



Tuesday, December 12, 2017
Special Meeting City Commission
Minutes

I. CALL TO ORDER

Having been duly advertised as required by law, the special meeting of the City Commission of the City of New Smyrna Beach, Florida, was held on Tuesday, December 12, 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 9:01 AM.

Attendee Name	Title	Status	Arrived
Jason McGuirk	Vice Mayor	Present	
Jim Hathaway	Mayor	Present	
Judy Reiker	Commissioner	Present	
Jake Sachs	Commissioner	Late	9:07 AM
Randy Hartman	Commissioner	Present	

Also present were City Manager Pamela Brangaccio, Assistant City Manager Khalid Resheidat, City Attorney Frank Gummey, Human Resource Director Carol Hargy, City Clerk Johnny Bledsoe and Assistant City Clerk Kelly McQuillen.

Commissioner Sachs arrived late at 9:07 AM, excused, from a medical appointment.

II. PUBLIC INTERVIEWS OF FINALISTS FOR THE POSITION OF CITY ATTORNEY

Mayor Hathaway and the Commissioners rotated the interview questions. The interviews were as follows:

9:00 AM - Carrie Avallone

Question 1 (Commissioner Hartman): Tell us about yourself and what preparations did you do for this interview?

Ms. Avallone stated that she had served as the Assistant City Attorney for Daytona Beach. She commented on attending City Commission meetings recently, researching what the City's open cases were about, looked at what the City's 2017 Vision was, read about the Commissioner's and served on the Planning and Zoning Board as a current Board Member. .

(Vice Mayor McGuirk): What makes you different from the other candidates? Why do you believe we should hire you for this job?

Ms. Avallone stated that she was timely, efficient, well prepared and that her turnaround time was what sets her apart.

Vice Mayor McGuirk asked about her experience with Planned Unit Developments, Master Development Agreements and asked if she had worked with them in the past and understood them.

Ms. Avallone explained that for the past eight years, she worked in this area and does understand it.

Question 2 (Commissioner Reiker): What experience have you had in working with procedures and regulations that have been viewed as operationally obstructive? Have you successfully removed those barriers, and if so, how?

Ms. Avallone stated that there was a land development regulation updated in 2015 that removed barriers.

Question 3 (Commissioner Sachs): Why do you want this position? What challenges are you looking for in this position?

Ms. Avallone expressed that it was an extension of the next step of her legal career.

Question 4 (Commissioner Sachs): Land use and growth management can be controversial in New Smyrna Beach. What background do you have in these areas? In addition, how would you apply yourself or your experience to our land use issues?

Ms. Avallone stated that for the last eight years, she specialized in land use matters. She believed it was good practice to advise City Commission about the matters prior to the items being discussed at City Commission Meetings.

Question 5 (Mayor Hathaway): The City Attorney is retained by and reports to the City Commission, but is expected to work successfully with the City Manager and department directors and managers. How will you best serve these relationships?

Ms. Avallone commented on practicing communication, having an open door policy, listening, and information seeking and making sure staff always felt welcome asking questions.

Question 6 (Commissioner Hartman): Mr. Gummey possesses a strong historical perspective of the community. How would you build a rapport and foster relationships as the new City Attorney?

Ms. Avallone answered by listening. She shared that she heard that some staff have significant intuitional knowledge and would seek those people out. She stated talking and listening would help foster new relationships.

Question 7 (Vice Mayor McGuirk): Give us some examples of your current professional and community involvement:

Ms. Avallone stated that she was a current member of the Planning and Zoning Board and shared that she enjoys spending time with her family outside of work. She shared that she planned to remain a New Smyrna Beach resident and has been building her dream home two doors down from her current residence in New Smyrna Beach.

Question 8 (Commissioner Sachs): What do you do to remain current in developments in applicable areas of law?

Ms. Avallone stated that there was a countrywide legal listed she used to post and discuss topics.

Question 9 (Commissioner Reiker): As we conclude this interview, do you have any additional information or comments you would like to provide?

Ms. Avallone shared that she was a hard worker, always prepared and believed that her experience would blend in beautifully with the position.

Commissioner Sachs: Have you had business relations or feelings with Storch Law Firm?
Ms. Avallone stated that she had not collaborated with the Storch Law Firm privately, but mentioned that the firm has presented a few times at the Daytona Beach City Commission meetings.

9:30 AM - Michael Moore

Question 1 (Commissioner Reiker): Tell us about yourself and what preparations did you do for this interview?

Mr. Moore stated that worked for the Volusia County Attorney's Office and Florida Department of Labor. He commented that to prepare for today, he looked at website and was familiar with the County and New Smyrna Beach. He shared he has visited beach and community. He stated he read about the retirement system as well.

Question 2 (Commissioner Sachs): Why do you want this position?

Mr. Moore stated that it was an extension of the next step of his legal career. He shared that he was the Chief Legal Officer for his current city. He commented on wanting more responsibility and having a number or people he would report and be accountable to. He expected the position to be challenging.

Question 3 (Vice Mayor McGuirk): They City Attorney is retained by and reports to the City Commission, but is expected to work successfully with the City Manager and department directors and managers. How will you best serve these relationships?

Mr. Moore commented that he attempted to provide solutions to issues. He planned to work together to solve issues that come up, answer legal questions and he shared that the City Commission were the policy makers and that he would only provide them with advice and stated at the end of the day, choices are made by the City Commission.

Question 4: (Commissioner Hartman) What experience have you had in working with procedures and regulations that have been viewed as operationally obstructive? Have you successfully removed those barriers, and if so, how?

Mr. Moore reflected upon an earlier time in his legal career. He commented on working for the Florida Department of Labor and referred to a permit problem issue. He stated that a citizen wanted to reduce the amount of regulations of small businesses. He stated that he worked on the issue and ultimately, Tallahassee reduced the regulations that were irrelevant or obscure and the statutes changed.

Question 5: (Mayor Hathaway) Land use and growth management can be controversial in New Smyrna Beach. What background do you have in these areas? In addition, how would you apply yourself or your experience to our land use issues?

Mr. Moore stated that he did not work much in growth management. He stated that there were four attorneys in the Volusia County Attorney's Office that were assigned to that field. He stated he would suggest to the City Commission that he would provide the same advice, counsel on land use and growth issues, stated that the policy falls upon the City Commission and it was his job to tell them what the ramifications were, and let them know if they are viable.

Question 6: (Commissioner Reiker) Mr. Gummy possesses a strong historical perspective of the community. How would you build a rapport and foster relationships as the new City Attorney?

Mr., Moore stated that he was a quick study and that he would immerse himself in the community as he had with the County in Deland.

Question 7: (Commissioner Sachs) Give us some examples of your current professional and community involvement:

Mr. Moore commented on his activity with the Boy Scouts of America, spending time with his eighth grade son and participating in church fundraising activities.

Question 8: (Vice Mayor McGuirk) What do you do to remain current in developments in applicable area of law?

Mr. Moore stated he was a student of the law and was always studying. He stated there were legal summaries, Florida Law Weekly and Supreme Court Cases that he studied.

Question 9: (Commissioner Hartman) As we conclude this interview, do you have any additional information or comments you would like to provide.

Mr. Moore stated that if the City were to hire him, he had good work ethic, was a team player and was available.

10:00 AM - Margaret Roberts

Question 1: (Commissioner Hartman) Tell us about yourself and what preparations did you do for this interview?

Mr. Roberts stated that she was born in another state, but raised in Florida and pursued a legal career. She commented on previously having been selected as the New Smyrna Beach City Attorney and explained that after she resigned, she worked for other jurisdictions and gained extensive experience. She commented on holding her current position as the City Attorney for the City of Port Orange for seventeen years. Ms. Roberts commented on experiencing diversity in Council structures and charters and was prepared due to her experience and knowledge.

Question 2: (Vice Mayor McGuirk) Why do you want this position?

Ms. Roberts stated that her choice in applying correlates with experience she has gained. She stated that New Smyrna Beach was her home and she would like to return to the City to share the knowledge she has gained and bring it to this position so that she would be able to foster her knowledge. She commented on transitioning to a large staff to a small staff; adding that the dynamics of revenue and expense are similar between cities. She commented on the differences in the utilities between cities. She hoped to see staffing similarities and would let staff know where they had weaknesses. She hoped for a smooth transition. She planned to research City Code to learn where the City was in reference to ordinances, resolutions and policies legalese.

Question 3: (Commissioner Sachs) They City Attorney is retained by and reports to the City Commission, but is expected to work successfully with the City Manager and department directors and managers. How will you best serve these relationships?

Ms. Roberts commented that she would take her immediate direction from the City Commission and hoped to have numerous meetings throughout year expecting that the City Commission provide her with the direction on targets, such as litigation and community needs. She was mindful that the City Manager would be responsible for daily operations and shared that legal work was embedded in that operation. She expected to have a continuous dialog with the City Manager and shared that she met weekly with the City of Port Orange City Manager. She anticipated that Department Heads would be project leads and would envision herself meeting with them to accomplish the goals of the City.

Question 4: (Commissioner Reiker) What experience have you had in working with procedures and regulations that have been viewed as operationally obstructive? Have you successfully removed those barriers, and if so, how?

Ms. Roberts was not sure if she had seen obstructions that strong; rather having experienced hurdles or high bars. She commented on working with the operational aspects of management to identify why hurdles were there. She shared that she could give ideas on how they may approach those hurdles with

an amendment to eliminate obstacle. She commented on dated ordinances and would like to fine-tune the ordinances.

Question 5: (Mayor Hathaway) Land use and growth management can be controversial in New Smyrna Beach. What background do you have in these areas? In addition, how would you apply yourself or your experience to our land use issues?

Ms. Roberts commented on diving into ordinances and the City's comprehensive plan. She would look at regulations to know where the City stands today. She believed she would be able to identify areas to enlist manager or planners to review growth and development. She stated the window was always open to her to bring ideas to the City Commission to see if it were something the City Commission would like to explore.

Question 6: (Vice Mayor McGuirk) Mr. Gummey possesses a strong historical perspective of the community. How would you build a rapport and foster relationships as the new City Attorney?

Ms. Roberts believed that she might have a strong historical perspective. She stated that her weakness was being distracted by the City of Port Orange and would like to focus on speaking with the City Commission one on one. She commented on needed a routine basis to ensure she was getting wholesome eyesight as to current perspective understanding.

Question 7: (Commissioner Hartman) Give us some examples of your current professional and community involvement:

Ms. Roberts stated that her professional involvement primarily focused on the law. She commented on attending the State Association of City Attorney's Conference bi-annually. She commented on relying heavily on the Florida League of Cities general counsel office in the past and would consult with that organization. She mentioned that other resources were electronic legal messaging boards, email and a Legal Community dialog to engage in. She commented on her involvement with church, Chamber of Commerce and the City of Port Orange as well.

Question 8: (Commissioner Reiker) What do you do to remain current in developments in applicable areas of law?

Ms. Roberts commented on staying current by reading the most up to date legal information.

Question 9: (Commissioner Sachs) As we conclude this interview, do you have any additional information or comments you would like to provide.

Ms. Roberts shared that she was looking forward to long tenure with New Smyrna Beach. She explained that during her prior tenure with the City of New Smyrna Beach, she was anxious to get out there and gain experience. She commented on her hopes to take her time to be responsive to the Community and to the City Commission at this point in her career. She commented that she was more balanced now than she was at first. She commented on trying to preserve family and community time.

10:30 AM - Theron Simmons

Question 1 (Commissioner Reiker): Tell us about yourself and what preparations did you do for this interview?

Mr. Simmons shared that he graduated third in his law school class. He stated that he had an advanced law degree and lived in the Florida Keyes from 1998 - 2017. He commented on working with five government entities (municipalities, school boards and Fire). He stated that he has worked with every aspect of municipal government legal work and he worked for private firms. He explained that he had a broader background due to his experience. He added that he has experience in Workers Compensation. He shared with the City Commission that bringing him in-house would save approximately \$100,000 due to cost savings. He explained that he prepared for the interview by researching the City of New Smyrna Beach, City Commissioners and watching local news to see what challenges the City was facing

Question 2 (Commissioner Sachs): Why do you want this position?

Mr. Simmons explained that he recently received his Board Certification. He stated that he loved the firm he was in, but it was not where he would like to be. He wanted to focus solely on a single government entity in-house. He was used to a City with more charm and character and this City appealed to him like that. He was used to dealing with a large number of tourists and knows how to handle taxation issues. He shared that he did not think anyone would outwork him.

Question 3 (Vice Mayor McGuirk): They City Attorney is retained by and reports to the City Commission, but is expected to work successfully with the City Manager and department directors and managers. How will you best serve these relationships?

Mr. Simmons answered that he would never lose sight of whom he worked for. He would like to have a good working relationship with all City employees. He stated that most importantly, he wants to guide City Commission in legalese, but does not want to be a sixth board member. He explained that he was gatekeeper and watchdog for the City Commission.

Question 4 (Commissioner Hartman): What experience have you had in working with procedures and regulations that have been viewed as operationally obstructive? Have you successfully removed those barriers, and if so, how?

Mr. Simmons stated that his work was traditionally obstructive. He provided examples to include, the State coming down hard on auditing State and Federal findings. He mentioned that there were no procedures in place for written contracts and commented on creating standard contracts for under \$25,000. He shared that the contract standards he created were still in use today. He believed in contract signing-off to maintain a workflow process and stated if the City of New Smyrna Beach did not have a process established, he would like to implement one.

Question 5 (Mayor Hathaway): Land use and growth management can be controversial in New Smyrna Beach. What background do you have in these areas? In addition, how would you apply yourself or your experience to our land use issues?

Mr. Simmons stated he usually works with complicated issues. He shared that there were two sides and mentioned change is inevitable. He commented on no stopping growth and believed he would like to control it. He shared an idea of a future consideration to create an additional City Center in New Smyrna Beach as the City was growing rapidly. He stated that a possible idea was to recreate the existing City Center when the population expands. He commented on sticking with the same plan, recognizing growth and hoping to control it and replicate what works. He stated he did not want the City to exceed 5% growth per year, but believed the City could maintain growth with preserving its charm.

Question 6 (Commissioner Reiker): Mr. Gummey possesses a strong historical perspective of the community. How would you build a rapport and foster relationships as the new City Attorney?

Mr. Simmons realized that there was a huge institutional knowledge within Mr. Gummey and he was fortunate for the Mayor and the City Clerk who have been here for a while. He explained that this opportunity was more than just a job and that he planned to move to New Smyrna Beach. He referred to his time in the Florida Keys, stating that he knew who the locals, business owners and community members were and stated that he would like to experience that in our City. He would like to know about issues from the Community's perspective.

Question 7 (Commissioner Sachs): Give us some examples of your current professional and community involvement:

Mr. Simmons stated that professionally, he was involved in the Workers Compensation field. He was involved with a local church, Rotary, was on List Serve and believed all surrounding cities should meet to discuss issues, as that would serve as an invaluable tool.

Question 8 (Vice Mayor McGuirk): What do you do to remain current in developments in applicable areas of law?

Mr. Simmons shared that he was required by the Florida Bar to have a continuous legal education and was board certified. He shared that he was particularly interested in coastal cities.

Question 9 (Commissioner Hartman): As we conclude this interview, do you have any additional information or comments you would like to provide.

Mr. Simmons commented on practicing local government law for the past fifteen years. He commented on the importance to understand his background as Police Officer and as a Fire District Attorney. He commented on having more ideas of how the City could be more successful and referred to his broad range of experience.

11:00 AM - Phillip Sherwin

Question 1 (Commissioner Hartman): Tell us about yourself and what preparations did you do for this interview?

Mr. Sherwin answered that he had a chance to speak with the City Commission yesterday and gave his background at that time. He thanked them for inviting him. He stated that he provided the Human Resources Department with information including a comprehensive report and stated it was a living document on how he has interacted with various people in local government. He commented on his experience of having been a board certified specialist in city and county local government law. He commented on looking out for the health, safety and welfare of citizens. He prepared for the interview by reviewing the City's Comprehensive Plan, budget planning, economic development plan and he looked at Police protocols.

Question 2 (Vice Mayor McGuirk): Why do you want this position?

Mr. Sherwin answered that his career goal was to be in a local government leadership position. He commented that this position would be challenge of lifetime. He stated that his goals would be to provide the best possible customer service and achieving positive results from a legal perspective. He stated that he was a problem solver, very analytical and accomplished tasks in a timely manner.

Question 3 (Commissioner Sachs): The City Attorney is retained by and reports to the City Commission, but is expected to work successfully with the City Manager and department directors and managers. How will you best serve these relationships?

Mr. Sherwin referred the City Commission back to the comprehensive report submitted to Human Resources. He stated that he has excellent human relation skills and worked well with other people and entities.

Question 4 (Commissioner Reiker): What experience have you had in working with procedures and regulations that have been viewed as operationally obstructive? Have you successfully removed those barriers, and if so, how?

Mr. Sherwin used an example of work assigned to him twenty months prior to leaving the county regarding legal and operational issues. He stated the issue was that if someone owned a private wastewater treatment plant and decided to abandon it, they must notify the county. He stated the county had sixty days to take over plant, bring it up to speed and meet standards. He stated there was an interlocal agreement with another city and the city put every possible obstacle to prevent them from being the receiver. He explained that when he was hired, he met with Utilities Director immediately suggesting to enlist the help of engineers to overcome the problem by cutting down easements, redesigning the system and to put on engineers to overcome, and cut down easements and redesigning the system.

Question 5 (Mayor Hathaway): Land use and growth management can be controversial in New Smyrna Beach. What background do you have in these areas? In addition, how would you apply yourself or your experience to our land use issues?

Mr. Sherwin explained that he was the substitute growth management attorney and that he worked with planning and zoning. He commented that he was very familiar with this area and stated that he has reviewed plats and development agreements. He commented on handling the litigation. He stated that the entire community came out when he made presentation on behalf of City of Cape Coral. He stated that he found case law to allow aesthetic zoning and the court concurred with his ideas. He stated that his role of lawyer was to pursue matters on behalf of the City Commission.

Question 6 (Vice Mayor McGuirk): Mr. Gummey possesses a strong historical perspective of the community. How would you build a rapport and foster relationships as the new City Attorney?

Mr. Sherwin commented that he would immediately want to meet with Mr. Gummey to get his perspective on the City, adding that he was the most valuable resource city has legally. He stated that he would hope to understand the perspective operations of city. He commented on meeting individually with the City Commissioner's, City Manager and Department Heads.

Question 7 (Commissioner Hartman): Give us some examples of your current professional and community involvement:

Mr. Sherwin commented has been involved in environmental matters. He stated that his wife was a botanist and that he was a member of Audubon Society. He understood balancing of all interests and still being good steward of the environment. He hoped that the City would continue to be good environmental steward.

Question 8 (Commissioner Reiker): What do you do to remain current in developments in applicable areas of law?

Mr. Sherwin commented on continuing his legal education, as he was board certified. He commented on keeping abreast of cases, continuing to attend seminars and stated that he has developed a good network of attorneys.

Question 9 (Commissioner Sachs): As we conclude this interview, do you have any additional information or comments you would like to provide?

Mr. Sherwin stated that he would like to be next City Attorney and thought that he had all competencies. He stated he had strong ethics in dealing with City Commissioners and believed he would enjoy the challenge and would be a good fit.

11:30 AM - William Turner

Question 1 (Commissioner Reiker): Tell us about yourself and what preparations did you do for this interview?

Mr. Turner stated that he was a twenty-five year plus attorney in Florida and Virginia and made both bars. He worked in private practice multi-state law firm. He commented on working with Orange County Attorney's for a while. He looked at statutes interplay between City and County Government to prepare for the interview. He mentioned he was a conflict and trial lawyer that dealt with disputes.

Question 2 (Commissioner Sachs): Why do you want this position?

Mr. Turner commented that he would like to be somebody in charge of the legal affairs and that he would like to relocate to New Smyrna Beach. He stated that challenges were a part of his career and as a City Attorney; he would help to smooth over operations and the effectiveness of government.

Question 3 (Vice Mayor McGuirk): The City Attorney is retained by and reports to the City Commission, but is expected to work successfully with the City Manager and department directors and managers. How will you best serve these relationships?

Mr. Turner commented that this would be accomplished by doing his best and listening to each of the various department heads, their designees and employees to get a better understanding of their positions. He stated he would be respectful to various Department Heads and would approach them from a place of humility, as he would be in a learning capacity.

Question 4 (Commissioner Hartman): What experience have you had in working with procedures and regulations that have been viewed as operationally obstructive? Have you successfully removed those barriers, and if so, how?

Mr. Turner stated that he noticed an institutional invertedness in respect to compliance with public records law. He commented on wanting a program more effective on the input side of public records requests and suggested flagging the request with exemptions lessening the response time.

Question 5 (Mayor Hathaway): Land use and growth management can be controversial in New Smyrna Beach. What background do you have in these areas? In addition, how would you apply yourself or your experience to our land use issues?

Mr. Turner stated that he has defended at least four Sunshine Law legal suites. He defended a development applicant and dealt with the comprehensive plan as well as codes issues. He stated that he had a good deal of experience defending actions and reviewing records.

Question 6 (Commissioner Sachs): Mr. Gummey possesses a strong historical perspective of the community. How would you build a rapport and foster relationships as the new City Attorney?

Mr. Turner believed that over time, he would be able to bond well with City Staff.

Question 7 (Commissioner Reiker): Give us some examples of your current professional and community involvement:

Mr. Turner stated that his professional involvement included practicing law with the Orange County Community. He stated that he tended to keep home, liked to exercise and conversed with neighbors.

Question 8 (Commissioner Hartman): What do you do to remain current in developments in applicable areas of law?

Mr. Turner commented on scanning the Florida Law Weekly Index. He stated that when he finds a decision or article that interested him or may serve as an impact, he would save it or share with his colleagues.

Question 9 (Vice Mayor McGuirk): As we conclude this interview, do you have any additional information or comments you would like to provide.

Mr. Turner commented on his personal life. He commented on enjoying ballpark games and making new friends in New Smyrna Beach.

III. PUBLIC COMMENTS

Randy Herman, 108 Esther Street, commented on his experience being involved in hiring. He was surprised one applicant mentioned they were ethical. He commented on only one applicant commenting on saving money for the City. He mentioned one or two applicants doing research and thought that showed something. He said the question that seemed to throw applicants was listing a past experience. He commented on the candidates desire to move to the City. He asked how the City evaluates applicant

interviews. He shared that he has done research on institution memory. He values it and was drawn to the applicants who appreciated it.

IV. OTHER BUSINESS

V. ADJOURNMENT

As there was no other business to discuss, Mayor Hathaway declared the meeting adjourned at 11:24 AM.