

MINUTES OF THE REGULAR CITY COMMISSION MEETING
HELD ON TUESDAY, MARCH 12, 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, March 12, 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; Airport Manager Rhonda Walker; and, City Clerk Johnny Bledsoe.

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INVOCATION/PLEDGE OF ALLEGIANCE – Police Department Chaplain Beverly Richardson 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 following changes to the published agenda:

1. **Announcements/Presentations/Recognition** – Item C was added to give a presentation regarding the status of the Air Traffic Control Tower funding by the Federal Aviation Administration.
2. **Consent Agenda Item D – Annual Pistol Range and Training Facility Agreements** – added the proposed agreements with the City of Port Orange.
3. **Consent Agenda Item F – Change Order No. 1 for the Flagler Avenue Repair and Resurfacing Project** – added a memorandum from the Assistant City Manager, dated March 5, 2013 .

4. Consent Agenda – Item H was added regarding the proposed demolition of property at 501 Brooks Street.
5. Boards and Commissions Item A – Code Enforcement Board – added correspondence from Member James Fairley wishing he not be considered for reappointment.

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ANNOUNCEMENTS/PRESENTATIONS/RECOGNITION:

Proclamation/Florida Viva 500 – Mayor Barringer read a proclamation celebrating the 500-year anniversary of the discovery of Florida, as recommended by the Historic Preservation Commission at its meeting held January 9, 2013. Present to accept the proclamation, on behalf of the Historic Preservation Commission were members John Coffin, Nora Jane Gillespie and Jean Mayo.

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2013 Donnadine Miller Memorial Historic Preservation Awards – Mayor Barringer presented the 2013 Donnadine Miller Memorial Historic Preservation Awards to Residential Winner Randy Williams, owner of property at 508 Ball Street; and, Nonresidential Winner Vice Mayor Grasty, representing the City and Samantha Bishop representing the Southeast Volusia Chamber of Commerce for the Chamber of Commerce building at 115 Canal Street.

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Presentation – Air Traffic Control Tower Status – Municipal Airport – Municipal Airport Manager Rhonda Walker gave a brief presentation regarding the status of announced Federal Aviation Administration (FAA) plans to cease air traffic control tower operations at the municipal airport. Ms. Walker outlined a draft letter, to send to the FAA requesting reconsideration of ceasing tower operations and removal of the municipal airport from the FAA tower closure listing.

Motion:

Commissioner Reiker moved to authorize Mayor Barringer to sign and submit a letter to the FAA, urging reconsideration of plans to cease tower operations at the municipal airport. 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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MAYOR AND COMMISSION REPORTS:

Vice Mayor Grasty – Reported on his attendance at local events, which included the grand opening of a hospice business at 509 Canal Street; beach cleanup activities by local veterans groups; and, an event sponsored by the Kiwanis Club.

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Commissioner Reiker – Reported on her recent attendance at the meeting of the Volusia League of Cities Executive Committee. She outlined topics covered that included upcoming Volusia Day activities on March 20, 2013, at the legislature in Tallahassee. She also commented on the upcoming Volusia League of Cities Dinner Meeting, sponsored by the City of Oak Hill on March 28, 2013.

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Commissioner McGuirk – Reported on his attendance at the recent Economic Development Summit.

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Commissioner Jones – Reported on his attendance at a number of local events, which included the ribbon cutting ceremony for the new Volusia County Emergency Operations Center; the Economic Development Summit; and, Canal Street Car Show. Commissioner Jones also commented on positive remarks received regarding many sporting events hosted by the City Sports Complex.

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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 Minutes – Approve the minutes of the regular meeting on February 12, 2013.
- B. Design Changes – 317 Flagler Avenue/Trader's – Approve requested design changes submitted by the owner of property at 317 Flagler Avenue/Trader's in order for the property to continue its compliance with significant façade grant award criteria, approved in December 2012.
- C. Improvements to City-Owned Historic Landmarks and Monuments – Approve proposed budget considerations for repairs to the coquina bridge in Myrtle Avenue Park; and, restoration of the Charles Dummett grave site.

- D. Annual Pistol Range Agreements – Approve entering into agreements with the following municipalities and other government entities, for the use of the City Pistol and Training Range facilities: City of South Daytona, City of Port Orange and the Flagler County Sheriff's Office.
- E. Colony Park Road Extension/Cross Section Alternatives – Approve the recommended cross section alternative as part of the design phase of the Colony Park Road Extension project, at an estimated cost of approximately \$826,333.54.
- F. Change Order No. 1/Flagler Avenue Repair and Resurfacing Project – Approve Change Order No. 1 to the Flagler Avenue Repair and Resurfacing Project to fund the resurfacing of Peninsula Avenue from Flagler Avenue to Normandy, and to resurface Otter Boulevard for a cost of \$17,650.50.
- G. Special Events – Approve the following special events and associated road closures:
1. First Baptist Church "Good Friday" Concert – Approve the conduct of a "Good Friday" Concert as hosted by First Baptist Church from 6:30 to 8:00 p.m. Friday, March 29, 2013. Also approve the closure of Sams Avenue from Washington Street to Julia Street from 5:30 to 9:00 p.m.
 2. Family Spring Festival – Approve the conduct of a Family Spring Festival as hosted by the K.C. Society from 10 am to 4 pm on Saturday, April 20, 2013 along West Canal Street. Also approve the utilization of police department volunteers (COPs) to serve as crossing guards during the event; the utilization of the City parking lot at the corner of Lewis and Julia Streets; and, the following street closures: Chestnut Street between Downing Street and West Canal Street; and, Lewis Street between West Canal Street and Julia Street. All from 6 am to 5:30 pm the day of the event.
 3. Food Truck Bazaar – Approve the conduct of a Food Truck Bazaar on Magnolia Street from 3 to 8:30 pm on Saturday, May 4, 2013 as hosted by the Recreation and Special Events Department. Also approve the closure of Magnolia Street from Canal Street to Lytle Avenue from 1 to 9 pm, the day of the event.
- H. Demolition of Property at 501 Brooks Street – Approve the demolition of property at 501 Brooks Street, at a cost of \$3,038.20, as funded with CDBG and Building Department funds.

Motion:

Vice Mayor Grasty moved to approve all consent agenda items, 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.

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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. 10-13/Code Enforcement Board – City Attorney Gummey read Ordinance No. 10-13, the second time by title only. Chief Building Official Mike Knotek outlined the proposed 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.

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

Motion:

Commissioner McGuirk moved to adopt Ordinance No. 10-13, as submitted.
Commissioner Reiker 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.

Commissioner McGuirk questioned membership criteria of the Municipal Code Enforcement Board. Mr. Knotek clarified the intent and purpose of the board, and types of volunteers necessary for board membership. Commissioner McGuirk felt certain membership criteria should not be made part of the proposed ordinance.

City Attorney Gummey clarified statutory requirements for members of municipal code enforcement board. Commissioner Jones questioned what the purpose of a Magistrate would be. Mr. Knotek outlined types of matters that a magistrate would address.

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Ordinance Nos. 11-13 and 12-13 - Annexation Application A-1-13/1609 Canal Street – City Attorney Gummey read Ordinance Nos. 11-13 and 12-13, the second time by title only. Planning Manager Gail Henrikson outlined the proposed ordinances, which if adopted, would annex and establish Commercial land use on approximately 0.3 acres located north of the western terminus of Canal Street at 1609 Canal Street.

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 Nos. 11-13 and 12-13, 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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Ordinance No. 13-13/Annexation Application A-1-13/1609 Canal Street – City Attorney Gummey read Ordinance No. 13-13, the second time by title only. As it was a public hearing of a quasi-judicial nature, he administered the oath to Planning Manager Gail Henrikson.

Ms. Henrikson outlined her professional and academic background, and as no citizen questioned her credentials, Mayor Barringer declared Ms. Henrikson an expert witness.

Ms. Henrikson outlined the proposed ordinances, which if adopted, would Re-zone approximately 0.3 acres of annexed property, located north of the western terminus of Canal Street at 1609 Canal Street, from Volusia County Heavy Commercial, Thoroughfare Overlay Zone (B-5 (C) to City Highway Service Business, Corridor Overlay Zone (B-3 (C) zoning district.

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

Motion:

Commissioner McGuirk moved to adopt Ordinance No. 13-13, as submitted. 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.

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Ordinance No. 14-13/Utilities Commission Refunding Revenue Certificates – City Attorney Gummey read Ordinance No. 14-13, the second time by title only. Utilities Commission Finance Director Brian Bilinski, accompanied by the Utility Commission’s Debt Council, outlined the proposed 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. Mr. Bilinski further outlined that request that the City Commission also consider approval of the Utilities Commission utilizing the City’s maximum eligibility for calendar year 2013 for \$10 million in bank qualified loans.

City Manager Brangaccio reported that there were no plans for future revenue bonds, and recommended adoption of the proposed ordinance.

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. 14-13, as submitted. 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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Ordinance No. 15-13/Amendment to Ordinance No. 01-13 – City Attorney Gummey read Ordinance No. 15-13, the second time by title only. An ordinance, which if adopted, would amend Ordinance No. 01-13, as adopted January 22, 2013, and changing the City Commission Zone from Zone 3 to Zone 4, of which annexed property was located.

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. 15-13, as submitted. Commissioner Reiker 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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Ordinance Nos. 16-13 and 17-13/Annexation Application A-9-12/2120 Pioneer Trail – City Attorney Gummey read Ordinance Nos. 16-13 and 17-13, the second time by title only. Planning Manager Gail Henrikson outlined the proposed ordinances, which if adopted, would annex and establish Low Density Residential and Conservation land use on approximately 0.8 acres located south of Pioneer Trail, between the intersection of Pioneer Trail, Bay Drive and Turnbull Creek.

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 Nos. 16-13 and 17-13, 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. 18-13/Annexation Application A-9-12/2120 Pioneer Trail – City Attorney Gummey read Ordinance No. 18-13, the second time by title only. Planning Manager Gail Henrikson outlined the proposed ordinance, which if adopted, would rezone approximately 0.8 acres of annexed property located south of Pioneer Trail, between the intersection of Pioneer Trail, Bay Drive and Turnbull Creek from Volusia County Urban Single Family Residential and Resource Corridor, to City Single Family Residential (R-2) and Conservation (C) zoning districts.

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

Motion:

Commissioner Reiker moved to adopt Ordinance No. 18-13, 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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Ordinance Nos. 19-13 and 20-13/Annexation Application A-10-12/2140 Pioneer Trail – City Attorney Gummey read Ordinance Nos. 19-13 and 20-13, the second time by title only. Planning Manager Gail Henrikson outlined the proposed ordinances, which if adopted, would annex and establish Low Density Residential land use on approximately 0.9 acres located south of Pioneer Trail, west of the intersection of Pioneer Trail and Bay Drive.

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

Motion:

Commissioner McGuirk moved to adopt Ordinance Nos. 19-13 and 20-13, as submitted. 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.

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Ordinance No. 21-13/Annexation Application A-10-12/2140 Pioneer Trail – City Attorney Gummey read Ordinance No. 21-13, the second time by title only. Planning Manager Gail Henrikson outlined the proposed ordinance, which if adopted, would rezone approximately 0.9 acres located south of Pioneer Trail, west of the intersection of Pioneer Trail and Bay Drive from Volusia County Urban Single Family Residential, to City Single Family Residential (R-2) zoning district.

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. 21-13, as submitted. 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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Ordinance Nos. 22-13 and 23-13/Annexation Application A-11-12/2110 Pioneer Trail – City Attorney Gummey read Ordinance Nos. 22-13 and 23-13, the second time by title only. Planning Manager Gail Henrikson outlined the proposed ordinances, which if adopted, would annex and establish Low Density Residential and Conservation land use on approximately 1.8 acres located south of Pioneer Trail and immediately west of the bridge over Turnbull Creek.

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 Nos. 22-13 and 23-13, as submitted. 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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Ordinance No. 24-13/Annexation Application A-11-12/2110 Pioneer Trail – City Attorney Gummey read Ordinance No. 24-13, the second time by title only. Planning Manager Gail Henrikson outlined the proposed ordinance, which if adopted, would rezone approximately 1.8 acres located south of Pioneer Trail and immediately west of the bridge over Turnbull Creek from Volusia County Urban Single Family Residential and Resource Corridor, to City Single Family Residential (R-2) and Conservation (C) zoning districts.

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

Motion:

Commissioner Reiker moved to adopt Ordinance No. 24-13, 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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PUBLIC PARTICIPATION –

Attorney Glenn Storch, Daytona Beach, commented on the location of a proposed asphalt plant in Samsula, west of the City limits. Mr. Storch requested Commission support of efforts to keep the facility out of the area, and action taken to convey the support to Volusia County leaders.

Mayor Barringer commented on taking action to express concerns to Volusia County Councilwoman Denys, and directed the City Manager to give an update on the issue at a future meeting. Mr. Storch acknowledged that he would provide information to the City Manager. Commissioner McGuirk commented on the existing zoning in the area of the proposed asphalt plant.

Paul Van Sickle, Samsula Resident, opposed the proposed site for an asphalt batch plant in Samsula and thanked the City Commission for its support.

Jacob Sachs, 816 East 8th Avenue, supported the efforts of neighbors in the Samsula area in their opposition of an asphalt batch plant being constructed in the area. He urged the City Commission to support the efforts of the citizens.

Randy Richenberg, 1402 North Peninsula Drive, commented on recent traffic signal problems experienced on Peninsula Drive and Flagler Avenue, and requested assistance in getting repairs made. Mr. Richenberg also commented on the need for signage to discourage the blocking of intersections by motorists. City Manager Brangaccio advised the Commission she would report the traffic signal matter to Volusia County.

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ORDINANCES FIRST READING:

Ordinance No. 27-13/Colony Park PUD/1st Amendment – City Attorney Gummey read Ordinance No. 27-13, the first time by title only. An ordinance, which if adopted, would amend the Colony Park Planned Unit Development Master Development Agreement and Conceptual Development Plan with New Smyrna Beach Acquisitions, LLC, and Colony Park, LLC for approximately 41 acres generally located northeast of the intersection of S.R. 44 and Colony Park Road, in order to clarify language regarding tree mitigation and open space, and to revise the architectural design standards. At its meeting held February 4, 2013, the Planning and Zoning Board, acting as Local Planning Agency, unanimously recommended adoption of the proposed ordinance, with conditions.

Motion:

Vice Mayor Grasty moved to approve on first reading, Ordinance No. 27-13, as submitted. 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 reported that the second reading and public hearing of the proposed ordinance would be conducted at the regular meeting on March 26, 2013.

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ADMINISTRATIVE ITEMS/NEW BUSINESS:

Composition of the Historic Preservation Commission – Planning Manager Gail Henrikson outlined staff's request for direction regarding whether nonresidents could serve as members of the Historic Preservation Commission.

Mayor Barringer asked Ms. Henrikson what staff's recommendations were. Ms. Henrikson felt staff supported allowing citizens living in the Volusia County/New Smyrna Beach Joint Planning Agreement areas, to be appointed as members of the Historic Preservation Commission.

Commissioner McGuirk was reluctant to support staff's recommendation, and questioned current requirements for appointment to the Southeast Volusia Historical Society. Commissioner Reiker felt membership criteria was similar to staff's recommendation.

John Coffin, current member of the Southeast Historical Society and the Historic Preservation Commission, commented on the potential of Mr. Jim Humphrey becoming a member of the Historic Preservation Commission.

Commissioner Jones supported staff's recommendation. City Attorney Gummey acknowledged that he would bring enabling legislation to the City Commission for future consideration.

Mayor Barringer confirmed Commission consensus that staff would be directed to present a resolution for consideration at a future meeting, which if adopted, would allow nonresidents living in the Volusia County/New Smyrna Beach Joint Planning Agreement area to be appointed as members to the Historic Preservation Commission.

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BOARDS AND COMMISSIONS:

Municipal Code Enforcement Board – Mayor Barringer outlined staff's recommendation that the City Commission consider the appointment/reappointment of two members to terms expiring March 3, 2016. The term of member James Fairley expired March 3, 2013. Mayor Barringer acknowledged receipt of Mr. Fairley's request to not be reappointed as a member.

City Attorney Gummey commented on statutory requirements regarding members of the board and recommended that the application of Cliff Jones not be considered for appointment, due to his relationship to Commissioner Jones.

Mayor Barringer confirmed that no action would be taken regarding the requested appointment consideration.

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

Mayor Barringer commented on the stance of the Volusia County Council regarding possible future Community Redevelopment Agencies. City Manager Brangaccio felt it was a community wide issue and hoped communications would continue.

Assistant City Manager Resheidat advised that City Manager Brangaccio had been named the recipient of the Michael J. Roberto Award for Career Development from the Florida City and County Management Association, and would be presented the award at a luncheon during the Annual Conference of the Florida City and County Management Association, in Orlando on May 24, 2013.

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CITY CLERK'S REPORT – No report.

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CITY ATTORNEY'S REPORT – No report.

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With no further business to address, Mayor Barringer declared the meeting adjourned at 7:55 p.m.