Agenda Packet

PANAMA CITY BEACH CITY COUNCIL
AGENDA

NOTE: AT EACH OF ITS REGULAR OR SPECIAL MEETINGS, THE CITY COUNCIL ALSO SITS, EX-OFFICIO, AS THE CITY OF PANAMA CITY BEACH COMMUNITY REDEVELOPMENT AGENCY AND MAY CONSIDER ITEMS AND TAKE ACTION IN THAT LATTER CAPACITY.

MEETING DATE: September 14, 2017
MEETING TIME: 6:00 P.M.

I. CALL TO ORDER AND ROLL CALL

II. INVOCATION- SHADDAI SHRINE RECORDER PHIL D'ALBERTIS

III. PLEDGE OF ALLEGIANCE- COUNCILMAN CHESTER

IV. COMMUNITY ANNOUNCEMENTS

V. APPROVAL OF THE REGULAR MINUTES OF AUGUST 10 AND AUGUST 24, 2017

VI. APPROVAL OF AGENDA, AND ADDITIONS OR DELETIONS

VII. PRESENTATIONS- COUNCILMAN CHESTER
1. BOYS & GIRLS CLUB CIVIC ACHIEVEMENT AWARD
2. SHADDAI SHRINE TEMPLE MEMBERS
3. INTERNATIONAL COASTAL CLEAN UP AT RUSSELL-FIELDS PIER, 9/16/17 AND BAY CO AUDUBON BEGINNERS BIRD WALK- PCB CONSERVATION PARK 9/23/17- DALE COLBY
4. FDOT PRESENTATION REGARDING PROJECT DEVELOPMENT & ENVIRONMENTAL STUDY (PD&E) FOR THE PARKWAY FROM MANDY LANE TO THOMAS DRIVE- SHERRY ALAGHEMAND

VIII. SCHEDULE HEARINGS
1. CONSIDER A HEIGHT INCENTIVE REQUEST FOR PROPERTY LOCATED AT 13623 & 13626 FRONT BEACH ROAD
2. APPEAL OF A LARGE-SITE DEVELOPMENT APPROVAL FOR PROPERTY LOCATED AT 13623 AND 13626 FRONT BEACH ROAD
3. PLANNING BOARD DENIAL OF VARIANCE FOR PROPERTY LOCATED AT 502 PETREL.

IX. PUBLIC COMMENTS-REGULAR & CONSENT ITEMS ONLY (Limited to Three Minutes)

X. CONSENT AGENDA
1. ***RESOLUTION 17-127, DEWBERRY ENGINEERS TASK ORDER #2017-02 FOR GLADES/LAIRD BASIN STORMWATER FEASIBILITY STUDY.*** *"A Resolution of the City of Panama City Beach, Florida, approving Task Order #2017-02 to the Master Services Agreement with Dewberry Engineers, Inc., related to the Glades/Laird Basin Stormwater Feasibility Study in an amount of $69,925 to be paid by both City and County as more particularly set forth in the body of the Resolution."*

2 ***RESOLUTION 17-132, "PIRATES OF THE HIGH SEAS FESTIVAL" ROAD CLOSURES.*** *"A Resolution of the City of Panama City Beach related to the "Pirates of the High Seas Festival"; authorizing closure of portions of L.C Hilton Jr. Drive, Sea Monkey Way, Longboard Way, and Pier Park Drive on October 6 and 7, 2017, for the Event; and authorizing temporary closure of a portion of Powell Adams Road and the temporary usage of a portion of Front Beach Road on October 7 to permit the Event's Parade."*

3 ***RESOLUTION 17-134, "IRONMAN FLORIDA TRIATHLON" ROAD USAGE.*** *"A Resolution of the City of Panama City Beach, Florida, related to the "Ironman Florida Triathlon"; authorizing extraordinary traffic control on portions of South Thomas Drive, Thomas Drive, Surf Drive, Front Beach Road, West Pier Park Drive, Pier Park Drive, Bay Parkway and SR 79 on Friday, November 3, 2017 and Saturday, November 4, 2017 for the Event as more particularly set forth in the body of the Resolution".*

XI. REGULAR AGENDA - DISCUSSION/ACTION

NO.	OFFICIAL	ITEM
1	ML	**ORDINANCE 1428,** UPDATING SIGN CODE, 2ND READING, **PUBLIC HEARING** AND ADOPTION.
2	MG	**RESOLUTION 17-118,** NUISANCE ABATEMENT ASSESSMENT FINAL ASSESSMENT RESOLUTION, **PUBLIC HEARING.**
3	KJ	**RESOLUTION 17-120,** STORMWATER SERVICES ASSESSMENT FINAL ASSESSMENT RESOLUTION, **PUBLIC HEARING.**
4	DW	**ORDINANCE 1419,** AMENDING POLICE OFFICERS' PENSION PLAN REGARDING BENEFIT IMPROVEMENTS, 1ST READING.
5	AS	**ORDINANCE 1424,** WATER, SEWER & RECLAIMED WATER 2017-2018 RATE INCREASE, 1ST READING.
6	ML	**ORDINANCE 1430,** WIRELESS FACILITIES IN PUBLIC RIGHTS-OF-WAY, 1ST READING.
7	DW	**ORDINANCE 1433,** CAMPING ON THE BEACH, 1ST READING.
8	MG	**PLANNING BOARD, CIVIL SERVICE BOARD, AND PENSION BOARDS APPOINTMENTS.**
9	MG	**ORDINANCE 1431,** MISREPRESENTING RESIDENCY, 1ST READING.
10	JS/AM	**RESOLUTION 17-133,** DELEGATIONS PERIOD/PUBLIC SPEAKING.
11	JS	**ADDITIONAL LEGAL GOLF CART/LSV CROSSING AT NAUTILUS & RICHARD JACKSON BLVD.**
12	JS	**STANDARDIZATION OF PUBLIC RECORD REQUESTS.**

XII. DELEGATES & STAFF

1 **DELEGATIONS.** In accordance with the City Council's rules and procedures, residents or tax-collectors of the City (upon any subject of general or public interest), City employees (regarding his/her employment), and water and sewer customers (on matters related to the City's water and/or sewer system), may address the City Council under Delegations on items not on the printed agenda by filling out a speaker card. Speaker cards are located inside the Council meeting room and should be provided to the City Clerk. Please observe the time limit of three (3) minutes while speaking under Delegations. Delegations shall be limited to thirty (30) minutes unless extended by Council.

2 **ATTORNEY REPORT.**

3 **CITY MANAGER REPORT.**

4 **COUNCIL COMMENTS.**

5 **ADJOURN.**

JOHN REICHARD	X
PHIL CHESTER	X
JOSIE STRANGE	X
HECTOR SOLIS	X
MIKE THOMAS	X

I certify that the Council members listed above have been contacted and given the opportunity to include items on this agenda.

Deputy City Clerk — Date 9/12/17

JOHN REICHARD	X
PHIL CHESTER	X
JOSIE STRANGE	X
HECTOR SOLIS	X
MIKE THOMAS	X

I certify that the Council members listed above have been contacted and made aware of the items on this agenda.

Deputy City Clerk — Date 9/12/17

IN AN EFFORT TO CONDUCT YOUR COUNCIL MEETINGS IN AN ORDERLY AND EXPEDIENT MANNER, WE RESPECTFULLY REQUEST THAT YOU WAIT UNTIL THE CHAIR RECOGNIZES YOU TO SPEAK, THEN COME TO THE PODIUM AND STATE YOUR NAME AND ADDRESS FOR THE RECORD.

E-mailed and/or Faxed to following interested parties on: 9/11/17, 2 P.M.

NEWS MEDIA	CONTACT
News Herald	John Henderson
Bullet	Linda Lucas
Channel 4	Ryan Rodig
Channel 7	Jeremy Pate
Channel 13	Ken McVay
Comcast	Stefanie Bowden
WOW	Cil Schnitker
WKGC	Emily Balazs
WLTG	A. D. Whitehurst
Clear Channel	Crystal Presley
Powell Broadcasting	Jeff Storey, GM

NOTE; COPIES OF THE AGENDA ITEMS ARE POSTED ON THE CITY'S WEBSITE WWW.PCBGOV.COM UNDER "AGENDA INFORMATION".
THIS MEETING WILL BE LIVE-STREAMED ON THE CITY WEBSITE.

If a person decides to appeal any decision made by the City Council with respect to any matter considered at the meeting, if an appeal is available, such person will need a record of the proceeding, and such person may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is based. Sec. 286.0105, FS (1995)

MINUTES

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 August 10, 2017.

ROLL
MAYOR MIKE THOMAS

COUNCILORS:
JOHN REICHARD
JOSIE STRANGE
PHIL CHESTER
HECTOR SOLIS

CITY MANAGER:
MARIO GISBERT
DEPUTY CITY CLERK:
JO SMITH
CITY ATTORNEY:
AMY MYERS

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

Pastor Ramon Duvall of the Beachside Fellowship Church gave the invocation and Councilwoman Strange led the Pledge of Allegiance.

Mayor Thomas announced the upcoming Community Events.

There were no Minutes available for approval.

Mayor Thomas asked if there were any additions or deletions to the Agenda. Councilwoman Strange asked to add Mr. Dale Colby and his short presentation concerning two new gopher tortoises for the Conservation Park. There were no objections. **Councilwoman Strange made the motion to approve the Amended Agenda. Second was by Councilman Chester and the motion passed by unanimous roll call vote recorded as follows:**

Councilman Reichard	**Aye**
Councilman Chester	**Aye**
Councilwoman Strange	**Aye**
Councilman Solis	**Aye**
Mayor Thomas	**Aye**

PRESENTATION

1 DALE COLBY AND TWO NEW GOPHER TORTOISES FOR THE CONSERVATION PARK. Mr. Colby displayed one of the two new tortoises to the Council members and audience, and explained the Conservation Park was the only site for homeless gopher tortoises in NW Florida. He gave information as to their new home in the Park.

2 "BEACH CARE SERVICES MONTH" PROCLAMATION & PRESENTATION. Councilwoman Strange invited President Skip Stoltz and Pastor Ramon Duvall to the podium to accept the Proclamation designating September as "Beach Care Services Month". She read the Proclamation in full and President Stoltz explained the function of Beach Care Services.

3 ANNUAL 9-11 STAIRCLIMB ON 9/9/17. Councilwoman Strange invited Captain Terry Parris to the podium to explain the PCB Fire/Rescue's 9/11 Stairclimb at the Edgewater Beach Resort. Captain Parris explained the event in detail and said flyers were available on the table.

PUBLIC COMMENT (Consent and Regular Items only)

Mayor Thomas opened the Public Comment section at 6:12 P.M. There were no comments.

CONSENT AGENDA

Ms. Smith read each item on the Consent Agenda by title and identified Item #2 as a CRA item and one in which the City Council was also acting as the Panama City Beach Community Redevelopment Agency and voting as both.

1 ***REVISION OF THE MASTER AUDIT LIST TO REMOVE OBSOLETE ITEMS.*** *These items are to be removed from the Master Audit List. STAFF RECOMMENDS approval to remove these items. By approval of this matter in the Consent Agenda, the City Council makes a finding of surplus for these items and approves their removal from the Master Audit List.*

2* ***RESOLUTION 17-121, CRA 2018 NEAR TERM WORK PLAN.*** *"A Resolution of the City Council of the City of Panama City Beach, Florida, and Ex Officio as the governing body of the Panama City Beach Community Redevelopment Agency, relating to the Community Redevelopment within the Front Beach Road Redevelopment Area; providing for Findings; authorizing and directing the execution of a Near Term Work Plan; and providing for an effective date."*

3 ***RESOLUTION 17-123, BID AWARD- FRANK BROWN PARK IMAGINATION PLAYGROUND SURFACING PROJECT.*** *"A Resolution of the City of Panama City Beach, Florida, approving the purchase and installation of Imagination Playground Surfacing from Playworx for $38,000; and providing an immediately effective date."*

4 ***RESOLUTION 17-124, BID AWARD- FRANK BROWN PARK PHILLIP GRIFFITTS COMMUNITY CENTER GYM FLOORING PROJECT.*** *"A Resolution of the City of Panama City Beach, Florida, approving an Agreement with Southeastern Services and Equipment, Inc. for the purchase and installation of gymnasium flooring at the Phillip Griffitts Community Center in the amount of $77,300; and providing an immediately effective date.*

5 ***RESOLUTION 17-125, BID AWARD - FRANK BROWN PARK INTERACTIVE PLAYGROUND UNIT.*** *"A Resolution of the City of Panama City Beach, Florida, approving an Agreement with Playmore Recreational Products and Services in the amount of $29,967.90 for NEOS 360 ADA Unit for the Frank Brown Park Interactive Playground; and providing an immediately effective date."*

Councilwoman Strange made the motion to approve the Consent Agenda. Second was by Councilman Reichard and the motion passed by unanimous roll call vote recorded as follows:

Councilman Reichard	**Aye**
Councilman Chester	**Aye**
Councilwoman Strange	**Aye**
Councilman Solis	**Aye**
Mayor Thomas	**Aye**

REGULAR AGENDA- DISCUSSION/ACTION

1 **RESOLUTION 17-119, STORMWATER SERVICE ASSESSMENT INITIAL ASSESSMENT RESOLUTION.** Ms. Myers read Resolution 17-119 which confirmed the updated methodology of the Assessment, the preparation of the Roll and a Public Hearing to formally adopt it. The Mayor asked if there were any questions; there were none. **Councilman Solis made the motion to approve Resolution 17-119. Second was by Councilman Reichard and the motion passed by majority roll call vote recorded as follows:**

Councilman Reichard	**Aye**
Councilman Chester	**Aye**
Councilwoman Strange	**Nay**
Councilman Solis	**Aye**
Mayor Thomas	**Aye**

2 **RESOLUTION 17-126,** MASTER SERVICES AGREEMENT WITH DAG ARCHITECTS FOR PROFESSIONAL ARCHITECTURAL SERVICES FOR THE CITY HALL COMPLEX AND TASK ORDER 1. Ms. Myers read Resolution 17-126 by title. The Mayor asked if there were any questions; there were none. **Councilman Solis made the motion to approve Resolution 17-126. Second was by Councilman Reichard and the motion passed by majority roll call vote recorded as follows:**

Councilman Reichard	**Aye**
Councilman Chester	**Aye**
Councilwoman Strange	**Nay**
Councilman Solis	**Aye**
Mayor Thomas	**Aye**

3 RATIFY JOB DESCRIPTIONS FOR CITY CLERK AND HUMAN RESOURCES/RISK MANAGER. Mr. Gisbert explained with the Council's approval at an earlier meeting, applications were being received for the two positions. He asked the Council to ratify the two job descriptions and that the City would be looking to hire two separate positions. The Mayor asked if there were any questions. Councilwoman Strange questioned why the Civil Service Secretary could not be the Human Resources for the employees. Councilman Chester said he agreed with Councilwoman Strange to explore that option. Mr. Gisbert explained that this new position would be more than merely Human Resources because it would involve all of the buildings, vehicles, retirees, Pension Plans, Health Insurance, etc. He said other municipalities on average had 1.5 HR employees per 100 employees, and the City now had 270 employees. He mentioned crosstraining with Ms. Carrie Jagers and Ms. Smith due to the very small administrative staff. Mayor Thomas said there was adequate reason to justify this request and asked if there were any further questions or comments; there were none. **Councilman Reichard made the motion to approve the two Job Descriptions. Second was by Councilman Solis and the motion passed by majority roll call vote recorded as follows:**

Councilman Reichard	**Aye**
Councilman Chester	**Aye**
Councilwoman Strange	**Nay**
Councilman Solis	**Aye**
Mayor Thomas	**Aye**

4 APPROVE INFORMATION TECHNOLOGY SPECIALIST FULL-TIME POSITION. Mr. Gisbert asked the Council to add one Full-time Employee so that the City could advertise for the position with the intention of the position being in next year's Budget. He said the City now had a Part-time employee who could do the work inhouse, and who was being crosstrained with the outsourced IT person. He said with 270 employees, it was time to have an inhouse IT person. The Mayor asked if there were any questions and there were none. **Councilman Chester made the motion to approve the City Manager's request. Second was by Councilman Solis and the motion passed by unanimous roll call vote recorded as follows:**

Councilman Reichard	**Aye**
Councilman Chester	**Aye**
Councilwoman Strange	**Aye**
Councilman Solis	**Aye**
Mayor Thomas	**Aye**

5 PLANNING BOARD, CIVIL SERVICE BOARD, AND PENSION BOARDS APPOINTMENTS. Mr. Gisbert said some seats were coming available and the Board members had already been asked if they would like to be reappointed. He said some were merely reappointments within the Employees. Councilwoman Strange said she wanted to advertise the openings. There were no objections.

6 ORDINANCE 1428, UPDATING SIGN CODE, 1ST READING. Ms. Myers read Ordinance 1428 by title and stated it was largely housekeeping, updates to address the vulnerabilities due to the recent Supreme Court decision. Councilwoman Strange asked Ms. Myers to explain the Ordinance in laymen's terms. Ms. Myers said the Ordinance largely addressed the non-commercial sign category as the commercial sign regulations were fine. Councilman Reichard asked about political signs and the prior numerous discussions on limiting the duration for political signs. Ms. Myers said she would confer with Mr. Beninate and report back his recommendations.

Ms. Myers stated this Ordinance did not delete any category of signs nor create any new categories. Councilwoman Strange asked why this Ordinance was created. Ms. Myers said some of the specific regulations regarding temporary signs were vulnerable and she elaborated. The goal was to make the temporary sign regulations uniform across the board. Her office thought adoption would preclude the City from any legal challenge which might jeopardize the enforceability of the entire Sign Code.

Councilman Reichard questioned the Beach Services signs in the proposed draft. Mr. Gisbert said the Beach Services were limited to one per property but it was not a new regulation, merely new in this section of signs. The Mayor asked if there were any further questions or comments; there were none. **Councilman Reichard made the motion to approve Ordinance 1428. Second was by Councilman Solis and the motion passed by majority roll call vote recorded as follows:**

Councilman Reichard	**Aye**
Councilman Chester	**Aye**
Councilwoman Strange	**Nay**
Councilman Solis	**Aye**
Mayor Thomas	**Aye**

7 **RESOLUTION 17-117,** NUISANCE ABATEMENT ASSESSMENT INITIAL ASSESSMENT RESOLUTION. Ms. Myers read Resolution 17-117 and explained the two-step process, confirming the properties on which nuisance abatement actions had been taken and that this also included the expanded City-wide assessment. She elaborated and said most of the nuisance abatement activities were ultimately resolved by the owners and at no cost to the City so the list was somewhat short. The Mayor asked if there were any questions and there were none. **Councilman Chester made the motion to approve Resolution 17-117. Second was by Councilman Reichard and the motion passed by unanimous roll call vote recorded as follows:**

Councilman Reichard	**Aye**
Councilman Chester	**Aye**
Councilwoman Strange	**Aye**
Councilman Solis	**Aye**
Mayor Thomas	**Aye**

PUBLIC COMMENTS (LIMITED TO THREE MINUTES)

Mayor Thomas opened the Public Comments portion of the meeting at 6:41 P.M., reminding that comments were limited to three Minutes.

1 MR. BURNIE THOMPSON, 8317 Front Beach Road. Mr. Thompson questioned the fees charged for Public Records Requests and when he would receive the information which had been paid last month. He also made a verbal Public Records Request for the itemized invoices, supporting documents, and receipts for the ZHA subcontractor.

2 MR. SKIP STOLTZ, 318 Bainbridge Street. Mr. Stoltz asked if the bricks would be moved when the Veterans Park was moved. Mayor Thomas said yes.

With no further comments, the Public Comments were closed at 6:45 P.M.

Ms. Myers said she had no report.

Mr. Gisbert announced the job vacancies and bids posted on the City website. He also explained the emergency replacement of the air conditioning unit at the Senior Center.

Councilwoman Strange asked about placing Golf Cart/LSVs Prohibited signs on the access roads leading to the Parkway. She said she saw golf carts on the Parkway every day. Councilman Solis said it was a good idea also for Middle Beach Road. Chief Whitman said LSVs could not be on Middle Beach Road nor the Parkway. Mayor Thomas asked if he could direct extra patrols on those areas and Chief Whitman said yes.

Mr. Gisbert said Staff had asked FDOT if signs could be placed on the Parkway and Middle Beach Road and they said no. However, this would not prevent the City from placing signs on the access roads. Discussion ensued. Mr. Gisbert said the business pamphlets already advised the renters that they could not travel on those roads.

Councilman Chester said he had received kudos from a deputy of the Sheriff's office about the Beach Police's handling of the recent shooting at the west end. A wonderful, excellent job.

Councilman Reichard thanked the City Manager for the new microphones for each seat.

With nothing further, the meeting was adjourned at 6:52 P.M.

READ AND APPROVED this 14th of September 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:

_____
City Clerk

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 August 24, 2017.

ROLL
MAYOR MIKE THOMAS

COUNCILORS:
JOHN REICHARD
JOSIE STRANGE
PHIL CHESTER
HECTOR SOLIS

CITY MANAGER:
MARIO GISBERT
DEPUTY CITY CLERK:
JO SMITH
CITY ATTORNEY:
AMY MYERS

Mayor Thomas called the Regular Meeting to order at 9:00 A.M. with all Council members, City Manager, Deputy City Clerk and City Attorney present.

Councilman Solis gave the invocation and led the Pledge of Allegiance.

The Mayor announced the upcoming Community Events.

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

Councilman Chester	**Aye**
Councilwoman Strange	**Aye**
Councilman Solis	**Aye**
Councilman Reichard	**Aye**
Mayor Thomas	**Aye**

Ms. Hatcher from the floor made comments about statements in the Minutes which were lies. The Mayor said she could get with Ms. Myers after the meeting.

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

Councilman Chester	**Aye**
Councilwoman Strange	**Aye**
Councilman Solis	**Aye**
Councilman Reichard	**Aye**
Mayor Thomas	**Aye**

PUBLIC COMMENTS (Consent and Regular Items only)

The Mayor opened the Public Comments portion of the meeting at 9:05 A.M. and reminded that the speakers were limited to three minutes.

1 MR. FRANK SEWELL, 435 Hidden Island Drive. Mr. Sewell asked if Ordinance 1425 would affect the sizes of the kiosks signs at the City Pier.

2 MS. GENESE HATCHER, 203 South Wells St. Ms. Hatcher displayed her rental business sign and other nearby larger house signs and questioned the sizes being dependent upon the various zonings. She said a house sign was a house sign was a house sign.

With no further comments, the Public Comments were closed at 9:08 A.M.

CONSENT AGENDA

Ms. Smith read the Consent Agenda items by title.

1 ***"NATIONAL DAYS OF PRAYER AND REMEMBRANCE" AND "PATRIOT DAY" PROCLAMATION.*** *"A Proclamation designating September 8-10, 2017 as "National Days of Prayer and Remembrance" and September 11, 2017 as "Patriot Day", and directing that the flags be lowered to half-staff on September 11, 2017 with a moment of silence at 7:46 A.M.*

2 ***RESOLUTION 17-129, BID AWARD- LANDSCAPE MAINTENANCE SERVICES, CITY MAIN CAMPUS.*** *"A Resolution of the City of Panama City Beach, Florida, approving an Agreement with GCC Landscape Management Co. in the annual amount of $30,664 for Landscape Maintenance Services of the City's Main Campus; and providing an immediately effective date."*

3 ***RESOLUTION 17-130, SHADDAI SHRINE TEMPLE FALL CEREMONIAL PARADE ROAD USAGE.*** *"A Resolution of the City of Panama City Beach, Florida, authorizing careful traffic control and extraordinary use of a portion of Front Beach Road (US 98) to permit the Shaddai Shrine Temple Fall Ceremonial Parade on the morning of Saturday, October 14, 2017; and providing an immediately effective date."*

Councilwoman Strange made the motion to approve the Consent Agenda. Second was by Councilman Solis and the motion passed by unanimous roll call vote recorded as follows:

Councilman Chester	**Aye**
Councilwoman Strange	**Aye**
Councilman Solis	**Aye**
Councilman Reichard	**Aye**
Mayor Thomas	**Aye**

REGULAR AGENDA- DISCUSSION/ACTION

1 **ORDINANCE 1425,** AMENDING LDC REGARDING OUTDOOR DISPLAYS, 2ND READING, **PUBLIC HEARING** AND ADOPTION. Ms. Myers read Ordinance 1425 by title and clarified this only dealt with the merchandise itself. In response to the question from Mr. Sewell, she said there was a lease specific to the Pier Beachfront kiosks and any identified problems would be addressed by the lease. She said the definition within the Ordinance was premises which would include the City's entire parcel on which the kiosks were located. Mayor Thomas addressed the comments by Ms. Hatcher about home sign sizes and explained Code Enforcement personnel was being increased which would address those issues and everyone would follow the same rules. The City was behind in enforcement as one man could not do all the enforcement. The Mayor asked for Council questions or comments; there were none. He opened the Public Hearing at 9:12 A.M. Hearing no comments from the floor, the Public Hearing was closed at 9:12 A.M. **Councilman Reichard made the motion to approve Ordinance 1425. Second was by Councilman Solis and the motion passed by unanimous roll call vote recorded as follows:**

Councilman Chester	**Aye**
Councilwoman Strange	**Aye**
Councilman Solis	**Aye**
Councilman Reichard	**Aye**
Mayor Thomas	**Aye**

2 **RESOLUTION 17-122,** PIER BEACHFRONT LEASE RENEWAL AND MODIFICATION. Ms. Myers read Resolution 17-122 by title and explained that this Resolution extended the lease for three years, allowed additional rent payments by the 20th of the month, and clarified the tenant's duty to keep the kiosks in good repair. She said the lease could not be extended at the end of this term and must be rebid at the end of three years. Mayor Thomas said it was a good lease and the tenant had done well. He asked if there were any questions or comments from Council; there were none. **Councilman Chester made the motion to approve Resolution 17-122. Second was by Councilman Reichard and the motion passed by unanimous roll call vote recorded as follows:**

Councilman Chester	**Aye**
Councilwoman Strange	**Aye**
Councilman Solis	**Aye**
Councilman Reichard	**Aye**
Mayor Thomas	**Aye**

3 **RESOLUTION 17-128,** BUDGET AMENDMENT #50 FOR YEAR END HOUSEKEEPING. Ms. Myers read Resolution 17-128 by title and explained the Budget Amendment reallocated funds amongst Departments to address shortfalls, excesses, and construction timing issues. The Mayor asked if there were any questions and there were none. **Councilman Solis made the motion to approve Resolution 17-128. Second was by Councilman Chester and the motion passed by unanimous roll call vote recorded as follows:**

Councilman Chester	**Aye**
Councilwoman Strange	**Aye**
Councilman Solis	**Aye**
Councilman Reichard	**Aye**
Mayor Thomas	**Aye**

4 **RESOLUTION 17-131**, BID AWARD- SEWER CONTINUING SERVICES. Ms. Myers read Resolution 17-131 by title. Councilman Reichard asked Mr. Shortt for more details. Mr. Shortt explained this was an ongoing program beginning in 2011, replacing the clay pipes originally installed fifty years ago with liners. He said it was expensive and for the three years being considered, it would total approximately Four Million Dollars to do all of the work, and as work was done, other areas would be identified. The contract was for one year initially with two one-year renewals if Staff was satisfied with the contractor's work. The contractor would also honor the prices over the three years. Mr. Shortt said Staff was recommending that the Council approve the unit pricing today, not the work itself. During the Utilities Budget Workshop, he said they planned to budget Two Million Dollars for next year and issue a Work Authorization using these prices for the most critical areas. Councilman Solis asked about warranty and Mr. Shortt said any problems with the liners were known almost immediately. He said once the liner was there, it basically formed a new pipe inside the old clay pipe and the life expectancy for the new pipe was another fifty years. He identified areas in Colony Club, Woodlawn subdivision, Bay Point, and some of Front Beach Road not addressed by the CRA Segment 2 as most critical. He added most of the City neighborhoods had PVC pipes which did not have the leaks such as in the clay pipes. **Councilman Reichard made the motion to approve Resolution 17-131. Second was by Councilwoman Strange and the motion passed by unanimous roll call vote recorded as follows:**

Councilman Chester	**Aye**
Councilwoman Strange	**Aye**
Councilman Solis	**Aye**
Councilman Reichard	**Aye**
Mayor Thomas	**Aye**

5 **APPROVE ADDITION OF ONE FULL-TIME WASTEWATER TREATMENT PLANT OPERATOR AND ELIMINATE A PERMANENT PART-TIME POSTION.** Mr. Shortt explained the creation of the Permanent Part-time position and that employee was leaving. He said finding a licensed Operator to only work part-time was difficult and the position needed to be filled which realistically must be Full-time. Mayor Thomas asked if there were any questions and there were none. **Councilman Reichard made the motion to approve Staff's recommendation. Second was by Councilman Chester and the motion passed by unanimous roll call vote recorded as follows:**

Councilman Chester	**Aye**
Councilwoman Strange	**Aye**
Councilman Solis	**Aye**
Councilman Reichard	**Aye**
Mayor Thomas	**Aye**

PUBLIC COMMENTS-LIMITED TO THREE MINUTES

Mayor Thomas said the Council was going to do things differently and Counsel was going to bring back a Resolution at the next meeting concerning comments. He explained that public comments would be limited to the same three minutes, and anyone could address the City's business if they were a City resident, own a business within the City, or have a water/sewer problem which needed to be addressed during the meeting.

1 MS GENESE HATCHER, 203 S. Wells St. Ms. Hatcher disputed the comments in the Minutes, stating her homes were the safest in the County. She wanted the records changed and if a neighbor said that, she wanted a Public Records Request for that information. She commented about her rental homes being required to obtain the sprinkler system and outside staircase within 20 days. She explained her problems.

2 MR. BURNIE THOMPSON, 8317 Front Beach Road. Mayor Thomas said this section of the meeting were for people within the three criteria. He stated he would meet with Mr. Thompson at any time. Mr. Thompson said he wanted to ask about Public Records Requests and the Mayor stated he was not a resident of the City. Mr. Thompson asked Ms. Myers which Statute would deny him the opportunity to address the Council. Ms. Myers replied that the Statute only required Public Comment on matters before the Council for consideration and there was not a Public Records Policy before the Council for consideration. Mayor Thomas said he could check with him at any time other than a City Council meeting time.

3 MR. TIM SOWELL,611 Poinsettia Drive. Mr. Sowell commented about the article reporting the City being the 22nd most dangerous City in the U.S. He said this year, the island had five shootings and more than in the past. He said the City continued to become more violent and explained his reasoning.

There were no further comments from the floor. Mayor Thomas said this report was inaccurate. Councilman Solis asked Chief Whitman to address the article. Chief Whitman spoke of the writer using old statistics from 2015 and not accounting for the number of the City's visitors. She applied the 2015 statistics against the City's population of 12,995, not the numbers of tourists per day averaging an additional 44,000. Chief Whitman explained with the addition of the visitors, the crime statistics were drastically lower. He said the writer was doing the study prior to the Council enacting the new Ordinances.

In response to the question from Councilman Solis about the new Ordinances, Chief Whitman said his officers were now able to respond quicker to situations, be more proactive, and with full staff able to catch more criminals. He said most of the crimes were drug related but that was worldwide. Chief Whitman said Myrtle Beach was mentioned in the same article with the same problem as their visitors were not added into the statistics.

Councilman Solis said the article also reported was that property values were declining and no one wanted to come to the City. He stated that property values in the last two years had risen 15%-20%. The Mayor asked if there were other questions for the Chief and there were none.

Mayor Thomas asked Mr. Leonard to explain the circumstances surrounding Ms. Hatcher's homes and various comments. Mr. Leonard said the two buildings were permitted as single-family dwellings but then the occupancy was converted to short-term rental. Then the Fire Department and Fire Codes apply upon that conversion. He said Chief Daly and Captain Jordan had been working on the timing for when the requirements would happen. He said there were others with the same situation. Now many homes were being converted to short-term rentals, and when that occurred, Fire Codes and Building Codes would apply to the structures, such as exit lights, fire suppression systems, and all the life safety requirements that did not apply to single-family homes.

Councilwoman Strange asked if Ms. Hatcher converted to short-term occupancy right after construction why it took 2.5 years to address the structures, and if the Department was that far behind. Mr. Leonard said yes, the Department was behind but he remembered conversations with Captain Jordan at that time that he wanted to see if they were being rented short-term and have a plan for when the new requirements would apply. The conversations started not long after the CO was issued for the two buildings. Councilwoman Strange asked if there were over 300 homes in the City which had converted to short-term rental and Mr. Leonard replied no, not within City limits. Ms. Hatcher said within the County. Mayor Thomas said there was State law which the City had not been enforcing for a while and were now catching up after being behind. Mr. Leonard said the Fire Department had also been understaffed regarding inspections as there had been only one Fire Inspector. Now there was two which still was not enough.

Councilman Solis said several of the Council members attended the Florida League of Cities Conference last week, and one of the classes was for vacation rentals. He said the number one topic was the conversion of homes to short-term rentals. Destin was there asking for help and our City was not unique with these problems.

Councilman Reichard commented about the upcoming parade season and the barriers for crowd control. He said the TDC was buying 100 new barriers each year, stored at Pier Park for use with these parades. He spoke of the City insisting that parades use the barriers for safety reasons. He mentioned kids running in front of the vehicles. Mayor Thomas said he and Councilman Chester would speak to the TDC.

Mayor Thomas said the property values were doing very well in the City and businesses were picking up, and people felt more comfortable on the beach compared to past years.

The meeting was adjourned at 9:50 A.M.

READ AND APPROVED this 14th of September, 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:

_____
City Clerk

PRESENTATION

1

CITY OF PANAMA CITY BEACH

CIVIC ACHIEVEMENT AWARD

Be It Known That

Taylor Ballew

HAS GIVEN EXCEPTIONAL SERVICE

TO THE BOYS AND GIRLS CLUB
OF PANAMA CITY BEACH

For the responsibility assumed, for the unselfish service rendered her community and its citizens in discharging the duties of good citizenship, this token of CIVIC ACHIEVEMENT is hereby awarded.

Presented this 14th of September, 2017

MAYOR MIKE THOMAS

PRESENTATION

3

Bay County Audubon
Beginners Bird Walk
PCB Conservation Park

Enjoy a leisurely morning walk around the trails of the Panama City Beach Conservation Park guided by the Bay County Audubon. Binoculars are available for these free events.

April 1st 2017
September 23rd
November 15th
Start 7:30am

Parks & Recreation

(850) 233-5045

(3)

International Coastal Clean Up

Parks & Recreation
Panama City Beach

Saturday 16th September

10am – Noon

Russell Fields City Pier, across from Pier Park

PCB Parks and Recreation Dept 850 233 5045

(3)

PRESENTATION

4

City of Panama City Beach City Council
September 14, 2017
Agenda Item Information

SUBJECT: Project Development and Environmental Study for U.S. 98 (Panama City Beach Parkway) from Mandy Lane to County Road 3031 (Thomas Drive), Bay County

Financial Project Identification Number: 217838-2-22-01.

PRESENTER: Sherry Alaghemand, P.E., FDOT Project Manager

LOCAL GOVERNMENT ACTION NEEDED: None

BACKGROUND: A public hearing is scheduled for Tuesday, October 10, 2017, at the City of Panama City Beach Lyndell Senior Center, 423 Lyndell Lane, Panama City Beach, from 5:30 p.m. – 6:30 p.m., followed by a formal presentation and public comments at 6 p.m.

This project will evaluate the need for increasing the capacity for the east-west travel demands on U.S. 98 (Panama City Beach Parkway) in Panama City Beach. The intent of this hearing is to present the results from the engineering and environmental analysis conducted on the recommended one build alternative. Public input received will be incorporated into the final documents and will be used in selecting a preferred alternative to be carried forward to the design phase which is funded. Right-of-way and construction are not funded in the current FDOT Five-Year Work Program.

During the informal portion of the hearing, FDOT representatives will be available to discuss the project, answer questions, and receive your comments. Maps, drawings, and other information will be on display. A court reporter will also be available to receive your comments. During the formal portion of the hearing, FDOT will make a formal presentation which will be followed by public comments.

Should you have questions regarding the project or this hearing, please contact Sherry Alaghemand, P.E., FDOT Project Manager, toll-free at (888) 638-0250, extension 1510 or via email at sherry.alaghemand@dot.state.fl.us. You may also contact Ian Satter, District Three Public Information Director, toll-free at (888) 638-0250, extension 1205 or via email at ian.satter@dot.state.fl.us.

RECOMMENDED ACTION: This item is for information only.

S.R. 30A / U.S. 98 / Panama City Beach Parkway Project Development & Environment (PD&E) Study

From Mandy Lane to Thomas Drive Intersection
Bay County, Florida

Financial Project ID No: 217838-2-22-01, ETDM No: 14208

City of Panama City Beach Presentation | Sept. 14, 2017

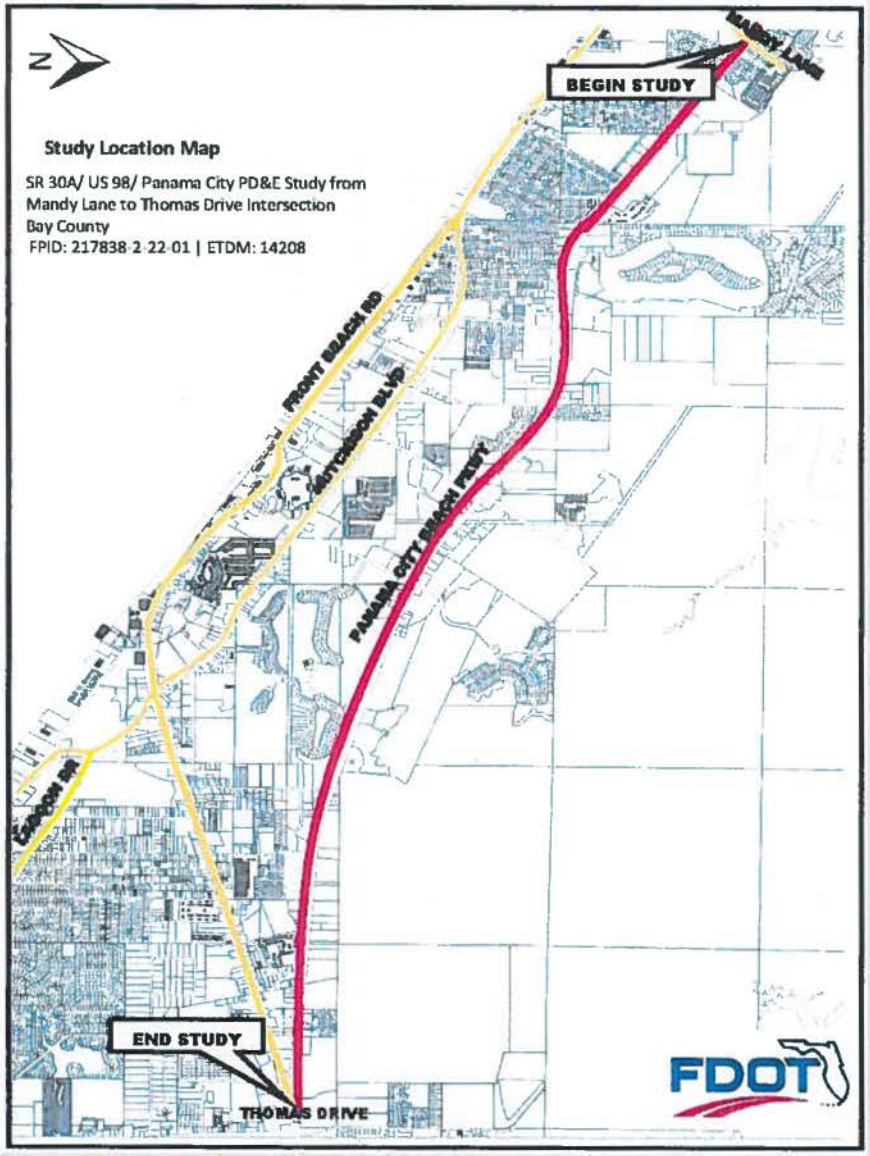
FDOT

Purpose of Briefing

- Status Update for upcoming Public Hearing
- Receive input

FDOT

Project Location



- S.R. 30A / U.S. 98 / Panama City Beach Parkway
- From Mandy Lane to Thomas Drive Intersection
- Approximately 7.7 miles in length
- Bay County
- Panama City Beach
- Design Year 2045

FDOT

Purpose and Need

- **Add two lanes of capacity to the four lane section of U.S. 98 in order to address existing and projected future failing level-of-service**
  - Certain roadway segments are currently over capacity
- **Project is needed to relieve congestion**
- **Enhance safety and mobility**
  - Improve emergency evacuation
  - Include sidewalks and bicycle lanes

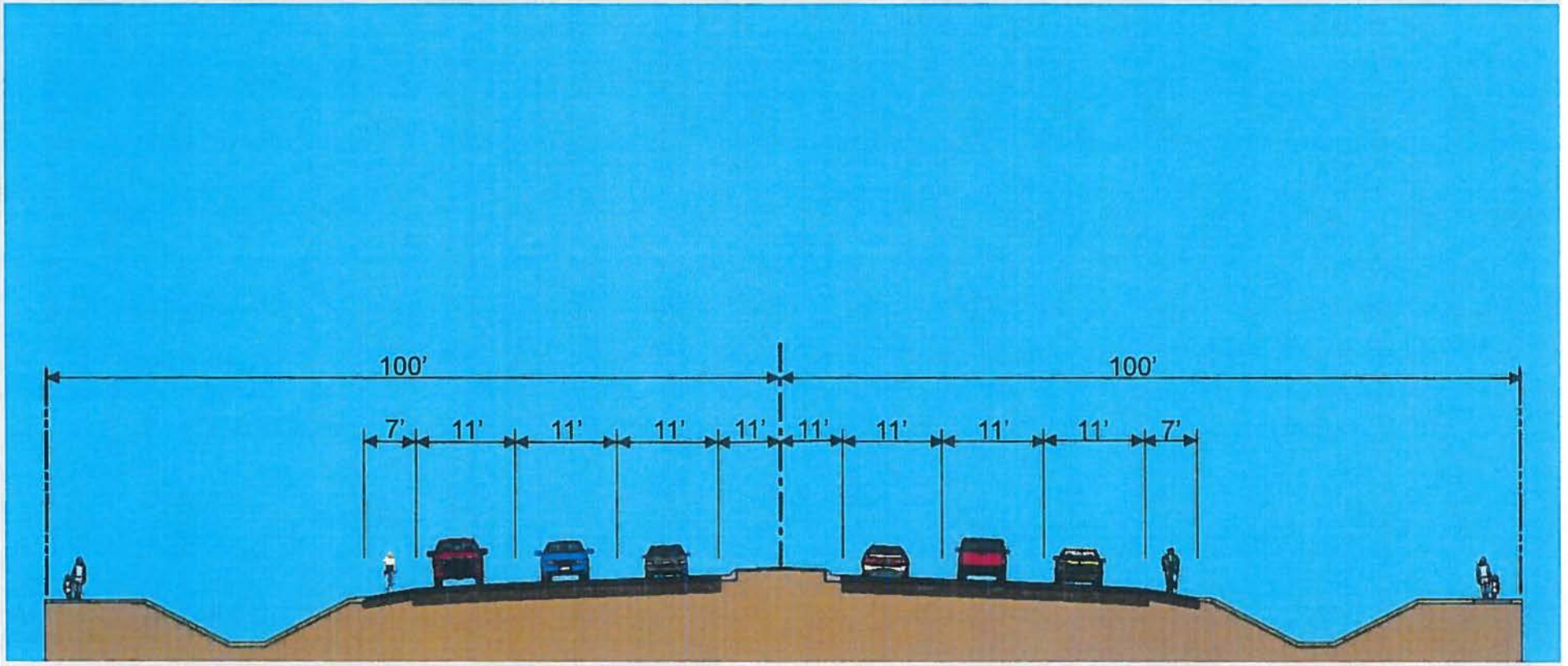
FDOT

Existing Characteristics

- 4 Lanes Divided: Mandy Lane to west of Richard Jackson Boulevard & East of Richard Jackson Boulevard to Cauley Avenue (45 mph/55mph)
- 6 Lanes Divided: West of Richard Jackson Boulevard to East of Richard Jackson Boulevard
- 4 Lanes Undivided w/ 2-Way Left Turn lane: Cauley Avenue to Thomas Drive
- Posted Speed: 45 mph/55 mph
- Discontinuous sidewalks and bicycle lanes
- Existing 200-ft Right-of-Way (R/W)

FDOT

Proposed 6-Lane Typical Section

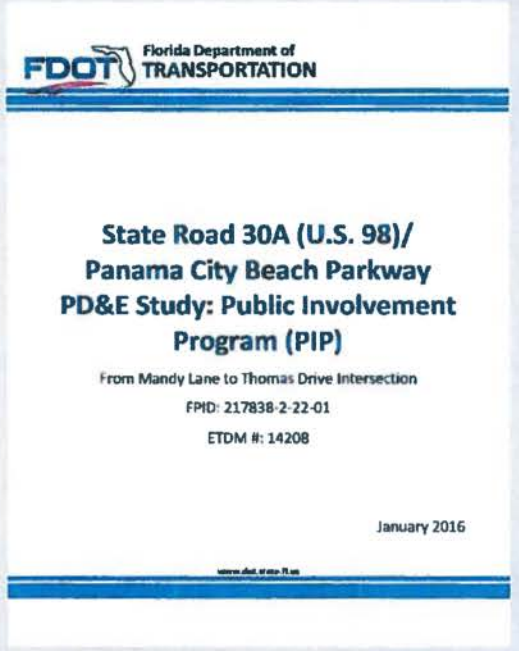


11-ft Lanes
22-ft Median
10-ft Shoulder (7-ft paved)
5-ft Sidewalks
200-ft R/W
Design Speed 45 mph

FDOT

Public Involvement

- Public Involvement Plan
- Meetings with Agencies
- Local Government Coordination
- Meetings with the Public
- Project Website
- http://www.nwflroads.com


Florida Department of TRANSPORTATION

State Road 30A (U.S. 98)/
Panama City Beach Parkway
PD&E Study: Public Involvement Program (PIP)

From Mandy Lane to Thomas Drive Intersection

FPID: 217838-2-22-01

ETDM #: 14208

January 2016

Public Kick-Off Meeting Held

Date: April 21, 2016

Location: Panama City Beach Lyndell Senior Center
423 Lyndell Lane
Panama City Beach, FL

42 people in attendance including project staff

Key issues of concern were:

- Intersection improvements
- Noise impacts
- Drainage
- Traffic congestion
- Multimodal accommodations

Alternatives Public Workshop Held

Date: February 16, 2017

Location: Panama City Beach Lyndell Senior Center
423 Lyndell Lane
Panama City Beach, FL

39 people in attendance in addition to study team

Key issue of concern was related to Access Management

Study Schedule and Funding

- **Begin Study: December 18, 2015**
- **Receive Location Design Concept Approval (LDCA): January 2018**

- **Future phases include:**
  - **Design (Funded)**
  - **Right-of-Way (Not Funded)**
  - **Construction (Not Funded)**

FDOT

Public Hearing

Date: October 10, 2017

Location: Panama City Beach Lyndell Senior Center
423 Lyndell Lane
Panama City Beach, FL

Time: 5:30 pm (Open House)
6:00 pm (Formal Presentation followed by public comment period)

FDOT

Contact Information

FDOT Project Manager

Sherry Alaghemand, P.E.
FDOT, District 3
(888) 638-0250, extension 1510
Sherry.Alaghemand@dot.state.fl.us

FDOT Public Information Director

Ian Satter
FDOT, District 3
(888) 638-0250, extension 1205
Ian.Satter@dot.state.fl.us

SCHEDULE HEARINGS

September 2017

September 2017

Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

October 2017

Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Aug 27	28	29	30	31	Sep 1	2
3	4	5 2:00pm Bid Opening- Ground Pentrating Radar	6 12:00pm 12PM-4PM- Civil Svc Board Meeting	7	8	9
10	11 2:00pm 2PM- Planning Board Meeting	12 [redacted]	13	14 4:00pm Budget Workshop 6:00pm Council meeting	15	16
17	18 3:00pm 3PM- Examining Board	19 2:00pm Bid Opening- US 98 Utility Relocation at Moylan	20 2:00pm Bid Opening- PCB Parkway/Cauley Ave Utility Relocation	21	22	23
24	25	26 10:00am Supervisor of Elections Voter Drive- Conference Room 12:00pm 12PM Noon - 1PM CSB Workshop	27	28 9:00am City Council Meeting	29	30

October 2017

October 2017

Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

November 2017

Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Oct 1	2	3	4 12:00pm 12PM-4PM- Civil Svc Board Meeting	5	6	7
8	9 2:00pm 2PM- Planning Board Meeting	10 9:00am 9AM- TDC Meeting 1:30pm CDD- Whisper Dunes Bd Mtg	11	12 6:00pm Council meeting	13	14
15	16 3:00pm 3PM- Examining Board	17	18	19	20	21
22	23	24 12:00pm 12PM Noon - 1PM CSB Workshop	25	26 9:00am City Council Meeting	27	28
29	30	31	Nov 1	2	3	4

CONSENT ITEM

1

CITY OF PANAMA CITY BEACH
AGENDA ITEM SUMMARY

1. DEPARTMENT MAKING REQUEST/NAME:	2. MEETING DATE:
Public Works / Paul Casto	9/14/2017

3. REQUESTED MOTION/ACTION:

Approval of the task order which includes analysis of the Glades/Laird Basin Stormwater Feasibility Study using the City's stormwater master plan model through a master services contract with Dewberry/ Preble-Rish Engineers, Inc. for a total amount of $69,925.00.

4. AGENDA

PRESENTATION	☐
PUBLIC HEARING	☐
CONSENT	☑
REGULAR	☐

5. IS THIS ITEM BUDGETED (IF APPLICABLE) ☑ YES ☐ NO ☐ N/A
BUDGET AMENDMENT OR N/A

DETAILED BUDGET AMENDMENT ATTACHED ☐ YES ☐ NO ☑ N/A

6. BACKGROUND: (WHY IS THE ACTION NECESSARY, WHAT GOAL WILL BE ACHIEVED)

Based on the resolution that was approved January 12, 2017, staff negotiated a master services agreement with Dewberry/Preble-Rish as a consultant for Professional Stormwater Engineering Services. On August 1, 2017, staff met with Bay County and FDOT to discuss a joint venture on the Glades/Laird stormwater basins since they are adjacent and have interconnectivity. The proposed effort will provide the ability for the City to accurately account for potential stormwater impacts from existing and proposed developments as well as the runoff that fluctuates back and forth between the City and County basins in this area. In addition, they will also analyze the potential pond facility that may help alleviate flooding within these basins and be a joint use with the widening of Back Beach Road.

Staff requested and has received a proposed task order number 2017-02 (see Exhibit B Combined Task Order and Notice to Proceed). Bay County commits to a cost share of 75% of the total cost for the study in the amount of $52,443.75 and the City's contribution would be the remainder of $17,481.25. See attached a letter of commitment from Bay County (Exhibit A)

Staff recommends approval of this proposal in the amount of $69,925.00 and has sufficient funds in the stormwater budget for the design work to be completed.

CONSENT
AGENDA ITEM # 1

RESOLUTION 17-127

A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA APPROVING TASK ORDER #2017-02 TO THE MASTER SERVICES AGREEMENT WITH DEWBERRY ENGINEERS, INC. RELATED TO THE GLADES/LAIRD BASIN STORMWATER FEASIBILITY STUDY IN AN AMOUNT OF $69,925 TO BE PAID BY BOTH CITY AND COUNTY AS MORE PARTICULARLY SET FORTH IN THE BODY OF THE RESOLUTION.

BE IT RESOLVED that the appropriate officers of the City are authorized but not required to accept and deliver on behalf of the City that certain Task Order 2017-02 between the City and Dewberry Engineers, Inc., relating to the Glades/Laird Basin Stormwater Feasibility Study, in the total lump sum amount of Sixty Nine Thousand, Nine Hundred Twenty Five Dollars ($69,925), of which $52,443.75 (75%) will be paid by Bay County, in substantially the form attached and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager and whose execution shall be conclusive evidence of such approval.

THIS RESOLUTION shall be effective immediately upon passage.

PASSED in regular session this ___ day of _____, 2017.

CITY OF PANAMA CITY BEACH

By: _____
Mike Thomas, Mayor

ATTEST:

_____
City Clerk

CONSENT
AGENDA ITEM # 1

EXHIBIT A

OFFICE OF COUNTY MANAGER
840 W. 11th Street
Panama City, Florida 32401
Telephone: (850) 248-8140
Fax: (850) 248-8153

August 31, 2017

City of Panama City Beach
Mario Gisbert, City Manager
116 South Arnold Road
Panama City Beach, FL 32413

Subject: Stormwater Feasibility Study – Glades/Laird Basin

Dear Mr. Gisbert:

This letter serves as Bay County's commitment to cost share in the amount of $52,443.75 (75%) with the City for the Glades/Laird Stormwater Basin Study.

If you have any questions or need additional information, please contact my office at 850-248-8140.

Sincerely,

Robert J. Majka, Jr.
County Manager

JC/lw

Cc: Ken Schnell, P.E., Assistant County Manager
Joel Schubert, Assistant County Manager
Keith Bryant, P.E., PTOE, Public Works Director
Josee Cyr, P.E. Engineering Division Manager
Kelly Jenkins, Community Redevelopment Agency

CONSENT
AGENDA ITEM # 1

EXHIBIT B
COMBINED TASK ORDER AND
NOTICE TO PROCEED

TASK ORDER NO. 2017-02 DATE September ___, 2017

Reference is made to that certain MASTER SERVICES AGREEMENT BETWEEN CITY OF PANAMA CITY BEACH AND **Dewberry/Preble-Rish, Inc.** RELATING TO MAJOR ANALYSIS, PLANNING, DESIGN AND CONSTRUCTION PROFESSIONAL STORMWATER ENGINEERING SERVICES dated May 16 2017, (the "Agreement"), the terms, conditions and definitions of which are incorporated herein as if set forth in full. Neither party is in breach of the Agreement.

Pursuant to the Agreement, Engineer agrees to perform the specific tasks set forth upon incorporated **Exhibit B Attachments, Scope of Services**, relating to the **Glades/Laird Basin Stormwater Feasibility Study**.

Engineer's total compensation shall be (check one):

__X__ a stipulated sum of $ **$69,925.00** ; or

____ a stipulated sum of $_____ plus one or more specified allowances listed below which may be authorized in writing by the City Manager or his designee,
Allowance of $ _____ for _____, and
Allowance of $ _____ for _____; or

____ a fee determined on a time-involved basis at the rates set forth upon incorporated **Attachment B, Hourly Fee Breakdown (if applicable)**, with a maximum cost of $_____;

and shall be paid in monthly installments as specified in the Agreement.

Work shall begin on _____, 2017, and shall be completed within three months . The date of completion of all work is therefore _____, 2017___. Liquidated delay damages, if any, are set at the rate of $0 per day. There are no additional rights and obligations related to this Task Order other than as specified in the Agreement.

Upon execution of this task order by both the Engineer and City Engineer is directed to proceed.

IN WITNESS WHEREOF the parties have caused these presents to be executed in their names on the date shown.

Witness:

_____

_____

Dewberry/Preble-Rish, Inc.

By:_____ Date:_____
Its:

CITY OF PANAMA CITY BEACH, FLA.

ATTEST:

By:_____ Date:_____
City Manager

_____
City Clerk

CONSENT
AGENDA ITEM #_____

EXHIBIT B

CITY OF PANAMA CITY BEACH
MASTER SERVICES AGREEMENT
Professional Stormwater Engineering Services
(Major Analysis, Planning, Design & Construction)

TASK ORDER 2017-02

This Task Order is for the purpose of Dewberry Engineers, Inc. as the Engineer to provide professional services for the **Glades/Laird Basin Stormwater Feasibility Study** to the City of Panama City Beach (City) acting by and through its Council. Dewberry Engineers, Inc. understands that the City is requesting modeling and analysis to serve as a planning and evaluation tool on the modeling platform (ICPR) to determine the Level of Service achieved from various proposed improvements within the city's and county's respective Glades/Laird basin. The proposed effort will provide the ability for the city and county to determine the value of creating regional stormwater improvements to serve the referenced basin. Dewberry Engineer, Inc. has developed the following scope of services and associated fee schedule to meet the needs of this task order. Please note that a portion of the GIS and modeling effort covering this study area have already been budgeted through Task order 2017-01, therefore the services outlined below serve to further the level of detail already-scoped under Task Order 2017-01 within the City limits, and expand the analysis over the County.

DESCRIPTION OF SCOPE OF SERVICES

PROJECT MANAGEMENT & COORDINATION - $2,285.00

A. Project Coordination & Technical Evaluation Process

1. In addition to the regular status updates to be provided to the City, significant coordination between the Dewberry Team, City of Panama City Beach, Bay County and FDOT will be necessary due to:
   a) Coordination meeting of GIS Model setup to establish baseline existing conditions between city and county staff.
   b) Preliminary draft review meeting of various storm events, model scenario alternatives (estimate 6 alternatives) and results.

FIELD RECONNAISSANCE AND SURVEYING - $12,725.00

A. Field and Data Reconnaissance (Budget $6,225.00)

1. In concert with the GIS and modeling effort, the Dewberry team will track down available as-built surveys and/or site plans from the City of Panama City Beach, Bay County, FDOT, NWFWMD, FEMA, and private entities (as needed).
2. Field-verification of existing conditions are to be reflected in the modeling. These locations may include drainage basin divides, control structures, culverts, and channels etc.

B. Survey (Budget $6,500.00)

1. After assessing our inventory and field reconnaissance information, we anticipate the need to capture additional surveys of hydraulic structures or channel cross sections located in the Glades/Laird Basin. This will be a limited effort, but still necessary to ensure the modeling products reflect accurate existing conditions.

ENGINEERING SERVICES - $53,165.00

A. Data Inventory and Preparation

1. Review and harvest the XP-SWMM modeling (or other modeling) information from the following:
   a) Bay County – CDMs Glades Model
   b) Sports Village/Complex Proposed Improvements
   c) FDOT US 98 (Back Beach Road) Widening Improvements
   d) Pelican Pointe & Tierra Verde (Reroute)
   e) Clarence Street (Data)
   f) Bay County GIS Inventory (Invert Data)
   g) Glades/Laird Basin (High Water Mark Inventory)
2. The modeling information will be retrieved, prioritized, and inventoried within a GIS framework. We will review the internal consistency between the provided modeling and provided GIS (or CAD) files.

B. GIS Updates

1. We will modify and improve upon the GIS drainage basins based on our reconnaissance.
2. The GIS (and eventual ICPR model) will include details in the Glades/Laird Basin contributing areas.

CONSENT
AGENDA ITEM #_____

3. Once GIS is established, conversion of the Glades XP model to ICPR will be modified based on field recon and updated GIS and survey records.
4. There are several aspects of the XP-SWMM modeling that will need to be scrutinized and regenerated since minimal information can be translated to ICPR for these elements. The major aspects include:
   a) Infiltration parameters (NRCS CN method or Green-Ampt method).
   b) Hydrograph generation (including selection of appropriate peak rate factors, time of concentration and AMC based on the calibration run).
   c) Control structures (XP-SWMM does not have a drop structure option as is available in ICPR).
   d) Channels (XP-SWMM only allows a single cross section for each channel, however, ICPR allows the use of different cross sections in defining the ends of each channel).
   e) Channels will need to include an accompanying exclusion polygon where applicable.
5. We will include additional overland weirs, as verified and necessary.
6. GIS and Modeling QA/QC Coordination (City of Panama City Beach/Bay County/FDOT)

C. ICPR Base Model Development

1. We will generate the database elements to be used to develop the equivalent ICPR model.
2. We will convert the GIS features and data into an ICPR model.
3. We will review the ICPR model for technical issues, including instabilities and "glass walls". We will include additional overland weirs based on our review and field verification.
4. We will develop appropriate boundary conditions to ensure the modeling results within the city and county are acceptable.
5. We will review, confirm, or modify the initial conditions used in the ICPR model to represent "average" seasonal conditions.
6. We will validate the model based on a known rainfall event and either surveyed high water mark, or qualitative accounts of the high water from that event. This can be an iterative process, so model parameters may be adjusted. The intent is not to limit the model to match a single storm event, but to allow the model to eventually provide reasonable results from a range of hypothetical storms.

D. ICPR Model Simulations, Improvement Analysis, & Documentation

1. We will perform the required critical storm analysis to satisfy the City, County, and FDOT. Do to the various scenarios and limited budgets, it will be critical to verify concurrence between the City and County to narrow down alternatives (estimate 6 alternatives). We will coordinate with the both the City and County on the desired storm alternatives prior to set up and execution.
2. We will develop and simulate the baseline ICPR model representing existing conditions first, and then a follow-up ICPR version will be developed and simulated which will include the proposed improvement scenarios.
3. Upon completion of the various model simulations and results, a follow up meeting between all parties will be coordinated to review and determine if a CLOMR is warranted prior to final documentation of model results.
4. Once the modeling has been completed and results reviewed, we will prepare a report documenting the assumptions, data, methodology, and results.

QUALITY CONTROL - $1,750.00

A. Reviews

1. All GIS and ICPR deliverables will be reviewed by senior staff prior to submittal to the city and county. The deliverables will meet FEMA regulatory requirements as well as currently-accepted engineering and numerical modeling practice.

EXCLUSIONS

1. Stormwater Improvement Designs
2. Regulatory agency submittal(s), including application fees.
3. Capital Improvement Project Development.

FEE ESTIMATE

Professional Services Fees

A.	*Project Management*	*$2,285.00*
B.	*Reconnaissance and Surveying*	*$12,725.00*
C.	*Engineering Services*	*$53,165.00*
D.	*Quality Control*	*$1,750.00*
		Total $69,925.00

CONSENT
AGENDA ITEM #1

EXHIBIT B

IN WITNESS WHEREOF, the parties hereto have caused this Task Order to be executed by their undersigned officials as duly authorized.

Dewberry Engineers, Inc.
203 Aberdeen Parkway
Panama City, Florida 32405

By:_____

Name: Clifford D. Wilson III, PE.

Title: Vice President

Witnessed:_____

Date:_____

CITY OF PANAMA CITY BEACH, FLORIDA
110 S. Arnold Road
Panama City Beach, Florida 32413

By:_____

Name: Mario Gisbert

Title: City Manager

Witnessed:_____

Date:_____

CONSENT
AGENDA ITEM #_____

CONSENT ITEM

2

CITY OF PANAMA CITY BEACH
AGENDA ITEM SUMMARY

1. DEPARTMENT MAKING REQUEST/NAME:
ADMINISTRATION

2. MEETING DATE:
SEPTEMBER 14, 2017

3. REQUESTED MOTION/ACTION:
Consider Resolution to close portions of roads in Pier Park on October 6 to 7, 2017, for extraordinary usage of Front Beach Road and other city roads within and around Pier Park for the parade.

4. AGENDA

PRESENTATION	☐
PUBLIC HEARING	☐
CONSENT	☑
REGULAR	☐

5. IS THIS ITEM BUDGETED (IF APPLICABLE)? YES ☐ NO ☐ N/A ☑
BUDGET AMENDMENT OR N/A

DETAILED BUDGET AMENDMENT ATTACHED YES ☐ NO ☐ N/A ☑

6. BACKGROUND: (WHY IS THE ACTION NECESSARY, WHAT GOAL WILL BE ACHIEVED)
The Pirates of the High Seas Festival will be held on Friday, October 6 and Saturday, October 7, 2017 with the main parade being held on October 7, 2017.

The event necessitates careful traffic control and extraordinary usage of portions of roads within Pier Park, on Powell Adams Road and on Front Beach Road from Powell Adams to Pier Park Drive for the parade.

Staff recommends approval.

CONSENT
AGENDA ITEM # 2

RESOLUTION NO. 17-132

A RESOLUTION OF THE CITY OF PANAMA CITY BEACH RELATED TO THE "PIRATES OF THE HIGH SEAS FESTIVAL"; AUTHORIZING CLOSURE OF PORTIONS OF LC HILTON, JR. DRIVE, SEA MONKEY WAY, LONGBOARD WAY AND PIER PARK DRIVE ON OCTOBER 6 AND 7, 2017 FOR THE EVENT; AND AUTHORIZING CLOSURE OF A PORTION OF POWELL ADAMS ROAD AND THE TEMPORARY USAGE OF A PORTION OF FRONT BEACH ROAD ON OCTOBER 7 TO PERMIT THE EVENT'S PARADE.

WHEREAS, the "Pirates of the High Seas Festival" (the "Event") is being held on Friday, October 6, 2017 and on Saturday, October 7, 2017 in Panama City Beach; and

WHEREAS, the Event necessitates careful traffic control and extraordinary usage of Front Beach Road and other city roads within and around Pier Park.

NOW, THEREFORE, be it resolved by the City of Panama City Beach that:

1. During the hours of 12:00 A.M. on Thursday, October 5, 2017, until 12:00 A.M. on Sunday, October 8, 2017, portions of L.C. Hilton, Jr. Drive, Sea Monkey Way, and Pier Park Drive beginning at the Grand Theatre roundabout to Long Board Way shall be closed and all vehicular traffic shall be rerouted or otherwise controlled in accordance with the attached map which accompanies this Resolution to accommodate the Event.

2. During the hours of 4:30 P.M. to 7:30 P.M. on Saturday, October 7, 2017, portions of Pier Park Drive and Powell Adams Road shall be closed and all vehicular traffic on Powell Adams Road and on Front Beach Road from Powell Adams to Pier Park Drive shall be rerouted in accordance with the attached map which accompanies this Resolution to accommodate the Event's Parade.

PASSED, APPROVED AND ADOPTED IN REGULAR SESSION this ___day of _____, 2017.

CITY OF PANAMA CITY BEACH

By:_____
Mike Thomas, Mayor

ATTEST:

_____
City Clerk

CONSENT
AGENDA ITEM # 2

August 08, 2017

To: Mayor and Council Members

Cc: Jo Smith

From: Visit Panama City Beach

Sports/Events Department

Re: Temporary Street Closures

October 6th & 7th – Panama City Beach Pirates of the High Seas Fest

We ask for the approval for portions of L.C. Hilton, Jr. Drive, Sea Monkey Way, Longboard Way and Pier Park Drive beginning at the Grand Theater roundabout to Front Beach Road shall be closed to vehicular traffic from 12:00am on Friday October 6th, 2017 until 12:00am Sunday October 7th, 2017 for the Panama City Beach Mardi Gras and Music Festival. All vehicular traffic will be rerouted away from these roads per the attached map.

CONSENT
AGENDA ITEM # 2

PARADE DETOUR

Detour for West Bound 98/FBR

Turn North on Powell Adams

West onto Panama City Beach Parkway

South onto West Pier Park Drive

Puts you back on West 98

Detour for East Bound 98/FBR

Turn North onto West Pier Park Drive

East onto Panama City Beach Parkway

South onto Powell Adams (Midway only for Pier Park Access) or South onto Hill Road

Puts you back onto East 98

CONSENT
AGENDA ITEM # 2

SR 30, Pier Park

POLICE OFFICERS AND THEIR VEHICLES CAN BE USED INSTEAD OF SIGNS FOR CLOSURE AND DETOUR ROUTE.

CONSENT
AGENDA ITEM # 2

August 9, 2017

To: Mayor and Council Members

Cc: Jo Smith

From: Visit Panama City Beach

Sports/Events Department

Re: Barricade Plan for Pirates of the High Seas Fest Parades

October 6th and 7th – Pirates of the High Seas Festival

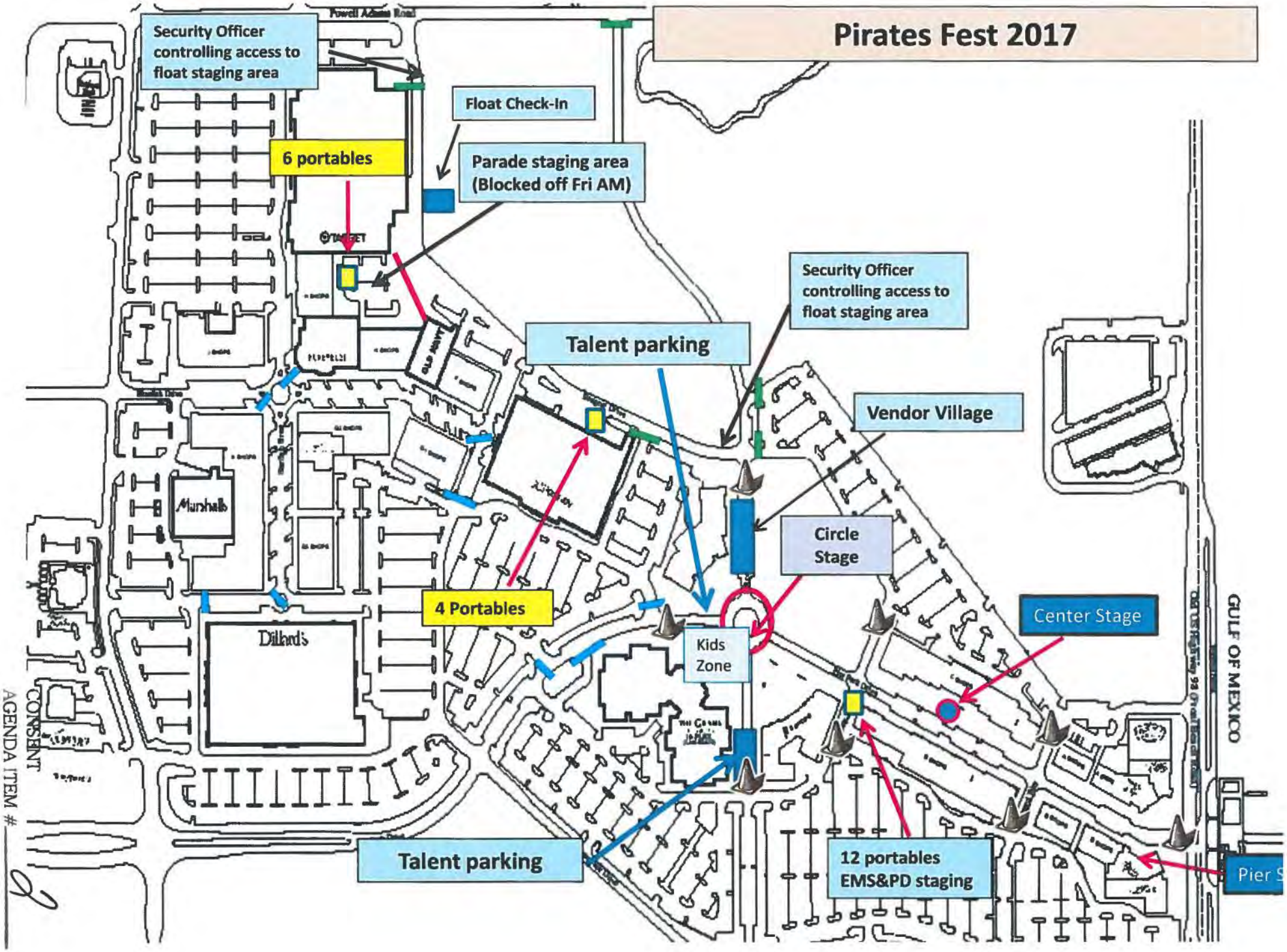
Per the direction of the City Manager, we are providing the barricade plan for the 2017 Pirates of the High Seas Festival. For the 2017 Mardi Gras and Music Festival, we added an additional 100 barricades to bring our inventory to 500. This action was taken after our post-event meeting in 2015. With coordination between the Panama City Beach Police Department, Fire, the Krewe of Dominique Youx and Pier Park, we took action in defining the areas that needed the most attention.

The additional barricades were used from the roundabout on LC Hilton and they continued down to the intersection of South Pier Park Drive and Longboard way. In our post event meeting for the 2016 Mardi Gras, reports from every organization indicated that there was a noticeable difference in crowd management. The most significant being the area of South Pier Park Drive leading up to roundabout on LC Hilton.

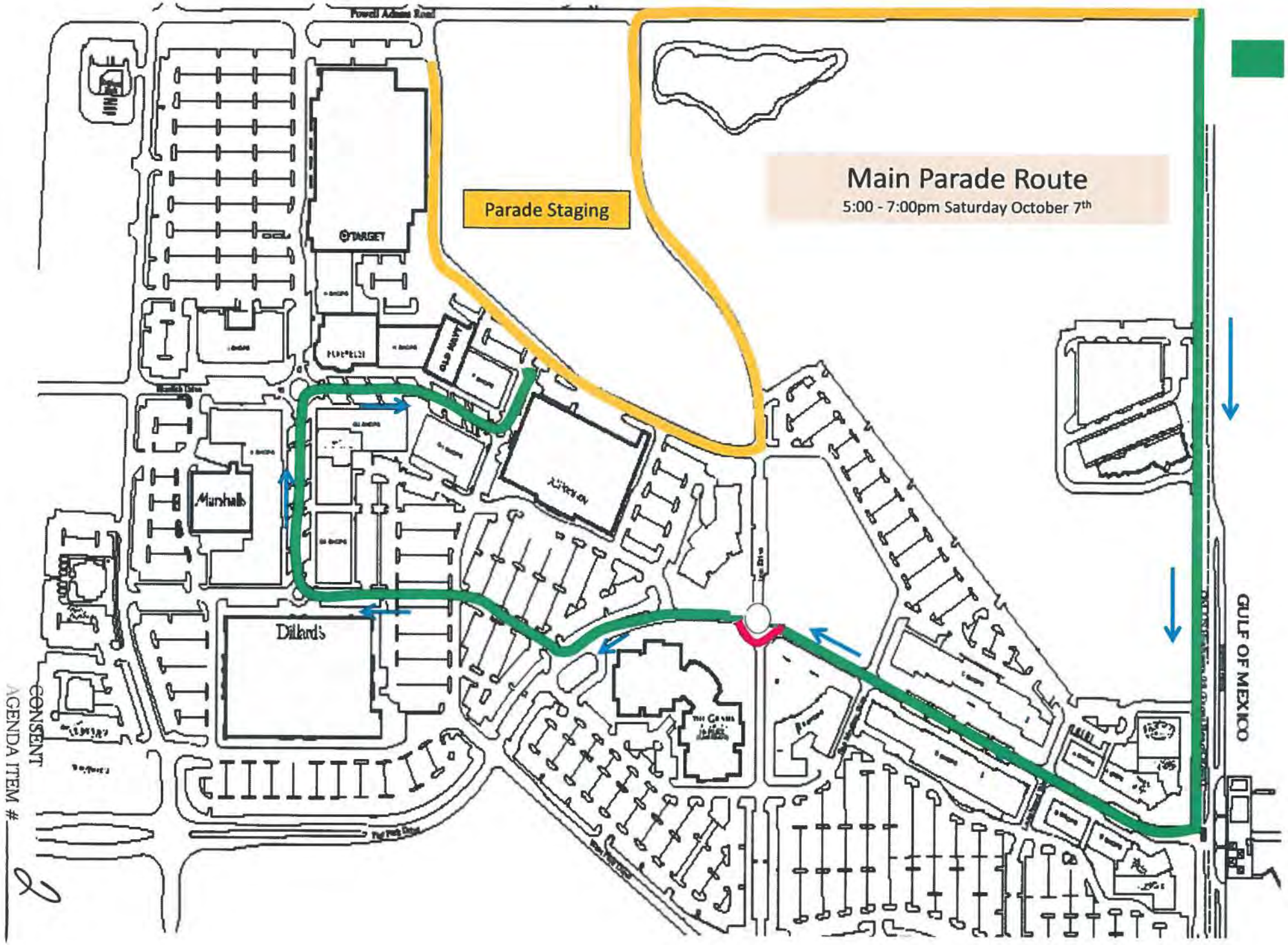
This year, we have purchased an additional 100 barricades, giving us a total of 4,800 linear feet. Those additional barricades will be placed north of the circle stage at critical areas where the crowd tends to push in on the floats. Additional barricades will be placed on the various turns that the parade makes in order to help ensure crowd safety. In addition, security guards will be placed in those areas to ensure people do not push past those barricades.

Through the coordination of Police, Fire, the Krewe of Dominique Youx, Pier Park and the Convention and Visitors Bureau, the Pirates Festival and Mardi Gras Parades continue to improve in both visitor experience and most importantly crowd safety.

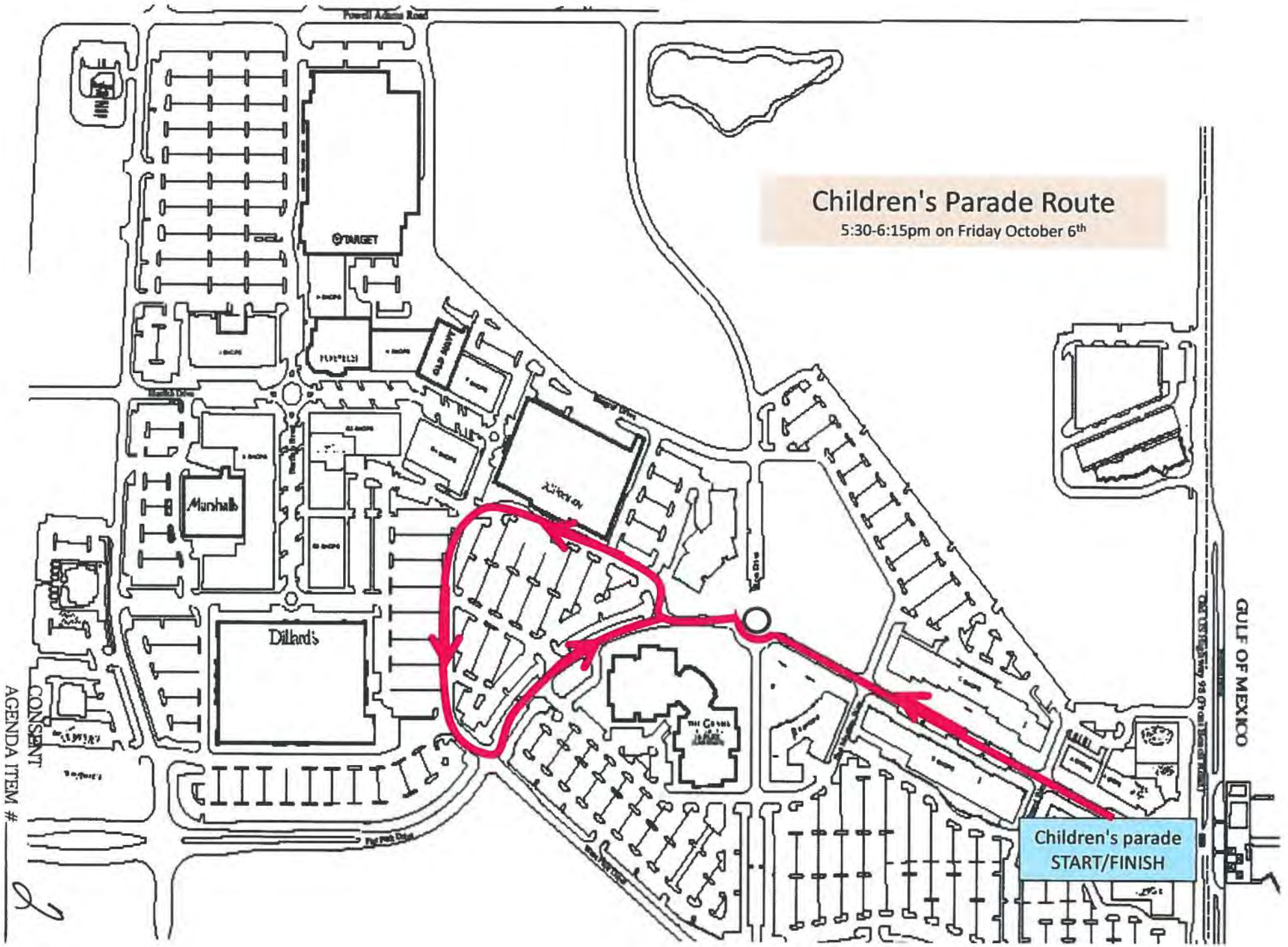
CONSENT
AGENDA ITEM # 2


Pirates Fest 2017
Security Officer controlling access to float staging area
Float Check-In
6 portables
Parade staging area (Blocked off Fri AM)
Security Officer controlling access to float staging area
Talent parking
Vendor Village
Circle Stage
4 Portables
Kids Zone
Center Stage
Talent parking
12 portables EMS&PD staging
Pier
GULF OF MEXICO
Marshalls
Dillard's
AGENDA ITEM # CONSENT

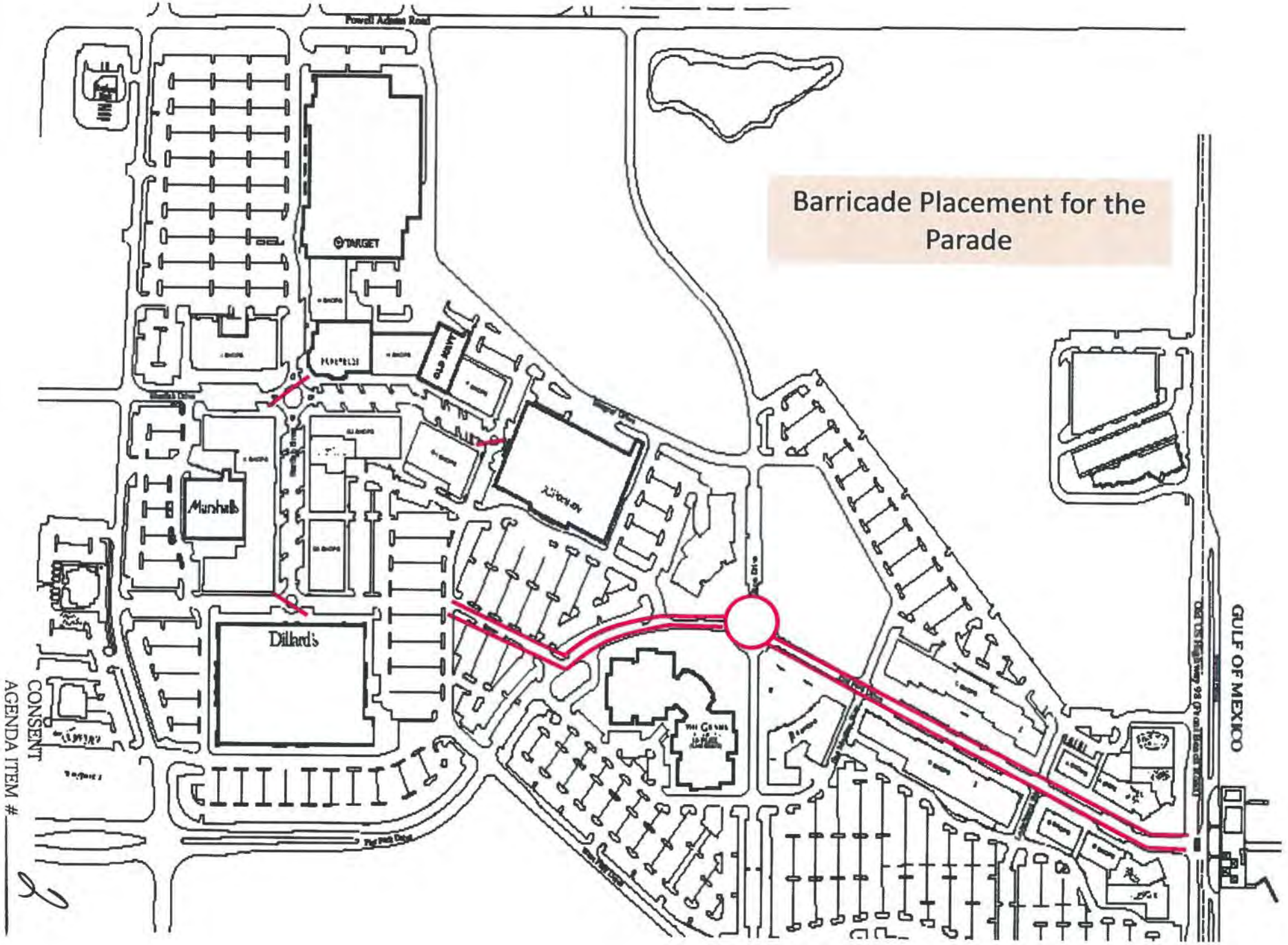
CONSENT AGENDA ITEM # 9



CONSENT AGENDA ITEM # 2



CONSENT AGENDA ITEM #



CONSENT AGENDA ITEM # 9

CONSENT ITEM

3

CITY OF PANAMA CITY BEACH
AGENDA ITEM SUMMARY

1. DEPARTMENT MAKING REQUEST/NAME:	2. MEETING DATE:
ADMINISTRATION	September 14, 2017

3. REQUESTED MOTION/ACTION:

Consideration of Resolution 17-134 for extraordinary traffic control on portions of South Thomas Drive, Thomas Drive, Surf Drive, Front Beach Road, W. Pier Park Drive, Pier Park Drive, Bay Parkway and SR 79 on November 3 and November 4, 2017.

4. AGENDA

PRESENTATION	☐
PUBLIC HEARING	☐
CONSENT	☑
REGULAR	☐

5. IS THIS ITEM BUDGETED (IF APPLICABLE)? YES ☐ NO ☐ N/A ☑
BUDGET AMENDMENT OR N/A

DETAILED BUDGET AMENDMENT ATTACHED YES ☐ NO ☐ N/A ☑

6. BACKGROUND: (WHY IS THE ACTION NECESSARY, WHAT GOAL WILL BE ACHIEVED)

The 19th annual Ironman Florida Triathlon, will be held on November 4, 2017.

The event necessitates careful traffic control and extraordinary usage of South Thomas Drive, Thomas Drive, Surf Drive, Front Beach Road, W. Pier Park Drive, Bay Parkway and State Road 79 in the corporate limits of Panama City Beach.

Staff recommends approval.

CONSENT
AGENDA ITEM # 2

RESOLUTION NO. 17-134

A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA RELATED TO THE "IRONMAN FLORIDA TRIATHLON"; AUTHORIZING EXTRAORDINARY TRAFFIC CONTROL ON PORTIONS OF SOUTH THOMAS DRIVE, THOMAS DRIVE, SURF DRIVE, FRONT BEACH ROAD, WEST PIER PARK DRIVE, PIER PARK DRIVE, BAY PARKWAY AND SR 79 ON FRIDAY, NOVEMBER 3, 2017 AND SATURDAY, NOVEMBER 4, 2017 FOR THE EVENT AS MORE PARTICULARLY SET FORTH IN THE BODY OF THE RESOLUTION.

WHEREAS, the Ironman Florida is hosting the 19th annual Ironman Florida Triathlon, a swim, 26.2K run and 112 mile bike event (the "Event") on Saturday, November 4, 2017 which Event includes the Iron Kids Fun Run on Friday, November 3, 2017 in Panama City Beach; and

WHEREAS, the Event necessitates careful traffic control and extraordinary usage of South Thomas Drive, Thomas Drive Surf Drive, Front Beach Road, West Pier Park Drive, Pier Park Drive, Bay Parkway, and State Road 79, in the corporate limits of Panama City Beach.

NOW, THEREFORE, be it resolved by the City of Panama City Beach that during the hours of 2:00 P.M. and 5:00 P.M. on Friday, November 3, 2017 all vehicular traffic shall be rerouted or otherwise controlled on South Thomas Drive from 9450 South Thomas Drive (Boardwalk Beach Resort) for the Ironkids Fun Run per the attached map which accompanies this Resolution.

AND be it FURTHER resolved by the City of Panama City Beach that during the hours of 4:00 A.M. and 11:59 P.M. on Saturday, November 4, 2017 all vehicular traffic shall be rerouted or otherwise controlled on Front Beach Road west from South Thomas Drive to West Pier Park Drive, Pier Park Drive to Bay Parkway, then continuing to State Road 79, State Road 79 north to the City limits, and South Thomas Drive, Thomas Drive and Surf Drive east to the City limits per the attached maps which accompany this Resolution to accommodate the Event.

PASSED,APPROVED AND ADOPTED IN SPECIAL SESSION THIS this 14th day of September, 2017.

CITY OF PANAMA CITY BEACH

By:_____
Mike Thomas, Mayor

ATTEST:

_____
City Clerk

IRONMAN Florida – Panama City Beach

TO: Panama City Beach City Manager
FROM: IRONMAN Florida
SUBJECT: IRONMAN Florida 2017

August 12, 2017

In preparation for the 19th edition of IRONMAN Florida 2017, I would like to take this time to thank you for your continued support and consideration for this event. We are proud to be a part of this community and its continued relationship with Panama City Beach leadership and residents. Our partnership with the Tourist Development Council had continued to promote this event as a destination race within the IRONMAN circuit. The events popularity among athletes continues to grow with the events selling out each year. In recent years we have brought in an IRONKIDS fun run which has benefited many charities nationwide. Our IRONMAN Foundation continues to support local charities throughout the communities we conduct our events around the world. The Mission of the IRONMAN Foundation is to leave the IRONMAN Legacy through philanthropy, volunteerism, and grant making by supporting various athletic, community, education, health, human services, and public-benefit organizations around the world. Since its inception in 2003, the IRONMAN Foundation has made philanthropic contributions totaling more than $46 Million dollars to hundreds of nonprofits worldwide.

This year, IMF will be providing over $1.6 Million in grant funding worldwide within IRONMAN race communities.

Thank you for your consideration with this request
Respectively

Benjamin H. Rausa Jr.
IRONMAN Florida Race Director
ben.rausa@ironman.com
850-774-6221

CONSENT
AGENDA ITEM # 3

Good Morning Jo,

I'm sorry to be late with this after I told you id have it by COB Tuesday. Needless to say I appreciate everything you do for me when it comes to these events and to all the work you do to make Panama City Beach what it is today.

Please find some notes below describing all possible scenarios with IRONMAN Florida this fall.

- I still need Mario's signature for this permit, all others have been initialed previously
- Requesting permission to use Panama City Beach and Bay County roads to for the 19th annual IRONMAN Florida. The event will take place November 4, 2017 at the Boardwalk Beach Resort 9400 S Thomas Drive, PCB, Florida
- Additionally request approval of the IRONKIDS Fun Run Friday 3 November 2017 The event will take place from 2 pm – 5 pm on Friday Nov.3 on S Thomas Drive
- Included in this package are the following documents:
  Special Event Permit
  Course maps for both proposed courses (Swim, Bike, and Run) also the Kids Fun Run
- We are asking for permission to use Panama City Beach roadways for the event.
- The reason for this change is to minimize the bicycle / vehicular traffic on Hwy 20. With this proposal we will only have cyclists traveling on Hwy 20 going west bound with vehicular traffic. This will ease congestion for all vehicles during the event.
- The only change from last year is we will be requesting the use of W. Pier Park Drive, crossing Back Beach Road at Pier Park Road and using the new bypass road on the outbound portion of the bike course and we will return using Hwy 79S crossing at Hwy 79 and Back Beach Drive. The rest of the changes will not affect Panama City Beach at all.
- The second course proposal will be to use the existing course to include W. Pier Park Drive as we have for the last few years. After a road improvement on Hwy 20 last year it created another problem for motorists as well as cyclists on Hwy 20.

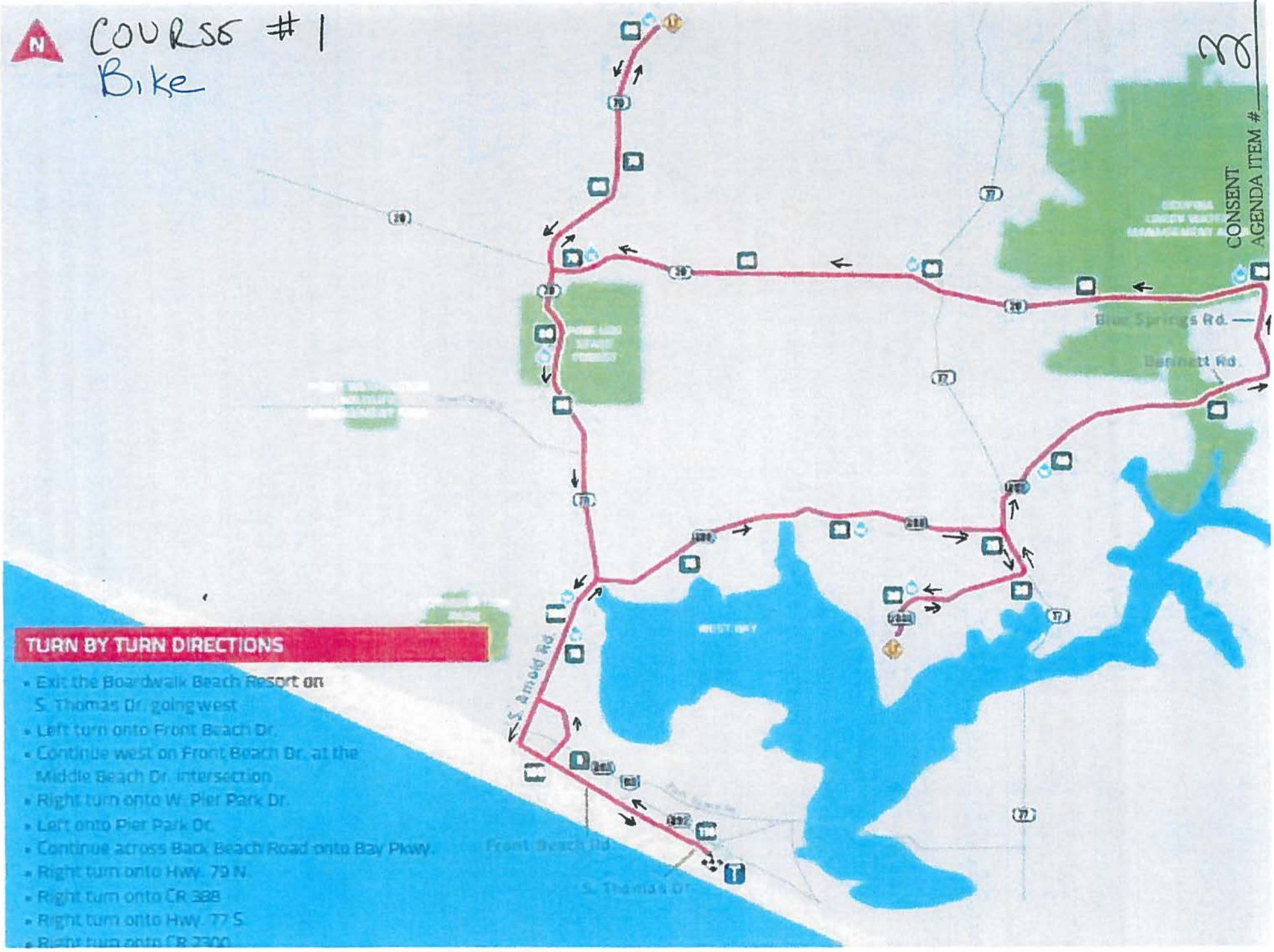
If there are any questions related to this request please don't hesitate to reach out to me directly

Benjamin H. Rausa Jr.
Race Director
IRONMAN Florida
ben.rausa@ironman.com
850-774-6221

CONSENT
AGENDA ITEM # 3

COURSE #1
Bike

CONSENT
AGENDA ITEM # 3



TURN BY TURN DIRECTIONS

- Exit the Boardwalk Beach Resort on S. Thomas Dr. going west
- Left turn onto Front Beach Dr.
- Continue west on Front Beach Dr. at the Middle Beach Dr. intersection
- Right turn onto W. Pier Park Dr.
- Left onto Pier Park Dr.
- Continue across Back Beach Road onto Bay Pkwy.
- Right turn onto Hwy. 79 N.
- Right turn onto CR 388
- Right turn onto Hwy. 77 S.
- Right turn onto CR 2300

COULSS #1

CONSENT
AGENDA ITEM # 8

TO: PANAMA CITY BEACH CITY MANAGER
FROM: IRONMAN Florida
SUBJECT: IRONKIDS Fun Run 2017

August 12, 2017

For several months we have been planning for IRONMAN Florida at the Boardwalk Beach Resort. As you know we start set up on Monday October 30, 2017 within the confines of the Boardwalk Beach Resort with the event taking place on Saturday November 4th. Throughout the week we transform the entire S. Thomas corridor for the event.

On Friday November 3rd, we will be having our annual IRONKIDS Fun Run to raise awareness and funds for the Children's Tumor Foundation. This is an extremely busy day around the venue. At approximately 2pm we close S. Thomas Drive to local traffic only. We continue to allow residents to their properties on S. Thomas with minimal delays. We then clean S. Thomas Drive and open it back up to normal traffic for local traffic only.

This year to help organize the event and make set up for race day smoother we are requesting to close S. Thomas Drive at 2pm for the IRONKIDS Fun Run and have it remain closed until after the IRONMAN event allowing local traffic only throughout the weekend. This road closure was permitted last year without incident. With enough notice and signage we feel as though this will have minimal impact on residents. The request is only for the Boardwalk property at 9600 S. Thomas Drive. All traffic would enter from the east to access the Boardwalk Tower, Boardwalk Welcome Center, and the Top of The Gulf. From the west, traffic would enter from the S. Thomas Drive / Front Beach Road intersection and access all properties west of the Boardwalk Beach Resort.

Thank you for your consideration for this request. If there are any questions please reach out to me directly so I can answer any concerns there may be.

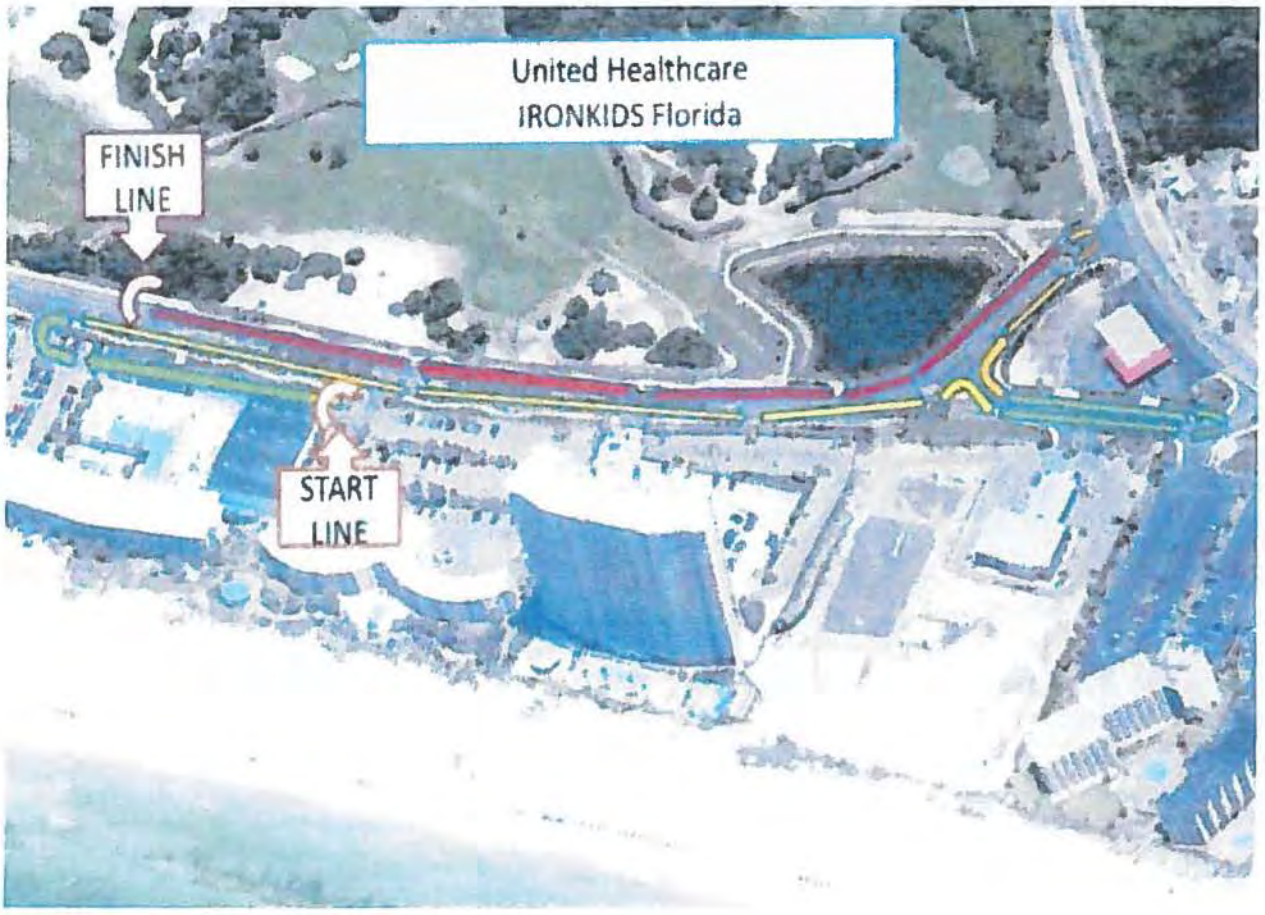
Benjamin H. Rausa Jr.
Race Director
IRONMAN Florida
IRONMAN 70.3 Gulf Coast
ben.rausa@ironman.com
850-774-6221

CONSENT
AGENDA ITEM # 3

IRONKIDS Friday November 3, 2017 @ 1500

Short and Long Course

Road will be closed to local traffic only at 2:00 p.m.



CONSENT
AGENDA ITEM # 2

REGULAR ITEM

1

CITY OF PANAMA CITY BEACH
AGENDA ITEM SUMMARY

1. DEPARTMENT MAKING REQUEST/NAME:	2. MEETING DATE:
LEGAL	SEPTEMBER 14, 2017

3. REQUESTED MOTION/ACTION:

Consider 2nd reading and for adoption Ordinance 1428 updating the Sign Code.

4. AGENDA

PRESENTATION	☐
PUBLIC HEARING	☑
CONSENT	☐
REGULAR	☑

5. IS THIS ITEM BUDGETED (IF APPLICABLE)? YES ☐ NO ☐ N/A ☑
BUDGET AMENDMENT OR N/A

DETAILED BUDGET AMENDMENT ATTACHED YES ☐ NO ☐ N/A ☑

6. BACKGROUND: (WHY IS THE ACTION NECESSARY, WHAT GOAL WILL BE ACHIEVED)

Ordinance 1428 is an update the Panama City Beach Sign Code and addresses sign related issues from other parts of the Land Development Code and the Code of Ordinances (the "Corrective Ordinance"). Its purpose is to avoid legal challenges based on the Supreme Court's recent Reed v. Town of Gilbert decision. The Corrective Ordinance eliminates or clarifies concepts that are vulnerable under the Reed decision but with the least disruption practical to the City's existing policies. Where you see rules deleted from sections outside of the Sign Code, this means the rule is being moved to the Sign Code.

Uncertainty surrounded the Reed decision for several months and normal approaches to sign regulation were placed in doubt. In general, the Supreme Court said that content based discrimination between speech is not allowed unless it passes the very difficult "strict scrutiny" test. The Court clarified that content based discrimination does not simply mean preferring one viewpoint over another, but occurs when a sign must be read to determine how to regulate it. This approach, in such simple terms, was contrary to the way signs normally are regulated. For example, under that approach it would be difficult to justify treating business signs differently from election signs. However, the Reed case itself involved a comparison of three non-commercial signs. Thus, many attorneys found it difficult to believe the Court intended large changes to 1st Amendment laws in other contexts.

A few local governments quickly adopted ordinances to eliminate nearly all content based distinctions. Since 2014, the Reed decision has been considered by numerous courts across the country and recently it became apparent that it only modified the law for non-commercial speech. Moreover, two months ago the Supreme Court decided another case by applying the traditional commercial speech rules, further confirming that the laws for commercial speech (e.g. advertising) underlying much of the City's Sign Code remain reliable. Despite this, we chose to leave the extensive legal analysis in the "Whereas clauses" because it remains helpful in the event of a legal challenge.

Consequently, most of the Sign Code does not need changes and this Corrective Ordinance focuses on non-commercial speech and emphasizes non-commercial speech as a single category instead of a collection of sub categories with differing rules. It also ensures that when one type of non-commercial speech is permitted, then nearly all other types of non-commercial speech are allowed. For example, signs with political and religious messages will be treated same. Consequently, the concept of "Election Signs" has been eliminated. Instead, additional Non-Commercial Signs may be placed around election times. Multiple courts have reviewed this approach and generally find it acceptable if some kinds of additional signs are not favored over others. In addition, the Corrective Ordinance eliminates the concept of special sign rules and allowing signs in the ROW based on a Community Event declaration. The City has stopped declaring Community Events already and, in theory, the practice would eventually result in a Reed violation. Finally, the Corrective Ordinance emphasizes and expands the City's existing rule allowing non-commercial speech to be substituted for commercial speech when commercial speech is allowed. This rule is based on the notion that non-commercial speech cannot be regulated as much as commercial speech under the First Amendment.

The Planning Board reviewed the Corrective Ordinance and recommended approval. The City Attorneys are comfortable with the City leaving its regulations directed at commercial signs largely unchanged unless the City wishes to take a more conservative approach. Going much further than what is proposed, however, could mean rewriting the Sign Code and extensive changes to what citizens and business actually experience on the streets. This memorandum is only intended to summarize the changes and to explain the reason for Corrective Ordinance. We would be to address questions about specific changes.

AGENDA ITEM # 1

ORDINANCE NO. 1428

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING THE CITY OF PANAMA CITY BEACH SIGN CODE AND OTHER SIGN RELATED RULES FROM THE LAND DEVELOPMENT CODE AND CODE OF ORDINANCES TO ENSURE CONSISTENCY WITH RECENT JUDICIAL DECISIONS; CREATING A DEFINITION FOR NON-COMMERCIAL SIGNS AND REVISING DEFINITIONS TO REDUCE DISTINCTIONS BETWEEN TYPES OF NON-COMMERCIAL SIGNS; DELETING CERTAIN DEFINITIONS; AMENDING THE SIGN CODE TO AVOID CONTENT BASED DISTINCTIONS BETWEEN THE REGULATION OF VARIOUS TYPES OF NON-COMMERCIAL SIGNS; AMENDING THE SIGN CODE TO ENSURE THAT NON-COMMERCIAL SIGNS ARE NOT REGULATED MORE STRICTLY THAN COMMERCIAL SIGNS; ALLOWING SUBSTITUTION OF A DIFFERENT NON-COMMERCIAL MESSAGE WHEN ANOTHER NON-COMMERCIAL MESSAGE HAS BEEN SPECIFICALLY ALLOWED; EXCEPT FOR WARNING AND SAFETY SIGNS, ALLOWING A NON-COMMERCIAL SIGN TO BE SUBSTITUTED FOR AN EXEMPT SIGN; DELETING SIGN RULES THAT RELY ON A DECLARATION OF A COMMUNITY EVENT; ESTABLISHING REASONABLE LIMITS ON THE NUMBER OF CERTAIN TYPES OF SIGNS ALLOWED WHEN NO LIMIT EXISTED; REVISING THE RULE FOR TRANSIENT RESIDENTIAL RENTAL SIGNS TO CLARIFY THAT IT APPLIES TO SIGNS ADVERTISING THE TRANSIENT RESIDENTIAL RENTAL RATHER THAN ALL SIGNS; REVISING THE SIGN CODE'S SEVERABILITY CLAUSE; REQUIRING THAT SIGN RELATED REQUIREMENTS OR REGULATIONS FROM OTHER SECTIONS OF THE LAND DEVELOPMENT REGULATIONS AND CODE OF ORDINANCES ARE SUBJECT TO THE SIGN CODE; RELOCATING CERTAIN SIGN RELATED RULES TO THE SIGN CODE; REPEALING ALL ORDINANCES IN CONFLICT TO THE EXTENT OF SUCH CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

WHEREAS, the regulation of signs by the City of Panama City Beach (the "City") relates to rights under the First Amendment of the Constitution of the United States, which has been the subject of ongoing interpretation by the judiciary; and

WHEREAS, it is prudent for the City to reevaluate and update the City of Panama City Beach Sign Code (the "Sign Code") in light of the United States Supreme Court's opinion in *Reed v. Town of Gilbert*, 135 S. Ct. 2218 (2015) ("*Reed*" or the "*Reed* decision")

AGENDA ITEM # 1

and subsequent cases that applied *Reed*; and

WHEREAS, the *Reed* decision clarified content-based regulation of speech, rather than just viewpoint based regulation of speech is subject to "strict scrutiny" meaning that the regulation must be narrowly tailored to a compelling government interest, a standard that few restrictions on speech meet; and

WHEREAS, in *Reed*, the Supreme Court held that government regulation of speech is content based if a law applies to particular speech because of the topic discussed or the idea or message expressed;

WHEREAS, the *Reed* case involved a comparison of rules applicable to three types of non-commercial signs (temporary directional signs for the events of non-profit groups, temporary political signs, and ideological signs) [*see Peterson v. Vill. of Downers Grove*, 150 F. Supp. 3d 910, 927–28 (N.D. Ill. 2015) ("But the majority never specifically addressed commercial speech in *Reed*, which is not surprising, because the Supreme Court did not need to address that issue: all of the restrictions at issue in *Reed* applied only to *non*-commercial speech")]; and

WHEREAS, the majority opinion by Justice Thomas repeatedly describes how the disparate treatment of these three types of non-commercial signs is content-based and not allowed strict scrutiny; and

WHEREAS, the Justice Thomas's majority opinion does not discuss commercial speech or use any examples of commercial speech;

WHEREAS, in *Reed*, the only direct discussion of the rules for commercial speech is in a Justice Breyer's concurrence, where he wrote approvingly of applying less strict standards to commercial speech [*Reed* at 2235 (citing *Central Hudson Gas & Elec. Corp. v. Public Service Comm'n of N. Y.*, 447 U.S. 557, 562–563 (1980))];

WHEREAS, the *Reed* majority suggested distinctions that "hinge on 'whether and when' an event is occurring' . . . that permit citizens to post signs on any topic whatsoever within a set period leading up to an election, for example," would be valid [*Reed* at 2231];

WHEREAS, Justice Alito's concurring opinion in *Reed* joined in by Justices Kennedy and Sotomayer pointed out that municipalities still have the power to enact and enforce reasonable sign regulations;

WHEREAS, the City recognizes Justice Alito' concurring opinion provided a list of rules that would not be content-based including the following: (1) rules regulating the

AGENDA ITEM # 1

size of signs, which rules may distinguish among signs based upon any content-neutral criteria such as those listed below; (2) rules regulating the locations in which signs may be placed, which rules may distinguish between freestanding signs and those attached to buildings; (3) rules distinguishing between lighted and unlighted signs; (4) rules distinguishing between signs with fixed messages and electronic signs with messages that change; (5) rules that distinguish between the placement of signs on private and public property; (6) rules distinguishing between the placement of signs on commercial and residential property; (7) rules distinguishing between on-premises and off-premises signs; (8) rules restricting the total number of signs allowed per mile of roadway; and (9) rules imposing time restrictions on signs advertising a one-time event, where rules of this nature do not discriminate based on topic or subject and are akin to rules restricting the times within which oral speech or music is allowed;

WHEREAS, the City recognizes that Justice Alito further noted in *Reed* that in addition to regulating signs put up by private actors, government entities may also erect their own signs consistent with the principles that allow governmental speech *[see Pleasant Grove City, Utah* v. *Summum,* 555 U.S. 460, 467-469 (2009)], and that government entities may put up all manner of signs to promote safety, as well as directional signs and signs pointing out historic sites and scenic spots;

WHEREAS, Justice Breyer also noted in his concurring opinion in *Reed* that "[t]he Court has also said that "government speech" escapes First Amendment strictures [*citing Rust v. Sullivan,* 500 U.S. 173, 193–194 (1991)];

WHEREAS, the City recognizes that Justice Alito noted that the *Reed* decision, properly understood, will not prevent cities from regulating signs in a way that fully protects public safety and serves legitimate esthetic objectives, including rules that distinguish between on-premises and off-premises signs;

WHEREAS, historically different levels of protection have applied to First Amendment rights related to signs, with topics like obscenity and defamation receiving the least protection, followed by commercial speech, followed by non-commercial speech; and

WHEREAS, the Supreme Court has been clear that it is that Court's own prerogative to overrule its precedent [*see Shalala v. Ill. Council on Long Term Care, Inc.*, 529 U.S. 1, 18, 120 S.Ct. 1084, 146 L.Ed.2d 1 (2000) ("This Court does not normally overturn, or so dramatically limit, earlier authority *sub silentio.*"); *Rodriguez de Quijas v. Shearson/Am. Express, Inc.*, 490 U.S. 477, 109 S.Ct. 1917, 104 L.Ed.2d 526 (1989) ("If a precedent of th[e] [Supreme] Court has direct application in a case, yet appears to rest on reasons rejected in some other line of decisions, the Court...should follow the case which directly controls,

leaving to th[e] [Supreme] Court the prerogative of overruling its own decision"]; and

WHEREAS, in *Reed*, the Court did not discuss overruling the commercial speech standards established in its earlier *Central Hudson* case [*see RCP Publications Inc. v. City of Chicago*, No. 15 C 11398, 2016 WL 4593830, at *4 (N.D. Ill. Sept. 2, 2016) ("*Reed* did not even cite to *Central Hudson*, let alone expressly modify or overrule it.")]; and

WHEREAS, the *Reed* decision cited the 11th Circuit case *Solantic, LLC v. Neptune Beach* approvingly as an example of a lower court holding "that similar content-based sign laws receive strict scrutiny" and that "there is no evidence that towns in those jurisdictions have suffered catastrophic effects," *Reed* at 2232;

WHEREAS, *Solantic* confirmed the intermediate scrutiny test for commercial speech but provided that "[b]ecause the sign code does not regulate commercial speech as such, but rather applies without distinction to signs bearing commercial and noncommercial messages, the *Central Hudson* test has no application here" [*Solantic, LLC v. City of Neptune Beach*, 410 F.3d 1250, 1269 (11th Cir. 2005)];

WHEREAS, following the *Reed* decision, there was widespread uncertainty as to how to apply the *Reed* holding, particularly as to categories of speech that have traditionally been protected under on lesser standards than strict scrutiny such as commercial speech pursuant to intermediate scrutiny and professional speech pursuant to heightened scrutiny; and

WHEREAS, following the *Reed* decision, and after this ordinance was originally submitted to the Planning Board for consideration, the United States Supreme Court acknowledged and applied the relaxed test for commercial speech [*Matal v. Tam*, 137 S. Ct. 1744, 1763-65 (2017); *see also Expressions Hair Design v. Schneiderman*, 137 S. Ct. 1144, 1151 (2017)];

WHEREAS, the 11th Circuit Court of Appeals is the highest appellate court under the United States Supreme Court with jurisdiction over the City regarding federal constitutional issues; and

WHEREAS, following the *Reed* decision, the 11th Circuit Court of Appeals confirmed that "[c]ommercial speech is a narrow category of necessarily expressive communication that is "related solely to the economic interests of the speaker and its audience," *(citations omitted)* or that "does 'no more than propose a commercial transaction,'" *(citations omitted)* [*Dana's R.R. Supply v. Attorney Gen., Florida*, 807 F.3d 1235, 1246–47 (11th Cir. 2015)];

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WHEREAS, in the same case the 11th Circuit Court of Appeal went on to say:

> As is so often true, the general rule that content-based restrictions trigger strict scrutiny is not absolute. Content-based restrictions on certain categories of speech such as commercial and professional speech, though still protected under the First Amendment, are given more leeway because of the robustness of the speech and the greater need for regulatory flexibility in those areas. *See, e.g., Sorrell v. IMS Health Inc.*, 564 U.S. ----, 131 S.Ct. 2653, 180 L.Ed.2d 544 (2011) (commercial speech); *Wollschlaeger v. Governor of Florida*, 797 F.3d 859 (11th Cir.2015) (professional speech). For these categories of speech, the inquiry is the more flexible, yet still searching, standard of intermediate scrutiny. *See Cent. Hudson Gas v. Pub. Serv. Comm'n of N.Y.*, 447 U.S. 557, 564, 100 S.Ct. 2343, 2350, 65 L.Ed.2d 341 (1980) (describing the test for commercial speech); *Wollschlaeger*, 797 F.3d at 893–97 (applying the same test to professional speech). Under intermediate scrutiny "restrictions directed at commerce or conduct" may be upheld—assuming they further a substantial government interest and are narrowly tailored—even if they "impos[e] incidental burdens on speech." *Sorrell*, 564 U.S. at ----, 131 S.Ct. at 2664–65.

[*Dana's R.R. Supply* at 1246];

WHEREAS, when the 11th Circuit Court of Appeals later faced a similar issue in *Wollschlaeger v. Governor, Florida* regarding "heightened scrutiny" for professional speech, the court continued to evaluate professional speech under heightened scrutiny and declined to decide the question of whether strict scrutiny should apply after *Reed* since the law in questions could not survive heightened scrutiny [*see* 848 F.3d 1293 at 1301 (11th Cir. 2017)];

WHEREAS, following *Reed*, the large majority of courts have found that *Reed* did not overrule cases that made some categories of speech subject to less than strict scrutiny, such as the "intermediate scrutiny" test applicable to commercial speech; and

WHEREAS, these decisions come from most of the nation's judicial circuits in addition to the 11th Circuit and include, but are not limited to:

- 1st Circuit: Not addressed yet by First Circuit Court of Appeals, but *see Massachusetts Ass'n of Private Career Sch. v. Healey*, 159 F. Supp. 3d 173, 192-93 (D. Mass. 2016) (recognizing that "only a small number of courts have addressed First Amendment challenges to commercial-speech regulations since *Reed*, almost all of them have

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concluded that *Reed* does not disturb the Court's longstanding framework for commercial speech under *Central Hudson*" and finding that *Reed* does "not appear to overrule, or diminish, the well-established principle of . . . less than strict review" for commercial speech);

- 2nd Circuit: *Poughkeepsie Supermarket Corp. v. Dutchess Cty.*, 648 Fed.Appx. 156, 157 (2d Cir. 2016) (in a summary order, providing that "[r]estrictions on commercial speech are subject to intermediate scrutiny review."); *see also, Boelter v. Advance Magazine Publishers Inc.*, No. 15 CIV. 5671 (NRB), 2016 WL 5478468, at *13 (S.D.N.Y. Sept. 28, 2016) (applying intermediate scrutiny to commercial speech and stating "We do not read [*Reed* or *Sorrell*] to overrule *Central Hudson* and its progeny . . . [a]bsent further guidance from the Supreme Court or the Second Circuit, we join numerous courts in applying *Central Hudson* to commercial speech following *Reed* and *Sorrell*");

- 3rd Circuit: *Free Speech Coal., Inc. v. Attorney Gen. United States*, 825 F.3d 149, 161, 176 (3d Cir. 2016) (agreeing with the dissent that it is doubtful that *Reed* has overturned the *Renton* secondary effects doctrine, with dissent reasoning "[t]he Court also established years ago that the Constitution "accords a lesser protection" to another distinct form of speech—commercial speech—and has therefore applied intermediate scrutiny to laws affecting this speech");

- 4th Circuit: Not addressed yet by Fourth Circuit Court of Appeals;

- 5th Circuit: Not addressed yet by Fifth Circuit Court of Appeals, *but see Auspro Enterprises, LP v. Texas Dep't of Transportation*, 506 S.W.3d 688, 706 (Tex. App. 2016) (reviewing state billboard regulations and acknowledging "that *Reed's* holding seems to affect only restrictions of noncommercial speech");

- 6th Circuit: Not addressed yet by Sixth Circuit Court of Appeals, but *see Chiropractors United for Research & Educ., LLC v. Conway*, 2015 WL 5822721, at *5 (W.D.Ky. Oct. 1, 2015) (*appeal pending*) ("Because the [challenged] [s]tatute constrains only commercial speech, the strict scrutiny analysis of *Reed* is inapposite.");

- 7th Circuit: *BBL, Inc. v. City of Angola*, 809 F.3d 317, 326 (7th Cir. 2015) ("We don't think *Reed* upends established doctrine for evaluating regulation of businesses that offer sexually explicit entertainment, a category the Court has said occupies the outer fringes of First Amendment protection"); *see also, RCP Publications Inc. v. City of Chicago*, No. 15 C 11398, 2016 WL 4593830, at *4 (N.D. Ill. Sept. 2, 2016) ("[t]his Court, however, does not see

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Reed as overturning the Supreme Court's consistent jurisprudence subjecting commercial speech regulations to a lesser degree of judicial scrutiny . . . [t]he case says nothing of the kind, indeed, it does not even address the commercial-noncommercial distinction."); *Peterson v. Vill. of Downers Grove*, 150 F. Supp. 3d 910, 928 (N.D. Ill. 2015) ("absent an express overruling of *Central Hudson*, which most certainly did not happen in *Reed*, lower courts must consider *Central Hudson* and its progeny—which are directly applicable to the commercial-based distinctions at issue in this case—binding"); *Geft Outdoor LLC v. Consolidated City of Indianapolis*, 187 F.Supp.3d 1002, 1016-17, 2016 WL 2941329, at *10 (S.D. Ind. May 10, 2016) (determining that *Reed*'s holding is limited to noncommercial speech);

- 8th Circuit: Not addressed directly by Eight Circuit Court of Appeals, *but see Josephine Havlak Photographer, Inc. v. Vill. of Twin Oaks*, No. 16-3377, 2017 WL 3159678, at *5 (8th Cir. July 26, 2017) (declining to apply strict scrutiny to an ordinance that applied to all commercial speech in neighborhood park);

- 9th Circuit Court of Appeals: *First Resort, Inc. v. Herrera*, 860 F.3d 1263, 1275 (9th Cir. 2017) (continuing to apply intermediate scrutiny to commercial speech after the *Reed* decision); *United States v. Swisher*, 811 F.3d 299, 313 (9th Cir. 2016) (noting that certain "traditional categories of content-based restrictions that are not subject to strict scrutiny under the First Amendment"); *see also, CTIA–The Wireless Association v. City of Berkeley, Cal.*, 139 F.Supp.3d 1048, 1061 (N.D. Cal. 2015) (noting that "the Supreme Court has clearly made a distinction between commercial speech and noncommercial speech ... and nothing in its recent opinions, including *Reed*, even comes close to suggesting that that well-established distinction is no longer valid"); *Contest Promotions, LLC v. City & Cty. of San Francisco*, No. 15-CV-00093-SI, 2015 WL 4571564, at *4 (N.D. Cal. July 28, 2015) ("However, *Reed* does not concern commercial speech, and therefore does not disturb the framework which holds that commercial speech is subject only to intermediate scrutiny as defined by the *Central Hudson* test"); *California Outdoor Equity Partners v. City of Corona*, 2015 WL 4163346, at *10 (C.D.Cal. July 9, 2015) ("*Reed* does not concern commercial speech, let alone bans on off-site billboards . . . [t]he fact that *Reed* has no bearing on this case is abundantly clear from the fact that *Reed* does not even cite *Central Hudson*, let alone apply it." (*emphasis deleted*));

- 10th Circuit: Not addressed yet by Eight Circuit Court of Appeals;

- Court of Appeals for the Federal Circuit: *In re Tam*, 808 F.3d 1321, 1337-39, 1355-56 (Fed. Cir. 2015) (*en banc*) (analyzing whether speech was commercial and discussing and applying intermediate scrutiny test for commercial speech);

WHEREAS, while there are a handful of cases suggesting that *Reed* means

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commercial speech may not be regulated more strictly than non-commercial speech, normally the facts and full context of those cases reveal other reasons for the decisions [see, e.g., *Sweet Sage Café, LLC v. Town of N. Redington Beach, Florida*, No. 8:15-CV-2576-T-30JSS, 2017 WL 385756, at *9 (M.D. Fla. Jan. 27, 2017) (*appeal pending*) (suggesting that town must justify restrictions on commercial speech similarly to non-commercial speech and declaring sign ordinance facially unconstitutional, but ultimately the ordinance had the same content based infirmities as the *Reed* ordinance--exemptions that favored some categories of non-commercial speech over and others and commercial speech over non-commercial speech); and

WHEREAS, many of the City's rules relating to signs, in both the Land Development Regulations and the Code of Ordinances, were carefully adopted to survive intermediate scrutiny and, therefore, should continue to be valid under their original adoptions; and

WHEREAS, the City intends for this ordinance to eliminate content-based distinctions between nearly all types of Non-Commercial Signs; and

WHEREAS, in an abundance of caution, the City has eliminated some content-based distinctions between types of Commercial Signs; and

WHEREAS, it appears that the Town of Gilbert's approach to correcting the constitutional flaws in its sign code found by the Supreme Court was to add a substitution clause allowing non-commercial speech in place of commercial speech or other non-commercial speech; and

WHEREAS, Panama City Beach's Sign Code already includes this type of substitution regarding commercial speech, but the City wishes to emphasize it more clearly and expand it to ensure that it is used to avoid invalid discrimination between one type of non-commercial speech over another or any favoritism of commercial speech over non-commercial speech; and

WHEREAS, the City has excepted Warning and Safety Signs from this substitution clause because these Signs are necessary for a compelling governmental interest and due to the nature of the causes for placement of these Signs, the City cannot reasonably predict the locations, numbers, and sizes for Warning and Safety Signs needed for a given Premises to ensure safety and health within the City; and

WHEREAS, in recent years the City discontinued the practice of declaring Community Events, in part due to Constitutional concerns; and

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WHEREAS, the City wishes to eliminate the portions of the Sign Code that rely on the declaration of a Community Event by the City; and

WHEREAS, in addition to the Sign Code, other rules exist in the City's Land Development Regulations and Code of Ordinances that regulate or require signs; and

WHEREAS, the City finds it prudent to move some of the rules from other parts of the Land Development Code to the Sign Code and confirm and formally make other rules from the Land Development Code and Code of Ordinances subject to certain generally applicable portions of the Sign Code, which have been designed to ensure that sign regulations are applied validly under the Constitution; and

WHEREAS, the City finds and determines that under Florida law, whenever a portion of a statute or ordinance is declared unconstitutional, the remainder of the act will be permitted to stand provided: (1) the unconstitutional provisions can be separated from the remaining valid provisions; (2) the legislative purpose expressed in the valid provisions can be accomplished independently of those which are void; (3) the good and the bad features are not so inseparable in substance that it can be said that the legislative body would have passed the one without the other; and (4) an act complete in itself remains after the valid provisions are stricken [*see, e.g., Waldrup v. Dugger*,562 So.2d 687(Fla. 1990)];

WHEREAS, the City finds and determines that there have been several judicial decisions where courts have not given full effect to severability clauses that applied to sign regulations and where the courts have expressed uncertainty over whether the legislative body intended that severability would apply to certain factual situations despite the presumption that would ordinarily flow from the presence of a severability clause;

WHEREAS, the City finds and determines that the City has consistently adopted and enacted severability provisions in connection with its ordinance code provisions; and the City wishes to ensure that severability provisions apply to its land development regulations, including its sign standards;

WHEREAS, the City finds and determines that there is an ample record of its intention that the presence of a severability clause in connection with the City's sign regulations be applied to the maximum extent possible, even if less speech would result from a determination that any provision is invalid or unconstitutional for any reason whatsoever;

WHEREAS, the City finds and determines that the Land Development Code's

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severability clause was adopted with the intent of upholding and sustaining as much of the City's regulations, including its sign regulations, as possible in the event that any portion thereof (including any section, sentence, clause or phrase) be held invalid or unconstitutional by any court of competent jurisdiction;

WHEREAS, the City finds and determines that the failure of some courts to uphold severability clauses has led to an increase in litigation seeking to strike down sign ordinances in their *entirety* so as to argue that the developers' applications to erect prohibited sign types, such as billboards, must be granted;

WHEREAS, the City finds and determines that there be an ample record of its intention that the presence of a severability clause in connection with the City's sign regulations be applied to the maximum extent possible, even if less speech would result from a determination that any exceptions, limitations, variances or other provisions are invalid or unconstitutional for any reason whatsoever;

WHEREAS, the City finds and determines that the Land Development Regulation's "cap and replace" rules for Off Premises Signs should continue in effect regardless of the invalidity or unconstitutionality of any, or even all, other provisions of the City's sign regulations, other ordinance code provisions, or other laws, for any reason(s)whatsoever;

WHEREAS, the City finds and determines that there he an ample record that it intends that the height and size limitations on free-standing and other signs continue in effect regardless of the invalidity or unconstitutionality of any, or even all other, provisions of the City's sign regulations, other ordinance code provisions, or other laws, for any reason whatsoever;

WHEREAS, the City finds and determines that there be an ample record that it intends that each prohibited sign-type continue in effect regardless of the invalidity or unconstitutionality of any, or even all, other provisions of the City's sign regulations, other ordinance code provisions, or other laws, for any reason(s)whatsoever;

WHEREAS, the City finds and determines that there have been billboard developers who have mounted legal challenges to a sign ordinance, either in its entirety or as to some lesser portion, and argued that there existed a vested right to erect a billboard through the mere submission of one or more prior permit applications, so that in the event that the billboard developer is successful in obtaining a judicial decision that the entirety or some lesser portion of a sign ordinance or its permitting provisions are invalid or unconstitutional, the billboard developer might then seek to compel the local governmental unit to issue a permit to allow the billboard developer to erect a permanent

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billboard structure within the local government's jurisdiction;

WHEREAS, the City finds and determines that it desires to make clear that additional Off Premises Signs are not a compatible land use within the City and that there can be no good faith reliance by any prospective Off Premises Signs developer under Florida vested rights law in connection with the prospective erection or construction of additional Off Premises Signs within the jurisdictional limits of the City;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PANAMA CITY BEACH:

SECTION 1. From and after the effective date of this ordinance, Section 5.07 of the Land Development Code of the City of Panama City Beach, which is the City of Panama City Beach's Sign Code, is amended to read as provided by Appendix 1 (new text **bold and underlined**, deleted text ~~struck through~~).

SECTION 2. The following section is created as Section 1.06.06 of the Land Development Code of the City of Panama City Beach (new text **bold and underlined**):

> **Applicability of Sign Code**. The City has adopted comprehensive regulations for ***Signs*** in the ***City of Panama City Beach Sign Code*** as part of this Land Development Code. Whenever this Land Development Code provides a requirement or regulation for a sign that meets the definition of a ***Sign*** as provided by the ***Sign Code***, such requirement or regulation shall be subject to the ***Sign Code*** and such ***Sign*** shall comply with the ***Sign Code***, unless that requirement or regulation states an express exemption from the ***Sign Code***. In addition, if another section of the Land Development Code requires a ***Sign*** that the ***Sign Code*** would not allow, then the ***Sign*** shall be allowed, but shall otherwise comply with and be subject to the requirements of the ***Sign Code***. This Land Development Code may allow for modified ***Sign*** standards in an Overlay District or a Planned Unit Development, but any such modified standards remain subject to 5.07.01, 5.07.02, 5.07.05, 5.07.10, and 5.07.12, as amended.

SECTION 3. The following deletions are made to the Land Development Code of

the City of Panama City Beach based on the deleted clauses being relocated to the City of Panama City Beach's Sign Code:

- 4.05.03 G. regarding entrance ***Signs*** for entrance and exit of a ***Parking Lot*** or ***Parking Garage***
- 4.05.04 F. regarding sings on ***Pedestrian Crossovers***
- 5.04.33 C. regarding signs for ***Transient Residential Rentals***

SECTION 4. The following section is created as part Chapter 1-General Provisions of the Panama City Beach Code of Ordinances (new text **bold and underlined**):

> **Applicability of Sign Code. The City has adopted comprehensive regulations for signs in the City of Panama City Beach Sign Code contained in the Land Development Code of the City of Panama City Beach, Florida. This Code of Ordinances contains requirements and regulations that relate to signs. Whenever this Code of Ordinances provides a requirement or regulation for a sign that meets the definition of a Sign as provided by the Sign Code, such requirement or regulation shall be subject to the City of Panama City Beach Sign Code and such Sign shall comply with City of Panama City Beach Sign Code, except that if the Code of Ordinances requires a Sign that the City of Panama City Beach Sign Code would not allow, then the Sign shall be allowed but shall otherwise comply with and be subject to the requirements of the Sign Code.**

SECTION 5. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 6. The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the Panama City Beach Land Development Code and Panama City Beach Code of Ordinances, and unless a contrary ordinance is adopted within ninety (90) days following such publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be assigned and

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changed whenever necessary or convenient.

SECTION 7. This Ordinance shall take effect immediately upon passage.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Council of the City of Panama City Beach, Florida, this ___day of _____, 2017.

CITY OF PANAMA CITY BEACH

ATTEST: By_____
MIKE THOMAS, MAYOR

_____
CITY CLERK

PUBLISHED in _____ on the ____ day of _____, 2017.

POSTED on *pcbgov.com* on the ____ day _____, 2017.

_____
CITY CLERK

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5.07.00 SIGN CODE

5.07.01 Definitions and Short Title.

This section 5.07.00 shall be known as the "***City of Panama City Beach Sign Code.***"

(Ord. #1254, 11/14/13)

As used in this section, the following additional, defined terms have the meanings assigned to them. When one or more defined terms are used together, their meanings shall also be combined as the context requires or ***Permits***.

Abandoned Sign: a ***Sign*** which was ***Erected*** or used in conjunction with a business or other use or activity that has been voluntarily or involuntarily discontinued, vacated, closed or abandoned for a period of ninety (90) days in any one hundred twenty (120) day period regardless of whether that business or other use or activity is thereafter recommenced, or a ***Sign*** pertaining to an event or purpose that has passed in time.

Animated Sign: a ***Sign*** which includes action, motion, or color changes, or the optical illusion of action, motion, or color changes, including ***Signs*** using electronic ink, ***Signs*** set in motion by movement of the atmosphere, or made up of a series of sections that turn, or including any type of screen using animated or scrolling displays, such as an LED (light emitting diode) screen or any other type of video display, even if the ***Copy*** is frozen between animations or movement. A ***Multi-Vision Sign*** is not an ***Animated Sign***.

Back-to-Back Sign: a ***Sign*** constructed as a single device or on a single ***Sign Structure*** with two ***Faces*** of substantially the same size oriented in generally opposing directions and at no point more than four (4) feet apart.

Banner: a ***Sign*** consisting entirely of a flexible substrate such as vinyl or fabric on which ***Copy*** or graphics may be displayed. A self-supporting structural material is not a flexible substrate.

(Ord. # 1244, 12-13-12)

Beacon: a stationary or revolving light which flashes or projects illumination, single color or multicolored, in any manner which has the effect of attracting attention.

Bench Sign: a ***Sign*** attached or applied to a seat or bench intended for human occupancy.

Building: a permanent ***Structure*** with at least four (4) opposing sides and a ***Roof***, and intended for human occupancy.

(Ord. # 1244, 12-13-12)

Building Frontage: the length of that side of the principal ***Building*** on a ***Premises*** that ***Faces*** the ***Frontage*** of that Premises, measured in a straight line and excluding any ***Canopy*** or other portion of the ***Building*** extending beyond its foundation.

Building Glass Area: an opening in a ***Building*** typically, but not necessarily, covered by transparent or translucent material, such as a window or glass door; ***Building Glass Area*** includes an open door, passage, window or similar opening in a ***Building***.

Building Sign: a ***Wall, Projecting***, or ***Canopy Sign***.

Business District: an ***Area*** or zone designated for business, tourist or other ***Commercial*** use by the zoning or land use regulations of the ***City***.

Canopy: any shelter over a door, entrance, window, or outdoor service area, supported partially or entirely from the exterior wall of a ***Building***, including an awning or marquee.

Canopy Sign: any ***Sign*** that is a part of or printed, stamped, stitched or otherwise applied onto a ***Canopy***.

Changeable Copy Sign: a ***Sign*** which displays a series of messages or images which are changed mechanically, electronically, manually in the field or by any other means, including LED technology. ***Changeable Copy Sign***s frequently but not necessarily contain a separate cabinet or space on the ***Sign*** within which ***Copy*** is changed. A ***Changeable Copy Sign*** with one or more ***Off-Premises Sign*** messages is an ***Off-Premises Sign***.

Corner Premises: a ***Premises*** with an improved ***Street*** bordering at least one side and intersecting its ***Frontage Street***.

Commercial: of, in or related to the creation, transport, holding, buying, selling, exchange, disposition or delivery of goods, services, money or anything of value, tangible or intangible, regardless of whether such action is taken by a natural or artificial person, when a significant purpose of such action is to generate revenue~~, including not-for-profit entities, or by a religious, educational or charitable concern~~.

Commercial Mascot or Sign Holder: humans or animals used as advertising devices for ***Commercial*** establishments by the wearing of costumes, insignia or masks associated with a ***Commercial*** establishment, or by holding or waving a ***Sign*** with a ***Commercial Message*** or a device with moving parts intended to attract attention to a ***Commercial*** establishment. A ***Commercial Mascot*** includes by way of example and not limitation, clowns, stilts-walkers, persons waving ***Signs*** and ***Sign***-twirlers.

Commercial Message: any ***Sign*** wording, logo, or other representation or image that directly or indirectly names, advertises, or calls attention to a product, service, sale or sales event or other ***Commercial*** activity.

Copy: the linguistic or graphic content of a ***Sign***.

Digital Light Show: a digital mapping projection which may appear to be three dimensional and is typically projected upon the vertical surface of a ***Building*** or other ***Structure***.

(Ord. # 1244, 12-13-12)

Dilapidated Sign: any ***Sign*** which is structurally unsound, fails to meet applicable ***Building***, electrical and safety codes, has defective parts or is in need of painting or ***Maintenance***.

Directional Sign: a traffic ***Sign*** or symbol on private property (including by way of example and not limitation ***"Entrance," "Exit," "No Parking," "Turn" and "Slow" Signs)*** which may contain~~s no Commercial Message~~ other content except as prohibited by Section 5.07.04 ~~than an optional, single logo or mark which represents the Premises on which such Directional Sign is located~~ provided that such content ~~logo or mark~~ does not exceed twenty-five percent (25%) of the ***Area*** of the ***Face*** upon which it appears.

Double-Faced Sign: a ***Sign*** with two (2) or more adjacent ***Sign Face***s on a single ***Sign Structure*** or separate ***Structure***s with such ***Faces*** oriented in generally the same direction or visible from any one point, and not more than ten (10) feet apart at the nearest point between the two ***Face***s. A ***Double-Faced Sign*** may be referred to as a side-by-side or stacked ***Sign***. A ***Double-Faced Sign*** shall constitute one (1) ***Sign***.

~~***Election Sign:*** ***a Temporary Sign*** identifying and urging voter support for or opposition to a candidate for public office or stating a position regarding an issue upon which a public vote will be held.~~

Erect: to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any way bring into being or establish. "***Erect***" does not include any of the foregoing activities when performed as an incident to the change of ***Copy*** or customary ***Maintenance*** or repair of a ***Sign*** or ***Sign Structure***.

Facade: the entire front of a ***Building***, including wall ***Face*** and ***Parapet***, facia, soffit, mansard, ***Roof***, windows, doors and ***Canopy***, as would be shown on any complete elevation drawing. A ***Facade Faces*** the ***Frontage*** of the ***Premises*** on which the ***Building*** is situated. Every ***Building*** has only one (1) ***Facade***.

Face: see ***Sign Face***.

Flag: a flexible, graphic device, made of nylon, polyester, cotton, rayon or other similar pliable material, always rectangular in shape, and with a hoist to fly (short edge to long edge) ratio of at least one to one (1:1 or square) and no more than one to two (1:2). A ***Flag*** may but is not required to represent a government, business or other identifiable entity. A ***Flag*** may be blank.
(Ord. # 1330, 1-8-15)

Flag Pole: a pole intended and used exclusively to support and display a ***Flag*** at its top, and for no other purpose, and which is sufficiently rigid that it does not appreciably sway or deflect when flying one, two or three ***Flags*** as high as possible in any wind less than twenty knots.

Flashing: emission of light in sudden, transitory bursts.

Fence Sign: that portion of any fence containing a ***Sign Face*** which is attached to a fence that is intended and used primarily to enclose or screen real property, provided that the length of the fence is at least five (5) times greater than the horizontal dimension of the ***Sign Face***, including the cabinet or any ***Structure*** in which the ***Sign*** is located.

Fixed Aerial Sign: any aerial advertising medium that is tethered to the ground.

Free-Standing Sign: a ***Sign*** supported by a ***Sign Structure*** secured in the ground and which is essentially, structurally independent of any ***Building***, ***Structure*** or vehicle, including a ***Monument Sign***.

Free Expression Sign: A ***Sign*** that does not advertise products, goods, businesses or services and that expresses an opinion or other point of view.

Frontage: the main ***Street*** property line of a ***Premises***. Every ***Premises*** has only one (1) ***Frontage***.

Fuel Pump Signs : ***Signs*** placed on or above a fuel pump providing, for example, information to the public regarding safety, the generic type of fuel, self or full service, self-service instructions, price, octane rating, additives, or similar information relating to safety or method of delivery.

Graphic Sign: a ***Sign*** which is used or intended primarily to attract attention and that does not include written information or a logo.

Holographic Display Sign: a ***Sign*** or an advertising display, or portion thereof, that creates a three-dimensional image through projection, OLED (organic light emitting diode), or any similar technology.

Illegal Sign: a ***Sign*** described as such in section 5.07.09 of this ***Sign Code***.

Illuminated Sign, External: any ***Sign*** which is directly lighted by an external, artificial source.

Illuminated Sign, Internal: any ***Sign*** which transmits light through any portion of its ***Face.***

Inflatable Sign: a three dimensional ***Sign*** or ***Sign Statuary*** resting on and supported by the ground that is either expanded to its full dimensions or supported by gases contained within the ***Sign,*** or ***Sign*** parts, at a pressure greater than atmospheric pressure.

LED Sign: a ***Sign*** or portion thereof that uses light emitting diode technology or other similar semiconductor technology to produce an illuminated image, picture, or message of any kind, regardless of whether the image, picture, or message is moving or stationary; this type of ***Sign*** includes any ***Sign*** that uses LED technology of any kind whether conventional (using discrete LEDs), ***surface*** mounted (otherwise known as individually mounted LEDs), transmissive, organic light emitting diodes (OLED), light emitting polymer (LEP), organic electro luminescence (OEL), or any similar technology; sometimes referred to as "digital ***Signs.***"

Legal Sign: a ***Sign*** described as such in section 5.07.09 of this ***Sign Code.***

Lost Sign: An ***Off-Premises Sign*** voluntarily or involuntarily removed from service as described in section 5.07.06 of this ***Sign Code.***

Maintenance: in the context of this ***Sign Code*** means the repairing or repainting of a portion of a ***Sign*** or ***Sign Structure*** which has been made unusable by ordinary wear, and periodically renewing or changing ***Copy.***

Monument Sign means a ***Free-Standing Sign*** that is an essentially solid structure containing a Sign Face which is supported solely by a solid base that extends to the ground and which is not attached or affixed in any way to a building, fence, or other structure.

Multi-Vision Sign: a ***Sign*** on which an entire ***Face,*** but not less than the entire ***Face,*** is changed by mechanical, electronic or other automated means at regular, short intervals in order to present two or more different ***Sign Faces*** (each with stationary symbols) in the space of one ***Face. Multi-Vision Signs*** include but are not limited to "tri- vision" ***Signs*** (three ***Faces*** changed by mechanical louvers) and ***LED Signs*** with two or more ***Faces.*** In addition, for a ***Sign*** to qualify as a ***Multi-Vision Sign*** it must meet all of the standards and requirements specified for ***Multi-Vision Signs*** in the ***General Sign Standards*** section of this ***Sign Code.***

Non-Commercial: not ***Commercial*** and not relating to a ***Commercial Message.***

Non-Commercial Message: any message which is not a ***Commercial Message.***

Non-Commercial Sign: any sign which does not state a ***Commercial Message*** and is not used for a ***Commercial*** purpose. Examples include, but are not limited to, ***Signs*** with a religious or political message and ***Free Expression Signs.***

~~***Non-Conforming***~~ ***Nonconforming Sign:*** a ***Sign*** described as such in section 5.07.09 of this ***Sign Code.***

Off-Premises Sign: a ***Commercial Message Sign*** not located on the site of the establishment or entity indicated or advertised by the ***Sign,*** or a ***Commercial Message Sign*** advertising a commodity, good, product, service or other ***Commercial*** activity or purpose which originates on a site other than where the ***Sign*** is maintained, or a ***Sign*** which directs attention to a ~~***Commercial, industrial, educational, religious or not-for-profit occupancy,***~~ or ***Non-Commercial*** establishment, commodity, good, product, service or other ~~***Commercial, industrial, educational, religious or not-for-profit***~~ or ***Non-Commercial*** activity not conducted, delivered, sold or offered upon the site

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where the ***Sign*** is maintained, e.g., "billboards" or "outdoor advertising." The on-site/off-site distinction only applies to ***Commercial Message Signs***. For purposes of this definition, access easements and other appurtenances connected to a ***Premises*** are considered to be outside the ***Premises*** and any ***Sign*** located in such an easement or other appurtenance is considered an ***Off- Premises Sign.***

On-Premises Sign: a ***Commercial Message Sign*** which directs attention to a ***Commercial~~, industrial, educational, religious or not-for-profit occupancy,~~*** or ***Non-Commercial*** establishment, commodity, good, product, service or other ***Commercial~~, industrial, educational, religious or not-for-profit~~*** or ***Non-Commercial*** activity conducted, delivered, sold or offered upon the site where the ***Sign*** is maintained. The on-site/off-site distinction only applies to ***Commercial Message Signs***.

Parapet: a false front or wall extension above the ***Roof*** of a ***Building.***

Pennant, Streamer, Balloon or Bunting: any fluttering or non-stationary device made of flexible materials designed, intended or used to attract attention, including ***Flags*** and "wind-***Signs.***"

Permit or Permitting: the ***Permit*** issued by the ***City*** pursuant to and required by this ***Sign Code*** to ***Erect***, display, relocate or alter a ***Sign*** or the act of issuing a ***Permit.***

Portable Sign: any ***Sign*** that is not permanently attached to the ground or to a ***Building*** or other ***Structure*** that is permanently attached to the ground, or a ***Sign*** designed and capable of being moved, including but not limited to, a ***Sign*** designed to be transported by means of attached or removable wheels, including the type of ***Sign*** commonly known as a sandwich board ***Sign***, sidewalk ***Sign***, and ***Trailer Sign.***

Premises: an improved ***Area*** of land not divided by an access regulated road, together with its appurtenances and ***Buildings***, including vehicular right-of-way easements where the primary ***Premises*** is the dominant parcel, under single, unified ownership or control. An improved ***Area*** of land which lies on both sides of an access regulated road shall be considered two ***Premises*** even if under single, unified ownership or control.

~~***Project Sign***: a ***Temporary Sign Erected*** and displayed on ***Premises*** then under construction and identifying an architect, contractor, developer, financial organization, subcontractor or materials vendor furnishing labor, services or materials for such construction.~~

Projecting Sign: a ***Sign*** affixed to any ***Building*** or wall whose single leading edge extends, often perpendicular, beyond such ***Building*** or wall. For purposes of this definition, the single leading edge shall mean the furthest projection from the ***Building*** or wall.

(Ord. # 1285, 8-22-13)

Real Estate Sign: a ***Temporary Sign Erected*** by the owner or his agent, advertising the real property upon which the ***Sign*** is located for rent, lease or sale.

Residential District: an ***Area*** or zone designated for ***Residential*** uses only by the ***LDC***. ***Roof***: the exterior covering of the top of a ***Building.***

Roof Sign: a ***Sign Erected*** over or on, and wholly or partially dependent upon, the ***Roof*** of any ***Building*** for support, or attached to the ***Roof*** in any way.

Shopping Center: a group of ***Commercial*** establishments located on one ***Premises***, under single, unified ownership or control.

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Sign: Any letter, number, symbol, figure, character, mark, plane, point, design, stroke, strike, line, illuminated surface, light, string of lights, graphic, picture, mural, or any random or ordered variation of colors or dimensional textures, *which* is so constructed, placed, attached, painted, erected, or fastened in any manner to either convey information or attract the attention of the public to any place, item or idea, *and which* is visible by a pedestrian at ground level on any ***Street***, or water's edge of the Gulf of Mexico, or any adjoining ***Premises***; *provided*, however, that this definition or this ***Sign Code*** does not make unlawful any of the following if they are not used or intended to convey any information of depict any item or idea: (i) one or more dimensional architectural components or dimensional architectural details constructed as an integral part of a ***Building***, or (ii) any dimensional architectural component or dimensional architectural detail being consistently colored a color that is different from the color of the ***Building*** or the color of another such component or detail (for example: ***Roof*** versus fascia, fascia versus soffit, soffit versus wall, wall versus trim, trim versus window, window versus door, et cetera). A ***Sign*** includes any associated ***Sign Structure***.

Sign Area **(sometimes *Area*)**: the surface ***Area*** of a ***Sign*** or ***Sign Face***, as the context shall require, computed for each type of ***Sign*** by the method specified in this ***Sign Code***. If no method is specified, ***Sign Area*** is computed for the entire ***Area*** within the periphery of a single polygon with no more than eight straight sides containing the largest single ***Face*** of the ***Sign***.

Sign Code: this ***Sub-Chapter*** of the ***LDC***.

Sign Face (sometimes Face): that part of a ***Sign*** that is or can be used to present alphabetic or pictorial symbols or representations.

Sign Height (sometimes Height): the vertical distance measured from the average elevation of the ground within a thirty (30) foot radius of the ***Sign*** (excluding the base or berm of a ***Monument Sign***) to the top of the ***Sign Face*** or ***Sign Structure***, whichever is greater.

Sign Statuary or Statuary: any permanent, three-dimensional, man-made representation of a plant, animal, or other thing, intended primarily to attract attention, and not intended and used primarily to entertain or amuse customers of the business of which the ***Statuary*** forms a part. ***Sign Statuary*** may not be an ***Inflatable Sign***.

Sign Structure: a ***Structure*** or object used or intended to be used to support, in whole or in part, a ***Sign Face***, but excluding a ***Building, Structure***, fence, wall or earthen berm intended and used primarily for an independent purpose.

Snipe Sign: a ***Sign*** of any material that is attached or painted in any way to a utility pole, tree, shrub, fence post, or other similar object, located on public or private property. ***Snipe Signs*** do not include ***Warning Signs*** and ***Directional Signs Permitted*** by this ***Sign Code*** without a ***Permit***.

Street: a public right-of-way any portion of which is used or intended for motorized vehicular travel.

~~***Streetlight Standard***: a vertical ***Banner*** affixed to a publicly owned and maintained streetlight support pole.~~

(Ord. # 1244, 12-13-12)

Swinging Sign: a ***Sign*** installed on an arm, mast or spar which ***Sign*** is not, in addition, permanently fastened to an adjacent wall or upright pole to prevent movement.

Temporary Sign: a ***Sign*** intended to display either ***Commercial*** or ***Non-Commercial Messages*** of a transitory or

temporary nature. A ***Temporary Sign*** includes a ***Portable Sign***or any ***Sign*** not permanently embedded in the ground, or not permanently affixed to a ***Building*** or a ***Sign Structure*** that is permanently embedded in the ground.

Traffic Control Device Sign: any ***Sign*** placed by a government agency located within the right-of-way that is used as a traffic control device and that is described and identified in the Manual on Uniform Traffic Control Devices (MUTCD) and approved by the Federal Highway Administrator as the National Standard. A ***Traffic Control Device Sign*** includes those ***Signs*** that are classified and defined by their function as regulatory ***Signs*** (that give notice of traffic laws or regulations), warning ***Signs*** (that give notice of a situation that might not readily be apparent), and guide ***Signs*** (that show route designations, directions, distances, services, points of interest, and other geographical, recreational, or cultural information).

Trailer Sign: any ***Sign***, whether on its own trailer, wheels, or otherwise, that is designed or intended to be transported from one place to another, even though the wheels may be removed, and the remaining chassis or support ***Structure*** contains space provided for advertising messages that may be changed at will by the replacement of lettering or symbols.

Vehicle: a conveyance or means of transporting something, either self-propelled or towed, and including an inoperable device in generally the same form but which cannot serve that function.

Vehicle Sign: a permanent or temporary ***Sign*** affixed or painted on a ***Vehicle*** or visible through the window of any ***Vehicle***,

Wall Sign: a ***Sign*** painted on or ***Erected*** parallel to and not more than twelve (12) inches from the wall or ***Facade*** of any ***Building*** to which it is attached, and supported throughout its entire length by the ***Facade*** of the ***Building*** and not extending above or beyond the ***Building Facade***, excluding window ***Signs***.

Wall Wrap Sign: a ***Sign*** or portion thereof composed of fabric, plastic, vinyl, mylar or a similar material that drapes or hangs over the side of a ***Building***, wall or window. This ***Sign*** type was the subject of the litigation in *City of Philadelphia v. Berman*, 863 A.2d 156 (Pa.Cmwlth. 2004) and Society *Created To Reduce Urban Blight (SCRUB) v. Zoning Bd. Of Adjustment*, 908 A.2d 967 (Pa.Cmwlth. 2006).

Warning Sign or Safety Sign: a ***Sign*** which provides warning of a dangerous condition or situation that might not be readily apparent or that poses a threat of serious injury (e.g., gas line, high voltage, condemned ***Building***, beware of dog, etc.) or that provides warning of a violation of law (e.g., no trespassing, no hunting allowed, posted, etc.)

Window Sign: any opaque or translucent ***Sign*** of any material which is (i) painted on, etched into, applied to, attached to or projected upon or within the exterior or interior of a ***Building Glass Area***, or (ii) located within six (6) feet of the interior side of a ***Building Glass Area*** and displayed under circumstances indicating that the primary purpose of such ***Sign*** is to attract the attention of the public through the window, whose alphabetic or pictorial symbols or representations are visible by a pedestrian at ground level on any ***Street***, the water's edge of the Gulf of Mexico, or any adjoining ***Premises***.

Yard or Garage Sale: an informal, infrequent and irregularly scheduled event for the sale of used personal property conducted at the personal residence of an individual who owns at least a material part of the personal property offered for sale. A second such event held on the same ***Premises*** within any ninety (90) day period shall not be considered a ***Yard or Garage Sale***. A ***Yard or Garage Sale*** may be referred to as a garage sale, lawn sale, yard sale, front yard sale, back yard sale, attic sale, rummage sale, patio sale, moving sale,

or any similar designation.

Yard or Garage Sale Sign: any ***Temporary Sign*** advertising a ***Yard or Garage Sale***.

5.07.02 Purpose, Intent, Scope and General Prohibition

A. It is the purpose of this ***Sign Code*** to promote the public health, safety and general welfare of residents and visitors in the ***City*** through reasonable, consistent and non-discriminatory ***Sign*** standards. The ***Sign*** regulations in this ***Ordinance*** are not intended to censor speech or to regulate viewpoints, but instead are intended to regulate the adverse secondary effects of ***Signs***. The ***Sign*** regulations are especially intended to reach the secondary effects that may adversely impact aesthetics and safety, especially traffic safety. The ***City*** is a relatively compact beachfront tourist destination and ***Single Family Residential*** community located on the Gulf of Mexico in Northwest Florida. Panama City Beach has more than eight (8) miles of Gulf front beaches. The economic base of the ***City*** is almost completely dependent upon tourism, and tourism is the single largest economic engine in Bay County, Florida. In order to preserve and promote the ***City*** as a desirable community in which to live, vacation and do business, a pleasing, visually attractive environment is of foremost importance. The regulation of ***Signs*** within the ***City*** contributes significantly to this desired end. These ***Sign*** regulations have been prepared with the intent of enhancing the visual environment of the ***City*** and promoting its continued well-being, and are intended to:

1. Avoid content based distinctions between the regulation of various Non-Commercial Signs, Non-Commercial Messages, or other Non-Commercial speech;
2. Not regulate Non-Commercial Signs more strictly than Commercial Signs and allow for Non-Commercial Signs whenever Commercials Sings are allowed, such as under Section 5.07.05.N;
3. Encourage the effective use of ***Signs*** as a means of communication in the ***City***;
4. Maintain and enhance the aesthetic environment and the ***City's*** ability to attract sources of economic development and growth;
5. Improve pedestrian and traffic safety;
6. Minimize the possible adverse effect of ***Signs*** on nearby public and private property;
7. Foster the integration of signage with architectural and landscape designs;
8. Lessen the visual clutter that may otherwise be caused by the proliferation, improper placement, illumination, animation, excessive height, and excessive size (area) of ***Signs*** which compete for the attention of pedestrian and vehicular traffic;
9. Allow ***Signs*** that are compatible with their surroundings and aid orientation, while precluding the placement of ***Signs*** that contribute to ***Sign*** clutter or that conceal or obstruct adjacent land uses or ***Signs***;
10. Encourage and allow ***Signs*** that are appropriate to the zoning district in which they are located and consistent with the category of use and function to which they pertain;
11. Curtail the size and number of ***Signs*** and ***Sign*** messages to the minimum reasonably necessary to identify a ***Residential*** or business location and the nature of any such business or to communicate a

message or capture attention;

12. Establish ***Sign*** size in relationship to the scale of the lot and *Building* on which the *Sign* is to be placed or to which it pertains;

13. Categorize ***Signs*** based upon the function that they serve and tailor the regulation of ***Signs*** based upon their function;

14. Preclude ***Signs*** from conflicting with the principal ***Permitted*** use of the site and adjoining sites;

15. Regulate ***Signs*** in a manner so as to not interfere with, obstruct the vision of or distract motorists, bicyclists or pedestrians;

16. Except to the extent expressly preempted by state or federal law, ensure that ***Signs*** are constructed, installed and maintained in a safe and satisfactory manner, and protect the public from unsafe ***Signs;***

17. Preserve, conserve, protect, and enhance the aesthetic quality and scenic beauty of all districts of the ***City;***

18. Allow for traffic control devices consistent with national standards and whose purpose is to promote highway safety and efficiency by providing for the orderly movement of road users on ***Streets*** and highways, and that notify road users of regulations and provide warning and guidance needed for the safe, uniform and efficient operation of all elements of the traffic stream;

19. Protect property values by precluding, to the maximum extent possible, ***Sign***- types that create a nuisance to the occupancy or use of other properties as a result of their size, height, illumination, brightness, or movement;

20. Protect property values by ensuring that ***Sign***-types, as well as the number of *Signs*, are in harmony with **Buildings**, neighborhoods, and conforming ***Signs*** in the area;

21. Regulate the appearance and design of ***Signs*** in a manner that promotes and enhances the beautification of the ***City*** and that complements the natural surroundings in recognition of this ***City's*** reliance on its natural surroundings and beautification efforts in retaining economic advantage for its resort community, as well as for its major subdivisions, **Shopping Centers** and industrial parks; and

22. Enable the fair and consistent enforcement of these *Sign* regulations.

B. Unless exempted from ***Permitting***, no ***Sign*** or ***Sign Structure*** shall be ***Erected***, displayed, relocated, altered or repaired unless a valid and current ***Permit*** for such activity is held by the owner or person entitled to possession of the ***Sign***.

C. No person shall ***Erect***, display, relocate or alter, or cause or ***Permit*** the ***Erection***, display, relocation or alteration of, any ***Sign*** or ***Sign Structure*** not exempt from ***Permitting*** unless a valid and current ***Permit*** for such activity is held by the owner or person entitled to possession of the ***Sign***.

D. No ***Permit*** is required to maintain, alter or repair a ***Sign*** as long as no alterations are made to the ***Sign's Height***, width, length, depth, area, weight, location, or structural support, and if such ***Maintenance***, alteration or repair involves only:

1. Changing or renewing the ***Copy*** of a ***Sign***, including any change of ***Copy*** on a

Changeable Copy Sign, or

2. Painting or refinishing the surface of a ***Sign Face*** or ***Sign Structure*** of a lawful ***Sign*** so as to keep or restore the ***Sign*** to its lawful appearance.

E. The City's Engineering Technical Manual shall be read in conjunction with this ***Sign Code*** and ***Signs*** required by or regulated by the City's Engineering Technical Manual shall also comply with this ***Sign Code.***

5.07.03 *Signs* Exempt from *Permitting.*

The following types of ***Signs*** may be ***Erected*** and displayed without a ***Sign Permit,*** if the required conditions stated are met. Each such ***Sign*** is subject to the prohibitions and general ***Sign*** standards (Sections 5.07.04 and 5.07.05 of this ***Sign Code***) applicable to all ***Signs*** within the ***City***.

A. Each ***Premises*** may display one (1) free-expression, single ***Face*** or ***Back-to-Back Sign*** not exceeding four and one-half (4.5) square feet per ***Face*** and three (3) feet in ***Sign Height*** in any ***Residential District*** and sixteen (16) square feet per ***Face*** and six (6) feet in ***Sign Height*** in a ***Business District,*** containing only a ***Non-Commercial Message***. The ***Sign*** may be displayed as a ***Building Sign,*** a Window ***Sign*** or a ***Free-Standing Sign***. A ***Free Expression Sign*** is in addition to any other ***Sign Permitted*** under this ***Sign Code*** and is ***Permitted*** in any zoning or land use district. Also, persons participating in ***Non-Commercial*** demonstrations, political rallies or otherwise expressing their valid right to ***Non-Commercial*** speech may hold and wave from a lawful pedestrian access ***Area*** of a ***Street*** (if there be such an area) one free-expression ***Sign*** containing only a ***Non-Commercial Message,*** or hold and wave such a ***Sign*** from any other traditional public forum or from private property.

B. One (1) nameplate ***Sign*** identifying the occupants of a private residence and displayed at the entrance ***Drive*** of a ***Single Family*** residence or affixed to the dwelling ***Structure,*** not exceeding two (2) square feet per ***Face*** and three (3) feet in ***Sign Height***.

C. *One (1) set of* ***Street***-address numbers no smaller than required by law and if not required by law then no smaller than four (4) inches or larger than ten (10) inches high.

D. Legal notices and other public notices and informational ***Signs*** authorized or required by law.

E. A temporary ***Banner*** no larger than the ***Sign Face*** covered, which covers a ***Sign*** in a ***Business District*** which has been damaged by windstorm or other casualty, if the ***Banner*** is displayed for no more than (i) the forty-five (45) day period following the windstorm or casualty or (ii) the one hundred eighty (180) day period following such windstorm or casualty provided that at all times after the forty-fifth (45th) day the owner or person entitled to possession of such damaged ***Sign*** has entered a binding, arms-length contract for the total repair or replacement of such damaged ***Sign,*** and the reason the contract has not been completed is in no way attributable to any act or omission of the owner or person entitled to possession of the damaged ***Sign***.

F. For each ***Premises*** in a ***Business District*** (except a sexually oriented or adult business subject to the appearance requirements of this ***Sign Code***) one temporary ***Banner,*** provided:

1. The ***Banner*** is displayed no longer than sixty (60) days after it is registered as required by this ***Sign Code***; and

2. The ***Banner*** is registered with the date, location, person responsible and such other information as the ***City Manager*** may require in order to identify the persons responsible for maintaining the ***Banner*** and to

enforce these regulations. The applicant must pay a registration fee of ten (10) dollars to be applied to the actual or reasonably anticipated expenses associated with enforcing this section. The fee may be changed from time to time by resolution of the ***City Council*** to reflect changed expenses associated with registration. The ***City Manager*** may delegate registration authority to trustworthy, private persons within the ***City*** as needed to implement this requirement, the sole purpose of which is to prevent the unsightly visual clutter and economic depreciation caused by faded, torn, tattered, wrinkled or loose ***Banners***; and

3. The ***Banner*** displays a decal issued by the ***City Manager*** or his designee containing the date the ***Banner*** was registered and the last day it may be displayed pursuant to the registration. This section does not prevent a particular ***Banner*** from being registered for additional sixty (60) day periods if the registrant can demonstrate that the ***Banner*** is in adequate condition to meet the standards of this section for each period; and
4. The ***Banner*** (i) does not exceed 32 square feet in overall surface ***Area*** and ten (10) feet in ***Height*** or width, (ii) is one-sided and located entirely against a building or fence (provided the fence extends the full width of a Yard or between the building and a side or rear property line) or lawful, pre-existing ***Sign***, and (iii) is stretched tight and securely fastened at each corner or edge.
5. If any such ***Banner*** becomes faded, torn, tattered, wrinkled or loose, the ***City*** may remove it after 24 hours notice attached to the ***Banner***.

(Ord. # 1244, 12-13-12)

~~**G. *Community Event*.** For each ***Premises*** in a ***Business District***, three (3) additional, temporary ***Banners***, and one (1) ***Inflatable Sign***, one (1) ***Fixed Aerial Sign*** and ***Pennants, Streamers, Balloons and Bunting***, displayed for a ***Community Event***. Such signage must meet all the following standards:~~

~~1. Each such ***Banner*** (i) does not exceed 32 square feet in overall surface ***Area*** and ten (10) feet in ***Height*** or width, (ii) is one-sided and located entirely against building or fence (provided the fence extends the full width of a Yard or between the building and a side or rear property line) or lawful, pre-existing ***Sign***, and (iii) is stretched tight and securely fastened at each corner or edge;~~

~~(Ord. # 1244, 12-13-12)~~

~~2. If any such ***Banner*** becomes faded, torn, tattered, wrinkled or loose, the ***City*** may remove it after 24 hours notice attached to the ***Banner***;~~

~~3. Each such ***Inflatable Sign*** (i) does not exceed 5,000 cubic feet, (ii) is not located within a required parking space, (iii) is not placed closer to the property line of the ***Premises*** than the ***Height*** of the ***Inflatable Sign***, (iv) is securely fastened to ground or an appropriate ***Structure***, and (v) complies with all applicable ***Building*** and safety codes;~~

~~4. Each such ***Fixed Aerial Sign*** is (i) securely tethered to the earth, (ii) grounded and positioned or fenced so that the risk of property damage and personal injury by lighting is minimized, and (iii) complies with all applicable ***Building*** and safety codes;~~

~~5. All ***Pennants, Streamers, Balloons and Bunting*** are confined to the ***Premises*** and are kept in a neat, orderly, whole, unfaded and new-appearing condition;~~

~~6. Such signage is displayed only during the period of the ***Community Event*** as determined by the ***City Council***.~~

H. Reserved.

I. ***Memorial Signs*** or tablets naming a ***Building*** and date of ***Erection*** when cut into any masonry surface or when constructed of other incombustible materials and permanently incorporated into such ***Building***, not exceeding two (2) square feet ***Sign Face***.

J. ***Single Face*** or ***Back-to-Back Directional Signs*** not exceeding two (2) square feet per ***Face*** and three (3) feet in ***Sign Height*** and not exceeding more than one (1) per quarter acres of land; and a solitary, ***Single Face*** or ***Back-to- Back Directional Sign*** located on either or both sides of each entrance or exit motorway of a ***Commercial Premises*** stating "***Entrance***" or "***Exit***" and not exceeding sixteen (16) square feet per ***Face*** and six (6) feet in ***Sign Height***; provided that all such ***Directional Signs*** are displayed on the ***Premises*** to which they relate which must be in a ***Business District*** .

K. One (1) ***Back-to-Back*** or single ***Face Real Estate Sign*** per ***Premises*** not exceeding four and one-half (4.5) square feet per ***Sign Face*** and three (3) feet in ***Sign Height*** in any ***Residential*** district, and sixteen (16) square feet per ***Face*** and six (6) feet in ***Sign Height*** in a ***Business District***. The ***Real Estate Sign*** shall be allowed only the ***Premises*** is available for sale or lease and must be removed immediately upon the rental, lease or sale of the subject property.

L. While a Premise is undergoing construction pursuant to a building permit, up to three (3) additional Temporary Signs ~~***Project Signs***~~ (***Back-to-Back*** or single ***Face***) not exceeding four and one-half (4.5) square feet per ***Sign Face*** and three (3) feet in ***Sign Height*** in any ***Residential*** district, and sixteen (16) square feet per ***Face*** and six (6) feet in ***Sign Height*** in a ***Business District***, each.

M. ~~***Election Signs***~~ Up to five additional ***Non-Commercial Temporary Signs*** (***Back-to-Back*** or single ***Face***) each not exceeding four and one-half (4.5) square feet per ***Sign Face*** and three (3) feet in ***Sign Height*** in any ***Residential*** district, and sixteen (16) square feet per ***Face*** and six (6) feet in ***Sign Height*** in a ***Business District***, for the ninety (90) days preceding any federal, state, or City of Panama City Beach election and the ~~An ***Election Sign*** shall be removed within~~ seven calendar days following the date of that election ~~to which it pertains. **State law references:** F.S. 106.1435 (removal).~~

N. ***Signs*** incorporated on machinery or equipment by the manufacturer or distributer, which identify only the manufacturer, the machinery or equipment and the product or service dispensed by the machine or equipment, such as ***Signs*** customarily affixed to vending machines, newspaper racks and telephone booths, but excluding ***Fuel Pump Signs***, which are the subject of a separate exemption.

O. ***Warning*** and ***Safety Signs*** (***Back-to-Back*** or single ***Face***) not exceeding two (2) square foot per ***Face*** and three (3) feet in ***Sign Height***, unless a larger ***Sign*** is required by applicable law.

P. Two (2) permanent, ***On-Premises Signs*** per ***Drive-Through*** lane displaying the menu at a fast-food restaurant, not exceeding thirty-two (32) square feet in ***Sign Area*** and seven (7) feet in ***Sign Height***, each.

Q. ~~For~~ At each generally recognized entrance right-of-way to a ***Platted, Residential*** subdivision containing individually owned ground lots, one ***Back-to-Back*** ~~(or two single Face) subdivision Sign(s)~~ (or two single ***Face***) ~~designed and used solely to identify by name, logo, or both, that subdivision~~; provided that (i) no such ***Sign*** exceeds ten (10) feet in ***Sign Height*** or seventy-five (75) square feet in ***Sign Area***, (ii) all such ***Signs*** are located as close to such entrance right-of-way as practicable without encroaching into corner visibility so as to create a traffic hazard as determined by the ***City Manager*** or his designee, and (iii) all such ***Signs*** are ***Monument*** or ***Fence Signs***.

R. ***Fuel Pump Signs,*** not exceeding two (2) square feet of aggregate ***Sign Area*** for each side of the pump displaying the amount of fuel dispensed.

S. For each parcel that includes sandy Gulf beach or each business or group of businesses operated in concert under the permission of such owner of sandy Gulf beach, one portable ***Back- to-Back Sign*** displayed on the sandy Gulf beach, or two (2) ***Signs*** affixed to a lawful booth or stall ***Erected*** on the sandy Gulf beach, not exceeding sixteen (16) square feet per ***Sign Face*** and five (5) feet in ***Sign Height*** identifying only those goods or services which may be sold on the sandy Gulf beach pursuant to Sec. 7- 81, ***Code of Ordinances of the City,*** provided that (i) such ***Sign*** is displayed only in the immediate ***Area*** where such goods or services are currently being offered and (ii)such ***Sign*** is at least one hundred (100) feet from any other such ***Sign*** previously placed on the beach. The owner of such sandy Gulf Beach may place or allow to be places Non-Commercial Signs not exceeding the sizes and number provided by this paragraph in lieu of the Commercial Signs described above or any combination of Commercial and Non-Commercial Signs not exceeding the limits described by this paragraph.

T. Two single ***Face Wall Signs*** not exceeding one hundred fifty (150) square feet each for each movie theater complex or playhouse located within a ***Shopping Center*** provided such ***Sign*** is used exclusively to identify current or coming attractions.

U. For each ***Premises*** in a ***Business District,*** no more than three ***Flags,*** each not exceeding thirty-two (32) square feet (one side), displayed as high as possible from, and with its hoist (edge on its shortest axis) adjacent and parallel to, a ***Flag Pole.*** The ***Flag Pole*** must (i) stand perpendicular to the ground and be not less than fifteen (15) feet high and positioned so that the ***Flag*** will not, under any circumstance or weather, intrude into the airspace above any public right-of-way, or (ii) extend from a ***Building*** and be positioned so that the lowest part of the ***Flag*** shall always be not less than nine (9) feet above the ground and so that the ***Flag*** will not, under any circumstances or weather, intrude into the airspace above any public right-of-way. The top of a freestanding, vertical ***Flag Pole*** is limited to a maximum ***Height*** of forty-five (45) feet and shall require certification by a Florida Registered Engineer when higher than twenty-five (25) feet in height. The top of a ***Flag Pole*** extended from a ***Building*** may not be higher than the top of the ***Building*** to which it is attached. No ***Flag*** may be displayed on or above the sandy beach of the Gulf of Mexico. Two or three ***Flags*** may be displayed from a single ***Flag Pole*** provided they are all displayed as high and near to each other as possible.

V. For each ***Premises*** in a ***Residential*** district, no more than three ***Flags,*** each not exceeding sixteen (16) square feet (one side), displayed as high as possible from, and with its hoist (edge on its shortest axis) adjacent and parallel to, a ***Flag Pole.*** The ***Flag Pole*** which pole must (i) stand perpendicular to the ground and be not less than fifteen (15) feet high and positioned so that the ***Flag*** will not, under any circumstance or weather, intrude into the airspace above any public right-of-way, or (ii) extend from a ***Building*** and be positioned so that the lowest part of the ***Flag*** shall always be not less than two (2) feet above the ground and so that the ***Flag*** will not, under any circumstances or weather, intrude into the airspace above any public right-of-way. The top of a freestanding, vertical ***Flag Pole*** is limited to a maximum ***Height*** of twenty-five (25) feet. The top of a ***Flag Pole*** extended from a ***Building*** may not be higher than the top of the ***Building*** to which it is attached. No such ***Flag*** may be displayed on or above the sandy beach of the Gulf of Mexico. Two or three ***Flags*** may be displayed from a single ***Flag Pole*** provided they are all displayed as high and near to each other as possible.

W. For each ***Premises*** in a ***Business District*** with one or more ***Buildings,*** not more than four (4) ***Signs,*** each five by ten inches (5" x 10") or smaller, exclusively advertising the acceptance of credit cards and placed directly

and entirely against the wall of any such ***Building***.

X. ***Signs*** located on the sandy Beach of the Gulf of Mexico containing no ***Commercial Message*** and used exclusively to warn swimmers of the dangers of swimming in the Gulf or to inform swimmers about the ***Flag*** warning system and safety regulations applicable to the sandy beaches area, not exceeding sixteen (16) square feet per ***Face*** and five (5) feet in ***Sign Height***.

Y. A ***Yard or Garage Sale Sign*** displayed for no more than seventy-two (72) hours on the site of the ***Yard or Garage Sale*** in a ***Residential*** district or on other ***Residential*** properties with the permission of the occupants thereof, not exceeding four and one-half (4.5) square feet per ***Sign Face*** and three (3) feet in ***Sign Height***.

Z. One valet parking station ***Sign*** (single ***Face*** or ***Back-to-Back***) no more than two (2) square feet per ***Face***, and not more than three (3) feet in Height, shall be allowed on each parcel where the valet station is located. The valet parking station ***Sign*** shall only be visible during hours that the valet is operating, and shall be located on the same parcel as the valet station.

AA. A ***Sign*** on a motor ***Vehicle*** licensed by the State of Florida to travel public highways, other than a prohibited ***Vehicle Sign***.

BB. ***Traffic Control Device Sign.***

CC. Each entrance and exit of a ***Parking Lot*** or ***Parking Garage*** may be marked with a ***Sign*** not smaller than six (6) square feet and not larger than fifteen (15) square feet and a maximum of five (5) feet in height. The ***Sign*** shall state "Parking Reserved for [Guests/Patrons/Customers] of the [business name]." Up to twenty-five (25) percent of the ***Sign Face*** may be used for the business logo other content except as prohibited by Section 5.07.04.

DD. Except for ***Warning*** and ***Safety Signs***, a Non-Commercial Sign may be substituted for any exempt ***Sign***(s) under this Section 5.07.03 so long as its size, placement, and construction meet the requirements for the applicable exemption and it is prohibited by Section 5.07.04.

~~***CC. Streetlight Standards*** in the right-of-way of the following ***Streets***:~~

~~1. Front Beach Road, South Thomas Drive and Thomas Drive;~~

~~2. Pier Park Drive, West Pier Park Drive, Hilton Drive;~~

~~3. Arnold Road (State Road 79), Powell Adams Road, Hill Road, Clara Avenue, Lyndell Lane, Alf Coleman Road, Richard Jackson Boulevard (formerly known as Beckrich Road), Hutchison Boulevard, and Panama City Beach Parkway;~~

~~AND meeting all of the following criteria:~~

~~(a) The Standard shall have a horizontal dimension of no greater than two (2) feet and a vertical dimension no greater than five (5) feet.~~

~~(b) The Standard shall be attached to and at all times neatly stretched between ***Banner*** arms at the top and the bottom of the Standard. Grommets and sleeves shall be incorporated into the Standard to ensure safe installation, ***Maintenance*** and removal.~~

~~(c) ***Banner*** arms shall be a ¾ inch diameter metal, 28 inch long rod attached to the streetlight pole with swivel lock worm drive hose clamps. The bottom ***Banner*** arm shall be mounted at ten (10) feet~~

~~above the ground.~~

~~(d) The Standard shall meet one hundred thirty (130) MPH wind load requirement.~~

~~(e) Standards shall be limited to *Graphic Signs*, or *Signs* creating a festive atmosphere for *Community Events* and holidays which do not have a political or religious message and do not advertise a specific product or corporate entity.~~

~~(f) Short term Standards (less than 30 days or a one time event) may be constructed of vinyl or an equivalent material.~~

~~(g) Long term Standards (30 days or more) shall be produced with 100% polyester fabric with an acrylic coating or its equivalent to retain color and strength of the fabric regardless of exposure to wind, sunlight or rain, and also allows for double sided printing.~~

~~(h) Printing on long term Standards shall consist of UV protected heat set inks or its equivalent and shall be permanently bonded to the fabric in order to avoid fading of ink surface due to sun exposure or marine climate.~~

~~(i) Wherever possible, Standards must be placed on every other roadway light pole (approximately 240 feet on center) in a staggering formation on both sides of the roadway.~~

~~(j) Standards should be festive and decorative by using bold, simple and colorful designs.~~

5.07.04 Prohibited *Signs*.

It shall be unlawful for any person to ***Erect***, display, or allow to be ***Erected*** or displayed within the ***City*** any of the following types of ***Signs***:

A. ***Swinging Sign***.

B. ***Snipe Sign***.

C. Revolving, rotating, twirling or other moving ***Sign***.

D. ***Portable Sign***, including any ***Trailer Sign***.

E. ***Banner***, except ~~temporarily during a *Community Event* or otherwise~~ as ***Permitted*** by section 5.07.03 of this ***Sign Code***.

~~F.~~ A ***Fixed Aerial Sign***, ~~except temporarily during a *Community Event* as *Permitted* by section 5.07.03 of this *Sign Code*.~~

~~G.~~ An ***Inflatable Sign***, ~~except temporarily during a *Community Event* as *Permitted* by section 5.07.03 of this *Sign Code*.~~

H. ***Pennants, Streamers, Balloons or Bunting***, ~~unless temporarily exempted during a *Community Event* under section 5.07.03 of this *Sign Code* and~~ excepting a ***Flag*** on a ***Flag Pole*** exempt from ***Permitting*** under section 5.07.03 of this ***Sign Code***.

I. A ***Flashing*** light or ***Beacon***, or any ***Sign*** which contains a ***Flashing*** light or ***Beacon***, excepting any kind of lighting device which is required or necessary under the safety regulations of the Federal Aviation

Administration or other similar agency.

J. Limitations on ***Animated*** and ***Changeable Copy Signs***

1. No otherwise permissible ***On-Premises Sign*** shall be:

   (a) Animated, unless it is located on a ***Premises*** fronting and abutting Front Beach Road, Thomas Drive or South Thomas Drive and containing an active business open to the public or other active operation open to the public; or

   (b) ***Changeable Copy Sign,*** unless at it is located on a ***Premises*** fronting and abutting Front Beach Road, Thomas Drive or South Thomas Drive and containing an active business open to the public or other active operation open to the public;

(Ord. #1232-A), 12/13/12)

2. Notwithstanding the general provisions of this ***Sign Code*** relating to ***Existing Signs,*** the prohibition contained in this subsection shall apply to an ***Animated*** or ***Changeable Copy Sign*** which was a ***Legal Sign*** on the effective date of this subsection upon the earlier of:

   (a) Three (3) years after the effective date of this subsection;

   (b) A ***Change of Use*** of the ***Premises*** associated with the ***Sign;***

(Ord. #1254, 11/14/13)

   (c) Voluntary or involuntary damage or destruction of the ***Sign,*** the ***Sign Structure*** or the business improvements located on the ***Premises*** associated with the ***Sign,*** in each case in excess of fifty (50) percent of the respective replacement value; or

   (d) Closure of the business associated with the ***Sign*** for six (6) months or more in any nine (9) month period.

K. No otherwise permissible ***Off-Premises Sign*** shall be:

1. ***Animated,***

2. ***Changeable Copy Sign,*** unless a lawful ***Multi-Vision Sign;*** or

3. A ***Bench Sign.***

L. ***Vehicle Sign*** associated with a ***Vehicle*** which is parked or placed within one hundred (100) feet of any ***Street,*** which is visible from such ***Street*** and which is used primarily for advertising as opposed to conveyance. In determining whether a parked ***Vehicle*** is used primarily for advertising as opposed to conveyance, the following factors shall be considered: the location of the ***Vehicle*** on the ***Premises*** and the visibility of the ***Vehicle*** to the passing public, the duration of parking, the time of day and the activity in the parking lot, the availability of other parking spaces on the ***Premises*** and the proximity of the ***Vehicle*** to the ***Area*** on the ***Premises*** where operable ***Vehicles*** are customarily loaded, unloaded or otherwise carry out their primary purpose of conveyance, and whether the ***Vehicle*** is insured, operable, currently licensed by the state of Florida to travel public highways, This provision is not to be construed as prohibiting the identification of a firm or its principal products on a ***Vehicle*** operated by that firm during its normal hours of business and which is insured, operable and currently licensed by the state of Florida to travel public highways, provided that such ***Vehicle*** is used primarily for conveyance. As used in this paragraph,

advertising means to direct attention to a ***Commercial~~, industrial, educational, religious political or not-for-profit occupancy,~~*** or ***Non-Commercial*** entity, establishment, commodity, good, product, service or other ***Commercial~~, industrial, educational, religious, political or not-for-profit~~*** or ***Non-Commercial*** activity conducted anywhere (that is, both ***On-Premises*** and ***Off-Premises Signs***).
(Ord. # 1317, 12-11-14)

M. ***Sign*** which omits a sound, vapor, smoke, odor, particles or visible matter.

N. ***Sign*** or ***Sign Structure*** which obstructs free ingress to or egress from a required door, window, fire escape or other required exit way.

O. ***Sign*** or ***Sign Structure*** which obstructs the view of, may be confused with or purports to be a governmental or official traffic direction or safety ***Sign***, or any official marker ***Erected*** by city, state or federal authority.

P. A ***Sign*** which obstructs or impairs driver vision at vehicular ingress/egress points or intersections.

Q. ***Sign Statuary*** exceeding the limits imposed by this ***Sign Code***.

R. A ***Sign*** on or within any ***Street*** or public right-of-way, or the Gulf of Mexico, except public traffic, safety and information ***Signs Erected*** and maintained by governmental authority and at public expense, including hand held ***Signs***; except that persons participating in ~~non~~***Non-Commercial*** demonstrations~~, political rallies~~ or otherwise expressing their valid right to ~~non-~~***Non-Commercial*** speech shall be entitled to hold, but not wave, from a lawful pedestrian access ***Area*** of a ***Street*** (if there be such an area) one ~~***free-expression***~~ ***Sign*** containing only a ***Non-Commercial Message***.

S. A ***Sign Erected*** or displayed in any fresh water wetlands or salt marsh areas subject to periodic inundation by tidal saltwater.

T. A ***Sign*** on or towed behind a boat or raft on waters within the ***City***.

U. ***Abandoned Sign***.

V. ***Dilapidated Sign***.

W. One or more ***Window Signs*** the aggregate ***Sign Area*** of which exceeds twenty-five percent (25%) of any ***Building Glass Area***.

X. ***Roof Sign***

Y. ***Commercial Mascot or Sign Holder*** in a ***Street***.

Z. A ***Sign*** located on real property without the permission of the property owner.

AA. A *Blank* ***Off-Premises Sign Face***. This prohibition can be avoided by the display of public service information on a blank ***Off-Premises Sign Face***.

BB. Any ***Sign*** other than a ***Traffic Control Device Sign*** that uses the word "stop" or "danger," or presents or implies the need or requirement of stopping or the existence of danger, or which is a ***Copy*** or imitation of a ***Traffic Control Device Sign*** and which is adjacent to any ***Street***.

CC. Any ***Sign*** prohibited by state or federal law.

DD. A ***Sign*** containing a mirror or any other reflective or phosphorescent surface.

EE. A ***Sign*** incorporating any laser light.

FF. Pavement markings, except for official pedestrian and traffic control markings or coloration, ***Building*** address markings if required by law and decorations forming a permanent part of the pavement with the consent of the public or private pavement owner.

GG. The following ***Signs*** in a ***Residential*** district:

1. ***Animated Sign***
2. Changeable ***Copy Sign***, unless the ***Copy*** is changed manually.
3. ***LED Sign***
4. ***Off-Premises Sign***

HH. ***Wall Wrap Sign.***

II. ***Holographic Display Sign.***

JJ. An obscene ***Sign*** where obscene is defined by Florida Statutes 847.001(10) or superseding law.

KK. Any ***Sign*** not ***Permitted*** by this ***Sign Code*** either with or without a ***Permit***, provided however that any ***Sign*** neither prohibited nor ***Permitted***, with or without a ***Permit***, shall be presumed to not have been considered, the ***City Council*** finding that the nature and technology of ***Signs*** and advertising is constantly changing.

Accordingly, any person may at any time submit a written application to the ***City Manager*** to amend this ***Code*** to either allow a ***Sign*** without a ***Permit*** or to authorize a ***Permit*** to be issued for a ***Sign***, accompanied by an application fee equal to the fee required to obtain a ***Sign Permit*** to be applied against the actual or reasonably anticipated expenses associated with the application. Such an application need only describe in detail the type of ***Sign*** desired, but it may also set forth the rational for allowing that type of ***Sign*** and whether a ***Permit*** should be required. If the ***City*** has not begun drafting an amendment to the ***Sign Code*** to ***Permit*** that type of ***Sign***, with or without a ***Permit***, within twenty (20) days following receipt of the application and fee, and adopted such an amendment within sixty (60) days following receipt of the application and fee, a rebuttable presumption will be that the ***City*** intends to prohibit the ***Sign***. If the ***Sign*** is allowed by ***Permit***, no additional fee shall be required.

(Ord. # 1317, 12-11-14)

LL. ***Digital Light Show***

(Ord. # 1244, 12-13-12)

MM. Signs on ***Transient Residential Rentals*** or the property where ***Transient Residential Rentals*** are located that advertise the existence or availability of the property as a ***Transient Residential Rental.***

NN. No ***Sign*** shall be applied to or suspended from the exterior of any ***Pedestrian Crossover.***

AGENDA ITEM # 1

5.07.05 General *Sign* Standards.

The following general ***Sign*** standards shall apply to all ***Signs*** within the ***City***. It shall be unlawful for any person to ***Erect***, display, or allow to be ***Erected*** or displayed within the ***City*** any ***Signs*** in violation of any of these standards.

A. No ***Sign*** shall be established closer to a ***Street*** than the ***Building*** setback line except that (i) any otherwise permissible ***On-Premises Sign*** in a ***Business District*** which is open and does not obstruct visibility from the ground to nine (9) feet above the ground, and (ii) any otherwise permissible ***Sign*** in a ***Residential*** district which is less than five feet in Height, may be established as close as five (5) feet from the property line. No portion of any ***Sign*** may be placed on, or extended over, the right-of-way line of any ***Street*** or public, pedestrian right of way.

B. The vertical edges of all ***Back-to-Back Signs*** (that is the vertical surface generally perpendicular to any ***Face*** of such ***Sign***) shall be covered and finished with a permanent, opaque material so that no portion of the ***Sign Structure*** will be visible between the ***Faces*** of the ***Sign***.

C. The back of all ***Free-Standing Signs*** and all visible portions of a ***Free-Standing Sign Structure*** shall be covered or finished with a permanent, opaque material.

D. All ***Signs*** shall be constructed in accordance with the applicable ***Building*** and electrical codes.

E. The minimum lowest point ground clearance on all ***Free-Standing Signs*** shall be either less than two (2) or more than nine (9) feet, so as to either prevent or allow persons to walk under or through the ***Sign*** or ***Sign Structure***.

F. ***Sign Height*** shall not exceed the ***Building Height*** limitation of the ***Area*** or district in which the ***Sign*** is located. Additionally, no ***Off-Premises Free-Standing Sign*** shall exceed fifty (50) feet in ***Sign Height***. No ***Monument Sign*** shall exceed twenty (20) feet in ***Sign Height***. Further, no On-***Premises Free-Standing Sign*** shall exceed twenty-five (25) feet in ***Sign Height***, except that a Free-Standing ***On-Premises Sign*** located on any ***Premises*** lying in whole or in part within one hundred (100) feet of the nearest right-of-way of the ***Streets*** listed below shall have a ***Sign Height*** not exceeding the respective number of feet shown:

1. Thomas Drive, South Thomas Drive and Front Beach Road: fifty (50) feet.
2. North Lagoon Drive, Joan Avenue, Clarence Street, Beckrich Road, Alf Coleman Road, Lyndell Lane, Clara Avenue, Hill Road, Powell Adams Road, and State Road 79: thirty-five (35) feet.
3. Panama City Beach Parkway (Back Beach Road) and Hutchinson Boulevard (Middle Beach Road): Twenty (20) feet.

G. All ***Free-Standing On-Premises Signs*** located on any ***Premises*** lying in whole or in part within one hundred (100) feet of the right of way of Panama City Beach Parkway (Back Beach Road) or Hutchinson Boulevard (Middle Beach Road) shall be ***Monument Signs***.

H. All ***Signs*** and ***Structures*** for which a ***Permit*** is required by this ***Sign Code***, including their supports, braces, guys and anchors, shall be maintained so as to present a neat and clean appearance. Painted areas and ***Sign*** surfaces shall be kept in good condition, and illumination, if any, shall be maintained in safe and good working order.

I. The general ***Area*** in the vicinity of any ***Free-Standing Sign*** must be kept free and clear of ***Sign*** materials,

debris, trash and other refuse, and weeds and grass shall be kept neatly cut.

J. If illuminated, non-***LED Signs*** shall be illuminated only by the following means:

1. By white, steady, stationary, electric light of reasonable brightness and intensity, shielded and directed solely at the ***Sign***. No Illuminated ***Sign*** shall cast light to exceed four tenths (.4) maintained foot candle luminance in a ***Residential*** zoning district. Any light from an Internally Illuminated ***Sign*** shall not exceed ten (10) foot candles maintained luminance measured at a distance of ten (10) feet from the ***Sign***. These standards shall not be interpreted or enforced to prevent persons of ordinary sensibilities viewing the ***Sign*** from perceiving its expression.

2. Any light from an ***Externally Illuminated Sign*** or floodlight used to illuminate a ***Sign*** shall be shaded, shielded, or directed so that the light intensity or brightness shall not interfere with the safe vision of motorists, or bicyclists.

3. No ***Sign*** shall be so illuminated that it interferes with the effectiveness of, or obscures an official traffic ***Sign***, device or ***Signal***.

4. An ***Illuminated Sign*** shall have a disconnecting switch located in accordance with the provisions of the ***National Electric Code***.

5. An ***Illuminated Sign*** shall require both a ***Sign Permit*** and an electrical ***Permit*** prior to installation.

6. Neon tubing, string lights, or other similar devices used to outline any ***Building*** or in ***Sign*** design shall be restricted to two (2) linear feet for each foot of ***Frontage*** of the ***Premises*** on which the ***Building*** or ***Sign*** is located. Display of neon tubing shall be limited to the maximum of two (2) parallel lines of neon tubing.

K. A ***LED Sign*** shall:

1. Have an auto-sensor regulating its illumination to follow changes in ambient light.

2. Not exceed a maximum luminance intensity of seven thousand (7000) nits (candelas per square meter) during daylight hours and a maximum luminance of five hundred (500) nits between fifteen minutes after sunset and fifteen minutes before sunrise as measured from the ***Sign Face*** at maximum brightness. This standard shall not be interpreted or enforced to prevent persons of ordinary sensibilities viewing the ***Sign*** from perceiving its expression.

3. Not interfere with the effectiveness of, or obscure an official traffic ***Sign***, device or signal.

4. Not be ***Externally Illuminated***, including a ***Sign*** that is only partially ***LED***.

5. Have a disconnecting switch located in accordance with the provisions of the ***National Electric Code***.

6. Require both a ***Sign Permit*** and an electrical ***Permit*** prior to installation.

L. No ***Sign*** shall be ***Erected*** or displayed near a ***Street***, driveway or bicycle path intersection so as to obstruct the view of pedestrian or vehicular traffic and constitute a hazard. No ***Sign*** shall obstruct, conceal, hide or otherwise obscure from view any ***Traffic Control Device Sign*** or official traffic signal.

M. Each horizontal dimension of the base or berm of a ***Monument Sign*** shall not exceed 150% of the corresponding horizontal dimension of the ***Sign Face*** or cabinet. The ***Height*** of the base or berm of a ***Monument Sign*** shall be included in the ***Monument Sign*** Height.

N. In recognition that ***Non-Commercial*** speech is entitled to greater Constitutional protection than ***Commercial*** speech, notwithstanding ~~Notwithstanding~~ any impression in this ***Sign Code*** or any other part of the Land Development Regulations or Code of Ordinances relating to signs or free speech to the contrary, any ***Sign Erected*** or entitled to be ***Erected*** pursuant to the provisions of this ***Sign Code*** as a ***Vehicle, Commercial Off-Premises*** or a ***Commercial On-Premises Sign*** may, at the option of the owner or person entitled to control the ***Copy*** of such ***Sign***, contain a ***Non- Commercial Message*** in lieu of a ***Commercial Message*** and Non-***Commercial Copy*** may be substituted at any time in place of ***Commercial Copy***. The ***Non- Commercial Message*** (***Copy***) may occupy the entire ***Sign Face*** or any portion thereof. The ***Sign Face*** may be changed from ***Commercial*** to ***Non-Commercial Message***s and back, or from one ***Non-Commercial Message*** to another ***Non- Commercial Message***, as frequently as desired by the owner or person entitled to control the ***Copy*** of the ***Sign***, if the ***Height***, size, location, setback and other dimensional criteria contained in this ***Sign Code*** are satisfied. This Section, however, is not intended to result in allowing an unlimited number of **Signs** or **Signs** of an unlimited size on any **Premises** or parcel. In the event that the authorization for the ***Commercial Sign*** does not include limitations on size and number, the substituted ***Non-Commercial Sign(s)*** shall be no larger and in no greater number than what would have been reasonable for the ***Commercial-Sign(s)*** for which it has been substituted.

(Ord. # 1317, 12-11-14)

O. In recognition that content-based discrimination between Non-Commercial Signs frequently is invalid, notwithstanding any impression in this ***Sign Code*** or any other part of the Land Development Regulations or Code of Ordinances relating to signs or free speech to the contrary, with the exception of ***Warning*** and ***Safety Signs***, any ***Sign Erected*** or entitled to be ***Erected*** pursuant to the provisions of this ***Sign Code*** as ***Non-Commercial Sign*** may, at the option of the owner or person entitled to control the ***Copy*** of such ***Sign***, contain a different ***Non- Commercial Message*** in lieu of the ***Non-Commercial Message*** that is expressly allowed. The substituted ***Non- Commercial Message*** (***Copy***) may occupy the entire ***Sign Face*** or any portion thereof. The ***Sign Face*** may be changed from one ***Non-Commercial Message*** to another ***Non- Commercial Message*** as frequently as desired by the owner or person entitled to control the ***Copy*** of the ***Sign***, if the ***Height***, size, location, setback and other dimensional criteria contained in this ***Sign Code*** are satisfied. This Section, however, is not intended to result in allowing an unlimited number of **Signs** or **Signs** of an unlimited size on any **Premises** or parcel. In the event that the original authorization for the ***Non-Commercial Sign*** does not include limitations on size and number, the substituted ***Non-Commercial Sign(s)*** shall be no larger and in no greater number than what would have been reasonable for the original ***Non-Commercial-Sign(s)*** for which it has been substituted.

P. Notwithstanding any impression in this ***Sign Code*** to the contrary, no ***Sign*** or associated ***Sign Structure*** shall be subject to any limitation based upon the content (viewpoint) of the message contained on such, except the prohibition of obscene ***Signs***.

Q. The substantive requirements of this ***Sign Code*** shall apply to the ***City*** and any other governmental body ***Erecting*** or maintaining a ***Sign*** within the ***City***.

R. A ***Multi-Vision Sign*** must meet each of the following requirements:

1. Neither the ***Sign*** nor any ***Face*** of the ***Sign*** shall contain any moving or animated part or moving or ***Flashing*** light or gives the appearance of animation or movement;

2. The entire ***Face*** shall appear and disappear uniformly and simultaneously. ***LED Sign Copy*** shall not

fade-out or fade-in, or appear or disappear in any pattern, spiral or movement, or migrate from a side, top or bottom.

3. The ***Face*** is everywhere more than nine feet (9') above ground;

4. The change of display shall occur simultaneously for the entire ***Face***;

5. The ***Sign*** shall contain a default design that will freeze the device in one ***Face*** if a malfunction occurs;

6. Each ***Face*** shall remain static or fixed for at least six (6) seconds;

7. The time to complete the change from one ***Face*** to the next is a maximum of two (2) seconds for digital technology and three (3) seconds for mechanical louvers.

5.07.06 *Off-Premises Sign* Standards

The following ***Off-Premises Signs*** may be ***Erected*** and displayed in ***Business District*** s pursuant to a ***Permit***:

A. All ***Off-Premises Signs*** lawfully classified as ~~***Non-Conforming***~~ ***Nonconforming Signs*** on the effective date of this section 5.07.06 as revised (September 10, 1998) are hereby declared to be Legal ***Off-Premises Signs*** and deemed to have been ***Erected*** and entitled to be displayed pursuant to a ***Permit***.

B. The total number of *Legal* ***Off-Premises Signs*** (sometimes called ***Off-Premises Signs***) within the ***City*** (including but not limited to previously ~~***Non-conforming***~~ ***Nonconforming Off - Premises Signs*** which were reclassified by this section 5.07.06 as revised on September 10, 1998) shall not exceed the total number in existence or lawfully ***Permitted*** by the City on the effective date of the "cap and replace" revisions to this section 5.07.06 (September 10, 1998), and may be less. Should the number of ***Off-Premises Signs*** ever decrease, as provided below, it shall not thereafter be increased.

C. The maximum ***Area*** for any one ***Off-Premises Sign Face*** shall be four hundred (400) square feet. The maximum aggregate ***Area*** of all ***Double-Faced Sign Faces*** visible from any one point shall be four hundred (400) square feet.

D. ***Sign Statuary*** incorporated in or associated with an ***Off-Premises Sign*** shall be included in the ***Area*** of such ***Sign*** by measuring a two-dimensional view of the ***Sign Face***, and the ***Area*** of such ***Statuary*** as so measured may not exceed one-third (1/3) of the ***Area*** of the ***Sign***.

E. No ***Off-Premises Sign*** or associated ***Sign Structure*** may be increased in size or ***Height***. Each ***Off-Premises Sign*** and any associated ***Sign Structure*** may be maintained, repaired and replaced in the same location, and the ***Copy*** thereof changed, at any time. Adding one or more alternating ***Faces*** to the ***Face*** of an existing ***Off-Premises Sign*** through any mechanical, electronic or other automated means so as to create a ***Multi-Vision Sign***, or increase the number of ***Faces*** on an existing ***Multi-Vision Sign***, is declared to be an enlargement which is not ***Permitted***, except as expressly provided in the following paragraph F of this section as the result of a ***Lost Sign*** that is not replaced as a ***Free-Standing Sign***.

F. ***Lost Off-Premises Signs (Cap and Replace)***.

1. A ***Lost Sign*** is any ***Off-Premises Sign*** or associated ***Sign Structure*** that is voluntarily or involuntarily removed from service in whole or in part because such ***Sign*** or ***Sign Structure***:

AGENDA ITEM # 1

(a) Is dismantled, taken down, removed, or covered or obscured in majority part for a period of sixty (60) days in any ninety (90) day period, or

(b) Is damaged by fire, wind, flood or other sudden casualty and the cost to paint and repair such ***Sign*** (including the ***Sign Structure***) equals or exceeds fifty percent (50%) of the cost to replace such ***Sign***.

2. ***Lost Signs*** are ***Illegal Signs*** and, together with any associated ***Sign Structure***, shall be removed as provided in section 5.07.09 of this ***Sign Code***. In the event that two ***Off Premises Signs*** within one thousand five hundred (1,500) feet of each other are so removed from service at substantially the same time or by reason of materially the same event, the older ***Sign*** shall be given priority to rebuild at the same location if that is an option.

3. The owner of a ***Lost Sign*** or the owner's assignee, but no other, shall be entitled to replace the ***Lost Sign*** with a new ***Free Standing Sign*** elsewhere in the ***City***, provided:

(a) Such ***Lost Sign*** and any ***Associated Sign Structure*** have been removed at no public expense, and

(b) Such replacement ***Sign*** is no larger or higher than the ***Lost Sign*** it is replacing and contains the same or lesser number of ***Faces*** which are the same or smaller in size than the corresponding ***Faces*** of the ***Lost Sign*** it is replacing (notwithstanding the foregoing, the ***City Council*** may grant a variance to ***Permit*** or require such replacement ***Sign*** to be ***Erected*** or displayed higher than the ***Lost Sign*** it is replacing--but not to exceed the maximum allowed by law--whenever a literal enforcement of the transferred ***Height*** limitation would result in an unnecessary hardship on the owner of the replacement ***Sign*** or the owners of property adjoining the replacement ***Sign***), and

(c) Such replacement ***Sign*** is ***Erected*** or displayed within no less than one thousand five hundred (1500) feet of any other Legal ***Off-Premises Sign*** measured on the same side of the ***Street*** or ***Streets*** connecting them as set forth below (notwithstanding the foregoing, such distance requirement shall be reduced by such amount not to exceed one hundred twenty-five (125) feet as is necessary to place such ***Sign*** one hundred twenty- five (125) feet from an ***Area*** zoned for ***Residential Use***, and

(d) Such replacement ***Sign*** is located not less than one hundred twenty-five (125) feet from any ***Area*** zoned for ***Residential Use***, and

(e) Such replacement ***Sign*** is not located, in whole or in part, in the ***Area*** south of the centerline of Front Beach Road (scenic highway 98), South Thomas Drive or Thomas Drive or within seventy-five (75) feet of the northerly right-of-way line of said road or drive (measured horizontally from a vertical line intersecting such right-of-way line), and

(f) The fee is paid and a ***Permit*** is issued for the ***Erection*** and display of such replacement ***Sign***, and such replacement ***Sign*** complies with this ***LDC***, all applicable ***Building*** codes and all other applicable state and local laws, and

(g) Such replacement, ***Free-Standing Sign*** is constructed and fully operational within twelve (12) months after the ***Lost Sign*** was removed from service. In the event that a ***Lost Sign*** is not timely replaced, the total number of ***Off- Premises Signs Permitted*** in the ***City*** shall be reduced by one (1)

4. As an alternative to replacing a ***Lost Sign*** with a new ***Free-Standing Sign***, the owner of a ***Lost Sign*** or the owner's assignee, but no other, shall be entitled to add one (1) alternating ***Face*** to the ***Face*** of an existing, Legal ***Off-Premises Sign*** (either an existing ***Multi-Vision Sign*** or a ***Multi-Vision Sign*** resulting from

such addition) for each ***Face*** of the Lost ***Sign***, provided:

(a) Such ***Lost Sign*** and any associated ***Sign Structure*** have been removed at no public expense, and

(b) The aggregate square footage of each ***Face*** added is no larger than the ***Face*** it is replacing, and

(c) The existing or resulting ***Multi-Vision Sign*** is not located in whole or in part, in the ***Area*** south of the centerline of Front Beach Road (scenic highway 98), South Thomas Drive or Thomas Drive, and

(d) The fee is paid and a ***Permit*** is issued for each ***Face*** added to an existing or resulting ***Multi-Vision Sign***, and such ***Sign*** complies with this ***LDC***, all applicable ***Building*** codes and all other applicable state and local laws, and

(e) The ***Face*** is registered with the ***City*** in writing, and a receipt for such registration is obtained from the ***City***, no later than sixty (60) days after the ***Lost Sign*** from whence it came was voluntarily or involuntarily made no longer available for service, after which sixty (60) day period the right to add the ***Face*** to an existing or resulting ***Multi-Vision Sign*** shall terminate.

G. The distance between ***Off-Premises Signs*** shall be the shortest distance measured along the nearest edge of the pavement (or right of way where there is no pavement) between points directly opposite the center of each ***Sign*** and along the same side of the ***Street*** or ***Streets*** connecting them. Each ***Sign*** shall be deemed connected to the other by the ***Street*** whose centerline is nearest the center of the ***Sign***. The minimum distance requirement shall apply only to ***Off-Premises Signs*** located on the same side of the ***Street*** or ***Streets*** connecting them.

H. In the event that any ***Off-Premises Sign*** shall become an ***Abandoned Sign*** or a ***Dilapidated Sign***, then such ***Sign*** shall become an ***Illegal Sign*** and, together with any associated ***Sign Structure***, be removed as provided in section 5.07.09 of this ***Sign Code***, and the total number of ***Off-Premises Signs Permitted*** in the ***City*** shall be reduced by one (1) and neither a replacement ***Sign*** nor additional, alternating ***Face*** on an existing ***Sign*** shall be ***Permitted***.

I. Notwithstanding section 5.07.06B, the total number of ***Off-Premises Signs Permitted*** within the ***City*** shall be increased by the number of ***Off-Premises Signs*** located upon unincorporated territory annexed into the ***City*** after the effective date of this section 5.07.06, as revised (September 10, 1998), and each such ***Sign*** shall be treated as any other ***Off-Premises Sign*** within the ***City*** provided that it was in full compliance with all applicable ***Bay County*** zoning and ***Sign*** regulations at the time of annexation. Conversely, the total number of ***Off-Premises Signs Permitted*** within the ***City*** shall be decreased by the number of ***Off-Premises Signs*** located upon incorporated territory that is de-annexed into ***Bay County, Florida.***

5.07.07 *On-Premises Sign* Standards

The following ***On-Premises Signs*** may be ***Erected*** and displayed in ***Business District*** s pursuant to a ***Permit***:

A. Free-Standing Signs:

1. Each ***Premises*** in a ***Business District*** (except a ***Premises*** within a ***Shopping Center***) is ***Permitted*** one (1) ***Free-Standing, On-Premises Sign*** with an aggregate ***Sign Area*** not exceeding three hundred (300) square feet or two (2) square feet for each linear foot of ***Frontage*** of that ***Premises***, whichever is smaller.

2. Each ***Premises*** in a ***Business District*** with more than four hundred feet of ***Frontage*** and each ***Corner***

Premises in a ***Business District*** shall be ***Permitted*** a second ***Free-Standing On-Premises Sign*** meeting the requirements of subsection (a) of this section. This subsection shall not apply to a ***Shopping Center***.

3. If an applicant in this category waives the right to have any ***Free-Standing Sign***, the applicant shall be ***Permitted*** to exceed the ***Building Sign*** limitations provided elsewhere in this ***Sign Code*** by fifty percent (50%) of each such limitation.

4. The aggregate ***Sign Area*** of a ***Free-Standing Sign*** shall be measured as follows:

   (a) If the ***Sign*** contains three or less cabinets or modules, a separate polygon with no more than eight straight sides will be drawn around and enclose the perimeter of each cabinet or module and the ***Sign Area*** will be the sum of the ***Area*** of all the polygons.

   (b) If the ***Sign*** contains more than three cabinets or modules, a single polygon with no more than eight straight sides will be drawn around and enclose the perimeter of all cabinets and modules and the ***Sign Area*** will be the ***Area*** of the polygon.

   (c) Where any two cabinets or modules are not everywhere a minimum of twenty-four (24) inches distant from each other, they must be considered a single cabinet or module.

   (d) Where two cabinets or modules are placed back to back on a single ***Sign Structure***, and the ***Faces*** are at no point more than four (4) feet apart, the ***Area*** of both cabinets or both modules shall be counted as the ***Area*** of one.

   (e) Where four cabinets or modules are arranged in a square, rectangle or diamond on a single ***Sign Structure***, and the opposing ends of each pair of cabinets or modules are no more than two (2) feet apart, the ***Area*** of the four cabinets or four modules shall be counted as the ***Area*** of two.

   (f) Each ***Free-Standing On-Premises Sign*** shall display the ***Street*** address of the associated ***Premises*** in numbers no smaller than four (4) inches or larger than ten (10) inches high placed in a prominent location on the ***Sign*** or ***Sign Structure*** so as to be as visible as practicable from the ***Frontage***.

B. Building Signs.

1. Each ***Premises*** in a ***Business District*** (except a ***Premises*** within a ***Shopping Center***) with one or more ***Buildings*** is ***Permitted*** one or more ***On-Premises Building Signs***, subject to the following limitations regardless of the number of ***Buildings*** on the ***Premises***:

2. The aggregate ***Sign Area*** of all such ***Building Signs*** shall not exceed two (2) square feet of ***Area*** for each linear foot of ***Building Frontage*** of the ***Premises***, or one (1) square foot of ***Area*** for each linear foot of ***Frontage*** of the ***Premises***, whichever is greater; provided that the aggregate ***Area*** of all non- exempt ***Building Signs***, ***Window Signs*** and exempt ***Signs*** placed on or connected to the ***Facade*** of a ***Building*** may not exceed thirty percent (30%) of the ***Area*** of that ***Facade***.

3. A ***Corner Premises*** shall be entitled to increase the foregoing aggregate ***Building Sign Area*** by fifty (50) percent, provided that at least thirty percent (30%) and not more than fifty (50) percent of the aggregate ***Sign Area*** is placed on the side-***Street*** side of the ***Building***.

4. The maximum number of ***Building Signs*** for any ***Premises*** is three (3), except that:

(a) The maximum number of ***Building Signs*** for any ***Premises*** located directly on the ***Gulf of Mexico*** may be increased by two (2), provided that the additional two (2) ***Building Signs*** are displayed on the water side of the ***Building***; and

(b) The maximum number of ***Building Signs*** for any ***Premises*** entitled to a ***Free- Standing Sign*** which has no ***Free-Standing Sign*** may be increased by two (2), provided that the additional two (2) ***Building Signs*** are ***Graphic Signs***; and

(c) The maximum number of ***Building Signs*** for any ***Premises*** entitled to a ***Free- Standing Sign*** whose ***Free-Standing Sign*** is a ***Monument Sign*** not exceeding eight (8) feet in ***Sign Height*** may be increased by one (1) provided that the additional ***Building Sign*** is a ***Graphic Sign***; and

(d) The maximum number of ***Building Signs*** for a ***Corner Premises*** may be increased by one (1), provided that the additional one (1) ***Building Sign*** is displayed on the ***Side-Street*** side of the ***Building***.

5. Any ***Premises*** located directly on the ***Gulf of Mexico*** may ***Erect*** and display one ***Free-Standing Sign*** between the ***Building*** and the soft beach sand area, but not in the soft beach sand area, intended and used solely for communication with patrons of the ***Premises***, provided that the ***Area*** of such ***Sign*** shall not exceed sixteen (16) square feet and shall be included in the aggregate ***Building Sign Area*** of the ***Premises***.

6. The aggregate ***Sign Area*** of one or more ***Building Signs*** shall be measured as follows:

(a) Where a ***Building Sign*** is enclosed by a border or any background material, panel, trim, cabinet, color or illumination which differentiates the ***Sign*** from the ***Building*** or background, the ***Sign Area*** shall be the ***Area*** within such enclosure or line of differentiation.

(b) Where a ***Building Sign*** is composed of letters, pictures, graphics or symbols attached directly to a wall, ***Canopy*** or ***Building***, and the letters, pictures, graphics or symbols are not enclosed by a border or any background material, panel, trim, cabinet, color or illumination which differentiates the ***Sign*** from the ***Building*** or background, a single polygon with no more than eight straight sides will be drawn around and enclose the perimeter of all such letters, pictures, graphics or symbols and the ***Sign Area*** will be the ***Area*** of the polygon.

C. Each ***Premises*** in a ***Business District*** (except a ***Premises*** within a ***Shopping Center***) with one or more ***Buildings*** is ***Permitted*** one (1) ***Free-Standing Sign Statuary*** not exceeding ten (10) feet in ***Height*** including any base, provided that (i) no graphic presentation of alphabetic or pictorial symbols or representations designed to communicate information is attached or associated with such ***Statuary***, and (ii) the aggregate ***Sign Area*** of any ***Free-Standing Sign*** on the same ***Premises*** does not exceed two-thirds (2/3) of the maximum ***Area Permitted*** for such ***Sign*** under this ***Sign Code***.

D. ***Sign Statuary*** incorporated in or associated with an ***On-Premises Sign*** shall be included in the ***Area*** of such ***Sign*** by measuring a two-dimensional view of the ***Sign Face***, and the ***Area*** of such ***Statuary*** as so measured may not exceed one-third (1/3) of the ***Area*** of the ***Sign***.

E. For each ***Shopping Center***, the following ***On-Premises Signs***, subject to the following requirements, are ***Permitted***:

1. For each improved ***Street*** abutting the ***Shopping Center***, one (1) ***Free-Standing Sign*** bearing the name and identification of the ***Shopping Center*** and of the establishments on the Premises, the maximum ***Sign Area*** of which shall be based on the ***Gross Leasable Area*** ("***GLA***") within the ***Shopping Center***, as follows:

   (a) Neighborhood ***Shopping Center***- less than 30,000 square feet ***GLA*** - maximum ***Sign Area***: four hundred (400) square feet.

   (b) Community ***Shopping Center***- at least 30,000 or more square feet ***GLA*** - maximum ***Sign Area***: eight hundred (800) square feet.

2. Each establishment located within a ***Shopping Center*** is ***Permitted***:

   (a) One (1) ***Building*** or ***Canopy Sign*** not to exceed two (2) square feet of ***Sign Area*** for each lineal foot of establishment ***Frontage*** within the ***Center;*** provided that in the event such establishment has more than one such ***Frontage***, for the purposes of this section each ***Frontage*** shall be considered a separate establishment, and

   (b) One (1) hanging (but not swinging) ***Projecting Sign*** not to exceed one (1) foot by six (6) feet, or the width of the ***Canopy***, whichever is less.

F. Each ***Building*** in a ***Business District*** shall be allowed without ***Permit*** therefore, ***Window Signs*** which cover or occupy no more than twenty-five percent (25%) of each ***Building Glass Area.*** Additional window ***Signs*** are prohibited.

5.07.08 *Sign Permit* Applications

A. A ***Sign Permit*** application for a ***Sign*** that is required by this ***Sign Code***, or separate ***City Council*** resolution, shall be prepared and submitted on forms available at the ***Building*** Department. The ***Sign Permit*** is in addition to any ***Permit*** required by the ***Florida Building Code*** or other applicable health and safety code or law, and the issuance of a ***Sign Permit*** creates no rights with respect to any other ***Permit*** or under any body of law other than this ***Sign Code***. The applicant shall furnish the following information on or with the ***Sign Permit*** application form:

1. Name, address and telephone number of the person making application for the ***Permit***. If the applicant is anyone other than the property owner, the applicant shall provide written authorization from the property owner ***Permitting*** the installation of the ***Sign***.

2. Name, address and telephone number of the property owner. If the owner is an entity other than an individual, list the contact person's name and telephone number.

3. Name, address and telephone number of the business tenant, if applicable. If the tenant is an entity other than an individual, list the contact person's name and telephone number.

4. Name, address, telephone and license number of the contractor, if applicable. If the contractor is an entity other than an individual, list the contact person's name and telephone number.

5. Address and ***Bay County Property Appraiser's*** parcel identification number of the property upon which the ***Sign*** is to be located.

6. Dimensions, elevation and ***Area*** of the proposed ***Sign***, drawn to scale.

7. For an ***On-Premises Sign***, the ***Frontage*** of the ***Premises*** and the ***Building Frontage***, as needed to determine the ***Area*** of the ***Sign***.

8. For an ***On-Premises Sign***, a photograph of the ***Facade*** of each principle ***Building***, photographs of all ***On-Premises Signs*** on the same ***Premises***, and a statement listing, by reference to the photographs, the ***Area*** of each ***On- Premises Sign*** computed as required by this ***Sign Code***.

9. For a ***Free-Standing On-Premises Sign***, a ***Site Plan*** of the ***Premises*** indicating in feet and inches the location of the ***Sign*** in relation to all property lines, public rights-of-way, easements, ***Buildings*** and any other ***Free-Standing Sign*** on the ***Premises***.

10. For an ***On-Premises Building Sign***, the ***Façade*** elevation showing all existing ***Signs***, the proposed ***Sign*** and all windows and doors, all drawn to scale with dimensions given for the ***Facade*** and for each element required to be shown

11. For an ***Off-Premises Sign***, descriptions and ***Street*** addresses of the closest two (2) ***Off-Premises Signs***, the distance from the location of the proposed ***Sign*** to each of those ***Signs***, measured as required by this ***Sign Code***, and including a map or drawing showing the route of measurement

12. Number of ***Faces***. If a ***Multi-Vision Sign***, the method of changing ***Faces***.

13. For a ***Free-Standing Sign***, all sign dimensions, including the ***Height*** of the top of the ***Sign*** and the distance between the bottom of the ***Sign*** and grade.

14. Dimensions of the ***Sign Structure***, if any.

15. ***Sign*** illumination, specifying illumination type, placement and intensity.

16. For an Illuminated ***Sign***, a complete application for an electrical ***Permit*** submitted, with appropriate fee, by a qualified and licensed electrical contractor.

17. Three (3) copies of the plans, specifications, calculations and details, signed and sealed by an engineer licensed in Florida documenting the applicable wind load and demonstrating compliance with the ***Florida Building Code*** for:

    5. A ***Free-Standing Sign*** exceeding one hundred (100) square feet in ***Sign Area*** of any ***Face***, or

    6. A ***Projecting Signs*** over twenty-four (24) square feet in ***Sign Area*** of any ***Face***.

    This requirement is in addition to any ***Permitting*** or substantive requirement imposed from time to time by the ***Florida Building Code*** or similar law.

18. Landscape plan, as applicable.

19. If applicable, the cost to repair and the cost to replace a ***Sign*** damaged by casualty, certified by a ***Sign*** contractor licensed to do business in the ***City*** and who does not have a direct or indirect economic or other interest in the subject ***Sign***.

20. If the value of construction is $2,500.00 or greater, a certified ***Copy*** of notice of commencement shall be required prior to ***Permit*** issuance.

21. Signature of applicant verifying accuracy of information supplied.

B. An application for a ***Permit*** shall be accompanied by a ***Permit*** fee in the amount of twenty-five dollars ($25.00) reflecting the actual or reasonably anticipated expenses associated with the application, which fee may be changed from time to time by resolution of the ***City Council*** to reflect changed expenses associated with processing ***Permit*** applications.

C. Any ***Permit*** issued through mistake of fact or law shall confer no right upon the permittee and such ***Permit*** shall be revoked by the ***City Manager*** or his designee upon discovery of such mistake, and the ***Sign*** for which the ***Permit*** was obtained shall be corrected or removed immediately by the owner or person entitled to possession thereof.

D. A ***Permit*** shall become null and void if the ***Sign*** for which the ***Permit*** was issued has not been ***Erected*** and completed within a period of one hundred eighty (180) days after the date of issuance. Only one thirty (30) day extension may be granted by the ***City Manager*** or his designee for good cause shown. A fee shall not be refunded.

E. When a ***Sign Permit*** has been issued, it shall be unlawful to change, modify, alter, or otherwise deviate in any material respect from the size, location and design of the ***Sign*** or ***Sign Structure*** represented in the application for such ***Permit***.

F. The ***City Manager*** or designee may make or require any inspections to ascertain compliance with the provisions of this ***Sign Code***, the comprehensive plan of the ***City***, this ***LDC***, the ***Florida Building Code*** and any other law.

G. If the work under any ***Sign Permit*** is proceeding in violation of this ***Sign Code***, the ***Florida Building Code***, or any other ordinance of the ***City***, or should the ***City*** be denied access to inspect the work, or should it be found that there has been any false statement or misrepresentation of a material fact in the application or plans on which the ***Permit*** was based, the ***Permit*** holder shall be notified of the violation, denial or falsity. If the ***Permit*** holder fails or refuses to make corrections within ten days, or within three business days ***Permit*** access or demonstrate revised material facts justifying the ***Permit***, it shall be the duty of the ***City Manager*** or designee to revoke such ***Permit*** and serve notice upon such ***Permit*** holder. Such notice shall be in writing and signed by the ***City Manager*** or his designee. It shall be unlawful for any person to proceed with any part of work after such notice is issued.

H. ***Sign Permit*** Application Review.

1. An applicant shall deliver a ***Permit*** application to the ***Building*** Department, or such other office as may be designated by the ***City Manager***. The application shall be reviewed for a determination of whether the proposed ***Sign*** meets the applicable requirements of this ***Sign Code*** and any applicable ***Building*** code or land development regulation. The review of the ***Permit*** application shall be completed within forty-five (45) days following receipt of a completed application, and any applicable fees, not counting the day of receipt and not counting any Saturday, Sunday, or legal holiday which falls upon the first or the forty-fifth (45) day after the date of receipt. A ***Sign Permit*** shall either be approved, approved with conditions (meaning legal conditions existing in the ***Sign Code***, ***Building*** code or land development regulations, such as dimensional requirements), or disapproved, and the decision shall be reduced to writing.
   A disapproval shall include or be accompanied by a statement of the reason(s) for the disapproval. In the event that no decision is rendered within forty-five (45) calendar days following submission, the

application shall be deemed denied. If disapproval is the consequence of a failure to decide upon the application within the deadline set forth herein, the ***City Manager*** or designee shall upon request refund any applicable fee to the person who paid the fee. In the event that no decision is rendered within forty-five (45) calendar days following submission, the application shall be deemed denied and the applicant may appeal to the ***Planning Board***.

2. In the case of an approval with conditions or disapproval an applicant may ask for reconsideration of the decision on the grounds that the ***City Manager*** or designee may have overlooked or failed to consider any fact(s) that would support a different decision. A written request for reconsideration accompanied by such additional fact(s) as the applicant may wish the ***City Manager*** or designee to consider, shall be filed with the ***City Manager*** or designee within ten (10) calendar days after receipt of the decision. No fee shall be required for a request for reconsideration. Upon the timely filing of a request for reconsideration, the decision of the ***City Manager*** or designee shall be deemed stayed and not a final decision, until the request for reconsideration is decided. The request for reconsideration shall be decided within seven (7) days of receipt by the ***City***, not counting any intervening ***Saturday, Sunday,*** or ***City*** holiday. Such decision shall be in writing and shall include a statement of the reason(s) for the decision. If the disapproval of the request for reconsideration was a consequence of a failure to decide upon the application within the deadline set forth herein, the ***City Manager*** or designee shall verify upon request that any applicable fee was refunded even if the ***City Manager*** or designee approves the application upon reconsideration.

3. All decisions shall be mailed, transmitted electronically, or hand delivered to the applicant. A record shall be kept of the date of mailing, electronic transmittal, or hand delivery. For the purposes of calculating compliance with the forty-five (45) day deadline for a decision upon an application or the seven day deadline for a decision upon request for reconsideration, the decision shall be deemed made when deposited in the mail, transmitted electronically, or hand delivered to the applicant.

4. As exceptions to the foregoing, the forty-five (45) day deadline for approval and the seven (7) day deadline for a decision upon receipt of a request for a reconsideration shall not apply (that is, the time shall be suspended):

   (a) In any case in which the application requires a variance from any provision of the ***LDC***, the ***City Code of Ordinances***, a rezoning of the property, or an amendment to the comprehensive plan of the ***City***. In such cases, the time shall be suspended until a final decision is made upon the application for the variance, rezoning, or comprehensive plan amendment.

   (b) If the applicant is required to make any change to the application in order to obtain an unconditional approval, the time shall be suspended while the applicant makes such change.

   (c) If an applicant is required to obtain an approval from any other governmental agency, the time shall be suspended until such approval is obtained.

   (d) In any of the foregoing cases, the applicant may elect to seek a variance, rezoning of the property, or an amendment to the comprehensive plan of the ***City***, make no change to the application, or obtain an approval that may be required by another governmental agency, and may instead demand a decision upon the ***Sign Permit*** application as filed, subject to obtaining a variance, rezoning of the property, or an amendment to the comprehensive plan of the ***City***, or approval by another agency being obtained. In such event, the ***City Manager*** or designee shall make a decision

on the application as appropriate within five (5) business days after receiving such demand. If a decision is not made in such a time, the application shall be deemed denied and the ***City Manager*** or designee shall verify that any applicable fee was refunded to the person who paid the fee.

5. An application which is materially incomplete or which is not accompanied by the required fee shall not be deemed accepted and the time for review of the application shall not commence until a complete application accompanied by the required fee is filed with the ***Building*** Department or successor office designated by the ***City Manager***. In addition, the ***City Manager*** or designee shall, within forty-five (45) days of receipt of an incomplete or unpaid application, send the applicant a written explanation of the deficiencies in the application and ask that the deficiencies be remedied, explaining that the application cannot proceed forward otherwise and the review will be suspended pending receipt of the required information or documentation. The applicant must then submit a new application with the deficiencies corrected in order for it to be considered by the ***City Manager*** or designee.

6. Any person aggrieved by the decision of the ***City Manager*** or designee upon his or her ***Sign Permit*** application shall have the right to appeal to the Planning Board as provided in this LDC. Failure to timely appeal the decision regarding a ***Sign*** application by the ***City Manager*** or designee shall waive the right to appeal, but constitute a failure to exhaust administrative remedies for purposes of a subsequent judicial action.

I. It shall be unlawful for any person or business or the person in charge of the business to ***Erect***, construct, alter or maintain an outdoor advertising display ***Sign***, as defined in the ***Florida Building Code***, without first obtaining a ***Building Permit*** from the ***City*** in accordance with the provisions of the ***Florida Building Code*** and applicable law. ***Permit*** fees for a ***Building Permit*** shall be paid in accordance with the applicable ***City*** fee schedules. The requirement of a ***Building Permit*** under the ***Florida Building Code*** is separate and independent of the requirement for a ***Sign Permit*** under this ***Sign Code***.

5.07.09 Existing Signs

A. ***Illegal Signs***. Any ***Sign*** existing as of the effective date of this ***Sign Code***, or on the effective date of any amendment to this ***Sign Code*** (i) which was not ***Erected*** pursuant to a valid ***Permit*** from the ***City*** if required or (ii) which did not comply in all respects with ***City*** ordinances in effect immediately prior to such effective date or (iii) which was required by ***City*** ordinance in effect immediately prior to such effective date to be removed due to the passage of time or any other reason, regardless of whether the ***City*** shall have commenced any enforcement action against such ***Sign*** or any person, and any ***Sign*** reclassified as an ***Illegal Sign*** pursuant to section 5.07.09C, is hereby deemed to be an "***Illegal Sign***" and such ***Sign***, the ***Premises*** upon which it is located, and the person or persons responsible for such ***Sign*** shall be subject to the remedies and penalties provided by law.

Upon a determination by the ***City Manager*** or his designee and written notice at any time to the owner or person entitled to possession of an ***Illegal Sign*** that such ***Sign*** exists, in addition to any other remedy or penalty that may be available to the ***City***, the owner or person entitled to possession of an ***Illegal Sign*** shall be obligated to remove such ***Sign*** and any associated ***Sign Structure*** within twenty (20) days after receipt of such notice unless an appeal of such determination has been previously filed with the ***Planning Board*** and is pending or has been resolved in the permittee's favor.

B. ***Legal Signs***. Any ***Sign*** existing on the effective date of this ***Sign Code*** which was ***Erected*** pursuant to a valid ***Permit*** from the ***City*** if required, and which complies in all respects with ***City*** ordinances in effect

immediately prior to such effective date, and which conforms to the provisions of this ***Sign Code***, and any subsequent amendment hereto, is hereby deemed to be a "***Legal Sign***" and shall be entitled to a ***Permit*** or renewed ***Permit*** evidencing that fact upon application and payment of a registration fee in the amount of $5.00 to be applied against the actual or reasonably anticipated expenses associated with the registration. The fee may be changed from time to time by resolution of the ***City Council*** to reflect changed expenses associated with registration.

C. ***Attrition and removal of Nonconforming Signs.*** Any ***Sign*** existing on the effective date of this ***Sign Code***, or the effective date of any amendment to this ***Sign Code***, which complied in all respects with ***City*** ordinances in effect immediately prior to such effective date, and is not an ***Illegal Sign***, but which does not conform to the provisions of this ***Sign Code***, or any amendment to this ***Sign Code***, either independently or in conjunction with other ***Signs*** is hereby deemed to be a ***Nonconforming Sign***.

1. A ***Nonconforming Sign*** may not be enlarged but may be maintained (i) by painting or refinishing the surface of the ***Sign Face*** and ***Sign Structure***, or by replacing damaged panels, so as to keep the appearance of the ***Sign*** the same as it was upon the adoption of this ***Sign Code*** or subsequent amendment hereto which resulted in such ***Sign*** becoming a ***Nonconforming Sign***, or (ii) by replacement of light bulbs or similar expendable electrical devices, and repair and replacement of electrical components for safety reasons only and not to improve or upgrade the appearance or utility of the ***Sign***, or (iii) by lawfully changing the content of its ***Face***. In the event that a ***Nonconforming Sign*** is damaged by fire, wind, flood or other sudden casualty and the cost to repaint and repair such ***Sign***(including the ***Sign Structure***) does not exceed fifty percent (50%) of the cost to replace such ***Sign***, then the ***Sign*** may be repaired provided (i) a ***Permit*** therefore is obtained within thirty (30) days after such casualty, (ii) the repair is commenced within twenty (20) days after the issuance of such ***Permit*** and diligently pursued to completion, and (iii) the repaired ***Sign*** will comply with all applicable ***Building*** and electrical codes. If after completion of such repair in accordance with such ***Permit*** such ***Sign*** does not fully comply with this ***Sign Code***, it shall nonetheless continue to be a ***Nonconforming Sign***.

2. Except as provided in the preceding paragraph, any repainting or any structural or other substantive repair, rebuilding, or ***Maintenance*** work to a ***Nonconforming Sign*** shall be deemed a waiver of the nonconforming status of the ***Sign***, shall render any prior ***Permit*** void and shall result in the reclassification of such ***Sign*** as an ***Illegal Sign*** to be removed pursuant to sub- section C.1. of this section.

(Ord. #1254, 11/14/13)

3. An ***Abandoned Sign*** cannot become or continue to be a ~~***Non-Conforming***~~ ***Nonconforming Sign***.

4. The nonconforming status of all such ***Signs*** shall expire on January 1, 2001, or such other date as may be stated in the ordinance adopting the amendment to this ***Sign Code*** which makes the ***Sign*** ~~***non-conforming***~~ nonconforming, and all such ***Nonconforming Signs*** shall be made to conform with this ***Sign Code***, if possible, or be removed before that date. Where two ***Off-Premises Signs*** are non- conforming due to their proximity to each other, the first in time shall be deemed the first in right and the second shall be removed. The ***City Manager*** may, and upon written request of the owner or person entitled to possession of a ***Nonconforming Sign*** shall, notify in writing the owner or person entitled to possession of a ***Nonconforming Sign*** that the ***Sign*** is nonconforming and the reasons therefore, and that the ***Sign*** must be made to conform or be removed before the date of the expiration of the ***Sign's*** ~~***non-conforming***~~ nonconforming status, which date shall be stated. The notice shall state that the owner or person entitled to possession of the ***Sign*** may appeal: (i) the determination of nonconformance, (ii) the validity or applicability of this ***Sign Code***, or (iii) the necessity of a variance, by appeal to the Planning Board as

provided in section 9.03.00 of this ***LDC***. The notice shall also state that failure to appeal within thirty (30) days after receipt of the notice shall constitute an acceptance of the ***City's*** determination respecting the ***Sign*** and a waiver of any objection to the validity or application of this ***Sign Code*** to the ***Sign***. The purpose of such advance notice is to allow affected parties an opportunity to appeal and resolve contested issues prior to the expiration of nonconforming status.
(Ord. #1254, 11/14/13)

5. Upon a determination by the ***City Manager*** or his designee and written notice to the owner or person entitled to possession of such ***Sign*** that a ***Nonconforming Sign*** has become a ***Dilapidated Sign*** or an ***Abandoned Sign***, or has lost its nonconforming status by waiver or expiration pursuant to this section, the owner or person entitled to possession of such ***Sign*** shall remove such ***Sign*** within twenty (20) days after receipt of such notice.

5.07.010 Enforcement.

A. ***Right of Entry***. The ***City Manager*** or his designee shall have the authority to enter upon the public or quasi-public portion of any ***Premises*** within the ***City*** containing a ***Sign*** for the limited purpose of enforcing the provisions of this ***Sign Code***.

B. Violation sticker. When a ***Sign*** exists in violation of this ***Sign Code***, the ***City Manager*** or his designee may, in addition to any other remedy available, follow the following procedure:

1. The ***City Manager*** or his designee shall attach a highly visible sticker of at least forty (40) square inches reading "***VIOLATION***" to the ***Sign Face***. In the event the ***Sign*** is one of a number of ***Signs*** in violation due to excessive aggregate Area, the sticker shall be placed prominently on one of the larger ***Signs***. The sticker shall include the date that it was attached to the ***Sign*** and instructions to call the appropriate ***City*** office to obtain a ***Permit*** application for the ***Sign***. It shall be unlawful for any person other than the City Manager or his designee to remove the ***Sign*** violation sticker, and the sticker shall so state.

2. Within fourteen (14) days of attachment of the violation sticker, the owner or person entitled to possession of the ***Sign*** shall bring the ***Sign*** into conformity with this ***Sign Code***, if necessary and possible, and if required submit a completed application for a ***Permit*** and fee for a ***Permit*** for the ***Sign***. If the application and fee is not submitted timely, or if the application must be denied, or if the ***Sign*** is not or cannot be brought into conformity with this ***Sign Code*** in a timely manner, the ***City Manager*** or his designee shall have the ***Sign*** removed and impounded without any further notice.

3. The owner or person entitled to possession of a ***Sign*** impounded may recover same prior to the expiration of the thirty-day impoundment period upon the payment to the ***City*** of the costs incurred in impounding such ***Sign***, including attorney's fees. In the event any ***Sign*** is not so claimed within thirty (30) days, the ***City Manager*** or his designee may dispose of the ***Sign*** in the same manner as surplus or abandoned ***City*** property.

C. Impoundment of ***Prohibited Signs***. The ***City Manager*** or his designee shall have the authority to remove all ***Signs***, without notice to the owners thereof, prohibited by this ***Sign Code***, and to impound them for a period of thirty (30) days. The owner or person entitled to possession of a ***Sign*** impounded may recover same prior to the expiration of the thirty-day impoundment period upon the payment to the ***City*** of the costs incurred in impounding such ***Sign***, including attorney's fees. In the event any ***Sign*** is not so claimed within thirty (30) days, the ***City Manager*** or his designee may dispose of the ***Sign*** in the same manner as surplus or abandoned ***City***

property.

D. Any person who violates any provision of this ***Sign Code*** is guilty of an offense and upon conviction thereof, shall be punishable as provided by section 1-12 of the code of ***Ordinances*** of the City of Panama City Beach. Each person shall be deemed guilty of a separate offense for every day the violation of this ***Sign Code*** is continued or ***Permitted*** to continue.

E. Any ***Sign*** placed on public property or within any ***Street*** or pedestrian right of way open to the public, except in conformance with the requirements of this ***Sign Code***, shall be deemed illegal and shall be forfeited to the public and subject to confiscation. In addition to other remedies hereunder, the ***City*** shall have the right to recover from the owner or person placing such ***Sign*** the cost of removal and disposal of such ***Sign***.

F. Any ***Sign Erected*** or displayed in violation of the provisions of this ***Sign Code*** or other applicable provisions of the ***Code of Ordinances*** of the City of Panama City Beach, is deemed to be a public nuisance subject to abatement as provided by law. This remedy is cumulative and in addition to any other remedy available to the ***City*** under this or any other law.

G. In addition to other remedies, the ***City Manager*** or his designee, through the City Attorney, may institute any appropriate action or procedure to bring about compliance with any of the provisions of this ***Sign Code***.

5.07.011 Reserved.

5.07.012 Severability.

A. If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this ***Sign Code*** is declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality or invalidity shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this ***Sign Code***.

B. ***Severability where Less Speech Results***. Without diminishing or limiting in any way the declaration of severability set forth above or elsewhere in this ***Sign Code***, or any adopting ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this ***Sign Code*** is declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality or invalidity shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this ***Sign Code***, even if such severability would result in a situation where there would be less speech, whether by subjecting previously exempt ***Signs*** to ***Permitting*** or otherwise.

C. ***Severability of Provisions Pertaining to Prohibited Signs or General Sign Standards***. Without diminishing or limiting in any way the declaration of severability set forth above or elsewhere in this ***Sign Code***, or any adopting ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this ***Sign Code*** or any other law is declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality or invalidity shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this ***Sign Code*** that pertains to prohibited ***Signs*** or general ***Sign*** standards, including specifically those ***Signs*** and ***Sign***-types prohibited and not allowed under section 5.07.04 of this ***Sign Code*** and those

general ***Sign*** standards set forth in section 5.07.05 of this ***Sign Code***. Furthermore, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of section 5.07.04 of this ***Sign Code*** is declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality or invalidity shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of section 5.07.04. Further still, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of section 5.07.05 of this ***Sign Code*** is declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality or invalidity shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of section 5.07.05.

D. ***Severability of Prohibition or Limitation on Billboards***. If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this ***Sign Code*** and/or any other ***Code*** provisions and/or laws are declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality or invalidity shall not affect the prohibition or limitation ("cap and replace") of ***Off-Premises Commercial Signs*** or "billboards" contained in this ***Sign Code***.

E. ***Severability of Portions of Definition of "Sign."*** If any part, sentence, phrase, clause, term, or word of the definition of ***Sign*** in this ***Sign Code***, or any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this ***Sign Code*** employing that definition, is declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality or invalidity shall not affect any other part, sentence, phrase, clause, term, or word of the definition of ***Sign*** or any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this ***Sign Code***.

F. ***Severability of Definitions relating to Commercial or Non-Commercial.*** For many situations, this ***Sign Code*** relies on the distinction between Commercial speech and Non-Commercial speech to determine the degree of regulation that is appropriate. This ***Sign Code*** is not intended to modify existing or future judicially established definitions of or distinctions between commercial speech or non-commercial speech. To the extent that this ***Sign Code*** misstates or misapplies a definition for commercial speech or non-commercial speech as related to First Amendment and is declared unconstitutional or invalid on its face or as applied by the valid judgment or decree of any court of competent jurisdiction, it is the City's intent that the court incorporate and apply the correct, then-prevailing judicial definitions and distinctions, and that the City will amend this Sign Code promptly thereafter to formalize such incorporation of the proper standard.

G. Reference is made to the fact that the definition of ***Sign*** is intended to treat murals and other public art as a ***Sign, Permitted*** within the limitations prescribed for all ***Signs*** and otherwise prohibited, because the ***City*** has found and determined, and here states, that there is no logical or constitutional way to distinguish between certain elements of what traditionally and universally has been considered a ***Sign***, including some ***Commercial Signs***, and what traditionally and universally has been considered a mural or other public art, and that the adverse secondary effects (visual clutter, aesthetic nuisance, traffic distraction, etc., as described in the recitals to this ***Sign Code***) attributable to "traditional" ***Signs*** on the one hand and to murals or other public art on the other hand are materially the same, and that there is no practical and enforceable way for the ***City*** to fairly and consistently distinguish between all elements of "traditional" ***Signs*** and murals or other public art so as to regulate them separately. In addition, the ***City*** has found and determined, and here states, that creating a second regulatory scheme for murals and other public art will inevitably result in murals or other public art being added to or associated with

"traditional" ***Signs***, thereby increasing the size, number and mass of what for all practical purposes appears to be signage within the ***City*** beyond that which the people of the City of Panama City Beach have found to be for them and their lifestyles a reasonable time, place and manner limitation. Nonetheless, if for any reason the regulation of murals and other public art as a ***Sign*** is declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality or invalidity shall not affect those portions of the definition of ***Sign*** describing "traditional" ***Signs***, especially billboards and ***Off-Premises Commercial Signs***, and ***On-Premises Commercial Signs***, which shall continue to be regulated.

[**Cross references:** Display of ***Signs*** by ***Building***, general and ***Residential*** contractors, § 8-96; restrictions on posting on public property § 16-4.**State law references:** Municipal authority to establish ***Sign*** ordinance, F.S. § 166.0425; outdoor advertisers, F.S. Ch. 479.]

REGULAR ITEM

2

CITY OF PANAMA CITY BEACH
AGENDA ITEM SUMMARY

1. DEPARTMENT MAKING REQUEST/NAME:	2. MEETING DATE:
CODE ENFORCEMENT/LEGAL	SEPTEMBER 14, 2017

3. REQUESTED MOTION/ACTION:

APPROVE FINAL ASSESSMENT RESOLUTION FOR NUISANCE ABATEMENT

4. AGENDA

PRESENTATION	
PUBLIC HEARING	✓
CONSENT	
REGULAR	✓

5. IS THIS ITEM BUDGETED (IF APPLICABLE)? YES ☐ NO ☐ N/A ☑
BUDGET AMENDMENT OR N/A

DETAILED BUDGET AMENDMENT ATTACHED YES ☐ NO ☐ N/A ☑

6. BACKGROUND: (WHY IS THE ACTION NECESSARY, WHAT GOAL WILL BE ACHIEVED)

IN JANUARY 2014, THE CITY ADOPTED A NUISANCE ABATEMENT ASSESSMENT PROGRAM TO COLLECT FROM PROPERTY OWNERS THE COSTS OF NUISANCE ABATEMENT UNDERTAKEN BY THE CITY IN THE FRONT BEACH ROAD COMMUNITY REDEVELOPMENT AREA. LAST YEAR THE CITY ADOPTED RESOLUTION 17-29, EXPANDING THE ASSESSMENT AREA TO INCLUDE ALL PROPERTY WITHIN THE CORPORATE LIMITS.

ON AUGUST 10, 2017, THE CITY ADOPTED AN INITIAL ASSESSMENT RESOLUTION LISTING THE TAX PARCELS THROUGHOUT THE CITY ON WHICH A NUISANCE ABATEMENT SERVICE COST SHALL BE ASSESSED ON THE TAX BILL, AND DIRECTING A PUBLIC HEARING BE HELD FOR INTERESTED PARTIES TO CONTEST THE ASSESSMENT BEFORE A FINAL ROLL IS ADOPTED. NOTICES WERE MAILED AND PUBLISHED AS DIRECTED BY THAT RESOLUTION.

THE PURPOSE OF THIS FINAL RESOLUTION IS TO REPEAL, CONFIRM AND IF NECESSARY TO MODIFY THE INITIAL ASSESSMENT RESOLUTION. THIS FINAL RESOLUTION HAS BEEN MODIFIED TO REFLECT THE REMOVAL OF ONE PARCEL FROM THE ROLL. STAFF RECOMMENDS THE RESOLUTION BE APPROVED, AND CERTIFICATION OF THE ROLL SENT TO THE TAX COLLECTOR.

AGENDA ITEM # 2

RESOLUTION 17-118

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PANAMA CITY BEACH, FLORIDA, RELATING TO NUISANCE ABATEMENT WITHIN THE CITY; CONFIRMING THE INITIAL ASSESSMENT RESOLUTION; PROVIDING AUTHORITY, DEFINITIONS AND FINDINGS; AMENDING AND APPROVING THE NUISANCE ABATEMENT ASSESSMENT ROLL; PROVIDING FOR THE IMPOSITION OF THE NUISANCE ABATEMENT ASSESSMENTS; PROVIDING FOR COLLECTION OF THE ASSESSMENTS PURSUANT TO THE UNIFORM ASSESSMENT COLLECTION ACT; PROVIDING FOR THE EFFECT OF THIS RESOLUTION; PROVIDING SEVERABILITY; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

WHEREAS, the City Council of the City of Panama City Beach (the "City") has adopted Chapter 28 (the "Assessment Ordinance") and Chapter 15, (the "Nuisance Ordinance"), as codified in the City's Code of Ordinances and which collectively provide for the imposition of special assessments for nuisance abatement which benefit property within the Assessment Area; and

WHEREAS, on August 10, 2017, the City Council adopted Resolution No. 17-117 (the "Initial Assessment Resolution") confirming the Nuisance Abatement Assessment Area, describing the method of assessing the Nuisance Abatement Service Cost against the real property that will be specially benefitted thereby, and directing preparation of the Nuisance Abatement Roll and the provision of the notices required by law; and

WHEREAS, pursuant to the Assessment Ordinance, the City Council is required to confirm or repeal the Initial Assessment Resolution with such

amendments as the City Council deems appropriate after hearing comments and receiving objections of all interested parties; and

WHEREAS, the Assessment Roll has been filed with the City Manager or his designee, as required by law; and

WHEREAS, notice of a public hearing has been published and mailed to each property owner proposed to be assessed notifying such property owner of the opportunity to be heard concerning the assessments; the proof of publication and an affidavit of mailing are attached hereto as Appendices A and B respectively; and

WHEREAS, a public hearing has been duly held on September 14, 2017, and comments and objections of all interested persons have been heard and considered as required by law.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. AUTHORITY. This Final Assessment Resolution is adopted pursuant to the Initial Assessment Resolution, as amended herein, Chapter 166, Florida Statutes, Article VIII, Section 2, Florida Constitution, the Assessment Ordinance and other applicable provisions of law.

SECTION 2. DEFINITIONS. This Resolution is the Final Assessment Resolution. All capitalized terms in this Final Assessment Resolution shall have the meanings defined in the Initial Assessment Resolution.

SECTION 3. FINDINGS.

(A) The findings provided in Section 1.04 of the Initial Assessment Resolution are hereby ratified, confirmed and incorporated as if set forth fully herein.

(B) To the extent necessary, the Council finds that the Nuisance Abatement Service and the Nuisance Abatement Service Cost identified in the Initial Assessment Resolution are hereby determined to be an Essential Service and a Service Cost, respectively, as defined in the Assessment Ordinance.

SECTION 4. CONFIRMATION OF INITIAL ASSESSMENT RESOLUTION.

(A) All actions taken by the City Council with regard to the Initial Assessment Resolution, as amended herein, are hereby ratified and confirmed.

(B) After public hearing, comment from affected property owners, City staff, consultants and counsel, and deliberation by the City Council at its noticed public hearing, the City Council hereby ratifies and confirms the Initial Assessment Resolution.

SECTION 5. APPROVAL OF NUISANCE ABATEMENT SERVICE COSTS.

(A) The Nuisance Abatement Service Costs comprising the Nuisance Abatement Assessment for each Tax Parcel are found and determined to be fairly and equally apportioned among the Tax Parcels identified on the Nuisance Abatement Assessment Roll.

(B) The following Nuisance Abatement Service Costs are hereby allocated among the following Tax Parcels for Service Costs incurred by the City to date:

(i) in the Fiscal Year commencing October 1, 2012

PARCEL ID	PROPERTY OWNER	SERVICE COST
34176-010-000	Victor Alfieri, Trustee of the Victor Alfieri Revocable Trust	$748.52

(ii) in the Fiscal Year commencing October 1, 2016

PARCEL ID	PROPERTY OWNER	SERVICE COST
33306-000-000	Linda Becker	$1258.47
33194-000-000	Bruce Taylor	$602.87
38200-017-000	Betty Ann Rosa	$5094.11
38209-000-000	Lisa Pinto and Nelson J. Pinto	$1793.86
33137-010-000	Charles J. Dugan and Barbara A. Dugan	$863.46

TOTAL NUISANCE ABATEMENT ASSESSMENTS $10,361.29.

(C) The Nuisance Abatement Service Costs established in this Final Assessment Resolution are the actual Service Costs applied by the City to establish the Nuisance Abatement Assessment Roll for the Fiscal Year commencing October 1, 2017.

SECTION 6. APPROVAL OF ASSESSMENT ROLL. The preliminary Nuisance Abatement Assessment Roll is hereby amended to remove parcel 33175-000-000. The Nuisance Abatement Assessment Roll, as amended, is hereby approved, confirmed and adopted as the City's Nuisance Abatement Assessment Roll for the Fiscal Year commencing October 1, 2017.

SECTION 7. IMPOSITION OF ASSESSMENTS TO FUND NUISANCE ABATEMENT.

(A) The Tax Parcels described in the Nuisance Abatement Assessment Roll are hereby found to be specifically benefitted by the provision of the Nuisance Abatement services and programs in the amount of the Nuisance Abatement Assessment set forth in the Nuisance Abatement Assessment Roll.

(B) For the Fiscal Year commencing October 1, 2017, the Nuisance Abatement Service Cost for the Nuisance Abatement Assessment Area shall be calculated and apportioned based upon the actual cost of Nuisance Abatement. The costs as set forth in the Initial Assessment Resolution, as amended by this Resolution, are hereby approved and found to be a fair and reasonable method of assessing the costs for the benefited properties.

(C) The Nuisance Abatement Assessments as set forth in the Initial Assessment Resolution, as amended by this Resolution and as set forth in the Nuisance Abatement Assessment Roll, are hereby levied and imposed on all Tax Parcels described in the Nuisance Abatement Assessment Roll for the Fiscal Year commencing October 1, 2017.

(D) Upon adoption of this Final Assessment Resolution, the Nuisance Abatement Assessments shall constitute a lien against the assessed properties equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other liens, titles, and claims until paid. The lien shall be deemed perfected upon adoption by the City Council of this Final Assessment Resolution and shall attach to the property included on the Assessment Roll as of the prior January 1, the lien date for ad valorem taxes.

SECTION 8. COLLECTION OF ASSESSMENTS.

(A) The Nuisance Abatement Assessments shall be collected pursuant to the Uniform Assessment Collection Act.

(B) Upon adoption of this Final Assessment Resolution, the City Manager or his designee shall cause the certification and delivery of the Assessment Roll to the Tax Collector by September 15, 2015, in the manner prescribed by the Uniform Assessment Collection Act. The Assessment Roll, as delivered to the Tax Collector, shall be accompanied by a Certificate to Non-Ad Valorem Assessment Roll in substantially the form attached hereto as Appendix C.

SECTION 9. EFFECT OF FINAL RESOLUTION. The adoption of this Final Assessment Resolution shall be the final adjudication of the issues presented herein and in the Initial Assessment Resolution (including, but not limited to, the

method by which the Assessments are computed, the Nuisance Abatement Assessment Roll, the terms for prepayment of the Assessments, the levy and lien of the Assessments, and the special benefit to assessed property) unless proper steps are initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the City Council action on this Final Assessment Resolution.

SECTION 10. SEVERABILITY. The provisions of this Final Assessment Resolution are severable; and if any section, subsection, sentence, clause or provision is held invalid by any court of competent jurisdiction, the remaining provisions of this Final Assessment Resolution shall not be affected thereby.

SECTION 11. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

PASSED, ADOPTED AND APPROVED ____ day of _____, 2017.

CITY COUNCIL OF PANAMA CITY BEACH, FLORIDA

By: _____
Mike Thomas, Mayor

(SEAL)

Attest:

By: _____
City Clerk

Attachments: Appendix A – Proof of Publication

Appendix B – Affidavit of Mailing

Appendix C – Form of Certificate to Non-Ad Valorem Assessment Roll

AGENDA ITEM # 2

Appendix A—Proof of Publication

AGENDA ITEM # 2

The News Herald

501 W 11th Street
P.O. Box 1940, Panama City, FL 32401
Published Daily
Panama City, Bay County, Florida

State of Florida
County of Bay

Before the undersigned authority personally appeared Angella Clagg, who on oath says that she is a Legal Advertising Representative of The News Herald, a newspaper published at Panama City in Bay County, Florida, that the attached copy of advertisement, being a Legal Advertisement #1176729 in the matter of NOTICE OF HEARING - City of Panama City Beach in the Bay County Court, was published in said newspaper in the issue of August 18, 2017.

Affiant further says that the said The News Herald is a newspaper published at Panama City, in said Bay County, Florida, *is a direct successor of the Panama City News* and that the said newspaper, *together with its direct predecessor*, has heretofore been continuously published in said Bay County, Florida, each day *(except that the predecessor, Panama City News, was not published on Sundays)* and has been entered as periodicals matter at the post office in Panama City, in said Bay County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement, and affiant further says that (s)he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

Angella Clagg

State of Florida
County of Bay
Sworn to and subscribed before me this 18th day of August, A.D., 2017.
By Angella Clagg, Legal Advertising Representative of The News Herald, who is personally known to me or has produced N/A as identification.

Marie Forrest
Notary Public, State of Florida at Large

MARIE FORREST
Notary Public - State of Florida
Commission # FF 230321
My Comm. Expires May 13, 2019

NOTICE OF HEARING TO IMPOSE AND PROVIDE FOR COLLECTION OF SPECIAL ASSESSMENTS

Notice is hereby given that the City Council of Panama City Beach, Florida, will conduct a public hearing to consider adoption of a Nuisance Abatement Final Assessment Resolution related to the imposition of nuisance abatement special assessments to reimburse the City for services undertaken by the City of Panama City Beach to abate a nuisance on the following properties:

PARCEL ID	PROPERTY OWNER
35306-000-000	Linda Becker
33194-000-000	Bruce Taylor
35200-017-000	Betty Ann Rosa
35209-000-000	Lisa Pinto and Nelson J. Pinto
33137-010-000	Charles J. Dugan and Barbara A. Dugan
34176-010-000	Victor Alfieri

The Nuisance Abatement Final Assessment Resolution will provide for the imposition of special assessments, sometimes characterized as non-ad valorem assessments, against property located within the boundaries of the City and collection of the assessments by the uniform billing method described in Section 3.01 of City Ordinance No. 947. The hearing will be held at 6:00 PM on September 14, 2017 at City Council Chambers of City Hall, City Hall, 110 South Arnold Road, Panama City Beach, Florida. All affected property owners have a right to appear at the hearing and to file written objections with the City Council within twenty (20) days of this notice.

The assessments have been proposed to fund nuisance abatement related essential services and improvements throughout the City. The assessment for each tax parcel within the Assessment Area will be based upon the actual costs incurred by the City attributable to the abatement of a nuisance on each tax parcel as of the date the assessments are imposed. A more specific description of the nuisance abatement related services and improvements and the method of computing the assessment for each parcel of property are set forth in the Initial Assessment Resolution adopted by the City Council on August 10, 2017. Copies of the Initial Assessment Resolution and the preliminary Nuisance Abatement Assessment Roll together with Ordinances 947 and 1313 (the Assessment Ordinance) and Ordinance 1294 (the Nuisance Ordinance) are available for inspection at the office of the City Clerk, located at City Hall,110 South Arnold Road, Panama City Beach, Florida.

A geographic depiction of the proposed Assessment Area within which property may be subject to the Assessment follows:

If you have any questions, please contact the City Clerk's Office at (850) 233-5100.

ANY PERSON WISHING TO ENSURE THAT AN ADEQUATE RECORD OF THE PROCEEDINGS IS MAINTAINED FOR APPELLATE PURPOSES IS ADVISED TO MAKE THE NECESSARY ARRANGEMENTS FOR RECORDING AT HIS OR HER OWN EXPENSE.

AGENDA ITEM # 2

Appendix B—Affidavit of Mailing

AGENDA ITEM # 2

AFFIDAVIT OF MAILING

BEFORE ME, the undersigned affiant, personally appeared Cindy Kittler, who after being duly sworn, deposes and says:

On August 18, 2017 I mailed each of the attached notices by first class U.S. mail, to the respective person whose name and address is listed therein as disclosed by the current tax roll, namely

Linda Becker 120 Manistee Drive Panama City Beach, FL 32413	Tax Parcel No. 33306-000-000
Bruce Taylor 119 Lake Ridge Drive Hendersonville, TN 37075	Tax Parcel No. 33194-000-000
Betty Ann Rosa 155 N. Wells Street Panama City Beach, FL 32413	Tax Parcel No. 38200-017-000
Lisa Pinto and Nelson J. Pinto 685 Malaga Place Panama City Beach, FL 32413	Tax Parcel No.38209-000-000
Charles J. Dugan and Barbara A. Dugan 133 Manistee Drive Panama City Beach, FL 32413	Tax Parcel No. 33137-010-000
Victor Alfieri, Trustee of the Victor Alfieri Revocable Trust Agreement 417 Camelia Avenue Callaway, FL 32404-6001	Tax Parcel No. 34176-010-000

FURTHER AFFIANT SAYETH NOT.

Cindy Kittler, Affiant

AGENDA ITEM # 2

STATE OF FLORIDA
COUNTY OF BAY

The foregoing Affidavit of Mailing was sworn to and subscribed before me this 22nd day of August, 2017, by Cindy Kittler who is personally known to me and did take an oath.

Signature of Notary Public

LESLIE A. JOHNSON
Commission # FF 106102
Expires June 27, 2018
Bonded Thru Troy Fain Insurance 800-385-7019

AGENDA ITEM # 2

PANAMA CITY BEACH, FLORIDA

City of Panama City Beach, Florida
110 South Arnold Road
Panama City Beach, Florida 32413-2199

August 18, 2017

NOTICE OF HEARING TO IMPOSE AND TO PROVIDE FOR COLLECTION OF NUISANCE ABATEMENT RELATED SPECIAL ASSESSMENTS IN PANAMA CITY BEACH

Apparent Owners of Record:
VIA FIRST CLASS MAIL
Linda Becker
120 Manistee Drive
Panama City Beach, FL 32413

Tax Parcel No. **33306-000-000**
Location: **120 Manistee Drive**

Dear Property Owner:

In accordance with Section 197.3632, Florida Statues, notice is hereby given by the City of Panama City Beach that a non-ad valorem assessment for nuisance abatement services using the tax bill collection method, may be levied on your property for the fiscal year beginning on October 1, 2017. The purpose of this assessment is to recover costs arising from nuisance abatement services benefitting affected properties located within the City. The total property abatement assessment revenue to be collected is estimated to be $10,361.29 for the fiscal year beginning October 1, 2017. The assessment of each parcel of property is calculated and apportioned based upon the extent of work necessary to abate or correct a violation of the City's Code of Ordinances existing on a Tax Parcel. The assessment will include the actual costs incurred by the City in performing any work necessary to abate or correct violations for unsafe structures or abatement of nuisances or both, including all labor, materials, disposal and administrative costs.

Copies of the Initial Assessment Resolution and the preliminary Nuisance Abatement Assessment Roll describing the assessments are available for your review at the offices of the City Clerk, located at City Hall, 110 South Arnold Road, Panama City Beach. Information regarding the assessment for your specific property is included below.

The total amount of actual and administrative costs incurred by the City in performing the work necessary to abate or correct a violation of the City's Code of Ordinances on the above referenced parcel is $1,258.47 ("Nuisance Abatement Cost"). The Nuisance Abatement Assessment for the above parcel is $1,258.47 for the fiscal year beginning October 1, 2017.

AGENDA ITEM # 2

The nuisance abatement non-ad valorem assessment amount shown on this notice will be collected by the Bay County Tax Collector on the tax bill to be mailed in November 2017. Florida law requires that the City must inform you that failure to pay your assessment may result in foreclosure or the issuance of a tax sale certificate in the future. The City has the right to foreclose and collect delinquent assessments in any manner provided by law.

Until paid, the Nuisance Abatement assessment will constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and other non-ad valorem assessments. Assessments shall become delinquent if not paid within thirty (30) days from the due date.

The City, in its sole discretion, shall determine whether to provide a program of hardship assistance, either through monetary contributions or extended payment terms, to City residents who are living below or close to the poverty level and are at risk of losing title to their homes as a result of the imposition of a Nuisance Abatement Assessment.

The City Council will hold a public hearing at 6:00 PM on September 14, 2017, in the City Council Chambers at City Hall, 110 South Arnold Road, Panama City, Florida, for the purpose of receiving comments on the proposed assessments. You are invited to attend and participate in the hearing. You may also file written objections with the City Council prior to or during the hearing. If you decide to appeal any decision made by the City Council with respect to any matter considered at the hearing, you will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made.

If you have any questions, please contact the City Clerk's office at 850-233-5100.

THIS IS NOT A BILL. DO NOT SEND PAYMENT.

PANAMA CITY BEACH, FLORIDA

Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact the Panama City Beach City Clerk, at City Hall,110 South Arnold Road, Panama City Beach, Florida 32413 or by phone at (850) 233-5100 at least five (5) calendar days prior to the meeting. If you are hearing or speech impaired, and you possess TDD equipment, you may contact the City Clerk using the Florida Dual Party Relay system which can be reached at (800) 955-8770 (Voice) or (800) 955-8771.

AGENDA ITEM # 2

PANAMA CITY BEACH, FLORIDA

City of Panama City Beach, Florida
110 South Arnold Road
Panama City Beach, Florida 32413-2199

August 18, 2017

NOTICE OF HEARING TO IMPOSE AND TO PROVIDE FOR COLLECTION OF NUISANCE ABATEMENT RELATED SPECIAL ASSESSMENTS IN PANAMA CITY BEACH FRONT BEACH ROAD COMMUNITY REDEVELOPMENT AREA

Apparent Owners of Record:
VIA FIRST CLASS MAIL
Bruce Taylor
119 Lake Ridge Drive
Hendersonville, TN 37075

Tax Parcel No. **33194-000-000**
Location: **128 Coral Drive**

Dear Property Owner:

In accordance with Section 197.3632, Florida Statues, notice is hereby given by the City of Panama City Beach that a non-ad valorem assessment for nuisance abatement services using the tax bill collection method, may be levied on your property for the fiscal year beginning on October 1, 2017. The purpose of this assessment is to recover costs arising from nuisance abatement services for the abatement of nuisances benefitting affected properties located within the City's Front Beach Road Community Redevelopment Area. The total property abatement assessment revenue to be collected is estimated to be $[ ] for the fiscal year beginning October 1, 2017. The assessment of each parcel of property is calculated and apportioned based upon the extent of work necessary to abate or correct a violation of the City's Code of Ordinances existing on a Tax Parcel. The assessment will include the actual costs incurred by the City in performing any work necessary to abate or correct violations for unsafe structures or abatement of nuisances or both, including all labor, materials, disposal and administrative costs.

Copies of the Initial Assessment Resolution and the preliminary Nuisance Abatement Assessment Roll describing the assessments are available for your review at the offices of the City Clerk, located at City Hall, 110 South Arnold Road, Panama City Beach. Information regarding the assessment for your specific property is included below.

The total amount of actual and administrative costs incurred by the City in performing the work necessary to abate or correct a violation of the City's Code of Ordinances on the above referenced parcel is $[ ] ("Nuisance Abatement Cost"). The Nuisance Abatement Assessment for the above parcel is $1,258.47 for the fiscal year beginning October 1,

AGENDA ITEM # 2

2017.

The nuisance abatement non-ad valorem assessment amount shown on this notice will be collected by the Bay County Tax Collector on the tax bill to be mailed in November 2017. Florida law requires that the City must inform you that failure to pay your assessment may result in foreclosure or the issuance of a tax sale certificate in the future. The City has the right to foreclose and collect delinquent assessments in any manner provided by law.

Until paid, the Nuisance Abatement assessment will constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and other non-ad valorem assessments. Assessments shall become delinquent if not paid within thirty (30) days from the due date.

The City, in its sole discretion, shall determine whether to provide a program of hardship assistance, either through monetary contributions or extended payment terms, to City residents who are living below or close to the poverty level and are at risk of losing title to their homes as a result of the imposition of a Nuisance Abatement Assessment.

The City Council will hold a public hearing at 6:00 PM on September 14, 2017, in the City Council Chambers at City Hall, 110 South Arnold Road, Panama City, Florida, for the purpose of receiving comments on the proposed assessments. You are invited to attend and participate in the hearing. You may also file written objections with the City Council prior to or during the hearing. If you decide to appeal any decision made by the City Council with respect to any matter considered at the hearing, you will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made.

If you have any questions, please contact the City Clerk's office at 850-233-5100.

THIS IS NOT A BILL. DO NOT SEND PAYMENT.

PANAMA CITY BEACH, FLORIDA

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AGENDA ITEM # 2

PANAMA CITY BEACH, FLORIDA

City of Panama City Beach, Florida
110 South Arnold Road
Panama City Beach, Florida 32413-2199

August 18, 2017

NOTICE OF HEARING TO IMPOSE AND TO PROVIDE FOR COLLECTION OF NUISANCE ABATEMENT RELATED SPECIAL ASSESSMENTS IN PANAMA CITY BEACH

Apparent Owners of Record:
VIA FIRST CLASS MAIL
Betty Ann Rosa
155 N. Wells Street
Panama City Beach, FL 32413

Tax Parcel No. **38200-017-000**
Location: **139 N. Wells Street**

Dear Property Owner:

In accordance with Section 197.3632, Florida Statues, notice is hereby given by the City of Panama City Beach that a non-ad valorem assessment for nuisance abatement services using the tax bill collection method, may be levied on your property for the fiscal year beginning on October 1, 2017. The purpose of this assessment is to recover costs arising from nuisance abatement services benefitting affected properties located within the City. The total property abatement assessment revenue to be collected is estimated to be $10,361.29 for the fiscal year beginning October 1, 2017. The assessment of each parcel of property is calculated and apportioned based upon the extent of work necessary to abate or correct a violation of the City's Code of Ordinances existing on a Tax Parcel. The assessment will include the actual costs incurred by the City in performing any work necessary to abate or correct violations for unsafe structures or abatement of nuisances or both, including all labor, materials, disposal and administrative costs.

Copies of the Initial Assessment Resolution and the preliminary Nuisance Abatement Assessment Roll describing the assessments are available for your review at the offices of the City Clerk, located at City Hall, 110 South Arnold Road, Panama City Beach. Information regarding the assessment for your specific property is included below.

The total amount of actual and administrative costs incurred by the City in performing the work necessary to abate or correct a violation of the City's Code of Ordinances on the above referenced parcel is $5094.11 ("Nuisance Abatement Cost"). The Nuisance Abatement

AGENDA ITEM # 2

Assessment for the above parcel is $5,094.11 for the fiscal year beginning October 1, 2017.

The nuisance abatement non-ad valorem assessment amount shown on this notice will be collected by the Bay County Tax Collector on the tax bill to be mailed in November 2017. Florida law requires that the City must inform you that failure to pay your assessment may result in foreclosure or the issuance of a tax sale certificate in the future. The City has the right to foreclose and collect delinquent assessments in any manner provided by law.

Until paid, the Nuisance Abatement assessment will constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and other non-ad valorem assessments. Assessments shall become delinquent if not paid within thirty (30) days from the due date.

The City, in its sole discretion, shall determine whether to provide a program of hardship assistance, either through monetary contributions or extended payment terms, to City residents who are living below or close to the poverty level and are at risk of losing title to their homes as a result of the imposition of a Nuisance Abatement Assessment.

The City Council will hold a public hearing at 6:00 PM on September 14, 2017, in the City Council Chambers at City Hall, 110 South Arnold Road, Panama City, Florida, for the purpose of receiving comments on the proposed assessments. You are invited to attend and participate in the hearing. You may also file written objections with the City Council prior to or during the hearing. If you decide to appeal any decision made by the City Council with respect to any matter considered at the hearing, you will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made.

If you have any questions, please contact the City Clerk's office at 850-233-5100.

THIS IS NOT A BILL. DO NOT SEND PAYMENT.

PANAMA CITY BEACH, FLORIDA

Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact the Panama City Beach City Clerk, at City Hall,110 South Arnold Road, Panama City Beach, Florida 32413 or by phone at (850) 233-5100 at least five (5) calendar days prior to the meeting. If you are hearing or speech impaired, and you possess TDD equipment, you may contact the City Clerk using the Florida Dual Party Relay system which can be reached at (800) 955-8770 (Voice) or (800) 955-8771.

AGENDA ITEM # 2

PANAMA CITY BEACH, FLORIDA

City of Panama City Beach, Florida
110 South Arnold Road
Panama City Beach, Florida 32413-2199

August 18, 2017

NOTICE OF HEARING TO IMPOSE AND TO PROVIDE FOR COLLECTION OF NUISANCE ABATEMENT RELATED SPECIAL ASSESSMENTS IN PANAMA CITY BEACH

Apparent Owners of Record:
VIA FIRST CLASS MAIL
Lisa Pinto and
Nelson J. Pinto
685 Malaga Place
Panama City Beach, FL 32413

Tax Parcel No. **38209-000-000**
Location: **115 N. Vestavia Street**

Dear Property Owner:

In accordance with Section 197.3632, Florida Statues, notice is hereby given by the City of Panama City Beach that a non-ad valorem assessment for nuisance abatement services using the tax bill collection method, may be levied on your property for the fiscal year beginning on October 1, 2017. The purpose of this assessment is to recover costs arising from nuisance abatement services benefitting affected properties located within the City. The total property abatement assessment revenue to be collected is estimated to be $10,361.29 for the fiscal year beginning October 1, 2017. The assessment of each parcel of property is calculated and apportioned based upon the extent of work necessary to abate or correct a violation of the City's Code of Ordinances existing on a Tax Parcel. The assessment will include the actual costs incurred by the City in performing any work necessary to abate or correct violations for unsafe structures or abatement of nuisances or both, including all labor, materials, disposal and administrative costs.

Copies of the Initial Assessment Resolution and the preliminary Nuisance Abatement Assessment Roll describing the assessments are available for your review at the offices of the City Clerk, located at City Hall, 110 South Arnold Road, Panama City Beach. Information regarding the assessment for your specific property is included below.

The total amount of actual and administrative costs incurred by the City in performing the work necessary to abate or correct a violation of the City's Code of Ordinances on the above referenced parcel is $1,793.86 ("Nuisance Abatement Cost"). The Nuisance Abatement Assessment for the above parcel is $1,793.86 for the fiscal year beginning

AGENDA ITEM # 2

October 1, 2017.

The nuisance abatement non-ad valorem assessment amount shown on this notice will be collected by the Bay County Tax Collector on the tax bill to be mailed in November 2017. Florida law requires that the City must inform you that failure to pay your assessment may result in foreclosure or the issuance of a tax sale certificate in the future. The City has the right to foreclose and collect delinquent assessments in any manner provided by law.

Until paid, the Nuisance Abatement assessment will constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and other non-ad valorem assessments. Assessments shall become delinquent if not paid within thirty (30) days from the due date.

The City, in its sole discretion, shall determine whether to provide a program of hardship assistance, either through monetary contributions or extended payment terms, to City residents who are living below or close to the poverty level and are at risk of losing title to their homes as a result of the imposition of a Nuisance Abatement Assessment.

The City Council will hold a public hearing at 6:00 PM on September 14, 2017, in the City Council Chambers at City Hall, 110 South Arnold Road, Panama City, Florida, for the purpose of receiving comments on the proposed assessments. You are invited to attend and participate in the hearing. You may also file written objections with the City Council prior to or during the hearing. If you decide to appeal any decision made by the City Council with respect to any matter considered at the hearing, you will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made.

If you have any questions, please contact the City Clerk's office at 850-233-5100.

THIS IS NOT A BILL. DO NOT SEND PAYMENT.

PANAMA CITY BEACH, FLORIDA

Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact the Panama City Beach City Clerk, at City Hall,110 South Arnold Road, Panama City Beach, Florida 32413 or by phone at (850) 233-5100 at least five (5) calendar days prior to the meeting. If you are hearing or speech impaired, and you possess TDD equipment, you may contact the City Clerk using the Florida Dual Party Relay system which can be reached at (800) 955-8770 (Voice) or (800) 955-8771.

AGENDA ITEM # 2

PANAMA CITY BEACH, FLORIDA

City of Panama City Beach, Florida
110 South Arnold Road
Panama City Beach, Florida 32413-2199

August 18, 2017

NOTICE OF HEARING TO IMPOSE AND TO PROVIDE FOR COLLECTION OF NUISANCE ABATEMENT RELATED SPECIAL ASSESSMENTS IN PANAMA CITY BEACH

Apparent Owners of Record:
VIA FIRST CLASS MAIL
Charles J. Dugan and
Barbara A. Dugan
133 Manistee Drive
Panama City Beach, FL 32413

Tax Parcel No. **33137-010-000**
Location: **133 Manistee Drive**

Dear Property Owner:

In accordance with Section 197.3632, Florida Statues, notice is hereby given by the City of Panama City Beach that a non-ad valorem assessment for nuisance abatement services using the tax bill collection method, may be levied on your property for the fiscal year beginning on October 1, 2017. The purpose of this assessment is to recover costs arising from nuisance abatement services benefitting affected properties located within the City. The total property abatement assessment revenue to be collected is estimated to be $10,361.29 for the fiscal year beginning October 1, 2017. The assessment of each parcel of property is calculated and apportioned based upon the extent of work necessary to abate or correct a violation of the City's Code of Ordinances existing on a Tax Parcel. The assessment will include the actual costs incurred by the City in performing any work necessary to abate or correct violations for unsafe structures or abatement of nuisances or both, including all labor, materials, disposal and administrative costs.

Copies of the Initial Assessment Resolution and the preliminary Nuisance Abatement Assessment Roll describing the assessments are available for your review at the offices of the City Clerk, located at City Hall, 110 South Arnold Road, Panama City Beach. Information regarding the assessment for your specific property is included below.

The total amount of actual and administrative costs incurred by the City in performing the work necessary to abate or correct a violation of the City's Code of Ordinances on the above referenced parcel is $863.46 ("Nuisance Abatement Cost"). The Nuisance Abatement Assessment for the above parcel is therefore $863.46 for the fiscal year

AGENDA ITEM # 2

beginning October 1, 2017.

The nuisance abatement non-ad valorem assessment amount shown on this notice will be collected by the Bay County Tax Collector on the tax bill to be mailed in November 2017. Florida law requires that the City must inform you that failure to pay your assessment may result in foreclosure or the issuance of a tax sale certificate in the future. The City has the right to foreclose and collect delinquent assessments in any manner provided by law.

Until paid, the Nuisance Abatement assessment will constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and other non-ad valorem assessments. Assessments shall become delinquent if not paid within thirty (30) days from the due date.

The City, in its sole discretion, shall determine whether to provide a program of hardship assistance, either through monetary contributions or extended payment terms, to City residents who are living below or close to the poverty level and are at risk of losing title to their homes as a result of the imposition of a Nuisance Abatement Assessment.

The City Council will hold a public hearing at 6:00 PM on September 14, 2017, in the City Council Chambers at City Hall, 110 South Arnold Road, Panama City, Florida, for the purpose of receiving comments on the proposed assessments. You are invited to attend and participate in the hearing. You may also file written objections with the City Council prior to or during the hearing. If you decide to appeal any decision made by the City Council with respect to any matter considered at the hearing, you will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made.

If you have any questions, please contact the City Clerk's office at 850-233-5100.

THIS IS NOT A BILL. DO NOT SEND PAYMENT.

PANAMA CITY BEACH, FLORIDA

Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact the Panama City Beach City Clerk, at City Hall,110 South Arnold Road, Panama City Beach, Florida 32413 or by phone at (850) 233-5100 at least five (5) calendar days prior to the meeting. If you are hearing or speech impaired, and you possess TDD equipment, you may contact the City Clerk using the Florida Dual Party Relay system which can be reached at (800) 955-8770 (Voice) or (800) 955-8771.

AGENDA ITEM # 2

PANAMA CITY BEACH, FLORIDA

City of Panama City Beach, Florida
110 South Arnold Road
Panama City Beach, Florida 32413-2199

August 18, 2017

NOTICE OF HEARING TO IMPOSE AND TO PROVIDE FOR COLLECTION OF NUISANCE ABATEMENT RELATED SPECIAL ASSESSMENTS IN PANAMA CITY BEACH

Apparent Owners of Record:
VIA FIRST CLASS MAIL
Victor Alfieri, Trustee of the
Victor Alfieri Revocable
Trust Agreement
417 Camelia Avenue
Callaway, FL 32404-6001

Tax Parcel No. **34176-010-000**
Location: **514 Dogwood Street**

Dear Property Owner:

In accordance with Section 197.3632, Florida Statues, notice is hereby given by the City of Panama City Beach that a non-ad valorem assessment for nuisance abatement services using the tax bill collection method, may be levied on your property for the fiscal year beginning on October 1, 2017. The purpose of this assessment is to recover costs arising from nuisance abatement services benefitting affected properties located within the City. The total property abatement assessment revenue to be collected is estimated to be $10,361.29 for the fiscal year beginning October 1, 2017. The assessment of each parcel of property is calculated and apportioned based upon the extent of work necessary to abate or correct a violation of the City's Code of Ordinances existing on a Tax Parcel. The assessment will include the actual costs incurred by the City in performing any work necessary to abate or correct violations for unsafe structures or abatement of nuisances or both, including all labor, materials, disposal and administrative costs.

Copies of the Initial Assessment Resolution and the preliminary Nuisance Abatement Assessment Roll describing the assessments are available for your review at the offices of the City Clerk, located at City Hall, 110 South Arnold Road, Panama City Beach. Information regarding the assessment for your specific property is included below.

The total amount of actual and administrative costs incurred by the City in performing the work necessary to abate or correct a violation of the City's Code of Ordinances on the above referenced parcel is $748.52 ("Nuisance Abatement Cost"). The Nuisance

AGENDA ITEM # 2

Abatement Assessment for the above parcel is $748.52 for the fiscal year beginning October 1, 2017.

The nuisance abatement non-ad valorem assessment amount shown on this notice will be collected by the Bay County Tax Collector on the tax bill to be mailed in November 2017. Florida law requires that the City must inform you that failure to pay your assessment may result in foreclosure or the issuance of a tax sale certificate in the future. The City has the right to foreclose and collect delinquent assessments in any manner provided by law.

Until paid, the Nuisance Abatement assessment will constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and other non-ad valorem assessments. Assessments shall become delinquent if not paid within thirty (30) days from the due date.

The City, in its sole discretion, shall determine whether to provide a program of hardship assistance, either through monetary contributions or extended payment terms, to City residents who are living below or close to the poverty level and are at risk of losing title to their homes as a result of the imposition of a Nuisance Abatement Assessment.

The City Council will hold a public hearing at 6:00 PM on September 14, 2017, in the City Council Chambers at City Hall, 110 South Arnold Road, Panama City, Florida, for the purpose of receiving comments on the proposed assessments. You are invited to attend and participate in the hearing. You may also file written objections with the City Council prior to or during the hearing. If you decide to appeal any decision made by the City Council with respect to any matter considered at the hearing, you will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made.

If you have any questions, please contact the City Clerk's office at 850-233-5100.

THIS IS NOT A BILL. DO NOT SEND PAYMENT.

PANAMA CITY BEACH, FLORIDA

Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact the Panama City Beach City Clerk, at City Hall,110 South Arnold Road, Panama City Beach, Florida 32413 or by phone at (850) 233-5100 at least five (5) calendar days prior to the meeting. If you are hearing or speech impaired, and you possess TDD equipment, you may contact the City Clerk using the Florida Dual Party Relay system which can be reached at (800) 955-8770 (Voice) or (800) 955-8771.

AGENDA ITEM # 2

Appendix C--Certificate

AGENDA ITEM # 2

Certificate to
Non-Ad Valorem Assessment Roll

I, the undersigned, hereby certify that I am the Mayor of The City of Panama City Beach, Florida, located in Bay County, Florida; as such, I have satisfied myself that all property included or includable on the Non-Ad Valorem Assessment Roll* for the aforesaid county is property assessed so far as I have been able to ascertain; and that all required extensions on the above described roll to show the non-ad valorem assessments attributable to the property listed therein have been made pursuant to law.

I further certify that, upon completion of this certificate and the attachment of same to the herein described Non-Ad Valorem Assessment Roll* as a part thereof, said Non-Ad Valorem Assessment Roll will be delivered to the Tax Collector of this county.

In witness whereof, I have subscribed this certificate and caused the same to be attached to and made a part of the above described Non-Ad Valorem Assessment Roll this the _____ day of September 2017.

*FY2017-18 Panama City Beach
Certified Nuisance Abatement Non-Ad
Valorem Assessment Roll
Prepared and furnished
to Bay County by
Ennead, LLC.

_____
Mike Thomas, Mayor
Of City of Panama City Beach, Florida
Bay County, Florida

ATTEST:

_____
City Clerk

AGENDA ITEM # 2

REGULAR ITEM

3

CITY OF PANAMA CITY BEACH
AGENDA ITEM SUMMARY

1. DEPARTMENT MAKING REQUEST/NAME:	2. MEETING DATE:
Stormwater/Kelly Jenkins	09/14/2017

3. REQUESTED MOTION/ACTION:

Approve Final Assessment Resolution providing for the updated City Stormwater Rate Study methodology and approving the Assessment Roll prepared in accordance therewith.

4. AGENDA

PRESENTATION	☐
PUBLIC HEARING	☑
CONSENT	☐
REGULAR	☑

5. IS THIS ITEM BUDGETED (IF APPLICABLE)? YES ☐ NO ☐ N/A ☑
BUDGET AMENDMENT OR N/A

DETAILED BUDGET AMENDMENT ATTACHED YES ☐ NO ☐ N/A ☑

6. BACKGROUND: (WHY IS THE ACTION NECESSARY, WHAT GOAL WILL BE ACHIEVED)

During a regularly scheduled City Council meeting on June 22, 2017 staff and Ennead LLC presented the findings of the recently updated stormwater rate study. Ennead LLC "Ennead" and Public Utility Management and Planning Services "PUMPS" were provided current and past budgets for personnel, operating expenses and capital projects by City staff to analyze and update this study.

On August 10, 2017, the City Council adopted the Initial Assessment Resolution amending the methodology and providing for notice of a public hearing to adopt this Final Assessment Resolution. Notice of the public hearing was published as directed in that Initial Assessment Resolution.

The purpose of this Final Assessment Resolution is to repeal, confirm and if necessary to modify the Initial Assessment Resolution. Because the rate study has been revised since its presentation to the Council on June 22, 2017, this Final Assessment Resolution has also been modified to conform the methodology adopted by the City with that proposed by the Rate Study and upon which the Assessment Roll was prepared in fact.

Staff recommends this Final Assessment Resolution be approved, and certification of the Roll sent to the Tax Collector.

AGENDA ITEM # 2

RESOLUTION NO. 17-120

A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, RELATING TO THE DELIVERY, FUNDING AND PROVISION OF STORMWATER SERVICES, FACILITIES AND PROGRAMS IN THE CITY OF PANAMA CITY BEACH, FLORIDA; MODIFYING, RATIFYING AND CONFIRMING THE INITIAL ASSESSMENT RESOLUTION; IMPOSING STORMWATER SERVICE ASSESSMENTS AGAINST ASSESSED PROPERTY LOCATED WITHIN THE CITY OF PANAMA CITY BEACH; APPROVING THE RATE OF ASSESSMENT; CONFIRMING, APPROVING AND ADOPTING THE STORMWATER SERVICE ASSESSMENT ROLL FOR FISCAL YEAR 2017-18; PROVIDING FOR COLLECTION OF THE ASSESSMENTS PURSUANT TO THE UNIFORM COLLECTION METHOD; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. AUTHORITY. This Final Assessment Resolution is adopted pursuant to City Ordinance No. 947, as amended from time to time and codified in Chapter 28 of the Code of Ordinances of the City of Panama City Beach (the "Assessment Ordinance"), Sections 166.021 and 166.041, Florida Statutes, and other applicable provisions of law.

SECTION 2. DEFINITIONS. This Resolution is the Final Assessment Resolution for stormwater non-ad valorem assessments to be imposed and collected in Fiscal Year 2017-2018. All capitalized terms in this Resolution not otherwise defined herein

AGENDA ITEM # 3

shall have the meanings defined in the Assessment Ordinance and Panama City Beach Resolution 17-119 (the "Initial Assessment Resolution") except as provided herein, and unless the context clearly requires otherwise.

SECTION 3. FINDINGS. It is hereby ascertained, determined and declared as follows:

(A) Except as modified herein, the findings provided in Section 1.04 of the Initial Assessment Resolution are hereby ratified, confirmed and incorporated as if set forth fully herein.

(B) On August 10, 2017, the City of Panama City Beach (the "City") adopted the Initial Assessment Resolution, providing for the continued imposition of Stormwater Service Assessments to fund certain stormwater related Essential Services (as described therein), describing the method of assessing the cost of such services against the real property that will be specifically benefitted thereby, establishing a public hearing to consider imposition of the proposed assessments, and directing preparation of the preliminary Assessment Roll and provision of the notices required by the Assessment Ordinance. The Initial Assessment Resolution updated the methodology and rate of assessments previously imposed by the City.

(C) Pursuant to Section 2.07 of the Assessment Ordinance, the City is required to repeal or confirm the Initial Assessment Resolution, with such amendments as the Council

deems appropriate, after hearing concerns and receiving comments or objections of interested parties.

(D) The Fiscal Year 2017-18 Stormwater Service Assessment Roll (the "Assessment Roll") has heretofore been filed and made available for inspection by the public. The Assessment Roll has also been made available online at pcbgov.com.

(E) As required by the terms of the Initial Assessment Resolution, notice of a public hearing has been published notifying property owners of the opportunity to be heard; the proof of publication is attached hereto as Appendix A.

(F) The Council considered this Final Assessment Resolution at a public hearing held at its regular meeting on September 14, 2017, and comments and objections of all interested persons have been heard and considered. The re-imposition of Stormwater Service Assessments for stormwater services, facilities, and programs each fiscal year is an equitable and efficient method of allocating and apportioning Stormwater Management Service Cost among parcels of assessed Property.

(G) The rate classification system proposed by the Rate Study is reasonable and equitable, and will continue to be so as properties within the City develop and change; and such rate classification system is also manageable and capable of being fairly implemented from year to year without wasteful or extraordinary consumption of resources which could better be expended to address stormwater related issues.

(H) The apportionment method described in the Rate Study and adopted in the Intital Assessment Resolution bears a reasonable relationship to the cost of providing Stormwater Improvements and Stormwater Management Service, including stormwater generated by Government Property.

(I) The benefits derived from the Stormwater Management Services exceed the cost of the Stormwater Service Assessments imposed hereunder. The Stormwater Service Assessment for any tax parcel within the City does not exceed the proportional benefits that such tax parcel will receive compared to any other tax parcel within the City.

(J) The legislative determinations of special benefit and fair apportionment contained in Section 1.04 of the Initial Assessment Resolution are hereby readopted, ratified and confirmed.

(K) Each parcel of Assessed Property within the City will be specially benefited by the City's provision of stormwater services, facilities, and programs in an amount not less than the Stormwater Service Assessment for such parcel, computed in the manner set forth in the Initial Assessment Resolution.

(L) On December 14, 2006, the City adopted Resolution No. 06-84 (the "Intent Resolution") expressing its intent to collect assessments pursuant to the uniform collection method authorized by Section 197.3632, Florida Statutes. The City forwarded copies of the Intent Resolution to the Bay County Property Appraiser ("Property Appraiser"), the Bay

County Tax Collector ("Tax Collector"), and the Florida Department of Revenue prior to January 10, 2007, as required by Section 197.3632(3)(a), Florida Statutes, and has entered into reimbursement agreements with the Property Appraiser and Tax Collector as required by Section 197.3632(2), Florida Statutes.

SECTION 4. MODIFICATION, RATIFICATION AND CONFIRMATION OF THE INITIAL ASSESSMENT RESOLUTION.

(A) Except as may be modified or amended herein, all actions taken by the City Council at its meeting commenced on August 17, 2017, are hereby ratified and confirmed.

(B) After public hearing, comment from affected property owners, City staff, consultants and counsel, and deliberation by the City Council at its noticed public hearing, the City Council hereby directs and authorizes the following modifications:

(1) With regard to the variable Program Cost component, the City finds that substantially all of the stormwater that is physically managed, controlled, and treated by the Stormwater System is generated by Developed Property; and the amount of stormwater generated by Undeveloped Property that is managed, controlled, and treated by the Stormwater System is inconsequential and not substantial. However, with regard to the fixed Capital Cost component, the City finds that both Developed and Undeveloped properties benefit equally from the essential planning, design, and construction services provided to administer and enhance the City's Stormwater System.

(2) The Assessment rate of $44.90 per ERU shall be used in the calculation of the Program Cost component of Stormwater Service Assessments.

(3) The Program Cost for each Tax Parcel of Developed Property, excluding residential parcels, shall be calculated by multiplying the total impervious square footage/2850) times the imperviousness factor (total impervious sq. footage/lot size), then divided by .4.

(4) Very Small residential properties, having less than 400 square feet of Impervious Area, shall be assigned an ERU value of zero (0), with the result that the Program Cost component of that parcel's Assessment shall also be zero.

(5) The Program Cost component for Very Large residential properties, having more than 5700 square feet of Impervious Area, shall be calculated in the same manner as commercial properties, such that each such parcel shall be assessed based on its actual Impervious Area and lot size as more particularly set forth in the updated Rate Study.

(6) Residential condominium units shall be assessed according to the aggregate impervious area of the greater condominium development, divided by the total number of residential units in the condominium development.

(7) Commercial condominium units shall be assessed individually according to the total Impervious Area in their development multiplied by that

unit's individual percentage of Impervious Area.

(C) The Initial Assessment Resolution, as modified and supplemented by this Resolution, is hereby ratified and confirmed.

SECTION 5. APPROVAL OF ASSESSMENT ROLL.

The Assessment Roll, on file in the Office of the City Clerk and incorporated herein by this reference, is hereby approved, confirmed and adopted for Fiscal Year 2017-2018. The Assessment Roll shall be certified to the Tax Collector by September 15, 2017, pursuant to Section 197.3632(5), Florida Statutes.

SECTION 6. ASSESSMENTS METHODOLOGY.

(A) A special assessment computed in the manner described in the Initial Assessment Resolution, and as modified and supplemented herein, is hereby levied and imposed on all Tax Parcels described in the Assessment Roll in order to fund the Stormwater Management Service Cost for the Fiscal Year commencing October 1, 2017.

(B) The Assessment on Parcels that contribute runoff to the Stormwater System will include both the Program Cost and Capital Cost component. The Assessment on Parcels which do not contribute to the Stormwater System will include only the Capital Cost component.

(C) The Parcels of Assessed Property described in the Assessment Roll are hereby found to be specially benefited by the provision of the stormwater services, facilities, based

upon a fixed Capital Cost of $35.00 and a variable Program Cost based on an ERU value of $44.90.

(D) Based upon the Program Cost amount of $44.90 per ERU (one ERU = 2850 square feet), the Program Cost component for the residential tiers described in Section 3.03 of the Initial Assessment Resolution is estimated as follows:

i. Very Small residential: $0

ii. Small residential: $22.45

iii. Medium residential: $44.90

iv. Large residential: $67.35

v. Very Large residential: the Assessment shall be calculated in the same manner as commercial properties, such that each such parcel shall be assessed based on its actual Impervious Area and lot size as more particularly set forth in the updated Rate Study.

vi. Residential Condominiums: the Assessment shall be calculated according to the aggregate impervious area of the greater condominium development, divided by the total number of residential units in the condominium development.

(E) The apportionment approach described in the updated Rate Study and summarized in Section 3.03 of the Initial Assessment Resolution, and as supplemented or modified by this Final Assessment Resolution, is hereby approved and adopted.

(F) Stormwater Service Assessments shall constitute a lien upon the Assessed Property so assessed equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other liens, titles and claims, until paid.

(G) The City shall use legally available funds, other than Assessment Proceeds, to pay Stormwater Service Assessments imposed upon homestead properties classified on the Tax Roll by the Property Appraiser under "exemption codes" VX, VP or V2 (veteran's partial to total disability), 13 (non-service connected total and permanent disability) and 14 (total and permanent service-connected disability).

(I) The following are Exempt Properties and not subject to the Stormwater Service Assessment: (1) Public Roads, (2) lakes, submerged land, and other naturally occurring water bodies with pervious soil bottoms, and (3) Government Property.

SECTION 7. COLLECTION OF ASSESSMENTS. The Fiscal Year 2017-18 Stormwater Service Assessment for each individual Tax Parcel shall be in addition to an amount equal to delinquent assessments from prior Fiscal Years for such Tax Parcel, if any, and collected pursuant to the uniform collection method provided for in the Intent

Resolution, Section 3.01 of the Assessment Ordinance, and Section 197.3632, Florida Statutes; provided, however, that any existing lien of record on the affected Tax Parcel for the delinquent Stormwater Service Assessment(s) is supplanted by the lien resulting from certification of the Assessment Roll to the Tax Collector.

SECTION 8. EFFECT OF FINAL ASSESSMENT RESOLUTION. The adoption of this Final Assessment Resolution shall be the final adjudication of the issues presented (including, but not limited to, the determination of special benefit and fair apportionment to the Assessed Property, the method of apportionment and assessment, the rate of assessment, the Assessment Roll and the levy and lien of the Stormwater Service Assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of rendering of this Final Assessment Resolution.

SECTION 9. REPEAL OF INCONSISTENT RESOLUTIONS. Any resolutions or parts thereof in conflict herewith are hereby superseded and repealed to the extent of such conflict.

(SIGNATURES ON FOLLOWING PAGE)

AGENDA ITEM # 3

SECTION 10. EFFECTIVE DATE. This Final Assessment Resolution shall take effect immediately upon its passage and adoption.

PASSED, ADOPTED AND APPROVED THIS 14th day of September, 2017.

CITY COUNCIL OF PANAMA CITY BEACH

_____
Mike Thomas, Mayor

(SEAL)

Attest:

By: _____
Jo Smith, Deputy City Clerk

AGENDA ITEM # 3

REGULAR ITEM

4

CITY OF PANAMA CITY BEACH
AGENDA ITEM SUMMARY

1. *DEPARTMENT MAKING REQUEST/NAME:*	2. *MEETING DATE:*
Panama City Beach Police Department	September 14, 2017

3. *REQUESTED MOTION/ACTION:*

We respectfully request the Council's approval of Ordinance NO. 1419 amending the Police Officer's Retirement Plan. (Ordinance NO. 1419 attached)

4. *AGENDA*

PRESENTATION	☐
PUBLIC HEARING	☐
CONSENT	☐
REGULAR	☑

5. *IS THIS ITEM BUDGETED (IF APPLICABLE)?* YES ☐ NO ☐ N/A ☑
BUDGET AMENDMENT OR N/A

DETAILED BUDGET AMENDMENT ATTACHED YES ☐ NO ☐ N/A ☑

6. *BACKGROUND: (WHY IS THE ACTION NECESSARY, WHAT GOAL WILL BE ACHIEVED)*

We respectfully request the approval of Ordinance NO.1419 amending the Police Officer's Retirement Plan. Officers currently have to reach the age of fifty (50) and have completed twenty (20) years of Credited Service, or reach the age of fifty-five (55) with ten (10) years of Credited Service to reach the normal retirement age and date. Your approval will allow retirement after twenty-five (25) years of Credited Service, regardless of age, to include a one hundred fifty dollar ($150.00) supplemental benefit which is funded with state premium tax rebate funds at no cost to the City. (Ordinance No. 1419 attached). This request is submitted following the Police Officer's Pension Board approval.

AGENDA ITEM # 4

ORDINANCE NO. 1419

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH FURTHER AMENDING THE CITY OF PANAMA CITY BEACH POLICE OFFICERS' RETIREMENT PLAN, ADOPTED PURSUANT TO ORDINANCE NO. 1159, AS SUBSEQUENTLY AMENDED; AMENDING SECTION 6, BENEFIT AMOUNTS AND ELIGIBILITY; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PANAMA CITY BEACH, FLORIDA;

SECTION 1: That the City of Panama City Beach Police Officers' Retirement Plan, adopted by ordinance number 1159, as subsequently amended, is hereby further amended by amending Section 6, Benefit Amounts and Eligibility, subsection 1., Normal Retirement Date and adding subsection 6. Supplemental Benefit, to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

1. Normal Retirement Age and Date.

A Member's normal retirement age is the earlier of the attainment of age fifty (50) and the completion of twenty (20) years of Credited Service, ~~or~~ the attainment of age fifty-five (55) and the completion of ten (10) years of Credited Service, **or the completion of twenty-five (25) years of Credited Service, regardless of age**. Each Member shall become one hundred percent (100%) vested in his accrued benefit at normal retirement age. A Member's normal retirement date shall be the first day of the month coincident with or next following the date the Member retires from the City after attaining normal retirement age.

* * *

6. Supplemental Benefit.

In addition to the benefits provided for above, all normal and early retirees (not disability retirees or terminated vested persons), retiring on or after the effective date of the ordinance adopting this subsection 6, shall receive an additional supplemental monthly benefit of one hundred fifty dollars ($150.00) per month payable for the life of the retiree.

In the event that the total state premium tax rebate in any fiscal year is reduced below $137,096.00, the supplemental benefit for the following year shall be reduced proportionally to reflect the reduction in the state premium tax rebate below the

AGENDA ITEM # 4

stated amount. In any fiscal year in which the state premium tax rebate is $137,096.00 or higher, the above supplemental benefit shall not be adjusted for the following fiscal year.

SECTION 2: All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

SECTION 3: That this Ordinance shall become effective upon its adoption.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Council of the City of Panama City Beach, Florida, this_____ day of _____, 2017.

_____
MIKE THOMAS, MAYOR

ATTEST:

_____
CITY CLERK

EXAMINED AND APPROVED by me this _____ day of _____, 2017.

_____
MIKE THOMAS, MAYOR

Published in the _____ on the ___ day of _____, 2017

Posted on pcbgov.com on the ____ day of _____, 2017.

AGENDA ITEM # 4

AON
Empower Results®

City of Panama City Beach Police Officers' Pension Plan

Actuarial Impact Statement as of October 1, 2015

Amends the plan to allow for a 25 and out normal retirement and add a $150/month supplemental benefit.

AGENDA ITEM # 4

AON
Empower Results®

Ms. Holly J. White
Assistant to City Manager for Finance
City of Panama City Beach
110 South Arnold Road
Panama City Beach, FL 32407

Re: *Panama City Beach Police Officers' Pension Plan*

Dear Ms. White:

In accordance with the City's request, we are pleased to present this report on the actuarial funding impact of a proposed change to the Pension Plan. The proposed change would introduce a "25 and out" normal retirement provision as well as add a $150/month supplemental benefit for those who retire from active status. This change would be paid for by using excess Premium Tax Rebates. The change would be effective October 1, 2017, and would apply only for members who are actively employed on or after that date. That this proposed change is funded by rebates is demonstrated by the fact that the State Minimum Required Contribution remains relatively unchanged.

This actuarial impact study was performed as of October 1, 2015, using the same actuarial basis as the actuarial valuation as of that date. The cost estimates provided in this report were developed as if the proposed plan change were effective for the plan/fiscal year beginning October 1, 2015. The presumption is that the relative impact will be the same if the plan change in fact does not apply until the 2016-2017 fiscal year.

This report includes a Summary of Major Plan Provisions and a description of the Actuarial Basis used in the valuation. We relied on employee and financial data provided by the City. The Actuarial Cost Method used is considered acceptable under the Rules of the Department of Administration, Division of Retirement, Chapter 60T-1, Local Retirement Systems' Actuarial Reports.

STATEMENT BY ENROLLED ACTUARY

This actuarial valuation and/or cost determination was prepared and completed by the undersigned or under my direct supervision, and I acknowledge responsibility for the results. To the best of my knowledge, the results are complete and accurate, and in my opinion, the techniques and assumptions used are reasonable and meet the requirements and intent of Part VII, Chapter 112, Florida Statutes. There is no benefit or expense to be provided by the plan and/or paid from the plan's assets for which liabilities or current costs have not been established or otherwise provided for in the valuation. All known events or trends which may require a material increase in plan costs or required contribution rates have been taken into account in the valuation.

Respectfully submitted,

Stephen Lambert-Oswald

06/18/2017

Stephen Lambert-Oswald, F.S.A., E.A., M.A.A.A.
Enrollment No. 17-07225

Date

AGENDA ITEM # 4

City of Panama City Beach
Police Officers' Pension Plan

Table of Contents

City of Panama City Beach
Police Officers' Pension Plan

Development of Normal Cost for State Minimum Required Contribution

October 1, 2015

	Current	Propsed
1. Number of Participants		
Active	56	56
Terminated with Vested Benefits	3	3
Retirees and Beneficiaries	24	24
Total	83	83
2. Participant's Compensation		
a. Below Normal Retirement Age	$ 2,969,177	$ 2,969,177
b. Beyond Normal Retirement Age	-	-
c. Total	$ 2,969,177	$ 2,969,177
3. Present Value of Benefits		
Active	$ 13,427,491	$ 13,800,735
Terminated with Vested Benefits	891,656	891,656
Retirees	9,572,240	9,572,240
Excess State Monies Reserve	58,474	-
Total	$ 23,949,861	$ 24,264,631
4. Unfunded Actuarial Accrued Liability	$ 332,748	$ 647,518
5. Actuarial Value of Assets	$ 16,808,417	$ 16,808,417
6. Past Excess Contributions	$ 40,746	$ 40,746
7. Present Value of Future Employee Contributions	$ 2,478,410	$ 2,478,410
8. Present Value of Future City Normal Costs = (3) – (4) – [(5) – (6)] – (7) *	$ 4,371,032	$ 4,371,032
9. Present Value of Future Compensation	$ 24,697,974	$ 24,697,974
10. Normal Cost Rate = (8) ÷ (9)	17.70%	17.70%
11. Normal Cost = (2a) x (10)	$ 525,544	$ 525,544

AGENDA ITEM # 4

City of Panama City Beach
Police Officers' Pension Plan

State Minimum Required Contribution

October 1, 2015

	Plan Year Ended Current	Plan Year Ended Proposed
1. Normal Cost	$ 525,544	$ 525,544
2. Amortization of Actuarial Accrued Liability	$ 55,360	$ 102,016
3. Interest Adjustment on (1) and (2) for Quarterly Payment	$ 22,789	$ 24,619
4. Expenses		
Current Year Estimate Equal to Prior Year's Actual	$ 67,958	$ 67,958
Make-up for Shortfall in Prior Year's Estimate	14,970	14,970
Total	$ 82,928	$ 82,928
5. Estimated State Premium Tax Refund (Equal to Prior Year's Actual Refund and Excluding Excess Premium Tax Revenues That Have Not Been Used to Provide Additional Benefits)	$ 93,639	$ 140,295
6. Past Excess Contributions plus Interest Adjusted for Quarterly Payment	$ 42,344	$ 42,344
7. Minimum Required Contribution by City for Fiscal Year = (1) + (2) + (3) + (4) – (5) – (6)	$ 550,638	$ 552,468
8. Percent of Participants' Compensation Below Normal Retirement Age*	18.55%	18.61%

* Under a new state interpretation, the actual required contribution is based on this percentage of actual, not estimated, Participants' Compensation Below Normal Retirement Age.

AGENDA ITEM # 4

City of Panama City Beach
Police Officers' Pension Plan

Unfunded Frozen Initial and Supplemental Liabilities

October 1, 2015

	Initial Amount to be Amortized	Beginning Amortization Period	Original Amortization Period (Years)	Years Remaining	(BOY) Annual Amortization Amount	Unamortized Balance as of 10/1/2015
Initial Liability	$ 369,135	10/1/1994	17	0	$ -	$ -
Benefit Improvement	407,851	10/1/1994	30	9	33,545	226,316
Plan/Assumption Change	265,236	10/1/1994	30	9	21,815	147,178
Add $150/month Supplemental Plus 25 and out	314,770	10/1/2016	9	9	46,656	314,770
					$ 102,016	

1. Unamortized Balance as of 10/1/2015	$ 688,264
2. Past Excess Contributions	40,746
3. Remaining Unfunded Liabilities = (1) - (2)	$ 647,518

AGENDA ITEM # 4

City of Panama City Beach
Police Officers' Pension Plan

Schedule Illustrating the Amortization of Unfunded Liabilities Existing This Date

October 1, 2015

October 1	Liability
2015	$ 647,518
2016	589,142
2017	526,096
2018	458,007
2019	384,471
2020	305,052
2021	219,279
2022	126,644
2023	26,599
2024	-

The first figure is the Unfunded Frozen Initial and Supplemental Liabilities as of the current valuation date. For each year thereafter, the proceding year's Unfunded Liability is reduced by the annual amortization amount shown on the page titled History of Unfunded Frozen and Supplemental Liabilities and increased with interest at 8.00% per annum.

Thus the remaining amortization period as of the October 1, 2015, valuation is 2024 less 2015, or 9 years.

AGENDA ITEM # 4

City of Panama City Beach
Police Officers' Pension Plan

Past Excess Contributions (State Requirements)

October 1, 2015

	Plan Year Ended 9/30/2014	Plan Year Ended 9/30/2015
Charges:		
Deficiency Brought Forward	$ -	$ -
Normal Cost	N/A	N/A
Expenses (Estimated and Make up)	N/A	N/A
Amortization of Frozen Initial and Supplemental Liabilities	N/A	N/A
Required City Contribution, per State*	600,619	615,560
State (Estimated)	93,639	93,639
Interest	25,175	27,822
Total Charges	$ 719,433	$ 737,021
Credits:		
Excess Contribution Brought Forward	$ 2,883	$ 62,506
City Contributions	646,023	589,810
State Contributions (Excluding Excess Premium Tax Revenues That Have Not Been Used to Provide Additional Benefits)	105,385	93,639
Interest	27,648	31,812
Total Credits	$ 781,939	$ 777,767
Balance:		
Excess Contribution Carried Forward	$ 62,506	$ 40,746
Deficiency Carried Forward	$ -	$ -

*Under a new state interpretation, the actual required contribution is based on the required contribution rate times actual Participants' Compensation Below Normal Retirement Age for the Plan Year. See the "State Required Exhibit" for this determination.

AGENDA ITEM # 4

City of Panama City Beach
Police Officers' Pension Plan

Market Value of Assets

October 1, 2015

	10/1/2013	10/1/2015
Assets:		
Cash	$ 1,050,790.21	$ 1,284,356.72
Certificates of Deposit	-	-
Government and Corporate Bond	4,540,069.65	4,380,901.23
Real Estate and Equity Funds	10,958,812.72	10,237,566.60
Due from City Funds	-	359,893.76
Due from State of Florida		117,869.72
Accrued Interest	-	-
Miscellaneous Receivable	-	21,583.68
Total Assets	$ 16,549,672.58	$ 16,402,171.71
Liabilities and Fund Balance:		
Liabilities:		
Accounts Payable	$ (9,941.51)	$ (15,076.85)
Refunds or Benefits Payable	(549.64)	(390.27)
Due Other Funds	-	(42,498.14)
Total Liabilities	$ (10,491.15)	$ (57,965.26)
Pension Fund Balance:	$ 16,539,181.43	$ 16,344,206.45

AGENDA ITEM # H

City of Panama City Beach
Police Officers' Pension Plan

Reconciliation of Assets (Market Value)

October 1, 2015

	Plan Year Ended	
	9/30/2014	9/30/2015
Revenues:		
City Contributions	646,022.66	589,810.48
Employee Contributions	307,896.30	325,235.28
State Contributions	111,256.94	117,869.72
Repayment of Contributions	-	-
Interest & Dividends	260,376.11	380,177.70
Unrealized/Realized Gains (Losses)	1,291,130.89	(613,462.95)
Commissions	-	-
Total Revenues	$ 2,616,682.90	$ 799,630.23
Expenses:		
Pension Payments	670,793.07	826,245.48
Contribution Refunds	107,621.01	100,401.84
DROP Payments	210,819.03	-
Investment Expenses	34,355.55	47,486.59
Other Expenses	18,632.35	20,471.30
Total Expenses	$ 1,042,221.01	$ 994,605.21
Net Income:	$ 1,574,461.89	$ (194,974.98)
Fund Balance, Beginning of Year:	14,964,719.53	$ 16,539,181.42
Fund Balance, End of Year:	$ 16,539,181.42	$ 16,344,206.44

AGENDA ITEM # 4

City of Panama City Beach
Police Officers' Pension Plan

Investment Gain/(Loss)

October 1, 2015

1. Date of Actuarial Value of Assets:	10/1/2015	10/1/2014	10/1/2013	10/1/2012
2. Market Value as of Prior Year (including receivable contributions)	$ 16,539,181	$ 14,964,720	$ 12,948,979	$ 10,896,205
3. Receivable Contribution included above	$ -	$ -	$ -	$ -
4. Market Value Excluding Receivable (2) - (3)	$ 16,539,181	$ 14,964,720	$ 12,948,979	$ 10,896,205
5. Employer, Employee & State Contributions (made for the year, i.e., excluding the receivable contribution, item (3), but including contributions made after the end of the year with no expected return thereon)	$ 1,032,915	$ 1,065,176	$ 857,352	$ 773,832
6. Benefit Distributions	$ 926,647	$ 989,233	$ 607,431	$ 699,279
7. Administrative Expenses	$ 67,958	$ 52,988	$ 52,529	$ 57,490
8. Expected Return %	8.00%	8.00%	8.00%	8.00%
a. Item (4) for 1 year	$ 1,323,135	$ 1,197,178	$ 1,035,918	$ 871,696
b. Item (3) for partial & (5) for 1/2 year	40,522	41,787	33,634	30,358
c. Item (6) for 1/2 year	(36,353)	(38,808)	(23,830)	(27,433)
d. Item (7) for 1/2 year	(2,666)	(2,079)	(2,061)	(2,255)
	$ 1,324,638	$ 1,198,078	$ 1,043,661	$ 872,366
9. Expected Market Value (2)+(5)-(6)-(7)+(8)	$ 17,902,130	$ 16,185,752	$ 14,190,032	$ 11,785,635
10. Actual Market Value this Year (including receivable contributions)	$ 16,344,206	$ 16,539,181	$ 14,964,720	$ 12,948,979
11. Investment Gain/(Loss) from Experience	$ (1,557,923)	$ 353,429	$ 774,687	$ 1,163,343

AGENDA ITEM # 4

City of Panama City Beach
Police Officers' Pension Plan

Actuarial Value of Assets

October 1, 2015

5 -YEAR SMOOTHED MARKET VALUE WITHOUT PHASE-IN				**10/1/2015**
1. Market Value of Assets				$ 16,344,206
2. Investment Gains/(Losses) for Four Prior Years				
a.	Oct-14			$ (1,557,923)
b.	Oct-13			353,429
c.	Oct-12			774,687
d.	Oct-11			1,163,343
3. Unrecognized Investment Gains/(Losses)				
a.	Oct-14	80%	of (2)(a)	$ (1,246,339)
b.	Oct-13	60%	of (2)(b)	212,057
c.	Oct-12	40%	of (2)(c)	309,875
d.	Oct-11	20%	of (2)(d)	232,669
e. Total: (a)+(b)+(c)+(d)				$ (491,738)
4. Preliminary Actuarial Value of Assets = (1) - (3)(e)				$ 16,835,944
5. Adjustment to be within 20% of market value				$ -
6. Actuarial Value of Assets = (4) + (5)				$ 16,835,944

AGENDA ITEM # 4

City of Panama City Beach
Police Officers' Pension Plan

Allocation of Actuarial Value of Assets to the Reserve for Other Retirement Benefits (i.e., Excluding DROP)

October 1, 2015

	Actuarial Value Allocated in Proportion to Market Value	Market Value
Reserve for DROP	$ 27,527	$ 26,723
Reserve for Other Retirement Benefits	16,808,417	16,317,483
Total Fund Balances	$ 16,835,944	$ 16,344,206

AGENDA ITEM # 4

City of Panama City Beach
Police Officers' Pension Plan

Funded Status – Accrued Benefits (ASC 960)

October 1, 2015

Generally the best measures of the Funded Status of a defined benefit plan are considered to be the levels of funding of the Actuarial Present Values of Accumulated Plan Benefits and Vested Benefits. Accumulated Plan Benefits are those future benefit payments that are attributable under the plan's provisions to employees' service rendered prior to the valuation date. Accumulated Plan Benefits are based on employees' actual pay histories, or estimates thereof; possible future salary increases or changes in Social Security levels are not recognized. Vested Benefits are those benefits which are nonforfeitable under the plan's vesting provisions.

The Actuarial Present Value of Accumulated Plan Benefits is the amount resulting from the application of actuarial assumptions to the Accumulated Plan Benefits to reflect the time value of money and the probabilities of death, disability, withdrawal and retirement. Underlying these assumptions (described on the Actuarial Basis page) is an assumption of an ongoing plan. Since most Accumulated Plan Benefits are generally synonymous with "Accrued Benefits" as defined in the plan, the Actuarial Present Value of Accumulated Plan Benefits has also been called the Present Value of Accrued Benefits.

	10/1/2014	10/1/2015
NET ASSETS AVAILABLE FOR BENEFITS*	$ 15,507,985	$ 16,808,417
ACTUARIAL PRESENT VALUE OF ACCUMULATED PLAN BENEFITS		
Vested Benefits		
Participants Currently Receiving Payments	$ 8,922,332	$ 9,572,240
All Other Participants	5,112,446	5,612,051
TOTAL VESTED BENEFITS	$ 14,034,778	$ 15,184,291
Percent Funded	110%	111%
NONVESTED BENEFITS	1,044,455	844,322
EXCESS STATE MONIES RESERVE	16,625	58,474
TOTAL ACTUARIAL PRESENT VALUE OF ACCUMULATED PLAN BENEFITS	$ 15,095,858	$ 16,087,087
Percent Funded	103%	104%

* Actuarial Value of Assets

AGENDA ITEM # 4

City of Panama City Beach
Police Officers' Pension Plan

Funded Status – Accrued Benefits (ASC 960) (Continued)

October 1, 2015

	10/1/2014	10/1/2015
ACTUARIAL PRESENT VALUE OF ACCUMULATED PLAN BENEFITS AS OF PRIOR VALUATION DATE	$ 14,026,578	$ 15,088,316
Increase (Decrease) During the Year Attributable to:		
Increase for Interest Due to the Decrease in the Discount Period	$ 1,090,990	$ 1,169,999
Benefits Paid	(778,414)	(926,647)
Benefits Accumulated, Turnover, Other Experience	749,162	755,419
Change in Actuarial Assumptions	-	-
Plan Amendment	-	-
Net Increase (Decrease)	$ 1,061,738	$ 998,771
ACTUARIAL PRESENT VALUE OF ACCUMULATED PLAN BENEFITS AS OF CURRENT VALUATION DATE	$ 15,088,316	$ 16,087,087

AGENDA ITEM # 4

City of Panama City Beach
Police Officers' Pension Plan

State Required Exhibit

October 1, 2015

	10/1/2014	10/1/2015
A. Member Data		
1. Active Members	54	56
2. Retired Members and beneficiaries receiving benefits (including DROP)	20	24
3. Disabled Members receiving benefits	0	0
4. Terminated vested Members	6	3
5. Prior year active compensation	$ 2,590,023	$ 2,858,939
6. Annual benefits payable to retirees and beneficiaries (including DROP)	$ 776,956	$ 847,166
7. Annual benefits payable to disabled retirees	$ -	$ -
8. Annual benefits payable to terminated vested Members	$ 131,144	$ 93,594
B. Assets		
1. Actuarial value	$ 15,507,985	$ 16,808,417
2. Market value	16,539,181	16,317,483
C. Liabilities		
1. Actuarial present value of future expected benefit payments for active members		
a. Retirement benefits	$ 9,990,011	$ 11,703,095
b. Termination benefits	2,087,315	1,881,734
c. Death benefits	76,992	82,357
d. Disability benefits	121,477	133,549
e. Total	$ 12,275,795	$ 13,800,735
2. Actuarial present value of future expected benefit payments for terminated vested members	$ 1,114,230	$ 891,656
3. Actuarial present value of future expected benefit payments for members currently receiving benefits		
a. Service retired, beneficiaries and DROP	$ 8,922,332	$ 9,572,240
b. Disability retired	-	-
c. Total	$ 8,922,332	$ 9,572,240
4. Excess State Monies Reserve	$ 16,625	$ 58,474
5. Total actuarial present value of future expected benefit payments	$ 22,328,982	$ 24,323,105
6. Entry age normal accrued liability	$ 18,078,928	$ 18,078,928
7. Unfunded entry age normal accrued liability	$ 1,539,747	$ 1,761,445
8. Liabilities at FRS discount rate		
a. Discount rate	7.65%	7.65%
b. Entry age normal accrued liability	$ 18,718,027	$ 18,718,027
c. Unfunded entry age normal accrued liability	$ 3,210,042	$ 1,909,610

AGENDA ITEM # 4

City of Panama City Beach
Police Officers' Pension Plan

State Required Exhibit (Continued)

October 1, 2015

	10/1/2014	10/1/2015
D. Statement of Accumulated Plan Benefits		
1. Actuarial present value of accumulated vested benefits		
a. Members currently receiving benefits (including DROP)	$ 8,922,332	$ 9,572,240
b. Other Members	5,112,446	5,612,051
c. Total	$ 14,034,778	$ 15,184,291
2. Actuarial present value of accumulated non-vested plan benefits	1,044,455	844,322
3. Excess State Monies Reserve	16,625	58,474
4. Total actuarial present value of accumulated plan benefits	$ 15,095,858	$ 16,087,087
5. Liabilities at FRS discount rate		
a. Discount rate	7.65%	7.65%
b. Actuarial present value of accumulated vested benefits	$ 14,595,408	$ 14,595,408
c. Total actuarial present value of accumulated plan benefits	$ 15,704,488	$ 15,746,337
E. Statement of Change in Accumulated Plan Benefits		
1. Actuarial present value of accumulated plan benefits as of Prior Valuation Date	$ 14,026,578	$ 15,088,316
2. Increase (decrease) during year attributable to:		
a. Plan amendment	0	0
b. Change in actuarial assumptions	0	0
c. Benefits paid	(778,414)	(926,647)
d. Other, including benefits accumulated and increase for interest due to decrease in the discount period	1,840,152	1,925,418
e. Net increase	$ 1,061,738	$ 998,771
3. Actuarial present value of accumulated plan benefits as of Current Valuation Date	$ 15,088,316	$ 16,087,087

AGENDA ITEM # 4

City of Panama City Beach
Police Officers' Pension Plan

State Required Exhibit (Continued)

October 1, 2015

	10/1/2013	10/1/2014
Actuarial Valuation Date		
For Contribution Year	2013-14	2014-15
F. Past Contributions		
1. Total contribution required		
a. City		
i. Estimated Dollars, from Actuarial Valuation	$ 615,147	$ 550,638
ii. Percentage of Participants' Compensation	23.08%	18.55%
iii. Actual Compensation Under NRA	$ 2,590,023	$ 2,858,939
iv. Required, per new state interpretation = (ii.) x (iii.)	$ 597,777	$ 530,333
b. State (Estimated)	93,639	93,639
c. Member*	293,119	300,595
d. Total = (a iv.) + (b.) + (c.)	$ 984,535	$ 924,567
2. Actual contributions made:		
a. City	$ 646,023	$ 589,810
b. State**	93,639	93,639
c. Member	307,896	325,235
d. Total	$ 1,047,558	$ 1,008,684
G. Net Actuarial Gain (Loss)	N/A	N/A

H. Disclosure of Following Items:	10/1/2014	10/1/2015
1. Actuarial present value of future salaries - attained age***	$ 22,998,907	$ 24,697,974
2. Actuarial present value of future employee contributions - attained age***	$ 2,307,237	$ 2,478,410
3. Actuarial present value of future contributions from other sources	N/A	N/A
4. Amount of active members' accumulated contributions	$ 1,894,166	$ 2,042,622
5. Actuarial present value of future salaries and future benefits at entry age	Not provided by system	
6. Actuarial present value of future employee contributions at entry age	Not provided by system	

* Determined by applying the required employee contribution rate (11.0%) to expected compensation for the year for participants under Normal Retirement Age (NRA)

** Excluding Excess Premium Tax Revenues that have not been used to provide Additional Benefits

*** Participants under Normal Retirement Age (NRA) only

AGENDA ITEM # 4

City of Panama City Beach
Police Officers' Pension Plan

Summary of Major Plan Provisions

October 1, 2015

Effective Date: August 25, 1971.

Plan Year: October 1 to September 30.

Last Amendment: Restatement (Ordinance 669) effective June 8, 2000. First Amendment (Ordinance 715) effective March 8, 2001 (changing Employee Contributions from 7.0% to 9.7% and the multiplier from 3.00% to 3.25%). Second Amendment (Ordinance 794) effective April 10, 2003 (for various law and other changes). Third Amendment (Ordinance 811) effective July 10, 2003 (adding Early Retirement). Fourth Amendment (Ordinance 881) effective July 22, 2004 (adding 3% increasing annuities as an Optional Form of Payment and changing investment policy). Fifth Amendment (Ordinance 1029) effective May 11, 2006 (changing various provisions as required by new IRS rules). Sixth Amendment (Ordinance 1070) effective May 17, 2007 (changing Employee Contributions from 9.7% to 11.0% and the multiplier from 3.25% to 3.50%). Seventh Amendment (Ordinance 1083) effective July 26, 2007 (adding 5% fixed investment return option for DROP). Restatement (Ordinance 1159) adopted August 17, 2009. First Amendment (Ordinance 1222) effective February 9, 2012 (adding 300 hours of overtime cap).

Eligibility: All permanent Police Officers who have passed the medical examination.

Employee Contributions: 11% of Compensation (9.7% prior to May 17, 2007) and excluded from taxable income under IRC Section 414(h).

Compensation: Total compensation paid by the City for services rendered as reported on Form W-2, plus all tax deferred, tax sheltered or tax exempt amounts derived from elective employee contributions or salary reductions. Compensation includes regular pay, overtime (up to 300 hours) and other cash incentives. Payments of leave amounts (vacation, sick, etc.) upon termination of employment shall not be included. Auto allowance and mileage reimbursements shall not be included. Compensation in excess of the IRC Section 401(a)(17) limit is disregarded.

Average Final Compensation: The Compensation received during the 5 years out of the last 10 years of Credited Service divided by 60, which produces the highest average, or the career average as a full-time Police Officer, if greater.

Credited Service: Years and fractional parts of years of service as a Police Officer with the City and while making Employee Contributions.

Accrued Benefit: The benefit using the formula for the Normal Retirement Benefit, based upon the Average Final Compensation and Credited Service as of the date of the calculation. The Accrued Benefit is payable at the Normal Retirement Date in the Normal Form of Benefit.

Accumulated Contributions: A participant's contributions with interest compounded annually at 5.25% through June 8, 2000; after that date interest is no longer accrued.

Normal Retirement Date: The first day of the month coincident with or next following the earlier of (1) the date a participant attains age 50 and has completed at least 20 years of Credited Service or (2) the date he attains age 55 and has completed at least 10 years of Credited Service. The proposed plan change would

also allow normal retirement with 25 years of service regardless of age.

Early Retirement Date: The first day of the month coincident with or next following the date a participant attains age 50 and has completed at least 10 years of Credited Service.

Normal Form of Benefit: A monthly annuity for life with 10 years certain.

Optional Forms of Benefit: Benefits Actuarially Equivalent to the benefit provided under the Normal Form of Benefit; optional forms:

a. Life annuity (with no modified cash refund feature),

b. Joint and survivor annuity (100%, 75%, 66 2/3% or 50%; reducing upon death of participant only),

c. Level income option,

d. Any of the above forms, increasing 3% per year on each January 1, or

e. Lump Sum if under $5,000, or less than $100 per month.

Normal Retirement Benefit: A monthly benefit commencing at the Normal Retirement Date equal to 3.5% of Average Final Compensation multiplied by years of Credited Service, but not more than 100% of Average Final Compensation (excluding COLA's). The proposed plan change would also add a fixed $150/month supplement for anyone retiring from active service. The normal form for this benefit would be a life annuity.

Late Retirement Benefit: Additional benefits will accrue after the Normal Retirement Date.

Early Retirement Benefit: A participant who elects to retire on or after his Early Retirement Date may receive an Early Retirement Benefit commencing at his Normal Retirement Date equal to his Accrued Benefit. If he further elects to have such benefit commence prior to his Normal Retirement Date, it shall be reduced 3% per year (.25% per month) for each period by which the benefit commencement date precedes his Normal Retirement Date. For this purpose Normal Retirement Date is determined based on the participant's actual years of Credited Service as a Police Officer at his termination date.

Death Benefit: The beneficiary of a participant who dies (1) during employment or after termination with a vested benefit and (2) with respect to whom benefit payments have not commenced shall be entitled to a Death Benefit equal to 100 times his monthly Accrued Benefit based on his Credited Service and Average Final Compensation as of the time of death. This benefit is payable in a lump sum unless the Police Officer elected that it be paid in an Actuarially Equivalent annuity or installments. The Plan also provides minimum Death Benefits based upon the vested, 10-year-certain portion of the Normal Form of Benefit or the refund of Accumulated Contributions.

Termination of Employment Benefit: A participant who terminates his employment after completing ten years of Credited Service for reason other than death, disability or retirement shall be entitled to a vested deferred monthly benefit commencing at his Normal Retirement Date equal to his Accrued Benefit. Any participant may withdraw his Accumulated Contributions; a vested participant who withdraws his Accumulated Contributions forfeits his rights to his vested Accrued Benefit or Death Benefit.

If a participant terminates after completing 10 years but prior to being eligible for retirement:

- With less than 20 years of Credited Service, his annuity can begin unreduced at age 55 or reduced (3% per year) between ages 50 and 55, or
- With 20 or more years of Credited Service, his annuity can begin unreduced at age 50.

Disability Benefit: A Participant who becomes totally and permanently disabled shall be eligible to receive a Disability Benefit in the form of an immediate monthly annuity for life with ten years certain as follows:

> **Job-Related Disability**: Without regard to years of Credited Service, a benefit equal to the greater of his Accrued Benefit or 42% of Average Final Compensation as of the date of disability.
>
> **Non-Job-Related Disability**: With ten or more years of Credited Service, a benefit equal to his Accrued Benefit as of the date of disability.

The Disability Benefit together with worker's compensation benefits may not exceed 100% of pay, as provided in the Plan. Optional Forms of Benefit may be elected.

Actuarial Equivalent: A benefit or amount of equal value, based upon the 1983 Group Annuity Mortality Table for Males and an interest rate of 8% per annum. In practice, in accordance with the prior document, the Table for Males is used for all Police Officers, regardless of sex, and the same table with ages set back 6 years is used for all beneficiaries and survivor annuitants, regardless of sex.

Maximum Benefits: IRC Section 415 limits apply as modified for governmental plans and for police and fire plans.

Deferred Retirement Option Program (DROP):

a. **Eligibility**: Normal Retirement.

b. **Benefit Amount**: The participant's Accrued Benefit calculated as of the beginning of the DROP period, accumulated quarterly with interest at a rate equal to either the Pension Plan's net investment performance during the quarter or a fixed guaranteed rate of 5% annually, plus cost-of-living adjustments, if any, during the DROP period. The participant elects which interest basis he wants upon his entry into the DROP, and may change such election only once during the DROP period.

c. **Form of Benefit**: When the DROP period ends (maximum 5 years), the employee must terminate employment. At that time, the accumulated DROP benefits will be distributed in the form of a lump sum, a rollover, or a nonforfeitable fixed annuity to the participant, or if deceased, such participant's designated beneficiary. In addition, the monthly annuity, including any COLA adjustments, will continue to the participant as otherwise provided in the Plan.

d. **Other Provisions**: A participant in DROP is no longer eligible for Death or Disability Benefits. Employee Contributions are no longer collected, and Credited Service and Average Final Compensation are frozen as of the date of entry into DROP.

Actuarial Basis

October 1, 2015

ACTUARIAL COST METHOD

Entry Age Normal with Frozen Initial Liability. Changes in actuarial assumptions are reflected in Normal Cost. Since at least 1999, all changes in plan benefits have been funded either by increases in the employee contribution rate or by increased Premium Tax Revenues.

ACTUARIAL ASSUMPTIONS

Investment Yield: The investment rate of earnings is assumed to be 8.00% per annum.

Interest on Employee Contributions: No interest is credited beyond June 8, 2000.

Mortality: Mortality is based on the RP-2000 (Retirement Plans-2000) Generational Tables from the year 2000 using Scale. [ProVal name: IRS 2008 Generational Mortality]

Disability: Preretirement disability is assumed to occur in accordance with a standard scale of disability rates (1955 UAW, male and female). Sample rates are shown below:

Age	Probability of Disablement Male	Female
20	0.03%	0.04%
30	0.04%	0.06%
40	0.07%	0.10%
50	0.18%	0.26%
60	0.90%	1.21%

Twenty-five percent of disabilities are assumed to be non-job-related.

Withdrawal: Preretirement withdrawals are assumed to occur in accordance with a standard scale of turnover rates (T-5). Sample rates are shown below:

Age	Probability of Withdrawal
20	7.9%
30	7.2%
40	5.2%
50	2.6%

Salary Scale: Future salaries are assumed to increase at the rate of 6% per year.

Actuarial Value of Assets: Assets are valued using a 5-year smoothed market value without phase-in.

Retirement Rate: Each active participant is assumed to retire on the later of the actuarial valuation date or his Normal Retirement Date.

Timing of Contribution: The contribution is assumed to be made quarterly throughout the plan year.

Employees Covered: All participants as of the actuarial valuation date.

Expenses: Expenses for the current year are assumed to equal actual expenses for the prior year. If actual expenses for the current year differ from this estimate, a make-up contribution or credit is included.

Maximum Compensation: Compensation is limited to $260,000 projected to increase at the rate of 4% per annum.

Maximum Benefits: The $210,000 maximum for years ending in 2014 and other applicable Benefit Limitations under Section 415 are projected to increase at the rate of 4% per annum.

Completeness of Assumptions: All benefits and expenses to be provided by the Plan are recognized in the valuation. All known events are taken into account; no current trends are assumed to discontinue in the future.

COMPARABILITY WITH PRIOR VALUATION

Significant Events During the Year: None.

Significant Changes in the Summary of Major Plan Provisions: None.

Significant Changes in the Actuarial Cost Method or Actuarial Assumptions: Mortality was updated to RP-2000 Generational Mortality using Scale AA.

Other Information Needed to Fully and Fairly Disclose the Actuarial Position of the Plan: None.

AGENDA ITEM # 4

Actuarial Cost Method
"Entry Age Normal with Frozen Initial Liability"

October 1, 2015

An actuarial valuation is a series of mathematical calculations which project future benefits under a pension plan and future contributions to fund those benefits. The true cost of a pension plan cannot be determined until the last benefit is paid, because the true cost is the actual benefits ultimately paid, plus the expense of maintaining the plan, less the actual income earned on invested funds. Since funding cannot wait until the last benefit is paid, however, actuarial assumptions are used to project ultimate benefit levels and the reserves needed to provide them. An actuarial cost method is then used to establish a reasonable pattern of contributions to accumulate those reserves. The assumptions and cost method themselves, therefore, only impact on the incidence of funding, not the true cost. Each new valuation automatically corrects for any differences between the assumptions and actual experience, and the correction is spread over the current and future years of funding.

The Entry Age Normal with Frozen Initial Liability cost method spreads the funding of a portion of the pension benefits over the future service of all active participants and the balance is funded in a separate amortization schedule.

The Frozen Initial Liability is determined and fixed in the first year the cost method is adopted, although it may be redetermined or a supplemental piece added when the Plan is amended. The Frozen Initial Liability is the excess of the Present Value of Benefits over the sum of (a) the Present Value of Future Entry Age Normal Costs, (b) the Present Value of Future Employee Contributions, and (c) the Actuarial Value of Assets in the Trust Fund. The Entry Age Normal Cost is the annual cost determined by assuming the current Plan was always in effect and calculating the amount needed to produce level funding of benefits for all current participants from the date they would have entered the Plan. The Frozen Initial Liability may be amortized over as many as 40 years.

In each subsequent year, the order of steps is reversed. The Present Value of Future Normal Costs is calculated as the excess of the Present Value of Benefits over the sum of (a) the unfunded portion of the Frozen Initial Liability, (b) the Actuarial Value of Assets and (c) the Present Value of Future Employee Contributions.

The Normal Cost is developed by spreading the Present Value of Future City Normal Costs over the future compensation of all participants as a level percentage of pay, i.e., by dividing it by the Present Value of Future Compensation to get the Normal Cost Rate. The Normal Cost is the product of the Normal Cost Rate and the current Participants' Compensation. Actuarial gains or losses are included in the Present Value of Future Normal Costs, and are reflected in the Normal Cost Rate and thereby spread over the remaining future service of the participants in the Normal Cost. The Frozen Initial Liability is not adjusted for actuarial gains or losses.

4

AGENDA ITEM #_____

The state minimum required contribution in a particular year is equal to the Normal Cost, plus a level amount which will amortize the Frozen Initial Liability and supplemental bases over the applicable number of years, plus expected and "make-up" expenses, less the Past Excess Contributions.

In the event of either a negative Normal Cost or an unfunded liability that is zero or less, the Cost Method will operate temporarily as the Aggregate Cost Method, in effect, until a positive unfunded liability is established at the time of a plan amendment, when a new Frozen Initial Liability is established.

The calculation of the contribution has been made in a manner that assumes quarterly payment during the Plan Year. In order to meet the state minimum funding requirements, the state minimum required contribution must be made at least quarterly during the Plan Year.

REGULAR ITEM

5

CITY OF PANAMA CITY BEACH
AGENDA ITEM SUMMARY

1. *DEPARTMENT MAKING REQUEST/NAME:*
Utilities Department - Al Shortt, Utilities Director

2. *MEETING DATE:*
September 14, 2017

3. *REQUESTED MOTION/ACTION:*
Approve a 1% water and 2% sewer/reclaimed water rate increase for the upcoming fiscal year starting October 1, 2017, and approve updated water and reclaimed water system tap-on fee charges.

4. *AGENDA*

PRESENTATION	☐
PUBLIC HEARING	☐
CONSENT	☐
REGULAR	☑

5. *IS THIS ITEM BUDGETED (IF APPLICABLE)?* YES ☐ NO ☐ N/A ☑
BUDGET AMENDMENT OR N/A

DETAILED BUDGET AMENDMENT ATTACHED YES ☐ NO ☐ N/A ☑

6. *BACKGROUND: (WHY IS THE ACTION NECESSARY, WHAT GOAL WILL BE ACHIEVED)*

In August 2016, the city's rate consultant, Public Resources Management Group, completed a utility rate analysis and made recommendations for the following five (5) fiscal years. No increases were proposed, or implemented, for the current fiscal year. The report recommends a 1% increase in potable water rates and a 2% increase in sewer and reclaimed water rates for the upcoming fiscal year beginning October 1. Legal staff has prepared the attached Ordinance 1424 implementing the increases. Notices of the proposed rate increases were included on water bills and mailed to all customers as required. In addition to the rate changes, water and reclaimed water tap-on fees have been updated to reflect current costs of procuring and installing meters. They were last updated over 10 years ago.

Also attached for your information are three spreadsheets and graphs which offer a comparison of the City's current and proposed water/sewer rates with other municipalities in Bay County. The dark blue bar in the graphs represents the City's current rates and the adjacent light blue bar represents the rates if the increase is approved. Even with the proposed rates, the combined water and sewer charges for a single family home in Panama City Beach are significantly lower than the amount charged by the other municipalities within the County.

Staff recommends approval of Ordinance 1424. Implementation of routine moderate rate adjustments allows the utility system to remain financially solvent, provide quality service and meet or exceed environmental regulations.

AGENDA ITEM # 5

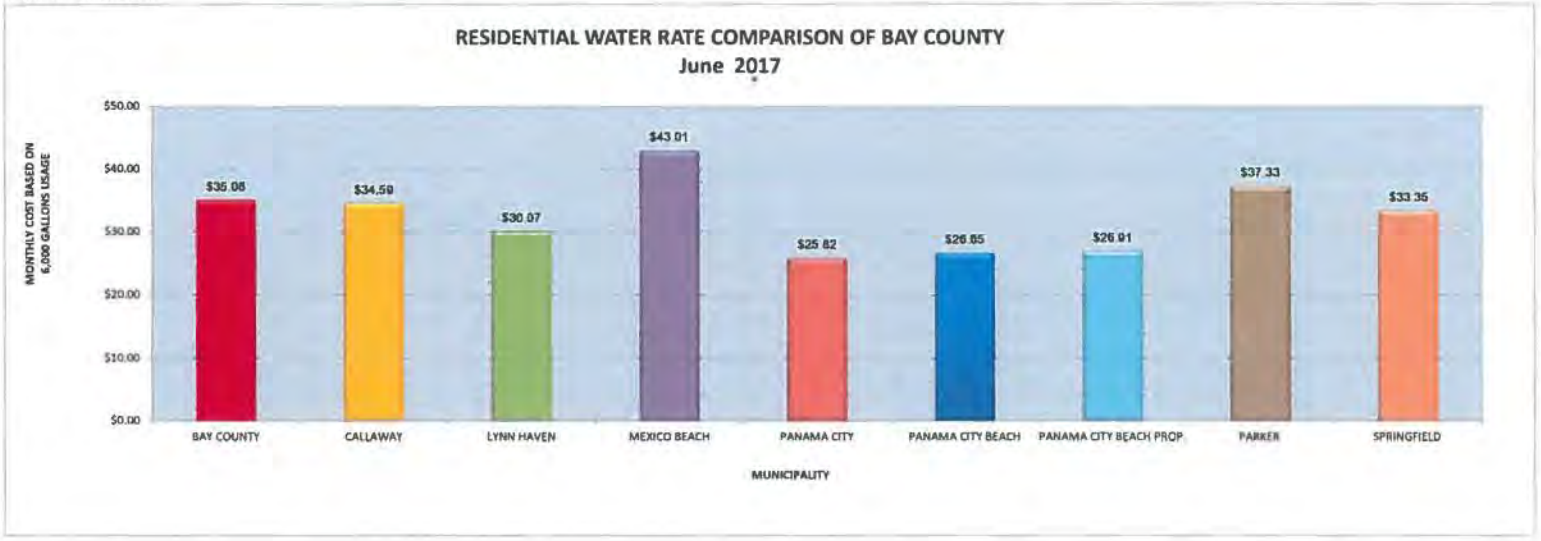
RESIDENTIAL WATER RATE COMPARISON

BAY COUNTY UTILITY SYSTEMS

June 2017

SYSTEM NAME	MINIMUM BILL $$/BILL	MINIMUM BILL GAL INCL	BLOCK 1 RATE PER 1000 GAL	BLOCK 1 LIMIT	BLOCK 2 RATE PER 1000 GAL	BLOCK 2 LIMIT	BLOCK 3 RATE PER 1000 GAL	BLOCK 3 LIMIT	BLOCK 4 RATE PER 1000 GAL	BLOCK 4 LIMIT	COST FOR # OF GALLONS 1,000	2,000	3,000	4,000	5,000	6,000	7,000	8,000	9,000	10,000	11,000	12,000	WATER RATE STRUCT
BAY COUNTY	$20.08	0	$2.37	3,000	$2.63	6,000	$3.29	9,000	$3.93	100,000	$22.45	$24.82	$27.19	$29.82	$32.45	$35.08	$38.37	$41.66	$44.95	$48.86	$52.81	$56.74	INV
CALLAWAY	$11.37	0	$3.87	100,000							$15.24	$19.11	$22.98	$26.85	$30.72	$34.59	$38.46	$42.33	$46.20	$50.07	$53.94	$57.81	FLAT
LYNN HAVEN	$9.43	0	$3.44	100,000							$12.87	$16.31	$19.75	$23.19	$26.63	$30.07	$33.51	$36.95	$40.39	$43.83	$47.27	$50.71	FLAT
MEXICO BEACH	$36.59	4000	$3.21	100,000							$36.59	$36.59	$36.59	$36.59	$39.80	$43.01	$46.22	$49.43	$52.64	$55.85	$59.06	$62.27	FLAT
PANAMA CITY	$7.16	0	$3.11	100,000							$10.27	$13.38	$16.49	$19.60	$22.71	$25.82	$28.93	$32.04	$35.15	$38.26	$41.37	$44.48	FLAT
PANAMA CITY BEACH	$16.93	3000	$3.24	100,000							$16.93	$16.93	$16.93	$20.17	$23.41	$26.65	$29.89	$33.13	$36.37	$39.61	$42.85	$46.09	FLAT
PANAMA CITY BEACH PROP	$17.10	3000	$3.27	100,000							$17.10	$17.10	$17.10	$20.37	$23.64	$26.91	$30.18	$33.45	$36.72	$39.99	$43.26	$46.53	FLAT
PARKER	$9.31	0	$4.67	100,000							$13.98	$18.65	$23.32	$27.99	$32.66	$37.33	$42.00	$46.67	$51.34	$56.01	$60.68	$65.35	FLAT
SPRINGFIELD	$8.69	0	$4.11	100,000							$12.80	$16.91	$21.02	$25.13	$29.24	$33.35	$37.46	$41.57	$45.68	$49.79	$53.90	$58.01	FLAT
AVE.	$14.97	875	$3.51								$17.66	$20.36	$23.06	$26.19	$29.73	$33.27	$36.89	$40.51	$44.13	$47.84	$51.54	$55.24	
MEDIAN	$10.40	0	$3.36								$14.61	$17.88	$22.00	$25.99	$29.98	$33.97	$37.92	$41.62	$45.32	$49.34	$53.36	$57.28	
MIN	$7.16	0	$2.37								$10.27	$13.38	$16.49	$19.60	$22.71	$25.82	$28.93	$32.04	$35.15	$38.26	$41.37	$44.48	
MAX.	$36.59	4000	$4.67								$36.59	$36.59	$36.59	$36.59	$39.80	$43.01	$46.22	$49.43	$52.64	$56.01	$60.68	$65.35	

INV = INVERTED RATE STRUCTURE. UNIT RATE INCREASES WITH EACH SUCCESSIVE BLOCK OF WATER USAGE.
FLAT = FLAT RATE. UNIT RATE REMAINS CONSTANT



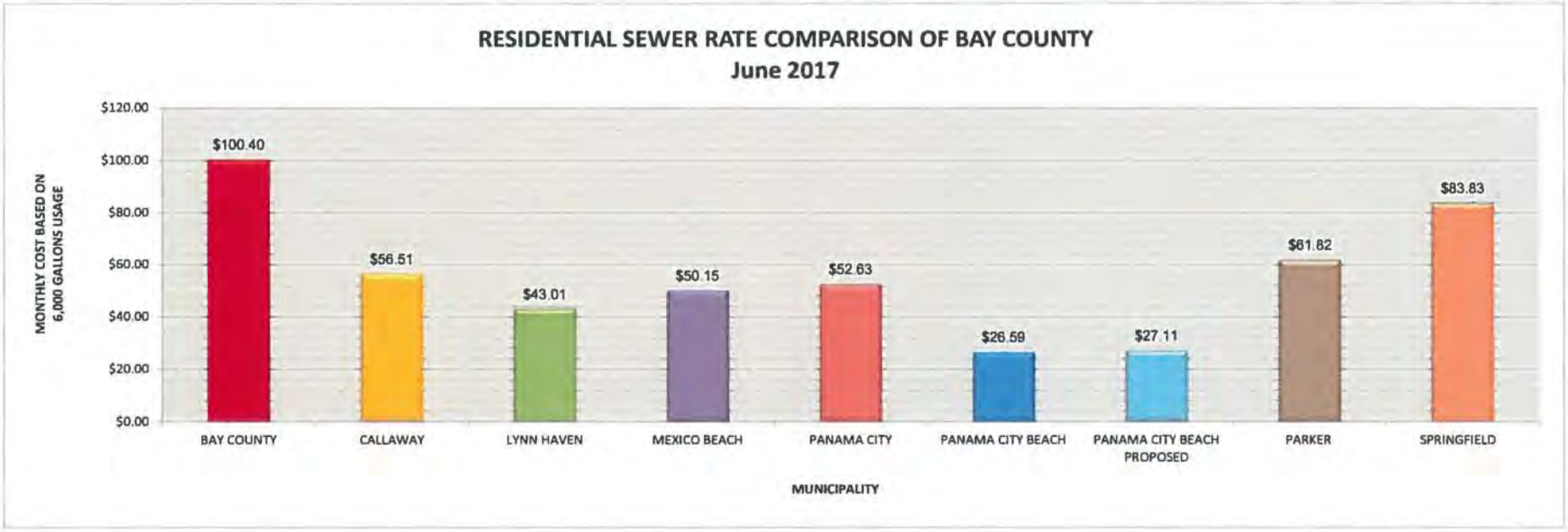
AGENDA ITEM # 5

RESIDENTIAL SEWER RATE COMPARISON

BAY COUNTY UTILITY SYSTEMS

June 2017

SYSTEM NAME	MINIMUM BILL $$/BILL	MINIMUM BILL GAL. INCL.	BASE RATE/ 1000 GAL	MAX GAL. BILLED	COST FOR # OF GALLONS 1,000	2,000	3,000	4,000	5,000	6,000	7,000	8,000	9,000	10,000	11,000	12,000
BAY COUNTY	$35.24	0	$10.86	NONE	$46.10	$56.96	$67.82	$78.68	$89.54	$100.40	$111.26	$122.12	$132.98	$143.84	$154.70	$165.56
CALLAWAY	$32.69	0	$3.97	NONE	$36.66	$40.63	$44.60	$48.57	$52.54	$56.51	$60.48	$64.45	$68.42	$72.39	$76.36	$80.33
LYNN HAVEN	$9.11	0	$5.65	12000	$14.76	$20.41	$26.06	$31.71	$37.36	$43.01	$48.66	$54.31	$59.96	$65.61	$71.26	$76.91
MEXICO BEACH	$43.69	4,000	$3.23	NONE	$43.69	$43.69	$43.69	$43.69	$46.92	$50.15	$53.38	$56.61	$59.84	$63.07	$66.30	$69.53
PANAMA CITY	$16.39	0	$6.04	12000	$22.43	$28.47	$34.51	$40.55	$46.59	$52.63	$58.67	$64.71	$70.75	$76.79	$82.83	$88.87
PANAMA CITY BEACH	$18.40	3,000	$2.73	NONE	$18.40	$18.40	$18.40	$21.13	$23.86	$26.59	$29.32	$32.05	$34.78	$37.51	$40.24	$42.97
PANAMA CITY BEACH PROPOSED	$18.77	3,000	$2.78	NONE	$18.77	$18.77	$18.77	$21.55	$24.33	$27.11	$29.89	$32.67	$35.45	$38.23	$41.01	$43.79
PARKER	$24.77	1,000	$7.41	NONE	$24.77	$32.18	$39.59	$47.00	$54.41	$61.82	$69.23	$76.64	$84.05	$91.46	$98.87	$106.28
SPRINGFIELD	$27.31	0	$9.42	NONE	$36.73	$46.15	$55.57	$64.99	$74.41	$83.83	$93.25	$102.67	$112.09	$121.51	$130.93	$140.35
AVE.	$26.00	1,000	$6.17	12,000	$30.49	$35.91	$41.33	$47.09	$53.26	$59.43	$65.60	$71.77	$77.94	$84.11	$90.28	$96.45
MEDIAN	$26.04	0	$5.85	12,000	$30.72	$36.41	$41.64	$45.35	$49.73	$54.57	$59.58	$64.58	$69.59	$74.59	$79.60	$84.60
MIN.	$9.11	0	$2.78	12,000	$14.76	$18.77	$18.77	$21.55	$24.33	$27.11	$29.89	$32.67	$35.45	$38.23	$41.01	$43.79
MAX.	$43.69	4,000	$10.86	12,000	$46.10	$56.96	$67.82	$78.68	$89.54	$100.40	$111.26	$122.12	$132.98	$143.84	$154.70	$165.56



AGENDA ITEM # 5

COMBINED RESIDENTIAL WATER & SEWER RATE COMPARISON

BAY COUNTY UTILITY SYSTEMS

June 2017

SYSTEM NAME	COST FOR # OF GALLONS											
	1,000	2,000	3,000	4,000	5,000	6,000	7,000	8,000	9,000	10,000	11,000	12,000
BAY COUNTY	$68.55	$81.78	$95.01	$108.50	$121.99	$135.48	$149.63	$163.78	$177.93	$188.79	$207.51	$222.30
CALLAWAY	$51.90	$59.74	$67.58	$75.42	$83.26	$91.10	$98.94	$106.78	$114.62	$118.59	$130.30	$138.14
LYNN HAVEN	$27.63	$36.72	$45.81	$54.90	$63.99	$73.08	$82.17	$91.26	$100.35	$106.00	$118.53	$127.62
MEXICO BEACH	$80.28	$80.28	$80.28	$80.28	$86.72	$93.16	$99.60	$106.04	$112.48	$115.71	$125.36	$131.80
PANAMA CITY	$32.70	$41.85	$51.00	$60.15	$69.30	$78.45	$87.60	$96.75	$105.90	$111.94	$124.20	$133.35
PANAMA CITY BEACH	$35.33	$35.33	$35.33	$41.30	$47.27	$53.24	$59.21	$65.18	$71.15	$77.12	$83.09	$89.06
PANAMA CITY BEACH PROPOSED	$35.87	$35.87	$35.87	$41.92	$47.97	$54.02	$60.07	$66.12	$72.17	$78.22	$84.27	$90.32
PARKER	$38.75	$50.83	$62.91	$74.99	$87.07	$99.15	$111.23	$123.31	$135.39	$142.80	$159.55	$171.63
SPRINGFIELD	$49.53	$63.06	$76.59	$90.12	$103.65	$117.18	$130.71	$144.24	$157.77	$167.19	$184.83	$198.36
AVE.	$48.15	$56.27	$64.38	$73.29	$82.99	$92.70	$102.49	$112.29	$122.08	$128.66	$141.82	$151.69
MEDIAN	$44.14	$55.29	$65.25	$75.21	$84.99	$92.13	$99.27	$106.41	$113.55	$117.15	$127.83	$135.75
MIN.	$27.63	$35.87	$35.87	$41.92	$47.97	$54.02	$60.07	$66.12	$72.17	$78.22	$84.27	$90.32
MAX.	$80.28	$81.78	$95.01	$108.50	$121.99	$135.48	$149.63	$163.78	$177.93	$188.79	$207.51	$222.30

COMBINED WATER & SEWER RATE COMPARISON OF BAY COUNTY

June 2017

AGENDA ITEM # 5

ORDINANCE NO. 1424

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, ESTABLISHING THE WATER, SEWER AND RECLAIMED WATER RATES FOR FISCAL YEAR 2017-18 AND THEREAFTER; INCREASING THE WATER RATES IN THE AMOUNT OF ONE PERCENT (1%) AND INCREASING THE SEWER AND REUSE WATER RATES IN THE AMOUNT OF TWO PERCENT (2%), ALL AS MORE PARTICULARLY STATED IN THE BODY OF THIS ORDINANCE; PROVIDING FOR CODIFICATION; UPDATING AND AMENDING THE TAP-ON FEE RATES FOR POTABLE AND RECLAIMED WATER; AND PROVIDING AN EFFECTIVE DATE OF OCTOBER 1, 2017.

BE IT ENACTED BY THE PEOPLE OF THE CITY OF PANAMA CITY BEACH:

SECTION 1. From and after October 1, 2017, Section 23-60 of the City's Code of Ordinances shall be amended to provide for the following charges and fees to be imposed and collected for wastewater service (old rates ~~stricken~~; new rates **bold and underlined**):

Sec. 23-60. Charges and Fees.

(a) *Purpose:* It is the purpose of this Article to provide for the recovery of costs from users of the City's wastewater disposal system for the implementation of the program established herein. These charges and fees relate solely to the matters covered by this Ordinance and are separate from all other fees chargeable by the City. After passage of this ordinance, all charges and fees may be amended by resolution of the City Council.

(b) *Service Charges:* It is hereby determined necessary to fix and collect sewer service charges from customers. Such revenue received shall be used for operation, maintenance, replacement, debt retirement and other authorized expenses.

(c) *Service Charges and Fees:*

(1) *Additional Fees.*** In addition to those fees specified herein, the City may, by a separate schedule of fees, establish and collect:

(a) fees for reimbursement of costs of setting up and operating the City's pretreatment program,
(b) fees for monitoring, inspection and surveillance procedures,
(c) fees for reviewing accidental discharge procedures and construction,
(d) fees for permit applications,
(e) fees for filing appeals,

AGENDA ITEM # 5

(f) fees for consistent removal (by the City) of pollutants otherwise subject to Federal Pretreatment Standards,

(g) other fees as the City may deem necessary to carry out the requirements contained herein.

(2) *Charges and Fees.*** The City does hereby levy and assess the following charges and fees, which are to be collected by and payable to the City, for services to users of the public sewer lines, mains and laterals for the disposal of sewage provided by the City to those establishments which are connected with the said sewer system, which charges are hereinafter designated, and the said users shall pay for said services the sums so designated at the same time as the payment for water services shall be made as provided by the ordinances for the City and which charges shall be assessed upon the utility bill of all users, and the said user shall pay charges as hereinafter set forth as follows and which may be amended from time to time by the City Council by resolution:

(A) *Within and Without the City Limits.* The minimum monthly charge for wastewater service, including the first three thousand (3,000) gallons of wastewater furnished to all customers of the system, shall be as follows:

TABLE INSET:

	Item		Base Facility Charge for Service Inside City	Base Facility Charge for Service Outside City
(1)	Single-family residential, each		~~$18.40~~ **$18.77**	~~$23.00~~ **$23.46**
(2)	Duplex		~~$18.40~~ **$18.77**	~~$23.00~~ **$23.46**
(3)	Mobile home park, each site		~~$18.40~~ **$18.77**	~~$23.00~~ **$23.46**
(4)	Apartment or condominium		~~$18.40~~ **$18.77**	~~$23.00~~ **$23.46**
(5)	Motel Unit		~~$13.81~~ **$14.09**	~~$17.26~~ **$17.61**
(6)	Washateria, each washer		~~$18.40~~ **$18.77**	~~$23.00~~ **$23.46**
(7)	Small non-residential Establishments (Service Stations, Retail Stores, Offices, Churches; based on size of water meter)			
	a.	3/4 "	~~$27.60~~ **$28.15**	~~$34.50~~ **$35.19**
	b.	1"	~~$36.80~~ **$37.54**	~~$46.00~~ **$46.93**
(8)	Large non-residential Establishments (Schools, Restaurants, Short Order Food Establishments, Lounges, Sanitary Dump Stations, Public Restrooms, Amusement Parks, Parks: based on size of water meter)			
	a.	1 1/2"	~~$57.42~~ **$58.57**	~~$71.77~~ **$71.96**
	b.	2"	~~$71.68~~ **$73.11**	~~$89.60~~ **$91.39**
	c.	3"	~~$119.57~~ **121.96**	~~$149.46~~ **$152.45**
	d.	4"	~~$172.24~~ **$175.68**	~~$215.30~~ **$219.60**
	e.	6"	~~$344.54~~ **$351.43**	~~$430.67~~ **$439.29**
	f.	Greater than 6"	By contract	+ 25% surcharge
(9)	Campgrounds, each site		~~$3.40~~ **$3.47**	~~$4.25~~ **$4.34**

The monthly overage charge for wastewater service furnished above the minimum shall be ~~two dollars and seventy three cents ($2.73)~~ **two dollars and seventy-eight cents ($2.78)** per one thousand (1,000) gallons inside the City and ~~three dollars and forty one cents ($3.41)~~ **three dollars and forty-eight cents ($3.48)** per one thousand gallons outside the City.

(B) Former Grand Lagoon Utilities Geographic Area of Service.

(1) Notwithstanding Section 23-60(c) of this Code, the rates, fees, and charges for sewer service within the Grand Lagoon Utilities, Inc., geographic area of service as designated by the Florida Public Service Commission on August 1, 1989, shall be as follows:

GENERAL MONTHLY SEWER RATES
(All Except Residential)

TABLE INSET:

Meter Size	Base Facility Charge
5/8" x 3/4"	~~$22.59~~ **$23.04**
¾"	~~$34.26~~ **$34.95**
1"	~~$56.05~~ **$57.17**
1 1/2"	~~$112.75~~ **$115.01**
2"	~~$170.57~~ **$173.98**
3"	~~$322.01~~ **$328.45**
4"	~~$501.40~~ **$511.43**
6"	~~$1002.83~~ **$1,022.89**
Gallonage charge ~~$3.93~~ **$4.01**	

*Per 1,000 gallons or part thereof

RESIDENTIAL MONTHLY SEWER RATES

TABLE INSET:

Meter Size	Base Facility Charge
All	~~$22.57~~ **$23.02**
Plus Gallonage Charge ~~$3.27~~* **$3.34**	

(Maximum Charge at 10,000 Gallons)
*Per 1,000 gallons or part thereof

(2) Reserved.

(3) Multiple Classifications. One service used for more than one of the classifications above shall pay and be charged for each of such usages.

(4) Incremental Usage. The monthly overage charge for sewers set forth in subsection (a) above shall be calculated upon each one thousand (1,000) gallons of water, or part thereof, consumed in excess of the gallonage per month included in the minimum water charge.

(C) Former Bayside Utilities Geographic Area of Service.

(1) Notwithstanding Section 23-60(c) of this Code, the rates, fees, and charges for sewer service within the Bayside Utilities, Inc., geographic area of service, shall be as follows:

GENERAL MONTHLY SEWER RATES
(All Except Residential)

TABLE INSET:

Meter Size	Base Facility Charge
5/8" x 3/4"	~~$20.21~~ **$20.61**
1"	~~$53.68~~ **$54.75**
1 1/2"	~~$106.61~~ **$108.74**
2"	~~$170.11~~ **$173.51**
3"	~~$320.72~~ **$327.13**
4"	~~$499.35~~ **$509.34**
6"	~~$998.76~~ **$1,018.74**
8"	~~$1608.68~~ **$1,640.85**
Gallonage charge ~~$7.82~~* **$7.98**	

*Per 1,000 gallons or part thereof

RESIDENTIAL MONTHLY SEWER RATES

TABLE INSET:

Meter Size	Base Facility Charge
All	~~$20.20~~ **$20.60**
Plus Gallonage Charge ~~$6.49~~* **$6.62**	

(Maximum Charge at 6,000 Gallons)
*Per 1,000 gallons or part thereof

(2) Reserved.

(3) Multiple Classifications. One service used for more than one of the classifications above shall pay and be charged for each of such usages.

(4) Incremental Usage. The monthly overage charge for sewers set forth in subsection (a) above shall be calculated upon each one thousand (1,000) gallons of water, or part thereof, consumed in excess of the gallonage per month included in the minimum water charge.

(d) (1) Distribution of Operation and Maintenance Costs. For the purpose of insuring a proportional distribution of operation and maintenance cost to each user, commercial and Industrial Users and bulk customers shall be subject to a surcharge for discharging wastewater which is defined as having the following concentrations (milligrams per liter - mg/1):

(i) Biochemical Oxygen Demand at 5 days at 20 degrees C, abbreviated BOD5 - 250 mg/1

(ii) Total Suspended Solids, abbreviated TSS - 220 mg/1

(2) Each commercial and Industrial User and bulk customer that is determined to discharge wastewater having pollutants in excess of normal wastewater shall pay a charge dependent on water volume consumed or wastewater discharged and measured by a wastewater flow meter. These pollutant surcharges are as follows:

(i) BOD5 - $0.14 per pound/month

(ii) TSS - $0.37 per pound/month

(3) Pollutants in excess of normal wastewater shall be determined from periodic laboratory analysis of the user's wastewater. Laboratory analysis of the wastewater shall be conducted as outlined in the latest publication of the Standard Methods for the examination of Water and Wastewater, or American Society for Testing and Materials, Part 31, Water, or the U.S. Environmental Protection Agency Methods.

(4) In the event that a commercial or Industrial User or bulk customer discharges certain wastes containing inordinate oxygen demanding substances, the City reserves the right to substitute Chemical Oxygen Demand (COD) or Total Organic Carbon (TOC) test instead of BOD5. An evaluation of the user's discharge and the cost of treatment will be established for such substances. If an Industrial User chooses or elects COD, then the ratio of COD to BOD must be 2:1. In the event an Industrial User requests to use TOC, then his proposed methodology shall be submitted to the City for approval prior to it being used as a basis for charging for this particular pollutant. It shall be the responsibility of industrial and commercial users and bulk customers to notify the City of changes in the pollutant and contribution of their wastewater.

(5) For purposes of determining commercial and industrial sewer charges, each user's water consumption or wastewater discharged and measured by a wastewater flow meter shall be taken as that metered water volume consumed during the current month.

(6) If any user can prove to the satisfaction of the City that substantial amounts of metered water do not enter the waste water collection system, the sewer bill will be reduced accordingly.

(7) Notwithstanding any other provision of this ordinance, if the City determines that wastewater services provided any commercial or Industrial User or bulk customer significantly differs from that upon which the rate structure set forth in subsection (A) of this article, the City may enter into a separate agreement with any such user to discharge sewer into the public sewer under such rates, terms and conditions as may be reasonable under the circumstances.

(e) Each user that discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge treatment works shall pay for any such increased cost.

(f) Rates are to be adjusted annually, based on the adopted budget for the wastewater system. This annual review and adjustment shall be the result of studies that reflect any change in the proportionate contribution of wastewater flow or pollutant by any class of user. The adjusted rate or rates, whether by increase or decrease, shall be reflected in each subsequent billing period by the amount of such change. This annual review will ensure a proportional distribution of operation and maintenance and renewal and replacement, and other costs to each user including major and minor industrial, commercial and residential users.

(g) The City of Panama City Beach from time to time and as often as shall be necessary will revise rates, fees and charges of the wastewater collection, transmission, treatment and disposal system in order to comply with revenue needs of operating, maintenance, capital costs, debt

service and reserve requirements and other costs associated with the Series 1997 Revenue Bonds and the Department of Environmental Protection State Revolving Fund Loan agreement.

SECTION 2. From and after October 1, 2017 Section 23-80 of the City's Code of Ordinances shall be amended to provide for the following charges and fees to be imposed and collected for potable water service (old rates ~~stricken~~; new rates **bold and underlined**):

Sec. 23-80. Assessed.

Purpose: It is the purpose of this Article to provide for the recovery of costs from users of the City's potable water system for the implementation of the program established herein. These charges and fees relate solely to the matters covered by this Ordinance and are separate from all other fees chargeable by the City. After passage of this Ordinance, all charges and fees may be amended by resolution of the City Council.

(a) The minimum monthly charge for water service, including the first three thousand (3,000) gallons of water furnished to all customers of the system except motor courts, motels and hotels, apartments and condominiums and campgrounds, shall be as follows:

TABLE INSET:

Size of Connection	Inside City	Outside City
(1) 5/8" or 3/4"	~~$16.93~~ **$17.10**	~~$21.16~~ **$21.38**
(2) 1"	~~$25.44~~ **$25.69**	~~$31.80~~ **$32.11**
(3) 1 1/2"	~~$49.18~~ **$49.67**	~~$61.47~~ **$62.09**
(4) 2"	~~$93.22~~ **$94.15**	~~$116.52~~ **$117.69**
(5) 3"	~~$145.11~~ **$146.56**	~~$181.38~~ **$183.20**
(6) 4"	~~$189.49~~ **$191.38**	~~$236.86~~ **$239.23**
(7) 6"	~~$459.24~~ **$463.83**	~~$574.05~~ **$579.79**

(b) The minimum monthly charge for water service connections for motor courts, motels, hotels, apartments and condominiums and campgrounds shall be as follows:

TABLE INSET:

Type of Connection	Gallons per Unit Included	Inside City	Outside City
(1) Motor court, motel and hotel	3,000 per month	~~$13.55~~ **$13.69**	~~$16.93~~ **$17.11**
(2) Apartments and condominiums	3,000 per month	~~$16.93~~ **$17.10**	~~$21.16~~ **$21.38**
(3) Campgrounds (each site)	1,000 per month	~~$4.43~~ **$4.47**	~~$5.53~~ **$5.59**

(c) The monthly charge for water furnished above the minimum shall be ~~three dollars and twenty four cents ($3.24)~~ **three dollars and twenty-seven cents ($3.27)** per one thousand (1,000) gallons inside the City and ~~four dollars and five cent ($4.05~~ **four dollars and nine cents ($4.09)** per one thousand gallons outside the City.

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AGENDA ITEM #_____

(d) Each occupied building or structure, or each apartment in the same building, shall pay the monthly minimum charge. Duplex dwellings, garage apartments and other multiple family dwellings served by one (1) service connection and meter shall pay the minimum charge as those specified for condominiums and apartments. No service connection and meter may serve more than one (1) building lot.

(e) Fire hydrant meter rental shall be one dollar per day, with a $1,200 security deposit and charges of $50 for each setting, relocation or removal of the meter. The charge for water consumption shall be the per thousand gallon charge specified in subsection (c) above.

(f) Reserved.

State law references: Limitation on rates charge consumers outside City limits, F.S. § 180-191.

Sec. 23-81. Former Grand Lagoon Utilities Geographic Area of Service.

Purpose: It is the purpose of this Article to provide for the recovery of costs from users of the City's potable water system for the implementation of the program established herein. These charges and fees relate solely to the matters covered by this Ordinance and are separate from all other fees chargeable by the City. After passage of this Ordinance, all charges and fees may be amended by resolution of the City Council.

Notwithstanding Section 23-80 of this Code, the rates, fees, and charges for water service within the Grand Lagoon Utilities, Inc., geographic area of service as designated by the Florida Public Service Commission on August 1, 1989, shall be as follows:

ALL MONTHLY WATER RATES
(General and Residential)

TABLE INSET:

Meter Size	Base Facility Charge
5/8" x 3/4"	~~$5.92~~ **$5.98**
3/4"	~~$9.23~~ **$9.32**
1"	~~$15.29~~ **$15.44**
1 1/2"	~~$30.60~~ **$30.91**
2"	~~$49.00~~ **$49.49**
3"	~~$97.88~~ **$98.86**
4"	~~$120.44~~ **$121.64**
6"	~~$305.95~~ **$309.01**

Gallonage charge ~~$2.75~~* **$2.78**
*Per 1,000 gallons or part thereof

(b) Each occupied building or structure, or each apartment in the same building, shall pay the monthly minimum charge. Duplex dwellings, garage apartments and other multiple-family dwellings served by one (1) service connection and meter shall pay the minimum charge as those specified for condominiums and apartments. No service connection and meter may serve more than one (1) building lot.

(c) Fire hydrant meter rental shall be one dollar per day, with a $1,200 security deposit and charges of $50 for each setting, relocation or removal of the meter. The charge for water consumption shall be the per thousand gallon charge specified in subsection (a) above.

(d) Reserved

Sec. 23-82. Bayside Geographic Area of Service.

Purpose: It is the purpose of this Article to provide for the recovery of costs from users of the City's potable water system for the implementation of the program established herein. These charges and fees relate solely to the matters covered by this Ordinance and are separate from all other fees chargeable by the City. After passage of this Ordinance, all charges and fees may be amended by resolution of the City Council.

Notwithstanding Section 23-80 of this Code, the rates, fees, and charges for water service within the Bayside Utilities, Inc., geographic area of service shall be as follows:

ALL MONTHLY WATER RATES
(General and Residential)

TABLE INSET:

Meter Size	Base Facility Charge
5/8" x 3/4"	~~$11.51~~ **$11.63**
3/4"	~~$17.13~~ **$17.30**
1"	~~$28.51~~ **$28.80**
1 1/2"	~~$57.02~~ **$57.59**
2"	~~$92.05~~ **$92.97**
3"	~~$181.88~~ **$183.70**
4"	~~$283.92~~ **$286.76**
6"	~~$568.44~~ **$574.12**

Gallonage charge ~~$4.64~~ **$4.69**
*Per 1,000 gallons or part thereof

(b) Each occupied building or structure, or each apartment in the same building, shall pay the monthly minimum charge. Duplex dwellings, garage apartments and other multiple-family dwellings served by one (1) service connection and meter shall pay the minimum charge as those specified for condominiums and apartments. No service connection and meter may serve more than one (1) building lot.

(c) Fire hydrant meter rental shall be one dollar per day, with a $1,200 security deposit and charges of $50 for each setting, relocation or removal of the meter. The charge for water consumption shall be the per thousand gallon charge specified in subsection (a) above.

(d) Reserved.

...

SECTION 3. From and after October 1, 2017, Section 23-146 of the City's Code of Ordinances shall be amended to provide for the following charges and fees to be imposed and collected for reuse water service (old rates ~~stricken~~; new rates **bold and**

underlined):

Sec. 23-146. Reclaimed Water Rates and Service Charges Assessed.

Purpose: It is the purpose of this Article to provide for the recovery of costs from users of the City's reclaimed water system for the implementation of the program established herein. These charges and fees relate solely to the matters covered by this Resolution and are separate from all other fees chargeable by the City.

(a) The minimum monthly charge for reclaimed water service, including the first three thousand (3,000) gallons of reclaimed water furnished to all customers of the system, except bulk customers requiring in excess of 100,000 gallons per day on any day, shall be as follows:

TABLE INSET:

Size of Connection	Inside City	Outside City
(1) 3/4"	~~$8.36~~ **$8.53**	~~$10.45~~ **$10.66**
(2) 1"	~~$12.57~~ **$12.82**	~~$15.71~~ **$16.03**
(3) 1- 1/2"	~~$23.85~~ **$24.33**	~~$29.81~~ **$30.41**
(4) 2"	~~$45.22~~ **$46.12**	~~$56.52~~ **$57.65**
(5) Above 2"	By contract but no less than cost of maintenance of meter	Same Plus 25%

(b) The monthly charge for water furnished above the minimum shall be ~~sixty six cents ($0.66)~~ **sixty-seven cents ($0.67)** per one thousand (1,000) gallons inside the City and ~~eighty two cents ($0.82)~~ **eighty-four cents ($0.84)** per one thousand gallons outside the City.

(c) The monthly charge for bulk customers requiring in excess of 100,000 gallons per day on any day shall be by contract.

(d) Each occupied building or structure, or each apartment in the same building, shall pay the monthly minimum charge. Duplex dwellings, garage apartments and other multiple family dwellings served by one (1) service connection and meter shall pay the minimum charge as those specified for condominiums and apartments. No service connection and meter may serve more than one (1) building lot.

(e) Should the City desire that meter deposits be required of customers, the same shall be accomplished by the passing of a resolution by the City Council.

SECTION 4. From and after October 1, 2017, Sections 23-25 and 23-144 of the City's Code of Ordinances related to potable water tap-on fees and reclaimed water tap-on fees, respectively, shall be amended to provide for the following charges and fees to be collected (old rates ~~stricken~~; new rates **bold and underlined**):

Sec. 23-25. - Water Tap-On Fees.

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The City will provide water service by placing its meter at or proximate to the customer's property line. Costs for making the connection are tabulated below and includes the costs reasonable attributable to making a physical connection to the water system including labor, materials, supplies, overhead and administrative expenses on meter sizes ¾" through 2". The cost varies depending on meter size and whether or not a water service tap to the property exists. If one is present, the meter will be installed at the tap location. Up to one hundred (100) feet of service tubing is included when setting ¾" and 1" meters. The City will install a backflow prevention device on single family residential meters.

On meter sizes 3" and greater, the connection cost includes only the meter cost and associated labor, supplies, overhead and administrative expenses for setting the meter. Taps, pipe, isolation valves, meter box and cover, bypasses, etc. are to be constructed by the developer to City standards prior to the City setting the meter. At the customer's request, the City may, at it's discretion, provide a cost estimate to perform or have performed the additional work necessary to make the connection.

Costs for line extensions, jack & bores, driveway cuts, pavement repairs or other circumstances requiring additional installation expense will be paid by the customer at cost of construction.

Meter Size	Existing Water Tap	No Existing Water Tap
¾"	~~$275.00~~ **$300.00**	~~$655.00~~ **$675.00**
1"	~~$300.00~~ **$350.00**	~~$690.00~~ **$725.00**
1½"	~~$675.00~~ **$1275.00**	~~$1475.00~~ **$1575.00**
2"	~~$780.00~~ **$1425.00**	~~$1580.00~~ **$1725.00**
3"	$N/A	~~$1650.00~~ [1] **$1825.00** [1]
4"	$N/A	~~$2650.00~~ [1,2] **$3075.00** [1,2]
6"	$N/A	~~$7400.00~~ [1,2] **$4875.00** [1,2]

1 Cost for providing and setting meter only.

2 Cost for setting potable water meter. If a dual use fireline/potable meter is requested, the developer will be charged for the difference in actual cost between the required meter size for potable use and the fireline/potable meter.

A 25% surcharge will be applied for all connections outside of the City.

...

Sec. 23-144. - Reclaimed Water Tap-On Fees—Amount.

Where available and appropriate, the City will provide reclaimed water service by placing its meter at or proximate to the customer's property line. Costs for making the connection are tabulated below and includes the costs reasonable attributable to making a physical connection to the reclaimed water system including labor, materials, supplies, overhead and administrative expenses on meter sizes 3/4" through 2". The cost varies depending on meter size and whether or not a reclaimed water service tap to the property exists. If one is present, the meter will be installed at the tap location. Up to one hundred (100) feet of service tubing is included when setting 3/4" and 1" meters.

On meter sizes 3" and greater, the connection cost includes only the meter cost and associated labor, supplies, overhead and administrative expenses for setting the meter. Taps, pipe, isolation valves, meter box and cover, bypasses, etc. are to be constructed by the developer to City standards prior to the City setting the meter. At the customer's request, the City may, at it's discretion, provide a cost estimate to perform or have performed the additional work necessary to make the connection.

Costs for line extensions, jack & bores, driveway cuts, pavement repairs or other circumstances requiring additional installation expense will be paid by the customer at cost of construction.

Meter Size	Existing Water Tap	No Existing Water Tap
¾"	~~$245.00~~ **$250.00**	~~$625.00~~ **$575.00**
1"	~~$270.00~~ **$300.00**	~~$660.00~~ **$625.00**
1½"	~~$675.00~~ **$1075.00**	~~$1475.00~~ **$1375.00**
2"	~~$780.00~~ **$1200.00**	~~$1580.00~~ **$1500.00**
3"	$N/A	~~$1650.00~~ **$1400.00** (1)
4"	$N/A	$2500.00 (1)
6"	$N/A	~~$2975.00~~ **$4050.00** (1)
8"	$N/A	~~$4780.00~~ (1) **N/A**

(1) Cost for providing and setting meter only.

A 25% surcharge will be applied for all connections outside of the City.

SECTION 5. The appropriate officers and agents of the City are authorized and directed to codify, include and publish the provisions of this Ordinance within the Panama City Beach Code and unless a contrary ordinance is adopted within ninety (90) days following such publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be assigned

and changed whenever necessary or convenient.

SECTION 6. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

This Ordinance shall become effective as of October 1, 2017.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Council of the City of Panama City Beach, Florida, this ___day of _____, 2017.

_____
MIKE THOMAS, MAYOR

ATTEST:

_____
CITY CLERK

EXAMINED AND APPROVED by me this _____ day of _____, 2017.

_____
MIKE THOMAS, MAYOR

PUBLISHED in the Panama City News-Herald on the _____ day of _____, 2017.

POSTED on *pcbgov.com* on the _____ day of _____, 2017.

AGENDA ITEM # 5

REGULAR ITEM

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CITY OF PANAMA CITY BEACH
AGENDA ITEM SUMMARY

1. DEPARTMENT MAKING REQUEST/NAME:
LEGAL

2. MEETING DATE:
September 14, 2017

3. REQUESTED MOTION/ACTION:
Consider first reading of Ordinance that establishes small cells are allowed in ROWs and provides reasonable rules for small cells and collocations in ROW.

4. AGENDA

PRESENTATION	☐
PUBLIC HEARING	☐
CONSENT	☐
REGULAR	✓

5. IS THIS ITEM BUDGETED (IF APPLICABLE)? YES ☐ NO ☐ N/A ✓
BUDGET AMENDMENT OR N/A

DETAILED BUDGET AMENDMENT ATTACHED YES ☐ NO ☐ N/A ✓

6. BACKGROUND: (WHY IS THE ACTION NECESSARY, WHAT GOAL WILL BE ACHIEVED)

The City needs to reevaluate various policies relating to Telecommunications Towers (cell towers) within public rights-of-way ("ROW") based on Florida legislative mandates. Typically, Telecommunications Towers have not been allowed in the City's ROWs based on setbacks and other rules. Shorter poles with smaller wireless equipment mounted to them, and sometimes with other equipment installed around their bases, are becoming common in Florida ("Small Cells"). Collocations of wireless equipment onto existing structures, whether or not in the ROW, are already allowed by the LDC with minimal restrictions.

House Bill 687 substantially revises Florida Statute 337.401 regarding wireless facilities and collocation in public right-of-way. It is doubtful now that prohibitions or near prohibitions on Small Cells in the ROW are valid. HB 687 is complicated and unclear regarding several topics, but allows certain kinds of regulations on Small Cells.

Ordinance 1430 establishes that small cells are allowed in ROWs and provides reasonable rules for Small Cells and Collocations in the ROW, with particular focus on the locations and aesthetics of new poles. The rules for activities outside of the ROW and for Telecommunications Towers and Collocations of Antennas (all as defined by the LDC, but generally meaning bigger towers and bigger equipment) have been left intact. Generally, the new rules would be:

- Definitions for "Small Wireless Facility" and "Small Wireless Pole" and new sections focusing on the rules for Small Wireless Facilities and Small Wireless Poles
- Requires that wireless equipment in ROW must meet Small Wireless Facility definition
- Establishes maximum heights for Small Wireless Poles, as allowed by HB 687
- Requires new Small Wireless Poles to have light pole design
- No placement of additional ground mounted equipment on sidewalks and bike paths
- 250 foot minimum distance between new Small Wireless Poles and Dwellings, with shorter distance for Front Beach Road and South Thomas Dr.
- 500 foot minimum distance between other ground mounted equipment and Dwellings unless installed underground, with shorter distance for Front Beach Road and South Thomas Dr.
- minimum distance of 200 feet between Small Wireless Poles
- Excludes HOA neighborhoods, as allowed by HB 687
- Requires compliance with the City's underground requirements, where applicable.
- Provides other reasons for denial, as allowed by HB 687
- Provides procedures for review and approval, consistent with the mandated times
- 75 foot minimum distance between "Facilities" (i.e. all kinds of utility poles) that are over 15 feet unless a variance is granted.

Few clear rules exist for just how strict city regulations may be. However, it is helpful to consider that Small Cells are meant to improve cellular and wireless coverage and stricter rules will lessen those improvements while also increasing the likelihood of an industry backed challenge. Regardless, it is important for the City to adopt rules for locations because arguably the City would have almost no limits if the current Telecommunications Towers limits (1500 feet between towers, 50-foot setback from parcel lines) were found "unreasonable" under HB 687.

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ORDINANCE NO. 1430

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING THE CITY'S LAND DEVELOPMENT CODE FOR CONSISTENCY WITH HOUSE BILL 687 REGARDING WIRELESS FACILITIES IN PUBLIC RIGHTS-OF-WAY; CREATING DEFINITIONS FOR SMALL WIRELESS FACILITY AND SMALL WIRELESS POLE; ESTABLISHING PERMISSIBLE DESIGN AND LOCATIONS FOR SMALL WIRELESS FACILITIES AND SMALL WIRELESS POLES IN RIGHTS-OF-WAY; REQUIRING LIGHT POLE STEALTH DESIGN; REQUIRING MINIMUM DISTANCE FROM DWELLINGS; REQUIRING MINIMUM DISTANCE FROM A BUSINESS'S PRIMARY PEDESTRIAN PUBLIC ENTRANCE; ESTABLISHING MINIMUM DISTANCE BETWEEN SMALL WIRELESS POLES; ESTABLISHING ADDITIONAL DISTANCE REQUIREMENTS FOR OTHER GROUND-MOUNTED EQUIPMENT; MAKING APPLICATIONS FOR SMALL WIRELESS FACILITIES AND SMALL WIRELESS POLES GOVERNED BY TYPE I PROCEDURES AMENDING THE CITY CODE TO ESTABLISH MINIMUM SPACING OF SEVENTY-FIVE FEET BETWEEN FACILITIES THAT ARE OVER FIFTEEN FEET TALL; REPEALING ALL ORDINANCES IN CONFLICT TO THE EXTENT OF SUCH CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

WHEREAS, the City of Panama City Beach Land Development Code (the "LDC") regulates Telecommunications Towers including Telecommunications Towers in public rights-of-way; and

WHEREAS, applications to install Telecommunications Towers in rights-of-way have become prevalent in Florida, including by companies not generally considered to be communications services providers; and

WHEREAS, such applications include structures that range from modest heights to tall structures similar to the large monopole Telecommunications Towers that currently exist in the City; and

WHEREAS, the LDC does not define different categories of Telecommunications Towers based on height or location and generally provides uniform regulation of all Telecommunications Towers; and

WHEREAS, the City has interpreted its LDC to generally prohibit Telecommunications Towers from being constructed in a right-of-way; and

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WHEREAS, the Legislature passed House Bill 687 regarding wireless facilities and collocation in public right-of-way during the 2017 regular legislative session, with the new law effective July 1, 2017; and

WHEREAS, House Bill 687 is unclear about the extent that certain local regulation is allowed, particularly regarding locations of new wireless poles and "wireless support structures," (defined in Bill) but it is doubtful that a prohibition or effective prohibition of these structures in the right-of-way is still allowed; and

WHEREAS, the City wishes to create new categories for certain smaller wireless equipment and facilities located in the public right-of-way and regulate them differently than Telecommunications Towers and consistently with House Bill 687; and

WHEREAS, the primary complaint in other localities where wireless structures are prevalent in rights-of-way is the placement of structures in front of homes, particularly ground mounted boxes, generators, and other structures or equipment near the base of a pole; and

WHEREAS, House Bill 687 defines small wireless facility to generally mean the antennae and related small equipment, but not the structure on which it is mounted; and

WHEREAS, House Bill 687 does not allow the City to limit the placement of small wireless facilities by minimum separation distances, which are often placed by collocation on preexisting structures, but does allow the City to adopt reasonable spacing requirements by ordinance concerning the location of ground-mounted equipment; and

WHEREAS, the term "ground-mounted equipment" is not defined but likely includes poles and certainly includes other structures and equipment that are sometimes installed near the base of a pole; and

WHEREAS, it is uncertain how large of a distance separation between Small Wireless Poles (defined herein) may be required before being found unreasonable under House Bill 687 or before interfering with the effectiveness of types of current or future wireless technology; and

WHEREAS, House Bill 687 also permits a city to adopt objective design standards by ordinance that require a small wireless facility to meet reasonable location, context, color, stealth, and concealment requirements; and

WHEREAS, rather than attempting to minimize the number of new Small Wireless Poles, the City considers it more prudent to focus on preventing their placement in certain objectionable locations and requiring stealth and concealment requirements appropriate for

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the right-of-way environment; and

WHEREAS, the LDC already requires Telecommunications Towers to be designed and painted to resemble natural objects, such as trees that are typical of the surrounding area and House Bill 687 allows color, stealth, and concealment requirements;

WHEREAS, trees are not prevalent in the right-of-way and it is unlikely that Small Wireless Poles in the right-of-way could be concealed effectively as trees or vegetation; and

WHEREAS, concealing Small Wireless Poles as light poles occurs already in some communities, is a more convincing approach, and should make the new Small Wireless Poles less objectionable to nearby owners, citizens, and visitors; and

WHEREAS, in addition to the LDC rules for Telecommunications Towers, the Code of Ordinances regulates utilities and utility poles in the right-of-way more generally; and

WHEREAS, the City wishes to adopt a seventy-five-foot spacing requirement generally applicable to all new utility poles and other Facilities that are over fifteen feet tall, regardless of the type of utility that uses the Facility; and

WHEREAS, House Bill 687 requires the City to adopt rates, fees, and terms for the collocation of small wireless facilities on the City's utility pole which comply with House Bill 687 by the later of January 1, 2018, or three months after receiving a request to collocate its first small wireless facility on a utility pole owned or controlled by an authority; and

WHEREAS, despite this timeframe allowed by House Bill 687, the City finds that certain issues must be addressed immediately since one or more of the City's location rules may be inconsistent with the new legislation as to certain facilities in rights-of-ways and if found invalid could result in very minimal restrictions on the locations of Small Wireless Poles within the ROW; and

WHEREAS, House Bill 687 states that "permit application requirements and small wireless facility placement requirements, including utility pole height limits, that conflict with this [Bill] shall be waived" by the City but for any applications filed before the effective date of ordinances implementing House Bill 687, the City "may apply current ordinances relating to placement of communications facilities in the right-of-way related to registration, permitting, insurance coverage, indemnification, performance bonds, security funds, force majeure, abandonment, [City] liability, or [City] warranties;" and

WHEREAS, until such time the City has adopted a subsequent ordinance to implement House Bill 687's administrative and procedural rules, the City intends to apply the location and distance requirement provided herein, the height requiremenPUBICts

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provided by House Bill 687, and the review times provided by House Bill 687, and not require more information for any application involving right-of-way than what is allowed by House Bill 687 regardless of any ordinance or Code to the contrary; and

WHEREAS, House Bill 687 does not cover equipment and activities outside of a right-of-way, so this ordinance only applies to equipment and activities within a public right-of-way; and

WHEREAS, House Bill 687 has limited applicability to collocations on privately owned or State-owned structures within a right-of-way, so this ordinance is not intended to apply to those situations except as provided below; and

WHEREAS, the City may consider uniform processes for all types of collocations, regardless of location or ownership, when the City adopts a subsequent ordinance to implement House Bill 687's administrative and procedural rules, but until then the City's existing rules regarding Collocations of Antennas will continue to apply to locations outside of a public right-of-way.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PANAMA CITY BEACH:

SECTION 1. From and after the effective date of this ordinance, the following definitions in Section 1.07.00 of the Land Development Code of the City of Panama City Beach related to Acronyms and Definitions are amended or created to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

> ***Small Wireless Facility*** **– Means equipment generally used for wireless communications that (1) is located in a public right-of-way and (2) meets the definition of "small wireless facility" under Florida Statute 337.401. The term *Small Wireless Facility* does not include the term Wireless Support Structure, as defined by Florida Statute 337.401, or the pole, structure, or improvement on which an *Antennae* and associated wireless equipment are mounted, supported, or *Collocated*.**

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Small Wireless Pole **means (1) a *Wireless Support Structure* as defined by Florida Statute 373.401 that is located in a public right-of-way or (2) a utility pole in the public rights-of-way that was designed and constructed to support the *Collocation of Small Wireless Facilities* within nine months following the approval of an application to construct. A structure not originally intended to support a *Small Wireless Facility* or *Antennae*, but on which a *Small Wireless Facility* or *Antennae* is later collocated is not a *Small Wireless Pole*.**

Telecommunications Tower - Means any structure designed and constructed for the purpose of supporting one or more communication ***Antennas***, including camouflaged towers, conventional wireless towers, and low impact or stealth towers. The term includes towers to support ***Antennas*** for transmitting or receiving personal wireless services and cellular telephone communications towers. The term includes equipment fundamental to the operations of the tower. The term does not include commercial radio and television broadcast towers, amateur short-wave radio towers or those towers used solely for private use dispatch services. **The term does not include *Small Wireless Facility* or *Small Wireless Pole*.**

SECTION 2. From and after the effective date of this ordinance, Section 5.05.00 of the Land Development Code of the City of Panama City Beach related to Telecommunications Towers and Antennas is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

5.05.00 TELECOMMUNICATIONS TOWERS AND ANTENNAS

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5.05.01 Generally

A. It is the intent of the ***City*** to allow ***Telecommunications Towers*** and/or ***Antennas*** in compliance with State and federal regulations. It is further the intent of the ***City*** to protect the public health, safety and welfare through regulating the placement and design of allowable ***Telecommunications Towers***. The regulations in this section are designed to meet the following purposes:

1. To protect ***Residentially*** zoned areas and ***Residential Development*** from potential adverse impacts of ***Telecommunications Towers*** that are placed in inappropriate locations;

2. To minimize visual impacts of ***Telecommunications Towers*** through site design requirements, location requirements and innovative camouflage techniques, in accordance with acceptable engineering and planning principles; and

3. To allow ***Telecommunications Towers*** that meet State, federal and local requirements for location, site design and appearance.

B. ***Telecommunications Towers*** proposed within the ***City*** shall provide for ***Collocation*** consistent with State and federal regulations.

C. ***Telecommunications Towers*** proposed within the ***City*** shall provide for ***Collocation*** consistent with State and federal regulations.

D. ***Small Wireless Facilities*** **and** ***Small Wireless Poles*** **located in public rights-of-way shall not be subject to the rules for** ***Telecommunications Towers*** **and** ***Antennas*****, but will instead be subject to different rules as provided herein, which shall always be read in a manner consistent with state and federal law.**

5.05.02 Applicability

All ***Telecommunications Towers*** and ***Antennas*** proposed to be located in the ***City*** shall be subject to the regulations in this section. ***Small Wireless Facilities*** **and** ***Small Wireless Poles*** **located in public rights-of-way are not subject to Sections 5.05.03 through 5.05.06.**

5.05.07 Allowable Locations for *Small Wireless Poles* and associated Ground-Mounted Equipment Located in Public Right-of-Way

A. Applications to place *Small Wireless Facilities* and *Small Wireless Poles* in a public right-of-way may not be denied solely based on the Comprehensive Plan future land use

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categories and zoning categories of adjacent parcels.

B. *Small Wireless Poles* in public right-of-way (as opposed to a *Collocation* on a preexisting structure) are not permissible within 250 feet of the footprint of any *Dwelling*, including attached garages, porches, and balconies, except *Dwellings* that front on the Front Beach Road or South Thomas Drive rights-of-way, in which case the minimum distance shall be 100 feet. In addition, *Small Wireless Poles* in public right-of-way (as opposed to a collocation on a preexisting structure) shall not be permissible within 50 feet of the primary public pedestrian entrance to any business.

C. A new *Small Wireless Pole* is not permitted within 200 feet of an existing *Small Wireless Pole*.

D. It is preferable for all equipment to be integrated into or mounted on the *Wireless Support Structure* or utility pole. Ground-mounted equipment that is in addition to a *Wireless Support Structure* or utility pole or associated with a *Collocation* shall not be permissible within 500 feet of the footprint of any *Dwelling*, including attached garages, porches, and balconies, except *Dwellings* that front on the Front Beach Road or South Thomas Drive rights-of-way, in which case the minimum distance shall be 150 feet. This restriction does not apply to equipment installed entirely underground consistent with existing grade. In addition, ground mounted equipment associated with or installed because of a *Small Wireless Pole* or a *Small Wireless Facility*, including the *Collocation* of a *Small Wireless Facility*, may not be placed on a sidewalk, bike path, or multi-use trail. Ground-mounted equipment includes, but is not limited to, any of the following associated with a *Small Wireless Facility* or installed due to a *Small Wireless Facility*: electric generators or meters, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cutoff switches, vertical cable runs for the connection of power and other services, and guy wires or other secondary supports.

E. *Small Wireless Facilities*, *Small Wireless Poles*, and associated equipment are not exempt from the City's applicable undergrounding requirements that prohibit above-ground structures in certain public right-of-way, except that *Collocations* on existing above-ground structures are not subject to undergrounding requirements that are applicable to a location. At such time an existing above-ground structure is transitioned to underground, any right to *Collocate* above ground on it is lost.

F. Applications for *Small Wireless Poles* or *Collocations* of *Small Wireless Facilities* in locations subject to covenants, conditions, restrictions, articles of incorporation, and bylaws of a homeowners' association are governed by the more stringent rules provided for *Telecommunications Towers* and *Antennas* unless the Homeowner Association is a co-applicant, in which case the more lenient rules for *Small Wireless Facilities* and *Small Wireless Poles* will apply. This paragraph does not apply to the installation, placement, maintenance, or replacement of micro wireless facilities on any existing and duly authorized aerial communications facilities as provided by Florida law.

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5.05.08 Requirements for *Small Wireless Poles* and *Collocations* Located in a Right-of-Way

A. **All wireless facilities, as defined by Florida Statute 337.401, located within a right-of-way must meet the definition of a *Small Wireless Facility*.**

B. **All requirements of Chapter 19, Article VIII of the Code of Ordinances, entitled Right-of-Way Permitting, apply unless a more specific requirement is provided hereunder.**

C. **The City may deny a proposed *Small Wireless Pole* or *Collocation* of a *Small Wireless Facility* in the public rights-of-way if it:**

1. **Materially interferes with the safe operation of traffic control equipment.**

2. **Materially interferes with sight lines or clear zones for transportation, pedestrians, or public safety purposes.**

3. **Materially interferes with compliance with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement.**

4. **Materially fails to comply with the 2010 edition of the Florida Department of Transportation Utility Accommodation Manual.**

5. **Fails to comply with this *LDC*, or any uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes enacted solely to address threats of destruction of property or injury to persons.**

D. **All *Small Wireless Facilities* and *Small Wireless Poles* shall be maintained in good condition and in accordance with all standards in this section. No *Additions*, changes or modifications shall be made except in conformity with the standards of this section.**

E. **In the event that a *Small Wireless Facility* or *Small Wireless Pole* is *Abandoned*, the owner of the *Small Wireless Facility* or *Small Wireless Pole* shall restore the property to its condition prior to the installation of the *Small Wireless Facility* or *Small Wireless Pole*. Restoration shall be completed not later than six (6) months after *Abandonment*.**

F. **Applications to *Collocate Small Wireless Facilities* within a right-of-way that do not increase the height of the *Existing Structure* shall be reviewed under the expedited procedure provide by Section 10.09.04 of the *LDC*. Application for all other *Small Wireless Poles* and *Collocations* located in a Right-of-Way shall be reviewed and processed according to the *Type I Procedures* provided by Section 10.06.00 of the *LDC*, except to the extent preempted by Florida Statute 337.401 (2017).**

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G. Ground mounted-equipment and other equipment not detailed and drawn on an approved application may not be installed. In the event that a permittee wishes to install additional or different equipment not shown on the original approved application, the permittee must file a new application.

5.05.09 Additional Requirements for *Collocations* Located in a Right-of-Way

A. *Collocations* are allowed on a City owned pole or similar structure that is used in whole or in part to provide communications services or for electric distribution, lighting, traffic control, signage, or a similar function, but not on a horizontal structure to which signal lights or other traffic control devices are attached or any pole or structure 15 feet in height or less.

B. *Collocations* on utility poles or other structures that are owned by private parties or the State of Florida shall require written proof of the owner's consent to the *Collocation*.

C. The height of a *Small Wireless Facility* may only extend 10 feet above the utility pole or structure upon which the *Small Wireless Facility* is to be *Collocated*.

5.05.10 Additional Requirements for *Small Wireless Poles* Located in a Right-of-Way

A. The height for a new *Small Wireless Pole* is limited to the tallest existing utility pole as of July 1, 2017, located in the same right-of-way, other than a utility pole for which a height waiver has previously been granted, measured from grade in place within 500 feet of the proposed location of the *Small Wireless Facility*. If there is no utility pole within 500 feet, the *Small Wireless Pole* shall be no taller than 50 feet.

B. New *Small Wireless Poles* must be *Stealth Facilities* designed to look and function like light poles. If there are multiple existing light poles within 500 feet of the proposed location in the same right-of-way that have a consistent design, then the new *Small Wireless Pole* must look substantially like the existing light poles and be the same color as the existing light poles, except for its height, which is controlled by 1. above. Minor design deviations that maintain the same or better aesthetic quality may be approved by City staff.

C. New *Small Wireless Poles* in right-of-way under the jurisdiction of the Florida Department of Transportation requires the consent of the Florida Department of Transportation, but still shall comply with the City's placement and design requirements.

SECTION 3. From and after the effective date of this ordinance, Section 19-154 of

AGENDA ITEM # 6

the Code of Ordinances of the City of Panama City Beach related to Permittee Obligations in Right-of-Way Permitting is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

Sec. 19-154. - Permittee obligations.

A. Telecommunications Towers, Small Wireless Poles, Collocations,and other wireless communications Facilities are governed additionally by the more specific requirements of the Panama City Beach Land Development Code.

B. No new Facility that is over 15 feet in height from grade may be constructed within 75 feet of any another Facilitythat is over 15 feet in height from grade, unless granted a variance due to unique circumstances. This restriction shall not prohibit the City from installing new Facilities for public safety and welfare reasons, including light poles.

C. A Permittee shall place or maintain all Facilities in the Right-of-way so as not to unreasonably interfere with the drainage of all lands lying within the City, the travel and use of the Right-of-way by the public and with the rights and convenience of property owners who adjoin any portion of the Right-of-way, and in a manner consistent with accepted industry practice and applicable law.

SECTION 4. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 5. The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the Panama City Beach Land Development Code and Code of Ordinances, and unless a contrary ordinance is adopted within ninety (90) days following such publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be assigned and changed whenever necessary or convenient.

SECTION 6. This Ordinance shall take effect immediately upon passage.

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PASSED, APPROVED AND ADOPTED at the regular meeting of the City Council of the City of Panama City Beach, Florida, this ___day of _____, 2017.

CITY OF PANAMA CITY BEACH

By_____
MIKE THOMAS, MAYOR

ATTEST:

_____
CITY CLERK

PUBLISHED in _____ on the ____ day of _____, 2017.

POSTED on *pcbgov.com* on the ____ day _____, 2017.

_____
CITY CLERK

AGENDA ITEM # 6

REGULAR ITEM

7

CITY OF PANAMA CITY BEACH
AGENDA ITEM SUMMARY

1. *DEPARTMENT MAKING REQUEST/NAME:*	2. *MEETING DATE:*
Panama City Beach Police Department	September 14, 2017

3. *REQUESTED MOTION/ACTION:*

We respectfully request the Council's approval of Ordinance NO. 1433 amending the prohibited times from 7 a.m. until 1 a.m.

4. *AGENDA*

PRESENTATION	☐
PUBLIC HEARING	☐
CONSENT	☐
REGULAR	☑

5. *IS THIS ITEM BUDGETED (IF APPLICABLE)?* YES ☐ NO ☐ N/A ☑
BUDGET AMENDMENT OR N/A

DETAILED BUDGET AMENDMENT ATTACHED YES ☐ NO ☐ N/A ☑

6. *BACKGROUND: (WHY IS THE ACTION NECESSARY, WHAT GOAL WILL BE ACHIEVED)*

We respectfully request the Council's approval of Ordinance NO. 1433 amending the City's code of ordinance related to municipal offenses; amending the definition of camping to clarify it's application between the hours of 1a.m. and 7 a.m. This action will assist enforcement by identifying specific times this code should be enforced.

AGENDA ITEM # 7

ORDINANCE NO. 1433

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING THE CITY'S CODE OF ORDINANCE RELATED TO MUNICIPAL OFFENSES; AMENDING THE DEFINITION OF CAMPING TO CLARIFY ITS APPLICATION BETWEEN THE HOURS OF 1AM AND 7AM; CLARIFYING THAT ANY PERSON FOUND OUT-OF-DOORS AFTER 1AM AND BEFORE SUNRISE MAY BE ASKED THEIR PLACE OF LODGING; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PANAMA CITY BEACH:

SECTION 1. From and after the effective date of this ordinance Section 16-8 of the Code of Ordinances of the City of Panama City Beach, related to offenses is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

Sec. 16-8. Restrictions on sleeping or camping on beaches or in public areas.

(a) No person shall remain overnight or camp in, at, or upon the gulf beaches, any public park or public area of the city. "Camping" is defined as sleeping or resting in an attitude of sleep in the nighttime, or purporting to reside, even temporarily, in any such area, or sitting or standing about ~~after~~ **between** 1:00 a.m. **and 7 a.m.**, in any such beaches, public park or public area.

(b) Any person found out-of-doors after 1:00 a.m. **and before sunrise** may be asked his **or her** place of lodging within the city, or destination within the city and shall, upon request, furnish any such information to the requesting official of the city. The lack of lodging or destination shall prima facie constitute camping within the city within a public area and a violation of this section.

SECTION 2. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 3. The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the Panama City Beach Code, and unless a contrary ordinance is adopted within ninety (90) days following such publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be

AGENDA ITEM # 7

assigned and changed whenever necessary or convenient.

SECTION 4. This Ordinance shall take effect immediately upon passage.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Council of the City of Panama City Beach, Florida, this ____day of _____, 2017.

_____
MAYOR

ATTEST:

_____
CITY CLERK

EXAMINED AND APPROVED by me this _____ day of _____, 2017.

_____
MAYOR

Published in the _____ on the ____ day of _____, 2017.

Posted on pcbgov.com on the ____ day of _____, 2017.

AGENDA ITEM # 7

REGULAR ITEM

8

CITY OF PANAMA CITY BEACH
AGENDA ITEM SUMMARY

1. DEPARTMENT MAKING REQUEST/NAME:
ADMINISTRATION/ MARIO GISBERT

2. MEETING DATE:
September 14, 2017

3. REQUESTED MOTION/ACTION:
Recommend reappointment of current Pension Board Trustees. Ask for Council to choose Planning Board member and Civil Service Board member. All terms would be effective 10/1/17.

4. AGENDA

PRESENTATION	☐
PUBLIC HEARING	☐
CONSENT	☐
REGULAR	☑

5. IS THIS ITEM BUDGETED (IF APPLICABLE)? YES ☐ NO ☐ N/A ☑
BUDGET AMENDMENT OR N/A

DETAILED BUDGET AMENDMENT ATTACHED YES ☐ NO ☐ N/A ☑

6. BACKGROUND: (WHY IS THE ACTION NECESSARY, WHAT GOAL WILL BE ACHIEVED)
Regarding the Pension Boards, all three Trustees have stated they would serve again at the pleasure of the Council. These appointments would be for four years.

Kelly Jenkins- General Employees' Pension Board
Holly White- Firefighters' Pension Board
Holly White- Police Officers' Pension Board

Regarding the Civil Service Board seat, the application was posted timely on the website and emailed out to the citizens signed up for postings. Two applicants requested consideration, one a current Board member and the other a retired Beach Police employee. This appointment would be for two years.

Michael Jarman- current Board member
Michael Moring- retired Police Police

Regarding the vacancy on the Planning Board (upon the resignation of Craig Duran), only one City resident applied for the position. If appointed, he would fill the remainder of the term for the seat held by Mr. Duran, for which the current term expires on 9/30/18.

David Scruggs

AGENDA ITEM # 8

CITY OF PANAMA CITY BEACH PENSION BOARDS-August, 2017

AGENDA ITEM # 8

GENERAL FUND BOARD MEMBERS:
Chair Holly J. White (Council 2016-2020)
Secretary Don Churchwell (Employees 2016-2020)
Kelly Jenkins (Council 2013-2017)
Kathy Younce (Employees 2017-2021)
Thomas Pate (5th Member 2017-2021)

MAILING ADDRESS:
110 S Arnold Rd.
Panama City Beach, FL 32413
(850) 233-5100

POLICE BOARD MEMBERS:
Chair Eusebio Talamantez (Employees 2016-2020)
Secretary Robert Clifton (Council 2016-2020)
Holly J. White (Council 2013-2017)
Wayne Maddox (Employees 2013-2017)
Rich McClanahan (5th Member 2017-2021)

MAILING ADDRESS:
17115 Panama City Beach Parkway
Panama City Beach, FL 32413
(850)-233-5000

FIRE BOARD MEMBERS:
Ray Morgan (5th Member 2017-2021)
Secretary Tim Smith (Employees 2016-2020)
Holly J. White (Council-2013-2017)
Joey Alexander (Employees 2013-2017)
Chair Shawn Legleiter (Council 2016-2020)

MAILING ADDRESS:
17121 Panama City Beach Parkway
Panama City Beach, FL 32413
(850) 233-5120

****

BOARDS OF THE CITY
2016-2017
8/31/17

BOARD	MEMBER	TERM EXPIRES
CIVIL SERVICE		
Regular Meeting	Bill Montfort (Board)	2018
1st Wednesday	Michael Jarman (Council)	2017
12:00 P.M.	Debbie McCormick (Employees)	2019
2 yr term	Sherry Swartout (Council)	2018
4 pick 5th	Mark Neitzel (Employees)	2018

AGENDA ITEM # 8

COMMITTEE VOLUNTEER
CIVIL SERVICE BOARD APPLICATION
PLEASE PRINT

NAME: Michael C. Jarman

HOME ADDRESS: 109 Heather Drive PCB, FL 32413

MAILING ADDRESS: Same

Home Phone: 850-588-7108 Business Phone: 850-234-2926 Cell: 850-541-3375
How is it best to contact you during the day? Cell

E-mail Address: Brownfire@comcast.net Fax Number: ______

Are you a registered voter in Bay County? Yes ✓ No ____
Do you currently hold an elected or appointed public office? Yes ✓ No ____
If yes, which one(s)? Civil Service Board

Do you have any relatives employed or contracted by the City of Panama City Beach or Bay County?
If yes, please explain: No

The Civil Service Board meets the 1st Wednesday of the month at 12:00 P.M. They also meet as needed in a Workshop at 12 P.M. the Tuesday the week before the regular meeting.

I have read and understood Section 112.313, Florida Statutes, setting forth the standards of conduct for public officials and hereby affirm my eligibility to serve on the Examining Board in a voluntary capacity.

Michael C. Jarman — Signature of Applicant

22 Aug 2017 — Date

* *

Please return the completed form to Jo Smith, at the City Manager's office in person, via email to jsmith@pcbgov.com or via fax at (850) 233-5108. **Closing Date for applications is August 31, 2017, at Noon.** Council will make their choices 9/14/17 at their 6 P.M. meeting.

Any questions, please phone 233-5100 and ask for Jo; or email jsmith@pcbgov.com.

Note: You must be a City resident to apply for the position.

When returning application, please attach a resume.

RECEIVED
AUG 22 2017
OFFICE OF MAYOR / CITY MANAGER

AGENDA ITEM # 8

MICHAEL C. JARMAN

brownfire@comcast.net
109 Heather Drive PCB, FL 32413
850-541-3375
[redacted]

OBJECTIVES

Continue my service as a Civil Service Board Member.

EDUCATION

St. Joseph Seminary College

May 1997 B.A. Liberal Arts

Bay High School

June 1993 Diploma

WORK EXPERIENCE

Brown Fire Protection, Inc. 124 N. Hwy 79 PCB, FL 32413

Operations Manager August 2005 – Present

Maintain day to day operations

Expand market share and business objectives

Hiring/Firing of employees

Technician training and field support

SKILLS

- Excellent Interpersonal Skills
- Conflict Resolution
- Priority Management
- Knowledgeable of Human Resource requirements and expectations

I hope to continue my service on the Civil Service Board at the pleasure of the Council.

AGENDA ITEM # 8

August 17, 2017

Panama City Beach City Council
110 South Arnold Road
Panama City Beach, FL 32413

Mayor Mike Thomas
Councilman John Reichard
Councilman Phil Chester
Councilwoman Josie Strange
Councilman Hector Solis

MICHAEL E. MORING
LETTER OF INTRODUCTION

Honorable Mayor and Councilors,

Please allow me the opportunity to submit my name for consideration in filling the vacant seat on the Board of Civil Service Commissioners.

I am 69 years of age and in good health. I reside at [redacted], Panama City Beach, Florida. I have lived at that address for the past 30 years. I retired from the Panama City Beach Police Department after 35 years of service holding the rank of Deputy Chief of Police. Before and after my retirement, I have been actively involved in the following community services and organizations:

Trustee for the City of Panama City Beach Police Officers Retirement and Pension Board 1998-2014
Volunteer with the Bay County Historical Society
Volunteer with the Bay County Genealogical Society
I currently serve on the Board of Directors for the Bay County History Museum
I am a Master Mason and member of Pythagoras Lodge 358, Panama City Beach, Florida
I am a member of the Shaddai Shriners Shaddai Temple, Panama City, Florida

Any consideration in this matter will be greatly appreciated.

Sincerely,

Michael E. Moring
[redacted]

Enclosures: Curriculum Vitae
Specialized Training Dealing With Human Resources
Personal References

AGENDA ITEM # 8

CURRICULUM VITAE

As I have stated in my Letter of Introduction, my career with the City of Panama City Beach Police Department spanned 35 years. It began on February 26, 1979, as an entry level Patrol Officer and ended on March 31, 2014, retiring as the Deputy Chief of Police. During that span of time, I served as Uniformed Patrol Officer, Criminal Investigator, Narcotics Investigator, Sergeant in Criminal Investigations, Lieutenant in Criminal Investigations, Captain in Criminal Investigations, Commander of Hostage Negotiation Team, Commander of the Special Weapons and Tactical Response Team, Commander of the Tactical Street Crime Unit. In 2008 I was promoted to the rank of Major becoming Chief of Staff. In 2010 I was promoted to Deputy Chief of Police retiring from the Panama City Beach Police Department in 2014.

My tenure with the Police Department has allowed me the opportunity to understand the principles of City Government that allow it to function and operate efficiently in a tourist-based economy. Additionally, my life experience and training with the Police Department has provided me with a valuable insight into the different personalities, their qualities, needs and interests that make up human resources within the workplace. This training and experience would allow me to function at a high level within the Civil Service Commission.

AGENDA ITEM # 8

SPECIALIZED TRAINING
DEALING WITH HUMAN RESOURCES

Executive Training for Future Police Chiefs	Florida Police Chiefs' Executive Center, Tampa, Florida
Officer Discipline	Florida Department of Law Enforcement, Daytona Beach, Florida
Police Internal Affairs	Florida Department of Law Enforcement, Daytona Beach, Florida
Due Process and Employee Rights	Florida Department of Law Enforcement, Jacksonville, Florida
Human Diversity	Florida Department of Law Enforcement, Gulf Coast Community College, Panama City, Florida
Civil Vicarious Liability and Sexual Harassment	Florida Department of Law Enforcement, Tallahassee, Florida
Police Use of Deadly Force	Florida Department of Law Enforcement, Valencia Community College, Gainesville, Florida
Detecting Deception in Non-Verbal Communications	Federal Bureau of Investigation, St. Leo University, Wesley Chapel, Florida

AGENDA ITEM # 8

PERSONAL REFERENCES

James Holloway, Chief of Police, (Retired)
Panama City Beach Police Department

David Humphreys, II, Deputy Chief of Police, (Retired)
Panama City Beach Police Department

Frank McKeithen, Sheriff (Retired)
Bay County, Florida

Steve Meadows, Attorney at Law,
1232 Jenks Avenue
Panama City, FL 32401
(850)215-2948

*** Personal information on retired Law Enforcement references can be furnished upon request.

AGENDA ITEM # 8

BOARDS OF THE CITY
2016-2017
8/31/17

BOARD	MEMBER	TERM EXPIRES
PLANNING		
Regular Meeting	Ed Benjamin Chair(17)	2018
2nd Monday	Ronald Dowgul	2018
2:00 P.M.	Mark Sheldon	2020
4 yr term		2018
Chmn annually by CC	Paul Turner,	2020
VC chosen by Bd	Josh Wakstein	2020
	Felicia Cook Vice-Chair (17)	2018
(School Bd Member-Non-Voting)	Wayne Elmore (no compensation)	-

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AGENDA ITEM # 8

COMMITTEE VOLUNTEER
PLANNING BOARD APPLICATION
PLEASE PRINT

NAME: David A. Scruggs

HOME ADDRESS: 316 Bainbridge St., Panama City Beach, FL 3

MAILING ADDRESS: Same

Home Phone: ______ Business Phone: ______ Cell: 850-541-6188

How is it best to contact you during the day? Cell

E-mail Address: dscruggs@sdavisioneering.com Fax Number: None

Business Address: N/A

Are you a registered voter of the City of Panama City Beach? Yes X No ____
Do you hold a public office? Yes ____ No X

At the present time, do you serve on any City Board, Commission or Committee? No
If you, which one(s)? ______
Which Board would you prefer? Planning

Please provide, if desired, briefly your education and experience. Registered Landscape Architect; Commercial design, construction & development 30 years; Previously VP St. Joe Company;currently principal Strategic Development Advisors, LLC and Director Pre-Construction for Reliant South Construction Group

Planning Board meets monthly 2nd Monday, 2PM.

My signature below indicates my desire to serve on the Planning Board in a voluntary capacity.

David A. Scruggs — Signature of Applicant

8/15/2017 — Date

* * * * * * * * * * * ** * * * * * * * * *

Please return the completed form to Jo Smith, at the City Manager's office in person, via email to jsmith@pcbgov.com or via fax at (850) 233-5108. Closing Date for applications [redacted]. Council will make their choices [redacted] at their [redacted]. meeting.

Any questions, please phone 233-5100 and ask for Jo; or email jsmith@pcbgov.com.

NOTE: You must live within the City limits to be considered for the appointment.

RECEIVED
AUG 15 2017
IN OFF & C

AGENDA ITEM # 8

David A. Scruggs

Contact
316 Bainbridge St.
850.541.6188
dscruggs@sdavisioneering.com

Education
B.L.A., Landscape Architecture,
Mississippi State University

Certifications Past/Present
Landscape Architect, MS, AL
Commercial Building
Contractor License
Mississippi Real Estate
Florida Real Estate

Professional Affiliations Past/Present
EDAA (Alabama)
Bay County EDA Executive Committee (past member)
Past Chair Enterprise Bay (EDA)
Board Member Bay Education Foundation
Bay Chamber of Commerce
International Council of Shopping Centers (ICSC)
Panama City Rotary Club
Bay County Association of Realtors

Personal
US Coast Guard Auxiliary
Woodlawn United Methodist Church and Sanctuary Choir

Professional Experience

Throughout a career of landscape architecture and land planning, construction and real estate development, I have developed a unique set of skills to assemble, motivate and manage multidiscipline teams of professionals as well as develop an understanding of the relationship nuances between clients, consultants and contractors. This experience has facilitated a successful track record designing, developing and constructing residential, commercial and industrial ventures for clients as well as my own account. This experience has helped me gain an intimate understanding of project components, the roles of team members, and the expertise to accurately plan, budget, and manage them to successful completion.

Reliant South Construction Group, *August2016-Current*
Director Pre-Construction

Located in Panama City, Reliant South is a full service general construction firm with the expertise to build vertical as well as horizontal infrastructure. RS doesn't chase everything maintaining a strategic focus on projects and clients that allow us to deliver a superior product and service.

As Director of Pre-Construction, I am tasked with seeking out these project sometimes before they are real and facilitate their growth into a project from design, finance, construction and operation strategy.

Strategic Development Advisors, *March 2014-Current*
Principal

SDA is tasked with providing full development and owner representation services to owners, developers, public and private partnerships. The expert affiliates of SDA provide, on a fee basis, an opportunity for a client to utilize this expertise as an extension of their own staff without the cost burdens associated with full time employees.

Past projects include a myriad of uses from retail, office, residential development, and hospitality. Current projects include two beachfront full service hotel/conference centers in Panama City Beach.

As a licensed commercial advisor with NAI-TALCOR, I can provide real estate services as an addition service component. We are currently marketing a 41 acre commercial tract in Navarre, FL by developing a mixed use master plan which illustrates its highest and best use.

Atkins North America (formerly PBS&J) *2007 to February 2014*
Vice President Design & Engineering

AGENDA ITEM # 8

As group manager for the civil and design team in Panama City Beach, I led a large staff of engineers, landscape architects and technicians managing multiple projects to meet clients', as well as the firm's, expectations. This required a daily hands on management approach to maintain schedules of in-house, as well as sub-consultants' performance and production all while meeting operational goals.

The St. Joe Company *- Panama City Beach, FL (10/2005-101/2007)*
Vice President Commercial Development

As Vice President of Commercial development and managing the commercial development team, our responsibility was to entitle, design and develop
St. Joe owned properties in the Bay and South Walton County area of the Florida panhandle. The purpose of this process was to identify and entitle each property to achieve the highest and best use while meeting the branding and place-making goals of the company. My team designed and entitled over 40 properties for development including, big box developments, multi-family, out-parcels, mixed use town centers and shopping centers.

Heartland Development Company *- Jackson, MS (2/2004-09/2005)*
Vice President Development
Coordinated the design, construction, and development of multiple master planned communities and town centers.

Construction Plus, Inc.*- Jackson, MS (11/1987-7/2005)*
President/CEO

Managed all aspects of leading a single-source entity for design, construction and development of commercial and industrial projects including business development, design coordination, job costing and budgeting, value engineering, and client service. With a staff of eight permanent employees and up to two dozen construction tradesmen and craftsmen, we delivered projects on time and in budget. Projects ranged from build-to-suits, flex space developments, shopping center and office products, multiple high-rise interior construction continuing contracts, and heavy manufacturing.

The Design Collective, PA *- Jackson, Mississippi 1981-1987*
Principal, Site Development Group

Principal-in-charge of the landscape architecture division of one of the state's largest A&E firms.

REGULAR ITEM

9

CITY OF PANAMA CITY BEACH
AGENDA ITEM SUMMARY

1. *DEPARTMENT MAKING REQUEST/NAME:*	2. *MEETING DATE:*
ADMINISTRATION/LEGAL	SEPTEMBER 14, 2017

3. *REQUESTED MOTION/ACTION:*

CONSIDER FIRST READING OF AN ORDINANCE CREATING A MUNICIPAL OFFENSE FOR MISREPRESENTATION OF RESIDENCY

4. *AGENDA*

PRESENTATION	☐
PUBLIC HEARING	☐
CONSENT	☐
REGULAR	☑

5. *IS THIS ITEM BUDGETED (IF APPLICABLE)?* YES ☐ NO ☐ N/A ☑
BUDGET AMENDMENT OR N/A

DETAILED BUDGET AMENDMENT ATTACHED YES ☐ NO ☐ N/A ☑

6. *BACKGROUND: (WHY IS THE ACTION NECESSARY, WHAT GOAL WILL BE ACHIEVED)*

The Council has directed staff to present options on ways it may enforce or assure residency concerns which may arise from the implementation or provision of City policies, privileges and services (I.e., for the privilege of addressing the Council, for taking advantage of discounted recreational fee rates, for election qualifications, or related to the provision of utility service).

Attached is an ordinance establishing a new municipal offense for the willful misrepresentation of one's residency to a city employee, official or law enforcement officer. Violation is punishable pursuant to the General Penalty long established in the City Code.

The ordinance is available for the Council's discussion and approval or modification.

AGENDA ITEM # 9

ORDINANCE NO. 1431

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING THE CITY'S CODE OF ORDINANCES RELATED TO MUNICIPAL OFFENSES; MAKING IT UNLAWFUL TO MISREPRESENT ONE'S RESIDENCY TO OBTAIN A CITY BENEFIT, SERVICE OR PRIVILEGE; PROVIDING A PENALTY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PANAMA CITY BEACH:

SECTION 1. From and after the effective date of this ordinance Section 16-12 of the Code of Ordinances of the City of Panama City Beach, related to offenses is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

Section 16-12. Misrepresentation of residency.

(a) It shall be unlawful for any person to willfully and knowingly, whether orally or in writing, make or cause to be made, any false or fictitious or fraudulent statement regarding his or her residency to any City employee, official or law enforcement officer, or to use any false writing or document to obtain City benefits, services or privileges.

(b) Violation of this section shall be punishable as a municipal offense in accordance with and pursuant to Section 1-12 of this City Code.

SECTION 2. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 3. The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the Panama City Beach Code, and unless a contrary ordinance is adopted within ninety (90) days following such publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be assigned and changed whenever necessary or convenient.

AGENDA ITEM # 9

SECTION 4. This Ordinance shall take effect immediately upon passage.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Council of the City of Panama City Beach, Florida, this ____day of _____, 2017.

_____
MAYOR

ATTEST:

_____
CITY CLERK

EXAMINED AND APPROVED by me this _____ day of _____, 2017.

_____
MAYOR

Published in the _____ on the ____ day of _____, 2017.

Posted on pcbgov.com on the ____ day of _____, 2017.

AGENDA ITEM # 9

REGULAR ITEM

10

CITY OF PANAMA CITY BEACH
AGENDA ITEM SUMMARY

1. *DEPARTMENT MAKING REQUEST/NAME:*	2. *MEETING DATE:*
ADMINISTRATION/LEGAL	SEPTEMBER 14, 2017

3. *REQUESTED MOTION/ACTION:*

Approve Resolution approving a discretionary Delegations Period for interested parties to bring non-agenda City business before the Council

4. *AGENDA*

PRESENTATION	☐
PUBLIC HEARING	☐
CONSENT	☐
REGULAR	☑

5. *IS THIS ITEM BUDGETED (IF APPLICABLE)?* YES ☐ NO ☐ N/A ☑
BUDGET AMENDMENT OR N/A

DETAILED BUDGET AMENDMENT ATTACHED YES ☐ NO ☐ N/A ☑

6. *BACKGROUND: (WHY IS THE ACTION NECESSARY, WHAT GOAL WILL BE ACHIEVED)*

At the last Council meeting on August 24, 2017, staff was directed to memorialize the limitations announced and implemented with regard to the second public comment period on non-agenda items. It is staff's understanding the intention is to mimic the procedure in place in the City of Cocoa, and a resolution has been prepared that mimics the practice adopted in that City.

The proposed resolution, which labels this second public comment period "Delegations", provides that the period may be provided at the Council's discretion, shall generally last no longer than 30 minutes, and is open to citizens and tax-collectors who wish to bring forward city business, employees to present matters affecting their employment, and water and sewer customers to present concerns related to the City's utility service. Please note that City employees were not in the classes of folks identified by the Mayor at the August 24 meeting, but are included in the class of folks to whom the City of Cocoa opens its delegations period.

The Resolution is available for the Council's approval or modification.

AGENDA ITEM # 10

RESOLUTION NO. 17-133

A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, ESTABLISHING A LIMITED "DELEGATIONS" PERIOD FOR CITY BUSINESS TO BE RECEIVED BY THE COUNCIL FROM CERTAIN INTERESTED PARTIES AT REGULAR CITY COUNCIL MEETINGS; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

NOW THEREFORE BE IT RESOLVED by the City of Panama City Beach, Florida that:

In its discretion, the Council may set aside up to thirty minutes of each regular meeting for "Delegations." The purpose of such period shall be for any resident or tax collector of the City to make his or her views known to the Council upon any subject of general or public interest, for City employees to communicate to the Council concerns about policies or conditions affecting their employment, or for water and sewer customers to advise the Council of concerns related to the City's provision of utilities.

The council desires that this comment period be for the purpose of receiving legitimate inquiries by interested parties and not for the purpose of advancing arguments or repetitious questions concerning matters which the council believes to be closed or not of general public concern. The three minute speaking rule shall be enforced during delegations.

This Resolution shall take effect immediately upon passage.

PASSED, APPROVED, AND ADOPTED in regular session this ___ day of _____, 2017.

CITY OF PANAMA CITY BEACH, FLORIDA

By_____
MIKE THOMAS, MAYOR

ATTEST:

_____
CITY CLERK

REGULAR ITEM

12

Jo Smith

From: Mario Gisbert
Sent: Tuesday, September 12, 2017 10:00 AM
To: Jo Smith
Subject: Fwd: Public Records Request Information
Attachments: ScanAttachment - 2017-08-28 14.39.31.pdf; ATT00001.htm; Section 119.12 Florida Statutes.pdf; ATT00002.htm; RE Fw Public Records Request- Floyds emails since 1 1 17-pres-2.pdf; ATT00003.htm

Please help print and add this email and attachments to the agenda item 12 public record request.

Thank you,
Mario Gisbert
850.258.6179

Begin forwarded message:

> **From:** "Cole Davis" <cdavis@HSMcLaw.com>
> **To:** "Mario Gisbert" <mgisbert@pcbgov.com>
> **Cc:** "Margaret Clark" <mclark@HSMcLaw.com>, "Amy Myers" <amyers@hsmclaw.com>
> **Subject: Public Records Request Information**
>
> Mario,
>
> Per our conversation this morning, attached are several documents related to public records requests.
>
> First, I've attached a copy of documents related to the case of *Friedberg v. City of Gainesville*. In this case, the City of Gainesville was sued over an extensive public records request brought by a former employee of the City. The City's charges totaled $39,942 related to compiling and redacting approximately 150,000 emails of the former employee. The Circuit Court in Alachua County upheld the charges as reasonable and entered judgment for the City. The Plaintiff did not appeal.
>
> Second, I've attached a copy of our offices emails with Pat Gleason regarding Amy's engagement in the Attorney General's mediation process. The first email in the chain shows Ms. Gleason's opinion on the City's public records charge policy and the estimate that was given to Melba Hall for her request for Diane Floyd's emails. As the email shows, based on a one-hour review by Jo Smith and other background provided by Amy, Ms. Gleason found the 2 minute per email estimation substantiated.
>
> Finally, I've attached the most recent version of section 119.12, Florida Statues, which addresses attorney's fees in public records litigation. The statute was recently amended to allow a public entity to recover its attorney's fees where the court determines the public records request was made "to cause a violation of [the public records law] or for a frivolous purpose."
>
> Let me know if you have questions or need anything else.

J. Cole Davis, Esq.

AGENDA ITEM # 12

FIRST

FRIEDBERG V CITY OF GAINESVILLE

1ST PUBLIC RECORD REQUEST	12/21/11
RESPONSE	1/3/12
RESPONSE	1/10/12
RESPONSE	1/26/12
2ND PUBLIC RECORDS REQUEST	1/26/12
RESPONSE	2/2/12
RESPONSE	2/8/12
3RD PUBLIC RECORDS REQUEST	2/23/12
RESPONSE	2/27/12
RESPONSE	2/28/12
RESPONSE	3/13/12
4TH PUBLIC RECORDS REQUEST	4/6/12
RESPONSE	4/10/12
RESPONSE	4/18/12
RESPONSE	4/25/12
RESPONSE	4/26/12
RESPONSE	5/23/12

AGENDA ITEM # 12

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT
IN AND FOR ALACHUA COUNTY, FLORIDA

ERIN FRIEDBERG,

Plaintiff,

vs.

CASE NO.: 2012 CA 3160
K

CITY OF GAINESVILLE, FLORIDA

Defendant.
_____/

COMPLAINT

Plaintiff, Erin Friedberg, (hereafter "Plaintiff") by and through the undersigned attorney, hereby files this complaint for the issuance of a writ of mandamus, pursuant to Florida Rule of Civil Procedure 1.630, and requests that such writ issue against Defendant, the City of Gainesville, Florida, (hereafter "Defendant") and alleges:

1. The Defendant, the City of Gainesville, Florida is a Florida municipal corporation.

2. The Plaintiff is an individual residing in Alachua County, Florida.

3. This Court has jurisdiction to issue a writ of mandamus pursuant to Article V § 5(b) of the Florida Constitution.

4. Venue is appropriate in this matter because both parties are located in Alachua County, Florida.

5. On or about October 31, 2012, the Plaintiff filed a charge of discrimination with the Florida Commission on Human Relations (hereafter the "FCHR") regarding alleged workplace discrimination by the Defendant while the Plaintiff was employed by the Defendant (hereafter the "Charge").

6. As a part of the FCHR investigation of the Charge, the FCHR has asked the Plaintiff

to provide documents, statements, and/or information regarding her employment with the Defendant.

7. On or about December 21, 2011, the Plaintiff, through her attorney, filed a public records request with the Defendant requesting various documents relating to her employment with the Defendant in order to comply with the requests from the FCHR (hereafter the "PRR"). A true and correct copy of the PRR is attached hereto as exhibit "A" and is by reference made a part hereof.

8. As the Defendant's attorney had already been involved in the FCHR investigative process, a copy of the PRR was also forwarded to such attorney as a courtesy, however no mention of the Charge was made in the PRR.

9. On or about January 3, 2012, counsel for the Defendant responded to the Plaintiff's counsel noting that the Defendant had received the PRR and was in the process of coordinating with Defendant's managers regarding a response to the PRR (hereafter the "First Defendant Response"). A true and correct copy of the First Defendant Response is attached hereto as exhibit "B" and is by reference made a part hereof.

10. The First Defendant Response requests that the Plaintiff "..direct communications relating to her charge of discrimination to me." While no mention of the Charge was made in the PRR, the Defendant, through the First Defendant Response, clearly has acknowledged that the PRR requests are obviously related to the Charge.

11. On or about January 10, 2012, counsel for the Defendant formally responded to the PRR by sending a letter to Plaintiff's counsel (hereafter the "Second Defendant Response"). A true and correct copy of the Second Defendant Response is attached hereto as exhibit "C" and is by

reference made a part hereof.

12. The Defendant, through the Second Defendant Response, stated that "extensive clerical and supervisory assistance" would be required to respond to the PRR and that, pursuant to Florida Statutes 119.07(4)(d), the Plaintiff would be required to pay for both labor costs and copying costs prior to the Defendant providing such records.

13. Florida Statutes section 119.07(4)(d), Florida Statutes, requires special service charges for responses to public records requests be reasonable.

14. The Defendant, through the Second Defendant Response, stated that there are approximately 150,000 email communications both to and from the Plaintiff during her employment with the Defendant and that each of these email communications would need to be reviewed by Defendant's staff prior to potentially exclude information from what ultimately might be provided to the Plaintiff.

15. The Defendant, through the Second Defendant Response, stated that the estimated costs review and produce review the Plaintiff's own email records from her employment with the Defendant were estimated to be $39,942.44 and requested payment of such sum prior to producing any email communication records or even making a determination what portion of such records might ultimately be produced.

16. While it is not entirely clear on the face of the Second Defendant Response what portion, if any, of the request for payment of nearly **Forty Thousand Dollars** was based upon copying costs, the true cost to duplicate computer files onto a CD-Rom disc (as is fairly common practice in 2012) would almost certainly be minimal and would require minimal staff time.

17. While it is not entirely clear on the face of the Second Defendant Response what

portion of the request for payment of nearly **Forty Thousand Dollars** was based upon special service charges, such request appears, on its face, to be unreasonable.

18. While it is not entirely clear on the face of the Second Defendant Response what portion of the request for payment of nearly **Forty Thousand Dollars** was based upon special service charges, such request does appears, on its face, to be excessive.

19. The Defendant clearly cannot make any legitimate argument that the actual costs to retrieve and duplicate the email communications requested by the Plaintiff will cost any significant amount and, without question, cannot reasonably argue that the actual costs to retrieve and duplicate such email communications will approach **Forty Thousand Dollars**.

20. The Florida courts have recognized that excessive special service charges for public records requests could very well serve to inhibit the pursuit of rights conferred by the Public Records Act. *See e.g.* Carden v. Chief of Police, City of Clewiston Police Dep't, 696 So. 2d 772, 773 (Fla. Dist. Ct. App. 2d Dist. 1996).

21. The Defendant, through the Second Defendant Response, made the contention that some of the records requested by the Plaintiff through request number four (4) of the PRR are "confidential and exempt medical records" and refused to provide such public records to the Plaintiff unless and until she provided written authorization as to same pursuant to Florida Statutes section 112.08(7). However, such statute does not require such authorization for either the Plaintiff (or her attorney) to obtain such records.

22. Florida Statutes section 112.08(7) clearly provides:

> "(7)All medical records and medical claims records in the custody of a unit of county or municipal government relating to county or municipal employees, former county or municipal employees, or eligible dependents of such employees enrolled in a county or municipal group insurance plan or self-insurance plan shall be kept

> confidential and are exempt from the provisions of s. 119.07(1). Such records shall not be furnished to any person **other than the employee or the employee's legal representative**, except upon written authorization of the employee, but may be furnished in any civil or criminal action, unless otherwise prohibited by law, upon the issuance of a subpoena from a court of competent jurisdiction and proper notice to the employee or the employee's legal representative by the party seeking such records." (emphasis added)

23. The PRR, on its face, made it quite clear that the Plaintiff was requesting records. As such she is "the employee" that is referenced in the highlighted section of Florida Statutes section 112.08(7) in paragraph 22 herein. The plain English reading of the statute makes it clear that "the employee" is an exception to the requirement of any form of written authorization for release of medical records.

24. The PRR, on its face, made it quite clear that the undersigned represented the Plaintiff and made the records request on her behalf. As such the undersigned is "the employee's legal representative" that is referenced in the highlighted section of Florida Statutes section 112.08(7) in paragraph 22 herein. The plain English reading of the statute makes it clear that "the employee's legal representative" is an exception to the requirement of any form of written authorization for release of medical records.

25. The Defendant's demand for a clearly excessive and unreasonable fee to produce public records has clearly prejudiced the Plaintiff and impaired her ability to properly respond to queries and requests from the FCHR related to the Charge.

26. The Defendant's unsubstantiated demand for "written authorization" for the Plaintiff and/or her attorney to access public records regarding the Plaintiff's own medical condition(s) has clearly prejudiced the Plaintiff and impaired her ability to properly respond to queries and requests from the FCHR related to the Charge.

27. The Defendant has clearly acknowledged the relationship between the Charge and the PRR (despite no mention of the Charge in the actual PRR) and as such the demands for a clearly excessive and unreasonable fee, as well as the improper demand for written authorization, are all the more egregious as they impact both the Plaintiff's rights to open public records and her rights to have a fair investigation of the Charge.

28. The Plaintiff has hired the undersigned attorney and law firm to represent her in this matter and had agreed to pay a reasonable fee for such services.

29. The Plaintiff is entitled to an award of reasonable attorney's fees if she prevails in this action pursuant to section 119.12 Florida Statutes.

30. All necessary conditions precedent to the filing of this action have occurred and/or they have been waived by the Defendant.

WHEREFORE, Plaintiff respectfully requests that the Court issue a writ of mandamus ordering Defendant to provide the requested public records; determining what special service charges, if any, may be charged by the Defendant for the production of such public records; awarding the Plaintiff reasonable attorney's fees and costs; and awarding any further relief this Court deems just and proper.

Dated this 26 day of January 2012

JOSEPH C. SHOEMAKER
Florida Bar No. 0319790
BOGEN, MUNNS & MUNNS
628 S. 14th St.
Leesburg, FL 34748
(352) 728-3773 (PHONE)
(352) 728-5488 (FAX)
Attorneys for Plaintiff

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT
IN AND FOR ALACHUA COUNTY, FLORIDA

ERIN FRIEDBERG,

Plaintiff,

vs.

CITY OF GAINESVILLE, FLORIDA

Defendant.

CASE NO.: 2012 CA 360

Division: K

/

FIRST AMENDED COMPLAINT

Plaintiff, Erin Friedberg, (hereafter "Plaintiff") by and through the undersigned attorney, hereby files this complaint for the issuance of a writ of mandamus, pursuant to Florida Rule of Civil Procedure 1.630, and requests that such writ issue against Defendant, the City of Gainesville, Florida, (hereafter "Defendant") and alleges:

1. The Defendant, the City of Gainesville, Florida is a Florida municipal corporation.

2. The Plaintiff is an individual residing in Alachua County, Florida.

3. This Court has jurisdiction to issue a writ of mandamus pursuant to Article V § 5(b) of the Florida Constitution.

4. Venue is appropriate in this matter because both parties are located in Alachua County, Florida.

STATEMENT OF FACTS

5. On or about October 31, 2012, the Plaintiff filed a charge of discrimination with the Florida Commission on Human Relations (hereafter the "FCHR") regarding alleged workplace discrimination by the Defendant while the Plaintiff was employed by the Defendant (hereafter the "Charge").

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6. As a part of the FCHR investigation of the Charge, the FCHR has asked the Plaintiff to provide documents, statements, and/or information regarding her employment with the Defendant.

7. On or about December 21, 2011, the Plaintiff, through her attorney, filed a public records request with the Defendant requesting various documents relating to her employment with the Defendant in order to comply with the requests from the FCHR (hereafter the "First PRR"). A true and correct copy of the First PRR is attached hereto as exhibit "A" and is by reference made a part hereof.

8. As the Defendant's attorney had already been involved in the FCHR investigative process, a copy of the First PRR was also forwarded to such attorney, however no mention of the Charge was made in the First PRR.

9. On or about January 3, 2012, counsel for the Defendant responded to the Plaintiff's counsel noting that the Defendant had received the First PRR and was in the process of coordinating with Defendant's managers regarding a response to the First PRR (hereafter the "First Defendant Response"). A true and correct copy of the First Defendant Response is attached hereto as exhibit "B" and is by reference made a part hereof.

10. The First Defendant Response requests that the Plaintiff "...direct communications relating to her charge of discrimination to me." While no mention of the Charge was made in the First PRR, the Defendant, through the First Defendant Response (as well as subsequent communications), clearly has acknowledged that the First PRR requests are obviously related to the Charge.

11. On or about January 10, 2012, counsel for the Defendant formally responded to the

First PRR by sending a letter to Plaintiff's counsel (hereafter the "Second Defendant Response"). A true and correct copy of the Second Defendant Response is attached hereto as exhibit "C" and is by reference made a part hereof.

12. The Defendant, through the Second Defendant Response, stated that "extensive clerical and supervisory assistance" would be required to respond to the First PRR and that, pursuant to Florida Statutes 119.07(4)(d), the Plaintiff would be required to pay for both labor costs and copying costs prior to the Defendant providing such records.

13. Florida Statutes section 119.07(4)(d), Florida Statutes, requires that special service charges for responses to public records requests be reasonable.

14. The Defendant, through the Second Defendant Response, stated that there are approximately 150,000 email communications both to and from the Plaintiff during her employment with the Defendant and that each of these email communications would need to be reviewed by Defendant's staff prior to potentially exclude information from what ultimately might be provided to the Plaintiff.

15. The Defendant, through the Second Defendant Response, stated that the estimated costs to review and produce the Plaintiff's own email records from her employment with the Defendant were estimated to be $39,942.44 and requested payment of such sum prior to producing any email communication records or even making a determination what portion of such records might ultimately be produced.

16. While it is not entirely clear on the face of the Second Defendant Response what portion, if any, of the request for payment of nearly **Forty Thousand Dollars** was based upon copying costs, the true cost to duplicate computer files onto a CD-Rom disc (as is fairly common

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practice in 2012) would almost certainly be minimal and would require minimal staff time.

17. While it is not entirely clear on the face of the Second Defendant Response what portion of the request for payment of nearly **Forty Thousand Dollars** was based upon special service charges, such request appears, on its face, to be unreasonable.

18. While it is not entirely clear on the face of the Second Defendant Response what portion of the request for payment of nearly **Forty Thousand Dollars** was based upon special service charges, such request does appears, on its face, to be excessive.

19. The Defendant, through the Second Defendant Response, made the contention that some of the records requested by the Plaintiff through request number four (4) of the First PRR are "confidential and exempt medical records" and refused to provide such public records to the Plaintiff unless and until she provided written authorization as to same pursuant to Florida Statutes section 112.08(7). However, such statute does not require such authorization for either the Plaintiff (or her attorney) to obtain such records.

20. Florida Statutes section 112.08(7) clearly provides:

> "(7) All medical records and medical claims records in the custody of a unit of county or municipal government relating to county or municipal employees, former county or municipal employees, or eligible dependents of such employees enrolled in a county or municipal group insurance plan or self-insurance plan shall be kept confidential and are exempt from the provisions of s. 119.07(1). Such records shall not be furnished to any person **other than the employee or the employee's legal representative**, except upon written authorization of the employee, but may be furnished in any civil or criminal action, unless otherwise prohibited by law, upon the issuance of a subpoena from a court of competent jurisdiction and proper notice to the employee or the employee's legal representative by the party seeking such records." (emphasis added)

21. The First PRR, on its face, made it quite clear that the Plaintiff was requesting records. As such she is "the employee" that is referenced in the highlighted section of Florida

Statutes section 112.08(7) in paragraph 20 herein. The plain English reading of the statute makes it clear that "the employee" is an exception to the requirement of any form of written authorization for release of medical records.

22. The First PRR, on its face, made it quite clear that the undersigned represented the Plaintiff and made the records request on her behalf. As such the undersigned is "the employee's legal representative" that is referenced in the highlighted section of Florida Statutes section 112.08(7) in paragraph 20 herein. The plain English reading of the statute makes it clear that "the employee's legal representative" is an exception to the requirement of any form of written authorization for release of medical records.

23. The Defendant's unsubstantiated demand for "written authorization" for the Plaintiff and/or her attorney to access public records regarding the Plaintiff's own medical condition(s) has clearly prejudiced the Plaintiff and impaired her ability to properly respond to queries and requests from the FCHR related to the Charge.

24. The Defendant, through the Second Defendant Response, estimated the costs to provide partial responses to requests 1, 3, 4, 5, 6, and 7 of the First PRR as $69.27. The Defendant, however, provided no delineation as to what such estimated costs were based upon or as to whether such estimated costs included labor (for review and/or duplication) and/or merely related to the costs of duplication itself.

25. The Plaintiff paid the $69.27 requested by the Defendant, through the Second Defendant Response, and received partial responses to requests 1, 3, 4, 5, 6, and 7 of the First PRR from the Defendant as well as some additional responsive documents after the instant litigation was filed.

26. On or about January 26, 2012, the Plaintiff, through her attorney, filed a second public records request with the Defendant requesting various documents relating to her employment with the Defendant in order to comply with the requests from the FCHR (hereafter the "Second PRR"). A true and correct copy of the Second PRR is attached hereto as exhibit "D" and is by reference made a part hereof.

27. On or about February 8, 2012, counsel for the Defendant responded informally to the original complaint in this matter, revised and clarified the Defendant's position regarding the First PRR, and provided an initial response to the Second PRR (hereafter the "Third Defendant Response"). A true and correct copy of the Third Defendant Response is attached hereto as exhibit "E" and is by reference made a part hereof.

28. The Defendant, through the Third Defendant Response, stated that the previously provided figure of $39,942.44 to review and produce email documents included many clearly outrageous costs such as hiring temporary staff (for likely more than a year), the payment of a supervisor's salary for review of the temporary staff, and even the purchase of a computer and a software license for the "project".

29. The Defendant, through the Third Defendant Response, stated that the previously provided figure of approximately 150,000 email communications was an estimate (that came from its IT Department) based upon dividing the size of "one average email" (75KB) into what is presumed to be the size of Ms. Friedberg's email folder (10GB) to come up with a figure of 150,000. Such calculation is fundamentally flawed (as anyone that has spent any amount of time with email can likely attest, much less an "IT professional") as email communications that include large attachment files such as large digital images, design proposals, grant applications, catalogues,

marketing graphics, and additional documents that were often reviewed by more than one party (which were often used by Ms. Friedberg in her job duties as Visual Arts Coordinator and which often resulted in her reaching email server capacity) are exponentially larger in size than email communications that contain merely text.

30. As the Defendant's figure of approximately 150,000 email communications was improperly based upon obviously flawed math and logic, its request for the huge sum of $39,942.44 to review such email documents for possible production is also fundamentally flawed on such basis alone.

31. The Defendant, through the Third Defendant Response, stated that "extensive clerical and supervisory assistance" would be required to respond to the Second PRR and that, pursuant to Florida Statutes 119.07(4)(d), the Plaintiff would be required to pay for both labor costs and copying costs prior to the Defendant providing such records.

32. The Plaintiff, through the Second PRR requested, in request number 2 of such request:

> "All records evidencing the termination and/or resignation of any PRCA employees by the City from January 1, 2011 to present, including, but not limited to, terminations and/or resignations of employees while such employees were on Family and Medical Leave Act leave and employment termination of PRCA employees as a result of death or suicide."

33. The Defendant, through the Third Defendant Response, stated that a response to request number 2 of the Second PRR would require producing about 150 pages of documents "...as well as labor costs of 1.5 hours to review, redact, and copy the records at $24.87 per hour ($37.81)."

34. Obviously, request number 2 of the Second PRR, will not require 1.5 hours of staff time to produce copies (150 copies can be made in a few minutes on most modern copiers) or locate

the documents requested (obviously the Defendant is well aware of the specific documents being sought and has even quantified same). The clear purpose of the Defendant in requiring such charge is to require the Plaintiff to pay a fee for the redaction/excision of information from public records and/or to deter the Plaintiff from lawfully retrieving public records.

35. There is no justification under Florida Statutes 119.07 for the imposition of a fee for the redaction/excision of information from public records. The Florida Attorney General has addressed this very issue and has issued a clear and unambiguous formal written opinion on such topic that makes plain that such charges are not authorized. Such opinion states, in relevant part:

> "Neither s 119.07(2)(a), F.S., nor any other provision of Ch. 119, F.S., prescribes any fee or authorizes any service charge for the "delet[ion] or excis[ion]" from a public record of information exempted by s 119.07(3)(h), F.S., from the provisions of s 119.07(1)(a), F.S., before the production of the remainder of such record (or an altered copy thereof) for inspection and examination." Florida Attorney General Opinion 84-81 (1984).

36. The Florida Attorney General has, in fact, repeatedly stated that a special service charge may not be imposed merely because a record contains exempted information. *See* Florida Attorney General Opinions 91-61 (1991); 90-7 (1990); 84-81 (1981).

37. The Plaintiff, through the Second PRR requested, in request number 3 of such request:

> "All records, letters, memoranda, notes, email communications, or other documents (whether in written or electronic form) with Erin Friedberg's name in subject line or body of mail, whether shown as "Erin Friedberg" or some variation thereof (e.g. "EF") received by, written by, or in the possession of any management personnel in PRCA or other City office since the time the City received Ms. Friedberg's charge of discrimination (in approximately November of 2011)."

38. The Defendant, through the Third Defendant Response, stated that it could not estimate how much time might be needed to research request number 3 of the Second PRR as such

request was overly broad. However, the Defendant did state that if the request were narrowed to only include certain management employees of the Defendant, then 254 copies would be produced at a charge of $38.10 and an additional $182.81 would be required in labor costs (various labor figures were provided from various employees of the Defendant to "review, redact, and copy" the records).

39. In much the same manner as the Defendant's response to request number 2 of the Second PRR, it will clearly not require labor costs anywhere near the figures quoted by the Defendant to produce 254 copies for the response to request number 3 of the Second PRR. Once again, the clear purpose of the Defendant in requiring such charge is to require the Plaintiff to pay a fee for the redaction/excision of information from public records and/or to deter the Plaintiff from lawfully retrieving public records.

40. On or about February 23, 2012, the Plaintiff, through her attorney, filed a third public records request with the Defendant requesting various documents relating to her employment with the Defendant in order to comply with the requests from the FCHR (hereafter the "Third PRR"). A true and correct copy of the Third PRR is attached hereto as exhibit "F" and is by reference made a part hereof.

41. On or about February 27, 2012, counsel for the Defendant responded to the counsel for the Plaintiff that the Defendant was in receipt of the Third PRR; that "extensive clerical and supervisory assistance" would be required to respond to the Third PRR; that, pursuant to Florida Statutes 119.07(4)(d), the Plaintiff would be required to pay for both labor costs and copying costs prior to the Defendant providing such records; and that the Defendant would be contacting the Plaintiff with estimates as to such costs (hereafter the "Fourth Defendant Response"). A true and

correct copy of the Fourth Defendant Response is attached hereto as exhibit "G" and is by reference made a part hereof.

42. On or about March 13, 2012, counsel for the Defendant formally responded to the Third PRR and once again provided estimated costs for the Defendant to produce the records requested by the Plaintiff (hereafter the "Fifth Defendant Response"). A true and correct copy of the Fifth Defendant Response is attached hereto as exhibit "H" and is by reference made a part hereof.

43. In much the same manner as the Defendant's prior responses to the Plaintiff's public records requests, the Defendant, through the Fifth Defendant Response, requested labor costs that far exceed any reasonable costs the Defendant will likely incur to produce and copy the documents responsive to requests 4, 6, and 7 of the Third PRR. Once again, the clear purpose of the Defendant in requiring such charge is to require the Plaintiff to pay a fee for the redaction/excision of information from public records and/or to deter the Plaintiff from lawfully retrieving public records.

44. While the majority of the true tasks necessary for the Defendant to properly respond to the Plaintiff's public records requests are clerical in nature (and likely could be performed by most any clerical employee of the Defendant), the Defendant, (as evidenced by the Fifth Defendant Response) has listed a number of very high labor costs, such as Paul Folkers ($64.23 per hour), Steve Phillips ($48.30 per hour), Michelle Park ($42.58 per hour), Lynn McClary ($49.80 per hour), and Keisha Jones ($42.36 per hour). Such costs are unreasonable and unjustifiable for the responses necessary to the public records requests made by the Plaintiff.

45. The Defendant, through the Fifth Defendant Response, stated that a response to such request would require the Plaintiff to pay a small copying cost of $2.10 as well as labor costs of !

hour at 78.69 per hour ($78.69), 40 minutes at $50.03 per hour ($33.35), 1 hour at $43.29 per hour (43.29) for a total amount of $157.43. Therefore, the Defendant is requesting to be paid an amount of $157.43 for 2 hours and 40 minutes of staff time to review and copy a mere 14 pages of documents. By any reasonable measure, this amount is unreasonable and excessive on its face.

46. The Florida courts have recognized that excessive special service charges for public records requests could very well serve to inhibit the pursuit of rights conferred by the Public Records Act. *See e.g.* Carden v. Chief of Police, City of Clewiston Police Dep't, 696 So. 2d 772, 773 (Fla. Dist. Ct. App. 2d Dist. 1996).

47. As evidenced by the Defendant's various responses to the Plaintiff's public records requests, the imposition of special service charges appears to be a very routine practice for the Defendant (at least as far as the Plaintiff is concerned), however, such charges are not supposed to be routinely charged for public records requests. *See e.g.* Florida Attorney General Opinions 86-69 and 92-38.

48. The conditions imposed by the Defendant for access to public records by the Defendant appear to be designed to impede her rights of access, contrary to Florida law. "Reasonable conditions" may not include anything which would hamper or frustrate, directly or indirectly, a person's right of inspection and copying of public records. The Florida Supreme Court has thus stated:

> "It is clear to us that this statutory phrase refers not to conditions which must be fulfilled before review is permitted but to reasonable regulations that would permit the custodian of the records to protect them from alteration, damage, or destruction and also to ensure that the person reviewing the records is not subjected to physical constraints designed to preclude review." Wait v. Fla. Power & Light Co., 372 So. 2d 420, 425 (Fla. 1979). (emphasis added).

49. The Defendant has clearly acknowledged the relationship between the Charge and

the various public records requests made by the Plaintiff and as such the demands for various clearly excessive and unreasonable fees, as well as the improper demand for written authorization, are all the more egregious as they impact both the Plaintiff's rights to open public records and her rights to have a fair investigation of the Charge.

50. The Defendant's demand for a clearly excessive and unreasonable fee to produce public records has clearly prejudiced the Plaintiff and impaired her ability to properly respond to queries and requests from the FCHR related to the Charge.

51. The Plaintiff has hired the undersigned attorney and law firm to represent her in this matter and has agreed to pay a reasonable fee for such services.

52. The Plaintiff is entitled to an award of reasonable attorney's fees if she prevails in this action pursuant to section 119.12 Florida Statutes.

53. All necessary conditions precedent to the filing of this action have occurred and/or they have been waived by the Defendant.

WHEREFORE, Plaintiff respectfully requests that the Court issue a writ of mandamus ordering Defendant to provide the requested public records; determining what special service charges, if any, may be charged by the Defendant for the production of such public records; requiring the Defendant to refund those charges previously requested and paid that were not authorized by Florida law; awarding the Plaintiff reasonable attorney's fees and costs; and awarding any further relief this Court deems just and proper.

Dated this 22 day of March, 2012

JOSEPH O. SHOEMAKER

AGENDA ITEM # 12

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by US. Mail and Federal Express Delivery upon Elizabeth Waratuke, Esq., 200 E. University Ave., Rm. 425, Gainesville, FL 32627 (physical address), PO Box 490, Station 46, Gainesville, FL 32627-0490 (mailing address), this 22nd day of March, 2012.

JOSEPH C. SHOEMAKER
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Attorneys for Plaintiff

AGENDA ITEM # 12

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT
IN AND FOR ALACHUA COUNTY, FLORIDA

ERIN FRIEDBERG,
Plaintiff

CASE NO.: 2012-CA-360

and

DIVISION: K

BUTTERFLY EDUCATION PROJECT, LLC,
Intervenor

v.

CITY OF GAINESVILLE, FLORIDA,
Defendant.
_____/

FINAL JUDGMENT FOR DEFENDANT, CITY OF GAINESVILLE

THIS CAUSE came to be heard in a non-jury trial held September 14, 2012. The Court, having heard testimony of the witnesses, received evidence, and otherwise being fully advised,

IT IS ORDERED and ADJUDGED that Plaintiff Erin Friedberg take nothing by this action and that Defendant, the City of Gainesville shall go hence without day.

DONE AND ORDERED at Gainesville, Alachua County, Florida on this 18th day of September, 2012.

TOBY S. MONACO
Circuit Judge

AGENDA ITEM # 12

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies have been furnished by E-mail or U.S. Mail on September 18, 2012 to the following

Erin Friedberg
1719 NW 23rd Avenue, #4F
Gainesville FL 32605
efriedberg@cox.net

Elizabeth A. Waratuke, Esq.
Daniel M. Nee, Esq.
Office of the City Attorney
P.O. Box 490, Sta. 46
Gainesville FL 32627
waratukeea@cityofgainesville.org
whitecg@cityofgainesville.org

Mary A. Jarvis
Judicial Assistant

AGENDA ITEM # 12

Bogin, Munns & Munns, P.A.
Attorneys at Law ▪ Since 1979

Joseph C. Shoemaker
Attorney At Law
628 South 14th Street
Leesburg, FL 34748

Ph: (352) 728-3773
Fax: (352) 728-5488
jshoemaker@boginmunns.com

December 21, 2011

CERTIFIED MAIL/RRR

City Of Gainesville, Florida
Attn: Records Custodian/City Clerk
200 East University Avenue
Gainesville, FL 32601

RE: Public Records Request

Dear Sirs:

My name is Joseph Shoemaker and I represent Ms. Erin Friedberg. I am, on behalf of my client, pursuant to Florida Statutes § 119.07 hereby requesting that the City of Gainesville, Florida (hereafter the "City") immediately provide me with copies of all of the following public records:

1. A complete copy of the personnel file for Erin Friedberg
2. A complete copy of the personnel file for John Hayes
3. Copies of any contract(s) or agreement(s) between John Hayes and the City.
4. Copies of any written statements, notes, email correspondence, memoranda or other documents regarding any requests for leave under the Family and Medical Leave Act ("FMLA") by Erin Friedberg and the approval and/or denial of such leave request(s).
5. Copies of any written statements, notes, email correspondence, memoranda or other documents regarding the termination, possible termination, or resignation of Erin Friedberg.
6. A copy of the current written job description for the Program Coordinator with oversight of the Visual Arts Program at the City.
7. A copy of the current written job description for the Cultural Affairs Supervisor at the City.
8. Copies of the written job descriptions for the positions currently held and previously held by John Hayes at the City.
9. Copies of all electronic mail ("email") communications both from and to Erin Friedberg while she was employed by and/or performing services for the City.

If you assert that an exemption applies to any of the documents requested then I am requesting that you, for each such document and exemption:

1. Specifically identify, in writing, any documents responsive to this request that exist, but which are not being provided or are being provided with exempted material removed;
2. Only delete or excise from the record that portion of the record with respect to which an exemption has been asserted and validly applies, and produce the remainder of such record; and
3. State the basis of the exemption that you contend is applicable to the record, including the statutory citation to an exemption created or afforded by statute and state in writing and with particularity the reasons for the conclusion that the record is exempt.

I would request that I be contacted at the following address and/or phone number as soon as such records are available:

JOSEPH C. SHOEMAKER
Bogin, Munns & Munns, PA
628 S.14th Street
Leesburg, Florida 34748
(352) 728-3773

Sincerely,

Joseph C. Shoemaker

CC: Erin Friedberg
City Attorney's Office

City of Gainesville
Office of the City Attorney

Marion J. Radson♦
City Attorney

♦Board Certified City, County & Local Government Law

Ronald D. Combs
Shayla L. McNeill*
Stephanie M. Marchman
Daniel M. Nee♦
Nicolle M. Shalley
Elizabeth A. Waratuke♦

January 3, 2012

Joseph C. Shoemaker, Esquire
Bogin, Munns & Munns, PA
628 S. 14th Street
Leesburg, Florida 34748

Re: Public Records Request

Dear Mr. Shoemaker:

Your public records request submitted on behalf of Ms. Erin Friedberg was received by the City of Gainesville on December 28, 2011. The public records request relates to the allegations in the charge of discrimination filed by Ms. Friedberg against the City. Given that I am representing the City in this charge of discrimination, I respectfully request that you direct communications relating to her charge of discrimination to me.

I will coordinate with the relevant City departments and managers to respond to your public records request. In the meantime, if you should have any questions, please do not hesitate to contact me.

Sincerely,

Stephanie M. Marchman
Assistant City Attorney II

200 E. University Ave.
Room 425
Gainesville, Florida 32627

PHONE (352) 334-5011
FAX (352) 334-2229
City Hall and the City Attorney's Office are closed on Fridays
Hours: M-Th, 7-6

*Utilities Legal Services
P.O. Box 147117, Sta. A-138
Gainesville, Florida 32614
PHONE: (352) 393-1010
FAX: (352) 334-2277
Hours: M-F, 8-5

AGENDA ITEM # 12

City of Gainesville
Office of the City Attorney

Marion J. Radson ♦
City Attorney

♦ Board Certified City, County & Local Government Law

Ronald D. Combs
Sean McDermott
Shayla L. McNeill*
Stephanie M. Marchman
Daniel M. Nee ♦
Nicolle M. Shalley
Elizabeth A. Waratuke ♦

January 10, 2012

Joseph C. Shoemaker, Esquire
Bogin, Munns & Munns, PA
628 South 14th Street
Leesburg, Florida 34748

Re: Public Records Request

Dear Mr. Shoemaker:

Your public records request submitted on behalf of Ms. Erin Friedberg was received by the City of Gainesville on December 28, 2011. On January 3, 2012, I sent you a letter acknowledging this request and informing you that I would be coordinating with the relevant City departments and managers to respond to this request. Based on the information I received from these departments and managers, the City responds to your public records request as follows:

In order to respond to your public records request, extensive clerical and supervisory assistance by City personnel is required. Accordingly, you will be required to pay a special service charge, pursuant to Florida Statute Section 119.07(4)(d), for the labor costs incurred for such extensive assistance, as well as copy costs of 15 cents per one-sided copy and 20 cents per two-sided copy (the first ten copies are free), prior to the City copying the records requested.

The total estimated cost for your request, including the special service charge and copy costs, is $40,011.71. The breakdown of the total costs is as follows:

The estimated cost for request numbers 1, 3, 4, 5, 6, 7, and 8 is $69.27. (It should be noted that this estimate does not include an estimated cost to entirely respond to request #4, as some of the records responsive to this request are confidential and exempt medical records pursuant to Florida Statute 112.08(7). These records may be released to Ms. Friedberg upon receipt of her written authorization.).

With regard to request number 2, since John Hayes is not a City employee, the City does not have any records responsive to this request.

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In response to request number 9, there are approximately 150,000 email communications both from and to Ms. Friedberg while she was employed by the City and/or performing services for the City. City staff would be required to review each of these emails to exclude personal, confidential, and exempt information prior to producing copies of such emails. The cost to review and produce the emails requested is estimated to be $39,942.44.

Upon receipt of your payment, you will be furnished with copies of the records requested, to the extent that such records are not confidential or exempt from disclosure. If you should have any questions about how to remit payment, please contact my legal assistant, Karen MacFarlane at (352) 393-8818.

Sincerely,

Stephanie M. Marchman
Assistant City Attorney II

AGENDA ITEM # 12

Bogin, Munns & Munns, P.A.
Attorneys at Law ▪ Since 1979

Joseph C. Shoemaker
Attorney At Law
628 South 14th Street
Leesburg, FL 34748

Ph: (352) 728-3773
Fax: (352) 728-5488
jshoemaker@boginmunns.com

January 26, 2012

VIA FEDEX TRANSMISSION:

City Attorney's Office
Attn: Stephanie Marchman, Esq.
200 East University Avenue, Room #425
Gainesville, FL 32601

Re: Public Records Request of Erin Friedberg

Dear Ms. Marchman:

I am in receipt of your response letter dated January 10, 2012, to my client's public records request dated December 21, 2011 (hereafter the First Public Records Request"). As I am nearly certain you have already surmised, we do not agree with the City's demand for nearly $40,000.00 for providing public records that would likely take less than 15 minutes to copy to a CD-Rom disc. Rest assured that issue will be addressed, but it will addressed at a later date.

I am enclosing my firm's check for $69.27 to cover the costs of providing immediate responses to requests number 1, 3, 4, 5, 6, 7, and 8. Please either provide them to my office or inform me of where my client may go to pick them up without any further delays.

As to your contention that request 4 may have "confidential" information that is not subject to public records law, I would simply ask you to read the statute you cited to me, F.S. 112.08(7):

"(7)All medical records and medical claims records in the custody of a unit of county or municipal government relating to county or municipal employees, former county or municipal employees, or eligible dependents of such employees enrolled in a county or municipal group insurance plan or self-insurance plan shall be kept confidential and are exempt from the provisions of s. 119.07(1). Such records shall not be furnished to any person ***other than the employee or the employee's legal representative****, except upon written authorization of the employee, but may be furnished in any civil or criminal action, unless otherwise prohibited by law, upon the issuance of a subpoena from a court of competent jurisdiction and proper notice to the employee or the employee's legal representative by the party seeking such records."*

The First Public Records Request made quite clear that Ms. Friedberg was requesting these records. She is the "**the employee**" that is referenced in the statute above. The plain English reading of the statute makes it clear that "the employee" is an exception to the requirement of any form of written authorization. To require an employee to provide written authorization to release public records that may contain medical information about such employee would be ludicrous and

AGENDA ITEM # 12

we both know that is not what the statute provides. Even if you misread such request to be made on my own behalf, I am "**the employee's legal representative**" and as such I do not need her written authorization either.

While we view these actions as simply another attempt to delay this properly made public records request, I am attaching clear written authorization from my client that authorizes you to release her own records to either her or myself. Please note that we have also attached a second public records request and Ms. Friedberg has authorized the City to release her records to either herself or my office on that second request (and any subsequent requests) as well.

Once again, please either provide all of our requested records to my office immediately or inform me of where my client may go to pick them up without any further delays.

Very truly yours,

Joseph C. Shoemaker

Enclosures as stated

CC: Erin Friedberg
Florida Commission on Human Relations

Bogin, Munns & Munns, P.A.
Attorneys at Law ▪ Since 1979

Joseph C. Shoemaker
Attorney At Law
628 South 14th Street
Leesburg, FL 34748

Ph: (352) 728-3773
Fax: (352) 728-5488
jshoemaker@boginmunns.com

January 26, 2012

VIA FEDEX DELIVERY

City Of Gainesville, Florida
Records Custodian/City Clerk
C/O City Attorney's Office
Attn: Stephanie Marchman, Esq.
200 East University Avenue, Room #425
Gainesville, FL 32601

RE: Second Public Records Request

Dear Ms. Marchman/Records Custodian/City Clerk:

My name is Joseph Shoemaker and I represent Ms. Erin Friedberg. I am, on behalf of my client, pursuant to Florida Statutes § 119.07 hereby requesting that the City of Gainesville, Florida (hereafter the "City") immediately provide me with copies of all of the following public records:

1. All Parks, Recreation and Cultural Affairs (PRCA) departmental complaints received by Human Resources Division from January 1, 2011 to present.
2. All records evidencing the termination and/or resignation of any PRCA employees by the City from January 1, 2011 to present, including, but not limited to, terminations and/or resignations of employees while such employees were on Family and Medical Leave Act leave and employment termination of PRCA employees as a result of death or suicide.
3 All records, letters, memoranda, notes, email communications, or other documents (whether in written or electronic form) with Erin Friedberg's name in subject line or body of mail, whether shown as "Erin Friedberg" or some variation thereof (e.g. "EF") received by, written by, or in the possession of any management personnel in PRCA or other City office since the time the City received Ms. Friedberg's charge of discrimination (in approximately November of 2011).

If you assert that an exemption applies to any of the documents requested then I am requesting that you, for each such document and exemption:

1. Specifically identify, in writing, any documents responsive to this request that exist, but which are not being provided or are being provided with exempted material removed;

2. Only delete or excise from the record that portion of the record with respect to which an exemption has been asserted and validly applies, and produce the remainder of such record; and
3. State the basis of the exemption that you contend is applicable to the record, including the statutory citation to an exemption created or afforded by statute and state in writing and with particularity the reasons for the conclusion that the record is exempt.

I would request that I be contacted at the following address and/or phone number as soon as such records are available:

JOSEPH C. SHOEMAKER
Bogin, Munns & Munns, PA
628 S.14th Street
Leesburg, Florida 34748
(352) 728-3773

Sincerely,

Joseph C. Shoemaker

CC: Erin Friedberg
Florida Commission on Human Relations

City of Gainesville
Office of the City Attorney

Marion J. Radson♦
City Attorney

♦Board Certified City, County & Local Government Law

Ronald D. Combs
Sean McDermott
Shayla L. McNeill*
Stephanie M. Marchman
Daniel M. Nee♦
Nicolle M. Shalley
Elizabeth A. Waratuke♦

February 2, 2012

Joseph C. Shoemaker, Esquire
Bogin, Munns & Munns, PA
628 South 14th Street
Leesburg, Florida 34748

Re: Public Records Request

Dear Mr. Shoemaker:

We are in receipt of the payment of $69.27 for your public records request dated December 21, 2011. Enclosed are the documents which are responsive to numbers 1, 3, 4, 5, 6, 7, and 8 of that request.

Sincerely,

Stephanie M. Marchman
Assistant City Attorney II

Enc.

200 E. University Ave.
Room 425
Gainesville, Florida 32601

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AGENDA ITEM # 90 12

City of Gainesville
Office of the City Attorney

Marion J. Radson♦
City Attorney

Ronald D. Combs
Lee Libby
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Stephanie M. Marchman
Daniel M. Nee♦
Nicolle M. Shalley
Elizabeth A. Waratuke♦

♦Board Certified City, County & Local Government Law

February 8, 2012

Joseph C. Shoemaker, Esquire
Bogin, Munns & Munns, PA
628 South 14th Street
Leesburg, Florida 34748

Re: Public Records Requests and Complaint

Dear Mr. Shoemaker:

I am writing regarding your two different public records requests submitted on behalf of Ms. Erin Friedberg and received by the City of December 28, 2011 and January 30, 2012, respectively. I am also writing regarding the Complaint you filed on behalf of Ms. Friedberg in circuit court on January 27, 2012 alleging that the City violated Florida's public records law in responding to your December 28, 2012 public records request.

With regard to your December 28, 2012 public records request, I sent you a letter on January 3, 2012 acknowledging receipt of this request and informing you that I would be coordinating with the relevant City departments and managers to respond to this request. In that same letter, I also recognized that your public records request related to allegations in a charge of discrimination filed by Ms. Friedberg against the City. Accordingly, I respectfully requested that since I was representing the City in this charge of discrimination, you direct communications related to this charge to me.

In the Complaint, you take issue with my request of you to direct communications related to Ms. Friedberg's charge of discrimination to me and allege that you forwarded the December 28, 2012 public records request to me only "as a courtesy." While I recognize that I represent a governmental entity subject to the public records law, my client, the City of Gainesville, has the right to effective legal representation, the same as your client. If the tables were turned, I presume that you would object to me calling Ms. Friedberg to ask her questions about her charge of discrimination without your knowledge and after knowing that you represented her in the charge. In fact, I would do no such a thing, as for me to do so and simply let you know about it after the fact "as a courtesy" would be a violation of Florida's Rules of Professional Conduct, Rule 4-4.2, Communication with Person Represented by Counsel. According to the Comment of Rule 4-4.2, "[t]his rule contributes to the proper functioning of the legal system by protecting a person who has chosen to be represented by a lawyer in a matter against possible overreaching by other lawyers who are participating in the matter, interference by those lawyers with the client-lawyer relationship, and the uncounseled disclosure of information relating to the representation." Therefore, your concern with my request that you direct

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AGENDA ITEM # 12

communications related to Ms. Friedberg's charge of discrimination to me, the City's legal representative in this matter, as well as your belief that you can simply copy me on communications with my client on matters which you know my client is represented "as a courtesy," is misplaced and incongruous with Florida's Rules of Professional Conduct.

On January 10, 2012, I sent you a detailed response to your December 28, 2011 public records request. In particular, I notified you that in order to respond to your request, extensive clerical and supervisory assistance by City personnel was required. Therefore, you would be required to pay a special service charge, pursuant to Florida Statute Section 119.07(4)(d), for the labor costs incurred for such extensive assistance, as well as copy costs, prior to the City copying the records requested. The estimated cost for the City to respond to request numbers 1, 3, 4, 5, 6, 7, and 8 was $69.27. I also noted in my response that the City may release Ms. Friedberg's confidential and exempt medical records requested as part of number 4 upon receipt of her written authorization. The City received a check in the amount of $69.27 on January 30, 2012, as well as a written authorization from Ms. Friedberg related to her medical records. On February 2, 2012, I mailed you the records responsive to request numbers 1, 3, 4, 5, 6, 7, and 8, including Ms. Friedberg's Family and Medical Leave Act-related medical records. After February 2, 2012, I received additional records responsive to request number 5. Enclosed are copies of those additional records.

In the Complaint, you take issue with my request that Ms. Friedberg provide the City with written authorization prior to releasing her medical records to you. You allege that my request was an "improper demand" under Florida's public records law and impacted Ms. Friedberg's right to open public records and her right to have a fair investigation of her charge of discrimination.

My request for a written authorization from Ms. Friedberg to release her medical records was made in a good faith effort to protect her personal medical information and assure that her medical records were in fact being released to her legal representative. Surely, Ms. Friedberg can appreciate that the City would not release her medical records to anyone who requested them. Moreover, Florida Statute Section 112.08(7) is not the only statute the City must consider when it releases an employee's confidential medical records. Florida Statute Section 119.071(4)(b)1 provides the following: "Medical information pertaining to a prospective, current, or former officer or employee of an agency which, if disclosed, would identify that officer or employee is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. However, ***such information may be disclosed if the person to whom the information pertains or the person's legal representative provides written permission*** or pursuant to court order." (emphasis added). The Americans with Disabilities Act also prohibits employers from releasing employees' medical records but under very limited circumstances, none of which are applicable here. See 42 U.S.C. § 12112. In addition, Section 206 of the Genetic Information Nondiscrimination Act strictly limits the disclosure of employees' medical information. Therefore, Ms. Friedberg's written authorization was requested to protect her personal medical information and ensure the City's compliance with state and federal law. Furthermore, it is disingenuous to argue my request for Ms. Friedberg to provide a written authorization in this situation impacted her right to open public records and investigate her charge in light of the fact that the City immediately produced copies of her medical records upon receipt of her written authorization.

In your December 28, 2011 public records request, you requested "[c]opies of all electronic mail ("email") communications both from and to Erin Friedberg while she was employed by and/or performing services for the City." In my January 10, 2012 response to this request, I informed you that there are approximately 150,000 email communications responsive to this request. I also informed you

AGENDA ITEM # 12

that City staff would be required to review each of these emails to exclude personal, confidential, and exempt information prior to producing copies of such emails. As a result, it was estimated that the cost to review and produce the 150,000 emails requested was $39,942.44.

In the Complaint, you allege that "it is not entirely clear on the face of [my January 10, 2012 response] what portion, if any, of the request for payment of nearly Forty Thousand Dollars was based upon copying costs, the true cost to duplicate computer files onto a CD-Rom disc (as is fairly common practice in 2012) would almost certainly be minimal and would require minimal staff time." In addition, you allege that "it is not entirely clear on the face of [my January 10, 2012 response] what portion of the request for payment of nearly Forty Thousand Dollars was based upon special service charges, such request appears, on its face to be unreasonable. . . [and] excessive."

Had you inquired prior to filing a lawsuit against the City, I would have been happy to further explain to you the estimated cost for the City to produce the 150,000 emails you requested. Nonetheless, in response to your allegations in the Complaint, I will take the opportunity to further explain the estimate now. The vast majority of the estimated cost relates to the labor costs the City would incur as a result of City staff taking approximately one minute to review each of the 150,000 emails and remove emails confidential or exempt public records. As you are surely aware, Florida's public records law contains over 1,000 exemptions precluding public records from disclosure and the City can incur significant liability if it were to produce public records that are confidential and exempt by law. For instance, Florida Statute Section 119.071(4)(a) and (5)(a)5 both provide that social security numbers are confidential and exempt from Florida Statute Section 119.07(1) and Section 24(a), Article I of the State Constitution, as well as provide specific procedures and conditions for the release of such information. Florida Statute Section 119.071(5)(a) further provides for criminal and monetary penalties for violations of these requirements. Moreover, pursuant to Florida Statute Section 119.07(2)(b), the City has a legal duty to "prevent the disclosure . . . of those portions of public records which are exempt or confidential . . ." Therefore, the City cannot simply copy 150,000 emails onto a CD and produce them to you without having City staff first review and redact them for confidential and exempt information.

I have enclosed a copy of the detailed estimate for the City to produce nearly 150,000 emails for your information. Of course, if you could make your request more specific or narrow it in terms of date ranges, search terms, or recipients, thus reducing the number of emails City staff would be required to review and redact, the labor cost to respond to your request for emails could be significantly reduced. In addition, upon further review of the detailed estimate provided by City staff, I am agreeable to removing the estimated costs related to the computer ($800), software ($385), and additional office equipment ($300), bringing the estimate for your request to $38,457.43.

Lastly, the following is the City's response to your January 30, 2012 public records request:

In order to respond to your January 30, 2012 public records request, extensive clerical and supervisory assistance by City personnel is required. Accordingly, you will be required to pay a special service charge, pursuant to Florida Statute Section 119.07(4)(d), for the labor costs incurred for such extensive assistance, as well as copy costs of 15 cents per one-sided copy and 20 cents per two-sided copy (the first ten copies are free), prior to the City copying the records requested.

With regard to request number 1, the City does not have any public records responsive to this request.

With regard to request number 2, the total estimated cost to produce the public records responsive to this request is $59.81. This estimated cost is arrived at by estimating 150 copies at 15 cents per copy ($22.50), as well as labor costs of 1.5 hours to review, redact, and copy the records at $24.87 per hour ($37.31).

In request number 3, you seek "[a]ll records, letters, memoranda, notes, email communications, or other documents (whether in written or electronic form) with Erin Friedberg's name in the subject line or body of mail, whether shown as 'Erin Friedberg' or some variation thereof (e.g. 'EF') received by, written by, or in the possession ***of any management personnel in*** [the Parks Department] ***or other City office*** since the time the City received Ms. Friedberg's charge of discrimination (in approximately November of 2011)." (emphasis added).

In order to respond to request number 3, each of the City's 124 managers would be required to search and review all records in their possession, and produce only those records which are responsive to your request that are not confidential or exempt. Because your request is extremely broad, the City is having trouble estimating how much time it will take for every one of its 124 managers to research your request. Therefore, any assistance you could provide, by identifying any of the documents you seek with more specificity, i.e., date, author, subject, or recipient, will better enable us to locate the requested records for your inspection and arrive at an estimate. For instance, if your request was more specific to only include certain City managers involved with Ms. Friedberg's charge and the allegations contained therein (e.g., Director of Parks, Recreation, and Cultural Affairs Steve Phillips, Assistant Recreation and Parks Director Michelle Park, Human Resources Director Sandy Barnard, Human Resources Manager Keisha Jones, Assistant City Manager Paul Folkers, and City Manager Russ Blackburn), it is estimated that the total cost of responding to this more specific request would be $220.91. This estimated cost for the records is arrived at by estimating 254 copies at 15 cents per copy ($38.10), as well as labor costs of $182.81 to review, redact, and copy the records (Steve Phillips for 1 hour @ $48.30/hour; Michelle Park for 1 hour @ $42.58/hour; Margie Allen (Staff Assistant) for .5 hours @ $22.36/hour, Paul Folkers for .25 hours @ $64.23/hour; Kimberly Sweigard (Staff Assistant) for .25 hours @ $20.40/hour; Donna Sutton (Executive Assistant) for 1 hour @ $30.11/hour; Lynn McClary for .17 hours @ $49.80/hour; and Keisha Jones for .5 hours @ $42.36/hour).

Upon receipt of the estimated costs set forth above, you will be furnished with copies of the records requested, to the extent that such records are not confidential or exempt from disclosure. If you should have any questions about how to remit payment, please contact my legal assistant, Karen MacFarlane at (352) 393-8818. In addition, please do not hesitate to contact me if you have any additional questions or concerns.

Sincerely,

Stephanie M. Marchman
Assistant City Attorney, II

Enclosures

AGENDA ITEM # 12

First Public Records Request, Request Number 9

Request Dated December 21, 2011, Received December 28, 2011

"Copies of all electronic mail ("email") communications both from and to Erin Friedberg while she was employed by and/or performing services for the City."

1) IT Department Estimate:

   a) Estimated IT staff time is 4 hours @ $50.00/hour = $200.00
   b) Estimated Cost of CDs for IT to copy data to for review by City staff = $50.00
   c) 10 GB of data exists representing the emails both from and to Erin Friedberg while she was employed by and/or performing services for the City (approximately an eight year period)
   d) The size of one average email is 75KB
   e) 10GB / 75KB is equivalent to approximately 150,000 emails

2) Parks Department Estimate:

   a) Estimated approximately one minute for City staff to review each of the 150,000 emails, or approximately 2,500 hours of City staff time to review 150,000 emails
   b) Estimated labor cost of a temporary staff specialist (no current City staff available) to review each of the 150,000 emails @ $14.82/hour times 2,500 hours = $37,050.00
   c) Estimated labor cost of Parks Department Staff Specialist to supervise and review work temporary staff specialist @ 15.1062 times 70 hours = $1,057.43
   d) Estimated cost of computer dedicated to project = $800.00
   e) Estimated cost of Outlook software license to complete project = $385.00
   f) Estimated cost of flash drives for reviewed emails to send to requestor = $100.00
   g) Estimated cost of additional office equipment = $300.00

Total Estimated costs for response to #9:

$	200.00
$	50.00
$	37,050.00
$	1,057.43
$	800.00
$	385.00
$	100.00
$	300.00
$	39,942.43

AGENDA ITEM # 12

Bogin, Munns & Munns, P.A.
Attorneys at Law ▪ Since 1979

Joseph C. Shoemaker
Attorney At Law
628 South 14th Street
Leesburg, FL 34748

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Fax: (352) 728-5488
jshoemaker@boginmunns.com

February 23, 2012

VIA FEDEX DELIVERY

City Of Gainesville, Florida
Records Custodian/City Clerk
C/O City Attorney's Office
Attn: Stephanie Marchman, Esq.
200 East University Avenue, Room #425
Gainesville, FL 32601

RE: Third Public Records Request

Dear Ms. Marchman/Records Custodian/City Clerk:

My name is Joseph Shoemaker and I represent Ms. Erin Friedberg. I am, on behalf of my client, pursuant to Florida Statutes § 119.07 hereby requesting that the City of Gainesville, Florida (hereafter the "City") immediately provide me with copies of all of the following public records:

1. A complete copy of the personnel file for Russell Etling.

2. A complete copy of the personnel file for Linda Demetropoulos.

3. The written job description and advertisement for Russell Etling's position.

4. The written job description, advertisement and all completed employment applications for Linda Demetropoulos' position including any accompanying questionnaire(s).

5. All notes and scores from Linda Demetropoulos' employment interview with the City and from any other applicant(s) who were interviewed for the same position as Linda Demetropoulos.

6. All e-mail communications with Erin Friedberg's name in the subject line or body of mail, whether shown as "Erin Friedberg" or some variation thereof (e.g. EF) that was received by, written by, or that is in the possession of Paul Folkers, Steve Phillips and Michelle Park since the time the City received Ms. Friedberg's charge of discrimination (in approximately November 2011).

7. All correspondence sent to the Human Resources Division by a Parks, Recreation and Cultural Affairs (PRCA) non-management employee regarding Paul Folkers, Steve Phillips, Michelle Park and/or Linda Demetropoulos since January 1, 2011.

If you assert that an exemption applies to any of the documents requested then I am requesting that you, <u>for each such document and exemption</u>:

1. Specifically identify, in writing, any documents responsive to this request that exist, but which are not being provided or are being provided with exempted material removed;
2. Only delete or excise from the record that portion of the record with respect to which an exemption has been asserted and validly applies, and produce the remainder of such record; and
3. State the basis of the exemption that you contend is applicable to the record, including the statutory citation to an exemption created or afforded by statute and state in writing and with particularity the reasons for the conclusion that the record is exempt.

I would request that I be contacted at the following address and/or phone number as soon as such records are available:

JOSEPH C. SHOEMAKER
Bogin, Munns & Munns, PA
628 S.14th Street
Leesburg, Florida 34748
(352) 728-3773

Sincerely,

Joseph C. Shoemaker

CC: Erin Friedberg
Florida Commission on Human Relations

City of Gainesville
Office of the City Attorney

Marion J. Radson♦
City Attorney

♦Board Certified City, County & Local Government Law

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Stephanie M. Marchman
Daniel M. Nee♦
Nicolle M. Shalley
Elizabeth A. Waratuke♦

February 27, 2012

Joseph C. Shoemaker, Esquire
Bogin, Munns & Munns, PA
628 S. 14th Street
Leesburg, Florida 34748

Re: Third Public Records Request

Dear Mr. Shoemaker:

Your third public records request dated February 23, 2012 on behalf of Ms. Erin Friedberg was received by the City of Gainesville today. In order to respond to the request, extensive clerical and supervisory assistance by City personnel is required. Accordingly, you will be required to pay a special service charge, pursuant to Florida Statute Section 119.07(4)(d), for the labor costs incurred for such extensive assistance, as well as copy costs of 15 cents per one-sided copy and 20 cents per two-sided copy (the first ten copies are free), prior the City copying the records requested.

I will coordinate with the relevant City departments and managers to respond to your public records request. In the meantime, if you should have any questions, please do not hesitate to contact me.

Sincerely,

S Marchman

Stephanie M. Marchman
Assistant City Attorney II

P.O. Box 490, Sta 46
Gainesville, Florida 32627
200 East University Ave., Rm 425
Gainesville, Florida 32601

PHONE (352) 334-5011
FAX (352) 334-2229
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Hours: M-Th, 7-6

*Utilities Legal Services
P.O. Box 147117, Sta. A-138
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Hours: M-F, 8-5

AGENDA ITEM # 12

City of Gainesville
Office of the City Attorney

Marion J. Radson♦
City Attorney

♦Board Certified City, County & Local Government Law

Ronald D. Combs
Sean McDermott
Shayla L. McNeill*
Stephanie M. Marchman
Daniel M. Nee♦
Nicolle M. Shalley
Elizabeth A. Warshuke♦

February 28, 2012

Joseph C. Shoemaker, Esquire
Bogin, Munns & Munns, PA
628 South 14th Street
Leesburg, Florida 34748

Re: Second Public Records Request

Dear Mr. Shoemaker:

We are in receipt of the payment of $59.81 for your second public records request dated January 26, 2012. Enclosed are the documents which are responsive to number 2 of that request.

Sincerely,

Stephanie M. Marchman
Assistant City Attorney II

Enc.

200 E. University Ave.
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Gainesville, Florida 32601

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Daniel M. Nee♦
Nicolle M. Shalley
Elizabeth A. Waratuke♦

March 13, 2012

Joseph C. Shoemaker, Esquire
Bogin, Munns & Munns, PA
628 South 14th Street
Leesburg, Florida 34748

Re: Third Public Records Request

Dear Mr. Shoemaker:

Your public records request submitted on behalf of Ms. Erin Friedberg was received by the City of Gainesville on February 27, 2012.

In order to respond to your public records request, extensive clerical and supervisory assistance by City personnel is required. Accordingly, you will be required to pay a special service charge, pursuant to Florida Statute Section 119.07(4)(d), for the labor costs incurred for such extensive assistance, as well as copy costs of 15 cents per one-sided copy and 20 cents per two-sided copy (the first ten copies per week, per person are free), prior to the City copying the records requested. The total estimated cost to respond to your entire request for public records is $448.53. The breakdown of the total cost is as follows:

With regard to request number 1, the total estimated cost to produce the public records requested is $1.95. This cost is arrived at by estimating 23 copies at 15 cents per copy, with the first ten copies free. No labor charge is included as it is anticipated it will take staff less than 15 minutes to locate, review, copy, and re-file the requested records.

With regard to request number 2, the total estimated cost to produce the public records requested is $7.05. This cost is arrived at by estimating 47 copies at 15 cents per copy. No labor charge is included as it is anticipated it will take staff less than 15 minutes to locate, review, copy, and re-file the requested records.

With regard to request number 3, the total estimated cost to produce the public records requested is $1.20. This cost is arrived at by estimating 8 copies at 15 cents per copy. No labor charge is included as it is anticipated it will take staff less than 15 minutes to locate, review, copy, and re-file the requested records.

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AGENDA ITEM # 12

With regard to request number 4, the total estimated cost to produce the public records requested is $181.44. This cost is arrived at by estimating 878 copies at 15 cents per copy ($131.70), as well as labor costs of 2 hours at $24.87 per hour ($49.74).

Documents responsive to request number 5 are exempt from disclosure under Florida Statute Section 119.071(1)(a), which provides "[e]xamination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure, certification, or employment are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. A person who has taken such an examination has the right to review his or her own completed examination." Since your client did not apply for this position, her own completed examination is not available for review. Accordingly, copies of these documents will not be provided.

With regard to request number 6, the total estimated cost to produce the public records requested is $99.46. This cost is arrived at by estimating 98 copies at 15 cents per copy ($14.70), as well as labor costs of 15 minutes at $64.23 per hour ($16.06), 45 minutes at $48.30 per hour ($36.23), 30 minutes at $42.58 per hour ($21.29), and 30 minutes at $22.36 per hour ($11.18).

With regard to request number 7, the total estimated cost to produce the public records requested is $157.43. This cost is arrived at by estimating 14 copies at 15 cents per copy ($2.10), as well as labor costs of 1 hour at $78.69 per hour ($78.69), labor costs of 40 minutes at $50.03 per hour ($33.35), and labor costs of 1 hour at $43.29 per hour ($43.29).

Upon receipt of your payment, you will be furnished with copies of the records requested, to the extent that such records are not confidential or exempt from disclosure. If you should have any questions about how to remit payment, please contact my legal assistant, Karen MacFarlane at (352) 393-8818.

Sincerely,

Stephanie M. Marchman
Assistant City Attorney II

AGENDA ITEM # 12

Bogin, Munns & Munns, P.A.
Attorneys at Law ▪ Since 1979

Joseph C. Shoemaker
Attorney At Law
628 South 14th Street
Leesburg, FL 34748

Ph: (352) 728-3773
Fax: (352) 728-5488
jshoemaker@boginmunns.com

April 6, 2012

VIA FEDEX DELIVERY

City Of Gainesville, Florida
Records Custodian/City Clerk
C/O City Attorney's Office
Attn: Stephanie Marchman, Esq.
200 East University Avenue, Room #425
Gainesville, FL 32601

RE: Fourth Public Records Request

Dear Ms. Marchman/Records Custodian/City Clerk:

My name is Joseph Shoemaker and I represent Ms. Erin Friedberg. I am, on behalf of my client, pursuant to Florida Statutes § 119.07 hereby requesting that the City of Gainesville, Florida (hereafter the "City") immediately provide me with copies of all of the following public records:

1. The written job description, advertisement and all completed employment applications for Linda Demetropoulos' position that were selected for an interview.

2. Any and all documents evidencing any comments or statements by the Mayor, any City Commissioner, the City Manager, and/or the assistant City Manager, Paul Folkers, regarding Russell Etling's job description and/or job announcement.

3. Any and all documents evidencing Erin Friedberg's pay study appeals and job audit.

4. Any contract between Mallory O'Connor and the City from September 2010 to the present.

5. Copies of all public records requests made to the City since October 2011.

6. Copies of all correspondence made by the City in response to any public records requests made to the City since October 2011. Such request does not include the public records that may have ultimately been produced to the original requestor by the City in response to such original request(s).

7. Copies of any and all records evidencing the charges (including, but not limited to special service charges) requested by the City to be paid, or actually paid, by any person that has

AGENDA ITEM # 12

made any public records requests to the City since October 2011. Such request does not include the public records that may have ultimately been produced to the original requestor by the City in response to such original request(s).

If you assert that an exemption applies to any of the documents requested then I am requesting that you, <u>for each such document and exemption</u>:

1. Specifically identify, in writing, any documents responsive to this request that exist, but which are not being provided or are being provided with exempted material removed;
2. Only delete or excise from the record that portion of the record with respect to which an exemption has been asserted and validly applies, and produce the remainder of such record; and
3. State the basis of the exemption that you contend is applicable to the record, including the statutory citation to an exemption created or afforded by statute and state in writing and with particularity the reasons for the conclusion that the record is exempt.

I would request that I be contacted at the following address and/or phone number as soon as such records are available:

JOSEPH C. SHOEMAKER
Bogin, Munns & Munns, PA
628 S.14th Street
Leesburg, Florida 34748
(352) 728-3773

Sincerely,

Joseph C. Shoemaker

CC: Erin Friedberg
Florida Commission on Human Relations

AGENDA ITEM # 12

City of Gainesville
Office of the City Attorney

Marion J. Radson♦
City Attorney

♦Board Certified City, County & Local Government Law

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Sean M. McDermott
Shayla M. McNeill*
Stephanie M. Marchman
Daniel M. Nee♦
Nicolle M. Shalley
Elizabeth A. Waratuke♦

April 10, 2012

Joseph C. Shoemaker, Esquire
Bogin, Munns & Munns, PA
628 S. 14th Street
Leesburg, Florida 34748

Re: Fourth Public Records Request

Dear Mr. Shoemaker:

Your fourth public records request dated April 6, 2012 on behalf of Ms. Erin Friedberg was received by the City of Gainesville yesterday. I will provide you with a more detailed response to this request after I have a reasonable opportunity to review it with the various City departments and managers who may have records responsive to your request. In the meantime, if you should have any questions, please do not hesitate to contact me.

Sincerely,

Stephanie M. Marchman
Assistant City Attorney II

P.O. Box 490, Sta 46
Gainesville, Florida 32627
200 East University Ave., Rm 425
Gainesville, Florida 32601

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AGENDA ITEM # 12

City of Gainesville
Office of the City Attorney

Marion J. Radson♦
City Attorney

♦Board Certified City, County & Local Government Law

Ronald D. Combs
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Shayla L. McNeill*
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Daniel M. Nee♦
Nicolle M. Shalley
Elizabeth A. Waratuke♦

April 18, 2012

Joseph C. Shoemaker, Esquire
Bogin, Munns & Munns, PA
628 South 14th Street
Leesburg, Florida 34748

Re: Fourth Public Records Request

Dear Mr. Shoemaker:

Your public records request submitted on behalf of Ms. Erin Friedberg was received by the City of Gainesville on April 9, 2012.

In order to respond to your public records request, extensive clerical and supervisory assistance by City personnel is required. Accordingly, you will be required to pay a special service charge, pursuant to Florida Statute Section 119.07(4)(d), for the labor costs incurred for such extensive assistance, as well as copy costs of 15 cents per one-sided copy and 20 cents per two-sided copy (the first ten copies per week, per person are free), prior to the City copying the records requested. The total estimated cost to respond to your entire request for public records is $421.39. The breakdown of the total cost is as follows:

With regard to part 1 of your request, the total estimated cost to produce the public records requested is $12.87. This cost is arrived at by estimating 43 copies at 15 cents per copy; with the first ten copies free ($4.95), as well as labor costs of 26 minutes at $18.27 per hour ($7.92).

With regard to part 2 of your request, the total estimated cost to produce the public records requested is $.30. This cost is arrived at by estimating 2 copies at 15 cents per copy. No labor charge is included as it is anticipated it will take staff less than 15 minutes to locate, review, copy, and re-file the requested records.

With regard to part 3 of your request, the total estimated cost to produce the public records requested is $13.73. This cost is arrived at by estimating 17 copies at 15 cents per copy ($2.55), as well as labor costs of 15 minutes at $44.71 per hour ($11.18).

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AGENDA ITEM # 12

With regard to part 4 of your request, the total estimated cost to produce the public records requested is $7.44. This cost is arrived at by estimating 16 copies at 15 cents per copy ($2.40), as well as labor costs of 20 minutes at $15.11 per hour ($5.04).

In part 5 of your request, you request "[c]opies of all public records requests made to the City since October 2011." In parts 6 and 7, you request copies of the correspondence made by the City in response to these requests (except for copies of public records actually produced in response to the original request), as well as all records related to charges the City requested that the requestor pay for these requests (except for copies of public records actually produced in response to the original request).

The City of Gainesville does not operate under a centralized public records custodian and does not maintain a centralized public records keeping system. Instead, the Clerk of the Commission maintains records of the City Commission and certain other "official" City records, such as the City seal and records of City boards and committees. In addition, each City department is the custodian of any public record under its supervision or control. As such, all City departments and employees may receive public records requests at one time or another; therefore, any or all City departments and employees may have records responsive to parts 5, 6, and 7 of your fourth public records request.

Since parts 5, 6, and 7 of your fourth public records request appear to be entirely unrelated to Ms. Friedberg's charge of discrimination, I will defer to the appropriate City departments, managers, and/or employees to respond to your request, with the exception of the City Attorney's Office (see following paragraph). Accordingly, enclosed is the contact information for all City departments that you choose to contact with your request.

With regard to the City Attorney's Office, the total estimated cost to produce the public records requested in parts 5, 6, and 7 of your fourth public records request is $387.05. This cost is arrived at by estimating 130 copies at 15 cents per copy, as well as labor costs of 15 minutes at $30.02 per hour (Legal Assistant to myself and the Police Legal Advisor), 30 minutes at $40.84 per hour (Senior Legal Assistant to the City Attorney), 30 minutes at $32.89 per hour (Legal Assistant to the Litigation Attorneys), 8 hours at $ 32.53 per hour (Senior Executive Assistant to the Utilities Attorney), and 1 hour at $62.93 per hour (Utilities Attorney).

Upon receipt of your payment for the above-referenced records, you will be furnished with copies of the records requested, to the extent that such records are not confidential or exempt from disclosure. If you should have any questions about how to remit payment, please contact my legal assistant, Karen MacFarlane, at (352) 393-8818.

Sincerely,

Marchman

Stephanie M. Marchman
Assistant City Attorney II

Enclosure

AGENDA ITEM # 12

City of Gainesville
Office of the City Attorney

Marion J. Radson♦
City Attorney

♦Board Certified City, County & Local Government Law

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Stephanie M. Marchman
Daniel M. Nee♦
Nicolle M. Shalley
Elizabeth A. Waratuke♦

April 25, 2012

Joseph C. Shoemaker, Esquire
Bogin, Munns & Munns, PA
628 S. 14th Street
Leesburg, Florida 34748

Re: Third Public Records Request

Dear Mr. Shoemaker:

Your payment of $267.09 to cover the estimated cost of copies and special service charges related to parts 1, 2, 3, 6, and 7 of your "Third Public Records Request" dated February 23, 2012 was received by the City of Gainesville on April 9, 2012. Enclosed are copies of the records responsive to parts 1, 2, 3, and 7 of your "Third Public Records Request," except to the extent such records are exempt and/or confidential under Florida's public records law. In this case, the social security numbers contained in the personnel records you requested have been redacted because they are confidential and exempt under Florida Statute Section 119.071(4).

As I relayed to you in my email yesterday, the documents responsive to part 6 of your request contain a number of attorney/client communications. I am still in the process of reviewing these communications for attorney work product, which is exempt from disclosure under Florida Statute Section 119.071(1)(d). I anticipate completing this review shortly, and will provide you with copies of the records responsive to this part of your request shortly thereafter.

Please contact me with any questions or concerns.

Sincerely,

Stephanie M. Marchman
Assistant City Attorney II

Enclosures

200 East University Ave., Rm 425
Gainesville, Florida 32601

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AGENDA ITEM # 12

City of Gainesville
Office of the City Attorney

Marion J. Radson♦
City Attorney

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Elizabeth A. Waratuke♦

♦Board Certified City, County & Local Government Law

April 26, 2012

Joseph C. Shoemaker, Esquire
Bogin, Munns & Munns, PA
628 S. 14th Street
Leesburg, Florida 34748

Re: Third Public Records Request

Dear Mr. Shoemaker:

Your payment of $267.09 to cover the estimated cost of copies and special service charges related to parts 1, 2, 3, 6, and 7 of your "Third Public Records Request" dated February 23, 2012 was received by the City of Gainesville on April 9, 2012. You were mailed copies of the records responsive to parts 1, 2, 3, and 7 of your "Third Public Records Request" on April 25, 2012. Enclosed are copies of the records responsive to part 6 of your request, except to the extent such records are exempt and/or confidential under the public records law.

A number of email communications responsive to part 6 of your request have not been disclosed because they are exempt as attorney work product under Florida Statute Section 119.071(1)(d). I have concluded that these email communications are exempt as attorney work product because they were either prepared by me (an agency attorney) or at my express direction, and they reflect my mental impression, conclusion, litigation strategy, or legal theory related to the defense of Ms. Friedberg's charge of discrimination against the City, which is currently under investigation by the Florida Commission on Human Relations. In particular, the exempt email communications relate to communications between myself and my client regarding the preparation of affidavits in response to the charge of discrimination Ms. Friedberg filed with the Florida Commission on Human Relations, as well as email communications related to factual information or materials I asked my client to gather and submit to me based on my impression that such information or materials may be necessary to defend Ms. Friedberg's charge against the City. Please contact me with any questions or concerns.

Sincerely,

Stephanie M. Marchman, Assistant City Attorney II
Enclosures

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City of Gainesville
Office of the City Attorney

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Elizabeth A. Waratuke♦

May 23, 2012

Joseph C. Shoemaker, Esquire
Bogin, Munns & Munns, PA
628 South 14th Street
Leesburg, Florida 34748

Re: Public Records Request Dated December 21, 2011

Dear Mr. Shoemaker:

On December 21, 2011, you requested on behalf of Erin Friedberg, among other things, "[c]opies of all electronic mail ('email") communications both from and to Erin Friedberg while she was employed by and/or performing services for the City." As you are aware, she was employed by the City for approximately 8 years.

On January 3, 2012, I acknowledged receipt of your request and informed you that your communications with the City should be directed to me, as legal counsel for the City, because they related to a recent charge of discrimination Ms. Friedberg filed against the City and I was representing the City in that charge. I would therefore be coordinating with the relevant City departments and managers to respond to your request.

On January 10, 2012, I provided you with an estimate to review, redact, and copy the emails requested above based on information I received from City information technology (IT) staff that your request encompassed approximately 150,000 emails. On February 8, 2012, I provided you with more specific information as to how I arrived at this estimate. In particular, my estimate was based in part on the following information from City IT staff:

- 10 GB of data exists representing the emails both from and to Erin Friedberg while she was employed and/or performing services for the City (approximately an eight year period)
- The size of one average email is 75 KB
- 10 GB / 75 KB is equivalent to approximately 150,000 emails

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AGENDA ITEM # 12

To date, you have not provided a payment to the City for the estimated cost or any part thereof to produce the records requested above, and you have not narrowed your request, although I suggested to you in my February 8, 2012 correspondence that you make your request for emails more specific or narrow in terms of date ranges, search terms, or recipients, thus reducing the number of emails City staff would need to review and redact and the corresponding labor costs of such a review. Despite this, in order to prepare for the final hearing in Ms. Friedberg's public records lawsuit against the City, this Office recently received from the City's IT Department a copy all emails both from and to Erin Friedberg while she was employed and/or performing services for the City. Based on our Office's preliminary review of these emails, the estimate to review, redact, and copy the emails requested above must be revised to reflect that your request actually encompasses 52,708 emails, not the 150,000 originally estimated. The earlier estimate I provided you was based on the assumption that one average email was 75 KB in size. In the case of Ms. Friedberg's emails, it turns out that many of her emails are actually larger in size, perhaps because the nature of her work with the City entailed emailing images of artwork (she was a Visual Arts Coordinator responsible for creating art exhibits and coordinating City art programs).

Accordingly, I would revise the estimate to review, redact, and copy the emails requested above to be about one-third of what was originally quoted. There are, however, still a great number of emails at issue. As I offered in my February 8, 2012 correspondence to you, I would welcome any effort you can make to make your request more specific or narrow.

Please feel free to contact me with regard to this new information, or if you would be interested in making your request more specific or narrow.

Sincerely,

Stephanie M. Marchman
Assistant City Attorney II

cc: Gabe Kaimowitz, Esquire
Law Office of Gabe Kaimowitz
P.O. Box 140119
Gainesville, Florida 32614

AGENDA ITEM # 12

SECOND

PAT GLEASON EMAILS REGARDING ATTORNEY GENERAL'S MEDIATION PROCESS

AGENDA ITEM # 12

Wednesday, Aug 9, 2:33 PM

RE: Fw: Public Records Request- Floyds emails since 1/1/17-pres

by Pat Gleason | Pat.Gleason@myfloridalegal.com

Hi and thanks for the update.... I think that at this point the best course would be for you to write an email to me with a copy to Ms. Hall explaining in more detail the basis for the 2 minute per email charged and that the city undertook at no cost to Ms. Hall a one hour review of review of 36 emails (265 pages) and the results of that search (redactions). I would advise Ms. Hall that she can have these redacted emails at no charge . Also that based on this review it appears that the 2 minute per email charge is substantiated by the work involved to produce future emails, in light of the redactions that were found. However, in the event that Ms. Hall decides to proceed with the request and the actual time involved is less than the amount quoted she will be refunded the difference. I would ask Ms. Hall whether she would like consider any cost saving options such as to reduce the time limit for the search, modify the scope of the search such as using key words, stating that she doesn't want copies of emails that Ms. Floyd was only copied on as opposed to emails sent directly to Ms. Floyd, and that she does not want duplicates or attachments. These are all methods used by requesters to reduce charges involved in reviewing and redacting emails.

Amy Myers ---08/09/2017 12:42:07 PM---Pat, We've concluded the one hour review. Here is a brief summary. Please advise if I need to expo

From: Amy Myers <amyers@hsmclaw.com>

To: 'Pat Gleason' <Pat.Gleason@myfloridalegal.com>

Cc: Cole Davis <cdavis@HSMcLaw.com>, Cindy Kittler <ckittler@HSMcLaw.com>, "'Jo Smith'" <jsmith@pcbgov.com>, Mario Gisbert <mgisbert@pcbgov.com>, "Cindy Kittler" <ckittler@HSMcLaw.com>

Date: 08/09/2017 12:42 PM

Subject: RE: Fw: Public Records Request- Floyds emails since 1/1/17-pres

Pat,
We've concluded the one hour review. Here is a brief summary. Please advise if I need to expound further, and what to expect next.

Jo Smith--acting City Clerk responding to the request

> Seasoned employee. Held jobs with the City Licensing and civil service departments before being appointed as City Secretary. Unquestionably the most efficient locator and retriever of records because she's been with City so long. Not seasoned re exemptions except those she saw routinely in her Licensing, Civil Service or Secretary positions. In absence of a City Clerk, she is best and most obvious candidate among current City employees to serve as City's records custodian.

Diane Floyd--the City employee whose emails are subject to the request

> Diane Floyd recently resigned her job as City Clerk. While her formal title was City Clerk, her position and job description was also largely focused on HR and Risk Management duties. In her capacity as HR director she routinely received sensitive financial, health and personal identifying information regarding employees. As the City's risk manager, she

AGENDA ITEM # 12

received and prepared information regarding pending litigation and insurance claims.

Results of the one-hour review.

Ms. Hall sent a subsequent request for Ms. Floyd's emails for the first week of January 2017 only, so we began our one hour review with that request since it also overlapped the subject request of this mediation (all of Ms. Floyd's emails from January 1, 2017 to present). In one hour Ms. Smith reviewed 265 pages (36 emails). Confidential checking account information was identified in 3 email attachments, and 2 emails were identified as potentially having exempt information in their attachments. I subsequently and separately from Ms. Smith's 1 hour effort have confirmed one of those email attachments contained exempt information on 23 pages related to insurance claim information for pending litigation (FS 624.311(2) and 728.68(16b)), and the other related to a now closed investigation that is no longer eligible for an exemption. A summary of the emails reviewed, their size and general subject matter is enclosed for your reference. So of the 265 pages reviewed, exempt information was contained on 26 pages. (Ill confess I thought the percentage would be considerably higher given the nature of Ms. Floyd's duties, but acknowledge too that the review only encompassed a day and a half of emails she received, and on the first workday of the new year which my own experience tells me is not one of the busiest.)

City conclusion.

The City finds that the rate of Ms. Smith's review is consistent with the estimate given Ms. Hall, which quoted 2 minutes per email.

Attachments.

Table of emails reviewed, with Jo Smith notations
Diane Floyd job description

Thanks.

Amy E. Myers, Esq.
HARRISON SALE McCLOY Attorneys At Law
P.O. Drawer 1579
Panama City, FL 32402
Phone: (850) 769-3434
Fax: (850) 769-6121
Cell: (850) 819-2450

AGENDA ITEM # 12

From: Pat Gleason [mailto:Pat.Gleason@myfloridalegal.com]
Sent: Monday, August 7, 2017 2:15 PM
To: Amy Myers <amyers@hsmclaw.com>
Cc: Cole Davis <cdavis@HSMcLaw.com>; Cindy Kittler <ckittler@HSMcLaw.com>; 'Jo Smith' <jsmith@pcbgov.com>; Mario Gisbert <mgisbert@pcbgov.com>
Subject: RE: Fw: Public Records Request- Floyds emails since 1/1/17-pres

Hi Amy...Thanks for your comments... open government mediation is a lot more informal and of course more public than court ordered mediation but it seems to work where the parties (like you and Ms. Smith) have an open mind and are willing to consider a pragmatic approach to problem solving. I would agree that given the HR responsibilities, there is a good possibility that there will be some exempt information although many HR directors try to minimize that particularly with medical records. I think doing the one hour review should be helpful one way or the other in showing Ms. Hall what is involved in a search like this. I anticipate advising her of the results and depending what they are, we can start on the next step. It could be that she will prefer to exclude any emails sent or received relating to HR matters for example. It will be interesting to see what happens! Pat

Amy Myers ---08/07/2017 02:37:10 PM---Thanks Pat. I've never done an email mediation before. Does your approach change at all when the job

From: Amy Myers <amyers@hsmclaw.com>

To: 'Pat Gleason' <Pat.Gleason@myfloridalegal.com>

Cc: Cole Davis <cdavis@HSMcLaw.com>, Cindy Kittler <ckittler@HSMcLaw.com>, "Jo Smith'" <jsmith@pcbgov.com>, Mario Gisbert <mgisbert@pcbgov.com>, "Cindy Kittler" <ckittler@HSMcLaw.com>

Date: 08/07/2017 02:37 PM

Subject: RE: Fw: Public Records Request- Floyds emails since 1/1/17-pres

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Thanks Pat. I've never done an email mediation before.
Does your approach change at all when the job description for the City Clerk position Diane Floyd filled also contemplated her assignment as the City's HR director and included general risk management duties as well?
I think undertaking the 1 hour review is reasonable and will be demonstrative, but given Ms. Floyd's duties I do anticipate there being exempt information in a considerable number of those emails she made or received with her HR hat on. Not sure that changes the next steps at all, but I did want to clarify and confirm.

Thanks,
Amy

From: Pat Gleason [mailto:Pat.Gleason@myfloridalegal.com]
Sent: Monday, August 7, 2017 11:12 AM
To: Amy Myers <amyers@hsmclaw.com>
Cc: Cole Davis <cdavis@HSMcLaw.com>; Cindy Kittler <ckittler@HSMcLaw.com>; 'Jo Smith' <jsmith@pcbgov.com>; Mario

AGENDA ITEM # 12

Gisbert <mgisbert@pcbgov.com>
Subject: RE: Fw: Public Records Request- Floyds emails since 1/1/17-pres

Hello and thank you for your interest in open government mediation. Due to funding limitations, there is no travel for this program. All mediations are handled via email which are all public records. In cases where there are fee disputes, the first step would be for the city to specify the tasks and time involved that resulted in the estimate given to Ms. Hall.... Because the city can only charge the actual cost incurred, it can be problematic to have a cost that is based on a set time estimated to review an email because it is unclear whether it will take that long to review for exemptions. Accordingly, I recommend that the first step be for the city to invest an hour in a "trial run" during which Ms. Smith undertakes a review of the requested email for exemptions at no charge to Ms. Hall. This review should exclude from the calculations any questions that might be directed to legal counsel... such as is there an applicable exemption for this type of record. These are types of issues are those which are related to the job as opposed to the mechanics of a redaction. Once Ms. Smith completes the 1 hour review (my experience is that in a case like this where the email is requested from a city clerk as opposed to HR or the legal department there is not much material to redact... Many of the emails are copies or clearly public record (eg agenda backup) and typically the review goes faster than might be initially anticipated. If this proves to be the case, the estimate to Ms. Hall can be revised accordingly. If on the other hand the initial estimate is consistent with the actual time spent then there will be a detailed explanation that can be provided to Ms. Hall. For example, in one hour we reviewed 500 pages of email for exempt material. A total of 20 pages were redacted to exclude exempt material such social security numbers. credit card accounts numbers or medical information.

If you think this is a good approach, please let me know.

Sincerely,

Pat Gleason

Amy Myers ---08/07/2017 11:10:12 AM---Ms. Gleason, I am the City Attorney for the City, and I believe you spoke with my assistant city att

From: Amy Myers <amyers@hsmclaw.com>

To: "'pat.gleason@myfloridalegal.com'" <pat.gleason@myfloridalegal.com>

Cc: Cindy Kittler <ckittler@HSMcLaw.com>, Cole Davis <cdavis@HSMcLaw.com>, "'Jo Smith'" <jsmith@pcbgov.com>, Mario Gisbert <mgisbert@pcbgov.com>, "Cindy Kittler" <ckittler@HSMcLaw.com>

Date: 08/07/2017 11:10 AM

Subject: RE: Fw: Public Records Request- Floyds emails since 1/1/17-pres

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Ms. Gleason,
I am the City Attorney for the City, and I believe you spoke with my assistant city attorney Cole Davis on Friday. We have confirmed with the City Manager this morning that the City agrees to participate in mediation.
Please advise if your office will be coordinating the scheduling of the mediation, and how we can help. There are some conference rooms at City Hall we can make use of, and also at my lawfirm away from City Hall in downtown Panama City if that venue might be a better option.

~amy

Thanks.
Amy E. Myers, Esq.

HARRISON SALE McCLOY Attorneys At Law

AGENDA ITEM # 12

P.O. Drawer 1579
Panama City, FL 32402
Phone: (850) 769-3434
Fax: (850) 769-6121
Cell: (850) 819-2450

From: Jo Smith [mailto:jsmith@pcbgov.com]
Sent: Friday, August 4, 2017 4:25 PM
To: Nick Beninate <nbeninate@HSMcLaw.com>; Amy Myers <amyers@hsmclaw.com>; Mario Gisbert <mgisbert@pcbgov.com>
Cc: Cindy Kittler <ckittler@HSMcLaw.com>
Subject: FW: Fw: Public Records Request- Floyds emails since 1/1/17-pres

Nick/Amy-
Mediation?
How should I answer them. I do not know Pat Gleason.
Jo

From: Pat Gleason [mailto:Pat.Gleason@myfloridalegal.com]
Sent: Friday, August 4, 2017 4:00 PM
To: melba hall <mema39@hotmail.com>
Cc: Jo Smith <jsmith@pcbgov.com>
Subject: RE: Fw: Public Records Request- Floyds emails since 1/1/17-pres

Hello Ms. Smith: As you can see from the email string, Ms. Hall has requested mediation of the cost to obtain the emails she requested. Section 16.60, F.S., establishes the open government mediation program as a voluntary initiative for resolution of public access disputes. The program is voluntary and both sides must agree to consider mediation if the program is to be initiated. There is no cost to participate. In the event that the city wishes to participate, please let me know. Sincerely, Pat Gleason

melba hall ---08/04/2017 04:52:04 PM---Sent from Mail<https://go.microsoft.com/fwlink/?LinkId=550986> for Windows 10 From: Pat Gleason<mail

From: melba hall <mema39@hotmail.com>
To: Pat Gleason <Pat.Gleason@myfloridalegal.com>
Cc: "jsmith@pcbgov.com" <jsmith@pcbgov.com>
Date: 08/04/2017 04:52 PM
Subject: RE: Fw: Public Records Request- Floyds emails since 1/1/17-pres

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AGENDA ITEM # 12

Sent from Mail for Windows 10

From: Pat Gleason
Sent: Friday, August 4, 2017 3:45 PM
To: melba hall
Cc: pat.gleason@myfloridalegal.com
Subject: Re: Fw: Public Records Request- Floyds emails since 1/1/17-pres

Thank you for your email. In this situation I think that the easiest thing for you to do is to send me a new email in which you explain the public records dispute over the invoice and request mediation. It would be helpful if you could say what you believe a fair price is; in most cases if the emails are extensive there will be a cost involved to collect and review and redact any exempt material. In other words, it is not likely that there would be no cost whatsoever if the number of emails produced is extensive. Attach a copy of the invoice to this email. In the section of the email that says CC add Ms. smith's email address. This way I can respond directly to Ms. Smith via email with a copy to you and ask her whether the city wants to participate in mediation. Thanks for your assistance.

melba hall ---08/04/2017 04:35:58 PM---Public Record Request and Response Im sorry Mrs.Gleason this is the only way i know to show you the

From: **melba hall** <mema39@hotmail.com>
To: "pat.gleason@myfloridalegal.com" <pat.gleason@myfloridalegal.com>
Date: **08/04/2017 04:35 PM**
Subject: **Fw: Public Records Request- Floyds emails since 1/1/17-pres**

Public Record Request and Response
Im sorry Mrs.Gleason this is the only way i know to show you the request and response

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From: Jo Smith <jsmith@pcbgov.com>
Sent: Friday, August 4, 2017 8:16 AM
To: melba hall
Subject: RE: Public Records Request- Floyds emails since 1/1/17-pres

Ms. Hall,
I wanted to confirm my thoughts before writing you, that the fee for the review of Ms. Floyd's emails are whether you look at them on the computer or I email them to you.
Jo

Jo Smith
Executive Assistant to Mayor Mike Thomas and City Manager Mario Gisbert/Deputy City Clerk
City of Panama City Beach
110 S Arnold Road
Panama City Beach, FL 32413
(850) 233-5100, ext 2230
(850) 233-5108 (fax)

AGENDA ITEM # 12

Under Florida Law, e-mail addresses and contents are public records. If you do not want your e-mail address and content released to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

From: Jo Smith
Sent: Thursday, August 3, 2017 2:31 PM
To: 'melba hall' <mema39@hotmail.com>
Subject: RE: Public Records Request- Floyds emails since 1/1/17-pres

Ms. Hall-
I have received your inquiry and will let you know.
Jo

From: melba hall [mailto:mema39@hotmail.com]
Sent: Thursday, August 3, 2017 2:28 PM
To: Jo Smith <jsmith@pcbgov.com>
Subject: Re: Public Records Request- Floyds emails since 1/1/17-pres

How much would it cost for me to come there and read them myself?

From: Jo Smith <jsmith@pcbgov.com>
Sent: Thursday, August 3, 2017 12:51 PM
To: melba hall
Subject: RE: Public Records Request- Floyds emails since 1/1/17-pres

Ms. Hall-
Pursuant to your request for Ms. Floyd's emails since 1/1/17, attached is the invoice for the work . Upon receipt of payment, we will resume work on your request.
Jo

Jo Smith
Executive Assistant to Mayor Mike Thomas and City Manager Mario Gisbert/Deputy City Clerk
City of Panama City Beach
110 S Arnold Road
Panama City Beach, FL 32413
(850) 233-5100, ext 2230
(850) 233-5108 (fax)

AGENDA ITEM # 12

Under Florida Law, e-mail addresses and contents are public records. If you do not want your e-mail address and content released to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

From: melba hall [mailto:mema39@hotmail.com]
Sent: Tuesday, August 1, 2017 4:13 PM
To: Jo Smith <jsmith@pcbgov.com>
Subject: Public Records Request

I am requesting Diane Floyds Email's
from January 2017 to current date
and please send them however is easiest for you
Thank you Jo!

[attachment "Capture.PNG" deleted by Pat Gleason/OAG] [attachment "DOC027.pdf" deleted by Pat Gleason/OAG] [attachment "DOC035.pdf" deleted by Pat Gleason/OAG]

AGENDA ITEM # 12

THIRD

MOST RECENT VERSION OF F.S. 119.12 REGARDING ATTORNEY'S FEES

AGENDA ITEM # 12

The 2017 Florida Statutes

[1]**119.12 Attorney fees.**—

(1) If a civil action is filed against an agency to enforce the provisions of this chapter, the court shall assess and award the reasonable costs of enforcement, including reasonable attorney fees, against the responsible agency if the court determines that:

(a) The agency unlawfully refused to permit a public record to be inspected or copied; and

(b) The complainant provided written notice identifying the public record request to the agency's custodian of public records at least 5 business days before filing the civil action, except as provided under subsection (2). The notice period begins on the day the written notice of the request is received by the custodian of public records, excluding Saturday, Sunday, and legal holidays, and runs until 5 business days have elapsed.

(2) The complainant is not required to provide written notice of the public record request to the agency's custodian of public records as provided in paragraph (1)(b) if the agency does not prominently post the contact information for the agency's custodian of public records in the agency's primary administrative building in which public records are routinely created, sent, received, maintained, and requested and on the agency's website, if the agency has a website.

(3) The court shall determine whether the complainant requested to inspect or copy a public record or participated in the civil action for an improper purpose. If the court determines there was an improper purpose, the court may not assess and award the reasonable costs of enforcement, including reasonable attorney fees, to the complainant, and shall assess and award against the complainant and to the agency the reasonable costs, including reasonable attorney fees, incurred by the agency in responding to the civil action. For purposes of this subsection, the term "improper purpose" means a request to inspect or copy a public record or to participate in the civil action primarily to cause a violation of this chapter or for a frivolous purpose.

(4) This section does not create a private right of action authorizing the award of monetary damages for a person who brings an action to enforce the provisions of this chapter. Payments by the responsible agency may include only the reasonable costs of enforcement, including reasonable attorney fees, directly attributable to a civil action brought to enforce the provisions of this chapter.

History.—s. 5, ch. 75-225; s. 7, ch. 84-298; s. 13, ch. 2004-335; s. 1, ch. 2017-21.

[1]**Note.**—Section 2, ch. 2017-21, provides that "[t]his act applies only to public records requests made on or after the effective date of this act."

AGENDA ITEM # 12