

MINUTES
CITY COUNCIL MEETING
September 9, 2020
3000 Bellemead Drive, Daytona Beach Shores, FL 32118

1. CALL TO ORDER BY MAYOR

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, City Attorney John Cary, Community Services Director Fred Hiatt, City Planner Stewart Cruz, Finance Director Kurt Swartzlander, and Public Safety Director Stephan Dembinsky.

2. ROLL CALL BY CITY CLERK

3. PRAYER

4. PLEDGE OF ALLEGIANCE

- A. A RESOLUTION OF THE CITY OF DAYTONA BEACH SHORES, VOLUSIA COUNTY, FLORIDA, ADOPTING THE TENTATIVE LEVYING OF AD VALOREM TAXES FOR THE CITY OF DAYTONA BEACH SHORES, VOLUSIA COUNTY FOR FISCAL YEAR 2020-2021; PROVIDING FOR AN EFFECTIVE DATE.

City Attorney Cary read the resolution in its entirety for the record. Finance Director Swartzlander explained that the proposed millage rate was 5.0476, the rolled back rate. This is not considered an increase in taxes for the residents. The proposed budget includes debt reduction and a few carryover items from this year such as the fire truck, bocce courts and the Public Safety roof repair.

COUNCILMEMBER MICHAEL POLITIS moved, seconded by VICE MAYOR RICHARD BRYAN to Approve RESOLUTION 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. A RESOLUTION OF THE CITY OF DAYTONA BEACH SHORES OF VOLUSIA COUNTY, FLORIDA, ADOPTING THE TENTATIVE BUDGET FOR FISCAL YEAR 2020-2021; PROVIDING FOR AN EFFECTIVE DATE.

City Attorney Cary read Resolution 2020-10 by short title only.

COUNCILMEMBER MEL LINDAUER moved, seconded by COUNCILMEMBER RICHARD FRIZALONE to Approve Resolution 2020-10 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,

5. CEREMONIAL ITEMS, PRESENTATIONS AND PUBLIC NOTICES:

Mayor Miller thanked Director Dembinsky and his staff for their work over the Labor Day weekend that included the big truck event. She had recently heard from the Mayor of Ponce Inlet who commended the officers for providing mutual aid for a fire. She mentioned a video on Facebook from this past weekend that showed Officer Castellano responding first as a Police Officer and moving right into putting out a car fire. It was an excellent example of how cross-training is beneficial to our residents.

6. APPROVAL OF MINUTES

A. City Council Minutes August 25, 2020

COUNCILMEMBER MICHAEL POLITIS moved, seconded by COUNCILMEMBER MEL LINDAUER to Approve the Minutes from August 25, 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:

8. REPORTS OF THE CITY ATTORNEY:

A. City Attorney Report 9/9

Attorney Cary reviewed the City Attorney report submitted. In addition, they have been working with Finance and Bank of America regarding the charges for paying off the swaps early. At this point, there is no legal recourse for the city. The bank is allowed to charge an early payoff fee.

9. REPORTS OF THE CITY MANAGER:

A. City Manager Report September 9, 2020

The City Manager reviewed his report stating that work on the bocce courts was almost finished. The shuffle board court would be poured when the new sidewalk is installed. The demo work was almost completed on the old bocce courts so work on the new tennis court

could begin next week. He thanked the Community Services staff for their hard work on the project. He also thanked Finance Director Swartzlander and his staff along with the Department Heads for their work on the budget. He congratulated Director Dembinsky for being voted as the First Vice President of the Florida Police Chiefs Association.

10. OLD BUSINESS:

A. Ordinance 2020-08 Conduct of Council when Communicating with others

Vice Mayor Bryan felt the ordinance was too strict and wouldn't allow for any exceptions. It would apply to anything he said. CMBR Politis explained that was the spirit of the ordinance to protect the councilmembers. Attorney Cary explained that sharing facts with anyone was perfectly fine, this ordinance is only for offering personal opinions.

Audience member Rick Brown was pleased this was being addressed. He felt it wouldn't allow facts to be turned around as it sometimes occurs with social media.

COUNCILMEMBER MICHAEL POLITIS moved, seconded by COUNCILMEMBER RICHARD FRIZALONE to Adopt Ordinance 2020-08 on second reading.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4 No = 1).

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

No: Richard Bryan

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

The Ordinance was read by short title by the City Attorney.

COUNCILMEMBER MEL LINDAUER moved, seconded by VICE MAYOR RICHARD BRYAN to Approve Ordinance 2020-09: Public Beach Access Walkway Dedication to City by Aruba Ventures, LLC (3721 S. Atlantic Avenue).

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. Regular Site Plan RSP12020018: Oceans 25 Townhomes, 2900 S. Atlantic Avenue

This item had been continued from the August 25th agenda. Mayor Miller provided a brief history of the property. The city purchased the property from Doug Cook and it was zoned for mixed use. Back in 2005, a five story multi-use development was approved by the City Council. Last year, the current council reached out to the residents to find out what they would like to see on the land. Many didn't want to see a larger project and preferred two story townhomes. Vice Mayor Bryan disclosed that he attended the Planning & Zoning meeting but his decision would be based on what he heard tonight. City Planner Stewart Cruz began his presentation by stating that a Development Agreement had already been approved for this property earlier this year. Staff researched the property back to 1980 and

all zoning maps show it was not part of the PUD as some residents believe. All due public notice requirements were met. The only outstanding issue is obtaining the sewer force main easement dedication. That will occur at the end of the project. Staff recommended approval of the site plan contingent on the dedication of the sewer easement.

Mayor Miller read the submitted comments for the record from the following residents: Pat Collette, Prabha Trivedi, Robert Martin and William Beck who were all opposed to the project as they felt the property should remain green space.

Audience Members: Rick Brown felt it was not a viable property for development. He believes it will turn into blight and amplify the noise along that stretch of S Atlantic Avenue. He also implied that past councils were greedy with dishonorable intentions for the property. CMBR Lindauer didn't like the implication of past councils being underhanded and objected to the inference.

Carol Christopher inquired if the new townhomes would be paying into maintaining the golf course like the neighboring HOAs.

Tony Rembiszewski questioned how much of the median would be lost for this new development. City Planner Cruz responded it would be a 30 foot gap in the median.

COUNCILMEMBER RICHARD FRIZALONE moved, seconded by COUNCILMEMBER MEL LINDAUER to Approve the Site Plan RSP12020018: Oceans 25 Townhomes, 2900 S. Atlantic Avenue.

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

11. NEW BUSINESS:

A. Ordinance 2020-10: Amendment to Shores 109, LLC - City of Daytona Beach Shores Development Agreement

City Planner Stewart Cruz explained that this was an amendment to an existing Development Agreement. The property owner needed to scale down the project due to increased development costs. The changes were reviewed for the council. They included a reduced outdoor dining area, less parking spaces, removal of an outdoor restroom and the monument sign relocated into the alleyway. All due public notice has been provided. The Planning & Zoning Board recommended approval as does staff.

CMBR Lindauer inquired on how soon construction would begin. Mr. Galbreath responded as soon as possible. He was excited to get the project started.

COUNCILMEMBER RICHARD FRIZALONE moved, seconded by VICE MAYOR RICHARD BRYAN to Approve Ordinance 2020-10 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. Ordinance 2020-11: Temporary Promotional Activities

Mayor Miller explained that even if there were no big events happening in the near future, this Ordinance would be a positive move for businesses. Director Hiatt stated that it could become effective immediately after adoption at second reading.

COUNCILMEMBER RICHARD FRIZALONE moved, seconded by VICE MAYOR RICHARD BRYAN to Approve Ordinance 2020-11 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

No: None

C. Consideration of Request for Reduction/Rescission of Code Enforcement Lien for 137 Sunrise Blvd. (2042 S. Atlantic Ave.)

Code Enforcement Coordinator Gwyn Herstein explained that the property owner had requested the City Council to consider a further reduction with the imposed lien. She provided a brief history of the code enforcement case adding that they were given a lot of time to gain compliance. Property owner, Marie Shabtai spoke via phone to the council. She requested the lien be reduced to \$2,000. She stated that they lived in New York and were unable to travel. She provided no other explanation as to the length of time it took for compliance. Mayor Miller inquired when was the last time they had visited the property. Mr. Shabtai had been down three years earlier. The Mayor asked if they had a property manager and they do not. Ms. Herstein stated that property is now compliant which is the goal. The Special Magistrate reviewed the case and followed the state guidelines imposing a lien. After a brief discussion by council, they felt the most they would reduce the fine was \$700. The fine would still need to be paid within the guidelines set forth by the Special Magistrate or it would revert to the original amount.

COUNCILMEMBER MEL LINDAUER moved, seconded by VICE MAYOR RICHARD BRYAN to Approve a reduction in the Lien for 137 Sunrise Blvd to \$9,000.00 and to pay the Administrative Fee.

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. Discussion on naming the new tennis court

CMBR Frizalone explained that after speaking to several members of the tennis community, the city had done enough to honor past Mayor Don Large. The museum was already named for him and the city pronounced August 19th as Don Large Day. There is no disrespect to the Large family, but the courts will remain nameless. They will be designated by number.

12. COUNCIL COMMENTS:

Vice Mayor Bryan was asked to report on the recent TPO meetings he had attended. He explained that they had been virtual meetings but nothing had progressed in the last few months. He stated that he has brought up scooters and electric bike safety, but they had not discussed the topics yet. Resident Marilyn Wheeler was acknowledged for her work on

the Large's memorial service. Mayor Miller reminded everyone to complete the census as the deadline was approaching. The Council as a whole congratulated city staff for their hard work on all the recent projects going on throughout the city.

13. AUDIENCE REMARKS/PUBLIC COMMENTS:

Rick Brown inquired if the city would soon be streaming meetings and utilizing a TV channel. He also asked if another electric vehicle charging station could be installed. Mayor Miller explained that the meetings would soon be a live feed but not on viewed on TV. There are no current plans to expand the charging station.

14. ITEMS RECOMMENDED FOR THE NEXT AGENDA:

Economic incentive grants and possible debt reduction resolution

15. ADJOURNMENT:

The meeting ended at 7:53 pm.

**MAYOR
NANCY MILLER**

**CITY MANAGER
MICHAEL T. BOOKER**

ATTEST:

CITY CLERK, CHERI SCHWAB