

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

December 16, 2008

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 Father Comforted Keen, Church of the Holy Child Episcopal.
- 3) Pledge of Allegiance.
- 4) **PRESENTATIONS:**
 - A) Employee-of-the-Year award to Suzanne Holy, Community Service Officer.
 - B) Presentation honoring Pop Warner championship teams.
- 5) **AUDIENCE REMARKS:**
- 6) **APPROVAL OF THE MINUTES** of the December 2, 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. 2008-231 appointing members on the Leisure Services Advisory Board; setting forth terms and conditions of service. (John Restuccia and Justin Gates)
 - B) Resolution No. 2008-232 authorizing the execution of a lease agreement between the City and Betnr Industrial Development Corporation. (Parcel #3, SE Quad at the Ormond Beach Municipal Airport)
 - C) Resolution No. 2008-233 authorizing the execution of a service agreement between the City and the Ormond Memorial Art Museum; authorizing the expenditure of funding. (\$12,000 additional funding)
 - D) Resolution No. 2008-234 authorizing the execution of a fourth amendment to the labor counsel agreement between the City and Allen, Norton & Blue, P.A., to increase fees. (\$200/hour to \$215/hour)
 - E) Resolution No. 2008-235 authorizing the execution of a "Project Completion and Mutual Release" with Grandview Landscaping Services, Inc., in exchange for payment to a third-party contractor to complete the work. (US1 Median Landscaping Project)
 - F) Resolution No. 2008-236 authorizing the execution of a Second Amendment to the Joint Project Agreement with the County of Volusia regarding the utility installation and road construction on Clyde Morris Boulevard from Aberdeen to Fallsway Boulevard. (\$31,213)
 - G) Resolution No. 2008-237 authorizing the approval and execution of a purchase authorization (Requisition 0000005538) for the purchase of fiber optic network infrastructure networking hardware under State of Florida Contract No. 250-000-09-1. (\$116,710.35)
 - H) Resolution No. 2008-238 authorizing the execution of Change Order Number One (1) to that contract awarded to Danella Construction of Florida, Inc., regarding the Fiber

Optic Network Infrastructure project, by increasing the contract price by \$14,248.82. (\$202,729.88 total contract)

- I) Resolution No. 2008-239 authorizing the execution of Change Order Number One (1) to that contract awarded to Meadors Construction Co., Inc., regarding the Reuse System Storage and Pumping Facility project, by increasing the contract price by \$56,260; by increasing the contract time by 8 days. (\$3,085,260 total contract)
- J) Resolution No. 2008-240 accepting a proposal from McKim & Creed Engineers, P.A., to provide engineering services regarding the Water Main Extension (Water Treatment Plant to Division Avenue & US1) project; authorizing the execution of a Work Authorization thereto. (Not to exceed \$27,885)
- K) SRF Loan Application for the Wastewater System Improvements project:
 - 1) Resolution No. 2008-241 authorizing the submittal of an application to the Florida Department of Environmental Protection for financial assistance under the State Revolving Loan Program regarding Wastewater System Improvements (SRF# WW120710140); identifying revenues pledged for repayment of loan funds. (\$11,042,000)
 - 2) Resolution No. 2008-242 authorizing Declarations of Official Intent under U.S. Treasury regulations with respect to reimbursements from note and bond proceeds of temporary advances made for payments prior to issuance regarding the Wastewater System Improvements project.
- L) Resolution No. 2008-243 authorizing the execution of Amendment Number One to Easement Number 31156 between the City and Board of Trustees of the Internal Improvement Trust Fund of the State of Florida and the St. Johns River Water Management District for the construction and maintenance of three new production wells and three new monitor wells within the City's Rima Ridge wellfield.
- M) Preliminary budget results for FY 2007-08 General Fund and Water/Wastewater Fund.

DISPOSITION: Approve as recommended in City Manager memorandum dated December 11, 2008.

9) **PUBLIC HEARINGS:**

- A) Community Redevelopment Agency grant applications:
 - 1) Review by the Community Redevelopment Agency.
 - a) Recess the City Commission meeting and convene as the City of Ormond Beach Community Redevelopment Agency.
 - b) Review Property Improvement Grant applications for recommendation to the City Commission.
 - c) Adjourn as the Community Redevelopment Agency and reconvene the City Commission meeting.
 - 2) Resolution No. 2008-244 of the City Commission, also acting as the Central Business District Community Redevelopment Agency of the City of Ormond Beach, Florida, authorizing the execution of a Property Improvement Grant Agreement between the Agency and the Highlander Corporation. (11-23 W. Granada Boulevard - \$50,000)
 - 3) Resolution No. 2008-245 of the City Commission, also acting as the Central Business District Community Redevelopment Agency of the City of Ormond Beach, Florida, authorizing the execution of a Property Improvement Grant Agreement between the Agency and the Highlander Corporation, a Florida corporation. (29-31 W. Granada Boulevard - \$50,000)
 - 4) Resolution No. 2008-246 of the City Commission, also acting as the Central Business District Community Redevelopment Agency of the City of Ormond Beach, Florida, authorizing the execution of a Property Improvement Grant

Agreement between the Agency and the Highlander Corporation, a Florida corporation. (43 W. Granada Boulevard - \$50,000)

- B) Ordinance No. 2008-60 adopting certain amendments to the Future Land Use Element, Capital Improvements Element, Conservation Element, and Utilities Element of the City of Ormond Beach Comprehensive Plan; providing when such amendments shall take effect. (First Reading)

10) **FIRST READING OF ORDINANCES:**

- A) Ordinance No. 2008-61 amending Chapter 2, District and General Regulations, Article VI, Overlay Districts, Section 2-71, Historic Districts and Landmarks, of the Land Development Code by amending Paragraph C, Designation Procedures, clarifying the local landmark designation procedures, by amending Paragraph D, Certificates of Appropriateness, by removing the requirement of a Certificate of Appropriateness (COA) for signs, including grading to further define movements of earth, by correcting a scrivener's error related to the cut-off date for COA's, by amending Paragraph J, Historic Overlay Districts, by updating the Lincoln Avenue Overlay and by amending Paragraph K, Ormond Beach Historic Landmarks List, by amending the list of properties.

- B) Ordinance No. 2008-62 of the City of Ormond Beach, Florida, amending Article I, In General, of Chapter 16, Pensions and Retirement, of the *Code of Ordinances*, by amending Section 16-6, Benefit Amounts and Eligibility.

- 11) **RESOLUTION** No. 2008-230 authorizing the execution of an employment agreement between the City and Joyce Shanahan.

12) **DISCUSSION ITEMS:**

- A) River Bend golf course lease.

- B) Temporary sign issues.

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

14) **CLOSE THE MEETING.**

Item #1 - Meeting Call to Order

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

Item #2 – Invocation

The invocation was given by Father Comforted Keen, Church of the Holy Child Episcopal.

Item #3 - Pledge of Allegiance.

Mayor Costello led the Pledge of Allegiance.

Item #4(A) –Employee-of-the-Year Award to Suzanne Holy, Community Service Officer

Acting City Manager Ted MacLeod announced the Employee of the Year, Suzanne Holy, Community Service Officer, who has dedicated her life to animals and was a strong advocate of responsible pet ownership.

Mayor Costello thanked her and presented her with a plaque, a certificate for dinner at Stonewood and a day off.

Item #4(B) – Presentation Honoring Pop Warner Championship Teams

Mayor Costello asked Coach Mike Mitchener to accept the proclamation on behalf of the Pop Warner Championship football and cheerleading teams.

Coach Mitchener thanked the Mayor, Commissioners and City for the recognition and presented Ormond Beach Pop Warner t-shirts to the Commission members. He asked for the football team and cheerleading squad members to come forward to be recognized. Coach Mitchener stated that the football team placed second in the Mid Florida division, and the cheerleader team advanced to the nationals at Disney and placed thirteenth in the nation.

Item #5 – Audience Remarks:

Laura Jones, 59 Amsden Road, asked whether or not Mr. Eugene Miller, who had put in countless hours in the search for a City Manager, was being paid for his services by either the City or the candidates. Mayor Costello stated that Mr. Miller had volunteered his services and had received no compensation from either the City or the candidates. He thanked Mr. Miller for doing so.

Pat Behnke, 15 Malayan Sun Bear Path, stated that she wanted to commend the City for going ahead with the \$50 Christmas bonus for employees. She stated that having worked in close contact with staff, she feels you would have to look far and wide to find more diligent and dedicated employees.

Jim Shultz, 117 Harvard Drive, stated that in the 1979 Quebec Ministry report on fluoridation, it was reported that there was a marked increase in cancer due to over-fluoridation. Mayor Costello pointed out that the study Mr. Shultz mentioned was almost thirty years old, but this summer the Dental Association would be releasing some interesting findings.

Maggie Sacks, 215 Ormwood Drive, stated that many of the downtown merchants have called her about asking the City to reconsider the City's position regarding signs in front of their stores, as these economic times are extremely challenging and they were trying desperately to stay open and afloat.

Item #6 – Approval of the Minutes

Mayor Costello advised the minutes of the December 2, 2008, regular meeting had been sent to the Commission for review and asked if there were any corrections, additions, or omissions.

Mayor Costello stated that the minutes would stand approved as submitted.

Item #7(A) – Metropolitan Planning Organization

Mayor Costello stated there was no December meeting.

Item #7(B) – Volusia Council of Governments

Mayor Costello stated there was no December meeting.

Item #7(C) – Water Authority of Volusia

Commissioner Kelley reported that the meeting with the St. Johns River Water Management District went very well, and the language regarding reclaimed water was pulled from the irrigation rule change.

Item #8 – Consent Agenda

Mayor Costello advised that 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 one or more of the items separately.

Commissioner Gillooly requested Item #8F be pulled for discussion.

Commissioner Kent asked to pull Item #8B for discussion.

Commissioner Partington moved, seconded by Commissioner Kelley, for approval of the Consent Agenda, absent Items 8B and 8F.

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

Item #8(B) – Lease Agreement with Betnr Industrial Development Corporation

RESOLUTION NO. 2008-232
A RESOLUTION AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT
BETWEEN THE CITY AND BETNR INDUSTRIAL DEVELOPMENT
CORPORATION; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, for approval of Resolution No. 2008-232, as read by title only.

Commissioner Kent asked what the hangars would be used for when built.

Joe Mannarino, Economic Development Director, stated that, mainly, these hangars would be used for storage. He explained that the hangars would be laid out as larger box hangars that would have to meet site plan requirements before they would be permitted to be converted for a business purpose.

Commissioner Kent asked if a flight school would be permitted.

Mr. Mannarino explained that the lessee would have to apply for all the other certifications required for a flight school, and then come to the Commission for approval.

Commissioner Kent questioned whether approving this lease would open the door for flight schools.

Mr. Mannarino explained that this lease was for approval to build structures only.

Commissioner Kent asked if the lease allowed for a fuel storage farm.

Mr. Mannarino stated that the fuel storage farms would require much more in-depth analysis, but it really depended upon safety issues. He reiterated that this lease was to build six box hangars.

Mayor Costello stated that although he supported the flight school currently at the airport, he did not want to encourage more flight schools.

Commissioner Kelley remarked how good it was to have a rate structure that was bringing in additional revenues.

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

Item #8(F) – Second Amendment to a Joint Project Agreement with the County

RESOLUTION 2008-236
A RESOLUTION AUTHORIZING THE EXECUTION OF A SECOND
AMENDMENT TO JOINT PROJECT AGREEMENT WITH THE COUNTY OF
VOLUSIA REGARDING THE UTILITY INSTALLATION AND ROAD
CONSTRUCTION ON CLYDE MORRIS BOULEVARD FROM ABERDEEN TO
FALLSWAY BOULEVARD; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Resolution 2008-236, as read by title only.

Commissioner Gillooly stated that she does not feel spending an additional \$30,000 for a median that was not a necessity was a prudent expenditure of tax dollars and does not feel this particular expenditure was warranted.

Mayor Costello stated that he was not in favor of the original approximately \$80,000 expenditure but does support that staff worked with the County to bring the cost to the City of \$31,213 to have the City's portion of the project look as nice as the rest of the project.

Commissioner Kelley suggested that when Commissioner Gillooly saw the finished product, she may change her mind.

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

Item #8(K) – State Revolving Fund Loan Application

Commissioner Kent expressed appreciation for staff's efforts regarding the State Revolving Fund loan application, which would allow the City a saving of \$3.5 million over the life of the loan for the design and construction of the wastewater capital projects.

Item #8(C) – Ormond Memorial Art Museum

Commissioner Gillooly stated she had spoken with the director and a board member of the Ormond Memorial Art Museum about how to market their services for events. She stated she felt the service agreement with the museum was a wise expenditure, and she was proud of the relationship the City had developed with the Museum.

Items #8(I) and 8(J) – Change Orders

Commissioner Gillooly stated that change orders for Items I and J were examples of the need for a Public Works Board.

Item #8(M) – Budget Report

Commissioner Gillooly remarked that in the Finance Director's preliminary budget results for FY 2007-08 General Fund and Water/Wastewater Fund, Ms. McGuire stressed caution due to the change in anticipated revenue, which Commissioner Gillooly felt was another point for the necessity to be as conservative with funds as possible.

Item #8(C) – Ormond Art Museum

Mayor Costello expressed the importance to remember that the service agreement with Ormond Memorial Art Museum was a shift in funds, not an additional expenditure.

Item #8(E) – Grandview Landscaping Contract Release

Mayor Costello stated that Resolution 2008-235 was a great job by staff that sets the tone of what the City expects from vendors who contract with the City.

Item #8(I) – Reuse System Change Order

Mayor Costello pointed out that \$2,296,000 of the \$3,085,260 total cost for the Reuse System Storage and Pumping Facility Project was from grants, which was another great job by staff.

Item #8(M) – Budget Results

Mayor Costello stated we all need to be aware that the City had lost its cushion regarding vacancy savings; therefore, even with outstanding staff and outstanding controls, the City might find itself in the red through no fault of staff.

Item #9(A) – Community Redevelopment Agency Grant Applications

Mayor Costello recessed the City Commission meeting at 7:41 p.m. and convened as the City of Ormond Beach Community Redevelopment Agency.

Commissioner Partington moved, seconded by Commissioner Kelley, that the Community Redevelopment Agency recommend to the City Commission, approval of the Property Improvement Grant requests of \$50,000 for each of the properties, located at 11-23 West Granada Boulevard, 29-31 West Granada Boulevard, and 43 West Granada Boulevard.

The voice vote was unanimously in favor of the motion.

The Community Redevelopment Agency was adjourned, and the City Commission meeting was reconvened at 7:45 p.m.

Item #9(A)(2) – Property Improvement Grant with Highlander Corporation (11-23 W. Granada Boulevard – \$50,000)

RESOLUTION NO. 2008-244

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 THE HIGHLANDER CORPORATION; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Costello stated that the Ormond Main Street Board and the Community Redevelopment Agency have recommended approval.

Commissioner Kelley moved, seconded by Commissioner Kent, for approval of Resolution No. 2008-244, as read by title only.

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

Mayor Costello noted that it was approved by the Commission unanimously and the public hearing was closed.

Item #9(A)(3) - Property Improvement Grant with Highlander Corporation (29-31 W. Granada Boulevard – \$50,000)

RESOLUTION NO. 2008-245

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 THE HIGHLANDER CORPORATION, A FLORIDA CORPORATION; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Gillooly, for approval of Resolution No. 2008-245, as read by title only.

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

Mayor Costello stated that the motion passed unanimously and closed the public hearing.

Item #9(A)(4) – Property Improvement Grant with Highlander Corporation (43 W. Granada Boulevard – \$50,000)

RESOLUTION NO. 2008-246

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 THE HIGHLANDER CORPORATION; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Gillooly, for approval of Resolution No. 2008-246, as read by title only.

Commissioner Kent commented that this was one of those taxes that does something immediate for the area, and he was so pleased with the approval.

Call Vote:	Commissioner Kent	yes
	Commissioner Kelley	yes
	Commissioner Partington	yes

Carried.	Commissioner Gillooly	yes
	Mayor Costello	yes

Mayor Costello stated that the motion passed unanimously and the public hearing was closed.

Item #9(B) – Amendments to the Comprehensive Plan

ORDINANCE NO. 2008-60

AN ORDINANCE ADOPTING CERTAIN AMENDMENTS TO THE FUTURE LAND USE ELEMENT, CAPITAL IMPROVEMENTS ELEMENT, CONSERVATION ELEMENT AND UTILITIES ELEMENT, OF THE CITY OF ORMOND BEACH COMPREHENSIVE PLAN; PROVIDING WHEN SUCH AMENDMENTS SHALL TAKE EFFECT; 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. 2008-60, as read by title only.

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

Mayor Costello stated that without objection, the public hearing was closed.

Item #10(A) –Historic Districts and Landmarks

ORDINANCE NO. 2008-61

AN ORDINANCE AMENDING CHAPTER 2, DISTRICT AND GENERAL REGULATIONS, ARTICLE VI, OVERLAY DISTRICTS, SECTION 2-71, HISTORIC DISTRICTS AND LANDMARKS, OF THE *LAND DEVELOPMENT CODE* BY AMENDING PARAGRAPH C, DESIGNATION PROCEDURES, CLARIFYING THE LOCAL LANDMARK DESIGNATION PROCEDURES, BY AMENDING PARAGRAPH D, CERTIFICATES OF APPROPRIATENESS, BY REMOVING THE REQUIREMENT OF A CERTIFICATE OF APPROPRIATENESS (COA) FOR SIGNS, INCLUDING GRADING TO FURTHER DEFINE MOVEMENTS OF EARTH, BY CORRECTING A SCRIVENER'S ERROR RELATED TO THE CUT-OFF DATE FOR COA's, BY AMENDING PARAGRAPH J, HISTORIC OVERLAY DISTRICTS, BY UPDATING THE LINCOLN AVENUE OVERLAY AND BY AMENDING PARAGRAPH K, ORMOND BEACH HISTORIC LANDMARKS LIST, BY AMENDING THE LIST OF PROPERTIES; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Costello stated that the Historic Landmark Preservation Board and the Ormond Beach Planning Board unanimously recommended approval of this ordinance.

Commissioner Gillooly moved, seconded by Commissioner Kent, for approval of Ordinance No. 2008-61 on first reading, as read by title only.

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

Item #10(B) –Pensions and Retirement – General Employees

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*, BY 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, to approve Ordinance No. 2008-62 on first reading, as read by title only.

Commissioner Kelley stated that the first time this was done, the savings were to be generated by the combining of staff and by not replacing certain positions, but the early retirement was a wash at best. Commissioner Kelley stated that he felt the City was at the point when the Commission would have to take a strong look at the increase of six tenths of a percentage and what it would do to the funding of payroll for the increased early retirement for eight employees. He stated that unless there were additional savings from the retirement of eight employees, he did not see how the City could afford to do this with the pension funds already where they are. He stated he felt there were still savings to be found through the efforts of dedicated staff. He commented that the only real saving would come from the fire pension. Commissioner Kelley stated that unless someone could show better numbers, he could not support the motion.

Commissioner Gillooly stated that her opinions were in line with Commissioner Kelley's; she also believed there would be a savings, but the information provided did not prove that; therefore, she did not support the motion.

Commissioner Partington stated that he respected what Commissioner Gillooly and Commissioner Kelley said, but he was going to support this because he had a degree of confidence that this would result in savings. He stated he did not think he could support any further early retirements, but the General Employees' Pension Board and staff recommended this proposal.

Commissioner Kent agreed with Commissioner Partington and thought there would be some additional saving. He supported the motion.

Mayor Costello remarked that if the City was going to save \$20,000 a year for 30 years, it would cost an additional \$600,000 in pensions to save \$300,000.

Finance Director Kelly McGuire explained that due to the present value of money, it would come out a wash, while it would allow one or two less positions, which would save even more.

The Mayor then asked Ms. McGuire to explain the financial situation over the long term.

Ms. McGuire explained that the City would save about \$30,000 for the first eight to ten years; then the salary differentials would go away because these people would eventually retire; then the City would be paying \$20,000 in pension costs for thirty years. She stated that the Commission should consider the savings in the short term and the \$20,000 payment over 30 years, which had a net value now of about \$25,000, which was why staff recommends this; it was cost neutral.

Commissioner Gillooly commented that the only reason for opening up the option was for one individual who had an unfortunate health issue. She stated that it is important for the Commission to remember there were other avenues for that individual to explore.

Mayor Costello stated that he was not convinced that the short term savings of \$30,000 was assured, while the \$600,000 expenditure was assured.

Commissioner Kelley stated that if the number of employees interested was 34, and out of the 34 employees, several positions would not be replaced, it might make sense; but for only eight employees who would have to be replaced, it does not.

Mayor Costello stated that he had not heard enough benefits to warrant voting for this.

Commissioner Partington asked for the more details of the process the actuarial used in determining the thirty year liability. He stated that he felt the savings were there, but for some reason did not think staff was willing to say so.

Mr. MacLeod stated that staff would bring further information to the Commission at a later date.

Commissioner Partington moved, seconded by Commissioner Kent, to move Ordinance 2008-62 to the January 6, 2009 agenda.

Call Vote:	Commissioner Gillooly	Yes
	Commissioner Kent	Yes
	Commissioner Kelley	Yes

Carried.	Commissioner Partington	Yes
	Mayor Costello	Yes

Commissioner Kelley explained that the thirty year number was based on the actual figures the actuary used because the City does not come under the same formula for funding as the private sector.

Item #11 – Employment Agreement with Joyce Shanahan.

RESOLUTION NO. 2008-230

A RESOLUTION OF THE CITY OF ORMOND BEACH, FLORIDA, AUTHORIZING THE EXECUTION OF AN EMPLOYMENT AGREEMENT BETWEEN THE CITY AND JOYCE SHANAHAN; SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Gillooly, to approve Resolution No. 2008-230, as read by title only.

Warren Anderson, 16 Tiffany Circle, stated that he had been a City Manager and Commissioner up north where one does not negotiate a contract; either accept it or not. He suggested the Commission might consider going back to the original proposal of \$125,000 to \$135,000; offering Ms. Shanahan \$125,000, which was \$7,000 more than her current position. He asked the Commission not to be too hasty in making a decision in these economic times as Ted MacLeod could continue as Acting City Manager. He asked the Commission to be firm in their judgment.

Mayor Costello stated that Joyce Shanahan accepted all conditions but asked that the salary difference be split.

Commissioner Kent moved, seconded by Commissioner Partington, to approve the contract with a salary of \$133,000.

Commissioner Kelley stated that was more than the Governor was paid or more than the Governor of Alaska makes; and it was considerably for than the Port Orange City Manager, who had been there for almost twenty years. He stated he could not support this decision at all because this decision was probable the most important decision this Commission would have to make, and he wanted to take more time. He stated that he gave the City Clerk probably 100 links to issues relative to Joyce Shanahan, of which the most important issue was a sunshine violation caused by action or inaction by the City Manager who did not check with the City Attorney before she appointed a committee. He reported that the Fort Walton Beach Mayor conducted an internal investigation of the Finance Director and the City Manager, resulting in a motion to terminate both of them due to internal fighting. Commissioner Kelley stated he has real concerns and wanted everyone to be aware of the concerns. He expressed that \$133,000 was too much, and he could not support the contract. He stated his concern that if there were more early retirements, the City would need someone at the helm of the ship that was capable of handling the issues.

Commissioner Gillooly stated that she felt firmly about the financial background, experience and education that Ms. Shanahan brings to the job. She remarked that she appreciated Commissioner Kelley's information and research, but she had also done research where she had read accolades of Ms. Shanahan. She stated that she does not feel the issue of sunshine violations was just Ms. Shanahan's issue. She stated that it was not just about the salary, it was all the benefits, also; and that although it was quick, it was thorough, and she believed that Joyce Shanahan fitted the bill. Commissioner Gillooly was very optimistic that Ms. Shanahan brings the right credentials, was very professional and had the long range vision to take us through these times; therefore, she was willing to go along with \$133,000.

Commissioner Kent stated that he thought Joyce Shanahan would be dynamic and would do a great job. He reminded the Mayor that in the past he had asked Commissioners, when not on the prevailing side, to go along with the decision. The facts were that the Commission chose Joyce Shanahan, and she had accepted the contract; and \$133,000 was not too much for the first choice. He stated he felt that the City needed Joyce Shanahan and would vote for the \$133,000 salary.

Mayor Costello stated that he wanted it understood that when he gave up the gavel, the Commission was discussing whether or not to negotiate with the second choice should Ms. Shanahan not accept the conditions the Commission gave; it was not about Ms. Shanahan. He stated the he did not vote for his second choice because he wanted to be a fourth vote, not a

third vote; he did not want the City hiring someone on a three to two vote; and he would have stayed with Ted MacLeod rather than do that. He stated, therefore, he gave up the gavel to go for a reconsideration of the second choice to try and reach at least three other votes for the second choice; whereby, he would have added his vote as the fourth vote. He advised he would not have voted for anyone with only two votes.

Commissioner Partington expressed that he was looking forward to having Joyce Shanahan. He stated he was excited about the future of Ormond Beach and appreciated Commissioner Kelley for bringing the information to the Commission.

Commissioner Kelley stated that he was going to lobby for the person he felt was best. He stated his comments were not personal against any of the Commission but rather based on sound facts by using the process of deductive reasoning. He stated that he had a right to an opinion and asked that the personal attacks be left out of it. He stated that based upon the information he had, he did not feel this was the best candidate for the City. He noted, however, if the other four members decided to hire her, he would support her; but he wanted the public to know the things that he read. He expressed that the City has a strong financial director; therefore, he did not think it was important to have a City Manager who was a financial person. He stated that he feels she does not meet the qualifications that were advertised.

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

Mayor Costello recessed the meeting at 8:43 p.m. and reconvened at 8:48 p.m.

Item #12(A) – River Bend Golf Course Lease

Mayor Costello asked Attorney Doyle Tumbleson to speak regarding the River Bend lease.

Doyle Tumbleson, 72 Country Club Drive, representing River Bend Management Group of Florida, LLC, stated that in 2005, Hal Layman negotiated with the Getty Group to take over the lease, which was to be revised. He stated that in a memo by Deputy City Attorney Sandy Upchurch, on page 2, paragraph 1, she stated, "It was never the intent of either party to incorporate wholesale substantive revisions into the new lease agreement." Mr. Tumbleson stated that he sent a marked up copy of the lease to the City. He pointed out the Deputy City Attorney's memo erroneously stated that the boundary survey was completed in January 2007, when the final survey was completed May 2008, and he did not want to give the impression that Hal Layman had stalled regarding the revision of the lease.

Hal Layman, 96 N. St. Andrews Drive, stated that the bottom line was that he wanted to make the golf course work, and there were possibilities for an excellent course with an opportunity to make something good. He asked to work out something that was best for the City and him. He remarked that until now, the City had had great revenue from the course with no risk, but that it was unreasonable for the situation to continue as it was. He pointed out that the former owner had lost money. He reported a lengthy list of expenditures that he had paid to maintain and upgrade the golf course, which was now in compliance with St. Johns River Water Management requirements. He expressed that everyone who used the facilities was excited about the improvements; but unfortunately, the golf business was not good right now, with no expectation of improving, and a number of courses are closing every day. He stated that fees do not cover the escalating costs, although more rounds were played this year than last. He stated that River Bend was very playable with acreage of 175 acres, which was more than a 36-hole course; but the acreage increased the expenses of maintaining the course. He stated that he wished he had done things better when the lease was negotiated. He stated that the inability to raise greens fees, reduced rounds of golf and rising costs made it unable to make a profit. He stated there was no good solution, just the best of solutions out there.

Mayor Costello asked Mr. Layman to explain why this issue needed to be addressed at this time, as the Commission needed a lot more information.

Hal Layman stated that he had lost \$400,000 to \$600,000 a year, and he needed to cut his losses.

Commissioner Kent asked if the rent was presently in arrears.

Mr. Layman stated that the rent was current.

Commissioner Kent read the list of requests of the lessee, and stated he felt the requests were unreasonable. He expressed concern that a bailout would open a “Pandora’s box” for all tenants on City properties. He commented that if the golf course closed, the City could parcel the property for rentals. He stated that taxpayer subsidies were not, and never would be, on his “yes” list, and he felt that staff needed to determine how to convert the golf course land to revenue producing property.

Commissioner Gillooly confirmed that Mr. Layman paid no property taxes on the municipal land and reminded him there were FAA requirements placed upon the land. She expressed confusion regarding Mr. Layman’s statement that numbers were dropping when he stated there were more rounds this year than last.

Mr. Layman explained that River Bend had more rounds due to the improvements to the course, but that nationally the numbers had dropped.

Commissioner Gillooly asked, of the \$2.3 million in salary expense, if he received a salary.

Mr. Layman stated that he was an investor and received no salary.

Commissioner Gillooly asked how many locals used the course.

Mr. Laymen explained that in the winter they had run as high as 200 rounds a day with a significant number of snowbirds, and about 30-40% of those rounds were locals. He stated in the low season, locals constitute about 80%, which was typical of the area.

Commissioner Gillooly suggested that Mr. Layman was asking the City to become a partner in the golf course business.

Mr. Layman stated that was true; and to make it work, he was willing to discuss alternatives.

Commissioner Gillooly stated that the finance department reported that the rent was overdue.

Mr. Layman stated that his bank confirmed that the City had cashed the rent check on December 8, and the rent was current.

Commissioner Kelley stated that golf courses do not make money; it’s the real estate around a course that makes money. He reported that Fort Walton Beach had its own golf course that generated over \$400,000 a year that the City’s new city manager was responsible for. He stated that personally, he did not want the City to own a golf course, although he could appreciate Mr. Layman’s plight.

Commissioner Partington stated that he could not accept the proposal but appreciated what had been done, and it was unfortunate that the situation had come to this.

Mayor Costello stated he thinks a lot of citizens would not want to close the golf course, but no one would want to pay more taxes to support it. He stated that he did not want the City to partner with the golf course or the liability, but would consider some adjustments to the lease that would have to be approved by the FAA. He stated that under the conditions outlined, he could not accept the proposed requests. He expressed that there was potential with the land to do other things, and his number one priority was to bring jobs to Ormond Beach.

Mr. Layman stated that he understood the budget ramifications, but he could not afford to continue because even if the City granted all the things in his proposal, he would still lose \$200,000 to 400,000 for the perceivable years. He stated that although he thinks he could make it with a partnership, he had not received any creative ideas from the City to make it work.

Commissioner Gillooly stated she felt that staff was able to answer his letter in the limited amount of time available, but had no opportunity to be creative. She asked how many full time jobs were involved.

Mr. Layman stated that there were twenty-one full time jobs.

Mayor Costello suggested ideas such as: a nine hole course; moving three holes to allow the airport access to more land; leaving the contract as it was and using economic development funds to offer a \$50,000 per year subsidy for the next three years; or offering a rent reduction that would be subsidized by another City fund because FAA regulations required the specified rent in the lease. He stated that he would not support more expense or liability for the City.

Commissioner Kelley remarked that an associate of his owned golf courses and felt that the River Bend lease was a fair deal. He suggested that an appraisal could be done, with the cost of the appraisal being split, to determine the amount that the property should generate. He asked Mr. Layman if a \$50,000 total reduction per year to the cost base would be acceptable.

Mr. Layman stated that it would not.

Mayor Costello stated that if \$50,000 was not enough, he could not support more.

Mr. Layman stated that he does not have a lease that works and, based on this discussion, he would not get one; but he was prepared to go forward until April 2009 with the current lease while the City determines what to do, although he considered there was no lease with the City, as of this point.

Mayor Costello stated that the lawyers would work out whether or not there was a lease, and further suggested a Request for Proposal be issued, to which he asked Mr. Layman to consider responding.

Mayor Costello summed up the situation as the Commission could not agree to Mr. Layman's requests, and the City Attorney and the Acting City Manager would present options to the Commission for discussion.

Item #12(B) – Temporary Sign Issues

Mayor Costello stated there were three options presented for discussion.

Commissioner Gillooly stated that as a business owner and someone attuned to the other business owners in the City, she would consider doing something with a sunshine period of six months and possibly a nominal permit fee.

Mayor Costello asked if Commissioner Gillooly was suggesting each business be allowed one temporary sign, which was out during business hours, with the sign permit listed for a \$25 fee that was permitted for six months.

Commissioner Gillooly stated that she thought that would be acceptable.

Commissioner Kelley asked if that sign could be a person in a Santa Claus suit. He reported that the owner of the Texaco station said that when a sign was out, he received more business in response to the sign; therefore, signs do work.

Mayor Costello stated that he was hearing a recommendation for a resolution at the next meeting to allow one sign for six months with a \$25 fee.

Planning Director Ric Goss asked that the Commission not consider a spacing requirement due to potential conflicts among business owners regarding sign spacing.

Commissioner Kent stated that he was okay with trying this for six months, but he was not in favor of having a person being considered as a sign, even for six months.

Commissioner Gillooly stated that six months would offer an opportunity to determine if it should continue.

Mr. Goss suggested that perhaps they should allow businesses to put out temporary signs in the buffer and not regulate it, because after six months, the Commission would not like what they had.

Mayor Costello stated that he wanted businesses to know that the City was willing to see that everything was being done to help the business community survive.

City Attorney Randy Hayes stated that since businesses were being cited for violations, there would be a need to amend the ordinance; if the ordinance was in the Code of Ordinances, it could come directly to the Commission, but if it was in the Land Development Code, it would have to go the Planning Board before coming to the Commission. He suggested that in the short term, staff could be re-active to any complaints while the issue was being handled for the long term.

Police Chief Michael Longfellow reported that Neighborhood Improvement Manager Joanne Naumann was very ill and could not be in attendance, but he stated that the re-activeness creates more problems than it attempts to solve.

The City Attorney suggested the Commission allow staff to look at the issues and report back to the Commission.

Item #13 – Reports, Suggestions, Requests.

Commissioner Kelley

Commissioner Kelley commented that the Christmas Parade was very successful, well attended and very positive for these economic times.

Commissioner Partington

Commissioner Partington stated that he felt the Christmas Parade was awesome, and the staff and volunteer efforts were great.

Commissioner Gillooly

Commissioner Gillooly stated that Ormond Main Street had discussed the corner gas station property, and the Main Street design committee asked the Community Redevelopment Agency considering obtaining an appraisal for a possible mixed use partnership with the City to include retail on the ground floor and residential on the upper floors. She asked if the Commission would consider using TIF dollars to bid on the property and to have the staff research this issue.

Commissioner Kent stated that he had reconsidered his decision and would like the issue to come back to the Commission as a discussion item.

Commissioner Gillooly stated her concern that the lowest bid on Request for Proposals were not due to there being less of a surety provided. She stated that she would like staff to explore that issue.

Commissioner Gillooly expressed that the public needs to be aware of all that Leisure Services does for the community.

Commissioner Kent

Commissioner Kent thanked Robert Carolin for the wonderful leadership job on the Christmas parade.

Mayor Costello

Mayor Costello stated he was proud that the City had extended a contract, and he felt Ms. Shanahan was prepared to accept the contract. He commended the Commission for the way it was handled.

Mayor Costello stated that although he does not think anything could be done about the golf course, he asked Mr. MacLeod to find out if Mr. Layman had a dollar amount that would be acceptable to him.

Mayor Costello remarked that it was a great parade; everyone was happy; and there were more floats than before.

Mayor Costello reminded everyone of the beach volleyball court dedication on December 22, and to come out to meet Phil Dahlhausser, our own Olympic gold medalist.

Item #14 – Close The Meeting.

The meeting was adjourned at 10:58 p.m.

APPROVED: _____ December 16, 2008

BY: _____
Fred Costello, Mayor

City Commission – December 16, 2008

ATTEST:

Veronica Patterson, City Clerk