

**MINUTES**  
**CITY COUNCIL MEETING**  
**October 10, 2017**  
**3048 S. Atlantic Ave. Daytona Beach Shores, FL 32118**

**Present:** Council Member Lorraine Geiger, CouncilMember Mel Lindauer, CouncilMember Richard Bryan, Mayor Harry Jennings, Vice Mayor Peggy Rice. *Staff: City Manager Michael Booker, City Clerk Cheri Schwab, City Attorney Lonnie Groot, Community Services Director Fred Hiatt, Finance Director Steve Whitmer, City Planner Stewart Cruz, and Public Safety Director Stephan Dembinsky.*

**1. CEREMONIAL ITEMS, PRESENTATIONS AND PUBLIC NOTICES:** None.

**2. APPROVAL OF THE MINUTES:** September 26, 2017 City Council Meeting

**CMBR LINDAUER moved, seconded by CMBR RICE to approve the minutes of September 26, 2017.**

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 5).

**Yes:** Council Member Lorraine Geiger, CouncilMember Mel Lindauer, CouncilMember Richard Bryan, Mayor Harry Jennings, Vice Mayor Peggy Rice.

**3. CONSENT AGENDA:** None.

**4. REPORTS OF THE CITY ATTORNEY:** City Attorney Groot gave a brief history of the lots purchased by the County and their intended use as parking lots. Director Hiatt denied the site plans and the County appealed his decision. The County of Volusia initiated three lawsuits, two regarding the lots and one over the recently adopted parking lot ordinance. Attorney Groot filed two Motions to Abate and the judge sided with the city. Now the process of Conflict Resolution begins. At their most recent meeting, the County passed a Resolution to initiate the conflict resolution process. At that same meeting, the County also enacted an ordinance amending chapter 20, Beach Code, to clarify that all county property between the beach and the easternmost north-south roadway is included in the charter preemption of municipal regulation. He proposed two Resolutions for the council to consider. The first one responds to the County's resolution to begin the Conflict Resolution process on the existing two properties. The second one challenges the County's Ordinance 2017-24 that would strip the city's Comprehensive Plan and zoning powers to beach access owned by the County. It will initiate the Conflict Resolution process for their ordinance.

**Resolution 2017-05** A RESOLUTION OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA ADOPTED PURSUANT TO CHAPTER 164, *FLORIDA STATUTES* (THE *FLORIDA GOVERNMENTAL CONFLICT RESOLUTION ACT*) AND OTHER CONTROLLING LAW; REQUESTING THE COUNTY COUNCIL TO

CEASE ITS AGGRESSIVE AND COMBATIVE ACTIONS AGAINST THE CITY; DECLARING THE NECESSITY OF THE VOLUSIA COUNTY COUNCIL TO ADHERE TO CONTROLLING LAW AND ENGAGE IN GOOD FAITH NEGOTIATIONS AND ALTERNATIVE DISPUTE RESOLUTION PROCESSES; EXPRESSING THE INTENT AND DESIRE OF THE CITY COUNCIL PROVIDING FOR LEGISLATIVE AND ADMINISTRATIVE FINDINGS; PROVIDING FOR IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

CMBR Bryan would like a “win-win” solution to occur where both a parking lot and a building can exist on the property. He doesn’t want to see excess money spent on legal fees. Attorney Groot explained the Resolution forces a face to face meeting between the two entities.

Audience member Frank Dart felt that a compromise needs to happen with the County of Volusia otherwise taxpayers would have to pay a lot of money towards lawsuits.

**CMBR GEIGER moved, seconded by CMBR RICE to adopt Resolution 2017-05 on first reading.**

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 5).

**Yes:** Council Member Lorraine Geiger, CouncilMember Mel Lindauer, CouncilMember Richard Bryan, Mayor Harry Jennings, Vice Mayor Peggy Rice.

**Resolution 2017-06** A RESOLUTION OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA ADOPTED PURSUANT TO CHAPTER 164, *FLORIDA STATUTES* (THE *FLORIDA GOVERNMENTAL CONFLICT RESOLUTION ACT* INITIATING THE ENGAGEMENT IN GOOD FAITH NEGOTIATIONS AND ALTERNATIVE DISPUTE RESOLUTION PROCESSES WITH THE VOLUSIA COUNTY COUNCIL AND REQUESTING THE COUNTY COUNCIL TO ADHERE TO CONTROLLING LAW; INITIATING DISPUTE RESOLUTION RELATIVE TO THE COUNTY COUNCIL’S ADOPTION OF ORDINANCE NUMBER 2017-24 ASSERTING THAT ALL COUNTY PROPERTY (WITHIN THE CITY LIMITS OF ANY CITY, BUT, TO THE POINT HEREIN, WITHIN THE CITY LIMITS OF THE CITY OF DAYTONA BEACH SHORES) BETWEEN THE BEACH AND THE EASTERNMOST NORTH-SOUTH ROADWAY IS INCLUDED IN THE COUNTY CHARTER’S PREEMPTION OF MUNICIPAL REGULATION; EXPRESSING THE INTENT AND DESIRE OF THE CITY COUNCIL PROVIDING FOR LEGISLATIVE AND ADMINISTRATIVE FINDINGS; PROVIDING FOR IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

It was noted that this would authorize the filing of a lawsuit against the County of Volusia.

**CMBR RICE moved, seconded by CMBR GEIGER to adopt Resolution 2017-06 on first reading.**

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 5).

**Yes:** Council Member Lorraine Geiger, CouncilMember Mel Lindauer, CouncilMember Richard Bryan, Mayor Harry Jennings, Vice Mayor Peggy Rice.

City Attorney Groot announced that an Executive Strategy session was set for Oct. 13<sup>th</sup> at 1:00 pm.

**5. REPORTS OF THE CITY MANAGER:** The City Manager announced that the Treasure Island property finally was sold. The JayMor group purchased it. He also stated the renovation of the tennis courts won't begin until January due to the sub-contractor's schedule.

**OLD BUSINESS:** None.

**NEW BUSINESS:**

**6. Ordinance 2017-12 AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, RELATING TO BUILDING HEIGHT AND PERMITTED AND PROHIBITED USES; AMENDING THE *MUNICIPAL CODE OF ORDINANCES, LAND DEVELOPMENT CODE*; AMENDING APPENDIX "G", AMENDING CHAPTER 2 ENTITLED "DEFINITIONS," BY AMENDING SECTION 2-2 ENTITLED "GENERAL DEFINITIONS" TO PROVIDE A DEFINITION FOR LARGE LOTS AND AMENDING THE DEFINITION OF BUILDING HEIGHT; AMENDING CHAPTER 14 ENTITLED "ZONING REGULATIONS," BY AMENDING SECTION 14-18 ENTITLED "RMF-1 MULTI-FAMILY RESIDENTIAL DISTRICT (HIGH DENSITY)," SECTION 14-21 ENTITLED "T HOTEL/MOTEL DISTRICT," SECTION 14-24 ENTITLED "PUD PLANNED UNIT DEVELOPMENT," SECTION 14-32 ENTITLED "TC-MUPUDE TOWN CENTER MIXED USE PLANNED UNIT DEVELOPMENT EAST DISTRICT," AND SECTION 14-26, ENTITLED "P PUBLIC/QUASI PUBLIC," TO, AMONG OTHER THINGS, INCREASE THE MAXIMUM PERMITTED BUILDING HEIGHT ON LARGE LOTS IN SOME OF THE AFOREMENTIONED ZONING DISTRICTS AS WELL AS TO PROVIDE FOR MINIMUM AND MAXIMUM DENSITIES AND TO PROVIDE FOR THE PROHIBITED USE OF OFF BEACH PARKING; PROVIDING FOR ENFORCEMENT; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR A SAVINGS PROVISION INCLUDING, BUT NOT LIMITED TO RATIFICATION OF ACTIONS OF THE CITY COUNCIL AS WELL AS ALL FINDINGS RELATING THERETO; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. **First Reading.****

City Planner Stewart Cruz explained the proposed Ordinance would amend the Daytona Beach Shores Land Development Code as follows:

1. Establish a definition for large lot;
2. Establish a minimum side yard setback for buildings over 12 stories;
3. Revise building heights in the Hotel/Motel "T", Multifamily Residential (High Density) "RMF-1" and planned unit development zoning districts pursuant recently adopted Comprehensive Plan Policy 1-1.1.2(6);
4. Prohibit parks and parking lots in the abovementioned districts; and

5. Permit parks and parking lots in the “P” Public/Quasi Public District by means of Statutory Development Agreement.

Audience member Frank Dart stated his opposition to any 26-story building in the city. CMBR LINDAUER inquired how many new properties would be allowed under the new definition of a large lot and City Planner Stewart Cruz replied 15. CMBR Bryan entered a statement (attached) that he read verbatim into the minutes regarding building height. CMBR Lindauer felt mixing the two issues of height and a potential development agreement for parking lots should be separated.

**CMBR RICE moved, seconded by CMBR GEIGER to approve Ordinance 2017-12 on first reading.**

**Vote:** Motion passed (**summary:** Yes = 3, No = 2).

**Yes:** Council Member Lorraine Geiger, Mayor Harry Jennings, Vice Mayor Peggy Rice.

**No:** CouncilMember Mel Lindauer, CouncilMember Richard Bryan.

CMBR Lindauer noted his negative vote was due to the parking lot inclusion.

**7. Ordinance 2017-13 AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, RELATING TO MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES; PROHIBITING/BANNING SUCH FACILITIES AS A LAWFUL USE WITHIN THE BOUNDARIES OF THE CITY AS AUTHORIZED BY SECTION 381.986, FLORIDA STATUTES; AMENDING THE MUNICIPAL CODE OF ORDINANCES, LAND DEVELOPMENT CODE, TO PROHIBIT/BAN ALL SUCH USES IN ALL ZONING DISTRICTS OF THE CITY; PROVIDING FOR IMPLEMENTING PROVISIONS AND A DEFINITION; PROVIDING FOR A MORATORIUM CONTINGENCY; PROVIDING FOR ENFORCEMENT; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. First Reading.**

**CMBR GEIGER moved, seconded by CMBR LINDAUER to approve Ordinance 2017-13 on first reading.**

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 5).

**Yes:** Council Member Lorraine Geiger, CouncilMember Mel Lindauer, CouncilMember Richard Bryan, Mayor Harry Jennings, Vice Mayor Peggy Rice.

## **8. Approval to award bids for dune walkovers**

Director Hiatt explained the bid process he used for the dune walkovers. A total of three companies submitted bids, but one was rejected due to non-compliance with the bid standards. He proposed awarding two bids (St. Kitts and Marbella) to MGN for a total of \$113,151 and the remaining four bids to Saboungi for a total of \$348,010. The total cost for all six bids is \$461,161. This will be filed with FEMA for reimbursement.

**CMBR RICE moved, seconded by CMBR GEIGER to approve the bids for the dune walkovers as recommended.**

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 5).

**Yes:** Council Member Lorraine Geiger, CouncilMember Mel Lindauer, CouncilMember Richard Bryan, Mayor Harry Jennings, Vice Mayor Peggy Rice.

**9. COUNCIL COMMENTS:** CMBR Geiger informed the audience that there was one ticket left available for the Octoberfest event. CMBR Lindauer commented on the current state of Peninsula Drive with all the storm debris not picked by the County. He was very proud of the city and their quick efforts. He also wished to thank Waste Pro for bringing the containers up to the residences during the recent high wind conditions. Mayor Jennings announced the recent fall Pickleball tournament was a very successful event. He thanked the city staff who worked the event. He attended a recent Mayor’s meeting where two issues were discussed. The first, was cost differential for schools that exists in our county versus other counties. The second was a recent sales tax survey. A half cent versus one cent to help provide for infrastructure costs. It seems there is support for the half cent increase.

**10. AUDIENCE REMARKS/PUBLIC COMMENTS:** John Ersland spoke pedestrian safety. He inquired when more improvements would be implemented. It was explained that as funds are available, the city would continue to make improvements.

**11. ITEMS RECOMMENDED FOR THE NEXT AGENDA:** None.

**12. ADJOURNMENT:** The meeting ended at 8:20 pm

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**MAYOR  
HARRY H. JENNINGS**

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**CITY MANAGER  
MICHAEL T. BOOKER**

**ATTEST:**

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**CITY CLERK, CHERI SCHWAB**