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**MINUTES OF THE
COMMUNITY REDEVELOPMENT AGENCY
MEETING OF MARCH 4th, 2009
DEBERRY ROOM 3RD FLOOR
200 CANAL STREET
NEW SMYRNA BEACH, FLORIDA**

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Chairperson Linda DeBorde called the CRA meeting to order at 2:04 p.m.

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Answering to roll call:

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**Linda DeBorde, Chair
Steve Dennis, Vice-Chair
Cynthia Lybrand
James Kosmas
Thomas Williams**

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Also present were Kevin Fall, CRA Director; Noeleen Foster, CRA Coordinator; Michelle Martin, CRA Project Manager; Mark Hall, CRA Attorney; and Claudia Soulie, Administrative Specialist.

Mr. Fall informed the Chair that Commissioner Douglas Hodson would arrive about 30 minutes late and that Commissioner Charles Belote would be absent.

CONSENT AGENDA

Approval of Minutes – February 4th, 2009 CRA Meeting.

Mr. Dennis made the motion to approve the minutes of the February 4th, 2009 CRA meeting, seconded by Mr. Williams. The motion carried on roll call vote 5 – 0.

PUBLIC PARTICIPATION

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

Ms. DeBorde recognized Mark Rakowski, Development Services Director as well as Volusia County Councilman Jack Hayman and thanked them for attending the meeting.

Mr. Rakowski stated that, in the 1990's improvements were made to Riverside Park, however the seawall did not get addressed. Mr. Rakowski continued that the City was in the process of applying for Florida Inlet Navigational District Funds to repair the seawall and gave a brief summary of the City's proposed action plan and time schedule for the repairs. Mr. Rakowski asked the CRA to consider matching funds.

47 A brief discussion ensued about previous repairs and the best options for the proposed
48 repairs.

49
50 Mr. Rakowski thanked the Commissioners for their time.

51
52 Ms. DeBorde stated that she had received three (3) letters via email, which she forwarded
53 to the other Commissioners and Mr. Fall for review. The letters were submitted by Jeff
54 Shelley, Max Dugas and Deborah Dugas, stating their opposition with a forthcoming
55 CRA proposal for CRA properties on Flagler and Florida Avenues. Ms. DeBorde asked
56 for the record to reflect that the Commissioners had read the letters and that she
57 submitted them into public record.

58
59 Hearing no further requests, Ms. DeBorde closed the Public Participation portion of the
60 meeting.

61
62 **PRESENTATION**

63
64 1. CRA District Existing Intersection Operational Analyses
65 -Kimley-Horn and Associates, Inc.

66
67 Mr. Fall stated that the CRA authorized the solicitation of technical proposals to
68 accomplish analyses of the signalized intersections within the redevelopment district.
69 Kimley-Horn and Associates, Inc. a transportation-planning firm located in Port Orange,
70 was contracted to perform the analyses and provide a final report. The analyses included
71 data collection and qualitative analyses of the existing operating conditions of all thirteen
72 (13) signalized intersections within the redevelopment area. Mr. Fall informed the
73 Commissioners that a detailed report was available for review at City Hall.

74
75 Mr. Fall introduced Chris Walsh with Kimley-Horn, who gave a brief presentation on the
76 findings/results of their signalized intersections analyses.

77
78 Ms. DeBorde felt that there were perceived traffic difficulties going north on US 1 and
79 turning west (right) onto Canal Street and inquired if that was addressed in the study. Mr.
80 Walsh stated that for the time of day their study was performed, the intersection
81 “performed” at an acceptable level.

82
83 Ms. Lybrand felt that, due to the lack of a turning lane, large trucks turning west onto
84 Canal were causing a slight problem.

85
86 Mr. Kosmas observed that the turning lane of US 1 going north, turning west onto Canal
87 Street seemed to be backed up during the evening hours and asked if the time allowed for
88 turning could be adjusted. Mr. Walsh stated that Volusia County maintained the time-of-
89 day plans (length of a light cycle) and the time of day does have a big effect on
90 congestions.

91
92 Mr. Kosmas asked for clarification on Kimley-Horn’s interpretation of the North
93 Causeway Bridge affecting the flow of traffic onto Flagler and Peninsula Ave. Mr. Walsh

94 stated that, after discussion with City staff, their study was more based on the drawbridge
95 being down.

96
97 Mr. Williams inquired if this could be considered a baseline study. Mr. Fall stated that the
98 study results could be used in the Community Redevelopment Plan update (RPU).

99
100 Ms. Lybrand pointed out that congestion occurs on Canal Street and Myrtle Avenue
101 during the time school lets out in the afternoon.

102
103 **OLD BUSINESS**

104
105 A. CRA Lease Parking Program – Proposed Amendment to City’s Land
106 Development Regulations

107
108 Mr. Fall stated that at the December 3, 2008 CRA meeting, the CRA discussed the
109 existing City land development regulations pertaining to leased parking within the
110 redevelopment district. Part of the discussion focused on off site parking distance
111 requirements in the Mixed Use zoning district and the potential to revise the distance
112 requirements to better enable the utilization of existing CRA parking areas.

113
114 Mr. Fall continued that the New Smyrna Beach Planning and Zoning Board considered
115 and approved the following amendment at their March 3, 2009 regular meeting:

116
117 **ZT-2-09: OFF SITE PARKING DISTANCE**

118
119 The City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, requests
120 approval of an amendment to the City’s Land Development Regulations to increase the
121 maximum-allowed distance for off-site parking in the MU, Mixed Use Zoning District
122 from 500 feet to 1,000 feet.

123
124 Mr. Fall asked that the CRA recommend approval of the proposed amendment.

125
126 **Mr. Dennis made the motion to approve the proposed amendment, seconded by Mr.**
127 **Williams. The motion carried on roll call vote 4 – 0. Mr. Kosmas abstained due to a**
128 **possible conflict of interest as he was representing the owner of 301 Flagler Ave.**

129
130 Mr. Kosmas completed a Form 8B, Memorandum of voting conflict for County,
131 Municipal, and other local public officers (copy attached) and filed it with Ms. Soulie for
132 processing.

133
134 Mr. Hodson arrived at 2:42 pm.

135
136 B. Flagler Avenue Boardwalk Project

137
138 Mr. Fall stated that several sections of the Flagler Boardwalk had collapsed, thus creating
139 unsafe conditions. Furthermore, Halcrow, the firm awarded the Request for Proposal
140 pertaining to the Flagler Avenue Boardwalk, had dismissed an employee who was a key

141 player in the Boardwalk project without notifying the City and getting their approval.
142 This was a violation of the requirements outline in the contract agreement.

143
144 Mr. Fall continued that the City has been advised by both the County and the State that
145 emergency rehabilitation of the existing conditions may occur (prior to May 1, 2009)
146 however the rehabilitation must be restricted to the landward side of the existing seawall
147 only.

148
149 Mr. Fall stated that staff was proposing to utilize local resources to perform the
150 emergency rehabilitation including the possibility of utilizing staff from the City's Public
151 Works Department for this endeavor. This would include removal of the failed sections
152 of the concrete pavement decking, backfilling with a suitable material and installation of
153 brick pavers to match the existing pavers to the north.

154
155 Mr. Fall informed the Commissioners that the City has received correspondence from the
156 County requesting that the property previously leased to the County (public restrooms
157 and beach management facilities) be deeded over to the County in order for the County to
158 construct new facilities to replace the existing buildings.

159
160 Mr. Fall recommended that, given the timing of the correspondence received from the
161 County, the recently initiated Redevelopment Plan Update activities, and the restrictions
162 on investigative activities eastward of the seawall through October 2009, the CRA
163 consider to:

- 164
165 1) Terminate contract with Halcrow
166 2) Perform (or contract to perform) emergency repairs that would be allowed
167 by State/County prior to May 1, 2009 to provide liability protection
168 3) Coordinate with County to incorporate County designs of proposed new
169 facilities
170 4) Develop a Bid Package to encompass the redesign of the entire City
171 owned property including engineering, architectural and environmental
172 services as needed.

173
174 Mr. Dennis suggested making separate motions. The Commissioners agreed.

175
176 **Mr. Dennis made the motion to terminate the contract with Halcrow, seconded by**
177 **Mr. Williams. The motion carried on roll call vote 6 – 0.**

178
179 **Ms. Lybrand made the motion to perform (or contract to perform) emergency**
180 **repairs as soon as possible in an amount not to exceed \$50,000, seconded by Mr.**
181 **Dennis. The motion carried on roll call vote 6 – 0.**

182
183 **Mr. Dennis made the motion to coordinate with County to incorporate County**
184 **designs of proposed new facilities, seconded by Mr. Kosmas. The motion carried on**
185 **roll call vote 6 – 0.**

187 Mr. Fall suggested the CRA reach a consensus and have staff move forward with
188 developing a bid package as stated in item 4. The Commissioners agreed.

189
190 C. 301 Flagler Avenue Redevelopment Project

191
192 Mr. Fall stated that staff requested to pull this item due to new developments. CRA staff
193 was working with the property owner to possibly present the CRA Commissioners with a
194 Property Improvement Grant request.

195
196 Mr. Kosmas hoped that the Community Redevelopment Plan update (RPU) would
197 specifically address components of existing infrastructure. Mr. Fall will take that into
198 account.

199
200 NEW BUSINESS

201
202 A. Redevelopment Plan Update – Project Schedule

203
204 Mr. Fall updated the CRA Commissioners on the project schedule created by CRA staff
205 and Glattig Jackson, outlining the proposed meetings that will aid in the completion of
206 the Redevelopment Plan update starting with a public kick-off meeting on March 4th,
207 followed by several meetings/workshops every months thereafter and ending with the
208 final report at the end of August, 2009.

209
210 Mr. Fall continued that staff was working on putting together a Citizen's Steering
211 Committee to be a liaison between the Public and the Consultants.

212
213 Also, the Consultants were in the process of establishing a separate website for this
214 project (www.newsmyrnabeachcra.com) that was linked to the CRA website for
215 informative and interactive participation purposes.

216
217 B. 2008 CRA Annual Report

218
219 Mr. Fall stated that staff was in the process of preparing the 2008 CRA Annual Report,
220 since the CRA, as a special district of the State, was required under the Florida Statutes to
221 file an annual report and the annual audit as it pertained to the CRA.

222
223 Staff was requesting the CRA to authorize the filing of the 2008 New Smyrna Beach
224 CRA Annual Report.

225
226 Mr. Fall will send a draft annual report to the Commissioners for their review and
227 editorial comments.

228
229 **Mr. Dennis made the motion to authorize staff to file the 2008 CRA Annual Report,**
230 **seconded by Mr. Hodson. The motion carried on roll call vote 6 – 0.**

REPORTS AND COMMUNICATIONS

A. Director's Report (verbal)

Mr. Fall reported on the following items:

- West Canal Streetscape agreements with private utilities will go before the City Commission on March 10, 2009.
- Construction Plans are getting close to 100%.
- Receipt of executed Utility easements, staff was still in the process of trying to locate the owner of one of the properties and had turned the efforts over to the CRA attorney
- Options pertaining to re-designing the plans or obtaining an easement from another property owner

A brief discussion ensued about what other legal options would be available and their associated cost and timeframes.

Mr. Kosmas suggested pursuing the legal route and having staff look at re-routing the utilities concurrently.

Mr. Williams made the motion to authorize the CRA Attorney to file for a Quiet Title Action for the purpose of acquiring an easement for the Greene property, seconded by Mr. Hodson. The motion carried on roll call vote 6 – 0.

Ms. DeBorde asked staff to move forward with re-evaluating the area should a different easement be necessary.

Mr. Fall stated that he had received an email from the Volusia County Economic Development office that the CRA presentation would not be made to the County Council on March 19th as planned. Mr. Fall continued that additional clarification was needed and the next scheduled date for the presentation would be the County Council meeting on April 16th, 2009.

B. Commissioners Reports

None

C. Correspondence

Ms. DeBorde had received correspondence from Nancy Lowden-Norman and Ann Brady, both with the Atlantic Center for the Arts, thanking the CRA for their continued support and contributions to the Images- A Festival for the Arts event.

Mr. Fall stated that a final display location for the artwork purchased during this festival with CRA funds was still being determined.

ADJOURNMENT

Mr. Dennis made a motion to adjourn, all agreed. Meeting adjourned at 3:45 pm.

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME KOSMAS JAMES MICHAEL	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE C.R.A.
MAILING ADDRESS PO BOX 2193	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY COUNTY N.T.B. VOLusia FL	NAME OF POLITICAL SUBDIVISION: CITY OF N.T.B.
DATE ON WHICH VOTE OCCURRED 2-4-09	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filling the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, JAMES M. KOTMAN, hereby disclose that on 3-4, 2001:

(a) A measure came or will come before my agency which (check one)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, _____;
- inured to the special gain or loss of my relative, _____;
- inured to the special gain or loss of THOMAS HENNING, by whom I am retained; or
- inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

VOTE ON PROPOSED AMENDMENT TO N.T.R.
LAND DEVELOPMENT REGULATION RELATION
TO OFF SITE PARKING

I REPRESENT PROPERTY OWNER WHO WOULD
REVERT IF APPROVED.

Date Filed

Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.