



**City of Gulfport Florida**  
**Regular Council Meeting**  
**May 20, 2008**

City Hall

7:00 p.m.

---

**Minutes**

Mayor Michael J. Yakes called the meeting to order.

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

Roll Call: Present were Councilmembers, Judy Ryerson, Mary Stull, Robert E. "Bob" Worthington, Vice Mayor Michele King, and Mayor Michael J. Yakes.

Staff: Present were City Manager Thomas E. Brobeil, City Attorney Timothy P. Driscoll and City Clerk Donna M. Spano.

Mayor Yakes explained the meeting process.

**1. Presentation:**

**Older Americans Month**

Mayor Yakes read the Older Americans Month Proclamation and proclaimed the month of May as Older Americans Month, which he presented to Sue Frank, Director of the Gulfport Senior Center.

**2. Approval of Minutes for September 4, 2007 (2 Special Council Meetings); September 4, 2007 and August 21, 2007.**

**Vice Mayor King made a motion to approve the Minutes as presented, which was seconded by Councilmember Worthington.**

UNANIMOUSLY APPROVED BY ACCLAMATION

**3. Approval of Minutes for October 16, 2007 and November 6, 2007 (Regular City Council Meetings.)**

**Councilmember Worthington made a motion to approve the Minutes as presented, which was seconded by Councilmember Stull.**

UNANIMOUSLY APPROVED BY ACCLAMATION

**4. Update Reports.**

**a. City Manager Brobeil:**

City Manager Brobeil announced that the annual hurricane seminar will be held at the Casino on Monday June 2<sup>nd</sup> because of the large response last year adding that they have a different format and presenters and invited everyone to you attend. He mentioned that City Hall will be closed Monday the 26<sup>th</sup> in recognition of Memorial Day. He then stated that on Thursday, the 22<sup>nd</sup>, he will be out for a diagnostic procedure and Mr. O'Reilly will be the acting City Manager, in my absence. He will be attending his annual conference of the FCCMA Wednesday through Friday, and will be in contact while he is there. Any emergencies will be taken care of by Mr. O'Reilly, during his absence. He explained that he is asking for special permission to miss the June 3<sup>rd</sup> Council Meeting since his son will be graduating from High School. Lastly he announced that he would be out of the office on Wednesday June 4<sup>th</sup> for appointments at the Cleveland Clinic, but will be available for phone calls and e-mails, and Mr. O'Reilly will be here if there are any onsite emergencies.

Mayor Yakes received UNANIMOUS APPROVAL BY ACCLAMATION from the Councilmembers to authorize Mr. Brobeil's request.

**b. City Attorney Driscoll:**

City Attorney Driscoll requested Council to piggy-back tomorrow's meeting with an attorney – client session, as a decision was received from the Appellant Court for the Pasadena Properties USX Sales Office. He requested that Council schedule that session at the beginning of the meeting, because time is of the essence adding that the meeting should not take more than 15-20 minutes.

Councilmember Worthington suggested this meeting begin at 5:30 p.m. and all Councilmembers agreed.

Mayor Yakes asked if there is pending litigation involving permits and building in the area of the Pasadena Yacht Club Estates.

City Attorney Driscoll confirmed that there are pending suits regarding illegal unpermitted work.

**c. City Clerk Spano:**

City Clerk Spano had no updates at this time.

**5. Resolutions:**

- a. 2008-32 A resolution of the City of Gulfport, Florida, authorizing the City Manager to implement the recommendation of the Transportation Advisory Committee; and providing for an effective date.**

City Clerk Spano read Resolution 2008-32 by title only.

City Manager Brobeil explained the resolution stating that it is intended to provide relief to a resident in the area of 59<sup>th</sup> Street South adding that this item was brought up at a prior meeting. At that time, the applicant requested the City Council consider changes which were sent back to the Transportation Advisory Committee for consideration. They Committee recommends the following: 1) no parking on the eastern side of 59<sup>th</sup> Street South, between 6:00 am and 6:00 pm, Monday through Friday; 2) resident only parking, on the western side of 59<sup>th</sup> Street South, by permit.

Mayor Yakes opened for Public discussion on Resolution 2008-32.

Marguerite Tober of 59<sup>th</sup> Street stated she surveyed some of my neighbors and they are in agreement with this and gave a petition to the City Clerk). She stated she still has concerns and does not feel this will resolve the traffic flow issues in the morning and afternoon relating to the day care traffic center. She added that it is still difficult to get in and out of the driveways and their hope is Holy Name will implement some traffic management tools to help with that. She asked that City Council approve this plan.

Bob Wood of 28<sup>th</sup> Avenue South asked if the resolution was to restrict parking currently not restricted on the street stating on the west side of the street there is no parking and asked if it would be changed on the Holy Name side to no parking?

City Manager Brobeil explained that the proposal is to have no parking Monday through Friday 6:00 a.m. to 6:00 p.m. on the school side (east) side of the street.

Bob Wood commented that the street seems to have the width and ability to handle the traffic going through there and asked if this would be opening a door to restrict parking throughout the City. He explained that he questions this for two reasons: 1) the drop-off and pickup of children at a daycare center that has 40-50 children is at tops a 15 minute drop and go; 2) this street is wider than most Gulfport streets, has curbs and it has been brought up before, by the police, that there have not been accidents or issues regarding safety. He questioned whether we are in the position to start saying people who have trouble with their SUV's should be changing the way a street is laid out. Mr. Wood then asked where else in Gulfport is parking restricted other than at the beach.

Carrie Eaton, Day Care Director explained that it has been about 9 years since they moved from the big school to Early Childhood in our their building and they do deal with a certain amount of parking issues. If they have to go back to using the big parking lot it would create a hardship to the parents carrying little all the way across the lot to the front of the school, especially on rainy days. Currently they can just pull up into the circle driveway to drop off and pick up their child

and there are no safety issues involved. She explained that they are trying to work with their neighbors and have e-mailed parents and asked them to be courteous, tried to work as traffic patrol, and are installing a one-way sign at the circle driveway.

Mayor Yakes, seeing or hearing no one else who wished to speak, closed the Public Discussion.

**Councilmember Worthington made a motion to approve Resolution 2008-32 which was seconded by Vice mayor King.**

Councilmember Worthington commented that he has spoken with Ms. Tober, and as with all streets, they do get congested at times and there are a lot of other areas in Gulfport where we do have restricted parking and no parking, other than at the waterfront area. He explained that Ms. Tober is happy with this even though it is not exactly what she set out for. He also pointed out that there is no requirement for permits in the agenda memorandum or resolution.

City Manager Brobeil explained that on the residential side of the road it is proposed to be resident only parking and resident parking stickers will be issued to the residents, per our current policies. If they have visitors, the resident could park in the street to make room in their driveway for these visitors.

Vice Mayor King stated she thought it was said that on the church side of the street, there was no parking, Monday through Friday between 6:00 a.m. through 6:00 p.m., and she didn't find that in the agenda memo or the resolution.

City Manager Brobeil stated there was an error on the agenda memorandum but it can be added to the resolution.

**Councilmember Worthington made an amendment to Resolution 2008-32 to add that "No parking on the eastern side of 59<sup>th</sup> Street South, between 6:00 am and 6:00 pm, Monday through Friday", which was seconded by Vice Mayor King.**

Mayor Yakes explained that upon passage this will be implemented and monitored to see it is complied with in intent and spirit adding that the cooperation of the Day Care is appreciated in making any adjustments in transportation devices and safety enhancements.

Councilmember Worthington asked if the resident parking has restrictions from 6:00 a.m. to 6:00 p.m. also.

City Manager Brobeil explained there will be resident parking available at all times with stickers.

VOTE:

|                           |     |
|---------------------------|-----|
| COUNCILMEMBER RYERSON     | YES |
| COUNCILMEMBER STULL       | YES |
| COUNCILMEMBER WORTHINGTON | YES |
| VICE MAYOR KING           | YES |
| MAYOR YAKES               | YES |

UNANIMOUSLY APPROVED

- b. 2008-33 A Resolution of the City of Gulfport, Florida, recommending an alternative plan showing additional improvements for Clam Bayou restoration to address city and resident concerns; and identifying specific additional design elements to address city and resident concerns about the amount of sediment deposited in the bayou due to stormwater runoff and threats to the area's viability as a habitat for wildlife; and providing for an effective date.**

City Clerk Spano read Ordinance 2008-33 by title only.

City Manager Brobeil stated this Resolution is to establish an additional resolution concerning the values of the Council and Clam Bayou. The City Council has already approved two prior resolutions (Resolutions 2007-21 and 2007-42). Since that time, the City Council got the attention of the Anclote River Basin Board and the State Environmental Preservation Committee to take a look at Clam Bayou in the hopes in addressing some of the issues brought up by area residents. To further those efforts, he has been speaking with members of the Basin Board who have requested more detail on what we actually want. There is an additional Basin Board meeting coming up and one of the questions of the Basin Board is what exactly is the City requesting. We showed pictorially what had been written in the two previous resolutions, including re-establishing the Clam Bayou habitat to the 1950's baseline, removing accumulated sediment, removing debris, requesting for a follow-up project dealing with restoration of the natural channels and historic habitat, and providing for flushing tidal action to make sure we don't have areas that become dead lakes. The resolution before Council expresses these desires and provides a graphic that can be shown to members of the Basin Board and the Senate Committee to identify some of the things we are looking at, in pictorial form. He explained this is what the City's position is when going before the Basin Board and any other committees and agencies we would need to deal with adding that this policy should emanate from the City Council in order to discuss this issue in a comprehensive manner. He further explained that this resolution does impact some mangrove areas but not extensively. This is a starting point, not an engineered or environmental plan done by scientists, but a representation of what people who are interested have told us what they would like to see.

Mayor Yakes asked for the information be displayed prior to additional discussion.

City Manager Brobeil showed a map on the overhead camera and explained this is an overlay of the City's information being superimposed over the current SWFWMD plan. He then detailed the plan and pointed out differences being proposed.

Councilmember Worthington explained that Council has received many e-mails from people for and against the restoration. He stated that in preparing this plan they rejected the requests regarding removal of approximately 80% of the mangroves in the center of the bay because it is an estuary. He explained that they received this map from St Petersburg and SWFWMD and it shows where they will be putting their retention ponds. He explained that St. Petersburg and SWFWMD are interested in excavating the eastern channel of the Bayou and that would be hydraulically leveled to the level of the bay and he feels this would cause further problems. He

stated that as it is proposed, he is opposed to it because he doesn't believe the Bayou or the Bay can take that extra sediment and that it would completely block off the Bayou. Councilmember Worthington stated that the area they are speaking of clearing and digging in is beautiful upland hardwoods instead of working with the Bayou as it is, to make it what is used to be. He explained staff created a rough guideline which is very minimal regarding removal of anything; less than 3% of the mangroves as opposed to the 20% being proposed by SWFWMD. He feels this is necessary in order to build the sediment ponds to prevent runoff, especially from the golf course, where St Petersburg is being forced to harden the channels. The channels on the east, west and south sides of the golf course were originally built 6 – 30 feet wide and the sand and sediment has cyclically been dumped, for years, to save the golf course and has washed away from the golf course, ending up in Clam Bayou. He stated this is proposing a circulatory system on the Bayou so the water can circulate throughout, which would add more water to the walking mangroves whose root structure support the oyster population. Because of the influx of sediment, the oysters are growing higher up on the mangrove roots. At the mouth of the Bayou there are oyster bars which are so sediment coated and covered, there are no more living oysters there, but they could be replaced with healthy oyster pods and oyster domes. He feels this is a starting point, not an absolute, and this is what he considers to be the least of all evils.

Mayor Yakes opened the Public Discussion.

Cindy Davis of 2790 45<sup>th</sup> Street South thanked the Mayor, the City Council and the City Staff for their hard work and dedication to restore the Clam Bayou Estuary and commented on the information received from members of the community as to what Clam Bayou was in the past, what it has become, the current plan for restoration, and the importance of this estuary for the future enjoyment of the City and the nature life of the park.

Cortland Yarborough of 1810 52<sup>nd</sup> Street South proposed Clam Bayou is made a propeller free zone, like our beaches, to have a place for kayaks, sailboats and push boats. He asked the City Council to consider this, as they consider what to do with the Bayou. He asked what happens with the dredged material. He asked that Council look at the cost of this and when they do to think about school lunches, Gems, getting medicine to people who can't afford it. Mr. Yarborough stated Clam Bayou has always been like this, and you can go back and research the charts and see there are greater issues than this. He asked if Council chooses to do this, that they keep the propellers out of there and give the kayakers a place where they can go and be safe from power boaters.

Mayor Yakes commented that Mr. Yarborough has spent a lot of time gathering information from other people and other uses of the Bayou.

Carol Lynch of 5925 Shore Boulevard South, Town Shores stated her concern is for the critters that used to live in the Bayou. The Spoonbill family has disappeared due to the sediment and debris dumped into the waterway which killed off their food supply. She would like to see it restored to the natural habitat that it was.

Tony Angel of Town Shores stated he came from Chicago 18 years ago because he wanted to sail and fish year round. He feels Clam Bayou is a lot more than just a swamp; it is a place where the walking mangroves live and is a natural fishery which is extremely important. He

thanked everyone for their efforts. He feels this Gateway to the Gulf is much more beautiful and has greater potential than St Pete's little beaches. He commented that they had the Scouts out with their canoes in that area and were discussing how the mangroves work and how it works as a fishery, and under the circumstances it was hard to demonstrate, but he's confident it is going to improve.

David Talbouch of Feather Sound, a member of the Boca Ciega Yacht Club, stated he sails the Bayou and has been a hydro-geologist for better than 30 years and has worked a lot with the natural systems. He complimented Councilmember Worthington on recognizing that the best thing to do with the system is to work with nature not against it and to create sediment retention ponds in upland areas is scientifically unjustified. He feels this could be an example for students, and a kind of place to take them to show them what can be and should be done when you work with nature not against it.

Bob Newcomb of 921 Fremont Street congratulated the Council for accomplishing this compromised plan. He stated he would like to see more open water, but this plan creates circulation which is the key to saving the mangroves. He feels this plan will provide habitat for the manatees, dolphins and all other critters that have to be there and he would like to save the upland trees. He stated that time is of the essence; and if the end of the bayou closes up, and there is no more flow, we will have a swamp with a lot of dead mangroves.

Carol D'Alessandro of 2636 Upton Street South stated she comes from a medical background and there is a saying "Doctor's bury their mistakes"; in this situation she doesn't think we want to repeat what has occurred in the past. She feels Gulfport is proactive and needs to stay this way. She asked what assurances we have that St Petersburg will do what they need to regarding the hardening at the golf course and the problem of their sediment. She stated she does not think the root of the problem has been fixed yet. She stated that Horseshoe Beach did a major dredging within the last 10 years, only to find that within 6 years they had to repeat it twice. She thinks there should be more input from the citizens before a vote is taken.

Mayor Yakes referred to the City Manager stating he believed the City of St Petersburg Interlocal Agreement, drafted by both Cities, proposed to them by the SWFWMD, holds them responsible for making their improvements. He asked where St. Petersburg is in the process of purchasing the land for the retention ponds, and how are they being held responsible.

City Manager Brobeil explained there is a management agreement drafted sometime before he came here. Normally the organizations involved in a project only get a draft of the agreement once the improvements have been done. He commented that we have yet to see that kind of an agreement. SWFWMD said the issue concerning the golf course is a fairly significant one and they believe that particular improvement should be included within the context of this project, since it is a contributing factor to the sediment. The question is if St Petersburg is committed in making the necessary stormwater improvements; there are two parcels that need to be acquired in order to make the additional improvements. We have suggested eminent domain, because the lot is underwater and unbuildable. SWFWMD is confident St Petersburg will complete all of the improvements within the next two years. St Petersburg has worked out a plan with SWFWMD for detention ponds which would pre-treat the water and release it into Clam Bayou. He added that this resolution does not solve all the problems, but he believes we have mastered all the

institutional problems as far as stormwater cleanup, but in a recent comprehensive plan amendment, St Petersburg increased their allowed density and intensity in the area which drains into Clam Bayou.

Emmet Walsh of 2232 Beach Boulevard stated he is all in favor of a healthy Clam Bayou but he is also concerned with the root problems from the Bay side. He stated many of us remember standing on Gulfport Beach and being able to see wide open water to Tampa Bay. With the Bayway and Isla Del Sol, our Bay does not wash and re-circulate as is once did in the '50's. He is concerned if restoring Clam Bayou to a point of approximating the 50's whether the Bay is going to support the wash of the Bayou. He wondered if we are wasting our efforts in the Bayou, and whether we are getting into something we will have to do forever. He added that although he is for it environmentally, fiscally, in our current environment, he wondered if we can afford to do this or whether we have other priorities. With regard to dredging he added that he assumes this fill will be moved elsewhere, offsite since obviously, our Bay can't afford the additional silt. He also stated that if we are looking to make this a preserve and stimulate the wildlife, manatees, etc., he believes the earlier proposal suggesting this be a motor free zone should be a part of Council's decision tonight.

City Manager Brobeil explained that the Bayou already is a propeller free zone, except for the two channels, both east and west, in accordance to City code, due to riparian rights but he does not think that is true for the eastern channel any longer. Along the western channel, there are still properties with riparian rights but the rest of the Bayou is a motor free zone. Regarding the silt removal, he explained it would have to be removed, unless there is some biologically valid reason to create a spoiler island somewhere, which he doubts. Adding that removal will be extremely costly, depending on the content of that material, it may even have to be put in the class for land fill, and there is no denying that is an extremely costly process.

Andy Halko of 4412 27<sup>th</sup> Avenue South stated they purchased their property 3½ years ago, at the end of Clam Bayou and he appreciates all the effort put forth for its restoration. He stated he was a Marine Biology major in college prior to joining the military in 1980 and they currently own 3 kayaks, an inflatable zodiac and a small power boat. Of the years they have lived there, only dribs and drabs of motor boats have come in the bayou; it is mostly kayakers, an occasional fishing boat or a flat john boat, and an occasional rogue wave runner coming in at top speed.

David Dandt of 2744 45<sup>th</sup> Street South stated he also wants to thank Council; it's been a long time and a lot of effort. He explained that he grew up on this property and have most of my memories on the Bayou; the dolphins, the manatees and the excitement of my Grandfather calling us to come see the babies, fishing, rowing the boats, the whole thing. He stated it's not there, it's gone, and so he would appreciate anything we can do.

Kurt Zuelsdoff of 6201 9<sup>th</sup> Avenue South stated he would like to say for the record what I am not: a representative of the City of Gulfport; a representative or employee of SWFWMD; Tampa Bay Estuary Program; Tampa Water; Tampa Bay Regional Planning Council; any member of the media; any member of St Pete Times or the Gabber; an employee or executive of the Hess Oil Company; Saturn Automobile; Coastal Living Magazine; Field & Stream Magazine; or any of the any other things that have helped me support either by money or just spirit, and for the record that is not who I am. He continued that what he is today, which is what he has been since he

started, always have been and always will be a self-appointed representative of these folks here (showing a picture of birds in the trees at Clam Bayou). He stated the picture was taken today at 9:00 a.m. and reveals the true residents of the Bayou, that we seem to have forgotten about. He displayed photographs showing cormorants; a Great Blue Heron; two roseated spoonbills and stated that just outside the screen, there was a Brown Pelican and a red winged black bird. He stated he is not a big fan of mangroves, but they are a necessary element to our estuaries, which are not being built anymore and we need to preserve what we have got. He is concerned whether this will work or turn into something, like the everglades. He stated many groups in the City are making strides to be heard, and he wonders whether or not they are being heard for the right precedence. He feels we really need to be careful of interrupting the wildlife in the Bayou. He feels there are other considerations such as working closer with Mother Nature and the environment. He stated that if passing this resolution tonight, means we move forward in getting the right thing done, then he is for it but we need to make sure it is the right thing.

Michelle MacIntosh of 4932 20<sup>th</sup> Avenue North, St Petersburg stated they left Virginia and relocated to St Petersburg 2 years ago due to our love of nature. Shortly after, they discovered Clam Bayou through an article in the newspaper and one week later she was in a kayak helping to clean up debris to bring back the Bayou. Who knew this amazing natural estuary that provides several environments from the upland natural vegetation, marsh and mangrove forests, to the deeper waters of the Boca Ciega Bay, not only provide habitat and food to a variety of species which I have personally seen, from wading birds, dolphins, manatees, and several small animals, right in my backyard. She stated she has participated in several other cleanups over time and was personally involved in the touring of over 750 volunteers that came together to remove over 50,000 pounds of debris from the Bayou at no expense to the City. She explained that all these efforts were funded by grants and private donations through other organizations. They have started a non-profit organization called Nature Matters to insure the efforts to bring back the Bayou would continue forever. She urged Council to proceed with caution if dredging and removing mangroves because it can have devastating and irreversible impacts on the wildlife. She added that Nature Matters is happy to expand their efforts in regards to helping the City restore Clam Bayou. Although some people see this as a swamp, she sees nature thriving there. She concluded by stating the impact of Council's decision will affect the nature that call Clam Bayou home.

Al Davis of 2790 45<sup>th</sup> Street South stated he supports the City's proposal which approaches what SWFWMD was tasked to do many years ago, to save the estuary, restore it, bring back historic rates of circulation and flow, tidal flushing, which is proclaimed on the billboard at Osgood Point. He stated \$17,000,000 has been allocated for Clam Bayou and \$11,000,000 has evaporated with \$6,000,000 remaining, and what we have is a toxic waste site. He stated St Petersburg has prohibited water testing and the golf course is exempt from the requirements of the Clear Water Act because golf courses are considered to be operating under best management practices. He stated that when he moved here, the Bayou was four feet deep and now, there is complete closure of the channel, and during winter tides you get fresh water entrapment, and when this occurs, the mangrove dies. The mangroves in the Bayou now have filled in an area shown on the graphics from SWFWMD and he displayed photographs from 1965; 1997; and today depicting stormwater fill in Gulfport from the City of St Petersburg. He further stated my wife and I were told by SWFWMD they are not in the restoration business, and Pinellas County has a shortage of mud flats and that's what we are going to get. He feels the only thing that will

move them is the Anclote River Basin Board, which is dependent on Council's positive vote. He passed out copies of a lawsuit from Sarasota against SWFWMD involving the flooding of a Flatford swamp which resulted in a massive tree die off.

Janice Ryan of 2900 45<sup>th</sup> Street South stated she is on top of this issue, and the Bayou is like my own backyard. She feels we are supposed to be stewards of this earth and if we took care of these issues in the first place we wouldn't be here now.

Gail Gilchrist of 5022 31<sup>st</sup> Avenue South stated she moved just west of the Bayou in 1999 and it was a mess. She had to clean up her own yard and watched the birds come back. She has watched Kurt work on the Bayou and the birds are coming back to him and to me. She feels if we dredge, we will disrupt something that just recently returned. She stated she has a Kingfish, and spoonbills which she has names for because they are there every day and they weren't in 1999. She added that if we dredge or put boats with propellers in there, we are going to have problems, and we should let nature take its course. She believes the the golf course is the biggest problem. She explained that if you look at Lake Erie, it was almost flat, it's one if the Great Lakes and is now a thriving lake and it was done naturally. She feels it should be done naturally and that we should keep the boats out of there, let nature come back and let nature do its course.

John Paul of 2804 45<sup>th</sup> Street South stated this restoration plan was formatted by SWIM, SWFWMD, and DEP with the cooperation of St Petersburg and Gulfport back in 1995 and over \$90,000,000 was appropriated to complete this restoration project. A major portion of that plan was deemed necessary and included the removal of toxic sediments from the Bayou to establish it back to its original sand bottom so the sea grasses could be re-established and clam and oyster bars could be re-established so the habitat would flourish and in turn the birds would be there. He added that he has lived on the Bayou for nearly 20 years and he can speak to what the Bayou was like 20 years ago with manatee, dolphins, fish population, bird population, and how it has declined and he feels we need to bring it back so it can be that way again. He added that he lived in upper state New York and he knows how Lake Erie got cleaned up - the State of New York quit dumping into the lake, and that is what we need to do with Clam Bayou.

Beverly Newcomb of 921 Fremont Street South asked that council please approve this resolution so we can move on stated that we have talked about this since she moved to town and before, and we need some action.

Mayor Yakes, seeing or hearing no one else wishing to speak, closed the Public Discussion, and called for a three minute break. Mayor Yakes reconvened the meeting after the break.

Mayor Yakes thanked the entire community of Gulfport, the City of St Petersburg, and the Gulfport City Council for their cooperation and courtesy displayed as we go forward with these challenges. He then addressed the Council stating you have heard from the members of our community, people involved with agencies offering their help and wisdom to assist us making these decisions and Resolution 2008-33 is before us and in order for us to continue, we will need a motion.

**Councilmember Worthington made a motion to approve Resolution 2008-33 which was seconded by Councilmember Stull.**

Councilmember Ryerson stated St Petersburg has garbage trucks in South St Petersburg and Maximo displaying signs which state "Help keep Clam Bayou clean; don't litter, don't put your trash down", so they are at trying. She explained that she reviewed this and she would like to know why SWFWMD has to take so much of the uplands and a lot of mangroves. She further thinks this is a good compromise and it is a starting point; and one of the biggest starting points is they are opening up the mouth of the Bayou to let the drainage start working.

City Manager Brobeil explained that in Phase III of the proposed eco-system stormwater improvements there are two large stormwater ponds proposed with one being about double the size of an existing one and creation of another one and we think it is necessary to have additional stormwater detention. He stated that with regard to the mangroves when you make improvements sometimes there are some detrimental elements to it and unfortunately SWFWMD has to take mangroves in order to get these ponds. The only thing in question is the area where they are going to power dredge and a lot of it is going to go on from SWFWMD. He stated the question is why are we taking the band of mangroves in the uplands and digging out and excavating an additional area and couldn't they achieve the same thing by including the wetlands that are already there. Other things essential to the project are necessary evils and we either put the silt and sediment in the two ponds or in the Estuary. Those are the two choices we are faced with.

Councilmember Stull stated that having just returned from Sanibel, her mind is overloaded with mangrove facts and she has learned a lot and has seen an area where mangroves were destroyed and that was very emotional. She added that the resolution wording states this is an alternative plan recommended to SWFWMD.

Councilmember Worthington stated he would like to address the question regarding closing the Bayou to motorboats. He stated we have had a motor exclusion and no wake zone in the open basin area and he doesn't feel exclusion of motor boats is a good thing because there are some people who can't use a kayak or canoe such as people with disabilities, who would like to enjoy the Bayou. He feels hardening the Golf Course needs to be done to keep the course from washing away. He also feels that once the sediment ponds are built, the Bayou's problem should go away and SWFWMD is mandating the golf course do this. He stated Lake Maggiore and Lake Seminole were once Bayous and they were closed off and turned it into fresh water lakes, the mangroves died, salt water species died, and now they are fresh water ponds which are being dredged due to silt and sediment run off. He explained that this plan does not go back to the '50's time line, and they have put in wiggle room for the purpose of a talking point, they put in 4 foot dredging depth, at mean low water so the mammals and manatee can still enter and exit. Currently, SWFWMD is ripping mangroves out and dredging the grassy bottoms of the bay, and ripping out the high woodland areas and turning them into estuaries. They are a necessary entity dealing with large corporations and big money and we're not either one, so they are not interested in doing a lot or talking a lot with us. He added that Clam Bayou is named because there were a lot of clams there, along with a bumper crop of blue crab. Today it is a crop of golf balls.

Vice Mayor King stated she feels there isn't anyone in Gulfport believing Clam Bayou shouldn't be restored and asked why we haven't had any scientific people here and inquired whether the City hired a biologist and none of the state agencies had been invited here. She stated that in

talking about dredging, has anyone actually tested the water and mud to find out if it is toxic? She feels we may not have the proper information to move on, but if we start, we need to have the water tested daily, and hire someone who can give us a non-partial opinion. She stated there is an alternative explaining that she spoke with the City Manager about going in with St Petersburg to clean out the big debris in order to start the flow. She felt he was very interested on moving forward with that and it surprised her that ten days later, we are talking about dredging. She feels that if we can move debris out of those areas, it would open the flow and push the sediment naturally. She explained that doing a project like that doesn't cost a lot of money and she feels we don't have anything to lose by trying this first. She feels that if the bayou is dredged, everything in there will be dead. She stated that Boca Ciega Bay was made into an estuary in the '60's because Pinellas County wanted to stop the dredging. In the '70's, Pinellas County made all their waters estuaries, for that same reason. She inquired as to what happens to the privately owned waters, stated that a lot of the area calling for going down 4 feet, is privately owned. She asked who is going to dredge that privately owned part.

City Manager Brobeil stated SWFWMD officials said the items in the channel are too large to be handled by volunteers or a casual City work crew and may require a barge and equipment to winch them out. He stated that in order for him to speak with other agencies regarding any plan, he will need Council approval, thus this resolution. If approved he will bring it to the Basin Board, who has jurisdiction over these matters, and once they approve it the scientists and engineers weigh in. He added that dredging and mangrove removal are part of this project through SWFWMD.

Vice Mayor King explained that she feels once St. Petersburg completes their project putting in the ponds and the stormwater runoff is gone, we would know better if the dredging being talked about in this resolution will even be necessary. She stated she has a problem signing for dredging without scientific information indicating that is what we should be doing, added that she feels it is premature. She stated she spoke with SWFWMD today and they support cleaning out the large debris with St Petersburg, and they informed her that they spoke with the City Manager regarding this information. She stated to the City Manager that she and he were speaking about this before she left and now everyone is talking about dredging, and inquired what had changed stating now it is a totally different story.

City Manager Brobeil stated "I have answered all I can, I think."

Councilmember Worthington explained that he went to SWFWMD in Tampa and they stated they were interested in removing this debris, and without talking to the City Manager, he indicated we would work with them also. He stated we reviewed the map, and where SWFWMD plans to build their sediment ponds, they were going to close a ditch area and indicated that within a short period of time, that area would be grown over by mangroves. They indicated we had passed two resolutions, but hadn't given them a starting point, and this resolution is that. He added that due to the Sun Shine Law he couldn't go to his fellow Councilmembers, so he got information from City Staff, the City Manager and citizens.

Mayor Yakes asked Vice Mayor King to continue with her questions regarding conversations with the City Manager about removing the obstructions which included shopping carts and a dumpster.

Vice Mayor King explained that the debris includes a door, shopping carts, a dumpster, etc., and are in several places. She discussed this with the City Manager during at least two, possibly three different conversations and e-mails. During those conversations she had suggested that we could get professionals that build docks to pitch in with their equipment, and the City Manager suggested we get St Petersburg to pitch in because they already have the equipment. The City Manager advised her that he was going to move forward on this and bring it forth in a Staff Meeting, he was going to bring the Mayor into it, and she thought we were going to do this. She added that she was only gone a week.

City Manager Brobeil stated they did have those conversations; and he did bring it up at a Staff Meeting. He also and discussed with Mr. O'Reilly having the Harbor Master identify the materials as to location and matter, and the rigors to remove those items. They also discussed that they felt neither City had the equipment or expertise to do the job. He added that he also met with SWFWMD officials and they all agreed and advised it would be better left as part of the scope of the project. He stated Vice Mayor King did not get briefed on this because she was gone.

Vice Mayor King stated she would like to know who will pay for the dredging of the riparian rights properties since the resolution itself states: 1. excavate large open basin at the northwest corner of the City limits to a minimum depth of four feet below mean water; 2. excavate of the mouth of Clam Bayou to a minimum depth of six feet below the mean low tide. How deep is the Bay at that point? Six feet at low tide anyplace in the Bay would be a miracle. 3. Excavate the two existing channels to a minimum depth of four feet below mean low tide and a width of between 50 & 60 feet to provide tidal flushing and transport of treated stormwater to Boca Ciega Bay. She stated she feels that this doesn't sound like a starting point, but a detailed list of what we ultimately want.

City Manager Brobeil stated in order to get a response, it is necessary to give something to react to, which is what this resolution is designed to do. He stated that we could get an independent third party engineer to look at this plan together with SWFWMD, and together they could determine that the number is not four feet but two, or one, or nothing but we need to have something to react to. He stated he could never provide a final engineered plan to this Council and this plan and resolution were prepared with the City Council to discuss as our position, and SWFWMD will have access to it and can comment on it adding that he doesn't think we need SWFWMD's permission to develop a set of standards.

Vice Mayor King stated she feels we should have had a professional at this meeting, and it would have been advantageous to have both sides of a conversation since now we are only hearing one side, without a professional, expert, scientist, biologist or anyone to back up anything that is in the proposed the resolution and plan, and no other side to this conversation, which she feels is required by staff who have no expertise in these matters to make an informed decision. She added that when she spoke with SWFWMD today, she was informed they just found out about this resolution and plan today.

Mayor Yakes explained that he considers this proposal as a negotiating point, not a starting point and it has been difficult to get anything on the table to even look at. He feels that we are the City of Gulfport with a resolution drafted by us with an interlocal agreement with the City of St

Petersburg, and those agencies belong to us as part of the State of Florida and we should be able to resource them for the benefit and advantage to protect the environment. Had this issue been addressed in the beginning, we probably wouldn't be here today looking at the consequences. The language used when going before an agency must be strong enough to get their attention, because they are the writers of the rules and those rules are implemented and enforced by them. He continued that the Bayou is now and has been in trouble. We speak of dredging and he is concerned with what the definition and its interpretation is to different people. On the East (St Petersburg side) and the West (Gulfport side) channels are being considered for dredging for the right to access the existing waterways. Gas, motorized craft are not to be operated on the shoreline or in the center portion, filling with silt. The only portion where power or gas boats could be used would be in the riparian rights portion of the channel.

City Manager Brobeil explained that Clam Bayou is a motor exclusion zone, with the exception of the East and West channels, and he surmised that people with riparian rights having a means of having an ingress and egress to their properties from the water. He stated that we, as a Council and Community, have lobbied and are cracking the whip and saying pay attention to us. He added that the Anclote River Basin Board didn't come to us on a volunteer basis, nor did they get a letter from the Water Management District. They came and looked at what we had, and the presentations from the Senate Committee on Environmental Protection. With this resolution have a negotiation document that exceeds what SWFWMD provided to us which states "we will come in with our equipment and we will remove silt and sediment" out of our Bayou. He explained that SWFWMD asked if he would offer a document or plan, on behalf of the project and in the name of Gulfport, to lobby, work, negotiate, or whatever word you wish, with St Petersburg and have the golf course driving range used as a sediment pond, because they were unsuccessful in obtaining the proper sediment ponds they need to have. If Council passes this resolution and uses it as a negotiating tool and incorporates our thoughts on whether it will be restricted for power boats or open due to riparian rights, we will have an opportunity at the table. We will then continue forward, and have our money which goes into these state agencies come back to us in the form of a product we fought for and are entitled to. City manager Brobeil stated without this resolution and plan as that negotiating tool, he feels we won't be able to go any further; they will come in and only do the minimal amount to be done, and we still will not have that third opinion. The Basin Board is offering to be a liaison for us and will personally review the Bayou and we will need professionals to back us up.

Vice Mayor King explained that at this point she can't vote to dredge stating she feels there are other tools that can be used to negotiate; we could form a resolution for Clam Bayou that does not include dredging, until we know what the dredging is actually going to do. She added that, at this time, we don't know what the St Petersburg project will achieve or if dredging will actually be needed after that project is done next year. She stated she thinks it is very good to talk to SWFWMD and the Basin Board, and helping the Bayou is a good thing, but she also feels that if we disrupt the bottom and all the life there by bringing it to 4 feet at low tide; and from what she has read, it has never been at 4 feet at low tide, it will be more harmful than beneficial. From the information she has, it has been from 6 inches to 3 feet so, she continued, that her vote will have to be no at this point.

Councilmember Worthington stated to move on it.

Councilmember Stull stated she feels this is a suggestion for an alternative plan which may go to the powers that be and they come up with something else, but this is a starting point.

Councilmember Ryerson stated she thinks SWFWMD will do what they want; whether we pass this or not; it is in their plans and has nothing to do with what we say tonight, but, what we are proposing is a talking point, not a dredge plan.

VOTE:

|                           |     |
|---------------------------|-----|
| COUNCILMEMBER RYERSON     | YES |
| COUNCILMEMBER STULL       | YES |
| COUNCILMEMBER WORTHINGTON | YES |
| VICE MAYOR KING           | NO  |
| MAYOR YAKES               | YES |

APPROVED BY A 4-1 VOTE

## 6. Public Session.

Jean Borges of 6569 Reynaldo Way stated she would like to address the concerns of her family's wellbeing regarding the inability to use her backyard in over a year, and the thousands of dollars of damage done to her property by contractors working for the City. She received a letter from Mr. Sopak stating there is no culpability of the City as it relates to work done in an easement and the lack of restoration of the previous status of the easement. The City requires the utility easements remain free from impediments or obstructions, or by law, they may be removed by the City, without replacement. She was also informed Gulfport may hire workers without background checks, so murderers can enter her backyard, and as a mother of female children, one with multiple handicaps, it is her job to secure their safety. Ms. Borges asked how she could secure the safety of her family when she has been told anyone working on behalf of the City can enter her property at any time. She then displayed photographs depicting before and after the work was done stating it was done by an outside contractor, and the soil has washed into her pool and they haven't been able to use it in over a year.

City Manager Brobeil advised the City Attorney is handling this.

City Attorney Driscoll explained that the letter sent out is accurate, and the City has no responsibility for impediments placed in easements and they can be removed. This is a unique situation in this water line improvement, with many houses along there, and this is the only complaint received.

Jean Borges of 6569 Reynaldo Way stated that is not true, many properties were destroyed and litter was left by the workers, adding that the City came out and fixed one of her neighbors' house but many people have used their own money to get things fixed. She reiterated that it is scary to her that workers can be working without background checks.

City Manager Brobeil explained that the City hires contractors to do projects, and although we oversee them, we don't actually supervise the workers, the contractor does. The contractors do their own hiring and are responsible for the conduct of their employees. He feels this appears to be a disagreement over Florida Statutes and the City's right to perform work within easements.

Jean Borges of 6569 Reynaldo Way explained that she realizes the City is not totally responsible for this and they have not asked the City to replace all items destroyed. She has only asked that the City level the ground and bring some semblance of order to her backyard. She stated her fence is broken and everything is destroyed, the pool is covered with sand on the bottom, and she has had to replace the pump because of this. Ms. Borges added that it has taken the contractor, Casco Construction, one year to complete this.

Mayor Yakes stated that City Manager Brobeil will accompany Mr. Sopak to the site for review and explore the possibilities for assistance for Ms. Borges you and respond back to Council by June 3<sup>rd</sup>.

Marguerite Tober of 59<sup>th</sup> Street spoke about the processing of minutes and the fact that the minutes are behind. She mentioned that while she was here on 4/1/08, Ms. King suggested there be a budget committee formed; and at that same meeting the Mayor discussed, at the end the upcoming budget process, and the fact that we have to be prepared for cuts. There was also conversation about too many committees, and the committees the City has are working and sound; and also regarding Government Accounting being an entity of its own and we don't want amateurs participating in this process. She added that it seemed Mr. Brobeil was in favor of this. She stated that all across this country there are companies who hire people who create and manage budgets every day and they couldn't tell you the difference between accrual and non-accrual accounting but they are still held to the task of creating budgets. Ms. Tober stated there are very talented people in this community and she feels Council could find people who would be able to assist them. Based upon what she has seen and heard, she wants to be assured that when that budget comes to Council, that Council doesn't just rubber stamp it and that Council has insight into it, and that Council has actually have gotten feedback from the citizens.

City Clerk Spano stated that the Citizenry can also purchase a DVD of every Council Meeting and there is also an electronic record. Briefly, as an explanation not as an excuse, having been the only person in the City Clerk's Office for four months, and attending all the Planning and Zoning meetings, the Board of Adjustment meetings and the City Council meetings, working 60 hours a week it's kind of hard still to get time to do minutes. She explained that we are at 75% completion and she hopes by the end of July all the minutes will be caught up and on the web site so people can look for them soon.

Bob Feckner of 5626 25<sup>th</sup> Avenue South; Commodore of the Gulfport Yacht Club officially thanked the City for all the support during the US Sailing National Multihull Championship on Gulfport Beach. Some of the people who contributed were Jim O'Reilly, Director of Leisure Services and staff, COC volunteers, residents who actually hosted some of the sailors, the businesses who opened their arms and actually offered discounts. It really made a good impression on the people who came from all over the country to participate. He thanked Boca Ciega Yacht Club; and Mayor Yakes who attended their banquet and gave proclamations for the Yacht Club and US Sailing, Vice Mayor King, Councilmember Worthington, and the entire City

Council for the support they gave to the Yacht Club. He stated he heard comments from the competitors stating this event was by far the best yet. The City of Gulfport welcomed us with open arms; the hospitality of the Gulfport Yacht Club was second to none. He stated the principal race officer, Farley Brinkley, who has run events on the national and international level wanted to express his thanks for allowing him to work with the Yacht Club, and share the pleasure and excitement of first class event. The venue, food, cooperation, teamwork and genuine hospitality of all involved were of the highest quality. Having the mayor at the banquet and recognizing each team at the dinner and again at the presentation was simply awesome. Mr. Feckner stated it is an honor a privilege for us to have such a great relationship with the City and I just want to thank everybody.

Mayor Yakes responded that we thank you; we needed a replacement of our most prestigious event, the Southern Regional Little League championships, and this will be a wonderful replacement. He stated he likes the fact that we are a boater friendly community adding that there was an article published in a magazine once that said we were not friendly to boaters and we have demonstrated that we are.

Marlene Shaw of 5732 23<sup>rd</sup> Avenue South stated she would like to thank the Council for the progress this evening relating to Clam Bayou and recognizing there is a strong need there. She stated she is aware there will be a discussion on Boards and Committees tomorrow night, in a workshop and it is her understanding there will not be a public session and she would like to know what the process will be. She asked if it is the intention of Council to speak to the community and the members of the boards and committees currently in place and suggested having dialogs with the different board and committee members to get their input as to what they perceive to be working or not working.

Mayor Yakes explained that Council needs to discuss the boards themselves first and the City Clerk has completed a presentation for City Council of the current and past structures of all boards. This information will be reviewed and discussed and Council will come back to the boards with their recommendations and to solicit input regarding the structure of each individual board. He explained that there have been many changes proposed and Council needs to review what they have, what is required for membership, the different numbers of members and this information must be broken down reviewed by Council. He added that he does not feel this meeting will produce the final results.

Carol D'Alessandro of 2536 Upton Street South spoke about the sailing competition and a group of about 25 people came by her house and they had the Flamingo Tour booklets with them. They informed her they were taking some time to view the City by using the tour book, so she invited them in and they stayed for two hours. She felt this was an opportunity Gulfport needs to think about and she hopes we have another regatta, and that we open the City up a little more for those people coming. She feels there was a camaraderie which she thinks the sailors will take back to their cities.

Mayor Yakes hearing or seeing no one else wishing to speak closed the public session.

## 7. Any Other Business.

Councilmember Ryerson had nothing to present.

Councilmember Stull complimented everyone and hoped everyone who attended the 49<sup>th</sup> Street event on Saturday enjoyed themselves. She stated the Parade was fantastic; watching all the City vehicles was fun; and the Tangerine Greenway was covered with all kinds of booths and vendors. The Chamber of Commerce did a fantastic job in assisting the City to organize this event. She added that she noticed a lot of people she had never seen before, and that is a positive thing. She also got comments from several people in the area who would like to see similar events on the Greenway, not every month as we have downtown, but maybe in the fall, winter and spring adding that the Greenway offers plenty of parking, it is a nice open area, and the neighbors didn't complain about the noise. Councilmember Stull stated we have done all kinds of improvements downtown in the business district, we have cleaned up 49<sup>th</sup> Street and put in landscaping and she would like Council to consider, as the next area of concern, 22<sup>nd</sup> Avenue South. There are a lot of businesses that have been there for a long time and she thinks we need to bring them to the forefront, as well.

Councilmember Worthington also complimented the 49<sup>th</sup> Street Event and congratulated the Mayor, Mary Stull, City Staff members, and the Chamber of Commerce for a job very well done. He reminded everyone of the Hurricane Conference we are having on June 2, 2008 at 7:00 p.m. at the Casino; it should be fun, interesting and very informative. He stated he had occasion to speak to a member of the Waterfront Merchants Association who expressed a concern in establishing architectural guidelines for commercial structures and he feels it would be very important for the waterfront redevelopment area to do that. Councilmember Worthington stated he had a conversation with the man who runs the Egmont Key tour boat and he informed him that during the season he has groups of 40-50 people during week days and 80 on each weekend day so Councilmember Worthington would suggested we put signage in the area to let people know how to get to the Gulfport downtown area and possibly some signage to advertise our businesses. He then stated he feels there has been a difficult situation in the last couple of weeks with our City Clerk and would like to ask the Mayor for a rundown on what is going on.

Mayor Yakes stated the City Clerk has been off on sick leave under doctor's care because while she was at the doctor they found her high blood pressure to be extremely high and her privacy rights on health issues are there. He explained that through the pay period of the 5<sup>th</sup> and until this Monday, her doctor would not allow her to return to work so this was approved sick leave.

Vice Mayor King stated we have talked about expanding the mixed use in the Waterfront Redevelopment Area and Council gave it to the Pinellas Planning Council and asked them to write an ordinance for us, and she herself has written an ordinance. She stated she would like to submit it to the City Clerk, to put into ordinance form and review it with the City Attorney. She added that this way we do not have to pay the PPC, if what she did was alright.

Mayor Yakes stated he would think it probably is alright, but we will see. He reiterated the workshop on the boards and the product or model, which will be brought back in the form of a resolution for approval at a regular City Council meeting. This will afford the opportunity for the public to speak on this issue which will be available at that time. He stated the issue of

minutes has come before us again, and they are being worked on with a mission of completion as soon as possible. In the event there are questions with the minutes, there is backup documentation in the form of an audio tape and a DVD for review of council members who may have questions on past minutes. Mayor Yakes stated we are making progress in working with the City of St Petersburg on economic development plans and he believes that the 49<sup>th</sup> St Event was a total success and he credits the people. He stated that with the results of the 49<sup>th</sup> Street success, signage is an issue to the businesses and he is requesting to look at the sign ordinance to see what we can do to help the businesses. He then explained that our Charter is reviewed every ten years and the last time it was reviewed was at the hiring of our City Manager and he is asked whether a charter change takes a referendum or can they, as Councilmembers or the Mayor, make recommendations of charter changes.

City Attorney Driscoll explained that Council can always make recommendations and some Charter changes can be approved by Council adding that Council has approved many changes to the Charter over the years. He explained some changes do have to go to referendum, depending on the nature of the amendment and the issue but Council can certainly initiate the changes, even if it requires a referendum, it is up to the Council to adopt an ordinance to place it on the ballot for the voters to review and/or approve it.

Mayor Yakes stated that is exactly the information he needed because he does find a couple of the issues in the Charter. He also mentioned that he is intending to come back about a resolution passed that an elected official may ask to be reimbursed for legal fees they have incurred during a legal representation of an issue, and he has such an issue and would like the consideration of the Council and the people.

## **8. Adjournment.**

**A motion was made by Councilmember Worthington and seconded by Councilmember Ryerson to adjourn.**

UNANIMOUSLY APPROVED BY ACCLAMATION

\_\_\_\_\_  
Date approved

\_\_\_\_\_  
Michael J. Yakes, Mayor

\_\_\_\_\_  
Donna M. Spano, City Clerk