



Tuesday, May 23, 2017
Regular Meeting City Commission
Minutes

6:30 PM – Commission Chamber, 210 Sams Ave, New Smyrna Beach, FL 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, May 23, 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, 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, City Clerk Johnny Bledsoe and Assistant City Clerk Kelly McQuillen.

C. Invocation/Pledge of Allegiance

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

D. Approval of the Agenda

City Manager Brangaccio reported one change; the addition of Consent Item M, Easement Agreement.

2. ANNOUNCEMENTS/PRESENTATION/RECOGNITIONS

A. Presentation of the 2017 Donnadine Miller Memorial Historic Preservation Awards

Mayor Hathaway, Nora Jean Gillespie and Lianne Bennett of the Historic Preservation Board presented two 2017 Donnadine Miller Memorial Historic Preservation Awards. Ms. Kendra Harris of 426 South Riverside Drive was the residential recipient and Carrie Register of 103 Faulkner Street was the non-residential recipient.

RESULT:	ADOPTED [UNANIMOUS]
AYES:	McGuirk, Hathaway, Reiker, Sachs, Hartman

B. 50% Design Presentation: Live Oak Cultural Center

Mr. Kha Le-Huu of Le-Huu Partners presented a 50% Design Presentation. The presentation focused on the building layout and design aspects.

Motion:

Commissioner Hartman moved to approve the 50% Design Presentation. Vice Mayor Sachs seconded the motion and the motion was unanimously approved.

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

3. MAYOR AND COMMISSION REPORTS

Commissioner Reiker commented on Habitat for Humanity, the Wine Walk and the Economic Development Board Meeting. She commended CRA/ Economic Development Director Tony Otte for a job well done at the last Economic Development Advisory Board Meeting.

Vice Mayor Sachs commented on joining the Police Force Crime Stoppers Officer of the Year Celebration, EMS Week, the Webster Creek proposed development concern and the condition of Manatee Riverside Park. He encouraged citizens to call if they notice problems with the parks.

Commissioner McGuirk commended City Staff on a job well done for the 5th grade graduation at the Brannon Civic Center.

Commissioner Hartman commented on attending a meeting on the West Side Community Garden. He stated there were chefs present at the meeting and mentioned that the chefs offered to give cooking classes.

Mayor Hathaway commented on having the pleasure of being present at the Watcher's Monument on Columbus Avenue. He commented on the Babe James Community Center concert stating it was a great event. He commented on the CAPS Ceremony on Monday, May 22, 2017. He commented on Commissioner Hartman's birthday and presented him with a card.

4. ORDINANCES - SECOND READING AND PUBLIC HEARINGS

- A. Ordinance 36-17: Conduct the second reading and public hearing of an ordinance, which if adopted, would amend the adopted October 1, 2016 - September 30, 2017 City Budget

City Attorney Gummey read Ordinance No. 36-17, the second time by title only.

Finance Director Althea Philord outlined the proposed ordinance, which if adopted, would amend the adopted October 1, 2016 - September 30, 2017 City Budget.

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. 36-17, as submitted. Commissioner Hartman seconded the motion, and the motion carried unanimously.

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

- B. Ordinance 37-17: conduct the second reading and public hearing of an ordinance, which if adopted, would approve the granting of a Tax Abatement per Ordinance 73-14 for TAF USA LLC

City Attorney Gummey read Ordinance No. 37-17, the second time by title only.

CRA/Economic Development Director Tony Otte outlined the proposed ordinance, which if adopted, would approve the granting of a Tax Abatement per Ordinance 73-14 for TAF USA LLC.

Commissioner Reiker abstained from the vote due to a conflict with her employer.

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. 37-17, as submitted. Commissioner Hartman seconded the motion, and the motion carried unanimously with Commissioner Reiker abstaining from the vote.

RESULT:	ADOPTED [4 TO 0]
MOVER:	Jake Sachs, Vice Mayor
SECONDER:	Randy Hartman, Commissioner
AYES:	McGuirk, Hathaway, Sachs, Hartman
ABSTAIN:	Reiker

- C. Consider Approval of Entering Into an Ad Valorem Tax Exemption Performance Agreement with TAF USA LLC; this item is related to Ordinance 37-17.

CRA/Economic Development Director Tony Otte outlined the Consideration for Approval of Entering into an Ad Valorem Tax Exemption Performance Agreement with TAF USA LLC; this item is related to Ordinance 37-17.

Commissioner Reiker abstained from the vote due to a conflict with her employer.

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

Motion:

Commissioner Hartman moved to approve the agreement, as submitted. Vice Mayor Sachs seconded the motion, and the motion carried unanimously with Commissioner Reiker abstaining from the vote.

RESULT:	ADOPTED [4 TO 0]
MOVER:	Randy Hartman, Commissioner
SECONDER:	Jake Sachs, Vice Mayor
AYES:	McGuirk, Hathaway, Sachs, Hartman
ABSTAIN:	Reiker

- D. Ordinance No. 39-17: conduct the second reading and public hearing of an ordinance, which if adopted, would grant a non-exclusive construction and roll-off service franchise to Fence Services, Inc., (FSI), dba AAA Fence.

City Attorney Gummey read Ordinance No. 39-17, the second time by title only.

Finance Director Althea Philord outlined the proposed ordinance, which if adopted, would grant a non-exclusive construction and roll-off service franchise to Fence Services, Inc., (FSI), dba AAA Fence.

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. 39-17, 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

- E. Conduct a public hearing regarding Special Exception Application No. SE-1-17: Request for a Special Exception Use of Tattoo Parlor at 314 South Orange Street.

Planning and Zoning Director Amye King outlined the Special Exception Application, which if approved, would grant Use of Tattoo Parlor at 314 South Orange Street. Ms. King stated that Staff recommended application approval.

Mayor Hathaway opened the public hearing.

William Arney, owner, addressed the Commission regarding his business and clientele. He stated he would be happy to close at 10:00 pm instead of midnight; the proposed closing time. He stated he planned to host art exhibits a few times a month.

Brett Holland, 306 South Orange Street, opposed the Tattoo Parlor. He stated reasons for opposition are problematic parking, potential noise increase and stated his major concern is the investment of his home; particularly a decrease in value of his home.

Chris Reynolds, South Orange Street, opposed the Tattoo Parlor. He stated that he opposed the parlor due to a potential decrease in property value of his home.

Jennifer Fike, 411 South Orange Avenue, spoke about the parking on the street. She commented on the owner disregarding the law and stated she is opposed to the Tattoo Parlor.

Ellen and Philip Hanaran, 2520 Glencoe Farms Road, spoke in opposition of the Tattoo Parlor. She hoped the neighborhood would flourish as a family neighborhood, not a business.

Annette Evans, 304 South Orange Street, questioned the City Commission about the Facebook proposition to come in support of the special exception.

Tony Crabtree, 301 South Orange Street, opposed the Tattoo Parlor. He stated that he believed it was the wrong area to conduct this business.

Mr. Arney commented about statements made about him. He addressed the Commission about the plans for his business. He disputed the reasons stated regarding the opposition for his business moving into this neighborhood.

Mayor Hathaway closed the public hearing.

Vice Mayor Sachs asked Ms. King about the operating hours of the establishment.

City Attorney Gummey stated it was included in the tattoo parlor ordinance adopted October 11, 2011.

Motion:

Commissioner Reiker moved to adopt Ordinance No. 39-17, with the condition to close at 10:00 pm and that signage be considered in the site review process. Commissioner Hartman seconded the motion, and the motion was denied unanimously.

RESULT:	DENIED [0 TO 5]
MOVER:	Judy Reiker, Commissioner
SECONDER:	Randy Hartman, Commissioner
NAYS:	McGuirk, Hathaway, Reiker, Sachs, Hartman

5. PUBLIC PARTICIPATION

Robert Withington, Island Hoppers owner, commented about reminding the City Commission about getting approvals to move forward with his application.

Randy Herman, 108 Esther Street, commented on the Senior Center structure being one story and wanted to propose that the structure be expanded to a two-story structure. He also proposed a solar energy source to help cut costs.

Elizabeth Bell, 412 Shorewood Lane, commented on the Notice to Proceed River to Sea. She commented on a problematic intersection and SR 44 problems. She urged City Commission to discuss the topic.

6. ORDINANCES - FIRST READING

- A. Ordinance No. 41-17: PUD-2-17 - conduct the second reading and quasi-judicial public hearing of an ordinance, which if adopted, would approve the Palms Amended and Restated Master Development Agreement.

City Attorney Gummey read Ordinance No. 41-17 the first time, by title only.

Motion:

Commissioner Reiker moved to approve on the first reading Ordinance No. 41-17, 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 June 13, 2017.

RESULT:	APPROVED AT FIRST READING [4 TO 1]	Next: 6/13/2017 6:30 PM
MOVER:	Judy Reiker, Commissioner	
SECONDER:	Jason McGuirk, Commissioner	
AYES:	McGuirk, Hathaway, Reiker, Hartman	
NAYS:	Sachs	

- B. Ordinance No. 42-17: conduct the second reading and public hearing of an ordinance, which if adopted, would grant a non-exclusive construction and roll-off service franchise to Danny's Dumpster's.

City Attorney Gummey read Ordinance No. 42-17 the first time, by title only.

Motion:

Commissioner Hartman moved to approve on the first reading Ordinance No. 42-17, 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 June 13, 2017.

RESULT:	APPROVED AT FIRST READING [UNANIMOUS]	Next: 6/13/2017 6:30 PM
MOVER:	Randy Hartman, Commissioner	
SECONDER:	Jason McGuirk, Commissioner	
AYES:	McGuirk, Hathaway, Reiker, Sachs, Hartman	

- C. Ordinance No. 44-17: Rezoning Application Z-2-17: conduct the second reading and quasi-judicial public hearing of an ordinance, which if adopted, would rezone property located at 821 Craig Street from Neighborhood Business District (R-2) to Highway Service Business District (B-3).

City Attorney Gummey read Ordinance No. 44-17 the first time, by title only.

Commissioner McGuirk clarified the ordinance.

Motion:

Commissioner McGuirk moved to approve on the first reading Ordinance No. 44-17, as submitted. Commissioner Reiker seconded the motion, and the motion carried 3-2 with Commissioner Hartman 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 June 13, 2017.

RESULT:	APPROVED AT FIRST READING [3 TO 2]	Next: 6/13/2017 6:30 PM
MOVER:	Jason McGuirk, Commissioner	
SECONDER:	Judy Reiker, Commissioner	
AYES:	McGuirk, Hathaway, Reiker	
NAYS:	Sachs, Hartman	

7. CONSENT AGENDA

- A. Approve the Minutes of the City Commission Meeting held May 9, 2017.

Motion:

Commissioner McGuirk moved to approve the Minutes of the City Commission Meeting held May 9, 2017, as submitted. Commissioner Reiker seconded the motion, and the motion carried unanimously.

- B. Approve Staff's Recommended Removal of Obsolete Asset Inventory from the City's current Capital Equipment Asset Inventory.

Motion:

Commissioner McGuirk moved to approve Staff's Recommended Removal of Obsolete Asset Inventory from the City's current Capital Equipment Asset Inventory, as submitted. Commissioner Reiker seconded the motion, and the motion carried unanimously.

- C. Approve a one-year renewal of the existing contract with Carr Riggs & Ingram Auditors for auditing services.

Motion:

Commissioner McGuirk moved to approve a one-year renewal of the existing contract with Carr Riggs & Ingram Auditors for auditing services. Commissioner Reiker seconded the motion, and the motion carried unanimously.

- D. Easement Agreement (EA) 2-17 Callalisa Creek Vistas Phase 2A and 2B. A request to enter into an agreement with the City of New Smyrna Beach granting a five (5) foot public access easement along the west side of Saxon Drive.

Motion:

Commissioner McGuirk moved to approve an Easement Agreement (EA) 2-17 Callalisa Creek Vistas Phase 2A and 2B. A request to enter into an agreement with the City of New Smyrna Beach granting a five (5) foot public access easement along the west side of Saxon Drive. Commissioner Reiker seconded the motion, and the motion carried unanimously.

- E. Approve the award of contract for sidewalk repairs in the Old Towne Neighborhood to Sanderson Concrete Construction in the amount of \$29,509.50.

Motion:

Commissioner McGuirk moved to approve the award of contract for sidewalk repairs in the Old Towne Neighborhood to Sanderson Concrete Construction in the amount of \$29,509.50. Commissioner Reiker seconded the motion, and the motion carried unanimously.

- F. Approve the Final Plat for Application No. S-4-16: Coastal Woods Commercial Phase 1.

Motion:

Commissioner Reiker moved to approve the Final Plat for Application No. S-4-16: Coastal Woods Commercial Phase 1. Commissioner McGuirk seconded the motion, and the motion carried 4-1, with Vice Mayor Sachs voting no.

Josh Wells, attorney, spoke on behalf of the applicant.

- G. Approve the renewal of Volusia County Cooperation Agreement FY 2017/2018, 2018/2019, and 2019/2020, Community Development Block Grant (CDBG) and HOME Investment Partnership Program (HOME)

Motion:

Commissioner McGuirk moved to approve the renewal of Volusia County Cooperation Agreement FY 2017/2018, 2018/2019, and 2019/2020, Community Development Block Grant (CDBG) and HOME Investment Partnership Program (HOME). Commissioner Reiker seconded the motion, and the motion carried unanimously.

- H. Consider Temporary Parking Lot Application No. TPL-2-17: a request for a temporary parking lot for a proposed farm tractor business at 2606 North Dixie Freeway.

Motion:

Commissioner McGuirk moved to delay a request for a temporary parking lot for a proposed farm tractor business at 2606 North Dixie Freeway. Commissioner Reiker seconded the motion, and the motion carried unanimously.

Joshua Wells, Attorney, spoke on behalf of the owner for the farm tractor business.

Discussion ensued about site plans.

Vice Mayor Sachs asked when the neighbors are noticed. Ms. King stated the neighbors would not be noticed, but it will be advertised. City Manager Brangaccio stated the City would notice the neighbors, as there were only approximately three of them.

- I. Approve a temporary parking lot at 903 North Dixie Freeway for employee parking for Sun Coast Roofing.

Motion:

Commissioner McGuirk moved to approve a temporary parking lot at 903 North Dixie Freeway for employee parking for Sun Coast Roofing. Commissioner Reiker seconded the motion, and the motion carried unanimously.

- J. Approval the request for a temporary parking lot for overflow parking for the NSB Sea Shack on 3rd Avenue

Planning and Zoning Director Amye King outlined the request.

The applicant, Charlie Cecil, commented on the reasoning for his request.

Motion:

Commissioner Reiker moved to approve the request for a temporary parking lot for overflow parking for the NSB Sea Shack on 3rd Avenue. Commissioner McGuirk seconded the motion, and the motion carried 4-1, with Vice Mayor Sachs voting no.

- K. Approve the extension of the existing contract for nuisance control, with Tuff Turf Landscaping, Inc., for two additional years.

Motion:

Commissioner McGuirk moved to approve the extension of the existing contract for nuisance control, with Tuff Turf Landscaping, Inc., for two additional years. Commissioner Reiker seconded the motion, and the motion carried unanimously.

- L. Approve the Special Event: Bike and Bar Event at The Flagler Tavern - Saturday, June 24, 2017. The Flagler Tavern requests permission to have a bar and D.J. within their established parking lot.

Sherman Reid and Theo Mundell, owners of Flagler Tavern, commented on the event and parking.

Motion:

Commissioner McGuirk moved to approve the Special Event: Bike and Bar Event at The Flagler Tavern - Saturday, June 24, 2017. The Flagler Tavern requests permission to have a bar and D.J. within their established parking lot. Commissioner Reiker seconded the motion, and the motion carried 4-1, with Vice Mayor Sachs voting no.

- M. Approve Easement Agreement Application No. EA-1-17: An Easement Agreement to Allow For a required 10-foot wide sidewalk to be placed on private property, with a public access easement, for the Coastal Woods Commercial Subdivision.

Motion:

Commissioner McGuirk moved to approve Easement Agreement Application No. EA-1-17: An Easement Agreement to Allow For a required 10-foot wide sidewalk to be placed on private property, with a public access easement, for the Coastal Woods Commercial Subdivision. Commissioner Reiker seconded the motion, and the motion carried unanimously.

8. ADMINISTRATIVE ITEMS/NEW BUSINESS

- A. Consider Approval of the Recommended Award of Bid for Bid No. ITB 01-17-ENG: Islesboro Subdivision Stormwater Improvements Project to the Masci Corporation for the amount of \$10,797,157.47.

Assistant City Manager Khalid Resheidat outlined the award for bid. He commented on the bids and explained that Masci Company submitted the lowest bid.

Motion:

Commissioner McGuirk moved to consider Approval of the Recommended Award of Bid for Bid No. ITB 01-17-ENG: Islesboro Subdivision Stormwater Improvements Project to the Masci Corporation for the amount of \$10,797,157.47. 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

- B. Consider a Request to Release from Lien of property at 417 S. Palmetto Avenue, Daytona Beach, FL 32114

City Attorney Gummey outlined the request and asked for a reduction the lien amount to \$1,000.00.

Motion:

Commissioner Reiker moved to consider a request to Release from Lien of property at 417 S. Palmetto Avenue, Daytona Beach, FL 32114. Commissioner McGuirk seconded the motion, and the motion carried 4-1, with Vice Mayor Sachs voting no.

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

9. BOARDS AND COMMISSIONS

There was none.

10. CITY MANAGER'S REPORT

There was none.

A. City Manager's Report

There was none.

11. CITY CLERK'S REPORT

City Clerk Johnny Bledsoe commented on the upcoming 2018 Election dates.

12. CITY ATTORNEY'S REPORT

There was none.

13. ADJOURNMENT

As there was no other business to discuss, Mayor Hathaway declared the meeting adjourned at 8:38 PM.