

New Smyrna Beach City Commission Meeting - Sept. 14, 2021

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City Commissioners heard a presentation from S&ME, an Orlando consulting firm that is kicking off a review of the city's Chapter 50 code that addresses historic preservation goals and guidelines.

Officials acknowledged they aren't certain if New Smyrna Beach can enforce design preferences for structures in its existing National Register historic districts, or if that requires the creation of a local historic district. That's something consultants and the city attorney are expected to discuss during the Chapter 50 assessment.

Pat Tyjeski, project manager for the chapter's review, outlined what it will entail. She noted the city has two established districts that are listed on the National Register of Historic Places. The Coronado Historic District on the beachside was established in 1997 with 83 structures of an age that contributed to the national district's creation, and the Mainland Historic District was established in 1990 with 313 contributing structures. In addition, there are 14 buildings designated as local landmarks. Most of those are owned by public entities such as the city.

Tyjeski said New Smyrna Beach has not enacted any ordinances creating local historic districts, which can help local governments protect historic-era structures from demolition and offer property owners guidance in renovating and updating them, among other attributes.

Assistant City Manager Brian Fields said the city has sent out two mailings to residents located in the National Register districts to gauge their support for creating such local historic districts, but the response to those mailings has been sparse. "A lot of people are nonresponsive," he said. "We're not sure if they're not interested or just haven't responded yet." Fields added that a third mailing is planned.

Tyjeski said S&ME has made presentations to the city's Historic Preservation Commission and based on comments from those Commissioners and input from the staff and City Commission, consultants will thoroughly review Chapter 50 and draft an outline of what may need to be changed. Then, they'll follow up with a draft ordinance to be discussed with city staff. There will be a public review of any proposed changes before they come to the City Commission for action on the revised ordinance. Tyjeski estimated the project would take about four months.

Requirements in the Chapter 50 code have been applied to structures within the National Register districts, but that practice has been challenged legally. As a result, the city now is only enforcing sections of the code relating to demolition requests.

Tyjeski said there currently is a single Certificate of Appropriateness process for proposed changes to historic structures. It goes through a staff review and then is acted upon by the Historic Preservation Commission. She proposed splitting that action off as a "Special" Certificate of Appropriateness and adding a "Standard" Certificate of Appropriateness for lesser changes to properties that could be processed administratively by city staff.

Also, there may be some confusion in the community over the difference between buildings that are designated as local landmarks and those that are considered contributing structures to the National Register districts. "That's something we would like to clarify through the process," Tyjeski said.

According to Tyjeski, design guidelines the city has been recommending for renovations of historic-age buildings were never officially adopted. The guidelines "were prepared back in 1991 and they have not been updated. We want to extract some of the things that are good in these guidelines and put them into the code, such as architectural style."

Of utmost importance, Tyjeski observed is that New Smyrna Beach has been designated a Certified Local Government (CLG) by the state of Florida. The CLG program was enacted as part of the National Historic Preservation Act Amendments of 1980. The program links three levels of government (*federal, state and local*) into a preservation partnership for the identification, evaluation and protection of historic properties. Designation as a certified local government, for either a city or county, makes historic preservation a public policy when the local government passes a historic preservation ordinance.

"Whatever we do with the changes to Chapter 50 we want to be sure that we are still meeting the requirements for that certification," Tyjeski emphasized. "The new ordinance will need to meet the minimum requirements to retain that status."

"We want to listen to the concerns of the community...," she added. "What we want to hear from the community is what has worked and what hasn't ... The one thing we've heard from the Historic Preservation Commission is, we don't want to water down the regulations. The idea is not to get rid of what you have now, but just to make it better and easier for staff to implement ... not to say, I don't like that window or that door."

Regarding the creation of local historic districts, Commissioner Jason McGuirk commented, "I think the key is maintaining the integrity and the look of the historic district without suffocating business development of the property. We want to, in my mind, encourage property owners to want to be able to designate their property historic. From what I understand, and what I hear from the property owners, they're scared of it. They're scared of the unknown, of being told to make something two or three times more expensive than it would be otherwise. The key to me, is for you to help us to develop guidelines to encourage people into (doing) this instead of forcing them."

Mayor Russ Owen observed, "We all value historic preservation ... We took an old building (*the former First Baptist Church*) and we repurposed it. It's now something that's usable. We respected its heritage as we did so. We're not Savannah, but we have our own thing. If someone wants to upgrade a wood window with a hurricane-rated vinyl window, I'm going to encourage that." Owen pointed out upgrades can be done and still make a property look like it belongs in a neighborhood of historic-age structures.

Commissioner Kolody questioned staff members about the requirement that two-thirds of property owners must approve of a local historic district. "In a new ordinance can we change that?" he asked. "We can," Assistant City Manager Fields answered. He then asked if the City could enforce the requirements in Chapter 50 in National Historic Districts having no local historic district designation.

City Attorney Carrie Avallone responded, "The real question is, can you require somebody in a National District to get a Certificate of Appropriateness when they're not in a local historic district?"

"You can, " Tyjeski commented, "because the (city's) code says whoever is within the National (Register) District is subject to these standards. That's how Ybor City does it."

"We have a legal difference of opinion on that," the city attorney countered.

"That's something I'd really like to get ironed out before we talk about changing things," Commissioner Kolody stressed.

"I think we've got obviously a long path ahead of us," Mayor Owen said, summarizing the discussion. "The key takeaway for me is what Commissioner Kolody said." Owen suggested S&ME consultants and the city attorney could discuss their differences over the enforcement of standards within city National Register districts and come to an agreement, adding, "I think that's a foundation we can find and then we can build from there."

The City Commission adopted an ordinance intended to prevent homeless persons from camping out on public spaces such as streets and sidewalks. Commissioners already passed a related law at a prior meeting to ban camping out in city parks.

Officials have been trying to handle a growing homeless problem and its resulting conflict with local residents. They worked out an agreement with The Bridge homeless shelter in DeLand to give homeless individuals congregating here a place to go. At the same time, Commissioners have enacted laws to provide police with the legal authority to deal with the issue of homeless people camping in public areas.

City Commissioners unanimously approved annexing, rezoning and proposing changes to the city's Comprehensive Land Use Plan for two small properties whose owners sought to annex into New Smyrna Beach. Those areas include:

- ✓ About 0.33 acres at 200 Howard Ave. This Habitat for Humanity property was changed from a county zoning of R-4, Urban Single-Family Residential (with a designation that shows it's near an airport) to a city zoning of R-2, Single Family Residential, also with an airport overlay designation.
- ✓ About 2.66 acres at 2659 Pioneer Trail. This property would change from a Volusia County zoning of A-3, Transitional Agriculture, with an additional notification that it is within an Airport Height Notification Zone; to a similar city zoning designation.

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