MINUTES OF REGULAR CITY COMMISSION MEETING
HELD ON TUESDAY, JUNE 8, 2010
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, June 8, 2010, in the City Hall Commission Chamber, 210 Sams Avenue, New Smyrna Beach, Florida.

Mayor Barringer called the meeting to order at 6:40 p.m. and the following answered present to the roll call:

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

Also present were: City Manager Pamela Brangaccio; Assistant City Manager Khalid Resheidat; City Attorney Frank Gummey; Police Chief Ron Pagano; Human Resources Director Carol Hargy; Planning Manager Gail Henrikson; and, City Clerk Johnny Bledsoe.

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

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APPROVAL OF MINUTES –

Motion:
Commissioner Hathaway moved to approve the minutes of the regular meeting on January 26, 2010, with corrections. Vice Mayor Plaskett seconded the motion and the roll call was:

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

The motion carried unanimously.

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SPECIAL ANNOUNCEMENTS/PRESENTATIONS/RECOGNITION – No action.

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MAYOR AND COMMISSION REPORTS:

Vice Mayor Plaskett – Reported that the Westside Community Meetings, normally held on the last Monday of each month, would not be held during the summer months.

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Commissioner Grasty – Commented on his attendance at the Memorial Day service recently conducted at Riverside Park, and the Fish Stock events conducted in the City. Commissioner Grasty commented on the condition of trees in Riverside Park.

Commissioner Grasty nominated Richard Rush to serve as a member of the Budget Task Force, replacing Buddy McKay, who recently resigned.

Motion:
Commissioner Grasty moved to appoint Richard Rush as a member of the Budget Task Force, and to accept the resignation of Buddy McKay as a member. Vice Mayor Plaskett seconded the motion and the roll call was:

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

The motion carried unanimously.

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Commissioner Hathaway – Thanked the City staff and Commission for its support of his nomination and appointment as a member of the Florida League of Cities Board of Directors. Commissioner Hathaway urged fellow members of the Commission to join Florida League of Cities Committees and commented on the application process and upcoming meetings.

Commissioner Hathaway advised that public meetings were scheduled to gain public input regarding VOTRAN bus service, and highlighted an upcoming meeting on June 21, 2010 at the Brannon Center.

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Commissioner Reiker – Commented on her attendance at a recent Planning and Zoning Board meeting, and how excited the members of the Planning and Zoning Board were regarding potential joint meetings with the Commission.

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Mayor Barringer – No report.

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CONSENT AGENDA – Mayor Barringer read the following items as submitted by staff with approval recommended.

1. City Hall Commission Chamber Technology Upgrades – Approve award of bid to LMG, Inc. of Orlando, Florida, for City Hall Commission Chamber Technology Upgrades at a cost not to exceed $35,820.11, as funded through the City Relocation/ Renovation account.

2. CTC Foley Dry Cleaning/Hall Machine Shop Brownfield Project Task Orders – Approve task orders associated with Concurrent Technologies Corporation Foley Dry Cleaning/Hall Machine Shop Brownfield Project task orders in the amount of $18,552 as funded through CRA Hazardous Material Grant Funds.

3. Temporary Equipment Storage Request – Volusia County Mosquito Control – Approve the temporary storage of a Wilco Marsh Buggy, an amphibious tract hoe owned and operated by Volusia County Mosquito Control, at the Swoope Utility Facility, in order to conduct routine maintenance on the equipment.

Vice Mayor Plaskett requested to consider consent item no. 3 separately. Commissioner Hathaway requested to consider consent item no. 2 separately. Mayor Barringer pulled the requested items for separate consideration.

Motion:
Commissioner Grasty moved to approve Consent Agenda Item No. 1, the award of bid to LMG, Inc. of Orlando, Florida, for City Hall Commission Chamber Technology Upgrades at a cost not to exceed $35,820.11, as funded through the City Relocation/ Renovation account. Commissioner Hathaway seconded the motion and the roll call was:

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

The motion carried by majority vote, 4 to 1 with Mayor Barringer voting no.

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Consent Agenda Item No. 2, CTC Foley Dry Cleaning/Hall Machine Shop Brownfield Project Task Orders – CRA Director Tony Otte outlined staff's recommendation that the Commission approve task orders associated with Concurrent Technologies Corporation Foley Dry Cleaning/Hall Machine Shop Brownfield Project task orders in the amount of $18,552 as funded through CRA Hazardous Material Grant Funds.

Commissioner Hathaway questioned what would happen if property owners could not take appropriate action upon receipt of the findings from the assessment. Mr. Otte clarified staff's recommendation and planned future actions in terms of funding for cleanup activities.

Motion:
Commissioner Hathaway moved to approve task orders associated with Concurrent Technologies Corporation Foley Dry Cleaning/Hall Machine Shop Brownfield Project task orders in the amount of $18,552 as funded through CRA Hazardous Material Grant Funds. Commissioner Grasty seconded the motion and the roll call was:

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

The motion carried unanimously.

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Consent Agenda Item No. 3, Temporary Equipment Storage Request – Volusia County Mosquito Control – Assistant City Manager Khalid Resheidat outlined staff's recommendation that the Commission approve the temporary storage of a Wilco Marsh Buggy, an amphibious tract hoe owned and operated by Volusia County Mosquito Control, at the Swoope Utility Facility, in order to conduct routine maintenance on the equipment. Mr. Resheidat commented on past discussions, direction and efforts regarding the project.

Vice Mayor Plaskett had concerns regarding oil spills, and with the expenditure of funds for the project. Commissioner Grasty commented on ongoing discussions regarding whether the City experienced oil spills on the beach. Mayor Barringer questioned whether it was the right time to take the requested action.

Motion:
Commissioner Hathaway moved to approve Consent Agenda Item No. 3, the temporary storage of a Wilco Marsh Buggy, an amphibious tract hoe owned and operated by Volusia County Mosquito Control, at the Swoope Utility Facility, in order to conduct routine maintenance on the equipment. Commissioner Grasty seconded the motion and the roll call was:

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

The motion carried by majority vote 4 to 1, with Mayor Barringer voting no.

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PUBLIC HEARINGS:

Ordinance No. 23-10 – City Attorney Gummey read Ordinance No. 23-10, the second time by title only. CRA Director Tony Otte outlined the proposed ordinance, which if adopted, would amend the City's Community Redevelopment Plan to incorporate the January 2010 Community Redevelopment Agency Area Master Plan Update. Mr. Otte reported that the consultant on the project had agreed to make to final change to the document prior to publishing the final product.

Commissioner Hathaway commented on the Flagler Avenue Seawall/Boardwalk Improvements Project being budgeted by the CRA. Mr. Otte reported that engineering had begun on the project. Commissioner Hathaway commented on possible impacts to the project priority list if the Southeast Volusia Hospital District and Bert Fish Medical Center were exempted from CRA contributions.

Mayor Barringer opened the public hearing. With no citizens wishing to speak, Mayor Barringer closed the public hearing.

Motion:
Vice Mayor Plaskett moved to adopt Ordinance No. 23-10, as submitted. Commissioner Reiker seconded the motion and the roll call was:

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

The motion carried unanimously.

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Ordinance No. 29-10 – City Attorney Gummey read Ordinance No. 29-10, the second time by title only. Planning Manager Gail Henrikson outlined the proposed ordinance, which if adopted, would amend the Land Development Regulations by revising regulations pertaining to real estate signs.

Vice Mayor Plaskett commented on "For Sale" signs along the river. Ms. Henrikson clarified regulations regarding such signage along the river.

Mayor Barringer opened the public hearing.

Ellen Dardin, represented the Southeast Volusia Board of Realtors, supported the proposed ordinance and commented on working with City staff in the development of the language. Ms. Dardin commented on the types of language incorporated into the proposed ordinance and thanked City staff for its assistance.

With no other citizens wishing to speak, Mayor Barringer closed the public hearing.

Motion:
Commissioner Reiker moved to adopt Ordinance No. 29-10, as submitted. Commissioner Grasty seconded the motion and the roll call was:

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

The motion carried unanimously.

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PUBLIC PARTICIPATION –

Ken Taylor, 11A Country Club Drive, commented on many topics. He urged the Commission to purchase lapel microphones for use on the dais. Mr. Taylor commented on the authority to collect stormwater fees by the City Manager and suggested a method to collect delinquent bills owed. Mr. Taylor urged the Commission to not approve a proposed $30,000 Grant for the Calore Canal project. Mr. Taylor opposed the reappointment of any board members who had served the maximum number terms allowed.

Debra Dugas, 200 North Pine Street, opposed the sale of property on Florida Avenue for hotel development and construction.

Robert Rees, 391 Granada Street, commented on City negotiations for the sale of property on Florida Avenue for hotel development, and occupancy rates of local hotels compared to projected rates for the proposed hotel development. Mr. Rees questioned the projected revenue the City general fund would receive from the proposed hotel development on Flagler Avenue.

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REQUESTS TO APPEAR BEFORE THE COMMISSION:

Bob Tolley, 803 Fairway Drive – Mr. Tolley withdrew his request to appear.

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OLD BUSINESS – No action.

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SPECIAL ITEMS OF BUSINESS:

Proposed Sales Agreement for Properties at 207 and 215 Florida Avenue – CRA Director Tony Otte outlined staff's recommendation that the Commission conduct a public hearing to consider entering into a purchase and sale agreement between the CRA and David Swentor, individually and as registered agent of HIHO, LLC, for the sale of City property at 207 and 215 Florida Avenue in the amount of $500,000 for the proposed future development of a Hampton Inn Hotel.

Gregg Logan, represented RCLCO, Inc. of Orlando, Florida, gave a presentation that outlined the proposed Hampton Inn Hotel development. Mr. Logan and Commissioner Hathaway discussed occupancy rates and steps taken to compare such rates between similar properties in the area, and how the validity of data obtained by RCLCO, Inc. was questioned by Holiday Inn representatives.

Mr. Otte distributed an updated draft of the proposed purchase and sale agreement and outlined changes made to the document. Commissioner Hathaway commented on previously agreed upon parking spaces.

Mayor Barringer opened public comment.

Attorney Glenn Storch, Daytona Beach, represented the applicant, supported the proposed agreement and commented on the possibility of having a brand new hotel. Mr. Storch commented on the structure of the contract and financial impacts the proposed development would have to the area.

Linda DeBorde, CRA Chair, 305 South Pine Street, supported the proposed development and commented on economic development incentives and other actions considered by the Community Redevelopment Agency.

Robert Lott, 316 Flagler Avenue, supported the proposed development and felt it was urgent to get the project started.

Tom Williams, CRA Member, 201 Middle Way, commented on efforts over the past four years regarding the proposed project, and CRA obligations to provide public parking in the area. Mr. Williams commented on the need for public involvement to bring about the needed improvements on the beach side.

Sue Williams, President of the Southeast Volusia Chamber of Commerce, 201 Middle Way, supported the proposed project and felt the proposed action represented true economic development for the area.

Elaine Stalthakis, 513 South Peninsula Avenue, represented the Merchants of Flagler Hospitality Group, supported the proposed project and commented on the need for a hotel on Flagler Avenue.

Cherie Coccia, Orange City, opposed the proposed project and questioned the validity of the information provided by the consultant, RCLCO, Inc. Ms. Coccia commented on concerns for future parking issues and questioned whether proper notification measures were taken for the Planning and Zoning Board meeting in December 2009.

Mayor Barringer closed public comment.

Commissioner Hathaway opposed the hotel in its proposed location, but supported economic development, as well as hotel development. Commissioner Hathaway commented on financial aspects within the proposed agreement, and wished Mr. Swentor luck in his endeavor.

Motion:
Commissioner Reiker moved to approve entering into a purchase and sale agreement between the CRA and David Swentor, individually and as registered agent of HIHO, LLC, for the sale of City property at 207 and 215 Florida Avenue in the amount of $500,000 for the proposed future development of a Hampton Inn Hotel. Commissioner Grasty seconded the motion and the roll call was:

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

The motion carried by majority vote 4 to 1, with Commissioner Hathaway voting no.

Mayor Barringer called a recess at 8:12 p.m., and the Commission reconvened at 8:23 p.m.

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Ordinance No. 27-10 – City Attorney Gummey read Ordinance No. 27-10, the first time by title only. Planning Manager Gail Henrikson outlined the proposed ordinance, which if adopted, would amend (Fifth Amendment) a Residential Planned Unit Development Agreement for a parcel of land containing approximately 0.25 acres, located generally east of the intersection of Turnbull Estates Drive, and Osprey Cove Drive at 2813 Bay Side Drive, in order to increase the maximum lot coverage for Lot No. 146, Osprey Cove Subdivision, Phase II, from 40 percent to 46 percent. Ms. Henrikson reported that the Planning and Zoning Board, at its meeting on May 3, 2010, unanimously recommended City Commission approval.

Motion:
Commissioner Hathaway moved to approve Ordinance No. 27-10, on first reading, as submitted. Commissioner Grasty seconded the motion and the roll call was:

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

The motion carried unanimously.

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Ordinance No. 32-10 – City Attorney Gummey read Ordinance No. 32-10, the first time by title only. City Manager Brangaccio outlined the proposed ordinance, which if adopted, would amend the City Code by changing the collection method of stormwater utility fees from billing by the Utilities Commission to a non-ad valorem special assessment. Ms. Brangaccio advised staff was working with the Utilities Commission to identify properties.

Motion:
Vice Mayor Plaskett moved to approve Ordinance No. 32-10, on first reading, as submitted. Commissioner Hathaway seconded the motion and the roll call was:

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

The motion carried unanimously.

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Resolution No. 25-10 – City Attorney Gummey read Resolution No. 25-10, by title only. City Manager Brangaccio outlined the proposed resolution, which if adopted, would authorize the Mayor to execute an application to the Florida Inland Navigation District (FIND) for financial support for Phase I of the dredging project of Canal Calore. Ms. Brangaccio highlighted that the total estimated cost of the project that includes design and permitting services will be $30,000, which would be funded through current City reserve funds.

Commissioner Hathaway commented on funding obligations, and questioned whether at least 51 percent of residents supported taxing themselves in order to fund the action. City Manager Brangaccio clarified the required process to take regarding the matter. Mayor Barringer commented on the Diamond Head condominium project, which created the need for the proposed action.

Motion:
Vice Mayor Plaskett moved to adopt Resolution No. 25-10, as submitted. Commissioner Reiker seconded the motion and the roll call was:

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

The motion carried unanimously.

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Acceptance of Grant Funding Regarding Properites at 632 South Pine Street and 2631 Westwood Avenue – Assistant City Manager Resheidat outlined staff's recommendation that the Commission approve the acceptance of grant funding and entering into a contract with the Department of Community Affairs and Federal Emergency Management Agency (FEMA) regarding the future acquisition and demolition of properties at 632 S. Pine Street and 2631Westwood Avenue.

Motion:
Commissioner Grasty moved to approve the acceptance of grant funding and entering into a contract with the Department of Community Affairs and Federal Emergency Management Agency (FEMA) regarding the future acquisition and demolition of properties at 632 S. Pine Street and 2631 Westwood Avenue. Commissioner Hathaway seconded the motion and the roll call was:

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

The motion carried unanimously.

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BOARDS AND COMMISSIONS:

Community Redevelopment Agency – Mayor Barringer outlined staff's recommendation that the Commission consider the appointment of two members to four-year terms to expire June 11, 2014. Nominations were as follows:

Commissioner Reiker nominated Charles Belote and Loretta Burn
Commissioner Grasty nominated Linda DeBorde

Motion:
Commissioner Hathaway moved to close nominations. Vice Mayor Plaskett seconded the motion and the roll call was:

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

The motion carried unanimously.

Ballots were submitted as follows:

Commissioner Reiker voted for Charles Belote and Loretta Burn
Commissioner Grasty voted for Charles Belote and Linda DeBorde
Mayor Barringer voted for Charles Belote and Loretta Burn
Commissioner Hathaway voted for Charles Belote and Linda DeBorde
Vice Mayor Plaskett voted for Charles Belote and Linda DeBorde

As a result of the voting, Charles Belote and Linda DeBorde were each reappointed as members of the Community Redevelopment Agency four-year to terms to expire June 11, 2014.

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Building Trades Board – Mayor Barringer outlined staff's recommendation that the Commission appoint a member to fill a vacant seat with a term to expire January 1, 2013.

Motion:
Commissioner Hathaway moved to appoint Randy Beach as a member of the-Building Trades Board to fill the vacant seat to expire January 1, 2013. Commissioner Grasty seconded the motion and the roll call was:

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

The motion carried unanimously.

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Housing Authority – Mayor Barringer outlined staff's recommendation that the Commission accept the resignations of member Wilbur Monroe and temporary member Gail Henrikson. Mayor Barringer further outlined staff's recommendation that the Commission approve the mayoral appointments of new members Treshawnda Robinson, Nicole Tesnow, Rosemary Walker and Regis Sloan.

Motion:
Commissioner Hathaway moved to accept, with regrets, the resignation of Wilbur Monroe as a member of the Housing Authority. Vice Mayor Plaskett seconded the motion and the roll call was:

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

The motion carried unanimously.

Motion:
Commissioner Reiker moved to accept the resignation of Gail Henrikson as a temporary member of the Housing Authority. Commissioner Grasty seconded the motion and the roll call was:

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

The motion carried unanimously.

Mayor Barringer announced the following appointments made to the Housing Authority:

Treshawnda Robinson, Nicole Tesnow, Rosemary Walker and Regis Sloan.

Motion:
Commissioner Reiker moved to accept and approve the mayoral appointments of Treshawnda Robinson, Nicole Tesnow, Rosemary Walker and Regis Sloan, as members of the Housing Authority. Commissioner Grasty seconded the motion and the roll call was:

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

The motion carried unanimously.

Vice Mayor Plaskett and City Attorney Gummey discussed how Rosemary Walker's association with Habitat for Humanity may create conflicts of interests in the future.

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Economic Development Advisory Board – Mayor Barringer outlined staff's recommendation that the Commission appoint members to terms to expire June 8, 2014. Nominations were as follows:

Commissioner Hathaway – Jack Holcomb
Commissioner Grasty – Jill Carlton
Vice Mayor Plaskett – Dr. Arlen Stauffer
Commissioner Reiker – Randy McHenry

Motion:
Commissioner Hathaway moved to appoint Jack Holcomb, Jill Carlton, Dr. Arlen Stauffer and Randy McHenry, as members of the Economic Development Advisory Board to four-year terms to expire June 8, 2014. Commissioner Grasty seconded the motion and the roll call was:

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

The motion carried unanimously.

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Florida League of Cities – Mayor Barringer outlined staff's recommendation that the Commission appoint a voting delegate to represent the City at the upcoming Florida League of Cities Annual Conference.

Motion:
Commissioner Grasty moved to appoint Mayor Barringer, as Voting Delegate to the upcoming Florida League of Cities conference in August, 2010 in Orlando, Florida. Commissioner Hathaway seconded the motion and the roll call was:

Commissioner Hathaway	yes
Vice Mayor 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 requested approval to send a letter to the Florida Inland Navigation District, regarding future transfer potential of vessels in the possession of the Marine Discovery Center. Mayor Barringer confirmed Commission consensus that City Manager Brangaccio could send a letter to the Florida Inland Navigation District, regarding future transfer potential of vessels in the possession of the Marine Discovery Center.

City Manager Brangaccio advised the Commission of upcoming meetings of the Budget Task Force.

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CITY CLERK'S REPORT – No report

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CITY ATTORNEY'S REPORT – City Attorney Gummey outlined an updated settlement agreement proposed by Bill of Rights, Inc. in its litigation against the City. Vice Mayor Plaskett questioned whether the City would receive a receipt for the proposed $20,000, payable to Edward Beazley, Esq. for his legal fees. Mr. Gummey felt the City would not receive such a receipt.

Commissioner Hathaway commented on the tenacity of the plaintiff, Bill of Rights, Inc.

Motion:
Commissioner Hathaway moved to accept the settlement agreement with Bill of Rights, Inc. as negotiated by the City Attorney with $20,000 payable to the plaintiff for legal fees. Commissioner Grasty seconded the motion and the roll call was:

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

The motion carried unanimously.

Commissioner Reiker felt the action was unfair.

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With no further business to address, Mayor Barringer declared the meeting adjourned at 9:00 p.m.

MINUTES OF THE CITY COMMISSION REGULAR MEETING, HELD JUNE 8, 2010, WERE APPROVED AT THE REGULAR CITY COMMISSION MEETING HELD ON NOVEMBER 30, 2010.

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ATTEST: **ADAM BARRINGER, MAYOR**

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JOHNNY R. BLEDSOE, CITY CLERK