

MINUTES OF THE REGULAR CITY COMMISSION MEETING
HELD ON TUESDAY, FEBRUARY 26, 2013
CITY HALL, 210 SAMS AVENUE
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 26, 2013, in the City Hall Commission Chamber, 210 Sams Avenue, 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: City Manager Pamela Brangaccio; Assistant City Manager Khalid Resheidat; City Attorney Frank Gummey; Interim Police Chief Mike Brouillette; Finance Director Althea Philord; Planning Manager Gail Henrikson; CRA Director Tony Otte; Chief Building Official Mike Knotek; and, City Clerk Johnny Bledsoe.

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INVOCATION/PLEDGE OF ALLEGIANCE - Police Department Chaplain Charles Acheson 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 no changes to the published agenda.

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ANNOUNCEMENTS/PRESENTATIONS/RECOGNITION:

Proclamation/2013 Archaeological Month - Mayor Barringer read and presented a proclamation naming March 2013 as Archaeological Month in the City of New Smyrna Beach. Dorothy "Dot" Moore accepted the proclamation on behalf of the Southeast Volusia Historic Society and invited all citizens to participate in the many planned historic activities planned during the month.

Ms. Moore was accompanied by Leigh Finner, Executive Director of the Southeast Volusia Historic Society, and Dr. Roger Grange, a volunteer archaeologist at New Smyrna Beach Museum.

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Award of the Citizens Service Medal - Interim Police Chief Mike Brouillette read the citation and presented the New Smyrna Beach Police Department Citizens

Service Medal to United Parcel Service employee William "Billy" Powell, for bravery, courage and heroism in the assistance provided to a violent crime victim.

Police Master Sergeant Eugene Griffith was presented and outlined details of the incident. Mr. Powell was accompanied by his family in accepting the award.

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MAYOR AND COMMISSION REPORTS:

Vice Mayor Grasty - No Report.

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Commissioner Reiker - Commented on the positive development potential discussed during the special meeting held prior to the regular meeting, regarding development potential of City property on the North Causeway.

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Commissioner McGuirk - Reported on his attendance at the regular meeting of the Volusia County Transportation Planning Organization, held earlier in the day. He advised the Commission it needed to appoint a representative to serve as a member of the Bicycle/Pedestrian Advisory Committee.

Commissioner McGuirk was appreciative of the previous City Commission and staff for its efforts in demolishing dilapidated structures.

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Commissioner Jones - Reported on his recent attendance at the New Smyrna Beach Art Fiesta.

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Mayor Barringer - Felt the City had great employees and commented on the rapid responses of those willing to sacrifice their personal leave in order to donate it to a fellow employ.

Mayor Barringer reported on his attendance at a recent meeting of the Volusia Council of Governments Board of Directors, and discussions regarding increases in the use of synthetic drugs.

Mayor Barringer reported on his recent attendance at a seminar, sponsored by the Florida League of Mayors, regarding economic development, and his desire to create a sense of place, where people would want to visit.

Mayor Barringer felt there was a need for additional signage to identify public parking available in the vicinity of the New Smyrna Beach Athletic Club. He commented on a recent incident where a citizen's vehicle was towed from private parking.

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CONSENT AGENDA:

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

- A. Cancellation of Lease/F.E.C. Property South of Canal Street - Approve the cancellation of lease for F.E.C. property located south of Canal Street, west of U.S. Highway 1 in order to allow the Florida Department of Transportation (FDOT) to expand the existing right-of-way.
- B. Utilities Easement to the Utilities Commission - Approve the granting of a ten-foot wide utilities easement to the Utilities Commission in order to facilitate power to the storm water pumps associated with the Esther Street Beachfront Park and Stormwater Improvements Project.
- C. Western States Contracting Alliance/AT&T Wireless Contract - Approve the “piggy back” off of the current Volusia County Western States Contracting Alliance (WSCA) Wireless Communication Services Addendum, in order to allow the City to open an account with AT&T Wireless.
- D. Office Supplies Contract/Capital Office Products - Approve the “piggy back” off of the current Volusia County contract with Capital Office Products for office supplies for the remainder of the current fiscal year and to begin exclusive use of Capital Office Products for the fiscal year beginning October 1, 2013.

Mayor Barringer removed consent agenda item A for separate consideration.

Motion:

Commissioner McGuirk moved to approve consent agenda items B, C and D, per staff’s recommendation. 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.

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Consent Agenda Item A - Cancellation of Lease/F.E.C. Property South of Canal Street - City Manager Brangaccio outlined staff’s recommendation that the City Commission consider approval of the cancellation of lease for F.E.C. property located south of Canal Street, west of U.S. Highway 1 in order to allow the Florida Department of Transportation (FDOT) to expand the existing right-of-way.

Commissioner McGuirk commented on citizen concerns regarding maintenance and irrigation responsibilities for the property. Commissioner Reiker commented on there being a shared cost opportunity. Mayor Barringer questioned whether consideration on the item should be deferred to a future meeting.

Canal Street Business Owner, Flare Elliott commented on and displayed renderings of proposed landscaping in the area, and urged the use of the lease with the Florida East Coast Railroad. Commissioner Reiker supported allowing business owners to contribute to the project.

Mayor Barringer confirmed that it was the consensus of the Commission to defer consideration of the recommendation to the regular meeting on March 26, 2013. City Manager Brangaccio clarified that staff would contact representatives of the F.E.C. regarding the relocation of the area.

Motion:

Commissioner Reiker moved to defer consideration of staff's recommendation that the City Commission consider approval of the cancellation of lease for F.E.C. property located south of Canal Street, west of U.S. Highway 1 in order to allow the Florida Department of Transportation (FDOT) to expand the existing right-of-way, to the regular meeting on March 26, 2013. 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.

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ORDINANCES - SECOND READINGS AND PUBLIC HEARINGS:

Ordinance No. 08-13/Budget Amendment - City Attorney Gummey read Ordinance No. 08-13, the second time by title only. Finance Director Althea Philord outlined the proposed 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.

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

Motion:

Vice Mayor Grasty moved to adopt Ordinance No. 08-13, as submitted. Commissioner McGuirk 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. 09-13/Density Calculations and Rights-of-Way - City Attorney Gummey read Ordinance No. 09-13, the second time by title only. Planning Manager Gail Henrikson outlined the proposed 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.

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

Motion:

Commissioner Jones moved to adopt Ordinance No. 09-13, as submitted. Commissioner Reiker 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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PUBLIC PARTICIPATION - No citizens wished to speak.

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ORDINANCES FIRST READING:

Ordinance No. 10-13/Code Enforcement Board - City Attorney Gummey read Ordinance No. 10-13, the first time by title only. An ordinance, which if adopted, would amend the *City Code* by establishing a new Article XVI, Code Enforcement Board; establish membership and qualifications of a new Code Enforcement Board; provide for the appointment and qualifications of Special Magistrates; and provide for powers of the board and special magistrates.

Motion:

Commissioner Reiker moved to approve on first reading, Ordinance No. 10-13. Commissioner Jones 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 the second reading and public hearing of the proposed ordinance would be conducted at the regular meeting on March 12, 2013.

Commissioner Reiker commented on existing Code Enforcement Board criteria for the appointment of members.

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Ordinance Nos. 11, 12 and 13-13/Annexation Application A-1-13/1609 Canal Street - City Attorney Gummey read Ordinance Nos. 11, 12 and 13-13, the first time by title only. Ordinances, which if adopted, would annex, establish City Commercial land use designation and establish City Highway Service Business, Corridor Overlay Zone (B-3 (C) zoning district, on approximately 0.3 acres located north of the western terminus of Canal Street at 1609 Canal Street.

Motion:

Vice Mayor Grasty moved to approve on first reading, Ordinance Nos. 11, 12 and 13-13. 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. Mayor Barringer announced the second reading and public hearing of the proposed ordinances would be conducted at the regular meeting on March 12, 2013.

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Ordinance No. 14-13/Utilities Commission Refunding Revenue Certificates - City Attorney Gummey read Ordinance No. 14-13, the first time by title only. An ordinance, which if adopted, would approve the issuance of Utilities Commission Refunding Revenue Certificates in an aggregate amount not to exceed \$10 million, for the purpose of refinancing the outstanding Utilities System Revenue Certificates, Series 2007. Also consider approval of the Utilities Commission utilizing the City's maximum eligibility for calendar year 2013 for \$10 million in bank qualified loans.

Motion:

Commissioner Jones moved to approve on first reading, Ordinance No.14-13. 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 the second reading and public hearing of the proposed ordinance would be conducted at the regular meeting on March 12, 2013.

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Ordinance No. 15-13/Amendment to Ordinance No. 01-13 - City Attorney Gummey read Ordinance No. 15-13, the first time by title only. An ordinance, which if adopted, would amend Ordinance No. 01-13, as adopted January 22, 2013, changing the City Commission Zone from Zone 3 to Zone 4, of which an annexed property was located.

Motion:

Commissioner Jones moved to approve on first reading, Ordinance No.15-13. Commissioner McGuirk 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 March 12, 2013.

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Ordinance Nos. 16, 17 and 18-13/Annexation Application A-1-13/1609 Canal Street - City Attorney Gummey read Ordinance Nos. 16, 17 and 18-13, the first time by title only. Ordinances, which if adopted, would annex, establish City Low Density Residential and Conservation land use designations, and establish City Single Family Residential (R-2) and Conservation (C) zoning on approximately 0.8 acres located south of Pioneer Trail, between the intersection of Pioneer Trail, Bay Drive and Turnbull Creek.

Motion:

Commissioner McGuirk moved to approve on first reading, Ordinance Nos. 16, 17 and 18-13. Commissioner Reiker 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 ordinances would be conducted at the regular meeting on March 12, 2013.

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Ordinance Nos. 19, 20 and 21-13/Annexation Application A-10-12/2140 Pioneer Trail - City Attorney Gummey read Ordinance Nos. 19, 20 and 21-13, the first time by title only. Ordinances, which if adopted, would annex, establish City Low Density Residential land use designation and establish City Single Family Residential (R-2) zoning on approximately 0.9 acres located south of Pioneer Trail, west of the intersection of Pioneer Trail and Bay Drive.

Motion:

Commissioner Jones moved to approve on first reading, Ordinance Nos. 19, 20 and 21-13. 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. Mayor Barringer announced the second reading and public hearing of the proposed ordinances would be conducted at the regular meeting on March 12, 2013.

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Ordinance Nos. 22, 23 and 24-13/Annexation Application A-11-12/2110 Pioneer Trail - City Attorney Gummey read Ordinance Nos. 22, 23 and 24-13, the first time by title only. Ordinances, which if adopted, would annex, establish City Low Density Residential and Conservation land use designation and establish City Single Family Residential (R-2) and Conservation (C) zoning on approximately 1.8 acres located south of Pioneer Trail, immediately west of the bridge over Turnbull Creek.

Motion:

Commissioner Reiker moved to approve on first reading, Ordinance Nos. 22, 23 and 24-13. 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 the second reading and public hearing of the proposed ordinances would be conducted at the regular meeting on March 12, 2013.

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ADMINISTRATIVE ITEMS/NEW BUSINESS:

Award of Bid/Swoope Site Boat Ramp, Parking and Restroom Facilities Project - Assistant City Manager Resheidat outlined staff's recommendation that the City Commission consider approval of the award of bid for the Swoope Site Boat Ramp, Parking and Restroom Facilities Project to Saboungi Construction, Inc. of Ormond Beach, for the budgeted amount of \$1,286,164.83.

Motion:

Commissioner McGuirk moved to approve the award of bid for the Swoope Site Boat Ramp, Parking and Restroom Facilities Project to Saboungi Construction, Inc. of Ormond Beach, for the budgeted amount of \$1,286,164.83. 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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Lease of Property/323 and 325 Canal Street - Chief Building Official Mike Knotek outlined staff's recommendation that the City Commission consider approval of entering into a lease for property at 323 and 325 Canal Street in order to house the Building and Code Enforcement Departments, and funded through the Building Department account.

Mayor Barringer commented on ongoing redevelopment projects on Canal Street, such as the former Badcock Building, and felt staff should consider alternatives. Commissioner McGuirk commented on the existing City property at 2650 North Dixie Freeway, as an alternative. Vice Mayor Grasty supported a lease for property at 310 Julia Street.

Commissioner McGuirk supported entering into a long-term lease agreement and felt the projected costs of improvements at the property at 323/325 Canal Street, was excessive. Commissioner Reiker suggested staff analyze alternatives.

Mayor Barringer confirmed Commission consensus was to direct staff to review

alternative properties and lease options, and return to the Commission, at a future meeting, with a recommendation.

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2013 ECHO Grant Applications - Planning Manager Gail Henrikson outlined staff's recommendation that the City not pursue a Volusia E.C.H.O. Grant with the current cycle, specifically regarding previously discussed proposed improvements to the Brannon Center.

The City Commission and staff discussed policy, acknowledged staff's decision to not make application regarding Brannon Center improvement, and gave staff direction regarding 2013 ECHO Grant Applications, which included the potential acquisition of property on South Atlantic Avenue.

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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.

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CITY CLERK'S REPORT - City Clerk Bledsoe reported the recent passing of former Mayor William Hathaway.

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CITY ATTORNEY'S REPORT - City Attorney Gummey reported that representatives of the applicant for the "Causeway Landings" project had filed a complaint in United District Court, claiming the City violated both the Florida and Federal Fair Housing Acts. He reported that the Florida Municipal Insurance Trust, as contracted by the Florida League of Cities, had assumed legal representation of the City in the matter.

City Attorney Gummey reported that the recent judgment in federal court, regarding the Melissa Smith case, went against the City, and damages awarded Ms. Smith had totaled approximately \$444,000. Mr. Gummey reported an appeal would be filed.

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With no further business to address, Mayor Barringer declared the meeting adjourned at 8:10 p.m.

MINUTES OF THE CITY COMMISSION REGULAR MEETING, HELD FEBRUARY 26, 2013, WERE APPROVED AT THE REGULAR CITY COMMISSION MEETING HELD ON APRIL 23, 2013.

ATTEST:

ADAM BARRINGER, MAYOR

JOHNNY R. BLEDSOE, CITY CLERK