Meeting 22 of 48 2010-2012 City Council of Galveston, Texas

THE MINUTES OF THE REGULAR MEETING OF THE CITY CONCIL OF THE CITY OF GALVESTON HELD MARCH 24, 2011

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

2. INVOCATION
3. PLEDGE OF ALLEGIANCE
4. ROLL CALL: **Present Mayor Jaworski, CM Puccetti, CM Beeton, MPT Colbert, CM Greenberg, CM Legg, CM Gonzales arrived 5:52 pm.**
Staff: City Secretary Douglas Godinich, Asst. City Secretary Nellie Del La Fuente, City Manager Leblanc, City Attorney Green

5. CONFLICTS OF INTEREST
None.

6. APPROVAL OF MINUTES
Regular Meeting of February 24, 2011:
Unanimously approved by a motion from CM Legg and second by CM Beeton
Regular Meeting of March 10, 2011:
Unanimously approved by a motion from CM Legg and second by CM Beeton provided the City Secretary have the record reflect Agenda item 11(A) which was approved by all members present except CM Beeton, reflect that her sole opposition to the item was due to the potential of meters and or pay stations on the South side of Seawall Boulevard.

7. PRESENTATIONS & PROCLAMATIONS:
   A. Women's Conference – Proclamation received by UTMB Representative.
   B. Early College High School Day – Proclamation received by the school Principal.
   C. Galveston Island's Feather Fest and Peak Birding Month – Proclamation received by Shirley Foster
   D. USACE Galveston Water Safety Kick – off Day – Proclamation received by Colonel Chris Solis and the Army Corp of Engineers staff.
   E. Purple Day for Epilepsy Awareness Day – Proclamation received by Mickey Nashke.

8. COMMUNICATIONS & PETITIONS
   A. Jose Sanchez – 11-021 notice of claim
   B. Texas Gas Service: Purchased Gas Adjustment Clause for March 2011, notice of statement

9. PUBLIC HEARINGS
A. Consider for approval an Ordinance of the City of Galveston, Texas, granting a Specific Use Permit in order to operate a "Tavern" in a Central Plaza with Historic Overlay

(CP-H) Zoning District at 2411 Avenue B/Strand, Suite A; Property is Legally Described as "Lots 4 and 5, Block 624, in the City and County of Galveston, Texas"; Planning Case 11P-21; making various findings and provisions related to the subject.
ORDINANCE NUMBER 00-000 was read by caption: GRANTING A SPECIFIC USE PERMIT IN ORDER TO OPERATE A "TAVERN" IN A CENTRAL PLAZA WITH HISTORIC OVERLAY (CP-H) ZONING DISTRICT AT 2411 AVENUE B/STRAND, SUITE A; PROPERTY IS LEGALLY DESCRIBED AS "LOTS 4 AND 5, BLOCK 624, IN THE CITY AND COUNTY OF GALVESTON, TEXAS"; PLANNING CASE 11P-21;
Public comment from the applicant of the SUP and Frank Dreiden from the Panama Hotel.
Motion by CM Greenberg and second by CM Legg unanimously approved by those members present with the additional language that the hours of operation shall be from 10:00 am until 10:00 pm with no amplified music.

B. Receive citizen comments on the City of Galveston HUD Funded 2011 Consolidated Programs including the Community Development Block Grant (CDBG) in the estimated amount of $1,442,026.00 and HOME Investment Partnerships Program (HOME) in the estimated amount of $535,785.00.
RECEIVE CITIZEN COMMENTS ON THE CITY OF GALVESTON HUD FUNDED 2011 CONSOLIDATED PROGRAMS INCLUDING THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) IN THE ESTIMATED AMOUNT OF $1,442,026.00 AND HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME) IN THE ESTIMATED AMOUNT OF $535,785.00.
Public comment from Susan Fennewald. No action was to be taken on this item.

10. REQUESTS TO ADDRESS COUNCIL ON AGENDA ITEMS

1. Neil Wilson – 9B
2. Ron Bryon - 9A
3. Frank Dreiden – 9A
4. Allison Rouche – 13E
5. Bobby Ballelo – 9A
6. Dan Cody – 13I
7. Steve Everetts – 13I
8. Kathy Maddison – 13I
9. Kevin Hanby – 9B
10. Amy Morrison – 13I
11. John Trom – 13I
12. Tina Colunga – 9B
13. Ralph McMorris – 13I
14. Bill Broussard – 13I

11. ORDINANCES AND RESOLUTIONS

A. Consider for Approval an Ordinance of the City of Galveston, Texas, amending the Code of the City of Galveston 1982, as amended, Chapter 24, "Miscellaneous Offenses", by providing for new regulations relating to noise within the City; deleting and reserving Sections 24-3, 24-5 and 24-14; adding Sections 24-20 through 24-28, making various findings and provisions related to the subject and providing for a penalty. (Deferred from March 10, 2011, regular meeting)

Motion to refer Item 11A to the Planning Commission for a recommendation to develop a draft ordinance by MPT Colbert, second by CM Legg. Unanimously approved by those present.

B. Consider for Approval an Ordinance of the City of Galveston, Texas, amending, Chapter 35, "Vehicles For Hire", "Article I., Taxicabs, Limousines, Buses and Shuttles" of the "Code of the City of Galveston, 1982, as amended" by deleting the hospitality provision of Section 35-32(a)(7); specifying the department and director; clarifying the qualifications and renewal procedures for an Operating Authority License and a City Chauffeur's License in Sections 35-14, 35-32 and 35-35; correcting typographical or grammatical errors and making various findings and provisions related to the subject.

ORDINANCE NO. 11-018, was read by caption: AN ORDINANCE OF THE CITY OF GALVESTON, TEXAS, AMENDING, CHAPTER 35, "VEHICLES FOR HIRE", "ARTICLE I., TAXICABS, LIMOUSINES, BUSES AND SHUTTLES" OF THE "CODE OF THE CITY OF GALVESTON, 1982, AS AMENDED" BY DELETING THE HOSPITALITY PROVISION OF SECTION 35-32(A)(7); SPECIFYING THE DEPARTMENT AND DIRECTOR; CLARIFYING THE QUALIFICATIONS AND RENEWAL PROCEDURES FOR AN OPERATING AUTHORITY LICENSE AND A CITY CHAUFFEUR'S LICENSE IN SECTIONS 35-14, 35-32 AND 35-35; CORRECTING TYPOGRAPHICAL OR GRAMMATICAL ERRORS.

Motion to approve by CM Legg, second by CM Puccetti. Unanimously approved by those present.

C. Consider for Approval a Resolution of the City of Galveston, Texas, opposing Senate Bill 971 by Juan Hinojosa and Companion House Bill 1765 by Sid Miller relating to an Emergency Public Service Messaging Network that would permit commercial advertising when emergency messages are not being displayed and would preempt local regulation governing electronic billboards and signs; 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. 11-013, was read by caption: A RESOLUTION OF THE CITY OF GALVESTON, TEXAS, OPPOSING SENATE BILL 971 BY JUAN HINOJOSA AND COMPANION HOUSE BILL 1765 BY SID MILLER RELATING TO AN EMERGENCY PUBLIC SERVICE MESSAGING NETWORK THAT WOULD PERMIT COMMERCIAL ADVERTISING WHEN EMERGENCY MESSAGES ARE NOT BEING DISPLAYED AND WOULD PREEMPT LOCAL REGULATION GOVERNING ELECTRONIC BILLBOARDS AND SIGNS; 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 to approve the Resolution by CM Puccetti, second by CM Beeton, CM Puccetti, CM Beeton, Mayor Jaworski, MPT Colbert in favor, CM Greenberg and CM Legg opposed. Motion carried.

D. Consider for Approval a Resolution of the City of Galveston, Texas, supporting House Bill 904 by Senfronia Thompson and Senate Bill 1521 by Carlos Uresti relating to increasing the municipal court security building fee from \$3.00 to \$4.00 and expanding the use of the fee to cover the costs of warrant officers and related equipment respectively; 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 an Larry Taylor; providing for findings of fact and providing for an effective date.
RESOLUTION NO. 11-014, was read by caption: A RESOLUTION OF THE CITY OF GALVESTON, TEXAS, SUPPORTING HOUSE BILL 904 BY SENFRONIA THOMPSON AND SENATE BILL 1521 BY CARLOS URESTI RELATING TO INCREASING THE MUNICIPAL COURT SECURITY BUILDING FEE FROM \$3.00 TO \$4.00 AND EXPANDING THE USE OF THE FEE TO COVER THE COSTS OF WARRANT OFFICERS AND RELATED EQUIPMENT RESPECTIVELY; 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 AN LARRY TAYLOR.
Motion to approve the Resolution by CM Greenberg, second by MPT Colbert, unanimously approved by those present.
Prior to the Motion passing there was a Motion to amend the Resolution to include the vote count on the Resolution by CM Greenberg, second by CM Legg. The motion to amend failed. CM Greenberg & CM Legg voted in favor of the motion to amend and CM Puccetti, CM Puccetti, MPT Colbert and Mayor Jaworski voted against the motion to amend.

12. CONSENT ITEMS

13. 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 City Council to execute the first amendment to the Dannenbaum Engineering, Inc. contract for the construction phase services for the Texas Water Development Board (TWDB) American Reinvestment and Recovery Act (ARRA) Grant Projects.

B. Consider for Action the approval of a 5 year contract with Comcast to provide a 10Mbs fiber link to the City's Recycling Center. For a total cost of \$25, 2451.00 funding source will be Public Works Other Communications Account 4410 612001 532086 431500.

C. Consider for Action awarding a three (3) year contract to BDR (Now SAIC, the BDR Division) as selected firm and NeelSchaffer, Inc. as the alternate firm for Emergency Management debris removal monitoring services and authorizing the City Manager to execute the service agreements.

D. Consider for Action authorizing the City Manager to accept a grant from the Texas Historical Commission in the amount of $10,000.00 for architectural surveys of the Fort Crocket, Lasker Park, and Old Seawall areas and authorizing the City Manager to execute the grant contract.

E. Consider for Action for the City Council to approve a three (3) year contract (Thirty Three Concerts) with Incaprera Band, Inc. Frank Incaprera, President, for the Galveston summer municipal band concerts totaling $72,600.00. Funding source is the Parks and Recreation General Fund Account # 511470 0100 531125 451100.

F. Consider for Acceptance the proposal from BDR (Now SAIC, the BDR Division) for grant administration services for all phases of the CDBG Non-Housing Disaster Recovery Round 2 Program. The cost of these services will not exceed $1,336,000.00 and the funding source is the CDBG Non-Housing Disaster Recovery Round 2 Program.

G. Discuss and Consider for Action Council position on proposed state billboard legislation.
Removed. No action.

H. Discuss and Consider for Action any changes including receiving information regarding traffic signals at the intersection of 61st Street and Interstate 45 feeder roads.
Removed. No Action.

I. Discuss and Consider for Action giving the City Manager direction concerning development of a Specific Use Permit and/or an Ordinance to address the construction and operation of a Container Terminal Facility on Pelican Island. (Deferred from March 10, 2011, regular meeting)
Motion by Mayor Jaworski, second by MPT Colbert to direct staff to create a new use under Heavy Industrial defining container terminal operations for a Specific Use Permit.

Motion to Amend the pending motion by MPT Colbert, second by CM Legg to add that the Specific Use Permit would be in place until an Ordinance can be developed that specifically addresses container facility operations. Voting in favor of the amendment to the motion were CM Gonzales, CM Puccetti, MPT Colbert, CM Greenberg and CM Legg. Voting against the amendment were CM Beeton and Mayor Jaworski. The amendment was approved.

The Motion with the included Amendment was approved by a unanimous vote.

J. Consider for Action authorizing the City Manager to enter into sub-grantee award agreement with Harris County, Texas as fiduciary agent for Federal Emergency Management Agency for the purpose of securing port wide risk management / mitigation plans funds (CFDA #97.056) in the amount of $42,500.00.

K. Consider for Action authorizing the City Manager to enter into sub-grantee award agreement with Harris County, Texas as fiduciary agent for Federal Emergency Management Agency for the purpose of securing port wide risk management / mitigation plans funds (CFDA #97.056) in the amount of $227,026.00.

L. Consider for Action approval to hire Wax Track Gallery International, Inc. in the amount of $38,000.00 to design / create a life size sculpture of Jack Johnson, Heavyweight Boxing Champion of the World, to be placed in the Jack Johnson Community Park located at Old Central Cultural Center, 2601 Avenue M, funding source C.D.B.G. # 1435-920672-531599-425000.

M. Discuss and Consider for Action relocation expenses for recipients of Hurricane Ike Recovery. (Deferred from March 10, 2011, regular meeting)
Motion to defer until April 14, 2011, by MPT Colbert, second by CM Legg, Unanimously approved.

N. Discuss and Consider for Action termination of the Camp, Dresser, and McKee (CDM) Contract.
Motion to terminate the CDM contract with the 90 day notice provision by CM Legg, second by CM Greenberg.
Kevin Hanby from the Texas Department of Housing & Community Affairs spoke.
Bobby Baillio from Compass Point builders spoke.
Dominic DiCenso from CDM spoke.
Voting in favor of the motion were CM Legg, CM Greenberg and MPT Colbert. Voting against the motion were CM Puccetti, CM Gonzales, CM Beeton and Mayor Jaworski. Motion failed.

O. Consider for Approval for the fleet facility to purchase two (2) new 3-4 yard dump trucks for the Parks Dept. which will be funded by the vehicle replacement program for a total price of $72,132.00 from Philpott Motors through Buy Board.

P. Discuss and Consider for Action giving City Manager direction concerning RVs, privately owned trailers in conjunction with the CDBG-Dr recovery program.
Motion by MPT Colbert to approve staff's request to continue privately owned trailers on private property until the homes are completed, second by CM Legg. Unanimously approved.

Q. Discuss and Consider for Action authorizing an amount not to exceed $100,000.00, to retain Garney Griggs of the law firm of Strasburger & Price LLP for legal expenses relating to the proposed master lease of properties under the management and control of the Port of Galveston.

Motion by CM Greenberg to request $100,000.00 from the Port of Galveston to be used for Garney Griggs and other counsel for legal expenses related to the proposed master lease of properties, second by CM Legg. Unanimously approved.

Motion to approve Items 13A, 13B, 13C, 13D, 13E, 13F, 13J, 13K, 13L and 13O by CM Puccetti, second by CM Legg, unanimous by those present.

14. APPOINTMENTS TO BOARDS, COMMITTEES, COMMISSIONS;

    A. TIRZ 12

    Myrna Reingold spoke regarding Galveston County's nomination of Franklyn Carnes IV to position #5 and John Ford to position #6.

    Motion by CM Gonzales, second by MPT Colbert to appoint Franklyn Carnes IV to position #5 and John Ford to position #6. Unanimously approved.

    There was further discussion to notify Kathlyn Joel Reich that she was improperly appointed and Bob Pagan regarding his desire to continue on the Board.

15. REPORTS OF COUNCIL, OFFICERS BOARDS AND CITY MANAGER

16. N/A

17. REQUESTS TO ADDRESS COUNCIL ON NON-AGENDA ITEMS UPON SUBMITTING A WRITTEN REQUEST
    1. Judy Young, Noise and nuisances on the Strand
    2. Myrla Suayan, CDM
    3. Venish Patel, CDM
    4. Don Clark, seawall vendors
    5. Ken Jenks, seawall parking
    6. Sheila Bell, disaster prevention
    7. Suzanne Myers, disaster prevention
    8. Tina Colunga, CDM reconstruction

18. ADJOURNMENT

    Meeting was adjourned at 8:05pm.