

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, conducted on June 12, 2014.

ROLL

MAYOR GAYLE F. OBERST

COUNCILORS:
JOHN REICHARD
RICK RUSSELL
KEITH CURRY

CITY MANAGER:
MARIO GISBERT
CITY CLERK:
HOLLY J. WHITE
CITY ATTORNEY:
DOUG SALE

Mayor Oberst called the meeting to order at 6:00 P.M., with Councilman Reichard, Councilman Russell, Councilman Curry, the City Manager, City Clerk and City Attorney present.

Pastor Ramon Duvall of the Beachside Fellowship Church gave the invocation and Mayor Oberst led the pledge of allegiance.

The Mayor asked if there were any additions or deletions to the Agenda. Mr. Sale asked the Council to move Item #5, "***Setting the Rehearing Date***" to the first of the Regular Agenda since no further action would be required. There were no objections. With nothing further, **the Agenda was accepted as amended.**

The Minutes of the Special Meeting of April 24 and Regular Meeting of May 22, 2014 were **read and approved as written per motion by Councilman Curry. Second was by Councilman Russell and the motion passed by unanimous roll call vote of those present recorded as follows:**

Councilman Curry	Aye
Councilman Reichard	Aye
Councilman Russell	Aye
Councilwoman Strange	Absent
Mayor Oberst	Aye

Prior to the Consent Agenda being presented, Mayor Oberst reminded the audience about the Three Minute Speaking Rule and asked that anyone who wished to address the Council to complete the forms on the table.

CONSENT AGENDA

1 REVISION OF THE CITY MASTER AUDIT LIST TO REMOVE OBSOLETE ITEMS. All Departments have been asked to update their audit lists for surplus/obsolete equipment/vehicles/etc. 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 14-71, FDOT STATE HIGHWAY LIGHTING, MAINTENANCE, AND COMPENSATION AGREEMENT FY 2014/2015. Each year, FDOT issues a Work Order confirming the amount and authorizing the performance of maintenance for the upcoming Fiscal Year. The Work Order authorizes the City to begin performing maintenance on the lights from July 1, 2014 thru June 30, 2015. The amount compensated for the maintenance will be \$87,987.13 and an invoice may be submitted to FDOT after May 1, 2015, and the City will receive a 100% reimbursement based on the amount of estimation provided. STAFF RECOMMENDS approval of the Agreement. "BE IT RESOLVED that the appropriate Officers of the City are authorized but not required to execute and deliver on behalf of the City that certain Work Order for Fiscal Year 2014-2015, related to the Highway Lighting, Maintenance, and Compensation Agreement between the City and FDOT, in the basic amount of \$87,987.13 which costs will be reimbursed to the City, in substantially the form attached and submitted to the Council today, draft dated May 12, 2014, with such changes, insertions or omissions as may be approved by the City Manager, whose execution of such Agreement shall be conclusive evidence of such approval."

3 **RESOLUTION 14-72, BIDS- PARKS INFIELD GROOMER PURCHASE.** *Staff advertised bids for the purchase of a new infield groomer for the Parks and Recreation Department. Only one bid was submitted from Jerry Pate Turf and Irrigation under the Florida State Contract Pricing through Wesco Turf, Inc. for a total of \$17,324.70. The Parks and Recreation Budget can sufficiently cover this expense. STAFF RECOMMENDS approval. "BE IT RESOLVED that the appropriate officers of the City are authorized to execute and deliver on behalf of the City that certain Agreement between the City and Jerry Pate Turf & Irrigation, relating to the purchase of a Toro Sand Pro 3040 Infield Groomer for the Parks and Recreation Department, in the basic amount of \$17,324.70, on substantially the terms set forth in the quote attached, draft dated May 13,2014, with such changes, insertions or omissions as may be approved by the City Manager, whose execution of such Agreement shall be conclusive evidence of such approval."*

4 **RESOLUTION 14-77, REPAIR OF VERTICAL TURBINE PUMP.** *Attached is a proposal from AAG Electric Motors & Pumps, Inc. to repair a large City owned vertical turbine pump. It is one of three identical pumps the City has installed at its wastewater treatment plant which move treated water to either the reclaimed water storage tanks or to the reject pond. Each year, one of the pumps is pulled for inspection and servicing. The combined labor and materials charge for this work has historically not exceeded the City Manager's purchasing authority of \$10,000, but this year the cost for repairs on this particular pump totals \$14,916. After speaking with a representative from AAG, the approximate breakout of parts (\$9,460) and labor (\$5,456) appears to still be within the City Manager's authority.*

By way of comparison, replacing most of the pump except for the discharge head would cost \$54,877. STAFF RECOMMENDS approval of the pump repairs by AAG, authorizing the City Manager to issue a purchase order in the amount of \$14,916 for the repair work. "BE IT RESOLVED that the appropriate officers of the City are authorized to execute and deliver on behalf of the City that certain Agreement between the City and AAG Electric Motors and Pumps, Inc., relating to the repair of vertical turbine pump at the City's wastewater treatment plant, in the total amount of Fourteen Thousand, Nine Hundred Sixteen Dollars (\$14,916.00), as set forth in the quote attached and presented to the Council today, draft dated May 28, 2014, with such changes, insertions or omissions as may be approved by the City Manager, whose execution of such agreement shall be conclusive evidence of such approval."

5 **RESOLUTION 14-78, BORROW PIT LICENSE AGREEMENT.** *As part of the City's effort to improve Conservation Park, staff has been working to smooth and stabilize the trails for visitor use and enjoyment. Most of the trail work near the main entrance and parking lot has been completed. However, some sections of the outer trails on the western portion of the Park have large depressions that hold stormwater, or are very sandy, making pedestrian and cyclist travel difficult. They were originally constructed as logging access roads and both St Joe and the City share ownership of them. City staff desires to fill the depressions and stabilize certain sandy sections of the boundary trails. St. Joe has agreed to make available to the City its sand pit located north of the intra-coastal waterway so fill can be obtained at no cost for the material. Labor and equipment costs for digging and transporting any fill would be the City's responsibility and the fill can only be used on trails along the shared boundary. Staff will use in-house resources if available. If needed, a private contractor will be engaged to help transport the fill. The out-of-pocket improvement costs will be limited to under \$10,000 and within the City Manager's spending authority. STAFF RECOMMENDS approval of the temporary access license from St. Joe, which would be valid for 30 days after signatures from both parties are obtained. "BE IT RESOLVED that the appropriate Officers of the City are authorized to execute and deliver on behalf of the City that certain License Agreement between the City and the St. Joe Company, relating to the use of logging roads to access a borrow pit for fill needed for Conservation Park restoration, 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, whose execution of such Agreement shall be conclusive evidence of such approval."*

6 RESOLUTION 14-79, WWTP DIESEL GENERATOR AND FUEL TANKS REPLACEMENT PURCHASE. Staff allocated funds in the FY 2013-2014 Wastewater Utilities Budget to purchase a replacement 1,000KW diesel powered generator with fuel tank and a replacement fuel tank for an adjacent generator of the same age. The City Wastewater Treatment Plant has four large generators to power the treatment process equipment at the facility during any interruption of service from Gulf Power Company. All four generator units are integrated into the electrical control system and must start, synchronize, and produce uniform power, based on power needs. The failed generator has been in service since 2001 and suffered a major engine failure, requiring replacement. Staff prepared bid specifications for vendors to supply a new replacement generator and fuel tank, including start-up and control integration services. Staff also requested bids on a second identical fuel tank to replace the corroded steel tank located under the adjacent unit.

Bid specifications were prepared and a Request for Bids was advertised in the News Herald. One bidder, TAW Power Systems, Inc., responded and a bid tabulation is attached for review. STAFF RECOMMENDS that the Council authorize the City Manager to purchase the 1,000KW diesel generator with fuel tank and startup/integration services from TAW Power Systems, Inc., in the not-to-exceed amount of \$308,272. STAFF FURTHER RECOMMENDS that the Council authorize the City Manager to purchase a replacement fuel tank for the adjacent unit in the not-to-exceed amount of \$58,823, for a total not-to-exceed Purchase Order amount of \$367,095. City Maintenance crews will perform the removal and installation work, with additional subcontracted services by a high capacity crane with operator to lift the old and new units into position. The Wastewater Budget has sufficient funds available to complete the work within the current budget. Delivery of the new unit would be expected within 20 weeks of approval. “BE IT RESOLVED that the appropriate officers of the City are authorized but not required to execute and deliver on behalf of the City that certain Agreement between the City and TAW Power Systems, Inc., relating to the purchase of a 1,000KW diesel generator with fuel tank for an amount not to exceed \$308,272, together with the purchase of a replacement fuel tank in an amount not to exceed \$58,823, for a total purchase price not to exceed \$367,095, with such changes, insertions or omissions as may be approved by the City Manager, whose execution of such Agreement shall be conclusive evidence of such approval.”

Ms. White presented the Consent Agenda by title. The Mayor asked if there were any questions. Councilman Curry questioned the “authorized but not required” language in some of the Resolutions. Mr. Sale explained the differences between “authorized and directed” and the new language in order to allow the opportunity for leverage to negotiate a lower price with that particular vendor. **Councilman Reichard made the motion to approve the Consent Agenda. Second was by Councilman Russell and the motion passed by unanimous roll call vote of those present recorded as follows:**

Councilman Curry	Aye
Councilman Reichard	Aye
Councilman Russell	Aye
Councilwoman Strange	Absent
Mayor Oberst	Aye

REGULAR AGENDA

1 ITEM NO. 5 SET REHEARING DATE FOR APPEAL TO NOTICE OF INTENT TO ISSUE A LOCAL DEVELOPMENT ORDER FOR AMUSEMENT PARK RIDES AT 101 BLUEFISH DRIVE, PIER PARK. Mr. Sale said Staff requested the Council to confirm the scheduling of the Rehearing of the Pier Park Rides LLC application to establish a small amusement park in Pier Park for June 26, 2014 at 12:30 P.M. The notice also provided that if the Rehearing was not concluded when the Regular 2:00 P.M. began that the Special Meeting could be recessed and reconvened at a later date/time. He continued that Mr. Gisbert’s memo outlined the reasons why Staff recommended scheduling the meeting in this manner.

Councilman Reichard made the motion to approve the date and time as recommended. Councilman Curry seconded with the condition of having discussion by both parties. The Mayor said all that was being done now was setting the date. Councilman Curry said he wanted to ensure that both parties were comfortable with the expedited process and asked for comment.

Mr. Brent Gardner, GM for Pier Park, said he was satisfied with the process. He explained due to comments made during the Planning Board meeting that an appeal was certainly to be filed and they supported Mr. Gisbert's recommendation.

Mr. Mike Burke, attorney for Miracle Strip Carousel LLC, said his clients were not satisfied with this expedited process. He said it was outside the stricture of the City Codes and he believed it may be permitted but abnormal to schedule the Rehearing prior to the actual Planning Board Hearing. However, he said he was prepared to go forward on June 26th. He also asked that the Council give the Pier Park DRI developers notice that they were in violation of the Development Order because the DRI biennial report had not been supplied by April 1, 2014. He asked that the City give them thirty days' notice to provide the report which would supply a great deal of information relating to what existed in Pier Park and items relevant to this Hearing.

Councilman Russell asked Mr. Burke how much additional time he would need in this matter. Mr. Burke said his client had not filed for an appeal. However, if they had done so, it probably would have occurred at the July 10th meeting. Councilman Reichard asked Mr. Bob Hughes, attorney for the other side, if he would have filed an appeal if the Planning Board decision had been reversed. Mr. Hughes replied yes. Councilman Reichard said the City anticipating that one of the parties would file an appeal and expediting the appeal process was not unreasonable. He said he thought the City Manager did a good job anticipating that appeal.

Mr. Sale said the scheduling of the Rehearing was not outside the stricture of the Code; the Code required fifteen (15) days' notice between the Planning Board Hearing and the Council Rehearing. That notice was given and the notice for the June 26th Rehearing was not published nor given before the Planning Board met. Only an order was delivered Friday to the News Herald for the legal ad to be published on a timely basis. Mr. Sale said no official notice under the law was given until after the Planning Board decision. He agreed with Mr. Burke in that it was an expedited process and explained the typical timing. He said Staff's view and recommendation, in light that both sides were going to appeal, was to schedule the Rehearing as quickly as possible within the Code.

Mr. Burke said the City met the requirements to hold the Rehearing on June 26th. The problem was the decision to appeal being made before the Planning Board made their decision. He said the City made the decision to start the process and he anticipated that others would want the same accommodation when they asked for an appeal.

Councilman Curry said this matter looked fast-tracked and that he would anticipate the City Manager would address the biennial report matter tomorrow.

Mr. Bob Hughes, attorney for Pier Park Rides LLC, said his client had been given to understand that they could place their rides on the property in the same manner as had the Meeks. He said when the Meeks went onto the property, they only obtained an Electrical Permit. The City told his clients that they needed to obtain a Development Order, a long process, which would provide the Meeks the opportunity to delay this matter to avoid competition. Mr. Hughes said his clients applied for the Development Order which was approved by the Planning Board. He elaborated. He said he was prepared for June 26th and stated that there were no violations to the Code. He urged the Council to do as Staff recommended.

Councilman Curry withdrew his second to the motion.

Ms. Jenny Meeks, owner of Miracle Strip Amusement Park, explained that after they moved from the site, the new people on site worked many nights and weekends after being directed to stop work. She said she photographed their installing rides without electrical permits which would be dangerous to the riders. She said the City advised her that the rides were being allowed to be stored on the property. She added that if additional time was allowed for the Rehearing, more information would be obtained from the updated biennial report required by the DRI.

Councilman Reichard repeated his motion confirming scheduling the Rehearing on June 26th at 12:30 P.M. The Mayor asked for a Second. Hearing none, the motion died for a lack of a Second.

Councilman Russell made the motion to hold the Rehearing on July 10, 2014. Mayor Oberst asked if all parties had already been notified about the June 26th meeting date. Mr. Sale said the new date could be renoticed. Councilman Reichard asked Councilman Russell what would be gained by the delay. Councilman Russell said he felt the parties making the Appeal needed extra time. Councilman Reichard responded that Mr. Burke had said they could be ready for June 26th. Councilman Curry said the City had a process in place and reminded that Mr. Burke had not filed an Appeal for his clients. Mr. Sale explained that the Code permitted the City to

request a Rehearing of a Planning Board action without either side requesting a Hearing. The City Manager was authorized to request a Rehearing when in his opinion it was in the public's best interest. That had been done and now the only question was when to hold the Rehearing. The jurisdiction for the City Council to make the decision had been triggered and the only question was when. The only action not consistent with normal expectations was rather than wait for the ten days after the Planning Board decision to request the Rehearing, Mr. Gisbert requested the Rehearing the next day and sent notices the next day. Mr. Sale continued that it was the custom to normally hold Rehearings on Meeting days. However, it was completely up to the Council as they had forty-five days to hold the Rehearing.

Councilman Reichard said both Mr. Leonard and Mr. Sale had agreed that Mr. Gisbert requesting the Rehearing in this manner was within the spirit of moving forward with the decision. Councilman Curry said he had read the Planning Board Minutes and noticed the questions raised about the decision. He stated that the matter seemed to be fast-tracked and was concerned that this would be negative to Pier Park and the new business owner.

Mr. Sale said over the past six weeks, the new business owner had filed an application for a Development Order. Staff reviewed that application and issued a Notice of Intent, and the other amusement park could be considered an adversely affected party. Incorporated into the Code was that if a party was not satisfied with the Planning Board decision, that person had the right to appeal to the Council along with the right of the City itself to have the Council make the final decision. Mr. Burke acknowledged that there was nothing wrong with the way this matter had been handled so far, just that the City had handled of the timing as tightly as possible.

Mayor Oberst said on June 26th, the Council would hear all of the evidence in this matter. Mr. Sale added that the Council did not have to finish on June 26th nor issue an Order on June 26th because if they felt not enough information was given and wanted to continue the Rehearing, there was that right. Councilman Reichard said, after attending the Planning Board meeting, that he felt ninety minutes would not be sufficient time as he recalled that meeting lasted over three hours. Mr. Sale said the Rehearing could be recessed and reconvened at a later time. Mayor Oberst said she did not see the difference between June 26th and July 10th. Councilman Reichard agreed.

Councilman Russell restated his motion to have the Rehearing at the July 10th meeting. The Mayor called for a Second. Hearing none, the motion died for lack of a Second.

Councilman Reichard resubmitted his motion to confirm the June 26th date for the Rehearing. He continued that Mr. Burke agreed to the date and Mr. Hughes had not objected, so it was legally in order. **Second was by Councilman Russell.** Councilman Curry said it may be legal but that he felt it was not right. He said the Council should follow the normal process.

Mr. Burke said if the Council set the meeting for June 26th to also recognize that Pier Park was not currently in compliance of the City's requirement to furnish the biennial report by April 1st. Mr. Sale said there was some merit to that matter and agreed with many things Mr. Burke said in that regard. Mr. Gardner said the biennial report would be done by that date. He added that Pier Park did not receive special treatment as the Rehearing was requested within the Code. The Mayor called for further comments; there were none. **The motion passed by majority roll call vote of those present recorded as follows:**

Councilman Curry	Nay
Councilman Reichard	Aye
Councilman Russell	Aye
Councilwoman Strange	Absent
Mayor Oberst	Aye

Mr. Sale said Mr. Burke had asked that the City send formal notice to the developer that the DRI biennial report was tardy which was appropriate and he recommended that the City do so. Mr. Leonard confirmed that he had already spoken three weeks ago with the developer in that regard. Mr. Sale continued that the City would be represented by Mr. David Theriaque, and that it was Staff's position that in the context of the Hearing under the LDC, the Council did not have jurisdiction to consider the DRI issues. However, as the City Council, they had the authority to consider the DRI Order. He explained the difference. He encouraged the Council during the Rehearing to follow Mr. Theriaque's advice.

2 ITEM NO. 1 ORDINANCE 1301, CHAPTER 7 REVISIONS AND UPDATES, DISCUSSION/1ST READING. Mr. Sale read Ordinance 1301 by title and explained that this overhauled the entire Chapter. Mr. Gisbert briefly explained the updates whose

process began last September. He said Staff had met with Beach Service providers and some upland owners. He explained that one flaw in the current Chapter concerned citations about lifeguards or photographers on the beach, which were basically notices to appear in front of a judge. He said this seemed rather harsh since if the party was found guilty, it would be on their record as a crime. Mr. Gisbert said Staff basically overhauled the entire program. He explained the new citation system, establishing three (3) classes of citations. He said the new attractions on the beach were now included, such as the floats in the water and the jetpack.

Mayor Oberst asked if the entire Chapter was rewritten and Mr. Gisbert replied affirmatively. He continued that the rewrite also allowed the City to issue citations to either the individuals or the business owners in order to address the responsibility for the violation. He said this also allowed levels of citations with the ability to close the business for certain time periods. He also said this revision would reestablish the review Board which would offer a level of protection. In response to the Mayor's question about meeting the vendors, Mr. Gisbert said he had met with the large Beach Service operators three times and they had the opportunity to review the redlined version and offer comments. The due diligence had been done. Mr. Sale added because of the publication notices that this Ordinance will not return to Council until July 10th, so there would be another month for the industry to review and comment.

Councilman Reichard asked to add Beachfront Homeowners' Association or Property Management Companies (CAM) to the Water Safety Board. He said he did not support creating another level of government as he thought the City Manager had the authority to address complaints. He asked about the citation method, which he thought was a good idea, and if it could be enforced by the Police and City Manager. Mr. Gisbert replied that enforcement was by Code Enforcement and the Police and did not require the Board. Mr. Gisbert explained the issues the Board would address, such as "turf wars" issues concerning tents/chairs conflicts. Discussion ensued. Mayor Oberst said the City had always had a Water Safety Board. Councilman Reichard said he did not see the need for another layer of government and when dealing with a turf war, for the City Manager to tell the parties that it was not something the City would address. Mr. Sale said this did not address agreements made privately between parties but was rather the laws passed in Chapter 7. He gave an example and said for the right to appeal the City Manager's decision, that appeal could either come to the City Council or to the Water Safety Board. He said now that appeal would go to the Water Safety Board, and it was a policy question if it should come to the Council instead. Councilman Reichard said he did not see adding that Board as Mr. Gisbert was already handling the issues.

Mayor Oberst said the City always had the Water Safety Board and a means for them to manage themselves. She said there was also a Hearing Officer and those decisions would not be appealed to the City Manager. She said this Board would be a way for the Beach Services to manage themselves. Chief Whitman said the industry understood the changes as there had been three meetings and the Water Safety Board was put into place in 1997 but not used as much as should have been used. He continued that he was thinking about the young people who worked for the beach services and who were arrested for violations, possibly ruining their life with a criminal history. He wanted the Ordinance changed for them to be civil violations instead of criminal.

Councilman Reichard asked how often three violations would occur to make the Water Safety Board necessary. Mr. Gisbert explained the possibilities of a beach service location shut down due to violations. He said it would be in the best interest of that Beach Service to run a proper business in order to continue working on that site.

Mr. Sale said the most important, practical aspect of this Board was for the Council to appoint well-reasoned, well-intentioned, respected people and not be bound by statements of qualifications. He urged the Council to think about who could be appointed to the Board and then back into the qualifications of the Board members.

Mayor Oberst asked if the First reading could occur tonight. Mr. Sale replied affirmatively as none of these changes were material. After conversations, the composition of the Board could be changed prior to adoption if necessary.

Councilman Curry said he agreed with Councilman Reichard in that less government was better. However, he liked the idea of more Water Safety Board meetings because that was the layer of stakeholders involved. Mr. Sale said the current Board had been comprised of mostly beach service industry members, which was one reason it did not work. Mr. Gisbert said he could also see this Board being a tool for the City and his asking for their help on certain issues. Councilman Curry said this was a good job in bringing that compliance down to the business owner and holding them accountable.

Councilman Reichard agreed that the Chapter needed updating but was concerned about an overhaul due to only one or two problems. Councilman Curry said ultimately, the Council would make the final decision. Councilman Reichard asked if there was an appeal process created after the Water Safety Board closed a particular location. Mr. Sale said no. Discussion ensued concerning the redlined version. Councilman Reichard said he was comfortable without the redlined version but was concerned about the Water Safety Board concept. **Councilman Curry made the motion to approve Ordinance 1301. Second was by Councilman Russell.** The Mayor called for comments; there were none. **The motion passed by unanimous roll call vote of those present recorded as follows:**

Councilman Curry	Aye
Councilman Reichard	Aye
Councilman Russell	Aye
Councilwoman Strange	Absent
Mayor Oberst	Aye

3 ITEM NO. 2 ORDINANCE 1312, SCOOTER LIABILITY INSURANCE, DISCUSSION/1ST READING. Mr. Sale read Ordinance 1312 by title and said there was no question that this insurance was available in the market. The Mayor called for Council discussion. Hearing none, the Mayor asked for audience comments.

Mr. Rick Roof, California Cycles, said the insurance was available but the problem was that the renter must be twenty-one years or older, which was only 40% of their riders, and if the business had two crashes within a month, the insurance will be dropped. If the State required insurance on scooters, it would be readily available through Allstate, State Farm, etc. He continued that he would like to have the liability insurance as he was paying the deductibles out of pocket. He said he filed a lawsuit against the County and explained that he approached MBA Insurance but he was declined. He said although the insurance was available did not mean that he would qualify for the insurance. He received nine denials and could not find an insurer. Mr. Roof said he had no choice but to file the suit against the County, and the judge would decide if the insurance was necessary. He said the 10/20/10 insurance would only cover the other party's car, not the scooter riders, and he said he was already covering those costs. He urged the Council to wait until the court decided on his lawsuit against the County.

Ms. Olesea Siriteanu, owner of Hangout by the Sea, said MBA was the only insurance company that would insure the scooters. She questioned what would happen if the coverage was dropped. She said she had a small company and these additional costs would put her out of business.

The Mayor asked for further comments from the audience. There were none.

Councilman Curry asked if MBA Insurance was the only provider for this type insurance. Mr. Sale responded that he was not in a position to answer that question but that he believed other coverage was available. Councilman Curry said the 10/20/10 seemed a lower level and would seemingly make more companies available. Mr. Sale said there were many variables and said the insurance was a clearer argument for the City as opposed to the vests and flags. Concerning litigation, the suit concerning the vests was going forward. If the court ruled that there was a pre-emption and if the Council felt the use of the vests was a good thing, the legislature could direct the City to use its home rule powers. If there was a significant issue for the City and County, and the court decided that that it could not be dealt with locally, this could then be an advantage to go to Tallahassee. Mr. Sale said if the City was brought into litigation over the insurance issue, given the ability to go into discovery, the City would know then definitely why the company could not get insurance, how much it would cost and the amount of damages being incurred. He said the law did not require the City to set standards where everyone could obtain insurance; if the Council felt there was a significant problem with the number of collisions from the scooters that was affecting the community, the Council was then entitled to address the situation. He asked the Council to allow the City Manager or Police Chief to confirm the frequent calls from people involved in the collisions and their insurance companies fixing the problems. Instead of two insurance companies being involved, those people had to make a direct claim against the business or the scooter driver.

Mr. Gisbert said the Chief had data but that just this week, he had received a call from someone involved in a collision involving a scooter, and after filing with his personal insurance company was told that he would have to cover the deductible. He indicated that within the frequency of accidents, he felt the owners of the scooters should have a level of responsibility. When a scooter was rented, it was difficult to place the responsibility on the owner of the scooter or the renter. This would give the City the ability to ensure that the person not at fault in the accident was covered.

Councilman Russell asked if there were any businesses on the beach with this insurance. Mr. Gisbert said he talked with one scooter business which was able to obtain insurance through MBA for about \$33 per moped per month. However, within their organization they did certain things which safeguarded their riders.

Councilman Reichard asked about self-insurance and if there was some way to structure a self-insurance plan for these businesses. Mr. Sale said legally yes. However, this would add another level of government to the Ordinance but the bigger issue would be the practical one of administering the Trust Fund. Councilman Reichard said that would seem to be much more possible than obtaining insurance. Mr. Sale explained about a self-insurance program that would be administered and approved, and would involve a third party administrator and continuing expense. Ms. White added that there would be actuarial reports required every year and some level of audit which could be costly.

Mr. Roof said his company already paid the deductibles and then they go after their customers to be reimbursed. He said that was part of their contract. He explained a recent incident involving damage to a Sheriff's vehicle and how it was resolved. Mr. Sale said the deductible was not the limit of the liability of the scooter owner. All of the damage to the Sheriff's car was the responsibility of the scooter owner, if the operator was at fault. If the scooter had been insured, then that insurance would pay the entire cost of repairing the vehicle, not merely the deductible. Mr. Roof added that on their contract, the personal automobile liability insurance was primary in the event of an accident. With nothing further, **Councilman Russell made the motion to approve Ordinance 1312. Second was by Councilman Curry.** The Mayor called for comments; there were none. **The motion passed by unanimous roll call vote of those present recorded as follows:**

Councilman Curry	Aye
Councilman Reichard	Aye
Councilman Russell	Aye
Councilwoman Strange	Absent
Mayor Oberst	Aye

4 ITEM NO. 3 ORDINANCE 1313, AMENDING CHAPTER 28, NUISANCE ABATEMENT ASSESSMENTS, 2ND READING, PUBLIC HEARING AND ADOPTION. The Mayor opened the Public Hearing at 7:58 P.M. Mr. Sale read Ordinance 1313 by title and said this was the last step for the City to become more aggressive in dealing with public nuisances and recovering those costs. The Mayor asked if there were any questions or comments. There were none. **Councilman Curry made the motion to approve Ordinance 1313. Second was by Councilman Reichard.** The Mayor called for comments; there were none. **The motion passed by unanimous roll call vote of those present recorded as follows:**

Councilman Curry	Aye
Councilman Reichard	Aye
Councilman Russell	Aye
Councilwoman Strange	Absent
Mayor Oberst	Aye

The Public Hearing was closed at 8:00 P.M.

5 ITEM NO. 4 ORDINANCE 1314, CHANGING COUNCIL MEETING TIMES, DISCUSSION/ 1ST READING. Mr. Sale read Ordinance 1314 by title and said this Ordinance would change the times as directed and would also execute the Charter Amendment to adjust the second meetings approved earlier this year. He said the Charter Amendment was not self-executing and the Ordinance needed to be amended in order for the change to take effect. Mayor Oberst said the meeting times had been changed from 2 P.M. to 5 P.M. and 6 P.M. to 5 P.M., and provide for the 2nd meeting in November and December. The Mayor called for questions or comments. With nothing further, **Councilman Curry made the motion to approve Ordinance 1314. Second was by Councilman Reichard.** The Mayor called for comments; there were none. **The motion failed due to the lack of a majority roll call vote of those present recorded as follows:**

Councilman Curry	Aye
Councilman Reichard	Aye
Councilman Russell	Nay
Councilwoman Strange	Absent
Mayor Oberst	Nay

Regular Meeting
June 12, 2014

Mayor Oberst said Staff should bring back an Ordinance that addressed only the second meeting in November and December.

6 ITEM NO. 6 NOVEMBER AND DECEMBER SECOND MEETINGS (4TH THURSDAY) DATES-DISCUSSION. This item was now moot.

7 ITEM NO. 7 RESOLUTION 14-68, BAY COUNTY ANIMAL CONTROL INTERLOCAL AGREEMENT. Mr. Sale read Resolution 14-68 by title. Ms. Myers explained that this Resolution would allow the County to provide Animal Control Services for the City as well as enforce their Ordinances in the City. She said the contract was not for an amount certain but rather based upon a formula for the amount of services used. Based upon the estimate for services used during the first quarter, Staff believed it would be well within the budgeted amount for the year.

Mayor Oberst said this Resolution did not relate to the number of animals permitted in the City. Ms. Myers said that was correct. Mr. Gisbert said the City would not have a designated Animal Control Officer but both Code Enforcement Officers could deal with animal issues. He said this would allow the City to use the County's Animal Control services for both the day and night activities. It would also restrict the calls at night to class 1 or 2, and explained the classes. Mr. Gisbert continued for the benefit of the general public that the City did not deal with wildlife such as raccoons, possums, armadillos, bears, etc. He said Staff looked at the comparison of the City's costs in the past and the anticipated cost of the County, and the savings should be approximately Fifty to Sixty Thousand Dollars (\$50,000-\$60,000). During the four months that the County had handled our animal control issues, there had been no complaints. He added that the City could still address an issue if necessary but this would help in the nighttime activities, as in the past our one Animal Control Officer was working overtime all the time.

Councilman Russell asked if the City was continuing to pick up the animals or if the County did so. Mr. Gisbert said the County would pick them up the next day. The Mayor discussed the feral cat traps. **Councilman Russell made the motion to approve Resolution 14-68. Second was by Councilman Reichard.** The Mayor called for comments; there were none. **The motion passed by unanimous roll call vote of those present recorded as follows:**

Councilman Curry	Aye
Councilman Reichard	Aye
Councilman Russell	Aye
Councilwoman Strange	Absent
Mayor Oberst	Aye

At this juncture, the Mayor called for a five minute recess at 8:10 P.M. The meeting was reconvened at 8:15 P.M.

8 ITEM NO. 8 RESOLUTION 14-69, SUNGARD PUBLIC SECTOR APPLICATION SERVICE PROVIDER RENEWAL AGREEMENT. Mr. Sale read Resolution 14-69 by title. Ms. White explained that this was a three year renewal totaling \$245,670.67 for the accounting software, the payroll module, the Occupational Licensing module, and interface with the Recreational module and Fire reporting. She said none of these matters were in-house and all were handled at SunGard's site and they handled the maintenance issues which had been a problem in the past because the City did not have an IT person on staff. This would also provide for backup in case of disaster recovery needs. She said Staff was happy with their service and to change would be quite an undertaking.

Councilman Curry asked why the City did not go about with a RFQ or RFP for the services this year. Ms. White said the time involved and that it was a lengthy process to convert to a new company, plus Staff was happy with their services. Councilman Curry said maybe in the future, it might do well to do so as there were other companies who could handle such work. Ms. White said that could be done but possibly not change every few years due to the sheer volume of work to make the conversion. She explained the conversion the last time took about a year to complete. **Councilman Russell made the motion to approve Resolution 14-69. Second was by Councilman Curry.** The Mayor called for comments; there were none. **The motion passed by unanimous roll call vote of those present recorded as follows:**

Councilman Curry	Aye
Councilman Reichard	Aye
Councilman Russell	Aye
Councilwoman Strange	Absent
Mayor Oberst	Aye

9 ITEM NO. 9 RESOLUTION 14-73, BUDGET AMENDMENT #27, RECOGNIZE 3RD PARTY DONATION TOWARDS REPAIR POLICE DEPARTMENT MOBILE COMMAND CENTER, PUBLIC HEARING. The Mayor opened the Public Hearing at 8:20 P.M. Ms. White read Resolution 14-73 by title and explained it was a Public Hearing due to recognizing the Budget Amendment for the donation of \$18,875. The Mayor called for questions or comments from the Council or audience; there were none. **Councilman Russell made the motion to approve Resolution 14-73. Second was by Councilman Reichard.** The Mayor called for comments; there were none. **The motion passed by unanimous roll call vote of those present recorded as follows:**

Councilman Curry	Aye
Councilman Reichard	Aye
Councilman Russell	Aye
Councilwoman Strange	Absent
Mayor Oberst	Aye

The Public Hearing was closed at 8:22 P.M.

10 ITEM NO. 10 RESOLUTION 14-74, TETRA TECH MSA TASK ORDER #3, SITE SPECIFIC ALTERNATIVE CRITERIA FOR PH AT WETLANDS AND BUDGET AMENDMENT #29, PUBLIC HEARING. The Mayor opened the Public Hearing at 8:22 P.M. Ms. Myers read Resolution 14-74 by title. The Mayor asked if there were any questions or comments; there were none. **Councilman Curry made the motion to approve Resolution 14-74. Second was by Councilman Reichard.** The Mayor called for comments; there were none. **The motion passed by unanimous roll call vote of those present recorded as follows:**

Councilman Curry	Aye
Councilman Reichard	Aye
Councilman Russell	Aye
Councilwoman Strange	Absent
Mayor Oberst	Aye

The Public Hearing was closed at 8:23P.M.

11 ITEM NO. 11* RESOLUTION 14-75, ADOPTION OF MAINTENANCE MAP FOR PORTION OF RICHARD JACKSON BOULEVARD. The Mayor explained that any item noted with an asterisk was one in which the City Council was also acting as the PCB Community Redevelopment Agency and voting as both. Mr. Sale read Resolution 14-75 by title. Mr. Alaghemand said any portion of the right-of-way that had been maintained continuously by the City for many years could basically be presumed dedicated to the public. He explained the portions of R. Jackson Boulevard maintained by the City and its features such as the sidewalks, drainage, and signal equipment. He displayed photos of the exact locations. He asked the Council to approve the Resolution and accept the map and it would be recorded. The Mayor asked for questions or comments. There were none. **Councilman Reichard made the motion to approve Resolution 14-75. Second was by Councilman Curry.** The Mayor called for comments; there were none. **The motion passed by unanimous roll call vote of those present recorded as follows:**

Councilman Curry	Aye
Councilman Reichard	Aye
Councilman Russell	Aye
Councilwoman Strange	Absent
Mayor Oberst	Aye

12 ITEM NO. 12* RESOLUTION 14-76, REAL ESTATE SALES CONTRACT FOR BARNACLE BAY PROPERTY, FRONT BEACH ROAD SEGMENT 2 IMPROVEMENT PROJECT. The Mayor said this was also another CRA item and the Council would be functioning as the CRA Board. Mr. Sale read Resolution 14-76 relating to the purchase of the property for One Million, Six Hundred Thousand Dollars (\$1,600,000). Mr. Alaghemand said as part of the Front Beach Road Segment 2 project right-of-way and pond site evaluation, Staff explored the possibility of purchasing the Barnacle Bay property versus the Burger King. He said this year, one task was to revisit all of the right-of-ways and temporary construction

easements. Previously, Burger King had been selected for the pond site due to the property owner's willingness to sell his land to the City. Recently, he said Staff contacted Mr. Gary Wakstein, the Barnacle Bay property owner, whose site included a leased Lamar sign. He explained the advantages of this sign on the property, which might create additional revenue for maintenance of the stormwater pond. He elaborated about the advantages of the sign and its location. After the City received its own appraisal, Staff made an offer for the \$1.6 Million Dollars which included the One Hundred Thousand Dollars (\$100,000) incentive. Mr. Wakstein accepted the offer with the conditions that the payment be divided, with half up front and the remainder split in 2015 and 2016. He also asked to lease back the property for One Dollar (\$1.00) per year until September 30, 2015, and agreed to pay for all of the insurance. Mr. Alaghemand said since this was at the end of the project, those conditions could be managed even if construction was started early.

Mayor Oberst said if the City let the contract at the end of this year, this site would not be needed until September, 2015. Mr. Alaghemand said yes.

Councilman Reichard asked about the lease for the sign. Mr. Alaghemand said there was another four years remaining of the original lease. Councilman Russell said this site also abutted the City parking lot which was another advantage. Mr. Alaghemand said previous drawings did not have landscaping for the parking lot, but now would be able to do a lot for the area. Mr. Gisbert added that another feature for this site was not taking a money-producing corner lot off the market, whether it remained Burger King or another retailer. The ability to place a stormwater pond nearby would enhance the parking lot. He said this was a great trade-up to transition from the corner lot to a second tier lot.

Following an update on the status of the right-of-way acquisition for the project, **Councilman Reichard made the motion to approve Resolution 14-76. Second was by Councilman Russell.** The Mayor called for comments; there were none. **The motion passed by unanimous roll call vote of those present recorded as follows:**

Councilman Curry	Aye
Councilman Reichard	Aye
Councilman Russell	Aye
Councilwoman Strange	Absent
Mayor Oberst	Aye

13 ITEM NO. 13* RESOLUTION 14-80, TRIP FUNDING APPLICATION, FRONT BEACH ROAD SEGMENT 4 IMPROVEMENT PROJECT, FINAL DESIGN.

Mr. Sale said this was a Resolution of the City making the application for the benefit of the CRA, so it was a joint action. He read Resolution 14-80. Mr. Alaghemand said DOT had announced the availability for funding for the Transportation Regional Incentive Program (TRIP), and the funding would be available in 2016. This would be a good opportunity for an application for Segment 4, taking the design from Lullwater Drive to Hills Road, about 1.5 miles. He elaborated. Mayor Oberst said Mr. Alaghemand served on the subcommittee for the TPO and had done an outstanding job, working well for the City. **Councilman Reichard made the motion to approve Resolution 14-80. Second was by Councilman Curry.** The Mayor called for comments; there were none. **The motion passed by unanimous roll call vote of those present recorded as follows:**

Councilman Curry	Aye
Councilman Reichard	Aye
Councilman Russell	Aye
Councilwoman Strange	Absent
Mayor Oberst	Aye

14 ITEM NO. 14 CITY MANAGER UPDATE: Mr. Gisbert said Mr. Alaghemand had been released a few meetings ago to do the Richard Jackson Blvd. left turn lane extension, which was now completed. The contractor completed the work in two weeks, making the intersection more efficient and it was a wonderful addition to the roadway: Regarding nuisance abatement, he had issued the notice to Mr. Pearson to demolish the Beach Club Motel. The initial steps had been started: Mr. Gisbert said normally during Spring Break, the City combines the revenues for March and April because of how Easter fell on the calendar. In 2012-2013, there was a 7% increase for Spring Break and this year, the City saw a 4% increase for March and April. Last year, the majority of the money came from March, whereas this year, the majority was made during April, the family Spring Break time, up 17%, which was interesting due to all of the media-hype about Spring Break. He said even with all of the publicity, the City enjoyed a

successful family Spring Break: Mr. Gisbert said he renegotiated the Compensation Study, reducing the overall cost from Thirty-Three Thousand Dollars (\$33,000) to Twenty-Four Thousand Dollars (\$24,000), and the kickoff meeting will be held Monday: He also gave kudos to the Police Department, Chief Whitman and Lt. McClanahan for gathering data about K9 units which was presented to some of the local businesses, hoteliers, club owners, and retailers. He said Staff had not finished all of the planned meetings but to date had received about eighty percent of the funds necessary for three (3) K9s. He said there was a little bit of urgency because if they could be ordered by the end of June, the dogs could be on site and learn the City by winter. The Mayor said the portrait behind Council Curry was of the previous K9s and had been done by one of the handlers.

ANNOUNCEMENTS

ITEM 1 SUMMER CONCERT SERIES. The Mayor announced that the Summer Concert Series at Aaron Bessant Park started tonight and would be held every Thursday night through August 14th. The entertainment listing was on the table.

ITEM 2 4TH OF JULY. The Mayor said the 4th of July holiday would begin at 9AM with a ceremony at the Veteran's Memorial at Pier Park, with a concert beginning at 7 P.M. at Aaron Bessant Amphitheater with fireworks following the music.

ITEM 3 REHEARING. The Mayor reminded that the Rehearing for the Notice of Intent would be held June 26th beginning at 12:30 P.M.

With nothing further, the meeting was adjourned at 8:50 P.M

READ AND APPROVED this 26th of June, 2014.

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