



**City Commission Regular Meeting
Tuesday, April 9, 2019
Minutes**

1. OPENING OF MEETING

A. Call to Order

Attendee Name	Title	Status	Arrived
Jason McGuirk	Commissioner	Present	
Jake Sachs	Commissioner	Present	
Randy Hartman	Commissioner	Excused	
Michael Kolody	Commissioner	Present	
Russell Owen	Mayor	Present	

Also present were City Manager Pamela Brangaccio, City Attorney Carrie Avallone, Assistant City Manager Khalid Resheidat, Director of Development Services and Coastal Environment Resiliency Brian Fields, CRA/Economic Development Director Tony Otte, Maintenance Operations Director Faith Miller, Police Chief Mike Coffin, and City Clerk Johnny Bledsoe.

2. INVOCATION/PLEDGE OF ALLEGIANCE

Police Department Chaplain Sheila Turner gave the invocation. Mayor Owen led those present in the Pledge of Allegiance.

3. APPROVAL OF THE AGENDA

City Manager Brangaccio reported the removal of Ordinance No. 18-19 from Ordinances, First Reading Item C. Mayor Owen then confirmed the removal from the agenda of Administration Items/New Business Item C - Information Matrix for a Video Production Package.

4. ANNOUNCEMENTS/PRESENTATION/RECOGNITIONS

- A. Proclamation: Read and present a proclamation to recognize April 26, 2019 as Arbor Day in New Smyrna Beach.

Mayor Owen read a proclamation that named April 26, 2019 Arbor Day in New Smyrna Beach. Maintenance Operations Director Faith Miller accepted the proclamation on behalf of the City.

- B. Proclamation: Child Abuse Prevention Month - April 2019

Mayor Owen read a proclamation that named April 2019 as Child Abuse Prevention Month in New Smyrna Beach. Donna Zeh was present and accepted the proclamation on behalf of the Victim Services Section of the Police Department.

5. PUBLIC PARTICIPATION

Vernon Current, 1052 Red Maple Way, commented on proposed future projects from the proposed 1/2 cent sales tax by Volusia, and requested information on projects.

Scott Steger, Flagler Avenue, thanked the City for what they did for New Smyrna Beach, and thanked Commissioner Kolody for hosting a town hall meeting recently. He then questioned receiving a complaint for the Wine Walk special event.

Joe Bluback, Venetian Bay resident, commented on preservation of trees. He highlighted recent developments that had trees removed from the site. He was concerned with the deforestation going on.

Debbie Innamorato, 1018 Magnolia Street, commented on not noticing problems on Magnolia Street. She questioned the planned placement of additional stop signs, and opposed such additional stop signs.

Randy Herman, 108 Esther Street, urged the City Commission to adopt Resolution No. 15-19 regarding members on the Neighborhood Council.

Rose Pysh, 1110 Magnolia Street, commented on past incidents on Magnolia Street. She commented on speed alternatives to consider in the 3rd Street area. She was thrilled with City action taken to support affordable housing. She commented on positive reinforcement for those who voluntarily stop using plastics.

6. CONSENT AGENDA

1. Approve the Minutes of the Regular City Commission Meeting held March 26, 2019.

Commissioner McGuirk moved to approve the minutes of the March 26, 2019 City Commission Regular Meeting. Commissioner Kolody seconded the motion and it carried unanimously.

Mayor Owen directed staff to remove the word "approved" from meeting minutes, regarding specific items under the category of Ordinances - First Reading.

7. ADMINISTRATIVE ITEMS/NEW BUSINESS

- A. Consider Adoption of Resolution No. 12-19: Voluntary Discontinuance of Single-Use Plastics

City Attorney Avallone outlined staff's recommendation that the City Commission consider adoption of Resolution No. 12-19 calling for the voluntary discontinuance of single-use plastics by residents and business owners in New Smyrna Beach.

Motion:

Commissioner Sachs moved to adopt Resolution No. 12-19. Commissioner Kolody seconded the motion and it carried unanimously.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jake Sachs, Commissioner
SECONDER:	Michael Kolody, Commissioner
AYES:	McGuirk, Sachs, Kolody, Owen
EXCUSED:	Hartman

- B. Phase II Affordable Housing - Dimmick and Railroad: Consider approval of the commitment of \$75,000 for Phase 2 of the senior housing development with an Interlocal Agreement to be written upon the Housing Authority's Development Corporation receiving funding from Volusia County.

CRA/Economic Development Director Tony Otte outlined the CRA's recommendation that the City Commission consider approval of the commitment of \$75,000 for Phase 2 of the senior housing development at Dimmick and Railroad with an Interlocal Agreement to be written upon the Housing Authority's Development Corporation receiving funding from Volusia County.

Motion:

Commissioner McGuirk moved to approve the commitment of \$75,000 for Phase 2 of the senior housing development at Dimmick Street and Railroad Street with an Interlocal Agreement to be written upon the Housing Authority's Development Corporation receiving funding from Volusia County. Commissioner Sachs seconded the motion and it carried unanimously.

Commissioner Kolody supported the initiative and thought affordable housing should be expanded upon in the land development regulations. He wanted to see thought be put into affordable housing being spread out throughout the City. Mayor Owen agreed.

- C. Commission discussion and policy direction on a Proposal from Information Matrix for a NSB Video

No action. Removed from the agenda.

8. ORDINANCES - SECOND READING AND PUBLIC HEARINGS

- A. Ordinance No. 13-19: Conduct the second reading and public hearing of an ordinance, which if adopted, would amend the Code of Ordinances, Chapter 18 - Animals

City Attorney Avallone read Ordinance No. 13-19 the second time by title only.

Police Chief Coffin, was accompanied by Enforcement Officer Megan Wilk, Southeast Volusia Humane Society Executive Director Susanne Palmer and Southeast Volusia Humane Society President Debbie Jackson, outlined the proposed ordinance, which if adopted, would amend the Code of Ordinances, Chapter 18 - Animals. City Attorney Avallone reported that in 2018 the Animal Control Board requested that the Animal Control Ordinance be revised and updated as it had not been updated since 2012 and several areas were outdated.

Commissioner McGuirk questioned proposed language regarding a holding period and requested clarification. Enforcement Officer Megan Wilk clarified that language in the proposed ordinance was for a holding period for three days, and then the animal would be placed for adoption, and not destroyed. Ms. Wilk commented on probable pet owner actions taken when animals are found to be missing.

Commissioner Sachs opposed the proposed reduction of the holding period from 7 days to 3 days and felt the 7-day holding period should be retained. Humane Society Executive Director Susanne Palmer commented on the advantage of a 3-day holding period, which included being able to place an animal up for adoption much sooner. Commissioner Sachs felt such action would be inhumane.

Mayor Owen questioned what the negative aspect was between a 7-day holding period to that of a 3-day holding period.

Ms. Palmer commented on how longer holding periods could possibly result in overcrowding situations.

She also commented on how there were different types of return to owner situations and/or processes. Mayor Owen clarified that there would be no effect on the cost to the City, whether the holding period was 3 days or 7 days.

Commissioner Kolody preferred the 7-day holding period and was concerned that situations could result in an animal being adopted out prior to its owner being able to retrieve it. Ms. Palmer outlined the adoption process at the Southeast Volusia Humane Society. Commissioner Kolody questioned whether humane society regulations allowed for animals to be returned to their owners, and also questioned how free range roosters were addressed in the proposed ordinance. Chief Coffin commented on the difference between livestock and domestic animals and commented on alternatives to consider while addressing each case separately.

Mayor Owen commented on language in the proposed ordinance regarding nuisance animals.

Commissioner Sachs restated his personal concern with the proposed three-day hold, and commented on how the humane society holds animals with disease for ten days. Ms. Palmer clarified that it was policy of the Volusia County Health Department that mandated the 10-day hold rule for diseased animals.

Mayor Owen felt he could support either 3-day or 7-day hold.

Mayor Owen opened the public hearing.

Leslie Sachs, 816 East 8th Avenue, commented on her concern with tethering language in the proposed ordinance and felt the language should be to ban tethering or protect animals who were being tethered. She suggested the City view the website unchainyourdog.org. Mrs. Sachs also opposed the three-day hold period proposed and supported a seven-day hold period. She then thanked the City Commission for its consideration for back yard chickens. Ms. Palmer commented on how chickens could be a serious problem, and cited problems experienced in Key West, FL as an example.

Debbie Jackson, President of the Humane Society clarified that the humane society was a no kill facility and felt animals were being well taken care of at the facility.

As no other citizens wished to speak, Mayor Owen closed the public hearing.

City Commission discussion continued. Mayor Owen commented on hold periods of animals with or without identification and tethering.

Commissioner Sachs commented on tethering practices and restated that he felt the practice should be banned. He then commented on a suggestion of allowing only hens and no roosters. He also suggested the City Commission might want to establish a trial period.

Chief Coffin commented on how tethering was being practiced by low-income families and should be considered prior to making a decision.

Motion:

Commissioner Kolody moved to adopt Ordinance No. 13-19. Commissioner McGuirk seconded the motion.

Commissioner Kolody supported tethering and would not change it. He also supported a seven-day hold on animals with identification and a three-day hold on animals with no identification.

Mayor Owen suggested an amendment to the motion that would add language regarding chicken slaughtering.

Commissioner Kolody would not accept the suggestion. Commissioner McGuirk suggested an amendment to the motion that would establish a one-year trial period regarding the allowing of chickens. Commissioner Kolody clarified that he would only consider chickens in cages. City Attorney Avallone cautioned the City Commission that such a trial period could result in possible future challenges. Commissioner McGuirk withdrew his suggested amendment.

The motion on the floor was, to adopt Ordinance No. 13-19, allowing a seven-day hold on animals with identification and a three-day hold on animals with no identification.

The motion carried by 3-1 majority vote, with Commissioner Sachs voting no.

ULT:	ADOPTED [3 TO 1]
MOVER:	Michael Kolody, Commissioner
SECONDER:	Jason McGuirk, Commissioner
AYES:	McGuirk, Kolody, Owen
NAYS:	Sachs
EXCUSED:	Hartman

- B. Ordinance No. 14-19: Conduct the second reading and public hearing of an ordinance, which if adopted, would amend the City Code of Ordinance, Chapter 30, Businesses - Article II - Peddlers, Canvassers, Solicitors

City Attorney Avallone read Ordinance No. 14-19, the second time by title only.

City Attorney Avallone outlined staff's recommendation that the City Commission conduct the second reading and public hearing of an Ordinance, which if adopted, would amend the City Code of Ordinances, Chapter 30, Businesses - Article II - Peddlers, Canvassers, Solicitors. She further reported that Article II of Chapter 30, City Code, sets forth the rules for peddlers, canvassers, and solicitors - individuals who go door-to-door selling items or handing out informational material. The City code requires these individuals to register with the police department. Hawkers and peddlers, defined as any person selling any item of value for the purpose of realizing a profit where the sale does not utilize a fixed location that would require an occupational license, must also obtain a permit that is valid for six months.

City Attorney Avallone then reported that currently, there was no review criteria for individuals who seek to obtain such a permit. Ordinance No. 14-19 would establish the following review criteria for the police department to apply prior to issuing a permit to any hawker/peddler:

1. The applicant has repeated and persistent violations of the motor vehicle laws; has less than six (6) months driving experience; does not have a valid Florida driver's license; or is less than eighteen(18) years of age. This criteria shall not apply if the applicant is not hawking or peddling directly from a vehicle.
2. The applicant has been convicted of any offense involving the commission of a felony within the past five years or a misdemeanor within the last three years.
3. The applicant is on parole or probation for a felony or misdemeanor.
4. The applicant has been designated as a sexual predator.
5. The applicant has submitted false or materially misleading statements in the application.
6. If an applicant has been arrested prior to or subsequent to the submission of his initial application or application for renewal, said application shall be held in abeyance until a prosecutorial decision or a judicial determination has been rendered.
7. The applicant has been found in violation of any hawker/peddler's permit condition, or any equivalent thereof, of any city within the last twelve (12) months.

8. The applicant has had a hawker/peddler’s permit, or any equivalent thereof, revoked by another city for noncompliance within the past five (5) years.

Commissioner Sachs questioned the registration process for signs on properties. Police Chief Coffin clarified the registration process.

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

Motion:

Commissioner McGuirk moved to adopt Ordinance No. 14-19. Commissioner Sachs seconded the motion and it carried unanimously.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jason McGuirk, Commissioner
SECONDER:	Jake Sachs, Commissioner
AYES:	McGuirk, Sachs, Kolody, Owen
EXCUSED:	Hartman

- C. Sidewalk Cafe Application No. CA-1-19, 124 Canal Street: Conduct a public hearing to consider a Sidewalk Cafe Agreement, which if approved, would allow for the addition of six non-permanent tables, to a proposed restaurant, within the Canal Street right-of-way (sidewalk).

Director of Development Services and Coastal Environment Resiliency Brian Fields outlined Sidewalk Cafe Application No. CA-1-19, for property at 124 Canal Street.

City Attorney Avallone administered the oath to Mr. Fields. Mr. Fields then outlined his professional and educational qualifications. As no citizen or official questioned his qualifications, Mr. Field was declared an expert in the area of land development.

Mr. Fields then reported that if approved, the property owner would be allowed to have the addition of six non-permanent tables, to a proposed restaurant, within the Canal Street right-of-way (sidewalk), and staff had recommended that the City Commission conduct a quasi-judicial public hearing, and the application be approved with the **approval** of the request to add a sidewalk café of six outdoor tables, as a “limited activity” within the Arts Overlay District with the following conditions:

1. The seating must be arranged so that the five foot (5’) wide pedestrian access is maintained.
2. Additional signs are limited to one (1) additional sign on an outdoor menu board and the restaurant name. The outdoor menu board may be two-sided and may not exceed four (4) square feet per side;
3. The applicant complies with the minimum operating standards (a) through (e), as stated in the Finding F above;
4. The applicant provides the required liability insurance coverage;
5. The applicant shall have a portable barrier system in place during the hours of the sidewalk café operation.

Mayor Owen questioned whether the application related to tables and chairs. Mr. Fields clarified that it did.

Mayor Owen questioned whether the other Canal Street sidewalk restaurant met requirements. Mr. Fields clarified that it had.

Commissioner Sachs questioned the validity of the sidewalk sketch provided. Mr. Fields clarified the accuracy of the sketch provided.

Henry Salgatto, the applicant clarified his intent to comply with all space requirements and felt that the utilization of the space against the building would work for him.

Mayor Owen thanked Mr. Salgatto for doing business in the City.

Mayor Owen opened the public hearing.

Lillian Conrad, 212 Palmetto Street, clarified that the HUB on Canal was an LLC.

Randy Herman, 108 Esther Street, commented on how he felt the affect barriers had was that they pushed pedestrians into the street and had concerns due to that.

As no other citizens wished to speak, Mayor Owen closed the public hearing.

Mayor Owen questioned whether barriers met space requirements. Mr. Fields clarified they did.

Motion:

Commissioner McGuirk moved to approve Sidewalk Cafe Application No. CA-1-19, with recommended conditions. Commissioner Kolody seconded the motion and it carried unanimously.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jason McGuirk, Commissioner
SECONDER:	Michael Kolody, Commissioner
AYES:	McGuirk, Sachs, Kolody, Owen
EXCUSED:	Hartman

9. ORDINANCES - FIRST READING

- A. Ordinance No. 16-19: Conduct the First Reading of an Ordinance, which if adopted, would approve an amendment to the FY 18-19 Budget.

City Attorney Avallone read Ordinance No. 16-19, the first time by title only, an ordinance, which if adopted, would approve an amendment to the FY 18-19 Budget.

Mayor Owen congratulated new Finance Director John McKinney.

Mayor Owen reported that the second reading and public hearing of the proposed ordinance would be conducted at the next regular meeting on April 23, 2019.

- B. Conduct the first reading of Ordinance No. 17-19: Prohibition of Single-Use Plastics on City Property

City Attorney Avallone read Ordinance No. 17-19, the first time by title only, an ordinance, which if adopted, would establish a prohibition of Single-Use Plastics on City Property.

Commissioner Kolody questioned whether the proposed ordinance would address an individual. City Attorney Avallone clarified it would pertain to those entering into a contract with the City, after the effective date of the ordinance.

Commissioner Sachs had concerns with how the ordinance would affect vendors and the farmers market. Mayor Owen agreed that potential side effects would present themselves.

After discussion, Commissioner McGuirk agreed and felt regulations should be uniform and cautioned the City Commission about unintended circumstances.

Commissioner Sachs wanted to hear from the Southeast Volusia Chamber of Commerce and Marine Discovery Center.

Motion:

Commissioner McGuirk moved to continue the first reading of Ordinance No. 17-19 to the meeting on June 11, 2019. Commissioner Sachs seconded the motion and it carried unanimously.

RESULT:	CONTINUED [UNANIMOUS]	Next: 6/11/2019 6:30 PM
MOVER:	Jason McGuirk, Commissioner	
SECONDER:	Jake Sachs, Commissioner	
AYES:	McGuirk, Sachs, Kolody, Owen	
EXCUSED:	Hartman	

C. Ordinance No. 18-19: Conduct the first reading of an ordinance, which if adopted, would, amend the Interlocal Service Boundary Agreement with Volusia County.

No action. Removed from the agenda.

10. BOARDS AND COMMISSIONS

A. Resolution No. 15-19: Amending Resolution 24-13 Neighborhood Council

City Attorney Avallone read Resolution No. 15-19, by title only, a resolution, which if adopted, would amend Resolution No. 24-13 Neighborhood Council.

City Clerk Bledsoe reported that during their March 25, 2019 regular meeting, the Members of the Neighborhood Council (hereafter referred to as "the Council") unanimously approved a motion that staff submit a report to the City Manager and City Commission based on the following recommendations:

1. That the Council, having successfully completed the City Manager's special request to review and provide recommendations based on public input collected during 2018's Coastal Community Resiliency sessions, return to its original duties as stated in Resolution 24-13;

2. That the Council be expanded from seven to nine members, allowing for each of the City's four Zones be represented by *at least two* members;
3. That the Council meet on the last Monday of each month from 6:00 to 7:30 PM instead of quarterly; and
4. That each Council member's current term be extended and staggered based on their last appointment date.

Based on the above recommendations, Resolution No. 15-19 was submitted for City Commission consideration.

Motion:

Commissioner McGuirk moved to adopt Resolution No. 15-19. Commissioner Kolody seconded the motion and it carried unanimously.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jason McGuirk, Commissioner
SECONDER:	Michael Kolody, Commissioner
AYES:	McGuirk, Sachs, Kolody, Owen
EXCUSED:	Hartman

11.MAYOR AND COMMISSION REPORTS

Commissioner Kolody commented on upcoming utilities commission appointments and he wanted applications early to review. He reported on the recently held Zone 1 Community Forum and his desire to protect beachside residents. He commented on his recent attendance at the meeting of the Turnbull Bay Committee, and how he was disappointed with how the committee had been made to operate.

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Commissioner Sachs commented on persons with disabilities on Magnolia Street wanting flashing signage by their home, and how he supported providing the signage right away. City Attorney Avallone commented on municipal insurance concerns. Mayor Owen supported having staff provide additional information regarding the matter.

Commissioner Sachs commented on the Kennedy Family Project to clean the beaches.

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Commissioner McGuirk announced that there would be a meeting on Tuesday, April 30, 2019, with the topic being a future Pioneer Trail I-95 Interchange. Commissioner McGuirk commented on the planned stop sign on 3rd Street, and how he was not comfortable with plans to install the stop sign there. Commissioner Sachs commented on alternatives to stop signs.

Motion:

Commissioner McGuirk moved to remove the planned stop sign from 3rd Street. Commissioner Sachs seconded the motion.

Commissioner Sachs also wanted to see the entire Magnolia Street traffic calming project enhanced. Assistant City Manager Resheidat suggested using speed cushions, to see how well that method would be effective.

By 3-1 majority vote, the motion carried, with Commissioner Kolody voting no.

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Mayor Owen commented on the Turnbull Bay Committee and authority given by the City Commission. He felt Commissioner Kolody's disappointment was concerning, and wanted a future agenda item at the next meeting to discuss the situation. Commissioner Sachs felt a meeting with the task force was necessary to see what their concerns were.

Commissioner McGuirk commented on past discussions and felt that a workshop should be held with the Turnbull Bay Task Force in order to get on the same page, and that a City Commission meeting was not the appropriate venue.

Mayor Owen felt a City Commission meeting discussion with staff was necessary first in order to give direction to staff.

Mayor Owen confirmed City Commission consensus to place a discussion item under Boards and Commissions, at the next meeting on April 23, 2019.

Mayor Owen wanted to challenge advisory boards to advise the City Commission. Mayor Owen commented on the Youth Council and questioned whether they could be integrated into the meeting on May 14, 2019.

12.CITY MANAGER'S REPORT

A. City Manager's Report

The City Commission acknowledged receipt of the City Manager's Report.

13.CITY CLERK'S REPORT

City Clerk Bledsoe reported on plans of the Volusia County Supervisor of Elections to place a ballot box in City Hall during the period May 1 - 20, 2019 in order to collect ballots cast by citizens regarding the 1/2 cent sales tax referendum.

City Clerk Bledsoe then commented on the lack of documents from the City website. He reported that the content of the website was currently under review to ensure it is accessible for all of its visitors. During this process, the City Clerk's Office looked forward to ensuring the highest standards of compliance are met while continuing to provide outstanding customer service. Meeting agenda packets and other digital documents can be obtained by contacting the City Clerk's Office at clerk@cityofnsb.com or (386) 410-2630. As always, you can find reasonable notice of upcoming meetings and physical copies of Board,

Commission, Committee, and Council agendas posted in the lobby of City Hall located at 210 Sams Avenue, New Smyrna Beach, Florida 32168.

Mayor Owen requested that the City Clerk's Office provide an update on planned activities and progress on the project.

14.CITY ATTORNEY'S REPORT

No report.

15.ADJOURNMENT

With no other business to be addressed, Mayor Owen declared the meeting adjourned at 8:54 p.m.