



**City Commission Regular Meeting Minutes
Tuesday, August 13, 2024 at 6:30 PM
Video & Agenda**

1. OPENING OF MEETING

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 13, 2024, at the City Commission Chambers, 214 Sams Avenue, New Smyrna Beach, Florida 32168.

Mayor Fred E. Cleveland called the meeting to order at 6:30 PM.

Present: Mayor Fred E. Cleveland, Vice Mayor Valli Perrine, Commissioner Randy Hartman, Commissioner Lisa Martin and Commissioner Jason McGuirk

2. INVOCATION/PLEDGE OF ALLEGIANCE

Police Department Chaplain Sheila Turner gave the invocation. Executive Director Stephanie Ford, Southeast Volusia Chamber of Commerce, led those present in the Pledge of Allegiance.

3. APPROVAL OF THE AGENDA

City Manager Resheidat reported the request to withdraw Ordinance Nos. 46-24 and 47-24 from the agenda.

4. ANNOUNCEMENTS/PRESENTATION/RECOGNITIONS

- 4.A Recognition: of Police Chaplain Pete Carter for his years of service and dedication to the New Smyrna Beach Police Department.

Police Chief Eric Feldman recognized Police Department Chaplain Pete Carter for his years of service and dedication to the NSB Police Department.

- 4.B Proclamation: Honoring and recognizing Joe Bunch for his service as the General Manager and CEO of New Smyrna Beach Utilities.

The City Commission presented a proclamation to Mr. Joe Bunch honoring and recognizing him for his service at NSB Utilities.

- 4.C Financial Auditor Presentation

James Halleran of James Moore, CPA outlined a presentation.

5. CITY MANAGER'S REPORT

- 5.A City Manager's Report

City Manager Resheidat shared a report.

6. PUBLIC PARTICIPATION

Sharon Glenn, on behalf of Save our NSB Task Force, 1109 and 1111 South Atlantic Avenue, commented in opposition to Ordinance Nos. 46-24 and 47-24. She mentioned that there were over 800 signatures on a petition opposing this project. She reminded the Elected Officials of their oaths and reminded them that they were supposed to protect the people.

Cindy Sniezak, 512 Yupon Avenue, commented in opposition to the text amendment defining commercial floor area ratios. She suggested looking at cities like Winter Park since we had a smaller city with a positive image.

Stephanie Ford, SEV Chamber of Commerce and Ashley Musgrove, CEO of NSB Board of Realtors, welcomed the new City Manager Kevin Cowper. They invited the Commission to the Hob Nob Event at the Brannon Center tomorrow evening. She thanked the city for their support of their Leadership Program.

Doug Mullan, 918 East 1st Avenue, commented in opposition to Ordinance Nos. 46-24 and 47-24. He commented on the amount of motor vehicle accidents. He mentioned not turning New Smyrna Beach into Daytona Beach.

Ben Haag, 821 Maralyn Avenue, commented in opposition to Ordinance No. 46-24 and 47-24. He commented on quality of life and trying to change a paradise.

Sue Trzaskus, 1300 Hill Street, commented in opposition to Ordinance Nos. 46-24 and 47-24. She mentioned the national crime survey.

Gayla Leslie, 1306 Hill Street, commented in opposition to Ordinance Nos. 46-24 and 47-24. She requested that they work together as a community and make New Smyrna Beach beautiful.

Susan Coakley, 1402 Southard Avenue, commented in opposition to Ordinance Nos. 46-24 and 47-24. She requested that they not approve the ordinance when it returned and asked for the scale and character of the city to be preserved. She shared her concerns with the Planning and Zoning Board recommending approval on this project swiftly and carelessly.

Audia Ricker, 815 Willard Street, commented in opposition to Ordinance Nos. 46-24 and 47-24. She commented on concerns with transients, property issues and setting a precedent for future building.

Donald and Marcia Eppelin, 1310 Hill Street, commented in opposition to Ordinance Nos. 46-24 and 47-24, mentioning that zoning was to protect citizens and the environment.

Ty Harrison, 2nd Avenue, commented in opposition to Ordinance Nos. 46-24 and 47-24. He commented on drainage problem and engineering. He shared his professional experience.

Angie Baretta-Herman, 108 Esther Street, expressed her heartfelt thanks to the Commission for saving the charm and hoped all the audience members would keep fighting for the charm. She commented on the Women's Club and wanted a status update. She commented on the continued deterioration of the Women's Club, in particular the leaking roof and she mentioned that the neighbors were concerned about having an abandoned building on their street.

Sandra Smith, 810 East 26th Avenue, commented on processes. She commented on the zoning districts and needing for variances. She commented in opposition to Ordinance Nos. 46-24 and 47-24. She shared that the applicant created their own self-hardship. She requested that the city post a notice on the property if the project request comes back to the city from the applicant prior to the public hearing.

Paul Schlichtmann, 914 Locust Street, commented on zoning procedures. He mentioned that he recently renovated a family home on Locust Street. He commented on spot planning and shared concerns with that. He commented on cascading challenges throughout the city. He commented on density and large-scale development.

Lou Pate, 1604 Saxon Drive, commented in opposition to Ordinance Nos. 46-24 and 47-24. He shared that there was no need for additional parking. He shared that the people wanted to know where the candidates for election stood.

Jess Romero, 708 South Cooper Street, commented about mentioning the MDA's and PUD's not having closing dates on them.

Harriett Hellier, 1111 Hill Street, commented in opposition to Ordinance Nos. 46-24 and 47-24. She commented on FAR's. She commented on taking an opportunity to begin looking at the code. She wanted to come together on a consensus because it was not in the best interest of the citizens.

Nick Hellier, 1111 Hill Street, commented in opposition to Ordinance Nos. 46-24 and 47-24. He commented on crime statistics, liquor licensing after 2:00 am, and believed there was something missing in communication.

Richard Trujillo, 844 South Cooper Street, commented in opposition to Ordinance Nos. 46-24 and 47-24. He commented on the parking lots and garages to observe the careless drivers trying to get on and off the beach. He shared if they were not using the current parking spaces, why would they use a new one.

Larry Westley, 39 Sandra Circle, commented on the gaslighting going on with this project. He shared that this project was not a parking garage, but rather a restaurant and retail space. He commented on the Planning and Zoning Board advertising. He commented on stopping some of the growth and stop changing the ordinances to accommodate developers. He commented on changing regulations. He shared that all of the elected officials would have to worry about leaving a legacy.

DaleAnn Clark, protected address, commented on her family history in New Smyrna Beach. She commented on the building code being previously voted as a maximum of three-stories high. She shared that the spirit of the Commission in the 1960's was deliberate, slow, growth. She asked them to keep New Smyrna Beach safe for all citizens. She shared it was not too late.

Pasqual Brignola, 391 South Timberlane Drive, commented on PUD on Paige Avenue, Oak Park Estates. He commented on receiving legitimate opposition to new growth. He commented about the flood plain, new development, flooding in surrounding neighborhoods. He shared that the solution would be for Volusia Forever to purchase this property. He shared that the application must be submitted by September 13th.

Leslie Sachs, 816 East 8th Avenue, was glad that the items were withdrawn. She commented on the text amendment. She commented on the County's decision to make beach parking free.

7. CONSENT AGENDA

-
- 7.A Consider the approval of the Armstrong Dock Agreement and Settlement agreement for 800 South Riverside Drive.

Motion:

Commissioner Martin moved to approve the Armstrong Dock Agreement and Settlement , as submitted. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

- 7.B Consider the adoption of the City Commission minutes from the workshops held on June 20, 2024 and June 25, 2024 and the regular meeting held on June 25, 2024.

Motion:

Commissioner Martin moved to adopt the City Commission minutes from the workshops held on June 20, 2024 and June 25, 2024 and the regular meeting held on June 25, 2024, as submitted. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

- 7.C Consider the approval of the use of CDBG funds for improvements to Pettis Park, located at 800 Mary Avenue.

Motion:

Commissioner Martin moved to approve the use of CDBG funds for improvements to Pettis Park, as submitted. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

- 7.D Consider the approval to award RFQ 14-24-ENG for Continuing Professional Transportation Engineering Consulting Services to CPH Consulting, Kimley-Horn and Associates, Kittleson & Associates, Inc., Lassiter Transportation Group, Inc., and Stanley Consultants.

Motion:

Commissioner Martin moved to approve the award of RFQ 14-24-ENG, as submitted. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

- 7.E Consider the approval of converting the intersection located at Ocean Avenue and Cooper Street to an All-Way Stop Condition.

Motion:

Commissioner Hartman moved to approve converting the intersection located at Ocean Avenue and Cooper Street, as submitted. Vice Mayor Perrine seconded the motion, and the motion was unanimously denied.

- 7.F Consider the approval of a temporary road closure on Flagler Avenue between Peninsula Avenue and Pine Street.

Motion:

Commissioner Martin moved to approve a temporary road closure on Flagler Avenue between Peninsula Avenue and Pine Street, as submitted. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

- 7.G Consider the approval of the Award of RFP 04-24-CIP Professional Design Build Services for Skate Park Expansion.

Motion:

Commissioner Martin moved to approve the award of RFP 04-24-CIP, as submitted. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

- 7.H Consider the approval of the Award of RFP 21-24-LS Food Trucks Organizing to Katric, LLC.

Motion:

Commissioner Martin moved to approve the award of RFP 21-24-LS, as submitted. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

- 7.I Special Event: Consider the event approval of the Black Heritage Festival 2025, to be held on Saturday February 22 and Sunday February 23, 2025 including waiver of associated city event, rental and equipment fees.

Motion:

Commissioner Martin moved to approve the Black Heritage Festival 2025 Special Event, as submitted. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

- 7.J Special Event: Consider the approval of the Engel & Volkers NSB Grand Opening Parties and grant a noise ordinance waiver for these events, to be held on Friday August 16 and Saturday August 17, 2024 from 6pm to 9pm each evening.

Motion:

Commissioner Martin moved to approve the Engel & Volkers NSB Grand Opening Parties, granting a noise ordinance waiver, as submitted. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

- 7.K Special Event: The Kiwanis of SE Volusia Field of Honor Flag Event 2024, to be held in Riverside Park from Sunday November 3rd until Sunday November 24, 2024.

Motion:

Commissioner Martin moved to approve the Kiwanis of SE Volusia Field of Honor Flag Event 2024, as submitted. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

- 7.L Special Event: Consider the approval of the Night at the Museum Event 2024, to be held on Friday October 25, 2024.

Motion:

Commissioner Martin moved to approve the Night at the Museum Event 2024, as submitted. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

- 7.M Resolution No. 53-24: Consider the adoption of a Resolution, which if adopted, would authorize a rate increase requested by Waste Pro of 4% for Residential Curbside Recycling Collection.

Motion:

Commissioner Martin moved to adopt Resolution No. 53-24, as submitted. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

- 7.N Resolution No. 54-24: Consider the adoption of a Resolution, which if adopted, would authorize a rate increase requested by Waste Pro of 4% for Solid Waste, Vegetative Yard Waste, and Bulk Waste Collection and Disposal.

Motion:

Commissioner Martin moved to adopt Resolution No. 54-24, as submitted. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

- 7.O Consider the approval of accepting the FY 2023 Edward Byrne Memorial Justice Assistance Grant (JAG-D) for the procurement of ballistic vests.

Motion:

Commissioner Martin moved to approve accepting the FY2023 Edward Byrne Memorial Justice Assistance Grant (JAG-D), as submitted. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

8. ADMINISTRATIVE ITEMS/NEW BUSINESS

No action

9. ORDINANCES - SECOND READING AND PUBLIC HEARINGS

- 9.A Conduct a Public Hearing to consider the approval of Application No. HTR-3-24 - Historic Tree Removal of a 37" DBH Live Oak tree on the residential property at 1970 Turnbull Lakes Dr.

A Public Hearing to consider the approval of Application No. HTR-3-24 was conducted.

Compliance Coordinator Channing Maiolo outlined a report.

Mayor Cleveland opened the public hearing.

Applicant Gary Albers, 1970 Turnbull Lakes Drive, commented on the request and provided information about the history. He read a letter from the contractor, T&K Tree Services, apologizing for the error.

Mayor Cleveland closed the public hearing.

Motion:

Commissioner Hartman moved to approve Application No. HTR-3-24, as submitted. Commissioner Martin seconded the motion, with the stipulation to replace the two trees within sixty days, and the motion carried unanimously.

- 9.B Ordinance No. 43-24: Conduct the First Reading and Public Hearing of an Ordinance, which if adopted upon the Second Reading and Public Hearing, would approve a Zoning Text Amendment to the City Land Development Regulation that would remove the use of church and replace with house of worship and add a new definition and make the use permitted in certain zoning districts. The amendment would also replace the use of drug store with pharmacy and add a new definition.

The City Attorney read Ordinance No. 43-24, the first time, by title only. She reported that the Second Reading and Public Hearing would be conducted on August 27, 2024.

Senior Planner Bob Mathen outlined the ordinance.

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

Motion:

Commissioner Hartman moved to adopt Ordinance No. 43-24, on first reading, as submitted. Vice Mayor Perrine seconded the motion, and the motion carried unanimously.

- 9.C Ordinance No. 44-24: Conduct the First Reading and Public Hearing of an Ordinance, which if adopted upon the Second Reading and Public Hearing, would amend the text of the B-3 zoning district to add Pain Management Clinics to the B-3 Highway Service Business District as a Special Exception.

The City Attorney read Ordinance No. 44-24, the first time, by title only. She reported that the Second Reading and Public Hearing would be conducted on August 27, 2024.

Senior Planner Jake Baker outlined the ordinance.

Mayor Cleveland opened the public hearing.

Doctor Tryn, PRC, commented in support of the Ordinance.

Mayor Cleveland closed the public hearing.

Motion:

Commissioner Hartman moved to adopt Ordinance No. 44-24, on first reading, as submitted. Commissioner McGuirk seconded the motion, and the motion carried 3-2 by majority vote, with Vice Mayor Perrine and Commissioner Martin voting no.

- 9.D Ordinance No. 46-24: Conduct the Second Reading and Public Hearing of an Ordinance, which if adopted upon the Second Reading and Public Hearing, would amend the Land Development Regulations by adding a definition of Floor Area Ratio, Commercial.

No action; item withdrawn.

- 9.E Ordinance No. 47-24: Conduct the Second Reading and Public Hearing of an Ordinance, which if adopted upon the Second Reading and Public Hearing, would rezone 1.01 acres of land from B-2 Neighborhood Business District to Planned Unit Development, at 1300 S. Atlantic Avenue.

No action; item withdrawn.

- 9.F Ordinance No. 48-24: Conduct the Second Reading of an Ordinance, which if adopted upon the Second Reading and Public Hearing, would authorize New Smyrna Beach Utilities to enter into a grant agreement with the Florida Department of Environmental Protection for a Septic to Sewer Project in Silver Sands.

The City Attorney read Ordinance No. 48-24, the second time, by title only.

Assistant City Manager Ron Neibert outlined the ordinance.

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

Motion:

Vice Mayor Perrine moved to adopt Ordinance No. 48-24, as submitted. Commissioner Martin seconded the motion, and the motion carried unanimously.

10. ORDINANCES - FIRST READING

- 10.A Ordinance No. 49-24: Conduct the First Reading of an Ordinance, which if adopted upon the Second Reading and Public Hearing, would revise charges for household and commercial solid waste.

City Attorney Avallone read Ordinance No. 49-24, the first time, by title only. She reported that the second reading and public hearing would be conducted on August 27, 2024.

- 10.B Ordinance No. 50-24: Conduct the First Reading of an Ordinance, which if adopted upon the Second Reading and Quasi-Judicial Public Hearing, would rezone approximately 0.34 acres of land to B-4, Ocean Commercial on a vacant property located at the southwest corner of East 7th Avenue and South Atlantic Avenue.

City Attorney Avallone read Ordinance No. 50-24, the first time, by title only. She reported that the second reading and public hearing would be conducted on August 27, 2024.

11. BOARDS AND COMMISSIONS

- 11.A Housing Authority: Consider the appointment of one (1) citizen to serve as a resident commissioner in an unfilled four-year term, expiring on August 31, 2026.

Motion:

Commissioner Martin moved to appoint Wilda Bennett to serve as a resident commissioner on the Housing Authority to an unfilled term, expiring August 31, 2026. Commissioner Hartman seconded the motion, and the motion carried unanimously.

- 11.B Utilities Commission: Consider the reappointments of two (2) current members to serve three-year terms, set to expire on September 7, 2027.

Motion:

Vice Mayor Perrine moved to reappoint Rick Hawes and Lawrence Kelly to serve their second terms, expiring on September 7, 2027. Commissioner McGuirk seconded the motion, and the motion carried 4-1 by majority vote, with Mayor Cleveland voting no.

12. MAYOR AND COMMISSION REPORTS

Commissioner Hartman commented on attending the Backpack Giveaway Event and the Police Department Promotional Ceremony. He commended City Engineer Jesse Meyers for his professional and respectful demeanor involving a citizen concern. He asked about an expected completion date for the parking study.

Commissioner Martin commented on the parking problems article inaccuracies published in the Hometown News.

Vice Mayor Perrine commended Commissioner McGuirk during the Airport Noise Study meeting.

Commissioner McGuirk commented on the Airport Noise Study meeting.

Mayor Cleveland commented on the Airport Noise Study meeting.

13. CITY CLERK'S REPORT

13.A City Clerk's Report

No action

14. CITY ATTORNEY'S REPORT

14.A Amendment to Legal Services Agreement for Airgate Aviation Litigation.

Motion:

Vice Mayor Perrine moved to approve the amendment to Legal Services for the Airgate Aviation Litigation. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

14.B External investigation request and selection of an external investigator.

Motion:

Commissioner Martin moved to approve hiring select External Investigator Vicky Sproat to conduct an internal investigation into complaints submitted by various employees to the HR Department, as well as investigate the complaints submitted to the City Manager on November 15, 2023, to the City Commission on June 20, 2024, and received via external legal counsel on July 30, 2024. Commissioner McGuirk seconded the motion, and the motion carried unanimously.

15. ADJOURNMENT

As there is no further business to discuss, Mayor Cleveland adjourned the regular meeting 10:04 PM.