

**CITY COUNCIL OF EDGEWATER
REGULAR MEETING
MAY 17, 2010
6:00 P.M.
COUNCIL CHAMBERS**

MINUTES

1. CALL TO ORDER

Mayor Thomas called the Regular Meeting to order at 6:00 p.m. in the Council Chambers.

ROLL CALL

Mayor Michael Thomas	Present
Councilwoman Debra Rogers	Present
Councilwoman Gigi Bennington	Present
Councilwoman Harriet Rhodes	Present
Councilman Ted Cooper	Excused
City Manager Tracey Barlow	Present
City Clerk Bonnie Wenzel	Present
Assistant City Attorney Michael Ciocchetti	Present

INVOCATION, PLEDGE OF ALLEGIANCE

There was a silent invocation and pledge of allegiance to the Flag.

2. APPROVAL OF MINUTES

- A. Special Meeting of February 23, 2010 (This item was continued from the April 19, 2010 meeting)

City Clerk Wenzel reported she reviewed the audio tape from that meeting and everything was there and it was verified to the minutes and everything was addressed. Everything was there and nothing was removed from the CD.

Councilwoman Rogers stated regarding the minutes of the February 23rd meeting she wasn't alleging that something was removed or omitted but there was something definitely said and heard. She received four different phone calls from different individuals indicating to her that they did in fact hear it. She wanted to put off approving those minutes until she had a time to meet with the City Manager.

City Manager Barlow informed Councilwoman Rogers that Bonnie Wenzel was the City Clerk and she was the one responsible and accountable for the records maintenance. He wasn't sure what meeting could transpire between the City Manager and Councilwoman Rogers that could resolve anything she has certified as records. Councilwoman Rogers stated

when four citizens, herself and Councilman Cooper all heard something said that is not on the CD, it's not in the minutes, then she has a concern and she wanted to sit down and express that with him and let him know the names of these individuals before the City gets any form of embarrassment and this particular individual that initiated this decides to have a petition signed and they have further questions. She thought she would go over it with him privately. City Manager Barlow informed her his only concern was that City Clerk Wenzel was a Charter employee as well that works directly for the City Council. Councilwoman Rogers stated correct but when five ears hear the same thing. Councilwoman Rhodes suggested they should meet with City Clerk Wenzel. City Manager Barlow informed Council he essentially doesn't have jurisdiction in the area of records. Councilwoman Rogers stated that was fine and agreed to set up a meeting with City Clerk Wenzel.

Dominic Capria, 606 Topside Circle, wanted to make a comment since he was the one being involved and he felt he should have that right. He asked Mayor Thomas if he had that right. He asked if he did or did not have that right. Mayor Thomas informed him he did not at this time and that he could under Citizen Comments. Mr. Capria informed him under Citizen Comments would be too late. Mayor Thomas didn't understand why. Mr. Capria informed him because Citizen Comments does not involve the voting of those special meetings. It's all over. It's too late.

Councilwoman Bennington informed Mr. Capria they were not going to vote on them. Councilwoman Rogers stated they were going to put it off and have a meeting with City Clerk Wenzel.

B. Special Meeting of March 29, 2010

Councilwoman Bennington moved to approve the March 29, 2010 Special Meeting minutes, second by Councilwoman Rhodes.

The MOTION CARRIED 4-0.

3. PRESENTATIONS/PROCLAMATIONS/PLAQUES/CERTIFICATES/DONATIONS

A. Finance Director John McKinney presenting a Certificate of Achievement for Excellence in Financial Reporting

Finance Director McKinney informed Council they had received for FY 9/30/08 the Certificate of Achievement for Excellence in Financial Reporting. This was the 25th consecutive year that they had received this. He recognized the members of the Finance Department that help prepare this every year.

B. Finance Director John McKinney and James Haleran of James Moore and Company presenting the 9/30/2009 Comprehensive Annual Financial Report (CAFR)

Finance Director McKinney introduced James Haleran of James Moore and Company. This was the first year the City had been audited by James Moore and Company. He informed Council if they wanted to meet with him or Mr. Haleran individually or together after they had time to review it, they were available at their convenience.

Councilwoman Rhodes asked that the next time they do this that they have time to review the CAFR before this presentation takes place.

James Haleran, James Moore and Company, introduced the audit team and went over the attached Powerpoint presentation.

City Manager Barlow informed the Council if any of them wanted to meet with Finance Director McKinney or Mr. Haleran that it could be coordinated through Paralegal Robin Matusick.

Councilwoman Bennington asked if they needed an official motion to table the Special Meeting minutes from February 23rd. Assistant City Attorney Ciocchetti informed her they didn't need to take official action and that a consensus was okay.

Councilwoman Rhodes questioned if Legal should be in the meeting about the February 23rd minutes. City Manager Barlow asked if they wanted to have a preliminary meeting and then if it gets to the point that Councilwoman Rogers or City Clerk Wenzel wanted to reschedule to include legal would be his recommendation. Councilwoman Rogers expressed concern with the citizen being in Councilman Cooper's district and the citizen went to Councilman Cooper first and he talked about it at the last meeting but he wasn't at the meeting tonight. She was stepping out because the citizen is in his district but they are elected to represent everybody as a whole. She knew it would be a Sunshine violation if both she and Councilman Cooper attended that meeting.

There was a discussion regarding the four citizens, Councilwoman Rogers and City Clerk Wenzel meeting to discuss and review the CD and the minutes.

Assistant City Attorney Ciocchetti didn't think it was necessary at this time to have legal staff involved. He suggested they have the meeting first and see what type of resolution there is there so they have some level of direction and then they could receive feedback from City Clerk Wenzel or a councilmember as to what transpired at the meeting. If Councilman Cooper also wanted to take that opportunity with the citizen who contacted him he may have that opportunity, separately.

Councilwoman Rhodes stated City Clerk Wenzel did give her feedback. She listened to it and it's not there. That was why she was

suggesting legal be there. What is the recourse? If it's not on the tape then it's not on the tape.

Councilwoman Rogers stated it was said and it was not on the tape. She heard it and four other citizens heard it so why isn't it on the tape. She asked City Clerk Wenzel if it was possible that it could have been said and somebody didn't speak into the microphone. For them to have a meeting and have dead space. It's garbled and then there is a long pause and she didn't think that ever happened at Council meetings where they have long pauses. They are always talking. At this point, they are going to meet with City Clerk Wenzel and go from there.

4. CITIZEN COMMENTS

The following citizens spoke:

Carol Ann Stoughton, 2740 Evergreen Drive, stated she was recording her conversation because she didn't like what she has heard from other people who attended this meeting. There is something going on. It's not nice but it has to be rectified.

Ms. Stoughton questioned the auditor. The City is in debt \$32 million right now. They must look into the pension funds and what is going on with salaries for 2010. They have many people collecting double digits for their pension and for their current work. She thinks they could hire at a lower rate of pay another person. She doesn't think they know what is going on with salaries. They have people collecting their pensions and collecting pay when they could have another man hired at lower pay. She has heard from over 2 dozen employees in this City that are treated like garbage. If they go to the bathroom they are followed. Why does Mr. McKinney or other people send out letters harassing employees? This is the Hospitality City but the big guys making the big bucks don't care for the little guy that is running the town in Stormwater, the Road Department, and Garbage. Mr. Barlow, nice man but he is collecting a pension and is also collecting \$125,000 plus perks. She thinks it is time that a city manager who was qualified could have the job. She resented the fact that Mayor Thomas picked on a senior citizen who has come to the meetings time and time again with good comments and good questions and he allowed Bob Lott to come before him and speak as long as he wants. She told Mayor Thomas he tried to get her and he charged her with harassing a public official which she never did and it was never proven. She wanted to know what City Attorney Ansay was making defending the City on her ordinances for Restoration of which she attended the meeting today. There is a lot going on in this town and she thinks the little guy who is digging up the ditches, the guy who is picking up the garbage gets fair pay just like the Fire and Police Departments and it is not being done. They are being harassed. There are letters going out through the City harassing the people telling them if they don't

like their job they have a lot more people that will take the job. It's time to get rid of the guys getting the pensions over \$50,000 and hiring new people.

Pat Card, 3019 Willow Oak Drive, stated it was a pleasure to live in Edgewater. He moved here from Ohio in 1998. He lived in an area that had a private refuse collection; County Sheriff/Police Protection, township volunteer Fire Department, private ambulance, private water and sewer, no parks and recreation, and no economic development activity. He spent over \$700 more a year in real estate taxes there on a piece of property that was assessed at about the same as the property he has here. When he came here he talked to a number of business people and gathered that they all believed it was really tough to do business in this City. It was really the only thing he heard that was a real complaint about the City when he moved here. Today it is much improved. He commented on a recent fire at his friend's Veterinary Clinic being a community effort and spoke of the new facility being built south of the existing facility. He further commented on compliments the City received with regard to being easy to work with and cooperative. He believed the City had come of age in the actions of the City Department personnel. They make an impression that says they want to live in this City. He was really proud of the Council and the people of this community.

Linda Mulligan, 160 Packwood Road, was unable to attend the first Planning and Zoning meeting regarding Indian River Self Storage. She was told by a neighbor that an e-mail that she sent to the City was read into the record. Her property is on the highest sand ridge in Volusia County. When the initial building went in there was a lot of vibrating damage to her home due to using vibratory compactors. When she approached them because of the damage to her home, they wouldn't stop. Since then they put in Red Fish Cove. She notified the builder and the developer that they were free to come and inspect her home as she had a structural engineer also document the condition of her home. They did not use vibratory compactors and she sustained \$5,000 worth of damage which the developer repaired her home.

City Manager Barlow informed Council this was an agenda item for tonight's meeting. Mayor Thomas informed her this item would come up later on, which would be the proper time to address it.

Dominic Capria, 606 Topside Circle, stated he read in the newsletter about the water which sounded good. He expressed concern with a rate structure adjustment, which tells him it is going to go up and not down. They got a 3 million plus grant from the government and that grant is supposed to be for refurbishing the water system as well as digging the wells. They are taking money from the Enterprise Fund to pay off debts so they don't get a higher millage rate. That is robbing Peter to pay Paul. He felt the public was confused.

Bob Williams, CEO, Bert Fish Medical Center, commented on signing a non-binding letter of intent with Florida Hospital and they are now in the due diligence process of reviewing the possibility of becoming a part of the Florida Hospital system. He further commented on Bert Fish not being able to continue to be a free standing independent hospital due to costs going up and reimbursement going down. The decision was being considered and managed by community neighbors who are appointed by the Governor to manage the Hospital District. The two representatives in Edgewater are Reverend John Marsh and Dr. Tom Ownby. He referred to an article in the News Journal last week regarding people from Daytona Beach who are casting dispersion on that hospital board. He assured them they are doing the right thing. He assured the Council and citizens of Edgewater that he would only recommend an affiliation that would bring something to the community and they want a partner who is going to bring the best possible health care to our citizens. He further commented on what they are looking for with their partner. They believe Florida Hospital runs a good hospital and are financially strong. The Board would discuss the matter at their meeting next week. He hoped the City would go on record in supporting their decision.

5. APPROVAL OR CHANGES/MODIFICATIONS TO THE AGENDA

There were no Changes/Modifications to the Agenda.

6. CITY COUNCIL REPORTS

Councilwoman Rogers reported on a phone call she received from Anthony Lancellotta. She thought the citizen would be here this evening and thought he may be there by the time the meeting closes. He had a concern regarding property he owns that is adjacent to a City owned property. She went out and visited the property yesterday. Apparently there are some issues regarding DEP and the liability and her understanding is that the City under Ken Hooper's administration gave this man verbal authorization to access his property via a road or via a piece of property that has had crushed shell placed on top of it so people could drive on it. He uses City property, a road right-of-way, as access to his own property and a disgruntled employee of his in the past reported him to the DEP and they have some concerns because it appears there is liability for both the City and himself. She advised him to contact his title insurance company because they can't have land landlocked in the State of Florida. If his title insurance policy doesn't express that he has an access issue then that title insurance company is in fact on the hook. She knows today he and his wife were pulling paperwork to review their title policy and get with the title company. She wanted to express where they were at so the City Attorney was aware of it too.

Mayor Thomas asked Councilwoman Rogers if he told her he contacted him and that he went out to visit the property on Friday. Councilwoman

Rogers stated he did express that but he said the Mayor just looked at him and said he should have an attorney. She told him he had a title insurance problem to begin with. If he goes to sell his property he has no access and legally in the State of Florida you have to have legal access to access your property and since he has title insurance the title insurance company should have specifically stated in the endorsements that there is an access issue.

Mayor Thomas reported on going to Mr. Lancellotta's property on Friday. It looks to him like he is councilperson shopping if he didn't go to his councilperson and contacted Councilwoman Rogers to get somebody that would take up his fight.

City Manager Barlow informed Council it was a legal issue initiated by DEP that City Attorney Ansay was engaged in. He had a conference call with staff that they are coordinating with DEP later this week. It is a DEP initiated complaint and requirements mandated by DEP that involve the City because of the proximity of the City property and/or some need to transverse and/or remediate some things that were done on City property.

Councilwoman Rogers asked if it was City property or not. City Manager Barlow informed her that was yet to be determined and that was part of the legal process of it. Councilwoman Rogers stated she spoke with DEP today and what they do when they find that there has been something done to property that is a wetland or a sensitive property they look to the owner of record of that property. They can't identify exactly who perpetrated it. Her understanding is DEP is now saying the City owns that property. City Manager Barlow asked her who she spoke to at DEP. Councilwoman Rogers didn't have the paper with her. City Manager Barlow asked her to let him know so that could be part of the conference call and could be shared with City Attorney Ansay as well.

Mayor Thomas asked what district Mr. Lancellotta's property was located in. City Manager Barlow guessed it would be either Councilwoman Bennington or Councilwoman Rhodes. City manager Barlow agreed to research that and let them know. Councilwoman Rogers pointed out they are elected based upon where they live but they are here to represent the citizens as a whole. She received a call and acted upon it. City Manager Barlow stated City staff has had numerous conversations with Mr. Lancellotta and site visits and DEP has as well in conversation and the City Attorney is engaged.

Councilwoman Bennington had nothing at this time.

Councilwoman Rhodes had nothing at this time.

Mayor Thomas reported on the radio talk show he participated in at the Blue Mule Deli with City Manager Barlow and New Smyrna Beach Mayor

Barringer. He is very pleased to see the cooperation between the sister cities.

Mayor Thomas then reported on the Mayor's luncheon he attended today. He's been invited to sit on the Smart Growth panel. There was going to be a Smart Growth Summit Wednesday night at the County Council Chambers in Deland at 5:30 p.m. He expressed his appreciation to Agnes Whitter for attending the last Smart Growth Summit.

7. CONSENT AGENDA

- A. Authorization for the Mayor to enter into Agreements giving the City approval to utilize vacant property located at the corner of Lamont Street and North Ridgewood Avenue and property located at the Edgewater-New Smyrna Cemetery for parking during the July fireworks on July 4, 2010
- B. Authorization for the City Manager to enter into a four-year lease agreement with Pitney Bowes for mailing equipment

Councilwoman Rhodes moved to approve the Consent Agenda, second by Councilwoman Bennington.

The MOTION CARRIED 4-0.

8. PUBLIC HEARINGS, ORDINANCES AND RESOLUTIONS

- A. 2nd Reading, Ordinance 2010-0-08; An amendment to Section 4.11 (Residency Requirements for Certain City Employees) of the Charter

Assistant City Attorney Ciocchetti read Ordinance 2010-0-08 into the record.

City Manager Barlow turned the presentation over to Robert McIntosh, vice-chairman of the Charter Review Committee.

Robert McIntosh, Vice Chairman of the Charter Review Committee, 2921 Sabal Palm Drive, stated at the time the discussion was a unanimous vote to separate the word extraordinary from the language and bring an amendment forward. That was the only word change in the amendment itself. Councilwoman Bennington confirmed they were deleting the Police Chief and Fire Chief out of it. Mr. McIntosh informed her that was correct.

There were no comments from the Council or the public.

Mayor Thomas stated in order to be able to generate qualified applicants the residency requirements said the Police Chief and Fire Chief had to live within the City limits of the City of Edgewater and

the Charter Review Committee thought it would put handcuffs on them if they didn't take the qualified applicants. It was voted on and passed at first reading.

Councilwoman Rhodes pointed out this was just to send it to the voters, not to change the ordinance itself. Councilwoman Bennington stated they wanted to take out extreme circumstances because extreme circumstances could be interpreted by different people to mean different things.

Mayor Thomas entertained a motion.

Councilwoman Bennington moved to approve Ordinance 2010-0-08, second by Councilwoman Rogers.

The MOTION CARRIED 4-0.

B. 1st Reading, Ordinance No. 2010-0-09; An amendment to the City Charter by amending Section 1.01(a)

Assistant City Attorney Ciocchetti read Ordinance 2010-0-09 into the record.

Robert McIntosh, Vice Chairman of the Charter Review Committee, 2921 Sabal Palm Drive, stated this was not their amendment. The Council changed the amendment and this was not their recommendation. Their recommendation was the total deletion of any height amendment height regulation restriction and revert it back to the Land Development Code.

Councilwoman Bennington asked why they recommended it be taken out. Mr. McIntosh informed her they felt it was not the proper place to have it for the restrictions it puts on the City. Again they are facing the third time they bring it up and it will limit the status for the development for mixed use throughout the City.

Mayor Thomas asked Councilwoman Rogers to explain for the public what she did. Councilwoman Rogers explained the motion was made for it to be removed. It was denied or it was a 2-2 vote. She brought it back and Councilman Cooper since he made the original motion had to amend his motion and what she added to the language to change this was that the 35' height would be lifted for west of U.S. #1, not east of U.S. #1. The reason she did that was because initially the whole reason for the 35' height amendment was to protect the City to not have condos along the riverfront. She further commented on other reasons why she changed this. Everyone seemed to voice during the last three elections that they didn't want condos.

Councilwoman Rogers wanted to talk about Park Avenue. It's been brought to Council's attention that the visioning workshops that were

held, that Park Avenue itself would become or they hope for it to become a business district. If Park Avenue had the 35' height lifted and they keep it east of U.S. #1 where they don't have the 35' height limit lifted. She asked City Manager Barlow to help her because he knew where she was going with this.

Councilwoman Rhodes pointed out it already didn't apply to businesses.

City Manager Barlow stated that would apply to doing any residential along Park Avenue as far as any redevelopment. If he understood Councilwoman Rogers correctly, she was contemplating or suggesting consideration or discussion of excluding Park Avenue from this exemption. City Manager Barlow suggested with the exception of Park Avenue and those parcels immediately adjacent to it. Councilwoman Rogers informed him that was correct. The next time there is any kind of capital improvements done they are going to have to revisit this again. If they take care of this now hopefully this would be it for the 35' height amendment.

Councilwoman Bennington stated she would go along with whatever the people want when it goes to the referendum. She agreed with the Charter Review Committee and felt by just adding this exception to it it would just complicate the issue even more. This issue should not be in the Charter. They have a Comp Plan. They have regulations and if the City is enforcing them like they should be, which they are at this point, it should not be in there. It is not part of a Charter. It is part of the building codes and development codes. She would go with whatever the Council wants but she personally disagrees with this. She disagreed with adding an exception to it. She felt it would snowball and confuse the citizens even more.

Councilwoman Rogers stated then they would just revert back to what it was. They will just leave it like it is now.

Councilwoman Rhodes agreed with Councilwoman Bennington. She thinks this should go to the voters the way the Charter Review Committee presented it. The Committee made recommendations. Let the voters decide if they want to accept them or not.

Councilwoman Rogers went back to what their discussion was at the last meeting. They decided to not have it go back to the voters because the voters have already said no three times. Councilwoman Rhodes stated then don't put it out there at all then. Take it away. Councilwoman Rogers stated leave it as it is.

Councilwoman Rhodes stated if they are going to task a committee to do a job and they do their job and then they say they didn't like the way they did it and they are going to change it. Let the voters decide they don't like the way they did it and let them change it. She disagreed with Council changing it.

Councilwoman Rogers commented on it being put in the Charter and the Land Development Code because they had a developer sue the City. She felt by lifting the 25' height west of U.S. #1 was so the City could grow and see some economic development. All she was looking at now was putting in one little strip of Park Avenue so right now it is a moot point and they will leave it as it is and it won't go on the ballot and the City will suffer. She feels the citizens only wanted to protect east of U.S. #1 on the river. They weren't looking to put a 35' height across the whole City as a whole.

Councilwoman Bennington stated if that is true then every time it has been brought up they have removed more and more of it. They already have a 26' height limit east of Riverside Drive. Councilwoman Rogers informed her it was 28'. Councilwoman Bennington commented on having three height limits on the west side of Riverside and on the other side they would have another limit. So far the 28' foot has worked on Riverside Drive. She didn't understand why they didn't go with what the Board recommended and let the people decide.

Councilwoman Rogers had a problem with something going back to the citizens four years in a row. She feels they have beaten it to death enough. The citizens don't want to see the 35' height come out of the Charter. Councilwoman Rhodes stated if that's what they want then that is how they will vote. She had a problem with trying to second guess what they think the citizens want. Councilwoman Rogers stated they are elected to represent them. They are the conduit.

The following citizens spoke:

Carol Ann Stoughton, 2740 Evergreen Drive, thinks the citizens have decided time and time again. They do not want high rises. Mayor Thomas was put in office with the background that he stood behind and he turned against them all when he got in office. There is no need to have another ordinance because Bob Lott gets up and speaks for the Chamber of Commerce. Councilwoman Rhodes is on her way out. Councilwoman Bennington has to do right by the people. If they want high rises on the Restoration project so be it west of I-95. She appreciated Councilwoman Rogers sticking up for the people. If high rises come in, Boston Whaler is going out and all the people that voted for it if they decide they can get a hold of this and twist the voters' minds, those people are going to lose their jobs.

Lorna Reed, Edgewater Landing, stated as a voter and resident of the City for the past 15 years, she wanted to express her views on the proposed upcoming proposal regarding the 35' residential height limit which is now in the Charter and will be on the ballot in November again. She had no agenda and was not affiliated with any political, environmental or local awareness group. Just a voter who has for the past five years listened to, read and followed the history of the 35'

residential height limit for and againsts regarding its place in the Charter. She cares about the future of Edgewater and looked forward to envisioning a vibrant well diversified, residential, economic and ecologically sound City in the years to come. The present Council was voted in by the voters and she believed for the first time in years are working valiantly to come to the best decisions for their future environmental and economical growth and prosperity. They need to place trust in them and allow them the scope and flexibility to determine proposals presented and come to their conclusions as to what are the best long term goals for the City. They as voters often listen to neighbors, friends or members of specific activist groups giving their opinions and they vote accordingly without really knowing or understanding what the long term effects would be to the City. She sees the two main reasons for the original votes in favor to place the 35' height limit in the Charter were, fear of high rise developments along the river and the proposed Restoration development west of U.S. #1. She supports strongly the amendment to continue to restrict the 35' residential height limit east of U.S. #1 in order to protect their river and environment. Some growth must take place. They need to focus on that. In doing so this relates directly to residential amenities and availability in the City of Edgewater. They have only houses for sale or rent. She would like to stay in the City and if she can't live here when she is too old she would love to be able to rent a condo or an apartment. Diversification in residential availability is of extreme importance to the future planned growth of Edgewater. Do not hog tie their counselors from assessing future plans to develop these things just because of fear. She supported removing from the Charter the 35' height residential restrictions west of U.S. #1.

Pat Card, 3019 Willow Oak Drive, described he was a member of the following organizations: the Nature Conservancy, the Audubon Society, the Sierra Club, Planning & Zoning Board of Edgewater and the liaison between the Planning & Zoning Board and Economic Development Board. He owns his home in Florida Shores and has no other interest in any real estate nor does he receive any compensation from any source other than Social Security and a pension from his Ohio Corporation from which he retired in 1998. His support of the Charter amendment is not a support of developers as was stated by the member of fear who is also an ECARD officer and resident of New Smyrna Beach who is in support of good government. He has been on the Charter Review Committee for the last three reviews. He has reviewed other cities Charters. He has listened to guest City Managers present the problems their cities have with their Charters. He has reviewed the National League of Cities model Charter. He has listened to the Supervisor of Elections. He has spent in excess of 100 hours in meetings reviewing this Charter paragraph by paragraph and Edgewater's Charter is the only one he has found that has elements of the Land Development Code as part of the City Charter. It is true that reasonable minds differ. Many people can take the same information and come up with different

conclusions. He believes if 9 out of 10 people in a room tell you you are drunk perhaps you should sit down before you fall down. If every City Charter he has seen has not got their LDC in their Charter and if the legal counsel says it is a magnet for lawsuits and can give examples of when this was the case in other communities perhaps it simply does not belong in the Charter. One might wonder why the supporters of individual local democracy and freedom of speech won't support the opportunity for the voters of this City to change their mind. Times change. This City is in a period of dynamic change. People have lost their jobs, their homes, many of their investments in this community and many have moved away. Perhaps those who are left have had a change of mind. Why not give them a chance to remove it entirely. Having the proposed amendment still in your Charter is like being a little pregnant. It is still the City's Charter and it really doesn't belong there.

Agnes Whitter, 223 Flagler Avenue, wanted to comment on this amendment being in the City Charter. She gets out and about and she talks to a lot of the voting members of Edgewater and the reason that it belongs in the City Charter according to them is because they feel if it is not in the City Charter it can be changed if it is only in the Land Development Code and they don't trust that it won't be changed so therefore that is the people's feeling of why they do want it in the Charter. This is really probably about the best of both worlds that they can get and everybody is happy. They come out with an assurance that they aren't going to have high rises condos on the river which is what the people wanted in the first place yet they realize they need other development within the City otherwise Restoration is going to leave them on this side of I-95 deteriorating and falling apart. They have to have the ability to improve their City.

Dominic Capria, 606 Topside Circle, stated it is in the Charter to protect the people. It's not in the Charter to protect the elected officials as some of them seem to think it should be. He is getting tired of hearing let the people vote. They have voted three times already and they are going to win again. It has already been said by Bob Lott that if they win again he was coming after it again.

Leo Towsley, 2828 Unity Tree Drive, agreed with Councilwoman Rogers. He felt they should let a sleeping dog lie until something comes up or a developer plans on doing something and then bring it up again. He suggested they educate the voters more and stated the last few times people were just scared. He felt they should wait a while and let it ride and see what happens in the next couple of years. People don't want to have it four years in a row because they are going to get the same thing again. They will vote no without even asking or checking into it. He pointed out how many people live in Edgewater compared to how many people attend the Council meetings.

Bob Overton, 631 Starboard Avenue, had a lot of mixed feelings about this particular issue. They want to see the City continue to grow. Edgewater has a lot of potential. He doesn't think that potential would be recognized if they continue to have the 35' limit in the Charter. The proposal that Councilwoman Rogers had made to change the recommendation from the CRC to taking it away from everything west of U.S. #1 made a lot of sense because it gave the people something else to consider. Here is another view. It is a little different than what has shown up on the ballot before and it kind of protects the people. Even though it shouldn't be in the Charter, the people voted for it to be in the Charter. If they say they want to take the 35' limit out of the Charter this year, it will fail just as sure as the world. Councilwoman Rhodes stated then it fails. Mr. Overton stated then they are right back to where they are now. They have limited their ability as far as growth is concerned at least in the western part of the City.

Councilwoman Rhodes stated they have the east side of U.S. #1 that won't be allowed to grow and you have the west side of U.S. #1 that is. Mr. Overton stated they were talking strictly residential condos and nobody wants residential condos on the river. Councilwoman Rhodes stated it doesn't seem fair to her that if you own property on the west side of U.S. #1 and you want to develop it and you own the same kind of property on the east side of U.S. #1, she doesn't want anything on the river, strictly along the roadway of U.S. #1. She wasn't sure that they weren't setting themselves up for legal issues in the long run. She didn't know that she wouldn't vote against it herself. She wasn't saying put it on the ballot so it could happen. She was saying put it on the ballot so the voters can decide and if they don't want it then they don't have it.

Mike Visconti, 316 Pine Breeze Drive, stated this thing has been coming up constantly. If they remember the originality of this, it all started because of condos along the river. At that time the condos were 80 to 100 feet high and a petition was put out that they don't want no condos on the river because of the 80 or 100' height so this was put on for 35'. Why limit it at 35 feet? Why can't it be 40 or 50 feet so that a developer could come in and say they have a building with a 50 foot height and have a reason to do so? By limiting it at 35' it ties the hands of Planning & Zoning and the people in the City and they cannot get ahead. Don't tie the hands of Edgewater. Edgewater right now is stagnant and nothing is happening. When this was voted on, at 11:00 p.m. that night the vote was the 35' limit was out. All of a sudden the absentee ballots came in and the vote was lost by maybe 100 votes. What happened to the rest of the people? All they did was cut Edgewater in half. He suggested they let the Planning and Zoning Board and the people that give the permits decide how high and where to put the height. Somehow they have to progress in Edgewater. Everything is happening in Port Orange. There isn't even a fine restaurant to go to in Edgewater.

Mayor Thomas asked for Council comments.

Councilwoman Rogers stated they do have some apartments and condos in Edgewater right on Riverside. They have apartments between U.S. #1 and Riverside north of City Hall. There are some developments they already have. If somebody would come in and clean them up and do some infill it would really help the City. Last Council meeting she made the motion that they do west of U.S. #1 lifting the 35' height for the reasons of economic development. Tonight all she wanted to do was etch in and relieve a little bit of Park Avenue because of the visioning and she could see from her colleagues that is confusing the issue. She retracted that and went back to what Council originally approved at the last meeting for the first reading.

Mayor Thomas doesn't believe it belongs in the Charter. He believes it belongs in the Land Development Code but the citizens of Edgewater voted it in. They came back and felt some of the people were misinformed so it went back again. Then it went back again. On the Restoration project that was one of the reasons he ran for Mayor because of his concern for that project. He wasn't educated on Smart Growth and got very educated serving on the Smart Growth Committee. With Restoration they came up with a final project which is a poster child for the State of Florida. They are going to build on 1,896 acres and they are going to leave 3,700 acre green, which he feels is fantastic. The developer came in and did that knowing that. You have to go up and can't go out because of the water. He felt people were misinformed. He didn't believe but has been accused of wanting to send it back to the voters.

Councilwoman Bennington also didn't believe it should be in the Charter. That was why she originally got involved in government, due to being put on the Charter Review Committee in the 1980's. At this point it is up to the people if they want to take it out or not. She didn't see it would pass if they just eliminate it on this board. She would have to go with Councilwoman Rogers. Doing the west of U.S. #1 she didn't agree with it but that should let the voters have some cake and eat it too.

Councilwoman Rhodes stated it isn't their job to try to get this passed. Their job is to give it to the voters and let them decide. They have no dog in this race. A Committee has come to Council and asked them to put it on the ballot. It wasn't her job to decide how to get it passed. She is going to do whatever the citizens of the City want done whether she personally believes it or doesn't. She had no problem with it being west of U.S. #1 but it's not their job to try to get this passed.

Councilwoman Rogers stated it is in the Charter and needs to stay in the Charter. If it were to go back out for vote to have it removed

her vote would be no. The motion she made at the last meeting west of U.S. #1 was to give the City some breathing room and because initially as Mr. Visconti had mentioned the 100' height, the 80' height on the condos east of U.S. #1 that was really the intention of the people. When she said U.S. #1 west it is going to pass. She knows it will.

Councilwoman Rogers made a motion that they go back to what was approved at the last meeting to approve this ordinance but they are going to change the language and they are going to say they are only going to put on the ballot west of U.S. #1 to have the 35' height cap. Several Councilmembers informed her that was how the ordinance was written and had already been changed.

Mayor Thomas asked Councilwoman Rogers if she was making a motion to approve the ordinance as read. Councilwoman Rogers stated exactly. Councilwoman Rhodes seconded the motion.

The MOTION CARRIED 4-0.

Mayor Thomas called a ten minute recess. The meeting recessed at 7:36 p.m. and reconvened at 7:50 p.m.

C. 2nd Reading, Ordinance No. 2010-0-07; Designating properties as a Brownfield Area

Assistant City Attorney Ciocchetti read Ordinance 2010-0-07 into the record.

City Manager Barlow made a staff presentation.

Mayor Thomas asked City Manager Barlow to describe what the Brownfield Redevelopment Act was about, which he did at this time.

Mayor Thomas asked for public comment.

The following citizen spoke:

NoraJane Gillespie, League of Women Voters, asked because they are contemplating CRA if this would overlap like it does in New Smyrna. City Manager Barlow explained a portion could.

Ms. Gillespie stated New Smyrna Beach was working on a Brownfield combination CRA for the Dunn Lumber property which they purchased through the CRA joint project.

Mayor Thomas entertained a motion.

Councilwoman Bennington moved to approve Ordinance 2010-0-07, second by Councilwoman Rhodes.

The MOTION CARRIED 4-0.

D. 2nd Reading, Ordinance No. 2010-O-04; Annexation of 2.15+ acres of land located at 2798 S. US Highway 1

Assistant City Attorney Ciocchetti read Ordinance 2010-O-04 into the record.

City Manager Barlow made a staff presentation.

Mayor Thomas asked if they got the facelift. City Manager Barlow informed him they did.

Due to there being no further comment, Mayor Thomas entertained a motion.

Councilwoman Rhodes moved to approve Ordinance 2010-O-04, second by Councilwoman Rogers.

The MOTION CARRIED 4-0.

E. 2nd Reading, Ordinance No. 2010-O-05; Amendment to the Comprehensive Plan Future Land Use Map to include 2.15+ acres of land located at 2798 S. US Highway 1 as Commercial

Assistant City Attorney Ciocchetti read Ordinance 2010-O-05 into the record.

Mayor Thomas asked for questions.

Bob Overton, 631 Starboard Avenue, asked if there would be a deceleration lane on the south bound side on the right hand side of U.S. #1 in conjunction with the construction of the building. Mayor Thomas informed him Development Services Director Darren Lear was shaking his head yes.

Due to there being no further comment, Mayor Thomas entertained a motion.

Councilwoman Rogers moved to approve Ordinance 2010-O-05, second by Councilwoman Rhodes.

The MOTION CARRIED 4-0.

F. 2nd Reading, Ordinance No. 2010-O-06; Amendment to the Official Zoning Map to include 2.15+ acres of land located at 2798 S. US Highway 1 as B-3 (Highway Commercial)

Assistant City Attorney Ciocchetti read Ordinance 2010-O-06 into the record.

City Manager Barlow made a staff presentation.

Due to there being no further comments, Mayor Thomas entertained a motion.

Councilwoman Bennington moved to approve Ordinance 2010-0-06, second by Councilwoman Rogers.

The MOTION CARRIED 4-0.

G. 1st Reading, Ordinance No. 2010-0-10; Annexation 9.13₊ acres of property located at 3515 S. US Highway 1

Assistant City Attorney Ciocchetti read Ordinance 2010-0-10 into the record.

City Manager Barlow made a staff presentation.

Due to there being no further comments, Mayor Thomas entertained a motion.

Councilwoman Bennington moved to approve Ordinance 2010-0-10, second by Councilwoman Rhodes.

The MOTION CARRIED 4-0.

H. 1st Reading, Ordinance No. 2010-0-11; Amendment to the Comprehensive Plan Future Land Use Map to include 9.13₊ acres of property located at 3515 S. US Highway 1 as Commercial with Conservation Overlay

Assistant City Attorney Ciocchetti read Ordinance 2010-0-11 into the record.

City Manager Barlow made a staff presentation.

Due to there being no further comments, Mayor Thomas entertained a motion.

Councilwoman Bennington moved to approve Ordinance 2010-0-11, second by Councilwoman Rhodes.

The MOTION CARRIED 4-0.

I. 1st Reading, Ordinance No. 2010-0-12; Amendment to the Official Zoning Map to include 9.13₊ acres of property located at 3515 S. US Highway 1 as B-3 (Highway Commercial)

Assistant City Attorney Ciocchetti read Ordinance 2010-0-12 into the record.

City Manager Barlow made a staff presentation.

Due to there being no further comments, Mayor Thomas entertained a motion.

Councilwoman Bennington moved to approve Ordinance 2010-0-12, second by Councilwoman Rhodes.

The MOTION CARRIED 4-0.

J. Request for conceptual site plan approval for a 38,000+ square foot expansion of the existing mini-warehouse facility, known as Indian River Self Storage, as well as an additional RV parking area for property located at 3515 S. US Highway 1

Development Services Director Lear made a staff presentation.

Mayor Thomas asked for public comment.

The following citizens spoke:

Linda Mulligan, 160 Packwood Road, stated even without using a vibratory compactor her home sustained damage. She commented on several other problems she had. She spoke of there being 31 homes behind her and they will be putting in RV's that carry diesel and propane which is a major concern of hers. There was no aesthetic barrier proposed before and what was left for vegetation had become defoliated which leaves them looking into a commercial storage lot at the end of a residential street. She then commented on the construction traffic from the construction of Red Fish Cove, which also caused vibration damage. She was going to have another inspection done and invited the developer and the City to inspect it prior to construction. That property is going to be creating health hazards, a fire hazard if any of that storage goes up. They are landlocked on a dead end road. She asked the City to consider making sure the plan contains a barrier that is aesthetically pleasing so it doesn't have a negative effect on the property values that are currently there.

Bill Mulligan, 160 Packwood Road, didn't believe in that not in my backyard stuff. He agreed with Edgewater needing progress. This is a residential area. The development they put in there has been good neighbors. His main concern was there was no stipulation. He owns an RV. They have diesel, propane, and gas. He questioned how many RV's there would be. He felt 38,000 square feet was a lot of storage for RV's. He then commented on the wildfires in 1998. His main concern is the public safety aspect. He spoke of there being no access for

emergency equipment to get in there and there being only one fire hydrant.

NoraJane Gillespie, 3588 Omni Circle, commented on attending the Planning & Zoning Board meeting. She wanted a fire hydrant onsite, she wanted some standpipes onsite, and she wanted a drain for the RV's. She asked how many RV's because there is nothing in the plan that says how many RV's. There are two slabs plus a warehouse that are going to close in and mitigate the drainage pond. Where are they going to move it to? She doesn't want it by her river unless it is lined and has a limestone drainage bed in it. To her this is a fire hazard and an environmental disaster. That was her formal complaint.

Pat Card, 3019 Willow Oak Drive, acted as the Chairman of the Planning & Zoning Board at that meeting and he felt the Council could see the concerns and the reasons they had for wanting to defer this until they could really get some solid information. He suggested it might be appropriate for Council to wait until they have had an opportunity to talk seriously with these people about some of the concerns they had. He further commented on having additional concerns but this was enough for them to be able to say they wanted to defer it until they could talk to some people.

Brenda Bolduc, 166 Packwood Road, stated her horseshoe driveway was right across from their existing RV/boat pad. She expressed concern with the amount of RV's, boats, whatever they are going to have and the river and conservation, noise. When they go to build this project if it goes through are they going to be going up and down Packwood Road again tearing everything up and going in through a back way to build all of this. Are they going right through their existing area to do the work in the back? That is her main issue because of when their construction guys build up to a certain point and possibly city did the rest. She wound up with a bad drainage problem. The drainage system that was put in is not working. She commented on when the gentleman flushes the fire hydrant coming on her property instead of going into the drainage. She then expressed concern with fire hazards.

Mayor Thomas asked Mr. Lear to address some of her concerns and if they had been addressed. Mr. Lear explained the TRC was still reviewing the site plan itself. The Planning & Zoning Board approved the conceptual site plan. What they continued was the conditional use permit which was approved through the Planning & Zoning Board because they can place conditions on that use. He informed Council Danny John was in the audience who was the project engineer if they wanted him to speak.

Councilwoman Bennington stated on the way they are annexing this, the part of Packwood Drive is going into the City and they are going to be responsible for that part of the road. Mr. Lear informed her there

was an easement on their property for that road. Councilwoman Bennington stated so they wouldn't be responsible so the people that lived behind there would come through and drive on City property and then back onto their property. Mr. Lear informed her that was the way they do it today and that the City would not be responsible for that section of the road. Mr. Lear informed her no. Councilwoman Bennington and Councilwoman Rhodes asked who was. Mr. Lear believed it was a private road. City Manager Barlow asked if Packwood Road was a right-of-way or access easement. Mr. Lear informed him it was his understanding there was an easement over the property owned by Indian River Self Storage. Councilwoman Bennington had a big problem with that. When they brought this to the City they never mentioned anything about RV parking. They just said they wanted to build more storage buildings. City Manager Barlow believed it did reference additional parking. It's not 38,000 square feet of RV parking. It also included the additional structures. Councilwoman Rhodes wanted to know how much was RV parking. Councilwoman Bennington didn't remember that being an issue.

Daniel Johns, 386 S. Nova Road, Project Engineer, commented on there being other ways to compact the materials other than using a vibratory roller. He commented on having less than $\frac{1}{4}$ acre of paved area that was intended to park RV's, boats, or trailers or whatever the case may be. He then commented on there being no reason for any construction traffic to come down Packwood Road. He confirmed the site had its own fire hydrants onsite that would allow the fire protection to be had. He then commented on the landscaped areas. All three sides of this development have the required landscape buffers on it. The one on the north side of Packwood Road there is probably $\frac{1}{2}$ or $\frac{6}{10}$ of an acre that is being left undeveloped in its entirety on that one particular corner.

Councilwoman Bennington asked how many RV's could be parked on half an acre. Mayor Thomas questioned Mr. Johns saying a quarter of an acre and asked how many feet a quarter acre was. Mr. Johns informed him 10,000. Mayor Thomas asked how much square. Mr. Johns informed him 100 feet by 100 feet. Mayor Thomas stated that wasn't very much. That's not even as big as a Florida Shores lot. Mr. Johns informed him those areas also had their required parking spaces for cars as well.

Councilwoman Bennington commented on having two sections on the site plan. She asked if the quarter acre was those two sections combined. Mr. Johns informed her it was approximately that.

Councilwoman Bennington suggested sending it back to the Planning & Zoning Board for them to finish up and answer these questions and get this right of way/easement issue straightened out. She didn't want to jump on this. Councilwoman Rhodes agreed.

Councilwoman Rogers also mentioned the concerns that were brought to their attention by the citizens regarding buffer, public safety, number of recreational vehicles and then there are the environmental concerns. She commented on there also being a waste issue. She asked if there was going to be a pump out station and if there wasn't where were they going to have those recreational vehicles serviced. She feels there is more there than meets the eye. As far as a buffer, Mr. Johns was saying based upon the City's codes, the landscaping, they perhaps need to revisit that in the codes because she felt this would come up again.

Mayor Thomas felt if they could give them an approximate number the residents might feel more comfortable. He again mentioned 100 by 100 not being that big. Mr. Johns agreed to do that.

Councilwoman Rogers stated but they had more issues dealing with the public safety and environmental concerns, which to her is magnificent.

Mr. Johns commented on having a biological assessment done of the property that meets the City's requirements. They sent in for a permit to modify the St. Johns River Water Management District permit.

Mayor Thomas asked if they put any drainage in case of a leak of diesel fuel or biological waste. Mr. Johns stated it was never intended to do any sort of servicing at the location there. Mayor Thomas stated sometimes accidents happen.

Councilwoman Rogers then commented on the roadway/easement issue on Packwood. She felt that needed to be looked at because they had another potential issue regarding the same thing, which is over sensitive land. Mr. Johns told Council Packwood was an existing road. City Manager Barlow informed Council Packwood Road was currently existing and being accessed by those adjacent property owners today. Mr. Johns stated it was his understanding the County maintains Packwood Road.

Councilwoman Bennington expressed concern that once it was annexed into the City if the County was going to maintain that section in the City. Mr. Johns stated the annexation before Council is for the 9.13 acres that does not include Packwood Road. Councilwoman Bennington stated apparently it does according to the map they had. Mr. Johns informed her Packwood Road ran through the property. Councilwoman Rhodes stated they can't annex a County road. City Manager Barlow was not aware of any conversation regarding dedication of right of way to the City of Edgewater that would make them responsible. This did not include any dedication of right-of-way.

Councilwoman Rogers stated there appears to be ambiguity so what they needed to do was explicitly state what it is, the easement or what it is. She felt that should be included. Since they were having to go

backwards, they needed to answer every question and have the answers in writing so the citizens and those property owners know exactly what is going on.

Mayor Thomas questioned the road needing to be a formal agreement so there was no misunderstanding in the future. City Manager Barlow felt it was probably clear now but that was something they could go back to send them back and have them work on if they wanted to continue to pursue the annexation.

City Manager Barlow further commented on there being a difference between an access easement and dedicated right-of-way.

Assistant City Attorney Ciocchetti felt ultimately what they needed to see was what was the nature of this roadway. He thought Mr. Lear probably had the answer.

Mr. Lear read the legal description for the property in the annexation identifying it as a perpetual non-exclusive easement for ingress and egress.

Councilwoman Bennington felt since there were a lot of other issues besides the road and the Planning & Zoning Board has held it up too because they had some questions she made a motion to send it back to the Planning Board to iron out all the issues that were brought up tonight before they see it again. Mayor Thomas, Councilwoman Rhodes and Councilwoman Rogers all agreed. Councilwoman Rogers seconded the motion.

The MOTION CARRIED 4-0.

9. BOARD APPOINTMENTS

- A. Economic Development Board - Councilwoman Bennington's appointment due to the expired term of Marcia Barnett, who seeks reappointment

Councilwoman Bennington moved to reappoint Marcia Barnett to the Economic Development Board, second by Councilwoman Rogers.

The MOTION CARRIED 4-0.

- B. Economic Development Board - Councilwoman Rhodes' appointment due to the expired term of Chris Balmer, who seeks reappointment

Councilwoman Rhodes moved to reappoint Chris Balmer to the Economic Development Board, second by Councilwoman Bennington.

The MOTION CARRIED 4-0.

10. OTHER BUSINESS

- A. Request for consideration in reducing impact fees for an addition of 2,500 square feet of office and 3,100 square feet of storage units totaling 5,600 square feet at the U-Sto-It located at 3725 S. US Highway 1

City Manager Barlow made a staff presentation.

Councilwoman Rhodes felt they needed to revisit seeing each one of these on a case by case basis. She felt they should set up a policy and that it should be brought to their attention under City Manager Reports when a policy is implemented. City Manager Barlow informed her once he got clear and concise consensus of the majority of the Council present that night of giving him direction he could certainly do that. Councilwoman Rhodes and Councilwoman Bennington both told him to do it.

City Manager Barlow wanted confirmation that Council would entertain consideration of a resolution regarding the waiver of impact fees and/or development annexation fees based on number of jobs created with a sunset date, which would give them the opportunity to extend it.

Councilwoman Rogers wasn't happy about the impact fees being forgiven or reduced because the City paid to have a study done a few years back regarding the impact fees and what they needed to charge so the City wasn't losing and here they are forgiving them. No reduction, no elimination of impact fees. The City can't afford it.

Councilwoman Rhodes stated at that time the City had considerably more money than it does now. Councilwoman Rogers stated not really. It was a shell game then and it has gotten better.

Councilwoman Rhodes stated at the time that decision was made they were presented with a lot of development opportunities. They have not had that. Their job is to provide jobs for the people that live in this City and if they can do it by reducing some impact fees for a limited period of time to make that happen in this economy she feels it is incumbent upon them to do that.

Councilwoman Bennington asked if they had a sidewalk in front of them now. City Manager Barlow informed her they did not.

Mayor Thomas entertained a motion to give City Manager Barlow some consensus.

Councilwoman Bennington made a motion to give City Manager Barlow permission to draw up a resolution with a sunset clause waiving impact

fees based upon the number of jobs created with him reporting as they come in. Councilwoman Rhodes suggested every 90 days.

Mayor Thomas asked Councilwoman Bennington if she would consider making it a year from the date they started so everybody would know when it was going to end and would give them a timeframe to push to get something through. City Manager Barlow recommended they make it concurrent with the fiscal year for it to sunset on September 30th at the same time that they were going into a new budget year and it could be reevaluated at that time.

Councilwoman Bennington agreed with that and added that to her motion.

Councilwoman Rhodes seconded the motion.

The MOTION CARRIED 3-1. Councilwoman Rogers voted NO.

Councilwoman Bennington made a motion to table this until the next meeting, second by Councilwoman Rhodes.

The MOTION CARRIED 4-0.

B. Direction to the City Manager regarding FEMA projects relating to the 2004 hurricanes

City Manager Barlow made a staff presentation.

Leisure Services Director Jack Corder informed Council they had gotten as far along as they had St. Johns permitting to build the shuffleboard courts at Rotary Park. The construction plans had not been completed. He has been extending this for the last couple of years hoping to find the money to move forward.

Councilwoman Rhodes felt this should have been closed out a long time ago. Councilwoman Bennington mentioned not being able to do this by the August deadline, even if they had the money.

There was a brief discussion regarding the \$189,000 that was received from property insurance.

Councilwoman Rogers felt the money was put in the General Fund not appropriately and not accounted for. It should have been put aside and saved for this and now they have to deal with it because they don't have the money any more. At some point around budget time they put aside funds for this. She asked what happened to it. Mr. Corder informed her approximately two or three years ago it was budgeted and it went through the process and the money was pulled.

Councilwoman Rogers asked if they could put this off until the next meeting to give Mr. McKinney time to go back into the financial

records and give them an update as to when they did budget it and then how it fell through the cracks. Councilwoman Rhodes asked what difference that made. Councilwoman Rogers felt it made a difference because the citizens realize the shuffleboard courts aren't here tonight. It does matter to her because it matters to the citizens. Councilwoman Rhodes stated the shuffleboard courts were \$337,000. Mayor Thomas stated they can't come up with that amount anyway. Councilwoman Rogers stated she wanted to know what happened to it. Councilwoman Bennington stated she had it on good account that less than 20 of the shuffleboard people live in Edgewater that utilized the shuffleboard court. Mayor Thomas stated they can't meet the matching funds so it is a moot point.

Councilwoman Rogers stated she met with the shuffleboard people back in 2007 a few times and they are residents. Councilwoman Rhodes stated the shuffleboard clubhouse and the shuffleboard courts with lights was \$337,000. If FEMA was going to give them \$219,000, then they only have like a \$17,000 or \$18,000 difference that they would have to pay. Councilwoman Rhodes asked why they had to build the racquetball courts and couldn't just build the shuffleboard courts. Mr. Corder informed her then some of the money that FEMA would offer they would keep because it has to go back to that particular item.

Mayor Thomas questioned if it costs the same to build it now. Mr. Corder stated probably not. Mayor Thomas asked if they had the money to joint with it, no. Then it is a moot point in his opinion. Mayor Thomas asked if they could complete it by August. Mr. Corder informed him absolutely not. Councilwoman Rhodes stated even if they did have the money they couldn't do it anyway.

Councilwoman Bennington made a motion that they direct the City Manager to cancel the project, second by Councilwoman Rhodes.

The MOTION CARRIED 3-1. Councilwoman Rogers voted NO.

- C. Confirmation of the emergency repairs to the Master Lift Station at the Wastewater Treatment Plant and the issuance of Work Order 2007-17 for services provided by Quentin Hampton Associates, Inc.

City Manager Barlow made a staff presentation.

Councilwoman Bennington asked if they didn't approve it who would pay for it. City Manager Barlow informed her they still had to pay for it due to it constituting an emergency.

Councilwoman Rhodes stated part of Quentin Hampton's fees were inspections at \$57.50 per hour. She asked if they needed a special certification to inspect these. City Manager Barlow informed her it had to be a certified engineer. He mentioned the City in the past

having an Engineer in-house but that position was phased out because it was determined it could be contracted out cheaper.

Councilwoman Bennington moved to approve the work order, second by Councilwoman Rhodes.

The MOTION CARRIED 4-0.

D. Cost Share Agreement between the St. Johns River Water Management District and the City of Edgewater for the Eastern Shores Stormwater Improvement Project

Environmental Services Director Brenda Dewees made a staff presentation. She recognized the tremendous effort by Tyna Hilton as far as getting the paperwork done. Councilwoman Rhodes was very impressed.

Councilwoman Bennington made a motion to approve this agreement, second by Councilwoman Rhodes.

The MOTION CARRIED 4-0.

11. OFFICER REPORTS

A. City Clerk

City Clerk Wenzel had nothing at this time.

B. City Attorney

Assistant City Attorney Ciocchetti had nothing at this time.

C. City Manager

City Manager Barlow presented an update on the ParkTowne Expo. They had over 50 businesses. He would have like to have had more foot traffic from the general citizens. He felt it was a successful and positive event.

City Manager Barlow informed Council on June 21st they were looking to schedule a workshop at 5:00 p.m. for the Comprehensive Economic Development Strategy with the City Council, Economic Development Board and Planning & Zoning Board before the Regular Meeting.

City Manager Barlow stated he was working with the Chamber of Commerce on an agreement where they may use one of Mr. Corder's offices on U.S. #1 where they would have representation from the Chamber in one of our City buildings.

City Manager Barlow commented on electing not to close on the Line of Credit that was brought to Council before. If they decide to go forward he would bring this back to Council.

City Manager Barlow informed Council they started the Restoration administrative hearings today that would continue for the next two days. Part of that is the City of Edgewater had to bring on an expert Planning Consultant to help with the preparation for that and give testimony which is all reimbursable. He was requesting additional authorization if he had to exceed the \$24,999.99 that he is allowed to spend per the purchasing policy. He was given majority consensus if he had to exceed the amount strictly for that purpose.

City Manager Barlow stated Councilman Cooper asked him to share with the audience especially that the MPO has a citizen survey online regarding the five most important roadway projects going into the future. He encouraged all the Edgewater citizens to participate in that survey.

Mayor Thomas reported on the Kid's Fishing Clinic two weeks ago that he participated in. There were 92 children that participated.

12. CITIZEN COMMENTS

The following citizens spoke:

Pat Card, 3019 Willow Oak Drive, stated he understood their pragmatic approach this evening and he complimented them on their significant concerns. He was tired of people from New Smyrna Beach and Volusia County coming to Edgewater telling the Council how to run our City. He was tired of people from as far away as Titusville and Palm Beach financially supporting a side of their local question. He was tired of seeing the elected officials influenced in any way by these people. Only 200-300 votes separated the vote on this issue when it was originally brought to the electorate for a decision. People from other communities were highly influential in the effort to get their petitions signed. He was concerned that Council will end up getting influenced by people who don't have a whole lot to do with what they are doing here.

Rich Morin, 2507 Glenwood Drive, stated he has been a business owner in Edgewater for 25 years. He currently owns a piece of commercial property on Hibiscus Drive. He has been cited by the Code Enforcement Nazis that put him out of business. He is going to probably have to declare bankruptcy. He lost his tenants. He used to be on the Economic Development Board and he doesn't think that is a way to draw new business to the City. He thinks the City needed to address this. He felt there a lot of other businesses getting hassled too. If they don't make some sort of resolution he would have to bring legal suit against the City. That is his retirement and his livelihood.

Councilwoman Rogers asked what the Code Enforcement issues were. Mr. Morin informed her someone complained that the visibility on the corner was bad, which they have pictures and documentation. Code Enforcement and Planning & Zoning don't want to hear anything. They want things their way. He has been there 15 years and has never had any problem. Prior to that there were probably 25 violations before he bought the property. He cleaned up the property. He felt like he was getting railroaded.

Councilwoman Rogers asked City Manager Barlow what he could tell them about this. City Manager Barlow didn't believe the individual was cited. He received a notice of violation. He then commented on the Code Enforcement process with a notice of violation being issued first giving them the opportunity to bring the property into compliance before a citation is issued. If the property is not brought into compliance it goes before the Code Enforcement Board with the option to appeal to the court system. He had not exercised all of those processes yet. It was premature to be in front of Council at this point in time. He had not yet been cited and had only received a notice of violation. Mayor Thomas thought Mr. Morin had already gone through the process.

City Manager Barlow reported he met with Mr. Morin and Code staff at which time it was agreed to give him an extension of the notice of violation.

Councilwoman Rhodes asked what the problem was. Mr. Morin stated his tenants had some of their equipment there. They were re-rigging trailers of which they are on the premises two months out of the year. They have been doing this for 15 years. Mayor Thomas stated he rode by there and he didn't see anything that struck him but he explained to him he wasn't on Code Enforcement.

Councilwoman Rogers mentioned Mr. Morin losing his tenants. Mr. Morin informed her they moved to ParkTowne. Councilwoman Rogers asked if they left him because of this or if they left because of ParkTowne having some different amenities. Mr. Morin informed her they left because of the violation. Councilwoman Rogers stated and it was because of the tenants that he received the violations. Mr. Morin informed her yes. Councilwoman Rogers stated then he doesn't have a violation anymore because the tenants are gone. Mr. Morin informed her they were moving out and were pretty much done. Mayor Thomas stated then they can release it. City Manager Barlow explained this individual may also have some equipment that creates a violation as well. Just because his tenant left doesn't automatically self correct. He also operates a business out of there as well. He again mentioned it being premature for Mr. Morin to be before City Council due to not having been cited yet.

Agnes Whitter, 223 Flagler Avenue, stated she noticed there was a sign on the building on the corner that there was a 7-11 coming. City Manager Barlow informed her they were going through the permitting process. Ms. Whitter was hoping the City had some kind of input into what their building will look like. She hoped it fit into the plan they have for a downtown area.

Ms. Whitter stated she got word Saturday that DCA was going to be relegated to a merely administrative position come next year. This year they are still a body that can require certain steps to be taken within DRI's and so forth. She requested that since they were a big part in getting them Restoration kind of contained and a good footprint for it and helped them in preserving the aquifer that they all take an active part in objecting to the DCA being downgraded to just an advisory committee. She felt it was important the Florida had this body to help them in preserving some of the areas they really need.

Mayor Thomas asked Ms. Whitter how they would be downgraded. Ms. Whitter described this year they have renewed them but they have not increased their funding and there has been a decision made by the powers that be in Tallahassee that they will downgrade the DCA to strictly an advisory committee and they will carry no weight whatsoever in any decisions of development.

Councilwoman Rhodes questioned if they would give their responsibilities to someone else. Mayor Thomas thought this was just a rumor.

Councilwoman Bennington commented on getting the Dollar Store to do a façade the way they really wanted it. She asked if it was possible that the Planning & Zoning Board or Mr. Lear could look at what Port Orange has done with their downtown. Councilwoman Rhodes stated they had it for SR 442 and asked why they couldn't apply that across the board everywhere. City Manager Barlow informed her they have put together a draft overlay for U.S. #1. Within the next couple of months they hope to get a draft before Council that could be adopted in the Land Development Code. As far as 7-11, they only have a vision for the downtown area. They don't have any land development codes or overlays or anything for this area at this time. They have talked to them about what they envision Park Avenue to look like and have encouraged them. They have provided some plans that don't completely mimic the vision but they can't require that yet because they don't have those codes. He felt it would look better than it does now.

Joe Stranger, 3026 Tamarind Drive, stated he worked with Mr. Morin for the last 15 years plus take the building from very rough shape to a very respectable shape now, keeping the same equipment he did from day one until now on the property. He asked if this meant if he was a new tenant of the building and it was going to be a wholesale business

that none of vehicles could be left at a commercial business within reason, away from corners, parking vision impaired. He asked how this all stated.

City Manager Barlow stated that was extremely hypothetical and every parcel is zoned and permitted for that type of zoning. He thought Mr. Morin's property kept growing large trucks to the point it attracted attention. To his own confession they were transitioning some trucks out and some trucks in and he thought that was when the complaint was lobbied. He has almost confessed to for 15 years hasn't changed but that doesn't mean he has been compliant the whole time. It just means someone had lobbied a complaint that they had to investigate. He mentioned the codes being adopted by the Council and enforced by Code Enforcement.

Mr. Stranger asked how to get a listing of the Code if you were a business owner what the governing was to leave a vehicle at your business or residence. City Manager Barlow informed him the codes were available at www.Municode.com or on the City's website. It depended on the zoning as to what they were permitted to do and not do on the property.

Mr. Stranger stated until the next meeting comes by basically is it called negotiation. City Manager Barlow informed him it was a presentation to the Code Enforcement Board which is a quasi-judicial board. He described it as being similar to a court.

Leo Towsley, 2828 Unity Tree Drive, asked if there was any way back to the height thing about making Riverside Drive some kind of a park road or scenic road so there couldn't be any buildings put on it and then just drop the 35' limit. He felt that was what everybody's main concern was. Councilwoman Bennington stated she guessed they could consider that.

Mr. Towsley stated as far as the gentlemen from the business on Hibiscus Drive, he knew where they were talking about and the trucks are a lot nicer than the buildings in that area.

13. **ADJOURNMENT**

There being no further business to discuss, Mayor Thomas adjourned the meeting. The meeting adjourned at 9:17 p.m.

Minutes submitted by:
Lisa Bloomer

Attest:

APPROVED:

City of Edgewater, Florida

Bonnie Wenzel, City Clerk

Michael L. Thomas, Mayor