MINUTES
CITY COUNCIL MEETING
August 13, 2019
3000 Bellemead Drive, Daytona Beach Shores, FL 32118

CALL TO ORDER BY MAYOR

Present: Mayor Nancy Miller, Vice Mayor Richard Bryan, Councilmember Richard Frizalone, Councilmember Mel Lindauer, Councilmember Michael Politis
Staff: City Clerk Cheri Schwab, City Attorney Lonnie Groot, City Planner Stewart Cruz, Community Services Director Fred Hiatt, Finance Director Kurt Swartzlander, and Public Safety Director Stephan Dembinsky.

ROLL CALL BY CITY CLERK

1. Invocation and Pledge of Allegiance

CEREMONIAL ITEMS, PRESENTATIONS AND PUBLIC NOTICES:

A. Employee Service Awards -

Stewart Cruz 15 years
Officer Billie Phillips 15 years

Community Services Director Fred Hiatt presented Stewart Cruz with his 15-year service award.
Public Safety Director Stephan Dembinsky presented Sgt. Billie Phillips with his 15-year service award.

B. Don Stoner to speak on Lighthouse Loop Half Marathon

Don Stoner spoke to the council requesting permission to hold the 8th Annual Lighthouse Loop Half Marathon and 5K. This year only the runners participating in the half marathon would run through the city. Part of the proceeds raised will be donated to the Volusia County High Schools. The council granted permission for the race.

C. Presentation by Rafael Montalvo Strategic Plan

Rafael Montalvo recapped the process of the strategic planning exercise that began in January and concluded in May. The five goals and their objectives were reviewed. The goals were: A) A vibrant, walkable City of Daytona Beach Shores with a redeveloped west side B) Pedestrian and vehicle safety on State Road A1A C) Transparency in government and effective communication among elected officials and staff, residents and businesses D) A range of recreational programs that meet the needs of residents, and introduce non-residents to the City E) A positive, cooperative relationship with Volusia County that promotes the early identification and cooperative resolution of issues F) Continued high levels of service for all public safety services.

2. APPROVAL OF MINUTES

A. Budget Workshop Minutes July 9, 2019

B. City Council July 9. 2019 Minutes

COUNCILMEMBER LINDAUER moved, seconded by COUNCILMEMBER FRIZALONE to approve both the Budget Workshop Minutes and the City Council Meeting of July 9, 2019.
Vote: Motion carried by unanimous roll call vote **(summary**: Yes = 5 No = 0).
Yes: Mayor Nancy Miller, Vice Mayor Richard Bryan, Councilmember Richard Frizalone, Councilmember Mel Lindauer, Councilmember Michael Politis

3. CONSENT AGENDA:

A. Public Safety Monthly Report

B. Monthly Finance Report

C. Building Division Report

D. Community Services Report

E. Renewal of Non-exclusive Franchise- Acet Recycling

COUNCILMEMBER LINDAUER moved, seconded by COUNCILMEMBER FRIZALONE to Approve the consent agenda.

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

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

4. REPORTS OF THE CITY MANAGER:

A. City Manager's report for August 13, 2019

Finance Director Swartzlander was the Acting City Manager for the meeting. He provided the following report: the City has been registered with ASCAP, BMI and SESAC regarding song copyrighting; incentives for the economic development program are being developed; permission to list the city-owned property at 136 Beachcomber is being requested. It was appraised at $300,000. It was noted, that the property would need to be sub-divided from Beachcomber Park, but that is a relatively quick simple process. The council gave their permission to list the property. He reminded everyone that the second meeting in August had been cancelled and that the first meeting in September would be held on Monday the 9th. He reported that the representatives for Halifax Health had signed the lease agreement for the Urgent Care building. It will be added to the next agenda.

5. REPORTS OF THE CITY ATTORNEY:

Attorney Groot reviewed his written report that he sent to the Council. He is drafting a policy for actions of individual City Councilmembers. Work sessions for both the charter and code amendments need to be scheduled. He updated the status on the opioid litigation case. The city is part of a group that consists of 16 counties and 9 cities. There has been no response yet on the AGO opinion regarding the recent fire cancer legislation. With the recent court decision relating to invocations, Resolution 2014-06 was shared with the Council. That resolution appointed Reverend Robert Kemp-Baird as the City Council Chaplain. Attorney Groot explained that the past practice of the city would be legally defensible. Mayor Miller responded that she would like to continue with past practice.

OLD BUSINESS:

NEW BUSINESS:

A. Ordinance 2019-08 AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA ESTABLISHING THE CITY OF DAYTONA BEACH SHORES SUPPLEMENTAL ECONOMIC OR TOURISM DEVELOPMENT PROGRAM; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR CONFLICTS, PROVIDING FOR A SAVINGS PROVISION AND THE EFFECT OF THE ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AS WELL AS THE CORRECTION OF SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

Attorney Groot explained that the proposed Ordinance was part of the progressive economic development program. It specifically deals with Ad Valorum Tax and the ability to enter into agreements to provide tax relief in reverse. The city could give back a percentage of taxes for a designated length of time. It was explained that it is a tax neutral event for the city. CMBR Lindauer questioned one of the allowed development activities as being a landfill. He was assured that the Council would look at each agreement on a case-by-case basis and determine whether to approve it or not. Audience member Jim Cameron congratulated the council on their continued proactive movement.
COUNCILMEMBER LINDAUER moved, seconded by VICE MAYOR BRYAN to approve Ordinance 2019-08 on first reading.
Vote: Motion carried by unanimous roll call vote (**summary**: Yes = 5 No = 0).
Yes: Mayor Nancy Miller, Vice Mayor Richard Bryan, Councilmember Richard Frizalone, Councilmember Mel Lindauer, Councilmember Michael Politis

B. Ordinance 2019-09 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA RELATING TO A PROGRAM OF ENHANCED CODE ENFORCEMENT; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR THE CONDEMNATION AND DEMOLITION OF DILAPIDATED, UNSANITARY, UNSAFE OR UNINHABITABLE BUILDINGS; PROVIDING FOR A CERTIFICATE OF HABITABILITY; PROVIDING FOR ADOPTION OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE (AS MODIFIED); PROVIDING FOR AN ARRAY OF IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR REQUIREMENTS AND PROHIBITIONS; AMENDING SECTIONS 14- 61.1 AND 19-1.2. OF THE CITY CODE; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION AS WELL AS THE CORRECTION OF SCRIVENER'S ERRORS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

City Attorney Groot explained that the proposed ordinance could be considered a de-incentive. It allows the city's code enforcement division to go one step further by adopting the International Property Maintenance Code. It will require a certificate of use and a certificate of habitability on new property.
COUNCILMEMBER POLITIS moved, seconded by VICE MAYOR BRYAN to approve Ordinance 2019-09 on first reading.
Vote: Motion carried by unanimous roll call vote (**summary**: Yes = 5 No = 0).
Yes: Mayor Nancy Miller, Vice Mayor Richard Bryan, Councilmember Richard Frizalone, Councilmember Mel Lindauer, Councilmember Michael Politis

C. Resolution 2019-13 A RESOLUTION OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA RELATING TO THE CITY'S TENNIS FACILITY; CREATING A CITY TENNIS FACILITY OPERATIONAL COMMITTEE AND PROVIDING FOR AN ARRAY OF MATTERS RELATING TO THE COMMITTEE; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Miller explained that she felt the issues within the tennis community had been resolved and this agenda item could be removed from consideration. Vice Mayor Bryan agreed there was no need for a tennis committee.
Audience member Honey Burget inquired if teams were allowed to play during the morning. She felt teams took away the courts from the residents. The response was affirmative, that GVTL teams could play as long as a resident made the reservation. She felt it was a conflict of interest and directed a few remarks towards CMBR Frizalone. Attorney Groot stated there was no conflict of interest as the facility is open to the public.
CMBR Politis explained that he was a member of GVTL at Oceanside Country Club. He appreciated the comaraderie of the team players and enjoys visiting other facilities. CMBR Frizalone requested that two GVTL men's teams be allowed to play at night and the council agreed.

D. Special Exception Application SPEX12019016: Banker Nonconforming Single-Family Residential Garage Expansion-3839 S. Atlantic Avenue

The Councilmembers began by stating that all had received a phone call from Attorney Stowers but only CMBR Politis had a conversation with him.

City Planner Stewart Cruz read from his staff report. The applicant submitted an application on April 29, 2019. If the special exception was granted, it would entitle the property to expand its residential garage structure. The owner would like to add a second floor over the garage. The property is located in the T-RMF-1 High Density (Hotel/Motel-Multifamily Residential) zoning district and is assigned the Comprehensive Plan's High Intensity Future Land Use. Both of these designations were in place prior to 2010 when the owner bought the property. The relevant Land Development Codes that are applicable do not mention a single family structure. The home as it exists is a legal non-conforming structure. Section 14-29.5 of the LDC refers to development of a small lots and pertains to the hotel/motel district only. Sections 14-18 and 14-21 do not include single-family uses as a permitted principle use. Florida Statutes Section 163.3194(1)(a) explains the legal status of the comprehensive plan. All development undertaken, and all actions taken shall be consistent with such plan adopted. The application came before the Planning & Zoning Board and they voted to deny the project based on the fact of the application being inconsistent with the comprehensive plan. Staff recommended denial of the application for the same reason. Exhibits were shown to the council displaying the location of the property along with the zoning and future land use maps. City Attorney Groot informed the council that if the development is inconsistent with your comprehensive plan, the law prohibits you to approve it.

Attorney James Stowers spoke for the applicant. He explained that the owner would like to do a small home renovation. He agrees that the property is a non-conforming structure. The house was originally built in 1970's and the owner only wants to expand the garage. It is only a 600 foot expansion. He felt that Section 14.29 of the LDC was very specific to small narrow lots on the east side of S. Atlantic Avenue. He felt it met some of the criteria for a small lot exception. It was his view that the expansion would not impact the public negatively and that the Florida Statutes would agree with him.

Donald Banker spoke on his own behalf. He explained that he purchased the house in 2010, but didn't do any due diligence. The house is not being rented out, it is only for family. They now have a larger family with 11 grandchildren and would like to build two more bedrooms and a bathroom.

The City Attorney reiterated, all new development must be consistent with the zoning classification. The use being proposed is a resident use, but the zoning is multi-family use. Council inquired of a legal way to allow the expansion. It was explained that it would need a comprehensive plan amendment. Director Fred Hiatt explained that staff has to adhere to the comprehensive plan and the law when it was reviewing the application.

COUNCILMEMBER POLITIS moved, seconded by COUNCILMEMBER FRIZALONE to approve the Special Exception Application SPEX12019016 as presented.
Vote: Motion denied by roll call vote (**summary**: Yes = 2 No = 3).
Yes: Councilmember Richard Frizalone, Councilmember Michael Politis
No: Nancy Miller, Richard Bryan, Mel Lindauer

E. Non-Conforming Sign Removal Incentive Grant Application: Grand Prix Motel, 2015 S. Atlantic Avenue

City Planner Stewart Cruz provided details from his staff report. The sign grant is capped this year at $3,900 and there are adequate funds for this project. The applicant did receive three bids and the lowest bidder was Coastal Sign. All requirements have been met and staff recommended approval.
COUNCILMEMBER LINDAUER moved, seconded by COUNCILMEMBER POLITIS to approve the Grand Prix Motel Nonconforming Sign Removal Incentive Grant application in the amount of $3,900 on the condition that the new sign meets all the requirements of the applicable City sign standards and that no code enforcement violation exist prior to the disbursement of City grant funds.
Vote: Motion carried by unanimous roll call vote (**summary**: Yes = 5 No = 0).
Yes: Mayor Nancy Miller, Vice Mayor Richard Bryan, Councilmember Richard Frizalone, Councilmember Mel Lindauer, Councilmember Michael Politis

F. Consideration of date and time for board interviews

Interviews need to be scheduled for potential new Planning & Zoning Board members, Public Art & Beautification Committee members as well as the Special Magistrate. After a short discussion, it was decided to meet on Friday, September 20th at 1:00 pm.

G. Consideration for contract with Stacy Conomos for promotion of economic development programs on social media

CMBR Frizalone provided a brief background on Ms. Conomos and her ability to utilize the social media platform. This would help advertise the new program and it's incentives.
COUNCILMEMBER FRIZALONE moved, seconded by COUNCILMEMBER POLITIS to approve the contract with Stacy Conomos for promotion of economic development programs on social media.
Vote: Motion carried by unanimous roll call vote (**summary**: Yes = 5 No = 0).
Yes: Mayor Nancy Miller, Vice Mayor Richard Bryan, Councilmember Richard Frizalone, Councilmember Mel Lindauer, Councilmember Michael Politis

H. Discussion on City Manager's Salary and Performance Evaluation

Mayor Miller began by stating that the current City Charter provided that the City Manager evaluation was a public record that should be reviewed during a public meeting. In the past, the evaluations were not discussed during a council meeting, but going forward that would be corrected. She stated that the current contract reads the city manager has an active part in the discussion. She requested to schedule a workshop before the next meeting at 5:30 pm to discuss the new format. The Mayor felt the council could use the forms provided to them for this year's evaluation. CMBR Lindauer shared his opinions from a recent meeting with the City Manager. It was his opinion that the City Manager was overstepping his bounds in relation to directing the City Attorney. He felt City Manager Booker had displayed unacceptable conduct in recent emails regarding this evaluation and the City Attorney. CMBR Politis stated that the remarks made by CMBR Lindauer were not appropriate as the City Manager was not present to defend himself. He stated that he would be out of the country on September 9th and requested an alternate date for the workshop. It was decided to hold the workshop on September 20th at 11:00 am.
Vice Mayor Bryan felt the current form did not have measurable objectives. He would like to have some included on a future format.

Audience member Rosana Scaccia spoke on behalf of the Peoples Voice PAC. They support having objectives for employee evaluations.

6. COUNCIL COMMENTS:

Mayor Miller inquired if the council would object to starting the meeting at 6:00 pm from now on. The others had no objection and the City Attorney stated he would prepare a resolution. She would also like to begin holding a monthly workshop prior to a council meeting to allow the members to have discussion on upcoming items. She reminded the audience that her Coffee with the Mayor was tomorrow (August 14th). Beginning in September, the start time will be moved to 10:00 am.
CMBR Lindauer explained that he has begun working with the existing businesses. He had a very productive lunch with Jim Cameron who is in charge of governmental relations with the Daytona Chamber. Vice Mayor Bryan requested the City Attorney determine what is involved with creating a small lot comp plan amendment for the Bankers.

7. AUDIENCE REMARKS/PUBLIC COMMENTS:

Rick Brown stated that he had been trying to research the vacant lot at 2900 S. Atlantic Avenue. He still feels it is a part of the Bellemead PUD and should remain green space. Mayor Miller asked Director Hiatt his opinion and he responded that it was not part of the final PUD. He invited Mr. Brown to his office to discuss the matter.

Linda Toffolon from the Daytona Diner inquired why an existing business had to wait three years to be eligible for any economic incentives. New businesses are awarded them immediately. Attorney Groot responed that the business loyalty program wouldn't start until 2022.

8. ITEMS RECOMMENDED FOR THE NEXT AGENDA:

9. ADJOURNMENT:

The meeting ended at 9:54 pm.

MAYOR
NANCY MILLER

CITY MANAGER
MICHAEL T. BOOKER

ATTEST:

CITY CLERK, CHERI SCHWAB