

MINUTES OF REGULAR COUNCIL MEETING

CITY OF GULF SHORES, ALABAMA

APRIL 26, 2010

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, Dyken, Jones, and Mayor Craft. Councilman Harris was absent. The Mayor declared a quorum present.

Councilman Garris moved to approve the minutes of the regular council meeting of April 12, 2010, as presented; seconded by Councilman Jones; and the vote of those officials present was as follows: Councilman Garris, "aye," Councilman Doughty, "abstain", Councilman Dyken, "abstain," Councilman Jones, "aye," and Mayor Craft, "aye." Councilman Harris was absent. Whereupon, the Mayor declared the motion carried.

Councilman Jones moved to approve the minutes of the council work session of April 19, 2010, as presented; seconded by Councilman Garris; and the vote of those officials present was unanimously in favor of the motion.

Councilman Doughty moved to approve the minutes of the special meeting of April 21, 2010, as presented; seconded by Councilman Jones; and the vote of those officials present was as follows: Councilman Garris, "abstain," Councilman Doughty, "aye", Councilman Dyken, "aye," Councilman Jones, "aye," and Mayor Craft, "aye." Councilman Harris was absent. Whereupon, the Mayor declared the motion carried.

Councilman Jones moved to approve the expense vouchers in the amount of \$156,720.46; 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 Craft stated that this was the time and place for the public hearing, as advertised, on the application of BCB, LLC dba Champs Place for a restaurant retail liquor license.

The City Clerk reported the dates on which the required advertising was done; and she read the letters of reference. The interim Chief of Police indicated he did not object to the issuance of the license. There were no written objections received and no citizens appeared at the hearing to object.

Whereupon, Councilman Jones moved to approve the application of BCB, LLC dba Champs Place located at 3947 Gulf Shores Parkway, Gulf Shores, Alabama for a restaurant retail liquor license and to so notify the ABC Board; seconded by Councilman Dyken; and the vote of those officials present was unanimously in favor of the motion.

Mayor Craft then stated that this was the time and place for the public hearing, as advertised, on the application of Gulf State Park Golf Course for a special liquor license.

The City Clerk reported the dates on which the required advertising was done; and she read the letters of reference. The interim Chief of Police indicated he did not object to the issuance of the license. There were no written objections received and no citizens appeared at the hearing to object.

Whereupon, Councilman Doughty moved to approve the application of Gulf State Park Golf Course, located at 20115 State Highway 135, Gulf Shores, Alabama for a special 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.

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. 1606

**AN ORDINANCE
TO AMEND THE *CODE OF ORDINANCES*,
ADOPTED JULY 24, 1989, AT CHAPTER 8,
BUSINESS LICENSES, TAXES, AND REGULATIONS,
ARTICLE I, IN GENERAL, TO AMEND SECTION 8-8
RELATING TO GASOLINE-POWERED WATERSPORTS EQUIPMENT RENTAL
BUSINESSES TO FURTHER REGULATE
SUCH BUSINESSES AND TO REGULATE IN ADDITION
BUSINESSES PROVIDING RECREATIONAL PARASAIL RIDES, RECREATIONAL
TOWED WATER RIDES AND
BEACH EQUIPMENT RENTAL SERVICES**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON APRIL 26, 2010, as follows:

Section 1. That Chapter 8, BUSINESS LICENSES, TAXES, AND REGULATIONS, of the Code of Ordinances, adopted July 24, 1989, be and it is hereby amended by changing certain language at Article I, In General, Section 8-8 (a),

Businesses engaging in the business of rental of gasoline-powered watersports equipment as follows:

CHAPTER 8 BUSINESS LICENSES, TAXES, AND REGULATIONS

ARTICLE I. IN GENERAL

SECTION 8 – 8 (a) (7) and (a) (8) (D) (i) and (ii)

* * *

(7) The licensee shall not rent any Rental Craft to any person under the age of nineteen (19) years, any person who appears to be under the influence of alcohol or drugs, or any person who does not have a current Vessel Operator's License, *Permit or Certificate* for the operation of such Rental Craft. The licensee shall not permit the operation of any Rental Craft by any person under the age of sixteen (16) years, any person who appears to be under the influence of alcohol or drugs, or any person who does not have a current Vessel Operator's License, *Permit or Certificate* for the operation of such Rental Craft.

(8) The rental site must at all times be equipped with the following, maintained in good and proper operating condition:

* * *

(D) Rental agreements and/or appropriate visible signage readily observable by customers listing the rules of equipment operation, including, without limitation, the following:

(i) "Rental of gasoline-powered watersports equipment to persons under nineteen (19) years of age, persons not possessing a current valid Vessel Operator's License, *Permit or Certificate* or to persons under the influence of alcohol or drugs is prohibited by city ordinance."

(ii) "Operation of rented gasoline-powered watersports equipment by persons under sixteen (16) years of age, persons not possessing a current valid Vessel Operator's License, *Permit or Certificate* or persons under the influence of alcohol or drugs is prohibited by city ordinance."

* * *

Section 2. That this Ordinance shall not be interpreted to repeal any other Rental ordinance of the City of Gulf Shores or any provision of the law of Alabama adopted by operation of Section 1-8 of the City's Code of Ordinances.

Section 3. That the provisions of this Ordinance are severable and a determination of the invalidity of any portion of this Ordinance shall not affect the validity and enforceability of the remainder of the Ordinance.

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

Councilman Jones then moved for the adoption of Ordinance No. 1606 and to waive the reading of said Ordinance at length. The motion for the adoption of Ordinance No. 1606 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 Dyken, "aye," Councilman Jones, "aye," and Mayor Craft, "aye." Councilman Harris was absent. Whereupon, the Mayor declared Ordinance No. 1606 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. 1607

AN ORDINANCE GRANTING A NONEXCLUSIVE FRANCHISE TO BEACH BUM TROLLEY TO PROVIDE TROLLEY SERVICE IN THE CITY OF GULF SHORES; AND AUTHORIZING THE EXECUTION OF A FRANCHISE AGREEMENT BETWEEN THE CITY OF GULF SHORES AND THE CORPORATION

WHEREAS, Beach Bum Trolley has requested a franchise to empower the company to provide trolley service in the City of Gulf Shores; and

WHEREAS, The City is desirous of granting a nonexclusive franchise to Beach Bum Trolley to provide such service; and

WHEREAS, The residents of the City will be benefited by the granting of such a franchise;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON APRIL 26, 2010, as follows:

Section 1. That a nonexclusive franchise be and it is hereby granted to Beach Bum Trolley for trolley service within the corporate limits of the City.

Section 2. That the Mayor and City Clerk are hereby directed and authorized to execute and attest, respectively, a Franchise Agreement between the City of Gulf Shores and Beach Bum Trolley which sets forth the requirements, covenants and agreements of a franchise to the Company.

Section 3. That the subject Franchise Agreement, the full text of which is available for examination in the office of the City Clerk, is dated April 26, 2010.

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

Councilman Garris then moved for the adoption of Ordinance No. 1607 and to waive the reading of said Ordinance at length. The motion for the adoption of Ordinance No. 1607 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 Dyken, "aye," Councilman Jones, "aye," and Mayor Craft, "aye." Councilman Harris was absent. Whereupon, the Mayor declared Ordinance No. 1607 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. 1608

**AN ORDINANCE
GRANTING A NONEXCLUSIVE FRANCHISE
TO GREG F. JONES, DBA JONES ICE CREAM,
TO PROVIDE FOR OPERATION OF
RETAIL ICE CREAM TRUCK ON CERTAIN
NEIGHBORHOOD RIGHTS-OF-WAY AND
PUBLIC PLACES IN THE CITY OF GULF SHORES;
AND AUTHORIZING EXECUTION OF FRANCHISE AGREEMENT
BETWEEN THE CITY AND THE BUSINESS**

WHEREAS, Greg F. Jones, dba Jones Ice Cream, has requested a franchise to empower the business to operate a retail ice cream truck service; and

WHEREAS, The City is desirous of granting a nonexclusive franchise to Greg F. Jones, dba Jones Ice Cream, to operate a retail ice cream truck service in the neighborhood rights-of-way and public places in the City of Gulf Shores; and

WHEREAS, The residents of the City will be benefited by the granting of such a franchise;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON APRIL 26, 2010,

Section 1. That a nonexclusive franchise be and it is hereby granted to Greg F. Jones, dba Jones Ice Cream, a business, for retail operation of not more than one (1) ice cream truck within the corporate limits of the City.

Section 2. That the Mayor and City Clerk are hereby directed and authorized to execute and attest, respectively, a Franchise Agreement between the City of Gulf Shores and Greg F. Jones, dba Jones Ice Cream, which sets forth the requirements, covenants and agreements of a franchise to the business for retail operation of an ice cream truck on certain neighborhood rights-of-way and public places in the City of Gulf Shores.

Section 3. That the subject Franchise Agreement, the full text of which is available for examination in the office of the City Clerk, is dated April 27, 2010.

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 Dyken; and upon the question, the vote thereon was as follows: Councilman Garris, "aye," Councilman Doughty, "aye," Councilman Dyken, "aye," Councilman Jones, "aye," and Mayor Craft, "aye." Councilman Harris was absent. Mayor Craft then declared the rules suspended.

Councilman Jones then moved for the adoption of Ordinance No. 1608 and to waive the reading of said Ordinance at length. The motion for the adoption of Ordinance No. 1608 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 Dyken, "aye," Councilman Jones, "aye," and Mayor Craft, "aye." Councilman Harris was absent. Whereupon, the Mayor declared Ordinance No. 1608 duly and legally adopted.

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

RESOLUTION NO 4785-10

**A RESOLUTION SELECTING
CLARK, GEER, LATHAN & ASSOCIATES**

**TO PERFORM ENGINEERING DESIGN SERVICES
FOR THE SAUNDERS' TURNING BASIN PROJECT;
AND AUTHORIZING THE PUBLIC WORKS DIRECTOR
TO NEGOTIATE THE TERMS OF THE CONTRACT FOR
COUNCIL APPROVAL**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON APRIL 26, 2010, as follows:

Section 1. That Clark, Geer, Lathan & Associates is hereby selected to perform engineering design services for the Saunders' Turning Basin Project; and

Section 2. That the Public Works Director is hereby authorized and empowered to negotiate the terms of the contract to be submitted to the Council for approval;

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

The motion for the adoption of Resolution No. 4785-10 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 Dyken, "aye," Councilman Jones, "aye," and Mayor Craft, "aye." Councilman Harris was absent. Whereupon, the Mayor declared Resolution No. 4785-10 duly and legally adopted.

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

RESOLUTION NO. 4786-10

**A RESOLUTION
GRANTING TAX ABATEMENT
FOR
TURF HOUND CORPORATION**

WHEREAS, Turf Hound Corporation (the Company) has announced plans for a major addition to their existing facility (the project) located within the jurisdiction of the City of Gulf Shores (the Granting Authority); and

WHEREAS, pursuant to the Tax Incentive Reform Act of 1992 (Section 40-9B-1 et. seq., Code of Alabama 1975) (the Act), the Company has requested from the Granting Authority an Abatement of all state and local non-educational ad valorem personal property taxes, all construction related transaction taxes, except those construction related transaction taxes levied for educational purposes and for capital improvements for education; and

WHEREAS, the construction of the project will involve a capital investment of \$1,170,000.00; and

WHEREAS, the Company has requested that the abatement of state and local non-educational ad valorem personal property taxes (use taxes) on said capital investment (if applicable) made through December 31, 2010 and for the ad valorem personal property tax on the annual assessed value of same capital investment (if applicable) be extended for a period of ten (10) years, in accordance with the Act; and

WHEREAS, the Granting Authority has considered the request of the Company and the completed applications filed with the Granting Authority by the Company, in connection with its request; and

WHEREAS, the Granting Authority has found the information contained in the Company's application to be sufficient to permit the Granting Authority to make a reasonable cost/benefit analysis of the proposed project and to determine the economic benefits to the community; and

WHEREAS, the Company is duly qualified to do business in the State of Alabama, and has powers to enter into, and to perform and observe the agreements and covenants on its part contained in the Tax Abatement Agreement; and

WHEREAS, the Granting Authority represents and warrants to the Company that it has power under that Constitution and laws of the State of Alabama (including particularly the provisions of the Act) to carry out provisions of the Tax Abatement Agreement;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON April 26, 2010, as follows:

Section 1. That approval is hereby given to the application of the Company and abatement is hereby granted of all state and local non-educational ad valorem personal property taxes, all construction related transaction taxes for the capital investment in the amount of \$1,170,000.00 and expended by December 31, 2010, except those construction related transaction taxes levied for educational purposes and for capital improvements for education, as the same may apply to the fullest extent permitted by the Act. The period of abatement for the non-educational ad valorem personal property tax on the annual assessed value of same capital investment (if applicable) shall extend for a period of ten (10) years measured as provided in Section 40-9B-3(h) of the Act.

Section 2. That the governing body of the Granting Authority is authorized to enter into an abatement agreement with the Company to provide for the abatement granted in Section 1.

Section 3. That a certified copy of this Resolution, with the application and abatement agreement, shall be forwarded to the Company to deliver to the appropriate local taxing authorities (if applicable) and to the Alabama Department of Revenue in accordance with the Act.

Section 4. That the governing body of the Granting Authority is authorized to take any and all actions necessary or desirable to accomplish the purpose of the foregoing of this Resolution.

Section 5. That this Resolution shall become effective upon its adoption and after receipt of evidence of a certificate of authority as a foreign corporation from the Alabama Secretary of State office.

The motion for the adoption of Resolution No. 4786-10 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 Dyken, "aye," Councilman Jones, "aye," and Mayor Craft, "abstain." Councilman Harris was absent. Whereupon, the Mayor declared Resolution No. 4786-10 duly and legally adopted.

COMMITTEE REPORTS:

Mayor Craft stated that the grand opening for Publix exceeded everyone's expectations. Publix officials commended interim Chief of Police, Fred Beaman, and Revenue Clerk, Evie Grow, for their outstanding customer service during the opening process.

The Mayor then stated that federal, state and local officials are prepositioned to monitor and react, if necessary, to the Transocean Deepwater Horizon Oil Spill. City website will be used to post updated information.

STAFF REPORTS:

Mark Acreman, Director of Public Works, reported that a member of his staff, Ed Calhoun, passed away unexpectedly over the weekend. Our thoughts and prayers are with Ed and his family.

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

Dr. Ernie Rosado, Principal of Gulf Shores High School, Mark Freeman, Athletic Director, and Ike Williams, President of the Dolphin Athletic Club, presented a plaque to Mayor Craft in appreciation of the City's support of the 2009 Gulf Shores High School athletic programs.

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

Mayor Craft declared the meeting adjourned.