

MINUTES OF RESCHEDULED REGULAR COUNCIL MEETING

CITY OF GULF SHORES, ALABAMA

DECEMBER 15, 2008

Mayor Craft called the meeting to order at 5:00 p.m. at the City Hall. The invocation was delivered by Billy Berrey, Gulf Shores Police Department. The Pledge of Allegiance to the flag was led by Mayor Craft.

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

Councilman Harris moved to approve the minutes of the work session of December 8, 2008, as presented; seconded by Councilman Garris. 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.

Councilman Jones moved to approve the minutes of the regular meeting of December 8, 2008, as presented; seconded by Councilman Dyken. 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.

Mayor Craft 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 Doughty introduced and moved for the adoption of the following Resolution:

RESOLUTION NO. 4600-08

**A RESOLUTION AUTHORIZING AND DIRECTING THE
MAYOR AND CITY CLERK TO EXECUTE
AND ATTEST, RESPECTIVELY,
LETTER AGREEMENT WITH
FEMA LAW ASSOCIATES, PLLC
FOR LEGAL SERVICES**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN RESCHEDULED REGULAR SESSION ON DECEMBER 15, 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 letter agreement between the City of Gulf Shores and FEMA Law Associates, PLLC for legal services; 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. 4600-08 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 Dyken, "aye," Councilman Jones, "aye," and Mayor Craft, "aye." Whereupon, the Mayor declared Resolution No. 4600-08 duly and legally adopted.

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

RESOLUTION NO. 4601-08

**A RESOLUTION AMENDING RESOLUTION NO. 3753-05,
ADOPTED JANUARY 10, 2005, AND
RESOLUTION NO. 4178-06,
ADOPTED OCTOBER 23, 2006,
WITH REGARD TO
OUTLINE DEVELOPMENT PLAN
OF PLANNED UNIT DEVELOPMENT
TO BE KNOWN AS OAK ALLEY**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN RESCHEDULED REGULAR SESSION ON December 15, 2008, as follows:

Section 1. That Resolution No. 3753-05, adopted January 10, 2005, approving the Outline Development Plan of the Planned Unit Development to be known as Oak Alley, and Resolution No. 4178-06, adopted October 23, 2006, amending the Outline Development Plan of Oak Alley, be and it is hereby amended as follows:

1. Construction of the Oak Alley Planned Unit Development shall be completed by October 23, 2011.
2. The developer shall install a locking barricade into the property and maintain the rights-of-way in a clean, safe condition so that they will not be a nuisance to the neighbors.

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

The motion for the adoption of Resolution No. 4601-08 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 Dyken, "aye," Councilman Jones, "aye," and Mayor Craft, "aye." Whereupon, the Mayor declared Resolution No. 4601-08 duly and legally adopted.

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

RESOLUTION NO. 4602-08

**A RESOLUTION APPOINTING
BROCK HATTOX
TO THE GULF SHORES UTILITIES BOARD
TO SERVE THE UNEXPIRED TERM
OF DON WOODRUFF
ENDING ON OCTOBER 1, 2009**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN RESCHEDULED REGULAR SESSION ON DECEMBER 15, 2008, as follows:

Section 1. That Brock Hattox be and he hereby is appointed to the Gulf Shores Utilities Board, Place 6, to serve the unexpired term of Don Woodruff, ending on October 1, 2009.

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

The motion for the adoption of Resolution No. 4602-08 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 Dyken, "aye," Councilman Jones, "aye," and Mayor Craft, "aye." Whereupon, the Mayor declared Resolution No. 4602-08 duly and legally adopted.

Mayor Craft expressed appreciation to Don Woodruff for his service on this Board.

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

RESOLUTION NO. 4603-08

**A RESOLUTION
AUTHORIZING EXECUTION OF APPLICATION
FOR FUNDING FOR FILING
WITH THE ALABAMA PUBLIC LIBRARY SERVICE
TO FACILITATE OBTAINING FINANCIAL ASSISTANCE
IN THE AMOUNT OF \$15,000.00
FOR LIBRARY SERVICES AND TECHNOLOGY ACT GRANT**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN RESCHEDULED REGULAR SESSION ON DECEMBER 15, 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 Public Library Service to facilitate obtaining financial assistance in the amount of \$15,000.00 for library services and technology act grant. 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. 4603-08 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 Dyken, "aye," Councilman Jones, "aye," and Mayor Craft, "aye." Whereupon, the Mayor declared Resolution No. 4603-08 duly and legally adopted.

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

RESOLUTION NO. 4604-08

**A RESOLUTION
AUTHORIZING EXECUTION OF APPLICATION
FOR FUNDING FOR FILING
WITH THE
INTERNATIONAL CITY/COUNTY MANAGEMENT ASSOCIATION
TO FACILITATE OBTAINING FINANCIAL ASSISTANCE
IN THE AMOUNT OF \$60,000.00
FOR PUBLIC LIBRARY INNOVATION GRANT**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN RESCHEDULED REGULAR SESSION ON DECEMBER 15, 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 International City/County Management Association to facilitate obtaining financial assistance in the amount of \$60,000.00 for a public library innovation grant. 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. 4604-08 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 Dyken, "aye," Councilman Jones, "aye," and Mayor Craft, "aye." Whereupon, the Mayor declared Resolution No. 4604-08 duly and legally adopted.

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

RESOLUTION NO. 4605-08

**A RESOLUTION AUTHORIZING
LETTER OF SUPPORT
FOR AUBURN UNIVERSITY'S
NATIONAL SCIENCE FOUNDATION
GRANT SUBMITTAL**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN RESCHEDULED REGULAR SESSION ON DECEMBER 15, 2008, as follows:

Section 1. That the City of Gulf Shores does hereby authorize a letter of support for Auburn University's National Science Foundation Grant submittal.

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

The motion for the adoption of Resolution No. 4605-08 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 Dyken, "aye," Councilman Jones, "aye," and Mayor Craft, "aye." Whereupon, the Mayor declared Resolution No. 4605-08 duly and legally adopted.

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. 1535

AN ORDINANCE TO AMEND THE *CODE OF ORDINANCES*,
ADOPTED JULY 24, 1989,
AT CHAPTER 15, HEALTH AND SANITATION,
ARTICLE II. SMOKING IN PUBLIC PLACES,
SECTION 15-23. DEFINITIONS,
TO CREATE DEFINITION FOR TOBACCO BAR AND
AMENDING DEFINITION FOR RETAIL TOBACCO STORE;
AND AT SECTION 15-29.
WHERE SMOKING NOT REGULATED,
TO EXEMPT TOBACCO BAR

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES,
ALABAMA, WHILE IN RESCHEDULED REGULAR SESSION ON DECEMBER 15, 2008,
as follows:

Section 1. That Chapter 15, HEALTH AND SANITATION, of the *Code of Ordinances*, adopted July 24, 1989, be and it is hereby amended by changing certain language at ARTICLE II. SMOKING IN PUBLIC PLACES, Section 15-23. Definitions, to create a definition for "Tobacco Bar" and amend the definition of "Retail Tobacco Store" to read as follows:

CHAPTER 15 HEALTH AND SANITATION

* * *

ARTICLE II. SMOKING IN PUBLIC PLACES

* * *

Sec. 15-23. Definitions.

* * *

Retail tobacco store means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental. "Retail tobacco store" does not include a tobacco department or section of a larger commercial establishment or any establishment with any type of on premises liquor, food, or restaurant license.

* * *

Tobacco Bar means an establishment that is a bar as defined above, whose business is devoted to the serving of tobacco products, and which serves only complimentary snacks. The tobacco bar contains no kitchen facilities and has no access to kitchen facilities, catering, or food, other than the complimentary snacks. A tobacco bar devotes a minimum of ten percent (10%) of net floor space to the display, storage and sale of actual tobacco products, and does not permit the on premises use of tobacco products not purchased on the premises. A tobacco bar must contain a functioning walk-in commercial grade humidifier with a minimum interior area of not less than one hundred square feet and a smoke evacuation system adequate to ensure that smoke from its premises does not infiltrate into areas where smoking is prohibited. The system must be separate from the establishment's HVAC system, vent to the exterior, and be approved by the City Building Department as having adequate capacity. No patron under the age of 21 is allowed in a tobacco

bar. "Tobacco bar" does not include a department or section of a larger commercial establishment.

* * *

Section 2. That Chapter 15, HEALTH AND SANITATION, of the Code of Ordinances, adopted July 24, 1989, be and it is hereby amended by changing certain language at ARTICLE II. SMOKING IN PUBLIC PLACES, Section 15-29. Where smoking not regulated, to add a Tobacco Bar as an exemption to read as follows:

CHAPTER 15 HEALTH AND SANITATION

* * *

ARTICLE II. SMOKING IN PUBLIC PLACES

* * *

15-29. Where smoking not regulated.

Notwithstanding any other provisions of this article to the contrary, the following areas shall be exempt from the provisions of the above sections of this article listing the areas where smoking is prohibited:

* * *

(8) Tobacco bar.

Section 3. 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 Dyken, "aye," Councilman Jones, "aye," and Mayor Craft, "aye." Councilman was absent. Mayor Craft then declared the rules suspended.

Councilman Harris then moved for the adoption of Ordinance No. 1535 and to waive the reading of said Ordinance at length. The motion for the adoption of Ordinance No. 1535 was seconded by Councilman Dyken; 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 Dyken, "aye," Councilman Jones, "aye," and Mayor Craft, "aye." Whereupon, the Mayor declared Ordinance No. 1535 duly and legally adopted.

Mayor Craft requested and received unanimous consent of the Council to deviate from the published agenda to consider approval of the Fiscal Year 2009 Proposed Spending Plan.

Councilman Doughty moved to approve the Fiscal Year 2009 Proposed Spending Plan, attached hereto; seconded by Councilman Garris; and the vote was unanimously in favor of the motion.

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

Mayor Craft declared the meeting adjourned.

Robert Craft, Mayor

(SEAL)

ATTEST:

Renee F. Moore, MMC, City Clerk