



**City Commission Regular Meeting  
Tuesday, March 24, 2020 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, March 24, 2020 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 Michael Kolody, Commissioner Randy Hartman, Commissioner Jason McGuirk and Commissioner Jake Sachs.

- A. Call to Order

**2. INVOCATION/PLEDGE OF ALLEGIANCE**

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

**3. APPROVAL OF THE AGENDA**

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Mayor Owen announced that there was an attorney present to participate in Item 8C: Coastal Woods, Unit D Subdivision Plat.

City Manager Resheidat suggested moving Item 11: Mayor and Commission Reports after Public Participation.

**4. ANNOUNCEMENTS/PRESENTATION/RECOGNITIONS**

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No action.

## 5. PUBLIC PARTICIPATION

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A Yellowstone Landscaping representative announced that he was present and available to answer any questions about the item listed under consent, RFP 10-20-MO.

## 6. CONSENT AGENDA

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- A. Resolution No. 10-20: Consider the adoption of a Resolution, which if adopted, would amend the Fiscal Year 2019 - 2020 Budget.

**Motion:**

Vice Mayor Kolody moved to adopt Resolution No. 10-20, as submitted. Commissioner Sachs seconded the motion, and the motion carried unanimously.

- B. Resolution No. 11-20: Consider the adoption of a Resolution, which if adopted, would amend the Purchasing Policy for the City of New Smyrna Beach.

**Motion:**

Commissioner McGuirk moved to adopt Resolution No. 11-20, as submitted. Vice Mayor Kolody seconded the motion, and the motion carried unanimously.

- C. Consider a request to award RFP 02-20-MO Janitorial Services to Building Maintenance Services, Inc. at an annual cost of \$68,940 for a three-year contract with two possible one-year extension periods.

**Motion:**

Commissioner Sachs moved to approve RFP 02-20-MO Janitorial Services, as submitted. Vice Mayor Kolody seconded the motion, and the motion carried unanimously.

- D. Consider a request to award RFP 10-20-MO Public Rights-of-Way and City Property Ground Maintenance to Yellowstone Landscape.

**Motion:**

Commissioner Hartman moved to approve RFP 10-20-MO to Yellowstone Landscape, as submitted. Commissioner Sachs seconded the motion, and the motion carried unanimously.

- E. Requesting authorization to participate with the Utilities Commission as a co-applicant for a FDEP grant application for Electric Vehicle Charging Infrastructure.

**Motion:**

Commissioner McGuirk moved to approve the FDEP Grant for Electric Vehicle Charging Infrastructure, as submitted. Vice Mayor Kolody seconded the motion, and the motion carried unanimously.

- F. Consider a request from Volusia County Mosquito Control to Authorize Low Level Flights.

**Motion:**

Commissioner McGuirk moved to approve the Volusia County Mosquito Control Low Level Flights, as submitted. Vice Mayor Kolody seconded the motion, and the motion carried unanimously.

- G. Requesting approval of a purchase order to Traffic Engineering Data Solutions, Inc. (TEDS) to perform engineering design services for a proposed traffic signal at SR 44 / Fire Station #50

**Motion:**

Commissioner Sachs moved to approve Engineering Services for Traffic Signal at Fire Station # 50, as submitted. Commissioner Hartman seconded the motion, and the motion carried unanimously.

- H. 5th Street Bridge Design Contract Amendment #1 Dyer, Riddle, Mills & Precourt, Inc.

**Motion:**

Commissioner McGuirk moved to approve the 5th St Bridge Design Amendment, as submitted. Vice Mayor Kolody seconded the motion, and the motion carried unanimously.

- I. Consider the approval of the CDBG Fiscal Year 20/21 Proposed Projects.

**Motion:**

Commissioner Sachs moved to approve the CDBG Proposed Projects, as submitted. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

- J. Approve a Special Event: City of New Smyrna Beach Leisure Services July 4th Food Trucks, Music and Fireworks on July 4, 2020 and associated road closure of Riverside Drive from Canal Street to Lytle Avenue.

**Motion:**

Commissioner McGuirk moved to approve the Special Event: July 4th Food Trucks, Music and Fireworks, as submitted. Vice Mayor Kolody seconded the motion, and the motion carried unanimously.

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

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- A. Resolution No. 13-20: Consider the adoption of a Resolution, which if adopted, would approve Assistance 2020 under the Florida Inland Navigation District Waterways Assistance Program Grant for the replacement of the Buena Vista Park fishing pier.

Maintenance Operations Director Faith Miller outlined the proposed Resolution. She provided a brief summary of the damage and stated that staff recommended replacing the Buena Vista Pier and submitting the FIND Grant Application.

Mayor Owen asked about the length of time to repair the pier.

City Manager Resheidat stated that it would take approximately one year.

**Motion:**

Vice Mayor Kolody moved to close the Buena Vista Fishing Pier. Commissioner Sachs seconded the motion, and the motion carried unanimously.

**Motion:**

Commissioner McGuirk moved to adopt Resolution No. 13-20, as submitted. Commissioner Hartman seconded the motion, and the motion carried unanimously.

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

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- A. Ordinance No. 22-20: Conduct the Second Reading and Public Hearing of an Ordinance, which if adopted, would vacate a Public Access Easement on private property addresses as 1014 Clermont Street and 1017 Fremont Street.

City Attorney Avallone read Ordinance No. 22-20, the second time by title only.

**Motion:**

Commissioner McGuirk moved to continue Ordinance No. 22-20 to the April 28, 2020 City Commission Meeting Agenda. Vice Mayor Kolody seconded the motion, and the motion carried unanimously.

- B. Ordinance No. 34-20: Conduct a Public Hearing and First Reading of a proposed Zoning Text Amendment to add "Kennel" as a Special Exception Use in the B-3 Zoning District, and to modify the definition of "Kennel" in the Land Development Regulations.

City Attorney Avallone read Ordinance No. 34-20, the first time by title only.

**Motion:**

Commissioner McGuirk moved to continue Ordinance No. 34-20 to the April 28, 2020 City Commission Meeting Agenda. Commissioner Sachs seconded the motion, and the motion carried unanimously.

- C. Conduct a Quasi-Judicial Public Hearing to consider the approval of S-7-18 Coastal Woods Unit D Subdivision Plat and authorizing the Mayor to execute the Contract for Plat Recording.

A Quasi-Judicial Hearing was conducted to consider the approval of Application No. S-7-18 Coastal Woods Unit D Subdivision Plat. There was no ex-parte communications by any members of the City Commission.

Assistant City Manager 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 application, which if adopted, would approve the Coastal Woods

Subdivision Plat.

Commissioner Hartman asked if there was any information specific to when the turn lane would be installed.

Mr. Fields commented on the Certificate of Occupancy.

Commissioner Sachs commended Mr. Fields on his expertise. He commented on the Traffic Impact Analysis.

Mr. Fields commented on the project phases and the widening of Sugar Mill.

Commissioner Sachs commented on storm water issues from Coastal Woods to the Isles of Sugar Mill.

City Engineer Kyle Fegley was administered by oath, by the City Attorney. He commented on some issues with standing water in the left hand lane. He commented on a redesign that included an overflow structure. He commented on Unit D having a stand-alone permit issued from St. Johns River Water District Management. He commented on the westward discharge between Unit D and I-95.

Commissioner Sachs commented on infrastructure payments.

Mr. Fegley could not address that issue.

City Attorney asked the City Commission to consider the changes made.

Scott Glass, 300 South Orange Avenue, Orlando, Florida, was the attorney for the applicant. He provided a brief history of his experience. He agreed with Mr. Field's testimony and Staff's recommendation. He thanked the City Commission for conducting the hearing.

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

Vice Mayor Kolody commented on the project being approved some time ago.

Commissioner McGuirk commented on issues with front yard setbacks. He used this specific development agreement as an example of setback problems. He commented on having a united front about these issues. He commented on there not being an incentive on making changes if the Commission was not unanimous in the decision-making process. He wanted a united front when new master development agreements are presented.

Commissioner Sachs commented on the applicant having to return to come back and starting over again.

Mr. Fields stated that the process did not have to begin again, but stressed that the applicant had to be compliant.

Commissioner McGuirk commented on cohesively coming together regarding smart growth strategies. He stated that in this case, he would have liked to have challenged the applicant to redo the criteria and stated it could have even been a test case.

Mayor Owen concurred with Commissioner McGuirk.

**Motion:**

Vice Mayor Kolody moved to approve Application No. S-7-18: Coastal Woods Unit D Subdivision Plat and authorize the Mayor to execute the Contract for Plat Recordings. Commissioner Hartman seconded the motion, and the motion carried 4-1 by majority vote, with Commissioner Sachs voting no.

D. Ordinance No. 21-20: Conduct the Second Reading and Public Hearing of an Ordinance, which if adopted, would amend Chapter 2, Administration, Article II, Section 2-53 Special Meetings.

City Attorney Avallone read Ordinance No. 21-20, the second time by title only.

City Attorney Avallone outlined the proposed ordinance, which if adopted, would amend the City of New Smyrna Beach Code of Ordinances, Chapter 2, Administration, Article II, Section 2-53 Special Meetings.

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

**Motion:**

Vice Mayor Kolody moved to adopt Ordinance No. 21-20, as submitted. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

**9. ORDINANCES - FIRST READING**

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No action items.

**10. BOARDS AND COMMISSIONS**

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- A. Charter Review Committee: Accept the resignation of member Kenneth Bohannon and conduct the appointment of a member to fill an unexpired term as a member of the Charter Review Committee.

**Motion:**

Commissioner McGuirk moved to accept the resignation of Kenneth Bohannon. Commissioner Hartman seconded the motion, and the motion carried unanimously.

Commissioner McGuirk declined to appoint a new member at this time.

**11. MAYOR AND COMMISSION REPORTS**

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Mayor Owen suggested postponing some of the items requiring advertising to the April 28, 2020 City Commission Meeting.

Vice Mayor Kolody commented on a loading zone issue, a Brannon Civic Center issue to bring more revenue in and land development regulations. He was glad to see all of the businesses and residents handling the COVID-19 issue very well. He stated that the only area that has excessive use were the boat ramps.

Commissioner McGuirk thanked City Staff, Fire and Police for their work during this time. He was happy that there was not a major outbreak in the community



and was happy to see everyone healthy and well. He commented on the exodus of the New York residents trying to flee to Florida. He urged citizens if they know anyone planning to travel here, to not travel here yet as to not spread the virus.

Commissioner Sachs commented on the panic and mental issues that have occurred during this time. He was concerned that Volusia County has not helped the situation by keeping some of their venues open. He would rather see workers out of work temporarily than a loved one become ill. He commented on the County Beaches still being opened and wished they were closed.

Commissioner Hartman commented on sharing the same sentiments as his fellow colleagues regarding staff being great during this time. He commented on the appointed staff evaluations and wanted them completed prior to April 28, 2020.

Mayor Owen thanked staff, first responders and the City Manager for being available 24/7, especially during this time. He mentioned the parking spots in front of the restaurants that had to-go/pick-up ordering.

**Motion:**

Vice Mayor Kolody moved to cancel all permitted events on City property until April 30, 2020, to cancel all events at the Sports Complex for the month of April, to cancel all Public City Meetings except for the two regular City Commission meetings scheduled on April 14, 2020 and April 28, 2020 and the Charter Review Committee Meeting scheduled on April 23, 2020, and to close all City-owned facilities except for the New Smyrna Beach Municipal Golf Course and the Alonzo Babe James Community Center. Commissioner Hartman seconded the motion, and the motion was approved 4-1 by majority vote, with Commissioner Sachs voting no.

**Motion:**

Vice Mayor Kolody moved to close the boat ramps effective on Monday, March 30, 2020 through Tuesday, April 14, 2020, which would be restricted to Commercial Fisherman only and post signage announcing the closures in advance. Commissioner McGuirk seconded the motion, and the motion was denied 2-3, with Commissioner Sachs, Vice Mayor Kolody and Mayor Owen voting no.

**Motion:**

Commissioner McGuirk moved to close the boat ramps effective on Friday, March 27, 2020 through Tuesday, April 14, 2020, which would be restricted to Commercial Fisherman only. Vice Mayor Kolody seconded the motion, and the motion was approved 3-2 by majority vote, with Commissioner Sachs and Commissioner Hartman voting no.

Vice Mayor Kolody commented on following a Chain of Command and undercut the City Staff by not using them to their fullest abilities. He stated that the Mayor was very careful in his wording when posting about the beach and appreciated that.

**Motion:**

Commissioner Hartman moved to delegate the City Manager to close the city-owned beach parking lots if Volusia County closes the beaches. Vice Mayor Kolody seconded the motion, and the motion was approved 4-1 by majority vote, with Commissioner Sachs voting no.

**12.CITY MANAGER'S REPORT**

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A. City Manager's Report

City Manager Resheidat provided a brief update on COVID-19 and measures that staff was taking. He explained that some equipment was lent out to employees telecommuting. He stated that some employees were working from home now.

**13.CITY CLERK'S REPORT**

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No action.

**14.CITY ATTORNEY'S REPORT**

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City Attorney Avallone outlined Declaration No. 02-20 and Resolution No. 14-20.

**Motion:**

Commissioner McGuirk moved to adopt Declaration No. 02-20, as submitted. Commissioner Hartman seconded the motion, and the motion carried unanimously.

**Motion:**

Vice Mayor Kolody moved to adopt Resolution No. 14-20, as submitted. Commissioner McGuirk seconded the motion, and the motion carried 4-1 by majority vote, with Commissioner Hartman voting no.

City Attorney Avallone asked the City Commission if they were interested in the virtual meeting or would they rather meet in person or cancel the meetings.

City Commission consensus was not to partake in virtual meetings.

**15.ADJOURNMENT**

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As there was no other business to discuss, Mayor Owen declared the meeting adjourned at 9:18 PM.