Meeting 25 of 48 2010-2012 City of Galveston, Texas

THE MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF GALVESTON
THURSDAY– MAY 12, 2011 4:00 P.M.

1. DECLARATION OF A QUORUM AND CALL MEETING TO ORDER
Meeting called to order at 4:12 pm

2. MOMENT OF SILENCE
3. PLEDGE OF ALLEGIANCE
4. ROLL CALL: PRESENT: **Mayor Jaworski, CM Puccetti, CM Beeton, MPT Colbert, CM Greenberg, CM Legg, CM Gonzales**

5. CONFLICTS OF INTEREST: **CM Greenberg on items 12F & 13C**

6. APPROVAL OF MINUTES: **The minutes of April 27, 2011, April 28, 2011, and May 3, 2011 with the change that CM Puccetti was present at the May 3rd meeting were unanimously approved by a motion from MPT Colbert and second by CM Puccetti.**

7. PRESENTATIONS & PROCLAMATIONS
   A. Galveston Island Beach Revue Weekend was presented by the Mayor.
   B. National Beach Safety Week was received by Peter Davis.
   C. Go College! Day was not presented.
   D. First Presbyterian Church Day was received by Rev. David Green.
   E. National Maritime Day was received by John Peterland.

8. COMMUNICATIONS & PETITIONS
   A. Michael Shaddle – 11-029 Notice of Claim
   B. Blanton Backstrom – 11-030 Notice of Claim

9. PUBLIC HEARINGS
   A. Consider for approval an Ordinance of the City of Galveston, Texas, amending "The Zoning Standards", Section 29-90 "Development, Preservation and Protection of Sand Dunes", "Appendix A: Beach Access and Parking Plan" to formally recognize parking areas for beach access in areas AP 1(A) (Beachtown Development), AP 1(B) (Palisade Palms), AP 1(C) (Area West of the Islander East to the Eastern Boundary of Stewart Beach Park); Planning Case Number 11ZA-05; making various findings and provisions related to the subject.
   Motion to defer until the May 26, 2011, meeting by CM Puccetti and second by CM Legg, unanimously approved.

   B. Consider for approval an Ordinance of the City of Galveston, Texas, granting a specific use permit for "Building material sales, outside sales and storage permitted" land use, in a Light Industrial, Gateway Development Zone 1 (LI-GDZ-1) zoning district; commonly known as "Lowe's Home Center" the property is located north of Broadway, west of 54th street, east of 57th street and south of avenue H/Ball street and is legally described as M Menard Survey Reserve B, in Block 2 of Galveston County Justice Center (2004), in the City and County of Galveston, Texas; Planning Case Number 11P-40.

ORDINANCE NO. 11-033 was read by caption: GRANTING A SPECIFIC USE PERMIT FOR "BUILDING MATERIAL SALES, OUTSIDE SALES AND STORAGE PERMITTED" LAND USE, IN A LIGHT INDUSTRIAL, GATEWAY DEVELOPMENT ZONE 1 (LI-GDZ-1) ZONING DISTRICT; COMMONLY KNOWN AS "LOWE'S HOME CENTER" THE PROPERTY IS LOCATED NORTH OF BROADWAY, WEST OF 54TH STREET, EAST OF 57TH STREET AND SOUTH OF AVENUE H/BALL STREET AND IS LEGALLY DESCRIBED AS M MENARD SURVEY RESERVE B, IN BLOCK 2 OF GALVESTON COUNTY JUSTICE CENTER (2004), IN THE CITY AND COUNTY OF GALVESTON, TEXAS; PLANNING CASE NUMBER 11P-40.

Matthew Newchurch from DDG Civil Engineers & Architects for Lowe's spoke regarding the project.

Motion to approve by CM Gonzales, second by CM Legg, unanimously approved.

C. Consider for approval an Ordinance of the City of Galveston, Texas, granting a specific use permit in conjunction with construction of a "Recreational vehicle/boat storage facility; property is commonly known as 715 North Holiday Drive and is legally described as M Menard Survey Tracts 22 (79.195 acres), 24 (0.826 acres), 27 (4.458 acres), and 28 (16.699 acres); Lot 1, Block 1, Sheraton; Subdivisions in the City and County of Galveston, Texas; Planning Case Number 11P-42.

ORDINANCE NO. 11-034 was read by caption: GRANTING A SPECIFIC USE PERMIT IN CONJUNCTION WITH CONSTRUCTION OF A "RECREATIONAL VEHICLE/BOAT STORAGE FACILITY; PROPERTY IS COMMONLY KNOWN AS 715 NORTH HOLIDAY DRIVE AND IS LEGALLY DESCRIBED AS M MENARD SURVEY TRACTS 22 (79.195 ACRES), 24 (0.826 ACRES), 27 (4.458 ACRES), AND 28 (16.699 ACRES); LOT 1, BLOCK 1, SHERATON; SUBDIVISIONS IN THE CITY AND COUNTY OF GALVESTON, TEXAS; PLANNING CASE NUMBER 11P-42.

Motion to approve by CM Gonzales, second by CM Greenberg, unanimously approved.

10. REQUEST TO ADDRESS COUNCIL ON AGENDA ITEMS

1. Bob McDonald – 13I
2. Bruce Leipzig – 13I
3. David Miller – 13J
4. Sheila Brown – 13J
5. Chris Hall – 13I
6. Gary McGregor – 13I
7. Kreshon Johnson – 13J
8. Leon Philips – 13J
9. James Dennis – 13J

10. Victor Spell – 13J
11. Michael Gertner – 13C
12. John Dreiss – 13I
13. David Stanowsky – 13H
14. Herbert Turner – 13E, 13J, 13H
15. Sheila Bell – 13J
16. Corneleus Harris Banks – 13J, 13A
17. Cleveland Martin – 13J
18. Paula Lynch – 13H

11. ORDINANCES, RESOLUTIONS

A. Consider for approval an Ordinance of the City of Galveston, Texas, amending Chapter 8, "Beaches and Waterways," of "the Code of the City of Galveston 1982, as Amended," Article II. "Multi-use Areas," by amending Section 8-35.2 "Reserved" to Section 8-35.2 "Surf Lesson Rules", by providing for instruction of surf lessons and a penalty provision; amending Section 8-35.3, "Surf Camp Rules", defining "Surf Camp" to include instruction of a group of three (3) or more persons, adding the sport of "Stand Up Paddling", deleting requirement of a certified lifeguard and modifying swim requirements for participants; amending the hours of surf camp operation; correcting typographical and grammatical errors; making various findings and provisions related to the subject.
ORDINANCE NO. 11-035 was read by caption: AMENDING CHAPTER 8, "BEACHES AND WATERWAYS," OF "THE CODE OF THE CITY OF GALVESTON 1982, AS AMENDED," ARTICLE II. "MULTI-USE AREAS," BY AMENDING SECTION 8-35.2 "RESERVED" TO SECTION 8-35.2 "SURF LESSON RULES", BY PROVIDING FOR INSTRUCTION OF SURF LESSONS AND A PENALTY PROVISION; AMENDING SECTION 8-35.3, "SURF CAMP RULES", DEFINING "SURF CAMP" TO INCLUDE INSTRUCTION OF A GROUP OF THREE (3) OR MORE PERSONS, ADDING THE SPORT OF "STAND UP PADDLING", DELETING REQUIREMENT OF A CERTIFIED LIFEGUARD AND MODIFYING SWIM REQUIREMENTS FOR PARTICIPANTS; AMENDING THE HOURS OF SURF CAMP OPERATION; CORRECTING TYPOGRAPHICAL AND GRAMMATICAL ERRORS.
Motion to approve by CM Puccetti and second by CM Legg, unanimously approved.

B. Consider for approval a Resolution of the City Council of the City of Galveston, Texas, authorizing the execution of a Memorandum of Agreement with the Houston-Galveston Area Council for Sustainable Communities Regional Planning Grant Program Consortium as a participating member; Planning Case Number 11PA-15; declaring findings of fact and providing for an effective date.
RESOLUTION NO. 11-019 was read by caption: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GALVESTON, TEXAS,

AUTHORIZING THE EXECUTION OF A MEMORANDUM OF AGREEMENT WITH THE HOUSTON-GALVESTON AREA COUNCIL FOR SUSTAINABLE COMMUNITIES REGIONAL PLANNING GRANT PROGRAM CONSORTIUM AS A PARTICIPATING MEMBER; PLANNING CASE NUMBER 11PA-15.
Motion to approve by CM Puccetti, second by CM Legg, Unanimously approved.

C. Consider for approval a Resolution of the City Council of the City of Galveston, Texas authorizing certain city officials to invest, withdraw, transfer and disburse any and all funds of the City of Galveston, into and from the city's duly designated depositories or investment accounts; authorizing signatures of said city officials; providing for findings of fact and providing for an effective date.
RESOLUTION NO. 11-020 was read by caption: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GALVESTON, TEXAS AUTHORIZING CERTAIN CITY OFFICIALS TO INVEST, WITHDRAW, TRANSFER AND DISBURSE ANY AND ALL FUNDS OF THE CITY OF GALVESTON, INTO AND FROM THE CITY'S DULY DESIGNATED DEPOSITORIES OR INVESTMENT ACCOUNTS; AUTHORIZING SIGNATURES OF SAID CITY OFFICIALS.
Motion to approve by CM Gonzales, second by CM Legg. Unanimously approved.

D. Consider for approval a Resolution of the City Council of the City of Galveston, Texas, adopting the "City of Galveston Hazard Mitigation Plan"; providing for findings of fact and providing for an effective date.
RESOLUTION NO. 11-021 was read by caption: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GALVESTON, TEXAS, ADOPTING THE "CITY OF GALVESTON HAZARD MITIGATION PLAN"
Motion to approve by CM Puccett, second by CM Gonzales. CM Beeton abstained from voting. Motion passed six to zero.

E. Consider for approval a Resolution of the City of Galveston, Texas, urging the Legislature to NOT pass House Bill 272 or Senate Bill 1432 in the form voted out of the House Committee on Insurance and to amend House Bill 272 or Senate 1432 to provide equal rights and remedies under the law for all Texans who insure their property with any insurer and provide other amendments needed to avoid disadvantaging Texas Windstorm Insurance Association policy holders; directing the city secretary to send a certified copy of this Resolution to Governor Rick Perry, State Senators Joan Huffman and Mike Jackson, and State Representatives Craig Eiland and Larry Taylor; providing for findings of fact and providing for an effective date.
RESOLUTION NO. 11-022 was read by caption: A RESOLUTION OF THE CITY OF GALVESTON, TEXAS, URGING THE LEGISLATURE TO NOT PASS HOUSE BILL 272 OR SENATE BILL 1432 IN THE FORM VOTED OUT OF THE HOUSE COMMITTEE ON INSURANCE

AND TO AMEND HOUSE BILL 272 OR SENATE 1432 TO PROVIDE EQUAL RIGHTS AND REMEDIES UNDER THE LAW FOR ALL TEXANS WHO INSURE THEIR PROPERTY WITH ANY INSURER AND PROVIDE OTHER AMENDMENTS NEEDED TO AVOID DISADVANTAGING TEXAS WINDSTORM INSURANCE ASSOCIATION POLICY HOLDERS; DIRECTING THE CITY SECRETARY TO SEND A CERTIFIED COPY OF THIS RESOLUTION TO GOVERNOR RICK PERRY, STATE SENATORS JOAN HUFFMAN AND MIKE JACKSON, AND STATE REPRESENTATIVES CRAIG EILAND AND LARRY TAYLOR.
Motion by CM Puccett, second by CM Legg. Unanimously approved.

F. Consider for approval a Resolution of the City Council of the City of Galveston, Texas, setting forth single year recipients and distributions of 2011-2012 fiscal year Hotel Occupancy Tax revenues to eligible arts and historic preservation organizations; redistributing forfeited funds from previous fiscal years to eligible arts and historic preservation organizations; approving the annual budgets of such recipients; authorizing the City Manager to execute contracts with such recipients; directing the City Secretary to send a certified copy of this Resolution to the Galveston Park Board of Trustees; declaring findings of fact and providing for an effective date.
RESOLUTION NO. 11-023 was read by caption: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GALVESTON, TEXAS, SETTING FORTH SINGLE YEAR RECIPIENTS AND DISTRIBUTIONS OF 2011-2012 FISCAL YEAR HOTEL OCCUPANCY TAX REVENUES TO ELIGIBLE ARTS AND HISTORIC PRESERVATION ORGANIZATIONS; REDISTRIBUTING FORFEITED FUNDS FROM PREVIOUS FISCAL YEARS TO ELIGIBLE ARTS AND HISTORIC PRESERVATION ORGANIZATIONS; APPROVING THE ANNUAL BUDGETS OF SUCH RECIPIENTS; AUTHORIZING THE CITY MANAGER TO EXECUTE CONTRACTS WITH SUCH RECIPIENTS; DIRECTING THE CITY SECRETARY TO SEND A CERTIFIED COPY OF THIS RESOLUTION TO THE GALVESTON PARK BOARD OF TRUSTEES.
Motion to approve by CM Puccetti, second by CM Gonzales. 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 the approval of a 3 year contract with Tyler Technology for an integrated payment gateway. For a total cost of $9,800.00 funding source will be Municipal Court Technology Fund (1820-124308-535130).

B. Consider for approval highest bid in the amount of $25.00 per vehicle from Marty's Wrecker Service authorizing the city to accept the contract for the removal of junk vehicle abatement on private property.

C. Consider for approval the acceptance of a FTA/TXDOT Grant which has been awarded to Island Transit. These funds will assist in the purchase of new communications equipment for the Island Transit fleet.

D. Approval of the purchase of one newly outfitted For Police Expedition for the Police Department's ID Division to be purchased from Philpott Motors through HGAC Buy for a total price of $35,325.59. The funding source will be the Vehicle Replacement Fund and the GPD Accident Recovery Account.

E. Requesting that City Council authorize Interim City Manager to execute a twenty (20) year lease with two (2), ten (10) year options with Charles P. Humphrey for 7,500 sq. ft. of ramp space at 2728 Terminal Drive with an escalation clause of the greater of CPI-U or 2.5%R annually upon final approval of the City Attorney.

F. Consider for action entering into an agreement between the City of Galveston and San Luis Resort and Conference Center for accommodations including lodging and meals in the event of a hurricane during the 2011 hurricane season.

G. Requesting that City Council authorize the Interim City Manager to execute a first amendment to the lease between the City of Galveston and Richard Krumholz, dated October 1, 2010, adding two (2) ten (10 year option to recoup the cost of improvements upon final approval by the City Attorney.

H. Requesting that City Council authorize the Interim City Manager to execute a first amendment to the lease between the City of Galveston and Bryan Fisher, dated January 1, 2011, adding two (2), ten (10) year options to recoup the cost of improvements upon final approval by the City Attorney.

Motion to approve Consent Items A, B, C, D, E, G, & H by CM Puccetti, second by CM Gonzales. Unanimously approved.

Motion to approve Consent Item F by CM Puccetti, second by CM Colbert. CM Greenberg abstained from voting due to a conflict. Motion carried by a vote of 6 to 0.

13. ACTION ITEMS

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

A. Discuss and consider for action selecting and submitting redistricting plan(s) to the public for comment.

Motion to direct staff to send a letter to the Department of Justice (DOJ) asking the DOJ to remove its objection to the 4-2-1 redistricting plan by Mayor Jaworski, second by CM Puccetti. Motion passed 6-1, CM Colbert opposed.

B. Discuss and Consider for acceptance of the supplemental water contract with the Gulf Coast Water Authority for supplemental water during severe drought conditions. Estimated cost $360,000.00.
Motion to approve by CM Legg, second by CM Puccetti. Unanimously approved.

C. Discuss and consider for action accepting an award from the Texas Division of Emergency management's Hazardous Mitigation Grant Program in the amount of $2,176,125.00 for the design of a safe room to protect first responders and essential personnel who remain on Galveston Island during an evacuation of the public. This is a collaborative project with UTMB. This award will fund 75% of the design cost. The remaining 25% will be funded by the City and UTMB with each entity responsible for $362,687.50. The total project is $2,901,500.00.
Motion to approve by CM Puccetti, second by Mayor Jaworski. CM Puccetti, Mayor Jaworski, CM Gonzales in favor of the motion, MPT Colbert, CM Beeton, and CM Legg opposed to the motion. CM Greenberg abstained due to a potential conflict. Motion failed.

D. Discuss and consider for action hiring a recruiting firm to locate an interim city manager to hire.
Motion to defer item 13D untilt he May 26, 2011, meeting by CM Greenberg, second by CM Legg. Unanimously approved.

E. Discuss and give direction to City Manager regarding the Park Board merger.
Motion for City Staff to continue the dialogue with the Park's Board by CM Puccetti, second by CM Legg. Unanimously approved.

F. City Council to consider providing direction on the Galveston County Stewart Road Project West of Cove View Boulevard.
Motion to approve the extension of the Stewart Road Project by CM Puccetti, second by CM Legg. Unanimously approved.

G. Discuss and consider for action for approval acceptance of the correct lowest responsive bid of $20,800.00 from AAR Incorporated to demolish the structure located at 1601 21st Street. Funding Source will be Environmental Development Demolition account.
Motion to approve by Mayor Jaworski, second by Cm Puccetti. Unanimously approved by those present. CM Greenberg was out of the room.

H. Discuss and consider for action giving direction to staff to prepare a letter to the US Department of housing and Urban Development asking if some

number of the 569 public housing units to be replaced using federal funds may be locate on the mainland. (Deferred from 4/28/2011)
Motion to direct staff to send a letter to HUD asking if HUD policies and regulations allow some number of the 569 public housing units to be placed on the mainland by CM Beeton, second by CM Greenberg. CM Beeton and CM Greenberg in favor, Mayor Jaworski, MPT Colbert, CM Puccetti, and CM Legg opposed. CM Gonzales abstained. Motion failed 2 to 4.

I. Discuss and consider for action authorizing the City manager to execute Releases and Restrictions and Grant of Open Spaces Easement with the Sands of Kahala Beach HOA, Inc. (HOA) pertaining to Lots 4, 5, 9, 10, 11 in the Sands of Kahala Subdivision, subject to and conditioned upon Bankruptcy Court authorization and approval of such releases on behalf of the HOA. (Deferred from 4/28/2011)
Motion to table item 13I by CM Puccetti, second by MPT Colbert. Unanimously approved.

J. Discuss and consider for action giving direction to the City Manager regarding the number of arrests by the Galveston Police Dept. stemming from misdemeanor charges from January, 2011, to May, 2011.
Item removed and placed as an action item on the May 26, 2011, workshop and council agendas.

K. Discuss and consider for action the performance and contract for CDM.
Motion to table item 13K by Mayor Jaworski. No action.

14. MAYOR AND COUNCIL APPOINTMENTS

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

1. Planning Commission
Motion to reappoint Joe Rozier by CM Puccetti, second by CM Legg. Unanimously approved.
2. Building & Standards Commission
Motion to reappoint Cornelia Banks and Robert Reeves by Cm Puccetti, second by MPT Colbert. Unanimously approved.

15 N/A

16. N/A

17. REQUEST TO ADDRESS COUNCIL ON NON-AGENDA ITEMS UPON SUBMITTING A WRITTEN REQUEST

1. Marcy Casey – recall election
2. Paula Lynch – Menard Park
3. Ruth Roberts – 1828 Church
4. Jay Calhoun – barking dog
5. Sheila Bell – alarm system
6. Neil Wilson – demolition

7. Leon Phillips – redistricting
8. Andrew Webb – police conduct
9. Rosyln Jackson – police conduct

18. ADJOURNMENT: **Meeting adjourned at 8:15 pm.**