



City of Daytona Beach Shores

"Life is Better Here"

"A Premier, Friendly Place to Be"

AGENDA CITY COMMISSION MEETING NOVEMBER 14, 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 Chambers. 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:**
 - A. Proclamation for Small Business Saturday
- 6. APPROVAL OF MINUTES**
 - A. City Commission Minutes October 24, 2023
- 7. CONSENT AGENDA:**

- A. Approval of Non-Exclusive Franchise - Fence Service Inc., dba AAA Dumpster Rentals

8. OLD BUSINESS:

- A. Ordinance 2023-13: Administrative House Cleaning Amendment Relating To Sewer Utility Rates, Charges & Fees

9. NEW BUSINESS:

- A. Resolution 2023-17: Budget amendment to fund prior year projects and new projects
- B. Amendment to Port Orange Sewer Services Contract

10. CITY ATTORNEY COMMENTS

11. CITY MANAGER COMMENTS

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
October 24, 2023
3000 Bellemead Drive, Daytona Beach Shores, FL 32118

1. CALL TO ORDER BY MAYOR

Present: Mayor Nancy Miller, Commissioner Mel Lindauer, 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, 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:

6. APPROVAL OF MINUTES

A. City Commission Minutes October 10, 2023

VICE MAYOR MICHAEL POLITIS moved, seconded by COMMISSIONER MEL LINDAUER to Approve the City Commission Minutes of October 10, 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

B. City Commission Workshop Minutes October 10, 2023

COMMISSIONER RICHARD BRYAN moved, seconded by COMMISSIONER MEL LINDAUER to Approve the City Commission Workshop Minutes of October 10, 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. Property and Evidence Incinerator User Agreement
- B. Mead & Hunt Contract for Sanitary Sewer Collection System Assessment and Mapping
- C. Mead & Hunt Contract For The Development Of A Multi-Year Sanitary Sewer Collection System Facility Plan
- D. Community Services Department Monthly Report - September 2023

COMMISSIONER CHRIS CONOMOS 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. **OLD BUSINESS:**

9. **NEW BUSINESS:**

- A. Ordinance 2023-13: Administrative House Cleaning Amendment Relating To Sewer Utility Rates, Charges & Fees

Attorney Waters read the ordinance by title only. It was explained that these were housekeeping items to clean up the code as it pertains to sewer rate charges.

COMMISSIONER RICHARD BRYAN moved, seconded by COMMISSIONER MEL LINDAUER to Approve Ordinance 2023-13 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

10. **CITY ATTORNEY COMMENTS**

There were no additional comments by the City Attorney.

11. CITY MANAGER COMMENTS

There were no additional comments from the City Manager.

12. COUNCIL COMMENTS:

Vice Mayor Politis mentioned that he would be attending the next TPO meeting. Mayor Miller reminded the audience of the upcoming food truck/concert event on Saturday afternoon. The next Coffee With the Mayor will be Nov. 8th.

13. AUDIENCE REMARKS/PUBLIC COMMENTS:

Port Orange/South Daytona Chamber President, Barbara Heegan, thanked the city for their partnership. She invited the elected officials to the leadership graduation ceremony on November 15th at 9:00 am.

14. ITEMS RECOMMENDED FOR THE NEXT AGENDA:

There were no new items mentioned for 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



**CITY COMMISSION AGENDA MEMORANDUM
NOVEMBER 14, 2023 AGENDA**

TO: Honorable Mayor and Members of the City Commission

FROM:

PREPARED BY: Gwyn Herstein, Code Enforcement Coordinator

SUBJECT: Approval of Non-Exclusive Franchise - Fence Service Inc., dba AAA Dumpster Rentals

SYNOPSIS:

Complete application submitted to become a non-exclusive construction & demolition debris and recyclables removal franchise - Fence Service Inc.

FISCAL IMPACT STATEMENT:

BACKGROUND:

This will be Fence Service Inc.'s first year as a Daytona Beach Shores non-exclusive franchisee.

LEGAL REVIEW:

RECOMMENDATION:

SUGGESTED MOTION:

ATTACHMENT: 1. Fence Service Inc.'s Non-Exclusive Franchise Application



City of Daytona Beach Shores
Community Services Department
2990 S. Atlantic Avenue
Daytona Beach Shores, FL 32118
Telephone (386) 763-5377
Fax (386) 763-5370



NON-EXCLUSIVE FRANCHISE APPLICATION

CONSTRUCTION AND DEMOLITION DEBRIS AND/OR RECYCLABLES COLLECTION

Applicant (Business): Fence Service Inc., D.B.A: FSI Roll Off Containers ^{AAA Dumpster Rentals}
Business Address: 801 Orange Avenue, Daytona Beach, FL 32114
Business Phone: 386-253-4212
Authorized Rep. Name & Title: William G. Morrison, IV
Authorized Rep. Contact Phone: 386-253-4212

Items Required for Application Submission:

- ☒ Application: completed, signed by applicant, & notarized
- ☒ Annual Application/Renewal Fee of \$1,000.00 ^{check # 2302}
- ☒ Non-Exclusive Franchise Agreement: completed, signed by franchisee, & attested-to
- ☒ Proof of Liability Insurance – All policies must have the City listed as additionally insured. Each franchisee shall secure and maintain a public liability insurance policy with the following minimum coverages:
 - \$1,000,000.00 for one (1) person injured
 - \$3,000,000.00 for more than one (1) person injured
 - \$3,000,000.00 for property damage
- ☒ Performance Bond in the amount of \$10,500.00.
- ☒ Business Tax Receipt: current, in the company's name
- ☒ Disposal Plan: Documentation of plan for disposal of all construction and demolition materials and/or recyclables collected within the City at an approved and licensed disposal site or recycling recovery facility.
- ☒ Employee Policy: Written policy addressing the hiring and retention of employees with regard to driving violations and random testing for use of illegal substances.

The below statements require the applicant to read and initial the corresponding line:

W I agree, as authorized representative, that I have received a copy of, read, and will comply with all provisions contained in DBS Ordinance Number 2009-07 and all applicable administrative rules.

RECEIVED
OCT 31, 2023
CODE ENFORCEMENT
DIVISION

W I agree, as authorized representative, that the franchisee will be, and shall be, subject to the schedule of liquidated damages set forth in Exhibit "A."

W I agree, as authorized representative, that the City Manager, or designee, may conduct an investigation into information contained herein and related to criminal or personal records for myself as an individual or, if a corporation, for itself and its officers and directors.

W I agree, as authorized representative, that, for the right and privilege of utilizing the streets and roadways of the City of Daytona Beach Shores, Florida, and to compensate the City for the burden of monitoring and regulating the above business, the undersigned applicant agrees to abide by all applicable Federal, State, County and City laws, codes, ordinances, rules and regulations.

W I agree, as authorized representative, the franchisee and its surety indemnify and save harmless the City, all its officers, officials, representatives, agents and employees from and against any and all claims, liability and damages arising, in any way, from or based on the violation of any such laws, codes, ordinances, rules and regulations and any orders or other decrees, whether by the franchisee, the franchisee's employees, agents or subcontractors as to any claims, liability, or damages which are based, in any way whatsoever, on the franchisee's conduct, misconduct or omissions.

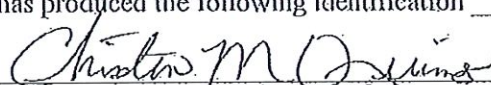

Signature of Applicant

CEO

Type of Authority for Business Named
Above (E.g. Officer, Trustee)

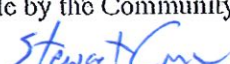
STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization this 18 day of September, 2023, by William G. Morrison
(Name of Person) as CEO. The signer is personally known ☒ or has produced the following identification _____

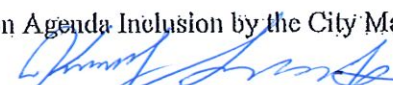

Signature of Notary Public



☒ Documentation reviewed as complete by the Community Services Director:

 on 11-2-23
Stewart Cruz Date

☒ Approved for City Commission Agenda Inclusion by the City Manager:

 on 11/7/23
Kurt Swartzlander Date

Action Taken by City Commission on _____ - Approved Denied Continued
Date



CITY COMMISSION AGENDA MEMORANDUM NOVEMBER 14, 2023 AGENDA

TO: Honorable Mayor and Members of the City Commission

FROM:

PREPARED BY: Cheri Schwab, City Clerk

SUBJECT: Ordinance 2023-13: Administrative House Cleaning Amendment Relating To Sewer Utility Rates, Charges & Fees

SYNOPSIS:

Ordinance 2023-13, is an administrative house cleaning ordinance relating to sewer rates, charges, and fees. If approved, the subject ordinance will repeal outdated Ordinance 2005-09 (attached), and amend Sec. 12-4.32 and Sec. 12-4.60 of the Daytona Beach Shores Land Development Code (LDC) as follows:

1. Repeal of Ordinance 2005-09 in its entirety. The aforementioned ordinance, which was never codified and is no longer valid or applicable, contains two fundamental sections: (a) Section One, relating to the adjustment of sewer utility rates for the year 2005, which rates have now been supplanted and replaced by subsequent rate adjustments, and (b) Section Two, relating to the now inapplicable CPI methodology for calculating sewer rates. Therefore, there is no utility of further need for Ordinance 2005-09.
2. Amendment of Sec. 12-4.32 of the LDC, entitled "Service Use Charge," by eliminating the reference to customer payment of sewage charges at "the City's banking institution." The City does not have an agreement with its banking institution for this service.
3. Amendment of Sec. 12-4.60 of the LDC, entitled "Service Charges and Fees," by adding clarity that applicable sewer charges and fees are set forth by the City Commission by means of a resolution.

FISCAL IMPACT STATEMENT:

no fiscal impact.

BACKGROUND:

LEGAL REVIEW:

RECOMMENDATION:

Approval of Ordinance 2023-13 as presented.

SUGGESTED MOTION:

Approval of Ordinance 2023-13 as presented.

- ATTACHMENT:**
1. 2023-13 Sewer Rates-HouseCleaning-10-17-23-SC
 2. Ordinance 2023-13 - Business Impact Estimate

ORDINANCE 2023-13

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, RELATING TO SEWER UTILITY RATES, CHARGES AND FEES; REPEALLING ORDINANCE 2005-09; AMENDING THE MUNICIPAL CODE OF ORDINANCES, LAND DEVELOPMENT CODE APPENDIX “G”, CHAPTER 12 ENTITLED “UTILITIES,” SECTION 12-4 “ENTITLED SEWERS AND SEWAGE DISPOSAL” TO PROVIDE FOR ADMINISTRATIVE “HOUSE CLEANING” RELATING TO SEWER UTILITY RATES, CHARGES AND FEES; GRANTING THE CITY COMMISSION AUTHORITY TO ADOPT A RESOLUTION ESTABLISHING RATES AND FEES FOR SEWER UTILITIES; PROVIDING FOR IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; 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, the City Commission of the City of Daytona Beach Shores desires to make administrative “house cleaning” changes relating to Chapter 12 of the Code of Ordinances relating to sanitary sewer utility rates, charges and fees; and

WHEREAS, Ordinance 2005-09 is no longer valid, applicable or in the best interest of the citizens of the City of Daytona Beach Shores; and

WHEREAS, the City Commission of the City of Daytona Beach Shores finds this Ordinance is in the best interest and welfare of the citizens; and

WHEREAS, the City of Daytona Beach Shores has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance; and

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

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

Section 1. Recitals. The above “WHEREAS” clauses are incorporated by reference into the Bunnell Code of Ordinances.

Section 2. Repeal of Ordinance 2005-09. Daytona Beach Shores Ordinance 2005-09, adopted on April 27, 2005, but not codified, is hereby repealed in its entirety. A copy of the repealed Ordinance 2005-09 is attached hereto and made a part hereof as Exhibit “A”.

Section 3. Amendments. Section 12-4, Land Development Code, Chapter 12, Appendix “G”, Code of Ordinances of the City of Daytona Beach Shores, entitled “Utilities,” is amended to read as follows: (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.)

Chapter 12 – Utilities

12-4.32. Service Use Charge.

1. *Levied; Rate.* There is hereby levied and imposed a sewer service use charge as is currently in effect for each one thousand (1,000) gallons ~~or part thereof~~ consumed per month thereafter which service use charge shall be imposed on each customer of water in the City. The service use charge shall continue to be reviewed annually to revise the rates as necessary to ensure that adequate revenues are generated to pay the cost of operation and maintenance, including replacement and treatment cost increases, and that the system provides for proportional distribution of costs among users. The City will notify users annually of the rate structure in effect to adequately maintain adequate revenues and the City Manager, or designee, may take all necessary administrative actions to implement the rate structure of the City as it may be modified from time-to-time.

3. *Payment.* This sewage charge shall be paid at City Hall ~~or the City's banking institution~~, the address of which shall be printed on the sewage bill, by each person responsible for the payment of their respective water bill. Payment is due upon receipt and shall be considered delinquent if not paid by the stated due date on the sewer billing. Payments received at the City's banking institution on the stated due date must arrive there before the institution's daily cutoff time otherwise they will be credited to the customer's account on the following business day resulting in a delinquency. The City shall not accept postmarked dates for payment of bills due the City. Payments shall only be accepted without penalty when they are received by the due date and not by the date postmarked. The City shall not be responsible for delay or loss of mail.

12-4.60. Service Charges and Fees.

1. *Purpose.* It is the purpose of this section to provide for the recovery of costs from users of the city's wastewater collection and transmission system and charge for treatment and disposal by the City of Port Orange system for the implementation of the program established herein. The

applicable charges or fees shall be set forth by resolution of the City Commission. ~~in the city's schedule of charges and fees.~~

2. *Service Charges.* It is hereby determined necessary to fix and collect sewer service charges from customers. Such charges shall be published separate from this section and the revenue received shall be used for operation, maintenance, debt retirement and other authorized expenses and shall be set forth by resolution of the City Commission.

Section 4. Implementing Administrative Actions. The City Manager, or designee, is hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions to include, but not be limited to, the adoption of administrative policies.

Section 5. Savings. The prior actions of the City of Daytona Beach Shores not addressed herein relating to the collection, imposition, establishment or other action relative to utility fees, charges, rates or any other similar matters and any other fees, charges, rates or any other similar matters by the City and the establishment of fees, charges, rates or any other similar matters by the City, and any and all matters relating thereto, are hereby ratified and affirmed.

Section 6. Codification. The provisions of this Ordinance 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 re-lettered 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 Four, Five, Six, Seven, Eight and Nine shall not be codified.

Section 7. Conflicts. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

Section 8. 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 9. Effective Date. This Ordinance shall take effect immediately upon enactment.

(SIGNATURE AND ADOPTION PAGE FOLLOWS)

Ordinance 2023-13
Signature and Adoption Page

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”

ORDINANCE 2005-09

~~AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, VOLUSIA COUNTY, FLORIDA, ADJUSTING THE UTILITY RATE FOR SEWER CHARGES, PROVIDING FOR APPROPRIATIONS; PROVIDING AN EFFECTIVE DATE.~~

~~WHEREAS~~, state law prohibits municipal enterprise funds from incurring operational financial deficits; and,

~~WHEREAS~~, the City's must generate revenues necessary to maintain and operate its sewer utility; and,

~~WHEREAS~~, the City is under an inter-local agreement with the City of Port Orange to provide wholesale wastewater treatment services and the terms of this agreement permit a bi-annual adjustment of charges for services; and,

~~WHEREAS~~, the City of Port Orange has (based on a comprehensive rate analysis study performed on its behalf by a recognized engineering firm) increased its charges to the City of Daytona Beach Shores from \$2.58 to \$3.42 (33%) per each one thousand gallons effective October 1, 2005;

~~NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA:~~

~~SECTION ONE:~~ — ~~The existing sewer utility rates charged on a monthly basis are adjusted as follows:~~

~~For system availability and/or connections within the City of Daytona Beach Shores:~~

- ~~a. ————— The current minimum per month charge for system availability is changed from ten dollars twenty cents (\$10.20) to thirteen dollars forty cents~~

Ord. 2023-13

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~~(\$13.40). This charge includes an unchanged fifty-cent (\$0.50) administrative charge and the first two thousand (2000) gallons of use.~~

- b. ~~The rate for any and all use beyond two thousand gallons is changed from four dollars eighty-five cents (\$4.85) per each one thousand gallons to six dollars forty-five cents (\$6.45) per each one thousand gallons.~~

~~For system availability and/or connections outside the City of Daytona Beach Shores:~~

- c. ~~The current minimum per month charge for system availability is changed from fifteen dollars six cents (\$15.06) to nineteen dollars eighty-five cents (\$19.85). This charge includes an unchanged fifty-cent (\$0.50) administrative charge and the first two thousand (2000) gallons of use.~~
- d. ~~The rate for any and all use beyond two thousand gallons is changed from seven dollars twenty-eight cents (\$7.28) per each one thousand gallons to nine dollars sixty-eight cents (\$9.68) per each one thousand gallons.~~

~~**SECTION TWO:** Subsequent to the changes effected by Section One above, sewer utility rates for all categories of users will be adjusted on October 1st of each year by the greater of: (1) the percentage rate of change charged by the City's provider of wastewater treatment services; or, (2) the rate of change of the Consumer Price Index for Urban Wage Earners (CPI-U) as published by the U.S. Department of Labor Bureau of Labor Statistics. Under this option, the annual rate of change for the CPI-U in the completed January 1st through December 31st calendar year prior to October 1st of each year shall be the adjustment applied to all sewer utility rates.~~

~~**SECTION THREE:** This Ordinance shall be effective October 1, 2005. All ordinances or parts of ordinances in conflict herewith on this effective date are hereby repealed.~~

Business Impact Estimate Form

This Business Impact Estimate Form is provided to document compliance with and exemption from the requirements of Sec. 166.041(4), Fla. Stat. If one or more boxes are checked below under “Applicable Exemptions”, this indicates that the City of Daytona Beach Shores has determined that Sec. 166.041(4), Fla. Stat., does not apply to the proposed ordinance and that a business impact estimate is not required by law. If no exemption is identified, a business impact estimate required by Sec. 166.041(4), Fla. Stat. will be provided in the “Business Impact Estimate” section below. In addition, even if one or more exemptions are identified, the City of Daytona Beach Shores may nevertheless choose to provide information concerning the proposed ordinance in the “Business Impact Estimate” section below. This Business Impact Estimate Form may be revised following its initial posting.

Proposed ordinance’s title/reference:

ORDINANCE 2023-13

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, RELATING TO SEWER UTILITY RATES, CHARGES AND FEES; REPEALLING ORDINANCE 2005-09; AMENDING THE *MUNICIPAL CODE OF ORDINANCES, LAND DEVELOPMENT CODE APPENDIX “G”*, CHAPTER 12 ENTITLED “UTILITIES,” SECTION 12-4 “ENTITLED SEWERS AND SEWAGE DISPOSAL” TO PROVIDE FOR ADMINISTRATIVE “HOUSE CLEANING” RELATING TO SEWER UTILITY RATES, CHARGES AND FEES; GRANTING THE CITY COMMISSION AUTHORITY TO ADOPT A RESOLUTION ESTABLISHING RATES AND FEES FOR SEWER UTILITIES; PROVIDING FOR IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Applicable Exemptions:

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant, or other financial assistance accepted by the municipal government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or

- ☐ The proposed ordinance is enacted to implement the following:
- ☐ Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements, and development permits;
 - ☐ Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
 - ☐ Section 553.73, Florida Statutes, relating to the Florida Building Code; or
 - ☐ Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

Business Impact Estimate:

The City of Daytona Beach Shores hereby publishes the following information:

- 1. A summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):**

The public purpose of Ordinance 2023-13 is to repeal a prior adopted ordinance, which was never codified or enforced (Ordinance 2005-09); to perform administrative “house cleaning” amendments to existing sections of the Code of Ordinances relating to sanitary sewer utility rates, charges and fees; and, to grant the City Commission the authority to adopt a future resolution to establish rates and fees for sewer utilities.

- 2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the municipality, including the following, if any:**

- (a) An estimate of direct compliance costs that businesses may reasonably incur if the ordinance is enacted:**

Ordinance 2023-13 has no direct compliance costs.

- (b) Identification of any new charge or fee on businesses subject to the proposed ordinance, or for which businesses will be financially responsible:**

There are no new fees or charges associated with Ordinance 2023-13.

- (c) An estimate of the municipality’s regulatory costs, including an estimate of revenues from any new charges or fees that will be imposed on businesses to cover such costs:**

There will be no regulatory costs associated with Ordinance 2023-13.

- 3. A good faith estimate of the number of businesses likely to be impacted by**

the ordinance:

Ordinance 2023-13 will have no impact on businesses in the City of Daytona Beach Shores.

4. Additional information the governing body determines may be useful (if any):

None

Note: *The City's provision of information in the Business Impact Estimate section above, notwithstanding an applicable exemption, shall not constitute a waiver of the exemption or an admission that a business impact estimate is required by law for the proposed ordinance. The City's failure to check one or more exemptions below shall not constitute a waiver of the omitted exemption or an admission that the omitted exemption does not apply to the proposed ordinance under Sec. 166.041(4), Fla. Stat., Sec. 166.0411, Fla. Stat., or any other relevant provision of law.*



CITY COMMISSION AGENDA MEMORANDUM NOVEMBER 14, 2023 AGENDA

TO: Honorable Mayor and Members of the City Commission

FROM: Lory Irwin, Finance Director

PREPARED BY: Lory Irwin, Finance Director

SUBJECT: Resolution 2023-17: Budget amendment to fund prior year projects and new projects

SYNOPSIS:

The fiscal year ends on September 30 each year. There are projects that are assumed to be able to be completed by year end and others that need to be budgeted into the next fiscal year as they will not be completed. There are also purchases made that are to be delivered by the end of the fiscal year and if they are not those funds need to be budgeted in the next fiscal year. If something unforeseen happens and the vendor is unable to complete the project or deliver the goods by September 30th the city is still liable for those expenses. The city does not use a 'carry forward' when budgeting. All purchase orders are liquidated at year end and all unspent funds are added to the city's reserves.

The city has several projects that were unable to be completed and some purchases that were not delivered by September 30, 2023 and staff is asking the commission to amend the current year budget to account for these projects and purchases. The funds were originally budgeted in FY 22-23 and as they were not spent, they were moved to general fund reserves at year end. There are \$156,000 in projects and purchases in this classification. These projects include fencing and exercise equipment at McElroy park, gutters and shower replacement at Fornari Park, decorative light poles and accessories damaged during Hurricane Ian and Nicole, replacing guardrail at the property the city purchased behind Chase bank, purchasing bunker gear, fire gloves, hoods, helmets and boots for city fire personnel, and purchasing a Public Safety evidence shed.

Several projects have been identified throughout the city that were not identified during the budget process. City staff feel these projects should be completed in FY 23-24. These projects include pickleball fencing and court resurfacing, public safety evidence locker refrigerator replacement and sprayfoam insulation for the fleet garage that was damaged during Hurricane Ian. These projects total \$100,300.

FISCAL IMPACT STATEMENT:

The current year budget will increase \$256,300. The funds will be moved from general fund reserves of which \$156,000 was not spent in FY 22-23 and added to general fund reserves.

BACKGROUND:

The fiscal year ends on September 30 each year. There are projects that are assumed to be able to be completed by year end and others that need to be budgeted into the next fiscal year as they will not be completed. There are also purchases made that are to be delivered by the end of the fiscal year and if they are not those funds need to be budgeted in the next fiscal year. If something unforeseen happens and the vendor is unable to complete the project or deliver the goods by September 30th the city is still liable for those expenses. The city does not use a 'carry forward' when budgeting. All purchase orders are liquidated at year end and all unspent funds are added to the city's reserves.

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LEGAL REVIEW:

RECOMMENDATION:

Staff recommends approval of Resolution 2023-17.

SUGGESTED MOTION:

Motion to accept Resolution 2023-17 amending the FY 2023-24 budget by \$256,300.00.

- ATTACHMENT:**
1. Resolution 2023_17 Budget Amendment #1 FY 23_24
 2. New budget amendment 2023-2024 Exhibit A

RESOLUTION 2023 - 17

A RESOLUTION OF THE CITY OF DAYTONA BEACH SHORES, VOLUSIA COUNTY, FLORIDA, AMENDING THE GENERAL FUND FY 2023-2024 BUDGET, PROVIDING FOR APPROPRIATIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Daytona Beach Shores, by Resolution 2023-14, adopted an operating budget for Fiscal Year 2023-24; and

WHEREAS, the City has found it desirable to amend FY 2023-24 budget to include projects not completed in FY 2022-23 and unforeseen expenditures not budgeted for in FY 2023-24; and

WHEREAS, the City Commission desires to appropriate the necessary reserve funds for the continuation and completion of certain City operations; and

WHEREAS, a budget amendment is required to include the purchase in the budget.

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

SECTION ONE: The Fiscal Year 2023-24 budget shall be amended as shown in Exhibit A.

SECTION TWO: This Resolution shall be effective immediately upon its adoption.

CITY OF DAYTONA BEACH SHORES, FL

NANCY MILLER, MAYOR

KURT SWARTZLANDER, CITY MANAGER _____
CHERYL SCHWAB, CITY CLERK

Approved as to form and legality:

**_____
VOSE LAW FIRM, CITY ATTORNEY**

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

Exhibit A

Projects not completed or received by Sept 30th:

	TOTAL	DEPOSIT	TOTAL DUE
SunCoast Fencing	\$ 12,000.00	\$ 6,000.00	\$ 6,000.00
R&R/Strike Force	\$ 800.00		\$ 800.00
R&R/Strike Force	\$ 3,950.00		\$ 3,950.00
CMT	\$ 24,325.00		\$ 24,325.00
CMT	\$ 21,900.00		\$ 21,900.00
Landreth	\$ 27,275.00		\$ 27,275.00
Shower Tower	\$ 2,650.00		\$ 2,650.00
Envirotech Outdoors	\$ 6,300.00	\$ 2,000.00	\$ 4,300.00
East Coast Welding	\$ 700.00		\$ 700.00
	\$ 99,900.00	\$ 8,000.00	\$ 91,900.00

Basketball court/playground re-fence not completed
Fornari gutters not completed
Rotten wood under gutters replacement not complete
Decorative street poles damaged by hurricane ordered 2022 not received by Sept 30th
Additional decorative street poles damaged by hurricane
Decorative light heads damaged by hurricane
Fornari shower replacement not received by end of Sept.
Elliptical replacement ordered but not received by end of Sept.
Replace guardrail behind our (Chase) lot

Public Safety not received by September 30th:

Bunker gear 10 sets	\$ 33,000.00	
Fire gloves, hoods, helmets, boots	\$ 19,900.00	
Evidence Shed	\$ 11,200.00	
	<u>\$ 64,100.00</u>	<u>\$ 64,100.00</u>
Total		<u>\$ 156,000.00</u>

Projects not budgeted:

McElroy pickleball fence	\$ 37,900.00	
McElroy pickleball court re-paint/surface	\$ 35,000.00	
PS Evidence locker frig replacement	\$ 7,400.00	
Additional spray foam/drywall fleet	\$ 20,000.00	
Total	\$ 100,300.00	\$ 100,300.00

Grand Total	\$ 256,300.00
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**CITY COMMISSION AGENDA MEMORANDUM
NOVEMBER 14, 2023 AGENDA**

TO: Honorable Mayor and Members of the City Commission
FROM: Kurt Swartzlander, City Manager
PREPARED BY: Kurt Swartzlander, City Manager
SUBJECT: Amendment to Port Orange Sewer Services Contract

SYNOPSIS:

During a City commission workshop the City of Port Orange requested an increase in their service rates to the city which falls outside of the existing contract. Consensus was given to staff to bring back an amendment to the contract to address this request from Port Orange.

FISCAL IMPACT STATEMENT:

The rates charged to the City by the City of Port Orange will be increased by \$0.59/thousand gallons.

BACKGROUND:

N/A

LEGAL REVIEW:

RECOMMENDATION:

Motion to approve.

SUGGESTED MOTION:

Motion to approve and authorize the Mayor and City Manager to execute the 6th amendment to the contract.

ATTACHMENT: 1. SIXTH ADDENDUM TO THE WHOLESALE SERVICE AGREEMENT City of PO

SIXTH ADDENDUM TO THE WHOLESALE SERVICE AGREEMENT

THIS AGREEMENT, made and entered into by and between THE CITY OF DAYTONA BEACH SHORES, a municipal corporation of the State of Florida ("the Shores") and THE CITY OF PORT ORANGE, a municipal corporation of the State of Florida ("Port Orange").

Whereas, Port Orange owns its Pollution Control Facility which is a regional facility for the treatment and disposal of sanitary sewage from the southern area of North Central Volusia County, by methods approved by the State of Florida, Department of Environmental Protection and the U.S. Environmental Protection Agency; and

Whereas, Port Orange and the Shores are Parties to that certain Agreement dated November 12, 1984, as amended from time to time ("Shores Agreement"), for the provision of sewage transportation, treatment and disposal for the Shores wastewater service area; and

Whereas, Port Orange and the Volusia County entered into a Retail Sewer Service Agreement South Peninsula, Volusia /County, dated December 6, 1984 ("County Agreement") for provision of sanitary sewage service to the South Peninsula Sewage Collection System area ("South Peninsula Area"); and

Whereas, the Parties deem it mutually beneficial that Daytona Beach Shores will continue to bill as historically done for wastewater services within Daytona Beach Shores. Port Orange will continue to provide a consumption listing for Daytona Beach Shores; and

Whereas, the Parties are authorized by law to enter into this Agreement to amend the Shores Agreement, as previously amended.

WITNESSETH

That, for and in consideration of ten dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, and the mutual promises herein, Port Orange and the Shores do hereby agree to amend the Shores Agreement as previously amended by the revision of Sections B. (2), B. (20) and B. (21) to read as follows:

B. (2) Port Orange agrees to establish a wholesale rate based on annual budgetary estimates, covering the costs described above per thousand gallons of domestic sanitary sewage. Monthly payments for all services rendered shall be computed on this basis. The Shores agrees to pay Port Orange monthly by electronic funds transfer, within ten (10) days from receipt of bill, for each and every month, for that amount of sewage delivered to the Port Orange facilities in the preceding month, based on the agreed rate per thousand gallons. Effective January 1, 2024 the rate shall be \$4.05 per thousand gallons. Effective October 1, 2024, the rate shall be \$4.28 per thousand gallons. The rates shall be reviewed and adjusted to be effective on October 1st for each year thereafter. Port Orange shall notice the Shores by no later than July 1 of each year of any proposed change(s) in the wholesale rates or forego the rate increase for that year.

B. (20) Ratification. The Shores Agreement, as previously amended and now further amended by this Sixth Addendum, is hereby fully ratified and reconfirmed in its entirety and all other provisions shall remain in full force and effect.

B. (21) Terms Effective. All other terms and conditions of the Shores Agreement, as previously amended, shall remain in full force and effect except as modified herein.

IN WITNESS WHEREOF, the parties hereto have executed this Sixth Addendum by their duly authorized officials on the dates set forth below, the last being the Effective Date of this Sixth Addendum.

Witness:	CITY OF DAYTONA BEACH SHORES
_____	By: _____
	Mayor Nancy Miller
_____	Attest: _____
	Kurt Swartzlander, City Manager
	Date: _____

Witness:	CITY OF PORT ORANGE
_____	By: _____
	Mayor Donald O. Burnette
_____	Attest: _____
	Robin L. Fenwick , City Clerk
	Date: _____