

## **New Smyrna Beach City Commission Meeting Aug. 27 2019**

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***City Commissioners grappled with the effect of a new law tightening restrictions on where sex offenders can live within the city limits, as well as the goal of developing affordable housing and the need to redefine what the city considers to be "smart growth."***

### **1.The City Commission voted 4-1, with Commissioner Michael Kolody dissenting, to adopt a tough new sex offender residency rule.**

The new rule will restrict all sex offenders/predators from living within 2,500 feet of a childcare facility, park, playground or school, regardless of the type of conviction or offense date. Current offenders or predators who have established residency prior to the ordinance being enacted would be exempt, unless they vacate their residence or are incarcerated for a period longer than 30 days.

"...there's no perfect solution to this," said Mayor Russ Owen. "This is very personal to me. I have small children. That carries a lot of weight for me." "My common sense says to support this."

Previously, the city's sex offender residency requirement said sexual offenders/predators couldn't live within 1,000 feet of a school, park, playground, or childcare facility. That restriction only applied to offenders/predators who were convicted on or after Oct. 1, 2004. If the person was convicted out of state, the 1,000-foot rule only applied if the offense took place on or after May 26, 2010.

Commissioner Kolody said he understood the reason for adopting the ordinance and generally supported such a law but felt the city's new ordinance is a little too restrictive. "It takes away approximately 70 percent of the places such a person might live," he said. "I could see expanding the 1,000 feet, but not going to the 2,500 feet."

"While I agree with you...", Commissioner Jason McGuirk commented to his colleague, "My concern is . . . when other communities around us start...(enacting tougher sex offender laws) we either respond or take the brunt of the issue. We have to respond."

Commissioner Jake Sachs and Vice Mayor Randy Hartman both indicated they had some reservations about the effect of the enhanced restrictions but supported the law's passage.

New Smyrna Beach has 32 registered sex offenders/predators living within the city's jurisdiction. Since January this year, officials said 10 sex offenders/predators have moved into the city and four others have made registered visits, during which they stayed in the city for a short period of time.

"Residency restrictions do not make communities safer," Laura Smith, who represented the Florida Action Committee, told Commissioners. She maintained that toughening restrictions on where sex offenders may live increases recidivism by reducing their housing stability, access to family, and treatment.

Police Chief Mike Coffin added that he and others "worked very hard and consulted with the State Attorney's office to come up with something that we knew would be legally defensible. It's not as restrictive as some of the other jurisdictions in our immediate area. We specifically understood that to be so restrictive that it eliminated any place to live in New Smyrna, was not going to be legally defensible or workable."

**2. The City Commission unanimously voted to approve the preliminary and final plat for the Isles of Venetian Bay, a 136-unit townhouse subdivision on 14.8 acres in the Venetian Bay development . . . then voted 4-1 with Commissioner Kolody dissenting, over a subsequent motion to grant preliminary and final approval for a revised plat of Phase 4 in a nearby subdivision know as The Palms.**

The Isles of Venetian Bay project will be built on cleared land generally located northeast of the northern intersection of Portofino Boulevard with Airport Road, north of SR-44. <sup>[1]</sup><sub>SEP</sub> The revised Palms subdivision plat would change 118 previously approved townhouse lots to 43 single family residential lots, which would reduce the total number of proposed lots within the Phase 4 plat from 182 to 107. The Palms project is generally located on more than 42 acres on the north side of SR-44, west of Airport Road and adjacent to Venetian Bay.

Brian Fields, Development Services Director for the city, noted staff members were pleased to see the proposed single family lots would measure 60 feet wide and 130 feet deep, slightly wider than is often seen in development plans. The plat revision would reduce the density of Phase 4, but the overall density of The Palms subdivision would remain the same.

The density issue worried Commissioner Sachs, although he eventually voted to approve the plat. "I have never seen developments so dense as these," Sachs said, with concern . . . For me, not my taste for New Smyrna Beach. And very challenging for traffic, for stormwater. Yes, I'm sure they meet all the requirements, but my God!"

Commissioner Kolody added, "I have reservations. Contrary to what the (developer's) attorney said, we're not reducing density, we're keeping the same density for the Palms project. What we're doing is we're making this particular area more single family, instead of townhouse, and we're squeezing those (townhouse) developments presumably into future phases. I can't support this until I know how those phases are going to look."

Commissioner Jason McGuirk then emphasized the overall building density of The Palms subdivision (1,163 units on 706 acres), comes to just 1½ units per acre.

"One and a half units per acre is what this development is being developed at. That's it. One and a half units per acre," he said. "That was part of the smart growth strategies everyone developed. To deny them over something so basic is bizarre. Because pretty much all of us live in developments in communities that are a lot denser than 1½ units per acre."

"I'm not saying this isn't smart growth," Commissioner Sachs answered. "I worry about sustainability of our road system, our water."

Mayor Owen acknowledged Commissioners' frustrations by pointing out that the concept of how much growth is sustainable is a larger question. He asked the Commission to focus only on the revised plat approval. "There are land rights. There are property rights. There are vested rights in this case, that were explicitly given. This is Phase 4. This is too late in the game, is what I'm being told. We can't, at this point, start changing things so dramatically."

The mayor also addressed Commissioner McGuirk's assertion that the entire Palms development is only 1½ units per acre.

"The disconnect is . . . we're not building on estate sized lots," Mayor Owen stressed. "We're cramming all the growth into one corner . . . Which at one point was called smart growth . . . I think we've learned better. As future projects come to us for approval . . . at a much earlier stage, we can start redefining what that (smart growth) looks like."

**3. City Commissioners weighed affordable housing vs. increased building density when they voted unanimously to approve a future land use change for about 10 acres in two parcels at 600 Greenlawn St. and 500 Brooks St.**

**The property is owned by the Housing Authority of New Smyrna Beach, and is currently the site of 74 apartments for financially disadvantaged citizens. The Authority proposes to build an 80-unit, three-story, apartment building on the two parcels, which would require 16 of the 74 units to be demolished.**

Commissioners heard from a number of speakers who supported the project and emphasized that New Smyrna Beach needs more affordable housing options for those who work in lower paying jobs.

Future land use for the Housing Authority property originally was listed as medium density residential. Although several Commissioners had concerns, they voted to change the future land use to high density residential as the Housing Authority requested.

Vice Mayor Hartman commented, "One of the meetings I went to with the League of Cities was on homelessness. And Sarasota reduced their homeless rate by 200 percent. The way they did that was through transitional housing . . . providing low cost housing so they could get out of the homeless state. This allows us to at least open the door for that. We've heard there are over 300 people on a waiting list (for an apartment) . . . It will also serve a need we truly have not only here in New Smyrna but in Volusia County."

"I'm compelled also to speak about the density," Commissioner Sachs said. "My major concern is the higher density effect on the lower density neighborhood. But to err on the side of people who really need an affordable roof over their heads, I would go ahead with the higher density."

Commissioner McGuirk observed it was ironic some of his colleagues were "grilling a developer" earlier over a building density of 1.5 units per acre throughout an entire project, yet they were willing to approve the Housing Authority's plans calling for 14 units per acre when the project is complete.

"Now, I'm inclined to vote for this tonight because there's not a single person here opposing it," he said, before stressing, "I'm not happy with the density. This is one of those areas where the density just doesn't fit the neighborhood. But everybody is very excited about building this, and I understand why. We need affordable housing."

McGuirk said he would go along with the Housing Authority proposal mainly because he was assured there was enough outreach to the surrounding neighborhood about the project, and no one had complained to him. "I want this. We need it," he said. "But this kind of density? It's crazy."

Mayor Owen summed up the issue. "Where I landed on this was, we need affordable housing. If we want to solve this problem, we have to bend a little bit on the density. That's how you make things affordable. That's how you make the economics work."

He also spoke to several city employees who asked the Commission to consider including money for a raise in the upcoming 2020 city budget, so they, too, could better afford housing. The mayor assured them that the Commission would consider that issue as the next few months unfold, although he said he knew they were looking for more than just a promise to that effect.

"It is not unnoticed that we have a staff that is second to none," Mayor Owen noted.

"They stand there in the trenches with us, with our public safety members. We, and the entire community, genuinely appreciate all you do."

**4. The City Commission split on a 3-2 vote over approving an ordinance that would exempt some new businesses along US-1 from current landscaping and parking requirements, in an effort to revitalize the road. Commissioners Kolody and Sachs cast the dissenting votes.**

The new law offers exemptions from landscaped buffer and parking requirements for certain properties in the B-3, Highway Services Business District, and along US-1... specifically in cases where a change of use or activation of a use had ended, and in which there is no change to the building footprint. In those cases the new occupants of the properties would only have to maintain existing landscaped areas in good condition with a finished appearance. In regard to parking, they would only have to maintain their existing off-street parking.

The idea is to reduce the number of vacant properties along US-1 and encourage new businesses to redevelop them.

Commissioner McGuirk emphasized US-1 has always had problems with regard to attracting new businesses to redevelop old and vacant sites. When the city instituted requirements for more extensive parking and landscaping, he said it negatively affected redevelopment along the highway

"We're not getting rid of parking requirements and of landscaping requirements," he said.

"We're only getting rid of something that made it more difficult to meet requirements in the unique setting of US-1, on properties that were home sites that morphed into commercial, or they were home sites and people ran businesses out of them."

"I support this," Mayor Owen declared. However, he said he would like to see exempted businesses eventually take some steps to improve their landscaping.

"Not so much with parking, but with landscaping, how do we make sure we don't grandfather in a bunch of stuff that will be there forever?" he asked. "I don't want to see us stuck with a bunch of vacant businesses on US-1 but I also don't want to see US-1 look the same years from now as it does today. Whatever we do, I don't want to see us stuck in the '80s on US-1."

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