



# City of Daytona Beach Shores

*"Life is Better Here"*

*"A Premier, Friendly Place to Be"*

## AGENDA CITY COUNCIL MEETING

**July 10, 2018**

**7:00 p.m., Shores Community Center, 3000 Bellemead Drive  
Daytona Beach Shores, FL 32118**

Upon being recognized, a member of the public shall proceed to the podium and give his or her name and address and may, thereafter, speak for a maximum of three minutes on any matter relevant to a specific agenda item. During "Audience Comments," a member of the public may speak on any matter relevant to City business which is not on the agenda, for a maximum of three minutes in accordance with Section 2-1.1(d) and 2-2 of the City Code. In accordance with Section 2-2, during periods set aside for public discussion any person desiring to speak shall secure a form located at the agenda table, complete the form and present it to the City Clerk so the speaker can be recognized by the presiding officer. The use of profanity, obscene language, threats or any violent or abusive conduct by any person shall constitute a violation of this section. It shall be the duty of the Director of Public Safety, upon the order of the presiding officer at any such meeting, to forcibly, if necessary, evict any person violating the provisions of this section from the Council Meeting Hall. Any such violation shall subject the offender, upon conviction thereof, to a fine and/or imprisonment as prescribed by Section 1-8.

### **CALL TO ORDER BY MAYOR**

### **ROLL CALL BY CITY CLERK**

### **CEREMONIAL MATTERS:**

#### **PRAYER**

#### **PLEDGE OF ALLEGIANCE**

### **1. CEREMONIAL ITEMS, PRESENTATIONS AND PUBLIC NOTICES:**

### **BUSINESS OF THE CITY COUNCIL:**

#### **ORDER OF BUSINESS**

#### **2. APPROVAL OF THE MINUTES: June 26, 2018**

#### **3. CONSENT AGENDA:**

- Approval for cost increase to Master Station Bypass Pump

#### **4. REPORTS OF THE CITY ATTORNEY:**

#### **5. REPORTS OF THE CITY MANAGER:**

**OLD BUSINESS: None.**

**NEW BUSINESS:**

6. **Resolution 2018-06** A RESOLUTION OF THE CITY OF DAYTONA BEACH SHORES, VOLUSIA COUNTY, FLORIDA, SETTING THE PROPOSED MILLAGE RATES FOR THE CITY FOR FISCAL YEAR 2018-2019; PROVIDING AN EFFECTIVE DATE. **First Reading and Public Hearing.**
7. Resolution relating to implementation of Section 2.04(c) of the *City Charter*
8. Discussion on plans for Senior Center
9. **COUNCIL COMMENTS:**
10. **AUDIENCE REMARKS/PUBLIC COMMENTS:**
11. **ITEMS RECOMMENDED FOR THE NEXT AGENDA:**
12. **ADJOURNMENT:**

Notice is hereby given to all interested parties that if a person should decide to appeal any decision made at the aforementioned meeting of the City Council, such person will need a recording of the proceedings conducted at such meeting, and for such purpose he or she may need to ensure that a verbatim record of the proceedings was made; such record to include testimony and evidence upon which any appeal shall be based. Please be advised that all City Council Meetings are recorded. Note: Individuals covered by the Americans with Disabilities Act of 1990 in need of accommodations for this public meeting should contact the Office of the City Clerk at 2990 S. Atlantic Avenue, Daytona Beach Shores, FL 32118, or telephone 386-763-5364 at least seven working days prior to the meeting.

**PRESENTATIONS AND PUBLIC NOTICES:**

**MINUTES**  
**CITY COUNCIL MEETING**  
**June 26, 2018**  
**3000 Bellemead Drive Daytona Beach Shores, FL 32118**

**Present:** CouncilMember Mel Lindauer, CouncilMember Richard Bryan, Mayor Harry Jennings, Vice Mayor Peggy Rice, and Council Member Lorraine Geiger. *Staff: City Manager Michael Booker, City Clerk Cheri Schwab, City Attorney Lonnie Groot, Finance Director Kurt Swartzlander, Community Services Director Fred Hiatt, and Public Safety Captain Michael Fowler.*

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

**2. APPROVAL OF THE MINUTES:** June 12, 2018

**CMBR GEIGER moved, seconded by CMBR LINDAUER to approve the June 12, 2018 minutes.**

**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:**

- Approval for Interlocal Agreement Municipal Fleet Fueling Service

**CMBR RICE moved, seconded by CMBR GEIGER to approve the consent agenda.**

**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.

**4. REPORTS OF THE CITY ATTORNEY:** None.

**5. REPORTS OF THE CITY MANAGER:** None.

**OLD BUSINESS:** None.

**NEW BUSINESS:**

**6. Discussion and Consideration of proposed settlement agreement with County of Volusia regarding land parcels**

CMBR Bryan moved to make minor changes to the markup by Assistant County Attorney

Rodriguez. There was no second and the motion died.

Mayor Jennings questioned CMBR Bryan on his attendance at the recent County Council meeting and what he said to them. CMBR Bryan stated that he told them he appreciated that they changed their desire to have mediation and submitting their counter proposal, trying to work this out by trading paper basically. Mayor Jennings stated that the County Council had voted for mediation and CMBR Bryan said no they hadn't. They only voted to have the county legal staff send the city revisions. CMBR Bryan referred to a handout of the rough transcript he distributed before the meeting. Michael Rodriguez, the Assistant County Attorney was sitting in the audience, and the Mayor asked him to clear up the mediation issue. Attorney Rodriguez explained that he was not authorized to speak on behalf of the County of Volusia.

City Attorney Groot stated that he had recently listened to the audio from the County meeting and there was no motion made, no second, no action taken in regard to mediation. The County Council did direct the legal staff to send a revised draft of the agreement to the city. That document is on the agenda tonight. If the city council rejects the draft, then you go back to mediation. If the council approves or amends the draft tonight, that is ok and it will be sent back to the county. CMBR Lindauer inquired if they were considering the revision in the agenda packet or discussing the broader choices that the council has. Attorney Groot stated that he was ethically obligated to submit the draft he received by the county legal department for the council's consideration.

CMBR Bryan again moved to make minor changes and send it back to the county. Attorney Groot explained that this was all discussion and a motion was not needed. Any member could propose a change. CMBR Bryan read from a handout he would like attached to the minutes. He felt the issue of the design and permitting could be resolved if the building officials had a meeting to flush out the site plan. Community Services Director Fred Hiatt asked for a more detailed direction. He and his staff have already stated how the design doesn't fit in with the City's Land Development Code. Mayor Jennings felt the city council shouldn't have to compromise and wanted to begin mediation. CMBR Bryan disagreed believing both sides were close to an agreement. He felt the county had agreed to set aside the legal issues. CMBR Rice stated she was extremely disappointed with CMBR Bryan for attending the county council meeting. He disrespected his fellow councilmembers by talking on our behalf without our permission. The city is in ongoing negotiations that could have a financial effect to all property owners. CMBR Bryan replied his remarks were only his opinion and CMBR Rice responded back that it took him halfway into his speech before he stated his opinion. She felt the issue needed due diligence. She brought up the recent email from CMBR Bryan that called the City Attorney a liar. She was very offended by that. CMBR Bryan replied that the City Attorney made a false statement. CMBR Rice said that was his opinion only. CMBR Bryan said it was unimportant. However, the other councilmembers stated emphatically it was very important. CMBR Lindauer stated that it was a grave mistake for you (CMBR Bryan) to go there and present yourself as a city councilmember. It gave the impression that you were speaking on behalf of the entire council.

**CMBR Rice moved, seconded by CMBR Geiger this is not the first time that Richard has taken on the role of City Manager or Mayor or City Attorney I would like to consider commencing an investigation as to whether CMBR Bryan committed malfeasance and neglect of duty be appearing before and speaking at the June 19<sup>th</sup> County Council meeting. He did so while litigation between the city and county was pending and while the Chapter 164 process is in effect.** CMBR Lindauer reiterated his disappointment with CMBR

Bryan. CMBR Bryan responded that there is a difference between disappointment and malfeasance. He didn't think there was any malfeasance.

**Vote:** Motion carried by roll call vote (**summary:** Yes = 4, No = 1).

**Yes:** Council Member Lorraine Geiger, CouncilMember Mel Lindauer, Mayor Harry Jennings, Vice Mayor Peggy Rice. **No:** CouncilMember Richard Bryan

The discussion returned to the agenda item of the proposed settlement agreement. City Attorney Groot summarized for the council that the county continues to want to regulate the property citing Chapter 20 of the County Beach Code. They would have jurisdiction, they would design, permit and construct the parking lots. CMBR Bryan returned to his handout regarding this agenda item. In his opinion, the legal issues can be set aside and staff from both the city and county can work out the details. Attorney Groot suggested that the agreement would be sent back to the county minus the provision that the county has jurisdiction. If the county rejects the offer, then mediation would follow. MAYOR Jennings mentioned that the county could still purchase land within the city. CMBR Lindauer would like to include something in the agreement that says it is only applied to these two properties.

**CMBR Rice moved, seconded by CMBR Bryan to propose to the county that an agreement similar to the one crafted by Attorney Rodrigues is developed which strikes all jurisdictional language relative to Chapter 20 of the county code, ie the beach code.**

MAYOR Jennings felt that if the jurisdictional problem isn't solved, this will continue to go on.

**Vote:** Motion carried by roll call vote (**summary:** Yes = 4, No = 1).

**Yes:** Council Member Lorraine Geiger, CouncilMember Mel Lindauer, CouncilMember Richard Bryan, Vice Mayor Peggy Rice. **No:** Mayor Harry Jennings.

City Attorney Groot mentioned that he had sent over seven female names for a mediator. The County didn't like any of them and they sent back three male names. He has found another choice to submit to the county, Carlos Alvarez. He specializes in mediations and was very impressed with him.

**CMBR Rice moved, seconded by CMBR Geiger to approve Carlos Alvarez as mediator.**

**Vote:** Motion carried by roll call vote (**summary:** Yes = 4, No= 1).

**Yes:** Council Member Lorraine Geiger, CouncilMember Mel Lindauer, Mayor Harry Jennings, Vice Mayor Peggy Rice. **No:** CouncilMember Richard Bryan.

City Attorney Groot explained the process as it related to the Vice Mayor's earlier motion regarding CMBR Bryan. The charter provides that an investigation be conducted by a committee of one or more. The City Council appoints the committee. In the past, a former Circuit Court judge was used. He will bring options for the council at the next meeting.

**7. COUNCIL COMMENTS:** CMBR Geiger announced the next free concert was Friday night with the band HiWay 40. CMBR Lindauer congratulated Rick Frizalone on being a Councilmember elect as he ran unopposed. CMBR Bryan introduced Nancy Miller who is

running for Mayor. MAYOR Jennings explained that he recently met with the family of the boy who was struck by lightning three years ago. He is still recuperating with some paralysis on his right side.

**8. AUDIENCE REMARKS/PUBLIC COMMENTS:** None.

**9. ITEMS RECOMMENDED FOR THE NEXT AGENDA:** Vice Mayor Rice asked for a discussion on plans for the Senior Center.

**10. ADJOURNMENT:** The meeting ended at 7:54 pm.

---

**MAYOR  
HARRY H. JENNINGS**

---

**CITY MANAGER  
MICHAEL T. BOOKER**

**ATTEST:**

---

**CITY CLERK, CHERI SCHWAB**

STATEMENT BY RICHARD BRYAN TO BE ADDED VERBATIM TO THE MINUTES – 26 JUNE 2018

It has been more than 3 months since the County Council and the DBS Council met and agreed on a way forward to resolve the dispute over the 2 county owned beachfront properties. I sent an email to Lonnie which he forwarded to all of the City Council members that had an attachment that contained a rough transcript of the County Council discussion of the dispute with DBS at their 5 June meeting.

The County Council asked the county legal staff to make another attempt to get an agreed upon written settlement agreement. The county legal department invited us to do just that several weeks ago. As I have said before, I believe another joint meeting is not necessary. The county legal department sent a markup to Lonnie's draft on 12 June. That markup is very close to what we agreed to on 6 March. I believe we only need to make a few suggested changes (which I believe they will accept) to their markup and flesh out some details of the site plans (I think Fred and Clay and /or other designees could do that if they were asked to do so).

I think most people who were at the joint meeting on 6 March or who have reviewed the transcript of the joint meeting would agree that the following is a fair summary of what was agreed to at the meeting:

*We would deal only with the 2 properties and they would be parks/parking lots like those submitted by the county in the past. We would leave the issue of jurisdiction over other properties unresolved and dismiss the lawsuits. We would agree on the necessary details for the parks/parking lots without resolving who has jurisdiction over those details. We would not deal with possible future property that would possibly be purchased by the county. We would leave open the possibility of having taxable property over the parks/parking lots (the issue of "air rights") at an appropriate time in the future.*

In the rough transcript of the county council discussion on 5 June, there is a consistent, but more succinct summary of our joint verbal agreement with the county - "the agreement was to set aside all the legal issues and we will jointly design the parks."

We have discussed those suggested changes to the markup (the green colored markup on page 6) before and they are:

A. We would jointly agree to somewhat more detailed Master Plans that satisfy any significant requirements of the City and County. I think City and County staff should be able to meet and come up with those details in the near future. I doubt that there are any significant differences in requirements. DBS can agree to delegate the permitting authority as long as the permits are consistent with the more detailed Master Plans. The county can agree to the delegation and, if they desire, can state that the county believes the delegation is not necessary.

B. The issue of "no parking on the beach in front of the parking lot" - To be fair, I recall "no parking on the beach in front of the parking lot" being discussed at the joint meeting but there seemed to be reluctance by some county people to commit to that at this point in time. I don't know why. I think they will agree at some point in time because that is the case for other beachside parks/parking lots in DBS, Daytona, and Ormond. It might be best to just have wording like "that the city and county will explore the pros and cons of not having parking in front of the parks/parking lots at least 3 months before completion". I think that will be enough to make it actually happen.

Let's get this agreement done (with the approval of the majority of the City Council) without wasting much more time and more of the taxpayer's money. I believe that there were 11 of 12 council members that were satisfied with the verbal agreement when it was made and that most of them would agree with the above characterization of the verbal agreement. We all should be professional and live up to the verbal agreement whether or not there are parts we may not like.



# City of Daytona Beach Shores

## Building & Codes Division

Department of Community Services

Telephone (386) 763-5377

Fax (386) 763-5370

### MEMORANDUM

CS-2018-02

DATE: July 5, 2018  
TO: Michael T. Booker, City Manager  
FROM: Fred G. Hiatt Jr., Community Services Director  
SUBJECT: Master Station Bypass Pump

---

We budgeted 27k this year to replace the tank and enclosure on the master station's bypass pump. This work was also to include general rehab and repair of the pumping side of the pump. The pump is made by Thompson Pump and is a proprietary item for parts and rebuilds.

We scheduled this work and Thompson came over and removed the pump to take to the shop for repair and replaced it with a temporary pump while this work was ongoing. While repairing the pump and performing diagnostics, they discovered a cylinder lacked compression and ultimately found the diesel engine needs to be replaced.

The new total repair/rehab cost has increased to \$59,940. Because we're already on the hook for almost 20k of work, I'm requesting the City Council waive the competitive bidding process and approve the additional repair costs. We have adequate funds in the sewer capital account to cover this work. Once this work is completed the pump will be equivalent to a new pump. Please let me know if you have any questions or concerns.



**PORT ORANGE BRANCH**  
 PATRICK CHAMPAGNE  
 4620 CITY CENTER DR  
 PORT ORANGE, FL 32129  
 USA  
 Phone No. 386-767-7310  
 Fax No. 386-767-4753

**Service Order**

**Service Item No.**  
 Work Order No. WO-135764  
 Order Date 06/26/18 Status Initial  
 Customer P.O. Tom Brown 386-763-7577

**Invoice to** DAY7  
 CITY OF DAYTONA BEACH SHORES  
 ACCOUNTS PAYABLE  
 2990 SOUTH ATLANTIC AVE  
 DAYTONA BCH SHORES FL 32118

**Comments**

CUSTOMER REQUESTED INSPECTION OF UNIT AND QUOTATION OF REPLACEMENT OF CORRODED PARTS AND COMPONENTS.

\*\*

**CUSTOMER CONTACT:**  
 TOM BROWN  
 tbrown@cityofdbso.org  
 386.763.7577

\*\*

**Brief Complaint**  
**Cause**  
**Brief Correction**

Service Item No.	Description	Serial No.	Warranty	Repair Status Code
12JSC-093	12" ENVIROPRIME HIGH HEAD	12JSC-093	No	INITIAL

**Fault Comments**

----INSPECTION FINDINGS----

- Extensive corrosion damage to enclosure.
- Corrosion damage to the unit's frame/fuel cell.
- Electrical system has corrosion issues
- Radiator is leaking coolant

---SEE ATTACHED PICS---

----RECOMMENDATION:----

- Canopy and frame replacement is needed - These repairs are done at TPM shop in Port Orange.
- The radiator and electrical components that need cleaned/replaced will be done at the same time.
- The unit can be removed and a temporary unit can be put in its place while repairs are made.
- With the unit at our repair facility we can thoroughly complete an evaluation and estimate for the complete refurbishment and performance testing of the unit.
- Due to leadtime for enclosure and frame we will need PO 8 weeks prior to unit being brought to shop to minimize rental and downtime.

----BUDGETARY RENTAL NUMBERS----

Rental can be done at a stand-by rate unless used. Official pricing will be separate from the repair estimate.  
 (Stand-by Rental Rate contingent upon repair work = \$1,625.00 per month)  
 (In-use Rental Rate contingent upon repair work = \$3,250.00 per month)

*waived if Repairs are made*  
*ETB*



PORT ORANGE BRANCH  
 PATRICK CHAMPAGNE  
 4620 CITY CENTER DR  
 PORT ORANGE, FL 32129  
 USA  
 Phone No. 386-767-7310  
 Fax No. 386-767-4753

### Service Order

Service Item No.  
 Work Order No. WO-135764  
 Order Date 06/26/18 Status Initial  
 Customer P.O. Tom Brown 386-763-7577

Invoice to DAY7  
 CITY OF DAYTONA BEACH SHORES  
 ACCOUNTS PAYABLE  
 2990 SOUTH ATLANTIC AVE  
 DAYTONA BCH SHORES FL 32118

Service Lines

Service Item No.	Type	No.	Description	Quantity	Unit Price Excl. Tax	Line Discount %	Amount	Gross Amount
			---REMOVAL AND	0.00	0.00	0	0.00	0.00
			INSTALL OF RENTAL---	0.00	0.00	0	0.00	0.00
	Resour	PTO-CF	Removal of 12JSC-093	4.50	125.00	0	562.50	562.50
	Resour	PTO-RG	Labor	4.50	62.50	0	281.25	281.25
	Resour	RP-OUT	CRANE RENTAL (DAY)	1.00	1,680.00	0	1,680.00	1,680.00
	Resour	RP-FRT	FREIGHT-CARRIER (Repair)	1.00	150.00	0	150.00	150.00
			---ESTIMATE OF	0.00	0.00	0	0.00	0.00
			REPAIRS/PARTS--- SEE BELOW	0.00	0.00	0	0.00	0.00
	Item	K08-JSCW0827-S1	12JSC-DJDS-606BT W/HOLSET 13.2	1.00	11,752.46	46.63007	6,272.28	6,272.28
	Item	M27-EC-48120-12J-1	ENCLOSURE, 12JSC-SV 48" X 120	1.00	13,195.68	17.87085	10,837.50	10,837.50
	Resour	PTO-CM	PTO-CM-LABOR	15.00	105.00	0	1,575.00	1,575.00
	Resour	PTO-RG	PTO RG LABOR	4.00	105.00	0	420.00	420.00
			---REMOVAL OF RENTAL	0.00	0.00	0	0.00	0.00
			AND INSTALL---	0.00	0.00	0	0.00	0.00
	Resour	PTO-CF	REMOVAL/INSTALL	4.50	125.00	0	562.50	562.50
	Resour			0.00	0.00	0	0.00	0.00
	Resour	RP-FRT	FREIGHT-CARRIER (Repair)	1.00	150.00	0	150.00	150.00
	Resour	PTO-RG	LABOR	4.50	105.00	0	472.50	472.50
				0.00	0.00	0	0.00	0.00
	Resour	RP-OUT	CRANE RENTAL( DAY)	1.00	1,680.00	0	1,680.00	1,680.00



PORT ORANGE BRANCH  
 PATRICK CHAMPAGNE  
 4620 CITY CENTER DR  
 PORT ORANGE, FL 32129  
 USA

Phone No. 386-767-7310  
 Fax No. 386-767-4753

### Service Order

Service Item No.  
 Work Order No. WO-135764  
 Order Date 06/26/18 Status Initial  
 Customer P.O. Tom Brown 386-763-7577

Invoice to DAY7  
 CITY OF DAYTONA BEACH SHORES  
 ACCOUNTS PAYABLE  
 2990 SOUTH ATLANTIC AVE  
 DAYTONA BCH SHORES FL 32118

Item	F91-C341-003-0000	RADIATOR, 4045T 6068D/T STD	1.00	1,987.32	31.90327	1,353.30	1,353.30
		ADDITIONAL REPAIRS NEEDED	0.00	0.00	0	0.00	0.00
			0.00	0.00	0	0.00	0.00
		ENGINE	0.00	0.00	0	0.00	0.00
Item	E91-6068TF275-LB	ENGINE, 6068TF275 LONG BLOCK	1.00	21,406.57	16.13322	17,953.00	17,953.00
Item	R47-9101-4148	STARTER, 3013 12V CW DELCO	1.00	726.5208	56.02323	319.50	319.50
Item	F91-SE501237	PUMP, INJ STANDYNE REMAN	1.00	1,969.50	0	1,969.50	1,969.50
Item	R46-9015-6170	ALTERNATOR, 4045/68-81D/T B3.9	1.00	1,005.074	64.43034	357.50	357.50
Item	F91-RE167207	SENSOR, PRESS OIL T12	1.00	112.97	33.61069	75.00	75.00
Item	F91-RE519144	SENSOR, MAGNETIC PU 6068T	1.00	42.86	15	36.26	36.26
Item	R48-COOLANT-LVL-SD	KIT, SHUTD COOLANT LEVEL	1.00	661.0952	61.62457	253.70	253.70
Item	F91-RE518285	HARNES, ENG 6068T	1.00	1,008.2052	64.78908	355.00	355.00
Item	F91-RE516537	HARNES, WIRING 36" DBL FEMALE	1.00	424.16	15	360.54	360.54
		PUMP & PRIMING	0.00	0.00	0	0.00	0.00
Item	Q55-RA-12X12S1G1288	ROTATING ASSY, 12X12S1 12.88	1.00	14,391.592 6	46.91084	7,640.36	7,640.36
Item	K72-CHECKFLG12	VALVE, CHECK SWING 12" CI	1.00	4,336.0322	15	3,685.63	3,685.63
Item	Q29-COMP-FLOAT-010	RELEASE, COMP AIR-SYS	1.00	935.6623	25.68775	695.31	695.31
Resour	MISC SHOP SUPPLIES	MISC SHOP SUPPLIES	10.00	12.25	0	122.50	122.50
Resour	WSTDSP	WASTE DISPOSAL ITEMS	10.00	4.00	0	40.00	40.00
Resour	TPM TEST PIT LABOR	TEST PIT LABOR	0.75	105.00	0	78.75	78.75
			Total			59,939.36	59,939.38

# **Reports of the City Attorney**

# **Reports of the City Manager**

**RESOLUTION 2018-06**

**A RESOLUTION OF THE CITY OF DAYTONA BEACH SHORES, VOLUSIA COUNTY, FLORIDA, SETTING THE PROPOSED MILLAGE RATES FOR THE CITY FOR FISCAL YEAR 2018-2019; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Florida Statutes, including Chapter 200.065(2)(e) 1., provide that the City Council shall adopt a proposed millage rate, and;

**WHEREAS**, the Volusia County Property Appraiser has certified a rolled-back rate of \$5.0350 per \$1,000 of taxable value for the City of Daytona Beach Shores.

**NOW, THEREFORE, BE IT ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA:**

**SECTION ONE:** There is hereby adopted a proposed millage rate of \$5.23 per \$1,000 of taxable value for the general operating budget for the fiscal year 2018-2019. This final millage rate is 3.87% above the rolled-back rate.

**SECTION TWO:** There is hereby adopted a proposed millage rate of \$1.87 per \$1,000 of taxable value for voted general obligation debt service for the fiscal year 2018-2019. Voters approved a general obligation debt issuance on November 7, 2006 to underground utilities and conduct related streetscape projects.

**SECTION THREE:** This Resolution shall be effective immediately upon its adoption.

**CITY OF DAYTONA BEACH SHORES, FL**

---

**HARRY JENNINGS, MAYOR**

**MICHAEL BOOKER, CITY MANAGER**

**CHERI SCHWAB, CITY CLERK**

**Approved as to form and legality:**

---

**LONNIE GROOT, CITY ATTORNEY**

**Passed and Adopted on this \_\_\_\_\_ day of \_\_\_\_\_, 2018**

**RESOLUTION 2018-07**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA PROVIDING FOR FURTHER IMPLEMENTATION OF THE PROVISIONS OF SECTION 2.04 OF THE CITY CHARTER RELATING TO FORFEITURE OF OFFICE.; 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.**

**WHEREAS**, the provisions of Section 2.04 of the *City Charter of the City of Daytona Beach Shores (City Charter)* relates to matters pertaining to forfeitures of City elective office; and

**WHEREAS**, Section 2.04(b) of the *City Charter* provides that:

Forfeiture of office shall also occur through malfeasance, nonfeasance, neglect of duty, incompetence, and permanent inability to perform the duties of the office of councilmember or mayor-councilmember. The council shall be the judge to determine whether sufficient grounds for removal from office shall have occurred. In discharging that responsibility the council shall have the power to subpoena witnesses, administer oaths, and require the production of evidence.

; and

**WHEREAS**, on June 26, 2018 the City Council took action to, in part, implement the provisions of Section 2.04(c) of the *City Charter* which states as follows:

Charges of conduct constituting grounds for removal from office shall be presented at an official meeting of the council. Upon motion duly adopted, an investigation into said charges shall be conducted by a committee of such composition as may be determined by the council. The councilmember moving for the investigation herein provided shall not be a member of the investigation committee.

; and

**WHEREAS**, the City Council now desires to determine the composition of the committee of inquiry referenced in Section 2.04(c) of the *City Charter*; and

**WHEREAS**, this Resolution is enacted pursuant to the home rule powers of the City of Daytona Beach Shores as set forth at Article VIII, Section 2, of the *Constitution of the State of Florida*; Chapter 166, *Florida Statutes*, the *City Charter*, and other applicable controlling law.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, as follows:**

**SECTION 1. LEGISLATIVE AND ADMINISTRATIVE FINDINGS.**

- (a). The City of Daytona Beach Shores has complied with all requirements and procedures of Florida law in processing this Resolution.
- (b). The foregoing recitals (whereas clauses) are hereby ratified, affirmed and confirmed as being true and correct and are hereby made a part of this Resolution.

**SECTION 2. ESTABLISHMENT AND APPOINTMENT OF COMMITTEE: SCOPE OF INQUIRY.**

- (a). The City Council hereby appoints former Circuit Judge Clayton D. Simmons of Clayton D. Simmons P.A. as the committee of inquiry relative to the matters set forth herein. In accordance with the provisions of Section 2.04(d) of the *City Charter* former Judge Simmons shall, within a period of not less than ten (10) days, or more than thirty (30) days, present all findings with respect to the charges outlined herein to the full City Council after receipt of which, the City Council shall determine, by motion, whether formal charges shall be presented and further proceedings be scheduled.
- (b). The following are the matters that shall be the subject of the inquiry, as well as any matters that may arise during the course of the inquiry with regard to which former Judge Simmons believes should be brought to the attention of the City Council:
  - (1). Whether Council Member Richard Bryan committed malfeasance or neglect of duty by appearing before the Volusia County Council on June 19, 2018 well knowing that such individual

action was inappropriate after engaging in similar conduct in February, 2018.

(2). Whether Council Member Richard Bryan committed malfeasance or neglect of duty by interfering with the Chapter 164, *Florida Statutes*, conflict resolution process in his appearance before the Volusia County Council on June 19, 2018 well knowing that such individual action was inappropriate after engaging in similar conduct in February, 2018.

(3). Whether Council Member Richard Bryan committed malfeasance or neglect of duty by usurping the collective authority of the City Council which was involved in the Chapter 164, *Florida Statutes*, conflict resolution process by appearing before the Volusia County Council on June 19, 2018 well knowing that such individual action was inappropriate after engaging in similar conduct in February, 2018.

(4). Whether Council Member Richard Bryan committed malfeasance or neglect of duty by alleging, in emails of June 25, 2018, and publicly at the June 26, 2018 meeting of the City Council, that the City Attorney had falsely and untruthfully stated matters to the City Council relative to . Council Member Bryan's presentation before the Volusia County Council on June 19, 2018.

### **SECTION 3. IMPLEMENTING ADMINISTRATIVE ACTIONS.**

The City Manager, City Clerk and City Attorney are hereby authorized and directed to implement the provisions of this Resolution as may be deemed necessary or appropriate in accordance with controlling law as such officers may deem appropriate in their respective roles and functions under the *City Charter*.

### **SECTION 4. SAVINGS.**

The prior actions of the City Council of the City of Daytona Beach Shores in terms of the matters relating the seating and removal of City officers, as well as any and all related matters, are hereby ratified and affirmed.

**SECTION 5. CONFLICTS.**

All resolutions or part of resolutions in conflict with this Resolution are hereby repealed.

**SECTION 6. SEVERABILITY.**

If any section, sentence, phrase, word, or portion of this Resolution is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word, or portion of this Resolution not otherwise to be invalid, unlawful, or unconstitutional.

**SECTION 7. EFFECTIVE DATE.**

This Resolution shall take effect immediately upon passage and adoption.

**CITY OF DAYTONA BEACH SHORES, FLORIDA**

---

**MAYOR, HARRY H. JENNINGS**

*Attest:*

---

**CITY MANAGER, MICHAEL T. BOOKER**

---

**CITY CLERK, CHERI SCHWAB**

**Approved as to form and legality:**

---

**CITY ATTORNEY, LONNIE GROOT**

**Adopted this 10th day of July, 2018.**

**Posted this 10th day of July, 2018.**

## **Discussion on plans for the Senior Center**

## Council comments

## Audience remarks

## Items for the next agenda