



City of Daytona Beach Shores

"Life is Better Here"

"A Premier, Friendly Place to Be"

AGENDA CITY COUNCIL MEETING

August 11, 2015

**7:00 p.m., Community Center, 3048 S. Atlantic Ave.
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: Employee Service Awards

BUSINESS OF THE CITY COUNCIL:

ORDER OF BUSINESS

2. APPROVAL OF THE MINUTES: July 28, 2015 City Council Meeting and July 21 Budget Workshop

3. CONSENT AGENDA:

- Budget Transfer \$13,000 from Contingency
- Approval of Contraband expense in the amount of \$13,200 for equipment

4. REPORTS OF THE CITY ATTORNEY:

5. REPORTS OF THE CITY MANAGER:

OLD BUSINESS:

NEW BUSINESS:

6. Approval of Lot Binding Agreement with Metz Properties, LLC

7. COUNCIL COMMENTS:

8. AUDIENCE REMARKS/PUBLIC COMMENTS:

9. ITEMS RECOMMENDED FOR THE NEXT AGENDA:

10. 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:

Employee Service Awards

**MINUTES
CITY COUNCIL BUDGET WORKSHOP
JULY 21, 2015
3048 S. Atlantic Ave. Daytona Beach Shores, FL 32118**

Present: Mayor Harry Jennings, Vice Mayor Peggy Rice, CouncilMember Billie Wheeler, and CouncilMember Jennie Celona. Staff: *City Manager Michael Booker, City Clerk Cheri Schwab, Community Services Director Fred Hiatt, Finance Director Steve Whitmer, and Public Safety Director Stephan Dembinsky.*

The workshop began at 10:00 am.

DISCUSSION ON BUDGET FOR FY 2015-16

Finance Director Whitmer reviewed the financial mission of the city explaining the four strategies he follows. They are: to control long term liabilities, have a provision for future availability of current assets, avoid structural fiscal imbalance, run government like a business. It was noted that the tax revenue is 6.7% higher this year but it is still 28% below the revenue before the depression in 2007-08.

The Mayor began a page by page review. The Council discussed the increase in the marketing budget of \$40,000. This allows the city to partner with Southern Stone Communications to hold various events such as: senior olympics, golf tournaments, and movie mania. It also includes the advertisements and brochures that are distributed. The building expense of 4 million was included for the new community center. There were no other items of concern. Both the sewer fund and the five year capital plan were also reviewed.

ADJOURNMENT: The workshop ended at 11:10 am.

**MAYOR
HARRY H. JENNINGS**

**CITY MANAGER
MICHAEL T. BOOKER**

ATTEST:

CITY CLERK, CHERI SCHWAB

MINUTES
CITY COUNCIL MEETING
July 28, 2015
3048 S. Atlantic Ave. Daytona Beach Shores, FL 32118

Present: Mayor Harry Jennings, Vice Mayor Peggy Rice and CouncilMember Jennie Celona.
Excused: CouncilMember Billie Wheeler. *Staff: City Manager Michael Booker, City Clerk Cheri Schwab, City Attorney Lonnie Groot, City Planner Stewart Cruz, Finance Director Steve Whitmer, and Public Safety Director Stephan Dembinsky.*

1. **CEREMONIAL ITEMS, PRESENTATIONS AND PUBLIC NOTICES:** None.
2. **APPROVAL OF THE MINUTES:** July 14, 2015 City Council Meeting

CMBR RICE moved, seconded by CMBR CELONA to approve the minutes of July 14, 2015.

Vote: Motion carried by unanimous roll call vote (**summary: Yes = 3**).

Yes: CouncilMember Jennie Celona, Mayor Harry Jennings, Vice Mayor Peggy Rice.

3. **CONSENT AGENDA:**

- **Monthly Departmental Reports**
- **Monthly Financial Report**
- **Appoint Ronald Christopher to Board of Adjustments as alternate**

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

Vote: Motion carried by unanimous roll call vote (**summary: Yes = 3**).

Yes: CouncilMember Jennie Celona, Mayor Harry Jennings, Vice Mayor Peggy Rice.

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

5. **REPORTS OF THE CITY MANAGER:** Public Safety Director Dembinsky explained that the generator for his building has been having issues for a long time. He has asked multiple companies to come out and diagnose the problem. The item was budgeted in the current year for replacement but until it could be properly diagnosed, the budget amount was just an educated guess. Caterpillar, a reputable company, belongs to a national bid system which will allow us to forego the formal bid process. It will require taking \$13,000 out of contingency. If council approves, the order will be started and the formal budget transfer will be on the next council agenda. The council gave their approval to purchase the generator.

OLD BUSINESS:

6. **Ordinance 2015-04 AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, VACATING AND ABANDONING A PORTION (1,407 SQUARE FEET) OF THE EMILIA AVENUE (7TH AVENUE PER PLAT) RIGHT-OF-WAY FORTY FEET (40') IN**

WIDTH, AS SHOWN ON THE PLAT OF OCEANVIEW SECTION OF HALIFAX SHORES, AS RECORDED IN MAP BOOK 11, PAGE 100 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; PROVIDING FOR CONDITIONS AND THE TAKING OF IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR NON-CODIFICATION AND PROVIDING FOR AN EFFECTIVE DATE. Second Reading and Public Hearing.

CMBR RICE moved, seconded by CMBR CELONA to adopt Ordinance 2015-04 on second reading.

Vote: Motion carried by unanimous roll call vote (**summary: Yes = 3**).

Yes: CouncilMember Jennie Celona, Mayor Harry Jennings, Vice Mayor Peggy Rice.

NEW BUSINESS:

7. Resolution 2015-07 A RESOLUTION OF THE CITY OF DAYTONA BEACH SHORES, VOLUSIA COUNTY, FLORIDA RELATING TO THE VOLUSIA COUNTY INTEGRATED FLOODPLAIN MANAGEMENT PLAN; PROVIDING FOR ACTIONS AND APPROVALS OF THE CITY COUNCIL, IMPLEMENTING ADMINISTRATIVE ACTIONS, CONTINUING PARTICIPATION AND ACTIONS, A SAVINGS PROVISION, CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE. Public Hearing.

CMBR CELONA moved, seconded by CMBR RICE to adopt Resolution 2015-07 on first reading.

Vote: Motion carried by unanimous roll call vote (**summary: Yes = 3**).

Yes: CouncilMember Jennie Celona, Mayor Harry Jennings, Vice Mayor Peggy Rice.

8. COUNCIL COMMENTS: Mayor Jennings announced that both the Shores Open golf tournament and the Drive-In Movie Mania were successful events. Each night the audience grew at the drive-in. He has heard many comments to hold the movie event again.

9. AUDIENCE REMARKS/PUBLIC COMMENTS: None.

10. ITEMS RECOMMENDED FOR THE NEXT AGENDA: budget transfer

11. ADJOURNMENT: The meeting ended at 7:19 pm.

**MAYOR
HARRY H. JENNINGS**

**CITY MANAGER
MICHAEL T. BOOKER**

ATTEST:

CITY CLERK, CHERI SCHWAB

Schwab, Cheri

From: Whitmer, Stephen
Sent: Wednesday, July 29, 2015 8:26 AM
To: Schwab, Cheri
Subject: Contingency Trannfer for Consent Agenda

Please include the following item on the next consent agenda:

Transfer of \$13,000 from Contingency to Public Works Building Maintenance account 15412-60620 to add funds to budgeted amount for the replacement of the PS Building Generator.
This will leave a contingency balance of \$397,000 after the transfer.

Thank you.

Stephen R. Whitmer, Ed.D
Finance Director
City of Daytona Beach Shores
386-763-5329
swhitmer@cityofdbbs.org



**DAYTONA BEACH SHORES
DEPARTMENT OF PUBLIC SAFETY**

MEMORANDUM

To: Michael Booker, City Manager
From: Stephan Dembinsky, Public Safety Director *sd*
Date: August 4, 2015
Re: contraband forfeiture
File: PS15-08-01

I would like the approval of council to use \$13,200.. from the contraband forfeiture fund for the replacement of police specialty tactical equipment.

Reports of the City Attorney

Reports of the City Manager



City of Daytona Beach Shores
Community Services Department
2990 South Atlantic Avenue
Daytona Beach Shores, FL 32118
Telephone (386) 763-5377

TO: Michael T. Booker – City Manager
FROM: Stewart Cruz – City Planner
CC: Fred Hiatt – Director
SUBJECT: Lot Binding Agreement – Metz Properties, LLC
3240 S. Atlantic Avenue (Short Tax Parcel ID 5335-01-07-0010) & 3278 S.
Atlantic Ave (Short Tax Parcel ID 5335-02-10-0010)
DATE: August 4, 2015

A. BACKGROUND/SUMMARY

1. On November 13, 2014 the City of Daytona Beach Shores approved administrative site plan SASP12014004 for the construction of a commercial parking lot on the vacant property located at 3270 S. Atlantic Avenue.
2. On April 9, 2015 applicant submitted application to amend the abovementioned administrative site plan.
3. The proposed amendment involves the relocation and reconfiguration of the southern property line of the subject property, which is shared with the adjacent property (Metz Plaza, 3278 S. Atlantic Avenue-also owned by the same entity).
4. The relocation and reconfiguration of the southern property line eliminates nine (9) required off-street parking spaces on the adjacent property (Metz Plaza).
5. Section 14-48.2 of the Daytona Beach Shores Land Development Code (LDC) provides that required off-street parking may be located on another lot or parcel of land within 200 feet of the premises to be served if said parking cannot reasonably be provided on the same lot or parcel. This approval shall be in the form of a lot binding agreement with the City Council providing that the land comprising the parking area shall never be disposed of except in conjunction with the sale of the building which the parking area serves so long as the parking facilities are required.
6. Considering the above and pursuant to Sec. 14-48.2 of the LDC, the attached lot binding agreement (**Exhibit A**) was drafted for City Council's consideration.
7. The attached lot binding agreement (**Exhibit A**) meets the standards outline in Section 14-48.2 of the LDC.

B. STAFF RECOMMENDATION

Staff recommends approval of the subject lot binding agreement.

EXHIBIT A

Prepared by:

Joseph H. Hopkins, P.E.
The Performance Group, Inc.
100 Marina Point Drive
Daytona Beach, FL 32114

Return to:
Cheri Schwab, City Clerk
City of Daytona Beach Shores
2990 South Atlantic Avenue
Daytona Beach Shores, FL 32118

Tax Parcel Identification Numbers: 5335-02-10-0010
5335-01-07-0010

METZ PROPERTIES, LLC
(3278 S. Atlantic Avenue)

BINDING LOT AGREEMENT
WITH
CROSS ACCESS EASEMENT

THIS BINDING LOT AGREEMENT WITH CROSS ACCESS EASEMENT
("Agreement") is entered into on this 27 day of July, 2015, by METZ
Properties, LLC, whose address is Attn: Mr. Peter Metz, 3278 S. Atlantic Avenue,
Daytona Beach Shores, Florida 32118 (hereinafter referred to as the "Owner"), and the
City of Daytona Beach Shores, a municipality of the State of Florida, whose address is
2990 South Atlantic Avenue, Daytona Beach Shores, Florida 32118 (hereinafter
referred to as the "City").

WHEREAS, the Owner owns adjacent tax parcels of real property that are
located in the City; and

WHEREAS, to address development issues arising under the land development
regulations of the City (parking requirements), and to ensure that the successors,
transferees, and assignees of the parcels owned by the Owner are forever and
perpetually benefitted and burdened with the future rights, entitlements, needs and

requirements relative to the parcels owned by the Owner, it is necessary and desirable cross-bind the parcels owned by the Owner as set forth herein; and

WHEREAS, the Owner desires to enter this Agreement as an inducement for the City to grant future development approvals relating to the property owned by the Owner.

NOW, THEREFORE, it is covenanted and agreed by the Owner as follows:

Section 1. Recitals. The above recitals are true and correct and are material part of this Agreement upon which the parties have relied.

Section 2. Lands Subject To This Agreement. The Owner owns the following described real property located in the City Limits of the City, and covenants and agrees that the covenants and agreements set forth in this Agreement are applicable to the said property (the Property), which is described as follows:

Parcel "A" (Tax Parcel Identification Numbers: 5335-02-10-0010):
Lots 1 to 6 inclusive, west of Atlantic Avenue and Liberty Street, West of same, Block 10, South Orita,
per Map Book 1, Page 115, Public Records of Volusia County, Florida

Parcel "B" (Tax Parcel Identification Numbers: 5335-01-07-0010):
Lot 1 to 7 inclusive, and east 20 feet of Lot 8, Block G, except right of way, Rio Mar Beaches Park,
per Map Book 6, Page 95, and Official Records Book 4057, Pages 2359-2361, Public Records of
Volusia County, Florida

Section 3. Burdens Run With The Property (Land).

(a). The benefits and burdens set forth in this Agreement touch and concern Property and shall be a perpetual burden upon said property and shall run with the Property (land - parcels) forever. The burdens and benefits shall inure to the benefit and bind the heirs, successors and assigns of the Property.

(b). The City hereby approves and the Owner hereby agrees to accept and maintain the cross access easement over a portion of Parcel "B" and to provide an access easement over nine (9) parking stalls to be located on the subject property for the benefit and use of Parcel "A" (See the two (2) page exhibit, Exhibit "A", attached hereto which is incorporated herein by this reference thereto.). As well the Owner

hereby agrees to adequately maintain the access points depicted on Exhibit "A" (attached) between the two Parcels and to take all appropriate actions as reasonably determined by the City to ensure compliance with the provisions of this Agreement and the codes and ordinances of the City.

(c). The City is a perpetual beneficiary to the terms and conditions of this Agreement and may be enforced by the City in accordance with its terms.

(d). No point of access to the subject property shall be closed or opened without approval of the City in accordance with its procedures and the cross access easement between the parcels may not be vacated without action by the City. To that end, the doctrine of merger shall not be applicable to the grant of cross access easement.


Section 4. Integration Clause/Entire Agreement. No prior or present agreements or representations shall be binding upon any of the parties hereto unless incorporated into this Agreement. No modification or change in this Agreement shall be valid or binding upon the parties unless in writing, executed by the parties. Consent by the City taken by formal action and in writing by the City Council of the City.

DATED this 27 day of July, 2015.

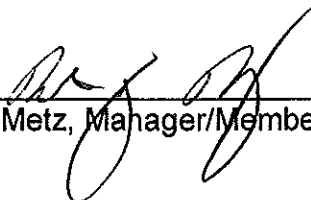
OWNER:

**COVENANT AND AGREE:
METZ Properties, LLC**


Witnesses:



Signature
Printed Name: Ed Gunn



Peter Metz, Manager/Member



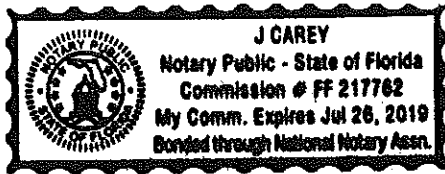
Signature
Printed Name: THOMAS COCUZZO

ACKNOWLEDGEMENT

STATE OF FLORIDA

COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 27th day of July, 2015, by Peter Metz who is personally known to me or who have produced his driver's license (number M320670564580) as identification.



J. Carey
Notary Public - State of Florida
J. Carey
Printed Name

My commission expires on:

APPROVAL BY THE CITY OF DAYTONA BEACH SHORES

APPROVED BY the City Council of the City of Daytona Beach Shores, Florida this ___ day of _____, 2015, at its Regular Meeting duly assembled.

Attest:

CITY OF DAYTONA BEACH SHORES, FLORIDA

Cheri Schwab, City Clerk

By: _____
Harry Jennings, Mayor
Date: _____

Approved as to legal form and legal correctness:

Lonnie N. Groot, City Attorney

Michael Booker, City Manager

EXHIBIT "A" FOLLOWS



SCALE: 1" = 40'

GLEN MYRA AVE.

GRASSY MANHOLE
MANHOLE TOP: 14.70
BENCHMARK N. I.P.M.
ELEVATION: 12.70

SANITARY SEWER
MANHOLE TOP: 12.58
BENCHMARK N. I.P.M.
ELEVATION: 12.38

CONC. FENCE
CONC. WALL

S. ATLANTIC AVE.

POINT OF COMMENCEMENT
SE CORNER
OF LOT 6

POINT OF BEGINNING

ACCESS EASEMENT

SHEET 1 OF 2

BINDING LOT AGREEMENT WITH CROSS ACCESS EASEMENT - EXHIBIT "A"

THE PERFORMANCE GROUP

CIVIL ENGINEERING / PLANNING / DEVELOPMENT



JOSEPH H. HOPKINS, P.E. NO. 48059
100 MARINA POINT DR., DAYTONA BEACH, FL. 32114
TELEPHONE: (386) 239-7166 FAX: (386) 239-7120

METZ PARKING

SCALE: 1"=40'

FILE: 790-SITE PLAN 2

DATE: 5/20/15; 6/10/15; 7/23/15

BINDING LOT AGREEMENT WITH CROSS ACCESS EASEMENT

LEGAL DESCRIPTION

A portion of Parcel B (Tax Parcel Identification Numbers: 5335-01-07-0010)

A portion of Lot 1 to 7 inclusive, and east 20 feet of Lot 8, Block G, except right of way, Rio Mar Beaches Park, per Map Book 6, Page 95, and Official Records Book 4057, Pages 2359-2361, Public Records of Volusia County, Florida being more particularly described as follows:

Commence at the southeast corner of said Lot 6, as occupied and monumented, less the right of way of South Atlantic Avenue, heading South 64°06'09" West a distance of 21.26 feet to the Point of Beginning,

thence North 25°44'28" West a distance of 18.00 feet,
 thence South 64°15'32" West a distance of 43.00 feet,
 thence North 25° 44'28" West a distance of 3.21 feet,
 thence South 64°15'32" West a distance of 38.00 feet,
 thence North 25° 44'28" West a distance of 133.02 feet,
 to a point located on the south right-of-way of Glen Myra Avenue, a 60 foot public right-of-way,
 thence South 64° 15'32" West a distance of 24.00 feet along said south right-of-way,
 thence South 25° 44'28" East a distance of 133.00 feet,
 thence South 64°15'32" West a distance of 19.00 feet,
 thence South 25° 44'28" East a distance of 9.00 feet,
 thence North 64° 15'32" East a distance of 19.00 feet,
 thence South 25° 44'28" East a distance of 23.14 feet,
 thence North 64° 06'09" East a distance of 24.00 feet,
 thence North 25° 44'28" West a distance of 5.00 feet,
 thence North 64°15'32" East a distance of 38.00 feet,
 thence South 25° 44'35" East a distance of 5.00 feet,
 thence North 64° 06'09" East a distance of 24.00 feet,
 thence North 25° 44'28" West a distance of 10.78 feet,
 thence North 64°15'32" East a distance of 19.00 feet,
 thence North 25° 44'28" West a distance of 3.95 feet,

to said Point of Beginning.

Described parcel containing 0.14 acres more or less.

SHEET 2 OF 2

**BINDING LOT AGREEMENT
WITH CROSS ACCESS EASEMENT - EXHIBIT "A"**

METZ PARKING

SCALE: NONE

FILE: 790-SITE PLAN 2

DATE: 5/20/15; 6/10/15; 7/23/15

THE PERFORMANCE GROUP

CIVIL ENGINEERING / PLANNING / DEVELOPMENT



JOSEPH H. HOPKINS, P.E. NO. 48059
 100 MARINA POINT DR., DAYTONA BEACH, FL. 32114
 TELEPHONE: (386) 239-7166 FAX: (386) 239-7120

Council comments

Audience remarks

Items for the next agenda