

MINUTES OF REGULAR COUNCIL MEETING

CITY OF GULF SHORES, ALABAMA

OCTOBER 26, 2009

Mayor Craft called the meeting to order at 5:00 p.m. at the City Hall. The invocation was delivered by Deputy Fire Chief Keith Martin. 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 Doughty moved to approve the minutes of the regular meeting of October 12, 2009, as presented; seconded by Councilman Garris; and the vote was unanimously in favor of the motion.

Councilman Harris moved to approve the minutes of the work session of October 19, 2009, as presented; seconded by Councilman Garris. Upon the question, all those officials present voted in favor of the motion, with the exception of Councilman Dyken and Mayor Craft, who abstained. The Mayor declared the motion carried.

Councilman Jones moved to approve the payroll and expense vouchers in the amount of \$723,338.80; seconded by Councilman Dyken; and the vote 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 Craft 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 creation of the Single Family and Duplex Tourist Rental Overlay District.

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

Andy Bauer, Acting Planning Director, noted the recommendations of his Department and the Planning Commission in support of the zoning amendment, as reflected by the following communications:

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

An unidentified 8th Avenue property owner, Martha Howard, Renard Knight, Brenda Garner, and two unidentified individuals advised they felt the passing of this Ordinance would be arbitrary discrimination against all who do not own property in the overlay district. They commented this would impact property rights, deny future income, be a financial blow in the event they wanted to sell their property to someone who wished to rent short term, devalue their property, deny tourists a waterfront rental unit for a lower price than gulf front, and take away future rights for short term rentals. It was felt this process had been kept a secret and proper notice wasn't given to all citizens, that many property owners do not live in the City and were unaware of it, and the notices in *The Islander* weren't sufficient as many do not subscribe. Benji Thompson stated that the Council should consider allowing those who may wish to rent their property short term to become compliant and be allowed to rent.

Brenda Garner reported that she had continuously paid lodging tax to the City and had recently brought her business license current, so she would be grandfathered. Ms. Garner felt, however, that all property owners should have been notified of this before Council consideration.

The Mayor and Council advised that currently single family and duplex zoned areas are not allowed commercial operations, which short term rentals are. It was the intent of the Council to create the overlay district in that area of the City which contained the largest group of short term rentals to make them compliant. The City cannot and will not continue to allow short term rentals in those areas not zoned appropriately. Currently, short term rentals are a privilege not a right. This will bring the beach area into compliance and the City will then review other areas which might be appropriate for inclusion in the rental overlay district. This could be accomplished in a short period of time.

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

Whereupon, 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. 1576

**AN ORDINANCE TO AMEND ORDINANCE NO. 235
(ZONING ORDINANCE), ADOPTED MAY 10, 1982
AT ARTICLE 4, DEFINITIONS,
BY ADDING TOURIST RENTAL DWELLING, AND
TOURIST RENTAL PERMIT;
AT ARTICLE 6, DISTRICT REGULATIONS,
SECTION 6-2. GENERAL RESIDENTIAL DISTRICT REQUIREMENTS,
BY ADDING LANGUAGE AT SUBSECTION A. USES PERMITTED,;
AND AT ARTICLE 8, SUPPLEMENTARY REGULATIONS,
BY ADDING A NEW SECTION, 8-26. SINGLE FAMILY & DUPLEX
TOURIST RENTAL OVERLAY DISTRICT
(ZA2008-01)**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON OCTOBER 26, 2009, as follows:

Section 1. That Ordinance No. 235 (Zoning Ordinance), adopted May 10, 1982, be and it is hereby amended at ARTICLE 4, DEFINITIONS, to add new definitions (156) Tourist Rental Dwelling, and (157) Tourist Rental Permit, and subsequently renumber those definitions that follow, so the new definitions shall read as follows:

ARTICLE 4 DEFINITIONS

* * * *

(156) Tourist Rental Dwelling – Any single family or duplex residence used for short term rental purposes within the City Limits of Gulf Shores. Said residences are intended to provide accommodation housing for tourists.

(157) Tourist Rental Permit – A permit issued by the Revenue Department of the City of Gulf Shores. A Tourist Rental Permit shall be obtained for every Tourist Rental dwelling.

* * * *

Section 2. That Ordinance No. 235 (Zoning Ordinance), adopted May 10, 1982, be and it is hereby amended at ARTICLE 6, DISTRICT REGULATIONS, Section 6-2. General Residential District Requirements, by adding certain language at Subsection A. Uses Permitted, so the Subsection shall read as follows:

ARTICLE 6 DISTRICT REGULATIONS

* * * *

6-2. General Residential District Requirements.

The following provisions apply unless provided for elsewhere in the Ordinance, to all residential districts.

A. Uses Permitted.

1. Uses as listed in 6-3, Use Regulations for Residential Districts.
2. Customary accessory buildings or structures, including private garages, provided that such buildings or structures conform to all requirements of Section 8-4 of this Ordinance.
3. A temporary building or use in connection with residential or other construction is permitted for a period of not more than one (1) year; provided, such building or use shall be removed immediately after such construction is concluded or after such construction has been discontinued for any reason for a period of six (6) months.
4. Tourist Rental dwellings as permitted in the Single Family & Duplex Tourist Rental Overlay District.
5. Essential service installations.
6. Home occupations as defined in Article 14 of this Ordinance.

* * * *

Section 3. That Ordinance No. 235 (Zoning Ordinance), adopted May 10, 1982, be and it is hereby amended at ARTICLE 8, SUPPLEMENTARY REGULATIONS, by adding a new Section 8-26. Single Family & Duplex Tourist Rental Overlay District, so the Section shall read as follows:

ARTICLE 8 SUPPLEMENTARY REGULATIONS

* * * *

8-26. Single Family & Duplex Tourist Rental Overlay District

A. Purpose. The purpose of the Single Family & Duplex Tourist Rental Overlay District is to allow Tourist Rental Dwellings within the overlay district and establish minimum standards for their use, while minimizing incompatibility with surrounding residential areas.

B. Applicability.

- 1) Overlay District Boundary - the boundary of the Single Family & Duplex Tourist Rental Overlay District includes all single family and duplex zoned land west of Hwy. 59 and south of Stanton Creek and/or West 2nd Avenue, and south of Little Lagoon west of West 7th Street (extending west to and including Laguna Key Subdivision).

- 2) The following regulations shall apply to all Tourist Rental Dwellings located in the Single Family & Duplex Tourist Rental Overlay District.
- 3) Tourist Rental Dwellings are prohibited in all single family or duplex zoning districts or areas which are designated as such in a Planned Unit Development (PUD) outside of the Tourist Residential Rental Overlay District including single family subdivisions, throughout the City.
- 4) Notwithstanding the provisions of Section 8-26.B.3., a single family or duplex residence (a) that is located outside of the Single Family & Duplex Tourist Rental Overlay District in a single family or duplex zoning district or in an area designated as such in a PUD, (b) that was rented as a Tourist Rental Dwelling during the calendar year 2009 prior to August 31, 2009, and (c) that was duly licensed for such rental on August 31, 2009 with all rental income having been duly reported for the computation and timely payment of business license fees and lodging taxes in calendar year 2009 shall be permitted and regulated as a Tourist Rental Dwelling. The continuing use of Said Tourist Rental Dwellings for tourist rental purposes shall be grandfathered in accordance with the rules and regulations as prescribed in the Nonconformities Chapter of the Zoning Ordinance.

C. Permitting and Taxation.

- 1) As a condition of the issuance of a business license, the owner of a single family or duplex dwelling intended to be used as a Tourist Rental shall apply for and receive a Tourist Rental Permit from the City of Gulf Shores Revenue Department prior to using the dwelling unit for said purposes.
- 2) A Tourist Rental Permit issued by the Revenue Department shall be valid for a time period as determined by the department but not to exceed one year. A permit may be revoked by the Revenue Department for noncompliance with the requirements herein. Decisions of the Revenue Department may be appealed to the City Council.
- 3) A copy of the Tourist Rental Permit shall be supplied to the rental agency and displayed on the premises. The property owner and rental agency shall be required to present this permit upon request of the City. The property owner shall be responsible for complying with all requirements of this Section.
- 4) Lodging in short-term rental housing (Tourist Residences) shall be subject to any applicable lodging and resort taxes normally levied in the City of Gulf Shores

D. Area and Dimensional Requirements.

All Tourist Rental dwellings shall be subject to the area and dimensional requirements of the underlying zoning district.

- 1) A pre-existing legal or grandfathered encroachment or deficiency regarding the Area and Dimensional regulations of the underlying zoning district shall not prevent the conversion of an existing single family or duplex dwelling from being issued a Tourist Rental Permit, so long as the encroachment or deficiency is not increased in any way.

E. Occupancy. Occupancy shall comply with the below requirements.

- 1) Within the Overlay District, occupancy of a Tourist Rental dwelling by more than one (1) family, as defined in Article 4, Definitions, for longer than thirty (30) consecutive days shall be considered a violation of this ordinance and prohibited.
- 2) Tourist Rental dwellings shall be limited to a maximum rental of one hundred and eighty days (180) or it shall be deemed a long term rental and exempt from the regulations established by the Single Family & Duplex Tourist Rental Overlay District.

F. Parking, Access, and Circulation.

- 1) Parking spaces may be provided on driveways or within a parking lot specifically designed for such use. Required

parking, maneuvering areas, and driveways shall be covered with a surface suitable for parking as approved by the City Public Works Director or his designee. The use of gravel, rock, or any other similar material that is not similar in color to beach sand is prohibited.

2) Parking within City of Gulf Shores or State of Alabama public street rights-of-way is prohibited and subject to the enforcement actions and penalties as specified in Chapter 21 of the City of Gulf Shores' *Code of Ordinances*.

G. Signage. No signage, other than that permitted in the underlying district, shall be permitted.

1) All Tourist Rental dwellings shall display their address prominently so that it is clearly visible and readable from the right-of-way and in the case of a Tourist Residence located on a gulf front lot the address shall also be displayed consistent with the requirements of Chapter 20 of the City of Gulf Shores' *Code of Ordinances*, and Section 20-4 therein.

H. Garbage. The collection of garbage and the provision of garbage containers shall be in accordance with Chapter 14, Article III of the City of Gulf Shores' *Code of Ordinances*, as amended.

Section 4. 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." Mayor Craft then declared the rules suspended.

Councilman Doughty then moved for the adoption of Ordinance No. 1576 and to waive the reading of said Ordinance at length. The motion for the adoption of Ordinance No. 1576 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 Ordinance No. 1576 duly and legally adopted.

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

RESOLUTION NO. 4707-09

**A RESOLUTION
AUTHORIZING PAYMENT TO
BURR & FORMAN, LLP
FOR LEGAL FEES OF
GULF COAST HEALTH CARE AUTHORITY**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON OCTOBER 26, 2009, as follows:

Section 1. That the payment of \$10,000.00 to Burr & Forman, LLP for legal fees attributable to the Gulf Coast Health Care Authority be and it is hereby authorized.

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

The motion for the adoption of Resolution No. 4707-09 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. 4707-09 duly and legally adopted.

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

RESOLUTION NO. 4708-09

**A RESOLUTION AUTHORIZING AND DIRECTING THE
MAYOR AND CITY CLERK TO EXECUTE
AND ATTEST, RESPECTIVELY,
MEMO OF UNDERSTANDING WITH
SAUNDERS ENGINE AND EQUIPMENT COMPANY, INC.
FOR SAUNDERS GULF SHORES DRY DOCK BASIN PROJECT**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON OCTOBER 26, 2009, 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 between the City of Gulf Shores and Saunders Engine and Equipment Company, Inc. for Saunders Gulf Shores Dry Dock Basin Project; 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. 4708-09 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. 4708-09 duly and legally adopted.

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

RESOLUTION NO. 4709-09

**A RESOLUTION AUTHORIZING AND DIRECTING THE
MAYOR AND CITY CLERK TO EXECUTE
AND ATTEST, RESPECTIVELY,
AN OPTION AND LEASE AGREEMENT
BETWEEN THE CITY OF GULF SHORES AND
CELLULAR SOUTH REAL ESTATE, INC.**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON OCTOBER 26, 2009, as follows:

Section 1. That the Mayor and City Clerk be and they are hereby authorized and directed to execute and attest, respectively, an option and lease agreement between the City of Gulf Shores and Cellular South Real Estate, Inc. for placement of a cellular tower at 160 West 36th Avenue; 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. 4709-09 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. 4709-09 duly and legally adopted.

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

RESOLUTION NO. 4710-09

**A RESOLUTION REJECTING BIDS
FOR INDEFINITE QUANTITY OF
HEAVY EQUIPMENT RENTAL**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON OCTOBER 26, 2009, as follows:

Section 1. That all bids received on September 29, 2009, for an indefinite quantity of heavy equipment rental be and the same are hereby rejected.

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

The motion for the adoption of Resolution No. 4710-09 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. 4710-09 duly and legally adopted.

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

RESOLUTION NO. 4711-09
**A RESOLUTION REAPPOINTING
BROCK HATTOX
TO THE GULF SHORES UTILITIES BOARD
TO SERVE A FULL TERM
OF SIX YEARS
ENDING ON OCTOBER 1, 2015**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON OCTOBER 26, 2009, as follows:

Section 1. That Brock Hattox be and he hereby is reappointed to the Gulf Shores Utilities Board, Place 6, to a full six-year term ending on October 1, 2015.

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

The motion for the adoption of Resolution No. 4711-09 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. 4711-09 duly and legally adopted.

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

RESOLUTION NO. 4712-09
**A RESOLUTION REAPPOINTING
PHILIP HARRIS
TO THE LIBRARY BOARD
TO SERVE A FULL TERM OF FOUR YEARS
ENDING ON NOVEMBER 9, 2013**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON OCTOBER 26, 2009, as follows:

Section 1. That Philip Harris be and he hereby is reappointed to the Library Board to serve a full term of four years ending on November 9, 2013.

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

The motion for the adoption of Resolution No. 4712-09 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. 4712-09 duly and legally adopted.

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

RESOLUTION NO. 4713-09

**A RESOLUTION
DESIGNATING SIGNATORIES ON
CITY OF GULF SHORES BANK ACCOUNTS;
DESIGNATING SIGNATORIES ON CITY OF GULF SHORES
MUNICIPAL COURT COLLECTIONS BANK ACCOUNT;
DESIGNATING SIGNATORIES ON THOMAS B. NORTON
LIBRARY ADVISORY BOARD FUND ACCOUNT; AND
DESIGNATING SIGNATORIES ON
PUBLIC EDUCATION BUILDING AUTHORITY BANK ACCOUNT**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON OCTOBER 26, 2009, as follows:

Section 1. That the following be and they are hereby authorized as signatories on bank accounts for the City of Gulf Shores, with signatures of two (2) authorized individuals required on all checks, one to be from Group A and one to be from Group B:

A. Robert S. Craft, Mayor
Carolyn M. Doughty, Mayor Pro Tempore
Philip Harris, Councilman

B. Steve Garman, City Administrator
Cynthia A. King, Administrative Services/Finance Director

Section 2. That the following be and they are hereby authorized as signatories on the City of Gulf Shores Municipal Court Collections Bank Account, with signatures of two (2) authorized persons required on all checks:

Kenneth B. McKenzie, Court Clerk/Magistrate
Julie McRae Maloy, Clerk/Magistrate
Natasha Touchstone, Clerk/Magistrate
Steve Garman, City Administrator
Cynthia A. King, Administrative Services/Finance Director

Section 3. That the following be and they are hereby authorized as signatories on the bank and investment accounts and certificates of deposit of the Thomas B. Norton Library Advisory Board Fund accounts for the City of Gulf Shores, with signatures of two (2) authorized individuals required on all checks, one to be from Group A and one to be from Group B:

A. Robert Craft, Mayor
Carolyn M. Doughty, Mayor Pro Tempore
Philip Harris, Councilman

B. Bobbie Rooker, President, Library Advisory Board
Judy A. Watley, Treasurer, Library Advisory Board

Section 4. That the following be and they are hereby authorized as signatories on the City of Gulf Shores Public Education Building Authority Bank Account, with signatures of two (2) authorized persons required on all checks:

Robert S. Malone, PEBA Chairman
Barbara Frerman, PEBA Board Member
Steve Garman, City Administrator
Cynthia A. King, Administrative Services/Finance Director

Section 5. That any resolution or parts thereof that conflict with this Resolution shall be and are hereby rescinded.

Section 6. That this Resolution shall become effective upon its adoption.

The motion for the adoption of Resolution No. 4713-09 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. 4713-09 duly and legally adopted.

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

RESOLUTION NO. 4714-09

**A RESOLUTION
ADOPTING
ORGANIZATIONAL CHART
FOR CITY OF GULF SHORES**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON OCTOBER 26, 2009, as follows:

Section 1. That the attached City of Gulf Shores' Organizational Chart dated October 1, 2009, be and it is hereby adopted.

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

The motion for the adoption of Resolution No. 4714-09 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. 4714-09 duly and legally adopted.

STAFF REPORTS

Grant Brown, Recreation and Cultural Affairs Director, stated that the Panic Park was a big success and expressed appreciation to the Fire Department, Police Department, and Public Works for their assistance in the project.

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

Ron Kutter and Don McPherson, representing the Annual National Shrimp Festival, expressed appreciation to the Council and City for all the support before, during, and after the Shrimp Festival. A framed poster was presented to the City for their contributions.

Sharon Moore thanked the Council for the unanimous approval of the Zoning Ordinance amendment, as it protects residents in single family residential areas.

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