MEETING 38 OF 48 2010 – 2012 CITY OF GALVESTON

MINUTES OF THE CITY COUNCIL OF THE CITY OF GALVESTON REGULAR MEETING THURSDAY– NOVEMBER 17, 2011

1. DECLARATION OF A QUORUM AND CALL MEETING TO ORDER.
Meeting called to order at 4:03 pm.

2. MOMENT OF SILENCE

3. PLEDGE OF ALLEGIANCE

4. ROLL CALL
Present: Dianna Puccetti, Elizabeth Beeton stepped out momentarily, Chris Gonzales, Mayor Joe Jaworski, Linda Colbert, Steve Greenberg stepped out momentarily, Rusty Legg.

5. CONFLICTS OF INTEREST
None

6. APPROVAL OF MINUTES
   A. Minutes of November 10, 2011
   Motion to approve by CM Legg, second by CM Puccetti. Unanimously approved by those present. CM Puccetti, CM Gonzales, Mayor Jaworski, MPT Colbert and CM Legg.

7. PRESENTATIONS
   A. 27th Graduating Class of the Galveston Police Citizen's Police Academy Certificates presented by Chief Porretto and Sgt. Sims, 12 recipients
   B. Presentation for the Bentley Award by Eric Wilson and Jeff Peters
   C. National Hospice Month received by Debra Perryman

8. COMMUNICATIONS & PETITIONS
   A. Raymond Orozco Claim # 11-066 **Notice of Claim**

9. PUBLIC HEARINGS
   A. Consider for approval an Ordinance of the City Council of the City of Galveston, Texas, granting to Cool Tours, LLC., the right, privilege, and Franchise to use all streets, avenues, and other public highways in the City of Galveston for and during the period of ten (10) years for the purpose of operating and maintaining a sightseeing and tour franchise for transporting passengers for compensation in said city; providing compensation to the city; requiring indemnity and insurance; requiring payment of ad valorem taxes; providing for forfeiture of this Franchise; requiring written acceptance by grantee; finding the public convenience and necessity requires such transportation service; providing a savings clause; providing a severability clause; declaring findings of fact; providing an effective date.

The proposed Ordinance was read by caption, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GALVESTON, TEXAS, GRANTING TO COOL TOURS, LLC., THE RIGHT, PRIVILEGE, AND FRANCHISE TO USE ALL STREETS, AVENUES, AND OTHER PUBLIC HIGHWAYS IN THE CITY OF GALVESTON FOR AND DURING THE PERIOD OF TEN (10) YEARS FOR THE PURPOSE OF OPERATING AND MAINTAINING A SIGHTSEEING AND TOUR FRANCHISE FOR TRANSPORTING PASSENGERS FOR COMPENSATION IN SAID CITY; PROVIDING COMPENSATION TO THE CITY; REQUIRING INDEMNITY AND INSURANCE; REQUIRING PAYMENT OF AD VALOREM TAXES; PROVIDING FOR FORFEITURE OF THIS FRANCHISE; REQUIRING WRITTEN ACCEPTANCE BY GRANTEE; FINDING THE PUBLIC CONVENIENCE AND NECESSITY REQUIRES SUCH TRANSPORTATION SERVICE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; DECLARING FINDINGS OF FACT; PROVIDING AN EFFECTIVE DATE.

No public comment.

No action.

Motion to defer to December 1, 2011, by CM Legg, second by CM Greenberg. Unanimously approved.

B. Consider for approval an Ordinance of the City of Galveston, Texas, granting a Specific Use Permit for a "Bed and Breakfast" in a Neighborhood Services, Historic District (NS-H) zoning district; property is legally described as Lots 8, 9, and 10, Block 136, in the City and County of Galveston, Texas and commonly known as 1019 16th Street, Galveston, Texas; Planning Case number 11P-130; making various findings and provisions related to the subject.

Ordinance No. 11-077 was read by caption, AN ORDINANCE OF THE CITY OF GALVESTON, TEXAS, GRANTING A SPECIFIC USE PERMIT FOR A "BED AND BREAKFAST" IN A NEIGHBORHOOD SERVICES, HISTORIC DISTRICT (NS-H) ZONING DISTRICT; PROPERTY IS LEGALLY DESCRIBED AS LOTS 8, 9, AND 10, BLOCK 136, IN THE CITY AND COUNTY OF GALVESTON, TEXAS AND COMMONLY KNOWN AS 1019 16TH STREET, GALVESTON, TEXAS.

No public comment.

Motion to approve by CM Greenberg, second by CM Legg & CM Puccetti. Unanimously approved.

C. Consider for approval an Ordinance of the City of Galveston, Texas, amending Ordinance No. 11-071, adopting the 2011 Comprehensive Plan for the City of Galveston, by modifying sections in the Transportation Element regarding Transit Connections between Island and Mainland destinations; Planning Case number 11PA-38; making various findings and provisions related to the subject.

Ordinance No. 11-078 was read by caption, AN ORDINANCE OF THE CITY OF GALVESTON, TEXAS, AMENDING ORDINANCE NO. 11-

071, ADOPTING THE 2011 COMPREHENSIVE PLAN FOR THE CITY OF GALVESTON, BY MODIFYING SECTIONS IN THE TRANSPORTATION ELEMENT REGARDING TRANSIT CONNECTIONS BETWEEN ISLAND AND MAINLAND DESTINATIONS.

No public comment.

Motion to approve by CM Puccetti, second by MPT Colbert. Unanimously approved.

10. REQUESTS TO ADDRESS COUNCIL ON AGENDA ITEMS

1. Carrie Olson – Olson Piling has not been paid from Housing Recovery

11. ORDINANCES, RESOLUTIONS

A. Consider for approval an Ordinance of the City of Galveston, Texas to tax tangible personal property in transit which would otherwise be personal property pursuant to Texas Tax Code, Section 11.253; directing the City Secretary to send a certified copy of this Ordinance to the Chief Appraiser of the Galveston County Central Appraisal District; making various findings and provisions related to the subject; and providing an effective date of January 1, 2012.

Ordinance No. 11-079 was read by caption, AN ORDINANCE OF THE CITY OF GALVESTON, TEXAS TO TAX TANGIBLE PERSONAL PROPERTY IN TRANSIT WHICH WOULD OTHERWISE BE PERSONAL PROPERTY PURSUANT TO TEXAS TAX CODE, SECTION 11.253; DIRECTING THE CITY SECRETARY TO SEND A CERTIFIED COPY OF THIS ORDINANCE TO THE CHIEF APPRAISER OF THE GALVESTON COUNTY CENTRAL APPRAISAL DISTRICT.

Motion to approve by CM Puccetti, second by MPT Colbert. Unanimously approved.

12. CONSENT ITEMS

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

A. Consider for action authorizing additional legal fees in the amount of $20,000.00 to the law firm of Blank Rome LLP (formerly Abrams, Scott and Bickley) for defense of City Claim #10-041, *In Re: Sonya M. Porretto*, Case No. 09-35324 in the United States Bankruptcy Court for the Southern District of Texas, Houston Division and City Claim #10-060, *Carol Severance vs. Jerry Patterson, et al.*, Cause No. 09-0387 in the Supreme Court of Texas.

B. Consider acceptance of the proposal from Aviles Engineering Corporation for materials testing services for the Pelican Island 20 inch waterline project. The cost of these services will not exceed $44,261.75. The

funding source is CDBG Disaster Recovery Grant Non-Housing Program Phase I.
Withdrawn.

C. Consider acceptance of the proposal from Aviles Engineering Corporation for materials testing services for the Pelican Island 20 inch waterline project. The cost of these services will not exceed $44,261.75. The funding source is CDBG Disaster Recovery Grant Non-Housing Program Phase I.

D. Consider acceptance of the proposal from Vehiclepath for the annual service renewal plan of 84 GPS units in the amount of $24,151.68. The funding source is various public works maintenance accounts.

E. Consider for acceptance of the proposal from Geotest Engineering, Inc. for materials testing services for the Lift Station Number 1 Improvement Project. The cost of these services will not exceed $24,915.00. The funding source is CDBG Disaster Recovery Grant Non-Housing Program Phase I.

F. Consider acceptance of the proposal from Tolunaywong Engineers, Inc. for materials testing services for the Fire Station Number 4 Project. The cost of these services will not exceed $38,054.00. The funding source is CDBG Disaster Recovery Grant Non-Housing Program Phase I.

G. Consider for action authorizing the City Manager to execute a budget amendment to the Texas Water Development Board (TWDB) American Reinvestment and Recovery Act (ARRA) Drinking Water Grant. The new result of the budget amendment will yield a reimbursement to the Water Improvement Subfund in the amount of $49,867.50.

H. Consider for approval for the purchase of one new 2011 Ford F450 flatbed truck for the police departments marine division for a total price of $44,076.11 from Philpott Motors through Buy Board. The funding source will be from a Homeland Security Grant and the garages Vehicle Replacement Account. This vehicle will be utilized for the transporting and launching of a 30' GPD boat.

I. Consider for approval of the purchase of two Chevrolet police package SSV Tahoe's for the police department from Caldwell Country through Buy Board for total price of $67,916.00. The funding source will be the garages Vehicle Replacement Fund.

J. Consider for approval ratifying and approving the transfer of a portion of the engagement as co-counsel for CDBG and CDBG-DR matters awarded in part to Law Offices of William T. Avila PC through RFP#09-10-011A from Law Offices of William T. Avila PC to Fulbright & Jaworski LLP under the same terms and conditions as initially awarded and approved;

and authorizing the City Attorney to execute a new engagement letter with Fulbright & Jaworski LLP as Co-Counsel.

K. Consider for approval Change Order #2 from Landmark Structures to request a time extension of sixty (60) calendar days. The time extension is requested to provide the necessary time required to submit and obtain approved submittals for the work described and approved in Change Order #1 for which an inadequate amount of time was included for their submittal process when requesting Change Order #1. The cost of the change order is $0.00.

L. Consider for approval Change Order #3 from Caldwell Tanks, Inc. to request a time extension of an additional seventy seven (77) calendar days. The time extension request is to provide the necessary time required for the completion of the Jamaica Beach Elevated Water Storage Tank and Pump Station. The Isla Del Sol Elevated Water Storage Tank completion and operation is dependent upon the completion of the Jamaica Beach Elevated Water Storage Tank and Pump Station. The Jamaica Beach Elevated Storage Tank and Pump Station Project has requested additional time and therefore makes it necessary for the Isla Del Sol Elevated Water Storage Tank Project to also request a time extension. The cost of the change order is $0.00.

Motion to approve Consent Items A, through L, except B by CM Puccetti, second by MPT Colbert. Unanimously approved.

13. ACTION ITEMS

A. Consider for action giving direction on the City Manager search process.
No action.

B. Discuss and consider for action providing the City Manager direction regarding the Disaster Housing Recovery Program.
No action.

C. Consider for approval amending and submitting the FEMA Project Worksheet (PW) 15002 (TR-115) which is an alternate project to be used for additional funding for the City Hall Door and Window Project. After the deduction of City Insurance Proceeds the new FEMA PW will be a total of $105,084.40 with a 19% local match requirement from insurance.
Motion to approve by CM Puccetti, second by MPT Colbert. Unanimously approved.

D. Consider for approval of the award of their bid to the Board of Trustees of the Galveston Wharves (Port) for the purchase of the Shearn Moody Garage in the amount of $3,001,012.42, subject to the conditions delineated in the bid solicitation. Bid Item 10-11-032.
Motion to approve by CM Beeton, second by CM Legg. Unanimously approved.

E. Consider for approval a Letter of Intent between the Board of Trustees of the Galveston Wharves and the City for the development of the Downtown Intermodal Terminal subject to the City Manager final approval, and authorize the City Manager to negotiate a Ground Lease and Development and Facilities agreement with the Port to support same.
Motion to approve by MPT Colbert, second by CM Legg. Unanimously approved.

F. Consider for approval of the lowest, most responsive proposal (RFP#11-12-001) for the rehabilitation of 27 owner occupied housing units in a base bid amount of $3,205,326.44 from DSW Homes LLC. Funding is provided under the CDBG Disaster Recovery Housing Program and the Home Investment Partnership Program.
Motion to approve by CM Puccetti, second by MPT Colbert. Unanimously approved.

G. Consider for approval Staff's recommendation for the CDBG Disaster Recovery Housing Program Round 2 in the amount of $122,612,652.00 and authorize the City Manager to file a grant application with the State of Texas and execute all necessary certifications, documents and contracts for the CDBG Disaster Recovery Program Round 2.
Motion to defer until December 1, 2011 by CM Gonzales, second by CM Greenberg & CM Puccetti. Unanimously approved.

H. Consider for approval authorizing the City Attorney to hire outside counsel to discuss the potential sale of port property.
Motion to approve by Mayor Jaworski, second by MPT Colbert. Unanimously approved.

14. MAYOR AND COUNCIL APPOINTMENTS

A. Consider for action Mayor and Council Appointments to various City Boards, Committees and Commissions:
None

15 N/A

16. N/A

17. REQUESTS TO ADDRESS COUNCIL ON NON-AGENDA ITEMS

1. Sheila Bell - disaster preparedness
2. Jamal Shabaz - against the decision made by Council on the 25 million allocation to GHA.
3. Steve Mataro - appreciation for winning the bid process
4. Rosyln Jackson against the decision made by Council on the 25 million allocation to GHA.

18. ADJOURNMENT

Meeting adjourned at 5:12 pm.

Respectfully submitted,

Douglas Godinich
City Secretary