

**City of Gulfport Florida**  
**Regular Council Meeting**  
**January 16, 2007**

City Hall

7:00 p.m.

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**Minutes**

The meeting was called to order by Mayor Michael J. Yakes.

The Invocation was given by Councilmember Robert E. "Bob" Worthington followed by a Pledge of Allegiance to the Flag of the United States of America.

Roll Call. Present were Councilmembers Mary Stull, Robert E. "Bob" Worthington and Michele King, Vice Mayor John E. "Ted" Phillips, Mayor Michael J. Yakes, City Manager Thomas E. Brobeil, City Attorney Timothy P. Driscoll and City Clerk Louise M. Spence.

Mayor Yakes announced that there would be a presentation by the Gulfport Teen Council added to the Agenda.

Sarah McAvoy, President of the Gulfport Teen Council stated that the Teen Council feels that people should not legally ride in the back of trucks. There is a bill sitting in Tallahassee and they hope it will be passed during the upcoming session.

Mayor Yakes stated that the Teen Council has gone beyond the bill and this makes a lot of sense. He also stated that some are also thinking of pets. He stated that he will ask the Suncoast League of Municipalities and the Mayors' Council to work on this issue.

**1. Public Session.**

Scott Elliott, 1619 55<sup>th</sup> Street South, spoke about some problems with the skateboard park on 55<sup>th</sup> Street and asked why one is needed there since there is one at the beach.

Mayor Yakes stated that we did relocate the skateboard park from the beach area to Tomlinson Park and do have to control the activity there, but there is no discussion of moving it back.

Councilmember Stull stated that there had been some concerns about the synagogue when the skateboard park was moved there.

Mayor Yakes stated that he would hear something back on these concerns.

John Paul, 2804 45<sup>th</sup> Street South, spoke about an article in the Southwinds Publication about boaters and suggested that the Gulfport waterfront be made a more viable concern.

Craig Smith, Commodore of the Boca Ciega Yacht Club, thanked those who attended their banquet and left CD copies of pictures for Council.

Al Davis, 2790 45<sup>th</sup> Street South, thanked Councilmember Worthington for going to a meeting which addressed the environment and stormwater. He presented photos of Clam

Bayou which showed that the shoreline has moved 800' west due to drainage and trash problems.

Martin Needleman, 5940 30<sup>th</sup> Avenue South, stated he had asked about negotiations with St. Petersburg about this fill problem and asked if we can get a report now or at the next meeting.

Mayor Yakes stated that he had spoken with Representative Jamie Bennett of that district and assured him that we will not tolerate continuously allowing the debris to float into Clam Bayou. Mayor Yakes also stated that he contacted Senator Bill Nelson's office and asked them to help us contact the Corps of Engineers. They will be here February 1st with a representative from the Corps of Engineers for a tour of Clam Bayou.

In response to Mr. Needleman's question as to whether we can take any legal action, City Attorney Driscoll stated that it would depend if there are any violation of regulations. We can look into this but it could be very expensive and we would have to go thru the Chapter 164 process.

Mayor Yakes stated that he would like to see what happens on February 1st.

## **2. Update Reports.**

City Manager Brobeil announced that there will be an Arbor Day Celebration on Wednesday, January 31 at 2:00 p.m. at Veterans Park. The City will plant a tree and give out seedlings. He stated that the Department of Environmental Protection would grant a permit to the City and therefore, the floating dock issue has been settled.

City Manager Brobeil spoke about some Tallahassee issues including the taxation issues which seem to have made some progress in that the rate cuts may be in the area of 25%. He stated there was discussion of the additional \$25,000 homestead exemption and possible transfer of the Save Our Homes Act and we will be keeping a close look at these.

City Manager Brobeil stated that we received a letter from the County agreeing to provide the City with \$100,000 for intersection improvements at 52<sup>nd</sup> Street and Gulfport Boulevard. He stated that the Public Works Director is working with the engineer who did the preliminary plans to determine if this project can still be built for the amount of money available. He hopes to report back on this in a few weeks.

City Manager Brobeil stated that we are looking into three options for the basketball court in Ward 4, but there will be no proposal tonight. He stated that he had met with the principal of Hamilton Disston School and we had been given outside access to their basketball court, but we have to have approval of the superintendent. He stated that another possibility would be working with churches in the area or a proposal to put a hoop in the driveway of Tomlinson

Park. He felt that using Hamilton Disston would be the first choice and the use of the churches would be the second choice and the park would be the third choice. This will be brought back to Council for direction

Councilmember Stull stated that Hamilton Disston is usually locked up. She stated she had contacted a school member board who will get back with her about this. She stated in favor of using city property and it is good to see it moving ahead.

Vice Mayor Phillips spoke about the floating dock and a water taxi person who was willing to use Gulfport as one of his stops. He felt that there should be a floating dock at the end of the dock.

Mayor Yakes spoke about the Penny for Pinellas meeting which will be held tomorrow in the Senior Center at 1:00 p.m.

**3. Consider approval of the minutes of the January 2, 2007 Regular Council Meeting.**

**A motion was made by Vice Mayor Phillips and seconded by Councilmember Stull to approve the minutes of the January 2, 2007 Regular Council Meeting.**

UNANIMOUSLY APPROVED BY ACCLAMATION.

**4. Ordinances:**

- a. 2007-01 SECOND READING AND PUBLIC HEARING. An ordinance of the City Of Gulfport, Florida providing for amendment of Section 22-4.03 of the Code of Ordinances pertaining to mixed uses within the City; providing for mixed uses as permitted uses; providing for amendment of Subsection (f) of Section 22-5.09 of the Code of Ordinances pertaining to maximum building coverage in the CL-1 Zoning District; providing for building coverage of mixed uses; providing for the repeal of ordinances, or parts of ordinances, in conflict herewith, to the extent of such conflict; providing for severability; and providing for an effective date.

City Clerk Spence read Ordinance No. 2007-01 by title only.

City Manager Brobeil explained the ordinance.

Mayor Yakes opened the Public Hearing.

Al Davis, 2790 45<sup>th</sup> Street South, questioned what impact this would have in Gulfport.

City Manager Brobeil stated that there are not many areas with CL-1 zoning in the City. He stated that if this is done for other areas Staff will do an impact study regarding density.

Bob Newcomb, 921 Fremont Street South, stated that he likes the concept and he feels that we've got to get artists back into the redevelopment area. He also thinks that expanding the zoning is a good idea.

Seeing no one else who wished to speak, Mayor Yakes closed the Public Hearing.

**A motion was made by Vice Mayor Phillips and seconded by Councilmember Worthington to pass Ordinance No. 2007-01.**

VOTE:

VICE MAYOR PHILLIPS	YES
COUNCILMEMBER STULL	YES
COUNCILMEMBER KING	YES
COUNCILMEMBER WORTHINGTON	YES
MAYOR YAKES	YES

UNANIMOUSLY APPROVED.

- b. 2007-02 An ordinance of the City of Gulfport, Florida providing for amendment of Article VI of Chapter 22 of the Code of Ordinances, pertaining to supplemental regulations in the zoning code; providing for a new Section 22-6.10; providing for an exemption from State law to allow dogs in outdoor areas of public food service establishments during operating hours; providing for regulations; providing for application and permit procedures; providing for a complaint procedure; providing for amendment of Section 25-301, pertaining to fees for zoning services; providing for a fee for permits for dogs in outdoor dining areas; providing for the repeal of ordinances or parts of ordinances, in conflict herewith, to the extent of such conflict; providing for severability; and providing an effective date.

City Clerk Spence read Ordinance No. 2007-01 by title only.

City Manager Brobeil introduced Principal Planner Angela Hurley who explained the ordinance.

Vice Mayor Phillips asked if restaurant owners have control over dangerous dogs.

Principal Planner Hurley stated this is covered. In response to Councilmember Worthington she stated that the restaurant can designate the entire outdoor area. She also stated that service dogs are not affected by this regulation.

Councilmember Worthington stated he does not think that people would take unruly dogs out to eat with them.

Mayor Yakes opened the Public Hearing.

Marty Needleman, 5940 30<sup>th</sup> Avenue South, asked about the requirement to clean up dog waste.

City Manager Brobeil stated this issue is addressed by the ordinance.

Seeing no one who wished to speak, Mayor Yakes closed the Public Hearing.

**A motion was made by Councilmember Worthington and seconded by Councilmember King to pass Ordinance No. 2007-02.**

VOTE:

VICE MAYOR PHILLIPS	YES
COUNCILMEMBER STULL	YES
COUNCILMEMBER KING	YES
COUNCILMEMBER WORTHINGTON	YES
MAYOR YAKES	YES

UNANIMOUSLY APPROVED.

## 5. Resolutions:

- a. 2007-04 A resolution of the City of Gulfport, Florida, approving the ballot language for the March 13, 2007 General Municipal Election; and providing for an effective date.

City Clerk Spence read Resolution No. 2007-04 by title only and read the order of the candidate names for the ballot. .

Mayor Yakes opened the Public Discussion.

Seeing no one who wished to speak, Mayor Yakes closed the Public Discussion.

**A motion was made by Vice Mayor Phillips and seconded by Councilmember Worthington to pass Resolution No. 2007-04.**

VOTE:

VICE MAYOR PHILLIPS	YES
COUNCILMEMBER STULL	YES
COUNCILMEMBER KING	YES
COUNCILMEMBER WORTHINGTON	YES
MAYOR YAKES	YES

UNANIMOUSLY APPROVED.

- b. 2007-05 A resolution of the City of Gulfport, Florida, providing support for the Gulfport Teen Council's request for a Florida Legislative Bill that prohibits unrestrained occupants from riding in any bed or cargo area of a vehicle; and providing for an effective date.

City Clerk Spence read Resolution No. 2007-05 by title only.

City Manager Brobeil explained the resolution. He stated that we will need to work on committees to move forward on this issue and staff recommends approval.

Mayor Yakes opened the Public Discussion.

Seeing no one who wished to speak, Mayor Yakes closed the Public Discussion.

**A motion was made by Councilmember Worthington and seconded by Vice Mayor Phillips to pass Resolution No. 2007-05.**

Vice Mayor Phillips asked about the use of the term “cargo area.”

Councilmember Worthington felt that the key word is “unrestrained.”

VOTE:

VICE MAYOR PHILLIPS	YES
COUNCILMEMBER STULL	YES
COUNCILMEMBER KING	YES
COUNCILMEMBER WORTHINGTON	YES
MAYOR YAKES	YES

UNANIMOUSLY APPROVED.

## **6. Discussion of York Street Right-of-Way.**

City Manager Brobeil explained that this was brought up at the last meeting and City Council had asked that staff bring this back. He stated that the cost to lower the fence by one foot is approximately \$1,200.00.

Councilmember Worthington stated he had been there several times and noticed that immediately behind the fence is shrubbery, palm trees and taller trees. At the end of the five foot fence is a six foot wooden fence and at a cost such as this, he thinks no action should be taken.

Councilmember King stated she does not think anyone benefits from the 5' fence but it obscures the homeowner's view. The City has changed his property by doing this and she does not think the City has the right to do that. She asked if we are going to do a drainage project on the other properties there.

City Manager Brobeil stated the drainage project there was to alleviate the problems caused by the planting of materials in this area.

Councilmember King stated that she had originally asked that the ficus trees be removed and other trees have been planted and there is a maintenance issue.

Public Works Director Don Sopak stated that he has been working with the engineer for a year a half to take care of the problem at the end of 52<sup>nd</sup> Street. He stated that the drainage, as it is now did not exist previously because there was a dirt berme that was not installed by the City and that is why we took the berme out. He stated that the trees planted there will be maintained by the Parks Department. He stated that the \$100,000 project is for drainage at the end of 52<sup>nd</sup> Street. There is a drainage ditch and also mangroves are there that could not be

removed and we got an exemption to maintain it. We are in the design phase of establishing a drainage ditch and a berme that will direct the drainage into the bay.

In response to Councilmember King, Public Works Director Sopak stated that this is a project to establish drainage on all the terminus streets.

Councilmember King asked if this should have been brought to Council as a total project.

Public Works Director Sopak stated we just basically leveled out the things to work the way they were supposed to work. He stated that the plantings were done by the resident and the City removed those and established the grade.

Councilmember King stated she does not think the City should block a resident's view. She stated that the fence has changed the property and the City should bring it down to four feet high.

Vice Mayor Phillips stated he was down there today and had a discussion with the resident. He stated we are dealing with a chain link fence and you can see through it, as opposed to a six foot high wood fence. He stated he could not see the blockage of view and he felt the city should allow the resident to take it down to four feet if he pays for it.

Councilmember Stull stated this is legally on city property and she feels that if anything is done, it is the City's responsibility. She felt that with our budget problems we may not be able to afford it.

Mayor Yakes asked Public Works Director Sopak if he talked to the property owners prior to this project.

Public Works Director Sopak stated that he did and the height of the fence was discussed.

Mayor Yakes asked the homeowner to make a presentation.

Dave Hollander, 5136 31<sup>st</sup> Avenue South, explained the situation and showed pictures of the fences. He felt that the one foot higher fence has a large impact.

Vice Mayor Phillips stated that the house next door has a five foot fence all around it. He stated that he has no objection to this fence being lowered to four feet, but he does not think the city should pay for it.

Councilmember King stated that the resident with the five foot fence put that up himself, but Mr. Hollander did not choose that. The fence blocks some of the view and to not take it down to four feet is a huge abuse by government.

Councilmember Worthington felt that if the City cleared out the shrubbery and did the grading but did not put up a fence and people were walking across property, then they might not be happy. This was agreed upon and he thinks if the homeowner wants to reduce it then he should handle the expense.

Councilmember Stull agrees that it should have come to Council and been discussed before it was done.

City Manager Brobeil stated that this was discussed with the property owners as this was a maintenance activity.

Councilmember King stated that Mr. Hollander stated that he was told that this would be a four foot high fence.

In response to Mayor Yakes, Public Works Director Sopak stated that there is a barrier at the end to allow the lawn mowers to get in.

Mayor Yakes asked for Council's position on this matter.

Councilmember Stull stated that she agreed with Mr. Hollander, but does not feel that we can afford it right now.

Mayor Yakes stated that he thinks the City had good intentions, but he would like the fence lowered by the City. He stated that three Councilmembers agreed to lower the fence and the only other fact that needs to be established if the property owner needs to lower it at his own expense.

City Attorney Driscoll stated if that is the consensus of what Council wishes to accomplish, the City should do the work and be reimbursed by the owner. He suggested that the payment be made in advance.

Mayor Yakes stated that this decision has been made.

## **7. Any Other Business.**

Vice Mayor Phillips stated that he will not be able to attend the court session on February 9 as he will be at a swear-in ceremony at the Area Agency on Aging.

Mayor Yakes stated that Vice Mayor Phillips was speaking of the Charter Review Committee court hearing and he will be sworn in as Vice President of the Area Agency on Aging.

Councilmember King asked about the "No Parking on the Grass" signs on Beach Boulevard and she was told about a month ago they were going to come down, but they are still there. She asked when they would be coming down.

City Manager Brobeil stated he thinks he put it in the City Manager's report, but he does not know the date and he will furnish the information soon.

Councilmember Worthington asked if the new water restrictions have come out yet.

City Manager Brobeil stated as soon as we get them they will be advertised on Cable Channel 15 and on the website.

Councilmember Worthington also spoke about a citizen's complaint about cats running loose and asked about the leash law.

City Manager Brobeil stated the City does not have a leash law for cats, but if there is a problem, the SPCA or animal control could be contacted. If they know the owner they should let Code Enforcement know.

Councilmember Worthington also stated that he was contacted by a citizen from Kayak Nature Adventures who had received a \$5,000 grant from SWFWMD and he would like to help with the cleanup of Clam Bayou on March 17 and make some of those funds available.

City Manager Brobeil suggested that Leisure Services Director Jim O'Reilly be contacted to work something out for this.

Councilmember Worthington stated he went to the committee meeting last week on the Agency for Bay Management. He stated that they are environmentalists and they did not want to hear anything about dredging. He stated that he would like to establish a citizens' committee of five citizens, including someone from the Gulfport Water Watch and the Sierra Club and someone from a boat club. He stated he would bring this up again in the future.

Councilmember Worthington also spoke about a large dumpster in the Clam Bayou which was surrounded by large furnishings, including a refrigerator and he feels we need to have signs about charges for illegal dumping posted there.

Councilmember Stull stated that the last Crime Watch meeting had been attended by a large crowd. The Vice Mayor of St. Petersburg was there and spoke about the Childs Park renovations project and invited everyone to a meeting in February to discuss the changes. She also asked if we can hire a consultant for new businesses on 49<sup>th</sup> Street for the empty buildings.

Councilmember Worthington stated that he had spoken to several City employees who approached him about the General Employees Pension plan which has not had the multiplier increased for a number of years. They asked about the possibility of increasing this because they are far below the Police and Fire Department plans. They have volunteered to put contributions into the fund to increase it and he would like to know if we can assist them.

City Manager Brobeil said this is something we can study and find the costs then go through the pension board to find out the costs.

City Manager Brobeil said we would have to make sure the majority of employees covered would agree with that and he asked if Council is giving direction for him to do that.

The consensus was to give this direction to the City Manager.

Mayor Yakes spoke about the scheduled meeting regarding the County Charter Review issues.

City Manager Brobeil stated the first meeting is January 29 for the City Managers and City Attorneys and the second meeting is February 9 for elected officials, City Managers, City Attorneys and City Clerks.

Mayor Yakes stated that Council needs to state their position to allow staff to represent the issues.

City Manager Brobeil stated that the only issue that cities seem to care about is the annexation issue, but it is not an issue for us.

City Attorney Driscoll stated that the concern among city attorneys is that there is no guarantee that the dual referenda not come back.

In response to City Manager Brobeil, City Attorney Driscoll stated that city managers and city attorneys will be at the meeting on January 29 by court order. The elected officials and City Clerks are to attend the February 9 meeting.

Mayor Yakes stated that he had requested an update from the City Clerk about the Department improvements made and intentions.

City Clerk Spence stated that a written report had been submitted to Council.

Mayor Yakes asked that this be on the next agenda.

Mayor Yakes spoke about the Penny for Pinellas meetings to be held tomorrow at the Senior Center.

City Attorney Driscoll stated that the judge is bound by state law for the Charter Review court hearing.

**8. Adjournment.**

**A motion was made by Vice Mayor Phillips and seconded by Councilmember Worthington to adjourn at 8:55 p.m.**

UNANIMOUSLY APPROVED BY ACCLAMATION.

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Date Approved

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Michael J. Yakes, Mayor

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Louise M. Spence, City Clerk