

City of Gulfport Florida
Special City Council Meeting Minutes
Monday, November 30, 2009

The Special Meeting of the Gulfport City Council was held on Monday, November 30, 2009, in the City Hall, City Council Chambers, 2401 53rd Street South, Gulfport, Florida.

Michael J. Yakes, Mayor, called the meeting to order at 11:30 a.m., followed by the Pledge of Allegiance.

Roll Call:

Present were Councilmembers Judy Ryerson, Michele King and Samuel Henderson; Vice Mayor Robert Worthington; Mayor Michael J. Yakes, Interim City Manager James O'Reilly; Interim City Attorney Andrew Salzman and City Clerk Lesley DeMuth.

Mayor Yakes introduced newly appointed Deputy City Clerk Ginger Stilton.

1. Public Session.

John Freiberger, 4722 Tradewinds Drive S., questioned why this meeting was scheduled at 11:30 and why the City was having this meeting today. He spoke on former City Manager Tom Brobeil's severance pay, and how Mr. O'Reilly in his position prior to becoming Interim City Manager worked at will; it only took one person to terminate him without a severance package. Mr. Freiberger felt the right thing for Council to do was to accept what Mr. O'Reilly said at the last meeting. He denied this job; he wants the Leisure Services job. The City needs to move forward and put on a search for a City Manager.

Lee Stapella, 3025 York Street S., spoke on her concerns with Council's conduct, and characterized today's discussion by associating it with Groundhog Day and Charles Dickens, Scrooge. She advised Council that every description she has ever read of purgatory exactly describes what is going on here. She recalled the words of Mark Twain who said do the right thing it will gratify some people and astonish the rest. She was waiting here this morning to see if it will be February 2nd, all over again.

Edmund Barry, Dupont Street S., felt Mr. O'Reilly deserves and has earned the job.

2. Resolution:

2009-114, A resolution of the City of Gulfport, Florida, approving an Employment Contract for James E. O'Reilly, City Manager; providing authorization for the Mayor to sign said Contract; and providing for an effective date.

The City Clerk read Resolution No. 2009-114 by title only.

Mayor Yakes opened public discussion.

Al Davis, 2790 45th Street S., stated he thought the comments made by the City Attorney were on the mark; the length of the severance pay essentially defines the contract. Mr. Davis stated he

was here during the departure of Mr. Brobeil, and whether or not Council picks Mr. O'Reilly he thought the process by which the City hires and fires Charter Employees lacks dignity. He felt Council simply has to come to some conclusions about what is fair for any person that they feel is qualified to occupy this position. Personally, he would be very hesitant to commit to less than a year of opportunity, and felt a vote of four was absolutely critical.

Dotty Wolski, 2652 44th Street S., spoke of the four Councilmembers who have been on Council since the Police Chief has left and after one and a half years the City is still without a Police Chief. Only the citizens bring up the the subject of hiring a Police Chief. Ms. Wolski had the following questions/suggestions if Mr. O'Reilly is willing to continue to negotiate an agreement: under Section 5 (a) it says the City may review, it should say the City shall review and evaluate once a year; this is only fair to the employee, and under Section 10 she asked if vacation time is accrued on a weekly or monthly basis rather than given in a lump sum at the beginning of the year. She did not believe anyone should be allowed to accrue 4.33 months of vacation time; that person needs to get away from the pressures of running the City.

Carol Valdes, 5609 20th Avenue S., stated she is completely in support of Mr. O'Reilly and the City Council and her hopes today were that they will come to a common agreement that they all will be comfortable with.

Lee Stapella, 3025 York Street S., spoke on the City not having a strong Mayor form of government and that generally the Mayor does not have substantially greater powers than Council as a whole. City Charter Section 304 provides that he shall have no regular administrative duties. Ms. Stapella asked to be directed to a place in the Charter or later ordinance/resolution allowing the Mayor to negotiate or sign contracts on behalf of Council.

John Freiberger, 4722 Tradewinds Drive South, spoke of two items which in his opinion violate the City Charter: the wording in the Resolution that this is a Contract; it should read as either a Letter of Understanding or Letter of Employment, and the requirement provided for in Section 3(a) that a super majority vote of 4 to 1 is necessary to terminate employment. Mr. Freiberger believed the salary is still a little high and a six month severance package is more than adequate. As he has stated before, and states again Mr. O'Reilly in his opinion will make an excellent City Manager. However, Mr. O'Reilly when he was appointed Interim City Manager stated publically and privately that he did not want the job. Last Monday he stated in this very room, that he withdrew his name. Council has already appointed him City Manager and he has said he does not want the job. Mr. O'Reilly has stated Leisure Service is his passion.

Jennifer Salmon, 1207 60th Street South, stated she thought most of those who were sitting in the audience last week were dismayed at how everything came about. She believed that most people in the City, including herself, want Jim O'Reilly in this position and the Council did too as they have already put him in that position and changed the rules and terms of residency. Ms. Salmon was glad Council was revisiting this and agreed with a previous speaker that it would be great if it would be something that all of you could agree on. In case it is not, she felt the 4 to 1 super majority for dismissing someone without cause is a very important safety for anybody in this position.

Neither hearing nor seeing anyone else wishing to speak, Mayor Yakes closed the Public Discussion.

Interim City Attorney Salzman advised Council the Resolution is giving the Mayor authority to sign the employment agreement on behalf of the City Council, and this is not a problem. He asked Council if they were going to pass the Resolution, that it be amended to say Employment Agreement. Interim City Attorney Salzman explained if there were any Sections of this Agreement that violate the Charter those Sections would be null and void and the Charter will supersede.

Councilmember Henderson asked Interim City Attorney Salzman since Mr. O'Reilly withdrew from consideration at the meeting last Monday if Council had to do the residency vote again or since no vote was cast can they still operate under the vote of all of the Council to waive the residency requirement. Mr. Salzman stated yes.

Motion by Councilmember Ryerson, second by Vice Mayor Worthington to approve Resolution No. 2009-114.

Councilmember Henderson stated he felt Council needed to work with either the six-month and work up to a year's cap with the severance or give a flat one-year severance. He could not justify going beyond one-year. He felt as far as the 4 to 1 vote, it is a good safety mechanism for the person in the City Manager's position, but if there was a conflict with the Charter then Council would have to change that.

Vice Mayor Worthington stated he felt Council has not done our citizens justice. It is not always easy to get a City Manager who can work with the citizens, with the various civic organizations in our town and have an understating of those organizations and how they work, and what the needs of our citizens are. He felt Mr. O'Reilly, who has been a long time resident, who has held a job in Leisure Services, who has been on Council, and who has worked with all the civic organizations in town, has helped reverse some of the bad things that have gone on within our City. Mr. O'Reilly understands these organizations, the people, and has the ability to sit down and talk with anyone. Vice Mayor Worthington stated the City has a unique situation here and Council can hire a good person. He spoke in favor of no less than a one-year severance and a 4 to 1 vote to terminate.

Councilmember King advised Council her opinions have not changed since the last meeting. She believed there are very few City Managers that get a year severance, maybe in Pinellas County there are two, and she felt that was excessive. Her opinion on the 4 votes of Council to terminate is the reverse of what the other members of Council have said. The Council works for the people of Gulfport and the City Manager works for the Council, and if you hamstring the Council you have hamstrung the people of Gulfport.

Councilmember Ryerson stated she thought the one-year severance and the 4 to 1 vote to terminate is logical. Some of the other City Managers may not get that much, but they do not have the extensive background in our community as this person has. Councilmember Ryerson spoke on her experience of 25 years working for the City with 12 different City Managers, and that the money spent on using headhunters did not always work. Councilmember Ryerson felt Interim City Manager O'Reilly would be happy with one-year severance and the 4 to 1 vote to terminate.

Mayor Yakes stated at the last meeting this issue was brought before Council and there was not a vote. He did pass the gavel to entertain and create conversation in an effort to negotiate a contract which would be acceptable to the Interim City Manager. Mayor Yakes stated he takes

the position of one-year severance pay and the strong majority vote of 4 to terminate. He felt James O'Reilly holds the credentials and abilities necessary to guide our City into the challenges we have in front of us.

Mayor Yakes asked Interim City Manager O'Reilly if he is still interested in having the job with a vote going before Council. Interim City Manager O'Reilly stated he was happy to accept if the offer is for a one-year severance with a 4 to 1 vote to terminate.

Councilmember Henderson moved to approve the contract with a one-year severance package and a 4 to 1 majority vote to terminate under Section 3(a).

Interim City Attorney Salzman asked that the motion provide for an amendment of the word "contract" to "agreement."

Vice Mayor Worthington reminded Council there was a motion on the floor and the maker of the motion can amend to make the severance one-year and the vote to terminate 4 to 1.

Motion by Councilmember Ryerson, second by Vice Mayor Worthington to amend their motion on the floor to provide for a one year severance, to provide for the 4 to 1 vote to terminate and to provide for an amendment spelling out this is an Employment Agreement.

ROLL CALL:	COUNCILMEMBER HENDERSON	YES
	VICE MAYOR WORTHINGTON	YES
	COUNCILMEMBER KING	NO
	COUNCILMEMBER RYERSON	YES
	MAYOR YAKES	YES

MOTION CARRIED: 4 to 1.

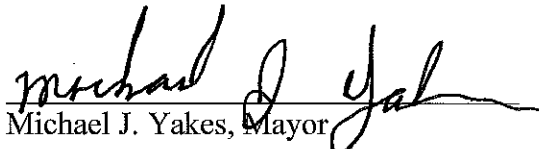
3. Any other business. None

4. Adjournment.

Motion by Vice Mayor Worthington, second by Councilmember Henderson to adjourn.

UNANIMOUS APPROVAL BY ACCLAMATION.

Date Approved: 1-19-2010


Michael J. Yakes, Mayor


Lesley DeMuth, City Clerk