

The Regular Meeting of the City Council of the City of Panama City Beach, Florida, and when permitted or required by the subject matter, the Panama City Beach Community Redevelopment Agency, held on June 8, 2017.

**ROLL**

**MAYOR MIKE THOMAS**

**COUNCILORS:  
JOHN REICHARD  
JOSIE STRANGE  
PHIL CHESTER  
HECTOR SOLIS**

**CITY MANAGER:  
MARIO GISBERT  
CITY CLERK:  
DIANE FLOYD  
CITY ATTORNEY:  
AMY MYERS**

Mayor Thomas called the Regular Meeting to order at 6:00 P.M. with all Council members, City Manager, City Clerk and City Attorney present.

Pastor Ramon Duvall of the Beachside Fellowship Church gave the invocation and Councilman Reichard led the Pledge of Allegiance.

Mayor Thomas announced the following community events: the Summer Concert Series starting tonight at Aaron Bessant Park; USSSA Girls Fastpitch Tournament at Frank Brown Park June 9-11; UCA Cheerleading Camps at Edgewater Beach Resort June 8-11 and June 12-14; Grand Slam Baseball Tournament at Frank Brown Park June 16-18; and Panama Jack Beach Volleyball Tournament at the City Pier June 17-18, 2017.

The Minutes of the Regular Meetings of April 27 and May 11, 2017 were read and approved as written **per the motion by Councilwoman Strange. Second was by Councilman Chester and the motion passed by unanimous roll call vote recorded as follows:**

<b>Councilman Solis</b>	<b>Aye</b>
<b>Councilman Reichard</b>	<b>Aye</b>
<b>Councilman Chester</b>	<b>Aye</b>
<b>Councilwoman Strange</b>	<b>Aye</b>
<b>Mayor Thomas</b>	<b>Aye</b>

Mayor Thomas asked if there were any additions or deletions to the Agenda. Hearing none, **Councilman Solis made the motion to approve the Agenda as prepared. Second was by Councilman Chester and the motion passed by unanimous roll call vote recorded as follows:**

<b>Councilman Solis</b>	<b>Aye</b>
<b>Councilman Reichard</b>	<b>Aye</b>
<b>Councilman Chester</b>	<b>Aye</b>
<b>Councilwoman Strange</b>	<b>Aye</b>
<b>Mayor Thomas</b>	<b>Aye</b>

**PRESENTATIONS**

**1 BOYS & GIRLS CLUB CIVIC ACHIEVEMENT AWARD PRESENTATION.** Councilman Reichard introduced Ms. Snow Hatton and presented her with the Civic Achievement Award for exemplary service to the Beach Boys and Girls Club. He then congratulated Snow and presented her with a City pin. Ms. Latina Reed presented Snow with a gift card donated by a local business.

**2 "ROTARY FOUNDATION WEEK" PROCLAMATIONS.** Councilman Reichard invited Ms. Felicia Cook, President of the PCB Rotary Club, and Ms. Teresa Holley, President-Elect of the Emerald Coast Rotary Club, to the podium as he read the Proclamations declaring June 10-14, 2017 as "Rotary Foundation Week".

Mayor Thomas opened the Public Comment portion of the meeting for Regular and Consent Agenda Items at 6:08 P.M. Ms. Myers stated the Public Comment period for Regular Items 1 and 2 had been closed.

**PUBLIC COMMENT (Consent and Regular Items only)**

- 1 **Mr. Burnie Thompson**, 8317 Front Beach Road. Mr. Thompson opposed proposed Resolution 17-99.
- 2 **Mr. Frank Sewell**, 435 Hidden Island Drive. Mr. Sewell opposed proposed Resolution 17-99.
- 3 **Mr. Dillon Miller**, 123 Palm Harbour Blvd. Mr. Miller opposed proposed Resolution 17-99.
- 4 **Mr. Jo Swem**, 512 Phillips Ct. Mr. Swem opposed proposed Resolution 17-99.
- 5 **Ms. Bridget Hill**. Ms. Hill opposed proposed Resolution 17-99.
- 6 **Mr. David Kelly**, 108 Sale Road. Mr. Kelly opposed proposed Resolution 17-99.
- 7 **Ms. Jessica Diliberto**, Bay County resident. Ms. Diliberto entered into the record a report of the "flawed City of PCB licensing system and proposed solutions".
- 8 **Ms. Megghan McDougall**, 2100 West Beach Drive. Mr. McDougall opposed proposed Resolution 17-99.
- 9 **Mr. Tim Sowell**, 504 E Gulf Blvd. Mr. Dowell opposed proposed Resolution 17-99.
- 10 **Ms. Sandra Atkinson**. Ms. Atkinson opposed proposed Resolution 17-99.
- 11 **Mr. Paul Dalton**. Mr. Dalton opposed proposed Resolution 17-99.
- 12 **Mr. Brad Nelson**, PCB. Mr. Nelson opposed proposed Resolution 17-99.

With no further comments, the Public Comment section was closed at 6:35 P.M.

**CONSENT AGENDA**

- 1 **RESOLUTION 17-100, REPAIR OF VERTICAL TURBINE PUMP AT WWTP.** "A Resolution of the City of Panama City Beach, Florida, approving a purchase from AAG Electric Motors & Pumps, Inc., relating to the repair of a vertical turbine pump for the City's Wastewater Treatment Plant in the total amount of \$12,790.24."

Ms. Floyd read the Consent Agenda Item by title. **Councilman Chester made the motion to approve the Consent Agenda. Second was by Councilwoman Strange and the motion passed by unanimous roll call vote recorded as follows:**

<b>Councilman Solis</b>	<b>Aye</b>
<b>Councilman Reichard</b>	<b>Aye</b>
<b>Councilman Chester</b>	<b>Aye</b>
<b>Councilwoman Strange</b>	<b>Aye</b>
<b>Mayor Thomas</b>	<b>Aye</b>

**REGULAR AGENDA- DISCUSSION/ACTION**

- 1 **ORDINANCE 1415, PROHIBITING OVERNIGHT SCOOTER RENTALS, 2<sup>ND</sup> READING, PUBLIC HEARING AND ADOPTION (CONTINUED).**
- 2 **ORDINANCE 1416, AMORTIZATION OF SCOOTER RENTALS, 2<sup>ND</sup> READING, PUBLIC HEARING AND ADOPTION (CONTINUED).**

Ms. Myers reopened the Public Hearing. She then read Ordinances 1415 and 1416 by their titles. She explained that the substance of Ordinance 1415 had changed since the First Reading but she did not believe it changed the purpose or intent of the Ordinance. Ordinance 1416 was unchanged from the last meeting. She invited Mr. Cole Davis, City Attorney, to the podium to finish the Staff recommendation presentation.

Mr. Davis discussed the report from Mr. Chris Poulos presented at the last meeting and why the scoot coupes were not included in his analysis. Mr. Poulos revised his report to include those type vehicles and ultimately determined that the analysis did not change from his prior presentation. Mr. Poulos believed that through two rental seasons, all the inventory of the businesses would be amortized. **Mr. Davis entered the report from Mr. Poulos into the record.**

Councilwoman Strange asked if Mr. Poulos physically went to each business. Mr. Davis replied that he only examined the rental registrations at the Police Department. Mayor Thomas said at the last meeting, it had been said that if the businesses had any problem with the amortization schedule, they could petition for more time. Councilman Reichard mentioned the scoot coupe's cost of Six Thousand Five Hundred Dollars each did not account for a discount when purchasing in bulk.

Lt. Talamantez then gave a presentation with videos of scooter operators and stated it was the Police Department's position that rental scooters and the manner in which they were being utilized negatively affected public safety within the City based upon what actions were seen daily by law enforcement.

Mr. Tom Reeves, attorney for California Cycles, said in the prior lawsuit the appellate court ruled that the City was not allowed to regulate traffic safety issues involving motor scooters because the State was the only entity which could regulate those vehicles. He said the issue last time was solved and the Council was trying to do the same now only by indirect methods. Mr. Reeves said cities were not allowed to prohibit lawful businesses because the rental business themselves were not nuisances. They provided a rental service just like Hertz renting a car. He said approximately 90% of the rentals were overnight rentals which would put the businesses out of business with the overnight ban. He urged the Council not to adopt the proposed Ordinances to avoid his clients filing suit because they would have no choice.

Mr. Ken Oertel, attorney for Classic Rentals, said he agreed with Mr. Reeves and that the Council's actions could also apply to scooter owners. He said the law was clear that the City could not discriminate against classes of users who were identical, renters of scooters as opposed to owners of scooters. He said the proposed Ordinances would leave the scooter owners the ability to drive at night and beyond 2020. These businesses were lawfully renting a lawful product in a lawful manner to a licensed driver. He said the City was saying the owner of the business was liable if the person who beyond their control committed a traffic violation. Mr. Oertel said his clients would be put out of business when Ordinance 1415 was put into effect and they would file suit. He reminded the DCA had ruled that the City could not interfere with people riding scooters who were lawfully engaged in doing so. He urged the Council not to adopt these proposed Ordinances.

Ms. Olysea Siriteanu, owner of Hangout By The Sea, said banning the scooters would affect her income. She said the business owners did not see the numbers which supported the emergency actions. She urged the Council to find another way to regulate the scooters rather than closing the businesses. Ms. Siriteanu said she implemented the vests, brochures and obtained the insurance as required by Council, and was willing to comply more in order to stay in business. She said she did not see the complaints by residents and questioned how to recoup investments if they could not rent the scooters overnight which was a big part of her income.

Mr. Ray Steinbrecher, representative for Sara's Scooters, said this was a regulatory taking under both Federal and State law. He said the Council was attempting to eliminate the businesses, not regulate. He mentioned the video presentation and that there were no signs on the road which would tell the visitors not to go onto what looked like bike lanes, and certainly some of the operators should have been ticketed.

There was no representative from the King of Scooters.

Mr. Sale gave a summary of the City's position and that it was Staff's recommendation to adopt both proposed Ordinances. He said the Council has seen continuous reckless behavior and improper use of the lawful scooters. It was a legitimate toy being used in an illegitimate way and particularly bad at night. He said this was the same legal issue as when telling the parasail operators not to land their customers on the sandy beach and elaborated. Mr. Sale said the precedence was there and there was no taking because the future profit expectations were not property in a constitutional sense. Regarding the overnight ban, the scooters could be sold tomorrow for their salvage value and they could also continue to be rented during the daylight hours for the next three years. He said in his opinion, three years was adequate to recoup their investment in the scooters. Mr. Sale said he believed these proposed Ordinances could be legally defended.

Councilman Reichard asked Mr. Sale to explain the State Statutes and Chapter 316. Mr. Sale responded with comments about the Uniform Traffic law and the valid rational basis to keep these toys out of the hands of the young people who used them recklessly. He said the issue was whether there was a problem and did these proposed Ordinances rationally address the problem. The Council did try to modify the behavior and was successful with the vests but was prohibited from requiring the vests.

Ms. Myers asked if there were any other questions from the Council and there were none. She closed the Public Hearing at 7:30 P.M. and invited Council deliberations.

Mayor Thomas asked the Council members if they had any questions for Staff about Ordinance 1415. Hearing none, **Councilman Reichard made the motion to approve Ordinance 1415. Second was by Councilman Solis and the motion passed by unanimous roll call vote recorded as follows:**

<b>Councilman Solis</b>	<b>Aye</b>
<b>Councilman Reichard</b>	<b>Aye</b>
<b>Councilman Chester</b>	<b>Aye</b>
<b>Councilwoman Strange</b>	<b>Aye</b>
<b>Mayor Thomas</b>	<b>Aye</b>

In response to a question from the audience, Ms. Myers clarified that the First Reading of Ordinance 1415 was at the May 11<sup>th</sup> meeting and the Ordinance was available for adoption tonight.

Mayor Thomas said Ordinance 1416 was open for discussion. Councilwoman Strange made comments about the bicycles lanes and said she opposed a motorized vehicle traveling on the bicycle lanes. She agreed that there should be signs posted. Regarding the video presentation, it did show the congestion and numerous scooters but no live accidents. She stated she had talked with the scooter businesses as well as the residents and the scooters were annoying.

Councilman Solis said the video showed the impact on the City's law enforcement resources. He said he had full confidence in the City attorneys to represent the City and felt this was the right way to go. With no further comments, **Councilman Solis made the motion to approve Ordinance 1416. Second was by Councilman Reichard and the motion passed by unanimous roll call vote recorded as follows:**

<b>Councilman Solis</b>	<b>Aye</b>
<b>Councilman Reichard</b>	<b>Aye</b>
<b>Councilman Chester</b>	<b>Aye</b>
<b>Councilwoman Strange</b>	<b>Aye</b>
<b>Mayor Thomas</b>	<b>Aye</b>

**3 ORDINANCE 1412, BAY PARKWAY ANNEXATION, 1<sup>ST</sup> READING.** Ms. Myers read Ordinance 1412 by title. Mr. Gisbert explained this was annexing the 150' strip north of the powerlines. The Mayor asked if there were any questions and there were none. **Councilman Chester made the motion to approve Ordinance 1412. Second was by Councilman Solis and the motion passed by unanimous roll call vote recorded as follows:**

<b>Councilman Solis</b>	<b>Aye</b>
<b>Councilman Reichard</b>	<b>Aye</b>
<b>Councilman Chester</b>	<b>Aye</b>
<b>Councilwoman Strange</b>	<b>Aye</b>
<b>Mayor Thomas</b>	<b>Aye</b>

**4 ORDINANCE 1417, FORTUNA INVESTMENTS COMP PLAN AMENDMENT, 1<sup>ST</sup> READING.** Ms. Myers read Ordinance 1417 by title and explained this was the result of a request from the landowner several meetings ago to cancel a Development Agreement, taking away some of the restrictions from the Comp Plan. This would amend the Comp Plan designation from Conservation to Tourist. She said once the Council adopted this Ordinance and the next, she would present a Resolution that would cancel the Development Agreement. The Mayor asked if there were any questions and there were none. **Councilman Chester made the motion to approve Ordinance 1417. Second was by Councilman Reichard and the motion passed by unanimous roll call vote recorded as follows:**

<b>Councilman Solis</b>	<b>Aye</b>
<b>Councilman Reichard</b>	<b>Aye</b>
<b>Councilman Chester</b>	<b>Aye</b>
<b>Councilwoman Strange</b>	<b>Aye</b>
<b>Mayor Thomas</b>	<b>Aye</b>

**5 ORDINANCE 1418, FORTUNA INVESTMENTS REZONING, 1<sup>ST</sup> READING.** Ms. Myers read Ordinance 1418 by title which rezoned the property from Conservation to Commercial High Intensity. The Mayor asked if there were any questions and there were none. **Councilwoman Strange made the motion to approve Ordinance 1418. Second was by Councilman Chester and the motion passed by unanimous roll call vote recorded as follows:**

<b>Councilman Solis</b>	<b>Aye</b>
<b>Councilman Reichard</b>	<b>Aye</b>
<b>Councilman Chester</b>	<b>Aye</b>
<b>Councilwoman Strange</b>	<b>Aye</b>
<b>Mayor Thomas</b>	<b>Aye</b>

**6 RESOLUTION 17-96, CONSERVATION PARK PARKING LICENSE AND BUDGET AMENDMENT #33.** Ms. Myers read Resolution 17-96 by title. Councilman Reichard asked about the cost and where these funds would be taken. He favored waiting until the project would be better funded. He mentioned funds taken from the Utility Fund for other projects. Mayor Thomas asked Mr. Gisbert about the negotiations to buy the land. Mr. Gisbert responded it would take longer for St. Joe to go through their Board to approve selling the land and this seemed the quickest way to acquire the rights to the land, and when the Board met later this year, the City would propose buying the parcel. Councilwoman Strange mentioned the safety issue in that there was insufficient parking for the many events held at the Park and would be money well spent for a recreational attraction. Councilman Solis mentioned the updated 1% figures and close to a 7% increase year over year. Mr. Gisbert said the Utility Fund budget was quite large and he did not see the St. Joe Company not approving the sale, but until it was done, there was some risk. Mayor Thomas said his concern was the property being leased and questioned if the parking lot could be revised to have a nice gravel parking lot until the City could purchase the land. Mr. Gisbert said Staff could value engineer the parking lot and bring back something less than the estimated \$170,000. Paving would not be recommended until the lot was purchased.

Mr. Shortt said the Utility System owned all the assets at the Conservation Park, a Utility property with a Park overlaid for public use. Other than two boardwalks, all costs had been paid by the Utility System. Councilman Reichard asked if the Utility System needed additional parking on site. Mr. Shortt said the parking lot would provide a benefit for public use for the public to see the habitat restoration. The Mayor asked if there were any further questions and there were none. **Councilman Solis made the motion to approve Resolution 17-96 with value engineering. Second was by Councilwoman Strange and the motion passed by unanimous roll call vote recorded as follows:**

<b>Councilman Solis</b>	<b>Aye</b>
<b>Councilman Reichard</b>	<b>Aye</b>
<b>Councilman Chester</b>	<b>Aye</b>
<b>Councilwoman Strange</b>	<b>Aye</b>
<b>Mayor Thomas</b>	<b>Aye</b>

**7 RESOLUTION 17-99, RULES AND PROCEDURES.** Mayor Thomas said at every meeting, the Council heard public comments. Several entities such as Walton County and Bay County had the same rules to restore order to their meetings. The Mayor commented about personal attacks and the Council members trying not to react to the statements. He said he felt no one had the right to attack the Council members personally or their family members. He mentioned the papers left at the last meeting and the accusation that it was from one of the Council member's family. The Mayor said this meeting was to do business for the City and no one was curtailing the ability to speak on issues on the Agenda. He introduced Resolution 17-99 for rules for decorum and procedures. Ms. Myers had reviewed the County's rules and had suggested some language being stricken due to court rulings.

Ms. Myers read Resolution 17-99 by title and explained that these rules were modeled from those used by the County. She recommended language being removed regarding "slandorous, personal or impertinent remarks" because it was a broad category of statements as she did not believe it was this Council's intention to limit speech.

Mayor Thomas said no one was trying to stop recordings. Ms. Myers said these rules did limit public comment to the matters published on the Agenda. Mayor Thomas said to the business of the meeting. She said these rules were identical to the County and the City's practice.

Councilwoman Strange said these rules restricted comments to only items on the Agenda, and questioned a person not being able to speak to the Council on other matter. Ms. Myers said the current procedures were that issues be brought to the Council members, and that Councilors be given the opportunity to add items to the Agenda, either on their own or at the request of a citizen. She said ultimately the Council created the Agenda and decided what would be discussed. Councilwoman Strange said the Council members were public figures and should be able to be addressed. She reminded

that the City was not the County and should be able to have its own individuality.

Councilman Reichard said he felt this was a tune-up of the rules which were in the Charter, adding new things which had been created since the early 1970's. Ms. Myers said these rules if adopted would supplement the existing rules. Ms. Myers responded to the Mayor that these rules were not inconsistent with Roberts Rules of Order.

Councilman Chester said he liked to hear information from the public. He said he stood in front of the Council years ago commenting about the Colony Club exit and its danger, and now the new road was done. He said there must also be respect on both sides.

Councilman Solis said this did not eliminate public comments. His only concern was "slanderous" and he reminded that these were City meetings to discuss City items, not personal attacks. Ms. Myers added that she would recommend removing "personal" as most remarks by the members of the public were their personal opinions. Ms. Myers said a personal attack would be outside of City business.

Councilwoman Strange said she would like to remove the lines about being able to vote during Workshops. Ms. Myers said the Council had always had the authority to vote during a Workshop but have not customarily done so in the past. She said periodically, the Council has made a formal vote during a Workshop. Councilwoman Strange said she was concerned. **Councilman Solis made the motion to approve Resolution 17-99 removing "slanderous and personal". Second was by Councilman Reichard and the motion passed by majority roll call vote recorded as follows:**

<b>Councilman Solis</b>	<b>Aye</b>
<b>Councilman Reichard</b>	<b>Aye</b>
<b>Councilman Chester</b>	<b>Nay</b>
<b>Councilwoman Strange</b>	<b>Nay</b>
<b>Mayor Thomas</b>	<b>Aye</b>

Ms. Myers said she had no report.

Mr. Gisbert read the list of vacancies and Bids posted on the City website. He also mentioned a plan to reroute Front Beach Road temporarily at Churchwell for some of the CRA Segment 2 underground water and sewer work and would bring something back to Council after the holiday.

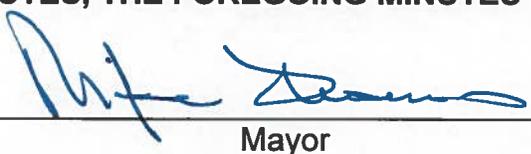
Councilwoman Strange mentioned a meeting held Monday in the City Manager's office with some Council members and the City Attorney, in which she had not been invited. Mr. Gisbert said there was not a meeting with all of the Council nor all of the attorneys. Mayor Thomas had been in his office with Ms. Myers and Ms. White. Ms. Myers said after Mr. Gisbert left, she met with Councilman Reichard about a public records request and Mayor Thomas was present for those conversations.

Councilman Chester thanked Mr. Ken Thorndyke for the hard work on the demolition list, and the Councilor announced the U-Turn Sunburn Saloon structure demolished. He mentioned the other locations within the City either already demolished or soon to begin, announcing the addresses. He said he had received many great comments.

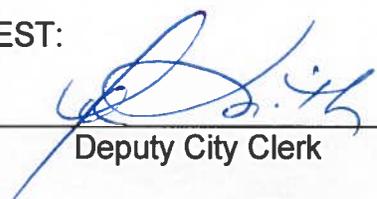
Councilman Solis said Mr. Leonard's department had been working on the transition for the new software, with the March and April results up for the 1%. With nothing further, the meeting was adjourned at 8:20 P.M.

READ AND APPROVED this 27<sup>th</sup> of July, 2017.

**IN THE EVENT OF A CONFLICT BETWEEN THE FOREGOING MINUTES AND A VERBATIM TRANSCRIPT OF THESE MINUTES, THE FOREGOING MINUTES SHALL CONTROL.**

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
Deputy City Clerk