



**Tuesday, September 26, 2017**  
**City Commission Regular Meeting**  
**Minutes**

**6:30 PM – City Hall Commission Chambers, 210 Sams Ave, New Smyrna Beach, FL 32168**

**1. OPENING OF MEETING**

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**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, September 26, 2017 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.

**B. Roll Call**

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

Also present were City Manager Pamela Brangaccio, City Attorney Frank B. Gummey, III, Assistant City Manager Khalid Resheidat, Police Chief Mike Coffin, Interim Fire Chief Shawn Vandemark, CRA Director Tony Otte, Planning and Zoning Director Amye King, City Clerk Johnny Bledsoe and Assistant City Clerk Kelly McQuillen.

**C. Invocation/Pledge of Allegiance**

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

**D. Approval of the Agenda**

City Manager Brangaccio reported the continuance of **Item 6. C**, Ordinance No. 78-17: Large Scale Rezoning Application Z-6-17 for thirty days until October 24, 2017 and the continuance of **Item 8. B**, SA-2-17: Slip Allocation Application - Riverwalk at Coronado Island. There was also a minor correction to **Item 7. E**, Team Volusia Contract for FY 17-18.

## **2. ANNOUNCEMENTS/PRESENTATION/RECOGNITIONS**

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### **A. Proclamation: 25th Anniversary of the Harmony Sound Waves**

Mayor Hathaway presented a Proclamation to Phyllis Fairley, President of the women's barbershop chorus, Harmony Sound Waves. He stated they enjoyed performing for special events, clubs, and assisted living facilities. He mentioned that the Harmony Sound Waves were celebrating their Silver Anniversary.

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

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Commissioner Reiker commented on attending the Volusia Cities League Board Meeting on the afternoon of Tuesday, September 26, 2017. She welcomed the Commission to attend upcoming meetings and stated if they would like to speak, they would have to contact Volusia County for a speakers request form. She stated that the next meeting was on November 3, 2017. She commented on topics that the Volusia League would be discussing. She mentioned the upcoming Volusia League dinner.

Vice Mayor Sachs represented the City at Manatee Park in Daytona Beach while giving a proclamation to the AHEPA Greek Society. He wanted to propose making Nea Smyrni near Athens, Greece to become our sister city. He commented on a traffic light for Fire Station Headquarters 50. He wanted to include a light dedicated to that Fire Station. He commented on enlisting Commissioner McGuirk to help him take the initiative obtain the light because Commissioner McGuirk is on the River to the Sea Transportation Planning Organization Board.

Commissioner McGuirk addressed the traffic light concern at Fire Station 50 and mentioned he would like to see a caution light placed there.

Commissioner Hartman commented on attending meetings regarding the Westside homeless population since the Commission Meeting held on September 19, 2017.

Mayor Hathaway commented on a meeting that occurred between the City Manager, Police Chief and Reverend Dove to address concerns about the homeless issue. He asked City Commission to authorize an initiative for him to join other Mayors for a 100% clean energy pledge for the City of New Smyrna Beach.

### **Motion:**

Vice Mayor Sachs moved to approve Mayor Hathaway signing a form that authorized an initiative for him to join other Mayors for a 100% clean energy pledge. Commissioner Hartman seconded the motion, and the motion approved unanimously.

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

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- A. Ordinance No. 40-17: Amending Code to include Civil Emergencies Update - Conduct the second reading and public hearing of an ordinance, which if adopted, would define formal declaration of an emergency or state of emergency by city officials, this document adds emergency management definitions and actions, which would take place during a natural or possibly man-made disaster incident. Provisions for emergency management powers and order of succession are also included. The ordinance would now include solid waste language in an effort to increase efficiency during cleanup efforts. Debris removal language has been added for clarification and authority to enable removal of debris from private roads and gated communities within the city when a public health and safety concern is warranted.

City Attorney Gummey read Ordinance No. 40-17, the second time by title only.

City Manager Brangaccio outlined the proposed ordinance, which if adopted, would amend Code to include Civil Emergencies Update -by defining a formal declaration of an emergency or state of emergency by city officials, this document adds emergency management definitions and actions, which would take place during a natural or possibly manmade disaster incident. Provisions for emergency management powers and order of succession are also included. The ordinance would now include solid waste language in an effort to increase efficiency during cleanup efforts. Debris removal language has been added for clarification and authority to enable removal of debris from private roads and gated communities within the city when a public health and safety concern was warranted.

Vice Mayor Sachs asked if we would have to incur that cost of debris removal.

City Manager Brangaccio confirmed that the City would be reimbursed up to 85% for debris removal.

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

**Motion:**

Commissioner Hartman moved to adopt Ordinance No. 40-17, as submitted. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

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

- B. Ordinance No. 67-17: Conduct the second reading and public hearing of an ordinance, which if adopted, would amend the City of New Smyrna Beach Police Officers' Retirement Plan by amending Article 11 Participation, for Police Chiefs, not current employees of the City.

City Attorney Gummey read Ordinance No. 67-17, the second time by title only.

City Manager Brangaccio outlined the proposed ordinance, which if adopted, would amend the City of New Smyrna Beach Police Officers' Retirement Plan by amending Article 11 Participation, for Police Chiefs, not current employees of the City.

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. 67-17, as submitted. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

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

- C. Ordinance No. 68-17: Conduct the second reading and public hearing of an ordinance, which if adopted, would amend the City of New Smyrna Beach Firefighters' Retirement Plan by amending Section 2 Membership.

City Attorney Gummey read Ordinance No. 68-17, the second time by title only.

City Manager Brangaccio outlined the proposed ordinance, which if adopted, would amend the City of New Smyrna Beach Firefighters' Retirement Plan by amending Section 2 Membership.

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

**Motion:**

Commissioner Hartman moved to adopt Ordinance No. 68-17, as submitted. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

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

- D. Ordinance No. 77-17: Large-Scale Comprehensive Plan Amendment Application No. 17-2, Conduct the public transmittal hearing of an ordinance, which if approved, would transmit the 17-2 Large-Scale Comprehensive Plan Amendments to the Florida Department of Economic Opportunity, and other State Departments for review and comments. The proposed amendment, if adopted, would change land use designations on properties located at 2635 Pioneer Trail and a cap of density at two units per acre.

City Attorney Gummey read Ordinance No. 77-17, the second time by title only.

Planning and Zoning Director Amye King outlined the proposed ordinance, which if approved, would transmit the 17-2 Large-Scale Comprehensive Plan Amendments to the Florida Department of Economic Opportunity, and other State Departments for review and comments. The proposed amendment, if adopted, would change land use designations on properties located at 2635 Pioneer Trail and a cap of density at two units per acre.

Mayor Hathaway opened the public hearing.

Attorney Glen Storch commented on behalf of his client.

Mayor Hathaway closed the public hearing.

**Motion:**

Commissioner McGuirk moved to adopt Ordinance No. 77-17, as submitted. Commissioner Hartman seconded the motion, and the motion carried by majority vote 4-1, with Vice Mayor Sachs voting no.

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

E. Ordinance No. 79-17: ZT-7-17: LDR Amendments – Conduct the second reading and second and final of two required public hearings of an ordinance, which if adopted, would amend the Recreation and Commercial Marina Zoning Districts

City Attorney Gummey read Ordinance No. 79-17, the second time by title only.

Planning and Zoning Director Amye King outlined the proposed ordinance, which if adopted, would amend Recreation and Commercial Marina Zoning Districts.

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

1.0 Commissioner consensus adopted Ordinance section 504.02, the landscaping/buffer portion of said amendment.

Commissioner consensus adopted Ordinance section

**Motion:**

Commissioner McGuirk moved to approve Ordinance No. 79-17 on first reading and first of two required public hearings, as submitted. Commissioner Hartman seconded the motion, and the motion carried by majority vote 4-1, with Vice Mayor Sachs voting no.

<b>RESULT:</b>	<b>TABLED [4 TO 1]</b>	<b>Next: 10/10/2017 6:30 PM</b>
<b>MOVER:</b>	Jason McGuirk, Commissioner	
<b>SECONDER:</b>	Randy Hartman, Commissioner	
<b>AYES:</b>	McGuirk, Hathaway, Reiker, Hartman	
<b>NAYS:</b>	Sachs	

**5. PUBLIC PARTICIPATION**

Meredith Iannucci, Coronado Beach Elementary PTA President, invited elected and appointed City Officials to participate in the school's planned "Walk to School Day" on Wednesday, October 4, 2017.

Dale Williams, 1048 Clubhouse Drive, commented on reviewing a code that was restrictive against serving alcohol within 300' of a daycare. He asked City Commission to reconsider reviewing the code for the property.

Gina Campbell, owner of the preschool leased from Mr. Williams, commented on the repercussions of having to relocate her fifteen-year-old business due to the codes for the property.

Lisa Martin, 618 South Pine Street, read a letter to City Commission to reconsider cutting down the tree at 1300 N Dixie Freeway. She submitted a petition in support of the request to save the tree.

Keith Horton, Old Mission Road, commented on the homeless camps between Old Mission Road and SR 44. He commented on the condition of the woods and he strongly recommended that the Commission move forward with the St. James subdivision.

## 6. ORDINANCES - FIRST READING

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- A. Ordinance No. 73-17: Small-Scale Annexation: Conduct the 2nd reading and public hearing of an ordinance, which if approved, would annex approximately 1.25 acres located at 465 Wildwood Drive.

City Attorney Gummey read Ordinance Nos. 73-17, 74-17 and 75-17 the first time, by title only.

**Motion:**

Commissioner Reiker moved to approve on the first reading Ordinance No. 73-17, 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 October 10, 2017.

**Motion:**

Commissioner Hartman moved to approve on the first reading Ordinance No. 74-17, 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 October 10, 2017.

**Motion:**

Commissioner Reiker moved to approve on the first reading Ordinance No. 75-17, as submitted. Commissioner 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 October 10, 2017.

<b>RESULT:</b>	<b>APPROVED AT FIRST READING [UNANIMOUS]</b>	<b>Next: 10/10/2017 6:30 PM</b>
<b>AYES:</b>	McGuirk, Hathaway, Reiker, Sachs, Hartman	

- B. Ordinance No. 76-17: Large-Scale Annexation Application No. A-8-17, Conduct the second reading and public hearing of an ordinance, which if adopted, would annex approximately 55.56 acres of multiple parcels.

City Attorney Gummey read Ordinance No. 76-17 the first time, by title only.

**Motion:**

Commissioner McGuirk moved to approve on the first reading Ordinance No. 76-17, 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 October 10, 2017.

<b>RESULT:</b>	<b>APPROVED AT FIRST READING [UNANIMOUS]</b>	<b>Next: 10/10/2017 6:30 PM</b>
<b>MOVER:</b>	Jason McGuirk, Commissioner	
<b>SECONDER:</b>	Judy Reiker, Commissioner	
<b>AYES:</b>	McGuirk, Hathaway, Reiker, Sachs, Hartman	

- C. Ordinance No. 78-17: Large-Scale Rezoning Application No. Z-6-17. Conduct the first reading of an ordinance, which if adopted, would change zoning designations on 55.56 acres of multiple annexed parcels addressed as 2635 Pioneer Trail.

<b>RESULT:</b>	<b>CONTINUED [UNANIMOUS]</b>	<b>Next: 12/12/2017 6:30 PM</b>
<b>AYES:</b>	McGuirk, Hathaway, Reiker, Sachs, Hartman	

- D. Ordinance 80-17: Conduct the second reading and public hearing of an ordinance, which if adopted, would amend the October 1, 2016-September 30, 2017 Budget for debris removal for Hurricane Irma.

City Attorney Gummey read Ordinance No. 80-17 the first time, by title only.

**Motion:**

Commissioner Reiker moved to approve on the first reading Ordinance No. 80-17, 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 October 10, 2017.

<b>RESULT:</b>	<b>APPROVED AT FIRST READING [UNANIMOUS]</b>	<b>Next: 10/10/2017 6:30 PM</b>
<b>MOVER:</b>	Judy Reiker, Commissioner	
<b>SECONDER:</b>	Randy Hartman, Commissioner	
<b>AYES:</b>	McGuirk, Hathaway, Reiker, Sachs, Hartman	

## 7. CONSENT AGENDA

- A. Approve the minutes of the City Commission special meeting held September 13, 2017.

**Motion:**

Commissioner McGuirk moved to approve the minutes of the City Commission Special Meeting held September 13, 2017. Commissioner Reiker seconded the motion, and the motion carried unanimously.

- B. Notice of Recommendation to Award Contract to CPH, Inc. for Professional Services for Construction Engineering and Inspection (CEI) of Magnolia Street Sidewalk from 6th Street to 10th Street

**Motion:**

Commissioner McGuirk moved to approve the award of contract to CPH, Inc. for Professional Services for Construction Engineering and Inspection (CEI) of Magnolia Street Sidewalk from 6th Street to 10th Street. Commissioner Reiker seconded the motion, and the motion carried unanimously.

- C. Approve the Award of Bid No. ITB 05-17-CIP Magnolia Street Sidewalk to Sparks Concrete, LLC

**Motion:**

Commissioner McGuirk moved to approve the award of Bid No. ITB 05-17-CIP Magnolia Street Sidewalk to Sparks Concrete, LLC. Commissioner Reiker seconded the motion, and the motion carried unanimously.

- D. Approve Blanket Purchase Orders of over \$25,000 for FY 2018. The total list of Blanket Purchase Orders total \$10.4 Million.

**Motion:**

Commissioner McGuirk moved to approve blanket purchase orders of over \$25,000 for FY 2018. The total list of Blanket Purchase Orders total \$10.4 Million. Commissioner Reiker seconded the motion, and the motion carried unanimously.

- E. Team Volusia Contract for FY 2017-2018

**Motion:**

Commissioner McGuirk moved to approve entering into a contract with Team Volusia for FY 2017-2018. Commissioner Reiker seconded the motion, and the motion carried unanimously.

- F. Resolution No. 22-17: amending and restating the establishment of the Economic Development Advisory Board

**Motion:**

Commissioner McGuirk moved to adopt Resolution No. 22-17: amending and restating the establishment of the Economic Development Advisory Board. Commissioner Reiker seconded the motion, and the motion carried unanimously.

## **8. ADMINISTRATIVE ITEMS/NEW BUSINESS**

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- A. Consider Historic Tree Removal Application No. HTR-4-17: a request to remove two Historic Oak trees, measuring 37.5" and 44" DBH, within existing parking lot islands in the front yard area of a 20+ acre eastern portion of an existing shopping center, generally located on the south side of State Road (SR) 44 addressed as 1900 SR 44 1900 SR 44 - Publix Shopping Center Expansion. Staff recommends denial.

Mayor Hathaway recused himself from the vote as he engaged from financial gain from the associated business.

Dwight Duran, President of Zev Cohen, gave a presentation about the reason why the historic tree should be cut down at the SR44 Publix location.

Lisa Martin, 618 South Pine Street, spoke in opposition of the ordinance.

Commissioner Reiker spoke in support of the ordinance.

Commissioner McGuirk asked Planning and Zoning Director Amye King if she was a tree expert or arborist.

Ms. King stated she was not an expert. She stated they rely on professionals for their opinion.



Commissioner McGuirk commented on the health of the trees in question. He asked Ms. King about the survivability of the live oaks. He wanted to see a 6" diameter live oak to compensate for the two trees removed.

Commissioner Hartman asked about the size and species of the trees. He commented on wanting to see 15-20 younger trees rather than no replacements.

**Motion:**

Commissioner McGuirk moved consider Historic Tree Removal Application No. HTR-4-17: a request to remove two Historic Oak trees, measuring 37.5" and 44" DBH, within existing parking lot islands in the front yard area of a 20+ acre eastern portion of an existing shopping center, generally located on the south side of State Road (SR) 44 addressed as 1900 SR 44 1900 SR 44 - Publix Shopping Center Expansion. Commissioner Reiker seconded the motion, and the motion carried by 3-2 majority vote, with Mayor Hathaway recused from the vote and Vice Mayor Sachs voting no.

<b>RESULT:</b>	<b>ADOPTED [3 TO 1]</b>
<b>MOVER:</b>	Jason McGuirk, Commissioner
<b>SECONDER:</b>	Judy Reiker, Commissioner
<b>AYES:</b>	McGuirk, Reiker, Hartman
<b>NAYS:</b>	Sachs
<b>RECUSED:</b>	Hathaway

B. Approve Slip Allocation Application No. SA-2-17: Slip Allocation for 104 boat slips to come out of the City slip pool for the Riverwalk Condo at Coronado Island Development.

<b>RESULT:</b>	<b>TABLED [UNANIMOUS]</b>	<b>Next: 11/14/2017 6:30 PM</b>
<b>AYES:</b>	McGuirk, Hathaway, Reiker, Sachs, Hartman	

C. Hurricane Irma Debris Removal Staff Update

Assistant City Manager Khalid Resheidat gave an update of the Hurricane Irma debris removal.

**Motion:**

Commissioner Reiker moved to reinstate Ashbritt as a debris removal contractor, and directed staff to pull the termination letter with condition that Ashbritt perform contractual duties as promised. If they do not perform, then the City will seek damages from Asbritt breaching their contract. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

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

**9. BOARDS AND COMMISSIONS**

There was none.

## **10. CITY MANAGER'S REPORT**

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City Manager Brangaccio commented on forty-six homes being impacted by Hurricane Irma storm surge and would have a presentation for the City Commission on October 10, 2017.

### **A. City Manager's Report**

## **11. CITY CLERK'S REPORT**

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There was none.

## **12. CITY ATTORNEY'S REPORT**

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City Attorney Gummey offered his official letter of resignation effective January 1, 2018.

## **13. ADJOURNMENT**

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As there was no other business to discuss, Mayor Hathaway declared the meeting adjourned at 8:23 PM.