



AGENDA  
CITY OF ORMOND BEACH, FLORIDA  
CITY COMMISSION MEETING  
November 19, 2024  
6:00 PM

Mayor Jason Leslie

Zone 1 - Commissioner Lori Tolland

Zone 3 - Commissioner Kristin Deaton

Zone 2 - Commissioner Travis Sargent

Zone 4 - Commissioner Harold Briley

COMMISSION CHAMBERS

22 South Beach Street, Ormond Beach, FL 32174

Phone: 386-677-0311

Web: [www.ormondbeach.org](http://www.ormondbeach.org)

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1. **CALL TO ORDER**
  2. **INVOCATION**
  3. **PLEDGE OF ALLEGIANCE**
  4. **OATH OF OFFICE TO MAYOR**
  5. **OATH OF OFFICE TO THE CITY COMMISSIONERS**
  6. **NOMINATIONS FOR DEPUTY MAYOR**
    - A. **RESOLUTION NO. 2024-200:** A RESOLUTION ELECTING THE DEPUTY MAYOR OF THE CITY OF ORMOND BEACH, FLORIDA; ESTABLISHING TERM AND CONDITIONS OF SERVICE; SETTING FORTH AN EFFECTIVE DATE.  
*Staff Contact: Susan Dauderis, City Clerk, (386) 676-3340*
    - B. OATH OF OFFICE ADMINISTERED TO THE DEPUTY MAYOR
  7. **AUDIENCE REMARKS - REGARDING ITEMS NOT ON THE AGENDA**
  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. 2024-201:** A RESOLUTION ADOPTING RULES OF PARLIAMENTARY PROCEDURE; AND SETTING FORTH AN EFFECTIVE DATE.

**Staff Contact:** Susan Dauderis, City Clerk, (386) 676-3340

- B. **RESOLUTION NO. 2024-202:** A RESOLUTION ADOPTING PROCEDURAL GUIDELINES FOR CONDUCTING SPECIAL MAGISTRATE PROCEEDINGS PURSUANT TO CHAPTER 70.51, FLORIDA STATUTES, UNDER THE FLORIDA LAND USE AND ENVIRONMENTAL DISPUTE RESOLUTION ACT, AND ESTABLISHING AN EFFECTIVE DATE.

**Staff Contact:** Randy Hayes, City Attorney, (386) 676-3217

- C. **RESOLUTION NO. 2024-203:** A RESOLUTION ESTABLISHING DATES AND TIMES FOR REGULAR MEETINGS OF THE CITY COMMISSION OF THE CITY OF ORMOND BEACH, FLORIDA, DURING THE MONTH OF DECEMBER 2024; AND DURING CALENDAR YEARS 2025 AND 2026; PROVIDING EXCEPTIONS THERETO; AND SETTING FORTH AN EFFECTIVE DATE.

**Staff Contact:** Susan Dauderis, City Clerk, (386) 676-3340

- D. **RESOLUTION NO. 2024-204:** A RESOLUTION ACKNOWLEDGING AND ESTABLISHING THE ORDER BY WHICH SERVICE OF LEGAL PROCESS MAY BE EFFECTUATED ON THE CITY OF ORMOND BEACH; AND SETTING FORTH AN EFFECTIVE DATE.

**Staff Contact:** Randy Hayes, City Attorney, (386) 676-3217

## 9. RESOLUTIONS

- A. **RESOLUTION NO. 2024-205:** A RESOLUTION AFFIRMING THE CERTIFICATION OF THE VOLUSIA COUNTY CANVASSING BOARD REGARDING THE RESULTS OF THE REGULAR MUNICIPAL ELECTION CONDUCTED IN THE CITY OF ORMOND BEACH, FLORIDA, ON TUESDAY, NOVEMBER 5, 2024; DECLARING THE RESULTS OF SAID ELECTION; AND SETTING FORTH AN EFFECTIVE DATE.

**Staff Contact:** Susan Dauderis, City Clerk, (386) 676-3340

- B. **RESOLUTION NO. 2024-206:** A RESOLUTION OF THE CITY COMMISSION, ALSO ACTING AS THE COMMUNITY REDEVELOPMENT AGENCY, OF THE CITY OF ORMOND BEACH, FLORIDA, APPOINTING A CHAIR AND VICE CHAIR TO THE ORMOND BEACH COMMUNITY REDEVELOPMENT AGENCY; ESTABLISHING TERM AND CONDITIONS OF SERVICE; AND SETTING FORTH AN EFFECTIVE DATE.

**Staff Contact:** Susan Dauderis, City Clerk, (386) 676-3340

## 10. REPORTS, SUGGESTIONS, REQUESTS

## 11. ADJOURNMENT

**NOTICE** – Pursuant to Section 286.0105 of the Florida Statutes, if any person decides to appeal any decision made by the City Commission with respect to any matter considered at this public meeting, such person will need a record of the proceedings and for such purpose, such person may need to ensure that a verbatim record of the proceedings is made, including the testimony and evidence upon which the appeal is to be based.



For special accommodations, please notify the City Clerk's Office at least 72 hours in advance.  
Phone: 386-677-0311



Help for the hearing impaired is available through the Assistive Listening System. Receivers can be obtained from the City Clerk's Office.

In accordance with the Americans with Disabilities Act (ADA), persons with a disability, such as a vision, hearing or speech impairment, or persons needing other types of assistance, and who wish to attend City Commission meetings or any other board or committee meeting may contact the City Clerk's Office in writing, or may call 386-677-0311 for information regarding available aids and services.



# City of Ormond Beach AGENDA ITEM

November 19, 2024 - City Commission

**Number: 6.A**

<b>Section:</b>	NOMINATIONS FOR DEPUTY MAYOR		
<b>Item Category:</b>	Resolution	<b>Res./Ord. No:</b>	2024-200
<b>Strategic Goal:</b>	Governance – Other		
<b>Department:</b>	Support Services		
<b>Subject:</b>	Nominations for Deputy Mayor		
<b>Summary:</b>	The City Commission will nominate and vote on one of its members to serve as Deputy Mayor.		
<b>Financial Impact:</b>	None		
<b>Citizen Impact:</b>	The Deputy Mayor shall act as Mayor during the absence or disability of the Mayor, and during a vacancy in the Office of Mayor until such vacancy is filled in accordance with Section 3.07 of the City's Charter.		
<b>Recommended Action (Staff, Advisory Board and/or Other):</b>	It is recommended the City Commission elect and approve the attached resolution electing a Deputy Mayor.		
<b>Staff Contact:</b>	Susan Dauderis, City Clerk, (386) 676-3340		
<b>Attachments:</b>	1. 24- 200 Deputy Mayor		
<b>Approval:</b>	Kelly McGuire, Finance Director		10/21/2024
	Claire Whitley/Shawn Finley, Assistant City Manager		10/22/2024
	Joyce Shanahan, City Manager		10/23/2024

**RESOLUTION NO. 2024-200**

A RESOLUTION ELECTING THE DEPUTY MAYOR OF THE CITY OF ORMOND BEACH, FLORIDA; ESTABLISHING TERM AND CONDITIONS OF SERVICE; SETTING FORTH AN EFFECTIVE DATE.

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF ORMOND BEACH, FLORIDA, THAT:**

**SECTION ONE.** Pursuant to Section 3.05 of the *Charter* of the City of Ormond Beach, Florida, Commissioner \_\_\_\_\_ is hereby elected as the Deputy Mayor of the City of Ormond Beach, Florida.

**SECTION TWO.** The Deputy Mayor hereby elected shall serve in the said capacity without additional compensation to that which she/he shall receive as a duly-elected City Commissioner.

**SECTION THREE.** This Resolution shall take effect immediately upon its adoption.

**APPROVED AND AUTHENTICATED this 19<sup>th</sup> day of November, 2024.**

\_\_\_\_\_  
**JASON LESLIE**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**SUSAN CARROLL DAUDERIS**  
City Clerk



# City of Ormond Beach AGENDA ITEM

November 19, 2024 - City Commission

**Number: 8.A**

<b>Section:</b>	CONSENT AGENDA		
<b>Item Category:</b>	Consent - Resolution	<b>Res./Ord. No:</b>	2024-201
<b>Strategic Goal:</b>	Governance – Other		
<b>Department:</b>	Support Services		
<b>Subject:</b>	Rules of Parliamentary Procedure		
<b>Summary:</b>	The rules are based on Robert's Rules of Parliamentary Procedure, the City's Charter, and applicable law. This proposal is for the City Commission to readopt the rules similar to what has been in place for several years.		
<b>Financial Impact:</b>	None		
<b>Citizen Impact:</b>	Citizens will know what the City Commission has determined and adopted to be its own rules and order of business.		
<b>Recommended Action (Staff, Advisory Board and/or Other):</b>	It is recommended the City Commission approve the attached resolution which adopts rules of parliamentary procedure.		
<b>Staff Contact:</b>	Susan Dauderis, City Clerk, (386) 676-3340		
<b>Attachments:</b>	1. 24- 201 Adopt Rules of Procedure (P24-0175G)		
<b>Approval:</b>	Kelly McGuire, Finance Director		10/21/2024
	Claire Whitley/Shawn Finley, Assistant City Manager		10/22/2024
	Joyce Shanahan, City Manager		10/23/2024

## **RESOLUTION 2024-201**

A RESOLUTION ADOPTING RULES OF PARLIAMENTARY  
PROCEDURE; AND SETTING FORTH AN EFFECTIVE DATE.

**WHEREAS**, section 3.08(b), Charter of the City of Ormond Beach provides that the City Commission shall adopt rules for the conduct of its meetings; and

**WHEREAS**, the City Commission has for many years afforded members of the general public a reasonable opportunity to speak and to be heard at public meetings regarding matters upon which official action will be taken (i.e., a vote will be taken); and

**WHEREAS**, section 286.0114, Florida Statutes protects the right of members of the general public to speak and to be heard at public meetings and recognizes the right of local government bodies to adopt reasonable rules for conducting business at public meetings; and

**WHEREAS**, section 286.0114, Florida Statutes recognizes:

- (1) that the right of members of the general public to speak and to be heard does not necessarily need to occur at the same meeting at which official action is to be taken on a particular matter as long as an opportunity to speak is afforded during a decision making process that occurs within a reasonable proximity in time before the public meeting at which official action will be taken on the matter (i.e., a vote will be taken);
- (2) the statute does not prohibit governing bodies from maintaining orderly conduct or proper decorum in a public meeting;
- (3) the right of the general public to speak and to be heard is subject to reasonable rules and policies that may be adopted by governing bodies that:

- (a) provide guidelines regarding the amount of time an individual is allowed to speak;
- (b) prescribe procedures for allowing representatives of groups or factions to address the governing body at meetings in which a large number of people desire to speak, rather than allowing all members of such groups or factions to speak;
- (c) prescribe procedures or forms for a person to use to inform the governing body of a desire to speak; to indicate the person's support, opposition, or neutrality to a particular item of business; and to designate a person's representative who will speak on behalf of the person or the person's group or faction;
- (d) designate a specified period of time for public comment.

**WHEREAS**, section 286.0114, Florida Statutes further recognizes that it does not apply to:

- (1) an official action that must be taken to deal with an emergency situation affecting the health, welfare, or safety of the general public if compliance with the requirements would cause unreasonable delay in the ability of a governing body to act;
- (2) an official act involving a ministerial act, including but not limited to, approving minutes of public meetings and ceremonial proclamations;
- (3) a meeting that is exempt from section 286.011, Florida Statutes; or

- (4) a meeting during which a governing body is acting in a quasi-judicial capacity, except that a right to be heard as may be otherwise provided by law shall not be affected.

**WHEREAS**, the City Commission desires to adopt reasonable rules of procedure for conducting business at public meetings and hereby determines that the rules adopted herein are consistent with section 3.08(b) of the city Charter, section 286.0114, Florida Statutes, and other applicable laws; now therefore,

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF ORMOND BEACH, FLORIDA, THAT:**

**SECTION ONE:** The City Commission of the City of Ormond Beach, Florida, hereby adopts the following rules of procedure that shall govern the conduct of its proceedings:

**RULE 1. AUTHORITY.**

**1.1 Charter:** The rules provided herein are adopted pursuant to the authority of *section 3.08(b), Charter* of the City of Ormond Beach, section 286.0114, Florida Statutes and other applicable law. The following set of rules shall be in effect upon their adoption by the City Commission and shall continue in full force and effect until such time as they are amended, suspended or new rules are adopted in the manner provided by the Charter and these rules. (*Reference: section 3.08(b), Charter*)

**1.2 Recitals:** The “Whereas” recitals constitute the legislative findings of the City Commission and are incorporated herein by reference.

**RULE 2. GENERAL RULES.**

**2.1 Meetings Open to Public:** All meetings of the City Commission shall be open to the general public, except for such meetings that are exempt by general or special law. Special meetings may be held on the call of the Mayor or a majority of the City Commission and, whenever practicable, upon no less than twelve (12) hours notice to each member and the public. (*Reference: section 3.08(a), Charter; section 286.011(1), Florida Statutes*)

**2.2 Quorum:** A majority of the members of the City Commission shall, free of voting conflict, constitute a quorum and shall be necessary for the transaction of business, except

where a super-majority vote is otherwise required by rule or law. If a quorum is not present, the meeting shall be adjourned to a later time if attendance of absent members is not compelled. (*Reference: section 3.08(c), Charter*)

**2.3 Compelling Attendance:** If a quorum is not present, the members of the City Commission present may compel the attendance of absent members in a manner and subject to the penalties prescribed by the rules of the City Commission. (*Reference: section 3.08(c), Charter*)

**2.4 Minutes of Proceedings:** Minutes of the meetings of the City Commission shall be kept by the City Clerk, except for such meetings as are exempt by general law. (*Reference: section 3.08(b), Charter*)

**2.5 Written Comments When Absent.** Any member of the City Commission, whenever he or she will be unable to attend a meeting of the City Commission (i.e., any regular meeting, special meeting, or workshop meeting), may submit written comments to the City Clerk regarding any matter on the agenda of the meeting at which the member will be absent, and the City Clerk shall read the written comments of the absent member into the official record of the meeting at the time the item appearing on the Agenda is considered by the City Commission. All written comments submitted to the City Clerk shall be maintained as part of the official record of the meeting at which they were read into the record.

**2.6 Voting:**

(a) Voting on all ordinances and resolutions shall be by roll call vote and shall be recorded in a journal of minutes of the meeting. A roll call vote may be taken by voice vote, electronic means, or other means by which individual votes are taken and recorded in a journal of minutes of the meeting.

(b) No action shall be final or binding unless adopted by majority vote of the quorum present or by super majority vote where otherwise required. In the event less than the full commission is present at a meeting and a vote taken ends in a tie vote, the matter shall be deemed to be continued for further consideration to the next available meeting at which the full commission is expected to be present. (*Reference: section 3.08(c), Charter; section 166.041(4), Florida Statutes*)

**2.7 Presiding Officers.** The Mayor shall be the Presiding Officer at all meetings of the City Commission. The City Commission shall, by majority vote, elect one of its members to be Deputy Mayor. The Deputy Mayor shall act as Mayor during the absence or disability of the Mayor and during a vacancy in the office of Mayor until such vacancy is filled in accordance with law. (*Reference: sections 3.05, Charter*)

**2.8 City Manager:** The City Manager or the City Manager's designee is expected to attend all meetings of the City Commission and shall have the right to take part in all discussions, but may not vote. (*Reference: section 4.04(d), Charter*)

**2.9 City Attorney:** The City Attorney or the City Attorney’s designee is expected to attend all meetings of the City Commission and provide guidance and opinions, on questions of law to members of the City Commission relating to their respective powers and duties. The City Attorney shall act as the commission’s parliamentarian by advising the Presiding Officer regarding matters of procedure.

**2.10 City Clerk:** The City Clerk is the official records custodian of the city and the City Clerk or the City Clerk’s designee is expected to attend all meetings of the City Commission, keep the official minutes of proceedings, and perform such other duties in accordance with the City Clerk’s duties. (Reference: section 286.011(2), Florida Statutes)

**2.11 Roberts Rules of Order:** The most recent edition of *Roberts Rules of Order Revised* shall serve as a guide to the proceedings of the City Commission to the extent they are not in conflict with these rules, the Charter, or general law.

### **RULE 3. TYPES OF MEETINGS.**

**3.1 Organizational Meeting:** The City Commission shall hold its organizational meeting on the third Tuesday in November following each regular municipal election. (Reference: section 3.08(a), Charter.)

**3.2 Regular Meeting:** Regular meetings of the City Commission shall be held at least twice in every month, at such times and places as the City Commission may prescribe by resolution; except that the city commission may cancel, by affirmative vote of a super majority of the quorum present, no more than one regular meeting a month provided that no more than four such meetings may be canceled in any twelve-month period commencing from the third Tuesday in November of any given year. Any meeting so canceled may, at the discretion of the city commission, be rescheduled in the same manner as any other meeting. (Reference: section 3.08(a), Charter)

**3.3 Special Meetings:** Special meetings may be held on the call of the Mayor or a majority of the commission members and, whenever practicable, upon no less than twelve hours notice to each member and the public. The call for a special meeting shall be filed with the City Clerk, except that an announcement of a special meeting during any regular or special meeting shall be sufficient notice of such special meeting unless otherwise provided by general law or ordinance. (Reference: section 3.08(a), Charter)

**3.4 Workshop Meetings:** Workshop meetings are special meetings at which no vote or other formal action shall be taken by the city commission, and may be held on the call of the Mayor or a majority of the commission members. Members of the general public are not ordinarily allowed to speak at work shop meetings because official action by the City Commission is not taken; however, the Presiding Officer may in his discretion allow such participation to occur. (Reference: section 3.08(a), Charter)

## **RULE 4. DUTIES OF PRESIDING OFFICER.**

**4.1 Call to Order:** The meetings of the City Commission shall be called to order by the Mayor or Deputy Mayor, as the case may be, as the Presiding Officer. In the absence of the Mayor and Deputy Mayor, the City Clerk shall call the meeting to order, whereupon the members of the commission shall elect a chairperson from among their membership to preside over the meeting, until such time as either the mayor or deputy mayor should arrive at the meeting.

**4.2 Preservation of Order:** The Presiding Officer shall preserve order and decorum; prevent attacks on personalities or the impugning of members or motives, and confine debate to the question under discussion. For purposes hereof, redundant or repetitive comments shall be deemed to have a dilatory effect on the expeditious or orderly process of a meeting. The Presiding Officer may order the removal from a public meeting any person that interferes with the expeditious or orderly process of such meeting, provided that a warning has first been issued that continued interference with the orderly process of the meeting shall result in removal. Any law enforcement officer or sergeant-at-arms designated by the Presiding Officer shall remove any person that has been ordered to be removed. (*Reference: section 2-210.1, Code of Ordinances*)

**4.3 Points of Order:** The Presiding Officer may consult with the City Attorney to determine all points of order, subject to the right of any member of the City Commission to appeal the determination to the City Commission. A majority of the City Commission sitting and eligible to vote shall be required to reverse a determination by the Presiding Officer.

**4.4 Voting:** Voting on all ordinances and resolutions shall be by roll call vote in accordance with Rule 2.6 and shall be recorded in the minutes of the meeting. A majority of the City Commission shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the City Commission. No action of the City Commission, except as otherwise provided in these rules and in Section 3.07 of the City Charter, shall be valid or binding unless adopted by the affirmative vote of the majority of the quorum present. (*Reference: section 3.08, Charter; section, 166.041(4) Florida Statutes*)

### **4.5 Comments by the General Public.**

**(a)** Any member of the general public that desires to speak during Consent Agenda (as permitted by these Rules), Public Hearings, First Reading of Ordinances, Second Reading of Ordinances, Resolutions, Audience Remarks, Staff Action Items, Discussion Items (as permitted by these Rules), and during any other portion of the Agenda as may be permitted by the City Commission, must complete and provide a “sign-up” card to the City Clerk prior to the time the City Commission calls up for business the particular section on the Agenda during which the member of the public wishes to speak. Members of the general public shall at all times fully comply with all rules established by the City Commission, whether such rules are written or oral.

(b) Each person addressing the City Commission shall approach the microphone, shall give his or her name and address and the organization or group they represent if any, in an audible tone of voice for the record. All remarks shall be addressed to the Presiding Officer, on behalf of the City Commission, and not to any member thereof.

(c) Any person making personal, impertinent or slanderous remarks, or who shall become boisterous or use offensive language, while addressing the City Commission, may be requested to leave the meeting. No reference by name to any individual present or absent, including commission members and city staff, shall be used in a derogatory or offensive manner by any person addressing the City Commission. All participants and speakers shall refrain from belittling or insulting remarks or making personal attacks.

(d) Unless otherwise provided by these rules or by majority consent of the City Commission, comments by a member of the general public shall be limited to no more than three (3) minutes.

## **RULE 5. ORDER OF BUSINESS.**

**5.1 Order of Business:** The general rule as to the order of business in regular meetings shall be as follows:

- (a) Call to order (7:00 p.m.)
- (b) Invocation
- (c) Pledge of Allegiance
- (d) Presentations and Proclamations
- (e) Audience Remarks (limited to 30 minutes)
- (f) Approval of Minutes
- (g) Community Redevelopment Agency
- (h) Consent Agenda
- (i) Public Hearings
- (j) First Reading of Ordinances
- (k) Second Reading of Ordinances
- (l) Resolutions
- (m) Staff Action Items
- (n) Discussion Items
- (o) Audience Remarks (continued, if necessary)
- (p) Reports, Suggestions, Requests (Mayor, City Commission, City Manager, City Attorney)
- (q) Adjournment

**5.2 Agenda:** The order of business of each regular meeting shall be as contained in the Agenda. The Agenda shall be a listing by topic of subjects to be considered by

the City Commission. The agenda process established by the City Manager, City Attorney, and City Clerk shall govern all requests for the placement of items on the agenda.

**(a) Audience Remarks:** The Audience Remarks section of the Agenda shall begin after Presentations and Proclamations and shall be limited to 30 minutes. In the event too few members of the general public wish to speak during the time allocated for Audience Remarks, the city commission shall proceed to call up the other matters of business on the Agenda at the conclusion of Audience Remarks. In the event more members of the general public wish to speak than can be accommodated within the time allocated for the Audience Remarks section of the Agenda, those remaining members of the general public shall be allowed to speak at the conclusion of the Discussion Items section of the Agenda.

Unless otherwise prohibited by these Rules, any member of the general public may speak about any subject that is not on the Agenda, or any item on the Consent Agenda, during the Audience Remarks section, in accordance with the requirements of Rule 4.5. Comments by members of the general public under the Audience Remarks section shall not exceed a cumulative total three (3) minutes, unless additional time is allowed by a majority of the City Commission. Members of the general public who wish to speak about an item on the Consent Agenda shall be allowed to speak before the City Commission proceeds to call up other matters of business on the Agenda.

**(b) Consent Agenda:** The Consent Agenda is intended to dispose of routine matters in an expeditious manner and shall consist of items that are expected to be non-controversial in nature, the subject matter of which may be disposed of by Resolution, and that does not require a public hearing. There shall be no separate discussion of Consent Agenda items unless a member of the City Commission requests an item be removed for separate consideration. Any member of the City Commission may request that one or more items be considered separately from all other items on the Consent Agenda. The City Commission may dispose of all items under the Consent Agenda, that have not been pulled for separate consideration, by one motion. A motion to approve the Consent Agenda must have a second, followed by a roll call vote. Since members of the general public have an opportunity under the Audience Remarks section to speak about any item that is on the Consent Agenda, members of the general public are not entitled to speak during the Consent Agenda section. Items that are pulled from the Consent Agenda for separate consideration are intended to facilitate discussion by and between members of the City Commission. (*Reference: section 3.08(c), Charter; section 166.041(4), Florida Statutes*)

**(c) Resolutions:** A Resolution means an expression by the City Commission concerning matters of administration, an expression of a temporary character, or a provision for the disposition of a particular item of business (i.e., such as the approval of a contract, amended contract, purchase requisition or change order). A Resolution item that is expected to be controversial in nature shall be placed on the Agenda under the caption for “Resolutions”. Members of the public shall be entitled to provide comments on any Resolution on the Agenda, subject to compliance with all rules established by the City Commission, whether such rules are written or oral. (*Reference: 166.041, Florida Statutes*)

**(d) Ordinances:** An Ordinance means an official legislative action of the City Commission, which action is a regulation of a general and permanent nature and is enforceable as a local law, and which has been adopted in accordance with section 166.041, Florida Statutes and/or other applicable law. Members of the public shall be entitled to provide comments on any Ordinance on the Agenda, subject to compliance with all rules established by the City Commission, whether such rules are written or oral. (*Reference: section 166.041, Florida Statutes*)

**(e) Public Hearings:** A public hearing shall be held regarding any subject matter for which a public hearing is required by general or special law, or the city's Charter or Ordinances, or any other matter at the discretion of the City Commission. Members of the public shall be entitled to provide comments on any matter that is the subject of a public hearing, subject to compliance with all rules established by the City Commission, whether such rules are written or oral.

**(f) Staff Action Items:** Staff Action Items are intended to dispose of matters that are not commonly the subject of the consent agenda (including City Manager disposition reports), resolutions, ordinances, or public hearings, and that require discussions and a vote. Members of the public shall be entitled to provide comments on any Staff Action Item on the agenda, subject to compliance with all rules established by the City Commission, whether such rules are written or oral.

**(g) Discussion Items:** Members of the public shall be permitted to speak during the Discussion Items portion of the agenda on matters on which the City Commission will take official action. Comments by a member of the general public shall be limited to no more than three (3) minutes, unless additional time is allowed by the City Commission.

**(h) Reports, Suggestions, Requests:** Members of the public shall not be entitled to provide comments to any matter under the *Reports, Suggestions, Requests* portion of the Agenda unless the item is to be voted upon by the City Commission.

## **RULE 6. MOTIONS AND DEBATE.**

**6.1 Main Motions:** Motions that bring business before the City Commission (*Example: a motion to approve a Resolution or Ordinance*). Main Motions require a second.

**6.2 Secondary Motions:** Motions are made while a Main Motion is pending, such as motions to amend, or post-pone, or pertaining to procedural matters or these rules. Secondary Motions take precedence over Main Motions and must be addressed prior to Main Motions. Secondary Motions will usually, but not always, require a second.

**6.3 Right to Floor:** Any member of the City Commission desiring to speak shall first be recognized by the Presiding Officer, and shall confine his or her remarks to the subject under consideration or to be considered.

#### 6.4 Motion on the Floor.

(a) A motion must be properly made (i.e., “on the floor”) in order for debate to ensue. The Presiding Officer may not make or second a motion. If there is no motion or no second to a motion that requires a second, then the matter dies for lack of a motion or the motion dies for “lack of a second.” A motion should be made in the affirmative (“to approve”) when at all possible.

(b) Where large groups or crowds requested time to address a particular item, the Presiding Officer may request that one or more representatives speak on behalf of the group in order to ensure the expeditious and orderly progression of business. Comments by a representative speaking on behalf of a group shall not exceed five (5) minutes unless allowed by the commission.

#### 6.5 Specific Types of Motions:

(a) **Motion to Postpone (indefinitely):** This is a motion that should be made when the City Commission declines to take a position on a Main Motion. Its adoption essentially *kills* the Main Motion for the duration of the meeting and avoids a direct vote on the matter. The motion may only be made while a Main Motion is immediately pending. It is out of order when another member has the floor, it *must be seconded*, it is not amendable, and it *is* debatable. The debate may go to the merits of the Main Motion.

(b) **Motion to Postpone (to a time certain):** This is a motion by which action on a pending question may be put off within limits, to a definite day, meeting, hour, or until a certain event. This motion takes precedence over the main motion and any subsidiary motions (such as motions to amend). It is out of order when another member has the floor, it *must be seconded* and *is* debatable; however, the debate is *limited* in that it may not go into the main question any more than is necessary to reach a decision as to whether and when the main question should be postponed. It is amendable as to the time the matter should be postponed.

(c) **Motion to (lay on the) Table:** This motion enables a pending question to be *temporarily* laid aside at the meeting when there is another urgent matter that should be addressed; and it can be taken up again at the will of the majority. It takes precedence over all other motions, is out of order when another member has the floor, *must be seconded*, is not amendable, and is *not* debatable. (*Roberts Rules of Order* notes that this motion is often mistakenly used as a motion to postpone indefinitely or to a time certain.) The motion may be a Main or Secondary Motion.

(d) **Motion for Reconsideration:** A procedural motion that allows an item that has been voted on to be brought back before the City Commission for further consideration to correct erroneous action or to take into account additional information or a changed situation that has developed since the taking of the vote. The effect of the motion is the suspension of all action that depends on the result of the vote proposed to be reconsidered until the City Commission takes up the motion. The motion should be made within a reasonable period time from which the vote was taken. The City Commission shall in its sole discretion determine what constitutes a

reasonable period of time. The motion may *only* be made by one who voted on the *prevailing* side of the matter. Once made, any other person may *second the motion*, regardless of whether or not such person voted on the prevailing side of the original measure. The motion must be approved by majority vote of those present and voting; and, if approved, the effect of such approval is that the matter in question reverts to the same status it held immediately preceding the original vote. If a motion to reconsider is not approved, **then the motion dies and it may *not* be reconsidered again**. Certain matters may not be reconsidered, such as: (i) approval of contracts, (ii) matters upon which affected parties have acted in detrimental reliance on the commission’s vote, (iii) an affirmative vote whose provisions have been partly carried out, and (iv) a vote that has caused something to be done that cannot be undone.

If a Motion to Reconsider is approved, a motion to approve the particular matter at issue should be made and a vote taken thereon.

**(e) Motion for Point of Order.** A motion to ask the Presiding Officer to follow these Rules; or to require the City Commission to follow the order of business in the order set forth on the Agenda; or to make an inquiry regarding parliamentary rules; or to invoke the *Thompson Rule*. These motions *do not require a second*.

**(f) Motion to Invoke the “Thompson Rule”.** Whenever a matter is presented to the City Commission under the *Audience Remarks, Staff Action Items, Discussion Items, or Reports, Suggestions, Requests* portion of the Agenda, without any written factual documentation in support of the matter having been delivered to the members of the City Commission at least seventy-two (72) hours prior to the meeting, and such written factual documentation is necessary and appropriate for the proper consideration of the matter, the City Commission shall take no formal action thereon unless and until such supporting written documentation is presented to, and duly considered by, the City Commission at a subsequent meeting. The foregoing notwithstanding, this rule may be waived, entitling the City Commission to take formal action thereon, but only upon: (i) the affirmative vote of at least four (4) City Commission members when all five (5) members are present; or (ii) a unanimous vote if less than five (5) City Commission members are present. This motion *does not require a second*. Upon the approval of a motion to waive the *Thompson Rule*, the substantive matter may be considered in accordance with the applicable rules and general law.

## **RULE 7. ACCESS TO MEMBERS OF THE CITY COMMISSION REGARDING LAND-USE MATTERS THAT ARE TO BE THE SUBJECT OF QUASIJUDICIAL PROCEEDINGS**

### **7.1 Access to Local Public Officials:**

**(a) Discussions with commission members.** Any person not otherwise prohibited by statute, charter provision, or ordinance may discuss with any member of the City Commission the merits of any matter on which action may be taken by the commission and

compliance with the following procedures shall remove the presumption of prejudice arising from such ex parte communications:

**(i) No presumption of prejudice.** The substance of any ex parte communication with a member of the City Commission that relates to quasijudicial action pending before the City Commission is not presumed prejudicial to the action if the subject of the communication and the identity of the person, group, or entity with whom the member of the City Commission took place is disclosed and made a part of the record before final action on the matter.

**(ii) Reading written communications.** A member of the City Commission may read a written communication from any person. However, a written communication that relates to quasijudicial action pending before the City Commission shall not be presumed prejudicial to the action and such written communication shall be made part of the record before final action on the matter.

**(iii) Conducting site visits/investigations.** Members of the City Commission may conduct investigations and site visits and may receive expert opinions regarding quasijudicial action pending before them. Such activities shall not be presumed prejudicial to the action if the existence of the investigation, site visit, or expert opinion is made a part of the record before final action on the matter.

**(iv) Disclosure requirements.** Disclosure made pursuant to paragraphs (i), (ii) and (iii), above, must be made before or during the public meeting at which a vote is taken on such matters, so that persons who have opinions contrary to those expressed in the ex parte communication are given a reasonable opportunity to refute or respond to the communication.

**(b) Non-party or non-party intervener testimony** Notwithstanding the provisions of subsection (a), above, in a quasijudicial proceeding on a land use matter, a person who appears before the City Commission who is not a party or party-intervenor and/or does not own land that abuts or will be directly affected by a land use matter may at the discretion of the City Commission be allowed to testify, subject to the rules of the City Commission, and may be requested to respond to questions from the City Commission, but need not be sworn as a witness, is not required to be subject to cross-examination, and is not required to be qualified as an expert witness. The City Commission shall assign weight and credibility to such testimony as it deems appropriate. A party or party-intervenor in a quasijudicial proceeding on a land-use matter, upon request by another party or party-intervenor, shall be sworn as a witness, shall be subject to cross-examination by other parties or party-intervenors, and shall be required to be qualified as an expert witness, as appropriate. A party or party-intervenor shall be allowed no more than twenty (20) minutes to present their case-in-chief to the City Commission (excluding cross-examination of witnesses and rebuttal testimony); however, the City Commission may by majority consent allow additional time, which shall not be unreasonably withheld.

**(i) Communications with commission members.** In a quasijudicial proceeding on a land use matter, a person may not be precluded from communicating directly with

a member of the City Commission by application of ex parte communication prohibitions. Disclosure of such communications by a member of the City Commission is not required, and such nondisclosure shall not be presumed prejudicial to the decision of the City Commission. All decisions of the City Commission in a quasijudicial proceeding on a land-use matter must be supported by substantial, competent evidence in the record pertinent to the proceeding, irrespective of such communications.

**(ii) Party intervenor requirements.** Any person who is not a party to a quasijudicial proceeding on a land-use matter, who has a substantial interest in the proceeding, and who desires to become a party-intervenor may petition the City Commission for leave to intervene. Petitions for leave to intervene must be filed with the City Clerk at least five (5) days before the public hearing, shall include the name and address of the petitioner, and shall also include allegations sufficient to demonstrate that the petitioner is entitled to participate in the proceeding as a matter of constitutional or statutory right, or that the substantial interests of the petitioner are subject to determination or will be affected through the proceeding. If such a petition is filed, the City Commission shall consider and act thereon prior to opening the public hearing on the merits of the matter. The City Commission may receive testimony relative to the petition from the petitioner and any party prior to acting on the petition. An affirmative decision by a majority of the members of the City Commission present and voting shall be required in order to grant a petition to become a party-intervenor. *(Reference: section 2-210, Code of Ordinances; section 286.0115, Florida Statutes)*

**(iii) Quasi-judicial proceeding.** For purposes hereof, the term “quasi-judicial proceeding on a land-use matter” means a proceeding that has an impact on a limited number of persons or property owners, on identifiable parties and interests, where the decision is contingent on a fact or facts arrived at from distinct alternatives presented at a hearing, and where the decision can be functionally viewed as policy applications, rather than policy setting. Such proceedings shall include, without limitation, variance requests, enforcement actions involving the land development code, re-zonings initiated by the city that involve a parcel or parcels of land involving less than ten (10) contiguous acres, and appeals as allowed by the land development code. *(Reference: section 2-201, Code of Ordinances)*

**(iv) Sunshine law requirements.** Persons desiring to communicate with members of the city commission shall at all times be cognizant of, and comply with, the sunshine law requirements that apply to members of the city commission.

**(v) Members of the general public.** Except as provided in paragraph (b) of this section members of the general public shall not be entitled to speak at quasi-judicial public hearings. Comments by members of the general public shall be limited to no more than three (3) minutes.

## **RULE 8. CONFLICTS OF INTEREST; PUBLIC DISCLOSURE.**

**8.1 Abstention from voting.** No member of the City Commission may abstain from voting except when there is, or appears to be, a possible conflict of interest under the provisions of sections 112.311, 112.313, or 112.3143, Florida Statutes. In such cases, the abstaining member shall comply with the disclosure requirements of section 112.3143, Florida Statutes. (*Reference: section 286.012, Florida Statutes*)

**8.2 Voting; special private gain or loss.** No member of the City Commission shall vote in an official capacity upon any measure that would inure to his or her special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained, other than an agency as defined in section 112.312(2), Florida Statutes; or which he or she knows would inure to the special private gain or loss of a relative or business associate. Such member shall, prior to the vote being taken, state the nature of the interest in the matter from which he or she is abstaining and within fifteen (15) days after the vote occurs file with the city clerk a written memorandum of disclosure. (*Reference: section 112.3143(3)(a), Florida Statutes*)

**8.3 Participation; special private gain or loss.** No member of the City Commission shall participate in any matter which would inure to his or her special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained; or which he or she knows would inure to the special private gain or loss of a relative or business associate of the member without first disclosing the nature of his or her interest in the matter. Such member shall, prior to the meeting, file with the city clerk a written memorandum indicating the nature of the conflict; however, in the event that written disclosure has not been made prior to the meeting or any conflict is unknown prior to the meeting, the disclosure shall be made orally at the meeting and a written memorandum of disclosure shall be filed with the city clerk within fifteen (15) days of the oral disclosure. For purposes hereof, the term “participate” means any attempt to influence the decision by oral or written communication. (*Reference: section 112.3143(4), Florida Statutes*)

## **RULE 9. SUSPENSION AND AMENDMENT OF RULES.**

**9.1 Suspension of Rules:** Any provision of these rules not governed by the city’s Charter or Ordinances, or other law, may be temporarily suspended by majority vote of the members of the City Commission.

**9.2 Amendment of Rules:** Any provision of these rules not governed by the city’s Charter or Ordinances, or other law, may be amended, or repealed, or new rules adopted, by a majority vote of the members of the City Commission.

**SECTION TWO.** This Resolution shall take effect immediately upon its adoption.

**APPROVED AND AUTHENTICATED this 19<sup>th</sup> day of November, 2024.**

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**JASON LESLIE**  
Mayor

**ATTEST:**

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**SUSAN CARROLL DAUDERIS**  
City Clerk



# City of Ormond Beach AGENDA ITEM

November 19, 2024 - City Commission

**Number: 8.B**

<b>Section:</b>	CONSENT AGENDA		
<b>Item Category:</b>	Consent - Resolution	<b>Res./Ord. No:</b>	2024-202
<b>Strategic Goal:</b>	Governance – Other		
<b>Department:</b>	Support Services		
<b>Subject:</b>	Special Magistrate Guidelines		
<b>Summary:</b>	This item establishes procedural guidelines for special magistrate proceedings under section 70.51, Florida Statutes. This item is adopted following each election and with each new City Commission.		
<b>Financial Impact:</b>	None		
<b>Citizen Impact:</b>	Citizens will know what procedures are followed for special magistrate proceedings.		
<b>Recommended Action (Staff, Advisory Board and/or Other):</b>	It is recommended the City Commission approve the attached resolution which adopts guidelines for Special Magistrate proceedings.		
<b>Staff Contact:</b>	Randy Hayes, City Attorney, (386) 676-3217		
<b>Attachments:</b>	1. 24 202 Special Magistrate Rules of Procedures		
<b>Approval:</b>	Kelly McGuire, Finance Director		10/21/2024
	Claire Whitley/Shawn Finley, Assistant City Manager		10/22/2024
	Joyce Shanahan, City Manager		10/23/2024

## **RESOLUTION 2024-202**

A RESOLUTION ADOPTING PROCEDURAL GUIDELINES FOR CONDUCTING SPECIAL MAGISTRATE PROCEEDINGS PURSUANT TO CHAPTER 70.51, FLORIDA STATUTES, UNDER THE FLORIDA LAND USE AND ENVIRONMENTAL DISPUTE RESOLUTION ACT, AND ESTABLISHING AN EFFECTIVE DATE.

**WHEREAS**, Chapter 70.51, Florida Statutes, has authorized the City to adopt procedural guidelines for special magistrate proceedings; and

**WHEREAS**, the procedural guidelines can expedite the proceedings and carry out the legislative intent of Chapter 70.51; now therefore,

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF ORMOND BEACH, FLORIDA, THAT:**

**SECTION ONE.** The City Commission of the City of Ormond Beach, Florida, adopts the following procedural guidelines to govern the conduct of Special Magistrate Proceedings that are initiated under section 70.51, Florida Statutes, the Florida Land Use and Environmental Dispute Resolution Act.

### **1. Legislative Findings**

- 1.1 The City Commission finds that the adoption of these procedural guidelines is authorized by the Act, and that they are consistent with the Act.
- 1.2 The City Commission recognizes, accepts and implements the findings made by the Florida legislature in section 70.80, Florida Statutes, that expressly provides the stated declaration and intention that sections 70.001 (Bert Harris Act), 70.45 (Governmental Exactions), and 70.51 (Land Use and Dispute Resolution Act) of the Florida Statutes have separate and distinct bases, objectives, applications, and processes, and that such sections are not to be construed in *pari materia*.
- 1.3 These procedural guidelines are adopted to advance the public policy of the Florida Legislature to expeditiously resolve disputes between the owner and the City.

## **2. Purpose and Intent**

- 2.1 These guidelines establish procedures for the initiation, conduct and conclusion of a Special Magistrate proceeding under the Act in order to enhance the opportunity for the City and the landowner to achieve an amicable resolution of a dispute relating to a development order or enforcement action by the City.
- 2.2 This is a non-adjudicatory process and proceeding for the purpose of exploring potential solutions to the dispute that could result in a compromise and potential settlement. A Special Magistrate may not impose a decision. The Special Magistrate will assist the parties in exploring opportunities for resolution of the dispute, solutions involving compromise, and assist the parties in negotiating a settlement. The Special Magistrate shall first act as a mediator pursuant to Chapter 44, Florida Statutes. The mediation phase shall be conducted in accordance with Chapter 44, Florida Statutes.
- 2.3 If a settlement is not reached, the Special Magistrate will conduct an independent and impartial assessment of the issues in dispute and will prepare a nonbinding recommendation based on the non-privileged information provided at the mediation phase and hearing phase, which may include discussions between the parties, non-privileged information and data provided by the parties, and discussion and information provided by persons who are permitted to participate in the proceeding, and offers to compromise. The recommendation is inadmissible in any litigation. This exclusionary restriction regarding the inadmissibility of a non-binding recommendation shall be included as a condition in any written agreement retaining the services of the Special Magistrate.
- 2.4 The Special Magistrate proceeding is intended to be an inexpensive, solution-oriented method for resolving land use and environmental disputes.

## **3. Definitions**

- 3.1 Development means the carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into three or more parcels, and all other work customarily associated with such activities.
- 3.2 Development order means any order, or notice of proposed state or regional governmental agency action, which is or will have the effect of granting, denying, or granting with conditions an application for a development permit. It includes the rezoning of a specific parcel of land. It does not include actions on an amendment to the local comprehensive plan.
- 3.3 Development permit means:  
  
Any building permit, zoning permit, subdivision approval, rezoning certification, special exception, variance, or any other official action of the City having the effect of authorizing the development of land including, but not limited to, programs implementing Chapters 125, 161, 163, 166, 187, 258, 372, 373, 378, and 403, Florida Statutes.

- 3.4 Governmental entity includes an agency of the state, a regional or a local government created by the State Constitution or by general or special act, any county or municipality, or any other entity that independently exercises governmental authority. The term does not include the United States or any of its agencies.
- 3.5 Land or real property means land and includes any appurtenances and improvements to the land, including any other relevant real property in which the owner has a relevant interest.
- 3.6 Owner means a person with a legal or equitable interest in land who filed an application for a development permit for the land with the City and who received a development order, or who holds legal title to the land that is the subject of an enforcement action by the City.
- 3.7 Participant means:
- (a) A person with a legal or equitable interest in land contiguous to the owner's property; or
  - (b) A substantially affected person who submitted oral or written testimony, sworn or unsworn, of a substantive nature stating with particularity support for or objections to the development order or enforcement action in a prior proceeding, including a public hearing.
  - (c) A person that was granted party-intervenor status by the City Commission in accordance with section 2-210 of the City's Code of Ordinances regarding matters that are the subject of an owner's request for relief.
- 3.8 Party or parties include the owner, the City, any other governmental entity made a party to the proceeding.
- 3.9 Party-Intervenor means a person that, upon petition to the City Commission, was granted legal standing by majority vote of the City Commission in accordance with section 2-210 of the City's Code of Ordinances to participate in a quasi-judicial proceeding regarding a land use matter after demonstrating to the satisfaction of the City Commission that the petitioner is entitled to party-intervenor status as a matter of constitutional or statutory right, or that the substantial interests of the petitioner are subject to determination or will be affected by the quasi-judicial proceeding, in matters that are the subject of an owner's request for relief.
- 3.10 Person includes individuals, firms, incorporated or unincorporated associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.
- 3.11 Proposed use of the property means the proposal filed by the owner to develop or otherwise use the owner's land.
- 3.12 Request for Relief means a written request for relief filed by the owner in accordance with the requirements of the Act.
- 3.13 Special Magistrate means a resident of the State of Florida who possesses experience and expertise in mediation and at least one of the following disciplines: land use and

environmental permitting, land planning, land economics, local and state government organization and powers, and the law governing the same, who has been mutually agreed upon and retained by written agreement of the parties.

#### **4. Time Requirements and Furnishing Copies**

- 4.1 Unless the parties agree in writing to extend the time for performing any act under these guidelines, including the overall 165-day time period, a Special Magistrate proceeding may not continue longer than 165 days from the date the owner files the request for relief.
- 4.2 Any copy which must be furnished to the Special Magistrate, a party or a participant may be sent by regular U.S. mail, postage prepaid, or by hand delivery to the recipient's last known address. The burden of proving a copy has been furnished is on the person responsible for furnishing it.
- 4.3 Except for an owner's request for relief, any document which must be submitted, or any copy which must be furnished, may be submitted or furnished by facsimile transmission. Facsimile documents will be deemed submitted or furnished on the date transmitted as shown on the recipient's copy, if the copy is complete.
- 4.4 Filing means that the signed original must be received by the person that is to receive the document by the date specified. Any document received after 5:00 p.m. will be deemed filed as of 8:00 a.m. the next regular business day.

#### **5. Administrative Appeals and Judicial Review**

- 5.1 A petition by the owner for judicial review of the development order or enforcement action or a formal administrative hearing pursuant to section 120.57, F.S., if applicable, will waive all rights to a Special Magistrate proceeding.
- 5.2 A request for relief through a Special Magistrate proceeding will toll the time for filing a petition for judicial review of the development order or enforcement action, or a formal administrative hearing pursuant to section 120.57, F.S., if applicable.
- 5.3 Invoking the procedures for a Special Magistrate proceeding is not a pre-condition for judicial review of the development order or enforcement action or a formal administrative hearing pursuant to section 120.57, F.S., if applicable.
- 5.4 Prior to initiating a Special Magistrate proceeding, the owner must request review through an administrative appeal in accordance with the regulations of the City's Land Development Code, if applicable, so long as the review takes no longer than four months. The filing of a valid administrative appeal in accordance with the City's regulations will toll the time for the owner to file a request for relief.

#### **6. Owner's Request for Relief**

- 6.1 Any owner who believes a development order or enforcement action, by itself or in conjunction with the actions of other governmental entities, is unreasonable or unfairly burdens the use of the owner's land may file a request for relief.

- 6.2 A request for relief must be post marked or hand delivered within thirty (30) days after:
- (a) Receipt of the development order or enforcement action; or,
  - (b) If an administrative appeal under the City's Land Development Code is permissible, the later of its conclusion or the expiration of four months after its initiation.
- 6.3 A signed original and one copy of the request for relief must be filed with the Mayor at 22 South Beach Street, Ormond Beach, FL 32174 (and a copy provided to the City Attorney). No fee will be charged for filing a request for relief.
- 6.4 The request for relief must contain:
- (a) A brief statement of the owner's proposed use of the property.
  - (b) A summary of the development order or description of the enforcement action. A copy of the development order or documentation of the enforcement action must be attached.
  - (c) A brief statement of the impact of the development order or enforcement action on the ability of the owner to achieve the proposed use of the property, including an explanation why the development order or enforcement action is unreasonable or an unfair burden.
  - (d) The signature of the owner or, if the owner is a corporation, partnership or other organization, the signature of a responsible official, and the mailing address, telephone number, and email address at which the owner or official may be reached. An attorney may sign the request for relief on behalf of the owner.
  - (e) A statement regarding whether an administrative appeal under the City's Land Development Code is available and, if so, whether and when it was commenced by the owner and, if completed, the date of completion.
  - (f) A certification by the signer of the request identifying the persons who have been furnished with copies of the request for relief.
  - (g) Once a Special Magistrate has been retained by written agreement, the City will provide to the Special Magistrate, a copy of the owner's request for relief.

## **7. Selection of Special Magistrate**

- 7.1 In order to serve as a Special Magistrate in a proceeding under these guidelines, a person must:
- (a) Be a resident of the State of Florida;
  - (b) Possess experience and expertise in mediation; and

- (c) Possess experience and expertise in at least one of the following disciplines and a working familiarity with the others:
    - 1. Land use and environmental permitting;
    - 2. Land planning;
    - 3. Land economics;
    - 4. Local and state government organization and powers, and the law governing the same.
  - (d) A Special Magistrate need not be a lawyer or a mediator certified by the Florida Supreme Court.
  - (e) Preference in the selection of a Special Magistrate shall be given to qualified candidates who reside in Volusia County.
- 7.2 A Special Magistrate must be mutually agreed upon by the City and owner, and any other party if applicable.
- 7.3 Upon the mutual selection of the Special Magistrate, the City, owner, other parties if applicable, and the Special Magistrate must enter into a written agreement formally retaining the Special Magistrate and describing the services to be provided.
- 7.4 Once the services of a Special Magistrate have been retained under a written agreement, the City Attorney or designee will provide to the Special Magistrate:
- (a) The owner's request for relief.
  - (b) The City's response to the request for relief.
  - (c) Information and data that is relevant to the request for relief and the City's response.
  - (d) A copy of these guidelines.

## **8. Special Magistrate Agreement; Fees and Expenses**

- 8.1 The Special Magistrate and the parties must memorialize the selection of the Special Magistrate in a written agreement that provides for the payment of all fees and expenses associated with the proceeding.
- 8.2 Payment of fees and expenses for the Special Magistrate, costs of providing notice and effecting service, and costs for conducting the proceeding shall be borne equally by the parties, unless otherwise specified herein.
- 8.3 A Special Magistrate will be compensated as agreed by the Special Magistrate and the parties. Parties may place funds on deposit to assure payment at the conclusion of the proceeding, or provide a retainer against which fees and expenses will be charged.

- 8.4 The parties may authorize the Special Magistrate to retain an independent expert, or to obtain any materials, to assist in evaluating any issue. Fees and costs will be paid as agreed in writing by the parties and the Special Magistrate.
- 8.5 Each of the parties shall be solely responsible for the payment of all expenses, fees, and costs for services provided in their behalf by their own attorneys, experts, witnesses, and technical support.

### **9. City's Response to Request for Relief**

- 9.1 In the event the City and owner mutually agree to and retain a special magistrate within fifteen (15) days of the City's receipt of the owner's request for relief, the City shall provide to the Special Magistrate within fifteen (15) days of the City's receipt of the request for relief, the City's response to the request for relief. Alternatively, the City shall within a reasonable time based on the circumstances file a request to dismiss the request for relief. The City shall provide a copy of the same to the owner.
- 9.2 In the event the City and owner do not mutually agree to and retain a Special Magistrate within fifteen (15) days of the City's receipt of the owner's request for relief, then in such event the City shall, after the Special Magistrate has been retained through a written agreement, file a response or a Motion to Dismiss as soon as practicable and provide a copy to the owner and any person who has requested to participate in the proceedings.
- 9.3 The City's response must set forth in reasonable detail the position of the City regarding the matters raised by the owner. The response must include a brief statement explaining the public purpose of the regulations on which the development order or enforcement action is based.
- 9.4 The City's response may include a request that the Special Magistrate dismiss the owner's request for relief for any failure by the owner to observe these guidelines or for any violation of the Act. If the request for relief is dismissed, the owner will be permitted to file an amended request for relief within a reasonable time to be determined by the Special Magistrate. Failure by an owner to file an amended request within the time specified by the Special Magistrate or in accordance with these guidelines or the Act, will result in final dismissal of the matter without the right to submit another request. Final dismissal may not be appealed to the City Commission.

### **10. Notice to Contiguous Property Owners and Substantially Affected Parties.**

- 10.1 Once the services of a Special Magistrate have been retained, the City shall forthwith, through its planning department, serve a copy of the owner's request for relief by U.S. mail delivery or hand delivery to:
- (a) All owners of land contiguous to the owner's land, at the address shown on the most recent tax roll maintained by Volusia County.
  - (b) Any substantially affected party who submitted verbal or written testimony, whether sworn or unsworn, of a substantive nature that stated with

particularity objections to or support for any development order or enforcement action at issue.

- (c) Any person or party that was granted party-intervenor status by the City Commission at a public hearing from which the owner filed a request for relief.

10.2 Within twenty-one (21) days after receipt of the request for relief that has been provided by the City, any owner of land contiguous to the owner's land and any substantially affected person who was not granted party-intervenor status by the City Commission and who submitted verbal or written testimony of a substantive nature that stated with particularity objections to or support for the development order or enforcement action at issue, may request to participate in the proceeding. Such persons may be permitted by the Special Magistrate to participate in the proceeding, but such persons shall not be granted party status or intervenor status. The participation of such persons is limited to addressing issues raised regarding alternatives, variances, and adjustments to the development order or enforcement action that may impact their substantial interest, including denial of the development order or application of enforcement action.

10.3 Within twenty-one (21) days after receipt of the request for relief that has been provided by the City, any person that was granted party-intervenor status by the City Commission may request to participate in the proceeding as a party-intervenor. The Special Magistrate shall give deference to the previously granted intervenor status determination by the City Commission.

## **11. Other Persons Who May Participate**

11.1 Other persons who may participate in the proceeding are:

- (a) Any person with a legal or equitable interest in land contiguous to the owner's property and who did not provide verbal or written testimony, sworn or unsworn, at the public hearing before the City Commission from which the request for relief was filed.
- (b) Any substantially affected person who did not submit verbal or written testimony, sworn or unsworn, at the public hearing before the City Commission from which the request for relief was filed.

11.2 Within twenty-one (21) days after receiving a copy of the owner's request for relief provided by the City, a person seeking to participate must submit a written request to participate. The request must state:

- (a) The person has a legal or equitable interest in land contiguous to the owner's property and, if so, identify the land in relation to the owner's property; or
- (b) How the person is substantially affected by the development order or enforcement action at issue.

- (c) The reason why the person did not provide testimony before the City Commission that is the basis of the request for relief.
- (d) The person must furnish the request to the Special Magistrate.

11.3 The Special Magistrate may decide any issue necessary to determine whether such person qualifies as a participant. If the Special Magistrate accepts a request to participate, the person or any witnesses and representatives may address only those issues raised regarding alternatives, variances, and other types of adjustment to the development order or enforcement action which may impact the participant's substantial interests.

## **12. Consolidation of Related Matters**

- 12.1 If there are separate matters which involve similar or related issues or the same parties, they may be consolidated if the parties agree and it appears that consolidation would promote the speedy, efficient, and inexpensive resolution of the matters.
- 12.2 If the separate matters are pending before different Special Magistrates, the parties may decide which Special Magistrate will conduct the consolidated proceeding. If they cannot agree on one or multiple Special Magistrate to conduct the proceeding, the proceedings will not be consolidated.

## **13. Representatives at the Proceeding**

- 13.1 A party or participant may be represented by an attorney or other person at any phase of the proceeding, but such representation is not required.
- 13.2 During the mediation phase, each party must be present or represented by a person with authority to bind that party to a settlement, or to recommend a settlement directly to the persons with authority to bind the party.

## **14. Order of the Proceedings (Mediation & Hearing)**

- 14.1 The proceedings shall consist of two phases: a mediation phase and a hearing phase, which may be held on separate days.
- 14.2 In keeping with the overriding intent of the legislature that the Special Magistrate proceeding be a flexible, informal problem-solving procedure involving a voluntary compromise and settlement, the Special Magistrate may conduct the phases of the proceeding in any sequence and on separate days.
- 14.3 The proceedings will be held at a location within the City of Ormond Beach. The City will be responsible for coordinating and securing the location where the proceedings will be held. All costs in securing the location and conducting the proceedings will be borne equally between the parties.
- 14.4 The proceedings will be open to the public and will be held in a location accessible to the public, including the physically handicapped.
- 14.5 The hearing will be recorded and minutes will be kept by the City.

- 14.6 The proceedings will be conducted under the direction and supervision of the Special Magistrate. The Special Magistrate will determine the order of presentation of issues and information unless otherwise agreed to by the Special Magistrate, the City, and the owner. The Special Magistrate will decide questions of procedure in a manner that provides reasonable due process.
- 14.7 Initially the Special Magistrate will consider any request to dismiss the request for relief.
- 14.8 The Special Magistrate may, at any time, recess the hearing phase to recommence mediation to facilitate compromise and settlement.

## **15. Mediation Phase**

- 15.1 The Special Magistrate's first responsibility is to facilitate a resolution of the dispute and arrive at a settlement that is mutually acceptable to the parties. It may involve compromise and modification of the owner's proposed use of the property, or adjustment in the development order or enforcement action, or regulatory efforts by other governmental parties.
- 15.2 The Special Magistrate may allow a party-intervenor to participate directly in the mediation phase.
- 15.3 The Special Magistrate will, among other things, suggest alternatives, analyze issues, question perceptions, use logic, stimulate and facilitate negotiations between the parties, and keep order. The Special Magistrate will at all times promote conciliation, cooperation, compromise and settlement of the dispute within the bounds established by law.
- 15.4 Participants may not participate directly in the mediation between the parties; however, as alternatives, variances, and other types of adjustments to the development order or enforcement action are presented, the Special Magistrate will afford participants an opportunity to address the impacts of such adjustments on their substantial interests.
- 15.5 The Special Magistrate shall provide written notice of the place, date, and time of the mediation to all parties, participants, party-intervenors, and all persons who have requested notice to participate in the proceedings. The City's planning staff will assist the Special Magistrate in providing such notice.

## **16. The Hearing Phase**

- 16.1 The Special Magistrate shall, within a reasonable time after being retained to serve as Special Magistrate, provide written notice of the place, date, and time of the hearing to all parties, participants, party-intervenors, and all persons who have requested such notice. The City's planning staff will assist the Special Magistrate in providing such notice. The hearing shall be held within forty-five (45) days of the Special Magistrate's receipt of the owner's request for relief. The parties may agree to extend the date of the hearing.
- 16.2 The hearing must be held at a location in the City of Ormond Beach and will be coordinated by and through the City.

- 16.3 The Special Magistrate will hear from anyone with information necessary to understand the matter and issues in dispute. The Special Magistrate may question anyone presenting information and will provide an opportunity to the parties to ask follow-up questions.
- 16.4 The Special Magistrate will weigh all information received at the proceeding. Neither the questioning of persons providing testimony and the information they provide nor the information itself will be subject to the strict rules of evidence. The Special Magistrate will determine the veracity and authenticity of all testimony and information received.
- 16.5 The Special Magistrate may require any party to provide additional information in the interest of gaining a complete understanding of the request for relief, the City's response, or efforts to compromise and settle the dispute.
- 16.6 Each party may record the proceeding at their own expense. The Special Magistrate may record the hearing to assist in the preparation of a non-binding, non-adjudicatory, recommendation. If the Special Magistrate makes such a recording, it will be provided to the City with the recommendation.
- 16.7 Any documents and tangible materials presented to the Special Magistrate at the hearing will be provided to the City with the Special Magistrate's recommendation.
- 16.8 If a party fails to appear at the hearing after notice, the Special Magistrate may proceed without that party or may adjourn the proceeding hearing to another day, giving notice to the absent party.
- 16.9 No less than ten (10) calendar days, excluding recognized holidays, before the hearing, the owner shall provide to all parties all information and exhibits in support of the request for relief that the owner intends to rely on at the hearing, including but not necessarily limited to information showing:
  - (a) The land use and zoning of the land at the time of acquisition.
  - (b) The purchase price of the land.
  - (c) An appraisal or other financial information showing the value of the land at the time of acquisition by the owner.
  - (d) The development expectation at the time the land was acquired, and why the owner believes the development expectation was reasonable at the time of acquisition.
  - (e) Offers made by the owner to the City to compromise, modify, or adjust the owner's development expectation, and why the owner believes the compromise, modification, or adjustment is reasonable.
  - (f) All financial information supporting the owner's development expectation, and why the owner believes the financial development expectation is reasonable.

- (g) How the City has unreasonably interfered with the owner's development expectation, and why the owner believes the City's actions are unreasonable.
- (h) The Special Magistrate shall not receive at the proceeding any information and exhibits that have not been provided or were untimely provided, and shall not rely upon any such information and exhibits in the preparation of the non-binding, non-adjudicatory, recommendation.

### **17. Testimony and Materials**

- 17.1 Each party must assure attendance at the hearing by those persons qualified by training or experience to address issues raised by the request for relief, the response, or by the Special Magistrate; or to address alternatives, variances, and other types of modifications to the development order or enforcement action, or the developer's proposal to develop the land.
- 17.2 The Special Magistrate may issue a subpoena for any nonparty in the state who will aid in the disposition of the matter. A subpoena issued by a Special Magistrate may require the person to bring a specified document or thing.
- 17.3 The Special Magistrate may require and receive documents and other tangible materials from any party, party-intervenor, or participant. All parties, party-intervenors, and participants will have the opportunity to examine and respond to such submissions.
- 17.4 The Special Magistrate may weigh the credibility of persons providing testimony and the authenticity of materials provided.
- 17.5 Although an attorney is not required, any party, party-intervenor, participant, or other person may be represented and advised by legal counsel at his or her own expense.

### **18. Access to the Owner's Land**

- 18.1 A request for relief constitutes a consent by the owner for the Special Magistrate, parties, or party-intervenors, or their representatives to have reasonable access to the owner's land.
- 18.2 The owner may grant access to the land to participants.

### **19. Offer to Compromise**

- 19.1 All actions or statements of the Special Magistrate, the parties, party-intervenors, participants, and all other persons are evidence of an offer to compromise and are inadmissible in any judicial or administrative proceeding.
- 19.2 All actions or statements, whether verbal or written, of the parties, party-intervenors, participants, and other persons may not be made known by a party, party-intervenor, participant, or other person in any judicial or administrative tribunal, or be construed for any purpose as an admission against interest.
- 19.3 For the reasons stated in paragraphs (1) and (2) above, the non-binding, non-adjudicatory, recommendation by the Special Magistrate will be based on information that has not met formal evidentiary requirements, in a proceeding that is intended to be an informal non-

judicial effort to compromise and resolve disputed issues between the parties, and therefore, the Special Magistrate's non-binding recommendation shall be inadmissible in any litigation between the parties.

## **20. Proposal to Settle**

20.1 The parties may make a proposal to compromise and settle the dispute at any time. If the parties enter into a settlement agreement, it will be effective when it has been approved and executed by all parties to the agreement.

## **21. Special Magistrate's Recommendation**

21.1 The Special Magistrate shall prepare and provide a recommendation to all parties within fourteen (14) days after the conclusion of the proceeding. The parties may agree to an extension of time at the request of the Special Magistrate. The Special Magistrate shall also provide a copy to all parties and participants.

21.2 If a settlement agreement or other agreement as to the permissible use of the owner's land is executed prior to the Special Magistrate's recommendation, the recommendation will only:

- (a) Set forth the date and location of the hearing;
- (b) Identify the parties and other participants in attendance at the hearing;
- (c) Record, without comment, the fact that a settlement agreement or other agreement as to the permissible use of the owner's land has been executed; and
- (d) Include as an attachment an executed copy of the settlement agreement or other agreement as to the permissible use of the owner's property.

21.3 If a settlement agreement or other agreement as to the permissible use of the owner's land is not executed prior to the filing of the Special Magistrate's recommendation, the Special Magistrate will consider the facts and circumstances set forth in the request for relief, any responses, and any other information produced at the proceeding to determine whether the development order or enforcement action, by itself or in conjunction with an action of the City or another governmental entity, is unreasonable or unfairly burdens the owner's land.

21.4 The circumstances to be considered by the Special Magistrate in preparing the recommendation may include, but are not limited to:

- (a) The history of the land, including when it was purchased, the purchase price, where it is located, the nature of the title, the composition of the property, and how it was previously used.
- (b) The history of development and use of the land, including what was developed and by whom, if it was subdivided and how and to whom it was sold, whether plats were filed or recorded, and whether infrastructure and other public services or improvements may have been dedicated to the public.

- (c) The history of relevant environmental protection and land use controls and other regulations, including how and whether the land was classified, any uses that may have been proscribed, and what changes in classifications have occurred.
  - (d) The present nature and extent of the land, including natural and altered characteristics.
  - (e) The reasonable expectations of the owner at the time of acquisition, or immediately prior to the implementation of the regulation at issue, whichever is later, under the regulations then in effect and under common law.
  - (f) The public purpose sought to be achieved by the development order or enforcement action, including the nature and magnitude of the problem addressed by the underlying regulations on which the development order or enforcement action is based; whether the development order or enforcement action is necessary to the achievement of the public purpose; and whether there are alternative development order or enforcement action conditions that would achieve the public purpose and allow for reduced restrictions on the use of the owner's land.
  - (g) Uses authorized for and restrictions placed on similar property, including adjacent lands.
  - (h) Unique characteristics of the land.
  - (i) Any other information determined to be relevant by the Special Magistrate or agreed by the parties to be addressed by the Special Magistrate.
  - (j) A proposal for settlement that has been provided by one party to the other party, that has been rejected.
- 21.5 The Special Magistrate will utilize his or her expertise in formulating a recommendation and, in applying this expertise, must rely upon the information that a reasonable, prudent person would rely upon.
- 21.6 If the Special Magistrate determines the development order or enforcement action, by itself or in conjunction with another action of the City or another governmental entity, is reasonable and does not unfairly burden the owner's land, the Special Magistrate will recommend that the development order or enforcement action remain undisturbed.
- 21.7 If the Special Magistrate determines the development order or enforcement action, by itself or in conjunction with another action of the City or another governmental entity, is unreasonable or unfairly burdens the owner's property, and the owner has consented, the Special Magistrate will recommend one or more alternative actions that protect the public interest served by the regulations at issue and allow for reduced restraints on the use of the owner's real property. The alternatives may include:

- (a) An adjustment of land development or permit standards or conditions controlling the development or use of the owner's land.
- (b) Increases or modifications in the density, intensity, or use of areas of development.
- (c) The transfer of development rights.
- (d) Land swaps or exchanges.
- (e) Mitigation, including payments in lieu of on-site mitigation.
- (f) Location of the development or use at issue on the least sensitive portion of the property.
- (g) Conditioning the amount of development or use permitted on the owner's land.
- (h) A requirement that issues be addressed on a more comprehensive basis than a single proposed use or development.
- (i) Issuance of the development order, a variance, special exception, or other extraordinary relief, including withdrawal of the enforcement action.
- (j) Purchase of the owner's land, or an interest in it, by the City or another governmental entity.

If an apportionment of responsibility among governmental entities is appropriate, the Special Magistrate will make such recommendation.

- 21.8 The Special Magistrate will furnish a copy of the written recommendation to the Florida Department of Legal Affairs.
- 21.9 The Special Magistrate's recommendation is a public record and will be available for public inspection and copying at the office of the City Clerk of the City of Ormond Beach.

## **22. Effect of Special Magistrate's Recommendation**

- 22.1 The Special Magistrate's recommendation is advisory only. It is non-adjudicatory and is not binding on the owner or the City Commission.
- 22.2 A Special Magistrate's recommendation constitutes data that may be considered with respect to any pertinent amendment to the City's Comprehensive Plan.
- 22.3 A Special Magistrate's determination that the development order or enforcement action is unreasonable or unfairly burdens the owner's land will support a modification, variance, or special exception as may be authorized by applicable rules and regulations.

## **23. Disposition of Special Magistrate's Recommendation**

- 23.1 Within forty-five (45) days after the receipt of the Special Magistrate's recommendation, the City Commission shall:
- (a) Accept the recommendation and implement it in the ordinary course and consistent with applicable rules and regulations.
  - (b) Modify the recommendation and implement it in the ordinary course and consistent with all applicable rules and regulations.
  - (c) Reject the recommendation.
  - (d) A failure by the City Commission to consider and act upon the recommendation within forty-five (45) days after its receipt will be deemed a rejection, unless the owner and the City agree to an extension of time.
- 23.2 If the City Commission adopts a recommendation to grant a modification, variance, or special exception to the application of ordinances or regulations as they otherwise would apply to the land, the owner will not be required to duplicate processes that the owner previously has participated in order to effectuate the modification, variance or special exception.
- 23.3 If the Special Magistrate recommends relief or other action in conjunction with another governmental entity, the City Attorney must confer with appropriate staff from the other entities to review the recommendation and determine whether a joint staff recommendation can be made to the heads of the respective governmental entities.
- 23.4 Within fifteen (15) days after the City Commission's action on the Special Magistrate's recommendation, the Planning Director shall notify the Florida Department of Legal Affairs as to what action the City Commission took on the Special Magistrate's recommendation.
- 23.5 Within ten (10) days after final action by the City Commission on the Special Magistrate's recommendation, the owner must notify the City's legal counsel and City Attorney in writing whether the owner accepts the City Commission's decision.

## **24. Construction**

- 24.1 Section 70.80, Florida Statutes expressly provides that it is the stated declaration of the Florida legislature that sections 70.001 (Bert Harris Act), 70.45 (Governmental Exactions), and 70.51 (Land Use and Dispute Resolution Act) of the Florida Statutes have separate and distinct bases, objectives, applications, and processes and such sections are not to be construed in *pari materia*. The statements and actions by the parties, participants, and special magistrate will relate to an offer or offers to compromise disputed issues and shall be inadmissible in any legal action or proceeding. In addition, the special magistrate will necessarily rely upon such statements and actions by the parties and participants, including hearsay, in analyzing the disputed issues and preparing a written non-binding, non-adjudicatory, recommendation. In as much as section 70.51 does not expressly authorize a non-binding, non-adjudicatory, recommendation by a special magistrate to be used by the Developer in any litigation, such recommendation and statements made by the special

magistrate shall be inadmissible in any legal proceeding or action; and the special magistrate shall not be allowed or compelled to testify in any legal proceeding or action for or against any party.

**25. Effective Date**

25.1 These procedural guidelines shall apply to all future and pending requests for relief that have been received before the adoption of this Resolution.

**26. Forms**

26.1 The City Commission approves the following forms, substantially in the form provided, to be used in the proceedings. The City Attorney is authorized to make non-substantive changes to the forms as may be necessary, or prepare additional forms for use under these procedural guidelines.

*[Remainder of page intentionally left blank – forms to follow]*

**(a) SPECIAL MAGISTRATE AGREEMENT  
(to be used by parties and Special Magistrate)**

**SPECIAL MAGISTRATE AGREEMENT**

This agreement is made by and between the City of Ormond Beach, a Florida municipal corporation with its principle address being located at 22 S. Beach Street, Ormond Beach, FL 32174 (“City”), [name of Owner] (“Developer”) and [name of Special Magistrate] (“Special Magistrate”) for the purposes described in this agreement.

WHEREAS, the City of Ormond Beach has adopted procedural guidelines to provide a process under the Florida Land Use and Environmental Dispute Resolution Act, section 70.51, Florida Statutes, to explore and facilitate potential resolution of disputes by a Developer regarding a development order or enforcement action by the City; and

WHEREAS, the procedural guidelines that have been adopted by the City will ensure the participation of parties and persons that may be substantially affected by the Developer’s proposed use of land; and

WHEREAS, the procedural guidelines are intended to facilitate a fair and reasonable process to facilitate a mutually acceptable resolution of disputed issues; and

WHEREAS, the City and the Developer desire to enter into this agreement to retain the services of a Special Magistrate for the purposes described in this agreement and the procedural guidelines, and to provide for the payment of expenses, costs, and fees; and

WHEREAS, the City and the Developer mutually agree that the Special Magistrate meets the qualifications under the Act; and

WHEREAS, the City, the Developer, and the Special Magistrate enter into this agreement for good and valuable consideration as described in this agreement, the same being hereby acknowledged and accepted; now therefore:

1. **The Procedural Guidelines.** The procedural guidelines adopted by the City Commission by Resolution 2024-202 and attached hereto, are incorporated herein as material conditions to this agreement.
2. **Special Magistrate.** \_\_\_\_\_ shall serve as Special Magistrate in the matter involving the Developer’s request for relief that has been filed with the City. The City will provide to the Special Magistrate on the effective date of this agreement, a copy of the Developer’s request for relief. The City will provide to the Special Magistrate, on the effective date of this agreement or as is reasonably practicable under the circumstances, the City’s motion to dismiss the Developer’s request for relief or the City’s

response to the Developer's request for relief, whichever is applicable and necessary.

3. **Payment of Special Magistrate Expenses.** The Special Magistrate shall be compensated at the rate of \$ \_\_\_\_ per hour, plus reasonable fees and costs. The payment of all expenses, fees, and costs for the services incurred by the Special Magistrate shall be paid equally by the City (50%) and the Developer (50%), unless otherwise provided in the procedural guidelines.
4. **Payment of Other Expenses.** The City and Developer shall pay equally, the costs and expenses of the venue and facilities to be used for the proceedings.
5. **Special Magistrate Role.** The proceedings will be informal and non-adjudicatory. The proceedings will generally consist of two phases, a mediation phase and a hearing phase. The Special Magistrate will assist the parties in exploring opportunities for compromise and potential settlement during both phases of the proceedings. If the parties are unable to settle the issues, the Special Magistrate will conduct a hearing open to the public. Within fourteen (14) days after the hearing phase, the Special Magistrate will prepare a written non-binding, non-adjudicatory, advisory recommendation regarding the issues in dispute.
6. **Location of proceedings.** The City will secure a venue and facilities within the city for the proceedings. The City will provide technical support to the Special Magistrate in providing and publishing notices that are required under the procedural guidelines, and the Act.
7. **Recording or Transcript.** A recording or transcript of the hearing phase may be made for the use by the Special Magistrate, which will include hearsay from the hearing; however, all actions or statements of any participants of the hearing are evidence of an offer to compromise and inadmissible in any proceeding, judicial or administrative.
8. **Ex Parte Communications.** In preparation for and at all times during the hearing phase no party will engage in any substantive ex parte communications with the designated Special Magistrate regarding the issues in dispute. This prohibition does not apply to routine requests for fees and expenses to be borne by the parties, or to technical assistance provided by either party. No written communication will be made between the Special Magistrate and a party without the other party receiving a copy, and no oral communication will take place without the other party being present.
9. **Construction.** Section 70.80, Florida Statutes expressly provides that it is the stated declaration of the Florida legislature that sections 70.001 (Bert Harris Act), 70.45 (Governmental Exactions), and 70.51 (Land Use and

Dispute Resolution Act) of the Florida Statutes have separate and distinct bases, objectives, applications, and processes and such sections are not to be construed in pari materia. The statements and actions by the parties, participants, and special magistrate will relate to an offer or offers to compromise disputed issues and shall be inadmissible in any legal action or proceeding. In addition, the special magistrate will necessarily rely upon such statements and actions by the parties and participants, including hearsay, in analyzing the disputed issues and preparing a written non-binding, non-adjudicatory, recommendation. In as much as section 70.51 does not expressly authorize a non-binding, non-adjudicatory, recommendation by a special magistrate to be used by the Developer in any litigation, such recommendation and statements made by the special magistrate shall be inadmissible in any legal proceeding or action; and the special magistrate shall not be allowed or compelled to testify in any legal proceeding or action for or against any party.

DATED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

**CITY OF ORMOND BEACH**

By: \_\_\_\_\_  
\_\_\_\_\_

Mayor  
22 S. Beach St, Ormond Beach, FL 32174

By: \_\_\_\_\_  
\_\_\_\_\_

City Manager  
22 S. Beach St, Ormond Beach, FL 32174

DATED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

**[Owner]**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

DATED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

**[Special Magistrate]**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

**(b) NOTICE OF OWNER'S REQUEST FOR RELIEF  
(to be used by the City)**

**NOTICE OF REQUEST FOR RELIEF**

TO: [name of property owner or other person]  
[address]

PLEASE TAKE NOTICE that [name of owner requesting relief] has filed a request for relief provided by section 70.51, F.S. The property subject to the request for relief is located at [address]. The request for relief relates to [identify development order or enforcement action by name and number, if one] and has been or will be referred to an impartial Special Magistrate for hearing.

As provided by section 70.51, F.S., you may participate in the proceeding only if you submit a written request to [name and address of Special Magistrate or adopting governmental entity's designated official] within 21 days of your receipt of this notice. Your participation will be limited to addressing those issues regarding alternatives, variances or adjustments of the development order or enforcement action which may affect your substantial interests.

You may obtain a copy of the procedural guidelines for Special Magistrate proceedings at the Office of the City Clerk, 22 South Beach Street, Ormond Beach, Florida (P.O. Box 277, Ormond Beach, FL 32175). The City Clerk's Office may be reached at (386)-676-3331.

Dated

/s/  
[designate official]  
[address]  
[phone number]

**(c) NOTICE OF SPECIAL MAGISTRATE MEDIATION  
(to be issued by Special Magistrate).**

**NOTICE OF SPECIAL MAGISTRATE MEDIATION**

TO:            [name]  
                  [address]

You are hereby notified that the Special Magistrate mediation on the request for relief filed by [owner requesting relief] has been set as follows:

PLACE:                            [location by street address and room number]  
TIME:                                [time]  
DATE:                                [date]

You may obtain a copy of the procedural guidelines for Special Magistrate proceedings at the Office of the City Clerk, 22 South Beach Street, Ormond Beach, Florida (P.O. Box 277, Ormond Beach, FL 32175). The City Clerk's Office may be reached at (386)-676-3331.

Dated

/s/  
[Special Magistrate]  
[address]  
[phone number]

**(d) NOTICE OF SPECIAL MAGISTRATE HEARING  
(to be issued by Special Magistrate).**

**NOTICE OF SPECIAL MAGISTRATE HEARING**

TO:            [name]  
                  [address]

You are hereby notified that the Special Magistrate hearing on the request for relief filed by [owner requesting relief] has been set as follows:

PLACE:                                [location by street address and room number]  
TIME:                                    [time]  
DATE:                                    [date]

You may obtain a copy of the procedural guidelines for Special Magistrate proceedings at the Office of the City Clerk, 22 South Beach Street, Ormond Beach, Florida (P.O. Box 277, Ormond Beach, FL 32175). The City Clerk's Office may be reached at (386)-676-3331.

Dated

/s/  
[Special Magistrate]  
[address]  
[phone number]

**(e) REQUEST TO PARTICIPATE IN SPECIAL MAGISTRATE HEARING**

**REQUEST TO PARTICIPATE IN SPECIAL MAGISTRATE HEARING**

TO: [Special Magistrate or designated official of adopting governmental entity]

RE: Request for Relief of [owner requesting relief]

1. I hereby request the right to participate in the proceeding on this request for relief, pursuant to section 70.51(12), F.S. I received written notice of this Special Magistrate proceeding from the City of Ormond Beach on [date].

Check the appropriate line or lines:

- (a)  I own the real property located adjacent to the property which is the subject of this proceeding.

or

- (b)  I submitted oral or written testimony of a substantive nature which stated with particularity objections to or support for the subject of this proceeding at the following time and place: [state body which conducted proceeding and date or appearance or submission of written materials]. I am substantially affected by the action at issue in that [explain how you are substantially affected].

2. I understand that, if allowed to participate in the proceeding, I will be limited to addressing the prospective relief for the owner as it may affect my substantial interests.

Dated

/s/

[person requesting participation]

[address]

[phone number]

**(f) ORDER RULING ON REQUEST TO PARTICIPATE IN SPECIAL  
MAGISTRATE HEARING**  
(to be used by Special Magistrate)

**1. Granting request to participate—**

**ORDER GRANTING REQUEST TO PARTICIPATE IN SPECIAL MAGISTRATE  
HEARING**

Your request to participate in the Special Magistrate proceeding initiated by [name of owner requesting relief] is granted.

Be advised that pursuant to section 70.51(12), F.S., your participation in this proceeding is limited to addressing those issues raised regarding alternatives, variances, and other types of adjustment to the [development order or enforcement action] which may impact your substantial interests, unless the owner requesting relief and the City of Ormond Beach agree to allow you to address other issues.

You may obtain a copy of the procedural guidelines for Special Magistrate proceedings at the Office of the City Clerk, 22 South Beach Street, Ormond Beach, Florida (P.O. Box 277, Ormond Beach, FL 32175). The City Clerk's Office may be reached at (386)-676-3331.

Dated

/s/  
[Special Magistrate]  
[address]  
[phone number]

**2. Denying request to participate. --**

**ORDER DENYING REQUEST TO PARTICIPATE IN  
SPECIAL MAGISTRATE HEARING**

Your request to participate in the Special Magistrate proceeding initiated by  
[owner requesting relief] is denied.

Your request is denied because [state grounds for denial].

Dated

/s/  
[Special Magistrate]  
[address]  
[phone number]

**(g) SUBPOENA**  
**(to be used by Special Magistrate).**

**SUBPOENA**

TO: [name] [address]

RE: Request for Relief of [owner]

YOU ARE HEREBY COMMANDED to appear at [location] to testify at a Special Magistrate hearing at \_ o'clock \_m., on the day of \_\_\_\_\_, 20\_, with respect to the request for relief filed by [owner] regarding the [development order or enforcement action] by the City of Ormond Beach affecting the owner's real property.

PURSUANT TO SECTION 70.51(14), F.S., you must comply with this subpoena as directed unless excused by the party who requested issuance of the subpoena or by order of the Special Magistrate.

ISSUED this \_\_ day of \_\_\_\_\_, 20\_, at \_\_\_\_\_, Florida.

/s/

[Special Magistrate] [address]

[phone number]

THIS SUBPOENA ISSUED AT THE REQUEST OF:

[name of party] [address] [phone number]

**(h) SUBPOENA DUCES TECUM  
(to be used by the Special Magistrate).**

**SUBPOENA DUCES TECUM**

TO: [name] [address]

RE: Request for Relief of [owner]

YOU ARE HEREBY COMMANDED to appear at [location] to testify at a Special Magistrate hearing at \_ o'clock \_m., on the day of \_\_\_\_\_, 20\_, with respect to the request for relief filed by [owner] regarding the [development order or enforcement action] by [adopting governmental entity] affecting the owner's real property.

YOU ARE FURTHER COMMANDED to have with you at said time and place the following: [list items to be produced at hearing]

PURSUANT TO SECTION 70.51(14), F.S., you must comply with this subpoena as directed unless excused by the party who requested issuance of the subpoena or by order of the Special Magistrate.

ISSUED this \_ day of \_\_\_\_\_, 20\_, at \_\_\_\_\_, Florida.

/s/

[Special Magistrate] [address]

[phone number]

THIS SUBPOENA ISSUED AT THE REQUEST OF:

[name of party] [address] [phone number]

**SECTION TWO.** The City Commission affirms and ratifies the approval of Resolution 2024-111 (approved on July 23, 2024), including all action taken prior to, after, and in furtherance of the resolution by any and all persons, including but not limited to officers, employees, and agents of the city.

**SECTION THREE.** This Resolution shall take effect immediately upon its adoption.

**APPROVED AND AUTHENTICATED this 19<sup>th</sup> day of November, 2024.**

---

**JASON LESLIE**  
Mayor

**ATTEST:**

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**SUSAN CARROLL DAUDERIS**  
City Clerk



# City of Ormond Beach AGENDA ITEM

November 19, 2024 - City Commission

**Number: 8.C**

<b>Section:</b>	CONSENT AGENDA		
<b>Item Category:</b>	Consent - Resolution	<b>Res./Ord. No:</b>	2024-203
<b>Strategic Goal:</b>	Governance – Other		
<b>Department:</b>	Support Services		
<b>Subject:</b>	Dates & Times of Regular Meetings, Dec 2024, and CY 2025 & 2026		
<b>Summary:</b>	<p>Proposed meeting calendars have been attached for review. Regular City Commission meetings are scheduled generally for the first and third Tuesday of each month at 7:00 p.m., unless otherwise indicated, as noted below.</p> <p>Remaining Meetings for 2024</p> <ul style="list-style-type: none"> <li>• The first regular meeting in December will be held on Tuesday, December 3, as well as an Advisory Board Workshop at 5:30 p.m.</li> <li>• According to tradition, the second meeting in December is canceled.</li> </ul> <p>Proposed Calendar for 2025</p> <ul style="list-style-type: none"> <li>• There is a Goals Setting workshop tentatively scheduled for either January 21 or 28.</li> <li>• Volusia County School's Spring Break is scheduled for March 17-21, so the second meeting in March is proposed to be canceled.</li> <li>• The second regular meeting in June will not be scheduled, to allow for staff budget preparation, unless otherwise directed by the Commission.</li> <li>• The first regular meeting in July will not be scheduled, consistent with tradition, unless otherwise directed by the Commission.</li> <li>• The second meeting in July is scheduled for the 4th week, since July has 5 Tuesdays.</li> <li>• The meetings in September will be held on Wednesdays. These meetings include the City's budget public hearings. These</li> </ul>		

	<p>hearings must meet TRIM requirements and cannot conflict with the Volusia County School's or Volusia County Council hearings, which usually occur on Tuesdays.</p> <ul style="list-style-type: none"> <li>• The first regular meeting in October will be on Wednesday, to accommodate the City's observance of National Night Out.</li> <li>• The second meeting in November is not proposed to be canceled, since the Thanksgiving Holiday falls on November 27, which is in the 4th week of November.</li> <li>• The second regular meeting in December is not proposed to be canceled since Christmas falls the following week, and since it is proposed that the first meeting in January 2026 be canceled.</li> </ul> <p>Proposed Calendar for 2026</p> <ul style="list-style-type: none"> <li>• The first meeting in January is proposed to be canceled, due to the New Year's Day holiday/January 1 falling on Thursday the prior week.</li> <li>• Volusia County School's Spring Break is currently anticipated for March 16-20, therefore the second meeting is moved out a week. Also, there are 5 Tuesdays in March.</li> <li>• The second regular meeting in June will not be scheduled, to allow for staff budget preparation, unless otherwise directed by the Commission.</li> <li>• The first regular meeting in July will not be scheduled, consistent with tradition, unless otherwise directed by the Commission.</li> <li>• The meetings in September will be held on Wednesdays. These meetings include the City's budget public hearings. These hearings must meet TRIM requirements and cannot conflict with the Volusia County School's or Volusia County Council hearings, which usually occur on Tuesdays.</li> <li>• The first regular meeting in October will be on Wednesday, to accommodate the City's observance of National Night Out.</li> <li>• The first regular meeting in November will be held on Wednesday, November 4, since a general election is scheduled for November 3.</li> </ul>
<b>Financial Impact:</b>	None
<b>Citizen Impact:</b>	The adopted meeting schedules will be available for the public.
<b>Recommended Action (Staff, Advisory Board and/or Other):</b>	It is recommended that the City Commission adopt a City Commission calendar for the time period between November 20, 2024, and November 17, 2026.
<b>Staff Contact:</b>	Susan Dauderis, City Clerk, (386) 676-3340

<b>Attachments:</b>	<ol style="list-style-type: none"> <li>1. 24-203 City Commission Meeting Dates</li> <li>2. 2024-2026 City Commission Meeting Calendar</li> </ol>						
<b>Approval:</b>	<table border="0"> <tr> <td data-bbox="506 304 1104 367">Kelly McGuire, Finance Director</td> <td data-bbox="1104 304 1419 367">10/21/2024</td> </tr> <tr> <td data-bbox="506 367 1104 441">Claire Whitley/Shawn Finley, Assistant City Manager</td> <td data-bbox="1104 367 1419 441">10/22/2024</td> </tr> <tr> <td data-bbox="506 441 1104 506">Joyce Shanahan, City Manager</td> <td data-bbox="1104 441 1419 506">10/22/2024</td> </tr> </table>	Kelly McGuire, Finance Director	10/21/2024	Claire Whitley/Shawn Finley, Assistant City Manager	10/22/2024	Joyce Shanahan, City Manager	10/22/2024
Kelly McGuire, Finance Director	10/21/2024						
Claire Whitley/Shawn Finley, Assistant City Manager	10/22/2024						
Joyce Shanahan, City Manager	10/22/2024						

**RESOLUTION NO. 2024-203**

A RESOLUTION ESTABLISHING DATES AND TIMES FOR REGULAR MEETINGS OF THE CITY COMMISSION OF THE CITY OF ORMOND BEACH, FLORIDA, DURING THE MONTH OF DECEMBER 2024; AND DURING CALENDAR YEARS 2025 AND 2026; PROVIDING EXCEPTIONS THERETO; AND SETTING FORTH AN EFFECTIVE DATE.

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF ORMOND BEACH, FLORIDA, THAT:**

**SECTION ONE.** The first regular meeting in December 2024 will be held at the hour of 7:00 P.M. on Tuesday, December 3, 2024.

**SECTION TWO.** The second regular meeting in December 2024 will not be scheduled, consistent with tradition.

**SECTION THREE.** Except for the last meeting in November and both meetings in December, 2024 and except as otherwise set forth in Section Four hereof, the regular meetings of the City Commission of the City of Ormond Beach, Florida, shall be held at the hour of 7:00 P.M. on the first and third Tuesdays of each month during calendar years 2025 and 2026.

**SECTION FOUR.** The following are adopted as exceptions to the regular meeting schedule hereinbefore adopted, and all meetings will commence at the hour of 7:00 P.M.:

- (a) the second meeting in March 2025 will not be scheduled in order to observe Volusia County School's spring break which falls during the same week;
- (b) the second regular meeting in June 2025 will not be scheduled to allow for staff budget preparation;

- (c) the first regular meeting in July 2025 will not be scheduled, consistent with recent tradition;
- (d) the second meeting in July 2025 will be held on July 22, 2025;
- (e) the first regular meeting in September 2025 will be held on Wednesday, September 3, 2025 to be consistent with TRIM requirements;
- (f) the second regular meeting in September 2025 will be held on Wednesday, September 17, 2025 to be consistent with TRIM requirements;
- (g) the first regular meeting in October 2025 will be held on Wednesday, October 8, 2025 in order to observe “National Night Out” on October 7;
- (h) the first regular meeting in January 2026 will not be scheduled;
- (i) the second meeting in March 2026 will be held on March 24, 2026 so as not to conflict with Volusia County School’s spring break and because there are five Tuesdays in March allowing the meeting to be pushed back one week;
- (j) the second regular meeting in June 2026 will not be scheduled to allow for staff budget preparations;
- (k) the first regular meeting in July 2026 will not be scheduled, consistent with recent tradition;
- (l) the first regular meeting in September 2026 will be held on Wednesday, September 2, 2024 to be consistent with TRIM requirements;
- (m) the second regular meeting in September 2026 will be held on Wednesday, September 16, 2026 to be consistent with TRIM requirements;
- (n) the first regular meeting in October 2026 will be held on Wednesday, October 7, 2026 in order to observe “National Night Out” on October 6;

- (o) the first regular meeting in November 2026 will be held on Wednesday, November 4, 2026 due to a general election being held on November 3.

**SECTION FIVE.** This Resolution shall take effect immediately upon its adoption.

**APPROVED AND AUTHENTICATED this 19<sup>th</sup> day of November, 2024.**

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**JASON LESLIE**  
Mayor

**ATTEST:**

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**SUSAN CARROLL DAUDERIS**  
City Clerk

**Ormond Beach City Commission  
Meeting Schedule December 2024 – November 2026**

<u>Date</u>	<u>Time</u>	<u>Place</u>	<u>Meeting</u>
<b>December 2024</b>			
December 3, 2024 - Tuesday	5:30 PM	CR	Advisory Board Workshop
December 3, 2024 – Tuesday	7:00 PM	CC	Regular City Commission Meeting
<b>January 2025</b>			
January 7, 2025 - Tuesday	7:00 PM	CC	Regular City Commission Meeting
January 21, 2025 – Tuesday	7:00 PM	CC	Regular City Commission Meeting
<b>February</b>			
February 4, 2025 – Tuesday	5:30 PM	CR	Comprehensive Plan 2045 Workshop
February 4, 2025 – Tuesday	7:00 PM	CC	Regular City Commission Meeting
February 18, 2025 – Tuesday	7:00 PM	CC	Regular City Commission Meeting
<b>March</b>			
March 4, 2025 – Tuesday	7:00 PM	CC	Regular City Commission Meeting
<b>April</b>			
April 1, 2025 – Tuesday	7:00 PM	CC	Regular City Commission Meeting
April 15, 2025 – Tuesday	7:00 PM	CC	Regular City Commission Meeting
<b>May</b>			
May 6, 2025 - Tuesday	7:00 PM	CC	Regular City Commission Meeting
May 20, 2025 – Tuesday	7:00 PM	CC	Regular City Commission Meeting
<b>June</b>			
June 3, 2025 – Tuesday	5:30 PM	CR	Capital Improvements Plan Workshop
June 3, 2025 – Tuesday	7:00 PM	CC	Regular City Commission Meeting
<b>July</b>			
July 22, 2025 – Tuesday	5:30 PM	CR	Operating Budget Workshop
July 22, 2025 – Tuesday	7:00 PM	CC	Regular City Commission Meeting
<b>August</b>			
August 5, 2025 – Tuesday	7:00 PM	CC	Regular City Commission Meeting
August 19, 2025 – Tuesday	7:00 PM	CC	Regular City Commission Meeting
<b>September</b>			
September 3, 2025 – Wednesday	7:00 PM	CC	Reg. Comm. Mtg. & 1 <sup>st</sup> Budget Hearing*
September 17, 2025 – Wednesday	7:00 PM	CC	Reg. Comm. Mtg. & 2 <sup>nd</sup> Budget Hearing*
			<i>*Moved to Wed. due to TRIM requirements</i>
<b>October</b>			
October 8, 2025 – Wednesday	7:00 PM	CC	Regular City Commission Meeting*
October 21, 2025 – Tuesday	7:00 PM	CC	Regular City Commission Meeting
			<i>*Moved to Wed.; National Night Out on Tues.</i>
<b>November</b>			
November 4, 2025 – Tuesday	7:00 PM	CC	Regular City Commission Meeting
November 18, 2025 – Tuesday	7:00 PM	CC	Regular City Commission Meeting

**Ormond Beach City Commission  
Meeting Schedule December 2024 – November 2026**

**December**

December 2, 2025 – Tuesday	7:00 PM	CC	Regular City Commission Meeting
December 16, 2025 – Tuesday	7:00 PM	CC	Regular City Commission Meeting

**January 2026**

January 20, 2026 – Tuesday	7:00 PM	CC	Regular City Commission Meeting
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**February**

February 3, 2026 – Tuesday	7:00 PM	CC	Regular City Commission Meeting
February 17, 2026 – Tuesday	7:00 PM	CC	Regular City Commission Meeting

**March**

March 3, 2026 – Tuesday	7:00 PM	CC	Regular City Commission Meeting
March 24, 2026 – Tuesday	7:00 PM	CC	Regular City Commission Meeting

**April**

April 7, 2026 – Tuesday	7:00 PM	CC	Regular City Commission Meeting
April 21, 2026 – Tuesday	6:00 PM	CC	Regular City Commission Meeting

**May**

May 5, 2026 - Tuesday	7:00 PM	CC	Regular City Commission Meeting
May 19, 2026 – Tuesday	7:00 PM	CC	Regular City Commission Meeting

**June**

June 2, 2026 – Tuesday	5:30 PM	CR	Capital Improvements Plan Workshop
June 2, 2026 – Tuesday	7:00 PM	CC	Regular City Commission Meeting

**July**

July 21, 2026 – Tuesday	5:30 PM	CR	Operating Budget Workshop
July 21, 2026 – Tuesday	7:00 PM	CC	Regular City Commission Meeting

**August**

August 4, 2026 – Tuesday	7:00 PM	CC	Regular City Commission Meeting
August 18, 2026 – Tuesday	7:00 PM	CC	Regular City Commission Meeting

**September**

September 2, 2026 – Wednesday	7:00 PM	CC	Reg. Comm. Mtg. & 1 <sup>st</sup> Budget Hearing*
September 16, 2026 – Wednesday	7:00 PM	CC	Reg. Comm. Mtg. & 2 <sup>nd</sup> Budget Hearing*

*\*Moved to Wed. due to TRIM requirements*

**October**

October 7, 2026 – Wednesday	7:00 PM	CC	Regular City Commission Meeting*
October 20, 2026 – Tuesday	7:00 PM	CC	Regular City Commission Meeting

*\*Moved to Wed.; National Night Out on Tues.*

**November**

November 4, 2026 – Wednesday	7:00 PM	CC	Regular City Commission Meeting*
November 17, 2026 – Tuesday	6:00 PM	CC	Organizational City Commission Meeting

*\*Moved to Wednesday for General Election*



# City of Ormond Beach AGENDA ITEM

November 19, 2024 - City Commission

**Number: 8.D**

<b>Section:</b>	CONSENT AGENDA		
<b>Item Category:</b>	Consent - Resolution	<b>Res./Ord. No:</b>	2024-204
<b>Strategic Goal:</b>	Governance - Other		
<b>Department:</b>	City Attorney		
<b>Subject:</b>	Establishing the Order for Service of Legal Process		
<b>Summary:</b>	<p>This is a request for the city commission to adopt a resolution acknowledging the order by which city officials are authorized to accept service of legal process (i.e., a summons and original pleading or petition) in civil litigation matters.</p> <p>Section 48.111, Florida Statutes establishes the following order by which municipal officials may accept service of process in civil litigation matters against the city: on the mayor; in the absence of the mayor, on the vice (or deputy) mayor; and in the absence of the mayor and deputy mayor, on any other member of the city commission.</p> <p>It is often difficult for civil process servicers to effectuate service of process under section 48.111, so the city attorney has as a courtesy for many years accepted service of process. This practice has worked very well because it ensures that the city attorney receives the summons and original pleading in a timely manner, and ensures the ability to prepare and file a timely response to the litigation matter. It also serves the interest of judicial economy because it allows the civil process division of the Volusia County Sheriff's Office to more effectively utilize their resources.</p> <p>Section 48.111, Florida Statutes does not provide an alternative means of effectuating original service of process in the absence of officials described in the statute. Therefore, a resolution has been prepared authorizing the city attorney, deputy city attorney, or assistant city attorney to accept service of original process in the absence of any member of the city commission. All other legal papers, subpoenas, etc., would continue to be served in accordance with applicable law.</p>		

<b>Financial Impact:</b>	There is no budget impact to the city, though it may allow the civil process division within the Volusia County Sheriff's Office to better utilize their resources.	
<b>Citizen Impact:</b>	There is no citizen impact.	
<b>Recommended Action (Staff, Advisory Board and/or Other):</b>	It is recommended that the City Commission approve the attached resolution, which is consistent with past custom and practice for accepting service of original process in civil litigation matters.	
<b>Staff Contact:</b>	Randy Hayes, City Attorney, (386) 676-3217	
<b>Attachments:</b>	1. 24-204 Service of process	
<b>Approval:</b>	Kelly McGuire, Finance Director	10/21/2024
	Claire Whitley/Shawn Finley, Assistant City Manager	10/22/2024
	Joyce Shanahan, City Manager	10/22/2024

## **RESOLUTION 2024-204**

A RESOLUTION ACKNOWLEDGING AND ESTABLISHING  
THE ORDER BY WHICH SERVICE OF LEGAL PROCESS  
MAY BE EFFECTUATED ON THE CITY OF ORMOND  
BEACH; AND SETTING FORTH AN EFFECTIVE DATE.

**WHEREAS**, the city of Ormond Beach is a municipal corporation duly formed and existing under the Florida Constitution and the laws of the state of Florida; and

**WHEREAS**, the city of Ormond Beach has authority to exercise broad municipal home rule powers under section 2, article VIII, Florida Constitution and Chapter 166, Florida Statutes; and

**WHEREAS**, as a municipal corporation and subdivision of the state of Florida, the city of Ormond Beach may sue and be sued; and

**WHEREAS**, a civil action is ordinarily commenced when a complaint or petition is filed in a court having jurisdiction over the parties and the subject matter of the dispute; and

**WHEREAS**, section 48.111 Florida Statutes prescribes the order by which service of original process (i.e., service of a summons and copy of the initial pleading or petition) shall be made on a municipal corporation, to-wit:

- (a) On the mayor, and in the absence of the mayor;
- (b) On the vice mayor, and in the absence of the vice mayor;
- (c) On any other member of the city commission; and

**WHEREAS**, circumstances routinely arise where it is impossible or impractical to serve original process on any of the city officials described above; and

**WHEREAS**, in the interest of judicial economy, the city commission hereby determines that in the absence of the above referenced city officials the city attorney, deputy city attorney, and/or assistant city attorney should have authority to accept service of original process; now therefore

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF ORMOND BEACH, FLORIDA, THAT:**

**SECTION ONE:** The city commission of the city of Ormond Beach, Florida, recognizes that the order by which service of original process (i.e., service of a summons and copy of the initial pleading or petition) in a civil action against the city of Ormond Beach shall be made in accordance with section 48.111, Florida Statutes, to-wit:

- (a) On the mayor, and in the absence of the mayor;
- (b) On the deputy mayor, and in the absence of the deputy mayor;
- (c) On any other member of the city commission.

**SECTION TWO.** In the absence of the city officials described in Section One above, the city commission hereby confers authority on the city attorney, deputy city attorney, and/or assistant city attorney to accept service of original process (i.e., service of a summons and copy of the initial pleading or petition) in any civil action filed against city of Ormond Beach.

**SECTION THREE.** All other papers, pleading, subpoenas, etc., shall be served in accordance with applicable law.

**SECTION FOUR.** This Resolution shall take effect immediately upon its adoption.

**APPROVED AND AUTHENTICATED this 19<sup>th</sup> day of November, 2024.**

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**JASON LESLIE**  
Mayor

**ATTEST:**

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**SUSAN CARROLL DAUDERIS**  
City Clerk



# City of Ormond Beach AGENDA ITEM

November 19, 2024 - City Commission

**Number: 9.A**

<b>Section:</b>	RESOLUTIONS		
<b>Item Category:</b>	Resolution	<b>Res./Ord. No:</b>	2024-205
<b>Strategic Goal:</b>	Governance – Other		
<b>Department:</b>	Support Services		
<b>Subject:</b>	Certification of Election Results		
<b>Summary:</b>	<p>This resolution affirms the results of the general election for Mayor of the City of Ormond Beach, as reported by the Volusia County Supervisor of Elections.</p> <p>Jason Leslie and Susan Persis both qualified for Mayor to be decided during the general election dated November 5, 2024. Jason Leslie received 13,409 votes (53.60% of the votes), therefore he was declared elected Mayor.</p> <p>Per City Charter Sec. 5.06 Schedule and notice of elections, (b) Regular. When two (2) persons qualify as candidates for the office of city commissioner for any of the designated seats of the city commission to be filled or for the office of mayor, the persons so qualified shall be voted upon at a regular municipal election. The candidate receiving the highest number of votes cast for a designated seat or office shall be declared elected.</p> <p>Lori Tolland, Travis Sargent and Harold Briley were the only candidates who qualified for their respective zones, so they were declared elected. Kristin Deaton was declared elected for Zone 3 following the results of the primary election on August 20, 2024.</p>		
<b>Financial Impact:</b>	None		
<b>Citizen Impact:</b>	None		
<b>Recommended Action (Staff, Advisory Board and/or Other):</b>	It is recommended the City Commission approve the resolution affirming the results of the November 5, 2024, regular Municipal Election for Mayor, as reported by the Volusia County Supervisor of Elections.		

<b>Staff Contact:</b>	Susan Dauderis, City Clerk, (386) 676-3340	
<b>Attachments:</b>	<ol style="list-style-type: none"> <li>1. 24-205 Certify Results Municipal Election (P24-0011G)</li> <li>2. 1st Unofficial Results - Non-partisan Candidates</li> <li>3. election results 11-05-24</li> </ol>	
<b>Approval:</b>	Kelly McGuire, Finance Director	11/12/2024
	Claire Whitley/Shawn Finley, Assistant City Manager	11/12/2024
	Joyce Shanahan, City Manager	11/12/2024

**RESOLUTION NO. 2024-205**

A RESOLUTION AFFIRMING THE CERTIFICATION OF THE VOLUSIA COUNTY CANVASSING BOARD REGARDING THE RESULTS OF THE REGULAR MUNICIPAL ELECTION CONDUCTED IN THE CITY OF ORMOND BEACH, FLORIDA, ON TUESDAY, NOVEMBER 5, 2024; DECLARING THE RESULTS OF SAID ELECTION; AND SETTING FORTH AN EFFECTIVE DATE.

**WHEREAS**, pursuant to the Florida Election Code, the Volusia County Canvassing Board is responsible for canvassing and certifying election results when both county and city initiatives appear on the same ballot, and

**WHEREAS**, the County and City both had initiatives on the same ballot during the City’s Regular Municipal Election held on November 5, 2024, and

**WHEREAS**, the Volusia County Canvassing Board did canvass and certify the City’s Regular Municipal Election held on November 5, 2024, and

**WHEREAS**, it appears from the Certificate of the Volusia County Canvassing Board in the Regular Municipal Election conducted in Zones 1 through 4, inclusive, of the City of Ormond Beach, Florida, on the 5<sup>th</sup> day of November 2024 and from the tabulation of absentee votes, that the results of the said Election, with respect to the office of Mayor, are as follows:

Jason Leslie	13,409 votes	(53.60%)
Susan Persis	11,604 votes	(46.39%)

**WHEREAS**, Section 5.04, *City Charter*, provides that in the event only one candidate qualifies for an office during the qualifying period prescribed by Section 5.03, *City Charter*, then such candidate shall be deemed to have voted for himself or herself and shall be declared as elected; and

**WHEREAS**, Lori Tolland, the only candidate that qualified for the office of Zone 1 is deemed to have voted for herself and is therefore declared elected to serve the office of City Commissioner for Zone 1, and

**WHEREAS**, Travis Sargent, the only candidate that qualified for the office of Zone 2 is deemed to have voted for himself and is therefore declared elected to serve the office of City Commissioner for Zone 2; and

**WHEREAS**, Kristin Deaton was declared to be the legally elected City Commissioner for Zone 3 after the primary election conducted on August 20, 2024, and

**WHEREAS**, Harold Briley, the only candidate that qualified for the office of Zone 4 is deemed to have voted for himself and is therefore declared elected to serve the office of City Commissioner for Zone 4; and

**WHEREAS**, Section 5.07 of the City's Charter otherwise provides that the City Commission, as the City's canvassing board, is responsible for canvassing and certifying its municipal elections, and

**WHEREAS**, the City Commission desires to affirm the certification by the Volusia County Canvassing Board of the results of the City's Regular Municipal Election held on November 5, 2024; now therefore,

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF ORMOND BEACH, FLORIDA, THAT:**

**SECTION ONE.** The foregoing recitals are incorporated herein by reference.

**SECTION TWO.** The City Commission does hereby declare that Jason Leslie, is the candidate receiving the majority of the votes cast for the office of Mayor of the City of Ormond

Beach, Florida, and is hereby declared to be the legally elected Mayor of the said City of Ormond Beach, Florida to serve until the third Tuesday in November 2026, as provided by law.

**SECTION THREE.** The City Commission does hereby declare that Lori Tolland, the only candidate to qualify for the office of City Commissioner for Zone 1 of the City of Ormond Beach, Florida, is hereby declared to be the legally elected City Commissioner for Zone 1 of the said City of Ormond Beach, Florida to serve until the third Tuesday in November 2026, as provided by law.

**SECTION FOUR.** The City Commission does hereby declare that Travis Sargent, the only candidate to qualify for the office of City Commissioner for Zone 2 of the City of Ormond Beach, Florida, is hereby declared to be the legally elected City Commissioner for Zone 2 of the said City of Ormond Beach, Florida to serve until the third Tuesday in November 2026, as provided by law.

**SECTION FIVE.** The City Commission does hereby reaffirm that after the primary election conducted on August 20, 2024, Kristin Deaton was declared to be the legally elected City Commissioner for Zone 3 of the said City of Ormond Beach Florida to serve until the third Tuesday in November 2026, as provided by law.

**SECTION SIX.** The City Commission does hereby declare that Harold Briley, the only candidate to qualify for the office of City Commissioner for Zone 4 of the City of Ormond Beach, Florida, is hereby declared to be the legally elected City Commissioner for Zone 4 of the said City of Ormond Beach, Florida to serve until the third Tuesday in November 2026, as provided by law.

**SECTION SEVEN.** The City Clerk is hereby directed to furnish a Certificate fully signed by her, with the seal of the City of Ormond Beach, Florida, affixed thereto, to the City Commissioner hereby declared elected.

**SECTION EIGHT.** This Resolution shall take effect immediately upon its adoption.

**APPROVED AND AUTHENTICATED this 19<sup>th</sup> day of November 2024.**

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**JASON LESLIE**  
Mayor

**ATTEST:**

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**SUSAN CARROLL DAUDERIS**  
City Clerk

**\*\*\* 1st Set of Unofficial Results \*\*\***  
**CERTIFICATE OF COUNTY CANVASSING BOARD**  
**VOLUSIA COUNTY**

We, the undersigned, DAVID FOXMAN, County Court Judge, FRANK BRUNO, Canvassing Board Member, LISA LEWIS, Supervisor of Elections, constituting the Board of County Canvassers in and for said County, do hereby certify that we met on the Seventh day of November, 2024 A.D., and proceeded publicly to canvass the votes given for the several offices and persons herein specified at the **Nonpartisan Election** held on the Fifth day of November, 2024 A.D., as shown by the returns on file in the office of the Supervisor of Elections. We do hereby certify from said returns as follows:

Retention of Justice Renatha Francis of the Supreme Court

Yes 169,865 votes  
No 94,266 votes

Retention of Justice Meredith Sasso of the Supreme Court

Yes 169,466 votes  
No 93,885 votes

Retention of Judge Joe Boatwright of the Fifth District Court of Appeal

Yes 170,964 votes  
No 87,915 votes

Retention of Judge Eric Eisnaugle of the Fifth District Court of Appeal

Yes 165,325 votes  
No 90,964 votes

Retention of Judge Harvey Jay of the Fifth District Court of Appeal

Yes 169,472 votes  
No 86,087 votes

Retention of Judge Paige Kilbane of the Fifth District Court of Appeal

Yes 168,152 votes  
No 88,290 votes

Retention of Judge John MacIver of the Fifth District Court of Appeal

Yes 165,862 votes  
No 89,612 votes

**\*\*\* 1st Set of Unofficial Results \*\*\***  
**CERTIFICATE OF COUNTY CANVASSING BOARD**  
**VOLUSIA COUNTY**

Retention of Judge Jordan Pratt of the Fifth District Court of Appeal

Yes 168,229 votes  
No 87,442 votes

Retention of Judge Adrian G. Soud of the Fifth District Court of Appeal

Yes 168,044 votes  
No 88,086 votes

For County Chair, the whole number of votes cast was 270,868 of which

Jeff Brower	received	139,296 votes
Randy Dye	received	131,572 votes

For County Council, District 2, the whole number of votes cast was 45,847 of which

Steve Miller	received	20,989 votes
Matt Reinhart	received	24,858 votes

For School Board, District 2, the whole number of votes cast was 43,572 of which

Cassie Gonyer	received	18,050 votes
Krista Goodrich	received	25,522 votes

For School Board, District 4, the whole number of votes cast was 60,900 of which

Donna Brosemer	received	35,692 votes
Carl G Persis	received	25,208 votes

For City Commissioner Zone 2 Daytona Beach, the whole number of votes cast was 4,406 of which

Nick Edgar	received	1,442 votes
Ken Strickland	received	2,964 votes

For City Commissioner District 1, the whole number of votes cast was 5,891 of which

Davison Heriot	received	3,129 votes
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**\*\*\* 1st Set of Unofficial Results \*\*\***  
**CERTIFICATE OF COUNTY CANVASSING BOARD**  
**VOLUSIA COUNTY**

Brandy White received 2,762 votes

For City Commissioner District 4, the whole number of votes cast was 6,546 of which

Dori Howington received 3,568 votes  
Dana McCool received 2,978 votes

For City Commissioner District 6, the whole number of votes cast was 7,286 of which

Dominic James "Nick" Lulli received 3,716 votes  
Jody Lee Storozuk received 3,570 votes

For City Council District 2 Edgewater, the whole number of votes cast was 12,316 of which

Gigi Bennington received 5,183 votes  
Mike Thomas received 7,133 votes

For Mayor New Smyrna Beach, the whole number of votes cast was 19,686 of which

Fred Cleveland received 14,284 votes  
Francis T. Dalton Jr received 5,402 votes

For City Commissioner Zone 3 NSB, the whole number of votes cast was 18,122 of which

Jason McGuirk received 10,625 votes  
Larry Westley received 7,497 votes

For City Commissioner Zone 4 NSB, the whole number of votes cast was 17,966 of which

Brian Ashley received 9,841 votes  
Charles "Randy" Hartman received 8,125 votes

For Mayor Oak Hill, the whole number of votes cast was 1,338 of which

Douglas Gibson received 400 votes  
Ricky Taylor received 938 votes

**\*\*\* 1st Set of Unofficial Results \*\*\***  
**CERTIFICATE OF COUNTY CANVASSING BOARD**  
**VOLUSIA COUNTY**

For City Commissioner Seat 4 Oak Hill, the whole number of votes cast was 1,313 of which

Mark J. Drollinger	received	893 votes
Steve McGee	received	420 votes

For Mayor Orange City, the whole number of votes cast was 6,083 of which

Kelli Marks	received	3,966 votes
Laurie Scotton	received	2,117 votes

For City Council District 2 Orange City, the whole number of votes cast was 1,127 of which

Cristian Oyarbide	received	415 votes
Alisa "Lisa" Stafford	received	712 votes

For Mayor Ormond Beach, the whole number of votes cast was 25,013 of which

Jason Leslie	received	13,409 votes
Susan Persis	received	11,604 votes

For Mayor Pierson, the whole number of votes cast was 571 of which

Samuel G.S. Bennett	received	274 votes
D. Gray Leonhard	received	297 votes

For Town Council Seat 4 Pierson, the whole number of votes cast was 565 of which

Jimmy Anderson	received	310 votes
Sergia Cardenas	received	255 votes

**\*\*\* 1st Set of Unofficial Results \*\*\***  
**CERTIFICATE OF COUNTY CANVASSING BOARD**  
**VOLUSIA COUNTY**



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COUNTY COURT JUDGE



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CANVASSING BOARD MEMBER



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SUPERVISOR OF ELECTIONS



## Volusia County Supervisor of Elections Office

### 2024 General Election

(Website last updated at: 11/06/2024 12:20:28 pm)

Election Date: 11/5/2024

Registered Voters: 454,831  
Ballots Cast: 312,957  
Voter Turnout: 68.81%

Precincts Reporting: 143 / 143  
Election Day: Completely Reported  
Early Votes: Completely Reported  
Vote By Mail: Completely Reported

#### Unofficial Results

Summary Results

Favorite Races

#### ★ Mayor Ormond Beach (Vote For 1)

Participating Precincts Reporting: 11 / 11

Choice	Percent	Votes
Jason Leslie	53.60%	13,395
Susan Persis	46.40%	11,596
		<b>24,991</b>



# City of Ormond Beach AGENDA ITEM

November 19, 2024 - City Commission

**Number: 9.B**

<b>Section:</b>	RESOLUTIONS		
<b>Item Category:</b>	Resolution	<b>Res./Ord. No:</b>	2024-206
<b>Strategic Goal:</b>	Governance – Other		
<b>Department:</b>	Support Services		
<b>Subject:</b>	Commission Acting as CRA, and Electing a Chair & Vice Chair		
<b>Summary:</b>	The Mayor and Deputy Mayor have traditionally served as the Chair and Vice Chair of the Community Redevelopment Agency.		
<b>Financial Impact:</b>	None		
<b>Citizen Impact:</b>	The CRA assists with funding redevelopment and infrastructure improvements within specified areas within the City and is beneficial to residents.		
<b>Recommended Action (Staff, Advisory Board and/or Other):</b>	It is recommended that the City Commission approve the attached resolution appointing a Chair and Vice Chair to the City of Ormond Beach Community Redevelopment Agency.		
<b>Staff Contact:</b>	Susan Dauderis, City Clerk, (386) 676-3340		
<b>Attachments:</b>	1. 24-206 CRA appointments		
<b>Approval:</b>	Kelly McGuire, Finance Director		10/21/2024
	Claire Whitley/Shawn Finley, Assistant City Manager		10/22/2024
	Joyce Shanahan, City Manager		10/22/2024

**RESOLUTION NO. 2024-206**

A RESOLUTION OF THE CITY COMMISSION, ALSO ACTING AS THE COMMUNITY REDEVELOPMENT AGENCY, OF THE CITY OF ORMOND BEACH, FLORIDA, APPOINTING A CHAIR AND VICE CHAIR TO THE ORMOND BEACH COMMUNITY REDEVELOPMENT AGENCY; ESTABLISHING TERM AND CONDITIONS OF SERVICE; AND SETTING FORTH AN EFFECTIVE DATE.

**WHEREAS**, the City Commission approved Resolution No. 84-74 declaring the Central Business District (“District”), as described therein, to be a Community Redevelopment Area in accordance with Section 163.357, *Florida Statutes*, and

**WHEREAS**, Resolution 84-74 further declared the City Commission to be the Community Redevelopment Agency (“Agency”) for the District, and

**WHEREAS**, in accordance with Section 163.387, *Florida Statutes*, the City Commission approved Ordinance No. 84-34 establishing a Redevelopment Trust Fund (“Trust Fund”) for the Agency in accordance with the said statutory provisions, now therefore,

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF ORMOND BEACH, FLORIDA, ALSO ACTING AS THE COMMUNITY REDEVELOPMENT AGENCY, THAT:**

**SECTION ONE.** \_\_\_\_\_ is hereby appointed to serve as the Chair of the Ormond Beach Community Redevelopment Agency of the City of Ormond Beach, Florida.

**SECTION TWO.** \_\_\_\_\_ is hereby appointed to serve as Vice Chair of the Ormond Beach Community Redevelopment Agency of the City of Ormond Beach, Florida.

**SECTION THREE.** Said appointees shall serve in the said capacities without additional compensation to that which he/she shall receive as a duly-elected City Commissioner.

**SECTION FOUR.** This Resolution shall take effect immediately upon its adoption.

**APPROVED AND AUTHENTICATED this 19<sup>th</sup> day of November, 2024.**

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**JASON LESLIE**

Mayor, City of Ormond Beach and  
Chairman, Central Business District CRA

**ATTEST:**

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**SUSAN CARROLL DAUDERIS**

City Clerk