THE MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL
OF THE CITY OF GALVESTON HELD OCTOBER 22, 2009- 3:00 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 Beeton, CM Mahoney, MPT Weber, CM Colbert, CM Fennewald (4:00 p.m.), CM Woods (3:12 p.m.)
   Staff: City Manager LeBlanc, City Attorney Green, City Secretary Lawrence, Deputy City Manager Wade

5. DECLARATIONS OF CONFLICT
   CM Mahoney declared a conflict on Action Item 12.I.

6. APPROVAL OF MINUTES
   Special Meeting September 17, 2009: Motion to approve by MPT Weber. Second by CM Colbert. Unanimously approved.
   Regular Meeting September 24, 2009: Quorum of those who attended not present to vote.
   Regular Meeting October 8, 2009: City Secretary will check on Action Items F and N and bring back to Council.

3:00 P.M. Interview applicants for Municipal Court Judge
The following applicants were interviewed: John Campbell, Oktavia Carstarphen, Travis Fanning, Jim Schweitzer

7. PRESENTATIONS
   A. Proclamations: National Pharmacy Week - October 18-24, 2009
      National Diabetes Awareness Month - November 2009

8. COMMUNICATIONS AND PETITIONS
   A. Notices of Claim: 09071-Byron Frankland, Holly Camune; 09072-AT&T; 09073-S.S. Eggleston; 09074-Andrew Garcia; 09075-ATT&T; 09076-Michael Andrew Loomis, Jr.; 09077-Nike Wang; 09078-Andre Leroy Parish; 09079-The Galveston Bar & Tavern Owners Assn.; 09080-Derrick Hambric; 09081-Randal F. Smith
   B. Texas Gas Service: Annual Reconciliation Audit for July, 20008 - June, 2009

9. ORDINANCES ASSOCIATED WITH PUBLIC HEARINGS
   N/A

10. PUBLIC COMMENT

Jan Coggeshall, 10 Dansby, opposed to expenses for RDA Meeting with Council.

Jimmy De La Santos, President - Galveston Municipal Police Assn., spoke in support of the reappointment of Municipal Court Judge Jim Schweitzer.

Ellen Hanley, 1615 Sealy, spoke in support of the reappointment of Judge Schweitzer.

Peggy Zahler, 12520 East Ventura, thanked Council for street rebuild in Spanish Grant and spoke in support of Action Item 12.S.

Jerry Mohn, 4210 Silver Reef, spoke in support of Action Item 12.D

Bob Mahan, 16215 Diamond Rock, Executive Director of Smoking and Tobacco Education Campaign, stated opposition to weakening the smoking ordinance.

Jackie Cole, 2308 Sydnor, asked if the expenses that were incurred for the RDA/City Council joint meeting were authorized.

Curtiss Brown, stated the TIRZ expenses for the RDA/City Council Meeting were appropriate.

Ruth Finkelstein, 215 Barracuda, representing the American Heart Assn. spoke in support of the smoking ordinance.

Chris David, 2113 Augusta Dr., said he was opposed to the smoking ordinance.

Steve Everts, 4527 Ave. O ½, opposed to the smoking ban.

Teresa Everts, 4527 Ave. O ½, opposed to the smoking ban.

Randall Petit, 2108 Church spoke on behalf of Landry's and said there should be a fair compromise in the smoking ordinance.

Dan Barnhart, Bermuda Beach, spoke in support of the buyout program.

Kris Hall, in favor of the buyout program. Read statement from Sergio Peneda in support of the buyout.

Carol Severance, spoke in support of the buyout program.

Walter Parsons, 4411 Fox Meadow, 23120 Gulf Dr., in support of the buyout program.

Chris Peele, 22919 Gulf Dr., spoke in support of the buyout program.

Richard Bell, 4231 Ghost Crab Lane, spoke in support of the buyout program.

Susie Reiswerg, 2954 Dominique, said she did not support the buyout program. Independent contractors should be used to determine eligibility for the program.

Robert Arbeitman, 22420 Kennedy Dr., spoke in support of the buyout program.

Charles Smith, said he was opposed to the smoking ban.

Shep Poland/Jeff Eyler, Verizon, spoke in support of Action Item 12.I.

Rhonda Gregg, 1025 Commodore, spoke regarding increasing the hours for the Skatepark.

Mike Hughes, 1602 Ball, spoke in support of Action Item 12.N.

Mr. Trapp, contractor, asked for the opportunity to bid on construction jobs in Galveston.

11. ORDINANCES, RESOLUTIONS AND PROCLAMATIONS

A. Consider for approval a Resolution of the City Council for the City of Galveston, Texas, authorizing the acceptance of a $31,500.00 sub-grant from the Homeland Security Grant Program to purchase communication and C-Soft Software to enhance the interoperability of the EOC Communications for the City of Galveston; directing and authorizing the City Manager to execute all necessary documents relating to the grant; providing for findings of fact and an effective date.

ORDINANCE NO. 09-077 was read by caption: AUTHORIZING THE ACCEPTANCE OF A $31,500.00 SUB-GRANT FROM THE HOMELAND SECURITY GRANT PROGRAM TO PURCHASE COMMUNICATION AND C-SOFT SOFTWARE TO ENHANCE THE

INTEROPERABILITY OF THE EOC COMMUNICATIONS FOR THE CITY OF GALVESTON; DIRECTING AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS RELATING TO THE GRANT; PROVIDING FOR FINDINGS OF FACT AND AN EFFECTIVE DATE.

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

12. ACTION ITEMS

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

A. Discuss the East End Flats including but not limited to legislation, requests for information, development, funding the RDA, and related matters, and consider for action providing the City Manager Direction (Mayor)

Mayor Thomas asked for a motion to move to direct the City Manager to begin the process to obtain title to the East End Flats. CM Woods so moved. CM Colbert seconded.

After discussion CM Woods moved to amend his motion to direct the City Manager to develop a plan to seek the title to the East End Flats and that District 3 CM Beeton will work with the City Manager to develop the plan. CM Colbert accepted the amendment. Vote: In favor: CM Mahoney, CM Beeton, MPT Weber, Mayor Thomas, CM Colbert. CM Woods. Opposed: CM Fennewald. Motion carried.

B. Consider for action approving award of RFB # 08-09-057 to Fred Hartel Company for reroofing a portion of EMS roof at 26th & Avenue Q and total reroof of EMS roof at 50th & Avenue Q ½, $13,760.00 with decking replacement as needed an additional $2.25 per square foot and an additional $4.35 LF fascia replacement. Authorizing the City Manager to execute the contract. Funding source is using a combination of allowed FEMA funds, property insurance proceeds and Risk Management uninsured claims account.

C. Consider for action approving FTA ARRA Stimulus Funds in the amount of $1,575,182.00 for Island Transit Maintenance Facility Expansion, no local match, and authorizing the City Manager to execute the agreement.

D. Consider for action authorizing the City Manager to enter into a professional services contract with Nick Kralj and Buster Brown for the purpose of providing lobbyist services at the state level relating to coastal planning and funding as part of an interlocal agreement between the City of Galveston, the Park Board of Trustees, the City of Jamaica Beach and the County of Galveston. Total contract is $24,000.00.

Motion to approve by CM Mahoney. Second by MPT Weber. Unanimously approved by those present. CM Colbert and CM Fennewald absent.

CM Beeton asked that the minutes reflect that the City be given a report six months from now and 12 months from now and Jerry Mohn, on behalf of the task force said that would be no problem.

E. Consider for action approving contract with Forward Edge, Inc. for administration and testing for a Drug Free Environment for a period of three years beginning November 1, 2009.

F. Consider for approval and authorizing the City Manager to execute TXDOT contract amendment #1, reallocation of $122,000.00 for purchase of computer hardware/software for upgrade of Island Transit dispatch equipment from funding previously authorized for purchase for two type 3 handi van vehicles.

G. Consider for action acceptance of funds $215,000.00 from Galveston Island Nature Tourism Council (GINTC) to assist in the funding of the East End Lagoon Master Plan development and approve awarding of contract $346,820.00 to EDAW AECOM under RFP 07-08-013 for the completion of phase 1 & 2 of the master plan for East End Lagoon site and authorizing the City Manager to execute the fund acceptance and the design agreements.

H. Consider for action approving Change Order No. 3 to Boyer, Inc. contract for the new 30th Street Pump Station Project adding $315,966.57 and 120 calendar days to the revised contract amount of $16,199,177.21 for a new contract amount of $16,515,143.78 for a net cumulative addition of 4.7% over the original contract amount of $15,775,394.00. Funding source is Water Improvement Account.

I. Consider for action authorizing the City Manager to execute an agreement between the City of Galveston and GTE Mobilnet of South Texas Limited Partnership d/b/a Verizon Wireless (Verizon) leasing approximately one thousand six hundred ninety seven (1,697) square feet portion of the White Sands Water Storage Tower property located west of and adjacent to 24830 Termini Road in the City and County of Galveston for communication equipment and a non exclusive right to place an antenna on a portion of the City's water tower, for a period of ten years with automatic renewals for three additional five year terms subject to the terms of the attached agreement, subject to departmental approvals and approval of the GLO.

CM Mahoney declared a conflict of interest.

Motion to approve by MPT Weber. Second by CM Woods. In favor: CM Beeton, MPT Weber, Mayor Thomas, CM Woods. CM Fennewald and CM Colbert absent. CM Mahoney abstaining due to conflict of interest. Motion approved.

J. Consider for action approving accepting the proposal from Boyer, Inc. for permanent repairs to the Airport Pump Station as a result of the fire on August 7, 2009, (a latent Hurricane Ike Defect) in the amount of $67,238.00. Funding source is FEMA reimbursement at 90% PW#WA-118 Category F Permanent Work. The remaining 10% will be funded from the Water Improvement Account.

K. Consider for action approving sole source purchase from Badger Meter of 200 5/8" x ¾" bronze recordall M25 7 ½" lay length, RTR Orion Pit Data Profile Transmitter, cubic feet wireless pit intergral, 50 1" recordall M70 Orion Pit Data Profile Transmitter, bronze housing bottom wireless pit intergral and 10 2" Turbo Series 200 ELL intergral strainer/test plug, RTR, Orion Pit Data Profile Transmitter used for new service installations. The purchase amount is $45,594.30. The funding source is Municipal Utilities Distribution and Collection Minor Equipment Account.

L. Discuss the smoking ordinance and consider for action directing the City Attorney to draft revisions for Council's consideration. (Woods/Weber)
WITHDRAWN

M. Discuss and consider for action appointing the municipal court judge for a two-year term.

CM Mahoney moved to reappoint Judge Jim Schweitzer. Second by MPT Weber. Unanimously approved by those present. CM Fennewald absent.

N. 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 and authorizing the submission of the City's request for Attorney General opinion and supporting documents to the Texas Attorney General in accordance with state law.

MPT Weber moved to deny. Second by CM Woods. Vote: In Favor: CM Woods, MPT Weber, Mayor Thomas Opposed: CM Beeton and CM Mahoney Absent: CM Colbert, CM Fennewald. Motion failed.

No action taken.

O. Consider for action approving an Interlocal Agreement between the City of Galveston and the County of Galveston, Texas partially fund improvements to city streets known as Stewart Road, 7 Mile Road and Avenue H within the city limits of Galveston, Texas and authorizing the City Manager to execute all documentation.

P. Consider for action accepting donations from the City of League City, Texas of three large trees as well as of landscaping and sod from the Galveston Island Tree Conservancy for placement in the area south of and adjacent to City Hall.

Q. Discuss and consider for action giving the City Manager direction to proceed with the acquisition of a property under the FEMA Hazard Mitigation Grant Program in the Sunny Beach Subdivision at 11213 Bernice Drive.

R. Discuss and consider for action giving the City Manager direction to hold on proceeding with the acquisition of properties under the FEMA Hazard Mitigation Grant Program for homes that are in the Sands of Kahala Subdivision pending further evaluation by the City Staff.

S. Discuss and consider for action giving the City Manager direction to proceed with the acquisition of properties under the FEMA Hazard Mitigation Grant Program in the Spanish Grant Beachside Subdivision at 12420 East Ventura, 12531 East Buena Vista, 12535 West Buena Vista, 12539 West Buena Vista, 12603 West Buena Vista and 12633 West Ventura.

T. Discuss and consider for action giving the City Manager direction to proceed with the acquisition of a property under the FEMA Hazard Mitigation Grant Program in the Bermuda Beach Subdivision at 12702 Bermuda Beach Drive, 12804 John Reynolds Road, 13022 Bermuda Beach Drive and 13124 Bermuda Beach Drive.

U. Discuss and consider for action giving the City Manager direction to proceed with the acquisition of a property under the FEMA Hazard Mitigation Grant Program in the Pirates Beach Subdivision at 4243 Pelican Drive.

V. Discuss and consider for action giving the City Manager direction to proceed with the acquisition of properties under the FEMA Hazard Mitigation Grant Program in the Gulf Palms Subdivision at 17407 Bristow (Gulf Palms), 17418 Bristow (Gulf Palms), 17430 (Gulf Palms) and 17510 Bristow (Gulf Palms).

W. Discuss and consider for action giving the City Manager direction to hold on proceeding with the acquisition of properties under the FEMA Hazard Mitigation Grant Program for homes at 4421 Antiqua Drive, 21206 Gulf Drive, 21238 Gulf Drive, 22330 Kennedy Drive, 22420 Kennedy Drive, 22708 Kennedy Drive, 22716 Kennedy Drive, 22919 Gulf Drive, 23102 Gulf Drive and 23120 Gulf Drive pending further evaluation by City Staff.

CM Mahoney moved approval of Action Agenda Items Q, R, S, T, U, V and W with direction to proceed with the buyout of all the properties listed. Second by CM Colbert.

Deputy City Manager Wade explained the items.

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

CM Colbert left the meeting.

X. Consider for approval and authorize the City Manager to engage Camp, Dresser and McKee Inc., of Houston, Texas, subject to City Attorney Approval, for Community Development Block Grant Disaster Recovery Management Services; $16,528,233.00 Direct Home-Owner Assistance: $6,500,000.00 for a total amount not to exceed $23,028,223.00. Funding is to be provided by U.S.

Department of Housing and Urban Development (HUD), CDBG-D Housing Allocation in connection with Texas Department of Housing and Community Affairs, Disaster Recovery Funds: 24 DFR 570, CFDA 14.218 and 14.228. Deputy City Manager Wade gave an explanation of Action Item X. Betty Massey, Chair of the Long Term Recovery Committee and Laura Murrell, a member of the committee, recommended Council approval.

CM Mahoney moved approval. CM Woods seconded. Motion approved by those present. CM Fennewald absent.

Y. Discuss and consider for action hiring Steve Schultz as a consultant to work with the City Attorney's Office on the Falstaff Building. (Woods/Colbert)
WITHDRAWN

MPT Weber moved approval of Action Agenda Items B, C, E, F, G, H, J, K, O and P. Second by CM Woods. Unanimously approved by those present. CM Fennewald and CM Colbert absent.

13. MAYOR AND COUNCIL APPOINTMENTS
   A. Consider for action Mayor and Council Appointments to various City Boards, Committees and Commissions:
      1. Police Pension Plan Board of Trustees
      2. TIRZ 14 Board

14. N/A

15. EXECUTIVE SESSION
    N/A

16. DISCUSSION ITEMS

   A. City Manager
      1. Discuss the current status of Parks and Recreation Facilities

   B. City Council
      1. Discuss and receive information on the East End Flats from Norma Venso of the RDA, Jeff Sjostrum of GEDP and Billy Sullivan of Sullivan Interests. (Mayor Thomas)
         Jeff Sjostrum discussed the history of the process to obtain the East End Flats.
         Billy Sullivan discussed his involvement with the East End Flats.

      2. Discuss and receive information on the East End Flats from Ed Clack and Joe Wristers. (Beeton/Fennewald)
         Ed Clack made remarks pertaining to the process.

Joe Wristers made remarks pertaining to expertise available.

3. Discuss applications to FEMA regarding stump removal because of resident complaints dealing with termite problems. (Woods/Colbert)
   WITHDRAWN
4. Discuss amount of money set aside for elevation of the homes in Galveston. (Woods/Colbert)
   WITHDRAWN
5. Discuss report/update on the re-opening of Wright Cuney Park. (Woods/Colbert)
6. Discuss expanding hours at Johnny Romano Skate Park. (Beeton/Fennewald)
7. Discuss date and time for joint workshop with GHA Commissioners to review and discuss current Redevelopment Plan. (Mayor)
8. Discuss attorney and consultant costs for August 6, 2009 Joint Workshop Meeting between Council and the RDA. (Beeton/Fennewald)

17. ADJOURNMENT

There being no further business to come before the assembly, the meeting was adjourned at 10:45 p.m.