

New Smyrna Beach City Commission Meeting ■ Aug. 24, 2021

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Mayor Owen and three Commissioners were present. Commissioner Sachs was absent.

City Commissioners voted unanimously to adopt an ordinance aimed at preventing homeless individuals from camping out in city parks.

A companion ordinance that would prohibit camping on other public property in New Smyrna Beach also received its first reading. Its second reading and public hearing are set for Sept 14.

“With the increase in the homeless population and the camping in public parks becoming an issue, there came a need to update the camping ordinance,” Assistant City Attorney Shey McCurdy commented. “It became necessary to give the Police Department more enforcement tools. This is conforming with a lot of the state laws and different cases that have come about.”

City Manager Khalid Resheidat added that the city is working with The Bridge homeless shelter in DeLand that offers a day center where homeless people can take showers, receive haircuts, and participate in classes. The shelter also serves meals to those who are using its services. If police identify a homeless person camping in a place where it isn’t allowed, they may give the person an opportunity to enter The Bridge. If the individual refuses they may be issued a trespass warning, and a citation or arrest may be made. Evidence of “camping” includes a person using a tent or sleeping bag, or they may be covered with or inside some sort of temporary shelter. The criteria can include having a campfire and bathing in or washing clothes in public restrooms or other spaces. Mayor Russ Owen commented. “All the experts say the Police Department is not the agency that solves homelessness, although it is often the one that is called in first ... This gives us some tools, that then the officers can start directing and enforcing folks to get to the facilities where they can get the help that they need.”

In a potentially related matter, Commissioners also voted 4-0 to adopt an ordinance revising penalties for municipal ordinance violations. If no specific penalty is outlined for an infraction, the violation may be punished by a fine not to exceed \$500 or imprisonment for a period not to exceed 60 days ... or both penalties could be imposed at the discretion of the judge hearing the case.

Early in 2019, the City Commission voted to remove criminal penalties associated with ordinance violations. At that time, city staff reported the courts were requiring the city to pay for the legal representation of individuals charged with violating local laws and the city was concerned with those legal costs. Since then, court orders appointing attorneys for defendants and requiring the city to pay for them have decreased. At the same time, the Police Department has seen an increased need to have criminal penalties tied to certain violations, such as open containers.

The City Commission unanimously voted to give local businesses another four years to comply with a requirement to remove their pole signs and replace them with monument signs, subject to several conditions. The old deadline for compliance was Nov. 29 this year.

In 2011, a former City Commission passed the original ordinance requiring pole signs at businesses throughout New Smyrna Beach to be removed by Nov. 29, 2021. There are 173 existing pole signs citywide that would be in violation if they weren't removed by that deadline.

Commissioners discussed the issue in June this year and agreed most local business owners likely weren't aware of the approaching deadline. Due to that reality and economic challenges from the Covid-19 pandemic, the Commission directed its staff to draft language extending the pole sign deadline. The resulting ordinance also incorporates conditions intended to accelerate the removal of such signs. Those include:

- ✓ Starting on Nov. 29, 2023, no face changes are permitted on existing pole signs.
- ✓ As of Nov. 29, 2024, existing pole signs must be removed if the business use changes, a use that was terminated is reactivated, and if there is a change in the business' tenancy or ownership.
- ✓ A pole sign that is damaged by more than 50 percent cannot be replaced by another pole sign.

Business owners who have what are considered to be "vintage" pole signs can request an exemption from the ordinance to retain them.

"I'm not a big supporter of this, because I think everybody has kinda had 10 years," said Commissioner Randy Hartman, "but I know there have been issues, so I'll vote in favor of it tonight."

Commissioner Jason McGuirk added, "I don't necessarily see this as a blanket fits all, but I'm comfortable with the changes that have been discussed." McGuirk previously pointed out that removing a pole sign and replacing it with the less obtrusive monument sign can cost many thousands of dollars.

City Commissioners voted unanimously to adopt an ordinance that exempts the area of walkways, gangways or access piers that are five feet wide or less from the 1,000-square-foot, total allowable area of a residential dock.

Also, the restriction of 1,000 square feet will now exclude the area allotted to mooring poles and dedicated boat storage space.

Earlier this year, the city began discussing changes to the old standard that limited the total area of residential boat docks to 1,000 square feet, no matter how long the walkway extended out from the shore to reach the main part of the dock. Property owners who were forced to build long access ways to reach water deep enough to float a boat complained there was no square footage left to actually build a dock at that point.

A largely similar ordinance to the one approved Aug. 24 was voted down 3-2 in April, with Mayor Owen, Vice Mayor Sachs and Commissioner Kolody voting against it.

The City Commission agreed to permanently close the Turnbull Street Dog Park due to noise and other issues plaguing residents living nearby.

The dog park at 1220 Turnbull St. opened in February but was temporarily closed July 5 after citizens complained to the Commission.

Commissioner McGuirk said he had met with several residents who live next to the park. "The dog park is a fantastic idea, it was a great idea, but it has created a quality of life problem for the people who live immediately around it," he remarked. "I was hoping to get some sort of compromise where we could shut down part of it ... but the dog barking is too loud. That's not going to do it. So I'm going to support the residents to shut that down. My recommendation is to find another spot to put the dog park."