



Tuesday, March 13, 2018
Regular Meeting City Commission
Minutes

1. OPENING OF MEETING

A. Call to Order

Having been duly advertised as required by law, the regular meeting of the City Commission of the City of New Smyrna Beach, Florida, was held on Tuesday, March 13, 2018 at the City Hall Commission Chamber, 210 Sams Avenue, New Smyrna Beach, Florida 32168.

Mayor James W. Hathaway called the meeting to order at 6:30 PM.

Attendee Name	Title	Status	Arrived
Jason McGuirk	Commissioner	Present	
Jim Hathaway	Mayor	Present	
Judy Reiker	Commissioner	Present	
Jake Sachs	Commissioner	Present	
Randy Hartman	Commissioner	Present	

Also present were City Manager Pamela Brangaccio, City Attorney Carrie Avallone, Police Chief Mike Coffin, Fire Marshall Donald Snell, CRA/Economic Development Director Tony Otte, Planning and Zoning Director Amye King, Finance Director Althea Philord, Community Resource Coordinator Donna Banks, City Clerk Johnny Bledsoe and Assistant City Clerk Kelly McQuillen.

B. Invocation/Pledge of Allegiance

Police Department Chaplain Kelvin Davis gave the invocation. Mayor Hathaway led those present in the Pledge of Allegiance.

C. Approval of the Agenda

City Manager Pamela Brangaccio reported no changes to the published agenda. Mayor Hathaway announced that Item 8A, "Discussion of Volusia County possibility of improving the 16th Avenue coastal approach in New Smyrna Beach." would be removed from the agenda, as it was not the right time to have such a discussion. He assured citizens would be give notification of any plans to discuss the matter.

2. ANNOUNCEMENTS/PRESENTATION/RECOGNITIONS

A. Presentation: Mosquito Lagoon - Reasonable Assurance Plan

City Engineer Kyle Fegley outlined the Reasonable Assurance Plan. He introduced Brett Cunningham, Managing Director and Senior Vice president of Jones Edmunds. Mr. Cunningham shared a PowerPoint presentation of the Mosquito Lagoon Reasonable Assurance Plan.

3. MAYOR AND COMMISSION REPORTS

Commissioner Hartman commented on watching the Grand Opening Little League game and commented on Vice Mayor McGuirk throwing the first pitch.

Vice Mayor McGuirk commented on the Little League game. He commented on the 2018 Transportation Planning Organization (TPO) Annual Retreat. He stated they meet annually to discuss issues and this year, they would be learning about the future of transportation technology.

Commissioner Sachs commented on attending the Chalk It Up Event sponsored by the Canal Street Hub. He thanked the citizens in his zone that help him do his job. He commented on asking the Mayors Fitness Challenge to support a food drive for children to eat over the Spring Break. He commented on meeting with students at New Smyrna Beach High School. He moved to direct staff to prepare legislation for future consideration, which if adopted, would place a ban on plastic straws within the City. The motion failed due to a lack of a second.

Mayor Hathaway directed the City Attorney to research the legality of such a ban.

Commissioner Reiker commented on attending the Board Meeting of the Volusia League of Cities. She stated they would continue the advocacy efforts throughout the spring and summer. She spoke in support of the citizens in Zone 1. She stated there were three beach access ramps in that zone.

Mayor Hathaway commented on attending the Elected Round Table. He stated we are the last City to vote on the 1/2 cent sales tax.

4. ORDINANCES - SECOND READING AND PUBLIC HEARINGS

- A. Ordinance No 89-17: Conduct the second reading and public hearing on an ordinance, which if adopted, would amend the City Comprehensive Plan, Future Land Use Element, regarding the Southeast Volusia Activity Center, specifically a text amendment to the Future Land Use Neighborhood, Pioneer Trails. Comprehensive Plan Text Amendment Application No. CPA-4-17 - Coastal Woods, GEOSAM.

City Attorney Avallone read Ordinance No. 89-17, the second time by title only.

Planning and Zoning Director Amye King outlined the proposed ordinance, which if adopted, would amend the City Comprehensive Plan, Future Land Use Element, regarding the Southeast Volusia Activity Center, specifically a text amendment to the Future Land Use Neighborhood, Pioneer Trails.

Commissioner Reiker asked for clarification on the density and burning. Ms. King verified the information.

Mayor Hathaway opened the public hearing.

GEOSAM Capital Attorney James Stowers gave a brief synopsis outlining the ordinance. He commented on the history of when the item was proposed in 2015. He respectfully requested the ordinance adoption.

Mayor Hathaway closed the public hearing.

Motion:

Commissioner Reiker moved to adopt Ordinance No. 89-17, as submitted. Vice Mayor McGuirk seconded the motion, and the motion carried 4-1 by majority vote, with Commissioner Sachs voting no.

RESULT:	ADOPTED [4 TO 1]
MOVER:	Judy Reiker, Commissioner
SECONDER:	Jason McGuirk, Commissioner
AYES:	McGuirk, Hathaway, Reiker, Hartman
NAYS:	Sachs

- B. Ordinance No. 01-18: Conduct the second reading and public hearing of an ordinance, which if adopted, would approve a text amendment to the Coastal Management Element of the City Comprehensive Plan as mandated by Florida Statutes. Application No. CPA-6-17.

City Attorney Avallone read Ordinance No. 01-18, the second time by title only.

Planning and Zoning Director Amye King outlined the proposed ordinance, which if adopted, would approve a text amendment to the Coastal Management Element of the City Comprehensive Plan as mandated by Florida Statutes.

Commissioner Reiker asked Ms. King to clarify that this was a state plan.

Ms. King verified all concerns as correct.

Mayor Hathaway opened the public hearing.

Steve Provost, 1805 Provost Street, commented in support of the ordinance. He commented on the policies supporting the Coastal Construction Setback Line (CCSL).

Mayor Hathaway closed the public hearing.

Motion:

Vice Mayor McGuirk moved to adopt Ordinance No. 01-18, as submitted. Commissioner Hartman seconded the motion, and the motion carried unanimously.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jason McGuirk, Commissioner
SECONDER:	Randy Hartman, Commissioner
AYES:	McGuirk, Hathaway, Reiker, Sachs, Hartman

C. Ordinance No. 19-18: Conduct the second reading and public hearing of an ordinance, which if adopted, would modify the City Land Development Regulations under Articles II, III, IV, V, VI, VII, & VIII to update regulations relating to plan reviews; renaming the Plan Review Committee; updating City Departments, application requirements, notice requirements, and review processes.

City Attorney Avallone read Ordinance No. 19-18, the second time by title only.

Planning and Zoning Director Amye King outlined the proposed ordinance, which if adopted, would modify the City Land Development Regulations under Articles II, III, IV, V, VI, VII, & VIII to update regulations relating to plan reviews; renaming the Plan Review Committee; updating City Departments, application requirements, notice requirements, and review processes.

Commissioner Sachs asked about the thirty-day time change.

Mayor Hathaway commented on asking Mr. Stowers at the last meeting to ask surrounding cities about the verbiage. He shared that Mr. Stowers emailed him examples, citing Ormond Beach as one. Mayor Hathaway asked about verbiage of the phases.

Ms. King stated that respectfully, her concern was the convolution of the language and requested the Commission adopted the ordinance as is. She did not recommend further changes.

Mayor Hathaway opened the public hearing.

Geosam Capital Attorney James Stowers addressed the City Commission regarding Land Development Regulations (LDR) Amendments. He requested the language that staff reserves the right to schedule additional review time.

Donna Athearn, 684 Corbin Park Road, commented on the application process. She commented on the homeowner's point of view, agreeing with the time extension.

Randy Herman, 108 Esther Street, questioned the Wetlands Review.

Lisa Martin, 618 South Pine Street, commented on the verbiage not being clear.

Commissioner Hartman asked Mr. Fegley to verify for the record that he, as the City Engineer, would choose a designee that is part of his department and not a citizen to work on Engineering Projects.

Mr. Fegley confirmed his designee would be a City Employee within his department.

City Manager Brangaccio suggested that a report could be provided in about three months to show the Commission a review.

Mayor Hathaway closed the public hearing.

Motion:

Commissioner Reiker moved to adopt Ordinance No. 19-18, as amended, to add a provision to review the effectiveness of process changes, six months after the effective date of adoption. Commissioner Hartman seconded the motion, and the motion carried unanimously.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Judy Reiker, Commissioner
SECONDER:	Randy Hartman, Commissioner
AYES:	McGuirk, Hathaway, Reiker, Sachs, Hartman

5. PUBLIC PARTICIPATION

Donna Athearn, 684 Corbin Park Road, submitted the Comprehensive Plan to the City Commission. She commented on traffic issues on SR 44 and Pioneer Trail. She suggested that an overall analysis would be submitted as an agenda item to the City Commission for a future Commission Meeting. She requested that she be granted the opportunity to give a presentation at a future meeting regarding future development strategies within the area south of SR 44 and east of I-95.

Mayor Hathaway directed City Staff meet with Ms. Athearn to review the information provided to the City Commission and discuss her concerns.

City Manager Brangaccio stated there would be a joint meeting between City Commission and Planning and Zoning on May 1, 2018.

Commissioner Hartman asked Ms. Athearn if that would be a better venue to discuss.

Ms. Athearn believed it would be beneficial to be placed on the agenda.

Commissioner Reiker commended Ms. Athearn for her research and suggested that she meet with City Staff to discuss so they would go through the proper channels.

City Manager Brangaccio asked Ms. Athearn to call the City Manager's Office tomorrow morning to request a meeting set up with City Manager Brangaccio, City Attorney, Mayor Hathaway and Planning and Zoning Director Amye King.

Commissioner Sachs commented on spacing between homes and stated many citizens were concerned with over-development. He stated that he would like to attend a forum that addressed the same concerns that Ms. Athearn had.

Steve Provost, 1805 Beacon Street, commented in support of the Reasonable Assurance Plan. He commented on the stormwater issue and thought the development plan should be designed in the adjacent development requirement of Class II Water. He commented on the Shell Pointe Colony item and he stressed the corridor closing. He believed that something needed to change to keep corridor open.

Frank Marshall, 2022 Spyglass Lane, commented on the substantial cost of replacing the pier located on Dune Circle. He commented on the hurricane-damaged piers. He commented on the Reasonable Assurance Plan and stated he was on the Review Committee that originally approved the plan and had strong concerns about the numbers because they were different from the numbers from the Department of Environmental Protection (DEP).

Jim Brown, represented the New Smyrna Beach Pickleball Club, commented on the lack of pickleball locations in New Smyrna Beach. He commented on looking for multiple courts. He offered some solutions. He suggested painting three pickleball courts at the City Gym. He stated the New Smyrna Beach Pickleball Club would purchase a new net and as always, they would provide their own pickleballs. He also suggested adding a court at Detwiler Park. He commented on the addition of an eight-court facility.

Earl Tingle, 2016 Spyglass Lane, commented on the cost of replacing the pier. He spoke in opposition of the pier replacement stating that there were other places to fish in the city. He thought the funds could be spend elsewhere for a greater need; such as the Boys and Girls Club and the Babe James Community Center, stating at-risk children were the priority.

Joe Dlubac, 3587 Casalta Circle, commented on attending the Planning and Zoning Board last week and stated it was a considerably long meeting. He commented on the concern that New Smyrna Beach was losing its character due to the rapid growth and development. He commented on a moratorium and asked for input from the citizens.

Gary Wilkins, 529 Prato Street, commented on two projects, Coastal Woods and Shell Pointe. He commented the unknown cumulative impact of these additional homes regarding drainage and road infrastructure issues. He stated that the consensus he received was that the citizens are not against the project, but they would like the projects to be handled smartly.

Randy Herman, 108 Esther Street, commented on this week being in celebration of the Sunshine Act. He commended Planning and Zoning Director Amye King for her hard work. He commented on the size of the agenda and suggested that the agenda be reduced so that people do not leave.

Attorney Glenn Storch commented about the Reasonable Assurance Plan. He commented on previously working together with Volusia County to change the sewer plan. He mentioned all of Bethune Beach is on sewer now. He commented on the last beach side area that had septic tanks is Silver Sands. He thought it would be a good reason to encourage Silver Sands to participate in joining the rest of the area to change over from septic tanks to sewer.

Randy Richenburg, 1402 North Atlantic Avenue, commented on the eroding coastal line and influx of tourists. He provided examples to support his concerns. He asked the City Commission if they would support the direction that New Smyrna was headed.

Kurt Ardaman, Attorney representing ABC Fine Wine and Spirits, commented on the purchase of the three parcels by ABC and commented on the SR 44 Sanitary Sewer Assessment. He commented in opposition to Ordinance No. 18-18. He requested a continuance of the matter so they could work with staff to ensure that the assessment was fair.

John Kelley, ABC Fine Wine & Spirits Engineer, spoke in opposition of Ordinance No. 18-18 stating it was difficult to determine a fair way to charge citizens.

6. ORDINANCES - FIRST READING

- A. Ordinance No. 18-18: Conduct the second reading and public hearing of an ordinance, which if adopted, would approve the establishment of the State Road 44 Sanitary Sewer Improvements Assessment District.

City Attorney Avallone read Ordinance No. 18-18 the first time, by title only.

Motion:

Vice Mayor McGuirk moved to approve on the first reading Ordinance No. 18-18, as submitted. Commissioner Reiker seconded the motion, and the motion carried unanimously. Mayor Hathaway reported that the second reading and public hearing of the proposed ordinance would be conducted at the regular meeting on March 27, 2018.

RESULT:	APPROVED AT FIRST READING [UNANIMOUS]	Next: 3/27/2018 6:30 PM
MOVER:	Jason McGuirk, Commissioner	
SECONDER:	Judy Reiker, Commissioner	
AYES:	McGuirk, Hathaway, Reiker, Sachs, Hartman	

- B. Ordinance 20-18: Conduct the second reading and public hearing of an ordinance, which if adopted, would amend Section 42-15, City Code, relating to open burning; amending requirements for issuance of a permit by the City for open burning; providing for the City Commission to establish permit fees by resolution, and providing for codification.

City Attorney Avallone read Ordinance No. 20-18 the first time, by title only.

Motion:

Commissioner Sachs moved to approve on the first reading Ordinance No. 20-18, as submitted. Vice Mayor McGuirk seconded the motion, and the motion carried unanimously. Mayor Hathaway reported that the second reading and public hearing of the proposed ordinance would be conducted at the regular meeting on March 27, 2018.

RESULT:	APPROVED AT FIRST READING [UNANIMOUS]	Next: 3/27/2018 6:30 PM
MOVER:	Jake Sachs, Commissioner	
SECONDER:	Jason McGuirk, Commissioner	
AYES:	McGuirk, Hathaway, Reiker, Sachs, Hartman	

- C. Ordinance No. 21-18: Conduct the second reading and public hearing of an ordinance, which if adopted, would amend the October 1, 2017- September 30, 2018 Budget.

City Attorney Avallone read Ordinance No. 21-18 the first time, by title only.

Motion:

Commissioner Reiker moved to approve on the first reading Ordinance No. 21-18, as submitted. Commissioner Hartman seconded the motion, and the motion carried unanimously. Mayor

Hathaway reported that the second reading and public hearing of the proposed ordinance would be conducted at the regular meeting on March 27, 2018.

RESULT:	APPROVED AT FIRST READING [UNANIMOUS]	Next: 3/27/2018 6:30 PM
MOVER:	Judy Reiker, Commissioner	
SECONDER:	Randy Hartman, Commissioner	
AYES:	McGuirk, Hathaway, Reiker, Sachs, Hartman	

- D. Ordinance No. 22-18: Conduct the first reading of an ordinance, which if adopted, would approve Application No. PUD-9-16 -- Shell Pointe Colony - A 543 Acre, Planned Unit Development residential subdivision containing a maximum 745 lots and two proposed shopping center village areas.

City Attorney Avallone read Ordinance No. 22-18 the first time, by title only.

Motion:

Vice Mayor McGuirk moved to approve on the first reading Ordinance No. 22-18, as submitted. Commissioner Reiker seconded the motion, and the motion carried 4-1 by majority vote, with Commissioner Sachs voting no. Mayor Hathaway reported that the second reading and public hearing of the proposed ordinance would be conducted at the regular meeting on May 8, 2018.

RESULT:	APPROVED AT FIRST READING [4 TO 1]	Next: 5/8/2018 6:30 PM
MOVER:	Jason McGuirk, Commissioner	
SECONDER:	Judy Reiker, Commissioner	
AYES:	McGuirk, Hathaway, Reiker, Hartman	
NAYS:	Sachs	

7. CONSENT AGENDA

- A. Approve the Minutes of the Regular City Commission Meeting held February 27, 2018.

Motion:

Vice Mayor McGuirk moved to approve the minutes of the Regular City Commission Meeting held February 27, 2018, as submitted. Commissioner Hartman seconded the motion, and the motion carried unanimously.

- B. Approve the Affordable Housing Property purchase of property, in the vicinity of Julia and Dimmick Streets, for the contract price of \$106,900, with demolition costs of two houses not to exceed \$15,000. Previously reviewed at the CRA Meeting held March 13, 2018.

Motion:

Vice Mayor McGuirk moved to approve the Affordable Housing Property purchase of property, in the vicinity of Julia and Dimmick Streets, for the contract price of \$106,900, with demolition costs of two houses not to exceed \$15,000. Commissioner Hartman seconded the motion, and the motion carried unanimously.

- C. Approve the Award of Bid for Hurricane Matthew Pier and Waterfront Repairs to Brothers Construction, Inc. for the four (4) locations Buena Vista Park, Due East Pier, North Causeway Boat Ramp - East and West Sides (excluding Rocco Park) at a total cost of \$277,025. Bid No. ITB 06-18-MO.

Motion:

Commissioner Sachs moved to approve the Award of Bid for Hurricane Matthew Pier and Waterfront Repairs to Brothers Construction, Inc. for the four (4) locations Buena Vista Park, Due East Pier, North Causeway Boat Ramp - East and West Sides (excluding Rocco Park) at a total cost of \$277,025, as submitted. Vice Mayor McGuirk seconded the motion, and the motion carried unanimously.

- D. Approve the Submission of an Application for the granting of a Florida Animal Friend Grant for an amount up to \$25,000 to support the Trap, Neuter, Return (TNR) Program within the City.

Motion:

Vice Mayor McGuirk moved to approve the submission of an application for the granting of a Florida Animal Friend Grant for an amount up to \$25,000 to support the Trap, Neuter, and Return (TNR) Program within the City, as submitted. Commissioner Hartman seconded the motion, and the motion carried unanimously.

- E. Approve Application No. S-8-17 - Coastal Woods Unit C Subdivision Final Plat

Motion:

Vice Mayor McGuirk moved to approve Application No. S-8-17 - Coastal Woods Unit C Subdivision Final Plat, as submitted. Commissioner Hartman seconded the motion, and the motion carried 4-1 by majority vote, with Commissioner Sachs voting no.

- F. Approve a request for a Street Paving Waiver for properties located at 975/995 Stacy Lane. As a compromise, a paving product has been agreed upon by the City Engineer and the property owner.

Motion:

Commissioner Hartman moved to approve a request for a Street Paving Waiver for properties located at 975/995 Stacy Lane. As a compromise, a paving product has been agreed upon by the City Engineer and the property owner. Commissioner Reiker seconded the motion, and the motion carried unanimously.

8. ADMINISTRATIVE ITEMS/NEW BUSINESS

- A. Discussion of Volusia County possibility of improving the 16th Avenue coastal approach in New Smyrna Beach.

No Action. The item was removed from the agenda.

RESULT: WITHDRAWN

- B. Approve the Award of Bid No. ITB 01-28-CIP - Swoope Boat Ramp Phase 2 Improvements, in the amount of \$592,237, to Saboungi Construction.

City Engineer Kyle Fegley outlined the bid.

Motion:

Vice Mayor McGuirk moved to approve the Award of Bid No. 1TB 01-28-CIP - Swoope Boat Ramp Phase 2 Improvements, in the amount of \$592,237, to Saboungi Construction, Inc. Commissioner Hartman seconded the motion, and the motion carried unanimously.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jason McGuirk, Commissioner
SECONDER:	Randy Hartman, Commissioner
AYES:	McGuirk, Hathaway, Reiker, Sachs, Hartman

- C. Resolution 04-18: Requesting and supporting Volusia County Council's placing a ballot question on the 2018 Election Ballot for a one-half cent infrastructure sales tax to be levied for 20 years.

City Manager Brangaccio stated they are asking for support to put this out there for the voters to have an opportunity to vote on the item; not for approval of the draft list.

Motion:

Commissioner Hartman moved to approve Resolution No. 04-18: the adoption of a resolution, requesting and supporting Volusia County Council's placing a ballot question on the 2018 Election Ballot for a one-half cent infrastructure sales tax to be levied for 20 years. Vice Mayor McGuirk seconded the motion, and the motion carried unanimously.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Randy Hartman, Commissioner
SECONDER:	Jason McGuirk, Commissioner
AYES:	McGuirk, Hathaway, Reiker, Sachs, Hartman

- D. Adopt Resolution No. 08-18: A resolution, which if adopted, would give the City the flexibility to reimburse City funds used to finance the construction of the Live Oak Cultural Center and City Hall Annexation projects from proceeds of a future tax-exempt financing for capital expenditures not to exceed \$3,500,000. This could be a Series B, that follows a required refunding of an existing Revenue Note, because of the Federal tax code changes.

Finance Director Althea Philord outlined the resolution, providing the reimbursement details, to include FEMA reimbursement statuses. She stated the resolution served as an option in the event that the City chose to finance the construction of upcoming projects from proceeds of future tax-exempt financing.

Motion:

Commissioner Reiker moved to approve Resolution No. 08-18: which would give the City the flexibility to reimburse City funds used to finance the construction of the Live Oak Cultural Center and City Hall Annexation projects from proceeds of a future tax-exempt financing for capital

expenditures not to exceed \$3,500,000. Commissioner Hartman seconded the motion, and the motion carried unanimously.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Judy Reiker, Commissioner
SECONDER:	Randy Hartman, Commissioner
AYES:	McGuirk, Hathaway, Reiker, Sachs, Hartman

9. BOARDS AND COMMISSIONS

There was none.

10. CITY MANAGER'S REPORT

A. City Manager's Report

There was none.

11. CITY CLERK'S REPORT

There was none.

12. CITY ATTORNEY'S REPORT

There was none.

13. ADJOURNMENT

As there was no other business to discuss, Mayor Hathaway declared the meeting adjourned at 9:12 PM.