

**GULF BREEZE CITY COUNCIL
EXECUTIVE SESSION**

JUNE 26, 2013
WEDNESDAY 6:30 P.M.
COUNCIL CHAMBERS

ACTION AGENDA ITEMS:

- A. Discussion and Action Regarding Gulf Breeze - Most Livable City in America
- B. Discussion and Action Regarding Special Event Request from Gulf Breeze United Methodist Church for Sunday, September 29, 2013, 2:00 p.m. - 6:00 p.m.
- C. Discussion and Action Regarding Pensacola Beach Natural Gas Pipeline Expansion Changer Order #12
- D. Discussion and Action Regarding South Santa Rosa Utility System Board Recommendations from June 10, 2013
 - 1. Gulf Isles Lift Station Re-Installation
- E. Discussion and Action Regarding House Bill 7125 - Administration of Red Light Camera Violations
- F. Discussion and Action Regarding Amended Lease - Nextel on Elevated Water Tank

If any person decides to appeal any decisions made with respect to any matter considered at this meeting or public hearing, such person may need to insure that a verbatim record of the proceedings is made, which record includes the testimony and any evidence upon which the appeal is to be based.

The public is invited to comment on matters before the City Council upon seeking and receiving recognition from the Chair.



City of Gulf Breeze

OFFICE OF THE CITY MANAGER

June 19, 2013

TO: Mayor and City Council

FROM:  Edwin A. Eddy, City Manager

SUBJ: **GULF BREEZE; MOST LIVABLE CITY IN AMERICA**

The City Council hired VHB-Miller, Sellen to prepare a master plan for the redevelopment of the City over the next 50 years. A Steering Committee was selected. Dan Kopack agreed to chair the committee. Alex Bell is the Co-chair. Many meetings and public workshops have been held. The focal points of the study were:

1. What improvements need to be made in order to assimilate 12,000 new vehicle trips on Gulf Breeze Parkway which will result from the new bridge?; and,
2. What improvements need to be made so that the economic vitality of the city is sustained and improved.

Mr. Kopack will be at the June 26 Executive Session to present the plan to you. We believe the plan should be adopted.



City of Gulf Breeze

Police Department

Robert C. Randle
Chief of Police

Richard Hawthorne
Deputy Chief of Police

To: Edwin Eddy, City Manager

From: Richard Hawthorne, Dep. Chief *ek*

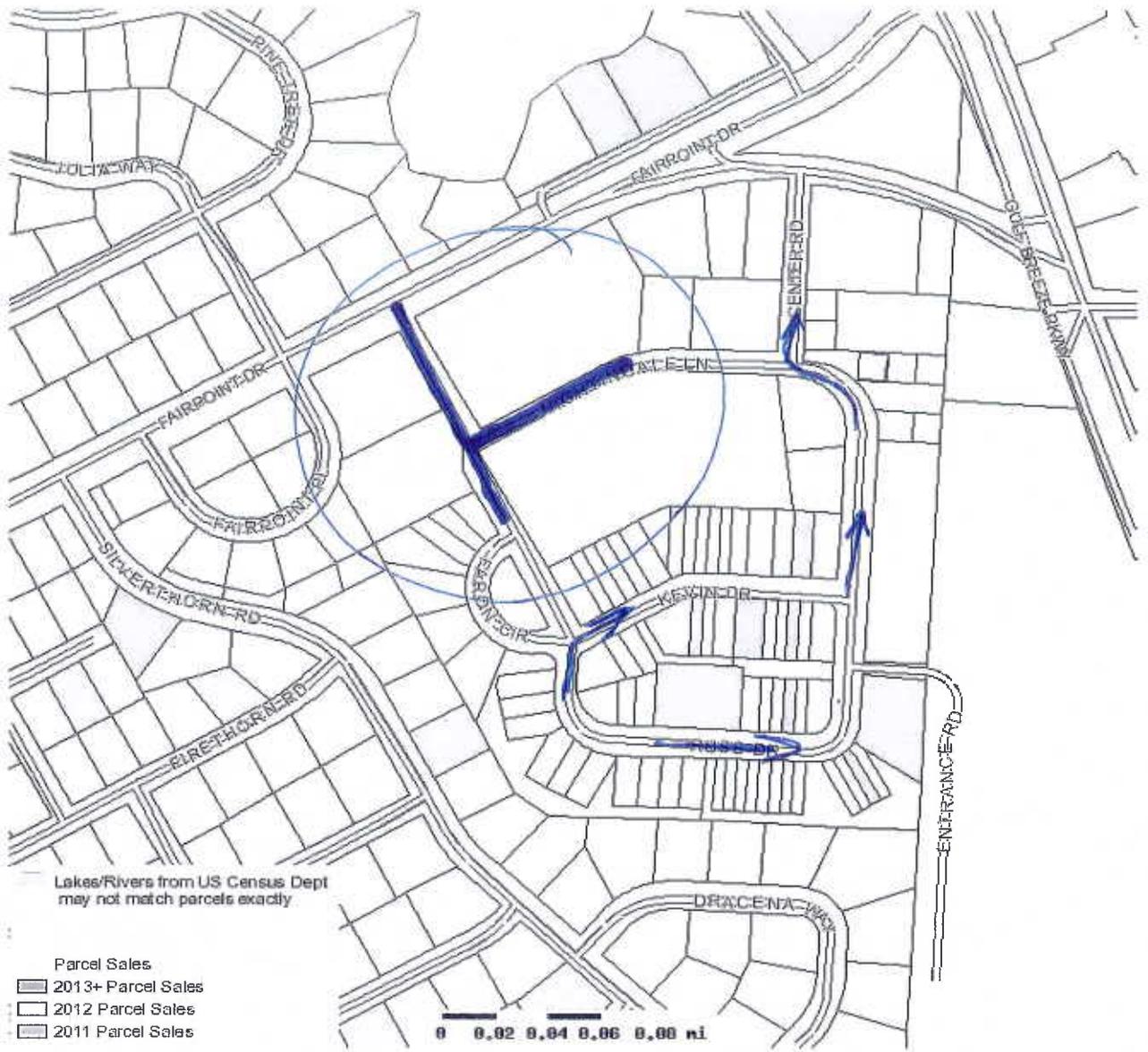
Ref: Special Event Application

Date: June 20, 2013

The Methodist Church has submitted a special event application for a block party. The event will be held on Sunday, September 29, 2013 and begin at 3:00pm and end at 5pm. The organizers would like to close portions of Nightingale Lane from 2pm to 6 pm. The extra two hours would be used for set up and clean up. The block party would include food, a worship band and children activities. They expect a crowd of 400-600 people. The event will not be used for fundraising.

RECOMMENDATION: That the City Council approve the Methodist Church block party.





STAFF BELIEVES TRAFFIC CAN BE ROUTED AROUND THE PROPOSED ROAD CLOSURE WITH ONLY MINOR INCONVENIENCE AS SHOWN ON THIS SKETCH

The Santa Rosa County Property Appraiser's Office makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation. The assessment information is from the last certified taxroll. All data is subject to change before the next certified taxroll. PLEASE NOTE THAT THE PROPERTY APPRAISER MAPS ARE FOR ASSESSMENT PURPOSES ONLY NEITHER SANTA ROSA COUNTY NOR ITS EMPLOYEES ASSUME RESPONSIBILITY FOR ERRORS OR OMISSIONS —THIS IS NOT A SURVEY—
 Date printed: 06/20/13 : 15:28:46



Gulf Breeze Police Department

**311 Fairpoint Drive
Gulf Breeze, FL 32561**

**Chief Robert Randle
Deputy Chief Rick Hawthorne**

**Office 850-934-5121
Fax 850-934-5127**

City of Gulf Breeze Special Event

Packet Includes:

1. Copy of Requirements to conduct special events.
2. Application to conduct special events.

The above documents must be signed, dated and returned to:

The Gulf Breeze Police Department
311 Fairpoint Drive
Gulf Breeze, FL 32561

At least (30) days prior to the special event


Applicant's Signature Date



Gulf Breeze Police Department

***311 Fairpoint Drive
Gulf Breeze, FL 32561***

***Chief Robert Randle
Deputy Chief Rick Hawthorne***

***Office 850-934-5121
Fax 850-934-5127***

City of Gulf Breeze

REQUIREMENTS TO CONDUCT SPECIAL EVENT ON CITY PROPERTY OR IN THE CITY OF GULF BREEZE

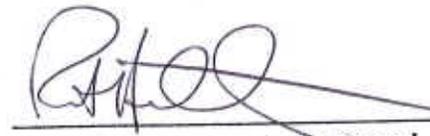
Applicant must provide the following information at least 30 days prior to the Special Event:

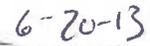
- (a) The name, address and telephone number of the person requesting the permit.
- (b) The name and address of the organization or group he or she is representing.
- (c) The name, address and the telephone number of the person(s) who will act as chairman of the Special Event and be responsible for the conduct thereof.
- (d) The purpose of the event, a general description of the activities to take place, the estimated number of persons to participate or otherwise attend, and the number and types of vehicles (if any) to participate.
- (e) The date the event is to be conducted and the hours it will commence and terminate.
- (f) The specific location(s) where the event is to take place.
- (g) Sponsors of the Special Events will be responsible for all costs incurred by the city in providing required public safety personnel. Cost for public safety personnel will include FICA, retirement and overtime. We will attempt to use auxiliary and part-time officers to keep the expense down, but should we have to utilize full-time personnel, the cost will increase considerably.
- (h) Assurance that the applicant will conform to the necessary fire prevention rules, regulations and guidelines.

- (i) Assurance of indemnification and insurance coverage. The applicant shall agree to indemnify and hold harmless the City, its servants agents and employees for any and all claims caused by or arising out of the activities permitted. The applicant shall provide certification of an appropriate policy of insurance to protect the City from liability which might arise from the special event. The policy occurrence limits shall not be less than \$1,000,000. A Copy of the policy shall be submitted at the time of application.
- (j) Sponsors shall be required to submit a detailed map illustrating the location of the event and the streets which may be affected by the event. Per City Council action, no event will be allowed on U.S. Highway 98.
- (k) Such other information as the Chief of Police and/or the City Manager may deem necessary in order to provide for traffic control, street and property maintenance and the protection of the public health, safety and welfare.
- (l) Event sponsors will be responsible for cleanup of the event site and/or route. Failure by the sponsor to cleanup the site will result in the city doing the cleanup and billing the sponsor for the actual cost.


Applicant's Signature


Date


Police Department's Approval


Date

APPLICATION TO CONDUCT SPECIAL EVENT ON
CITY PROPERTY OR RIGHT-OF-WAY

Date Submitted

1. ORGANIZATION BEING REPRESENTED:

Name Gulf Breeze United Methodist
Address 75 Fairpoint Drive, Gulf Breeze 32561

2. PERSON REQUESTING PERMIT:

Name Sarah Bennett
Address 75 Fairpoint Drive, Gulf Breeze 32561
Phone 932-3594

3. PERSON ACTING AS CHAIRMAN AND RESPONSIBLE FOR CONDUCT THEREOF:

Name Janeese Spencer
Address 75 Fairpoint Drive, Gulf Breeze
Phone 932-3594

4. DATE, HOURS AND LOCATION OF EVENT:

Sunday, September 29, 3-5 pm
(Road Closed 2-6 AM)
Gulf Breeze United Methodist & Surrounding Road

5. GENERAL DESCRIPTION OF ACTIVITIES, ESTIMATED ATTENDANCE, NUMBER AND TYPE OF VEHICLES, IF ANY. IF A FUND RAISING EVENT, INDICATE PROPOSED USE OF FUNDS:

Block Party with food, country songs & worship band.
Attendance - 400-600
No Vehicles
Not Fund-raising

Sarah Bennett
Applicant's Signature/Date

[Signature]
Police Department's Approval/Date

City Manager's Approval/Date

GULF BREEZE UNITED METHODIST CHURCH STREET CLOSING REQUEST FOR SEPTEMBER 29
REQUESTING CLOSURE FROM 2-6 PM OF AREAS MARKED IN RED
Portions of Nighthingale Road and Nighthingale Lane





City of Gulf Breeze

Memorandum

To: Edwin A. Eddy, City Manager

From: Vernon L. Prather, Director of Public Services *V.P.*

Date: 6/20/2013

Subject: Pensacola Beach Natural Gas Pipeline Expansion Change Order #12

The City Council established the Pensacola Beach Natural Gas System as FEMA Alternate Project #5 with an allocated budget of \$2,783,000. Utility Services Company was selected as the contractor based on the advertised bid process.

To date the City has awarded the initial contract plus Eleven (11) change orders totaling \$2,480,101 excluding engineering costs.

Change Order #12 is a deductive change order of (\$4,118.80) from the Sabine Drive 2" gas main extension. This reduction is due to the actual quantities being installed. The majority of the savings were generated by not having to remove any red clay or purchase white sand.

Currently we are serving 19 commercial customers on the Beach with this being our first summer season of consumption. Gas revenue for April 2013 was \$188,774 with the Beach contributing approx. 19% of the revenue or \$35,500 for the month. Staff is currently working with Beach Club and Sans Souci Resorts for conversion, and a new restaurant named Red Fish/Blue Fish.

The inclusion of change order #12 of (\$4,118.80) brings the total awarded construction contracts to \$2,475,982 and engineering costs of \$271,308 bringing the total to \$2,747,290 which is \$35,709 less than the City Council approved FEMA Alternate Project #5 of \$2,783,000.

RECOMMENDATION: CITY COUNCIL ACCEPT DEDUCTIVE CHANGE ORDER #12 OF (\$4,118.80) FOR THE SABINE DRIVE 2" GAS MAIN EXTENSION, FOR FEMA ALTERNATE PROJECT #5 IN THE AMOUNT OF \$4,188.80 FROM UTILITY SERVICES COMPANY.

EXHIBIT "G"

CHANGE ORDER

CHANGE ORDER NO.: 11/12

CONTRACT NO.: 20442.10

TO: Utility Service Company, Inc.
4326 Gulf Breeze Pkwy.
Gulf Breeze, Florida 32563

DATE: June 10, 2013

PROJECT NAME: Natural Gas Service Expansion for the City of Gulf Breeze

PROJECT NO.: 20442.10

Under our AGREEMENT dated August 5, 2011.

You hereby are authorized and directed to make the following change(s) in accordance with terms and conditions of the Agreement: **In-place quantity adjustments at end of contract. (See Attached Spreadsheet)**

FOR THE (~~Additive~~) (Deductive) Sum of: Four Thousand, One Hundred Eighteen and 80/100 (\$ ~~(4,118.80)~~)

Original Agreement Amount	\$ <u>1,422,744.50</u>
Sum of Previous Changes	\$ <u>1,057,357.23</u>
This Change Order (Add) (Deduct)	\$ <u>(4,118.80)</u>
Present Agreement Amount	\$ <u>2,475,982.93</u>

This time for completion shall be (~~increased/decreased~~) by Zero (0) calendar days due to this Change Order. Accordingly, the Contract Time is now Six Hundred and Forty (640) calendar days and the final completion date is June 20, 2013.

Your acceptance of this Change Order shall constitute a modification to our Agreement and will be performed subject to all the same terms and conditions in our Agreement

R. Delp, PM
BDI/PNS

indicated above, as fully as if the same were repeated in this acceptance.

The adjustment, if any, to this Agreement shall constitute a full and final settlement of any and all claims arising out of or related to the change set forth herein, including claims for impact and delay costs.

Accepted: 6/11/13, 2013

By: William V. C
Utility Service Company, Inc.

By: _____
City of Gulf Breeze



BASKERVILLE-DONOVAN, INC.
Innovative Infrastructure Solutions

CHANGE ORDER 11
2" Gas Main on Sabine
In-Place Quantity Adjustments for Pay Application 2 and Final

Utility Services Company
4326 Gulf Breeze Parkway
Gulf Breeze, FL 32563
Telephone: 850-932-5342
Fax: 850-932-0258

In-Place Quantity Adjustment

ITEM	DESCRIPTION	QUANT.	UNIT	UNIT PRICE	AMOUNT	UNIT	
						CHANGE	AMOUNT
1	Mobilization/Demobilization	0	LS	\$ -	\$ -	0	\$ -
2	Maintenance of Traffic	0	LS	\$ -	\$ -	0	\$ -
3	Insurance and Bonds	1	LS	\$ 1,200.00	\$ 1,200.00	0	\$ -
4	1" PE Tap, Isolation Valve, Cap	0	EA	\$ -	\$ -	0	\$ -
5	12" DR 9 HDPE Casing with 6" DR 11 MDPE Carrier, Directional Drill Installation	0	LF	\$ -	\$ -	0	\$ -
6	2" DR 11 MDPE, Directional Drill Installation	1,603	LF	\$ 12.30	\$ 19,716.90	-84	\$ (1,033.20)
7	2" DR 11 MDPE, Open Cut Installation	3,470	LF	\$ 14.10	\$ 48,927.00	84	\$ 1,184.40
8	2" PE Tap, Isolation Valve & Cap	2	EA	\$ 405.00	\$ 810.00	2	\$ 810.00
9	4" PE Cap	0	EA	\$ -	\$ -	0	\$ -
10	4" DR 11 MDPE, Directional Drill Installation	0	LF	\$ -	\$ -	0	\$ -
11	4" DR 11 MDPE, Open Cut Installation	0	LF	\$ -	\$ -	0	\$ -
12	4" PE Isolation Valve	0	EA	\$ -	\$ -	0	\$ -
13	6" 45° PE Bend	0	EA	\$ -	\$ -	0	\$ -
14	6" 90° PE Bend	0	EA	\$ -	\$ -	0	\$ -
15	6" PE Cap	0	EA	\$ -	\$ -	0	\$ -
16	6" DR 11 MDPE, Directional Drill Installation	0	LF	\$ -	\$ -	0	\$ -
17	6" DR 11 MDPE, Open Cut Installation	0	LF	\$ -	\$ -	0	\$ -
18	6" DR 9 MDPE, Directional Drill Installation	0	LF	\$ -	\$ -	0	\$ -
19	6" PE Isolation Valve	0	EA	\$ -	\$ -	0	\$ -
20	6" Tapping Sleeve & Valve	0	EA	\$ -	\$ -	0	\$ -
21	6" PE Tee	0	EA	\$ -	\$ -	0	\$ -
22	6" x 4" PE Reducer	0	EA	\$ -	\$ -	0	\$ -
23	Asphalt Restoration	0	SY	\$ -	\$ -	0	\$ -
24	Ballast Block for 4" MDPE	0	EA	\$ -	\$ -	0	\$ -
25	Ballast Block for 6" MDPE	0	EA	\$ -	\$ -	0	\$ -
26	Clay Removal	100	CY	\$ 17.00	\$ 1,700.00	-100	\$ (1,700.00)
27	Clean, White Sand	100	CY	\$ 32.00	\$ 3,200.00	-100	\$ (3,200.00)
28	Concrete Restoration	28	SY	\$ 60.00	\$ 1,680.00	-3	\$ (180.00)
29	Curbing	0	LF	\$ -	\$ -	0	\$ -
30	Erosion and Sediment Control	0	LS	\$ -	\$ -	0	\$ -
31	Meter/Regulator Station	0	LS	\$ -	\$ -	0	\$ -
32	Pipe Roller Assembly - Elevated Bridging	0	LF	\$ -	\$ -	0	\$ -
33	Pipeline Marker	6	EA	\$ 45.00	\$ 270.00	0	\$ -
34	R/W and Landscape Restoration	1	LS	\$ 2,000.00	\$ 2,000.00	0	\$ -
35	Record Drawings	0	LS	\$ -	\$ -	0	\$ -
	Contractor's deduct for material						
Total					\$ 79,503.90		\$ (4,118.80)



City of Gulf Breeze

MEMORANDUM

TO: Edwin A. Eddy, City Manager

FROM: Thomas E. Lambert, Assistant Director of Public Services

DATE: June 20, 2013

RE: SSRUS Board Recommendations

A handwritten signature in blue ink, appearing to be "T. Lambert", is located to the right of the "FROM:" line.

The following recommendations were recommended by the SSRUS Board at their June 10, 2013 meeting.

Gulf Isles Lift Station Re-Installation

The Gulf Isles lift station is located at the field operations facility and receives several forcemain discharges. Over the years we have relocated some of these discharges to divert directly to the treatment plant because of odor and corrosion problems. This lift station is in need of repair because of the corrosion issues.

With the purchase of the golf course, there is the potential to move the field operation facility and sell the majority of this site. To make the facility more appealing for sale, staff developed a plan to remove forcemain discharges to this station and install a smaller station off of this property.

F/Y 2013 has a \$70,000 budget for lift station rehabilitation. Since this is a major project, and will continue into F/Y 2014, we propose funding the additional \$60,554.27 in the F/Y 2014 Budget.

RECOMMENDATION: SSRUS Board Recommend to City Council the approval of Brown Construction to do the Gulf Isles Lift Station Relocation for \$81,210.27 and the purchase of the lift station material for \$49,344.00 from Pump & Process Equipment.



City of Gulf Breeze

TO: Edwin A. Eddy, City Manager
FROM: Thomas E. Lambert, Assistant Director of Public Services
DATE: June 7, 2013
RE: Gulf Isles Lift Station Re-Installation

The Gulf Isles lift station is located at the field operations facility and receives several forcemain discharges. Over the years we have relocated some of these discharges to divert directly to the treatment plant because of odor and corrosion problems. This lift station is in need of repair because of the corrosion issues.

With the purchase of the golf course, there is the potential to move the field operation facility and sell the majority of this site. To make the facility more appealing for sale, staff developed a plan to remove forcemain discharges to this station and install a smaller station off of this property. The new smaller station will be placed in an easement in the location of an existing manhole, and will only sever the Villa Woods gravity collection system.

The City solicited quotes for the construction including the installation of the new fiber glass lift station. Staff wishes to purchase the lift station equipment directly from the supplier to save sales tax cost and to insure that our specifications are met. While this station will not be a critical flow station, it will be more visible and in tighter confines, so staff wants to insure that the station is serviceable in its new location.

F/Y 2013 has a \$70,000 budget for lift station rehabilitation. Since this is a major project, and will continue into F/Y 2014, we propose funding the additional \$60,554.27 in the F/Y 2014 Budget.

RECOMMENDATION: SSRUS Board Recommend to City Council the approval of Brown Construction to do the Gulf Isles Lift Station Relocation for \$81,210.27 and the purchase of the lift station material for \$49,344.00 from Pump & Process Equipment.



City of Gulf Breeze

MEMORANDUM

To: Dennis Durnil, System Supervisor
From: Therran Gentry, Construction Foreman
Re: Gulf Isles LS abandonment
Date: 5/29/13

Dennis,

After going through the process of obtaining quotes to rehab this lift station wetwell and valving only (approx. \$72,000) the ability to reroute all incoming flow and abandon the lift station was discovered and deemed to be the more logical and cost effective.

The process involves a new fiberglass lift station, a force main tap in the median, laying approx. 400' of pipe and a connection of two existing force mains. All this is shown and described in the package provided.

Quotes were received from three contractors with Brown Construction being the low bidder. This price does not include purchase of the liftstation directly from the manufacturer for \$49,344.00

Recommendation:

Award this work to Brown Construction for the amount of \$81,210.27

Attached:

Scope of work

Pictures

Quotes



City of Gulf Breeze

Gulf Isles LS Abandonment Scope of Work

Phase 1

- Install 12"x 8" tap, gate valve, check valve and reducer in median of Hwy 98.
- Install 6" HDPE directional drill from north right of way to median.
- Install approximately 400' of 6" DR 25 pipe and connecting as shown with tees and two valve assemblies.

Phase 2

- Connect Gondolier/Venetian FM and Bay St FM with 4" tee and three valve assembly as shown.

Phase 3

- Install lift station package provided by Pump and Process and gravity connection with 8" sweeping tee as shown.
- Lay approx. 50' of 4" FM.
- Install 8"x4" tee with two valve assembly as shown.



City of Gulf Breeze

OFFICE OF THE CITY MANAGER

June 20, 2013

TO: Mayor and City Council

FROM:  Edwin A. Eddy, City Manager

SUBJ: **HOUSE BILL 7125 - ADMINISTRATION OF RED LIGHT
CAMERA VIOLATIONS**

Attached is a summary of HB7125 and a copy of the pertinent pages of the final bill which has now been signed into law by Governor Scott. As provided in the bill, the City must take the following action:

- Adopt a Resolution on Monday, July 1 that:

- 1) authorize the City Manager to contract with and designate qualified persons to serve as the local hearing officer as defined in Florida statute 316.003(91); and
- 2) designate City Clerk personnel to serve as the Clerk to the local hearing officer as contemplated in Florida Statutes Section 316.0083(5)(b)

RECOMMENDATION:

That the City Council direct staff to prepare a Resolution as described above for adoption on July 1, 2013.

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #:	CS/CS/HB 7125	FINAL HOUSE FLOOR ACTION:	
SPONSOR(S):	Economic Affairs Committee; Transportation & Economic Development Appropriations Subcommittee; Transportation & Highway Safety Subcommittee; Raburn; Campbell and others (CS/CS/SB 1458)	114 Y's	1 N's
COMPANION BILLS:		GOVERNOR'S ACTION:	Pending

SUMMARY ANALYSIS

CS/CS/HB 7125 passed the House on April 25, 2013. The bill was amended by the Senate on May 2, 2013, and subsequently passed the House on May 2, 2013. The bill is a broad, omnibus transportation bill that makes numerous changes to law administered by the Florida Department of Highway Safety and Motor Vehicles (DHSMV). In addition to other substantive, technical, and conforming changes, the bill:

- Revises state law to mirror federal law with respect to commercial motor vehicles;
- Reclassifies Florida Highway Patrol captains to Select Exempt Service;
- Revises Florida's red light camera statute;
- Clarifies DHSMV's rulemaking authority over driver improvement courses;
- Requires DHSMV to conduct a pilot program for rebuilt inspections to be offered by the private sector;
- Allows a motor vehicle e-title to remain electronic when transferred during a private, casual sale;
- Requires a person to settle the debt created by a prior insufficient funds check before allowing that person to conduct certain future transactions with DHSMV;
- Provides motor vehicle dealers the option of applying for two-year dealer licenses;
- Authorizes administrative driver license suspension hearings to be conducted via telephone;
- Lowers the ignition interlock device fail-rate to 0.025 breath-alcohol content (BAC) from 0.05 BAC;
- Clarifies that DUI convictions adjudicated on the same date, but that arise from separate arrest dates, constitute separate convictions under Florida's DUI law;
- Allows a person that has been arrested for DUI to waive his or her right to a formal hearing and receive a driver license restricted to business purposes only, if otherwise eligible;
- Creates new specialty license plates;
- Prevents a private entity from swiping a person's driver license or identification card except under certain, limited circumstances; and
- Authorizes a motorist to display his or her proof of automobile insurance in a paper or electronic format.

For the 2013-2014 fiscal year, the bill appropriates \$400,000 in recurring funds from the General Inspection Trust Fund in the Department of Agriculture and Consumer Services' Oyster Planting appropriation category, and \$300,000 in recurring funds from the Marine Resources Conservation Trust Fund in the Florida Fish and Wildlife Conservation Commission (FWC) to the FWC's Boating Safety Education Program appropriation category. This funding results from a reduction in the amount of vessel registration fee revenues retained by DHSMV for administering the vessel registration program

Other provisions in the bill will have an indeterminate fiscal impact on state and local government revenues and expenditures.

Subject to the Governor's veto powers, the effective date of this bill is July 1, 2013.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.
STORAGE NAME: h7125z.THSS
DATE: May 14, 2013

- disclose that the motor vehicle is not being towed for the owner or operator's insurance company or lienholder;
- disclose the maximum charges for towing or storage which will apply before the vehicle is connected to the towing apparatus;
- disclose whether he or she has in effect an insurance policy providing at least \$300,000 of liability insurance and at least \$50,000 of on-hook cargo insurance; and
- provide a copy of the disclosure to the owner or operator in the presence of a law enforcement officer if one is present at the scene of a motor vehicle accident.

FHP trooper reclassification (Section 1)

Current Situation

Captain positions within the Florida Highway Patrol (FHP) are currently classified as Career Service.⁶³ FHP Captains carry managerial, policy and budgetary responsibility equivalent to State positions which are typically classified as Selected Exempt Service.⁶⁴

Effect of Proposed Change

The bill amends s. 110.205, F.S., to reclassify 47 Captain positions within FHP and places them in the Selected Exempt Service. According to DHSMV, the proposed change will ensure FHP Captains are measured by a standard of accountability which is equivalent to their level of responsibility. Additionally, DHSMV maintains that the proposed change will provide FHP Captains with the level of benefits appropriate for the position.

Red Light Cameras (Sections 4 - 10)

Current Situation

Notice of violations and uniform traffic citations

In 2010, the Florida Legislature enacted Ch. 2010-80, L.O.F. The law authorized DHSMV, counties, and municipalities to employ red light camera programs. As of December 2012, there were 77 local jurisdictions in Florida operating red light camera programs pursuant to adopted local ordinances. DHSMV has not implemented a red light camera program under the 2010 law.

If a red light camera captures an image of a driver running a red light, the visual information is reviewed by a traffic infraction enforcement officer.⁶⁵ A notice of violation (NOV) must be sent to the registered owner of the vehicle – who may or may not be the actual driver of the vehicle – by first-class mail within 30 days of the alleged violation.⁶⁶ The NOV must be accompanied by a photograph or other recorded image of the violation, and must include a statement of the registered owner's right to review images or video of the violation, and the time, place, and internet location where the evidence may be reviewed.⁶⁷ Along with the notice, is a statement that the photographic or electronic images or the streaming video evidence of the violation constitute a "rebuttable presumption against the owner of the vehicle." A NOV carries a \$158 fine, although no points may be assessed against the driver's driver license and the NOV may not be used for the purpose of setting motor vehicle insurance rates.⁶⁸

⁶³ Part II, Chapter 110, F.S.

⁶⁴ s. 110.205, F.S.

⁶⁵ s. 316.640(1)(b)3., F.S. A traffic infraction enforcement officer must successfully complete instruction in traffic enforcement procedures and court presentation through the Selective Traffic Enforcement Program as approved by the Division of Criminal Justice Standards and Training of the Department of Law Enforcement, or through a similar program, but may not necessarily otherwise meet the uniform minimum standards established by the Criminal Justice Standards and Training Commission for law enforcement officers or auxiliary law enforcement officers under s. 943.13, F.S.

⁶⁶ s. 316.0083(1)(b), F.S.

⁶⁷ Id.

⁶⁸ s. 322.27(3)(d)6., F.S.

If the registered owner of the vehicle does not pay the NOV within 30 days, the traffic infraction enforcement officer must issue a uniform traffic citation (UTC) to the registered owner, which after adding court costs and fees, may carry a fine of \$256 or higher.⁶⁹ The UTC must be mailed by certified mail, and must be issued no later than 60 days after the violation.⁷⁰ The UTC must also include the statements described above regarding review of the photographic or video evidence.⁷¹ The report of an officer and images provided by a traffic infraction detector are admissible in court and provide a rebuttable presumption the vehicle was used to commit the violation.⁷²

Under current law, a person that has been issued a notice of violation for a red light camera violation does not have the right to request a hearing at the notice of violation stage to challenge the violation. Rather, he or she must elect to not pay the notice of violation, wait until the notice of violation becomes a uniform traffic citation, and then elect to receive a hearing. This process subjects the person to increased penalties in the form of a higher fine, possible points added to his or her driver license, and a possible conviction entered on his or her driving record if found to have committed the violation.

Under current law, a person that has been identified on an affidavit as the actual driver of the vehicle is not given the opportunity to pay the lower-priced notice of violation. Due to statutory time constraints that require a uniform traffic citation be issued within 30 days after issuance of a notice of violation, this transfer of liability process requires the person to pay the higher-priced uniform traffic citation.

Right-on-red violations

Under s. 316.0083, F.S., DHSMV, a city, or county may not issue a notice of violation and a traffic citation for a right on red violation if the motorist makes the right-hand turn in a "careful and prudent manner."⁷³ However, s. 316.0083, F.S., does not define what constitutes a "careful and prudent manner."

In December 2012, DHSMV released its Red Light Camera Program Analysis (Analysis).⁷⁴ The Analysis compiled information from cities and counties that operate red light camera programs and focused on three specific areas: (1) statistical data; (2) enhancement to traffic safety; and (3) procedural information. DHSMV collected the information through an online survey. The reporting period was July 1, 2011 through June 30, 2012.

In total, 73 agencies responded to the online survey.⁷⁵ Collectively, these 73 agencies reported that there were 404 intersections across the state with red light cameras.⁷⁶ Out of 73 agencies, at least 45 agencies issue a notice of violation and a traffic citation for a right-on-red violation.⁷⁷ Only 16 agencies had a policy defining "careful and prudent manner."⁷⁸

Effect of Proposed Change

The bill provides guidance to DHSMV and local governments as to what constitutes a "careful and prudent manner" for the purpose of issuing a red light camera citation for a right-on-red violation. Under the bill, a notice of violation and uniform traffic citation may not be issued for a right-on-red violation if

⁶⁹ s. 316.0083(1)(c), F.S.

⁷⁰ Id.

⁷¹ Id.

⁷² ss. 316.0083(1)(e) and 318.18, F.S.

⁷³ ss. 316.0083, (1)(a) and (2), F.S.

⁷⁴ See the DHSMV Analysis on its website at <http://www.flhsmv.gov/Reports/RedLightCameraAnalysis2012.pdf> (Last viewed on 3/13/2013).

⁷⁵ Id.

⁷⁶ Id.

⁷⁷ Id. Only 72 agencies responded to the question on whether the agency issues a notice of violation and traffic citation for a right on red violation. Of the 72 agencies that responded, 45 issue a notice of violation and traffic citation for a right on red violation.

⁷⁸ Id. Only 71 agencies responded to the question on whether the agency issued a notice of violation and traffic citation for a right on red violation.

the driver of the vehicle came to a complete stop before turning right (provided a right-hand turn is permissible) – even if the driver has stopped beyond the stop line or other point at which a stop is required.

The bill also allows a person that has been issued a notice of violation for a red light camera violation to elect to receive a hearing within 60 days of the notice of violation. The bill explicitly provides that no payment or fee may be required in order to receive the hearing. Further, if a person elects to receive a hearing, the bill provides that the person waives his or her right to challenge delivery of the notice of violation.

To facilitate the hearings, local governments may use their currently appointed code enforcement board or special magistrate to serve as the local hearing officer. If the person is found to have committed the violation, he or she will be required to pay the notice of violation and county or municipal costs not to exceed \$250, within 10 days unless he or she enters into a payment plan. If the person does not pay the notice of violation and associated costs within 10 days, or does not comply with the terms of his or her payment plan, the bill requires the Clerk of Court to notify DHSMV. Upon notification, DHSMV is required to place a hold on the person's (or business entity's) registration until the fine and costs are paid. In this case, the registration hold will be placed on any vehicle owned or coowned by the person.

The bill provides that upon receipt of an affidavit, DHSMV or the appropriate local government may issue the person identified on the affidavit as the actual driver of the vehicle a notice of violation and allow him or her to pay it before issuance of a uniform traffic citation. The effect of the proposed change lifts the time constraints on traffic infraction enforcement officers responsible for mailing notices of violations and uniform traffic citations, and gives the person identified on the affidavit as the actual driver the same rights as the registered owner of the vehicle. Specifically, the bill allows the person to pay the \$158 notice of violation that is not subject to court costs, fees, and risks associated with attending a hearing on a uniform traffic citation – namely the possibility of a conviction being noted on the person's driving record and points added to his or her driver license.

The fiscal impact of these provisions is indeterminate.

Voluntary Contributions on Driver License/Identification Card and Motor Vehicle Registration Applications (Sections 28 and 47)

Current Situation

Section 320.023, F.S., outlines the procedure an organization must follow prior to seeking legislative authorization to request the creation of a new voluntary contribution fee and establish a corresponding voluntary contribution on a motor vehicle registration application (initial registration or renewal). The contribution allows a registered owner of a motor vehicle to voluntarily contribute to one or more of the authorized organizations. To become eligible, the organization must submit the following to DHSMV at least 90 days before the convening of the next regular session of the Legislature:

- a request for the contribution describing it in general terms;
- an application fee of not more than \$10,000 to defray DHSMV's costs for reviewing the application and developing the new check-off. State funds may not be used to pay the application fee; and
- a marketing strategy outlining short-term and long-term marketing plans for the contribution and a financial analysis outlining the anticipated revenues and the planned expenditures of the revenues to be derived from the contributions.⁷⁹

DHSMV must discontinue the check-off if less than \$25,000 has been contributed by the end of the fifth year, or if less than \$25,000 is contributed during any subsequent five-year period.⁸⁰

⁷⁹ s. 320.023(1), F.S.

⁸⁰ s. 320.023(4)(a), F.S.

The bill also revises the length limitations for straight trucks. Under the bill, a straight truck may attach a forklift to the rear of the cargo bed, provided the overall combined length of the vehicle and the forklift does not exceed 50 feet.

Cross references (Sections 76 - 91)

The bill makes numerous cross-reference corrections to conform to other statutory changes in the bill.

Effective Date (Section 94)

Subject to the Governor's veto powers, the effective date of this bill is July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments.

D. FISCAL COMMENTS:

Section 1 reclassifies FHP Captains positions from Career Service to the Selected Exempt Service. The proposed change reclassifying the 47 FHP Captain positions will result in an \$88,000 recurring reduction to the Highway Safety Operating Trust Fund due to the increased costs of benefits, which can be absorbed within existing trust fund revenues.

Sections 4 – 10 prohibit a notice of violation and a traffic citation from being issued via a red light camera for a right-on-red violation if the driver came to a complete stop before turning right (where a right turn is permissible) – even if the driver has stopped beyond the stop line or other point at which a stop is required. This provision may lead to a decrease in the number of notices of violation and traffic citations being issued, which may have a corresponding decrease in revenue for the state and local governments. However, the exact fiscal impact is indeterminate.

These sections also allow the registered owner or driver to request a hearing within 60 days of receiving a red light camera notice of violation, rather than be forced to wait until the notice of violation becomes a uniform traffic citation. The local government that has issued the notice of violation may use its currently appointed code enforcement board or special magistrate to serve as the local hearing officer for purposes of conducting the hearing. If the local hearing officer finds that the violation has occurred, the registered owner or driver is to pay the \$158 notice of violation and up to \$250 in county or municipal costs. This provision may cause an increase in the number of red light camera notice of

violation challenges, and may lead to a corresponding decrease in revenue for the state and local governments.

The bill also permits the person identified on an affidavit as the actual driver of the vehicle to pay the \$158 notice of violation instead of forcing this person to pay the higher-priced uniform traffic citation, which is subject to added fines, fees, and service charges – a portion of which is deposited into the state's General Revenue Fund. Under this provision, the distribution of funds collected from the payment of the \$158 notice of violation remains the same, with \$70 deposited into the state's General Revenue Fund; \$10 deposited into the Florida Department of Health's (DOH) Emergency Medical Services Trust Fund; \$3 deposited into DOH's Brain and Spinal Cord Injury Trust Fund; and \$75 retained by the city or county that has issued the notice of violation. However, to the extent that this provision will result in a fewer number of uniform traffic citations being issued, the state's General Revenue Fund may see a decrease in funds derived from the service charge that is assessed on certain revenue that is deposited into various trust funds. Section 215.20, F.S., provides for an 8 percent service charge on all income that is of a revenue nature and that is deposited in trust funds, unless it is exempt. The service charge is deposited in the General Revenue Fund.

Section 11 prohibits a driver from driving less than the posted speed limit in the furthestmost left-hand lane in certain circumstances. A driver who violates this provision may be subject to a \$60 fine that currently exists in statute. Fines associated with the violations of this section are estimated to be minimal and will have a minimal positive revenue impact on law enforcement entities.

Section 12 lowers the IID threshold from 0.05 BAC to 0.025 BAC. According to DHSMV, the proposed change may increase the number of IID clients being monitored by DHSMV. However, the Department will not require additional positions to implement the change.

Section 13 removes certain state level exemptions to FMCSA federal rules and regulations currently afforded to commercial motor vehicle owners and operators. As such, the bill places relevant federal regulations in the state level authorization statute. The removal of these state level exemptions is necessary; if not removed, Florida's continued receipt of federal dollars may be implicated, the exact amount of which is unknown.

Section 14 adopts federal regulations that require commercial motor vehicle drivers to provide medical certification information to their state driver license agency by January 31, 2014. There is a \$100 civil penalty if a commercial motor vehicle driver violates this requirement. In as much as this provision subjects violators to a civil penalty, this provision while likely minimal, has an indeterminate positive fiscal impact on the State Transportation Trust Fund (STTF) as fine amounts are distributed to the STTF for the purpose of maintaining and repairing state roads.

In addition, the bill adds fines for violating a prohibition on the use of a hand-held mobile telephone while driving a commercial motor vehicle and texting-while-driving a commercial motor vehicle, which will have an indeterminate positive fiscal impact on the STTF.

Section 19 prohibits a commercial learner's permit (CLP) holder from having adjudication of guilt withheld after attending driver improvement school. In as much as the prohibition would disallow CLP holders from electing to have adjudication withheld, this provision will result in more CLP holders paying fines for traffic infractions. This provision has an indeterminate positive fiscal impact on law enforcement entities receiving fines.

Section 21 requires DHSMV to conduct a pilot program to evaluate alternatives for rebuilt inspection services to be offered by the private sector, with a particular focus on the cost impact to the consumer and the potential cost savings to DHSMV. The pilot program is limited to Miami-Dade and Hillsborough counties, and requires that DHSMV, through a memorandum of understanding with the participating entity, ensure that the entity meet basic criteria designed to protect the public, which at a minimum, includes:



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477 agents, their insurers or insurers to which they have applied
478 for coverage, persons under contract with such insurers to
479 provide claims or underwriting information, prosecutorial
480 authorities, law enforcement agencies, the Department of
481 Transportation, county traffic operations, victim services
482 programs, radio and television stations licensed by the Federal
483 Communications Commission, newspapers qualified to publish legal
484 notices under ss. 50.011 and 50.031, and free newspapers of
485 general circulation, published once a week or more often,
486 available and of interest to the public generally for the
487 dissemination of news. For the purposes of this section, the
488 following products or publications are not newspapers as
489 referred to in this section: those intended primarily for
490 members of a particular profession or occupational group; those
491 with the primary purpose of distributing advertising; and those
492 with the primary purpose of publishing names and other personal
493 identifying information concerning parties to motor vehicle
494 crashes.

495 Section 4. Subsection (91) is added to section 316.003,
496 Florida Statutes, to read:

497 316.003 Definitions.—The following words and phrases, when
498 used in this chapter, shall have the meanings respectively
499 ascribed to them in this section, except where the context
500 otherwise requires:

501 (91) LOCAL HEARING OFFICER.—The person, designated by a
502 department, county, or municipality that elects to authorize
503 traffic infraction enforcement officers to issue traffic
504 citations under s. 316.0083(1)(a), who is authorized to conduct



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505 hearings related to a notice of violation issued pursuant to
 506 316.0083. The charter county, noncharter county, or municipality
 507 may use its currently appointed code enforcement board or
 508 special magistrate to serve as the local hearing officer. The
 509 department may enter into an interlocal agreement to use the
 510 local hearing officer of a county or municipality.

511 Section 5. Subsection (1) of section 316.0083, Florida
 512 Statutes, is amended, and subsection (5) is added to that
 513 section, to read:

514 316.0083 Mark Wandall Traffic Safety Program;
 515 administration; report.—

516 (1) (a) For purposes of administering this section, the
 517 department, a county, or a municipality may authorize a traffic
 518 infraction enforcement officer under s. 316.640 to issue a
 519 traffic citation for a violation of s. 316.074(1) or s.
 520 316.075(1)(c)1. A notice of violation and a traffic citation may
 521 not be issued for failure to stop at a red light if the driver
 522 is making a right-hand turn in a careful and prudent manner at
 523 an intersection where right-hand turns are permissible. A notice
 524 of violation and a traffic citation may not be issued under this
 525 section if the driver of the vehicle came to a complete stop
 526 after crossing the stop line and before turning right if
 527 permissible at a red light, but failed to stop before crossing
 528 over the stop line or other point at which a stop is required.

529 This paragraph does not prohibit a review of information from a
 530 traffic infraction detector by an authorized employee or agent
 531 of the department, a county, or a municipality before issuance
 532 of the traffic citation by the traffic infraction enforcement



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533 officer. This paragraph does not prohibit the department, a
534 county, or a municipality from issuing notification as provided
535 in paragraph (b) to the registered owner of the motor vehicle
536 involved in the violation of s. 316.074(1) or s. 316.075(1)(c)1.

537 (b)1.a. Within 30 days after a violation, notification
538 must be sent to the registered owner of the motor vehicle
539 involved in the violation specifying the remedies available
540 under s. 318.14 and that the violator must pay the penalty of
541 \$158 to the department, county, or municipality, or furnish an
542 affidavit in accordance with paragraph (d), or request a hearing
543 within 60 ~~30~~ days following the date of the notification in
544 order to avoid ~~court fees, costs, and~~ the issuance of a traffic
545 citation. The notification must ~~shall~~ be sent by first-class
546 mail. The mailing of the notice of violation constitutes
547 notification.

548 b. Included with the notification to the registered owner
549 of the motor vehicle involved in the infraction must be a notice
550 that the owner has the right to review the photographic or
551 electronic images or the streaming video evidence that
552 constitutes a rebuttable presumption against the owner of the
553 vehicle. The notice must state the time and place or Internet
554 location where the evidence may be examined and observed.

555 c. Notwithstanding any other provision of law, a person
556 who receives a notice of violation under this section may
557 request a hearing within 60 days following the notification of
558 violation or pay the penalty pursuant to the notice of
559 violation, but a payment or fee may not be required before the
560 hearing requested by the person. The notice of violation must be



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561 accompanied by, or direct the person to a website that provides,
 562 information on the person's right to request a hearing and on
 563 all court costs related thereto and a form to request a hearing.

564 As used in this sub-subparagraph, the term "person" includes a
 565 natural person, registered owner or coowner of a motor vehicle,
 566 or person identified on an affidavit as having care, custody, or
 567 control of the motor vehicle at the time of the violation.

568 d. If the registered owner or coowner of the motor
 569 vehicle, or the person designated as having care, custody, or
 570 control of the motor vehicle at the time of the violation, or an
 571 authorized representative of the owner, coowner, or designated
 572 person, initiates a proceeding to challenge the violation
 573 pursuant to this paragraph, such person waives any challenge or
 574 dispute as to the delivery of the notice of violation.

575 2. Penalties assessed and collected by the department,
 576 county, or municipality authorized to collect the funds provided
 577 for in this paragraph, less the amount retained by the county or
 578 municipality pursuant to subparagraph 3., shall be paid to the
 579 Department of Revenue weekly. Payment by the department, county,
 580 or municipality to the state shall be made by means of
 581 electronic funds transfers. In addition to the payment, summary
 582 detail of the penalties remitted shall be reported to the
 583 Department of Revenue.

584 3. Penalties to be assessed and collected by the
 585 department, county, or municipality are as follows:

586 a. One hundred fifty-eight dollars for a violation of s.
 587 316.074(1) or s. 316.075(1)(c)1. when a driver ~~has~~ failed to
 588 stop at a traffic signal if enforcement is by the department's



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589 traffic infraction enforcement officer. One hundred dollars
590 shall be remitted to the Department of Revenue for deposit into
591 the General Revenue Fund, \$10 shall be remitted to the
592 Department of Revenue for deposit into the Department of Health
593 Emergency Medical Services Trust Fund, \$3 shall be remitted to
594 the Department of Revenue for deposit into the Brain and Spinal
595 Cord Injury Trust Fund, and \$45 shall be distributed to the
596 municipality in which the violation occurred, or, if the
597 violation occurred in an unincorporated area, to the county in
598 which the violation occurred. Funds deposited into the
599 Department of Health Emergency Medical Services Trust Fund under
600 this sub-subparagraph shall be distributed as provided in s.
601 395.4036(1). Proceeds of the infractions in the Brain and Spinal
602 Cord Injury Trust Fund shall be distributed quarterly to the
603 Miami Project to Cure Paralysis and ~~shall be~~ used for brain and
604 spinal cord research.

605 b. One hundred fifty-eight dollars for a violation of s.
606 316.074(1) or s. 316.075(1)(c)1. when a driver ~~has~~ failed to
607 stop at a traffic signal if enforcement is by a county or
608 municipal traffic infraction enforcement officer. Seventy
609 dollars shall be remitted by the county or municipality to the
610 Department of Revenue for deposit into the General Revenue Fund,
611 \$10 shall be remitted to the Department of Revenue for deposit
612 into the Department of Health Emergency Medical Services Trust
613 Fund, \$3 shall be remitted to the Department of Revenue for
614 deposit into the Brain and Spinal Cord Injury Trust Fund, and
615 \$75 shall be retained by the county or municipality enforcing
616 the ordinance enacted pursuant to this section. Funds deposited



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617 into the Department of Health Emergency Medical Services Trust
 618 Fund under this sub-subparagraph shall be distributed as
 619 provided in s. 395.4036(1). Proceeds of the infractions in the
 620 Brain and Spinal Cord Injury Trust Fund shall be distributed
 621 quarterly to the Miami Project to Cure Paralysis and ~~shall be~~
 622 used for brain and spinal cord research.

623 4. An individual may not receive a commission from any
 624 revenue collected from violations detected through the use of a
 625 traffic infraction detector. A manufacturer or vendor may not
 626 receive a fee or remuneration based upon the number of
 627 violations detected through the use of a traffic infraction
 628 detector.

629 (c)1.a. A traffic citation issued under this section shall
 630 be issued by mailing the traffic citation by certified mail to
 631 the address of the registered owner of the motor vehicle
 632 involved in the violation ~~if when~~ payment has not been made
 633 within 60 ~~30~~ days after notification under paragraph (b), if the
 634 registered owner has not requested a hearing as authorized under
 635 paragraph (b), or if the registered owner has not submitted an
 636 affidavit under this section ~~subparagraph (b)1.~~

637 b. Delivery of the traffic citation constitutes
 638 notification under this paragraph. If the registered owner or
 639 coowner of the motor vehicle, or the person designated as having
 640 care, custody, or control of the motor vehicle at the time of
 641 the violation, or a duly authorized representative of the owner,
 642 coowner, or designated person, initiates a proceeding to
 643 challenge the citation pursuant to this section, such person
 644 waives any challenge or dispute as to the delivery of the



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645 traffic citation.

646 c. In the case of joint ownership of a motor vehicle, the
 647 traffic citation shall be mailed to the first name appearing on
 648 the registration, unless the first name appearing on the
 649 registration is a business organization, in which case the
 650 second name appearing on the registration may be used.

651 ~~d. The traffic citation shall be mailed to the registered~~
 652 ~~owner of the motor vehicle involved in the violation no later~~
 653 ~~than 60 days after the date of the violation.~~

654 2. Included with the notification to the registered owner
 655 of the motor vehicle involved in the infraction shall be a
 656 notice that the owner has the right to review, ~~either~~ in person
 657 or remotely, the photographic or electronic images or the
 658 streaming video evidence that constitutes a rebuttable
 659 presumption against the owner of the vehicle. The notice must
 660 state the time and place or Internet location where the evidence
 661 may be examined and observed.

662 (d)1. The owner of the motor vehicle involved in the
 663 violation is responsible and liable for paying the uniform
 664 traffic citation issued for a violation of s. 316.074(1) or s.
 665 316.075(1)(c)1. when the driver failed to stop at a traffic
 666 signal, unless the owner can establish that:

667 a. The motor vehicle passed through the intersection in
 668 order to yield right-of-way to an emergency vehicle or as part
 669 of a funeral procession;

670 b. The motor vehicle passed through the intersection at
 671 the direction of a law enforcement officer;

672 c. The motor vehicle was, at the time of the violation, in



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673 the care, custody, or control of another person;

674 d. A uniform traffic citation was issued by a law
675 enforcement officer to the driver of the motor vehicle for the
676 alleged violation of s. 316.074(1) or s. 316.075(1)(c)1; or

677 e. The motor vehicle's owner was deceased on or before the
678 date that the uniform traffic citation was issued, as
679 established by an affidavit submitted by the representative of
680 the motor vehicle owner's estate or other designated person or
681 family member.

682 2. In order to establish such facts, the owner of the
683 motor vehicle shall, within 30 days after the date of issuance
684 of the traffic citation, furnish to the appropriate governmental
685 entity an affidavit setting forth detailed information
686 supporting an exemption as provided in this paragraph.

687 a. An affidavit supporting an exemption under sub-
688 subparagraph 1.c. must include the name, address, date of birth,
689 and, if known, the driver license number of the person who
690 leased, rented, or otherwise had care, custody, or control of
691 the motor vehicle at the time of the alleged violation. If the
692 vehicle was stolen at the time of the alleged offense, the
693 affidavit must include the police report indicating that the
694 vehicle was stolen.

695 b. If a traffic citation for a violation of s. 316.074(1)
696 or s. 316.075(1)(c)1. was issued at the location of the
697 violation by a law enforcement officer, the affidavit must
698 include the serial number of the uniform traffic citation.

699 c. If the motor vehicle's owner to whom a traffic citation
700 has been issued is deceased, the affidavit must include a



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701 certified copy of the owner's death certificate showing that the
 702 date of death occurred on or before the issuance of the uniform
 703 traffic citation and one of the following:

704 (I) A bill of sale or other document showing that the
 705 deceased owner's motor vehicle was sold or transferred after his
 706 or her death, but on or before the date of the alleged
 707 violation.

708 (II) Documentary proof that the registered license plate
 709 belonging to the deceased owner's vehicle was returned to the
 710 department or any branch office or authorized agent of the
 711 department, but on or before the date of the alleged violation.

712 (III) A copy of a police report showing that the deceased
 713 owner's registered license plate or motor vehicle was stolen
 714 after the owner's death, but on or before the date of the
 715 alleged violation.

716

717 Upon receipt of the affidavit and documentation required under
 718 this sub-subparagraph, the governmental entity must dismiss the
 719 citation and provide proof of such dismissal to the person that
 720 submitted the affidavit.

721 3. Upon receipt of an affidavit, the person designated as
 722 having care, custody, or ~~and~~ control of the motor vehicle at the
 723 time of the violation may be issued a notice of violation
 724 pursuant to paragraph (b) ~~traffic citation~~ for a violation of s.
 725 316.074(1) or s. 316.075(1)(c)1. when the driver failed to stop
 726 at a traffic signal. The affidavit is admissible in a proceeding
 727 pursuant to this section for the purpose of providing proof that
 728 the person identified in the affidavit was in actual care,



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729 custody, or control of the motor vehicle. The owner of a leased
730 vehicle for which a traffic citation is issued for a violation
731 of s. 316.074(1) or s. 316.075(1)(c)1. when the driver failed to
732 stop at a traffic signal is not responsible for paying the
733 traffic citation and is not required to submit an affidavit as
734 specified in this subsection if the motor vehicle involved in
735 the violation is registered in the name of the lessee of such
736 motor vehicle.

737 4. Paragraphs (b) and (c) apply to the person identified
738 on the affidavit, except that the notification under sub-
739 subparagraph (b)1.a. must be sent to the person identified on
740 the affidavit within 30 days after receipt of an affidavit.

741 5.4. The submission of a false affidavit is a misdemeanor
742 of the second degree, punishable as provided in s. 775.082 or s.
743 775.083.

744 (e) The photographic or electronic images or streaming
745 video attached to or referenced in the traffic citation is
746 evidence that a violation of s. 316.074(1) or s. 316.075(1)(c)1.
747 when the driver failed to stop at a traffic signal has occurred
748 and is admissible in any proceeding to enforce this section and
749 raises a rebuttable presumption that the motor vehicle named in
750 the report or shown in the photographic or electronic images or
751 streaming video evidence was used in violation of s. 316.074(1)
752 or s. 316.075(1)(c)1. when the driver failed to stop at a
753 traffic signal.

754 (5) Procedures for a hearing under this section are as
755 follows:

756 (a) The department shall publish and make available



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757 electronically to each county and municipality a model Request
758 for Hearing form to assist each local government administering
759 this section.

760 (b) The charter county, noncharter county, or municipality
761 electing to authorize traffic infraction enforcement officers to
762 issue traffic citations under s. 316.0083(1)(a) shall designate
763 by resolution existing staff to serve as the clerk to the local
764 hearing officer.

765 (c) Any person, herein referred to as the "petitioner,"
766 who elects to request a hearing under paragraph (1)(b) shall be
767 scheduled for a hearing by the clerk to the local hearing
768 officer to appear before a local hearing officer with notice to
769 be sent by first-class mail. Upon receipt of the notice, the
770 petitioner may reschedule the hearing once by submitting a
771 written request to reschedule to the clerk to the local hearing
772 officer, at least 5 calendar days before the day of the
773 originally scheduled hearing. The petitioner may cancel his or
774 her appearance before the local hearing officer by paying the
775 penalty assessed under paragraph (1)(b), plus \$50 in
776 administrative costs, before the start of the hearing.

777 (d) All testimony at the hearing shall be under oath and
778 shall be recorded. The local hearing officer shall take
779 testimony from a traffic infraction enforcement officer and the
780 petitioner, and may take testimony from others. The local
781 hearing officer shall review the photographic or electronic
782 images or the streaming video made available under sub-
783 paragraph(1)(b)1.b. Formal rules of evidence do not apply,
784 but due process shall be observed and govern the proceedings.



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785 (e) At the conclusion of the hearing, the local hearing
 786 officer shall determine whether a violation under this section
 787 has occurred, in which case the hearing officer shall uphold or
 788 dismiss the violation. The local hearing officer shall issue a
 789 final administrative order including the determination and, if
 790 the notice of violation is upheld, require the petitioner to pay
 791 the penalty previously assessed under paragraph (1)(b), and may
 792 also require the petitioner to pay county or municipal costs,
 793 not to exceed \$250. The final administrative order shall be
 794 mailed to the petitioner by first-class mail.

795 (f) An aggrieved party may appeal a final administrative
 796 order consistent with the process provided under s. 162.11.

797 Section 6. Paragraph (c) of subsection (3) of section
 798 316.650, Florida Statutes, is amended to read:

799 316.650 Traffic citations.—

800 (3)

801 (c) If a traffic citation is issued under s. 316.0083, the
 802 traffic infraction enforcement officer shall provide by
 803 electronic transmission a replica of the traffic citation data
 804 to the court having jurisdiction over the alleged offense or its
 805 traffic violations bureau within 5 days after the date of
 806 issuance of the traffic citation to the violator. If a hearing
 807 is requested, the traffic infraction enforcement officer shall
 808 provide a replica of the traffic notice of violation data to the
 809 clerk for the local hearing officer having jurisdiction over the
 810 alleged offense within 14 days.

811 Section 7. Section 318.121, Florida Statutes, is amended
 812 to read:



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813 318.121 Preemption of additional fees, fines, surcharges,
 814 and costs.—Notwithstanding any general or special law, or
 815 municipal or county ordinance, additional fees, fines,
 816 surcharges, or costs other than the court costs and surcharges
 817 assessed under s. 318.18(11), (13), (18), ~~and~~ (19), and (22) may
 818 not be added to the civil traffic penalties assessed under ~~in~~
 819 this chapter.

820 Section 8. Subsection (3) is added to section 318.15,
 821 Florida Statutes, to read:

822 318.15 Failure to comply with civil penalty or to appear;
 823 penalty.—

824 (3) The clerk shall notify the department of persons who
 825 were mailed a notice of violation of s. 316.074(1) or s.
 826 316.075(1)(c)1. pursuant to s. 316.0083 and who failed to enter
 827 into, or comply with the terms of, a penalty payment plan, or
 828 order with the clerk to the local hearing officer or failed to
 829 appear at a scheduled hearing within 10 days after such failure,
 830 and shall reference the person's driver license number, or in
 831 the case of a business entity, vehicle registration number.

832 (a) Upon receipt of such notice, the department, or
 833 authorized agent thereof, may not issue a license plate or
 834 revalidation sticker for any motor vehicle owned or coowned by
 835 that person pursuant to s. 320.03(8) until the amounts assessed
 836 have been fully paid.

837 (b) After the issuance of the person's license plate or
 838 revalidation sticker is withheld pursuant to paragraph (a), the
 839 person may challenge the withholding of the license plate or
 840 revalidation sticker only on the basis that the outstanding



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841 fines and civil penalties have been paid pursuant to s.
842 320.03(8).

843 Section 9. Paragraph (c) of subsection (15) of section
844 318.18, Florida Statutes, is amended, and subsection (22) is
845 added to that section, to read:

846 318.18 Amount of penalties.—The penalties required for a
847 noncriminal disposition pursuant to s. 318.14 or a criminal
848 offense listed in s. 318.17 are as follows:

849 (15)

850 (c) If a person who is mailed a notice of violation or
851 cited for a violation of s. 316.074(1) or s. 316.075(1)(c)1., as
852 enforced by a traffic infraction enforcement officer under s.
853 316.0083, presents documentation from the appropriate
854 governmental entity that the notice of violation or traffic
855 citation was in error, the clerk of court or clerk to the local
856 hearing officer may dismiss the case. The clerk of court or
857 clerk to the local hearing officer may ~~shall~~ not charge for this
858 service.

859 (22) In addition to the penalty prescribed under s.
860 316.0083 for violations enforced under s. 316.0083 which are
861 upheld, the local hearing officer may also order the payment of
862 county or municipal costs, not to exceed \$250.

863 Section 10. Subsection (8) of section 320.03, Florida
864 Statutes, is amended to read:

865 320.03 Registration; duties of tax collectors;
866 International Registration Plan.—

867 (8) If the applicant's name appears on the list referred
868 to in s. 316.1001(4), s. 316.1967(6), s. 318.15(3), or s.



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869 713.78(13), a license plate or revalidation sticker may not be
870 issued until that person's name no longer appears on the list or
871 until the person presents a receipt from the governmental entity
872 or the clerk of court that provided the data showing that the
873 fines outstanding have been paid. This subsection does not apply
874 to the owner of a leased vehicle if the vehicle is registered in
875 the name of the lessee of the vehicle. The tax collector and the
876 clerk of the court are each entitled to receive monthly, as
877 costs for implementing and administering this subsection, 10
878 percent of the civil penalties and fines recovered from such
879 persons. As used in this subsection, the term "civil penalties
880 and fines" does not include a wrecker operator's lien as
881 described in s. 713.78(13). If the tax collector has private tag
882 agents, such tag agents are entitled to receive a pro rata share
883 of the amount paid to the tax collector, based upon the
884 percentage of license plates and revalidation stickers issued by
885 the tag agent compared to the total issued within the county.
886 The authority of any private agent to issue license plates shall
887 be revoked, after notice and a hearing as provided in chapter
888 120, if he or she issues any license plate or revalidation
889 sticker contrary to the provisions of this subsection. This
890 section applies only to the annual renewal in the owner's birth
891 month of a motor vehicle registration and does not apply to the
892 transfer of a registration of a motor vehicle sold by a motor
893 vehicle dealer licensed under this chapter, except for the
894 transfer of registrations which includes the annual renewals.
895 This section does not affect the issuance of the title to a
896 motor vehicle, notwithstanding s. 319.23(8)(b).



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897 Section 11. Subsections (3) and (4) of section 316.081,
898 Florida Statutes, are renumbered as subsections (4) and (5),
899 respectively, and a new subsection (3) is added to that section
900 to read:

901 316.081 Driving on right side of roadway; exceptions.—

902 (3) On a road, street, or highway having two or more lanes
903 allowing movement in the same direction, a driver may not
904 continue to operate a motor vehicle at any speed which is more
905 than 10 miles per hour slower than the posted speed limit in the
906 furthestmost left-hand lane if the driver knows or reasonably
907 should know that he or she is being overtaken in that lane from
908 the rear by a motor vehicle traveling at a higher rate of speed.
909 This subsection does not apply to drivers operating a vehicle
910 that is overtaking another vehicle proceeding in the same
911 direction, or is preparing for a left turn at an intersection.

912 (4)-(3) Upon any roadway having four or more lanes for
913 moving traffic and providing for two-way movement of traffic, no
914 vehicle shall be driven to the left of the centerline of the
915 roadway, except when authorized by official traffic control
916 devices designating certain lanes to the left side of the center
917 of the roadway for use by traffic not otherwise permitted to use
918 such lanes, or except as permitted under paragraph (1) (b).
919 However, this subsection shall not be construed as prohibiting
920 the crossing of the centerline in making a left turn into or
921 from an alley, private road, or driveway.

922 (5)-(4) A violation of this section is a noncriminal
923 traffic infraction, punishable as a moving violation as provided
924 in chapter 318.



City of Gulf Breeze

OFFICE OF THE CITY MANAGER

June 20, 2013

TO: Mayor and City Council

FROM:  Edwin A. Eddy, City Manager

SUBJ: AMENDED LEASE - NEXTEL ON ELEVATED WATER TANK

The City Attorney and staff have been working with Black Dot Wireless (who is contracted with Nextel) on an amended lease for space on the City's elevated water tank located behind the fire station.

The City Attorney has advised Black Dot that the changes to the lease are acceptable. In anticipation of Black Dot returning the signed lease within the next few days, we are placing this matter on the agenda for your consideration.

RECOMMENDATION:

That the City Council approve the amended lease with Nextel for space on the City's elevated water tank for a communications platform and authorize the Mayor to sign the new lease.