



**Tuesday, June 26, 2018**  
**City Commission Regular Meeting**  
**Minutes**

**6:30 PM – City Hall Commission Chamber, 210 Sams Avenue, New Smyrna Beach, Florida 32168**

**1. OPENING OF MEETING**

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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 26, 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 6:44 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, Community Donna Banks, City Clerk Johnny Bledsoe and Assistant City Clerk Kelly McQuillen.

**B. Invocation/Pledge of Allegiance**

Police Department Chaplain Laura Berg 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.

**2. ANNOUNCEMENTS/PRESENTATION/RECOGNITIONS**

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**A. Presentation of Advanced Institute for Elected Municipal Officials Completion Certificate to Commissioner Randy Hartman**

Mayor Hathaway recognized Commissioner Hartman for completing the Advanced Institute for Elected Municipal Officials.

### **3. MAYOR AND COMMISSION REPORTS**

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Commissioner Reiker commented on her vacation in Tahiti. She commented on the decision to extend the Coronado Island Marine Village (CIMV) item. She shared her opinion and stated that since they had been trying to sell this land for years, she suggested they make an open space for all the citizens to use with nice landscaping.

Commissioner Sachs commented the 250th Anniversary Celebration of New Smyrna Beach. He stated it was a very nice event.

Vice Mayor McGuirk commented on the meeting and stated that the (Department of Transportation) DOT was trying to change the way they handle meetings.

Commissioner Hartman commented on the 250th Anniversary Celebration. He commented on the Water Conservation Meeting and stated that it was an interesting meeting and he learned many facts. He stated we were doing a good job with conserving our resources.

Mayor Hathaway commented on attending the 250th Anniversary Celebration. He commented on receiving many letters, a book and a sketch from the Minorcan representatives. He recognized the Holland Park Ribbon Cutting on June 15, 2018. He thanked the Police Chief and the Fire Chief for making sure everything was safe during the Bike and Bar Event and the Seaside Fiesta. He commented on the Cunningham Drive Project and asked Assistant City Manager Khalid Resheidat to review the project due to the length of time it was taking to complete.

### **4. ORDINANCES - SECOND READING AND PUBLIC HEARINGS**

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- A. Ordinance No. 24-18: Conduct the second reading and public hearing of an ordinance, which if adopted, would approve the 1st Amendment to the amended and restated Planned Unit Development (PUD), and Master Development Agreement for the Coastal Woods development. The proposed amendment includes changes to the name of the development, the addition of 25.2 acres to the PUD, land uses, development standards and entitlements, project buffers, open space, mixed use and nonresidential buildings, and multifamily dwellings. On May 2, 2018, the applicant GEOSAM updated its proposed amendment, a copy of which is attached.

City Attorney Avallone read Ordinance No. 24-18, the second time by title only.

Planning and Zoning Director Amye King outlined the proposed ordinance, which if adopted, would approve the 1st Amendment to the amended and restated Planned Unit Development (PUD), and Master Development Agreement for the Coastal Woods development.

Geosam Attorney James Stowers thanked all City Staff for meeting with Geosam over the past few months. He gave a brief application history beginning in 2015. He stated they have built in the temporary buffer (dust buffer) and upsizing the trees to this development agreement. He stated that the oak trees would change from two inches to four inches. He mentioned a comment in relation to the animal hospitals. He stated there are no outdoor kennels permitted in the agreement.

Vice Mayor McGuirk thanked Mr. Stowers for removing the RV's out of the development agreement. He stated that the need for quality housing was appreciated.

Mayor Hathaway made a disclosure and stated he met with Mr. Stowers about this issue.

Mayor Hathaway opened the public hearing.

Marvel Richards, 1099 Club House Boulevard, commented in opposition of Ordinance No. 24-18 and asked the City Commission not to approve the ordinance. She stated that she would like to see the changes in writing, not verbally. She asked for a new ordinance, new presentation and new vote.

Claudia Vanderhorst, 562 Aeolian Drive, commented in opposition of Ordinance No. 24-18. She commented on water conservation, changes in landscaping, silt build up in the culverts. She stated she reached out to City Officials to heed warning to the pumping. She stated that out of courtesy, Geosam could have noticed them about pumping. She stated that the pumping stations are at their maximum.

Mayor Hathaway closed the public hearing.

**Motion:**

Vice Mayor McGuirk moved to adopt Ordinance No. 24-18, with the stipulation that RV Parks were removed as a permitted use and outdoor kennels were not permitted. Commissioner Reiker seconded the motion, and the motion carried 4-1 by majority vote, with Commissioner Sachs voting no.

Mayor Hathaway asked City Staff and perhaps the St. Johns River Water Management (SJRWM) staff to check out the silt.

City Manager Brangaccio stated that both City Engineers have responded to the silt issue.

<b>RESULT:</b>	<b>ADOPTED [4 TO 1]</b>
<b>MOVER:</b>	Jason McGuirk, Vice Mayor
<b>SECONDER:</b>	Judy Reiker, Commissioner
<b>AYES:</b>	McGuirk, Hathaway, Reiker, Hartman
<b>NAYS:</b>	Sachs

B. Ordinance No. 30-18: Conduct the second reading and public hearing of an ordinance, which if adopted, would annex approximately 30.9 acres of property located at 3075 Turnbull Bay Road.

City Attorney Avallone read Ordinance No. 30-18, the second time by title only.

Planning and Zoning Director Amye King outlined the proposed ordinance, which if adopted, would annex approximately 30.9 acres of property located at 3075 Turnbull Bay Road.

Commissioner Sachs commented on septic tanks, the land/soil, and the ability to change from septic in the future. He commented on the reasonable assurance plan and felt it was unwise to place septic tanks into a drainage basin that would flow out into Spruce Creek.

Mayor Hathaway and Vice Mayor McGuirk concurred that it would be better to be presented before the City Commission and our conditions rather than Volusia County.

Commissioner Sachs shared that Volusia County should be as culpable and responsible as the City.

Mayor Hathaway opened the public hearing.

Attorney Glenn Storch commented on behalf of the applicant. He explained that these are one acre and stated that the impact of septic tanks would be minimal. He stated that the septic tanks that were approved were high standard.

Mayor Hathaway closed the public hearing.

**Motion:**

Vice Mayor McGuirk moved to adopt Ordinance No. 30-18, as submitted. Commissioner Hartman seconded the motion, and the motion carried 4-1 by majority vote, with Commissioner Sachs voting no.

<b>RESULT:</b>	<b>ADOPTED [4 TO 1]</b>
<b>MOVER:</b>	Jason McGuirk, Vice Mayor
<b>SECONDER:</b>	Randy Hartman, Commissioner
<b>AYES:</b>	McGuirk, Hathaway, Reiker, Hartman
<b>NAYS:</b>	Sachs

- C. Ordinance No. 35-18 Landscape Moratorium: Conduct the second reading and second and final of two required public hearings of an ordinance, which if adopted, would establish a temporary moratorium on rezonings, and variances relating to landscape for development of commercial property along SR 44 in the Corridor Overlay Zone.

City Attorney Avallone read Ordinance No. 30-18, the second time by title only.

Planning and Zoning Director Amye King outlined the proposed ordinance, which if adopted, would establish a temporary moratorium on rezonings, and variances relating to landscape for development of commercial property along SR 44 in the Corridor Overlay Zone.

Vice Mayor McGuirk explained the reasons that he initiated the moratorium. He emphasized the importance of natural vegetative landscape buffer. He stated his intention was not to cause hardship upon residents and business owners.

City Attorney Carrie Avallone clarified this ordinance addressed landscape buffer moratorium.

Commissioner Reiker submitted photographs of Hilton Head for the record and remarked that this was the idea of how she wanted New Smyrna Beach to look like.

Commissioner Hartman asked how businesses could begin to develop now.

City Attorney Avallone stated they could go through vested rights.

City Manager Brangaccio commented on an upcoming meeting with a landscape architect who would be helping them come up with concepts and designs.

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

**Motion:**

Vice Mayor McGuirk moved to adopt Ordinance No. 30-18, as submitted. Commissioner Reiker seconded the motion, and the motion carried unanimously.

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

D. Conduct a quasi-judicial public hearing to consider the revocation of Temporary Parking Lot Application No. TPL-6-17, for property at 403 Flagler Avenue.

City Attorney Avallone stated that this item was a quasi-judicial hearing to consider the revocation of Temporary Parking Lot Application No. TPL-6-17.

Planning and Zoning Director Amye King was administered the oath, by the City Attorney. She outlined her professional and educational qualifications. As no citizens questioned her credentials, Ms. King recommended the revocation of Temporary Parking Lot Application No. TPL-6-17.

Mayor Hathaway commented on the entrances of the parking lots and asked Commissioner Reiker what her opinion was of the entryway since it was her zone.

Property owner, Rami Daharran, Eilai Investments LLC, commented on the entryway and stated he complied with what the City asked him to do. He commented on the fine the Special Magistrate imposed.

City Attorney Avallone stated that Special Magistrate Catherine Reischmann imposed a fine for \$26,500 at the Code Enforcement Special Magistrate Hearing held on June 19, 2018.

Mr. Daharran requested to change the fine amount to zero. He stated he was in compliance and that he blocked the Jessamine Avenue entryway. He provided a brief history of the code enforcement violations.

Commissioner Sachs stated it would never be the intention to fine him contentiously. He stated there was a problem with abiding the law.

Discussion ensued about the Jessamine Avenue entryway, cost of fines, reconsideration of the fine amount and cost of possibly covering the advertising and cost to the City.

Mayor Hathaway opened the public hearing.

Steve Provost, 1805 Beacon Street, commented in support of Mr. Daharran. He stated that Mr. Daharran has made positive changes. He stated he understood the frustration of City Commission and thought that from his perspective, the property appears much better now compared to the past.

James Mason, 647 Goodwin Avenue, commented in support of the business owner. He stated he was the general manager of the business. He stated that he was the person responsible for maintaining the parking lot. He is in charge of irrigation and would be personally responsible for the maintenance.

Lisa Martin, 618 South Pine Street, commented on her confusion of the special magistrate appeal process and fines.

Randy Herman, 108 Esther Street, commented on spending a lot of time for issues that could be resolved quicker. He commented on the issue of trust. He asked what it took in order for people to act responsibly. He stated that Mr. Daharran consistently had not done what he was asked.

Mayor Hathaway closed the public hearing.

**Motion:**

Commissioner Sachs moved to revoke Temporary Parking Lot Application No. TPL-6-17. The motion died due to lack of a second.

**Motion:**

Vice Mayor McGuirk moved to continue the issuance of Temporary Parking Lot Application No. TPL-6-17, with the conditions that the applicant pay code enforcement fines for \$5,000 (reduced from \$26,500), ensure pavers installed meet City regulations and allow the utilization of Jessamine Avenue for ingress and egress to the property. Commissioner Reiker seconded the motion, and the motion carried 3-2 by majority vote, with Commissioner Hartman and Commissioner Sachs voting no.

## **5. PUBLIC PARTICIPATION**

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George Lee, 1700 North Atlantic Avenue, commented on the public safety issue and traffic, particularly on SR 44 and North Atlantic. He was concerned about the response time of first responders in emergencies.

Steve Provost, 1805 Beacon Street, commented about septic tanks. He commented on a good reason to purchase the basin properties for this reason.

Kelley DeSoto, 3500 South Atlantic, spoke in support of Ordinance No. 37-18. He stated that the developer has met all criteria.

## **6. ORDINANCES - FIRST READING**

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- A. Ordinance No. 36-18: Conduct the first reading of an ordinance, which if adopted, would add Section 179.1 to the City Charter, "Electronic Campaign Filing" of Chapter 13 "Registrations and Elections", requiring electronic filing of campaign treasurer's reports with the Volusia County Supervisor of Elections Office's electronic filing system.

City Attorney Avallone read Ordinance No. 36-18 the first time, by title only.

**Motion:**

Commissioner Sachs moved to approve on the first reading Ordinance No. 36-18, 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 special meeting on July 24, 2018.

<b>RESULT:</b>	<b>APPROVED AT FIRST READING [UNANIMOUS]</b>	<b>Next: 7/24/2018 5:30 PM</b>
<b>MOVER:</b>	Jake Sachs, Commissioner	
<b>SECONDER:</b>	Randy Hartman, Commissioner	
<b>AYES:</b>	McGuirk, Hathaway, Reiker, Sachs, Hartman	

- B. Ordinance No. 37-18: Conduct the first reading of an ordinance, which if adopted, would rezone approximately 7.861 acres from PUD to PUD with a Master Development Agreement for property located at the southeast corner of SR 44 and Corbin Park Road.

City Attorney Avallone read Ordinance No. 37-18 the first time, by title only.

Commissioner Reiker stated into the record that due to recent changes, she does not have a voting conflict.

Mayor Hathaway stated that he would like to hear the developer's idea about traffic signalization.

**Motion:**

Vice Mayor McGuirk moved to approve on the first reading Ordinance No. 37-18, as submitted. Commissioner Hartman 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 August 14, 2018.

<b>RESULT:</b>	<b>APPROVED AT FIRST READING [4 TO 1]</b>	<b>Next: 8/14/2018 6:30 PM</b>
<b>MOVER:</b>	Jason McGuirk, Vice Mayor	
<b>SECONDER:</b>	Randy Hartman, Commissioner	
<b>AYES:</b>	McGuirk, Hathaway, Reiker, Hartman	
<b>NAYS:</b>	Sachs	

## **7. CONSENT AGENDA**

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- A. Adopt Resolution No. 20-18: Creating a Property Assessed Clean Energy (PACE) Program for non-exclusive interlocal agreements with the Florida Green Finance Authority, the Green Corridor PACE District, the Resiliency and Energy District and the Florida PACE Funding Agency and other qualified PACE funding agencies for the administration of the PACE Program.

**Motion:**

Vice Mayor McGuirk moved to adopt Resolution No. 20-18: Creating a Property Assessed Clean Energy (PACE) Program for non-exclusive interlocal agreements with the Florida Green Finance Authority, the Green Corridor PACE District, the Resiliency and Energy District and the Florida PACE Funding Agency and other qualified PACE funding agencies for the administration of the PACE Program, as submitted. Commissioner Hartman seconded the motion, and the motion carried unanimously.

- B. Approve the Ratification of the Collective Bargaining Agreement with Teamsters Local #385 effective October 1, 2018

**Motion:**

Vice Mayor McGuirk moved to approve the ratification of the Collective Bargaining Agreement with Teamsters Local #385 effective October 1, 2018, as submitted. Commissioner Hartman seconded the motion, and the motion carried unanimously.

- C. Approve the donation of property located at 503, 505 and 519 Julia Street, as well as 327 Dimmick Street, as an Affordable Housing Project, to the New Smyrna Beach Housing Development Corporation.

**Motion:**

Vice Mayor McGuirk moved to approve the donation of property located at 503, 505 and 519 Julia Street, as well as 327 Dimmick Street, as an Affordable Housing Project, to the New Smyrna Beach Housing Development Corporation. Commissioner Hartman seconded the motion, and the motion carried unanimously.

- D. Approve Award of RFP 07-18-CIP Professional Engineering Design Services for 5th Street Bridge Replacement to DRMP

**Motion:**

Vice Mayor McGuirk moved to approve the award of RFP 07-18-CIP Professional Engineering Design Services for 5th Street Bridge Replacement to DRMP, as submitted. Commissioner Hartman seconded the motion, and the motion carried unanimously.

- E. Utilities Commission City of New Smyrna Beach Right-of-Way Agreement to Install Monitoring Wells

**Motion:**

Commissioner Hartman moved to approve the Utilities Commission City of New Smyrna Beach Right-of-Way Agreement to Install Monitoring Wells, as submitted. Commissioner Reiker seconded the motion, and the motion carried unanimously.

- F. Approval of Director of Community Resiliency and Environmental Management

**Motion:**

Vice Mayor McGuirk moved for the approval of Director of Community Resiliency and Environmental Management, as submitted. Commissioner Hartman seconded the motion, and the motion carried unanimously.

- G. Accept the donation of property located on Hunting Camp Road in the unincorporated Volusia County, as granted by Donice Schumm, and authorize the Mayor to execute the Quit Claim Deed on behalf of the City Commission.

**Motion:**

Commissioner Hartman moved to accept the donation of property located on Hunting Camp Road in the unincorporated Volusia County, as granted by Donice Schumm, and authorize the Mayor to execute the Quit Claim Deed on behalf of the City Commission, as submitted. Commissioner Reiker seconded the motion, and the motion carried unanimously.

- H. Lease Agreement with Cavache, Inc. at the Swoope Site

**Motion:**

Vice Mayor McGuirk moved to approve the Lease Agreement with Cavache, Inc. at the Swoope Site, as submitted. Commissioner Hartman seconded the motion, and the motion carried unanimously.



- I. Approve a Special Event: Christmas in July - July 7, 2018, and associated request for road closure of Canal Street from Orange Street to west side of Chamber Parking Lot.

**Motion:**

Vice Mayor McGuirk moved to approve a Special Event: Christmas in July - July 7, 2018, and associated request for road closure of Canal Street from Orange Street to west side of Chamber Parking Lot, as submitted. Commissioner Hartman seconded the motion, and the motion carried unanimously.

- J. Approve the Special Event: 11th Annual Shrimp and Seafood Festival - Thursday, August 2, 2018 - and associated road closure of Flagler Avenue from Peninsula Avenue to North Atlantic Avenue.

**Motion:**

Vice Mayor McGuirk moved to approve a Special Event: 11th Annual Shrimp and Seafood Festival - Thursday, August 2, 2018 - and associated road closure of Flagler Avenue from Peninsula Avenue to North Atlantic Avenue, as submitted. Commissioner Hartman seconded the motion, and the motion carried unanimously.

**8. ADMINISTRATIVE ITEMS/NEW BUSINESS**

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- A. Resolution No. 22-18 Voluntary Discontinuance of Use of Single-Use Plastic Straws.

**Motion:**

Commissioner Sachs moved to approve Resolution No. 22-18 Voluntary Discontinuance of Use of Single-Use Plastic Straws, as submitted. Commissioner Hartman seconded the motion, and the motion carried unanimously.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MÓVER:</b>	Jake Sachs, Commissioner
<b>SECONDER:</b>	Randy Hartman, Commissioner
<b>AYES:</b>	McGuirk, Hathaway, Reiker, Sachs, Hartman

**9. BOARDS AND COMMISSIONS**

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- A. Economic Development Advisory Board: Consider the appointment/reappointment of six members of the Economic Development Advisory Board, to 4-year terms to expire June 8, 2022.

City Clerk Johnny Bledsoe asked for a continuance of this item.

<b>RESULT:</b>	<b>CONTINUED NO VOTE TAKEN</b>
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**10. CITY MANAGER'S REPORT**

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- A. City Manager's Report

City Manager Brangaccio reminded all of a joint meeting with Edgewater, Oak Hill and the Volusia County School Board tomorrow evening, Wednesday, June 27, 2018 at Edgewater City Hall.

**11. CITY CLERK'S REPORT**

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City Clerk Johnny Bledsoe commented on the new candidates. He stated there were twelve qualified candidates in the election.

**12. CITY ATTORNEY'S REPORT**

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There was no report.

**13. ADJOURNMENT**

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As there was no other business to discuss, Mayor Hathaway declared the meeting adjourned at 9:20 PM.