

**MINUTES
CITY COUNCIL MEETING
February 12, 2019
3000 Bellemead Drive Daytona Beach Shores, FL 32118**

Present: Mayor Nancy Miller, Vice Mayor Richard Bryan, Council Member Richard Frizalone, CouncilMember Mel Lindauer and CouncilMember Michael Politis. **Staff:** *City Manager Michael T. Booker, City Clerk Cheri Schwab, City Attorney Lonnie Groot, Community Services Director Fred Hiatt, Finance Director Kurt Swartzlander, and Public Safety Captain Michael Fowler.*

1. CEREMONIAL ITEMS, PRESENTATIONS AND PUBLIC NOTICES:
None.

2. APPROVAL OF THE MINUTES:
City Council Board Interviews January 22, 2019
City Council Meeting January 22, 2019

CMBR LINDAUER moved, seconded by CMBR FRIZALONE to approve both sets of minutes from January 22, 2019.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

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

3. CONSENT AGENDA: Correction to previous Contraband request

CMBR BRYAN moved, seconded by CMBR POLITIS to approve the consent agenda.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

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

4. REPORTS OF THE CITY ATTORNEY: Attorney Groot reported that he had been working on the amendments for the charter and the code. He would like to set a date for a training workshop to include the advisory boards and the council.

5. REPORTS OF THE CITY MANAGER: Mr. Booker briefly discussed the veterans park area. The original idea of a water feature is being revisited. CMBR Lindauer stated that he would be satisfied with having flags from the different branches of service.

OLD BUSINESS:

6. **Ordinance 2019-03** AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA ENACTING A STATUTORY DEVELOPMENT AGREEMENT RELATING TO THE PROPERTY OWNED BY DAYTONA BEACH DRIVE-IN CHRISTIAN CHURCH, INC. AND GENERALLY LOCATED AT 3140 SOUTH ATLANTIC AVENUE IN ACCORDANCE WITH THE PROVISIONS OF THE "FLORIDA LOCAL GOVERNMENT DEVELOPMENT AGREEMENT ACT" AS SET FORTH AT SECTIONS 163.3220 - 163.3243, FLORIDA STATUTES; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR NON-CODIFICATION AND IMPLEMENTATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. Second Reading & Public Hearing.

CMBR LINDAUER moved, seconded by CMBR POLITIS to adopt Ordinance 2019-03 on second reading.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

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

NEW BUSINESS:

7. **Ordinance 2019-04** AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA REPEALING SECTIONS 17-12 THROUGH SECTION 17-14; OF THE *CODE OF ORDINANCES OF THE CITY OF DAYTONA BEACH SHORES*; PROVIDING FOR A SAVINGS PROVISION; 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.

Attorney Groot explained to the council that having a Civil Service Board is in conflict between the City Charter and the Code of Ordinance with a council/manager form of government.

CMBR BRYAN moved, seconded by CMBR LINDAUER to approve Ordinance 2019-04 on first reading.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

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

8. **Approval of Awards for Continuing Engineering Contracts**

Director Hiatt explained the selection criteria used for ranking the firms. The contracts would be for five years and they will meet the current needs of the city.

CMBR POLITIS moved, seconded by CMBR BRYAN to approve the awards for continuing engineering contracts.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

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

9. Consideration to participate in the multidistrict opioid litigation

Attorney Groot provided a brief background on opioid drugs and their addictive nature. It is believed that the pharmaceutical companies knew the drugs would behave that way. Many lawsuits have been filed nationwide on this issue and billions of dollars are at stake. The federal court has taken the court cases and gave them to one federal judge in Cincinnati Ohio. The judge is working with three liaisons. He noted that the Florida Attorney General is getting involved at the state level. If the city decides to not participate, then it can't get any money from the potential settlement. There is a local firm who employs one of the liaisons and is willing to allow the city to join the lawsuit on a contingency basis. CMBR Bryan had many questions from the amount of money the victims would receive to the qualifications of the firm. He also inquired about other options the city may have. CMBR Politis felt the firm in question was very highly rated and would enter the lawsuit with no hesitation. The risk for the city was extremely low and the city can remove itself at any time.

CMBR POLITIS moved, seconded by CMBR FRIZALONE to hire the firm recommended by the City Attorney.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

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

10. Consideration of savings provisions in ordinances

Audience member Rosana Scacia spoke on behalf of the People's Voice PAC. It was their understanding that the savings clause would approve all past actions of the city and somehow pertained to building height. They believed that was not in good practice and would like to see the clause eliminated or modified.

Attorney Groot explained that the savings clause is a routine item that is included in ordinances and other documents regularly. It has benefits to the city and shared some examples from other municipalities. After corresponding with CMBR Bryan on the subject, he read a modification that CMBR Bryan agreed on; "If a council member votes for this Ordinance, that action shall not be construed to mean that he or she approves or disapproves of any or all past actions of the City. The purpose of this provision is to cure potential past actions that may have technical defects but were not wrong intrinsically."

He reiterated that the modification was not his recommendation. Attorney Groot also noted that if CMBR Bryan's reluctance to include the savings clause had to do with building height, this would not help. Mayor Miller asked CMBR Politis for his opinion and he replied that he would rely on Attorney Groot's expertise. A savings clause needed to be included to protect the city. The remaining councilmembers also agreed with his statement.

CMBR POLITIS moved, seconded by CMBR FRIZALONE to continue using the original savings clause language provided by the City Attorney.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

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

11. **COUNCIL COMMENTS:** Mayor Miller reminded the audience of her “Coffee with the Mayor” tomorrow and the Community Visioning session in the afternoon. CMBR Bryan stated that there were still openings on some advisory boards. CMBR Politis felt that there was still criticism regarding the building height limit and he is willing to listen to residents. CMBR Frizalone asked the City Manager to obtain pricing for a sixth tennis court explaining that the existing courts are filled. CMBR Lindauer added that the pickleball courts are also filled to the max and would like to have more courts added.
12. **AUDIENCE REMARKS/PUBLIC COMMENTS:** Harry Jennings invited everyone to the 6th Annual Day of the Duels car show on Thursday at the Drive-In Church. Julien Moussalli would like to have another tennis court added. He also stated that South Peninsula Drive had many potholes and needed to be repaired.
Honey Burget asked the council to consider another location for the Veteran’s Memorial Park. She suggested adding it to the existing Court of Flags for better exposure.
13. **ITEMS RECOMMENDED FOR THE NEXT AGENDA:** None.
14. **ADJOURNMENT:** The meeting ended at 8:32 pm.

**MAYOR
NANCY MILLER**

**CITY MANAGER
MICHAEL T. BOOKER**

ATTEST:

CITY CLERK, CHERI SCHWAB