

THE MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL
OF THE CITY OF GALVESTON OCTOBER 8, 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: Mayor Thomas, CM Mahoney, CM Beeton, MPT Weber, CM Colbert, CM Fennewald, CM Woods
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 September 10, 2009 were approved upon motion by CM Beeton and second by MPT Weber. CM Mahoney was absent September 10 and abstained.

Council went into Executive Session at 4:05 p.m.

Council reconvened into Regular Session at 4:45 p.m.

7. PRESENTATIONS

- A. Proclamations: Fire Prevention Week
- B. Request to Council to Implement City- Wide Housing Market Study: Betty Massey

8. COMMUNICATIONS AND PETITIONS

- A. Notices of Claim: N/A
- B. Southern Union Gas: Weather Normalization Adjustment Collection annual report for September, 2008 through May, 2009.
Weather Normalization Clause for May, 2009
- C. Galveston County Emergency Communication District: Proposed FY 2010 Budget

9. ORDINANCES ASSOCIATED WITH PUBLIC HEARINGS

- A. Consider for approval an Ordinance of the City of Galveston, Texas designating the structure located at 2202 Avenue C/Mechanic as a "Galveston Landmark"; property is legally described as "the South 51 feet of Lots 8 and 9(8-2), Block 622," in the City and County of Galveston, Texas" (Planning Case 09P-81); requesting the historic preservation officer to record the property's landmark designation in the official public records of real property of Galveston County, the tax records of the City of Galveston, and the Central Appraisal District, as well as the official zoning maps of the City of Galveston; making various findings and provisions related to the subject.

ORDINANCE NO. 09-063 was read by caption: DESIGNATING THE STRUCTURE LOCATED AT 2202 AVENUE C/MECHANIC AS A "GALVESTON LANDMARK"; PROPERTY IS LEGALLY DESCRIBED AS "THE SOUTH 51 FEET OF LOTS 8 AND 9(8-2),

BLOCK 622,” IN THE CITY AND COUNTY OF GALVESTON, TEXAS” (PLANNING CASE 09P-81); REQUESTING THE HISTORIC PRESERVATION OFFICER TO RECORD THE PROPERTY’S LANDMARK DESIGNATION IN THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY OF GALVESTON COUNTY, THE TAX RECORDS OF THE CITY OF GALVESTON, AND THE CENTRAL APPRAISAL DISTRICT, AS WELL AS THE OFFICIAL ZONING MAPS OF THE CITY OF GALVESTON; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT.

Director of Planning Wendy O’Donohoe explained the request.

Mayor Thomas opened the PUBLIC Hearing. There being no one to speak, the Public Hearing was closed.

10. PUBLIC COMMENT

Pat Hazelwood, 3019 Ave. R1/2, stated her opposition to public housing. She also stated Council should wait to make a decision on the East End Flats.

Neal Jones, 924 Ave. L, stated the bickering among council members has to stop. Members of Council need to get along. He also requested that the City not give away the East End Flats.

Bob McDonald, 11811 Sunbather Lane, Sands of Kahala Beach, said he was opposed to the BuyOut Program.

Charlotte O’Rourke, 1123 Church, stated her opposition to using CDBG funds for a study on Port of Galveston property.

Ted O’Rourke, 1123 Church, said to keep the Port a Port. He also stated that he did not approach John Samuels about the East End Flats.

Russ Mertens, 1402 Ave. N ½, various subjects.

Teri McGregor, Dickinson, Texas, read a letter from the Tim Molidor family in support of the BuyOut.

Bruce Reinhart, 3312 Thousand Oaks Cove, stated that, if houses can be permitted, they shouldn’t be bought out.

Scott Jones, 4240 Spoonbill, said he appreciated Action Items K and L being handled separately.

Mike Campbell, 21206 Gulf Drive, appreciated Action Items K and L be separated and asked Council to please pass Item K and let those families move forward.

Gary Anderson, 13607 Windlass Circle, Galveston Island Nature Tourism Council, spoke in support of Item 11.A.

Mort Voller, 4218 Pirates Cove, Galveston Island Nature Tourism Council, spoke in support of Item 11.A.

Suzie Reiswerg, 2954 Dominique, said there were too many unanswered questions about the BuyOut Program.

Bruce Leipzig, 11807 Sunbather Lane, Sands of Kahala Beach, spoke in support of the Buyout Program for property on the public beach.

Teresa Everts, 4527 Ave. O ½, spoke regarding problems with the smoking ordinance and asked Council to revisit the issue. She spoke regarding a Takings Impact Statement.

Andy Lang, 13122 Bermuda Beach Dr., spoke in support of Item 12.E.

Les Berger, spoke in support of the BuyOut Program.

Dan Barnhart, 12640 W. Ventura, spoke in support of the BuyOut Program

Carol Severance, spoke in support of the BuyOut Program.

Gayle Barnhart, 12925 Bermuda Beach, spoke in support of the Buyout Program.
Harvey Wolfman, 23102 Gulf Dr., spoke in support of the BuyOut Program.
Kris Hall, 11831 Sunbather Lane, Sands of Kahala Beach, spoke in support of the BuyOut Program.

William Bell, Humble, Texas, Contractor, explained the damage assessment process.
Larry Bishop, 11851 Sunbather Lane, Sands of Kahala Beach, spoke in support of the BuyOut Program.

Chris Peele, 22919 Gulf Drive, spoke in support of the BuyOut Program.
Cindy Bishop, 11851 Sunbather Lane, Sands of Kahala Beach, spoke in support of the BuyOut Program.

Mike Orlando, Pirates Beach, stated he felt there was a need for fair appraisals on properties before the BuyOut is done.

Walt Parsons, 4411 Fox Meadow, spoke in support of the BuyOut Program.

Marie Garrett, Bermuda Beach, spoke in support of Item 12.E.

Peggy Zahler, 12520 East Ventura, President of Spanish Grant Homeowners Assn., spoke in support of Item 12.E.

Richard Bell, 4231 Ghost Crab Lane, spoke in support of the BuyOut Program.

Karla Klay, 4919 Austin, gave an update on the grant request of open space for hazard mitigation.

Rick Schraeder/John Meerhead, spoke in support of the BuyOut Program.

Jerry Mohn, West Galveston Island Property Owners Assn. spoke in support Item 12.E and the BuyOut Program.

Break: 7:20 p.m. - 7:50 p.m.

11. ORDINANCES, RESOLUTIONS AND PROCLAMATIONS

- A. Consider for approval a Resolution of the City of Galveston, Texas making available from the City's San Luis Convention Center Surplus Hotel Occupancy Tax Funds in an amount not to exceed \$135,000 for use by the City to assist in the funding of project master design phase of East End Lagoon open space recreational, ecosystem participation site enhancement which expenditure will enhance and promote tourism and the convention and hotel industry.

RESOLUTION NO. 09-075 was read by caption: MAKING AVAILABLE FROM THE CITY'S SAN LUIS CONVENTION CENTER SURPLUS HOTEL OCCUPANCY TAX FUNDS IN AN AMOUNT NOT TO EXCEED \$135,000 FOR USE BY THE CITY TO ASSIST IN THE FUNDING OF PROJECT MASTER DESIGN PHASE OF EAST END LAGOON OPEN SPACE RECREATIONAL, ECOSYSTEM PARTICIPATION SITE ENHANCEMENT WHICH EXPENDITURE WILL ENHANCE AND PROMOTE TOURISM AND THE CONVENTION AND HOTEL INDUSTRY; PROVIDING FOR FINDINGS OF FACT AND PROVIDING FOR AN EFFECTIVE DATE.

Motion to approve by CM Fennewald. Second by CM Mahoney. Unanimously approved by those present. CM Beeton out of the room and did not vote.

- B. Consider for approval a Resolution of the City of Galveston, Texas supporting and requesting the Texas Department of Transportation to permit the placement of a Jack Johnson statue within the Broadway esplanade at Jack Johnson Boulevard (41st Street).

RESOLUTION NO. 09-076 was read by caption: SUPPORTING AND REQUESTING THE TEXAS DEPARTMENT OF TRANSPORTATION TO PERMIT THE PLACEMENT OF A JACK JOHNSON STATUE WITHIN THE BROADWAY ESPLANADE AT JACK JOHNSON BOULEVARD (41ST STREET); DIRECTING THE CITY SECRETARY TO SEND A CERTIFIED AND TRUE COPY OF THIS RESOLUTION TO THE TEXAS DEPARTMENT OF TRANSPORTATION; PROVIDING FOR FINDINGS OF FACT AND PROVIDING FOR AN EFFECTIVE DATE.

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

After discussion, **the motion was approved with CM Mahoney, MPT Weber, Mayor Thomas, CM Colbert and CM Woods in favor. Opposed: CM Fennewald and CM Beeton.**

CM Beeton asked that the minutes reflect that she agrees that the city should recognize Jack Johnson and his achievements, but she would prefer that a park be created and named for him on the block south of the Customs House, where part of Magnolia Homes was, and that the statue be placed in that park.

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 authorizing the City Manager to execute a first amendment of the lease between Air Logistics, LLC and the City of Galveston amending Article 2 Leased Premises to add 40,632 square feet of unimproved land and Article 3 Rental to add \$406.32 per month additional rental, upon final approval by the City Attorney.
- B. Consider for action approving the second amendment to the Interlocal Agreement with Galveston County for the provision of using the County contract with Carehere LLC to provide pharmacy (RX) services to eligible city employees/dependents as recommended by the Chapter 172 Employee Health Board and authorizing the City Manager to execute the agreement.
- C. Consider for action approving the purchase of two John Deere 310SJ Backhoes through HGAC Buy from Rush Equipment Center for \$152,101.00 for Municipal Utilities. Funding source is Texas Municipal League Insurance Settlement Account.
- D. Consider for action approving accepting a 2009 Homelessness Prevention and Rapid Re-Housing Program Grant (HPRP) from the U.S. Department of Housing and Urban Development in the amount of \$585,604.00 and approving subrecipients for funding under the HPRP grant program in the amount of \$555,558.80.
- E. Consider for action approving revisions to the June 11, 2009, City Council approved Phase 1 CDBG Disaster Recovery Non-Housing Program.

Motion to approve by CM Mahoney. Second by CM Colbert.

Deputy City Manager Wade explained the revisions to the program. Barbara Crews explained the request for funding of the Downtown Study.

After discussion, the motion was approved. In favor: CM Mahoney, CM Beeton, MPT Weber, Mayor Thomas, CM Colbert, CM Woods. Opposed: CM Fennewald.

- F. Discuss and consider for action providing direction to City Manager concerning City Council Workshops.

DEFERRED

- G. 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)

DEFERRED

- H. Consider for action accepting the Frito Lay-North America donation of \$1 million to help fund construction of an urban park on the Galveston seawall at the Fort Crockett site and authorizing the City Manager to execute the acceptance letter.

- I. Discuss and consider for action giving staff direction on the Municipal Court Judge contract.

MPT Weber moved to reappoint Jim Schweitzer. Second by CM Mahoney. After discussion the motion was withdrawn.

CM Beeton moved to reappoint Judge Schweitzer. Second by CM Mahoney. Vote: In favor: CM Beeton, MPT Weber, CM Mahoney Opposed: CM Colbert, CM Woods, Mayor Thomas. Absent: CM Fennewald. Motion failed.

Mayor Thomas moved to begin the October 22 meeting at 3:00 p.m. to interview the applicants for Municipal Court Judge. Second by MPT Weber. Unanimously approved by those present. CM Fennewald absent.

- J. Discuss and consider for action issuing RFP for contractor to post, store and index Channel 16 content on city website. (Beeton/Fennewald)

CM Beeton moved approval. Second by CM Colbert. Unanimously approved by those present. CM Fennewald absent and did not vote.

- K. Discuss and consider for action giving the City Manager direction to proceed with the acquisition of homes currently under consideration for participation in the FEMA Hazard Mitigation Grant Program that are on the beachfront and are touching or are seaward of the Texas General Land Office August 2009 "200-Ft from Mean Low Tide" line.

Mr. Wade explained the item.

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

After discussion, MPT Weber amended his motion to give the City Manager direction to go forward with action to purchase the homes that are on the beachfront or are touching seaward of the General Land Office established 200 foot from the median low tide provided that the homeowners secure a waiver/release from the homeowners association exempting the city. CM Colbert accepted the amendment.

CM Beeton stated she was not going to vote for Item K because it includes the buyout of 20 vacant lots that are not eligible for construction permits and; therefore, do not obstruct beach access or beach renourishment.

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

CM Fennewald left the meeting.

- L. Discuss and consider for action giving the City Manager direction to hold on proceeding with the acquisition of homes under the FEMA Hazard Mitigation Grant Program for homes that are on the beachfront and are not touching and are landward of the Texas General Land Office August 2009 “200; Ft from Mean Low Tide” line.

Mr. Wade recommended approval.

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

John Gilland of the GLO stated they would be glad to work with the City as it goes through the process as it pertains to the GLO rules or any nourishment project that would be out there.

Unanimously approved by those present. CM Fennewald had left the meeting and did not vote.

City Attorney Green clarified the motion as follows: To give the City Manager direction to hold on proceeding with the acquisition of homes under the FEMA Hazard Mitigation Grant Program for homes that are on the beachfront and are not touching and are landward of the GLO August 29, 2009 200 Ft. from Mean Low Tide line. The Council has seen the 29 homes that have been identified and Brandon Wade will review them on a case by case basis and bring back future recommendations to Council.

- M. Discuss and consider for action giving the City Manager direction to proceed with requesting permission from the Texas Division of Emergency Management to allow for the addition of and subsequent acquisition of homes that are not currently under consideration in the FEMA Hazard Mitigation Grant Program and are on the beachfront and are touching or are seaward of the Texas General Land Office August 2009 “200-Ft from Mean Low Tide” line.

Motion to approve by CM Mahoney. Second by CM Colbert. After discussion, CM Mahoney moved to amend the motion to require that there must currently be a structure on the lot with the proviso that, if some property owners come forward whose houses are gone, those will be looked at later but for purposes of this motion to proceed on with lots that have existing structures. There would also be the same requirements requiring a release from the homeowners associations. CM Colbert seconded the amendment.

Unanimously approved. CM Fennewald absent and did not vote.

CM Colbert moved to approve Action Items A, B, C, D and H. Second by CM Woods. Unanimously approved.

- N. Consider for action approving an Interlocal Agreement with Galveston County to partially fund improvements to City Streets known as Stewart Road, 7 Mile Road and Avenue H within the City limits of Galveston, Texas.

DEFERRED

CM Colbert moved to approve Action Agenda Items A, B, C, D and H. Second by CM Woods. Unanimously approved.

13. MAYOR AND COUNCIL APPOINTMENTS

N/A.

14. N/A

15. EXECUTIVE SESSION (Closed Session)

- A. Pursuant to the Texas Government Code § 551.071, "Consultation with Attorney", to discuss and receive legal advice pertaining to :

Hazard Mitigation Grant Buyout Program

16. DISCUSSION ITEMS: Discussion only - No action taken

A. City Manager

1. Discuss Backflow Prevention
2. Discuss the Long-Term Recovery Committee "Downtown Redevelopment Plan" and the assignment to Galveston Historic Downtown Partnership

B. Finance Director

C. City Attorney

D. City Council

1. Discuss with Galveston Housing Authority Commissioners public concerns regarding the Housing Authority Rebuilding Process. (CM Woods/CM Beeton)

WITHDRAWN

2. Discuss report/update on the re-opening of Wright Cuney Park. (CM Woods/CM Colbert)

DEFERRED

3. 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)

DEFERRED

4. Discuss implementing Housing Market Study. (Mayor)

E. City Secretary

1. Discuss meeting dates for November and December. The November meetings will be November 5 and November 12. The December meetings will be December 3 and December 10.

17. ADJOURNMENT

There being no further business to come before the assembly, the meeting was adjourned at 11:55 p.m.