



**City Commission Regular Meeting
Tuesday, November 12, 2019 at 6:30 PM
City Hall Commission Chamber, 210 Sams Avenue, New Smyrna Beach, FL 32168
MINUTES**

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, November 12, 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.

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 Officer Phil Veski and Acting City Clerk Kelly McQuillen.

2. INVOCATION/PLEDGE OF ALLEGIANCE

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

3. APPROVAL OF THE AGENDA

Acting City Manager Resheidat moved item 6G to 7D.

4. ANNOUNCEMENTS/PRESENTATION/RECOGNITIONS

A. Citizen Academy 2019 Graduation Ceremony

Public Information Officer Phil Veski presented certificates to the Citizen Academy graduates.

B. Distinguished Budget Presentation Award

Finance Director John McKinney presented to the employees of the Finance Department in recognition of their outstanding performance.

5. PUBLIC PARTICIPATION

Leo Kernica, Golf Advisory Board Member, commented in opposition of Resolution No. 58-19. He believed that Board members should be required to be members of the New Smyrna Beach Municipal Golf Course. He commented on the golf course grounds and stated they worked hard to maintain the grounds.

Ed Vaissierre, Golf Advisory Board Member, commented in opposition of Resolution No. 58-19. He believed that Board members should be city residents or be members of the New Smyrna Beach Municipal Golf Course. He asked the City Commission not to change the current requirements. He commented on the golf course grounds and stated they worked hard to maintain the grounds.

Nancy-Lou Knapp, Golf Advisory Board Member, commented in opposition of Resolution No. 58-19. She stated that Board members should be required to be members of the New Smyrna Beach Municipal Golf Course.

Hannah Jones, President of the Women's Golf Association, commented in opposition of Resolution No. 58-19.

Rich Deit, Bouchelle Island resident, commented in opposition of Resolution No. 58-19. He commented on his history of playing golf. He commented on the preservation of the New Smyrna Beach Golf Course grounds.

Lillian Conrad, 212 Palmetto Avenue, commented on behalf of NSB Main Street, Inc. She thanked the City Staff for doing everything they could to make the holidays special with decorations, etc. She wished all Happy Holidays.

Randy Herman, 108 Esther Street, commented on the Neighborhood Council. He provided a brief history of the Council. He stated that the Council has been challenged in how to help spread the word of their group.

Shy Morris, 541 Washington Street, commented on requesting signage for Washington Street. She stated she asked the City Commission about traffic calming signs in the Historic Westside neighborhood. She commented on Washington Street being used as a thoroughfare and asked what could be done to make sure that street could be safe. She mentioned Babe James Community Center.

Acting City Manager Resheidat mentioned a traffic study.

Antarius Jackson, NSB resident, concurred with Ms. Morris's comments. He mentioned the parks and stated they needed to have equal attention in maintenance efforts.

Mayor Owen directed staff to assist with the concerns shared by Ms. Morris and Mr. Jackson.

Melissa Latty, Owner of Grace Realty Inc., commented on being an advocate for preserving the charm of this lovely beach town. She stated that she resurrected a property. She stated it was important to keep the charm of this lovely town. She believed in property rights owners. She stated that she showed Earl's home to three clients and stated that she was baffled that the Historic Preservation Commission had the power to decline a demolition.

6. CONSENT AGENDA

- A. Approve the minutes of the Regular City Commission meetings held on September 10, 2019 and September 24, 2019.

Motion:

Commissioner McGuirk moved to adopt the September 10, 2019 and September 24, 2019 meeting minutes, as submitted. Commissioner Sachs seconded the motion, and the motion carried unanimously.

- B. Resolution No. 58-19: Consider the Adoption of a Resolution, which if adopted, would amend the Golf Advisory Board Member Requirements.

Motion:

Commissioner McGuirk moved to adopt Resolution No. 58-19, as submitted. Vice Mayor Hartman seconded the motion, and the motion carried 4-1 by majority vote, with Commissioner Kolody voting no.

- C. Resolution No. 59-19: Consider the Adoption of a Resolution, which if adopted, would Support Local Law Relating to Regulation of Plastic.

Motion:

Commissioner McGuirk moved to adopt Resolution No. 59-19, as submitted. Commissioner Sachs seconded the motion, and the motion carried unanimously.

- D. Resolution No. 60-19: Consider the Adoption of a Resolution, which if adopted, would authorize the submittal of a 2019/2020 grant application for ECHO funding for Artificial Turf for the City's Sports Complex

Motion:

Commissioner McGuirk moved to adopt Resolution No. 60-19, as submitted. Commissioner Sachs seconded the motion, and the motion carried unanimously.

- E. Consider the approval of a Tri-Party Right of Way License Agreement for the North Causeway Pavement and Sidewalk Improvements.

Motion:

Commissioner Sachs moved to adopt the Tri-Party Right of Way License Agreement, as submitted. Vice Mayor Hartman seconded the motion, and the motion carried unanimously.

- F. Consider the approval of the purchase of one (1) 2020 Ford F-250 from Duval Ford, utilizing Florida Sheriff's contract pricing of \$56,218 for the Police Department.

Motion:

Commissioner McGuirk moved to approve the purchase of a 2020 Ford F-250 with Animal Control Unit, as submitted. Commissioner Sachs seconded the motion, and the motion carried unanimously.

- G. Consider the approval of a Change Order to GLE for design of new stand-alone Generator to serve City Hall Annex.

Motion:

Commissioner McGuirk moved to approve a Change Order to GLE for design of new stand-alone Generator to serve City Hall Annex, as submitted. Commissioner Sachs seconded the motion, and the motion carried unanimously.

- H. Approve a Special Event: Canal Street Historic District's Annual Girls Night Out on Thursday, December 5, 2019, 5:00 PM - 9:00 PM, with associated road closure of Live Oak Street from Downing Street to Canal Street.

Motion:

Commissioner McGuirk moved to approve a Special Event: Girl's Night Out, as submitted. Commissioner Sachs seconded the motion, and the motion carried unanimously.

- I. Approve a Special Event: Canal Street Historic District's Annual Spark the Spirit on Friday, November 29, 2019, 5:00 PM - 9:00 PM and Coastal Christmas on Saturday, November 30, 2019 9:00 AM - 6:00 PM, with associated road closures of Live Oak from Canal Street to Downing Street and Canal Street from Riverside to US1.

Motion:

Commissioner McGuirk moved to approve a Special Event: Spark the Spirit and Coastal Christmas, as submitted. Commissioner Sachs seconded the motion, and the motion carried unanimously.

7. ADMINISTRATIVE ITEMS/NEW BUSINESS

- A. Consider the approval to enter into a License Agreement to allow a paver border with granite chips parking area in the Villa Way Right-of-Way in front of property located at 2148 Villa Way.

Motion:

Vice Mayor Hartman moved to approve LA-3-10, License Agreement for the property located at 2148 Villa Way, as submitted. Commissioner McGuirk seconded the motion, and the motion carried 4-1 by majority vote, with Commissioner Sachs voting no.

- B. Resolution No. 57-19: Consider the Adoption of a Resolution, which if adopted, would vacate one block of Luella (Louella) Street.

Motion:

Vice Mayor Hartman moved to adopt Resolution No. 57-19, as submitted. Commissioner McGuirk seconded the motion, and the motion carried 4-1 by majority vote, with Commissioner Sachs voting no.

- C. Resolution No. 61-19: Selection of Vice Mayor

Motion:

Commissioner Sachs moved to nominate Commissioner Michael Kolody as the Vice Mayor. Current Vice mayor Hartman seconded the motion, and the motion carried unanimously.

- D. Consider the approval to award RFQ 20-19-CM: Strategic Planning Consultant Services.

Motion:

Commissioner McGuirk moved to approve the award of RFQ 20-19-CM Strategic Planning Consultant Services to GAI Consultants. Commissioner Sachs seconded the motion, and the motion carried 3-2 by majority vote, with Vice Mayor Kolody and Commissioner Hartman voting no.

8. ORDINANCES - SECOND READING AND PUBLIC HEARINGS

- A. Review of an Appeal of a Decision made by the Historic New Smyrna Beach Preservation Commission to deny a Certificate of Appropriateness for a demolition request of a single-family house located at 114 Florida Avenue.

City Attorney Avallone outlined the appeal and stated that this was a Quasi-Judicial Hearing.

Director of Development Services and Coastal Environmental Resiliency Brian Fields outlined the appeal. The City Attorney swore him in.

The City Attorney swore in city Planner Bob Mathen. He provided the background of property located at 114 Florida Avenue.

Commissioner Hartman asked how many parcels the property could be divided into.

Mr. Mathen stated three parcels.

Commissioner Hartman asked about the height limitations.

Attorney Glen Storch, representing the applicant, agreed to the proposed height limitations.

Commissioner Sachs asked about the zoning and asked if the property was zoned as R2.

Mr. Mathen confirmed the property was zoned R2 zoning.

Mayor Owen concurred with Vice Mayor Hartman.

Rebecca Harris was sworn in as a professional archeologist and provided her credentials. She commented in support of the applicant, Earl Wallace.

Dixie Givens, daughter of Earl Wallace, addressed the Commissioner's and provided a brief history of the property.

Greg Holbrook, 1160 Corbin Park Rd, expressed his support and empathy for the applicant. He stated that he agreed with the HPC decision and stated that they did the right thing by passing the issue of appeal onto the City Commission.

Steve Welfer, 220 Florida Avenue, commented on the conditions of the property.

Commissioner Hartman asked if there was an expiration date on the Certificate of Appropriateness for a demolition request of the property.

Mr. Mathen stated there was not a time limit placed.

Commissioner McGuirk stated that this was an example of humanity. He was empathetic to the cause and thought that we as a city should aim to do better.

Mr. Storch addressed the City Commission and stated that they do stipulate to the conditions that City Staff recommended, concerning the main lot and other lots as well, including the height.

Motion:

Vice Mayor Kolody moved to approve the AP-2-19: City Commission Appeal for the property located at 114 Florida Avenue, as amended to include the stipulations recommended by City Staff. Commissioner McGuirk seconded the motion, and the motion carried 4-1 by majority vote, with Commissioner Sachs voting no.

- B. Ordinance No. 48-19: Conduct the Second 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 second time by title only. She outlined the ordinance.

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

Motion:

Commissioner McGuirk moved to adopt Ordinance No. 48-19, as submitted. Commissioner Sachs seconded the motion, and the motion carried unanimously.

- C. Ordinance No. 76-19: Conduct the Second 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.

Motion:

Commissioner McGuirk moved to continue the item to the December 10, 2019 City Commission Meeting Agenda. Commissioner Hartman seconded the motion, and the motion carried unanimously.

9. ORDINANCES - FIRST READING

- A. Ordinance No. 73-19: Conduct the First Reading of an Ordinance, which if adopted, would vacate one block of Luella (Louella) Street.

City Attorney Avallone read Ordinance No. 73-19 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 19, 2019.

- B. Ordinance No. 75-19: Conduct the First Reading of an Ordinance, which if adopted, would amend the FY 2018-2019 Budget in total pursuant to itemizations attached.

City Attorney Avallone read Ordinance No. 75-19 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 19, 2019.

- C. Ordinance No. 78-19: Conduct the First Reading of an Ordinance, which if adopted, would amend Land Development Regulation 803.04 and 803.045 pertaining to boats, docks, terminal platforms, covered boat slips, mooring pools, and other boat storage and docking facilities. Also amending Land Development Regulation Section 208.00 by adding a definition for a standard facility and a shared facility. This amendment would bring the City regulation in compliance with the Volusia County Manatee Protection Plan.

City Attorney Avallone read Ordinance No. 78-19 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 19, 2019.

- D. Ordinance No. 79-19: Conduct the First Reading of an Ordinance, which if adopted, would approve entering into a Solar Power Contract with the Utilities Commission New Smyrna Beach for a term exceeding four (4) years.

City Attorney Avallone read Ordinance No. 79-19 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 19, 2019.

- E. Ordinance No. 80-19: Conduct the First Reading of an Ordinance, which if adopted would, implement a pilot program allowing offsite sandwich board signs under certain conditions.

City Attorney Avallone read Ordinance No. 80-19 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 19, 2019.

10. BOARDS AND COMMISSIONS

- A. Economic Development Advisory Board - Accept the voluntary resignation of member Jeffrey Dove and consider the appointment of a citizen to serve as a member to complete the term expiring June 8, 2022.

Commissioner Sachs nominated Joel Paige as a member.

Vice Mayor Kolody nominated Anthony DiFilippo as a member.

Commissioner McGuirk nominated Kevin Kyle.

Ballots were distributed to the Commissioner's to select one of the three nominated names. The results were as follows:

- Two (2) votes for Kevin Kyle: Mayor Owen and Commissioner McGuirk
- Two (2) votes for Anthony DiFilippo: Vice Mayor Kolody and Commissioner Hartman
- One (1) vote for Joel Paige: Commissioner Sachs

The result was a tie between Kevin Kyle and Anthony DiFilippo. A second ballot was distributed asking the Commissioners to select one of the two remaining names.

- Three (3) votes for Kevin Kyle: Mayor Owen, Commissioner McGuirk and Commissioner Hartman.
- Two (2) votes for Anthony DiFilippo: Vice Mayor Kolody and Commissioner Sachs.

By majority vote, Kevin Kyle was selected as a member of the Economic Development Advisory Board to serve a term expiring on June 8, 2022.

11.MAYOR AND COMMISSION REPORTS

Vice Mayor Kolody commented on planning to attend the 8th Annual Fall Research Symposium in Lake Buena Vista, Florida on November 13, 2019. He commented on the Washington Avenue traffic issues. He attended the Veterans Ceremony and was pleased.

Commissioner Sachs commented on unemployed veterans. He commented on joining the Coast Guard Auxiliary on the weekend. He attended the Animal Control Board regarding the tethering ordinance. He stated that the ordinance was only slightly enhanced. He referenced Port Orange not extending their TNR Program. He stated if Port Orange stopped the program, animals would be released in our City. He encouraged his fellow Commissioners to speak with the Port Orange City Manager or Assistant City Manager encouraging them to continue their TNR Program. He mentioned street signage replacement.

Commissioner McGuirk commented on the Veterans Day Celebration. He stated Veterans Day and Memorial Day events are his favorite to attend. He commented on it being a deeply moving event. He appreciated the individuals and their families. He attended a meeting today and took the tree ordinance with him. He commented on board appointment processes. He requested that the Board Resolutions/Ordinances clarified the appointment vs. the applicant selection process.

Commissioner Hartman commented on a number of boards with a number of issues. He asked to schedule a special meeting in early January to discuss the board discrepancies. He attended the Derelict Vessel Meeting with Acting City Manager Resheidat and stated it was a very informative meeting. He commented on the November 18th Town Hall Meeting at the Babe James Community Center. He appreciated all members of the boards for serving.

Mayor Owen commented on open house sign placement.

City Attorney Avallone clarified the placement of signs and stated we could not craft a regulation specific to only the type of sign.

Commissioner McGuirk commented on the realtors, and then the board of realtors got involved, and then the city commissioners got in the middle of it. He stated it was best for board of realtors to handle within.

Commissioner Sachs commented about the code violation of balloons on realty signs.

Mayor Owen commented on park signage and stated that the font, wording, etc. were different on the signs. He commented about speaking with City Staff to help designing these signs in a uniform way to provide consistency.

Vice Mayor Kolody would like to see a consistent approach on this.

Commissioner McGuirk suggested posting signage at parks where work is being done that read "Park under Construction".

Mayor Owen commented on the last of the Town Halls. He believed the program has been successful. He stated they have had numerous meetings and thought that level of access was good. He wanted to host a state of the city at the Brannon Center. He shared an initiative he was working on, a bi-local initiative to get folks circulating in local business. He stated it would possibly help to drive online shoppers into the local stores.

12.CITY MANAGER'S REPORT

Acting City Manager Resheidat commented on the derelict vessel issue.

13.CITY CLERK'S REPORT

No action.

14.CITY ATTORNEY'S REPORT

A. City Clerk Employment Agreement

Motion:

Commissioner McGuirk moved to adopt the City Clerk's Contract, as submitted. Commissioner Sachs seconded the motion, and the motion carried unanimously.

B. City Manager Employment Agreement

Motion:

Commissioner Sachs moved to adopt the City Manager's Contract, as submitted. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

15.ADJOURNMENT

As there was no other business to discuss, Mayor Owen declared the meeting adjourned at 10:28 PM.