

MINUTES OF REGULAR COUNCIL MEETING

CITY OF GULF SHORES, ALABAMA

SEPTEMBER 22, 2008

Mayor Duke called the meeting to order at 5:00 p.m. at the City Hall. The invocation was delivered by The Reverend Deral Rollings, St. Jude's 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, Craft, Jones, and Mayor Duke. The Mayor declared a quorum present.

Councilman Harris moved to approve the minutes of the work session of September 8, 2008, as presented; seconded by Councilman Garris; and the vote was unanimously in favor of the motion.

Councilman Doughty moved to approve the minutes of the regular meeting of September 8, 2008, as presented; seconded by Councilman Garris; and the vote was unanimously in favor of the motion.

Councilman Craft moved to approve the minutes of the work session of September 15, 2008, as presented; seconded by Councilman Jones. Upon the question, all those officials present voted in favor of the motion, with the exception of Councilman Doughty, who abstained. The Mayor declared the motion carried.

The Mayor requested and received unanimous consent of the Council to deviate from the published agenda to remove the approval of the payroll and expense vouchers from the agenda, due to the server being down and no vouchers being paid.

Mayor Duke read a Proclamation declaring October 9-12 as National Shrimp Festival Week.

Mayor Duke asked if there was anyone present who wished to address the Council but had been unable to get on the formal agenda. There was no response.

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

RESOLUTION NO. 4541-08

**A RESOLUTION APPROVING SITE PLAN OF
J & J ENTERPRISES, LLC
FOR A DEVELOPMENT TO BE KNOWN AS
SHAMBURGER MEDICAL OFFICE BUILDING
LOCATED ON WEST 19TH AVENUE;
AND SETTING FORTH FINDINGS OF FACT AND
CONCLUSIONS, IN ACCORDANCE WITH REQUIREMENTS
OF ARTICLE 15 OF ZONING ORDINANCE NO. 235
(SP2008-07)**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON SEPTEMBER 22, 2008, as follows:

Section 1. That the Site Plan of J & J Enterprises, LLC for a 3,352 square foot office building, to be known as Shamburger Medical Office Building, located within Professional Court Subdivision on

West 19th Avenue, north of Fire Station No. 1, be and it is hereby approved.

The Site Plan approved and referenced herein shall be comprised of the following exhibits: Exhibit A - Plans submitted by J & J Enterprises, LLC dated September 22, 2008.

Section 2. That the decision of the Council is that the Site Plan is in the public interest, based on the following findings of fact and conclusions:

A. The plan is consistent with the comprehensive plan and the purpose and intent of the zoning district in which it is located - BG/PUD (general business/planned unit development).

B. The plan is in conformance with applicable regulations of the zoning district in which it is located. The plan meets or exceeds area and setback requirements.

C. The plan is in conformance with the City's subdivision regulations and all other applicable City requirements including design, adequacy and construction of streets, drainage, utilities and other essential services or facilities.

ALL CONSTRUCTION SHALL BE CONSISTENT WITH THE SITE PLAN APPROVED BY COUNCIL AND COMPLY WITH ALL ZONING AND OTHER APPLICABLE REGULATIONS OF THE CITY, AND FURTHER CONTINGENT UPON:

1) Upon review and final approval of the access and cross easement (shared parking) agreement, the applicant shall provide a copy of the recorded easements to the Community Development Department prior to the issuance of a building permit.

2) The applicant shall remove the temporary drive and culvert upon completion of construction and restore the area to its pre-construction condition.

3) The applicant shall have any proposed exterior lighting approved by the Community Development Department.

D. The plan is consistent with good design standards in respect to all internal and external relationships, including but not limited to:

- 1) Relationship to adjoining properties;
- 2) Internal circulation, both vehicular and pedestrian;
- 3) Design of access and egress and impact on adjoining streets;
- 4) Disposition and use of open space, provision of screening and/or buffering, and preservation of existing natural features including trees, wetlands, and dunes;
- 5) Size and bulk of the structure meets or exceeds compliance with area requirements;
- 6) Building arrangements both between buildings in the proposed development and those on adjoining sites.

E. The plan is in conformance with City policy in respect to sufficiency of ownership. The City does not, by this approval, assume any responsibility for title or survey problems which may arise.

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

The motion for the adoption of Resolution No. 4541-08 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 Craft, "aye," Councilman Jones, "aye," and Mayor Duke, "aye." Whereupon, the Mayor declared Resolution No. 4541-08 duly and legally adopted.

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

RESOLUTION NO. 4542-08

**A RESOLUTION APPROVING SITE PLAN OF
JADE CONSULTING, LLC
FOR A DEVELOPMENT TO BE KNOWN AS
ALABAMA GULF COAST ZOO EVACUATION BUILDING
LOCATED OFF OAK ROAD EAST;
AND SETTING FORTH FINDINGS OF FACT AND
CONCLUSIONS, IN ACCORDANCE WITH REQUIREMENTS
OF ARTICLE 15 OF ZONING ORDINANCE NO. 235
(SP2008-05)**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON SEPTEMBER 22, 2008, as follows:

Section 1. That the Site Plan of Jade Consulting, LLC for an animal evacuation shelter, to be known as the Alabama Gulf Coast Zoo Evacuation Building, located off Oak Road East directly north of The Colony Club at Drake's Landing Apartments, be and it is hereby approved.

The Site Plan approved and referenced herein shall be comprised of the following exhibits: Plans submitted by Jade Consulting, LLC dated September 22, 2008.

Section 2. That the decision of the Council is that the Site Plan is in the public interest, based on the following findings of fact and conclusions:

A. The plan is consistent with the comprehensive plan and the purpose and intent of the zoning district in which it is located - A/TP (amusement/theme park).

B. The plan is in conformance with applicable regulations of the zoning district in which it is located. The plan meets or exceeds area and setback requirements.

C. The plan is in conformance with the City's subdivision regulations and all other applicable City requirements including design, adequacy and construction of streets, drainage, utilities and other essential services or facilities.

ALL CONSTRUCTION SHALL BE CONSISTENT WITH THE SITE PLAN APPROVED BY COUNCIL AND COMPLY WITH ALL ZONING AND OTHER APPLICABLE REGULATIONS OF THE CITY, AND FURTHER CONTINGENT UPON:

1) The applicant must apply and gain approval of a variance from the Zoning Board of Adjustment in order to use a gravel drive and parking area.

D. The plan is consistent with good design standards in respect to all internal and external relationships, including but not limited to:

- 1) Relationship to adjoining properties;
- 2) Internal circulation, both vehicular and pedestrian;
- 3) Design of access and egress and impact on adjoining streets;
- 4) Disposition and use of open space, provision of screening and/or buffering, and preservation of existing natural features including trees, wetlands, and dunes;
- 5) Size and bulk of the structure meets or exceeds compliance with area requirements;
- 6) Building arrangements both between buildings in the proposed development and those on adjoining sites.

E. The plan is in conformance with City policy in respect to sufficiency of ownership. The City does not, by this approval, assume any responsibility for title or survey problems which may arise.

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

The motion for the adoption of Resolution No. 4542-08 was seconded by Councilman Craft; 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 Craft, "aye," Councilman Jones, "aye," and Mayor Duke, "aye." Whereupon, the Mayor declared Resolution No. 4542-08 duly and legally adopted. Councilman Craft introduced and moved for the adoption of the following Resolution:

RESOLUTION NO. 4543-08

**A RESOLUTION
AUTHORIZING AND APPROVING EXECUTION
OF CONTRACT WITH
BANCORPSOUTH EQUIPMENT FINANCE
FOR PURCHASE BY THE CITY OF NEW KNUCKLEBOOM LOADER**

WHEREAS, the City Council (the "Governing Body") of the City of Gulf Shores, Alabama (the "Buyer"), acting for and on behalf of the Buyer hereby finds, determines and adjudicates as follows:

1. Buyer desires to enter into a Contract with the Exhibits attached thereto in substantially the same form as attached hereto as Exhibit "A" (the "Contract") with BancorpSouth Equipment Finance, a division of BancorpSouth Bank (the "Seller"), for the purpose of purchasing the equipment as described therein for the total cost specified therein (collectively the "Equipment").

2. It is in the best interest of the residents served by the Buyer that the Buyer acquire the Equipment pursuant to and in accordance with the terms of the Contract; and

3. It is necessary for the Buyer to approve and authorize the contract.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON SEPTEMBER 22, 2008, as follows:

Section 1. The Contract and Exhibits attached thereto in substantially the same form as attached hereto as Exhibit A by and between Buyer and Seller is hereby approved and the Mayor is hereby

authorized and directed to execute said Contract on behalf of the buyer.

Section 2. The Delivery Order is being issued in calendar year 2008.

Section 3. Neither any portion of the gross proceeds of the Contract nor the Equipment identified to the Contract shall be used (directly or indirectly) in a trade or business carried on by any person other than a governmental unit, except for such use as a member of the general public.

Section 4. No portion of the rental payments identified in the Contract (a) is secured, directly or indirectly, by property used or to be used in a trade or business carried on by a person other than a governmental unit or (b) is to be derived from payments (whether or not to Buyer) in respect of property or borrowed money used or to be used for a trade or business carried on by any person other than a governmental unit.

Section 5. No portion of the gross proceeds of the Contract are used (directly or indirectly) to make or finance loans to persons other than governmental units.

Section 6. The Mayor is further authorized for and on behalf of the Governing Body and the buyer to do all things necessary in furtherance of the obligations of the Buyer pursuant to the Contract, including execution and delivery of all other documents necessary or appropriate to carry out the transactions contemplated thereby in accordance with the terms and provisions thereof.

Section 7. Buyer does not designate the Contract as a qualified tax-exempt obligation for purposes of Section 265(b) of the Code. The Contract is not bank-qualified.

Section 8. The Equipment shall be used by the Buyer's Streets & Roads Division of Public Works and will not be used in any private business or put to any private business use.

Section 9. That this Resolution shall become effective upon its adoption.

The motion for the adoption of Resolution No. 4543-08 was seconded by Councilman Jones; 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 Craft, "aye," Councilman Jones, "aye," and Mayor Duke, "aye." Whereupon, the Mayor declared Resolution No. 4543-08 duly and legally adopted.

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

RESOLUTION NO. 4544-08

**A RESOLUTION AUTHORIZING AND DIRECTING THE
MAYOR AND CITY CLERK TO EXECUTE
AND ATTEST, RESPECTIVELY,
CONTRACT FOR PROFESSIONAL SERVICES WITH
ENGINEERING DEVELOPMENT SERVICES, LLC
FOR MISCELLANEOUS SURVEYING;
AND AUTHORIZING PAYMENT OF SUCH 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 SEPTEMBER 22, 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 for Professional Services between the City of Gulf Shores and Engineering Development Services, LLC for miscellaneous surveying in an amount not to exceed \$10,000.00; in substantially the form presented to Council this date.

Section 2. That the funds for payment for such contract be drawn from the General Fund Operations Budget of Public Works-General Services, Engineering/Consulting Services Account, as reflected by the Fiscal Year 2008 Budget.

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

The motion for the adoption of Resolution No. 4544-08 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 Craft, "aye," Councilman Jones, "aye," and Mayor Duke, "aye." Whereupon, the Mayor declared Resolution No. 4544-08 duly and legally adopted.

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

RESOLUTION NO. 4545-08

**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
CHARLES WEEMS GENERAL CONTRACTOR
FOR MEYER PARK IMPROVEMENTS**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON SEPTEMBER 22, 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 Charles Weems General Contractor for Meyer Park improvements, more particularly described as:

Change Order No. 1 - Add \$3,462.85

Section 2. That the funds for payment for such change order be drawn from the 2008-A G.O. Warrant Proceeds Fund, Meyer Park Improvements-Ph I Account.

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

The motion for the adoption of Resolution No. 4545-08 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 Craft, "aye," Councilman Jones, "aye," and Mayor Duke, "aye." Whereupon, the Mayor declared Resolution No. 4545-08 duly and legally adopted.

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

RESOLUTION NO. 4546-08

**A RESOLUTION AUTHORIZING
AND DIRECTING THE
MAYOR AND CITY CLERK TO EXECUTE
AND ATTEST, RESPECTIVELY,
CHANGE ORDERS 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 SEPTEMBER 22, 2008, as follows:

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

Change Order No. 2 - Add \$1,150.00
Change Order No. 3 - Add \$1,040.00

Section 2. That the funds for payment for such change order be drawn from the 2008-A G.O. Warrant Proceeds Fund, Temporary Police Admin Facility Account.

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

The motion for the adoption of Resolution No. 4546-08 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 Craft, "aye," Councilman Jones, "aye," and Mayor Duke, "aye." Whereupon, the Mayor declared Resolution No. 4546-08 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. 4547-08

**A RESOLUTION ACCEPTING THE BID OF
BALDWIN COUNTY CONSTRUCTION, INC.
IN THE AMOUNT OF \$105,537.97
FOR EAST 5TH STREET EXTENSION PROJECT;
AUTHORIZING EXECUTION OF CONTRACT; 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 SEPTEMBER 22, 2008, as follows:

Section 1. That the bid of Baldwin County Construction, Inc. in the amount of \$105,537.97 for the East 5th Street extension project, be and the same is hereby accepted, being the lowest, most responsible, among sealed bids opened on August 26, 2008.

Section 2. 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 Baldwin County Construction, Inc. for the East 5th Street extension project; in substantially the form presented to Council this date.

Section 3. That the funds for payment for such amount be drawn from the General Fund Capital Outlay Budget of the Streets Division for Fiscal Year 2008, and amend said budget accordingly.

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

The motion for the adoption of Resolution No. 4547-08 was seconded by Councilman Craft; 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 Craft, "aye," Councilman Jones, "aye," and Mayor Duke, "aye." Whereupon, the Mayor declared Resolution No. 4547-08 duly and legally adopted.

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

RESOLUTION NO. 4548-08

**A RESOLUTION
DECLINING CITY OF GULF SHORES
PARTICIPATION IN
ONE-TIME LUMP SUM PAYMENT TO RETIREES**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON SEPTEMBER 22, 2008, as follows:

Section 1. That the City of Gulf Shores declines to come under the provisions of Section 2 of Act 555 of the First Special Session of the 2008 Legislature as it relates to a one-time lump sum payment to retirees.

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

The motion for the adoption of Resolution No. 4548-08 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 Craft, "aye," Councilman Jones, "aye," and Mayor Duke, "aye." Whereupon, the Mayor declared Resolution No. 4548-08 duly and legally adopted.

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

RESOLUTION NO. 4549-08

**A RESOLUTION AUTHORIZING AND DIRECTING THE
MAYOR AND CITY CLERK TO EXECUTE
AND ATTEST, RESPECTIVELY,
MEMORANDUM OF UNDERSTANDING
WITH U.S. DEPARTMENT OF INTERIOR,
U.S. FISH AND WILDLIFE SERVICE, AND
ALABAMA ECOLOGICAL SERVICES FIELD OFFICE
FOR POST-TROPICAL STORM CLEANUP IN AREAS WITH
ENDANGERED ALABAMA BEACH MICE AND
OTHER FEDERALLY PROTECTED SPECIES**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON SEPTEMBER 22, 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 Memorandum of Understanding for Post-Tropical Storm Cleanup in Areas with Endangered Alabama Beach Mice and Other Federally Protected Species between the City of Gulf Shores, U.S. Department of the Interior, U.S. Fish and Wildlife Service, and Alabama Ecological Services Field Office; 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. 4549-08 was seconded by Councilman Craft; 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 Craft, "aye," Councilman Jones, "aye," and Mayor Duke, "aye." Whereupon, the Mayor declared Resolution No. 4549-08 duly and legally adopted.

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

RESOLUTION NO. 4550-08

**A RESOLUTION
AUTHORIZING CONTINUANCE OF
FISCAL YEAR 2008 BUDGET LEVELS
UNTIL DECEMBER 31, 2008; AND
DETERMINING THAT 2009 BUDGET WILL BE ADOPTED
TO REFLECT CALENDAR YEAR
TO BE APPLICABLE TO ALL BUDGETS THEREAFTER**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON SEPTEMBER 22, 2008, as follows:

Section 1. That the Fiscal Year 2008 Budget levels be continued until December 31, 2008.

Section 2. That the 2009 Budget be adopted based on the calendar year rather than the fiscal year and that a calendar year system be approved for all budgets thereafter.

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

The motion for the adoption of Resolution No. 4550-08 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 Craft, "aye," Councilman Jones, "aye," and Mayor Duke, "aye." Whereupon, the Mayor declared Resolution No. 4550-08 duly and legally adopted.

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

RESOLUTION NO. 4551-08

**A RESOLUTION AMENDING RESOLUTION NO. 4540-08,
ADOPTED SEPTEMBER 8, 2008,
IMPOSING FREEZE ON
NEW HIRES AND/OR PROMOTIONS OF EMPLOYEES
UNTIL ADOPTION OF FISCAL YEAR 2009 BUDGET
TO ALLOW FOR SUCH WITH MAYOR AND COUNCIL APPROVAL**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON SEPTEMBER 22, 2008, as follows:

Section 1. That Resolution No. 4540-08, adopted September 8, 2008, imposing a freeze on the hiring of new employees and/or promotions of employees until adoption of the Fiscal Year 2009 budget is amended to allow for such new employee hiring and/or employee promotions with Mayor and Council approval.

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

The motion for the adoption of Resolution No. 4551-08 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 Craft, "aye," Councilman Jones, "aye," and Mayor Duke, "aye." Whereupon, the Mayor declared Resolution No. 4551-08 duly and legally adopted.

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

RESOLUTION NO. 4552-08

**A RESOLUTION SUPPORTING THE CONSTRUCTION
OF A DESTINATION HOTEL AND CONVENTION CENTER
AT GULF STATE PARK; AND
AUTHORIZING CITY ATTORNEY TO PARTICIPATE
IN PREPARATION OF AMICUS CURIE BRIEF
SUPPORTING SUCH PROJECT**

WHEREAS, the economy of the City of Gulf Shores benefits greatly from the tourism industry; and,

WHEREAS, the City of Gulf Shores is able to provide a host of benefits and services to its citizens based on the economic activity generated by the tourism industry; and,

WHEREAS, the Gulf State Park hotel and convention facility has played an important role in the tourism industry in years past, with attendant positive economic impact on the economy of the City of Gulf Shores; and,

WHEREAS, the Gulf State Park hotel and convention facility was destroyed during Hurricane Ivan in 2004 and the facility has not yet been rebuilt; and,

WHEREAS, the State of Alabama has proposed a public-private partnership with Auburn University to rebuild and operate a destination hotel and convention center at Gulf State Park; and,

WHEREAS, this destination hotel and convention center will have an enormously positive impact on Gulf State Park, the entire State Park system, the economies of Gulf Shores and other local communities in Baldwin County and the State of Alabama;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Gulf Shores, Alabama, on this the 22nd day of September, 2008, as follows:

Section 1. That the City of Gulf Shores supports the construction of a destination hotel and convention center at Gulf State Park.

Section 2. That the City of Gulf Shores stands ready to assist the State of Alabama in its development and implementation of a destination hotel and convention center at Gulf State Park.

Section 3. That the City Attorney is hereby authorized to participate with counsel for other local municipalities in the preparation of an amicus curie brief to be filed before the Supreme Court of the State of Alabama, supporting the construction, development and implementation of a destination hotel and convention center at Gulf State Park.

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

The motion for the adoption of Resolution No. 4552-08 was seconded by Councilman Craft; 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 Craft, "aye," Councilman Jones, "aye," and Mayor Duke, "aye." Whereupon, the Mayor declared Resolution No. 4552-08 duly and legally adopted.

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

RESOLUTION NO. 4553-08

**A RESOLUTION AUTHORIZING
GULF SHORES UTILITIES BOARD
TO DECLARE CERTAIN PERSONAL PROPERTY
SURPLUS AND UNNEEDED;
AND AUTHORIZING DISPOSAL OF SUCH PROPERTY**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON SEPTEMBER 22, 2008, as follows:

Section 1. That the personal property owned by The Utilities Board of the City of Gulf Shores, Alabama, as shown on the attached listing, has been deemed to no longer be needed.

Section 2. That The Utilities Board of the City of Gulf Shores be and they are hereby authorized and directed to dispose of the personal property owned by The Board, described in the attached listing, by appropriate legal methods.

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

The motion for the adoption of Resolution No. 4553-08 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 Craft, "aye," Councilman Jones, "aye," and Mayor Duke, "aye." Whereupon, the Mayor declared Resolution No. 4553-08 duly and legally adopted.

The Mayor requested and received unanimous consent of the Council to deviate from the published agenda to consider Resolutions addressing an extension to the City's fuel contract and applying for a transportation enhancement grant.

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

RESOLUTION NO. 4554-08

**A RESOLUTION AUTHORIZING
90-DAY EXTENSION OF
CURRENT FUEL CONTRACT WITH
MC PHERSON OIL COMPANY
UNDER EMERGENCY CONDITIONS**

WHEREAS, the City of Gulf Shores has experienced several weather events this year which have required a state of emergency; and

WHEREAS, the City Council has given emergency powers to the Mayor which are still in existence; and

WHEREAS, fuel supplies have been disrupted by these weather events which pose a danger to the public health, safety and convenience of the citizens of the City of Gulf Shores; and

WHEREAS, the City's fuel contract with McPherson Oil Company is expiring on September 30, 2008 and there are insufficient vendors to provide a fuel supply; and

WHEREAS, the Municipal Procurement Officer has informed the Mayor and Council that an emergency presently exists concerning fuel supplies; and

WHEREAS, the Mayor concurs in the report of the Procurement Officer that emergency conditions exist and requests an extension of ninety (90) days to the present fuel contract with McPherson Oil Company ending September 30, 2008.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Gulf Shores, Alabama, on this the 22nd day of September, 2008, as follows:

Section 1. That the Council has determined that emergency conditions exist which threaten the public safety as contemplated by Title 41-16-53 of the *Code of Alabama, 1975*.

Section 2. That the Council confirms and authorizes actions by the Mayor to extend the current fuel contract with McPherson Oil Company for a period of ninety (90) days.

Section 3. That the Council authorizes the Mayor and City Clerk to execute and attest, respectively, a ninety day (90)

extension to the fuel contract with McPherson Oil Company under the emergency powers granted to the City by State Code.

The motion for the adoption of Resolution No. 4554-08 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 Craft, "aye," Councilman Jones, "aye," and Mayor Duke, "aye." Whereupon, the Mayor declared Resolution No. 4554-08 duly and legally adopted.

Councilman Craft introduced and moved for the adoption of the following Resolution contingent upon written confirmation from the grant writer that if the grant is awarded and the City declines the grant, no funds will be due to the grant writer:

RESOLUTION NO. 4555-08

**A RESOLUTION
AUTHORIZING EXECUTION OF APPLICATION
FOR FUNDING FOR FILING
WITH THE ALABAMA DEPARTMENT OF TRANSPORTATION
TO FACILITATE OBTAINING FINANCIAL ASSISTANCE
FOR TRANSPORTATION ENHANCEMENT GRANT
TO FACILITATE CONSTRUCTION OF MULTI-USE TRAIL**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON SEPTEMBER 22, 2008, as follows:

Section 1. That the Mayor be and he is hereby authorized and directed to execute an application for funding for filing with the Alabama Department of Transportation to facilitate obtaining financial assistance for a transportation enhancement grant to facilitate construction of a multi-use trail. The City Clerk is hereby authorized to seal and attest said application.

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

The motion for the adoption of Resolution No. 4555-08 was seconded by Councilman Jones; 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 Craft, "aye," Councilman Jones, "aye," and Mayor Duke, "aye." Whereupon, the Mayor declared Resolution No. 4555-08 duly and legally adopted.

STAFF REPORTS:

Mark Acreman, Public Works Director, reported on the meetings with FEMA/AEMA relative to Hurricanes Gustav and Ike.

A brief discussion ensued relative to beach renourishment and possible timelines for such.

Brandan Franklin, Chief Building Official, announced that signs would soon be arriving for distribution to beach property owners designating "Stay Off the Dunes", "Turtle Nesting Area", etc. These will be provided free of charge to those requesting.

The City Attorney advised the Council that a declaration was required by the Act for an Executive Session if it was in regard to the following purpose: legal advice and counsel.

The City Attorney appeared before the Council and stated for the record that he was duly qualified and/or had the personal knowledge to provide the requisite declaration for the stated purpose of the Executive Session authorized by the Act and that discussions would imperil and/or have a detrimental effect if disclosed outside of an Executive Session or would otherwise be contrary to law.

A motion was made by Councilman Jones for the Council to go into Executive Session for the purpose of discussing an item not yet being litigated but imminently likely to be litigated or imminently likely to be litigated if the governmental body pursues a proposed course of action being one of the following purposes authorized by the Act: legal advice and counsel. Said motion was seconded by Councilman Craft; and,

The Mayor directed the City Clerk to enter said motion, purpose and declaration into the minutes of the work session and called for a vote on said motion in regard to the Executive Session as follows: Councilman Garris, "aye," Councilman Doughty "aye," Councilman Harris "aye," Councilman Craft "aye," Councilman Jones "aye," and Mayor Duke "aye".

The Mayor declared that a majority of the votes being in favor of the motion, that such motion had therefore passed and Council would forthwith recess into Executive Session for the purpose as stated in said motion and no other purpose, in accordance with the Act and reconvene in approximately twenty minutes.

Council recessed in Executive Session at 5:40 p.m.

The Council Meeting reconvened at 6:00 p.m.

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

RESOLUTION NO. 4556-08

**A RESOLUTION
AUTHORIZING THE MAYOR
TO EXECUTE SETTLEMENT
RELATIVE TO SERVICES PROVIDED
TO THE CITY OF GULF SHORES
BY PAGE GUIDE**

BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON SEPTEMBER 22, 2008, as follows:

Section 1. That the City Council resolves that the Mayor of Gulf Shores be empowered to execute an agreement on behalf of the City of Gulf Shores relative to the settlement of funds due to PageGuide in an amount not to exceed \$285,000.00 after said agreement is approved by the City Attorney.

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

The motion for the adoption of Resolution No. 4556-08 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 Craft, "aye," Councilman Jones, "aye," and Mayor Duke, "aye." Whereupon, the Mayor declared Resolution No. 4556-08 duly and legally adopted.

There being no further business to come before the Council,
Councilman Jones moved to adjourn; seconded by Councilman Harris;
and the vote 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