



Tuesday, February 14, 2017
City Commission Regular Meeting Minutes

6:30 PM – City Hall Commission Chamber, 210 Sams Avenue, New Smyrna Beach, Florida 32168
PLEASE USE THE SOUTH ENTRANCE FROM THE JULIA STREET SIDE OF CITY HALL

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, February 14, 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	Commissioner	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, Fire Chief Greg Anglin, CRA/Economic Development Director Tony Otte, Planning and Zoning Director Amye King, Leisure Services Director Nancy Maddox, Finance Director Althea Philord, Community Resource Coordinator Donna Banks and City Clerk Johnny Bledsoe.

C. Invocation/Pledge of Allegiance

Police Department Chaplain Beverly Richardson gave the invocation. The Girl Scouts of America, Troop 1127, from Allen Chapel AME Church led those present in the Pledge of Allegiance.

D. Approval of the Agenda

City Manager Brangaccio reported the addition of a presentation by Volusia County Vice Chair and District 3 Representative Deb Denys, regarding the status of planned reconstruction of the Mike Eader Bridge on Turnbull Bay Road.

2. ANNOUNCEMENTS/PRESENTATION/RECOGNITIONS

Deb Denys, Volusia County Council District Representative, gave a presentation about the Turnbull Bay Bridge Project. She explained the replacement of the bridge, funding and collaboration about the bridge project phases. She shared that they received all the funding they asked for from FDOT (Florida Department of Transportation). She said the contractor decided to extend it from 200 feet to 600 feet. She said they will be giving the TPO (Transportation Planning organization) back \$200,000. She stated that the good news is that it will take fifty days less to build, but the completion date is March 2019.

3. MAYOR AND COMMISSION REPORTS

Commissioner Reiker presented Mayor Hathaway with a birthday card. She commented about the Images Art Festival. She said it was a wonderful venue and she was able to purchase some nice art. She commented about the various Boards and Cities that attended the Volusia Water Compact Summit hosted by Palmer College of Chiropractic in Port Orange, Florida. She mentioned it was a working session and they discussed water quality and levels. She said it was very enlightening and very useful.

Vice Mayor Sachs commented about reading to children. He stated that he read on closed circuit TV to children a book called *The Most Magnificent Thing*. He commented on the Images Art Festival and said it was fantastic; he hopes it continues to be a huge success. He mentioned the upcoming Art Fiesta and said it promises to be a great event. He also placed Whale Brochures in the hallway and encouraged the public to help save endangered species. He attended the AFLCIO (American Federation of Labor and Congress of Industrial Organizations) Luncheon on Sunday. He said there is a possible opportunity to form an alliance with the Chamber of Commerce. He commented on helping to introduce more practical classes in our schools to assist in school to job transition, such as; carpentry, electrical and plumbing vocational courses. He attended the Brilliance Adult Living Center ribbon-cutting. He commented about the subject of marijuana. He said that citizens can go to jail for up to a year and have up to a \$500 fine for carrying less than 20 ounces of marijuana. He spoke of the citations issued in lieu of arrests for marijuana possession. He wants an ordinance written soon.

Police Chief Mike Coffin clarified. He said that Civil Citations are only issued to youth for possession of marijuana. He stated that adults are either arrested or given a notice to appear. City Attorney Gummy commented on the stance of surrounding counties. He said a county citation is given for possession of marijuana under twenty ounces and stated what has been put in place by the courts is a fine schedule for a predetermined amount. He said it is a violation of a municipal ordinance. Mayor Hathaway asked about repeat offenders. City Attorney Gummy said that it would only compound the problem. Vice Mayor Sachs stated for consistency sake, why not extend the courtesy to first time offenders of all ages. He said so many larger communities and counties are enacting the citations now. Commissioner Reiker stated marijuana is still a federal offense and she felt as though the City should focus on collaborating on the medical marijuana ordinance first before considering an ordinance for the decriminalization of adults for possessing less than twenty ounces of marijuana.

Commissioner McGuirk commented about the Images Art Festival. He enjoyed the festivities. He extended his thank you to for serving on the TPO (Transportation Planning Organization). He attended a soup tasting contest on Canal Street. He said every soup he had was fantastic. He stated that The Local Butcher won first place, Little's Drug Company won second and third place was Yellow Dog Eats. He recognized City representative, Nora Jane Gillespie and Nic Mostert for their service on the River to Sea Transportation Planning Organizations Bicycle/Pedestrian Advisory Committee.

Commissioner Hartman stated that he attended the Volusia Water Compact Summit hosted by Palmer College of Chiropractic in Port Orange, Florida. He commented about water quality and quantity. He commented about a meeting that he went to regarding Sugar Mill. He complimented Public Information Officer Anna Hackett for coordinating the meeting.

Motion:

Vice Mayor Sachs moved to have City Staff draft legislation for future consideration to decriminalize the possession of carrying less than twenty ounces of marijuana for adults. Commissioner McGuirk seconded the motion, and the motion carried by majority 3 - 2, with Mayor Hathaway and Commissioner Reiker voting no.

Mayor Hathaway commented about going to a shuffleboard club and stated they gave him a commemorative t-shirt. He wants to do a proclamation for them in March 2017. He commented on the need for a flashing traffic signal at the intersection of Orange Avenue and Washington Street.

4. ORDINANCES - SECOND READING AND PUBLIC HEARINGS

- A. Ordinance No. 09-17: Small-Scale Annexation Application A-1-17, conduct the second reading and public hearing of an ordinance, which if adopted, would annex properties located at 460 Spruce Street and 2438 Hazel Bishop Drive

City Attorney Gummey read Ordinance No. 09-17, the second time by title only.

Planning and Zoning Director Amye King. Ms. King outlined the proposed ordinance, which if adopted, would annex properties located at 460 Spruce Street and 2438 Hazel Bishop Drive.

Mayor Hathaway opened the public hearing.

Robin Jones, 1101 Logan Street, asked about what happens after the second reading. City Manager Brangaccio explained what changes would occur; Waste Pro would supply new trash cans, the following tax year bill would be \$28.18 per month and these properties would be annexed in.

Mayor Hathaway closed the public hearing.

Motion:

Vice Mayor Reiker moved to adopt Ordinance No. 09-17, as submitted. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

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

- B. Ordinance No. 10-17: Small-Scale Comprehensive Plan amendment Application A-1-17, conduct the second reading and public hearing of an ordinance, which if adopted, would amend the Future Land Use category for annexed properties located at 460 Spruce Street and 2438 Hazel Bishop Drive

City Attorney Gummey read Ordinance No. 10-17, the second time by title only.

Planning and Zoning Director Amye King outlined the proposed ordinance, which if adopted, would change land use on annexed properties located at 460 Spruce Street and 2438 Hazel Bishop Drive.

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. 10-17, as submitted. Vice Mayor Sachs seconded the motion, and the motion carried unanimously.

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

- C. Ordinance No. 11-17: Rezoning Application A-1-17, conduct the second reading and public hearing of an ordinance, which if adopted, would rezone annexed properties located at 460 Spruce Street and 2438 Hazel Bishop Drive

City Attorney Gummey read Ordinance No. 11-17, the second time by title only.

Planning and Zoning Director Amye King was administered the oath, by the City Attorney. She outlined her professional and educational qualifications. As no citizens questioned her credentials, Ms. King outlined the proposed ordinance, which if adopted, would rezone annexed properties located at 460 Spruce Street and 2438 Hazel Bishop Drive.

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. 11-17, as submitted. Commissioner Reiker seconded the motion, and the motion carried unanimously.

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

- D. Ordinance No. 12-17: Conduct the second reading and public hearing of an Ordinance, which if adopted, would approve the borrowing of funds in order to finance a portion of the Islesboro Stormwater Project.

City Attorney Gummey read Ordinance No. 12-17, the second time by title only.

Finance Director Althea Philord outlined the ordinance and opened the meeting to questions.

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. 12-17, as submitted. Commissioner Reiker seconded the motion, and the motion carried unanimously.

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

5. PUBLIC PARTICIPATION

No one wished to address the City Commission.

6. ORDINANCES - FIRST READING

- A. Ordinance No. 78-16: Conduct the first reading of an ordinance, which if adopted, would amend the Police Officers' Pension Plan for Internal Revenue Code changes and requirements amending Section 1.02, 3.02, 4.02, 4.03 and 4.06. A requirement of Section 185.35, Florida Statutes, provides for the establishment of a share plan to be funded in the future upon negotiation by the city and the union.

City Attorney Gummey read Ordinance No. 78-16 the first time, by title only.

Motion:

Commissioner McGuirk moved to approve on the first reading Ordinance No. 78-16, 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 February 28, 2017.

RESULT:	APPROVED ON FIRST READING [UNANIMOUS]
MOVER:	Jason McGuirk, Commissioner
SECONDER:	Randy Hartman, Commissioner
AYES:	McGuirk, Hathaway, Reiker, Sachs, Hartman

B. Ordinance No. 14-17: Zoning Text Amendment Application No. ZT-1-17, conduct the first reading of an ordinance, which if adopted, would approve the Coastal Construction Setback Line (CCSL) Relocation on property located at 941 North Atlantic Avenue

City Attorney Gummey read Ordinance No. 14-17 the first time, by title only.

Vice Mayor Sachs commented about the issue being a real shame because the area is low lying and it has succumbed to storms before.

Mayor Hathaway stated his concerns with moving the CCSL (Coastal Construction Setback Line).

Commissioner McGuirk commented about the CCSL and stated that he supports establishing a CCSL if the state believes that is where the line should be. He was concerned about the number of homes and citizens are we going to be creating problems for. He stated that he looked forward to the City Commission addressing the CCSL in future meetings.

Mayor Hathaway stated that residents will be able to rebuild and clarified that the City is not denying home owners the right to rebuild their homes, but that the rebuild must be same square footage. He stated that building on to existing homes with additional square footage is his concern.

Commissioner Hartman commented that he is favor in the first reading, but would like further discussion on second reading; Commissioner Reiker concurred. She stated the City has endured tremendous backlash regarding this issue. She agreed with Mayor Hathaway. She commented that we need to do something definitive in the future on how to go about the CCSL.

Motion:

Commissioner McGuirk moved to approve on the first reading Ordinance No. 14-17, as submitted. Commissioner Hartman seconded the motion, and the motion carried 3 - 2 by majority vote with, with Mayor Hathaway and Vice Mayor Sachs voting no. Mayor Hathaway reported that the second reading and public hearing of the proposed ordinance would be conducted at the regular meeting on February 28, 2017.

RESULT:	APPROVED ON FIRST READING [3 TO 2]
MOVER:	Jason McGuirk, Commissioner
SECONDER:	Randy Hartman, Commissioner
AYES:	McGuirk, Reiker, Hartman
NAYS:	Hathaway, Sachs

C. Ordinance No. 15-17: Conduct the First Reading of an Ordinance, which if adopted, would Amend the Adopted City Budget for the Fiscal Year Ending September 30, 2017

City Attorney Gummey read Ordinance No. 15-17 the first time, by title only.

Motion:

Commissioner Reiker moved to approve on the first reading Ordinance No. 15-17, 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 February 28, 2017.

RESULT:	APPROVED ON FIRST READING [UNANIMOUS]
MOVER:	Judy Reiker, Commissioner
SECONDER:	Randy Hartman, Commissioner
AYES:	McGuirk, Hathaway, Reiker, Sachs, Hartman

- D. Ordinance No. 16-17: PUD- 7-16 - Conduct the first reading of an ordinance, which if adopted, would approve the First Amendment to the Ocean Gate Commerce Center Planned Unit Development (PUD).

City Attorney Gummey read Ordinance No. 16-17 the first time, by title only.

Motion:

Commissioner Hartman moved to approve on the first reading Ordinance No. 16-17, 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 February 28, 2017.

RESULT:	APPROVED ON FIRST READING [UNANIMOUS]
MOVER:	Randy Hartman, Commissioner
SECONDER:	Jason McGuirk, Commissioner
AYES:	McGuirk, Hathaway, Reiker, Sachs, Hartman

- E. Ordinance No. 17-17 PUD-5-16 - WILDWOOD PUD – Conduct the first reading of an ordinance, which if adopted, would approve the Wildwood PUD for property at SR 44 & WILDWOOD DRIVE

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

Zoning and Planning Director Amye King outlined the ordinance. She said that her understanding is that all of the variances and Code Enforcement issues will have been solved.

Joey Pozi, 420 S. Nova, attorney for the applicant, commented about the Development Agreement and the PUD (Planned Unit Developments).

Vice Mayor Sachs asked if the landscaping requirements have been exceeded. Ms. King stated a lot of the variances were wiped out, further stating that the Utilities Commission is going to allow the developer to add more landscaping beyond the Utilities Commission buffer. She said it will allow more landscaping deeper into the road.

Motion:

Commissioner Reiker moved to approve on the first reading Ordinance No. 17-17, as submitted. Commissioner McGuirk seconded the motion, and the motion carried 4 -1, with Vice Mayor Sachs voting no. Mayor Hathaway reported that the second reading and public hearing of the proposed ordinance would be conducted at the regular meeting on February 28, 2017.

RESULT:	APPROVED ON FIRST READING [4 TO 1]
MOVER:	Judy Reiker, Commissioner
SECONDER:	Jason McGuirk, Commissioner
AYES:	McGuirk, Hathaway, Reiker, Hartman
NAYS:	Sachs

7. CONSENT AGENDA

- A. Approve the Minutes of Regular City Commission Meetings held October 11, 2016, October 25, 2016, January 10, 2017 and January 24, 2017. Also, special meetings held September 27, 2016, November 15, 2016, December 15, 2016.

Motion:

Commissioner Hartman moved to approve the Minutes of the Regular City Commission Meetings held October 11, 2016, October 25, 2016, January 10, 2017, January 24, 2017 and Special Meeting Minutes held on September 27, 2016, November 15, 2016 and December 15, 2016. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

- B. Approve a request for the addition of "No Parking" signs on Alma Court

Motion:

Commissioner McGuirk moved to approve the request for the addition of "No Parking" signs on Alma Court. Vice Mayor Reiker seconded the motion, and the motion carried unanimously.

- C. Request for the installation of "No Parking" signs on a portion of Inlet Street Public Access to the ICW

Motion:

Commissioner McGuirk moved to approve the request for the installation of "No Parking" signs on a portion of Inlet Street Public Access to the ICW. Vice Mayor Reiker seconded the motion, and the motion carried unanimously.

- D. Approval of the City of New Smyrna Beach Economic Development Plan: Action Plan Schedule Revision

Mayor Hathaway commented about concerns with City funds and spending.

Commissioner Reiker commented about the various amount of other things like parking, etc. to consider.

Motion:

Vice Mayor Reiker moved to approve the schedule revision for the Economic Development Plan. Commissioner McGuirk seconded the motion, and the motion carried 3 - 2 majority vote, with Mayor Hathaway and Vice Mayor Sachs voting no.

- E. Roadway Closure Request - N. Atlantic Avenue From Flagler Avenue to Florida Avenue - for a period not to exceed four (4) business days (no weekends). This work will be completed on or before March 10th, in order to tie in the potable water and sanitary sewer connections for the Springhill Suites Hotel.

Motion:

Commissioner McGuirk moved to approve the request for the roadway closure of N. Atlantic Avenue from Flagler Avenue to Florida Avenue for a period not to exceed four (4) business days (no weekends). Vice Mayor Reiker seconded the motion, and the motion carried unanimously.

- F. Approval of a Temporary Portable MRI Facility to be located behind "Plaza 44" which is adjacent (to the East) to the former K-Mart.

Motion:

Commissioner McGuirk moved to approve the request for the approval of a Temporary Portable MRI Facility to be located behind "Plaza 44", which is adjacent to the former K-Mart. Vice Mayor Reiker seconded the motion, and the motion carried unanimously.

- G. Approve an increase of \$125,000 to the purchase order for Tetra Tech for debris monitoring services related to Hurricane Matthew clean-up efforts, increasing the original purchase order from \$250,000 to \$375,000.

Motion:

Commissioner McGuirk moved to approve an increase of \$125,000 to the purchase order for Tetra Tech for debris monitoring services related to the Hurricane Matthew clean-up efforts. Vice Mayor Reiker seconded the motion, and the motion carried unanimously.

- H. Approval of a \$12,000 proposal from Public Resources Management Group, Inc (PRMG) to provide Best Practices related to funding of the costs to provide central sewer systems to replace existing septic tanks.

City Manager Brangaccio stated that Stormwater funds will be used for this project.

Motion:

Commissioner Hartman moved to approve a proposal of \$12,000 from PRMG (Public Resources Management Group, Inc). To provide Best Practices related to funding of the costs to provide central sewer systems to replace existing septic tanks.. Vice Mayor Reiker seconded the motion, and the motion carried unanimously.

- I. Authorize the City Manager to submit a Staffing for Adequate Fire and Emergency Response (SAFER) Grant Application

Motion:

Commissioner McGuirk moved to authorize the City Manager to submit a Staffing for Adequate Fire and Emergency Response (SAFER) Grant Application. Vice Mayor Reiker seconded the motion, and the motion carried unanimously.

- J. Consider approval of an Emergency Fuel Purchase Order in the amount of \$150,000, made payable to Eastern Aviation Fuels, Inc.

Motion:

Commissioner McGuirk moved to consider approval of an Emergency Fuel Purchase Order in the amount of \$150,000, made payable to Eastern Aviation Fuels, Inc. Vice Mayor Reiker seconded the motion, and the motion carried unanimously.

- K. Approve entering into an Agreement for Aviation Fuel Supplier Services with Eastern Aviation, Inc. For a period of five years with a one-time optional two-year term renewal.

Motion:

Commissioner McGuirk moved to approve entering into an Agreement for Aviation Fuel Supplier Services with Eastern Aviation, Inc. For a period of five years with a one-time optional two-year term renewal. Vice Mayor Reiker seconded the motion, and the motion carried unanimously.

- L. Approval of Road closure and setup for alcohol on street adjacent to the Woman's Club, between Riverside and Magnolia, as part of a Special Event: Mardi Gras Ball at the Woman's Club - Friday, February 24th.

Motion:

Commissioner McGuirk moved to approve the approval of road closure and setup for alcohol on the street adjacent to the Women's Club, between Riverside and Magnolia, as part of a Special Event: Mardi Gras Ball at the Women's Club- Friday, February 24th. Vice Mayor Reiker seconded the motion, and the motion carried unanimously.

- M. Special Event: Approve the Fat Tuesday Mardi Gras Parade & Celebration, Tuesday, February 28, 2017

Motion:

Commissioner McGuirk moved to approve the Fat Tuesday Mardi Gras Parade & Celebration, Tuesday, February 28, 2017. Vice Mayor Reiker seconded the motion, and the motion carried unanimously.

- N. Approval of a request for a road closure for Canal Street from 6am to 7pm for a Canal Street Historic District Special Event: Antique & Vintage Market - March 4, 2017

Motion:

Commissioner McGuirk moved to approve the request for a road closure for Canal Street from 6:00 am to 7:00 pm for a Canal Street Historic District Special Event: Antique & Vintage Market - March 4, 2017. Vice Mayor Reiker seconded the motion, and the motion carried unanimously.

- O. Approval of road closure on Sams Ave from Washington to Canal Streets, and location for an outside beer garden for a Fifth Friday Event, Food Trucks on Sams Avenue - March 31, 2017

Motion:

Commissioner McGuirk moved to approve the road closure on Sams Avenue from Washington to Canal Streets, and location for an outside beer garden for a Fifth Friday Event, Food Trucks on Sams Avenue - March 31, 2017. Vice Mayor Reiker seconded the motion, and the motion carried unanimously.

8. ADMINISTRATIVE ITEMS/NEW BUSINESS

There were no reports.

9. BOARDS AND COMMISSIONS

There were no reports.

10. CITY MANAGER'S REPORT

- A. City Manager's Report

City Manager Brangaccio wished all a Happy Valentine's Day.

11. CITY CLERK'S REPORT

There were none.

12. CITY ATTORNEY'S REPORT

There were none.

13. ADJOURNMENT

As there was no other business to discuss, Mayor Hathaway declared the meeting adjourned at 7:49 PM.