

MINUTES OF SPECIAL COUNCIL MEETING

CITY OF GULF SHORES, ALABAMA

FEBRUARY 15, 2010

The City Council of the City of Gulf Shores, Alabama, met in special session on Monday, February 15, 2010. Mayor Craft called the meeting to order at 3:00 p.m.

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

The Mayor stated that due notice of the time, place and purpose of this meeting had been given to all members of the City Council and that each member had signed the acceptance of service of said notice, waiving all irregularities, if any, in said notice. The notice and acceptance of service and waiver signed by each member was ordered inserted in the minutes of this meeting at the end thereof.

The Mayor stated that the purpose of the meeting was to convene in executive session to discuss with the City Attorney the legal ramifications of and legal options for controversies not yet being litigated but imminently likely to be litigated if the governmental body pursues a proposed course of action.

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 a controversy not yet being litigated but 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 Doughty; and,

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

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 at approximately 4:00 p.m.

Council recessed in Executive Session at 3:05 p.m.

The Council returned from the Executive Session at 4:00 p.m. and adjourned to reconvene the Special Meeting at 5:00 p.m.

All Council members were present, except Councilman Garris, who was absent. The Mayor declared a quorum present.

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

RESOLUTION NO. 4749-10

**A RESOLUTION
AUTHORIZING PAYMENTS TO
ALABAMA EMERGENCY MANAGEMENT AGENCY
AND FEMA DISASTER RELIEF FUND
AS RESULT OF
HURRICANES IVAN AND KATRINA**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN SPECIAL SESSION ON FEBRUARY 15, 2010, as follows:

Section 1. That payment is hereby authorized to the FEMA Disaster Relief Fund in the amount of \$65,526.00 for earned interest on funds advanced through the Public Assistance Program as a result of Hurricanes Ivan and Katrina.

Section 2. That payment is hereby authorized to the Alabama Emergency Management Agency in the amount of \$1,298,901.11 for overpayments to the City as a result of Hurricanes Ivan and Katrina.

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

The motion for the adoption of Resolution No. 4749-10 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 Doughty, "aye," Councilman Harris, "aye," Councilman Dyken, "aye," Councilman Jones, "aye," and Mayor Craft, "aye." Councilman Garris was absent. Whereupon, the Mayor declared Resolution No. 4749-10 duly and legally adopted.

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

RESOLUTION NO. 4750-10

**A RESOLUTION
AUTHORIZING A FUND
FOR THE DISCRETIONARY USE OF
THE MAYOR OF THE CITY OF GULF SHORES
IN OBTAINING COMMERCIAL APPRAISALS
OF REAL PROPERTY**

BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN SPECIAL SESSION ON FEBRUARY 15, 2010, as follows:

Section 1. That the Mayor be and he is hereby authorized in his discretion to obtain from time to time commercial appraisals for real property determined by him to be of potential interest to the City for acquisition, sale, or exchange and to expend City Funds for such purposes in an aggregate amount not to exceed \$10,000.

Section 2. That the Mayor and City Clerk be and they are hereby authorized and directed to execute and attest, respectively, any documents necessary to obtain said commercial appraisals for real property.

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

The motion for the adoption of Resolution No. 4750-10 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 Doughty, "aye," Councilman Harris, "aye," Councilman Dyken, "aye," Councilman Jones, "aye," and Mayor Craft, "aye." Councilman Garris was absent. Whereupon, the Mayor declared Resolution No. 4750-10 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. 1590

**AN ORDINANCE TO AMEND THE *CODE OF ORDINANCES*,
ADOPTED JULY 24, 1989,
AT ARTICLE I, CHAPTER 6, BEACHES, BOATS, AND WATERWAY
TO ADD SECTION 6-13
PROHIBITING THE ERECTION OF TENTS AND SHELTERS
OR THE ABANDONMENT OF BEACH EQUIPMENT
ON PUBLIC BEACHES AND ON CERTAIN OTHER PORTIONS**

**OF GULFFRONT BEACHES AND PROVIDING FOR
METHODS OF ENFORCEMENT AND
PENALTIES FOR THE VIOLATION OF SUCH PROHIBITION**

WHEREAS, the City Council of the City of Gulf Shores has determined that the erection of tents and shelters on public beach areas and on all Gulf front beaches within the corporate limits south of the Lucido & Oliver Line lying west of the Gulf State Park and east of West Eleventh Street and the abandonment of beach equipment on such areas has been shown to be materially detrimental to public safety, to the enjoyment of Gulf front beaches by residents and visitors to the City, and to the protection, stabilization, and maintenance of beach project sand, sand stabilization structures and vegetation located south of the Lucido & Oliver line ; and

WHEREAS, the City Council has determined that the erection of tents and shelters and the abandonment of beach equipment on public beach areas and on all Gulf front beaches within the corporate limits south of the Lucido & Oliver Line lying west of the Gulf State Park and east of West Eleventh Street should be prohibited in the interests of public safety and of the public welfare;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN SPECIAL SESSION ON FEBRUARY 15, 2010, as follows:

Section 1. That Article I of Chapter 6, BEACHES, BOATS AND WATERWAYS of the *Code of Ordinances*, adopted July 24, 1989, be and it is hereby amended by the addition of Section 6-13 reading in its entirety as follows:

Sec. 6-6. Erection of Tents and Shelters and Abandonment of Beach Equipment on Public Beaches and Certain Other Portions of Gulf Front Beaches Prohibited; Methods of Enforcement and Penalties for Violations Prescribed.

(a) Definitions:

As used in this Section 6-6, the following terms shall have the following meanings:

Public beach shall mean any area included within any of the following areas:

(1) An area bounded on the north by the south right-of-way line of Alabama Highway 182, on the east by the east right-of-way line of East First Street, on the south by the Gulf of Mexico, and on the west by the west right-of-way line of West 2nd Street.

(2) An area three hundred (300) feet wide extending southward from the south right-of-way line of Alabama Highway 182 to the Gulf of Mexico, bounded on the east by the west right-of-way line of West 2nd Street and bounded on the west by a line which lies three hundred (300) feet west of and parallel to the west right-of-way line of West 2nd Street.

(3) An area bounded on the east and west, respectively, by the east and west rights-of-way lines of West 4th Street, on the north by the south right-of-way line of Alabama Highway 182, and on the south by the Gulf of Mexico.

(4) An area bounded on the east and west, respectively, by the east and west rights-of-way lines of West 5th Street, on the north by the south right-of-way line of Alabama Highway 182, and on the south by the Gulf of Mexico.

(5) An area bounded on the east and west, respectively, by the east and west rights-of-way lines of West 6th Street, on the north by the south right-of-way line of Alabama Highway 182, and on the south by the Gulf of Mexico.

(6) An area bounded on the east and west, respectively, by the east and west rights-of-way lines of West 10th Street, on the north by the south right-of-way line of Alabama Highway 182, and on the south by the Gulf of Mexico.

(7) An area bounded on the east and west, respectively, by the east and west rights-of-way lines of West 12th Street, on the north by the south right-of-way line of Alabama Highway 182, and on the south by the Gulf of Mexico.

(8) An area bounded on the east and west, respectively, by the east and west rights-of-way lines of West 13th Street, on the north by the south right-of-way line of Alabama Highway 182, and on the south by the Gulf of Mexico.

(9) The public area at Little Lagoon Pass north of the north right-of-way line of Alabama Highway 182 to Little Lagoon and south of the south right-of-way line of Alabama Highway 182 to the Gulf of Mexico, being a strip approximately one hundred (100) feet wide on the south side of Alabama Highway 182, centered on the centerline of the channel, and on the north side of Alabama Highway 182, a strip approximately two hundred (200) feet wide centered on the extended centerline of the channel, and extending in a northerly and southerly direction from the Gulf of Mexico to Little Lagoon.

(10) An area north of the north right-of-way line of Alabama Highway 182 three hundred thirty (330) feet frontage on West Beach Boulevard) extending to Little Lagoon, bounded on the west by the pass from Little Lagoon into the Gulf of Mexico, the shape being irregular and containing approximately 4.1 acres; and an area south of the south right-of-way line of Alabama Highway 182 to the Gulf of Mexico consisting of Lots 3 and 4 of Resubdivided Lots 24, 25, and 26 of Unit 6.

(11) An area consisting of 3.83 acres more or less bounded on the north by the south right-of-way line of Alabama Highway 182, on the south by the Gulf of Mexico, on the west by East 1st Street, and consisting of part of Lots 1 and 2, and all of Lots 3, 4, 5, and 6, Block 9, Unit 1 adjacent on the west to land occupied by Pink Pony Pub and Phoenix All Suites.

Lucido and Oliver Line shall mean the mean high tide line designated on that certain Mean High Tide Line Survey Base Map recorded in the Probate Records of Baldwin County, Alabama at Slides 2015E, 2015F, 2016A, 2016B, 2016C, 2016D, and 2016E. Appropriate markers designating the location of such line as determined by the City shall be installed by the City prior to the issuance of any separate citation under subsection (f) below for violation of subsection (b) below. The enforcement of subsection (c) below shall commence on March 1, 2010 without regard to whether the installation of such markers has yet taken place.

Tent or shelter shall mean any tent, shelter, canopy, cabana, windscreen, or other supported ground cover or enclosure; provided, however, that the term shall not include any folding beach umbrella supported by a single pole; any umbrella or shade attached solely to a beach chair, to a child's stroller, or to a wheel chair designed for beach use by handicapped persons; or any pop-up type freestanding tent or shelter designed for beach use having no length or width dimension greater than seven (7) feet and no height dimension greater than four (4) feet.

Beach equipment shall mean any personal items that are designed or manufactured for use, or actually used, on the beach or in adjacent waters. Examples include, without limitation, chairs, loungers, umbrellas, tents or shelters of any size, horseshoes and stakes, kayaks, paddle vessels, sailboards, surf boards, fishing gear, sporting equipment, rafts, flotation devices, beach toys, baskets, bags, towels, coolers, and other personal effects and items. Beach equipment shall not include chair setups maintained on its licensed site by a duly licensed beach chair rental business.

(b) **Tents and Shelters Prohibited.** No tent or shelter shall be erected (1) on any public beach or (2) south of the Lucido and Oliver line on any Gulf front beach within the corporate limits of the City of Gulf Shores lying west of the Gulf State Park and east of West Eleventh Street

(c) **Failure or Refusal to Remove Tent or Shelter After Instruction to Remove Prohibited.** No person shall fail or refuse to remove a tent or shelter erected by such person in violation of subsection (b) above after being directed to effect such removal by a law enforcement officer or beach inspector.

(d) **Beach Items to be Removed Daily; Items Not Removed by Owner or User Subject to Removal and Disposal by City.** Each item of beach equipment must be removed by its owner or permitted user (1) from each public beach and (2) from the beach area south of the Lucido and Oliver line on any Gulf front beach within the corporate limits of the City of Gulf Shores lying west of the Gulf State Park and east of West Eleventh Street each day by 8:00 p.m. Each item of beach equipment not removed from such areas by such time may be treated by the City as abandoned property and removed and disposed of by the City as abandoned property.

(e) **Enforcement by Beach Inspectors.** In addition to enforcement by law enforcement officers of the City, the mayor shall appoint a sufficient number of city employees as beach inspectors to ensure proper enforcement of this section. Such beach inspectors shall not be law enforcement officers or peace officers within the meaning of state law and shall not have authority as officers of the city to make arrests. Such beach inspectors shall be authorized only to issue citations for violations of this section.

(f) **Penalty for Violation of Subsection (b).** Any person violating subsection (b) of this section shall be guilty of an offense and, upon conviction, shall be punished for each offense by a fine of \$50.00. In addition, costs of two dollars (\$2.00) shall be taxed for each contested disposition of an offense defined in subsection (b). Such offenses and fine and cost amounts are hereby made a part of the schedule of municipal offenses, fines, and costs authorized under Alabama Rules of Judicial Administration 20(c).

(g) **Penalty for Violation of Subsection (c).** Any person violating subsection (c) of this section shall be guilty of an offense and upon conviction, shall be punished for each offense by a fine of not more than \$500.00, imprisonment for a period not exceeding six (6) months, or both.

Section 2. That this Ordinance shall not be interpreted to repeal any other 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 February 24, 2010, after its adoption and publication as required by law.

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

Councilman Harris then moved for the adoption of Ordinance No. 1590 and to waive the reading of said Ordinance at length. The motion for the adoption of Ordinance No. 1590 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 Doughty, "aye," Councilman Harris, "aye," Councilman Dyken, "aye," Councilman Jones, "aye," and Mayor Craft, "aye." Councilman Garris was absent. Whereupon, the Mayor declared Ordinance No. 1590 duly and legally adopted.

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

Robert Craft, Mayor

(SEAL)

ATTEST:

Wanda K. Parris, CMC
Deputy City Clerk