THE MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF GALVESTON HELD DECEMBER 10, 2009- 4:00 PM

1. DECLARATION OF A QUORUM AND CALL MEETING TO ORDER.
2. MOMENT OF SILENCE
3. PLEDGE OF ALLEGIANCE
4. ROLL CALL: Present: CM Mahoney, CM Beeton, MPT Weber, CM Colbert, CM Woods, CM Fennewald (4:45 p.m.)
   Absent: Mayor Thomas, CM Fennewald
   Staff: City Manager LeBlanc, City Attorney Green, City Secretary Lawrence

5. DECLARATIONS OF CONFLICT
   None

6. APPROVAL OF MINUTES
   The Minutes of the Regular Meeting of November 5, 2009 were unanimously approved by those present upon motion by CM Colbert and second by CM Mahoney.

7. PRESENTATIONS
   A. Proclamations: None
   B. Eagle Scout Recognitions: Preston Huff, Jordan Buckley, Brandon Glover, Matthew Cassatt

8. COMMUNICATIONS AND PETITIONS
   A. Notices of Claim: 09088-Salvador Hernandez; 09089-Ceridwen Flores; 09076A-Michael A. Loomis, Jr.; 09076B-Michael A. Loomis, Jr.; 09090-Robert J. Gourlay

9. ORDINANCES ASSOCIATED WITH PUBLIC HEARINGS
   N/A

10. PUBLIC COMMENT
    Brandon Parker, 5606 Fraser, opposed to smoking ban as approved.
    Chula Ross Sanchez, 9111 Teichman Rd., asked to be reappointed to the Planning Commission.
    Betty Massey, 1602 Ave. O, Chair of Comprehensive Plan Committee, update on the committee process
    Damien Patrick, 4925 Ft. Crockett, spoke in support of Chula Ross Sanchez' reappointment to the Planning Commission.

11. ORDINANCES, RESOLUTIONS AND PROCLAMATIONS
    A. Consider for action a resolution of the City Council of the City of Galveston, Texas,

accepting an advance funding agreement between the City and the State of Texas by and through the Texas Department of Transportation funded through the American Recovery and Reinvestment Act of 2009 in the amount of $271,120.00 to finance an asphalt resurfacing project on 23RD Street from Harborside Drive to Broadway (CSJ# 0912-73-170); agreeing to all terms and conditions of such advance funding agreement; authorizing the City Manager or his designee to execute any and all documents relating to the acceptance and expenditure of this funding agreement; providing for findings of fact and providing for an effective date.

RESOLUTION NO. 09-085 was read by caption: ACCEPTING AN ADVANCE FUNDING AGREEMENT BETWEEN THE CITY AND THE STATE OF TEXAS BY AND THROUGH THE TEXAS DEPARTMENT OF TRANSPORTATION FUNDED THROUGH THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 IN THE AMOUNT OF $271,120.00 TO FINANCE AN ASPHALT RESURFACING PROJECT ON 23RD STREET FROM HARBORSIDE DRIVE TO BROADWAY (CSJ#0912-73-170); AGREEING TO ALL TERMS AND CONDITIONS OF SUCH ADVANCE FUNDING AGREEMENT; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE ANY AND ALL DOCUMENTS RELATING TO THE ACCEPTANCE AND EXPENDITURE OF THIS FUNDING AGREEMENT; PROVIDING FOR FINDINGS OF FACT AND PROVIDING FOR AN EFFECTIVE DATE.

Ms. Green stated the following change: Exhibit A , the 4th recital, the City's participation cost is estimated at $5,000. That should now be "an amount not to exceed $10,000 for each of the two projects.

CM Colbert moved approval. CM Beeton seconded. Unanimously approved by those present.

B. Consider for action a Resolution of the City Council of the City of Galveston, Texas, accepting an advance funding agreement between the City and the State of Texas by and through the Texas Department of Transportation funded through the American Recovery and Reinvestment Act of 2009 in the amount of $271,120.00 to finance an asphalt resurfacing project on 21ST Street from Harborside Drive to Broadway (CSJ# 0912-73-171); agreeing to all terms and conditions of such advance funding agreement; authorizing the City Manager or his designee to execute any and all documents relating to the acceptance and expenditure of this funding agreement; providing for findings of fact and providing for an effective date.

RESOLUTION NO. 09-086 was read by caption: ACCEPTING AN ADVANCE FUNDING AGREEMENT BETWEEN THE CITY AND THE STATE OF TEXAS BY AND THROUGH THE TEXAS DEPARTMENT OF TRANSPORTATION FUNDED THROUGH THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 IN THE AMOUNT OF $271,120.00 TO FINANCE AN ASPHALT RESURFACING PROJECT ON 21ST STREET FROM HARBORSIDE DRIVE TO BROADWAY (CSJ#0912-73-171); AGREEING TO ALL TERMS AND CONDITIONS OF SUCH ADVANCE FUNDING AGREEMENT; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE ANY AND ALL DOCUMENTS RELATING TO THE ACCEPTANCE AND EXPENDITURE OF THIS FUNDING AGREEMENT; PROVIDING FOR FINDINGS OF FACT AND PROVIDING FOR AN EFFECTIVE DATE.

CM Colbert moved approval with the City's participation costs not to exceed $10,000. Second by CM Mahoney. Unanimously approved by those present.

C. Consider for action an Ordinance of the City of Galveston, Texas, amending "The Code of the City of Galveston 1982, as amended", Chapter 11.5, "Clean Air: Smoking in Public Places" and Ordinance 09-044 to remove the prohibition on smoking in Retail Tobacco Stores, provided that persons under the age of 18 are prohibited from entering the establishment, no alcohol is consumed on the premises, and the establishment is located in a separate building from any other public place or independently ventilated and completely separated from any other public place by impermeable ceilings and impermeable walls; modifying the definition of a Retail Tobacco Store; providing for the posting of signage; providing for a penalty; providing for an effective date of January 1, 2010.

ORDINANCE N0. 09-073 was read by caption: AMENDING "THE CODE OF THE CITY OF GALVESTON 1982, AS AMENDED" CHAPTER 11.5, "CLEAN AIR: SMOKING IN PUBLIC PLACES" AND ORDINANCE 09-044 TO REMOVE THE PROHIBITION ON SMOKING IN RETAIL TOBACCO STORES, PROVIDED THAT PERSONS UNDER THE AGE OF 18 ARE PROHIBITED FROM ENTERING THE ESTABLISHMENT, NO ALCOHOL IS CONSUMED ON THE PREMISES, AND THE ESTABLISHMENT IS LOCATED IN A SEPARATE BUILDING FROM ANY OTHER PUBLIC PLACE OR INDEPENDENTLY VENTILATED AND COMPLETELY SEPARATED FROM ANY OTHER PUBLIC PLACE BY IMPERMEABLE CEILINGS AND IMPERMEABLE WALLS; MODIFYING THE DEFINITION OF A RETAIL TOBACCO STORE; PROVIDING FOR THE POSTING OF SIGNAGE; PROVIDING FOR A PENALTY; PROVIDING FOR AN EFFECTIVE DATE OF JANUARY 1, 2010; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT.

CM Colbert moved approval. Second by CM Woods.

CM Beeton requested the penalty in Section E be amended to include no alcohol consumption on the premises.

CM Colbert moved approval with an amendment to the Penalty Section E to include no alcohol consumed on the premises. CM Woods seconded.

Unanimously approved by those present.

D. Consider for approval a Resolution of the City Council of the City of Galveston, Texas, accepting a Clean Water State Revolving Fund - American Recovery and Reinvestment Act of 2009 - Special Capitalization Grant in the amount of $1,835,000 to finance the 33rd Street new sanitary sewer lines project; agreeing to all terms and conditions of such Grant; authorizing the City Manager or his designee to execute any and all documents relating to the acceptance and expenditure of such Grant.

RESOLUTION NO. 09-087 was read by caption: ACCEPTING A CLEAN WATER STATE REVOLVING FUND – AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 – SPECIAL CAPITALIZATION GRANT IN THE AMOUNT OF $1,835,000 TO FINANCE THE 33RD STREET NEW SANITARY SEWER LINES PROJECT; AGREEING TO ALL TERMS AND CONDITIONS OF SUCH GRANT; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE ANY AND ALL DOCUMENTS RELATING

TO THE ACCEPTANCE AND EXPENDITURE OF SUCH GRANT; PROVIDING FOR FINDINGS OF FACT AND PROVIDING FOR AN EFFECTIVE DATE.

Motion to approve by CM Mahoney. Second by CM Colbert. Unanimously approved by those present.

E. Consider for approval a Resolution of the City Council of the City of Galveston, Texas, accepting a Drinking Water State Revolving Fund - American Recovery and Reinvestment Act of 2009 - Special Capitalization Grant in the amount of $17,160,000 to finance various public works projects; agreeing to all terms and conditions of such Grant; authorizing the City Manager or his designee to execute any and all documents relating to the acceptance and expenditure of such Grant.

RESOLUTION NO. 09-088 was read by caption: ACCEPTING A DRINKING WATER STATE REVOLVING FUND – AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 – SPECIAL CAPITALIZATION GRANT IN THE AMOUNT OF $17,160,000 TO FINANCE VARIOUS PUBLIC WORKS PROJECTS; AGREEING TO ALL TERMS AND CONDITIONS OF SUCH GRANT; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE ANY AND ALL DOCUMENTS RELATING TO THE ACCEPTANCE AND EXPENDITURE OF SUCH GRANT; PROVIDING FOR FINDINGS OF FACT AND PROVIDING FOR AN EFFECTIVE DATE.

Motion to approve by CM Beeton. Second by CM Colbert. Unanimously approved by those present.

F. Consider for approval a Resolution of the City Council dissolving the City of Galveston Sister-City Partnership with Tamsui City, China and repealing Resolution No. 95-08.

RESOLUTION NO. 09-089 was read by caption: DISSOLVING THE CITY OF GALVESTON SISTER-CITY PARTNERSHIP WITH TAMSUI CITY, CHINA, AND REPEALING RESOLUTION NO. 95-08; DIRECTING THE CITY SECRETARY TO SEND A CERTIFIED COPY OF THIS RESOLUTION TO SISTER CITIES INTERNATIONAL; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT.

Motion to approve by CM Colbert. Second by CM Woods. Unanimously approved by those present.

G. Consider for approval a Resolution of the City Council of the City of Galveston, Texas supporting the City of Galveston's pursuit of Job Access and Reverse Commute (JARC) Program funding.

RESOLUTION NO. 09-090 was read by caption: SUPPORTING THE CITY OF GALVESTON'S PURSUIT OF JOB ACCESS AND REVERSE COMMUTE (JARC) PROGRAM FUNDING; PROVIDING FOR FINDINGS OF FACT AND PROVIDING FOR AN EFFECTIVE DATE.

Motion to approve by CM Colbert. Second by CM Woods. Unanimously approved by those present.

<u>CM FENNEWALD PRESENT</u>

12. ACTION ITEMS

The following items shall be considered for action as a whole, unless one or more Council Members objects:

A. Consider for action approving annual fuel supply contract to Oil Patch, Susser Petroleum and Petroleum Traders, which were the lowest bidders for the Municipal Fleet Facility. Funding source is Garage Fuel and Lubricant Accounts.

B. Consider for action authorizing change in the city employee 2010 IRS 125 cafeteria plan, allowed unreimbursed medical allowance reimbursement, to a maximum of $4,000.00 per year.

C. Consider for action ratification of amendment to Article 26c of Fire Collective Bargaining Contract between Galveston Local 571of International Firefighters Association and the City of Galveston beginning October 1, 2007 and continuing through September 30, 2010.

D. Consider for action ratification of amendment to Article 11 Section A3 and 4 of Police Collective Bargaining Contract between Galveston Municipal Police Association and the City of Galveston beginning October 1, 2007 and continuing through September 30, 2010.

E. Consider for action approving renewal of annual support contract with Advanced Utility Systems at a cost of $53,962.00. Funding source is Water, Sewer, Sanitation and Drainage Utility Billing Operating Budget.

F. Consider for action approving low responsive bidder Bid # 09-10-007 Matula & Matula Construction, out of Lake Jackson Texas, for the construction of the 16" waterline from 13-Mile Road to Jamaica Beach in the amount of $676,933.00. Funding source is Texas Water Development Board SRF ARRA Grant.

G. Consider for action approving low responsive bidder Bid #09-10-006 Landmark Structures, out of Fort Worth, for the construction of the Jamaica Beach elevated storage tank and pump station in the amount of $8,148,795.00. Funding source is Texas Water Development Board SRF-ARRA Grant.

H. Consider for action approving low responsive bidder Bid #09-10-005 Caldwell Tanks of Louisville, Kentucky, for the construction of the Isla Del Sol two million gallon elevated storage tank in the amount of $6,643,000.00. Funding source is Texas Water Development Board SRF ARRA Grant in the amount of $6,594,480.00 and the remaining $48,520.00 is the 2008 Waterworks Bond Fund.

I. Consider for action approving sole responsive bidder Bid #09-10-009 Classic Coatings, of Menomomie, Wisconsin, for the rehabilitation and surface coating of the White Sands elevated storage tank in the amount of $538,800.00. Funding source is Texas Water Development Board SRF ARRA Grant.

Motion to approve by CM Beeton. Second by CM Woods. Unanimously approved by those present.

J. Consider for action approving low responsive bidder Bid #09-10-012 Calco Contracting, of Houston, for the rehabilitation of 33rd Street sanitary sewer line in an amount not to exceed $1,683,000.00. Funding source is Texas Water Development Board SRF ARRA Grant.

K. Consider for action approving low responsive bidder Bid #09-10-008 Mercer Construction, of Edna, Texas, for the installation of two pressure sustaining valves in the amount of $317,500.00. Funding source is Texas Water Development Board SRF ARRA Grant.

L. Consider for action acceptance of proposal from CDM Engineering, Inc. for the construction phase services of the 33rd Street Sanitary Sewer Replacement /Rehabilitation Project for the Texas Water Development Board (TWDB) American Reinvestment and Recovery Act (ARRA) Grant Project. Authorizing the City Manager to execute a contract for services in a form approved by the City Attorney The cost of these services will not exceed $152,000.00. Funding source is TWDB ARRA Grant funds. This contract is contingent on the City receiving the grant of approximately $1.835 million dollars.

M. Consider for action approving awarding and authorizing the City Manager to enter into a contract to remove storm debris, including sand and silt, from the storm drain system throughout the City of Galveston to the most responsive bidder Bid #09-10-003B. Estimated expenditure not to exceed $8,000,000.00. Funding source is FEMA Cat A Reimbursement at 100%.

Mr. LeBlanc stated the most responsive bidder and staff's recommendation is Clean Serve, Inc., Pearland, Texas.

CM Mahoney moved approval with the most responsive bidder being Clean Serve, Inc. Second by CM Woods. Unanimously approved by those present.

N. Consider for action approving purchase of one Ford Expedition with service package for the Fire Department to be purchased from Philpott Motors through HGAC Buy for a total price of $28,058.59, which will be funded by the Texas Municipal League Insurance Settlement Account.

O. Consider for action approving purchase of one new Crown Victoria for the Police Department to be purchased from Philpott Motors through HGAC Buy for a total price of $22,442.39, which will be funded from the Accident Insurance Fund.

P. Consider for action acceptance of proposal from DRC Emergency Services to amend its agreement with the City of Galveston, as amended, specifically with regard to Attachment A Section 1 "Demolition of Structures", which originally provided for demolition of structures at a bid price without asbestos abatement, concrete slab removal or removal of septic tanks to now include asbestos abatement, concrete slab removal, removal of septic tanks and backfill necessary to grade the demolition area, without any additional charges, for a charge at or below the originally bid price of $23.98 per cubic yard of removed materials.

Motion to approve by CM Fennewald. Second by CM Mahoney. CM Fennewald and CM Mahoney amended the motion to deny. In favor: CM Mahoney, CM Beeton, MPT Weber, CM Colbert, CM Woods. Opposed: CM Fennewald. Motion to deny approved.

Q. Consider for action approving acceptance of proposal from DRC Emergency Services to demolish those homes City Council has approved for the HMGP Buyout Program at or below their current contract price of $23.98 per cubic yard. Funding source is 75% HMGP Buyout Grant and 25% to be funded by the homeowner.

WITHDRAWN

R. Consider for action approving adding to GEDP Scope of Services to include development of plans for the Old Incinerator Site and the Falstaff Building Area.

Jeff Sjostrum, Executive Director of GEDP was present to answer questions.

Motion to approve by CM Colbert. Second by CM Woods. Unanimously approved by those present.

S. Discuss and consider for action giving the City Manager direction regarding the Dune Protection Line and its review. (Fennewald/Beeton)

WITHDRAWN

T. Discuss and authorize the City Manager to take all necessary steps regarding the replanting of Broadway.

Motion to approve by CM Fennewald. Second by CM Woods. Unanimously approved by those present.

Motion to approve Action Agenda Items A, B, C, D, E, F, G, H, J, K, L, M and O by CM Beeton. Second by CM Woods. Unanimously approved by those present.

13. MAYOR AND COUNCIL APPOINTMENTS

A. Consider for action Mayor and Council Appointments to various City Boards, Committees and Commissions:

1. East End Golf Cart Committee\
CM Fennewald moved to appoint Bob Coffman, Don Fullen, Russ Mertens, Bob Holmes and Jeff Neilson. Second by CM Woods. Unanimously approved by those present.
2. Arts and Historic Committee
Withdrawn
3. Comprehensive Plan Committee
CM Mahoney moved to appoint Pat Jacobi, Rob Rusner, Bonnie White, Khristopher

Benson, Jackie Cole. Second by CM Woods. Unanimously approved by those present

4. Planning Commission
   CM Mahoney moved to reappoint Chula Ross Sanchez. Second by CM Fennewald. After discussion, Vote was as follows: In Favor: CM Mahoney, CM Beeton, CM Fennewald. Opposed: MPT Weber, CM Colbert, CM Woods. Motion failed.

   Applicants will be interviewed at the first Council meeting in January and the appointment will be made at that time.

14. N/A
15. N/A

16. DISCUSSION ITEMS
    A. City Council
       1. Update on the Old Falstaff Building and the Incinerator by Jeff Sjostrum. (Woods/Colbert)

17. ADJOURNMENT
    There being no further business to come before the assembly, the meeting was adjourned at 6:30 p.m.