

MINUTES OF THE REGULAR CITY COMMISSION MEETING
HELD ON TUESDAY, JANUARY 8, 2013
CITY HALL COMMISSION CHAMBER, 210 SAMS AVENUE
NEW SMYRNA BEACH, FLORIDA

Having been duly advertised as required by law, the regular meeting of the City Commission of the City of New Smyrna Beach, Florida, was held on Tuesday, January 8, 2013, in the City Hall Commission Chamber, 210 Sams Avenue, New Smyrna Beach, Florida.

Mayor Barringer called the meeting to order at 6:30 p.m. and the following answered present to the roll call:

Mayor Adam Barringer
Vice Mayor Jack S. Grasty
Commissioner Judith A. Reiker
Commissioner Jason McGuirk
Commissioner Kirk Jones

Also present were: City Manager Pamela Brangaccio; Assistant City Manager Khalid Resheidat; City Attorney Frank Gummey; Interim Police Chief Mike Brouillette; Fire and Emergency Services Chief David McCallister; Planning Manager Gail Henrikson; CRA Director Tony Otte; Recreation and Special Events Manager Elizabeth Yancey; and, City Clerk Johnny Bledsoe.

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Police Department Chaplain Pete Carter, Jr. was present and gave the invocation. Mayor Barringer led those present in the Pledge of Allegiance to the Flag.

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APPROVAL OF THE AGENDA - City Manager Brangaccio reported the removal of Consent Agenda Item B, the proposed lease of property to house the Building and Code Enforcement Departments on Canal Street; and the addition of an item to recognize Police Chief Ron Pagano.

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ANNOUNCEMENTS/PRESENTATIONS/RECOGNITION:

Recognition of Former Police Chief Ron Pagano - Mayor Barringer read and presented to former Police Chief Ron Pagano, a certificate of appreciation in recognition of his retirement from City service, effective December 31, 2012. Chief Pagano accepted the certificate and commented on his service with the City.

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Mayor Barringer introduced State Representative David Santiago. Representative Santiago introduced his staff who were present and commented on the i

importance of New Smyrna Beach to Florida House of Representatives District 27 and how he looked forward to working with New Smyrna Beach in the years to come.

Mayor Barringer acknowledged former City Commissioner Randy Richenberg, present in the audience.

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Islesboro Area Drainage Study - Christopher Fagerstrom was present and represented the firm Environmental Consulting and Technology (ECT), gave a presentation and overview on stormwater management in the Islesboro community and highlighted the proposed Islesboro Area Drainage Project.

Assistant City Manager Resheidat commented on past flooding problems in the area and ongoing Master Planning activities. He felt the design would be important for near term funding, and outlined staff's recommendation that the Commission authorize staff to enter into the design phase of the project.

Motion:

Commissioner McGuirk moved to approve the priority list as presented and authorize staff to enter into the design phase of the Islesboro Area Drainage Project. Commissioner Jones seconded the motion and the roll call was:

Commissioner Reiker	yes
Vice Mayor Grasty	yes
Mayor Barringer	yes
Commissioner McGuirk	yes
Commissioner Jones	yes

The motion carried unanimously.

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MAYOR AND COMMISSION REPORTS:

Vice Mayor Grasty - Looked forward to a bright year for New Smyrna Beach. He read and presented a proclamation to Mayor Barringer in honor of his being named a "Cuda Achiever" by the NSB Caps organization.

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Commissioner Reiker - Reported on her recent attendance at a meeting of the Volusia League of Cities Executive Committee. She outlined upcoming training opportunities for elected officials and commented on an upcoming event hosted by the City; Volusia League of Cities Dinner on January 24, 2013 at the Atlantic Center for the Arts; and, Volusia Day activities scheduled for March 20, 2013.

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Commissioner McGuirk - Wished everyone a Happy New Year.

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Commissioner Jones - Thanked City employees for their efforts over the holiday season and looked forward to the New Year.

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Mayor Barringer - Thanked Vice Mayor Grasty for his recognition as a "Cuda Achiever". He reported on positive comments received regarding the New Year's Eve Fireworks Display. Mayor Barringer commented on possible future public meetings regarding the disposition of the AOB Site on the North Causeway. Vice Mayor Grasty commented on the current condition of the property and infrastructure in the area. City Manager Brangaccio reported the public meeting would be scheduled.

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CONSENT AGENDA:

Mayor Barringer read the following consent agenda items submitted and recommended by staff for approval:

- A. Approval of Meeting Minutes - Approve the minutes of the regular meetings held November 27 and December 11, 2012.
- C. Purchase of Vehicles/Building Department - Approve the purchase of two Ford Focus Hatchback Sedans from Hub City Ford of Crestview, Florida. The amount of the purchase is \$33,432.50 through a Florida State Contract and the Florida Sheriff's Contract.
- D. Fee Proposal/Sports Complex Bleacher Improvements - Approve the fee proposal as submitted by the firm, Parker Mynchenberg and Associates, Inc., for the investigation and preparation of plans and specifications for the repair/replacement of visitors bleachers at the Sports Complex football stadium. The budgeted cost, if approved, is \$29,930.
- E. License Agreement/1322 South Riverside Drive - Approve entering into a license agreement with the owner of property at 1322 South Riverside Drive, which would allow landscaping and coquina rocks within the public right-of-way of 6th Street.
- F. License Agreement/2401 South Atlantic Avenue - Approve entering into a license agreement with the owner of property at 2401 South Atlantic Avenue (Pelican Condominium), which would allow landscaping within the public right-of-way of Hill Street.
- G. Addition of Part Time Marketing and Public Information Manager Position - Approve the addition of a part-time employee position titled Marketing and Public Information Manager to serve 30 hours weekly at an annual salary of \$52,500. This is a reclassification of the current contractual position.

- H. Resolution No.04-13/Ban of Texting While Driving - Adopt a resolution, urging the 2013 Florida Legislature to ban the act of texting while driving.
- I. 2012/2013 Concurrency Management Report - Accept and approve the 2012/2013 Concurrency Management Report.
- J. CRA Small Scale Grant Requirements - Approve revisions to small scale grant requirements as recommended by the CRA at its meeting on December 11, 2012.
- K. Special Event/New Smyrna Beach Balloon and Sky Fest - Approve the conduct of the Annual New Smyrna Beach Balloon and Sky Fest on April 5, 6 and 7, 2013 hosted by the Balloon and Sky Fest Foundation, Inc., at the municipal airport. In-kind services and street closures are also requested for the 2013 event.

Mayor Barringer wished to discuss item C separately.

Motion:

Vice Mayor Grasty moved to approve all consent agenda items, less item C, per staff's recommendation. Commissioner McGuirk seconded the motion and the roll call was:

Vice Mayor Grasty	yes
Mayor Barringer	yes
Commissioner McGuirk	yes
Commissioner Jones	yes
Commissioner Reiker	yes

The motion carried unanimously.

Consent Agenda Item C - Purchase of Vehicles/Building Department - Consider approval of the purchase of two Ford Focus Hatchback Sedans from Hub City Ford of Crestview, Florida. The amount of the purchase is \$33,432.50 through a Florida State Contract and the Florida Sheriff's Contract.

Mayor Barringer felt a local vendor should be considered for the purchase. City Manager Brangaccio clarified the sealed bid process. Commissioner McGuirk supported keeping the purchasing process local and questioned staff's actions in utilizing an existing state contract.

City Manager Brangaccio clarified that state contracts were nearly always more cost effective, and advised the Commission that she would pull the item and utilize the bidding process.

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ORDINANCES - SECOND READINGS AND PUBLIC HEARINGS:

Ordinance No. 105-12/Nuisance Properties - City Attorney Gummey read Ord

inance No. 105-12 the second time by title only. Chief Building Official Mike Knotek outlined the proposed ordinance, which if adopted, would amend the *City Code* regarding Nuisance Properties.

Mayor Barringer opened the public. As no citizens wished to speak, Mayor Barringer closed the public hearing.

Motion:

Commissioner Reiker moved to adopt Ordinance No. 105-12, as submitted. Vice Mayor Grasty seconded the motion and the roll call was:

Mayor Barringer	yes
Commissioner McGuirk	yes
Commissioner Jones	yes
Commissioner Reiker	yes
Vice Mayor Grasty	yes

The motion carried unanimously.

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Ordinance No. 106-12/Historic Landmark Designation/317 Sheldon Street - City Attorney Gummey read Ordinance No. 106-12 the second time by title only. Planning Manager Gail Henrikson outlined the proposed ordinance, which if adopted, would establish property at 317 Sheldon Street as a Historic Landmark.

Mayor Barringer opened the public.

Fannie Hudson, 699 West Street, presenting Commissioner's Jones and McGuirk with a copy of her book regarding the history of the historic Westside community.

As no other citizens wished to speak, Mayor Barringer closed the public hearing.

Motion:

Commissioner Jones moved to adopt Ordinance No. 106-12, as submitted. Vice Mayor Grasty seconded the motion and the roll call was:

Commissioner McGuirk	yes
Commissioner Jones	yes
Commissioner Reiker	yes
Vice Mayor Grasty	yes
Mayor Barringer	yes

The motion carried unanimously.

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SE-7-12/Special Exception Application/1407 Canal Street/Calvary Chapel - As it

was a public hearing of a quasi-judicial nature, City Attorney Gummey administered the oath to Planning Manager Gail Henrikson. Ms. Henrikson outlined her professional and academic credentials. As no citizens questioned her qualifications, Ms. Henrikson outlined the application, which if approved, would allow the applicant to operate a church in the Highway Service Business District (B-3) zoning district, on approximately 0.61 acres at 1407 Canal Street.

Mayor Barringer opened the public. As no citizens wished to speak, Mayor Barringer closed the public hearing.

Motion:

Commissioner Reiker moved to approve Special Exception Application No. SE-7-12, as submitted. Vice Mayor Grasty seconded the motion and the roll call was:

Commissioner Jones	yes
Commissioner Reiker	yes
Vice Mayor Grasty	yes
Mayor Barringer	yes
Commissioner McGuirk	yes

The motion carried unanimously.

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PUBLIC PARTICIPATION -

Steven Wischmeier, commented on issues faced while dealing with the Chief Building Official regarding his property on Canal Street. Mr. Wischmeier requested assistance to not have his property characterized as nuisance properties and scheduled for demolition.

Mayor Barringer thanked Mr. Wischmeier and recommended he meet with the City Manager or Assistant City Manager regarding his circumstances. City Attorney Gummey clarified Mr. Wischmeier's issues were not matters for City Commission consideration. City Manager Brangaccio offered to meet with Mr. Wischmeier.

Robert Rees, 391 Granada Street, opposed the renting of private property for City offices and commented on City-owned property currently being rented for very little money.

City Manager Brangaccio clarified funds utilized for office rental would be Building Department funds and not taxpayer funds. She commented on the existing lease with the Southeast Volusia Chamber of Commerce.

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ORDINANCES FIRST READING:

Annexation Application A-8-12/1101 Sugar Mill Drive - City Attorney Gummey read Ordinance Nos. 01-13, 02-13 and 03-13, the first time by title only. Ordinances, which if adopted, would annex, establish land use and establish zoning

of approximately 3.8 acres located on the eastern side of the northern terminus of Sugar Mill Drive.

Motion:

Commissioner Reiker moved to approve on first reading, Ordinance Nos. 01-13, 02-13 and 03-13. Vice Mayor Grasty seconded the motion and the roll call was:

Commissioner Reiker	yes
Vice Mayor Grasty	yes
Mayor Barringer	yes
Commissioner McGuirk	yes
Commissioner Jones	yes

The motion carried unanimously. Mayor Barringer announced that the second reading and public hearing of the proposed ordinances would occur during the regular meeting on January 22, 2013.

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Ordinance No. 04-13/Annexation/Colony Park Road and Otter Boulevard Rights-of-Way - City Attorney Gummey read Ordinance No. 04-13, the first time by title only. An ordinance, which if adopted, would annex approximately 5 acres of right-of-way, located north of S.R. 44, south of Pioneer Trail and west of Jungle Road.

Motion:

Commissioner Jones moved to approve on first reading, Ordinance No. 04-13. Vice Mayor Grasty seconded the motion and the roll call was:

Vice Mayor Grasty	yes
Mayor Barringer	yes
Commissioner McGuirk	yes
Commissioner Jones	yes
Commissioner Reiker	yes

The motion carried unanimously. Mayor Barringer announced that the second reading and public hearing of the proposed ordinance would occur during the regular meeting on January 22, 2013.

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Ordinance No. 05-13/Budget Amendment - City Attorney Gummey read Ordinance No. 05-13, the first time by title only. An ordinance, which if adopted, would amend the current expenses and capital outlay required by the City for the fiscal year October 1, 2012 through September 30, 2013.

Motion:

Commissioner Reiker moved to approve on first reading, Ordinance No. 05-13. Commissioner Jones seconded the motion and the roll call was:

Mayor Barringer	yes
Commissioner McGuirk	yes

Commissioner Jones	yes
Commissioner Reiker	yes
Vice Mayor Grasty	yes

The motion carried unanimously. Mayor Barringer announced that the second reading and public hearing of the proposed ordinance would occur during the regular meeting on January 22, 2013.

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Ordinance No. 06-13/Rezoning/Ocean Gate Commerce Center - City Attorney Gummey read Ordinance No. 06-13, the first time by title only. An ordinance, which if adopted, would rezone approximately 184 acres, located southwest of the intersection of S.R. 44 and Interstate Highway 95, from Planned Unit Development (PUD) to Planned Unit Development (PUD) and approving the Master Development Agreement and Conceptual Development Plan.

Motion:

Vice Mayor Grasty moved to approve on first reading, Ordinance No. 06-13. Commissioner McGuirk seconded the motion and the roll call was:

Commissioner McGuirk	yes
Commissioner Jones	yes
Commissioner Reiker	yes
Vice Mayor Grasty	yes
Mayor Barringer	yes

The motion carried unanimously. Mayor Barringer announced that the second reading and public hearing of the proposed ordinance would occur during the regular meeting on January 22, 2013.

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Ordinance No. 07-13/Bath Salts and Herbal Incense - City Attorney Gummey read Ordinance No. 07-13, the first time by title only. An ordinance, which if adopted, would amend the *City Code* to define and prohibit the sale, display and distribution of herbal incenses and bath salts.

Motion:

Commissioner Jones moved to approve on first reading, Ordinance No. 07-13. Commissioner Reiker seconded the motion and the roll call was:

Commissioner Jones	yes
Commissioner Reiker	yes
Vice Mayor Grasty	yes
Mayor Barringer	yes
Commissioner McGuirk	yes

The motion carried unanimously. Mayor Barringer announced that the second reading and public hearing of the proposed ordinance would occur during the regular meeting on January 22, 2013.

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ADMINISTRATIVE ITEMS/NEW BUSINESS:

Resolution No. 01-13/Annexation Fees - City Attorney Gummey read Resolution No. 01-13, by title only. A resolution, which if adopted, would extend the suspension of the imposition of application fees for voluntary annexations and associated amendments to future land use map and rezoning, for applications made through December 31, 2013.

Motion:

Vice Mayor Grasty moved to adopt Resolution No. 01-13. Commissioner McGuirk seconded the motion and the roll call was:

Commissioner Reiker	yes
Vice Mayor Grasty	yes
Mayor Barringer	yes
Commissioner McGuirk	yes
Commissioner Jones	yes

The motion carried unanimously.

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Resolution No. 02-13/Transportation Impact Fees - City Attorney Gummey read Resolution No. 02-13, by title only. A resolution, which if adopted, would extend the suspension of the imposition of transportation impact fees for non-residential construction permitted before December 31, 2013 and constructed before December 31, 2014, and non-residential changes in use requiring payment of transportation impact fees.

Motion:

Commissioner McGuirk moved to adopt Resolution No. 02-13. Vice Mayor Grasty seconded the motion and the roll call was:

Vice Mayor Grasty	yes
Mayor Barringer	yes
Commissioner McGuirk	yes
Commissioner Jones	yes
Commissioner Reiker	yes

The motion carried unanimously.

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Resolution No. 03-13/Police and Fire Impact Fees - City Attorney Gummey read

Resolution No. 03-13, by title only. A resolution, which if adopted, would extend the suspension of Police and Fire Impact fees for non-residential construction permitted before December 31, 2013 and constructed before December 31, 2014.

Motion:

Commissioner Reiker moved to adopt Resolution No. 03-13. Vice Mayor Grasty seconded the motion and the roll call was:

Mayor Barringer	yes
Commissioner McGuirk	yes
Commissioner Jones	yes
Commissioner Reiker	yes
Vice Mayor Grasty	yes

The motion carried unanimously.

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Internet Cafes - Planning Manager Gail Henrikson outlined staff's recommendation that the City Commission discuss issues regarding internet cafes, and provide policy direction for 2013.

Vice Mayor Grasty commented on upcoming discussions of the topic at the legislative level. Commissioner McGuirk commented on a new committee formed in the legislature to review such activities, and felt the Commission should wait to see what recommendations came from the legislative committee, and in the interim, place a moratorium on internet cafes being added.

Commissioner Reiker commented on past discussions to place internet cafes in the Industrial zoning district. She did not want to define the City as a place for internet cafes.

City Attorney Gummey clarified that internet Cafes could be limited to certain zoning districts, and suggested the activity not be prohibited due to litigation probabilities. Mr. Gummey commented on options for consideration regarding the activity.

Commissioner Jones supported waiting to see what the legislative committee would recommend. Interim Police Chief Mike Brouillette reported of no problems being reported at existing internet café's within the City.

City Attorney Gummey outlined the purpose and processes of moratoriums. Commissioner McGuirk supported the extension of existing moratorium until the legislature has recommended guidelines or regulations regarding the activity.

Mayor Barringer clarified Commission responses to staff questions, which included:

- Prohibited in mixed use (MU) zoning districts

- Prohibited as a special exception
- A minimum distance will be required between businesses
- Staff directed to bring back for future consideration, legislation derived from legislative action from the state legislature level.

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BOARDS AND COMMISSIONS:

Code Enforcement Board - Mayor Barringer outlined staff's recommendation that the City Commissioner consider the appointment of a member to fill a vacancy with a term to expire March 3, 2015.

Nomination:

Commissioner Reiker nominated Rex Huffman for appointment as a member of the Code Enforcement Board, to a term expiring March 3, 2015. Vice Mayor Grasty seconded the nomination and the roll call was:

Commissioner McGuirk	yes
Commissioner Jones	yes
Commissioner Reiker	yes
Vice Mayor Grasty	yes
Mayor Barringer	yes

The motion carried unanimously. Mr. Huffman was appointed.

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Historic Preservation Commission - Mayor Barringer outlined staff's recommendation that the City Commissioner consider the appointment of John Coffin as a member to a term expiring May 14, 2015, as nominated by the Southeast Volusia Historical Society.

Nomination:

Vice Mayor Grasty nominated John Coffin for appointment as a member to a term expiring May 14, 2015, as nominated by the Southeast Volusia Historical Society. Commissioner McGuirk seconded the nomination and the roll call was:

Commissioner Jones	yes
Commissioner Reiker	yes
Vice Mayor Grasty	yes
Mayor Barringer	yes
Commissioner McGuirk	yes

The motion carried unanimously. Mr. Coffin was appointed.

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CITY MANAGER'S REPORT - The City Commission acknowledged receipt of

the City Manager's Report.

Assistant City Manager Resheidat outlined staff's recommendation that the City Commission consider approval of the purchase of two Ford Focus Hatchback Sedans from Hub City Ford of Crestview, Florida. The amount of the purchase was \$33,432.50 through a Florida State Contract and the Florida Sheriff's Contract. Mr. Resheidat highlighted and clarified the cost difference between local vendors and the requested bid was \$3,306, and requested the Commission reconsider its past direction.

Motion:

Commissioner Jones moved to approve the purchase of two Ford Focus Hatchback Sedans from Hub City Ford of Crestview, Florida. The amount of the purchase was \$33,432.50 through a Florida State Contract and the Florida Sheriff's Contract. Commissioner McGuirk seconded the nomination and the roll call was:

Commissioner Reiker	yes
Vice Mayor Grasty	yes
Mayor Barringer	yes
Commissioner McGuirk	yes
Commissioner Jones	yes

The motion carried unanimously.

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CITY CLERK'S REPORT - No. report.

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CITY ATTORNEY'S REPORT - City Attorney Gummey outlined his recommendation that the City Commission approve the settlement agreement between HJH, LLC and the City of New Smyrna Beach, as negotiated by the City and the Florida Municipal Insurance Trust.

Motion:

Vice Mayor Grasty moved to approve the settlement agreement between HJH, LLC and the City of New Smyrna Beach, as negotiated by the City and the Florida Municipal Insurance Trust. Commissioner McGuirk seconded the nomination and the roll call was:

Vice Mayor Grasty	yes
Mayor Barringer	yes
Commissioner McGuirk	yes
Commissioner Jones	yes
Commissioner Reiker	yes

The motion carried unanimously.

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With no further business to address, Mayor Barringer declared the meeting adjourned at 8:18 p.m.

MINUTES OF THE CITY COMMISSION REGULAR MEETING, HELD JANUARY 8, 2013, WERE APPROVED AT THE REGULAR CITY COMMISSION MEETING HELD ON FEBRUARY 12, 2013.

ATTEST:

ADAM BARRINGER, MAYOR

JOHNNY R. BLEDSOE, CITY CLERK