

ORANGE BEACH CITY COUNCIL MEETING
Regular Meeting –April 6, 2010
Orange Beach Municipal Complex Council Chambers
5:00 P.M.

- I. CALL TO ORDER** Mayor Tony Kennon called the meeting to order.
- II. INVOCATION** Reverend Michael Bonham of the Peace Lutheran Church gave the invocation.
- III. PLEDGE OF ALLEGIANCE**
- IV. ROLL CALL**

Present: Mayor Tony Kennon
Councilmember Joni Blalock
Councilmember Pattisue Carranza
Councilmember Edward H. Carroll, Sr.
Councilmember Brett Holk
Councilmember Jeff Silvers

Absent: None

There being a quorum present, the meeting was opened for the transaction of business.

- V. CONSIDERATION OF AGENDA** Motion made (Blalock/Carranza) to approve the agenda as presented. Roll Call vote revealed: Silvers, aye; Holk, aye; Carranza, aye; Blalock, aye; Carroll, aye; Kennon, aye. **Passed (6-0)**

VI. CONSIDERATION OF PREVIOUS MINUTES

Committee of the Whole	03/09/10
Regular Meeting	03/16/10

The reading of the Minutes was waived and approved as presented.

VII. REPORTS OF OFFICERS/COMMITTEES

A. City Administrator – Ken Grimes Mr. Grimes reported Spring Break starts this week and a lot of traffic is expected. There will be a large number of teams coming into town for the USSSA Youth Baseball Tournaments starting Saturday. The Tim McGraw concert on Sunday night is expected to be a sellout. He asked everyone to be aware of the increased traffic.

- B. Director, Public Works – Tim Tucker No report.
- C. Engineering – Kit Alexander No report.
- D. Chief, Police Department – Billy Wilkins No report.
- E. Chief, Fire Department – Forney Howard No report.
- F. City Clerk – Cathy Constantino Report attached.
- G. Director, Finance – Clara Myers Report attached.
- H. Parks & Recreation Report attached.
- I. Director, Utilities – Jeff Hartley No report.
- J. Librarian, Public Library – Bonnie Lee No report.
- K. Director, Municipal Court – Renee Hobbs No report.
- L. I. T. Director – Rauf Bolden Report attached.

M. Mayor/Council Councilmember Carranza apologized for missing the Special Called Council meeting on Wednesday, March 31st. She stated she had a previously scheduled doctor's appointment. She advised that she wanted to make everyone aware

that she is 100% for the moratorium and in favor of having the moratorium in place for as long as it takes to get the appropriate language to address these businesses.

VIII. HEARINGS ON PETITIONS, APPLICATIONS, COMPLAINTS, APPEALS, COMMUNICATIONS.

Patti Link, a private citizen, stated that on Saturday she attended the Women's Firearms Class hosted by the Orange Beach Police Department. She commended the city and the instructors for the exceptional class. She encouraged anyone who has not attended one of the classes, to do so.

Dave Johnson, a private citizen, asked if the city had considered appointing two people to the Water Board. He advised that Code of Alabama, Section 11-88-6(f) states that the City has the authority to appoint two people to the Water Board. Councilmember Carranza stated, for the record, that Councilmember Holk was duly elected to the Water Board and after the election was told he was ineligible because he was a councilmember. Mayor Kennon responded that the matter will be followed up on this week and will have something to report next week.

IX. PRESENTATION(S)

1. Proclamation in recognition and support of the American Cancer Society Relay for Life of the Alabama Gulf Coast. Mayor Kennon presented the proclamation to Kathy Synder, Chairman for the Alabama Gulf Coast American Cancer Society Relay for Life.

2. Mayor's Distinguished Service Award presented to Kris Anderson of Orange Beach, Dr. James West, Dr. Robert McGinley and Lisa Fondrey for their joint efforts in saving the life of a 15 year old Indonesian girl crippled with scoliosis.

3. Mayor's Distinguished Service Award presented to Corporal Francis Fleming with the Orange Beach Police Department for his efforts in rescuing swimmers in distress on January 17, 2010 at Alabama Point.

X. RECOGNITION(S)

XI. AUDITING OF ACCOUNTS

Motion made (Carroll/Silvers) to certify that cash requirements with no related interests are within budget and appropriate for payment. Roll Call vote revealed: Silvers, aye; Holk, aye; Carranza, aye; Blalock, aye; Carroll, aye; Kennon, aye. **Passed (6-0)**

Motion made (Carroll/Carranza) to certify that cash requirements with related interests in Swift Supply are within budget and appropriate for payment. Roll Call vote revealed: Silvers, abstain; Holk, aye; Carranza, aye; Blalock, aye; Carroll, aye; Kennon, aye. **Passed (5-0-1)**

XII. UNFINISHED BUSINESS

1. Resolution appointing a member to the Alabama Gulf Coast Convention and Visitor's Bureau. **Motion made (Silvers/Holk) to take the item from the table.** Roll Call vote revealed: Silvers, aye; Holk, aye; Carranza, aye; Blalock, aye; Carroll, aye; Kennon, aye. **Passed (6-0)** **Motion made (Silvers/Holk) to adopt the resolution appointing Barbara Walters.** Roll Call vote revealed: Silvers, aye; Holk, aye; Carranza, aye; Blalock, aye; Carroll, aye; Kennon, aye. **Passed (6-0)**

XIII. NEW BUSINESS

Miscellaneous

1. Approval of Restaurant Retail Liquor License Application for Gulf Shores Steamer, 27267 Perdido Beach Blvd., Suite 115. **Motion made (Silvers/Carroll) to approve the liquor license application.** Roll Call vote revealed: Silvers, aye; Holk, aye; Carranza, aye; Blalock, aye; Carroll, aye; Kennon, aye. **Passed (6-0)**

2. Appoint voting delegate for Alabama League of Municipalities Annual Convention Business Meeting, May 18, 2010. **Motion made (Holk/Blalock) to appoint Councilmember Ed Carroll.** Roll Call vote revealed: Silvers, aye; Holk, aye; Carranza, aye; Blalock, aye; Carroll, abstain; Kennon, aye. **Passed (5-0-1)**

3. Appoint voting delegate for the Alabama Municipal Insurance Annual Membership Meeting. **Motion made (Holk/Carranza) to appoint Councilmember Ed Carroll.** Roll Call vote revealed: Silvers, aye; Holk, aye; Carranza, aye; Blalock, aye; Carroll, abstain; Kennon, aye. **Passed (5-0-1)**

Resolutions

1. Resolution authorizing AA Metro Cab of Pensacola to operate a taxi service within the city limits and police jurisdiction of Orange Beach. **Motion made (Silvers/Carranza) to adopt the resolution.** The city attorney explained the problems with granting a franchise to Metro Cab of Pensacola remain the same now as they were in 2007 and 2008: 1) Metro Cab is not qualified to do business in the State of Alabama according to the Alabama Secretary of State's Office. These requirements would have to be satisfied. 2) If Metro Cab intends to provide service for special events only, the council needs to determine whether this type of service is necessary or desirable. 3) Can Metro Cab meet all requirements of Section 70-116 through 70-209 of the City Code? The requirement for a state license pursuant to Section 70-117(d) of the City Code does not apply if the company is not based in Alabama. The applicant, Asif Akbar, stated that it is his intent is to provide taxi service for special events only. Mayor Kennon stated he was not in favor of granting a taxi franchise for special events only. Roll Call vote revealed: Silvers, nay; Holk, nay; Carranza, nay; Blalock, nay; Carroll, nay; Kennon, nay. **Failed (0-6)**

2. Resolution authorizing A Local Taxi to operate a taxi service within the city limits and police jurisdiction of Orange Beach. **Motion made (Holk/Carroll) to adopt the resolution.** Roll Call vote revealed: Silvers, aye; Holk, aye; Carranza, aye; Blalock, aye; Carroll, aye; Kennon, aye. **Passed (6-0)**

3. Resolution establishing a policy allowing retiring Police Officers to receive their City weapon and badge as part of their retirement benefits. **Motion made (Silvers/Holk) to table.** Roll Call vote revealed: Silvers, aye; Holk, aye; Carranza, aye; Blalock, aye; Carroll, aye; Kennon, nay. **Passed (5-1)**

4. Resolution authorizing the mayor to execute an Annual Professional Services Agreement with Hutchinson, Moore and Rauch LLC for Engineering, Permitting and Land Surveying Services. **Motion made (Carroll/Silvers) to adopt the resolution.** Roll Call vote revealed: Silvers, aye; Holk, aye; Carranza, aye; Blalock, aye; Carroll, aye; Kennon, aye. **Passed (6-0)**

5. Resolution authorizing execution of Change Order #1 for Headworks and Filter Construction for the Wastewater Treatment Facility. **Motion made (Carroll/Blalock) to adopt the resolution.** Roll Call vote revealed: Silvers, abstain; Holk, aye; Carranza, aye; Blalock, aye; Carroll, aye; Kennon, aye. **Passed (5-0-1)**

6. Resolution to repeal Resolution 10-040 which awarded the bid for Amber Isle Backcountry Trail Connection to Delta Civil Developers. **Motion made (Silvers/Blalock) to adopt the resolution.** Roll Call vote revealed: Silvers, aye; Holk, aye; Carranza, aye; Blalock, aye; Carroll, aye; Kennon, aye. **Passed (6-0)**

7. Resolution to award bid for Amber Isle Connection Backcountry Trail Project. **Motion made (Silvers/Carroll) to adopt the resolution awarding the bid to Asphalt Services Incorporated.** Roll Call vote revealed: Silvers, aye; Holk, aye; Carranza, aye; Blalock, aye; Carroll, aye; Kennon, aye. **Passed (6-0)**

Public Hearing

1. Proposed Wharf agreements between the City and AIG Baker Orange Beach Wharf, L.L.C. ("Developer"), pursuant to Amendment No. 750 of the Recompiled Alabama Constitution of 1901, as amended. Mayor Kennon stated that a notice of public meeting pertaining to The Wharf Project had been published in *The Islander* and the *Mobile Press Register* and that it was now appropriate for the Council to conduct such public meeting. Paul Woodall, Bond Attorney with Walston, Wells, briefly described the Amended and Restated Development Agreement, the Reader Board Sign Agreement and the Series 2010A Warrant to be issued by the City. Thereupon, the Mayor asked anyone present who wanted to make a statement or offer any comments concerning the foregoing documents or The Wharf Project to please do so at this time. The following addressed the Council:

Yolanda Johnson, 27119 Magnolia Avenue, Orange Beach
Patti Link, 5265 Washington Boulevard, Orange Beach

The Mayor thereupon stated that if there were no further comments, the Council would consider whether under Alabama Constitutional Amendment No. 750, the proposed expenditure of public funds and giving of things of value, as contemplated and described in the aforescribed documents would serve a valid and sufficient public purpose notwithstanding any incidental benefits to AIG Baker Orange Beach Wharf, L.L.C. or any other private party.

2. Resolution authorizing documents related to The Wharf. **Motion made (Sillers/Blalock) for unanimous consent to suspend the rules to allow for immediate consideration of this resolution.** Roll Call vote revealed: Silvers, aye; Holk, nay; Carranza, nay; Blalock, aye; Carroll, nay; Kennon, aye. **Failed (3-3)**

Ordinances

1. Second Reading - Ordinance further amending Ordinance No. 172, the Zoning Ordinance, Articles 2.02 and 4.01, Pawn Shops, Tattoo Parlors, Flea Markets and Palm Readers (#1204-ZT-09). **Motion made (Carranza/Blalock) to table.** Roll Call vote revealed: Silvers, aye; Holk, aye; Carranza, aye; Blalock, aye; Carroll, aye; Kennon, nay. **Passed (5-1)**

2. First Reading - Ordinance to amend the Code of Ordinance, City of Orange Beach at Article II, Ad Valorem Taxation, Section 50-23, General Obligation Rate, to increase the Ad Valorem Tax Rate to five mills. **The council took no action. The ordinance will move forward to the next council meeting for second reading.**

3. First Reading - Ordinance to amend the Code of Ordinances, City of Orange Beach, at Article III, Business License Code, Section 50-79, Rate Schedules for the Business License Code, to add Schedule "L" Special Event Licenses. **The council took no action. The ordinance will move forward to the next council meeting for second reading.**

4. First Reading - Ordinance to amend the Code of Ordinances, City of Orange Beach, at Article I, General, Section 74-1, Underground Utilities Required on Private Property, to change certain language exempting transmission lines from the above ground installation requirement. **The council took no action. The ordinance will move forward to the next council meeting for second reading.**

XIV. ADJOURN

Motion made (Sillers/Blalock) to adjourn. Vote unanimous in favor.

Time: 6:37 p.m.

APPROVED this the 20th day of April, 2010.

Cathy Constantino, MMC
City Clerk

Anthony T. Kennon
Mayor