

MINUTES OF REGULAR COUNCIL MEETING

CITY OF GULF SHORES, ALABAMA

AUGUST 11, 2008

Mayor Duke called the meeting to order at 5:00 p.m. at the City Hall. The invocation was delivered by The Reverend Jonathan Henderson, Associate Pastor, St. Andrews by the Sea Church. The Pledge of Allegiance to the flag was led by Mayor Duke.

Upon roll call, the following officials answered "present": Councilmen Garris, Doughty, Harris, Jones, and Mayor Duke. Councilman Craft was absent. The Mayor declared a quorum present.

The Mayor advised that the Executive Session shown on the agenda would not be necessary.

Councilman Doughty moved to approve the minutes of the regular meeting of July 28, 2008, as presented; seconded by Councilman Garris; and the vote of those officials present was unanimously in favor of the motion.

Councilman Garris moved to approve the minutes of the work session of August 4, 2008, as presented; seconded by Councilman Harris; and the vote of those officials present was unanimously in favor of the motion.

Councilman Jones moved to approve the payroll and expense vouchers in the amount of \$1,806,975.40; seconded by Councilman Garris; and the vote of those officials present was unanimously in favor of the motion.

The City Clerk noted that the complete list of vouchers to be paid, as reflected on a computer printout, had been made a permanent record in the Clerk's office.

Mayor Duke stated that this was the time and place for the public hearing, as advertised, on the proposed amendment to the Zoning Ordinance as it relates to the rezoning of The Colony at Fort Morgan.

The City Clerk stated that this public hearing had been advertised as required by law, as reflected by the following affidavits of publication:

Steve Foote, Planning Director, noted the recommendations of his Department and the Planning Commission in support of the rezoning, as reflected by the following communications:

The Mayor asked if there was anyone present who wished to comment on the proposed zoning amendment.

Greg Gilbert, speaking on the behalf of the developer, advised the Council that the developer has met with the owners of the adjoining property and agreed to certain concessions to satisfy their concerns.

An unidentified individual stated that this type project was needed in the area.

The City Clerk stated no written communications had been received in this regard.

Councilman Jones moved for unanimous consent of the Council to suspend the rules of procedure to allow for the immediate consideration of the following Ordinance:

ORDINANCE NO. 1527

**AN ORDINANCE AMENDING ORDINANCE NO. 235
(ZONING ORDINANCE), ADOPTED MAY 10, 1982,
BY CHANGING THE ZONING CLASSIFICATION
OF A 40.2-ACRE PARCEL DESCRIBED HEREIN
IN REZONING CASE Z2007-08,
FROM R-1B TO RML**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON AUGUST 11, 2008, as follows:

Section 1. That, in respect to that certain property described as follows:

In the State of Alabama, County of Baldwin, and City of Gulf Shores, and being more particularly described as follows: Commencing at the southwest corner of Section 14, Township 9 South, Range 3 East Baldwin County, Alabama; thence run north 89 degrees 55'50" east, 1333.25 feet to the point of beginning; thence run north 00 degrees 43'40" west, 1334.85 feet to a point; thence run north 89 degrees 21'19" east, 421.08 feet to a point; thence run north 89 degrees 21'54" east, 925.41 feet to a point; thence run south 00 degrees 21'58" west, 1179.97 feet to a point; thence run southwesterly along a curve to the left having a radius of 2456.33 feet, a delta angle of 10 degrees 49'12", a chord which bears south 68 degrees 21'02" west, 463.17 feet, an arc distance of 463.86 feet to a point; thence run north 89 degrees 55'50" west, 891.42 feet to the point of beginning containing 40.20 acres more or less.

Ordinance No. 235 (Zoning Ordinance), adopted May 10, 1982, along with the Zoning Map of the City of Gulf Shores, be and it is hereby amended and altered by rezoning those certain parcels of real property herein described from R-1B (medium density single family residential) to RML (limited multi-family), CONTINGENT UPON:

- 1) The approximate 40-acre site is limited to a maximum of 200 dwelling units.
- 2) The site plan submitted for review and approval shall be consistent with the conceptual plan presented at rezoning, especially regarding open space areas and amenities as shown. However, layout and design changes may be required to provide for adequate buffering, tree preservation and other internal site needs.
- 3) If building permits have not been obtained within three (3) years of site plan approval, the property shall automatically revert back to the current R-1B zoning without further legislative action.
- 4) The site of the comfort station shall be deeded to the City of Gulf Shores for uses associated with the Fort Morgan bikeway.

Section 2. That this Ordinance shall become effective upon its adoption and publication as required by law.

The motion for unanimous consent was seconded by Councilman Harris; and upon the question, the vote thereon was as follows: Councilman Garris, "aye," Councilman Doughty, "aye," Councilman Harris, "aye," Councilman Jones, "aye," and Mayor Duke, "aye." Councilman Craft was absent. Mayor Duke then declared the rules suspended.

Councilman Jones then moved for the adoption of Ordinance No. 1527 and to waive the reading of said Ordinance at length. The motion for the adoption of Ordinance No. 1527 was seconded by Councilman Garris; was regularly put; was discussed and considered in full by the Council; and upon the question, the vote thereon was as follows: Councilman Garris, "aye," Councilman Doughty, "nay," Councilman Harris, "nay," Councilman Jones, "aye," and Mayor Duke, "aye." Councilman Craft was absent. Whereupon, the Mayor declared Ordinance No. 1527 not adopted.

Mayor Duke stated that this was the time and place for the public hearing, as advertised, on the proposed amendment to the Zoning Ordinance as it relates to the rezoning of a portion of Colonial Traditions Subdivision.

The City Clerk stated that this public hearing had been advertised as required by law, as reflected by the following affidavits of publication:

Steve Foote, Planning Director, noted the recommendations of his Department and the Planning Commission in support of the rezoning, as reflected by the following communications:

The Mayor asked if there was anyone present who wished to comment on the proposed zoning amendment. There was no comment. The City Clerk stated no written communications had been received in this regard.

Councilman Jones moved for unanimous consent of the Council to suspend the rules of procedure to allow for the immediate consideration of the following Ordinance:

ORDINANCE NO. 1528

**AN ORDINANCE AMENDING ORDINANCE NO. 235
(ZONING ORDINANCE), ADOPTED MAY 10, 1982,
BY CHANGING THE ZONING CLASSIFICATION
OF A 57.51-ACRE PARCEL DESCRIBED HEREIN
IN REZONING CASE PUD2008-02,
FROM BG-1 TO BG-1/PUD**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON AUGUST 11, 2008, as follows:

Section 1. That, in respect to that certain property described as follows:

In the State of Alabama, County of Baldwin, and City of Gulf Shores, and being more particularly described as follows: Lots 1, 2 and 8 and the common area of Colonial Traditions Subdivision as recorded on Slide 2382D & E of the Baldwin County Probate Records.

Ordinance No. 235 (Zoning Ordinance), adopted May 10, 1982, along with the Zoning Map of the City of Gulf Shores, be and it is hereby amended and altered by rezoning those certain parcels of real property herein described from BG-1 (General Business/Mixed Use Sub-Area 1) to BG-1/PUD (General Business/Mixed Use Sub-Area 1/Planned Unit Development), CONTINGENT UPON:

1. The temporary signs shall expire within one (1) year from their approval date. Planning Department staff may administratively extend the signage beyond a year; if staff and the applicant cannot agree on an extension the applicants may apply for a sign time extension from the Planning Commission and City Council.

Section 2. That this Ordinance shall become effective upon its adoption and publication as required by law.

The motion for unanimous consent was seconded by Councilman Garris; and upon the question, the vote thereon was as follows: Councilman Garris, "aye," Councilman Doughty, "aye," Councilman Harris, "aye," Councilman Jones, "aye," and Mayor Duke, "aye." Councilman Craft was absent. Mayor Duke then declared the rules suspended.

Councilman Garris then moved for the adoption of Ordinance No. 1528 and to waive the reading of said Ordinance at length. The motion for the adoption of Ordinance No. 1528 was seconded by Councilman Harris; was regularly put; was discussed and considered in full by the Council; and upon the question, the vote thereon was as follows: Councilman Garris, "aye," Councilman Doughty, "aye," Councilman Harris, "aye," Councilman Jones, "aye," and Mayor Duke, "aye." Councilman Craft was absent. Whereupon, the Mayor declared Ordinance No. 1528 duly and legally adopted.

The City Clerk presented the Application for Restaurant Retail Liquor License of Tequila Mexican Restaurant, Inc., dba Tequila Mexican Restaurant.

Whereupon, Councilman Harris moved to approve the application of Tequila Mexican Restaurant, Inc., dba Tequila Mexican Restaurant,

1545 Gulf Shores Parkway, for a restaurant retail liquor license and to so notify the ABC Board; seconded by Councilman Jones; and the vote of those officials present was unanimously in favor of the motion.

The City Clerk presented the Application for Special Events Retail License of the Alabama Gulf Coast Area Chamber of Commerce, dba 38th Annual National Shrimp Festival.

Whereupon, Councilman Jones moved to approve the application of the Alabama Gulf Coast Area Chamber of Commerce, dba 38th Annual National Shrimp Festival, for a special events retail license and to so notify the ABC Board; seconded by Councilman Garris; and the vote of those officials present was unanimously in favor of the motion.

The City Clerk presented the Application for Special Events Retail License of Pinki's Pub, Inc., dba Pink Pony Pub.

Whereupon, Councilman Doughty moved to approve the application of Pinki's Pub, Inc., dba Pink Pony Pub, 137 East Gulf Place, for a special events retail license and to so notify the ABC Board; seconded by Councilman Harris; and the vote of those officials present was unanimously in favor of the motion.

Mayor Duke asked if there was anyone present who wished to address the Council but had been unable to get on the formal agenda.

Cathy Hawkins, speaking on behalf of the Cotton Creek Trace Subdivision and others in the area, expressed concern with the July 28 rezoning of the King property on Cotton Creek Drive.

Robert Trammell, a resident in the area, stated that the majority of the property owners in the area were opposed to the rezoning and the location of a dialysis clinic on the property.

After a lengthy discussion, it was determined that the Council will consider a policy addressing rezoning of property that does not occur immediately following the Planning Commission review of such.

Those present were also advised that the majority of uses in the restricted business district require a special exception granted from the Board of Zoning Adjustments and Appeals. The residents were assured they would receive notice prior to any hearing relative to this property.

George Sanders addressed the Council and asked for their decision on the purchase of the Canal property.

After a brief discussion, it was determined that a Resolution relative to this issue would be on the Council Agenda for August 25.

Councilman Jones introduced and moved for the adoption of the following Resolution:

RESOLUTION NO. 4524-08

**A RESOLUTION
AMENDING RESOLUTION NO. 4389-07,
ADOPTED NOVEMBER 19, 2007,
WITH REGARD TO
AMENDMENT TO FINAL PLAN
OF PLANNED UNIT DEVELOPMENT
TO BE KNOWN AS
THE GOLF COURSE OF THE WHARF**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON AUGUST 11, 2008, as follows:

Section 1. That Resolution No. 4389-07, adopted November 19, 2007, approving the Final Plan of the Planned Unit Development to be known as The Golf Course of The Wharf be and it is hereby amended to change the use of the residential portion of the planned unit development from multi-family condominiums to a single family subdivision, CONTINGENT UPON:

1. The community covenants and restrictions and easements shall be submitted prior to final subdivision approval.
2. The applicants shall preserve the existing landscaping between their site and the apartments to the east of the site.
3. The applicant shall either (1) preserve the two oak trees located in the area of Lots 6 and 7 by placing them in a common area a minimum forty feet (40') in width, or (2) relocate the trees to another on-site location acceptable to the City subject to an appropriate bond being given to the City to cover the cost of planting a similar sized tree or trees at the City's discretion should the trees experience severe damage or death.
4. One of the public benefits of the PUD is the ability to preserve the golf course and keep it open and visible to the surrounding property owners. As such, the 165-acre golf course shall remain as open space and fencing between the golf course and adjacent property is prohibited unless a PUD Amendment is processed and approved by the Planning Commission and City Council.
5. The following comment from Public Works must be addressed:
 - The applicant shall obtain approval of the round-a-bout design from City staff and the City's transportation consultant, Skipper & Associates, prior to commencement of construction.

Section 2. That this Resolution shall become effective upon its adoption.

The motion for the adoption of Resolution No. 4524-08 was seconded by Councilman Harris; was regularly put; was discussed and considered in full by the Council; and upon the question, the vote thereon was as follows: Councilman Garris, "aye," Councilman Doughty, "aye," Councilman Harris, "aye," Councilman Jones, "aye," and Mayor Duke, "aye." Councilman Craft was absent. Whereupon, the Mayor declared Resolution No. 4524-08 duly and legally adopted.

The City Clerk read into the record the following bid tabulation:

Councilman Harris introduced and moved for the adoption of the following Resolution:

RESOLUTION NO. 4525-08

**A RESOLUTION ACCEPTING THE BID OF
CUMMINS MID SOUTH
IN THE AMOUNT OF \$18,524.00
FOR NATURAL/LP GAS GENERATOR;
AND AUTHORIZING PAYMENT OF AMOUNT FROM
THE GENERAL FUND BUDGET**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON AUGUST 11, 2008, as follows:

Section 1. That the bid of Cummins Mid South in the amount of \$18,524.00 for Natural/LP Gas Generator, be and the same is hereby accepted, being the lowest, most responsible, among sealed bids opened on July 15, 2008.

Section 2. That the funds for payment for such amount be drawn from the General Fund Capital Outlay Budget of the Public Works Maintenance Division, "60KW Generator-City Hall" Account, for Fiscal Year 2008.

Section 3. That this Resolution shall become effective upon its adoption.

The motion for the adoption of Resolution No. 4525-08 was seconded by Councilman Garris; was regularly put; was discussed and considered in full by the Council; and upon the question, the vote thereon was as follows: Councilman Garris, "aye," Councilman Doughty, "aye," Councilman Harris, "aye," Councilman Jones, "aye," and Mayor Duke, "aye." Councilman Craft was absent. Whereupon, the Mayor declared Resolution No. 4525-08 duly and legally adopted.

Councilman Garris introduced and moved for the adoption of the following Resolution:

RESOLUTION NO. 4526-08

**A RESOLUTION AUTHORIZING
AND DIRECTING THE
MAYOR AND CITY CLERK TO EXECUTE
AND ATTEST, RESPECTIVELY,
CHANGE ORDER TO CONTRACT BETWEEN
THE CITY OF GULF SHORES AND
JOE RALEY BUILDERS
FOR TEMPORARY POLICE ADMINISTRATION FACILITY**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON AUGUST 11, 2008, as follows:

Section 1. That the Mayor and City Clerk be and they are hereby authorized and directed to execute and attest, respectively, a change order to the contract between the City of Gulf Shores and Joe Raley Builders for temporary police administration facility, more particularly described as:

Change Order No. 1 - Add \$11,200.00

Section 2. That the funds for payment for such change order be drawn from the 2008-A G.O. Warrant Proceeds Fund.

Section 3. That this Resolution shall become effective upon its adoption.

The motion for the adoption of Resolution No. 4526-08 was seconded by Councilman Doughty; was regularly put; was discussed and considered in full by the Council; and upon the question, the vote thereon was as follows: Councilman Garris, "aye," Councilman Doughty, "aye," Councilman Harris, "abstain," Councilman Jones, "aye," and Mayor Duke, "aye." Councilman Craft was absent. Whereupon, the Mayor declared Resolution No. 4526-08 duly and legally adopted.

Councilman Jones introduced and moved for the adoption of the following Resolution:

RESOLUTION NO. 4527-08

**A RESOLUTION AUTHORIZING AND DIRECTING THE
MAYOR AND CITY CLERK TO EXECUTE
AND ATTEST, RESPECTIVELY,
CONTRACT WITH
KEET CONSULTING SERVICES, LLC
FOR GIS DISASTER SERVICES
IN THE EVENT OF A DISASTER**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON AUGUST 11, 2008, as follows:

Section 1. That the Mayor and City Clerk be and they are hereby authorized and directed to execute and attest, respectively, a contract between the City of Gulf Shores and Keet Consulting Services, LLC for GIS Disaster Services in the event of a disaster; in substantially the form presented to Council this date.

Section 2. That this Resolution shall become effective upon its adoption.

The motion for the adoption of Resolution No. 4527-08 was seconded by Councilman Doughty; was regularly put; was discussed and considered in full by the Council; and upon the question, the vote thereon was as follows: Councilman Garris, "aye," Councilman Doughty, "aye," Councilman Harris, "aye," Councilman Jones, "aye," and Mayor Duke, "aye." Councilman Craft was absent. Whereupon, the Mayor declared Resolution No. 4527-08 duly and legally adopted.

Councilman Garris introduced and moved for the adoption of the following Resolution:

RESOLUTION NO. 4528-08

**A RESOLUTION AUTHORIZING AND DIRECTING THE
MAYOR AND CITY CLERK TO EXECUTE
AND ATTEST, RESPECTIVELY,
NON-BINDING LETTER OF INTENT WITH
IDC DEVELOPMENT, LLC
FOR MAINSTAY SUITE CONFERENCE CENTER**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON AUGUST 11, 2008, as follows:

Section 1. That the Mayor and City Clerk be and they are hereby authorized and directed to execute and attest, respectively, a non-binding letter of intent between the City of Gulf Shores and IDC Development, LLC for MainStay Suite Conference Center

development; in substantially the form presented to Council this date.

Section 2. That this Resolution shall become effective upon its adoption.

The motion for the adoption of Resolution No. 4528-08 was seconded by Councilman Harris; was regularly put; was discussed and considered in full by the Council; and upon the question, the vote thereon was as follows: Councilman Garris, "aye," Councilman Doughty, "nay," Councilman Harris, "aye," Councilman Jones, "aye," and Mayor Duke, "aye." Councilman Craft was absent. Whereupon, the Mayor declared Resolution No. 4528-08 duly and legally adopted.

Councilman Doughty introduced and moved for the adoption of the following Resolution:

RESOLUTION NO. 4529-08

**A RESOLUTION
AUTHORIZING AND DIRECTING
MAYOR AND CITY CLERK
TO EXECUTE AND ATTEST, RESPECTIVELY,
AGREEMENT WITH
ALABAMA DEPARTMENT OF TRANSPORTATION
FOR INSTALLATION OF TRAFFIC SIGNAL
AT INTERSECTION OF ALABAMA HIGHWAY 59
AND COUNTY ROAD 8**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON AUGUST 11, 2008, as follows:

Section 1. That the City of Gulf Shores enter into an Agreement with the State of Alabama, acting by and through the Alabama Department of Transportation, for installation and operation of a traffic signal at the intersection of Alabama Highway 59 and County Road 8.

Section 2. That the Agreement is before this Council, and that the agreement be executed in the name of the City, by its Mayor, for and on its behalf.

Section 3. That the signature of the Mayor be attested by the City Clerk and that the seal of the City be affixed to the agreement.

Section 4. That this Resolution shall become effective upon its adoption.

The motion for the adoption of Resolution No. 4529-08 was seconded by Councilman Garris; was regularly put; was discussed and considered in full by the Council; and upon the question, the vote thereon was as follows: Councilman Garris, "aye," Councilman Doughty, "aye," Councilman Harris, "aye," Councilman Jones, "aye," and Mayor Duke, "aye." Councilman Craft was absent. Whereupon, the Mayor declared Resolution No. 4529-08 duly and legally adopted.

There being no further business to come before the Council, Councilman Doughty moved to adjourn; seconded by Councilman Jones; and the vote of those officials present was unanimously in favor of the motion.

Mayor Duke declared the meeting adjourned.

George W. Duke, III, Mayor

(SEAL)

ATTEST:

Renee F. Moore, MMC, City Clerk