

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

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**INVOCATION/PLEDGE OF ALLEGIANCE** – Police Department Chaplain William Chegwin 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 additions made to the published agenda:

1. **Consent Agenda Item I**, the demolition of a City-owned structure at 2700 N. Dixie Freeway.
2. **Consent Agenda Item J**, the relocation of the Building and Code Enforcement Departments to leased property at 310 and 312 Julia Street.
3. **Consent Agenda Item K**, the purchase of a Chevrolet Tahoe Special Service Vehicle.
4. **Boards and Commissions Item B**, the appointment of a member to the Code Enforcement Board.

City Clerk Johnny Bledsoe commented on the accomplishment of those City representatives recently named as recipients of Volusia League of Cities awards for 2012, as follows:

Mayor Adam Barringer – Mayor Blaine O’Neal Award of Excellence  
Anthony Otte – Employee of the Year  
Carol Hargy – Employee of the Year  
Dorothy “Dot” Moore – Citizen of the Year

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**ANNOUNCEMENTS/PRESENTATIONS/RECOGNITION:**

Marine 50 Rescue – Mayor Barringer and Fire Chief Dave McCallister presented plaques to Acting Battalion Chief Chris Dymond, Lieutenant Brian Grace, Driver/EMT Kevin Roberts and Firefighter/Medic Clayton Crain, in recognition of their efforts during an early morning rescue in the intercoastal waterway providing advanced life support care, utilizing Marine 50.

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Fire Department Promotion Ceremony – The City Commission acknowledged the promotion of Don Snell to the position of Driver/Engineer. Mayor Barringer and Fire Chief Dave McCallister, accompanied by Officer Snell’s spouse, Jennifer, conducted the promotion ceremony of Don Snell to Driver/Engineer.

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Proposed Public/Private Partnership – Presentation by Tim Hamby of the Southeast Volusia Advertising Authority (SVAA) regarding a proposed public/private partnership between the SVAA, the City of New Smyrna Beach and FishStock. Mr. Hamby requested an adjustment of facility fees payable, and the reduction of fees, for the use of the Brannon Center and Riverside Park, from \$10,000 to \$5,500 for the FishStock event to be held May 23 – 26, 2013.

Mayor Barringer applauded the SVAA for its support of FishStock. City Manager Brangaccio commented on past CRA support of FishStock, and her recommendation that the Recreation and Special Events be recognized and given sponsor status. Commissioner Reiker supported the event.

Motion:

Vice Mayor Grasty moved to approve the adjustment of facility fees payable, for the use of the Brannon Center and Riverside Park, to \$5,500 for the FishStock event to be held May 23 – 26, 2013. The City Recreation and Special Events Department would also be given sponsor recognition during the event. Commissioner Reiker seconded the motion and the roll 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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FY 2011/2012 Audit Report –Bernadette Britz-Parker, Principal represented James Moore and Company, and gave the final audit report for the fiscal year ending September 30, 2012. Mayor Barringer thanked Ms. Britz-Parker and her staff for their work during the process.

Mayor Barringer also thanked City Manager Brangaccio and Finance Director Philord for their continued leadership throughout the budget process. Commissioner Jones questioned sanitation fund accountability.

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#### MAYOR AND COMMISSION REPORTS:

Vice Mayor Grasty – Reported on his attendance at local events, which included the City of Port Orange Centennial Celebration, and the recent City of Edgewater Riverfest. Vice Mayor Grasty highlighted his representation of the City Commission, on behalf of Mayor Barringer at the 119th Anniversary of the New Mount Zion EME Church. He felt the recent paving on North Atlantic Avenue, in the vicinity of the new Esther Street Park looked very nice.

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Commissioner Reiker – Reported that she would be absent for the regular meeting on April 9, 2013. She commented on her recent attendance at the Edgewater Expo event. She then commented on her recent attendance at the meeting of the Parking Task Force.

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Commissioner McGuirk – Was proud of City representatives who were recently named award recipients. He felt the City and its staff had done an amazing job, through very tough times, and commented on his first audit presentation as a first time audit presentation.

Commissioner McGuirk commented on his attendance at the regular meeting of the Volusia TPO, and thanked all those responsible for the City receiving a sixty-day extension from Volusia County regarding the ongoing CRA situation.

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Commissioner Jones – Reported on his attendance at a recent meeting of the Westside Community, regarding future renovations to the Alonzo “Babe” James Center.

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Mayor Barringer – Felt it was a pleasure to be Mayor of a great City, New Smyrna Beach, and commented on his attendance at events, which included opening day of little league baseball, and throwing out the first pitch; attendance at Volusia Days at the Legislature in Tallahassee; and, attendance at Florida League of Mayors events in Tallahassee.

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**CONSENT AGENDA:**

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

- A. Historic Tree Removal/311 S. Indian River Road – Approve the application for the removal of a 38-inch historic oak tree from the front yard of a single family residence at 311 South Indian River Road, as requested by Gordon Camp, property owner.
- B. Extension of Contract for Environmental Services – Approve the extension of the existing contract with Kimley Horn and Associates, Inc. for Environmental Services, to April 7, 2015.
- C. Annual Pistol Range Agreement – Approve entering into an agreement with the City of Daytona Beach Police Department for the use of the City Pistol and Training Range facilities.
- D. 2013 Volusia County Transportation Organization Call for Projects – Approve the submittal of applications for projects to the Volusia County Transportation Organization for 2013 funding consideration. Also approve the expenditure for the ten percent required match of funding, in an amount not to exceed \$35,000.
- E. Agreement with “PropertyRoom.com” – Approve entering into an agreement with PropertyRoom.com in order to provide an auction platform for the police department to sell/auction surplus, unclaimed found, unclaimed stolen and seized property.
- F. License Agreements – Approve entering into License Agreements as outlined below in applications LA-1-13 and LA-2-13:
  - 1. LA-1-13/Ocean Drive/Spyglass HOA – Approve the application to enter into a license agreement to install “No Parking” signs and landscaping within the Ocean Drive right-of-way, as requested by the Spyglass Home Owners Association.

2. LA-2-13/300 Condict Drive/Lagger – Approve the application to enter into a license agreement to install a landscape planter in the Condict Drive/Pine Street right-of-way, as requested by David Lagger, property owner.
- G. F.I.N.D. Grant Application/Swoope Site – Approve and adopt the following items regarding additional funding requirements for the Swoope Site Improvements design and construction phases.
1. F.I.N.D. Grant Application – Approve the preparation of a F.I.N.D. Grant application requesting additional funding for Phase II of the Swoope Site Improvements Project at a total estimate of \$342,005 with the City share estimated at a budgeted amount of \$171,002.50.
  2. Resolution No. 14-13/F.I.N.D. Grant Application – Adopt a resolution authorizing the Mayor to execute an application to F.I.N.D. for its Waterways Assistance Program for additional funding for improvements at the Swoope Site, including restroom, paving the parking area, improving the entrance to the site, adding benches and trash receptacles, and a concrete floating dock for the enjoyment and use of the residents of New Smyrna Beach and visitors to the State of Florida.
- H. F.I.N.D. Grant Application/North Causeway Boat Ramp – Approve and adopt the following items regarding additional funding requirements for the North Causeway Boat Ramp Site Improvements design and construction phases.
1. F.I.N.D. Grant Application – Approve the preparation of a F.I.N.D. Grant application requesting funding for Phases I and II of the North Causeway Boat Ramp Site Improvements Project at a total estimate of \$815,000 with the City share estimated at a budgeted amount of \$407,500.
  2. Resolution No. 15-13/F.I.N.D. Grant Application – Adopt a resolution authorizing the Mayor to execute an application to F.I.N.D. for its Waterways Assistance Program for funding for improvements at the North Causeway Boat Ramp facility, including repair/replacement of the seawall/sidewalk; restrooms; paving of the parking area; and, extension of the public walkway around the AOB site to connect with the North Causeway Pedestrian Trail.
- I. Demolition of City-owned Structure/2700 N. Dixie Highway – Approve the demolition of a City-owned structure at 2700 N. Dixie Highway and award the demolition contract to DBI Demolition at a cost of \$927.76.

- J. Relocation of Building and Code Enforcement Departments to Property at 310 and 312 Julia Street – Approve the relocation of the Building and Code Enforcement Departments to leased property at 310 and 312 Julia Street. Also approve the negotiated 5-year lease and associated costs for renovations of approximately \$96,994. All expenditures associated with the relocation will be funded from the Building Fund.
- K. Purchase of Chevrolet Tahoe Special Service Vehicle – Approve the purchase of a Fire Department Battalion Command Vehicle from Alan Jay Automotive, utilizing the Florida Sheriff's existing contract, at a cost of \$31,109. Also approve a corresponding budget amendment.

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. 27-13/Colony Park Planned Unit Development/First Amendment – City Attorney Gummey read Ordinance No. 27-13, 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 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 architectural design standards.

Mayor Barringer opened the public hearing.

Attorney Glenn Storch, represented the property owner, was available to answer questions and urged the City Commission to adopt the proposed ordinance.

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

Commissioner Reiker questioned the buffer requirements as outlined on the proposed site plan submitted. Ms Henrikson confirmed the proposed site plan and buffer requirements.

Motion:

Commissioner Jones moved to adopt Ordinance No. 27-13, 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. 28-13/Internet Cafes – City Attorney Gummey read Ordinance No. 28-13, the first time by title only, and advised the City Commission that it would conduct the first of two required public hearings of an ordinance, which if adopted, would amend the *Land Development Regulations* by creating a definition for Internet Café, and establishing regulations for Internet Cafes.

The Commission discussed whether to defer consideration of the proposed ordinance. Commissioner McGuirk commented on his preferences for locations of the proposed use. City Attorney Gummey commented on alternatives the Commission could consider taking, which included invoking of the pending ordinance doctrine.

Motion:

Commissioner McGuirk moved to invoke and apply the Pending Ordinance Doctrine, on Ordinance No. 28-13. 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.

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First Amendment to Special Exception Application No. SE-05-12/Marine Specialties/2800 North Dixie Freeway – Planning Manager Gail Henrikson outlined the proposed 1st Amendment to Special Exception Application No. SE-05-12/Marine Specialties/2800 North Dixie Freeway, which if approved, would add additional property to the special exception; resolve all pending City code enforcement issues regarding storage; obtain Site Plan approval for structures in the requested area; and, require a four-foot high solid/opaque material along all common boundary lines between the Special Exception property and adjoining property to the north.

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

Motion:

Commissioner McGuirk moved to approve the First Amendment to Special Exception No. SE-05-12, adding additional property to the special exception; resolve all pending City code enforcement issues regarding storage; obtain Site Plan approval for structures in the requested area; and, require a four-foot high solid/opaque material along all common boundary lines between the Special Exception property and adjoining property to the north. 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 –

Charlotte Smith, local Realtor, requested to review the existing requirements for Planned Unit Developments (PUD), for approximately two acres along S.R. 44. Mayor Barringer suggested Ms. Smith schedule a meeting with the City Manager and Planning Manager. Commissioner McGuirk wished to serve as liaison regarding the matter.

Bob Tolley, Fairway Drive, commented on a complaint recently filed with the Florida Commission on Ethics, on February 27, 2013, and requested how the City Commission wished to deal with the matter.

Mayor Barringer commented on the process associated with the filing of ethics complaints. He felt the complaint was not valid. Commissioner Reiker had no issue with the matter. Commissioner Jones had no issue with the matter, and commented on the incident from over two years ago, when he was a City employee, as he felt the issue was over.

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**ORDINANCES FIRST READING:**

Ordinance No. 29-13/ New Smyrna Harbor Marina PUD Master Development Agreement and Conceptual Development Plan – City Attorney Gummey read Ordinance No. 29-13, the first time by title only. An ordinance, which if adopted, would rezone approximately 4 acres generally located south of the North Causeway, east of Boatyard Street and west of Marina Bay Drive, from a Commercial Marina (CM) to a Planned Unit Development (PUD) zoning district, and approving the New Smyrna Harbor Marina PUD Master Development Agreement and Conceptual Development Plan.

Vice Mayor Grasty and Commissioner Reiker, each disclosed meeting with Mr. Glenn Storch, who represented the property owner on this matter.

Motion:

Vice Mayor Grasty moved to approve on first reading, Ordinance No. 29-13, as submitted. 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 reported that the second reading and public hearing of the proposed ordinance would be conducted at the regular meeting on April 9, 2013.

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Ordinance No. 30-13/ 3403 South Atlantic Avenue/HJH, LLC – City Attorney Gummey read Ordinance No. 30-13, the first time by title only. An ordinance, which if adopted, would rezone approximately 1 acre located at 3403 South Atlantic Avenue from Ocean Commercial with a maximum building height of four stories (B-4(4)) to Ocean Commercial with a maximum building height of eight stories (B-4 (8)).

Motion:

Vice Mayor Grasty moved to approve on first reading, Ordinance No. 30-13, as submitted. Commissioner Jones 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 reported that the second reading and public hearing of the proposed ordinance would be conducted at the regular meeting on April 9, 2013.

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**ADMINISTRATIVE ITEMS/NEW BUSINESS:**

Joint Planning Agreement with Volusia County – City Manager Brangaccio outlined staff's recommendation that the City Commission discuss entering into a Joint Planning Agreement with Volusia County for Community Annexation Efforts. Ms. Brangaccio outlined that staff's recommendation included the conceptual approval of the City Commission, and she clarified that staff would submit for final approval, entering into a Joint Planning Agreement with Volusia County, at the regular meeting on April 9, 2013; and, May 14, 2013 would serve as the first public hearing of proposed annexations.

Mayor Barringer confirmed City Commission consensus to conceptually approve entering into a Joint Planning Agreement with Volusia County, pending final consideration at a future meeting, after consideration by the Volusia County Council.

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Amendment to Lease/F.E.C. Property – CRA Director Tony Otte outlined staff's recommendation that the City Commission consider approval of staff's recommendation to request that the Florida East Coast Railroad amend the existing lease with the City for 908 square feet located southwest of the intersection of U.S. Highway 1 and Canal Street in order to relocate the boundary of the leased property south of a revised right-of-way line.

Flare Elliott, Canal Street Merchant, outlined actions taken by the Merchants of Canal Street and recommended the City Commission consider supporting the efforts with the payment of the lease while the Canal Street Merchants took care of the landscaping. City Manager Brangaccio clarified staff efforts continued to work with the F.E.C. in order to relocate the existing lease.

Motion:

Vice Mayor Grasty moved to approve staff to continue working with the F.E.C. in order to amend the boundaries of the existing lease, and directed the CRA to continue lease payments for the next six months. 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.

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**BOARDS AND COMMISSIONS:**

Community Development Block Grant Advisory Board – Mayor Barringer outlined staff’s recommendation to consider the appointment/reappointment of seven members to the CDBG Advisory Board to terms to expire March 29, 2015. The terms of members Melvin Brown, Joseph Darrisaw, Sabrina Smith, Gwendolyn Jenkins-Raingé, Jacqueline Wadley, Mildred White and Robert Thomas would expire March 29, 2013.

Motion:

Commissioner Jones moved to reappoint members Melvin Brown, Joseph Darrisaw, Sabrina Smith, Gwendolyn Jenkins-Raingé, Jacqueline Wadley, Mildred White and Robert Thomas to two-year terms to expire March 29, 2015. 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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Code Enforcement Board – Mayor Barringer outlined staff’s recommendation to consider the appointment of Justin Traub as a member to a term expiring March 3, 2016. The term of member James Fairley expired March 3, 2013.

Motion:

Commissioner McGuirk moved to appoint Justin Traub as a member of the Code Enforcement Board, to a term expiring March 3, 2016. 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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CITY MANAGER’S REPORT – The City Commission acknowledged receipt of the City Manager’s Report.

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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 8:33 p.m.