



City of Daytona Beach Shores

"Life is Better Here"

"A Premier, Friendly Place to Be"

AGENDA CITY COUNCIL MEETING

November 10, 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:

Service Award 15 years Officer Trevor Wyman

BUSINESS OF THE CITY COUNCIL:

ORDER OF BUSINESS

- 2. APPROVAL OF THE MINUTES:** October 27, 2015 City Council Meeting
- 3. CONSENT AGENDA:**
 - **Approval of \$6400 from Contraband for Power DMS program**
 - **Approval of \$78,000 from Contingency Funds for New Generator for Public Safety**
- 4. REPORTS OF THE CITY ATTORNEY:**
- 5. REPORTS OF THE CITY MANAGER:**

OLD BUSINESS: None.

OLD BUSINESS:

6. Ordinance 2015-05 AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, AMENDING THE *MUNICIPAL CODE OF ORDINANCES, LAND DEVELOPMENT CODE*; AMENDING APPENDIX “G”, CHAPTER 14 ENTITLED “ZONING REGULATIONS,” BY AMENDING SECTION 14-46 ENTITLED “LANDSCAPING STANDARDS,” TO PROVIDE ALTERNATIVE LANDSCAPE OPTIONS IN LIEU OF LANDSCAPING ON GARAGE DECKS; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. Second Reading and Public Hearing.

NEW BUSINESS:

7. Ordinance 2015-06 AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, RELATING TO ADULT ENTERTAINMENT; PROVIDING FOR FINGERPRINTING AND REGISTRATION OF ADULT ENTERTAINMENT WORKERS AND FOR PUBLIC AWARENESS SIGNS RELATING TO HUMAN TRAFFICKING; IN PART IMPLEMENTING THE PROVISIONS OF CHAPTER 2015-172, *LAWS OF FLORIDA*; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR THE IMPOSITION OF PENALTIES; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR PENALTIES AND AMENDING SECTION 1-8 OF THE *CODE OF ORDINANCES OF THE CITY OF DAYTONA BEACH SHORES*; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION, DIRECTIONS TO THE CODE CODIFIER AS WELL AS THE CORRECTION OF SCRIVENER'S ERRORS AND PROVIDING FOR AN EFFECTIVE DATE. First Reading.

8. Ordinance 2015-07 – AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, VOLUSIA COUNTY, FLORIDA, RELATING TO VOLUNTARY ANNEXATION OF REAL PROPERTY LOCATED BETWEEN SOUTH ATLANTIC AVENUE AND CARDINAL BOULEVARD (FULL PARCEL IDENTIFICATION NUMBER 02-16-33-05-07-0150) TOGETHER WITH ASSOCIATED RIGHT-OF-WAYS IN ACCORDANCE WITH SECTION 171.044, FLORIDA STATUTES: PROVIDING FOR LEGISLATIVE AND ADMINISTRATIVE FINDINGS; REDEFINING THE BOUNDARIES OF THE CITY; PROVIDING FOR LEGAL EFFECT AND IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY, PROVIDING FOR NON-CODIFICATION AND SETTING AN EFFECTIVE DATE. First Reading.

9. **Resolution 2015-12** - A RESOLUTION OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, REQUESTING THE VOLUSIA CHARTER REVIEW COMMISSION TO RECOMMEND AN AMENDMENT TO THE *VOLUSIA COUNTY CHARTER* EITHER ELIMINATING THE VOLUSIA GROWTH MANAGEMENT COMMISSION OR, ALTERNATIVELY, LIMITING THE JURISDICTION OF THE VOLUSIA GROWTH MANAGEMENT COMMISSION TO ONLY CONDUCT REVIEWS AND HEARINGS OF PROPOSED COMPREHENSIVE PLAN AMENDMENTS OF LOCAL GOVERNMENTAL ENTITIES WHEN AN OBJECTION TO A PROPOSED COMPREHENSIVE PLAN AMENDMENT IS FILED BY ANOTHER LOCAL GOVERNMENTAL ENTITY; PROVIDING FOR IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE.

10. **COUNCIL COMMENTS:**

11. **AUDIENCE REMARKS/PUBLIC COMMENTS:**

12. **ITEMS RECOMMENDED FOR THE NEXT AGENDA:**

13. **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:

**Service Award 15 years
Officer Trevor Wyman**

MINUTES
CITY COUNCIL MEETING
October 27, 2015
3048 S. Atlantic Ave. Daytona Beach Shores, FL 32118

Present: Mayor Harry Jennings, Vice Mayor Peggy Rice, CouncilMember Jennie Celona and CouncilMember Lorraine Geiger. **Excused:** CouncilMember Billie Wheeler. *Staff: City Manager Michael Booker, City Clerk Cheri Schwab, City Attorney Lonnie Groot, City Planner Stewart Cruz, Community Services Director Fred Hiatt, and Public Safety Captain John Mowen.*

1. CEREMONIAL ITEMS, PRESENTATIONS AND PUBLIC NOTICES:

Presentation from Rev. Bob Kemp_Baird on Drive-In Christian Church

Rev. Kemp-Baird invited the council and citizens to an Open House on November 11th at 7:00 pm. The church will launch a capital campaign called “Enter His Gates” and the proposed plans will be unveiled. The upgrades will include: additional landscaping, safer entries, renovating the altar building and an expansion to Friendship Hall.

2. APPROVAL OF THE MINUTES: September 22, 2015 City Council Meeting

CMBR RICE moved, seconded by CMBR CELONA to approve the minutes of September 22, 2015.

Vote: Motion carried by unanimous roll call vote (summary: **Yes = 4**).

Yes: Council Member Lorraine Geiger, CouncilMember Jennie Celona, Mayor Harry Jennings, Vice Mayor Peggy Rice.

3. CONSENT AGENDA:

- **Monthly Departmental Reports**
- **Board Re-appointments**
- **Approval to make December 24, 2015 a paid holiday**
- **Approval of Sunshine Recycling non-exclusive franchise application**

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

Vote: Motion carried by unanimous roll call vote (summary: **Yes = 4**).

Yes: Council Member Lorraine Geiger, CouncilMember Jennie Celona, Mayor Harry Jennings, Vice Mayor Peggy Rice.

4. REPORTS OF THE CITY ATTORNEY: None.

5. REPORTS OF THE CITY MANAGER: City Manager Booker explained that Councilmember Wheeler was talking with the Governor’s Cabinet in Tallahassee on behalf of Crabby Joe’s pier expansion.

OLD BUSINESS: None.

NEW BUSINESS:

6. Ordinance 2015-05 AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, AMENDING THE *MUNICIPAL CODE OF ORDINANCES, LAND DEVELOPMENT CODE*; AMENDING APPENDIX “G”, CHAPTER 14 ENTITLED “ZONING REGULATIONS,” BY AMENDING SECTION 14-46 ENTITLED “LANDSCAPING STANDARDS,” TO PROVIDE ALTERNATIVE LANDSCAPE OPTIONS IN LIEU OF LANDSCAPING ON GARAGE DECKS; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. First Reading.

CMBR CELONA moved, seconded by CMBR GEIGER to approve Ordinance 2015-05 on first reading.

Vote: Motion carried by unanimous roll call vote (summary: **Yes = 4**).

Yes: Council Member Lorraine Geiger, CouncilMember Jennie Celona, Mayor Harry Jennings, Vice Mayor Peggy Rice.

7. CONSIDERATION FOR SIGN GRANT APPLICATION FROM SEA CLUB IV

CMBR GEIGER moved, seconded by CMBR RICE to approve the sign grant application for Sea Club Iv in the amount of \$ 5299.50.

Vote: Motion carried by unanimous roll call vote (summary: **Yes = 4**).

Yes: Council Member Lorraine Geiger, CouncilMember Jennie Celona, Mayor Harry Jennings, Vice Mayor Peggy Rice.

8. COUNCIL COMMENTS: CMBR Rice congratulated the Culture & Entertainment Board for continuing to provide wonderful concerts each month. CMBR Geiger felt the food truck at the last concert was a great addition and hoped it could continue. CMBR Celona congratulated Sr. Center Director, Roni Jackson on another successful Pickleball tournament. She had 154 players and raised \$609 for the Susan B. Kolman Breast Cancer Fund. Mayor Jennings also praised Ms. Jackson’s efforts on the tournament. It was a good economic impact for the city.

9. AUDIENCE REMARKS/PUBLIC COMMENTS: None.

10. ITEMS RECOMMENDED FOR THE NEXT AGENDA: contract with architect for community center, ordinance on human trafficking. CMBR. Geiger announced that she will not be at the next meeting due to a previous commitment.

11. ADJOURNMENT: The meeting ended at 7:18 pm.

**MAYOR
HARRY H. JENNINGS**

**CITY MANAGER
MICHAEL T. BOOKER**


ATTEST:

CITY CLERK, CHERI SCHWAB



**DAYTONA BEACH SHORES
DEPARTMENT OF PUBLIC SAFETY**

MEMORANDUM

To: Michael Booker, City Manager
From: Stephan Dembinsky, Public Safety Director 
Date: October 28, 2015
Re: contraband forfeiture
File: PS15-10-02

I would like the approval of council to use \$6400. from the contraband forfeiture fund for the purchase of POWER DMS program.

McMahan, Janice

From: Booker, Michael
Sent: Wednesday, November 04, 2015 11:11 AM
To: McMahan, Janice
Subject: Fwd: item for consent agenda

FYI

Sent from my iPhone

Begin forwarded message:

From: "Schwab, Cheri" <cschwab@cityofdbs.org>
Date: November 4, 2015 at 10:12:07 AM EST
To: "Dembinsky, Stephan" <sdembinsky@cityofdbs.org>
Cc: "Whitmer, Stephen" <swhitmer@cityofdbs.org>, "Booker, Michael" <mbooker@cityofdbs.org>
Subject: Re: item for consent agenda

Did you want to add a car wrap as well?
Lol

Sent from my iPhone

On Nov 4, 2015, at 10:10 AM, Dembinsky, Stephan <sdembinsky@cityofdbs.org> wrote:

Cheri, would you please put this on the next consent agenda for the Council's approval, thanks

I am requesting that the City Council approve the expenditure of \$78,000 from contingency funds to pay for the new generator for Public Safety. This item was fully funded in last year's budget, but due to delivery issues, the generator will not be delivered until this budget year. The monies previously allocated were placed back into the general fund, necessitating the expenditure.

Reports of the City Attorney

Reports of the City Manager

ORDINANCE 2015-05

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, AMENDING THE MUNICIPAL CODE OF ORDINANCES, LAND DEVELOPMENT CODE; AMENDING APPENDIX “G”, CHAPTER 14 ENTITLED “ZONING REGULATIONS,” BY AMENDING SECTION 14-46 ENTITLED “LANDSCAPING STANDARDS,” TO PROVIDE ALTERNATIVE LANDSCAPE OPTIONS IN LIEU OF LANDSCAPING ON GARAGE DECKS; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2, *Constitution of the State of Florida*, authorizes the City of Daytona Beach Shores to exercise any power for municipal purposes except as otherwise provided by law; and

WHEREAS, Section 163.3202, *Florida Statutes*, provides that the City of Daytona Beach Shores shall adopt and enforce land development regulations for the purpose of implementing its comprehensive plan and protecting the public health, safety, and general welfare; and

WHEREAS, among other things, the purpose and intent of the Daytona Beach Shores Landscaping Standards is to “promote innovative and cost-conscious approaches to the design, installation and maintenance of landscaping, and encourage water and energy conservation;” and

WHEREAS, among other things, the purpose and intent of the Daytona Beach Shores Landscaping Standards is to “promote innovative and cost-conscious approaches to the design, installation and maintenance of landscaping, and encourage water and energy conservation;” and

WHEREAS, required landscaping in outdoor parking areas over time tend to leak from planters and cause damage to the parking deck structure and the contents of the underground garage; and

WHEREAS, there is no proven technology and/or construction methodology that prevents leakage of water from garage decks into underground parking garages from landscape planters; and

WHEREAS, providing developers and owners the option to opt out of providing landscaping in parking areas above garage decks may add to the longevity of parking decks and result in savings for existing and future residents; and

WHEREAS, the City Council of the City of Daytona Beach Shores finds it is in the best interest and welfare of the citizens; and

WHEREAS, the City of Daytona Beach Shores has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance; and

WHEREAS, this Ordinance is consistent with the goals, objectives and policies of the *Comprehensive Plan of the City Daytona Beach Shores*; and

WHEREAS, for purposes of this Ordinance, underlined type shall constitute additions to the original text, *** shall constitute ellipses to the original text and strikethrough shall constitute deletions to the original text.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA THAT:

SECTION ONE: The City Council of the City of Daytona Beach Shores hereby amends the *Land Development Code*, Chapter 14, Appendix “G”, *Code of Ordinances of the City of Daytona Beach Shores*, entitled “Zoning Regulations,” as follows:

CHAPTER 14. – Zoning Regulations

Sec. 14-46. - Landscaping standards.

14-46.1. Purpose and Intent.

It is the intent of the City of ~~Daytona Beach Shores~~ to promote the health, safety and welfare of existing and future residents of the ~~{city and}~~ City and visitors to the City by establishing minimum standards for the protection of natural plant communities and the installation and continued maintenance of landscaping within the City, in order to:

1. Improve the aesthetic appearance of commercial, residential, tourist and public areas through the incorporation of open space into development in ways that harmonize and enhance the natural and built environment.
2. Improve environmental quality by recognizing the numerous beneficial effects of landscaping upon the environment, including:
 - a. Improving air quality through such natural processes as photosynthesis and mineral uptake;
 - b. Reducing and reversing air, noise, heat and chemical pollution through the biological filtering capacities of trees and other vegetation;
 - c. Promoting energy conservation through the creation of shade, reducing heat gain in or on buildings or paved areas; and
 - d. Reducing the temperature of the microclimate through the process of evapotranspiration.
3. Maintain and increase the value of land by requiring a minimum amount of landscaping to be incorporated into development, thus becoming by itself a valuable capital asset.
4. Provide direct and important physical and psychological benefits to people through the use of landscaping to reduce noise and glare, and to break up the monotony and soften the harsher aspects of urban development.
5. Preserve existing natural vegetation and incorporate native plants, plant communities and ecosystems into landscape design, whenever possible.
6. Eradicate or control certain exotic plant species that have become nuisances because of their tendency to damage public and private works, or to disrupt or destroy native ecosystems.

7. Promote innovative and cost-conscious approaches to the design, installation and maintenance of landscaping, and encourage water and energy conservation.

~~8. To further the community redevelopment goals of the city's community redevelopment agency, including, but not limited to, the realization of the city's S.R. A1A streetscape project.~~

14-46.2. Definitions.

Definitions for this chapter shall be defined as provided in section 2-3 of this Code.

14-46.3. - 14-46.4.

14-46.5. Landscape Design Standards.

1. Minimum tree and shrub planting or preservation requirements:

a. Trees shall not be placed where they interfere with site drainage or where they shall require frequent pruning to avoid interference with overhead power lines.

(1) Single-family residential lots. One (1) tree shall be planted or preserved for every two thousand five hundred (2,500) square feet of area of a single family residential unit site or fraction thereof in accordance with section 14-46.11, Tree Protection Requirements, Minimum Tree Coverage Requirements of the Zoning Regulations, Chapter 14 of this Code. A minimum of fifty (50) percent of all required trees shall be shade trees if it can be determined that such species are available and which are salt tolerant and wind resistant.

(2) Multi-family residential lots. One (1) tree shall be planted or preserved for every two thousand five hundred (2,500) square feet of multifamily residential unit site or fraction thereof in accordance with section 14-46.11, Tree Protection Requirements, Minimum Tree Coverage Requirements of the Zoning Regulations, Chapter 14 of this Code. A minimum of twenty-five (25) percent of all required trees shall be shade trees if it can be determined that such species are available and which are salt tolerant and wind resistant.

(3) Non-residential lots. One (1) tree shall be planted or preserved for every two thousand five hundred (2,500) square feet of ~~multifamily residential unit~~ non-residential site or fraction thereof in accordance with section 14-46.11, Tree Protection Requirements, Minimum Tree Coverage Requirements of the Zoning Regulations, Chapter 14 of this Code. A minimum of fifty (50) percent of all required trees shall be shade trees if it can be determined that such species are available and which are salt tolerant and wind resistant.

b. In enacting this minimum tree planting requirement, it is the intent of the City of ~~Daytona Beach Shores~~ that a canopy of trees be throughout a site development. The City recognizes that salt tolerant canopy and shade trees are not always available and generally have low survival rates within City Limits. Therefore, the City hereby establishes a palm to tree replacement ratio whereby three (3) palms may be substituted in lieu of a single required shaded and/or canopy tree. This section establishes a formula for allocating a certain number of trees to each sub-area in a site development. Preservation areas are excluded from the total area in calculating the tree planting requirements as an incentive to preserve significant vegetation. Site development plans shall indicate the minimum number of trees that shall be planted in each sub-area, and identify their common name and botanical name.

c. The minimum number of trees required to be planted or preserved within a site development shall be determined by applying the formula established within said section 14-46.5.1(a) and in accordance with section 14-46.8 through 14-46.18, Tree Protection, Coverage, Relocation, Survival, Removal, of the Zoning Regulations, Chapter 14 of this Code. The minimum number of trees required to be planted or preserved in a sub-area of a site development shall be proportion of the total number of trees required for the overall site. This proportion shall be determined by comparing the area of the sub-area to the area of the total site.

d. Standards for landscape materials:

(1) All plant materials shall be a minimum of Florida Number One as defined in "Grades and Standards Revised, Part II," as published by the Florida Department of Agriculture and Consumer Services. Exceptions and substitutions from this regulation may be reviewed and approved by the building official to promote the use of slow growing or native plant materials.

(2) Immediately upon planting, trees shall be a minimum of eight (8) feet in height and shall have a minimum caliper of one and one-half (1½) inches.

(3) When more than ten (10) trees are required to be planted to meet the requirements of these regulations, a mix of species shall be provided. The number of species to be planted are indicated in Figure One. Species shall be planted in proportion to the required mix. This species mix shall not apply to areas of vegetation required to be preserved by law.

FIGURE ONE. REQUIRED SPECIES MIX

Required Number of Trees	Minimum Number of Species
11—20	2
21—30	3
31—40	4
41	5

(4) When required by these regulations, shrubs shall be a minimum of twenty-four (24) inches in height immediately upon planting, and spaced eighteen (18) to thirty-six (36) inches on center. Spacing of individual plants shall depend on the type of shrubs used. Hedges, where required, shall form a solid continuous visual screen at least three (3) feet in height within two (2) years after the time of planting but in no way shall conflict with section 14-44, Fences, Walls and Hedges, within the Zoning Regulations, Chapter 14 of this Code. Exceptions and substitutions from this requirement may be approved by the building official to promote the use of slow growing or native plant materials.

2. Landscaping the interior of vehicular use areas: It is the intent of the City of ~~Daytona Beach Shores~~ that vehicular use areas be both functional and aesthetically pleasing. It is the intent of these regulations to achieve this goal by providing for greater design flexibility while increasing minimum standards for required landscaping. A distinction is made among landscape regulations applicable to two types of vehicular use areas. These are:

Off-street parking; and

Other vehicular use areas (such as "stacking" areas in automotive service stations, fast food outlets, or banks) that are used by the public, but not for parking.

Within off-street parking areas, developers are permitted to choose between two (2) design alternatives. The first, the traditional approach, required land to be set aside in the form of interior islands and perimeter landscape strips. The second eliminates interior islands, but increases tree canopy through increased planting. This design option is only available, however, if parking stalls are laid out so that four (4) stalls intersect.

Regarding vehicular use areas not used for off-street parking but that are open to the public, it is required that an area equal to a percentage of the total paved area be set aside for interior landscaping. This approach gives greater design flexibility and is relatively easily administered.

a. Landscaping the interior of off-street parking areas.

(1) Design alternative one.

(a) A minimum of fifteen (15) square feet of landscaping for each parking space shall be provided within the interior of an off-street parking area.

(b) Each row of parking spaces shall be terminated by landscaped islands that measure not less than five (5) feet in width and not less than eighteen (18) feet in length. At least one (1) tree shall be planted in each terminal landscaped island.

(c) Interior landscaped islands shall also be provided within each row of parking spaces. One (1) interior island shall be provided for each twelve (12) parking spaces or fraction thereof. Landscaped interior islands shall measure not less than five (5) feet in width and not less than eighteen (18) feet in length. At least one (1) tree shall be planted in each interior island.

(d) Landscaped divider medians may be used to meet interior landscape requirements. If divider medians are used, they should form a continuous landscaped strip between abutting rows of parking spaces. The minimum width of a divider median shall be five (5) feet. One (1) tree shall be planted for each forty (40) linear feet of median or fraction thereof. Trees in a median may be planted singly or in clusters.

(e) All interior landscaped areas not dedicated to trees or to the preservation of existing vegetation shall be landscaped with grass, ground cover or shrubs. Sand or other pavement shall not be considered appropriate landscape treatment.

(2) Design alternative two.

(a) This alternative shall be available only in off-street parking areas in which four (4) parking spaces intersect. They need not intersect at right angles. If the parking area is designed to have staggered spaces, the developer shall use Design Alternative One.

(b) One tree shall be planted or preserved for each nine (9) parking spaces.

(c) Each row of parking spaces shall be terminated by landscaped islands that measure not less than five (5) feet in width and eighteen (18) feet in length. At least one (1) tree shall be planted in each terminal island.

(d) Trees required to be planted by these regulations may be distributed throughout the interior of a parking area in any way that encourages adequate shading of parked cars and visual access. Grade level tree planting areas shall be located in the common intersection of four (4) parking spaces. The minimum area of a tree planting area shall be twenty (20) square feet. The minimum dimensions shall be four (4) feet by five (5) feet. Trees shall be planted on center at the point of intersection of the four (4) parking spaces. The ground surface within the tree planting area shall receive appropriate landscape treatment, including mulch or ground cover.

3. Landscaping the interior of other types of vehicular use areas that are open to the public. A minimum of ten (10) percent of the gross paved area of vehicular use areas that are open to the public but are not used for off-street parking shall be devoted to interior landscaping. Such vehicular use areas include access roads in automotive service stations and "stacking" areas in fast food restaurant and drive-in banks.

If the landscaped area developed to meet this requirement is moved to the perimeter of the lot, it shall be designed as an integral part of perimeter landscaping. This landscaped area may also be designed to accommodate one (1) tree for each forty (40) lineal feet of divider median or fraction thereof.

4. Landscaping the perimeter of lots.

a. Perimeter Landscape Strips Separating Vehicular Use Areas from Abutting Rights-of-Way.

(1) Wherever a vehicular use area abuts a dedicated right-of-way, a perimeter landscape strip shall be created that meets the minimum standards established herein. The perimeter landscape strip shall extend along the length of the boundary between the right-of-way and the vehicular use area. A perimeter landscape strip may be pierced by access ways to the extent necessary to comply with these regulations, or other applicable ordinances.

(2) The minimum width of a perimeter landscape strip shall be ten (10) feet.

(3) One (1) tree shall be planted for each thirty-five (35) feet or fraction thereof of a perimeter landscape strip separating a vehicular use area from an abutting right-of-way.

(4) Trees in a perimeter landscape strip may be planted singly or in clusters. The maximum spacing of planted trees shall be sixty (60) feet.

(5) A hedge, berm or other landscape barrier shall be located within the perimeter landscape strip. This barrier shall be no less than three (3) feet and no more than eight (8) feet in height within two (2) years after installation but in no way shall conflict with section 14-44, Fences, Walls and Hedges or section 14-47, Obstruction to Vision at Road Intersections within the Zoning Regulations, Chapter 14 of this Code.

b. Perimeter Landscape Strips Separating a Vehicular Use Area from the Interior Lot Line of an Abutting Property.

(1) Every vehicular use area shall be screened from view at ground level from abutting properties. This requirement shall not prohibit the interconnecting of adjoining off-street parking lots to more efficiently and safely handle the access and egress of traffic on to South Atlantic Avenue.

(2) The minimum width of the perimeter landscape strip between a vehicular use area and an abutting property shall be five (5) feet.

(3) The perimeter landscape strip shall extend along the length of the interior lot line. The landscape strip may be pierced by accessways as necessary to comply with the requirements of these regulations or other applicable ordinances.

(4) One (1) tree shall be planted for each thirty-five (35) linear feet or fraction thereof of the perimeter landscape strip. These trees may be planted singly or in clusters. The maximum spacing of planted trees shall be sixty (60) feet.

(5) A hedge, berm or other landscape barrier shall be located within this perimeter landscape strip. If a condominium high-rise is proposed to be built next to an existing hotel or motel, or vice-versa, this barrier shall be no less than six (6) feet and no more than twelve (12) feet in height within two (2) years after installation. If a special exception is granted under the provisions of section 14-58 of the Zoning Regulations, Chapter 14 of this Code, the barrier shall be eight (8) feet in height within two (2) years after installation. If a service station is built under the provisions of section 14-45.3 [14-55.3] of the Zoning Regulations, Chapter 14 of this Code, where the lot abuts a residentially zoned property, an eight (8) foot barrier shall be provided.

For all other abutting use combinations, this barrier shall be no less than three (3) feet and no more than eight (8) feet in height within two (2) years after installation but in no way shall conflict with section 14-44, Fences, Walls and Hedges or section 14-47, Obstruction to Vision at Road Intersections within the Zoning Regulations, Chapter 14 of this Code.

5. Curbing and encroachment of vehicles into landscape areas.

a. Except as provided in paragraph 5.b within section 14-46.5, all landscape areas shall be separated from vehicular use areas by non-mountable, reinforced concrete curbing of the type characterized as "Type D" in the "Roadway and Traffic Design Standards Manual," prepared by the Florida Department of Transportation, or curbing of comparable durability. Unreinforced extruded curbing shall be prohibited.

b. All landscaped areas adjacent to off-street parking areas shall be protected from encroachment or intrusion of vehicles through the use of wheel stops. Wheel stops shall have a minimum height of six (6) inches above finished grade of the parking area, and shall be properly anchored and maintained in good condition.

c. The width of curbing shall not be included in the calculation of the minimum dimensions of all required landscape areas.

6. Vehicular Use Areas Above Garage Decks

Where vehicular use areas including, but not limited to, parking stalls and driveways are proposed or located on or above garage decks the interior landscaping standards pursuant to Sec. 14-46.5.2 and Sec. 14-46.5.3 shall not apply if one (1) of the following alternative landscaping options from the Alternative Landscape Option Table is provided:

Alternative Landscape Option Table

<u>Option</u>	<u>Development Type</u>	<u>Min. number of General Criteria Required</u>	<u>Min. number of Perimeter Landscape Criteria Required</u>
<u>Option 1</u>	<u>New-Conforming Lot</u>	<u>2</u>	<u>3</u>
<u>Option 2</u>	<u>New- Conforming Lot</u>	<u>3</u>	<u>2</u>
<u>Option 3</u>	<u>New-Nonconforming Lot</u>	<u>2</u>	<u>2</u>
<u>Option 4</u>	<u>New-Nonconforming Lot</u>	<u>3</u>	<u>1</u>
<u>Option 5</u>	<u>Existing</u>	<u>1</u>	<u>1</u>

a. General Landscaping Criteria.

1. The total onsite tree requirement is at least ten (10) percent more than required.
2. The total onsite tree mixture requirement is at least fifty (50) percent more than required.
3. The total onsite green area requirement is at least five (5) percent more than required.
4. The required interior and terminal landscape island trees are placed in anchored containers, structures or areas within the vicinity of the vehicular use area as approved by the Building Official. The Building Official may require bollards, curbing or other systems to ensure safety of all users.

a. Perimeter Landscaping Criteria.

1. The minimum required perimeter landscape strip width adjacent to the vehicular use area (Sec. 14-46.5.4) is at least fifty (50) percent more than required.
2. The total perimeter landscape strip tree requirement adjacent to the vehicular use area (Sec. 14-46.5.4) is at least twenty-five (25) percent more than required. Trees in this portion of

the perimeter landscape strip may be planted singly or in clusters. The maximum spacing of planted trees shall be sixty (60) feet.

3. Notwithstanding, and in addition to the minimum tree and landscape barrier requirements of Sec. 14-46.5.4 and Sec. 14-46.5.6 of this Code, each perimeter landscape strip adjacent to the vehicular use area shall contain at least one (1) accent landscaped area, at least one-hundred (100) square feet in size, for every sixty (60) linear feet or fraction thereof of the perimeter landscape strip area adjacent to the vehicular use area. This accent area shall include a mixed variety of plantings and incorporate a harmonious design with the overall landscaped perimeter strip.
4. Notwithstanding, and in addition to the minimum tree and landscape barrier requirements of Sec. 14-46.5.4 and Sec. 14-46.5.6 of this Code, each perimeter landscape strip adjacent to the vehicular use area shall contain a mixed landscape border. This landscaped border shall include a mixed variety of plantings and incorporate a harmonious design with the overall landscaped perimeter strip.

14-46.6. Landscape Plan Required.

Prior to the issuance of any building permit, a landscape plan shall be submitted to, reviewed by and approved by the building official in all cases where a regular site plan is not required, the beautification board and the planning and zoning board of Daytona Beach Shores. When regular site plan review is required, the City Council shall review and approve the landscape plan subsequent to the receipt of action relative the consideration of a recommendation by the Beautification Advisory Board.

1. Single-family detached residences. The landscape plan submitted for the development of a single-family detached residence on its own lot may be in the form of a plot plan or a drawing prepared by the owner or his agent.

2. All other development. The landscape plan for all other development shall be prepared by and bear the seal of a landscape architect or otherwise be prepared by persons authorized to prepare landscape plans or drawings by Chapter 481, Part II (Landscape Architecture) of the Florida Statutes. Plans may be prepared by other legally qualified person such as:

- a. Architects, where applicable;
- b. Engineers, where applicable;
- c. Nurserymen;
- d. Nursery stock dealers; and
- e. Nursery agents, etc.

3. Contents of landscape plans. The landscape plan shall:

- a. Be drawn to scale, including dimensions and distances;
- b. Delineate the existing and proposed parking spaces or other vehicular areas, access aisles, driveways and similar features;
- c. Indicate the location of sprinklers or water outlets;
- d. Designate by name and location the plant material to be installed or preserved in accordance with these regulations;
- e. Identify and describe the location and characteristics of all other landscape materials to be used;
- f. Show all landscape features, including areas of vegetation required to be preserved by law, in context with the location and outline of existing and proposed buildings and other improvements on the site, if any;

g. Include a tabulation clearly displaying the relevant statistical information necessary for the building official, beautification board and planning and zoning board to evaluate compliance with the provisions of these regulations. This includes:

- (1) Gross acreage;
- (2) Calculated amount of preservation area;
- (3) Number of trees to be planted or preserved;
- (4) Square footage of paved areas;
- (5) Any other information the building official may require.

h. Identify which alternative landscape plan option is selected pursuant to Sec. 14-46.5.6 of this Code and demonstrate compliance with the standards relating to the selected option.

~~h.~~ i. Contain such other information that may be required by the building official that is reasonable and necessary for determination that the landscape plan meets the requirements of these regulations.

14-46.7. - 14-46.18.

~~14 46.19. Landscape Requirements for RMF RD Residential Multifamily Redevelopment District (High Density).~~

- ~~1. A fifteen foot wide landscape buffer shall be placed in the front and side yard setbacks of any development in this district.~~
- ~~2. The landscape buffer in this district shall meet the minimum requirements as outlined in section 14-46.5.4.a.(3), (4) and (5) of these Land Development Regulations.~~
- ~~3. Landscape in this district shall apply for an annual landscape review and certificate of compliance.~~

~~14 46.20. Landscape Requirements for TOR RD Tourist Oriented Residential Redevelopment District.~~

- ~~1. A fifteen foot wide landscape buffer shall be placed in the front and side yard setbacks of any development in this district.~~
- ~~2. The landscape buffer in this district shall meet the minimum requirements as outlined in section 14-46.5.4.a.(3), (4) and (5) of these Land Development Regulations.~~
- ~~3. All new developments in this district, approved after the effective date of this regulation, shall be required to apply for an annual landscape certificate of compliance.~~

~~14 46.21. Landscape Requirements for GC RD General Commercial Redevelopment District.~~

- ~~1. A fifteen foot wide landscape buffer shall be placed in the front and side yard setbacks of any development in this district.~~
- ~~2. The landscape buffer in this district shall meet the minimum requirements as outlined in section 14-46.5.4.a.(3), (4) and (5) of these Land Development Regulations.~~
- ~~3. All new developments in this district, approved after the effective date of this regulation, shall be required to apply for an annual landscape certificate of compliance.~~

~~14 46.22. Landscape Requirements for TC MUPUD Town Center Mixed Use Planned Unit Development.~~

~~14 46.22.1.~~

~~All landscape requirements shall be approved through the PUD agreement.~~

SECTION TWO: ENFORCEMENT AND PENALTIES.

- (a). It is prohibited and unlawful for any person to fail to comply with the requirements of this Ordinance.
- (b). The City may enforce the provisions of this Ordinance by any lawful means available to the City under the controlling provisions of State law and Section 1.8 of the *Code of Ordinances of the City of Daytona Beach Shores, Florida*.
- (c). The penalties for violation of this Ordinance shall be as set forth in the code enforcement method asserted by the City under the *Code of Ordinances of the City of Daytona Beach Shores, Florida* or as may be available under the controlling provisions of State law.

SECTION THREE: SAVINGS. The prior actions of the City of Daytona Beach Shores relating to landscaping and related standards are hereby ratified and affirmed.

SECTION FOUR: CODIFICATION. The provisions of this Ordinance, including its recitals, shall become and be made a part of the *Code of Ordinances of the City of Daytona Beach Shores, Florida* and the Sections of this Ordinance may be renumbered or relettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections Two, Three, Four, Five, Six and Seven shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION FIVE: CONFLICTS. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION SIX: SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION SEVEN: EFFECTIVE DATE. This Ordinance shall take effect immediately upon enactment.

CITY OF DAYTONA BEACH SHORES, FLORIDA

HARRY JENNINGS, MAYOR

MICHAEL T. BOOKER, CITY MANAGER

CHERI SCHWAB, CITY CLERK

Approved as to form and legality:

LONNIE GROOT, CITY ATTORNEY

Passed on first reading this _____ day of _____, 2015.

Adopted on second reading this _____ day of _____, 2015.

ORDINANCE 2015-06

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, RELATING TO ADULT ENTERTAINMENT; PROVIDING FOR FINGERPRINTING AND REGISTRATION OF ADULT ENTERTAINMENT WORKERS AND FOR PUBLIC AWARENESS SIGNS RELATING TO HUMAN TRAFFICKING; IN PART IMPLEMENTING THE PROVISIONS OF CHAPTER 2015-172, LAWS OF FLORIDA; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR THE IMPOSITION OF PENALTIES; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR PENALTIES AND AMENDING SECTION 1-8 OF THE CODE OF ORDINANCES OF THE CITY OF DAYTONA BEACH SHORES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION, DIRECTIONS TO THE CODE CODIFIER AS WELL AS THE CORRECTION OF SCRIVENER'S ERRORS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the following definitions are set forth in Chapter 2½ of the *Code of Ordinances of the City of Daytona Beach Shores* which pertains to adult entertainment establishments:

Adult model: Any person who, for commercial or pecuniary gain, offers, suggests, or agrees to engage in a private performance, modeling or display of male or female lingerie, bathing suits, under garments, or specified anatomical areas to the view of a customer.

...

Escort: Any person who, for commercial or pecuniary gain, compensation or tips, agrees to, offers to go, or goes to any place, including, but not limited to, a business, hotel, motel, residence, boat, vessel, motor vehicle, or other mode of transportation to do any of the following acts:

- (1) Act as a companion or date for, or converse with a customer;
- (2) Engage in commercial bodily contact with another person;
- (3) Engage in a private performance;
- (4) Engage in adult modeling or act as an adult model;
- (5) Display specified anatomical areas, strip naked, or go topless; or
- (6) Engage in any specified sexual activity.

Nothing in this definition shall be construed to legalize prostitution or other conduct prohibited by this Code or other law. Workers of a licensed adult performance establishment for whom worker records are maintained pursuant to this chapter are excluded from the definition of escort when engaged in the expressive display of specified anatomical areas at a licensed adult performance establishment.

An escort who is a paid employee type worker of an escort service for whom taxes and Social Security payments are withheld and paid by the escort service, and who is not an independent contractor, is not required to obtain his or her own sexually oriented business license for activities conducted pursuant to employment with the escort service.

...

Worker: A person who works, performs, or provides services at an adult entertainment establishment or at or for a sexually oriented business, irrespective of whether said person is paid a salary or wage and shall include, but is not limited to, employees, independent contractors, subcontractors, lessees, or sub-lessees who work or perform at an adult entertainment establishment or at or for a sexually oriented business. An operator is a type of worker.

; and

WHEREAS, Article VIII Section 2(b) of the *Constitution of the State of Florida* states that municipalities shall have the governmental powers to enable them to conduct municipal government, perform municipal functions, render municipal services and exercise any power for municipal purposes except when expressly prohibited by law; and

WHEREAS, the City Council of the City of Daytona Beach Shores desires that the adult entertainment workers within the City of Daytona Beach Shores be protected from the dangers of human trafficking; and

WHEREAS, this Ordinance 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*, and other applicable controlling law; and

WHEREAS, for purposes of this Ordinance, underlined type shall constitute additions to the original text, *** shall constitute ellipses to the original text and ~~striketrough~~ shall constitute deletions to the original text.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA THAT:

SECTION ONE: LEGISLATIVE AND ADMINISTRATIVE FINDINGS AND INTENT.

(a). The City Council of the City of Daytona Beach Shores hereby adopts and incorporates into this Ordinance the recitals (whereas clauses) set forth herein as the legislative and administrative findings and intent of the City Council.

(b). Committee Substitute for Committee Substitute for House Bill 369 was enacted during the 2015 Regular Legislative Session and the bill was approved by Governor Scott on June 16, 2015 and was assigned Chapter 2015-172, *Laws of Florida*, and will become effective on January 1, 2016 and the legislative staff report relating to the legislation provided as follows:

Florida law defines human trafficking as “soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining another person for the purpose of exploitation of that person.” Human trafficking is a form of modern-day slavery, which involves the exploitation of persons for commercial sex or forced labor. Trafficking often subjects victims to force, fraud, and coercion.

There are no definitive statistics on the extent of human trafficking. The U.S. Department of State estimates that as many as 27 million victims are being trafficked worldwide at any given time. They also estimate that there were approximately 40,000 victims being trafficked in the United States in 2012. Florida is estimated to have the third highest rate of human trafficking in the United States, following New York and California. Victims of human trafficking are transported around the United States by a variety of means-cars, buses, vans, trucks, or planes-and are often provided counterfeit identification to use in the event of arrest.

The National Human Trafficking Resource Center (NHTRC) is a national hotline number funded by the United States Department of Health and Human Services. It has been operated by Polaris since 2007. Polaris is a non-profit, non-

governmental organization, which works exclusively on the issue of human trafficking. It is not a government entity, law enforcement agency, or an immigration authority.

The NHTRC provides service referrals to victims of human trafficking, tips to law enforcement, information to the public, training, and technical assistance. The NHTRC’s “mission is to provide human trafficking victims and survivors with access to critical support and services to get help and stay safe, and to equip the anti-trafficking community with the tools to effectively combat all forms of human trafficking.”

The toll-free hotline is available to answer calls from anywhere in the United States, 24 hours a day, seven days a week, every day of the year. It has the capabilities to answer calls in more than 200 languages. In 2014, the hotline received 1,428 phone calls and reported 364 human trafficking cases in Florida.

Currently, 25 states require or encourage the NHTRC hotline number to be posted or promoted within the state.

Florida law currently does not require or encourage the posting of the hotline number.

(c). The legislation provides for the following:

The bill creates s. 787.29, F.S. relating to human trafficking public awareness signs. The bill requires the Department of Transportation to display human trafficking public awareness signs in every rest area, turnpike service plaza, weigh station, primary airport, passenger rail station, and welcome center open to the public.

The bill requires emergency rooms at general acute care hospitals to display human trafficking public awareness signs.

The bill requires the employer at each of the following establishments to display human trafficking public awareness signs in a conspicuous location that is clearly visible to the public and employees of the establishment:

- GEAI 及 8JA 糖 CGI | CB 糖 III | AB 糖 I
- JHC 糖 III | AB 糖 I 糖 G | H 糖 D&N LG 糖

for compensation that is not owned by a health care profession.

The bill requires public awareness signs to be at least 8.5 inches by 11 inches in size, must be printed in at least 16-point type, and must state substantially the following in English and Spanish:

If you or someone you know is being forced to engage in an activity and cannot leave-whether it is prostitution, housework, farm work, factory work, retail work, restaurant work, or any other activity-call the National Human Trafficking Resource Center at 1-888-373-7888 or text INFO or HELP to 233-733 to access help and services. Victims of human trafficking are protected under United States

and Florida law.¹

(d). The provisions of Committee Substitute for Committee Substitute for House Bill 369 (Chapter 2015-172, *Laws of Florida*) and the pertinent legislative staff report are hereby adopted by the City Council as part of the legislative findings and intent relative to the enactment of this Ordinance. Additionally, the legislative intent provisions of Section 787.06, *Florida Statutes*, are adopted as legislative intent.²

¹ The legislation provides that County Commissions may adopt ordinances to enforce the posting of signs by strip clubs, adult entertainment establishments, and businesses or establishments offering massage or bodywork services. A violation is a noncriminal violation punishable by a fine not to exceed \$500. Article VIII, Section 2, of the *Constitution of the State of Florida*; Chapter 166, *Florida Statutes*, and other applicable controlling law provide for requisite authority for cities to take like action.

² That statutory provision states as follows:

787.06 Human trafficking.—

(1)(a) The Legislature finds that human trafficking is a form of modern-day slavery. Victims of human trafficking are young children, teenagers, and adults. Thousands of victims are trafficked annually across international borders worldwide. Many of these victims are trafficked into this state. Victims of human trafficking also include citizens of the United States and those persons trafficked domestically within the borders of the United States. The Legislature finds that victims of human trafficking are subjected to force, fraud, or coercion for the purpose of sexual exploitation or forced labor.

(b) The Legislature finds that while many victims of human trafficking are forced to work in prostitution or the sexual entertainment industry, trafficking also occurs in forms of labor exploitation, such as domestic servitude, restaurant work, janitorial work, sweatshop factory work, and migrant agricultural work.

(c) The Legislature finds that traffickers use various techniques to instill fear in victims and to keep them enslaved. Some traffickers keep their victims under lock and key. However, the most frequently used practices are less obvious techniques that include isolating victims from the public and family members; confiscating passports, visas, or other identification documents; using or threatening to use violence toward victims or their families; telling victims that they will be imprisoned or deported for immigration violations if they contact authorities; and controlling the victims' funds by holding the money ostensibly for safekeeping.

(d) It is the intent of the Legislature that the perpetrators of human trafficking be penalized for their illegal conduct and that the victims of trafficking be protected and assisted by this state and its agencies. In furtherance of this policy, it is the intent of the Legislature that the state Supreme Court, The Florida Bar, and relevant state agencies prepare and implement training programs in order that judges, attorneys, law enforcement personnel, investigators, and others are able to identify traffickers and victims of human trafficking and direct victims to appropriate agencies for assistance. It is the intent of the Legislature that the Department of Children and Families and other state agencies cooperate with other state and federal agencies to ensure that victims of human trafficking can access social services and benefits to alleviate their plight.

(2) As used in this section, the term:

(a) "Coercion" means:

1. Using or threatening to use physical force against any person;
2. Restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will;
3. Using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied

toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined;

4. Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person;

5. Causing or threatening to cause financial harm to any person;

6. Enticing or luring any person by fraud or deceit; or

7. Providing a controlled substance as outlined in Schedule I or Schedule II of s. 893.03 to any person for the purpose of exploitation of that person.

(b) "Commercial sexual activity" means any violation of chapter 796 or an attempt to commit any such offense, and includes sexually explicit performances and the production of pornography.

(c) "Financial harm" includes extortionate extension of credit, loan sharking as defined in s. 687.071, or employment contracts that violate the statute of frauds as provided in s. 725.01.

(d) "Human trafficking" means transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining another person for the purpose of exploitation of that person.

(e) "Labor" means work of economic or financial value.

(f) "Maintain" means, in relation to labor or services, to secure or make possible continued performance thereof, regardless of any initial agreement on the part of the victim to perform such type service.

(g) "Obtain" means, in relation to labor or services, to secure performance thereof.

(h) "Services" means any act committed at the behest of, under the supervision of, or for the benefit of another. The term includes, but is not limited to, forced marriage, servitude, or the removal of organs.

(i) "Sexually explicit performance" means an act or show, whether public or private, that is live, photographed, recorded, or videotaped and intended to arouse or satisfy the sexual desires or appeal to the prurient interest.

(j) "Unauthorized alien" means an alien who is not authorized under federal law to be employed in the United States, as provided in 8 U.S.C. s. 1324a(h)(3). The term shall be interpreted consistently with that section and any applicable federal rules or regulations.

(k) "Venture" means any group of two or more individuals associated in fact, whether or not a legal entity.

(3) Any person who knowingly, or in reckless disregard of the facts, engages in human trafficking, or attempts to engage in human trafficking, or benefits financially by receiving anything of value from participation in a venture that has subjected a person to human trafficking:

(a)1. For labor or services of any child under the age of 18 commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. Using coercion for labor or services of an adult commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Using coercion for commercial sexual activity of an adult commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c)1. For labor or services of any child under the age of 18 who is an unauthorized alien commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. Using coercion for labor or services of an adult who is an unauthorized alien commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) Using coercion for commercial sexual activity of an adult who is an unauthorized alien commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(e)1. For labor or services who does so by the transfer or transport of any child under the age of 18 from outside this state to within the state commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. Using coercion for labor or services who does so by the transfer or transport of an adult from outside this state to within the state commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(e). The City of Daytona Beach Shores has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance.

(f)1. For commercial sexual activity who does so by the transfer or transport of any child under the age of 18 from outside this state to within the state commits a felony of the first degree, punishable by imprisonment for a term of years not exceeding life, or as provided in s. 775.082, s. 775.083, or s. 775.084.

2. Using coercion for commercial sexual activity who does so by the transfer or transport of an adult from outside this state to within the state commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(g) For commercial sexual activity in which any child under the age of 18, or in which any person who is mentally defective or mentally incapacitated as those terms are defined in s. 794.011(1), is involved commits a life felony, punishable as provided in s. 775.082(3)(a)6., s. 775.083, or s. 775.084.

For each instance of human trafficking of any individual under this subsection, a separate crime is committed and a separate punishment is authorized.

(4)(a) Any parent, legal guardian, or other person having custody or control of a minor who sells or otherwise transfers custody or control of such minor, or offers to sell or otherwise transfer custody of such minor, with knowledge or in reckless disregard of the fact that, as a consequence of the sale or transfer, the minor will be subject to human trafficking commits a life felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Any person who permanently brands, or directs to be branded, a victim of an offense under this section commits a second degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For purposes of this subsection, the term “permanently branded” means a mark on the individual’s body that, if it can be removed or repaired at all, can only be removed or repaired by surgical means, laser treatment, or other medical procedure.

(5) The Criminal Justice Standards and Training Commission shall establish standards for basic and advanced training programs for law enforcement officers in the subjects of investigating and preventing human trafficking crimes. Every basic skills course required for law enforcement officers to obtain initial certification must include training on human trafficking crime prevention and investigation.

(6) Each state attorney shall develop standards of instruction for prosecutors to receive training on the investigation and prosecution of human trafficking crimes and shall provide for periodic and timely instruction.

(7) Any real property or personal property that was used, attempted to be used, or intended to be used in violation of any provision of this section may be seized and shall be forfeited subject to the provisions of the Florida Contraband Forfeiture Act.

(8) In a prosecution under this section, the defendant’s ignorance of the victim’s age, the victim’s misrepresentation of his or her age, or the defendant’s bona fide belief of the victim’s age cannot be raised as a defense.

(9)(a) Information about the location of a residential facility offering services for adult victims of human trafficking involving commercial sexual activity, which is held by an agency, as defined in s. 119.011, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such confidential and exempt information held by an agency before, on, or after the effective date of the exemption.

(b) Information about the location of a residential facility offering services for adult victims of human trafficking involving commercial sexual activity may be provided to an agency, as defined in s. 119.011, as necessary to maintain health and safety standards and to address emergency situations in the residential facility.

(c) The exemptions from s. 119.07(1) and s. 24(a), Art. I of the State Constitution provided in this subsection do not apply to facilities licensed by the Agency for Health Care Administration.

SECTION TWO. FINGERPRINTING AND REGISTRATION OF ADULT ENTERTAINMENT WORKERS; PUBLIC AWARENESS SIGNS RELATING TO HUMAN TRAFFICKING.

Fingerprinting and licensure of employees and workers at adult entertainment establishment or sexually oriented business selling alcoholic beverages; public awareness signs relating to human trafficking.

(a). The definition set forth at Section 2½-3 of the *Code of Ordinances of the City of Daytona Beach Shores* apply to the provisions of this Ordinance.

(b). It is prohibited and unlawful for any adult model, escort or worker (whether employee, agent or independent contractor) at an adult entertainment establishment or sexually oriented business which is licensed for the sale of alcoholic beverages for consumption on the premises, to perform job duties or functions of any type either directly as an until such person has been fingerprinted by the City's Department of Public Safety and has been issued a permit by the Department indicating such person is eligible to perform job duties or functions at the particular establishment or business at issue. The application for a permit shall provide for identification of the working, contractual or employment status of any adult model, escort or worker (whether employee, agent or independent contractor) providing services at the establishment or business. An application fee shall be established by adoption of a resolution by the City Council.

(c). The City's Department of Public Safety shall make a complete search relative to any police record of the person fingerprinted and identified in the worker documents. If there is a record of a violation of Chapter 2½, no permit will be issued and it prohibited and unlawful for the person to perform job duties or functions of any type at the adult entertainment establishment

(d) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2020, unless reviewed and saved from repeal through reenactment by the Legislature.

or sexually oriented business at issue. However, all persons excluded from performing job duties or functions at an adult entertainment establishment or sexually oriented business under this subsection may appeal to the City Manager upon payment of an appeal fee established by adoption of a resolution by the City Council.

(d). Any permit issued under this Section shall expire 12 months from the date of issue when the holder changes the location of employment or when canceled by the City's Department of Public Safety upon notice and an opportunity to be heard being afforded to the affected permittee. The Chief of the City's Department of Public Safety may prescribe regulations certifying the eligibility of the continued performance of job duties or functions without the necessity of the previous permit holder being fingerprinted a second time; provided, that worker documentation is updated. The Chief of the City's Department of Public Safety may prescribe reasonable fees for certifying the eligibility of the continued performance of job duties/functions at the establishment or business at issue and an annual renewal fees shall be established by adoption of a resolution by the City Council.

(e). The management of each adult entertainment establishment or sexually oriented business shall keep all permits issued under this Ordinance in an accessible place in order that such permits may be inspected by any member of the City's Department of Public Safety at any time. If employment is terminated, the permit shall be returned to the employee by the management of the adult entertainment establishment or sexually oriented business.

(f). The management of each adult entertainment establishment or sexually oriented business shall prominently display and the main customer entrance to the establishment or

business a sign which shall be at least 8.5 inches by 11 inches in size printed in at least 16-point type which states substantially the following in English and Spanish:

If you or someone you know is being forced to engage in an activity and cannot leave-whether it is prostitution, housework, farm work, factory work, retail work, restaurant work, or any other activity-call the National Human Trafficking Resource Center at 1-888-373-7888 or text INFO or HELP to 233-733 to access help and services. Victims of human trafficking are protected under United States and Florida law.

SECTION THREE: IMPLEMENTING ADMINISTRATIVE ACTIONS.

The City Manager, City Clerk and City Attorney are hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions to bring into effect the provisions of this Ordinance as such officials may deem appropriate in their respective roles and functions under the *City of Daytona Beach Shores City Charter*.

SECTION FOUR: SAVINGS; EFFECT OF ORDINANCE.

The prior actions of the City of Daytona Beach Shores in terms of the matters relating to adult entertainment and actions of the City of Daytona Beach Shores pertaining thereto, as well as any and all related matters and processes and procedures of the City of an associated nature, are hereby ratified and affirmed.

SECTION FIVE: AMENDMENT TO SECTION 1-8, CITY CODE; PENALTIES. The City Council of the City of Daytona Beach Shores hereby amends Section 1-8 of the *Code of Ordinances of the City of Daytona Beach Shores* to read as follows:

Sec. 1-8. - General penalty; continuing violations.

Whenever in this Code or in any ordinance of the City any act is prohibited or is made or declared to be prohibited, unlawful or an offense, or whenever in such Code or ordinance the

doing of any act is required or the failure to do any act is declared to be prohibited and unlawful in whatsoever manner, ~~where no specific penalty is provided therefor~~, the violation of any such provision of the Code or any ordinance shall be punished by a fine not exceeding \$500.00 or imprisonment for a term not exceeding 60 days or by both such fine and imprisonment ~~or such other penalty as may be provided in this Code arising from the code enforcement processes and procedures of the city~~. Any condition caused or permitted to exist in violation of any of the provisions of this Code or any ordinance of the City shall be deemed a public nuisance and shall be subject to abatement and code enforcement by the City utilizing any remedy available under law. The City may prosecute violations by any means authorized by controlling law and may seek any legal remedy available under controlling law. Each occurrence (violation of a code or ordinance) shall constitute a separate violation and subject the violator to separate penalties. Any code or ordinance violation may result in the City Attorney, with the consent of the City Manager, bringing suit on behalf of the City against the person or persons, or entity or entities, causing or maintaining the violation.

SECTION SIX: CODIFICATION; SCRIVENER'S ERRORS.

(a). The provisions of this Ordinance Sections One through Five shall be codified and all other sections shall not.

(b). The sections, divisions and provisions of this Ordinance may be renumbered or relettered as deemed appropriate by the Code codifier.

(c). Typographical errors and other matters of a similar nature that do not affect the intent of this Ordinance, as determined by the City Clerk and City Attorney, may be corrected with the endorsement of the City Manager, or designee, without the need for a public hearing.

SECTION SEVEN: CONFLICTS.

All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION EIGHT: SEVERABILITY.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION NINE: EFFECTIVE DATE.

This Ordinance shall take effect immediately upon enactment.

CITY OF DAYTONA BEACH SHORES, FLORIDA

HARRY JENNINGS, MAYOR


MICHAEL T. BOOKER, CITY MANAGER **CHERI SCHWAB, CITY CLERK**

Approved as to form and legality:

LONNIE GROOT, CITY ATTORNEY

Passed on first reading this __ day of _____, 2015.

Adopted on second reading this __ day of _____, 2015.

	STAFF REPORT TO THE CITY COUNCIL NOVEMBER 10, 2015
ITEM:	Ordinance 2015-07
SUBJECT:	Request for Annexation (per Sec. 171.044, F.S.)
LOCATION:	South of Emelia Avenue between S. Atlantic Avenue & Cardinal Boulevard (unincorporated Volusia County)
TAX PARCEL ID:	02-16-33-05-07-0150
APPLICANT/OWNER:	Atlantic Avenue Estates, LLC
STAFF CONTACT:	Stewart Cruz; City Planner
REQUEST:	To approve Ordinance 2015-07, which would annex the subject unincorporated real property into the City limits of Daytona Beach Shores.

A. INTRODUCTION

Atlantic Avenue Estates, LLC, owner of the subject unincorporated property (**Exhibit 1**) has petitioned the City of Daytona Beach Shores for voluntary annexation into the City’s corporate limits (**Exhibit 2**) pursuant to Section 171.044, *Florida Statutes*. In addition, pursuant to Section 171.062, *Florida Statutes*, the property owner has also submitted applications to amend the future land use and zoning classifications of the property in question. The future land use amendment and rezoning ordinances will be adopted subsequent to the formal annexation of the subject property.

The subject property (150’ * 206’) contains approximately 0.7 acres and is located south of Emilia Avenue abutting S. Atlantic Avenue and Cardinal Boulevard in unincorporated Volusia County and just across from the Blue Surf residential condominium (**Exhibit 1**). The property is currently vacant and overgrown with vegetation (**Exhibit 3**). The proposed City future land use and zoning classifications will be consistent with the existing neighborhood as the property owner plans to split the subject property into four (4) and construct a duplex on each. **Exhibit 4** attached provides a general description of the subject property.

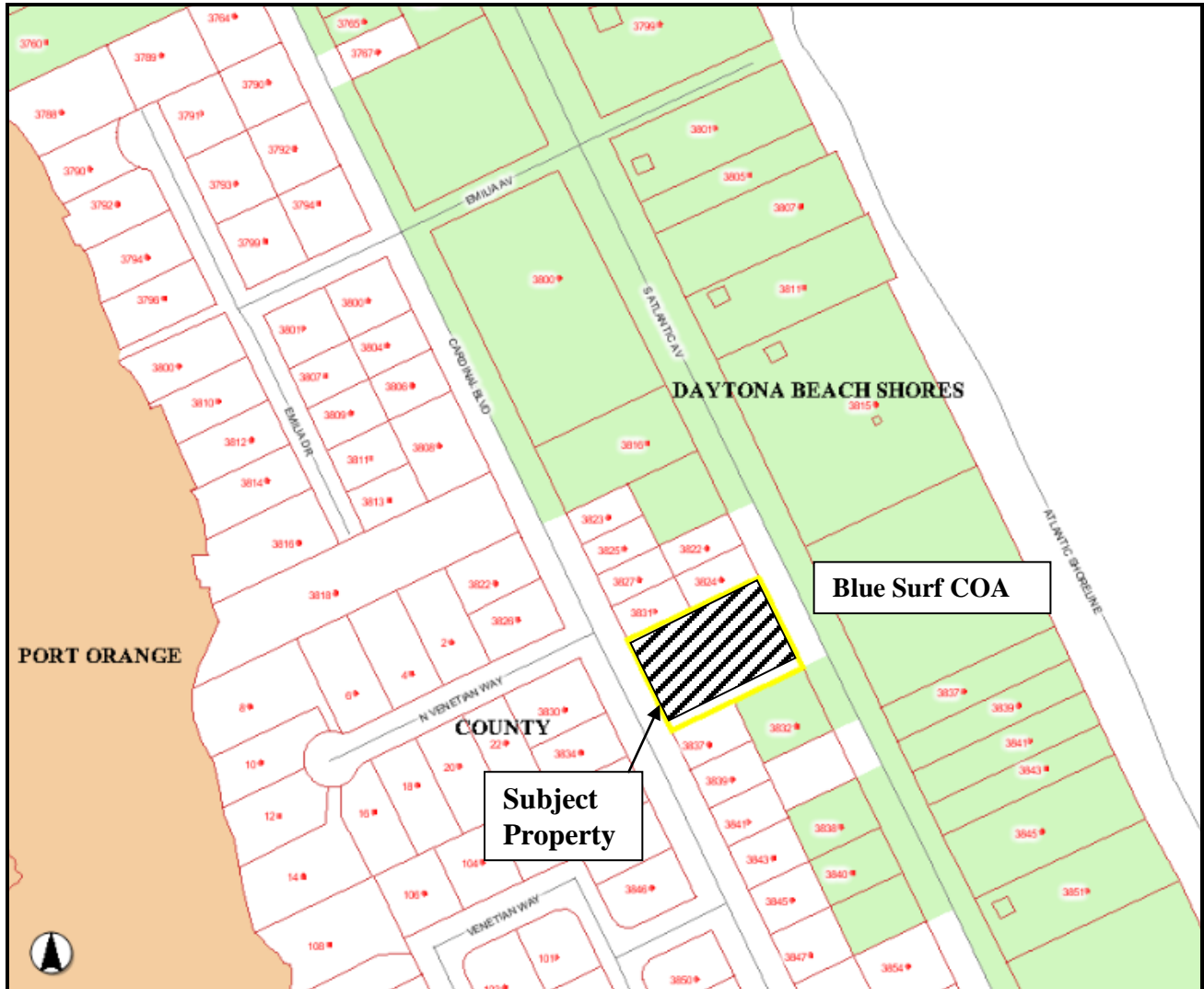
B. ANNEXATION CRITERIA

Exhibit 5 attached demonstrates compliance with the voluntary annexation requirements prescribed in Section 171.044, *Florida Statutes*.

C. STAFF RECOMMENDATION

Staff recommends approval of Ordinance 2015-07 as presented.

EXHIBIT 1: Location Map of Annexing Property (S. Atlantic Avenue Avenue)



Source: Volusia County Property Appraiser Website (PALMS), 2015

EXHIBIT 2: Annexation Application/Warranty Deed/Supporting Docs



City of Daytona Beach Shores
Building & Codes Division
2990 S. Atlantic Avenue
Daytona Beach Shores, FL 32118
Telephone (386) 763-5377 Fax (386) 763-5370

REQUEST FOR ANNEXATION

1/29/2015

(Date)

I (We) the undersigned am the sole property owner(s) of _____, Volusia
County, Florida. (Street Address)

By this letter, I (We) am requesting annexation into the City of Daytona Beach Shores, Florida.
It is my (our) understanding that the fee for legal advertising has been waived by the City and
that I (we) will not incur any costs for annexation.

Signed, [Signature] M.M. ATLANTIC AVE. ESTATES LLC 347-203-8603
Signature Name (Printed or typed) Telephone 718-236-6065

Signature Name (Printed or typed) Telephone

Signature Name (Printed or typed) Telephone

SWORN to and subscribed before me this 30 day of October, 2015 by
Mark Schantz, who is personally known to me or produced
Identification _____. Type of Identification provided _____.

[Signature]
Notary Public - State of Florida State of New York
My Commission Expires: 6/13/2017

MICHAEL DONOHUE
NOTARY PUBLIC, State of New York
No. 01-DO5128399
Qualified in Kings County
Commission Expires Jun. 13 2017

Please return this form to: Annexation Committee
c/o Planning Department
City of Daytona Beach Shores
2990 S. Atlantic Avenue
Daytona Beach Shores, FL 32118

Prepared by:

Fred B. Share, Esq.
1092 Ridgewood Avenue
Holly Hill, Florida 32117

File Number: 2015

General Warranty Deed

Made this 30 day of October, 2015, A.D., By Mark Scharff, a single man, whose post office address is: 133-15 Beach Channel Dr., Rockaway Park, New York 11694, hereinafter called the grantor, to Atlantic Avenue Estates LLC, a Florida limited liability company, whose post office address is: 133-15 Beach Channel Dr., Rockaway Park, New York 11694, hereinafter called the grantee:

(Whoever used herein the term "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

Witnesseth, that the grantor, for and in consideration of the sum of Ten Dollars (\$10.00), and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee, all that certain land situate in Volusia County, Florida, viz:

Lots 14, 15 and 16, Block 7, Ocean View Section of Halifax Estates, according to the map or plat thereof, as recorded in Map Book 11, Page 100, of the Public Records of Volusia County, Florida.

The preparer of this deed was not furnished with nor requested to examine title or abstracts to the property and makes no representations as to the condition of title, he is merely a scrivener and has made no legal opinion to either Grantor or Grantee with regard to this deed.

Parcel ID Number: 6302-05-07-0150


Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances except taxes accruing subsequent to December 31, 2014.

In Witness Whereof, the said grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in our presence:


Witness Printed Name: Michael Scharff

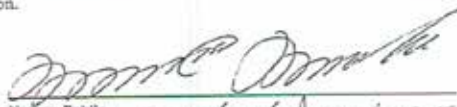
 (Seal)
Mark Scharff
Address: 133-15 Beach Channel Dr., Rockaway Park, New York 11694

Witness Printed Name _____

State of New York

County of Kings

The foregoing instrument was acknowledged before me this 30 day of October, 2015, by Mark Scharff, who is/are personally known to me or who has produced Florida driver license as identification.



Notary Public
Print Name: Michael Donohoe
My Commission Expires: 6/13/2017

MICHAEL DONOHOE
NOTARY PUBLIC, State of New York
No. 01-006128399
Qualified in Kings County
Commission Expires Jun. 13 20 17

DEED Individual Warranty Deed with Non-Homestead-Legal on Schedule A

[http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=Entity](#)

[Groupon Inbox Magic](#)
[Free Hotmail](#)
[Suggested Sites](#)
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FLORIDA DEPARTMENT OF STATE
DIVISION OF CORPORATIONS
www.sunbiz.org


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Entity Name Search

No Events **No Name History**

Detail by Entity Name

Florida Limited Liability Company

ATLANTIC AVENUE ESTATES LLC

Filing Information

Document Number	L14000076208
FEI/EIN Number	47-2720675
Date Filed	05/12/2014
Effective Date	05/11/2014
State	FL
Status	ACTIVE

Principal Address

S Atlantic Ave
Daytona Beach Shores, FL 32118

Changed: 01/08/2015

Mailing Address

133-15 BEACH CHANNEL DR.
ROCKAWAY PARK, NY 11694

Registered Agent Name & Address

KEEN, DAN, PRES
3030 N ROCKY POINT DR.
150A
TAMPA, FL 33607

Authorized Person(s) Detail

Name & Address

Title MGR

SCHARFF, MARK
133-15 BEACH CHANNEL DR.
ROCKAWAY PARK, NY 11694

Annual Reports

Report Year	Filed Date
2015	01/08/2015

Document Images

[01/08/2015 -- ANNUAL REPORT](#)

5

In The Circuit Court, Seventh Judicial Circuit
In And For Volusia County, Florida

SUNTRUST BANK
Plaintiff(s)

Case #: 2013 30683 CICI

VS.

Div: _____

ERGUN T RECEL, ET AL, ETC.
Defendant(s)

CERTIFICATE OF SALE

The undersigned Clerk of the Circuit Court, Volusia County, Florida certifies that notice of public sale of the property described in the Final Judgment was published in a newspaper circulated in Volusia County, Florida, in the manner shown by the Proof of Publication and on the 9th day of October, 2015 the property was offered for public sale to the highest and bidder for cash. The highest and best bid received for the property in the amount of \$187,100.00 was submitted by MARK SCHARFF to whom the property was sold. The proceeds of the sale are retained for distribution in accordance with the Order, Final Judgment or law.

Witness my hand and the seal of the Court on this 9th day of October, 2015 in Volusia County, Florida.



Diane M. Matousek, Clerk of the Circuit Court
Volusia County, Florida

By: Ava Skeel
Deputy Clerk /s/ Ava Skeel

FILED
OCT -9 2015
CLERK OF THE CIRCUIT
& CITY COURT VOLUSIA COUNTY, FL
C.C. 6A

EXHIBIT 3

A: Aerial View of Annexing Property



Source: Volusia County Property Appraiser Website (PALMS), 2015

B: Street View of Annexing Property (S. Atlantic Avenue)



Source: GoogleMaps, 2015

Exhibit 4



PRE-ANNEXATION FORM

Name of Property Owner: Atlantic Avenue Estates, LLC

Property Address/Tax Parcel ID: None/02-16-33-05-07-0150

According to Volusia County property records, does this property appear to meet Section 171.044 of Florida Statutes? Yes X No _____

How is property contiguous? East X West _____ North _____ South X

Current Assessed Total Just Value: \$131,289 Taxable Value: \$131,289

Homesteaded Property: Yes _____ No X

Improved Lot _____ Unimproved Lot (Vacant) X

Existing Use: N/A

Conforming Land Use: X Non-Conforming Land Use: _____ Explain:

Existing County Zoning: R-9 Urban Single-Family Residential District

Existing County Land Use: Urban Low Intensity

Condition of Property: Poor _____ Good X Excellent _____

Water: N/A Port Orange _____ Daytona Beach _____

Sanitary: N/A Sewer _____ Septic Tank _____

If septic tank on site, is sewer available? NA Yes _____ No _____

Metes and Bounds Survey conducted? Yes X No _____

Prepared by: Stewart Cruz, City Planner Date: November 2, 2015

EXHIBIT 5: Voluntary Annexation Criteria pursuant to Section 171.044, *Florida Statutes*

Section	Annexation Criteria	Criteria Met	Comments
171.044(1)	Property must be contiguous to the City.	Yes	Per Sec. 171.031(11), subject property is contiguous to the City to the east and south.
171.044(1)	Property must be reasonably compact.	Yes	Per Sec. 171.031(12), subject property is reasonably compact and will not create enclaves, pockets or finger areas in serpentine patterns. In addition, the annexation will aid in reducing the larger county enclave in the vicinity.
171.044(2)	Petition bears the signatures of all owners of property.	Yes	See Exhibit 2 .
171.044(2)	Meet publication requirements.	Yes	Evidence filed with the Office of the City Clerk.
171.044(3)	Ordinance shall be filed per statute.	Pending	Ordinance filing will occur per statutory deadline subsequent to the Ordinance's adoption.
171.044(3)	Ordinance shall include a map and legal description by metes and bounds.	Yes	See Ordinance 2015-07.
171.044(4)	Annexation method shall be supplemental to any other procedure provided by general law.	N/A	
171.044(5)	Annexation shall not create enclaves.	Yes	Per Sec. 171.031(13), subject property does not create an enclave. In fact the annexation will reduce the larger County enclave that currently exists in this area.
171.044(6)	Provision of notice to County Commissioners per statute.	Yes	Notice provided via certified mail on 10/28/15 per statutory requirement.

ORDINANCE NO. 2015 - 07

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, VOLUSIA COUNTY, FLORIDA, RELATING TO VOLUNTARY ANNEXATION OF REAL PROPERTY LOCATED BETWEEN SOUTH ATLANTIC AVENUE AND CARDINAL BOULEVARD (FULL PARCEL IDENTIFICATION NUMBER 02-16-33-05-07-0150) TOGETHER WITH ASSOCIATED RIGHT-OF-WAYS IN ACCORDANCE WITH SECTION 171.044, *FLORIDA STATUTES*; PROVIDING FOR LEGISLATIVE AND ADMINISTRATIVE FINDINGS; REDEFINING THE BOUNDARIES OF THE CITY; PROVIDING FOR LEGAL EFFECT AND IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR CONFLICTS ; PROVIDING FOR SEVERABILITY, PROVIDING FOR NON-CODIFICATION AND SETTING AN EFFECTIVE DATE.

WHEREAS, Atlantic Avenue Estates, LLC applied for annexation of property into the City of Daytona Beach Shores and is hereby determined to be the fee simple title owner of the real property described below; and

WHEREAS, the said applicant petitioned the City of Daytona Beach Shores, pursuant to Section 171.044, *Florida Statutes*, for annexation of said property into the municipal limits of the City of Daytona Beach Shores; and

WHEREAS, the subject property is not currently addressed and is located between South Atlantic Avenue and Cardinal Boulevard; and

WHEREAS, the applicant is the fee simple title owner of all of said property being described by Tax Identification Parcel Number as follows:

Tax Identification Parcel Number	Owner
02-16-33-05-07-0150	Atlantic Avenue Estates, LLC

; and

WHEREAS, the City of Daytona Beach Shores has determined that all of the property which is proposed to be annexed into the City of Daytona Beach Shores is within an unincorporated area of Volusia County, is reasonably compact and contiguous to the corporate areas of the City of Daytona Beach Shores, Florida and it is further determined that the annexation of said property will not result in the creation of any enclave (and, indeed, logically fills in the City Limits of the City and is consistent with sound principles and practices relating to the delineating of jurisdictional boundaries thereby furthering sound management in terms of the provision of public facilities and services as well as sound land use planning), and it is further determined that the property

otherwise fully complies with the requirements of State law and has, further, determined that associated rights-of-way should be annexed hereby; and

WHEREAS, the City Council of the City of Daytona Beach Shores, Florida has taken all actions in accordance with the requirements and procedures mandated by State law; and

WHEREAS, the City Council of the City of Daytona Beach Shores, Florida hereby determines that it is to the advantage of the City of Daytona Beach Shores and in the best interests of the citizens of the City of Daytona Beach Shores to annex the aforescribed property; and

WHEREAS, the provisions of Section 166.031(3), *Florida Statutes*, provide that [a] municipality may, by ordinance and without referendum, redefine its boundaries to include only those lands previously annexed and shall file said redefinition with the Department of State pursuant to the provisions of subsection (2); and

WHEREAS, the provisions of Section 171.091, *Florida Statutes*, provide as follows:

Recording.—Any change in the municipal boundaries through annexation or contraction shall revise the charter boundary article and shall be filed as a revision of the charter with the Department of State within 30 days. A copy of such revision must be submitted to the Office of Economic and Demographic Research along with a statement specifying the population census effect and the affected land area.

; and

WHEREAS, the map attached hereto as Exhibit “A” shows, describes, and depicts the property and named associated rights-of-ways which are hereby annexed into the City of Daytona Beach Shores said Exhibit being incorporated into the substantive provisions of this Ordinance as if fully set forth herein verbatim.

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

SECTION ONE: LEGISLATIVE AND ADMINISTRATIVE FINDINGS/ANNEXATION OF PROPERTIES.

(a). The City Council of the City of Daytona Beach Shores hereby finds that the recitations set forth are true and correct and that the requirements of Section 171.044, *Florida Statutes*, as well as all other requirements of controlling law, have been complied with in every respect.

(b). Under the authority of Section 166.031 (3), *Florida Statutes*, relating to city charter amendments, “[a] municipality may amend its charter pursuant to this section notwithstanding any charter provisions to the contrary. . . . A municipality may, by ordinance and without referendum, redefine its boundaries to include only those lands previously annexed and shall file said redefinition with the Department of State . . .” This Ordinance shall amend the boundaries of the City to include the property annexed in this Ordinance.

SECTION TWO: ANNEXATION INTO THE CITY. The real property depicted and described by metes and bounds in Exhibit “A” appended hereto, which Exhibit is made part hereof and which property is owned by the petitioning property owner, and further described as set forth below, together with the associated rights-of-way as described below, is hereby annexed into the City Limits of the City of Daytona Beach Shores, said property being described as follows:

Lots 14 15 and 16, Block 7, Plat of Ocean View Section of Halifax Estates, as recorded at Map Book 11, Page 100 of the Public Records of Volusia County, Florida and in accordance with Official Records Book 1612, Page 0174 and in accordance with Official Records Book 4705 Pages 2478-2479 and in accordance with Official Records Book 5532 Page 4310; together with all rights-of-way of Cardinal Boulevard abutting any property located within the City Limits of the City of Daytona Beach Shores and all rights-of-way of South Atlantic Boulevard abutting any property located within the City.

SECTION THREE: CHANGE IN CITY BOUNDARIES/LEGAL EFFECT OF ANNEXATION. The boundary lines of the City Limits of the City of Daytona Beach Shores are hereby redefined and, upon the effective date of this Ordinance shall also encompass the annexed property as described herein and depicted in Exhibit “A”. Upon this Ordinance becoming effective, the property owner of the annexed property shall be entitled to all the rights and privileges and immunities as are from time-to-time granted to property owners of the City as further provided in Chapter 171, *Florida Statutes*, and shall further be subject to the responsibilities of ownership as may from time-to-time be determined by the governing authority of the City and the provisions of said Chapter 171, *Florida Statutes*.

SECTION FOUR: ADMINISTRATIVE IMPLEMENTING ACTIONS.

(a). Within seven (7) days of the adoption of this Ordinance, the City Clerk shall file a copy of said Ordinance with the Clerk of the Court (Land Records/Recording), with the Chief Administrative Officer of Volusia County (the County Manager), with the Florida Department of State, and with such other agencies and entities as may be required by law or otherwise desirable.

(b). The City Manager, or designees within City management staff, shall ensure that the property annexed by this Ordinance is incorporated into the City of Daytona Beach

Shores *Comprehensive Plan* and the *Official Zoning Map* of the City of Daytona Beach Shores in an expeditious manner and, in accordance with, and pursuant to, the provisions of Under the authority of Section 166.031(3), *Florida Statutes*, the City Manager, or designees, shall amend the boundaries of the City to include the property annexed in this Ordinance and all previously annexed properties in all maps and geographical data relating to the City Limits said properties to include, but not be limited to, annexed rights-of-way and natural features.

SECTION FIVE: CONFLICTS. Any and all ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION SIX; SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this Ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby.

SECTION SEVEN. NON-CODIFICATION. This Ordinance shall be not be codified in the *City Code of the City of Daytona Beach Shore* or, the *Land Development Code of the City of Daytona Beach Shores*, or the *City of Daytona Beach Shores Comprehensive Plan* provided, however, that the actions taken herein shall be depicted on the pertinent maps of the City of Daytona Beach Shores by the City Manager, or designee.

SECTION EIGHT: EFFECTIVE DATE. This Ordinance shall take effect immediately upon its passage and adoption.

CITY OF DAYTONA BEACH SHORES, FLORIDA

HARRY JENNINGS, MAYOR

MICHAEL T. BOOKER, CITY MANAGER

CHERI SCHWAB, CITY CLERK

Approved as to form and legality:

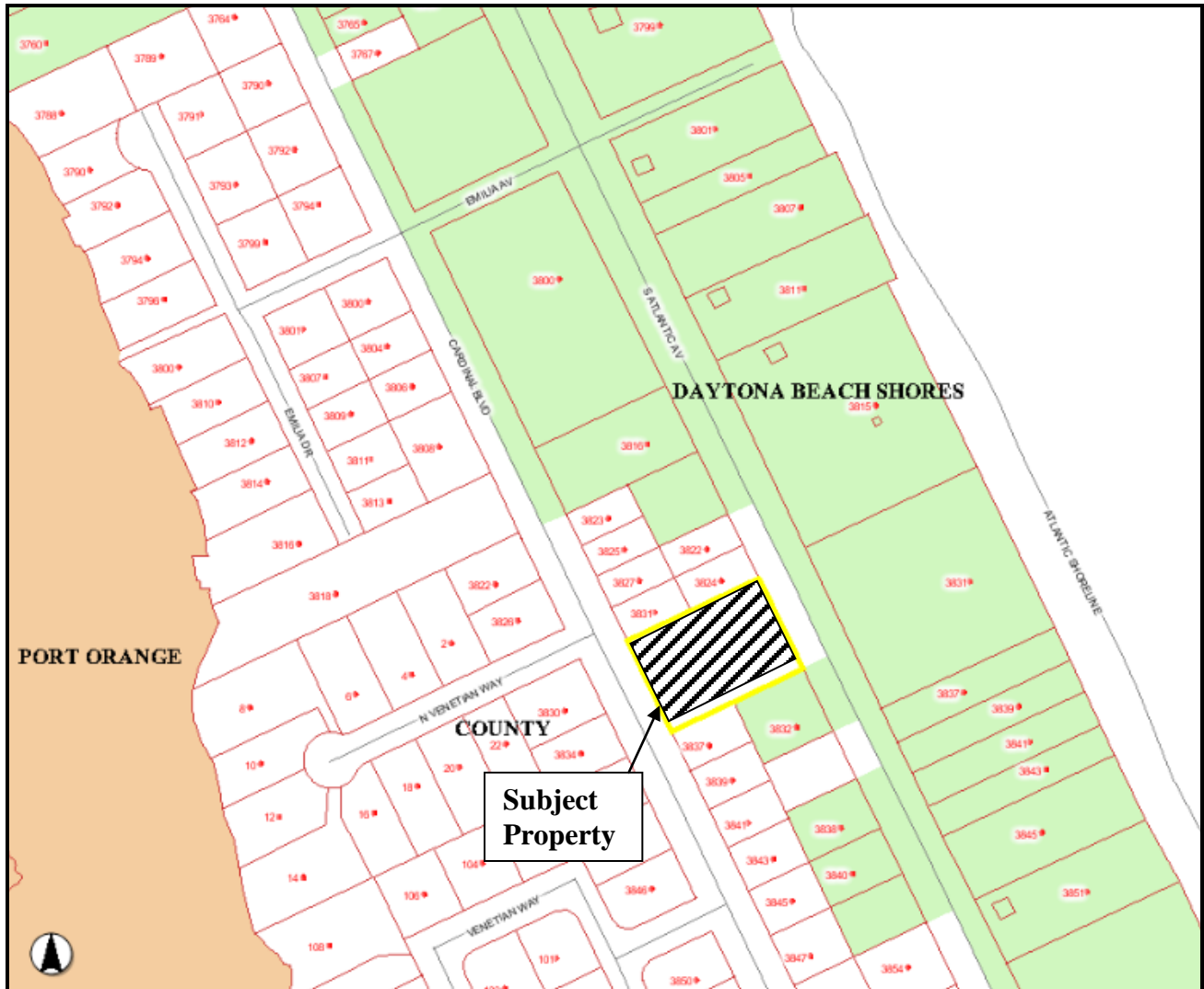
LONNIE GROOT, CITY ATTORNEY

Passed on first reading this _____ day of _____, 2015.

Adopted on second reading this _____ day of _____, 2015.

EXHIBIT A

(1) Location Map of Annexing Property (S. Atlantic Avenue Avenue)



Source: Volusia County Property Appraiser Website (PALMS), 2015

(2) Metes and Bounds Description

A PARCEL OF LAND LYING WITHIN SECTION 2, TOWNSHIP 16 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA, COMPRISING LOTS 14 THROUGH 16, INCLUSIVE, BLOCK 7, OCEAN VIEW SECTION OF HALIFAX ESTATES, AS RECORDED IN MAP BOOK 11, PAGE 100 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEASTERLY CORNER OF SAID LOT 14, BLOCK 7, SAID OCEAN VIEW SECTION OF HALIFAX ESTATES, RUN SOUTHERLY ALONG THE EASTERLY LINE OF SAID BLOCK 7, A DISTANCE OF 150.00 FEET TO THE SOUTHEASTERLY CORNER OF SAID LOT 16, BLOCK 7; THENCE WESTERLY ALONG THE SOUTHERLY LINE OF SAID LOT 16, BLOCK 7, A DISTANCE OF

204.85 FEET TO THE SOUTHWESTERLY CORNER OF SAID LOT 16, BLOCK 7;
THENCE NORTHERLY ALONG THE WESTERLY LINE OF SAID BLOCK 7, A
DISTANCE OF 150.00 FEET TO THE NORTHWESTERLY CORNER OF SAID LOT 14,
BLOCK 7; THENCE EASTERLY ALONG THE NORTHERLY LINE OF SAID LOT 14,
BLOCK 7, A DISTANCE OF 204.78 FEET TO THE NORTHEASTERLY CORNER OF
SAID LOT 14, BLOCK 7 , AND THE POINT OF BEGINNING.
CONTAINING 0.71 ACRES OF LAND, MORE OR LESS.

RESOLUTION 2015-12

A RESOLUTION OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, REQUESTING THE VOLUSIA CHARTER REVIEW COMMISSION TO RECOMMEND AN AMENDMENT TO THE VOLUSIA COUNTY CHARTER EITHER ELIMINATING THE VOLUSIA GROWTH MANAGEMENT COMMISSION OR, ALTERNATIVELY, LIMITING THE JURISDICTION OF THE VOLUSIA GROWTH MANAGEMENT COMMISSION TO ONLY CONDUCT REVIEWS AND HEARINGS OF PROPOSED COMPREHENSIVE PLAN AMENDMENTS OF LOCAL GOVERNMENTAL ENTITIES WHEN AN OBJECTION TO A PROPOSED COMPREHENSIVE PLAN AMENDMENT IS FILED BY ANOTHER LOCAL GOVERNMENTAL ENTITY; PROVIDING FOR IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in 1985 the Florida Legislature enacted the “*Local Government Comprehensive Planning and Land Development Regulation Act*” (commonly referred to as the “*Growth Management Act*” (the “*Act*”)) which requires local governmental entities to adopt comprehensive plans to establish policies for the future growth within their jurisdictions¹; and

WHEREAS, furthermore it is the intent of the *Act*² for counties and municipalities to cooperate and coordinate planning with each other, regional agencies and the State and specifically states:

It is the intent of this act to encourage and ensure cooperation between and among municipalities and counties and to encourage and ensure coordination of planning and development activities of units of local government with the planning activities of regional agencies and state government in accord with applicable provisions of law.

; and

WHEREAS, in addition to the Act, in 1986, the *Volusia County Charter* (the “*Charter*”) was amended to create the Volusia Growth Management Commission (VGMC) and the Charter amendment contained the following language:

There is hereby created the Volusia Growth Management Commission (hereafter Commission). The Commission shall have

¹ The original laws from which the Act derived was the 1975 *Local Government Comprehensive Planning Act* and the *State Comprehensive Planning Act* which was enacted in 1984, but the *Zoning Enabling Act* was the first land use planning legislation in Florida which was enacted in 1928.

² The Act is codified as Part II, Chapter 163, *Florida Statutes*, and is now known as the “*Community Planning Act*.” See, Section 163.3161, *Florida Statutes*.

the power and the duty to determine the consistency of the municipalities' and the County's comprehensive plans and any amendments thereto with each other.

; and

WHEREAS, to implement the VGMC, Volusia County adopted rules and regulations for the VGMC, including Section 90-33(5) of the *Volusia County Code of Ordinances* which reads as follows:

The main purpose of the commission is to provide the effective means for coordinating the plans of municipalities and the county, in order to provide a forum for the several local governments in the county to cooperate with each other in coordinating the provision of public services to and improvements for the citizens of the county, and create incentives to foster intergovernmental cooperation and coordination.

; and

WHEREAS, these two provisions clearly indicate that the main purpose of the VGMC is to provide a forum through which local governmental entities may resolve differences regarding comprehensive plans; and

WHEREAS, if the role of the VGMC was limited to resolving disputes between local governmental entities regarding comprehensive plans, the VGMC would provide a valuable, cost-saving service by avoiding the administrative hearing process provided in State law to resolve such disputes; and

WHEREAS, however, the VGMC has not limited its role to resolving disputes among local governmental entities, but has become a forum that is used by opponents to growth and development to delay and frustrate the legislative growth policies adopted by local governmental entities; and

WHEREAS, the VGMC has interpreted its role to intervene in growth management policy decisions even if all local governmental entities are in agreement as to consistency; and

WHEREAS, the vast majority of the VGMC hearings have not been the result of disputes between local governmental entities, but objections filed by other parties; and

WHEREAS, the VGMC is a costly process funded by the taxpayers of Volusia County, as the VGMC reviews every proposed comprehensive plan amendment in Volusia County and hearings are easily requested with such process being used to delay and frustrate growth; and

WHEREAS, the VGMC is not required by controlling State law and Volusia County is the only county in the State with such an added layer of review putting Volusia County at a disadvantage when competing with other jurisdictions for new businesses who do not have such an added layer of bureaucracy; and

WHEREAS, each local governmental entity has the sovereign authority to adopt its own growth management policies thereby establishing how that community will grow and the VGMC was never intended to be a second forum to review and hear objections to growth management policies adopted by local governmental entities with reviews violating the sovereignty of the local government to establish their own growth management policies; and

WHEREAS, the VGMC should only be involved when a local government entity believes that a proposed comprehensive plan amendment of another local governmental entity would have adverse impacts beyond the adopting agencies jurisdiction and negatively impact adjacent local government entities and, if a local governmental entity proposes a comprehensive plan amendment and no local governmental entity raises an objection, there is no need for the VGMC to review the proposed amendment and conduct a hearing; and

WHEREAS, the *Charter* should be amended to either eliminate the VGMC or limit the VGMC involvement to only when an objection to a comprehensive plan amendment is timely filed by another local governmental entity; and

WHEREAS, eliminating the VGMC or limiting the role of the VGMC to its primary purpose will not adversely affect the public's right to participate in the adoption of the growth policies of the local governmental entities and to pursue the administrative review provided under State law.

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

Section 1: Recommendation Of The City Council Relative To The VGMC.

The City Council of the City of Daytona Beach Shores hereby requests the Volusia Charter Review Commission to recommend an amendment to the Volusia County Charter which either eliminates the VGMC or, alternatively, limits the jurisdiction of the VGMC to only conduct reviews and hearings of proposed comprehensive plan amendments of local governmental entities when an objection to a proposed comprehensive plan amendment is filed by another local governmental entity.

Section 2. Implementing Actions.

The City Manager is hereby directed to forward this Resolution to the Volusia Charter Review Commission and to such other officials as the City Manager deems appropriate.

Section 3: Severability.

If any section , subsection, sentence, clause, phrase, or portion of this Resolution, or application hereof, is for any reason held invalid or unconstitutional by any Court, such portion or application shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions or application hereof.

Section 4: Conflicts.

All resolutions made in conflict with this Resolution are hereby repealed.

Section 5: Effective Date.

This Resolution shall become effective immediately upon its adoption.

THE CITY OF DAYTONA BEACH SHORES

By: _____
Mayor Harry H. Jennings

ATTEST:

By: _____
City Manager, Michael T. Booker

By: _____
City Clerk, Cheri Schwab

APPROVED AS TO FORM AND LEGALITY:

By: _____
City Attorney, Lonnie Groot

Passed and adopted upon first reading this 10th day of November 2015.

Council comments

Audience remarks

Items for the next agenda