



City of Daytona Beach Shores

"Life is Better Here"

"A Premier, Friendly Place to Be"

AGENDA CITY COMMISSION MEETING JUNE 13, 2023

**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 Commission 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 Commission Minutes May 23, 2023
- 7. CONSENT AGENDA:**
 - A. Revised Access Agreement & Construction License For Seawall Construction On Adjacent Public Beach Access: St. Croix Condominium, 3145 S. Atlantic Avenue

B. Fire Training and Facilities Agreement with City of Port Orange

8. OLD BUSINESS:

A. Ordinance 2023-03: Tour Service Conditional Use and Live/Work Facilities.

9. NEW BUSINESS:

A. Ordinance 2023-04: Voluntary Annexation - 3038 S. Peninsula Drive

B. Ordinance 2023-05: Voluntary Annexation - 3040 S. Peninsula Drive

C. Review City Manager Evaluations

10. REPORTS OF THE CITY ATTORNEY:

11. REPORTS OF THE CITY MANAGER:

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 COMMISSION 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 COMMISSION MEETING
May 23, 2023
3000 Bellemead Drive, Daytona Beach Shores, FL 32118

1. CALL TO ORDER BY MAYOR

Present: Commissioner Mel Lindauer, Mayor Nancy Miller, Commissioner Chris Conomos, Commissioner Richard Bryan, Vice Mayor Michael Politis

Staff: City Manager Kurt Swartzlander, City Clerk Cheri Schwab, City Attorney Paul Waters, Community Services Director Stewart Cruz, Finance Director Lory Irwin, Economic Development and Public Affairs Director Nancy Maddox, and Public Safety Director Michael Fowler.

2. ROLL CALL BY CITY CLERK

3. PRAYER

4. PLEDGE OF ALLEGIANCE

5. CEREMONIAL ITEMS, PRESENTATIONS AND PUBLIC NOTICES:

A. Proclamation for Public Works Week

Mayor Miller read a proclamation declaring the week of May 21st as Public Works Week. The employees in the audience were recognized by the City Commission.

B. Investment Presentation by JPMorgan Chase

Daniele Driscoll from JP Morgan Chase provided an overview of the city's investment portfolio. The city has had the portfolio for approximately one year and the total amount currently invested is \$25,537,000 with a 3.80% yield to maturity.

6. APPROVAL OF MINUTES

A. City Commission Minutes April 25, 2023

VICE MAYOR MICHAEL POLITIS moved, seconded by COMMISSIONER MEL LINDAUER to Approve the City Commission Minutes of April 25, 2023.

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

Yes: Mayor Nancy Miller, Commissioner Mel Lindauer, Commissioner Richard Bryan, Vice

7. CONSENT AGENDA:

- A. Community Services Department Monthly Report - April 2023
- B. Executive Summary Report April 2023
- C. Public Safety April Monthly report
- D. Approval for Mayor to travel for Accreditation Award
- E. Approval of the City of Port Orange - Universal Engineering Sciences, Inc. Piggyback Contract for Building Inspector and Plans Examiner Services
- F. Approval of the Volusia County - LaTour Enerprizes, Inc. d/b/a Economy Electric Company, Inc. Piggyback Contract For Electrical Services
- G. Access Agreement & Construction License For Seawall Construction: Opus Condominium, 2071 S. Atlantic Avenue
- H. Florida Local Government Cybersecurity Grant

COMMISSIONER CHRIS CONOMOS moved, seconded by COMMISSIONER MEL LINDAUER to Approve the consent agenda.

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

Yes: Mayor Nancy Miller, Commissioner Mel Lindauer, Commissioner Richard Bryan, Vice Mayor Michael Politis, Commissioner Chris Conomos

8. OLD BUSINESS:

9. NEW BUSINESS:

A. Ordinance 2023-03: Tour Service Conditional Use and Live/Work Facilities.

The City Attorney read the ordinance by title only. City Planner, Noel Eaton, explained that the proposed ordinance was requested by the commission to amend the Land Development Code to establish a use for tour service and to amend the live-work requirement. All due public notice had been met. The Planning & Zoning Board recommended approval of the ordinance with the condition that a restaurant needed to be open within 9 months of the tour service starting. City staff recommended approval as presented. Mayor Miller was not in favor of allowing 9 months for a restaurant to open, as she wanted both to open at the same time.

VM Politis explained that it was not easy to open or attract a restaurant, especially with the city's low traffic count. He felt it would still be a benefit to the city with just the tour guide business opening. It would be an attraction for tourists. After a brief discussion, the Mayor felt if the front of the building was staged as a restaurant, she could allow 6 months for the business to open. Devon Eskra spoke to the commission. He explained their original thought was a burger/sandwich restaurant but then they were made aware one was opening close by. The contractor who would renovate the space felt it would take 9 months to do so. The question was asked, what would happen if the restaurant were to leave after a few months. Community Services Director Stewart Cruz stated that it would become a Code Enforcement action and given a reasonable time period to comply. Mr. Eskra also stated for the record that he thought he had a verbal contract that was binding on the property when he spoke to the commission a few weeks ago. He did not intend to mislead anyone.

VICE MAYOR MICHAEL POLITIS moved, seconded by COMMISSIONER RICHARD BRYAN to Approve Ordinance 2023-03 on first reading with the following conditions: there must be staging on the property ie, the space looks like it is occupied by a restaurant with window treatment, tables, lighting and landscaping; a restaurant must open within 6 months, in the event that restaurant tenant were to leave, the owner has three months to find a replacement tenant or they can operate an eatery themselves .

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

Yes: Mayor Nancy Miller, Commissioner Mel Lindauer, Commissioner Richard Bryan, Vice Mayor Michael Politis, Commissioner Chris Conomos

B. Non-conforming Sign Removal Incentive Grant Application 12023014: 3060 S. Atlantic Avenue - Christina's Plaza

City Planner Noel Eaton explained that the sign grant was submitted back in December 2022, and should have been placed on the January agenda. All the criteria has been met and the sign is now installed and inspected. There are no current code enforcement violations and the property is eligible for \$2000 in grant funds. Staff recommended approval.

COMMISSIONER CHRIS CONOMOS moved, seconded by COMMISSIONER RICHARD BRYAN to Approve the Non-conforming Sign Removal Incentive Grant for Christina's Plaza in the amount of \$2000.

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

Yes: Mayor Nancy Miller, Commissioner Mel Lindauer, Commissioner Richard Bryan, Vice Mayor Michael Politis, Commissioner Chris Conomos

C. Economic Development Lease Subsidy Grant Application - Bank Heist Experience, LLC

Nancy Maddox, Economic Development Director, explained the details of the lease subsidy grant application. The business would be a new venture for the city and it would fill a building that is currently vacant. The Economic Development Committee met earlier this month and recommended approval of the grant in the amount of \$20,000 over two years. The grant would begin in June 2023 and end in July 2025. The business owner, Michael Babic, gave a brief explanation of the bank heist concept. It will be more than just an escape room. It will have challenges and puzzles to solve with the aid of an employee.

COMMISSIONER CHRIS CONOMOS moved, seconded by COMMISSIONER MEL LINDAUER to approve the Economic Development Lease Subsidy Grant in the amount of \$20,000 for the Bank Heist Experience, LLC.

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

Yes: Mayor Nancy Miller, Commissioner Mel Lindauer, Commissioner Richard Bryan, Vice Mayor Michael Politis, Commissioner Chris Conomos

D. Economic Development Lease Subsidy Grant Application - Riley's Coney House

Nancy Maddox, Economic Development Director, explained the details of the lease subsidy grant application. The Economic Development Committee met earlier this month and recommended approval of the grant in the amount of \$20,000 over the next two years. The grant would begin in June 2023 and end in June 2025. Business owner, Dave Lloyd spoke to the commission. He is moving his restaurant, Riley Coney House, from Port Orange and hopes to open the first week of June. The menu will be expanded to include more seafood choices.

COMMISSIONER MEL LINDAUER moved, seconded by VICE MAYOR MICHAEL POLITIS to Approve the Economic Development Lease Subsidy Grant in the amount of \$20,000 for Riley's Coney House.

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

Yes: Mayor Nancy Miller, Commissioner Mel Lindauer, Commissioner Richard Bryan, Vice Mayor Michael Politis, Commissioner Chris Conomos

E. Sea Wall presentation by Commissioner Bryan

Commissioner Richard Bryan gave a brief presentation detailing the seawall research that he had been compiling. He presented two designs that are being utilized for sea walls, sheet pile and gravity using redi-rock. It is his hope that all properties on the oceanfront have temporary armoring to help with the upcoming hurricane season. The county is providing 2 trap bags for oceanfront properties that have signed an easement for them. It is his opinion that a 3 trap bag configuration would work better. If the county has extra sand leftover, he felt they should add the extra bag to the properties. After a brief discussion, the Mayor requested that the City Manager reach out to the County Manager regarding the possibility of placing a

third trap bag in front of the properties with an easement.

10. REPORTS OF THE CITY ATTORNEY:

Attorney Paul Waters had nothing new to report for the agenda.

11. REPORTS OF THE CITY MANAGER:

City Manager Kurt Swartzlander stated that an unofficial event, Orlando invades Daytona, could occur over the Memorial Day weekend. The public safety officers are ready to respond if large crowds do congregate. He thanked the Public Works Department for the renovations of Veterans Park before the recent Armed Forces Day event.

12. COUNCIL COMMENTS:

Vice Mayor Politis reported on a recent TPO meeting. The main focus of that meeting was to support the governor's initiative to fund road projects. The entire commission felt the recent Armed Forces Day was a great event. Mayor Miller reminded the audience of the free concert on Friday evening. She also reminded the commission that the City Manager evaluations were due by June 1. Coffee with the Mayor in June will be an evening event beginning at 5:00 pm.

13. AUDIENCE REMARKS/PUBLIC COMMENTS:

The new President and CEO of the Port Orange/South Daytona Chamber of Commerce, Barbara Ann Heegan was introduced.

14. ITEMS RECOMMENDED FOR THE NEXT AGENDA:

Mayor Miller requested a workshop before the next meeting to interview a potential Planning & Zoning Board alternate member. Followup report from the CM regarding trapbags.

15. ADJOURNMENT:

The meeting ended at 8:02 pm.

**MAYOR
NANCY MILLER**

**CITY MANAGER
KURT D. SWARTZLANDER**

ATTEST:

CITY CLERK, CHERI SCHWAB



CITY COMMISSION AGENDA MEMORANDUM JUNE 13, 2023 AGENDA

TO: Honorable Mayor and Members of the City Commission

FROM:

PREPARED BY: Stewart Cruz, Community Services Director

SUBJECT: Revised Access Agreement & Construction License For Seawall Construction On Adjacent Public Beach Access: St. Croix Condominium, 3145 S. Atlantic Avenue

SYNOPSIS:

On April 11, 2023 the City Commission approved the St. Croix Condominium - Daytona Beach Shores Access Agreement & Construction License for the construction of a contiguous seawall on the city's public beach access located to the south of the condo property at 3145 S. Atlantic Avenue. Since then, the condo's seawall engineering consultant has revised the plans to have a longer return wall on the city's property, which would offer greater protection to the public beach access and the condo property. In addition, the agreement was amended at the request of the condominium to ensure the condominium will not be responsible for reconstruction of the public beach access sidewalk area outside of the seawall construction zone. Both the aforementioned changes are reflected in the revised agreement/license.

FISCAL IMPACT STATEMENT:

BACKGROUND:

On February 28, 2023, the City Commission of Daytona Beach Shores approved a condo - city partnership concept for seawall reconstruction on city beach access properties that experienced seawall failure as a result of hurricanes Ian and Nicole. The City Commission also directed staff to work with the City Attorney's office to provide the instruments needed to realize this partnership. Attached is an Agreement Granting a Temporary Ingress, Egress and Construction License For Seawall Construction document drafted by the City Attorney and executed by the St. Croix Condominium, located at 3145 S. Atlantic Avenue. Approval of the agreement/license will allow the property owner access to the public beach access to construct a common seawall on the city property contiguous with the condo's seawall.

Highlights of the agreement/license include:

1. City grants the Condo authority to access and build a common contiguous seawall on the beach access property.
2. Condo will build the seawall at its own cost.

3. Condo will provide proof of adequate funds to finance the project.
4. Condo will provide adequate liability insurance by listing the City as an additional named insured to cover indemnification obligations in an amount not less than \$1,000,000.
5. Expiration date shall be 10 days after completion of the seawall or December 31, 2023, whichever comes first.

LEGAL REVIEW:

RECOMMENDATION:

Approval as presented.

SUGGESTED MOTION:

Approval of the revised Access Agreement and Construction License for Seawall Construction to allow St. Croix Condominium to build a contiguous seawall on the 3145 S. Atlantic Avenue Daytona Beach Shores Public Beach Access.

- ATTACHMENT:**
1. Temporary Access Easement & Construction License - St. Croix Condo - Revised-6-5-23
 2. Public Beach Access Damage-3145 S. Atlantic Ave-St. Croix

This instrument prepared by/return to:
Gretchen R.H. Vose, Esq.
Vose law Firm, LLP
324 W. Morse Blvd.
Winter Park, FL 32789

Property Appraiser's
Parcel Identification No.

AGREEMENT GRANTING TEMPORARY INGRESS, EGRESS AND CONSTRUCTION LICENSE FOR SEAWALL CONSTRUCTION

This Agreement Granting Temporary Ingress, Egress and Construction License for Seawall Construction, is entered into this ____ day of _____, A.D. 2023, by and between the City of Daytona Beach Shores, a Florida municipal corporation, with an address of 2990 S. Atlantic Avenue, Daytona Beach Shores, Florida 32118 ("City"), and St. Croix Condominium, Inc., a Florida not for profit corporation, with an address of 3145 S. Atlantic Avenue, Daytona Beach Shore, Florida 32118, ("Grantee").

(Wherever used herein, the terms "City" and "Grantee" shall include singular and plural, heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, wherever the context so admits or requires.)

Whereas, Grantee intends to construct a seawall ("Seawall") in the location described in the attached Exhibit "A" ("Seawall Location"); and

Whereas, in order to construct the Seawall in the Seawall Location, the Grantee needs to have access to and across a location ("License Location") which is owned by the City, and which will be closed for beach access during the construction of the Seawall; and

Whereas, Grantee agrees to construct the Seawall at Grantee's sole cost and expense, and that such Seawall, its design and materials shall be subject to the approval of the City; and

Whereas, in order to ensure that no liens will attach to the City's property as a result of the construction by Grantee of the Seawall, Grantee shall provide to the City a copy of the estimate of construction costs for the Seawall, and provide proof to the City, satisfactory to the City, that funds are available to pay for the construction costs; and

Whereas, at the termination of this License, Grantee agrees to restore the License Location to a condition equal to or better than its condition prior to the grant of this License; and

Whereas, upon the completion of the construction of the Seawall, the City will become the sole owner of the Seawall located on City property; and

Whereas, Grantee, for good and valuable consideration, the sufficiency of which the parties agree is adequate, indemnifies and holds the City harmless against any and all claims, losses, judgments, costs, damages, or expenses, including attorney's fees and court costs,

incurred by the City, or its agents, officers, or employees, arising directly or indirectly or relating in any way to this License or the use of the License Property or the construction of the Seawall, including but not limited to those claims, losses, judgments, costs, damages, or expenses arising out of any accident, casualty, or other occurrence causing injury to any person or property. The Grantee shall also provide liability insurance to the City, with a company subject to the approval of the City, with the City listed as an additionally named insured to cover all indemnification obligations of Grantee in an amount not to be less than \$1,000,000.

Now, therefore, the City and Grantee agree, for and in consideration of the sum of \$10.00, in hand paid each to the other, and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, to the following:

1. The “Whereas” clauses set forth above are affirmed and ratified and are an integral part of this Agreement as if fully set forth in this portion of this Agreement.

2. The City grants to the Grantee a non-exclusive, temporary License (“License”) for construction of a seawall (“Seawall”) in the location as shown on Exhibit “A” hereto, that will be constructed in accordance with plans pre-approved by the City. Such License to be located over, under, across and through that certain real property as more particularly described in Exhibit “B” attached hereto (“License Area”), together with rights of ingress and egress thereto as may be required for purposes of exercising the License rights granted hereby.

3. This License shall not become effective unless and until the Grantee has provided the City the proof of adequate funds and the liability insurance as provided above.

4. Grantee shall construct the Seawall at Grantee’s sole cost and expense. During any and all construction activities in the License Area, Grantee shall be responsible for the securing and maintaining of the License Area in a safe and secure manner so as to prevent public access during construction. During the term of this temporary License, Grantee shall use and maintain the License Area in a neat and clean manner so as not to become an eyesore. Prior to the end of this temporary License, the Grantee shall, at Grantee’s sole cost and expense, restore and repair the License Area and any vegetation or other improvements located thereon, to a condition equal to or better than existed immediately prior to the beginning of the temporary License in the areas directly disturbed by Grantee’s construction activities. Restoration of areas outside of the seawall construction license area (Exhibit “A”) shall not be the responsibility of the Grantee. Any work performed by Grantee shall be performed in a good and workmanlike manner. If Grantee does not fulfill its duties under this Agreement, the City may, but shall not be obligated to, fulfil such duties and charge the expenses incurred, plus an administrative fee of 10% to the Grantee. The Grantee agrees to pay such expenses and administrative fee, and if necessary, cause a special assessment to be made on its residents and owners as appropriate to pay such expenses and administrative fees. If such expenses and administrative fees are not paid within twenty (20) days after invoicing for same by the City, such expenses and administrative fees shall incur interest at the highest rate permitted under Florida law until paid in full. If litigation occurs regarding such collection, or regarding any other matter relating to this Agreement, the prevailing party shall pay the other side’s attorneys’ fees, expenses and costs.

5. The License shall terminate automatically on the earlier of ten (10) days following completion of the construction of the Seawall, or December 31, 2023. This License may be extended at the sole discretion of the City by vote of the City Commission.

6. At the completion of the construction of the Seawall, the Seawall shall be the sole property of the City.

7. The signers of this Agreement represent that they have been fully authorized to execute this Agreement by and on behalf of the entity they represent, and that all requirements precedent to the execution of this Agreement have been properly followed. The attorneys signing below on behalf of their respective clients acknowledge that they have fully investigated the authority of the signers of this Agreement, and that by their signatures, such attorneys are representing that their respective clients are fully bound by the provisions of this Agreement.

In Witness Whereof, the said party has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in presence of:

WITNESSES:

**CITY OF DAYTONA BEACH
SHORES, FLORIDA**

Print Name: _____

By: Nancy Miller, Mayor

Print Name: _____

ATTEST:

Attorney on behalf of City of Daytona
Beach Shores

Cheri Schwab, City Clerk

Vose Law Firm, LLP

STATE OF FLORIDA)
COUNTY OF VOLUSIA)

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ____ date of _____ 2023, by Nancy Miller, Mayor and Cheri Schwab, City Clerk, on behalf of the City of Daytona Beach Shores, Florida, who are personally known to me or who have produced _____ as identification.

[Notary seal]

Print Name _____
Notary Public, State of Florida
My Commission Expires: _____

Signed, sealed and delivered in presence of:

WITNESSES:

ST. CROIX CONDOMINIUM, INC.

Print Name: _____

Print Name: _____

Attorney on behalf of St. Croix Condominium, Inc.

Erin E. Wollett, Esq., of Wright & Casey, PA

By: JoAnn Scott
Its: President

ATTEST:

By: Mario Neal
Its: Vice President

STATE OF FLORIDA)
COUNTY OF VOLUSIA)

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ date of _____ 2023, by _____ on behalf of _____, who are personally known to me or who have produced _____ as identification.

[Notary seal]

Print Name _____
Notary Public, State of Florida
My Commission Expires: _____

EXHIBIT A

(3145 S. Atlantic Avenue Seawall Construction Area)

LEGAL DESCRIPTION

THE EASTERLY 90 FEET OF THE FOLLOWING:

A PORTION OF THAT PART OF THE NORTHERLY ONE HUNDRED (100) FEET OF THE SOUTHERLY FIVE HUNDRED (500) FEET OF THE LUFBERRY TRACT AS MEASURED FROM AND PERPENDICULAR TO, THE NORTH LINE OF RIOMAR BEACHES, LYING EASTERLY OF SOUTH ATLANTIC AVENUE AS NOW LAID OUT. SAID LUFBERRY TRACT BEING OF RECORD IN MAP BOOK ONE (1), PAGE ONE HUNDRED FIFTEEN (115), OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM A POINT OF BEGINNING AT THE INTERSECTION OF THE SOUTH LINE OF THE NORTHERLY 100 FEET OF THE SOUTHERLY 500 FEET OF SAID LUFBERRY TRACT AND THE EAST RIGHT-OF-WAY LINE OF SOUTH ATLANTIC AVENUE, AN 80 FOOT RIGHT-OF-WAY, SAID POINT OF BEGINNING ALSO BEING A POINT ON A CURVE CONCAVE WESTERLY, HAVING A CENTRAL ANGLE OF 0°22'57", A RADIUS OF 2082.26 FEET AND A CHORD BEARING OF N15°01'48"W, RUN NORTHERLY ALONG THE ARC OF SAID CURVE AND THE EASTERLY RIGHT-OF-WAY OF SAID SOUTH ATLANTIC AVENUE 13.90 FEET; THENCE DEPART THE EASTERLY RIGHT-OF-WAY OF SAID SOUTH ATLANTIC AVENUE N74°02'44"E, 45.58 FEET; THENCE N64°22'38"E, 308.80 FEET; THENCE S25°32'59"E, 10 FEET TO THE SOUTH LINE OF THE NORTHERLY 100 FEET OF THE SOUTHERLY 500 FEET OF SAID LUFBERRY TRACT; THENCE S6°27'03"W, 237.36 FEET TO THE POINT OF BEGINNING.

EXHIBIT B

(3145 S. Atlantic Ave. Public Beach Access Area)

LEGAL DESCRIPTION:

A PORTION OF THAT PART OF THE NORTHERLY ONE HUNDRED (100) FEET OF THE SOUTHERLY FIVE HUNDRED (500) FEET OF THE LUFBERRY TRACT AS MEASURED FROM AND PERPENDICULAR TO, THE NORTH LINE OF RIOMAR BEACHES, LYING EASTERLY OF SOUTH ATLANTIC AVENUE AS NOW LAID OUT. SAID LUFBERRY TRACT BEING OF RECORD IN MAP BOOK ONE (1), PAGE ONE HUNDRED FIFTEEN (115), OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM A POINT OF BEGINNING AT THE INTERSECTION OF THE SOUTH LINE OF THE NORTHERLY 100 FEET OF THE SOUTHERLY 500 FEET OF SAID LUFBERRY TRACT AND THE EAST RIGHT-OF-WAY LINE OF SOUTH ATLANTIC AVENUE, AN 80 FOOT RIGHT-OF-WAY, SAID POINT OF BEGINNING ALSO BEING A POINT ON A CURVE CONCAVE WESTERLY, HAVING A CENTRAL ANGLE OF 0°22'57", A RADIUS OF 2082.26 FEET AND A CHORD BEARING OF N15°01'48"W, RUN NORTHERLY ALONG THE ARC OF SAID CURVE AND THE EASTERLY RIGHT-OF-WAY OF SAID SOUTH ATLANTIC AVENUE 13.90 FEET; THENCE DEPART THE EASTERLY RIGHT-OF-WAY OF SAID SOUTH ATLANTIC AVENUE N74°02'44"E, 45.58 FEET; THENCE N64°22'38"E, 308.80 FEET; THENCE S25°32'59"E, 10 FEET TO THE SOUTH LINE OF THE NORTHERLY 100 FEET OF THE SOUTHERLY 500 FEET OF SAID LUFBERRY TRACT; THENCE S6°27'03"W, 237.36 FEET TO THE POINT OF BEGINNING.

Public Beach Access Damage: 3145 S. Atlantic Avenue





**CITY COMMISSION AGENDA MEMORANDUM
JUNE 13, 2023 AGENDA**

TO: Honorable Mayor and Members of the City Commission
FROM: Mike Fowler, Public Safety Director
PREPARED BY: Mike Fowler, Public Safety Director
SUBJECT: Fire Training and Facilities Agreement with City of Port Orange

SYNOPSIS:

Legal agreement between City and Port Orange to allow for DBSDPS officers to train at Port Orange's new fire facility.

FISCAL IMPACT STATEMENT:

BACKGROUND:

Fire fighters are required to complete annual training at a "fire facility." The City owns no such property and relies on agreements with other entities to fulfill these requirements. This agreement, which was reviewed and approved by Attorney Vose, allows for DBSDPS officers to use the new Port Orange facility while limiting the liability to Port Orange. The City, and Public Safety specifically, will greatly benefit from this agreement.

LEGAL REVIEW:

RECOMMENDATION:

Approval

SUGGESTED MOTION:

I move we accept the consent items as presented.

ATTACHMENT: 1. Fire Training Facilities Waiver Liability

FIRE TRAINING FACILITIES AGREEMENT
CITY OF PORT ORANGE

THIS AGREEMENT is made and entered into this ____ day of _____ 20____, between the City of Port Orange, a Florida Municipal corporation with a mailing address of 1000 City Center Cir., Port Orange, Florida 32129 (hereinafter referred to as “City” or “COPO”, and includes the Port Orange Fire Department), and _____ municipality or county, with a mailing address of _____ (hereinafter referred to as “PERMITTEE”).

WITNESSETH

Whereas, COPO has operational fire training facilities for the use of the Port Orange Fire Department (POFD), including the training tower, (“Fire Training Facilities”); and

Whereas, to the extent that such facilities have spare capacity for use by other fire departments or other related agencies, COPO is willing to allow such agencies to use its Fire Training Facilities to the extent such use will not interfere with use of the facility by the POFD; and

Whereas, in order that PERMITTEE and its officers, agents and/or employees (“Personnel”) may maintain a level of performance in firefighting, and in consideration of the mutual promises hereinafter contained in this Agreement, this Agreement is entered into to enable PERMITTEE to use the Fire Training Facilities; and

Whereas, given the liabilities, hazards, and risks inherent to such facilities and activities, PERMITTEE acknowledges that it would not be economically feasible or sustainable for COPO to allow other agencies to utilize or enter the Fire Training Facilities absent execution of this Agreement

NOW, THEREFORE, the parties hereto agree as follows:

agencies, officers, public officials, representatives, successors, successors in interest and assigns ("Released Parties") from any and all liability and damages in any way arising out of, connected to or related to the entry, access, utilization, use, occupancy and/or enjoyment of the Fire Training Facilities by PERMITTEE or any of its Personnel and, in no event shall the Released Parties be liable for any injuries or damages suffered or incurred by PERMITTEE, any of its Personnel, or any third party, as a result of, or in any way related to, the entry, access, utilization, use, occupancy and/or enjoyment of the Fire Training Facilities. The PERMITTEE shall be legally responsible for its own actions and the actions of the PERMITTEE's Personnel entering, accessing, utilizing, using, occupying and/or enjoying the Fire Training Facilities under or pursuant to this Agreement. Lawsuits and claims that may be filed from time to time shall be handled by the PERMITTEE in accordance with normal procedures, and the PERMITTEE shall hold the Released Parties, to the maximum extent allowed by Florida Statutes, harmless from any and all matters, causes of actions, suits, judgments, executions, claims and demands of any kind whatsoever, in law or in equity, which may result or arise out of or be connected to PERMITTEE's and its Personnel's entry, access, utilization, use, enjoyment and/or occupancy of the COPO's property/Fire Training Facilities or the intentional or negligent acts or omissions of the PERMITTEE and its Personnel. PERMITTEE shall be liable for its own actions and negligence and agrees to assume responsibility for the acts, omissions or conduct of the PERMITTEE'S Personnel, subject to the provisions of Section 768.28, Florida Statutes, where applicable.

9. Responsibility of Personnel. PERMITTEE acknowledges that its Personnel shall at all times remain an employee, agent and/or officer of such agency. PERMITTEE will be responsible for the worker's compensation coverage and claims of its own Personnel. All privileges and immunities from liability, exemptions from law and all pensions and relief,

disability, worker's compensation and other benefits that would apply if the PERMITTEE'S Personnel were receiving training in its territorial limits, shall apply to the same degree and extent.

10. Permittee Responsible for Damage or Loss to City Property. PERMITTEE shall be responsible for any loss or damage to COPO property caused by its Personnel, absent normal use of the facility for fire related training purposes.

11. Assumption of the Risk. The PERMITTEE acknowledges that use of many props including the Fire Tower at the Fire Training Facilities may present special dangers to persons using them and that various training techniques are inherently dangerous. Therefore, it is understood and agreed that the PERMITTEE and its Personnel assume the risk of such activity. PERMITTEE shall assure COPO that any and all Personnel are qualified to present themselves for training.

12. Indemnity. PERMITTEE agrees to indemnify the Released Parties and hold them harmless as to any claim, judgment, or damage award whatsoever arising out of, connected to or related to the PERMITTEE and its Personnel's own negligent or wrongful acts or omissions, to the extent permitted by law. The Parties understand that pursuant to Florida Statute § 768.28(19), no Party is entitled to be indemnified and held harmless by another Party for its own negligent or wrongful acts or omissions.

13. Reservation of Sovereign Immunity and No Consent to Suit. The Parties agree that nothing contained herein is intended to, nor shall be construed as, a waiver of any Party's rights and immunities under common law or Section 768.28, Florida Statutes, as might be amended from time to time. Nothing herein is intended to serve as a waiver of sovereign immunity by any Party to which sovereign immunity may be applicable, and each Party claims all of the privileges and immunities and other benefits and protections afforded by Florida

Statute § 163.01(9). Nothing contained herein shall be construed as consent to be sued by third parties in any matter arising out of or connected to this Agreement.

14. No City Liability for Inoperability of Facilities. The COPO shall not be responsible for any damages incurred by PERMITTEE as a result of the Fire Training Facility being temporarily inoperable for any reason.

15. Waiver of Subrogation. PERMITTEE hereby waives all rights against the Released Parties to the extent of the risk coverage by any insurance policy required hereunder for damages by reason of any claim, demand, suit, or settlement (including workers' compensation) for any claim for injuries or illness of anyone, or perils arising out of or connected to the PERMITTEE's or PERMITTEE Personnel's entry, enjoyment, utilization, occupancy, access to or use of the Fire Training Facilities. PERMITTEE shall require similar waivers from any other entities acting on PERMITTEE's behalf, whether they are contractors or subcontractors. This provision applies to all applicable policies of insurance carried by the PERMITTEE, including, but not limited to, workers' compensation and general liability policies.

16. Insurance. The PERMITTEE agrees to name City of Port Orange as an additional insured in its Insurance Policy coverage as required by the COPO's Risk Manager (consistent with the law) and agrees to provide the COPO a copy of the same.

17. Arrangements. PERMITTEE will need to contact the POFD in advance to determine availability and make arrangements for the use of the POFD Fire Training Facilities.

18. Severability. PERMITTEE acknowledges and agree that should any term, condition, or provision (or any part thereof) contained in this agreement be found unenforceable by a court of competent jurisdiction, then all remaining terms, conditions and

provisions shall remain in full force and effect. The COPO's failure to enforce any remedy or provision in this agreement shall not be construed as a waiver of such remedy or provision.

19. Venue/Waiver of Jury Trial. This agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. Jurisdiction of and venue for any controversies or legal issues connected to or arising out of this agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall, if in state court, be in the 7th Judicial Circuit in and for the County of Volusia, Florida, and if in federal court, be in the Middle District of Florida, Orlando Division. By executing this agreement, PERMITTEE hereby expressly waives any rights it may have to a trial by jury of any civil litigation related to this agreement.

20. Entirety of Contract. This Agreement is and shall be considered to be the only Agreement concerning the Fire Training Facilities between the parties hereto. All negotiations and all agreements of said parties are included herein.

21. Recordation. After execution this Agreement shall be forwarded to the City of Port Orange City Clerk for recordation with the Clerk of Court in Volusia County.

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their respective seals as of the dates indicated below.

PERMITTEE

By:

COUNCIL, COMMISSION, OR PERSON GIVEN AUTHORITY

Printed Name _____

Title _____

Attest _____

Printed Name_____

Title _____

Dated this __ day of _____ , 20____.

CITY OF PORT ORANGE

By:_____

Joe Wulfing, Fire Chief
Port Orange Fire Department

Dated this __ day of _____ , 20____.



CITY COMMISSION AGENDA MEMORANDUM JUNE 13, 2023 AGENDA

TO: Honorable Mayor and Members of the City Commission

FROM: Noel Eaton, Planner

PREPARED BY: Noel Eaton, Planner

SUBJECT: Ordinance 2023-03: Tour Service Conditional Use and Live/Work Facilities.

SYNOPSIS:

2nd Reading

Ordinance 2023-03, if approved, would amend Section 2-2 entitled "General Definitions" and Section 14-58 entitled "Special Exceptions and Conditional Uses," of the City's Land Development Code to create associated definitions and conditions of a tour service conditional use in the GC-RD zoning district and amend the live/work facility conditional use requirements. This amendment is an administrative amendment proposed by staff, with direction from the City Commission (minutes attached), consistent with Objective A.2 of the City of Daytona Beach Shores Strategic Plan, which calls for the removal of land development regulations that are obstacles to desired redevelopment and to enable or promote desired redevelopment.

The proposed regulations contained in Ordinance 2023-03 (attached) are consistent with the City's adopted Comprehensive Plan Update (2030). Among other things, the proposed ordinance would accomplish the following:

1. Define a tour service.
2. Permit a tour service as a conditional use in the GC-RD District to be approved conditionally by the City Manager, or designee. Existing structures may be used or new structures may be constructed to meet this end.
3. Create a submission, review and operational criteria and regulations governing the establishment and operation of tour service facilities in the GC-RD District.
4. Amend the existing live/work facility requirements to permit owners and daily operators to occupy the residential components of live/work facilities as a conditional use in commercial districts (GC-RD, GC-1 and GC-2 districts), providing specific requirements are met. Existing structures may be used or new structures constructed to meet this end.
5. Amend the existing live/work facility requirements to require a minimum of seven hundred (700) square feet of residential space. Existing structures may be used or new structures constructed to meet this end.

Planning staff has amended Ordinance 2023-03 based on City Commission direction during first reading held on May 23rd, 2023. A summary of the items that have been added to Ordinance 2023-03 are as follows:

- Definition of "Abandon or abandonment of a use of structure".
- Submission requirements related to a restaurant staging plan and regular business hours.
- Operation standards requiring that restaurant elements are in place prior to issuance of a certificate of use for the tour service establishment.
- Language related to the restaurant's establishment timeframe (six (6) months) as well as regulations related to abandonment of a restaurant use and the period in which a new restaurant shall be established (ninety (90) days).

FISCAL IMPACT STATEMENT:

No fiscal impact

BACKGROUND:

Recently, potential buyers have inquired about opening a tour service establishment in the GC-RD to fill a vacant storefront. Currently, the City's Land Development Code (LDC) does not recognize a tour service use and therefore is not permitted in any zoning district in the city.

On April 11, 2023, at the request of a prospective business, "Joyride Beachside", the City Commission directed staff to begin work on amending the City's Land Development Code to permit tour service businesses within GC-RD zoning district and amend the live/work facility requirements (minutes attached).

Further, in 2012 the City Commission approved Ordinance 2012-04 which allowed live/work facilities as conditional uses in commercial zoning districts under certain requirements. Over the years and even recently, business owners and potential buyers have inquired and requested the authorization of residential components that are less than the minimum 800 square feet required under the current regulations. Over time and through different ownerships, including out of city or even out of state owners, the owner-occupied residential component of the live/work facilities could not support the daily operators of the associated business under the current requirements which states only bona fide owners shall occupy the residential component.

Considering (1) the history of Daytona Beach Shores, (2) requests made, (3) the current and foreseen state of the economy, (4) the layout and built environment of the City, and (5) direction from the City Commission, staff drafted proposed Ordinance 2023-03, which would establish a tour service conditional use with associated requirements and permit owners or daily operators to occupy live/work facilities with a minimum of 700 square feet of residential space in the commercial districts, given certain conditions are met.

The staff report (attached) further analyzes the amendments and potential properties that could benefit from the proposed changes in Ordinance 2023-03.

A public hearing was held before the Planning and Zoning Board on May 8th, 2023. The Board recommended approval of Ordinance 2023-03 with the amendment that a Restaurant Use be established on the same property as a Tour Service use within nine (9) months of the issuance of a valid certificate of use for a Tour Service.

On May 23, 2023 the City Commission held 1st reading of Ordinance 2023-03 and directed staff to include regulations related to restaurant staging elements in place at time of certificate of use for a tour service, initial establishment of a restaurant use within six (6) months and re-establishment of a restaurant within ninety (90) days if the original tenant has abandoned the restaurant.

LEGAL REVIEW:

RECOMMENDATION:

Staff recommends approval of Ordinance 2023-03 as presented.

SUGGESTED MOTION:

A City Commissioner may motion as follows:

1. "I move to approve Ordinance 2023-03 as presented."

OR

2. "I move to approve Ordinance 2023-03, with the following amendments..."

OR

3. "I move to deny Ordinance 2023-03, on the basis of the following..."

- ATTACHMENT:**
1. ORD 2023-03-LDC TEXT AMENDEMENT-TOUR SERVICE
CONDITIONAL USE IN THE GC-RD & LIVE WORK FACILITY
REQUIREMENTS-2nd Reading
 2. cc minutes 5-23-23
 3. pz minutes 5-8 -23
 4. City Commission Minutes April 11, 2023
 5. STAFF REPORT-ORD 2023-03-City Commission, 2nd Reading
 6. DBS Zoning Maps
 7. Proof of Publication

ORDINANCE 2023-03

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, RELATING TO THE CREATION OF A TOUR SERVICE CONDITIONAL USE; AMENDING THE *MUNICIPAL CODE OF ORDINANCES, LAND DEVELOPMENT CODE*; AMENDING APPENDIX “G” CHAPTER 2 ENTITLED “DEFINITIONS” BY AMENDING SECTION 2-2 ENTITLED “GENERAL DEFINITIONS” BY CREATING ASSOCIATED DEFINITIONS FOR A TOUR SERVICE CONDITIONAL USE; AMENDING CHAPTER 14 ENTITLED “ZONING REGULATIONS” BY AMENDING SECTION 14-58 ENTITLED “SPECIAL EXCEPTIONS AND CONDITIONAL USES” TO ESTABLISH THE USE AND ASSOCIATED CONDITIONS OF A TOUR SERVICE CONDITIONAL USE IN THE GC-RD (GENERAL COMMERCIAL-REDEVELOPMENT DISTRICT) AND AMENDING THE GENERAL AND FACILITY REQUIREMENTS OF A LIVE/WORK FACILITY CONDITIONAL USE; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2, *Constitution of the State of Florida*, authorizes the City of Daytona Beach Shores to exercise any power for municipal purposes except as otherwise provided by law; and

WHEREAS, Section 163.3202, *Florida Statutes*, provides that the City of Daytona Beach Shores shall adopt and enforce land development regulations for the purpose of implementing its comprehensive plan and protecting the public health, safety, and general welfare; and

WHEREAS, the GC-RD (General Commercial-Redevelopment District) zoning district encourages redevelopment of properties; and

WHEREAS, there are twenty two (22) vacant properties/storefronts in the GC-RD zoning district; and

WHEREAS, there are atypical buildings previously housing non-conforming uses in the GC-RD district; and

WHEREAS, a car wash facility is not a permitted use in the GC-RD zoning district; and

WHEREAS, a tour service is a desired form of redevelopment in Daytona Beach Shores; and

WHEREAS, a tour service is not a use permitted in the City's Land Development Code; and

WHEREAS, a tour service use could provide residents and tourists historical and current information about the City of Daytona Beach Shores, its businesses and amenities, and the surrounding communities and attractions; and

WHEREAS, live/work facilities are a desired conditional use in qualifying structures in commercial zoning districts in Daytona Beach Shores; and

WHEREAS, the current live/work facility requirements do not allow potential live/work facilities with residential components smaller than the minimum eight hundred (800) square feet required; and

WHEREAS, smaller residential components of live/work facilities are similarly acceptable for housing; and

WHEREAS, the current live/work facility requirements only allow owners of the associated business to utilize the residential component of said live/work facility; and

WHEREAS, expanding the live/work facility criteria under certain conditions to allow daily operators of a business to utilize the residential component of said live/work facilities provides similar value to the area as allowing property owners; and

WHEREAS, the Objective A.2 of the City of Daytona Beach Shores Strategic Plan (2019) calls for the removal of land development regulations which are obstacles to desired redevelopment and to enable or promote desired redevelopment; and

WHEREAS, on April 11, 2023 the City Commission directed staff to create an Ordinance which amends the Land Development Code to establish the tour service conditional use and amend the live/work facility conditions; and

WHEREAS, this Ordinance is consistent with the goals, objectives, and policies of the *Comprehensive Plan of the City Daytona Beach Shores*; and

WHEREAS, for purposes of this Ordinance, underlined type shall constitute additions to the original text, *** shall constitute ellipses to the original text and ~~striketrough~~ shall constitute deletions to the original text.

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

SECTION ONE: LEGISLATIVE FINDINGS AND DETERMINATIONS.

(a). The City staff report and City Commission agenda memorandum relating to this matter are hereby adopted as if fully set forth herein.

(b). The City of Daytona Beach Shores has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance.

(c). The foregoing recitals (whereas clauses) are hereby adopted as the legislative findings of the City Commission of the City of Daytona Beach Shores and incorporated into this Ordinance as if set forth *in haec verba*.

(d). This Ordinance is an exercise of the City of Daytona Beach Shores' powers as a municipality under the provisions of Article VIII, Section 2 of the *Constitution of the State of Florida*; Chapter 163, *Florida Statutes*; Chapter 166, *Florida Statutes*, and other applicable law.

SECTION TWO: The City Commission of the City of Daytona Beach Shores hereby amends the *Land Development Code*, Chapter 2, Appendix “G”, *Code of Ordinances of the City of Daytona Beach Shores*, entitled “Definitions” as follows:

CHAPTER 2. DEFINITIONS

Sec. 2-2. General definitions.

~~*Abandon:* Any cessation of an existing use of land or of any structure thereon for a period greater than that specified by this Code, other than a cessation necessarily incident to probate or mortgage foreclosure proceedings, or to the temporary absences of part time residents.~~

Abandon or abandonment of use or structure: To discontinue a use or structure for a period greater than specified by this Code, other than a cessation necessarily incident to probate or mortgage foreclosure proceedings, without demonstrating intent to continue the use. Abandonment of a use or structure may be evidenced by any the following:

- (1) Lapsing of a business tax receipt and/or certificate of use;
- (2) Removal of utility meters;
- (3) The structure is maintained in an uninhabitable condition;
- (4) The structure is not made available for occupation (i.e., lack of advertising or marketing through a licensed realtor or other agent); and/or
- (5) Failure to perform actions pursuant to the terms of an active building permit.

Daily operator: A person employed to manage or operate an established business during normal and regular business hours.

Golf cart: A motor vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes and is not capable of exceeding speeds of 20 miles per hour.

Low-speed vehicle: A four-wheeled vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including, but not limited to, neighborhood electric vehicles. Low-speed vehicles must comply with the safety standards in 49 C.F.R. s. 571.500 and s. 316.2122.

Tour service: A special-purpose passenger vehicle for hire service which uses tour vehicles to transport passengers upon any public road having a posted maximum speed limit of 35 miles per hour.

Tour vehicle: A special-purpose passenger vehicle, designed to transport no more than twelve (12) passengers plus the driver, provided however, low speed vehicles shall be limited to no more than six (6) passengers plus the driver, and used exclusively to transport said passengers from a point of origin to various points of interest and return them to the same or a different specified location. Such term shall not include motorbuses and coaches legitimately engaged in interstate or intercity tourist transportation provided that the transportation commences outside Volusia County, Florida

SECTION THREE: The City Commission of the City of Daytona Beach Shores hereby amends the *Land Development Code*, Chapter 14, Appendix “G”, *Code of Ordinances of the City of Daytona Beach Shores*, entitled “Special exceptions and conditional uses” as follows:

CHAPTER 14.- ZONING REGULATIONS

ARTICLE VIII. SUPPLEMENTARY REGULATIONS

Sec. 14-58. Special exceptions and conditional uses.

14-58.2.1.B. *Live/Work Facilities.*

Any conditional use permit issued for live/work facilities shall be subject to the following criteria:

1. *Administrative Approval.*

- a. The city manager, or designee, shall have the power and authority to notice, review and administratively approve all live/work conditional use applications.
- b. Approvals shall be implemented by means of a development order.
- c. Denials shall be implemented by a denial development order consistent with the provisions of F.S. § 166.033, and other controlling law.

2. *General Requirements.*

- a. Only bona fide owners or daily operators of the business associated with the live/work facility may occupy the living unit portion of the live/work facility.
- b. No portion of a live/work facility may be separately rented or sold as a commercial space for a person or persons not living on the premises, or as a residential space for a person or persons not working on the premises.
- c. All facilities proposing a live/work facility uses must be awarded a business tax receipt and a certificate of use by the city and must maintain such matters in current status. Proof of working status shall be submitted in conjunction with a certificate of use application and provided as requested by the Community Services Director.
- d. Lots or parcels with an approved live/work facility shall not be combined with another lot or parcel containing or proposing an additional live/work facility.
- e. The termination, closing or abandonment of the work or commercial portion of a live/work facility shall cause the immediate revocation of the live/work conditional use permit without any action being taken by the city.

3. *Facility Requirements.*

- a. Live/work facilities shall only be located in singular buildings with two (2) floors on an approved lot or parcel of land.
- b. The live/work facility shall comply with the Florida Building Code and National Fire Prevention Act requirements applicable to the co-location of uses at the particular site.
- c. Live/work facilities may not be changed or converted to residential use greater than the approved work or commercial square footage.
- d. Ground floors shall not be used for residential or living purposes.
- e. Residential units shall have a minimum floor area of ~~eight hundred (800)~~ seven hundred (700) square feet.
- f. Commercial units shall have a minimum floor area of eight hundred (800) square feet.

14-58.2.2 Conditional Uses Permitted in the GC-RD district.

The following uses are permitted as conditional uses in the GC-RD district subject to the provisions of this code.

14-58.2.2.A. Tour service.

1. Tour Service. Tour services may be allowed as a conditional use in the GC-RD zoning district consistent with regulations of this section.

2. Notice, Review and Approval.

a. Administrative Approval: The city manager, or designee, shall have the power and authority to notice, review, and administratively approve tour service conditional use applications provided the regulations of this section are met.

b. Approvals shall be implemented by means of a development order.

c. Denials shall be implemented by a denial development order consistent with the provisions of F.S. § 166.033, and other controlling law.

3. Submission Requirements. In addition to the conditional use application submission requirements of this code, the applicant for a tour service conditional use permit shall submit a restaurant staging plan depicting restaurant elements, including, but not limited to, the placement of tables, chairs, window treatments, and lighting, a building elevation, parking plan, location of ready-for-use and stored tour vehicles, landscape plan, proposed tour route(s), product description of all tour vehicles to be used in operation, and regular business hours for the tour service and restaurant at the time of issuance of a certificate of use.

4. Review Criteria.

a. Proposed development and operations, including parking, shall be consistent with this code.

b. Tour service facilities shall provide a minimum 20% green area in the front yard.

5. Location

a. Tour service facilities shall be located in the "GC-RD" General Commercial-Redevelopment District.

6. Minimum Lot Size

a. Twenty thousand (20,000) square feet.

7. Minimum Lot Width

a. Seventy-five (75) feet.

8. Permitted Accessory Uses.

a. Accessory uses, including storage of tour vehicles and maintenance and servicing of tour vehicles, shall be conducted entirely within a completely enclosed structure completely out of public view from adjacent rights-of-way.

- b. Maintenance and servicing vehicles which are not tour vehicles is prohibited.

9. Parking.

- a. Off-street parking shall be consistent with section 14-48 of this code.
- b. Employee/owner parking shall be in the rear of the property out of public view from adjacent rights-of-way.
- c. Tour vehicles shall not be parked, staged, standing or placed in off-street parking areas or driveways/drive aisles.

10. Signage.

- a. Signage on or through the windows of the principal building shall be limited to twenty-five (25) percent of the total window area.
- b. All other signage shall conform with Chapter 6 of this code.

11. Operation of Tour Service and Appearance Standards.

- a. All facilities proposing tour services shall obtain a valid certificate of use.
- b. Restaurant staging elements shall be in place prior to the issuance of a certificate of use for a tour service facility.
- c. All tour vehicles shall be stored in a completely enclosed building and at no point shall tour vehicles which are not in use be visible from the public right of way.
- d. The operation of a tour service shall not cause a public nuisance and the operation shall not interfere with the circulation of pedestrian or vehicular traffic on adjoining rights of way or offsite destinations or drop-off locations.
- e. A tour service facility shall only be used and operated in conjunction with a bona fide restaurant located on the same property pursuant to the terms and conditions below:
 - (1) A restaurant shall be established within six (6) months of the issuance of a certificate of use for the tour service establishment.
 - (2) A restaurant shall not be abandoned for more than ninety (90) days.
 - i. Notwithstanding the definition of abandonment pursuant to section 2-2 of this code, abandonment of a restaurant use shall also mean the closure of the restaurant during regular business hours for a period of fourteen (14) continuous days or more.
 - ii. A restaurant shall not be considered abandoned for closure due to permitted renovations or rehabilitation of the restaurant.

- iii. The property owner shall notify the Community Services Director in writing when a restaurant use has been abandoned.
- (3) In the event a restaurant will remain abandoned for a period longer than ninety (90) days, the property owner may petition the Community Services Director prior to the ninety (90) day deadline, for a time certain extension to establish the restaurant. Grounds for extensions shall include, but are not limited to, impacts of natural and manmade disasters and the tenant eviction process.
- f. All tour vehicles and accessories shall be maintained in good working condition and comply with the requirements of F.S. Chapter 316, 320, and other controlling law.
- g. Tour service facilities shall comply with the Florida Building Code and National Fire Prevention Act requirements.
- h. Each application to conduct a tour service in a structure that lawfully existed prior to the effective date of this ordinance shall be accompanied by a proposed landscape plan for the property. This plan, upon approval, shall be included as a condition in the development order approving the use.
- i. Each application to conduct a tour service conditional use in a structure built subsequent to the effective date of the ordinance from which this section is derived shall meet the following standards:
 - (1) The principal structure shall be designed, constructed, and treated with a uniform theme or architectural style approved by the city, based upon sound and generally accepted land use planning practices and principles, when elevation is visible from a public right-of-way or a residential district. The burden of proof shall be on the applicant to meet this requirement.
 - (2) Accessory structures, including but not limited to fences, walls, detached buildings and dumpster enclosures, shall be consistent with the approved architectural treatment and style of the principal building so as to create a uniform architectural style and appearance as determined by the city, based upon sound and generally accepted land use planning practices and principles. The burden of proof shall be on the applicant to meet this requirement.
 - (3) Accessory structures noted above and fronting a public right-of-way or a residential district shall be fully treated.

12. Lighting.

- a. Neon lighting on buildings and structures are prohibited and unlawful.
- b. All lighting shall conform to the Volusia County Sea Turtle Lighting Regulations.

c. Glare and direct lighting shall not project offsite.

13. Outdoor Activities.

a. Unless otherwise authorized by this code and permitted by the city, all work activities and storage shall take place in fully enclosed areas.

14. Outdoor Displays.

a. The display of any merchandise, tour vehicle, or accessory outside the principal building is prohibited and unlawful.

b. Outdoor displays and events in conformance with Chapter 16 ³/₄, Sec. 14-60.2., and Sec. 14-60.3 of this code are permitted.

SECTION FOUR: SAVINGS. The prior actions of the City of Daytona Beach Shores relating to the regulation of the matters and uses which are the subject of this Ordinance are hereby ratified and affirmed.

SECTION FIVE: CODIFICATION. The provisions of this Ordinance, including its recitals, shall become and be made a part of the *Code of Ordinances of the City of Daytona Beach Shores, Florida* and the Sections of this Ordinance 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; provided, however, that Sections One, Four, Five, Six, Seven and Eight shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

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

SECTION SEVEN: 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 EIGHT: EFFECTIVE DATE.

This Ordinance shall take effect immediately upon adoption.

CITY OF DAYTONA BEACH SHORES, FLORIDA

NANCY MILLER, MAYOR

KURT SWARTZLANDER, CITY MANAGER

CHERI SCHWAB, CITY CLERK

Approved as to form and legality:

GRETCHEN R. H. VOSE, CITY ATTORNEY

Passed on first reading this _____ day of _____, 2023.

Adopted on second reading this _____ day of _____, 2023.

MINUTES
CITY COMMISSION MEETING
May 23, 2023
3000 Bellemead Drive, Daytona Beach Shores, FL 32118

1. CALL TO ORDER BY MAYOR

Present: Commissioner Mel Lindauer, Mayor Nancy Miller, Commissioner Chris Conomos, Commissioner Richard Bryan, Vice Mayor Michael Politis

Staff: City Manager Kurt Swartzlander, City Clerk Cheri Schwab, City Attorney Paul Waters, Community Services Director Stewart Cruz, Finance Director Lory Irwin, Economic Development and Public Affairs Director Nancy Maddox, and Public Safety Director Michael Fowler.

2. ROLL CALL BY CITY CLERK

3. PRAYER

4. PLEDGE OF ALLEGIANCE

5. CEREMONIAL ITEMS, PRESENTATIONS AND PUBLIC NOTICES:

A. Proclamation for Public Works Week

Mayor Miller read a proclamation declaring the week of May 21st as Public Works Week. The employees in the audience were recognized by the City Commission.

B. Investment Presentation by JPMorgan Chase

Daniele Driscoll from JP Morgan Chase provided an overview of the city's investment portfolio. The city has had the portfolio for approximately one year and the total amount currently invested is \$25,537,000 with a 3.80% yield to maturity.

6. APPROVAL OF MINUTES

A. City Commission Minutes April 25, 2023

VICE MAYOR MICHAEL POLITIS moved, seconded by COMMISSIONER MEL LINDAUER to Approve the City Commission Minutes of April 25, 2023.

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

Yes: Mayor Nancy Miller, Commissioner Mel Lindauer, Commissioner Richard Bryan, Vice

7. CONSENT AGENDA:

- A. Community Services Department Monthly Report - April 2023
- B. Executive Summary Report April 2023
- C. Public Safety April Monthly report
- D. Approval for Mayor to travel for Accreditation Award
- E. Approval of the City of Port Orange - Universal Engineering Sciences, Inc. Piggyback Contract for Building Inspector and Plans Examiner Services
- F. Approval of the Volusia County - LaTour Enerprizes, Inc. d/b/a Economy Electric Company, Inc. Piggyback Contract For Electrical Services
- G. Access Agreement & Construction License For Seawall Construction: Opus Condominium, 2071 S. Atlantic Avenue
- H. Florida Local Government Cybersecurity Grant

COMMISSIONER CHRIS CONOMOS moved, seconded by COMMISSIONER MEL LINDAUER to Approve the consent agenda.

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

Yes: Mayor Nancy Miller, Commissioner Mel Lindauer, Commissioner Richard Bryan, Vice Mayor Michael Politis, Commissioner Chris Conomos

8. OLD BUSINESS:

9. NEW BUSINESS:

A. Ordinance 2023-03: Tour Service Conditional Use and Live/Work Facilities.

The City Attorney read the ordinance by title only. City Planner, Noel Eaton, explained that the proposed ordinance was requested by the commission to amend the Land Development Code to establish a use for tour service and to amend the live-work requirement. All due public notice had been met. The Planning & Zoning Board recommended approval of the ordinance with the condition that a restaurant needed to be open within 9 months of the tour service starting. City staff recommended approval as presented. Mayor Miller was not in favor of allowing 9 months for a restaurant to open, as she wanted both to open at the same time.

VM Politis explained that it was not easy to open or attract a restaurant, especially with the city's low traffic count. He felt it would still be a benefit to the city with just the tour guide business opening. It would be an attraction for tourists. After a brief discussion, the Mayor felt if the front of the building was staged as a restaurant, she could allow 6 months for the business to open. Devon Eskra spoke to the commission. He explained their original thought was a burger/sandwich restaurant but then they were made aware one was opening close by. The contractor who would renovate the space felt it would take 9 months to do so. The question was asked, what would happen if the restaurant were to leave after a few months. Community Services Director Stewart Cruz stated that it would become a Code Enforcement action and given a reasonable time period to comply. Mr. Eskra also stated for the record that he thought he had a verbal contract that was binding on the property when he spoke to the commission a few weeks ago. He did not intend to mislead anyone.

VICE MAYOR MICHAEL POLITIS moved, seconded by COMMISSIONER RICHARD BRYAN to Approve Ordinance 2023-03 on first reading with the following conditions: there must be staging on the property ie, the space looks like it is occupied by a restaurant with window treatment, tables, lighting and landscaping; a restaurant must open within 6 months, in the event that restaurant tenant were to leave, the owner has three months to find a replacement tenant or they can operate an eatery themselves .

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

Yes: Mayor Nancy Miller, Commissioner Mel Lindauer, Commissioner Richard Bryan, Vice Mayor Michael Politis, Commissioner Chris Conomos

B. Non-conforming Sign Removal Incentive Grant Application 12023014: 3060 S. Atlantic Avenue - Christina's Plaza

City Planner Noel Eaton explained that the sign grant was submitted back in December 2022, and should have been placed on the January agenda. All the criteria has been met and the sign is now installed and inspected. There are no current code enforcement violations and the property is eligible for \$2000 in grant funds. Staff recommended approval.

COMMISSIONER CHRIS CONOMOS moved, seconded by COMMISSIONER RICHARD BRYAN to Approve the Non-conforming Sign Removal Incentive Grant for Christina's Plaza in the amount of \$2000.

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

Yes: Mayor Nancy Miller, Commissioner Mel Lindauer, Commissioner Richard Bryan, Vice Mayor Michael Politis, Commissioner Chris Conomos

C. Economic Development Lease Subsidy Grant Application - Bank Heist Experience, LLC

Nancy Maddox, Economic Development Director, explained the details of the lease subsidy grant application. The business would be a new venture for the city and it would fill a building that is currently vacant. The Economic Development Committee met earlier this month and recommended approval of the grant in the amount of \$20,000 over two years. The grant would begin in June 2023 and end in July 2025. The business owner, Michael Babic, gave a brief explanation of the bank heist concept. It will be more than just an escape room. It will have challenges and puzzles to solve with the aid of an employee.

COMMISSIONER CHRIS CONOMOS moved, seconded by COMMISSIONER MEL LINDAUER to approve the Economic Development Lease Subsidy Grant in the amount of \$20,000 for the Bank Heist Experience, LLC.

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

Yes: Mayor Nancy Miller, Commissioner Mel Lindauer, Commissioner Richard Bryan, Vice Mayor Michael Politis, Commissioner Chris Conomos

D. Economic Development Lease Subsidy Grant Application - Riley's Coney House

Nancy Maddox, Economic Development Director, explained the details of the lease subsidy grant application. The Economic Development Committee met earlier this month and recommended approval of the grant in the amount of \$20,000 over the next two years. The grant would begin in June 2023 and end in June 2025. Business owner, Dave Lloyd spoke to the commission. He is moving his restaurant, Riley Coney House, from Port Orange and hopes to open the first week of June. The menu will be expanded to include more seafood choices.

COMMISSIONER MEL LINDAUER moved, seconded by VICE MAYOR MICHAEL POLITIS to Approve the Economic Development Lease Subsidy Grant in the amount of \$20,000 for Riley's Coney House.

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

Yes: Mayor Nancy Miller, Commissioner Mel Lindauer, Commissioner Richard Bryan, Vice Mayor Michael Politis, Commissioner Chris Conomos

E. Sea Wall presentation by Commissioner Bryan

Commissioner Richard Bryan gave a brief presentation detailing the seawall research that he had been compiling. He presented two designs that are being utilized for sea walls, sheet pile and gravity using redi-rock. It is his hope that all properties on the oceanfront have temporary armoring to help with the upcoming hurricane season. The county is providing 2 trap bags for oceanfront properties that have signed an easement for them. It is his opinion that a 3 trap bag configuration would work better. If the county has extra sand leftover, he felt they should add the extra bag to the properties. After a brief discussion, the Mayor requested that the City Manager reach out to the County Manager regarding the possibility of placing a

third trap bag in front of the properties with an easement.

10. REPORTS OF THE CITY ATTORNEY:

Attorney Paul Waters had nothing new to report for the agenda.

11. REPORTS OF THE CITY MANAGER:

City Manager Kurt Swartzlander stated that an unofficial event, Orlando invades Daytona, could occur over the Memorial Day weekend. The public safety officers are ready to respond if large crowds do congregate. He thanked the Public Works Department for the renovations of Veterans Park before the recent Armed Forces Day event.

12. COUNCIL COMMENTS:

Vice Mayor Politis reported on a recent TPO meeting. The main focus of that meeting was to support the governor's initiative to fund road projects. The entire commission felt the recent Armed Forces Day was a great event. Mayor Miller reminded the audience of the free concert on Friday evening. She also reminded the commission that the City Manager evaluations were due by June 1. Coffee with the Mayor in June will be an evening event beginning at 5:00 pm.

13. AUDIENCE REMARKS/PUBLIC COMMENTS:

The new President and CEO of the Port Orange/South Daytona Chamber of Commerce, Barbara Ann Heegan was introduced.

14. ITEMS RECOMMENDED FOR THE NEXT AGENDA:

Mayor Miller requested a workshop before the next meeting to interview a potential Planning & Zoning Board alternate member. Followup report from the CM regarding trapbags.

15. ADJOURNMENT:

The meeting ended at 8:02 pm.

**MAYOR
NANCY MILLER**

**CITY MANAGER
KURT D. SWARTZLANDER**

ATTEST:

CITY CLERK, CHERI SCHWAB

MINUTES
PLANNING & ZONING BOARD MEETING
May 8, 2023
3000 Bellemead Drive Daytona Beach Shores, FL 32118

1. OPENING REMARKS

Present: Member Guy Desai, Member Rick Delange, Member James Lilly, Member Chuck Horion. **Member Excused:** Jeni Groot-Begnaud. **Member Absent:** Rose Ann Tornatore.
Staff: City Clerk Cheri Schwab, City Attorney Paul Waters, Community Services Director Stewart Cruz and City Planner Noel Eaton.

2. MINUTES

A. Planning & Zoning Minutes April 10, 2023

MEMBER CHUCK HORION moved, seconded by MEMBER JAMES LILLY to Approve the Planning & Zoning Minutes of April 10, 2023.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4 No = 0).

Yes: Member Rick Delange, Member Chuck Horion, Member James Lilly, Member Guy Desai

3. QUASI-JUDICIAL HEARING

A. Ordinance 2023-03: Tour Service Conditional Use and Live/Work Facilities.

City Planner Noel Eaton began by stating that the agenda item was not a quasi-judicial item. Board Attorney Paul Waters read the ordinance by title. Ms. Eaton gave a brief review of the proposed amendments that were included in the ordinance. The items included: the definition of tour service, establishing tour service as a conditional use, permit a tour service as a conditional use in the GCRD district, permit a tour service to be approved by the City Manager, create a review and operational criteria for tour services, amend the live/work facility requirements to allow daily operators to occupy the residential component, and finally to amend the live/work facility to require a minimum of seven hundred (700) square feet of residential space. At the April 11th City Commission meeting, they requested staff bring back an ordinance to address the creation of a tour service. They also had a few requirements that included; a restaurant operating on the property with the tour service, additional landscaping requirements, tour vehicles must be parked in the rear of the building, and proof of employment needed to live in the residential apartment. The City Planner provided statistics on the number of properties that could benefit from the proposed amendments. All due public notice had been met and staff recommended approval. Board members asked a few follow-up questions regarding the living/work conditions.

Devon and Danielle Eskra, property owners of 2120 S. Atlantic Avenue, spoke regarding how the potential amendments would benefit their new business. They wish to open a restaurant but it seems there may be a delay with the contractor. They hope to get the tour service open

first and the restaurant will follow 8-9 months later. They are willing to provide a monthly update as commission requests. Both Community Services Director Stewart Cruz and Board Attorney Waters reminded the board that they could recommend approval with a condition on the restaurant opening at a later time. It was also mentioned to keep the motion generic and not specify any one property or business.

MEMBER JAMES LILLY moved, seconded by MEMBER CHUCK HORION to recommend approval to the City Commission of Ordinance 2023-03 with the condition that the restaurant is operating within nine months.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4 No = 0).

Yes: Member Rick DeLange, Member Chuck Horion, Member James Lilly, Member Guy Desai

4. ACTION ITEMS

5. OTHER

6. BOARD COMMENTS

7. ADJOURNMENT

The meeting ended at 8:59 am.

Cheri Schwab, Recording Secretary

Rick DeLange, Chairman

MINUTES
CITY COMMISSION MEETING
April 11, 2023
3000 Bellemead Drive, Daytona Beach Shores, FL 32118

1. CALL TO ORDER BY MAYOR

Present: Mayor Nancy Miller, Commissioner Richard Bryan, Commissioner Mel Lindauer, Vice Mayor Michael Politis, Commissioner Chris Conomos

Staff: City Manager Kurt Swartzlander, City Clerk Cheri Schwab, City Attorney Becky Vose, Community Services Director Stewart Cruz, Finance Director Lory Irwin, Economic Development and Public Affairs Director Nancy Maddox, and Public Safety Director Michael Fowler.

2. ROLL CALL BY CITY CLERK

3. PRAYER

4. PLEDGE OF ALLEGIANCE

5. CEREMONIAL ITEMS, PRESENTATIONS AND PUBLIC NOTICES:

A. Presentation by James Moore Audit firm

James Halleran, partner with James Moore Audit firm, presented the city's annual financial report to the commission. He stated that there were no material weaknesses in internal control over financial reporting and no instance of non-compliance. The city's finances were in a very good position.

6. APPROVAL OF MINUTES

A. City Commission Minutes March 28, 2023

COMMISSIONER MEL LINDAUER moved, seconded by COMMISSIONER CHRIS CONOMOS to Approve the City Commission of Minutes March 28, 2023.

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

Yes: Mayor Nancy Miller, Commissioner Mel Lindauer, Commissioner Richard Bryan, Vice Mayor Michael Politis, Commissioner Chris Conomos

7. CONSENT AGENDA:

- A. Acceptance of AdventHealth Centra Care Exposure Hotline Contract
- B. Access Agreement & Construction License For Seawall Construction: Bella Vista Condominium, 2515 S. Atlantic Avenue
- C. Access Agreement & Construction License For Seawall Construction: Palma Bella Condominium, 3245 S. Atlantic Avenue
- D. Access Agreement & Construction License For Seawall Construction: St. Croix Condominium, 3145 S. Atlantic Avenue
- E. Access Agreement & Construction License For Seawall Construction: St. Kitts Condominium, 2853 S. Atlantic Avenue

COMMISSIONER MEL LINDAUER moved, seconded by VICE MAYOR MICHAEL POLITIS to Approve the consent agenda.

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

Yes: Mayor Nancy Miller, Commissioner Mel Lindauer, Commissioner Richard Bryan, Vice Mayor Michael Politis, Commissioner Chris Conomos

8. REPORTS OF THE CITY ATTORNEY:

The City Attorney had nothing to report for the agenda.

9. REPORTS OF THE CITY MANAGER:

City Manager Kurt Swartzlander provided an update on the dune walk-overs. He also gave a brief update on his recent trip to Tallahassee with Mayor Miller for legislative days.

10. OLD BUSINESS:

- A. Ordinance 2023-01: Repeal of the Supplemental Economic or Tourism Development Incentive Program (AKA The ATR Program)

City Attorney Becky Vose read the ordinance by title. There were no comments or discussion on the item.

COMMISSIONER RICHARD BRYAN moved, seconded by COMMISSIONER MEL LINDAUER to Adopt Ordinance 2023-01 on second reading.

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

Yes: Mayor Nancy Miller, Commissioner Mel Lindauer, Commissioner Richard Bryan, Vice Mayor Michael Politis, Commissioner Chris Conomos

11. NEW BUSINESS:

A. Ordinance 2023-02: Floodplain Management Regulations Update

City Attorney Becky Vose read the ordinance by title. Community Services Director Stewart Cruz explained the proposed ordinance would implement administrative changes needed for the city to maintain its Federal National Flood Insurance Program community rating system status class 5. This classification allows property owners a 25% discount. The proposed changes were drafted by the Florida Department of Emergency Management Office of Flood Management.

COMMISSIONER RICHARD BRYAN moved, seconded by COMMISSIONER MEL LINDAUER to Approve Ordinance 2023-02 on first reading..

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

Yes: Mayor Nancy Miller, Commissioner Mel Lindauer, Commissioner Richard Bryan, Vice Mayor Michael Politis, Commissioner Chris Conomos

B. Joyride Golf Cart Tours Establishment Land Use Proposal: 2120 S. Atlantic Avenue

City Planner Noel Eaton gave a brief presentation on the proposed business. The location is 2120 S. Atlantic Avenue (GC-RD). Mayor Miller inquired if they owned the property and Mr. Eskra replied that they currently have the property under contract. It is the old car wash/Baskin Robbins ice cream location. Devon and Danielle Eskra wish to open a small restaurant in the front of the building and use the rear bays to house golf carts in the back. They would operate a golf cart tour business around the Daytona Beach and Daytona Beach Shores area. This business type is currently not permitted in the district. They would also like to utilize the live/work component for the small upstairs unit. The current code states that the owner must live on the property. The Eskra's would like their manager to live onsite. The live/work component residential area requires a minimum floor area of 800 square feet. The upstairs unit is only 704 square feet. Staff would like direction from the commission in regards to the zoning designation and the live/work requirements. The potential property owners, the Eskra's, also gave a quick presentation of their Joyride experience to the commission. They plan to update all the exterior code violations, install fresh landscaping, and provide outdoor tables with umbrellas. The restaurant would be a lunch and dinner concept. Commissioner Lindauer had a concern with the business manager living onsite instead of the property owner. After a brief discussion, it was decided that an employee contract could be submitted to the city to allow an employee to live onsite. The commission gave staff a consensus to bring back a document to address the code variations.

12. COUNCIL COMMENTS:

Vice Mayor Politis inquired if a representative from Chase Bank could give a presentation regarding the city's investments. Commissioner Bryan felt his recent seawall informational meeting went very well. He had two important take aways from the meeting. First, it is very important to have temporary armoring in place, and second, save money by working with your neighbors to create a contiguous seawall.

13. AUDIENCE REMARKS/PUBLIC COMMENTS:

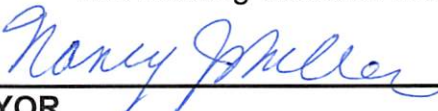
Debra Taylor informed the commission that her condo was having a struggle with getting their seawall permitted. The information that their engineer sent had been declined regarding the height of the seawall. She was advised to have the engineer re-submit information ASAP. Emma Clark from the Port Orange- South Daytona Chamber of Commerce introduced herself.

14. ITEMS RECOMMENDED FOR THE NEXT AGENDA:

There were no additional items added to the next agenda.

15. ADJOURNMENT:

The meeting ended at 7:13 pm.



MAYOR
NANCY MILLER

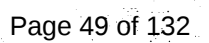


CITY MANAGER
KURT D. SWARTZLANDER

ATTEST:



CITY CLERK, CHERI SCHWAB



	PLANNING STAFF REPORT
SUBJECT:	Ord. 2023-03: Tour Service Conditional Use and Live/Work Facilities.
IMPACTED AREA:	Tour Service Conditional Use: GC-RD Live/Work Facilities Conditional Use: GC-1, GC-2, and GC-RD
APPLICANT:	City of Daytona Beach Shores
CONTACT:	Noel Eaton, City Planner: Tel. (386) 763-5376
SUMMARY:	Ordinance 2023-03 would amend Section 2-2 entitled “General Definitions” and Section 14-58 entitled “Special Exceptions and Conditional Uses,” of the City’s Land Development Code to create associated definitions and conditions of a tour service conditional use in the GC-RD zoning district and amend the live/work facility conditional use requirements.
RECOMMENDATION:	Approval
READING:	2 nd Reading/Adoption

A. BACKGROUND

Small businesses, vacant properties, and tenant spaces have been challenged with changes in local, regional, and national economic and demographic conditions. The City of Daytona Beach Shores is no exception to this fact. Over the past twenty years, the City’s gradual transition from a resort to a more residential community and the aforementioned circumstances, have resulted in many small businesses closing down or relocating; today there are nine (9) vacant parcels and thirteen (13) vacant storefronts in the GC-RD (General Commercial-Redevelopment District) alone and a total of eighteen (18) vacant parcels in all three commercial zoning districts.

Recently, potential buyers have inquired about opening a tour service establishment in the GC-RD to fill a vacant storefront. Currently, the City’s Land Development Code (LDC) does not recognize a tour service use and therefore is not permitted in any zoning district in the city.

On April 11, 2023, at the request of a prospective business, “Joyride Beachside”, the City Commission directed staff to begin work on amending the City’s Land Development Code to permit tour service businesses within GC-RD zoning district and amend the live/work facility requirements (minutes attached). Ordinance 2023-03 articulates the discussion and intent of the City Commission to permit and provide land development regulations regarding tour service conditional uses in the GC-RD.

Further, in 2012 the City Commission approved Ordinance 2012-04 which allowed live/work facilities as conditional uses in commercial zoning districts under certain requirements. Over the

years and even recently, business owners and potential buyers have inquired and requested the authorization of residential components that are less than the minimum 800 square feet required under the current regulations. Over time and through different ownerships, including out of city or even out of state owners, the owner-occupied residential component of the live/work facilities could not support the daily operators of the associated business under the current requirements which states only bona fide owners shall occupy the residential component.

Considering (1) the history of Daytona Beach Shores, (2) requests made, (3) the current and foreseen state of the economy, (4) the layout and built environment of the City, and (5) direction from the City Commission, staff drafted proposed Ordinance 2023-03, which would establish a tour service conditional use with associated requirements and permit owners or daily operators to occupy live/work facilities with a minimum of 700 square feet of residential space in the commercial districts, given certain conditions are met.

On May 23, 2023 the City Commission held 1st reading of Ordinance 2023-03 and directed staff to include regulations related to restaurant staging elements in place at time of certificate of use for a tour service, initial establishment of a restaurant use within six (6) months and re-establishment of a restaurant within ninety (90) days if the original tenant has abandoned the restaurant. While incorporating these changes staff also identified that definition of abandon was not adequate for staff to determine if a use had in fact been abandoned on property. Staff has and clarification to the definition of abandon and abandonment of a use of structure in Section 2-2 of this code.

B. PROPOSED ORDINANCE

The proposed regulations contained in Ordinance 2023-03 (attached) are consistent with the City's adopted Comprehensive Plan Update (2030). Among other things, the proposed ordinance would accomplish the following:

1. Define a tour service.
2. Permit a tour service as a conditional use in the GC-RD District to be approved conditionally by the City Manager, or designee. Existing structures may be used or new structures may be constructed to meet this end.
3. Create a submission, review and operational criteria and regulations governing the establishment and operation of tour service facilities in the GC-RD District.
4. Amend the existing live/work facility requirements to permit owners and daily operators to occupy the residential components of live/work facilities as a conditional use in commercial districts (GC-RD, GC-1 and GC-2 districts), providing specific requirements are met. Existing structures may be used or new structures constructed to meet this end.
5. Amend the existing live/work facility requirements to require a minimum of seven hundred (700) square feet of residential space. Existing structures may be used or new structures constructed to meet this end.

6. Further define abandon and abandonment of a use of structure.
7. Create a six (6) month deadline for a restaurant use to be established in conjunction with a tour service.
8. Create a ninety (90) day deadline in the event a restaurant is abandoned, and a new restaurant shall be established.

Table 1 below provides a summary of the requirements for Ordinance 2023-03 that were requested by the City Commission at the April 11th and May 23rd City Commission meetings.

Table 1: City Commission requested regulations for Ordinance 2023-03.

Requested Regulation	ORD 2023-03
Restaurants uses should be established prior to or in conjunction with a Tour Service.	<u>Tour services may only be permitted in conjunction with a bona fide restaurant establishment.</u>
Increased landscaping and landscaping plan required.	<u>Submission Requirements. In addition to the conditional use application submission requirements of this code, the applicant for a tour service conditional use permit shall submit a restaurant staging plan depicting restaurant elements, including, but not limited to, the placement of tables, chairs, window treatments, and lighting, a building elevation, parking plan, location of ready-for-use and stored tour vehicles, landscape plan, proposed tour route(s), product description of all tour vehicles to be used in operation, and regular business hours for the tour service and restaurant at the time of issuance of a certificate of use.</u> <u>Tour service facilities shall provide a minimum 20% green area in the front yard.</u>
Tour vehicles shall not be seen from the rights of ways.	<u>All tour vehicles shall be stored in a completely enclosed building and at no point shall tour vehicles which are not in use be visible from the public right of way.</u>

Daily operators utilizing live/work facilities shall provide proof of employment.	All facilities proposing a live/work facility uses must be awarded a business tax receipt and a certificate of use permit by the city and must maintain such matters in current status. <u>Proof of working status shall be submitted in conjunction with a certificate of use permit application and provided as requested by the administrative official.</u>
Restaurant staging elements are in place when the tour service is opened.	<u>Submission Requirements. In addition to the conditional use application submission requirements of this code, the applicant for a tour service conditional use permit shall submit a restaurant staging plan depicting restaurant elements, including, but not limited to, the placement of tables, chairs, window treatments, and lighting, a building elevation, parking plan, location of ready-for-use and stored tour vehicles, landscape plan, proposed tour route(s), product description of all tour vehicles to be used in operation, and regular business hours for the tour service and restaurant at the time of issuance of a certificate of use.</u> <u>Restaurant staging elements shall be in place prior to the issuance of a certificate of use for a tour service facility.</u>
A restaurant shall be established within six (6) months of issuance of a certificate of use for tour service. If a restaurant is abandoned, a new restaurant shall be established within ninety (90) days.	<u>A restaurant shall be established within six (6) months of the issuance of a certificate of use for the tour service establishment.</u> <u>A restaurant shall not be abandoned for more than ninety (90) days.</u> <u>Notwithstanding the definition of abandonment pursuant to section 2-2 of this code, abandonment of a restaurant use shall also mean the closure of the restaurant during regular business hours for a period of fourteen (14) continuous days or more.</u> <u>A restaurant shall not be considered abandoned for closure due to permitted renovations or rehabilitation of the restaurant.</u> <u>The property owner shall notify the Community Services Director in writing when a restaurant use has been abandoned.</u> <u>In the event a restaurant will remain abandoned for a period longer than ninety (90) days, the property owner may petition the City Commission prior to</u>

	<u>the ninety (90) day deadline, for a time certain extension to establish the restaurant. Grounds for extensions shall include, but are not limited to, impacts of natural and manmade disasters and the tenant eviction process.</u>
--	--

Note: Underlined text indicates addition to the Land Development Code.

C. SUMMARY ANALYSIS

BENEFITS OF TOUR SERVICES

Tour services have been introduced and regulated in large and small cities throughout the country. Tour services showcase both historic and current tourist attractions. Daytona Beach Shores and its neighboring communities experience tourism and have many diverse tourist attractions including but not limited to, the beaches, historic hotels, restaurants and the overall history and community impacts that are directly related to racing on the beaches in the 1900's. In general, increasing tourism by permitting tour services could lead to the following benefits:

Patron Benefits: Tours are conducted by trained professional drivers and provide point to point service for customers while showcasing historic and current attractions, restaurants, hotels, and amenities that serve the residents and tourists that live in or visit Daytona Beach Shores and its surrounding communities; etc.

Business Benefits: Increased positive business presence and community image by developing relationships with local businesses and restaurants that can be showcased through the tour service; etc.

Community Benefits: Increased tourism and knowledge of the community; economic investment stimulated; community development and enhancement; commercial neighborhoods may become revitalized; empty buildings become occupied; properties are enhanced and better maintained; neighborhoods become vibrant and more appealing; added value to certain properties and overall neighborhood; etc,

BENEFITS OF LIVE/WORK FACILITIES

Live/work facilities have been an integral component of small well-knit communities for years and have operated successfully in Daytona Beach Shores since 2012. Live/work facilities are a form of mixed-use that provides a housing and employment option that is transportation efficient and low impact on adjacent neighborhoods. In general, live/work facilities with residential components that are 700 square feet or more and permit owners and daily operators to utilizes the residential component have similar benefits in the community and could lead to the following benefits:

Patron Benefits: Enhanced shopping experience and lower prices.

Owner/Daily Operator-Business Benefits: Increased savings/profits, increased reliable workforce, no commute resulting in time and fuel/energy savings; positive business and community image, increased security and pride in overall appearance of property; etc.

Community Benefits: Mixed use housing type still maintained; economic investment stimulated; community development and enhancement; neighborhoods may become revitalized; owners or daily operators become stakeholders in community; empty buildings become occupied; properties are enhanced and better maintained; neighborhood becomes vibrant and more appealing; added value to certain properties and overall neighborhood; etc,

PRACTICAL APPLICATION AND POTENTIAL IMPACT

Table 2 below analyzes and provides a summary of the properties in the GC-RD district that could benefit from the tour service conditional use proposed in Ordinance 2023-03 and **Table 3** analyzes and provides a summary of properties in all commercial districts that could benefit from the live/work facility updates proposed in Ordinance 2023-03

Table 2: Tour Service Summary Land Use Analysis-GC-RD.

Land Use	Amount
Vacant storefronts in the GC-RD zoning district.	13
Vacant parcels in the GC-RD zoning district.	9
Vacant commercial parcels/storefronts that meet the minimum lot dimensions for a tour service under Ord. 2023-03	9
Potential properties in the GC-RD district benefiting from Ord. 2023-03	9

Table 3: Live/Work Summary Land Use Analysis-GC-1, GC-2, and GC-RD.

Land Use	Amount
Two-story buildings w/ active residential occupancy* and commercial use	7
Two-story buildings w/ active residential occupancy* and no commercial use	3
Other two-story buildings that could qualify for live/work under Ord. 2023-03	6
Vacant commercial parcels that could qualify for live/work under Ord. 2023-03	18
Potential commercial properties benefiting from Ord. 2023-03	34

Note: * These units are “grandfathered” and it is uncertain how many of these units are owner occupied.

Currently, there are 9 properties in the GC-RD that are vacant or have vacant storefronts that meet both the proposed 75’ foot lot width requirement and the 20,000 square feet lot area requirement and could potentially support a tour service conditional use.

Staff could identify 34 commercial properties that either have a vacant two-story structure, have existing “grandfathered” residential, or are vacant and could benefit from the proposed changes of live/work facilities contained in Ordinance 2023-03.

D. PLANNING AND ZONING BOARD

A public hearing was held before the Planning and Zoning Board on May 8th, 2023. The Board recommended approval of Ordinance 2023-03 with the condition that a Restaurant Use be established on the same property as a Tour Service use within nine (9) months of the issuance of a valid certificate of use for a Tour Service.

E. STAFF RECOMMENDATION

Staff recommends approval of Ordinance 2023-03 as presented.

Zoning Map

City of Daytona Beach Shores, FL

Daytona Beach Shores

1925

Address Numbers

R-9

County Zoning

Zoning Category

RSF-1

RSF-2

RMF-1

RMF-2

RMF-3

T-RMF-1

MXD

PUD

GC-1

GC-2

GC-RD

P

CERTIFICATE OF AUTHENTICITY

This is to certify that this Official Zoning Map supercedes and replaces the Official Zoning Map adopted on April 22, 1987 as part of Ordinance No. 87-21 of Daytona Beach Shores, Florida.

By: _____
Mayor

Attest: _____
City Manager

[City Seal]

Prepared by the Volusia County Metropolitan Planning Organization for the City of Daytona Beach Shores, November 6, 2003. Revised August 30, 2005, June 19, 2008, July 8, 2008, March 11, 2009, January 15, 2010 and March 2, 2010.

Page 57 of 132

Zoning Map

City of Daytona Beach Shores, FL

 Daytona Beach Shores

1925

Address Numbers

R-9

County Zoning

RSF-1

RSF-2

RMF-1

RMF-2

RMF-3

T-RMF-1

MXD

PUD

GC-1

GC-2

GC-RD

P

CERTIFICATE OF AUTHENTICITY

This is to certify that this Official Zoning Map supercedes and replaces the Official Zoning Map adopted on April 22, 1987 as part of Ordinance No. 87-21 of Daytona Beach Shores, Florida.

By: _____
Mayor

Attest: _____
City Manager

[City Seal]

Prepared by the Volusia County Metropolitan Planning Organization for the City of Daytona Beach Shores, November 6, 2003. Revised August 30, 2005, June 19, 2008, July 8, 2008, March 11, 2009, January 15, 2010 and March 2, 2010.

Page 58 of 132

Zoning Map

City of Daytona Beach Shores, FL

Daytona Beach Shores

1925

Address Numbers

R-9

County Zoning

Zoning Category

RSF-1

RSF-2

RMF-1

RMF-2

RMF-3

T-RMF-1

MXD

PUD

GC-1

GC-2

GC-RD

P

0

200

400

600

800

Feet

The map displays a coastal area with various zoning districts. Key streets include SR A1A, S ATLANTIC AVE, RIDGE RD, OCEANS WEST BLVD, BELLEMEAD DR, LIBERTY ST, CRESCENT, VAN AVE, ESPERANZA AVE, S PENINSULA DR, RIVER POINT DR, GLADYS TER, THAMES AVE, DACH AVE, and S PENINSULA DR. The map is color-coded by zoning category: RSF-1 (light yellow), RSF-2 (yellow), RMF-1 (orange with diagonal lines), RMF-2 (orange), RMF-3 (brown), T-RMF-1 (tan), MXD (purple), PUD (blue), GC-1 (red with diagonal lines), GC-2 (red), GC-RD (red with cross-hatch), and P (green). Address numbers are shown along the streets, and the map is bounded by a dashed line representing the city limits.

CERTIFICATE OF AUTHENTICITY

This is to certify that this Official Zoning Map supercedes and replaces the Official Zoning Map adopted on April 22, 1987 as part of Ordinance No. 87-21 of Daytona Beach Shores, Florida.

By: _____
Mayor

Attest: _____
City Manager

[City Seal]

Prepared by the Volusia County Metropolitan Planning Organization for the City of Daytona Beach Shores, November 6, 2003. Revised August 30, 2005, June 19, 2008, July 8, 2008, March 11, 2009, January 15, 2010 and March 2, 2010.

Page 59 of 132

Zoning Map

City of Daytona Beach Shores, FL

Daytona Beach Shores

1925

Address Numbers

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Zoning Map

City of Daytona Beach Shores, FL

Daytona Beach Shores

1925

Address Numbers

R-9

County Zoning

Zoning Category

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RSF-2

RMF-1

RMF-2

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GC-2

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Attest: _____
City Manager

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Prepared by the Volusia County Metropolitan Planning Organization for the City of Daytona Beach Shores, November 6, 2003. Revised August 30, 2005, June 19, 2008, July 8, 2008, March 11, 2009, January 15, 2010 and March 2, 2010.

Page 61 of 132

PROOF OF PUBLICATION

Cheri Schwab
City Of Daytona Beach Shores - Legal
2990 S Atlantic AVE
Daytona Beach FL 32118-6002

STATE OF WISCONSIN, COUNTY OF BROWN

Before the undersigned authority personally appeared, said legal clerk, who, on oath says that he/she is LEGAL COORDINATOR of The News-Journal, a daily and Sunday newspaper, published at Daytona Beach in Volusia and Flagler Counties, Florida; that the attached copy of advertisement, being a Govt Public Notices in the Circuit Court, was published in said newspaper in the issues dated or by publication on the newspaper's website, if authorized, on:

04/28/2023

Affiant further says that The News-Journal is a newspaper published at Daytona Beach, in said Volusia County, Florida, and that the said newspaper has heretofore been continuously published in said Volusia County, Florida each day and Sunday and has been entered as second-class mail matter at the post office in Daytona Beach, in said Volusia County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper. Subscribed and sworn to before on 04/28/2023

Legal Clerk

Notary, State of WI, County of Brown

My commission expires

Publication Cost: \$375.64

Order No: 8748475

Customer No: 465027

PO #:

THIS IS NOT AN INVOICE!

Please do not use this form for payment remittance.

City of Daytona Beach Shores
NOTICE OF PUBLIC HEARING
The City of Daytona Beach Shores, Florida, will hold Public Hearings to consider the following proposed ordinance:

ORDINANCE 2023-03
AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, RELATING TO THE CREATION OF A TOUR SERVICE CONDITIONAL USE; AMENDING THE MUNICIPAL CODE OF ORDINANCES, LAND DEVELOPMENT CODE; AMENDING APPENDIX "G" CHAPTER 2 ENTITLED "DEFINITIONS" BY AMENDING SECTION 2-2 ENTITLED "GENERAL DEFINITIONS" BY CREATING ASSOCIATED DEFINITIONS FOR A TOUR SERVICE CONDITIONAL USE; AMENDING CHAPTER 14 ENTITLED "ZONING REGULATIONS" BY AMENDING SECTION 14-98 ENTITLED "SPECIAL EXCEPTIONS AND CONDITIONAL USES" TO ESTABLISH THE USE AND ASSOCIATED CONDITIONS OF A TOUR SERVICE CONDITIONAL USE IN THE GC-RD (GENERAL COMMERCIAL-REDEVELOPMENT DISTRICT) AND TO AMEND THE GENERAL AND FACILITY REQUIREMENTS OF A LIVE/WORK FACILITY CONDITIONAL USE; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

The public hearings will be held in the City Commission Chambers in the Community Center located at 3000 Belmead Drive, Daytona Beach Shores, Florida as follows:

Planning and Zoning Board: May 8, 2023 at 8:30 am

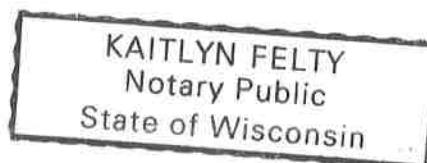
City Council (1st Reading): May 23, 2023 at 6:00pm

City Council (2nd Reading): June 6, 2023 at 6:00pm

All interested parties are invited to appear at this public hearing and submit oral or written objections or comments with respect to the proposed ordinance. The proposed ordinance is available for public inspection at the City of Daytona Beach Shores, Community Services Department, Building & Codes Division, 2990 South Atlantic Avenue, Daytona Beach Shores, Florida.

Anyone who wishes to appeal any decision by the City will need a record of Public Hearing proceedings, including all testimony and evidence, and should arrange in advance for the making of a verbatim transcript of the Public Hearing. The Public Hearing may be continued to one or more dates. The dates, times and places of any continuation of the Public Hearing will be announced at the Public Hearing and no further notice regarding said continuation is required to be published. In accordance with the Americans with Disabilities Act (ADA), persons needing special accommodations to participate in the proceedings should contact the City Clerk's Office no later than seven days prior to the hearing.

LH1748475 4/28/2023 11





CITY COMMISSION AGENDA MEMORANDUM JUNE 13, 2023 AGENDA

TO: Honorable Mayor and Members of the City Commission

FROM: Noel Eaton, Planner

PREPARED BY: Noel Eaton, Planner

SUBJECT: Ordinance 2023-04: Voluntary Annexation - 3038 S. Peninsula Drive

SYNOPSIS:

Charles and Patricia Register, property owners of the unincorporated Volusia County single-family residential property located at 3038 S. Peninsula Drive (Exhibit 1), have petitioned the City of Daytona Beach Shores for voluntary annexation into the City's corporate limits (Exhibit 2) pursuant to Section 171.044, *Florida Statutes*. The owners purchased the property in 2003. If adopted, Ordinance 2023-04 will annex the subject property and adjacent right-of-way into the City limits of Daytona Beach Shores.

FISCAL IMPACT STATEMENT:

Annexation of 3038 S. Peninsula would not have any impact on the current budget year. It has the potential to increase ad valorem tax revenue for future tax years by \$7,156.

BACKGROUND:

The subject property is approximately 0.496 of an acre with dimensions of 75' x 270'. The property contains a single-story single-family residential structure with a total building area of 3,482 sq/ft (Exhibit 3). Pursuant to Section 171.062, *Florida Statutes*, the owners have also submitted applications to amend the future land use and zoning classifications of the property in question to those of the City. The future land use amendment and rezoning ordinances will be adopted subsequent to the formal annexation of the subject property.

Exhibit 4 attached provides a general description of the subject property, while Exhibit 5 demonstrates compliance with the voluntary annexation requirements prescribed in Section 171.044, *Florida Statutes*.

LEGAL REVIEW:

RECOMMENDATION:

Staff recommends approval of Ordinance 2023-04 as presented.

SUGGESTED MOTION:

A City Commissioner may motion as follows:

"I move to approve Ordinance 2023-04 as presented."

- ATTACHMENT:**
1. ORD 2023-04-Voluntary Annexation-3038 South Peninsula Drive
 2. Staff Report & Exhibits-3038 South Peninsula Drive

ORDINANCE NO. 2023-04

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, VOLUSIA COUNTY, FLORIDA, RELATING TO VOLUNTARY ANNEXATION OF REAL PROPERTY LOCATED AT 3038 SOUTH PENINSULA DRIVE (SHORT PARCEL IDENTIFICATION NUMBER 5334-02-02-0160) TOGETHER WITH ASSOCIATED RIGHT-OF-WAYS IN ACCORDANCE WITH SECTION 171.044, *FLORIDA STATUTES*; PROVIDING FOR LEGISLATIVE AND ADMINISTRATIVE FINDINGS; REDEFINING THE BOUNDARIES OF THE CITY; PROVIDING FOR LEGAL EFFECT AND IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY, PROVIDING FOR NON-CODIFICATION AND SETTING AN EFFECTIVE DATE.

WHEREAS, CHARLES D. REGISTER and PATRICIA J. REGISTER, trustees or successor trustee(s) of the REGISTER FAMILY TRUST dated March 18, 2003, property owners, applied for annexation of property into the City of Daytona Beach Shores and is hereby determined to be the fee simple title owner of the real property described below; and

WHEREAS, the said applicants petitioned the City of Daytona Beach Shores, pursuant to Section 171.044, *Florida Statutes*, for annexation of said property into the municipal limits of the City of Daytona Beach Shores; and

WHEREAS, the subject property is currently addressed 3038 South Peninsula Drive; and

WHEREAS, the subject property currently has a Short Tax Parcel Identification Number 5334-02-02-0160; and

WHEREAS, the City of Daytona Beach Shores has determined that all of the property which is proposed to be annexed into the City of Daytona Beach Shores is within an unincorporated area of Volusia County, is reasonably compact and contiguous to the corporate areas of the City of Daytona Beach Shores, Florida and it is further determined that the annexation of said property will not result in the creation of any enclave (and, indeed, logically fills in the City Limits of the City and is consistent with sound principles and practices relating to the delineating of jurisdictional boundaries thereby furthering sound management in terms of the provision of public facilities and services as well as sound land use planning), and it is further determined that the property otherwise fully complies with the requirements of State law and has, further, determined that associated rights-of-way should be annexed hereby; and

WHEREAS, the City Commission of the City of Daytona Beach Shores, Florida has taken all actions in accordance with the requirements and procedures mandated by

State law; and

WHEREAS, the City Commission of the City of Daytona Beach Shores, Florida hereby determines that it is to the advantage of the City of Daytona Beach Shores and in the best interests of the citizens of the City of Daytona Beach Shores to annex the aforescribed property; and

WHEREAS, the provisions of Section 166.031(3), *Florida Statutes*, provide that [a] municipality may, by ordinance and without referendum, redefine its boundaries to include only those lands previously annexed and shall file said redefinition with the Department of State pursuant to the provisions of subsection (2); and

WHEREAS, the provisions of Section 171.091, *Florida Statutes*, provide as follows:

Recording.—Any change in the municipal boundaries through annexation or contraction shall revise the charter boundary article and shall be filed as a revision of the charter with the Department of State within 30 days. A copy of such revision must be submitted to the Office of Economic and Demographic Research along with a statement specifying the population census effect and the affected land area.

; and

WHEREAS, the map attached hereto as Exhibit “A” shows, describes, and depicts the property and named associated rights-of-ways which are hereby annexed into the City of Daytona Beach Shores said Exhibit being incorporated into the substantive provisions of this Ordinance as if fully set forth herein verbatim.

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

SECTION ONE: LEGISLATIVE AND ADMINISTRATIVE FINDINGS/ANNEXATION OF PROPERTIES.

(a). The City Commission of the City of Daytona Beach Shores hereby finds that the recitations set forth are true and correct and that the requirements of Section 171.044, *Florida Statutes*, as well as all other requirements of controlling law, have been complied with in every respect.

(b). Under the authority of Section 166.031 (3), *Florida Statutes*, relating to city charter amendments, “[a] municipality may amend its charter pursuant to this section notwithstanding any charter provisions to the contrary. . . . A municipality may, by ordinance and without referendum, redefine its boundaries to include only those lands previously annexed and shall file said redefinition with the Department of State . . .”

This Ordinance shall amend the boundaries of the City to include the property annexed in this Ordinance.

SECTION TWO: ANNEXATION INTO THE CITY. The real property depicted and described by metes and bounds in Exhibit “A” appended hereto, which Exhibit is made part hereof and which property is owned by the petitioning property owners, and further described as set forth below, together with the associated rights-of-way as described below, is hereby annexed into the City Limits of the City of Daytona Beach Shores, said property being described as follows:

THE SOUTHERLY 75 FEET OF LOTS 15 AND 16, BLOCK 2, ROGERS NORTH ORITA, AS RECORDED IN MAP BOOK 1, PAGE 115, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, AS LIES WESTERLY OF SOUTH PENINSULA DRIVE, A 50 FOOT STREET AS NOW LAID OUT, THE SAID PARCEL LYING NORTHERLY 75 FEET AT RIGHT ANGLES TO THE SOUTHERLY LINE OF SAID LOT 15 EXTENDED WESTERLY TO THE HALIFAX RIVER.

TOGETHER WITH THE WESTERLY 1/2 OF SOUTH PENINSULA DRIVE LYING SOUTHERLY OF THE NORTH LINE OF THE SOUTH 75 FEET LOTS 15 AND 16 AND LYING NORTHERLY OF THE SOUTH LINE OF LOT 15, SAID BLOCK 2, ROGERS NORTH ORITA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

;BEGIN AT THE INTERSECTION OF THE SOUTH LINE OF SAID LOT 15 AND THE CENTERLINE OF SOUTH PENINSULA DRIVE, A 50 FOOT RIGHT OF WAY AS NOW LAID OUT; THENCE WESTERLY ALONG THE SOUTH LINE OF SAID LOT 15 TO THE MEAN HIGH WATER LINE OF THE HALIFAX RIVER; THENCE NORTHERLY ALONG SAID MEAN HIGH WATER LINE TO THE NORTH LINE OF SAID SOUTH 75 FEET LOTS 15 AND 16; THENCE EASTERLY ALONG THE NORTH LINE OF SAID SOUTH 75 FEET LOTS 15 AND 16 TO SAID CENTERLINE OF SOUTH PENINSULA DRIVE; THENCE SOUTHERLY ALONG SAID CENTERLINE TO THE POINT OF BEGINNING.

;

CONTAINING 0.496 ACRES, MORE OR LESS.

SECTION THREE: CHANGE IN CITY BOUNDARIES/LEGAL EFFECT OF ANNEXATION. The boundary lines of the City Limits of the City of Daytona Beach Shores are hereby redefined and, upon the effective date of this Ordinance shall also encompass the annexed property as described herein and depicted in Exhibit “A”. Upon this Ordinance becoming effective, the property owner of the annexed property shall be entitled to all the rights and privileges and immunities as are from time-to-time granted to property owners of the City as further provided in Chapter 171, *Florida Statutes*, and shall further be subject to the responsibilities of ownership as may from time-to-time be determined by the governing authority of the City and the provisions of said Chapter 171, *Florida Statutes*.

SECTION FOUR: ADMINISTRATIVE IMPLEMENTING ACTIONS.

(a). Within seven (7) days of the adoption of this Ordinance, the City Clerk shall file a copy of said Ordinance with the Clerk of the Court (Land Records/Recording), with the Chief Administrative Officer of Volusia County (the County Manager), with the Florida Department of State, and with such other agencies and entities as may be required by law or otherwise desirable.

(b). The City Manager, or designees within City management staff, shall ensure that the property annexed by this Ordinance is incorporated into the City of Daytona Beach Shores *Comprehensive Plan* and the *Official Zoning Map* of the City of Daytona Beach Shores in an expeditious manner and, in accordance with, and pursuant to, the provisions of Under the authority of Section 166.031(3), *Florida Statutes*, the City Manager, or designees, shall amend the boundaries of the City to include the property annexed in this Ordinance and all previously annexed properties in all maps and geographical data relating to the City Limits said properties to include, but not be limited to, annexed rights-of-way and natural features.

SECTION FIVE: CONFLICTS. Any and all ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION SIX: SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this Ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby.

SECTION SEVEN: NON-CODIFICATION. This Ordinance shall not be codified in the *City Code of the City of Daytona Beach Shores*, or the *Land Development Code of the City of Daytona Beach Shores*, or the *City of Daytona Beach Shores Comprehensive Plan* provided, however, that the actions taken herein shall be depicted on the pertinent maps of the City of Daytona Beach Shores by the City Manager, or designee.

SECTION EIGHT: EFFECTIVE DATE. This Ordinance shall take effect immediately upon its passage and adoption.

CITY OF DAYTONA BEACH SHORES, FLORIDA

NANCY MILLER, MAYOR

KURT SWARTZLANDER, CITY MANAGER CHERI SCHWAB, CITY CLERK

Approved as to form and legality:

Ordinance 2023-04
Page No.4

GRETCHEN R. H. VOSE, CITY ATTORNEY

Passed on first reading this _____ day of _____, 2023.

Adopted on second reading this _____ day of _____, 2023.

EXHIBIT A

(1) Location Map of Annexing Property (3038 S. Peninsula Drive)



(2) Metes and Bounds Description/Sketch (Attached)

EXHIBIT 1: Location Map of Annexing Property (3038 S. Peninsula Drive)



Source: Volusia County Property Appraiser Website, 2023

EXHIBIT 2
A: Annexation Application



City of Daytona Beach Shores

Building & Codes Division
2990 S. Atlantic Avenue
Daytona Beach Shores, FL 32118
Telephone (386) 763-5377 Fax (386) 763-5370

413219

12023018
REQUEST FOR ANNEXATION

RECEIVED

MAY 04 2023

BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

5-3-2023
(Date)

I (We) the undersigned am the sole property owner(s) of 3038 S Peninsula, Volusia County, Florida.
(Street Address)

Parcel: 5334-02-02-0160

By this letter, I (We) am requesting annexation into the City of Daytona Beach Shores, Florida. It is my (our) understanding that the fee for legal advertising has been waived by the City and that I (we) will not incur any costs for annexation.

Signed,

Charles Register
Signature

Charles Register
Name (Printed or typed)

5-3-2023
Telephone

Patricia Register
Signature

Patricia Register
Name (Printed or typed)

5-3-2023
Telephone

Signature

Name (Printed or typed)

Telephone

SWORN to and subscribed before me this 3 day of May, 2023 by Charles + Patricia Register, who is personally known to me or produced Identification ☒. Type of Identification provided FL Driver License.

Darling
Notary Public – State of Florida
My Commission Expires: 09-07-2024

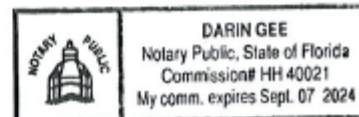


EXHIBIT 2

B: Property Appraiser Website Owner Information



Volusia County Property Appraiser
123 W. Indiana Ave., Rm. 102
DeLand, FL 32720
Phone: (386) 736-5901 Web: vcpa.vcgov.org

Property Summary

Alternate Key:	3460278
Parcel ID:	533402020160
Township-Range-Section:	15 - 33 - 34
Subdivision-Block-Lot:	02 - 02 - 0160
Business Name:	
Owner(s):	REGISTER CHARLES D TR - TR - Trust - 100% CHARLES & PATRICIA REGISTER TR - TR - Trust - 100% REGISTER PATRICIA J TR - TR - Trust - 100% CHARLES & PATRICIA REGISTER TR - TR - Trust - 100%
Mailing Address On File:	3038 S PENINSULA DR DAYTONA BEACH FL 32118
Physical Address:	3038 S PENINSULA DR, DAYTONA BEACH 32118
Building Count:	1
Neighborhood:	3059 - RIVER (HALIFAX) GOVT LT 2
Subdivision Name:	
Property Use:	0100 - SINGLE FAMILY
Tax District:	200-UNINCORPORATED - NORTHEAST
2022 Final Millage Rate:	18.2602
Homestead Property:	Yes
Agriculture Classification:	No
Short Description:	S 75 FT OF LOTS 15 & 16 W OF PEN DR & FILLED IN LAND W OF SA ME & RIP RTS BLK 2 ROGERS NORTH ORITA MB 1 PG 115 PER OR 508 3 PG 0194 PER OR 6363 PGS 0472-0473 PER OR 6365 PGS 3391-339

Property Values

Tax Year:	2023 Working	2022 Final	2021 Final
Valuation Method:	1-Market Oriented Cost	1-Market Oriented Cost	1-Market Oriented Cost
Improvement Value:	\$403,367	\$306,152	\$206,594
Land Value:	\$333,300	\$333,300	\$310,575
Just/Market Value:	\$736,667	\$639,452	\$517,169

Working Tax Roll Values by Taxing Authority

EXHIBIT 3

A: Aerial View of Annexing Property (3038 S. Peninsula Drive.)



Source: Volusia County Property Appraiser Website, 2023

EXHIBIT 3

B: Street View of Annexing Property (3038 S. Peninsula Drive)



Source: GoogleMaps, 2022

**EXHIBT 4
PRE-ANNEXATION FORM**

Name of Property Owner: Charles and Patricia Register Trust

Property Address/Tax Parcel ID: 3038 S Peninsula Drive / 5334-02-02-0160

Lot Size: 75' x 270' = 0.496 acres

According to Volusia County property records, does this property appear to meet Section 171.044 of Florida Statutes? Yes X No _____

How is property contiguous? East _____ West _____ North X South _____

Property Appraiser Just/Market Value: \$736,667

Homesteaded Property: Yes X No _____

Special Flood Hazard Area? Yes X No _____

Property is located in Zone AE and Zone X 0.2% Annual Chance Flood Hazard Area
Special Flood Hazard Area is approximately 35 feet east of rear property line. Existing structure is approximately 81 feet east of rear property line. Structure and accessory uses (pool) are not located within a special flood hazard area.

Improved Lot X Unimproved Lot (Vacant) _____

Existing Use: Single-family Residential

Conforming Land Use: X Non-Conforming Land Use: _____ Explain:

Existing County Zoning: R-3 Urban Single-Family Residential

Existing County Land Use: Urban Low Intensity

Condition of Property: Poor _____ Good X Excellent _____

Water: Port Orange X Daytona Beach _____

Sanitary: Sewer X (DBS) Septic Tank _____

If septic tank on site, is sewer available? _____ Yes _____ No _____

Metes and Bounds Survey conducted? Yes X No _____

Open Code Enforcement Cases/Violations? Yes _____ No X

Prepared by: Noel Eaton, City Planner Date: June 1, 2023

EXHIBIT 5: Voluntary Annexation Criteria pursuant to Section 171.044, *Florida Statutes*

Section	Annexation Criteria	Criteria Met	Comments
171.044(1)	Property must be contiguous to the City.	Yes	Per Sec. 171.031(11), subject property is contiguous to the City to the north.
171.044(1)	Property must be reasonably compact.	Yes	Per Sec. 171.031(12), subject property is reasonably compact and will not create new enclaves, pockets or finger areas in serpentine patterns. In addition, the annexation will aid in reducing the larger county enclave in the vicinity.
171.044(2)	Petition bears the signatures of all owners of property.	Yes	See Exhibit 2 .
171.044(2)	Meet publication requirements.	Yes	Evidence filed with the Office of the City Clerk.
171.044(3)	Ordinance shall be filed per statute.	Pending	Ordinance filing will occur per statutory deadline subsequent to the Ordinance's adoption.
171.044(3)	Ordinance shall include a map and legal description by metes and bounds.	Yes	See Ordinance 2023-04.
171.044(4)	Annexation method shall be supplemental to any other procedure provided by general law.	N/A	
171.044(5)	Annexation shall not create enclaves.	Yes	Per Sec. 171.031(13), subject property does not create an enclave. In fact the annexation will reduce the larger County enclave that currently exists in this area.
171.044(6)	Provision of notice to County Commissioners per statute.	Yes	Notice provided via certified mail per statutory requirement.



CITY COMMISSION AGENDA MEMORANDUM JUNE 13, 2023 AGENDA

TO: Honorable Mayor and Members of the City Commission

FROM: Noel Eaton, Planner

PREPARED BY: Noel Eaton, Planner

SUBJECT: Ordinance 2023-05: Voluntary Annexation - 3040 S. Peninsula Drive

SYNOPSIS:

Charles and Brandea Steffy, property owners of the unincorporated Volusia County single-family residential property located at 3040 S. Peninsula Drive (Exhibit 1), have petitioned the City of Daytona Beach Shores for voluntary annexation into the City's corporate limits (Exhibit 2) pursuant to Section 171.044, *Florida Statutes*. The owners purchased the property in March 2023. If adopted, Ordinance 2023-05 will annex the subject property and adjacent right-of-way into the City limits of Daytona Beach Shores.

FISCAL IMPACT STATEMENT:

Annexation of 3040 S. Peninsula will have no impact on the current budget year. It does have the potential to increase future ad valorem tax revenue by \$10,946.

BACKGROUND:

The subject property is approximately 0.640 of an acre with dimensions of 100' x 257'. The property contains a single-story single-family residential structure with a total building area of 3,446 sq/ft (Exhibit 3). Pursuant to Section 171.062, *Florida Statutes*, the owners have also submitted applications to amend the future land use and zoning classifications of the property in question to those of the City. The future land use amendment and rezoning ordinances will be adopted subsequent to the formal annexation of the subject property.

Exhibit 4 attached provides a general description of the subject property, while Exhibit 5 demonstrates compliance with the voluntary annexation requirements prescribed in Section 171.044, *Florida Statutes*.

LEGAL REVIEW:

RECOMMENDATION:

Staff recommends approval of Ordinance 2023-05 as presented.

SUGGESTED MOTION:

A City Commissioner may motion as follows:

"I move to approve Ordinance 2023-05 as presented."

- ATTACHMENT:**
1. Ord 2023-05-Voluntary Annexation-3040 South Peninsula Drive
 2. Staff Report & Exhibits-3040 South Peninsula Drive

ORDINANCE NO. 2023-05

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, VOLUSIA COUNTY, FLORIDA, RELATING TO VOLUNTARY ANNEXATION OF REAL PROPERTY LOCATED AT 3040 SOUTH PENINSULA DRIVE (SHORT PARCEL IDENTIFICATION NUMBER 5334-02-02-0130) TOGETHER WITH ASSOCIATED RIGHT-OF-WAYS IN ACCORDANCE WITH SECTION 171.044, *FLORIDA STATUTES*; PROVIDING FOR LEGISLATIVE AND ADMINISTRATIVE FINDINGS; REDEFINING THE BOUNDARIES OF THE CITY; PROVIDING FOR LEGAL EFFECT AND IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY, PROVIDING FOR NON-CODIFICATION AND SETTING AN EFFECTIVE DATE.

WHEREAS, Charles and Brandea Steffy, property owners, applied for annexation of property into the City of Daytona Beach Shores and is hereby determined to be the fee simple title owner of the real property described below; and

WHEREAS, the said applicants petitioned the City of Daytona Beach Shores, pursuant to Section 171.044, *Florida Statutes*, for annexation of said property into the municipal limits of the City of Daytona Beach Shores; and

WHEREAS, the subject property is currently addressed 3038 South Peninsula Drive; and

WHEREAS, the subject property currently has a Short Tax Parcel Identification Number 5334-02-02-0130; and

WHEREAS, the City of Daytona Beach Shores has determined that all of the property which is proposed to be annexed into the City of Daytona Beach Shores is within an unincorporated area of Volusia County, is reasonably compact and contiguous to the corporate areas of the City of Daytona Beach Shores, Florida and it is further determined that the annexation of said property will not result in the creation of any enclave (and, indeed, logically fills in the City Limits of the City and is consistent with sound principles and practices relating to the delineating of jurisdictional boundaries thereby furthering sound management in terms of the provision of public facilities and services as well as sound land use planning), and it is further determined that the property otherwise fully complies with the requirements of State law and has, further, determined that associated rights-of-way should be annexed hereby; and

WHEREAS, the City Commission of the City of Daytona Beach Shores, Florida has taken all actions in accordance with the requirements and procedures mandated by State law; and

WHEREAS, the City Commission of the City of Daytona Beach Shores, Florida hereby determines that it is to the advantage of the City of Daytona Beach Shores and in the best interests of the citizens of the City of Daytona Beach Shores to annex the aforescribed property; and

WHEREAS, the provisions of Section 166.031(3), *Florida Statutes*, provide that [a] municipality may, by ordinance and without referendum, redefine its boundaries to include only those lands previously annexed and shall file said redefinition with the Department of State pursuant to the provisions of subsection (2); and

WHEREAS, the provisions of Section 171.091, *Florida Statutes*, provide as follows:

Recording.—Any change in the municipal boundaries through annexation or contraction shall revise the charter boundary article and shall be filed as a revision of the charter with the Department of State within 30 days. A copy of such revision must be submitted to the Office of Economic and Demographic Research along with a statement specifying the population census effect and the affected land area.

; and

WHEREAS, the map attached hereto as Exhibit “A” shows, describes, and depicts the property and named associated rights-of-ways which are hereby annexed into the City of Daytona Beach Shores said Exhibit being incorporated into the substantive provisions of this Ordinance as if fully set forth herein verbatim.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, as follows:

SECTION ONE: LEGISLATIVE AND ADMINISTRATIVE FINDINGS/ANNEXATION OF PROPERTIES.

(a). The City Commission of the City of Daytona Beach Shores hereby finds that the recitations set forth are true and correct and that the requirements of Section 171.044, *Florida Statutes*, as well as all other requirements of controlling law, have been complied with in every respect.

(b). Under the authority of Section 166.031 (3), *Florida Statutes*, relating to city charter amendments, “[a] municipality may amend its charter pursuant to this section notwithstanding any charter provisions to the contrary. . . . A municipality may, by ordinance and without referendum, redefine its boundaries to include only those lands previously annexed and shall file said redefinition with the Department of State . . .” This Ordinance shall amend the boundaries of the City to include the property annexed in this Ordinance.

SECTION TWO: ANNEXATION INTO THE CITY. The real property depicted and described by metes and bounds in Exhibit “A” appended hereto, which Exhibit is made part hereof and which property is owned by the petitioning property owners, and further described as set forth below, together with the associated rights-of-way as described below, is hereby annexed into the City Limits of the City of Daytona Beach Shores, said property being described as follows:

LOTS 13 AND 14, BLOCK 2, LYING WESTERLY OF SOUTH PENINSULA DRIVE, ROGERS NORTH ORITA, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN MAP BOOK 1, PAGE 115, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

TOGETHER WITH THE WESTERLY 1/2 OF SOUTH PENINSULA DRIVE LYING SOUTHERLY OF THE NORTH LINE OF LOT 14 AND LYING NORTHERLY OF THE SOUTH LINE OF LOT 13, SAID BLOCK 2, ROGERS NORTH ORITA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

;
BEGIN AT THE INTERSECTION OF THE SOUTH LINE OF SAID LOT 13 AND THE CENTERLINE OF SOUTH PENINSULA DRIVE, A 50 FOOT RIGHT OF WAY AS NOW LAID OUT; THENCE WESTERLY ALONG THE SOUTH LINE OF OF SAID LOT 13 TO THE MEAN HIGH WATER LINE OF THE HALIFAX RIVER; THENCE NORTHERLY ALONG SAID MEAN HIGH WATER LINE TO THE NORTH LINE OF SAID LOT 14; THENCE EASTERLY ALONG THE NORTH LINE OF SAID LOT 14 TO SAID CENTERLINE OF SOUTH PENINSULA DRIVE; THENCE SOUTHERLY ALONG SAID CENTERLINE TO THE POINT OF BEGINNING.

CONTAINING 0.640 ACRES, MORE OR LESS.

SECTION THREE: CHANGE IN CITY BOUNDARIES/LEGAL EFFECT OF ANNEXATION. The boundary lines of the City Limits of the City of Daytona Beach Shores are hereby redefined and, upon the effective date of this Ordinance shall also encompass the annexed property as described herein and depicted in Exhibit “A”. Upon this Ordinance becoming effective, the property owner of the annexed property shall be entitled to all the rights and privileges and immunities as are from time-to-time granted to property owners of the City as further provided in Chapter 171, *Florida Statutes*, and shall further be subject to the responsibilities of ownership as may from time-to-time be determined by the governing authority of the City and the provisions of said Chapter 171, *Florida Statutes*.

SECTION FOUR: ADMINISTRATIVE IMPLEMENTING ACTIONS.

(a). Within seven (7) days of the adoption of this Ordinance, the City Clerk shall file a copy of said Ordinance with the Clerk of the Court (Land Records/Recording), with the Chief Administrative Officer of Volusia County (the County Manager), with the Florida

Department of State, and with such other agencies and entities as may be required by law or otherwise desirable.

(b). The City Manager, or designees within City management staff, shall ensure that the property annexed by this Ordinance is incorporated into the City of Daytona Beach Shores *Comprehensive Plan* and the *Official Zoning Map* of the City of Daytona Beach Shores in an expeditious manner and, in accordance with, and pursuant to, the provisions of Under the authority of Section 166.031(3), *Florida Statutes*, the City Manager, or designees, shall amend the boundaries of the City to include the property annexed in this Ordinance and all previously annexed properties in all maps and geographical data relating to the City Limits said properties to include, but not be limited to, annexed rights-of-way and natural features.

SECTION FIVE: CONFLICTS. Any and all ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION SIX: SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this Ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby.

SECTION SEVEN: NON-CODIFICATION. This Ordinance shall not be codified in the *City Code of the City of Daytona Beach Shores*, or the *Land Development Code of the City of Daytona Beach Shores*, or the *City of Daytona Beach Shores Comprehensive Plan* provided, however, that the actions taken herein shall be depicted on the pertinent maps of the City of Daytona Beach Shores by the City Manager, or designee.

SECTION EIGHT: EFFECTIVE DATE. This Ordinance shall take effect immediately upon its passage and adoption.

CITY OF DAYTONA BEACH SHORES, FLORIDA

NANCY MILLER, MAYOR

KURT SWARTZLANDER, CITY MANAGER CHERI SCHWAB, CITY CLERK

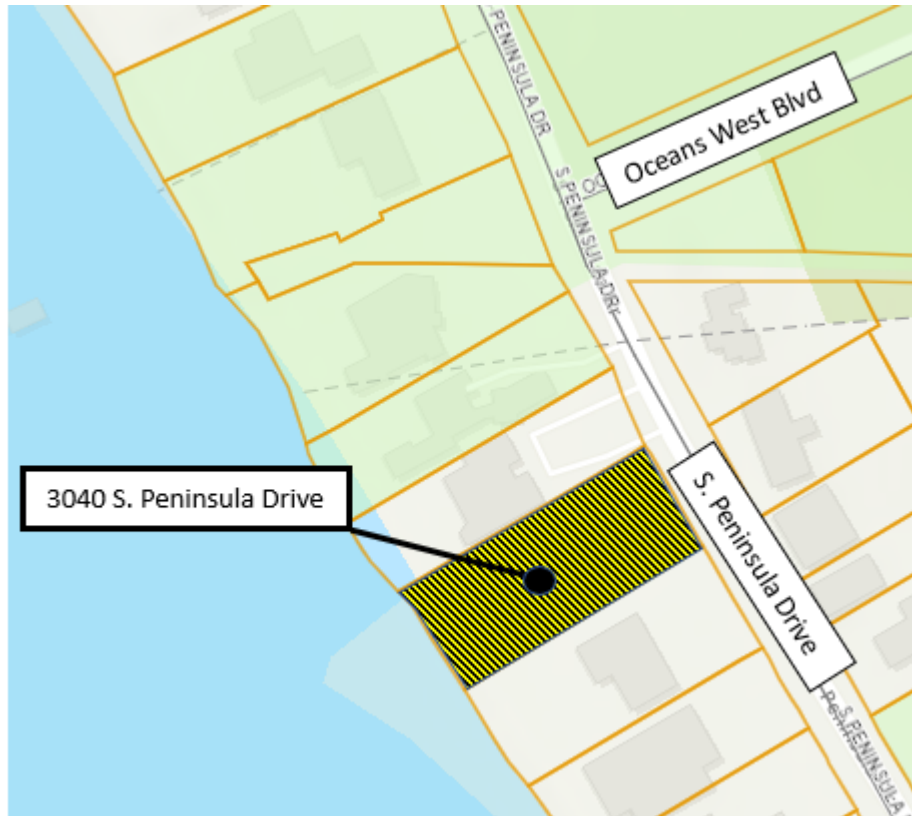
Approved as to form and legality:

GRETCHEN R. H. VOSE, CITY ATTORNEY

Passed on first reading this _____ day of _____, 2023.
Adopted on second reading this _____ day of _____, 2023.

EXHIBIT A

(1) Location Map of Annexing Property (3040 S. Peninsula Drive)



(2) Metes and Bounds Description/Sketch (Attached)

SKETCH OF DESCRIPTION

NORTH LINE OF SECTION 34 (DUE EAST)



BLOCK 2
RODGERS NORTH ORITA
MB 1, PG 115

CENTERLINE SOUTH PENINSULA DRIVE

LOT 16

55.5'(P)

LOT 15

EASTERLY

50'(P)

50'(P)

N. LINE LOT 14
LOT 14

±257'

LOT 13

S. LINE LOT 13

POINT OF BEGINNING

50'(P)

WESTERLY

±250'

LOT 12

50'(P)

LOT 11

MEAN HIGH WATER LINE
NORTHERLY

HALIFAX RIVER
EAST SHORE HALIFAX RIVER

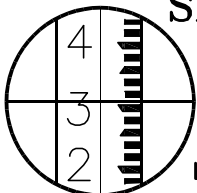
SKETCH OF DESCRIPTION ONLY
THIS IS NOT A BOUNDARY SURVEY

PROJECT: RODGERS NORTH ORITA
CLIENT: CITY OF DAYTONA BEACH SHORES

SCALE: 1"=50'
DATE: MAY 15, 2023

LEGEND / ABBREVIATIONS

—	CHANGE IN DIRECTION
R/W	RIGHT OF WAY
CL	CENTERLINE
Δ	CENTRAL ANGLE
R	RADIUS
L	ARC LENGTH
(P)	PLAT
LB	LICENCED BUSINESS
N	NORTH
S	SOUTH
E	EAST
W	WEST



SLIGER & ASSOCIATES, INC.

PROFESSIONAL LAND SURVEYORS

3921 NOVA ROAD
PORT ORANGE, FL. 32127
(386) 761-5385

LICENSED BUSINESS CERTIFICATION NUMBER 3019

www.sligerassociates.com

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JOB NO. 23-0439A

SHEET 1 OF 2

SKETCH OF DESCRIPTION

SURVEYOR'S NOTES:

1. THIS IS NOT A BOUNDARY SURVEY. THIS IS A SKETCH OF DESCRIPTION.
2. BEARING STRUCTURE IS BASED ON RECORD PLAT WITH THE NORTH LINE OF SECTION 34, HAVING A BEARING OF (DUE EAST) N90°00'00"E.
3. THIS SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OR A VALID ELECTRONIC SIGNATURE OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
4. THIS DESCRIPTION HAS BEEN CREATED BY SLIGER & ASSOCIATES INC., PER CLIENT REQUEST.
5. THIS SKETCH IS A SET AND IS NOT VALID WITHOUT ALL SHEETS INCLUDING SHEETS 1 THROUGH 2.
6. THIS SKETCH OF DESCRIPTION IS BASED ON THE PLAT OF RODGERS NORTH ORITA, MAP BOOK 1, PAGE 115.

DESCRIPTION:

LOTS 13 AND 14, BLOCK 2, LYING WESTERLY OF SOUTH PENINSULA DRIVE, ROGERS NORTH ORITA, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN MAP BOOK 1, PAGE 115, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

TOGETHER WITH THE WESTERLY 1/2 OF SOUTH PENINSULA DRIVE LYING SOUTHERLY OF THE NORTH LINE OF LOT 14 AND LYING NORTHERLY OF THE SOUTH LINE OF LOT 13, SAID BLOCK 2, ROGERS NORTH ORITA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE INTERSECTION OF THE SOUTH LINE OF SAID LOT 13 AND THE CENTERLINE OF SOUTH PENINSULA DRIVE, A 50 FOOT RIGHT OF WAY AS NOW LAID OUT; THENCE WESTERLY ALONG THE SOUTH LINE OF OF SAID LOT 13 TO THE MEAN HIGH WATER LINE OF THE HALIFAX RIVER; THENCE NORTHERLY ALONG SAID MEAN HIGH WATER LINE TO THE NORTH LINE OF SAID LOT 14; THENCE EASTERLY ALONG THE NORTH LINE OF SAID LOT 14 TO SAID CENTERLINE OF SOUTH PENINSULA DRIVE; THENCE SOUTHERLY ALONG SAID CENTERLINE TO THE POINT OF BEGINNING.

CONTAINING 0.640 ACRES, MORE OR LESS.

THIS SKETCH OF DESCRIPTION IS CERTIFIED TO AND PREPARED FOR THE SOLE AND EXCLUSIVE BENEFIT OF THE ENTITIES AND OR INDIVIDUALS LISTED BELOW, ON THE MOST CURRENT DATE, AND SHALL NOT BE RELIED UPON BY ANY OTHER ENTITY OR INDIVIDUAL WHOMSOEVER.

CERTIFIED TO:

CITY OF DAYTONA BEACH SHORES

I HEREBY CERTIFY THAT THIS SKETCH MEETS THE STANDARDS OF PRACTICE SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.

JEFF W. BARNES P.S.M. NO. 5576

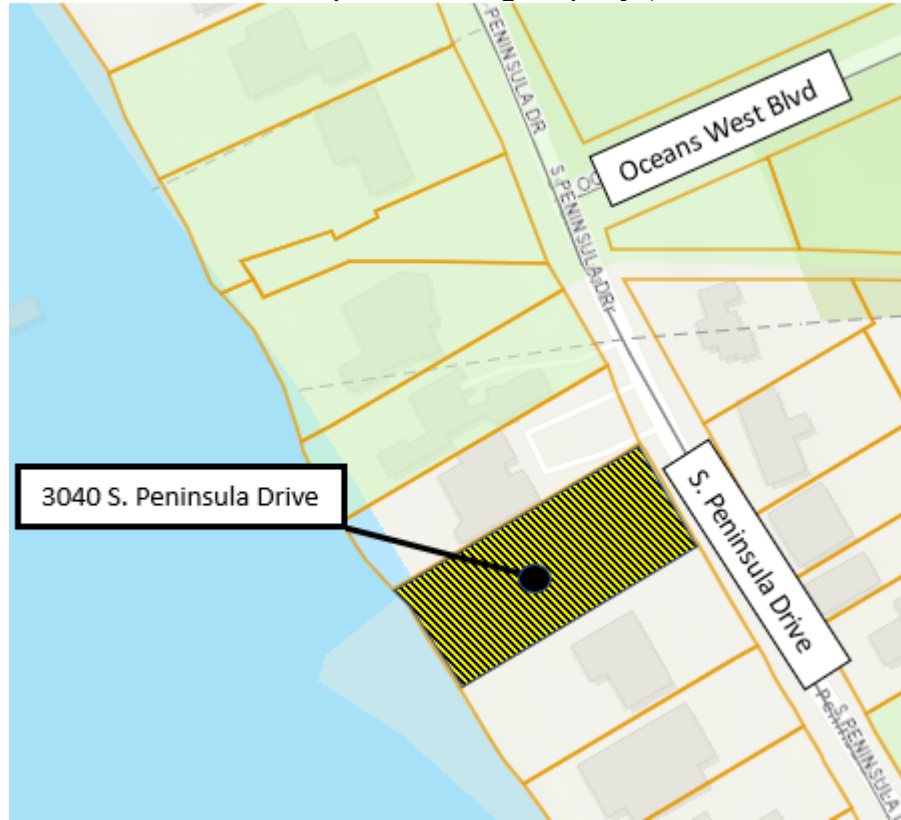
PROJECT: RODGERS NORTH ORITA
CLIENT: CITY OF DAYTONA BEACH SHORES

SCALE: N/A
DATE: MAY 15, 2023

DRAWN BY: J. MOLLER

JOB NO. 23-0439A SHEET 2 OF 2

EXHIBIT 1: Location Map of Annexing Property (3040 S. Peninsula Drive)



Source: Volusia County Property Appraiser Website, 2023

EXHIBIT 2
A: Annexation Application



City of Daytona Beach Shores

Building & Codes Division
2990 S. Atlantic Avenue
Daytona Beach Shores, FL 32118
Telephone (386) 763-5377 Fax (386) 763-5370

REQUEST FOR ANNEXATION

RECEIVED

MAY 04 2023

BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

413218

5/4/23
(Date)

I (We) the undersigned am the sole property owner(s) of 3040 S Peninsula Dr., Volusia
County, Florida.
(Street Address) Daytona Beach

Parcel: 5334-02-02-0130

By this letter, I (We) am requesting annexation into the City of Daytona Beach Shores, Florida.
It is my (our) understanding that the fee for legal advertising has been waived by the City and
that I (we) will not incur any costs for annexation.

Signed,

[Signature]
Signature

Charles Steffy
Name (Printed or typed)

407-716-4329
Telephone

[Signature]
Signature

Brandea Steffy
Name (Printed or typed)

407-716-4330
Telephone

Signature

Name (Printed or typed)

Telephone

SWORN to and subscribed before me this 4 day of May, 2023 by
Charles + Brandea Steffy who is personally known to me or produced
Identification X. Type of Identification provided FL Driver License.

[Signature]

Notary Public -- State of Florida
My Commission Expires:



Please return this form to: Annexation Committee
c/o Planning Department
City of Daytona Beach Shores
2990 S. Atlantic Avenue
Daytona Beach Shores, FL 32118

EXHIBIT 2

B: Property Appraiser Website Owner Information



Volusia County Property Appraiser
 123 W. Indiana Ave., Rm. 102
 DeLand, FL. 32720
 Phone: (386) 736-5901 Web: vcpa.vcgov.org

Property Summary

Alternate Key:	3460243
Parcel ID:	533402020130
Township-Range-Section:	15 - 33 - 34
Subdivision-Block-Lot:	02 - 02 - 0130
Business Name:	
Owner(s):	STEFFY CHARLES M - TE - Tenancy in the Entirety - 100% STEFFY BRANDEA L - TE - Tenancy in the Entirety - 100%
Mailing Address On File:	3040 S PENINSULA DR DAYTONA BEACH FL 32118 5912
Physical Address:	3040 S PENINSULA DR, DAYTONA BEACH 32118
Building Count:	1
Neighborhood:	3059 - RIVER (HALIFAX) GOVT LT 2
Subdivision Name:	
Property Use:	0100 - SINGLE FAMILY
Tax District:	200-UNINCORPORATED - NORTHEAST
2022 Final Millage Rate:	18.2602
Homestead Property:	No
Agriculture Classification:	No
Short Description:	LOTS 13 & 14 W OF PEN DR BLK 2 ROGERS NORTH ORITA MB 1 PG 11 S & RIP RIGHTS PER OR 3310 PG 1971 PER OR 3731 PG 4717 PER O R 6167 PGS 3629-3630 PER OR 6173 PGS 2963-2966 INC PER OR 83

Property Values

Tax Year:	2023 Working	2022 Final	2021 Final
Valuation Method:	1-Market Oriented Cost	1-Market Oriented Cost	1-Market Oriented Cost
Improvement Value:	\$344,184	\$273,361	\$192,048
Land Value:	\$418,000	\$418,000	\$389,500
Just/Market Value:	\$762,184	\$691,361	\$581,548

Working Tax Roll Values by Taxing Authority

EXHIBIT 3

A: Aerial View of Annexing Property (3040 S. Peninsula Drive.)



Source: Volusia County Property Appraiser Website, 2023

EXHIBIT 3

B: Street View of Annexing Property (3040 S. Peninsula Drive)



Source: GoogleMaps, 2022

**EXHIBT 4
PRE-ANNEXATION FORM**

Name of Property Owner: Charles and Brandea Steffy

Property Address/Tax Parcel ID: 3040 S Peninsula Drive / 5334-02-02-0130

Lot Size: 100' x 257' = 0.640 acres

According to Volusia County property records, does this property appear to meet Section 171.044 of Florida Statutes? Yes X No _____

How is property contiguous? East _____ West _____ North X South _____

Property Appraiser Just/Market Value: \$762,184

Homesteaded Property: Yes _____ No X

Special Flood Hazard Area? Yes X No _____

Property is located in Zone AE and Zone X 0.2% Annual Chance Flood Hazard Area
Special Flood Hazard Area is approximately 16 feet east of rear property line. Existing structure is approximately 80 feet east of rear property line. Structure and accessory uses (pool) are not located within a special flood hazard area. (Volusia County Property Appraisers website 2023)

Improved Lot X Unimproved Lot (Vacant) _____

Existing Use: Single-family Residential

Conforming Land Use: X Non-Conforming Land Use: _____ Explain:

Existing County Zoning: R-3 Urban Single-Family Residential

Existing County Land Use: Urban Low Intensity

Condition of Property: Poor _____ Good X Excellent _____

Water: Port Orange X Daytona Beach _____
Sanitary: Sewer X (DBS) Septic Tank _____

If septic tank on site, is sewer available? _____ Yes _____ No _____

Metes and Bounds Survey conducted? Yes X No _____

Open Code Enforcement Cases/Violations? Yes _____ No X

Prepared by: Noel Eaton, City Planner Date: June 1, 2023

EXHIBIT 5: Voluntary Annexation Criteria pursuant to Section 171.044, *Florida Statutes*

Section	Annexation Criteria	Criteria Met	Comments
171.044(1)	Property must be contiguous to the City.	Yes	Per Sec. 171.031(11), subject property is contiguous to the City to the north.
171.044(1)	Property must be reasonably compact.	Yes	Per Sec. 171.031(12), subject property is reasonably compact and will not create new enclaves, pockets or finger areas in serpentine patterns. In addition, the annexation will aid in reducing the larger county enclave in the vicinity.
171.044(2)	Petition bears the signatures of all owners of property.	Yes	See Exhibit 2 .
171.044(2)	Meet publication requirements.	Yes	Evidence filed with the Office of the City Clerk.
171.044(3)	Ordinance shall be filed per statute.	Pending	Ordinance filing will occur per statutory deadline subsequent to the Ordinance's adoption.
171.044(3)	Ordinance shall include a map and legal description by metes and bounds.	Yes	See Ordinance 2023-05.
171.044(4)	Annexation method shall be supplemental to any other procedure provided by general law.	N/A	
171.044(5)	Annexation shall not create enclaves.	Yes	Per Sec. 171.031(13), subject property does not create an enclave. In fact the annexation will reduce the larger County enclave that currently exists in this area.
171.044(6)	Provision of notice to County Commissioners per statute.	Yes	Notice provided via certified mail per statutory requirement.



CITY COMMISSION AGENDA MEMORANDUM JUNE 13, 2023 AGENDA

TO: Honorable Mayor and Members of the City Commission

FROM:

PREPARED BY: Cheri Schwab, City Clerk

SUBJECT: Review City Manager Evaluations

SYNOPSIS:

Per Resolution 2019-22, the City Manager's Annual Evaluation will be summarized and presented to the Commission.

FISCAL IMPACT STATEMENT:

BACKGROUND:

The evaluation forms were given to the Commission on April 25th for a June 1st completion. The forms were completed and are attached to the agenda. The average score was 4.78 out of 5. The item is open for further discussion.

LEGAL REVIEW:

RECOMMENDATION:

SUGGESTED MOTION:

There is no motion required.

- ATTACHMENT:**
1. Mayor Miller CM eval 2023
 2. VM Politis CM eval 2023
 3. Comm. Bryan CM eval 2023
 4. Comm. Conomos CM eval 2023 (2)
 5. Comm. Lindauer CM eval 2023



City of Daytona Beach Shores

City Manager Performance Evaluation

City Manager's Name: Kurt Swartzlander

Commissioner Name: _Nancy Miller

Evaluation Period: June 2022 – May 2023

Evaluation Date: June 5, 2023

Evaluation Instructions:

This form shall be completed by each member of the Commission to evaluate the City Manager's performance in each of the areas noted below. Each member of the Commission shall sign at the end of the form and forward it to the City Clerk. Performance levels can be noted based on the following scale:

- | | |
|----------------------------|--|
| 5 – EXCELLENT: | The incumbent consistently demonstrates performance at a very high standard that significantly surpasses reasonable expectations. |
| 4 – SUPERIOR: | The incumbent consistently demonstrates performance that generally exceeds reasonable expectations. The individual demonstrates no appreciable performance deficiencies. |
| 3 – SATISFACTORY: | The incumbent consistently meets reasonable performance expectations. The individual demonstrates an acceptable degree of competence and performance. |
| 2 – FAIR: | The incumbent achieves the minimum of performance expectations. The individual requires development in specific areas in order to meet reasonable expectations of performance. |
| 1 – UNSATISFACTORY: | The incumbent frequently fails to meet minimum performance expectations. |

Timeline:

- City Manager evaluations are distributed April 15th to City Commissioners
- By May 10th Commissioners have completed the form and scheduled individual meetings
- Summary report is placed on Commission Agenda in second meeting in May

Performance Dimensions:

1. Professional Skills and Expertise		Rating:
a. Is knowledgeable of current developments affecting the management field and affecting local governments.		_____ 5 of 5
b. Regularly provides accurate, comprehensive reports concerning matters of importance to the organization.		_____ 5 of 5
c. Anticipates problems and develops effective approaches for solving them.		_____ 5 of 5
d. Offers workable alternatives when changes in the law render the administration of an ordinance or policy impractical.		_____ 5 of 5
e. Sets a professional example by handling the affairs of the organization in a fair and impartial manner.		_____ 5 of 5
Total Rating for this Performance Dimension:		<u>25</u> of 25
Comments:	• Keeps abreast of bills and local ordinances affecting city. • Provides CM report at each commission meeting keeping commission and residents up to date on issues. • When ordinance and bill changes are passed, he implements changes to policies with approval from commission.	

2. Commission Relations		Rating:
a. Carries out directives of the Commission as a whole rather than those of any one member.		_____ 5 of 5
b. In responding the requests for information, provides complete, accurate, and timely information equally to all members.		_____ 5 of 5
c. Assists the Commission by resolving problems at the administrative level to avoid unnecessary commission action.		_____ 5 of 5
d. Assists the Commission in establishing policy while acknowledging the ultimate authority of the Commission.		_____ 5 of 5
e. Is willing to try new ideas proposed by members.		_____ 5 of 5
Total Rating for this Performance Dimension:		<u>25</u> of 25
Comments:	• Open to any suggestions received by commissioners individual or resolutions, receives feedback on suggestions well. • Provides opportunities for each commissioner to meet with him before each commission meeting. Since implementing, commission meeting have run much smoother with all members aware of agenda items and able to ask questions and	

	voice concerns in advance. • Keep each commissioners informed immediately of any emergency of decision that needs made outside of commission meetings. • Offers suggestions on his past experiences but defers to commission for final decisions.
--	---

3. Citizen and Public Relations		Rating:
a. Effectively conveys to the public that the organization delivers services in a cost-effective manner without sacrificing quality and customer focus.		_____ 5 of 5
b. Is willing to meet with members of the community and is responsive to their concerns.		_____ of 5
c. Demonstrates a dedication to service to the community and its citizens.		_____ 5 of 5
d. Expresses information orally in a clear and concise manner when making public presentations.		_____ 5 of 5
e. Is skillful with the news media, proactively providing information that is important to the public.		_____ 5 of 5
Total Rating for this Performance Dimension:		_____ 25 of 25
Comments:	• Attends coffee with mayor meetings to interact with residents to review DBS focus of providing high quality services at most cost effective manner. • After Hurricanes spend numerous hours visiting condos speaking with residents to assure them he understands their issues and with advocate to all county and state officials to get the message out of their plight. • Speaks in terms public can understand, attends all city functions to support and interact with residents (concerts, cookout, armed forces, tree lighting), represents city. • After Hurricane meet with news media to give honest and precise updates on where city is and plans for future.	

4. Policy Execution		Rating:
a. Understands, supports, and enforces the organization's ordinances, policies, and procedures.		_____ 5 of 5
b. Clearly identifies and communicates expectations to the organization regarding the implementation of policies enacted by the Board.		_____ 5 of 5
c. Implements Commission actions in accordance with the intent of the Commission.		_____ 5 of 5

d. Supports the actions of the Commission after a decision has been reached, both inside and outside the organization.	<u>5</u> of 5
e. Helps internal and external stakeholders to achieve common objectives within the parameters of established policies.	<u>5</u> of 5
Total Rating for this Performance Dimension: <u>25</u> of 25	
Comments:	CM Swartzlander holds weekly meetings with his directors to review implementation of new policies, ordinances and recommendation from Commission.

5. Intergovernmental Relations		Rating:
a. Promotes a positive working relationship with other governmental entities.	<u>5</u> of 5	
b. Engages with other local, regional, state, and federal agencies to accomplish local initiatives.	<u>5</u> of 5	
c. Positively and effectively represents the organization and its interests when working with other governmental agencies.	<u>5</u> of 5	
d. Maintains awareness of laws and other issues affecting other governmental agencies which may affect the organization.	<u>5</u> of 5	
e. Is willing to share resources or information with other governmental agencies as appropriate.	<u>5</u> of 5	
Total Rating for this Performance Dimension: <u>25</u> of 25		
Comments:	- Has built a solid relationship with Volusia County which has greatly assisted the city during hurricane. Continues to develop relationship with additional county representatives to quickly seek answers to questions. - Represents the city at City Manger meeting, roundtable of elected officials, Volusia League Events. - Uses other CM relationships to discuss common issues/concerns from Volusia County.	

6. Staffing and Management		Rating:
a. Recruits and retains competent personnel for City positions.		<u>4</u> of 5
b. Is aware of staff weaknesses and works to improve their performance.		<u>3.5</u> of 5
c. Promotes training and development opportunities for employees at all levels of the organization.		<u>3</u> of 5
d. Stays accurately informed and concerned about employee relations.		<u>4</u> of 5
e. Is able to discern when it is necessary to assume charge of situations that would normally be handled by a subordinate and when it is necessary to only provide guidance and support.		<u>3.75</u> of 5
Total Rating for this Performance Dimension:		<u>18.25</u> of 25
Comments:	• Kurt promoted existing personal to open positions which improves staff morale. • Suggestions for improvement of staff performance and retention: • Hold quarterly or semi -annual "skip level" meeting to gauge morale and performance of department. Solicit input on what is working, what needs improvement, suggestions on how to move the department forward in improving service levels and morale. Stress open door policy for employees to approach supervisor, director and City Manager • Additional training for new supervisors (employees relations, diversity, writing evaluations) • Weekly one/ones with management team to review employee concerns, issues and potential situation resulting in employee turnover.	

7. Fiscal Management		Rating:
a. Prepares a balanced budget to provide services at a level directed by the Commission.		<u>5</u> of 5
b. Ensures that the budget meets the operational needs of the organization and makes the best possible use of available funds.		<u>5</u> of 5
c. Prepares the budget in an intelligent but readable format.		<u>5</u> of 5
d. Submits the proposed budget in a timely manner that allows for an appropriate review period.		<u>5</u> of 5
e. Appropriately monitors and manages the fiscal activities of the organization throughout the fiscal year.		<u>5</u> of 5
Total Rating for this Performance Dimension:		<u>25</u> of 25

Comments:	• With Kurt's previous position of Finance Director, his move to CM has been a plus for our city. • Very knowledgeable about all aspects of budget and fiscal responsibility. • Seeks input from each of his department leads to review budget, seeks to understand each department needs. • Submits budget in ample time for our budget workshops. • Made excellent decision in taking advice from a commissioner to transfer some of reserves to treasure bonds. We have realized a great increase on interest earned.
------------------	--

8. Planning and Organizational Development		Rating:
a. Works with the commission, community leaders, and other stakeholders to develop a clear vision, mission, values, and objectives for the organization.		<u>5</u> of 5
b. Effectively prioritizes goals and objectives in order to ensure that the organization is doing "first things first" in support of its strategic plan.		<u>5</u> of 5
c. Maintains a healthy and productive organizational culture focused on customer service and responsible stewardship of the organization's resources.		<u>5</u> of 5
d. Has a capacity for and encourages innovation.		<u>5</u> of 5
e. Reviews ordinances, policies, and procedures periodically to suggest improvements.		<u>5</u> of 5
Total Rating for this Performance Dimension:		<u>5</u> of 25
Comments:	• Weekly meetings with staff reviews ordinances and policy. • Based on staff comments, expertise will discuss suggestions for improvement with commissioners. • Understands that final policies will be decided by commission and respects their final decision.	

9. Leadership and Decision-Making		Rating:
a. Leads the organization by example in adhering to its established policies, rules, and procedures, and ensures that subordinates do the same.		<u>5</u> of 5
b. Acknowledges the efforts of others and gives appropriate credit for their accomplishments.		<u>4</u> of 5
c. Is effective at building consensus among stakeholders on new or unpopular policies or initiatives.		<u>5</u> of 5
d. Makes logical decisions based on a thorough review of available information and soliciting input from appropriate sources.		<u>5</u> of 5
e. Is able to effectively make decisions rapidly in situations where information is limited and the outcome might be uncertain.		<u>5</u> of 5
Total Rating for this Performance Dimension:		<u>24</u> of 25

Comments:	• Strictly follows policy and leads his staff to do the same. • Suggestion to implement plan for a more appropriate program to thank staff for extraordinary accomplishments. • CM Swartzlander utilizes his peers and sources to advise to make decisions. • Presents unpopular decisions up front and with full transparency.
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10. Individual Characteristics		Rating:
a. Consistently acts with professionalism and courtesy, including prompt attendance at meetings, returning phone calls/messages, and adhering to scheduled appointments.		<u>5</u> of 5
b. Ensures that all business conducted by the organization is free of conflicts of interest or practices that might be construed as illegal, unethical, or unprofessional.		<u>5</u> of 5
c. Is energetic, cooperative, and willing to spend whatever time is necessary to do a good job.		<u>5</u> of 5
d. Has the capacity to listen to others and to recognize their interests.		<u>5</u> of 5
e. Avoids political positions, partisanship, and unnecessary controversy.		<u>5</u> of 5
Total Rating for this Performance Dimension:		<u>5</u> of 25
Comments:	• Is ethical and possesses integrity and a high degree of professionalism. • Attends all meetings requested by commission to represent the city • Always on time, returns phone calls • Discusses issues of importance with Mayor keeping me in the loop of what is happening in city and with staff • CM Swartzlander is extremely impartial and treats each member of commission with respect, allows them time to express their ideas. • Deliberately stays out of political partisanship and instructs his staff to do the same.	

Summary:

Performance Dimension:	Overall Rating:	
1. Professional Skills and Expertise	<u>25</u>	of 25
2. Commission Relations	<u>25</u>	of 25
3. Citizen and Public Relations	<u>25</u>	of 25
4. Policy Execution	<u>25</u>	of 25
5. Intergovernmental Relations	<u>25</u>	of 25
6. Staffing and Management	<u>18.25</u>	of 25
7. Fiscal Management	<u>25</u>	of 25
8. Planning and Organizational Development	<u>25</u>	of 25
9. Leadership and Decision-Making	<u>24</u>	of 25
10. Individual Characteristics	<u>25</u>	of 25

Total Score: 242.75 of 250

Divide by 50 (total number of metrics)

Total Average Rating: 4.85 of 5

Evaluator's Signature: Nancy J Miller

Date: June 5, 2023

REVIEWED: [Signature]
6/5/23

June 5 2023

Additional comments on City Manager Kurt Swartzlander 2022-2023 performance evaluations.

Day One on new position:

- Visited each department to introduce himself and field questions

First week:

- Drove around city to view conditions of streets and parks. Found unwanted storage in park and immediately had it removed.
- Suggestion- Once each quarter spend several hours doing ride along with Public Safety and Public Works to gain a better understanding of their workload and responsibilities. Vary personal and times(evening/night for Public Safety) of when ride along occur.

As a new CM with only a few months in new position CM Kurt Swartzlander faced a huge challenge with Hurricane Ian and Nicole that resulted in massive damage to Daytona Beach Shores. State officials acknowledged that DBS sustained the most beach erosion of any city in the state.

From the start CM lead by example in setting up a EOC at Public Safety remaining through out the state of emergency.

CM visited condos between/during and after to reassure residents that we would do whatever possible in providing them the assistance to move forward.

CM negotiated with Director to partner with VC Sheriff to assist with visiting each unit in every condo that was declared unsafe to evacuate every resident.

CM was on daily calls with VC Emergency Management to advice of our situation and receive daily updates.

The past 6 months have been spent with numerous activities and focus on getting our condos and residents the help they need.

Just mention a few:

- 3 trips to state capital along with Mayor to call upon House, Senate DEM,DEP for additional help needed.

- Host several events at our Community Center for residents to speak with state and county agencies to receive help.
- Host event of all condo representatives explaining the advantage of “work with your neighbor” to encourage contiguous seawalls for structure benefit and economy of scale.
- Meetings at Beach HQ to partner with Beach Coastal to discuss temporary armament to prevent additional erosion of property.

CM Swartzlander attends VC functions to build rapport with other cities, staff and elected officials:

- Roundtable of elected officials
- Port Orange/South Daytona Chamber Functions
- Volusia League of Cities Meeting
- Florida League of Cities annual meeting

Nancy Miller
June 5, 2023



City of Daytona Beach Shores

City Manager Performance Evaluation

City Manager's Name: Kurt Swartzlander
Commissioner Name: Politis
Evaluation Period: June 2022 - May 2023
Evaluation Date: 5/30/23

Evaluation Instructions:

This form shall be completed by each member of the Commission to evaluate the City Manager's performance in each of the areas noted below. Each member of the Commission shall sign at the end of the form and forward it to the City Clerk. Performance levels can be noted based on the following scale:

- | | |
|----------------------------|--|
| 5 – EXCELLENT: | The incumbent consistently demonstrates performance at a very high standard that significantly surpasses reasonable expectations. |
| 4 – SUPERIOR: | The incumbent consistently demonstrates performance that generally exceeds reasonable expectations. The individual demonstrates no appreciable performance deficiencies. |
| 3 – SATISFACTORY: | The incumbent consistently meets reasonable performance expectations. The individual demonstrates an acceptable degree of competence and performance. |
| 2 – FAIR: | The incumbent achieves the minimum of performance expectations. The individual requires development in specific areas in order to meet reasonable expectations of performance. |
| 1 – UNSATISFACTORY: | The incumbent frequently fails to meet minimum performance expectations. |

Timeline:

- City Manager evaluations are distributed April 15th to City Commissioners
- By May 10th Commissioners have completed the form and scheduled individual meetings
- Summary report is placed on Commission Agenda in second meeting in May

Performance Dimensions:

1. Professional Skills and Expertise		Rating:
a. Is knowledgeable of current developments affecting the management field and affecting local governments.		<u>5</u> of 5
b. Regularly provides accurate, comprehensive reports concerning matters of importance to the organization.		<u>5</u> of 5
c. Anticipates problems and develops effective approaches for solving them.		<u>5</u> of 5
d. Offers workable alternatives when changes in the law render the administration of an ordinance or policy impractical.		<u>5</u> of 5
e. Sets a professional example by handling the affairs of the organization in a fair and impartial manner.		<u>5</u> of 5
Total Rating for this Performance Dimension:		<u>25</u> of 25
Comments:	<i>Very polite + professional. Always explains options.</i>	

2. Commission Relations		Rating:
a. Carries out directives of the Commission as a whole rather than those of any one member.		<u>5</u> of 5
b. In responding the requests for information, provides complete, accurate, and timely information equally to all members.		<u>5</u> of 5
c. Assists the Commission by resolving problems at the administrative level to avoid unnecessary commission action.		<u>5</u> of 5
d. Assists the Commission in establishing policy while acknowledging the ultimate authority of the Commission.		<u>5</u> of 5
e. Is willing to try <u>new</u> ideas proposed by members.		<u>5</u> of 5
Total Rating for this Performance Dimension:		<u>25</u> of 25
Comments:	<i>He + Lori responded to commission suggestions to invest cash monies + not to sit idle in the bank. Extra income for city!</i>	

3. Citizen and Public Relations		Rating:
a. Effectively conveys to the public that the organization delivers services in a cost-effective manner without sacrificing quality and customer focus.		<u>5</u> of 5
b. Is willing to meet with members of the community and is responsive to their concerns.		<u>5</u> of 5
c. Demonstrates a dedication to service to the community and its citizens.		<u>5</u> of 5
d. Expresses information orally in a clear and concise manner when making public presentations.		<u>5</u> of 5
e. Is skillful with the news media, proactively providing information that is important to the public.		<u>5</u> of 5
Total Rating for this Performance Dimension:		<u>25</u> of 25
Comments:	<i>Attends many public functions.</i>	

4. Policy Execution		Rating:
a. Understands, supports, and enforces the organization's ordinances, policies, and procedures.		<u>5</u> of 5
b. Clearly identifies and communicates expectations to the organization regarding the implementation of policies enacted by the Board.		<u>5</u> of 5
c. Implements Commission actions in accordance with the intent of the Commission.		<u>5</u> of 5
d. Supports the actions of the Commission after a decision has been reached, both inside and outside the organization.		<u>5</u> of 5
e. Helps internal and external stakeholders to achieve common objectives within the parameters of established policies.		<u>5</u> of 5
Total Rating for this Performance Dimension:		<u>25</u> of 25
Comments:		

5. Intergovernmental Relations		Rating:
a. Promotes a positive working relationship with other governmental entities.		<u>5</u> of 5
b. Engages with other local, regional, state, and federal agencies to accomplish local initiatives.		<u>5</u> of 5
c. Positively and effectively represents the organization and its interests when working with other governmental agencies.		<u>5</u> of 5
d. Maintains awareness of laws and other issues affecting other governmental agencies which may affect the organization.		<u>5</u> of 5
e. Is willing to share resources or information with other governmental agencies as appropriate.		<u>5</u> of 5
Total Rating for this Performance Dimension:		<u>25</u> of 25
Comments:	<u>Very active + cooperative with county.</u>	

6. Staffing and Management		Rating:
a. Recruits and retains competent personnel for City positions.		<u>5</u> of 5
b. Is aware of staff weaknesses and works to improve their performance.		<u>5</u> of 5
c. Promotes training and development opportunities for employees at all levels of the organization.		<u>5</u> of 5
d. Stays accurately informed and concerned about employee relations.		<u>5</u> of 5
e. Is able to discern when it is necessary to assume charge of situations that would normally be handled by a subordinate and when it is necessary to only provide guidance and support.		<u>5</u> of 5
Total Rating for this Performance Dimension:		<u>25</u> of 25
Comments:		

		Rating:
7. Fiscal Management		
a. Prepares a balanced budget to provide services at a level directed by the Commission.		<u>5</u> of 5
b. Ensures that the budget meets the operational needs of the organization and makes the best possible use of available funds.		<u>5</u> of 5
c. Prepares the budget in an intelligent but readable format.		<u>5</u> of 5
d. Submits the proposed budget in a timely manner that allows for an appropriate review period.		<u>5</u> of 5
e. Appropriately monitors and manages the fiscal activities of the organization throughout the fiscal year.		<u>5</u> of 5
Total Rating for this Performance Dimension:		<u>25</u> of 25
Comments:		

8. Planning and Organizational Development		Rating:
a. Works with the commission, community leaders, and other stakeholders to develop a clear vision, mission, values, and objectives for the organization.		<u>5</u> of 5
b. Effectively prioritizes goals and objectives in order to ensure that the organization is doing "first things first" in support of its strategic plan.		<u>5</u> of 5
c. Maintains a healthy and productive organizational culture focused on customer service and responsible stewardship of the organization's resources.		<u>5</u> of 5
d. Has a capacity for and encourages innovation.		<u>5</u> of 5
e. Reviews ordinances, policies, and procedures periodically to suggest improvements.		<u>5</u> of 5
Total Rating for this Performance Dimension:		<u>25</u> of 25
Comments:		

9. Leadership and Decision-Making		Rating:
a. Leads the organization by example in adhering to its established policies, rules, and procedures, and ensures that subordinates do the same.	<u>5</u>	of 5
b. Acknowledges the efforts of others and gives appropriate credit for their accomplishments.	<u>5</u>	of 5
c. Is effective at building consensus among stakeholders on new or unpopular policies or initiatives.	<u>5</u>	of 5
d. Makes logical decisions based on a thorough review of available information and soliciting input from appropriate sources.	<u>5</u>	of 5
e. Is able to effectively make decisions rapidly in situations where information is limited and the outcome might be uncertain.	<u>5</u>	of 5
Total Rating for this Performance Dimension:		<u>25</u> of 25
Comments:		

10. Individual Characteristics		Rating:
a. Consistently acts with professionalism and courtesy, including prompt attendance at meetings, returning phone calls/messages, and adhering to scheduled appointments.	<u>5</u>	of 5
b. Ensures that all business conducted by the organization is free of conflicts of interest or practices that might be construed as illegal, unethical, or unprofessional.	<u>5</u>	of 5
c. Is energetic, cooperative, and willing to spend whatever time is necessary to do a good job.	<u>5</u>	of 5
d. Has the capacity to listen to others and to recognize their interests.	<u>5</u>	of 5
e. Avoids political positions, partisanship, and unnecessary controversy.	<u>5</u>	of 5
Total Rating for this Performance Dimension:		<u>25</u> of 25
Comments:	very pleasant person, great personality	

Summary:

Performance Dimension:	Overall Rating:	
1. Professional Skills and Expertise	<u>25</u>	of 25
2. Commission Relations	<u>25</u>	of 25
3. Citizen and Public Relations	<u>25</u>	of 25
4. Policy Execution	<u>25</u>	of 25
5. Intergovernmental Relations	<u>25</u>	of 25
6. Staffing and Management	<u>25</u>	of 25
7. Fiscal Management	<u>25</u>	of 25
8. Planning and Organizational Development	<u>25</u>	of 25
9. Leadership and Decision-Making	<u>25</u>	of 25
10. Individual Characteristics	<u>25</u>	of 25

Total Score: 250 of 250

Divide by 50 (total number of metrics)

Total Average Rating: 5 **of 5**

Evaluator's Signature:



Date:

5/30/23



City of Daytona Beach Shores

City Manager Performance Evaluation

City Manager's Name: Kurt Swartzlander

Commissioner Name: Richard Bryan

Evaluation Period: 6/1/22 to 6/1/23

Evaluation Date: 6/1/23

Evaluation Instructions:

This form shall be completed by each member of the Commission to evaluate the City Manager's performance in each of the areas noted below. Each member of the Commission shall sign at the end of the form and forward it to the City Clerk. Performance levels can be noted based on the following scale:

- | | |
|----------------------------|--|
| 5 – EXCELLENT: | The incumbent consistently demonstrates performance at a very high standard that significantly surpasses reasonable expectations. |
| 4 – SUPERIOR: | The incumbent consistently demonstrates performance that generally exceeds reasonable expectations. The individual demonstrates no appreciable performance deficiencies. |
| 3 – SATISFACTORY: | The incumbent consistently meets reasonable performance expectations. The individual demonstrates an acceptable degree of competence and performance. |
| 2 – FAIR: | The incumbent achieves the minimum of performance expectations. The individual requires development in specific areas in order to meet reasonable expectations of performance. |
| 1 – UNSATISFACTORY: | The incumbent frequently fails to meet minimum performance expectations. |

Timeline:

- City Manager evaluations are distributed April 15th to City Commissioners
- By May 10th Commissioners have completed the form and scheduled individual meetings
- Summary report is placed on Commission Agenda in second meeting in May

Performance Dimensions: (NEI means not enough information)

1. Professional Skills and Expertise		Rating:
a. Is knowledgeable of current developments affecting the management field and affecting local governments.		<u>4 of 5</u>
b. Regularly provides accurate, comprehensive reports concerning matters of importance to the organization.		<u>4 of 5</u>
c. Anticipates problems and develops effective approaches for solving them.		<u>3 of 5</u>
d. Offers workable alternatives when changes in the law render the administration of an ordinance or policy impractical.		<u>NEI</u>
e. Sets a professional example by handling the affairs of the organization in a fair and impartial manner.		<u>NEI</u>
Total Rating for this Performance Dimension:		<u>11 of 15</u>
Comments:		

2. Commission Relations		Rating:
a. Carries out directives of the Commission as a whole rather than those of any one member.		<u>4 of 5</u>
b. In responding the requests for information, provides complete, accurate, and timely information equally to all members.		<u>4 of 5</u>
c. Assists the Commission by resolving problems at the administrative level to avoid unnecessary commission action.		<u>3 of 5</u>
d. Assists the Commission in establishing policy while acknowledging the ultimate authority of the Commission.		<u>4 of 5</u>
e. Is willing to try new ideas proposed by members.		<u>3 of 5</u>
Total Rating for this Performance Dimension:		<u>15 of 25</u>
Comments:	Should take more of a leadership role for ideas and initiatives that benefit DBS people,	

3. Citizen and Public Relations		Rating:
a. Effectively conveys to the public that the organization delivers services in a cost-effective manner without sacrificing quality and customer focus.		4 of 5
b. Is willing to meet with members of the community and is responsive to their concerns.		5 of 5
c. Demonstrates a dedication to service to the community and its citizens.		4 of 5
d. Expresses information orally in a clear and concise manner when making public presentations.		4 of 5
e. Is skillful with the news media, proactively providing information that is important to the public.		4 of 5
Total Rating for this Performance Dimension:		21 of 25
Comments:		

4. Policy Execution		Rating:
a. Understands, supports, and enforces the organization's ordinances, policies, and procedures.		5 of 5
b. Clearly identifies and communicates expectations to the organization regarding the implementation of policies enacted by the Board.		4 of 5
c. Implements Commission actions in accordance with the intent of the Commission.		4 of 5
d. Supports the actions of the Commission after a decision has been reached, both inside and outside the organization.		5 of 5
e. Helps internal and external stakeholders to achieve common objectives within the parameters of established policies.		4 of 5
Total Rating for this Performance Dimension:		22 of 25
Comments:		

5. Intergovernmental Relations		Rating:
a. Promotes a positive working relationship with other governmental entities.		4 of 5
b. Engages with other local, regional, state, and federal agencies to accomplish local initiatives.		4 of 5
c. Positively and effectively represents the organization and its interests when working with other governmental agencies.		4 of 5
d. Maintains awareness of laws and other issues affecting other governmental agencies which may affect the organization.		4 of 5
e. Is willing to share resources or information with other governmental agencies as appropriate.		4 of 5
Total Rating for this Performance Dimension:		20 of 25
Comments:		

6. Staffing and Management		Rating:
a. Recruits and retains competent personnel for City positions.		4 of 5
b. Is aware of staff weaknesses and works to improve their performance.		NEI
c. Promotes training and development opportunities for employees at all levels of the organization.		NEI
d. Stays accurately informed and concerned about employee relations.		NEI
e. Is able to discern when it is necessary to assume charge of situations that would normally be handled by a subordinate and when it is necessary to only provide guidance and support.		NEI
Total Rating for this Performance Dimension:		4 of 5
Comments:		

7. Fiscal Management		Rating:
a. Prepares a balanced budget to provide services at a level directed by the Commission.		5 of 5
b. Ensures that the budget meets the operational needs of the organization and makes the best possible use of available funds.		4 of 5
c. Prepares the budget in an intelligent but readable format.		5 of 5
d. Submits the proposed budget in a timely manner that allows for an appropriate review period.		5 of 5
e. Appropriately monitors and manages the fiscal activities of the organization throughout the fiscal year.		4 of 5
Total Rating for this Performance Dimension:		23 of 25
Comments:		

8. Planning and Organizational Development		Rating:
a. Works with the commission, community leaders, and other stakeholders to develop a clear vision, mission, values, and objectives for the organization.		4 of 5
b. Effectively prioritizes goals and objectives in order to ensure that the organization is doing "first things first" in support of its strategic plan.		4 of 5
c. Maintains a healthy and productive organizational culture focused on customer service and responsible stewardship of the organization's resources.		4 of 5
d. Has a capacity for and encourages innovation.		3 of 5
e. Reviews ordinances, policies, and procedures periodically to suggest improvements.		4 of 5
Total Rating for this Performance Dimension:		19 of 25
Comments:	Should bring more of an entrepreneurial spirit to the job. Should ask himself and staff when obstacles are mentioned; "how can we overcome those obstacles".	

9. Leadership and Decision-Making		Rating:
a. Leads the organization by example in adhering to its established policies, rules, and procedures, and ensures that subordinates do the same.		4 of 5
b. Acknowledges the efforts of others and gives appropriate credit for their accomplishments.		5 of 5
c. Is effective at building consensus among stakeholders on new or unpopular policies or initiatives.		3 of 5
d. Makes logical decisions based on a thorough review of available information and soliciting input from appropriate sources.		4 of 5
e. Is able to effectively make decisions rapidly in situations where information is limited and the outcome might be uncertain.		3 of 5
Total Rating for this Performance Dimension:		19 of 25
Comments:	Should show more leadership in developing consensus for important ideas and initiatives. Should show more leadership in gathering facts and making decisions when others might be less diligent in gathering relevant facts.	

10. Individual Characteristics		Rating:
a. Consistently acts with professionalism and courtesy, including prompt attendance at meetings, returning phone calls/messages, and adhering to scheduled appointments.		5 of 5
b. Ensures that all business conducted by the organization is free of conflicts of interest or practices that might be construed as illegal, unethical, or unprofessional.		5 of 5
c. Is energetic, cooperative, and willing to spend whatever time is necessary to do a good job.		4 of 5
d. Has the capacity to listen to others and to recognize their interests.		4 of 5
e. Avoids political positions, partisanship, and unnecessary controversy.		4 of 5
Total Rating for this Performance Dimension:		22 of 25
Comments:		

Summary:

Performance Dimension:	Overall Rating:	
1. Professional Skills and Expertise	11	<i>of 15</i>
2. Commission Relations	18	<i>of 25</i>
3. Citizen and Public Relations	21	<i>of 25</i>
4. Policy Execution	22	<i>of 25</i>
5. Intergovernmental Relations	20	<i>of 25</i>
6. Staffing and Management	4	<i>of 5</i>
7. Fiscal Management	23	<i>of 25</i>
8. Planning and Organizational Development	19	<i>of 25</i>
9. Leadership and Decision-Making	19	<i>of 25</i>
10. Individual Characteristics	22	<i>of 25</i>

Total Score: 179 of 220

$$5 * 179 / 220 = 4.07$$

Total Average Rating: 4.07 *of 5*

Evaluator's Signature: Richard Bryan

Date: 6/1/23



City of Daytona Beach Shores

City Manager Performance Evaluation

City Manager's Name: Kurt Swartzlander

Commissioner Name: _Chris Conomos

Evaluation Period: _ May 2022-June 2023

Evaluation Date: June 6, 2023

Evaluation Instructions:

This form shall be completed by each member of the Commission to evaluate the City Manager's performance in each of the areas noted below. Each member of the Commission shall sign at the end of the form and forward it to the City Clerk. Performance levels can be noted based on the following scale:

- | | |
|----------------------------|--|
| 5 – EXCELLENT: | The incumbent consistently demonstrates performance at a very high standard that significantly surpasses reasonable expectations. |
| 4 – SUPERIOR: | The incumbent consistently demonstrates performance that generally exceeds reasonable expectations. The individual demonstrates no appreciable performance deficiencies. |
| 3 – SATISFACTORY: | The incumbent consistently meets reasonable performance expectations. The individual demonstrates an acceptable degree of competence and performance. |
| 2 – FAIR: | The incumbent achieves the minimum of performance expectations. The individual requires development in specific areas in order to meet reasonable expectations of performance. |
| 1 – UNSATISFACTORY: | The incumbent frequently fails to meet minimum performance expectations. |

Timeline:

- City Manager evaluations are distributed April 15th to City Commissioners
- By May 10th Commissioners have completed the form and scheduled individual meetings
- Summary report is placed on Commission Agenda in second meeting in May

Performance Dimensions:

1. Professional Skills and Expertise		Rating:
a. Is knowledgeable of current developments affecting the management field and affecting local governments.	<u>5</u>	of 5
b. Regularly provides accurate, comprehensive reports concerning matters of importance to the organization.	<u>5</u>	of 5
c. Anticipates problems and develops effective approaches for solving them.	<u>5</u>	of 5
d. Offers workable alternatives when changes in the law render the administration of an ordinance or policy impractical.	<u>5</u>	of 5
e. Sets a professional example by handling the affairs of the organization in a fair and impartial manner.	<u>5</u>	of 5
Total Rating for this Performance Dimension:		<u>25</u> of 25
Comments:	<i>Kurt is professional and very proactive in his duties. Kurt continually informs Commission members of important and relevant matters regarding the city.</i>	

2. Council Relations		Rating:
a. Carries out directives of the Board as a whole rather than those of any one Board member.	<u>5</u>	of 5
b. In responding the requests for information, provides complete, accurate, and timely information equally to all Board members.	<u>5</u>	of 5
c. Assists the Board by resolving problems at the administrative level to avoid unnecessary Board action.	<u>5</u>	of 5
d. Assists the Board in establishing policy while acknowledging the ultimate authority of the Board.	<u>5</u>	of 5
e. Is willing to try new ideas proposed by Board members.	<u>5</u>	of 5
Total Rating for this Performance Dimension:		<u>25</u> of 25
Comments:		

3. Citizen and Public Relations		Rating:
a. Effectively conveys to the public that the organization delivers services in a cost-effective manner without sacrificing quality and customer focus.		<u>5</u> of 5
b. Is willing to meet with members of the community and is responsive to their concerns.		<u>5</u> of 5
c. Demonstrates a dedication to service to the community and its citizens.		<u>5</u> of 5
d. Expresses information orally in a clear and concise manner when making public presentations.		<u>5</u> of 5
e. Is skillful with the news media, proactively providing information that is important to the public.		<u>5</u> of 5
Total Rating for this Performance Dimension:		<u>25</u> of 25
Comments:	<i>Kurt's service to the city and residents during the hurricanes were exemplary and an example of his willingness to serve above and beyond his duties.</i>	

4. Policy Execution		Rating:
a. Understands, supports, and enforces the organization's ordinances, policies, and procedures.		<u>5</u> of 5
b. Clearly identifies and communicates expectations to the organization regarding the implementation of policies enacted by the Board.		<u>5</u> of 5
c. Implements Board actions in accordance with the intent of the Board.		<u>5</u> of 5
d. Supports the actions of the Board after a decision has been reached, both inside and outside the organization.		<u>5</u> of 5
e. Helps internal and external stakeholders to achieve common objectives within the parameters of established Board policies.		<u>5</u> of 5
Total Rating for this Performance Dimension:		<u>25</u> of 25
Comments:		

5. Intergovernmental Relations		Rating:
a. Promotes a positive working relationship with other governmental entities.	<u>5</u>	of 5
b. Engages with other local, regional, state, and federal agencies to accomplish local initiatives.	<u>5</u>	of 5
c. Positively and effectively represents the organization and its interests when working with other governmental agencies.	<u>5</u>	of 5
d. Maintains awareness of laws and other issues affecting other governmental agencies which may affect the organization.	<u>5</u>	of 5
e. Is willing to share resources or information with other governmental agencies as appropriate.	<u>5</u>	of 5
Total Rating for this Performance Dimension:		<u>25</u> of 25
Comments:		

6. Staffing and Management		Rating:
a. Recruits and retains competent personnel for City positions.	<u>5</u>	of 5
b. Is aware of staff weaknesses and works to improve their performance.	<u>5</u>	of 5
c. Promotes training and development opportunities for employees at all levels of the organization.	<u>5</u>	of 5
d. Stays accurately informed and concerned about employee relations.	<u>5</u>	of 5
e. Is able to discern when it is necessary to assume charge of situations that would normally be handled by a subordinate and when it is necessary to only provide guidance and support.	<u>5</u>	of 5
Total Rating for this Performance Dimension:		<u>25</u> of 25
Comments:		

		Rating:
7. Fiscal Management		
a. Prepares a balanced budget to provide services at a level directed by the Board.		<u>5</u> of 5
b. Ensures that the budget meets the operational needs of the organization and makes the best possible use of available funds.		<u>5</u> of 5
c. Prepares the budget in an intelligent but readable format.		<u>5</u> of 5
d. Submits the proposed budget in a timely manner that allows for an appropriate review period.		<u>5</u> of 5
e. Appropriately monitors and manages the fiscal activities of the organization throughout the fiscal year.		<u>5</u> of 5
Total Rating for this Performance Dimension:		<u>25</u> of 25
Comments:		

8. Planning and Organizational Development		Rating:
a. Works with the Board, community leaders, and other stakeholders to develop a clear vision, mission, values, and objectives for the organization.		<u>5</u> of 5
b. Effectively prioritizes goals and objectives in order to ensure that the organization is doing "first things first" in support of its strategic plan.		<u>5</u> of 5
c. Maintains a healthy and productive organizational culture focused on customer service and responsible stewardship of the organization's resources.		<u>5</u> of 5
d. Has a capacity for and encourages innovation.		<u>5</u> of 5
e. Reviews ordinances, policies, and procedures periodically to suggest improvements.		<u>5</u> of 5
Total Rating for this Performance Dimension:		<u>25</u> of 25
Comments:		

9. Leadership and Decision-Making		Rating:
a. Leads the organization by example in adhering to its established policies, rules, and procedures, and ensures that subordinates do the same.	<u>5</u>	of 5
b. Acknowledges the efforts of others and gives appropriate credit for their accomplishments.	<u>5</u>	of 5
c. Is effective at building consensus among stakeholders on new or unpopular policies or initiatives.	<u>5</u>	of 5
d. Makes logical decisions based on a thorough review of available information and soliciting input from appropriate sources.	<u>5</u>	of 5
e. Is able to effectively make decisions rapidly in situations where information is limited and the outcome might be uncertain.	<u>5</u>	of 5
Total Rating for this Performance Dimension:		<u>25</u> of 25
Comments:		

10. Individual Characteristics		Rating:
a. Consistently acts with professionalism and courtesy, including prompt attendance at meetings, returning phone calls/messages, and adhering to scheduled appointments.	<u>5</u>	of 5
b. Ensures that all business conducted by the organization is free of conflicts of interest or practices that might be construed as illegal, unethical, or unprofessional.	<u>5</u>	of 5
c. Is energetic, cooperative, and willing to spend whatever time is necessary to do a good job.	<u>5</u>	of 5
d. Has the capacity to listen to others and to recognize their interests.	<u>5</u>	of 5
e. Avoids political positions, partisanship, and unnecessary controversy.	<u>5</u>	of 5
Total Rating for this Performance Dimension:		____ of 25
Comments:		

Summary:

Performance Dimension:	Overall Rating:	
1. Professional Skills and Expertise	<u>25</u>	of 25
2. Council/Commission Relations	<u>25</u>	of 25
3. Citizen and Public Relations	<u>25</u>	of 25
4. Policy Execution	<u>25</u>	of 25
5. Intergovernmental Relations	<u>25</u>	of 25
6. Staffing and Management	<u>25</u>	of 25
7. Fiscal Management	<u>25</u>	of 25
8. Planning and Organizational Development	<u>25</u>	of 25
9. Leadership and Decision-Making	<u>25</u>	of 25
10. Individual Characteristics	<u>25</u>	of 25

Total Score: 250 of 250

Divide by 50 (total number of metrics)

Total Average Rating: 5 of 5

Evaluator's Signature: _____



Date: _____

5/30/2023



City of Daytona Beach Shores

City Manager Performance Evaluation

City Manager's Name: Kurt Swartzlander

Council Member Name: Mel Lindauer

Evaluation Period: June 2022 - May 2023

Evaluation Date: May 24, 2023

Evaluation Instructions:

This form shall be completed by each member of the Council to evaluate the City Manager's performance in each of the areas noted below. Each member of the Council shall sign at the end of the form and forward it to the City Clerk. Performance levels can be noted based on the following scale:

- | | |
|----------------------------|--|
| 5 – EXCELLENT: | The incumbent consistently demonstrates performance at a very high standard that significantly surpasses reasonable expectations. |
| 4 – SUPERIOR: | The incumbent consistently demonstrates performance that generally exceeds reasonable expectations. The individual demonstrates no appreciable performance deficiencies. |
| 3 – SATISFACTORY: | The incumbent consistently meets reasonable performance expectations. The individual demonstrates an acceptable degree of competence and performance. |
| 2 – FAIR: | The incumbent achieves the minimum of performance expectations. The individual requires development in specific areas in order to meet reasonable expectations of performance. |
| 1 – UNSATISFACTORY: | The incumbent frequently fails to meet minimum performance expectations. |

Timeline:

- City Manager evaluations are distributed May 1st to City Councilmembers
- By June 1st Councilmembers have completed the form and scheduled individual meetings
- Summary report is placed on Council agenda in July

Performance Dimensions:

1. Professional Skills and Expertise		Rating:
a. Is knowledgeable of current developments affecting the management field and affecting local governments.		<u>5</u> of 5
b. Regularly provides accurate, comprehensive reports concerning matters of importance to the organization.		<u>5</u> of 5
c. Anticipates problems and develops effective approaches for solving them.		<u>5</u> of 5
d. Offers workable alternatives when changes in the law render the administration of an ordinance or policy impractical.		<u>5</u> of 5
e. Sets a professional example by handling the affairs of the organization in a fair and impartial manner.		<u>5</u> of 5
Total Rating for this Performance Dimension:		<u>25</u> of 25
Comments:		

2. Council Relations		Rating:
a. Carries out directives of the Board as a whole rather than those of any one Board member.		<u>5</u> of 5
b. In responding the requests for information, provides complete, accurate, and timely information equally to all Board members.		<u>5</u> of 5
c. Assists the Board by resolving problems at the administrative level to avoid unnecessary Board action.		<u>5</u> of 5
d. Assists the Board in establishing policy while acknowledging the ultimate authority of the Board.		<u>5</u> of 5
e. Is willing to try new ideas proposed by Board members.		<u>5</u> of 5
Total Rating for this Performance Dimension:		<u>25</u> of 25
Comments:		

5. Intergovernmental Relations		Rating:
a. Promotes a positive working relationship with other governmental entities.		<u>5</u> of 5
b. Engages with other local, regional, state, and federal agencies to accomplish local initiatives.		<u>5</u> of 5
c. Positively and effectively represents the organization and its interests when working with other governmental agencies.		<u>5</u> of 5
d. Maintains awareness of laws and other issues affecting other governmental agencies which may affect the organization.		<u>5</u> of 5
e. Is willing to share resources or information with other governmental agencies as appropriate.		<u>5</u> of 5
Total Rating for this Performance Dimension:		<u>25</u> of 25
Comments:		

6. Staffing and Management		Rating:
a. Recruits and retains competent personnel for City positions.		<u>5</u> of 5
b. Is aware of staff weaknesses and works to improve their performance.		<u>5</u> of 5
c. Promotes training and development opportunities for employees at all levels of the organization.		<u>5</u> of 5
d. Stays accurately informed and concerned about employee relations.		<u>5</u> of 5
e. Is able to discern when it is necessary to assume charge of situations that would normally be handled by a subordinate and when it is necessary to only provide guidance and support.		<u>5</u> of 5
Total Rating for this Performance Dimension:		<u>25</u> of 25
Comments:		

		Rating:
7. Fiscal Management		
a. Prepares a balanced budget to provide services at a level directed by the Board.	<u>5</u>	of 5
b. Ensures that the budget meets the operational needs of the organization and makes the best possible use of available funds.	<u>5</u>	of 5
c. Prepares the budget in an intelligent but readable format.	<u>5</u>	of 5
d. Submits the proposed budget in a timely manner that allows for an appropriate review period.	<u>5</u>	of 5
e. Appropriately monitors and manages the fiscal activities of the organization throughout the fiscal year.	<u>5</u>	of 5
Total Rating for this Performance Dimension:		<u>25</u> of 25
Comments:		

8. Planning and Organizational Development		Rating:
a. Works with the Board, community leaders, and other stakeholders to develop a clear vision, mission, values, and objectives for the organization.	<u>5</u>	of 5
b. Effectively prioritizes goals and objectives in order to ensure that the organization is doing "first things first" in support of its strategic plan.	<u>5</u>	of 5
c. Maintains a healthy and productive organizational culture focused on customer service and responsible stewardship of the organization's resources.	<u>5</u>	of 5
d. Has a capacity for and encourages innovation.	<u>5</u>	of 5
e. Reviews ordinances, policies, and procedures periodically to suggest improvements.	<u>5</u>	of 5
Total Rating for this Performance Dimension:		<u>25</u> of 25
Comments:		

9. Leadership and Decision-Making		Rating:
a. Leads the organization by example in adhering to its established policies, rules, and procedures, and ensures that subordinates do the same.	<u>5</u>	of 5
b. Acknowledges the efforts of others and gives appropriate credit for their accomplishments.	<u>5</u>	of 5
c. Is effective at building consensus among stakeholders on new or unpopular policies or initiatives.	<u>5</u>	of 5
d. Makes logical decisions based on a thorough review of available information and soliciting input from appropriate sources.	<u>5</u>	of 5
e. Is able to effectively make decisions rapidly in situations where information is limited and the outcome might be uncertain.	<u>5</u>	of 5
Total Rating for this Performance Dimension:		<u> </u> of 25
Comments:		

10. Individual Characteristics		Rating:
a. Consistently acts with professionalism and courtesy, including prompt attendance at meetings, returning phone calls/messages, and adhering to scheduled appointments.	<u>5</u>	of 5
b. Ensures that all business conducted by the organization is free of conflicts of interest or practices that might be construed as illegal, unethical, or unprofessional.	<u> </u>	of 5
c. Is energetic, cooperative, and willing to spend whatever time is necessary to do a good job.	<u>5</u>	of 5
d. Has the capacity to listen to others and to recognize their interests.	<u>5</u>	of 5
e. Avoids political positions, partisanship, and unnecessary controversy.	<u>5</u>	of 5
Total Rating for this Performance Dimension:		<u> </u> of 25
Comments:		

Summary:

Performance Dimension:	Overall Rating:	
1. Professional Skills and Expertise	<u>25</u>	of 25
2. Council/Commission Relations	<u>25</u>	of 25
3. Citizen and Public Relations	<u>n/a</u>	of 25
4. Policy Execution	<u>25</u>	of 25
5. Intergovernmental Relations	<u>25</u>	of 25
6. Staffing and Management	<u>5</u>	of 25 5
7. Fiscal Management	<u>25</u>	of 25
8. Planning and Organizational Development	<u>25</u>	of 25
9. Leadership and Decision-Making	<u>25</u>	of 25
10. Individual Characteristics	<u>20</u>	of 25 20

Total Score: 200 of 250 200

Divide by 50 (total number of metrics)

Total Average Rating: 5 **of 5**

Evaluator's Signature:



Date:

5/24/2023