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**MINUTES OF THE  
CITY OF NEW SMYRNA BEACH  
COMMUNITY REDEVELOPMENT AGENCY  
MEETING OF APRIL 7, 2010  
CITY HALL COMMISSION CHAMBERS,  
210 SAMS AVE.  
NEW SMYRNA BEACH, FLORIDA**

9 Vice-Chair Steve Dennis called the CRA meeting to order at 2:00 p.m.

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**Answering to roll call:**

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**Steve Dennis  
James Kosmas  
Charles Belote  
Thomas Williams**

18 Also present were Tony Otte, CRA Director; Michelle Martin, CRA Project Manager;  
19 Noeleen Foster, CRA Program Manager; Claudia Soulie, Administrative Specialist and  
20 Mark Hall, CRA Attorney. CRA Chair Linda DeBorde, Commissioners Cynthia Lybrand  
21 and Doug Hodson were absent.

22  
23 Mr. Dennis asked for a quick update on the medical condition of Chair DeBorde. Ms.  
24 Foster stated that Ms. DeBorde had developed other complications that kept her from  
25 chairing today's meeting as she had intended, but that she was still on her way to  
26 recovery. Mr. Otte inquired if Ms. DeBorde needed an excused absence from today's  
27 meeting and the CRA granted Ms. DeBorde an excused absence.

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29  
30

**CONSENT AGENDA**

31  
32 Mr. Belote recommended that item B. *CRA Residential Grant Applications* be removed  
33 from the consent agenda for discussion. Mr. Dennis agreed.

- 34  
35 A. Approval of Minutes – Special Meeting February 17, 2010  
36 Regular Meeting March 3, 2010  
37 Special Meeting March 11, 2010  
38

39 Mr. Williams stated that on page 5 of 5, line 199 in the minutes from Special Meeting  
40 March, 11, 2010 the word perimeter needed to be changed to parameter.

41  
42 **Mr. Williams made the motion to approve the February 17, 2010 and March 3, 2010**  
43 **minutes as written and to approve the March 11, 2010 minutes with the indicated**  
44 **correction, seconded by Mr. Kosmas. The motion carried on a roll call vote 4 – 0.**

- 45  
46 B. CRA Residential Grant Applications – 106 S. Myrtle Ave.

108 S. Myrtle Ave.

Mr. Otte stated that that the pending eligibility issues staff had indicated on the Agenda Memorandum had been resolved.

Mr. Belote inquired if these were two (2) separate parcels. Ms. Foster stated that these were two (2) structures under one parcel number. Mr. Williams inquired if this was still within the program guidelines. Ms. Foster clarified that this scenario was not specified in the guidelines, but that she had reviewed the applications and each structure would still qualify individually.

**Mr. Kosmas made the motion to approve the PIG's for 106 S. Myrtle Ave. in the amount of \$5,000 and 108 S. Myrtle Ave. in the amount of \$2,250; seconded by Mr. Williams. The motion carried on a roll call vote 5 – 0.**

### PUBLIC PARTICIPATION

In accordance with the City Commission Resolution #11-89, a three-minute limitation will be imposed unless otherwise granted by the CRA Commissioners.

Mr. Jay Pendergast, 121 Canal Street, informed the CRA that a group of individuals from New Smyrna participated in a FEC Rail Corridor Coalition Meeting on March 26, 2010 and gave a synopsis of important planning steps that came out of this meeting (updating of the City's Comprehensive Plan and Land Development Regulations to include Transit Oriented Design for all modes of transportation). Mr. Pendergast felt that the meeting went very well but wanted New Smyrna Beach to stay "ahead of the game".

Mr. Kosmas asked who was on the Coalition and Mr. Pendergast stated that this was a statewide group trying to bring rail service from Jacksonville to Miami. A brief discussion followed about what the CRA could do to assist in creating awareness. Mr. Kosmas suggested having this as an agenda item for the next CRA meeting. Mr. Otte noted this request. Mr. Williams asked to have this item added to the CRA Redevelopment Plan update to indicate that the CRA was in favor of rail service. Mr. Dennis stated that the CRA needed to make a recommendation at their next CRA meeting that the City's Comprehensive Plan/ LDR reflect some inference to this topic before Amendment 4 might be voted into effect.

Flare Elliott, 421 Canal Street stated that she was the Coalition contact for the City and stated that the project summary was available on Facebook and the site would be updated regularly. Ms. Elliott continued that the City Commission authorized City planning staff to develop a plan for possible station locations within New Smyrna Beach. Ms. Elliott stated that it was important to give grass-root support and to assist the eight selected Cities to obtain their funding.

Ms. Elliott also commented on a March 10, 2010 project status report generated by FDOT for their proposed improvements to the US1/ Canal Street intersection, which she felt did not include the CRA's comments and concerns voiced at the March 3<sup>rd</sup> CRA meeting, where FDOT was in attendance. Ms. Elliott suggested forwarding the March 3<sup>rd</sup>

92 CRA minutes to FDOT. Ms. Elliott continued that the Public needed to be made more  
93 aware of the project scope and the perceived impact on the Community and was very  
94 appreciative that FDOT had agreed to be available for a Public meeting.

95

96 Margaret Yarranton, 309 Florida Ave, read a list of five (5) questions (see attached)  
97 pertaining to the proposed hotel on Flagler. Ms. Yarranton stated that she was against  
98 giving this project any land, which the taxpayers have paid for and that there were 500  
99 plus signatures against this size hotel on this site, filed in the public record. Ms.  
100 Yarranton thanked the CRA for their time.

101

102 Deborah Dugas, 200 N. Pine Street asked if, in order to be eligible for a CRA Property  
103 Improvement Grant, one had to reside at the property for which the application was made  
104 or just be the owner and if an owner could submit applications for multiple properties.  
105 Ms. Dugas also asked for clarification about the revised parking needs for the proposed  
106 hotel. Mr. Dennis stated that a diagram included in the agenda package demonstrated the  
107 parking. Mr. Otte stated that CRA staff would contact Ms. Dugas to answer her questions  
108 about the Property Improvement Grants.

109

110 Hearing no further requests, Mr. Dennis closed the public participation portion of the  
111 meeting.

112

113 Mr. Dennis recognized Phil Ehlinger with the Volusia County Economic Development  
114 department.

115

116

**PRESENTATION:**

117

118 A. New Smyrna Beach UCF Business Incubation Program

119

120 Withdrawn by Staff.

121

122

**OLD BUSINESS**

123

124 A. Discussion of Proposed Hotel Deal Points

125

126 Mr. Otte stated that staff had been working with Mr. Swentor and his attorney and  
127 commented on a letter received from Premiere Development Group. Mr. Otte  
128 summarized that the Developer:

129

130 • had asked the City to discount the price for the Florida Ave parcels by \$192,000  
131 due to the perceived existence of a prescriptive easement held by the Utilities  
132 Commission (UC).

133

134 • had secured parking for its entire need and had essentially released its 58 Land  
135 Development Regulations (LDR) parking spaces back to the CRA/City for

136 redistribution/use and a diagram of this siteplan was available for review. Mr.  
137 Dennis suggested putting this diagram on the City's website. A brief discussion  
138 ensued about the total number of parking spaces meeting the LDR requirements  
139 as well as the franchise requirements.

140  
141 • was asking that the CRA pay half of their assessed impact fees (CRA portion  
142 \$325,000) and that they be allowed to pay half of their portion at the onset of the  
143 project and to be able to recapture the remainder through the project's own  
144 generated TIF funds.

145  
146 Mr. Otte stated that staff had received the adjusted appraisal review for the Florida Ave  
147 parcels and was also expecting the financial consultant report from RCLCO within the  
148 next week. Mr. Otte was anticipating having an agreement to the CRA for review by their  
149 next CRA meeting.

150  
151 Mr. Williams asked for clarification on the number of spaces available in the Florida Ave  
152 lot. Mr. Otte stated that the lot had 28 spaces of which 24 were leased and that staff had  
153 checked into relocating those leases to other parking lots. Mr. Dennis felt that the original  
154 Request for Proposal (RFP) was rather ambiguous in regards to the parking and asked if  
155 the siteplan that the developer had attached would satisfy the requirements of the RFP.  
156 Mr. Hall stated that this siteplan had not been submitted to, reviewed and approved by  
157 City Staff, so this determination had not been made yet.

158  
159 Mr. Williams inquired about the current driveway easement going into this parking lot,  
160 between the Real Estate office and the Art Dealer. Mr. Dennis felt that this driveway  
161 would probably be closed off, as this was considered an easement for underground  
162 utilities and a pad-mount transformer was proposed to be placed there. Mr. Hall added  
163 that this was at the CRA's discretion. Mr. Williams was concerned about blocking the  
164 driveway and the public Right-of-way leading up to this property from Peninsula,  
165 possibly rendering them useless and wanted to be sure the developer was aware that they  
166 existed. Mr. Dennis stated that this was the City's Right-of-way and Mr. Otte felt that this  
167 would be addressed by Planning staff during the siteplan review process.

168  
169 Ms. Gail Henrikson, Chief Planner with the City of New Smyrna stated that the siteplan  
170 itself, not the new parking plan, for the proposed hotel had been approved and that the  
171 developer was planning to add landscaping and curb cuts to create a pedestrian  
172 connection for the small parcel in question to prevent any improper parking or attempts  
173 for vehicles to cut through this area. Mr. Dennis asked to see the plan that showed the  
174 utility easement. Mr. Hall stated that this was referred to as a prescriptive easement and  
175 that the questions as to the legal rights that the Utilities Commission (UC) had to this  
176 easement had not been determined yet. Mr. Kosmas asked to have this issue pursued  
177 further and questioned the developer's intention to have the price of the property reduced  
178 because of a prescriptive easement, which he explained was a judicially determined right  
179 to use a piece of property, and he felt that this had not been determined. A brief  
180 discussion ensued about not being able to block a prescriptive easement, but being  
181 allowed to relocate it. Mr. Hall mentioned that the developer had until August to convey

182 the property and that CRA staff was working with the developer on creating a contract  
183 for the CRA's review subject to ratification by the City Commission.

184 Mr. Kosmas proposed to address the diminution in the price of the property as an  
185 incentive in the contract, should it be legally determined that a prescriptive easement  
186 actually exists. Mr. Hall noted Mr. Kosmas' comment and also suggested that, should the  
187 CRA elect to pay half of the project's impact fees, it would do so at time of issuance of  
188 the Certificate of Occupancy.

189  
190 Mr. Kosmas cautioned that the CRA needed to be very clear about the procedures and  
191 parameters by which they may consider assisting this project with their impact fees, so  
192 not to set a precedent that might be misinterpreted by a future developer expecting the  
193 same assistance. Mr. Otte concurred with the need for clear parameters for all incentive  
194 programs and stated that CRA staff was investigating other City's incentives.

195  
196 A brief discussion ensued about tailoring the incentives to each project's individual needs  
197 and economic benefit. Mr. Williams suggested relating the incentives paid to a  
198 percentage of the direct impact of the development reflected in the tax roll and the  
199 economic impact on the community.

200  
201 Mr. Belote agreed that any possible discount for the prescriptive easement should be  
202 addressed as an incentive rather than discounting the land; the 24 parking spaces  
203 advertised in the RFP needed to be addressed in the proposal; and to quantify how  
204 incentives were being derived and not just be subjective. Mr. Dennis quoted numbers of  
205 annual visitor sales and estimated figures that this proposed project could generate for the  
206 Community.

207  
208 Mr. Dennis stated that he was in favor of moving this project forward as the developer  
209 was working with a timeline. Mr. Hall commented on the written agreements that were  
210 required and the information needed from the developer in order to be able to complete  
211 the agreements.

212  
213 Mr. Williams stated that staff had made great progress and was looking forward to seeing  
214 a contract agreement.

215  
216 The CRA Commissioners requested a copy of RCLCO's report be forwarded to them  
217 once it was received by staff and asked that any agreement be sent to them a few days  
218 prior to the meeting for review.

219

220 **B. Change in Standard Parking Lease**

221  
222 Mr. Otte stated that the City's Land Development Regulations (LDR) specified that  
223 approved off-site business parking must be within 1,000 feet of the business. Mr. Otte  
224 continued that staff recommended that all future leases specify that the leased spaces be  
225 contained in any CRA parking lot within 1,000 feet of the business. Mr. Otte stated that  
226 staff was investigating other topics like the price of each parking space and  
227 enforceability.

228

229 Mr. Kosmas inquired if the parking spaces were leased at a 1:1 ratio and if so, he  
230 suggested looking at this topic again as parking needs during the day differed from  
231 evening needs and thus the CRA may be able to increase the leasing ratio. Mr. Otte stated  
232 that staff would look into this option.

233  
234 **Mr. Williams made the motion to approve the suggested changes to the standard**  
235 **parking lease, seconded by Mr. Belote. The motion carried on a roll call vote 4 – 0.**  
236

237  
238  
239 **NEW BUSINESS**

240  
241 **A. Form-based Codes Request for Proposal (RFP)**  
242

243 Mr. Otte stated that the recent Master Plan update included a recommendation to  
244 implement Form-based codes for the CRA district as the current LDR was more tailored  
245 to suburban development and that the CRA district was an urban type area. Mr. Otte  
246 stated that planning staff had prepared a RFP for this effort and continued that staff  
247 recommended approval of the draft RFP.  
248

249 Ms. Henrikson added that this topic was listed as item number three on the City  
250 Commissioner's list of top items to be accomplished during the next year and a half.  
251

252 **Mr. Kosmas made the motion to approve the Form-based codes draft RFP;**  
253 **seconded by Mr. Williams. The motion carried on a roll call vote 4 – 0.**  
254  
255

256 **B. Action Plan for Master Plan Update Implementation**  
257

258 Mr. Otte stated that the Master Plan update listed a large number of recommendations for  
259 action and that it was important to identify priorities for immediate focus in order to  
260 facilitate achievements. Mr. Otte continued that staff recommended the following list of  
261 initial actions as some of them might qualify for stimulus funding for shovel-ready  
262 projects:  
263

- 264 1. Capital Projects – Flagler Ave Boardwalk; Washington Street Improvements;  
265 Esther Street/Park Stormwater Project and Myrtle Ave Infrastructure Project  
266
- 267 2. Wayfinding/Signage  
268
- 269 3. Capital Projects – W. Canal Streetscape, Orange Street; Mary Ave; Dunn Lumber  
270 demolition and landscaping; US1 and Canal Street (FDOT project)  
271
- 272 4. Maintenance of Streets  
273
- 274 5. Recruitment of businesses  
275

- 276 6. Organizational Support and Collaboration  
277 7. Planning Activities  
278  
279 8. Marketing Activities  
280

281 Mr. Otte stated that he had received direction from Planning staff in regards to  
282 Wayfinding/Signage and continued that the Parks and Recreation Department had been  
283 very responsive in giving assistance in cleaning the trash receptacles and fire hydrants on  
284 Canal Street and that CRA staff was in the process of “sprucing up” the finish of the  
285 bands around the streetlight poles in an effort to beautify/maintain the streets.  
286

287 Mr. Kosmas felt that the list represented the vision of the CRA and asked what was being  
288 done in regards to the perceived contamination at the Badcock property. Ms. Foster stated  
289 that staff had been in touch with Mr. Badcock and that they were told that Mr. Badcock  
290 had received a letter of release from the State. Mr. Kosmas asked to receive a copy of this  
291 letter. Mr. Otte clarified that this was a “No further action” letter which did not mean that  
292 the property was clean.  
293

294 Mr. Kosmas suggested branding the loop and tying this in with the wayfinding and asked  
295 that this item be moved from item 8. (Marketing Activities) to item 2.  
296 (Wayfinding/Signage). Mr. Otte noted this request.  
297

298 **Mr. Belote made the motion to approve the list of initial actions with the above**  
299 **indicated change; seconded by Mr. Kosmas. Motion carried on roll call vote 4 – 0.**  
300

301  
302 C. Discussion of New Business Incentives  
303

304 Mr. Otte stated that a listing of incentive programs from other CRA’s was included in the  
305 Master Plan update and that staff wished to discuss which new programs could be  
306 established in order to implement the goals of the Plan update. Mr. Otte continued that it  
307 appeared that some CRA’s had programs with higher dollar limits in similar programs  
308 and Mr. Otte felt that certain priority projects within the CRA district would require a  
309 higher level of CRA participation. Mr. Otte stated that staff had sent out a survey to  
310 businesses within the CRA district to gather further input from the merchants.  
311

312 Mr. Dennis felt that these incentives had a considerable amount of subjectivity and stated  
313 that he would prefer to focus on aiding smaller businesses. Mr. Otte stated that he was  
314 interested in building a data base of existing businesses and to have volunteers aid with  
315 keeping it up to date.  
316

317 Mr. Otte stated that this was only an informational item and no action was required by the  
318 CRA.  
319

320  
321 D. Call for Entries: 2010 Florida Redevelopment Association (FRA) Awards

322 Mr. Otte stated that the FRA's annual awards program had various categories for  
323 recognition and that staff recommended entries for the following categories be submitted:

- 324  
325 1. Planning: Master Plan Update  
326 2. Cultural Enhancement: The Flagler Art Walk  
327 3. Creative Organizational Development and Funding: Property Improvement  
328 Grants

329  
330 Mr. Otte continued that the fee was \$100 per entry and that funds were available in the  
331 CRA budget.

332  
333 Mr. Kosmas felt that the Christmas lights on Canal this past Christmas season were a  
334 spectacular display that drew many positive comments and inquired if that could be a  
335 possible category for an award. Mr. Otte stated that this could be qualified as Cultural  
336 Enhancement.

337  
338 Mr. Williams asked if a project had to be completed in order to qualify for submission  
339 and if not, he would like to have the West Canal Streetscape entered as well. Mr. Otte  
340 stated that he would check into this.

341  
342 **Mr. Williams made the motion to approve the submission of FRA award entries up**  
343 **to \$500; seconded by Mr. Belote. The motion carried on a roll call vote 4 – 0.**

344  
345  
346 E. W. Canal Streetscape Change Order No. 1

347  
348 Mr. Otte stated that following a request by the City Commission, staff itemized all the  
349 additional costs associated with the West Canal Streetscape. During this effort it was  
350 discovered that Change Order No. 1 had not been brought forward. Mr. Otte summarized  
351 that the ThadCon Design Build team was required by the original Request for Proposal to  
352 design and construct a temporary parking lot at the City/CRA owned parcels on Dimmick  
353 Street. After the original design, the ThadCon team was directed by the City to redesign  
354 (size increase) the temporary parking lot at another City/CRA owned parcel at the  
355 southeast corner of Julia and Lewis Street. Mr. Otte continued that the City's second  
356 request increased ThadCon's expenses from the original budget; therefore ThadCon was  
357 requesting an additional \$41,379.50 (Change Order No. 1).

358  
359 Mr. Otte stated that staff recommended the CRA approve Change Order No. 1 associated  
360 with the relocation and increase in size of the Temporary Parking lot.

361  
362 Mr. Williams inquired about the exact location of the temporary lot and what changes  
363 were to be implemented. Ms. Martin stated that the work had already been completed but  
364 due to an administrative oversight the Change Order No. 1 had never been brought  
365 forward to the CRA and City Commission.

366  
367 A brief discussion ensued about the increase in size and this triggering certain St. Johns  
368 River Water Management District (SJRWMD) requirements.

369

370 **Mr. Kosmas made the motion to approve the Change Order No. 1 in the amount of**  
371 **\$41,379.50; seconded by Mr. Williams. The motion carried on a roll call vote 4 – 0.**

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373

374

## REPORTS AND COMMUNICATIONS

375

376 A. Director's Report

377

378 Mr. Otte stated that he had been contacted by an Engineer who felt that the foundation of  
379 the Dunn Lumber building was also the north boundary wall for the canal structure  
380 underneath Canal Street. Mr. Otte continued that staff was investigating this claim as they  
381 wanted to move forward with the demolition of the Dunn Lumber building in an effort to  
382 make this area an attractive gateway entry to the historical downtown.

383

384 Mr. Kosmas asked for more clarification on the canal structure and felt that this may have  
385 an impact on future redevelopment. Mr. Otte stated that this issue and the perceived  
386 contamination created some challenges.

387

388 Mr. Otte stated that staff was working on getting the Redevelopment Plan update  
389 approved by the City Commission by the end of May.

390

391 Mr. Otte continued that he was working with the Parks & Recreation Department to get  
392 the hydrants on Canal Street repainted.

393

394 Mr. Otte inquired if the City Commission/Utilities Commission Joint Meeting scheduled  
395 for April 20, 2010 had been cancelled. Mr. Dennis stated that this was his understanding.

396

397 Mr. Otte stated that this concluded his report.

398

399 Mr. Mark Hall, CRA attorney informed the CRA that a conflict resolution meeting as  
400 required by Florida Statute had been scheduled between representatives from the  
401 Southeast Volusia Hospital District (SEVHD) and the City of New Smyrna Beach for  
402 April 20, 2010 at 10:00 am in the City Commission Chamber and that he would have a  
403 summary of this meeting to the CRA by their next meeting.

404

405 Ms. Henrikson presented the CRA with two (2) versions of a concept plan for the Esther  
406 Street Park, depicting concepts with and without the use of a private easement. Ms.  
407 Henrikson stated that this was necessary as staff had been unsuccessful in making contact  
408 with the property owners from whom the easement needed to be obtained. Ms. Henrikson  
409 stated that she would be glad to answer any questions and offered to bring this item back  
410 before the CRA in more detail at the May 5, 2010 CRA meeting.

411

412 Mr. Dennis felt that these concept plans were an improvement from the previous version  
413 and that he would like to have some time to review it thoroughly. The CRA  
414 Commissioners agreed.

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Mr. Williams suggested including a design for an exfiltration system that would allow for easy sand removal.

Mr. Belote asked to receive a list of items which had been added by City Staff and that were not on the original plan. Mr. Kosmas agreed with Mr. Belote.

**B. Commissioner Report**

Mr. Williams stated that he had reviewed the documents for the proposed FDOT project for the intersection of US1/Canal Street and suggested restricting the traffic flow onto Canal Street in lieu of widening US1.

A brief discussion ensued about the FDOT representatives not having incorporated the suggestions made by the CRA Commissioners at the March 3, 2010 CRA meeting. Mr. Otte stated that these comments and concerns could be re-addressed at an upcoming public meeting with FDOT.

Mr. Williams asked for clarification on the topic of Internet Cafés. Ms. Henrikson informed the CRA that staff had been seeking input and guidance on this issue, since these businesses were permitted by State Statute and could not necessarily be prohibited outright. Ms. Henrikson continued that this type of business fell under the category of a regular retail business and that a new application for an Internet Café on Canal Street had recently been submitted to the Planning Department. Ms. Henrikson stated that the Planning and Zoning Board did not foresee any problems with this type of business.

**C. Correspondence - Response letter from FDOT pertaining to the FEC/Amtrak Passenger Rail Service**

No comments.

**ADJOURNMENT**

**A motion was made to adjourn; all agreed. Meeting adjourned at 4:02 pm.**

Questions and Comments to the  
CRA board of New Smyrna Beach.  
Concerning Item 6

- 1) Do we really know who or what Development the CRA, City of NSB and the owners of 214 Flagler Avenue are selling, giving or transferring these three parcels of land to? Has anyone done a background check on Mr Swester, his development companies (why the different names) and the new name in the name of the McHenry Trust (they paid for the Anderson property <sup>on Florida</sup> - new address 1320 S. Riverside Drive) Or is the City and CRA going to fund itself with construction liens or judgments from this groups History?
- 2) Is the Hampton Inn still the Franchise that is going to operate this Hotel and if not who is.

3) The Florida Statute on the CRA states that this is meant to restore blighted areas - I suggest to you that no matter how Faux Old Florida the design, a too large and out of scale building with insufficient parking and attendant back entrance on Florida Avenue will create a blighted area from one where visitors walk around photographing our charm and Historic District.

4) The parking - will the spaces in the current City lot (Some of which are leased to businesses) be maintained during construction and are these spaces going to be replaced as promised in addition to the 61 spaces in the plan?

5) I am totally against giving this project any land which we the taxpayers have payed for. There are 500 plus signatures against this size Hotel on this site filed with the public record.

Margaret J Yarranton

309 Florida Avenue.