



Tuesday, March 27, 2018
City Commission Regular Meeting
Minutes

1. OPENING OF MEETING

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 27, 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.

A. Call to Order

Attendee Name	Title	Status	Arrived
Jason McGuirk	Vice Mayor	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, Assistant City Manager Khalid Resheidat, Police Chief Mike Coffin, Fire Chief Shawn Vandemark, CRA/Economic Development Director Tony Otte, Planning and Zoning Director Amye King, Leisure Services Director Nancy Maddox, City Engineer Kyle Fegley, 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 Charles Acheson gave the invocation. Mayor Hathaway led those present in the Pledge of Allegiance.

C. Approval of the Agenda

City Manager Brangaccio reported no changes to the published agenda.

2. ANNOUNCEMENTS/PRESENTATION/RECOGNITIONS

A. Presentation of the 2018 Donnadine Miller Memorial Historic Preservation Awards

Planning and Zoning Director Amye King and Mayor Hathaway presented the 2018 Donnadine Miller Memorial Historic Preservation Award in the nonresidential category to the owner of 208 Magnolia Street, Blaine Gregorio. Ms. King presented the 2018 Donnadine Miller Memorial Historic Preservation Award in the residential category to the owner of 411 Magnolia Street, Rita Ann O'Hara's, sister.

3. MAYOR AND COMMISSION REPORTS

Commissioner Reiker was proud of the Students who participated in the Student March. She had many positive comments about the recent Coastal Resiliency Meeting.

Commissioner Sachs recognized the Calvary Baptist Church for their 132nd Birthday. He attended the Miracle League Baseball Field Opening Ceremony and was proud to be a part of that. He wished all women Happy Women's Month for the month of March. He commented on continuing to endorse school ground safety. Commissioner Sachs moved to draft a resolution to ban plastic straws.

Mayor Hathaway thought we should incorporate Volusia County prior to draft a resolution. He suggested contacting our County Representative to coordinate the effort.

Vice Mayor McGuirk commented on how special it was to be a part of building the Miracle League Building, but how good the field was. He explained what the Miracle League was.

Commissioner Hartman commented on attended the Chamber of Commerce State of City Address. He thought Mayor Hathaway represented us well. He commented on attending the Miracle League Baseball Field Opening Ceremony. He commented on attending the TPO Future of Transportation Meeting.

Mayor Hathaway commented on attending the Miracle League Baseball Field Grand Opening. He shared that John Smoltz, baseball pitching great, attended the ceremony. He thanked the First Responders for a great display and honoring one of our great service members who recently passed away. He commented on March for our Lives Event and stated it was a wonderful event.

4. ORDINANCES - SECOND READING AND PUBLIC HEARINGS

- 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.

Motion:

Commissioner Hartman moved to continue this item to the May 8, 2018 City Commission Agenda. Commissioner Reiker seconded the motion, and the motion carried unanimously.

RESULT:	CONTINUED [UNANIMOUS]	Next: 5/8/2018 6:30 PM
MOVER:	Randy Hartman, 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 second time by title only.

Fire Chief Sawn Vandemark outlined the proposed 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.

Commissioner Sachs thanked Chief Vandemark for his hard work.

Mayor Hathaway commented on page 309, Item D of the Ordinance. He asked for clarification on agricultural burning jurisdiction.

Chief Vandemark confirmed that the City would not be in control of agricultural burning.

Mayor Hathaway opened the public hearing.

Stoney Fraley, 674 Mount Olympus Boulevard, commented in opposition of the high volume air curtain. He asked to consider giving the Fire Chief guidance and felt as though certain conditions should be regulated prior to issuing permits. He submitted photos to the City Commission to show the concern with the air curtain.

Marvel Richards, 1099 Clubhouse Boulevard, commented in opposition of the ordinance. She shared photos with the City Commission to show them the soot that accumulated on her patio furniture during a recent burning.

Gary Wilkins, 529 Prato Street, commented in opposition of the ordinance. He stated that the burning should have strict regulations.

Claudia Vanderhorst, 582 Aeolian Drive, commented in opposition of the ordinance. She asked that the schools should not be a factor; it should be a human factor.

Mayor Hathaway closed the public hearing. He asked Chief Vandemark to address the citizen concerns and questioned if some of the issues could be addressed in the ordinance. He would seek guidance from City Attorney Carrie Avallone.

Chief Vandemark stated they would elevate their standards because of the residents in the area. He visited Ms. Vanderhorst's home and confirmed there was a high humidity level. He commented on making the air quality better by implementing strict standards.

Vice Mayor McGuirk asked Chief Vandemark if there was something we could do to expedite resident concerns.

Chief Vandemark stated the residents would get close attention and he planned to have crews out in the area at least twice per day. He stated that because it was handled locally vs. by the Forestry Department, there was more direct contact as they were local.

Commissioner Reiker asked if he was going to be able to check if the fires were extinguished in the end of the burning.

Chief Vandemark answered yes. He stated there was a water concern out in the area and said he was working on remedying the issue.

Commissioner Sachs suggested the air curtain incinerator.

Mayor Hathaway commented on suggesting to developers in the future to mulch the trees versus burning them in an effort to be good neighbors. He thanked Chief Vandemark for keeping the community safe.

Motion:

Vice Mayor McGuirk moved to adopt Ordinance No. 20-18, as submitted. Commissioner Sachs seconded the motion, and the motion carried unanimously.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jason McGuirk, Vice Mayor
SECONDER:	Jake Sachs, 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 second time by title only.

Finance Director Althea Philord outlined the proposed ordinance, which if adopted, would amend the October 1, 2017- September 30, 2018 Budget.

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

Motion:

Commissioner Reiker moved to adopt Ordinance No. 21-18, as submitted. Vice Mayor McGuirk seconded the motion, and the motion carried unanimously.

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

5. PUBLIC PARTICIPATION

City Clerk Bledsoe read a letter from New Smyrna Beach resident Bob Tolley. Mr. Tolley commented about establishing an Ethics Board.

Vincent Snowden, 2103 Ocean Drive, defended his character. He commented on a recent lawsuit that involved his family and the City of New Smyrna Beach. He commented about the validity of an agreement made between City Officials and Mr. O'Reilly in the past. He encouraged citizens to read the ruling from the lawsuit last month, Case No. 2010-20778-CINS.

Robin Jones, 1101 Wilkins Street, commented on addressing the City Commissioners last year for applying for a grant to help lower costs with the Summer Program. She commented on Volusia County versus City of New Smyrna Beach programs.

Larry Wolven, 1400 S. Peninsula Avenue, commented on the traffic concerns in New Smyrna Beach. He asked the City Commission what they were doing to control traffic.

City Manager Brangaccio stated that the City was in the process of coordinating with the County to manage traffic control.

Marvel Richards, 1099 Clubhouse Boulevard, commented about the future developments. She commented on concerns about the possibility of traffic increase.

Randy Richenburg, 1402 N. Peninsula commented on the Springhill Hotel, the North Causeway condominiums, the development of SR44 and the lack of a development of a traffic plan and New Smyrna Beach being at 70% of its water capacity. He addressed Mayor Hathaway directly and asked him about his past votes. He then asked the entire City Commission to answer his question "Are you happy with the growth of New Smyrna Beach?"

The City Commission extended an offer to meet with Mr. Richenburg. He did not want to meet with members of City Commission, insisting that he wanted all comments reflected on the official meeting minutes.

Doug Emerson, 802 East 2nd Avenue, represented the Masonic Lodge and commented about establishing a Child's ID Program. He commented on more transparency with City Government.

James Stowers, Geosam Capital, commented on his prior experience as a City Commissioner in Ormond Beach. He stated he represented the beachside zone and those residents fought to have gated communities. He commented on the Resiliency Meeting. He commended City Staff for organizing the meeting well. He commented on the traffic issue; stating it was a popularity problem.

6. ORDINANCES - FIRST READING

- A. Ordinance No. 23-18: Conduct the second reading and quasi-judicial public hearing of an ordinance, which if adopted, would rezone approximately 26 acres to PUD and approve a Restated Master Development Agreement for a future Florida Power & Light utility substation located on Pioneer Trail.

City Attorney Avallone read Ordinance No. 23-18 the first time, by title only.

Motion:

Vice Mayor McGuirk moved to approve on the first reading Ordinance No. 23-18, 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 April 10, 2018.

RESULT:	APPROVED AT FIRST READING [UNANIMOUS]	Next: 4/10/2018 6:30 PM
MOVER:	Jason McGuirk, Vice Mayor	
SECONDER:	Randy Hartman, Commissioner	
AYES:	McGuirk, Hathaway, Reiker, Sachs, Hartman	

7. CONSENT AGENDA

- A. Approve the Minutes of the CRA meeting held March 13, 2018.

Motion:

Commissioner Reiker moved to approve the minutes of the CRA meeting held March 13, 2018, as submitted. Vice Mayor McGuirk seconded the motion, and the motion carried unanimously.

- B. Approve The Palms Phase 2B Subdivision Plat. This Plat contains 143 single-family lots out of a total 49.83 acres. Application No. S-10-17.

Motion:

Vice Mayor McGuirk moved to approve The Palms Phase 2B Subdivision Plat, as submitted. Commissioner Hartman seconded the motion, and the motion carried 4-1 majority vote, with Commissioner Sachs voting no.

- C. Approve the 2018 New Smyrna Beach Ditch Cleaning proposal for services to be performed by Volusia County, at a cost of \$88,286.45.

Motion:

Commissioner Reiker moved to approve the 2018 New Smyrna Beach Ditch Cleaning proposal for services to be performed by Volusia County, at a cost of \$88,286.45. Vice Mayor McGuirk seconded the motion, and the motion carried unanimously.

- D. Approve Extending the Current Contract with D.B.I. Demolition for One Year for Citywide Demolition

Motion:

Commissioner Reiker moved to approve extending the current contract with D.B.I. Demolition for One Year for City-Wide Demolition. Vice Mayor McGuirk seconded the motion, and the motion carried unanimously.

- E. Approve a Special Event: Springfest, Waterwise and Art Stroll - April 7, 2018 - and associated road closure of Canal Street from US1 to Riverside Drive from 6 a.m. - 8 p.m.

Motion:

Commissioner Reiker moved to approve a Special Event: Springfest, Waterwise and Art Stroll - April 7, 2018 - and associated road closure of Canal Street from US1 to Riverside Drive from 6 a.m. - 8 p.m. Vice Mayor McGuirk seconded the motion, and the motion carried unanimously.

- F. Approve a Special Event: 10th Annual New Smyrna Beach Food Festival - Thursday, April 19, 2018 - and associated road closure of Flagler Avenue from N. Atlantic to Pine with an option to Peninsula.

Motion:

Commissioner Reiker moved to approve a Special Event: 10th Annual New Smyrna Beach Food Festival - Thursday, April 19, 2018 - and associated road closure of Flagler Avenue from N. Atlantic to Pine with an option to Peninsula. Vice Mayor McGuirk seconded the motion, and the motion carried unanimously.

- G. Approve the Special Event: Lagoonacy - Saturday, April 21, 2018 - and associated beer garden as well as food trucks on the property during the event.

Motion:

Commissioner Reiker moved to approve a Special Event: Lagoonacy - Saturday, April 21, 2018 - and associated beer garden as well as food trucks on the property during the event. Vice Mayor McGuirk seconded the motion, and the motion carried unanimously.

- H. Approve the Special Event: Cinco De Mayo at Clancy's - Saturday, May 5, 2018 - and associated approval to operate a Beer Garden.

Motion:

Commissioner Reiker moved to approve a Special Event: Cinco De Mayo at Clancy's - Saturday, May 5, 2018 - and associated approval to operate a Beer Garden. Vice Mayor McGuirk seconded the motion, and the motion carried unanimously.

- I. Approve the Recurring Special Event: Monthly Car Show on Canal Street - 2nd Saturday of each month-to include Street Closures in the Canal Street Area (including side streets).

Motion:

Vice Mayor McGuirk moved to approve a Special Event: Monthly Car Show on Canal Street - 2nd Saturday of each month-to include Street Closures in the Canal Street Area (including side streets). Commissioner Sachs seconded the motion, and the motion carried unanimously.

8. ADMINISTRATIVE ITEMS/NEW BUSINESS

- A. Approve entering into a contract for Pegasus' Phase 1 services in the amount of \$42,200, for their services needed to acquire, assemble and submit the City's initiative requests for HMGP grant funding to the Local Mitigation Working Group Committee. Funding for their work will be supported through the City's Stormwater Utility Fund.

Motion:

Commissioner Reiker moved to approve entering into a contract for Pegasus' Phase 1 services for \$42,200, for their services needed to acquire, assemble and submit the City's initiative requests for HMGP grant funding to the Local Mitigation Working Group Committee. 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

- B. Resolution No. 06-18: Consider the adoption of a resolution, establishing a fee for land clearing fire permits issued by the Fire Department.

Motion:

Commissioner Reiker moved to approve Resolution No. 06-18, establishing a fee for land clearing fire permits issued by the Fire Department, as amended to set a permit fee at \$60. Commissioner Sachs seconded the motion, and the motion carried unanimously.

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

- C. Resolution No. 07-18: Consider the adoption of a resolution, approving entering into a Multilateral Operating Agreement (MOU) with the Florida Department of Agriculture & Consumer Services through the Florida Fire Service (FFS) authorizing the City to regulate the open burning of non-agricultural land clearing and yard waste debris within the City.

Motion:

Commissioner Sachs moved to approve Resolution No. 07-18, approving entering into a Multilateral Operating Agreement (MOU) with the Florida Department of Agriculture & Consumer Services through the Florida Fire Service (FFS) authorizing the City to regulate the open burning of non-agricultural land clearing and yard waste debris within the City, as submitted. Commissioner Hartman seconded the motion, and the motion carried unanimously.

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

- D. Resolution No. 09-18: Consider a resolution, which if adopted, would authorize the Mayor to execute an application to the Florida Inland Navigation District (FIND) for its Waterway Assistance Program (WAP) for Phase I Design and Permitting of a mooring facility.

Assistant City Manager Resheidat outlined the resolution.

Commissioner Sachs asked if having a mooring field would create cleaner waterways.

Assistant City Manager Resheidat answered yes, it would.

Motion:

Commissioner Reiker moved to approve Resolution No. 09-18, which if adopted, would authorize the Mayor to execute an application to the Florida Inland Navigation District (FIND) for its Waterway Assistance Program (WAP) for Phase I Design and Permitting of a mooring facility, as submitted. Commissioner Sachs seconded the motion, and the motion carried unanimously.

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

- E. Resolution No. 10-18: Consider a resolution, which if adopted, would authorized staff to submit to the River to Sea Transportation Planning Organization a list of projects for future consideration in response to its Call for Projects.

Planning and Zoning Director Amye King outlined the resolution and summarized the projects list.

Motion:

Commissioner Hartman moved to approve Resolution No. 10-18, which if adopted, would authorized staff to submit to the River to Sea Transportation Planning Organization a list of projects for future consideration in response to its Call for Projects. Vice Mayor McGuirk seconded the motion, and the motion carried unanimously.

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

9. BOARDS AND COMMISSIONS

- A. Neighborhood Council: Accept the voluntary resignation of member James Russell, and appoint a citizen to fill his unexpired term to expire May 28, 2019.

Motion:

Commissioner Hartman moved to approve accept the voluntary resignation of member James Russell. Commissioner Sachs seconded the motion, and the motion carried unanimously.

Motion:

Commissioner Hartman moved to nominate Elizabeth Bell to fill the term to expire May 28, 2019. Commissioner Sachs seconded the motion, and the motion carried unanimously.

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

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

Commissioner Sachs commented on the idea of establishing an Ethics Board. He thought it would be a good idea.

Vice Mayor McGuirk stated that his primary fear was that the Ethics Board would be stacked with an agenda to go after certain people due to the history of some issues discussed in the past. He asked how an Ethics Board would work and asked how a board would be created to avoid it being used as a political vendetta against certain people. He suggested that the State has an Ethics Board and shared that if there was a violation, the State Ethics Board sends an independent member out to investigate without bias.

As there was no other business to discuss, Mayor Hathaway declared the meeting adjourned at 8:45 PM.