

MINUTES
CITY COUNCIL MEETING
August 25, 2020
3000 Bellemead Drive, Daytona Beach Shores, FL 32118

1. CALL TO ORDER BY MAYOR

2. ROLL CALL BY CITY CLERK

The meeting began at 6:14 pm.

Present: Mayor Nancy Miller, Vice Mayor Richard Bryan, Councilmember Mel Lindauer, Councilmember Richard Frizalone, Councilmember Michael Politis

Staff: City Manager Michael T. Booker, City Clerk Cheri Schwab, City Attorney Becky Vose, Assistant City Attorney John Cary, Community Services Director Fred Hiatt, City Planner Stewart Cruz, Finance Director Kurt Swartzlander, and Public Safety Director Stephan Dembinsky.

3. PRAYER

4. PLEDGE OF ALLEGIANCE

5. CEREMONIAL ITEMS, PRESENTATIONS AND PUBLIC NOTICES:

Mayor Miller read a Proclamation announcing that August 19, 2020 was Don Large Day.

A. Employee Service Awards

Mayor Miller announced the following employee service awards:

Officer Zachary Rooney – 5 yrs

Steve Wolf – 5 yrs

Kim Smith – 15 yrs

Sgt. Francis TJ Moore – 20 yrs

Lt. Michael Schoenbrod – 20 yrs

Brian Edwards – 35 yrs

6. APPROVAL OF MINUTES

A. City Council Minutes July 14, 2020

B. City Council Budget Workshop Minutes August 7, 2020

VICE MAYOR RICHARD BRYAN moved, seconded by COUNCILMEMBER MEL LINDAUER to Approve both the City Council Minutes of July 14, 2020 and the City Council Budget Workshop Minutes August 7, 2020.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5 No = 0).

Yes: Mayor Nancy Miller, Vice Mayor Richard Bryan, Councilmember Richard Frizalone, Councilmember Mel Lindauer, Councilmember Michael Politis

7. CONSENT AGENDA:

A. Public Safety June monthly report

B. Public Safety July monthly report

C. Community Services June, 2020 Report

D. Community Services July, 2020 Report

E. Building Division July, 2020 Report

F. Building Division June, 2020 Report

G. Approval of one year renewal to Interlocal Agreement with County for Distribution of Local Option Fuel Tax

H. Approval to utilize forfeiture funds

COUNCILMEMBER MEL LINDAUER moved, seconded by Vice Mayor Bryan to Approval the consent agenda.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5 No = 0).

Yes: Mayor Nancy Miller, Vice Mayor Richard Bryan, Councilmember Richard Frizalone, Councilmember Mel Lindauer, Councilmember Michael Politis

8. REPORTS OF THE CITY ATTORNEY:

A. City Attorney Report August 25, 2020

City Attorney John Cary reviewed the report submitted. He reminded the councilmembers regarding activities that could violate the sunshine law.

9. REPORTS OF THE CITY MANAGER:

A. City Manager Report August 25, 2020

The City Manager read his report for the record. The donations to the museum are now at \$700. He explained that he had inquired to neighboring cities regarding a contribution to the First Step Shelter. Two cities, Ponce Inlet and Holly Hill are sending a contribution. Port Orange and Ormond Beach were not sending anything. The City of South Daytona had not responded. After a brief discussion, it was decided to not contribute to the First Step Shelter. Lastly, the City Manager gave an update on the bocce courts. There is still some structural work to do on the facility, but the courts are mainly complete. The shuffleboard court will be poured in a few weeks when the new sidewalks are installed. The old bocce court site is being demolished and graded for the new tennis court.

10. OLD BUSINESS:

11. NEW BUSINESS:

A. Ordinance 2020-09: Public Beach Access Walkway Dedication to City by Aruba Ventures, LLC (3721 S. Atlantic Avenue)

The City Attorney read the ordinance by title. City Planner Stewart Cruz explained the conveyance of the public beach access is a requirement of the Land Development Code. Maintenance of the walkway will belong to Aruba Ventures, LLC or its successors.

COUNCILMEMBER MEL LINDAUER moved, seconded by VICE MAYOR RICHARD BRYAN to Approve Ordinance 2020-09 on first reading.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5 No = 0).

Yes: Mayor Nancy Miller, Vice Mayor Richard Bryan, Councilmember Richard Frizalone, Councilmember Mel Lindauer, Councilmember Michael Politis

B. Budget Amendment Resolution - Debt Payment Acceleration

Finance Director Kurt Swartzlander explained that the proposed Resolution was the result of the recent budget workshop. The council had inquired as to the possibility of paying off all five of the city's debt obligations. Initially, it was believed to be a savings but after speaking with the bank representative, there is a charge to pay off some of the loans early. Director Swartzlander stated that council needed to decide how much they wanted to keep in reserves. As previously discussed, Resolution 2020-07 was a budget amendment to pay off both the Series 2005 and Sewer debt issuances. Paying the sewer improvement loan would save \$23,000 in interest. This one could be paid off effective August 26th. The General Fund Facilities loan could be paid with reserves. Currently, there is a little over \$3 million restricted for debt service. It would require another \$1,561,000 to pay it in full. In order to pay this debt off, the city must hire a QIR (Qualified Independent Representative). There is a cost involved with this and it is approximately \$25,000 to pay the three additional loans early. The city will have \$12,120,000 in assigned fund balance after the 2005 loan is paid. There is also \$2,257,000 in general obligation funds for a total of \$14 million available. There are three tranches that include the voted debt. The one labeled #3 is set to be paid on October 1st. At this point the council could decide to pay tranche #1 and #2 off, but it would cost slightly more than he first anticipated. The loans could run to maturity and the city could continue to collect the voted millage rate. The voted millage for 2020-21 is 1.7350 mills and it could drop to 1.4816 mills for year 2021-22 based on current property values. If the council choose to pay off the remaining debt this year, the \$2.2 million in voted debt, and \$1,631,000 in unassigned fund balance would be used. That would leave approximately \$10 million in fund balance and the city could be considered debt free in 13 months. CMBR Politis thought the idea was to use funds that were not earning a high interest to pay off the debts that were charging a high interest. He also thought the voted millage would not have to be charged this year to taxpayers. The Finance Director explained that for YR 20-21, there would be a voted debt millage charged. Mayor Miller was in favor of paying off all three tranches and having the city debt free in 13 months. CMBR Frizalone also agreed with the Mayor's position. Vice Mayor Bryan wanted to pay off the debt early in order to save interest, but the savings isn't nearly as large as he anticipated. CMBR Lindauer also was in favor of paying everything within the 13 months. CMBR Politis inquired how the bank gave out incorrect information regarding the payoff. Director Swartzlander explained that the bank had changed their process for these types of accounts. CMBR Politis would like to use the City Attorney to speak with the bank regarding the false information previously provided and see if they will negotiate.

COUNCILMEMBER MEL LINDAUER moved, seconded by COUNCILMEMBER MICHAEL POLITIS to Adopt Resolution 2020-07 on first reading.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5 No = 0).

Yes: Mayor Nancy Miller, Vice Mayor Richard Bryan, Councilmember Richard Frizalone, Councilmember Mel Lindauer, Councilmember Michael Politis

C. Resolution 2020-08: Transmittal of Comprehensive Plan Amendment

The City Attorney read the resolution by title. City Planner Stewart Cruz explained that this process will allow the comp plan amendment to be transmitted to the state for review. The issue came up last year when the Banker's wished to modify their single family home by adding a room over the existing garage. Once approved, this would allow all non-conforming single family property owners limited expansion to "square off" their homes. Staff is preparing Land Development Code changes that will be brought back at a later date.

VICE MAYOR RICHARD BRYAN moved, seconded by COUNCILMEMBER MICHAEL POLITIS to Approve Resolution 2020-08: Transmittal of Comprehensive Plan Amendment.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5 No = 0).

Yes: Mayor Nancy Miller, Vice Mayor Richard Bryan, Councilmember Richard Frizalone, Councilmember Mel Lindauer, Councilmember Michael Politis

D. Stroud's BBQ 90-Day Trial - Outdoor Smoker

Director Hiatt reminded the council that a 90 day moratorium for the outside smoker was currently in place. Since the business opened, there has been a small fire and the tenants have complained of smoke permeating into their businesses. The property owner, Chris Pappas, is also upset with the Stroud's. He claims he did not give permission for the outdoor smoker in the lease agreement. The Stroud's still have not obtained a Business Tax Receipt from the city which is also a requirement. Director Hiatt added that within the 90 day moratorium, there is an opt out clause and he felt the city should terminate the agreement. He has spoken with the Stroud's and their response was that they thought they had everything taken care of. At this point, the property owner wants the smoker removed by August 28th. The Stroud's indicated they had an alternate location to store it. The council held a brief discussion and decided that it was not in the city's best interest to continue with the 90 day moratorium.

COUNCILMEMBER MEL LINDAUER moved, seconded by COUNCILMEMBER RICHARD FRIZALONE to terminate the Stroud's Barbeque outside cooker agreement 90 day moratorium.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4 No = 0).

Yes: Mayor Nancy Miller, Vice Mayor Richard Bryan, Councilmember Richard Frizalone, Councilmember Mel Lindauer

Abstain: Councilmember Michael Politis

E. Cares Act Funding

Mayor Miller explained that several local Mayors including herself, wrote letters to the County to obtain funding through the CARES Act. The city is eligible for \$160,000 to use for COVID 19 expenses. Examples of eligible items are: laptops, personal protection equipment, plexiglass, card access readers and UV lights for the air conditioning. All work must be purchased and installed by December 31st.

VICE MAYOR RICHARD BRYAN moved, seconded by COUNCILMEMBER MEL

LINDAUER to Approve the Cares Act Funding grant request.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5 No = 0).

Yes: Mayor Nancy Miller, Vice Mayor Richard Bryan, Councilmember Richard Frizalone, Councilmember Mel Lindauer, Councilmember Michael Politis

F. Discussion On Temporary Promotional Activities

This item was originally considered and approved in February to assist business who were suffering. It allowed a business to have temporary outdoor promotional activities for a total of 21 days. It was sunset after 60 days. Only a few businesses took advantage of having outdoor displays and there were no complaints. A permit is required and there is a three day minimum. The business can utilize up to 500 square feet of outdoor sales of merchandise. Staff felt that not many took advantage of the offer because they were not aware. Mayor Miller would like to enact this again and properly promote the concept. She didn't want a fee attached to the permit. CMBR Lindauer agreed. After a brief discussion on a potential start date, it was decided to begin on October 1st. Staff will place the ordinance on the next agenda.

G. Discussion on creating a policy for councilmember activities

Mayor Miller explained this topic was first brought up last August but was never formalized into a policy by Attorney Groot at the time. The current City Attorney has drafted an ordinance for the council to consider. Vice Mayor Bryan agreed with the proposed ordinance except for the last four lines of Section 2-1.4. that states a councilmember must specifically disclose that his/her opinions are solely his or hers. CMBR Politis and the remaining council felt the language was very clear as written. City Attorney Cary read Ordinance 2020-08 by short title for the record.

COUNCILMEMBER RICHARD FRIZALONE moved, seconded by COUNCILMEMBER MEL LINDAUER to approve Ordinance 2020-08 on first reading.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5 No = 0).

Yes: Mayor Nancy Miller, Vice Mayor Richard Bryan, Councilmember Richard Frizalone, Councilmember Mel Lindauer, Councilmember Michael Politis

H. City Manager Evaluation Summary

Mayor Miller briefly explained the City Manager evaluation process. The council had turned in completed forms and had the opportunity to meet with the City Manager individually to discuss. The overall average score was 4.16 out of a possible 5. There were no additional comments by the council. The completed evaluation forms will be placed in his personnel folder and are considered public record.

I. Citizen Petition to Discuss health, safety and welfare of the citizens in relating to the COVID-19 pandemic

It was explained that a petition was received by citizen Lonnie Groot. He wanted to speak regarding the health, safety and welfare of the citizens during the COVID-19 pandemic. An email was received from him this morning asking to pull his request. The Mayor stated that the councilmembers are very aware of citizen safety and they all strongly encourage everyone to wear a mask. Other cities have used the term mandate but it is very hard to enforce. Other safety measures have been installed such as plexiglass barriers and additional hand sanitizer dispensers. Masks are provided for anyone in the City Hall lobby. Dr. Woodward came and spoke at a City Council meeting to discuss masks and their benefits. Almost every business and condominium were visited and provided with PPE and flyers for the County's campaign on Mask Up, Back Up and Wash up.

12. COUNCIL COMMENTS:

CMBR Frizalone complimented the Public Works staff for their work on the new bocce courts. It was suggested to dedicate the new 6th tennis court to Don and Peggy Large. He was an avid tennis player and Peggy used to play also. Attorney Cary felt a resolution should be drafted to memorialize it. CMBR Politis thanked the Mayor for her hard work with distributing PPE and flyers to the businesses. Mayor Miller reminded everyone of the upcoming concert this Friday at 6:30 pm in the pavilion. Coffee with the Mayor will resume on September 9th, at 10:00 am. Social distancing rules will apply.

13. AUDIENCE REMARKS/PUBLIC COMMENTS:

There were no audience comments submitted.

14. ITEMS RECOMMENDED FOR THE NEXT AGENDA:

15. ADJOURNMENT:

The meeting ended at 7:59 pm.

**MAYOR
NANCY MILLER**

**CITY MANAGER
MICHAEL T. BOOKER**

ATTEST:

CITY CLERK, CHERI SCHWAB