

THE MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL
OF THE CITY OF GALVESTON HELD NOVEMBER 5, 2009- 4:00 P.M.

1. DECLARATION OF A QUORUM AND CALL MEETING TO ORDER.
2. MOMENT OF SILENCE
3. PLEDGE OF ALLEGIANCE
4. ROLL CALL: Present: Mayor Thomas, CM Mahoney, CM Beeton, MPT Weber, CM Colbert, CM Fennewald, CM Woods (4:10 p.m.)
Staff: City Manager LeBlanc, City Attorney Green, City Secretary Lawrence
5. DECLARATIONS OF CONFLICT
N/A
6. APPROVAL OF MINUTES
The Minutes of the Regular Meeting of October 8, 2009 were approved by those present upon motion by CM Mahoney and second by MPT Weber. CM Woods absent
7. PRESENTATIONS
 - A. Proclamations
 - B. American Planning Association Award
8. COMMUNICATIONS AND PETITIONS
 - A. Notices of Claim: 09082-Deklincia Williams; 09083-Norma Sanders Meyers; 09084-Randal Matthews; 09085-Michael Lahar; 09086-Progressive Casualty Ins./Larry W. Lathrop; 09087-Victor Rabago
 - B. Texas Gas Service - Weather Normalization Clause for September 2008-May 2009
9. ORDINANCES ASSOCIATED WITH PUBLIC HEARINGS
N/A.
10. PUBLIC COMMENT
The public shall be allowed to address one or more agenda or non-agenda items. Each person shall be limited to five (5) minutes, regardless of the number of items addressed.

Sergio and Soledad Pineda, 11847 Sunbather Lane, Sands of Kahala, asked to be allowed to join the buyout program.
Willa Nadalin, 23114 Camino, spoke in favor of the use of golf carts on the beach.
Ed Nadalin, 23114 Camino, Past President of Terramar Beach Homeowners Assn. spoke in favor of the use of golf carts.
John Halsey, 3710 Port Trinidad, spoke in favor of the use of golf carts.
Bruce Reinhart, 3312 Thousand Oaks Cove, Austin, Texas, stated he was opposed to the buyout program
Victor Cerda, 4220 Spoonbill Lane, spoke in favor of the use of golf carts.
Charles Kaufmann, 2010 Sydnor, asked to be appoint to the TIRZ 14 Board.

Annette Moore, 4111 2nd St., Bay Harbor, spoke in favor of the use of golf carts.
 Kathie Hayes, 3919 Navarro, Sea Isle, spoke in favor of the use of golf carts.
 Tom Gillespie, 4014 Kent, Sea Isle, spoke in favor of the use of golf carts.
 Susan Graham, 21914 Lampasas, spoke in favor of the use of golf carts.
 Cathy Winsor, 3814 Port Trinidad, spoke in favor of the use of golf carts.
 Steve Greenberg, asked that the plastic bags be removed from the parking meters.
 Jackie Cole, 2508 Sydnor, stated he was opposed to reducing the time for the public to speak at council meetings.
 Rosemary Foote, 2011 Ave. O ½, spoke regarding code enforcement issues.
 Jeff Nielson, 1808 Ave. P, spoke in favor of forming a committee to develop an ordinance for the use of golf carts.
 Scott Arnold, President of Terramar Beach Homeowners Assn., 23012 Cuadro, spoke in favor of the use of golf carts.
 Pat Kirk, Vice President of the Terramar Beach Homeowners Assn., 23014 Cuadro, spoke in favor of the use of golf carts.
 Jerry Mohn, 4210 Silver Reef, President of West Galveston Island Property Owners Assn., spoke in favor of the use of golf carts.
 Herbert Turner, 215 Postoffice, asked Council not to reduce the public comment period.
 Jimmy Pappas, 13614 Pirates Beach Blvd., spoke in favor of the use of golf carts.
 Sheila Bell, P.O. Box 1001, said the city needs a weather warning system.

11. ORDINANCES, RESOLUTIONS AND PROCLAMATIONS

- A. Consider for approval an Ordinance of the City of Galveston, Texas, amending "The Code of the City of Galveston 1982, as amended" to reduce the membership of the Intermodal Transportation Committee composition from eleven to seven voting members and from two to one ex-officio non-voting city council member; making various findings and provisions related to the subject.

ORDINANCE NO. 09-064 was read by caption: AMENDING "THE CODE OF THE CITY OF GALVESTON 1982, AS AMENDED" TO REDUCE THE MEMBERSHIP OF THE INTERMODAL TRANSPORTATION COMMITTEE COMPOSITION FROM ELEVEN TO SEVEN VOTING MEMBERS AND FROM TWO TO ONE EX-OFFICIO NON-VOTING CITY COUNCIL MEMBER; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT.

CM Colbert moved approval. Second by CM Woods. Unanimously approved.

- B. Consider for approval an Ordinance of the City of Galveston, Texas amending "The Code of the City of Galveston 1982, as amended", Section 2-139, "Order of Business" to reduce the time for public comment at regular Council meetings from five (5) minutes to three (3) minute on agenda items, non-agenda items, and public hearings. (Woods/Colbert)

ORDINANCE NO. 09-065 was read by caption: AMENDING "THE CODE OF THE CITY OF GALVESTON 1982, AS AMENDED", SECTION 2-139, "ORDER OF BUSINESS", TO REDUCE THE TIME FOR PUBLIC COMMENT AT REGULAR COUNCIL MEETINGS FRM FIVE (5) MINUTES TO THREE (3) MINUTES ON AGENDA ITEMS, NON-AGENDA ITEMS, AND PUBLIC HEARINGS; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT.

City Attorney Green said Section 2-41 of the City Code needed to be added to the proposed ordinance.

CM Colbert moved approval. Second by CM Woods. In favor: MPT Weber, Mayor Thomas, CM Woods, CM Colbert. Opposed: CM Mahoney, CM Beeton, CM Fennewald. Motion carried.

- C. Consider for approval an Ordinance of the City of Galveston, Texas amending Chapter 32 Streets, Sidewalks and Public Places, of “The Code of the City of Galveston, 1982, as amended” to permit the abutting property owner to plant trees in certain areas of the City right-of-way without requiring a license to use provided that the property owner meet specified conditions and providing for an administrative appeal; requiring maintenance of vegetation in the easement; amending Chapter 34, “Traffic”, Section 34-6 “Intersection Visibility” to conform to the tree requirements in Chapter 32; making various findings and provisions related to the subject.

ORDINANCE NO. 09-066 was read by caption: AMENDING CHAPTER 32 STREETS, SIDEWALKS AND PUBLIC PLACES, OF “THE CODE OF THE CITY OF GALVESTON 1982, AS AMENDED” TO PERMIT THE ABUTTING PROPERTY OWNER TO PLANT TREES IN CERTAIN AREAS OF THE CITY RIGHT-OF-WAY WITHOUT REQUIRING A LICENSE TO USE PROVIDED THAT THE PROPERTY OWNER MEET SPECIFIED CONDITIONS AND PROVIDING FOR AN ADMINISTRATIVE APPEAL; REQUIRING MAINTENANCE OF VEGETATION IN THE EASEMENT; AMENDING CHAPTER 34, “TRAFFIC”, SECTION 34-6 “INTERSECTION VISIBILITY” TO CONFORM TO THE TREE REQUIREMENTS IN CHAPTER 32; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT.

Motion to approve by MPT Weber. Second by CM Colbert.

Dr. Jackie Cole, Chair of the Tree Conservancy Committee explained the proposed ordinance.

Motion was unanimously approved.

- D. Consider for approval a Resolution of the City Council of the City of Galveston, Texas, approving and authorizing the Mayor to execute an Agreement between the City of Galveston and Jim Schweitzer to serve as Municipal Court Judge for a two year term.

RESOLUTION NO. 09-078 was read by caption: APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF GALVESTON AND JIM SCHWEITZER TO SERVE AS THE MUNICIPAL COURT JUDGE FOR A TWO-YEAR TERM; PROVIDING FOR FINDINGS OF FACT AND PROVIDING FOR AN EFFECTIVE DATE.

Motion to approve by CM Woods. Second by MPT Weber. Unanimously approved.

Break: 7:00 p.m. - 7:20 p.m.

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 renewal of GIS maintenance contract and safeguard, a vital tool used daily by both Planning and Public Works Departments, in the amount of \$16,367.95. Funding sources are Information Technology, Planning and Public Works.
 - B. Consider for action approving authorizing the City Manager to execute a participation agreement for a grant for Routine Airport Maintenance Program (RAMP) after final approval by the City Attorney.
 - C. Consider for action approving authorizing the City Manager to make an expenditure of \$17,500.00, which is the City's share of TXDOT Project No. AP GALVESTON 15, TXDOT CSJ No. 09TBGALVN, for the design fee for schematic design only for renovation of the terminal building. Funding source is Capital Improvement Account.
- WITHDRAWN

- D. Consider for action approving the purchase of one used Volvo EC160C tracked excavator, for Municipal Utilities, from Romco Equipment Company, which was the lowest bidder for \$68,129.00. This vehicle will be funded by Texas Municipal League Insurance Funds, Claim #0800148801 (replacement of Unit 1573).
- E. Consider for action approving authorizing the City Manager to execute all documents necessary for donation agreement between the City and the Astros in Action Foundation and authorizing the City Manager to accept the work donated there under, and to purchase and place bronze plaques at Columbo Field and Buccaneer Field to commemorate the donors gift to the City.

City Attorney Green stated that this item represented a \$125,000 donation from the Astros in Action Foundation. MPT Weber stated the organization usually does on field a year but they did two fields for Galveston this year.

- F. Consider for action approving request by Galveston Historical Foundation (GHF) for funds in the amount of \$60,000.00 to match a grant from the Kempner Foundation of \$60,000 for a total of \$120,000 to be used for work at the Garten Verein facility to include reroof, replacement of damaged exterior woodwork and exterior painting with appropriation from General Fund, recovery cost match line item and source funds available from HOT-Historic Structure Preservation consistent with GHF lease agreement terms.

Motion to approve by MPT Weber. Second by CM Woods. Unanimously approved.

- G. Consider for action approving acceptance of grant from the Kempner Fund Match Children's contribution of \$25,000.00 and matching with City funds of \$25,000.00, using the General Fund Hurricane Ike Recovery Match Account, to complete park improvement projects located in Menard Park, Shields Park and Wright Cuney facility area.

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

- H. Consider for action approving lowest bid (Bid #08-09-012) from A & F Elevator for repairs to the West Annex office elevator. Cost for this project is \$17,895.00. Funding source is FEMA PW#SW-211 (90%) \$16,105.50 and the remaining funds \$1,789.50

will come from the Public Works Department Supply and Wastewater Treatment Building Repairs Account.

- I. Discuss and consider for action giving the City Manager direction to proceed with the additional acquisition of property under the FEMA Hazard Mitigation Grant Program in the Sands of Kahala Subdivision at 11847 Sunbather Lane.

Motion to approve by CM Mahoney. Second by CM Colbert. In favor: CM Mahoney, MPT Weber, Mayor Thomas, CM Colbert, CM Woods. Opposed. CM Beeton, CM Fennewald. Motion carried.

- J. Discuss and consider for action providing City Manager direction regarding Workshop Meetings.

After discussion, **CM Fennewald moved to have Council Workshop Meeting at 2:00 p.m. prior to the 4:00 Regular Council Meeting beginning December 3, 2009. Second by CM Woods Unanimously approved.**

- K. Discuss and consider for action accepting the sole response to RFQ#08-09-003 in which the City of Galveston (City) solicited proposals from qualified law firms to obtain an opinion from the Texas Attorney General that "surplus revenues" the City receives pursuant to a Development Agreement with a private partner may be expended by the City as general revenue funds rather than as hotel tax funds subject to restrictions on use. The sole response was submitted by McLeod, Alexander, Powel & Apffel, P.C. with alternative fee arrangements: a) on an hourly basis (with or without a cap), or b) submitting the contract to the Comptroller on a contingency fee basis and authorizing the submission of the necessary documents to the Comptroller by the City Manager or his designee.

After discussion, **CM Fennewald moved to approve option (a) on an hourly basis not to exceed \$20,000. Vote: In Favor: CM Mahoney, CM Beeton, Mayor Thomas, CM Colbert, CM Fennewald, CM Woods. Opposed: MPT Weber. Motion carried.**

- L. Discuss and consider the formation of an ad hoc committee to make recommendations on the use of golf carts in master planned communities and also on other public streets and roadways with the City of Galveston.

MPT Weber moved to give the City Attorney direction to bring back to Council an ordinance authorizing the use of golf carts on all streets in the City of Galveston where speed limits are 35 miles per hour or less in accordance with state law. Second by CM Fennewald.

Vote: In Favor: CM Weber, CM Fennewald Opposed: CM Mahoney, CM Beeton, Mayor Thomas, CM Colbert, CM Woods. Motion failed.

CM Mahoney moved that Council form an ad hoc committee to make recommendations on the use of golf carts in master planned communities and also on other public streets and roadways in the City of Galveston. Second by CM Colbert.

Vote: In Favor: CM Mahoney, CM Beeton, MPT Weber, Mayor Thomas, CM Colbert, CM Woods. Opposed: CM Fennewald. Motion carried.

CM Fennewald moved approval of Action Items A, B, C, D, E, H and J. Second by CM Woods. Unanimously approved.

13. MAYOR AND COUNCIL APPOINTMENTS

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

TIRZ 14: **CM Mahoney moved to appoint Charles Kauffman. Second by CM Woods. Unanimously approved.**

Golf Cart Ad Hoc Committee: DEFERRED

14. N/A

15. EXECUTIVE SESSION (Closed Session)

N/A

16. DISCUSSION ITEMS: DISCUSSION ONLY - NO ACTION TAKEN

A. City Manager

1. Discuss the Corps of Engineers Feasibility Study
2. Update on the San Jacinto Neighborhood Conservation District
3. Discuss expiration of temporary housing (trailers, recreational vehicles) and storage units

Mayor Thomas left the meeting: 10:15 p.m.

4. Discuss amending beach/dune rules regarding construction following renourishment projects
5. Discuss the use of golf carts on public beaches.
6. Discuss the use of golf carts on public highways to and from a golf course.
7. Discuss the use of golf carts on public highways within master planned communities.

B. City Council

1. Discuss applications to FEMA regarding stump removal because of resident complaints dealing with termite problems. (Woods/Colbert)

CM Mahoney left the meeting: 10:30 p.m.

2. Discuss amount of money set aside for elevation of the homes in Galveston. (Woods/Colbert)

CM Fennewald left the meeting: 10:40 p.m.

3. Discuss report/update on the re-opening of Wright Cuney Park. (Woods/Colbert)
4. Discuss expanding hours at Johnny Romano Skate Park. (Beeton/Fennewald)
5. Discuss actions necessary to improve the cleanliness of the City. (Beeton/Mahoney)

17. ADJOURNMENT

There being no further business to come before the assembly, the meeting was adjourned at 11:10 p.m.