



**City Commission Regular Meeting**  
**Tuesday, October 22, 2019 at 6:30 PM**  
**City Hall Commission Chamber, 210 Sams Avenue, New Smyrna Beach, FL 32168**  
**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, October 22, 2019 at the City Hall Commission Chamber, 210 Sams Avenue, New Smyrna Beach, Florida 32168.

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

**A. Call to Order**

**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 Sheila Turner gave the invocation. Mayor Owen led those present in the Pledge of Allegiance.

**3. APPROVAL OF THE AGENDA**

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Interim City Manager Khalid Resheidat reported one change to the published agenda. Consent Item G: Capital Expenditure Grant Program was removed.

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

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A. Proclamation: Head Start Awareness Month - October 2019.

Mayor Owen presented a proclamation to Heidi Rand, Program Director for Mid Florida Community Services recognizing October as Head Start Awareness Month.

B. Presentation: Sports Complex Business Plan for Artificial Turf & LED Lighting.

Maintenance Operations Assistant Director David Ray outlined a PowerPoint Presentation regarding the Sports Complex Turf and LED Lights.

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

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Mayor Owen acknowledged receipt of communication sent to the City Commission from resident Mr. Tolley.

Rocco Chierichella, business owner, commented on behalf of Washington Street Crossing. He commented on the removal of the business sign in front of his business. He stated that he has been keeping a record of the decrease in business since he has removed their sign.

Lynne Plaskett, South Myrtle Avenue, distributed her application for consideration on the Planning and Zoning Board.

Carol Patton, 1162 Clubhouse Drive, commented on the culvert system. She commented on a current mosquito problem due to decreased water flow.

*Commissioner McGuirk stated that the City Manager was working on this.*

Jimmy Harrell, 425 Oak Street, commented in support of signage in front of businesses. He stated it was a direct asset to the museum and west side.

Claudia Vanderhorst, 562 Aeolian Drive, commented on a meeting scheduled on October 15th between the County and City. She requested someone from his or her community participate in that meeting process. She wanted to be included in those meetings. She commented on the culvert and ditches in their neighborhood and respectfully requested a culvert agreement with Coastal Woods to offset the water runoff. She stated that this problem would be permanent and stated she needed the financial support to relieve the burden of those costs going forward.

Howard Riddick, North Atlantic Avenue resident, commented on the rain and drainage near his residence. He stated that the city placed a large portable pump to flush out discharge water from the pump. He commented on a float switch turning on and off. He stated that it rained when the pipes were not connected and also the machine came on and it ran continuously and into Sunday morning. He stated it was noisy and smelled. He appreciated the effort at the time to address flooding. He wanted to know what he needed to do to request that the pipe could be removed.

*Commissioner Kolody addressed Mr. Riddick. He commented on localized drainage problems. He stated they were not large enough to make a big effort to address. He suggested placing smaller ones together to combine into one large project.*

Debra Dugas, 200 North Pine Street, commented on the 30th Anniversary of the Farmer's Market. She shared that the Market's emphasis was providing quality products and was meant to generate money for the vendors. She stated that the economic benefit was expected to generate. She commented on the market giving back to the community in the amount of \$18,000. She commented on various charities.

Alonda McCarty, co-City Commission Meeting Minutes – October 22 2019 owner of the Florida Local, commented in support of sandwich boards. She stated that 40% of their numbers were due to walk-up foot traffic. She commented that the decrease in advertising was causing a decrease in revenue. She stated that small businesses could not afford large advertising campaigns. She stated that this was a time-sensitive manner. She stated that there was little to no spill over from main street events without the ability to advertise with the boards. She asked

Commission to address the issue quicker.

*Mayor Owen shared that the City Manager's report would contain some information regarding the boards.*

## **6. CONSENT AGENDA**

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- A. Resolution No. 36-19: Consider the adoption of a Resolution, which if adopted, would revise Resolution No. 28-12, to provide for Leisure Activities Advisory Board members to continue serving until replaced or reappointed.

**Motion:**

Vice Mayor Hartman moved to adopt Resolution No. 36-19: Amending Leisure Activities Advisory Board, as submitted. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

- B. Consider the approval to award RFP 05-19-PLAN Property Appraisal Services to Pomeroy Appraisal Associates of Florida, Inc. and Bullard, Hall & Adams, Inc.

**Motion:**

Vice Mayor Hartman moved to award RFP 05-19-PLAN Property Appraisal Services, as submitted. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

- C. Consider the approval of the award of Contracts to Multiple Firms for Professional Archaeological Consultant Continuing Services.

**Motion:**

Vice Mayor Hartman moved to award RFQ 16-19-PLAN Professional Archaeological Consultant Continuing Services, as submitted. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

- D. Consider the approval of a sole source purchase of FARO 3D Laser Scanner System for crime scene documentation.

**Motion:**

Vice Mayor Hartman moved to approve the purchase of a FARO 3D Laser scanner system purchase, as submitted. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

- E. Consider the approval to apply for a Florida Division of Forestry Grant for a Public Tree Inventory or Assessment Program through the 2019 Urban and Community Forestry Grant Program.

**Motion:**

Vice Mayor Hartman moved to approve the Division of Forestry Grant Application for a Tree Inventory, as submitted. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

- F. Consider the approval of the purchase of a Selectron Interactive Voice Response and Text Messaging System for Building Inspection Services.

**Motion:**

Vice Mayor Hartman moved to approve the purchase of a Selectron IVR System, as submitted. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

- G. Consider the approval of the Capital Expenditures Grant Program.

No action. This item was removed from the agenda.

- H. Approve a Special Event: Canal Street Historic District's Annual Antique and Vintage Market on November 2, 2019, 6:00 AM to 6:30 PM, with associated road closure of Canal Street from Orange Street to Live Oak Street.

**Motion:**

Vice Mayor Hartman moved to approve the CSHD Antique & Vintage Market, as submitted. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

- I. Approve a Special Event: City of New Smyrna Beach Flamingo Follies, November 9 and 10, 2019, 9:00 a.m. - 5:00 p.m. with road closure of Flagler Avenue from Peninsula Avenue to North Atlantic Avenue.

**Motion:**

Vice Mayor Hartman moved to approve the City of New Smyrna Beach Flamingo Follies, as submitted. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

## **7. ADMINISTRATIVE ITEMS/NEW BUSINESS**

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- A. Discussion for the possible formation of a Sustainability Committee

*This item was continued to a later date, possibly a December meeting.*

- B. Approval of the recommendations for the fourth year of not-for-profit Homeless and Disadvantaged Grants for seven programs totaling \$35,000 in grant funds.

**Motion:**

Commissioner Kolody moved to approve the Homeless and Disadvantaged Grant 2019-2020. Commissioner Sachs seconded the motion, and the motion carried unanimously.

- C. Consider the approval of entering into a Dock Easement Agreement with Peter J. and Nichol L. Rosace, owner of property at 1110 South Riverside Drive, which if approved, would allow for an addition of a floating dock facility and existing covered platform that would extend a total of 76 feet into the Indian River.

**Motion:**

Commissioner Kolody moved to approve DP-1-19: Dock Easement Agreement - 1110 S. Riverside Drive, as submitted. Commissioner McGuirk seconded the motion, and the motion carried 4-1 by majority vote, with Mayor Owen voting no.

- D. Consider the approval to enter into a License Agreement to allow a paver parking area in the Smith Street Right-of-Way to the side of property located at 620 South Riverside Drive.

**Motion:**

Commissioner McGuirk moved to approve LA-2-19: License Agreement - 620 South Riverside Drive, as submitted. Vice Mayor Hartman seconded the motion, and the motion carried 3-2 by majority vote, with Commissioner Sachs and Commissioner Kolody voting no.

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

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- A. Ordinance No. 65-19: Conduct the Second Reading of an Ordinance, which if adopted, would annex approximately 2.52 acres of property located at 2635 Glencoe Farms Road.

City Attorney Avallone read Ordinance No. 65-19, the second time by title only.

Director of Development Services and Coastal Environmental Resiliency Brian Fields outlined the proposed ordinance, which if adopted, would annex properties 2635 Glencoe Farms Road.

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. 65-19, as submitted. Vice Mayor Hartman seconded the motion, and the motion carried unanimously.

- B. Ordinance No. 66-19: Conduct the Second Reading of an Ordinance, which if adopted, would amend the Future Land Use Map for approximately 2.52 acres located at 2635 Glencoe Farms Road as part of an overall annexation application.

City Attorney Avallone read Ordinance No. 66-19, the second time by title only.

Director of Development Services and Coastal Environmental Resiliency Brian Fields outlined the proposed ordinance, which if adopted, would amend the Future Land Use of the property located at 2635 Glencoe Farms Road.

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. 66-19, as submitted. Vice Mayor Hartman seconded the motion, and the motion carried unanimously.

- C. Ordinance No. 67-19: Conduct the Second Reading and Quasi-Judicial Hearing of an Ordinance, which if adopted, would rezone approximately 2.52 acres of property located at 2635 Glencoe Farms Road as part of an overall annexation application.

City Attorney Avallone read Ordinance No. 67-19, the second time by title only.

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 ordinance, which if adopted, would rezone approximately 2.52 acres of property located at 2635 Glencoe Farms Road.

Mayor Owen opened the Quasi-Judicial Public Hearing. As no citizens wished to speak, Mayor Owen closed the public hearing.

**Motion:**

Commissioner McGuirk moved to adopt Ordinance No. 67-19, as submitted. Vice Mayor Hartman seconded the motion, and the motion carried unanimously.



- D. Ordinance No. 68-19: Conduct the Second Reading of an Ordinance, which if adopted, would annex approximately 2.3 acres of property located at Corbin Park Road.

City Attorney Avallone read Ordinance No. 68-19, the second time by title only.

Director of Development Services and Coastal Environmental Resiliency Brian Fields outlined the proposed ordinance, which if adopted, would annex properties 957 Corbin Park Road.

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 Ordinance No. 68-19, as submitted. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

- E. Ordinance No. 69-19: Conduct the Second Reading of an Ordinance, which if adopted, would amend the Future Land Use on approximately 2.3 acres of property located at 957 Corbin Park Road as part of an overall annexation application.

City Attorney Avallone read Ordinance No. 69-19, the second time by title only.

Director of Development Services and Coastal Environmental Resiliency Brian Fields outlined the proposed ordinance, which if adopted, would amend the Future Land Use of the property located at 957 Corbin Park Road.

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. 69-19, as submitted. Commissioner Sachs seconded the motion, and the motion carried unanimously.

- F. Ordinance No. 70-19: Conduct the Second Reading and Quasi-Judicial Hearing of an Ordinance, which if adopted would rezone approximately 2.3 acres of property located at 957 Corbin Park Road as part of an overall annexation application.

City Attorney Avallone read Ordinance No. 70-19, the second time by title only.

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 ordinance, which if adopted, would rezone approximately 2.3 acres of property located at 957 Corbin Park Road.

Mayor Owen opened the Quasi-Judicial Public Hearing. As no citizens wished to speak, Mayor Owen closed the public hearing.

**Motion:**

Vice Mayor Hartman moved to adopt Ordinance No. 70-19, as submitted. Commissioner Sachs seconded the motion, and the motion carried unanimously.

- G. Ordinance No. 72-19: Conduct the Second Reading and Quasi-Judicial Hearing of an Ordinance, which if adopted, would rezone approximately 152 acres of property known as the Turnbull Trace Properties.

City Attorney Avallone read Ordinance No. 72-19, the second time by title only.

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 ordinance, which if adopted, would rezone approximately 152 acres of property known as the Turnbull Trace Properties.

Mayor Owen opened the Quasi-Judicial Public Hearing. As no citizens wished to speak, Mayor Owen closed the public hearing.

Commissioner McGuirk requested to amend the permit upon time of renewal due to property development concerns.

**Motion:**

Commissioner Kolody moved to adopt Ordinance No. 72-19, as submitted. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

H. Ordinance No. 74 -19: Conduct the Second Reading of an Ordinance, which if adopted, would allow large temporary banners on buildings over 35-feet in height in the B-6 zoning district

City Attorney Avallone read Ordinance No. 74-19, the second time by title only.

Director of Development Services and Coastal Environmental Resiliency Brian Fields outlined the proposed ordinance, which if adopted, would adopt Ordinance No. 74 -19: LDR Amendment - Temporary Wall Banners.

Mayor Owen opened the public hearing.

Rocco Chierichella, commented on behalf of Washington Street Crossing. He asked what the purpose of the ordinance was.

Mr. Fields provided a brief outline.

Mayor Owen closed the public hearing.

**Motion:**

Commissioner McGuirk moved to continue the item to the Regular City Commission Meeting schedule for December 10, 2019. Vice Mayor Hartman seconded the motion, and the motion carried unanimously.

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

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- A. Ordinance No. 48-19: Conduct the First Reading of an Ordinance, which if adopted, would amend the Code of Ordinances, Chapter 26 - Builder Trades Board to provide for members to continue serving until replaced.

City Attorney Avallone read Ordinance No. 48-19 the first time, by title only. Mayor Owen reported that the second reading and public hearing of the proposed ordinance would be conducted at the regular meeting on November 12, 2019.

- B. Ordinance No. 76-19: Conduct the First Reading of an Ordinance to approve the 4th amendment to the Colony Park PUD to allow a car wash as a permitted use on Lot 4 and revise the required front yard build to line.

City Attorney Avallone read Ordinance No. 76-19 the first time, by title only. Mayor Owen reported that the second reading and public hearing of the proposed ordinance would be conducted at the regular meeting on November 12, 2019.

## **10. BOARDS AND COMMISSIONS**

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- A. Consider the Reappointment/Appointments of Three (3) Members to the Animal Control Board to two-year terms to expire September 13, 2021.

**Motion:**

Commissioner McGuirk moved to reappoint Lori Crain, waiving her term limit and Kathy Blackman and to serve two-year terms expiring September 13, 2021. Commissioner Kolody seconded the motion, and the motion carried 4-1 by majority vote, with Vice Mayor Hartman voting no.

- B. Charter Review Committee - Mayoral Appointments

Mayor Owen appointed Tricia Tudeen, Eric Preston and Terry Dallas as members on the Charter Review Committee.

- C. Golf Advisory Board: Consider the appointment of two (2) citizens to serve as members to a term to expire September 1, 2020.

**Motion:**

Commissioner Kolody moved to appoint Thomas Burgess and Gavin Fugate to serve terms expiring on September 1, 2020. The motion died due to lack of a second.

**Motion:**

Commissioner McGuirk moved to eliminate the requirement to be a member of the Golf Course from the current Resolution and to continue the appointment item to the November 19, 2019 City Commission Meeting and present the revised Resolution as an item on the November 12, 2019 agenda. Commissioner Sachs seconded the motion, and it was approved 3-2 by majority vote, with Commissioner Kolody and Vice Mayor Hartman voting no.

- D. Planning and Zoning Board: Consider the appointment of one (1) citizen with a term expiring on October 31, 2022.

Commissioner McGuirk nominated Lynne Plaskett.

Vice Mayor Hartman nominated Carl Hodges.

Commissioner Kolody nominated Kip Hulvershom.

**A ballot was distributed and the results were:**

Three (3) votes for Kip Hulvershom: Commissioner Sachs, Mayor Owen and Commissioner Kolody.

One (1) vote for Lynne Plaskett: Commissioner McGuirk

One (1) vote for Carl Hodges: Vice Mayor Hartman

By majority vote, Kip Hulvershom was selected as a member of the Planning and Zoning Board to serve a term expiring on October 31, 2022.

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

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Vice Mayor Hartman commented on consensus for supporting a resolution. He commented on the tree ordinance.

*Discussion ensued about the tree ordinance, support from the Florida League of Cities and the language used in the ordinance.*

City Attorney Avallone verified that she would create a resolution and asked for a timeframe.

*Timeframe would be November 12, 2019.*

Commissioner McGuirk commented on the sandwich board issue. He suggested starting a pilot program as soon as possible.

Mayor Owen proposed temporary measures in place until there was a permanent solution.

*Mr. Fields asked for direction. The relief would be to suspend Code Enforcement action until legislation was passed.*

Acting City Manager Khalid wanted to assess and evaluate to create a text amendment and LDR's. He wanted to help the business owners out as immediately as possible.

Commissioner Kolody commented on needing to control how they could be placed.

Commissioner McGuirk stated that was the purpose of the pilot program.

Commissioner Sachs was concerned about the merchants using the signs judiciously and not impeding travel

Vice Mayor Hartman was in favor of a pilot program.

Mr. Fields briefly outlined the pilot program. He stated that one sign could be placed in front of a business. He stated that one additional sandwich board sign

could be placed within 100 feet of their business and they would have to obtain other business's permission to advertise the sign on their business property. He stated his only concern was about their signs being in the mixed-use zone.

**Motion:**

Commissioner McGuirk moved to adopt the pilot program, whereas the business was in the mixed-use zoning and all other terms and that the sign could not be in a residentially zoned area. Commissioner Sachs seconded the motion, and the motion carried 4-1 by majority vote, with Vice Mayor Hartman voting no.

Commissioner Sachs commented on a proposed sister city named Nea Smyrni in Greece. He outlined economic development and exchanges. He commented on the Consulate in Tampa being eager to form that relationship.

*Commission consensus was to support an introductory letter to Nea Smyrni's Mayor.*

Commissioner Kolody commented on Saxon Drive. He commented on participating in a research symposium on November 19, 2019. He commented on a document that he shared. He shared the results of a survey he distributed to residents in his neighborhood. He stated that the top concern was street repaving.

Commissioner Sachs thanked his colleagues for paying attention to water quality. He was always looking for funding to help with water quality efforts. He asked about the status about the requested light at Fire Station 52. Commissioner Sachs asked Acting City Manager Resheidat to check with FDOT about the light.

Mayor Owen commented on the notion of having franchise-free and chain-free zones. He asked for a consensus and Commission.

Mr. Fields shared that the franchise free and chain free zones would be included as agenda item on the November 19, 2019 City Commission workshop.

Mayor Owen commented on the interim contracts. He commented on the separation of the process from the individuals. He recapped a majority of City Commission consensus urgency to backfill positions. He wanted to accelerate the process and commented on the City Commissioners performing individual evaluations for the current interim positions. He wanted Human Resources to work with them. He commented on beginning salary negotiations with the interim employees to become full time employees within these positions. He shared that in his experience, transitions had been processed by advertising on the outside and promoting within. He commented on a waste of time and money and shared that a chance should be given to the interim individuals. He commented on evaluating them and moving forward with making them permanent. He shared that it was difficult to continue making progress in the interim period when the two leaders in those positions wished to progress. He was comfortable with pursuing contract negotiations and stressed the importance of separating the individuals in the interim positions from the process.

*October 30, 2019 was the date selected to schedule the City Manager and City Clerk Negotiation Meetings.*

Commissioner Kolody asked if these meetings would be filed and broadcasted. Mayor Owen stated yes and confirmed these meetings were public.

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

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Acting City Manager Resheidat asked for City Commission's direction pursuing the ECHO Grant Application for the Sports Complex.

### **Motion:**

Commissioner Kolody moved to proceed with pursuing the ECHO Grant Application for the Sports Complex. Commissioner Sachs seconded the motion, and it was unanimously approved.

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

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Acting City Clerk McQuillen thanked the City Commission for taking the time out of their schedules to create evaluations and meet with her individually to discuss.



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

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No action.

#### **15.ADJOURNMENT**

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As there was no other business to discuss, Mayor Owen declared the meeting adjourned at 10:01 PM.