

**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**