

MINUTES OF THE REGULAR CITY COMMISSION MEETING
HELD ON TUESDAY, FEBRUARY 12, 2013
THE BRANNON CENTER, 105 SOUTH RIVERSIDE DRIVE
NEW SMYRNA BEACH, FLORIDA 32168

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, February 12, 2013, in the Brannon Center, 105 South Riverside Drive, New Smyrna Beach, Florida 32168.

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

Mayor Adam R. Barringer
Vice Mayor Jack S. Grasty
Commissioner Judith A. Reiker
Commissioner Andrew J. McGuirk
Commissioner Kirk E. Jones

Also present were: 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. City Manager Pamela Brangaccio was absent.

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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 - No changes were made to the published agenda.

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ANNOUNCEMENTS/PRESENTATIONS/RECOGNITION - None

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MAYOR AND COMMISSION REPORTS:

Vice Mayor Grasty - Thanked Commissioners McGuirk and Jones for their recent attendance at the Black Heritage Festival.

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Commissioner Reiker - Thanked Assistant City Manager Resheidat and staff for their efforts in support of the recent Flagler Avenue paving project. Commissioner Reiker commented on a recent paper published by the Southeast

Volusia Chamber of Commerce, which recognized New Smyrna Beach High School for earning an "A" from the State Board of Education.

Commissioner Reiker commented on the recent activities of the Atlantic Center for the Arts - Images, a Festival of the Arts. She commented on the many activities and events upcoming and requested a future presentation by the ACA be scheduled to outline its many accomplishments and planned events.

Mayor Barringer confirmed Commission consensus to request a presentation from the Atlantic Center for the Arts to highlight planned future events and activities.

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Commissioner McGuirk - Reported on his recent attendance at the Black Heritage Festival.

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Commissioner Jones - Reported on his recent attendance at the Black Heritage Festival. He congratulated New Smyrna Beach High School for its academic accomplishments and recognition by the State.

Commissioner Jones reported on his recent attendance at a conference regarding labor relations.

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Mayor Barringer - No report.

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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 January 8 and January 22, 2013; and goals workshop held December 3, 2012.
- B. Ratification of Labor Contract/ Teamsters - Ratify the negotiated labor contract as negotiated with the Teamsters International, effective October 1, 2012.
- C. Purchase of Property/122 1/2 Railroad Street - Consider approval of the purchase of property at 122 1/2 Railroad Street at a cost of \$15,000 for the purpose of being a part of the CRA Interlocal agreement with the Housing Authority of New Smyrna Beach.
- D. CRA Rental Assistance Program/132 Canal Street - "The Hub" - Approve the Application for funding under the Non-Profit Cultural Arts Business Consortia component of the Rental Assistance Program, in the amount of \$50,000 for "The Hub" at 132 Canal Street.

- E. Washington Street Streetscape Power Pole Relocation - Approve the payment of \$6,322.19 to the Utilities Commission for the relocation of a power pole as part of the Washington Street Streetscape Project.
- F. Acceptance of Easement from Robert Wiley/Rush Street and Canal Street - Accept an easement from Robert Wiley to connect the CRA public parking lot on Julia Street to the parking lot behind the “Pennysaver” Building on Canal Street.
- G. CRA Opportunity Site Grant Extension Request/Canal Street Center - Approve the granting of an extension to the owner of the Canal Street Center (former Badcock Building) for project completion from February 28, 2013 to May 31, 2013.
- H. Resolution No. 06-13/LAP Agreement for the Pedestrian Trail - Adopt a resolution authorizing the Mayor to make, execute and deliver to the State of Florida Department of Transportation, a Local Agency Program Agreement for the construction of a pedestrian trail.
- I. Change Order No. 6/Esther Street Park Improvements - Approve Change Order No. 6 to the contract with A.G. Pifer Construction Co., Inc., for the Esther Street Park Improvements Project in the amount of \$62,938.17. Also approve a forty (40) day extension to the existing contract completion date.
- J. Cuts for Cudas III - Approve the conduct of the Cuts for Cudas III event on Sunday, March 10, 2013, from 8 a.m. to 5 p.m. The event is a fundraiser to benefit the group “Cudas Unhooked”, also approve the associated street closure of Canal Street from U.S. Highway 1 to Palmetto Street, throughout the duration of the event.

Commissioner Reiker commented on item D and disclosed she had donated to the organization, “The Hub”.

Motion:

Vice Mayor Grasty moved to approve all consent agenda items, per staff’s recommendation. Commissioner Reiker 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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ORDINANCES - SECOND READINGS AND PUBLIC HEARINGS:

Application to Amend Development Agreement/Proposed "Causeway Landings" Project on North Causeway - Mayor Barringer outlined quasi-judicial procedures and commented on the importance of maintaining decorum. Vice Mayor Grasty disclosed he had received numerous emails regarding the matter;

Commissioner Reiker disclosed she had received numerous emails and two letters regarding the matter. She reported participating in two meetings and four informal conversations with citizens, a teacher, a property manager, a realtor and a grandfather, whom all opposed the proposed amendment.

Commissioner Jones disclosed he had received numerous emails and letters, of which, were provided the City Clerk. Commission McGuirk also disclosed he had received numerous emails and letters, of which, were provided the City Clerk. He also disclosed two telephone conversations, with Cindy Jones and Marilyn Lindley.

Mayor Barringer disclosed he had met with representatives of the group, "New Smyrna Beach Citizens for Smart Growth". He disclosed also he had received numerous emails and letters, of which, and he had met with the developer and property owner.

City Attorney Gummey advised that the City Commission would conduct the first of two required public hearings, and administered the oath to Planning Manager Gail Henrikson. Ms. Henrikson outlined her professional and educational credentials. As no citizens questioned her qualifications, Ms. Henrikson was declared an expert witness and outlined the application to amend the development agreement for approximately 14 acres located on the north side of the North Causeway, east of Riverside Drive.

Ms. Henrikson reported staff had recommended denial of the proposed application, and outlined many recommendations, which included:

- Develop a Resident Evacuation Plan
- Develop language with specific architectural requirements
- Incorporate back into the plan, a mix of building heights
- Install a 4-foot wall along the boundary with Quay Assisi
- Add back into the plan, all existing public access areas
- Revise the proposed building type to CL-1
- Revise the site plan to reflect all required parking
- Work with VOTRAN to incorporate an on-site flex bus stop

Mayor Barringer opened the public hearing.

Attorney Rebecca Wilson, represented the owner, was administered the oath and clarified the property was currently in compliance with the City *Comprehensive Plan* and underlying zoning. Ms. Wilson clarified that the applicant agreed to all recommended changes to the application as suggested by staff, with the exception of suggestion no. 10 regarding parking. She outlined three different types of parking that revealed the designed parking was adequate, and additional parking was not necessary or financially feasible. Ms. Wilson urged the City Commission to approve the application, with all suggested changes by staff, except no. 10 regarding parking.

Charles Moore, 802 North Peninsula Drive, was administered the oath and opposed the proposed application. Mr. Moore felt the public should be granted an increased level of participation in the public hearing process in order to share their respective points of view.

Ken Dougherty, 2700 North Peninsula Drive, was administered the oath and opposed the proposed application. Mr. Dougherty questioned the site plan and reason for submission of the application and felt development rights would be limited.

Carl Sutter, 505 Cedar Edge Drive, commented on the need for affordable housing and outlined existing rental facilities, and vacancy rates.

Sally Gillespie, 610 North Peninsula Drive, represented the group "New Smyrna Beach Citizens for Smart Growth, LLC", opposed the proposed application and felt the proposed development would not fulfill article One of the City *Comprehensive Plan*. She further felt that citizens would be affected economically, if the project went forward.

Mayor Barringer reminded those present of the importance of maintaining decorum.

Michael Kolodney, 105 Via Capri, represented the group "New Smyrna Beach Citizens for Smart Growth, LLC", requested to be considered an expert witness and outlined his professional credentials. City Attorney Gummey felt Mr. Kolodney could give opinion testimony. Ms. Wilson objected to naming Mr. Kolodney an expert witness and cited his lack of being a registered and/or licensed attorney in the State of Florida.

Mr. Kolodney opposed the proposed application and felt the project was an example of over-development that would disrupt the community and surrounding roadways. Mr. Kolodney also felt proposed architectural standards were inconsistent.

Celeste Lester, 410 Quay Assisi, opposed the proposed amendment and also disagreed with recommendations from City staff. She commented on proposed density of the project and felt the project would threaten future events of the City.

James Reardon, 325 North Causeway, opposed the proposed amendment and

suggested downgrades in the design of the proposed development. He commented on marina use and felt public access was in short supply. Mr. Reardon supported free and open access to waterways.

Martin Danaher, 115 Lagoon Court, opposed the proposed application, and commented on the City Commission's responsibility regarding the City budget and its management. Mr. Danaher hoped a financial analysis was obtained in order to avoid a future catastrophe. He urged denial.

Buddy Davenport, 106 Grandview Drive, thanked the group, 'New Smyrna Beach Citizens for Smart Growth. Mr. Davenport submitted photographs of citizens on Wayne Avenue, and felt they illustrated how crime had risen in the area.

Mayor Barringer closed the public hearing.

Attorney Wilson clarified that no expert testimony was taken.

Motion:

Commissioner McGuirk moved to approve the application to amend the development agreement for approximately 14 acres located on the north side of the North Causeway, east of Riverside Drive, as submitted. Vice Mayor Grasty seconded the motion and the roll call was:

Vice Mayor Grasty	no
Mayor Barringer	no
Commissioner McGuirk	no
Commissioner Jones	no
Commissioner Reiker	no

The motion failed unanimously by a vote of 0 to 5.

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PUBLIC PARTICIPATION -

Martin Danaher, 115 Lagoon Court, represented the group "New Smyrna Beach Citizens for Smart Growth, LLC", complimented the City Commission on its efforts regarding the North Causeway.

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ORDINANCES FIRST READING:

Ordinance No. 08-13/Budget Amendment - City Attorney Gummey read, Ordinance No. 08-13, 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:

Vice Mayor Grasty moved to approve on first reading, Ordinance No. 08-13. 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 the second reading and public hearing of the proposed ordinance would be conducted at the regular meeting on February 26, 2013.

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Ordinance No. 09-13/Density Calculations and Rights-of-Way - City Attorney Gummey read, Ordinance No. 09-13, the first time by title only. An ordinance, which if adopted, would amend the *Land Development Regulations* to clarify that lands sold or dedicated to a governmental entity or condemned by a governmental entity for the purpose or right-of-way widening and improvements shall be allowed to be used for calculating density on the privately owned adjacent property.

Motion:

Commissioner McGuirk moved to approve on first reading, Ordinance No. 09-13. 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. Mayor Barringer announced the second reading and public hearing of the proposed ordinance would be conducted at the regular meeting on February 26, 2013.

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ADMINISTRATIVE ITEMS/NEW BUSINESS:

Bid Award/Central Fire Station - Assistant City Manager Resheidat outlined staff's recommendation that the City Commission consider approval of the award of bid for the construction of the central fire station on City property located south of S.R. 44, to APM Construction of Daytona Beach for the bid amount of \$2,857,015, as funded through the general obligation bond as approved by the citizens of New Smyrna Beach in 2005. Mr. Resheidat outlined staff's recommendation to add \$70,000 to the total in order to fund any unforeseen additional expenditures. He advised the appropriation would be treated as a budget transfer, if approved.

Mayor Barringer questioned whether the additional funds were necessary. Vice Mayor Grasty commented on past design changes that required additional funding.

Motion:

Commissioner Reiker moved to approve the award of bid for the construction of the central fire station on City property located south of S.R. 44, to APM Construction of Daytona Beach for the bid amount of \$2,857,015, as funded through the general obligation bond as approved by the citizens of New Smyrna Beach in 2005, and the additional \$70,000 for unforeseen expenses to be added as a budget transfer. 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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BOARDS AND COMMISSIONS - None.

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CITY MANAGER'S REPORT - The City Commission acknowledged receipt of the City Manager's Report.

Assistant City Manager Resheidat advised the City Commission that staff had decided to not apply for a Volusia County E.C.H.O. grant for utilization of improvements to the Brannon Center. Commissioner Jones questioned the recent approval to fund a consultant. Planning Manager Gail Henrikson commented on options available regarding the funding.

Commissioner Reiker commented on the upcoming Economic Development Summit scheduled for March 2, 2013, and the status of the "Team Volusia" Economic Development organization.

Commissioner Reiker also commented on the theme color of signage at the sports complex, and questioned the branding. Mayor Barringer felt the selected colors of black and red were symbolic of New Smyrna Beach High School and was an important element in the relationship between the City and the school.

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CITY CLERK'S REPORT - No. report.

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CITY ATTORNEY'S REPORT - City Attorney Gummey reported on past litigation regarding property owned by Ms. Alexander and a recent request to dismiss the litigation. He outlined the City's stance after the dismissal and requested approval for dismissal of the litigation.

Motion:

Vice Mayor Grasty moved to approve the dismissal of the Alexander litigation, for no costs other than legal fees incurred by the City. Commissioner Reiker 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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With no further business to address, Mayor Barringer declared the meeting adjourned at 7:58 p.m.