

City of Gulfport Florida  
Special City Council Meeting Minutes  
Tuesday, January 12, 2010

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The Special Meeting of the Gulfport City Council was held on Tuesday, January 12, 2010, in the City Hall, City Council Chambers, 2401 53<sup>rd</sup> Street South, Gulfport, Florida.

Michael J. Yakes, Mayor, called the meeting to order at 7:00 p.m., followed by the Pledge of Allegiance.

Mayor Yakes explained the meeting was scheduled as a Special Council Meeting to allow for public discussion. In response to a question that was asked of him to increase the public comment to five minutes, Mayor Yakes stated he felt the three minutes was sufficient. If the Ordinance goes forward, there will be another allowance for three minutes.

**Roll Call:**

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

City Manager O'Reilly advised that the Planning and Zoning Board voted to deny the change to the Ordinance providing for the exemption. Their comments reflected the fact that they were not opposed to benches, but to the advertisement that would be placed on the benches. City Manager O'Reilly explained that Council took action on December 1st, and passed the exemption to the Sign Ordinance on First Reading, which brought the Council to Second Reading on December 15th, at which time Council moved to place the Ordinance in a Special Meeting setting. He explained the Ordinance specifically provides for an exemption to the Sign Ordinance for bus shelters and bus bench signs and provides for definitions and restrictions appropriate to such signs. The Ordinance does not grant anyone any entitlements, programs or agreements. City Manager O'Reilly spoke on Florida Statute 337.408 and stated Staff's proposed mitigation was as follows: a) remove bus shelter signs and the ability to advertise on the sides of the shelter(s) from the Ordinance; b) all commercial advertising or Public Service Announcement message boards to be limited to the right-of-way areas of 49<sup>th</sup> Street South from 7<sup>th</sup> Avenue South to 24<sup>th</sup> Avenue South and along Gulfport Boulevard (22<sup>nd</sup> Avenue South) from 49<sup>th</sup> Street South to 58<sup>th</sup> Street South; and c) create community standards that all bus stop or permitted benches be placed on cement pads, providing Americans with Disabilities Act (ADA) compatibility access to public transportation.

In response to questions by Councilmember King, City Manager O'Reilly stated what is being recommended is benches with signs be located within specific areas and as far as what the City's needs are for benches, Staff has addressed parts of this through the Community of a Lifetime Study. He explained the current process to address the need; if someone calls and requests a bench the City tries to find a bench. Councilmember King asked how many of our City bus stops have benches, and City Manager O'Reilly stated he could not tell her, and in response to her additional question on if there are areas in the City that could use benches without advertising, he stated yes.

Councilmember Ryerson asked if there is a survey of bus stops. City Manager O'Reilly stated a survey could be done of the exact number of bus stops and that information provided to Council if this issue is to come forward. Councilmember Ryerson stated she was opposed to signs in the bus shelters. City Manager O'Reilly stated his recommendation is to do completely away with the shelter program.

Councilmember Henderson stated his concerns on advertising approval standards being based on subjectivity. He thought some of the things that would be beneficial for the City to do would be to put some pressure on Pinellas Suncoast Transit Authority (PSTA) for better maintenance on the existing benches and bus shelters, and pursue grant funding for benches and bus stop improvements. As far as bench advertising, Councilmember Henderson stated he was glad to see the recommendations for eliminating the bus shelter signage and restrictions within the commercial districts. Councilmember Henderson suggested only independent Gulfport businesses and non-profit organizations be allowed to advertise and there should be no religious or political advertising/notice. Councilmember Henderson advised Council he felt there should also be no signage on existing benches unless a bench is replaced, that every bench not be eligible for signage, and contracts should not exceed five years with a non-compete clause incorporated.

Vice Mayor Worthington stated he has had a lot of conversations with various residents who have put forth their message to him about this issue. He felt benches would be wonderful and the City could put out one or two until it gets to the amount we need, but whether the City does it or contracts out, we should hold ourselves to the same standards of putting in ADA acceptable slabs. Vice Mayor Worthington stated he is ready for this to end. He felt there are other alternatives than what Council was looking at.

Mayor Yakes stated he did not know if the City needs more benches as he did not find a lot of people standing. The distance between the stops that have benches and the ones that do not is not so great that a person cannot walk to it. Mayor Yakes stated he is not, at this point, finding this to be an advantage.

Interim City Attorney Salzman pointed out the Statute governing advertising is not just for benches and bus shelters; it is also light poles, newspaper racks, and anything that could go into the right-of-way. One of the things that was mentioned by Council is the idea of putting in the benches is for convenience and that is talked about in the Statute; it is certainly up to the municipality to determine what is appropriate. Interim City Attorney Salzman reminded Council as the City Manager had stated, what they are talking about is amending the Sign Ordinance to allow for advertising or signs that are currently not allowed. The idea of benches for convenience can be addressed separately.

In response to a question by Councilmember Henderson on what his opinion was on the fact of the subjective nature of signage when it comes to what is acceptable, Interim City Attorney Salzman stated the key is that you not create a public forum, and by not creating a public forum you can be much more restrictive.

### **1. Public Session.**

Mayor Yakes opened for Public Session.

Lee Stapella, 3025 York Street S., spoke on a bench project in the City of Osprey in Sarasota County, and urged the Mayor to Table the Ordinance. She asked the Lions on the Dias to think of the town not of the Lions Club.

Councilmember King stated she did not think Council was speaking of contracts tonight; they were talking about a Bench Ordinance. Interim City Attorney Salzman stated Council is talking about signage; whether or not they are going to allow any signage.

Councilmember King asked if this moves forward tonight, if there would be another Council Meeting to discuss if there was going to be a contract with any organization or company. Interim City Attorney Salzman stated the City Manager will have to come up with a form and Council will have to give him direction as to what you are going to allow. Even if Council passes this amendment, it does not mean you are going to do it.

Councilmember King stated she is a Lion, and asked if she had a problem if this goes to a vote tonight. Interim City Attorney Salzman stated the language Council is discussing is only to amend the Sign Ordinance.

In response to comments by Mayor Yakes on the subject matter being discussed, Interim City Attorney Salzman urged everyone to remember what is being presented is are you going to amend the Sign Ordinance to allow this. It is not for a particular business or organization.

Margarete Tober, 1513 59<sup>th</sup> Street S., stated her concerns, asked how this came about and spoke on PSTA's ridership information.

Al Davis, 2790 45<sup>th</sup> Street S., mentioned the concerns brought up at the Keep Pinellas Beautiful meeting of PSTA removing 200 of the 500 trash cans they have at bus stops and benches. He suggested we are here because of Representative Kriseman and read an email from Representative Kriseman to Tom Minkoff submitting language for the Sign Ordinance.

Rudy Leopold, 4938 26<sup>th</sup> Avenue S., and member of the Planning and Zoning Board, advised Council when this issue first came up the Board was against it. He stated from talking and listening to what has been going on, it is not the benches that are the issue it is the advertising; people do not want the advertising.

Jennifer Salmon, 1207 60<sup>th</sup> Street S., spoke on her main points of the proposal and the idea of the community standard being ADA which it is not; it is a federal standard. The community standard should be the aesthetics, and she wished there was an aesthetics committee, adding, this burden should not put on the City Manager.

David Hastings, 5907 Pelican Bay Plaza and Planning and Zoning Board Member, suggested Ordinance No. 2009-16 be scrapped, and the issue be sent back to Staff to determine: the City's need for more benches, the City's need for more advertising, where is the need and what are the options in procuring those items.

Bob Newcomb, 921 Freemont Street S., stated there is no record of public demand for more benches or has any study been conducted by the City to measure demand. No businesses or institutions have requested the opportunity to buy advertizing on the backs of benches in Gulfport. Only one local charitable organization which will receive a financial benefit from the request has requested the Sign Ordinance change. The Planning and Zoning Board, after holding a Public

Hearing, voted not to recommend a change in the Sign Ordinance. Mr. Newcomb stated if providing benches is a public service to Gulfport citizens, then there are other sources for benches that do not require a change in the Sign Ordinance.

Nancy Kelly, 5632 29<sup>th</sup> Avenue S., spoke against advertising and the need for benches on 58<sup>th</sup> Street.

David Steinke, 5953 Seabird Drive, asked Council to make the right decision and vote no on this matter.

Jim Greenwald, 4747 Tradewinds Drive S., stated he believed the City does need more benches with trash receptacles and no advertising. He asked why there was no advertising on the trolley, and urged Council to vote no.

Cindy Davis, 2790 45<sup>th</sup> Street S., spoke on her concerns with advertising, and on Pinellas County Government who thought they could regulate the content of the "Bottoms Up Club" sign.

Art Padula, 2508 50<sup>th</sup> Street S. and the Gulfport Lions Club, stated the Lions were approached to come into the City to offer benches where benches were needed. There was never an offer of money to the Lions of Gulfport for this service, but he later found out there probably would be money paid, but that was never the intent. The benches, they thought, were a great idea and were offered to the City at no cost. They got involved to provide free benches to the City of Gulfport.

Gerry O'Regan, 4811 Coronado Way S., stated the Lions do great work and they were victimized by Mr. Kriseman's presentation. He asked if it would be discriminatory that only certain streets would have benches.

Beverly Newcomb, 921 Fremont Street S., felt bad anyone would think because she was opposed to the advertising on benches that she would have an issue with the Lions Club which is a fine organization.

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

**2. Discussion of Ordinance No. 2009-116: An ordinance of the City of Gulfport, Florida, providing for amendment of Article XVII of Chapter 22 of the Code of Ordinances, pertaining to signs; providing for amendment of Section 22-17.04, pertaining to definitions of terms used therein; providing for the definitions of a bus bench sign and bus shelter sign; providing for the amendment of Section 22-17.11 thereof pertaining to special restrictions for specific signs; 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.**

In response to questions by Mayor Yakes, Interim City Attorney Salzman advised that Council can decide tonight whether they are going to go forward with the proposed Ordinance, whether they are going to move forward with changes, or Council can determine that it does not want to go forward and take a vote tonight to Table this indefinitely.

Councilmember King felt the Ordinance should go forward to Second Reading. The changes staff made are important, and this should move forward with those changes.

Councilmember Ryerson stated she was all for this in the beginning, but the more she thought about it the less she liked the idea. She did not see anything good about putting signs on benches and liked the idea of taking a vote to kill it.

Councilmember Henderson stated he thought Council should take the Ordinance to Second Reading for a vote, and he would like to see the City have a grant writer for when things like this come up.

Vice Mayor Worthington stated he had felt this was a good idea, but was not in favor of the advertising due to citizen input. Since this is a Special Council Meeting, he asked Interim City Attorney Salzman if he may make a motion to Table this indefinitely. Interim City Attorney Salzman stated he could.

Motion by Vice Mayor Worthington, second by Councilmember Ryerson to Table Ordinance No. 2009-116 indefinitely.

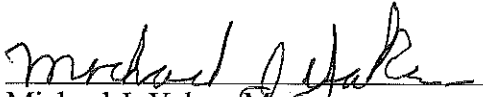
Interim City Attorney Salzman pointed out there is no discussion on a motion to Table.


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

MOTION CARRIED 3 to 2.

**3. Adjournment.**

Date Approved: July 6, 2010

  
Michael J. Yakes, Mayor

  
Lesley DeMuth, City Clerk