REQUEST FOR CITY COUNCIL CONSIDERATION

Meeting Date: September 19, 2024

Agenda Item: 3A	Prepared by: Chris Noury, City Attorney
Agenda Section: Business: Resolution	Date: September 18, 2024
Subject: Resolution A	Division: Legal

Resolution:

A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF NORTH MYRTLE BEACH TO APPROVE THE NOTICE OF REMOVAL OF THE CITY MANAGER IN ACCORDANCE WITH S.C. CODE SECTION 5-13-70 AND TO APPROVE THE DOCUMENT ENTITLED "NOTICE OF REMOVAL STATEMENT OF SPECIFIC REASON(S)."

Recommended Action:
Adoption of the Resolution

Reviewed by Department Head	Reviewed by City Manager	Reviewed by City Attorney

Council Action:
Motion By_____ 2nd By_____ To_____

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF NORTH MYRTLE BEACH TO APPROVE THE NOTICE OF REMOVAL OF THE CITY MANAGER IN ACCORDANCE WITH S.C. CODE SECTION 5-13-70 AND TO APPROVE THE DOCUMENT ENTITLED "NOTICE OF REMOVAL STATEMENT OF SPECIFIC REASON(S)."

WHEREAS, the City of North Myrtle Beach employs a City Manager, who serves at the pleasure of City Council as prescribed by applicable South Carolina law, and whose Employment Agreement provides that he is employed by the City on an "at will" basis; and

WHEREAS, some members of the City of North Myrtle Beach's City Council have expressed their desire that the City exercise its right to end the City's employment relationship with City Manager Mike Mahaney; and

WHEREAS, prolonged efforts by some members of City Council to work out, through communications with the City Manager, the terms of a dignified exit arrangement for the City Manager, were not successful; and

WHEREAS, the removal of the City Manager requires a formal vote to take such action at a properly called City Council meeting; and

WHEREAS, the City of North Myrtle Beach City Council, after unsuccessful negotiations between some members of City Council and the City Manager, shall proceed in accordance with S.C. Code §5–13–70, which reads as follows:

> **Section 5-13-70.** Term of employment and compensation of manager; removal of manager by council.
>
> The term of employment of the manager shall be at the pleasure of the council and he shall be entitled to such compensation for his services as the council may determine. The council may, in its discretion, employ the manager for a definite term. If the council determines to remove the manager, he shall be given a written statement of the reasons alleged for the

proposed removal and the right to a hearing thereon at a public meeting of the council.

Within five days after the notice of removal is delivered to the manager, he may file with the council a written request for a public hearing. This hearing shall be held at a council meeting not earlier than twenty days nor later than thirty days after the request is filed. The manager may file with the council a written reply not later than five days before the hearing. The removal shall be stayed pending the decision at the public hearing.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL FOR THE CITY OF NORTH MYRTLE BEACH:

(1) The City Council desires to formally conclude its employment relationship with City Manager Mike Mahaney as soon as possible, subject to the provisions of S.C. Code §5-13-70; and

(2) In accordance with S.C. Code §5-13-70, which requires that City Council give to the City Manager a written statement of specific reason(s) for the proposed removal, City Council approves the Notice of Removal, which is attached to this Resolution and which sets forth specific reason(s) for removal of the City Manager; and

(3) City Council authorizes Mayor Marilyn Hatley, or her designee, to immediately deliver to the City Manager Mike Mahaney the following:

(a) Both a copy of this Resolution and the attached Notice of Removal document; and

(b) A copy of S.C. Code §5-13-70, which specifies that:

(i) the City Manager has the right to a public hearing at a City Council meeting regarding the reasons appearing in the Notice of Removal document;

(ii) the City Manager has five (5) days after the Notice of Removal document has been delivered to him to file with City Council a written request for a public hearing at a City Council meeting;

(iii) if the City Manager properly requests a public hearing, then City Council shall schedule and hold a public hearing for such purpose at a City Council meeting that is not earlier than twenty (20) days nor later than thirty (30) days after such a request has been made by the City Manager;

(iv) if the City Manager properly requests a public hearing, then the City Manager may file with City Council a written reply not later than five (5) days before the hearing; and

(v) if the City Manager properly requests a public hearing, then the City Manager remains employed by the City until after the public hearing at a City Council meeting, and until City Council takes further action to terminate its employment relationship with the City Manager.

RESOLVED THIS NINETEENTH DAY OF SEPTEMBER 2024.

Yes	No	Abstain	Not Present	Councilmember	Signature
☐	☐	☐	☐	Marilyn Hatley, Mayor	_____
☐	☐	☐	☐	JO Baldwin, Mayor Pro Tem	_____
☐	☐	☐	☐	Clarence 'Bubba' Collins	_____
☐	☐	☐	☐	Jon 'Fred' Coyne	_____
☐	☐	☐	☐	Nicole 'Nikki' Fontana	_____
☐	☐	☐	☐	Ray 'Trey' Skidmore	_____
☐	☐	☐	☐	Harry 'Hank' Thomas	_____

ATTEST:

_____
Allison K. Galbreath, City Clerk

Resolution: RES 24-08