

New Smyrna Beach City Commission Meeting

Feb. 25, 2020

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1. City Commissioners agreed on the need for a future workshop to discuss restricting the location of “formula” businesses such as national retail chains to preserve New Smyrna Beach’s unique character. Officials said they want to seek comments from the local business community before proposing any new rules, and can’t legally ban such businesses from the entire city.

City staff members reported that as of Jan. 8, more than 5,000 people had signed a petition to ban formula businesses in New Smyrna Beach. The petition proposed the ban to maintain the unique character of the community and the appeal of its commercial districts.

Commissioners last discussed the topic of formula businesses and what to do about them at a Nov. 19, 2019 special City Commission meeting. Back then, their consensus was a citywide restriction on such businesses wasn’t feasible or appropriate.

However, the Commission did agree last year to do a study of formula businesses within a six-mile area known as “The Loop.” That area includes both sides of the North Causeway, extends over the Indian River east along Flagler Avenue to the Atlantic Ocean, goes south along South Atlantic Avenue to Fifth Avenue, then returns west along SR-A1A, Third Avenue, over the South Causeway and along SR-44 to Myrtle Avenue. From the intersection of SR-44 and Myrtle Avenue, the Loop circles back north to Mary Avenue, east to Riverside Drive and south to rejoin the North Causeway intersection at Washington Street.

Assistant City Manager Brian Fields advised Commissioners that state statutes prohibit cities from adopting laws that outlaw corporate branding such as logos and other features everywhere. A small but growing number of cities have enacted rules that restrict the proliferation of so-called formula businesses in designated areas.

For New Smyrna Beach’s study, he said formula businesses were described as any type of business with up to 10 or more locations worldwide. There are 154 businesses citywide that meet that description, 38 of which are within the Loop. Only four such businesses are within the city’s historic districts along Flagler Avenue and in the downtown mainland area.

One suggestion from staff members would have the city create a new Formula Business Overlay District to regulate new restaurants and retail establishments within the city’s two historic districts. Generally, formula businesses wouldn’t be allowed in those areas, but the city could establish a Special Exception process to permit them under certain conditions.

Commissioners generally weren’t keen about that idea.

Vice Mayor Michael Kolody opposed creating a new overlay zone, although he supported keeping formula retail establishments outside the city's historic districts. He, his fellow Commissioners and Mayor Russ Owen did express support for creating design standards for how such businesses could fit in and function throughout New Smyrna Beach.

"We restrict a lot of things already," the mayor pointed out, talking about city zoning laws. "This is just the next layer of the next thing we're considering to improve New Smyrna Beach ... This is just saying to me, in these special areas of New Smyrna that we have a higher standard." Businesses "can navigate regulations," Owen added, as long as they're easily understandable. He pointed to the Hampton Inn as an example of how design standards can tastefully incorporate a national chain business into the community.

While Commissioner Jason McGuirk agreed with the idea of protecting city historic districts, he cautioned against making limits on formula businesses too discretionary.

Many citizens attended the Commission meeting and spoke in favor of restricting the locations of formula businesses, including Former Mayor Sally Mackay. "We have a fantastic community and great culture ... And two ... not one ... two historic downtowns that are so worth protecting," she said. "Just keep New Smyrna Beach what it is now, because I think that's what we're all hoping for."

2. The City Commission voted 3-2, with Vice Mayor Kolody and Commissioner Jake Sachs dissenting, to grant a request for a Special Exception to allow a mini-warehouse development on a vacant lot measuring 0.73 of an acre.

The mini-warehouse site is on the south side of Woodland Avenue, north of Canal Street and west of Hickory Street, just east of the StorQuest Self Storage facility.

Concurrent with the Special Exception approval, Commissioners voted 3-2, with Kolody and Sachs also voting no, to change the site's Future Land Use from High Density Residential to Commercial, and rezone it from city R-4 (Multi-Family Residential) to B-3 (Highway Service Business District). Both officials who cast dissenting votes expressed concern about eliminating an area of zoning for higher density residential development that was intended to be a transition between the commercial property and nearby residences.

Proposed are one story units just under 27 feet tall to accommodate boats and smaller RVs. The project's main access would be from Canal Street. A driveway onto Woodland Avenue will be designated for emergency access only, and another access onto Hickory Street will be marked as an exit only. All stormwater runoff will be contained on-site and won't affect neighboring properties.

3. City Commissioners unanimously approved ordinances annexing, rezoning and assigning a city future land use for less than a quarter acre at 132 Temple St.

The property involved is one lot of 0.24 acres on the west side of Temple Street between Lake Drive and Jungle Road. It is developed with one single-family home. The parcel's county zoning and land use were Urban Medium Intensity and R-4, (Urban Single-Family). Officials changed that to a city zoning of R-2, (Single-Family Residential), and a city land use of Medium Density Residential.

4. The City Commission voted 4-1, with Commissioner Sachs dissenting, to annex, rezone and assign a city future land use for property at 2201 Juanita Drive.

The vote involved one lot measuring 0.27 acres, on the northwest corner of Corbin Park Road and Juanita Drive. It currently is undeveloped, but the city has received an application for a permit to build a single-family home. The property's former county land use was Urban Low Intensity and its county zoning was R-4 (Urban Single Family). Those designations were changed to a city zoning of R-2 and a city future land use of Low Density Residential.

5. City Commissioners voted 5-0 to approve the New Smyrna Beach Utilities Commission's refinance of all or part of up to \$85 million in new and existing revenue certificates.

Revenue certificates are guaranteed by the Utilities Commission's net revenue from utility rates. Proceeds from the refinanced bonds will be used to finance, acquire and construct a number of capital improvements for the Utilities Commission, as well as refinance its debt.

The bond issue will be used as shown here:

- ✓ \$17.2 million to refund Utility System Revenue Certificates, Series 2009, Series 2013A and Utility System Refunding Revenue Certificates - Series 2013B
- ✓ \$65 million for capital improvements such as electric transmission and distribution system improvements, water and wastewater system improvements, construction on a Western Utility Complex and improvements to information technology.
- ✓ \$1.3 million or less in estimated costs to issue the revenue certificates.

6. The City Commission had the first reading and public hearing for an ordinance that would amend the city's Comprehensive Plan relating to the Historical and Archaeological Preservation section. The ordinance could be adopted at its second reading and public hearing, which is scheduled for April 14.

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