

RESOLUTION 16-78

A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AUTHORIZING A BUDGET AMENDMENT APPROVING AN AGREEMENT BETWEEN THE CITY AND RICHARD MCMAHON IN THE AMOUNT OF \$55,000; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

WHEREAS, Richard McMahon filed a lawsuit against the City in federal court, seeking an injunction to protect his constitutional rights during Thunder Beach 2015, which injunction was granted by the court; and

WHEREAS, the parties have drafted a Consent Order to conclude the suit, which provides for the payment of attorney's fees; and

WHEREAS, a budget amendment is necessary to provide Mr. McMahon's funds in this settlement.

BE IT RESOLVED by the City of Panama City Beach, Florida that:

1. The Consent Order and Judgment relating to the settlement of Mr. McMahon's federal lawsuit, Case Number 5:16-cv-60-MW/GRJ, and the payment of Mr. McMahon's attorney's fees in the basic amount of Fifty Five Thousand Dollars (\$55,000) is hereby approved.
2. The following budget amendment (#25) is adopted for the City of Panama City Beach, Florida, for the fiscal year beginning October 1, 2015, and ending September 30, 2016, as shown in and in accordance with the attached and incorporated Exhibit A.
3. This Resolution shall take effect immediately upon passage.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Council of the City of Panama City Beach, Florida, this 26th day of May, 2016.

CITY OF PANAMA CITY BEACH

By: 

Mike Thomas, Mayor

ATTEST:


Diane Fowler, City Clerk

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION**

RICHARD MCMAHON,

Plaintiff,

vs.

Case No. 5:16-cv-00060-MW-GRJ

CITY OF PANAMA CITY BEACH,
FLORIDA,

Defendant.

_____ /

CONSENT ORDER AND JUDGMENT

Final resolution of this matter and controversy has been settled by and between the parties, and accepted by the Court, as reflected herein.

IT IS on this _____ day of _____, 2016,

ORDERED AND ADJUDGED AS FOLLOWS:

1. This Court hereby declares that the City of Panama City Beach policy granting permittee of the Festival Site of Frank Brown Park unlimited discretion to exclude unwanted expression on a traditional public forum during a public event that is free and open to the public violates rights guaranteed under the First Amendment to the United States Constitution.

2. This Court hereby declares that the City of Panama City Beach's policies violated Plaintiff Richard McMahon's First Amendment rights during

the 2015 Thunder Beach Spring Motorcycle Rally held in a traditional public forum.

3. Defendant is hereby permanently enjoined from interfering with or prohibiting Plaintiff or other third party speakers from engaging in constitutionally-protected expression in the form of literature distribution and dialogue at the Festival Site of Frank Brown during future Thunder Beach events on a traditional public forum during a public event that is free and open to the public.

4. Defendant shall pay Plaintiff \$1.00 in nominal damages. Defendant shall also pay attorney fees and litigations costs to Plaintiff's attorneys in the amount of \$55,000.00 within 20 days of the date this Order is entered.

This Court retains jurisdiction of this case solely to enforce the terms of this consent order and judgment.

BY THE COURT:

Mark E. Walker
United States District Judge

WE HEREBY CONSENT TO THE FORM
AND ENTRY OF THE ABOVE ORDER:

<p><i>s/Nathan W. Kellum</i> NATHAN W. KELLUM TN Bar #13482; MS Bar #8819 MARK A. MANGINI TN Bar #33422 Center for Religious Expression 699 Oakleaf Office Lane, Suite 107 Memphis, TN 38117 (901) 684-5485 – Telephone (901) 684-5499 – Facsimile nkellum@crelaw.org mmangini@crelaw.org</p> <p>Attorneys for Plaintiff</p>	<p><i>s/ Gwendolyn P. Adkins</i> Gwendolyn P. Adkins; FBN: 09495660 Zackery A. Scharlepp, FBN:0085374 1319 Thomaswood Drive Tallahassee, Florida 32308 Telephone: (850) 422-2420 Facsimile: (850) 422-2730 gadkins@coppinsmonroe.com zascharlepp@coppinsmonroe.com ATTORNEYS FOR DEFENDANT CITY OF PANAMA CITY BEACH</p>
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