

## MINUTES

### FACEBOOK LIVE

The South Daytona City Council met in a regular session on Tuesday, October 13, 2020 at 6:05 p.m. in the City Council Chambers at City Hall, 1672 S. Ridgewood Avenue, South Daytona, Florida.

**PRESENT:** Mayor William C. Hall  
Vice-Mayor Lisa O'Neal  
Councilman Brandon Young  
Councilman Doug Quartier  
Councilman Ralph Schoenherr  
City Manager James L. Gillis, Jr.  
City Attorney Scott Simpson

The audience joined the Council in the pledge of allegiance to the flag, followed by invocation by Councilman Young.

**CITY MANAGER REPORT:** City Manager Gillis began his report by mentioning the ECHO grant program since it has been in the news lately. The City of South Daytona has received a total of \$880,000 in funding from this program for improvements to various parks including Reed Canal Park, James Street Park and the Park of Honor; however, we have not received any funding since 2007.

City Manager Gillis stated that we finally received our last bit of reimbursement from FEMA for Hurricane Irma cleanup costs. We received a check for \$185,000 which is huge for us. It would not have been possible if not for the efforts of our Financial Services Coordinator, Dennis Carlson, who relentlessly provided all documentation requested.

The City of South Daytona acquired a loan, identified in our Comprehensive Financial Audit Report as Note #109, from Wells Fargo in 2013 for the attempted electrical acquisition in the amount of \$4.2 million with a clause stating the interest rate for the loan would be reset on November 27, 2020. This loan was approved in 2013 by the City Council; however, the resolution submitted for councilmembers to make their decision made no mention of the rate reset clause. This reset rate could have had negative consequences if our financial standing had not been improved to the degree it has over the last 18 months and interest rates held low over the years. South Daytona will be required to retain legal services through a Bond Counsel with a cost of approximately \$10,000 to ensure a successful renegotiation of the new interest rate. Due to our much-improved financial standing and interest rates at an all-time low, the City should see a reduction in the interest rate on this loan.

Mayor Hall questioned if there were any other debt notes with potentially negative clauses such as this reset rate. City Manager Gillis replied that the only other note with such an unusual and potentially harmful clause in it is the balloon payment due in 2023 on Note #117 in which the City Council is already aware.

With COVID-19 precautions South Daytona will hold a Halloween Drive-Thru Boo event for children to Trick-or-

Treat safely on Saturday, October 31, 2020 from 6:00 p.m. – 8:00 p.m. at Reed Canal Park. South Daytona Police Department will deliver candy from 4:00 p.m. till dark to homes of South Daytona children who register through their “Candy Complaints” button on the department’s website.

The Annual Blaine O’Neal Golf Tournament will be held on Saturday, October 24, 2020 at Cypress Head Golf Course in Port Orange. There are more teams and more sponsors already this year with generous donations for these pandemic times. Proceeds will go to the Community Trust Program.

City Manager Gillis concluded his report by paying respects to the passing of Lillian Peer, a former fire department administrator and city employee of 13 years, noting that everyone who knew her referred to her as the beloved “Grandma” of South Daytona.

**CITY ATTORNEY REPORT:** City Attorney Simpson gave well wishes to Councilman Schoenherr as this will be his last meeting as Councilman.

### **CITIZENS TO BE HEARD**

Kathy Meagher, 2248 Oriole Drive, South Daytona came to the podium to address council. Ms. Meagher thanked Fire Chief Giles for accepting toy donations for underprivileged children this Christmas season. Ms. Meagher talked about the stormwater facility on the east side of Reed Canal Park and the need for fencing and a barrier around that pump intake area. Ms. Meagher concluded by stating she would like to see new legal representation for South Daytona.

### **CONSENT AGENDA**

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 City Council, that item must be removed from the consent agenda and considered separately. (Read by Mayor Hall)

Consent Agenda Approval

Approval of minutes: City Council Meeting – September 29, 2020.

Consideration of reimbursing Integra Land Company, the developer of the apartment complex at 3230 South Ridgewood Avenue, a total of \$24,500 for undergrounding utilities that are beyond the required project site frontage.

A motion was made by Vice-Mayor O’Neal to approve the consent agenda, second by Councilman Schoenherr.

**VOCIE VOTE: ALL YES (5)**

### **REGULAR AGENDA**

**Ordinance No. 2020-17** an Ordinance of the City Council of the City of South Daytona, Florida, amending

Chapter 4 (Animals and fowls), Article 1 (General), Section 4-8 (Keeping of livestock or reptiles prohibited) and Section 4-13 (Number of dogs, cats, and rabbits that may be kept at a residence) of the Code of Ordinances to allow for the ownership of pot belly pigs on residential lots under certain conditions; providing for severability; providing for conflicting ordinances; and providing an effective date. **First Reading.**

Mr. Gillis addressed the Council stating that a resident came to a prior City Council meeting to request a change in the ordinance to allow pot belly pigs as domestic pets in residential zoning. City staff did their homework and researched behavior, recommended living space, benefits of having pot belly pigs as domestic companion animals and how other municipalities handle this issue. The changes to the ordinance require owners to have signed permission from adjacent property owners to foster goodwill and understanding between neighbors before allowing pot belly pigs. Any violations to the ownership conditions will result in code enforcement action against the property owner and possible revocation of the permit.

Vice-Mayor O'Neal made a motion to approve, second by Councilman Quartier.

**VOICE VOTE: ALL YES (5)**

Consideration of approving the acquisition of a drainage right of way behind the homes along Pope Avenue from Valencia to Reed Canal Road from Volusia County.

A piped inlet system maintained by the City runs behind the homes on Pope Avenue from Valencia Road to Reed Canal Road and drains the residential backyards there. For years, we thought the area was City owned but recently discovered the land is owned by a now defunct corporation known as PAGO, Inc. who has not paid taxes on the parcel since 2006. It is in the City's best interest to acquire the property and continue to maintain that drainage system. The City's Code of Ordinances states that the City Council shall approve all acquisitions of right of way. To that end, staff is requesting permission to acquire the property by one of two methods. The first method is to reach out to Volusia County, have them acquire the property, state it has no value and give it to the City as right of way. The second method involves the City paying back taxes owed for the property which total about \$350 to acquire the tax certificate. The City could then secure ownership from the County for about \$1,000 to cover all recording fees. Once the property is acquired, the City will continue to maintain the piping system and the adjacent property owners will continue to mow the area.

Councilman Schoenherr stated it needed to be cleared up and the property acquired.

A motion to approve was made by Councilman Schoenherr, second by Councilman Quartier.

**VOICE VOTE: ALL YES (5)**

Discussion of the Request for Proposals (RFP) drafted for contractual legal services or job description for full-time City Attorney.

As directed by City Council, a Request for Proposals (RFP) for Contractual Legal Services was prepared utilizing seven examples from municipalities across Florida similar in size to South Daytona, began City Manager Gillis. The RFP lists the duties of the City Attorney as providing clear concise legal advice, counsel in drafting, interpreting and implementing ordinances, resolutions, regulations, reviewing agenda items including

bid and consultant services procurement; negotiating agreements, leases and contracts, Comprehensive Land Use Plan amendments, and keeping City staff and Council informed of federal, state and local government laws, legislative issues and judicial opinions. The City Attorney will perform legal work pertaining to property acquisitions, disposals, easement dedications and right-of-way abandonments. The City Attorney will serve as legal representation of the City, its political subdivisions, individual councilmembers or staff in any legal action as result of the execution of official duties provided no prohibited conflict of interest and preparation/prosecution of ordinance violations in court as required along with written opinions regarding potential risks to mitigate liability. The RFP process includes receiving proposals from qualified individual attorneys or firms. A selection committee will then be formed comprised of City staff and one councilmember appointed by the City Council like the process followed when we obtained a new auditing firm. The selection committee will rank the proposals and present the rankings at the next regularly scheduled City Council meeting. At that meeting, the City Manager will request permission to begin negotiations with the top ranked attorney or firm. The RFP allows the responding attorney or firm to utilize an hourly rate, monthly flat rate retainer or some combination of both for compensation for their services. The RFP is based on an estimated 50 hours per month encompassing all City board meetings, representation in judicial and quasi-judicial proceedings including Special Master hearings regarding code enforcement, as necessary.

City Manager Gillis stated that a job description was developed and presented for review if the City Council decided to hire a full-time employee as City Attorney. The job description lists more duties and responsibilities as compared to the RFP for contractual services as the full-time employee will be much more involved in writing resolutions and ordinances instead of reviewing such items. The primary difference between the full-time employee and the utilization of contractual services is that the full-time City Attorney would work under the City Manager and a contractual attorney would work under the City Council concluded City Manager Gillis.

Councilman Schoenherr stated the contractual services route was a better choice financially for the City as opposed to the full-time employee. It just makes better sense.

Councilman Quartier agreed and thought that securing a contractual attorney with a lower hourly rate is the better route to alleviate some of the workload of the City Manager and staff.

Councilman Young agreed with the use of a contractual attorney as opposed to a fulltime attorney as a full-time attorney would probably start at \$125,000 per year on the low end. The contractual attorney gives the City more flexibility especially for those firms that offer a wide variety of specialties that the City could use. Councilman Young also stated that he liked the term of the proposed contractual attorney which is five (5) years with three (1) year renewals. Flexibility is key to our City needs, we do not want to box ourselves in and regret it later.

Vice-Mayor O'Neal questioned if the item should be tabled until incoming Councilmember Eric Sander had a chance to weigh in on the attorney issue. Mayor Hall responded that if the RFP process were to be initiated, the selection committee would not present their recommendation until December in which the incoming councilman would have a vote.

Mayor Hall asked if the estimate used in the RFP of 50 hours per month is adequate to provide the necessary legal services to the City or if \$125,000 is a reasonable salary for a City Attorney that is a full-time employee. Councilman Young responded by saying the estimate of \$125,000 is at the low end of the scale. City Manager Gillis stated that the 50 hours per month was estimated based off our current usage of the City Attorney. Mayor Hall did not agree with the City Attorney working under the City Manager even as a full-time employee and felt that the City Attorney should work for the City Council regardless if the decision is to have a full-time employee or contractual attorney.

City Attorney Simpson commended South Daytona's staff on the preparation of the proposal documents and the different style of managing by Mr. Gillis who completes most tasks himself and only utilizes the city attorney in the review process which saves the City money in the long run.

A motion was originally made by Councilman Quartier and second by Vice-Mayor O'Neal. After further discussion, the motion was amended by Councilman Quartier to release the RFP for publication and begin the process of selecting a contractual City Attorney which was seconded by Councilman Young.

**VOICE VOTE: ALL YES (5)**

#### **COUNCIL COMMENTS**

Vice-Mayor O'Neal had no additional comments.

Councilman Young asked about spring sporting activities and the need to get our sports program going again safely. City Manager Gillis stated October 18, 2020 is the first Parks, Recreation and ADA Advisory Board meeting and spring sports will be discussed at that time but did agree that our programs must continue next year.

Councilman Quartier thanked all of those in attendance for having a vested interest in our City.

Mayor Hall recognized Christy Gillis who was elected for another term as Secretary of the Volusia Growth Management Commission. Mayor Hall encouraged all to be safe during Biketoberfest and requested the public to keep politics civil and not to vandalize political signs and flags.

Mayor Hall presented Councilman Schoenherr with a proclamation and a Key to the City, patches and challenge coins from the South Daytona Police Department and Fire Department in a wood and glass display case acknowledging his years of dedicated service to the City of South Daytona as this was his last official council meeting serving as councilman. Mayor Hall also acknowledged his wife, Mrs. Betty Schoenherr, thanking her for the hours spent making this City a better place to live as he acknowledged that spouses inevitably serve too.

Councilman Schoenherr hired me in 2003, stated Mr. Gillis when Councilman Schoenherr was Assistant Public Works Director for South Daytona. He has taught me a lot through the years, supported me and I will sincerely

miss him.

It has been a rewarding experience working with City staff, council and our residents stated Councilman Schoenherr, to make South Daytona a great place to live and I will always be grateful for the opportunities granted me to make a real difference.

Mayor Hall adjourned the meeting at 7:17 p.m.

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Recording Secretary

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Mayor William C. Hall