



**City Commission Regular Meeting  
Tuesday, August 27, 2019 at 6:30 PM  
Minutes**

**1. OPENING OF MEETING**

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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, August 27, 2019 at the City Hall Commission Chamber, 210 Sams Avenue, New Smyrna Beach, Florida 32168.

A. Call to Order

Mayor Russ Owen called the meeting to order at 6:30 PM.

**Present:** Mayor Russ Owen, Vice Mayor Randy Hartman, Commissioner Michael Kolody, Commissioner Jason McGuirk and Commissioner Jake Sachs.

*Also present were City Attorney Carrie Avallone, Acting City Manager Khalid Resheidat, Police Chief Mike Coffin, CRA/Economic Development Director Tony Otte, Director of Development Services and Coastal Environmental Resiliency Brian Fields, Leisure Services Director Nancy Maddox, Finance Director John Mckinney, Community Resource Coordinator Irma Terry, Assistant to the City Manager and Public Information Office Phil Veski and Acting City Clerk Kelly McQuillen.*

**2. INVOCATION/PLEDGE OF ALLEGIANCE**

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

**3. APPROVAL OF THE AGENDA**

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Acting City Manager Khalid Resheidat stated that Item 9A: Ordinances, First Readings, Ordinance No. 60-19 would be removed and placed on a future agenda.

#### **4. ANNOUNCEMENTS/PRESENTATION/RECOGNITIONS**

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- A. Fire Chief VanDemark will conduct the Pinning Ceremony of a new member of the New Smyrna Beach Fire Department as well as promotion of two employees.

Chief Shawn Vandemark announced the promotions of Paramedic Raquel Delgado to Lieutenant and Firefighter/EMT Adam Sarwi to Driver/Engineer and conducted the Pinning Ceremony for a new member of the Fire Department, Firefighter/EMT Kyle Roberts.

- B. Team Volusia Presentation

Chris Wimsatt and Keith Norden from Team Volusia outlined a PowerPoint Presentation.

#### **5. PUBLIC PARTICIPATION**

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Reverend Jeffrey Dove, 3322 Pintello Avenue, commented in support of Ordinance No. 06-19. He shared that they must have affordable housing for citizens that do not earn high wages. He stated that in 2014, he was asked by former City Manager Pam Brangaccio and Mr. Otte to assist with writing. He shared percentages of a survey. He commented on occupations and homelessness case management.

Fred Cleveland, 1500 North Peninsula Avenue, commented on behalf of two interest groups to work on a vision statement for the City. He shared that they assembled a group and held three meetings. They created a lengthy vision and mission statement. He commented on the group diversity.

Rebecca Cruz, 2139 South Riverside Drive, commented on the vision and mission statement. Mr. Cleveland distributed a sheet to Commission. She commented on creating an acronym: I-ACT: Integrity, Accountability, Communication and Teamwork.

Regis Sloan, 40 Lake Fairgreen Circle, commented in support of Ordinance No. 06-19. She commented on the waiting list for housing. She commented on fair, equitable and sustainable housing. She stated it was a grand community and they could make it a better community.

Sue Williams, 236 Costa Rica, commented on the current time to reinvest in Team Volusia. She shared that the Chamber of Commerce was working with aerospace. She commented on local businesses. She stated they wanted the second and third tier of that aerospace. She urged City Commission to reinvest and mentioned that the Economic Development Advisory Board voted unanimously in support of Team Volusia.

Yvonne C. Jefferson, 500 Brooks Street, commented on families. She read letters from homeless citizens. She commented on affordable housing and high rent.

Brian Mott, 2065 Saxon Avenue, commented about the City of New Smyrna Beach Maintenance Operations employees starting salary rate. He commented on the starting pay and building up salaries.

Josh Leclair, 1917 Fern Palm, commented on affordable housing and supported raising the starting salary wage for the maintenance employees. He shared that the maintenance employees were the first to clean up the streets when a storm hits. He stated they were not saving, they were surviving.

Cindy Schuerman, Grace Realty, represented a few people from the Inlet in Minorca and commented on rentals.

Christy Hill, New Smyrna Beach City Employee, commented on the changes throughout the City. He spoke on behalf of the employee wages. He commented on raises and stated that a 6% would boost morale, increase employee satisfaction and stated it was important to earn a productive amount of money.

Erin Day, 2928 Travelers Palm, commented on the maintenance department wages. He asked about boosting wages to boost morale, encourage employees to work harder and show the City what they could do to make the City better so visitors could come here and see their progress.

Laura Smith, 6325 Lake Winona Drive, DeLeon Springs, commented in opposition to Ordinance No. 51-19. She commented on residency restrictions. She commented on the State Law Buffer Zone and unintended consequences.

Grover Leblanc, 817 Downing Street, commented in support of the affordable housing. He commented in opposition of Ordinance No. 51-19. He shared information on the transient population.

Frank Morris, 3132 Queen Palm, commented on a car accident he was involved in on Orange Avenue. He stated that a sign that read 30 MPH that is hanging on a sign that reads dangerous intersection. He commented on the intersection being blatantly open. He also commented on giving City Employees more money for their wages.

Ralph Zampa, 539 Wayne Avenue, commented on the starting salaries for the maintenance department. He asked the City Commission to show appreciation for them.

Dorren Graeff-Coyle, 1201 South Glencoe Road, commented on affordable housing and wages. She commented on focusing on container housing. She stated that they could be dual use. She commented on homelessness.

Lisa Martin, 618 South Pine Street, commented on Fire Chief Shawn Vandemark sending a Fire Truck and Fireman to assist in making an injured child feel better. She commended the Chief for his thoughtfulness.

Will Roberts, 2618 Old Smyrna Trail, introduced himself as the candidate for the Volusia County Tax Collector. He shared his experience and stated his goal as tax collector was to provide excellent customer service.

## **6. CONSENT AGENDA**

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### **A. Proposed Homeless and Disadvantaged Grant 2019-2020**

Commissioner McGuirk commented on the budget and asked Commissioner Kolody about cutting the millage.

Vice Mayor Hartman commented on looking at this holistically in the future.

Mayor Owen asked if there were funds at the end of this year to be used for this.

**Motion:**

Commissioner Kolody moved to approve the 2019 - 2020 Homeless and Disadvantaged Grant and increase it by \$10,000 changing the amount to \$35,000. Commissioner Sachs seconded the motion, and the motion carried 3-2 by majority vote, with Commissioner McGuirk and Mayor Owen voting no.

- B. Approve the Renewal of the Memorandum of Understanding with the Farmer's Market for one year, to expire September 30, 2020.

**Motion:**

Commissioner McGuirk moved to approve the Farmer's Market Memorandum of Understanding, as submitted. Vice Mayor Hartman seconded the motion, and the motion carried unanimously.

- C. Resolution No. 33-19: Consider the adoption of a resolution, which if adopted, would revise Resolution Nos. 14-10, 21-88, 24-83, and 30-77, to provide for members to continue serving until replaced or reappointed.

**Motion:**

Commissioner Kolody moved to approve Resolution No. 33-19: Amending Golf Advisory Board, as submitted. Commissioner Sachs seconded the motion, and the motion carried unanimously.

- D. Resolution No. 41-19: Consider the Adoption of a Resolution, which if adopted, would approve the East Central Florida Regional Resiliency Action Plan.

**Motion:**

Commissioner Kolody moved to approve Resolution No. 41-19: East Central Florida Regional Resiliency Action Plan, as submitted. Commissioner Sachs seconded the motion, and the motion carried unanimously.

Commissioner Kolody commented on the number of excess pages in the agenda.

- E. Resolution No. 42-19: Consider the Adoption of a Resolution, which if adopted, would approve the General Obligation Note, Series 2019 with CenterState Bank N.A.

**Motion:**

Commissioner McGuirk moved to approve Resolution No. 42-19: General Obligation Note, Series 2019 with CenterState Bank N.A., as submitted. Vice Mayor Hartman seconded the motion, and the motion carried unanimously.

- F. Request the approval to enter into a License Agreement to allow a canopy to be erected over part of the Flagler Avenue Right-of-Way in front of 411 Flagler Avenue.

**Motion:**

Commissioner McGuirk moved to approve License Agreement - LA-1-19: 411 Flagler Avenue, as submitted. Commissioner Kolody seconded the motion, and the motion was adopted 4-1 by majority vote, with Commissioner Sachs voting no.

Commissioner Sachs voiced a concern about the agreement and was not in support of it.

- G. Approve a Private Special Event: 25th Avenue Block Party, September 1, 2019, Noon - 6:00 p.m. and road closure of 25th Avenue between Un Street and Bonnie Drive.

**Motion:**

Commissioner McGuirk moved to approve a Private Block Party Street Closure, as submitted. Vice Mayor Hartman seconded the motion, and the motion carried unanimously.

**7. ADMINISTRATIVE ITEMS/NEW BUSINESS**

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No action.

## **8. ORDINANCES - SECOND READING AND PUBLIC HEARINGS**

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- A. Conduct a Quasi-Judicial Public Hearing to Review the Preliminary and Final Plat for the Isles of Venetian Bay Townhouse Subdivision and authorize the Mayor to execute the Contract for Plat Recording.

Director of Development Services and Coastal Environmental Resiliency Brian Fields was administered the oath, by the City Attorney. He outlined his professional and educational qualifications. As no citizens questioned his credentials, Mr. Fields outlined the proposed plat, which if adopted, would approve S-4-18 Isles of Venetian Bay Final Plat.

Cory Brown, Storch Law Firm, offered to answer any questions.

Vice Mayor Hartman asked Mr. Brown if any units would be \$100,000 or less.

Commissioner Sachs asked about stormwater.

Mr. Brown addressed both questions.

Harry Newkirk, owner of Newkirk Engineering, stated this project increases stormwater volume.

Commissioner Sachs asked about traffic volume and standards.

Mr. Newkirk stated that there was a reduction of units on site.

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

### **Motion:**

Vice Mayor Hartman moved to adopt S-4-18 Isles of Venetian Bay Plat, as submitted. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

- B. Conduct a Quasi-Judicial Public Hearing to Review the Preliminary and Final Plat for the Palms 4 Revised Plat and authorize the Mayor to execute the Contract for Plat Recording.

Director of Development Services and Coastal Environmental Resiliency Brian Fields was administered the oath, by the City Attorney. He outlined his professional and educational qualifications. As no citizens questioned his credentials, Mr. Fields outlined the proposed plat, which if adopted, would approve S-2-19: Palms 4 Revised Plat.

Mayor Owen disclosed ex-parte communications.

Commissioner Kolody commented on the last applications because they were migrating units from this phase into the next phase.

Mr. Fields stated they had not seen a plan for Phase 6. He stated it would still have to meet the minimum lot requirements.

Commissioner Kolody asked about the pocket parks. He asked if there was anything in this phase to address that.

Chief Planner Jeff Gove explained that it was a re-plat of something that was previously approved.

Commissioner Kolody asked if there were still neighborhood parks.

Commissioner Sachs commented on not ever viewing developments as dense as these.

Commissioner McGuirk asked Mr. Fields how dense the project was.

Mr. Fields stated that there were sixty-three (63) units on one hundred and six (106) acres.

Amber Coleman, corporate council for the property owner, commented that they reduced density by seventy-five (75) units. She stated that it was a nice project.

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

**Motion:**

Commissioner McGuirk moved to adopt S-2-19: Palms 4 Revised Plat, as submitted. Vice Mayor Hartman seconded the motion, and the motion carried 4-1 by majority vote, with Commissioner Kolody voting no.

- C. Ordinance No. 06-19: Conduct the Second Reading of an Ordinance, which if adopted, would amend the Future Land Use for approximately 10 +/- acres of property located at 600 Greenlawn Street and 500 Brooks Street.

City Attorney Avallone read Ordinance No. 06-19, the second time by title only.

Director of Development Services and Coastal Environmental Resiliency Brian Fields outlined the proposed ordinance, which if adopted, would CPA-2-18: Housing Authority of New Smyrna Beach.

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

Commissioner Kolody commented on placing a higher density project in a lower density area.

Commissioner Sachs was compelled to speak about the density. He was considering the nature of a high-density project. He stated his biggest concern was for the rest of the residential neighborhood. He encouraged open space in the area. He stated that it seemed that the density would affect parking.

Vice Mayor Hartman commented on transitional housing. He stated there were many reasons why people were homeless. He stated the project would help clean up some of the environmental issues and that it would be a wonderful opportunity.

Commissioner McGuirk stated that the irony was that they just were done grilling a developer and this community had been grid locked over growth and development. He stated he had not heard any complaints about the building of a four-story building. He stated that he would support the vote because the neighborhood outreach had been communicated and there was no known opposition.

Mayor Owen commented that they needed affordable housing and commented on density.

**Motion:**

Commissioner Kolody moved to adopt Ordinance No. 06-19, as submitted. Commissioner Sachs seconded the motion, and the motion carried unanimously.

- D. Ordinance No. 46-19: Conduct the Second Reading of an Ordinance, which if adopted, would amend the B-3, Highway Service Business District by adding an exemption for change of use and terminated use to properties along the U.S.-1 Corridor and amending Land Development Regulation 604.09, Off-street parking, loading, and driveways to coincide with the proposed B-3 amendment.

City Attorney Avallone read Ordinance No. 46-19, the second time by title only.

Director of Development Services and Coastal Environmental Resiliency Brian Fields outlined the proposed ordinance, which if adopted, would approve the B-3 Zoning Update.

Commissioner McGuirk questioned Mr. Fields about the intent of the ordinance.

Mr. Fields explained the purpose of the LDR amendment was to help lower the barrier to commercial occupancy along the US 1 Corridor and that the proposed exemption included a requirement that existing landscaped areas be maintained in accordance with current standards.

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

Mayor Owen commented in support of the Ordinance. He wanted to know how they would go about accomplishing that.

Commissioner McGuirk commented on the new landscaping requirement. He commented on the difficulties of the property conditions. He shared that he was able to create excess landscaping at his business.

Mayor Owen did not want to see us stuck with US1 looking the same in fifty years.

**Motion:**

Commissioner McGuirk moved to adopt Ordinance No. 46-19, as submitted. Vice Mayor Hartman seconded the motion, and the motion carried 3-2 by majority vote, with Commissioner Kolody and Commissioner Sachs voting no.

- E. Ordinance No. 49-19: Conduct the Second Reading of an Ordinance, which if adopted, would grant a Non-exclusive Construction and Roll-off Service Franchise to Weaver Construction.

City Attorney Avallone read Ordinance No. 49-19, the second time by title only.

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

**Motion:**

Commissioner Kolody moved to adopt Ordinance No. 49-19, as submitted. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

- F. Ordinance No. 51-19: Conduct the Second Reading of an Ordinance, which if adopted, would amend Sec. 54-4. – Sexual Offender Residency Restrictions, Exceptions, and Penalties.

City Attorney Avallone read Ordinance No. 51-19, the second time by title only.

Police Chief Mike Coffin outlined the proposed Ordinance. He explained that his staff placed a lot of time and thought into the creation of the ordinance.

Mayor Owen opened the public hearing.

Grover Leblanc, 817 Downing Street, commented in opposition of Ordinance No. 51-19, citing safety concerns for young children. He commented on the community as a whole. He commented on some states repealing residency restrictions.

Mayor Owen closed the public hearing.

Vice Mayor Hartman asked how long an offender would be incarcerated if arrested on an unrelated charge, such as an open container. .

New Smyrna Beach Detective Mike Delahanty stated that it depended on the history and offense of the person.

Vice Mayor Hartman was concerned about the restricted areas and asked what the County restrictions were.

Detective Delahanty stated they abided by the State Statute, which was the 1,000 feet rule.

**Motion:**

Commissioner McGuirk moved to adopt Ordinance No. 51-19, as submitted. Vice Mayor Hartman seconded the motion, and the motion carried 4-1 by majority vote, with Commissioner Kolody voting no.

## **9. ORDINANCES - FIRST READING**

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- A. Ordinance No. 60-19: Conduct the First Reading of an Ordinance, which if adopted, would amend ZT-7-19: New LDR Section Establishing Construction Site Management Standards

*This item was postponed to the September 24, 2019 agenda.*

- B. Ordinance No. 57-19: Conduct the First Reading of an Ordinance, which if adopted, would annex approximately 0.346 acres for property located at 2270 Davis Drive.

City Attorney Avallone read Ordinance No. 57-19 the first time, by title only. Mayor Owen reported that the second reading and public hearing would be conducted at the regular meeting on September 10, 2019.

- C. Ordinance No. 58-19: Conduct the First Reading of an Ordinance, which if adopted, would change the Future Land Use of approximately 0.346 acres for property located at 2270 Davis Drive as part of an overall annexation application.

City Attorney Avallone read Ordinance No. 58-19 the first time, by title only. Mayor Owen reported that the second reading and public hearing would be conducted at the regular meeting on September 10, 2019.

- D. Ordinance No. 59-19: Conduct the First Reading and Quasi-Judicial Public Hearing of an Ordinance, which if adopted, would rezone approximately 0.346 acres of property located at 2270 Davis Drive as part of an overall annexation application.

City Attorney Avallone read Ordinance No. 59-19 the first time, by title only. Mayor Owen reported that the second reading and public hearing would be conducted at the regular meeting on September 10, 2019.

- E. Ordinance No. 54-19: Conduct the First Reading of an Ordinance, which if adopted, would annex approximately 0.35 acres of land located at 2263 Doster Drive.

City Attorney Avallone read Ordinance No. 54-19 the first time, by title only. Mayor Owen reported that the second reading and public hearing would be conducted at the regular meeting on September 10, 2019.

- F. Ordinance No. 55-19: Conduct the First Reading of an Ordinance, which if adopted, would change the Future Land Use on approximately 0.35 acres of land located at 2263 Doster Drive as part of an overall annexation application.

City Attorney Avallone read Ordinance No. 55-19 the first time, by title only. Mayor Owen reported that the second reading and public hearing would be conducted at the regular meeting on September 10, 2019.

- G. Ordinance No. 56-19: Conduct the First Reading and Quasi-judicial Hearing of an Ordinance, which if adopted, would rezone approximately 0.35 acres of land located at 2263 Doster Drive to R-2, Single Family Residential as part of an overall annexation application.

City Attorney Avallone read Ordinance No. 56-19 the first time, by title only. Mayor Owen reported that the second reading and public hearing would be conducted at the regular meeting on September 10, 2019.

## **10. BOARDS AND COMMISSIONS**

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- A. Historic Preservation Commission: Consider the appointment of one (1) members to serve a term to expire May 14, 2020.

### **Motion:**

Commissioner McGuirk moved to accept the resignation of Kay Matheny. Commissioner Sachs seconded the motion, and the motion carried unanimously.

Mayor Owen asked if there were any nominations to appoint an applicant.

- Vice Mayor Hartman nominated Anne Scalf.
- Commissioner Kolody nominated Carlo Monetti.

Interim City Clerk McQuillen conducted a roll call vote for each nominee and the results were:

### **Anne Scalf**

Commissioner Kolody voted no.

Commissioner Sachs voted no.

Mayor Owen voted yes.

Commissioner McGuirk voted yes.  
Vice Mayor Hartman voted yes.

Mayor Owen reported that the vote for Anne Scalf was 3-2 by majority vote and she was appointed as a member to serve a term expiring on May 14, 2020.

- B. Utilities Commission: Appointment/Reappointment of Two Members to 3-year terms to expire September 7, 2022. The terms of members James R. "Buddy" Davenport and Lillian Conrad will expire September 7, 2019.

**Motion:**

Commissioner McGuirk moved to reappoint James "Buddy" Devenport and Lillian Conrad as members of the Utilities Commission. Commissioner Kolody seconded the motion, and the motion carried unanimously.

## **11.MAYOR AND COMMISSION REPORTS**

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Commissioner Kolody requested directed staff to look into the definition of Bed & Breakfast and referred to the Short Term Rental Zones.

*Mr. Fields was directed to define the short-term rental definition.*

Commissioner Sachs commented on trying to spread the word about the Neighborhood Council. He asked if the City would consider operating a table and distributing cloth bags or sacks.

Commissioner McGuirk suggested asking the New Smyrna Beach High School Youth Council Task Force if they would be interested in helping.

Discussion ensued about City board advertisement.

*Public Information Officer Phil Veski was tasked with advertising for vacancies on the Neighborhood Council.*

Commissioner McGuirk commented on the storm. He stated it was taking a path similar to Hurricane Matthew.

Vice Mayor Hartman commented on the timing regarding charter review. He heard it would take longer than he thought. He commented on working backwards from Election Day and moving forward with selecting members.

Commissioner Sachs asked if the City would distribute sandbags if the storm approached.

Interim City Manager Resheidat confirmed that the City would distribute sandbags.

Mayor Owen commented on the hurricane. He commented on the amount of money in reserves regarding Hurricane Matthew. He commented that the City seemed prepared in many ways, but on financing specifically, the City has had offers of lines of credits from various financial institutions. He stated it does not have to be solved today and did not want it for anything other than catastrophic emergencies. He commented on the September 11th Special Meeting for the Budget First Hearing. He stated he had a conflict with attending the meeting and asked for their consideration on the item on allowing him to remotely attend.

*City Attorney Avallone suggested mentioning the remote attendance request on the September 10, 2019 Regular Meeting.*

Commissioner McGuirk did not have a problem with it, under the circumstances and supported Mayor Owen participating via telephone remotely.

Vice Mayor Hartman shared that his only concern was setting precedence.

Commissioner Kolody stated that as a rule, he did not like it.

Mayor Owen commented on a letter from a citizen briefly and stated that the citizen should report concerns to the Ethics Board. He expressed that he does not support reading citizen letters into the meeting. He suggested contacting Commission directly. He took the liberty of printing the forms necessary to file an official complaint and instructed the Interim City Clerk to forward the forms to the letter writer.

Commissioner Kolody concurred with Mayor Owen and did not support reading in letters from citizens during the meeting.

## **12.CITY MANAGER'S REPORT**

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### **A. Interim City Manager's Report**

Acting City Manager Resheidat commented on meeting with the Utilities Commission with Mayor Owen. He stated that the goal was collaboration and that he wanted City Commissions blessing.

*The consensus was unanimous from the City Commission.*

Acting City Manager Resheidat provided a website update and he commented on an email he received from maintenance Operations Director Faith Miller regarding residential trash cans.

## **13.CITY CLERK'S REPORT**

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Acting City Clerk McQuillen suggested a "Go-To Meeting" on September 11, 2019 so that the Mayor could remotely attend.

## **14.CITY ATTORNEY'S REPORT**

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City Attorney Avallone shared one perspective of a Charter Review Facilitator. She mentioned that the facilitator suggested six months to prevent items from getting stale. She commented on the Charter Review Facilitator Proposals and mentioned that she would include them on an upcoming agenda.

## **15.ADJOURNMENT**

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As there was no other business to discuss, Mayor Owen declared the meeting adjourned at 10:17 PM.