

City of Gulfport Florida
Regular City Council Meeting Minutes
Tuesday, October 4, 2011

The regular Meeting of the Gulfport City Council was held on Tuesday, October 4, 2011 in the City Hall, City Council Chambers, located at 2401 - 53rd Street South, Gulfport, Florida.

Michael J. Yakes, Mayor, called the meeting to order at 7:00 p.m. The invocation was given by Vice Mayor David Hastings, followed by the Pledge of Allegiance.

Roll Call:

Present were Councilmembers Samuel Henderson, Jennifer Salmon, and Barbara Banno; Vice Mayor David Hastings, Mayor Michael J. Yakes; City Manager James O'Reilly; City Attorney Andrew Salzman and City Clerk Lesley DeMuth.

Mayor Yakes explained the procedures for public speaking at the meeting.

1. Public Session.

Forrest Easton, St. Petersburg, began a comment on the smoking ban ordinance to which Mayor Yakes advised he would need to come forward when the Ordinance is called.

Amy Oatley, 5137 29th Avenue S., thanked council for making the difficult budget decisions and the new sign for Clymer Park, and asked again for the re-establishment of a Public Arts Advisory Committee.

2. City Manager Report.

City Manager O'Reilly advised the automated phone system will be implemented on Thursday and the current employee will be re-assigned to a part-time clerical position in Code Enforcement.

3. City Attorney Report. None.

4. City Clerk Report.

City Clerk DeMuth advised the Presidential Preference Primary will be held January 31, 2012 and qualifying for the city's March 13, Municipal Election will begin December 5 and end December 12. In response to a question by Councilmember Salmon, City Clerk DeMuth advised the charter questions will be included on the March 13, ballot if passed.

5. Consent:

- a. Consider approval of the Council Meeting Minutes of September 6, and September 8, 2011.

- b. Resolution No. 2011-57: A resolution of the City of Gulfport, Florida, supporting the One Bay Regional Vision; and providing for an effective date.
- c. Resolution No. 2011-58: A resolution of the City of Gulfport, Florida, requesting the Pinellas County Commission reconsider restoring funding for roadway improvements on 22nd Avenue South; and providing for an effective date.

City Clerk DeMuth read the consent agenda.

Motion by Councilmember Henderson, second by Councilmember Banno to approve the consent agenda.

UNANIMOUS APPROVAL BY ACCLAMATION

6. Ordinances:

- a. 2011-13, An ordinance of the City of Gulfport, Florida, amending Chapter 17, Streets, Sidewalks, Parks, and Parkways, Article II, Parks, establishing Section 17-31, cigarettes, cigars, and tobacco products prohibited; enforcement, remedies and penalties; providing for the repeal of ordinances, or parts of ordinance in conflict herewith, to the extent of such conflict; providing for severability; and providing for an effective date. (Tabled: September 6, 2011)

City Clerk DeMuth read Ordinance No. 2011-13 by title only.

City Manager O'Reilly explained amendments made to the ordinance which incorporate athletic facilities and playgrounds. City Attorney Salzman explained minor changes he will be making to the ordinance to ensure that it is in conformity with how the city gives notice to appear and that fines will be that which are established by Pinellas County. City Attorney Salzman addressed concerns raised with language contained in the Indoor Smoking Act.

Mayor Yakes opened for public discussion.

The following individuals spoke in support of the ordinance:

Forrest Easton, 5200 28th Street North; Michelle Gray, St. Petersburg; Suzie Gonzales Barr, 10655 Crowberry Loop, Land-O-Lakes; Rose Marie Seawall, 6075 Shore Boulevard S.; Gina Burke, 5659 Shore Boulevard S.; and Doug Hudson, 5525 Gulfport Boulevard S.

Neither hearing nor seeing anyone else who wished to speak, Mayor Yakes closed the public discussion.

Motion by Vice Mayor Hastings, second by Councilmember Banno to approve Ordinance No. 2011-13.

Vice Mayor Hastings spoke about the Florida Clean Air Act, information he received from other cities that have passed a smoking ban ordinance, and the health hazards of tobacco.

Councilmember Henderson stated it was his understanding this was a litter issue and noted he did not want to violate anyone’s rights outdoors. He questioned if the children’s play areas needed to be specified in the ordinance and council’s agreement to propose this on a trial basis for one year. City Attorney Salzman advised that as long as there is some internal designation of these places, that meets the definition; these areas did not need to specifically be designated in the ordinance.

Councilmember Salmon said her understanding of the ordinance was that it will be reviewed by council in one year and asked for clarification of the wording in the ordinance. She questioned how enforcement will be addressed and the legal issues of same, if there will be designated smoking areas and proposed implementing signs to address the smoking ban as well as littering problems. City Manager O’Reilly explained the enforcement techniques that will be utilized. Discussion was had regarding defining the playground areas for designated non-smoking areas.

Vice Mayor Hastings said he was not in favor of sunseting the ordinance, since an ordinance can be modified at any time. The difference between a sunset and a review was discussed, and City Attorney Salzman suggested language relating to the review of the ordinance in one year.

Councilmember Banno said she would like to see the ordinance pass and would be in favor of putting it in place for one year. She talked about how the non-smoking ban could bring more families and tourism to the area and about the littering problem as it is connected to smoking.

Mayor Yakes said the ordinance has validity and spoke of the health issues related to smoking.

Motion by Vice Mayor Hastings, second by Councilmember Banno to approve Ordinance No. 2011-13.

ROLL CALL:	VICE MAYOR HASTINGS	YES
	COUNCILMEMBER HENDERSON	YES
	COUNCILMEMBER SALMON	YES
	COUNCILMEMBER BANNO	YES
	MAYOR YAKES	YES

MOTION CARRIED.

Motion by Councilmember Salmon, second by Councilmember Henderson to review Ordinance No. 2011-13 if passed on second reading in one year from date of its adoption.

ROLL CALL:	VICE MAYOR HASTINGS	NO
	COUNCILMEMBER HENDERSON	YES
	COUNCILMEMBER SALMON	YES
	COUNCILMEMBER BANNO	YES
	MAYOR YAKES	YES

MOTION CARRIED 4-1.

City Clerk DeMuth advised the Second Reading and Public Hearing will be November 1, 2011.

- b. 2011-20, An ordinance of the City of Gulfport, Florida, amending Chapter 6, Beaches, Boats, Boating and Waterfront Structures, by amending Article I, Section 6-1, Definitions, by resetting the position of the beginning point of the beach as described in Subsection (3); 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 DeMuth read Ordinance No. 2011-20 by title only.

City Manager O'Reilly explained the Ordinance, and provided an overhead delineating the new boundary. In response to questions by council, City Manager O'Reilly explained how the designated smoking areas are delineated by the fences. Vice Mayor Hastings spoke about the cigarette butts found on the outside of fences.

Mayor Yakes opened for public discussion. Neither hearing nor seeing anyone who wished to speak, Mayor Yakes closed the public discussion.

Motion by Councilmember Henderson, second by Councilmember Banno to approve Ordinance No. 2011-20.

ROLL CALL:	VICE MAYOR HASTINGS	YES
	COUNCILMEMBER HENDERSON	YES
	COUNCILMEMBER SALMON	YES
	COUNCILMEMBER BANNO	YES
	MAYOR YAKES	YES

MOTION CARRIED.

- c. 2011-21, An ordinance of the City of Gulfport, Florida, amending Chapter 12, Health and Sanitation, by establishing Article III, Special Master Supplemental Code Enforcement; Sec. 12-14, Definitions; Sec. 12-15, Creation, Establishment; Sec. 12-16, Clerk; Sec. 12-17, Civil Offenses and Penalties; Sec. 12-18, Special Master Qualifications and Removal; Sec. 12-19, Enforcement Procedures; Sec. 12-20, Prehearing Administrative Enforcement Costs; Sec. 12-21, Service of Notice; Sec. 12-22, Contents of Notice, Schedule and Conduct of Special Master Hearing; Sec. 12-23, Recovery of Unpaid Civil Penalties; Unpaid Penalty to Constitute a Lien; Foreclosure; Sec. 12-24, Appeals; Sec. 12-25, Reserved; 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 DeMuth read Ordinance No. 2011-21 by title only.

The Ordinance was explained by City Manager O'Reilly and City Attorney Salzman.

Councilmember Salmon questioned how the Magistrate is paid to which City Attorney Salzman said he would check into the language. He explained the ethics involved in the arbitration process, court system procedures and council's desire for the code violations to be corrected instead of having a fine imposed.

In response to questions, Fred Metcalf, Community Development Director, stated he did not have an exact number of how many citizens go before the county court system, but estimated it being two a year and noted that they are usually fined and continue to repeat the offense. He also explained his procedure for the zero tolerance code enforcement. Councilmember Salmon said she thought the code ordinances and fines need to be reviewed to which City Attorney Salzman advised the fine will be up to the discretion of the Magistrate.

Mayor Yakes opened for public discussion.

Doug Hudson, 5525 Gulfport Boulevard S., said the goal of code enforcement should be to remedy code violations and urged council to adopt this ordinance.

Bryan Hilbert, 2526 54th Street S., questioned why a magistrate is needed if the code enforcement officer stated that it is rare for an enforcement issue to go forward to the court system.

Bob Newcomb, 921 Fremont Street S., comment on his opinion of the workshop process.

Michael Schnippering, 2610 Upton Street S., spoke in favor of reviewing the codes and enforcement by the City.

Neither hearing nor seeing anyone else who wished to speak, Mayor Yakes closed the public discussion.

Motion by Councilmember Henderson, second by Councilmember Banno to approve Ordinance No. 2011-21.

Vice Mayor Hastings said he has heard from citizens that the City needs to be more aggressive in enforcing codes and he thinks the Magistrate seems to be the best way to address this issue.

Councilmember Salmon asked if there was a way to specify that the special magistrate will not be implemented until the ordinances have been reviewed to which City Attorney Salzman advised the Ordinance could be adopted and council could determine when it would take effect. Councilmember Salmon expressed her desire to have a process that is fair, that there is a separation of powers and that enforcement is based on the codes that they want enforced.

ROLL CALL:	VICE MAYOR HASTINGS	YES
	COUNCILMEMBER HENDERSON	YES
	COUNCILMEMBER SALMON	NO
	COUNCILMEMBER BANNO	YES
	MAYOR YAKES	YES

MOTION CARRIED 4-1.

- d. 2011-22, An ordinance of the City of Gulfport, Florida, submitting to the city electors, a referendum question on amendment to the City of Gulfport Charter, Article I, The Corporation, Section 103, Extraterritorial Powers; providing for amending title to Acquisition and Disposal of Properties; prohibiting the sale, trade, vacation or

giving away of any real property which provides park, beach, recreational lands, beach access or submerged lands without referendum approval of the city's electorate; establishing the question to appear on the general election ballot occurring on March 13, 2012; providing for publication in accordance with the law; 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 DeMuth read Ordinance No. 2011-22 by title only.

City Attorney Salzman explained the Ordinance.

Mayor Yakes opened for public discussion. Neither hearing nor seeing anyone who wished to speak, Mayor Yakes closed the public discussion.

Motion by Councilmember Henderson, second by Councilmember Banno to approve Ordinance No. 2011-22.

ROLL CALL:	VICE MAYOR HASTINGS	YES
	COUNCILMEMBER HENDERSON	YES
	COUNCILMEMBER SALMON	YES
	COUNCILMEMBER BANNO	YES
	MAYOR YAKES	YES

MOTION CARRIED.

- e. 2011-23, An ordinance of the City of Gulfport, Florida, submitting to the city electors, a referendum question on amendment to the City of Gulfport Charter, Article I, The Corporation, Section 103, Extraterritorial Powers; prohibiting the sale, trade, vacation or giving away of any real property used for administrative and support facilities during the pendency of the administrative and support facilities use, except after a referendum of the city's electorate; establishing the question to appear on the general election ballot occurring on March 13, 2012; providing for publication in accordance with the law; 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 DeMuth read Ordinance No. 2011-23 by title only.

City Attorney Salzman explained the Ordinance.

Mayor Yakes opened for public discussion. Neither hearing nor seeing anyone who wished to speak, Mayor Yakes closed the public discussion.

Motion by Councilmember Henderson, second by Councilmember Salmon to approve Ordinance No. 2011-23.

ROLL CALL:	VICE MAYOR HASTINGS	YES
------------	---------------------	-----

COUNCILMEMBER HENDERSON	YES
COUNCILMEMBER SALMON	YES
COUNCILMEMBER BANNO	YES
MAYOR YAKES	YES

MOTION CARRIED.

- f. 2011-24, An ordinance of the City of Gulfport, Florida, submitting to the city electors, a referendum question on amendment to the City of Gulfport Charter, Article I, The Corporation, Section 103, Extraterritorial Powers; providing for the affirmative vote of a minimum of four (4) city council members to establish a referendum election; establishing the question to appear on the general election ballot occurring on March 13, 2012; providing for publication in accordance with the law; 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 DeMuth read Ordinance No. 2011-24 by title only.

City Attorney Salzman explained the Ordinance.

Motion by Councilmember Henderson, second by Councilmember Banno to approve Ordinance No. 2011-24.

In response to a question by Vice Mayor Hastings, City Attorney Salzman explained four members of the city council would have to call for the referendum vote and there could be no sale of the support facilities unless the building(s) are no longer in use.

Mayor Yakes opened for public discussion. Neither hearing nor seeing anyone who wished to speak, Mayor Yakes closed the public discussion.

ROLL CALL:	VICE MAYOR HASTINGS	YES
	COUNCILMEMBER HENDERSON	YES
	COUNCILMEMBER SALMON	YES
	COUNCILMEMBER BANNO	YES
	MAYOR YAKES	YES

MOTION CARRIED.

- g. 2011-25, An ordinance of the City of Gulfport, Florida, submitting to the city electors, a referendum question on amendment to the City of Gulfport Charter, Article III, Legislative, Section 306, Vacancies; Filling of Vacancies, providing for the filling of vacancies within thirty (30) days of said vacancy, providing for filling of vacancies when less than a quorum exists, providing for extraordinary vacancies; establishing the question to appear on the general election ballot occurring on March 13, 2012; providing for publication in accordance with the law; 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 DeMuth read Ordinance No. 2011-25 by title only.

City Attorney Salzman explained the ordinance.

Mayor Yakes opened for public discussion. Neither hearing nor seeing anyone who wished to speak, Mayor Yakes closed the public discussion.

Motion by Councilmember Henderson, second by Councilmember Banno to approve Ordinance No. 2011-25.

In response to a question by Councilmember Salmon, City Attorney Salzman explained the language of the referendum question.

ROLL CALL:	VICE MAYOR HASTINGS	YES
	COUNCILMEMBER HENDERSON	YES
	COUNCILMEMBER SALMON	YES
	COUNCILMEMBER BANNO	YES
	MAYOR YAKES	YES

MOTION CARRIED.

h. 2011-26, An ordinance of the City of Gulfport, Florida, submitting to the city electors, a referendum question on an amendment to the City of Gulfport Charter, Article V, Qualifications and Elections, Section 509, Public Supervision and Information; providing for candidates to appoint watchers and challengers at each polling place in accordance with Florida Law; establishing the question to appear on the general election ballot occurring on March 13, 2012; providing for publication in accordance with the law; 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 DeMuth read Ordinance No. 2011-26 by title only.

City Attorney Salzman explained the Ordinance.

Mayor Yakes opened for public discussion. Neither hearing nor seeing anyone who wished to speak, Mayor Yakes closed the public discussion.

Motion by Councilmember Henderson, second by Councilmember Banno to approve Ordinance No. 2011-26.

ROLL CALL:	VICE MAYOR HASTINGS	YES
	COUNCILMEMBER HENDERSON	YES
	COUNCILMEMBER SALMON	YES

COUNCILMEMBER BANNO	YES
MAYOR YAKES	YES

MOTION CARRIED.

- i. 2011-27, An ordinance of the City of Gulfport, Florida, submitting to the city electors, a referendum question on amendment to the City of Gulfport Charter, Article X, General Provisions, Section 1005, Improvements, Financial Limitation; providing for clarification of limitation of expenditures per calendar year; establishing the question to appear on the general election ballot occurring on March 13, 2012; providing for publication in accordance with the law; 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 DeMuth read Ordinance No. 2011-27 by title only.

City Attorney Salzman explained the Ordinance.

Mayor Yakes opened for public discussion. Neither hearing nor seeing anyone who wished to speak, Mayor Yakes closed the public discussion.

Motion by Councilmember Banno, second by Councilmember Salmon to approve Ordinance No. 2011-27.

ROLL CALL:	VICE MAYOR HASTINGS	YES
	COUNCILMEMBER HENDERSON	YES
	COUNCILMEMBER SALMON	YES
	COUNCILMEMBER BANNO	YES
	MAYOR YAKES	YES

MOTION CARRIED.

7. Resolutions:

- a. 2011-59, A resolution of the City of Gulfport, Florida authorizing the city manager to use Federal Equitable Sharing Funds for the purchase of fitness-testing equipment for the police department; and providing for an effective date.

City Clerk DeMuth read Resolution No. 2011-59 by title only.

City Manager O'Reilly explained the Resolution.

Mayor Yakes opened for public discussion. Neither hearing nor seeing anyone who wished to speak, Mayor Yakes closed the public discussion.

Motion by Councilmember Banno, second by Councilmember Salmon to approve Resolution No. 2011-59.

Vice Mayor Hastings asked what equipment was to be purchased to which Police Chief Vincent replied equipment to build an obstacle course for fitness testing and a dummy drag.

ROLL CALL:	VICE-MAYOR HASTINGS	YES
	COUNCILMEMBER HENDERSON	YES
	COUNCILMEMBER SALMON	YES
	COUNCILMEMBER BANNO	YES
	MAYOR YAKES	YES

MOTION CARRIED.

b. 2011-60, A resolution of the City of Gulfport, Florida amending Resolution No. 2011-49; providing for corrections in the marina fee schedule; and providing for an effective date.

City Clerk DeMuth read Resolution No. 2011-60 by title only.

City Manager O'Reilly explained the Resolution.

Mayor Yakes opened for public discussion. Neither hearing nor seeing anyone who wished to speak, Mayor Yakes closed the public discussion.

Motion by Councilmember Henderson, second by Councilmember Salmon to approve Resolution No. 2011-60.

ROLL CALL:	VICE MAYOR HASTINGS	YES
	COUNCILMEMBER HENDERSON	YES
	COUNCILMEMBER SALMON	YES
	COUNCILMEMBER BANNO	YES
	MAYOR YAKES	YES

MOTION CARRIED.

8. Old Business.

Vice Mayor Hastings spoke on the Federal Emergency Management Agency's LOMAR approval letter which was received and mailed for the 90 day comment period.

Councilmember Henderson asked for authorization to attend the County Commissions Capital Improvements Plan Meeting to present Resolution No. 2011-58, to which council agreed.

9. New Business.

Councilmember Salmon asked consideration on giving city employees President's Day off as a holiday since there have been no salary increases to which City Manager O'Reilly advised he would bring the cost figures back to council. Councilmember Salmon also asked if council, in a workshop, could discuss live-a-boards at the marina to which City Manager O'Reilly replied staff is looking into this issue and it will be brought back before council.

Councilmember Banno asked council to discuss creating a Public Arts Advisory Committee.

10. Council Reports.

Vice Mayor Hastings reported on a lunch meeting he had with the principle of Boca Ciega High School and encouraged councilmember to participate in the Great American Teach-In on November 17. In addition, he reported that October 28, is the tour for the school's new facilities.

Councilmember Henderson reported on the success of the Keep Gulfport Weird Mini-triathlon and BluesFest, and thanked all the sponsors, musicians, volunteers and city employees. Councilmember Henderson asked for council authorization to have his annual block party on October 29, and this was agreed upon by council.

Councilmember Salmon reported on her attendance at the triathlon and BluesFest; thanking CERT for their help, her upcoming town hall meeting, the Area 1 Crime Awareness Group pot luck dinner, the upcoming community band concert, the Veterans Day parade and Green Saturday, an event hosted by the Growing Greener Group.

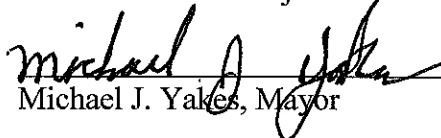
Councilmember Banno reported on the upcoming Gulfport Merchants Social.

Mayor Yakes reported on the upcoming Birthday Bash, and that he would be involved with the R.O.T.C. at Boca Ciega for the Great American Teach-in.

12. Adjournment.

Motion by Vice Mayor Hastings, second by Councilmember Banno to adjourn.

Date Approved: 11-1-11


Michael J. Yakes, Mayor


Lesley DeMuth, City Clerk