

**MINUTES
CITY COUNCIL MEETING
October 26, 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, 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 - Gwyn Herstein 15 years

City Planner Stewart Cruz presented Gwyn Herstein with a 15-year service award.

6. APPROVAL OF MINUTES

A. City Council Minutes October 12, 2021

VICE MAYOR MEL LINDAUER moved, seconded by COUNCILMEMBER MICHAEL POLITIS to Approve the City Council Minutes of October 12, 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 September monthly report
- B. Community Services September, 2021 Report
- C. Building Division September, 2021 Report

COUNCILMEMBER MICHAEL POLITIS moved, seconded by VICE MAYOR MEL LINDAUER 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, Vice Mayor Mel Lindauer, Councilmember Michael Politis

8. REPORTS OF THE CITY ATTORNEY:

- A. City Attorney Report

City Attorney Becky Vose provided a brief summary of her submitted report. She explained that Ordinance 2021-13 for the sale of the Beachcomber property would need to be continued again. They are still waiting on the DEP to correct the record.

9. REPORTS OF THE CITY MANAGER:

- A. City Manager's Report October 26, 2021

City Manager Michael Booker reviewed his submitted report. Mayor Miller requested additional information be shared regarding the Christmas Parade on December 4th. Recreation Director Nancy Maddox explained that after the parade was finished, there would be music, food trucks, a performance by the Orlando Philharmonic Orchestra and finally, the tree lighting at dusk.

10. OLD BUSINESS:

- A. Ordinance 2021-11: Proposed Amendment to the Atlantic Avenue Estates Development Agreement; Request by owner of 3833 Cardinal Boulevard

The City Attorney read the ordinance by title. There was no one who wished to speak for or against the project.

COUNCILMEMBER RICHARD BRYAN moved, seconded by VICE MAYOR MEL LINDAUER to Adopt Ordinance 2021-11 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 2021-12: Voluntary Annexation - 104 Broad Avenue

The City Attorney read the ordinance by title.

COUNCILMEMBER RICHARD BRYAN moved, seconded by VICE MAYOR MEL LINDAUER to Adopt Ordinance 2021-12 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 2021-13 Sale of Property located at 136 Beachcomber.

The City Attorney read the ordinance by title.

COUNCILMEMBER RICHARD BRYAN moved, seconded by VICE MAYOR MEL LINDAUER to Continue Ordinance 2021-13 until the City Council meeting on November 9, 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

11. NEW BUSINESS:

A. Ordinance 2021-14: Mobile Food Vehicles

The City Attorney read the ordinance by title. City Planner Stewart Cruz explained that recently the state legislature passed a bill that precludes local governments from prohibiting mobile food vehicles. The proposed ordinance would allow the following regulations on food trucks: operate solely on commercial and hotel properties that possess a valid DA and on construction sites with a valid site plan development order; hours of operation are regulated; set back at least 50 feet from residential properties; prohibited from selling or dispensing alcohol; prohibited from emitting smoke, ash, etc./.; bi-annual inspections by the Public Safety Department; and subject to inspections from other relevant City departments at their discretion. The few properties that were eligible to have a mobile food vehicle were stated for

the record. Both city staff and the Planning & Zoning Board recommended approval. Vice Mayor Lindauer inquired if there was a sound regulation and the response was the guidelines are the same for a restaurant. CMBR Politis explained that he would rather support a brick and mortar establishment as those provide employment and are normally longer lasting. He appreciated the restrictions that the city would have in place. Audience member Chris Chibbaro is the owner of Millie's Restaurant. He stated that he was okay with the proposed ordinance. He felt a few food trucks could exist with restaurants in the city. He was concerned that the restriction of needing a Development Order could be seen as a competitive disadvantage.

COUNCILMEMBER RICHARD FRIZALONE moved, seconded by COUNCILMEMBER RICHARD BRYAN to Approve Ordinance 2021-14 on first reading.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 3 No = 2).

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

No: Mel Lindauer, Michael Politis

B. Discussion on proposed construction change ordinance

City Planner Stewart Cruz explained that Community Services Director Fred Hiatt could not attend the meeting but had concerns with the proposed ordinance to eliminate construction work on Sunday. He felt there could be unintended consequences such as, if an air conditioner broke or a roof started leaking on a Sunday and it had to wait to be repaired until Monday morning. It was explained that many homeowners do their own work on the weekends. Staff would like more direction from the council before moving forward with the ordinance. CMBR Frizalone felt common sense should dictate if the home repair or construction noise was too loud. The ordinance was drafted after a noise complaint came in from construction work happening on a Sunday. After a brief discussion, it was determined that the council did not have an objection to working on Sunday, they just don't want neighbors disturbed. City Planner Cruz stated that policy was currently on the books and Public Safety provided enforcement. Director Dembinsky explained the officers would enforce loud noise, but they need a complaint first and a signed affidavit.

12. COUNCIL COMMENTS:

All the councilmembers felt the recent large truck event went very smoothly compared to the one a few months ago. Mayor Miller announced the next *Coffee with the Mayor* would have Director Dembinsky and Captain Fowler as guest speakers. CMBR Bryan announced that the Senate had created a bill (SB 224) that would allow local governments to restrict smoking on beaches and in public parks. He hoped that it would have enough support to be passed. There is a similar version in the House (HB 105).

13. AUDIENCE REMARKS/PUBLIC COMMENTS:

There were no audience comments.

14. ITEMS RECOMMENDED FOR THE NEXT AGENDA:

15. ADJOURNMENT:

The meeting ended at 7.09 pm.

**MAYOR
NANCY MILLER**

**CITY MANAGER
MICHAEL T. BOOKER**

ATTEST:

CITY CLERK, CHERI SCHWAB