

New Smyrna Beach City Commission Meeting – Nov. 16, 2021

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Note: Vice Mayor Jason McGuirk was excused from this meeting.

City Commissioners voted 3-1, with Commissioner Jake Sachs dissenting, to approve an agreement between the city and Utilities Commission that spells out a restrictive process for the utility to sell its landmark properties – namely its headquarters at 200 Canal St. and 800 acres north of SR-44 and west of I-95.

Mayor Russ Owen explained he and his fellow Commissioners became concerned during the 2020 Charter Review process that there was no written procedure for the utility to dispose of its major properties. He noted that could have created the potential for a legal conflict between the city and Utilities Commission.

"The challenge was that this is an area ... where we really didn't have this process laid out," Owen said. "This Commission challenged staff of both the Utilities Commission and the city to work together to not leave that unsaid, to hammer out this agreement ... and say, this is how it should go."

The city of New Smyrna Beach donated lands to the Utilities Commission when the Utilities Commission began its operations about 1966. When the Utilities Commission decides a property is no longer needed for utility purposes, it is transferred back to the city. Land held in the name of Utilities Commission and acquired after 1966, generally may be sold, leased or otherwise transferred on such terms and conditions as determined by the Utilities Commission

The new interlocal agreement establishes a different process for selling or otherwise disposing of the utility's 800 acres and main office at 200 Canal St. For those properties, the Utilities Commission must agree by a unanimous vote of its governing board that either property is excess or surplus to the utility's needs, plus obtain a super-majority vote of the City Commission to approve the sale, then wait 30 days for the city's first right of refusal to expire. If the city decides to buy the property, a sale price would be determined from an average of two appraisals.

Commissioner Sachs said he was concerned about the possibility of the Utilities Commission selling all or part of its major properties, especially on the 800-acre tract. He recalled that he voted earlier this year against the City Commission's approval of an agreement with Volusia County to extend Williamson Boulevard through the 800 acres to intersect with SR-44. "I feel that when we build a corridor like this we potentially open the door for development, and I still have those concerns. We may use some of it for infrastructure for the Utilities Commission, but at the same time there will be excess area that could be developed," Sachs said. "We do have water quality issues. We have water pressure issues. All these things we may be looking at in the future."

Mayor Owen pointed out the interlocal agreement gives the city far more protection from a potential sale of the Utilities Commission's two major properties than it had previously. "I share your concerns," he said, "but to me this is a potential solution."

Sachs conceded the agreement "may offer some better protections." However, he suggested the sale of parts of the utility's 800 acres "has been bantered about for a long

time. I think this parcel should be retained solely for the use of the Utilities Commission and not to be sold off for parcels for homes, which are encroaching from the north.”

Commissioner Michael Kolody countered with, “There certainly are a lot of concerns regarding about the environment and where we’re going and what’s going to happen in the future. But what we have before us is really a narrow issue. It only deals with the sale of the property. It strengthens our hand and gets our input much more defined. And, I can think of no reason not to approve this.”

Mayor Owen presented the 2021 Donnadine Miller Memorial Historic Preservation Award to Randy & Angie Herman for their renovation of a historic home at 210 Palmetto St.

The annual historic preservation award was created in 2002, and in 2009 it was named in honor of the late Donnadine Miller, who chaired the city’s Historic Preservation Commission. The award recognizes buildings and historic sites of 50 years and older that promote pride in the city’s past and increase awareness and appreciation for its history and character. Properties that are nominated for the award are evaluated on how well they reflect the building’s original architecture, whether their restoration used appropriate building materials and colors, whether they promote sustainability and green design, incorporate native landscaping and other qualities.

Randy Herman noted, “There’s a myth that restoring a historic house is constraining ... when in fact, actually, we found it to be pretty creative. “So for folks that are hesitant, it really is a creative process and, as you can see, the house really did turn out pretty well.” He urged the Commission to consider giving its support to offering incentives for the preservation of local properties, and supporting the creation of local historic districts. Herman observed that two houses near 210 Palmetto St. were torn down instead of being renovated, an example of how the city is losing historic properties to demolition.

The City Commission heard the first reading of several ordinances that are expected to have second readings and public hearings at the Dec. 14 meeting. Those include:

- ✓ An ordinance clarifying the maximum unit density in the city’s Land Development Regulations for transient lodging throughout the B-3 (Highway Service Business) and B-4 (Ocean Commercial) zoning districts. The city proposes to state that 24 units per acre would be consistent with the Commercial Future Land Use of those areas, as shown in the city’s Comprehensive Plan.
- ✓ An ordinance amending those regulations to permit “vintage” pole signs to remain in place and be exempt from future rules to generally eliminate pole signs.
- ✓ An ordinance amending the Interlocal Service Boundary Agreement between the city and Volusia County. Significant changes are proposed to the boundary agreement, such as transferring responsibilities for permit processing, plan review, inspection and code enforcement of areas outside the city limits --- but within the city’s Municipal Service Area – from the city to the county. New Smyrna Beach previously performed those services for county-zoned properties in its service area.

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