CITY OF NEW SMYRNA BEACH
CITY COMMISSION REGULAR MEETING AGENDA

TUESDAY, MARCH 13, 2012 – 6:30 P.M.

CITY COMMISSION CHAMBER, CITY HALL, 210 SAMS AVENUE, NEW SMYRNA BEACH, FLORIDA

I. **Call to Order/Roll Call:**

II. **Invocation/Pledge of Allegiance:**

III. **Approval of the Agenda:**

IV. **Announcements/Presentations/Recognition:**

A. Proclamation – Naming March 2012 as Archaeological Month in the City of New Smyrna Beach.

B. 2012 Donnadine Miller Memorial Historic Preservation Awards – Presentations of the 2012 Donnadine Miller Memorial Historic Preservation Award to the residential winner at 641 Faulkner Street, and nonresidential winner at 512 South Riverside Drive.

C. FDOT Presentation – Presentation outlining the "ReThink" Program of the Florida Department of Transportation (FDOT).

V. **Mayor and Commission Reports:**

VI. **Consent Agenda (Approval of Minutes/Routine Resolutions):**

A. Approval of Minutes – Approve the minutes of regular meetings held September 13 and September 27, 2011, and special meeting held September 14, 2011.

B. Bid Award/Airport Fuel Farm Equipment Installation – Approve the award of bid to Fuel Tech, Inc. for the supply and installation of fuel farm equipment at the municipal airport at a cost of $258,128.

C. Bid Award/2012 Street and Stop Sign Program – Approve the award of bid to Allmac Signs, in the amount of $34,456, for the implementation and installation of fifty percent of all signs identified in the 2012 Street and Stop Sign Program.

D. Contract Change Order/Esther Street Seawall – Approve the award of a contract change order to S.E. Cline Construction, in the amount of $37,325 for the construction of a walkway, stairway and handicapped ramp, east of the Esther Street Seawall.

E. Resolution No. 12-12/Municipal Golf Course Rules – Adopt a resolution amending Resolution No. 44-10, Establishing Rules and Policies for the municipal golf course.

F. Waiver of Payment In Lieu of Taxes – Approve the request from the Housing Authority of New Smyrna Beach that payment in lieu of taxes to the City be waived for FY 2010, FY 2011 and FY 2012. The total amount requested to be waived for the entire period is $42,333.88.

G. Speed Limit Recommendation/7th Avenue to 27th Avenue – Approve the Police Department's recommendation for a 25 mph speed limit for 11th Avenue and the avenues north and south of 11th Avenue, being 7th Avenue to 27th Avenue.

H. Special Event/Food Truck Bazaar on Flagler Avenue – Approve the creation of the Fifth Friday, Food Truck Bazaar on Flagler Avenue, hosted by the Parks and Recreation Department, on Friday, March 30, 2012, from 5 to 8 p.m. If approved, also approve the closure of Flagler Avenue from Peninsula Avenue to North and South Atlantic Avenue from 3 to 9 pm, the day of the event.

VII. Ordinances – Second Reading and Public Hearings:

A. Ordinance No. 33-12/Floodplain Management – Conduct the second reading and public hearing of an ordinance, which if adopted, would amend the City Code by repealing Article VII, Flood Damage Prevention, and create a new Article VIII, Floodplain Management. At its regular meeting February 28, 2012, the City Commission unanimously approved this ordinance on first reading, as moved by Commissioner Grasty and seconded by Commissioner Plaskett.

B. Ordinance No. 35-12/Detwiler Cemetery – Conduct the second reading and public hearing of an ordinance, which if adopted, would establish Detwiler Cemetery on property at 750 Oakwood Avenue as a Historic Landmark in the City of New Smyrna Beach. At its regular meeting February 28, 2012, the City Commission unanimously approved this ordinance on first reading, as moved by Commissioner Plaskett and seconded by Commissioner Grasty.

C. Ordinance No. 36-12/1st Amendment to PUD/Hampton Inn – Conduct the second reading and public hearing of an ordinance, which if adopted, would amend the Hampton Inn New Smyrna Beach Planned Unit Development Master Development Agreement with HHHO, LLC/Premier Development Group, for approximately 2 acres located between Flagler Avenue and Florida Avenue, east of North Peninsula Avenue and west of North Pine Street, at 214 Flagler Avenue, and 207 and 215 Florida Avenue, to incorporate approximately 0.3 acres of additional property into the PUD and specify additional property into the PUD and specify minimum dimensional requirements for parking spaces within the PUD. At its meeting on February 6, 2012, the Planning and Zoning Board, acting as Local Planning Agency, unanimously recommended approval of the proposed ordinance. At its regular meeting February 28, 2012, the City Commission, by 4 to 1 majority vote, approved this ordinance on first reading, as moved by Vice Mayor Reiker and seconded by Commissioner Grasty. Commissioner Plaskett voted no.

D. Ordinance No. 37-12/B-5 Setbacks – Conduct the second reading and public hearing of an ordinance, which if adopted, would amend the *Land Development Regulations* to revise the minimum building setbacks required for outparcels within the Planned Shopping Center (B-5) zoning district. At its meeting on February 6, 2012, the Planning and Zoning Board, acting as Local Planning Agency, unanimously recommended adoption of the proposed ordinance. At its regular meeting February 28, 2012, the City Commission unanimously approved this ordinance on first reading, as moved by Commissioner Hathaway and seconded by Commissioner Grasty.

E. Ordinance No. 38-12/Capital Improvements Element – Conduct the second reading and public hearing of an ordinance, which if adopted, would modify the City Capital Improvements Element. At its regular meeting February 28, 2012, the City Commission unanimously approved this ordinance on first reading, as moved by Vice Mayor Reiker and seconded by Commissioner Grasty.

F. Ordinance No. 39-12/CRA Governing Body - Conduct the second reading and public hearing of an ordinance, which if adopted, would amend the governing body of the Community Redevelopment Agency to be the City Commission and two citizens. At its regular meeting February 28, 2012, the City Commission unanimously approved this ordinance on first reading, as moved by Commissioner Plaskett and seconded by Commissioner Grasty.

VIII. Public Participation:

In accordance with Resolution No. 43-10, a three-minute limitation will be imposed unless otherwise granted by the City Commission.

IX. Ordinances – First Reading:

A. Ordinance No. 34-12/McDonald Contraction/2275 Turnbull Bay Road – Conduct the first reading of an ordinance, which if adopted, would contract approximately 2 acres located east of Turnbull Bay Road, south of the Intersection of Turnbull Bay Road and Bayview Drive at 2275 Turnbull Bay Road.

B. Ordinance No. 40-12/Waste Management/Roll-Off Service – Conduct the first reading of an ordinance, which if adopted, would grant a non-exclusive franchise to Waste Management, Inc. of Florida, to provide roll-off container collection and disposal of waste within the City.

C. Ordinance No. 41-12/Easement Vacation/702 Saxon Palm Court – Conduct the first reading of an ordinance, which if adopted, would vacate approximately 3' x 117' of a drainage and utility easement at 702 Saxon Palm Court.

X. Administrative Items/New Business:

A. License Agreement, FECR, Mary Avenue Phase II – Consider approval of a license agreement between the City and the Florida East Coast Railway (FECR) for Phase II of the Mary Avenue Streetscape Project, specifically the Mary Avenue railroad crossing.

B. License Agreement/703 Fairway Drive – Approve entering into a license agreement with the owner of property at 703 Fairway Drive, allowing for the replacement of a golf cart bridge to municipal golf course property.

C. License Agreement/Isles of Sugar Mill HOA – Approve entering into a license agreement with the Isles of Sugar Mill Home Owners Association, allowing various landscaping improvements, including decorative landscape curbing, decorative landscape fencing and plantings, within the Aeolian Drive, Mount Olympus Boulevard, Atlantis Drive and Sparta Drive rights of way.

XI. Boards and Commissions:

A. Code Enforcement Board – Consider the appointment/reappointment of two members whose terms expired March 3, 2012. The terms of members Kathy Cooley and Michael Slayton expired March 3, 2012.

XII. City Manager's Report:

XIII. City Clerk's Report:

XIV. City Attorney's Report:

XV. Adjournment:

Pursuant to *Florida Statutes* 286.0150, if an individual decides to appeal any decision made by the City Commission with respect to any matter considered at this meeting, a record of the proceedings will be required and the individual will need to ensure that a verbatim transcript of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based. Such person must provide a method for recording the proceedings.

In accordance with the Americans With Disabilities Act, persons needing assistance to participate in any of these proceedings should contact the City Clerk's office in person or by mail at 210 Sams Avenue, New Smyrna Beach, Florida 32168, (386) 424-2112, prior to the meeting.

City of New Smyrna Beach Proclamation

"Archaeology Month – 2012"

WHEREAS, Florida has a rich and diverse heritage dating back over 12,000 years; and

WHEREAS, our history can be traced through the remains of the past left by people whose ways of life have vanished forever; and

WHEREAS, archaeological discoveries provide a valuable, and sometimes singular, record of human history; and

WHEREAS, public appreciation and understanding are the foundation of preserving our past for future generations; and

WHEREAS, archaeological sites and artifacts are nonrenewable resources worthy of protection and preservation; and

WHEREAS, *"Destination: Civil War"* has been adopted as the theme for Florida Archaeological Month, 2012; and

WHEREAS, New Smyrna Beach enjoys a rich archaeological legacy enhanced by the conduct of archaeological surveys, and documentation of archaeological sites; and, by the identification, nomination of approval of sites for placement on the National Register of Historic Places.

NOW, THEREFORE, I, Adam Barringer, Mayor of the City of New Smyrna Beach, do hereby proclaim March 2012 as:

"ARCHAEOLOGY MONTH – 2012"

in New Smyrna Beach and encourage all citizens to learn more about the archaeology of our City and to participate in preserving our shared human heritage and respect for present and past human populations.

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of March, 2012.

ADAM BARRINGER
MAYOR

ATTEST:

JOHNNY R. BLEDSOE
CITY CLERK

DESTINATION: CIVIL WAR

ON FRONT. This artwork depicts one of [illegible] soldiers at Dowry's military encampment, [illegible] served by a central powder magazine, at the Confederate Battery at Rosemark Landing, Originally constructed by the Confederate military for the defense of the Apalachicola River in 1862, this site is currently preserved in Torreya State Park, in Liberty County, Florida. This artwork by David Edwards is based on archaeological investigations conducted by the University of West Florida and the Florida Public Archaeology Network during the decade of 2010.

Coastal Forts

At the beginning of the Civil War, a series of massive masonry coastal fortifications protected the Florida coast. Fort Pickens in Pensacola, Fort Taylor in Key West, and Fort Jefferson in the Dry Tortugas remained in US possession throughout the war. Forts Barrancas and McRae in Pensacola, Fort Marion in St. Augustine, and Fort Clinch near Fernandina were occupied by Florida troops when the state seceded, but by the end of 1862 had been abandoned or surrendered by the Confederacy.

Earthen Forts

Confederate forces constructed temporary earthen fortifications to protect Florida's rivers and communities. These included the short-lived Camp Walton built on a prehistoric shell mound near Choctawhatchee Bay, Fort Ward constructed on the ruins of the old Spanish fortification at the confluence of the San Marcos and Wakulla Rivers, batteries erected along the strategically important Apalachicola River, forts at Yellow Bluff and St. Johns Bluff at the mouth of the St. Johns River, and forts protecting the approach to the state capital at Tallahassee and the railroad bridge across the Suwannee River.

Battlefields

Although Florida was never a major theater of war, significant skirmishes and battles did take place in the state. Notable are the October 8, 1861 Battle of Santa Rosa Island, the February 20, 1864 Battle of Olustee and the March 8, 1865 Battle of Natural Bridge.

Naval Warfare

Control of Florida's waters and Confederate shipping was, from the outset, a fundamental US strategy for winning the Civil War. Shipwrecks in Florida waters attest to the importance of naval warfare. The Union steamboat *Maple Leaf* was transporting US commercial equipment when it was sunk by a Confederate torpedo mine in the St. Johns River on April 9, 1864. Two Confederate blockade runners were scuttled at Bagdad on the Gulf Coast when threatened by ships of the US blockading squadron. Ech *Harrison*, a steam-powered tug in the Gulf Blockading Squadron, was lost with all hands in a storm off the coast of Tampa on its way home to New York following the war.

Wartime Industry

A new wartime economy developed in Florida during the Civil War focusing on the production of much-needed supplies such as salt and beef cattle. Although cattle had been important in pre-war Florida, mainly in the southern part of the peninsula, most salt was imported from Europe. A large salt industry, including a few major salt works and hundreds of small "salt camps," soon sprang up along the Gulf Coast in the marshes of the Big Bend.

Florida & The Civil War

On January 10, 1861, Florida became the third state to secede from the Union and was soon engaged in what would be the most deadly conflict on US soil – the American Civil War. Strategic planners on both sides largely overlooked Florida because of its remote location, small population, and limited industrial production. Nonetheless, after the southern coast was effectively blockaded by the US Navy, Florida played an increasingly key role in prolonging the war and shaping its final outcome by supplying the Confederate states with soldiers and much-needed staples such as beef and salt.

While far removed from the major campaigns of the war, the people who lived in Florida felt the hardships of the struggle as the conflict dragged on. Already isolated, the Federal blockade of the Florida coast made life even more difficult. Cotton-shipping maritime and plantation economies ground to a halt while production of cattle and salt for the Confederacy boomed. Portions of the state became a virtual no man's land between Confederate and US forces occupying coastal towns and the blockading squadrons. New fortifications, supply depots, and both soldier and refugee camps materialized. Skirmishes and battles soon followed.

Many places where the Civil War happened in Florida remain intact and are part of our 21st century landscape. Some of these sites are preserved in state and local parks and can be visited today, many are historic sites where the story of the Civil War is told, and some are on private land and not readily accessible. Other sites, regrettably, have been lost to development or erosion.

As the nation commemorates the 150th anniversary of the Civil War, it is important to remember what happened in Florida, and to preserve those sites that remain from this conflict. These are places that tell a unique story. Many tales are waiting to be discovered by archaeologists but only if the sites, their buried artifacts, and other remains are respected and preserved. Visit these sites to learn, reflect, and remember, but please leave them as you find them so others may share this experience and so their hidden story is not lost.

FLORIDA AND RECONSTRUCTION

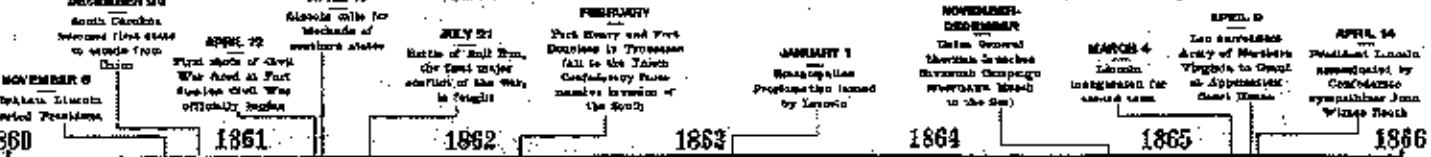
Despite the surrender of Florida in 1865, the state was not officially readmitted to the Union until 1868 and Federal troops continued to occupy the state until the end of the era of Reconstruction in 1877.

FLORIDA ARCHAEOLOGY MONTH
MARCH 2012

This project was financed in part with historic preservation grant assistance provided by the Bureau of Historic Preservation, Division of Historical Resources, Florida Department of State, assisted by the Florida Historical Commission.

CREDITS: Text by William H. Lees, Eliza McNeill, Michael Thomas; graphic design by Jason Kast and Monica Bradford; Maple Leaf artifact photo courtesy of Virginia Department of Historical Resources.

Original artwork © 2011 Boris Dimitrijevic



TO LEARN MORE, PLEASE VISIT THESE WEBSITES: HTTP://FLARCHMONTH.COM — HTTP://FLPUBLICARCHAEOLOGY.ORG/CIVIL-WAR — HTTP://FLHERITAGE.COM/PRESERVATION/TRAILS/CIVIL-WAR — HTTP://FAS-WEB.ORG

DESTINATION: CIVIL WAR

Florida Archaeology Month

AGENDA ITEM SUMMARY

Department Making Request: **Planning and Engineering**

Meeting Date: 1st Reading: 3/13/12 2nd Reading: N/A

Action Item Title: **2012 Donnadine Miller Memorial Historic Preservation Award**

Agenda Section: Consent __ Public Hearing ____ Special Items _____
Announcements/Presentations/Recognition X

Summary Explanation and Background: On February 8, 2012, the Historic New Smyrna Beach Preservation Commission (HPC) reviewed four residential nominations and five non-residential nominations for the 2012 Donnadine Miller Memorial Historic Preservation Award.

After reviewing the criteria against each residential project, the HPC voted to award the 2012 Donnadine Miller Memorial Historic Preservation Award in the residential category to the owner of 614 Faulkner Street, Tony C. Crabtree.

After reviewing the criteria against each non-residential project, the HPC voted to award the 2012 Donnadine Miller Memorial Historic Preservation Award in the non-residential category to the owners of the Night Swan Intracoastal Bed and Breakfast at 512 South Riverside Drive, Charles and Martha Nighswonger.

Recommended Action/Motion: **Present the 2012 Donnadine Miller Memorial Historic Preservation Award for a residential property to the owner of 614 Faulkner Street and for a non-residential property to the owners of 512 South Riverside Drive.**

Funding Analysis: Budgeted N/A

Exhibits Attached: **Plaque**

Reviewed By:	Name	Signature
Department Director:	Gail Henrikson	
City Attorney	Frank Gummey	
City Manager	Pam Brangaccio	

Commission Action:

AGENDA ITEM SUMMARY

Department Making Request: **Planning and Engineering**

Meeting Date: 1st Reading: 3/13/2012 2nd Reading: N/A

Action Item Title: **FDOT ReThink Presentation Regarding Commuter Options**

Agenda Section: Consent Public Hearing Special Items
Presentation X

Summary Explanation and Background: Nicolle Avery Master, TranSystems and Karen Adamson, Department of Transportation Transit and Intermodal Supervisor, have requested to appear before the City Commission to present information on the Florida Department of Transportation's (FDOT) ReThink Program. The ReThink Program is a resource for community options in Central Florida. In particular, this FDOT program seeks to promote carpooling and vanpooling; mass transit; biking and walking; and telecommuting.

Recommended Action/Motion: **None**

Funding Analysis: Budgeted _N/A_ If not budgeted, recommended funding account:

Exhibits Attached: **Information on FDOT ReThink Program**

Reviewed By:	Name	Signature
Department Director:	Gail Henrikson	
City Attorney	Frank Gummey	
City Manager	Pam Brangaccio	

Commission Action:

Florida Department of Transportation
Attention: reThink
133 South Semoran Boulevard
Orlando, Florida 32807

reThink is your #1 resource for commute options in Central Florida. A service of the Florida Department of Transportation, the program has four essential goals.

Our Goals

- Saving YOU money
- Reducing congestion
- Improving air quality
- Conserving natural resources

To achieve these goals, **reThink** promotes commute options that make sense for you. There are many ways to get to work other than driving alone in your car every day!

Better Ways to Get to Work

- Carpooling or Vanpooling
- Riding the Bus
- Biking & Walking
- Telecommuting

Our Programs & Services

Ridematching

- Online assistance to connect commuters to share the ride to work by carpooling or vanpooling at **reThinkYourCommute.com**

Employer Outreach

- Development of programs to reduce employee commute trips, which help reduce a company's carbon footprint, as well as saving money for both the employer and the employee
- Training of Employee Transportation Coordinators (ETCs) to implement transportation benefit programs

Commuter Outreach

- Empowering YOU the commuter by providing information on commute options other than driving alone in a car
- Useful information about safe cycling, walking and how to ride the bus
- Guidance on how to approach your employer about telecommuting and alternative work schedules

Incentive Programs

- Qualified Transportation Fringe Benefits (tax benefits for employers and employees)
- Emergency Ride Home (ERH) Program
- Designation as Best Workplaces for Commuters

Florida Department of Transportation
Attention: reThink
133 South Semoran Boulevard
Orlando, Florida 32807

In Central Florida, 82% of people are driving alone to work every day. That means more than 1.3 million single-occupancy vehicles on the road affecting your quality of life and everyone's bottom line.

By reThinking the way we get to work, we can decrease congestion, improve air quality, conserve natural resources, and save everyone a lot of money. Currently, the rate of drive-alone trips in Central Florida is having a negative impact in each of these areas.

- **Congestion**
  - Those 1.3 million cars with only one person per vehicle contribute to local road congestion. In fact in 2010, the average commuter wasted 34 hours just sitting in traffic.
  - Orlando area commuters wasted even more time (38 hours stuck in traffic).
  - "Rush hour" now lasts six hours!

- **Air Quality**
  - Mobile sources (i.e. cars) account for one-third of the nation's air pollution.
  - Cars emit a lot of nasty things from their exhaust pipes which have been connected to heart problems, asthma, and other health issues.

- **Conserve Natural Resources**
  - Many trips we take in the car are less than 5 miles. Several short trips can use twice as much fuel as a longer multi-purpose trip covering the same distance when the engine is warm.
  - Stop-and-go traffic doesn't help fuel economy either: In 2010, each of us wasted 14 gallons of gas due to traffic. That's a week's worth of fuel for the average commuter!
  - Commuters across the US wasted 1.9 billion gallons of gas due to congestion in 2010.

- **Save Money**
  - Each of us spends almost 20% of our income on transportation – the less you make, the higher the percentage.
  - Though it may seem that the only cost to drive is the price of gas, each mile you drive actually costs you 59 cents.
  - If your daily commute is in line with the national average (15 miles each way), you are spending at least $4,300 a year just to get to work.

Florida Department of Transportation
Attention: reThink
[illegible] South Semoran Boulevard
Orlando, Florida [illegible]

PARTNERS

Ace Metric Cycles
Audubon Park Garden District
Barry University
Bikes, Beans & Bordeax Cafe
Breakaway Bicycles
Brevard County
Circles of Care
City of Cape Canaveral
City of Cocoa
City of Cocoa Beach
City of DeLand
City of Deltona
City of Indian Harbour Beach
City of Mascotte
City of Minneola
City of Ocala
City of Orange City
City of Orlando
City of Palm Coast
College of Central Florida
Costa Devault
Daytona Beach Work Release Center
Dept. of Children & Families – Volusia County
ecoPreserve
Everest University
Flagler County
Flagler Development Company
Flagler County Public Schools
Florida College of Natural Health
Greenway Bicycles
Marion County Center for Training and Adult Education
Loco Motion
Marion County Property Appraiser
Marion Technical Institute
Northrop Grumman Laser Systems
Ocala/Marion Chamber of Commerce
Orange County
Orange County Convention Center
Orlando Airport Marriott
Osceola County
Retro City Cycles
Signature Brands
Sonny's Real Pit BBQ
SPX Corporation
SMA Behavioral Health Services, Inc.
Tomoka Correctional Institute
TranSystems
Urban Rethink
Volusia County
West Oaks Mall

PROCLAMATIONS & RESOLUTIONS

Brevard County, January 11, 2011
City of Cape Canaveral, January 4, 2011
City of Cocoa, April 26, 2011
City of Deltona, November, 1, 2010
City of Ocala, June 27, 2011
Osceola County, October 10, 2011

Florida Department of Transportation
Attention: reThink
133 South Semoran Boulevard
Orlando, Florida 32807

Emergency Ride Home Program

The Florida Department of Transportation District 5 has launched a regional commuter assistance program in July 2010. This program is called **reThink** and will serve all nine counties in District 5, which includes Brevard, Flagler, Lake, Marion, Orange, Osceola, Seminole, Sumter and Volusia counties.

One of the services that is available to area commuters that use an alternative mode of transportation is the **Emergency Ride Home** (ERH) Program.

reThink's ERH Program is a back-up plan in case you have to arrange transportation home due to specific qualifying events. If one of these situations arises, you can request reimbursement for the expense of your emergency ride home.

You must register with reThink in order to use the ERH reimbursement system. After registering, you may request reimbursement for emergency transportation home up to four times a year, up to $150 for each occurrence.

How to Qualify

Register with reThink to let us know what alternative mode of transportation you use to get to work. **You must use this mode at least two times a week to qualify.**

What Qualifies as an Emergency?

- Illness
- Unscheduled overtime

What Can Be Reimbursed?

- Cost of mileage - If a co-worker or your manager drives you home, you can request **reThink** to pay for their mileage.
- Cost of a taxi
- Cost of a rental car
- Each reimbursement request cannot exceed $150
- Each registered commuter is limited to a total of four reimbursements every calendar year
- Reimbursement requests are non-transferable

Register with reThink to enroll in the Emergency Ride Home program!

This program provides reimbursement for the cost of emergency transportation home.

This service is exclusively for smart commuters like you!

For full program information, please call reThink at 1-866-610-RIDE (7433) or send an email to ERH@reThinkYourCommute.com.

Partner Sign-Up

YES! We want to be a part of making Central Florida an even better place to live, work, and play!

Our organization would like to take advantage of the Florida Department of Transportation's free commuter assistance programs through reThink. We want to do our part to help our employees save money, reduce congestion, improve air quality and conserve natural resources!

☐ Yes, please list us as a partner on reThink's website and in promotional materials.

Name of Business / Organization

Name of Contact

Primary Worksite Address

Title

Number of Employees

Phone Number

Website Address

E-mail Address

reThink™

reThinkYourCommute.com

1-800-870-RIDE (7433)

Complete this form to get started today!

Please return it to the address below, fax it to 407-275-4188, or scan and e-mail it to info@reThinkYourCommute.com.

Florida Department of Transportation • Attention: reThink
133 S. Semoran Blvd. • Orlando, FL 32807

AGENDA ITEM SUMMARY

Department Making Request:	City Clerk
Meeting Date:	March 13, 2012
Action Item Title:	Minutes
Agenda Section:	Consent Agenda

Summary Explanation and Background:

The City Commission held regular meetings on September 13, 2011 and September 27, 2011; and, a special meeting on September 14, 2011.

As required by *Florida Statutes*, minutes of these meetings were prepared and are presented for City Commission review and approval.

Recommended Action/Motion:

- **Approve the Minutes of the regular meetings held September 13 and September 27, 2011; and, the special meeting held September 14, 2011**

Funding Analysis: Not Applicable as there is no fiscal impact

Exhibits Attached:
Minutes of the regular meetings on September 13 and September 27, 2011; and, special meeting held September 14, 2011.

Reviewed By:	Name	Signature
Department Director:	Johnny R. Bledsoe	
	City Clerk	
Finance Director	Althea Philord	Not Applicable
City Attorney	Frank B. Gummey, III	Not Applicable
City Manager	Pamela Brangaccio	Not Applicable

Commission Action:

MINUTES OF REGULAR CITY COMMISSION MEETING
HELD ON TUESDAY, SEPTEMBER 13, 2011
CITY HALL COMMISSION CHAMBER, 210 SAMS AVENUE
NEW SMYRNA BEACH, FLORIDA

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, September 13, 2011, in the City Hall Commission Chamber, 210 Sams Avenue, New Smyrna Beach, Florida.

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

Vice Mayor James W. Hathaway
Commissioner Judith A. Reiker
Commissioner Jack S. Grasty
Commissioner Lynne Plaskett

Also present were: City Manager Pamela Brangaccio; Assistant City Manager Khalid Resheidat; City Attorney Frank Gummey; Police Chief Ron Pagano; Planning Manager Gail Henrikson; Finance Director Althea Philord; CRA Director Tony Otte; Chief Building Official Mike Knotek; Human Resources Director Carol Hargy; and, City Clerk Johnny Bledsoe. Mayor Barringer was absent.

xxx

Police Department Chaplain William Chegwin was present and gave the invocation. Vice Mayor Hathaway led those present in the Pledge of Allegiance to the Flag.

xxx

APPROVAL OF THE AGENDA – City Manager Brangaccio reported the following amendments to the agenda since it was published:

Consideration of Resolution No. 38-10 was moved from New Business to the Consent Agenda.

xxx

ANNOUNCEMENTS/PRESENTATIONS/RECOGNITION:

Volunteer Recognition/Dorothy Moore – Vice Mayor Hathaway outlined Dorothy "Dot" Moore's unofficial biography, then read from and presented her with a plaque in recognition of her valued service to local programs regarding historic preservation.

Ms. Moore thanked the Commission for the recognition. She wished to share the recognition with others and commented on the interest displayed by New Smyrna Beach citizens and government representatives. Ms. Moore commented on funding support from Volusia County and City governments and encouraged citizens to visit the Southeast Volusia Museum. Ms. Moore outlined recent recognition from the United States National Park Service.

xxx

Team Volusia – Team Volusia Executive Director, Helen Cauthen gave a presentation that outlined her activities and those of the organizations' activities, over the past year. Ms. Cauthen highlighted many aspects of the new website, recently launched by Team Volusia, and encouraged all citizens to visit the site and enjoy all it had to offer.

xxx

MAYOR AND COMMISSION REPORTS:

Commissioner Grasty – Thanked City employees for their outstanding job working with citizens.

xxx

Commissioner Plaskett – Thanked all those employees and citizens involved with the projects on the Historic Westside.

xxx

Commissioner Reiker – No Report.

xxx

Vice Mayor Hathaway – Commented on the tenth anniversary of the terrorist attacks of September 11, 2001, and declines in people wearing U.S.A. Flag Lapel Pins. He urged all citizens to never forget what occurred that day, ten years ago.

Vice Mayor Hathaway thanked those employees who support a recent event sponsored by State Representative Dorothy Hukill.

Vice Mayor Hathaway spoke on behalf of the City Commission and staff, in congratulating Mayor Barringer on his recent marriage to the former Shannon Sumner.

xxx

CONSENT AGENDA:

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

A. Resolution No. 38-11/Turnbull Bay Bridge – Adopt a resolution, which if adopted would request urgent support from the St. Johns River Water Management District to expedite the permitting process for the replacement of the Turnbull Bay Bridge.

B. Change Order No. 18/Public Safety Project – Approve Change Order No. 18, in the amount of $7,079.80 and payable to APM Construction Corporation for additions to work associated with the public safety project.

C. Capital Improvement Project Manager Position – Approve the addition of a contractual position titled Capital Improvement Project Manager to assist with various capital projects. If approved, the position will be funded (50-50) by the CRA and General Fund.

D. Lease Extension/Historical Home at Pettis Park – Approve the extension/modifications to the existing lease agreement with the Black Heritage Festival of New Smyrna, Inc., for the historical "shot-gun house" museum to continue to locate at the Northeast corner of Pettis Park.

E. Contract Agreement Renewal/Southeast Volusia Humane Society – Approve the renewal of the contract agreement with the Southeast Volusia Humane Society, for the period October 1, 2011 through September 30, 2012.

F. Large Grant Award Amendment and Construction Start Date Extension/107 North Riverside Drive – The Dolphin View Restaurant – Approve amending the original grant award from $32,993.62 to $50,000 and the extending of the established construction beginning date from September 28, 2011 to December 27, 2011 for property at 107 North Riverview Drive (The Dolphin View Restaurant).

G. Commercial Property Improvement Grant/201 South Orange Street – Church of the Nazarene – Approve the award of a commercial property improvement grant, in the amount of $600 to the Church of the Nazarene at 201 South Orange Street.

H. CRA Grants and Aid Guidelines – Approve proposed amendments to the existing guidelines for CRA Grants and Aid in order to clarify language regarding future single event applications.

I. Environmental Assessments/1000 and 1010 Canal Street – Approve task orders submitted by the firm Kimley-Horn for the conduct of environmental assessments on properties at 1000 and 1010 Canal Street, at a cost of $34,372 for each property, funded by the Brownfield Assessment Grant.

J. Special Event/3rd Annual Chili and Chaps Event – Approve the conduct of the 3rd Annual Chili and Chaps Event on Saturday, October 15, 2011 from 12 noon to 5 pm, hosted by the Flagler Hospitality Group. Further approve the street closure of Flagler Avenue from Pine Street to Atlantic Avenue from 11 am to 6 pm.

K. Special Event/37th Annual Halloween Parade – Approve the conduct of the 37th Annual Halloween Parade event on Monday, October 31, 2011 from 4 to 6:30 pm, hosted by the Parks and Recreation Department. Further approve the requested street closure of Canal Street from Orange Street to Riverside Drive from 3 to 7 pm.

L. Special Event/21st Annual Flamingo Follies Holiday Art Show – Approve the conduct of the 21st Annual Flamingo Follies Holiday Art Show event on Saturday and Sunday, November 12 and 13, 2011 from 9 am to 5 pm daily, hosted by the Parks and Recreation Department. Further approve the requested street closure of Flagler Avenue from Peninsula Avenue to Buenos Aires Avenue from 3 am Saturday to 7 pm Sunday.

Vice Mayor Hathaway requested Items A, C and F be removed for separate consideration.

Motion:
Commissioner Plaskett moved to approve all Consent Agenda items, except for items A, C, and F. Commissioner Grasty seconded the motion and the roll call was:

Commissioner Reiker	yes
Commissioner Grasty	yes
Vice Mayor Hathaway	yes
Commissioner Plaskett	yes

The motion carried unanimously.

xxx

Consent Agenda Item A – Resolution No. 38-11/Turnbull Bay Bridge – City Manager Brangaccio outlined Resolution No. 38-11, a resolution, which if adopted would request urgent support from the St. Johns River Water Management District to expedite the permitting process for the replacement of the Turnbull Bay Bridge. Ms. Brangaccio outlined staff's recommendation to approve the payment of up to $100,000 as payment of fifty percent of temporary bridge repairs on the Turnbull Bay Road Bridge, with Volusia County absorbing the remaining half of the costs.

Vice Mayor Hathaway commented on Volusia County staff and County Council discussion regarding having a temporary bridge in place within sixty to ninety days. Vice Mayor Hathaway was concerned with how permitting obstacles would impact the timeline for the permanent replacement of the bridge. Vice Mayor Hathaway commented on recycling alternatives for old bridge materials.

Motion:
Commissioner Grasty moved to adopt Resolution No. 38-11, with payment of $100,000 toward the repairs to the Turnbull Bay Bridge. Commissioner Plaskett seconded the motion and the roll call was:

Commissioner Grasty	yes
Vice Mayor Hathaway	yes
Commissioner Plaskett	yes
Commissioner Reiker	yes

The motion carried unanimously. Commissioner Plaskett commented on a recent public meeting sponsored by State Representative Dorothy Hukill, and discussions regarding how thousands of citizens were inconvenienced due to the closure of the Turnbull Bay Road Bridge.

xxx

Consent Agenda Item C – Capital Improvement Project Manager Position – City Manager Brangaccio outlined staff's recommendation that the Commission approve the addition of a contractual position titled Capital Improvement Project Manager to assist with various capital projects. Ms. Brangaccio clarified that if approved, the position would be funded (50-50) by the CRA and General Fund.

Assistant City Manager Resheidat commented on the importance of the position and highlighted the high number of projects currently ongoing. He felt the position would speed up the overall process for the City.

Motion:
Commissioner Grasty moved to approve the addition of a contractual position titled Capital Improvement Project Manager. Commissioner Reiker seconded the motion and the roll call was:

Vice Mayor Hathaway	yes
Commissioner Plaskett	yes
Commissioner Reiker	yes
Commissioner Grasty	yes

The motion carried unanimously.

xxx

Consent Agenda Item F – Large Grant Award Amendment and Construction Start Date Extension/107 North Riverside Drive – The Dolphin View Restaurant – Tony Otte outlined staff's recommendation that the Commission consider the approval of an amendment to the original grant award from $32,993.62 to $50,000 and the extending of the established construction beginning date from September 28, 2011 to December 27, 2011 for property at 107 North Riverview Drive (The Dolphin View Restaurant).

Vice Mayor Hathaway advised he would abstain from voting on the item as he had a voting conflict.

Motion:
Commissioner Plaskett moved to approve an amendment to the original grant award from $32,993.62 to $50,000 and the extending of the established construction beginning date from September 28, 2011 to December 27, 2011 for property at 107 North Riverview Drive (The Dolphin View Restaurant). Commissioner Grasty seconded the motion and the roll call was:

Commissioner Plaskett	yes
Commissioner Reiker	yes
Commissioner Grasty	yes
Vice Mayor Hathaway	abstained

The motion carried unanimously.

xxx

PUBLIC HEARINGS:

Ordinance No. 73-11/Firearms Regulations – City Attorney Gummey read Ordinance No. 73-11, the second time by title only. City Manager Brangaccio outlined the proposed ordinance, which if adopted, would amend the City Code to conform to Florida Statutes (State Preemption of Firearms Regulations.

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

Motion:
Commissioner Grasty moved to adopt Ordinance No. 73-11, as submitted. Commissioner Reiker seconded the motion and the roll call was:

Commissioner Grasty	yes
Vice Mayor Hathaway	yes
Commissioner Plaskett	yes
Commissioner Reiker	yes

The motion carried unanimously.

xxx

Ordinance No. 75-11/Budget Amendment – City Attorney Gummey read Ordinance No. 75-11, the second time by title only. City Manager Brangaccio outlined the proposed ordinance, which if adopted, would amend Ordinance Nos. 40-10, 61-10, 65-10, 03-11, 17-11, 26-11, 36-11 and 56-11, current expenses and capital outlay required by the City of New Smyrna Beach, during and for the fiscal year beginning October 1, 2010, and ending September 30, 2011.

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

Motion:
Commissioner Plaskett moved to adopt Ordinance No. 75-11 as recommended. Commissioner Grasty seconded the motion and the roll call was:

Vice Mayor Hathaway	yes
Commissioner Plaskett	yes
Commissioner Reiker	yes
Commissioner Grasty	yes

The motion carried unanimously.

xxx

Ordinance No. 76-11/Sidewalk Account – City Attorney Gummey read Ordinance No. 76-11, the second time by title only. Planning Manager Gail Henrikson outlined the proposed ordinance, which if adopted, would amend *the Land Development Regulations* by establishing a Sidewalk Account.

Commissioner Plaskett questioned the reason behind the Planning and Zoning Board's recommendation for disapproval of the proposed ordinance. Ms. Henrikson clarified the board felt the variance process would better address the issue, and commented on past staff actions regarding the requirement for sidewalk installation.

Commissioner Reiker questioned charging a fee. Ms. Henrikson clarified associated costs of installing a sidewalk. Assistant City Manager Resheidat commented on cost estimates for sidewalk work. Commissioner Plaskett wanted to ensure the fund would be utilized solely for sidewalks.

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

City Manager Brangaccio clarified that fees and uses of the fund would be identified through the adoption of a resolution.

Motion:
Commissioner Reiker moved to adopt Ordinance No. 76-11 as recommended. Commissioner Grasty seconded the motion and the roll call was:

Commissioner Plaskett	yes
Commissioner Reiker	yes
Commissioner Grasty	yes
Vice Mayor Hathaway	yes

The motion carried unanimously.

xxx

Ordinance No. 77-11/Boat Slip Allocations – City Attorney Gummey read Ordinance No. 77-11, the second time by title only. Planning Manager Gail Henrikson outlined the proposed ordinance, which if adopted, would amend *the Land Development Regulations* by defining and establishing a new section regarding boat slips.

Commissioner Plaskett questioned whether the proposed ordinance pertained to boat docks, as well. Ms. Henrikson confirmed the proposed ordinance also related to boat docks and mooring fields.

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

Motion:
Commissioner Reiker moved to adopt Ordinance No. 77-11 as recommended. Commissioner Grasty seconded the motion and the roll call was:

Commissioner Reiker	yes
Commissioner Grasty	yes
Vice Mayor Hathaway	yes
Commissioner Plaskett	yes

The motion carried unanimously.

xxx

Ordinance No. 78-11/Comprehensive Plan Amendment No. A-7-11/Salomone/Bolton Road – City Attorney Gummey read Ordinance No. 78-11, the second time by title only. Planning Manager Gail Henrikson outlined the proposed ordinance, which if adopted, would annex approximately 0.387 acres located north of Eslinger Road and southwest of the intersection of Bolton Road and Magnolia Drive into the corporate boundaries of the City of New Smyrna Beach.

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

Motion:
Commissioner Plaskett moved to adopt Ordinance No. 78-11 as recommended. Commissioner Reiker seconded the motion and the roll call was:

Commissioner Grasty	yes
Vice Mayor Hathaway	yes
Commissioner Plaskett	yes
Commissioner Reiker	yes

The motion carried unanimously.

xxx

Ordinance No. 79-11/Comprehensive Plan Amendment No. A-7-11/Salomone/Bolton Road – City Attorney Gummey read Ordinance No. 79-11, the second time by title only. Planning Manager Gail Henrikson outlined the proposed ordinance, which if adopted, would change land use of annexed property located north of Eslinger Road and southwest of the intersection of Bolton Road and Magnolia Drive, from Volusia County Urban Low Intensity designation to City Low Density Residential land use designation.

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

Motion:
Commissioner Plaskett moved to adopt Ordinance No. 79-11 as recommended. Commissioner Reiker seconded the motion and the roll call was:

Vice Mayor Hathaway	yes
Commissioner Plaskett	yes
Commissioner Reiker	yes
Commissioner Grasty	yes

The motion carried unanimously.

xxx

Ordinance No. 80-11/Comprehensive Plan Amendment No. A-7-11/Salomone/Bolton Road – City Attorney Gummey read Ordinance No. 80-11, the second time by title only. As it was a public hearing of a quasi-judicial nature, City Attorney Gummey administered the oath to Planning Manager Gail Henrikson. Ms. Henrikson outlined her professional and academic credentials. As no citizens questioned her qualifications, Ms. Henrikson outlined the proposed ordinance, which if adopted, would rezone annexed property, located north of Eslinger Road and southwest of the intersection of Bolton Road and Magnolia Drive from Volusia County Urban Single Family Residential (R-4) to City Single Family Residential District (R-2) zoning district.

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

Motion:
Commissioner Grasty moved to adopt Ordinance No. 80-11 as recommended. Commissioner Reiker seconded the motion and the roll call was:

Commissioner Plaskett	yes
Commissioner Reiker	yes
Commissioner Grasty	yes
Vice Mayor Hathaway	yes

The motion carried unanimously.

xxx

Ordinance No. 81-11/Comprehensive Plan Amendment No. A-11-11/Schwoerer/Otter Boulevard – City Attorney Gummey read Ordinance No. 81-11, the second time by title only. Planning Manager Gail Henrikson outlined the proposed ordinance, which if adopted, would annex approximately 5.0 acres located west of Otter Boulevard, south of Pioneer Trail and north of S.R. 44 into the corporate boundaries of the City of New Smyrna Beach.

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

Motion:
Commissioner Plaskett moved to adopt Ordinance No. 81-11 as recommended. Commissioner Reiker seconded the motion and the roll call was:

Commissioner Reiker	yes
Commissioner Grasty	yes
Vice Mayor Hathaway	yes
Commissioner Plaskett	yes

The motion carried unanimously.

xxx

Ordinance No. 82-11/Comprehensive Plan Amendment No. A-11-11/Schwoerer/Otter Boulevard – City Attorney Gummey read Ordinance No. 82-11, the second time by title only. Planning Manager Gail Henrikson outlined the proposed ordinance, which if adopted, would change land use of annexed property acres located west of Otter Boulevard, south of Pioneer Trail and north of S.R. 44 from Volusia County Urban Medium Intensity designation to City Low Density Residential land use designation.

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

Motion:
Commissioner Plaskett moved to adopt Ordinance No. 82-11 as recommended. Commissioner Reiker seconded the motion and the roll call was:

Commissioner Grasty	yes
Vice Mayor Hathaway	yes
Commissioner Plaskett	yes
Commissioner Reiker	yes

The motion carried unanimously.

xxx

Ordinance No. 83-11/Comprehensive Plan Amendment No. A-11-11/Schwoerer/Otter Boulevard – City Attorney Gummey read Ordinance No. 83-11, the second time by title only, and advised the Commission it was a public hearing of a quasi-judicial nature. Planning Manager Gail Henrikson outlined the proposed ordinance, which if adopted, would rezone annexed property, located west of Otter Boulevard, south of Pioneer Trail and north of S.R. 44 from Volusia County Urban Single Family Residential (R-4) to City Single Family Residential District (R-1) zoning district.

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

Motion:
Commissioner Grasty moved to adopt Ordinance No. 83-11 as recommended. Commissioner Reiker seconded the motion and the roll call was:

Vice Mayor Hathaway	yes
Commissioner Plaskett	yes
Commissioner Reiker	yes
Commissioner Grasty	yes

The motion carried unanimously.

xxx

Ordinance No. 84-11/Comprehensive Plan Amendment No. A-6-11/Freeman/Canal Street – City Attorney Gummey read Ordinance No. 84-11, the second time by title only. Planning Manager Gail Henrikson outlined the proposed ordinance, which if adopted, would annex approximately 0.57 acres located at the southwest corner of the intersection of Canal Street and Ingham Road, Into the corporate boundaries of the City of New Smyrna Beach.

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

Motion:
Commissioner Grasty moved to adopt Ordinance No. 84-11 as recommended. Commissioner Reiker seconded the motion and the roll call was:

Commissioner Plaskett	yes
Commissioner Reiker	yes
Commissioner Grasty	yes
Vice Mayor Hathaway	yes

The motion carried unanimously.

xxx

Ordinance No. 85-11/Comprehensive Plan Amendment No. A-6-11/Freeman/Canal Street – City Attorney Gummey read Ordinance No. 85-11, the second time by title only. Planning Manager Gail Henrikson outlined the proposed ordinance, which if adopted, would change land use of annexed property located at the southwest corner of the intersection of Canal Street and Ingham Road, from Volusia County Commercial designation to City Commercial land use designation.

Commissioner Plaskett questioned why the property was considered "Mixed Use". Ms. Henrikson clarified restrictions of surrounding properties led to the recommended uses.

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

Motion:
Commissioner Grasty moved to adopt Ordinance No. 85-11 as recommended. Commissioner Reiker seconded the motion and the roll call was:

Commissioner Reiker	yes
Commissioner Grasty	yes
Vice Mayor Hathaway	yes
Commissioner Plaskett	yes

The motion carried unanimously.

xxx

Ordinance No. 86-11/Comprehensive Plan Amendment No. A-6-11/Freeman/Canal Street – City Attorney Gummey read Ordinance No. 86-11, the second time by title only, and advised the Commission it was a public hearing of a quasi-judicial nature. Planning Manager Gail Henrikson outlined the proposed ordinance, which if adopted, would rezone annexed property located at the southwest corner of the intersection of Canal Street and Ingham Road, from Volusia County Heavy Commercial (B-5) to City Highway Service Business (B-3) zoning district.

Commissioner Plaskett questioned why B2 zoning was not considered for the property. Ms. Henrikson clarified that B2 zoning was located on Canal Street, west of Myrtle Avenue.

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

Commissioner Plaskett felt West Canal Street was a residential area and not a highway.

Motion:
Commissioner Grasty moved to adopt Ordinance No. 86-11 as recommended. Commissioner Reiker seconded the motion and the roll call was:

Commissioner Grasty	yes
Vice Mayor Hathaway	yes
Commissioner Plaskett	no
Commissioner Reiker	yes

The motion carried by 3 – 1 majority vote, with Commissioner Plaskett voting no.

xxx

Ordinance No. 87-11/Comprehensive Plan Amendment No. A-8-11/Stewart/Bolton Road – City Attorney Gummey read Ordinance No. 87-11, the second time by title only. Planning Manager Gail Henrikson outlined the proposed ordinance, which if adopted, would annex approximately 0.45 acres located east of Bolton Road and south of Magnolia Drive into the corporate boundaries of the City of New Smyrna Beach.

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

Motion:
Commissioner Plaskett moved to adopt Ordinance No. 87-11 as recommended. Commissioner Reiker seconded the motion and the roll call was:

Vice Mayor Hathaway	yes
Commissioner Plaskett	yes
Commissioner Reiker	yes
Commissioner Grasty	yes

The motion carried unanimously.

xxx

Ordinance No. 88-11/Comprehensive Plan Amendment No. A-8-11/Stewart/Bolton Road – City Attorney Gummey read Ordinance No. 88-11, the second time by title only. Planning Manager Gail Henrikson outlined the proposed ordinance, which if adopted, would change land use of annexed property located east of Bolton Road and south of Magnolia Drive from Volusia County Urban Low Intensity designation to City Low Density Residential land use designation.

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

Motion:
Commissioner Plaskett moved to adopt Ordinance No. 88-11 as recommended. Commissioner Reiker seconded the motion and the roll call was:

Commissioner Plaskett	yes
Commissioner Reiker	yes
Commissioner Grasty	yes
Vice Mayor Hathaway	yes

The motion carried unanimously.

xxx

Ordinance No. 89-11/Comprehensive Plan Amendment No. A-8-11/Stewart/Bolton Road – City Attorney Gummey read Ordinance No. 89-11, the second time by title only, and advised the Commission it was a public hearing of a quasi-judicial nature. Planning Manager Gail Henrikson outlined the proposed ordinance, which if adopted, would rezone annexed property located east of Bolton Road and south of Magnolia Drive from Volusia County Urban Single Family Residential (R-4) to City Single Family Residential District (R-2) zoning district.

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

Motion:
Commissioner Reiker moved to adopt Ordinance No. 89-11 as recommended. Commissioner Plaskett seconded the motion and the roll call was:

Commissioner Reiker	yes
Commissioner Grasty	yes
Vice Mayor Hathaway	yes
Commissioner Plaskett	yes

The motion carried unanimously.

xxx

Ordinance No. 90-11/Comprehensive Plan Amendment No. A-9-11/Wharton/Bolton Road – City Attorney Gummey read Ordinance No. 90-11, the second time by title only. Planning Manager Gail Henrikson outlined the proposed ordinance, which if adopted, would annex approximately 0.42 acres located east of Bolton Road and south of Magnolia Drive into the corporate boundaries of the City of New Smyrna Beach.

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

Motion:
Commissioner Grasty moved to adopt Ordinance No. 90-11 as recommended. Commissioner Reiker seconded the motion and the roll call was:

Commissioner Grasty	yes
Vice Mayor Hathaway	yes
Commissioner Plaskett	yes
Commissioner Reiker	yes

The motion carried unanimously.

xxx

Ordinance No. 91-11/Comprehensive Plan Amendment No. A-9-11/Wharton/Bolton Road – City Attorney Gummey read Ordinance No. 91-11, the second time by title only. Planning Manager Gail Henrikson outlined the proposed ordinance, which if adopted, would change land use of annexed property located east of Bolton Road and south of Magnolia Drive from Volusia County Urban Low Intensity designation to City Low Density Residential land use designation.

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

Motion:
Commissioner Grasty moved to adopt Ordinance No. 91-11 as recommended. Commissioner Reiker seconded the motion and the roll call was:

Vice Mayor Hathaway	yes
Commissioner Plaskett	yes
Commissioner Reiker	yes
Commissioner Grasty	yes

The motion carried unanimously.

xxx

Ordinance No. 92-11/Comprehensive Plan Amendment No. A-9-11/Wharton/Bolton Road – City Attorney Gummey read Ordinance No. 92-11, the second time by title only, and advised the Commission it was a public hearing of a quasi-judicial nature. Planning Manager Gail Henrikson outlined the proposed ordinance, which if adopted, would rezone annexed property located east of Bolton Road and south of Magnolia Drive from Volusia County Urban Single Family Residential (R-4) to City Single Family Residential District (R-2) zoning district.

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

Motion:
Commissioner Plaskett moved to adopt Ordinance No. 92-11 as recommended. Commissioner Grasty seconded the motion and the roll call was:

Commissioner Plaskett	yes
Commissioner Reiker	yes
Commissioner Grasty	yes
Vice Mayor Hathaway	yes

The motion carried unanimously.

xxx

Ordinance No. 93-11/Comprehensive Plan Amendment No. A-10-11/Wesver/Bolton Road – City Attorney Gummey read Ordinance No. 93-11, the second time by title only. Planning Manager Gail Henrikson outlined the proposed ordinance, which if adopted, would annex approximately 0.25 acres located west of Bolton Road and south of Magnolia Drive into the corporate boundaries of the City of New Smyrna Beach.

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

Motion:
Commissioner Plaskett moved to adopt Ordinance No. 93-11 as recommended. Commissioner Grasty seconded the motion and the roll call was:

Commissioner Reiker	yes
Commissioner Grasty	yes
Vice Mayor Hathaway	yes
Commissioner Plaskett	yes

The motion carried unanimously.

xxx

Ordinance No. 94-11/Comprehensive Plan Amendment No. A-10-11/Wesver/Bolton Road – City Attorney Gummey read Ordinance No. 94-11, the second time by title only. Planning Manager Gail Henrikson outlined the proposed ordinance, which if adopted, would change land use of annexed property located west of Bolton Road and south of Magnolia Drive from Volusia County Urban Low Intensity designation to City Low Density Residential land use designation.

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

Motion:
Commissioner Plaskett moved to adopt Ordinance No. 94-11 as recommended. Commissioner Grasty seconded the motion and the roll call was:

Commissioner Grasty	yes
Vice Mayor Hathaway	yes
Commissioner Plaskett	yes
Commissioner Reiker	yes

The motion carried unanimously.

xxx

Ordinance No. 95-11/Comprehensive Plan Amendment No. A-10-11/Wesver/Bolton Road – City Attorney Gummey read Ordinance No. 95-11, the second time by title only. Planning Manager Gail Henrikson outlined the proposed ordinances, which if adopted, would rezone annexed property located west of Bolton Road and south of Magnolia Drive from Volusia County Urban Single Family Residential (R-4) to City Single Family Residential District (R-2) zoning district.

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

Motion:
Commissioner Grasty moved to adopt Ordinance No. 95-11 as recommended. Commissioner Reiker seconded the motion and the roll call was:

Vice Mayor Hathaway	yes
Commissioner Plaskett	yes
Commissioner Reiker	yes
Commissioner Grasty	yes

The motion carried unanimously.

xxx

PUBLIC PARTICIPATION – As no citizens wished to speak, Vice Mayor Hathaway called a recess at 7:55 p.m. The City Commission meeting reconvened at 8:05 p.m.

xxx

ORDINANCES – FIRST READING:

Ordinance No. 02-11/Platted Lots – City Attorney Gummey read Ordinance No. 02-11, the first time by title only. The proposed ordinance, if adopted, would amend the *Land Development Regulations* to consider as buildable, any lot platted as part of a recorded subdivision providing that zoning district requirements are met. At its meeting on December 6, 2010, the Planning and Zoning Board unanimously recommended approval of the proposed ordinance.

Commissioner Plaskett questioned the number of variance requests reported during the past six years. Planning Manager Gail Henrikson clarified that the total number of variances were five.

Commissioner Plaskett questioned why the City was the applicant and not the property owners that created the requirement for the item. She also questioned the authority of the Economic Development Advisory Board to direct staff.

Commissioner Plaskett directed staff to provide updated maps and examples of how adoption of the proposed ordinance would impact other types of lots throughout the City. Ms. Henrikson requested the date of the second reading and public hearing be moved to the regular meeting on October 11, 2011.

Motion:
Commissioner Grasty moved to approve Ordinance No. 02-11 on first reading and to direct staff to provide updated maps and examples of how adoption of the proposed ordinance would impact other types of lots throughout the City. Commissioner Reiker seconded the motion and the roll call was:

Commissioner Plaskett	yes
Commissioner Reiker	yes
Commissioner Grasty	yes
Vice Mayor Hathaway	yes

The motion carried unanimously. The second reading and final public hearing was scheduled for the regular meeting on October 11, 2011.

xxx

Ordinance No. 96-11/1st Amendment to the South Village PUD Master Development Agreement – City Attorney Gummey read Ordinance No. 96-11, the first time by title only. The proposed ordinance, if adopted, would amend and restate the South Village Planned Unit Development (PUD) Master Development Agreement with South Village Developers, LLC, for approximately 1,363 acres located south of State Road 44, east of Hunting Camp Road and west of I-95.

Commissioner Plaskett commented on what she felt were many changes to the document, and highlighted her concern for the proposed elimination of sidewalks.

Planning Manager Gail Henrikson commented on discussions between the applicant and City staff regarding sidewalks, building height, access points on S.R. 44. Ms. Henrikson advised that City Commission approval would be based upon conditional approval received from the Volusia County School Board.

Attorney Jim Morris, represented the property owner/applicant outlined the proposed changes and highlighted that approval was still pending from the Florida Department of Transportation. Mr. Morris also commented on a proposed extension to Williamson Road.

Commissioner Grasty commented on requested changes to Airport Road. Paul Momberger, consultant with the firm of Zev Cohen, submitted a rendering of proposed changes in the alignment of Airport Road.

Vice Mayor Hathaway opened the floor for public comment. As no citizens wished to speak, Vice Mayor Hathaway closed public comment.

Motion:
Commissioner Reiker moved to approve on first reading, Ordinance No. 96-11, as submitted. Commissioner Grasty seconded the motion and the roll call was:

Commissioner Reiker	yes
Commissioner Grasty	yes
Vice Mayor Hathaway	yes
Commissioner Plaskett	yes

The motion carried unanimously. The second reading and final public hearing was scheduled for the regular meeting on September 27, 2011.

xxx

ADMINISTRATIVE ITEMS/NEW BUSINESS – None.

xxx

BOARDS AND COMMISSIONS:

Historic Preservation Commission – Vice Mayor Hathaway outlined staff's recommendation that the Commission consider the automatic removal of Allene Tegue, as a member of the Historic Preservation Commission, due to excessive absences, under the provisions of Section 2-86, *City Code of Ordinances*.

Motion:
Commissioner Plaskett moved to remove Member Allene Tegue, as a member of the Historic Preservation Commission, due to excessive absences, under the provisions of Section 2-86, *City Code of Ordinances* Commissioner Reiker seconded the motion and the roll call was:

Commissioner Grasty	yes
Vice Mayor Hathaway	yes
Commissioner Plaskett	yes
Commissioner Reiker	yes

The motion carried unanimously.

xxx

CITY MANAGER'S REPORT – The City Commission acknowledged receipt of the City Manager's Report. City Manager Brangaccio commented on the ongoing wayfinding sign project and advised that the City seal will not be part of the wayfinding signage.

xxx

CITY CLERK'S REPORT – No Report.

xxx

CITY ATTORNEY'S REPORT – No Report.

xxx

With no further business to address, Vice Mayor Hathaway declared the meeting adjourned at 8:35 p.m.

MINUTES OF REGULAR CITY COMMISSION MEETING HELD ON TUESDAY, SEPTEMBER 27, 2011 CITY HALL COMMISSION CHAMBER, 210 SAMS AVENUE NEW SMYRNA BEACH, FLORIDA

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, September 27, 2011, in the City Hall Commission Chamber, 210 Sams Avenue, New Smyrna Beach, Florida.

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

Mayor Adam Barringer
Vice Mayor James W. Hathaway
Commissioner Judith A. Reiker
Commissioner Jack S. Grasty
Commissioner Lynne Plaskett

Also present were: City Manager Pamela Brangaccio; Assistant City Manager Khalid Resheidat; City Attorney Frank Gummey; Police Chief Ron Pagano; Planning Manager Gail Henrikson; Finance Director Althea Philord; CRA Director Tony Otte; Chief Building Official Mike Knotek; Human Resources Director Carol Hargy; and, City Clerk Johnny Bledsoe.

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Police Department Chaplain Peter Carter, Jr. was present and gave the invocation. Mayor Barringer led those present in the Pledge of Allegiance to the Flag.

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APPROVAL OF THE AGENDA – City Manager Brangaccio reported the following amendments to the agenda since it was published:

The second reading and final public hearing for Ordinance No. 68-11 (Tattoo Parlors) was removed from the agenda and rescheduled for consideration at the regular meeting October 11, 2011.

Commissioner Plaskett suggested the proposed ordinance change language from "Tattoo" to "Body Art". City Attorney Gummey advised that unless directed otherwise by the Commission, the words "Tattoo" and "Tattoo Parlor" will continue to be utilized.

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ANNOUNCEMENTS/PRESENTATIONS/RECOGNITION:

James Moore and Company/Municipal Golf Course – Bernadette Britz-Parker, represented James Moore and Company, the City auditing firm, gave a presentation that addressed the company's interpretation of the current status of the municipal golf course ability to repay a past loan from the City.

Ms. Britz-Parker outlined that the outstanding loan was $3.5 million, and felt the golf course would not realistically be able to generate enough revenue to satisfy the debt. She commented on other golf courses the firm analyzed in order to come to its conclusion.

Ms. Britz-Parker commented on alternatives the Commission should consider, which included:

1. The golf course had approximately $2.75 million in assets.
2. In lieu of payment, transfer the $2.75 million in assets to the general fund.
3. Operations of the golf course and marina would be operated as enterprise funds and measured the same way going forward.
4. Transfer the remaining golf course debt balance of $750,000.

City Manager Brangaccio requested discussion and action in order to bring the item to closure.

Vice Mayor Hathaway opposed writing off the remaining debt of $750,000 and felt the golf course could pay the interest on the loan. He agreed that the golf course and marina could be measured in the same manner.

Ms. Britz-Parker urged the Commission to take action prior to September 30, 2011.

Commissioner Reiker agreed with Vice Mayor Hathaway's comments and felt the golf course could make contributions. She supported transferring assets and paying interest. Commissioner Grasty agreed.

Mayor Barringer wanted to incorporate the operations and confirmed Commission consensus approving the transfer of approximately $2.75 million from municipal golf course assets to the general fund; approving the holding of the note for approximately $750,000 representing the remaining balance owed the general fund by the municipal golf course; and, approving the classification of both municipal golf course and marina as enterprise funds.

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MAYOR AND COMMISSION REPORTS:

Vice Mayor Hathaway – Reported that the Florida League of Cities Board had reduced the fee structure for member Cities.

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Commissioner Grasty – Congratulated Finance Director Althea Philord, and staff on the results of the recently released report from the City Auditor.

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Commissioner Plaskett – Thanked Finance Director Althea Philord, and staff for their efforts.

Commissioner Plaskett announced that Vice Mayor Hathaway's son, Spencer, had recently passed the State Bar Examination.

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Commissioner Reiker – Thanked Finance Director Althea Philord, and staff for their efforts. She complimented all involved with the Turnbull Bay Road bridge solution.

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Mayor Barringer – Thanked Vice Mayor Hathaway for chairing the last regular meeting, in his absence.

Commented on local resident Dave Machuga's recent article regarding the swim team and fundraiser for Aqua Park; his recent attendance at a birthday celebration for long time resident Lois Tipton, and request received from a family member to rename Myrtle Avenue Park after Ms. Tipton. City Manager Brangaccio outlined the necessary process to rename a park.

Mayor Barringer commented on a recent request from resident, Randall Hitchcock to give a presentation on airport noise. Commissioner Reiker suggested a workshop setting for the presentation. Vice Mayor Hathaway commented on questions he had regarding the topic and suggested each member of the Commission meet with the City Attorney prior to allowing such a presentation.

Mayor Barringer requested a status update on the development of the Flagler Avenue Hampton Inn Hotel construction. City Manager Brangaccio reported that the developer had until December 2012 to construct the hotel.

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CONSENT AGENDA:

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

A. Resolution No. 39-11/Fund Balance Policy – Adopt a resolution amending existing policy regarding the defining of fund balances managed by the finance department.

B. Amendment to Purchasing Policies and Procedures – Approve proposed amendments to the existing City Purchasing Policies and Procedures.

C. Non-Bargaining Employee Policy Changes – Approve the non-bargaining employee policy changes for fiscal year 2011/2012, which include no salary increases; suspension of longevity payments and cash-in of personal leave; and, the addition of two personal days for fiscal year 2011/2012 only.

D. Blanket Purchase Orders/FY 2011/2012 – Approve the proposed blanket purchase orders that exceed $25,000, for the fiscal year ending September 30, 2012.

E. Bad Debt Write-Off – Approve staff's recommendation to write off $4,925.24 of general fund accounts receivable balances that are not collectible and should be classified as bad debt, for fiscal year 2010/2011.

F. Bid Award/South Orange Street Drainage Improvements Project – Approve the bid award for the South Orange Street Drainage Improvements Project to Masci Corporation for an amount not to exceed $284,699.40.

G. CRA Grant/Merchants of Flagler Hospitality Group – Approve the award of a grant in the amount of $62,175 from the CRA to the Flagler Hospitality Group, for the fiscal year ending September 30, 2012. If approved, the grant would be funded through the CRA Grants and Aids Program.

H. Change Order No. 4/Mary Avenue Streetscape Project – Approve Change Order No. 4 to the Mary Avenue Streetscape Project in the amount of $15,710.63, payable to Masci Corporation in order to fund seven changes to subject project.

I. System Maintenance Agreement – Approve entering into a renewal agreement with Harris Corporation for system maintenance of mobile and portable radios assigned to the police department at a budgeted cost of $15,045.

J. Volusia County Mosquito Control Lease Renewal – Approve a five-year extension of the existing lease with the Volusia County Mosquito Control Department for its utilization of City property at 801 South Street, in support of operations. Further request appraisal requirement be waived and annual lease payment remain at the existing amount of $54,900.

K. Acceptance of Promissory Note/Past Due Lease Payments – Approve the acceptance of a promissory note from Epic Aviation, Inc. for repayment of past due lease payments of $73,896.11, at a rate of $2,050 monthly for 36 months, less interest.

L. Fuel Service Agreement/Municipal Airport – Approve entering into a fuel service agreement with Wilkinson Aviation, Inc. for aviation fuel service operations at the municipal airport

M. Purchase of Property/1070 South Glencoe Road – Approve the purchase of 0.228 acres, characterized as "Gap" property located at 1070 South Glencoe Road, for the amount of $2,775.92.

N. Special Events Committee Recommendations – Approve the following special event applications as submitted by the Special Events Committee with approval of each event recommended with associated street closures:

1. Special Event/2nd Annual Blues Festival – Approve the conduct of the 2nd Annual Blues Festival event on Saturday October 29, 2011 from 10 am to 10 pm, hosted by Michael Lopez Productions/South Star Productions. Further approve the requested street closure of Buenos Aires between the south side of Wild Sides and south side of the Fish House; the partial closure of the Flagler Parking Lot between the south side of Wild Sides and the south side of the Fish House, from 7 am Saturday, October 29, 2011 to 6 am Sunday, October 30, 2011.

2. Special Event/Annual Ed Root 5K/10K Run – Approve the conduct of the Annual Ed Root 5K/10K Run on Saturday December 3, 2011 from 8 am to 10:30 am, hosted by the Parks and Recreation Department. Further approve the requested street closure of Pine Street at Flagler Avenue near the shuffle board court and the performance of a rolling barricade for the run only stopping traffic for the runners to pass by.

3. Special Event/Annual Christmas Parade – Approve the conduct of the Annual Christmas Parade Run on Saturday December 3, 2011 from 4 pm to 6 pm, hosted by the Parks and Recreation Department. Further approve the requested street closures along the parade route and associated traffic control.

4. Special Event/50th Annual Art Fiesta – Approve the conduct of the 50th Annual Art Fiesta on Friday February 24, 2012 and Saturday February 25, 2012 from 9 am to 5 pm each day, hosted by the Parks and Recreation Department. Further approve the requested street closures of Julia Street from Riverside Drive to Faulkner Street and Sams Avenue from Washington Street to Canal Street from 6 am Friday to 8 pm Sunday, February 26, 2012.

Commissioner Plaskett requested Items G and K be removed for separate consideration. Commissioner Reiker requested Item N1 be removed for separate consideration. Mayor Barringer removed items from consideration as requested.

Motion:
Commissioner Grasty moved to approve all Consent Agenda items, except for items G, K, and N1. Commissioner Reiker seconded the motion and the roll call was:

Commissioner Reiker	yes
Commissioner Grasty	yes
Mayor Barringer	yes
Vice Mayor Hathaway	yes
Commissioner Plaskett	yes

The motion carried unanimously.

xxx

Consent Agenda Item G – CRA Grant/Merchants of Flagler Hospitality Group – CRA Director Tony Otte outlined staff's recommendation that the Commission approve the award of a grant in the amount of $62,175 from the CRA to the Flagler Hospitality Group, for the fiscal year ending September 30, 2012. If approved, the grant would be funded through the CRA Grants and Aids Program.

Commissioner Plaskett wanted funds distributed more regarding advertising. Adele Aletti, represented the Flagler Hospitality Group, commented on efforts to obtain pricing and coverage from local advertisers.

Vice Mayor Hathaway was also concerned with why local advertisers were not utilized more.

Ms. Aletti outlined the practice of trading services in order to save money and restated efforts taken to research in order to find lower costs and larger coverage. She also commented on the value received by using press releases through the Southeast Volusia Advertising Authority.

Commissioner Reiker commented on being a small community and the need to remember other local businesses. Ms. Aletti felt it was important to work with the Southeast Volusia Advertising Authority.

Motion:
Commissioner Reiker moved to approve the award of a grant in the amount of $62,175 from the CRA to the Flagler Hospitality Group, for the fiscal year ending September 30, 2012. Commissioner Plaskett seconded the motion and the roll call was:

Commissioner Grasty	yes
Mayor Barringer	yes
Vice Mayor Hathaway	yes
Commissioner Plaskett	yes
Commissioner Reiker	yes

The motion carried unanimously.

xxx

Consent Agenda Item K – Acceptance of Promissory Note/Past Due Lease Payments – Airport Manager Rhonda Walker outlined staff's recommendation that the Commission approve the acceptance of a promissory note from Epic Aviation, Inc. for repayment of past due lease payments of $73,896.11, at a rate of $2,050 monthly for 36 months, less interest.

Vice Mayor Hathaway was pleased the City had collateral, but had many concerns regarding how the City got in the position to begin with. Ms. Walker commented on the City's past relationship with Epic Aviation. Vice Mayor Hathaway directed staff to stay on top of the situation.

Motion:
Commissioner Plaskett moved to approve the acceptance of a promissory note from Epic Aviation, Inc. for repayment of past due lease payments of $73,896.11, at a rate of $2,050 monthly for 36 months, less interest. Commissioner Reiker seconded the motion and the roll call was:

Mayor Barringer	yes
Vice Mayor Hathaway	yes
Commissioner Plaskett	yes
Commissioner Reiker	yes
Commissioner Grasty	yes

The motion carried unanimously.

xxx

Consent Agenda Item N1 – Special Event/2nd Annual Blues Festival – Parks and Recreation Director Elizabeth Yancey was present to answer questions regarding staff's recommendation that the Commission approve the conduct of the 2nd Annual Blues Festival event on Saturday October 29, 2011 from 10 am to 10 pm, hosted by Michael Lopez Productions/South Star Productions. Further approve the requested street closure of Buenos Aires between the south side of Wild Sides and south side of the Fish House; the partial closure of the Flagler Parking Lot between the south side of Wild Sides and the south side of the Fish House, from 7 am Saturday, October 29, 2011 to 6 am Sunday, October 30, 2011.

Commissioner Reiker commented on her concerns with the event and questioned its past effectiveness. She questioned whether the event should be allowed to continue in the future if another failure was experienced. Commissioner Plaskett questioned the planning of the inaugural event.

Michael Lopez, represented Michael Lopez Productions/South Star Productions, was present and commented on the improved level of planning for the event when compared to the previous year. Mr. Lopez outlined planned activities and felt the event would be a success.

Motion:
Commissioner Reiker moved to approve the conduct of the 2nd Annual Blues Festival event on Saturday October 29, 2011 from 10 am to 10 pm, hosted by Michael Lopez Productions/South Star Productions. Further approve the requested street closure of Buenos Aires between the south side of Wild Sides and south side of the Fish House; the partial closure of the Flagler Parking Lot between the south side of Wild Sides and the south side of the Fish House, from 7 am Saturday, October 29, 2011 to 6 am Sunday, October 30, 2011.Commissioner Grasty seconded the motion and the roll call was:

Vice Mayor Hathaway	yes
Commissioner Plaskett	yes
Commissioner Reiker	yes
Commissioner Grasty	yes
Mayor Barringer	yes

The motion carried unanimously.

xxx

PUBLIC HEARINGS:

Ordinance No. 96-11/1st Amendment to the South Village PUD Master Development Agreement – City Attorney Gummey read Ordinance No. 96-11, the second time by title only. As it was a public hearing of a quasi-judicial nature, City Attorney Gummey administered the oath to Planning Manager Gail Henrikson. Ms. Henrikson outlined her professional and academic credentials. As no citizens questioned her qualifications, Ms. Henrikson outlined the proposed ordinance, which if adopted, would amend and restate the South Village Planned Unit Development (PUD) Master Development Agreement with South Village Developers, LLC, for approximately 1,363 acres located south of State Road 44, east of Hunting Camp Road and west of I-95. Ms. Henrikson also outlined changes made to the document subsequent to the first reading. City Attorney Gummey clarified the document also reflected changes made between himself and the applicant, subsequent to the first reading.

Mayor Barringer opened the public hearing.

Attorney Jim Morris, representing the applicant, was present to answer questions. Mr. Morris requested the title be changed to read, "South Village Partners", and outlined past discussions in the development of the agreement, which included an agreement with the Volusia County School Board.

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

Motion:
Commissioner Plaskett moved to adopt Ordinance No. 96-11, as amended. Commissioner Reiker seconded the motion and the roll call was:

Commissioner Plaskett	yes
Commissioner Reiker	yes
Commissioner Grasty	yes
Mayor Barringer	yes
Vice Mayor Hathaway	yes

The motion carried unanimously.

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Ordinance No. 99-11/U.C. Budget – City Attorney Gummey read Ordinance No. 99-11, the second time by title only. An ordinance, which if adopted, would approve the annual budget for the Utilities Commission, City of New Smyrna Beach for fiscal year ending September 30, 2012.

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

Motion:
Commissioner Grasty moved to adopt Ordinance No. 99-11 as submitted. Commissioner Reiker seconded the motion and the roll call was:

Commissioner Reiker	yes
Commissioner Grasty	yes
Mayor Barringer	yes
Vice Mayor Hathaway	yes
Commissioner Plaskett	yes

The motion carried unanimously.

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PUBLIC PARTICIPATION –

Henry Frederick, represented the website NSBNews.net, commented on past discussions regarding advertising funding, and offered a rate of $800 to advertise Flagler Avenue events for an entire year. Mr. Frederick outlined viewer/viewing statistics for the website and highlighted the types of stories covered, and current and upcoming activities.

Samantha Bishop, Executive Vice President of the Southeast Volusia Chamber of Commerce, thanked the Commission for its recent approval of a five-year lease with the Chamber of Commerce. Ms. Bishop outlined the Chamber's mission, and ongoing and future activities of the organization.

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ORDINANCES – FIRST READING – None.

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ADMINISTRATIVE ITEMS/NEW BUSINESS –

Resolution No. 40-11/Suspension of Transportation Impact Fees – City Attorney Gummey read Resolution No. 40-11 by title only. Economic Development Director Tony Otte outlined the Economic Development Advisory Board's recommendation, and the proposed resolution, which if adopted, would suspend the imposition of transportation impact fees for non-residential construction permitted before December 31, 2011 and constructed before December 31, 2012. City Manager Brangaccio clarified ongoing and planned projects that would be impacted by the extension of the suspension of impact fees for another year.

Vice Mayor Hathaway felt the City should tailor the resolution after other Cities. Commissioner Plaskett supported extending the suspension for another year. Mayor Barringer clarified that impact fees for police and fire service would be addressed separately at a future meeting

Mayor Barringer clarified the recommended action was to adopt Resolution No. 40-11, which would allow for non-residential construction permitted before December 31, 2012 and constructed before December 31, 2013, with police and fire service fees to be addressed separately.

Mayor Barringer opened public comment.

Bob Tolley, 803 Fairway Drive, questioned why fees were being waived. City Manager Brangaccio clarified the approximate amount of revenue from fees the City would lose, and established sunset dates of the proposed action.

Mayor Barringer closed public comment.

Motion:
Vice Mayor Hathaway moved to adopt Resolution No. 40-11, allowing for non-residential construction permitted before December 31, 2012 and constructed before December 31, 2013, with police and fire service fees to be addressed separately. Commissioner Grasty seconded the motion and the roll call was:

Commissioner Grasty	yes
Mayor Barringer	yes
Vice Mayor Hathaway	yes
Commissioner Plaskett	yes
Commissioner Reiker	yes

The motion carried unanimously.

xxx

CRA Large Grant Program Boundaries – CRA Director Tony Otte outlined staff's recommendation that the Commission consider approval of the expansion of the CRA Large Grant Program boundaries from the existing boundaries that include Flagler Avenue, Canal Street and the Historic Westside, predominately, to include all properties within the boundaries of the entire CRA.

Motion:
Commissioner Reiker moved to approve the expansion of the CRA Large Grant Program boundaries from the existing boundaries that include Flagler Avenue, Canal Street and the Historic Westside, predominately, to include all properties within the boundaries of the entire CRA. Commissioner Grasty seconded the motion and the roll call was:

Mayor Barringer	yes
Vice Mayor Hathaway	yes
Commissioner Plaskett	yes
Commissioner Reiker	yes
Commissioner Grasty	yes

The motion carried unanimously.

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CRA Large Grant Award/545 Washington Street – CRA Director Tony Otte outlined staff's recommendation that the Commission consider approval of the award by the CRA, of a large grant in the amount of $50,000 for improvements to property at 545 Washington Street in order to convert a condemned house into a habitable living structure.

Vice Mayor Hathaway questioned the purpose of the application. Mr. Otte clarified the purpose was to develop four or five rental units. Commissioner Reiker questioned the high number of proposed rental units.

The owner of the property was present and outlined planned improvements to the property. Commissioner Plaskett questioned whether residential uses would be allowed on the property. Mr. Otte clarified that the planned four or five rental units would all be residential units.

Vice Mayor Hathaway questioned the amount of time necessary for the City to recoup its money from the property owner. Commissioner Grasty was unsure whether he could support the application. Mr. Otte commented on alternative assistance programs available. Commissioner Plaskett felt she needed more information regarding the project before she could support the application.

Motion:
Commissioner Plaskett moved to postpone consideration on the application to a future meeting. Commissioner Grasty seconded the motion and the roll call was:

Vice Mayor Hathaway	yes
Commissioner Plaskett	yes
Commissioner Reiker	yes
Commissioner Grasty	yes
Mayor Barringer	yes

The motion carried unanimously.

Commissioner Reiker questioned what the proposed action would bring to the community and the proposed size of the facility. She commented on recent infill discussions with Westside residents and felt the request did not make sense.

Planning Manager Gail Henrikson clarified that the maximum units allowed on the property were four, and a site plan was required in order to lay out parking and the building location. Ms. Henrikson further clarified the required size of a one bedroom unit was 450 square feet.

Mayor Barringer confirmed Commission consensus was to allow the request to be resubmitted for consideration, after a site plan was approved by the Planning and Zoning Board.

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Update of CRA Opportunity Site List – CRA Director Tony Otte outlined staff's recommendation that the Commission consider approval of an amendment of the CRA Opportunity Site List to add property at 177 North Causeway, and authorize staff to assist the applicant in applying for an opportunity site grant award.

Commissioners Plaskett and Grasty each commented on the property being absent from the original opportunity site list. City Manager Brangaccio commented on the original omission of the property from the opportunity site list.

Robert Byers, property owner, was present to answer questions and outlined planned future use of the property.

Mayor Barringer commented on future consideration opportunities for funding as an opportunity site.

Motion:
Commissioner Reiker moved to approve an amendment of the CRA Opportunity Site List adding property at 177 North Causeway, and authorize staff to assist the applicant in applying for an opportunity site grant award. Commissioner Grasty seconded the motion and the roll call was:

Commissioner Plaskett	yes
Commissioner Reiker	yes
Commissioner Grasty	yes
Mayor Barringer	yes
Vice Mayor Hathaway	yes

The motion carried unanimously.

xxx

Chamber of Commerce Building Renovation/Phase II – CRA Director Tony Otte outlined staff's recommendation that the Commission consider approval of interior improvements that represent Phase II of the Chamber of Commerce Building Renovation Project for a cost not to exceed $200,000, as funded through the CRA. City Manager Brangaccio clarified that $200,000 had been allocated for the project, and she and Assistant City Manager Resheidat each commented on future considerations for Volusia ECHO Grant Exception Funds.

Motion:
Commissioner Grasty moved to approve interior improvements that represent Phase II of the Chamber of Commerce Building Renovation Project for a cost not to exceed $200,000, as funded through the CRA. Vice Mayor Hathaway seconded the motion and the roll call was:

Commissioner Reiker	yes
Commissioner Grasty	yes
Mayor Barringer	yes
Vice Mayor Hathaway	yes
Commissioner Plaskett	yes

The motion carried unanimously.

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BOARDS AND COMMISSIONS:

Sports Complex Task Force – Mayor Barringer outlined staff's recommendation that the Commission appoint five members to serve on the Sports Complex Task Force for a temporary six-month term from October 1, 2011 to March 31, 2012. City Attorney Gummey advised that members could live outside City boundaries.

Commissioner Reiker suggested all eight applicants be appointed as members, and felt each applicant had valuable ideas and would bring different points of view to the task force. Vice Mayor Hathaway commented on possible impacts to quorum requirements with eight members being appointed.

Motion:
Commissioner Reiker moved to amend Resolution No. 36-11 to allow for eight (8) members to the Sports Complex Task Force; and, to appoint Max Dugas, James Haynes, Sr., Kenny Kane, Lionel Long, PhD., Mark Pernell, Sid Peterson, Jr., Robert Wall and R. Alan Weaver, as members of the Sports Complex Task Force to serve temporary six-month terms from October 1, 2011 to March 31, 2012. Commissioner Plaskett seconded the motion and the roll call was:

Commissioner Grasty	yes
Mayor Barringer	yes
Vice Mayor Hathaway	yes
Commissioner Plaskett	yes
Commissioner Reiker	yes

The motion carried unanimously.

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Police Pension Board – Mayor Barringer outlined staff's recommendation that the Commission consider the reappointment of Commissioner Grasty to a two-year term to expire October 1, 2013; and to accept the reappointment of Sergeant Eugene Griffith as a member of the Police Pension Board to another two-year term to expire October 1, 2013, as elected by the members of the pension plan.

Motion:
Commissioner Plaskett moved to reappoint Commissioner Grasty as a member of the Police Pension Board, to a two-year term to expire October 1, 2013. Vice Mayor Hathaway seconded the motion and the roll call was:

Mayor Barringer	yes
Vice Mayor Hathaway	yes
Commissioner Plaskett	yes
Commissioner Reiker	yes
Commissioner Grasty	yes

The motion carried unanimously.

Motion:
Vice Mayor Hathaway moved to accept the reappointment of Sergeant Eugene Griffith as a member of the Police Pension Board to another two-year term to expire October 1, 2013, as elected by the members of the pension plan. Commissioner Grasty Hathaway seconded the motion and the roll call was:

Vice Mayor Hathaway	yes
Commissioner Plaskett	yes
Commissioner Reiker	yes
Commissioner Grasty	yes
Mayor Barringer	yes

The motion carried unanimously.

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CITY MANAGER'S REPORT – The City Commission acknowledged receipt of the City Manager's Report. City Manager Brangaccio highlighted upcoming events that included the Economic Development Summit and Mock City Commission Meeting.

Assistant City Manager Resheidat updated the Commission on the latest plans regarding ongoing repairs to the Turnbull Bay Road Bridge. Mr. Resheidat advised it was planned to reopen the bridge to traffic during the next week.

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CITY CLERK'S REPORT – No Report.

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CITY ATTORNEY'S REPORT:

Proposed Settlement/General Mechanical – City Attorney Gummey reported on litigation brought by General Mechanical. He advised litigation would be very expensive and labor extensive, and commented on recent mediation that resulted in an agreed upon settlement providing payment by the City to the contractor of $22,500. Mr. Gummey felt the proposed settlement was in the best interest of the City and eliminated a jury verdict to award damages, and recommended approval.

Motion:
Commissioner Plaskett moved to approve the negotiated settlement of litigation with General Mechanical for a cost of $22,500. Commissioner Grasty seconded the motion and the roll call was:

Commissioner Plaskett	yes
Commissioner Reiker	yes
Commissioner Grasty	yes
Mayor Barringer	yes
Vice Mayor Hathaway	yes

The motion carried unanimously.

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Proposed Settlement/Volusia Homebuilders – City Attorney Gummey reported on litigation brought by Volusia Homebuilders. He commented on ongoing negotiations in hopes of reaching a settlement. Mr. Gummey reported that an agreed upon settlement had been reached. He outlined the proposed settlement as being, the internal transfer of $100,000 between the building department fund and general fund and other clarified direct and indirect costs. Mr. Gummey felt the proposed settlement was in the best interest of the City and recommended approval.

Motion:
Vice Mayor Hathaway moved to approve the negotiated settlement of litigation with Volusia Homebuilders regarding City Building Department operations resulting in the internal transfer of $100,000 between the building department fund and general fund and other clarified direct and indirect costs. Commissioner Grasty seconded the motion and the roll call was:

Commissioner Reiker	yes
Commissioner Grasty	yes
Mayor Barringer	yes
Vice Mayor Hathaway	yes
Commissioner Plaskett	yes

The motion carried unanimously.

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With no further business to address, Mayor Barringer declared the meeting adjourned at 8:25 p.m.

MINUTES OF SPECIAL CITY COMMISSION MEETING
HELD ON WEDNESDAY, SEPTEMBER 14, 2011
CITY HALL COMMISSION CHAMBER, 210 SAMS AVENUE
NEW SMYRNA BEACH, FLORIDA

Having been duly advertised as required by law, the special meeting of the City Commission of the City of New Smyrna Beach, Florida, was held on Wednesday, September 14, 2011, at the City Hall Commission Chamber, 210 Sams Avenue, New Smyrna Beach, Florida.

Vice Mayor Hathaway called the meeting to order at 5:05 p.m. and the following answered present to the roll call:

Vice Mayor James W. Hathaway
Commissioner Jack S. Grasty
Commissioner Lynne Plaskett
Commissioner Judith A. Reiker

Also present were: City Manager Pamela Brangaccio; Assistant City Manager Khalid Resheidat; City Attorney Frank Gummey; Finance Director Althea Philord; and, City Clerk Johnny Bledsoe. Mayor Barringer was excused due to his being out of state.

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Vice Mayor Hathaway outlined the purpose of the special meeting was to conduct the first of two required public hearings on the tentative budget and proposed millage rates for the City of New Smyrna Beach for the fiscal year October 1, 2011 through September 30, 2012. Vice Mayor Hathaway also advised that the first reading of an ordinance approving the Utilities Commission for fiscal year ending September 30, 2012 would be conducted.

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City Manager Brangaccio outlined highlights from the proposed budget, which included direction from past budget workshops and strategic meetings; the establishment of a tentative millage at the budget workshop on July 27, 2011; town hall meetings held in August 2011; and, how the proposed budget resulted from a team effort.

Finance Director Althea Philord gave a PowerPoint presentation that outlined the proposed budget and millage rates.

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REQUESTS FOR GRANTS AND AID:

S.C.O.R.E. – Gene Baldrate, local SCORE Chapter Chairman, outlined the organization's mission and how it received funding. Mr. Baldrate commented on its request for assistance in the amount of $2,000, which would utilized for support services of the organization, as it was the previous year.

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Parrish Church Ministries – Fannie Hudson represented Parrish Church Ministries outlined the organizations' mission within the community and the many programs offered. Ms. Hudson thanked the City Commission for its support in the past and asked the question, "is it our responsibility to help those who cannot help themselves?"

Ms. Hudson felt it was everyone's responsibility to assist others in need and commented on a real situation where someone needed assistance paying her utility bill. Ms. Hudson commented on other forms of assistance the organization is involved in and highlighted its assistance processes.

Commissioner Plaskett commented on Ms. Hudson's organization's efforts in providing free books to children. Ms. Hudson clarified that approximately 1,500 books were distributed in September 2011, 300 were given out in August 2011 and 480 were distributed during the early summer months, 2011.

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Children's Advocacy Center – Debbie Housley and Alisa Carter represented the Children's Advocacy Center, outlined the organization's mission and services provided within the community. Ms. Housley outlined the different types of programs available to New Smyrna Beach children. Ms. Carter outlined the different preventive programs available and highlighted the "S.T.O.P." program.

Commissioner Plaskett questioned the number served in Southeastern Volusia County. Ms. Carter estimated 3,500 and confirmed their programs were offered year round. Commissioner Grasty was surprised with the high number served by the organization.

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PUBLIC COMMENTS –

Edward Beazley, 427 Sweet Bay Avenue, commented on the amount of total budget that came from ad valorem tax revenue. He questioned the percentage of the proposed overall budget would be for the police department. Ms. Philord confirmed that public safety comprised of over fifty percent of the proposed general fund budget. Mr. Beazley questioned whether current police retirement scenarios were sustainable.

Vice Mayor Hathaway confirmed the Commission realized such a situation was not sustainable and commented on unfunded liabilities for the City, and the importance of pension negotiations in the future, as a national problem. He advised that the City was doing its due diligence regarding the issue. City Manager Brangaccio commented on personnel reductions and suspension of benefits as actions of the Commission.

xxx

Ordinance No. 97-11 – City Attorney Gummey read Ordinance No. 97-11, the first time by title only, and advised the Commission that it was requested that the Commission conduct the first of two required public hearings. City Manager Brangaccio and Finance Director Althea Philord outlined the proposed ordinance, which if adopted, would determine the amount and fix the rate of taxation (millage) to be levied by the City for Fiscal Year October 1, 2011 to September 30, 2012.

City Attorney Gummey read the required statement as outlined in *Florida Statutes* regarding the rate of taxation under consideration.

Vice Mayor Hathaway opened the public hearing.

Elaine Lowe, Sunset Drive, commented on decreased property values and increases in assessed property values. Vice Mayor Hathaway commented on past benefits enjoyed with higher property values in the past and actions taken by the City to not add to the burden. Commissioner Plaskett commented on the many other taxing authorities that contribute to the property owners' tax bill.

Bill Lowe, Sunset Drive, commented on concerns with future budgets to support law enforcement. Vice Mayor Hathaway commented on increases in taxes and stressed that the public would tell government what services they preferred.

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

Motion:
Commissioner Plaskett moved to approve Ordinance No. 97-11, on first reading and first public hearing, as recommended by staff. Commissioner Reiker seconded the motion and the roll call was:

Commissioner Reiker	Yes
Commissioner Grasty	Yes
Vice Mayor Jim Hathaway	Yes
Commissioner Lynne Plaskett	Yes

The motion carried unanimously. Vice Mayor Hathaway announced that the second and final of two required public hearings on the ordinance would be conducted at a special meeting on September 27, 2011, beginning at 5:05 p.m.

Vice Mayor Hathaway commented on past direction to staff to provide information if the proposed millage was reduced. He felt that based upon the low impact to the tax bill; and, the need to fund a portion of the repairs to the Turnbull Bay Road Bridge, he supported the proposed millage rates. Vice Mayor Hathaway thanked staff for its efforts.

Commissioner Grasty agreed and felt the City was where it needed to be. Commissioner Reiker felt it was a wise decision. Commissioner Plaskett thanked Vice Mayor Hathaway for his comments.

xxx

Ordinance No. 98-11 – City Attorney Gummey read Ordinance No. 98-11, the first time by title only, and advised the Commission that it was requested that the Commission conduct the first of two required public hearings. City Manager Brangaccio and Finance Director Althea Philord outlined the proposed ordinance, which if adopted, would set forth revenues and appropriations for current expenses and capital outlay for Fiscal Year October 1, 2011 to September 30, 2012

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

Motion:
Commissioner Grasty moved to approve Ordinance No. 98-11, on first reading and first public hearing, as recommended by staff. Commissioner Reiker seconded the motion and the roll call was:

Commissioner Grasty	Yes
Vice Mayor Jim Hathaway	Yes
Commissioner Lynne Plaskett	Yes
Commissioner Reiker	Yes

The motion carried unanimously. Vice Mayor Hathaway announced that the second and final of two required public hearings on the ordinance would be conducted at a special meeting on September 27, 2011, beginning at 5:05 p.m.

xxx

Ordinance No. 99-11 – City Attorney Gummey read Ordinance No. 99-11, the first time by title only. City Manager Brangaccio and Finance Director Althea Philord outlined the proposed ordinance, which if adopted, would approve the adopted budget of the Utilities Commission for Fiscal Year October 1, 2011 to September 30, 2012. Ms. Brangaccio advised that UC General Manager/CEO Ray Mitchum was present to answer any questions.

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

Motion:
Commissioner Plaskett moved to approve Ordinance No. 99-11, on first reading, as recommended by staff. Commissioner Grasty seconded the motion and the roll call was:

Vice Mayor Jim Hathaway	Yes
Commissioner Lynne Plaskett	Yes
Commissioner Reiker	Yes
Commissioner Grasty	Yes

The motion carried unanimously. Vice Mayor Hathaway announced that the second reading and public hearing on the ordinance would be conducted at the regular meeting on September 27, 2011, beginning at 6:30 p.m.

xxx

With no further business to address and no citizens wishing to speak, Vice Mayor Hathaway declared the meeting adjourned at 6:02 p.m.

AGENDA ITEM SUMMARY

Department Making Request: New Smyrna Beach Municipal Airport

Meeting Date: March 13, 2012

Action Item Title: Award of Bid to Fuel Tech, Inc. to Supply and Install Fuel Farm Equipment at the New Smyrna Beach Municipal Airport.

Agenda Section: Consent X Public Hearing Special Items

Summary Explanation and Background:

Four (4) bids were received on February 28th, 2012 to supply and install equipment for the fuel farm at the New Smyrna Beach Municipal Airport.

The bids are listed below:

Fuel Tech, Inc.	$258,128.00
Florida Telecom Construction, Inc.	$281,645.00
Glasgow Equipment Service, Inc.	$325,000.00
MDM Services, Inc.	$427,825.00

The FDOT grant is for 80% funding in the amount of $206,502 with the 20% remaining balance of $51,626 to be paid for out of Airport funds.

Fuel Tech, Inc. has completed a similar project on a larger scale at the Melbourne Airport providing quality work on the project and completed it in on schedule.

Recommended Action/Motion:
Staff's recommendation is to award the contract to Fuel Tech, Inc. in the amount of $258,128.

Funding Analysis: Budgeted X #10454201.567850*
Needs an additional $3,434 to cover bid amount-Budget Amendment

Exhibits Attached: Bid Tabulation Spreadsheet and Fuel Tech, Inc. Bid

Reviewed By:	Name	Signature
Airport Manager	Rhonda Walker	Rhonda Walker
Asst. City Manager	Khalid Resheidat	
Finance Director	Althea Philord	Althea Philord
City Attorney	Frank Gummey	Frank D. Gummey Jr.
City Manager	Pam Brangaccio	Pam Brangaccio

Commission Action:

TABULATION OF BIDS
Received February 28, 2012
for
JET-A AND AVGAS TANKS & EQUIPMENT
NEW SMYRNA BEACH MUNICIPAL AIRPORT
New Smyrna Beach, Florida

FDOT ITEM NO. 420856

Bid Item No.	Description	Qty.	Unit	FUEL TECH, INC. 2850 U.S. Highway 1 Mims, FL 32754 Unit Price Bid ($)	Amount Bid ($)	FLORIDA TELECOM CONSTRUCTION, INC. 1115 16th St. SW Winter Haven FL 33880 Unit Price Bid ($)	Amount Bid ($)	GLASGOW EQUIPMENT SERVICE, INC. 1750 Hill Ave. West Palm Beach, FL 33407 *(Delivered Late by Overnight Courier)* Unit Price Bid ($)	Amount Bid ($)	MDM SERVICES, INC. 1056 Kathleen Road Lakeland, FL 33805 *(Delivered Late by Overnight Courier)* Unit Price Bid ($)	Amount Bid ($)
1A	Jet-A Tank and Equipment (Deposit to Begin Fabrication)	1	L.S.	23,533.00	23,533.00	37,820.00	37,820.00	44,000.00	44,000.00	26,500.00	26,500.00
1B	Jet-A Tank and Equipment (Payment Upon Delivery to Site)	1	L.S.	65,892.00	65,892.00	63,200.00	63,200.00	74,000.00	74,000.00	105,325.00	105,325.00
1C	Jet-A Tank and Equipment (Payment Upon Start-Up)	1	L.S.	4,707.00	4,707.00	7,025.00	7,025.00	8,000.00	8,000.00	30,300.00	30,300.00
2A	Avgas Tank and Equipment (Deposit to Begin Fabrication)	1	L.S.	21,618.00	21,618.00	34,540.00	34,540.00	40,000.00	40,000.00	25,200.00	25,200.00
2B	Avgas Tank and Equipment (Payment Upon Delivery to Site)	1	L.S.	60,529.00	60,529.00	57,740.00	57,740.00	65,000.00	65,000.00	103,400.00	103,400.00
2C	Avgas Tank and Equipment (Payment Upon Start-Up)	1	L.S.	4,324.00	4,324.00	6,400.00	6,400.00	7,000.00	7,000.00	30,300.00	30,300.00
3A	Jet-A "Self Serve" Terminal (Payment upon Installation)	1	L.S.	10,038.00	10,038.00	10,660.00	10,660.00	12,000.00	12,000.00	18,000.00	18,000.00
3B	Avgas "Self Serve" Terminal (Payment upon Installation)	1	L.S.	10,038.00	10,038.00	10,660.00	10,660.00	12,000.00	12,000.00	18,000.00	18,000.00
4A	Conduits Installed by Directional Boring	1	L.S.	14,195.00	14,195.00	7,300.00	7,300.00	4,000.00	4,000.00	12,500.00	12,500.00
4B	Conduits Installed in Trench	1	L.S.	12,167.00	12,167.00	13,900.00	13,900.00	12,000.00	12,000.00	16,800.00	16,800.00
4C	Two - FAA L-867 Junction Boxes	1	L.S.	2,028.00	2,028.00	1,200.00	1,200.00	1,000.00	1,000.00	2,500.00	2,500.00
4D	Post-Mounted Electrical Equipment & Tel. Pullbox (Detail A)	1	L.S.	2,028.00	2,028.00	10,000.00	10,000.00	6,000.00	6,000.00	12,500.00	12,500.00
4E	Post-Mounted Emergency Stop Button & Sign (Detail B)	1	L.S.	2,028.00	2,028.00	2,700.00	2,700.00	1,000.00	1,000.00	4,000.00	4,000.00
4F	All Underground Cables & Conductors (Elect. & Telephone)	1	L.S.	8,112.00	8,112.00	9,500.00	9,500.00	8,000.00	8,000.00	22,500.00	22,500.00
5	All Work Not Included in Other Pay Items	1	L.S.	16,891.00	16,891.00	9,000.00	9,000.00	31,000.00	31,000.00	No Bid	0.00
				Total Amount Bid	***$258,128.00***		**$281,645.00**		**$325,000.00**		**$427,825.00**

Italics indicate correction of addition error. Fuel Tech had a $2.00 addition error in the total amount bid. There were no other errors. The bids for both Glasgow and MDM were delivered 12 minutes late by the same overnight courier. After deliberation, it was decided to open these late bids and tabulate the results.

Prepared by: Airport Engineering Co., Inc.

PROPOSAL: Submit in Duplicate - Make Photocopies. All pages in the proposal must be submitted, including the Schedules of Bid Prices which will be issued by addendum, plus the executed Bid Bond. The Bid Bond (or certified check) must be enclosed in a separate envelope. See Instructions to Bidders, Paragraph 1.

DATE February 28, 2012

BIDDER Fuel Tech, Inc.

ADDRESS 2680 U.S. Highway 1

Mims, FL 32754

Gentlemen:

The undersigned, as Bidder, hereby declares that the only person or persons interested in this Proposal as Principal, or Principals, is or are named herein and that no person other than herein mentioned has any interest in this Proposal or in the Contract to be entered into; that this Proposal is made without connection with any other person, company or parties making a Proposal; and that it is in all respects fair and in good faith without collusion or fraud.

The Bidder further declares that he has examined the site of the work and informed himself fully in regard to all conditions pertaining to the place where the work is to be done; that he has examined the Plans and Technical Specifications for the work, and other Contract Documents relative thereto, including the Notice to Bidders, Bid Bond, Form of Contract, Payment Bond Form, Performance Bond Form, and Contract Conditions, and has read all of the Addenda furnished prior to the opening of the Proposals, as acknowledged below; and that he has satisfied himself relative to the work to be performed, and the time within which it is to be completed.

The Bidder agrees, if this Proposal is accepted, to contract with the **CITY OF NEW SMYRNA BEACH** in the form of Contract attached, to furnish all necessary materials, equipment, machinery, tools, apparatus, means of transportation, labor and incidentals necessary to construct and complete within the time specified the work covered by this Proposal and other Contract Documents for the contract entitled **"JET-A AND AVGAS TANKS & EQUIPMENT"** and to furnish the prescribed Performance and Payment Bonds each for not less than the Total Contract Price, to furnish the required evidence of the specified insurance, and list of subcontractors.

The Bidder further agrees not to withdraw this Proposal for a period of Sixty (60) days after the time set for opening of Proposals.

The Bidder's failure to complete the above requirements within fifteen (15) days after the prescribed Documents are presented to him shall be grounds for annulment of the tentative award and forfeiture of the Bid Guarantee.

The Bidder agrees to commence work under this Contract on the effective date established in the "Notice to Proceed" and to complete the project within the following period, plus authorized extensions if any, or pay liquidated damages in the amount of One Hundred Fifty Dollars (**$150.00**) per calendar day for

PROPOSAL: Continued

each day in excess thereof in accordance with the terms set forth in Section SP-4 of the Contract Conditions.

The scheduled contract time shall be 120 calendar days, commencing on the effective date of the Notice to Proceed (NTP). This time period shall include the time required to prepare and submit shop drawings and other submittals (estimated 2 weeks or 14 calendar days); fabricate the tanks and equipment, while concurrently performing the rough electrical work at the site (estimated 10 weeks or 70 calendar days), installation and connection (estimated 1 week or 7 calendar days); with the remaining 4 weeks or 29 calendar days for completion of all punch list items and resolution of unforeseen start-up issues.

If there are unit-price items (paid for by the linear foot, square yard, etc.), the "bid price," for comparison of bids, shall be calculated by multiplying the unit prices bid by the estimated (contract) quantities, and adding the resulting amounts. Unit prices written in words for each item shall govern over the unit prices written in numerals, unless obviously wrong, and unit prices shall govern over the multiplied amounts, unless obviously wrong. In the event that the "Total Amount Bid" written by the Bidder does not agree with the amount calculated from the unit prices, the amount calculated from the unit prices shall govern, although the total amount may be used to help interpret and resolve mathematical errors.

If there are unit-price items, it shall be understood that the Total Bid Price (after any corrections, as described above) will determine the Contract Amount; however the payment to the Contractor will be based on the actual quantities of items in-place and accepted in accordance with the General Requirements and payment provisions in the Plans and Specifications.

The Bidder agrees to accept as full compensation for each Bid Item the prices listed in the Schedules of Bid Prices which begins on Page P-9.

ACKNOWLEDGMENT OF ADDENDA

I hereby acknowledge the receipt of the following addenda issued during the bidding period:

Addendum No. 1 dated 02/24/2012 Addendum No. 2 dated _____

Addendum No. 3 dated _____ Addendum No. 4 dated _____

For each mailed or otherwise physically-delivered addendum, I have verified that all of the sequentially-numbered 8½" x 11" pages were received in good condition, and that all of the attached plan sheets (if any) that are referenced in the addendum were received in good condition.

For addenda transmitted by e-mail as .pdf files, I have verified that the main addendum document (for example, "1010-ADDENDUM-1.pdf") is complete and legible when opened, and that all accompanying attachments which are specifically listed by name in the ADDENDUM document have also been received, and are complete and legible.

PROPOSAL: (Continued)

PROPOSED SUBCONTRACTORS AND SUPPLIERS

Item	Name of Firm or Individual		City
SUBCONTRACTORS			
Electrical	ACCI Underground, Inc.	of	Lake Mary, FL
Directional Boring	ACCI Underground, Inc.	of	Lake Mary, FL
Other ----------	----------	of	----------
SUPPLIERS			
Tanks	Modern Welding	of	Orlando, FL
Pumps	Gorman-Rupp Company	of	Mansfield, OH
Meters	Liquid Controls	of	Lake Bluff, IL
"Self-Serve" Terminal	QT Technologies, LLC	of	Dallas, TX
Other ----------	----------	of	----------

Notes: 1. If any work listed under "SUBCONTRACTORS" is to be performed by Contractor's own forces, indicate "Contractor".

2. This list is for general information only. Listing of a particular subcontractor or supplier on this form shall not be construed to mean that the Contractor is contractually obligated to use that subcontractor or supplier. However, any changes shall be requested in writing, with cause for the proposed change clearly stated, and with the experience, qualifications, and other supporting data submitted to the satisfaction of the Owner.

3. If the subcontractor or supplier is claimed as a DBE, add "DBE" after the name.

4. Avoid leaving lines blank or using "To Be Determined" or similar language.

PROPOSAL: (Continued)

SWORN STATEMENT UNDER SECTION 287.133 (3)(A).
FLORIDA STATUTES ON PUBLIC ENTITY CRIMES

THIS FORM MUST BE SIGNED IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICER AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted with Bid, for **"JET-A AND AVGAS TANKS & EQUIPMENT" at New Smyrna Beach Municipal Airport.**

2. This sworn statement is submitted by Fuel Tech, Inc. (name of entity submitting sworn statement) whose business address is 2680 U.S. Hwy.1, Mims, FL 32754, and (if applicable) its Federal Employer Identification Number (FEIN) is 36-4551992.

3. My name is John Keegan and my relationship to the entity named above is President.

4. I understand that a "public entity crime" as defined in Paragraph 287.133 (1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the Untied States, including but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

5. I understand that "convicted" or "conviction" as defined in Paragraph 287.133 (1)(b) Florida Statutes means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

6. I understand that an "affiliate" as defined in Paragraph 287.133 (1)(a), Florida Statutes means:

   1. A predecessor or successor of a person convicted of a public entity crime; or

   2. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

7. I understand that a "person" as defined in Paragraph 287.133 (1)(e), FLORIDA STATUTES, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity.

PROPOSAL: Continued

Public Entity Crime Statement (Continued)

The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of any entity.

Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. (Please indicate which statement applies.)

X Neither the entity submitting this sworn statement, nor any officers, directors, executives, partners, shareholders, employees, members or agents who are active in management of the entity, nor any affiliate of the entity have been charged with and convicted of a public entity crime subsequent to July 1, 1989.

____ The entity submitting this sworn statement, or one or more of the officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989; AND, (Please indicate which additional statement applies.)

_____There has been a proceeding concerning the conviction before a hearing officer of the State of Florida, Division of Administrative Hearings. The final order entered by the hearing officer did not place the person or affiliate on the convicted vendor list. (Please attach a copy of the final order.)

_____The person or affiliate was placed on the convicted vendor list. There has been a subsequent proceeding before a hearing officer of the State of Florida, Division of Administrative Hearings. The final order entered by the hearing officer determined that it was in the public interest to remove the person or affiliate from the convicted vendor list. (Please attach a copy of the final order.)

_____The person or affiliate has not been placed on the convicted vendor list. (Please describe any action taken by or pending with the Department of General Services.)

John Keegan
Signature

February 28, 2012
Date

STATE OF Florida

COUNTY OF Brevard

PERSONALLY APPEARED BEFORE ME, the undersigned,

John Keegan
(Name of individual signing)

who, after first being sworn by me, affixed his/her signature in the space provided above on the 28th day of February 2012.

Christina Johnson
NOTARY PUBLIC
My Commission expires: August 7, 2014

CHRISTINA JOHNSON
MY COMMISSION # DD 979815
EXPIRES: August 7, 2014
Bonded Thru Budget Notary Services

P-5

PROPOSAL: (Continued)

E-VERIFY CERTIFICATE

For: New Smyrna Beach Municipal Airport - Jet-A and Avgas Tanks & Equipment
FDOT Item No. 407674

The Bidder hereby agrees, that if he/she is awarded a contract for the above-referenced project, he/she will utilize the U.S. Department of Homeland Security's E-Verify system, in accordance with the terms governing the use of the system, to confirm the employment eligibility of:

1. All persons employed by the Contractor who perform work on the Project during the term of the Contract, and

2. All subcontractor personnel, at any tier, who perform work on the Project during the term of the Contract.

The Bidder agrees, if awarded a contract, to promptly provide evidence of compliance with these requirements to the Owner, at any time, upon request.

Name of Firm Fuel Tech, Inc.

Name and Title of Person Signing Certificate John Keegan

Signature and Date February 28, 2012

PROPOSAL: Continued

SIGNATURE PAGE FOR SOLE PROPRIETOR OR PARTNERSHIP

The name and business address of the bidder is:

N/A

(Name of Sole Proprietor or Partnership)

(Business Address)

This proposal is submitted by:

(Signature) (Date) (Witness)

(Name - Print or Type)

Title

The full names and home addresses of other persons who are interested in the foregoing proposal, as principals, are as follows:

NAME	ADDRESS

A cashier's check or Bid Bond in the amount of 10% of the Bid Price is provided **in a separate envelope. (See Instructions to Bidders.)**

PROPOSAL: Continued

SIGNATURE PAGE FOR CORPORATION

The name and address of the bidder is:

Fuel Tech, Inc.
(Name of Corporation)

2680 U.S. Highway 1, Mims, FL 32754
(Address)

The officers of the corporation are as follows:

	NAME	ADDRESS
President	John Keegan	2680 U.S. Highway 1, Mims, FL 32754
Vice President	----------	----------
Secretary	Mehta V. Zubin	621 West 51 Street, New York, NY 10019
Treasurer	Gregory D. Shalov	621 West 51 Street, New York, NY 10019

This proposal is submitted by the following officer, who is fully authorized to bind the Corporation by submitting a proposal:

(Signature) (Date)

John Keegan
(Name - Print or Type)

President
Corporate Title

Attest: Tina Johnson
(Secretary)

(CORPORATE SEAL)

State in which Chartered: Florida
Date of Registry with Florida Secretary of State if Non-Florida Corporation:

A cashier's check or Bid Bond in the amount of 10% of the Bid Price is provided in a **separate envelope. (See Instructions to Bidders.)**

PROPOSAL: Continued

SCHEDULE OF BID PRICES

NOTE: All items, including those described as "Deposits", are subject to 10% retainage, which will be released in the final payment upon completion of all work.

1A Jet-A Tank and Equipment (Deposit to Begin Fabrication) 1 L.S. @ $ 23,533.00

For Twenty-three thousand, five hundred, thirty-three Dollars per Lump Sum
(Lump Sum Price Written in Words)

1B Jet-A Tank and Equipment (Payment upon Delivery to Site) 1 L.S. @ $ 65,892.00

For Sixty-five thousand, eight hundred, ninety-two Dollars per Lump Sum

1C Jet-A Tank and Equipment (Payment upon Start-Up) 1 L.S. @ $ 4,707.00

For Four thousand, seven hundred, and seven Dollars per Lump Sum

2A Avgas Tank and Equipment (Deposit to Begin Fabrication) 1 L.S. @ $ 21,618.00

For Twenty-one thousand, six hundred, eighteen Dollars per Lump Sum

2B Avgas Tank and Equipment (Payment upon Delivery to Site) 1 L.S. @ $ 60,529.00

For Sixty thousand, five hundred, twenty-nine Dollars per Lump Sum

2C Avgas Tank and Equipment (Payment upon Start-Up) 1 L.S. @ $ 4,324.00

For Four thousand, three hundred, twenty-four Dollars per Lump Sum

3A Jet-A "Self-Serve" Terminal (Payment upon Installation) 1 L.S. @ $ 10,038.00

For Ten thousand, thirty-eight Dollars per Lump Sum
(Lump Sum Price Written in Words)

3B Avgas "Self-Serve" Terminal (Payment upon Installation) 1 L.S. @ $ 10,038.00

For Ten thousand, thirty-eight Dollars per Lump Sum

4A Conduits Installed by Directional Boring 1 L.S. @ $ 14,195.00

For Fourteen thousand, one hundred, ninety-five Dollars per Lump Sum

4B Conduits Installed in Trench 1 L.S. @ $ 12,167.00

For Twelve thousand, one hundred, sixty-seven Dollars per Lump Sum

PROPOSAL: Continued

SCHEDULE OF BID PRICES (Continued)

4C	Two - FAA L-867 Junction Boxes	1 L.S. @ $2,028.00
	For Two thousand, twenty-eight Dollars per Lump Sum	
4D	Post-Mounted Electrical Equipment & Tel. Pullbox (Detail A)	1 L.S. @ $2,028.00
	For Two thousand, twenty-eight Dollars per Lump Sum	
4E	Post-Mounted Emergency Stop Button & Sign (Detail B)	1 L.S. @ $2,028.00
	For Two thousand, twenty-eight Dollars per Lump Sum	
4F	All Underground Cables & Conductors (Elect. & Telephone)	1 L.S. @ $8,112.00
	For Eight thousand, one hundred, twelve Dollars per Lump Sum	
5	All Work Not Included in Other Pay Items	1 L.S. @ $16,891.00
	For Sixteen thousand, eight hundred, ninety-one Dollars per Lump Sum	

Total Amount Bid $ 258,126.00

END OF PROPOSAL

AGENDA ITEM SUMMARY

Department Making Request:	Public Works
Meeting Date:	3/14/12
Action Item Title:	Street & Stop Signs Program 2012
Agenda Section:	Consent

Summary Explanation and Background:

As a result of the LA Consultants report, it was recommended that street and stop signs throughout the city shall be replaced to meet current standards. In the FY 2012 budget, the City Commission approved the purchase of ½ of the signs needed this year and the other half will be purchased under the FY 2012 budget. This project was advertised to bid on January 14th, 2012. Sealed bids for this project were opened publicly in City Hall on Wednesday 2/15/12 at 2:00pm. The following is a list of bidders who submitted a bid for this project:

Vulcan Signs -	$ 71,533.70
Allmac Signs -	$ 68,912.00
Osborn Assoc -	$ 80,718.06
Municipal Signs -	$ 92,330.64
Traffic Control Products -	$197,877.44
Universal Signs -	$ 73,584.70
Custom Products -	$104,617.56

Allmac Signs out of MA submitted the lowest bid of $68,912.00 and that includes all materials and accessories for the entire city. The installation will be done by Public Works crews. Allmac Signs has done work for the City of Tampa, Brevard County, Citrus County, Palm Coast County, Hernando County and Putnam County.Our budget was to install half of the needed signs this FY. Therefore, we are asking the commission to approve $34,456.00.

We have checked on their references and all were positive and recommend this company. Based on the above information, my recommendation is to award the contract to Allmac Signs at the amount of $34,456.00.

Recommended Action/Motion: Award bid to Allmac Signs at the amount of $34,456.00 to replace street & stop signs throughout the city.

Funding Analysis: $ 00154101-5464991 Acct #: $42,300

Exhibits Attached: Bid Tabulation Sheet & Allmac Signs bid

Reviewed By:	Name	Signature
Department Director:	Khalid Resheidat Assistant City Manager	3/2/12
Finance Director	Althea Philord	Althea Philord
City Manager	Pam Brangaccio	Pam Brangaccio
City Attorney	Frank Gummey	
Commission Action:		

City of New Smyrna Beach

Street & Traffic Control Signs 2012

New Smyrna Beach, Florida

Sealed Bids for the referenced project were opened publicly in City Hall on Wednesday, February 15, 2012, at 2 p.m. The following is a list of the General Contractors who submitted a bid for this project.

CONTRACTOR	BID AMOUNT	ADDENDUM #1
Vulcan Signs	$ 71,533.70	Y N
Allman Signs	$ 68,912.00	Y N
Osborn Assoc. (Rodney Watts)	$ 80,718.06	Y N
Municipal Supply + Sign Co	$ 97,330.64	Y N
Traffic Control Products	$ 197,877.44	Y N
Universal Signs + Access	$ 73,584.70	Y N
Osborn Products (OPC)	$ 104,617.56	Y N
	$	Y N
	$	Y N
	$	Y N
	$	Y N
	$	Y N
	$	Y N
	$	Y N
	$	Y N

Heidi Vanlette
Witness

2/15/12
Date

ALLMAC SIGNS
10 CAPTAIN SCOTT ROAD
HARWICH, MA 02645

March 1, 2012

Dear Mr. Resheidat

Re: Street & Traffic Control Signs-2012

Dear Sir,

Allmac Signs will be honored to accept the contract for $68,912.00 split in two releases of $34,456.00 each. The second release will be after October 1, 2012. If there are any questions please call me. We look forward to doing business together.

Sincerely,
Ronald E. Whitaker
Ronald E. Whitaker

V.P. Sales

413-241-6916 PHONE

413-241-6918 FAX

413-244-6209 CELL

BID PROPOSAL

Street & Traffic Control Signs – 2012
CITY OF NEW SMYRNA BEACH, FLORIDA

Mrs. Pam Brangaccio, City Manager
210 Sams Avenue
New Smyrna Beach, Florida 32168

_____, 2012

Dear Mrs. Brangaccio:

Pursuant to and in compliance with your ADVERTISEMENT FOR BID dated January 14, 2012 and the INFORMATION FOR BIDDERS AND OTHER CONTRACT DOCUMENTS relating hereto, the undersigned hereby proposes to furnish all tools, labor, equipment and materials to perform all the work necessary for the **Street & Traffic Control Signs – 2012**, CITY OF NEW SMYRNA BEACH, VOLUSIA COUNTY, FLORIDA, all as required by and in strict accordance with the Contract Documents, Schedules and Drawings, at the prices listed below.

Street & Traffic Control Signs – 2012

ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	COST
1.	Street Signs – High intensity white on green 9" Standard single faced flat blades (080 blades) With 1/2" white trim & 6" series B upper/lower case lettering				
a.	18"X 9"	152	EA	$ 5.47	$ 831.44
b.	24"X 9"	532	EA	$ 7.28	$ 3872.96
c.	30"X 9"	932	EA	$ 9.11	$ 8490.52
d.	36"X 9"	684	EA	$ 10.94	$ 7482.96
e.	42"X 9"	612	EA	$ 12.76	$ 7809.12
2.	Stop Signs R-1 Octagon – 30" HIP RSA	750	EA	$ 23.40	$ 17550.00
3.	12'X6/3 galvanized U posts	600	EA	$ 30.15	$ 18090.00
4.	VS Twist 24 for 9" Blades 24" length after twist	750	EA	$ 6.38	$ 4785.00

TOTAL – $ 68912.00

TOTAL BID: SIXTY EIGHT THOUSAND NINE HUNDRED TWELVE DOLLARS
(Use Words)

$ 68912.00
(Figures)

The undersigned bidder agrees to commence work within **10 (ten) CALENDAR DAYS** after the date of the Notice to Proceed letter, and shall complete the work within **FIFTEEN DAYS (15)** thereafter.

The undersigned bidder hereby represents that he has carefully examined the drawings and the Contract, including all Contract Documents, and will execute the Contract and perform all its items, covenants and conditions, all in strict compliance with the requirements of the specifications and drawings. The bidder, by and through the submission of his bid, agrees that he has examined and that he shall be held responsible for having heretofore examined the site, the location and route of all proposed work and for having satisfied himself as to the character of the route, the location, surface and underground obstruction, the nature of the ground water conditions, and all other physical characteristics of the work, in order that he may include the prices which he bid, all costs pertaining to the work and hereby provide for the satisfactory completion thereof, including the removal, relocation or replacement of any objects or obstructs which will be encountered in doing the proposed work.

Enclosed is security consisting of _____

_____

The undersigned hereby designates _____

ALLMAC SIGNS 10 CAPTAIN SCOTT RD HARWICH MA 02645

(Type or print business name and address)

as his office to which notices may be delivered or mailed.

DATED: 1-31-2012

GARY S. McMAHON OWNER

Name of Bidder and Title (Type or Print)

(SEAL, if by a Corporation)

BY: Gary S McMahon

Signature of Bidder

_____

_____

_____

Corporation Name & Address

BID PROPOSAL - 2

AGENDA ITEM SUMMARY

Department Making Request: Engineering		
Meeting Date: 1st Reading: March 13, 2012		2nd Reading: N/A
Action Item Title: Esther Street Beachfront Park		
Agenda Section: Consent X Public Hearing		Special Items

Summary Explanation and Background: The current construction schedule for the Esther St. Beachfront Park improvements does not lend itself to allow construction of the dune walkover and handicapped ramp prior to the May 1st sea turtle season (note: no construction is allowed east of the seawall from 5/01/12 to 11/01/12). Although all the required permits (i.e. DEP, CCCL, County, etc.) have been acquired and the project is anticipated to be advertised for bids prior to May 1, 2012 the bid evaluation, award and the notice to proceed will not provide sufficient construction time to install the walkover/staircase structure, therefore staff has requested a proposal from the Contractor (i.e. S.E. Cline) that recently constructed the seawall to construct these improvements. S.E. Cline has provided a cost estimate of $37,325.00 to construct the section of boardwalk, staircase and handicapped ramp from the seawall cap eastward to the beach. The remainder of the elevated walkway and observation decks will be constructed as part of the overall park amenities. S.E. Cline has performed admirably in the past with not only the Esther St. seawall, but also reconstructing all the boat loading/launching ramps at the North Causeway and seemingly provides quality workmanship at competitive prices. Further cost justification compared the proposal to similar improvements at Grayce Barck Park with a deduction costs are reasonable for the scope of work.

The key reason of pursing the work at this time is to assure beach accessibility to the public as the park improvements are complete. Although the park improvements are only nearing the advertisement stage it is feasible to deduct these improvements will be completed prior to November 1, 2012, without a walkway or defined beach access.

Therefore it would be prudent at this time to plan for comprehensive improvements and respectively award a change order in the amount of $37,325.00 to S.E. Cline Construction to construct the needed section of walkway, staircase and handicapped ramp east of the new seawall. S.E. Cline's proposal is considered with the caveats of the City supporting the building permit fee, staking alignment with the proposed upland improvements and implementing the stainless steel handrail and cabling with the core park improvements.

Recommended Action/Motion: Award the contract change order to S.E. Cline Construction, in the amount of $37,325.00 for the construction of walkway, stairway & handicapped ramp east of the Esther Street Seawall.

Funding Analysis: Budgeted X If not budgeted, recommended funding account: 12051502-5167758 - Available budget $1,250,606

Exhibits Attached: S.E. Cline correspondence dated 2/27/12

Reviewed By:	Name	Signature
CRA Director:	Tony Otte	Tony Otte
Assistant City Manager	Khalid Resheidat	3/12
Finance Director	Althea Philord	Althea Philord
City Attorney	Frank Gummey	
City Manager	Pam Brangaccio	Pam Br

Commission Action:

Fegley, Kyle

From: Hap Cameron [hap@clineconstruction.net]
Sent: Monday, February 27, 2012 7:37 PM
To: Fegley, Kyle; 'Cline Marine Operations'
Subject: RE: NSB ESTHER STREET

Kyle,

I thought that this had been forwarded to you last week.

The cost estimate is $ 37,325 for the beach portion and dune walkover to the first set of piling upland of the seawall we've just completed.

As discussed we are only quoting the piling, framing, decking and timber handrail portion of the dune walkover structure, building permit costs are not included..

This is being proposed this way to help get done with the beach and dune portion of the work prior to turtle season, while not interfering with the ultimate park construction and allowing for a homogeneous finishing of the park facilities.

The cable railing and stainless steel handicap rails are not included.

We are proposing this with the City furnishing survey staking to insure exact placement of the structure related to the final park drawings.

If the City wishes to proceed, it needs to happen very quickly as we have just been awarded 4 projects with a start date in the next 2-3 weeks.

If any questions should arise, feel free to call at anytime.

Best Regards,

C.M. "Hap" Cameron, Jr.
V.P. & Dir. Marine Ops
Cell: (386) 931-0016
hap@clineconstruction.net

http://www.clineconstruction.net/

SYMBIOSIS BETWEEN THE LAND AND HUMANKIND

"Symbiotic relationships mean creative partnerships. The earth is to be seen neither as an ecosystem to be preserved unchanged nor as a quarry to be exploited for selfish and short-range economic reason, but as a garden to be cultivated for the development of its own potentialities of the human adventure.

The goal of this relationship is not the maintenance of the status quo, but the emergence of new phenomena and new values."

Rene Dubos (1901-1982)
Bacteriologist, Pulitzer Prize Recipient, Rockefeller University

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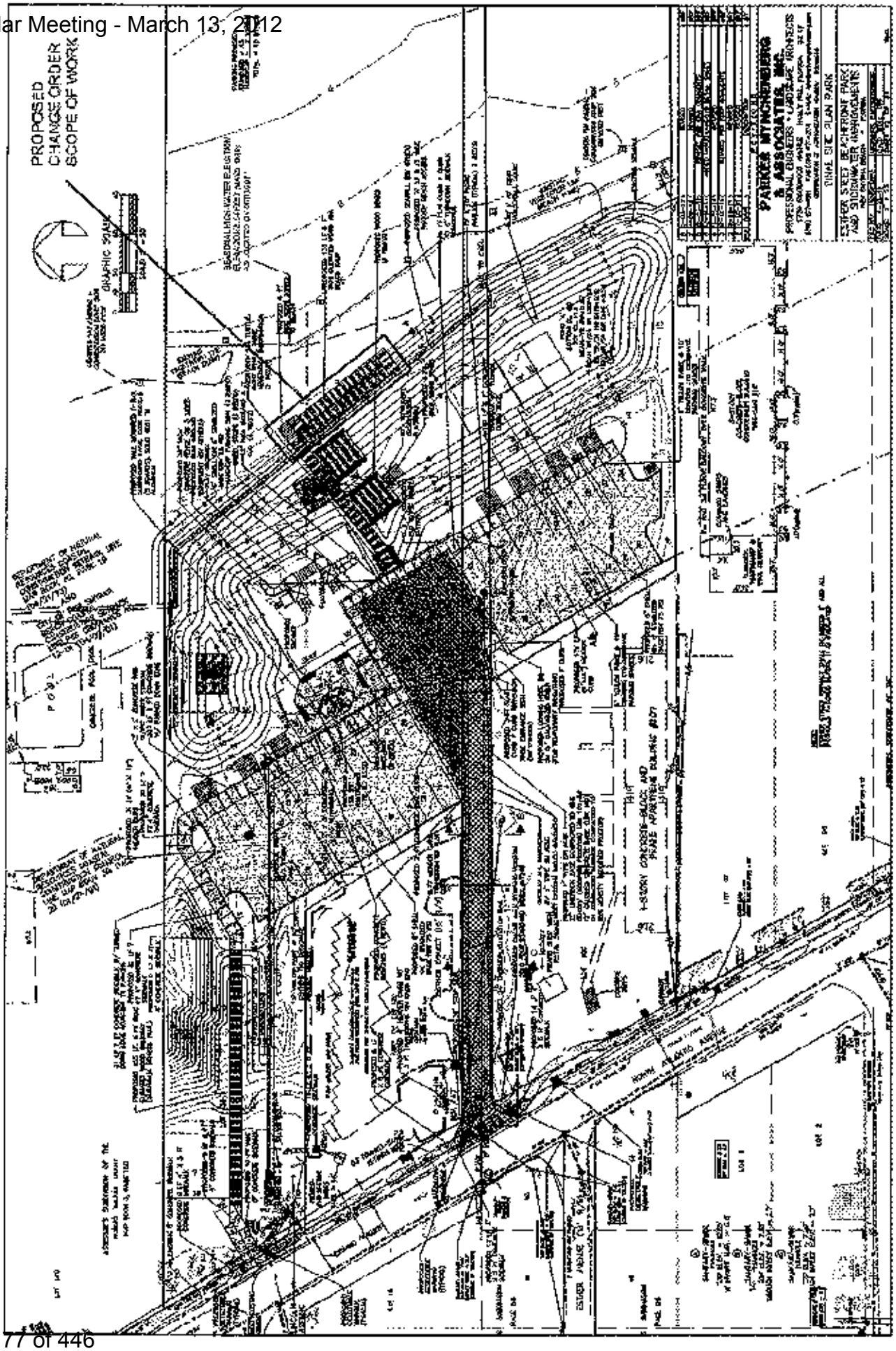
From: Fegley, Kyle [mailto:kfegley@cityofnsb.com]
Sent: Friday, February 17, 2012 11:29 AM


PROPOSED
CHANGE ORDER
SCOPE OF WORK
GRAPHIC SCALE
PARKER MYNCHENBERG
& ASSOCIATES, INC.
PROFESSIONAL ENGINEERS • LANDSCAPE ARCHITECTS
FINAL SITE PLAN PARK
ESTHER STREET BEACHFRONT PARK
AND STORMWATER IMPROVEMENTS
NORTH ATLANTIC AVENUE
ESTHER AVENUE

AGENDA ITEM SUMMARY

Department Making Request: GOLF COURSE

Meeting Date: 1st Reading: _____ 2nd Reading: _____

Action Item Title: RESOULTION #44-10 CHANGE REQUEST

Agenda Section: Consent _____ Public Hearing Admin Items/New _____

Summary Explanation and Background:

The Golf Advisory Board wishes to make changes to Resolution #44-10 as attached. Section I, items #25, 26, 27 & 28.

Recommended Action/Motion: Approval of changes described on attachment.

Funding Analysis: Budgeted ... If not budgeted, recommended funding account:

Exhibits Attached:

Signed for approval by the Golf Advisory Board

Reviewed By:	Name	Signature
Department Director:	Gary Wintz	
Finance Director	Althea Philord Bradley	
City Manager	Pam Brangaccio	
City Attorney	Frank Gummey	

Commission Action:

RESOLUTION NO. 08-12

A RESOLUTION AMENDING RESOLUTION NO. 44-10, ESTABLISHING RULES AND POLICIES FOR THE NEW SMYRNA BEACH MUNICIPAL GOLF COURSE; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Golf Advisory Board has recommended amendments to Resolution No. 44-10 (Nov. 30, 2010), establishing rules and policies for the New Smyrna Beach Municipal Golf Course for the safety and enjoyment of the patrons at the Golf Course; and

WHEREAS, the City Commission deems it is in the best interests of the citizens of the City of New Smyrna Beach to establish rules and policies for the Municipal Golf Course.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF NEW SMYRNA BEACH, FLORIDA, AS FOLLOWS:

SECTION 1: That Resolution No. 44-10 is hereby amended as follows: : **(Note: Deletions from text are indicated by ~~strikeout~~, additions to text are indicated by underline, and omissions in text are indicated by [...].)**

That the following rules and policies are established for the New Smyrna Beach Municipal Golf Course**, including all parking lots and adjacent city owned or controlled property**:

1. All players must register in the Pro Shop before playing any part of the golf course.

2. Proper golf attire is required to play the New Smyrna Beach Municipal Golf Course. Cut-offs, tank tops, athletic shorts, sleeveless shirts for men, swimwear and tennis attire are not considered to be proper golf attire.

3. Dogs or other domestic animals are prohibited on the golf course.

4. Metal spikes are prohibited.

5. Adult supervision is required for all golfers under the age of 10 years old.

6. It is the responsibility of each golfer to replace divots, rake bunkers, and repair ball marks on greens.

7. No more than one golfer shall play out of one bag. Each player must have his/her own set of clubs.

8. No more than four players may play together in the same group without prior permission from the Golf Course Manager/Pro.

9. All players must play without delay and all groups must keep their pace of play on the course or allow following players to play through.

10. Golf carts may be operated only by persons at least 16 years of age with a valid driver's license.

11. Only two persons and two sets of clubs are allowed on each golf cart.

12. Carts shall be kept on the cart path around tee boxes and greens. Carts shall be kept at least 30 feet from greens on approach, unless a cart occupant has a handicap flag.

13. Handicap flags are available from the Pro Shop. The handicap flag will allow the golfer to drive the cart 15 feet from the green.

14. Riders in private golf carts must pay the appropriate cart fee.

15. Golf cart keys are the property of the Municipal Golf Course. Removing keys from carts is prohibited.

16. The New Smyrna Beach Municipal Golf Course assumes no liability for accidents or damages caused by reckless driving or misuse of golf carts.

17. Personal coolers are prohibited on the golf course. All alcoholic beverages must be purchased from the clubhouse

18. Golf rangers may be on duty to help regulate play and enforce golf cart regulations. The rangers have full authority to enforce rules and regulate speed of play.

19. Practice is restricted to the practice facilities only. Practicing on the golf course is prohibited.

20. Range balls and baskets must remain at the range area.

21. When lightning is in the immediate area, all play must cease. All persons on the course shall seek shelter in one of the designated shelter areas (restrooms) or return to the clubhouse. Put away clubs and umbrellas. Do not seek shelter around trees or metal objects.

22. If during the course of play the golf course is closed due to inclement weather, rain checks will be issued for unfinished play as follows:

Fourteen or more holes left to play - 18-hole rain check;
Five to thirteen holes left to play - 9-hole rain check;
Four or fewer holes left to play - no rain check.

23. Private golf lessons are prohibited. Only PGA Professionals employed by the Golf Course are permitted to conduct lessons on the premises.

24. Anyone who abuses or destroys Golf Course property is subject to fines and/or removal and suspension from the Golf Course.

25. Conduct which would constitute a violation of city ordinances or state law shall be considered a violation of these rules, if the conduct interferes with or adversely affects the operation of the golf course.

~~25~~ **26**. Violations of these golf course rules and policies may result in disciplinary actions by the Golf Course Manager, including but not limited to immediate removal from the Golf Course, suspension of playing privileges, or suspension of membership privileges **or permanent revocation**.

27. Physical or abusive conduct toward an employee of the Golf Course may result in permanent revocation from Golf Course property.

~~26~~ **28**. The Golf Course Manager and his/her staff are authorized to enforce all of the rules and policies.

SECTION 2: That any and all resolutions that are in conflict herewith be and the same are hereby rescinded and repealed.

SECTION 3: That this resolution shall become effective immediately upon its adoption.

APPROVED AS TO FORM AND CORRECTNESS:

FRANK B. GUMMEY, III
City Attorney

Dated: 2/24/12

Amendment to Resolution No. 44-10,
Establishing Rules and Policies
for the Municipal Golf Course
Reading March 13, 2012
February 24, 2012
4:11 PM

New Smyrna Golf Club

February 22, 2012

TO: City Commission

FROM: New Smyrna Beach
Golf Advisory Board

SUBJECT: Changes to Resolution No. 44-10

The following changes to the city Resolution No. 44-10 requested by the New Smyrna Beach Golf Advisory Board.

Section 1:
That the following rules and policies are established for the New Smyrna Beach Municipal Golf Course, including all parking lots and adjacent city owned or controlled property.

#25. Conduct which would constitute a violation of city ordinance or state law shall be considered a violation of these rules, if the conduct interferes with or adversely affects the operation of the golf course.

#26. Violation of these golf course rules and policies may result in disciplinary actions by the golf course manager, including but not limited to immediate removal from the golf course, suspension of membership privileges or permanent revocation.

#27. Physical or abusive conduct toward an employee of the golf course may result in permanent revocation from golf course property.

#28. The golf course manager is authorized to enforce all of the rules and policies.

Golf Advisory Approval:

Marilyn McLeodley

Leo Kermie

Kim Workman

RESOLUTION NO. 44-10

A RESOLUTION ESTABLISHING RULES AND POLICIES FOR THE NEW SMYRNA BEACH MUNICIPAL GOLF COURSE; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Golf Advisory Board has recommended the establishment of rules and policies for the New Smyrna Beach Municipal Golf Course for the safety and enjoyment of the patrons at the Golf Course; and

WHEREAS, the City Commission deems it is in the best interests of the citizens of the City of New Smyrna Beach to establish rules and policies for the Municipal Golf Course.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF NEW SMYRNA BEACH, FLORIDA, AS FOLLOWS:

SECTION 1: That the following rules and policies are established for the New Smyrna Beach Municipal Golf Course:

1. All players must register in the Pro Shop before playing any part of the golf course.

2. Proper golf attire is required to play the New Smyrna Beach Municipal Golf Course. Cut-offs, tank tops, athletic shorts, sleeveless shirts for men, swimwear and tennis attire are not considered to be proper golf attire.

3. Dogs or other domestic animals are prohibited on the golf course.

4. Metal spikes are prohibited.

5. Adult supervision is required for all golfers under the age of 10 years old.

6. It is the responsibility of each golfer to replace divots, rake bunkers, and repair ball marks on greens.

7. No more than one golfer shall play out of one bag. Each player must have his/her own set of clubs.

8. No more than four players may play together in the same group without prior permission from the Golf Course Manager/Pro.

9. All players must play without delay and all groups must keep their pace of play on the course or allow following players to play through.

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11. Only two persons and two sets of clubs are allowed on each golf cart.

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22. If during the course of play the golf course is closed due to inclement weather, rain checks will be issued for unfinished play as follows:

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Five to thirteen holes left to play - 9-hole rain check;
Four or fewer holes left to play - no rain check.

23. Private golf lessons are prohibited. Only PGA Professionals employed by the Golf Course are permitted to conduct lessons on the premises.

24. Anyone who abuses or destroys Golf Course property is subject to fines and/or removal and suspension from the Golf Course.

25. Violations of these golf course rules and policies may result in disciplinary actions by the Golf Course Manager, including but not limited to immediate removal from the Golf Course, suspension of playing privileges, or suspension of membership privileges.

26. The Golf Course Manager and his/her staff are authorized to enforce all of the rules and policies.

SECTION 2: That any and all resolutions that are in conflict herewith be and the same are hereby rescinded and repealed.

SECTION 3: That this resolution shall become effective immediately upon its adoption.

APPROVED AS TO FORM AND CORRECTNESS:

FRANK B. GUMMEY, III
City Attorney

Dated: 11/22/10

The Within and Foregoing Resolution No. 44-10 as introduced and read before the City Commission of the City of New Smyrna Beach, Florida, at its Regular Meeting held at City Hall in said City on November 30, 2010. Motion was made by Commissioner Reiker, and seconded by Commissioner Grasty, that said Resolution be adopted.

A roll-call vote of the City Commission on said motion to adopt the Resolution resulted as follows:

MAYOR ADAM BARRINGER	Yes
VICE MAYOR JAMES W. HATHAWAY	Yes
COMMISSIONER JUDY REIKER	Yes
COMMISSIONER J. S. GRASTY	Yes
COMMISSIONER LYNNE PLASKETT	Yes

Whereupon, the Mayor of the City of New Smyrna Beach, Florida, has hereunto set his official signature, duly attested by the City Clerk, and has caused the Official Seal of said City to be hereunto affixed for the purpose of authenticity and as is required by law.

Adam Barringer
As Mayor of the City of New Smyrna Beach, Florida

(OFFICIAL SEAL)

As City Clerk of the City of New Smyrna Beach, Florida

RESOLUTION NO. 44-10

AGENDA ITEM SUMMARY

Department Making Request: Finance

Meeting Date: 1st Reading March 13, 2012 2nd Reading:

Action Item Title: Request to waive Housing Authority payment in lieu of taxes fees

Agenda Section: Consent X Public Hearing Special Items _____

Summary Explanation and Background:

A **PILOT** is a **payment in lieu of taxes** made to compensate a local government for some or all of the tax revenue that it loses because of the nature of the ownership or use of a particular piece of real property. This is the case with the Housing Authority of the City of New Smyrna Beach. The Housing Authority is exempt from paying property taxes due to the use of the property; therefore it makes a payment in lieu of taxes on an annual basis.

The Housing Authority of New Smyrna Beach is requesting the payment in lieu of taxes to the City of New Smyrna Beach be waived for FY2010, FY2011, and FY2012. The total amount requested to be waived for the three fiscal years is $42,333.88.

2010-$14,758.18
2011-$16,143.70
2012-$11,432.00
Total - $42,333.88

Recommended Action/Motion: Approval

Funding Analysis: Budgeted ____ No X If not budgeted, recommended funding

Exhibits Attached: Housing Authority Letters

Reviewed By:	Name	Signature
Department Director:	Althea Philord	
City Attorney	Frank Gummey	
City Manager	Pam Brangaccio	
Commission Action:		

The Housing Authority

OF THE CITY OF
NEW SMYRNA BEACH, FLORIDA 32170-0688

BRIAN CLARK
EXECUTIVE DIRECTOR
www.newsmyrnahousing.com

1101 SOUTH DIXIE FREEWAY
POST OFFICE BOX 688
TEL. 386/428-8171 FAX.386/427-3429

November 15, 2011

New Smyrna Beach City Commission,

I am writing this letter as a formal request to waive the Housing Authority of the City of New Smyrna Beach's PILOT payments for fiscal year 2010, 2011 and 2012. As you may well know Congress is making final decisions on the T-HUD Appropriations Bill. What this means to this Housing Authority is that they have proposed to recapture approximately $419,000.00 in what they consider to be excess reserves. This will severely limit our ability to transform this Housing Authority into the sort of place that the Commission and the City would like to see serve their most at risk residents. By approving this waiver request it will allow us to use the money that would be paid in PILOT directly to benefit the condition of our Public Housing units and the quality of life for the residents.

Thanks for your Consideration

Brian Clark
Executive Director
The Housing Authority of the City of New Smyrna Beach
1101 S. Dixie Freeway, New Smyrna Beach FL. 32168
Phone 386-428-8171; Mobil 386-576-6666

-EQUAL HOUSING OPPORTUNITY-

The Housing Authority

OF THE CITY OF
NEW SMYRNA BEACH, FLORIDA 32168

BRIAN CLARK
EXECUTIVE DIRECTOR
www.newsmyrnahousing.com

1101 SOUTH DIXIE FREEWAY
TEL. 386/428-8171
TTY/TDD: 711 (via the Florida Relay Service)
FAX: 386-427-3429

February 14, 2012

Ms. Althea Philord
Finance Director
The City of New Smyrna Beach
210 Sams Avenue
New Smyrna Beach, FL 32168

Dear Althea,

Attached are the three outstanding Pilot (Payment in Lieu of Taxes) payments due. My understanding is that it will on the February 28, 2012 meeting agenda for the possibility of waiving this total amount due of $ 42,333.88.

Here is the breakdown of the attached:	March 31, 2010	$ 14,758.18
	March 31, 2011	16,143.70
	March 31, 2012	11,432.00
	TOTAL PILOT DUE	**$ 42,333.88**

If anything else is needed, please let me know.

Sincerely,

David L. Voelker
Finance Director

Cc: attachments

-EQUAL HOUSING OPPORTUNITY-

HUD-52267

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
LOW-RENT HOUSING PROGRAM

COMPUTATION OF PAYMENTS IN LIEU OF TAXES

TYPE OF PROJECT(S)
[X] LHA Owned Rental Housing
[ ] LHA Owned Homeownership

FOR FISCAL YEAR ENDED:
MARCH 31,2010

NAME OF LOCAL HOUSING AUTHORITY
NEW SMYRNA BEACH HOUSING AUTHORITY

CONTRACT NUMBER
A-4121

ADDRESS
P.O. BOX 688
NEW SMYRNA BEACH, FL 32170

PROJECT NUMBER(S)
FL022 001 05 M

COMPUTATION OF SHELTER RENT CHARGED

1. Dwelling Rental (Account 3110)	$294,914.03	
2. Excess Utilities (Account 3120)		
3. Nondwelling Rental (Account 3190)		
Homebuyers Monthly Payments for:		
4. Earned Home Payments (Account 7712)		
5. Nonroutine Maintenance Reserve (Account 7714)		
6. Total Rental or Homebuyers Payments Charged (Lines 1 to 5)		$294,914.03
7. Total Utilities Expense (Accounts in 4300 group)		145,685.54
8. SHELTER RENT CHARGED (Line 6 minus Line 7)		$149,228.49

COMPUTATION OF SHELTER RENT COLLECTED (To be completed only if Cooperation Agreement provides for payment of PILOT on basis of Shelter Rent Collected)

9. Accounts Receivable (Account 1122 or 1124) at beginning of fiscal year		$7,114.76
10. Total of Lines 8 and 9		156,343.25
Deductions:		
11. Collection Losses (Account 4570) during current fiscal year	$5,423.71	
12. Accounts Receivable (Account 1122 or 1124) at end of fiscal year	3,337.79	8,761.50
13. SHELTER RENT COLLECTED (Line 10 minus total of Lines 11 & 12)		$147,581.75

COMPUTATION OF APPROXIMATE FULL REAL PROPERTY TAXES

TAXING DISTRICTS (1)	ASSESSABLE VALUE (2)	TAX RATE (3)	AMOUNT (4)

14. Approximate Full Real Property Taxes (Total of amounts in Col. (4))

PAYMENTS IN LIEU OF TAXES

15. 10% of Line 8 or Line 13, whichever is applicable 1/ (see instructions on reverse side) $14,758.18

16. PAYMENTS IN LIEU OF TAXES (Line 15 or Line 14, whichever is lesser) $14,758.18

Were any expenses incurred for the project(s) during the fiscal year for services or facilities which the local taxing body should have furnished under the terms of the Cooperation Agreement? [ ] Yes [X] No. If the answer is "yes", will such expenses be deducted from PILOT or otherwise collected from the applicable taxing body? [ ] Yes [ ] No. If the answer is "no", attach a statement showing the amount of such expenses incurred and the reason for not collecting.

1/ If the percentage specified in the Cooperation Agreement or the Contract with HUD is lower, such lower percentage shall be used.

PREPARED BY:
Name THE CORNWELL ASSOCIATES, ACCOUNTANTS
Title FEE ACCOUNTANTS Date 12/08/10

APPROVED BY:
Name
Title EXECUTIVE DIRECTOR Date

Replaces HUD-52267 and HUD-52267a which are obsolete

Computation of Payments in Lieu of Taxes

For Fiscal Year Ended March 31, 2011

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0026 (Exp. 10/31/2009)

Public reporting burden for the collection of information is estimated to average .4 hours. This includes the time for collecting, reviewing, and reporting the data. The information will be used for HUD to ascertain compliance with requirements of Section 6(D) of the U.S. Housing Act, which provides for RHA exemptions from real and personal property taxes, and inclusion in the formula data used to determine public housing operating subsidies. Response to this request for information is required in order to receive the benefits to be derived. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number.

Name of Local Agency:	Location:	Contract Number:	Project Number:
NEW SMYRNA BEACH HOUSING	P.O. BOX 688 NEW SMYRNA BE	A-4121	FL022 001 05 M

Part I - Computation of Shelter Rent Charged.

1. Tenant Rental Revenue (FDS Line 703)	$ 306,291.00	
2. Tenant Revenue Other (FDS Line 704)	4,158.00	
3. **Total Rental Charged** (Lines 1 & 2)		$ 310,449.00
4. Utilities Expense (FDS Line 931 - 939)		140,875.00
5. Shelter Rent Charged (Line 3 minus Line 4)		169,574.00

Part II - Computation of Shelter Rent Collected. To be completed only if Cooperation Agreement provides for payment of PILOT on basis of Shelter Rent Collected.)

1. Shelter Rent Charged (Line 5 of Part I, above)	$ 169,574.00
2. Add: Accounts Receivable - Tenants (FDS Lines 126, 126.1, & 126.2) at beginning of fiscal year	3,338.00
3. Less: Tenant Bad Debt Expense (FDS Line 964)	4,879.00
4. Less: Accounts Receivable - Tenants (FDS Lines 126, 126.1, & 126.2) at end of fiscal year	6,596.00
5. Shelter Rent Collected (Line 1 plus Line 2 minus Lines 3 & 4)	161,437.00

Part III - Computation of Approximate Full Real Property Taxes.

(1) Taxing Districts	(2) Assessable Value	(3) Tax Rate	(4) Approximate Full Real Property Taxes
Total			0.00

Part IV - Limitation Based on Annual Contribution. (To be completed if Cooperation Agreement limits PILOT to an amount by which real property taxes exceed 20% of annual contribution.)

1. Approximate full real property taxes	$ 0.00
2. Accruing annual contribution for all projects under the contract	$
3. Prorate share of accruing annual contribution*	
4. 20% of accruing annual contribution (20% of Line 3)	0.00
5. Approximate full real property taxes less 20% of accruing annual contribution (Line 1 minus Line 4, if Line 4 exceeds Line 1, enter zero)	$

Part V - Payments in Lieu of Taxes.

1. 10% of shelter rent (10% of Line 6 of Part I or 10% of Line 5 of Part II, whichever is applicable)**	$ 16,143.70
2. Payments in Lieu of Taxes (If Part IV is not applicable, enter the amount shown on Line 1, above, or the total in Part III, whichever is the lower. If Part IV is applicable, enter the amount shown on Line 1, above, or the amount shown on Line 5 of Part IV, whichever is lower.)	$ 16,143.70

* Same as Line 2 if the statement includes all projects under the Annual Contributions Contract. If this statement does not include all projects under the Annual Contributions Contract, enter prorata share based upon the development cost of each project.
** If the percentage specified in the Cooperation Agreement or the Annual Contributions Contract with HUD is lower, such lower percentage shall be used.

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802).

Prepared By: David L. Voelker		**Approved By:** B. Clark	
Name: David L. Voelker		**Name:** Brian K. Clark	
Title: Accountant	**Date:** 05/31/2011	**Title:** Executive Director	**Date:** 05/31/2011

Previous Editions are Obsolete

Page 1 of 1

form HUD-52267 (8/2005)

Print Reset

Computation of Payments in Lieu of Taxes

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

For Fiscal Year Ended March 31, 2012

OMB Approval No. 2577-0026 (Exp. 10/31/2009)

Public reporting burden for the collection of information is estimated to average .4 hours. This includes the time for collecting, reviewing, and reporting the data. The information will be used for HUD to ascertain compliance with requirements of Section 6(D) of the U.S. Housing Act, which provides for PHA exemptions from real and personal property taxes, and inclusion in the formula data used to determine public housing operating subsidies. Response to this request for information is required in order to receive the benefits to be derived. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number.

Name of Local Agency:	Location:	Contract Number:	Project Number:
New Smyrna Beach Housing Auth	New Smyrna Beach	A-4121	FL 022 001 05 M

Part I - Computation of Shelter Rent Charged.

1. Tenant Rental Revenue (FDS Line 703)	$ 219,589.00	
2. Tenant Revenue Other (FDS Line 704)	10,878.00	
3. **Total Rental Charged** (Lines 1 & 2)		$ 230,467.00
4. Utilities Expense (FDS Line 931 - 939)		118,822.00
5. Shelter Rent Charged (Line 3 minus Line 4)		111,645.00

Part II - Computation of Shelter Rent Collected. To be completed only if Cooperation Agreement provides for payment of PILOT on basis of Shelter Rent Collected.)

1. Shelter Rent Charged (Line 5 of Part I, above)	$ 111,645.00
2. Add: Accounts Receivable - Tenants (FDS Lines 126, 126.1, & 126.2) at beginning of fiscal year	6,596.00
3. Less: Tenant Bad Debt Expense (FDS Line 964)	0.00
4. Less: Accounts Receivable - Tenants (FDS Lines 126, 126.1, & 126.2) at end of fiscal year	114,320.00
5. Shelter Rent Collected (Line 1 plus Line 2 minus Lines 3 & 4)	

Part III - Computation of Approximate Full Real Property Taxes.

(1) Taxing Districts	(2) Assessable Value	(3) Tax Rate	(4) Approximate Full Real Property Taxes
Total			0.00

Part IV - Limitation Based on Annual Contribution. (To be completed if Cooperation Agreement limits PILOT to an amount by which real property taxes exceed 20% of annual contribution.)

1. Approximate full real property taxes	$ 0.00
2. Accruing annual contribution for all projects under the contract	$
3. Prorata share of accruing annual contribution*	
4. 20% of accruing annual contribution (20% of Line 3)	0.00
5. Approximate full real property taxes less 20% of accruing annual contribution (Line 1 minus Line 4, if Line 4 exceeds Line 1, enter zero)	$

Part V - Payments in Lieu of Taxes.

1. 10% of shelter rent (10% of Line 6 of Part I or 10% of Line 5 of Part II, whichever is applicable)**	$ 11,432.00
2. Payments in Lieu of Taxes (If Part IV is not applicable, enter the amount shown on Line 1, above, or the total in Part III, whichever is the lower. If Part IV is applicable, enter the amount shown on Line 1, above, or the amount shown on Line 5 of Part IV, whichever is lower.)	$ 11,432.00

* Same as Line 2 if the statement includes all projects under the Annual Contributions Contract. If this statement does not include all projects under the Annual Contributions Contract, enter prorata share based upon the development cost of each project.
** If the percentage specified in the Cooperation Agreement or the Annual Contributions Contract with HUD is lower, such lower percentage shall be used.

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802).

Prepared By: David L. Voelker		**Approved By:** B. Clark	
Name: David L. Voelker		**Name:** Brian K. Clark	
Title: Finance Director	**Date:** 2/14/12	**Title:** Executive Director	**Date:** 2/14/12

Previous Editions are Obsolete

Page 1 of 1

form **HUD-52267** (8/2005)

Print Reset

AGENDA ITEM SUMMARY

Reset Form

Department Making Request: Police

Meeting Date: 1st Reading: March 28, 2012 2nd Reading:

Action Item Title: Recommendation of 25 mph for 7th Avenue to 27th Avenue

Agenda Section: Consent X Public Hearing _____ Special Items _____

Summary Explanation and Background:

The police department is requesting the City Commission approve posting the speed limit of 25 mph on 7th to 27th Avenue, Beachside.

Recommended Action/Motion:

Funding Analysis: Budgeted X If not budgeted, recommended funding account:

Exhibits Attached:

Traffic Study and Staff Recommendtion

Reviewed By:	Name	Signature
Department Director:	Ronald Pagano	
Finance Director	Althea Philord-Bradley	
City Attorney	Frank Gummey	
City Manager	Pam Brangaccio	

Commission Action:

MEMORANDUM

File # CM12.010.001

TO: Pam Brangaccio, City Manager

FROM: Ronald P. Pagano, Chief of Police

DATE: February 23, 2012

RE: **Agenda Item – Recommendation for 25 mph for 7th to 27th Avenue**

I concur with the recommendation received from Lt. Michael Brouillette for a 25 mph speed limit for 11th Avenue and the avenues north and south of 11th Avenue (7th Avenue to 27th Avenue). The attached traffic study supports this recommendation.

RPP:djb

246 Industrial Park Avenue • New Smyrna Beach, FL 32168
Telephone: (386) 424-2220 • Fax: (386) 424-2255

New Smyrna Beach Police Department

Interoffice Memorandum

To: Chief Ronald P. Pagano

From: Lieutenant Michael Brouillette

Date: February 13, 2012

Re: Traffic Speed Study -11th Avenue, Speed Limit Recommendation for Beachside Avenues

Attached, please find a completed traffic study for 11th Avenue. The study was initiated subsequent to a complaint in reference to speeding and general concerns for the safety of neighborhood children. 11th Avenue is not currently posted, thus the presumed speed limit is currently 30 mph.

I have review the attached speed study and agree with the recommendation for a 25 mph for 11th Avenue. Additionally, after discussing the results of the speed study with Assistant City Attorney Greg McDole and comparing 11th Avenue with the adjacent avenues north and south of 11th Avenue (similar widths, lengths, paving and other similar roadway characteristics), I recommend that the speed limit on the adjacent avenues north and south of 11th Avenue (7th Avenue to 27th Avenue), also be lowered to 25 mph. Currently, none of the avenues are currently posted and the presumed speed is 30 mph.

New Smyrna Beach Police Department

Interoffice Memorandum

To: Lieutenant Brouillette

From: Sergeant Riggle

CC:

Date: 01/13/12

Re: Speed Complaint on 11th Avenue

Lt. Brouillette,

I have reviewed Motor Officer Holloway's memorandum and agree with the content. The report shows an 85 percentile speed of 25.9 mph. Per the speed zoning manual provided by FDOT, a 25 mph speed limit could be enacted and enforced here. The complainant also asked about "Children at Play" signs. They are no longer recommended by the state, as they create a false sense of security and have not been proven to be affective.

New Smyrna Beach Police Department

Interoffice Memorandum

To: Sergeant S. Riggle

CC: Lt. M. Brouillette

From: Motor Officer Joshua Holloway

Date: 12-25-2011

Re: Speeders on 11th Avenue

At your request I conducted a speed survey in the 800-Block of 11th Avenue. I deployed the Metro Count Unit (MCU) on 11th Avenue for 11 days. I downloaded the data from the MCU, which showed 1,234 vehicles passed by the MCU while it was deployed. Of the 1,234 vehicles only 18 vehicles were in the violation range for a 30 mile per hour (mph) speed limit. The fastest vehicle was traveling at 40 mph and the slowest at 5 mph.

The complainant was requesting the speed limit be changed to 25 mph. According to Department of Transportation's (DOT) regulation, the speed limit on a road will not be more than 3mph over the 85% number and not less than 8mph from the 85% speed. The data from the MCU advised the 85% speed was 25.9 mph. Following DOT's regulations, the roadway could be posted at 25mph or 30 mph.

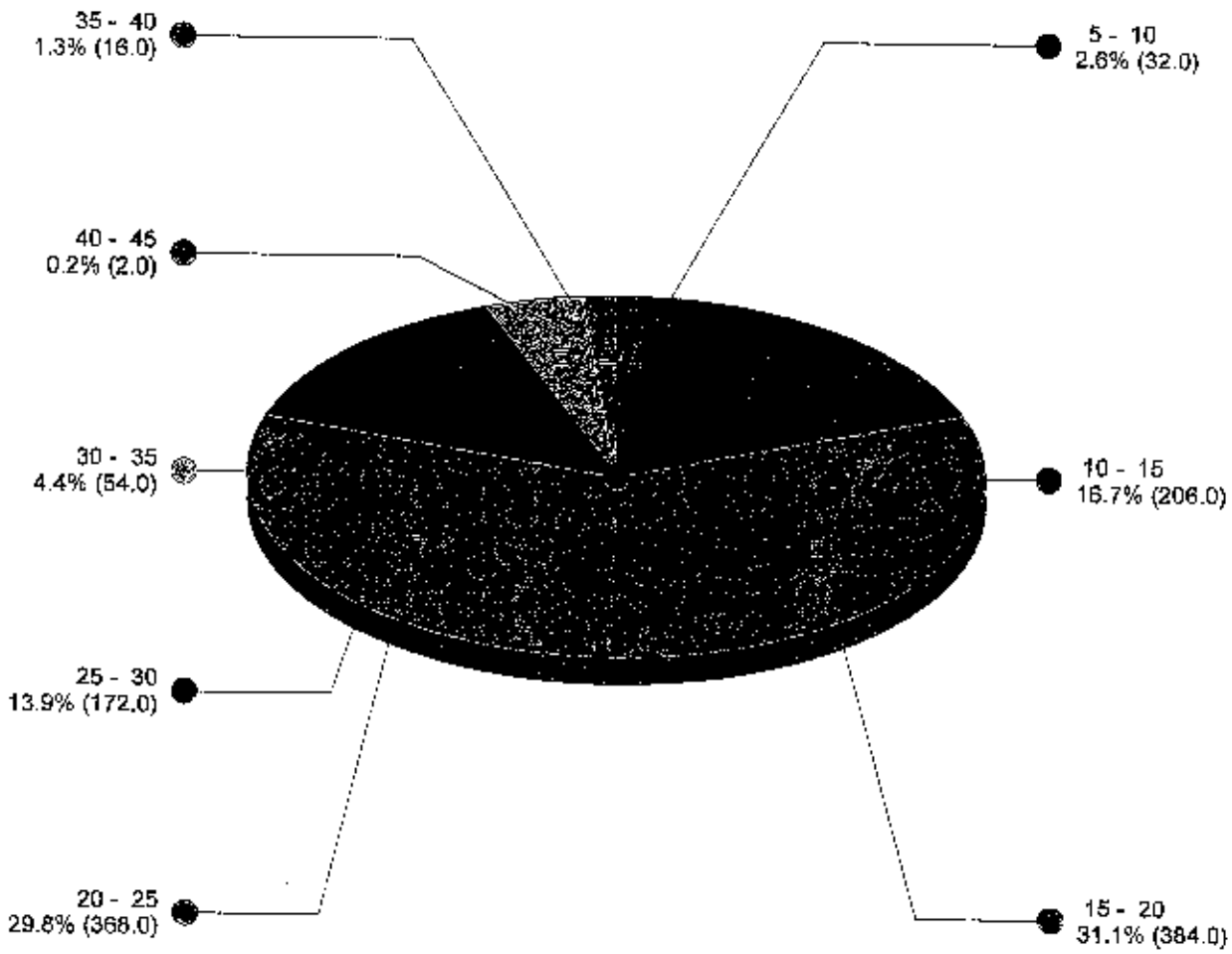
From my observation of the roadway and the data given by the MCU, I feel that there is not a speeding issue on the road. I recommend a 25 mph speed limit sign be posted, to possibly slow down the few cars that speed through this area.

Thank you for your consideration,

Motor Officer Joshua Holloway

Speed Bin Chart

SpeedBin-8 (Non metric) **Site:**11th.2.0WE
Description: east/west traffic
Filter time: 11:00 Thursday, December 15, 2011 => 10:55 Sunday, December 25, 2011
Filter: Cls(1 2 3 4 5 6 7 8 9 10 11 12) Dir(NESW) Sp(5,100) Headway(>0)
Scheme: Vehicle classification (ARX)
Total=1234



MetroCount Traffic Executive
Speed Bin Chart

SpeedBin-8 -- English (ENU)

Datasets:

Site:	**[11th] east/west traffic**
Direction:	6 - West bound A>B, East bound B>A. **Lane:** 2
Survey Duration:	11:00 Thursday, December 15, 2011 => 10:55 Sunday, December 25, 2011
Zone:	
File:	11th25Dec2011.EC2 (Plus)
Identifier:	E108RNFY MC56-6 [MC55] (c)Microcom 02/03/01
Algorithm:	Factory default (v3.21 - 15275)
Data type:	Axle sensors - Paired (Class/Speed/Count)

Profile:

Filter time:	**11:00 Thursday, December 15, 2011 => 10:55 Sunday, December 25, 2011**
Included classes:	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12
Speed range:	5 - 100 mph.
Direction:	North, East, South, West (bound)
Separation:	All - (Headway)
Name:	Default Profile
Scheme:	Vehicle classification (ARX)
Units:	Non metric (ft, mi, ft/s, mph, lb, ton)
In profile:	Vehicles = 1234 / 1234 (100.00%)

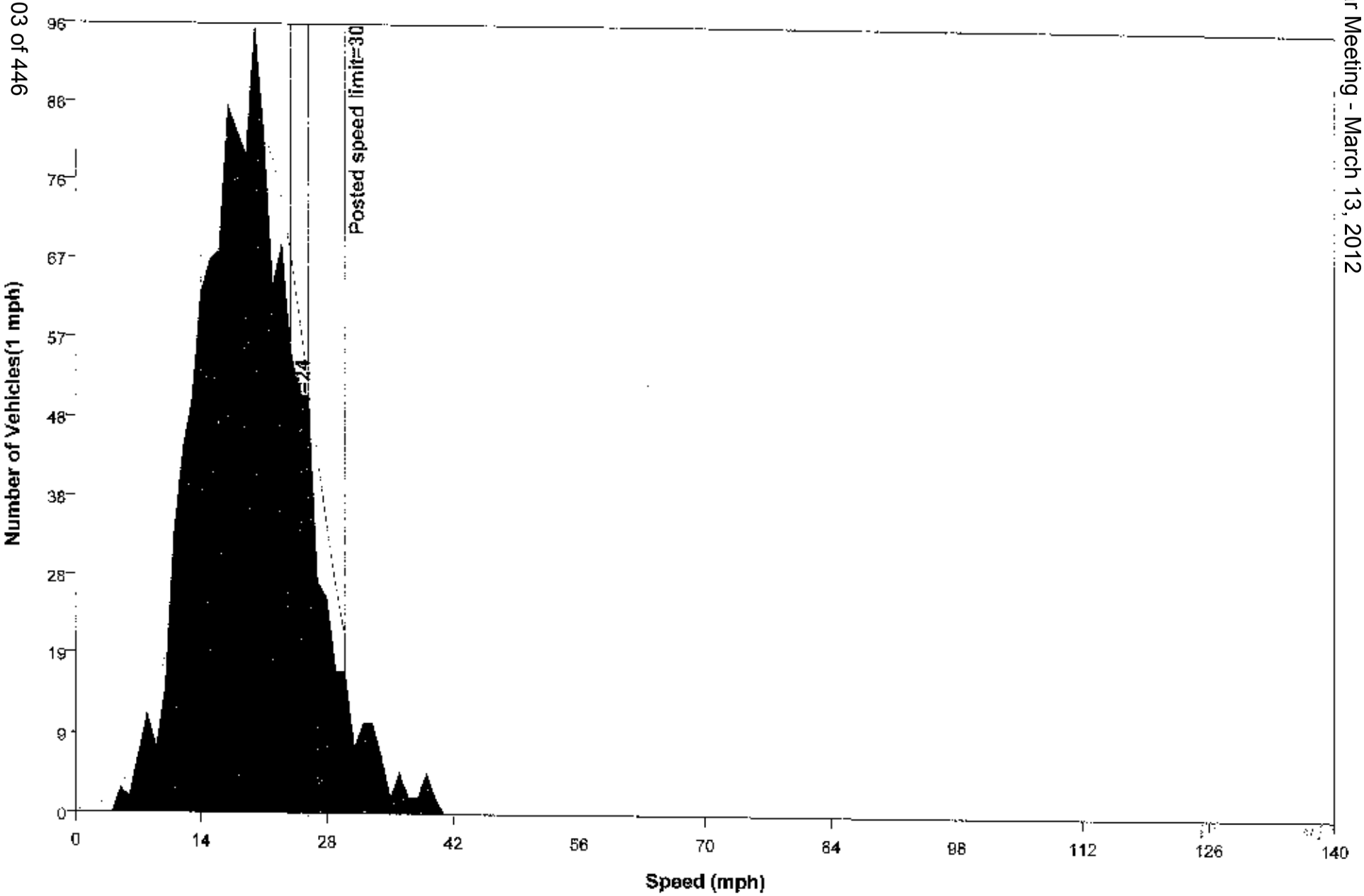
Speed Bins

Speed	Bin		vMult	n * vMult
0 - 5	-	-	-	-
5 - 10	32	2.6%	0.00	0.00
10 - 15	206	16.7%	0.00	0.00
15 - 20	384	31.1%	0.00	0.00
20 - 25	368	29.8%	0.00	0.00
25 - 30	172	13.9%	0.00	0.00
30 - 35	54	4.4%	0.00	0.00
35 - 40	16	1.3%	0.00	0.00
40 - 45	2	0.2%	0.00	0.00
45 - 50	0	0.0%	0.00	0.00
50 - 55	0	0.0%	0.00	0.00
55 - 60	0	0.0%	0.00	0.00
60 - 65	0	0.0%	0.00	0.00
65 - 70	0	0.0%	0.00	0.00
70 - 75	0	0.0%	0.00	0.00
75 - 80	0	0.0%	0.00	0.00
80 - 85		-	-	-
85 - 90	-	-	-	-
90 - 95	-	-	-	-
95 - 100	-	-	-	-

Total Speed Rating = 0.00

Speed Histogram

SpeedHist-9 (Non metric) **Site:**11th.2.0WE
Description: east/west traffic
Filter time: 11:00 Thursday, December 15, 2011 => 10:55 Sunday, December 25, 2011
Filter: Cls(1 2 3 4 5 6 7 8 9 10 11 12) Dir(NESW) Sp(5,100) Headway(>0)
Scheme: Vehicle classification (ARX)



MetroCount Traffic Executive
Speed Histogram

SpeedHist-9 -- English (ENU)

Datasets:

Site:	**[11th] east/west traffic**
Direction:	6 - West bound A>B, East bound B>A. **Lane:** 2
Survey Duration:	11:00 Thursday, December 15, 2011 => 10:55 Sunday, December 25, 2011
Zone:	
File:	11th25Dec2011.EC2 (Plus)
Identifier:	E108RNFY MC56-6 [MC55] (c)Microcom 02/03/01
Algorithm:	Factory default (v3.21 - 15275)
Data type:	Axle sensors - Paired (Class/Speed/Count)

Profile:

Filter time:	**11:00 Thursday, December 15, 2011 => 10:55 Sunday, December 25, 2011**
Included classes:	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12
Speed range:	5 - 100 mph.
Direction:	North, East, South, West (bound)
Separation:	All - (Headway)
Name:	Default Profile
Scheme:	Vehicle classification (ARX)
Units:	Non metric (ft, mi, ft/s, mph, lb, ton)
In profile:	Vehicles = 1234 / 1234 (100.00%)

Speed Statistics

Vehicles = 1234
Posted speed limit = 30 mph, Exceeding = 72 (5.83%), Mean Exceeding = 33.65 mph
Maximum = 40.9 mph, **Minimum** = 5.3 mph, **Mean** = 20.2 mph
85% Speed = 25.9 mph, **95% Speed** = 30.6 mph, **Median** = 19.9 mph
10 mph Pace = 14 - 24, **Number in Pace** = 769 (62.32%)
Variance = 34.97, **Standard Deviation** = 5.91 mph

AGENDA ITEM SUMMARY

Department Making Request: Parks & Recreation

Meeting Date: 1st Reading: March 13, 2012 2nd Reading:

Action Item Title: 5th Friday – Food Truck Bazaar on Flagler Avenue

Agenda Section: Consent X Public Hearing _____ Special Items _____

Summary Explanation and Background:

Host: New Smyrna Beach Parks & Recreation Department

Date: Friday, March 30, 2012 Event time: 5:00pm – 8:00pm

Anticipated Attendance: 1,000-2,000

Gourmet food trucks from the Foot Truck Bazaar Tour will be visiting New Smyrna Beach and setting up along Flagler Avenue selling their wares.

Requesting to close Flagler Avenue from Peninsula to North and South Atlantic Avenue. From 3:00pm-9:00pm.

Recommended Action/Motion:
Special Events Committee Recommends Approval

Funding Analysis: Budgeted No If not budgeted, recommended funding account:

No Expense should be incurred by the City.

Exhibits Attached:
Special Events Application

Reviewed By:	Name	Signature
Parks & Rec. Director:	Elizabeth R. Yancey	Elizabeth R. Yancey
Asst. City Manager	Khalid Resheidat	2/28/12
Finance Director	Althea Philord	Althea Philord
City Attorney	Frank Gummey	Frank B. Gummey
City Manager	Pam Brangaccio	Pam Brangaccio

Commission Action:

CITY OF NEW SMYRNA BEACH
SPECIAL EVENT APPLICATION
FOLLOW-UP

Name of Event 5th Friday - Food Trucks for Flagler Ave.

Event Date March 30, 2012

Contact Information Elizabeth Yancey / Kimla Shelton

Brief Description of Event

Staff Reviewed

Name	Dept.	Phone	E-mail	Date
	Parks & Rec.	386-424-2175	lyancey@cityofnsb.com	
B Wendright	Public Works	386-424-2199	rwalker@cityofnsb.com	2/21/12
[illegible]	Planning & Dev	386-424-2015	jgove@cityofnsb	2/21/12
Barbara Bobelak	Fire Department	386-424-2128		2/21/12
Shane Riggle	Police Department	386-424-2241	sriggle@cityofnsb.com	2/21/12
Barbara Bobelak	Code Enforcement	386-424-2131	bbobelak@cityofnsb.com	2/21/12
Barbara Bobelak	Bldg. Department	386-424-2139	mknotek@cityofnsb.com	2/21/12

Conditions of Approval

1) Will need barricades
2) Will need additional trash cans
3) Request to close Flagler Ave from Peninsula to North and South Atlantic

City Commission Approval Required? ☑ Yes ☐ No

The City Commission submittal deadlines are attached on the next page. Please contact the City Clerk, Johnny Bledsoe, at 386-424-2112 to get on the City Commission agenda.

CITY OF NEW SMYRNA BEACH
SPECIAL EVENT APPLICATION

OFFICE USE ONLY
DATE RECEIVED:
RECEIVED BY:
REVIEW DATE:

SPECIAL EVENTS:

A **Special Event** is an event which, by itself or in conjunction with other events occurring during the same time (such as during a community wide event), is likely to have an impact on the community, including but not limited to factors such as traffic, noise, or other aspects of public health, safety and welfare. Special Events must be approved in advance by the City Commission at which time staff will make their recommendation.

Application for Special Events must be submitted at least thirty (30) days in advance of the requested event.

*This application is **not** a permit to conduct a special event.*

1.0 **REQUIRED INFORMATION:**

1.1 Name of Event 5th Friday Food trucks

1.2 Name of Producer and/or Promoter Liz Yancey

1.2 Type of Organization ☐ Non-Profit ☐ For-Profit ☐ Charitable ☒ Government

1.3 Contact Person Liz Yancey

1.4 Address _____

City _____ State _____ Zip Code _____

1.5 Work Phone 424-2175 Home Phone _____ Fax Number 424-2177

Email Address lyancey@cityofnsb.com Website _____

2.0 **BILLING INFORMATION:**

2.1 Is the party responsible for billing the same as above? ☒ Yes ☐ No

If no, please provide the proper information below:

Name: _____ Address: _____

City: _____ State: _____ Zip Code: _____

Work Phone: _____ Fax Number: _____

3.0 **EVENT INFORMATION:**

3.1 Date(s)

Requested: 3/30/2012

3.2 Location of Event: Flagler Ave

3.3 Description of Event:_____

_____

3.4 Site Plans are required and must include:

☐ Pedestrian Access ☐ Parking and Vehicular Access ☐ Location of Port-o-Lets (if any) ☐ Dumpsters and/ or Trash Cans ☐ Number and Location of Vendor Display Areas Venue/ Stage (if any) ☐ Tents ☒ Barricades/ Cones

3.5 Insurance: An insurance policy naming the City of New Smyrna Beach additionally insured for a minimum of $1,000,000 must be provided no later than five days prior to the scheduled event. Proof of insurance is required for all events if applicable.

3.6 Will an admission fee be charged for the event? ☐ Yes ☒ No

Will an admission fee be charged prior to the event? ☐ Yes ☒ No

Will fees be collected on-site before/ during event? ☐ Yes ☒ No

3.7 Event time: Date: _____ Start: 5 a.m./ p.m. End: 8 a.m./ p.m.

Set-up: Date: _____ Start 3 a.m./ p.m. End: 5 a.m./ p.m.

Breakdown: Date: _____ Start: 8 a.m./ p.m. End 9 a.m./ p.m.

Rain date: Date: _____ Start: _____ a.m./ p.m. End _____ a.m./ p.m.

?

How will the general public be notified about a cancellation/ postponement of the event?

_____ Anticipated number of attendees: 3000

3.8 Have you held this event in the City of New Smyrna Beach previously? ☐ Yes ☒ No

If yes, previous date(s): _____ Location(s):_____

Have you held this event in another City? ☐ Yes ☐ No If yes, list location_____

3.9 Will the special event require the use of watercraft for competition, servicing, maintenance, safety, or any other reason? ☐ Yes ☒ No

NOTE: Temporary buoys and markers may be placed with approval from the U.S. Coast Guard. Also, water rescue and lifesaving personnel and equipment shall be on-duty and prepared to act to protect competitors and spectators during all competition and practice.

3.10 Will the special event involve the use of aircraft? ☐ Yes ☒ No

NOTE: All aircraft flight operations shall conform to FAA regulations and meet minimum pilot qualifications for the given type of operation intended. Also, all operators of any type of aircraft being used shall provide the city with a certificate of insurance coverage. Insurance coverage shall provide liability insurance protection for the City in the amount of not less than $1,000,000 per person for bodily injury or death, $2,000,000 per occurrence of death, and $500,000 per occurrence for property damage, naming the City of New Smyrna Beach as "additionally insured."

3.11 Will the special event involve the use of motorcycles? ☐ Yes ☒ No

4.0 **ENTERTAINMENT:**

4.1 Will there be entertainment? ☐ Yes ☒ No If yes, a complete list of entertainers, contracts, licenses, and schedules must be provided.

_____

_____

4.2 Will you be using a sound system? ☐ Yes ☒ No

NOTE: The City's Ordinances regarding noise must be complied with during the event, or receive City Commission approval to generate excessive noise outside the accepted hours.

4.3 Name of Contractor: _____ Type of System: _____

4.4 Sound Time: Start: _____ a.m./ p.m. End: _____ a.m./ p.m.

4.5 Will there be carnival games and/or rides? ☐ Yes ☒ No If yes, please describe the types of games and/or rides _____

_____

4.6 Name of Contractor: _____

4.7 Proof of insurance is required for all carnival games and rides. The City must be listed as additionally insured on the insurance policy.

4.8 Insurance Company: _____ Policy Number: _____

5.0 **SPECIAL EFFECTS:**

5.1 Will there be any special effects used? ☐ Yes ☒ No If yes, complete below.

5.2 Type of effects: ☐ Fireworks ☐ Laser light show ☐ Special effect balloons/hot air devices ☐ Signs, special lighting, wind operated devices including pennants or banners or any devices intended to catch the eye of passers by. ☐ Other

5.3 Effect time: Date: _____ Start: _____ a.m./p.m. End: _____ a.m./p.m

5.4 Location of Special Effects: _____

5.5 Effects Producer/ Company Name: _____

5.6 Address: _____

5.7 Phone Number: _____ Fax Number _____

5.8 Proof of insurance is required for all special events.

Insurance Company: _____ Policy Number: _____

NOTE: A permit from the New Smyrna Beach Fire Department will be required.

6.0 **PARADES:**

6.1 Will this be considered a parade? ☐ Yes ☑ No If yes, complete below.

6.2 How many will participate? _____

6.3 Plan of route attached? ☐ Yes ☐ No

6.4 Parade Time: Date: _____ Start: _____ a.m./ p.m. End: _____ a.m./ p.m.

6.5 Breakdown: Date: _____ Start: _____ a.m./ p.m End: _____ a.m./ p.m.

6.6 Rain Date: Date: _____ Start: _____ a.m./ p.m End: _____ a.m/ p.m.

6.7 Will the parade require any road closures? ☐ Yes ☐ No

If yes, City Commission approval will be required.

7.0 **PROPOSED RETAIL SALES**

7.1 Will there be any retail sales? ☑ Yes ☐ No If yes, complete below.

7.2 How many vendor locations do you hope to accommodate? 4 - 6

7.3 Type of vending (including number of each): (1 – 49) Vendors = $150 (50+) Vendors = $250

☐ Clothing _____ ☑ Food/ Beverage _____ ☐ Jewelry _____

☐ Other (describe) _____

8.0 **PROPOSED SPONSORS:**

8.1 Will there be any sponsors? ☐ Yes ☑ No If yes, complete below.

8.2 How many commercial sponsors with on-site visibility do you anticipate (including product sampling, giveaways, exhibits, and advertising).

_____

_____

9.0 **ALCOHOLIC BEVERAGES/ LIQUOR LIABILITY:**

9.1 Will alcoholic beverages be dispensed, provided, or served?

☐ Yes ☑ No If yes, complete below.

9.2 Name of organization licensed to sell alcohol at the event: _____

9.3 Limit of liquor liability coverage, if required, will not be less than $500,000.

9.4 The organization hosting the event is: ☐ For-Profit ☐ Non-Profit/ 501C-3 (see below)

9.5 A copy of the liquor license must be submitted five business days prior to the event.

9.6 Beer Gardens- An applicant who is requesting beer gardens for an event must provide a copy of a liquor license and special event alcohol license issued by the State of Florida. The Police Department will evaluate the security measures to determine the amount of police officers that must be hired.

10.0 **PROMOTION:**

10.1 At what level will the event be promoted? ☒ Local ☐ Regional ☐ National ☐ International

10.2 What type of publicity will be used? ☒ Newspaper ☐ Radio ☐ Television ☐ Internet
☐ Direct Mail ☐ Billboard ☐ Other _____

10.3 Telephone number to be released for public information: 424-2175

11.0 **SIGNS:**

11.1 Will you be using signs at your event? ☐ Yes ☒ No If yes, complete below.

11.2 How many signs and what dimensions? _____

11.3 It is the applicant's responsibility to request utility line location from Sunshine State ONE CALL of Florida (1-800-432-4770) before digging.

NOTE: Signs may be erected no more than 14 days prior to the special event on private property. All signs shall be removed no later than the day after the event, and must conform to the requirements in the City's Code of Ordinances.

12.0 **FACILITY REQUIREMENTS:**

12.1 Will you use temporary structures? ☒ Yes ☐ No If yes, complete below.
☐ Stages ☐ Tents ☐ Scaffolding ☐ Booths ☐ Fences ☒ Barricades ☐ Cones
☒ Other trucks

12.2 How many tents exceeding 120 square feet or greater? _____
(Tents 120 square feet or greater will require tent permits.)

12.3 Tent locations and sizes must be included on the site plan. _____

12.4 List the state-certified electrical contractor that will accept responsibility for the quality and code compliance of electrical work performed on behalf of the applicant?

12.5 It is the applicant's responsibility to request utility line location from Sunshine State ONE CALL of Florida (1-800-432-4770) a minimum of 48 hours in advance of any special event activity or setup.

13.0 **TRAFFIC AND PARKING:**

13.1 Will normal traffic patterns be altered by the event? ☒ Yes ☐ No

13.2 Will there be any road closures? ☒ Yes ☐ No Road Name: Flagler Ave
(If a road is requested to be closed, City Commission approval is required.)

13.3 Cones, barricades, and fencing are to be provided by the applicant and can be rented from a barricade or rental company.

13.4 Will public parking areas, streets, sidewalks, etc., be restricted or obstructed? ☐ Yes ☒ No

13.5 Will the event have on-site parking? ☒ Yes ☐ No

13.6 Will the event require off-site parking? ☐ Yes ☒ No

13.7 Will a shuttle be used to transport people to the off-site parking area?

13.8 Handicapped parking must meet the requirements of Florida Statute 553.5041

13.9 A detailed parking plan is required for all parking areas, indicating how all security, fire protection, and emergency vehicles can access a site.

14.0 **PORT-O-LETS:**

14.1 The applicant shall be required to provide adequate facilities to cover the amount of participants.

14.2 How many Port-O-Lets will be on-site? _____

14.3 The location of the Port-O-Lets must be included on the site plan.
RECOMMENDATION: One toilet is recommended for every 300 people attending an event. If public toilets are not available at the event site, one ADA accessible toilet is required for the first 300 people, and a minimum of 5% of the restrooms must be ADA accessible. If there is a beer/ alcohol being served at the event, the recommended ratio for toilets per is 1:150 people. Existing park toilets count towards the toilet per anticipated attendee ratio.

15.0 **SANITATION:**

15.1 If dumpster service is needed it is required that refuse service be provided through the City's Public Works Department. The dumpster service, fee schedule, and information pertaining to recycling can be obtained by contacting the Public Works Department at 386-424-2212.

15.2 Payment arrangements should be made prior to the event though the Public Works Department.

15.3 Trash receptacles and recycling containers are to be provided by the applicant and must be located not only on event grounds, but in parking areas as well.

15.4 Event grounds must be completely cleared of trash and all receptacles removed by the end of the event and is the sole responsibility of the applicant.

16.0 **SECURITY/ EMERGENCY FIRE/ MEDICAL SERVICES:**

16.1 What are your plans for providing security at the event? _____

_____

The New Smyrna Beach Police and Fire Department will evaluate the events security measures to determine if the measures are sufficient to run a safe event. The New Smyrna Beach Police and Fire Department reserve the right to require additional security measures. There will be a minimum requirement of five (5) business days to evaluate the event requirements.

NOTE: All events held on City/Public property require the use of City Police and Fire personnel if additional security measures are required.

17.0 **CONFIRMATION:**

I understand that this is an application only and does not obligate the City in any fashion to reserve any facility or approve any event.

Signature: Elizabeth R. Yancey

Printed Name: Elizabeth R. Yancey

Date: _____ Title of Applicant: Recreation Dept Affiliation: _____

Event Contact Information:

Please provide the name of the contact person who will be available on-site at all times. Depending on the length of the event, this may require several people. Please list the contact person for each period of time. (Please Print)

Contact Name	Contact on-site phone number	Time Period
Liz Yancey	386-547-8504	

****

THE *BANNER FORM* AND *FACILITY USAGE FORM* ARE ATTACHED FOR YOUR CONVENIENCE. IF YOU NEED TO UTILIZE A FACILITY OR REQUEST BANNER SPACE RESERVATION, IT IS ***YOUR RESPONSIBILITY TO TURN THESE FORMS INTO THE PARKS & RECREATION DEPARTMENT*** SEPARATELY FROM THIS APPLICATION.

COMING
MARCH 30
5PM - 8PM

THE FOOD TRUCK BAZAAR

THE ORLANDO FOOD TRUCK SCENE GOES ON TOUR!

NEW SMYRNA BEACH

1st Fridays
1st Saturdays
1st Sundays
2nd Fridays
2nd Sundays
3rd Sundays
4th Sundays
5th Fridays

Kissimmee
Sanford
Orange City
Casselberry
Orlando
Oviedo
Lake Nona
New Smyrna Beach

vic Center, 201 E. Dakin Ave
le Blvd (parking lot behind courthouse)
mprovement, 901 Saxon Blvd
et Lake Drive
01 East Colonial Dr.
Red Bug Lake Rd
1002 Lake Hart Dr.
Hagen Ave

TheFoodTruckBazaar.com

AGENDA ITEM SUMMARY

Department Making Request: Building and Engineering Departments

Meeting Date: 2/28/2012 - 1st Reading 2nd Reading March 13, 2012

Action Item Title: City Code of Ordinances, Chapter 26, Article VIII FloodPlain Management

Agenda Section: Consent _____ Public Hearing X Special Items _____

Summary Explanation and Background:

The updated 2010 Florida Building Code (FBC) becomes effective on March 15, 2012. Upon that date, local flood damage prevention regulations may conflict with or duplicate parts of the flood provisions in the FBC. Consequently, all of Florida's NFIP-participating communities will need to repeal and replace their local flood regulations to coordinate with the FBC.

Floodplain management is the operation of a community program of corrective and preventative measures for reducing flood damage. These measures take a variety of forms and generally include requirements for zoning, subdivision or building, and special-purpose floodplain ordinances.

A community's agreement to adopt and enforce floodplain management ordinances, particularly with respect to new construction, is an important element in making flood insurance available to home and business owners. Since 1987 the City of New Smyrna Beach has voluntarily adopt and enforce local floodplain management ordinances that provide flood loss reduction building standards for new and existing development.

Communities that participate in the National Flood Insurance Program (NFIP) adopt and enforce floodplain management programs in order to reduce future flood damage. In exchange, the NFIP provides federally backed flood insurance for property owners and renters in the participating communities. In addition to providing flood insurance and reducing flood damage through floodplain management regulations, the NFIP identifies and maps the Nation's floodplains

Recommended Action/Motion: Approval

Funding Analysis: Budgeted: NA

Exhibits Attached: None

Reviewed By:	Name	Signature
Building Official	Michael Knotek	
City Engineer	Kyle Fegley	
City Attorney	Frank Gummey III	
City Manager	Pam Brangaccio	

Commission Action:

ORDINANCE NO. 33-12

AN ORDINANCE AMENDING CHAPTER 26 OF THE CITY CODE (BUILDINGS AND BUILDING REGULATIONS) BY REPEALING IN ITS ENTIRETY ARTICLE VIII, FLOOD DAMAGE PREVENTION, AND CREATING A NEW ARTICLE VIII, TO BE ENTITLED *FLOODPLAIN MANAGEMENT*; PROVIDING FOR ADOPTING FLOOD HAZARD MAPS, DESIGNATING A FLOODPLAIN ADMINISTRATOR, ADOPTING PROCEDURES AND CRITERIA FOR DEVELOPMENT IN FLOOD HAZARD AREAS, AND FOR OTHER PURPOSES; PROVIDING FOR ADOPTING LOCAL ADMINISTRATIVE AMENDMENTS AND LOCAL TECHNICAL AMENDMENTS TO THE FLORIDA BUILDING CODE PERTAINING TO THE DESIGN AND CONSTRUCTION OF BUILDINGS AND STRUCTURES IN FLOOD HAZARD AREAS; PROVIDING FOR APPLICABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR PUBLIC HEARING; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida has, in Chapter 166, Municipalities, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of the City of New Smyrna Beach and such areas are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare; and

WHEREAS, the City of New Smyrna Beach was accepted for participation in the National Flood Insurance Program on October 1, 1991, and the City of New Smyrna Beach City Commission desires to continue to meet the requirements of Title 44, Code of Federal Regulations, Sections 59 and 60, necessary for such participation; and

WHEREAS, Chapter 553, Florida Statutes, was adopted by the Florida Legislature to provide a mechanism for the uniform adoption, updating, amendment, interpretation and enforcement of a state building code, called the *Florida Building Code*; and

WHEREAS, Chapter 553, Florida Statutes, allows for local technical amendments to the *Florida Building Code* which provide for more stringent requirements than those specified in the Code; and

WHEREAS, section 553.73(5), Florida Statutes, allows adoption of local administrative and local technical amendments to the *Florida Building Code* to implement the National Flood Insurance Program and incentives; and

WHEREAS, the City of New Smyrna Beach City Commission has determined that it is in the public interest to adopt the proposed floodplain management regulations that are coordinated with the *Florida Building Code*; and

WHEREAS, the City of New Smyrna Beach City Commission has determined that it is in the public interest to adopt the proposed local technical amendments and proposed local administrative amendments to the 2010 *Florida Building Code* and that the proposed amendments are not more stringent than necessary to address the need identified, do not discriminate against materials, products or construction techniques of demonstrated capabilities, are in compliance with section 553.73(4)(a), Florida Statutes, where applicable, and the proposed amendments are in compliance with section 553.73(5), Florida Statutes, where applicable; and

WHEREAS, the City Commission deems it is in the best interests of the citizens of the City of New Smyrna Beach to amend Chapter 26 of the City Code as more particularly set forth hereinafter.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF NEW SMYRNA BEACH, FLORIDA:

SECTION 1: ***Recitals.*** That the foregoing *whereas* clauses are incorporated herein by reference and made a part hereof.

SECTION 2: ***Repeal.*** That New Smyrna Beach Code of Ordinances, Chapter 26, Buildings and Building Regulations, Article VIII, Flood Damage Prevention, is hereby repealed in its entirety.

SECTION 3: ***Amendment.*** That New Smyrna Beach Code of Ordinances, Chapter 26, is hereby amended to create a new Article VIII, to be entitled Floodplain Management, as follows:

Chapter 26
BUILDINGS AND BUILDING REGULATIONS

...

ARTICLE VIII. FLOODPLAIN MANAGEMENT

DIVISION 1. ADMINISTRATION

Sec. 26-661. Title.

These regulations shall be known as the *Floodplain Management* regulations of the City of New Smyrna Beach, Florida

Sec. 26-662. Scope.

The provisions of this article shall apply to all development that is wholly within or partially within any flood hazard area, including but not limited to the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the Florida Building Code; placement, installation, or replacement of manufactured homes and manufactured buildings; installation or

replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other development.

Sec. 26-663. Intent.

The purposes of this article and the flood load and flood resistant construction requirements of the Florida Building Code are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:

(1) Minimize unnecessary disruption of commerce, access and public service during times of flooding;

(2) Require the use of appropriate construction practices in order to prevent or minimize future flood damage;

(3) Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;

(4) Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;

(5) Minimize damage to public and private facilities and utilities;

(6) Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;

(7) Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and

(8) Meet the requirements of the National Flood Insurance Program for community participation as set forth in Title 44, Code of Federal Regulations, Section 59-22.

Sec. 26-664. Coordination with the Florida Building Code.

Pursuant to the requirement established in state statute that local communities administer and enforce the Florida Building Code, the city commission does hereby acknowledge that the Florida Building Code contains certain provisions that apply to the design and construction of buildings and structures in flood hazard areas. Therefore, this article is intended to be administered and enforced in conjunction with the Florida Building Code. Where section numbers of the Florida Building Code are cited, the section numbers refer to the 2010 Florida Building Code. If cited section numbers are changed in subsequent editions of the code, then the section numbers shall refer to the comparable sections. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the Florida Building Code.

Sec. 26-665. Warning.

The degree of flood protection required by this article and the Florida Building Code, as amended by the city, is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This article does not imply that land outside of mapped special flood hazard areas will be free from flooding or flood damage.

Sec. 26-666. Applicability.

Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable. Where, in any specific case, requirements of this article conflict with the requirements of the Florida Building Code, the most restrictive shall govern.

Sec. 26-667. Areas to which this article applies.

This article shall apply to all flood hazard areas within the City of New Smyrna Beach, Florida, as established in Section 26-662 of this Code.

Sec. 26-668. Basis for establishing flood hazard areas.

The Flood Insurance Study for the City of New Smyrna Beach, Florida dated February 15, 2003, and all subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this article and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the city engineer's office.

Sec. 26-669. Submission of additional data to establish flood hazard areas.

To establish flood hazard areas and base flood elevations pursuant to sec. 26-675 of this Code, the Floodplain Administrator may require submission of additional data. Where field surveyed topography prepared by a Florida licensed professional surveyor or digital topography accepted by the community indicates that ground elevations:

(1) are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as flood hazard area and subject to the requirements of this article and, as applicable, the requirements of the Florida Building Code.

(2) are above the closest applicable base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a letter of map change that removes the area from the special flood hazard area.

Sec. 26-670. Other laws.

The provisions of this article shall not be deemed to nullify any provisions of local, state or federal law.

Sec. 26-671. Abrogation and greater restrictions.

This article supersedes any ordinance in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any existing ordinances including land development regulations, zoning ordinances, stormwater management regulations, and the Florida Building Code. In the event of a conflict between this article and any other code or regulation, the more restrictive shall govern. This article shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this article.

Sec. 26-672. Interpretation.

In the interpretation and application of this article, all provisions shall be:

(1) considered as minimum requirements;

(2) liberally construed in favor of the governing body; and

(3) deemed neither to limit nor repeal any other powers granted under state statutes.

Sec. 26-673. Duties and powers of the floodplain administrator.

(a) Designation. The city engineer is designated as the floodplain administrator. The floodplain administrator may delegate performance of certain duties to other employees.

(b) General. The floodplain administrator is authorized and directed to administer and enforce the provisions of this article. The floodplain administrator shall have the authority to render interpretations of this article consistent with the intent and purpose of this article and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall not have the effect of waiving requirements specifically provided in this article without the granting of a variance pursuant to sec. 26-678 of this article.

(c) Applicants and permits. The floodplain administrator, in coordination with other pertinent offices of the city, shall:

(1) Review applications and plans to determine whether proposed new development will be located in flood hazard areas;

(2) Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of this article;

(3) Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination shall have the opportunity to appeal the interpretation;

(4) Provide available flood elevation and flood hazard information;

(5) Determine whether additional flood elevation and flood hazard data shall be obtained from other sources or shall be developed by an applicant;

(6) Review applications to determine whether proposed development will be reasonably safe from flooding;

(7) Review applications to determine whether all necessary permits and approvals have been obtained from any federal, state or local agencies from which prior or concurrent approval is required, including but not limited to the following:

a. The St. Johns River Water Management District (Sec. 373.036, F.S.)

b. Florida Department of Health for onsite sewage treatment and disposal systems (Sec. 381.0065, F.S., and Chapter 64E-6, F.A.C.)

c. Florida Department of Environmental Protection for construction, reconstruction, changes, or physical activities for shore protection or other activities seaward of the coastal construction control line (Sec. 161.141, F.S.)

d. Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit (Sec. 161.055, F.S.)

e. Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers (Sec. 404 of the Clean Water Act).

(8) Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the Florida Building Code, when compliance with this article is demonstrated, or disapprove the same in the event of noncompliance; and

(9) Coordinate with and provide comments to the building official to assure that applications for building permits for buildings and structures in flood hazard areas comply with the requirements of this article.

(d) Determinations for existing buildings and structures. For applications for building permits to approve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, and any other improvement of or work on such buildings and structures, the floodplain administrator, in coordination with the building official, shall:

(1) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser of the building or structure before the start of construction of the

proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;

(2) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;

(3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and

(4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant provisions of the Florida Building Code and this article is required.

(e) Modifications of the strict application of the requirements of the Florida Building Code. The floodplain administrator shall review requests submitted to the building official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the Florida Building Code to determine whether such requests require the granting of a variance pursuant to Sec. 26-678 of this article.

(e) Coordination of notices and orders. The floodplain administrator and the building official shall coordinate the issuance of all necessary notices or orders to ensure compliance with this article and the flood resistant construction requirements of the Florida Building Code.

(f) Inspections. The floodplain administrator shall make the required inspections as specified in Sec. 26-676 of this article for development that is not subject to the Florida Building Code. For buildings and structures subject to the

Florida Building Code, the building official shall make the required inspections of structures specified in Sec. 26-676 of this article and Florida Building Code, Building, Sec. 110. The floodplain administrator shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.

(g) Other duties of the floodplain administrator. The floodplain administrator shall have other duties, including but not limited to:

(1) Establish, in coordination with the building official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Sec. 26-673(d) of this article;

(2) Require that applicants proposing alteration of a watercourse notify adjacent communities and the Florida Division of Emergency Management, State Flooplain Management Office, and submit copies of such notifications to the Federal Emergency Management Agency (FEMA);

(3) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations. Such submissions shall be made within six months of such data becoming available;

(4) Review required design certifications and documentation of elevations specified by this article and the Florida Building Code to determine that such certifications and documentations are complete;

(5) Notify FEMA when the corporate boundaries of the city are modified; and

(6) Advise applicants for new buildings and structures, including substantial improvements that are located in any unit of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (Pub.L.97-348) and the Coastal Barrier Improvement Act of 1990 (Pub.L. 101-591) that federal flood insurance is not available on such construction. Areas subject to this limitation are identified on Flood Insurance Rate Maps as "Coastal Barrier Resource System Areas" and "Otherwise Protected Areas."

(h) Floodplain management records. Regardless of any limitation on the period required for retention of public records, the floodplain administrator shall maintain and permanently keep and make available for public inspection, all records that are necessary for the administration of this article and the flood resistant construction requirements of the Florida Building Code, including Flood Insurance Rate Maps; Letters of Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documents of elevations specified by the Florida Building Code and this article; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this article and the flood resistant construction requirements of the Florida Building Code. These records shall be available for public inspection at the city engineer's office.

Sec. 26-674. Permits.

(a) Permits required. Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of this article which is wholly within or partially within any flood hazard area shall first make application to the floodplain administrator, and

the building official if applicable, and shall obtain the required permit(s) and approval(s). No such permit or approval shall be issued until compliance with the requirements of this article and all other applicable codes and regulations has been satisfied.

(b) Floodplain development permits or approvals. Floodplain development permits or approvals shall be issued pursuant to this article for any development activities not subject to the requirements of the Florida Building Code. Depending on the nature and extent of proposed development that includes a building or structure, the floodplain administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

(c) Buildings, structures and facilities exempt from the Florida Building Code. Pursuant to the requirements of federal regulation for the National Flood Insurance Program (44 C.F.R. Section 60.3), floodplain development permits or approvals shall be required for the following buildings, structures and facilities that are exempt from the Florida Building Code, Building, Sec. 102.2, and any further exemptions provided by law, are subject to the requirements of this article:

(1) Railroads and ancillary facilities associated with the railroad.

(2) Nonresidential farm buildings on farms, as provided in Section 604.50, F.S.

(3) Temporary buildings or sheds used exclusively for construction purposes.

(4) Mobile or modular structures used as temporary offices.

(5) Those structures or facilities of electric utilities, as defined in Section 366.02, F.S., which are directly involved in the generation, transmission or distribution of electricity.

(6) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.

(7) Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.

(8) Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.

(d) Application for permit or approval. To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the city. The information provided shall:

(1) Identify and describe the development to be covered by the permit or approval.

(2) Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.

(3) Indicate the use and occupancy for which the proposed development is intended.

(4) Be accompanied by a site plan or construction documents as specified in Sec. 105 of the Florida Building Code, Building.

(5) State the valuation of the proposed work.

(6) Be signed by the applicant or the applicant's authorized agent.

(7) Give such other data and information as required by the floodplain administrator.

(e) Validity of permit or approval. The issuance of a floodplain development permit or approval pursuant to this ordinance shall not be construed to be a permit for, or approval of any violation of this article, the Florida Building Code, or any other city ordinance, code or regulation. The issuance of permits based on submitted applications, construction documents and information shall not prevent the floodplain administrator from requiring the correction of errors and omissions.

(f) Expiration. A floodplain development permit or approval shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing and justifiable cause shall be demonstrated.

(g) Suspension or revocation. The floodplain administrator is authorized to suspend or revoke a floodplain development permit or approval if the permit was issued in error, on the basis of incorrect, inaccurate or incomplete information, or in violation of this article or any other city ordinance, code or regulation.

Sec. 26-675. Site plans and construction documents.

(a) Information for development in flood hazard areas. The site plan or construction documents for any development subject to the requirements of this article shall be drawn to scale and shall include, as applicable to the proposed development:

(1) Delineation of flood hazard areas, floodway boundaries and flood zone(s), and base flood elevation(s).

(2) Where flood hazard areas, base flood elevations, or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with Section 26-675(b) of this article.

(3) Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than 5 acres and the base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with Section 26-675(b) of this article.

(4) Location of the proposed activity and proposed structures, and locations of existing buildings and structures. In coastal high hazard areas, new buildings shall be located landward of the reach of mean high tide.

(5) Location, extent, amount and proposed final grades of any filling, grading or excavation.

(6) Where the placement of fill is proposed, the amount, type and source of fill material, compaction specifications, a description of the intended purpose of the fill areas, and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.

(7) Delineation of the Coastal Construction Control Line or notation that the site is seaward of the coastal construction control line, if applicable.

(8) Extent of any proposed alteration of sand dunes or mangrove stands provided such alteration is approved by the Florida Department of Environmental Protection.

(9) Existing and proposed alignment of any proposed alteration of a watercourse.

The floodplain administrator is authorized to waive the submission of site plans, construction documents, and other data not required to be prepared by a registered design professional if it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance with this article.

(b) Information in flood hazard areas without base flood elevations (approximate Zone A). Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the floodplain administrator shall:

(1) Obtain, review and provide to applicants base flood elevation data available from a federal or state agency or other source or require the applicant to obtain and use base flood elevation data available from a federal or state agency or other source; or

(2) Require the applicant to develop base flood elevation data prepared in accordance with currently accepted engineering practices; or

(3) Where base flood elevation data are not available from another source, assume the base flood elevation is not less than two feet above the highest adjacent grade at the location of the development, provided there is no evidence indicating flood depths have been or may be greater than two feet.

(4) Where the base flood elevation data are to be used to support a Letter of Map Change from FEMA, advise the applicant that the analyses shall be prepared by a Florida licensed engineer in a format required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal requirements and pay the processing fees.

(c) Additional analyses and certifications. As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses prepared and sealed by a Florida licensed engineer for submission with the site plan and construction documents:

(1) For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in Section 26-675(d) of this article and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.

(2) For development activities proposed to be located in a riverine flood hazard area for which base flood elevations are included in the Flood Insurance Study or on the FIRM and floodways have not been designated, a floodway encroachment analysis which demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation more than one foot at any point within the city. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.

(3) For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained in a manner which preserves the channel's flood-carrying capacity;

the applicant shall submit the analysis to FEMA as specified in Section 26-675(d) of this article.

(4) For activities that propose to alter sand dunes or mangrove stands in coastal high hazard areas (Zone V), an engineering analysis that demonstrates that the proposed alteration will not increase the potential for flood damage.

(d) Submission of additional data. When additional hydrologic, hydraulic or other engineering data, studies and additional analyses are submitted to support an application, the applicant has the right to seek a Letter of Map Change from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

Sec. 26-676. Inspections.

(a) General. Development for which a permit or approval is required shall be subject to inspection.

(b) Development other than buildings and structures. The floodplain administrator shall inspect all development to determine compliance with the requirements of this article and the conditions of issued floodplain development permits or approvals.

(c) Buildings and structures. The building official shall inspect buildings and structures subject to the Florida Building Code to determine compliance with the flood load and flood resistant construction requirements of issued building permits and the Florida Building Code. The building official shall inspect buildings and structures exempt from the Florida Building Code to determine compliance with the requirements of this article and the conditions of issued floodplain development permits or approvals.

(d) Buildings and structures exempt from the Florida Building Code, lowest floor inspection. Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building or structure exempt from the Florida Building Code, or the owner's authorized agent, shall submit to the building official:

(1) If a design flood elevation was used to determine the required elevation of the lowest floor, the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor, or

(2) If the elevation used to determine the required elevation of the lowest floor was determined in accordance with Section 26-675(b) of this article, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.

(e) Buildings and structures exempt from the Florida Building Code, final inspection. As part of the final inspection, the owner or owner's authorized agent shall submit to the building official a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certificates and documentations shall be prepared as specified in Section 26-676(d) of this article.

(f) Manufactured homes. The building official shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of this article and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted to the building official.

Sec. 26-678. Variances and appeals.

(a) General. Pursuant to Section 553.73(5), F.S., the Building Trades Board shall hear and decide on requests for appeals and

652 requests for variances from the strict application of the
653 requirements of this article and the flood resistant
654 construction requirements of the Florida Building Code. The
655 Building Trades Board shall not have the power to issue
656 variances to any requirement of the Florida Building Code,
657 Building, Section 3109, applicable seaward of the coastal
658 construction control line.

659 (b) Appeals. The Building Trades Board shall hear and decide
660 appeals when it is alleged there is an error in any
661 requirement, decision or determination made by the floodplain
662 administrator or the building official in the administration
663 and enforcement of this article or the flood load and flood
664 resistant construction requirements of the Florida Building
665 Code. Any person aggrieved by the decision of the Building
666 Trades Board may appeal such decision to the Circuit Court, as
667 provided by Florida Statutes.

668 (c) Limitations on authority to grant variances. The Building
669 Trades Board shall base its decisions on variances on
670 technical justifications submitted by applicants, the
671 considerations for issuance in Sec. 107.6, Florida Building
672 Code, Building, the conditions of issuance set forth in
673 Section 26-678(h) of this article, and the comments and
674 recommendations of the floodplain administrator and the
675 building official. The Building Trades Board has the right to
676 attach such conditions as it deems necessary to further the
677 purposes and objectives of this article. Pursuant to Section
678 553.73(5), F.S., variances shall not be granted to the
679 requirements of Section 3109 of the Florida Building Code
680 applicable to structures seaward of the coastal construction
681 control line.

682 (d) Restrictions in floodways. A variance shall not be issued
683 for any proposed development in a floodway if any increase in
684 base flood elevations would result, as evidenced by the
685 applicable analyses and certifications required in Section 26-
686 675(c) of this article.

687 (e) Historic buildings. A variance is authorized to be issued
688 for the repair, improvement, or rehabilitation of a historic
689 building that is determined eligible for the exception to the
690 flood resistant construction requirements of the Florida
691 Building Code, Existing Building, Chapter 11, Historic
692 Buildings, upon a determination that the proposed repair,
693 improvement or rehabilitation will not preclude the building's
694 continued designation as a historic building and the variance
695 is the minimum necessary to preserve the historic character
696 and design of the building. If the proposed work precludes
697 the building's continued designation as a historic building,
698 a variance shall not be granted and the building and any
699 repair, improvement, and rehabilitation shall be subject to
700 the requirements of the Florida Building Code.

701 (f) Functionally dependent uses. A variance is authorized to
702 be issued for the construction or substantial improvement
703 necessary for the conduct of a functionally dependent use, as
704 defined in this article, provided the variance meets the
705 requirements of Section 26-678(d), is the minimum necessary
706 considering the flood hazard, and all due consideration has
707 been given to use of methods and materials that minimize flood
708 damage during occurrence of the base flood.

709 (g) Consideration for issuance of variances. In reviewing
710 requests for variances, the Building Trades Board shall
711 consider all technical evaluations, all relevant factors, all
712 other applicable provisions of the Florida Building Code, this
713 article, and the following:

714 (1) The danger that materials and debris may be swept
715 onto other lands resulting in further injury or damage;

716 (2) The danger to life and property due to flooding or
717 erosion damage;

718 (3) The susceptibility of the proposed development,
719 including contents, to flood damage and the effect of
720 such damage on current and future owners;

(4) The importance of the services provided by the proposed development to the city;

(5) The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;

(6) The compatibility of the proposed development with existing and anticipated development;

(7) The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;

(8) The safety of access to the property in times of flooding for ordinary and emergency vehicles;

(9) The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

(h) Conditions for issuance of variances. Variances shall be issued only upon:

(1) Submission by the applicant of a showing of food and sufficient cause that the unique characteristics of the size, configuration, or topography of the site render any provision of this article or the elevation standards of the Florida Building Code inappropriate;

(2) Determination by the Building Trades Board that:

a. Failure to grant the variance would result in exceptional hardship due to the physical

characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;

b. The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws, codes or regulations; and

c. The variance is the minimum necessary, considering the flood hazard, to afford relief.

(3) Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the Office of the Clerk of the Court in such a manner that it appears in the chain of title of the affected parcel of land; and

(4) If the request is for a variance to allow construction of the lowest floor of a building, or substantial improvement of a building below the elevation required by the Florida Building Code or required by this article, a copy in the record of a written notice from the floodplain administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as $25 for $100 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

Sec. 26-679. Violations.

(a) Any construction or development in a flood hazard area that is performed without an issued permit that is in conflict

with an issued permit or that does not fully comply with this article or the Florida Building Code, as applicable, shall be deemed a violation of this article. A building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other evidence of compliance required by this article or the Florida Building Code is presumed to be a violation until such time as that documentation is provided.

(b) Authority. For development that is not within the scope of the Florida Building Code but that is regulated by this article and that is determined to be a violation, the floodplain administrator is authorized to serve notices of violation or stop work orders to owners of the property involved, to the owner's agent, or to the person or persons performing the work.

(c) Unlawful continuance. Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by law.

DIVISION 2. DEFINITIONS

Sec. 26-680. General.

(a) Unless otherwise expressly stated, the following words and terms shall, for the purposes of this article, have the meanings shown in this section.

(b) Terms defined in the Florida Building Code. Where terms are not defined in this article and are defined in the Florida Building Code, such terms shall have the meanings ascribed to them in that code.

(c) Terms not defined. Where terms are not defined in this article or the Florida Building Code, such terms shall have ordinarily accepted meanings such as the context implies.

817 Sec. 26-681. Definitions.

818 *Alteration of a watercourse* means a dam, impoundment, channel
819 relocation, change in channel alignment, channelization, or change
820 in cross-sectional area of the channel or the channel capacity, or
821 any other form of modification which may alter, impede, retard or
822 change the direction and/or velocity of the riverine flow of water
823 during conditions of the base flood.

824 *Appeal* means a request for a review of the floodplain
825 administrator or building official's interpretation of any
826 provision of this article or a request for a variance.

827 *ASCE 24* means a standard titled "Flood Resistant Design and
828 Construction," that is referenced by the Florida Building Code.
829 ASCE 24 is developed and published by the American Society of Civil
830 Engineers, Reston, VA.

831 *Base flood* means a flood having a one percent chance of being
832 equaled or exceeded in any given year. [Also defined in FBC, B,
833 Section 1612.2.] The base flood is commonly referred to as the
834 "100-year flood" or the "1-percent annual chance flood."

835 *Base flood elevation* means the elevation of the base flood,
836 including wave height, relative to the National Geodetic Vertical
837 Datum (NGVD), North American Vertical Datum (NAVD), or other datum
838 specified on the Flood Insurance Rate Map (FIRM). [Also defined in
839 Florida Building Code, B, Section 1612.2.]

840 *Basement* means the portion of a building having its floor
841 subgrade (below ground level) on all sides. [Also defined in
842 Florida Building Code, B, Section 1612.2.]

843 *Building official* means the officer or other designated
844 authority charged with the administration and enforcement of the
845 Florida Building Code, or a duly authorized representative. [Also
846 defined in Florida Building Code, B, Section 1612.2.]

847 *Building permit* means an official document or certificate
848 issued by the city which authorizes performance of specific

activities that are determined to be compliant with the Florida Building Code.

Coastal construction control line means the line established by the State of Florida pursuant to Sec. 161.053, F.S., and recorded in the official records of Volusia County, Florida, which defines that portion of the beach-dune system subject to severe fluctuations based on a 100-year storm surge, storm waves or other predictable weather conditions.

Coastal high hazard area means a special flood hazard area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. Coastal high hazard areas are also referred to as "high hazard areas subject to high velocity wave action" or "V Zones" and are designated on Flood Insurance Rate Maps (FIRM) as Zone V1-V-30, VE, or V. [Note: The Florida Building Code defines and uses the term "flood hazard areas subject to high velocity wave action" and the Florida Building Code, R, uses the term "coastal high hazard areas."]

Design flood means the flood associated with the greater of the following two areas: [Also defined in Florida Building Code, B, Section 1612.2.]

1. Area with a floodplain subject to a 1-percent or greater change of flooding in any year; or

2. Area designated as a flood hazard area on the city's flood hazard map, or otherwise legally designated.

Design flood elevation means the elevation of the "design flood," including wave height, relative to the datum specified on the city's legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building's perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where the depth number is not specified on the map, the depth number shall be taken as being equal to 2 feet. [Also defined in Florida Building Code, B, Section 1612.2.]

Development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, tanks, temporary structures, temporary or permanent storage of equipment or materials, mining, dredging, filling, grading, paving, excavations, drilling operations or any other land disturbing activities.

Encroachment means the advancement or infringement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

Existing building and *existing structure* means any buildings and structures for which the "start of construction" commenced before June 23, 1987. [Also defined in Florida Building Code, B, Section 1612.2.]

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before June 23, 1987.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction f facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Federal Emergency Management Agency (FEMA) means the federal agency that, in addition to carrying out other functions, administers the National Flood Insurance Program.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land from: [Also defined in Florida Building Code, B, Section 1612.2.]

1. The overflow of inland or tidal waters.

2. The unusual and rapid accumulation or runoff of surface waters from any source.

Flood damage-resistant materials. Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. [Also defined in Florida Building Code, B, Section 1612.2.]

Flood hazard area means the greater of the following two areas: [Also defined in Florida Building Code, B, Section 1612.2.]

1. The area within a floodplain subject to a 1-percent or greater chance of flooding in any year.

2. The area designated as a flood hazard area on the city's flood hazard map, or otherwise legally designated.

Floodplain Insurance Rate Map (FIRM) means the official map of the city on which the Federal Emergency Management Agency has delineated both special flood hazard areas and the risk premium zones applicable to the city. [Also defined in Florida Building Code, B, Section 1612.2.]

Flood Insurance Study (FIS) means the official report provided by the Federal Emergency Management Agency that contains the Flood Insurance Rate Map, the Flood Boundary and Floodway Map (if applicable), the water surface elevations of the base flood, and supporting technical data. [Also defined in Florida Building Code, B, Section 1612.2.]

Floodplain administrator means the office or position designated and charged with the administration and enforcement of this article (may be referred to as the floodplain manager).

Floodplain development permit or approval means an official document or certificate issued by the city, or other evidence of approval or concurrence, which authorizes performance of specific

development activities that are located in flood hazard areas and that are determined to be compliant with this article.

Floodway means the channel of a river or other riverine watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. [Also defined in Florida Building Code, B, Section 1612.2.]

Floodway encroachment analysis means an engineering analysis of the impact that a proposed encroachment into a floodway is expected to have on the floodway boundaries and base flood elevations; the valuation shall be prepared by a qualified Florida licensed engineer using standard engineering methods and models.

Florida Building Code means the family of codes adopted by the Florida Building Commission, including: Florida Building Code, Building; Florida Building Code, Residential; Florida Building Code, Existing Building; Florida Building Code, Mechanical; Florida Building Code, Plumbing; Florida Building Code, Fuel Gas.

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities. The term does not include long-term storage or related manufacturing facilities.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls or foundation of a structure.

Historic structure means any structure that is determined eligible for the exception to the flood hazard area requirements of the Florida Building Code, Existing Building, Chapter 11, Historic Buildings.

Letter of Map Change (LOMC) means an official determination issued by FEMA that amends or revised an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rape Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the city's floodplain management regulations.

Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study. Upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

Light-duty truck means, as defined in 40 C.F.R. 86-082-2, any motor vehicle rated at 8,500 pounds gross vehicular weight rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is:

1. Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or

2. Designed primarily for transportation of persons and has a capacity of more than 12 persons; or

3. Available with special features enabling off-street or off-highway operation and use.

Lowest floor means the floor of the lowest enclosed area of a building or structure, including basement, but excluding any unfinished or flood-resistant enclosure, usable solely for vehicle parking, building access or limited storage, provided that such enclosure is not built so as to render the structure in violation of the Florida Building Code or ASCE 24. [Also defined in Florida Building Code, B, Section 1612.2.]

Manufactured home means a structure, transportable in one or more sections, which is eight feet or more in width and greater than four hundred square feet, and which is built on a permanent, integral chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle" or "park trailer." [Also defined in 15C-1.0101, F.A.C.]

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Market value means the price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in this article, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by a qualified independent appraiser, Actual Cash Value (replacement cost depreciated for age and quality of construction), or tax assessment value adjusted to approximate market value by a factor provided by the Property Appraiser.

1045 *New construction* means, for the purposes of administration of
1046 this article and the building code, structures for which the "start
1047 of construction" commenced on or after June 23, 1987 and includes
1048 any subsequent improvements to such structures.

1049 *New manufactured home park or subdivision* means a manufactured
1050 home park or subdivision for which the construction of facilities
1051 for servicing the lots on which the manufactured homes are to be
1052 affixed (including at a minimum, the installation of utilities, the
1053 construction of streets, and either final site grading or the
1054 pouring of concrete pads) is completed on or after June 23, 1987.

1055 *Nonresidential* means any building or structure or portion
1056 thereof that is not classified residential in accordance with the
1057 Florida Building Code, Building (Residential Group R or
1058 Institutional Group I) and ASCE 24. [Also see definition in ASCE
1059 24.]

1060 *Park trailer* means a transportable unit which has a body width
1061 not exceeding 14 feet and which is built on a single chassis and is
1062 designed to provide seasonal or temporary living quarters when
1063 connected to utilities necessary for operation of installed
1064 fixtures and appliances. [Defined in 15C-1.0101, F.A.C.]

1065 *Recreational vehicle* means a vehicle, including a park
1066 trailer, which is: [Defined in sec. 320.01(b), F.S.]

1067 1. Built on a single chassis;

1068 2. Four hundred square feet or less when measured at the
1069 largest horizontal projection;

1070 3. Designed to be self-propelled or permanently towable by
1071 a light-duty truck; and

1072 4. Designed primarily not for use as a permanent dwelling
1073 but as temporary living quarters for recreational,
1074 camping, travel, or seasonal use.

Sand dunes means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Special flood hazard area means an area in the floodplain subject to a 1-percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, VI-V30, VE or V. The term also includes areas shown on other flood hazard maps, if such maps are adopted by the city or otherwise legally designated. [Also defined in Florida Building Code, B, Section 1612.2.]

Start of construction means the date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the date of the issuance. The actual start of construction means either the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns.

Permanent construction does not include land preparation (such as clearing, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Also defined in Florida Building Code, B, Section 1612.2.]

Substantial damage means damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed fifty percent of the market value of the building or structure before the damage occurred. [Also defined in Florida Building Code, B, Section 1612.2.] Substantial damage also means flood-related damages sustained by a structure on two separate occasions during

a 10-year period for which the cost of repairs at the time of each such event, on the average, equals or exceeds twenty-five percent of the market value of the structure before the damage occurred.

Substantial improvement means any repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure cumulative over the life of the structure, the cost of which equals or exceeds fifty percent of the market value of the building or structure before the improvement or repair is started. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either: [Also defined in Florida Building Code, B, Section 1612.2.]

1. Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.

2. Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to Section 107, Florida Building Code, Building.

Variance means a grant of relief from the requirements of this article, or the flood load and flood resistant construction requirements of the Florida Building Code, which permits construction in a manner that would not otherwise be permitted by this article or the Florida Building Code.

Watercourse means a river, creek, stream, channel or other topographic feature in, on, through, or over which water flows at least periodically.

DIVISION 3. FLOOD RESISTANT DEVELOPMENT

Sec. 26-682. Buildings and structures.

1143 (a) Design and construction of buildings and structures exempt
1144 from the Florida Building Code. Pursuant to Section 26-674(c)
1145 of this article, buildings, structures and facilities that are
1146 exempt from the Florida Building Code, including substantial
1147 improvement or repair of substantial damage of such buildings,
1148 structures and facilities, shall be designed and constructed
1149 in accordance with the flood load and flood resistant
1150 construction requirements of ASCE 24. Structures exempt from
1151 the Florida Building Code that are not waled and roofed
1152 buildings shall comply with the requirements of Section 307 of
1153 the Florida Building Code.

1154 (b) Buildings and structures seaward of the coastal
1155 construction control line. If extending, in whole or in part,
1156 seaward of the coastal construction control line and also
1157 located in whole or in part in a flood hazard area:

1158 (1) Buildings and structures shall be designed and
1159 constructed to comply with the more restrictive
1160 applicable requirements of the Florida Building Code,
1161 Building, Section 3109 and Section 1612, or Florida
1162 Building Code, Residential, Section R322.

1163 (2) Minor structures and non-habitable major structures
1164 as defined in Section 161.54, F.S., shall be designed and
1165 constructed to comply with the intent and applicable
1166 provisions of this ordinance and ASCE 24.

1167 Sec. 26-683. Subdivisions.

1168 (a) Minimum requirements. Subdivision proposals, including
1169 proposals for manufactured home parks and subdivisions shall
1170 be reviewed to determine that:

1171 (1) Such proposals are consistent with the need to
1172 minimize flood damage and will be reasonably safe from
1173 flooding;

1174 (2) All public utilities and facilities such as sewer,
1175 gas, electric, communications, and water systems are

located and constructed to minimize or eliminate flood damage; and

(3) adequate drainage is provided to reduce exposure to flood hazards.

(b) Subdivision plats. Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:

(1) Delineation of flood hazard areas, floodway boundaries and flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats and final plats;

(2) Where the subdivision has more than 50 lots or is larger than 5 acres and base flood elevations are not included on the FIRM, the information required in sec. 26-675(b) of this article; and

(3) Compliance with the site improvement and utilities requirements of secs. 26-684(c) through 26-684(f) of this article.

Sec. 26-684. Site improvements, utilities and limitations.

(a) Minimum requirements. All proposed new development shall be reviewed to determine that:

(1) Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;

(2) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and

(3) Adequate drainage is provided to reduce exposure to flood hazards.

(b) Sanitary sewage facilities. All new and replacement sanitary sewage facilities, private sewage treatment plants (including all pumping stations and collector systems), and on-site waste disposal systems shall be designed in accordance with the standards for onsite sewage treatment and disposal systems in Chapter 64E-6, F.A.C. and ASCE 24, Chapter 7, to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into flood waters, and impairment of the facilities and systems.

(c) Water supply facilities. All new and replacement water supply facilities shall be designed in accordance with the water well construction standards in Chapter 62-532.500, F.A.C. and ASCE 24, Chapter 7, to minimize or eliminate infiltration of floodwaters into the systems.

(d) Limitations on sites in regulatory floodways. Development, site improvements, and land disturbing activity involving fill or regarding shall not be authorized in the regulatory floodway unless the floodway encroachment analysis required in sec. 26-675(c)(1) of this article demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.

(e) Limitations on placement of fill. Subject to the limitations of this article, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, fill cannot be used to support buildings and structures.

(f) Limitations on sites in coastal high hazard areas (Zone V). In coastal high hazard areas, alteration of sand dunes and mangrove stands shall be permitted only if such alteration is approved by the Florida Department of Environmental Protection and only if the engineering analysis required by Sec. 26-

675(c)(4) of this article demonstrates that the proposed alteration will not increase the potential for flood damage. Construction or restoration of dunes under or around elevated buildings and structures shall comply with Sec. 26-689(h) of this article.

Sec. 26-685. Provisions for flood hazard reduction

(a) General standards. In all areas of special flood hazard the following provisions are required:

(1) New construction and substantial improvements if existing structures shall be anchored to prevent flotation, collapse and lateral movement of the structure;

(2) New construction and substantial improvements if existing structures shall be constructed with materials and utilize equipment resistant to flood damage;

(3) New construction and substantial improvements if existing structures shall be constructed by methods and practices that minimize flood damage (monolithic slab foundation can only be used for non-habitable accessory structures);

(4) All heating and air conditioning equipment and components, all electrical, ventilation, plumbing, and other service facilities shall be designed and/or located so as to prevent water entering or accumulating within the components during conditions of flooding;

(5) Manufactured homes shall be anchored to prevent flotation, collapse, and lateral movement. Methods of anchoring may include but are not limited to use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;

(6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(9) All subdivision proposals and other proposed new development shall be consistent with the need to minimize flood damage;

(10) All subdivision proposals and other proposed new development shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

(11) All subdivision proposals and other proposed new development shall have adequate drainage provided to reduce exposure to flood damage;

(12) If any portion of a structure is located in a special flood hazard area or a shaded Zone X, the entire structure shall meet the requirements for the SFHA or Shaded Zone X, as appropriate;

(13) If a structure is in more than one flood zone (including Zone X) with multiple BFEs the entire structure shall meet the requirement for the most stringent flood zone and the highest BFE; and

(14) A concrete pad with no reinforcement may be poured beneath an elevated coastal building and must not be structurally attached to the building's foundation system. The concrete must be placed at grade and be no

more than four inches thick. It is important to note that compliant concrete pads often collapse during coastal storms due to erosion and localized scour.

Sec. 26-686. Specific Standards - Zones AE

(a) Standards for residential construction (new construction and substantial improvement)

(1) New construction and substantial improvement of any structure including manufactured homes shall have the lowest floor elevated no lower than BFE + 1'0" or 1'6" above the crown in the adjacent street, whichever is the highest. Accessory structures (sheds, etc.) shall have the lower floor no lower than BFE.

(2) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, unless they shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.

b. The bottom of al openings shall be no higher than one foot above grade.

c. Openings may be equipped with screens, louver, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(3) So as not to violate the "lowest floor" criteria of this article, the unfinished or flood resistant enclosure shall only be used for parking of vehicles, limited

storage up to a maximum of 300 square feet and entry to the elevated area up to a maximum of 200 square feet.

(4) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

(b) Standards for non-residential construction (new construction).

(1) New construction of any commercial, industrial or other non-residential structure shall have the lowest floor elevated as per the following:

a. Category I - BFE or 1'6" above the crown in the adjacent street, whichever is the highest.

b. Category II - BFE + 1'0" or 1'6" above the crown in the adjacent street, whichever is the highest.

c. Category III - BFE + 1'0" or 1'6" above the crown in the adjacent street, whichever is the highest.

d. Category IV - BFE + 2'0" or 1'6" above the crown in the adjacent street, whichever is the highest.

(2) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, unless they shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

a. A minimum of two openings have a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.

b. The bottom of all openings shall be no higher than one foot above existing grade.

c. Openings may be equipped with screens, louver, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(3) So as not to violate the "lowest floor" criteria of this article, the unfinished or flood resistant enclosure shall only be used for parking of vehicles, limited storage for maintenance equipment up to a maximum of 300 square feet and entry to the elevated area up to a maximum of 300 square feet.

(4) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

(c) Standards for non-residential construction - substantial improvement. A substantial improvement of any commercial, industrial, or other non-residential structure may be flood-proofed in lieu of elevation.

(1) If flood-proofed, the structure, together with attendant utility and sanitation facilities, must be designed to be water tight to two feet above the base flood elevation, with walls substantially impermeable to the passage of water and structural components having the capability of resisting hydrostatic and hydrodynamic loads and effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above based on their development. An operational and maintenance plan shall be submitted to assure of flood proofing measures.

(2) If elevated, the structure must meet the same standards as Article 4, Section B(2), Florida Building Code.

1396 (d) Standards - coastal high hazard areas (V zones). Located
1397 within areas of special flood hazard designated as coastal
1398 high hazard areas (V zone). These areas have special flood
1399 hazards associated with wave action and storm surges.
1400 Therefore, the following provisions, in addition to Secs. 26-
1401 686(a)-(c) shall apply:

1402 (1) All new construction and substantial improvements of
1403 existing structures shall be elevated on pilings or
1404 columns so that the bottom of the lowest horizontal
1405 structural member of the lowest floor (excluding the
1406 piling and columns) is elevated no lower than two feet
1407 above the base flood elevation.

1408 (2) All pile and column foundations and the structures
1409 attached thereto shall be anchored to resist flotation,
1410 collapse and lateral movement due to the combined effects
1411 of wind and water loads acting simultaneously on all
1412 building components, both non-structural and structural.
1413 Water loading values shall equal or exceed those of the
1414 base flood. Wind loading values shall be in accordance
1415 with the most current edition of the Florida Building
1416 Code.

1417 (3) A registered professional engineer or architect shall
1418 develop or review the structural design, specifications
1419 and plans for the construction and shall certify that the
1420 design and methods of construction to be used are in
1421 accordance with accepted standards of practice for
1422 meeting the provisions contained in this section and the
1423 Florida Building Code.

1424 (4) All new construction and substantial improvements
1425 shall have the enclosed areas below the lowest floor
1426 either free of obstruction or constructed with non-
1427 supporting breakaway walls, open wood lattice-work, or
1428 insect screening intended to collapse under wind and
1429 water loads without causing collapse, displacement or
1430 other structural damage to the elevated portion of the
1431 building or supporting foundation system. For the purpose

of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

a. Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and

b. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). Wind and water values to be used in this determination shall be in accordance with Sec. 26-686(d)(3).

(5) If breakaway walls are utilized, such enclosed space will be useable solely for parking of vehicles, building access, or limited storage. Such space shall not exceed 300 square feet. Such space shall not be used for human habitation.

(6) The use of fill for structural support of buildings shall be prohibited.

(7) A concrete pad with no reinforcement may be poured beneath an elevated coastal building and must not be structurally attached to the building's foundation system. The concrete must be placed at grade and be no more than 4" thick. It is important to note that compliant concrete pads often collapse during coastal storms due to erosion and localized scour.

(8) There shall be no man-made alteration of sand dunes or mangrove stands which would increase potential flood damage.

(9) Manufactured homes are prohibited in V Zones.

Sec. 26-687. Manufactured homes.

(a) General. All manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed pursuant to Section 320.8249, F.S., and shall comply with the requirements of Chapter 15C-1, F.A.C. and the requirements of this article.

(b) Foundations. All new manufactured homes and replacement manufactured homes installed in flood hazard areas shall be installed on permanent, reinforced foundations that:

(1) In flood hazard areas (Zone A) other than coastal high hazard areas, are designed in accordance with the foundation requirements of the Florida Building Code, Residential, Section R322.2 and this article.

(2) In floodways, are designed in accordance with ASCE 24.

(c) Anchoring. All new manufactured homes and replacement manufactured homes shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring include but are not limited to use of over-the-top frame ties to ground anchors. This anchoring requirement is in addition to applicable state and local anchoring requirements for wind resistance.

(d) Elevation. Manufactured homes that are placed, replaced, or substantially improvement shall comply with Sec. 26-687(d)(1) or 26-687(d)(2) of this article as applicable.

(1) General elevation requirement. Unless subject to the requirements of Sec. 26-687(d)(2) of this article, all manufactured homes that are placed, replaced or substantially improved on sites located: (a) outside of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision; (c) in an expansion to an existing manufactured home park or subdivision; or (d) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated such that the bottom of the frame is no lower than BFE + 1'0" or 1'6" above the crown in the adjacent street, whichever is the highest, as applicable to the flood hazard area, in the Florida Building Code, Residential Section 322.2 (Zone A) and Sec. 26-687(b).

(2) Elevation requirement for certain existing manufactured home parks and subdivisions. Manufactured homes that are not subject to Sec. 26-687(d)(1) of this article, including manufactured homes that are placed, replaced, or substantially improved on sites located in an existing manufactured home park or subdivision, unless on a site where substantial damage as a result of flooding has occurred shall be elevated such that either:

a. The bottom of the frame of the manufactured home is no lower than BFE + 1'0" or 1'6" above the crown in the adjacent street, whichever is the highest, as applicable to the flood hazard area in the Florida Building Code, Residential Section R322.2 (Zone A); or

b. Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 36 inches in height above grade.

(e) Enclosures. Fully enclosed areas below elevated manufactured homes shall comply with the requirements of the

1532 Florida Building Code, Residential Section R322 for such
1533 enclosed areas, as applicable to the flood hazard area.

1534 (f) Utility equipment. Utility equipment that serves
1535 manufactured homes, including electric, heating, ventilation,
1536 plumbing, and air conditioning equipment and other service
1537 facilities, shall comply with the requirements of the Florida
1538 Building Code, Residential Section R322, as applicable to the
1539 flood hazard area.

1540 Sec. 688. Recreational vehicles and park trailers.

1541 (a) Temporary placement. Recreational vehicles and park
1542 trailers placed temporarily in flood hazard areas shall:

1543 (1) Be on the site for fewer than 180 consecutive days;
1544 or

1545 (2) Be fully licensed and ready for highway use, which
1546 means the recreational vehicle or park trailer is on
1547 wheels or jacking system, is attached to the site only by
1548 quick-disconnect type utilities and security devices, and
1549 has no permanent attachments such as additions, rooms,
1550 stairs, decks and porches.

1551 (b) Permanent placement. Recreational vehicles and park
1552 trailers that do not meet the limitations in Sec. 26-688(a) of
1553 this article for temporary placement shall meet the
1554 requirements of Sec. 304 of the Florida Building Code for
1555 manufactured homes.

1556 Sec. 689. Tanks.

1557 (a) Underground tanks. Underground tanks in flood hazard areas
1558 shall be anchored to prevent flotation, collapse or lateral
1559 movement resulting from hydrodynamic and hydrostatic loads
1560 during conditions of design flood, including the effects of
1561 buoyancy assuming the tank is empty.

(b) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Sec. 26-689(c) of this article shall:

(1) Be permitted in flood hazard areas (Zone A) other than coastal high hazard areas, provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.

(2) Not be permitted in coastal high hazard areas (Zone V).

(c) Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be attached to and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.

(d) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:

(1) At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

(2) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

Sec. 26-690. Other development.

(a) General requirements for other development. All development, including man-made changes to improved or

unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code shall:

(1) Be located and constructed to minimize flood damage;

(2) Meet the limitations of Sec. 26-684(d) of this article if located in a regulated floodway;

(3) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;

(4) Be constructed of flood damage-resistant materials; and

(5) Have mechanical, plumbing and electrical systems above the design flood elevation, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

(b) Fences in regulated floodways. Fences in regulated floodways that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Sec. 26-684(d) of this article.

(c) Retaining walls, sidewalks and driveways in regulated floodways. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Sec. 26-684(d) of this article.

(d) Roads and watercourse crossings in regulated floodways. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side that encroach into regulated floodways shall meet the limitations of Sec. 26-684(d) of this article. Alteration

of a watercourse that is part of a road or watercourse crossing shall meet the requirements of Sec. 26-675(c)(3).

(e) Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses in coastal high hazard areas (Zone V). In coastal high hazard areas, concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses are permitted beneath or adjacent to buildings and structures provided the concrete slabs are designed and constructed to be:

(1) Structurally independent of the foundation system of the building or structure;

(2) Frangible and no reinforced, so as to minimize debris during flooding that is capable of causing significant damage to any structure; and

(3) Have a maximum slab thickness of not more than four inches.

(f) Decks and patios in coastal high hazard areas (Zone V). In addition to the requirements of the Florida Building Code, in coastal high hazard areas decks and patios shall be located, designed, and constructed in compliance with the following:

(1) A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the design flood elevation and any supporting members that extend below the design flood elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck.

(2) A deck or patio that is located below the design flood elevation shall be structurally independent from buildings and structures and their foundation systems, and shall be designed and constructed either to remain

intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to adjacent elevated buildings and structures.

(3) A deck or patio that has a vertical thickness of more than twelve inches or that is constructed with more than the minimum amount of fill necessary for site drainage shall not be approved unless an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated buildings and structures.

(4) A deck or patio that has a vertical thickness of twelve inches or less and that is at natural grade or on nonstructural fill material that is similar to and compatible with local soils and is the minimum amount necessary for site drainage may be approved without requiring analysis of the impact on diversion of floodwaters or wave runup and wave reflection.

(g) Other development in coastal high hazard areas (Zone V). In coastal high hazard areas, development activities other than buildings and structures shall be permitted only if authorized by the appropriate state or local authority; if located outside the footprint of, and not structurally attached to, buildings and structures; if analysis prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated buildings and structures. Such other development activities include but are not limited to:

(1) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;

(2) Solids fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the design flood or

otherwise function to avoid obstruction of floodwaters; and

(3) On-site sewage treatment and disposal systems defined in 64E-6.002, F.A.C., as filled systems or mound systems.

(h) Nonstructural fill in coastal high hazard areas (Zone V). In coastal high hazard areas:

(1) Minor grading and the placement of minor quantities of nonstructural fill shall be permitted for landscaping and for drainage purposes under and around buildings.

(2) Nonstructural fill with finished slopes that are steeper than one unit vertical to five units horizontal shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated buildings and structures.

(3) Where authorized by the Florida Department of Environmental Protection or applicable local approval, sand dune construction and restoration of sand dunes under or around elevated buildings are permitted without additional engineering analysis or certification of the diversion of floodwater or wave runup and wave reflection if the scale and location of the dune work is consistent with local beach-dune morphology and the vertical clearance is maintained between the top of the sand dune and the lowest horizontal structural member of the building.

Sec. 26-691. Administrative Amendments to the 2010 Florida Building Code, Building.

(a) Chapter 1, Administration, Section 101, General, is hereby amended to add a new Sec. 101.5 as follows:

101.5. Warning, flood hazards. The degree of flood protection required by the Florida Building Code, as amended by the city, is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This code does not imply that land outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage.

(b) Chapter 1, Administration, Section 102, Applicability, is hereby amended to add a new Sec. 102.1.2 as follows:

102.1.2. Flood hazard areas. Pursuant to the requirements of federal regulation for the National Flood Insurance Program (44 C.F.R. Section 60.3), buildings, structures and facilities identified in Section 102.2 as exempt from the Florida Building Code are subject to the requirements of the City of New Smyrna Beach floodplain management and a floodplain development permit or approval shall be required pursuant to that regulation.

(c) Chapter 1, Administration, Section 102, Applicability, Subsection 102.2.2 is hereby amended as follows:

102.2.2. Residential buildings or structures moved into or within a county or municipality shall not be required to be brought into compliance with the state minimum building code in force at the time the building or structure is moved, provided:

1. The building or structure is structurally sound and in occupiable condition for its intended use;

2. The occupancy use classification for the building or structure is not changed as a result of the move;

3. The building is not substantially remodeled;

4. Current fire code requirements for ingress and egress are met;

5. Electrical, gas and plumbing systems meet the codes in force at the time of construction and are operational and safe for reconnection; **and**

6. Foundation plans are sealed by a professional engineer or architect licensed to practice in this state, if required by the Florida Building Code, Building for all residential buildings or structures of the same occupancy class.

7. The building or structure is installed on a foundation that complies with the flood resistant requirements for the new location if in a flood hazard area.

(d) Chapter 1, Administration, Section 102, Applicability, Subsection 102.7 is hereby amended as follows:

102.7. Relocation of manufactured buildings.

1. Relocation of an existing manufactured building does not constitute an alteration.

2. A relocated building shall comply with wind speed requirements of the new location, using the appropriate wind speed map. If the existing building was manufactured in compliance with the Standard Building Code (prior to March 1, 2002), the wind speed map of the Standard Building Code shall be applicable. If the existing building was manufactured in compliance with the Florida Building Code (after March 1, 2002), the wind speed map of the Florida Building Code shall be applicable.

3. If relocated into a flood hazard area, the foundation for a manufactured building shall comply with the flood resistant requirements of the new location.

1788 (e) Chapter 1, Administration, Section 104, Duties and Powers
1789 of the Building Official, Subsection 104.1, General (Reserved)
1790 is hereby amended as follows:

1791 104.1. Assignment of duties related to flood hazard
1792 areas. Pursuant to section 553.73(5), F.S., the building
1793 official is authorized to assign duties to enforce all or
1794 part of the flood-related code provisions to the
1795 Floodplain Administrator. The specific assigned duties
1796 shall be identified and coordinated with said agency or
1797 office.

1798 (f) Chapter 1, Administration, Section 104, Duties and Powers
1799 of the Building Official, Subsection 104.7, Department Records
1800 (Reserved) is hereby amended as follows:

1801 104.7. Department records for permits in flood hazard
1802 areas. The Building Official shall provide to the
1803 Floodplain Administrator the following records for
1804 building permits issued in flood hazard areas: Records of
1805 issuance of permits and denial of permits; determinations
1806 of whether proposed work constitutes substantial
1807 improvement or repair of substantial damage; required
1808 design certifications and documentation of elevations
1809 specified by the Florida Building Code; and records of
1810 enforcement actions taken pursuant to the flood resistant
1811 construction requirements of the Florida Building Code.

1812 (g) Chapter 1, Administration, Section 104, Duties and Powers
1813 of the Building Official, Subsection 104.10, Modifications
1814 (Reserved) is hereby amended as follows:

1815 104.10. Modifications of the strict application of the
1816 requirements of the Florida Building Code. The Building
1817 Official shall coordinate with the Floodplain
1818 Administrator to review requests submitted to the
1819 Building Official that seek approval to modify the strict
1820 application of the flood load and flood resistant
1821 construction requirements of the Florida Building Code to
1822 determine whether such requests require the granting of

a variance pursuant to Section 117 and the local floodplain management ordinance.

(h) Chapter 1, Administration, Section 104, Duties and Powers of the Building Official, is hereby amended to add a new Sec. 104.12 as follows:

104.12. Coordination with the Floodplain Administrator. The Building Official shall coordinate with the Floodplain Administrator for identification of flood hazard areas; flood elevation and flood hazard information; interpretation of flood hazard area boundaries; determinations for existing building and structures; consideration of variance requests; and other duties set forth in the local floodplain management ordinance.

104.12.1 Determinations for existing buildings and structures in flood hazard areas. For applications for building permits for work on existing buildings and structures in flood hazard areas, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, reconstructions, and any other improvement of or work on such buildings and structures, the Building Official shall coordinate with the Floodplain Administrator to:

1. Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work. In the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;

2. Compare the cost to perform the proposed improvement, or the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if

applicable, to the market value of the building or structure;

3. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and

4. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant provisions of the Florida Building Code is required.

(I) Chapter 1, Administration, Section 107, Temporary Structures and Uses, is hereby amended to add new Secs. 107.2.5.1, 107.2.5.2, and 107.6.1 as follows:

107.2.5.1. Information for buildings and structures in flood hazard areas. The site plans for buildings and structures in flood hazard areas shall be drawn to scale and shall include, as applicable to the proposed development:

1. Delineation of flood hazard areas, floodway boundaries and flood zones, and the design flood elevation.

2. Where base flood elevations or floodway data are not included on the FIRM or in the Flood Insurance Study (FIS), they shall be established in accordance with Section 1612.3 or such information that may be available from federal, state or other sources may be used provided the Floodplain Administrator determines it is applicable pursuant to the local floodplain management ordinance.

3. Where multiple flood zones are designated or where multiple base flood elevations affect the specific location of a building or structure, the more restrictive flood zone and the highest flood

elevation at that location shall be identified and shall govern the design of the building or structure.

4. Surveyed elevation of the ground at the specific location of a building or structure, in relation to the datum specified on the city's legally designated flood hazard map, prepared and sealed by a Florida licensed professional surveyor.

5. Where the placement of fill is proposed: the amount, type and source of fill material and compaction specifications; a description of the intended purpose of the fill areas; evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.

6. In coastal high hazard areas (Zone V), the location of any proposed building, which shall be landward of the reach of mean high tide.

7. Delineation of the Coastal Construction Control Line or notation that the site is seaward of the coastal construction control line, if applicable.

107.2.5.2. Additional information for existing buildings and structures in flood hazard areas. In addition to the information necessary to demonstrate compliance with the flood resistant construction requirements of the Florida Building Code, the site plan or construction documents for proposed work on existing buildings and structures located in whole or in part in flood hazard areas shall include:

1. If the building or structure was constructed after June 23, 1987, evidence that the proposed work will not alter any aspect of the building or structure that was required for compliance with the floodplain management requirements in effect at the time the building or structure was permitted.

2. If the proposed work is a horizontal addition, a description of the addition and whether it will be structurally connected or not structurally connected to the existing building or structure, and the nature and extent of all other work proposed for the building, if any.

3. If requested by the Building Official, documentation of the market value of the building or structure before the start of construction of the proposed improvement, or if the proposed work is repair of damage, before the damage occurred.

4. Documentation of the actual cost of all proposed work, including the cost of all work necessary to repair and restore damage to the before-damage condition, regardless of the amount of work that will be performed. The value of labor performed by the owner or volunteers shall be valued at market labor rates and the value of donated or discounted materials shall be valued at market rates.

107.6.1. Building permits issued on the basis of an affidavit. Pursuant to the requirements of federal regulation (44 C.F.R, Section 60.3) for the National Flood Insurance Program, the authority granted to the Building Official to issue permits, to rely on inspections, and to accept plans and construction documents on the basis of affidavits and plans submitted pursuant to Sections 105.14 and 107.6, Florida Building Code, shall not extend to the flood load and flood resistance construction requirements of the Florida Building Code.

(j) Chapter 1, Administration, Section 108, Fees, is hereby amended to add a new Sec. 108.2.1 as follows:

108.2.1. Flood hazard areas. Temporary structures, temporary storage, and temporarily placed tanks shall

conform to the requirements of Section 1612.4. of the Florida Building Code.

(k) Chapter 1, Administration, is hereby amended to add a new Sec. 117, Variances in Flood Hazard Areas, as follows:

117. VARIANCES IN FLOOD HAZARD AREAS

117.1 Flood hazard areas. Pursuant to section 553.73(5), F.S., the variance procedures adopted in the local floodplain management ordinance shall apply to requests submitted to the Building Official for variances to the flood load and flood resistant provisions of the Florida Building Code.

117.2. Coastal construction control line. Pursuant to section 553.73(5), F.S., the variance procedures adopted in the local floodplain management ordinance shall not apply to the requirements of Section 3109 of the Florida Building Code, Building, applicable to buildings seaward of the coastal construction control line.

(l) Chapter 2, Definitions, Section 202, Definitions, is hereby amended to add new definitions as follows:

FLOODPLAIN ADMINISTRATOR. The office or position designated and charged with the administration and enforcement of the local floodplain management ordinance (may be referred to as the Floodplain Manager).

FLOODPLAIN DEVELOPMENT PERMIT OR APPROVAL. An official document or certificate issued by the city, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with the local floodplain management ordinance.

MARKET VALUE. The price at which a property will change hands between a willing buyer and a willing seller, neither party

being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in the building code and the local floodplain management ordinance, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by a qualified independent appraiser, Actual Cash Value (replacement cost depreciated for age and quality of construction), or tax assessment value adjusted to approximate market value by a factor provided by the Property Appraiser.

VARIANCE. A grant of relief from the requirements of the flood load and flood resistant construction requirements of the Florida Building Code which permits construction in a manner that would otherwise not be permitted by the building code.

(1) Chapter 16, Structural Design, Section 1612, Flood Loads, Subsection 1612.2, is hereby amended as follows:

LOCAL FLOODPLAIN MANAGEMENT ORDINANCE. **The** ~~**An**~~ ordinance or regulation adopted by the city commission pursuant to the authority granted to local government by Title 44 Code of Federal Regulations, Sections 59 and 60 for participation in the National Flood Insurance Program.

Sec. 26-692. The following technical amendments are hereby made to the Florida Building Code, Building:

(a) Section 1612.3, Establishment of flood hazard areas, is hereby amended to read as follows:

1612.3. Establishment of flood hazard areas. To establish flood hazard areas, the applicable governing authority shall, by local floodplain management ordinance, adopt a flood hazard map and supporting data. The flood hazard map shall include, at a minimum, areas of special flood hazard as identified by the Federal Emergency Management Agency in an engineering report entitled, "The Flood Insurance Study for the City of New Smyrna Beach, Florida," dated February 19, 2003, as amended or revised with the accompanying Flood Insurance Rate

Map (FIRM) and Flood Boundary and Floodway Map (FBFM) and related supporting data along with any revisions thereto. The adopted flood hazard map and supporting data are hereby adopted by reference and declared to be part of this Section.

(b) New Section 1612.4.1 is hereby created to read as follows:

1612.4.2. Utility and Miscellaneous Group U. Utility and Miscellaneous Group U structures, including substantial improvement of such structures, shall comply with the requirements of this section. Exception: If not walled and roofed, shall:

1. Be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;

2. Have flood-damage resistant materials used below the design flood elevation; and

3. Have mechanical, plumbing and electrical systems that meet the requirements of ASCE 24.

(c) New Sections 1612.4.3, 1612.4.3.1, and 1612.4.3.2 are hereby created to read as follows:

1612.4.3. Public and private swimming pools. Swimming pools shall be designed and constructed in accordance with ASCE 24. Above-ground pools, on-ground pools and in-ground pools that involve placement of fill and that are located in designated floodways or in riverine flood hazard areas with base flood elevations but without floodways, shall not be permitted unless the applicant provides a floodway encroachment analysis pursuant to the local floodplain management ordinance.

1612.4.3.1. Structures associated with swimming pools. Swimming pools shall be permitted to be surrounded with open latticework and screened enclosures. Swimming pools for which the surrounding decks are below the design flood elevation

shall be permitted to be surrounded with walled and roofed structures provided such structures are dry floodproofed in accordance with ASCE 24. Structures associated with pools, including structures to house equipment associated with the pools, shall comply with the requirements of Section 1612.4.

1612.4.3.2. Swimming pools under elevated buildings. Swimming pools shall be permitted under elevated buildings provided the pool deck is level with existing grade and the area in which the pool is located is not fully enclosed by walls, including walls consisting of transparent materials such as glass. The area in which a pool is located under an elevated building shall be permitted to be surrounded by open latticework and screening.

Sec. 26-693. The following technical amendment is hereby made to the Florida Building Code, Existing Building, Chapter 2, Definitions, Section 202, General Definitions:

LOCAL FLOODPLAIN MANAGEMENT ORDINANCE. **The** ~~**An**~~ ordinance or regulation adopted by the city commission pursuant to the authority granted to local government by Title 44 Code of Federal Regulations, Sections 59 and 60 for participation in the National Flood Insurance Program.

Sec. 26-694. The following technical amendments are hereby made to the Florida Building Code, Residential:

(a) In Table R301.2(1), pursuant to footnote (g), insert required information in the "Flood Hazards" cell as follows:

(a) June 23, 2987 **(City of New Smyrna Beach, Florida's entry into the National Flood Insurance Program)**; (b) February 19, 2003 of the Flood Insurance Study; and (c) 12127C0542G-4/15/02, 12127C0544G-4/15/02, 12127C0705G-4/15/02, 12127C0563G-4/15/02, 12127C0508G-4/15/02, 121237C0700G-4/15/02, 121270543G-4/15/02, 12127C0541G-4/15/02, 12127C0533G-4/15/02, 12127C0529G-4/15/02, 12127C0504G-4/15/02, 12127C0528G-4/15/02, 12127C0516G-4/15/02 **(the panel numbers and dates of all**

currently effective FIRMs and FBFMs or other flood hazard map adopted by the authority having jurisdiction, as amended).

(b) Create a new Section R322.1.12, as follows:

R322.1.12. Accessory structures, requirements. Accessory structures, including substantial improvement of such accessory structures, shall comply with the requirements of Section R322.2 (A Zone) or R322.3 (V Zone), as applicable to the flood hazard area. Exception: Accessory structures that are detached garages that comply with Section R309.3 and provided:

1. If built in flood hazard areas (A Zone) other than coastal high hazard areas, have flood openings in compliance with Section R322.2.2.

2. If built in coastal high hazard areas (V Zone) are no more than 300 sq.ft. in area.

Section 26-695. Fiscal impact statement.

In terms of design, plan application review, construction and inspection of buildings and structures, the cost impact as an overall average is negligible in regard to the local technical amendments because all development has been subject to the requirements of the local floodplain management ordinance adopted for participation in the National Flood Insurance Program. In terms of lower potential for flood damage, there will be continued savings and benefits to consumers.

Section 26-696. Applicability.

For the purposes of jurisdictional applicability, this article shall apply in the City of New Smyrna Beach, Florida. This ordinance shall apply to all applications for development, including building permit applications and subdivision proposals submitted on or after June 23, 1987.

SECTION4: ***Codification.*** Following adoption of this ordinance, the City Attorney shall transmit a copy of this ordinance to Municipal Code Corporation of Tallahassee, Florida, to be codified into the City's Code of Ordinances. Municipal Code Corporation's usual and customary fee for said codification service is hereby approved.

SECTION 5: ***Public Hearing.*** That a public hearing considering the adoption of this ordinance held March 13, 2012, in the City Commission Chambers, 210 Sams Avenue (south entrance on Julia Street), New Smyrna Beach, Florida, after notice published, is found to comply with §166.041(3)(a), F.S.

SECTION 6: ***Conflicting Ordinances.*** That any ordinances that are in conflict with this ordinance are hereby rescinded and repealed.

SECTION 7: ***Severability.*** That if any section, sentence, clause or phrase of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 8: ***Effective Date.*** That this ordinance shall take effect immediately upon its final adoption.

APPROVED AS TO FORM AND CORRECTNESS:

FRANK B. GUMMEY, III
City Attorney

DATE: 2/21/12

Chapter 26, Article VIII, Floodplain Management - Code Amendment
First Reading February 28, 2012
Public Hearing March 13, 2012
February 21, 2012
1:55 PM

AGENDA ITEM SUMMARY

Department Making Request: **Planning and Engineering**

Meeting Date: 1st Reading: 2/28/12 2nd Reading: 3/13/12

Action Item Title: **Local Landmark Designation – Detwiler Cemetery**

Agenda Section: Consent ___ Public Hearing _X_ Special Items _____

Summary Explanation and Background:
City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida, 32168, requests approval for local landmark designation of the property at 750 Oakwood Avenue. The subject property contains approximately 0.61 acres of land and is located southeast of the intersection of Horton Street and Evergreen Street

At its January 25, 2012 meeting, the Parks and Recreation Advisory Board voted unanimously to recommend the City Commission approve the request to designate the Detwiler Cemetery as a local landmark.

At its February 8, 2012 meeting, the Historic New Smyrna Beach Preservation Commission voted unanimously, 5-0, to recommend the City Commission approve the request todesignate the Detwiler Cemetery as a local landmark.

Recommended Action/Motion: **Approval**

Funding Analysis: Budgeted _X_ If not budgeted, recommended funding account:

Exhibits Attached:

Reviewed By	Name	Signature
Department Director:	Gail Henrikson	
City Attorney	Frank Gummey	
City Manager	Pam Brangaccio	

Commission Action:

ORDINANCE NO. 35-12

AN ORDINANCE ESTABLISHING DETWILER CEMETERY LOCATED AT 750 OAKWOOD AVENUE AS A HISTORIC LANDMARK IN THE CITY OF NEW SMYRNA BEACH; PROVIDING FOR PUBLIC HEARING; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Parks and Recreation Advisory Board has recommended to the City Commission that the Detwiler Cemetery located at 750 Oakwood Avenue be designated as a historic landmark in the City of New Smyrna Beach; and

WHEREAS, the Detwiler Cemetery is the site of graves and gravemarkers of Detwiler family members, making it a significant reminder of the cultural heritage of the City; and

WHEREAS, the Detwiler Cemetery is identified with John Y. Detwiler, a person who significantly contributed to the development of the City; and

WHEREAS, the City Commission feels it is in the best interests of the citizens of the City of New Smyrna Beach to designate the Detwiler Cemetery located at 750 Oakwood Avenue as a historic landmark in the City of New Smyrna Beach.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF NEW SMYRNA BEACH, FLORIDA:

SECTION 1: ***Designation.*** That pursuant to the New Smyrna Beach Code of Ordinances, Chapter 50, Historic Preservation, §50-7, Designation of Landmarks, Landmark Sites and Historic Districts, the City of New Smyrna Beach hereby designates the Detwiler Cemetery located at 750 Oakwood Avenue as a historic landmark in the City of New Smyrna Beach, said landmark being more particularly described hereinafter as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF.

SECTION 2: ***Public Hearing.*** That a public hearing considering the adoption of this ordinance held March 13, 2012, in the City Commission Chambers at City Hall, 210 Sams Avenue (south entrance

on Julia Street), New Smyrna Beach, Florida, after notice published, is found to comply with §166.041(3)(a), F.S.

SECTION 3: ***Conflicting Ordinances.*** That any ordinances that are in conflict with this ordinance are hereby rescinded and repealed.

SECTION 4: ***Severability.*** That if any section, sentence, clause or phrase of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 5: ***Effective Date.*** That this ordinance shall take effect immediately upon its final adoption.

APPROVED AS TO FORM AND CORRECTNESS:

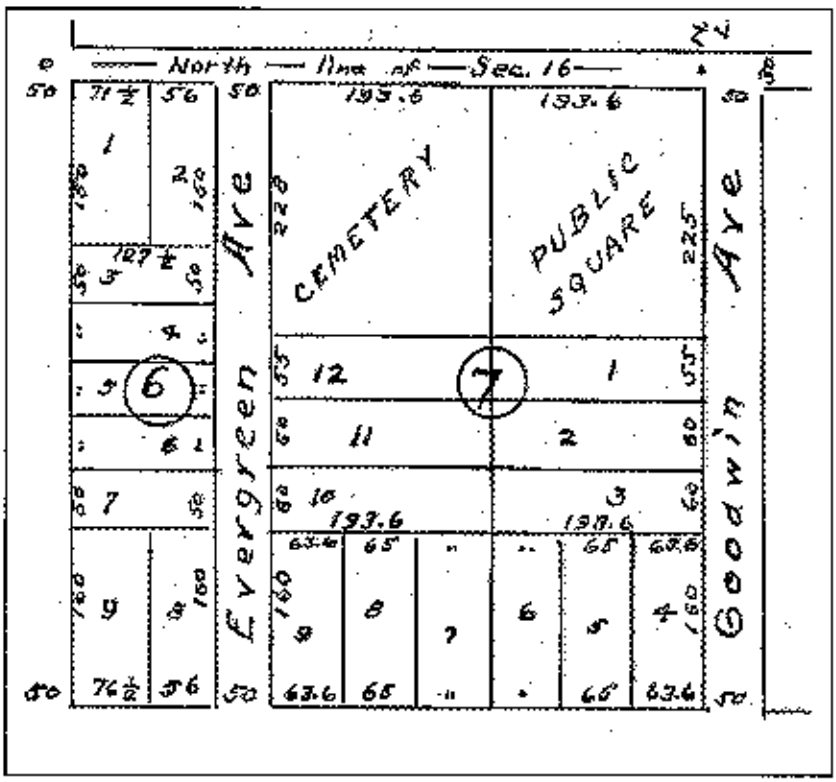
FRANK B. GUMMEY, III
City Attorney

DATE: 2/21/12

Historic Local Landmark - Detwiler Cemetery - 750 Oakwood Avenue
First Reading February 28, 2012
Public Hearing March 13, 2012
February 16, 2012
1:55 PM

Cemetery Legal Description

Point of beginning at the most northwesterly point of Block 7, of the Detwiler subdivision, located in Section 16, Township 17, Range 34 and proceeding in a easterly direction along the northern boundary of Block 7 a distance of 260.00 feet; thence proceeding southerly a distance of 96.00 feet; thence proceeding westerly a distance of 260.00 feet; thence proceeding northerly a distance of 96.00 feet to the point of beginning.



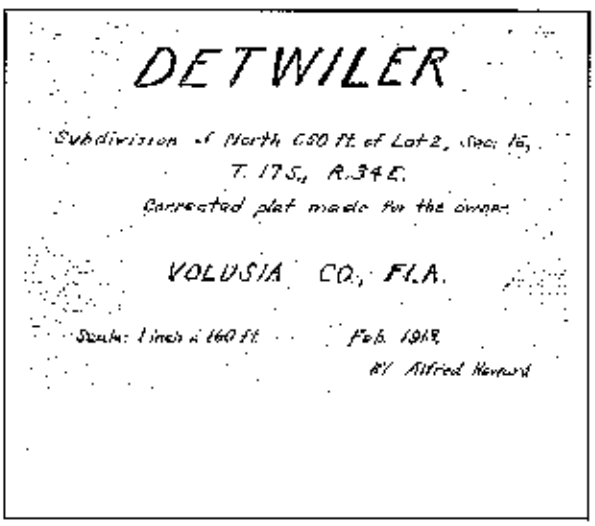


EXHIBIT
A
Ord. 35-12

CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES

LD-2-12: DETWILER CEMETERY

FEBRUARY 8, 2012

I. Summary

A. **Applicant and Property Owner:** City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida, 32168

1. **Request:** Approval for local landmark designation of the property at 750 Oakwood Avenue

2. **Subject Area:** The subject property contains approximately 0.61 acres of land and is located southeast of the intersection of Horton Street and Evergreen Street (**Exhibit A**).

3. **Tax ID #:** 7416-03-07-0130

II. Findings

(A) The subject property proposed for landmark designation is a portion of Detwiler Park, which is owned and maintained by the City of New Smyrna Beach. In addition to the historic cemetery, the park also contains restroom facilities, tennis courts, basketball courts and a playground. Only the portion of the site containing the historic cemetery is proposed for local landmark designation. Pictures of the site are attached as **Exhibit B.**

(B) The land for the cemetery, which is located at 750 Oakwood Avenue, was donated by John Y. Detwiler, an early resident of New Smyrna's beachside barrier island. Mr. Detwiler and his family moved to the area in 1884 and constructed a large three-story home on the bank of the Indian River. Mr. Detwiler originally owned property that stretched from the river to the ocean. A copy of the Florida Master Site File Site Inventory Form for this site is attached as **Exhibit C**.

(C) The cemetery is located in what was originally the community of Coronado. This community later incorporated into the City of Coronado Beach. The City of Coronado Beach was annexed into the City of New Smyrna in the 1940s, creating the current City of New Smyrna Beach. Over the years, the cemetery has gone by several different names, including the Detwiler Cemetery, Coronado Cemetery and Oakwood Avenue Cemetery.

(D) The site contains 77 documented burials. The oldest documented grave in the cemetery dates to 1905. The most recent burial appears to have occurred in 1984. Because many of the headstones or grave markers are no longer present, it is possible that there are earlier burials in this cemetery. Although it has been almost 30 years since the last burial at the site, this is still considered an active cemetery.

(E) In 1981, the Kellersberger Fund of the South Brevard Historical Society, Inc. in Melbourne, published *Volusia 4 Cemetery Inscriptions* by Daphne Brownell. This volume included inscriptions from the Coronado Cemetery and updated an earlier survey completed in 1973. Relevant excerpts are attached as **Exhibit D**.

(F) Section 50-7, City of New Smyrna Beach Code of Ordinances, allows the City Commission to designate local historic landmark sites upon recommendation of the Historic New Smyrna Beach Preservation Commission (HPC). The HPC may recommend that a building be designated as a local landmark, based upon one or more of the following criteria:

i. The site's value is a significant reminder of the cultural or archaeological heritage of the city, state or nation;

ii. The site's location is the site of a significant local, state or national event;

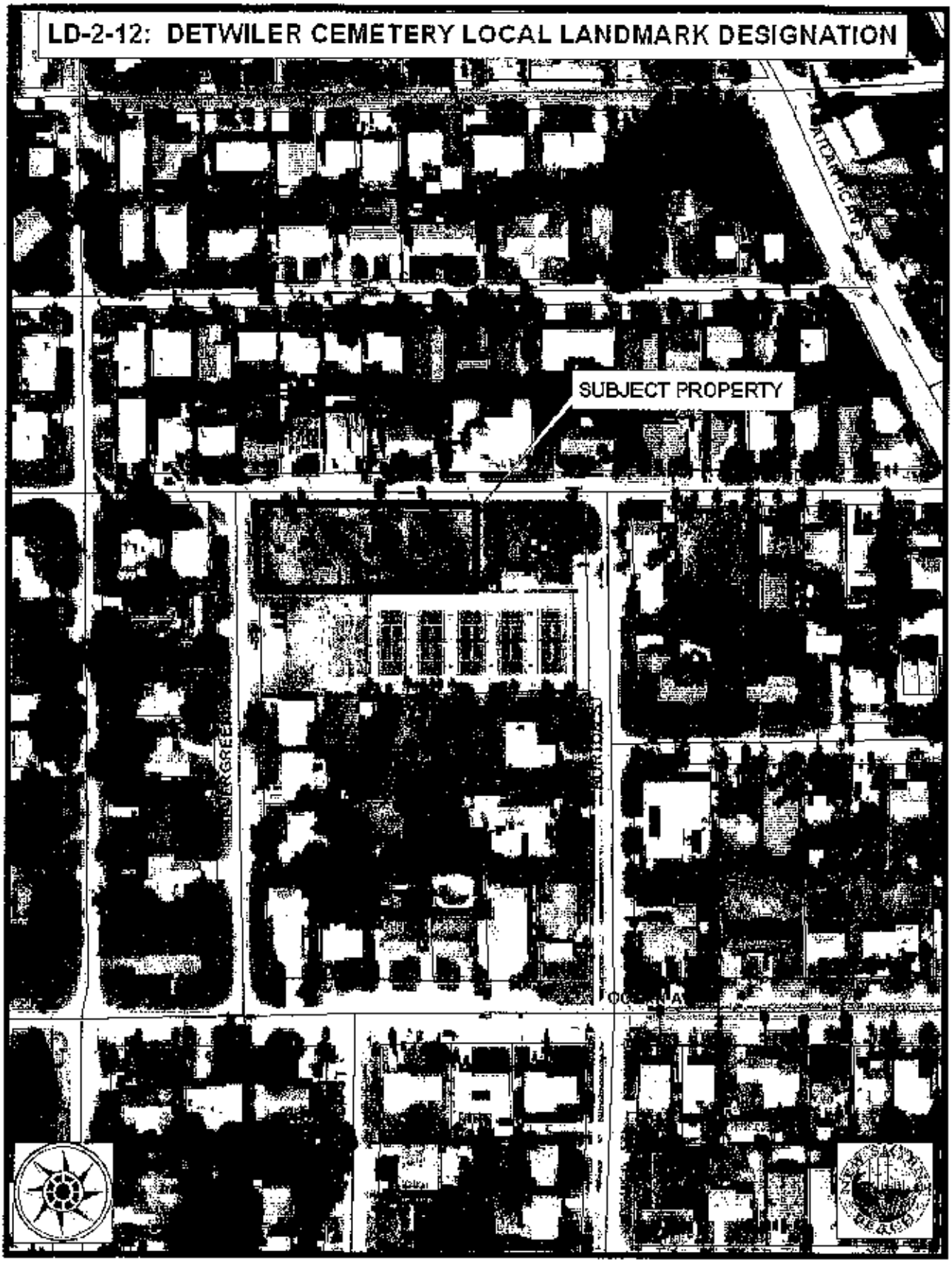
iii. The site is identified with a person who significantly contributed to the development of the city, state or nation;

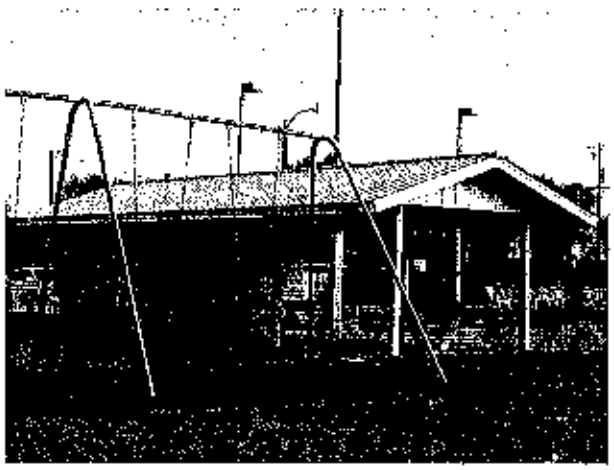
The subject property meets criteria i and iii, above.

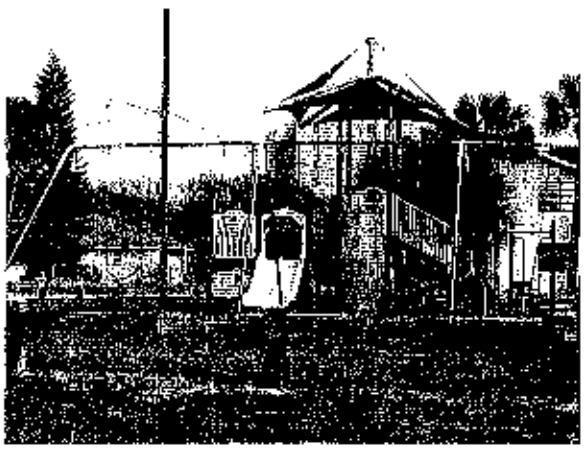
(G) Once designated as a local historical landmark, the site may not be altered without a certificate of appropriateness from the Historic Preservation Commission. Staff presented this item to the City's Parks and Recreation Advisory Board on January 25, 2012. The Board voted unanimously at that meeting, to recommend the City Commission approve the landmark designation. The criteria for granting a certificate of appropriateness are listed in Chapter 50-8, City of New Smyrna Beach Code of Ordinances (**Exhibit E**).

III. Recommendation

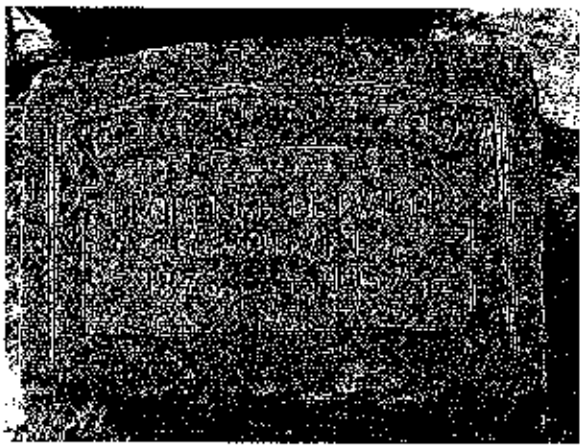
Recommend the City Commission designate the Detwiler Cemetery at 750 Oakwood Avenue as a local historical landmark.

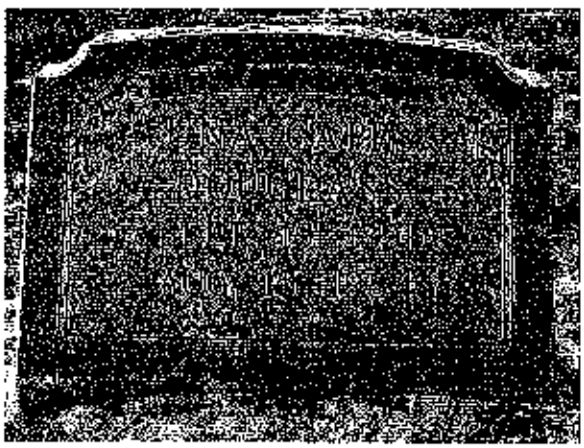

LD-2-12: DETWILER CEMETERY LOCAL LANDMARK DESIGNATION
SUBJECT PROPERTY





General views of the cemetery and surrounding park and neighborhood

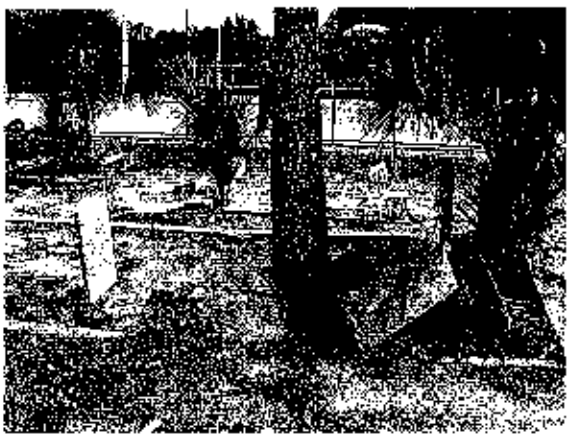


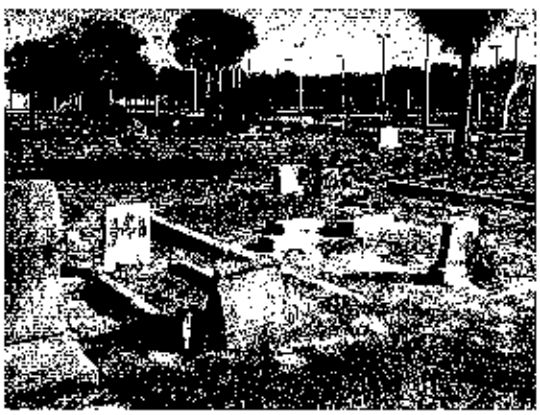


Views of some of the headstones in the cemetery. The most recent burial appears to have been in 1984.

EXHIBIT B (CONT'D)

The park is generally well maintained. However, there are some instances of trash being left on-site and some possible vandalism to the headstones. The biggest area of concern is deterioration through time and weather. Many of the gravestones are no longer legible.





Page 1
x Original
_ Update

HISTORICAL CEMETERY FORM
FLORIDA SITE FILE

Version 2.0; 7/92

Site #8 V07053
Recorder #_____
Field Date_____
Form Date 6/30/92

IDENTIFICATION

CEMETERY NAME(S) CORONADO BEACH CEMETERY
COUNTY Volusia TOWNSHIP 17S RANGE 34E SECTION 9
SURVEY NAME _____ DHR # (if known)_____
OWNERSHIP TYPE: Private
Family - name: _____
Church - denomination: _____
Fraternal order-name: _____
Other private _____

Public
x City _ State
_ County _ Federal
_ Other: _____
Other public _____

LOCATION

Attach a photocopy of a USGS 7.5' map with the cemetery marked in red, and a larger scale map of the immediate area with access and landmarks (a sketch map is acceptable; consider sketching on an enlargement of the USGS map).

USGS MAP NAME New Smyrna Beach quad
NEAREST CITY New Smyrna Beach In current city limits? x y __ n
DIRECTIONS TO VISIT Located on the beachside barrier island between Horton St. & Evergreen St. on Oakwood Avenue, two blocks west from A1A.
PLAT OR OTHER MAP New Smyrna Beach city map

HISTORY

CURRENT STATUS: __ Used for burials x Maintained but not used __ Abandoned
NUMBER OF MARKERS WITH DATES FROM: __ 19th century __ 20th century
RANGE OF DEATH DATES: ____ Earliest to ____ Most Recent
HISTORICAL BACKGROUND When (_____) and why was the cemetery established? When (_____) and why closed, if it was? Are any of the people buried here important in local, state, or national history? Are there distinctive grave markers, monuments, and/or architectural features? Have there been previous repair, cleaning, or restoration efforts?

The land for the cemetery was donated by John Y. Detwiler, an early resident of New Smyrna's beachside barrier island. He and his family moved to Coronado in 1884 and built a large 3-story home on the bank of the Indian River. He owned the land from the ocean to the river. Coronado, later called Coronado Beach, was a separate community in early days. It is now part of New Smyrna Beach.

DOCUMENTATION Has the cemetery been listed in a published or unpublished genealogical survey? Has a history of the cemetery been written? Are there old maps or plats of the graves? Give title, author, date, and location of references, especially for unpublished materials; for Manuscripts of the Florida Site File, give the file number.

Volume 4 Cemetery Records of East Volusia County, by Daphne Brownell published April 1981 by the Kellersberger Fund of South Brevard Historical Society, Inc., Melbourne, FL, has data regarding this historic cemetery. In 1973 Brownell updated information from an earlier research in which the cemetery was called the Oakwood Avenue Cemetery.

ASSOCIATED HISTORIC PROPERTIES (continued)

When possible, record related, overlapping, or adjacent historic sites. For historical buildings or structures (e.g., a church in whose grounds lies the cemetery, or a historic homesite related to a nearby family cemetery), use the *Historical Structure Form*. For historic or prehistoric archaeological sites (e.g., an historic homesite indicated by building remains and artifacts, or a prehistoric Indian site that is adjacent to the cemetery), those without archaeological training should use the *Archaeological Short Form*. Archaeologically trained persons should complete the *Archaeological Site Form*. Copies of forms and instructions can be obtained from the office below. Associated forms are best submitted to the Site File all together with any extra explanations.

Florida Site File/Division of Historical Resources/Gray Bldg/500 S Bronough St/Tallahassee FL 32399-0250/904-487-2299/Suncom 277-2299

Page 2 HISTORICAL CEMETERY FORM Site #8 V9 7053

GENERAL DESCRIPTION OF CEMETERY

SIZE Approx. 500 ft X 150 ft OR ___ acres TOTAL # GRAVES 77 (C)ount or (E)stimate? ___

ETHNIC GROUP(S) REPRESENTED Check as many groups as are present:

x White non-Hispanic ___ Hispanic ___ Asian ___ Caribbean

___ African-American ___ American Indian-tribe ___

Other ___

CONDITION x Well maintained ___ Poorly maintained

___ Overgrown but easily identifiable ___ Overgrown, not easily identifiable

___ Not identifiable but known to exist (explain): ___

BOUNDARY ___ Fence x Wall ___ Hedge ___ Other (describe) ___

TYPE OF ACCESS ___ Car x Foot ___ Boat

PUBLIC ACCESS x Unlimited ___ Restricted-how? ___

SURROUNDINGS (Commercial, residential, institutional, rural) residential; city tennis courts abut cemetery area on the south; Detwiler City Park abuts on east side.

GRAVES

In completing this section, in order of preference, please (1) write the counted number in the category after a number sign #, (2) give estimated percentages followed by the percent sign %, or (3) estimate the proportions as follows: (N)one, (S)ome, (M)ost, (A)ll or nearly all. Examples: Write a count of 18 as #18, 25 percent as 25%, and "some" as S.

ORIENTATION (#, %, N/S/M/A): x East/west all ___ North/south Other ___

MARKERS (#, %, N/S/M/A): ___ Inscribed ___ Noninscribed ___ Grave depressions.

MARKER MATLS. (#, %, N/S/M/A)

x Marble x Granite

x Concrete/cement ___ Metal

___ Fieldstone ___ Wood

Other (describe) roquina stone

MARKER CONDITIONS (#, %, N/S/M/A)

most x Inscriptions legible x Surfaces damaged

___ Badly tilted x Broken but standing

___ Fragmentary Other concrete markers very weathered, some not readable.

SIGNATURES OF STONE CARVERS (Add carver's hometown if known) ___

None observed.

Settle Funeral Home (now Settle-Wilder) has records for this cemetery.

RECORDER'S EVALUATION

Summarize significance within the three lines provided

Some of the early settlers of this area (late 1800's) are buried in this cemetery. This area of the beachside may have been in the southern portion of the Spanish land grant issued to Robert Walker in 1803. He was granted 100 acres but no survey was made of his claim.

FURTHER INFORMATION

RECORDER: NAME/ADDR/PHONE/AFFILIATION Dot Moore, P.O. Box 504, New Smyrna Beach, Fl. 32170, (904) 427-4627 - EAS

LOCAL CONTACT: NAME/ADDR/PHONE/AFFILIATION ___

same as recorder

PHOTOGRAPHS Not required, but encouraged, especially B&W prints no smaller than 3x5. Photographs are especially useful to document (1) the main gate or entrance, (2) representative general views, (3) representative or unusual monuments or markers, and (4) damage or neglect.

Location of Negatives/File Nos. ___

FOR DETAILED INSTRUCTIONS: *Guide to the 1992 Historic Cemetery Form of the Florida Site File.*

DHR USE ONLY	OFFICIAL EVALUATIONS	DHR USE ONLY
NR DATE ___ / ___ / ___	KEEPER-NR ELIGIBILITY* y n pe u	Date ___ / ___ / ___
	SHPO-NR ELIGIBILITY* y n pe u	Date ___ / ___ / ___
DELIST DATE ___ / ___ / ___	LOCAL DESIGNATION* ___	Date ___ / ___ / ___
	Local office ___	

* y=Yes; n=No; pe=Potentially Eligible; u=Insufficient Information

REQUIRED: USGS MAP OR PHOTOCOPY WITH CEMETERY BOUNDARIES

V0053

HISTORICAL CEMETERY FORM - FLORIDA SITE FILE

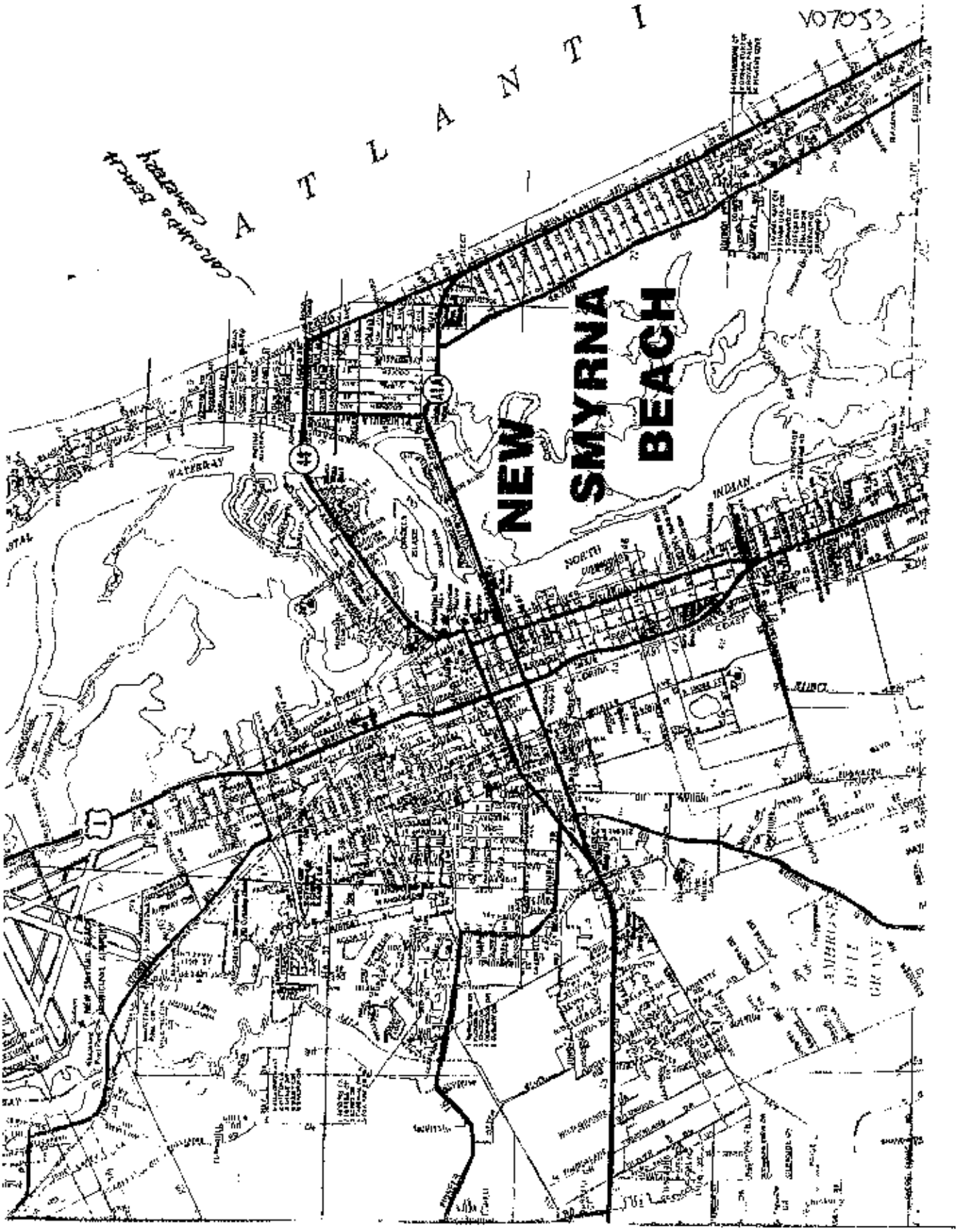
CORONADO BEACH CEMETERY

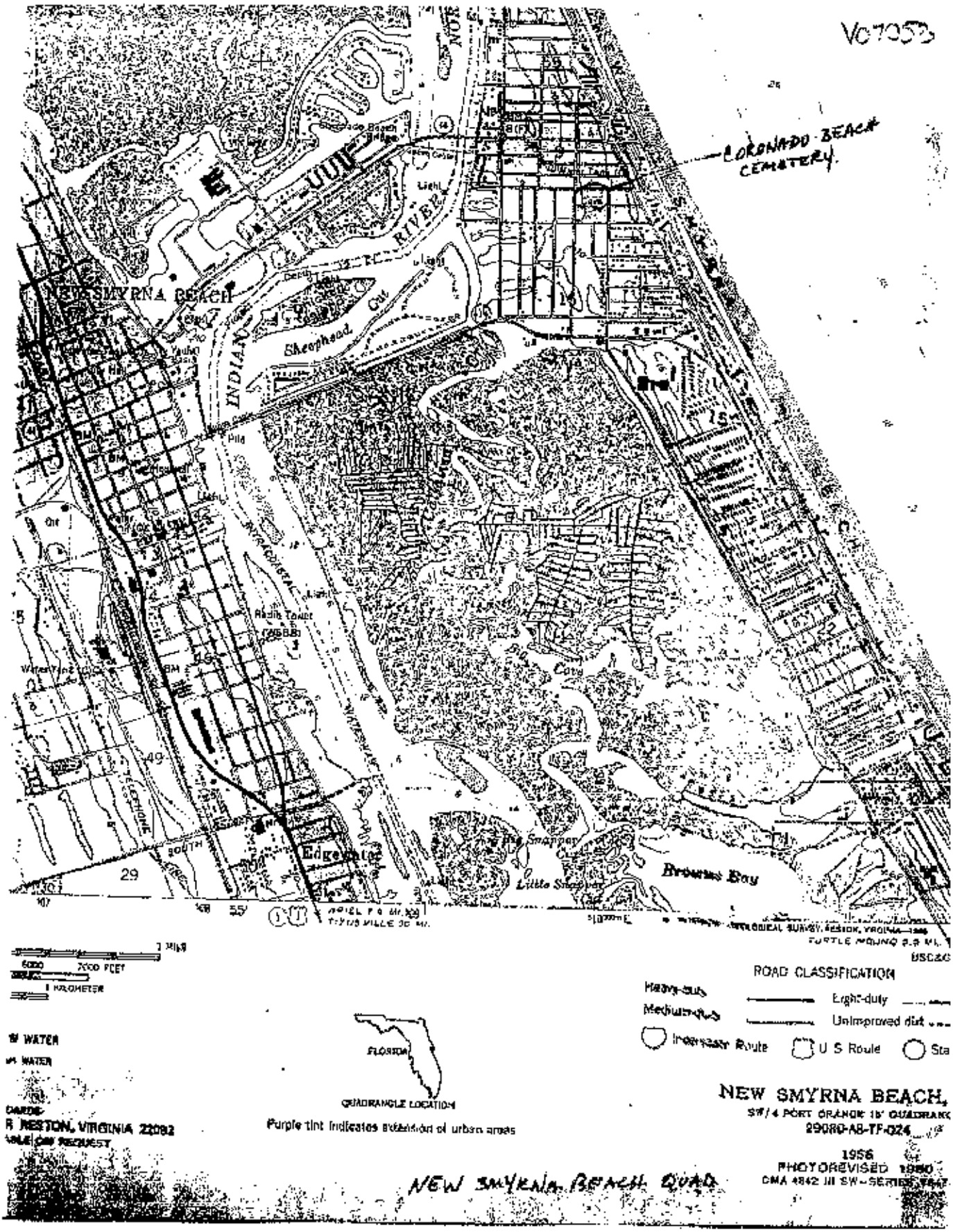
Documentation (Continued)

Brownell documented 77 burials in her published account.The earliest death date she recorded was 1905, that of Elizabeth Dale, born 1890.

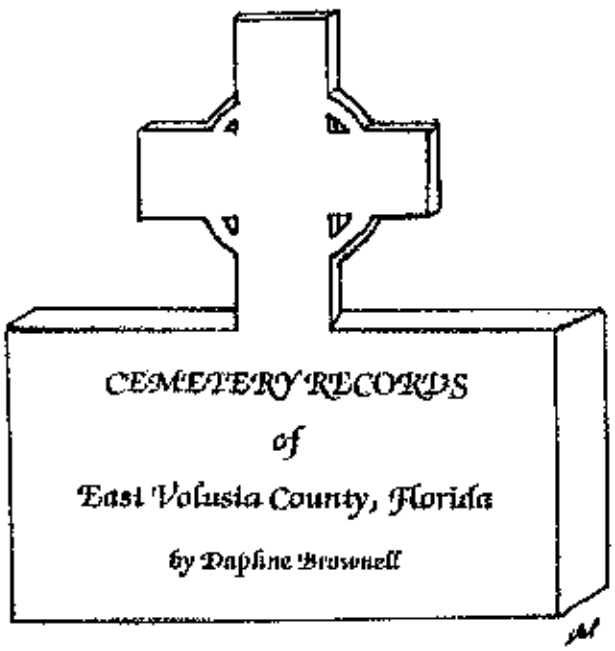
There are 15 headstones that either have no information on them or have a name with no other data. There are also probably several burials that no longer have any markings, or stones.

It is thought that there are probably earlier burials in this cemetery than the 1905 date discussed above.


V07053
ATLANTI
NEW
SMYRNA
BEACH
WATERWAY
INDIAN


V07053
CORONADO BEACH CEMETERY
NEW SMYRNA BEACH
INDIAN RIVER
Sheephead Cut
Radio Tower
Edgewater
Big Snapper
Little Snapper
Browns Bay
ROAD CLASSIFICATION
Heavy-duty
Medium-duty
Light-duty
Unimproved dirt
Interstate Route
U S Route
FLORIDA
QUADRANGLE LOCATION
Purple tint indicates extension of urban areas
NEW SMYRNA BEACH,
SW/4 PORT ORANGE 15' QUADRANGLE
29080-A8-TF-024
1956
PHOTOREVISED 1980
NEW SMYRNA BEACH QUAD

Volume 4
Cemetery Inscriptions



Kellersberger Fund of
The South Brevard Historical Society, Inc.
Melbourne, Florida

Coronado Beach Cemetery Inscriptions 25
New Smyrna Beach, Florida

Bain, Jane M. wife of Rev. Albert Bain
11 Feb. 1864 - 24 March 1951

Marot, Lucy Anna wife of Henry Marot 26 Oct. 1836 - 12 Dec. 1911
Marot, Henry 26 Mar. 1827 - 9 Apr. 1907

Butts, Eleanora V. 10 Dec. 1840 - 8 Feb. 1913
"In Memory of Dear Mother"

Silsby
John C. 1856-1928
Mary E. 1860-1922

Miller, Mary H. 1853-1918
Miller, Lewis H. Co I 5th Minn Inf (no dates)
Remarks. In Volusia County Vet's Records his dates 1844-1915

Longstreet, Harriett M. 1866-1928

Vrooman, Almeda Gilbert 1856-1940 "Mother"
Vrooman, John Howard 1850-1941 "Dad"
Vrooman, Percy H. 1877-1952
Vrooman, Claude H. 1879-1951

Thompson, Clara M. 17 Aug. 1867 - 3 March 1934

Kinder, Florence D. 1876-1955
Kinder, Frederick F. 1876-1948
Kinder, Arthur Franklin 1904-1951

Tombstone with inscription worn off - date of 1918 remains

Barber, Samuel H. 1852-1921
Barber, Anna A. 1 Nov. 1859 - 5 Mar. 1924

Goodwin, Florence Detwiler 1878-1953
Goodwin, James Andrew 1903-1962

Mier, Antonia 19 Sept. 1853 - 28 May 1926 "Our Brother"

Butcher Lot -
Butcher, Washington I. Co A 65th Reg N.Y.Inf 1848-1939
Wilson, Florence D. 1878-1967
Small stone(probably 'cremation') has L.H.W. 1873-1959
Small stone(probably 'cremation') has I.C.B. 1875-1954
Butcher, Mary E. 1844-1928

Krulder, John Cornelius 5 June 1843 - 27 Apr. 1929

Gain, Hannah Jane 1850-1929
Gain, Albert 1851-1942

Three markers, no names

Getty, Harry N. 1856-1932
Getty, Augusta Alcott 1865-1943

Provance, _____ 1859-1930

Flint, James 1856-1936
Flint, M. K. 1866-1934

Mantz
Dr. Wallace A. 1863-1931
Lonella G. 1872-1953

Baker, Edward D. 1870-1947

Lenox - no dates, no names on headstone

Anderson - no dates, no names on headstone(See p. 27)

Hodges - no dates, no names on headstone

Smith, Isaac H. Co C 26th Maine Inf (no dates) but Volusia County, Florida Veterans' Records has dates of 1835-1917
Smith, Bloomfield T. 1840-1928

Miller, Hubert Bernard - no dates on headstone

_____, Carl H. ---stone broken, a piece missing & one date of 1861
Gray, Gertie E. 1874-1944 (on same stone as above)

Miller, Louis A. 1875-1945

Dukes, Barbara Jane 1870-1956

Gram, Mahala H. 1854-1938

Two headstones, no names, look as though children's graves

Strand, Alfred A. 1884-1942 "Home is the sailor, Home from the sea"

Bowers, Richard Thomas 1927-1943

Ryan, Homer P. 9 Apr. 1853 - 22 Mar. 1937

Webster, Prof. William E. 1840-1919
Webster, Elizabeth N. 1843-1927
Webster, Luke David 10 Sept. 1897 - 14 Feb. 1963

Slough
Jacob 1859-1927
Alice E. 1881-1955

Coronada Beach Cemetery Inscriptions
New Smyrna Beach, Florida

Douglass
Roderick 1854-1906
Edith Mary 1874-1960
Douglass, Theodore S., Sr. 17 Dec. 1902 - 23 May 1928
Remarks. This couple, Roderick Douglass and Edith Mary Webster had three sons: Donald Friend Douglass, Roderick F. Douglass (1914-19-5) who mar. Harriette Griffin(d. 27 Feb. 1973, 69 yrs.) and they are buried at Oakdale Cemetery, DeLand, and the above Theodore S. Douglass, Sr.

Headstone, large - no dates, no names

Hale, Elizabeth 1890-1905

Six small stones without information

Haddick, Charles A. 13 June 1881 - 22 May 1933

Comparet, Hunt Mills 1889-1957

This cemetery was copied a number of years ago by Mrs. Raymond Gibbs of New Smyrna Beach and given as a gift to the State DAR Librarian from the Jane Sheldon Chapter, DAR, New Smyrna Beach. In 1973 Daphne M. Brownell of DeLand rechecked Gibby's records and found some additional headstones which she copied. As of now this is a complete record of known burials at this cemetery. Gibby called it the 'Oakwood Avenue Cemetery,' but in the Volusia County Veterans' Records it is called 'Coronada Beach Cem.'

Addenda
Axel K. Anderson, 58, died Friday morning at home on Flagler Ave. Born 14 Jan. 1874 Stockholm, Sweden, to U.S. when 19, located in Massachusetts. He had been a resident of Coronada Beach for the past 21 years. He leaves a widow, Mrs. Julia Anderson and an 8-year-old son, Theodore. Services held at grave at Coronado Beach Cemetery.
Ref. "Volusia Sunday Sun," Daytona Beach and DeLand, Sunday 13 May 1928.
Remarks. Probably the Anderson noted on p. 26 here.

S. M. Getty (1858-1924) Born Allegheny City, Penn. in 1858. Died Tuesday 2 Sept. 1924 at Coronado. Since May 1924 his brother Harry Getty, and wife, of DeLand moved to Coronado to make their home with him. He also left two brothers: Frank of Boston and Robert of Chicago and one sister, Mrs. John Taggart also living in Chicago. Interment in the Coronado Cemetery.
Ref. "from 'New Smyrna News' and reprinted in the 'DeLand Daily News,' Friday 5 Sept. 1924.
Remarks. No headstone found for him but there is one for his brother and wife as noted at top of page 26.

Sec. 60-8. - Approval of changes to landmarks, landmark sites and property in historic districts.

(a) *Certificate of appropriateness.* No person may undertake the following actions affecting a designated landmark, a designated landmark site or a property in a designated historic district without first obtaining a certificate of appropriateness from the commission: alterations of an archeological site or the exterior part of a building or structure, new construction, demolition or relocation.

(1) Review of a new construction and alterations to designated buildings and structures shall be limited to exterior changes visible to the public. Whenever any alteration, a new construction, demolition or relocation is undertaken on a designated landmark, a designated landmark site or a property in a designated historic district without a certificate of appropriateness, the chief building official is authorized to issue a stop work order

(2) A certificate of appropriateness shall be in addition to any other building permits required by law. The issuance of a certificate of appropriateness from the commission shall not relieve the property owner of the duty to comply with other state and local laws and regulations.

(3) Ordinary repairs and maintenance that are otherwise permitted by law may be undertaken without a certificate of appropriateness provided this work on a designated landmark, a designated landmark site, or a property in a designated historic district does not alter the exterior appearance of the building, structure or archeological site, or alter elements significant to its architectural or historic integrity.

(4) No certificate of appropriateness for alteration, new construction, demolition or relocation pursuant to the provisions of this chapter shall be effective for a period of 15 days subsequent to the commission's decision. If during that 15-day period an appeal is made to the city commission, the decision of the commission shall automatically be stayed pending city review.

(b) *Application procedures for certificates of appropriateness.*

(1) Each application for a certificate of appropriateness shall be accompanied by the required fee. The chief building official shall forward to the commission each application for a permit that would authorize an alteration, new construction, demolition or relocation affecting a designated landmark, a designated landmark site, or a property in a designated historic district. The applicant shall complete an application form provided by the building department containing in part the following information:

a. Drawings of the proposed work;

b. Photographs of the existing building or structure and adjacent properties; and

c. Information about the building materials to be used.

(2) The city manager shall determine when an application is complete and may request additional information when such application is determined to be incomplete.

(c) *Public hearings for certificates of appropriateness.* The commission shall hold a public hearing on each certificate of appropriateness within 30 days after receipt of a completed application. The commission shall approve, approve with conditions, or disapprove each application, based on the criteria contained in this section. The commission shall act within 60 days after the close of the public hearing. If the commission fails to decide on application within the specified time period, the application shall be deemed approved.

(d) *General criteria for granting certificates of appropriateness.* In approving or denying applications for certificates of appropriateness for alterations, new construction, demolition or relocation, the commission shall use the following general guidelines:

(1) The effect of the proposed work on the landmark or the property upon which such work is to be done;

(2) The relationship between such work and other structures on the landmark site or other property in the historic district;

(3) The extent to which the historic, architectural or archeological significance, architectural style, design, arrangement, texture, materials and color of the landmark or the property will be affected;

(4) Whether the denial of a certificate of appropriateness would deprive the property owner of reasonable beneficial use of his property; and

(5) Whether the plans may be reasonably carried out by the applicant.

(e) *Additional guidelines for alterations.*

(1) In approving or denying applications for certificates of appropriateness for alterations, the commission shall also use the following additional guidelines, which are based on the United States Secretary of the Interior's Standards for Historic Preservation Projects.

(2) Every reasonable effort shall be made to provide a compatible use for a property that requires minimal alteration of the building, structure or site and its environment, or to use a property for its originally intended

purpose.

(3) The distinguishing original qualities or character of a building, structure or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

(4) All buildings, structures and sites shall be recognized as products of their own time. Alterations that have no historical basis and that seek to create an earlier appearance shall be discouraged.

(5) Changes that may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

(6) Distinctive stylistic features or examples of skilled craftsmanship that characterize a building, structure or site shall be treated with sensitivity.

(7) Deteriorated architectural features shall be repaired rather than replaced, wherever possible. If replacement is necessary, the new material should match the material being replaced in composition, design, color, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historical, physical or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

(8) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building material shall not be undertaken.

(9) Every reasonable effort shall be made to protect and preserve archeological resources affected by or adjacent to any acquisition, protection, stabilization, preservation, rehabilitation, restoration or reconstruction project.

(f) *Additional guidelines for new construction.* In approving or denying applications for certificates of appropriateness for new construction, the commission shall also use the following additional guidelines:

(1) The height of proposed building shall be visually compatible with adjacent buildings;

(2) The relationship of the width of the building to the height of the front elevation shall be visually compatible to buildings and places to which it is visually related;

(3) The relationship of the width of the windows to height of windows in a building shall be visually compatible with buildings and places to which the building is visually related;

(4) The relationship of solids to voids in the front facade of a building shall be visually compatible with buildings and places to which it is visually related;

(5) The relationship of building to open space between it and adjoining buildings shall be visually compatible to the buildings and places to which it is visually related;

(6) The relationship of entrance and porch projections to sidewalks of a building shall be visually compatible to the buildings and places to which it is visually related;

(7) The relationship of the materials, texture and color of the facade of a building shall be visually compatible with the predominant materials used in the buildings to which it is visually related;

(8) The roof shape of a building shall be visually compatible with the buildings to which it is visually related;

(9) Appurtenances of a building such as walls, wrought iron fences, evergreens, landscape masses, building facades, etc., shall, if necessary, form cohesive walls of enclosures along a street, to ensure visual compatibility of the building to the buildings and places to which it is visually related;

(10) The size of a building, the mass of a building in relation to open spaces, the windows, door openings, porches and balconies shall be visually compatible with the buildings and places to which it is visually related; and

(11) A building shall be visually compatible with the buildings and places to which it is visually related in its directional character, whether this be vertical character, horizontal character or nondirectional character.

(g) *Additional requirements for demolitions.*

(1) No certificate of appropriateness for demolitions shall be issued by the commission until the applicant has demonstrated that no other feasible alternative to demolition can be found. The commission may ask interested individuals and organizations for assistance in seeking an alternative to demolition. On all demolition applications, the commission shall study the question of economic hardship for the applicant and shall determine whether the landmark or the property in the historic district can be put to reasonable beneficial use without the approval of the demolition application. In the case of an income-producing building, the commission shall also determine whether the applicant can obtain a reasonable return from the existing building. The commission may ask applicants for additional information to be used in making these determinations, including but not limited to evidence that the plans for a new building on the site will be implemented. If the applicant fails to establish the lack of a reasonable beneficial use or the lack of a reasonable return, the commission shall deny the demolition application.

(2) The commission may grant a certificate of appropriateness for demolition even though the designated

landmark, designated landmark site or property within the designated historic district has reasonable beneficial use if the commission determines that the property no longer contributes to an historic district or no longer has significance as an historic, architectural or archeological landmark, that the demolition of the designated property is required by a community redevelopment plan or the comprehensive plan.

(h) *Additional guidelines for relocation.* When an applicant seeks to obtain a certificate of appropriateness for the relocation of a landmark, a building or structure on a landmark site, or a building or structure in an historic district or wishes to relocate a building or structure to a landmark site or to a property in an historic district, the commission shall also consider the following:

(1) The contribution the building or structure makes to its present setting;

(2) Whether there are definite plans for the site to be vacated;

(3) Whether the building or structure can be moved without significant damage to its physical integrity; and

(4) The compatibility of the building or structure to its proposed site and adjacent properties.

(i) *Appeals to city commission.* Within 15 days of the commission decision, any person may appeal to the city commission any decision of the commission on an application for a certificate of appropriateness. The city commission shall approve, approve with modifications, or disapprove the application within 60 days after receiving the appeal.

(j) *Emergency conditions; designated properties.* In any case where the chief building official determines that there are emergency conditions dangerous to life, health or property affecting a landmark, a landmark site, or a property in an historic district, the official may order the remedying of these conditions without the approval of the commission or issuance of a required certificate of appropriateness. The chief building official shall promptly notify the chair of the commission of the action being taken.

(Code 1975, § 14½-6)

AGENDA ITEM SUMMARY

Department Making Request: **Planning and Engineering**

Meeting Date: 1st Reading: 2/28/12 2nd Reading: 3/13/12

Action Item Title: **Hampton Inn PUD - 1st Amendment**

Agenda Section: Consent ___ Public Hearing _X_ Special Items ___

Summary Explanation and Background:
Ron V. Flick, President/CEO, Compass Group, 961687 Gateway Boulevard, Unit 201M, Amelia Island, Florida, 32034, applicant on behalf of the property owner, HIHO, LLC, 672 Marina Drive, Unit B4, Charleston, South Carolina, 29492, requests approval of an amendment to the Hampton Inn Planned Unit Development (PUD) Master Development Agreement (MDA) to incorporate approximately 0.3 acres of additional property into the PUD and to specify minimum dimensional requirements for parking spaces within the PUD. If approved, the revisions would constitute the first amendment to the Hampton Inn MDA.

At its February 6, 2012 meeting, the Planning and Zoning Board voted unanimously, 7-0, to recommend the City Commission approve the amendment.

Recommended Action/Motion: **Approval**

Funding Analysis: Budgeted _X_ If not budgeted, recommended funding account:

Exhibits Attached: **Staff report, with associated exhibits, dated February 6, 2012**

Reviewed By:	Name	Signature
Department Director:	Gail Henrikson	
City Attorney	Frank Gummey	
City Manager	Pam Brangaccio	

Commission Action:

ORDINANCE NO. 36-12

AN ORDINANCE AMENDING THE HAMPTON INN NEW SMYRNA BEACH PLANNED UNIT DEVELOPMENT MASTER DEVELOPMENT AGREEMENT WITH HIHO, LLC/PREMIER DEVELOPMENT GROUP, FOR A PARCEL OF LAND CONTAINING APPROXIMATELY 2 ACRES LOCATED BETWEEN FLAGLER AVENUE AND FLORIDA AVENUE, EAST OF NORTH PENINSULA AVENUE AND WEST OF NORTH PINE STREET, AT 214 FLAGLER AVENUE AND 207 AND 215 FLORIDA AVENUE, TO INCORPORATE APPROXIMATELY 0.3 ACRES OF ADDITIONAL PROPERTY INTO THE PUD AND SPECIFY MINIMUM DIMENSIONAL REQUIREMENTS FOR PARKING SPACES WITHIN THE PUD; PROVIDING FOR A QUASI-JUDICIAL PUBLIC HEARING; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Ron V. Flick, President/CEO, Compass Group, 961687 Gateway Boulevard, Unit 201M, Amelia Island, Florida, applicant on behalf of the property owner, HIHO, LLC, has requested approval of an amendment to the Hampton Inn New Smyrna Beach Planned Unit Development Master Development Agreement with HIHO, LLC/Premier Development Group, for a parcel of land containing approximately 2 acres located between Flagler Avenue and Florida Avenue, east of North Peninsula Avenue and west of North Pine Street, at 214 Flagler Avenue and 207 and 215 Florida Avenue, to incorporate approximately 0.3 acres of additional property into the PUD and specify minimum dimensional requirements for parking spaces within the PUD; and

WHEREAS, New Smyrna Beach Ordinance No. 1-91, New Smyrna Beach Land Development Regulations, Article V, Zoning Districts, §504.02, Specific Regulations By District, PUD, Planned Unit Development, Procedure for Rezoning PUD, (4), Review Procedure, (c), City Commission Review, requires that all planned unit developments be approved by ordinance in the same manner as required for rezoning; and

WHEREAS, the applicant wishes to amend a Master Planned Unit Development Agreement with the City of New Smyrna Beach in accordance with the City's Land Development Regulations; and

WHEREAS, the Planning and Zoning Board, at its meeting on February 6, 2012, by a vote of 7-0) recommended that the requested amendment be ***approved;*** and

WHEREAS, the City Commission deems that it is in the best interests of the citizens of the City of New Smyrna Beach to approve the amendment to the Master Planned Unit Development Agreement, as more particularly set forth hereinafter.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF NEW SMYRNA BEACH, FLORIDA:

SECTION 1: ***Approval.*** That the First Amendment to the Hampton Inn New Smyrna Beach Planned Unit Development Master Development Agreement with HIHO, LLC/Premier Development Group, for approximately 2 acres located between Flagler Avenue and Florida Avenue, east of North Peninsula Avenue and west of North Pine Street, at 214 Flagler Avenue and 207 and 215 Florida Avenue, be and the same is hereby approved. Said amendment is more particularly described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF.

SECTION 2: ***Quasi-Judicial Public Hearing.*** It is hereby found that a quasi-judicial public hearing held by the City Commission to consider adoption of this ordinance March 13, 2012, in the City Commission Chambers at City Hall, 210 Sams Avenue (south entrance on Julia Street), New Smyrna Beach, Florida, to consider the Master Planned Unit Development Agreement amendments (rezoning request) in accordance with *Bd. of Cty. Com'rs of Brevard v. Snyder*, 627 So.2d 469 (Fla. 1993) in a manner to insure that all parties are provided an opportunity to be heard, present evidence and cross-examine witnesses, and to be informed of all the facts upon which the Commission's decision on the rezoning is based, after notice published at least 10 days prior to hearing, is deemed to comply with §166.041(3)(a), F.S.

SECTION 3: ***Conflicting Ordinances.*** That all ordinances or parts thereof that are in conflict with this ordinance shall be and the same are hereby rescinded and repealed.

SECTION 4: ***Severability.*** That if any section, sentence, clause or phrase of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 5: ***Effective Date.*** That this ordinance shall take effect immediately upon its final adoption.

APPROVED AS TO FORM AND CORRECTNESS:

FRANK B. GUMMEY, III
City Attorney

Date: 2/22/12

1st Amendment to Hampton Inn Planned Unit Development Master Development Agreement
First Reading February 28, 2012
Public Hearing March 13, 2012
February 16, 2012
2:27 PM

EXHIBIT C

HAMPTON INN NEW SMYRNA BEACH
PLANNED UNIT DEVELOPMENT (PUD)
MASTER DEVELOPMENT AGREEMENT (MDA)
1st AMENDMENT

ORDINANCE # _____

GRANTING THE REQUEST TO AMEND THE MASTER DEVELOPMENT AGREEMENT AS PROVIDED IN ORDINANCE # 01-10

This AGREEMENT AMENDMENT, entered into and made effective this _____ day of _____, 2012, by and between **HIHO, LLC/PREMIER DEVELOPMENT GROUP**, referred to herein as "Developers", and the **CITY OF NEW SMYRNA BEACH, FLORIDA,** a political Subdivision of the State of Florida, referred to hereafter as "City", for the development of the **HAMPTON INN NEW SMYRNA BEACH**, referred to hereafter as the "Property".

RECITALS

WHEREAS, Florida Statutes, Chapter 163, grants the City authority to enact developer's agreements and the terms herein are consistent with all governing Statutes as it pertains to any and all terms and conditions of this agreement; and,

WHEREAS, the City of New Smyrna Beach Code of Ordinances, Part III Land Development Regulations, Article V, Paragraph 504.00, further grants the City authority and procedures to be followed to enact a developer's agreement and any amendments thereof; and,

WHEREAS, the parties are in agreement under the authority of Ordinance #01-10 as to the terms of this Agreement as Amended; and

WHEREAS, this Amendment to this Agreement is in the best interest of the citizens of the City of New Smyrna Beach, Florida.

NOW THEREFORE, in consideration of these recitals, the mutual agreement, the receipt and sufficiency of which is hereby acknowledged, the parties agree to amend Article III and Exhibit "A" of the Agreement as follows:

EXHIBIT
A
Ord. 36-12
(8 Pages)

ARTICLE III

RESPONSIBILITIES OF THE PARTIES

DEVELOPER'S RESPONSIBILITIES AND UNDERSTANDING

3.1 PERMITTED USES: The entire (~~1.73 acre~~) 2.02-acre Property will be developed with no more than 112 transient lodging units and a maximum FAR of 2.0. Customary accessory uses associated with transient lodging facilities shall also be permitted. Such customary accessory uses include, but are not limited to, gift shops, swimming pools, exercise facilities, meeting facilities, banquet facilities, food service, laundry facilities and game rooms.

***

3.4 PARKING: Parking shall be provided as required by Section 604.10 of the City's Land Development Regulations. Additionally, the Developers may reduce the amount of required parking by up to 25%, as allowed by Section 504.02 of the City's Land Development Regulations. In no case shall less than 52 parking spaces be provided on the Property. Minimum dimensions for all parking spaces shall be 9' x 18'.

***

Exhibit "A" Legal Description, as recorded in Book: 6624 on Page: 1868 is replaced by the Amended and attached Exhibit "A" to reflect the addition of Parcel 7455-10-02-0160.

Exhibit "B" Conceptual Development Plan, as recorded in Book: 6624 on Page 1870 is replaced by the Amended and attached Exhibit "B" to reflect to addition of Parcel 7455-10-02-0160.

This First Amendment shall be effective as of the date it is executed by all parties.

This First Amendment shall be recorded in the Public Records of Volusia County, Florida, at the Developer's expense.

All provisions and elements of the MDA as recorded in Book: 6624 on Page: 1854 are thereafter this modification/amendment will remain in effect.

IN WITNESS WHEREOF, the parties have executed this First Amendment, by and through their duly authorized representatives, on the respective dates below.

WITNESSES:

THE CITY OF NEW SMYRNA BEACH,

EXHIBIT C (CONT'D)

FLORIDA, a Florida municipal corporation

By:

Adam Barringer, Mayor

Attest:

By:

Johnny Bledsoe, City Clerk

_____

Witness 1

_____

Print Name of Witness 1

_____

Witness 2

_____

Print Name of Witness 2

HIHO, LLC/PREMIERE DEVELOPMENT GROUP
A South Carolina Corporation

WITNESSES:

By:

Printed Name:

Its:

Date:

_____

Witness 1

_____

Print Name of Witness 1

_____

Witness 2

_____

Print Name of Witness 2

STATE OF FLORIDA
COUNTY OF VOLUSIA

EXHIBIT C (CONT'D)

The foregoing instrument was acknowledged before me this _____ day of _____, 2012, by Adam Barringer and Johnny Bledsoe, as Mayor and City Clerk, respectively, of the City of New Smyrna Beach, Florida, a Florida Municipal Corporation, on behalf of the City of New Smyrna Beach. They are personally known to me and did not take an oath.

_____
Notary Public, State of Florida
Type or Print

Name:_____

Commission No.

_____

My Commission Expires: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this _____ day of _____, 2012, by _____, as _____ of HIHO, LLC/Premiere Development Group, a South Carolina Corporation, on behalf of the company. He/she is personally know to me or has produced _____ as identification and did not take an oath.

_____
Notary Public, State of Florida
Type or Print

Name:_____

Commission No.

_____

My Commission Expires: _____

Approved as to form and correctness.

_____
City Attorney
Date: _____

EXHIBIT C (CONT'D)

EXHIBIT A
LEGAL DESCRIPTION

~~LOTS 5 6 & 7 & W 40 FT OF LOT 8 COOPER SUB WALKER GRANT & IN C LOTS 44 TO 47 ASSESSORS WALKER GRANT PER OR 2234 PG 0557 P ER COPY OF DC PER OR 5845 PG 0914 PER D/C 6057 PG 4763 PER D /C 6278 PG 1941~~

~~ALONG WITH~~

~~LOTS 18 TO 20 INC RESUB BLK 2 LONGSTREET SUB WALKER GRANT MB 8 PG 81 PER OR 2896 PG 0879 AND LOT 48 EXC S 10 FT OF W 40 FT & LOTS 49 79 & 80 & E 9 FT OF LOT 78 WALKER GRANT & INC E 10 FT OF LOT 9 COOPER SUB MB 4 PG 96 PER OR 2896 PG 0879~~

PARCEL 1:

LOT 42 EXCEPT THE WESTERLY 100 FEET, ASSESSOR'S SUBDIVISION OF THE ROBERT WALKER GRANT, ACCORDING TO THE PLAT THEREOF AS RECORDED IN MAP BOOK 3, PAGE 150, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

AND

LOTS 16 AND 17, RESUB., BLOCK 2, OF H. C. LONGSTREET'S REVISED SUBDIVISION OF LOT 5, BLOCK 1, ALDEN SUBDIVISION OF THE ROBERT WALKER GRANT, ACCORDING TO THE PLAT THEREOF AS RECORDED IN MAP BOOK 8, PAGE 81, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

PARCEL 2:

LOTS 5, 6, 7 AND THE WEST 40 FEET OF LOT 8, W. L. COOPER'S SUBDIVISION OF THE ROBERT WALKER GRANT, ACCORDING TO THE PLAT THEREOF AS RECORDED IN MAP BOOK 4, PAGE 96, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, LESS AND EXCEPT THAT PORTION IN FLAGLER AVENUE.

AND

EXHIBIT C (CONT'D)

LOTS 44, 45, 46 AND 47, ASSESSOR'S SUBDIVISION OF THE ROBERT WALKER GRANT, ACCORDING TO THE PLAT THEREOF AS RECORDED IN MAP BOOK 3, PAGE 150, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

PARCEL 3:

THE EAST 10 FEET OF LOT 9, W. L. COOPER'S SUBDIVISION OF THE ROBERT WALKER GRANT, ACCORDING TO THE PLAT THEREOF AS RECORDED IN MAP BOOK 4, PAGE 96, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, LESS AND EXCEPT THAT PORTION IN FLAGLER AVENUE.

AND

LOT 48, EXCEPT THE SOUTH 10 FEET OF THE WEST 40 FEET, LOT 49, LOT 79 AND LOT 80, ASSESSOR'S SUBDIVISION OF THE ROBERT WALKER GRANT, ACCORDING TO THE PLAT THEREOF AS RECORDED IN MAP BOOK 3, PAGE 150, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

AND

THE EAST 17 FEET OF LOT 3, BLOCK 2, H. C. LONGSTREET REVISED SUBDIVISION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN MAP BOOK 4, PAGE 160, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, ALSO DESCRIBED AS: THE EAST 17 FEET OF LOT 78, ASSESSOR'S SUBDIVISION OF THE ROBERT WALKER GRANT, ACCORDING TO THE PLAT THEREOF AS RECORDED IN MAP BOOK 3, PAGE 150, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

AND

LOTS 18, 19 AND 20, CORRECTED MAP OF H. C. LONGSTREET'S REVISED SUBDIVISION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN MAP BOOK 8, PAGE 81, OF THE PUBLIC RECORS OF VOLUSIA COUNTY, FLORIDA.

EXHIBIT C (CONT'D)

THIS EXHIBIT TO BE REPLACED WITH FOLLOWING PAGE

Instrument# 2011 141113 # 19
Book: 6624
Page: 1870

Conceptual Development Plan Criteria	Proposed In Plan	Comments
Adjoining land ownership	Commercial/Mixed Use (CRA/RL)	
Locations and Dimensions of Land Uses	Single Use—Hospitality (CRA)	
Location of Proposed Building	Proposed Single Building	
Density of Residential Buildings	18 per Acre Average of 121 Units	110 Nonresidential units
Total Acreage and location of Open Space	Total Acreage is approximately 1.7 acre and Open space will be no less than 34 Acre	
Total Acreage and location of common open space	Not Applicable	
Proposed Right-of-Way	Not Applicable	
Proposed land, state, and east gateways	15 feet on Wood side yard, 20 feet on the east side yard (including the 15 Ft. & Paine Cutbacks). Single on southward yard, and far less on south side yard. Five Feet Before on all sides, allowing for wetlands, drainage to be installed in buffer and the centers are a mix of newly handscaped terrain with natural and dense hedge growth incorporated on Florida Ave.	Curb cuts are entered on required for safety and access. Added to the bonds of utilities underground. Complete by Dec 31, 2012. See Page 2 Attached
Locations, dimensions, and contents of Buffer Areas	None	
Locations, dimensions, and types of landing assessment		
Proposed Parking	Single Parking	
Locations of adjacent Courts	Provided on conceptual plan	
Proposed Lot sizes	Single Lot	
Site for Schools	Not applicable	
Locations of sequences	None	
Proposed member pit box	Single Lot	
Existing Character of the land	Partially wooded, previous large residence, and CRA parking lots	
Natural Provided	Provided	
Additional Information	Curb cuts	
	Utilities Connection will provide all utilities (including no dirt water, grade stone-water, and Stormwater is used contained below grade storage/containment	
General Feasibility for utilities and Stormwater	Examples Located on Drawings	
Solid Waste		
General Soil and vegetation types	Sandy soil; vegetation is predominately native and moderate canopy	
Natural Drainage Patterns	Provided	

Conceptual Site Plan
Hampton Inn & Suites

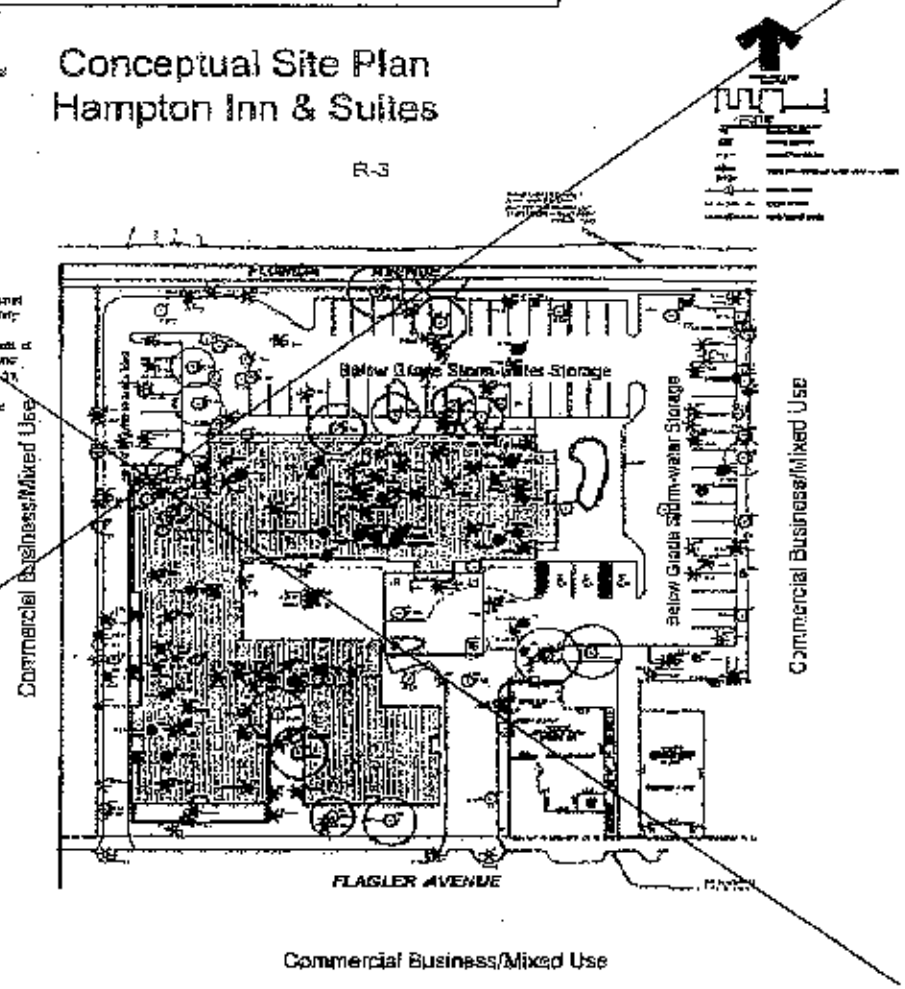
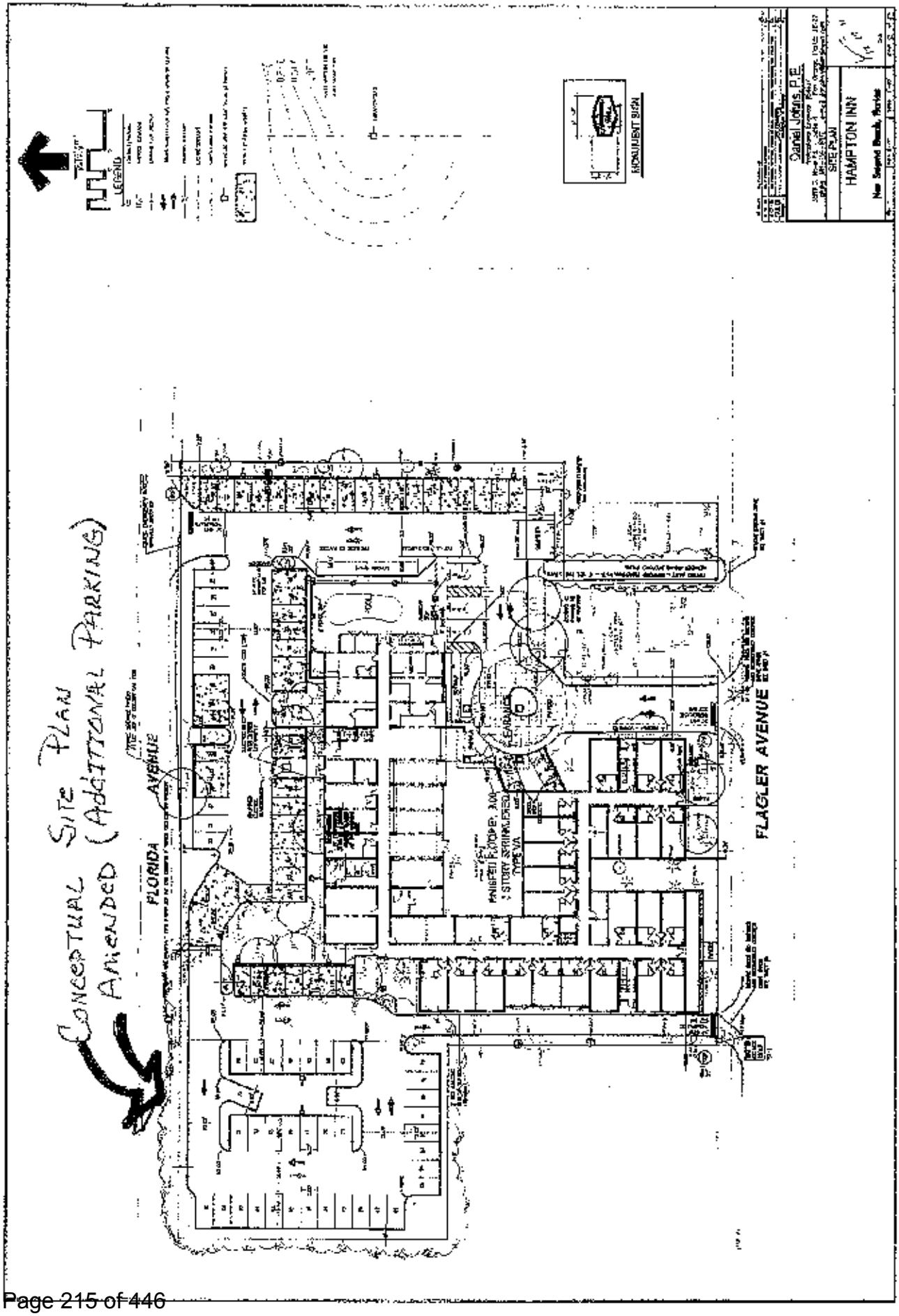


EXHIBIT C (CONT'D)



CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES

PUD-1-12: HAMPTON INN PUD – 1ST AMENDMENT

FEBRUARY 6, 2012

I. Background

A. **Applicant:** Ron V. Flick, President/CEO, Compass Group, 961687 Gateway Boulevard, Unit 201M, Amelia Island, Florida, 32034

B. **Property Owners:** HIHO, LLC, 672 Marina Drive, Unit B4, Charleston, South Carolina, 29492

C. **Request:** Approval of an amendment to the Hampton Inn Planned Unit Development (PUD) Master Development Agreement (MDA) to incorporate approximately 0.3 acres of additional property into the PUD. If approved, the revisions would constitute the first amendment to the Hampton Inn MDA. (**Please see attached agreement and conceptual development plan**)

D. **Site Data:** The subject properties contain approximately 2.02 acres and are generally located between Flagler Avenue and Florida Avenue, east of North Peninsula Avenue and west of North Pine Street (see location map attached as **Exhibit A**).

E. **TAX ID #s:** 7455-10-02-0180, 7455-01-00-0480, 7455-09-00-0050, and 7455-10-02-0160

II. Findings

A. The subject properties are currently zoned PUD, Planned Unit Development, and MU, Mixed Use (**Exhibit B**). Three of the four parcels are included in the approved Hampton Inn PUD Master Development Agreement (MDA). The MDA allows a three-story, 112-unit hotel, with associated site improvements. The property owners have recently acquired the fourth parcel, which is the subject of this amendment. The new parcel will be used to provide an additional 36 parking spaces for the approved hotel. A copy of the revised MDA and associated Conceptual Development Plan is attached as **Exhibit C.** The surrounding future land use designations, existing land uses, and zoning districts are as follows:

North

Future Land Use: Medium-Density Residential
Existing Land Use: Residential / Vacant

Zoning: R-3A, Single-Family and Two-Family Residential

South

Future Land Use: Commercial
Existing Land Use: Commercial, Vacant
Zoning: MU, Mixed Use

East

Future Land Use: Commercial
Existing Land Use: Commercial, Vacant
Zoning: MU, Mixed Use

West

Future Land Use: Commercial
Existing Land Use: Commercial, Residential
Zoning: MU, Mixed Use

B. In conjunction with the request to amend the Master Development Agreement, the applicant has also submitted an application to change the approved site plan and an application for site plan approval for the proposed additional parking. Once approved, the proposed parking lot addition would create 36 additional parking spaces for the hotel, resulting in a total of 97 parking spaces. The site plan for the parking lot addition is scheduled for the March 2, 2012 Plan Review Committee meeting.

C. Primary access to the site would continue to be provided from a two-way driveway on Flagler Avenue. A one-way exit onto Flagler Avenue is also provided. A two-way gated emergency access will also be provided on Florida Avenue.

D. The City's *Land Development Regulations* states that requests to rezone property shall be reviewed for consistency with the City's *Comprehensive Plan* and *Land Development Regulations.* The additional parcel is currently zoned MU, Mixed Use, and has a future land use designation of Commercial. Because the intent is to rezone the additional parcel to PUD, any development parameters identified in the MDA would apply to this parcel. Any items not addressed in the MDA would default back to the City's *Land Development Regulations*. The following items relate to compliance with the MDA and the City's *Land Development Regulations*. It should be noted that these items relate to information shown on the Conceptual Development Plan, as that is included as an exhibit to the MDA. Other items may be identified during the site plan review process, which may require modifications as well.

- A minimum five-foot wide perimeter landscape buffer is required by the MDA. As shown on the Conceptual Development Plan, the minimum landscaping requirement has been met.

- The additional parcel, which is the subject of this amendment to the MDA, is not located within the City's Community Redevelopment Agency (CRA) district. Therefore, the parking space size reductions do not automatically apply to this parcel. Typically, parking spaces throughout the City are required to be a minimum of 10' x 20'. However, within the CRA, parking spaces are only required to be a minimum of 9' x 18'. Therefore, the applicant has requested that the MDA be revised to include language that would allow the 9' x 18' parking spaces on the non-CRA parcel.

E. Pertinent goals, objectives and policies in the City's *Comprehensive Plan* are listed below (staff's comments are in **bold**).

- **Future Land Use Element, Goal 1, Objective 1, Policy k:** Promote the redevelopment of brownfield and grayfield sites to reduce distances between destinations and relieve pressures for Greenfield development.

  On August 11, 2009, the City Commission designated the entire Community Redevelopment Agency (CRA) district as a brownfield. While the proposed parking lot is not within the CRA district, this lot will support the approved hotel development, which is located on a designated brownfield site within the CRA boundaries.

  The proposed development is consistent with this Objective of the *Comprehensive Plan*.

- **Future Land Use Element, Goal 1, Objective 3, Policy b:** The City shall, through enforcement of its *Land Development Regulations*, continue to ensure that the transportation facilities function safely and effectively by limiting curb cuts on arterial roads, providing for common access points, and ensuring safe and convenient on-site and inter-parcel circulation.

  As discussed in Finding "C", above, primary access to the site will be from a two-way drive on Flagler Avenue. There will also be a one-way exit onto Flagler Avenue as well. While a two-way driveway will be constructed on Florida Avenue, it will be gated, and may only be used during times when Flagler Avenue is closed to traffic or by approval of the City Manager. No new curb cuts are proposed for the additional parking lot which is the subject of this amendment.

  The proposed development is therefore consistent with this Policy of the *Comprehensive Plan*.

- **Future Land Use Element, Goal 1, Objective 6, Policy c:** Mitigate the visual and physical impacts of parking areas to surrounding residential development and public right-of-way with interior parking lot and perimeter landscaping.

  As discussed in Finding "D", above, a minimum five-foot wide landscape buffer is required around parking areas in the Mixed Use zoning district. This requirement has been met.

  Both the City's *Land Development Regulations* and the approved Hampton Inn MDA require 10% interior landscaping for all parking lots. The calculation provided by the project engineer indicates that the total parking lot area is 41,492 square feet. The required 10% interior landscaping would be 4,149.2 square feet. The total amount of interior landscaping to be provided is 4,614 square feet, or 11%.

  The proposed development is consistent with this Objective of the *Comprehensive Plan*.

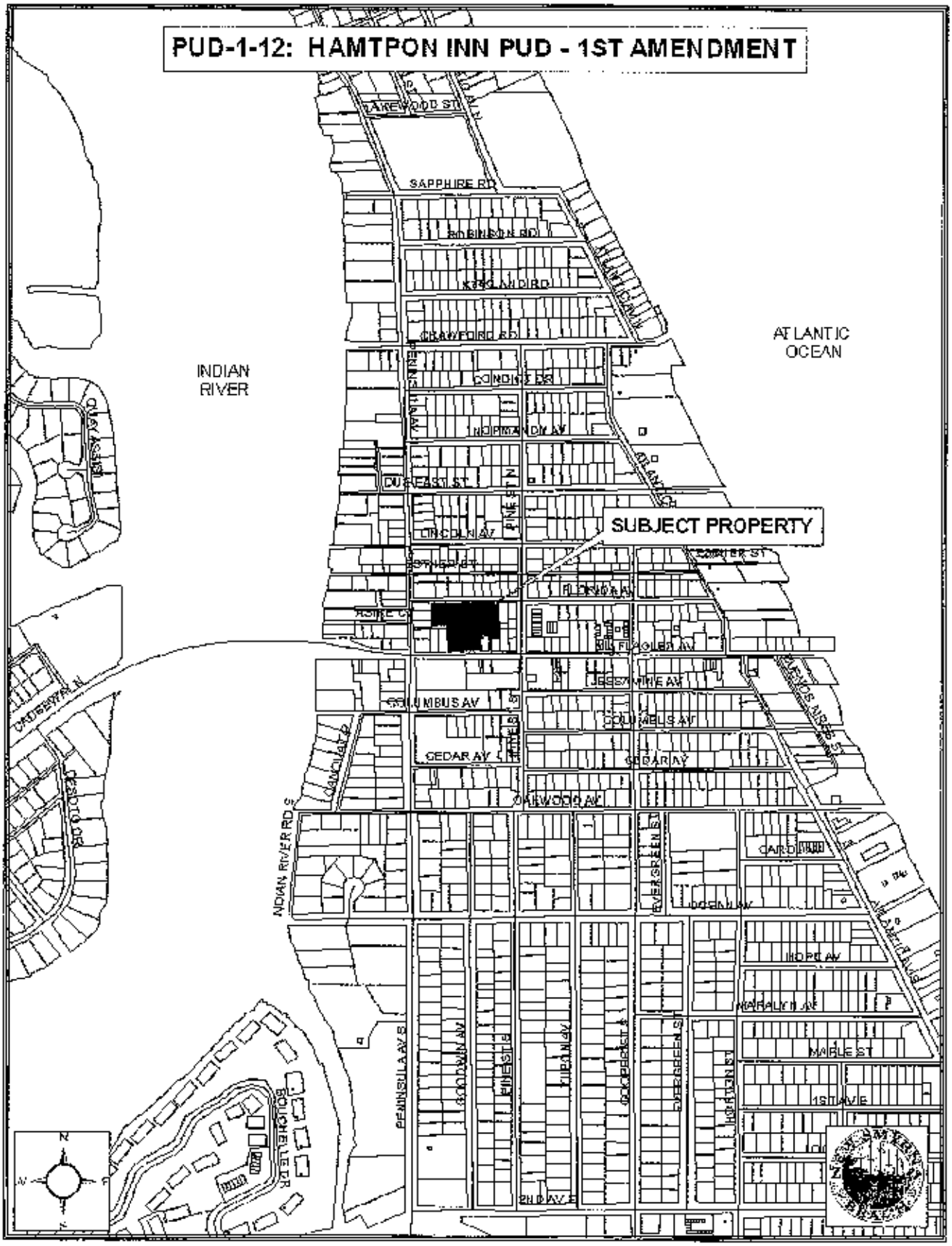
- **Future Land Use Element, Goal 6, Objective 2, Policy d:** Broaden the Tourism Market: The CRA shall partner with the City, the Southeast Volusia Chamber of Commerce and other public and/or private organizations in order to provide additional parking and promote development of hotels in strategic locations

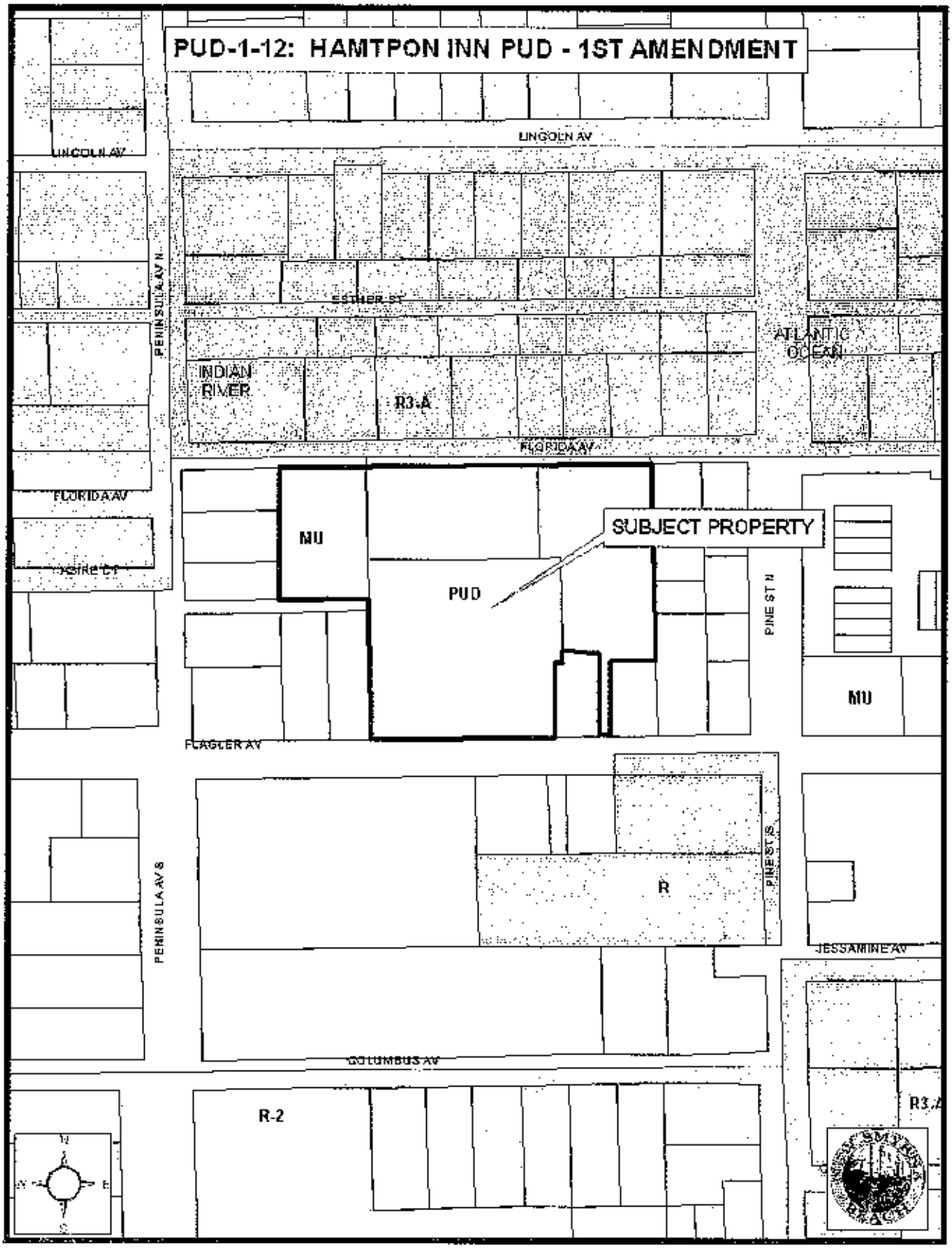
  The parcel that is the subject of this amendment will be used for additional parking for the approved hotel.

  The proposed development is consistent with this Objective of the *Comprehensive Plan*.

III. Recommendation

Staff recommends that the Planning and Zoning Board recommend to the City Commission approval of the 1st Amendment to the Hampton Inn New Smyrna Beach Planned Unit Development Master Development Agreement and Conceptual Development Plan.


PUD-1-12: HAMTPON INN PUD - 1ST AMENDMENT
SUBJECT PROPERTY
INDIAN RIVER
ATLANTIC OCEAN
SAPPHIRE RD
CRAWFORD RD
CONDICT DR
NORMANDY AV
DUE EAST ST
LINCOLN AV
FLORIDA AV
FLAGLER AV
JESSAMINE AV
COLUMBUS AV
CEDAR AV
OAKWOOD AV
INDIAN RIVER RD S
EVERGREEN ST
HOPE AV
MARLE ST
1ST AVE
2ND AVE
PENINSULA AV S
GOODWIN AV
PINE ST S
TUPON AV
COOPER ST S
HORTON ST
BOUCHELLE DR
CAUSEWAY N
DESOTO DR
CANDIAT D
PINE ST N
ATLANTIC AVE


PUD-1-12: HAMTPON INN PUD - 1ST AMENDMENT
LINCOLN AV
LINCOLN AV
PENINSULA AV N
ESTHER ST
INDIAN RIVER
R3-A
ATLANTIC OCEAN
FLORIDA AV
FLORIDA AV
MU
SUBJECT PROPERTY
PUD
PINE ST N
MU
FLAGLER AV
PENINSULA AV S
R
PINE ST S
JESSAMINE AV
COLUMBUS AV
R-2
R3-A

HAMPTON INN NEW SMYRNA BEACH
PLANNED UNIT DEVELOPMENT (PUD)
MASTER DEVELOPMENT AGREEMENT (MDA)
1st AMENDMENT

ORDINANCE # _____

GRANTING THE REQUEST TO AMEND THE MASTER DEVELOPMENT AGREEMENT AS PROVIDED IN ORDINANCE # 01-10

This AGREEMENT AMENDMENT, entered into and made effective this _____ day of _____, 2012, by and between **HIHO, LLC/PREMIER DEVELOPMENT GROUP**, referred to herein as "Developers", and the **CITY OF NEW SMYRNA BEACH, FLORIDA,** a political Subdivision of the State of Florida, referred to hereafter as "City", for the development of the **HAMPTON INN NEW SMYRNA BEACH**, referred to hereafter as the "Property".

RECITALS

WHEREAS, Florida Statutes, Chapter 163, grants the City authority to enact developer's agreements and the terms herein are consistent with all governing Statutes as it pertains to any and all terms and conditions of this agreement; and,

WHEREAS, the City of New Smyrna Beach Code of Ordinances, Part III Land Development Regulations, Article V, Paragraph 504.00, further grants the City authority and procedures to be followed to enact a developer's agreement and any amendments thereof; and,

WHEREAS, the parties are in agreement under the authority of Ordinance #01-10 as to the terms of this Agreement as Amended; and

WHEREAS, this Amendment to this Agreement is in the best interest of the citizens of the City of New Smyrna Beach, Florida.

NOW THEREFORE, in consideration of these recitals, the mutual agreement, the receipt and sufficiency of which is hereby acknowledged, the parties agree to amend Article III and Exhibit "A" of the Agreement as follows:

ARTICLE III

RESPONSIBILITIES OF THE PARTIES

DEVELOPER'S RESPONSIBILITIES AND UNDERSTANDING

3.1 PERMITTED USES: The entire (~~1.73-acre~~) 2.02-acre Property will be developed with no more than 112 transient lodging units and a maximum FAR of 2.0. Customary accessory uses associated with transient lodging facilities shall also be permitted. Such customary accessory uses include, but are not limited to, gift shops, swimming pools, exercise facilities, meeting facilities, banquet facilities, food service, laundry facilities and game rooms.

***

3.4 PARKING: Parking shall be provided as required by Section 604.10 of the City's Land Development Regulations. Additionally, the Developers may reduce the amount of required parking by up to 25%, as allowed by Section 504.02 of the City's Land Development Regulations. In no case shall less than 52 parking spaces be provided on the Property. Minimum dimensions for all parking spaces shall be 9' x 18'.

***

Exhibit "A" Legal Description, as recorded in Book: 6624 on Page: 1868 is replaced by the Amended and attached Exhibit "A" to reflect the addition of Parcel 7455-10-02-0160.

Exhibit "B" Conceptual Development Plan, as recorded in Book: 6624 on Page 1870 is replaced by the Amended and attached Exhibit "B" to reflect to addition of Parcel 7455-10-02-0160.

This First Amendment shall be effective as of the date it is executed by all parties.

This First Amendment shall be recorded in the Public Records of Volusia County, Florida, at the Developer's expense.

All provisions and elements of the MDA as recorded in Book: 6624 on Page: 1854 are thereafter this modification/amendment will remain in effect.

IN WITNESS WHEREOF, the parties have executed this First Amendment, by and through their duly authorized representatives, on the respective dates below.

WITNESSES:

THE CITY OF NEW SMYRNA BEACH,

EXHIBIT C (CONT'D)

FLORIDA, a Florida municipal corporation

By:

Adam Barringer, Mayor

Attest:

By:

Johnny Bledsoe, City Clerk

Witness 1

Print Name of Witness 1

Witness 2

Print Name of Witness 2

HIHO, LLC/PREMIERE DEVELOPMENT GROUP
A South Carolina Corporation

WITNESSES:

By:

Printed Name:

Its:

Date:

Witness 1

Print Name of Witness 1

Witness 2

Print Name of Witness 2

STATE OF FLORIDA
COUNTY OF VOLUSIA

EXHIBIT C (CONT'D)

The foregoing instrument was acknowledged before me this _____ day of _____, 2012, by Adam Barringer and Johnny Bledsoe, as Mayor and City Clerk, respectively, of the City of New Smyrna Beach, Florida, a Florida Municipal Corporation, on behalf of the City of New Smyrna Beach. They are personally known to me and did not take an oath.

_____
Notary Public, State of Florida
Type or Print

Name:_____

Commission No.

_____

My Commission Expires: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this _____ day of _____, 2012, by _____, as _____ of HIHO, LLC/Premiere Development Group, a South Carolina Corporation, on behalf of the company. He/she is personally know to me or has produced _____ as identification and did not take an oath.

_____
Notary Public, State of Florida
Type or Print

Name:_____

Commission No.

_____

My Commission Expires: _____

Approved as to form and correctness.

_____
City Attorney
Date: _____

EXHIBIT C (CONT'D)

EXHIBIT A
LEGAL DESCRIPTION

~~LOTS 5 6 & 7 & W 40 FT OF LOT 8 COOPER SUB WALKER GRANT & IN C LOTS 44 TO 47 ASSESSORS WALKER GRANT PER OR 2234 PG 0557 PER COPY OF DC PER OR 5845 PG 0914 PER D/C 6057 PG 4763 PER D /C 6273 PG 1941~~

~~ALONG WITH~~

~~LOTS 18 TO 20 INC RESUB BLK 2 LONGSTREET SUB WALKER GRANT MB 8 PG 81 PER OR 2896 PG 0879 AND LOT 48 EXC S 10 FT OF W 40 FT & LOTS 49 79 & 80 & E 9 FT OF LOT 78 WALKER GRANT & INC E 10 FT OF LOT 9 COOPER SUB MB 4 PG 96 PER OR 2896 PG 0879~~

PARCEL 1:

LOT 42 EXCEPT THE WESTERLY 100 FEET, ASSESSOR'S SUBDIVISION OF THE ROBERT WALKER GRANT, ACCORDING TO THE PLAT THEREOF AS RECORDED IN MAP BOOK 3, PAGE 150, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

AND

LOTS 16 AND 17, RESUB., BLOCK 2, OF H. C. LONGSTREET'S REVISED SUBDIVISION OF LOT 5, BLOCK 1, ALDEN SUBDIVISION OF THE ROBERT WALKER GRANT, ACCORDING TO THE PLAT THEREOF AS RECORDED IN MAP BOOK 8, PAGE 81, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

PARCEL 2:

LOTS 5, 6, 7 AND THE WEST 40 FEET OF LOT 8, W. L. COOPER'S SUBDIVISION OF THE ROBERT WALKER GRANT, ACCORDING TO THE PLAT THEREOF AS RECORDED IN MAP BOOK 4, PAGE 96, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, LESS AND EXCEPT THAT PORTION IN FLAGLER AVENUE.

AND

EXHIBIT C (CONT'D)

LOTS 44, 45, 46 AND 47, ASSESSOR'S SUBDIVISION OF THE ROBERT WALKER GRANT, ACCORDING TO THE PLAT THEREOF AS RECORDED IN MAP BOOK 3, PAGE 150, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

PARCEL 3:

THE EAST 10 FEET OF LOT 9, W. L. COOPER'S SUBDIVISION OF THE ROBERT WALKER GRANT, ACCORDING TO THE PLAT THEREOF AS RECORDED IN MAP BOOK 4, PAGE 96, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, LESS AND EXCEPT THAT PORTION IN FLAGLER AVENUE.

AND

LOT 48, EXCEPT THE SOUTH 10 FEET OF THE WEST 40 FEET, LOT 49, LOT 79 AND LOT 80, ASSESSOR'S SUBDIVISION OF THE ROBERT WALKER GRANT, ACCORDING TO THE PLAT THEREOF AS RECORDED IN MAP BOOK 3, PAGE 150, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

AND

THE EAST 17 FEET OF LOT 3, BLOCK 2, H. C. LONGSTREET REVISED SUBDIVISION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN MAP BOOK 4, PAGE 160, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, ALSO DESCRIBED AS: THE EAST 17 FEET OF LOT 78, ASSESSOR'S SUBDIVISION OF THE ROBERT WALKER GRANT, ACCORDING TO THE PLAT THEREOF AS RECORDED IN MAP BOOK 3, PAGE 150, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

AND

LOTS 18, 19 AND 20, CORRECTED MAP OF H. C. LONGSTREET'S REVISED SUBDIVISION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN MAP BOOK 8, PAGE 81, OF THE PUBLIC RECORS OF VOLUSIA COUNTY, FLORIDA.

EXHIBIT C (CONT'D)

THIS EXHIBIT TO BE REPLACED WITH FOLLOWING PAGE

Instrument# 2011-141118 # 19
Book: 6624
Page: 1870

Conceptual Development Plan Criteria	Proposed In Plan	Comments
Activity Zone area (acres)	Commercial Mixed Use (CRA)R-3	
Locations and dimensions of zone lines	Private Utility-Hospitality (CRA)	
Location of Proposed Buildings	Proposed Single Building	
Density of Residential Dwellings	15 per Acre Authorized or 127 Units Total Acreage is approximately 8.7 acre feet Open space will be no less than .34 Acre	112 Non-residential units
Total Acreage and location of Open Space		
Total Acreage and location of common area space	Not Applicable	
Proposed Rights-of-Way	Not Applicable	
Proposed front, side, rear setbacks	15 feet on front side yard, 23 feet on the east side yard (including the 15 Ft. of Prime Orchard), 5 feet on south side yard, and 60 feet on north front yard Five Feet Bushes on all sides, allowing for ventilation driveways to be landscape buffer and the cashiers area is not to freely flooded space to mix with natural light drive-through porch incorporated on Flagler Ave.	Curb cuts are except be required for safety and access
Locations, dimensions, and contents of Buffer Areas	None	Actual Buffer length of trees underground Complete by Date 31, 2012 See Page 2 Detail
Locations, dimensions, and types of existing easements		
Proposed Phasing	Single Frame	
Locations of adjacent Offsite	Provided on conceptual plan	
Proposed Lot sizes	Single lot	
Site for Schools	Not applicable	
Locations of walkways	None	
Proposed number of Lots	Single lot	
Existing Character of the land	Parcel wooded, previous large structure, and CRA parking lots	
Elements Provided	Provided	
Additional information	Curb cuts	
General Feasibility for Utilities and Stormwater Solid Waste	Utilities Consolidation will provide all utilities including an site water, sewer, storm-water and Stormwater is self contained below grade storage/catchment Dumpster located on Conveight	
General Soil and vegetation types Access Drainage Patterns	Sandy soils; vegetation is predominately native and moderate canopy Provided	

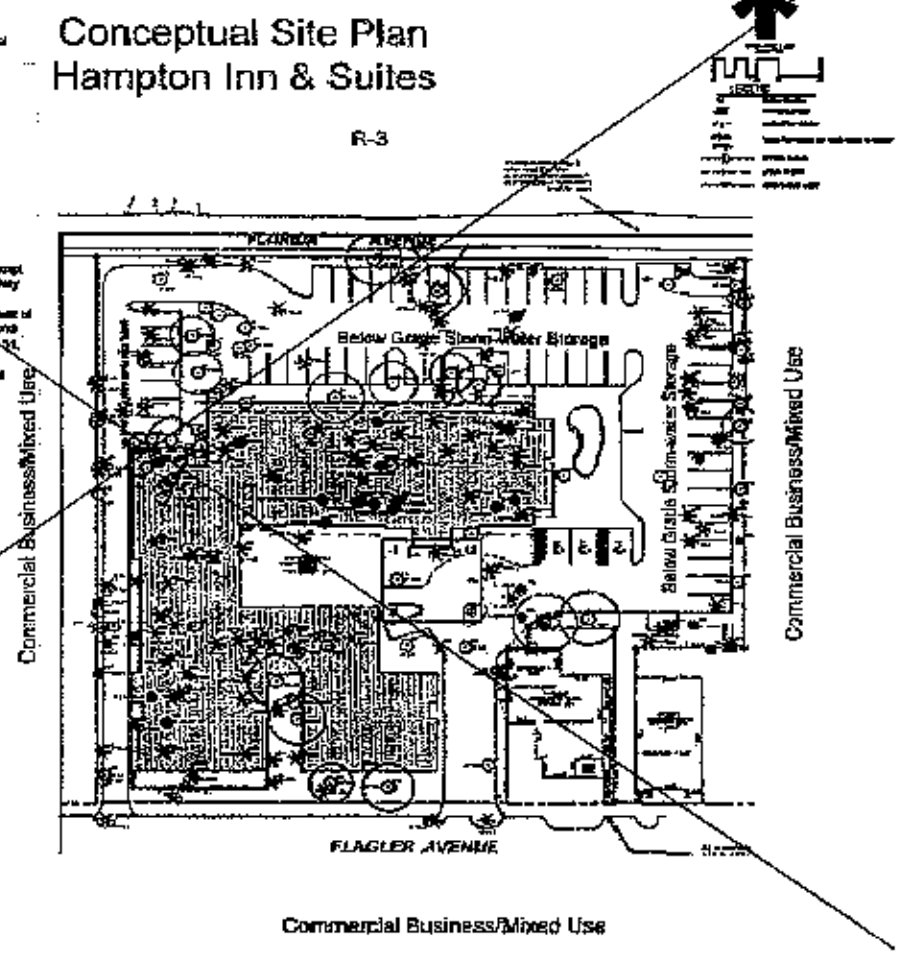
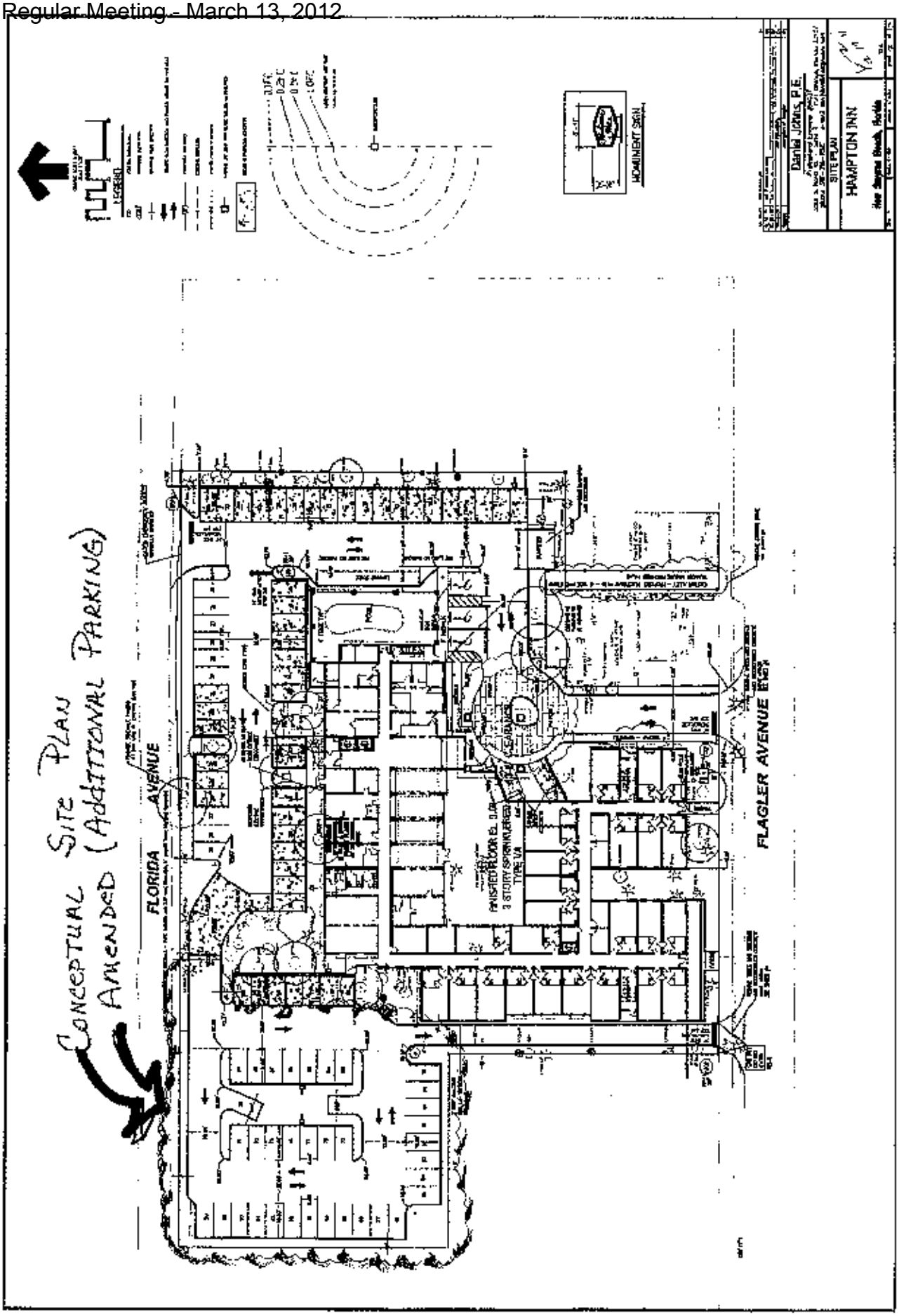


EXHIBIT C (CONT'D)



AGENDA ITEM SUMMARY

Department Making Request: **Planning and Engineering**

Meeting Date: 1st Reading: 2/28/12 2nd Reading: 3/13/12

Action Item Title: **Setbacks for Outparcels in the B-5 Zoning District**

Agenda Section: Consent ___ Public Hearing _X_ Special Items _____

Summary Explanation and Background: The City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida, 32168, requests approval of an amendment to the City's *Land Development Regulations* to revise the minimum building setbacks required for outparcels within the B-5 zoning district.

At its February 6, 2012 meeting, the Planning and Zoning Board voted unanimously, 7-0, to recommend the City Commission approve the amendment.

Recommended Action/Motion: **Approval**

Funding Analysis: Budgeted _X_ If not budgeted, recommended funding account:

Exhibits Attached: **Staff report dated February 6, 2012**

Reviewed By:	Name	Signature
Department Director:	Gail Henrikson	
City Attorney	Frank Gummey	
City Manager	Pam Brangaccio	

Commission Action:

ORDINANCE NO. 37-12

AN ORDINANCE AMENDING NEW SMYRNA BEACH ORDINANCE NO. 1-91, NEW SMYRNA BEACH LAND DEVELOPMENT REGULATIONS, ARTICLE V, ZONING DISTRICTS, SECTION 504.02, SPECIFIC REGULATIONS BY DISTRICT, BY REDUCING SETBACKS FOR OUTPARCELS IN THE B-5, PLANNED SHOPPING CENTER ZONING DISTRICT; PROVIDING FOR CODIFICATION; PROVIDING FOR PUBLIC HEARING; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida 32168, applicant, has requested an administrative amendment to Ordinance No. 1-91, New Smyrna Beach Land Development Regulations, Article V, Zoning Districts, Section 504.02, Specific Regulations by District, by reducing setbacks for outparcels in the B-5, Planned Shopping Center Zoning District; and

WHEREAS, the Planning and Zoning Board, at its meeting of February 6, 2012, by a vote of 7-0 recommended to the City Commission that the requested amendment be ***approved;*** and

WHEREAS, the City Commission deems it is in the best interests of the citizens of the City of New Smyrna Beach to amend the Land Development Regulations, as more particularly set forth hereinafter.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF NEW SMYRNA BEACH, FLORIDA:

SECTION 1: ***Amendment to Article V, Zoning Districts, Section 504.02, Specific Regulations by District.*** That New Smyrna Beach Ordinance No. 1-91, New Smyrna Beach Land Development Regulations, Article V, Zoning Districts, Section 504.02, Specific Regulations by District, is hereby amended to read as follows: **(Note: Deletions from text are indicated by ~~strikeout~~, additions to text are indicated by underline, and omissions in text are indicated by [...].)**

ARTICLE V
ZONING DISTRICTS

...

504.02. Specific regulations by district.

...

B-5, PLANNED SHOPPING CENTER DISTRICT

Intent. The B-5, Planned Shopping Center District is intended for the establishment of retail shopping facilities which will provide goods and services for the people to be served, minimize traffic congestion on thoroughfares and public streets in its vicinity, and shall conform to the policies of the New Smyrna Beach land use map.

Permitted uses.

...

Dimensional requirements.

Minimum site size: Five acres for entire project; 40,000 square feet for an outparcel.

Building location: No building **within the primary B-5 parcel** shall be located within 50 feet of any property line abutting a public right-of-way and 25 feet to any other property line. **Buildings within outparcels shall be located a minimum of 40 feet from any public right-of-way, 10 feet from any lot lines internal to the same B-5 Shopping Center project, and 25 feet to any other property line.**

...

SECTION2: ***Codification***. Following adoption of this ordinance, the City Attorney shall transmit a copy of this ordinance to Municipal Code Corporation of Tallahassee, Florida, to be codified into the City's Code of Ordinances. Municipal Code Corporation's usual and customary fee for said codification service is hereby approved.

SECTION 3: ***Public Hearing.*** That a public hearing considering the adoption of this ordinance held March 13, 2012, in the City Commission Chambers at City Hall, 210 Sams Avenue (south entrance on Julia Street), New Smyrna Beach, Florida, after notice published, is found to comply with §166.041(3)(a), F.S.

SECTION 4: ***Conflicting Ordinances.*** That all ordinances or parts thereof that are in conflict with this ordinance shall be and the same are hereby rescinded and repealed.

SECTION5: ***Severability.*** That if any section, sentence, clause or phrase of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 6: ***Effective Date.*** That this ordinance shall take effect immediately upon its final adoption.

APPROVED AS TO FORM AND CORRECTNESS:

FRANK B. GUMMEY, III
City Attorney

DATE: 2/20/12

Setbacks for Outparcels in B-5 Zoning District-Land Development Regulations Amendment
First Reading February 28, 2012
Public Hearing March 13, 2012
February 16, 2012
3:13 PM

CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES

ZT-1-12: LDR AMENDMENT – B-5 OUTPARCEL BUILDING SETBACKS

FEBRUARY 6, 2012

Background

A. **Applicant:** City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida, 32168

B. **Request:** Approval of an amendment to the City's *Land Development Regulations* to revise the minimum building setbacks required for outparcels within the B-5 zoning district.

Findings

A. Section 504.02 of the City's *Land Development Regulations* details the specific regulations required for each zoning district within the City. This includes the minimum dimensional requirements within the B-5 Planned Shopping Center District. A common development practice within such shopping center properties, such as those within the City's B-5 zoning districts, is to subdivide "outparcels." These outparcels are smaller lots, usually along the street frontage and/or property boundaries, and typically used for stand-alone commercial buildings such as banks, fast food providers, etc., oftentimes with associated drive-though facilities. While the minimum lot area for the entire B-5 property is 5 acres, the minimum lot area specified for outparcels in the B-5 district is 40,000 square feet, slightly less than one acre.

B. The B-5 District Regulations contain specific building setbacks, which require minimum setbacks of 50' from any right-of-way line and 25' from any other property line. These setbacks currently apply to any building within the B-5 zoning district, regardless of whether it is the primary B-5 shopping center building, which is typically large, or those other smaller buildings that might be proposed within the commonly much smaller outparcels.

C. On December 5, 2011, the City Planning & Zoning Board heard and acted on a variance case (V-12-11, Ferber/735 3rd Avenue), which was specifically based on the requirement for a 25' building setback within an existing outparcel. A variance was granted in that case to reduce the setback from a property line that was internal to the existing site development, from 25' to 5.' While there were various other mitigating factors in this variance request, a primary factor in this case was the substandard lot area of the outparcel in question, which at 27,000 square feet was much less than the minimum 40,000 square foot requirement. During this meeting, the question arose as to why the typically much smaller outparcels were subject to the same setback requirements as the much larger entire shopping center parcels, which are required to be at minimum over five times larger in area and which typically contain much larger and more imposing buildings. The issue of possibly providing lesser building setbacks that were specific to outparcels in the B-5 District was discussed at length, and the Board

directed staff to review the current requirements and bring this matter back for further discussion and possible amendment.

D. The City's *Land Development Regulations* lists specific regulations for minimum building setbacks and other dimensional requirements for each zoning district within the City. While somewhat different in their intended purpose and permitted uses, the two City zoning districts most compatible to the primary retail function of the B-5 District are the B-3 Highway Service Business and B-2 Neighborhood Business Districts. Building setbacks in the B-3 District have historically been 40' for front yards (adjacent to the primary right-of-way frontage), 20' for front yards (adjacent to any secondary right-of-way frontage), and 10' for side and rear yard areas. Revisions to these standards for B-3 properties within the U.S. 1 corridor were recently approved by both the Planning and Zoning Board and City Commission, which lessened the previous building setback requirements in that defined area. The minimum building setbacks that now apply to these U.S. 1 properties are 5' for front yards (adjacent to any right-of-way frontage), 5' for side yards, and 10' for rear yard areas. The minimum setback requirements for the B-2 District are essentially the same as the standard (non-U.S. 1 corridor) B-3 District, with the only difference being that B-2 front yards adjacent to primary right-of-way frontage are required to be a slightly lesser amount, a minimum of 35.'

E. A review of development regulations within other Volusia County jurisdictions was done to compare various setback requirements for shopping centers and associated outparcels. Some of these regulations leave the setback requirements unspecified, preferring a PUD/Development Agreement approach to individual sites and proposed shopping centers. The zoning that was found to be the most directly comparable to the City's B-5 Planned Shopping Center District was the B-3 Shopping Center District in the Land Planning section of the Volusia County Code of Ordinances, which applies to unincorporated areas of the County only. These B-3 Volusia County regulations first differ by requiring a much lesser minimum outparcel area, of only 15,000 square feet. There are building setbacks specific just to these B-3 outparcels, which are dependent on the function of the adjacent property line, and are as follows:

Front setback (adjacent to any right-of-way frontage)	35'
Side & Rear setbacks	
(abutting and internal to the B-3 shopping center)	10'
(abutting nonresidential zoning, outside the B-3 shopping center)	50'
(abutting residential or agricultural zoning)	100'

F. Consequently, from a review of required building setbacks in various zoning districts inside and outside of the City limits, and discussion of possible impacts to outparcel development due to current requirements, staff proposes the following changes in the City B-5 Planned Shopping Center District:

- **Decrease the front yard building setback for outparcels to 40', and**
- **Decrease all other outparcel building setbacks as follows:**

10' adjacent to those lot lines internal to the same B-5 Shopping Center project, and
25' adjacent to all other property lines.

These proposed revisions would allow for greater flexibility in building and site developments within B-5 zoned outparcels, and would not change any current requirements adjacent to neighboring properties. The sole revision proposed adjacent to any B-5 property boundary would allow for outparcel buildings to be closer to the arterial roadway, but no more than the B-3 Highway Service Business District currently allows. It should also be noted that any affected parcels within the designated Corridor Overlay Zones (COZ) along SR 44 and US1 would still have to meet any applicable COZ setback requirements.

Recommendation

Staff recommends **approval** of the proposed changes to the City's *Land Development Regulations*, as shown below (~~strikethroughs~~ are deletions and underlines are additions).

Dimensional requirements:

Minimum site size: Five acres for entire project; 40,000 square feet for an outparcel.

Building location: No building within the primary B-5 parcel shall be located within 50 feet of any property line abutting a public right-of-way and 25 feet to any other property line. Buildings within outparcels shall be located a minimum of 40 feet from any public right-of-way, 10 feet from any lot lines internal to the same B-5 Shopping Center project, and 25 feet to any other property line.

AGENDA ITEM SUMMARY

Department Making Request: **Planning and Engineering**

Meeting Date: 1st Reading: 2/28/12 2nd Reading: 3/13/12

Action Item Title: **Annual Capital Improvements Element Update**

Agenda Section: Consent ___ Public Hearing _X_ Special Items _____

Summary Explanation and Background: The City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida, 32168, requests approval of a modification to update the Capital Improvements Element found in the City's *Comprehensive Plan,* as mandated by Florida Statutes.

At the February 6, 2012 Planning and Zoning Board meeting, the Board voted unanimously, 7-0, to recommend the City Commission approve the modification.

Recommended Action/Motion: **Approval**

Funding Analysis: Budgeted _X_ If not budgeted, recommended funding account:

Exhibits Attached: **Staff report dated February 6, 2012**

Reviewed By:	Name	Signature
Department Director:	Gail Henrikson	GAHenrikson
City Attorney	Frank Gummey	[illegible]
City Manager	Pam Brangaccio	Pam Brangaccio

Commission Action:

ORDINANCE NO. 38-12

AN ORDINANCE MODIFYING THE CITY OF NEW SMYRNA BEACH'S CAPITAL IMPROVEMENTS ELEMENT IN ACCORDANCE WITH §163.3177(3)(b), FLA. STAT.,; PROVIDING FOR PUBLIC HEARING; PROVIDING FOR CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Sec. 163.3177(3)(b) of the Florida Statutes requires that the Capital Improvements Element of the City's 1990 Comprehensive Plan shall be reviewed on an annual basis and modified as necessary; and

WHEREAS, the aforesaid modifications to the Capital Improvements Element may not be deemed to be amendments to the Comprehensive Plan. §163.3177(3)(b), F.S.; and

WHEREAS, the Planning and Zoning Board on February 6, 2012, by a vote of 7-0 adopted a recommendation that the City Commission ***approve*** the aforesaid modification to the Capital Improvements Element; and

WHEREAS, the City Commission deems it is in the best interests of the citizens of the City of New Smyrna Beach to modify the Capital Improvements Element as more particularly set forth hereinafter.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF NEW SMYRNA BEACH, FLORIDA:

SECTION 1: ***Modification.*** That the City of New Smyrna Beach's Capital Improvements Element, is hereby modified as follows: **(Note: Deletions from text are indicated by ~~strikeout~~, additions to text are indicated by underline, and omissions in text are indicated by [...].)**

SEE EXHIBIT "A" ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF.

SECTION 2: ***Public Hearing.*** That a public hearing considering the adoption of this ordinance held March 13, 2012, in the City Commission Chambers at City Hall, 210 Sams Avenue (south entrance on Julia Street), New Smyrna Beach, Florida, after notice published, is found to comply with §166.041(3)(a), F.S.

SECTION 3: ***Conflicting Ordinances.*** That all ordinances or parts thereof that are in conflict with this ordinance shall be and the same are hereby rescinded and repealed.

SECTION 45: ***Effective Date.*** That this ordinance shall become effective immediately upon its final adoption.

APPROVED AS TO FORM AND CORRECTNESS:

FRANK B. GUMMEY, III
City Attorney

DATE: 2/20/12

XII. CAPITAL IMPROVEMENTS ELEMENT

A. PURPOSE

The purpose of the Capital Improvements Element (CIE) and the capital improvement schedule (Schedule) of the *City of New Smyrna Beach Comprehensive Plan* is to evaluate the need for public facilities as identified in other Elements of this Plan. In addition, the Capital Improvements Element will present an analysis of the fiscal capability of the City to fund needed public facilities, recommend financial policies to guide the funding of those identified improvements, and to schedule the funding and construction of improvements over a five-year period in a manner necessary to ensure that capital improvements are provided when required.

Under the 1985 Growth Management Act, local governments are mandated to plan for the availability of public facilities and services to support development and the impacts of such development. The 2005 Growth Management Act (Senate Bill 360) requires required the Schedule to be financially feasible. However, this requirement was eliminated in 2011 with the adoption of House Bill 7207.

~~As defined~~ by §163.3164(32), ~~*Florida Statutes*, in order for a Schedule to be financially feasible, it~~ must ~~demon~~strate that sufficient ~~revenues are currently available or will be available from com~~mitted funding ~~sources~~ for the first ~~three (3) years, or will be available from committed or planned fun~~ding sources for years ~~four (4) and five (5). These revenues must be adequate to fund the~~ projected costs ~~of the capital improvements identified in the *Comprehensive Plan* necessary to ensure~~ that adopted ~~level-of-service~~ (LOS) ~~standards are achieved and maintained within the period covered by the five (5)~~ year Schedule~~.~~

~~Pursuant to §163.3180(16)(f), *Florida Statutes*, if the funds in an adopted five (5) year capital improvements element are insufficient to fully fund construction of a transportation improvement~~ required ~~by the local government's concurrency management system, a local government and a~~ developer may still enter into ~~a binding proportionate-share agreement authorizing the~~ developer to construct that amount ~~of development on which the proportionate~~-share is calculated if the ~~proportionate-share amount in such agreement is sufficient to pay for~~ one or more improvements ~~which will, in the opinion of the governmental entity or entities~~ maintaining the transportation ~~facilities, significantly benefit the impacted transportation system.~~

B. CAPITAL IMPROVEMENTS INVENTORY

NEEDS DERIVED FROM OTHER ELEMENTS

The analysis documented in the preceding *Comprehensive Plan* elements have identified facility improvements needed to meet the existing service deficiencies and those needed to meet the demands of future growth.

The geographic service areas and locations were identified for major public education ~~and public health system~~ components. System Educational components whose service areas include the City of New Smyrna Beach are identified in the list in Table XII-1. The public education system is operated by the Volusia County School Board, ~~and the public health systems are o~~perated by the Volusia County ~~Health Department~~.

Table XII-1 Public Education ~~and Public Health~~ Facilities Serving the New Smyrna Beach Area

EXHIBIT
A
Ord. 38-12
(34 Pages)

Public Education Facilities
Chisholm Elementary School
Coronado Elementary School
New Smyrna Beach High School
New Smyrna Beach Middle School
Read-Patillo Elementary School
~~Public Health Facilities~~
~~Bert Fish Medical Center~~
~~Volusia County Health Department~~

The Volusia County School Board presently bases its needs assessments on the findings of the Educational Plant Survey, prepared every five (5) years by the State Department of Education in accordance with *Florida Statutes*. The last survey was completed in April 2008. The results of this survey at that time, indicated a need for a new elementary school to relieve Cypress Creek, Horizon, and Chisholm Elementary Schools. A new K-8 school is was also identified as being required to relieve New Smyrna Beach Middle School and Indian River and Edgewater Elementary Schools. The School Board has already acquired an elementary school site in New Smyrna Beach, which could potentially be the site for the new elementary school. The School Board has also acquired a site for the ~~needed~~ recommended K-8 facility along State Road 442 in the southwestern section of the City of Edgewater, which is anticipated to open August 2014. Additions and remodeling have occurred at Chisholm Elementary and New Smyrna Beach Middle School. The remainder of the existing education facilities was noted as being in excellent or good condition and was adequately served by roadways, sanitary sewer, solid waste, stormwater drainage, potable water, and recreation facilities.

~~The State of Florida Agency for Health Care Administration determines the need for new health-care facilities with a formula based on occupancy rates, historic use by age group, and population projects by age group. The Bert Fish Medical Center operates within the City of New Smyrna Beach incorporated area and serves the entire southeast Volusia County area.~~

Individual capital improvement needs identified in this element are, for the most part, those improvements, which cost $25,000 or more and are generally non-recurring purchase items. The capital improvements identified in the other elements of this *Comprehensive Plan* are listed in Table XII-2 along with their estimated costs and projected year of expenditure. The improvements are listed by type of service, related to the various elements of the *Comprehensive Plan*. ~~As required by~~ Rule 9J-5.016, *Florida ~~Administrative Code, the~~* The Capital Improvements Element addresses existing and future capital improvements needed for at least the first five (5) fiscal years after the adoption of the *Comprehensive Plan*. Therefore, Table XII-2 lists improvements identified for the years 2010-2015 2011-2016. Table XII-3 details pending and approved proportionate fair-contributions for required transportation improvements. Table XII-6 identifies the *Volusia Transportation Planning Organization* (TPO) *Transportation Improvement Program FY ~~2010/11~~ – 2014/15 2011/12 – 2015/16*. Table XII-7 identifies the Volusia County School Board five (5) year work program which must be included within the CIE per the Public Schools Facility Element.

CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES

CPA-8-11: ANNAUL CAPITAL IMPROVEMENTS ELEMENT UPDATE

FEBRUARY 6, 2012

I. Background

A. Applicant: City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida, 32168

B. Request: Approval of an amendment the City's *Comprehensive Plan* to update the Capital Improvements Element, as mandated by Florida Statutes.

II. Findings

A. Every year local governments must update the Capital Improvements Element (CIE) of the *Comprehensive Plan*. The update must include a Five-Year Schedule of Capital Improvements.

B. Under the 1985 Growth Management Act, local governments are mandated to plan for the availability of public facilities and services to support development and the impacts of such development. The purpose of the CIE and the Five-Year Schedule of Capital Improvements is to identify the capital improvements that are needed to implement the *Comprehensive Plan* and ensure that the adopted Level of Service (LOS) standards are achieved and maintained for concurrency-related facilities.

C. The 2005 Growth Management Act (Senate Bill 360) requires the Five-Year Schedule of Capital Improvements to be financially feasible. However, the 2011 Growth Management Act (House Bill 7207) eliminated this requirement, along with the mandate that the CIE be updated by December 1st of each year. In response to the changes made to Chapter 163 of Florida Statutes, staff has made several revisions to the CIE to delete information that is no longer required. This amendment will constitute the 2011 update to the CIE. Another amendment will be completed in November 2012 for this calendar year.

D. The Five-Year Schedule of Capital Improvements includes all projects required to meet or maintain adopted LOS standards for concurrency-related facilities or implement the Goals, Objectives, and Policies of the *Comprehensive Plan*. The concurrency management system for the City of New Smyrna Beach is established by policy in the City's *Comprehensive Plan*, and administered through regulations contained within the City's *Land Development Regulations*. The Planning and Engineering Division is responsible for regularly monitoring the cumulative effect of all approved development on the capacity of public facilities.

E. The Capital Improvements Element is currently divided into eight different sections. These sections are described in further detail, below. As part of the proposed revisions, staff has deleted Sections C and E, both of which

addressed the issue of financial feasibility. As discussed above, it is no longer required that municipalities demonstrate that their 5-year capital improvements programs are financially feasible.

Section A: This is an introductory section, which explains why the City is required to adopt a Capital Improvement Element and what information is to be included in the element.

Section B: This section lists all the capital improvements needed to achieve and/or maintain adopted levels of service for concurrency-related infrastructure. The State mandates that cities monitor water, sanitary sewer, solid waste, parks, roads, stormwater drainage, and schools to ensure that adequate capacity is available to serve proposed developments. The capacity must be in place prior to or concurrent with the impacts from the proposed development.

Section C: This section details the revenue sources are available to the City. More than half (64%) of the City's revenue comes from ad valorem (property) taxes. Other sources of revenue include user fees, impact fees, franchise taxes, grants, and intergovernmental revenue sharing.

Section D: Section D details the level-of-service standards for concurrency related infrastructure. It also lists the different options the City has to ensure that concurrency continues to be met as future developments are proposed. Some of these options include obtaining additional right-of-way from developers to accommodate future road widening; utilization of the urban service area; and, if needed, adopting a moratorium until concurrency issues can be resolved.

Section E: Section E provides a fiscal assessment of the City's ability to pay for the required concurrency improvements. This section analyzes the City's projected revenues, debt obligations and expenditures to determine whether sufficient funds would be available to complete the projects outlined in Section B.

Section F: Section F contains is a summary section, which discusses various methods the City uses to monitor and evaluate the proposed Capital Improvements Program.

Section G: This section explains in further detail how City staff monitors and evaluates concurrency-related infrastructure to verify that sufficient capacity will be able to serve future development.

Section H: This section outlines the Goals, Objectives and Policies that the City hopes to accomplish. Goal 2, which relates to state-mandated school concurrency requirements, has not been changed. However, Goal 1, and its associated policies, has been revised to reflect the State's elimination of the requirement that the Capital Improvements Element be financially feasible.

III. Recommendation

Staff recommends that the Planning and Zoning Board recommend to the City Commission **approval** of the requested Comprehensive Plan amendment.

Table XII-2 Five (5) Year Capital Improvement Schedule

PROJECT #	DESCRIPTION	FY 10/11 11/12	FY 11/12 12/13	FY 12/13 13/14	FY 13/14 14/15	FY 14/15 15/16	TOTAL
WATER							
W-26	Upgrade Under-Sized Water Mains	220,500 320,500	232,000 337,000	244,000 254,000	268,000 267,000	280,000 280,000	1,234,500 1,460,000
Funding Source: Renewal and Replacement Fund		320,500 230,500	337,000 238,000	254,000 244,000	267,000 256,000	280,000 289,000	1,458,500 1,221,500
Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element, Potable Water Sub Element/Goal, Objective 1, Policy 3c							
W 26	New Customers Water Line Extensions	30,000 40,000	40,000	40,000	40,000	40,000 45,000	190,000 205,000
Funding Source: Renewal and Replacement Fund		40,000 30,000	40,000	40,000	40,000	40,000 45,000	190,000 205,000
Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element, Potable Water Sub Element/Goal, Objective 1, Policy 3c							
W-45	Road Project Relocation/Interagency Coop. Project	150,000	150,000 200,000	200,000	200,000	300,000 400,000	1,000,000 1,150,000
Funding Source: Renewal and Replacement Fund		150,000	150,000 200,000	200,000	200,000	300,000 400,000	1,000,000 1,150,000
Intergovernmental Coordination Element, Objective 2, Policies e-g; Objective 5, Policy a							
W-126	Water Production Equipment and Fixtures	198,500 223,000	222,000 191,300	191,400 242,700	242,800 208,200	200,000 264,000	1,064,700 1,129,200
Funding Source: Renewal and Replacement Fund		198,500 223,000	222,000 191,300	191,400 242,700	242,800 208,200	200,000 264,000	1,064,700 1,129,200
Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element, Potable Water Sub-Element/Goal, Objective 1, Policy 3g							
W-128	Water Distribution Equipment and Fixtures	252,400 264,900	264,000 279,300	278,300 295,100	295,100 308,800	303,000 327,000	1,399,700 1,474,900
Funding Source: Renewal and Replacement Fund		252,400 264,900	264,000 279,300	278,300 295,100	295,100 308,800	300,000 327,000	1,399,700 1,474,900
Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element, Potable Water Sub Element/Goal, Objective 1, Policy 3g							
W-127	Water Treatment Plan Hypochlorite Conversion	0	350,000 50,000	350,000 450,000	0	0	600,000
Funding Source: Renewal and Replacement Fund		0	350,000 50,000	350,000 450,000	0	0	500,000
Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element, Potable Water Sub-Element, Goal 4							
W-123	Future Water Supply (Alternative Water Supply Needs)	0	40,000	244,000	295,000	422,000	911,000
Funding Source: Renewal and Replacement Fund		0	40,000	244,000	295,000	422,000	911,000
Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element, Potable Water Sub-Element, Goal 4							
TOTAL		862,400 988,400	1,508,000 1,137,800	1,478,700 1,726,000	1,200,900 1,220,000	1,047,000 1,733,000	6,200,800 6,820,000
WASTEWATER							
WW-20	Manhole Lining Program	28,000 32,000	32,000 34,000	34,000 36,000	36,000 38,000	38,000 40,000	170,000 180,000
Funding Source: Renewal and Replacement Fund		28,000 32,000	32,000 34,000	34,000 36,000	36,000 38,000	38,000 40,000	170,000 180,000
Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element, Sanitary Sewer Sub Element/Goal, Objective 2, Policy 3a							
WW-38	Gravity Sewer Rehabilitation	100,000	300,000 300,000	300,000	300,000	300,000	1,200,000 1,300,000
Funding Source: Renewal and Replacement Fund		100,000	300,000 300,000	300,000	300,000	300,000	1,200,000 1,300,000
Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element, Sanitary Sewer Sub-Element/Goal, Objective 2, Policy 3g							
WW-49	Biosolids Process Upgrade	50,000 20,000	500,000	450,000	0	0	1,000,000 970,000
Funding Source: Renewal and Replacement Fund		50,000 50,000	500,000	450,000	0	0	1,000,000 970,000
Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element, Sanitary Sewer Sub-Element/Goal, Objective 2, Policy 3							
WW-61	Road Relocations/ Interagency Coop.	100,000	150,000	150,000 175,000	175,000	175,000	750,000 775,000
Funding Source: Renewal and Replacement Fund		100,000	150,000	150,000 175,000	175,000	175,000	750,000 775,000
Intergovernmental Coordination Element, Objective 2, Policies e-g; Objective 5, Policy a							
WW-69	Wastewater Collection Equip. and Fixtures	198,000 145,300	145,300 128,800	135,800 158,800	158,000 141,200	141,800 108,000	779,800 721,000
Funding Source: Renewal and Replacement Fund		199,000 145,300	145,300 128,800	135,800 158,800	158,000 141,200	141,800 108,000	779,800 721,000
Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element, Sanitary Sewer Sub-Element/Goal, Objective 2, Policy 3g							
WW-80	Wastewater Pumping Equip. and Fixtures	272,000 259,000	268,000 301,000	301,000 204,000	264,000 327,000	327,000 310,000	1,433,000 1,401,000
Funding Source: Renewal and Replacement Fund		272,000 259,000	268,000 301,000	301,000 204,000	264,000 327,000	327,000 310,000	1,433,000 1,401,000
Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element, Sanitary Sewer Sub Element/Goal, Objective 2, Policy 3g							
WW-81	Reconstruct Lift Stations	240,000 221,000	234,000 232,000	232,000 264,000	244,000 260,000	258,000 269,000	1,188,000 1,222,000
Funding Source: Renewal and Replacement Fund		240,000 221,000	234,000 232,000	232,000 264,000	244,000 260,000	258,000 269,000	1,188,000 1,222,000
Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element, Sanitary Sewer Sub-Element/Goal, Objective 2, Policy 3g							
WW-82	Repair/Upgrade 39 Lift Stations	236,000 0	248,000 100,000	260,000 105,000	273,000 110,000	287,000 116,000	1,304,000 431,000
Funding Source: Renewal and Replacement Fund		236,000 0	248,000 100,000	260,000 105,000	273,000 110,000	287,000 116,000	1,304,000 431,000

Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element, Sanitary Sewer ~~Sub-Element~~Goal, Objective 2, Policy ~~b~~a							
WW-63	System-Wide Infiltration/ Inflow Assessment	0	500,000	0	0	0	500,000
Funding Source: Renewal and Replacement Fund		0	500,000	0	0	0	500,000
Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element, Sanitary Sewer ~~Sub-Element~~Goal, Objective 3							
WW-65	Beachside Interceptor Force Main	0	200,000	750,000	1,000,000	250,000	2,200,000
Funding Source: Renewal and Replacement Fund		0	200,000	750,000	1,000,000	250,000	2,200,000
Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element, Sanitary Sewer ~~Sub-Element~~Goal, Objective 2, Policy ~~b~~a							
WW-68	Sugar Mill Collection System Improvements	~~60,000~~ 0	0 60,000	0	0	0	60,000
Funding Source: Renewal and Replacement Fund		~~60,000~~ 0	0 60,000	0	0	0	60,000
Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element, Sanitary Sewer Sub Element, Objective 2 Policy b							
WW-71	WWTP Sodium Hypochlorite Conversion	0 20,000	~~520,000~~ 500,000	0	0	0	520,000
Funding Source: Renewal and Replacement Fund		0 20,000	~~520,000~~ 500,000	0	0	0	520,000
Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element, Sanitary Sewer ~~Sub-Element~~Goal, Objective 2, Policy ~~b~~a							
WW-72	Indian River Outfall Discharge (Dechlorination)	0	0	0	0 208,000	~~208,000~~ 0	208,000
Funding Source: Renewal and Replacement Fund		0	0	0	0 200,000	200,000 0	208,000
Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element I, Sanitary Sewer Sub-Element~~Goal~~, Objective 2, Policy ~~b~~a							
WW-73	WWTP Influent Structure Improvement	~~460,000~~ 20,000	0	0	0	0	~~460,000~~ 20,000
Funding Source: Renewal and Replacement Fund		460,000 20,000	0	0	0	0	460,000 20,000
Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element, Sanitary Sewer ~~Sub-Element~~Goal, Objective 2, Policy ~~b~~a							
WW-74	Rehabilitate WWTP Clarifiers	0	300,000 0	~~300,000~~ 50,000	0 300,000	0 300,000	650,000
Funding Source: Renewal and Replacement Fund		0	300,000 0	~~300,000~~ 50,000	0 300,000	0 300,000	650,000
Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element, Sanitary Sewer ~~Sub-Element~~Goal, Objective 2, Policy ~~b~~a							
WW-76	WWTP 3.6 MG Capacity Expansion	0	0	0	0	1,000,000	1,000,000
Funding Source: Renewal and Replacement Fund		0	0	0	0	1,000,000	1,000,000
Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element, Sanitary Sewer ~~Sub-Element~~Goal, Objective 43, Policy a							
TOTAL		1,407,000 917,300	3,320,300 3,003,600	~~2,803,600~~ 2,552,000	~~3,420,000~~ 2,808,200	2,952,000 2,509,000	13,888,800 12,238,000
REUSE							
R-25	Reclaimed Meters	~~60,000~~ 60,000	~~65,000~~ 62,000	~~60,000~~ 65,000	~~65,000~~ 60,000	~~65,000~~ 71,000	~~310,000~~ 325,000
Funding Source: Renewal and Replacement Fund		~~60,000~~ 60,000	~~65,000~~ 62,000	~~60,000~~ 65,000	~~65,000~~ 60,000	~~65,000~~ 71,000	~~310,000~~ 325,000
Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element, Sanitary Sewer/Potable Water ~~Sub-Element~~Goal, Objective 82, Policy ~~b~~a							
R-30	Road Relocation/Interagency Cooperation	50,000	50,000	50,000	75,000	75,000	300,000
Funding Source: Renewal and Replacement Fund		50,000	50,000	50,000	75,000	75,000	300,000
Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element, ~~Sanitary Sewer~~ Sub-Element, ~~Objective 6~~Potable Water Goal, Objective 2, Policy c							
R-36	Reclaimed Water Source (ASR) Development	~~900,000~~ 10,000	900,000	1,000,000	2,000,000	2,000,000	~~8,000,000~~ 5,910,000
Funding Source: Renewal and Replacement Fund		100,000 10,000	900,000	1,000,000	2,000,000	2,000,000	8,000,000 5,910,000
Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element, Sanitary Sewer Sub Element, ~~Objective 6~~Potable Water Goal, Objective 2, Policy a							
R-37	Sugar Mill Tank Storage	25,000 0	0	0	0 25,000	0	25,000
Funding Source: Renewal and Replacement Fund		25,000 0	0	0	0 25,000	0	25,000
Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element, Sanitary Sewer Sub Element, ~~Objective 6~~Potable Water Goal, Objective 2, Policy a							
TOTAL		281,000 119,000	~~1,000,000~~ 1,012,000	~~1,110,000~~ 1,115,000	2,140,000 2,160,000	2,140,000 2,140,000	8,635,000 6,560,000
RECREATION							
P-1	Pettis Park Accessibility Improvements	~~50,000~~ 68,000	0	0	0	0	~~50,000~~ 68,000
Funding Source: Community Development Block Grants (CDBG)		~~50,000~~ 68,000	0	0	0	0	~~50,000~~ 68,000
Recreation and Open Space Element, Goal 1, Objective 1, Policy a							
P-2	Westside Neighborhood Splash Park Relocation James Community Center Improvements	53,520 76,454	~~100,000~~ 0	0	0	0	~~153,520~~ 76,454
Funding Source: Community Development Block Grants (CDBG)		~~53,520~~ 76,454	0	0	0	0	~~53,520~~ 76,454
Funding Source: Florida Recreation Development Assistance Program (FRDAP) (Pending)		0	100,000	0	0	0	100,000
Recreation and Open Space Element, Goal 1, Objective 1, Policy a							

	Esther Street Beach Park Improvements Phase 2 Silver Street Beach Park Amenities	0	1,235,000 400,000	0	0	0	1,235,000 400,000
Funding Source: Community Redevelopment Agency Fund (CRA)		0	785,000	0	0	0	785,000
Funding Source: Florida Recreation Development Assistance Program (FRDAP) (Planned)		0	200,000	0	0	0	200,000
Funding Source: Volusia County ECHO Grant (Planned) General Fund		0	350,000 400,000	0	0	0	350,000 400,000
Recreation and Open Space Element, Goal 1, Objective 6, Policy a Recreation and Open Space Element, Goal 1, Objective 1, Policy a							
P-4	Coronado Shuffleboard Courts Restroom Facility	171,281	0	0	0	0	171,281
Funding Source: Florida Recreation Development Assistance Program (FRDAP)		76,281	0	0	0	0	76,281
Funding Source: Community Redevelopment Agency (CRA)		55,000	0	0	0	0	55,000
Funding Source: General Revenue Fund		40,000	0	0	0	0	40,000
Recreation and Open Space Element, Goal 1, Objective 7, Policy a							
P-54	North Causeway Boat Ramp Swoops Site Boat Ramp and Parking	790,000 216,440	0	0	0	0	790,000 216,440
Funding Source: Florida Inland Navigation Grant (FIND)		300,000 108,220	0	0	0	0	300,000 108,220
Funding Source: Florida Fish and Wildlife Conservation Commission		490,000	0	0	0	0	490,000
Funding Source: General Fund		200,000 108,220	0	0	0	0	200,000 108,220
Recreation and Open Space Element, Goal 1, Objective 61, Policy a							
P-55	Multi-Use Trail	0 1,119,512	0	1,126,212 0	0	0	1,126,212 1,119,512
Funding Source: Volusia County Environmental, Outdoor, Cultural, and Heritage Grant (E-CHO)		0 281,153	0	287,853 0	0	0	287,853 281,153
Funding Source: Volusia County Transportation Planning Organization (TPO)		0 838,359	0	838,359 0	0	0	838,359
Recreation and Open Space Element, Goal 1, Objective 61, Policy a							
P-09	Riverside Park Improvements and Maintenance	400,000 606,990	0 50,000	0 50,000	0 50,000	0 50,000	400,000 756,990
Funding Source: Community Redevelopment Agency Fund		400,000 174,120	0	0	0	0	400,000 174,120
Funding Source: General Fund		57,870	50,000	50,000	50,000	50,000	257,870
Funding Source: Florida Inland Navigation District (FIND)		325,000	0	0	0	0	325,000
Recreation and Open Space Element, Goal 1, Objective 21, Policy a							
P-7	Flagler Boardwalk Improvements	1,439,230	0	0	0	0	1,439,230
Funding Source: Community Redevelopment Agency Fund		1,439,230	0	0	0	0	1,439,230
Recreation and Open Space Element, Goal 1, Objective 1, Policy a							
TOTAL		1,472,001 3,476,632	1,435,000 450,000	1,126,212 50,000	0 50,000	0 50,000	4,034,013 3,976,632
TRANSPORTATION							
PW-21	Ridgewood Sidewalks	265,815 800,000	0	0	0	0	265,815 800,000
Funding Source: Florida Department of Transportation Capital Fund		265,815 800,000	0	0	0	0	265,815 800,000
Public Schools Facility Element, Goal 1, Objective 3, Policy d Future Land Use Element, Goal 1, Objective 2, Policy g							
TOTAL		265,815 800,000	0	0	0	0	265,815 800,000
STORMWATER/DRAINAGE							
SW-1	Central Beach Drainage Improvements, Phase 3	1,243,880 1,500,000	1,775,000 1,500,000	1,775,000 1,500,000	0	0	4,800,000 4,500,000
Funding Source: Stormwater Operating Fund		1,243,880 375,000	600,000 375,000	600,000 375,000	0	0	3,043,000 1,125,000
Funding Source: FEMA Hazard Mitigation Grant		0 1,125,000	945,000 1,125,000	945,000 1,125,000	0	0	1,890,000 3,375,000
Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element, Drainage Sub-Element Goal, Objective 1							
SW-2	Fairmont/Westwood, between North Street and Conrad Street	609,000 481,102	0	0	0	0	609,000 481,102
Funding Source: Stormwater Operating Fund		609,000 300,000	0	0	0	0	609,000 300,000
Funding Source: Paving Assessment		80,461	0	0	0	0	80,461
Funding Source: General Fund		80,641	0	0	0	0	80,641
Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element, Drainage Sub-Element Goal, Objective 1							
SW-4	Esther Street Stormwater and Drainage Improvements	0 1,112,700	375,000 0	0	0	0	375,000 1,112,700
Funding Source: Community Redevelopment Agency Fund		0 712,700	400,000 0	0	0	0	400,000 712,700
Funding Source: FDEP 319h Grant		0 225,000	225,000 0	0	0	0	225,000 225,000
Funding Source: Stormwater Fund		125,000	0	0	0	0	125,000
Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element, Drainage Sub Element Goal, Objective 1							
SW-5	Julia Street Water Quality Improvements	0	0	100,000	100,000	0	200,000
Funding Source: Stormwater Operating Fund		0	0	50,000	50,000	0	100,000
Funding Source: Florida Department of Environmental Protection (FDEP) Grant		0	0	50,000	50,000	0	100,000
Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element, Drainage Sub-Element, Objective 4							

SW-65	S. Orange Street Stormwater Improvements/ Streetscape (between Dawning Street and Lytle Avenue and Smith Street)	156,150 401,198	0	0	0	0	~~156,150~~ 401,198
Funding Source: Community Redevelopment Agency Fund/Stormwater Fund		~~156,150~~ 401,198	0	0	0	0	156,150 401,198
Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element, Drainage Sub-Element/Goal, Objective 1							
SW-7	Mary Avenue Streetscape/ Stormwater Improvements	182,577 588,130	0	0	0	0	~~182,577~~ 588,130
Funding Source: Community Redevelopment Agency Fund		~~182,577~~ 377,032	0	0	0	0	~~182,577~~ 377,032
Funding Source: FDOT		211,098	0	0	0	0	211,098
Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element, Drainage Sub-Element/Goal, Objective 1							
SW-8	Isleboro Area Drainage Study/Arlington Avenue Drainage Improvements	4,000 113,088	0	0	0	0	4,000 113,088
Funding Source: Stormwater Operating Fund		4,000 113,088	0	0	0	0	4,000 113,088
Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element, Drainage Sub-Element/Goal, Objective 1							
SW-9	Acquisition of Property at 2031 Westwood Avenue and 532 South Pine Street/Washington Street Streetscape and Stormwater Improvements	618,000 793,550	0	0	0	0	~~618,000~~ 793,550
Funding Source: FEMA Grant/Community Redevelopment Agency Fund		464,310 793,550	0	0	0	0	~~464,310~~ 793,550
Funding Source: Stormwater Operating Fund		~~154,770~~	0	0	0	0	154,770
Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element, Drainage Sub-Element/Goal, Objective 1							
SW-10	Isleboro Drainage Improvements	0	644,755	0	0	0	644,755
Funding Source: Stormwater Operating Fund		0	~~644,755~~	0	0	0	~~644,755~~
Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element, Drainage Sub-Element, Objective 1							
TOTAL		2,620,297 4,868,768	2,795,600 1,500,000	~~1,275,306~~ 1,500,000	100,000 0	0	~~7,691,862~~ 7,080,768

Note: If planned funds cannot be obtained, the project will be place on hold until such time as funding becomes available.

Table XII-3 Transportation Proportionate Fair-Share Agreements by Project

Project	Developer	Development	Agreement Approval	Date of Contribution	Total
Traffic Signal at State Road 44 and Glencoe	Village Square LLC	Village Square PUD	9/25/2007	Pending	TBD
	Coronado Land Investments LLC	Coronado Office Park PUD	Pending	Pending	$ 30,633.78
	Southeast Interchange Complex LLC	Southeast Interchange PUD	5/10/2005	2/7/2007	$ 17,148.80
	Odyssey VII Commercial DP VIII LLC	Timberlane Retail Center PUD	Pending	Pending	TBD
	Subtotal				$ 47,782.58
Traffic Signal at State Road 44 and Sugar Mill	Acorn Development Company	Isles of Sugar Mill / Landings at Sugar Mill	11/28/2005	11/28/2005	$ 37,042.00
	Progressive Builders LLC	Sugar Mill Gardens	6/1/2005	2/1/2007	$ 17,704.50
	Subtotal				$ 54,746.50
Paige Avenue Paving	Taco Bell of America, Inc.	Taco Bell, 1660 State Road 44	N/A	12/1/2008	$ 8,054.55
	Subtotal				$ 8,054.55
Total					$110,583.63

PROJECT	DEVELOPER	DEVELOPMENT	AGREEMENT APPROVAL	DATE OF CONTRIBUTION	TOTAL
Traffic Signal at State Road 44 and Glencoe Road	Village Square LLC	Village Square PUD	9/25/2007	Pending	TBD
	Coronado Land Investments LLC	Coronado Office Park PUD	Pending	Pending	$30,633.78
	Southeast Interchange Complex LLC	Southeast Interchange PUD	5/10/2005	2/7/2007	$17,148.80
	Subtotal				**$47,782.58**
Traffic Signal at State Road 44 and Sugar Mill Drive	Acorn Development Company	Isles of Sugar Mill / Landings at Sugar Mill	11/28/2005	11/28/2005	$37,042.00
	Progressive Builders LLC	Sugar Mill Gardens	6/1/2005	2/1/2007	$17,704.50
	Wal-Mart Stores, Inc.	Wal-Mart / Shoppes at Coronado	1/4/2010	3/2/2010	$6,972.00
	Subtotal				**$61,718.50**
Paige Avenue Paving	Taco Bell of America, Inc.	Taco Bell, 1660 SR 44	N/A	12/1/2008	$8,054.55
	Subtotal				**$8,054.55**
Traffic Signal at State Road 44 and Airport Road	Wal-Mart Stores, Inc.	Wal-Mart / Shoppes at Coronado	1/4/2010	3/2/2010	$60,060.00
	Subtotal				**$60,060.00**
TOTAL					**$177,615.63**

Table XII-4 Summary of Capital Improvements

FACILITY TYPE	FY ~~10/11~~11/12	FY ~~11/12~~12/13	FY ~~12/13~~13/14	FY ~~13/14~~14/15	FY ~~13/14~~15/16	TOTAL
Water	~~852,400~~ 998,400	~~1,199,900~~ 1,132,600	~~1,448,700~~ 1,725,800	~~1,238,900~~ 1,228,800	~~1,547,900~~ 1,738,000	~~6,286,900~~ **6,828,600**

Sanitary Sewer	~~1,407,000~~ 917,300	~~3,325,300~~ 3,003,600	~~2,503,600~~ 2,552,900	~~2,470,900~~ 2,855,200	~~2,982,000~~ 2,909,000	~~13,088,800~~ 12,238,000
Reuse	231,000 119,000	~~1,094,000~~ 1,012,000	~~1,112,000~~ 1,115,000	~~2,140,000~~ 2,168,000	~~2,143,000~~ 2,146,000	~~6,635,000~~ 6,560,000
Recreation	~~1,472,801~~ 3,476,632	~~1,435,000~~ 450,000	~~1,124,212~~ 50,000	0 50,000	0 50,000	~~4,034,013~~ 4,076,632
Transportation	~~265,615~~ 800,000	0	0	0	0	~~265,615~~ 800,000
Stormwater/Drainage	~~2,820,297~~ 4,969,768	~~2,795,560~~ 1,500,000	~~1,876,805~~ 1,500,000	~~500,000~~ 0	0	~~7,592,662~~ 7,969,768
Total Capital Improvements	~~7,049,113~~ 11,281,100	~~9,764,760~~ 7,103,200	~~8,466,317~~ 6,943,700	~~5,949,800~~ 6,302,000	~~6,572,900~~ 6,843,000	~~37,901,990~~ 38,473,000

Table XII-5 Summary Schedule of Committed and Planned Funds

Source	~~2010-2011~~ FY 11/12	~~2011-2012~~ FY 12/13	~~2012-2013~~ FY 13/14	~~2013-2014~~ FY 14/15	~~FY 14/15~~ FY 15/16	Total
Capital Fund	800,000	0	0	0	0	800,000
Community Development Block Grants (CDBG)	~~111,520~~ 144,454	0	0	0	0	~~111,520~~ 144,454
Community Redevelopment Agency Fund	~~794,927~~ 3,496,638	~~926,000~~ 0	0	0	0	~~1,729,927~~ 3,496,638
FDEP 09th Stormwater Grant (Planned)	0 275,000	~~225,000~~ 0	0	0	0	225,000 275,000
FEMA Hazard Mitigation Grant	~~464,310~~ 1,125,000	~~945,000~~ 0	945,000 0	0	0	~~2,354,310~~ 1,125,000
~~FDEP 09/64 Grant~~	~~0~~	~~0~~	50,000	~~50,000~~	~~0~~	~~100,000~~
FDOT	265,615 211,098	0	0	0	0	265,615 211,098
~~Florida Fish and Wildlife Conservation Commission~~	~~195,000~~	~~0~~	~~0~~	~~0~~	0	~~195,000~~
Florida Inland Navigation Grant	200,000 433,220	0	0	0	0	~~200,000~~ 433,220
~~FRDAP~~	~~74,281~~	~~0~~	~~0~~	0	~~0~~	~~74,281~~
~~FRDAP (Planned)~~	~~0~~	~~300,000~~	~~0~~	~~0~~	~~0~~	~~300,000~~
General Revenue Fund	435,000 846,731	0 450,000	0 50,000	0 50,000	0 50,000	435,000 846,731
Paving Assessment	80,461	0	0	0	0	80,461
Utilities Commission Renewal and Replacement Fund	~~2,490,400~~ 2,084,700	~~5,524,200~~ 5,153,200	5,464,300 5,393,700	~~5,849,800~~ 6,252,000	~~6,672,000~~ 6,792,000	25,626,600 ~~26,010,700~~
Stormwater Operating Fund	~~2,016,160~~ 1,314,286	~~1,475,560~~ 375,000	~~880,805~~ 375,000	50,000	0	~~4,422,525~~ 2,064,286
Volusia County ECHO Grant	0 281,153	0	~~287,853~~ 0	0	0	287,853 281,153
~~Volusia County ECHO Grant (Planned)~~	0	~~550,000~~	0	0	0	350,000
Volusia County TPO	0 838,359	0	838,359 0	0	0	838,359
TOTAL	~~6,818,113~~ 11,281,100	~~8,755,760~~ 7,103,200	~~7,354,317~~ 6,943,700	~~3,809,800~~ 6,302,000	~~4,529,000~~ 6,843,000	~~31,266,990~~ 38,473,000

Table XII-6 identifies transportation improvements included in the first five (5) years of the Volusia County Transportation Planning Organization's (TPO) adopted transportation improvement program (TIP), to the extent that such improvements are relied upon to ensure concurrency and financial feasibility.

Table XII-6 Volusia County ~~Metropolitan Transportation~~ Transportation Planning Organization (MTPO/TPO) Transportation Improvement Program ~~FY 2009/10-2013/14~~ FY 2011/12 – 2015/16

PROJECT #	WORK SUMMARY	TOTAL ESTIMATED COST						SPONSOR
		FY ~~10/11~~11/12	FY 11/12/12/13	FY 12/13/13/14	FY 13/14/14/15	FY 14/15/15/16	TOTAL	
2429925	~~Intersection improvement one of 15 intersections identified for improvement in the US 1 Arterial Investment Study~~	1,025,000	0	0	0	0	~~1,025,000~~	~~FDOT~~
4068694	Add lanes and rehabilitate pavement on I-95 from Brevard County line to 0.5 miles north of SR 44.	~~2,051,508~~ 2,826,081	~~690,517~~ 0	~~452,034~~ 0	0	0	~~4,194,059~~ 2,826,081	FDOT
4068695	Add lanes and rehabilitate pavement on I-95 from 0.5 north of SR 44 to south of I-4.	~~4,816,925~~ 4,031,406	0	0	0	0	~~4,816,925~~ 4,031,406	FDOT
4180201	Replace existing strain pole supports with new mast arms for 7 traffic signals on SR 44 from Eddie Road to 3rd Avenue.	0	0 1,713,958	~~1,915,029~~ 0	0	0	~~1,915,029~~ 1,713,958	FDOT
~~4216291~~	~~Install a new traffic signal system on SR 44 at Glencoe Road~~	~~397,500~~	0	0	0	0	~~397,500~~	~~FDOT~~
~~Candidate 2-2010~~	~~New Smyrna Beach Multi-Use Trail~~	~~123,356~~	0	~~1,090,592~~	0	0	~~1,213,950~~	~~City of NSB~~
~~4250541~~	~~Construct new sidewalk along Fairway Drive between Wayne Avenue and Fairgreen Drive, 0.41 miles~~	~~265,615~~	0	0	0	0	~~265,615~~	~~City of NSB~~
~~4076741~~	~~Airport Hangar Construction~~	~~680,000~~	0	0	0	0	680,000	~~City of NSB~~
~~4144431~~	~~Aviation Capacity Project – NSB Municipal Airport~~	~~214,594~~	0	0	0	0	~~214,594~~	~~City of NSB~~
4182971	Airport Hangar Construction	0	0 200,000	~~500,000~~ 0	0	0	200,000	City of NSB
4184861	Consolidated Fuel Farm at NSB Municipal Airport	0	0 1,250,000	~~925,000~~ 0	0	0	~~925,000~~ 1,250,000	City of NSB
~~4184861~~	~~NSB Municipal Airport Apron Parking Construction~~	~~5,184~~	~~193,038~~	~~431,096~~	~~1,566,028~~	~~2,363,570~~	~~4,658,844~~	~~City of NSB~~
4208561	NSB Municipal Airport Land Acquisition	0 906,250	~~1,250,000~~ 0	0	0	0	~~1,250,000~~ 906,250	City of NSB
4208571	NSB Municipal Airport Maintenance Facility	~~150,000~~ 127,934	0	0	0	0	~~150,000~~ 127,934	City of NSB
4208691	NSB Municipal Airport Taxiway Construction	67,850	518,708	2,391,530	3,246,836	3,301,558	9,526,482	City of NSB
~~4270171~~	~~Bridge Replacement – Turnbull Bay Road~~	~~10,842~~	0	0	0	0	~~10,842~~	FDOT
4272671	State Road 44 Resurfacing	~~50,000~~ 134,282	0 7,318,558	~~9,235,561~~ 0	0	0	~~9,285,561~~ 7,452,840	FDOT
4296431	Repair/rehabilitate FEC Railroad Crossing #271972-R at SR 44 (Canal Street)	47,580	0	0	0	0	47,580	City of NSB

4098111	NSB Municipal Airport Parking Expansion	289,110	0	0	0	0	289,110	City of NSB
4320401	Replace existing two-lane bridge on Tymbull Bay Road over Turnbull Creek	1,145,171	5,167,791	9,655	0	0	4,326,407	Volusia County
4300791	New Smyrna Beach Multi-Use Trail	114,800	1,099,797	0	0	0	1,214,597	City of NSB
4322291	New Smyrna Beach SR 44 Gateway Streetscape	901,000	0	0	0	0	901,000	City of NSB
4322292	New Smyrna Beach SR 44-Canal Street Streetscape	501,000	0	0	0	0	501,000	City of NSB
4322311	Mary Avenue Sidewalk Extension over FEC Railroad	281,464	0	0	0	0	281,464	City of NSB

Source: Volusia County Transportation Planning Organization Amended TIP ~~2010/11-2014/15~~ 2011/12-2015/16

Table XII-7 identifies public school facilities improvements included in the first five (5) years of the ~~2010/11-2014/15~~ 2011/12 – 2015/16 Volusia County School Board Work Program.

Table XII-7 Volusia County School Board Five (5) Year Work Program ~~2009/10-2013/14~~

	~~FY 10/11~~ 11/12	~~FY 11/12~~ 12/13	~~FY 12/13~~ 13/14	~~FY 13/14~~ 14/15	~~FY 14/15~~ 15/16
NEW CONSTRUCTION					
None	0	0	0	0	0
MAJOR PROJECTS AT EXISTING SCHOOLS & FACILITIES					
Blue Lake Elementary – Classroom Addition	0	0	0	250,000	2,750,000
Portables – Lease	895,000 500,000	~~400,000~~ 500,000	~~500,000~~ 250,000	250,000	250,000
Portables – Moves & Compliance	690,000 400,000	~~500,000~~ 400,000	~~500,000~~ 300,000	~~400,000~~ 300,000	400,000 300,000
~~Southwestern Mid. – Additions~~	~~4,300,000~~	0	0	0	0
Various Schools – Minor Projects	1,300,000	1,300,000	1,300,000	1,300,000	1,300,000
Various Facilities – Facilities Review Projects	~~4,450,000~~ 5,238,000	~~5,300,000~~ 4,500,000	5,000,000 4,500,000	~~5,000,000~~ 4,500,000	~~5,000,000~~ 4,500,000
Total Major Projects at Existing Schools & Facilities	~~11,350,000~~ 7,538,000	7,400,000 6,700,000	~~7,300,000~~ 6,350,000	~~6,450,000~~ 6,600,000	~~6,950,000~~ 9,100,000
FACILITIES MANAGEMENT					
Facilities Management – Various Projects	~~1,314,000~~ 1,581,000	~~1,000,000~~ 1,581,000	~~1,000,000~~ 1,581,000	~~1,000,000~~ 1,581,000	1,000,000 1,581,000
TECHNOLOGY					
Network, EDP & Communications Equipment	~~6,000,000~~ 5,000,000	6,000,000 4,500,000	6,000,000 4,500,000	6,000,000 4,500,000	~~6,000,000~~ 4,500,000
SYSTEM WIDE EQUIPMENT & VEHICLES					
Various Schools & Departments Furn. & Equip.	1,300,000 800,000	1,300,000 800,000	1,300,000 800,000	~~1,300,000~~ 800,000	~~1,300,000~~ 800,000

BUSES					
Transportation Dept. - Bus Replacement	0	0	0 4,116,030	~~4,722,423~~ 4,116,030	~~4,946,466~~ 4,116,030
TRANSFERS					
Transfers – Debt Service	~~51,602,925~~ 51,601,151	~~51,601,151~~ 51,598,273	~~51,598,374~~ 51,595,857	~~51,599,989~~ 51,603,928	~~51,603,928~~ 51,600,235
Transfers – Equipment Leases & Property Insurance	3,407,250	3,407,250	3,407,250	3,407,250	3,407,250
Transfers – Maintenance	~~15,600,000~~ 15,600,000	15,600,000 15,600,000	~~15,600,000~~ 15,600,000	~~15,600,000~~ 15,600,000	~~15,600,000~~ 15,600,000
Total Transfers	~~70,810,175~~ 70,608,401	~~70,808,401~~ 70,605,523	~~70,805,524~~ 70,607,187	~~70,807,138~~ 70,611,178	~~70,811,178~~ 70,607,488
TOTALS	~~91,274,956~~ 85,527,401	~~86,508,401~~ 84,186,523	~~86,405,524~~ 87,954,167	90,834,560 88,208,208	~~91,037,644~~ 90,704,518

C. Existing Financial Resources

The first step in planning capital improvements, as well as arranging the necessary financing through the budgeting process, is to inventory the major sources of funding available to the City. These major sources of funding, which include both monies paid to the City and to the Utilities Commission, City of New Smyrna Beach, are expected to contribute a total revenue sum of $93,699,806 in fiscal year 2010/11. The revenue sources listed below comprise a working inventory for which the City's ability to fund the needed capital improvements will be assessed. In addition, the current status of each revenue source currently used by the City is indicated. It is important to note that the list below includes all of the major financial resources available to the City and is not limited to the funds that will be used for the capital improvement projects identified in the five (5) year Schedule included in this element. These currently utilized financial resources comprise, in part, the revenue sources that will be used to fund the identified capital improvement projects.

The City of New Smyrna Beach utilizes a fund structure as outlined in the accounting regulations that govern units of local government. A fund is a fiscal and accounting entity with a self-balancing set of accounts recording cash and other financial resources, together with all related liabilities and residual equities or balances and changes therein which are segregated for the purpose of carrying on specific activities or attaining certain objectives in accordance with special regulations, restrictions or limitations. Funds are divided into various types according to the legal restrictions imposed upon them or the uses to which the funds may be placed.

Local Revenue Sources

General Fund

The General Fund, which is the largest fund in the City, accounts for approximately sixty-four percent (64%) of the financial resources of the government. General Fund revenues include property taxes, franchise taxes, charges for services, intergovernmental revenue, fines and forfeitures, interest revenue, miscellaneous revenue, license and permit fees, internal service charges and various other types of revenues as outlined below. This fund finances most of the basic operating services, such as fire and police protection, community development, finance, parks and recreation, public works and general administration, as well as a number of capital expenditures extracted from the General Fund. The tentative millage rate, combined with the decline in assessed property values will result in a decrease of over $5,594,578 in tax revenue for the General Fund from FY 09/10.

1. Property Taxes (Ad Valorem) – Property taxes are normally based on a millage rate (i.e., one [1] mil equates to $1 per $1,000 of assessed value, or 0.001), which is then applied to the taxable value of all real property, as well as all other tangible personal property. The revenue from ad valorem taxes may be used to fund both operating costs and capital projects, unless prohibited by local policies. §200.081, *Florida Statutes*, allows municipalities to raise the millage rate above the 10-mill cap when taxpayers approve such a levy. As the major source of revenue for the City of New Smyrna Beach, ad valorem taxes normally account for approximately forty-three and sixth-tenths percent (43.6%) of the annual budget for the General Fund, excluding transfers and reserves. The current millage rate for the General Fund is set at approximately 3.4793 mills. The expected tax yield for fiscal year 2010/11 is $7,695,967 from a tax base (adjusted taxable value) of $2,517,423,892. A level of assessment of ninety-five percent (95%) is currently used by the City.

2. Franchise Fee – Franchise fees are levied on certain utilities by the City for the privilege of doing business in the City. Franchise holders include Utilities Commission, City of New Smyrna Beach, Waste Pro, Southard Recycling, and Florida Public Utilities. Most taxes are based on gross revenues and fluctuate with changes in consumption and rates charged by the franchise holder. Budgeted revenue for FY 2010/11 is approximately $4.2 million, based on historic trend analysis.

3. Utility Service Tax – A utility tax is charged on homes and businesses located within the City. These taxes are assessed on the total amount of the monthly bills issued to customers by the Utilities Commission, City of New Smyrna Beach for electric service. Budgeted revenue for FY 2010/11 is $1.2 million, based on historic trend analysis. The City also receives an annual payment of six percent (6%) of the gross revenues from utilities under the Utilities Commission, City of New Smyrna Beach control. In FY 2010/11, this payment is budgeted as $3,613,356, based on historic trend analysis conducted by the Utilities Commission, City of New Smyrna Beach.
4. Business Tax Receipt – A person or company doing business in the City must have a business tax receipt (formerly called an occupational license). The majority of this revenue comes from annual renewals. Budgeted revenue for FY 2010/11 is $154,350, based on historic trend analysis.
5. Charges for Services – The main components of this category of revenue are Planning and Zoning Department fees for planning and zoning activities and user fees for participants in various classes and sport-related activities offered by the Recreation Department. Miscellaneous fees are charged for funeral escorts, fingerprinting, CPR training, garage sale permits and pet licenses. These revenues represent less than one percent (1%) of the total General Fund Revenues. Budgeted revenue for 2009 FY 2010/11 is $359,443, based on historic trend analysis.
6. Court Fines and Forfeitures – This revenue is the result of fines and penalties imposed by the court system for crimes and parking violations committed in New Smyrna Beach. Budgeted revenue for FY 2010/11 is estimated of $83,265, based on historic trend analysis.
7. Interest – The City maintains a pooled cash fund for substantially all City deposits and investments. The City places the highest priority on the safety of principal and maintenance of liquidity to meet current needs. Budgeted revenue for FY 2010/11 is $67,052, based on forecasted interest rates.
8. Miscellaneous Revenues – Miscellaneous income includes any income that is not in one of the other categories and primarily consists of rental income from various city facilities, insurance proceeds, the sale of fixed assets, appropriated fund equity and other reserves, and donations. Budgeted revenue for FY 2010/11 is $339,607, based on based on historic trend analysis and current economic conditions.
9. Transfers Into the General Fund – This source of revenue is gained from a percentage of the administrative costs of the various user departments based upon their actual usage and miscellaneous revenues. Budgeted revenue for FY 2010/11 is $30,700.

Utilities Commission, City of New Smyrna Beach Funds

1. Revenue Fund – The Revenue Fund was established by the Utilities Commission, City of New Smyrna Beach to be in compliance with Resolution No. 28-48. The Revenue Fund is used for operations. All sources of funds are deposited to this fund. Sources of funds include: operating revenue, such as direct sales to customers; other revenues, such as pole rentals, interest earning and hydrant rentals; miscellaneous operating revenue, such as cut-in fees, penalties, and miscellaneous revenue. The uses of these funds include payment of operation and maintenance expenses, required payment to the City, transfers to restricted funds, and lastly transfers to the internally designated Rate Stabilization Fund. The balance at any time in this fund is unrestricted and available for operations or any lawful purpose that the Commission desires. Budgeted revenue for FY 2010/11 is $61,322,156, based on historic trend analysis conducted by the Utilities Commission, City of New Smyrna Beach.
2. Renewal and Replacement Fund – The Renewal and Replacement Fund is required by Resolution No. 28-78, Section 16, D(8), as amended and supplemented by Resolution No. 4-02, adopted on July 1, 2002. The source of funds deposited to this fund come from transfers from the Revenue Fund after the Revenue Fund first transfers sufficient funds into the Debt Service Sinking Funds. The use of funds is legally restricted to pay for capital improvements or replacement of utility plant assets as well as to provide for major repairs

~~to such assets.~~

~~Under the~~ provisions cited ~~above, "mandatory requirements" are to be transferred into the~~ Renewal and Replacement Fund ~~in an amount not less than eight percent (8%) of gross~~ revenues, for the second preceding ~~fiscal year, after deducting from gross revenues a sum~~ equal ~~to one hundred percent (100%) of the fuel and purchased power~~ costs incurred by ~~the electric utility system in the second preceding fiscal year. "Additional~~ requirements" ~~are transferred into the Renewal and Replacement Fund as~~ necessary to meet planned ~~expenditures for capital improvement~~ projects and major repairs ~~to utility system plant assets. The "additional requirements"~~ are needed to insure ~~completion of projects, since the "mandatory~~ requirements" do not provide a ~~sufficient level of funding to internally~~ finance on-going ~~and planned projects that are budgeted for the year. The fund exists~~ to insure that ~~utility plant is sufficiently maintained or expanded to generate~~ recurring revenue ~~as the source for repayment of the debt. Budgeted revenue~~ for FY 2010/11 is ~~$4,241,007, based on historic trend analysis conducted~~ by the Utilities Commission~~, City of New Smyrna Beach.~~

~~3. Restricted Renewal and Replacement~~ Fund – This fund was ~~established to deposit payments collected~~ from customers for water ~~and wastewater capacity fee charges (connection~~ fees) that are restricted ~~under the terms of the agreements to add capacity~~ to the utility plan assets, ~~increase extensions, and provide for expansion of utility plant as necessary to accommodate growth in the Utilities Commission, City of New Smyrna~~ Beach ~~customer base. The source of funds accounted for in the Restricted~~ Renewal and ~~Replacement Fund is from "Connection Fees Restricted." These charges~~ are deposited ~~to the Revenue Fund and then immediately transferred~~ from the ~~Revenue Fund into the Restricted Renewal and Replacement Fund.~~ The use of funds ~~is restricted to pay for new plant, increase plant capacity,~~ and increase of extension lines. ~~Budgeted revenue for FY 2010/11 is $249,130,~~ based on historic trend ~~analysis conducted by the Utilities Commission, City of~~ New Smyrna Beach.

~~4.~~ CDD/Infrastructure Fees – ~~The Community Development District/Infrastructure Fees are~~ developed ~~by the Engineering Department of the Utilities Commission,~~ City of New Smyrna Beach ~~to assist with expected growth within the City of New~~ Smyrna Beach. Since ~~inception the Utilities Commission, City of New Smyrna Beach~~ has received $1,605,370 in ~~cash and $910,141 in the form of Letters of Credit.~~ Budgeted amounts ~~are based on best available future development information~~ provided to the Utilities Commission~~, City of New Smyrna Beach. Budgeted revenue~~ for FY 2010/11 is $125,000~~, based on development trend analysis~~ performed by the Utilities Commission~~, City of New Smyrna Beach.~~

~~Special Revenue Funds~~

The Special ~~Revenue Funds account for the proceeds of specific revenue~~ sources which are legally restricted ~~to expenditures for specific purposes. The following funds are~~ included:

~~1. Stormwater Fund~~ – The Stormwater Utility Fund ~~accounts for the fiscal activity relating to the~~ fees for stormwater ~~utility operation and maintenance activities and City wide planning~~ related activities. ~~An annual assessment rate of $60 per ERU (Equivalent Residential Unit) of~~ 1,818 square feet ~~is charged to developed parcels. Stormwater is managed as a division of the Public Works Department. The funding program includes, but~~ is not limited to, ~~maintenance of the existing stormwater catch basins and swales;~~ construction ~~of stormwater handling infrastructure; replacement of deteriorating~~ infrastructure, master ~~planning to solve local flooding and water quality problems~~ and capital ~~improvement projects.~~

~~Budgeted revenue for FY 2010/11 is estimated at $1,331,835,~~ based on projected ~~stormwater assessments, grant revenues, and miscellaneous~~ revenue.

~~2. Law Enforcement Trust Fund – The Law Enforcement Trust~~ Fund receives proceeds ~~from the forfeiture of property related to various police undercover~~ activities that are allocated ~~to the municipalities that participated in these~~ programs. State statute ~~requires these~~

proceeds be deposited in a special law enforcement trust fund. Such proceeds and interest earned must be used for related police programs such as school resource officers, crime prevention, safe neighborhoods, drug abuse education and prevention programs or other law enforcement purposes. These funds may not be used to meet normal operating expenses of the law enforcement agency.

No revenue is budgeted in FY 2010/11.

3. Airport Fund – The Airport Fund accounts for the fiscal activities related to this agency. The revenues collected through rental and user fees are used to maintain and improve the airport facilities and are not used for general government functions. The airport has completed substantial capital improvements in the last few years and will continue to do so in fiscal year 08/09 through the use of federal and state grants.

Budgeted revenue for FY 2010/11 is $3,445,789, based on estimated operating revenues, federal and state grants, and interest income.

4. Law Enforcement Impact Fee Fund – The Law Enforcement Impact Fee Fund accounts for the fiscal activity relating to the law enforcement impact fees charged for growth related law enforcement capital improvements. Activities subject to fees include any improvement to land that requires the issuance of a building permit or any changes in the use of a structure that generates additional law enforcement demands. For 2010/11, the revenues were based at the approximate residential rate of $277.54. Fees are charged for residential land use and at a rate per square foot for non residential land use. Fees may be appropriated for capital improvements including construction of law enforcement facilities, acquisition of law enforcement and protection equipment, acquisition, construction and equipping of training facilities and acquisition and equipping of vehicles and other equipment.

Budgeted revenue for FY 2010/11 is $20,000, based on historic trend analysis.

5. Fire Protection and Emergency Services Impact Fee Fund – The Fire Protection and Emergency Services Impact Fee Fund accounts for the fiscal activity relating to the fire and rescue impact fees charged for growth related fire protection and rescue capital improvements. Activities subject to fees include any improvement to land that requires the issuance of a building permit or any changes in the use of a structure which generates additional fire/rescue demands. For FY 2010/11, the revenues were based on the residential rate of approximately $299.61. Fees may be appropriated for capital improvements including construction of fire stations; acquisition of firefighting and protection equipment; acquisition, construction and equipping of training facilities; and acquisition and equipping of rescue vehicles and other emergency equipment.

Budgeted revenues for FY 2010/11 are $10,000, based on historic trend analysis.

6. Parks and Recreational Facilities Impact Fee Fund – The Parks and Recreational Facilities Impact Fee Fund accounts for the fiscal activity relating to the park impact fees assessed for growth related parks and improvements. Activities subject to fees include any improvement to land that requires the issuance of a building permit. For FY 2010/11, the revenues were based at the residential rate of $131.28. Fees may be appropriated for acquisition, expansion and development of capital equipment and facilities such as walking paths, construction of ball fields, picnic pavilions, installation of equipment of children's play areas, irrigation systems, lighting systems, fencing, bleachers, roads, parking facilities, restrooms, concession and community buildings, manager quarters, and storage units.

Budgeted revenue for FY 2010/11 is $5,000, based on charges for services and appropriated fund equity.

7. Marina Fund – The City Marina Fund accounts for all of the fiscal activities related to the operation of the marina, including resident and transient slip rentals. The marina re-opened in mid-2006 after a complete renovation. The marina has established itself as one of the best city marinas in the area and has attracted boaters traveling up and down the East Coast. Since it is located next to the downtown canal Street area it continues to bring customers to local businesses in the community.

~~Budgeted revenue for FY 2010/11 is $268,000,~~ based on estim~~ated charges for services and miscellaneous revenues.~~

8. ~~Transportation Impact Fee Fund~~ – The Transportation ~~Impact Fees Fund accounts for the fiscal activity relating to the~~ transportation impact ~~fees charged for growth related transportation capital im~~provements. Activities subject ~~to fees include any improvement to~~ land which requires the issuance ~~of a building permit or any changes in the~~ use of a structure which generates ~~additional transportation demands. For~~ FY 2010/11, the revenues were based ~~at the residential rate of approximately $975.50.~~ Fees may be ~~appropriated for transportation capital improvements~~ including ~~preliminary engineering design studies, land surveys, right of way~~ acquisitions, engineering, ~~permitting, and construction of all the necessary features~~ for transportation projects.

   ~~Budgeted revenue~~ for FY 2010/11 is ~~$45,000, based on estimated impact fees and miscellaneous~~ revenues.

9. ~~Special Events Fund~~ – The ~~Special Events Fund was set up during FY 2006~~ for the purpose of separately ~~accounting for the special events that the City s~~ponsors during the year~~, such~~ as the ~~Art Fiesta, Flamingo Follies, Ed Root Run, Senior Games~~, Seaside Fiesta~~, and Music in the Park.~~

   ~~Budgeted revenue for FY 2010/11 is $63,000~~, based on estim~~ated fees.~~

10. ~~Building and Inspection Fund~~ – The Building and Inspection ~~Fund was set up in FY 2006 to separately account for the~~ fiscal activity of construction ~~permitting and inspection. State statute requires~~ this revenue ~~be spent on expenses related to this activity and cannot~~ be ~~used for general government expenses.~~

   ~~Budgeted~~ revenue ~~for FY 2010/11 is $632,840, based on estimated charges~~ for services and ~~interest income.~~

11~~12~~. ~~Community Redevelopment Agency – The Community Redevelopment Agency (CRA) Fund accounts for the fiscal activities related to this~~ agency. The CRA ~~works to promote the economic development of~~ designated areas of ~~the City and receives special incremental ad valorem tax levies~~ to pay for rehabilitation ~~and redevelopment of the specified areas in need of improvement to sustain the tax base.~~

   ~~Budgeted~~ revenue for ~~FY 2010/11 is $1,741,872, based on estimated~~ ad valorem tax ~~revenue, miscellaneous revenues, and appropriated income.~~

~~Capital Projects Funds~~

The ~~Capital Projects Fund accounts for the financial~~ resources to be ~~used for the acquisition or construction of major capital facilities other~~ than those financed by ~~proprietary and trust funds. The major activities currently included in these~~ funds are the construction ~~of the police station, three (3) fire stations, and various sidewalk projects within~~ the City.

~~Budgeted~~ revenue for ~~FY 2010/11 is $3,620,001. Capital expenditures for the~~ police and fire stations ~~were~~ budgeted ~~in prior years' budgets. However, most of that~~ budget has not been ~~used due to construction~~ delays. Therefore~~, these balances have been carried over.~~

~~Proprietary Funds~~

~~1.~~ Golf Course Fund ~~– The Golf Course Fund accounts for the~~ fiscal activities of the ~~City of New Smyrna Beach Municipal Golf Course, which is financed~~ and operated ~~in a manner~~ similar to private ~~business enterprises. It is the intent of the City~~ that the costs ~~of providing the golf course to the general public on a continuing~~ basis be ~~financed or recovered primarily through user charges for these services. However, the FY 08/09 budget includes a transfer from the general fund unless revenues exceed the current estimates.~~

   ~~Budgeted revenue for FY 2010/11 is $1,217,776~~, based on ~~estimated charges for services and miscellaneous revenues.~~

2. ~~Sanitation Fund – The Sanitation Fund~~ accounts for the fiscal ~~activities related to the operation of refuse and recycling~~ services provided by third ~~party contracted vendors, the costs of which are recovered by~~ user charges.

   ~~Budgeted revenue for FY 2010/11 is $6,949,742~~, based on estimated ~~charges for services~~

and interest income.

3. Garage Fund – The Garage Fund accounts for the fiscal activities related to fleet maintenance services provided to other departments and agencies of the City, or to other governments, on a cost reimbursement basis.
Budgeted revenue for FY 2010/11 is $832,890, based on charges for services, miscellaneous revenues, and appropriated fund equity.

STATE RESOURCES

GENERAL FUND

1. Local Option Gas Tax – These 6-cent and 5-cent per gallon taxes county-wide are allocated to the City based upon an inter-local agreement with Volusia County. The distribution formula is based on a population formula that is updated periodically.
Budgeted revenue for FY 2010/11 is estimated at $703,793, based on state forecasts.
2. State Revenue Sharing – The Municipal Revenue Sharing Program is based on a percentage of taxes and user fees collected by the State of Florida and allocated based on a formula that considers population, sales tax collections and the relative ability to raise revenue.
Budgeted revenue for FY 2010/11 is estimated at $451,572, based on state forecasts.
3. State Sales Tax – A portion of the State sales tax revenue is distributed directly to the City for the purpose of providing relief from ad valorem and utility taxes and to provide revenue for local programs. The allocation formula is computed by dividing the City's total population by the sum of the county's total population plus two thirds (2/3) of the county's unincorporated population.
Budgeted revenue for FY 2010/11 is estimated at $917,523, based on state forecasts.
4. Communications Services Tax – The Simplified Communications Services Tax allows both the state and local communications services tax to be imposed on a broad base of telecommunications and cable services and does not discriminate between services or providers. The tax base includes the transmission of voice, data, audio, video, or other information services, including cable services. The State of Florida is primarily responsible for collecting the tax and remitting it to the various local agencies.
Budgeted revenue for FY 2010/11 is estimated at $1.1 million.
5. Federal and State Grants – The City expects to receive state and federal grants for various General Fund programs and capital projects in 2009. Agencies involved include, but are not limited to, the Florida Department of Transportation, U.S. Department of Justice, Florida Inland Navigation District, and the Department of Community Affairs.
Budgeted revenue for FY 2010/11 is estimated at $1,246,212, based on the award amount of approved grants.

D.C. LOCAL POLICIES AND PRACTICES

In support of the goals, objectives, and policies documented in the various other Elements within the *Comprehensive Plan*, local policies and practices may be used to direct the timing and location of development in the City. Many of these policies and practices may be influenced by state, regional, and county agencies that provide public facilities within the City's jurisdiction.

Several segments of the City of New Smyrna Beach's roadway network are on the State and County Highway System. Because these roadways are largely the financial responsibility of the Florida Department of Transportation (FDOT) and Volusia County, the City is reliant on the *FDOT Five (5) Year Work Program* and *Volusia County MPO TPO Transportation Improvement Program*. Consequently, those plans will affect the capacity of the roadways, which will in turn affect the intensity of development or amount of financial commitment for which the City must plan. With the passage of the 2005 Growth Management Act (Senate Bill 360), the Schedule must include transportation improvements included in the first five (5) years of the applicable metropolitan planning organization's (MPO) adopted transportation improvement program (TIP), to the extent that such improvements are relied upon to ensure concurrency and financial feasibility. MPOs are required to update their TIP by July 1 each year to

include all regional/county projects (See Table XII-6). This practice of utilizing plans of and/or agreements with various other governments in order to broaden the scope and efficiency of services is further described in the Intergovernmental Coordination Element.

The following is a list of the local policies and practices that have been adopted or may be adopted in the future by the City. A brief description of their general concept and the circumstances under which they may be used is also given.

LEVEL-OF-SERVICE STANDARDS

Level-of-service (LOS) standards are benchmarks or goals by which the City's services are measured. In short, LOS indicates the capacity per unit of demand of each public facility.

Chapter 163, *Florida Statutes*, and Rule 9J-5, *Florida Administrative Code*, require local governments to include measurable LOS standards for public facilities in their comprehensive plans. Furthermore, these LOS standards are utilized in issuing development orders to ensure that adequate public facilities will be available in advance of the impact of development.

As a part of the other Elements within this *Comprehensive Plan*, the following level-of-service standards for public facilities have been proposed:

SANITARY SEWER

~~212~~ 207 gallons per day per Equivalent Residential Unit

SOLID WASTE

7.3 pounds per person per day (non-residential waste is included in this figure)

POTABLE WATER

240 gallons per day per Equivalent Residential Unit

DRAINAGE

25 year, 24 hour event. Drainage system will be designed to meet the requirements contained in the *Land Development Regulations*.

ROADWAYS

LOS "C" or better for Florida Interstate Highway System

LOS "D" on other State highways

LOS "E" on minor arterials, collectors, local roadways and all facilities located within a central business district. The central business districts shall be defined as follows:

Mainland – That area designated as Mixed Uses on the Future Land Use Map including roads adjacent to areas designated as Mixed Uses.

Beachside The area bounded by an east west extension of Florida Street on the north and Jessamine Street on the south and the Indian River and Atlantic Ocean as west and east boundaries, respectively.

RECREATION FACILITIES

* Beach Access will be provided in 1.0 acre increments when demand equals 0.25 acres; the Level of Service standard is 0.25 acres per 1,000 residents.
* Urban Open Space will be provided in 0.1 acre increments when the demand equals 0.05 acres; the Level of Service standard is 1.0 acre per 1,000 residents
* Equipped Play Areas / Tot Lots Acres will be provided in 0.25 acre increments when demand equals 0.2 acres; the Level of Service standard is 0.2 acres per 1,000 residents
* Neighborhood Parks will be provided in 1.9 acre increments when demand equals 1.9 acres; the Level of Service standard is 0.4 acres per 1,000 residents
* Community Parks will be provided in 20 acre increments when the demand equals 10 acres; the Level of Service standard is 1 acre per 1,000 residents

- Regional Parks will be provided in 250 acre increments when the demand equals 200 acres; the Level of Service standard is 20 acres per 1,000 residents.
- Urban District Parks will be provided in 50-acre increments when demand equals 40 acres; the Level of Service standard is 5.0 acres per 1,000 residents
- Baseball / Softball Fields will be provided in 1-field increments when demand equals 1 field; the Level of Service standard is 1 field per 10,000 residents.
- Basketball Courts will be provided in 1-court increments when demand equals one (1) court; the Level of Service standard is 1 court per 20,000 residents
- Bicycle Trails will be provided in 1-mile increments when demand equals 0.5 miles; the Level of Service standard is 1 mile of trail per 10,000 residents
- Boat Ramps will be provided in 1-lane increments when demand equals one (1) lane; the Level of Service standard is 1 lane per 12,500 residents
- Piers/Catwalks/Jetties will be provided in 800-foot increments when demand equals 800 feet; the Level of Service standard is 800 lineal feet of pier/catwalk/jetty per 25,000 residents
- Football / Soccer fields will be provided in 1-field increments when demand equals one (1) field; the Level of Service standard is 1 field per 25,000 residents
- Handball/Racquetball Courts will be provided in 1-court increments when demand equals one (1) court; the Level of Service standard is 1 court per 20,000 residents
- Shuffleboard Courts will be provided in 1-court increments when demand equals one (1) court. The Level of Service standard is 1 court per 12,000 residents
- Tennis Courts will be provided in 1-court increments when demand equals one (1) court; the Level of Service standard is 1 court per 10,000 residents

PUBLIC SCHOOL FACILITIES

Elementary Schools – one hundred fifteen percent (115%) of permanent FISH capacity for the concurrency service area

K-8 Schools – one hundred fifteen percent (115%) of permanent FISH capacity for the concurrency service area

Middle Schools – one hundred fifteen percent (115%) of permanent FISH capacity for the concurrency service area

High Schools – one hundred twenty percent (120%) of permanent FISH capacity for the concurrency service area

CAPITAL IMPROVEMENT PROGRAM

A capital improvement program (CIP) is a plan for capital expenditures to be incurred each year over a fixed period of years to meet anticipated facility improvements and needs. The CIP identifies each capital project or other capital expenditures anticipated by the City, as well as presenting estimates of the resources needed to finance the project.

The CIP is to be designed to be consistent with the CIE of the *Comprehensive Plan* because it reflects the goals, objectives, and policies of the element and its implementation strategy, including the five (5) year Schedule. The CIP, however, is more inclusive than the CIE as it also lists those projects that are of relatively small scale and low cost (under $25,000). Furthermore, the CIP is not limited to those public facilities discussed in the *Comprehensive Plan*, whereas the CIE is constrained.

The City of ~~New Smyrna Beach anticipates adopting~~ its first Five~~-Year Capital Improvements Program in~~ FY ~~2010/11.~~ The City of New Smyrna Beach implemented a CIP in fiscal year 2010/11.

URBAN SERVICE AREAS

Urban service areas are those to which the City provides public facilities and services. When used in conjunction with the Capital Improvements Element, a defined urban service area provides the local government with a tool to help schedule the public facility and service improvements within areas

planned for development.

The City's urban service area is illustrated in the Sanitary Sewer, Potable Water, Solid Waste, Drainage, and Natural Groundwater Aquifer Recharge Element and further discussed in the Intergovernmental Coordination Element of this *Comprehensive Plan*.

MANDATORY EASEMENT AND RIGHT-OF-WAY DEDICATIONS

As a condition of plat approval, the City may require that developers of a subdivision dedicate easements over that portion of land to be used for public purposes such as roadways, drainage, utilities, and conservation.

Developers of platted subdivisions are currently required to dedicate public right-of-way, and easements for, drainage, utilities, and conservation, to the City as part of the plat approval process.

MORATORIA

To temporarily halt or freeze development on an emergency basis for a specified period of time and geographic location, the City may adopt a moratorium ordinance. Moratoria are used to allow the City time to adopt regulations to address a specific issue or concern. This type of ordinance may be imposed on development orders (e.g. building permits, certificates of occupancy, etc.) or governmental services such as water and sewer hook-ups.

The City currently is not imposing any moratoria. However, such a policy may be reasonable or necessary for the protection of local public health, safety, and welfare at some time in the future based on failure to provide adequate level-of-service.

CONCURRENCY MANAGEMENT SYSTEM

This controls the timing and location of development by conditioning new development approvals on evidence that sufficient facilities and services are present or will be provided in order to maintain adopted level-of-service standards. In effect, this implements the 1985 Legislative mandate (Chapter 163, *Florida Statutes*) that requires public facilities to be available to support the impacts of new development. Therefore, development approval becomes contingent on the ability of local governments to provide facilities and services, and furthermore, may require the development itself to furnish the facilities and services in order to maintain the adopted level-of-service standards. Additional benefits associated with a Concurrency Management System are as follows:

- Supports the consistency of the Capital Improvements Element with the Future Land Use Element;
- Provides for the orderly expansion of public facilities;
- Stabilizes capital improvement expenditures and taxing structures for capital improvements; and
- Reduces the possibility of damage to the environment from the use of overburdened facilities.

Typically, the Concurrency Management System interacts with the development approval process by requiring that all zoning, subdivision, or planned until development (PUD) approvals be granted only upon demonstrated compliance with the system. The building permit stage is another level at which a Concurrency Management System may function. In this context, the Concurrency Management System may control development in areas that are already approved, but not as yet built on, such as pre-platted lands.

The City of New Smyrna Beach has developed a Concurrency Management System as part of the *Comprehensive Plan*, which is implemented in its *Land Development Regulations*.

~~E. ANALYSIS~~

~~FISCAL ASSESSMENT~~

~~This section analyzes~~ the City's ability to sufficiently ~~fund the capital improvements listed in Table XII-2. The~~

~~assessment process consists of projecting the revenues~~ needed and expenditures ~~required for the City to construct the necessary or desired capital improvement projects~~. This process ~~allows the City to identify any revenue surplus or major shortfalls, which in~~ turn provides ~~the basis for exploring alternative methods of financing.~~

~~This section~~ not only reviews the direct ~~costs incurred for capital improvements in the~~ other elements of ~~this~~ *Comprehensive Plan*, ~~but also addresses the additional operating costs~~ (e.g. personnel, maintenance, etc.) incurred ~~as a result of such improvements being put in place.~~

~~Projected~~ Revenues

~~Revenue~~ projections are based ~~on current growth trends and/or on capital improvement~~ expenditures made ~~by the City in recent years. The revenues have been~~ projected for each ~~of the funding sources utilized by the City for capital improvements in 2010~~ dollars. Tables 8 and 9 show ~~detailed projections for the ad valorem tax base and~~ projected ad valorem yields ~~for the planning period. Revenues from all sources projected for the fiscal years 2010/11~~ to 2014/15 are shown ~~in Table XII-10.~~

The City's tax base ~~value is projected to decrease for FY 2010/2011. This is~~ based on the proposed ~~millage~~ rate combined ~~with the decline in assessed property values, resulting~~ in an estimated ~~decrease of over~~ $1,012,655. ~~Historically, the adjusted taxable value grew~~ approximately thirty percent ~~(32%) from 2006-2007 and remained at basically the same level~~ from 2007-2008. ~~The ad valorem tax base projections shown in Table XII-8 show an 11.52% rate~~ of decline for the adjusted ~~taxable value of property (including new construction) for FY 2010/11, with no~~ increase in fiscal ~~years 2011/12 – 2013/14. Beginning in FY 2014/15, a one percent (1%)~~ growth rate ~~has been applied. The City's assessment ratio is projected~~ to ~~remain stable at ninety five percent~~ (95%).

~~Table XII-8 Ad Valorem Tax Base Projections~~

Fiscal Year	~~Adjusted Taxable Value~~	~~Change~~
2005-2006	~~$2,845,407,991~~	-
2006-2007	~~$3,743,475,297~~	~~31.6%~~
~~2007-2008~~	~~$3,750,485,808~~	~~0.2%~~
~~2008-2009~~	~~$3,443,228,086~~	~~-8.2%~~
~~2009-2010~~	~~$2,845,189,751~~	~~-16.7%~~
~~2010-2011~~	~~$2,517,423,893~~	-11.52%
~~2011-2012~~	~~$2,517,423,893~~	0%
~~2012-2013~~	~~$2,517,423,893~~	0%
~~2013-2014~~	~~$2,517,423,893~~	0%
~~2014-2015~~	~~$2,542,598,131~~	~~1.0%~~

~~Ad valorem tax yields were projected assuming~~ the proposed FY ~~2010/11 rate of millage and the projected taxable value rates shown in table XII-8~~9.

~~Table XII-9 Projected~~ Ad Valorem Tax ~~Yields~~

~~Fiscal Year~~	~~Ad Valorem Tax Rate~~	~~Adjusted Taxable Value~~	~~Total Ad Valorem Revenue~~	~~95% of Ad Valorem Revenue~~	~~CRA Tax Increment Revenue~~	~~General Fund Ad Valorem Revenue~~
~~2010-2011~~	~~3.4793~~	~~$2,517,423,893~~	$7,695,967	~~$7,311,169~~	~~$610,483~~	~~$6,700,686~~
~~2011-2012~~	~~3.4793~~	~~$2,517,423,893~~	$7,695,967	~~$7,311,169~~	~~$610,483~~	~~$6,700,686~~
~~2012-2013~~	~~3.4793~~	~~$2,517,423,893~~	$7,695,967	~~$7,311,169~~	~~$610,483~~	~~$6,700,686~~
~~2013-2014~~	~~3.4793~~	~~$2,517,423,893~~	$7,695,967	~~$7,311,169~~	~~$610,483~~	~~$6,700,686~~
~~2014-2015~~	~~3.4793~~	~~$2,542,598,131~~	$8,846,462	~~$8,404,139~~	~~$701,746~~	~~$7,702,393~~

Table XII-10 Revenue ~~Projections Affecting Capital Improvements~~

FUND	FY 10/11	FY 11/12	FY 12/13	FY 13/14	FY 14/15	TOTAL
General Fund	17,713,906	18,418,297	18,786,663	19,162,396	19,545,644	94,617,340
Utilities Commission Revenue Fund	61,322,156	61,922,418	62,558,455	63,422,149	64,222,228	313,447,397
Stormwater Fund	1,331,835	2,637,899	2,690,657	2,717,564	2,744,739	12,122,694
Law Enforcement Trust Fund	0	84,240	85,925	87,643	89,396	347,204
Airport Fund	3,445,789	3,411,331	3,479,558	3,549,149	3,620,132	17,505,959
Police Impact Fee Fund	20,000	19,800	20,196	20,600	21,012	101,608
Fire/Emergency Services Impact Fee Fund	10,000	9,900	10,098	10,300	10,506	50,804
Parks/Recreation Impact Fee Fund	5,000	4,950	5,049	5,150	5,253	25,402
Marina Fund	268,000	265,320	270,626	276,039	281,550	1,361,545
Transportation Impact Fee Fund/Traffic Concurrency Fees	45,000	44,550	45,441	46,350	47,277	228,618
Special Events Fund	63,000	62,370	63,617	64,890	66,188	320,065
Building and Inspection Fund	632,840	626,512	620,246	620,246	620,246	3,120,090
Capital Projects Funds	0	0	0	0	0	0
Golf Course Fund	1,217,776	1,205,598	1,229,710	1,254,304	1,279,390	6,186,778
Sanitation Fund	5,049,742	4,999,245	5,099,229	5,201,214	5,305,236	25,654,668
Garage Fund	832,890	824,561	841,052	857,873	875,031	4,231,407
Community Redevelopment Agency Fund	1,741,872	1,637,360	1,653,733	1,736,420	1,823,241	8,592,626
TOTAL OPERATING EXPENDITURES	93,699,806	96,174,351	97,460,256	99,032,278	100,557,084	487,814,205

Note: these projects represent new revenues only for each year, and do not include any carry-over from the previous fiscal year. The above funding sources are utilized for both operating and capital needs. Other City funds that are only operational in nature are not included.

Sources: City of New Smyrna Beach Finance Department and Utilities Commission, City of New Smyrna Beach.

PROJECTED EXPENDITURES

The projected expenditures have been separated into three (3) categories for the purpose of this assessment: (1) scheduled capital improvement project expenditures; (2) capital improvement debt service expenditures; and (3) operating cost expenditures. The first category of expenditure represents the direct cost of those capital improvements that must be in place this planning period to meet the State's concurrency rules. Table XII-11 lists these projected expenditures by Fund for 2011-2015. This table only includes funds which have been committed and which are collected by the City. Grant funds are not included.

Table XII-11 Expenditure Projections for Scheduled Capital Improvements

Source	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015	Total
Community Redevelopment Agency Fund	794,827	935,000	0	0	0	1,729,827
General Revenue Fund	435,000	0	0	0	0	435,000
Utilities Commission Renewal and	2,259,400	4,525,200	4,352,300	3,709,800	4,529,000	19,375,700

Replacement Fund						
Stormwater Operating Fund	2,016,160	1,475,560	880,805	50,000	0	4,422,525
Total	**5,505,387**	**6,935,760**	**5,233,105**	**3,759,800**	**4,529,000**	**25,963,052**

The second category includes the projected expenditures required to meet debt service requirements for outstanding bond issues, as well as planned future bond issues or loans. Table XII-12 shows the projected debt service expenditures by fund source.

Table XII-12 -Expenditure Projections – Debt Service

	FINAL MATURITY	FY 10/11	FY 11/12	FY 12/13	FY 13/14	FY 14/15	TOTAL
General Obligation Bonds, Series 2005	FY 2024	1,423,136	1,418,686	1,422,593	1,419,048	1,418,788	7,102,251
Capital Improvement Refunding Revenue Bonds, Series 2005	FY 2030	504,315	504,844	503,679	499,891	500,191	2,512,920
Florida Municipal Loan Council Series 2008B	FY 2012	106,905	97,503	0	0	0	204,408
Capital Improvement Refunding Revenue Bonds, Series 1998	FY 2014	341,454	341,653	341,860	171,011	0	1,195,978
Promissory Note 1997	FY 2013	21,465	21,477	10,742	0	0	53,684
Promissory Note 1998A	FY 2014	45,768	45,750	45,750	22,875	0	160,143
Promissory Note 1999A	FY 2014	426,782	426,769	426,804	429,865	0	1,710,220
State Revolving Fund Loan 1999	FY 2021	153,032	153,032	153,032	153,032	153,032	765,160
State Revolving Fund Loan 2002	FY 2023	40,408	40,408	40,408	40,408	40,408	202,040
State Revolving Fund Loan 2003	FY 2024	33,310	33,310	33,310	33,310	33,310	166,550
State Revolving Fund Loan 2009	FY 2028	20,000	20,000	20,000	20,000	20,000	99,998
TOTAL		3,116,575	3,083,432	2,978,178	2,769,440	2,145,729	14,093,354

Source: City of New Smyrna Beach Finance Department

The final category of expenditures contains the annual operating costs for providing the necessary facility improvements and services to the City's customers. These operating costs consist of the recurring expenses associated with the normal operation of capital facilities such as supplies, maintenance, personnel, and utility costs associated with the assessed capital improvement needs. The operating costs have been assigned to the first year in which they are expected to be incurred based on the schedule of improvements contained in Table XII-11. Table XII-13 presents the annual operating expenditures, including debt service, of the City for fiscal years 2011-2015. Transfers and payments to other governmental entities are not included in the operating expenditures, but are included in Table XII-14 of this element.

With regard to the Utilities Commission, City of New Smyrna Beach funds, monies in the Renewal and Replacement Fund are first deposited into the Revenue Fund and then transferred into the Renewal and Replacement Fund once monies have been withheld for debt service and operating expenses. Therefore, separate operating expenses are not listed for either the Renewal and Replacement Fund,

~~Restricted Renewal and Replacement Fund or CDD/Infrastructure Fees Fund.~~

~~Table XII-13 Annual Operating Expenditures~~

~~FUND~~	~~FY 10/11~~	~~FY 11/12~~	~~FY 12/13~~	~~FY 13/14~~	~~FY 14/15~~	~~TOTAL~~
~~General Fund~~	~~18,022,220~~	17,841,999	17,841,998	18,198,838	~~18,562,815~~	~~90,467,868~~
Utilities Commission Revenue Fund	~~66,306,192~~	66,881,418	67,528,455	~~68,057,140~~	~~70,712,228~~	~~339,485,433~~
Stormwater Fund	2,656,721	2,391,049	~~2,391,049~~	~~2,438,870~~	~~2,487,647~~	12,365,336
~~Law Enforcement Trust~~ Fund	93,600	~~84,240~~	~~85,925~~	~~87,643~~	89,396	~~440,804~~
~~Airport Fund~~	~~3,505,904~~	~~3,540,963~~	3,576,373	3,612,136	3,648,258	~~17,883,634~~
~~Police Impact Fee~~ Fund	~~20,000~~	20,200	20,402	21,422	~~22,493~~	~~104,517~~
Fire/Emergency Services ~~Impact Fee Fund~~	~~10,000~~	10,500	10,605	12,196	~~14,026~~	~~57,326~~
Parks/Recreation Impact Fee Fund	80,000	15,000	~~16,500~~	~~18,975~~	~~21,821~~	~~152,296~~
Marina Fund	268,000	~~239,673~~	~~242,070~~	~~244,490~~	~~246,935~~	1,241,168
~~Transportation Impact Fee~~ Fund/Traffic ~~Concurrency Fees~~	45,000	~~45,450~~	~~45,905~~	~~46,364~~	~~46,827~~	229,545
Special Events Fund	63,000	~~56,700~~	~~57,834~~	~~58,991~~	~~60,170~~	296,695
~~Building and Inspection~~ Fund	632,840	~~522,878~~	~~528,106~~	~~533,387~~	538,721	2,755,933
~~Capital Projects Funds~~	~~3,619,611~~	~~2,895,689~~	~~3,638,764~~	-		~~10,054,064~~
~~Golf Course Fund~~	~~1,217,776~~	~~1,095,998~~	1,095,998	1,117,918	1,140,277	~~5,667,968~~
~~Sanitation Fund~~	~~5,344,017~~	~~5,460,997~~	5,505,406	5,615,514	~~5,727,825~~	~~27,643,660~~
Garage Fund	~~809,261~~	818,326	818,326	834,692	~~851,386~~	~~4,231,981~~
Community ~~Redevelopment Agency Fund~~	~~8,077,377~~	2,717,646	1,311,873	1,395,035	~~1,893,615~~	~~16,395,546~~
~~TOTAL OPERATING EXPENDITURES~~	110,771,509	104,628,625	~~104,616,588~~	~~103,293,612~~	106,164,440	~~629,473,775~~

In order to assess the City's capability to fund the necessary capital improvement expenditures, a determination of revenue sufficiency must be made. This capability is shown by finding the difference between the projected annual revenues and expenditures for each fund the City uses to finance the capital improvements. The assessment results are shown in Table XII-14.

		FY 10/11	FY 11/12	FY 12/13	FY 13/14	FY 14/15
GENERAL FUND	Revenues	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	Transfers In	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	Fund Balance Carryforward	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	TOTAL SOURCES	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	Expenditures	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	Transfers Out	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	TOTAL FUND BALANCE	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
UTILITIES COMMISSION REVENUE FUND	Revenues	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	City Rate Subsidy	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	TOTAL SOURCES	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	Expenditures	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	BALANCE	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
STORMWATER OPERATING FUND	Revenues	1,331,835	2,837,899	2,080,667	2,717,664	2,744,739
	Transfers In	0	0	0	0	0
	Fund Balance Carryforward	1,571,736	0	0	52,743	84,602
	TOTAL SOURCES	2,903,571	2,837,899	2,080,667	2,770,333	2,829,341
	Expenditures	2,656,724	2,391,049	2,391,040	2,438,870	2,467,847
	Transfers Out	246,860	246,850	246,860	246,860	246,860
	BALANCE	0	0	62,768	84,602	0
LAW ENFORCEMENT TRUST FUND	Revenues	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	Transfers In	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	Fund Balance Carryforward	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	TOTAL SOURCES	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	Expenditures	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	Transfers Out	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	BALANCE	6,314	6,314	6,314	6,314	6,314
AIRPORT FUND	Revenues	3,405,790	3,411,331	3,470,668	3,518,149	3,520,432
	Transfers In	0	0	0	0	0
	Fund Balance Carryforward	1,496,880	1,399,775	1,267,143	1,170,328	1,107,341
	TOTAL SOURCES	4,902,670	4,808,106	4,736,705	4,748,477	4,727,472
	Expenditures	3,600,604	3,510,963	3,576,373	3,617,136	3,616,258
	Transfers Out	0	0	0	0	0
	BALANCE	1,386,775	1,267,143	1,170,328	1,107,341	1,070,215
POLICE IMPACT FEE FUND	Revenues	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	Transfers In	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	Fund Balance Carryforward	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	TOTAL SOURCES	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	Expenditures	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	Transfers Out	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	BALANCE	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
FIRE/EMERGENCY SERVICES IMPACT FEE FUND	Revenues	10,000	9,900	10,000	10,000	10,000
	Transfers In	0	0	0	0	0
	Fund Balance Carryforward	190,304	190,304	189,204	189,194	187,290
	TOTAL SOURCES	200,304	200,204	199,204	199,194	197,004
	Expenditures	10,000	10,000	10,000	12,196	14,029
	Transfers Out	0	0	0	0	0
	BALANCE	190,304	189,204	189,194	187,000	183,270
PARKS/RECREATION IMPACT FEE FUND	Revenues	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	Transfers In	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	Fund Balance Carryforward	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	TOTAL SOURCES	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	Expenditures	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	Transfers Out	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	BALANCE	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
MARINA FUND	Revenues	288,888	265,320	270,626	276,039	281,580
	Transfers In	0	0	0	0	0
	Fund Balance Carryforward	293,888	288,888	288,543	286,470	287,318
	TOTAL SOURCES	581,888	553,988	559,169	562,509	568,070
	Expenditures	237,900	230,673	242,070	244,490	246,035
	Transfers Out	30,700	30,700	30,700	30,700	30,700
	BALANCE	293,888	288,543	286,470	287,318	281,343
TRANSPORTATION IMPACT FEE FUND / TRAFFIC	Revenues	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	Transfers In	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	Fund Balance Carryforward	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

		FY 10/11	FY 11/12	FY 12/13	FY 13/14	FY 14/15
CONCURRENCY FUND	TOTAL SOURCES	586,377	634,007	604,910	585,353	635,377
	Expenditures	45,000	45,460	46,806	46,354	46,802
	Transfers Out	0	0	0	0	0
	BALANCE	540,377	530,477	538,014	538,000	538,448
SPECIAL EVENTS FUND	Revenues	63,000	63,370	63,817	64,890	65,188
	Transfers In	0	0	0	0	0
	Fund Balance Carryforward	21,791	21,791	27,461	33,244	39,143
	TOTAL SOURCES	84,791	84,461	91,078	98,134	106,331
	Expenditures	63,000	56,700	57,834	60,991	60,170
	Transfers Out	0	0	0	0	0
	BALANCE	21,791	27,461	33,244	39,143	46,161
BUILDING AND INSPECTION FUND	Revenues	633,840	639,512	620,246	630,346	630,348
	Transfers In	0	0	0	0	0
	Fund Balance Carryforward	8,087	8,087	84,647	186,787	278,848
	TOTAL SOURCES	633,852	617,626	714,883	807,024	893,882
	Expenditures	633,840	622,678	638,106	633,187	638,781
	Transfers Out	0	0	0	0	0
	BALANCE	8,087	84,647	186,787	273,646	365,171
CAPITAL PROJECTS FUND	Revenues	0	0	0	0	0
	Transfers In	0	0	0	0	0
	Fund Balance Carryforward	10,054,064	6,434,453	3,538,764	0	0
	TOTAL SOURCES	10,054,064	6,434,453	3,538,764	0	0
	Expenditures	3,619,611	2,895,689	3,538,764	0	0
	Transfers Out	0	0	0	0	0
	BALANCE	6,434,453	3,538,764	0	0	0
GOLF COURSE FUND	Revenues	1,217,778	1,205,598	1,229,710	1,254,304	1,230,303
	Transfers In	0	0	0	0	0
	Fund Balance Carryforward	346,073	346,073	726,478	801,764	485,375
	TOTAL SOURCES	372,703	350,625	494,337	882,443	844,018
	Expenditures	1,217,778	1,098,668	1,009,003	1,117,018	1,110,077
	Transfers Out	0	0	0	0	0
	BALANCE	346,073	736,473	601,764	485,375	226,263
SANITATION FUND	Revenues	5,049,742	4,999,346	5,009,559	5,221,714	5,505,238
	Transfers In	0	0	0	0	0
	Fund Balance Carryforward	2,161,028	1,855,763	1,416,160	1,008,923	594,623
	TOTAL SOURCES	7,210,770	6,866,888	6,514,330	6,310,137	5,800,861
	Expenditures	6,344,017	6,450,087	6,505,406	5,815,514	5,727,625
	Transfers Out	0	0	0	0	0
	BALANCE	1,855,763	1,416,160	1,008,923	594,623	173,037
GARAGE FUND	Revenues	832,893	834,861	844,062	867,873	875,041
	Transfers In	0	0	0	0	0
	Fund Balance Carryforward	476,099	366,738	406,073	428,700	461,384
	TOTAL SOURCES	1,300,988	1,224,388	1,247,028	1,286,573	1,324,014
	Expenditures	908,251	853,325	818,326	834,692	851,386
	Transfers Out	0	0	0	0	0
	BALANCE	366,738	406,073	428,700	461,881	478,628
COMMUNITY REDEVELOMENT AGENCY FUND	Revenues	1,741,873	1,537,360	1,653,733	1,736,420	1,823,241
	Transfers In	0	0	0	0	0
	Fund Balance Carryforward	8,033,033	4,421,939	0	0	170,374
	TOTAL SOURCES	10,741,873	8,059,299	1,653,733	1,736,420	1,993,616
	Expenditures	6,977,377	2,717,648	1,311,973	1,305,026	1,033,616
	Transfers Out	342,556	341,053	341,550	171,011	0
	BALANCE	4,421,939	0	0	170,374	0

Source: City of New Smyrna Beach Finance Department and Utilities Commission, City of New Smyrna Beach

~~F.~~D. IMPLEMENTATION

FIVE (5) YEAR CAPITAL IMPROVEMENT SCHEDULE

The five (5) year capital improvement schedule (Schedule) (Table XII-2) is the mechanism by which the City can effectively stage the timing, location, projected cost, and revenue sources for the capital improvements derived from the other *Comprehensive Plan* elements. Based upon the Inventory, Analysis, and Goals, Objectives, and Policies of this Element, the five (5) year Schedule has been developed to document the financial feasibility of the *City of New Smyrna Beach Comprehensive Plan*.

MONITORING AND EVALUATION

The role of monitoring and evaluation is vital to the effectiveness of any comprehensive plan and particularly for the Capital Improvements Element. As part of the annual budgeting process, the City evaluates the status of all scheduled capital improvements and the overall status of public facilities in relation to current and projected demand. This evaluation ensures that revisions to the budget, work programs, and this *Comprehensive Plan* may be made as necessary to provide facilities in a timely and financially feasible manner, consistent with adopted level-of-service standards. In addition, the issues of development orders and building permits are monitored continuously to ensure consistently with this plan.

The City's annual review includes the following consideration, which are also evaluated each year to determine their continued applicability:

1. Any corrections, updates, and modifications concerning costs; revenue sources; acceptance of facilities pursuant to dedications which are consistent with the element; or the date of construction of any facility listed in this Element
2. The Capital Improvements Element's consistency with the other elements and its support of the Future Land Use Element
3. The City's ability to provide public facilities and services within the Urban Service Area in order to determine any need for boundary modification or adjustment
4. The priority assignment of existing public facility deficiencies
5. The City's progress in meeting those needs that are determined to be existing deficiencies
6. The criteria used to evaluate capital improvements projects in order to ensure that projects are being ranked in their appropriate order of priority
7. The City's effectiveness in maintaining the adopted LOS standards
8. The City's effectiveness in reviewing the impacts of plans and programs of state agencies and water management districts that provide public facilities within the City's jurisdiction
9. The effectiveness of impact fees, and mandatory dedications or fees in lieu of, for assessing new development a pro rata share of the improvement costs which they generate
10. The impacts of special districts and any regional facility and service provision upon the City's ability to maintain its adopted LOS standards
11. Efforts made to secure grant or private funds, whenever possible, to finance the provision of capital improvements
12. The transfer of any unexpended account balances
13. The criteria used to evaluate proposed plan amendments and requests for new development or redevelopment
14. Capital improvements needed for the latter part of the planning period, for inclusion in the five (5) year Schedule

~~G.~~E. CONCURRENCY MANAGEMENT SYSTEM

OVERVIEW

The purpose of a Concurrency Management System is to provide the necessary regulatory mechanism for evaluating development orders to ensure that the level-of-service standards adopted as part of the

Comprehensive Plan are maintained. The system consists of three (3) primary components: (1) an inventory of existing public facilities for which concurrency is to be determined; (2) a concurrency assessment of each application for a final development order or permit; and (3) a schedule of improvements needed to correct any existing public facility deficiencies. Under this system, and according to the Florida State Legislature, no development orders may be issued which will cause a public facility to operate below its adopted level-of-service standard. However, development orders may be conditioned such that needed public facility improvements will be in place concurrent with the impacts of the proposed development.

In order to ensure that all public facilities included within this system are available concurrent with the impacts of development, concurrency will be determined during the final site plan or final subdivision plan approval process. All development orders and permits will specify any needed improvements and a schedule for their implementation. Thus, while some required improvements may not have to be completed until a certificate of occupancy is applied for, the requirements for the certificate of occupancy will have already been specified as a condition of approval of the original development order. If a development proposal cannot meet the test for concurrency, then it may not proceed under any circumstances and no development orders or permits may be issued. Likewise, if a development fails to meet a condition of approval once it has commenced, then no additional development orders, permits, or certificates of occupancy may be issued.

APPLICABILITY

Prior to the granting of a development order, all applications for a final site plan or final subdivision plan shall be reviewed for concurrency consistent with the provisions and requirements of this system. Development orders may be issued only upon a finding by the City that the public facilities addressed under the Concurrency Management System will be available concurrent with the impacts of the development.

All applicants for development permits shall be required to provide all information deemed necessary by the City so that the impacts of the proposed development may be accurately assessed.

The *Land Development Regulations* specifically list the application requirements for development permits that reflect the informational needs for the determination of concurrency.

PLANNING AND ~~ZONING~~ ENGINEERING ~~DEPARTMENT~~DIVISION

The Planning and ~~Zoning Department~~Engineering Division is responsible for the three (3) primary tasks that are described below. The Department Director may delegate all or a part of those functions to the employees within this Department. The three (3) tasks are: (1) maintaining an inventory of existing public facilities and capacities or deficiencies; (2) determining concurrency of proposed development which does not require Planning and Zoning Board approval; and (3) providing advisory concurrency assessments and recommending conditions of approval to the Planning and Zoning Board for those applications for development orders which require Planning and Zoning Board approval.

~~H.~~F. GOALS, OBJECTIVES, AND POLICIES

INFRASTRUCTURE GOAL:

To provide infrastructure to all residents in the community in a manner, which efficiently replaces obsolete or worn-out facilities, meets existing deficiencies, and accommodates desired future growth consistent with the Future Land Use Plan.

OBJECTIVE:

1. Capital improvements shall be provided to correct existing deficiencies, to accommodate anticipated future growth, and to replace outdated and obsolete facilities, as indicated in the five (5) year capital improvement schedule (Schedule) of this Element.

POLICIES:

a. The City shall include all projects required to meet or maintain adopted level-of-service (LOS) standards, as required by the Florida Growth Management Act, or implement the goals, objectives, and policies of the *Comprehensive Plan* and determined to be of relatively large scale in cost ($25,000 or greater) as capital improvement projects to be included within the Schedule of this Element.

b. The City shall, for accounting purposes, also include into this Element Debt Service and Operating expenditures.

c. The City shall continue its current program providing for renewal and replacement of capital facilities as outlined in the various Elements of this Plan.

d. The City shall create a capital improvement program and shall continue to adopt an annual budget as a part of its budgeting process. The City shall review the capital improvement program annually together with the Utilities Commission, City of New Smyrna Beach five (5) year capital improvement program to include the water and sanitary sewer related projects identified for the first five (5) years of these programs. The program shall be "financially feasible" as defined in *Florida Statutes*.

e. The proposed capital improvement projects shall be evaluated and ranked in order of priority according to the following criteria:

   i. Whether the project is needed to protect public health and safety, to fulfill the City's legal commitment to provide facilities and services, or to preserve or achieve full use of those facilities already in place;

   ii. Whether the project promotes the City's development of alternative water supplies, corrects water supply deficiencies or otherwise results in a reduction in future dependence on Upper Floridan aquifer water sources to support future growth of the City;

   iii. Whether the project increases efficiency of use of existing facilities, prevents or reduces future improvements costs, provides services to developed areas lacking full service, or promotes in-fill development;

   iv. Whether the project represents a logical extension of facilities and services within the designated Urban Service Areas boundary, and is coordinated with the plans of state agencies that provide facilities within the City;

   v. Whether the project implements the policies of this *Comprehensive Plan* as they pertain to the concurrency requirements; and

   vi. Whether the project is financially feasible.

f. The potential for reducing Vehicle Miles Traveled (VMTs) and green house gas (GHG) emissions should be considered in all location and investment decisions for public facilities.

OBJECTIVE:

2. The proportionate share of facility improvements that are necessitated by future development in order to maintain adopted LOS standards shall be borne by those directly benefiting from the improvements.

POLICIES:

a. The City shall continue to collect impact fees from development projects to pay for the provision of water, sewer, recreation, public safety services, and transportation facilities required by those projects.

b. The City shall consider the use of other impact or mobility fees, such as for transit service or pedestrian and bicycle facilities.

c. All new development shall be required to donate or reserve their fair share of right-of-

way adjacent to major roadways prior to the issuance of a final development order.

d. All new development shall be required to pay its proportionate fair share toward transportation LOS and mobility improvements that are necessary to provide capacity for their impacts as outlined in the City's Proportionate Fair-Share Ordinance.

OBJECTIVE:

3. The City shall manage its fiscal resources to ensure the provision of needed capital improvements for previously issued development orders and for future development and redevelopment. This objective shall be achieved through the implementation of the following policies:

POLICIES:

a. The City shall not issue development orders or permits unless public facilities (which meet the adopted level-of-service standards) needed to support development or redevelopment are available, or will be available concurrently with the impacts of the development.

b. The City shall continue to apply for and secure grants or private funds whenever possible to finance the provision of capital improvements and other City improvement projects.

c. The City shall begin to adopt a five (5) year capital improvement program and shall consider adopting an annual capital improvement program as part of its budgeting process.

d. The City shall identify and use stable revenue sources, which are also responsive to growth, for financing public facilities.

OBJECTIVE:

4. The City shall base all decisions regarding the issuance of development orders and permits on the coordination of the development requirements included in this *Comprehensive Plan, Land Development Regulations*, and ordinances, and the availability of public facilities needed to support such development at the time it is needed.

POLICIES:

a. The City shall use the following levels of service (LOS) standards in reviewing the impacts of new development and redevelopment upon public facility provision:

- Sanitary Sewer ~~242~~ 207 gallons per day per Equivalent Residential Unit
- Solid Waste – 7.3 pounds per person per day (non-residential waste is included in this figure)
- Potable Water – 240 gallons per day per Equivalent Residential Unit
- Drainage – 25 year, 24 hour event. Drainage system will be designed to meet the requirements contained in the *Land Development Regulations*.
- Roadways
  - LOS "C" or better for Florida Interstate Highway System
  - LOS "D" on other State highways
  - LOS "E" on minor arterials, collectors, local roadways and all facilities located within a central business district. The central business districts shall be defined as follows:

    Mainland – That area designated as Mixed Uses on the Future Land Use Map including roads adjacent to areas designated as Mixed Uses.

    Beachside – The area bounded by an east west extension of Florida Street on the north and Jessamine Street on the south and the Indian River and Atlantic Ocean as west and east

boundaries, respectively.

* Recreation Standards for Facilities
  * Beach Access will be provided in 1.0 acre increments when demand equals 0.25 acres; the Level of Service standard is 0.25 acres per 1,000 residents.
  * Urban Open Space will be provided in 0.1 acre increments when the demand equals 0.05 acres; the Level of Service standard is 1.0 acre per 1,000 residents
  * Equipped Play Areas / Tot Lots Acres will be provided in 0.25 acre increments when demand equals 0.2 acres; the Level of Service standard is 0.2 acres per 1,000 residents
  * Neighborhood Parks will be provided in 1.9 acre increments when demand equals 1.9 acres; the Level of Service standard is 0.4 acres per 1,000 residents
  * Community Parks will be provided in 20 acre increments when the demand equals 10 acres; the Level of Service standard is 1 acre per 1,000 residents
  * Regional Parks will be provided in 250 acre increments when the demand equals 200 acres; the Level of Service standard is 20 acres per 1,000 residents.
  * Urban District Parks will be provided in 50-acre increments when demand equals 40 acres; the Level of Service standard is 5.0 acres per 1,000 residents
  * Baseball / Softball Fields will be provided in 1-field increments when demand equals 1 field; the Level of Service standard is 1 field per 10,000 residents.
  * Basketball Courts will be provided in 1 court increments when demand equals one (1) court; the Level of Service standard is 1 court per 20,000 residents
  * Bicycle Trails will be provided in 1-mile increments when demand equals 0.5 miles; the Level of Service standard is 1 mile of trail per 10,000 residents
  * Boat Ramps will be provided in 1-lane increments when demand equals one (1) lane; the Level of Service standard is 1 lane per 12,500 residents
  * Piers/Catwalks/Jetties will be provided in 800-foot increments when demand equals 800 feet; the Level of Service standard is 800 lineal feet of pier/catwalk/jetty per 25,000 residents
  * Football / Soccer fields will be provided in 1-field increments when demand equals one (1) field; the Level of Service standard is 1 field per 25,000 residents
  * Handball/Racquetball Courts will be provided in 1-court increments when demand equals one (1) court; the Level of Service standard is 1 court per 20,000 residents
  * Shuffleboard Courts will be provided in 1-court increments when demand equals one (1) court. The Level of Service standard is 1 court per 12,000 residents
  * Tennis Courts will be provided in 1-court increments when demand equals one (1) court; the Level of Service standard is 1 court per 10,000 residents

b. The City shall evaluate all proposed *Comprehensive Plan* amendments and requests for new development or redevelopment according to the following guidelines as to whether the proposed action would:

   i. Be consistent with the Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element and the Coastal Management Element and not contribute to a condition of public hazard;

   ii. Be consistent with the Transportation Element; Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element; and Recreation and Open Space Element and not intensify an existing public facility capacity deficits not envisioned within this plan;

   iii. Generate public facility demands that may be accommodated by planned capacity increases as shown in the five (5) year Schedule;

   iv. Conform with future land uses as shown on the future land use map of the Future

Land Use Element, and Urban Service Areas as described the Sanitary Sewer, Potable Water, Solid Waste, Drainage and Natural Groundwater Aquifer Recharge Element;

v. Accommodate public facility demands based upon level-of-service standards by provision of facilities by the developer or by the City consistent with this element; and

vi. Be consistent with state and regional agencies' and water management district's facilities plans.

PUBLIC SCHOOL FACILITIES GOAL:

Provide for a financially feasible public school facilities program.

OBJECTIVE:

1. The City of New Smyrna Beach shall ensure that the capacity of schools is sufficient to support residential subdivisions and site plans at the adopted level-of-service standard. This level-of-service standard shall be consistent with the level-of-service standard adopted in the Interlocal Agreement entered into by the Volusia County School Board and the local governments within Volusia County.

POLICIES:

a. The level-of-service standard adopted by the City of New Smyrna Beach shall be applied consistently by all local governments within Volusia County and by the School Board district-wide to all schools of the same type.

b. Consistent with the Interlocal Agreement, the uniform, district-wide level-of-service standards are set as follows using Florida Inventory of School Houses (FISH) capacity based on the traditional school calendar:

i. Elementary Schools – one hundred fifteen percent (115%) of permanent FISH capacity for the Concurrency Service Area;

ii. K-8 Schools – one hundred fifteen percent (115%) of permanent FISH capacity for the Concurrency Service Area;

iii. Middle Schools – one hundred fifteen percent (115%) of permanent FISH capacity for the Concurrency Service Area;

iv. High Schools – one hundred twenty percent (120%) of permanent FISH capacity for the Concurrency Service Area; and

v. Special Purpose Schools – one hundred percent (100%) of permanent FISH capacity.

c. The following schools shall achieve the adopted level of service no later than the identified date. The level-of-service presented in the following table is the tiered level-of-service that shall apply to that school until the date noted in the table.

School	LOS	Date
Orange City Elementary	117 percent	July 1, 2012
Horizon Elementary	158 percent	July 1, 2012
Freedom Elementary	126 percent	July 1, 2012
Osceola Elementary	117 percent	July 1, 2012
Ortona Elementary	150 percent	July 1, 2012
Ormond Beach Elementary	116 percent	July 1, 2012
Southwestern Middle	120 percent	July 1, 2013
New Smyrna Beach Middle	122 percent	July 1, 2014

Note: This policy designates a tiered LOS for those schools that exceed the desired levels at the end of the five (5) year capital improvement program.

d. The following schools shall be considered constrained schools at the designated LOS due to the inability to add capacity at the site and the nature of the communities they serve. Concurrency will be reviewed in the adjacent Concurrency Service Areas and requests to increase residential densities in the constrained Concurrency Service Areas will need to be accompanied by a plan to address school capacity.

School	LOS
Burns-Oak Hill Elementary	115 percent
Coronado Elementary	115 percent
Samsula Elementary	165 percent

Source: Interlocal Agreement for Public School Facility Planning

OBJECTIVE:

2. The City of New Smyrna Beach shall cooperate with the Volusia County School Board to ensure existing deficiencies and future needs are addressed consistent with adopted level-of-service standards for public schools.

POLICIES:

a. By December 1 of each year, the City of New Smyrna Beach shall adopt as part of its Capital Improvements Element the Volusia County School Board five (5) year work program approved in September of each year as part of the School Board budget, including planned facilities and funding sources to ensure a financially feasible capital improvement program and to ensure the level-of-service standards will be achieved by the end of the five (5) year period.

b. The City of New Smyrna Beach shall coordinate with the School Board and adopt development conditions to ensure that future development pays a proportionate share of the costs of capital facility capacity needed to accommodate new development and to assist in maintaining the adopted level-of-service standards via impact fees and other legally available and appropriate methods.

AGENDA ITEM SUMMARY

Department Making Request: City Attorney's Office

Meeting Date: 1st Reading: February 28, 2012 2nd Reading: March 13, 2012

Action Item Title: Ordinance No. 39-12: CRA Governing Body-Amending Ord. 18-85

Agenda Section: Consent Public Hearing __X___ Admin Items/New _____

Summary Explanation and Background:

Ordinance No. 18-85 created the Community Redevelopment Agency with a separate governing body of 7 members appointed by the City Commission. Recently, the CRA membership has experienced several resignations for various stated reasons. There has been reluctance on the part of qualified potential applicants to offer to serve on the CRA due to restrictions on participation in CRA programs.

The City Commission indicate a desire to consider changing the composition of the governing body of the CRA to the model most commonly used throughout Florida: The members of the City Commission serving as members of the CRA board of commissioners. As provided in Florida Statutes, the City Commission may appoint two additional people qualified under the Community Redevelopment Act to serve on the board of commissioners.

This change would take effect immediately upon adoption. It would be well to appoint the two additional at the March 13th meeting.

Recommended Action/Motion: Approval

Funding Analysis: Budgeted -NA- – If not budgeted, recommended funding account:

Exhibits Attached: Ordinance No. 39-12

Reviewed By	Name	Signature
Department Head	Tony Otte	
Finance Director	Althea Philord Bradley	
City Manager	Pam Brangaccio	
City Attorney	Frank Gummey	

Commission Action:

ORDINANCE NO. 39-12

AN ORDINANCE AMENDING ORDINANCE NO. 18-85 WHICH CREATED THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF NEW SMYRNA BEACH BY DECLARING THE CITY COMMISSION AND TWO ADDITIONAL PEOPLE APPOINTED BY THE CITY COMMISSION AS THE GOVERNING BODY OF THE COMMUNITY REDEVELOPMENT AGENCY; PROVIDING THE NEW GOVERNING BODY IS SUBJECT TO ALL OF THE RESPONSIBILITIES AND LIABILITIES IMPOSED OR INCURRED BY THE COMMUNITY REDEVELOPMENT AGENCY; PROVIDING FOR PUBLIC HEARING; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 163.356, Florida Statutes, the City adopted Ordinance No. 18-85 (May 28, 1985) which created the Community Redevelopment Agency, City of New Smyrna Beach (CRA) with a seven member board of commissioners to serve as the governing body of the CRA; and

WHEREAS, Section 163.357, F.S., provides that the City Commission may declare itself to govern the CRA and may appoint two additional people to act as members of the CRA; and

WHEREAS, recent resignations from the CRA board of commissioners has created an inability for the CRA to act on certain matters; and

WHEREAS, the structure of having the municipal governing body serve as CRA governing body as utilized by every other municipal CRA in Volusia County has proved an efficacious manner to exercise redevelopment powers.

WHEREAS, the redesignation of the governing body of the CRA requires that the new governing body be subject to all the responsibilities and liabilities imposed on or incurred by the CRA created by Ordinance No. 18-85.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF NEW SMYRNA BEACH, FLORIDA, AS FOLLOWS:

SECTION1: *Amendment*. That Ordinance No. 18-85 is hereby amended as follows: **(Note: Deletions from text are indicated by ~~strikeout~~, additions to text are indicated by <u>underline</u>, and omissions in text are indicated by [...].)**

SECTION 1: Agency.

There is hereby created a public body corporate and politic to be known as "The Community Redevelopment Agency, New Smyrna Beach, Florida". The agency shall constitute a public instrumentality with powers to perform an essential public function within the corporate limits of the City of New Smyrna Beach and as prescribed by **~~ordinance~~** **<u>Ordinance No. 18-85 and Ordinance No. 39-12</u>** of the City Commission of the City of New Smyrna Beach.

SECTION 2: **~~Board of Commissioners; terms of office; and qualifications.~~** **<u>Governing Body; terms of office; qualifications.</u>**

~~**(1) The City Commission shall appoint a board of seven (7) commissioners to serve as the Community Redevelopment Agency. The terms of office of the commissioners shall be for four (4) years except that two (2) of the members first appointed shall be designated to serve a one (1) year term from the date of their appointment, two (2) of the members first appointed shall be designated to serve terms of two (2) years from the date of their appointment, two (2) of the members first appointed shall be designated to serve three (3) years from the date of their appointment, and one (1) of the members first appointed shall be designated to serve a term of four (4) years from the date of appointment. A vacancy occurring during a term shall be filled for the unexpired term. Each commissioner shall hold office until his successor has been appointed and has qualified. A certificate of appointment or reappointment of any commissioner shall be filed with the Clerk of the municipality, and such certificate is conclusive evidence of the due and proper appointment of such commissioner.**~~

(1) The five members of the City Commission shall serve *ex officio* as governing body of the Community Redevelopment Agency, City of New Smyrna Beach, known as the Board of Commissioners. The Mayor shall serve *ex officio* as Chair of the Board of Commissioners. The Vice-Mayor shall serve *ex officio* as Vice-Chair of the Board of Commissioners. Additionally, the City Commission shall appoint two electors of the City as members of the Board of Commissioners having the qualifications prescribed in subsection 2 below. The additional members appointed shall serve 4 year terms or until their successor is duly appointed and qualified, if that be later, except that the initial term of the first person appointed shall expire March 31, 2013, and the other person appointed term shall expire March 31, 2015. The Board of Commissioners is subject to all of the responsibilities and liabilities imposed on or incurred by the Community Redevelopment Agency created by Ordinance No. 18-85.

(2) Any person may be appointed as commissioner if that person resides or is engaged in business, which means owning a business, practicing a profession, or performing a service for compensation, or serving as an officer or director of a corporation or other business entity so engaged, within the area of operation of the agency, which shall be coterminous with the area of operation of the municipality, and is otherwise eligible for such appointment under Chapter 163, Part III, Florida Statutes (~~Supp. 1984~~ **2011**).

SECTION 3: Officers; removal from office; ethics.

~~**(1) The City Commission shall designate a chairman and vice-chairman from among the agency commissioners. The chairman and vice-chairman shall serve for a period of one (1) year.**~~

(~~**2**~~ **1**) The City Commission may remove ~~**a commissioner**~~ **an additional appointed member** for inefficiency, neglect of duty, misconduct in office, or unexcused absence from ore than two consecutive meetings. The minutes shall note absent (excused) or absent (unexcused) as appropriate. A Commissioner may be

removed only after a hearing and only if the agency commissioner has been given a copy of the charges at least ten (10) days prior to such hearing and has had an opportunity to be heard in person or by counsel.

(3) The officer, commissioners, and employees of the Community Redevelopment Agency shall be subject to the provisions and requirements of Part III, Chapter 112, Florida Statutes (~~Supp. 1984~~ **2011**).

(a) If any such official, commissioner, or employee presently owns or controls, or owned or controlled within the preceding two (2) years, any interest, direct or indirect, in any property which he knows is included or planned to be included, in a community redevelopment area, he shall immediately disclose this fact in the manner provided in Part III of Chapter 112. Any disclosure required to be made by this section shall be made prior to taking any official action pursuant to this section.

(b) No commissioner or other officer of the Community Redevelopment Agency, exercising powers pursuant to Part III, Chapter 163, Florida Statutes (~~Supp. 1984~~ **2011**) shall hold any other public office under the municipality other than the commissionership or office with respect to such Community Redevelopment Agency.

SECTION 4: Administration.

(1) A commissioner shall receive no compensation for services, but shall be entitled to the necessary expenses, including travelling expenses, incurred in the discharge of commissioner duties.

~~**(2) The City Commission may appropriate to the agency such amounts as the City Commission deems necessary for the administrative expenses and overhead of the agency.**~~

(2) The City Manager shall be the chief administrative officer for the Community Redevelopment Agency and appointing authority for all other administrative personnel.

(3) The agency may ~~**employ**~~ **fund retention of** ~~**an Executive**~~ **a** Director, technical experts, and such other agents and employees, permanent and temporary, as it requires**.** ~~**and determine their qualifications, duties and compensation.**~~ The employment of any person shall be made subject to the administration of the ~~**Personnel**~~ **Human Resources** Department of the City of New Smyrna Beach and all applicable ordinances for employees of the City of New Smyrna Beach. ~~**For legal service, the agency may, subject to the authorization of the City Commission, employ or retain its own counsel and legal staff.**~~ **The City Attorney shall serve as counsel to the Community Redevelopment Agency.**

(4) The agency shall file with ~~**the City Commission and with the Auditor General,**~~ **each taxing authority** on or before March 31 of each year, a report of its activities for the preceding fiscal year, which report shall include a complete financial statement setting forth its assets, liabilities, income, and operating expenses as of the end of such fiscal year. At the time of filing the report, the agency shall publish in a newspaper of general circulation in the community a notice to the effect that such report has been filed with the municipality and that the report is available for inspection during business hours in the office of the City Clerk and in the office of the agency.

(5) The fiscal year of the agency shall be October 1 through September 30 of the following year.

(6) The agency shall submit the proposed budget to the City Commission on July 1 of each year, unless otherwise extended in writing by the City Commission.

SECTION 5: Powers.

(1) The powers of the Community Redevelopment Agency shall be exercised by the **board of** commissioners. A majority of the **board of** commissioners constitutes a quorum for the purpose of conducting business and exercising the powers of the agency and for all other purposes. Action may be taken by the agency upon a vote of a majority of the **board of** commissioners present. The ~~**agency**~~ **board of** commissioners may adopt by-laws prescribing procedures for the Community Redevelopment Agency as deemed necessary and approved by the ~~**agency**~~ **board of** commissioners. The by-laws may require that action may be taken by the agency upon a vote of a number larger than the majority of commissioners present.

(2) The Community Redevelopment Agency is hereby delegated the powers necessary or convenient to carry out and effectuate the purposes and provisions of Chapter 163, Part III, Florida Statutes (~~**Supp. 1984**~~ **2011**), as more particularly set forth in Section 163.370, Florida Statutes (~~**Supp. 1984**~~ **2011**), and as otherwise authorized by ordinance of the City Commission of the City of New Smyrna Beach, except as otherwise reserved herein. The powers as prescribed by Florida Statutes, Section 163.370~~**(1)(a-k) and (n)**~~ **(2)(a-o)** (~~**Supp. 1984**~~ **2011**) are attached hereto as Exhibit "A" and by reference made a part hereof.

(3) The City Commission reserves all powers set forth in Exhibit "B" attached hereto and by reference made a part hereof.

~~**SECTION 6: Ex Officio Representative.**~~

~~**(1) The City Commission may appoint a City Commissioner to act as a ex officio representative and liaison to the Community Redevelopment Agency. The ex officio representative will serve a term of one (1) year from the date of appointment. The ex officio representative shall be entitled to enter into all discussions during the meetings of the**~~

~~agency. The ex officio representative shall not be entitled to make motions or vote on any subject before the entity.~~

SECTION ~~7~~ 6: Meetings and Records.

(1) The meetings of the Community Redevelopment Agency shall be held in compliance with Chapter 286, Florida Statutes (~~Supp. 1984~~ 2011).

(2) All records of the Community Redevelopment Agency shall be maintained in compliance with Chapter 119, Florida Statutes (~~Supp. 1984~~ 2011).

SECTION 4: ***Public Hearing***. That a public hearing considering the adoption of this ordinance held March 13, 2012, in the City Commission Chambers in City Hall, 210 Sams Avenue (south entrance on Julia Street), New Smyrna Beach, Florida, after notice is found to comply with §166.041(3)(a), F.S.

SECTION 5: ***Severability***. That if any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portion of this ordinance.

SECTION 6: ***Conflicting Ordinances***. That all ordinances or parts thereof that are in conflict with this ordinance shall be and the same are hereby rescinded and repealed.

SECTION 7: ***Effective Date***. That this ordinance shall take effect immediately upon its final adoption.

APPROVED AS TO FORM AND CORRECTNESS:

FRANK B. GUMMEY, III
City Attorney

DATE: 2/21/12

MEMORANDUM

FROM THE OFFICE OF THE CITY MANAGER

To: Mayor and City Commission

From: Pam Brangaccio, City Manager PDB

Re: **CRA Chair Appointment**

Date: February 28, 2012

Please see the attached, per an information request for the City Commission on how the CRA's in Volusia County appoint their Chair.

Thank you.

cc: CRA Director
City Attorney
City Clerk

Community Redevelopment Agency Appointment as Chair

City	CRA Name	Governing Structure	Advisory Committee
Daytona Beach	Daytona Beach CRA	Composed of each elected official only, the Mayor and 6 commissioners; the Mayor automatically serves as the Chair	Yes - 3 (attached)
Ormond Beach	Downtown CRA	City Commission; the Mayor automatically serves as the Chair	No
Ormond Beach	North Mainland CRA	Tomoka Holdings, Developer is CRA Body & City Commission has final vote	No
Daytona Beach Shores	Daytona Beach Shores CRA	City Council; Mayor automatically serves as the Chair	No
Port Orange	Town Center CRA & Eastport CRA	City Council & two additional members; Chair and Vice Chair are selected annually at the organization meeting; they could be any of the CRA members - but the Mayor has always been the selected as Chair	No
Holly Hill	Holly Hill CRA	Mayor and Commission (5); Mayor serves as the Chair	No
South Daytona	South Daytona CRA	City Council Members (5); the Mayor sits as the Chairman	No
Deland	Dowtown CRA	City Commission & two business owners; Mayor automatically serves as the Chair	No
Deland	Spring Hill CRA	Mayor, 2 Commissioners, Co Council Chair, District 1 County Council, 2 residents (1 in City and 1 in County); Mayor automatically serves as the Chair	No

AGENDA ITEM SUMMARY

Department Making Request: Planning

Meeting Date: 1st Reading: ~~2/28~~ 3/13/2012 2nd Reading: 3/~~13~~ 27/2012

Action Item Title: DA-1-12: McDonald / 2275 TURNBULL BAY ROAD

Agenda Section: Consent _____ Public Hearing X Special Items _____

Summary Explanation and Background:
David Z. and Susan McDonald, 2275 Turnbull Bay Road, New Smyrna Beach, Florida, 32168 request voluntary contraction and associated *Comprehensive Plan* amendments.

The subject property consists of approximately 2.27 acres and is generally located on the east side of Turnbull Bay Road, south of the intersection of Turnbull Bay Road and Bayview Drive.

At its February 6, 2012 meeting, the Planning and Zoning Board voted, 4-2 (Brooks Casey abstaining; and Board members Ian Ratliff and Jason McGuirk dissenting), to recommend the City Commission approve the contraction request.

Recommended Action/Motion:

Staff recommends denial of the de-annexation request. City Attorney recommends denial

The Planning and Zoning Board recommends approval of the de-annexation request.

Funding Analysis: Budgeted N/A If not budgeted, recommended funding account:

Exhibits Attached: Staff report with associated exhibits dated February 6, 2012.

Reviewed By:	Name	Signature
Department Director:	Gail Henrikson	GHenrikson
City Attorney	Frank Gummey	Frank L. Gummey Jr.
City Manager	Pam Brangaccio	Pam Brangaccio

Commission Action:

ORDINANCE NO. 34-12

AN ORDINANCE CONTRACTING REAL PROPERTY CONTAINING APPROXIMATELY 2 ACRES DESCRIBED GENERALLY AS ON THE EAST SIDE OF TURNBULL BAY ROAD, SOUTH OF THE INTERSECTION OF TURNBULL BAY ROAD AND BAYVIEW DRIVE AT 2275 TURNBULL BAY ROAD, AND TO THE CENTERLINE OF ALL SURROUNDING RIGHTS-OF-WAY; PROVIDING FOR REDEFINING BOUNDARIES OF THE CITY; PROVIDING FOR PUBLIC HEARING; PROVIDING FOR FILING THIS ORDINANCE WITH THE CLERK OF THE CIRCUIT COURT, THE VOLUSIA COUNTY MANAGER, AND THE FLORIDA DEPARTMENT OF STATE FOLLOWING ADOPTION; PROVIDING FOR FILING REVISIONS TO THE CHARTER BOUNDARY ARTICLE WITH THE FLORIDA DEPARTMENT OF STATE; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, David Z. and Susan McDonald, 2275 Turnbull Bay Road, New Smyrna Beach, Florida, applicants and property owners, have requested the contraction (de-annexation) of a parcel of land containing approximately 2 acres described generally as on the east side of Turnbull Bay Road, south of the intersection of Turnbull Bay Road and Bayview Drive at 2275 Turnbull Bay Road, in accordance with §171.051, F.S.; and

WHEREAS, City staff determined that the subject property does not meet the criteria for contraction in accordance with §171.052, F.S., and recommended that the Planning and Zoning Board recommend denial of the petition for contraction and associated Comprehensive Plan amendments; and

WHEREAS, the Planning and Zoning Board, at its meeting on February 6, 2012, by a vote of 4-2 (Mr. Casey abstained; Mr. Ratliff and Mr. McGuirk dissented) recommended that the City Commission ***approve*** the requested contraction; and

WHEREAS, the City Commission of the City of New Smyrna Beach hereby deems that it is in the best interests of the citizens of New Smyrna Beach, Florida, to contract the City boundaries by excluding the parcel of land containing approximately 2 acres at 2275 Turnbull Bay Road, and to the centerline of all surrounding rights-of-way.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF NEW SMYRNA BEACH, FLORIDA:

SECTION 1: ***Contraction.*** That the real property located in Volusia County, State of Florida, described as:

SEE EXHIBIT "A" ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF,

and to the centerline of all surrounding rights-of-way shall be and the same is hereby contracted from and shall be excluded from the boundaries of the City of New Smyrna Beach pursuant to §171.051, F.S.

SECTION 2: ***Boundary Adjustment.*** That the boundary lines of the City of New Smyrna Beach shall be and the same are hereby redefined to exclude and be less and except the property described in Section 1 above, and shall hereinafter read as follows:

SEE EXHIBIT "B" ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF.

SECTION 3: ***Public Hearing.*** It is hereby found that a public hearing held by the City Commission to consider adoption of this ordinance on March 27, 2012, in the City Commission Chambers at City Hall, 210 Sams Avenue (south entrance on Julia Street), New Smyrna Beach, Florida, after notices published once a week for two consecutive weeks is deemed to comply with Section 171.051(3), F.S.

SECTION 4: ***Charter Revisions to the Department of State.*** The Charter Boundary Article shall be revised to reflect the changes in the municipal boundaries resulting from this contraction and shall be filed as a revision of the City Charter with the Florida Department of State within THIRTY (30) days. A copy of such revision must be submitted to the Office of Economic and Demographic Research along with a statement specifying the population census effect and the affected land area. §171.091, F.S.

SECTION 5: ***Conflicting Ordinances.*** That all ordinances or parts thereof that are in conflict with this ordinance shall be and the same are hereby rescinded and repealed.

SECTION 6: ***Severability.*** That if any section, sentence, clause or phrase of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 7: ***Effective Date.*** That this ordinance shall become effective 60 days after its final adoption.

APPROVED AS TO FORM AND CORRECTNESS:

FRANK B. GUMMEY, III
City Attorney

DATE: 2/22/12

McDonald/2275 Turnbull Bay Road
Contraction - Case DA-1-12
First Reading February 28, 2012
Public Hearing March 27, 2012
February 22, 2012
8:47 AM

Being a portion of the South 1/2 of Lot 2 and Lot 3, Block 1, and a portion of the South 1/2 of Lot 2 and that part of Lot 3, Block 2, lying Easterly of Turnbull Bay Road, a 50 foot R/W as now laid out and a part of the platted 33 foot road lying between said Blocks 1 and 2, said road vacated by Volusia County Council June 6, 1957, per Minute Book 33, Page 367, all being in the F.G. Lindberg Subdivision as recorded in Deed Book "U", Page 562; also Deed Book "O", Page 19, of the Public Records of Volusia County, Florida and being more particularly described as follows:

Commence at the Southeast corner of the Pedro Trope Grant, Section 41, Township 17 South, Range 33 East; thence N 62°12'45" E along the North line of the Lindsay Todd Grant, Section 40, Township 17 South, Range 33 East, also being the South line of the F.G. Lindberg Subdivision, a distance of 2236.09 feet to said Easterly R/W of Turnbull Bay Road; thence Northwesterly along said Easterly R/W along a curve concave to the Northeast, having a radius of 4924.79 feet, a central angle of 01°48'56" and an arc length of 156.05 feet to the point of tangency of said curve; thence continuing Northwesterly along said R/W, N 17°38'33" W, a distance of 176.65 feet; thence N 17°00'24" W, a distance of 200.41 feet for the Point of Beginning; thence continuing Northwesterly along said Easterly R/W, N 17°00'24" W, a distance of 1.32 feet; thence N 17°26'01" W, a distance of 126.86 feet; thence N 16°51'38" W a distance of 111.73 feet; thence leaving said road R/W, N 83°16'48" E, a distance of 482.53 feet to the approximate location of the normal water mark of Turnbull Bay; thence Southerly along the said normal water mark the following seven courses and distances; S 07°59'39" W, a distance of 22.69 feet; thence S 19°59'08" W, a distance of 25.35 feet; thence S 27°48'11" E, a distance of 30.13 feet; thence S 07°23'13" W, a distance of 31.41 feet; thence S 15°29'41" E, a distance of 41.84 feet; thence S 01°18'00" W, a distance of 35.73 feet; thence leaving said normal water mark S 75°47'42" W, a distance of 430.13 feet to the Point of Beginning.

EXHIBIT
A
Ord. 34-12

CITY OF NEW SMYRNA BEACH – CITY COMMISSION

DA-1-12: McDonald / 2275 TURNBULL BAY ROAD

FEBRUARY 6, 2012

I. Background

A. **Applicant and Property Owner:** David Z. and Susan McDonald, 2275 Turnbull Bay Road, New Smyrna Beach, Florida, 32168

B. Request: Voluntary contraction and associated *Comprehensive Plan* amendments.

C. **Site Information:**

- **Size:** 2.27 acres
- **Location:** The subject property is generally located on the east side of Turnbull Bay Road, south of the intersection of Turnbull Bay Road and Bayview Drive. (see **Exhibit A** for a location map).
- **Tax I.D. Number:** 7302-01-01-0025

II. Findings

A. The subject property is an approximately 2.27-acre parcel. The property currently has a Future Land Use (FLU) designation – Low Density Residential. The property is currently zoned RE, Residential Estate, which requires a minimum lot size of 40,000 square feet

B. The surrounding future land use, existing uses, and zoning are as follows:

North

Future Land Use:	County Rural
Existing Land Use:	Residential
Zoning:	County RR – Rural Residential

South

Future Land Use:	County Rural
Existing Land Use:	Residential
Zoning:	County RR – Rural Residential

East

Future Land Use:	City Low Density Residential, Industrial, Conservation
Existing Land Use:	Water, Residences, Park, Municipal Airport
Zoning:	City R-1, Single Family Residential, C, Conservation, R, Recreation, I-3, Industrial Park

West
Future Land Use: County Urban Low Intensity
Existing Land Use: Residential
Zoning: County RR – Rural Residential

A map showing the surrounding Existing Land Use is attached as **EXHIBIT B.**

C. The City and County are currently negotiating a Joint Planning Agreement (JPA) that will establish the future City Limits in this area and allow for the annexation of the parcels that would be deemed as enclaves or parcels that are not contiguous with the City. If this parcel were to be contracted from the City, it is likely that in the very near future this parcel would be annexed back into the City as a result of the proposed JPA.

D. Of the parcels fronting Turnbull Bay Road between Bayview Drive and Williams Road, there is one parcel of over five acres. The other 22 parcels range in size from 0.4 acres to 2.4 acres. Many of these parcels have been developed as single family residential housing in an urban and suburban manner.

E. There is City of New Smyrna Beach Utilities Commission water service available in Turnbull Bay Road. The nearest sanitary sewer service is approximately 585 feet away in Turnbull Bay Road.

F. There are numerous *Comprehensive Plan* maps that must be amended to remove the subject property from the *Comprehensive Plan*.

G. The annexation of parcels into the City is a discretionary function of the City Commission, provided the parcels meet the standards of Florida Statute 171. The specific criteria for contraction are set forth in Florida Statute 171.052. This section of Florida Statutes specifically states that "[o]nly those area which do not meet the criteria for annexation in s. 171.043 may be proposed for exclusion by municipal governing bodies".

H. Therefore, under Florida Statutes, Chapter 171.052, if the subject property meets the annexation criteria outlined in Chapter 171.043, Florida Statutes, the municipal boundaries may not be contracted to exclude that parcel. The criteria outlined in Chapter 171.043 as discussed below. (Staff comments are shown in **bold.**)

- 171.043 Character of the area to be annexed.—A municipal governing body may propose to annex an area only if it meets the general standards of subsection (1) and the requirements of either subsection (2) or subsection (3).

(1) The total area to be annexed must be contiguous to the municipality's boundaries at the time the annexation proceeding is begun and reasonably compact, and no part of the area shall be included within the boundary of another incorporated municipality.

The total area of the property is contiguous to the city's boundary. The parcel is not within the boundary of another incorporated community. As noted in finding D, the area is developing in an urban and suburban manner. This would be reasonably compact.

This criteria for annexation has been met.

(2) Part or all of the area to be annexed must be developed for urban purposes. An area developed for urban purposes is defined as any area which meets any one of the following standards:

(a) It has a total resident population equal to at least two persons for each acre of land included within its boundaries; **Not met.**

(b) It has a total resident population equal to at least one person for each acre of land included within its boundaries and is subdivided into lots and tracts so that at least 60 percent of the total number of lots and tracts are 1 acre or less in size; or **Not met.**

(c) It is so developed that at least 60 percent of the total number of lots and tracts in the area at the time of annexation are used for urban purposes, and it is subdivided into lots and tracts so that at least 60 percent of the total acreage, not counting the acreage used at the time of annexation for nonresidential urban purposes, consists of lots and tracts 5 acres or less in size. **Met.**

This criteria for annexation has been met.

(3) In addition to the area developed for urban purposes, a municipal governing body may include in the area to be annexed any area which does not meet the requirements of subsection (2) if such area either:

(a) Lies between the municipal boundary and an area developed for urban purposes, so that the area developed for urban purposes is either not adjacent to the municipal boundary or cannot be served by the municipality without extending services or water or

sewer lines through such sparsely developed area; or **Not met.**

(b) Is adjacent, on at least 60 percent of its external boundary, to any combination of the municipal boundary and the boundary of an area or areas developed for urban purposes as defined in subsection (2). **Not met**

This optional criteria for annexation has not been met.

The purpose of this subsection is to permit municipal governing bodies to extend corporate limits to include all nearby areas developed for urban purposes and, where necessary, to include areas which at the time of annexation are not yet developed for urban purposes whose future probable use is urban and which constitute necessary land connections between the municipality and areas developed for urban purposes or between two or more areas developed for urban purposes.

I. This property meets the mandatory criteria for annexation as set forth in Florida Statute171.043. Therefore, under Florida Statute 171.052 (1), the parcel is not permitted to be contracted from the City.

III. Recommendation

Due to the existing infrastructure, development patterns, and the proposed JPA that will allow for the annexation of this area into the City, staff does not find it in the interest of the City to contract this parcel from the City. Further, Florida Statute 171.052 prohibits the contraction of this parcel as it meets the criteria of Florida Statute 171.043.

Staff recommends that the Planning and Zoning Board recommend the City Commission **denial** of the petition for contraction and the associated *Comprehensive Plan* amendments.

EXHIBIT A

LOCATION MAP

McDONALD DEANNEXATION

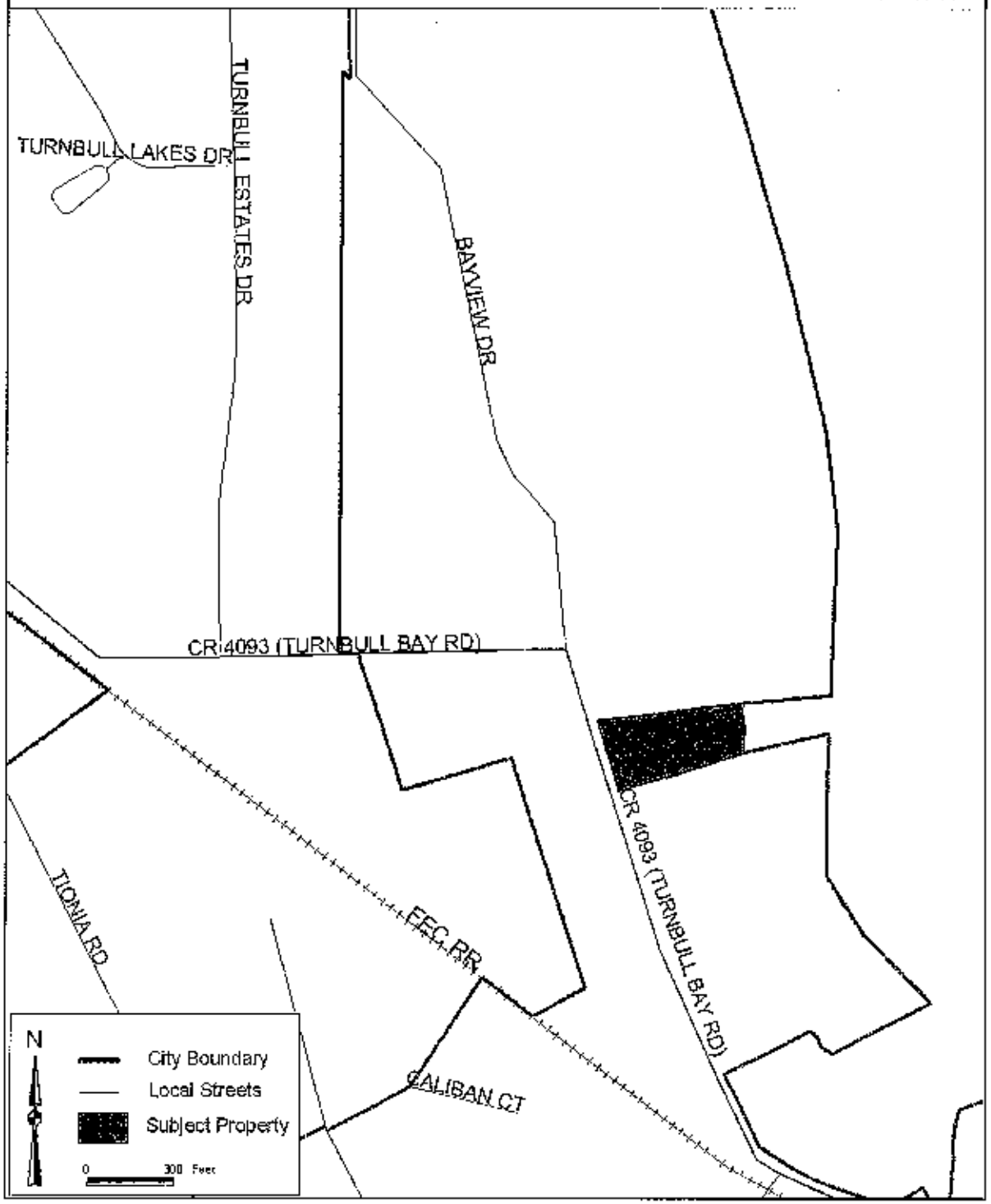
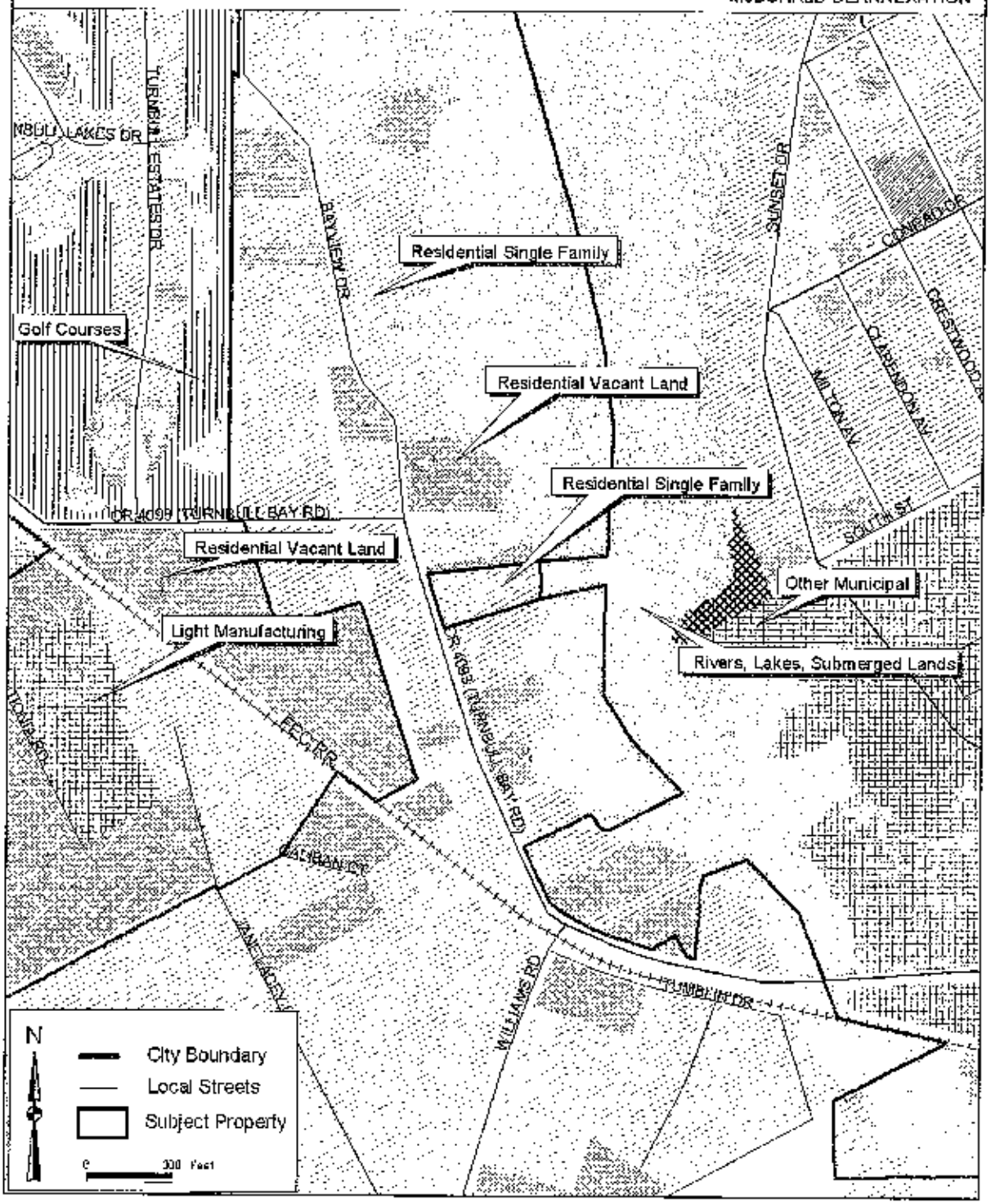


EXHIBIT B

EXISTING LAND USE MAP



Mailed
3-2-2012

City of New Smyrna Beach

Catch The Charm

March 2, 2012

Hal Spence, P.A.
Attorney at Law
221 North Causeway, Suite A
New Smyrna Beach, FL 32169-5239

Re: Proposed Ordinance No. 34-12/McDonald Contraction

Dear Mr. Spence:

In response to your letter of February 28, 2012, subject same as above, the first reading of subject ordinance was removed from the agenda of the City Commission regular meeting of February 28, 2012.

As requested, notice is hereby given that proposed Ordinance No. 34-12, will be considered as follows:

First Reading – City Commission Regular Meeting – Tuesday, March 13, 2012

Second Reading/Public Hearing – City Commission Regular Meeting – Tuesday, April 10, 2012

Both meetings outlined above will be held in the City Hall Commission Chamber, 210 Sams Avenue, New Smyrna Beach, Florida 32168. Meetings begin at 6:30 p.m.

If we can be of any further assistance, please do not hesitate to contact us at (386) 424-2112 or jbledsoe@cityofnsb.com.

Best Regards,

Johnny R. Bledsoe
City Clerk

Copy Furnished:
City Attorney

210 Sams Avenue • New Smyrna Beach, Florida 32168-9985 • 386-424-2100 • Fax 386 424 2109

PRINTED ON RECYCLED PAPER

HAL SPENCE, P.A.
ATTORNEY AT LAW
221 N. CAUSEWAY, SUITE A
NEW SMYRNA BEACH, FL 32169-5239

TELEPHONE: 386-427-5227 FACSIMILE: 386-423-3909 EMAIL: HSPENCEPA@AOL.COM

February 28, 2012

Johnny R. Bledsoe, CMC
City Clerk
City of New Smyrna Beach
210 Sams Avenue
New Smyrna Beach, FL 32168

Re: Proposed Ordinance NO. 34-12/McDonald Contraction

Dear Mr. Bledsoe:

Zack McDonald, asked that I be informed of the agenda of his contraction request. I have not received notice from the city that this matter was on the agenda tonight, and only just found out 5 minutes ago at 4:45 p.m.. I have a conflict and cannot make the meeting tonight and therefore ask that the commission either:

1. Pass the proposed ordinance on first reading thus allowing me an opportunity to attend the second reading or

2. Continue the first reading to the next scheduled city commission meeting.

I have discussed the matter with Frank Gummey who suggested that I advise you by email immediately.

Thank you for your consideration.

Sincerely,

Hal Spence

HS/tm

cf: Frank Gummey, City Attorney
Zack McDonald

AGENDA ITEM SUMMARY

Department Making Request: Public Works		
Meeting Date: 3/14/12		
Action Item Title: Non-Exclusive Construction & Demolition Roll-off service		
Agenda Section: Consent		
Summary Explanation and Background: Attached please find an application from Waste Management to renew their Non-Exclusive Construction & Demolition Roll-off Service. Waste Management meets all the requirements and we are proposing a 3 year contract.		
Recommended Action/Motion: Staff recommends approval of this Franchise Agreement & Ordinance		
Funding Analysis: $ _____ Acct #: N/A		
Exhibits Attached: Waste Management Packet		
Reviewed By:	**Name**	**Signature**
Department Director:	Khalid Resheidat Assistant City Manager	3/2/12
Finance Director	Althea Philord	
City Manager	Pam Brangaccio	
City Attorney	Frank Gummey	
Commission Action:		

ORDINANCE NO. 40-12

AN ORDINANCE PROVIDING FOR GRANTING A NON-EXCLUSIVE FRANCHISE TO WASTE MANAGEMENT, INC. OF FLORIDA, TO PROVIDE ROLL-OFF CONTAINER COLLECTION AND DISPOSAL OF WASTE WITHIN THE CITY OF NEW SMYRNA BEACH; PROVIDING FOR OUTLINING FRANCHISEE'S DUTIES; PROVIDING TERMS AND CONDITIONS UNDER WHICH SUCH FRANCHISE SHALL OPERATE; PROVIDING FOR PUBLIC HEARING; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, there is an immediate and continuing need for the collection and disposal of construction and demolition debris from organizations, firms or entities (Service) within the City of New Smyrna Beach (City) with the use of "roll-off" containers; and

WHEREAS, Waste Management, Inc. of Florida, a Florida corporation (Franchisee), represents that it has the necessary equipment, personnel and experience to properly perform the Service; and

WHEREAS, the City Commission deems that it is in the best interest of the citizens of New Smyrna Beach to award Waste Management, Inc. of Florida, a nonexclusive right and franchise to provide the Service within the City limits upon the terms and conditions recited below.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF NEW SMYRNA BEACH:

SECTION 1: ***Award of Non-exclusive Franchise.*** The City of New Smyrna Beach hereby awards Waste Management, Inc. of Florida, a nonexclusive right and franchise to provide roll-off service within the City limits upon the terms and conditions recited below. This Franchise shall not become effective until this ordinance and franchise agreement is accepted in writing by Waste Management, Inc. of Florida.

SECTION 2: ***Definitions.***

A. *Construction and demolition debris* shall have the same definition and meaning as defined in §403.703, F.S.

B. *Service* encompasses the use of "roll-on" and "roll-off" containers (Containers) as used with mechanical pickup or compaction devices, or both of these devices.

C. *Containers* means either open-top/scow-type used only for nonpetruscible materials, or enclosed containers such as the kind typically used with compaction devices, of ten (10) cubic yards capacity or larger.

SECTION 3: ***Franchisee's Authority.***

A. Franchisee is hereby empowered and authorized to provide roll-off service. Franchisee will either furnish all necessary trucks and other equipment to perform such services, or will contract with other persons or companies duly licensed or franchised by the City for the furnishing of trucks and equipment, provided, however, that at all times the trucks and equipment shall comply with the requirements provided herein for equipment owned and operated by Franchisee.

B. Franchisee may contract to provide the Service (Contract) with any person, organization, firm or entity (Entities) within the City, if such Entities have first requested the Service. Such contracts where containers are placed on public property must be approved by the Public Works Director or his designee prior to or within one (1) week (7 calendar days) of the placement of the Container for Service. For each Container placed on public property for service without a contract having been submitted to the Public Works Director by Franchisee, a thirty dollar ($30.00) inspection and administration late fee shall be paid by Franchisee to the City. The Contract shall not exceed the term of the Franchise.

Franchisee agrees to provide the Public Works Director with the location of its Containers and the name and address of and number of pickups to be made for each of the Entities. Franchisee also recognizes that any contract between Franchisee and the Entities has no effect whatsoever upon the City's decision to grant

the Franchise, or any renewal decision made thereafter. If the Public Works Director disapproves a contract for containers placed on public property and the subject Container remains in service more than forty-eight (48) hours after telephone or written notice by the City to Franchisee to remove the Container, or if any Container should remain in service at any location more than forty-eight (48) hours after telephone or written notice from the City to Franchisee to remove the Container, then, in either or both cases, Franchisee shall pay the City fifty dollars ($50.00) per day until the Container is removed.

C. Franchisee shall provide the equipment and frequency of service as needed by the Entities and as approved by the Public Works Director.

D. All lease or purchase arrangements for compaction equipment and for maintenance or service charges for the Containers agreed upon between Franchisee and the Entities shall be set forth in the Contract between Franchisee and the Entities, and approved by the Public Works Director pursuant to this section.

SECTION 4: ***Payments.***

A. Franchisee shall pay the City twenty dollars ($20.00) for each Container pickup. The charge shall be paid monthly and shall be based upon the number of Container pickups by Franchisee from the Entities during the preceding month.

B. Franchisee shall furnish the Public Works Director with an original and one (1) copy of an annual report on or before the forty-fifth (45th) day following Franchisee's fiscal year end. The report date shall be submitted to the Public Works Director on the date of Franchisee's acceptance of this Franchise, and the report shall be prepared by an independent certified public accountant in accordance with generally-accepted auditing standards. The report shall reflect the accuracy of Franchisee's payments to the City as defined in this ordinance, and shall ensure and include, but not be limited to, the following:

(1) All City accounts are properly coded to reflect charges accrued to the City;

(2) the number of City-related Container pickups are correctly reported to the City;

(3) all City payments are correctly computed and remitted to the City on a timely basis, or the interest-payment provision of Subsection C, below, shall apply.

During the term of this Franchise and its renewal, Franchisee shall make its City Franchise books and records available to the City at all reasonable times. Failure to furnish the City with the report or to maintain complete and accurate City Franchise books shall be considered a material breach of this Franchise, and the City shall be entitled to terminate this Franchise and to collect any damages resulting therefrom.

C. Franchisee shall have the sole responsibility for the billing and collection of all charges described herein. Billings shall be monthly and payable on or before the fifteenth (15th) day of the succeeding month. In the event bills are not paid within this time, Franchisee shall have the right (provided that Franchisee may otherwise legally do so) to discontinue all Services for nonpayment.

All statements of fees and charges by Franchisee, and the remittance thereof, shall be submitted to the City Finance Director on or before the fifteenth (15th) day following Franchisee's fiscal month end. These statements shall specify the previous month's account activities as specified herein, and shall include account names, account numbers, the number of Container pickups during the month, and all discontinued accounts. Failure to submit any remittance specified or referred to in this section on or before the fifteenth (15th) day of each month as required shall result in a liability for interest at the rate of one percent (1%) per month. Failure to submit any statement shall be considered a breach of

this Franchise and shall allow the City to terminate the Franchise as may be further provided in Section 10 below.

SECTION 5: ***Term.***

(A) The term of this Franchise shall commence on the date of adoption of this ordinance and end three years after adoption of this ordinance. An acceptance of the provisions, conditions and stipulations of this Franchise shall: (1) be in writing; (2) contain Franchisee's local address; and (3) be filed with the City Clerk within fifteen (15) days of the adoption of this Franchise.

B. The term may be extended for an additional one (1) year, at the sole option of the City, by written notice to Franchisee not less than thirty (30) days prior to the expiration of the current term.

SECTION 6: ***Default.*** In the event Franchisee fails to provide adequate Services to the Entities by reason of any (1) unknown emergency, catastrophe, natural disaster, war, labor strike, act of God, or similar event; (2) breach of contract; or (3) negligent failure to adequately perform the duties and obligations of this ordinance (as determined solely by the City), the City may, at its sole option, terminate this Franchise (Option I), or take over the roll-off services (Option II), or both of those options. In the event the City chooses Option II, it shall receive all charge amounts regardless of the amounts normally retained by Franchisee.

SECTION 7: ***Default by Other Franchisees.*** In the event that other Franchisees default or otherwise fail to provide adequate Services (in the sole determination of the City), and the City chooses Option II as provided in Section 6 above, Franchisee agrees, if requested by the City, to provide the Services or temporary Services, or both of these types of Service, if Franchisee may reasonably do so, given: (1) Franchisee's equipment and schedule; and (2) that a reasonable price can be determined by Franchisee, the City and the entity for the Service's undertaking and completion.

SECTION 8: ***Liability.***

A. The privileges herein are granted upon the express condition that Franchisee shall be liable for all damages and injuries to persons and property caused by its neglect or mismanagement, or by the actions of any of its employees while engaged in the Services during the term of this Franchise. Should the City be sued therefrom, Franchisee shall be notified of and have the duty to defend such suit, provided, however, that the City has the sole option (Option III) to defend itself or to hire independent counsel, and thereafter to tax all such defense costs and fees to Franchisee. Franchisee specifically agrees to pay any such judgment rendered against the City in any such case, and to reimburse the City, in full, for all costs and fees on appeal.

B. The attorneys chosen by Franchisee to represent the City in any suit concerning matters included within this section shall be approved by the City unless the City chooses to represent itself as defined above. Franchisee shall indemnify and hold harmless the City, its agents, elected or appointed officials, officers and employees from any and all liability, claims, demands, damages, expenses, fees, penalties, suits, proceedings, actions and costs of actions (including costs and attorney's fees, and costs and attorney's fees on appeal), of any kind or nature, arising out of, resulting from, or in any way connected with Franchisee's activities permitted under this Franchise.

C. Franchisee further agrees to purchase public liability and property damage insurance in the amount of $1,000,000 (per accident, public liability), and $250,000 (property damage), and naming the City as an additional insured under the policy. The policy must provide that the City shall be given thirty (30) days' written notice prior to cancellation or modification, and a copy of the policy (or a certificate of insurance) shall be filed with the City Clerk on or before the effective date of this Franchise and on or before the effective date of each policy renewal period.

SECTION 9: ***Licenses.*** Franchisee shall, at its sole expense, procure from all local, state and federal governmental and agency authorities (having jurisdiction over the operations of Franchisee) all licenses, certificates, permits or other authorizations which may be necessary for the conduct of Franchisee's operations. Franchisee shall pay all taxes, and license, certification, permit and examination fees, and all excises which may be assessed, levied, exacted or imposed upon its property, operations, gross receipts, or all or any combination of these assets, and upon this Franchise and the rights and privileges granted herein, and shall make all applications, reports, and returns required in connection therewith to all respective governmental and agency authorities.

SECTION 10: ***Termination.*** The privileges granted herein to the Franchisee may be terminated by the City prior to the expiration of the term if any one (1) or more of the following events occur:

A. Franchisee fails: (1) to pay the sums, fees or charges due to the City in a timely manner (Failure I); or (2) Franchisee fails to keep, perform or observe each and every other promise, covenant, and condition designated to it under this ordinance (Failure II). In the event of a Failure II, the Public Works Director shall notify Franchisee in writing of such failure, and Franchisee shall have thirty (30) days from the receipt of such notice to correct the condition giving rise to such notice. If the correction is not made to the Public Works Director's satisfaction within the period, the Public Works Director shall give written notice to Franchisee that the privileges granted herein are terminated as of the date of such notice.

B. If and when Franchisee shall liquidate, dissolve or sell substantially all of its assets.

C. If and when there is a transfer of fifty percent (50%) or more of Franchisee's voting stock which results in a change in Franchisee's control.

D. If and when Franchisee becomes insolvent, or makes a general assignment for the benefit of its creditors, or if an action or petition is filed by or against Franchisee under any part of the Federal Bankruptcy Act or other law relating to the alleged insolvency of Franchisee, and such action or petition is not dismissed within thirty (30) days of the date of its filing.

In the event any of the privileges granted herein are terminated pursuant to this Section, any liability of the Franchisee to the City accruing thereby, and any liability of Franchisee to the City arising out of any act or event occurring prior to the termination, shall immediately become due and payable to the City without further notice.

SECTION 11: ***Notices.*** All notices herein required to be given by the City to Franchisee, except where specifically provided otherwise, may be effected either by hand delivery to any Franchisee employee, or by United States mail (postage prepaid), addressed to Franchisee at its last-known business address. All notices required to be given to the City shall be given to both the Public Works Director and the City Clerk either by hand delivery or by United States mail (postage prepaid), addressed to the Public Works Director, City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida 32168, and the City Clerk, City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida 32168.

SECTION 12: ***Remedies, Attorney's Fees and Costs.*** All remedies provided in this Franchise shall be deemed cumulative and additional and not in lieu of or exclusive of each other, or of any other remedy available to the City, at law or in equity. In the event the City shall prevail in any action arising hereunder, Franchisee shall pay the City's costs, and any and all attorney's fees thereafter charged to the City.

SECTION 13: ***Equipment.***

A. Franchisee agrees that it shall procure and maintain sufficient equipment, or that it shall arrange on a contractual

basis with other persons owning or leasing equipment in compliance with the requirements of this Franchise, to insure that Franchisee shall at all times be in a position to properly maintain its schedules and to otherwise perform all duties, responsibilities and conditions required under this ordinance.

B. All trucks utilized by Franchisee and all Containers owned or leased by Franchisee shall be prominently identified on both the left and right sides with Franchisee's name in letters not less than six inches (6") in height, and Franchisee's business telephone number in numbers not less than three inches (3") in height, either painted on or attached by signs to such trucks and Containers.

C. All of Franchisee's trucks, Containers and equipment shall conform to all City safety and sanitation requirements for refuse-collection vehicles, and the equipment must be approved by the Public Works Director. Franchisee specifically agrees that the Public Works Director shall have the right to inspect the trucks or the equipment, or both of these items, at all reasonable times and after having endeavored to give reasonable written or oral notice that such an inspection shall take place.

SECTION 14: ***Nonassignability.*** This Franchise shall not be assignable by Franchisee without the prior written consent of the City Commission as evidenced by an ordinance authorizing and approving such an assignment.

SECTION 15: ***Effective Area.*** This Franchise shall be effective within the City's corporate limits as they may from time to time exist.

SECTION 16: ***Hours of Operation.*** The hours of operation for the Franchise shall be weekdays and Saturdays from 7:00 a.m. to 7:00 p.m. The Franchise shall not provide Service on Sundays.

SECTION 17: ***Headings.*** The paragraph headings of this Franchise are for purposes of convenience only, and shall not be deemed to expand or limit the provisions contained in such paragraphs or sections.

SECTION 18: ***Warranty of Franchisee.*** Franchisee represents and warrants to the City that no appointed or elected City official, officer, employee or agent has any interest, either directly or indirectly, in the business of Franchisee to be conducted herein.

SECTION 19: ***Noncompliance.*** If Franchisee shall at any time fail to comply with any of the provisions of this Franchise (unless such failure is beyond Franchisee's control because of matters deemed to be an act of God), the City, after thirty (30) days' written notice to Franchisee, may revoke this Franchise and render it void and of no further effect.

SECTION 20: ***Amendment.*** The City reserves the right to amend this Franchise at any time, and in any manner that the City deems necessary for the health, safety or welfare of the public. The City also reserves the right to prescribe, from time to time, reasonable rules and regulations further governing Franchisee's operations herein, including, but not limited to, hours and frequency of Container pickup. These rules may be issued through the Public Works Director, the City Manager or his designee, and they need not be memorialized in an ordinance revision or other formal action by the City Commission, the City Commission's approval of this ordinance being an approval that the regulations should be so issued.

SECTION 21: ***Public Hearing.*** That a public hearing considering the adoption of this ordinance held March 27, 2012, in the City Commission Chambers at City Hall, 210 Sams Avenue (south entrance on Julia Street), New Smyrna Beach, Florida, after notice published, is found to comply with §166.041(3)(a), F.S.

SECTION 22: ***Severability.*** If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portion of this ordinance.

SECTION 23: ***Conflicting Ordinances.*** Any ordinances that are in conflict with this ordinance are hereby rescinded and repealed.

SECTION 24: ***Effective Date.*** That this ordinance shall take effect immediately upon its final adoption.

APPROVED AS TO FORM AND CORRECTNESS:

FRANK B. GUMMEY, III
City Attorney

DATE: 3/5/12

ACCEPTANCE BY FRANCHISEE

The foregoing Ordinance No. 40-12 and the Franchise provided for therein, and all the additional and amended terms thereof, are hereby accepted, approved and agreed to this _____ day of _____, 20__.

_____,
a Florida corporation

By: _____

Printed Name: _____
Title: _____

ATTEST:

_____
Printed Name: _____
Title: _____

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me this day of _____, 20__, by _____ and _____, as _____ and _____ respectively, of _____, a Florida corporation, on behalf of the corporation. They are personally known to me or have produced _____ as identification

(Notary Seal or Stamp) _____
Notary Public

WASTE MANAGEMENT
1325 Hull Rd.
Ormond Beach, FL 32174
(386) 673-0734
(386) 615-7786) Fax

February 21, 2012

Mr. Khalid Resheidat
Assistant City Manager
City of New Smyrna Beach
124 Industrial Park Ave.
New Smyrna Beach, FL 32168

RECEIVED
FEB 22 2012
PUBLIC WORKS

RE: Non-Exclusive Construction & Demolition Roll-Off Service
Franchise Ordinance # 92-06—Extension Request

Dear Mr. Resheidat:

Please find what we believe to be the appropriate completed documents for the Franchise Ordinance #92-06 as referenced in Section #5 Paragraph B of the original franchise. Please inform me if the City requires any further documents from Waste Management Inc of Florida (WMIF).

Once it is placed on the agenda for approval, I will make arrangement to be in attendance at the meeting to answer any questions. We appreciate the opportunity to provide services in the City of New Smyrna Beach and look forward to future work in your City.

Sincerely,

Janie D. Coleman
Public Sector Services

Enclosures

CC: Pam Brangaccio, City Manager—City of New Smyrna Beach
Johnny Bledsoe, City Clerk—City of New Smyrna Beach
Dave Reilly, Sr. District Manager--WMIF

City of New Smyrna Beach

CONSTRUCTION AND DEMOLITION ROLL-OFF SERVICE NON-EXCLUSIVE FRANCHISE ORDINANCE APPLICATION

Please complete and return to the address below or fax to: 386-424-2198
Public Works Dept.
124 Industrial Park Ave.
New Smyrna Beach, FL 32168

Date: 2/21/2012

Applicant Name: Janie D. Coleman

Business Name: Waste Management Inc. of florida

Address: 1325 Hull Rd
Ormond Beach, fl. 32174

Telephone: 386-673-0734 Fax: 386-615-7786

1. Attach copy of Current State License for Disposal Site ***

Proposed Disposal Site(s): Samsula landfill Inc,
Volusia County Solid Waste, Tomoka landfill

2. Attach copy of City Occupational License (for your business location)
See Attached document

3. Attach copy of Current Insurance Certificate ****
Naming City of New Smyrna Beach as additional insured with 30 days notice prior to cancellation

Insurance Carrier: Lockton Companies LLC

Address: 5847 San felipe,
Suite 320, Houston TX 77057

Policy Number: 3574141

Applicant's Signature Janie D. Coleman

Applicant's printed name: Janie D. Coleman

Applicant's Title: Public Sector Services III

Florida Department of Environmental Protection

Central District
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

Permittee:
Samsula Landfill, Inc.
363 State Road 415
New Smyrna Beach, FL 32168

Attention: Mr. Yancey McDonald

WACS Facility: 83626
Permit/Certification Number:
SO64-0138213-004
Expiration Date: 12/4/2011
County: Marion
Section 26/Township 17 South/Range 32 East
Latitude 28°50'24", Longitude 81°04'10"
Project: Samsula Landfill - C&D Disposal and Recycling

This permit is issued under the provisions of Chapter(s) 403, Florida Statutes, and Florida Administrative Code Rule(s) 62-4 and 62-701. The above named permittee is hereby authorized to perform the work or operate the facility shown on the application and approved drawing(s), plans, and other documents attached hereto or on file with the Department and made a part hereof and specifically described as follows:

- To operate the Samsula Landfill for C&D Disposal and Recycling.
- Waste materials accepted for disposal at the facility are hauled by commercial and residential contractors, demolition contractors and some private individuals from construction sites throughout Volusia County. The waste materials are generated from the construction, demolition, and renovation of structures, including some materials from the manufacture of structural components and from land clearing operations.
- On-site recycling activities include crushing of concrete products and some chipping/mulching of wood. Other materials such as wood, cardboard, plastics and metal are separated and temporarily stock-piled in the source separation area.
- The property contains approximately 50.67 acres and the C&D landfill area occupies approximately 28.95 acres.
- The project incorporates an approved ground water monitoring plan.

LOCATION: The facility is located at 363 State Road 415, approximately 1.5 miles south of State Road 44, New Smyrna Beach, in Section 26, Township 17 South, Range 32 East, in Volusia County, Florida.

Page 1of 0

Florida Department of Environmental Protection

Central District
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

Permittee:
Volusia County Solid Waste Division
3151 East New York Avenue
DeLand, FL 32724

Attention: Mr. Leonard Marion

WACS Facility: 27540
Permit Number: SC64-0078767-023
Expiration Date: 03/3/2013
County: Volusia
Section 9, Township 16 South, Range 32 East
Latitude 29° 07' 50" North, Longitude: 81° 08' 02" West
Project: Tomoka Farms Road Landfill, North Cell, Phase I, Class I

This permit is issued under the provisions of Chapter 403, Florida Statutes, and Florida Administrative Code Rules 62-4, 62-701 and 62-711. The above named permittee is hereby authorized to perform the work or operate the facility shown on the application and approved drawing(s), plans, and other documents attached hereto or on file with the Department and made a part hereof and specifically described as follows:

- To operate the Tomoka Farms Road Landfill, North Cell, Phase I, Class I. The actual disposal area is 69.2 acres.
- The combination of the existing North Cell, East Cell – Phase I and East Cell – Phase II are to be designated as North Cell due to the contiguity of these disposal areas. Areas 1 and 2 of East Cell – Phase I now known as North Cell – Phase I have been constructed, certified and are in operation. The construction of Areas 3 and 4 (collectively designated as "Phase II") of the North Cell (formerly East Cell) are permitted under construction Permit No. SC64-0078767-022 issued December 6, 2007.
- This operations permit consolidates the original North Cell (43.2 acres) and the Phase I East Expansion (26.0 acres) into one coordinated permit for 69.2 acres operational area known as the North Cell – Phase I area.
- The North Cell – Phase I area has a double composite bottom liner system.
- Leachate will be disposed of on-site by evaporation, recirculation into the lined landfill, or by trucking off-site for treatment and disposal.
- Solid waste has been disposed of at the Tomoka Landfill site since 1968. The landfill will receive residential, commercial, agricultural and industrial waste.
- Major features of the Class I, North Cell – Phase I shared with the overall facility include site fencing and security, a scale house, a household hazardous waste facility, a tire and white goods facility, a Class III landfill, equipment maintenance facilities, ground water monitoring, borrow pits and administration facilities.
- The landfill will service Flagler and Volusia Counties.
- The project incorporates a ground water and surface water monitoring plan.

LOCATION: The facility can be reached on I-4 east to I-95, north on I-95 to U.S. 92, left on U.S. 92 approximately 1/4 mile, turn left on C.R. 415 (Tomoka Road) and proceed about 3 miles-landfill entrance is on the right at 1990 Tomoka Farms Road in Volusia County, Florida.

"More Protection, Less Process"

GENERAL CONDITIONS:

1. The terms, conditions, requirements, limitations and restrictions set forth in this permit, are "permit conditions" and are binding and enforceable pursuant to Sections 403.141, 403.727, or 403.859 through 403.861, Florida Statutes (F.S.). The permittee is placed on notice that the Department will review this permit periodically and may initiate enforcement action for any violation of these conditions.

2. This permit is valid only for the specific processes and operations applied for and indicated in the approved drawings or exhibits. Any unauthorized deviation from the approved drawings, exhibits, specifications, or conditions of this permit may constitute grounds for revocation and enforcement action by the Department.

3. As provided in subsections 403.087(6) and 403.722(5), F.S., the issuance of this permit does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations. This permit is not a waiver of or approval of any other Department permit that may be required for other aspects of the total project which are not addressed in this permit.

4. This permit conveys no title to land or water, does not constitute State recognition or acknowledgment of title, and does not constitute authority for the use of submerged lands unless herein provided and the necessary title or leasehold interests have been obtained from the State. Only the Trustees of the Internal Improvement Trust Fund may express State opinion as to title.

5. This permit does not relieve the permittee from liability for harm or injury to human health or welfare, animal, or plant life, or property caused by the construction or operation of this permitted source, or from penalties therefore; nor does it allow the permittee to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by an order from the Department.

6. The permittee shall properly operate and maintain the facility and systems of treatment and control (and related appurtenances) that are installed and used by the permittee to achieve compliance with the conditions of this permit, as required by Department rules. This provision includes the operation of backup and auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the permit and when required by Department rules.

7. The permittee, by accepting this permit, specifically agrees to allow authorized Department personnel, upon presentation of credentials or other documents as may be required by law and at reasonable times, access to the premises where the permitted activity is located or conducted to:

   (a) Have access to and copy any records that must be kept under conditions of this permit;
   (b) Inspect the facility, equipment, practices, or operations regulated or required under this permit; and
   (c) Sample or monitor any substances or parameters at any location reasonably necessary to assure compliance with this permit or Department rules.

8. If, for any reason, the permittee does not comply with or will be unable to comply with any condition or limitation specified in this permit, the permittee shall immediately provide the Department with the following information:

   (a) A description of and cause of noncompliance; and
   (b) The period of noncompliance, including dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance.

The permittee shall be responsible for any and all damages which may result and may be subject to enforcement action by the Department for penalties or for revocation of this permit.

9. In accepting this permit, the permittee understands and agrees that all records, notes, monitoring data and other information relating to the construction or operation of this permitted source which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the permitted source arising under the Florida Statutes or Department rules, except where such use is prescribed by Section 403.111 and 403.73, F.S. Such evidence shall only be used to the extent it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.

10. The permittee agrees to comply with changes in Department rules and Florida Statutes after a reasonable time for compliance; provided, however, the permittee does not waive any other rights granted by Florida Statutes or Department rules.

11. This permit is transferable only upon Department approval in accordance with Rule 62-4.120 and 62-730.300, Florida Administrative Code (F.A.C.), as applicable. The permittee shall be liable for any non-compliance of the permitted activity until the transfer is approved by the Department.

12. This permit or a copy thereof shall be kept at the work site of the permitted activity.

13. The permittee shall comply with the following:

    (a) Upon request, the permittee shall furnish all records and plans required under Department rules. During enforcement actions, the retention period for all records will be extended automatically unless otherwise stipulated by the Department.

    (b) The permittee shall hold at the facility or other location designated by this permit records of all monitoring information (including all calibration and maintenance records and all original strip chart recordings for continuous monitoring information) required by the permit, copies of all reports required by this permit, and records of all data used to complete the application for this permit. These materials shall be retained at least three years from the date of the sample, measurement, report, or application unless otherwise specified by Department rule.

    (c) Records of monitoring information shall include:
    1. the date, exact place, and time of sampling or measurements;
    2. the person responsible for performing the sampling or measurements;
    3. the dates analyses were performed;
    4. the person responsible for performing the analyses;
    5. the analytical techniques or methods used;
    6. the results of such analyses.

14. When requested by the Department, the permittee shall within a reasonable time furnish any information required by law which is needed to determine compliance with the permit. If the permittee becomes aware the relevant facts were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be corrected promptly.

PERMITTEE:
Volusia County Solid Waste Division

Attention: Mr. Leonard Marion

WACS Facility: 27540
Permit Number: SO64-0078767-023
Expiration Date: 03/3/2013

SPECIFIC CONDITIONS:

Note that time sensitive specific conditions are summarized in Appendix B of this permit.

1. Plans and Specifications: Drawings, plans, documents and specifications submitted by the permittee, not attached hereto, but on file at the Central District office, are made a part of this permit. The documents are listed in Appendix A.

2. Document Requirements: A copy of the permit including the documents listed in Appendix A shall be kept on file at the landfill office for inspection and review upon request.

3. Other Permits: This permit does not relieve the permittee from complying with any other appropriate stormwater, ERP, or other permit requirements, nor does it relieve the permittee from compliance with any applicable air requirements of Title V, county ordinance or local programs.

4. Signs: Signs indicating the name of the operating authority, traffic flow, hours of operation, charges for disposal and the types of wastes accepted shall be placed at all entrances to the site, Rule 62-701.500(11)(g), F.A.C.

5. Site Access: Access to the site shall be restricted by an effective barrier designed to prevent unauthorized entry and dumping, Rule 62-701.500(5), F.A.C.

6. Litter, Dust & Fire Protection: The landfill shall have litter control devices, dust controls, fire protection and fire-fighting facilities, Rule 62-701.500(11)(d), (e) and (f), F.A.C. Litter is to be picked up and litter control devices cleaned. All collected litter shall be placed in the appropriate active cell for disposal.

7. Safety Devices: Safety devices shall be provided on equipment to shield and protect the operators from potential hazards during operation.

8. Effluent Discharge: There shall be no discharge of liquid effluents, leachate, or contaminated runoff to surface or ground water without prior approval from the Department.

9. Surface Water Management: All surface water runoff from the site shall be collected and treated, to meet the requirements of Chapters 373 and 403, Florida Statutes (F.S.) prior to discharge off-site. The surface water management system shall prevent surface water flow into waste filled areas.

10. Stormwater-Leachate Contamination: Stormwater that comes into contact with leachate shall be treated as leachate. Any leachate emanating from the landfill shall be collected and treated as necessary to meet the requirements of Rules 62-302, 62-4, and 62-520, F.A.C. prior to discharge off-site, unless the leachate is transmitted to a permitted treatment facility.

11. Stormwater Management System Maintenance: The stormwater management system shall be maintained and visually inspected regularly, and shall be cleaned and maintained as necessary to allow for treatment and conveyance of stormwater according to the permitted engineering design.

PERMITTEE:
Volusia County Solid Waste Division

Attention: Mr. Leonard Marion

WACS Facility: 27540
Permit Number: SO64-0078767-023
Expiration Date: 03/3/2013

SPECIFIC CONDITIONS

12. Zone of Discharge: The zone of discharge for the facility shall be a three dimensional volume, defined in the horizontal plane as extending 100 feet from the edge of the solid waste deposit, or to the property boundary, whichever is less, as depicted in Attachment B of the Monitoring Plan Implementation Schedule (Exhibit 1 of this permit), and defined in the vertical plane as extending from the top of the ground to the bottom of the casing of the lower surficial monitoring wells. Class G-II water quality standards must be met at the boundary of the zone of discharge in accordance with Rule 62-522.410, F.A.C.

13. Monitoring Plan Implementation Schedule: The Monitoring Plan Implementation Schedule attached as Exhibit I, is made a part of this permit.

14. Improper Operations: When the Department, after investigation, has good reason (such as complaints, questionable maintenance of equipment, improper operations, etc.) to believe that any applicable standard contained in Chapter 62-701, F.A.C. or in this permit is being violated, it may require the landfill owner or operator to identify the nature of the problem and to submit a report to the Department on the results of the investigation and corrective action taken to prevent its recurrence.

15. Equipment Breakdown: In the event of equipment malfunction, destruction, breakdown or other problems resulting in the permittee being temporarily unable to comply with any of the conditions of this permit, the permittee shall immediately notify the Department. The notification shall address the cause of the problem, corrective action, and what steps are being taken to prevent a recurrence, as required by Rule 62-4.130, F.A.C.

16. Operation of Pollution Control Devices: The leachate and stormwater control systems shall be properly operated, monitored, and maintained (Rule 62-701.500, F.A.C.).

17. Leachate Quantity: Quantities of leachate collected by the leachate collection and removal system are to be recorded in gallons per day. Operators shall record daily flow amounts, Rule 62-701.500(8)(f), F.A.C. Data shall be compiled monthly and submitted to the Central District office quarterly (due no later than the 20th of January, April, July, and October).

18. Precipitation Records: A recording rain gauge shall be operated and maintained to record precipitation at the landfill. Precipitation records shall be maintained and used by the permittee to compare with leachate generation rates, Rule 62-701.500(8)(g), F.A.C.

19. Leachate Collection System: Leachate collection systems shall be water pressure cleaned or inspected by video recording at the time of permit renewal, or more frequently if necessary. Results of the collection system cleanings or inspections shall be available to the Department upon request, Rule 62-701.500(8)(h), F.A.C.

20. Leachate Recirculation: Leachate recirculation shall be performed only in Class I areas that have received initial cover and can be isolated from the stormwater management system.

21. Leachate Collection and Detection System Repairs: The leachate collection and detection system repairs for the Tomoka Farms Road Landfill, Class I based on the Florida JetClean inspection on September 13, 2007, (Reference No. 5 – Appendix A), shall be completed within 12 months from the date this permit is issued. If it appears that the project will take longer than 12 months, Volusia County must provide the Department advance written notice of the cause for the delay and request an extension for completion of the project.

PERMITTEE:
Volusia County Solid Waste Division

Attention: Mr. Leonard Marion

WACS Facility: 27540
Permit Number: SO64-0078767-023
Expiration Date: 03/3/2013

SPECIFIC CONDITIONS

22. Gas Monitoring: Landfill gas monitoring wells are installed around on-site structures and property lines to monitor on-site and off-site migration of gas. The permittee shall comply with the gas monitoring requirements of Rule 62-701.530(2), F.A.C. Monitoring for methane gas at the property boundary and within structures on the property shall be performed quarterly to determine the effectiveness of the gas migration controls. The gas monitoring results shall be reported as percent of the lower explosive limit (LEL), calibrated to methane, and shall be submitted to the Department within 30 days of receipt of data. If the gas monitoring results show that combustible gas concentrations exceed 25% of the LEL noted above, the permittee shall implement a Gas Remediation Plan as required in Rule 62-701.530(3)(a), F.A.C.

23. Waste Compaction and Working Face: All solid waste shall be spread in layers of approximately two (2) feet in thickness and compacted to approximately one (1) foot in thickness or as thin a layer as practical before the next layer is applied, Rule 62-701.500(7)(a), F.A.C. All compacted solid waste shall be formed into cells with the working face and the side grades above land surface at a slope no greater than three feet horizontal to one foot vertical rise, Rule 62-701.500(7)(c), F.A.C. The working face shall be only large enough to efficiently accommodate vehicles discharging waste and to minimize the exposed area and the use of unnecessary cover material, Rule 62-701.500(7)(d), F.A.C.

24. Initial Cover and Intermediate Cover: Initial cover shall be applied at the end of each working day except the working face which may be covered with temporary cover if solid waste will be placed on it within 18 hours. An intermediate cover of one (1) foot of compacted earth in addition to the six (6) inch initial cover shall be applied within seven (7) days of cell completion if final cover or an additional lift is not to be applied within 180 days of cell completion. All or part of the intermediate cover may be removed prior to placing additional waste or installing final cover, Rule 62-701.500(7)(f), F.A.C. Intermediate cover on exterior slopes must be vegetated to minimize erosion.

25. Final Cover: In descending order, the cover system shall consist of 6 inches of topsoil, 18 inches of compacted protective soil layer, composite drainage net (geosynthetic filter fabric with geonet), one layer of flexible 40-mil linear low density polyethylene geomembrane (LLDPE) and 12 inches of granular fill to protect the geomembrane from the underlying solid waste.

26. Side Slopes: The exterior side slopes shall not be steeper than 3 horizontal to 1 vertical. For final cover, exterior side slopes shall be sodded to minimize erosion except where allowed by other currently active permits issued by the Department.

27. Stormwater Terraces: Terraces shall be completed and vegetated as vertical increments of 40 feet are achieved.

28. Stormwater Drainage: Stormwater drainage shall consist of benched terraces every 40 vertical feet starting at the toe of the landfill. These terraces will bring the stormwater to a series of letdown structures to a perimeter ditch at the toe of the landfill.

29. Final Cover Surface Gradient: The top gradient of the final cover surface shall take into consideration the effects of expected subsidence caused by settling and decomposition of the fill material to minimize ponding and erosion.

PERMITTEE:
Volusia County Solid Waste Division

Attention: Mr. Leonard Marion

WACS Facility: 27540
Permit Number: SO64-0078767-023
Expiration Date: 03/3/2013

SPECIFIC CONDITIONS

30. Routine Maintenance: Cracks or eroded sections in the surface of any filled and covered area shall be properly repaired. A regular maintenance program shall be followed to eliminate pockets or depressions that may develop as refuse settles. The slopes and drainage structures shall be inspected at least monthly and after major storm events for evidence of settling, erosion, washout or siltation.

31. Top Soil Erosion Control: To minimize top soil erosion, vegetative cover must be established and maintained on terraces, exterior side slopes with intermediate cover, and final covered areas.

32. Control of Nuisance Conditions: The operating authority shall be responsible for the control of odors and fugitive particulates arising from this operation. Such controls shall prevent the creation of nuisance conditions that may arise from adverse odors and fugitive particulates, and their effect on adjacent or nearby properties and users. The permittee shall immediately investigate any complaints received from the general public and, where warranted, take corrective actions to abate the adverse odor or nuisance condition. The permittee must prepare a written report on each complaint describing the action taken to resolve the complaint, and submit the report to the department within 10 days of receiving the complaint. If the complaint has not been resolved by that time, the permittee must prepare and submit an additional report no later than 10 days from date of resolution.

33. Solid Waste Burning: Burning of solid waste is prohibited except as provided by Rule 62-701.300(3), F.A.C. Any fires at the landfill must be reported to the Department in accordance with the Operation Plan. Also, within 5 days a letter must be sent to the Department explaining the cause, remedial action and measures taken to prevent a recurrence.

34. Asbestos Disposal: Asbestos disposal shall meet the requirements of 40 CFR Part 61.154. After placement of the asbestos, landfill personnel shall place a minimum of six (6) inches of cover soil immediately over the asbestos. Records shall be kept for all asbestos containing materials received at the landfill.

35. Waste Tires: The permittee can operate a waste tire site in accordance with the Waste Tire Rule, Chapter 62-711, F.A.C.

36. Household Hazardous Waste Collection Facility: A Household Hazardous Waste (HHW) Collection Facility is located at the facility. The household hazardous waste materials shall be removed by an independent contractor for proper disposal twice a year or when the storage facility fills >75% of its capacity.

37. White Goods Storage: The white goods storage area shall be policed on a daily basis to insure white goods are pushed into an orderly pile, to discourage scavenging, and to remove any non-white goods. An independent contractor shall be contracted on an "as needed" basis to transport these materials off-site for recycling.

PERMITTEE:
Volusia County Solid Waste Division

Attention: Mr. Leonard Marion

WACS Facility: 27540
Permit Number: SO64-0078767-023
Expiration Date: 03/3/2013

SPECIFIC CONDITIONS:

38. Hazardous Wastes: Any incidental hazardous wastes received in connection with operation of this landfill must be disposed of in accordance with Rule 62-730, F.A.C.

39. Landfill Elevation: The final (maximum) elevation of the Tomoka Farms Road Landfill, North Cell – Phase I, Class I shall not exceed 192.0 feet NGVD 1929.

40. Operator Training Compliance: The Tomoka Farms Road Landfill, North Cell - Phase I, Class I, shall comply with Rule 62-701.320(15), F.A.C. – Operator Training.

41. Solid Waste Disposal Rate: The current average solid waste disposal rate for this facility is 1400 tons per day as stated in the application. Actual operating rates may very depending upon business conditions.

42. Operation Plan: An operation plan that meets the requirements of Rule 62-701.500(2), F.A.C., shall be kept at the landfill. All operators and spotters shall be trained and knowledgeable about the plan.

43. Delineation of Limits of Waste: The edge of the liner must be clearly and permanently outlined by permanent monuments or markers, so that solid waste is deposited at least 10 feet inside the edge of the liner. The location of monuments or markers shall be established by a Professional Surveyor and Mapper, licensed in Florida. The monuments or markers shall be of sufficient number to clearly define the limits of waste disposal, and shall be visible and easily identifiable to operation personnel and regulatory inspectors.

44. Waste Reports: A waste report shall be submitted to the Department quarterly, (Rule 62-701.500(4)(b), F.A.C.). Waste reports shall include the quantity of each of the following:

Household waste	Yard Trash
Agricultural waste	Industrial waste
Commercial waste	Ash residue
Incinerator by-pass waste	Sewage sludge
Construction and demolition debris	Water/air treatment sludges
Industrial sludge	Waste tires
Treated biomedical waste	

All submittals in response to this specific condition shall be submitted to: Solid Waste Section, Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, with a copy to: Department of Environmental Protection, Central District, Solid Waste Section, 3319 Maguire Boulevard, Suite 232, Orlando, Florida 32803-3767. The reports shall be submitted no later than the 20th of January, April, July, and October.

PERMITTEE:
Volusia County Solid Waste Division

Attention: Mr. Leonard Marion

WACS Facility: 27540
Permit Number: SO64-0078767-023
Expiration Date: 03/3/2013

SPECIFIC CONDITIONS

45. Operation Permit Renewal: An operation permit renewal must be submitted at least 60 days prior to the expiration date of this permit, Rule 62-4.090, F.A.C.

46. Closure Permit Requirements: At least 90 days prior to the date when wastes will no longer be accepted, the owner or operator shall submit a closure permit application to the Department, Rule 62-701.600(3), F.A.C.

47. Record Keeping: The permittee shall comply with the record keeping requirements for the Class I landfill, Rule 62-701.500(13), F.A.C.

48. Substantial Changes or Revisions: The Department shall be notified and approval obtained prior to executing any substantial changes or revisions to the operation authorized by this permit.

49. Air Program Requirements: The facility has a Title V Air Permit No 1270117-005-AV. The facility will comply with its air permit and all applicable air requirements.

50. Financial Responsibility: The permittee shall maintain compliance with the financial assurance requirements of Rule 62-701.630, F.A.C., by submitting all required updated supporting documentation in accordance with Rule 62-701.630 and 40 CFR Part 264, Subpart H, as adopted by reference in Rule 62-701.630, F.A.C. All submittals in response to this specific condition shall be submitted to the Financial Coordinator, Solid Waste Section, Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, with a copy to: Department of Environmental Protection, Central District, Solid Waste Section, 3319 Maguire Boulevard, Suite 232, Orlando, Florida 32803-3767.

PERMITTEE:
Volusia County Solid Waste Division

Attention: Mr. Leonard Marion

WACS Facility: 27540
Permit Number: SO64-0078767-023
Expiration Date: 03/3/2013

SPECIFIC CONDITIONS

51. Annual Cost Estimates and Financial Instrument Adjustments: The permittee shall, in addition to annually adjusting the closure and long-term care cost estimates, adjust the financial assurance mechanism to reflect an increase in cost estimates. Cost estimate adjustments shall be in accordance with Rule 62-701.630(4), F.A.C. Instrument adjustments shall be in accordance with Rule 62-701.630, F.A.C. and 40 CFR Part 264, Subpart H as adopted by reference in Rule 62-701.630, F.A.C. Documentation of financial mechanism increases shall be submitted to: Financial Coordinator, Solid Waste Section, Department of Environmental Protection, 2600 Blair Stone Road, MS-4565, Tallahassee, Florida 32399-2400. All estimate update submittals shall be sent to: Department of Environmental Protection, Central District, Solid Waste Section, 3319 Maguire Boulevard, Suite 232, Orlando, Florida 32803-3767.

ISSUED:

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Vivian F. Garfein
Director, Central District
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803

Date: June 2, 2008

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to Section 120.52, Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

Clerk — June 2, 2008 Date

CERTIFICATE OF SERVICE

The undersigned duly designated deputy agency clerk hereby certifies that this NOTICE OF PERMIT and all copies were sent before the close of business on June 2, 2008 to the listed persons.

Clerk

2011/ 2012

Volusia County Business Tax Receipt

Issued pursuant to F.S. 205 and Volusia County Code of Ordinances Chapter 114-1 by:
Volusia County Revenue Division - 123 W Indiana Ave, Room 103, DeLand, FL 32720 – 386-736-5938

Volusia County
FLORIDA

Receipt # 198906090004 Expires: September 30, 2012
Business Location: 1325 HULL TR

Business Name: WASTE MANAGEMENT INC
Owner Name: WASTE MANAGEMENT INC
Mailing Address: 1325 HULL TR
ORMOND BEACH, FL 32174

BUSINESS TYPE	CODE	COUNT	TAX
Business Service	471	180	$150.00
Hazardous Waste Fee	820	0	$35.00

- This receipt indicates payment of a tax, which is levied for the privilege of doing the type(s) of business listed above within Volusia County. This receipt is non-regulatory in nature and is not meant to be a certification of the holder's ability to perform the service for which he is registered. This receipt also does not indicate that the business is legal or that it is in compliance with State or local laws and regulations.
- The business must meet all County and/or Municipality planning and zoning requirements or this Business Tax Receipt may be revoked and all taxes paid would be forfeited.
- The information contained on this Business Tax Receipt must be kept up to date. Contact the Volusia County Revenue Division for instructions on making changes to your account.

THIS PORTION OF THE BUSINESS TAX RECEIPT MUST BE POSTED CONSPICUOUSLY IN YOUR PLACE OF BUSINESS

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DIVISION OF
Environmental Public Health

Operating Permit

64-QE-1376285

64-BID-1850067

County: Volusia
Amount Paid: $ 110.00
Date Paid: 11/02/2011
Issue Date: 11/02/2011

Issued To: Waste Management
1325 Hull
Ormond Beach FL 32174

Permit Expires On: 09/30/2012

Mail To: Waste Management
1325 Hull Trail
Ormond Beach FL 32174

Volusia County Health Department
Environmental Health
PO Box 9190 Bin #118
Daytona Beach, FL 32120

'he facility shown above has been inspected by a duly authorized representative of the Department of Health, and was found in conformance ith those rules promulgated by the department under the authority of chapters 381, 386 and 489 part III, Florida Statutes, and set forth in Rule 4E-6, Florida Administrative code. This permit grants authority to operate the above referenced facility, service, or system in conformance with epartment rules and the conditions of operation shown below. This permit is revocable, upon service of notice, when it is determined by ne department that the operational conditions and department standards are not being maintained.

Original Customer (Non-Transferable): Waste Management

DISPLAY CERTIFICATE IN A CONSPICUOUS PLACE

ACORD

CERTIFICATE OF LIABILITY INSURANCE 1/1/2013

DATE (MM/DD/YYYY) 12/5/2011

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER: LOCKTON COMPANIES, LLC
5847 SAN FELIPE, SUITE 320
HOUSTON TX 77057
866 260 3538

CONTACT NAME:
PHONE (A/C, No, Ext):
FAX (A/C, No):
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: ACE American Insurance Company	22667
INSURER B: Indemnity Insurance Co of North America	43575
INSURER C: ACE Property & Casualty Insurance Co	20699
INSURER D:	
INSURER E:	
INSURER F:	

INSURED 1300299: WASTE MANAGEMENT HOLDINGS, INC. & ALL AFFILIATED, RELATED & SUBSIDIARY COMPANIES INCLUDING:
WASTE MANAGEMENT INC. OF FLORIDA
1325 HULL TRAIL
ORMOND BEACH FL 32174

COVERAGES FLORMBEA AJ CERTIFICATE NUMBER: 3574141 REVISION NUMBER: XXXXXXX

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR X XCU INCLUDED X ISO FORM CG 00 01 12 07 GEN'L AGGREGATE LIMIT APPLIES PER: POLICY X PRO-JECT X LOC	Y	Y	HDO G26436886	1/1/2012	1/1/2013	EACH OCCURRENCE	$ 5,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 5,000,000
							MED EXP (Any one person)	$ XXXXXXX
							PERSONAL & ADV INJURY	$ 5,000,000
							GENERAL AGGREGATE	$ 6,000,000
							PRODUCTS - COMP/OP AGG	$ 6,000,000
								$
A	AUTOMOBILE LIABILITY X ANY AUTO X ALL OWNED AUTOS X HIRED AUTOS X MCS-90 SCHEDULED AUTOS X NON-OWNED AUTOS	Y	Y	MMT H08692853	1/1/2012	1/1/2013	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
							BODILY INJURY (Per person)	$ XXXXXXX
							BODILY INJURY (Per accident)	$ XXXXXXX
							PROPERTY DAMAGE (Per accident)	$ XXXXXXX
								$ XXXXXXX
C	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION $	Y	Y	XOO G25834501	1/1/2012	1/1/2013	EACH OCCURRENCE	$ 15,000,000
							AGGREGATE	$ 15,000,000
								$ XXXXXXX
B A A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	Y	WLR C46774735 (AOS) WLR C46774747 (CA & MA) SCF C4577579A (WI)	1/1/2012 1/1/2012 1/1/2012	1/1/2013 1/1/2013 1/1/2013	X WC STATU-TORY LIMITS OTH-ER	
							E.L. EACH ACCIDENT	$ 3,000,000
							E.L. DISEASE - EA EMPLOYEE	$ 3,000,000
							E.L. DISEASE - POLICY LIMIT	$ 3,000,000
A	EXCESS AUTO LIABILITY	Y	Y	XTR H08692865	1/1/2012	1/1/2013	COMBINED SINGLE LIMIT $9,000,000 (EACH ACCIDENT)	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
BLANKET WAIVER OF SUBROGATION IS GRANTED IN FAVOR OF CERTIFICATE HOLDER ON ALL POLICIES WHERE AND TO THE EXTENT REQUIRED BY WRITTEN CONTRACT WHERE PERMISSIBLE BY LAW. CERTIFICATE HOLDER IS NAMED AS AN ADDITIONAL INSURED (EXCEPT FOR WORKERS' COMP/EL) WHERE AND TO THE EXTENT REQUIRED BY WRITTEN CONTRACT. ADDITIONAL INSURED IN FAVOR OF CITY OF NEW SMYRNA BEACH (ON ALL POLICIES EXCEPT WORKERS' COMPENSATION/EL) WHERE AND TO THE EXTENT REQUIRED BY WRITTEN CONTRACT.

CERTIFICATE HOLDER

3574141

CITY OF NEW SMYRNA BEACH
124 INDUSTRIAL PARK AVENUE
NEW SMYRNA BEACH FL 32168

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

ACORD 25 (2010/05)

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City of New Smyrna Beach

Office of the Public Works Director

Our copies

September 26, 2008

Waste Management, Inc.
1325 Hull Trail
Ormond Beach, Florida 32174

Re: Construction and Demolition Roll-Off Service Non-Exclusive Franchise Ordinance Request

Dear Drew,

The City Commission approved Ordinance #92-08, Tuesday, September 12th, at their regular meeting, granting a non-exclusive franchise to Waste Management, Inc. of Florida, for non-exclusive roll-off container collection and waste disposal within the City of New Smyrna Beach.

Enclosed please find the Acceptance by Franchisee Form that needs to be signed, notarized and returned to our address below, within 15 days of your receipt. Also, I have enclosed a copy of the Franchise Service Form which needs to be submitted for approval to this department prior to each container placement. Please see page 2 of 11, of the ordinance, which states that a $30.00 late fee will apply if this is not done.

Should you have any questions or concerns regarding this issue, please contact our office between the hours of 7:30 a.m. and 4:30 p.m. at 386-424-2212. Our fax number is: 386-424-2198.

Very truly yours,

Khalid Resheidat
Public Works Director

Enclosures: Acceptance by Franchisee Form
Construction and Demolition Roll-Off Customer Service Form
Form of Ordinance 92-08

cc: John E. Hagood, City Manager
Rhonda Walker, Asst. Public Works Director
Janice Lowry, Deputy City Clerk
Bill Poling, Finance Director

124 Industrial Park Blvd • New Smyrna Beach, Florida 32168 • 386-424-2205 • Fax 386-424-2198

ACCEPTANCE BY FRANCHISEE

The foregoing Ordinance No. 92-06 and the Franchise provided for therein, and all the additional and amended terms thereof, are hereby accepted, approved and agreed to this 6 day of October, 2006.

Waste Management,
a Florida corporation

By: [signature]
Printed Name: Jon C. McGrath
Title: District Manager

ATTEST:

Dana Nicole Hudson
Printed Name: Dana Nicole Hudson
Title: Operations Specialist

STATE OF FLORIDA

COUNTY OF Volusia

The foregoing instrument was acknowledged before me this 6 day of October, 2006, by Jon C. McGrath and Dana Nicole Hudson, as District Manager and Operations Specialist respectively, of Waste Management, a Florida corporation, on behalf of the corporation. They are personally known to me or have produced _____ as identification

(Notary Seal or Stamp)

Elizabeth McGrath
Notary Public

Elizabeth McGrath
MY COMMISSION # DD174001 EXPIRES
February 22, 2007
BONDED THRU ATLANTIC BONDING, INC.

ORDINANCE NO. 92-06

AN ORDINANCE PROVIDING FOR GRANTING A NON-EXCLUSIVE FRANCHISE TO WASTE MANAGEMENT, INC. OF FLORIDA, TO PROVIDE ROLL-OFF CONTAINER COLLECTION AND DISPOSAL OF WASTE WITHIN THE CITY OF NEW SMYRNA BEACH; PROVIDING FOR OUTLINING FRANCHISEE'S DUTIES; PROVIDING TERMS AND CONDITIONS UNDER WHICH SUCH FRANCHISE SHALL OPERATE; PROVIDING FOR PUBLIC HEARING; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, there is an immediate and continuing need for the collection and disposal of construction and demolition debris from organizations, firms or entities (Service) within the City of New Smyrna Beach (City) with the use of "roll-off" containers; and

WHEREAS, Waste Management, Inc. of Florida, a Florida corporation (Franchisee), represents that it has the necessary equipment, personnel and experience to properly perform the Service; and

WHEREAS, the City Commission deems that it is in the best interest of the citizens of New Smyrna Beach to award Waste Management, Inc. of Florida, a nonexclusive right and franchise to provide the Service within the City limits upon the terms and conditions recited below.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF NEW SMYRNA BEACH:

SECTION 1: ***Award of Non-exclusive Franchise.*** The City of New Smyrna Beach hereby awards Waste Management, Inc. of Florida, a nonexclusive right and franchise to provide roll-off service within the City limits upon the terms and conditions recited below. This Franchise shall not become effective until this ordinance and franchise agreement is accepted in writing by Waste Management, Inc. of Florida.

SECTION 2: ***Definitions.***

A. *Construction and demolition debris* shall have the same definition and meaning as defined in §403.703, F.S.

B. *Service* encompasses the use of "roll-on" and "roll-off" containers (Containers) as used with mechanical pickup or compaction devices, or both of these devices.

C. *Containers* means either open-top/snow-type used only for nonpetruscible materials, or enclosed containers such as the kind typically used with compaction devices, of ten (10) cubic yards capacity or larger.

SECTION 3: ***Franchisee's Authority.***

A. Franchisee is hereby empowered and authorized to provide roll-off service. Franchisee will either furnish all necessary trucks and other equipment to perform such services, or will contract with other persons or companies duly licensed or franchised by the City for the furnishing of trucks and equipment, provided, however, that at all times the trucks and equipment shall comply with the requirements provided herein for equipment owned and operated by Franchisee.

B. Franchisee may contract to provide the Service (Contract) with any person, organization, firm or entity (Entities) within the City, if such Entities have first requested the Service. Such contracts where containers are placed on public property must be approved by the Public Works Director or his designee prior to or within one (1) week (7 calendar days) of the placement of the Container for Service. For each Container placed on public property for service without a contract having been submitted to the Public Works Director by Franchisee, a thirty dollar ($30.00) inspection and administration late fee shall be paid by Franchisee to the City. The Contract shall not exceed the term of the Franchise.

Franchisee agrees to provide the Public Works Director with the location of its Containers and the name and address of and number of pickups to be made for each of the Entities. Franchisee also recognizes that any contract between Franchisee and the Entities has no effect whatsoever upon the City's decision to grant the Franchise, or any renewal decision made thereafter. If the Public Works Director disapproves a contract for containers placed on public property and the subject Container remains in service more than forty-eight (48) hours after telephone or written notice by the City to Franchisee to remove the Container, or if any Container should remain in service at any location more than forty-eight (48) hours after telephone or written notice from the City to Franchisee to remove the Container, then, in either or both cases, Franchisee shall pay the City fifty dollars ($50.00) per day until the Container is removed.

C. Franchisee shall provide the equipment and frequency of service as needed by the Entities and as approved by the Public Works Director.

D. All lease or purchase arrangements for compaction equipment and for maintenance or service charges for the Containers agreed upon between Franchisee and the Entities shall be set forth in the Contract between Franchisee and the Entities, and approved by the Public Works Director pursuant to this section.

SECTION 4: *Payments.*

A. Franchisee shall pay the City twenty dollars ($20.00) for each Container pickup. The charge shall be paid monthly and shall be based upon the number of Container pickups by Franchisee from the Entities during the preceding month.

B. Franchisee shall furnish the Public Works Director with an original and one (1) copy of an annual report on or before the forty-fifth (45th) day following Franchisee's fiscal year end. The report date shall be submitted to the Public Works Director on the date of Franchisee's acceptance of this Franchise, and the report

shall be prepared by an independent certified public accountant in accordance with generally-accepted auditing standards. The report shall reflect the accuracy of Franchisee's payments to the City as defined in this ordinance, and shall ensure and include, but not be limited to, the following:

(1) All City accounts are properly coded to reflect charges accrued to the City;

(2) the number of City-related Container pickups are correctly reported to the City;

(3) all City payments are correctly computed and remitted to the City on a timely basis, or the interest-payment provision of Subsection C, below, shall apply.

During the term of this Franchise and its renewal, Franchisee shall make its City Franchise books and records available to the City at all reasonable times. Failure to furnish the City with the report or to maintain complete and accurate City Franchise books shall be considered a material breach of this Franchise, and the City shall be entitled to terminate this Franchise and to collect any damages resulting therefrom.

C. Franchisee shall have the sole responsibility for the billing and collection of all charges described herein. Billings shall be monthly and payable on or before the fifteenth (15th) day of the succeeding month. In the event bills are not paid within this time, Franchisee shall have the right (provided that Franchisee may otherwise legally do so) to discontinue all Services for nonpayment.

All statements of fees and charges by Franchisee, and the remittance thereof, shall be submitted to the City Finance Director on or before the fifteenth (15th) day following Franchisee's fiscal month end. These statements shall specify the previous month's account activities as specified herein, and shall include account names, account numbers, the number of Container pickups during the

month, and all discontinued accounts. Failure to submit any remittance specified or referred to in this section on or before the fifteenth (15th) day of each month as required shall result in a liability for interest at the rate of one percent (1%) per month. Failure to submit any statement shall be considered a breach of this Franchise and shall allow the City to terminate the Franchise as may be further provided in Section 10 below.

SECTION 5: *Term.*

(A) The term of this Franchise shall commence on the date of adoption of this ordinance and end on December 31, 2008. An acceptance of the provisions, conditions and stipulations of this Franchise shall: (1) be in writing; (2) contain Franchisee's local address; and (3) be filed with the City Clerk within fifteen (15) days of the adoption of this Franchise.

B. The term may be extended for an additional one (1) year, at the sole option of the City, by written notice to Franchisee not less than thirty (30) days prior to the expiration of the current term.

SECTION 6: *Default.* In the event Franchisee fails to provide adequate Services to the Entities by reason of any (1) unknown emergency, catastrophe, natural disaster, war, labor strike, act of God, or similar event; (2) breach of contract; or (3) negligent failure to adequately perform the duties and obligations of this ordinance (as determined solely by the City), the City may, at its sole option, terminate this Franchise (Option I), or take over the roll-off services (Option II), or both of these options. In the event the City chooses Option II, it shall receive all charge amounts regardless of the amounts normally retained by Franchisee.

SECTION 7: *Default by Other Franchisees.* In the event that other Franchisees default or otherwise fail to provide adequate Services (in the sole determination of the City), and the City chooses Option II as provided in Section 6 above, Franchisee agrees, if requested by the City, to provide the Services or

temporary Services, or both of these types of Service, if Franchisee may reasonably do so, given: (1) Franchisee's equipment and schedule; and (2) that a reasonable price can be determined by Franchisee, the City and the entity for the Service's undertaking and completion.

SECTION 8: ***Liability.***

A. The privileges herein are granted upon the express condition that Franchisee shall be liable for all damages and injuries to persons and property caused by its neglect or mismanagement, or by the actions of any of its employees while engaged in the Services during the term of this Franchise. Should the City be sued therefrom, Franchisee shall be notified of and have the duty to defend such suit, provided, however, that the City has the sole option (Option III) to defend itself or to hire independent counsel, and thereafter to tax all such defense costs and fees to Franchisee. Franchisee specifically agrees to pay any such judgment rendered against the City in any such case, and to reimburse the City, in full, for all costs and fees on appeal.

B. The attorneys chosen by Franchisee to represent the City in any suit concerning matters included within this section shall be approved by the City unless the City chooses to represent itself as defined above. Franchisee shall indemnify and hold harmless the City, its agents, elected or appointed officials, officers and employees from any and all liability, claims, demands, damages, expenses, fees, penalties, suits, proceedings, actions and costs of actions (including costs and attorney's fees, and costs and attorney's fees on appeal), of any kind or nature, arising out of, resulting from, or in any way connected with Franchisee's activities permitted under this Franchise.

C. Franchisee further agrees to purchase public liability and property damage insurance in the amount of $1,000,000 (per accident, public liability), and $250,000 (property damage), and naming the City as an additional insured under the policy. The policy must provide that the City shall be given thirty (30) days'

written notice prior to cancellation or modification, and a copy of the policy (or a certificate of insurance) shall be filed with the City Clerk on or before the effective date of this Franchise and on or before the effective date of each policy renewal period.

SECTION 9: *Licenses.* Franchisee shall, at its sole expense, procure from all local, state and federal governmental and agency authorities (having jurisdiction over the operations of Franchisee) all licenses, certificates, permits or other authorizations which may be necessary for the conduct of Franchisee's operations. Franchisee shall pay all taxes, and license, certification, permit and examination fees, and all excises which may be assessed, levied, exacted or imposed upon its property, operations, gross receipts, or all or any combination of these assets, and upon this Franchise and the rights and privileges granted herein, and shall make all applications, reports, and returns required in connection therewith to all respective governmental and agency authorities.

SECTION 10: *Termination.* The privileges granted herein to the Franchisee may be terminated by the City prior to the expiration of the term if any one (1) or more of the following events occur:

A. Franchisee fails: (1) to pay the sums, fees or charges due to the City in a timely manner (Failure I); or (2) Franchisee fails to keep, perform or observe each and every other promise, covenant, and condition designated to it under this ordinance (Failure II). In the event of a Failure II, the Public Works Director shall notify Franchisee in writing of such failure, and Franchisee shall have thirty (30) days from the receipt of such notice to correct the condition giving rise to such notice. If the correction is not made to the Public Works Director's satisfaction within the period, the Public Works Director shall give written notice to Franchisee that the privileges granted herein are terminated as of the date of such notice.

B. If and when Franchisee shall liquidate, dissolve or sell substantially all of its assets.

C. If and when there is a transfer of fifty percent (50%) or more of Franchisee's voting stock which results in a change in Franchisee's control.

D. If and when Franchisee becomes insolvent, or makes a general assignment for the benefit of its creditors, or if an action or petition is filed by or against Franchisee under any part of the Federal Bankruptcy Act or other law relating to the alleged insolvency of Franchisee, and such action or petition is not dismissed within thirty (30) days of the date of its filing.

In the event any of the privileges granted herein are terminated pursuant to this Section, any liability of the Franchisee to the City accruing thereby, and any liability of Franchisee to the City arising out of any act or event occurring prior to the termination, shall immediately become due and payable to the City without further notice.

SECTION 11: ***Notices.*** All notices herein required to be given by the City to Franchisee, except where specifically provided otherwise, may be effected either by hand delivery to any Franchisee employee, or by United States mail (postage prepaid), addressed to Franchisee at its last-known business address. All notices required to be given to the City shall be given to both the Public Works Director and the City Clerk either by hand delivery or by United States mail (postage prepaid), addressed to the Public Works Director, City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida 32168, and the City Clerk, City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida 32168.

SECTION 12: ***Remedies, Attorney's Fees and Costs.*** All remedies provided in this Franchise shall be deemed cumulative and additional and not in lieu of or exclusive of each other, or of any other remedy available to the City, at law or in equity. In the event the City shall prevail in any action arising hereunder, Franchisee shall pay the City's costs, and any and all attorney's fees thereafter charged to the City.

SECTION 13: *Equipment.*

A. Franchisee agrees that it shall procure and maintain sufficient equipment, or that it shall arrange on a contractual basis with other persons owning or leasing equipment in compliance with the requirements of this Franchise, to insure that Franchisee shall at all times be in a position to properly maintain its schedules and to otherwise perform all duties, responsibilities and conditions required under this ordinance.

B. All trucks utilized by Franchisee and all Containers owned or leased by Franchisee shall be prominently identified on both the left and right sides with Franchisee's name in letters not less than six inches (6") in height, and Franchisee's business telephone number in numbers not less than three inches (3") in height, either painted on or attached by signs to such trucks and Containers.

C. All of Franchisee's trucks, Containers and equipment shall conform to all City safety and sanitation requirements for refuse-collection vehicles, and the equipment must be approved by the Public Works Director. Franchisee specifically agrees that the Public Works Director shall have the right to inspect the trucks or the equipment, or both of these items, at all reasonable times and after having endeavored to give reasonable written or oral notice that such an inspection shall take place.

SECTION 14: *Nonassignability.* This Franchise shall not be assignable by Franchisee without the prior written consent of the City Commission as evidenced by an ordinance authorizing and approving such an assignment.

SECTION 15: *Effective Area.* This Franchise shall be effective within the City's corporate limits as they may from time to time exist.

SECTION 16: ***Hours of Operation.*** The hours of operation for the Franchise shall be weekdays and Saturdays from 7:00 a.m. to 7:00 p.m. The Franchise shall not provide Service on Sundays.

SECTION 17: ***Headings.*** The paragraph headings of this Franchise are for purposes of convenience only, and shall not be deemed to expand or limit the provisions contained in such paragraphs or sections.

SECTION 18: ***Warranty of Franchisee.*** Franchisee represents and warrants to the City that no appointed or elected City official, officer, employee or agent has any interest, either directly or indirectly, in the business of Franchisee to be conducted herein.

SECTION 19: ***Noncompliance.*** If Franchisee shall at any time fail to comply with any of the provisions of this Franchise (unless such failure is beyond Franchisee's control because of matters deemed to be an act of God), the City, after thirty (30) days' written notice to Franchisee, may revoke this Franchise and render it void and of no further effect.

SECTION 20: ***Amendment.*** The City reserves the right to amend this Franchise at any time, and in any manner that the City deems necessary for the health, safety or welfare of the public. The City also reserves the right to prescribe, from time to time, reasonable rules and regulations further governing Franchisee's operations herein, including, but not limited to, hours and frequency of Container pickup. These rules may be issued through the Public Works Director, the City Manager or his designee, and they need not be memorialized in an ordinance revision or other formal action by the City Commission, the City Commission's approval of this ordinance being an approval that the regulations should be so issued.

SECTION 21: ***Public Hearing.*** That a public hearing considering the adoption of this ordinance held at 7:00 p.m., September 12, 2006, in the DeBerry Room at the Utilities Commission building, 200

Canal Street, New Smyrna Beach, Florida, after notice published, is found to comply with §166.041(3)(a), F.S.

SECTION 22: ***Severability.*** If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portion of this ordinance.

SECTION 23: ***Conflicting Ordinances.*** Any ordinances that are in conflict with this ordinance are hereby rescinded and repealed.

SECTION 24: ***Effective Date.*** That this ordinance shall take effect immediately upon its final adoption.

APPROVED AS TO FORM AND CORRECTNESS:

FRANK B. GUMMEY, III
City Attorney

DATE: 8/9/06

Non-Exclusive Roll-off Container Franchise - Waste Management, Inc. of Florida
First Reading August 22, 2006
Public Hearing September 12, 2006
August 8, 2006
9:38 AM

Non-Exclusive Franchise Request Directions

When a company inquires about obtaining a non-exclusive franchise for roll-off service for the removal of construction & debris (c & d) within the city limits, send the following:

Non-Exclusive Franchise Response Letter
Non-Exclusive Franchise Ordinance Application
Copy of blank ordinance
Non-Exclusive Franchise Customer Service/Approval Form

Requirements from applicant: **City of NSB occupational license**
Copy of current state license for disposal site
Copy of current insurance certificate

Send a copy of the response letter without attachments to:
City Attorney
City Manager
Finance Director
Asst. City Manager (via email)
City Clerk

Upon receiving the completed application please send the following to the City Attorney
Interoffice Memo
Completed Application
Copy of current state license for disposal site
Copy of current insurance certificate**
Copy of Occupational License

**Make sure the insurance certificate includes the City of New Smyrna Beach as a certificate holder in the "Description of operations/locations/...." in bottom left corner. Also, the "cancellation clause" needs to read "30 days written notice". If the insurance certificate is not correct, call company and have them send a corrected one, before sending to the City Attorney's office. (Virginia sends notice to the company when it will appear on the City Commission agendas)

Be sure to keep a copy of everything for public works file and send a copy of the memo only to the following: City Manager
Finance Director
Asst. City Manager (via email)
City Clerk

Send a request to the City Clerk along with their copy, that the Public Works office be notified when the Franchise Ordinance is placed on the commission agenda.
Print a copy of the minutes where the ordinance had been approved and keep in file.

Keep a note so that you will know when their request is passed. You can then send the company a copy of the approved franchise, and another copy of the Franchise Report Form along with the "Acceptance by Franchisee" form for them to sign, notarize and return. When that is returned, keep in file here, and send copy to City Clerk for files. Copy memo to same as above.

AGENDA ITEM SUMMARY

Department Making Request: Development Services

Meeting Date: 1st Reading: 3/13/12 2nd Reading: 3/27/12

Action Item Title: Easement Vacation – 702 Saxon Palm Court

Agenda Section: Consent _____ Public Hearing _____ Special Items __X__

Summary Explanation and Background:

Vincent E. Guarracino, 702 Saxon Palm Court, New Smyrna Beach, Florida, 32169, applicant and property owner, requests vacation of an approximately 3' x 117' portion of a drainage and utility easement in order to construct a screen enclosure.

The subject property contains approximately 0.22 acres, is zoned R-4, Multi-Family Residential, and is generally located northeast of the intersection of Saxon Drive and Saxon Palm Court.

Recommended Action/Motion: Approval

Funding Analysis: Budgeted __N/A____ If not budgeted, recommended funding account:

Exhibits Attached: Staff report, dated March 13, 2012, with associated exhibits.

Reviewed By:	Name	Signature
Department Director:	Gail Henrikson	GAHenrikson
City Attorney	Frank Gummey	Frank B. Gummey III
City Manager	Pam Brangaccio	Pam Brangaccio

Commission Action:

ORDINANCE NO. 41-12

AN ORDINANCE SURRENDERING AND RELINQUISHING APPROXIMATELY 3' X 117' OF A DRAINAGE AND UTILITY EASEMENT AT 702 SAXON PALM COURT IN THE CITY OF NEW SMYRNA BEACH, PURSUANT TO SEC. 70-37 OF THE NEW SMYRNA BEACH CODE OF ORDINANCES; PROVIDING FOR NOTIFICATION TO THE NEW SMYRNA BEACH UTILITIES COMMISSION, ALL PRIVATE UTILITIES OPERATING WITHIN THE CITY OF NEW SMYRNA BEACH AND ALL PROPERTY OWNERS WITHIN ONE THOUSAND FEET (1,000') OF THE SUBJECT EASEMENT; PROVIDING FOR AUTHORIZING THE MAYOR TO EXECUTE THE RELEASE OF EASEMENT AND ALL OTHER NECESSARY LEGAL DOCUMENTS; PROVIDING FOR PREPARATION OF DOCUMENTS; PROVIDING FOR HOLDING A QUASI-JUDICIAL PUBLIC HEARING; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Vincent E. Guarracino, 702 Saxon Palm Court, New Smyrna Beach, Florida, applicant and property owner, has requested the surrender and relinquishment of approximately 3' x 117' of a drainage and utility easement at 702 Saxon Palm Court in New Smyrna Beach; and

WHEREAS the applicant will provide a release of easement and all other necessary legal documents prepared by an attorney licensed to practice law in the State of Florida; and

WHEREAS, the City Commission deems that it is in the best interests of the citizens of the City of New Smyrna Beach to surrender and relinquish approximately 3' x 117' of a drainage and utility easement at 702 Saxon Palm Court in New Smyrna Beach, as more particularly set forth hereinafter.

NOW THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF NEW SMYRNA BEACH, FLORIDA:

SECTION 1: ***Relinquishment.*** That approximately 3' x 117' of a drainage and utility easement at 702 Saxon Palm Court in New Smyrna

Beach, is hereby surrendered and relinquished, said area to be surrendered and relinquished being more particularly described as:

SEE EXHIBIT "A" ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF

SECTION 2: ***Notice.*** That a notice advising parties of their right to appear and be heard on this matter shall be sent to the Utilities Commission, all private utilities operating within the City of New Smyrna Beach, and all other property owners within one thousand feet (1000') of the easement to be surrendered and relinquished.

SECTION 3: ***Authorization for Execution of Documents.*** That the Mayor is hereby authorized to execute a release of easement and all other necessary legal documents.

SECTION 4: ***Legal Representation.*** That the applicant has retained an attorney licensed to practice law in the State of Florida to prepare a release of easement (or any other necessary legal document) and shall be required to pay the costs relating to publication and recording.

SECTION 5: ***Quasi-Judicial Public Hearing.*** It is hereby found that a quasi-judicial public hearing held by the City Commission to consider adoption of this ordinance March 27, 2012, in the City Commission Chambers at City Hall, 210 Sams Avenue (south entrance on Julia Street), New Smyrna Beach, Florida, to consider the easement vacation request in accordance with *Bd. of Cty. Com'rs of Brevard v. Snyder*, 627 So.2d 469 (Fla. 1993) in a manner to insure that all parties are provided an opportunity to be heard, present evidence and cross-examine witnesses, and to be informed of all the facts upon which the Commission's decision on the rezoning is based, after notice published at least 10 days prior to hearing, is deemed to comply with §166.041(3)(a), F.S.

SECTION 6: ***Conflicting Ordinances.*** That any ordinances that are in conflict with this ordinance are hereby rescinded and repealed.

SECTION 7: ***Severability.*** That if any section, sentence, clause or phrase of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 8: ***Effective Date.*** That this ordinance shall take effect immediately upon its final passage.

APPROVED AS TO FORM AND CORRECTNESS:

FRANK B. GUMMEY, III
City Attorney

DATE: 3/5/12

Easement Vacation 702 Saxon Palm Court - Relinquishment of Utilities Easement
First Reading March 13, 2012
Public Hearing March 27, 2012
March 5, 2012
9:41 AM

EXHIBIT "A"
ORDINANCE NO. 41-12

TO BE PROVIDED BY THE APPLICANT

CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES

EV-1-12: 702 SAXON PALM COURT DRAINAGE/UTILITY EASEMENT VACATION

MARCH 13, 2012

I. Background

A. **Applicant and Property Owner:** Vincent E. Guarracino, 702 Saxon Palm Court, New Smyrna Beach, Florida, 32169

B. **Request:** Vacation of an approximately 3' x 117' portion of a drainage and utility easement in order to construct a screen enclosure.

C. **Site Information:** The subject property contains approximately 0.22 acres, is zoned R-4, Multi-Family Residential, and is generally located northeast of the intersection of Saxon Drive and Saxon Palm Court (see location map attached as **Exhibit A**)

II. Findings

A. The applicant is requesting vacation of an approximately 3' x 117' drainage and utility easement. According to the plat of Saxon Court (**Exhibit B**), this 10' easement was granted to the City of New Smyrna Beach for the purpose of drainage and utilities. The applicant is requesting vacation of an approximately 3-foot portion of this easement in order to construct a screen enclosure. Plans for the proposed addition are attached as **Exhibit C**. As shown in the drawing attached drawing, the screen room will encroach approximately two feet into the easement. However, to allow room for field adjustments and exterior finishes, the request is for three feet. If the vacation request is approved, the property owner must still maintain the minimum required 7.5-foot side yard setback from the north property line.

B. The subject property has a future land use designation of High Density Residential and is zoned R-4, Multi-Family Residential. The property has been improved with an approximately 2,546-square foot home, with attached garage. According to information from the Volusia County Property Appraiser's website, the home was constructed in 1997. The surrounding future land use, existing uses, and zoning are as follows:

North

Future Land Use:	High Density Residential
Existing Land Use:	Residential
Zoning:	R-4, Multi-Family Residential

South

Future Land Use:	High Density Residential
Existing Land Use:	Residential
Zoning:	R-4, Multi-Family Residential

East

Future Land Use:	High Density Residential
Existing Land Use:	Residential
Zoning:	R-4, Multi-Family Residential

West

Future Land Use:	High Density Residential
Existing Land Use:	Residential
Zoning:	R-4, Multi-Family Residential

C. Per the *City of New Smyrna Beach Code of Ordinances* Section 70-37, the "City Commission may surrender or relinquish public easements by ordinance. Notice advising parties of their right to appear and be heard on this matter shall be sent to the utilities commission, all private utilities operating within the city, the county, the state, and all property owners within the city, the county, the state, and all property owners within 1,000 feet of the easement. Property owners requesting surrender and relinquishment of a public easement shall be required to retain at their own expense an attorney licensed to practice law in the state to prepare the release of easement (or any other necessary legal document) and shall be required to pay all costs relating to publication and recording".

D. The easement was originally designed to capture and convey stormwater runoff. According to information from the City Engineer, there have not been any flooding issues historically associated with this lot. Neither does the easement appear to be needed to maintain the current level of service or maintenance access to the lots or subdivision improvements.

E. A letter from the Utilities Commission (**Exhibit D**) indicates they have no objection to the proposed easement vacation. The Utilities Commission has no electric, water, sewer or reclaim mains in the proposed easement area. The City Engineer has also reviewed the easement vacation request and did not have any objections.

F. All property owners within 1,000 feet of the subject property of the proposed easement vacation must be notified prior to second reading of the vacation ordinance. This item is tentatively scheduled for second reading at the March 27, 2012 City Commission meeting.

III. Recommendation

Staff recommends that the City Commission **approve** the easement vacation with the condition that the minimum required 7.5-foot side yard setback is maintained on the north side of the property.

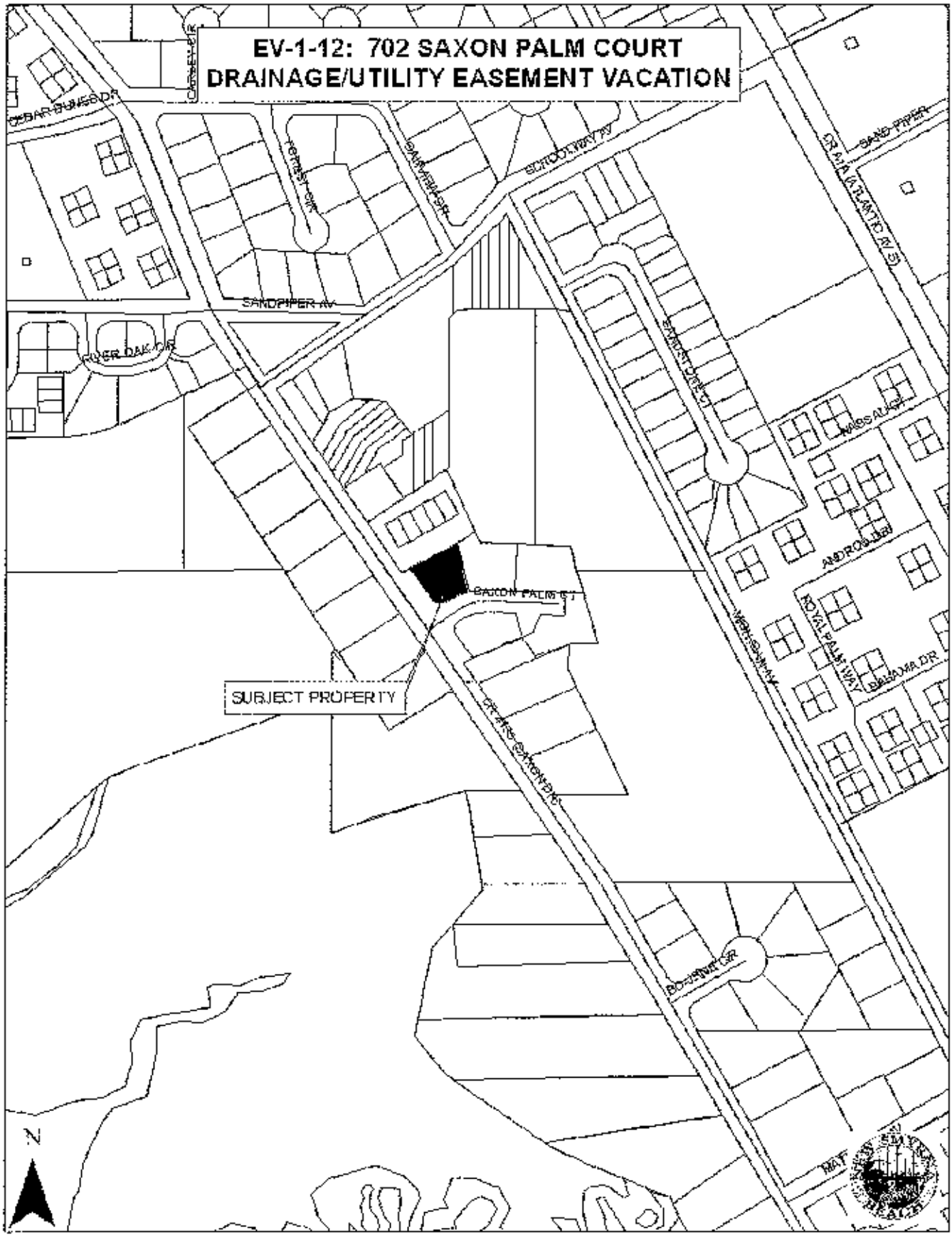
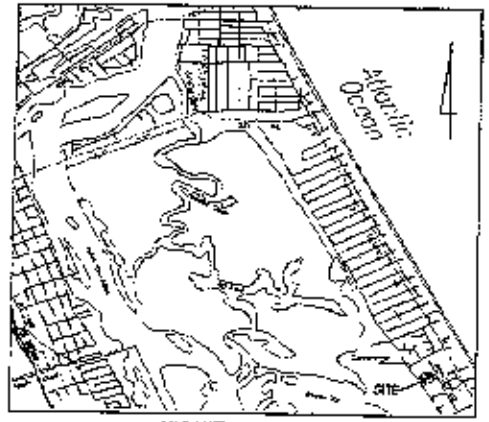

EV-1-12: 702 SAXON PALM COURT
DRAINAGE/UTILITY EASEMENT VACATION
SCHOOLWAY AV
SANDPIPER AV
RIVER OAK DR
SAXON PALM CT
SUBJECT PROPERTY
ROYAL PALM WAY
BAHAMA DR
N

EXHIBIT B

SAXON COURT SUBDIVISION

A PORTION OF LOTS 1, 2 AND 6, BLOCK 11, A.S. BROWN'S SUBDIVISION, M.B. 1, PG. 122, SECTION 27, TOWNSHIP 17 SOUTH, RANGE 34 EAST
CITY OF NEW SMYRNA BEACH, VOLUSIA COUNTY, FLORIDA



VICINITY MAP

FINAL DESCRIPTION: (OVERALL PARCEL)

A PORTION OF LOTS 1, 2 AND 6, LYING EASTERLY OF SAXON DRIVE, BLOCK 11, A.S. BROWN'S SUBDIVISION, ACCORDING TO PLAT THEREOF RECORDED IN MAP BOOK 1, PAGE 122 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE COMMENCE AT THE NORTHWEST CORNER OF SAID LOT 2, BLOCK 11, SAID POINT BEING ON THE SOUTH RIGHT-OF-WAY OF LAKE SAVE STREET, NOW VACATED, THENCE S 00° 05' 39" W, A DISTANCE OF 325.47 FEET TO A 4" X 4" CONCRETE MONUMENT; THENCE S 57° 00' 44" E, A DISTANCE OF 310.00 FEET FOR THE POINT OF BEGINNING; THENCE S 27° 00' 44" E, A DISTANCE OF 24.00 FEET; THENCE S 57° 00' 44" E, A DISTANCE OF 194.00 FEET; THENCE S 35° 52' 42" E, A DISTANCE OF 217.77 FEET; THENCE S 60° 00' 33" W, A DISTANCE OF 30.15 FEET; THENCE S 60° 42' 52" W, A DISTANCE OF 91.55 FEET; THENCE N 34° 45' 16" W, A DISTANCE OF 55.31 FEET; THENCE S 65° 56' 21" W, A DISTANCE OF 148 FEET TO THE EASTERLY LINE OF SAXON DRIVE AS NOW MONUMENTED; THENCE N 34° 45' 16" W, ALONG SAID EASTERLY LINE OF SAXON DRIVE AS NOW MONUMENTED, A DISTANCE OF 234.00 FEET; THENCE N 01° 00' 17" E, A DISTANCE OF 140.00 FEET TO THE POINT OF BEGINNING.

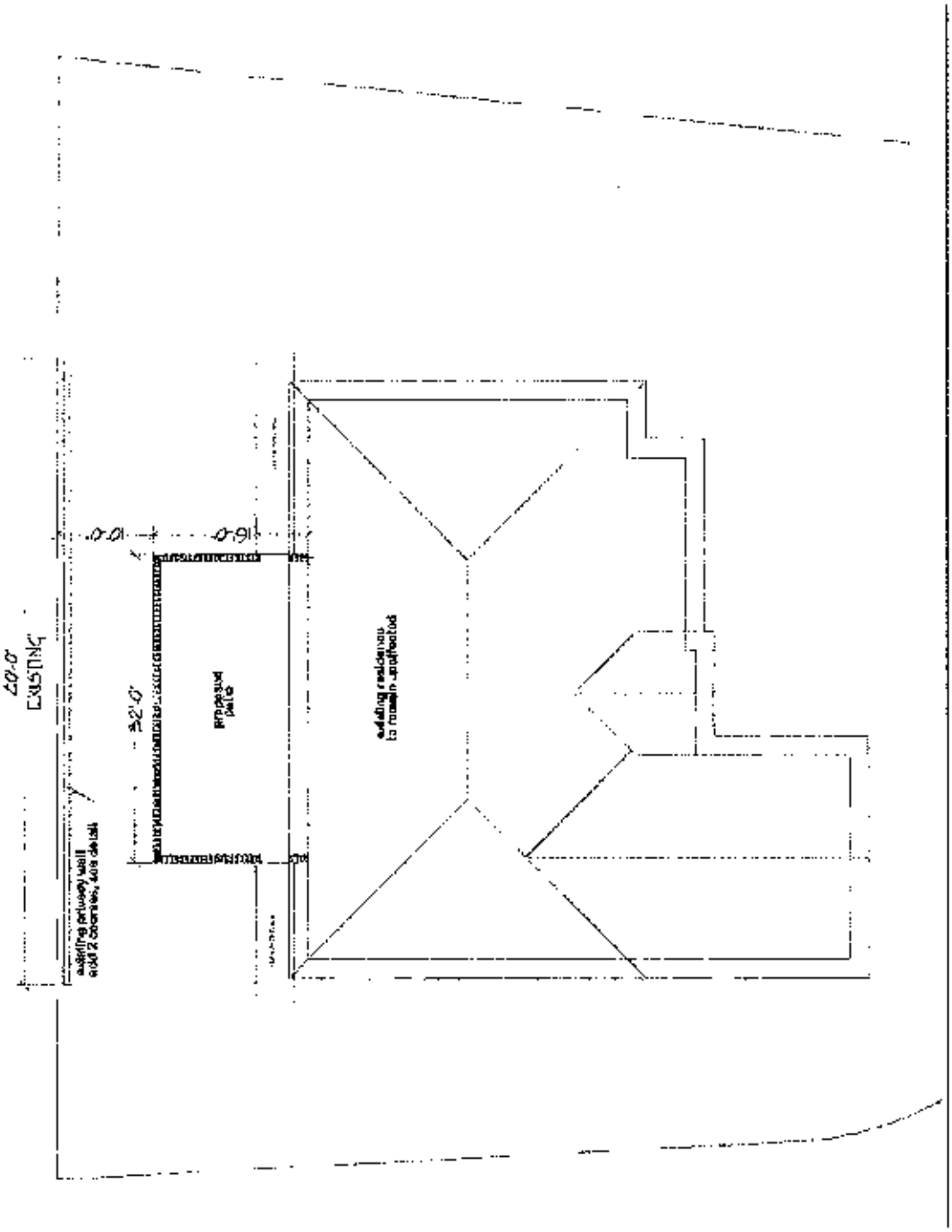
SAID PARCEL COMPRISING 1.20 ACRES, MORE OR LESS.

GENERAL NOTES:

1. PROPERTY IS ZONED R-4.
2. THE FOLLOWING EASEMENTS ARE HEREBY PROVIDED ON ALL LOTS EXCEPT AS OTHERWISE NOTED ON THE PLAT, FOR UTILITY AND DRAINAGE PURPOSES AND SHALL BE MAINTAINED BY THE PROPERTY OWNER:
   FRONT LINE ____ FT
   REAR YARD ____ FT
3. NOTED THERE MAY BE ADDITIONAL RESTRICTIONS THAT ARE NOT REFERENCED ON THIS PLAT THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY.
4. AREA OF CLOSURE EXCEEDS 1 FOOT.
5. NO WELLS OR SEPTIC OR ALLOWED WITHIN ANY EASEMENT SHOWN ON THIS PLAT.
6. TOTAL LINEAR FEET OF STREET DEDICATED
7. MINIMUM LOT SIZE 30' x 100'
8. TOTAL NUMBER OF LOTS 5 LOTS
9. DISTANCE WAS SHOWN IN FEET AND DECIMALS THEREOF.
10. TOTAL ACREAGE 1.20 ACRES
11. [illegible]

PLAT BOOK 49 PAGE 107

SHEET 1 OF 2


20'-0"
EXISTING
32'-0"
10'-0"
16'-0"
existing residence
to remain unaffected
existing privacy wall
add 2 coverings, see detail

UTILITIES COMMISSION,
CITY OF NEW SMYRNA BEACH, FLORIDA
200 Canal Street
New Smyrna Beach, Florida 32168
386-427-1361

Mailing Address:
Post Office Box 100
New Smyrna Beach, FL 32170

February 24, 2012

Karey Cobb
Office Manager
Barringer Construction
550 Wayne Avenue
New Smyrna Beach, Florida 32168

RE: Proposed easement vacation – 702 Saxon Palm Drive

Dear Ms. Cobb:

The Utilities Commission interposes no objection to the proposed vacation of a utility easement as described in your letter dated February 23, 2012.

The Utilities Commission has no electric, water, sanitary sewer or reclaim water lines in the requested easement vacation for 702 Saxon Palm Drive.

If you have any questions or need additional information, please do not hesitate to contact me at 386-424-3026.

Sincerely,

Randy L. Walter
New Business Specialist

Cc: James D. White, P.E.

"Connecting You With Quality"

AGENDA ITEM SUMMARY

Department Making Request: Community Redevelopment Agency

Meeting Date March 13, 2012

Action Item Title: License Agreement, FECR, Mary Ave Phase II

Agenda Section: Consent_____ Public Hearing_____ Special Items___x__

Summary Explanation and Background

The Mary Ave Streetscape Project Phase I is complete.

The Mary Ave Phase II project consists of the work being constructed by the Florida East Coast Railway (FECR) at the railroad crossing at Mary Ave. The majority of the funding for this project came from grant funds through the Transportation Planning Organization. In order to apply for those funds, the City and FECR had to execute an agreement which included a requirement for the FECR to construct a multi-use trail in their Right of Way. The agreement was prepared and executed in the last quarter of 2010, and scheduled for the January 11, 2011 City Commission meeting for ratification.

This item was removed from the January 11, 2011 City Commission agenda by CRA staff when it was learned that the TPO did not have funds available at that time for the project. Later in the year staff was informed that the project would be funded, and CRA staff brought forward an agenda item at the August 9, 2011 meeting to approve the FDOT LAP Agreement for the project. At that time the License Agreement was not included in the agenda item. The LAP Agreement was approved, and FDOT later informed CRA staff that all but an estimated $10,000 would be grant funded.

CRA staff is now bringing forth the License Agreement for ratification (as noted above, execution was required for the grant funding). The Agreement is typical for railroad license agreements, with provisions including the following:

- The City is permitted to widen, use, maintain, repair, renew, and ultimately remove the crossing site;
- Construction shall be done by the Railway and administered by FDOT. All but an estimated $10,000 will be paid for with grant funds;
- The City shall keep vegetation clear of 2 feet in height;
- The City shall pay an annual license fee of $4,000, with increases to match the Consumer Price Index or 3%, whatever is greater, as well as the cost of maintenance of the Warning Devices to be installed; and
- An indemnification clause calling for the City to indemnify the Railway for the project.

Recommended Action/Motion:

Approval.

Funding Analysis: Budgeted___N/A_____ If not budgeted, recommend funding account: line item 12051502 567777, Mary Ave Streetscape, Phase II, $281,464 (it is estimated that $10,000 will be used as the remainder will be grant funds). And line item 552099 Other Operating Supplies balance $5,170.

Exhibits Attached:

1. The executed license agreement with FECR
2. The original Agenda Item Summary prepared for the January 11, 2011 meeting
3. The Agenda Item Summary for the FDOT Lap Agreement for Mary Ave Streetscape Phase II project

Reviewed By:	Name	Signature
CRA Director	Tony Otte	Tony Otte
Finance Director	Althea Philord Bradley	Althea Philord
City Attorney	Frank Gummey III	Frank Gummey III
City Manager	Pam Brangaccio	Pam Brangaccio

Commission Action

Florida East Coast
RAILWAY, L.L.C.

December 1, 2010

File: 124/39/1457

NEW SMYRNA: GRADE CROSSING WIDENING
MARY AVENUE, MP 124+1,457' – FDOT# 271969H
FULLY EXECUTED LICENSE AGREEMENT

Ms. Michelle Martin
CRA Project Manager
City of New Smyrna Beach
210 Sams Avenue
New Smyrna Beach, FL 32168

Dear Ms. Martin:

Please find enclosed, for your file, one fully executed License Agreement to cover the crossing widening to accommodate the sidewalk addition at Mary Avenue, Railway's milepost 124+1,457'. Please provide a PO in the amount of $281,464.15, and a letter of authorization to proceed. Once the Railway has received the aforementioned documents, we will order the track and signal equipment and install the crossing as authorized by this agreement.

Prior to you or your contractor entering into, or working on the Railway's right-of-way, you will need to contact Florida Sunshine at 1-800-432-4770 for utility locates, as you will be working around live fiber-optic cables at this location. You will also need to call 1-800-342-1131 ext 2377 to schedule a signal cable locate and watchman. Our signal cables are not listed with Sunshine and require a separate locate. Once you have received a SDL number from the Railway, contact Mr. Paul Nunchuck at the same number to schedule a watchman. The watchman will have to be scheduled 72 hours in advance of the start date for the work. To maintain a safe working environment, a watchman will have to be present anytime you or your contractor is working within the Railway's right-of-way. As information, the cost for a watchman is approximately $850.00 dollars per day. Also, your contractor will need to provide proof of insurance in the amounts shown in Exhibit D of the agreement.

Should you have any questions or comments concerning the agreement or the procedures as outlined above, I can be reached at (904) 538-6056.

Sincerely,

Joseph (Leslie) Schonder
Project Engineer & Public Works

Enclosure

Engineering Department, 7411 Fullerton Street, Suite 300, Jacksonville, FL 32256

LICENSE AGREEMENT

THIS LICENSE AGREEMENT, effective as of the 1ST day of DECEMBER, 2010, is between FLORIDA EAST COAST RAILWAY, L.L.C. (Address: 7411 Fullerton Street, Suite 300, Jacksonville, Florida 32256), a Florida Limited Liability Company, hereinafter called "RAILWAY" and CITY OF NEW SMYRNA BEACH, a political subdivision of the State of Florida, hereinafter called "CITY".

WITNESSETH:

WHEREAS, the CITY desires to widen, use, maintain, repair, renew and ultimately remove an at-grade public road crossing across and over the tracks, right of way and property of RAILWAY, at the RAILWAY'S Milepost 124+1457', as agreed by parties of this agreement in the Letter of Understanding executed by the CITY on July 12, 2010, more particularly described in Exhibit A attached hereto and incorporated herein by reference, hereinafter referred to as the "CROSSING SITE"; and

WHEREAS, RAILWAY is agreeable to permitting the CITY to widen, use, maintain, repair, renew and ultimately remove the CROSSING SITE under the terms and conditions set forth herein.

NOW, THEREFORE, for the covenants contained herein and other good and valuable consideration, the parties agree as follows:

1. RAILWAY hereby permits the CITY to widen, use, maintain, repair, renew and ultimately remove the CROSSING SITE under the terms and conditions set forth herein.

2. The CROSSING SITE includes any railroad crossing warning signs, crossing surfaces, track structures and automatic crossing warning devices which are, or might be, located

within or adjacent to the above-described location, provided that, the construction of the CROSSING SITE shall be done by RAILWAY as provided in this License Agreement ("Agreement") and further provided that, notwithstanding rights to the CITY granted herein, RAILWAY reserves the right to perform all work required on RAILWAY'S property including construction, drainage, lighting and vegetation management, in which event CITY shall pay the RAILWAY the entire cost and expense of labor, materials and equipment furnished by RAILWAY in performing such work. The status of the CITY is that of a licensee and not lessee, granting the CITY the right to use the CROSSING SITE as specified herein.

3. The CROSSING SITE shall be used for public at-grade road crossing purposes only and no utility, including telecommunications facilities, pipes, wires, cables; or other line or structure shall be placed in, on or over the CROSSING SITE without the previous consent in writing of the RAILWAY. CITY further agrees that it will at all times keep the CROSSING SITE, together with the additional portions of the RAILWAY'S right-of-way within 325 feet of the northerly and southerly limits or boundaries of the CROSSING SITE clear of any vegetation or other growth greater than two (2) feet in height on each side of the tracks at the sole expense of the CITY and without cost to RAILWAY or lien upon RAILWAY'S property.

4. This Agreement is for an initial term of one (1) year and shall continue in effect thereafter from year to year, subject to termination by the RAILWAY or CITY upon sixty (60) days prior written notice.

5. CITY shall pay an annual license fee in advance to RAILWAY of **$4,000.00 (Four Thousand Dollars)**, for use of the Crossing. The license fee shall be increased each year on the anniversary date of this Agreement, commencing on the anniversary date of the second year of this Agreement, by the product of the annual license fee in effect for the

preceding year multiplied by one hundred percent (100%) of the percentage increase, if any, in the Consumer Price Index, (1967=100), issued by the Bureau of Labor Statistics of the U.S. Department of Labor ("CPI"), or 3%, whichever is greater. The base CPI will be the CPI for the month of the year preceding the applicable anniversary date of this Agreement by ninety (90) days. No adjustment will be made for decreases in the CPI.

6. The provisions and stipulations of this Agreement are a part of the consideration of the licensing of the CROSSING SITE, and in the event the CITY shall fail to comply with any of the covenants and conditions, then, at the option of the RAILWAY, this Agreement shall be terminated with full legal rights and remedies retained by the RAILWAY, including but not limited to the right to reenter, repossess, and remove the crossing if it shall elect to do so.

7. The CITY shall grant forthwith to the RAILWAY necessary permits for the installation, construction, erection, repair and maintenance of any of the RAILWAY-owned or maintained facilities described in this Agreement. If the CITY fails to promptly grant the RAILWAY necessary permits, CITY shall bear all additional expense incurred by the RAILWAY attributable to such failure, including costs due to slow ordering of trains. CITY shall promptly pay such amounts upon billing by the RAILWAY.

8. Unless otherwise specified, the cost of and liability for installation, construction, maintenance, replacement and removal of all facilities at the CROSSING SITE, including but not limited to the track structure, railroad and highway devices, and grade crossing surfaces, whether performed by the CITY or RAILWAY, shall be the sole responsibility of the CITY.

9. The RAILWAY shall install the warning devices, including the fixed signs, flashing lights, bells and gates (collectively the "WARNING DEVICES"), at the CROSSING SITE at the sole cost of the CITY. The WARNING DEVICES are a Type III Class III installation as defined

in the Florida Department of Transportation Schedule of Signal Installations by Type and Class attached hereto as Exhibit C. Installation costs are estimated to be $ **253,960.00** as shown on the estimates for signal installation attached hereto as Exhibit B and incorporated by reference.

In addition, CITY shall pay unto RAILWAY annually the annual cost of maintenance of said WARNING DEVICES as provided in the Florida Department of Transportation's SCHEDULE OF ANNUAL COST OF AUTOMATIC HIGHWAY GRADE CROSSING TRAFFIC CONTROL DEVICES, as may in the future be revised or amended, a copy of which is attached hereto as Exhibit C and incorporated herein by reference.

The WARNING DEVICES will be owned by the RAILWAY and shall remain at the CROSSING SITE until the RAILWAY decides that they are no longer needed or should be replaced, or until other legal requirements are imposed which shall eliminate or substantially change their operations.

10. The RAILWAY shall extend the existing 24' wide FEC Type "T" concrete grade crossing surface to a 34' wide FEC Type "T" concrete grade crossing surface (the "SURFACE') along with other improvements as shown on the drawing, attached hereto as part of Exhibit A, are in accordance with Florida Department of Transportation Standard Specifications for Road and Bridge Construction, Index No. 560, as may be amended, at the sole cost of CITY. Installation costs are estimated to be $ **10,000.00** as shown on the estimates for crossing installation attached hereto as Exhibit B and incorporated by reference. When the RAILWAY determines that the replacement of the new SURFACE is more economical than its continued maintenance, the RAILWAY shall have the exclusive option to replace the SURFACE with a comparable or improved structure. The replacement costs of the new SURFACE shall be the

sole responsibility of the CITY. The CITY shall, at its sole expense, maintain and replace the remainder of the road inside the RAILWAY'S right-of-way, plus any paving which may be located between the ends of the ties. If such work is required due to replacement of the SURFACE, the CITY shall perform such work in accordance with the time and operational requirements of RAILWAY. The CITY will give prior notice to RAILWAY of all work to be performed by it at or near the CROSSING SITE and no such work shall be performed by CITY without the prior approval of RAILWAY. All work performed by the CITY shall be conducted at such times and in such manner as to not interfere or impeded the operations of RAILWAY. The RAILWAY shall provide a construction watchman at said CROSSING SITE while work is being performed by the CITY under the provisions of this Agreement, at the sole expense of the CITY.

11. The CITY agrees, acknowledges and understands that the RAILWAY reserves the right to make any changes at any future time in its existing tracks or other facilities, including the installation, maintenance and operation of any additional track or tracks or other facilities on its right-of-way at the CROSSING SITE. The CITY agrees to bear the total expense of any changes or additions to the pavement and traffic signal devices, the SURFACE, the WARNING DEVICES or other railroad signalization equipment or new track structure at the CROSSING SITE, whether these changes or additions are required by law or order of any public or judicial authority, done voluntarily by the RAILWAY, or requested by the CITY.

12. The CITY agrees that it will install, maintain and replace all necessary drainage facilities to prevent the accumulation of surface water due to the existence of the CROSSING SITE. Such facilities must first be approved by the RAILWAY and any governing bodies having jurisdiction thereof and operation of the facilities shall also be subject at all time to their

approval. An additional license agreement may be required by the RAILWAY, depending upon the location of such drainage facilities and type, size, depth and other specifications of the proposed facilities, as submitted to the RAILWAY.

13. Lighting facilities adequate to comply with the requirements of the laws of the State of Florida covering illumination of road crossing shall be installed, maintained and replaced at or near this CROSSING SITE by and at the sole cost of CITY.

14. Facilities at or near the CROSSING SITE that are not specifically covered by this Agreement, including but not limited to pedestrian walkways, may not be constructed by CITY at or near the CROSSING SITE without the prior written approval of RAILWAY, which approval is in RAILWAY'S sole discretion. The cost and liability for such facilities, including but not limited to claims for personal injury or death or damage to property of any person or persons whomsoever, shall be the sole responsibility of CITY.

15. If at any time RAILWAY, at CITY'S request, performs work required to be performed by CITY hereunder, the cost and liability for such work, including but not limited to claims for personal injury or death or damage to property of any person or persons whomsoever, shall be the sole responsibility of CITY.

16. The CITY further covenants to pay the RAILWAY, within thirty (30) days after presentation of the same, all bills submitted by Railway including maintenance bills as set forth in Paragraph 9 above and all bills for electricity for the lighting and illumination of the CROSSING SITE if same are provided by RAILWAY.

17. At the termination of this Agreement for any cause, or upon termination of the CITY'S use of the CROSSING SITE as herein described, all rights of the CITY shall terminate and the CITY shall remove, under the RAILWAY'S supervision and direction, at CITY'S entire

cost and expense, said road and all non-RAILWAY-owned improvements placed upon the RAILWAY'S right-of-way and restore the ground to its original condition.

18. The CITY shall indemnify, defend and hold harmless RAILWAY for assessments or other charges of any kind whatsoever against the RAILWAY at any time for any portion of public improvements installed on or within two hundred (200) feet of the CROSSING SITE arising out of the existence of the CROSSING SITE.

19. The CITY shall not in any way, or at any time, interfere with or obstruct RAILWAY'S right-of-way, the movement of RAILWAY'S trains and other railroad operations, or interfere with the RAILWAY'S use thereof, or the use thereof by RAILWAY'S assigns, invitees, lessees or licensees.

20. The CITY shall indemnify, defend and hold harmless RAILWAY it's affiliates, officers, directors and employees from any and all suits, claims, liability, losses, damages, expenses and costs (including reasonable attorneys fees) incurred by or asserted against RAILWAY whether for personal injury or death or damage to property of any person or persons whomsoever, relating to, resulting from or arising out of the construction, installation, maintenance or replacement of the CROSSING SITE by RAILWAY, the performance of work by RAILWAY required to be performed by CITY hereunder, or the use of the CROSSING SITE or CITY facilities, including but not limited to pedestrian walkways, at or near the CROSSING SITE and **regardless of whether such injury or damage is caused or alleged to be caused, in whole or in part, by the negligence of RAILWAY.** Notwithstanding the foregoing, the CITY shall have no indemnification obligation for the intentional, wrongful acts of RAILWAY.

The CITY will include in any contract which it may let for the whole or part of any work to be performed hereunder by or for the CITY, each and every one of the terms and

conditions included on the document entitled "INDEMNITY OF FLORIDA EAST COAST RAILWAY, L.L.C. AND INSURANCE REQUIREMENTS" attached hereto and made a part hereof as Exhibit D.

21. (a) CITY, at its own cost and expense, when performing any work in connection with the CROSSING SITE shall request RAILWAY to furnish any necessary construction watchmen for the protection of RAILWAY'S employees, property and train operations. RAILWAY shall be notified at least one (1) week in advance of the performance of any work in connection with the CROSSING SITE.

(b) In addition to, but not in limitation of any of the foregoing provisions, if at any time RAILWAY should deem it necessary to place construction watchmen for the protection of any person or property, during the construction, maintenance, repair, alteration, renewal, or removal at the CROSSING SITE, RAILWAY shall have the right to place such construction watchmen, or other persons at the sole cost and expense of the CITY. Upon receipt of a bill from RAILWAY, CITY shall promptly pay RAILWAY the full cost and expense of such construction watchmen. The furnishing or failure to furnish construction watchmen, or other persons by the RAILWAY under this paragraph, however, shall not release CITY from any and all other liabilities assumed by CITY under the terms of this Agreement, including its obligations under Paragraph 20 hereof. The CITY shall give the RAILWAY one (1) week's advance written notice when it or its contractor or anyone claiming under this Agreement proposes to enter upon the CROSSING SITE to perform work under this Agreement in order that proper warning may be provided for trains. In emergency situations, CITY shall give the RAILWAY telephonic notice. The CITY further agrees that at all times its personnel or agents are on the property of

the RAILWAY, they will be accompanied by a RAILWAY representative and any cost involved will be borne by the CITY.

22. After the SURFACE and WARNING DEVICES have been installed and all other work to be performed by the RAILWAY under this Agreement has been completed and found to be in satisfactory working order by the RAILWAY, the RAILWAY shall furnish to the CITY an invoice showing the final total cost of material, labor and equipment furnished by the RAILWAY, in accordance with the estimate of said cost to the CITY to be **$281,464.15** set forth in Exhibit B and CITY shall pay such invoice no later than thirty (30) days from the date thereof.

23. Installation, maintenance and replacement of any and all railroad advance warning signs and pavement markings on any road approaching the CROSSING SITE shall be the sole responsibility and cost of the CITY, and at its sole expense.

24. The CITY shall promptly pay RAILWAY all charges for replacement, repair or otherwise of the CROSSING SURFACE and RAILROAD DEVICES within thirty (30) days of the date of invoice. Failure to promptly pay to RAILWAY amounts billed as due under this Agreement shall constitute default by the CITY.

25. The CITY hereby acknowledges that it has been notified that its personnel will or may be working in an area containing active fiber-optic transmission cable as well as other cables and other facilities.

26. If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

27. This Agreement will be governed by the laws of the State of Florida. It constitutes the complete and exclusive statement of the Agreement between the parties which supersedes all

proposals, oral or written, and all other communications between the parties related to the subject matter of this Agreement. Any future change or modification of this Agreement must be in writing and signed by both parties.

28. It is understood by and between the respective parties hereto that this License Agreement cancels and supersedes any other License Agreements between the RAILWAY and CITY with respect to the matters contained herein.

IN WITNESS WHEREOF, the RAILWAY and the CITY have caused this instrument to be executed in their corporate names and respective seals to be hereunto affixed in duplicated the day first hereinafter written by their undersigned officials thereunto lawfully authorized.

Signed, sealed and
Delivered in the presence of:

Theresa W. Raymo

Tammy Plank

Witnesses as to RAILWAY

FLORIDA EAST COAST RAILWAY, L.L.C.,
a Limited Liability Company

By: _____ (Seal)

ATTEST: _____
~~Assistant~~ Secretary

DATE: 12/1/10

Witnesses as to CITY

CITY of NEW SMYRNA BEACH, a political subdivision of the State of Florida

By: Adam Burgess

Title: Mayor

Attest: _____

Title: City Clerk

Date: 10-22-2010

APPROVED AS TO FORM AND CORRECTNESS:

_____
Frank B. Gummey, III
City Attorney
Date: _____

LICENSE AREA

August 4, 2010

File: 124/39/1457

MARY AVENUE – MP 124+1457' – FDOT # 271969H

A PARCEL OF LAND WITH UNIFORM WIDTH OF ONE HUNDRED (100) FEET NORTHERLY AND SOUTHERLY AND EXTENDING EASTERLY AND WESTERLY ACROSS THE RIGHT-OF-WAY AND MAIN TRACK OF THE RAILYWAY AT MARY AVENUE IN NEW SMYRNA BEACH, FLORIDA, WITH LONGITUDINAL CENTER LINE OF SAID PARCEL LOCATED ONE THOUSAND FOUR HUNDRED FIFTY-SEVEN FEET (1457) SOUTHERLY FROM THE RAILWAY'S MILE POST NO. 124 AS MEASURED FROM JACKSONVILLE, FLORIDA, SAID RIGHT-OF-WAY OF THE RAILWAY HAVING A TOTAL WIDTH OF SEVENTY-SEVEN (77) FEET IN THE NORTHEASTERLY, SEVENTY-FIVE (75) FEET IN THE NORTHWESTERLY, SEVENTY-FIVE (75) FEET IN THE SOUTHEASTERLY, AND NINETY (90) FEET IN THE SOUTHWESTERLY QUADRANTS AT THIS LOCATION, FROM THE CENTERLINE OF THE MAIN TRACK, ALL AS SHOWN ON THE ATTACHED DRAWING NO. 1241457.DGN, DATED MAY 19, 2009, ATTACHED HERETO AND MADE A PART HEREOF.

EXHIBIT "A"

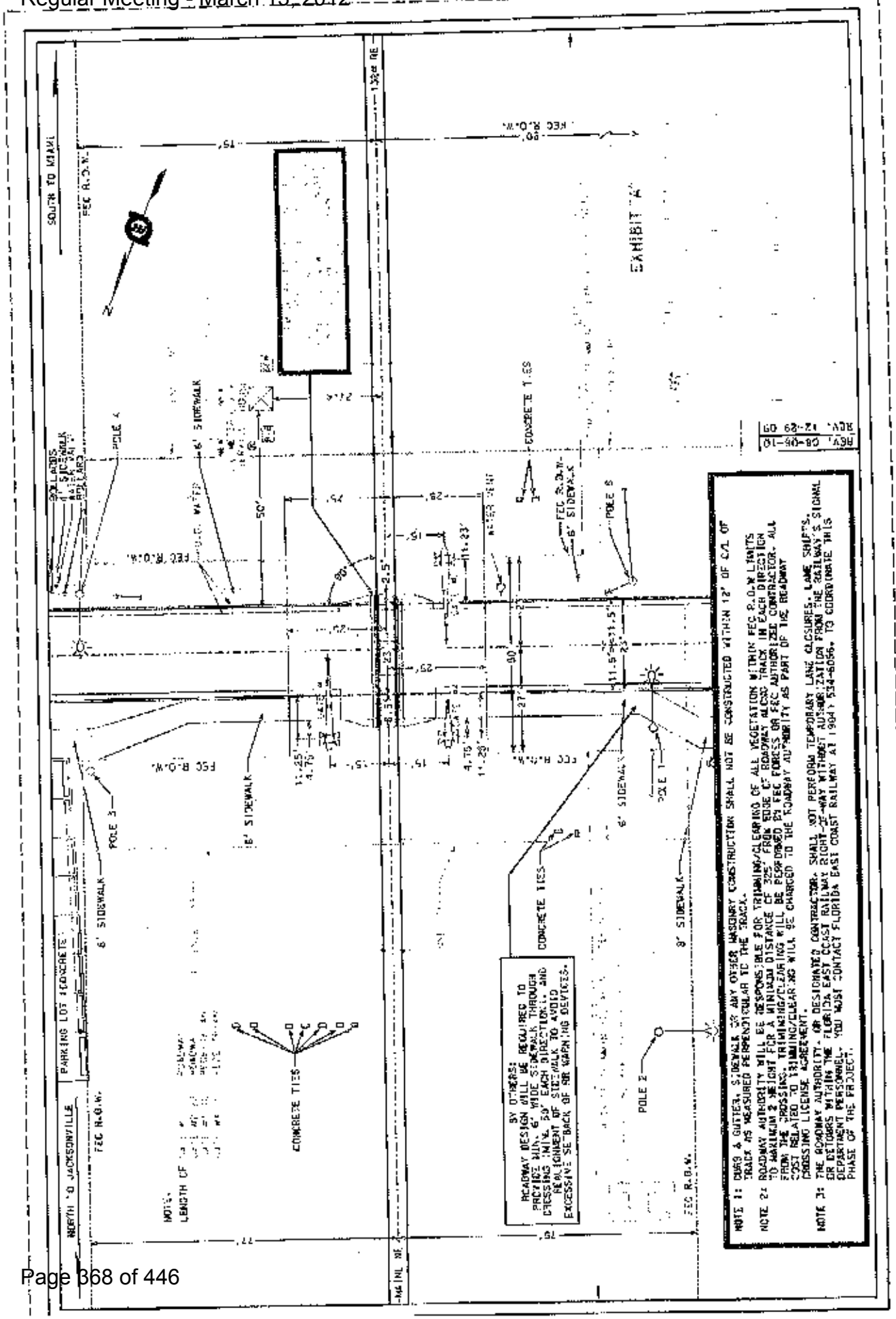


EXHIBIT "A"
NORTH TO JACKSONVILLE
SOUTH TO MIAMI
FEC R.O.W.
6' SIDEWALK
8' SIDEWALK
CONCRETE TIES
POLE 1
POLE 2
POLE 3
POLE 4
POLE 5
PARKING LOT (CONCRETE)
BY OTHERS:
ROADWAY DESIGN WILL BE REQUIRED TO PROVIDE MIN. 6' WIDE SIDEWALK THROUGH CROSSING (MIN. 50' EACH DIRECTION), AND REALIGNMENT OF SIDEWALK TO AVOID EXCESSIVE SETBACK OF OR WARNING DEVICES.
NOTE 1: CURB & GUTTER, SIDEWALK OR ANY OTHER MASONRY CONSTRUCTION SHALL NOT BE CONSTRUCTED WITHIN 12' OF C/L OF TRACK AS MEASURED PERPENDICULAR TO THE TRACK.
NOTE 2: ROADWAY AUTHORITY WILL BE RESPONSIBLE FOR TRIMMING/CLEARING OF ALL VEGETATION WITHIN FEC R.O.W. LIMITS TO MAXIMUM 2 HEIGHT FOR A MINIMUM DISTANCE OF 325' FROM EDGE OF ROADWAY ALONG TRACK IN EACH DIRECTION FROM THE CROSSING. TRIMMING/CLEARING WILL BE PERFORMED BY FEC FORCES OR FEC AUTHORIZED CONTRACTOR. ALL COST RELATED TO TRIMMING/CLEARING WILL BE CHARGED TO THE ROADWAY AUTHORITY AS PART OF THE ROADWAY CROSSING LICENSE AGREEMENT.
NOTE 3: THE ROADWAY AUTHORITY, OR DESIGNATED CONTRACTOR, SHALL NOT PERFORM TEMPORARY LANE CLOSURES, LANE SHIFTS, OR DETOURS WITHIN THE FLORIDA EAST COAST RAILWAY RIGHT-OF-WAY WITHOUT AUTHORIZATION FROM THE RAILWAY'S SIGNAL DEPARTMENT PERSONNEL. YOU MUST CONTACT FLORIDA EAST COAST RAILWAY AT (904) 534-6056, TO COORDINATE THIS PHASE OF THE PROJECT.

Florida East Coast
RAILWAY, L.L.C.

Estimate No.: 271969H 31-Jan-10

FLORIDA EAST COAST RAILWAY

(FECR)

NEW SMYRNA BEACH, (Volusia), FL
Mary Avenue

DOT# : 271969H
RR MP.: 124+1457'

FEC North Region

RAILROAD # : TBA
XORAIL# : GXS09-22876A

Summary

CROSSING WARNING SYSTEM (Includes all design, requisition, labor, materials, shop wiring, and installation)	$255,960.00
CROSSING RESURFACING (Includes all design, requisition, labor, materials, and installation)	$10,000.00
TRACK GRADE AND REHABILITATION (Includes all design, requisition, labor, materials, and installation)	$0.00
RAILROAD ENGINEERING (Includes RAILROAD Labor for all Engineering, Agency Coordination, and Project Management)	$5,504.16
CONTRACT ENGINEERING (Includes CONTRACT Labor for all Engineering, Agency Coordination, and Project Management)	$10,000.00
FREIGHT (Includes all additional Containerization, Freight, and Shipping Charges not included in other costs)	$0.00
POLELINE REMOVAL (Includes all Railroad Poleline Removal Charges not included in other costs)	$0.00
AC POWER SERVICE (Includes all Power Service Charges not included in other costs)	$0.00
SALVAGE (Includes all Salvage or Material)	$0.00
OTHER (Description Required)	$0.00
TOTAL ESTIMATE COST	**$281,464.16**

DATE: January 31, 2010

RESPONSIBLE PARTY:
Name: City of New Smyrna Beach, FL
Number: A030027.02
Contact: Michelle Martin

NOTE : This estimate should be considered void one year from the date of estimate.
This Estimate does NOT include Asphalt Work, Flagging, MOT, or Police Officers.
This Estimate is for a modified Crossing Surface with a life expectancy of 2 Years (Max).

FLORIDA DEPARTMENT OF TRANSPORTATION

Listed Below are signal installations by type and class:

FLASHING SIGNALS - ONE TRACK
Type = 1, Class = 1

FLASHING SIGNALS - MULTIPLE TRACKS
Type = 1, Class = 2

FLASHING SIGNALS AND CANTILEVER - ONE TRACK
Type = 2, Class = 1

FLASHING SIGNALS AND CANTILEVERS - MULTIPLE TRACKS
Type = 2, Class = 2

FLASHING SIGNALS AND GATE - ONE TRACK
Type = 3, Class = 3

FLASHING SIGNALS AND GATE - MULTIPLE TRACKS
Type = 3, Class = 4

FLASHING SIGNALS AND GATE WITH CANTILEVER - ONE TRACK
Type = 4, Class = 3

FLASHING SIGNALS AND GATE WITH CANTILEVER - MULTIPLE TRACKS
Type = 4, Class = 4

TYPE OF TRAFFIC CONTROL DEVICES

I	Flashing signals
II	Flashing signals with cantilevers
III	Flashing signals with gate
IV	Flashing signals with cantilevers & gate

CLASS OF TRAFFIC CONTROL DEVICES

I	Flashing signals - one track
II	Flashing signals - multiple track
III	Flashing signals & gates - one track
IV	Flashing signals & gates - multiple track

EXHIBIT "C"

FDOT-Type-Class

SCHEDULE OF ANNUAL COST OF AUTOMATIC HIGHWAY GRADE CROSSING TRAFFIC CONTROL DEVICES

Annual Maintenance Cost Exclusive of Installation

CLASS	DESCRIPTION	COST*
I	Flashing Signals – One Track	$2,086.00
II	Flashing Signals – Multiple Tracks	$2,760.00
III	Flashing Signals and Gates – One Track	$3,146,00
IV	Flashing Signals and Gates – Multiple Tracks	$3,950.00

AUTHORITY: FLORIDA ADMINISTRATIVE RULE: 14-46.002 Responsibility for the Cost of Automatic Highway Grade Traffic Control Devices

F. A. RULE EFFECTIVE DATE: July 22, 1982

GENERAL AUTHORITY: 334.044. F. S.

SPECIFIC LAW IMPLEMENTED: 335.144.F. S.

*This schedule was effective July 1, 2006, and will be reviewed every 5 years and revised as appropriate based on the Consumer Price Index for all Urban Consumers published by the U.S. Department of Labor.

EXHIBIT "C"

INDEMNITY OF FLORIDA EAST COAST RAILWAY, L.L.C. AND INSURANCE REQUIREMENTS

The Contractor by execution and delivery hereof, agrees that it shall and will at all times hereafter indemnify, defend and save harmless the Florida East Coast Railway, L.L.C, or if Contractor is a Government Entity, agrees to the extent permitted by law will indemnify, defend and save harmless the Florida East Coast Railway, L.L.C., from and against all judgments, and all loss, claims, damages, costs, charges, and expenses ("Costs") which it may suffer, sustain, or in anywise be subjected to on account of or occasioned by the operations of the Contractor, or any of the subcontractors, or both, whether directly or indirectly under, or pursuant to, this construction contract, including any such Costs arising from the death, bodily injury or personal injury of, as follows:

Of any person, including without limitation upon the generality of the foregoing description, employees and officers of Florida East Coast Railway, L.L.C., employees and officers of materialmen, employees and officers of the Contractor, employees and officers of all subcontractors, and from loss damage, injury and loss of use of any real or personal property (a) in which Florida East Coast Railway Company has any ownership interest, and (b) personal property in the custody of Florida East Coast Railway Company under any transportation contracts; including without limitation upon the generality of the two foregoing enumerations, all railroad equipment commonly described as rolling stock and the contents of the same.

In furtherance of its obligation to indemnify, defend and save harmless, Contractor shall procure and keep in effect comprehensive general liability insurance in the limits of $5,000,000.00 each occurrence for bodily injury or death and $3,000,000.00 property damage each occurrence with a $5,000,000 aggregate covering all obligations of Contractor to indemnify the Railway by Contractual Assumed Liability Endorsement, with all railroad exclusives removed. Alternatively, Contractor may procure and keep in effect during the life of this construction contract, as aforesaid, Railroad Protective Liability Policies insuring the Railway directly as insured against losses and damages with the limits specified in this paragraph.

In addition to the above, Contractor shall, at its cost and expenses, maintain a Workman's Compensation Insurance Policy as required in the State of Florida.

All such insurance, directly or indirectly for the benefit of the Railway, shall be in a form satisfactory to Railway's Manager of Insurance and issued by a casualty company/insurance company authorized to do business in the State of Florida that has a "Best's" rating of A or A+ and a financial category size of Class XII or higher.

EXHIBIT "D"

Florida East Coast
RAILWAY

June 18, 2010

Michelle Martin,
CRA Project Manager
City of New Smyrna Beach
New Smyrna Beach, FL

Re: Letter of Understanding – Construction of Sidewalk/Pedestrian At-Grade Crossing with Warning Devices at Mary Avenue

Dear Ms. Martin:

The Florida East Coast Railway, LLC ("Railroad") agrees to permit the construction across its railroad right-of-way of a pedestrian at-grade crossing at Mary Avenue ("Crossing") by the City of New Smyrna Beach ("City"), as further set forth in this letter. The following summary is intended to provide a framework for the definitive agreement between the parties.

- The City will be requesting FHWA funding for the construction of the Crossing.
- The estimate for the costs to construct the Crossing is attached hereto.
- The plan for the Crossing is attached hereto.
- The parties will enter into a license agreement on mutually agreeable terms for both the Crossing and the adjacent roadway.
- Any legal or financial costs incurred by each party shall be borne by such party.

It is anticipated that a mutually acceptable contract between Railroad and the City will be negotiated and executed by August 31, 2010. It is also agreed that, after such date, either party may cancel or suspend the work being performed under this Letter of Understanding with thirty (30) days written notice to the other.

The parties acknowledge and agree that this Letter of Understanding is not intended to be a binding agreement as to any matters outside of its limited scope, but merely a statement of their mutual understandings in principle, and that by execution hereof, neither of them shall have any legal obligations whatsoever by reason of this Letter of Understanding other than as expressly and specifically set forth above.

Time is of the essence for negotiating and consummating a definitive agreement.

Ph: (904) 538-6049 • Fax: (904) 250-0531
7411 Fullerton St. · Jacksonville, FL 32256

If you are agreeable to the terms outlined above, please sign where indicated, and we will forward to you a draft agreement. We understand that while the parties are in good faith negotiations operations will continue. We look forward to your prompt response.

Sincerely,

Joseph (Leslie) Schonder
Project Engineer & Public Works

Accepted and Agreed this 12 day of July, 2011
City of New Smyrna Beach

By: Pam Brangaccio

Name: Pam Brangaccio

Title: City Manager

Authority: City of New Smyrna Beach, FL

Ph: (904) 538-6049 • Fax: (904) 256-0531
7411 Fullerton St. · Jacksonville, FL 32256

AGENDA ITEM SUMMARY

Department Making Request: CRA Department

Meeting Date: 1st Reading: 1/11/2011 2nd Reading: _____

Action Item Title:
Mary Avenue Streetscape Project - Phase II

Agenda Section: Consent X Public Hearing ____ Special Items ____

Summary Explanation and Background:
The City Commission approved Resolution No. 21-10 at their April 27, 2010 regular meeting to allow the CRA to apply for a Volusia County TPO 2010 XU Bicycle/Pedestrian Projects Grant to improve the safety of Florida East Coast Railway At-Grade Crossing # 271969H by widening Mary Avenue through the FECR right-of-way and constructing the multi-use trail across the At-Grade Crossing.

This Grant was originally a matching grant that would require the City to match 25% of the grant funding, but the County later advised that the City would only be required to match 15%. Now the County has advised that the local match may be waived altogether, as they have acquired additional funding for their grants.

The Mary Avenue Phase II Project was ranked as a high priority by the County, but as a requirement for funding the City would need an agreement with the FECR to construct the multi-use trail in their right-of-way. The FECR would only accept a License Agreement with the City and thus prepared one which was fully executed as of December 1, 2010.

The City/CRA will be required to cover all of the costs to design and construct the improvements within the FECR right-of-way, in the amount of $281,464.15, and will be reimbursed at least 85% of the costs by the Volusia TPO.

Recommended Action/Motion:
Approval of the License Agreement and to prepare a Purchase Order for the Florida East Coast Railway in the amount of $281,464.15.

Funding Analysis: Budgeted X If not budgeted, recommended funding account:
If funding is required, the 15% match in the amount of $42,219.62 will be taken from line item 12051502 567777, Mary Ave Streetscape, with a balance of $141,458. The remaining $239,244.53 will be taken from line item 12051502 548001 with a budgeted amount of $467,500 and will be restored upon reimbursement.

Exhibits Attached:
License Agreement with the Florida East Coast Railway, LLC

Reviewed By:	Name	Signature
Department Director:	Tony Otte	
Finance Director	Althea Philord Bradley	
City Manager	Pam Brangaccio	
City Attorney	Frank Gummey	

Commission Action:

AGENDA ITEM SUMMARY

Department Making Request: Community Redevelopment Agency (CRA)

Meeting Date: August 9, 2011

Action Item Title:
Mary Avenue Streetscape Project (Phase II) – Resolution 34-11 for LAP Agreement (FPN 430231-1-58-01)

Agenda Section: Consent _____ Public Hearing _____ Special Items __X__

Summary Explanation and Background:

Consider adoption of a resolution, which if adopted would authorize the Mayor to make, execute and deliver to the State of Florida Department of Transportation, a Local Agency Program Agreement for the construction of the sidewalk/multi-use trail across the Mary Avenue Florida East Coast Railway At-Grade Crossing No. 271969H.

Recommended Action/Motion:
Approval of Resolution No 34-11 and LAP Agreement (FPN 430231-1-58-01) for Mary Ave Streetscape Project (Phase II)

Funding Analysis: Budgeted __X___ If not budgeted, recommended funding account:
Funding for this LAP Agreement (FPN 430231-1-58-01) is $281,464, in which the FDOT will reimburse the City 75% ($211,098), and the City will match the other 25% ($70,366) as previously approved with Resolution 20-10. A budget amendment for Account # 12051501-567777 will be brought forward using CRA funds to be identified as being available in other line items following approval of this agreement.

Exhibits Attached:
Attachments: Resolution No 34-11 and LAP Agreement (FPN 430231-1-58-01) for Mary Ave Streetscape Project (Phase II)

Reviewed By:	Name	Signature
Department Director:	Tony Otte	
Finance Director	Althea Philord Bradley	
City Manager	Pam Brangaccio	
City Attorney	Frank Gummey	

Commission Action:

AGENDA ITEM SUMMARY

Department Making Request:	Public Works
Meeting Date:	3/14/12
Action Item Title:	License Agreement with owner of 703 Fairway Dr to replace the bridge
Agenda Section:	Consent

Summary Explanation and Background:

The owner of 703 Fairway Dr submitted a request to replace the bridge crossing the ditch to the City Golf Course. Attached please find the license agreement with the property owner for your review and approval. The property owner will be required to obtain permit from the building dept.

Recommended Action/Motion: Staff recommends approval of the License Agreement with the property owner @ 703 Fairway Dr.

Funding Analysis: $ _____ Acct #: N/A

Exhibits Attached: Letter & survey from property owner.

Reviewed By:	Name	Signature
Department Director:	Khalid Resheidat Assistant City Manager	3/2/12
Finance Director	Althea Philord	Althea Philord
City Manager	Pam Brangaccio	Pam Brangaccio
City Attorney	Frank Gummey	
Commission Action:		

Ron Barringer
703 Fairway Drive
NSB, FL 32168

February 14, 2012

Pam Brangaccio, City Manager
City of NSB
210 Sams Avenue
NSB, FL 32168

Dear Ms. Brangaccio,

I am requesting permission to re-build a golf cart bridge from my property to the City Golf Course property. The previous owner, Lowell Yentzer, gave his bridge away to a neighbor when he put the house on the market.

I am enclosing a copy of the survey for 703 Fairway Drive and with permission will complete the permit process.

Thank you for your consideration.

Sincerely,

Ron Barringer

Ron Barringer

Cc Khalid Reshcidat, Assistant City Manager

PLAT OF SURVEY OF

Lot 3, AQUA GOLF SUBDIVISION as shown on map in Map Book 23, Page 216 of the Public Records of Volusia County, Florida.

November 20, 1974 -- I hereby certify that this plat is a true and correct representation of the land surveyed.

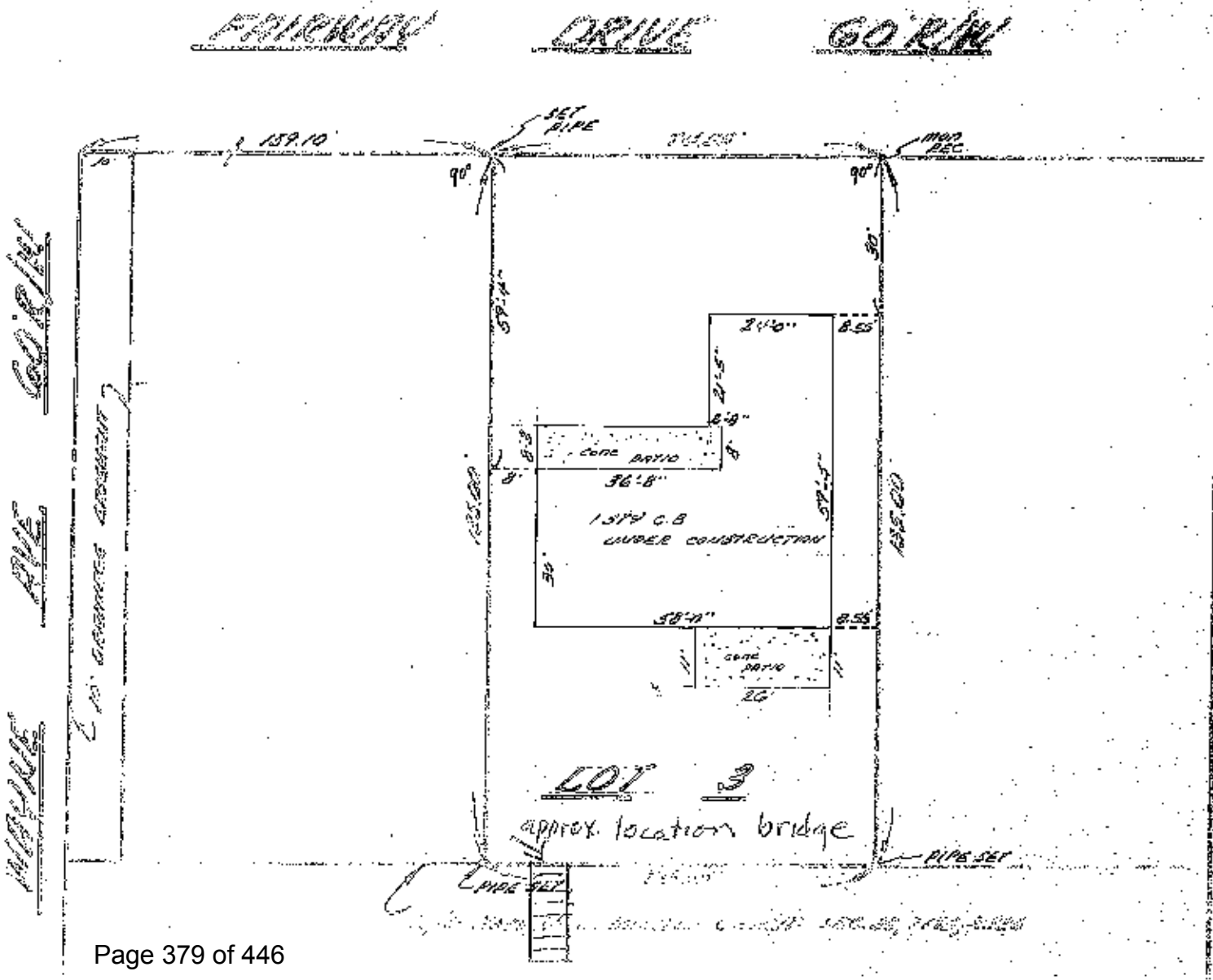
SIGNED: Daniel W. Cory

DANIEL W. CORY
FLA. REG. SURVEYOR #2027
300 CANAL STREET
NEW SMYRNA BEACH, FLORIDA

July 1, 1975 -- Building staked.

July 25, 1975 -- Building under construction located.

COURTESY COPY
FOR INFORMATION
PURPOSE ONLY



Instrument Prepared by and
Return Recorded Document to:
Frank B. Gummey, III
City Attorney
City of New Smyrna Beach
210 Sams Avenue
New Smyrna Beach, FL 32168

GOLF COURSE LICENSE AGREEMENT

THIS LICENSE AGREEMENT is made and entered into this _____ day of _____, 20____, by and between the CITY OF NEW SMYRNA BEACH, a Florida municipal corporation (hereinafter "City") and RONALD E. BARRINGER, Trustee and MARY E. BARRINGER, Trustee of THE RONALD E.BARRINGER AND MARY E. BARRINGER REVOCABLE TRUST DATED MAY 11, 1990, 703 Fairway Drive, New Smyrna Beach, Florida (hereinafter "Licensee").

PREMISES

WHEREAS, the City agrees that the plan for a pedestrian bridge depicted on **Exhibit "A"**, attached hereto and incorporated herein by reference, comes within the intent of established City policy; and

WHEREAS, the plan encompasses part of the City's Municipal Golf Course drainage ditch, as depicted in **Exhibit "B"**, attached hereto and incorporated herein by reference; and

WHEREAS, the Licensee is the owner of real property abutting the golf course located at 703 Fairway Drive, New Smyrna Beach, Florida, the legal description of that property is as follows:

LOT 3 AQUA GOLF MB 23 PG 216 PER OR 2142 PG 0326 PER OR 6548 PG 4671

WHEREAS, at its regular meeting held March 13, 2012, the City Commission approved allowing the pedestrian bridge depicted on **Exhibit "A"** within the golf course, with conditions.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, the parties agree as follows:

1. The City hereby grants to the Licensee a license to enter upon and to utilize the Municipal Golf Course property located and situated in New Smyrna Beach, Volusia County, Florida, as depicted in **Exhibit "A"** for the purpose of installation, maintenance, repair, replacement and removal of a pedestrian bridge (hereinafter "Improvements") approved by the City as depicted in **Exhibit "A"**.

2. All improvements, uses and activities shall comply with the terms and conditions of this License Agreement and exhibits hereto.

3. The Licensee agrees to apply for all required permits for the improvements depicted on **Exhibit "A"** within thirty (30) days of the execution of this agreement by the City. Failure to apply for the required permit(s) will result in revocation of the City Commission's approval.

4. Licensee agrees to construct and/or install the improvements depicted on **Exhibit "A"** in a manner that allows a positive flow for the stormwater runoff. Such construction/installation shall be shown on the building permit application submitted for the proposed improvements.

5. Licensee agrees to complete all construction/installation activities within sixty (60) days of City Commission approval of this Agreement. Failure to complete all construction/installation activities within sixty (60) days shall result in revocation of the City Commission's approval.

6. The Licensee assumes all responsibility for the maintenance and, if necessary, replacement of the improvements described herein and as depicted on **Exhibit "A"**.

7. The Licensee agrees, upon thirty (30) days written notice form the City, to maintain, repair or replace all improvements which require maintenance, repair or replacement. If no remedy is made within the specified time, the City reserves the right to remove all improvements without further notice to the Licensee and at sole cost and expense of the Licensee.

8. The City reserves the right to request removal of the improvements depicted in **Exhibit "A"** in the event that the City needs to utilize the property for City purposes, such as golf course, public utility installation or maintenance, drainage improvement or other public uses. The City shall endeavor to give at least thirty (30)

days prior notice to the Licensee. If the improvements are not removed within the time specified by the City, or in cases where emergency work by the City becomes necessary, the City may remove or cause to be removed the improvements without any liability to the City or obligation to replace same upon completion of the City project.

9. The Licensee agrees that no improvements shall be made except as depicted in **Exhibit "A"** or subsequently approved amendments thereto. However, improvements may be maintained, repaired, replaced and removed.

10. Licensee agrees to not interfere or restrict public use of the property described in **Exhibit "A"**.

11. The license granted by this License Agreement shall be effective during the period from the date of execution by all parties until terminated in accordance with the provisions specified herein.

12. Any party may terminate this License Agreement upon giving thirty (30) days prior written notice to the other party, after which time this License Agreement shall be of no force and effect. Upon termination by any party, the City shall have the option of requiring all improvements to be removed or abandoned in place by the Licensee or maintained in their present state by the City and without further right or obligation by the Licensee. If the Licensee terminates this Agreement, or otherwise fails to remain in good standing and in compliance with this Agreement, the City may maintain and repair the improvements and the City shall not be obligated to either maintain or repair the improvements and the City shall not be liable for either undertaking or failing to maintain or repair the improvements. All costs and expenses of the City resulting from maintenance or repair of the improvements, including administrative expenses, attorney's fees and costs, and expenses shall be chargeable to and assessed by the City against the Licensee. The City shall have the right to enforce collection of assessments for such costs and expenses by a lien against the Licensee's property described above, which lien shall include interest at the then highest lawful rate of interest and attorneys' fees and costs for collection thereof. The City shall have the right to utilize any methods or procedures provided by law or ordinance for imposition and collection of the assessments described herein.

13. This license is given to the Licensee as an accommodation to the Licensee without any consideration. The Licensee acknowledges the legal title of the City to the City property described herein and agrees never to deny such title or to claim title in the Licensee's name.

14. The Licensee shall exercise the rights, privileges and permission granted herein at the Licensee's own risk. The Licensee shall not claim any damages from the City for any injuries or damages in connection with or on account of the exercise of such rights, privileges or permission, the condition of the City's property, or the use of the property. The Licensee shall indemnify and hold harmless the City, its officers, employees and agents, from and against all claims, damages, losses and expenses, including reasonable attorneys' fees and costs of any person, arising out of, resulting from, or in any way connected with the use of the improvements described in **Exhibit "A,"** the condition of the City's property, the use of the property, the exercise of the license granted by this License Agreement, the failure on the part of the Licensee to comply with any of the provisions specified herein, or the City's removal of any improvements depicted in **Exhibit "A"** or otherwise permitted by this License Agreement. The City shall not be liable to the Licensee if for any reason the Licensee's use of the property is hindered or disturbed.

15. All notices required to be given by any party shall be in writing, addressed to all other parties, and delivered by certified mail, telegram or in person to: ATTENTION: CITY MANAGER, City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida, 32168, for the City; and to Ronald E. Barringer or Mary E. Barringer, 703 Fairway Drive, New Smyrna Beach, Florida 32168, for the Licensee, or as otherwise designated in writing to all respective parties.

16. This Agreement shall be recorded in the Public Records of Volusia County, Florida. Upon execution of this agreement, the Licensee agrees to pay the City an amount equal to the applicable cost of recording this Agreement in the Public Records of Volusia County, Florida.

17. This License Agreement constitutes the entire agreement between the parties. There are no further or other agreements or understandings, written or oral, in effect between the parties, relating to the subject matter hereof. This License Agreement may be amended or modified only by an instrument of equal formality signed by the respective parties.

IN WITNESS WHEREOF, the parties hereto have executed this License Agreement on the respective dates below.

WITNESSES:

LICENSOR
CITY OF NEW SMYRNA BEACH, FLORIDA, a Florida municipal corporation

By: _____
Adam Barringer, Mayor

_____
Witness 1

_____
Print Name of Witness 1

Attest:

By: _____
Johnny Bledsoe, City Clerk

_____
Witness 2

_____
Print Name of Witness 2

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by Adam Barringer and Johnny Bledsoe, as Mayor and City Clerk, respectively, of the City of New Smyrna Beach, Florida, a Florida Municipal Corporation, on behalf of the City of New Smyrna Beach. They are personally known to me and did not take an oath.

Notary Stamp or Seal

_____
Notary Public, State of Florida

LICENSEE:
RONALD E. BARRINGER, Trustee and MARY E. BARRINGER, Trustee of THE RONALD E. BARRINGER AND MARY E. BARRINGER REVOCABLE TRUST DATED MAY 11, 1990

By: _____
RONALD E. BARRINGER, TRUSTEE

_____
Witness 1

_____
Printed Name

_____
Witness 2

_____
Printed Name

By: _____
MARY E. BARRINGER, TRUSTEE

_____
Witness 1

_____
Printed Name

_____
Witness 2

_____
Printed Name

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this _____ day of _____, 20___, by Ronald E. Barringer, Trustee, and Mary E. Barringer, Trustee, as owners of the property located at 703 Fairway Drive, New Smyrna Beach, Florida 32168. They are personally know to me or have produced _____ as identification and did not take an oath.

Notary Stamp or Seal

_____
Notary Public, State of Florida

Approved as to form and correctness.

_____
Frank B. Gummey, III, City Attorney
Date:_____

PLAT OF SURVEY OF

Lot 3, [illegible] as shown on map in Map Book 23, Page 216 of the Public Records of Volusia County, Florida.

November 20, 1974 -- I hereby certify that this plat is a true and correct representation of the land surveyed.

SIGNED: Daniel W. Cory

DANIEL W. CORY
FLA. REG. SURVEYOR #2627
300 CANAL STREET
NEW SMYRNA BEACH, FLORIDA

July 1, 1975 -- Building staked.

July 25, 1975 -- Building under construction located.

COURTESY COPY
FOR INFORMATION
PURPOSE ONLY

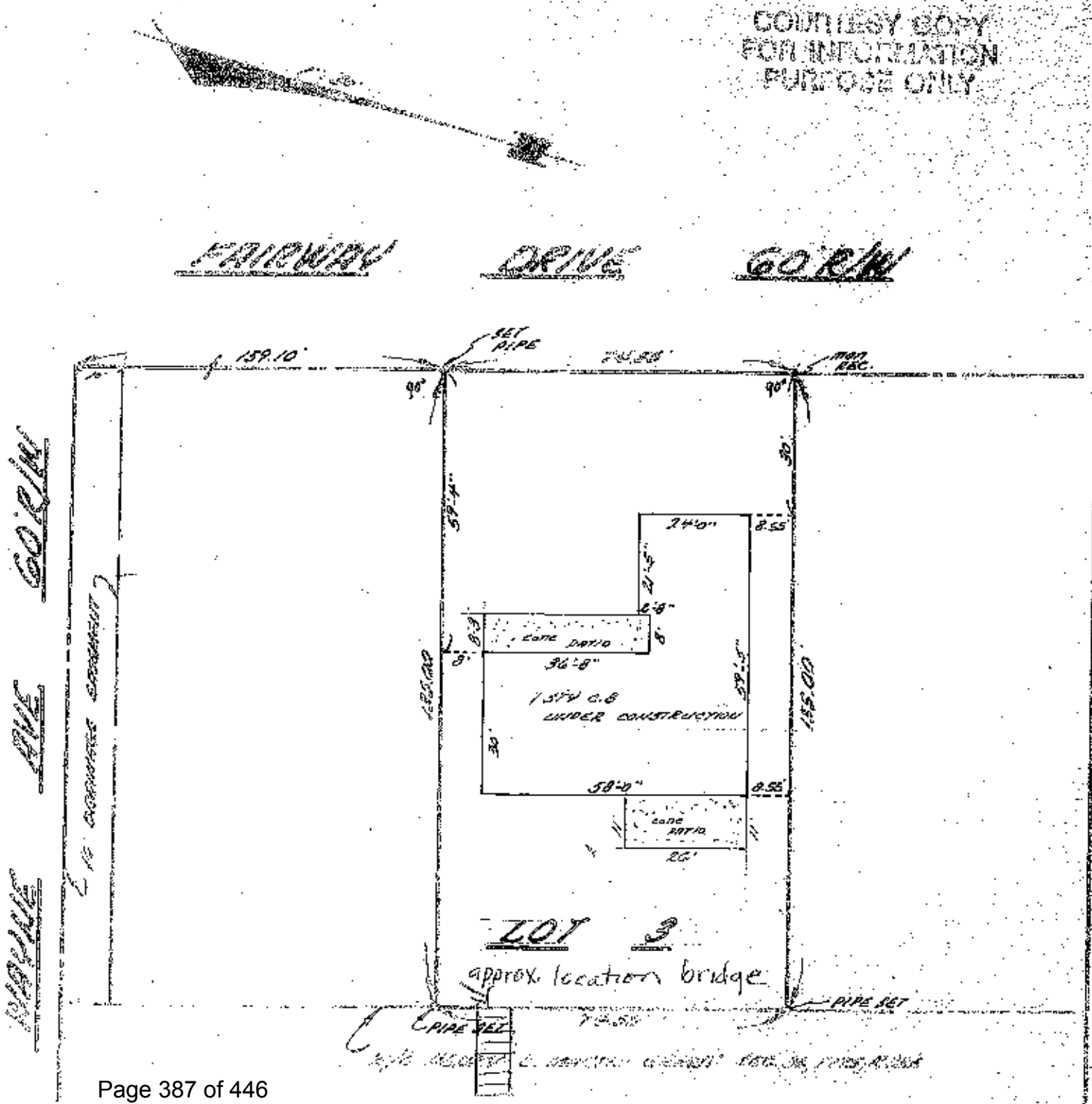
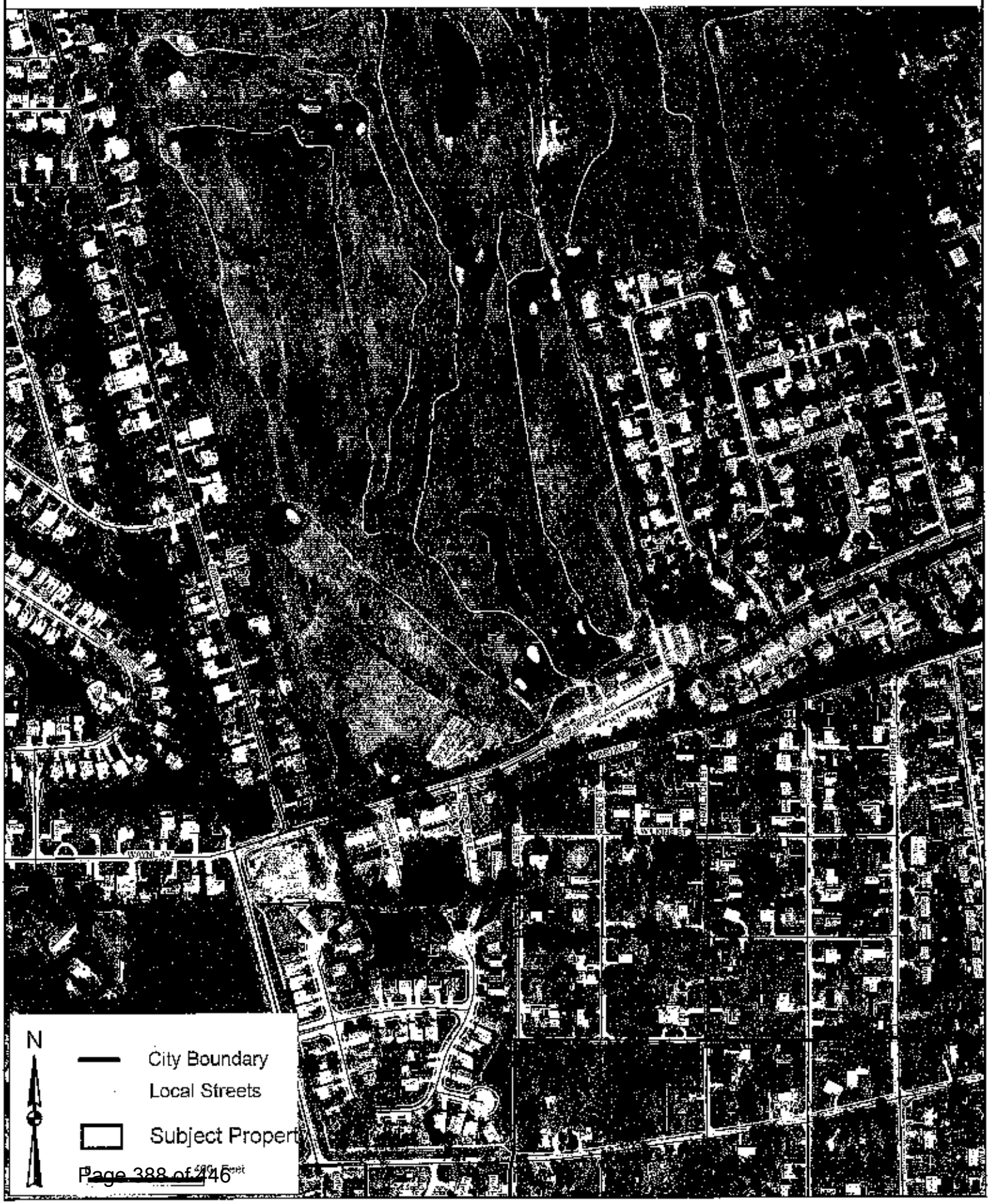


EXHIBIT "A"

LOCATION MAP

Exhibit B



AGENDA ITEM SUMMARY

Department Making Request: Planning and Engineering

Meeting Date: 1st Reading: 3/13/12 2nd Reading: N/A

Action Item Title: License Agreement – Isles of Sugar Mill HOA

Agenda Section: Consent _X_ Public Hearing ____ Special Items

Summary Explanation and Background:
Sherry K. Clifton, CAM, 1326 South Ridgewood Avenue, Daytona Beach, Florida, 32114, requests approval of a license agreement to allow various landscaping improvements, including decorative landscape curbing, decorative landscape fencing and plantings, within the Aeolian Drive, Mount Olympus Boulevard, Atlantis Drive, and Sparta Drive rights-of-way.

The subject rights-of-way vary in width from 50 feet to 80 feet, are zoned PUD, Planned Unit Development, and are located west of Sugar Mill Drive in the Isles of Sugar Mill Subdivision.

Recommended Action/Motion: Approval

Funding Analysis: Budgeted _N/A_ If not budgeted, recommended funding account:

Exhibits Attached: Staff report, with associated exhibits, dated March 13, 2012

Reviewed By:	Name	Signature
Department Director:	Gail Henrikson	
City Attorney	Frank Gummey	
City Manager	Pam Brangaccio	

Commission Action:

CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES

LA-1-12: ISLES OF SUGAR MILL HOA LICENSE AGREEMENT

MARCH 13, 2012

I. Summary

A. **Applicant:** Sherry K. Clifton, CAM, 1326 South Ridgewood Avenue, Daytona Beach, Florida, 32114

B. **Request:** Approval of a license agreement to allow various landscaping improvements, including decorative landscape curbing, decorative landscape fencing and plantings, within the Aeolian Drive, Mount Olympus Boulevard, Atlantis Drive, and Sparta Drive rights-of-way.

C. **Site Information:** The subject rights-of-way vary in width from 50 feet to 80 feet, are zoned PUD, Planned Unit Development, and are located west of Sugar Mill Drive in the Isles of Sugar Mill Subdivision. (see Location Map included as **Exhibit A**).

II. Findings

A. The subject rights-of-way are within the Villaggio Planned Unit Development (PUD). The Villaggio Master Development Agreement (MDA) and subsequent amendments, govern development activities within the PUD. Any items not specifically addressed in the MDA default back to the requirements of the *Land Development Regulations* and the *Code of Ordinances*.

B. The Villaggio MDA requires the installation of street trees within the public rights-of-way. These trees are planted as individual houses are built. Over the years, some property owners have removed street trees within the right-of-way or installed additional landscaping and decorative features around these trees.

C. In 2011, Code Enforcement and Planning staff met with the applicant and members of the Homeowners' Association (HOA) board to discuss this issue. At this meeting, various alternatives were discussed. While the applicant has the ability to apply to amend the MDA, this would be considerably more costly and time-consuming than applying for a license agreement with the City in order to permit the landscaping activities occurring within the public rights-of-way.

D. If approved, the license agreement would allow landscape curbing around the street trees, additional landscape plantings and decorative landscape fences. Please see **Exhibit B** for a copy of the license agreement. No trees would be allowed to be removed, except in accordance with the tree removal requirements of the *Land Development Regulations*. Additionally,

because the Villaggio MDA requires street trees, any trees removed would have to be replaced.

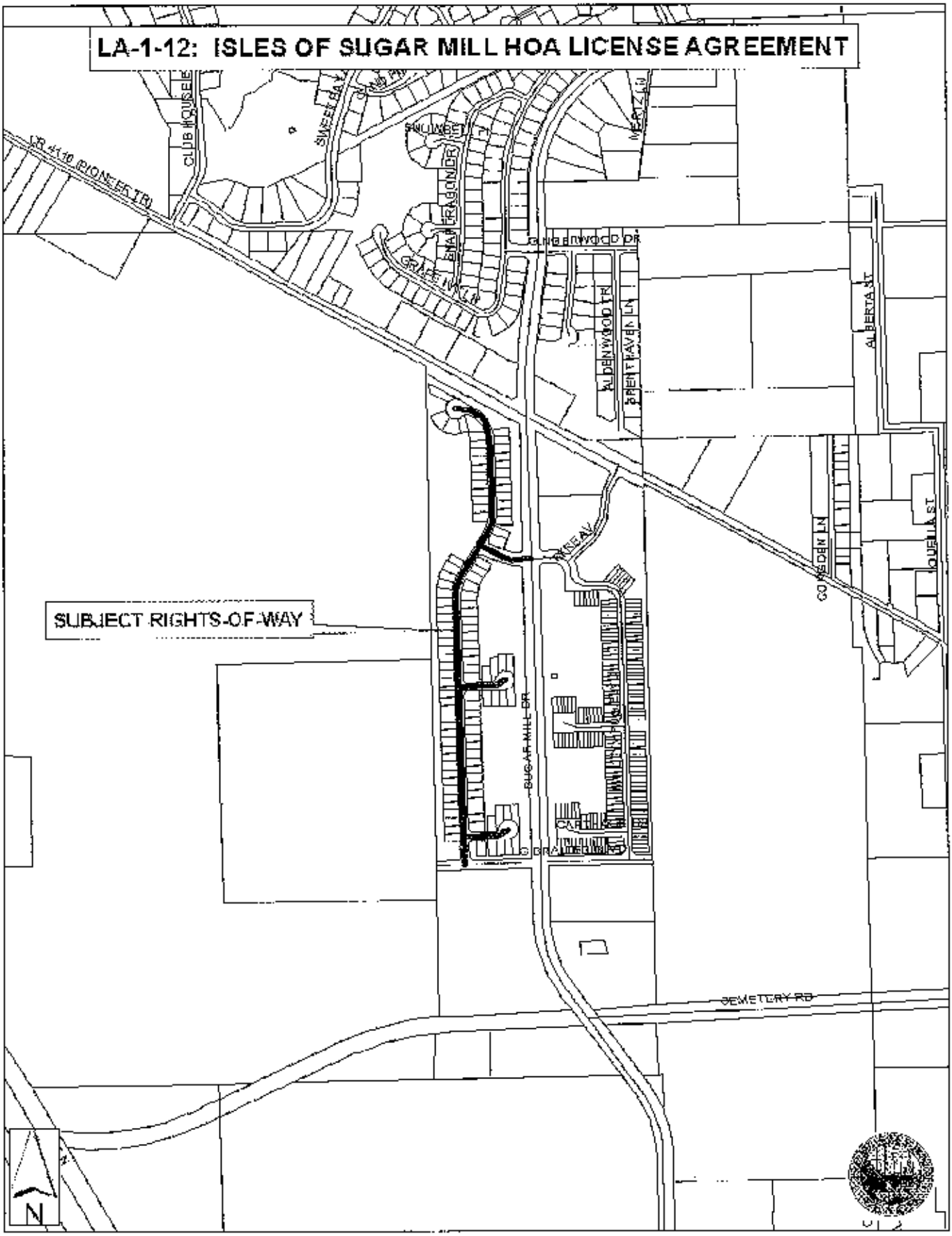
E. The applicant and the Isles of Sugar Mill HOA should be aware that if the City Commission approves a license agreement to allow landscaping improvements within the public rights-of-way that the area, though improved with private funds, is still open to the public for use and they cannot prevent the public from using the rights-of-way.

III. Recommendation

Staff recommends **approval** of the License Agreement, with the following conditions:

1. All landscaping improvements must be installed to allow a positive flow for storm water runoff.
2. No landscaping or signage may be installed which would prevent public use of the area.

EXHIBIT A


LA-1-12: ISLES OF SUGAR MILL HOA LICENSE AGREEMENT
SUBJECT RIGHTS-OF-WAY
CLUB HOUSE
SWEET BAY
SNOWBELL PL
GRAPE IVY LN
GINGERWOOD DR
ALDENWOOD TR
BRENTHAVEN LN
ALBERTA ST
CORSDEN LN
QUELLA ST
SUGAR MILL DR
CARTHAGE DR
CEMETERY RD
N

Return Recorded Document to:
City of New Smyrna Beach
210 Sams Avenue
New Smyrna Beach, FL 32168

RIGHT-OF-WAY LICENSE AGREEMENT

THIS LICENSE AGREEMENT is made and entered into this 4th day of October, 2011, by and between the CITY OF NEW SMYRNA BEACH, a Florida municipal corporation (hereinafter "City") and Island of Sugar Mill Assn., Inc. (property owner name), New Smyrna Beach (property owner address) (hereinafter "Licensee").

PREMISES

WHEREAS, the City agrees that the improvement plan for the Island of Sugar Mill Assn. improvements depicted on **Exhibit "A"**, attached hereto and incorporated herein by reference, comes within the intent of established City policy; and

WHEREAS, the improvement plan encompasses part of a City right-of-way known as _____ (street name), a _____-foot wide City right-of-way, as depicted in **Exhibit "B"**, attached hereto and incorporated herein by reference; and

WHEREAS, the Licensee, _____ (property owner name), is the owner of real property abutting _____ (street name) located in the _____ subdivision, the legal description of that property is as follows:

(insert legal description)

WHEREAS, the City is willing to license incidental private use of public property in exchange for appropriate protection of the public interest and sufficient contribution of the Licensee to expenses incurred in the improvements and maintenance of the _____ (street name) right-of-way.

WHEREAS, at it's regular meeting held _____ (insert date of City Commission approval), the City Commission approved allowing the driveway paving improvements depicted on **Exhibit "A"** within the _____ (street name) right-of-way, with conditions.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, the parties agree as follows:

1. The City hereby grants to the Licensee a license to enter upon and to utilize the right-of-way known as _____ (street name), located and situated in New Smyrna Beach, Volusia County, Florida, as depicted in **Exhibit "A"** for the purpose of installation, maintenance, repair, replacement and removal of _____ (description of improvements) (hereinafter "Improvements") approved by the City as depicted in **Exhibit "A"**.

2. All improvements, uses and activities shall comply with the terms and conditions of this License Agreement and exhibits hereto.

3. The Licensee agrees to apply for all required permits for the improvements depicted on **Exhibit "A"** within thirty (30) days of the execution of this agreement by the City. Failure to apply for the required permit(s) will result in revocation of the City Commission's approval.

4. Licensee agrees to construct and/or install the improvements depicted on **Exhibit "A"** in a manner that allows a positive flow for the stormwater runoff. Such construction/installation shall be shown on the building permit application submitted for the proposed improvements.

5. Licensee agrees to construct the improvements depicted on **Exhibit "A"** in order to ensure that the improvements are located at least 30 feet from any stop sign or traffic control device. If applicable, all traffic control devices shall be shown on the building permit application submitted for the proposed improvements.

6. Licensee agrees to complete all construction/installation activities within sixty (60) days of City Commission approval of this Agreement. Failure to complete all construction/installation activities within sixty (60) days shall result in revocation of the City Commission's approval.

7. The Licensee jointly and severally assumes all responsibility for the maintenance and, if necessary, replacement of the improvements described herein and as depicted on **Exhibit "A"**.

8. The Licensee agrees, upon thirty (30) days written notice form the City, to maintain, repair or replace all improvements which require maintenance, repair or replacement. If no remedy is made within the specified time, the City reserves the right to remove all improvements without further notice to the Licensee and at sole cost and expense of the Licensee.

9. The City reserves the right to request removal of the improvements depicted in **Exhibit "A"** in the event that the City needs to utilize the property for City purposes, such as road, bike path, public utility installation or maintenance, drainage improvement or other public uses. The City shall endeavor to give at least thirty (30) days prior notice to the Licensee. If the improvements are not removed within the time specified by the City, or in cases where emergency work by the City becomes necessary, the City may remove or cause to be removed the improvements without any liability to the City or obligation to replace same upon completion of the City project.

10. The Licensee agrees that no improvements shall be made except as depicted in **Exhibit "A"** or subsequently approved amendments thereto. However, improvements may be maintained, repaired, replaced and removed.

11. Licensee agrees to not interfere or restrict public use of the property described in **Exhibit "A"**.

12. The license granted by this License Agreement shall be effective during the period from the date of execution by all parties until terminated in accordance with the provisions specified herein.

13. Any party may terminate this License Agreement upon giving thirty (30) days prior written notice to the other party, after which time this License Agreement shall be of no force and effect. Upon termination by any party, the City shall have the option of requiring all improvements to be removed or abandoned in place by the Licensee or maintained in their present state by the City and without further right or obligation by the Licensee. If the Licensee terminates this Agreement, or otherwise fails to remain in good standing and in compliance with this Agreement, the City may maintain and repair the improvements and the City shall not be obligated to either maintain or repair the improvements and the City shall not be liable for either

undertaking or failing to maintain or repair the improvements. All costs and expenses of the City resulting from maintenance or repair of the improvements, including administrative expenses, attorney's fees and costs, and expenses incurred in establishing and operating a special district, shall be chargeable to and assessed by the City jointly and severally against the lot located within the subdivision as described in **Exhibit "A"**. The City shall have the right to enforce collection of assessments for such costs and expenses by a lien jointly and severally against the lot, which lien shall include interest at the then highest lawful rate of interest and attorneys' fees and costs for collection thereof. The City shall have the right to establish a special district and to utilize any methods or procedures provided by law or ordinance for imposition and collection of the assessments described herein.

14. This license is given to the Licensee as an accommodation to the Licensee without any consideration. The Licensee acknowledges the legal title of the City to the right-of-way property described herein and agrees never to deny such title or to claim title in the Licensee's name.

15. The Licensee shall exercise the rights, privileges and permission granted herein at the Licensee's own risk. The Licensee shall not claim any damages from the City for any injuries or damages in connection with or on account of the exercise of such rights, privileges or permission, the condition of the City's property, or the use of the property. The Licensee shall indemnify and hold harmless the City, its officers, employees and agents, from and against all claims, damages, losses and expenses, including reasonable attorneys' fees and costs, arising out of, resulting from, or in any way connected with the condition of the City's property, the use of the property, the exercise of the license granted by this License Agreement, the failure on the part of the Licensee to comply with any of the provisions specified herein, or the City's removal of any improvements depicted in **Exhibit "A"** or otherwise permitted by this License Agreement. The City shall not be liable to the Licensee if for any reason the Licensee's use of the property is hindered or disturbed.

16. All notices required to be given by any party shall be in writing, addressed to all other parties, and delivered by certified mail, telegram or in person to: ATTENTION: CITY MANAGER, City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida, 32169, for the City; and to Inlet of Sugar Mill Assn. (property owner name), _____ (property owner address), for the Licensee, or as otherwise designated in writing to all respective parties.

17. This Agreement shall be recorded in the Public Records of Volusia County, Florida. Upon execution of this agreement, the Licensee agrees to pay the City

an amount equal to the applicable cost of recording this Agreement in the Public Records of Volusia County, Florida.

18. This License Agreement constitutes the entire agreement between the parties. There are no further or other agreements or understandings, written or oral, in effect between the parties, relating to the subject matter hereof. This License Agreement may be amended or modified only by an instrument of equal formality signed by the respective parties.

IN WITNESS WHEREOF, the parties hereto have executed this License Agreement on the respective dates below.

WITNESSES:

LICENSOR
CITY OF NEW SMYRNA BEACH, FLORIDA, a Florida municipal corporation

_____
Witness 1

By: _____
Adam Barringer, Mayor

_____
Print Name of Witness 1

Attest:

_____
Witness 2

By: _____
Johnny Bledsoe, City Clerk

_____
Print Name of Witness 2

LICENSEE

Henry B. Fadham
Witness 1
Henry B. Fadham
Printed Name

By: Sherry K. Myton, mm
Licensee Name

Page 6 of 10

License Agreement – Improvements in the Right-of-Way
February 26, 2010

Witness 2

Printed Name

Witness 1

Printed Name

Witness 2

Printed Name

By: _____
Licensee Name

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this _____ day of _____, 2010, by Adam Barringer and Johnny Bledsoe, as Mayor and City Clerk, respectively, of the City of New Smyrna Beach, Florida, a Florida Municipal Corporation, on behalf of the City of New Smyrna Beach. They are personally known to me and did not take an oath.

_____
Notary Public, State of Florida
Type or Print Name: _____
Commission No. _____
My Commission Expires: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 31st day of January, 2012 by Sherry K. Clifton (property

manager
~~owner name~~), as owner of the property located at Isles of Sugar mill Assoc, Inc. (property address). He/she is personally known to me or has produced _____ as identification and did not take an oath.

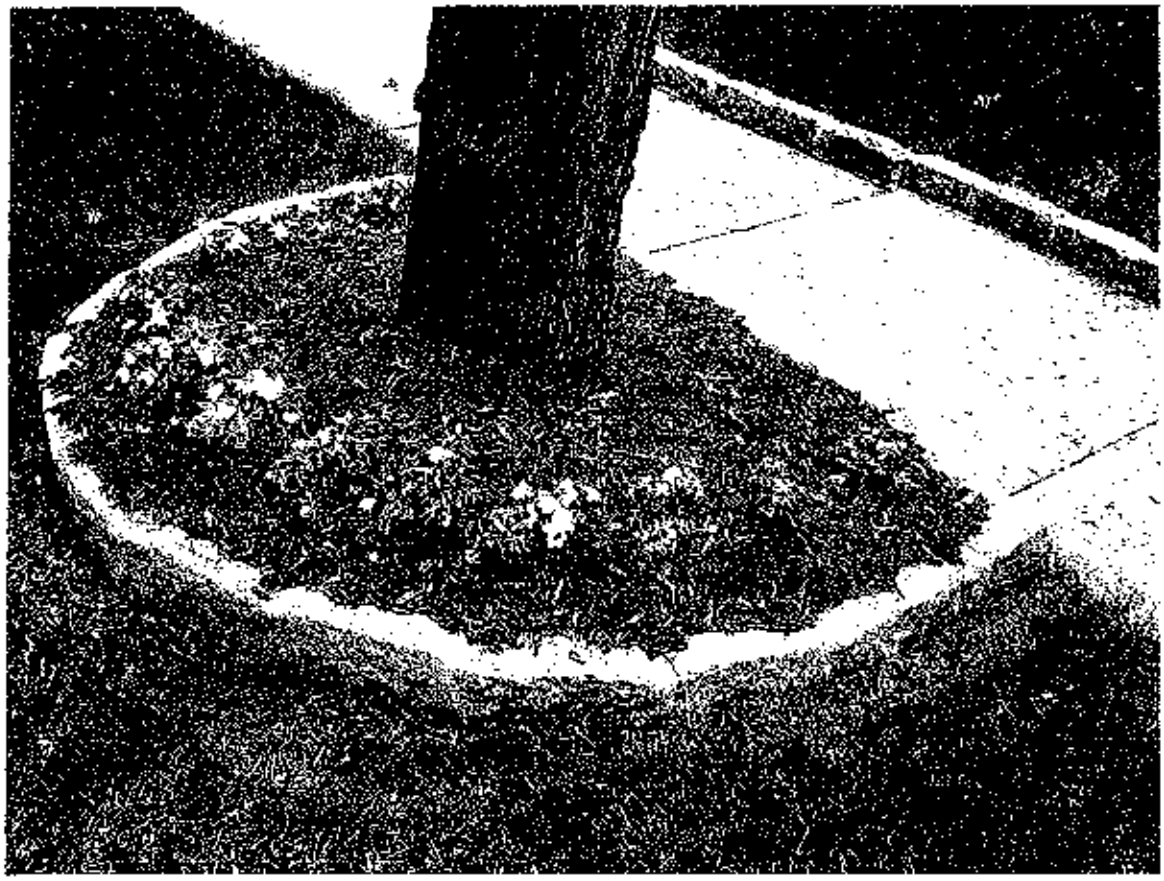
KATHLEEN A. MARCLEY
MY COMMISSION # EE 131372
EXPIRES: November 2, 2015
Bonded Thru Budget Notary Services

Kathleen A. Marcley
Notary Public, State of Florida
Type or Print Name: KATHLEEN A. MARCLEY
Commission No. EE 131372
My Commission Expires: NOV. 02, 2015

Approved as to form and correctness.

_____
City Attorney
Date: _____

Exhibit A – Proposed Improvements



Google images

Website for this image
Tree Edging | Landscape Curbs **Around Trees**
landscapeborderz.com

Full-size image
640 × 480 (Same size), 130KB
More sizes

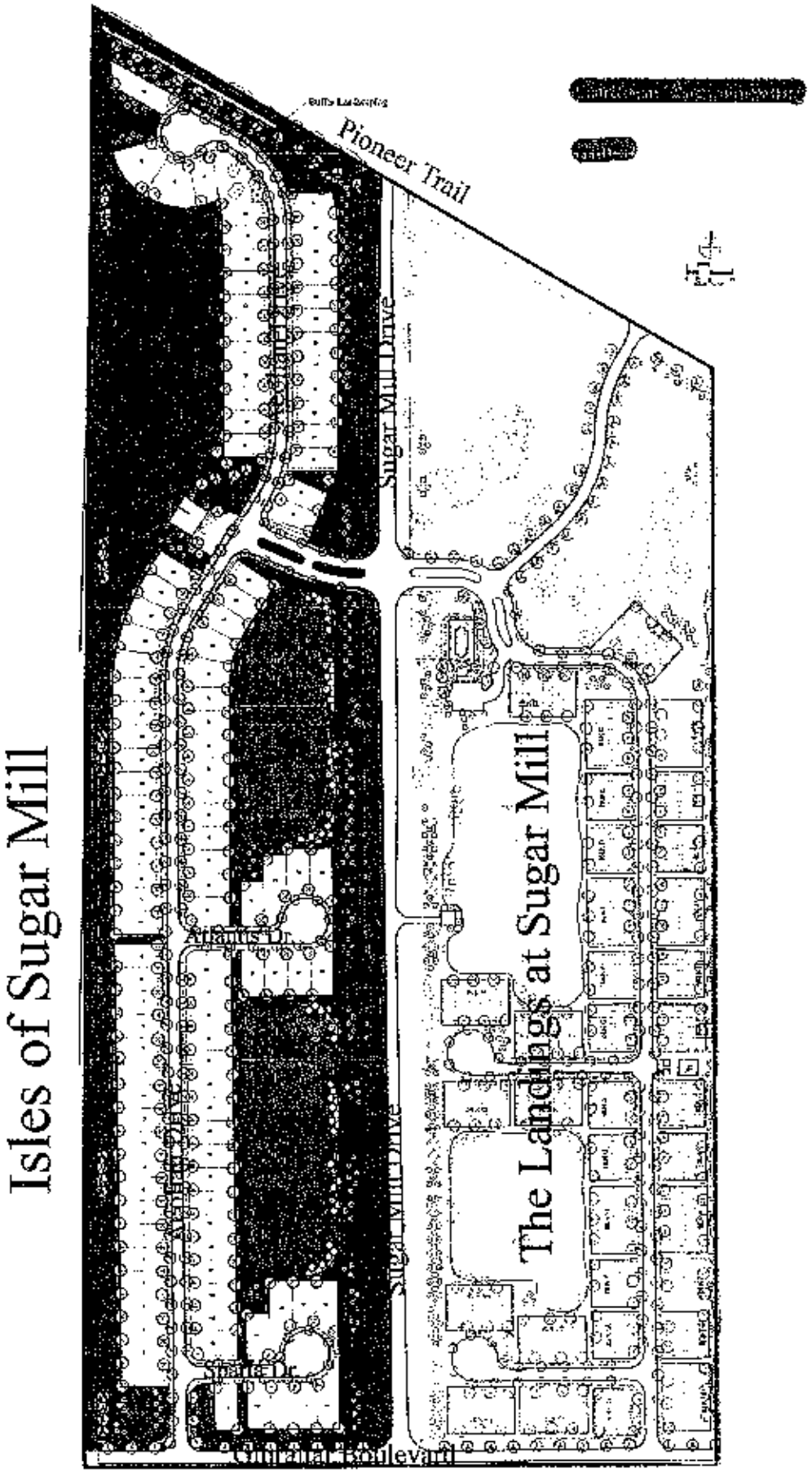
Search by image

Similar images

Type: JPG

Images may be subject to copyright.

Exhibit B – Location Map


Isles of Sugar Mill
Pioneer Trail
Sugar Mill Drive
The Landings at Sugar Mill
Atlantis Dr.
Sparta Dr.
Guiranar Boulevard

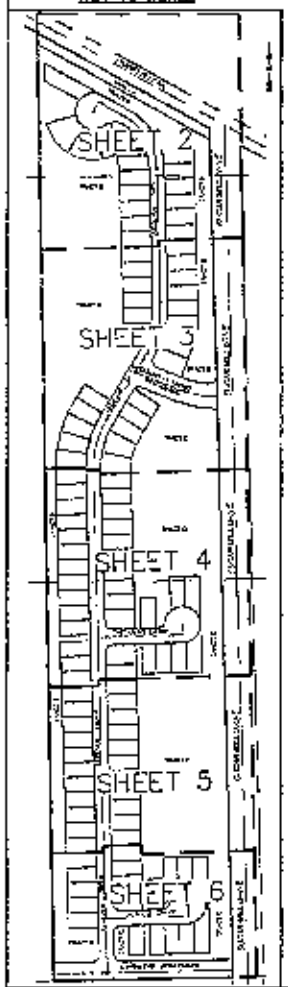
ISLES OF SUGAR MILL

SHEET 1 OF 6

MAP BOOK 59 PAGE 55

LOCATED IN SECTION 15, TOWNSHIP 17 SOUTH, RANGE 33 EAST,
CITY OF NEW SMYRNA BEACH, VOLUSIA COUNTY, FLORIDA

KEY MAP
NOT TO SCALE



LEGAL DESCRIPTION:

THE EAST HALF OF THE NORTHEAST 1/4 (EXCEPT THE NORTH 1/2 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 15, TOWNSHIP 17 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA) AND THE EAST HALF OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 15, TOWNSHIP 17 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 15, TOWNSHIP 17 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA; THENCE RUN N 0°00'00" W ALONG THE WEST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 15 FOR A DISTANCE OF [illegible] TO THE SOUTHERLY EDGE OF WAY LINE OF PENINSULA DRIVE; THENCE RUN N [illegible] ALONG SAID WEST RIGHT OF WAY LINE FOR A DISTANCE OF [illegible] FEET TO THE NORTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 15; THENCE RUN N [illegible] ALONG SAID WEST RIGHT OF WAY LINE FOR A DISTANCE OF [illegible] FEET TO THE SOUTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 15; THENCE RUN S [illegible] ALONG SAID WEST RIGHT OF WAY LINE FOR A DISTANCE OF [illegible] FEET TO THE SOUTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 15; THENCE RUN S [illegible] ALONG SAID WEST LINE FOR A DISTANCE OF [illegible] FEET TO THE POINT OF BEGINNING.

HAVING AN AREA OF [illegible] SQUARE FEET, [illegible] ACRES.

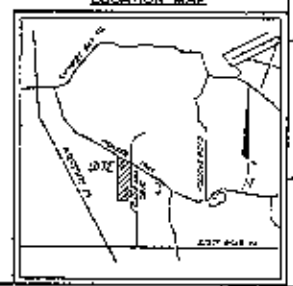
PLAT DEDICATION NOTES:

1. TRACT "A" IS FOR PUBLIC RIGHT-OF-WAY AND IS HEREBY DEDICATED TO VOLUSIA COUNTY, FLORIDA. ALL ENTRANCE FEATURES, SIGNS, HARDSCAPE AND LANDSCAPE WITHIN THE RIGHT-OF-WAY ARE HEREBY DEDICATED TO THE CITY OF NEW SMYRNA BEACH, FLORIDA.
2. TRACT "B" IS FOR OPEN SPACE, LANDSCAPE AREA, WETLAND PRESERVATION, RECREATION, UTILITIES, AND STORMWATER AND IS TO REMAIN PRIVATE. IT IS TO BE OWNED AND MAINTAINED BY THE ISLES OF SUGAR MILL HOMEOWNERS' ASSOCIATION, INC.
3. TRACT "C" IS FOR OPEN SPACE, LANDSCAPE AREA, LIFT STATION, AND STORMWATER RETENTION/DETENTION, AND IS TO REMAIN PRIVATE. TRACT "C" IS TO BE OWNED AND MAINTAINED BY THE ISLES OF SUGAR MILL HOMEOWNERS' ASSOCIATION, INC.
4. A 15 FOOT EASEMENT DESCRIBED HEREIN ARE FOR THE INSTALLATION AND MAINTENANCE OF THE STATED UTILITY WITH AN EASEMENT GRANTED FOR ACCESS, CONSTRUCTION, AND MAINTENANCE OF THE UTILITIES IS DEDICATED TO THE UTILITY COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA AND ALL PRIVATE UTILITY COMPANIES DESIGNED THEREIN.
5. AN EASEMENT FOR EMERGENCY ACCESS AND MAINTENANCE PURPOSES IS HEREBY GRANTED TO THE CITY OF NEW SMYRNA BEACH, FLORIDA AND ALL PUBLIC AGENCIES AND BUSINESS OWNER AND AGENTS ALL TRACTS, BUILDINGS, SERVICE, AND UTILITY EASEMENTS SHOWN ON THE PLAT. NOTHING HEREIN SHALL BE CONSTRUED AS DEDICATED AS GRANTED AN OBLIGATION UPON ANY GOVERNMENT ENTITY TO PERFORM AN ACT OF CONSTRUCTION OR MAINTENANCE WITHIN SUCH PROPERTY UNLESS ENTERED INTO THE OBLIGATION IS VOLUNTARILY ASSUMED BY THE GOVERNMENT ENTITY.
6. ALL UTILITY EASEMENTS SHOWN HEREON ARE FOR THE CONSTRUCTION, INSTALLATION, MAINTENANCE, AND OPERATION OF CABLE TELEVISION SERVICES; PROVIDED, HOWEVER, NO SUCH CONSTRUCTION, INSTALLATION, MAINTENANCE, AND OPERATION OF CABLE TELEVISION SERVICE SHALL INTERFERE WITH THE USE OF THE LANDS AND SERVICES OF AN ELECTRICAL, GAS, TELEPHONE, OR OTHER PUBLIC UTILITY, IN THE EVENT A CABLE TELEVISION COMPANY DAMAGES THE FACILITIES OF A PUBLIC UTILITY, IT SHALL BE SOLELY RESPONSIBLE FOR THE DAMAGES. THIS DOES NOT APPLY TO PRIVATE EASEMENTS GRANTED TO OR OBTAINED BY A TELEPHONE, ELECTRICAL, GAS, OR OTHER PUBLIC UTILITY SUCH CONSTRUCTION, INSTALLATION, MAINTENANCE, AND OPERATION SHALL COMPLY WITH THE NATIONAL ELECTRICAL SAFETY CODE AS ADOPTED BY THE FLORIDA PUBLIC SERVICE COMMISSION, F. A. 17C-14 ET SEQ.
7. TRACT "D" IS DEDICATED TO A CONSERVATION EASEMENT IN FAVOR OF THE St. JOHNS RIVER MANAGEMENT DISTRICT PURSUANT TO SECTION 704.06, FLORIDA STATUTES.
8. THE PLAT CONTAINS A TOTAL OF [illegible] UNIQUE LOT TYPES.
9. THE PLAT CONTAINS A TOTAL OF [illegible] SINGLE FAMILY LOTS.
10. THE MINIMUM LOT SIZES FOR THE LOTS CONTAINED HEREON ARE AS FOLLOWS: 50' x 150'.
11. THE MINUTES OF INCORPORATION OF ISLES OF SUGAR MILL HOMEOWNERS' ASSOCIATION, INC., IS RECORDED IN OFFICIAL RECORDS BOOK [illegible], PAGE [illegible], AND THE BY-LAWS OF ISLES OF SUGAR MILL HOMEOWNERS' ASSOCIATION, INC., ARE RECORDED IN OFFICIAL RECORDS BOOK [illegible], PAGE [illegible], ALL OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.
12. TRACTS "E" AND "F" ARE SUBJECT TO A 10 FOOT WIDE NONSTRUCTURE/PRIVATE EASEMENT LINE, 5 FEET ON EACH SIDE OF THE CENTERLINE OF THE EXISTING 8 FOOT FENCE, TO BE CONSTRUCTED AND MAINTAINED BY THE DEVELOPER, AND IS TO BE DEDICATED TO THE PROPERTY OWNERS IN THE VICINITY.

SURVEY NOTES:

1. THE BEARING SYMBOLIZED ON BASIS OF THE WEST LINE OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 15, TOWNSHIP 17 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA AS BEING N 0°00'00" W AND ARE REFERENCE.
2. ⊙ DENOTES A PERMANENT REFERENCE MONUMENT, A 4 INCH BY 4 INCH CONCRETE MONUMENT WITH AN "X" SCRIBED ON THE TOP SET UNLESS OTHERWISE NOTED.
3. ○ DENOTES A PERMANENT CONTROL POINT, A NAIL WITH A DISK PROVIDED THE TRUE POINT ON THE SET AFTER FINAL ZONE CONSTRUCTION.
4. ___ DENOTES A CHANGE IN DIRECTION.
5. ALL LOTS ARE NON-RADIAL UNLESS OTHERWISE INDICATED AS RR.
6. ALL DIMENSIONS SHOWN HEREON ARE IN U.S. SURVEY FEET AND REFERENCE PROPERTY.
7. PARCEL OF PROPERTY DOES NOT EXCEED 1 FOOT IN 10000 FEET.

LOCATION MAP



ABBREVIATION LEGEND

⊙	DENOTES SOLID ANGLE
⊙	DENOTES RADIUS
L	DENOTES ARC LENGTH
C.B., BRG.	DENOTES CHORD BEARING
SHD, CD	DENOTES CHORD DISTANCE
PC	DENOTES POINT OF CURVATURE
PT	DENOTES POINT OF TANGENCY
PCC	DENOTES POINT OF REVERSE CURVATURE
I.P.	DENOTES INFLEC POINT
PB	PLAT BOOK
PG	PAGE
NR	NON-RADIAL
LR	LICENSED RECORDER
P.O.L.	POINT ON LINE
PI	DENOTES POINT OF INTERSECTION
NT	DENOTES POINT OF NON-TANGENCY
FD.	DENOTES FOUND MONUMENT
CM	DENOTES CONCRETE MONUMENT
PCM	DENOTES PERMANENT REFERENCE MONUMENT
PCP	DENOTES PERMANENT CONTROL POINT
℄	DENOTES CENTERLINE
R/W	DENOTES RIGHT OF WAY LINE
POC	DENOTES POINT ON CURVE
POB	DENOTES POINT OF BEGINNING
(R)	DENOTES RADIAL LINE
DCS #	DENOTES DEFINED CORNER RECORD
T17S/R33E	TOWNSHIP 17 SOUTH - RANGE 33 EAST
O.R.B.	OFFICIAL RECORDS BOOK
OR	OVERHEAD
U.E.	UTILITY EASEMENT
D.E.	DENOTES DRAINAGE EASEMENT
D.&U.E.	DRAINAGE & UTILITY EASEMENT
S/W	DENOTES SIDEWALK
U.& S/W ESMT	DENOTES UTILITY & SIDEWALK EASEMENT
RCP	DENOTES PORT. RCP AND CMP

Notice

This plat, as recorded in its graphic form, is the official depiction of the subdivided lands described herein and will in no circumstances be supplanted or authoritatively other media or alternate form of the plat, including graphic or digital. There may be additional restrictions that are not recorded on this plat that may be found in the public records of this county.

cph
Engineers
Planners
Landscape Architects
Surveyors
Construction Management
www.cphengineers.com

ISLES OF SUGAR MILL DEDICATION

[illegible]

OWNER: [illegible]

CORPORATE SEAL

[illegible]

ACKNOWLEDGMENT

STATE OF FLORIDA COUNTY OF VOLUSIA

THIS IS TO CERTIFY, THAT ON THIS [illegible] DAY OF [illegible], 2006, BEFORE ME, PERSONALLY APPEARED [illegible] OF ISLES OF SUGAR MILL HOMEOWNERS, INC., A FLORIDA CORPORATION, A PUBLIC NON-PROFIT CORPORATION INCORPORATED UNDER THE LAWS OF THE STATE OF FLORIDA, TO THE INDIVIDUAL CONVEYED IN AND WHO EXECUTED THE FOREGOING DEDICATION AND ACKNOWLEDGED THE EXECUTION THEREOF TO BE HIS FREE ACT AND DEED AS SUCH OFFICER THEREIN DULY AUTHORIZED, AND SAID DEDICATION IS THE ACT AND DEED OF SAID CORPORATION FOR THE PURPOSES THEREIN EXPRESSED, AND THAT THE SEAL AFFIXED THERETO IS THE OFFICIAL SEAL OF SAID CORPORATION AND THE SEAL AFFIXED IS THE SEAL OF SAID CORPORATION.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND SEAL ON THE ABOVE DATE.

NOTARY PUBLIC

(Signature) [illegible]
(Print Name) [illegible]
Commission Number: [illegible]
My Commission Expires: [illegible]

REVIEW OF SURVEYOR & MAPPER FOR THE CITY OF NEW SMYRNA BEACH

I hereby certify that I am the City Hall [illegible] Surveyor & Mapper for the [illegible] and that I have examined the [illegible] and that I have [illegible] the City and the [illegible] and [illegible] of Chapter 177 of Florida Statutes.

NAME: [illegible] DATE: 11/30/06

PSM NO: [illegible]

CERTIFICATE OF APPROVAL BY CITY ENGINEER

NAME: [illegible]

Certified and Approved: [illegible] DATE

PE NO: 43333

CERTIFICATE OF APPROVAL BY CITY ATTORNEY

This is to certify that on 1-29-07 the plat has been approved by the City Attorney.

[illegible]

CERTIFICATE OF CLERK

I hereby certify that I have examined the foregoing plat and that it complies in form with all the requirements of Chapter 177, Florida Statutes, and that said plat is recorded in Map Book 59, Page 55 and was filed on 2-5-07 in Instrument Number 2007-033575 in the Public Records of Volusia County, Florida.

[illegible]
CLERK OF THE CIRCUIT COURT
IN AND FOR VOLUSIA COUNTY, FLORIDA

QUALIFICATION STATEMENT OF SURVEYOR AND MAPPER

KNOW ALL MEN BY THESE PRESENTS, THAT THE UNDERSIGNED, BEING A PROFESSIONAL SURVEYOR AND MAPPER, HAS PREPARED THE FOREGOING PLAT AND WAS MADE UNDER MY DIRECTION AND SUPERVISION AND DOES HEREBY VERIFY THAT THE PLAT COMPLIES WITH ALL OF THE SURVEY REQUIREMENTS OF CHAPTER 177, FLORIDA STATUTES, AND THAT SAID PLAT IS PLEASING TO THE CITY OF NEW SMYRNA BEACH, VOLUSIA COUNTY, FLORIDA.

DATED: [illegible]

Signature: [illegible]

NAME: Ralph A. Waite REG. No. [illegible]

CPH ENGINEERS, INC.
1500 WEST FAIRVIEW
SANFORD, FL 32771
(407) 323-3540
L.B. # 2153

CERTIFICATE OF APPROVAL BY THE CITY OF NEW SMYRNA BEACH

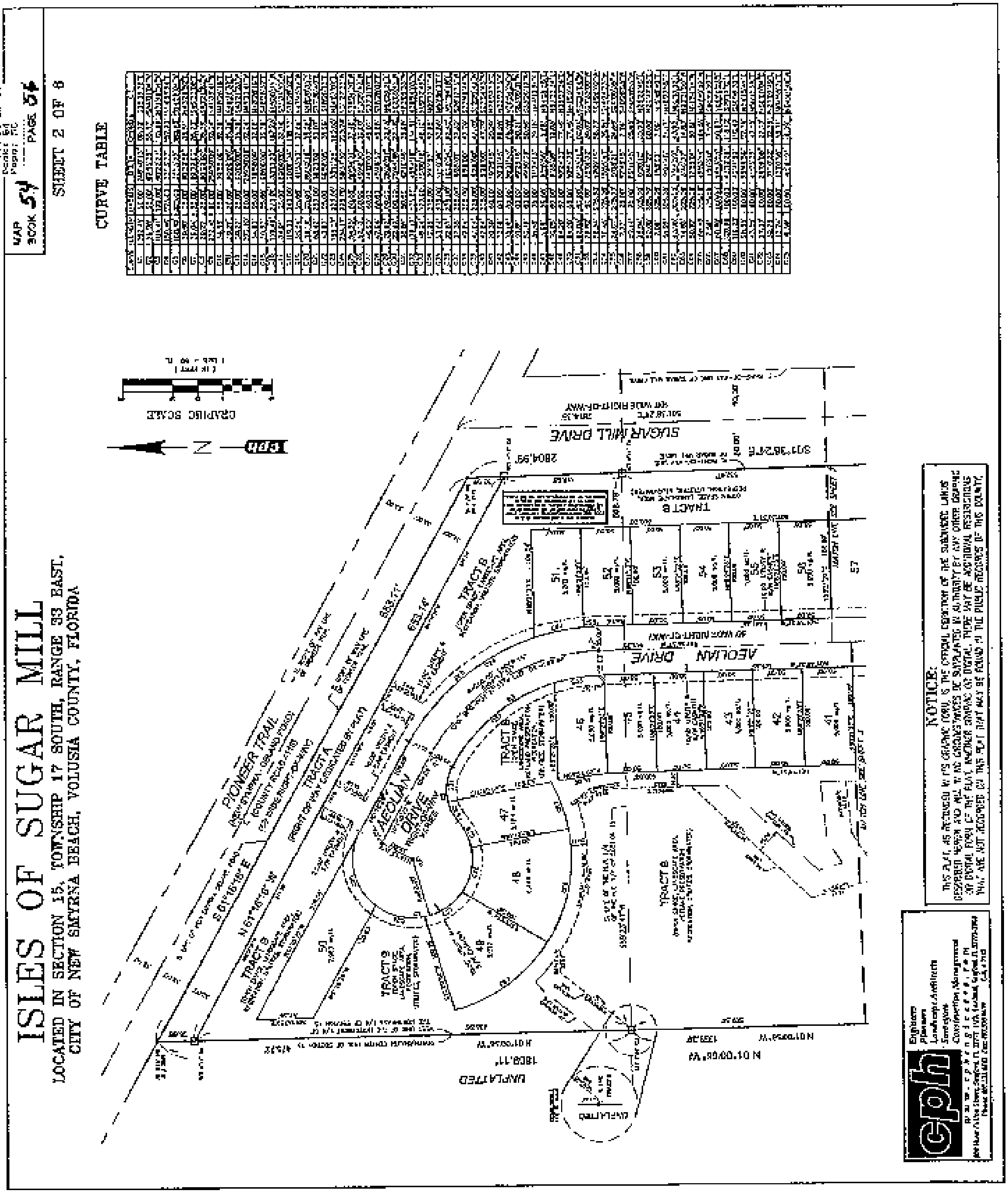
This plat was approved by the City of New Smyrna Beach, Florida.

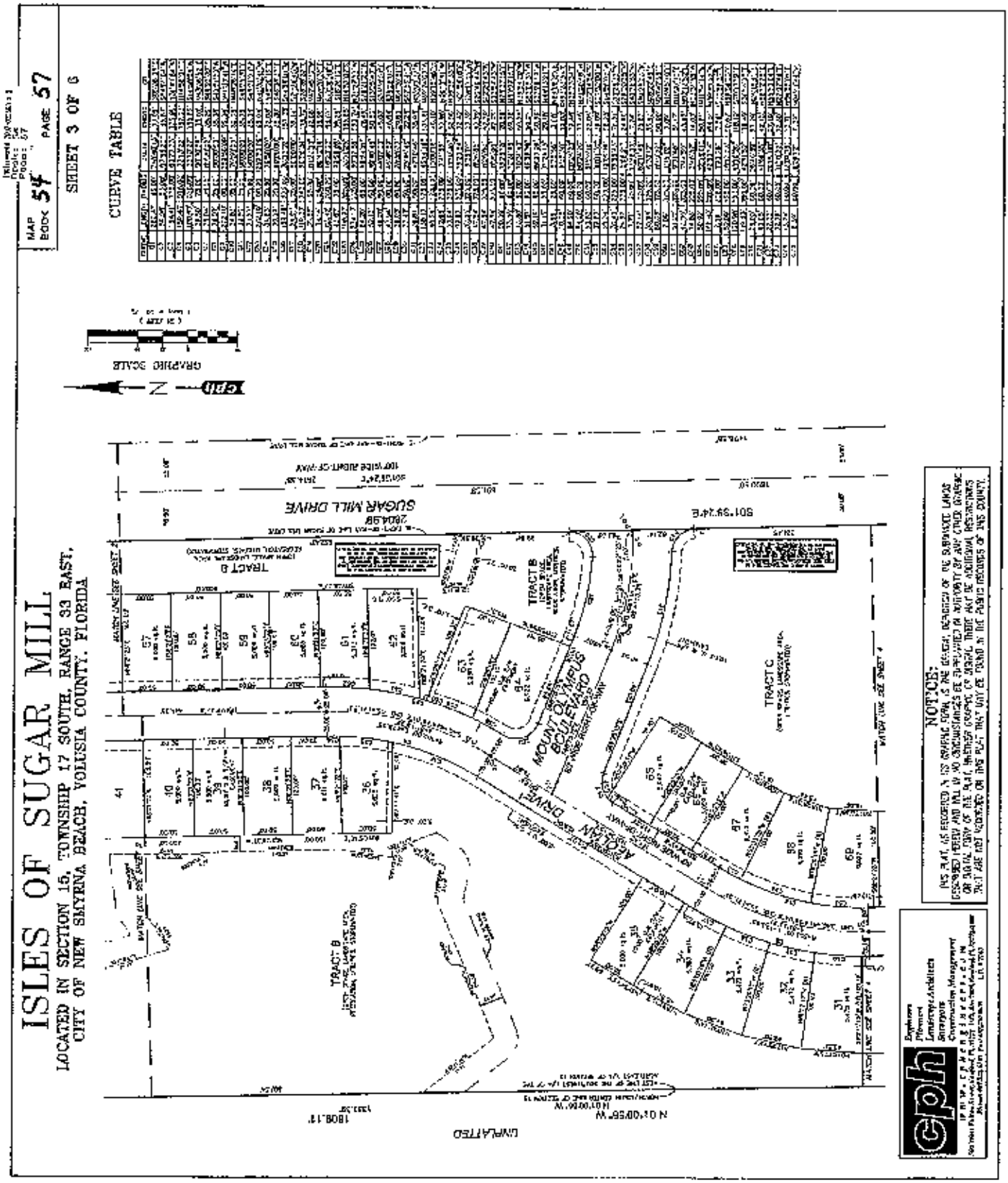
[illegible]

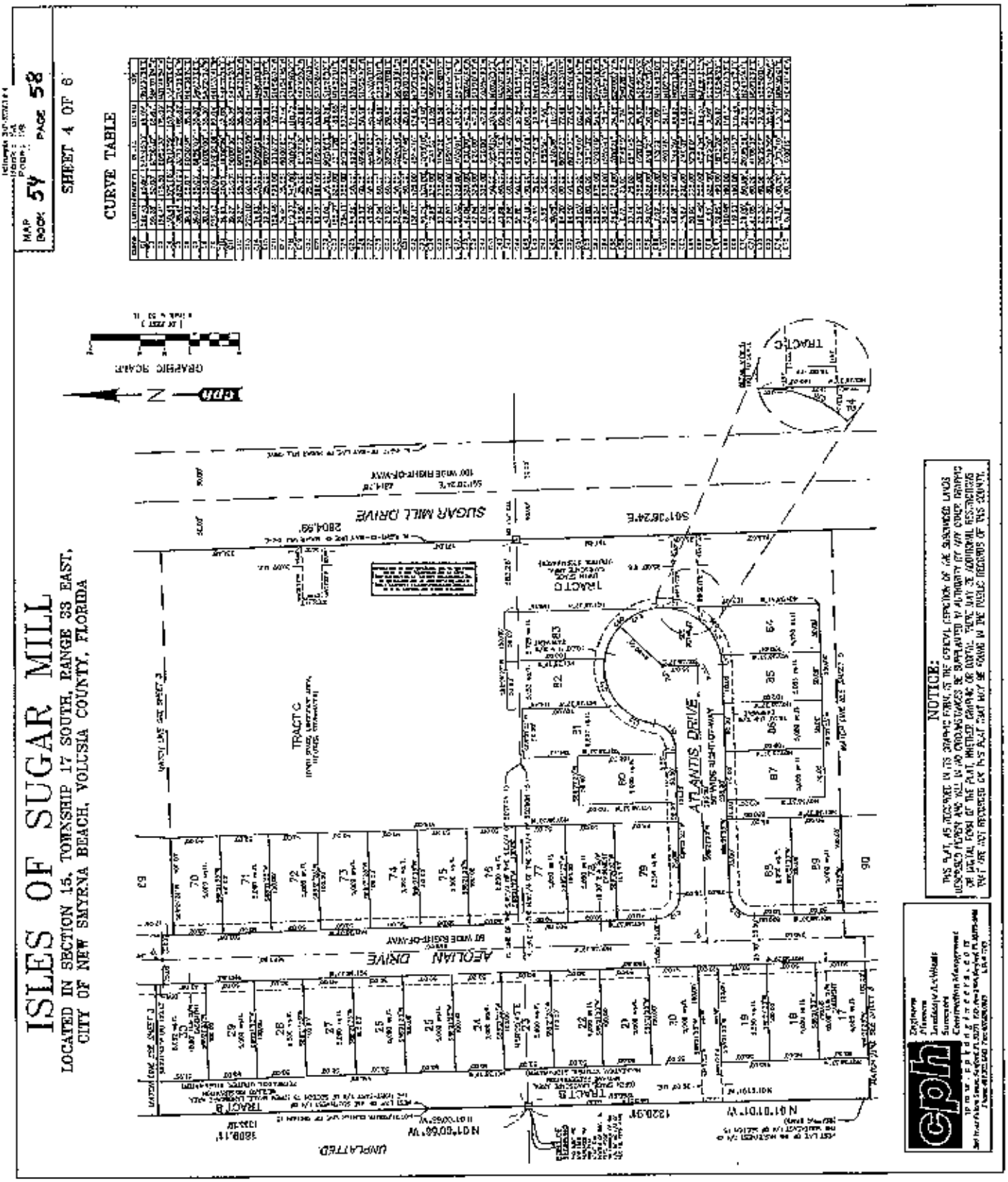
CERTIFICATE OF APPROVAL BY THE PLANNING AND ZONING BOARD

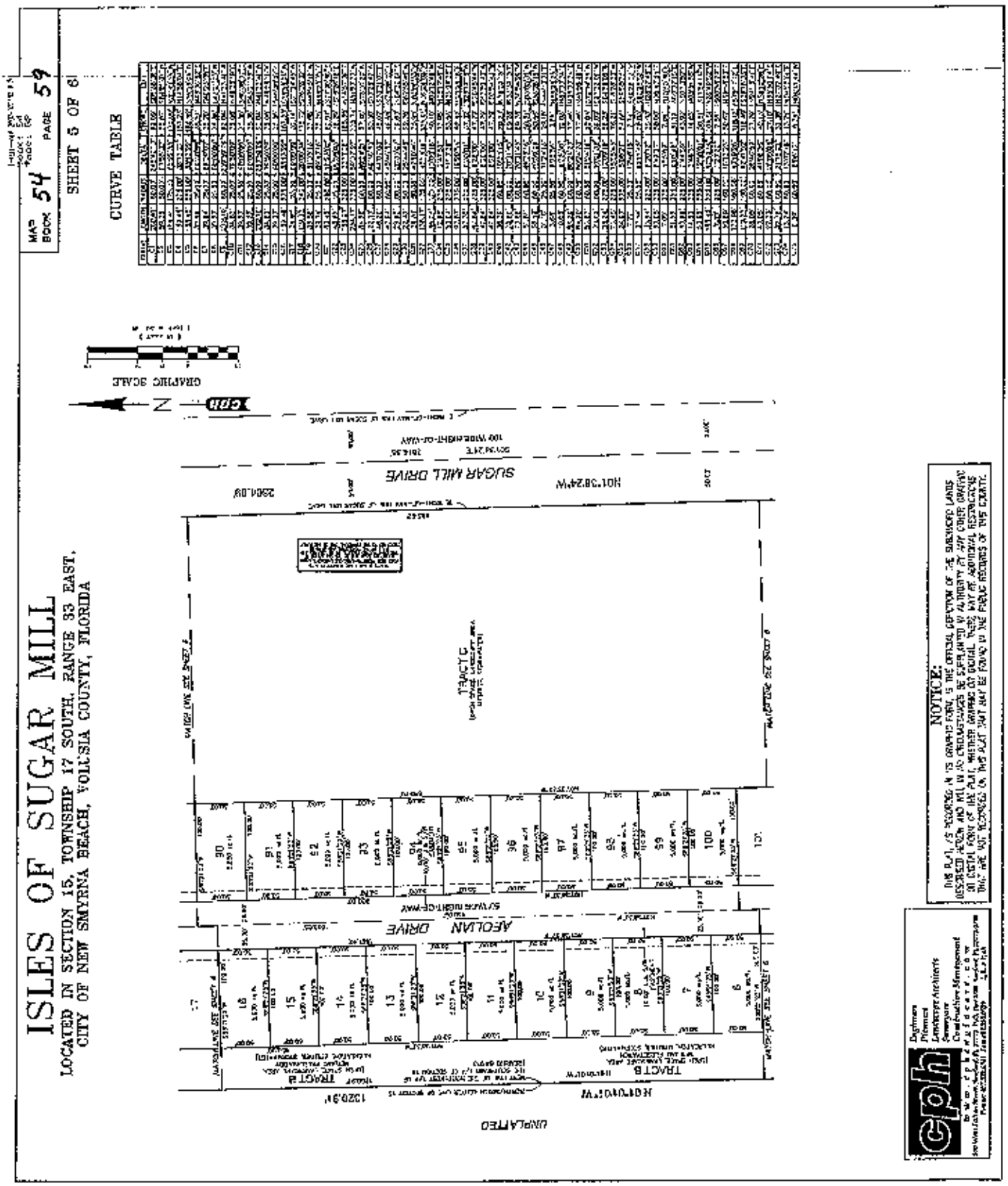
This plat was approved by the Planning and Zoning Board [illegible] on 12-19-06

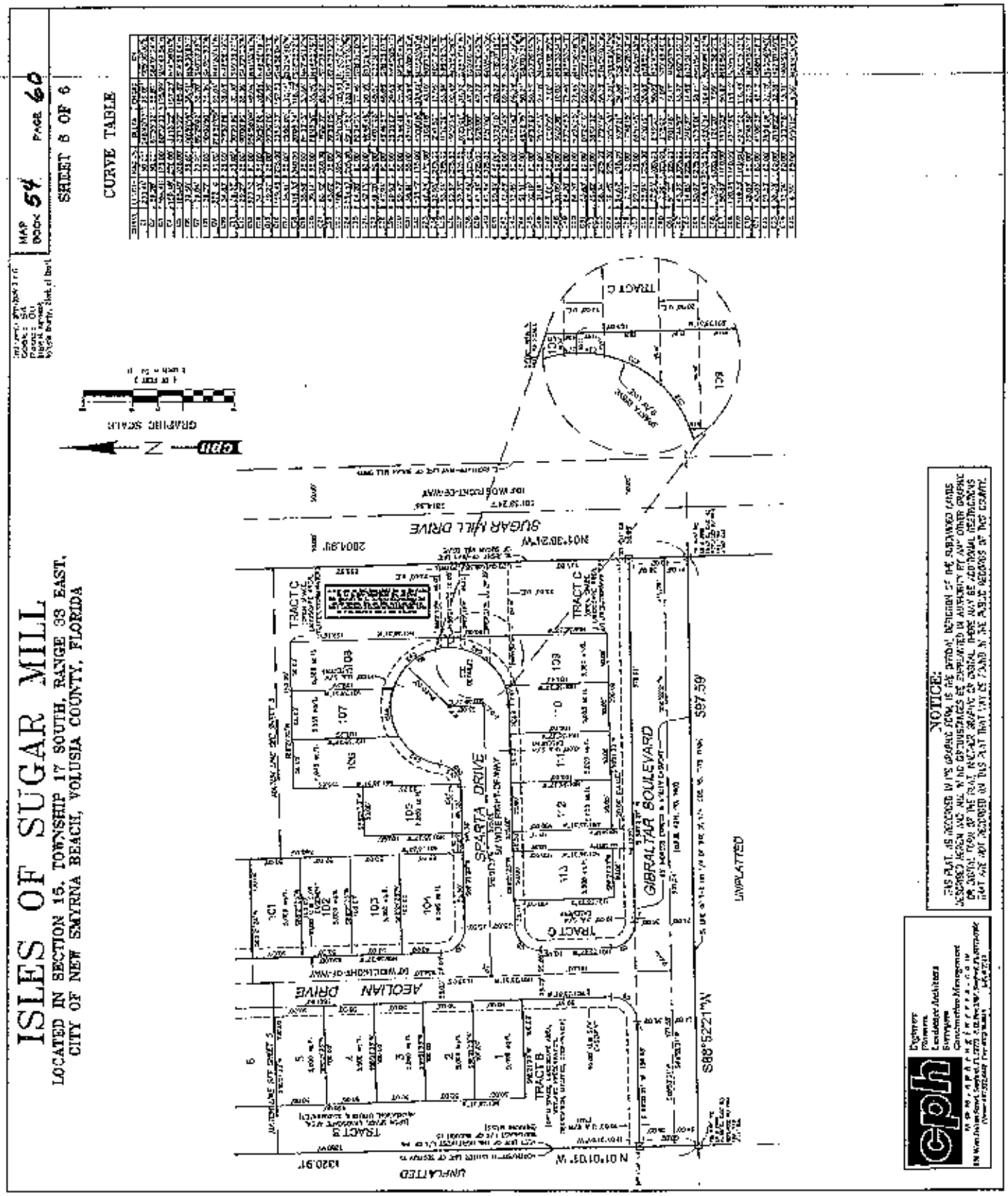
[illegible]


ISLES OF SUGAR MILL
LOCATED IN SECTION 15, TOWNSHIP 17 SOUTH, RANGE 33 EAST,
CITY OF NEW SMYRNA BEACH, VOLUSIA COUNTY, FLORIDA
MAP BOOK 54 PAGE 54
SHEET 2 OF 6
CURVE TABLE
GRAPHIC SCALE
PIONEER TRAIL
SUGAR MILL DRIVE
AEOLIAN DRIVE
TRACT A
TRACT B
UNPLATTED
NOTICE:


ISLES OF SUGAR MILL
LOCATED IN SECTION 15, TOWNSHIP 17 SOUTH, RANGE 33 EAST,
CITY OF NEW SMYRNA BEACH, VOLUSIA COUNTY, FLORIDA
MAP BOOK 54 PAGE 57
SHEET 3 OF 6
CURVE TABLE
GRAPHIC SCALE
SUGAR MILL DRIVE
TRACT B
TRACT C
MOUNT OLYMPUS BOULEVARD
ACCLAIN DRIVE
UNPLATTED
NOTICE:
cph


ISLES OF SUGAR MILL
LOCATED IN SECTION 15, TOWNSHIP 17 SOUTH, RANGE 33 EAST,
CITY OF NEW SMYRNA BEACH, VOLUSIA COUNTY, FLORIDA
MAP BOOK 54 PAGE 58
SHEET 4 OF 6
CURVE TABLE
GRAPHIC SCALE
SUGAR MILL DRIVE
AEOLIAN DRIVE
ATLANTIS DRIVE
TRACT C
TRACT B
UNPLATTED
NOTICE:
cph


ISLES OF SUGAR MILL
LOCATED IN SECTION 15, TOWNSHIP 17 SOUTH, RANGE 33 EAST,
CITY OF NEW SMYRNA BEACH, VOLUSIA COUNTY, FLORIDA
MAP BOOK 54 PAGE 59
SHEET 5 OF 8
CURVE TABLE
GRAPHIC SCALE
SUGAR MILL DRIVE
AEOLIAN DRIVE
TRACT G
TRACT B
UNPLATTED
NOTICE:


ISLES OF SUGAR MILL
LOCATED IN SECTION 15, TOWNSHIP 17 SOUTH, RANGE 33 EAST,
CITY OF NEW SMYRNA BEACH, VOLUSIA COUNTY, FLORIDA
MAP BOOK 54 PAGE 60
SHEET 6 OF 6
CURVE TABLE
GRAPHIC SCALE
SUGAR MILL DRIVE
SPARTA DRIVE
GIBRALTAR BOULEVARD
AEOLIAN DRIVE
TRACT C
TRACT B
UNPLATTED
NOTICE:
cph

AGENDA ITEM SUMMARY

Department Making Request:	City Clerk
Meeting Date:	March 13, 2012
Action Item Title:	Code Enforcement Board
Agenda Section:	Boards and Commissions

Summary Explanation and Background:

Code Enforcement Board – Composed of seven members who must be residents of the City. Membership must, whenever possible, consist of an architect, a businessman, an engineer, a general contractor, a subcontractor and a realtor. The Board is empowered to subpoena alleged code violators, evidence and witnesses to its hearings; take testimony under oath; issue orders to command whatever steps are necessary to bring a violation into compliance; fine violators; authorize recording of liens; authorize foreclosures; and authorize abatement of the nuisance and charge the costs to the violator. The Board meets on the third Tuesday of each month at 4:30 p.m. in the Commission Chamber of City Hall, 210 Sams Avenue, New Smyrna Beach.

The current terms of members Kathy Cooley and Michael Slayton, expire March 3, 2012. Each member has expressed the willingness and desire to be reappointed to three-year terms that would expire March 3, 2015.

Susan Allocco, 1101 Magnolia Street, has also expressed the willingness and desire to serve as a member and has submitted a volunteer application for consideration. There are currently no other applications on file for consideration.

Recommended Action/Motion:

- Reappointment/Appointment two members to three-year terms to expire Marcch 3, 2015.

Funding Analysis: There is no fiscal impact.

Exhibits Attached:
Code Enforcement Board Roster
Volunteer Application – Susan Allocco

Reviewed By:	Name	Signature
Department Director:	Johnny R. Bledsoe City Clerk	
Finance Director	Althoa Philord	Not Applicable
City Attorney	Frank B. Gummey III	Not Applicable
City Manager	Pam Brangaccio	Not Applicable

Commission Action:

RECEIVED
OFFICE OF THE CITY CLERK
DATE 10-27-2011

CITY OF NEW SMYRNA BEACH
ADVISORY BOARDS AND COMMISSIONS

VOLUNTEER APPLICATION

Thank you for your interest in serving the City of New Smyrna Beach. Completing this application is necessary so the City Commission can review it as part of their consideration of your appointment.

Please check the boards you wish to be considered for and number the order of the preference of your choice(s).

___ Airport Advisory Board
___ Animal Control Board Member
___ Board of Adjustment*
___ Building Trades Board
___ Community Redevelopment Agency*
(Note: CRA applicants must reside in, work in or own a business in the District)
X Code Enforcement Board*
___ Community Development Block Grant Board* **(Note: Shall reside in an area defined by Volusia County Community Assistance as eligible to be served by CDBG Funds.)**
___ Economic Development Advisory Board*
___ Fire Pension Board*
___ Golf Advisory Board
___ Historic Preservation Commission*
___ Housing Authority
___ Library Advisory Board
___ Parks/Recreation Advisory Board
___ Personnel Board
___ Planning/Zoning Board*
___ Police Pension Board*
___ Utilities Commission
___ OTHER

ALL OF THE ABOVE BOARDS ARE SUBJECT TO THE SUNSHINE LAW. MEMBERS OF THE BOARD/COMMISSIONS WITH AN ASTERISK(*) ARE REQUIRED TO FILE FINANCIAL DISCLOSURES WITHIN 30 DAYS OF APPOINTMENT.

Susan M. Allocco
Full Name

1101 Magnolia St. New Smyrna Beach, FL 32168
Street City State Zip Code

(386) 402-4186 (386) 314-4036
Home Phone Including Area Code ~~Business~~ Cell Phone Including Area Code

Are you a registered voter in New Smyrna Beach? X Yes ____ No Precinct #: ____

City Commission District: ____

How long have you been a New Smyrna Beach Resident?: 3 1/4 YEARS

Have you ever been convicted of a Federal or State felony as defined by State Law? (F.S. 775.08): ____ Yes X No

Please Note: ***For the purposes of this question, any person who pleads guilty or nolo contendere or who is found guilty shall be deemed to have been convicted, notwithstanding a suspension of sentence or a withholding of adjudication.***

If yes, please state when and what felony (ies)

Are you currently serving on a City board?: NO If yes, when were you appointed and to which board?: ____

REFERENCES: Please list three business and/or personal: BS. 904-739-1742 home-904-737-4385

LOIS PEARCE 4105 LONDON RD, JACKSONVILLE, FL 32207
Name, address and telephone number

HELEN LOMBARDI 1 SOUNDVIEW GARDENS APT C, PORT WASHINGTON NY 11050-234
Name, address and telephone number home 516-944-4466

BARBARA HUTHAM WELLS, 1402 BORAH AVE, MOSCOW, ID 83843-2404
Name, address and telephone number
(208) 882-7733

EDUCATIONAL INFORMATION:

High School: X

College: SOME COURSES

Degree(s): ____

WORK EXPERIENCE: (RETIRED) (LONG TIME)

TILLINGHAST COLLINS & GRAHAM (LAW FIRM, PROVIDENCE, RI)
HARPER COLLINS (PUBLISHING COMPANY, N.Y., N.Y.)
HALE AND DORR (LAW FIRM, BOSTON, MA)
(AND A FEW OTHER POSITIONS - RESUME ATTACHED

COMMUNITY INVOLVEMENT:

- IN PAST - VOLUNTEERED IN HOSPITAL IN ARIZONA
- DID PET VISITS TO NURSING HOME IN RHODE ISLAND
- AM LOOKING INTO JOINING ELKS IN EDGEWATER, FL
- AM LOOKING INTO MENTORING IN NSB SCHOOL DIST.

INTERESTS/ACTIVITIES:

MOVIES	READING
PLAYS	TRAVEL
ART	BALLET

WHY DO YOU WANT TO SERVE ON THIS (THESE) BOARD(S)?

I HAVE FOUND IT DISTURBING THE CONDITION OF PEOPLE'S YARDS & UPKEEP. IF I CAN CONTRIBUTE ANY INPUT, I WOULD LIKE TOO.

You may include a resume or separate sheet with additional information.

Any member appointed by the City Commission to a board or commission of the City of New Smyrna Beach who misses more than three (3) consecutive meetings (including two [2] regular meetings) or misses more than four (4) regular meetings in a calendar year of the board or commission shall be automatically removed from that board or commission. The City Commission at its next regular meeting shall be advised that the seat on the board or commission has become vacant. The City Commission shall fill the unexpired term of the vacant seat.

I understand the responsibilities associated with being a board member and I have adequate time to serve, if appointed.

Susan M. Alloco — **Signature**

October 27, 2011 — **Date**

If you have specific questions concerning the duties and responsibilities of any of the listed boards, please contact the City Clerk's office at 386-424-2112. **Return this application to the City Clerk, City Hall, 210 Sams Avenue, New Smyrna Beach, FL 32168.**

YOUR INTEREST IN SERVING YOUR COMMUNITY IS APPRECIATED

SUSAN McNAMARA ALLOCCO
1101 Magnolia Street
New Smyrna Beach, Florida 32168
386-402-4186
susan.allocco@gmail.com

OBJECTIVE: Administrative professional seeking to re-enter the work force in a role, where my previous experience will have value, and where I will be afforded the opportunity to make a contribution.

WORK EXPERIENCE

1993 to present
Homemaker–three corporate re-locations during this period, including to Arizona, where I oversaw the building of a new home, as well as relocation back to Rhode Island. I was also responsible for the settlement of my parents' affairs after both of them passed. I have used my strong follow-up and organizational skills in many challenging situations.

Also worked part-time at Gold's Gym, East Greenwich, RI, did private child care for clients from Gold's Gym. Also as a receptionist, checking orders, filling out the nightly bank deposit slips at David's Bridal.

TILLINHAST COLLINS & GRAHAM, Providence, RI – 6/90 – 11/92
Legal Secretary
Provided fill-in support for scheduled and unscheduled absences. The duration of these assignments ranged from one day to several months. Assignments required the ability to handle varied positions of support for all types of law.

BAXTER O'BRIAN, Providence, RI – 3/89 – 12/89
Personnel Consultant/Recruiting
Responsibilities included screening, testing, and interviewing candidates for clients, and matching candidate skills needed for particular job openings. Also, involved in cold calling area companies to solicit services of Baxter O'Brian and placing promotional ads in local newspapers.

HARPER & ROW PUBLISHERS, INC., New York, NY – 11/85 – 11/88 (now known as Harper Collins)
Administrative Assistant to Barbara Hufham, Esq.,
Senior Vice President and General Counsel
Ms. Hufham oversaw the Legal Department, as well as the Personnel Department, so this was a very diversified position. Responsible for approval of all Legal Department bills, as well as maintenance of the Legal Library. In addition to a high volume of Dictaphone work, dictation, and heavy use of the IBM Display Writer System, also responsible for Harper & Row's College Matching Gift Program, as well as the Corporate Contributions Program. Received all telephone inquiries regarding these programs and processed all requests.

Also handled all stockholder inquiries when we were a publicly-held company. These varied duties enabled me to have a great deal of correspondence issued under my signature to work very independently. I previously worked for Brooks Thomas, from 1968 to 1973, who became President and, subsequently, Chairman of the Board, of Harper & Row.

AMERADA HESS CORPORATION, New York, NY – 10/83 – 4/85
Executive Assistant to Robert P. Powers, Vice President and Assistant to the Chairman of the Board
This was a very diversified position, as Mr. Powers had several departments reporting to him, including a staff of approximately 45 people. My responsibilities included preparation and completion of all paperwork to effect price changes on gasoline, oil, and kerosene; several monthly reports regarding customer accounts; monthly organization charts; weekly headcount reports, etc. This position enabled me to set priorities entirely on my own. This position required extensive use of the Wang Word Processing system.

HALE AND DORR, Boston, MA – 10/77 – 7/83
Legal/Executive Secretary to Vincent P. McCarthy, Esq.
Mr. McCarthy was a Senior Partner specializing in real estate law. Our work in this area was of the highest level, involving large commercial and industrial clients and substantial sums of money. The nature of these projects involved working under considerable pressure and required exceptional attention to detail. Mr. McCarthy was also involved in numerous charitable corporations and was very active politically, which afforded me the opportunity to work closely with high-level civic, church, and political leaders.

Legal/Executive Secretary to Louis H. Hamel, Jr., Esq.
Mr. Hamel's legal expertise encompassed many areas with special emphasis on probate, pension and tax law. Mr. Hamel was on several committees at Hale and Dorr, including management of the firm. My position involved a considerable amount of client contact and total responsibility for generating and responding to a substantial amount of correspondence issued under my signature. Also responsible for insuring the accurate disposition of many critical legal instruments. This was a very detail-oriented position.

EDUCATION
Computer skills: Microsoft Windows and word processing programs.

New York for Social Research
New York, New York
Selected Evening Courses

State University of New York
Farmingdale, New York
Selected Evening Courses

Excellent references available

CITY OF NEW SMYRNA BEACH
Code Enforcement Board

	Term	Appointed	Expires
P. J. (Pat) Arvidson P.O. BOX 2366 New Smyrna Beach, FL 32170 427-6640-(407)758-8509-(663-4615) Second Term	3 yrs	03-08-11 (01-08-08)	03-03-2014
Katharine (Kathy) L. Cooley 415 Magnolia Street New Smyrna Beach, FL 32168 478-9645/428-5723 *Filled seat vacated by Resignation of Jay Crocker	3 yrs	02-24-09	03-03-2012
Megan Badgley 423 Cedar Avenue New Smyrna Beach, FL 32169 *First Full Term*	3 yrs	03-09-10 (11-24-09)	03-03-2013
Beverly Palmer 2638 Edgewater Avenue New Smyrna Beach, FL 32168 (937) 441-3946 Home *First Full Term*	3 yrs	03-08-11 (10-12-10)	03-03-2014
John W. Shelby 100 Asire Court New Smyrna Beach, FL 32169 426-5884 Fourth Term	3 yrs	03-09-10	03-03-2013
Michael E. Slayton 835 E. 12th Avenue New Smyrna Beach, FL 32169 428-8532/689-3423 Fifth Term	3 yrs	02-24-09	03-03-2012
Sylvan McElroy 331 Freeman Street New Smyrna Beach, FL 32168 (386) 478-9545 Home/428-5789 Bus	3 yrs	11-08-11	03-03-2014

Term Limit: Appointment from term to term upon approval of City Commission.

MEMORANDUM

FROM THE OFFICE OF THE CITY MANAGER

To: Mayor and City Commission

From: Pam Brangaccio, City Manager PDB

Re: **City Manager's Report – March 13, 2012**

Date: March 6, 2012

Announcements:

You're invited to attend the Marine Discovery Center & Artists' Workshop Open House on Saturday, March 10th between 10:00 a.m. and 3:00 p.m. at 520 Barracuda Blvd.

This Saturday is also the New Smyrna Beach/Edgewater Babe Ruth Youth Baseball/Softball Opening Day Ceremony at the Sports Complex at 10:00 a.m. if you are able to stop by.

Cudas Unhooked is hosting the 2nd Annual *Cuts for Cudas* fundraiser which will be from 9:00 a.m. to 3:00 p.m. on Sunday, March 11th on the corner of S. Orange & Canal Street. If you need a haircut, this is a great cause!

If the City Commission approves on second reading the CRA policy governance structure, the first meeting will be held on April 10th at 5pm. This will provide time for the public to submit CRA Board applications to the March 27th meeting. The April 10th meeting would include the election of a Chair and Vice Chair; adoption of rules of procedure; a six month CRA Budget update, and several opportunity grant applications. The May and June meeting would include discussion on future policy and budget priorities for FY 13-16.

Field Notes:

The Volusia County Historical Society is sponsoring a County-wide tour of a few ECHO sites and included the SE Volusia Chamber of Commerce building. The County Council will be hearing the 2012 ECHO (non-waterfront) applications on March 15th. The Planning Mgr and I will be attending to present the Pioneer Trail properties, which were recommended by the ECHO Advisory Board. We are also meeting with a representative of the Ford family this week.

An updated summary report of current capital projects is included with this report. A final change order has been issued for the Pettis Park Sidewalk project, resulting in a reduced final contract amount w/an excellent report on the contractors' work. Beach dune-crossovers for Esther Street are scheduled for tonight's agenda for completion during the off-turtle season.

City Staff has begun preliminary work on projects for Commission discussion for the FY 12-13 Budget PREP. This includes projects such as the short-term options for the AOB and Julia Street; Mary Tot Lot Update and restrooms; Canal Street pocket park; Dunn property utilization; Beautification of East Washington and North Causeway; Babe James and Brannon Center renovations (met with an architect this week to brainstorm Brannon Center options and are meeting to set an agenda for a Babe James community planning session for site options). Preliminary work includes defining the scope and estimated costs for the various projects for upcoming budget discussions. We also believe that both Brannon and Babe James could be eligible for ECHO grants, for submittal in the fall of 2012 for 2013 matching funding (CRA could not be used for ECHO match)

A future agenda item is being prepared for a review of the 3/6/12 cost analyses prepared by the City Building Official for 525 Washington Street. With an interest in Babe James renovation/expansion, these two projects and related funding, as well as the Incubator concept will need to be discussed by the Commission for the FY 12-13 Budget. A recent Deltona article has the City staff reviewing the possible utilization of the EDAB to assist in planning for an Incubator.

The Sports Task Force and Economic Development Advisory Board will be holding a Joint Meeting on March 21st at 6pm, to review STF recommendations. It is anticipated that the Task Force will be ready in April for presentation to the City Commission, for the upcoming FY 12-13 Budget and possible ECHO grant application for the fall of 2012, for 2013 matching funding.

Thomas Cook has accepted the City's offer for the position of IT Manager and begins employment this week. We are still recruiting for Assistant Finance Director, as Thea wraps up the FY 10-11 Audit w/James Moore & Company, scheduled for Commission presentation on March 27, 2012.

Letters are being sent out next week to local businesses announcing the City's June 2012 125th Anniversary for event sponsorships. We can supply the City Commission with additional event cards (as needed). Utility Commission members agreed to the Vice Mayors' request at their February meeting to include information on the 125th Celebration, this spring to their customers.

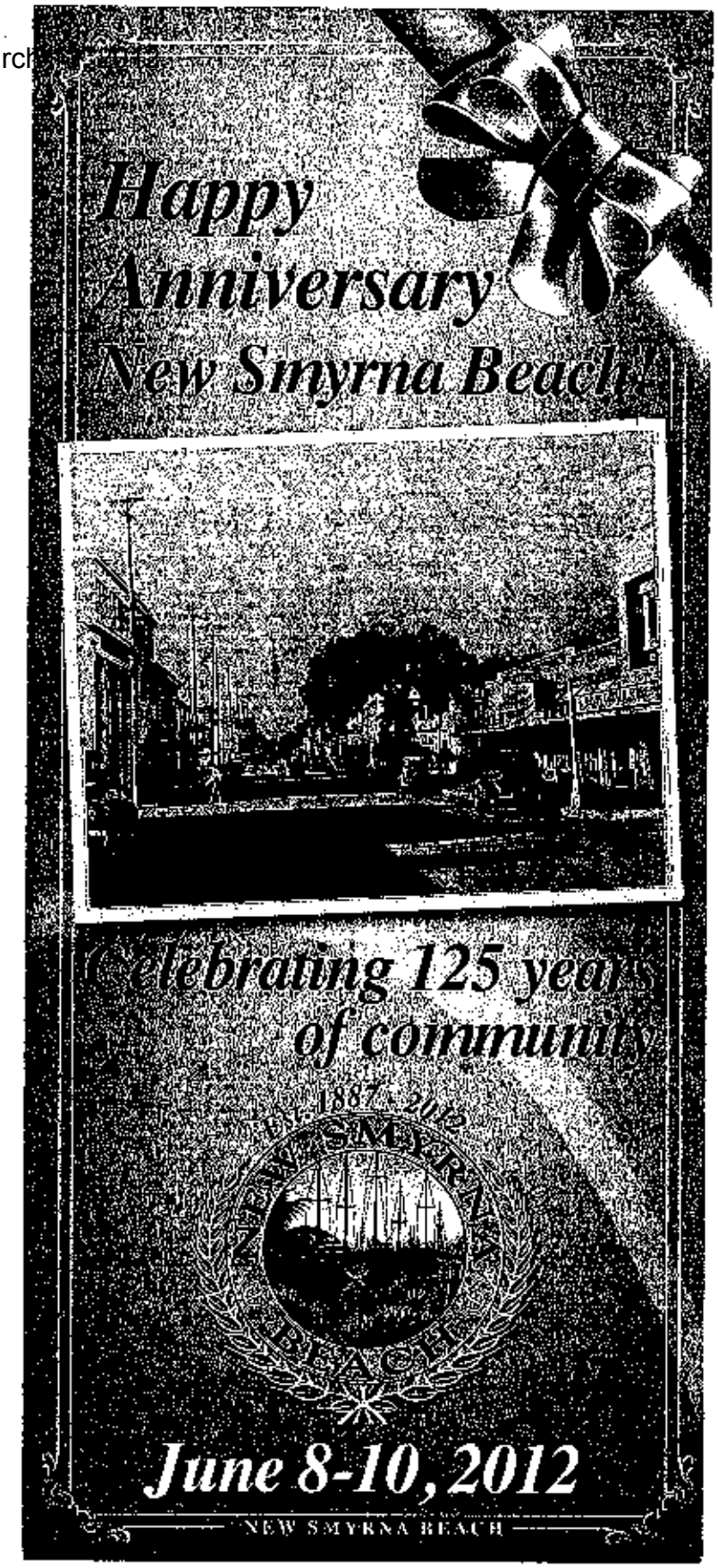
The 2012 Citizen's Academy will begin April 19th. Opening night has been placed on your calendars so the participants can meet their elected officials. WSBB radio is generously providing "on air" promotions for us about the

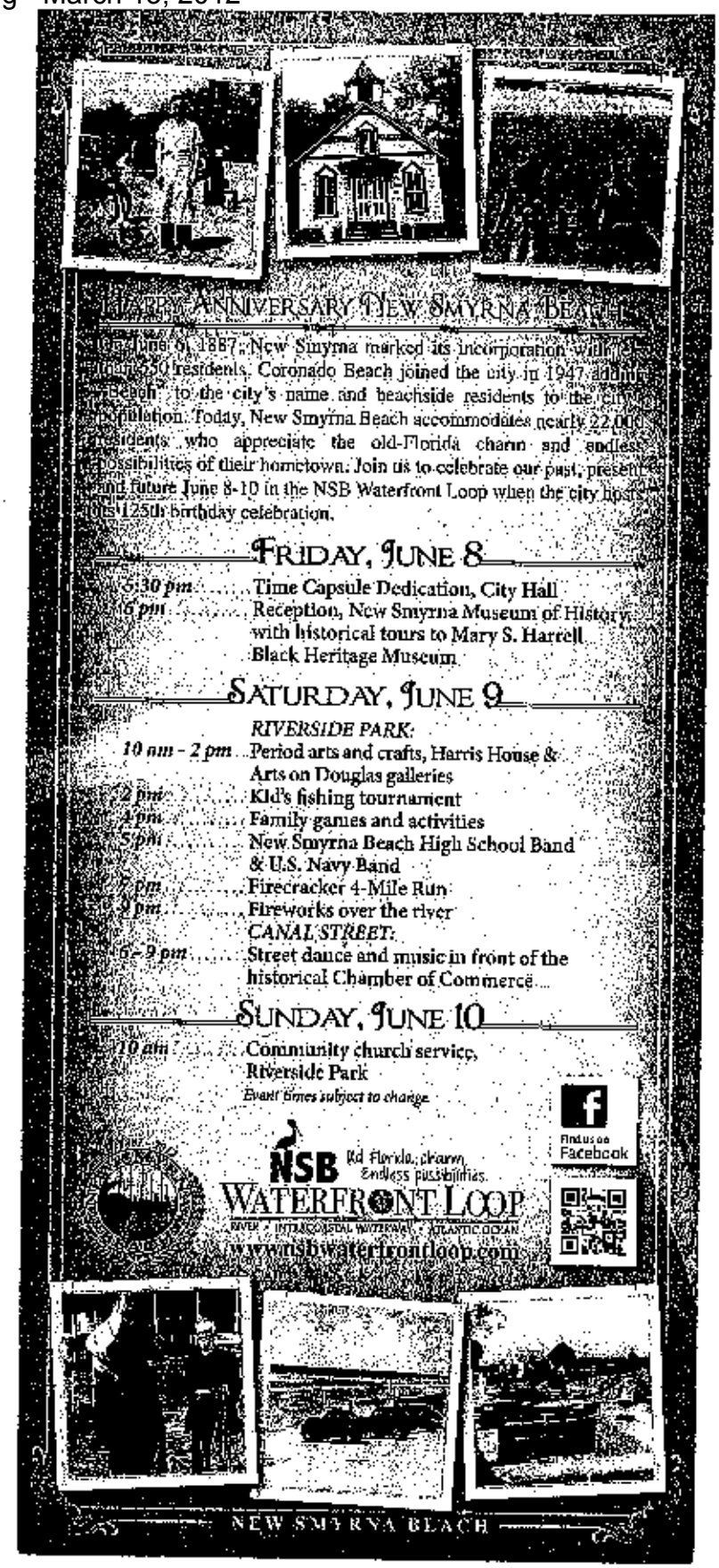
program. The Employee Academy will begin that day as well for City employees (esp. for those individuals that have joined the City since last year).

The Fire Chief and City Manager are scheduled to meet with the Sheriff (at his request) this week to review the February 24, 2012 letter from SE Volusia.

City staff is continuing to work on the 2012 City Commission Strategic Goals, having met with the Utility Commission CEO and Attorney on Feb 8th and the Department of Health on Feb 16th to leave both entities a copy of the Commissions' annexation areas map, for comment and review. In addition, the County staff has forwarded their comments on the latest draft of the JPA.

Should you have any questions or want additional information on anything included in this report, please give me a call.


Happy
Anniversary
New Smyrna Beach!
Celebrating 125 years
of community
1887 - 2012
NEW SMYRNA
BEACH
June 8-10, 2012
NEW SMYRNA BEACH


125th Anniversary New Smyrna Beach
On June 6, 1887, New Smyrna marked its incorporation with 350 residents. Coronado Beach joined the city in 1947, adding "Beach" to the city's name and beachside residents to the city's population. Today, New Smyrna Beach accommodates nearly 22,000 residents who appreciate the old-Florida charm and endless possibilities of their hometown. Join us to celebrate our past, present and future June 8-10 in the NSB Waterfront Loop when the city hosts its 125th birthday celebration.
Friday, June 8
5:30 pm Time Capsule Dedication, City Hall
6 pm Reception, New Smyrna Museum of History with historical tours to Mary S. Harrell Black Heritage Museum
Saturday, June 9
RIVERSIDE PARK:
10 am - 2 pm Period arts and crafts, Harris House & Arts on Douglas galleries
2 pm Kid's fishing tournament
4 pm Family games and activities
5 pm New Smyrna Beach High School Band & U.S. Navy Band
7 pm Firecracker 4-Mile Run
9 pm Fireworks over the river
CANAL STREET:
6 - 9 pm Street dance and music in front of the historical Chamber of Commerce
Sunday, June 10
10 am Community church service, Riverside Park
Event times subject to change
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NEW SMYRNA BEACH

City of New Smyrna Beach
Current Capital Projects Summary Report
(In Order of Descending Budget Value)

7-Mar-12

Fernand J. Tibbler, Jr., PE, Capital Improvement Projects Manager

Under Construction

Financial Data Updated 03/01/12

Current Project List	Funding Source	Budget	Cumulative Expenditure
Mainland Fire Station 567794	Capital Projects (General Obligation Bond)	$3,000,527	$527
Airport Taxiway E & D 567201	Airport	$2,200,000	$0
Esther Park Seawall & Stormwater Improvement 567758	CRA 52%, FDEP 16.5% , Stormwater 7.5% & General 24%	$1,708,323	$411,674
Gateway SR44/ I-95 & SR44/ Canal 567920 & 567206	General 18% & FDOT LAP 82%	$1,701,800	$188,110
Flagler Boardwalk Improvement 567778-1103	CRA	$1,538,598	$451,827
Washington St Streetscape 567781-1201	CRA	$1,242,940	$146,440
Mary Ave. Streetscape Project Phases I & II 567777	CRA 89% & FDOT 11%	$1,232,097	$884,479
Riverside Park Seawall & Lighting 567895-1107	CRA 67% & FIND 33%	$1,209,125	$356,273
Canal Calore Dredging Project 567201	FIND 50% & General 50% for Phase 1	$1,190,000	$90,000
Airport Apron / Fuel Farm 567850-1102	FDOT 80% & Airport 20%	$1,102,523	$622,785
Multi-Use Trail 567888	Volusia TPO 73.2%, ECHO 26% & General 0.2%	$1,068,312	$42,254
Central Beach Mitigation Drainage Project Phase III 567917	Stormwater	$983,678	$193,678
Sidewalks 567726	Capital Projects (General Obligation Bond)	$815,220	$66,016
Chamber of Commerce Building Rehabilitation 567842	CRA 57% & ECHO 43%	$675,638	$428,288
Colony Park Road	General Fund / Assessments	$650,000	$0
Pettis Park 567839-1105	CDBG	$546,860	$525,232
Fairmont & Westwood Drainage & Paving 567808	Stormwater 60% , General 20% & Paving Assessments 20%	$538,354	$28,194
CRA Parking 567785	CRA	$501,167	$1,167
SR 44 Southside Sewer Assessment	Special Assessment	$500,000	$0
Dunn Lumber Demolition & Brownfield Cleanup 567885	CRA	$484,013	$453,479
Washington Business District Incubator 567906	CRA	$454,000	$0
South Orange St Paving & Drainage (Lytle to Smith) 567916	Stormwater	$436,885	$302,983
Airport Roof/ Sanitary Service/ Hangar Door Replacement 567764	Airport	$392,787	$19,053
Signage and Wayfinding 567909	CRA	$367,650	$39,650
Swoop Site Boat Ramp and Parking 567207	FIND 50% & General 50%	$354,800	$0
Flagler Ave Repair and Storm Sewer Pipe Lining	Stormwater	$279,935	$0
Gateway Landscaping (US 1 at Canal St.) 567908	CRA	$160,450	$0
Fleet Underground Infrastructure 567906	Fleet	$120,000	$0
Arlington Av Drainage 567915	Stormwater	$113,088	$0
Turnbull Bay Bridge 567200 (VTPO Project)	General	$100,000	$100,000
Park Maintenance 567892 (Riverside Park for FY 2012)	General	$88,491	$64,111
Babe James Park 567101	CDBG	$76,467	$8,249
North Causeway Landscaping	CRA	$40,000	$0
Canal St. Pocket Park	CRA	$5,000	$0
Thumb Drive Roadway	Airport	TBD	$0

City of New Smyrna Beach
Current Capital Projects Summary Report
(In Order of Descending Budget Value)

7-Mar-12

Fernand J. Tiblier, Jr., PE, Capital Improvement Projects Manager

Under Construction

Financial Data Updated 03/01/12

Mainland Fire Station 567794

Time Lapsed	Budget Spent
21.6%	0.02%
Budget	$3,000,527
Funding Source	Capital Projects (General Obligation Bond)
Project-to Date Expenditure	$527
Balance	$3,000,000
Design Commenced	1/10/2012
Target Completion	9/30/2012

Stage of Development					Contact	
Concept	Design & Permit	Bid	Construction	Close	Internal	Consultant
	x				Khalid-2209	Hawkins-Hall

Project History Update

2/3/2012 Initial Meeting with Architect

Contractor

Airport Taxiway E & D 567201

Time Lapsed	Budget Spent
N/A	0.00%
Budget	$2,200,000
Funding Source	Airport
Project-to Date Expenditure	$0
Balance	$2,200,000
Design Commenced	TBD
Target Completion	9/30/2012

Stage of Development					Contact	
Concept	Design & Permit	Bid	Construction	Close	Internal	Consultant
x					Rhonda-2199	

Project History Update

1/20/2012 Applied for Grant Pre-Application

Contractor

Esther Park Seawall & Stormwater Improvement 567758

Time Lapsed	Budget Spent
46.9%	24.10%
Budget	$1,708,323
Funding Source	CRA 52%, FDEP 16.5%, Stormwater 7.5% & General 24%
Project-to Date Expenditure	$411,674
Balance	$1,296,649
Design Commenced	10/18/2010
Target Completion	9/30/2013

Stage of Development					Contact	
Concept	Design & Permit	Bid	Construction	Close	Internal	Consultant
			x		Michelle - 2135	Tetra Tech

Project History Update

2/1/2012 Progress Meeting #3

2/23/2012 Seawall Final Inspection

PMA (Grant App)

Contractor

S.E. Cline

Gateway SR44/ I-95 & SR44/ Canal 567920 & 567206

Time Lapsed	Budget Spent
75.7%	11.05%
Budget	$1,701,800
Funding Source	General 18% & FDOT LAP 82%
Project-to Date Expenditure	$188,110
Balance	$1,513,690
Design Commenced	10/13/2010
Target Completion	8/18/2012

Stage of Development					Contact	
Concept	Design & Permit	Bid	Construction	Close	Internal	Consultant
			x		Khalid-2209	CPH, Metric, Bellomo Herbert

Project History Update

1/24/2012 Pre-Con with Contractors and Landscape Designer

1/30/2012 Pre-Construction Conference

2/1/2012 Groundbreaking

Contractor

Thad

CEI: Tetra Tech

City of New Smyrna Beach
Current Capital Projects Summary Report
(In Order of Descending Budget Value)

7-Mar-12

Fernand J. Tibiler, Jr., PE, Capital Improvement Projects Manager

Under Construction

Financial Data Updated 03/01/12

Flagler Boardwalk Improvement 567779-1103

Time Lapsed	Budget Spent
97.6%	29.37%
Budget	$1,538,598
Funding Source	CRA
Project-to Date Expenditure	$451,827
Balance	$1,086,771
Design Commenced	5/25/2010
Target Completion	3/23/2012

Stage of Development					Contact	
Concept	Design & Permit	Bid	Construction	Close	Internal	Consultant
			x		Khalid-2209	OLHA, DMC

Project History Update

12/13/2011 Budget Amended
1/24/2012 Progress Meeting
1/22/2012 Progress Meeting

Contractor: A.G. Pifer

Washington St Streetscape 567781-1201

Time Lapsed	Budget Spent
70.2%	11.78%
Budget	$1,242,940
Funding Source	CRA
Project-to Date Expenditure	$146,440
Balance	$1,135,985
Design Commenced	11/5/2010
Target Completion	9/30/2012

Stage of Development					Contact	
Concept	Design & Permit	Bid	Construction	Close	Internal	Consultant
	x				Michelle-2135	Anderson Dixon

Project History Update

12/13/2011 Budget Amended
1/19/2012 FDOT to lead off

Consultant: Kelly, Collins & Gentry

Contractor:

Mary Ave. Streetscape Project Phases I & II 567777

Time Lapsed	Budget Spent
55.7%	71.79%
Budget	$1,232,097
Funding Source	CRA 89% & FDOT 11%
Project-to Date Expenditure	$884,479
Balance	$604,150
Design Commenced	6/21/2011
Target Completion	9/30/2012

Stage of Development					Contact	
Concept	Design & Permit	Bid	Construction	Close	Internal	Consultant
	x Phase II				Michelle-2135	GAI

Project History Update

12/13/2011 Budget Amended
1/19/2012 FDOT to procure FEC RR Crossing Gate Arms (Not in LAP)

Contractor: Masci

Riverside Park Seawall & Lighting 567895-1107

Time Lapsed	Budget Spent
83.5%	29.47%
Budget	$1,209,125
Funding Source	CRA 67% & FIND 33%
Project-to Date Expenditure	$356,273
Balance	$1,068,053
Design Commenced	8/4/2010
Target Completion	6/30/2012

Stage of Development					Contact	
Concept	Design & Permit	Bid	Construction	Close	Internal	Consultant
			x		Kyle-2168	OLHA/ DMC

Project History Update

12/13/2011 Budget Amended
2/29/2012 Progress Meeting

Contractor: C & L Landscaping

City of New Smyrna Beach
Current Capital Projects Summary Report
(In Order of Descending Budget Value)

7-Mar-12

Fernand J. Tiblier, Jr., PE, Capital Improvement Projects Manager

Under Construction

Financial Data Updated 03/01/12

Canal Calore Dredging Project 567201

Time Lapsed	Budget Spent
67.3%	2.52%
Budget	$1,190,000
Funding Source	FIND 50% & General 50% for Phase 1
Project-to Date Expenditure	$30,000
Balance	$1,160,000
Design Commenced	1/6/2011
Target Completion	9/30/2012

Stage of Development					Contact	
Concept	Design & Permit	Bid	Construction	Close	Internal	Consultant
	x				Khalid-2209	DMC

Project History Update

Contractor

Airport Apron / Fuel Farm 567850-1102

Time Lapsed	Budget Spent
70.8%	56.49%
Budget	$1,102,523
Funding Source	FDOT 80% & Airport 20%
Project-to Date Expenditure	$622,785
Balance	$479,738
Design Commenced	1/2/2011
Target Completion	8/31/2012

Stage of Development					Contact	
Concept	Design & Permit	Bid	Construction	Close	Internal	Consultant
			x		Rhonda-2199	AEC

Project History Update

1/31/2012 Infrastructure Completion Anticipated By Mid-March

Contractor: KCF

Multi-Use Trail 567888

Time Lapsed	Budget Spent
56.4%	3.96%
Budget	$1,068,312
Funding Source	Volusia TPO 73.2%, ECHO 36% & General 0.2%
Project-to Date Expenditure	$42,254
Balance	$1,026,058
Design Commenced	10/20/2010
Target Completion	3/31/2013

Stage of Development					Contact	
Concept	Design & Permit	Bid	Construction	Close	Internal	Consultant
	x				Kyle-2168	PMA

Project History Update

Contractor

Central Beach Mitigation Drainage Project Phase III $67917

Time Lapsed	Budget Spent
29.3%	19.7%
Budget	$983,678
Funding Source	Stormwater
Project-to Date Expenditure	$193,678
Balance	$790,000
Design Commenced	9/14/2010
Target Completion	9/30/2015

Stage of Development					Contact	
Concept	Design & Permit	Bid	Construction	Close	Internal	Consultant
	x				Kyle-2168	Pegasus

Project History Update

Contractor

City of New Smyrna Beach
Current Capital Projects Summary Report
(In Order of Descending Budget Value)

7-Mar-12

Fernand J. Tiblier, Jr., PE, Capital Improvement Projects Manager

Under Construction

Financial Data Updated 03/01/12

Sidewalks 567726

Time Lapsed	Budget Spent
N/A	8.10%
Budget	$815,220
Funding Source	Capital Projects (General Obligation Bond)
Project-to Date Expenditure	$66,016
Balance	$749,204
Design Commenced	N/A
Target Completion	9/30/2012

Stage of Development					Contact	
Concept	Design & Permit	Bid	Construction	Close	Internal	Consultant
x					Khalid-2209	

Project History Update

Contractor

Chamber of Commerce Building Rehabilitation 567842

Time Lapsed	Budget Spent
82.6%	69.39%
Budget	$675,628
Funding Source	CRA 57% & ECHO 43%
Project-to Date Expenditure	$428,288
Balance	$247,340
Design Commenced	1/2/2010
Target Completion	8/22/2012

Stage of Development					Contact	
Concept	Design & Permit	Bid	Construction	Close	Internal	Consultant
			x		Kyle-2168	Bert Bender

Project History Update

1/17/2012 Interior Finishes Pending

Contractor

John Toft (Exterior)

Colony Park Road

Time Lapsed	Budget Spent
N/A	0.00%
Budget	$650,000
Funding Source	General Fund / Assessments
Project-to Date Expenditure	$0
Balance	$650,000
Design Commenced	N/A
Target Completion	9/30/2013

Stage of Development					Contact	
Concept	Design & Permit	Bid	Construction	Close	Internal	Consultant
x					Khalid-2209	ZCA

Project History Update

Contractor

Pettis Park 567839-1105

Time Lapsed	Budget Spent
81.1%	96.04%
Budget	$546,860
Funding Source	CDBG
Project-to Date Expenditure	$525,232
Balance	$21,629
Design Commenced	10/1/2009
Target Completion	9/30/2012

Stage of Development					Contact	
Concept	Design & Permit	Bid	Construction	Close	Internal	Consultant
			x		Donna- BJCC	

Project History Update

11/8/2011 Bid Opening
2/6/2012 Dugout Projects Gear Up
2/10/2012 Final Inspection of Park Walkways Project

Contractor

Misiano

City of New Smyrna Beach
Current Capital Projects Summary Report
(In Order of Descending Budget Value)

7-Mar-12

Fernand J. Tibbler, Jr., PE, Capital Improvement Projects Manager

Under Construction

Financial Data Updated 03/01/12

Fairmont & Westwood Drainage & Paving 567808

Time Lapsed	Budget Spent
62.5%	5.24%
Budget	$538,354
Funding Source	Stormwater 60% , General 20% & Paving Assessments 20%
Project-to Date Expenditure	$28,194
Balance	$510,160
Design Commenced	2/8/2011
Target Completion	10/29/2012

Stage of Development					Contact	
Concept	Design & Permit	Bid	Construction	Close	Internal	Consultant
		x			Kyle-2168	ECT

Project History Update

2/28/2012 Non-Mandatory Pre-Bid

Contractor

CRA Parking 567785

Time Lapsed	Budget Spent
N/A	0.23%
Budget	$501,167
Funding Source	CRA
Project-to Date Expenditure	$1,167
Balance	$500,000
Design Commenced	N/A
Target Completion	9/30/2012

Stage of Development					Contact	
Concept	Design & Permit	Bid	Construction	Close	Internal	Consultant
x					Tony-2160	

Project History Update

Contractor

SR 44 Southside Sewer Assessment

Time Lapsed	Budget Spent
TBD	N/A
Budget	$500,000
Funding Source	Special Assessment
Project-to Date Expenditure	$0
Balance	$500,000
Design Commenced	TBD
Target Completion	9/30/2013

Stage of Development					Contact	
Concept	Design & Permit	Bid	Construction	Close	Internal	Consultant
	x				Kyle -2168	

Project History Update

Contractor

Dunn Lumber Demolition & Brownfield Cleanup 567885

Time Lapsed	Budget Spent
74.1%	93.69%
Budget	$484,013
Funding Source	CRA
Project-to Date Expenditure	$453,479
Balance	$30,534
Design Commenced	7/15/2010
Target Completion	9/30/2012

Stage of Development					Contact	
Concept	Design & Permit	Bid	Demolition	Close	Internal	Consultant
				x	Michelle-2135	

Project History Update

11/19/2010 Demolition Complete / Property Purchased

Contractor

City of New Smyrna Beach
Current Capital Projects Summary Report
(In Order of Descending Budget Value)

7-Mar-12

Fernand J. Tiffer, Jr., PE, Capital Improvement Projects Manager

Under Construction

Financial Data Updated 03/01/12

Washington Business District Incubator 567906

Time Lapsed	Budget Spent
72.3%	0.00%
Budget	$454,000
Funding Source	CRA
Project-to Date Expenditure	$0
Balance	$454,000
Design Commenced	9/14/2010
Target Completion	9/30/2012

Stage of Development					Contact	
Concept	Design & Permit	Bid	Construction	Close	Internal	Consultant
	x					

Project History Update

2/2/2012 Project needs kick start

Contractor

South Orange St Paving & Drainage (Lytle to Smith) 567916

Time Lapsed	Budget Spent
71.6%	69.35%
Budget	$436,985
Funding Source	Stormwater
Project-to Date Expenditure	$302,983
Balance	$133,902
Design Commenced	10/1/2010
Target Completion	9/30/2012

Stage of Development					Contact	
Concept	Design & Permit	Bid	Construction	Close	Internal	Consultant
				x	Kyle–2169	Finley

Project History Update

2/29/2012 Standing water in front of funeral home

Contractor

Masci

Airport Roof/ Sanitary Service/ Hangar Door Replacement 567764

Time Lapsed	Budget Spent
4.8%	4.85%
Budget	$392,787
Funding Source	Airport
Project-to Date Expenditure	$19,053
Balance	$373,734
Design Commenced	12/13/2011
Target Completion	9/30/2016

Stage of Development					Contact	
Concept	Design & Permit	Bid	Installation	Close	Internal	Consultant
	x				Rhonda-2199	AEC

Project History Update

2/2/2012 $50,000 annually

Contractor

Signage and Wayfinding 567909

Time Lapsed	Budget Spent
70.6%	10.78%
Budget	$367,650
Funding Source	CRA
Project-to Date Expenditure	$39,650
Balance	$328,000
Design Commenced	10/27/2010
Target Completion	9/30/2012

Stage of Development					Contact	
Concept	Design & Permit	Bid	Construction	Close	Internal	Consultant
		x			Tony-2160	Bellomo Herbert Shaughnessy Hart

Project History Update

1/23/2012 FDOT Approval

2/2/2012 Team Design Completion Meeting

Contractor

City of New Smyrna Beach
Current Capital Projects Summary Report
(In Order of Descending Budget Value)

7-Mar-12

Fernand J. Tiblier, Jr., PE, Capital Improvement Projects Manager

Under Construction

Financial Data Updated 03/01/12

Swoop Site Boat Ramp and Parking 567207

Time Lapsed	Budget Spent
71.6%	0.00%
Budget	$354,800
Funding Source	FIND 50% & General 50%
Project-to Date Expenditure	$0
Balance	$354,800
Design Commenced	10/1/2010
Target Completion	9/30/2012

Stage of Development					Contact	
Concept	Design & Permit	Bid	Construction	Close	Internal	Consultant
	x				Khalid-2209	QLHA

Project History Update

1/26/2012 Met w/ ACOE & FDEP- alternate sites proposed

Contractor

Flagler Ave Repair and Storm Sewer Pipe Lining

Time Lapsed	Budget Spent
1.5%	N/A
Budget	$279,935
Funding Source	Stormwater
Project-to Date Expenditure	$0
Balance	$279,935
Design Commenced	2/27/2012
Target Completion	9/30/2013

Stage of Development					Contact	
Concept	Design & Permit	Bid	Construction	Close	Internal	Consultant
			x		Khalid- 2209	

Project History Update

Contractor: Miller Pipeline

Gateway Landscaping (US 1 at Canal St.) 567908

Time Lapsed	Budget Spent
71.2%	0.00%
Budget	$160,450
Funding Source	CRA
FY 2012-to Date Expenditure	$0
Balance	$160,450
Design Commenced	10/13/2010
Target Completion	9/30/2012

Stage of Development					Contact	
Concept	Design & Permit	Bid	Construction	Close	Internal	Consultant
	x				Michelle-2135	Bellomo Herbert

Project History Update

2/20/2012 Design Team Meeting with Metric Engineering at District 5 FDOT

Metric

Contractor

Fleet Underground Infrastructure 567906

Time Lapsed	Budget Spent
68.7%	0.00%
Budget	$120,000
Funding Source	Fleet
Project-to Date Expenditure	$0
Balance	$120,000
Design Commenced	10/1/2011
Target Completion	5/18/2012

Stage of Development					Contact	
Concept	Design & Permit	Bid	Construction	Close	Internal	Consultant
		x			Brenda- 2211	In-House

Project History Update

3/2/2012 Advertisement
3/26/2012 Bid Opening

Contractor

City of New Smyrna Beach
Current Capital Projects Summary Report
(In Order of Descending Budget Value)

7-Mar-12

Fernand J. Tiblier, Jr., PE, Capital Improvement Projects Manager

Under Construction

Financial Data Updated 03/01/12

Arlington Av Drainage 567915		Stage of Development					Contact	
Time Lapsed	Budget Spent	Concept	Design & Permit	Bid	Construction	Close	Internal	Consultant
N/A	0.00%							
Budget	$113,088	x					Kyle–2168	In-House
Funding Source	Stormwater	Project History Update						
Project-to Date Expenditure	$0							
Balance	$113,088							Contractor
Design Commenced	N/A							
Target Completion	9/30/2012							

Turnbull Bay Bridge 567200 (VTPO Project)		Stage of Development					Contact	
Time Lapsed	Budget Spent	Concept	Design & Permit	Bid	Construction	Close	Internal	Consultant
N/A	100.00%							
Budget	$100,000	x					Khalid-2209	
Funding Source	General	Project History Update						
Project-to Date Expenditure	$100,000	10/1/2011 Temporary repairs made and $100,000 match to VTPO						
Balance	$0							Contractor
Design Commenced	N/A							
Target Completion	9/30/2012							

Park Maintenance 567892 (Riverside Park for FY 2012)		Stage of Development					Contact	
Time Lapsed	Budget Spent	Concept	Design & Permit	Bid	Installation	Close	Internal	Consultant
70.2%	72.45%							
Budget	$88,491				x		Liz- 2173	N/A
Funding Source	General	Project History Update						
Project-to Date Expenditure	$64,111							
Balance	$24,380							Contractor
Design Commenced	11/5/2010							
Target Completion	9/30/2012							Various

Babe James Park 567101		Stage of Development					Contact	
Time Lapsed	Budget Spent	Concept	Design & Permit	Bid	Construction	Close	Internal	Consultant
43.8%	10.79%							
Budget	$76,467				x		Donna -BJCC	
Funding Source	CDBG	Project History Update						
Project-to Date Expenditure	$8,249							
Balance	$68,218							Contractor
Design Commenced	9/28/2011							
Target Completion	9/30/2012							

City of New Smyrna Beach
Current Capital Projects Summary Report
(In Order of Descending Budget Value)

7-Mar-12

Fernand J. Tiblier, Jr., PE, Capital Improvement Projects Manager

Under Construction

Financial Data Updated 03/01/12

North Causeway Landscaping		Stage of Development					Contact	
Time Lapsed	Budget Spent	Concept	Design & Permit	Bid	Construction	Close	Internal	Consultant
TBD	0.00%							
Budget	$40,000	x					Tony- 2160	
Funding Source	CRA	Project History Update						
Project-to Date Expenditure	$0	1/19/2012 NE Corner 3rd & Peninsula Streetscape Area Identified						Contractor
Balance	$40,000							
Design Commenced	TBD							
Target Completion	9/30/2012							

Canal St. Pocket Park		Stage of Development					Contact	
Time Lapsed	Budget Spent	Concept	Design & Permit	Bid	Construction	Close	Internal	Consultant
TBD	0.00%							
Budget	$5,000	x					Tony-2160	
Funding Source	CRA	Project History Update						
Project-to Date Expenditure	$0							Contractor
Balance	$5,000							
Design Commenced	TBD							
Target Completion	9/30/2012							

Thumb Drive Roadway		Stage of Development					Contact	
Time Lapsed	Budget Spent	Concept	Design & Permit	Bid	Construction	Close	Internal	Consultant
TBD	N/A							
Budget	TBD	x					Kyle -2168	
Funding Source	Airport	Project History Update						
Project-to Date Expenditure	$0							Contractor
Balance	N/A							
Design Commenced	TBD							
Target Completion	9/30/2013							

Winkler, Sandy

From: Brangaccio, Pam
Sent: Tuesday, February 28, 2012 2:13 PM
To: Winkler, Sandy
Subject: FW: Emailing: Pettis Park Sidewalk Project - Final Change Order
Attachments: Pettis Park Sidewalk Project - Final Change Order.pdf

CM's March 13th report.

-----Original Message-----
From: Fegley, Kyle
Sent: Tuesday, February 28, 2012 11:01 AM
To: Michelle Wilson; Banks, Donna; Henrikson, Gail; dking@co.volusia.fl.us
Cc: Brangaccio, Pam; Resheidat, Khalid; Tiblier, Fernand; fr; sredstone@co.volusia.fl.us; Philord, Althea; VanEtten, Heidi
Subject: Emailing: Pettis Park Sidewalk Project - Final Change Order

Project Correspondents,
The General Contractor, Astor Construction Services, Inc., has agreed to the final quantities as field verified by the City, thereby decreasing the concrete sidewalk and sodding quantities resulting in a reduced final contract amount. As indicated in the final change the original contract amount of $55,750.02, has been reduced by $2,197.03, resulting in a final contract amount of $53,552.99. Obviously we are elated the final contract amount came in below the original base bid, but more importantly we are pleased to have this additional asset to facilitate Pettis Park and the quality of workmanship provided by the Contractor should be recognized as exceptional.
Regards,

Kyle W. Fegley, P.E.
City Engineer
City of New Smyrna Beach, FL
ph. (386) 424-2168
fax (386) 424-2148
kfegley@cityofnsb.com

Building Department
210 Sams Avenue
New Smyrna Beach, Florida 32168
Phone: (386) 424-2141
Fax: (386) 424-2143
www.cityofnsb.com

525 Washington Street

Cost Analysis

DRAFT

When an existing property is in need of significant repair, one of the first questions that arise is whether it makes more sense to demolish the structure entirely, and rebuild something completely new, or to renovate the existing structure with modifications.

Some of the major factors that must be considered when deciding whether to renovate or rebuild a property include the purely financial aspects, local zoning laws and what the City will allow, the aesthetics (relative to the neighborhood) of restoring an existing structure and preserving its architectural style and character versus what new construction would look like, and the other needs of the owner and the community.

This is obviously a significant topic, with no right answer. A decision will be based on many considerations unique to the property, the community, the owner, and the social and economic circumstances at any given point in time.

Some of the questions that must be asked in the "renovate versus demolish" decision are:

Is the property prosperous and productive, or is it distressed?

Is the surrounding community prosperous and productive?

Is the property consistent with its surroundings?

If there are problems are they based on marketing or functionality, as opposed to esthetics or lack of maintenance?

Is it commercial or residential?

Is the owner going to hold it long term or are immediate financial objectives paramount?

Is the property occupied or vacant, and if occupied does the owner have the right to empty it?

Are there environmental (contamination) issues involved, such as asbestos?

For a retail and business property, the primary considerations are usually functionality. If you renovate, you must live with the existing structure. If you demolish and rebuild, you have a more certain budget than you do with a renovation It can be cheaper in the long run because the entire structure will usually attract better tenants, who will pay higher rents. The demo/rehab decision is much more than the initial construction costs. The more important factor, long term, is whether the property "works" in its present configuration. If it is functionally obsolete, a new façade won't help.

A renovation of any structure is still subject to meeting certain health and safety requirements, and is further subject to other conditions related to the extent of the renovation relative *to* the existing structure. In other words, if you are "renovating" 99% of a structure, it may be considered a new

building, whereas the city would consider a replacement of less than half of a structure to be a "renovation". A typical renovation involves a complete replacement of the electrical, plumbing and heating systems. This ensures the utility infrastructure is as safe and productive as anything in a brand-new property, and is less expensive to maintain on an ongoing basis.

There is no general rule for the cost differential between new construction and renovation. This is due to the fact that each project has its own unique factors and challenges. Depending on the age of the building, building codes, hazardous material cleanup, inspections, and retrofits, you are looking at a remodel that could be more costly than building new. The hard construction costs must be compared against the advantages to remodeling such as preserving the character of a historic building and neighborhood.

After several on-site inspections, I have completed the following cost analyses for renovating versus rebuilding the structure located at 525 Washington Street.

BUSINESS INCUBATOR - 525 WASHINGTON STREET, NEW SMYRNA BEACH, FLORIDA
Renovation with a 2-story 1250 sq.ft. addition

ITEM	Material	Labor	Equipment	Total
Excavation	$0.00	$12,259.00	$4,874.00	$17,133.00
Foundation, Piers, Flatwork	$39,234.00	$41,541.00	$9,914.00	$90,689.00
Rough Hardware	$3,831.00	$4,062.00	$976.00	$8,869.00
Rough Carpentry	$126,866.00	$126,069.00	$0.00	$252,935.00
Insulation	$23,757.00	$10,933.00	$0.00	$34,690.00
Exterior Finish	$73,013.00	$28,653.00		$101,666.00
Exterior Trim	$4,575.00	$4,848.00	$5,126.00	$14,549.00
Doors	$11,595.00	$6,549.00	$1,161.00	$19,305.00
Windows	$19,969.00	$9,138.00	$0.00	$29,107.00
Finish Hardware	$1,932.00	$1,092.00	$0.00	$3,024.00
Roofing, Flashing, Fascia	$53,046.00	$29,951.00	$0.00	$82,997.00
Finish Carpentry	$7,040.00	$23,871.00	$0.00	$30,911.00
Interior Wall Finish	$33,794.00	$35,130.00	$0.00	$68,924.00
Painting	$20,190.00	$31,734.00	$0.00	$51,924.00
Wiring - Electrical	$20,501.00	$26,054.00	$0.00	$46,555.00
Lighting Fixtures	$15,369.00	$3,254.00	$0.00	$18,623.00
Flooring	$45,145.00	$21,424.00	$0.00	$66,569.00
Plumbing Rough In and Connection	$21,572.00	$35,267.00	$3,209.00	$60,048.00
Heating and Cooling Systems	$25,321.00	$24,981.00	$0.00	$50,302.00
Subtotal Direct Job Costs	*$546,750.00*	*$476,810.00*	*$25,260.00*	*$1,048,820.00*
Final Cleanup	$0.00	$6,572.00	$0.00	$6,572.00
Insurance & Bond	$46,005.00	$0.00	$0.00	$46,005.00
Permits & Utilities	$32,000.00	$0.00	$0.00	$32,000.00
Plans & Specs	$6,572.00	$0.00	$0.00	$6,572.00
Subtotal Indirect Job Costs	*$84,577.00*	*$6,572.00*	*$0.00*	*$91,149.00*
Contractor Markup	$205,378.00	$0.00	$0.00	$205,378.00
TOTAL COST	*$836,705.00*	*$483,382.00*	*$25,260.00*	*$1,345,347.00*
SQ.FT. PRICE (6500 sq.ft.)				*$206.00*

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BUSINESS INCUBATOR - 525 WASHINGTON STREET, NEW SMYRNA BEACH, FLORIDA
New one-story Building Maintaining the Existing Fascia and Demolition of Single Family Structure

ITEM	Material	Labor	Equipment	Total
Excavation	$0.00	$5,603.00	$2,228.00	$7,831.00
Foundation, Piers, Flatwork	$17,930.00	$18,984.00	$4,531.00	$41,445.00
Rough Hardware	$1,751.00	$1,856.00	$446.00	$4,053.00
Masonry Frame	$59,787.00	$55,445.00	$4,771.00	$120,003.00
Insulation	$10,857.00	$4,996.00	$0.00	$15,853.00
Exterior Finish	$33,367.00	$13,094.00	$2,342.00	$48,803.00
Exterior Trim	$2,091.00	$2,216.00	$531.00	$4,838.00
Doors	$5,299.00	$2,993.00	$0.00	$8,292.00
Windows	$9,126.00	$4,176.00	$0.00	$13,302.00
Finish Hardware	$883.00	$499.00	$0.00	$1,382.00
Roofing, Flashing, Fascia	$24,242.00	$13,688.00	$0.00	$37,930.00
Finish Carpentry	$3,214.00	$10,909.00	$0.00	$14,123.00
Interior Wall Finish	$15,444.00	$16,054.00	$0.00	$31,498.00
Painting	$9,227.00	$14,502.00	$0.00	$23,729.00
Wiring - Electrical	$9,369.00	$11,907.00	$0.00	$21,276.00
Lighting Fixtures	$7,024.00	$1,487.00	$0.00	$8,511.00
Flooring	$6,901.00	$6,592.00	$0.00	$13,493.00
Plumbing Rough In and Connection	$9,859.00	$16,117.00	$1,467.00	$27,443.00
Heating and Cooling Systems	$20,027.00	$4,271.00	$0.00	$24,298.00
Subtotal Direct Job Costs	*$246,398.00*	*$205,389.00*	*$16,316.00*	*$468,103.00*
Final Cleanup	$0.00	$3,003.00	$0.00	$3,003.00
Insurance & Bond	$21,024.00	$0.00	$0.00	$21,024.00
Permits & Utilities	$12,765.00	$0.00	$0.00	$12,765.00
Plans & Specs	$6,572.00	$0.00	$0.00	$6,572.00
Subtotal Indirect Job Costs	*$40,361.00*	*$3,003.00*	*$0.00*	*$43,364.00*
Contractor Markup	$93,858.00	$0.00	$0.00	$93,858.00
TOTAL COST	*$380,617.00*	*$208,392.00*	*$16,316.00*	*$605,325.00*
SQ.FT. PRICE (6000 sq.ft.)				*$100.00*

The decision to build new is oftentimes a relatively easy one. Renovation has to be, at its core, practical. If a building has been badly maintained and poorly constructed, it should probably come down. If you've got to deal with hazardous construction materials that are difficult to remove or deal with, or if you have no reasonable design options to adequately reconfigure space and expand so as to fit even the most fundamental goals and objectives of day-to-day operations, then new construction may be the way to go.

In some scenarios, issues associated with an existing building's envelope, its roof and windows are so daunting that the effort and cost to upgrade the structure to meet current building codes is unreasonable and not practical. Older structures being renovated also have to be brought up to present-day health, safety and access building codes. What you want to accomplish within the structure makes a huge difference, as well. If envisioned uses result in significant reconfiguration of walls, the cost to renovate can radically jump, especially if the ideal plan involves modifying or removing load-bearing concrete or masonry walls. If so, the structure and its foundations may need to

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be reinforced -- another expensive task. The case for building new is stronger still if components of an existing structure -- ranging from air conditioners to electrical systems -- will need to be replaced in the short term. In some instances, there are fewer challenges and obstacles to designing and building a new structure.

Renovation also has to take geographic and "code" factors into consideration such as whether a building may have to withstand hurricanes. These are as potentially problematic as electrical systems that are inadequate and hazardous; lack of sprinkler systems; asbestos in flooring and pipe insulation; deficient or nonexistent fire alarm, emergency and security systems; and poorly designed access and egress (to meet life-safety and ADA requirements).

The determination as to whether a structure should be redone to meet current needs or replaced with new construction is tied to the results of various formulas that consider elements such as the total cost of improvements, the total cost of improvements in the healthfulness of the building, and the total cost of safety improvements, factored by the estimated index of adequacy and the estimated life expectancy of the modernized structure. The result of this number-crunching must be less than the replacement cost of buildings being considered for modernization, factored by the estimated life of a new building.

Face it … a new building is appealing on almost every level of evaluation. If well designed, it can be aesthetically striking and alluring, as well as meet an owner's perceptions of what is ideal for their structure. Depending on budget, a new building can be designed with all of the desired bells and whistles. "Green" elements and innumerable energy-management efficiencies are easier to integrate into a new building. Likewise, a new building can more easily incorporate cutting-edge technology through advance planning for required wiring and conduits. A new structure can better adopt more flexible, open layouts, and it can more easily enhance productivity and learning. A new building is also, by definition, "healthier" -- no issues with mold, asbestos, etc. A new building can often allow consolidation of offices or tasks currently spread across multiple locations, allowing an owner to achieve significant savings in equipment, personnel, security and overall operational efficiency. Moreover, a new building can often revitalize and anchor a community. In short, building new is very appealing on numerous levels.

Every scenario is different, and there is no single case study that can help make the right call. I would recommend stepping back from a project, examining the facts, and taking a commonsense, thorough approach to the decision on whether it is worth investing in the renovation and maintenance of an existing facility or whether it makes more sense to demolish an existing structure and rebuild.

City of New Smyrna Beach

Catch The Charm

February 27, 2012

Mr. Thomas Cook
8 Rockingham Lane
Palm Coast, FL 32164

Dear Mr. Cook:

I am pleased to offer you a position as IT Manager for the City of New Smyrna Beach. This offer of employment is contingent upon completion of background check, drug screening and physical.

The salary for this position is $59,800 annually. The probationary period is 6 months. This position is considered an exempt position for purposes of federal wage-hour law, which means that you will not be eligible for overtime time pay.

You will be reporting to Ms. Althea Philord Bradley, Finance Director. Your start date is scheduled for March 7, 2012. Please contact Claudia Rogers at 386-424-2127 to schedule the required physical and drug testing which must be completed prior to your start date.

Please bring appropriate documentation for the completion of your new hire forms. Failure to provide appropriate documentation within 3 days of hire will result in immediate termination of employment in accordance with the terms of the Immigration Reform and Control Act.

If you wish to accept the offer, please sign in the place provided below and return it to me by faxing to Human Resources at 386-424-2109.

210 Sams Avenue • New Smyrna Beach, Florida 32168-9985 • 386-424-2100 • Fax 386-424-2109

PRINTED ON RECYCLED PAPER

We look forward to having you join the City of New Smyrna Beach and become a member of our team. Should you have any questions, please do not hesitate to contact me at 386-424-2111 or Thea Philord Bradley at 386-424-2120.

Sincerely,

Carol A. Hargy, SPHR
Director, Human Resources

Cc: Althea Philord Bradley, Finance Director
Pamela Brangaccio, City Manager

I agree to the terms of the employment set forth above.

Signature _____ Date _____

Brangaccio, Pam

From: McCallister, Dave
Sent: Tuesday, March 06, 2012 4:15 PM
To: Brangaccio, Pam
Subject: FW: Memo to Dr Springer EMD re-entry jan2012.5 final
Attachments: Memo to Dr Springer EMD re-entry jan2012.5 final.pdf

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From: McCallister, Dave
Sent: Friday, February 24, 2012 1:13 PM
To: Sheriff Ben Johnson (bjohnson@vcso.us); Mike Coffin; Jim Melady (jmelady@vcso.us); Lopez, Glenn; 'Almodovar, Raymond'
Cc: 'Ken Parker (E-mail)'; Brangaccio, Pam; jyarbrough@southdaytona.org; Clauss, Jeaneen; TT Barlow
Subject: Memo to Dr Springer EMD re-entry jan2012.5 final

Sheriff Johnson,

I am pleased to provide a copy of the memo that the fire chiefs in Southeast Volusia, in coordination with our managers, have developed in an effort to assist with the implementation of an effective and efficient EMD process that we are sending to the medical director, Dr. Springer. The fire chiefs have been directed to meet with you at your earliest convenience by our managers so that we can coordinate our communications regarding this issue in the most timely and useful framework to keep you apprised of our intentions as well as serving to support the continued advancement of EMS on a county-wide scale. We recognize your communications center as a vital link on this initiative and appreciate the dispatch services you continue to provide.

We have been working closely with Glen Lopez and Ray Almodovar to schedule the meeting based on our mutual availability.

Thank you in advance for your extended cooperation.

Dave McCallister
Fire Chief, New Smyrna Beach

New Smyrna Beach Fire - Rescue
Office of the Fire Chief
288 Industrial Park Drive, New Smyrna Beach, Fl 32168
Phone: 386-402-8125 Fax: 386-424-2166

To: Dr. Peter Springer; Volusia County Medical Director, Mark Wolcott; Emergency Medical Administration Director of Volusia County

From: David McCallister, Fire Chief

Date: February 23, 2012

Re: Emergency Medical Dispatch Re-implementation Strategies/Southeast Volusia

Copy: Pam Brangaccio; New Smyrna Beach City manager, Ken Parker; Port Orange City Manager, Tracey Barlow; Edgewater City Manager, Jeaneen P. Clauss; Ponce Inlet Town Manager, Joe Yarbrough; South Daytona City Manager, Steve Cousins; Edgewater Fire Chief, Ken Burgman; Port Orange Deputy Public safety Director of Fire Rescue, Dan Scales; Ponce Inlet Fire Chief, David Giles; South Daytona Battalion Chief, Joe Pozzo; Volusia County Deputy Director of Public Protection, Mark Piland; Interim Fire Chief of Volusia County Fire Services, Sheriff Ben Johnson; Volusia County Sheriff's Department, Chief Deputy Mike Coffin; Volusia County Sheriff's Department, Communications Commander Captain Ray Almodovar; Volusia County Sheriff's Department

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Southeast Volusia Fire Agencies have been evaluating the dispatch system's performance since its implementation on October 1, 2011, using measures that represented levels of service consistent with the RCC. We have been in continued communication with the Sheriff's office to provide continuous quality improvement based on incidents reported to us from citizens and field units. We believe that measures should be implemented to provide continuous quality improvement to the communications process and to ensure Emergency Medical Dispatch (EMD) can be fully integrated while maintaining the customary high levels of performance within our EMS system.

Pursuant to our meeting on January 31, 2012, the Southeast Volusia Fire Chiefs are suggesting the following process to re- implement EMD:

1. Begin dispatching calls to all agencies within National Fire Protection Association (NFPA) standards, THEN begin Emergency Medical Dispatch (EMD) interrogation by trained call takers.

This will require additional monitoring to ensure initial dispatched units provide proper size up of the incident and additional units cancel when not required for the call.

2. Improve the contingency transport protocol to include the ability of properly licensed units to be notified by the current system status manager when the existing transport system in their region is reduced to one available transport unit. This may more effectively prepare contingency units if needed during periods of peak demand. This doesn't necessarily place them into service, but will better prepare them in case the need arises.

Once the transport system has been returned to minimum capacity, the contingency units would be notified by a coordinated effort from dispatch.

3. Work with Sheriff Johnson to develop a reliable and tested report with EMD and National Fire Incident Reporting System (NFIRS) to specifically compare call type dispatched vs. call type found in an effort to validate the EMD response recommendation, call-taker accuracy and the caller's ability to provide accurate information. Once this element achieves 95% or better we can aggressively move ahead with a valid system. We believe it is imperative to work with the Sheriff to develop a qualified fire rescue system status dispatch manager to work together inside the Sheriff's dispatch center.

4. Bring EMS and fire onto a single dispatch channel in the Sheriff's office and complete refinement of Automated Vehicle Locator (AVL) and Closest Unit Response (CUR) for emergency EMS calls with all agencies in the system.

5. All agencies being served by the countywide EMS dispatch system must have full access to all data beginning with the 911 first-ring through to patient contact time as a minimum and this should be provided in both raw and reported formats. This will require finalizing and making available the 911 first ring data not currently available to the fire department quality assurance managers.

6. The new system should be evaluated for true potential capability. Once determined what the system can provide, a level of service (LOS) should be determined by the Management Advisory Committee (MAC) to ensure the system has been "right-sized" for our communities.

7. Once all of the existing EMD issues have been fully addressed and corrected, EMD should be fully implemented by all agencies and measured daily for LOS standard compliance by the user agencies AND county EMS to sustain trust and reliability within the system.

We are aware that some of these suggestions are in-progress but we would have been remiss not to identify them as a part of a complete solution. We want to re-emphasize that we believe this is a sequential process that will ultimately enable us to develop an advanced system of effective and efficient coordinated service delivery. I understand that further consideration will be needed at the appropriate levels of leadership to fully implement this strategy. We hope that Southeast

Volusia will become the pilot location for the system that can be adopted on a County-wide scale.

Thank you in advance for your consideration and we look forward to your excellent cooperation that will achieve a mutually beneficial solution for our comprehensive EMS system.

FLORIDA DEPARTMENT OF HEALTH

Rick Scott
Governor

H. Frank Farmer, Jr., MD, PhD, FACP
State Surgeon General

March 5, 2012

Dave Hoover
Director of the Water Resources Department
Utilities Commission, City of New Smyrna Beach
P.O. Box 100
New Smyrna Beach, Florida 32170

Dear Mr. Hoover,

Thank you for your letter dated February 17, and your explanation of the important role the Utilities Commission plays for New Smyrna Beach. Your letter made a formal public records request for, "copies of DOH documentation (report, planned initiatives, etc.) forwarded to the City of New Smyrna Beach within the last six months or any other governmental entity pertaining to septic tanks and sanitary sewer services within our service territory." The Volusia County Health Department has no documents that are responsive to your request.

As I mentioned during our call last week, City personnel briefly provided our office with a large format map and requested our informal comments about existing septic systems. We responded to the City's request, providing technical assistance regarding areas of sanitary concern, and they took their map back. The document is not in custody of the Volusia County Health Department and, due to its large size, we were unable to keep a copy of it for our reference. Please contact Khalid Resheidat, Assistant City Manager at (386) 424-2209. I am sure he can provide you with access to their map.

In addition to enforcement of the health code, the Health Department provides technical assistance when requested to any citizen, business or agency about matters such as sanitary nuisances, septic systems, prevention of illness and promotion of health, among other duties. The Department does not have any "planned initiatives" pertaining to septic tanks or sanitary sewer services in your area, however; if our office can be of any assistance to you, please do not hesitate to call me at (386) 424-2080.

Sincerely,

Noble W. Bielby
Environmental Specialist

Volusia County Health Department
717 W. Canal St New Smyrna Beach, Fl 32168
• http://www.volusiahealth.com
386 424-2061 Fax: 386 424-2019