THE MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF GALVESTON HELD JANUARY 14, 2010 - 4:00 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 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
   December 3, 2009 Regular Meeting: Motion to approve by CM Fennewald. Second by CM Woods. Motion approved.
   December 10, 2009 Regular Meeting: Motion to approve by MPT Weber. Second by CM Colbert. Motion approved.
   December 11, 2009 Special Meeting: Motion to approve by CM Fennewald. Second by CM Woods. In favor: CMs Beeton, Fennewald, Woods, Mayor Thomas. Absent 12/11/09 and not voting: CM Mahoney, Mayor Thomas, MPT Weber. Motion approved.

7. PRESENTATIONS
   A. Proclamations: January 16-18, 2010 9th Annual Kingfest Observance

8. COMMUNICATIONS AND PETITIONS
   A. Notices of Claim: 09091-Dr. Gem L. Dunn; 09092-Linda C. Lundgren; 09093-George Lu; 09094-Daryl Morris; 09095-Sandra Shinette; 09096-Gerald Hite; 09078-Andre Leroy Parish; 09031-George Wood
   B. Texas Gas Service: Purchased Gas Adjustment Clause for December 2009.

9. ORDINANCES ASSOCIATED WITH PUBLIC HEARINGS
   A. Consider for approval an ordinance of the City of Galveston, Texas designating the structure located at 1524 Avenue K as a "Galveston Landmark"; property is legally described as "the Lot 13, Block 135" in the City and County of Galveston, Texas"; Planning Case 09P-100; 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. 10-001 was read by caption: DESIGNATING THE STRUCTURE

LOCATED AT 1534 AVENUE K AS A "GALVESTON LANDMARK"; PROPERTY IS LEGALLY DESCRIBED AS "THE LOT 13, BLOCK 135" IN THE CITY AND COUNTY OF GALVESTON, TEXAS" (PLANNING CASE 09P-100; 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.

Wendy O'Donohoe, Director of Planning, briefed Council.

Mayor Thomas opened the PUBLIC HEARING.

Matt , representing the Galveston Historical Foundation, thanked the Galveston Fire Department for their prompt response to the fire at 1534 Ave. K and spoke in support of the ordinance.

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

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

CM Beeton thanked GHF for what it has done for this building and protecting it.

Motion unanimously approved.

B. 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 on property commonly known as "2110 Strand/Avenue B Galveston, Texas"; property is legally described as "Lot 9, Block 681, in the City and County of Galveston, Texas"; Planning Case Number 09P-105; making various findings and provisions related to the subject.

ORDINANCE NO. 10-002 was read by caption: GRANT A SPECIFIC USE PERMIT IN ORDER TO OPERATE A "TAVERN" IN A CENTRAL PLAZA WITH HISTORIC OVERLAY (CP-H) ZONING DISTRICT ON PROPERTY COMMONLY KNOWN AS "2110 STRAND/AVENUE B GALVESTON, TEXAS"; PROPERTY IS LEGALLY DESCRIBED AS "LOT 9, BLOCK 681, IN THE CITY AND COUNTY OF GALVESTON, TEXAS"; PLANNING CASE NUMBER 09P-105; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT.

Ms. O'Donohoe briefed Council on the ordinance.

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

Motion to approve by MPT Weber. Second by CM Woods. Unanimously approved.

10. PUBLIC COMMENT

Joal Donovan, 2908 Ave. O, spoke in support of the reappointment of Chula Sanchez to the Planning Commission.

Lyn Jones, 4240 Spoonbill Lane, asked that the requirement for a release from the Homeowners Assn. for the buyout program be revoked..

Kris Hall, Sands of Kahala Beach, asked that the release requirement from the Homeowners Assn, be revoked.

Larry Bishop, 11851 Sunbather Lane, stated his opposition to the required release from the

Homeowners Associations for the buyout program.

Richard Bell, 4231 Ghost Crab, stated he is opposed to the required release from the Homeowners Associations for the buyout program.

Walt Parsons, 2312 Gulf Dr., Terramar, stated he is opposed to the required release from the Homeowners Associations for the buyout program.

Bob Arbaitman, 22420 Kennedy Dr., stated he is opposed to the release requirement from the Homeowners Associations for the buyout program.

Ted Ginsberg, 4230 Ghost Crab, ask Council to rescind the Homeowners Association release requirement for the buyout program.

Brad Harris, FEMA, answered questions.

Benny Davis, 5 LeBrun Court, spoke regarding concerns regarding excavation/scraping of Stewart Beach.

A.J. Williams, 3523 Ave. N, asked to be considered for tree cutting jobs.

Betty Massey, 1602 Ave. O, Chair of the Comprehensive Plan Committee, spoke in support of the following appointments to the committee: Damien Patrick, Holly Fortenbury.

Don Ware, 9703 Rocktree Dr., Houston, Friends of State Park, thanked Councilmember Mahoney and Supervisor of Traffic Operations Mike Dricks for their assistance.

John Eckel, 6500 Bayou Front Drive, spoke in support of the reappointment of Chula Sanchez to the Planning Commission.

Allison Barker, 12911 Grandada, spoke in support of the reappointment of Chula Sanchez to the Planning Commission.

Damien Patrick, 4925 Ft. Crockett Blvd, spoke in support of the reappointment of Chula Sanchez to the Planning Commission.

Chula Ross-Sanchez, 9111 Teichman, asked Council to reappointment her to the Planning Commission.

Lillian McGraw, 5316 Ave. M, spoke in support of David Miller for appointment to the Planning Commission

Leon Phillips, 1212 38th St., spoke of David Miller for appointment to the Planning Commission.

Rev. Norris Berkley, Sr., 815 36th St., spoke in support of David Miller for appointment to the Planning Commission.

11. ORDINANCES, RESOLUTIONS AND PROCLAMATIONS

A. Consider for approval an ordinance of the City of Galveston, Texas, amending Chapter 23, "Nuisances," Division 4 "Graffiti" of the Code of the City of Galveston, 1982, as amended to conform to state law, making various findings and provisions related to the subject, and providing for publication.

ORDINANCE NO. 10-003 was read by caption: AMENDING CHAPTER 23, "NUISANCES," DIVISION 4 "GRAFFITI" OF THE CODE OF THE CITY OF GALVESTON, 1982, AS AMENDED TO CONFORM TO STATE LAW; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND PROVIDING FOR PUBLICATION.

Motion to approve by CM Fennewald. Second by MPT Weber. Unanimously approved.

B. Consider for approval an Ordinance of the City of Galveston, Texas amending Chapter

34, "Traffic" of "The Code of the City of Galveston 1982, as amended," to prohibit the use of wireless communication devices for electronic messaging while operating a motor vehicle; providing for definitions; providing for a penalty; providing for exceptions and affirmative defenses; providing for an effective date. (Woods/Colbert)

ORDINANCES 10-004was read by caption: AMENDING CHAPTER 34, "TRAFFIC" OF "THE CODE OF THE CITY OF GALVESTON 1982, AS AMENDED," TO PROHIBIT THE USE OF WIRELESS COMMUNICATION DEVICES FOR ELECTRONIC MESSAGING WHILE OPERATING A MOTOR VEHICLE; PROVIDING FOR DEFINITIONS; PROVIDING FOR A PENALTY; PROVIDING FOR EXCEPTIONS AND AFFIRMATIVE DEFENSES; PROVIDING FOR AN EFFECTIVE DATE; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT.

Motion to approve by MPT Woods. Second by MPT Weber. Vote: In favor: CM Mahoney, PT Weber, Mayor Thomas, CM Colbert, CM Fennewald, CM Woods. Opposed: CM Beeton Motion carried.

Recess into Executive Session: 5:55 p.m.
Reconvene: 6:55 p.m.

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 awarding RFB #09-010-014 to Sea Breeze Roofing, Inc. $35,000.00 with unit cost; plywood sheathing $3.50, square foot fascia $7.00 square foot, gutters $9.00 linear feet and downspouts $8.00 linear feet and authorizing the City Manager to execute a contract.

B. Consider for action authorizing the City Manager to execute a first amendment of the lease between FG&Z Holdings L.L.C. and the City of Galveston amending the Use of Leased Premises to read, for the purpose of constructing a restaurant to service the flying public, upon final approval by the City Attorney.

C. Consider for action authorizing the City Manager to make an expenditure of $19,037.88 to Thyssen Krupp Elevator, a sole source vendor, for repair to the elevator in the Air Traffic Control Tower, which was damaged by Hurricane Ike. Funding source is Capital Improvement Account with 50% to be reimbursed by TXDOT Routine Airport Maintenance Program (RAMP) Grant.

D. Consider for action authorizing the City Manager to accept an offer from Air Logistics, L.L.C. to fulfill the requirements of termination of their lease agreement by paying out the remainder of their lease rentals in the amount of $31,431.00, from January 1, 2010 through December 31, 2010, and offering $500,000.00 as a settlement for releasing Air Logistics of any and all responsibility to rebuild their facility to its pre Hurricane Ike condition, to be used for Airport improvements, upon final approval of the City Attorney.

E. Consider for action approving award of RFB #09-10-011 to Holiday Builders, Inc. for Island Transit Maintenance Facility renovation/expansion, base bid $1,595,000.00, reject Alternate #1 bus wash facility, accept Alternate #2 demolition of old garage (next to trolley barn) $58,000.00 and accept Alternate #3 Trolley Barn office renovation $180,000.00, total bid $1,833,000.00 and authorizing the City Manager to execute the contract, using combination of allowed ARRA funds, Lake Jackson Transit funds as described herein.

F. Consider for action approving proposal in the amount of $22,400.00 from MKP Consulting for the development of a five-year consolidated plan for CDBG and HOME Programs required by HUD and an analysis of impediments to fair housing choice.

Motion to approve with the change of five-year to three-year consolidated plan by CM Colbert. Second by MPT Weber. Unanimously approved.

G. Consider for action approving mutual aid agreement between Galveston County Fire Fighters Association and the Galveston Fire Department and authorizing acceptance of $7,625.00 for training and equipment purchases.

H. Consider for approval an Interlocal Cooperation Contract between the General Land Office and the City to pool public assistance funds received from FEMA for repairing damage to shore protection projects caused by Hurricane Ike to help fund the West Galveston Project and authorizing the City Manager to execute the contract. (GLO Contract No. 09-234-000-3778).

After discussion, **CM Fennewald moved to defer to January 28, 2010. Second by CM Woods. Unanimously approved.**

I. Discuss and consider for action a salary increase for Nellie De La Fuente the Assistant City Secretary. (Mayor/Colbert)

Motion to approve a $5,000 annual increase by CM Colbert. Second by CM Woods. Unanimously approved.

J. Discuss and consider for action providing the City Manager direction regarding tree recycling. (Mahoney/ Beeton)

No action required.

K. Consider for action retaining Bill Helfand with the Chamberlain, Hrdlicka law firm for representation of the City in connection with general legal advice, counsel, and representation related to public housing development issues.

L. Discuss and consider for action requesting that the Texas General Land Office re-evaluate the line of vegetation.

CM Fennewald moved to have staff asked for a re-evaluation of the line of vegetation within the next three business days and to ask the GLO to respond as quickly as possible. Second by CM Woods. Unanimously approved.

M. Discuss and consider for action the City's policy on building houses close to the beach and to direct the City Attorney to write up an Ordinance regarding this issue. (Woods/Colbert)
WITHDRAWN

N. Discuss and consider for action to revisit the apartment rentals to include all owners before and after Hurricane Ike. (Woods/Colbert)
NO ACTION TAKEN

O. Discuss and consider for action removing restrictions on parking along trolley routes until trolleys are operating again. (Beeton/Woods)
NO ACTION TAKEN

P. Discuss and consider for action directing the City Manager to sign a mass right-of-entry for removal of hazardous dead trees on private property. (Beeton/Woods)
NO ACTION TAKEN.

Q. Discuss and consider for action giving direction to the City Manager to reduce bond amount for electricians from $25,000. (Beeton/Woods)
NO ACTION TAKEN

R. Discuss and consider for direction re: extended hours for the Johnny Rocco Skate Park. (Mahoney/Beeton)

CM Mahoney moved to direct the City Manager to find money to open the Skate Park from 9:00 a.m. to 5:00 p.m. on Sunday. Second by CM Beeton. Unanimously approved.

S. Discuss and consider for action that the City of Galveston make an application for a Brownfield Grant regarding the cleaning up of the old incinerator and Falstaff Building. (Woods/Colbert)

CM Woods moved to seek other funding that the City may receive to decontaminate the old incinerator site. Second by CM Colbert. Unanimously approved.

T. Discuss and consider for action hiring additional people to help out DRC in the cutting down of trees. (Woods/Colbert)

CM Woods moved to direct the City Manager to look at ways and means of hiring more local people to help cut down the trees. MPT Weber seconded. Unanimously approved.

U. Discuss and consider for action giving direction to the City Manager concerning CDBG housing funds and applications.
NO ACTION TAKEN

V. Discuss and consider for action giving the City Manager further direction regarding beach setbacks following dune restoration and beach renourishment. (Fennewald/Beeton)

CM Fennewald moved to direct the Planning Commission to consider her proposed changes to the city rules to prevent the seaward movement of DPL following beach renourishment or dune restoration. (See Attached) Second by CM Mahoney. Unanimously approved. Second by CM Mahoney. Unanimously approved.

W. Discuss and consider for action providing the City Manager and the City Attorney direction concerning the HOA issues for the HMGP Buyout properties.

CM Mahoney moved that the City continue to regulate the releases from HOAs but require some type of escrow. There was no second.

CM Fennewald moved that the City continue the requirement of the HOAs releases for the HMGP properties. Second by CM Beeton. Vote: In Favor: CM Beeton, MPT Weber, Mayor Thomas, CM Colbert. Opposed: CM Mahoney. Motion carried.

X. Discuss and consider for action providing the City Manager and City Attorney direction concerning the uses of the land acquired under the HMGP program.

CM Colbert moved that the City Manager and City Attorney discuss with the HOAs land uses such as public parking, open space and emergency vehicle turn-a-round for the HMGP program. Second by CM Woods. City Attorney Green clarified the City would discuss the restrictions. That the City would further restrict the eligible open space uses to reserve emergency turn-a-round and parking in accordance with federal regulations. Unanimously approved.

CM Colbert moved approval of Action Items A, B, C, D, E, G and K. Second by MPT Weber. Unanimously approved.

13. MAYOR AND COUNCIL APPOINTMENTS

<u>Arts & Historic Preservation Advisory Board</u>: CM Fennewald moved to appoint Jim Cordell. Second by CM Beeton. Unanimously approved.

<u>Intermodal Transportation Commission</u>: CM Beeton moved to reappoint James Casey and to appoint Don Mafrige. Second by CM Fennewald. Unanimously approved.

<u>Planning Commission</u>: CM Mahoney moved to reappoint Chula Sanchez. Second by CM Beeton. Vote: In Favor: CM Mahoney, CM Beeton, CM Fennewald. Opposed: MPT Weber, Mayor Thomas, CM Colbert, CM Woods. Motion failed.
CM Beeton moved to appoint Carol Holloway. Second by CM Mahoney. Vote: In Favor: CM Mahoney, CM Beeton, CM Fennewald. Opposed: MPT Weber, Mayor Thomas, CM Colbert. CM Woods. Motion failed.
CM Beeton moved to appoint Bob Hessley. Second by CM Mahoney. Vote: In Favor: CM Mahoney, CM Beeton, CM Fennewald. Opposed: MPT Weber, Mayor Thomas, CM Colbert, CM Woods. Motion failed.
CM Woods moved to appoint David Miller. Second by CM Colbert. Vote: In Favor: MPT Weber, Mayor Thomas, CM Colbert, CM Woods. Opposed: CM Mahoney, CM Beeton, CM Fennewald. Motion carried.

Zoning Board of Adjustments: MPT Weber moved to appoint Craig Lewis. Second by CM Woods. Unanimously approved. CM Beeton moved to reappoint Carolyn Sunseri. Second by CM Fennewald. Unanimously approved.

Comprehensive Plan Committee: CM Beeton moved to appoint Holly Fortenberry and Damien Patrick. Second by CM Fennewald. Unanimously approved.

HGAC Transportation Policy Council Technical Advisory Committee: Mayor Thomas stated Rick Beverlin and Michael Worthy were being reappointed.

14. N/A

15. EXECUTIVE SESSION
N/A

16. DISCUSSION ITEMS
N/A

17. ADJOURNMENT
There being no further business to come before the assembly, the meeting was adjourned at 10:05 p.m.