

MINUTES
CITY COUNCIL MEETING
August 14, 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, Community Services Director Fred Hiatt, and Public Safety Director Stephan Dembinsky.*

1. CEREMONIAL ITEMS, PRESENTATIONS AND PUBLIC NOTICES:

Presentation on Lighthouse Loop Half Marathon

Don Stoner spoke to the council regarding the upcoming race. This will be the 7th year and they have raised over \$120,000 for Volusia county high school athletic programs. He asked Council for permission to hold the event and they verbally approved.

2. APPROVAL OF THE MINUTES: City Council Meeting July 24, 2018 and July 27, 2018

CMBR Rice commented that during the meeting of July 24, when approving the minutes of July 10, CMBR Bryan made a motion to amend his comments. Since that time, the City Clerk has reviewed the audio from the meeting and found that no error had occurred. The amended minutes therefore would be inaccurate. She inquired how this error could be corrected. City Attorney Groot advised that a motion needed to be made to reconsider the minutes of July 10, 2018.

CMBR Rice moved, seconded by CMBR GEIGER to reconsider the minutes of July 10.

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.

CMBR Rice moved, seconded by CMBR GEIGER to continue the consideration of the July 24 minutes until the next council meeting.

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.

CMBR RICE moved, seconded by CMBR LINDAUER to approve the minutes of July 27, 2018.

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.

3. CONSENT AGENDA:

- Board Appointment – Culture & Entertainment Board: Elizabeth London

CMBR GEIGER moved, seconded by CMBR RICE 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: - City Manager Booker reported that he, the Mayor, and Director Fred Hiatt met with members of Jaymor Group to discuss future plans for the Treasure Island site. They plan to turn it into a Marriott Autograph Collection Boutique Hotel. Director Hiatt added that it would be built in phases. There are plans to have a rooftop restaurant/lounge with ground floor event space. They plan to add some of the historical aspects of the old Treasure Island hotel to the new project. He advised that at some point in the future the settlement agreement may need to be updated. The City Manager informed the council that they needed to cancel the August 28th meeting. The next meeting would be Monday, September 10th.

CMBR GEIGER moved, seconded by CMBR LINDAUER to cancel the August 28 City Council Meeting.

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.

OLD BUSINESS:

6. ORDINANCE NO. 2017-14 AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, VOLUSIA COUNTY, FLORIDA RELATING TO COMPREHENSIVE PLANNING; ENACTING AMENDMENTS TO THE CITY'S *COMPREHENSIVE PLAN UPDATE 2020* TO, AMONG OTHER THINGS, ENSURE CONSISTENCY WITH THE COMMUNITY PLANNING ACT AS SET FORTH IN THE FLORIDA STATUTES; PROVIDING FOR IMPLEMENTING ADMINISTRATIVE ACTIONS SUCH AS TRANSMITTAL TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY AND OTHER AGENCIES OF GOVERNMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS/RATIFICATION OF PRIOR ACTIONS; PROVIDING FOR INSTRUCTIONS RELATIVE TO CODIFICATION AND PROVIDING AN EFFECTIVE DATE. **Second Reading and Public Hearing.**

CMBR GEIGER moved, seconded by CMBR BRYAN to adopt Ordinance 2017-14 on second 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.

7. ORDINANCE NO. 2018-04 AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA CALLING FOR A REFERENDUM ELECTION TO BE HELD ON NOVEMBER 6, 2018 FOR THE PURPOSE OF PROPOSING TO THE ELECTORATE OF THE CITY OF DAYTONA BEACH SHORES A REVISION TO THE *CHARTER OF THE CITY OF DAYTONA BEACH SHORES* RELATING TO TERM LIMITS AND AN AMENDMENT TO SECTION 2.01; PROVIDING FOR BALLOT LANGUAGE; PROVIDING FOR THE DUTIES OF THE CITY CLERK; PROVIDING FOR INCLUSION IN THE *CHARTER OF THE CITY OF DAYTONA BEACH SHORES* AND POWERS AND AUTHORITY FOR THE CODE CODIFIER; PROVIDING FOR SEVERABILITY AND PROVIDING FOR EFFECTIVE DATE OF ORDINANCE AND EFFECTIVE DATE OF PROPOSED *CHARTER* AMENDMENT. **Second Reading and Public Hearing.**

Mayor Jennings inquired what the purpose of the petition was from the PAC. CMBR Lindauer felt the residents voted for term limits and when the code was written, one word changed the intended meaning. He felt the voters should decide. Mayor Jennings advised that Federal law only dealt with terms of office for the President and it did not apply to local government. He had concerns about finding residents to run for office. Since 1999, 30% of the candidates ran unopposed. The demographics of the city show 65.9 is the median age. CMBR Lindauer advised that he was 80 when he ran for office. CMBR Geiger commented that he ran unopposed. Mayor Jennings advised he was very opposed to this and felt it would really cause the City problems in the future.

CMBR Lindauer moved, seconded by CMBR Bryan to adopt Ordinance 2018-04 on second reading.

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.

8. ORDINANCE NO. 2018-05 AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA CALLING FOR A REFERENDUM ELECTION TO BE HELD ON NOVEMBER 6, 2018 FOR THE PURPOSE OF PROPOSING TO THE ELECTORATE OF THE CITY OF DAYTONA BEACH SHORES A CONTINGENT REVISION TO THE *CHARTER OF THE CITY OF DAYTONA BEACH SHORES* RELATING TO TERM LIMITS AND AN AMENDMENT TO SECTION 2.01; PROVIDING FOR BALLOT LANGUAGE; PROVIDING FOR THE DUTIES OF THE CITY CLERK; PROVIDING FOR INCLUSION IN THE *CHARTER OF THE CITY OF*

DAYTONA BEACH SHORES AND POWERS AND AUTHORITY FOR THE CODE CODIFIER; PROVIDING FOR SEVERABILITY AND PROVIDING FOR EFFECTIVE DATE OF ORDINANCE AND EFFECTIVE DATE OF PROPOSED *CHARTER* AMENDMENT. **Second Reading and Public Hearing.**

CMBR BRYAN moved, seconded by CMBR LINDAUER to adopt Ordinance 2018-05 on second reading.

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.

NEW BUSINESS:

9. RESOLUTION 2018-10 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA PROVIDING FOR CITY COUNCIL POLICIES RELATING TO PUBLIC INPUT, PUBLIC MEETINGS AND PUBLIC HEARINGS INCLUDING, BUT NOT LIMITED TO, DECORUM AT MEETINGS AND RELATED MATTERS AND PROCEDURES; 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. **First Reading and Public Hearing.**

CMBR LINDAUER moved, seconded by CMBR GEIGER to adopt Resolution 2018-10 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.

10. Consideration of City/County settlement agreement regarding proposed parking lots at 3167-3169 S. Atlantic Avenue and 3621 S. Atlantic Avenue

City Attorney Lonnie Groot explained that after many litigation strategy meetings, he felt the council fully understood what the proposed agreement stated. He felt the Chapter 164 Conflict Resolution process worked well.

CMBR Rice spoke on the issue of adding verbatim statements to the minutes. She felt the summary minutes prepared gave an accurate record of the meeting. She felt it unfair that one member consistently requested a verbatim statement be included.

CMBR RICE moved, seconded by CMBR GEIGER to not include verbatim statements into the minutes. This was later withdrawn.

CMBR Bryan felt that every council member had the option of including statements in the minutes. If you took the trouble to put your thoughts in writing, they should be added. He stated it would be less work for the City Clerk. CMBR Geiger noted that the recent minutes had to be corrected two times due to a verbatim statement. CMBR Bryan would like the other members to write out their comments so it makes for a better debate. It also minimizes the misrepresentation of what is being said.

The City Attorney stated that this is a common debate about minutes; some like action minutes while others like verbatim. Verbatim is an expensive process as it ties up staff time. Summary minutes are the middle of road which is what the city produces. He mentioned that some cities have a provision that it is a privilege to add an abstract attached to the minutes, and it is on an occasional instance. He added that the council could implement similar language to the amendment they just adopted. It was decided to amend Resolution 2018-10 at the next meeting to include language on verbatim statements.

The Council now began discussion on the agenda item. CMBR Bryan read his statement adding that it did not have to be included verbatim. He hoped the council approved the agreement as he felt it was very similar to what they had already approved on June 26th. It would bring an end to the dispute and save time and taxpayer dollars. The County Council had already approved it. CMBR Lindauer also recommended approval of the agreement. CMBR Rice felt the agreement was a result of everyone working together. CMBR Geiger stated it was a major accomplishment. Mayor Jennings does not agree with the settlement as he felt the city would get nothing from it, but the county would get two parks. It is a potential loss of 200K in taxes every year and it invades home rule. The jurisdictional dispute needs to be settled.

CMBR BRYAN moved, seconded by CMBR LINDAUER to approve the settlement agreement with the County of Volusia regarding proposed parking lots.

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.

11. Approval for Nonconforming Sign Removal Grant – 2535 S. Atlantic Sand and Surf Resort

CMBR Geiger moved, seconded by VICE MAYOR Rice to approve the nonconforming sign grant for Sand and Surf Resort in the amount of \$5,200.

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.

12. Approval for Nonconforming Sign Removal Grant – 2324 S. Atlantic MLRH, Inc Biggins Nightclub

VICE MAYOR Rice moved, seconded by CMBR Lindauer to approve the nonconforming sign grant for MLRH, Inc Biggins Nightclub in the amount of \$5,200.

VOTE:

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.

13. Discussion on recycling rates

City Manager Booker introduced consultant William Redman who spoke on increased recycling rates and what options the city may have. He explained that China recently banned accepting recycling into their country along with Thailand and Viet Nam not accepting recycled electronics. Recyclable materials don't have a home. It seems that our processors were bundling recyclables and shipping too much garbage with them. There are no manufacturers in the US who can take processed recyclables. In years past, the processing company would pay a rebate to the hauler for bringing in recyclables, but that has pretty much ended. A few months ago, the processor begun charging a processing fee. They have now implemented a \$30/ton processing fee. Beginning October 1, it will increase to \$80/ton. If you are not under contract with them, the charge will be \$126/ton. Last week, the city produced 440 residential tonnage; 28% residential and 72 % condos. Waste Pro is currently being charged \$80/ton to bring recycling to the facility. Single family homes will face an increase of .84 per month; and condos will have an increase of .31 cents per unit per month. Multiple cities in Florida have begun suspending recycling efforts. On the west coast of the United States, Washington has started to send recyclables to their landfill.

We don't have manufactures in the US who want to take processed recyclables. Until that happens, recyclable material will continue to stack up. The market forecast does not see a change in for the next 24 months. The city has the option to suspend recycling and take it to the landfill at a cost of \$34/ton. The city can continue to collect it and be charged \$80/ton for processing. The County of Volusia will be considering a contract with GEL Company at a cost of \$80/ton. The cities have the right to piggy back on the contract. There is a clause in the contract that states it is an 8-year contract with 8-year renewals and the cities would be obligated for full terms and any addendum

Mr. Redmond explained that Waste Pro who takes care of servicing the city, has a recycling processing facility in Ocala. They also have a transfer station in Ormond Beach. The city can suspend recycling rather than eliminate recycling. CMBR Bryan inquired about hotels and Mr. Redman advised that hotels fell under commercial recycling and the city could not control that.

City Manager Booker made a recommendation to temporarily suspend recycling at this time. Mr. Redmond agreed with this. This item will be on the next agenda for consideration.

14. **COUNCIL COMMENTS:** CMBR Geiger encouraged everyone attending the upcoming BeatleBeat concert to enjoy it. CMBR Lindauer encouraged the city to pass a resolution celebrating 50 years of home rule.
15. **AUDIENCE REMARKS/PUBLIC COMMENTS:**
Grover Cleveland who lives at 139 Roslyn Avenue in Daytona Beach spoke regarding the flooding on the west side of his property due to the storm drain operated by the city. He felt it was in disrepair and had spoken with Brian Edwards who advised he would investigate the matter. He asked for the City's assistance in fixing the flooding/storm drain issue.
16. **ITEMS RECOMMENDED FOR THE NEXT AGENDA:** Adding verbatim items to minutes; Home Rule Resolution. recycling
17. **ADJOURNMENT:** The meeting ended at 8:18 pm.

**MAYOR
HARRY H. JENNINGS**

**CITY MANAGER
MICHAEL T. BOOKER**

ATTEST:

CITY CLERK, CHERI SCHWAB