



City of Daytona Beach Shores

"Life is Better Here"

"A Premier, Friendly Place to Be"

AGENDA CITY COUNCIL MEETING MARCH 23, 2021

**6:00 PM, Shores Community Center, 3000 Bellemead Drive
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.

- 1. CALL TO ORDER BY MAYOR**
- 2. ROLL CALL BY CITY CLERK**
- 3. PRAYER**
- 4. PLEDGE OF ALLEGIANCE**
- 5. CEREMONIAL ITEMS, PRESENTATIONS AND PUBLIC NOTICES:**
- 6. APPROVAL OF MINUTES**
 - A. City Council Charter Workshop Minutes March 9, 2021
 - B. City Council Minutes March 9, 2021
- 7. CONSENT AGENDA:**

- A. Public Safety monthly report

8. REPORTS OF THE CITY ATTORNEY:

- A. City Attorney Report

9. REPORTS OF THE CITY MANAGER:

- A. City Manager Report March 23, 2021

10. OLD BUSINESS:

11. NEW BUSINESS:

- A. Discussion on Pedestrian Crosswalks

- B. Micromobility Device Ordinance

12. COUNCIL COMMENTS:

13. AUDIENCE REMARKS/PUBLIC COMMENTS:

14. ITEMS RECOMMENDED FOR THE NEXT AGENDA:

15. ADJOURNMENT:

ANY PERSON WHO DECIDES TO APPEAL ANY DECISION MADE BY THE CITY COUNCIL WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSE HE OR SHE MAY NEED TO ENSURE AT HIS OR HER OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE OF THE PROCEEDINGS UPON WHICH THE APPEAL IS TO BE BASED.

NOTE: IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS AN ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF DAYTONA BEACH SHORES, 2990 S. ATLANTIC AVENUE, DAYTONA BEACH SHORES, FLORIDA 32118, TELEPHONE NUMBER 386-7635364, CSCHWAB@CITYOFDBS.ORG, AS FAR IN ADVANCE AS POSSIBLE, BUT PREFERABLY WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING DATE. IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 711 or 1 8009558771.

UPON REQUEST BY A QUALIFIED INDIVIDUAL WITH A DISABILITY, THIS DOCUMENT WILL BE MADE AVAILABLE IN AN ALTERNATE FORMAT. IF YOU NEED TO REQUEST THIS DOCUMENT IN AN ALTERNATE FORMAT, PLEASE CONTACT THE CITY CLERK WHOSE CONTACT INFORMATION IS PROVIDED ABOVE.

MINUTES
CITY COUNCIL MEETING
March 9, 2021
3000 Bellemead Drive, Daytona Beach Shores, FL 32118

1. CALL TO ORDER BY MAYOR

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

Staff: City Manager Michael T. Booker, City Clerk Cheri Schwab, City Attorney John Cary, City Attorney Wade Vose, 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. NEW BUSINESS:

A. Ongoing Charter Discussion

Attorney Wade Vose presented a draft document with five ballot questions to the council. Those questions were all approved by the council as they were written. He stated that there was a section in the Charter that had language added by the codifier that was supposed to be placed within the City's Code of Ordinances. The City Clerk has reached out to MuniCode and this is being corrected. The final item to be discussed was the area of council compensation. An Ordinance was passed in 2003 that put in place the formula used to determine the council salary. Per that Ordinance, the salary is set each year by resolution. However, the language in the charter reads differently. Any increase of the salary is to be done by ordinance. Attorney Vose stated that there are two ways to correct the issue. The first would be to leave the charter language as is and amend the ordinance to reflect this language. The second way would be to amend the charter language to include the methodology and include the question on the ballot. He advised that some citizens may not be in favor of passing a question relating to salary increases. After a brief discussion, the council reached a consensus to keep the charter language as is, and amend the ordinance in the code to reflect the process. It was decided to have it reviewed every two years beginning in December 2022 after the next general election.

Attorney Vose and Attorney Cary will put together an Ordinance in the next few months for council to consider the remaining five ballot questions. If adopted, they will be sent to the Supervisor of Elections to be placed on the General Ballot in November 2022.

4. ADJOURNMENT:

The meeting ended at 5:30 pm.

**MAYOR
NANCY MILLER**

**CITY MANAGER
MICHAEL T. BOOKER**

ATTEST:

CITY CLERK, CHERI SCHWAB

**MINUTES
CITY COUNCIL MEETING
March 9, 2021
3000 Bellemead Drive, Daytona Beach Shores, FL 32118**

1. CALL TO ORDER BY MAYOR

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

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

2. ROLL CALL BY CITY CLERK

3. PRAYER

4. PLEDGE OF ALLEGIANCE

5. CEREMONIAL ITEMS, PRESENTATIONS AND PUBLIC NOTICES:

6. APPROVAL OF MINUTES

A. City Council Minutes February 23, 2021

COUNCILMEMBER RICHARD BRYAN moved, seconded by VICE MAYOR MEL LINDAUER to Approve the City Council Minutes February 23, 2021.

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

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

7. CONSENT AGENDA:

8. REPORTS OF THE CITY ATTORNEY:

A. City Attorney Report

Attorney John Cary provided a brief overview of his submitted report.

9. REPORTS OF THE CITY MANAGER:

City Manager Michael Booker read his report for the record. A summary of economic development grants was provided with an approximate balance of \$566,000 left in this year's budget. A workshop is scheduled before the next council meeting to discuss the incentives. It was explained that the city currently maintains the county parks that are located within the city limits. It has become a burden both financially and on personnel to continue this practice. The County plans to open two more parks within the city limits later this year. The City Manager recommended to the Council that the city exercise their right to opt out of the agreement. Vice Mayor Lindauer inquired if the city gained any benefit from the agreement. The city is entitled to 10% of any rental income and if any parking meters were ever installed. The city is not receiving anything substantial from the County. The agreement states a one year notice by either party is required and he would like to do so. CMBR Bryan suggested to determine the true cost spent on maintaining the parks and request the county to reimburse us. The City Manager will reach out to the County Manager on this issue. The City Manager reported that the cost to add the city seal to the Shores Resort & Spa pedestrian bridge is estimated at \$20,000 for both sides. He felt the funds could be used in other areas as this is not a gateway sign. The council agreed with his decision. The signs designating a Purple Heart City will be placed at each entrance sign before the Armed Forces Day event in May.

10. OLD BUSINESS:

11. NEW BUSINESS:

- A. Resolution 2021-02 supporting state legislation that would allow local governments to decide whether or not to regulate smoking in parks and on beaches

COUNCILMEMBER RICHARD BRYAN moved, seconded by VICE MAYOR MEL LINDAUER to Adopt Resolution 2021-02 supporting state legislation that would allow local governments to decide whether or not to regulate smoking in parks and on beaches.

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

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

- B. Resolution 2021-03 Joining FRS for Firefighters

Public Safety Director Stephan Dembinsky explained that this was only a housekeeping issue with Florida Retirement System. There is no change in the special risk benefit, its only how the officers are classified based on their current certifications.

COUNCILMEMBER RICHARD BRYAN moved, seconded by COUNCILMEMBER RICHARD FRIZALONE to Adopt Resolution 2021-03 Joining FRS for Firefighters.

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

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

12. COUNCIL COMMENTS:

Mayor Miller stated that she had met with the new County Chair regarding annexation of the enclaves within the city. He advised that she reach out to the other county councilmember to meet and discuss the issue. She would like to get that goal for 2021 moving. Both Vice Mayor Lindauer and CMBR Frizalone complimented Nancy Maddox on her work with the Economic Development Program.

13. AUDIENCE REMARKS/PUBLIC COMMENTS:

John Caupp inquired on the maintenance of a fence along a pedestrian beach access. He lives at the Turtle Inn Beach Club and the walkway is between his building and the Palma Bella. Last year, the Palma Bella painted thier side of the fence on their own. The side facing his building has not been painted and is now flaking paint into their pool. He would like the city to fix the problem. Community Services Director Fred Hiatt agreed to go down and take a look at the fence.

14. ITEMS RECOMMENDED FOR THE NEXT AGENDA:

The Mayor requested a discussion on pedestrian crosswalks.

15. ADJOURNMENT:

The meeting ended at 6.41 pm.

**MAYOR
NANCY MILLER**

**CITY MANAGER
MICHAEL T. BOOKER**

ATTEST:

CITY CLERK, CHERI SCHWAB



CITY OF DAYTONA BEACH SHORES

DEPARTMENT OF PUBLIC SAFETY

3050 South Atlantic Avenue

Daytona Beach Shores, Florida 32118

Office of Director of Public Safety

Office 386-763-5333 Fax 386-763-5341

MONTHLY REPORT FOR FEBRUARY 2021 *SL 3.4.21*

	Feb-21	21/YTD	Feb-20	20/YTD
<i>Police Related Calls</i>	1,846	3,907	2,336	4,970
<i>Fire Related Calls</i>	52	89	40	100
<i>Rescue Related Calls</i>	94	184	68	140
<i>Fire Related Alarms Sounding</i>	16	25	14	29
<i>Traffic Citations</i>	116	263	169	456
<i>Written Warnings</i>	34	82	58	133
<i>Building Inspections</i>	69	137	51	92
<i>Arrests: Adults</i>	23	47	35	74
<i>Juveniles</i>	0	2	0	1
<i>City Ordinance Charges</i>	0	0	0	0
<i>Florida State Statute Charges</i>	34	82	63	71
<i>Accidents: Total</i>	18	29	19	10
<i>Street/Highway</i>	9	14	11	17
<i>Parking Lot</i>	9	15	8	12

Stephan Dembinsky Public Safety Director

POLICE CALLS TOTALS BY TYPE

DB SHORES POLICE

DATES: 2021-02-01 through 2021-02-28

LOCATION: ALL | ZONE: ALL | RD: ALL

DESCRIPTION	SIGNAL	TOTAL CALLS	% OF ALL CALLS	DAILY AVG
EXTRA PATROL	EP	359	19.45 %	12.82
MISCELLANEOUS LE CALL	MISC	338	18.31 %	12.07
PROPERTY CHECK	PRC	313	16.96 %	11.18
TRAFFIC STOP	TS	218	11.81 %	7.79
SUSP PERSON	SPER1	55	2.98 %	1.96
TELEPHONE HANDLE	THC	42	2.28 %	1.50
SUSP VEHICLE	SVEH	35	1.90 %	1.25
MEDICAL EMERGENCY	MED1	29	1.57 %	1.04
FIRE ALARM	ALARMF	21	1.14 %	0.75
RADAR	RADAR	21	1.14 %	0.75
911 CK/OPEN LINE	911CK	15	0.81 %	0.54
DISTURBANCE	DIST	14	0.76 %	0.50
RECKLESS DRIVER	RD	13	0.70 %	0.46
SUSP INCIDENT	SINC	13	0.70 %	0.46
SUSPECT STOP	SS	13	0.70 %	0.46
TRESPASSERS	TRES	13	0.70 %	0.46
WARRANT	WAR	13	0.70 %	0.46
ELEVATOR CALL	ELEV	12	0.65 %	0.43
FLAG DOWN	FLAG	12	0.65 %	0.43
INVESTIGATION	INV	11	0.60 %	0.39
MEDICAL NON-EMERG	MED2	11	0.60 %	0.39
INFORMATION GIVEN	INFO	10	0.54 %	0.36
WELL BEING CHECK	WBC	10	0.54 %	0.36
FIGHT	FIGHT	9	0.49 %	0.32
DISABLED VEHICLE	DAV	8	0.43 %	0.29
FALL- NON EMERGENCY	TRAU3	8	0.43 %	0.29
MVA	MV	8	0.43 %	0.29
NARCOTICS	NARC	8	0.43 %	0.29
TOWED VEHICLE	TOW	8	0.43 %	0.29
WALKUP	WALKUP	8	0.43 %	0.29
ASSIST AGENCY	ASSIST	7	0.38 %	0.25
HIT&RUN MVA	MVHR	7	0.38 %	0.25
UNCONSCIOUS	UNC	7	0.38 %	0.25
CIVIL COMPLAINT	CIVIL	6	0.33 %	0.21
DIRECTED PATROL REQUEST	DPR	6	0.33 %	0.21
DRUNK DRIVER	DUI	6	0.33 %	0.21
FLEEING DRIVER	FLEE	6	0.33 %	0.21
SUICIDAL PERSON	SP	6	0.33 %	0.21
ASSAULT/BATTERY	ABAT	5	0.27 %	0.18
BUSINESS ALARM	ALARMB	5	0.27 %	0.18
FOUND PROPERTY	PROPF	5	0.27 %	0.18
MVA W/ INJURIES	MVI	5	0.27 %	0.18
NOISE	NOISE	5	0.27 %	0.18
REPOSSESSED VEH	REPO	5	0.27 %	0.18
SHOPLIFTING	SHOP	5	0.27 %	0.18
SPECIAL DETAIL	SDL	5	0.27 %	0.18

POLICE CALLS TOTALS BY TYPE

DB SHORES POLICE

DATES: 2021-02-01 through 2021-02-28

LOCATION: ALL | ZONE: ALL | RD: ALL

DESCRIPTION	SIGNAL	TOTAL CALLS	% OF ALL CALLS	DAILY AVG
TRAUMA CRITICAL	TRAUE	5	0.27 %	0.18
911 CK/OPN LINE/MED HAZ	911MED	4	0.22 %	0.14
DRUNK PERSON	IP	4	0.22 %	0.14
MISSING PERSON	MP	4	0.22 %	0.14
PRISONER TRANS	PT	4	0.22 %	0.14
THEFT	THEFT	4	0.22 %	0.14
ANIMAL COMPLAINT	AC	3	0.16 %	0.11
DOMESTIC DISTURBANCE	DV	3	0.16 %	0.11
FINGERPRINTS	PRINTS	3	0.16 %	0.11
FRAUD	FRAUD	3	0.16 %	0.11
LOST PROPERTY	PROPL	3	0.16 %	0.11
MEDICAL UNKNOWN	ALARMM	3	0.16 %	0.11
SMOKE IN STR COMM/HIRISE	SMISCH	3	0.16 %	0.11
STROKE / CVA	CVA	3	0.16 %	0.11
VANDALISM	VAND	3	0.16 %	0.11
ZONE ACCOUNTABILITY PATR	ZAP	3	0.16 %	0.11
FAILURE TO PAY	FTP1	2	0.11 %	0.07
HAZARDOUS COND	HZM	2	0.11 %	0.07
ILLEGAL PARKING	PARK	2	0.11 %	0.07
MISC FIRE SERVICE CALL	MISCF	2	0.11 %	0.07
NE ASST- FIRE REQ	LEO2	2	0.11 %	0.07
OPEN DOOR	OPD	2	0.11 %	0.07
SEX OFFENSE	SO	2	0.11 %	0.07
SOLICITORS	SOL	2	0.11 %	0.07
STEP ZONE	STP	2	0.11 %	0.07
WEAPONS COMPL	WC	2	0.11 %	0.07
WELL BEING CHECK MEDICAL	WBCF	2	0.11 %	0.07
ABANDONED VEH	AV	1	0.05 %	0.04
ALZHEIMERS	ALZ	1	0.05 %	0.04
ASSAULT/BATTERY W/INJ	ABATI	1	0.05 %	0.04
ATT TO CONTACT	ATC	1	0.05 %	0.04
BOAT EMERGENCY	BOATE	1	0.05 %	0.04
BOATER ASSIST	BOAT	1	0.05 %	0.04
BURG/IN PROG	BURGIP	1	0.05 %	0.04
BURGLARY ALARM	ALARM	1	0.05 %	0.04
CARDIAC ARREST	CPR	1	0.05 %	0.04
DANGEROUS COND FD	DCFD	1	0.05 %	0.04
DEPOSITS	DEP	1	0.05 %	0.04
ESCORT	ESCORT	1	0.05 %	0.04
FIRE OUTSIDE STRUCTURE	FOS	1	0.05 %	0.04
JUVENILE	JUV	1	0.05 %	0.04
LASER	LASER	1	0.05 %	0.04
LOST/FOUND PET INFO	PET	1	0.05 %	0.04
MVA MAJOR	MVMI	1	0.05 %	0.04
OVERDOSE/POISONING	OD	1	0.05 %	0.04
ROAD OBSTRUCTION	RDOB	1	0.05 %	0.04

POLICE CALLS TOTALS BY TYPE

DB SHORES POLICE

DATES: 2021-02-01 through 2021-02-28

LOCATION: ALL | ZONE: ALL | RD: ALL

DESCRIPTION	SIGNAL	TOTAL CALLS	% OF ALL CALLS	DAILY AVG
SEX OFFENSE HIGH PRI	SO1	1	0.05 %	0.04
SHOOTING	SHOOT	1	0.05 %	0.04
SMOKE IN STRUCTURE	SMIS	1	0.05 %	0.04
SMOKE INVESTIGATION	SMOKE	1	0.05 %	0.04
STOLEN VEHICLE	SV	1	0.05 %	0.04
STRUC FIRE COMM/HIGHRISE	SFCH	1	0.05 %	0.04
THREATENING CALL	TCALL	1	0.05 %	0.04
TRAUMA EMERGENCY	TRAU1	1	0.05 %	0.04
TRAUMA NON-EMERG	TRAU2	1	0.05 %	0.04
UNWANTED GUEST	UWG	1	0.05 %	0.04
WALK & TALK	WT	1	0.05 %	0.04
TOTAL CALLS:		1,846	100.00%	65.93

NOTE: CAD-generated statistical reports are compiled from a live database of calls for service; this live database requires frequent call updating to ensure real time data is correct and maintained. When compiling and comparing statistics over time, minor discrepancies are inherent and should be expected. For final report information on crime, Uniformed Crime Reporting (UCR) statistics should be utilized.



CITY OF DAYTONA BEACH SHORES
DEPARTMENT OF PUBLIC SAFETY
3050 South Atlantic Avenue
Daytona Beach Shores, Florida 32118
Office of Director of Public Safety
Office 386-763-5333 Fax 386-763-5341

TRAINING SEMINARS ATTENDED

Month of February 2021

Norman Medders

2/22-26

*Construction Codes
& Standards- POFD*

DAYTONA BEACH SHORES DEPARTMENT OF PUBLIC SAFETY

FEBRUARY 2021 STATISTICS

FIRE CALLS	CURRENT MONTH			YEAR TO DATE			PRIOR YEAR		
ENGINE RESPONSE	CITY	COUNTY	MUTUAL AID	CITY	COUNTY	MUTUAL AID	CITY	COUNTY	MUTUAL AID
STRUCTURE FIRES	0	0	0	0	0	1	1	0	0
HAZARDOUS CONDITIONS	2	0	0	6	1	0	3	1	0
VEHICLE FIRES	0	0	0	1	0	0	0	0	0
BOAT FIRES	0	0	0	0	0	0	0	0	0
OTHER FIRES NOT LISTED	4	1	0	4	1	0	1	0	0
VEHICLE CRASHES W/ENGINE RESPONSE	2	1	0	4	2	0	1	0	0
SERVICE CALLS	33	0	1	44	3	2	50	7	1
FIRE ALARMS	16	0	0	25	0	0	29	0	0
CANCELLED EN ROUTE	3	1	4	9	6	5	22	8	5
TOTALS	60	3	5	93	13	8	107	16	6

CURRENT MONTH ESTIMATED FIRE DAMAGES

CITY: \$0

COUNTY: \$0

MUTUAL AID: \$0

INSPECTIONS	CURRENT MONTH		YEAR TO DATE		PRIOR YEAR	
	INITIAL	FOLLOW-UP	INITIAL	FOLLOW-UP	INITIAL	FOLLOW-UP
HIGH RISE	2	4	9	18	8	15
HOTEL/MOTEL	3	2	18	5	7	10
ASSEMBLY	1	0	1	0	2	0
MERCANTILE	14	0	18	0	5	4
RESTAURANT	0	0	0	0	3	1
BUSINESS	34	1	40	1	1	0
OTHER	2	0	2	0	11	0
CONSTRUCTION	3	0	7	2	18	1
OCCUPATIONAL LICENSES	0	0	0	0	0	0
APARTMENTS/CONDO	2	1	9	5	6	0
TOTALS	61	8	104	31	61	31

PLANS EXAMINATION HOURS: 0 HRS

DAYTONA BEACH SHORES DEPARTMENT OF PUBLIC SAFETY

FEBRUARY 2021 STATISTICS

EMS CALLS	CURRENT MONTH			YEAR TO DATE			PRIOR YEAR		
	CITY	COUNTY	MUTUAL AID	CITY	COUNTY	MUTUAL AID	CITY	COUNTY	MUTUAL AID
ALS CALLS	30	8	2	79	11	2	70	9	1
BLS CALLS	47	5	2	82	7	3	48	8	4
TOTALS	77	13	4	161	18	5	118	17	5



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DEPARTMENT OF PUBLIC SAFETY
3050 South Atlantic Avenue
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MONTHLY REPORT FOR FEBRUARY 2021

Vehicle Maintenance Division: 2 Positions Assigned: Conducted routine, scheduled maintenance checks and repairs on all city vehicles (includes oil changes and tire exchanges). Additional items were:

Oil change	veh #167
Replace battery	veh #165
Oil change	veh #150
Oil change	veh #166
Oil change	veh #141
Replace brakes	veh #165
Replace serpentine belt	veh #149
Oil change	veh #130
Oil change	veh #164
Oil change	veh #159
Oil change	veh #154
Oil change	veh #172
Oil change	veh #148
Oil change	veh #162
Replace brake pads	veh #144



Article II, Section 8, *Constitution of the State of Florida*: ***“Ethics in government.—A public office is a public trust. The people shall have the right to secure and sustain that trust against abuse.”***

“LIFE IS BETTER HERE.”

**CITY COUNCIL AGENDA MEMORANDUM
MARCH 23, 2021 AGENDA**

TO: Honorable Mayor and Members of the City Council
COPIES TO: Mike Booker, City Manager
Cheri Schwab, City Clerk
FROM: John Cary, City Attorney
DATE: March 17, 2021
SUBJECT: ***City Attorney Report***

The following is intended as my written report to the City Council for matters arising subsequent to its last meeting of March 9, 2021. Please advise if you have any questions, comments or concerns relative to these matters.

(1) *Charter Review*

Held the second charter review special meeting and drafted ordinance for Council consideration.

(2) *Micromobility Devices*

Finished drafting ordinance based on direction from the city council.

(3) *Code Enforcement*

Met with Code Enforcement office to provide legal counsel.

(4) *Procurement*

Reviewed charter provisions and ordinances relating to procurement. Reviewed the purchasing policies in preparation for drafting ordinance.

(5) *Halifax Health Lease*

Worked with the Halifax Health general counsel's office to negotiate a modification to the lease for additional parking easements.

Respectfully, submitted,

/s/ John Cary, City Attorney



CITY OF DAYTONA BEACH SHORES

"Life Is Better Here"

Office of the City Manager

Phone (386) 763-5373 Fax (386) 763-5360

MEMORANDUM

DATE: March 16, 2021

TO: City Council: Mayor Nancy Miller; Vice Mayor Mel Lindauer,
Council Member Rick Frizalone; Council Member Richard Bryan,
and Council Member Michael Politis

FROM: Michael T. Booker, City Manager

SUBJECT: City Manager's Report – March 23, 2021

Bank of America:

- The Bank of America announced June 22, 2021, will be the final day of operation for their Daytona Beach Shores branch. The property where this branch is located may be beneficial to the City to try to acquire due to the close proximity to McElroy Park and the Pavilion.

Armed Forces Day:

- Armed Forces Day falls on Saturday, May 15 and we are planning a live celebration in our Veteran's Park behind the Community Center. We hope to have as many of our Veterans and their families as possible present.

Park Maintenance:

- Awaiting a response from the County. An update will be provided at the Council meeting.



**CITY COUNCIL AGENDA MEMORANDUM
MARCH 23, 2021 AGENDA**

TO: Honorable Mayor and Members of the City Council

FROM:

PREPARED BY: Cheri Schwab, City Clerk

SUBJECT: Discussion on Pedestrian Crosswalks

SYNOPSIS:

Mayor Miller requested this item be added to the agenda.

FISCAL IMPACT STATEMENT:

BACKGROUND:

LEGAL REVIEW:

RECOMMENDATION:

SUGGESTED MOTION:

ATTACHMENT: None



CITY COUNCIL AGENDA MEMORANDUM MARCH 23, 2021 AGENDA

TO: Honorable Mayor and Members of the City Council
FROM: John Cary, City Attorney
PREPARED BY: John Cary, City Attorney
SUBJECT: Micromobility Device Ordinance

SYNOPSIS:

This ordinance creates a pilot program for the rental of micromobility devices within the city through the end of 2021. It requires rental companies and retailers to obtain a permit and provides requirements for the permit, including limitations to fleet size and the number of units per retailer. It also allows limited outdoor staging at retailers and hotels. The ordinance allows retailers in the city to rent out micromobility devices with limited opportunity for staging. It allows hotels that are currently renting devices to continue doing so, but prohibits rentals at other hotels. The ordinance also provides requirements for training before renting, and limits rentals to licensed drivers. The ordinance prohibits staging of micromobility devices in the public right-of-way and allows the city to impound any devices that are improperly stored. Finally, the ordinance requires retailers to turn over documentation to the city upon request.

FISCAL IMPACT STATEMENT:

BACKGROUND:

This ordinance was drafted at the request of the city council in February. It incorporates the policy requests of the council and provides a legal and administrative framework for a pilot program to allow rental of micromobility devices in the city.

LEGAL REVIEW:

This ordinance is approved as to form and legality.

RECOMMENDATION:

Approve the ordinance and set for second reading on April 13, 2021. Alternatively, the city council could request changes prior to second reading.

SUGGESTED MOTION:

Approve the ordinance and set it for second reading on April 13, 2021.

ATTACHMENT: 1. Ordinance - Micromobility Devices

ORDINANCE 2021-__

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, RELATING TO THE REGULATION OF MICROMOBILITY DEVICES WITHIN THE CITY OF DAYTONA BEACH SHORES; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING DEFINITIONS; CREATING A PILOT PROGRAM FOR THE RENTAL OF MICROMOBILITY DEVICES; PROVIDING REQUIREMENTS FOR OBTAINING A PERMIT; PROVIDING REQUIREMENTS FOR EMERGENCY STORAGE; PROVIDING CRITERIA FOR THE CITY TO IMPOUND IMPROPERLY STORED VEHICLES; REQUIRING COMPANIES TO INDEMNIFY THE CITY; PROVIDING INSURANCE REQUIREMENTS FOR COMPANIES ENGAGING IN RENTAL OF MICROMOBILITY DEVICES; REQUIRING RETAILERS TO PROVIDE CERTAIN RECORDS UPON REQUEST OF THE CITY; MAKING FINDINGS; PROVIDING FOR CONFLICTS, SEVERABILITY; CODIFICATION AND EFFECTIVE DATE.

WHEREAS, the City Council of the City of Daytona Beach Shores (“City Council”) is the elected collegial body that is the legislative arm of the City of Daytona Beach Shores (“City”); and

WHEREAS, the City Council of the City of Daytona Beach Shores desires to ensure that the City and its environs are safe for drivers and pedestrians alike, including residents of the city and visitors to the city; and

WHEREAS, the City of Daytona Beach Shores has a significant interest in ensuring the public safety and order and in promoting the free flow of pedestrian traffic in city parks, streets, and sidewalks. *Ayres v. City of Chicago*, 125 F. 3d 1010, 1015 (7th Cir. 1997); and

WHEREAS, bicycles and dockless shared mobility devices left unattended and parked or leaned on walls or left on sidewalks creates a hazard to pedestrians and individuals needing access and maneuverability for ADA mobility devices; and

WHEREAS, the state of Florida, through the Florida Uniform Traffic Control Law, regulates micromobility devices, but does not prevent municipalities from adopting ordinances governing the operation of micromobility devices. Section 316.2128(1); and

WHEREAS, the City of Daytona Beach Shores may regulate the use and rental of micromobility devices to the extent that such regulations do not conflict with the Florida Uniform Traffic Control Law. *Classy Cycles, Inc. v. Panama City Beach*, 301 So.3d 1046 (1st DCA 2019); and

WHEREAS, the City Council desires to protect the public health, safety, and welfare of the citizens of the City and maintain a high quality of life for the citizens of the City; and

WHEREAS, the City Council hereby finds and determines that the provisions of this Ordinance provide for public benefits and serve public purposes; and

WHEREAS, this ordinance is enacted pursuant to the home rule powers of the City as set forth at Article VIII, Section 2, of the *Constitution of the State of Florida*, Chapter 163, *Florida Statutes*, Chapter 166, *Florida Statutes*, and other applicable and controlling law; and

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

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

SECTION ONE: LEGISLATIVE FINDINGS AND INTENT.

The City Council of the City of Daytona Beach Shores hereby adopts and incorporates into this Ordinance the recitals (whereas clauses) to this Ordinance, and finds that same reflect the legislative intent of this Ordinance, and the same are hereby adopted, ratified, and affirmed.

SECTION TWO: ADOPTION.

The City Council of the City of Daytona Beach Shores hereby amends the *Code of Ordinances of the City of Daytona Beach Shores*, Chapter 16, entitled “Offenses-Miscellaneous,” Article I, entitled “In General,” by creating Section 16-24.2 entitled “Rental or leasing of micromobility devices” as follows:

CHAPTER 16 – OFFENSES-MISCELLANEOUS

ARTICLE I – IN GENERAL

Sec. 16-24.2. – Rental or leasing of micromobility devices.

- (a) *Definitions* – The following words and phrases, when used in this section shall, for the purpose of this section, have the meanings respectively ascribed to them in this section.
- (1) The definitions in section 316.003 of the Florida Statutes apply to this section and are hereby incorporated by reference.
 - (2) *Company* means a business that owns or operates a fleet of micromobility devices for the purpose of rental to the general public.

- (3) *Director* means the Director of Community Services or any other employee designated by the City Manager for the purpose of administering this section.
- (4) *Retailer* means any commercial business, other than the company, that is in the business of renting micromobility devices out of a physical building within the city. For the purpose of this section, a hotel is a retailer if it has continuously rented micromobility devices as of March 23, 2021. Retailers must be located in a commercial or hotel zoning district, as applicable.
- (b) *Pilot program.* The city hereby establishes a pilot program (the "program") under which companies may operate dock-based or dock-less micromobility device share services by renting in person from a qualified retailer that has a permit from the city. The program will expire on December 31, 2021. During the term of the program, companies shall have a maximum fleet of one hundred (100) micromobility devices. The Director retains the right to require companies to reduce their fleet size or cease operations as required by public safety or welfare considerations or in the event companies violate the terms of this ordinance or the permit issued hereunder. During the term of the program, a company will designate two local operational staff who will be responsible for fielding complaints, addressing technical difficulties, coordinating the rebalancing and removal of micromobility devices parked illegally, and providing public education.
- (c) *Permit required.* Each company or retailer must apply for and receive a permit from the City before commencing micromobility device operations and each retailer must maintain a valid permit during the term of the program. Companies and retailers that already rent micromobility devices within the city as of the effective date of this ordinance have thirty (30) days from the effective date of this ordinance to apply for a permit. Permits may not be assigned or transferred unless approved by the City. Each permit, upon issuance, will be for a maximum of one hundred (100) micromobility devices for a company, and a maximum of twenty (20) micromobility devices for a retailer. Each permit will be issued to a different company or retailer. If one retailer has multiple locations in the city, then a permit is required for each location. The issuance of permits will be processed in the order that complete permit applications are received.
- (1) *Term of permit.* Unless otherwise revoked or terminated, each permit is valid upon issuance, and will expire at the end of the pilot program. Within ten days after expiration or termination of a permit, a company will remove all its micromobility devices from within the City, and a retailer will immediately cease the storage or staging of micromobility devices.
- (2) *Revocation of permit.* The Director may revoke a permit if a company or retailer violates any applicable law or regulation or any condition of the permit. Within seven days of a revocation notice being delivered to a company or retailer, the company or retailer may request a meeting with the Director or assignee. A fair opportunity to be heard shall be provided by the Director or assignee within 21 days

of the request for a meeting. After the meeting, the Director may affirm his or her determination, affirm his or her determination with conditions, or rescind his or her determination. The Director's decision shall constitute final agency action.

- (3) *Application requirements for a permit.* Applications for a permit must be made on a permit form provided by the Director. The form shall provide the material and documents needed to complete the application and must at a minimum request information necessary to confirm that the retailer meets the requirements of this section and other applicable provisions of City ordinance and state law. The form will also include an agreement to indemnify the City of Daytona Beach Shores against any and all claims, damages, and liability arising from operation of the company except to the extent that said liability, losses, or damages arise from the negligence or willful misconduct of the city. All permits shall be conditioned on the accuracy of and continued compliance with all material aspects of the application.
- (4) *Conditions of the permit.* In addition to the requirements of this Chapter, the Director may approve applications for a permit with special regulations and conditions of operation as he or she deems reasonably appropriate to protect the public health, safety, and welfare.
- (5) *Application fee.* The initial application for permit for the pilot program must be accompanied by a non-refundable application and licensing fee of \$100.00 to pay for the City's direct costs of administering the program. Should the City continue the program after the term of the pilot program is complete, the application fee shall be set by resolution of the City Council.
- (6) *Renewal.* Should the city continue the program after the term of the pilot program, permits may be renewed following the same process, including payment of the application fee, as set by resolution of the City Council.
- (7) *Staging.* A retailer may stage a maximum of 6 micromobility devices outdoors on the property of the retailer during the retailer's normal business hours, unless the retailer is a hotel as defined in section 2-2, in which case all micromobility devices must be stored indoors. In no event shall micromobility devices be stored or otherwise staged outdoors while the retailer is not open for business. Companies may not stage or otherwise place micromobility devices inside the city except by providing the micromobility devices to a retailer that holds a valid permit from the city under this section. For the duration of the pilot program, the availability of outdoor staging is allowed as a temporary exception to the prohibition contained in section 14-60.3 of the Land Development Code.
- (8) *Conditions of rental.* Retailers may not rent micromobility devices to any person that does not have a valid driver's license. Retailers must ensure that they provide

training for all rentals, to include safety training and instructions to ride in a single file line when riding on sidewalks.

- (9) *Waiver/release form.* As part of the permit application process, and prior to issuance of the permit, each retailer and company will submit a waiver/release form to the City for review and approval. The form will provide, in general, that the customer waives any and all claims against the City and releases the City, its elected and appointed officials and employees from any and all liability related to, or arising from, operation of the micromobility device or the program. The retailer will require each customer's execution/consent of, and to, the form prior to any customer's use of the company's micromobility devices. The retailer must provide a safety form and training, to include instruction on the requirements of this section, including the prohibition on rental to a person without a valid driver's license. The retailer will use of the form as part of every rental of a micromobility device throughout the term of the permit.
- (10) The Director shall not issue a permit to any hotel or similar use, as defined in section 2-2, unless the hotel has been operating as a retailer prior to March 23, 2021. Hotels that have been operating prior to March 23, 2021, as a retailer shall be granted a permit as long as the hotel meets all other applicable criteria to the extent that the hotel continuously operates as a retailer.
- (d) *Emergency storage.* If the president, governor, or any other official or governing body with jurisdiction to make such a declaration declares a hurricane watch or warning, the company shall collect all micromobility devices that are outdoors and store them in an indoor facility or otherwise remove such devices from the city limits. Retailers shall secure and bring indoors any micromobility devices that are staged or otherwise stored outdoors for the duration of the emergency declaration.
- (e) *Impoundment.* Any micromobility device left unattended on public property, including in parks and rights-of-way of the FDOT, Volusia County, or the City of Daytona Beach Shores, may be impounded by the Director of Public Safety or his or her designee, or by a code enforcement officer of the city. A micromobility device is not considered unattended if it is secured or staged at a retailer in accordance with this section. Upon impoundment by the Director of Public Safety, the company shall pay a \$25 fee to the Public Safety Department to retrieve the device, in order to offset the administrative expense of impounding and storing the device. This fee is in addition to any other fee or penalty that may be applied for any underlying violation of any other laws, ordinances, or rules.
- (f) *Indemnification.* By submitting an application for a permit, retailers and companies agree to indemnify, defend, and hold harmless the city, and its elected and appointed officials, employees, agents, and instrumentalities from any and all liability, losses or damages, including any and all attorneys' fees and costs of defense, which the city and its elected and appointed officials, employees, agents and instrumentalities may incur

as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature including, but not limited to, personal injury or wrongful death, property loss or damage, the conditions and features on all streets, sidewalks and sidewalk areas, or other areas within the city on which a micromobility device is operated, to the extent arising out of or in any way connected with the operation of the micromobility device service or use of a micromobility device. Retailers and companies shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the city, where applicable, including administrative, trial, and appellate proceedings, and shall pay all costs, judgments, and attorneys' fees which may issue thereon. Retailers and companies shall expressly understand and agree that any insurance protection required by this section, or otherwise provided or secured by a company, will in no way limit the responsibility to indemnify, defend, and hold harmless the city, its elected and appointed officials, employees, agents and instrumentalities as required by this section. The obligation to indemnify, defend, and hold harmless will survive the revocation, cancellation, or expiration of a permit. The companies will acknowledge on the permit, which will include this indemnification in substantially the language provided by this section, that the issuance of the permit, is, in part, conditioned on the granting of this indemnification which is knowingly and voluntarily given by the company.

- (g) *Insurance.* The company will procure and keep in full force and effect no less than the insurance coverage required by this section. The insured provisions of the policy or policies must list the city, as well as its elected and appointed officials and employees as additional insureds, and the coverage provisions must provide coverage for any claim, loss or damage related to property or bodily injury, including death, which may arise to any person or property by reason of the program or its operation, or the company's agents, contractors, employees or micromobility device users, or the operation of a micromobility device. The Certificate of Insurance for any insurance policy required by this section must be on file with the City, in a form acceptable to the Director, or his or her designee, prior to the issuance of a permit under this section. Insurance required under this section must include a cancellation provision in which the insurance company is required to notify both the company and the Director or his or her designee, in writing not fewer than 30 days before cancelling any insurance policy or before making a reduction in coverage. A company, upon receiving said notice, shall file with the Director, or his or her designee, in a form acceptable to the city, a certificate of insurance for any and all replacement insurance policies prior to the cancellation or reduction of same. The company will maintain the following insurance coverages:

- (1) Commercial general liability with limits of \$2,000,000.00 per occurrence, \$5,000,000.00 policy aggregate affording coverage for claims resulting from bodily injury (including death) and property damage as described in subsection 2, above. The policy shall be written on a primary and noncontributory basis, and should insure against premises and operations, personal injury, and contingent and contractual exposures.

- (2) Automobile/motorcycle liability affording coverage on all motor vehicles/scooters, if used in connection with the operations or activities contemplated under this article. The company should furnish the city with a policy affording coverage on all owned autos, scooters, and other micromobility devices, including coverage for hired and non-owned auto exposures, with a combined single limit for bodily injury (including death) and property damage of \$2,000,000.00 per accident.
 - (3) Workers compensation subject to the statutory limits of the State of Florida.
 - (4) The city retains the right to require additional insurance coverage in connection with the activities performed by the company under this article as may be determined by the city, considering the size of the fleet and other liability insurance related factors. Nothing herein constitutes a waiver of the City's sovereign immunity.
- (h) *Records.* Upon the written request of the Director, the retailer must provide any requested rental records within three (3) business days.

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

SECTION FIVE: CODIFICATION. Section Two of this ordinance shall become and be made a part of the *Code of Ordinances of the City of Daytona Beach Shores, Florida* and 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. The Code codifier is granted liberal authority to codify the provisions of this Ordinance to be consistent with the other sections of the *Code of Ordinances*.

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

CITY OF DAYTONA BEACH SHORES, FLORIDA

NANCY MILLER, MAYOR

MICHAEL T. BOOKER, CITY MANAGER CHERI SCHWAB, CITY CLERK
Approved as to form and legality:

JOHN CARY, CITY ATTORNEY

Passed on first reading this _____ day of _____, 2021.

Adopted on second reading this _____ day of _____, 2021.
