

**THE MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL
OF THE CITY OF GALVESTON HELD APRIL 22, 2010- 4:30 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
Staff: City Manager LeBlanc, City Attorney Green, City
Secretary Lawrence
5. DECLARATIONS OF CONFLICT
None
6. APPROVAL OF MINUTES
Minutes of the Regular Meeting of April 8, 2010: Motion to approve by CM Mahoney. Second by MPT Weber. Unanimously approved by those present. CM Beeton out of the room.
7. PRESENTATIONS
A. Proclamations: Optimist Day - April 22, 2010
Ironman 70.3 US professional Championship Day - April 25,
2010
Galveston Educationfest 2010 Day - April 24, 2010
8. COMMUNICATIONS AND PETITIONS
A. Notices of Claim: 10027-Isla Del Sol Homeowners Association, Inc.; 10028-Joshua J. Breaux; 10029-Lavinia LaGrone
B. Texas Gas Service Purchased Gas Adjustment Clause for April 2010
9. ORDINANCES ASSOCIATED WITH PUBLIC HEARINGS
A. Consider for approval an Ordinance of the City of Galveston, Texas, granting a Specific Use Permit in order to operate a "convenience store" in the Retail Zoning District and the Seawall Development Zone 4 and Height and Density Development Zone, Zone 5, (R-SDZ-4-HDDZ-5) at 8227 Stewart Road; property is legally described as "part of Lot 198(198-2), Trimble and Lindsey Survey, Section 1, in the City and County of Galveston, Texas"; Planning Case Number 10P-31; making various findings and provisions related to the subject.
ORDINANCE NO. 10-034 was read by caption: GRANTING A SPECIFIC USE PERMIT IN ORDER TO OPERATE A "CONVENIENCE STORE" IN THE RETAIL ZONING DISTRICT AND THE SEAWALL DEVELOPMENT, ZONE 4 AND HEIGHT AND DENSITY DEVELOPMENT ZONE, ZONE 5, (R-SDZ-4-HDDZ-5) AT 8227 STEWART ROAD; PROPERTY IS LEGALLY DESCRIBED AS "PART OF

LOT 198 (198-2), TRIMBLE AND LINDSEY SURVEY, SECTION 1, IN THE CITY AND COUNTY OF GALVESTON, TEXAS"; PLANNING CASE NUMBER 10P-31; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT.

Planning Director Wendy O'Donohoe summarized the request. Harris Kahn, the applicant, asked Council to approve the request.

MPT Weber opened the PUBLIC HEARING. There being no one to speak, the Public Hearing was closed.

CM Colbert moved approval. CM Woods seconded.

After discussion, Cm Fennwald moved to amend the motion to not allow coin operated amusement machines on the premises. Second by CM Beeton. Vote on the amendment: In favor: CM Beeton, CM Fennwald, CM Colbert. Opposed: CM Mahoney, MPT Weber, Mayor Thomas, CM Woods. Motion to amend failed.

Vote on Main Motion: Unanimously approved.

- B. Consider for approval an Ordinance of the City of Galveston, Texas amending the Galveston Zoning Standards by amending the following sections: Section 29-54: "Sand Dune Area Definitions"; Section 29-90: "Development, Preservation and Protection of Sand Dunes", to add and modify definitions, establish Planning Commission review process and criteria of beachfront construction certificates/dune protection permits within close proximity to the beach, modify the associated application review process, establish construction setbacks for new development, and move the Dune Protection Line landward; and, amend Section 29-90(o)(6): "Development, Preservation and Protection of Sand Dunes: Beach Maintenance Activities", pertaining to the beach maintenance requirements and standards; Planning Case No. 10ZA-03; making various findings and provisions related to the subject.

ORDINANCE NO. 10-035 was read by caption: AMENDING THE GALVESTON ZONING STANDARDS BY AMENDING THE FOLLOWING SECTIONS: SECTION 29-54: SAND DUNE AREA DEFINITIONS; SECTION 29-90: DEVELOPMENT, PRESERVATION AND PROTECTION OF SAND DUNES, TO ADD AND MODIFY DEFINITIONS, ESTABLISH PLANNING COMMISSION REVIEW PROCESS AND CRITERIA OF BEACHFRONT CONSTRUCTION CERTIFICATES/DUNE PROTECTION PERMITS WITHIN CLOSE PROXIMITY TO THE BEACH, MODIFY THE ASSOCIATED APPLICATION REVIEW PROCESS, ESTABLISH CONSTRUCTION SETBACKS FOR NEW DEVELOPMENT, AND MOVE THE DUNE PROTECTION LINE LANDWARD; AND, AMEND SECTION 29-90(o)(6): DEVELOPMENT, PRESERVATION AND PROTECTION OF SAND DUNES: BEACH MAINTENANCE ACTIVITIES, PERTAINING TO THE BEACH MAINTENANCE REQUIREMENTS AND STANDARDS; PLANNING CASE NO. 10ZA-03; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT.

Director of Planning O'Donohoe summarized the proposed ordinance.

Mayor Thomas open the PUBLIC HEARING.

Andy Mytelka, 9612 Teichman, stated the ordinance should apply west of the end of the Seawall and east of 10th St., the ordinance should not apply at all.

Joe Rozier, member of Planning Commission, stated the Chair of the Committee could not be present but had asked him to reiterate that the Commission wanted to take the beach maintenance out because they did not have time to really review it and it doesn't apply to the west end. He stated he voted for the amendment but he thinks the 350 foot line is still up for debate.

Terry Conrad, 2218 Postoffice, Planning Commission member, urged Council to approve the proposed ordinance.

Dominic Sasser, 7221 Broadway, member of the Planning Commission, spoke in support of the proposed ordinance.

Benny Davis, 56 LeBrun Court, commended the Planning Commission for its work and spoke in support of the proposed ordinance. He also expressed concerns regarding lack of permits obtained by the Park Board for scraping the beaches.

Sydney McClendon, Pirates Cove, West Galveston Island Property Owners Assn, spoke in support of some of the proposed ordinance but said he was troubled by other provisions. Some of the provisions are too complicated and confusing.

Marty Baker, asked Council to delay the decision on the proposed ordinance.

Becky Little, stated Council did not have to approve the proposed ordinance at this meeting.

Jackie Cole, 2308 Sydnor, spoke in support of the proposed ordinance. She asked Council to change the sentence "Dunes are naturally formed by the windward transport of sediment but can also be created via manmade vegetative mounds." by adding " but can also be created as restored manmade dunes."

Nate Wilson, 3206 Antilles, Planning Commission member, spoke in support of the proposed ordinance.

Chula Ross Sanches, former Planning Commission member, spoke in support of the proposed ordinance.

Marie Garrett, 13206 Bermuda Beach Dr., asked Council to defer or deny the proposed ordinance due to problems with the 350 foot setback.

Marty Bilek, 19703 Shores Dr., requested Council defer or deny the proposed ordinance.

Barbara Sasser, 72221 Broadway, reminded Council that the proposed ordinance had the unanimous vote of the Planning Commission. The GLO has participated in the process and the ordinance will protect the City from future buyouts.

There being no one else to speak, the Public Hearing was closed.

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

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

Planning Director O'Donohoe clarified that Council had accepted the Planning Commission's recommendation which excludes Part C about beach maintenance.

Mayor Thomas thanked everyone for their work on the ordinance.

Recess: 8:05 p.m. - 8:30 p.m.

10. PUBLIC COMMENT

The public shall be allowed to address one or more agenda or non-agenda items. Each person shall be limited to three (3) minutes, regardless of the number of items addressed.

Betty Massey, 1602 Avenue O, Chair of Long Term Recovery Committee and the Comprehensive Plan Committee, announced joint meeting to be held at 6.00 p.m. April 26, 2010 at McGuire Dent Recreation Center.

Matt Hannon, 2901 Sealy, spoke regarding CM Tarris Woods residency. He stated he believes CM Woods does not reside in District 1.

Phyllis Chapman, 1103 29th, stated she needs help with her Ike damaged house.

Emily Griffin, 2213 Postoffice St., asked for assistance to regain her permit for her mobile cupcake truck "Little Miss Cupcake."

Boyd Carr, 22602 Bay Point Dr., opposed to Isla Del Sol water tower location.

Leon Phillips, Coalition for Justice, spoke of police problems at Sand Piper Cove.

Chula Ross Sanchez, 9111 Teichman, opposed to use of OSB on beach construction.

Sonya Porretto, asked that Agenda Items 9B and 11B be more specific and deferred for reconsideration.

Rosemarie Porretto, 7 E. Dansby Dr., stated Agenda Items 9B and 11B are incomplete and she is opposed to their passage without clarification.

Jerry Mohn, President of the West Galveston Island Property Owners Assn., spoke in support of the relocation of the Isla Del Sol water tower.

11. ORDINANCES, RESOLUTIONS AND PROCLAMATIONS

- A. Consider for approval an Ordinance of the City of Galveston, Texas, amending Chapter 13, "Fire Prevention and Protection," of the Code of the City of Galveston, 1982; sections 13-1, "Bureau of Fire Prevention", 13-2 "Duties and Responsibilities", 13-3 "Fire Lanes on Private Property", 13-10 "Adopted", 13-11 "Local Fire Prevention Code Amendments, Deletions, and Supplements Thereto" (including its incorporated Attachment "A"), 13-16 "Permit Fees (including its incorporated Attachment "B", Group Care Facilities, by adopting the 2009 Edition of the "International Fire Code", regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the City of Galveston; making various amendments and deletions to the 2009 edition of the "International Fire Code"; adding the 2009 "NFPA 101 Life Safety Code" as Chapter 48 of the 2009 edition of the "International Fire Code"; establishing related permit fees and penalties.

ORDINANCE NO. 10-036 was read by caption: AMENDING CHAPTER 13, "FIRE PREVENTION AND PROTECTION," OF THE CODE OF THE CITY OF GALVESTON, 1982; SECTIONS 13-1, "BUREAU OF FIRE PREVENTION", 13-2 "DUTIES AND RESPONSIBILITIES", 13-3 "FIRE LANES ON PRIVATE

PROPERTY”, 13-10 “ADOPTED”, 13-11 “LOCAL FIRE PREVENTION CODE AMENDMENTS, DELETIONS, AND SUPPLEMENTS THERETO” (INCLUDING ITS INCORPORATED ATTACHMENT “A”, 13-16 “PERMIT FEES (INCLUDING ITS INCORPORATED ATTACHMENT “B:; GROUP CARE FACILITIES, BY ADOPTING THE 2009 EDITION OF THE “INTERNATIONAL FIRE CODE”, REGULATING AND GOVERNING THE SAFEGUARDING OF LIFE AND PROPERTY FROM FIRE AND EXPLOSION HAZARDS ARISING FROM THE STORAGE, HANDLING AND USE OF HAZARDOUS SUBSTANCES, MATERIALS AND DEVICES, AND FROM CONDITIONS HAZARDOUS TO LIFE OR PROPERTY IN THE OCCUPANCY OF BUILDINGS AND PREMISES IN THE CITY OF GALVESTON; MAKING VARIOUS AMENDMENTS AND DELETIONS TO THE 2009 EDITION OF THE “INTERNATIONAL FIRE CODE”; ADDING THE 2009 “NFPA 101 LIFE SAFETY CODE” AS CHAPTER 48 OF THE 2009 EDITION OF THE “INTERNATIONAL FIRE CODE”; ESTABLISHING RELATED PERMIT FEES AND PENALTIES; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT.

City Attorney Green stated the effective date would be August 1, 2010.

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

- B. Consider for approval an Ordinance of the City of Galveston, Texas, amending Chapter 10, "Building Code," of the Code of the City of Galveston, 1982; as amended, by adopting with modifications and amendments, the "2009 International Building Code"; making various amendments to the "2009 International Building Code"; establishing related permit fees and penalties; adopting local regulations relating to asbestos and architectural barriers compliance in accordance with state law; repealing all other ordinances or parts of ordinances that are in conflict.

ORDINANCE NO. 10-037 was read by caption: AMENDING CHAPTER 10, “BUILDING CODE,” OF “THE CODE OF THE CITY OF GALVESTON, 1982; AS AMENDED”, BY ADOPTING WITH MODIFICATIONS AND AMENDMENTS, THE “2009 INTERNATIONAL BUILDING CODE”; MAKING VARIOUS AMENDMENTS TO THE “2009 INTERNATIONAL BUILDING CODE”; ESTABLISHING RELATED PERMIT FEES AND PENALTIES; ADOPTING LOCAL REGULATIONS RELATING TO ASBESTOS AND ARCHITECTURAL BARRIERS COMPLIANCE IN ACCORDANCE WITH STATE LAW; REPEALING ALL OTHER ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT.

City Attorney Green stated the effective date of this ordinance would be August 1, 2010.

CM Fennewald moved approval with the modification to eliminate the use of OSB. Second by CM Mahoney. Unanimously approved.

- C. Consider for approval an Ordinance of the City of Galveston, Texas, amending Chapter 12, "Electricity," of the Code of the City of Galveston, 1982; Sections 12-60, "Fees", Article IV "Electricians", and Article V "Technical Standards",

amending fee schedule and amending city code as it relates to licensing requirements; adopting the 2008 edition of the "National Electrical Code".

ORDINANCE NO. 10-038 was read by caption: AMENDING CHAPTER 12 "ELECTRICITY," OF THE CODE OF THE CITY OF GALVESTON, 1982; SECTIONS 12-60, "FEES", ARTICLE IV "ELECTRICIANS", AND ARTICLE V "TECHNICAL STANDARDS", AMENDING FEE SCHEDULE AND AMENDING CITY CODE AS IT RELATES TO THE LICENSING REQUIREMENTS; ADOPTING THE 2008 EDITION OF THE "NATIONAL ELECTRICAL CODE"; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT.

Motion to approve by CM Beeton. Second by CM Fennewald. Unanimously approved.

- D. Consider for approval a Resolution of the City Council of the City of Galveston, Texas, authorizing the City Manager to execute documents accepting a STEP - Click It or Ticket Enforcement Grant for fiscal year 2010 from the Texas Department of Transportation.

RESOLUTION NO. 10-019 was read by caption: AUTHORIZING THE CITY MANAGER TO EXECUTE DOCUMENTS ACCEPTING A STEP - CLICK IT OR TICKET ENFORCEMENT GRANT FOR FISCAL YEAR 2010 FROM THE TEXAS DEPARTMENT OF TRANSPORTATION; PROVIDING FOR FINDINGS OF FACT AND PROVIDING FOR AN EFFECTIVE DATE.

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

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 awarding a lease agreement for the DS-80 folding/inserting system, bulk mail software and a Ricoh SP8200 printer to NeoPost at a cost of \$865.00 per month for sixty months for a total cost of \$51,900.00 utilizing State TXMAS contract #5-36010 for the Department of Customer Service/Utility Billing. Funding source is water/sewer/drainage/sanitation operating funds Utility Billing Division.
- B. Consider for action approving the award of primary windstorm property insurance to Galveston Insurance Associates (GIA) for a three year proposal RFP #09-10-008, the first year for the premium of approximately \$346,884.00 effective June 1, 2010-June 1, 2011.
- C. Consider for action approving the award of flood property insurance to Galveston Insurance Associates (GIA) for three year proposal RFP #09-10-007, the first year for the premium of approximately \$140,745.00 effective July 27, 2010 - July 27, 2011.
- D. Consider for action approving authorizing the City Manager to execute an eighth amendment of the lease between Galveston Island Waterpark, L.P. and

the City of Galveston adding one additional five-year option to secure financing for improvements, upon final approval of the City Attorney.

Hud Hopkins, Airport Director, summarized the request.

After discussion, **MPT Weber moved approval. Second by CM Woods.**

Unanimously approved.

- E. Consider for action approving the acceptance of a gift in the value of \$128,068.00 from the Galveston Island Tree Conservancy to reforest two blocks, 24th to 26th on Broadway, as model esplanades to be utilized for fund raising and grant applications.

Dancie Ware introduced Bill Mintz, Director of Public Affairs for Apache Oil Corporation and acknowledged Apache's contribution of \$150,000 to the Galveston Island Tree Conservancy. This will be the lead gift to create two demonstration blocks on Broadway to replant the oaks lost to Hurricane Ike.

CM Fennewald moved approval on Action Agenda Items E, F and G. Second by CM Woods. Unanimously approved.

CM Colbert thanked Dr. Jackie Cole for her work on the committee. Dr. Cole acknowledged Mr. Mintz for his support of the project.

- F. Consider for action approving the acceptance of a gift in the value of \$10,787.77 for the Galveston Tree Conservancy to reforest Shreiber Park, located at 83rd Street between Dominique and Frank Giusti Drive.

CM Fennewald moved approval on Action Agenda Items E, F and G. Second by CM Woods. Unanimously approved

- G. Consider for action approving the acceptance of a gift in the value of \$9,619.13 from the Galveston Tree Conservancy to reforest Wright Cuney Park, located at 718 41st Street.

CM Fennewald moved approval on Action Agenda Items E, F and G. Second by CM Woods. Unanimously approved

- H. Consider for action approving bid from Tri-Point Construction Services for storage building and rest room located at the Lassie League complex in the amount of \$48,025.00 for Hurricane Ike damage. Funding source is 90% FEMA and 10% General Fund.

WITHDRAWN

- I. Consider for action approving contract proposal of Klozt Associates, Inc, Consulting Engineers, in an amount not to exceed \$10,000.00, to provide professional engineering design services for construction phase services on the Hurricane Ike Traffic Signal Emergency Repair Project. Reimbursement is to be requested from the Federal Highway Administration; otherwise the funding source will be the 2005 GO Bonds.

- J. Consider for action approving award of low bidders Bid #09-10-039 for demolition of structures on ten properties and one vacant lot associated with

HMGP Buy Out Program in two parts, (1) homes without asbestos and (2) homes with asbestos, final determination to be done once asbestos survey has been completed. Funding source is 75% Hazard Mitigation Grant Program and 25% home owner.

- K. Discuss and consider for direction to the City Manager regarding lights on the West End and the lighting ordinance.

Director of Planning O'Donohoe gave an update on this issue. Ms. O'Donohoe said staff has conducted some surveys on the west end and have adjusted compliance officers hours to accommodate evening hours. Letters have been sent to about 6 or 7 properties to verify either that they were grandfathered, they conform or they will need to make adjustments.

No action taken.

- L. Discuss and consider for direction to the City Manager regarding Isla Del Sol water tower.

CM Fennewald moved to instruct the City Manager to proceed with the water tower and work with the neighbors to do the best possible landscaping and proceed with the plans as formulated. Second by CM Colbert.

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

- M. Discuss and consider for action accepting and authorizing the City Manager to execute an amended release of restrictions and grant open space easement by and between the Terramar Home Owners Association and the City of Galveston concerning properties acquired pursuant to the HMGP program.

CM Mahoney moved approval. CM Woods seconded. Vote in Favor: CM Mahoney, MPT Weber, Mayor Thomas, CM Colbert, CM Woods. Opposed: CM Beeton, CM Fennewald. Motion carried.

- N. Consider for approval authorizing the City Attorney to contract with Keith Vaughan to provide legal services for Ike disaster housing and non-housing issues. Funding source is CDBG disaster funds.

City Attorney Green said she would like to do rather than contract with Mr. Vaughn is bring him in house as an Assistant City Attorney. He would be limited to working only disaster housing and non-housing issues. It is not a general fund expenditure. It would be paid from CDBG funds.

CM Fennewald moved to authorize the City Attorney to hire Keith Vaughn as requested. Second by MPT Weber.

- O. Discuss and consider for action calling a special meeting of Council for the purpose of voting on the use of CDBG funds for Jack Johnson Park.

CM Colbert moved to call a Special Meeting of Council on May 6, 2010 at 4:00 p.m. to take action on this item. Second by CM Woods. Vote in favor: CM Mahoney, CM Beeton, MPT Weber, Mayor Thomas, CM Colbert, CM Woods. Opposed: CM Fennewald. Motion carried.

CM Beeton asked to include a report on the following covering the last six months: Traffic violations - those actually arrested and taken to jail for a traffic violation, the officers who made those arrests, the charges, the location at which the arrests were made, the ethnicity of the those arrested, and if the officers were in the employ of private interests at the time the arrests were made.

CM Fennewald moved to approve Action Agenda Items E, F and G. Second by CM Woods. Unanimously approved.

CM Fennewald moved to Approve Action Agenda Items A, B, C, I and J. Second by MPT Weber. Unanimously approved.

13. MAYOR AND COUNCIL APPOINTMENTS

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

RDA CM Beeton moved to appoint Lewis Rosen. Second by CM Woods. Unanimously approved.

14. N/A

15. EXECUTIVE SESSION (Closed Session)

16. DISCUSSION ITEMS

- A. City Manager

- B. City Attorney

- C. City Council

17. ADJOURNMENT

There being no further business to come before the assembly, the meeting was adjourned at 10:00 p.m.