



Tuesday, January 10, 2017
City Commission Regular Meeting Minutes

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

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, January 10, 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 p.m.

B. Roll Call

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

Also present were City Manager Pamela Brangaccio, City Attorney Frank B. Gummey, III, Assistant City Manager Khalid Resheidat, Police Chief Mike Coffin, Fire Chief Greg Anglin, CRA/Economic Development Director Tony Otte, Planning and Zoning Director Amye King, Liesure Services Director Nancy Maddox, Finance Director Althea Philord, Community Resource Coordinator Donna Banks, City Clerk Johnny Bledsoe, and Assistant City Clerk Kelly McQuillen.

C. Approval of the Agenda

City Manager, Pamela Brangaccio, approved the agenda with the addition of a proclamation, in recognition of Florida First Responder Appreciation Week.

i. Invocation/Pledge of Allegiance

Mayor Jim Hathaway gave the invocation and led those present in the Pledge of Allegiance.

2. ANNOUNCEMENTS/PRESENTATION/RECOGNITIONS

Mayor Hathaway presented a proclamation honoring First Responders. He stated that Governor Rick Scott recognized the week of January 9-13, 2017 as Florida First Responder Appreciation Week. He stated that First Responders play a critical role in keeping our communities safe and all Floridians greatly benefit from the services they provide. He encouraged residents to take the time out of their day to show first responders how much we value their service to our community.

3. MAYOR AND COMMISSION REPORTS

Commissioner Jason McGuirk expressed his appreciation to first responders. He also commented on the lack of a transportation route for residents that need to ride Votran. The route in concern travels to Walmart in New Smyrna Beach.

Vice Mayor Jake Sachs wished everyone a Happy and Healthy New Year. He congratulated all New Smyrna Beach first responders stating he is forever grateful for a job well done. He wanted the City to consider proper legislation of drones and asked if there was a current ordinance or regulation for drone usage. He urged the City Manager, City Attorney and Police Chief to consider citation issuance, rather than arresting citizens in possession of less than twenty grams of marijuana. He suggested that the City look to other municipalities to find out how they are controlling it. He would like to lessen the load on Police Officers.

Mayor Hathaway said he wants to make sure the City obtains clarification when enforcing drone laws. He suggested that the City follow the guidelines that Florida state imposes regarding marijuana statutes. He stated that the Mayor's Challenge began last night and there was a great turn out. He shared that County Chair, Ed Kelly, would like all municipal City Manager's at a table to hash out what each City wants in terms of road repair because there is little to no funding left. He shared that he was able to meet with Billie Wheeler, newly elected Volusia County Councilwoman, and he would like to keep an open line of communication with her.

4. ORDINANCES - SECOND READING AND PUBLIC HEARINGS

- A. Ordinance No. 54-16: Large-Scale Comprehensive Plan Amendment Application No. 16-5, Conduct the 2nd reading and public hearing of an ordinance, which if adopted, would change land use designations on properties located at 301 Sugar Mill Road, 1204 Washington Street, vacant parcel on Hickory Street, vacant parcel on Bay Street, and 2251 Paige Avenue.

City Attorney Gummey read Ordinance No. 54-16, the second time by title only.

Planning and Zoning Director Amye King outlined the proposed ordinance, which if adopted, would change land use designations on annexed properties located at 301 Sugar Mill Road, 1204 Washington Street, vacant parcels on Hickory Street and Bay Street, and 2251 Paige Avenue.

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

Motion:

Commissioner McGuirk moved to adopt Ordinance No. 54-16, as submitted. Vice Mayor Sachs seconded the motion.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jason McGuirk, Commissioner
SECONDER:	Jake Sachs, Commissioner
AYES:	McGuirk, Hathaway, Sachs
ABSENT:	Reiker, Hartman

B. Ordinance No. 55-16: Rezoning Application No. 16-5. Conduct the second reading and public hearing of an ordinance, which if adopted, would change zoning designations on 33.73 acres of properties Located at 301 Sugar Mill Road, 1204 Washington Street, vacant parcel on Hickory Street, vacant parcel on Bay Street, and 2251 Paige Avenue.

City Attorney Gummey read Ordinance No. 55-16, the second time by title only. As it was a public hearing of a quasi-judicial manner, Mr. Gummey administered the oath to Planning and Zoning Director Amye King. Ms. King outlined her professional and educational credentials. As no citizens or officials questioned her qualifications, Mayor Hathaway declared Ms. King an expert in planning and zoning.

Ms. King outlined the proposed ordinance, which if adopted, would rezone annexed properties located at 301 Sugar Mill Road, 1204 Washington Street, vacant parcels on Hickory Street and Bay Street, and 2251 Paige Avenue.

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

Motion:
Vice Mayor Sachs moved to adopt Ordinance No. 55-16, as submitted. Commissioner McGuirk seconded the motion.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jake Sachs, Commissioner
SECONDER:	Jason McGuirk, Commissioner
AYES:	McGuirk, Hathaway, Sachs
ABSENT:	Reiker, Hartman

C. Ordinance No. 69-16: SV-1-16 - Conduct the first reading and first of two required public hearings of an ordinance, which if adopted, would vacate an alleyway generally located East of Faulkner Street and North of Washington Street and in the vicinity of 115 Washington Street and 303 Faulkner Street – Formerly known as “Alba Court.”

City Attorney Gummey read Ordinance No. 69-16, the first time, by title only. He then instructed the City Commission that it would be conducting a first reading and first of two required public hearings of the proposed ordinance.

Planning and Zoning Director, Amye King, outlined the proposed ordinance, which if adopted, would vacate an alleyway generally located east of Faulkner Street and north of Washington Street, in the vicinity of 115 Washington Street and 303 Faulkner Street - property formerly known as "Alba Court". Ms. King confirmed that the properties were part of the City's Comprehensive Plan and that staff recommended approval.

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

Motion:

Commissioner McGuirk moved to approve Ordinance No. 69-16 on first reading and first of two required public hearings. Mayor Hathaway passed the gavel to Vice Mayor Sachs. Mayor Hathaway then seconded the motion. The motion carried by 2 - 1 majority vote, with Vice Mayor Sachs voting no. Vice Mayor Sachs returned the gavel to Mayor Hathaway.

Mayor Hathaway announced that the second reading and second and final of two required public hearings would be held at the next regular meeting on Tuesday, January 24, 2017.

RESULT:	APPROVED ON FIRST READING (2 TO 1)	Next: 1/24/2017 6:30 PM
MOVER:	Jason McGuirk, Commissioner	
SECONDER:	Jim Hathaway, Mayor	
AYES:	McGuirk, Hathaway	
NAYS:	Sachs	
ABSENT:	Reiker, Hartman	

5. PUBLIC PARTICIPATION

Donna Tabb, 411 Florida Avenue, stated that she recently had a meeting with City Officials asking for a variance for a dumpster located next to the fence of her back yard. The dumpster was owned by Flagler Tavern. She stated that she had encountered many problems on her property to include; flooding damage, fire damage and a horrible garbage smell due to the dumpster being so close to her property. She asked what she could do regarding the variance enforcement. Mayor Hathaway suggested that a remedy would be to take the matter to Circuit Court and City Attorney Gummey concurred.

Randy Herman, 101 Esther Street, commented on being present when Ms. Tabb presented her case to the Planning and Zoning Board. He said that the City Building Department visited the area, but it seemed like the process was not conducted in a correct manner. Mayor Hathaway stated that they can make the City Manager and Assistant City Manager aware of the issue with permitting, etc. with the ultimate goal of establishing a buffer/long term plan.

Commissioner McGuirk requested background information on the matter and asked Ms. Tabb to drop off the information at City Hall so that he could review it.

Scott Horning, 601 Yupon Avenue, discussed Ordinance No. 78-52, parking along commercial street. He requested an ordinance to enforce parking in residential areas. He clarified that he was not talking about limited workers, but rather those visiting family and friends in the area and parking their cars there for long periods of time. City Manager Brangaccio suggested that he go through proper channels to request a "No Parking" sign in front of his home. She said it would have to be placed on an upcoming agenda and that the City would contact Mr. Horning to advise.

Johnny Bledsoe, City Clerk, read an email from citizen Bob Tolley. Mr. Tolley expressed concerns with and addressed issues regarding monetary reserves from the Utilities Commission.

6. ORDINANCES - FIRST READING

- A. Ordinance No. 03-17: Small-Scale Annexation Application A-17-16, conduct the first reading of an ordinance, which if adopted, would annex properties located at 2645 Cone Lake Drive, 204 Howard Avenue, 312 Oak Street, 475 Howard Avenue, 310 Hickory Street, 304 Hickory Street.

City Attorney Gummey read Ordinance No. 03-17, the first time by title only.

Motion:

Commissioner McGuirk moved to approve Ordinance No. 03-17 on first reading. Vice Mayor Sachs 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 January 24, 2017.

RESULT:	APPROVED ON FIRST READING [UNANIMOUS]	Next: 1/24/2017 6:30 PM
MOVER:	Jason McGuirk, Commissioner	
SECONDER:	Jake Sachs, Commissioner	
AYES:	McGuirk, Hathaway, Sachs	
ABSENT:	Reiker, Hartman	

- B. Ordinance No. 01-17: Small-Scale Comprehensive Plan amendment Application A-17-16, conduct the first reading of an ordinance, which if adopted, would amend the Future Land Use category for annexed properties located at 2645 Cone Lake Drive, 204 Howard Avenue, 312 Oak Street, 475 Howard Avenue, 310 Hickory Street, 304 Hickory Street.

City Attorney Gummey read Ordinance No. 01-17, the first time by title only.

Motion:

Commissioner McGuirk moved to approve Ordinance No. 01-17 on first reading. Vice Mayor Sachs 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 January 24, 2017.

RESULT:	APPROVED ON FIRST READING [UNANIMOUS]	Next: 1/24/2017 6:30 PM
MOVER:	Jason McGuirk, Commissioner	
SECONDER:	Jake Sachs, Commissioner	
AYES:	McGuirk, Hathaway, Sachs	
ABSENT:	Reiker, Hartman	

- C. Ordinance No. 02-17: Rezoning Application A-17-16, conduct the first reading of an ordinance, which if adopted, would rezone annexed properties located at 2645 Cone Lake Drive, 204 Howard Avenue, 312 Oak Street, 475 Howard Avenue, 310 Hickory Street, 304 Hickory Street.

City Attorney Gummey read Ordinance No. 02-17, the first time by title only.

Motion:

Vice Mayor Sachs moved to approve Ordinance No. 02-17 on first reading. 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 January 24, 2017.

RESULT:	APPROVED ON FIRST READING [UNANIMOUS]	Next: 1/24/2017 6:30 PM
MOVER:	Jake Sachs, Commissioner	
SECONDER:	Jason McGuirk, Commissioner	
AYES:	McGuirk, Hathaway, Sachs	
ABSENT:	Reiker, Hartman	

- D. Ordinance No. 04-17: Conduct the first reading of an ordinance, which if adopted, would approve the Planned Unit Development Application No. PUD-4-16: Sarinna Lakes PUD, as revised.

City Attorney Gummey read Ordinance No. 04-17, the first time by title only.

Commissioner McGuirk commented on his concern regarding what he felt appeared to be the taking of a relatively small piece of property and dumping homes on it; for example building one hundred homes on thirty acres.

Amye King, Planning and Zoning Director, outlined the planning staff report regarding the proposed subdivision and clarified the proposed lot sizes met regulations.

City Manager Brangaccio spoke of the changing real estate markets and need for a mix of housing. She also commented on changes in demographics and who was moving into New Smyrna Beach.

Vice Mayor Sachs applauded Commissioner McGuirk for his comments. He then commented on his concern about the growing population, density and how the City will be able to sustain it by providing for a multitude of new homes. He questioned whether New Smyrna Beach wanted to be known as a Developer's Town.

Motion:

Commissioner McGuirk moved to approve Ordinance No. 04-17 on first reading. Vice Mayor Sachs 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 January 24, 2017.

RESULT:	APPROVED ON FIRST READING [UNANIMOUS]	Next: 1/24/2017 6:30 PM
MOVER:	Jason McGuirk, Commissioner	
SECONDER:	Jake Sachs, Commissioner	
AYES:	McGuirk, Hathaway, Sachs	
ABSENT:	Reiker, Hartman	

E. Ordinance No. 05-17: Conduct the first reading of An Ordinance Amending the October 1, 2016 - September 30, 2017 Adopted Budget

City Attorney Gummey read Ordinance No. 05-17, the first time by title only.

Motion:

Vice Mayor Sachs moved to approve Ordinance No. 05-17 on first reading. 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 January 24, 2017.

RESULT:	APPROVED ON FIRST READING [UNANIMOUS]	Next: 1/24/2017 6:30 PM
MOVER:	Jake Sachs, Commissioner	
SECONDER:	Jason McGuirk, Commissioner	
AYES:	McGuirk, Hathaway, Sachs	
ABSENT:	Reiker, Hartman	

F. Ordinance No. 06-17: Conduct the first reading of an ordinance, which if adopted, would approve Local Landmark Application No. LD-1-17: 200 Faulkner Street/214 Sams Avenue and would designate the existing contributing structure as a Local Landmark.

City Attorney Gummey read Ordinance No. 06-17, the first time by title only.

Motion:

Commissioner McGuirk moved to approve Ordinance No. 06-17 on first reading. Vice Mayor Sachs 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 January 24, 2017.

RESULT:	APPROVED ON FIRST READING [UNANIMOUS]	Next: 1/24/2017 6:30 PM
MOVER:	Jason McGuirk, Commissioner	
SECONDER:	Jake Sachs, Commissioner	
AYES:	McGuirk, Hathaway, Sachs	
ABSENT:	Reiker, Hartman	

G. Ordinance No. 07-17: CPA-4-16 Capital Improvement Element Update - Conduct the first reading of an ordinance regarding an Annual Optional Update to the City's Comprehensive Plan.

City Attorney Gummey read Ordinance No. 07-17, the first time by title only.

Motion:

Commissioner McGuirk moved to approve Ordinance No. 07-17 on first reading. Vice Mayor Sachs 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 January 24, 2017.

RESULT:	APPROVED ON FIRST READING [UNANIMOUS]	Next: 1/24/2017 6:30 PM
MOVER:	Jason McGuirk, Commissioner	
SECONDER:	Jake Sachs, Commissioner	
AYES:	McGuirk, Hathaway, Sachs	
ABSENT:	Reiker, Hartman	

H. Ordinance No. 08-17: Conduct the first reading of an ordinance, which if adopted, would approve an eight (8) month moratorium from the date of the moratorium passage, on the growing, processing, distributing, delivering, and retailing of Medical Marijuana.

City Attorney Gummey read Ordinance No. 08-17, the first time by title only.

Vice Mayor Sachs commented on his compassion regarding the topic and highlighted that two of his close family members, since deceased, could have benefited from the healing properties of marijuana.

Mayor Hathaway felt the City Commission should wait for the State to develop guidelines before taking action.

City Manager Brangaccio reported that the Florida League of Cities was putting up an online portal regarding the topic within the next thirty days, and the site would provide state guidelines and plans. She also commented on the possibility of conducting workshops while waiting for the moratorium.

Commissioner McGuirk would like to be proactive and start the process now.

Motion:

Vice Mayor Sachs moved to approve Ordinance No. 08-17 on first reading. Commissioner McGuirk seconded the motion, and the motion carried unanimously. 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 January 24, 2017.

RESULT:	APPROVED ON FIRST READING [UNANIMOUS]	Next: 1/24/2017 6:30 PM
MOVER:	Jake Sachs, Commissioner	
SECONDER:	Jason McGuirk, Commissioner	
AYES:	McGuirk, Hathaway, Sachs	
ABSENT:	Reiker, Hartman	

7. CONSENT AGENDA

- A. Sidewalk Easement Agreement Application No. EA-1-16. An application granting the City of New Smyrna Beach a 5' X 269' public access easement.
- B. Approve the Contract Renewal with the Company, Zambelli, for the 4th of July Fireworks, at a cost of \$34,000.
- C. Approve entering into a License Agreement to install a fence in the unimproved Midway Street right-of-way, in the vicinity of property at 714 Hamilton Street.
- D. Restoration of Condemnation Lien on 551 Julia St as the contract to purchase did not move forward, and Reallocation of the CDBG FY 2015-2016 funds to a previously approved project.
- E. Approve entering into a Sub recipient Agreement with the NSB Housing Authority for the Construction of an addition to the Community Resource Center located in the NSB Housing Authority area at 600 Greenlawn Street
- F. Approve the 41st Annual Special Event: Images, a Festival of the Arts - January 27 - 29, 2017, and accompanying streets closures.
- G. Approve the Special Event: VFW Post 4250 requests permission to allow camping at 2350 Sunset Drive during Bike Week 2017 - March 10 - 19, 2017.
- H. Approve the Special Event: Beer and Wine Garden to be operated by the New Smyrna Beach Brewing Company, during the SEV Chamber of Commerce Home and Business Expo on January 21, 2017, as well as the associated street closure.

Motion:

Commissioner McGuirk moved to approve consent agenda items A through H, as submitted. Vice Mayor Sachs seconded the motion and it carried unanimously.

8. ADMINISTRATIVE ITEMS/NEW BUSINESS

There were none.

9. BOARDS AND COMMISSIONS

There were none.

10. CITY MANAGER'S REPORT

The City Commission acknowledged receipt of the City Manager's written report.

City Manager Brangaccio reported that septic system funding was approved by 4-1 vote during a meeting of the Utilities Commission, the evening prior. She also reported that the City received a reimbursement approval letter from FEMA regarding Hurricane Matthew debris removal expenses.

A. City Manager's Report

11. CITY CLERK'S REPORT

Johnny Bledsoe introduced the Assistant City Clerk, Kelly McQuillen.

12. CITY ATTORNEY'S REPORT

There were none.

13. ADJOURNMENT

7:40 PM