

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

January 20, 2009

7:00 p.m.

Present were: Mayor Fred Costello, Lori Gillooly, Troy Kent, Ed Kelley, and Bill Partington, Acting City Manager Ted MacLeod, City Attorney Randal Hayes, and City Clerk Veronica Patterson.

A G E N D A

- 1) Meeting call to order by Mayor Costello.
- 2) Invocation by Reverend Bill Owens, First United Methodist Church of Ormond Beach.
- 3) Pledge of Allegiance.
- 4) ***PRESENTATIONS:***
 - A) Employee-of-the-Quarter award to Rob Hart, Finance Department.
 - B) Presentation of "HOMe for the HOLIDAYS" awards.
- 5) ***AUDIENCE REMARKS:***
- 6) ***APPROVAL OF THE MINUTES*** of the December 16, 2008, meeting.
- 7) ***INTERGOVERNMENTAL REPORTS:***
 - A) Metropolitan Planning Organization
 - B) Volusia Council of Governments
 - C) Water Authority of Volusia
- 8) ***CONSENT AGENDA:*** The action proposed is stated for each item on the Consent Agenda. Unless a City Commissioner removes an item from the Consent Agenda, no discussion on individual items will occur and a single motion will approve all items.
 - A) Resolution No. 2009-04 authorizing the execution of a release and satisfaction of Special Master administrative fine/lien for code violations on property located at 319 South Halifax drive (Parcel ID 4214-20-02-0370), Ormond Beach, Volusia County, Florida.

- B) Resolution No. 2009-05 authorizing the execution and transmittal of a temporary construction easement deed in favor of St. James Episcopal church of Ormond Beach, Inc., a Florida non-profit corporation, on unimproved City property located on or along Halifax drive (Parcel ID 4214-11-99-0121); providing for expiration.
- C) Resolution No. 2009-06 approving Amendment No. 27 to the Professional Services Agreement between the City and Hoyle, Tanner & Associates, Inc., regarding design services for the heliport at the Ormond Beach Municipal Airport; authorizing payment therefore. (\$24,500 total project; 95% FAA funding; 2.5% FDOT funding; 2.5% City funding or \$613)
- D) Resolution No. 2009-07 authorizing the execution of a Joint Project Agreement with the County of Volusia regarding utility installation and road construction on Airport Road from Ocean Pines Drive and the FEC railroad.
- E) Resolution No. 2009-08 authorizing the execution of a Memorandum of Understanding between the City of Ormond Beach and the Ormond Beach General Employees association, OPEIU (Local 115 AFL-CIO, CLC).
- F) Resolution No. 2009-09 accepting a bid from R.A. Scott Construction Co. for construction services regarding the Division Avenue Roadway Construction project under Bid No. 2008-18; authorizing the execution of a contract and payment therefor; rejecting all other bids. (\$546,772.39)
- G) FY 2008-2009 budget results for the General Fund and the Water/Wastewater Fund.

DISPOSITON: Approved as recommended in City Manager memorandum dated January 15, 2009.

- H) Update on River Bend Golf Course lease.

DISPOSITION: Accept City Manager memorandum dated January 15, 2009.

- I) Closing of Riverside Drive for the Chamber of Commerce “Family Walk FUEL (Fitness, Uplifts and Everyone’s Life)” event.

DISPOSITION: Approve as recommended in City Manager Memorandum dated January 20, 2009.

9) **PUBLIC HEARINGS:**

- A) Ordinance No. 2008-39 annexing certain real property into the City of Ormond Beach located at 1360, 1362, 1364, 1366, 1368 and 1370 North Highway US1; setting forth zoning, privileges, and obligations of said property; providing for transmission. (Second Reading)
- B) Ordinance No. 2009-01 amending Paragraph C, Official Zoning Map, of Section 2-01, Establishment of Zoning Districts and Official Zoning Map, of Article I, Establishment of Zoning Districts and Official Zoning Map, of Chapter 2, District and General Regulations, of the Land Development Code, by amending the Official Zoning Map to rezone certain real property located at 211 North Tymber Creek Road from HM-4 (Rural Mobile Home) to R-2 (Single-Family Low Density); authorizing revision of the Official Zoning Map. (Second Reading)

- 10) **SECOND READING OF ORDINANCE** No. 2008-62 of the City of Ormond Beach, Florida, relative to the General Employees’ Pension Plan, amending Article I, In General, of Chapter 16, Pensions and Retirement, of the *Code of Ordinances*, amending Section 16-6, Benefit Amounts and Eligibility.

- 11) **DISCUSSION ITEM:** Granada Boulevard resurfacing project.

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

- 13) **CLOSE THE MEETING.**

Item #1 - Meeting Call to Order

Mayor Costello called the meeting to order at 7:02 p.m.

Item #2 – Invocation

The invocation was given by Reverend Bill Owens, First United Methodist Church of Ormond Beach.

Item #3 - Pledge of Allegiance.

Mayor Costello led the Pledge of Allegiance.

Item #4(A) – Employee-of-the-Quarter – Rob Hart, Finance Department

Mayor Costello asked Ted MacLeod, Acting City Manager, to present the Employee-of-the-Quarter award. Mr. MacLeod announced that Rob Hart, Finance Dept, had been named the Employee-of-the-Quarter. Mayor Costello presented Mr. Hart with a plaque commemorating his selection as Employee-of-the-Quarter for the first quarter of Fiscal Year 2009 along with a City seal watch. Mayor Costello thanked Rob on behalf of all of the citizens of Ormond Beach.

Item #4(B) - “Home for the Holidays” Awards

Mayor Costello called Brian Daly, Parade Chairman, forward to present the awards to the winners of the City’s holiday parade.

Brian Daly stated this had been the eighteenth annual holiday parade and the seventh night time parade. He explained that this year there were 88 entries in the parade, the most floats ever with 40 floats, and just over 2,400 participants. He thanked Maggie Sacks from Ormond Main Street for partnering with the City for the third year on the tree lighting; the judges, Gail Burgess, Dillus Harris, and April Thomas; Grand Marshall Dave Abee; and the sponsors, BrightHouse Networks, Seniors R Us, Preferred Business Group, Weather Guard Shutters, Hometown News, and LaMar Advertisers. He also recognized the committee members, the City advisors, the Streets Department and the Police Department for their assistance.

Mr. Daly announced the winners by division as follows:

- Vehicles – Aloha Marine, Sunshine Community Banks, River Ocean Kayaks
- Floats – Holly Hill PTA, Ormond Beach Elementary, Seabreeze FFA Club
- Walkers – Pathways Kindergarten, Holly Hill Highsteppers, Amanda’s Dance Center
- Best Overall – Friends of the Dog Park Float

Mr. Daly asked Tony Capoze from the Chamber of Commerce to present the President’s Cup for the best business entry.

Tony Capoze announced the winner of the President’s Cup was Sparkle and Shine.

Mayor Costello announced Item 8(I) Riverside Drive closure was added to the agenda; the discussion on the Granada Boulevard resurfacing project has been delayed until February 3 because Florida Department of Transportation would walk the downtown on February 2 with anyone that would like to join them. He stated that the River Bend Golf Course lease would be on the February 3 agenda. The Mayor announced a couple of items to be added to the discussion portion of the meeting; Fire Chief Baker’s retirement, Fire Department service levels and signage.

Item #5) Audience Remarks:

Riverside Drive Tree Trimming

Lura Willhite, 161 Riverside Drive, stated a meeting was held at the Casements on January 15 regarding the proposed tree and branch cutting on Riverside Drive. Ms. Willhite stated on Saturday morning, January 17, City representatives and about twenty of the neighbors met to watch a fire truck maneuver Riverside Drive. She explained the fire truck came for a walk through, but unfortunately, the truck had to respond to a call and sped off down Riverside Drive. She stated the truck had no problem maneuvering the street. Ms. Willhite stated the walk continued with John Bouck, an arborist, from the Neighborhood Improvement Department explaining each tree and all the markings; identifying specific trees and branches; listened to the concerns of the residents; and agreeing that most of the trees didn’t need to be cut. She stated the fire truck returned, driving slowly, as a firefighter marked more branches to be cut. She said residents agreed the safety of the fire truck and personnel was of the utmost importance but

were concerned about overcutting and the loss of the canopy. She stated residents feel the need to watch over the historic lane and trees and would like to be kept informed of further actions and be allowed to attend any cuttings.

Mary Jamidar, 108 Riverside Drive, stated she had presented pictures of the tree branches to which the residents would like the cutting to be limited and would like to be informed of the time and date scheduled for the cutting.

Mayor Costello asked Ted MacLeod if there was any problem notifying residents and having John Bouck attend.

Mr. MacLeod reported that it was not a problem.

Fire Personnel Issues

Jim Shaw, 15 Lake Vista Way, President of Ormond Beach Firefighters' Association, explained that on December 12 a ladder truck was taken out of service without warning, effectively reducing the service level by 20%. He stated the same day, the implementation of the Quint concept began, placing six positions in jeopardy of elimination and marking seven positions for demotion. He said the demotions were done by email on Friday before a three day weekend. He stated that no time was given for the rebuttal of the proposed savings related to the demotions. He expressed concern that the entire information gathering done by the Union had no effect on Chief Baker's decision, and the Quint concept was implemented solely for staff reductions. He expressed fear the results of the ISO audit were already known and would reflect the ease of laying off six firefighters. He stated all the firefighters strongly believed the department should bring back ladder truck 93 and its associated 20% level of service, and promotions, and that as an end result, would save jobs. He stated the recent decisions have not been fair to the firefighters nor in the best interest of the City.

Mayor Costello asked Chief Baker to address some of the firefighters' issues during the discussion period at the end of the meeting.

Land for Beachfront Park

Norman Lane, 1314 Northside Drive, representing Can Do, spoke to urge the Commission to purchase land on the beach for a park. He expressed the beach was what makes the City special. He commented that although parking was the big issue, he did not want just a parking lot. He stated the park should have natural landscaping to provide shade, a picnic area and bathrooms designed for the residents. He stated there are derelict motels on the beach, and it was the best time to buy land with County funds for a park on the east side of A1A.

Pilgrim's Rest 100th Anniversary

Tony Corn, 170 West Granada, spoke as a citizen of Ormond Beach who grew up here and enjoys the history of the City; therefore, he extended an invitation to the Commission for the 100th anniversary of Pilgrim's Rest Cemetery to be held on April 26 at 2:00 p.m.

Fire Chief Barry Baker announced his retirement effective February 2 to take a position as head of the Florida State Fire College. He reported that the City's Fire Department was a good department with good people and would do a good job for the City.

Item #6 – Approval of the Minutes

Mayor Costello advised the minutes of the December 16, 2008, regular meeting had been sent to the Commission for review, and with no corrections, additions, or omissions, the minutes would stand approved as submitted.

Item #7(A) – Metropolitan Planning Organization

Mayor Costello stated there was no meeting of the Metropolitan Planning Organization.

Item #7(B) – Volusia Council of Governments

Mayor Costello stated there was nothing new to report.

Item #7(C) – Water Authority of Volusia

Commissioner Kelley reported there was nothing to update.

Item #8 – Consent Agenda

Mayor Costello advised that the action proposed for each item on the Consent Agenda was so stated on the agenda including Item 8(I). He asked if any member of the Commission had questions or wished to discuss any one or more of the items separately.

Commissioner Kelley moved, seconded by Commissioner Gillooly, for approval of the Consent Agenda.

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

Mayor Costello commented that it was great for Tomlinson Aviation, Inc. to pay the City's share for the heliport which would have established approach and departure corridors, thereby reducing the adverse interactions with the surrounding residential communities.

Mayor Costello expressed excitement about the needed road construction on Airport Road. He remarked that the range of 12 bids on Item F was from \$546,772 to \$863,371 while the engineer's estimate for the project was \$911,071, which was an indication of how much some contractors want the work.

The Mayor stated the River Bend Golf Course lease will be on the agenda February 3.

Commissioner Kent stated the Division Avenue bid was an incredible savings for the City as was the heliport, and it was awesome the lien was paid.

Item #9(A) – Annexing 1360, 1362, 1364, 1366, 1368 and 1370 North Highway US1

ORDINANCE NO. 2008-39
AN ORDINANCE ANNEXING CERTAIN REAL PROPERTY INTO THE CITY OF ORMOND BEACH LOCATED AT 1360, 1362, 1364, 1366, 1368 AND 1370 NORTH HIGHWAY US1; SETTING FORTH ZONING, PRIVILEGES, AND OBLIGATIONS OF SAID PROPERTY; PROVIDING FOR TRANSMISSION; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Costello stated that this was a public hearing.

Commissioner Kent moved, seconded by Commissioner Kelley, for approval of Ordinance No. 2008-39 on second reading, as read by title only.

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

Mayor Costello closed the public hearing.

Item #9(B) Amending the Zoning Map for North Tymber Creek Road

ORDINANCE NO. 2009-01
AN ORDINANCE AMENDING PARAGRAPH C, OFFICIAL ZONING MAP, OF SECTION 2-01, ESTABLISHMENT OF ZONING DISTRICTS AND OFFICIAL ZONING MAP, OF ARTICLE I, ESTABLISHMENT OF ZONING DISTRICTS AND OFFICIAL ZONING MAP, OF CHAPTER 2, DISTRICT AND GENERAL REGULATIONS, OF THE CITY OF ORMOND BEACH *LAND DEVELOPMENT CODE*, BY AMENDIGN THE OFFICIAL ZONING MPA TO REZONE CERTAIN REAL PROEPRTY TOTALING 1.15-ACRES LOCATED AT 211 NORTH TYMBER CREEK ROAD, FROM VOLUSIA COUNTY MH-4 (RURAL MOBILE HOME) TO ORMOND BEACH R-2 (SINGLE-FAMILY LOW DENSITY), AUTHORIZING REVISION OF OFFICIAL ZONING MAP; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Gillooly, for approval of Ordinance No. 2009-01 on second reading, as read by title only.

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

Item #10 – Amending the General Employees’ Pension Plan

ORDINANCE NO. 2008-62

AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, RELATIVE TO THE GENERAL EMPLOYEES’ PENSION PLAN, AMENDING ARTICLE I, IN GENERAL, OF CHAPTER 16, PENSIONS AND RETIREMENT, OF THE CODE OF ORDINANCES; AMENDING SECTION 16-6, BENEFIT AMOUNTS AND ELIGIBILITY; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kent, for approval of Ordinance No. 2008-62 on second reading, as read by title only.

Randy Iglesias, 270 Lowndes, stated the City would benefit by his retirement because he was undergoing chemo treatments; therefore, he hoped and prayed the Commission would consider voting yes.

Mayor Costello reiterated the Commission had to vote for what was best for the City, not just for one individual.

Commissioner Kelley commented if it was only Mr. Iglesias, he would vote for the ordinance, but he did not think the ordinance was best for the entire City; therefore, he could not support it but offered his blessings to Mr. Iglesias and hoped everything would work out.

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

Item #11– FDOT – Granada Boulevard Improvements

Mayor Costello stated the item was delayed to the February 3 meeting due to an on-site meeting with FDOT on February 2. He reminded everyone that all were welcome to attend that meeting.

Mayor Costello commented he had asked Ric Goss to lead the walk, and Maggie Sacks and Mary Rose from the Chamber to provide input during the walk.

Fire Chief Pension

Mayor Costello asked City Attorney Randy Hayes to discuss Chief Baker’s pension issue.

Mr. Hayes suggested that initially Chief Baker could provide more background, then he would possibly provide additional information.

Fire Chief Barry Baker stated when he was hired in December 1997 he was not required to be certified as a Florida firefighter; therefore, he was not eligible to join the Firefighters’ Pension Fund; he was in the Gen. Employees’ Pension Plan. He explained the next spring and summer, the wild fires happened before he was certified. He advised that Fred Disselkohn, who was the City Attorney at that time, would have switched the Chief to the Firefighters’ pension plan. He stated City Manager Eugene Miller, who would have agreed that the Chief should have been in the Firefighters’ Pension Fund, was terminated. He stated he was now ready to retire, so he asked the City Attorney’s office to research the issue. He stated their research concluded he should be in the Firefighters’ Pension Fund. Chief Baker stated he spoke with Patricia Shoemaker from the office of the Firefighters’ Pension Fund in Tallahassee, and she concluded he should be in Firefighters’ Pension Fund. Chief Baker explained the issue was presented to the Pension Board; and the Board’s attorney, Lee Dehner, agreed but needed something stating that the position required him to be certified. He stated he made a request to Eugene Miller that

Mr. Miller write a letter stating certification was a requirement of the Fire Chief's position. Chief Baker related that Mr. Dehner stated the Chief was required by law to be in the Firefighters' Pension Fund because the City did not have an ordinance allowing the fire chief the election to opt out; therefore, the Pension Board did not have any choice in the matter nor did the Commission have a choice. Chief Baker stated that he was required to invest around \$50,000, which was the difference between the General Employees' Pension Fund and the Firefighters' Pension Fund in the interest paid during the time he should have been in the Firefighters' Pension Fund. He stated the City Firefighters' Pension Fund would have to pay about \$26,000, which was what the City would have paid over the years.

Mayor Costello asked Finance Director to address the \$26,000 contribution the City would have to pay.

Finance Director Kelly McGuire clarified the \$26,000 was what the City would have paid over the last ten years, if the Chief had been in the Firefighters' Pension Fund. She explained the additional contribution would be paid over the next fiscal year, which would eliminate any unfunded liability due to this matter.

Mayor Costello summarized the change would not cost the City any more than what would have been paid all along if the Chief had been in the Firefighters' Pension Plan. He asked if it was typical for fire chiefs to be in the Firefighters' Pension Fund.

Chief Baker explained that in 1999 the state offered the fire chiefs an opportunity for an "opt out", but the cities were required to enact an ordinance if the fire chief wished to opt out. He explained that Ormond Beach did not have such an ordinance.

City Attorney Randy Hayes stated he had a conversation with Lee Dehner about the central issue in this situation, which revolved around whether or not certification was a job requirement. He stated that initially certification was not an issue, but after the fires of 1998, it became a requirement. He explained Mr. Miller recently drafted a letter to indicate that. He stated the statute provided that a pension plan may include a provision that would allow a fire chief to make an election to opt in or opt out, but the City does not have an ordinance allowing such an election. He expressed he was not certain there was a requirement to have such a provision in the ordinance. He stated the pension attorney reviewed all the documentation and concluded, based on the strength of Mr. Miller's letter, that because the certification was a requirement of Chief Baker's employment, he should be in the Firefighters' Pension Plan. He related Mr. Dehner's opinion that this matter was outside the jurisdiction of the Pension Board and the Commission. Mr. Hayes stated he did not speak directly with the State office, but they hold basically the same opinion as Mr. Dehner.

Mayor Costello asked to confirm that in the opinion of the City Attorney, this matter was not something that would come to the Commission for a vote but would be determined administratively.

Mr. Hayes stated the Mayor was correct because, based on the ordinance the City had, this matter would not come before the Commission for a vote.

Commissioner Gillooly asked if the issue for making a decision by the state and the pension attorney was whether or not it was a requirement for the fire chief to hold the Florida firefighter's certification.

Mr. Hayes stated that it appeared to be the central point of the matter.

Commissioner Gillooly asked for clarification that Mr. Miller's letter was just recently written.

Mr. Hayes stated that was his understanding, although he had not yet seen the letter, that due to the lack of a paper trail in the file, Mr. Miller was contacted to determine if he recalled the circumstances at the time. Mr. Hayes explained that Mr. Miller did and, as a result, wrote the letter.

Commissioner Gillooly asked if that letter dealt with the fact that a requirement for Chief Baker's job was certification. She questioned the City Attorney about whether he had seen the letter.

Mr. Hayes stated he had not seen the letter, but his understanding was the certification requirement was, in fact, the substance of the letter.

Commissioner Gillooly disclosed that Chief Baker had spoken with her regarding this issue and asked if there was anything in his personnel file such as a letter of engagement from when he was hired.

The City Attorney stated there was an employment letter; however, it did not contain any specification as to the certification. He explained this was just before the time of the wild fires, after which Mr. Miller determined the Chief needed the certification as a condition of employment; but the determination was not documented at that time.

Commissioner Gillooly asked whether it was the responsibility of the employee to see that the paperwork was in order.

The City Attorney explained that a series of events occurred around the same time, such as the wild fires and Fred Disselkohn's death, so although Mr. Disselkohn was very good about keeping records, there was no paper trail. He stated through Chief Baker's diligence, the Chief contacted Mr. Miller, who had a good recollection of what had occurred and his reasons for making those determinations. The Chief asked Mr. Miller to prepare the letter which Mr. Dehner accepted as substantial evidence on this issue. Mr. Hayes explained Mr. Miller attended the Pension Board meeting and verified the accuracy of the information, which was the basis of Mr. Dehner's conclusion.

Commissioner Kent asked Ted MacLeod or Randy Hayes if when you hire a fire or police chief, you would expect chiefs would be in the fire or police pension. He questioned if the reason Chief Baker was in the general employees' pension was because he was management. Commissioner Kent asked in which pension plan was Police Chief Longfellow.

The City Attorney explained that Chief Longfellow came up through the ranks, so he was in the Police Officers' Pension Plan. He stated the reason Chief Baker was in the General Employees' Pension Fund initially was the perception of conflict since he would be involved in collective bargaining negotiations. He stated circumstances would dictate the action; in Chief Baker's situation Mr. Miller initially decided the Chief should not be in the firefighters' plan.

Commissioner Kent expressed he had a lot of respect for the Chief, but the timing and the situation is questionable.

Commissioner Kelley stated that in looking at the situation, it was not a requirement of the City for the Chief to be in firefighters' pension at the time he was hired as an administrator, not a firefighter. Commissioner Kelley explained State law required that to be in the firefighters' plan, the individual had to be certified as a firefighter; for that reason Chief Baker could not be in the firefighters plan when he was hired. Commissioner Kelley reported that in 1999 the State law changed to require fire chiefs to be certified firefighters with an option to opt out. He stated he understood the Commission did not get a vote on this matter, but he felt since Chief Baker was not required to be certified at the time of his employment, he should have been in the General Employees' Pension, should remain in the General Employees' Pension Plan, and, thereby, not be eligible for a retirement benefit.

Commissioner Partington expressed since there was nothing the Commission could do about this matter, he had nothing to say about it but asked what staff was doing to prevent this from happening in the future. He asked if Human Resources could develop a policy that required within 60 days of hire that it be determined under which pension plan an employee would qualify.

Mr. Hayes stated the job positions this issue applied to were limited to the Fire and Police Chiefs. He expressed the pension attorney was of his opinion but the fuzzy question that had no clear answer was the statute indicated a plan may include an election by the Fire Chief but the City's plan does not have that option. He explained the pension attorney and the state representative were of the opinion that the absence of an election in the plan allowed the election.

Commissioner Gillooly expressed fondness of the Chief and his concern for his department but she stated she had grave concern that the whole issue hinged on a memo written in the last few days. She noted the City Attorney's comment about Fred Disselkohn's thoroughness and that he kept notes and records, but nothing was in the file. She requested the City Attorney do more research to determine if the Commission had any jurisdiction in this matter.

The City Attorney stated the pension board attorney's opinion had determined the issue to be an administrative function; therefore, the pension board and pension board attorney concluded the pension board and Commission had no jurisdiction. He stated, therefore, there was no reason

for any action on the part of the Commission. He offered that if the Commission desired, he would investigate the matter further, but there may be no clear answer to the question they would like to have answered because the circumstances were so peculiar.

Chief Baker stated he was hoping to help the Commission focus on the future by suggesting the Commission change the Firefighters' Pension Fund to require everyone to get certification within one year of date of hire to be in the firefighters' pension. He also suggested the City have an ordinance that allowed the Fire Chief an election to opt in or out. He commented as for Mr. Miller's letter, the previous chief was not certified but employed as an administration chief. Chief Baker explained he thought it was resolved until Lee Dehner asked for a letter from Mr. Miller.

Mayor Costello asked if the Chief's certification was in 1998 or 1999.

Chief Baker responded he was certified September 1, 1998. He explained he could not operate legally during the fires without certification.

Mayor Costello pointed out that in 1999 the law changed to require a fire chief to be certified.

Chief Baker related the State told him that in 1999 the legislature provided an option to allow a community to offer the opt in/opt out election for a fire chief.

Commissioner Gillooly asked if in 1999, the State law required the City's fire chief to be a certified firefighter or if it was the opt in/out election that changed.

Mr. Hayes explained that by law the firefighters must be certified, but his reading of the 1999 statute indicated the pension plan may include a provision which allowed the chief to have an election option.

Mayor Costello stated the Commission was asking the City Attorney to research if the Commission had any decision making power in this matter. The Mayor directed Ted MacLeod and Joyce Shanahan to make any changes necessary to try to prevent this occurrence in the future.

Ted MacLeod commented that this was discussed over the years, not something that was forgotten. He recalled when the Chief was hired, Mr. Miller did not want the Chief in the firefighters' pension because he would be negotiating benefits of the plan that would benefit him. Mr. MacLeod explained Mr. Miller wanted the Fire Chief in the General Employees' Pension Fund and the certification was not important because the Chief was an administrator in Mr. Miller's mind; however the fires changed all that. Mr. MacLeod stated that was when Mr. Miller decided the importance of the Chief being certified; and the Chief should have been put in the firefighters' plan when he got his certification.

Commissioner Gillooly asked if the numbers were based from 1999 or the date of hire; and what the differences were between the plans.

Finance Director Kelly McGuire explained the numbers were reflected from the date of certification which was 1998. She discussed the differences between the plans which were the vesting for the firefighters' plan was ten years rather than five years for the general employees' plan; and because, although, there were a variety of ways an employee could meet the requirements for retirement eligibility, the Chief was not eligible for retirement under general employees' plan based upon his age and years of service.

Commissioner Gillooly summarized the Chief was not eligible for retirement or the early retirement option through the general employees' plan but by switching to the firefighters' plan, he would be eligible to receive a pension from the City.

Fire Department Positions

Mayor Costello asked Chief Baker to address some of the firefighters' comments and questions presented earlier in the meeting.

Chief Baker explained in August, a ISO (Insurance Service Office) reviewer spent four days here compiling information for the department rating, whereby the reviewer concluded the current configuration would require an additional ladder truck and suggested the Chief look at alternatives. The Chief stated one of the alternatives the reviewer recommended was the Quint concept; which allowed more flexibility with the ladder truck; for example, if 50% of the stations had the Quint concept in place, the City would qualify for the concept, thereby allowing the retirement of one ladder truck without a penalty. He said the option to that would be to move

the ladder truck to Station 92, but that station would not accommodate the ladder truck without alteration. He stated the annexation along the Route 1 corridor would require another truck in the near future. He said the reviewer was ready to turn in the figures for the rating but explained the rating would be worse without the Quint concept, so action had to be taken quickly. He stated staff was called together to discuss the matter at length and made the decision to implement the Quint concept. Chief Baker stated preliminary information revealed the decision would allow the department to maintain or improve the class rating. He agreed the decision was done very quickly.

Regarding the demotions, the Chief stated he held discussions with the union to explain it would mean demotions over time but decided to wait until after the holidays to make the demotions. Chief Baker said he received letters from the affected lieutenants suggesting they be kept at that level because it would save the City money. He related that after lengthy discussion with the union president and vice president, he concluded if there was a savings, he would reconsider the demotions. He stated Kelly McGuire twice presented some numbers relative to the demotions, but the union officials disagreed with both sets of figures. He explained this was done to provide flexibility, and the Quint concept did not create a twenty percent reduction in services as proposed by the Union.

Commissioner Kelley expressed he thought the Commission had held a Capital Improvements workshop where the Quint concept was brought to the Commission for discussion, and it was determined to replace the vehicle with the Quint concept in the budget. He stated the change to the Quint concept was forced by the ISO rating and that the Chief had implemented the demotions with a heavy heart.

Chief Baker commented he felt especially bad about two situations; where someone went down two ranks and where both members of the family were affected. He stated he understood why some people felt angry, and he would have felt angry in their situation. He remarked the demotions affected younger employees who had worked very hard to get to where they were.

Commissioner Partington stated he knew the department was going to the Quint concept, which would involve a reduction in staff in some way, but the demotion issue should not be final yet. He stated the value of maintaining a good work relationship with staff was more important than a few thousand dollars. He said it was more beneficial to maintain a good relationship so everyone would work together toward saving costs.

Mayor Costello stated that with a new city manager and a new fire chief, and possibly some early retirements, a package might be developed so everyone comes out winners. He expressed he did not want the Commission to get into the habit of managing departments or people; instead the Commission should express their concerns.

Commissioner Gillooly remarked the Quint concept was discussed and its impact on business and property owners; and the Chief had adamantly discussed keeping staff levels where they were.

Commissioner Kent agreed with Commissioner Partington. He stated the demotions affected some of the brightest and best who worked hard to get where they were; therefore, the demotions should stop immediately and be reviewed by the new City Manager and new Fire Chief.

Mayor Costello expressed the Commission should allow staff to do their jobs. He asked Chief Baker if the Quint concept allowed for one less ladder truck, if the department would still be able to provide the same services.

Chief Baker confirmed the change would not affect services; the same number of staff would be responding from the same number of stations. He reported the demotions were not effective until January 26, and it would be his pleasure to rescind them.

Mayor Costello stated his vision of the situation was to have a whole package where the demotions would be eliminated through early retirements while providing the same services with the same or better ISO rating. He commented this would require senior staff members to be reasonable, as a 4.0 multiplier was not reasonable. The Mayor suggested a shade meeting was needed to address all these issues.

Commissioner Kent stated the reason he was so strong about rescinding the demotions at this time was because two of the demotions were in the same family, which was rough; and if rescinded, it would send such a great message to the department.

Mayor Costello stated he wanted the new Fire Chief to understand a couple of the Commission members were not happy with the demotions, and it would give him the opportunity to make points by developing a package that all agreed upon.

Chief Baker stated he had done his due diligence and would like to suggest the demotions be put on hold but did not want the new chief to have to deal with the same problems.

Mayor Costello suggested he indicate to the department the issue was on hold awaiting the new chief.

Commissioner Kelley stated the suggestion was way out of bounds; the Commission's job was to give policy, not to tell a manager how to manage. He stated he wanted to see an all inclusive package presented with early retirement that would accomplish what was needed to the benefit of the citizens and the Fire Department.

Mayor Costello clarified for Ted MacLeod to get together with Chief Baker and decide what was best for the department.

Mr. MacLeod confirmed that he heard and would get with Chief Baker.

Commissioner Gillooly agreed with Commissioner Kelley; the Commission should not be making decisions about matters that took administrative review, and this issue had been discussed. She stated she believed her first duty was to the people who elected her, and she was sorry for the individuals, but that could not influence her decisions because she must do what was best for citizens. She stated that although she supported the entire department, she pointed out the Commission must address budget reduction while maintaining the same level of services to citizens with the least impact on the employees. She suggested the Chief and staff present a plan to avoid loss of jobs.

Mayor Costello clarified if the Commission does not get a package with early retirements to open some positions there would be demotions or elimination of positions. He expressed he wanted Mr. MacLeod to work to resolve this and do what was best for the City.

Mr. MacLeod stated these other issues were not close to resolution, and Chief Baker made the demotions at the Commission's direction to cut costs wherever possible.

Mayor Costello stated he wanted some solutions along with an early retirement package that works for the City and the firefighters, and he would support whatever decision Mr. MacLeod made.

Commissioner Kent asked Mr. Shaw to clarify the costs of maintaining the current positions.

Mr. Shaw stated that from the firefighters' perspective, the costs would be in the range of \$2,100 to \$2,500.

Commissioner Kent stated for \$2,100 to \$2,500 he would agree to rescind the demotions, but for a \$17,000 savings, he would support the demotions.

Commissioner Kelley asked for confirmation from the Finance Director regarding the \$2,500 cost.

Ms. McGuire stated the costs were between \$5,000 and \$7,500 for the three lieutenant positions, but she just heard today about the seven demotions, so she would have to look at the entire picture. She explained her calculations were based on three lieutenants working at a higher class rather than being demoted, but not receiving the pay for the higher class.

The Mayor stated he wanted the numbers at the next meeting as well as a shade meeting, which was suggested for February 10 at 5:30 p.m.

Commissioner Gillooly suggested Jim Shaw speak to how close a resolution of the issues was.

Mr. Shaw stated that to his knowledge only Commissioner Kelley ever publicly said that early retirement might be an option. He stated his point was that the Union had not known about the Quint concept being enacted, the demolitions, or losing a truck; and he did not understand how taking a truck off the road could save money. He expressed he was primarily concerned about the lack of communication and what direction the Commission and administration was going.

Mayor Costello said the issues would be discussed and a plan devised. He said there would be changes, and they needed to make the changes positive. He asked the Commission members if they would be available February 10 for a shade meeting.

The Mayor reiterated he could not support retirements at a 4.0 multiplier, but he supported early retirements that eliminated positions and that the early retirements must benefit the entire department.

Signs

Mayor Costello stated he wanted to make sure the Commission members were all on the same page and asked for any comments.

Commissioner Gillooly stated the sign issue was not a discussion item, but she received an email from an individual who was upset the Commission had not approved any changes. She expressed she thought Commissioner Partington had suggested Main Street come to the Commission with a plan, and she would support input from the business community.

Mayor Costello agreed with Commissioner Gillooly suggesting support for input from the business community.

Commissioner Kelley stated he believed the business owner who stated that a 24" x 18" sign would generate an additional \$200 of revenue in a day, which would provide jobs. He commented a business would not continue to pay for temporary sign permits if it was not financially beneficial.

Commissioner Gillooly asked how the permitted signs could be regulated.

Commissioner Kelley stated he could provide a plan the businesses and the Commission would accept that would work, that would be enforceable, and would not be intrusive.

Mayor Costello stated he looked forward to seeing the plan.

Item #12 – Reports, Suggestions and Request

Commissioner Gillooly

Commissioner Gillooly clarified her comments on the restructuring of some staff positions to make sure it was understood she appreciated staff but wanted to look at an overall plan, not piece meal. She stated the City was very fortunate to have the staff the City had, particularly the department heads.

Commissioner Kent

Commissioner Kent said the next coffee meeting was at his home on February 2 at 4:30 p.m.

Commissioner Kent discussed some information regarding Ron McLemore, one of the city manager candidates. He stated he was happy with the Commission's decision to hire Joyce Shanahan.

Commissioner Kelley

Commissioner Kelley thanked his pastor, Reverend Owens, for coming to give the invocation and for staying for the entire meeting.

He expressed his belief the City needed a different delivery of fire services for the residents and the Fire Department itself where there would be opportunities for advancement and the public would be better served; but until those in the County that oppose it got on board, it was not going to happen.

Randy Hayes

Mr. Hayes introduced Ann-Margret Emery, the new Deputy City Attorney. He related she was an Ormond Beach resident who comes to the City from the City of Port Orange and discussed her professional background.

Mayor Costello

Mayor Costello stated that Rick Boehm gave the best presentation he had seen in a long time to the Racing and Recreation District regarding the boundless playground. He stated he was very optimistic about the grant.

The Mayor stated he felt it was important to schedule a Goals Workshop after Ms. Shanahan started. He asked that setting a date for the meeting be placed on the next agenda.

Mayor Costello asked the Commission to discuss, at the next meeting, giving the local schools a \$1,000 for programs that benefit the students, such as for teams that win the opportunity to go to championships.

The Mayor reported that on January 26, VCOG would present information regarding unified services because the cities were ready to look at how to enhance services.

Item #13 - Close The Meeting

The meeting was adjourned at 9:44 p.m.

APPROVED: February 3, 2009

BY: Fred Costello, Mayor

ATTEST:

Veronica Patterson, City Clerk