



City of Daytona Beach Shores

"Life is Better Here"

"A Premier, Friendly Place to Be"

AGENDA CITY COUNCIL MEETING AUGUST 10, 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 Minutes July 27, 2021
 - B. City Council Budget Workshop Minutes July 27, 2021
- 7. CONSENT AGENDA:**

8. REPORTS OF THE CITY ATTORNEY:

- A. City Attorney Report

9. REPORTS OF THE CITY MANAGER:

- A. City Manager Report August 10, 2021

10. OLD BUSINESS:

- A. Ord. 2021-08 Revision of the Economic Development Ordinance

11. NEW BUSINESS:

- A. Resolution 2021-08 Urging FL Legislature to Allow Municipalities to Regulate Smoking in Parks and on Beaches
- B. Consideration of Request for Reduction/Rescission of Code Enforcement Lien for 2000 S. Atlantic Avenue
- C. Non-conforming Sign Removal Incentive Grant Application: Pirate's Island Adventure Golf - 3420 S. Atlantic Ave.
- D. Discussion of ARPA funding expenditures

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
July 27, 2021
3000 Bellemead Drive, Daytona Beach Shores, FL 32118

1. CALL TO ORDER BY MAYOR

Present: Mayor Nancy Miller, Councilmember Richard Frizalone, Vice Mayor Mel Lindauer, Councilmember Michael Politis. Councilmember Richard Bryan attended by calling in.

Staff: City Manager Michael T. Booker, City Clerk Cheri Schwab, City Attorney Becky 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. PRAYER

4. PLEDGE OF ALLEGIANCE

5. CEREMONIAL ITEMS, PRESENTATIONS AND PUBLIC NOTICES:

A. Employee Service Award - Detective Daniel Carrazana 5 years

This item was moved to the August 10th meeting.

County Council Vice-Chair Billie Wheeler presented Director Dembinsky with a proclamation stating July 27th as Stephan Dembinsky Day. Director Dembinsky was recently appointed as the President of the Florida Police Chief's Association.

B. Bill Griffin from Halifax Health

Halifax Health representative, Bill Griffin apologized for the cancellation of the open house for Express Care. He did announce, that all the inspections were complete, and it would be open for business tomorrow, July 28th.

6. APPROVAL OF MINUTES

A. City Council Minutes June 22, 2021

COUNCILMEMBER RICHARD FRIZALONE moved, seconded by VICE MAYOR MEL LINDAUER to approve the minutes of June 22, 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

B. Audit Selection Committee Minutes June 22, 2021

COUNCILMEMBER MICHAEL POLITIS moved, seconded by COUNCILMEMBER RICHARD FRIZALONE to approve the Audit Selection Committee minutes of June 22, 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:

A. Public Safety June report

B. Request to utilize forfeiture funds

C. Building Division June 2021 Report

D. Community Services June 2021 Report

E. Interlocal Agreement between the State Attorney and the City for the purpose of prosecuting cases

COUNCILMEMBER RICHARD FRIZALONE moved, seconded by COUNCILMEMBER MICHAEL POLITIS to approve the consent agenda.

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

Yes: Mayor Nancy Miller, Councilmember Richard Bryan, Councilmember Richard Frizalone,

8. REPORTS OF THE CITY ATTORNEY:

A. City Attorney Report

Attorney Becky Vose reviewed her report with the council. There were no further questions or discussion.

9. REPORTS OF THE CITY MANAGER:

A. City Manager Report

City Manager Michael Booker reviewed his report for the council. There were no further questions or discussion.

10. OLD BUSINESS:

A. Ordinance 2021-04: Comprehensive Plan Future Land Use Map amendment for annexing single-family residential property located at 2924 S. Peninsula Drive

The City Attorney read the Ordinance by short title for the record. There was no further discussion.

COUNCILMEMBER RICHARD FRIZALONE moved, seconded by VICE MAYOR MEL LINDAUER to adopt Ordinance 2021-04 on second reading.

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. Ordinance 2021-05: Single-family residential rezoning application for annexed property located at 2924 S. Peninsula Drive

The City Attorney read the Ordinance by short title for the record. There was no further discussion.

VICE MAYOR MEL LINDAUER moved, seconded by COUNCILMEMBER MICHAEL POLITIS to adopt Ordinance 2021-05 on second reading.

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

- C. Ordinance 2021-07: Permitting counseling services as an accessory use to churches in the "P - Public/Quasi Public" Zoning District

The City Attorney read the Ordinance by short title for the record. There was no further discussion.

VICE MAYOR MEL LINDAUER moved, seconded by COUNCILMEMBER RICHARD FRIZALONE to adopt Ordinance 2021-07 on second reading.

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

11. NEW BUSINESS:

- A. Ord. 2021-08 Revision of the Economic Development Ordinance

Economic Development Director Nancy Maddox explained that the proposed amendment came from the council's direction during the workshop last March. The grant for 10% for acquisition has been removed. The remaining two items, lease subsidy grant and the Alternative Tax Relief (ATR), would still be applicable.

VICE MAYOR MEL LINDAUER moved, seconded by COUNCILMEMBER MICHAEL POLITIS to approve Ord. 2021-08 on first reading.

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 2021-06 FY2021-2022 Proposed Millage Rate

Finance Director Kurt Swartzlander stated that the proposed Resolution would set the millage rate at 4.9356, the voted debt millage to 0 and publish the date and time for the first budget hearing.

COUNCILMEMBER RICHARD FRIZALONE moved, seconded by COUNCILMEMBER MICHAEL POLITIS to adopt Resolution 2021-06 on first reading.

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

C. Resolution 2021-07 to purchase land at 3046 S. Atlantic Avenue

Finance Director Kurt Swartzlander explained that an appraisal had been done on the property and it came in at \$900,000. Bank of America will be doing a modified auction later this year. If adopted, this Resolution would allow the city to negotiate an offer with the bank to purchase the property. Attorney Vose also added that if the city was unsuccessful in making an offer, we could utilize imminent domain if the council choose. CMBR Politis was not in favor of having to utilize imminent domain, but understood it was a tool the city had. CMBR Frizalone inquired what the city would use the property for. The answer was that the land was a prime location for McElroy Park expansion/improvement and additional parking for existing services. CMBR Frizalone was not in favor of moving forward without a detailed plan in place. Mayor Miller felt the location was a prime piece of real estate for the city to obtain. She added that Halifax Health had stated they may be interested in a partnership for that property. CMBR Lindauer was concerned that the amount of the appraisal was now a public record. Attorney Vose explained that the council can omit the Resolution and just provide consensus to the staff to negotiate with Bank of America. The council did give consensus for staff to negotiate with Bank of America while also drafting a plan for the property.

D. Economic Development Existing Business Expansion Grant Reimbursement

Economic Development Director Nancy stated the grant originally began in March 2020. The total cost of the project was \$28,963.58. The project did go over budget for a final total of \$30,891.77. The owner was unable to utilize the decorative panel due to the HOA board not approving them. The ADA ramp was also not installed. Staff recommended the grant reimbursement of \$14,481.79.

COUNCILMEMBER RICHARD FRIZALONE moved, seconded by COUNCILMEMBER MICHAEL POLITIS to Approve Economic Development Existing Business Expansion Grant Reimbursement.

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 explained that the annual conference for the Florida League of Cities needed a voting delegate appointed. CMBR Bryan nominated Vice Mayor Mel Lindauer and he agreed to be the delegate. There is a concert this Friday and the new Halifax ExpressCare will be open for tours. Next month's Coffee With the Mayor will have Rep. Tom Leek as guest speaker. CMBR Bryan would like to have a Resolution created for the next meeting to support giving local control to regulate smoking on the beach and in parks. The entire council congratulated Director Dembinsky once again on his role as President for the Florida Police Chief's Association. They also complimented the City Manager and staff on their work on the budget.

13. AUDIENCE REMARKS/PUBLIC COMMENTS:

There were no audience comments made.

14. ITEMS RECOMMENDED FOR THE NEXT AGENDA:

CMBR Bryan Resolution in support of smoking ban

15. ADJOURNMENT:

The meeting ended at 7:30 pm.

**MAYOR
NANCY MILLER**

**CITY MANAGER
MICHAEL T. BOOKER**

ATTEST:

CITY CLERK, CHERI SCHWAB

**MINUTES
CITY COUNCIL MEETING
July 27, 2021
3000 Bellemead Drive, Daytona Beach Shores, FL 32118**

1. CALL TO ORDER BY MAYOR

Present: Vice Mayor Mel Lindauer, Mayor Nancy Miller, Councilmember Michael Politis, Councilmember Richard Bryan, Councilmember Richard Frizalone
Staff: City Manager Michael T. Booker, City Clerk Cheri Schwab, City Attorney Becky 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. Discussion on Proposed Budget FY 2021-2022

Finance Director Kurt Swartzlander presented a short budget presentation to the council. Property values were slightly higher than last year with a 2.27% increase. The city's current millage rate is 5.0476 and the roll-back rate is 4.9356. The roll-back rate is what staff is proposing for next year's budget. The city will no longer have a debt millage rate since the loan was paid in full this past year. The city derives 82% of its property tax revenue from condominiums and only 29.35% are considered homestead. The average condo unit in the city is valued at \$242,382. The proposed budget totals \$14,265,800. It includes one new employee for the Community Center. The position will include Public Information Officer and marketing. There are three retirements planned for this year. There were no questions or concerns about any budget item details.

4. ADJOURNMENT:

The meeting ended at 5:06 PM.

**MAYOR
NANCY MILLER**

**CITY MANAGER
MICHAEL T. BOOKER**

ATTEST:

CITY CLERK, CHERI SCHWAB



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
AUGUST 10, 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: August 4, 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 July 27, 2021. Please advise if you have any questions, comments or concerns relative to these matters.

(1) *Seized Dogs*

Continued to prepare for hearing for the seized dogs.

(2) *Condemnation*

Continued meetings with staff to build a legal strategy for a building condemnation.

(3) *Treasure Island*

Met multiple times with city staff and developer, management, and developer's counsel regarding a stipulated agreement for the Treasure Island property.

(4) *Opioid Litigation*

Reviewed documents received for the opioid litigation case.

(5) *Development Agreement*

Reviewed and advised staff regarding a development agreement modification request.

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: August 5, 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 – August 10, 2021

Museum Dedication/Don Large Day:

The City Museum will be dedicated on Don Large Day (Don's birthday) August 19. Certain City flags will be flown at half-mast in honor of Don's memory and his many contributions to our City.

FDOT (Florida Department of Transportation):

On Wednesday, August 4, the Mayor, City Staff and I met with Billie Wheeler re the upcoming repair of SR A1A within the next 5 years. In addition to her duties as County Council Vice Chair, Billie is also TPO (Transportation Planning Organization) Chair. The proposed timetable for repair will give us ample time to coordinate our proposed upcoming sanitary sewer improvements with the FDOT project.

ARPA (American Recovery Plan Act of 2021)

If it pleases City Council, I would like to open up discussions with both Port Orange and Daytona Beach to establish sanitary sewer redundancy for Daytona Beach Shores. I believe we can work with both cities to accomplish what is in both our and their best long-term interest.



**CITY COUNCIL AGENDA MEMORANDUM
AUGUST 10, 2021 AGENDA**

TO: Honorable Mayor and Members of the City Council
FROM: Nancy Maddox, Recreation Director
PREPARED BY: Cheri Schwab, City Clerk
SUBJECT: Ord. 2021-08 Revision of the Economic Development Ordinance

SYNOPSIS:

FISCAL IMPACT STATEMENT:

BACKGROUND:

During the March 23, 2021 Economic Development Workshop, the City Council discussed three issues: 1. Verify the types of businesses that Council would like to target for economic development lease subsidy program funding, 2. The staff requested clearer direction on when an applicant could receive a grant of up to 10% for acquisition and 3. More clarity on the Alternative Tax Relief (ATR). Issues 1 and 3 were clarified and implemented. After a thorough discussion of Issue 2, it was the consensus of the Council to delete the up to 10% for acquisition. Attached is the revision of the Economic Development Ordinance for first reading. Ordinance 2021-08 under Sec. 10-11 – Creation of economic development program completely deletes paragraph (d) regarding issue 2.

LEGAL REVIEW:

Approved as to form and legality.

RECOMMENDATION:

Staff recommends approval of the ordinance.

SUGGESTED MOTION:

"I move to approve the revision of the Ordinance as presented."

OR

"I move to approve the revision of the Ordinance with the following conditions/amendments...."

OR

"I move to deny the revision of the Ordinance on the basis of...."

ATTACHMENT: 1. Ord 2021-08- Economic Development Program amendments

ORDINANCE 2021-08

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, RELATING TO A COMPREHENSIVE ECONOMIC DEVELOPMENT PROGRAM; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; AMENDING THE REQUIREMENTS TO RECEIVE A GRANT; ELIMINATING CERTAIN GRANT PROGRAMS; MAKING MINOR AND TECHNICAL AMENDMENTS; 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 desirable for economic development of a positive nature for the benefit of the citizens of the City; and

WHEREAS, economic development programs are consistent with state statutes, including, but not limited to, sections 166.021 and 187.201, Florida Statutes, as well as the goals, objectives, and policies set forth in the City’s comprehensive plan; and

WHEREAS, the City Council has long recognized the economic challenges relating to the west side of State Road A1A (South Atlantic Avenue) which is a north-south Florida State Road that runs along the Atlantic Ocean, from Key West to Fernandina Beach and which is the main road through most oceanfront towns such as the City; and

WHEREAS, the City Council desires, to a significant, but not exclusive, extent to focus on the economic challenges relating to the west side of State Road A1A (South Atlantic Avenue); and

WHEREAS, the City Council declared a moratorium at its March 23, 2021, City Council meeting on any development grants as described in section 10-11 of the Code of the City of Daytona Beach Shores, except for those applications that may have been submitted prior to March 23, 2021.

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 10, entitled “Economic Development,” Article II, entitled “Economic Development Program” as follows:

CHAPTER 10 – ECONOMIC DEVELOPMENT

ARTICLE II – ECONOMIC DEVELOPMENT PROGRAM

Sec. 10-11. – Creation of economic development program.

- (a) The City Council of the City of Daytona Beach Shores hereby creates and establishes the City of Daytona Beach Shores Economic Development Program.
- (b) The purpose of the program is to encourage the renovation, development, redevelopment, and productive use of lands and buildings within the city limits of the City of Daytona Beach Shores.
- (c) In order to implement the program set forth in this section, the city council may enter development agreements, under the provisions of the Florida Local Government Development Agreement Act as set forth at F.S. §§ 163.3220 through 163.3243, or enter such other agreements as the city council determines are intended to enhance the high-quality economic development of the City of Daytona Beach Shores.
- ~~(d) The development agreements referenced in subsection (c) of this section, may relate to either city-owned or non-city-owned real property and may, among other things, provide for, by way of example and not limitation, provisions such as the city providing to the purchaser of city-owned real property an up to a ten percent rebate of the purchase price to allow the purchaser to use the funds to assist in the development of the real~~

~~property or, if the development agreement relates to non-city-owned real property, once the purchaser of the land applies to the city relative to the purchase price of the land and closes on the real estate transaction, the city would provide up to a ten percent grant to assist the new owner of the land in order to assist in the build out the real property in a high quality plan of development. The city shall impose conditions in each development to prevent a buyer purchasing city-owned real property from holding the real property for investment purposes or implementing a flip of the real property. The city's goal is that the real property shall be expeditiously developed in a high quality manner for the benefit of the citizens of the city.~~

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:

GRETCHEN "BECKY" VOSE, CITY ATTORNEY

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

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



**CITY COUNCIL AGENDA MEMORANDUM
AUGUST 10, 2021 AGENDA**

TO: Honorable Mayor and Members of the City Council

FROM:

PREPARED BY: Cheri Schwab, City Clerk

SUBJECT: Resolution 2021-08 Urging FL Legislature to Allow Municipalities to Regulate Smoking in Parks and on Beaches

SYNOPSIS:

This Resolution was requested by Councilmember Bryan to encourage the Florida Legislature to enact legislation to allow counties and municipalities to regulate smoking in parks and on beaches.

FISCAL IMPACT STATEMENT:

N/A

BACKGROUND:

LEGAL REVIEW:

Approved as to form and content.

RECOMMENDATION:

If Council desires, a motion to adopt Resolution 2021-08

SUGGESTED MOTION:

ATTACHMENT: 1. Res. 2021-08 Supporting the repeal of state smoking for 2022 session

RESOLUTION NO. 2021-08

A RESOLUTION OF THE CITY OF DAYTONA BEACH SHORES, VOLUSIA COUNTY, FLORIDA, URGING THE FLORIDA LEGISLATURE TO ENACT LEGISLATION TO ALLOW COUNTIES AND MUNICIPALITIES TO REGULATE SMOKING IN PARKS AND ON BEACHES WITHIN THE JURISDICTION OF THE LOCAL GOVERNMENT; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, during the 2021 Legislative Session of the State of Florida, Senator Gruters and Representative Altman sponsored Senate Bill 334 and House Bill 229 , respectively, which, if one of the bills were to become a law, would allow local governments to regulate smoking in parks and on beaches; and

WHEREAS, the City Council of the City of Daytona Beach Shores approved Resolution 2021-02 in support of the above-referenced bills; and

WHEREAS, according to United States Center for Disease Control, the combination of smoke from the burning of tobacco products and the smoked exhaled from the smoker, referred to as secondhand smoke, exposes nonsmokers to thousands of chemicals, hundreds of which are toxic and 70 known to cause cancer, as detailed in the following link: [https://www.cdc.gov/tobacco/data_statistics/sgr/2010/consumer_booklet/chemicals_smoke/index](https://www.cdc.gov/tobacco/data_statistics/sgr/2010/consumer_booklet/chemicals_smoke/index.htm) .[htm](https://www.cdc.gov/tobacco/data_statistics/sgr/2010/consumer_booklet/chemicals_smoke/index.htm); and

WHEREAS, as of 2018, nearly 14 of every 100 (14.0%) U.S. adults aged 18 years or older currently smoke cigarettes, as detailed in the following link:

[https://www.cdc.gov/tobacco/data_statistics/fact_sheets/adult_data/cig_smoking/index.htm#:~:te
xt=This%20means%20an%20estimated%2034.1,with%20a%20smoking%2Drelated%20disease;](https://www.cdc.gov/tobacco/data_statistics/fact_sheets/adult_data/cig_smoking/index.htm#:~:text=This%20means%20an%20estimated%2034.1,with%20a%20smoking%2Drelated%20disease;)

and

WHEREAS, there is no risk-free level of secondhand smoke exposure; even brief exposure can be harmful to health, as detailed in the following link:

[https://www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/health_effects/index
.htm#:~:text=There%20is%20no%20risk%2Dfree,infant%20death%20syndrome%20\(SIDS\);](https://www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/health_effects/index.htm#:~:text=There%20is%20no%20risk%2Dfree,infant%20death%20syndrome%20(SIDS);)

and

WHEREAS, approximately 2.5 million nonsmokers have died from health-related illnesses caused by exposure to secondhand smoke since 1964, as detailed in the following link:

[https://www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/health_effects/index
.htm#:~:text=There%20is%20no%20risk%2Dfree,infant%20death%20syndrome%20\(SIDS\);](https://www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/health_effects/index.htm#:~:text=There%20is%20no%20risk%2Dfree,infant%20death%20syndrome%20(SIDS);)

and

WHEREAS, regulating tobacco products that cause harmful smoke would reduce or eliminate potential exposure to toxic and cancerous chemicals, as detailed here; and

WHEREAS, according to the Ocean Conservancy, cigarette butts and food wrappers are the most common waste items on beaches, as detailed in the following link:

[https://oceanconservancy.org/trash-free-seas/international-coastal-cleanup/annual-data-release/;](https://oceanconservancy.org/trash-free-seas/international-coastal-cleanup/annual-data-release/)

and

WHEREAS, the City of Daytona Beach Shores affirms its belief that the decision of whether smoking should be regulated in locally-controlled parks and beaches is most appropriately determined at the local level; and

WHEREAS, the City Council of the City of Daytona Beach Shores supports and encourages a legislative effort to bring and favorably approve similar bills during the 2022 legislative session.

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

SECTION ONE. The City Council hereby acknowledges the above Whereas provisions and adopts the same as legislative findings.

SECTION TWO. That the City Council of the City of Daytona Beach Shores hereby encourages the Florida Legislature to pass legislation allowing the regulation of smoking on locally-controlled public beaches in other local public parks and providing enforcement authority to counties and municipalities.

SECTION THREE. That the Mayor, City Council members, and City Manager or his designee, are hereby authorized to distribute a copy of this resolution to the Governor, the President of the Florida Senate, the Speaker of the Florida House of Representatives, and to other people as appropriate.

SECTION FOUR. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

CITY OF DAYTONA BEACH SHORES, FLORIDA

By: _____
Mayor, Nancy Miller

ATTEST:

By: _____
Michael T. Booker, City Manager Cheri Schwab, City Clerk

APPROVED AS TO FORM AND LEGALITY:

By: _____
John Cary, City Attorney

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

Posted this _____ day of _____, 2021.



CITY COUNCIL AGENDA MEMORANDUM AUGUST 10, 2021 AGENDA

TO: Honorable Mayor and Members of the City Council

FROM: Gwyn Herstein, Code Enforcement Coordinator

PREPARED BY: Gwyn Herstein, Code Enforcement Coordinator

SUBJECT: Consideration of Request for Reduction/Rescission of Code Enforcement Lien for 2000 S. Atlantic Avenue

SYNOPSIS:

This property was sent before the code enforcement special magistrate in January 2021. The property owner, B and Y, Inc., represented by Yehuda Morali, was given until March 22, 2021, to bring the property into compliance. Full compliance was achieved on June 25, 2021. Special Magistrate deLaroche reduced the total accrued fines from \$14,100.00 to \$7,950.00 at the July 21st hearing. According to the reduction order, this reduced fine amount, plus administrative fees of \$128.03, must be paid by September 20th, or the fine will revert to the original amount plus fees. Mr. Morali is currently requesting that the City Council fully rescinds the reduced fine of \$7,950.00.

FISCAL IMPACT STATEMENT:

Dependent upon City Council action.

BACKGROUND:

This property is located near the northern boundary of Daytona Beach Shores, at the intersection of South Atlantic Avenue and Botefuhr Avenue. The single one-story building on the property once held a gift shop called Rusty Cat. Unfortunately, shortly after opening in 2015, this business closed due to a fire. No business has been opened in its place.

In late 2019, a Daytona Beach Shores ordinance was passed requiring each vacant building to obtain a Certificate of Compliance - Vacant Property ("CC-VP") and in December 2019, the CC-VP inspection was conducted at this property. Fifteen violations and four interior deficiencies were identified and the property owner was given a list of these violations and deficiencies. Mr. Morali rectified two of the violations quickly by removing the business's pole sign. He also initiated redevelopment of the property in February 2020, with a building permit application. City staff comments identifying the additional submissions needed for review of the permit application were sent. These comments were not addressed and the incomplete permit application expired.

The Covid-19 pandemic postponed code enforcement hearings for multiple months but, in January

2021, twelve un-rectified violations were brought before the special magistrate. Mr. Morali rectified nine additional violations just before the January meeting, so the property owner was given until March 22, 2021, (sixty-one days) to bring the three remaining violations into compliance or fines of \$150.00 per day would accrue. One violation pertained to two, foot-tall column bases which were unused elements and presented a trip-hazard; the second violation was for a cracked column at the building's northeast corner; and the third violation was for failing to obtain the CC-VP, which would be issued once the preceding two violations were rectified. The column bases were turned into planter holders, relieving that violation well before the ordered compliance date. Approved final inspection was obtained for work done to rectify the cracked column on June 25th, bringing the last two violations into compliance with the special magistrate's order. The total number of fined days was 94. At the July 21st meeting, Special Magistrate deLaroche reduced the number of fined days to 53, lowering the fine from \$14,100.00 to \$7,950.00, having considered 40 days for Mr. Morali's recovery after knee surgery and 1 day for the celebration/observance of Purim.

Periodically updated code enforcement pictures show the column remained unreplaced until at least May 20th, and required trim work remained incomplete until at least June 15th.

Mr. Morali submitted a request that the Daytona Beach Shores City Council fully rescind his reduced fine and he paid the fee of \$191.00, which is required to accompany such a request. In this submitted rescission request, he states that he entered an agreement with East Coast Welding in Holly Hill as of March 8, 2021, and that he paid for the column work in full on March 22nd. He further states that East Coast Welding cashed his check on March 29th but did not do the work until June. Mr. Morali previously presented the code enforcement office a copy of the accepted estimate created by East Coast Ornamental Welding, dated March 19, 2021, and a copy of a bank record of his processed check for \$909.00, showing it was posted on March 29, 2021. Mr. Morali has indicated he plans to be represented by Attorney David W. Glasser to assist with this request.

This is the only property in Daytona Beach Shores owned by B and Y, Inc. There are no other code enforcement fines or fees owed for this property or by this property owner at this time.

LEGAL REVIEW:

At Council discretion. There is no legal requirement to further reduce the fine/lien, however state law does allow the Council to reduce the fine/lien at its discretion.

RECOMMENDATION:

If desired, we will provide a recommendation after hearing from Mr. Morali, however, the stated and working purpose of code enforcement staff is to gain compliance, which has been achieved.

SUGGESTED MOTION:

- ATTACHMENT:**
1. 1 Request for Code Enforcement Rescission by City Council Form
 2. 2 Current Building Pic
 3. 3 Code Enforcement Violation Follow-up Summary
 4. 4 CE Ordered Violation Pics
 5. 5 CE Findings of Fact, Conclusions of Law and Order
 6. 6 CE Order Imposing Fine Lien
 7. 7 CE Order on Request for Reduction Rescission of Fine



CITY OF DAYTONA BEACH SHORES
2990 South Atlantic Avenue
Daytona Beach Shores, Florida 32118
Office 386-763-5330 Fax 386-763-5370
gherstein@cityofdbbs.org

RECEIVED

JUL 28 2021

BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

REQUEST FOR REDUCTION/RESCISSION
OF CODE ENFORCEMENT LIEN BY CITY COUNCIL

I hereby request consideration for the code enforcement lien associated with the following property:

Address of Property Subject to the Lien: 2000 S. ATLANTIC AVE D.B.S. FL. 32118

County Tax Parcel ID #: 531622-000020 Property Owner: BEY INC

Contact Name: YEHUDA MORAL Contact Phone Number: 386-566-1474

Current Amount of Lien: \$ 7950.00 Board/Magistrate Approved Admin. Costs: \$ 128.03

Check one of the following statements:

☒ I hereby request that said lien be rescinded in full.

☐ I hereby request that the lien be reduced to the amount of \$ _____

If requested reduction is granted, I agree to pay in full by the following date: _____

Code Enforcement Case Number: CDEF-2019-74 (CDEF number)(One application per case #)

Date the Property Became Compliant*: _____

*Note: Cases will not be considered for lien reduction or rescission unless all violations have been corrected and record of such is on file with the Code Enforcement Office.

Specific reason(s) the lien reduction or rescission should be granted: I AM YEHUDA

MORAL, OWNER OF BEY INC. HAD AGREE WITH
EAST COAST WELDING 1794 STATE AVE,
HOLLY HILL FL. 32117 ON MARCH 8 2019 & PAID
ON MARCH 22-21 THE FULL AMOUNT AND THEY CANCELLED

Specific reason(s), if any, that compliance was not accomplished by the violator/property owner prior to the order of penalty or fine being recorded: MARCH 29-21

BUT EAST COAST DID NOT PAYING THE WORK ON
TIME IT TOOK 2 MONTHS TO FINISH FROM 3-29-21
RECEIVED
BY MAY 15 2021
JUL 28 2021

I certify that the information supplied in this application is true and correct.

Property Owner/Representative Signature

Printed Name

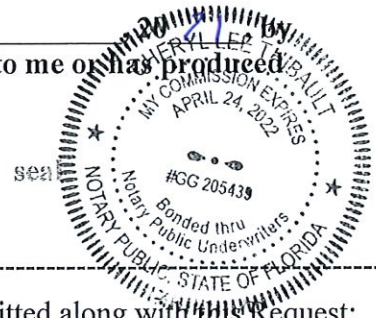
State of Florida, County of Volusia

Sworn to and subscribed before me this 28 day of July

Yehuda Morali

who is personally known to me or has produced

Cheryl W. Tubault
Notary Public



Attention Property Owner/Representative: The following must be submitted along with this Request:

- A copy of the *Order on Consideration for Reduction or Rescission of Fine* issued by the Code Enforcement Board/Special Magistrate ✓
- Payment in the amount of \$191.00 for administrative costs associated with the application process (These costs are non-refundable without regard to the final disposition of the application.) ✓
- Document authorizing specific representation of the property owner IF the above-signed property representative is not the property owner of record or officer of the company that is the property owner of record (as listed by the appropriate state's Division of Corporations website). ✓ (Blank *Authorization to Represent* forms are available from the Code Enforcement Office)
- Submit this form and accompanying documents to the Code Enforcement Office on the 2nd floor of City Hall. (Documents can be notarized at the Code Enforcement Office with proper ID)

Official Use Only:

1. Compliance date, fine amount and Board or Special Magistrate-approved administrative costs verified, threshold criteria met. and representative's standing confirmed with Code Enforcement Office? Comments: All request criteria have been met.
2. Date submitted to City Manager: 8 / 4 / 21 Letter of denial dated: / / (If applicable)
3. Date determination made by City Council: / /

Results of Lien Consideration: (Fines & Board or Special Magistrate-approved administrative costs)
Rescinded
Continued in full
or Reduced to \$

4. Returned to Code Enforcement Office for processing: / /



Building Pic, 2000 S. Atlantic Ave. in Daytona Beach Shores

Code Enforcement Violation Follow-up Summary

Property Owner: B and Y, Inc.
Violation Address: 2000 S. Atlantic Ave. in Daytona Beach Shores, FL
Code Enforcement Case #: CDEF2019-74
Volusia County Tax Parcel ID #: 5316-22-00-0020

Violations: *The Code of Ordinances of the City of Daytona Beach Shores, Appendix "G" – Land Development Code, Chapter 14, Section 14-52.9.(B)(16) and (D)(3) along with City of Daytona Beach Shores Ordinances 2019-09 & 2019-14, Part III, Section 14-61.1.(b).*

- a) Multiple parking bumpers are in disrepair – Compliant as of 1-14-21*
- b) Walkway cracked and not flat, east of building – Compliant as of 1-14-21*
- c) Seal/trim at large, west window on north building face has failed – Compliant as of 1-14-21*
- d) Wood unprotected by paint or trim in places at edge of roof – Compliant as of 1-14-21*
- e) Stucco cracked in places at column located at northeast entrance and at northeast corner of building – Compliant as of 6-25-2021**
- f) Weeds encroaching parking lot in multiple areas – Compliant as of 1-14-21*
- g) White patch of graffiti at northwest corner of building – Compliant as of 1-14-21*
- h) Open electrical junction box at west building face near northwest corner – Compliant as of 1-14-21*
- i) Open electrical junction box at east building face near southeast corner – Compliant as of 1-14-21*
- j) Two column bases on either side of east-facing entrance doors are non-functional elements which create a trip hazard – Compliant as of 1-25-2021, rectified by Ordered compliance date**
- k) Roof edge trim missing in places and loose in others – Compliant as of 1-19-21*
- l) Building remains vacant longer than 60 days without obtaining a Certificate of Compliance – Vacant Property, will be achieved when Violation e) is rectified – Compliant as of 6-25-2021**

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November 15, 2019 – A letter was sent by Certified Mail to advise of the newly passed requirement for vacant buildings to obtain a Certificate of Habitability (Certificate of Compliance – Vacant Property). The required application was included, also.

November 20, 2019 – We received the CC-VP application with a check and set the inspection for December 5, 2019.

December 5, 2019 – An inspection was conducted by Plans Examiner/Building Inspector Steve Edmunds, Fire Marshal Terry Griffiths, and me. Mr. Morali accompanied us through and around the building, where exterior violations and interior deficiencies were discussed.

December 19, 2019 – The violations were stated in a Notice of Violation and the deficiencies itemized in a letter. These were sent to the property owner by Certified Mail. Green Card receipt demonstrates delivery on January 7, 2020.

January 7, 2020 – Mr. Morali called. He expressed dissatisfaction that he was being asked to bring the property into compliance. He said he understood what the City wants to do, but he never plans to reopen the business. After a lengthy conversation about individual violations and potential fixes, he said he would come by to pick up pictures taken of the broken walkway, the roof trim issue, and the stucco. He said he had rented a 2,000 sq ft warehouse for storage beginning February 1st.

January 13, 2020 – Mr. Morali came in and I gave him copies of the 30 pages of pictures taken at the inspection. We went violation-by-violation through the deficiency letter and Notice of Violation so he could match them up with pictures. We also identified which issues require permits to fix - plumbing for capping off, roofing to complete trim, building for the stucco repairs, though this one does not require a state license to obtain. This assessment was based on the ways Mr. Morali stated he planned to fix each of the issues.

Also January 13, 2020 - Mr. Morali left me a voicemail message that the pothole in the north parking area identified in the Notice of Violation is the City's – not his. I reached out to City Employee Brian Edwards to check about this.

January 23, 2020 – Mr. Morali called. He had reviewed the lists with a legal advisor. He said a plumber would be coming the following week. He'd spoken with Wayne's Roofing, who would fix the flashing because it was under warrantee. He said he'd begin moving the storage out on February 1st. He brought up the pothole and said that it was ours to fix, not his; he would do it, but could not be held responsible if we didn't like the way he did it. I told him I'd discuss this with Community Services Director Hiatt and get back with him as Mr. Hiatt was currently deciding whether to remove our asphalt in that area and replace it with grass or fill in the pothole ourselves.

January 24, 2020 – I called Mr. Morali back about the pothole and left him a message explaining that the City did not plan on maintaining that asphalt for parking. Mr. Hiatt suggested that if Mr. Morali wanted to continue to keep the area available for parking, Mr. Morali could fill the pothole. Then, if we didn't feel it had been done sufficiently, we'd be back into the position of fixing it ourselves or pulling out the asphalt.

January 27, 2020 – A representative of Wayne's Roofing called. She was unsure what issue Mr. Morali was describing to her about the roof trim. I offered to send her pictures, and did.

January 29, 2020 – Mr. Morali called and asked if Wayne's Roofing contacted us. I confirmed they had and that I'd sent pictures. He said he'd shown a lawyer his \$40,000 roof contract, that the fix was easy, but that we need a permit. He said he'd left a message for the plumber.

February 3, 2020 – Steve with Wayne's Roofing called and asked if he needed a permit to place roof flashing. I confirmed he did. The next day, he came in, picked up a permit application, and asked about inspections.

February 5, 2020 – Lou's Plumbing called to say they'd be pulling the cap-off permit.

February 10, 2020 – Steve with Wayne's Roofing called and told me they'd be submitting a permit application for the roof trim.

February 11, 2020 – Wayne's Roofing submitted a permit application to install 76 feet of aluminum fascia metal where missing. On February 18th, Wayne's Roofing requested their permit application be closed as they were no longer doing the job.

Also, February 11, 2020 - Halifax Plumbing submitted a permit application to cap off the sewer line. This permit was readied for issuance February 13th, and was obtained on March 11th. An inspection was requested by the contractor on April 13th but, due to Covid-19, the inspection was tabled until we could do it in-person. On October 15th, an attempt was made to set up this inspection. The contractor returned the call and said the owner had scheduled the work to be done October 20th. On November 25th, I called the contractor and left a message requesting an update because no inspection had been scheduled.

Also February 11, 2020 - Mr. Morali called to say he'd be in to sign the permit applications.

February 13, 2020 – Mr. Morali signed the plumbing permit application but not the roof app. He planned to meet with Heritage for another roofing estimate, so may not use Wayne's Roofing. We reviewed that the column stucco cracks issue needs a permit to fix. As he left, he told me he felt he was being personally targeted. I attempted to show him the other vacant building files, but he did not stay to see them.

February 26, 2020 – Sazi Construction submitted a permit application and plans to "Replace stucco on building exterior, repair cracks, misc. parking lot repairs." Plan review was started, but could not be completed. Plans Examiner Steve Edmunds generated a letter to indicate the 14 items still required.

No hearings held for six consecutive months due to Covid-19.

October 29 & November 3, 2020 – I re-inspected the property and found that the only violations which had been corrected were those pertaining to the pole sign, which had been removed. I generated and sent a Statement of Violation/Request for Hearing and Notice of Hearing for the December 2nd code enforcement meeting by Certified Mail. Green Card receipt shows a delivery date of November 12th.

November 20, 2020 – I sent an e-mail explaining that the special magistrate meeting needed to shift from 9:00 a.m. to 1:00 p.m. start time.

November 24, 2020 – I had not received a response from Mr. Morali that he was aware of the later start time of the meeting, so I called him. He called me while I was leaving the message, but we did not talk. He did not leave a message.

November 25, 2020 – Hoping for an update on the current status of the plumbing permit, I called the Halifax Plumbing license-holder, Mickey. He said he still had not done any work there. He'd scheduled to do the capping off, but then had trouble getting back in touch with the property owner. He also told me he'd heard the owner planned to refurbish the building for occupancy.

November 30, 2020 - Case was scheduled to have been brought before Special Magistrate deLaroche for an Initial Hearing on December 2nd. Due to unforeseeable circumstances, this meeting was cancelled. I emailed Mr. Morali this information and that the hearing would be held, instead on January 20th. He did not reply.

December 1, 2020 – Engineer Joe Hopkins called about this property. He had the Statement of Violation/Request for Hearing and Notice of Hearing in his hand. I told him the meeting had been cancelled so Mr. Morali's case would not be heard until January 20th. Mr. Hopkins asked questions about the code enforcement process moving forward – the January meeting, etc. I explained that obtaining the Certificate of Compliance – Vacant Property was dependent on both the exterior violations and the four interior violations being corrected and I read him the interior violations. I added that some of the violations are quite simple to correct. He agreed.

Also, December 1, 2020 – Mr. Morali called after Joe Hopkins. He said he hadn't done much and had not left his house since March. He'd learned from Mr. Hopkins that the hearing had been postponed until January 20th. I asked if he'd gotten my emails and my voicemail and he said he thought he'd deleted them by mistake. I double checked his contact information, which I had correct, and I forwarded the November 30th email. He confirmed he got it while we were on the phone. He said he'd rented that warehouse for storage and had been paying for it since February, but had never moved anything out because of Covid. He said he's start doing so now. He said he wanted to revisit moving the sewer and the city moving the street. I told him I was not familiar with such a conversation and offered to transfer him to Fred's voicemail, which I did.

December 2, 2020 – Mr. Morali called again. He had met with the engineer at his property and planned to move forward. The plumber had capped off the sewer line, so I suggested he have the plumber call for an inspection. He said

he'd be fixing the car bumpers, was going to call Wayne's Roofing again because he had not heard back from them, and was going to start moving the stuff out of the inside. He said he would be working to get everything done.

December 3, 2020 – The plumbing capping off permit was inspected and final-approved.

December 8, 2020 – Roofing permit 20202058 to install 76 feet of aluminum fascia metal was applied for. It was reviewed and ready to be issued the next day.

December 14, 2020 – Mr. Morali called and asked if Wayne's Roofing has applied for the permit they needed. I confirmed they had applied, though it was not issued yet. He and asked if he could remove and not replace the broken parking bumpers. I told him the ones stopping cars from hitting the building need to be there, but those for the outer row of spaces could be removed.

December 31, 2020 – Roofing permit 20202058 to install 76 feet of aluminum fascia metal was issued.

January 6, 2021 – Mr. Morali called and asked if Wayne's had obtained the roof permit. I confirmed they had. He said he wanted to keep the two column bases for future building. I explained that they were unused elements and a trip hazard. He said he wanted to add 2x4s and paint them. I was struggling to understand what he was asking to do, so I asked him to describe it to Steve. Steve's understanding was that the columns would still be unused elements. Mr. Morali ended their conversation abruptly without a salutation. He called me back to express his dissatisfaction.

January 12, 2021 – Mr. Morali called and said that the inside of his building was almost empty, now, and that he'd had to reschedule his knee surgery from January 20th due to the hearing. He said Wayne's Roofing is done so I asked him to have them call in their final inspection. He said he'd be ready for a re-inspection the next day and we scheduled it. He said he would not be removing the pedestals. I told him I could re-inspect the other items so we were on the same page as to what was now compliant and what was not. He called around 3:30 the same afternoon and asked if I could come then. I could not, so we ultimately agreed to meet at 9:00 a.m. on Thursday, January 14th.

January 14, 2021 – I met Mr. Morali at his site. Because I did not see him outside, I began to walk the perimeter of the building. When he approached, we began discussing the violations which had been corrected and items I had seen which were still at issue. At times, I expressed that I could not continue the inspection while getting yelled at and he lowered his voice. I showed him pictures Steve had printed for him of two shapes of concrete planters which, if secured with Tap-cons and holding plants, would make the unused elements be used elements. Once we'd gone through the violations and deficiencies, Mr. Morali expressed again that he was unhappy with me and others in my office. When he began to explain that we weren't taking care of our own properties, I excused myself and left.

Also January 14, 2021 – Engineer Joe Hopkins called shortly after this inspection. He said he was trying to help Mr. Morali become compliant. We discussed the issues and I offered to send him pics of the column in question and list the other issues preventing the building from obtaining the Certificate of Compliance – Vacant Property. I sent him the email.

Also January 14, 2021 – Mr. Morali called while I was in a conversation with a contractor about a different property. He asked Cheryl to explain to me that he already had a permit for the stucco work. She told him about the 14-point comment letter of items we still needed and that the permit application had also expired. He said that of the job description, they are only doing the stucco. Cheryl told him that a permit application for just the stucco work is what is needed at this time, then.

Also January 14, 2021 – Wayne's Roofing called for a final inspection on the roof edge trim. The morning of Tuesday, January 19th was the earliest opening due to having only one, completely-booked inspector on Friday and City Hall being closed Monday January 18th.

January 19, 2021 – Mr. Morali called to say he'd gotten the new parking bumpers in place.

January 20, 2021 – Property is brought before Special Magistrate deLaroche for an Initial Hearing. Property was found to have remained in violation and then corrected Violations a), b), c), d), f), g), h), i), & k), for which a Findings of Fact, Conclusions of Law and Order (No Fine Standing Order) was issued. Property was found still in violation for Violations e), j), & l), was given until March 22nd to become compliant or fines of \$150.00 per day would begin. Administrative fees of \$149.09 were Ordered to be paid. A Findings of Fact, Conclusions of Law and Order was generated and both FOFs were mailed to the Respondent. During the hearing, it was determined that, in order to know how best to proceed, Steve Edmunds would meet Joe Hopkins at the site to determine what would be needed for the column.

Also, January 20, 2021 – After the hearing, Mr. Morali called. He told me he is not yelling at us, that's just how he talks. I told him I greatly prefer him speaking to me the way he is now. He asked about using concrete planters, which are acceptable. He told me he was going to have the contractor pull the permit to open the column and we discussed that the CC-VP would be issued when the other two violations had been fully rectified.

January 21, 2021 – Mr. Morali called several times asking about the type and size of planters required. I told him the existing concrete base plus the concrete planter should be at least 24" tall so it's clearly visible. He sent me pictures, which did not come through right away. He was at the shop and wouldn't buy them until I'd seen the pictures. I told him the style was up to him, that we just needed the 24" height total. He called me back and asked if Ace sold plants, which I did not know. He said he'd call me when the plants were in place.

January 22, 2021 – Mr. Morali called to ask if I'd gotten his pictures of the plants. I told him I'd stop by the property to get pictures. He told me he was just waiting for his CGC to submit the application today or Monday.

January 25, 2021 – Mr. Morali called and asked Cheryl if we'd received the building permit application. We had not.

Also January 25, 2021 – Mr. Morali called and asked if I'd seen the plants. He told me his contractor is too busy to come in and submit a permit application. I told him the contractor could have it notarized wherever he is then fax or email it to us. He told me he was concerned that the special magistrate had not given him a chance to speak. I told him I did not agree. He said he would get the record and I told him it's available on You Tube. He told me he feels that it's never enough, that he can never do enough.

January 26, 2021 – Mr. Morali called and asked if we'd received the building permit application. I told him we had not. He read the email address he'd used. I gave him the correct email address and waited on the phone while he sent over the front and back pages of the permit app. He told me his knee surgery would be February 25th, so he wanted to get everything done. The contractor's Volusia County Listing Card (which keeps track of insurances, licenses, etc.) was not up to date, so Andre provided these items to us on January 28th. Steve had questions for the contractor, which were answered February 8th. The permit was readied for issuance February 9th and was obtained February 12th.

February 12, 2021 – Mr. Morali paid the administrative fees owed for the initial hearing.

March 3, 2021 – Steve received two 11x17 plan pages from Engineer Joe Hopkins. They were marked "Not released for Construction" at the bottom which typically means they will be brought in by the contractor during permitting, once paid for.

March 10, 2021 – Mr. Morali called. His surgery was the next day (it had been briefly postponed). He told me he'd met with East Coast and they were going to be replacing the column. We also discussed some Bike Week trailers which had tried to park on his property and he hoped his new plants would stay alive. He was at his property so I asked if he could come down to fill out a building permit application enough to sign it. Then, we'd have it on file and the column repair could move forward while he recovered from surgery. He did and it was notarized.

March 22, 2021 – This was the date Ordered for compliance by the special magistrate.

March 23, 2021 – I reinspected the property for compliance, found that the column was still open and unrepaired/unreplaced. The contractor's portion of the column replacement permit was not submitted, either. I generated an *Affidavit of Compliance, Partial* for the concrete column bases which were no longer tripping hazards and an *Affidavit of Non-Compliance* for the support column and not having obtained the CC-VP.

March 25, 2021 – I asked Steve Edmunds about the permitting for this property and he said that nothing further had been received. I called Andre Collins with SAZI Construction and left a specific message asking for an update. I had not heard back from him by April 16th.

April 8, 2021 – I generated a Notice of First Compliance Hearing and sent this along with the Affidavits by Certified Mail. Green Card receipt and USPS Tracking information shows a delivery date of April 12th. I also emailed copies to Mr. Morali (along with posting the property and sending the Notice by First Class mail the next day). He called me this afternoon and expressed his frustration. He said his recovery from surgery would take four months, he'd done what he was supposed to do, and we were not being reasonable. I reviewed First and Second Compliance Hearings and that he would be able to request a fine reduction or rescission when the property became compliant. The conversation was not productive. Ultimately, I suggested we communicate by email and he ended our conversation abruptly. He followed with an email expressing some of his points. I responded Monday morning with a detailed explanation and some options for the First Compliance Hearing.

April 16, 2021 – Still unsure about who would be permitting and making these repairs, I reached out to Engineer Joe Hopkins' office to see if he'd heard anything. I learned that Mr. Morali was keeping in very regular contact with him and that East Coast Ornamental Fabrication had been paid in full in early March by Mr. Morali to make the new column. I learned East Coast would be permitting and placing the column, then SAZI Construction would be handling the column's enclosure. We discussed the First and Second Compliance Hearings and whether anyone planned to go to the upcoming hearing. He thought he would be sent to represent Mr. Morali at some point and said there was a good chance the property would be compliant by the May 19th meeting. He offered to call East Coast for their timeline.

April 21, 2021 – Property was brought before Special Magistrate deLaroche for a First Compliance Hearing. No one was present at the hearing so, out of an abundance of caution, I requested the First Compliance Hearing be continued. Special Magistrate deLaroche continued the hearing and an Order Continuing Hearing was generated and sent.

April 28, 2021 – New engineering was dropped off for the post replacement. Plans Examiner Edmunds looked for the permit application to pair it with but found there wasn't one. Steve emailed Engineer Joe Hopkins, who called back and said he'd get it handled.

May 4, 2021 – Andre Collins of SAZI Construction called Steve Edmunds. They discussed where the job stood and Steve asked if he was planning to add the column replacement to his open permit for demoing the column. He had Steve describe the plans we'd received, then said he'd call the property owner. Andre said he wanted to see the engineering and would let us know within two days if he would be adding this work to his permit.

May 6, 2021 – Mr. Morali called and said he could not be at the May meeting because he was still recovering from knee surgery. I mentioned that Mr. Hopkins had discussed possibly going to a meeting and asked if he could make it. Mr. Morali said he'd call him to ask. He said he did not think he would be using SAZI to replace the column because he'd already paid East Coast to do the work.

Also May 6, 2021 - Mr. Morali called again. He said he was sorry he was mad earlier, but he thought it had all been done – he didn't know it was not completed until he received my letter. He had not heard from Joe Hopkins and that SAZI was busy in Orlando and would need to charge to do the additional work. He'd checked his contract with East Coast and obtaining the required permit was included in what he'd paid for.

May 12, 2021 – I emailed Mr. Morali that we would not be holding a May Special Magistrate meeting, that it would be held at 9:00 a.m. on June 16th, and that, if his property becomes compliant, we could hold the Second Compliance hearing and fine reduction request at the same time. He clarified and I confirmed. He said he would be at the June meeting.

May 14, 2021 – Melissa with East Coast Fabricators called. Her company does not have the required CGC or CBC license to obtain this building permit but John with Precision Services would be submitting an application this day or Monday. We discussed what he needed to provide in addition to the application, as he did not use the local contractor's registry service.

May 21, 2021 – Mr. Morali called Cheryl to ask if any permit applications had been submitted. She told him we had not received one yet to review.

May 24, 2021 – Mr. Morali called and spoke with Cheryl, then me. As no application had been submitted still, he said he might have to get another contractor. He said Mr. Hopkins had given him another one to call.

May 25, 2021 – Custom Interiors of Volusia, with a CBC license, submitted a permit application to replace the column. It was processed and reviewed and the contractor was called to pick it up the same day.

May 26, 2021 – The column replacement permit was obtained.

May 27, 2021 – A Notice of First Compliance Hearing was generated and sent with supporting paperwork by Certified Mail. The Green Card receipt was returned but, I noticed later, it was missing a date of delivery and postmark.

June 8, 2021 – While at a nearby property, I noticed the new post had been placed. Steve stopped at the site and saw that the bolts had not been covered yet and that the stucco at the top still needed to be fixed. No formal inspections had been called in.

Also, June 8, 2021 – Because I'd found the USPS tracking site information was inconclusive, I emailed Mr. Morali the Notice of First Compliance Hearing documents he'd been Certified Mailed and asked if he had received the mail piece. He said he had not but was aware of the June 16th hearing.

June 16, 2021 – Property is brought before Special Magistrate deLaroche for a First Compliance Hearing. Property was found to have remained in violation beyond the date ordered by the special magistrate. Additional administrative fees of \$85.53 were imposed.

Also June 16th – Within an hour after the hearing, Mr. Morali sent me an email asking me to call him. He asked why he had \$12,000 in fines plus the payments (fees?). He said that I knew he'd had surgery and everything was out of his hands. He said he knew I knew that because he'd seen it on the paper (the follow-up log in the introduced documents?) but he was very disappointed I did not bring that up at the hearing. About ten minutes later, he sent me copies of the check he'd written to East Coast Ornamental Welding and their signed estimate, three times. Just after 11:00 a.m., I emailed him that I'd received the documents would respond to his questions fully and in writing within two hours. He called almost immediately and asked the same questions. I told him I would be putting it in writing so we could both have a record of it. He spoke with Steve about what he needed to do next. They discussed patching the concrete at the top and building the cover for the base of the column. I responded and explained again the role of a First Compliance Hearing. I referred him back to the description on page 4 of the *FOF* and I offered two other dates I'd explained it to him previously in writing. I told him fines would continue until compliance was achieved and explained how this could all be discussed at the Second Compliance Hearing, where he could ask for a reduction or rescission of the fines.

June 18, 2021 – The signed Order Imposing Fine/Lien was mailed to Mr. Morali.

June 21, 2021 – Mr. Morali called and asked Steve Edmunds if the trim could be painted. Steve said he'd seen the work and it could. Steve told him to ask his contractor to call in the final inspection when it was done.

Code Enforcement Violation Follow-up Summary, Page 7 of 8

June 24, 2021 – Mr. Morali paid the administrative fees owed from the First Compliance Hearing.

Also June 24th – The final inspection was set up for the following day by the contractor.

June 25, 2021 – The column work was final-inspected and approved. Mr. Morali called from the inspection site, asking where the inspector was. I apologized that he'd been there waiting and told him Steve had gone to the site earlier. We discussed the time and date of the Notice of Second Compliance Hearing, which he might not receive before his trip out of the country. He said he knew about it and asked me to email it when it was ready. He said he wanted to appeal within 30 days like the Order Imposing Fine/Lien stated he could. I told him that appeal was to Circuit Court and I could not advise him about it. He said he would consult with his attorney, which I told him was perfect.

Also June 25, 2021- I generated an Affidavit of Compliance and readied a Certificate of Compliance – Vacant Property.

July 6, 2021 – Attorney David Glasser called and told me he might be representing Mr. Morali at the July hearing. He asked a few questions about the case. I answered him and offered to email him the Notice of Second Compliance Hearing and support materials when they'd been finalized and were ready to be mailed. He gave me his email address so I could.

July 7, 2021 – A Notice of Second Compliance Hearing was generated and sent with supporting paperwork by Certified Mail. As I'd discussed with Mr. Morali, I scanned and emailed them to him. He responded with thanks the same day. I also emailed them to Attorney Glasser, who responded with appreciation.

July 21, 2021 – Property was brought before Special Magistrate deLaroche for a Second Compliance Hearing for accrued fines of \$14,100 to be considered for a reduction or rescission. City requested additional administrative fees of \$128.03. Mr. Morali was present and spoke at the meeting. After considering the testimony and evidence presented, Special Magistrate deLaroche reduced the fine by 41 days to account for Mr. Morali's recovery from knee surgery and the holiday Purim, which lowered the fine to \$7,950.00 if paid within 60 calendar days. The requested additional administrative fees of \$128.03 were imposed. This reduction order was reduced to writing and mailed and emailed to the Respondent within three days, along with the form to request a reduction or rescission from City Council.

July 28, 2021 – Mr. Morali submitted a completed Request for Rescission of Code Enforcement Lien by City Council and paid the accompanying fee of \$191.00.

August 10, 2021 – Case is brought before the City Council to consider Mr. Morali's Rescission Request.

Prepared by Gwyn Herstein, Code Enforcement Officer/Coordinator



Inspection October 29, 2020

Violation j)
Two column bases on either side of east-facing entrance doors are non-functional elements which create a trip hazard

RECTIFIED BY ORDERED COMPLIANCE DATE



Reinspection January 25, 2021



Inspection October 29, 2020

Violation e)
Stucco cracked in places at column located at northeast entrance and at northeast corner of building

Compliant as of the June 25, 2021, passed final inspections



Reinspection May 20, 2021

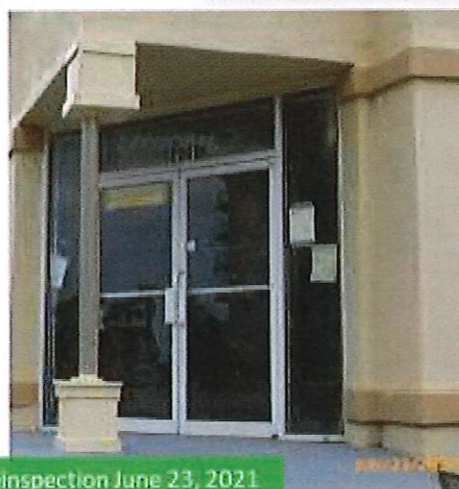
MAY/20/2021



Reinspection June 8, 2021



Reinspection June 15, 2021



Reinspection June 23, 2021

Violation I)
**Building remains vacant longer than 60 days without
obtaining a Certificate of Compliance – Vacant Property**

This violation was rectified when Violation e) was rectified,
as all other violations and deficiencies have been rectified

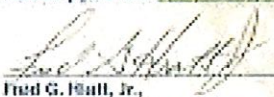
**CERTIFICATE OF COMPLIANCE
VACANT PROPERTY**
**COMMUNITY SERVICES DEPARTMENT
CODE ENFORCEMENT DIVISION**

This Certificate is issued pursuant to the requirements of Ordinances 2019-09 & 2019-14 as part of the Code of Ordinances of the City of Daytona Beach Shores and certifies that, at the time of issuance, this structure met the qualifications therein.*

Property Address: 2000 S. Atlantic Ave. Structure Identifier: Single Building One Story

Property Owner: B and Y, Inc.

Date Approved: June 25, 2021 Date Expires: June 24, 2022


Fred G. Hall, Jr.,
Community Services Director

*This certificate in no way represents that the above structure and property are fully compliant with all local, County, State, National, or other fire codes, safety codes, building codes, or applicable ordinances. There is currently no approved use or occupancy for this building.

Volusia County Tax Parcel Identification Number:
5316-22-00-0020

ORDER OF THE CITY OF DAYTONA BEACH SHORES
SPECIAL MAGISTRATE

Code Enforcement Case Number: CDEF2019-74

CITY OF DAYTONA BEACH SHORES,
Petitioner,

vs.

B AND Y, INC.,
Respondent,

_____ /

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND ORDER

The Daytona Beach Shores Code Enforcement Special Magistrate, after due notice to the property owner (hereinafter "the Respondent"), has heard testimony under oath and considered other evidence admitted at a hearing held on the above styled case on the 20th day of January, 2021, and based on the evidence received, the Code Enforcement Special Magistrate hereupon issues Findings of Fact, Conclusions of Law, and Order in this Order of Violation and Non-Compliance as follows:

FINDINGS OF FACT

B and Y, Inc. is the Respondent for the property located at 2000 S. Atlantic Avenue in Daytona Beach Shores, Volusia County, Florida, which property is assigned Volusia County Property Appraiser Tax Parcel Identification Number 5316-22-00-0020 (hereinafter "the subject property").

The subject property is in violation of the provisions of the *Code of Ordinances of the City of Daytona Beach Shores*, Appendix "G" – *Land Development Code*, Chapter 14, Section 14-52.9.(B)(16) and (D)(3) along with Daytona Beach Shores Ordinances 2019-09 & 2019-14, Part III, Section 14-61.1.(b). in the following manner: Violation e) Stucco cracked in

places at column located at northeast entrance and northeast corner of building; Violation j) Two column bases on either side of east-facing entrance doors are non-functional elements which create a trip hazard; and Violation l) Building remains vacant longer than 60 days without obtaining a *Certificate of Compliance – Vacant Property*.

CONCLUSIONS OF LAW

Code of Ordinances of the City of Daytona Beach Shores, Appendix "G" – Land Development Code, Chapter 14, Section 14-52.9.(B)(16). provides as follows:

Exterior walls: Every exterior wall shall be free of holes, breaks, loose or rotting boards, or timbers and any other condition which might admit rain or dampness to the interior portions of the walls or to the occupied spaces of the building. All siding material and other exterior surfaces of walls shall be kept in good repair. The term "good repair" shall include the requirement that the surface be kept reasonably clean and free from a substantial amount of mildew or other substances which would alter its intended appearance. All exterior surfaces, except brick, stone, or other materials not requiring application of a weatherproofing coating, shall be kept painted, with a good quality final coat of exterior paint (or equivalent substance) and any primer coating must be overlaid with a final coat of regular paint or equivalent. The final coat of paint or equivalent subject to the elements shall be maintained in such condition that its appearance does not show excessive fading, streaking, peeling, blistering, discoloring, cracking, or similar imperfections.

Code of Ordinances of the City of Daytona Beach Shores, Appendix "G" – Land Development Code, Chapter 14, Section 14-52.9.(D)(3). provides as follows:

Nonfunctional elements on any building, structure, or premises, such as unused sign poles, brackets, empty electrical conduit, etc., shall be removed and the remaining surface shall, if damaged, be repaired or rebuilt to match adjacent surfaces and the original condition. All loose wires and/or conduits shall be secured.

City of Daytona Beach Shores *Ordinances 2019-09 & 2019-14, Part III, Section 14-61.1.(b).*

An application for a certificate of compliance shall be submitted to the City Building Official for all vacant or abandoned commercial properties to include, but not be limited to, all retail, sales, services and other non-residential uses regardless of the zoning district assigned to the property, upon a building or structure located on such property being vacant for a period exceeding sixty (60) calendar days. It is prohibited and unlawful for the owner of a building to allow said building or structure to remain vacant without applying

for a certificate of compliance for vacant property from the City's Building Official. The application shall be accompanied with a plan of maintenance while the building or structure is vacant to ensure that the building or structure meets all applicable health, safety, and welfare requirements of the City Code. A certificate of compliance shall be applied for every twelve (12) months after the initial certificate of compliance is issued and it is prohibited and unlawful to allow a building or structure to remain vacant without obtaining a timely certificate of compliance and appropriately displaying the certificate of compliance on the vacant building or structure. A certificate of compliance is required for each vacant building or structure located on a parcel of property.

The subject property, in summary, is in violation of the provisions of the *Code of Ordinances of the City of Daytona Beach Shores*, Appendix "G" – *Land Development Code*, Chapter 14, Section 14-52.9.(B)(16) and (D)(3) along Daytona Beach Shores Ordinances 2019-09 & 2019-14, Part III, Section 14-61.1.(b). in the following manner: Violation e) Stucco cracked in places at column located at northeast entrance and northeast corner of building; Violation j) Two column bases on either side of east-facing entrance doors are non-functional elements which create a trip hazard; and Violation l) Building remains vacant longer than 60 days without obtaining a *Certificate of Compliance – Vacant Property*.

The description/address of the subject property and the Tax Parcel Identification Number of the subject property are stated above.

ORDER

The provisions of Chapter 162, *Florida Statutes*, relating to the enforcement of local government codes by means of code enforcement special magistrates, control the subject proceedings.

Based on the foregoing Findings of Fact and Conclusions of Law, and the authority of Chapter 162, *Florida Statutes*, and other controlling law, it is duly **ORDERED** by the undersigned that the Respondent shall correct the above-stated code violations on the subject property no later than March 22, 2021, including having obtained approved final inspections on all required permits.

The Respondent is further **ORDERED** to pay minimum administrative fees in the amount of one hundred forty-nine dollars and nine cents (\$149.09) to the City of Daytona Beach Shores on or before February 19, 2021.

Upon achieving compliance, the Respondent shall notify Ms. Gwyn Herstein, Code Enforcement Coordinator for the City of Daytona Beach Shores, 2990 S. Atlantic Avenue, Daytona Beach Shores, Florida, 32118, Phone 386-763-5330, gherstein@cityofdbbs.org, who shall cause a code enforcement officer to perform an inspection and, based on the result

of that inspection, generate an Affidavit of Compliance or Non-Compliance as the case may be.

In the event any aspect this Order is not complied with within the specified time-frame, the Respondent shall pay a fine in the amount of one-hundred fifty dollars (\$150.00) per day for each and every day the violation(s) continue or occur past the aforesated date ordered for compliance by the undersigned and additional administrative fees may be imposed at subsequent hearings. An Affidavit of Non-Compliance shall be generated in such circumstance.

In the event any aspect of this Order is not complied with within the specified time-frame, a second hearing, called a First Compliance Hearing, shall be scheduled by the Code Enforcement Officer. Said First Compliance Hearing will only address compliance and/or non-compliance with this Order.

This Order may be recorded in the Public Records of Volusia County and shall constitute notice to any subsequent purchasers, successors in interest or assigns, as the violations concern real property, and the findings herein shall be binding upon the Respondent and any subsequent purchasers, successors in interest or assigns.

This Order may be appealed to the Circuit Court within thirty (30) days of its rendering.

The Respondent is further Ordered to contact Ms. Gwyn Herstein to verify compliance with this Order that occurs past the date of required compliance. When all violations have been rectified, an Affidavit of Compliance shall be generated.

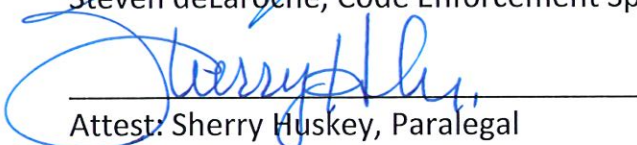
Any future reoccurrence of any of these violations by the Respondent within the next five (5) years may be treated as a repeat violation for which a fine of up to \$500.00 per day may be imposed.

DONE AND ORDERED this 22nd day of January, 2021, *nunc pro tunc* to January 20, 2021, in Daytona Beach Shores, Volusia County, Florida.

CITY OF DAYTONA BEACH SHORES, FLORIDA



Steven deLaroche, Code Enforcement Special Magistrate


Attest: Sherry Huskey, Paralegal

Certificate of Service

I HEREBY CERTIFY that a true and accurate copy of the foregoing has been sent to B and Y, Inc., Attn: Yehuda Morali, R.A., Director, 3 Sweet Meadow Ct., Ormond Beach, FL, 32174, by First Class Mail delivery this 25th day of January, 2021.



Cheri Schwab, Code Enforcement Clerk

Volusia County Tax Parcel Identification Number:
5316-22-00-0020

ORDER OF THE CITY OF DAYTONA BEACH SHORES
SPECIAL MAGISTRATE

Case number: CDEF2019-74

CITY OF DAYTONA BEACH SHORES,
Petitioner,

vs.

B AND Y, INC.,
Respondent,

_____ /

ORDER IMPOSING FINE/LIEN

The Daytona Beach Shores Code Enforcement Special Magistrate, after due notice to the property owners, has heard testimony under oath and considered evidence admitted at a hearing held on the above styled case on June 16, 2021, and is hereby acting in accordance with the prior Order entered on January 20, 2021, which Order was previously furnished to the property owner. Said Order required the Respondent to bring the subject property into Code compliance by March 22, 2021. An *Affidavit of Non-Compliance* was generated on March 23, 2021, for violations labeled e) and l) on said Order not rectified by the Ordered compliance date. Based on the testimony and evidence presented, the Code Enforcement Special Magistrate finds that two violations, labeled e) and l), on the subject property were not brought into compliance as Ordered.

Accordingly, a fine and lien in the amount of one hundred fifty dollars (\$150.00) per day is hereby imposed for each day any of the aforementioned Code violations remains in non-compliance after March 22, 2021.

An additional administrative fee of eighty-five dollars and fifty-three cents (\$85.53) is also hereby imposed to be paid on or before August 16, 2021, with

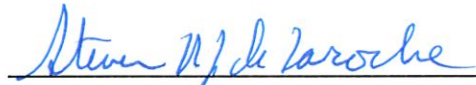
previously imposed administrative fees of one hundred forty-nine dollars and nine cents (\$149.09) having been paid on February 12, 2021.

This Order may be recorded in the Public Records of Volusia County and shall constitute notice to any subsequent purchasers, successors in interest, or assigns, as the violations concern real property, and the findings herein shall be binding upon the property owner and any subsequent purchasers, successors in interest, or assigns and shall constitute a lien against the above-described property and upon any other real or personal property owned by Respondents pursuant to Section 162.08 and 162.09, *Florida Statutes*.

This Order may be appealed to the Circuit Court within thirty (30) days of its rendering.

DONE AND ORDERED this 17th day of June, 2021, *nunc pro tunc* to June 16, 2021, in Daytona Beach Shores, Volusia County, Florida.

CITY OF DAYTONA BEACH SHORES, FLORIDA



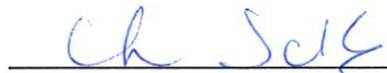
Steven deLaroche, Code Enforcement Special Magistrate



Attest: Sherry Huskey, Paralegal

Certificate of Service

I HEREBY CERTIFY that a true and accurate copy of the foregoing has been furnished to B and Y, Inc., Attn: Yehuda Morali, R.A., Director, 3 Sweet Meadow Ct., Ormond Beach, FL, 32174, by First Class Mail delivery this 18 day of June, 2021.



Cheri Schwab, Code Enforcement Clerk

Volusia County Tax Parcel Identification Number:
5316-22-00-0020

ORDER OF THE CITY OF DAYTONA BEACH SHORES
SPECIAL MAGISTRATE

Case number: CDEF2019-74

CITY OF DAYTONA BEACH SHORES,
Petitioner,

vs.

B AND Y, INC.,
Respondent,

_____ /

ORDER ON REQUEST FOR REDUCTION/ RESCISSION OF FINE

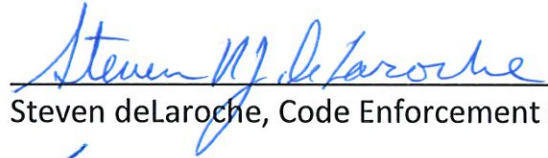
The Daytona Beach Shores Special Magistrate heard additional testimony under oath and considered evidence admitted at a hearing held on the above styled case on the July 21, 2021. Based on the testimony given and actions taken by the Respondent, the Special Magistrate reduced the fine specified in the prior Order entered on January 20, 2021, from fourteen thousand, one hundred dollars (\$14,100.00) to seven thousand, nine hundred fifty dollars (\$7,950.00). Additionally, administrative fees were imposed in the amount of one hundred twenty-eight dollars and three cents (\$128.03), and which are now due and payable to the City of Daytona Beach Shores.

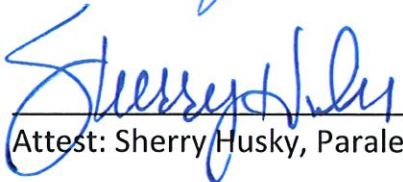
If such reduced fines and administrative fees are not paid within sixty (60) days of the date of this Order, then the original total fine of fourteen thousand, one hundred dollars (\$14,100.00) shall be fully reinstated, due, and payable, and a lien for said amount, plus any unpaid administrative fees, will be imposed and filed in Public Records of Volusia County, Florida. If said reduced fine amount and administrative fees are paid within the time specified, a Satisfaction of Lien will be filed in the Public Records of Volusia County, Florida.

This Order may be appealed to the Circuit Court within thirty (30) days of its rendering.

DONE AND ORDERED this 22nd day of July, 2021, *nunc pro tunc* to July 21, 2021,
in Daytona Beach Shores, Volusia County, Florida.

CITY OF DAYTONA BEACH SHORES, FLORIDA


Steven deLaroche, Code Enforcement Special Magistrate


Attest: Sherry Husky, Paralegal

Certificate of Service

I HEREBY CERTIFY that a true and accurate copy of the foregoing has been sent to
B and Y, In., Attn: Yehuda Morali, R.A., Director, 3 Sweet Meadow Ct., Ormond Beach,
FL, 32174, by First Class Mail delivery, this 22 day of July, 2021.


Cheri Schwab
Code Enforcement Clerk



CITY COUNCIL AGENDA MEMORANDUM AUGUST 10, 2021 AGENDA

TO: Honorable Mayor and Members of the City Council

FROM: Stewart Cruz, City Planner

PREPARED BY: Stewart Cruz, City Planner

SUBJECT: Non-conforming Sign Removal Incentive Grant Application: Pirate's Island Adventure Golf - 3420 S. Atlantic Ave.

SYNOPSIS:

The City received the subject Nonconforming Sign Removal Incentive Grant Application on July 28, 2021 from the Pirates Island - Daytona Beach Shores, Inc., owner of Pirate's Island Adventure Golf, which is located at 3420 S. Atlantic Avenue. The sign grant would be used to assist the property owner with the costs associated in replacing the existing nonconforming pylon sign with a new conforming monument sign. If approved, the applicant would qualify for \$1,300 in grant reimbursement after the construction of the new conforming monument sign. The total cost of the sign is \$17,660.

FISCAL IMPACT STATEMENT:

Funding will be available during the FY2021-22 Budget

BACKGROUND:

After conducting an analysis of the program eligibility requirements and other program parameters, staff has determined that the application qualifies and meets all grant requirements. Three sign quotes were provided as required. The applicant's preferred sign vendor, Don Bell Signs, provided a quote of \$17,660 and is the only proposal that substantially meets the City's Land Development Code sign regulations. The Valor Signs and PermaCraft Signs bids quoted \$18,950 and \$16,550, respectively, however neither vendor's proposal completely met the City's sign regulations. If approved, the applicant would qualify for a grant of \$1,300.

Exhibit B provides a location map and street view of the existing nonconforming sign while **Exhibit C** provides an evaluation of the application compared to the grant eligibility requirements and program parameters.

LEGAL REVIEW:

RECOMMENDATION:

Staff recommends approval of the sign grant on the condition that the new sign meets all the requirements of the applicable City sign standards and that no code enforcement violation on the property exists prior to the disbursement of the City sign grant funds.

SUGGESTED MOTION:

A City Council member may move as follows:

“I move to approve the Pirate's Island Daytona Beach Shores, Inc. Non-Conforming Sign Removal Incentive Grant application in the amount of \$1,300 on the condition that the new sign meets all the requirements of the applicable City sign standards and that no code enforcement violation on the property exists prior to the disbursement of the City sign grant funds.”

- ATTACHMENT:**
1. NCSRIG Application-Pirate's Island Adventure Golf-3420
 2. Additional Exhibits-Location Map-Existing Sign-Analysis

240275
RECEIVED

JUL 28 2021

BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES
Date Received: _____

Time Received: _____

Application Complete: Y/N



**City of Daytona Beach Shores
COMMUNITY SERVICES DEPARTMENT**

2990 S. Atlantic Avenue

Daytona Beach Shores, FL 32118

Phone (386) 763-5377 Fax (386) 763-5370

12021018
City of Daytona Beach Shores

Non-Conforming Sign Removal Incentive Grant Application

A. Property Information

Property Address: 3420 SOUTH ATLANTIC AV.
DAYTONA BEACH SHORES, FL 32118 Parcel No: 533503070010

Existing Property Use/Business: ADVENTURE GOLF

Property Owner's Name: PIRATE'S ISLAND - DAYTONA BEACH SHORES, INC.

Property Owner's Address: 3420 SOUTH ATLANTIC AV.
DAYTONA BEACH SHORES, FL 32118

Owner's Telephone No: 407-928-7120 Owner's Fax No: NONE

B. Applicant Information (if not owner)

Applicant's Name: _____

Address: _____

Telephone No: _____ Fax No: _____

*Applicant is: ☐ Contract Purchaser ☒ Property Owner/Developer ☐ Tenant/ Agent for Owner

*If applicant is other than Property Owner, authorization affidavit (Sec. E) must be provided with application.

C. Proposed Signage

At least three (3) quotes shall be provided from three (3) different sign vendors. Quotes shall at a minimum provide textual description and/or graphic representation of the following:

1. Sign Height: ☐; Sign Width: ☐; Sign Face Area: ☐; Illumination: ☐; Materials: ☐; Colors: ☐; Address: ☐; Style: ☐; Reader Board (indicate whether manual or electronic): ☐
2. Site Plan indicating location of proposed landscaping, existing and proposed signs, including setbacks and line of sight: ☐
3. Description of proposed landscaping: ☐
4. Written letter indicating consistency with Chapter Six (6) of the City's LDC: ☐
5. Name, address and contact information of each sign vendor: ☐

6. Picture and dimensional specifications of existing sign: ☐
7. Pictures and location addresses of signs similar in material and design (if available): ☐
8. Material samples of decorative base and cabinet (if available): ☐

D. Budget

Cost of design/engineering	\$ _____
Cost of alteration, manufacture and installation of sign	\$ _____
TOTAL SIGNAGE COST	\$ _____
AMOUNT REQUESTED FROM SIGN GRANT PROGRAM	\$ _____

BY SIGNING BELOW, I HEREBY CERTIFY THAT THIS IS AN APPLICATION FOR NEW OR ALTERED SIGNAGE. THE PROPOSED SIGN HAS NOT BEEN ALTERED, ERECTED OR FABRICATED IN WHOLE OR IN PART. WORK ON THE SIGN WILL NOT COMMENCE PRIOR TO RECEIPT OF WRITTEN APPROVAL FROM THE CITY OF DAYTONA BEACH SHORES. I UNDERSTAND THAT ALTERATION, FABRICATION OR INSTALLATION OF THE SIGN PRIOR TO SUCH APPROVAL IS GROUNDS FOR DENIAL OF MY SIGN GRANT APPLICATION BY THE CITY.

By signing below, I further certify that all information contained in this application and all documentation submitted herewith is true and correct to the best of (my) (our) knowledge and belief. I acknowledge that I fully understand the requirements relating to the specific Non Conforming Sign Removal Grant that I am applying for and that I fully understand and agree to the process for the application and disbursements of grant funds, as outlined in the Non Conforming Sign Removal Grant Program. Moreover, I acknowledge and agree that the conditions imposed by the City Council shall apply to my permit, if approved, and that the city may impose further conditions pursuant to the City's Code of Ordinances.

OWNER's SIGNATURE [Signature]: SCOTT LEE; PRESIDENT: PIRATE'S ISLAND DAYTONA BEACH SHORES, INC.

STATE OF COLORADO COUNTY OF ROUIT

Sworn to and subscribed before me this 8th day of JULY 2021, by SCOTT LEE who is personally known to me or has produced CO DL and who did (did not) take an oath.

[Signature] **CODY FENLEY**
NOTARY PUBLIC
STATE OF COLORADO
 NOTARY ID 20144037190
 My Commission Expires October 19, 2022
 My Commission Expires: Oct. 19, 2022

APPLICANT's SIGNATURE (if applicant not owner) _____

STATE OF _____ COUNTY OF _____

Sworn to and subscribed before me this _____ day of _____ 20____, by _____ who is personally known to me or has produced _____ and who did (did not) take an oath.

 Notary Public My Commission Expires: _____

E. Notice and Affirmation of Permit Requirements

By signing below, I hereby acknowledge that the grant application process and approval is only for the disbursement of grant funds and does not constitute a sign permit. By signing below, I further acknowledge that a sign permit is required from the Daytona Beach Shores Building Department and that the approval of a sign grant does not relieve applicant, owner or project from the City's Land Development Code sign regulations or the Florida Building Code.

Signature: [Signature] ☒ Owner ☐ Applicant

Date: July 8, 2021

STATE OF COLORADO COUNTY OF ROUTH

Sworn to and subscribed before me this 8th day of JULY 20 21, by SCOTT LEE who is personally known to me or has produced CO DL and who did (did not) take an oath.

Notary Public [Signature]
CODY FENLEY
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20144037190
My Commission Expires October 19, 2022

My Commission Expires: OCT. 19, 2022

F. Affidavit of Authorization (if applicant not owner)

I, _____, owner of the property described herein, hereby authorize _____, and its agents, to make application for _____ to the City of Daytona Beach Shores for the property described in this application.

PROPERTY OWNER's Signature: [Signature]

Date: JULY 8, 2021

STATE OF COLORADO COUNTY OF ROUTH

Sworn to and subscribed before me this 8th day of JULY 20 21, by SCOTT LEE who is personally known to me or has produced CO DL and who did (did not) take an oath.

Notary Public [Signature]
CODY FENLEY
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20144037190
My Commission Expires October 19, 2022

My Commission Expires: OCT. 19, 2022

G. Checklist

1. Signed Application: ☐
2. Sec. C, proposed sign specs, site plan and illustration, etc: ☐
3. Sec. D, three (3) written cost estimates (budget) for work (on vendor letterhead): ☐

4. Sec. E, signed authorization affidavit (if applicable): ☐
5. Sec. F, signed authorization affidavit (if applicable): ☐
6. Is the property subject to any code enforcement action and/or delinquent on any accounts payable to the City? Yes ☐ No ☐

**Daytona Beach Shores
Non-conforming Sign Removal Incentive Grant Program**

Goal

To enhance the Daytona Beach Shores S. Atlantic Avenue/Dunlawton Boulevard Streetscape

Purpose

To provide financial assistance to property owners and businesses of non-conforming, freestanding signs directly abutting the City's mayor thoroughfares with costs associated with replacing, eliminating or altering non-conforming, freestanding signs into conformity.

Overview

On April 10, 2012, the Daytona Beach Shores City Council adopted Ordinance 2012-02, which largely requires the removal of freestanding ground/pole signs within a ten (10) year period. Currently, there are 179 freestanding signs along the major thoroughfares of the City. According to City records and visual surveys, 146 or 81% of the aforementioned signs may need alteration or total replacement to conform with the provisions of the Ordinance.

The City of Daytona Beach Shores finds that in some circumstances it is desirable to encourage the removal of non-conforming signs at a rapid pace. Therefore, to encourage the removal or alteration of non-conforming signs at a rapid pace, beginning in budget year 2012/2013 the City Council allotted \$139,000 towards a program that offered owners of such signs a financial incentive to hasten their removal or alteration to conformity.

The Council has authorized continuation of the program.

Eligibility Requirements

1. The sign shall not be an abandoned sign.
2. The sign shall be a freestanding pole/ground sign made non-conforming as a result of Ordinance 2012-02.
3. Temporary and exempt signs per Ord. 2012-02 do not qualify for this program.
4. The subject property shall be located in the GC-1, GC-2, GC-RD or T zoning district.
5. The sign shall be located on a property directly abutting S. Atlantic Avenue/SR A1A or Dunlawton Boulevard.
6. The signs shall serve to advertise an onsite business. For the purposes of this grant, a business shall be defined as a retail/service/office commercial, hotel/motel or any other business approved by the Daytona Beach Shores City Council.
7. There shall be an active/operating business on the subject qualifying property. Said business shall possess a valid Business Tax Receipt and Certificate of Use permit.
8. Any work initiated, or costs incurred prior to receiving City Council grant approval shall not be grant eligible.
9. Sign design and plan shall conform to all applicable City standards.
10. Property/business owner shall be current on all accounts payable to the City.
11. Properties subject to Code Enforcement action shall not qualify for this grant.

Program Description

Applications shall be reviewed on a first-come-first-served basis from the time a complete submittal is received until all budgeted grant funding is allocated. Incomplete applications will not be considered.

The Non-Conforming Sign Removal Incentive Grant Program is a dollar-for-dollar matching grant, capped as follows:

Land Use & Sign Type	FY Year	Maximum Award
All Types	2017/2018	\$5,200
All Types	2018/2019	\$3,900
All Types	2019/2020	\$2,600
All Types	2020/2021	\$1,300
All Types	2022	\$ 0

The following grant applications will be given priority in the evaluation process: applications with signs that are more egregious in nonconformity; applications with signs that will be altered into conformity; and applications with signs that do not require any variances.

Program Requirements

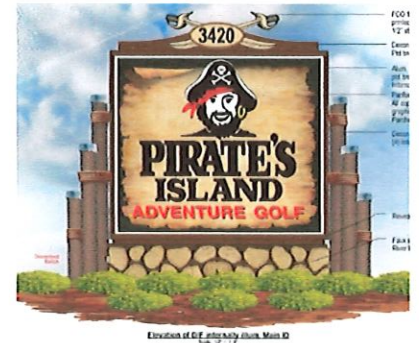
1. Grant applications shall be reviewed by the Beautification Advisory Board for a recommendation to the City Council. The City Council shall review and render a final determination on all grant applications.
2. The City Council may make binding conditions regarding the application under consideration, including but not limited to design and location of sign.
3. Grants shall only pay for sign costs associated with design/engineering, sign making, installation, and/or alteration.
4. At least three (3) quotes shall be provided to the City prior to the issuance of a grant. Contractors will be made familiar with the City's expectations and/or relevant ordinances.
5. Subsequent to grant funding approval, the property owner shall obtain relevant City permits prior to the start of construction.
6. Qualifying non-conforming pole/ground signs shall either be altered into conformity or removed and replaced with a new conforming sign.
7. Grant disbursement will be made upon completion of a project as determined solely by the City and a successful inspection by the City's Building Department, including a demonstration that the constructed sign meets the terms of applicable codes and grant conditions.
8. Completion of work and a successful inspection shall transpire no later than 120 days subsequent to grant approval.
9. Written extensions may be awarded by the City Manager for a period not exceeding 30 days.



7/28/2021

JOHN & Nanci West
GENERAL MANAGERS
EMAIL pcormondbeach@me.com
WEB www.piratesislandgolf.com

PIRATES ISLAND
3420 South Atlantic Avenue
Daytona Beach Shores, FL 32118
OFFICE (386) 767 9397



Project: PIRATE'S ISLAND ADVENTURE GOLF
3420 South Atlantic Ave. Daytona Beach FL
#2100462

Don Bell Signs to:

1. Remove & Discard customer's existing D/F internally illuminated sign = **\$1,800**
2. Fabricate, Deliver, & Install (1) one new D/F internally illuminated Main ID sign as specified in the drawings = **\$15,860**

Total = \$17,660

*Budgetary pricing based off survey & photo of existing sign, client supplied logo, local codes & DBS art drawings for new sign.

*Additional costs for engineering & permits. Should any additional requirements per the city e.g., lane closures, FDOT, etc. additional cost will incur.

*If proposal is accepted a formal contract will follow for approval.

Sincerely,

Abigail

Abigail Blearn | Business Development
365 Oak Place | Port Orange | 32127
(O) 386-788-8084 | (Ext) 334

Scope of Work

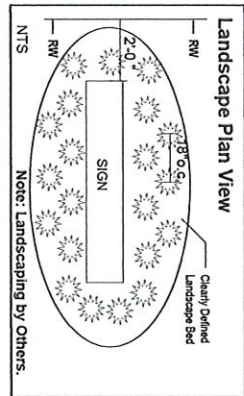
Don Bell Signs to Remove & Discard:
Customer's existing D/F internally illum sign.
Don Bell Signs to fabricate & install:
(1) new D/F internally illuminated Main ID as specified.

Notes:

All hardware to be non-corrosive.

Landscaping by others.

Landscape Plan View



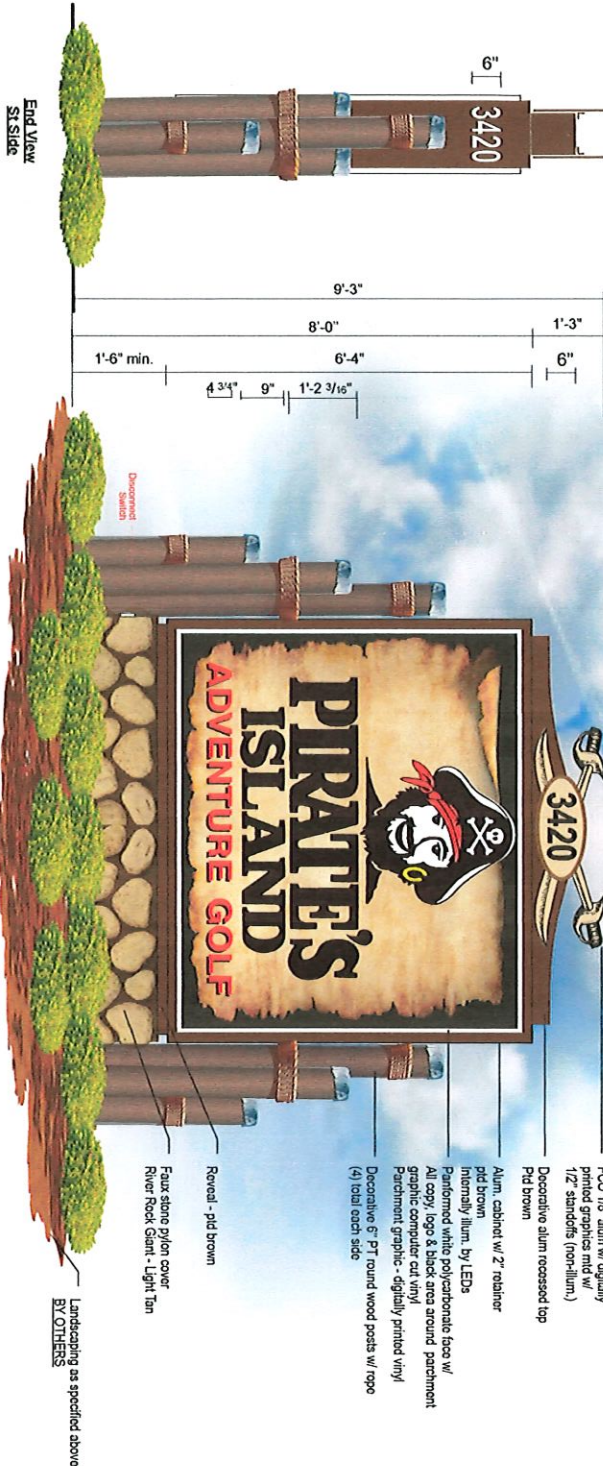
Note:

The shrub and/or ground cover plants shall be a minimum size of one-gallon container and be spaced eighteen (18) inches on center. 18 required (by others.)
Area of sign face = 46.5' x .45' = 21

The landscape bed around the sign to be clearly defined, contain at least a two-inch deep layer of mulch or other decorative landscape material, and create a seamless transition between the sign and ground. (By others.)
Landscaping shall not obstruct view of sign face or address on sign.



Existing Sign



- FOO 18" alum w/ digitally printed graphics and w/ 1/2" standards (non-illum.)
- Decorative alum recessed top
- Pd brown
- Alum cabinet w/ 2" roller
- Pd brown
- Internally illum. by LEDs
- Painted white polycarbonate face w/ graphic computer cut vinyl
- Patchwork graphic - digitally printed vinyl
- Decorative 6" FT round wood posts w/ rope
- (4) total each side

- Reveal - pd brown
- Faux stone pylon cover
- River Rock Giant - Light Tan

Landscaping as specified above BY OTHERS

Main ID
Prop. Sqr Feet = 46.5 / Max Sqr Ft. = 48
Prop. OH = 8'-3" / Max OH = 10'-0"
Min. Grade Clear = 0'

Elevation of D/F Internally Illum. Main ID
(1) Required
46.5 Sq. Ft. (copy area)

Note: This design pending engineering.

ENT-ACCT #112453
All work shall be done in accordance with the State of Florida and the City of Orlando.

PIRATE'S ISLAND ADVENTURE GOLF

DESIGN # 2100462

DATE: 07.26.21

DRAWN BY: SS

Revisions / Date / Initials

ENT-ACCT #112453
All Sign Components shall be UL listed and Recognized in the State of Florida. All wiring shall be in UL listed 90° C rated.

120 Volt ☐ 277 Volt ☐

SHEET 1

Pirate's Island
Adventure Golf
3420 South Atlantic Ave.
Daytona Beach, FL
Frank B./Sary Bell
As Noted
Adobe Illustrator CC

Note: Photo Cell or Timer by others
PRIMARY ELECTRIC BY OTHERS.
This drawing is the property of Don Bell Signs LLC and shall not be used without the written permission of the owner.

DON BELL
145 OAK PLAZA
PORT CHARLOTTE, FL 34127
800-244-0080



07/26/2021

Client: Pirate's Island Adventure Golf
3420 S. Atlantic Ave.
Daytona Beach , FL

Re: Replacement of existing monument sign

Valor Signs, Inc. proposes to perform the following with all necessary Parts, Materials, & Labor:

1. Remove and dispose of existing sign and footer
2. Manufacture and Install (x1) new double sided monument sign
 - a. Sign will be Internally Illuminated with led
 - b. Sign will be approximately 7'W x 9'H
 - c. Sign will include address number sets for 3 sides

Total cost for above detailed project - \$18,950

*Please note, price does NOT include permitting, engineering, or acquisition fees. These costs will be added on final invoice.

**A 50% deposit will be required prior to any work being performed.

Thank you for the opportunity to bid on this project and please contact us with any questions or for clarification on any of the above items.

Sincerely,

Jamie Levey
President



PermaCraft SIGNS

1644 South Ridgewood Ave
South Daytona Beach Fla. 32119
carmen@permacraftsigns.com
386.767.8011 office
386.767.8246 fax
770.900.0474 personal

Proudly Serving The Central Florida Since 1972

ER13014880

SUBMITTED TO	CONTACT	PHONE NUMBER	DATE OF ORIGIN
Pirates Island Mini Golf	John/Nancy	386-290-4192	07/21/2021

STREET ADDRESS	CITY	STATE	ZIP CODE
3420 S Atlantic Ave.	DBS	Florida	32118

WE HERBY SUBMIT SPECIFICATIONS FOR EXECUTING THE FOLLOWING

- Manufacture and Install (1) 126" x 120" Double Sided Monument Sign. Sign will be manufactured in all Aluminum Construction. Sign to be Internally Illuminated with Energy Efficient / Eco Friendly LED Lighting. Faces will be 3/16" White DuraPlex with Full Color Digital Print and UV Laminate Applied First Surface. Sign will have 7" Address Panel at Top, Decorative Columns on Sides, Painted Stucco Finish with Customer Approved Colors, Decorative Top and Base with Pirate Themed Crossed Swords and Colors. Foundation and Steel Sizes to be determined by State Licensed Structural Engineer To meet all Local and State Building Codes.

- NOTE: Permits and Engineering Cost are NOT included in Price.

WE HERBY VOW TO FURNISH MATERIAL AND LABOR TO COMPLETE THE ABOVE LISTED PROJECT IN ACCORDANCE WITH THE ABOVE LISTED SPECIFICATIONS FOR THE CONTRACTED AMOUNT OF: \$16,550.00 + tax (if applicable)

PAYMENT MADE AS FOLLOWS: 50% DEPOSIT @ SIGNING, REMAINING BALANCE @ TIME OF INSTALL

ELECTRIC WIRING TO THE SIGN OF ADEQUATE CAPABILITY AND THE PHYSICAL HOOKUP OF ELECTRIC POWER TO THE SIGN ARE TO BE RESPONSIBILITIES OF THE CUSTOMER. THIS PROPOSAL DOES NOT include sales tax. It does not include any cost not shown as part of this proposal (when applicable).

All payments due hereunder shall be sent to PermaCraft Sign Co., 1644 S. Ridgewood Ave., South Daytona, FL 32119. This proposal is for prompt acceptance. PermaCraft Sign Co. will not & cannot be held responsible for delays caused by strikes, fires, floods, wars, allocations of materials or other circumstances beyond our control. Upon mutual acceptance of this proposal by purchaser and seller, said order is not subject to cancellation. Sign shall remain the property of PermaCraft Sign Co. / DBA Parrillo Inc. and shall at all times be severable from the premises upon which it is installed until account is paid in full. In the event it becomes necessary to institute any action for the enforcement of obligations, purchaser agrees to pay, in addition to amount due to seller, all attorney fees and other cost incurred in connection therewith acceptance of agreement. This agreement shall not be considered as executed until signed by or on behalf of purchaser and approved by an executive officer and seller and is signed by him/her on seller's behalf and is hereby further declared agreed and understood that there are prior writings, verbal negotiations, understandings, representations of agreements between the parties not herein expressed in the event of default hereunder. Purchaser agrees to pay in addition to all sums due hereunder a reasonable attorney's fee and all costs of collections in the event any action or suit shall be brought to enforce this agreement. The venue of said suits of action WILL BE at the option of PermaCraft Sign Co. / DBA Parrillo Inc. to be laid in Volusia County, Florida and the right to object to venue is expressly waived by purchaser. Any amount not paid within 30 days shall be subject to a 1.5% per month service charge. Any below-ground utilities, old footers or any objects unseen that will not allow for an as-planned installation and require additional time, labor, and materials will be the liability of the purchaser.

Purchaser _____

Seller Roger Cothron

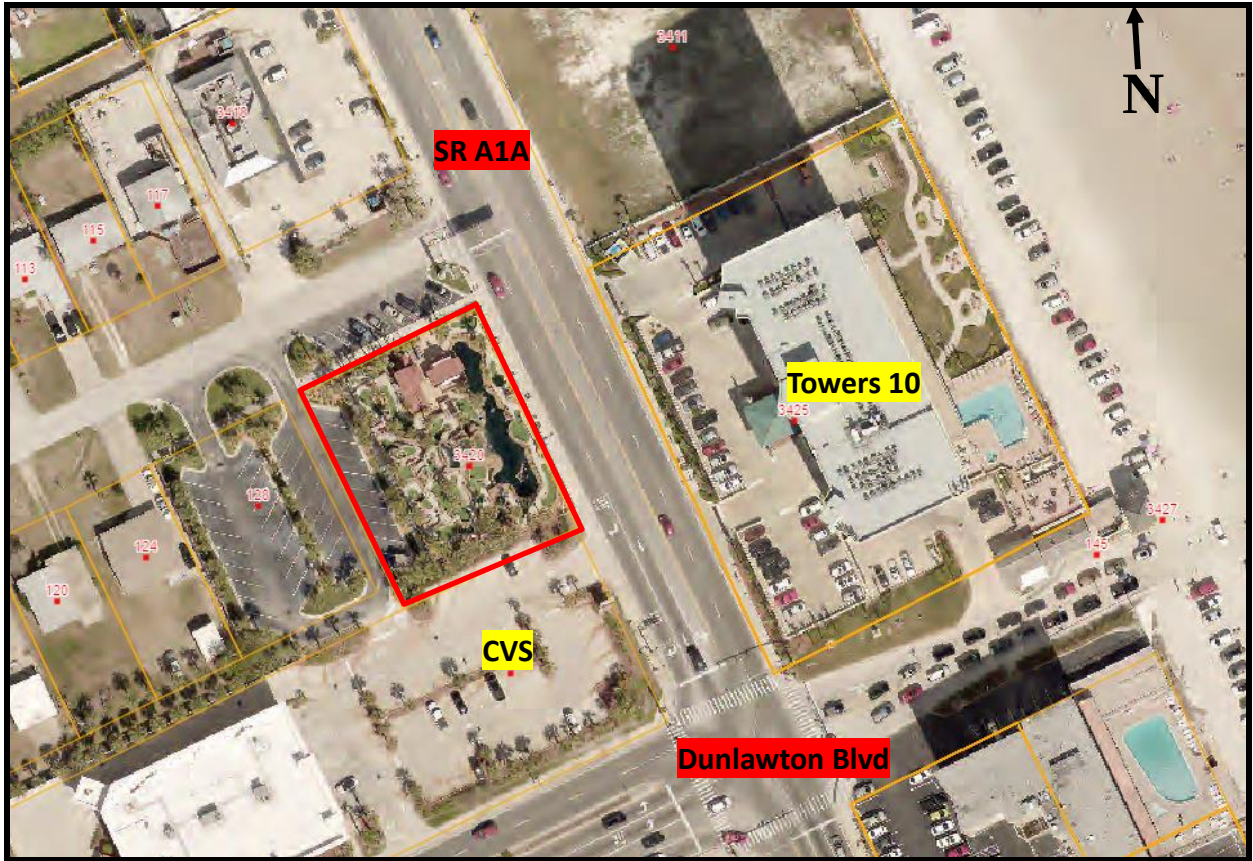
Date of Acceptance _____

Authorized Signature _____

Thank You For Allowing Us The Opportunity To Serve You.....

EXHIBIT B

3420 S. Atlantic Avenue: Aerial View



Source: Volusia Property Appraiser, Pictometry, 2021

3420 S. Atlantic Avenue: Street View



Source: GoogleMaps 2021

3420 S. Atlantic Avenue: Nonconforming Sign



Source: GoogleMaps, 2021

EXHIBIT C

Eligibility Requirements Analysis Table: 3420 S. Atlantic Avenue

ID	Eligibility Criteria	Status	Criteria Met
1	Sign shall not be abandoned	Sign is not abandoned.	Yes
2	Nonconforming freestanding pole/sign pre-existed Ord. 2012-02	Sign pre-existed Ord. 2012-02	Yes
3	Temporary sign and exempt signs do not qualify	Sign is not temporary or exempt	Yes
4	Property shall be located in a commercial/hotel district	Property is located in the GC-1 District	Yes
5	Property shall abut S. Atlantic Avenue or Dunlawton Boulevard	Property abuts S. Atlantic Avenue	Yes
6	Sign shall serve to advertise an onsite business	Sign advertises an onsite business	Yes
7	There shall be an active business on site	The advertised business is active	Yes
8	No prior sign work/cost shall be eligible for grant funding	Applicant is aware of this condition	Yes
9	Sign design and plan shall conform to all applicable City standards	Applicant is aware of this condition	Yes*
10	No delinquent accounts payable to City	Applicant is aware of this condition	Yes
11	Properties subject to Code Enforcement action shall not qualify for this grant.	Property is not subject to CE action	Yes

Note: * Staff is recommending this item as a condition if approved.

Application Summary Description Table: 3420 S. Atlantic Avenue

ID	Parameter	Application	Parameter Met	Added Priority
1	Land Use Grant Limit	Requested Amount		
	50-50 match capped at \$3,900	\$1,300	Yes	
2	Sign Work Type Permitted			
	Alteration or Removal	Removal w. New Sign	Yes	Yes
3	Work Detail Permitted			
	Design/engineering, sign making, installation, and/or alteration.	Design/engineering, sign making, installation	Yes	
4	Variance Required	No		Yes
5	Existing/Previous Sign Level of Nonconformity	High		Yes



**CITY COUNCIL AGENDA MEMORANDUM
AUGUST 10, 2021 AGENDA**

TO: Honorable Mayor and Members of the City Council
FROM: Lory Irwin, Assistant Finance Director, Kurt Swartzlander, Finance Director
PREPARED BY: Kurt Swartzlander, Finance Director
SUBJECT: Discussion of ARPA funding expenditures

SYNOPSIS:

The City is anticipating revenues totaling \$2.3 million dollars from the American Rescue Plan Act of 2021 (ARPA). The City must determine a spending plan for this funding based on eligible uses as set forth by guidance from the US Treasury Department.

FISCAL IMPACT STATEMENT:

Dependent upon council action.

BACKGROUND:

Please see attached presentation for further information.

LEGAL REVIEW:

Discussion item.

RECOMMENDATION:

As determined by council action.

SUGGESTED MOTION:

As determined by council action.

ATTACHMENT: 1. American Rescue Plan Act 2021(ARPA) PP DBS



American Rescue Plan Act 2021 (ARPA)

Investing strategically in the future of
Daytona Beach Shores

What is ARPA?

- ▶ The American Rescue Plan was signed into law on March 11, 2021.
- ▶ It provides \$350 billion in emergency funding for eligible state, local, territorial, and Tribal governments in response to the Covid-19 emergency.
- ▶ Includes \$130 billion for Cities and Counties allocated by population.
- ▶ The State of Florida's allocation is \$8.816 billion.
- ▶ Volusia County is set to receive \$107.4 million.
- ▶ Daytona Beach Shores' allocation is \$2.310 million*

*The State may issue a subsequent distribution of funds from non-responsive NEUs to residual NEUs based on population after allocating remaining funds.



Key Highlights of the Guidance

- ▶ The Fiscal Recovery fund was established to **help turn the tide on the pandemic, address its economic fallout and lay the foundation for a strong and equitable recovery.**
- ▶ Funds may cover costs from **March 3, 2021 through December 31, 2024..**
- ▶ Broad flexibility to help those **disproportionately impacted by the COVID-19 pandemic.**
- ▶ Recovery Funds can be distributed into **interest-bearing accounts.**
- ▶ Use of recouped **“lost revenue” is more flexible** than other Recovery Fund eligibility.
- ▶ Recovery Funds **may not be used as non-federal match**, unless specifically authorized.
- ▶ Re-hiring **local government staff** to pre-pandemic levels.
- ▶ Local governments may use Recovery Funds to invest in **certain critical infrastructure projects.**



Key Dates Related to the Recovery Fund

- January 27, 2020: Declaration of the public health crisis
- March 3, 2021: Beginning of the Recovery Fund “covered period”
- May 28, 2021: State of Florida requested funds from Treasury; invoice date
- June 4, 2021: Treasury Assumed date for State to receive Non-entitlement Unit (NEU) funds. (Three business days after invoice date)
- July 16, 2021: Deadline to comment on U.S. Treasury’s *Interim Final Rule* on Recovery Fund
- August 5, 2021: Last day of first 30-day extension granted the State of Florida
- October 31, 2021: Deadline to submit first *Annual Project and Expenditure Report*
- December 31, 2024: Recovery Funds must be obligated (NOT incurred)**
- December 31, 2026: Recovery Funds must be spent & all work/performance must be completed**



Updated FAQ Document

Treasury released an updated FAQ document Monday, July 19

- ▶ Recovery Funds can be used to **cover costs of consultants to assist with managing and administering the funds**
- ▶ Flexibility for costs incurred by March 3, 2021, for public health response/negative economic impacts, premium pay, revenue loss and water, sewer and broadband projects
- ▶ Local governments **do not need approval from Treasury** to determine whether an investment in water, sewer or broadband project is eligible under the Recovery Fund Interim Final Rule (IFR)
- ▶ States may not impose stricter limitations on use of funds
- ▶ States must distribute funds in advance; cannot use reimbursement basis
- ▶ Recipients may pool funds for regional projects
- ▶ Pre-project development costs for eligible sewer, water or broadband projects are eligible expenses.



What are Permissible Uses?

- ▶ 1. Respond to Covid-19 or its negative economic impacts
- ▶ 2. Premium pay for workers performing essential work during Covid-19
- ▶ 3. Revenue losses
- ▶ 4. Water, sewer and broadband infrastructure investments.



What are Eligible Permissible Uses?

1. Responses to Covid-19

- ▶ Enforcement of public health orders
- ▶ Public communication efforts
- ▶ Purchases of PPE
- ▶ Support for prevention, mitigation or other services in key settings-shelters, schools, etc.
- ▶ Ventilation improvements
- ▶ Investments in public facilities to meet pandemic operational needs



What are Eligible Permissible Uses?

1. Responses to its negative economic impacts

- ▶ Assistance to households
 - ▶ Utility assistance
 - ▶ Cash assistance
 - ▶ Rent and/or mortgage assistance (eviction prevention)
 - ▶ Emergency assistance for home repairs, weatherization or other needs
- ▶ Assistance to small businesses and non-profits
 - ▶ A program must be designed
 - ▶ Loans or grants to mitigate financial hardships (declines in revenue or impacts from periods of closure)
 - ▶ Utility costs



What are Eligible Permissible Uses?

1. Responses to its negative economic impacts can't

- ▶ Assistance to small businesses (Start-Ups too) and non-profits
 - ▶ Technical assistance, or other services to assist with business planning needs.
 - ▶ Loans or grants to assist in Covid-19 prevention or mitigation tactics
 - ▶ Physical plant changes for social distancing (outdoor spaces)
 - ▶ Enhanced cleaning efforts
 - ▶ Barriers or partitions
 - ▶ Improve the built environment (façade improvements)
- ▶ Services to build stronger neighborhoods
 - ▶ Investments in: parks, public plazas, and other outdoor recreation spaces



Prevention and Crime Response and Supporting Public Safety

- ▶ Restoring of Public Safety Staff to pre-pandemic levels
- ▶ Hiring law enforcement officials above pre-pandemic levels
- ▶ Paying overtime directly focused on advancing community policing strategies
- ▶ Investing in technology and equipment to respond more efficiently and effectively to rise in gun violence.



What are Eligible Permissible Uses?

2. Premium pay for workers performing essential work during Covid-19
 - ▶ Up to an additional \$13/hr not to exceed \$25,000 per eligible worker
 - ▶ Not to exceed 150% of state or county average annual wage for all occupations; whichever is higher.
 - ▶ State of Florida \$53,508 annually; \$80,262
 - ▶ Volusia County \$42,848 annually: \$64,272
 - ▶ Written justification must be made public
 - ▶ Identifying essential workers
 - ▶ Regularly perform in-person work
 - ▶ Interact with others at work
 - ▶ Physically handle items handled by others



What are Eligible Permissible Uses?

3. Revenue losses due to Covid-19

- ▶ Measured in relation to revenue collected in most recent full fiscal year prior to the emergency (FY2020)
- ▶ 4.1% per year growth adjustment(based on national average of state and local revenue growth 2015-18)
- ▶ Does not include:
 - ▶ Intragovernmental transfers,
 - ▶ sale of investments,
 - ▶ Intergovernmental transfers from Federal Government including State pass throughs, and funding from the Fiscal Recovery Funds.
- ▶ Measured as four points in time: December 31, 2020; 2021; 2022 and 2023.



What are Eligible Permissible Uses?

3. Revenue losses due to Covid-19 con't

- ▶ Minimal restrictions for use of funds up to amount of reduction.
 - ▶ Paying interest or principal on outstanding debt, including issuance costs of new debt.
 - ▶ Replenishing reserves.
 - ▶ Paying settlements or judgements.
 - ▶ Pension deposits.



What are Eligible Permissible Uses?

4. Water, sewer and broadband infrastructure investments

- ▶ Projects that would receive funding assistance through Clean Water State Revolving Fund (CWSRF) or Drinking Water State Revolving Fund (DWSRF).
 - ▶ CWSRF-construction of publicly-owned treatment works
 - ▶ Nonpoint source pollution (land runoff, precipitation, drainage, seepage, etc.) management
 - ▶ Decentralized wastewater treatment systems
 - ▶ Stormwater systems
 - ▶ Water conservation, efficiency and reuse measures
 - ▶ Water reuse projects
 - ▶ Technical assistance with compliance with Clean Water Act.



What are Eligible Permissible Uses?

4. Water, sewer and broadband infrastructure investments can't
 - ▶ DWSRF-treatment, transmission and distribution
 - ▶ Source rehabilitation and decontamination
 - ▶ Storage, consolidation and new systems development.
 - ▶ Supports efforts to address climate change, cybersecurity needs to protect water and sewer infrastructure, water pollution, flood control projects, projects to mitigate and respond to natural disasters (interconnection water/waste systems) and replacement of lead service lines.



What are Eligible Permissible Uses?

4. Water, sewer and broadband infrastructure investments

- ▶ Projects expected to deliver, upon completion, service that “reliably” meets or exceeds 100 Mbps download and between 20 and 100 Mbps upload speeds.
- ▶ Focus on unserved or underserved locations.
- ▶ If speeds are impracticable currently, design infrastructure to be scalable to such speeds.



Treasury or State Approval

- ▶ Reduction in revenue is presumed to be due to Covid-19; no approval required
- ▶ Recipients are not required to submit planned expenditures; based on guidelines for eligible uses only; no approval required
- ▶ Water, Sewer and broadband projects are eligible under CSFRF/CLFRF; no approval required.



Items for Consideration

- ▶ One-time incentive payments of \$1,000 for each permanent employee
- ▶ Joint project with the City of Port Orange to provide redundancy through a second sewer transmission force main under the Halifax River
- ▶ Joint project with the City of Port Orange for a new water pipeline under the Halifax River



References and Key Links

- ▶ [Covid-19 Economic Relief | U.S. Department of the Treasury](#)
- ▶ [2021-10283.pdf \(govinfo.gov\)](#)
- ▶ [SLFRP-Fact-Sheet-FINAL1-508A.pdf \(treasury.gov\)](#)
- ▶ [Coronavirus State and Local Fiscal Recovery Funds Frequently Asked Questions \(treasury.gov\)](#)
- ▶ [Frequently Asked Questions on Distribution of Funds to Non-entitlement Units of Local Government \(treasury.gov\)](#)
- ▶ [Status of Payments to States for Distribution to Non-Entitlement Units of Local Government \(NEUs\) \(treasury.gov\)](#)
- ▶ [NEU Guidance \(treasury.gov\)](#)
- ▶ [SLFRF-Compliance-and-Reporting-Guidance.pdf \(treasury.gov\)](#)

