





**THE CITY OF DAYTONA BEACH
BUSINESS MEETING OF THE CITY COMMISSION
MAY 15, 2019
CITY COMMISSION CHAMBERS
6:00 PM**

AGENDA

Website Address - www.codb.us (City Clerk)

NOTICE- Pursuant to Section 286.0105, Florida Statutes, if any person decides to appeal any decision made by the City Commission at this public meeting, such person will need a record of the proceedings and, for that purpose, such person may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The city does not prepare or provide such a record.

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|  | <p>For special accommodations, please notify the City Clerk's Office at least 72 hours in advance. (386) 671-8020</p> |  | <p>Help for the hearing impaired is available through the Assistive Listening System. Receivers can be obtained from the City Clerk's Office.</p> |
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In accordance with the Americans with Disabilities Act (ADA), persons with a disability needing a special accommodation to participate in the City Commission meeting should contact the City Clerk's Office, 301 S. Ridgewood Ave, Room 210, Daytona Beach, FL 32114, Telephone: (386) 671-8023, Email: clerk@codb.us not later than 72 hours prior to the proceedings. If you are hearing or voice impaired contact the relay operator at 1-800-955-9771.

1. ROLL CALL.

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- 1. ROLL CALL.**
- 2. INVOCATION.**
- 3. PLEDGE OF ALLEGIANCE TO THE FLAG.**
- 4. APPROVAL OF MINUTES.**

4.A. [Approval of Minutes](#)

Approval of the Minutes of the April 17, 2019 Business Meeting of the City Commission held at City Hall, 301 S. Ridgewood Avenue, Daytona Beach, Florida.

5. AGENDA APPROVAL.

THOSE MATTERS INCLUDED UNDER THE CONSENT AGENDA ARE SELF-EXPLANATORY AND ARE NOT EXPECTED TO REQUIRE REVIEW OR DISCUSSION. ITEMS WILL BE ENACTED BY ONE MOTION. IF DISCUSSION IS DESIRED BY ANY MEMBER OF THE COMMISSION, THAT ITEM MUST BE REMOVED FROM THE CONSENT AGENDA AND CONSIDERED SEPARATELY.

6. PRESENTATION.

6.A. [BEAUTIFICATION AWARDS - MAY 2019 \(pp. 15-17\)](#)

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Residential Award:

Sam and Erin Masters, 500 Driftwood Avenue, Commissioner Aaron Delgado, Zone 2, to present.

Commercial Award:

747 Office Suites, 747 South Ridgewood Avenue, Mayor Derrick L. Henry to present.

6.B. [Development and Administrative Services, Planning Division - The Abby - Historic Preservation Award \(pp. 18-23\)](#)

The Historic Preservation Board is presenting the Historic Preservation Award to Yuri and Amira Melnichenko, property owners of The Abby. The Abby was built in 1875 and is listed on the National Register of Historic Places because its role as one of the most important landmarks of Daytona Beach in the founding settlement of the City and its connection to Laurence Thompson and Harrison G. Rhodes, both who have made important contributions to the City's history. Mr. and Mrs. Melnichenko rehabilitated the building while preserving a historically significant structure. Today it is a Bed and Breakfast located at 426 South Beach Street, Daytona Beach, FL. Douglas Gutierrez, Staff Liaison to Historic Preservation Board, to report.

7. CITIZENS.

7.A. [PUBLIC COMMENTS BY THE PEOPLE ADDRESSING THE CITY COMMISSION](#)

During this time Citizens have the opportunity to address the City Commission on any item on the Consent Agenda.

8. CONSENT AGENDA.

PLEASE NOTE: ITEMS PULLED FROM THE CONSENT AGENDA MAY BE REMOVED FROM CONSIDERATION BY THE CITY COMMISSION AND CONTINUED FOR TWO (2) WEEKS UNTIL THE NEXT REGULARLY SCHEDULED CITY COMMISSION MEETING. (ONLY MEMBERS OF THE CITY COMMISSION MAY REMOVE ITEMS FROM THE AGENDA).

8.A. [Fire Department - Municipal Emergency Services, Inc - Sole Source Purchase \(pp. 25-30\)](#)

Resolution authorizing the sole source purchase of Hurst Jaws of Life vehicle extrication equipment and necessary accessories in an amount not to exceed \$31,115 from Municipal Emergency Services, Inc. 3789 62nd Avenue Pinellas Park, FL 33781, who serves as the sole distributor of Hurst Jaws of Life, Inc., equipment for the State of Florida. Purchased equipment to replace tools purchased in 1998 which are no longer serviceable nor meet current standards. Previous grant attempts at replacement were unsuccessful. Funds available in the General Fund.

Recommendation: Fire Chief recommends adoption of the Resolution authorizing the sole source purchase of Hurst Jaws of Life vehicle extrication equipment and necessary accessories in an amount not to exceed \$31,115 from Municipal Emergency Services, Inc.

8.B. [Business Enterprise Management Department - Worm Burner's Restaurant - Temporary Base Rent Reduction Agreement \(pp. 31-41\)](#)

Resolution approving an agreement to temporarily reduce the Base Rent between the City Municipal Golf Course and Worm Burner's, LLC, 1119 Squirrel Nest Lane, Port Orange, FL 32129 by 50% during the five (5) months while the Daytona Beach Golf Club's North Course is closed for greens renovations in order to account for Tenant's potential claims for loss of business or untenability as a result of the partial closure. All other terms and conditions of the lease will remain in full force and effect. The Tenant waives all claims for damages against the City as a result of the North Course greens renovation work to be completed under the above referenced contract with JGCC Golf N Sport's Turf, Inc. The Tenant will be required to pay full Base Rent as provided in the Lease beginning October 1, 2019 and will comply with all other terms and conditions of the Lease, thereafter. No funding is required.

Recommendation: Business Enterprise Management Department Manager recommends adoption of the Resolution.

8.C. [Public Works/Administration Division - Hurricane Irma Public Assistance Federally Funded Sub-Award and Grant Agreement \(pp. 42-111\)](#)

Resolution authorizing the City Manager to execute the Federally- Funded Sub-award and Grant Agreement No. Z0659 between the Florida Division of Emergency Management (FDEM) and the City of Daytona Beach, as well as any amendments, modifications and ancillary agreements that may be required to secure reimbursements available through the Florida Public Assistance Program.

This Grant Agreement will allow the City to receive Federal and possibly State funding reimbursements for costs incurred from damage caused by Hurricane Irma to City facilities including buildings and roads, and reimbursement for eligible City expenditures or losses related to the storm. This Grant Agreement is for the first obligated project submitted for Hurricane Irma, Lift Stations 22 & 45 which sustained damages that were repaired for a total of \$4,064. As the remaining projects are obligated through the Federal Emergency Management Agency (FEMA) and the State of Florida Public Assistance Program, amendments, modifications, and ancillary agreements for the Grant Agreement will be submitted to provide reimbursements for those projects.

The Grant provides for a minimum of 75% of eligible costs on a cost-sharing basis, including direct federal assistance (FEMA funded, State administered). The State of Florida historically reimburses 50% (12.5%) of the remaining balance of the local cost share. City funds will be used for costs not reimbursed by FEMA or the State of Florida, anticipated to be 12.5%; a future budget amendment will authorize all remaining Hurricane Irma related costs.

Recommendation: Public Works Director recommends adoption of the Resolution.

8.D. [Public Works/Facilities Property Maintenance Division - Portable Air LC - Schnebly Recreation Center - Ratification of Emergency Temporary HVAC Services \(pp. 112-151\)](#)

Resolution ratifying the emergency temporary HVAC rental from Portable Air LC, 555 South Industry Road, Cocoa, FL, 32926, in the amount of \$41,850. The HVAC chiller system at the Schnebly Recreation Center, 1101 North Atlantic Avenue, failed in 2018. In order to avoid any disruption of the regular daily activities scheduled at this facility, a temporary chiller system was installed. The installation of the permanent replacement system by General Mechanical Corporation, per Resolution 19-02, has taken longer than anticipated, extending the need for the temporary rental system. The permanent system has been installed and the temporary system has been disconnected as of 4-05-19. Portable Air provided the lowest quote to install the temporary system, in the amount of \$2,850. Temporary HVAC services have been provided on a monthly basis at a cost of \$3,600 per month. At this time the services have totaled \$38,250, as paid through purchase orders 12883, 13179, 14258, and 15140. An additional payment of \$3,600 for the current service period through April 08, 2019 is pending approval through purchase order 15209. Funding was provided by a contingency fund as well as the General Fund.

Recommendation: Public Works Director recommends adoption of the Resolution ratifying the emergency temporary HVAC rental from Portable Air LC in the amount of \$41,850.

8.E. [Public Works, Technical Services Division - SanPik, Inc. - Bid Award \(pp. 152-189\)](#)

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Resolution awarding Dr. Martin Luther King (MLK) Jr. Boulevard Roadway and Pedestrian Improvement Project, Bid No. 19303 to SanPik, Inc., 3551 W; Lake Mary Blvd., Suite 210, Lake Mary, FL 32746 in the amount of \$2,679,068 and declare the lowest bidder, DB Civil Construction, LLC to be

non-responsible. This project is for the complete roadway reconstruction of Dr. Martin Luther King (MLK) Jr. Blvd. from Orange Ave. to International Speedway Boulevard, including widening the sidewalks to 8-feet on both sides, curb and gutter, new water main and water services, new gravity sewer system and sewer laterals, relocating power poles to backside of sidewalk, curb bump outs with landscaping and irrigation, and street lighting. Funds available as listed below:

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|---------------------------------|--------------|
| Capital Projects | \$608,557.14 |
| State Revolving Loan-W&S Const | \$297,342.90 |
| Water & Sewer Impr Construction | \$386,569.30 |
| Renewal and Replacement - 8% | \$458,596.00 |
| Transportation 5 Cent Gas Tax | \$461,629.00 |
| Redevelopment - Midtown | \$466,373.66 |

Recommendation: Public Works Director recommends adoption of the Resolution awarding Project, Bid No. 19303 to SanPik, Inc., in the amount of \$2,679,068.

8.F. [Public Works/Engineering Division - Dredging & Marine Consultants, LLC, \(DMC\) - Project Specific Professional Engineering Services Contract Acceptance \(pp. 190-220\)](#)

Resolution accepting a Project Specific Professional Engineering Services contract with Dredging & Marine Consultants, LLC, (DMC), 4643 S. Clyde Morris Blvd., Unit 302, Port Orange, FL 32129, in a lump sum amount of \$118,310.91 for the design of a new seawall along the east side of Riverfront Park between Orange Avenue and International Speedway Boulevard. The design will include the needed surveys, geotechnical investigations, environmental assessments, regulatory permitting, permit/construction plans, and technical specification to construct a replacement seawall. Funds available the General Fund (\$109,595.32) and the Rec/Parks/Cultural Impact Fees Fund (\$8,715.59).

Recommendation: Public Works Director recommends adoption of Resolution accepting a Project Specific Professional Engineering Services contract with Dredging & Marine Consultants, LLC, (DMC) in the amount of \$118,310.91.

8.G. [Finance Department - Allocation of Bike Week Sponsorship Funds \(pp. 221-222\)](#)

Resolution authorizing payment in the amount of:

\$250 to Volusia Volunteers in Medicine, for Inaugural Charity Golf Tournament fundraiser June 15, 2019 and \$300 to Juneteenth Festival

Committee, Inc., for the 2019 Juneteenth Celebration from the Bike Week Sponsorship Funds of Mayor Derrick Henry.

\$500 to Juneteenth Festival Committee, Inc., for the 2019 Juneteenth Celebration from the Bike Week Sponsorship Funds of Commissioner Robert Gilliland.

\$150 to Juneteenth Festival Committee, Inc., for the 2019 Juneteenth Celebration from the Bike Week Sponsorship Funds of Commissioner Dannette Henry.

Recommendation: Chief Financial Officer recommends adoption of the Resolution.

9. PUBLIC HEARINGS.

9.A. [Development and Administrative Services, Planning Division - Williamson Crossing - First Amendment to Planned District Agreement and Preliminary Plat \(pp. 223-291\)](#)

Ordinance on second reading - Quasi-Judicial Hearing - amending the Williamson Crossing Planned District Agreement to allow increased business signage, add additional uses, approval of the Williamson Crossing Preliminary Plat, and authorizing the Mayor to execute the First Amendment to the Williamson Crossing Planned District Agreement. Applicant: Parker Mynchenberg, P.E., Parker Mynchenberg & Associates, Inc., on behalf of Chuck Whittall, Shoppes at Williamson Crossing, LLC.

Dennis Mrozek, Planning Director, to report.

Recommendation: Planning Board recommends approval 5-to-0.

Action: Motion to adopt Ordinance.

9.B. [Development and Administrative Services, Planning Division - Integrated LPGA - Rezoning to Planned Development-General \(PD-G\) and Preliminary Plat \(pp. 292-413\)](#)

Ordinance on second reading - Quasi-Judicial Hearing - approving a request to rezone 391.8± acres of land located west of N. Tomoka Farms Road, east of LPGA Boulevard, and north of West International Speedway Boulevard from Single-Family Residential 5 (SFR-5) to Planned Development-General (PD-G) to develop a mixed residential development, approving the Integrated LPGA Phase A1 Preliminary Plat, and authorizing the Mayor to execute the Integrated LPGA Planned District Agreement. Applicant: Mark A. Watts, Esquire, Cobb Cole, on behalf of American Land Development Osceola County, LLC & American SW-30 Investments, LLC

and GC Land LLC.

Dennis Mrozek, Planning Director, to report.

Recommendation: Planning Board recommends approval 5-to-0.

Action: Motion to adopt Ordinance.

9.C. [Development and Administrative Services – American SW-30 Investments, LLC/Integrated LPGA Proportionate Fair Share Agreement \(pp. 414-429\)](#)

Resolution - PUBLIC HEARING - authorizing the City to enter into the American SW-30 Investments, LLC/Integrated LPGA Proportionate Fair Share Agreement with American SW-30 Investments, LLC ("Owner") and Volusia County. The agreement provides for a proportionate fair share contribution to the County in the amount of \$1,603,414.38 for a maximum buildout of 600 dwelling units and to address traffic concurrency and traffic impacts. The contribution will provide transportation improvements in the impact area and shall be paid to the County prior to the City Manager's approval of the final plat for the Project for recordation for the American SW-30 Investments, LLC/Integrated LPGA project that is located west of N. Tomoka Farms Road, east of LPGA Boulevard, south and east of Municipal Stadium, and north of West International Speedway Boulevard.

James Morris, Deputy City Manager, to report.

Recommendation - Deputy City Manager recommends adoption of Resolution.

Action - Motion to adopt Resolution.

9.D. [Development and Administrative Services, Planning Division - Land Development Code Text Amendment - Amend Articles 5, 6, and 11 \(pp. 430-466\)](#)

Ordinance on first reading - PUBLIC HEARING - amending the Land Development Code (LDC), Article 11(Definitions and Interpretation) to add definitions for new uses (Micro-Brewery, Micro-Winery, and Craft Distillery), modify definitions for existing uses (Brewpub, Craft Distillery); amend Article 5, (Principal Uses and Accessory Uses) to add additional uses and modify existing uses to the Eating & Drinking Establishments and the Industrial Uses categories and to modify use specific standards to accommodate new uses; and to amend Article 6 (Off-Street Parking and Loading) to add parking requirements.

Dennis Mrozek, Planning Director, to report.

Recommendation: Planning Board recommends approval 5-to-0.

Action: Motion to pass Ordinance at first Public Hearing.

Note: If passed, Second Public Hearing, June 5, 2019.

9.E. [Engineering/Public Works Department - Superwash At LPGA Boulevard PD-G - Final Plat \(pp. 467-485\)](#)

Resolution - Quasi-Judicial Hearing - approving the Final Plat for Superwash at LPGA Boulevard PD-G. The subject property (7+/- acres) is located south of LPGA Boulevard and east of Clyde Morris Boulevard, near the southeast intersection of LPGA Boulevard and Clyde Morris Boulevard.

Andrew Holmes, Public Works Director, to report.

Recommendation: Public Works Director recommends adoption of the Resolution.

Action: Motion to adopt the Resolution.

10. ADMINISTRATIVE ITEMS.

10.A. [Development and Administrative Services, Planning Division - Memorial Health Systems Inc. - First Amendment to The Memorial Health Systems, Inc. Planned District Agreement \(pp. 486-554\)](#)

Ordinance on first reading - amending The Memorial Health Systems, Inc. Planned District Agreement to modify existing signage, and authorizing the Mayor to execute the First Amendment to The Memorial Health Systems, Inc. The property is located on the west side of Williamson Boulevard, east of I-95, north of the future extension of Strickland Range Road, and south of the future extension of Hand Avenue. Applicant: Grant McGuire, ICON Identity Solutions Inc., on behalf of Memorial Health Systems Inc.

Dennis Mrozek, Planning Director, to report.

Recommendation: Planning Board recommends approval 7-to-0.

Action: Motion to pass Ordinance on first reading.

Note: If passed, Public Hearing, June 5, 2019.

10.B. [Legal Department - Attorney James Vickaryous - Contract Approval \(pp. 555-590\)](#)

Resolution approving a Contract to retain Attorney James Vickaryous and his legal associates to represent The City of Daytona Beach in a lawsuit to be filed against various pharmaceutical manufacturers and providers for damages incurred by the City as a result of the opioid epidemic.

Within the past several years, cities, states, and hospital districts began filing

lawsuits across the country against opioid makers and distributors in an attempt to stop the epidemic in their communities and to recoup associated costs. The lawsuits state that prescription opioid makers grossly misrepresented the risks of long-term use of those prescription drugs, and distributors failed to properly monitor suspicious orders of such drugs, which caused the current opioid epidemic. Due to the number of lawsuits, the Federal court system ordered all opioid lawsuits to be consolidated into Multidistrict Litigation in the U.S. District Court for the Northern District of Ohio.

Attorney Vickaryous and his litigation team represent numerous local government agencies in Florida and around the country in these suits. Potential damages which the City may assert include reimbursement for police and fire/first responder costs in responding to opioid related crimes or calls for service within the prior 20 year period, and recovery of anticipated expenditures for future remediation such as costs for implementation of treatment programs. Attorney Vickaryous and his associates would represent the City on a contingency fee basis with all litigation costs and fees to be paid out of any recovery obtained on behalf of the City. The City's lawsuit would be consolidated with the cases in Ohio's Northern District Court in Cleveland, Ohio.

Attorney James Vickaryous is a Managing Partner with the Vickaryous Law Firm located in Lake Mary, Florida.

Attorney James Vickaryous, to report.

Recommendation: Commission Action.

Action: Motion to adopt the Resolution.

11. **COMMENTS AND INQUIRIES FROM THE CITY COMMISSION - CITY MANAGER AND CITY ATTORNEY REPORT.**
12. **ADJOURNMENT.**
13. **PUBLIC COMMENT FORUM - DURING THIS TIME CITIZENS ARE ALLOWED 2.5 MINUTES TO SPEAK ON ANY TOPIC OF CONCERN. Please be courteous and respectful of the views of other speakers. Personal attacks on the City Commission, City Staff or members of the public are not allowed.**