

**MINUTES OF SPECIAL MEETING OF
THE CITY COUNCIL OF THE
CITY OF GULF SHORES, ALABAMA**

MARCH 17, 2010

The City Council of the City of Gulf Shores met in special public session at City Hall in the City of Gulf Shores at 3:00 o'clock p.m. on the 17th day of March, 2010. The meeting was called to order by the Mayor. The roll was called with the following results:

Present: Robert Craft, Mayor
 Carolyn Doughty
 Stephen E. Jones
 Joe Garris

Absent: Philip Harris
 Jason Dyken

The Mayor stated that a quorum was present and that the meeting was open for the transaction of business.

The Mayor stated that a Notice of Meeting specifying the time, place and purposes of this meeting had been posted in three public places in the City, including the City Hall, and that such Notice of Meeting had remained continuously posted for at least five days prior to the meeting. The Mayor further stated that a Waiver of Notice had been executed by all members of the City Council. On motion duly made, seconded, and unanimously adopted, the Notice of Meeting and the Waiver signed by each Councilmember was ordered inserted in the minutes of this meeting at the end thereof.

The Mayor advised that the Council needed to convene in Executive Session to discuss the consideration the City is willing to offer or accept when considering the purchase, sale or market value of real property.

A motion was made by Councilman Jones for the Council to go into Executive Session for the purpose of discussing the consideration the City is willing to offer or accept when considering the purchase, sale or market value of real property. Said motion was seconded by Councilman Garris; and,

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

The Mayor declared that a majority of the votes of those officials present 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 thirty minutes.

Council recessed in Executive Session at 3:04 p.m.

Councilman Harris joined the Executive Session at 3:05 p.m.

The Council Meeting reconvened at 3:25 p.m.

Councilmember 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. 1594

AN ORDINANCE OF THE CITY OF GULF SHORES COLLECTIVELY AMENDING (1) ORDINANCE NO. 1407 AND (2) ORDINANCE NO. 15-20 IN ORDER TO PROVIDE FOR THE REALLOCATION OF CERTAIN TAX-EXEMPT WARRANT PROCEEDS IN COMPLIANCE WITH FEDERAL TAX LAW REGARDING THE ISSUANCE OF TAX-EXEMPT WARRANTS

BE IT ORDAINED BY THE CITY COUNCIL (the "Council") OF THE CITY OF GULF SHORES (the "City") AS FOLLOWS:

Section 1. Findings and Representations.

(a) The City has heretofore issued its \$12,665,000 General Obligation Warrants, Series 2006-B, dated February 1, 2006 (the "Series 2006-B Warrants") on February 9, 2006 pursuant to Ordinance No. 1407 adopted by the Council on February 6, 2006 (the "Series 2006-B Authorizing Ordinance"), which are more particularly described as follows:

(i) The Series 2006-B Warrants were originally issued to be used for the purposes of (1) constructing the following municipal capital improvements at the following then estimated costs and (2) paying issuance expenses:

(a)	Tennis Clubhouse and improvements	\$420,000
(b)	Parking Lot - Sims Park	70,000
(c)	Little Lagoon boat launch (design and construction)	500,000
(d)	Sportsplex softball fields	2,500,000
(e)	Soccer field, lights, concession and parking	440,000
(f)	Softball concession stand (2 story)	500,000
(g)	Land purchase	5,000,000
(h)	Constructing new fire station #1	2,972,750
(i)	Contingency	97,250
		<u>\$12,500,000</u>

(ii) As of this date, the Series 2006-B Warrant proceeds have been expended in the following amounts and for the following projects:

(a)	Tennis Clubhouse and improvements	\$687,891.92
(b)	Skate Park - Sims Park	191,208.42
(c)	Public Access Lagoon Park	688,123.33
(d)	Sportsplex Improvements-Phase II	5,799,954.19
(e)	Property Purchase (Mo's Landing)	3,500,000.00
(f)	New Fire Station #1	363,243.67
(g)	Heavy Duty Rescue Truck	256,569.00
(h)	Property Purchase Fire Station #3	200,072.94
(i)	Meyer Park Improvements	21,563.56
(j)	Appraisals/Surveys/Engineering/Legal	5,500.00
(k)	Renovate Adult Activity Center	67.14
(l)	Fund Administrative Expenses	752.14
(m)	Bond Issuance Costs	328,609.51
		<u>\$12,043,555.82</u>

(iii) Consequently, as of this date, the amount of \$621,444.18 Series 2006-B Warrant proceeds remain unexpended. Additionally \$1,097,310.98 in interest earned from the warrant proceeds and \$160,292.31 premium on bonds sold and discount earned remain unexpended.

(b) The City has heretofore issued its \$17,050,000 General Obligation Warrants, Series 2008-A, dated April 1, 2008 (the "Series 2008-A Warrants") on April 29, 2008 pursuant to Ordinance No. 15-20 adopted by the Council on April 28, 2008 (the "Series 2008-A Authorizing Ordinance"), which are more particularly described as follows:

(i) The Series 2008-A Warrants were originally issued for the purposes of (1) constructing the following municipal capital improvements in the aggregate principal amount of \$10,010,476.05, (2) currently refunding and redeeming the City's then-outstanding General Obligation Warrants, Series 1996, dated April 1, 1996 on May 29, 2008, (3) currently refunding and redeeming the City's

then-outstanding General Obligation Warrants, Series 1998-C, dated September 1, 1998 on May 29, 2008 and (4) paying issuance expenses:

- (a) Completion of Fire Station #1;
- (b) Renovation of City Hall and other building;
- (c) Renovation of Adult Activity Center;
- (d) Renovation of Fire Station #3;
- (e) Purchase of property from Meyer Foundation;
- (f) Community Shelter;
- (g) Tennis Complex;
- (h) Sportsplex softball/baseball bleachers;
- (i) Expansion of football stadium seating at the Sportsplex;
- (j) Meyer Park improvements;
- (k) Justice Center design; and
- (l) Other miscellaneous projects to be approved by Council.

(ii) As of this date, the Series 2008-A Warrant proceeds have been expended in the following amounts and for the following projects:

(a)	Administration Expense	\$ 17.75
(b)	Property Purchase-City Hall Annex	1,267,975.00
(c)	Renovate City Hall Annex	704,384.22
(d)	Renovate Adult Activity Center	11,193.48
(e)	Community Shelter	126,874.15
(f)	Renovate Fire Station #3	112,241.15
(g)	Renovate City Hall	41,737.86
(h)	Temporary Police Administration Facility	70,307.44
(i)	Meyer Park Improvements-Phase I	335,642.57
(j)	Expand Football Bleachers at Sportsplex	64,293.21
(k)	File Retrieval System	30,885.51
(l)	Fiber to New Location	3,924.90
(m)	City Hall Renovation	6,406.00
(n)	Grant-ALDOT-Multi-Use Trail	38,100.00
(o)	Property Purchase County Road 4 East	1,245,479.67
(p)	Bond Issue Costs - 2008 A GOW	316,323.03
(q)	Fifth Street Drainage Improvements	186,495.34
(r)	Meyer Tennis Complex	420,241.00
		\$4,982,522.28

(iii) Consequently, as of this date, the amount of \$5,027,953.77 Series 2008-A Warrant proceeds remain unexpended. Additionally \$513,927.22 in interest earned from the warrant proceeds and \$142,403.36 premium on bonds sold and discount earned remain unexpended.

(c) On the dates on which the City issued the aforementioned Series 2006-B Warrants and Series 2008-A Warrants, the City reasonably expected (i) to expend not less than 99% of the net sale proceeds of the Series 2006-B Warrants and Series 2008-A Warrants on capital projects within 3 years, (ii) did incur substantial binding obligations to a third party to expend at least 5% of the net sale proceeds on capital projects within six months of the date of issuance and (iii) has, subject to certain then unforeseen limitations, proceeded to complete the capital projects with all due diligence.

(d) Certain issues, described as follows, which were unknowable by the City at the time the Series 2006-B Warrants and Series 2008-A Warrants were issued, forced the City to re-evaluate the timing and uses to which the proceeds of the Series 2006-B Warrants and Series 2008-A Warrants were originally allocated:

- (i) FEMA Litigation
- (ii) Hurricane Issues
- (iii) Economic Recession

(e) As a result of the foregoing, the City has had to delay certain capital projects and presently has the combined amount of \$6,023,539 of remaining unexpended Series 2006-B and Series 2008-A Warrant proceeds (collectively the "Unexpended Proceeds").

(f) The City has found and determined that it is in the best public interest of the City and its residents and taxpayers to apply the Unexpended Proceeds for the following municipal capital improvements at the following estimated costs (the "Revised Capital Projects"):

	<u>Project</u>	<u>Estimated cost</u>
(i)	FEMA Disaster Fund Match	\$150,000
(ii)	Bodenhamer Roof and Pool Renovations	\$600,000
(iii)	Gulf Place Parking Lot (180 spaces)	\$1,500,000
(iv)	Public Works Streets Resurfacing	\$500,000
(v)	Renovate City Hall Annex/Clubhouse Drive/ City Hall	\$375,000
(vi)	Renovate Adult Activity Center	\$80,000
(vii)	Renovate Fire Station #3	\$143,625
(vii)	Football Bleachers at Sportsplex	\$250,000
(ix)	Fiber to New Location - IS	\$60,000
(x)	Grant-ALDOT-Multi-Use Trail	\$594,650
(xi)	Grant-ALDOT-Safe Routes to School	\$160,520

(g) In addition to the projects listed in (f) above, the City is considering using a portion of the Unexpended Proceeds to (i) purchase a parcel of real property commonly referred to as the Race Track Property at a purchase price of approximately \$3,250,000, and/or provide additional sand for east and west beach renourishment in order to protect the City and its residents from storm damage.

Section 2. Confirmation of Revised Capital Projects.

The Council hereby confirms the Revised Capital Projects and declares that all work thereon shall proceed to completion with all due diligence. The Mayor and City Clerk are hereby each authorized and directed to execute such documents and to take such action as is necessary in connection therewith. All prior action taken with respect to the Revised Capital Projects by the Council and any officer of the City, including the Mayor and City Clerk, is hereby further ratified, adopted and confirmed.

Section 3. Amendment of Exhibit A to Series 2006-B Authorizing Ordinance.

With respect to the 2006-B Warrant proceeds not heretofore expended on capital improvements, the City hereby amends Exhibit A to the Series 2006-B Authorizing Ordinance by adding the following Series 2006-B Improvements in addition to the capital improvements heretofore financed with the Series 2006-B Warrants:

EXHIBIT A

The Series 2006-B Improvements shall include the following:

	<u>Project</u>	<u>Estimated cost</u>
(i)	FEMA Disaster Fund Match	\$150,000
(ii)	Bodenhamer Roof and Pool Renovations	\$600,000
(iii)	Gulf Place Parking Lot (180 spaces)	\$1,500,000
(iv)	Public Works Streets Resurfacing	\$500,000
(v)	Renovate City Hall Annex/Clubhouse Drive/ City Hall	\$375,000
(vi)	Renovate Adult Activity Center	\$80,000
(vii)	Renovate Fire Station #3	\$143,625

(vii)	Football Bleachers at Sportsplex	\$250,000
(ix)	Fiber to New Location - IS	\$60,000
(x)	Grant-ALDOT-Multi-Use Trail	\$594,650
(xi)	Grant-ALDOT-Safe Routes to School	\$160,520

Section 4. Amendment of Exhibit A to Series 2008-A Authorizing Ordinance.

The City hereby amends Exhibit A to the Series 2008-A Authorizing Ordinance by adding the following Series 2008-A Improvements to the capital improvements heretofore financed with the Series 2008-A Warrants:

EXHIBIT A

The Series 2008-A Improvements shall include the following:

	<u>Project</u>	<u>Estimated cost</u>
(i)	FEMA Disaster Fund Match	\$150,000
(ii)	Bodenhamer Roof and Pool Renovations	\$600,000
(iii)	Gulf Place Parking Lot (180 spaces)	\$1,500,000
(iv)	Public Works Streets Resurfacing	\$500,000
(v)	Renovate City Hall Annex/Clubhouse Drive/ City Hall	\$375,000
(vi)	Renovate Adult Activity Center	\$80,000
(vii)	Renovate Fire Station #3	\$143,625
(vii)	Football Bleachers at Sportsplex	\$250,000
(ix)	Fiber to New Location - IS	\$60,000
(x)	Grant-ALDOT-Multi-Use Trail	\$594,650
(xi)	Grant-ALDOT-Safe Routes to School	\$160,520

Section 5. Certain Federal Tax Covenants with Respect to Revised Capital Projects.

The City hereby covenants and agrees that the Unexpended Proceeds allocated to the Revised Capital Projects have and will continue to comply with the Internal Revenue Code of 1986, as amended (the "Code") as follows:

(a) None of the Unexpended Proceeds will be applied for any "private business use" nor will any part of the Unexpended Proceeds be used (directly or indirectly) to make or finance loans to persons other than a governmental unit.

(b) The City will not take any action, or omit to take any action with respect to the Unexpended Proceeds that would cause the interest on the Series 2006-B Warrants and Series 2008-A Warrants not to be and remain excludable from gross income pursuant to the provisions of Section 103 of the Code.

(c) The Issuer will make no use of the Unexpended Proceeds that would cause the Series 2006-B Warrants and Series 2008-A Warrants to be or become "arbitrage bonds" under Section 148 of the Code.

(d) The City will comply with the requirements of Section 148(f) of the Code with respect to any required rebate to the United States.

(e) The City will make no use of the Unexpended Proceeds that would cause the Series 2006-B Warrants and Series 2008-A Warrants to be "federally guaranteed" under Section 149(b) of the Code.

Section 6. Certain Federal Tax Covenants with Respect to the Proposed Race Track Property.

As described in Section 1(g) above, the City has determined that it may in the future use a portion of the Unexpended Proceeds for the purchase of the Race Track Property. While the Race Track Property may be used for public parking or in connection with the redesign of West Beach Road, the City recognizes that such property is prime commercial property. If in the future the City determines to use either Series 2006-B or Series 2008-A Warrant proceeds to purchase the Race Track Property and such property is used in connection with any private party or any private use, the Council hereby covenants and agrees as follows:

(a)the City will hold a hearing in due compliance with Amendment No. 750 of the Alabama Constitution of 1901,

(b)the City will use municipal revenues other than the Unexpended Proceeds to redeem and retire a portion of the Series 2006-B Warrants and/or the Series 2008-A Warrant equal to the purchase price of the Race Track Property on the earliest possible date, which, according to the Series 2006-B Authorizing Ordinance, is December 15, 2015, and according to the Series 2008-A Authorizing Ordinance, is December 15, 2017, or

(c)if the City does not have sufficient municipal revenues to retire an amount of Series 2006-B Warrants and/or Series 2008-A Warrants, equal to the purchase price of the Race Track Property, the City will, in the alternative, issue an amount of General Obligation Taxable Warrants equal to the purchase price of the Race Track Property and use the proceeds derived therefrom to redeem and retire an amount of the Series 2006-B Warrants equal to the purchase price thereof on December 15, 2015 and the Series 2008-A Warrants on December 15, 2017.

(d)the City will never have outstanding more tax-exempt Series 2006-B Warrants and Series 2008-A Warrants than are necessary.

The motion for unanimous consent was seconded by Councilmember Garris and upon the question, the vote thereon was as follows:

Ayes: Robert Craft, Mayor
Carolyn Doughty
Stephen E. Jones
Philip Harris
Joe Garris

Nays: None

Mayor Craft declared the motion carried and the rules suspended.

After said ordinance had been discussed and considered in full by the Council, Councilmember Harris then moved for the adoption of Ordinance No. 1594 and to waive the reading of said ordinance at length. The motion was seconded by Councilmember Jones. The motion was regularly put and, upon roll call, the vote thereon was as follows:

Ayes: Robert Craft, Mayor
Carolyn Doughty
Stephen E. Jones
Philip Harris
Joe Garris

Nays: None

The Mayor thereupon declared said ordinance passed and adopted as introduced.

Whereupon, Councilman Jones moved for the adoption of the following Resolution contingent upon an acceptable Phase I environmental report:

RESOLUTION NO. 4767-10

**A RESOLUTION AUTHORIZING AND DIRECTING THE
MAYOR AND CITY CLERK TO EXECUTE
AND ATTEST, RESPECTIVELY,
CONTRACT TO SELL WITH
WILLIAM MC KELVY
IN AMOUNT NOT TO EXCEED \$3,250,000.00
FOR PURCHASE OF BEACH PROPERTY**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN SPECIAL SESSION ON MARCH 17, 2010, 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 to Sell between the City of Gulf Shores and William McKelvy for purchase of beach property in an amount not to exceed \$3,250,000.00.

Section 2. That payment for such property shall be in accordance with the terms and conditions as set forth in the Contract to Sell.

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

The motion for the adoption of Resolution No. 4767-10 was seconded by Councilman Garris; was regularly put; and upon the question, the vote thereon was as follows: Councilman Garris, "aye," Councilman Doughty, "aye," Councilman Harris, "aye," Councilman Jones, "aye," and Mayor Craft, "aye." Councilman Dyken was absent. Whereupon, the Mayor declared Resolution No. 4767-10 duly and legally adopted.

Councilman Harris moved to direct the City Clerk to prepare a Notice of Public Hearing as it pertains to the request of J. Russell Mothershed and Betty Diane Mothershed for vacation of that portion of West 2nd Avenue situated on their property; motion was seconded by Councilman Garris; and the vote of those officials present was unanimously in favor of the motion.

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

Robert Craft, Mayor

(SEAL)

ATTEST:

Renee F. Moore, MMC, City Clerk