path, stated the Commission was considering adding another ordinance, and asked if this would be another ordinance that was not enforced, like the sign ordinance, which was not being enforced. She proposed that an ordinance should not be enacted if it was to be selectly enforced or not enforced at all.

Mayor Costello stated the City had reactive code enforcement, which meant that staff responded when someone called regarding a violation; due to limited staff resources, the City could not pro-actively look for violations. He requested the citizens be patience about the signage violations, and he wanted businesses to succeed.

Mr. Doug Thomas, 132 River Bluff Drive, explained the handouts he gave to the Commission of pictures of his son's house with his truck parked on the driveway blocking the sidewalk because, due to the size of the truck, he could not get it in the garage. He verified that his son could park his truck in the right-of-way but not blocking sidewalk or roadway traffic. He pointed out that if this ordinance was passed, it would create a hardship in many neighborhoods that had no garages or paved driveways, and suggested allowing parking abutting the driveway with a surface other than asphalt for a parking area.

Mr. Marvin Miller, 40 Riverside Drive, stated it was the right of people to use their property. He stated the ordinance was ambiguous and would cause more problems than it would solve. He stated because one person parked ten cars in their yard, all were being punished. He asked the Commission to please vote "no", as it would place an overwhelming hardship on many residents. He referenced the survey of surrounding municipalities and stated most allowed side yard parking. Mr. Miller explained the photos he presented that illustrated side yard parking could be handled appropriately. He stated the problem was vehicles in the front yard, not the number of vehicles.

Bill Partington, II, 1284 Fernway Drive, stated ten cars parked in the yard should not be allowed, and cars should not block the sidewalk. He stated the ordinance was a good idea with a little reworking to accommodate citizens' needs.

Pamela Powell, 47 St. Andrews Drive, stated she had looked for property to rent, and every property she had seen would be affected by the proposed ordinance. She stated the landlords

had already reduced their rents by \$100 per month. She remarked that the economic times made it especially difficult on people and that due to historically low wages in the area, and unemployment, families were taking in family members. She stated this ordinance would cause financial hardships to a lot of people and was prejudicial to low income residents. She stated this ordinance would not benefit anyone.

Bob Robinson, 244 South Beach, stated there was already an ordinance that prevented blocking the sidewalk with a vehicle. He suggested the proposed ordinance was using a club instead of a stick to resolve the issue.

Joan Sheridan, 252 South Beach, stated she had a two family household and did not have access to the back yard. She stated her guests had no place to park except in the front yard. She stated she bought the house because cars could park in the front and did not know what they would do if this ordinance passed.

Mayor Costello reviewed the information on the survey conducted by the City of the surrounding municipalities, and he stated the City was not bound by what the others did. He asked the other members if they would consider allowing parking in the side yard, but not in the front yard; would that parking area have to be an improved surface; and if front yard parking should be allowed on an improved surface.

Commissioner Gillooly stated she had received a number of calls, after the first reading; the callers were pleased that finally something was being done. She explained the Commission had gotten to this proposal due to a lot of rental properties with a lot of cars parked on the property; and the intent was to provide an avenue to resolve some of the problems with multi-car properties to preserve the aesthetics of the neighborhoods. She stated she would consider side yard parking with surfaces other than asphalt. She recognized the ordinance needed some modification and suggested tabling it for 90 days while staff looked at modifications.

Commissioner Kent thanked the audience for sharing their opinions and recognized something needed to be done about properties with a lot of cars parked in the front yard, which affected property values. He acknowledged that after hearing the audience comments, he was willing to be flexible, possibly considering side yard parking but not requiring asphalt. He stated he would agree to table the ordinance and give staff some direction in making modifications.

Commissioner Partington agreed with everyone's comments and appreciated everyone coming to the meeting. He stated that government worked best when a compromise was reached that worked for all. He stated there should be a balance between aesthetics, quality of life, and economics. He commented it was not appropriate for a business' customer to park in the right-of-way in front of someone's residence. He stated he could agree to side yard parking with mulch or concrete. He agreed the ordinance was not ready, but was confident it would be made better, and it should be tabled.

Mayor Costello stated that business traffic should not be permitted to park in the right-of-way of a residence. He suggested the 24 hours limitation could probably be 72 hours with a permit for additional time. He stated side yard parking was acceptable on one side of the house without an improved surface, after the driveway was full, but no parking should be allowed in the front yard unless it was an improved surface; and new construction should be required to provide parking spaces subject to the number of bedrooms in the house.

Commissioner Gillooly clarified that existing homes would not be required to make upgrades.

**Commissioner Gillooly moved, seconded by Commissioner Kent, to table Ord. No. 2009-56 for ninety day, which would be the March 2, 2010, City Commission meeting.**

City Manager Shanahan asked the Commission if they desired side yard parking on an unimproved surface once the driveway was full.

Commissioner Kent stated he would support side yard parking but the surface should be improved.

City Manager Shanahan clarified that side yard parking would be limited to one side of the yard, and the 24 hour time limit would be increased to 72 hours.

Commissioner Kent expressed concern that an individual would stay 72 hours, leave, and then return for another 72 hours.

Mayor Costello stated he was trying to resolve the issue for visitors who stayed for extended visits.

Commissioner Gillooly suggested staff could recommend a time limit after researching the issue further.

City Manager Shanahan proposed allowing extended stays with a permit would create difficulty for staff to track the information and enforce violations; and staff could take the Commission's direction and bring something to them for their review.

Call Vote:	Commissioner Gillooly	yes
	Commissioner Kent	yes
	Commissioner Partington	yes
Carried.	Mayor Costello	yes

Item #10A – Chapter 4 Alcoholic Beverages, Sec. 4-3, Code of Ordinances

ORDINANCE NO. 2009-57

AN ORDINANCE AMENDING CHAPTER 4, ALCOHOLIC BEVERAGES, SECTION 403, SALE, CONSUMPTION, POSSESSION, ETC., PROHIBITED EXCEPT ON LICENSED PREMISES; EXCEPTIONS, OF THE CODE OF ORDINANCES; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Partington moved, seconded by Commissioner Gillooly, to approve Ordinance No. 2009-57, on first reading, as read by title only.**

Bill Partington, II, Fernway Drive, stated the ordinance included an item to restrict the area where alcoholic beverages would be allowed; and he asked if the restriction would include dispensing and consumption to a specific area.

City Manager Shanahan explained that currently, alcohol was only allowed inside a building, but nowhere on the grounds of a venue, which prompted staff to review the ordinance. The City Manager stated the proposed ordinance would restrict consumption to the entire event, such as the Riverfest event would allow consumption of alcohol while walking around Rockefeller Gardens.

Mr. Partington stated concern over the unclear wording of the ordinance and the interpretation, such as making a distinction between types of alcohol.

The City Manager explained the distinction was between a cash bar and an open bar; a cash bar required a specific license to sell alcohol.

Leisure Services Director Robert Carolin explained the ordinance proposed that small events, such as a private wedding or social event, could serve "hard" liquor and special events would only be permitted to serve beer, wine and champagne.

Commissioner Partington stated he had received an email from Rita Press regarding her concern about those people who overindulge in alcoholic beverages; and asked if police officers would be monitoring the events.

The Leisure Services Director explained that police monitoring would remain the same. He stated that normal procedure was that staff spoke with all customers about their event, laid out a plan, and recommended to the customer what might be needed. He stated the only difference with this ordinance was that "hard" liquor would be allowed at small social events.

Commissioner Partington asked why fundraising events could not have a cash bar where "hard" liquor was sold.

The Leisure Service Director explained the proposed ordinance did not include that provision.

City Manager Shanahan state the provision was not provided for in the existing ordinance; and although that might have happened in the past, the practices should reflect what was in the ordinance.

Commissioner Partington inquired as to how the City could prohibit "hard" liquor sales at a fundraiser if state law allowed for it.



City Attorney Randy Hayes stated the issue was that the City's property was public property, as opposed to private property. He stated the objective was to have the ordinance consistent with the practices.

Mayor Costello inquired who would not use City facilities if "hard" liquor was not authorized.

The Leisure Services Director stated the same customers that now choose not to hold their event on City property would continue to use non-City facilities, which were mostly wedding receptions that wanted to have open bars.

Mayor Costello stated he was not willing to change the codes for that reason.

Commissioner Gillooly inquired about the amount of income the City received from these types of events; did these events provide a positive income for the City. She agreed that public venues did not need to allow "hard" liquor.

Leisure Services Director Carolin stated the current ordinance did not allow for sale of any alcoholic beverages at a fundraiser, but the proposed change would allow the sale of beer, wine and champagne, which would provide for a larger profit. He stated that "hard" liquor would not necessarily make a difference in the profits.

Commissioner Gillooly expressed concern regarding private weddings or private parties with an open bar, and that they would be allowed to bring their own alcoholic beverages and serve them without any license. She stated she was concerned about the additional liability of a potential lawsuit. She expressed support for allowing multiple events for non-profit organizations, but was opposed to permitting "hard" liquor to be distributed.

The City Manager stated the fundraising events were required to carry liability insurance, but stated the City would not need to acquire additional liability insurance due to alcoholic beverages being distributed at the events.

Commissioner Kent expressed his support for allowing small events to bring their own alcoholic beverages for an open bar as a huge cost savings. He stated he would consider discussing allowing alcoholic beverage sales on Sunday morning before noon. He stated he opposed the sale of "hard" liquor at events on City properties.

Mayor Costello summarized that three members of the Commission favored all the proposed changes except the distribution of "hard" liquor.

Commissioner Partington suggested allowing "hard" liquor if it was served by a licensed vendor.

Mayor Costello stated opposition to the distribution and/or sale of "hard" liquor on City property.

Leisure Services Director Carolin stated the subject of allowing "hard" liquor was presented only because other changes to the ordinance were being proposed.

The City Attorney stated the language on Page 3, Paragraph F, which included only beer, wine, or champagne, could remain; and reference to an alcohol permit could be eliminated. He recommended staff rework the ordinance and return it to the Commission.

**Commissioner Partington moved, seconded by Commissioner Gillooly, to table Ord. No. 2009-57.**

Call Vote:	Commissioner Kent	yes
	Commissioner Partington	yes
	Commissioner Gillooly	yes
Carried.	Mayor Costello	yes

Item #10B – Building Height Exemption: Royal Floridian, 51 South Atlantic Avenue

ORDINANCE NO. 2009-58  
AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, MAKING DETERMINATIONS REGARDING THE HEIGHT OF AN EXISTING BUILDING AND THE PROPOSED BUILDING LOCATED AT 51 SOUTH ATLANTIC AVENUE, KNOWN AS THE ROYAL FLORIDIAN CONDOMINIUM, AND 53

SOUTH ATLANTIC AVENUE, KNOWN AS THE ROYAL FLORIDIAN SOUTH CONDOMINIUM, GRANTING CERTAIN VESTED RIGHTS RELATIVE THERETO; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Gillooly moved, seconded by Commissioner Partington, to approve Ordinance No. 2009-58, on first reading, as read by title only.**

Call Vote:	Commissioner Partington	Yes
	Commissioner Gillooly	Yes
	Commissioner Kent	Yes
Carried.	Mayor Costello	Yes

Item #10C – Building Height Exemption: 89 Oceanfront, 89 South Atlantic Avenue

ORDINANCE NO. 2009-59

AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, MAKING DETERMINATIONS REGARDING THE HEIGHT OF AN EXISTING 95 UNIT BUILDING LOCATED AT 89 SOUTH ATLANTIC AVENUE, KNOWN AS 89 OCEANFRONT CONDOMINIUMS; GRANTING CERTAIN VESTED RIGHTS RELATIVE THERETO; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Gillooly moved, seconded by Commissioner Partington, to approve Ordinance No. 2009-59, on first reading, as read by title only.**

Call Vote:	Commissioner Gillooly	yes
	Commissioner Kent	yes
	Commissioner Partington	yes
Carried.	Mayor Costello	yes

Item #10D – Building Height Exemption: Oceanside 99 Condominium, 99 South Atlantic Avenue

ORDINANCE NO. 2009-60

AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, MAKING DETERMINATIONS REGARDING THE HEIGHT OF AN EXISTING 21 UNIT BUILDING LOCATED AT 99 SOUTH ATLANTIC AVENUE, (PARCEL ID NO. 4214-28-00-2500), KNOWN AS OCEANSIDE 99 CONDOMINIUM; GRANTING CERTAIN VESTED RIGHTS RELATIVE THERETO; REPEALING ALL INCONSISTENT ORDINANCES OF PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Partington moved, seconded by Commissioner Kent, to approve Ordinance No. 2009-60, on first reading, as read by title only.**

Call Vote:	Commissioner Kent	yes
	Commissioner Partington	yes
	Commissioner Gillooly	yes
Carried.	Mayor Costello	yes

Item #10E – Building Height Exemption: Atlantis Condominium, 111 South Atlantic Avenue

ORDINANCE NO. 2009-61

AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, MAKING DETERMINATIONS REGARDING THE HEIGHT OF AN EXISTING 53 UNIT BUILDING LOCATED AT 111 SOUTH ATLANTIC AVENUE, KNOWN AS ATLANTIS CONDOMINIUM; GRANTING CERTAIN VESTED RIGHTS RELATIVE THERETO; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Gillooly moved, seconded by Commissioner Partington, to approve Ordinance No. 2009-61, on first reading, as read by title only.**

Call Vote:	Commissioner Partington	Yes
	Commissioner Gillooly	Yes
	Commissioner Kent	Yes
Carried.	Mayor Costello	Yes

Item #10F – Building Height Exemption: Tidesfall Condominium, 395 South Atlantic Avenue

ORDINANCE NO. 2009-62

AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, MAKING DETERMINATIONS REGARDING THE HEIGHT OF AN EXISTING 56 UNIT BUILDING LOCATED AT 395 SOUTH ATLANTIC AVENUE, KNOWN AS TIDESFALL CONDOMINIUM; GRANTING CERTAIN VESTED RIGHTS RELATIVE THERETO; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Gillooly moved, seconded by Commissioner Kent, to approve Ordinance No. 2009-62, on first reading, as read by title only.**

Call Vote:	Commissioner Gillooly	yes
	Commissioner Kent	yes
	Commissioner Partington	yes
Carried.	Mayor Costello	yes

Item #10G – Building Height Exemption: Tropic Sun Towers, 591 South Atlantic Avenue

ORDINANCE NO. 2009-63

AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, MAKING DETERMINATIONS REGARDING THE HEIGHT OF TWO EXISTING BUILDING CONTAINING 42 UNITS LOCATED AT 591 SOUTH ATLANTIC AVENUE, KNOWN AS TROPIC SUN TOWERS CONDOMINIUM; GRANTING CERTAIN VESTED RIGHTS RELATIVE THERETO; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kent moved, seconded by Commissioner Partington, to approve Ordinance No. 2009-63, on first reading, as read by title only.**

Call Vote:	Commissioner Kent	yes
	Commissioner Partington	yes
	Commissioner Gillooly	yes
Carried.	Mayor Costello	yes

Item #10H – Building Height Exemption: Georgian Inn, 759 South Atlantic Avenue

ORDINANCE NO. 2009-64

AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, MAKING DETERMINATIONS REGARDING THE HEIGHT OF AN EXISTING 104 UNIT BUILDING LOCATED AT 759 SOUTH ATLANTIC AVENUE, KNOWN AS GEORGIAN INN BEACH CLUB; GRANTING CERTAIN VESTED RIGHTS RELATIVE THERETO; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Partington moved, seconded by Commissioner Gillooly, to approve Ordinance No. 2009-64, on first reading, as read by title only.**

Call Vote:	Commissioner Partington	Yes
	Commissioner Gillooly	Yes
	Commissioner Kent	Yes
Carried.	Mayor Costello	Yes

Item #10I – Building Height Exemption: Aliko Atrium Condominium, 901 South Atlantic Avenue

ORDINANCE NO. 2009-65

AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, MAKING DETERMINATIONS REGARDING THE HEIGHT OF AN EXISTING 27 UNIT BUILDING LOCATED AT 901 SOUTH ATLANTIC AVENUE, KNOWN AS ALIKI ATRIUM CONDOMINIUM; GRANTING CERTAIN VESTED RIGHTS RELATIVE THERETO; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Gillooly moved, seconded by Commissioner Partington, to approve Ordinance No. 2009-65, on first reading, as read by title only.**

Call Vote:	Commissioner Gillooly	yes
	Commissioner Kent	yes
	Commissioner Partington	yes
Carried.	Mayor Costello	yes

Item #10J – Building Height Exemption: Ormond Heritage, One John Anderson Drive

ORDINANCE NO. 2009-66

AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, MAKING DETERMINATIONS REGARDING THE HEIGHT OF AN EXISTING 156 UNIT BUILDING LOCATED AT ONE JOHN ANDERSON DRIVE, KNOWN AS ORMOND HERITAGE CONDOMINIUM; GRANTING CERTAIN VESTED RIGHTS RELATIVE THERETO; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Gillooly moved, seconded by Commissioner Partington, to approve Ordinance No. 2009-66, on first reading, as read by title only.**

Call Vote:	Commissioner Kent	yes
	Commissioner Partington	yes
	Commissioner Gillooly	yes
Carried.	Mayor Costello	yes

Item #10K – Building Height Exemption: Former Ormond Memorial Hospital, 875 Sterthaus Drive

ORDINANCE NO. 2009-67

AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, MAKING DETERMINATIONS REGARDING THE HEIGHT OF AN EXISTING BUILDING LOCATED AT 875 STERTHAUS DRIVE (PARCEL NO 4241-01-05-0070), FORMERLY KNOWN AS THE ORMOND MEMORIAL HOSPITAL; GRANTING CERTAIN VESTED RIGHTS RELATIVE THERETO; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Partington moved, seconded by Commissioner Kent, to approve Ordinance No. 2009-67, on first reading, as read by title only.**

Call Vote:	Commissioner Partington	Yes
	Commissioner Gillooly	Yes
	Commissioner Kent	Yes
Carried.	Mayor Costello	Yes

Item #11A – Firefighter’s Proposed Severance Incentive

RESOLUTION NO. 2009-203

A RESOLUTION APPROVING AND AUTHORIZING SEVERANCE COMPENSATION FOR FIREFIGHTERS MEETING THE ELIGIBILITY REQUIREMENTS FOR NORMAL RETIREMENT ON OR BEFORE MAY 1, 2010; ESTABLISHING CONDITIONS OF ENTITLEMENT; MAKING LEGISLATIVE FINDINGS; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Partington moved, seconded by Commissioner Kent, to approve Resolution No. 2009-203, as read by title only.**

Commissioner Gillooly stated objection to the \$500 a month incentive for 36 months to assist in purchasing insurance coverage, because it was fiscally unsound. She stated she would not vote for approval of the resolution.

Commissioner Partington stated he would vote for the resolution because it treated all employees fairly, and the annual ongoing savings was approximately \$85,000.

Commissioner Kent stated his only hesitation was the upfront cost of \$36,000; but he had supported the resolution for other employees, so he would support it for the firefighters.

Mayor Costello stated support for the resolution due to the savings, and he stated it was equitable to all employees. The Mayor pointed out that the savings would be \$85,000 only if the vacant positions created by firefighters electing this option were not filled.

Call Vote:	Commissioner Gillooly	no
	Commissioner Kent	yes
	Commissioner Partington	yes
Carried.	Mayor Costello	yes

Item #11B – Community Redevelopment Area Resolutions

RESOLUTION NO. 2009-204

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF ORMOND BEACH, ALSO ACTING AS THE COMMUNITY REDEVELOPMENT AGENCY, EXPRESSING CONCERN REGARDING THE VALIDITY OF PROPOSED VOLUSIA COUNTY RESOLUTIONS RELATING TO THE DELEGATION TO, AND EXERCISE BY, MUNICIPALITIES OF COMMUNITY REDEVELOPMENT POWER; EXPRESSING A DESIRE TO CONTINUE IN A COOPERATIVE EFFORT WITH THE COUNTY TO RESOLVE ISSUES REGARDING THE DELEGATION AND EXERCISE OF COMMUNITY REDEVELOPMENT AUTHORITY; EXPRESSING OPPOSITION TO THE ADOPTION OF THE PROPOSED COUNTY RESOLUTIONS; RESERVING ALL LEGAL AND EQUITABLE RIGHTS; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Partington moved, seconded by Commissioner Gillooly, to approve Resolution No. 2009-204, as read by title only.**

Mayor Costello stated staff did a great job of explaining this, and it was very clear. The Mayor stated the bottom line was the Commission did not want the County to unilaterally repeal or modify the authority of the municipalities. He expressed the City was happy to have them as a partner and make joint decisions.

City Manager Joyce Shanahan stated that based on the Commission’s decision, it was staff’s intent to attend the County Council meeting, present the resolution, and let them know that the Commission’s major concern was the unilateral repeal or modification of the delegation of authority of CRAs. She stated staff would be sure to thank the Council for their continued partnership in many endeavors that were undertaken with the County, but the issue of authority of CRAs was important to our community.

Mayor Costello stated the Commission would like to convey that the Council should receive a benefit from partnering with the City, and he stated, should the City have something of value, the City would like to have a partnership with them. The Mayor stated it may take many years to change the culture of CRAs, but the City did not want that to happen overnight.

Call Vote:	Commissioner Kent	yes
	Commissioner Partington	yes
	Commissioner Gillooly	yes
Carried.	Mayor Costello	yes

Mayor Costello stated the Council may feel there had been some excesses and/or abuses, and sometime, specific CRAs were not handled appropriately; but there were enough benefits of CRAs demonstrated all over the County, much less the state or the nation, that the City would encourage the County to continue to allow CRAs to work for the benefit of the communities that need revitalization, which was the goal and was even more important now.

Item #12A – Purchasing-Local Preference

Mayor Costello confirmed that all members were in favor of including a local preference provision in the purchasing procedures of the City.

City Manager Shanahan stated staff would return with an ordinance reflecting the Commission desire for preference to local businesses in City purchasing policies.

Item #12B – Hand Avenue Bridge Options

Mayor Costello explained the options for a Hand Avenue bridge and stated he favored Option 2.

Commissioner Partington expressed his support for Option 2 as the most sensible.

Commissioner Gillooly stated she favored Option 2, which would provide recreational opportunities as well as flood prevention.

Commissioner Kent stated preference for Option 2.

Mayor Costello summarized that the Commission favored Option 2.

#### Item #13 – Reports, Suggestions, Requests

##### Airport Noise Abatement

Commissioner Kent read the following email into the public record:

“Dear Ormond Beach City Commission, I like to think of myself as a long time, long term, voting, taxpaying, proud of my city, citizen of Ormond Beach. I work hard, travel and often I'm unable to voice my opinion at City meetings – I wish I could, I believe it's important. I'm currently stationed in Iraq. I've been following the Airport noise issue closely via the City web-site. I request the following statement be read into the record during the public comment portion of the City Commission Meeting, Noise Abatement Committee report.

The Airport is an important part of this community and my life. It serves a long established Floridian and American industry that is aviation. I'm proud of that industry, happy to earn a living in it, fortunate enough to be able to pay taxes rather than be supported by them. Recently, however, the Noise Abatement Committees are hard at work with hidden agendas trying to ultimately close down the Airport or so severely restrict its use; making it effectively useless. Their agenda advocates intimidation in the form of hysterical reporting of tail numbers to the FAA (jeopardizing a pilot's career and livelihood), to employing the squeaky wheel theory, capitalizing on their free time to relentlessly wear down elected leaders common sense for the sake of temporary town hall peace. They've even tried to eliminate the opposition argument of “simply move” by claiming it offends them. This new logic, where the idle few impose their will on the active many is not only unfair but in the case of an airport is un-American. The Airport has a right to exist. It's altogether appropriate in manner and logic to say to those who moved next to this or any airport and are bothered by it, they should simply move! Your frustration is misdirected on the flying public and should be focused instead on your real estate agent. In a community where freight trains rumble thru town at 3 in the morning, motorcycles from all over the country descent on our streets for weeks at a time, sirens wail in the dead of night on deserted street on calls to nowhere, to complain about some kid in a Cessna is not only ridiculous but mean spirited and agenda driven. If the City is truly concerned about noise, then in the spirit of fairness, they should address all these areas – not just the airport. We are lucky the City is custodian to part of a system of airports designed to do exactly what it is doing; producing pilots, some of which now find themselves far from home protecting your way of life. I am earnestly pleased with the City and all involved; leave the Airport alone. Respectfully, Mike Cavallo, Major USAFR, 8 Oriole Circle, Ormond Beach, FL, Balad Air Base, Iraq.”

##### Burglary Response

Commissioner Kent read a letter into the public record written to the Commission regarding police performance relative to a burglary:

“I would like to take this opportunity to praise the exemplary performance of our police department in the handling of the recent burglary of my home. The speed at which my 911 call was answered (officers were at my home in less than two minutes) was outstanding. I was impressed by the speed and efficiency of the handling of clearing the house of any other thieves and the manner in which the evidence was collected. All of the officers and detectives involved were extremely polite and courteous, especially to my wife who was most upset having seen the burglar upon entering the house, also within less than an hour, with only a vague description of a slim male in a red shirt, they had a suspect in custody who later proved to be the culprit. This is outstanding police work worthy of the highest commendation.

I would like to express my appreciation of Officer Robert Pearson who was the first to arrive and his handling and calming down of two highly agitated citizens speaks well of his abilities and training. He even took the time later in the day to call and tell us that they had found our stolen property. He even came by the next day and told us all of the particulars of the capture and the finding of our property. I think this was especially thoughtful and considerate.

Again, let me express thanks and appreciation of the Ormond Beach Police Department. I hope you and the City Commissioners appreciate them as much as I do.

Sincerely, H.C. Cone, Jr., 353 South Atlantic Avenue, Ormond Beach, FL 32176.”

Movie Night

Commissioner Kent stated there was no Movie on the Halifax scheduled for December or January. He stated this was not acceptable; and staff must make it happen, and it must consistently happen every month. He stated it should be a movie directed to families.

Mayor Costello and Commissioner Partington agreed with Commissioner Kent.

Farmer's Market

Commissioner Kent stated a man contacted him who wanted to sell fish dip at the Farmers' Market but was told he could not, due to the non-compete policy. He pointed out that several different vendors were selling tomatoes, and he stated several vendors should be able to sell the same items.

Bubba Gump's Block Building Event

Commissioner Kent presented photos of the Bubba Gump's Block Building Event and the City's Team Ormond. He complimented Commissioner Gillooly and the Habitat for Humanity for a great fundraising event and announced that Team Ormond did such a wonderful job, they won first place, Best in Show.

Commissioner Gillooly thanked the City for all the support of the event and explained that due to such a successful event, someone would get a new home.

Riverfest

Commissioner Partington stated Riverfest was a wonderful event and congratulated Ormond Main Street for such a successful event.

Fire Department Staffing

Mayor Costello requested the City Manager schedule a Commission discussion regarding fire department staffing issues.

Magazine Article

Mayor Costello reported the City was included in the *Where To Retire* magazine as one of the eight cities in the country as the best places to retire.

Commissioner Kelley

Commissioner Kent wished Commissioner Kelley a quick recovery.

Commissioner Gillooly stated she had hoped to see Commissioner Kelley at the meeting, but sent regards to him and his family, and looked forward to seeing him back at the Commission meetings.

Mayor Costello asked that everyone remember Commissioner Kelley, and wish him a speedy recovery.

Item #14 – Close the Meeting

The meeting was adjourned at 9:56 p.m.

APPROVED: \_\_\_\_\_ December 15, 2009

BY: \_\_\_\_\_  
Fred Costello, Mayor

ATTEST:

\_\_\_\_\_  
Veronica Patterson, City Clerk