



**City Commission Regular Meeting
Tuesday, November 13, 2018
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, November 13, 2018 at the City Hall Commission Chamber, 210 Sams Avenue, New Smyrna Beach, Florida 32168.

Mayor Russ Owen called the meeting to order at 6:30 PM.

Attendee Name	Title	Status	Arrived
Jason McGuirk	Commissioner	Present	
Jake Sachs	Commissioner	Present	
Randy Hartman	Vice Mayor	Present	
Michael Kolody	Commissioner	Present	
Russell Owen	Mayor	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, Interim Finance Director Lewie Wise, Community Resource Coordinator Donna Banks, Interim Public Information Office Phil Veski and Assistant City Clerk Kelly McQuillen.

B. Invocation/Pledge of Allegiance

Police Department Chaplain Laura Berg gave the invocation. Mayor Owen 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 Certificate of Achievement for Excellence in Finance Reporting to the Finance Department for the City of New Smyrna Beach

Mayor Owen and Interim Finance Director Lewie Wise presented the Finance Staff with a GFOA Certificate of Achievement. Ms. Wise recognized the Finance Staff: Accountant Cathleen Kirby, Payroll Accountant Ellen Miller, Accounts Payable Administrator Jeri Mahoney, Account Technician Kim Bressett and Purchasing Coordinator Carole Wimmer.

3. MAYOR AND COMMISSION REPORTS

Vice Mayor Hartman commented on visiting the Supervisor of Elections Office during the evening of the General Election on Tuesday, November 6, 2018 with Assistant City Clerk Kelly McQuillen and Public Information Officer Phil Veski. He shared that the Canvassing Board was in session during their visit and remarked how interesting it was to watch the numbers come in. He stated it was a very educational experience. He commented on attending the Flamingo Follies Event and shared that it was a great event with a good turnout.

Commissioner McGuirk commented on attending Veterans Day Ceremony on Sunday, November 11, 2018 and stated it was a wonderful ceremony and shared it was one of his favorite events to attend. He stated that Mayor Owen did a great job with his speech at the event. He shared that he received many positive comments about the event being held in the Brannon Civic Center. He encouraged all to attend the event in the future; sharing it was a truly moving experience.

Commissioner Sachs commented on attending the Veterans Day Ceremony at the Brannon Center on November 11, 2018 and attended the Veterans Day Ceremony at Daytona State College New Smyrna Beach Campus on Wednesday, November 7, 2018. He commented on the love and pain displayed at the Veterans Day Ceremony at Brannon Center. He shared that the pain was overcome by the love. He hoped to continue to attend the event in the future. He commented on the speeding and traffic on Magnolia Street. He stated there were issues on water quality. He stated he would continue to work with his colleagues on those issues and hoped the City could continue to grow as it had before. He stated he was honored to be able to work with them.

Commissioner Kolody commented on being glad to be here and thanked everyone for putting up with him during the primary. He commented on issues that needed to be discussed. He stated that the prior commission took some great first steps on issues such as impact fees and density calculations. He believed that the prior commission placed the new commission on a path that allowed them to act upon items quickly. He felt fortunate to be in a position to take advantage of what the prior commission started. He felt that the impact fees should be higher. He asked to follow the existing impact fee ordinance on the next City Commission Agenda scheduled for November 27, 2018. He remarked that the City Manager handled questions from the public quickly. He asked that whenever something is brought up by the public, that the City Manager provide a status of the issue at the next scheduled commission meeting. He stated it would provide more transparency.

Mayor Owen remarked that he was honored to be serving as mayor. He shared he was honored to have the support of the City. He thanked the City Staff for their time, patience and professionalism during the election process. He commented on Veterans Day Event held at the Brannon Civic Center on November 11, 2018. He shared that it was interesting to watch the Veterans former training come back in their step as they walked to the flag or the wreath. He shared that the event was moving. He commented about coming off a long campaign and was ready to get to work. He wanted to address one issue. He shared that he met a young girl during his campaign and that the girl wanted a jungle gym at her favorite playground. He promised the young girl that if he were elected, it would be one of the first things he would ask about. He introduced the young girl, as she was present in the audience. He stated her first name was Ila. He shared his report regarding the jungle gym with Ila and stated that he thought it was important to share because he wanted everyone to know that the City Commission was there to serve all residents, regardless of age. He stated that the playground equipment was slated to be replaced and it would include her favorite jungle gym. He shared that it was pending his fellow Commissioner's approval in December during a meeting. He stated if that approval were received then the playground equipment would be installed in the early spring of 2019.

Commissioner Sachs added to his previous discussion. He wanted to discuss the homelessness issue in the City. He stated that once a homeless person enters our City, he considers them a resident. He stated that because of the City's small size, he would like to have discussions on how we could better handle homeless interface with residents, especially in neighborhoods that were touched by the homeless populations' activities. He shared that there were mothers afraid to bring their children to some local parks due to the homeless frequenting those places. He hoped that they could have better discussions on how to handle the impact of homelessness and how to solve the issues.

Mayor Owen shared there was a desire from citizens to video stream City Commission Meetings. He stated he asked City Staff to put forward some options for video streaming the meetings in the future. He remarked that he would like the City to do it right the first time, as there were many litigation suits in the nation that currently dealt with close captioning and other legal issues.

Motion:

Commissioner McGuirk moved to bring forward options for video streaming during City Commission Meetings. Commissioner Sachs seconded the motion and the motion was unanimously approved.

Mayor Owen shared that he has had discussions with the City Manager and City Attorney about the flow and cadence of the City Commission Meetings. He wanted to be able to be more efficient during the meetings. He asked for an addition of an agenda item on the earliest possible agenda to discuss the possibility of and options for changing the City Commission Meeting Agenda Outline.

City Commission approved by consensus to request the addition of an item on an upcoming agenda to discuss the City Commission Meeting Agenda Outline.

Mayor Owen wanted to clarify to the residents that the issuance of the bond would be processed, managed and governed by elected official and City staff.

City Manager Brangaccio explained that City Staff was working on the top priority projects. She stated that a preliminary draft could be ready for the November 27, 2018 City Commission Meeting and was unsure if the environmental process would be ready by that meeting. She stated that City Staff was in the process of gathering the information.

Motion:

Commissioner Kolody moved to include the Turnbull Creek Water Quality, Wildlife Habitat, and Natural Areas Protection Bond issue discussion to the November 27, 2018 agenda. Commissioner McGuirk seconded the motion and the motion was unanimously approved.

4. ORDINANCES - SECOND READING AND PUBLIC HEARINGS

- A. Sidewalk Cafe Application No. CA-2-18, 105 Magnolia Street: Conduct a public hearing of an agreement, which if approved, would allow for the addition of four non-permanent tables, to an existing business, within the Magnolia Street right-of-way (sidewalk)

Planning and Zoning Director Amye King outlined the proposed application, which if approved, would allow for the addition of four non-permanent tables, to an existing business, within the Magnolia Street right-of-way (sidewalk).

Commissioner Sachs noticed another venue in town had similar tables in front and wondered if that venue was permitted to have such tables.

Ms. King explained that the other venue had the sidewalk on their property, but this venue had property (sidewalk) owned by the City.

Commissioner Kolody suggested that they add in a 14-day time limit to repair the sidewalk due to a possible liability issue and require that the menu boards would be kept within the 4' area, not the 5' area that would be left for the public.

Vice Mayor Hartman asked if the menu board placement was something that was consistently done.

Ms. King stated it was covered in the Land Development Regulations.

Commissioner Sachs asked if it the type of seating was ADA-compliant for this type of provision.

Ms. King suggested that she would prefer to meet with the Building Official and refer back to the City Manager with the outcome of the discussion.

Commissioner McGuirk asked about the umbrella issue and asked if the applicant was allowed to have umbrellas installed at the tables.

Ms. King answered that the umbrellas were part of code and that the applicant would have to bring them in upon close of business.

Mayor Owen opened the public hearing.

Shy Morris, 541 Washington Street, formally welcomed the newly elected officials to the Commissions and extended her congratulations.

Mayor Owen closed the public hearing.

Motion:

Commissioner McGuirk moved to approve Sidewalk Cafe Application No. CA-2-18, with staff recommendations and repair of the property. Commissioner Kolody seconded the motion.

Vice Mayor Hartman offered an amendment to the motion. He explained that the applicant had a current Code Enforcement case and has accrued fines. He suggested that an amendment to the motion to require the applicant pay the fines in full as a condition for the application approval. The amendment died due to lack of a second.

The motion was approved 4-1 by majority vote, with Vice Mayor Hartman voting no.

Commissioner Sachs asked what the fine accrual amount was.

City Attorney Avallone stated that the current fine amount balance was \$1,750.00.

Motion:

Commissioner McGuirk moved to approve Sidewalk Cafe Application No. CA-2-18, with staff recommendations and repair of the property. Commissioner Kolody seconded the motion, and the motion 4-1 by majority vote, with Vice Mayor Hartman voting no.

RESULT:	ADOPTED [4 TO 1]
MOVER:	Jason McGuirk, Commissioner
SECONDER:	Michael Kolody, Commissioner
AYES:	McGuirk, Sachs, Kolody, Owen
NAYS:	Hartman

5. PUBLIC PARTICIPATION

No action.

6. ORDINANCES - FIRST READING

- A. Ordinance No. 56-18: Conduct the First Reading of an Ordinance, which if adopted, would repeal existing Special Assessment Procedures and adopt new regulations in the City Code.

City Attorney Avallone read Ordinance No. 56-18 the first time, by title only.

Motion:

Commissioner McGuirk moved to approve on the first reading Ordinance No. 56-18, as submitted. Commissioner Sachs seconded the motion, and the motion carried unanimously. Mayor Owen reported that the second reading and public hearing of the proposed ordinance would be conducted at the regular meeting on November 27, 2018.

RESULT:	APPROVED AT FIRST READING [UNANIMOUS]	Next: 11/27/2018 6:30 PM
MOVER:	Jason McGuirk, Commissioner	
SECONDER:	Jake Sachs, Commissioner	
AYES:	McGuirk, Sachs, Hartman, Kolody, Owen	

- B. Ordinance No. 57-18: Conduct the First Reading of an Ordinance, which if adopted, would amend the general fund, police impact fee fund, transportation impact fee fund, building and inspection fund, parking fund, capital projects fund and the city marina fund for fiscal year 2018-2019.

City Attorney Avallone read Ordinance No. 57-18 the first time, by title only.

Motion:

Commissioner Kolody moved to approve on the first reading Ordinance No. 57-18, as submitted. Commissioner McGuirk seconded the motion, and the motion carried unanimously. Mayor Owen reported that the second reading and public hearing of the proposed ordinance would be conducted at the regular meeting on November 27, 2018.

RESULT:	APPROVED AT FIRST READING [UNANIMOUS]	Next: 11/27/2018 6:30 PM
MOVER:	Michael Kolody, Commissioner	
SECONDER:	Jason McGuirk, Commissioner	
AYES:	McGuirk, Sachs, Hartman, Kolody, Owen	

- C. Ordinance No. 58-18: Conduct the First Reading of an ordinance, which if adopted, would grant a non-exclusive construction and roll-off service franchise to Keller Outdoor Landscaping, LLC.

City Attorney Avallone read Ordinance No. 58-18 the first time, by title only.

Motion:

Commissioner Sachs moved to approve on the first reading Ordinance No. 58-18, as submitted. Commissioner McGuirk seconded the motion, and the motion carried unanimously. Mayor Owen reported that the second reading and public hearing of the proposed ordinance would be conducted at the regular meeting on November 27, 2018.

RESULT:	APPROVED AT FIRST READING [UNANIMOUS]	Next: 11/27/2018 6:30 PM
MOVER:	Jake Sachs, Commissioner	
SECONDER:	Jason McGuirk, Commissioner	
AYES:	McGuirk, Sachs, Hartman, Kolody, Owen	

7. CONSENT AGENDA

- A. Approve the Minutes of City Commission Meeting held October 23, 2018.

Motion:

Commissioner McGuirk moved to approve minutes of City Commission Meeting held October 23, 2018, as submitted. Vice Mayor Hartman seconded the motion, and the motion carried unanimously.

- B. Confirmation of Emergency Purchase for Needed Repairs to the North Causeway - West Boat Ramp for \$27,935

Motion:

Commissioner McGuirk moved to approve an Emergency Purchase for Needed Repairs to the North Causeway- West Boat Ramp, as submitted. Vice Mayor Hartman seconded the motion, and the motion carried unanimously.

- C. Approve a temporary Road Closure at 2nd Street for utility connections associated with the Live Oak Cultural Center Project from Monday November 25 to Friday November 30th.

Motion:

Commissioner McGuirk moved to approve a temporary Road Closure at 2nd Street for utility connections associated with the Live Oak Cultural Center Project, as submitted. Vice Mayor Hartman seconded the motion, and the motion carried unanimously.

- D. Approve Special Event; Flagler Tavern- Parrots of the Caribbean and approval to have a beer garden on November 23rd, 2018 open to the public from 2pm to 8pm.

Motion:

Commissioner McGuirk moved to approve a Special Event: Flagler Tavern- Parrots of the Caribbean and approval to have a beer garden on November 23rd, 2018 open to the public from 2pm to 8pm, as submitted. Vice Mayor Hartman seconded the motion, and the motion carried unanimously.

- E. Resolution No. 37-18: Request for approval of Amendment No. 1 for Agreement No. CM837 between Florida Department of Environmental Protection and the City of New Smyrna Beach, which extends the project completion date to June 2019.

Motion:

Commissioner McGuirk moved to approve Resolution No. 37-18: Request for approval of Amendment No. 1 for Agreement No. CM837 between Florida Department of Environmental Protection and the City of New Smyrna Beach, as submitted. Vice Mayor Hartman seconded the motion, and the motion carried unanimously.

- F. Approve Special event; New Smyrna Harley After Hours Party and to have a beer garden on Harley Davidson Dealerships parking lot on December 1st, 2018 from 4 p.m. to 9:30 p.m.

Motion:

Commissioner McGuirk moved to approve a Special event; New Smyrna Harley After Hours Party and to have a beer garden on Harley Davidson Dealerships parking lot on December 1, 2018 from 4:00 p.m. to 9:30 p.m., as submitted. Vice Mayor Hartman seconded the motion, and the motion carried unanimously.

- G. Approve Special Event: Shark Bite 1/2 Marathon/5k and to have a beer garden and rent Flagler Avenue Parking Lot January 20th, 2019 from 3 a.m. to 2:30 p.m. for the event that begins at 7:30 a.m. until 11:30 a.m.

Motion:

Commissioner McGuirk moved to approve a Special Event: Shark Bite 1/2 Marathon/5k and to have a beer garden and rent Flagler Avenue Parking Lot January 20th, 2019 from 3 a.m. to 2:30 p.m. for the event that begins at 7:30 a.m. until 11:30 a.m., as submitted. Vice Mayor Hartman seconded the motion, and the motion carried unanimously.

- H. Approve Special Event; Florida East Coast Railroad Toys for Tots Train Event from 8 a.m. to noon which includes one hour set up and one hour break down and road closure of West Canal Street from US1 to just past the railroad tracks on December 8th, 2018.

Motion:

Commissioner McGuirk moved to approve a Special Event: Florida East Coast Railroad Toys for Tots Train Event from 8 a.m. to noon, which includes one hour set up and one hour break down and road closure of West Canal Street from US1 to just past the railroad tracks on December 8, 2018, as submitted. Vice Mayor Hartman seconded the motion, and the motion carried unanimously.

8. ADMINISTRATIVE ITEMS/NEW BUSINESS

- A. Approve entering into a Dock Easement Agreement with Jeanette and Edward Carstens, owners of property at 101 6th Street, which if approved, would allow for a new wood walkway and a covered dock that would extend a total of 65 feet into the Indian River.

Planning and Zoning Director Amye Kind outlined the agreement.

Commissioner Sachs asked if Ms. King was aware if the applicant applied through the DEP (Department of Environmental Protection) to approve construction through the mangroves.

Motion:

Vice Mayor Hartman moved to approve entering into a Dock Easement Agreement with Jeanette and Edward Carstens, owners of property at 101 6th Street, which if approved, would allow for a new wood walkway and a covered dock that would extend a total of 65 feet into the Indian River, as submitted. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

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

- B. Contract Award for Playground Equipment, Shade Structure and Surfacing for the 27th Avenue Beachfront Park Improvements Project in the amount of \$350,000 to Topline Recreation

Capital Improvements Manager Michelle Vallance outlined the contract award.

Mayor Owen asked if the equipment was ADA compliant.

Ms. Vallance described the different layers of all-inclusive compliance and explained that they were in the middle of the spectrum currently.

Commissioner Sachs thanked Ms. Vallance for her efforts and stated that the renderings were beautiful.

Motion:

Commissioner Sachs moved to approve Contract Award for Playground Equipment, Shade Structure and Surfacing for the 27th Avenue Beachfront Park Improvements Project in the amount of \$350,000 to Topline Recreation, as submitted. Vice Mayor Hartman seconded the motion, and the motion carried unanimously.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jake Sachs, Commissioner
SECONDER:	Randy Hartman, Vice Mayor
AYES:	McGuirk, Sachs, Hartman, Kolody, Owen

- C. Islesboro Subdivision Drainage Improvement Project - Change Order #4 (a total of \$277,695) to fund additional paving of driveways within ROW (\$165,000) and an additional section of Conrad Drive (\$52,695); and adjust grade on some drainage structures (\$60,000). Funding is from the Stormwater Fee Fund.

City Engineer Kyle Fegley outlined the Islesboro Drainage Improvement Project. He shared three photos of the construction and explained what each photo was in regards to the project steps. He stated they wanted to bring it to the City Commission tonight because he wanted to make sure he had the ability to adjust the structures to accommodate the residents.

Commissioner McGuirk asked about the water quality issue and asked if the aprons would be helpful.

Mr. Fegley concurred that the water quality would be milky and confirmed that the aprons would be helpful in greatly improving the quality.

Commissioner Kolody shared that he thought the addition of the aprons was a fine upgrade and was the responsible thing to do. He wanted to review the procedures with Mr. Fegley regarding allowing the contractor to go forward and wanted greater assurances in making the changes. He believed that part of the cost should be recovered and would like to meet with Mr. Fegley and the City Attorney to review the contract and discuss how to recover some, if not all, of the costs.

Commissioner Sachs inquired about a resident in that neighborhood that experienced severe flooding after the project was underway. He hoped that staff took that into consideration so that this resident would not incur flooding again.

Mr. Fegley stated that they would find a way to help the resident out and stated it was a key goal.

Motion:

Commissioner McGuirk moved to approve Islesboro Subdivision Drainage Improvement Project - Change Order #4, as submitted. Commissioner Sachs seconded the motion, and the motion carried unanimously.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jason McGuirk, Commissioner
SECONDER:	Jake Sachs, Commissioner
AYES:	McGuirk, Sachs, Hartman, Kolody, Owen

9. BOARDS AND COMMISSIONS

- A. Consider the appointment of City Commission Representative Commissioner as a member of the Fire Pension Board to a two-year term to expire November 1, 2020. Also, consider the reappointment of a Lieutenant Michael Lynn, as elected by the eligible employees of the New Smyrna Beach Fire Department, to a two-year term to expire November 1, 2020.

Commissioner McGuirk nominated Commissioner Michael Kolody for appointment on the Fire Pension Board. There were no additional nominations.

Vice Mayor Hartman recommended that they change the term date from November 1st to December 1st.

City Attorney Avallone added that it could possibly interfere with elections and that a seat would be absent.

Mayor Owen asked if a term could be dynamic with an election date.

Discussion ensued about the term dates. It was suggested that the term date item could be discussed with the Fire Pension Board first to see what the consensus was.

Commissioner McGuirk tasked Commissioner Kolody with bringing the term date change up for discussion at the next Fire Pension Meeting.

Motion:

Commissioner McGuirk moved to appoint Commissioner Kolody as a member of the Fire Pension Board to a two-year term to expire on November 1, 2020. Commissioner Sachs seconded the motion, and the motion was unanimously approved.

Motion:

Vice Mayor Hartman moved to reappoint Lieutenant Michael Lynn as a member of the Fire Pension Board to a two-year term to expire on November 1, 2020. Commissioner McGuirk seconded the motion, and the motion was unanimously approved.

RESULT:	ADOPTED [UNANIMOUS]
AYES:	McGuirk, Sachs, Hartman, Kolody, Owen

- B. Consider Approval of the Reappointment of Police Lieutenant Mark Severance, City Commissioner Jake Sachs and Vice Mayor Randy Hartman to serve as members of the Police Pension Board, to represent the Police Department, to a 2-year terms to expire October 1, 2020.

Motion:

Commissioner Kolody moved to reappoint Vice Mayor Hartman and Commissioner Sachs as members of the Police Pension Board to two-year terms to expire on October 1, 2020. Commissioner McGuirk seconded the motion, and the motion was unanimously approved.

Motion:

Vice Mayor Hartman moved to reappoint Lieutenant Mark Severance as a member of the Fire Pension Board to a two-year term to expire on October 1, 2020. Commissioner Sachs seconded the motion, and the motion was unanimously approved.

RESULT:	ADOPTED [UNANIMOUS]
AYES:	McGuirk, Sachs, Hartman, Kolody, Owen

10. CITY MANAGER'S REPORT

A. City Manager's Report

City Manager Brangaccio announced that there would be a 5:00 pm CCR (Coastal Community Resiliency) Meeting update on Tuesday, November 27, 2018. She stated that the meeting would be held in the City Hall Commission Chambers rather than the Brannon Civic Center. She announced that there would be a CRA (Community Redevelopment Agency) Special Meeting scheduled for 6:00 PM on Tuesday, November 27, 2018. She stated that the topic would be the Housing Authority's request to ask the City to move forward with grant dollars received. She announced that City Offices would be closed on Thursday, November 22, 2018 and Friday, November 23, 2018 due to the Thanksgiving Holiday.

11. CITY CLERK'S REPORT

No Action.

12. CITY ATTORNEY'S REPORT

City Attorney Avallone announced the retirement of Assistant City Attorney Marie Hartman. Ms. Avallone shared that a new Assistant City Attorney had been hired and his name was Chris Ryan.

13. ADJOURNMENT

As there was no other business to discuss, Mayor Owen declared the meeting adjourned at 8:09 PM.