



**Wednesday, August 29, 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 Wednesday, August 29, 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, Interim Finance Director Lewie Wise, Capital Improvement Manager Michelle Vallance, Maintenance Operations Director Faith Miller, City Engineer Kyle Fegley, Interim Public Information Office Phil Veski, City Clerk Johnny Bledsoe and Assistant City Clerk Kelly McQuillen.

**B. Invocation/Pledge of Allegiance**

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

**C. Approval of the Agenda**

City Manager Pam Brangaccio reported one change. She stated that Administrative Item/New Business: HTR-6-18 was requested to be continued by the applicant to the September 11, 2018 City Commission Meeting.

**2. ANNOUNCEMENTS/PRESENTATION/RECOGNITIONS**

---

Mayor Hathaway recognized City Attorney Carrie Avallone for achieving the Florida Bar Board Certification, which highlights an attorneys' special knowledge, skills and proficiency in various areas of law and professionalism and ethics in practice.

A. Presentation of 27th Avenue Beachfront Park Improvements Project (per ECHO 2016/2017 ECHO Grant Award)

Capital Improvement Projects Manager Michelle Vallance outlined a presentation regarding the 27th Avenue Beachfront Park Improvements.

Commissioner Sachs asked if the park restrooms were included in the improvements.

Ms. Vallance explained that the restrooms were re-habbed two years ago. She mentioned that they were repainted in April 2018.

Commissioner Sachs asked if the proposed shading could be removed during a hurricane.

Ms. Vallance stated that the shading would be removed during a tropical storm.

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

---

Commissioner Hartman commented on attending the Impact on Impact Meeting. He commented on attending the Supervisor of Elections Primary Event in Deland, Florida.

Vice Mayor McGuirk commented on traveling to the Florida League of Cities Conference in Hollywood, Florida. He commented on Home Rule. He stated it was a great conference. He congratulated the candidates who moved forward to the general elections. He recognized Senator John McCain and stated he served the Country about as well as anybody could have.

Commissioner Sachs commented on the homeless issue in New Smyrna Beach. He hoped moving forward, we had better answers to help the homeless get out of the chain of despair. He attended a DEP Resiliency Program and commented on rising seawaters. He congratulated the Firefighters for saving a kitten and shared the Fire Department received a commendation letter from PETA. He commented on the SJRMWD and Webster Creek features. He hoped the City makes a statement now or in the future about Webster Creek.

Commissioner Reiker commented on Home Rule. She stated it was the citizens who needed to communicate to the legislature about Home Rule. She commented on attending the Round Table event today led by Representative Tom Leek. She commented on an upcoming meeting with Representative Renner. She commented on a project collaboration over the past two years regarding designing an app to alert visitors when the beach was closed.

Mayor Hathaway shared it was good to attend the last Florida League of Cities Conference in Hollywood, Florida. He commented on Home Rule and stated how important it was to not allow government to strip municipalities of Home Rule. He congratulated the candidates that are moving onto the General Election. He commented on the overuse of election signs.

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

---

- A. Ordinance No. 39-18: Conduct the second reading and public hearing of an ordinance, which if adopted, would approve a SR 44 Sanitary Sewer Assessment Amendment

City Attorney Avallone read Ordinance No. 39-18, the second time by title only.

City Engineer Kyle Fegley outlined the proposed ordinance, which if adopted, would approve a SR 44 Sanitary Sewer Assessment Amendment. He stated that property owners were contacted.

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. 39-18, as submitted. Commissioner Hartman 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>	Randy Hartman, Commissioner
<b>AYES:</b>	McGuirk, Hathaway, Reiker, Sachs, Hartman

#### 5. PUBLIC PARTICIPATION

---

Michael Kolody, 105 Via Capri, commented on Impact Fees. He stated that all the fees that were collected are co-mingled. He wanted Staff to look into that. He commented on passing an Ordinance in 2007 that stated a resolution has to be passed in order to change impact fees. He requested an increase in impact fees.

Lisa Mickey, New Smyrna Beach resident, commented on the Publix parking lot removal of trees. She commented on the maturity of live oak trees in the lot. She stated the trees were important and asked the City Commission to think about making decisions prior to voting.

Vice Mayor McGuirk addressed Ms. Mickey. He explained the history of that specific parking lot and the development of that property. He stated the fact that all of the trees in that parking lot were dying. He commented on planning extensively in the future regarding planting of trees.

Lisa Martin, 618 South Pine Street, commented on attending the City Commission Meeting regarding the vote for the Publix Historical Tree Removal. She stated it was a Publix Arborist and not the City Arborist that stated the trees were dying.

Megan Penatorri, New Smyrna Beach resident, asked what type of trees would be planted.

## 6. ORDINANCES - FIRST READING

---

- A. Ordinance No. 40-18: Conduct the second reading and public hearing of an ordinance, which if adopted, would annex approximately 0.3 +/- acres of property located at 170 Hickory Street.

City Attorney Avallone read Ordinance No. 40-18 the first time, by title only.

**Motion:**

Commissioner Reiker moved to approve on the first reading Ordinance No. 40-18, 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 September 11, 2018.

<b>RESULT:</b>	<b>APPROVED AT FIRST READING [UNANIMOUS]</b>	<b>Next: 9/11/2018 6:30 PM</b>
<b>MOVER:</b>	Judy Reiker, Commissioner	
<b>SECONDER:</b>	Jason McGuirk, Vice Mayor	
<b>AYES:</b>	McGuirk, Hathaway, Reiker, Sachs, Hartman	

- B. Ordinance No. 41-18: Conduct the second reading and public hearing of an ordinance, which if adopted, would amend the Future Land Use for approximately 0.3 +/- acres of annexed property located at 170 Hickory Street.

City Attorney Avallone read Ordinance No. 41-18 the first time, by title only.

**Motion:**

Commissioner Hartman moved to approve on the first reading Ordinance No. 41-18, 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 September 11, 2018.

<b>RESULT:</b>	<b>APPROVED AT FIRST READING [UNANIMOUS]</b>	<b>Next: 9/11/2018 6:30 PM</b>
<b>MOVER:</b>	Randy Hartman, Commissioner	
<b>SECONDER:</b>	Judy Reiker, Commissioner	
<b>AYES:</b>	McGuirk, Hathaway, Reiker, Sachs, Hartman	

- C. Ordinance No. 42-18: Conduct the second reading and quasi-judicial public hearing of an ordinance, which if adopted, would rezone approximately 0.3 +/- acres of annexed property located at 170 Hickory Street.

City Attorney Avallone read Ordinance No. 42-18 the first time, by title only.

**Motion:**

Vice Mayor McGuirk moved to approve on the first reading Ordinance No. 42-18, 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 September 11, 2018.

D. Ordinance No. 43-18: Conduct the second reading and public hearing of an ordinance, which if adopted, would approve Local Landmark Application No. LD-1-18: 403 Magnolia Street and would designate the existing contributing structure as a Local Landmark.

City Attorney Avallone read Ordinance No. 43-18 the first time, by title only.

**RESULT:** APPROVED AT FIRST READING [UNANIMOUS] Next: 9/11/2018 6:30 PM  
**MOVER:** Jason McGurk, Vice Mayor  
**SECONDER:** Randy Hartman, Commissioner  
**AYES:** McGurk, Hathaway, Reiker, Sachs, Hartman

Motion:  
 Commissioner Sachs moved to approve on the first reading Ordinance No. 43-18, 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 September 11, 2018.

E. Ordinance No. 44-18: Conduct the second reading and public hearing of an ordinance, which if adopted, would amend the City Code of Ordinances Chapter 2, Article VI, Division 3 - Expenditures, Contracts and Purchases in Compliance with Recent Versions of Federal and State Law.

City Attorney Avallone read Ordinance No. 44-18 the first time, by title only.

**RESULT:** APPROVED AT FIRST READING [UNANIMOUS] Next: 9/11/2018 6:30 PM  
**MOVER:** Jake Sachs, Commissioner  
**SECONDER:** Judy Reiker, Commissioner  
**AYES:** McGurk, Hathaway, Reiker, Sachs, Hartman

Motion:  
 Commissioner Sachs moved to approve on the first reading Ordinance No. 43-18, 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 September 11, 2018.

F. Ordinance No. 45-18: Conduct the second reading and public hearing of an ordinance, which if adopted, would amend the City Code of Ordinances Chapter 26 - Buildings and Building Regulations, Section 26-36, in order to adopt the most recent version of technical codes.

City Attorney Avallone read Ordinance No. 45-18 the first time, by title only.

**RESULT:** APPROVED AT FIRST READING [UNANIMOUS] Next: 9/11/2018 6:30 PM  
**MOVER:** Randy Hartman, Commissioner  
**SECONDER:** McGurk, Hathaway, Reiker, Sachs, Hartman

**Motion:**

Vice Mayor McGuirk moved to approve on the first reading Ordinance No. 45-18, 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 September 11, 2018.

<b>RESULT:</b>	<b>APPROVED AT FIRST READING [UNANIMOUS]</b>	<b>Next: 9/11/2018 6:30 PM</b>
<b>MOVER:</b>	Jason McGuirk, Vice Mayor	
<b>SECONDER:</b>	Randy Hartman, Commissioner	
<b>AYES:</b>	McGuirk, Hathaway, Reiker, Sachs, Hartman	

- G. Ordinance No. 48-18: Conduct the second reading and public hearing of an ordinance, which if adopted, would amend the FY2017/2018 adopted City Budget.

City Attorney Avallone read Ordinance No. 48-18 the first time, by title only.

**Motion:**

Commissioner Hartman moved to approve on the first reading Ordinance No. 48-18, 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 September 11, 2018.

<b>RESULT:</b>	<b>APPROVED AT FIRST READING [UNANIMOUS]</b>	<b>Next: 9/11/2018 6:30 PM</b>
<b>MOVER:</b>	Randy Hartman, Commissioner	
<b>SECONDER:</b>	Jason McGuirk, Vice Mayor	
<b>AYES:</b>	McGuirk, Hathaway, Reiker, Sachs, Hartman	

## 7. CONSENT AGENDA

---

- A. Approve the minutes of the City Commission Regular Meeting held August 14, 2018.

**Motion:**

Vice Mayor McGuirk moved to approve the minutes of the City Commission Regular Meeting held August 14, 2018, as submitted. Commissioner Reiker seconded the motion, and the motion carried unanimously.

- B. Resolution No. 30-18: Consider adoption of a resolution that would amend Resolution No. 18-17 regarding the Airport Access permit fee for commercial through the fence aviation users.

**Motion:**

Vice Mayor McGuirk moved to adopt Resolution No. 30-18: a resolution that would amend Resolution No. 18-17 regarding the Airport Access permit fee for commercial through the fence aviation users, as submitted. Commissioner Reiker seconded the motion, and the motion carried unanimously.

- C. Approve the purchase of shade structures for Manatee All Children's Playground in Riverside Park, at a cost of \$68,325.07 for the shades from Shade Systems, Inc. and \$730.00 for a City building permit.

**Motion:**

Vice Mayor McGuirk moved to approve the purchase of shade structures for Manatee All Children's Playground in Riverside Park, at a cost of \$68,325.07 for the shades from Shade Systems, Inc. and \$730.00 for a City building permit, as submitted. Commissioner Reiker seconded the motion, and the motion carried unanimously.

- D. Approve the closure of Wayne Avenue at Faulkner Street, for a period not to exceed five (5) business days (No weekends). This work is to be conducted September 10, 2018 through September 14, 2018, in order to complete construction of ongoing Watermain Improvements in the area.

**Motion:**

Vice Mayor McGuirk moved to approve the closure of Wayne Avenue at Faulkner Street, for a period not to exceed five (5) business days (no weekends) for work to be conducted September 10, 2018 through September 14, 2018, in order to complete construction of ongoing water main improvements in the area. Commissioner Reiker seconded the motion, and the motion carried unanimously.

- E. Approve the Award of the Babe James Center HVAC Replacement and Police Department HVAC Repair/replacement Bid to Carrier Corporation.

**Motion:**

Vice Mayor McGuirk moved to approve the Award of the Babe James Center HVAC Replacement and Police Department HVAC Repair/replacement Bid to Carrier Corporation. Commissioner Reiker seconded the motion, and the motion carried unanimously.

- F. Approve the award of contract to Pegasus Engineering Design Services, in the amount of \$17,500 for Central Beach Stormwater Surge Protection Devices, as funded through the Stormwater account.

Commissioner Sachs asked about the developments class of water and discharge of water.

City Engineer Kyle Fegley addressed the concerns of Commissioner Sachs. He explained the guidelines and stipulations and shared that they were mandated through the EPA.

**Motion:**

Commissioner Sachs moved to approve the award of contract to Pegasus Engineering Design Services, in the amount of \$17,500 for Central Beach Stormwater Surge Protection Devices, as funded through the Stormwater account. Commissioner Reiker seconded the motion, and the motion carried unanimously.

- G. Approval of two scopes of work submitted by S & ME for the Phase planning and design for US 1 and SR 44 median improvement project in the amount of \$26,400, and the use of CRA funds in the amount of \$13,200 to pay for the scope of work for US 1, and funding from the General Fund for SR 44. It is the City's intent to submit for FDOT grants for the majority of the costs of the landscaping.

**Motion:**

Vice Mayor McGuirk moved to approve two scopes of work submitted by S & ME for the Phase planning and design for US 1 and SR 44 median improvement project in the amount of \$26,400, and the use of CRA funds in the amount of \$13,200 to pay for the scope of work for US 1, and funding from the General Fund for SR 44. It is the City's intent to submit for FDOT grants for the majority of the costs of the landscaping. Commissioner Reiker seconded the motion, and the motion carried unanimously.

- H. Approve entering into a contract with Mead & Hunt to update the Capital Improvements Element of the Comprehensive Plan. This update is \$28,500 and is the first step in updating the City Impact Fees

**Motion:**

Vice Mayor McGuirk moved to approve entering into a contract with Mead & Hunt to update the Capital Improvements Element of the Comprehensive Plan. This update is \$28,500 and is the first step in updating the City Impact Fees. Commissioner Reiker seconded the motion, and the motion carried unanimously.

**8. ADMINISTRATIVE ITEMS/NEW BUSINESS**

---

- A. Application No. HTR-6-18, to allow the removal of sixteen (16) Historic Live Oak trees on vacant land located at Old Mission Road and Eslinger Road. This item is not recommended by the Planning Department as the site plan could be modified.

**Motion:**

Commissioner Hartman moved continue the item to the City Commission Meeting scheduled for September 11, 2018. Commissioner Reiker seconded the motion, and the motion carried unanimously.

<b>RESULT:</b>	<b>CONTINUED NO VOTE TAKEN</b>	<b>Next: 9/11/2018 6:30 PM</b>
----------------	--------------------------------	--------------------------------

**9. BOARDS AND COMMISSIONS**

---

- A. Housing Authority, City of New Smyrna Beach: Consider the approval of Mayor Hathaway's nomination of Grover Miller, Jr. and Regis Sloan for reappointment as members of the Housing Authority, City of New Smyrna Beach to four-year terms to expire August 31, 2022.

**Motion:**

Vice Mayor McGuirk moved to consider the approval of Mayor Hathaway's nomination of Grover Miller, Jr. and Regis Sloan for reappointment as members of the Housing Authority, City of New Smyrna Beach to four-year terms to expire August 31, 2022. 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

- B. Golf Advisory Board: Consider the reappointment of two members to 3-year terms to expire September 1, 2021.

**Motion:**

Commissioner Hartman moved to consider the reappointment of Leo Kernica and Nancy-Lou Knapp to 3-year terms to expire September 1, 2021. Commissioner Reiker seconded the motion, and the motion carried unanimously.



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

## 10. CITY MANAGER'S REPORT

---

### A. City Manager's Report

City Manager Brangaccio commented on the FDOT response updating the SR44 Corridor Report. She added that the project was moving forward in 2019. She addressed the County/ECHO and commented on a 2019 ECHO Grant Application. She commented on visiting the Doris Leper Disc Course, she encouraged all to visit.

## 11. CITY CLERK'S REPORT

---

City Clerk Johnny Bledsoe thanked Commissioner Hartman for joining him at the Primary Elections at the Supervisor of Elections in Deland, Florida held on Tuesday, August 28, 2018.

He commented on the Coral Trace subdivision. He stated that a citizen called and asked why she was not able to vote. He found out that the subdivision was still classified as unincorporated Volusia County instead of New Smyrna Beach resident. He applauded Lisa Lewis, Supervisor of Elections, for taking the time to visit all 29 of those residents with new ballots to ensure they had the opportunity to vote.

## 12. CITY ATTORNEY'S REPORT

---

### A. City Attorney's Report

City Attorney Carrie Avallone commented on Consent Item 7H: Contract to Update Capital Improvement Element of Comp Plan. She submitted a proposal from Nabors, Giblin & Nickerson regarding the City Transportation Impact Fee Modernization Project.

#### Motion:

Vice Mayor McGuirk moved to approve entering into a contract with Nabors, Giblin & Nickerson regarding the City Transportation Impact Fee Modernization Project of the Comprehensive Plan. Commissioner Hartman 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>	Randy Hartman, Commissioner
<b>AYES:</b>	McGuirk, Hathaway, Reiker, Sachs, Hartman

## 13. ADJOURNMENT

---

As there was no other business to discuss, Mayor Hathaway declared the meeting adjourned at 7:51 PM.