

ORANGE BEACH CITY COUNCIL MEETING
Regular Meeting –October 5, 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** Jonathan Langston gave the invocation.
- III. PLEDGE OF ALLEGIANCE**
- IV. ROLL CALL**

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

Absent: Councilmember Joni Blalock

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

- V. CONSIDERATION OF AGENDA** Motion made (Carroll/Holk) to approve the agenda as presented. Roll Call vote revealed: Silvers, aye; Holk, aye; Carranza, aye; Carroll, aye; Kennon, aye. **Passed (5-0)**

VI. CONSIDERATION OF PREVIOUS MINUTES

Committee of the Whole	09/14/10
Flood Damage Prevention Board of Adjustment	09/21/10
Regular Meeting	09/21/10

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

VII. REPORTS OF OFFICERS/COMMITTEES

- A. City Administrator – Ken Grimes No report.
- B. Director, Public Works – Tim Tucker No report.
- C. Engineering – Kit Alexander No report.
- D. Chief, Police Department – Billy Wilkins Report attached.
- E. Chief, Fire Department – Forney Howard Chief Howard announced that the Orange Beach Community Center Association held their monthly dinner Monday night and honored the Police and Fire Departments. The Police Officer of the Year and Firefighter of the Year were also announced. Firefighter of the Year was Lieutenant Bruce Nelson and Officer of the Year was Sergeant David McLain. In addition, Chief Howard expressed appreciation to everyone who attended the “Pink Heals Tour” at The Wharf on Saturday. Over \$20,000 was raised to go into a college fund for Lieutenant Resmondo’s five year old daughter.
- F. City Clerk – Cathy Constantino Report attached.
- G. Director, Finance – Clara Myers Report attached.
- H. Parks & Recreation- Danny Martin Report attached.
- I. Director, Utilities – Jeff Hartley No report.
- J. Librarian, Public Library – Bonnie Lee Report attached.
- K. Director, Municipal Court – Renee Hobbs No report.
- L. I. T. Director – Rauf Bolden No report.

M. Mayor/Council

No report.

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

None.

IX. PRESENTATION(S)

X. RECOGNITION(S)

XI. AUDITING OF ACCOUNTS

Motion made (Carroll/Carranza) 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; Carroll, aye; Kennon, aye. **Passed (5-0)**

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; Carroll, aye; Kennon, aye. **Passed (4-0-1)**

XII. UNFINISHED BUSINESS

XIII. NEW BUSINESS

Miscellaneous

1. EMA Report. Phillip West, Coastal Resource Manager, distributed to the council a memorandum regarding a poll taken of captains and mates on opening weekend of red snapper season and a Cooperative System FAQ/Answer sheet (copy attached).

Councilmember Carranza stated there are people in the community that have concerns. The vast majority of the community is not sick but a few people that are. She stated for the record that we should acknowledge what is going on, look into it and continue to monitor it. She said all other discussions have taken place either after a council meeting or during a Committee of the Whole meeting and nothing has been on the record.

Horace Long, 26214 Garrett Lane, appeared before the council and distributed a chemical analysis report (copy attached) of water samples from his shoreline property. He stated that Corexit was found in the sand and in the water on his property. He stated that he would like to see an investigation into who put out the Corexit and why was it put out because the people were told that Corexit was not used. Mr. Long said he is concerned with his property values, the use of his property for his children and grandchildren and also the health issues that go along with this. He advised if the council needed more pictures or information to contact him. The mayor informed Mr. Long that the city will research the issue and see what can be done.

Kit Alexander, Director of Engineering & Environmental, stated that the report appears to be the same that she received previously and it shows a minimal concentration of 2-butoxyethanol in the initial Corexit that was used. She advised that the city's consultant verified that another 10 days to 2 weeks is needed for the fingerprinting. She further advised the Propylene Glycol marker was indicated in Cotton Bayou and the city is anxious to see if it is associated with the Corexit.

Robyn Young, resident, expressed concern regarding health issues she feels are associated with the oil spill. She explained that she saw a physician and was tested for volatile organic compounds. The tests showed high levels of things that should not be in her body. For the record, she asked that the health issues be looked into. Ms. Young showed pictures of people with skin rashes, staff infections and mercer. She said this is a concern that needs to be looked at before BP walks away.

Mayor Kennon stated that he has spoken to twelve physicians south of Foley and unanimously they said they have seen no incidents of respiratory or oil spill related disease. Three out of the four principals in the local schools have seen no increase in absences or abnormal sickness whatsoever. He stated he does not know what the City of Orange Beach is supposed to do.

Councilmember Carranza stated, as an elected official, she believes we need to acknowledge there are people in the community that are concerned, people in the community that are ill, and we know what is going on. After talking with the Alabama Department of Public Health, CDC, and Epidemiologist there is a correlation.

Ms. Alexander advised that the city has taken over 300 of water samples. An interim report states that a majority of the test results did not indicate currently that we have any toxicity issues or any concentrations of constituents of hydrocarbon and Corexit that are of concern.

Councilmember Carranza showed pictures of people with chemical burns and stated that the Alabama Department of Public Health has acknowledged and is following one case. She stated that not

everyone is susceptible, but it is out there. She explained, as an elected official, she feels it is her responsibility to acknowledge the concerns of constituents who voted for her.

Mayor Kennon stated that we have a responsibility to the city, as a whole, to present evidence of any stand we take and to make a decision prematurely, based on a picture, is reckless.

An unidentified resident of Bear Point stated he was part of the VoO program. He said he saw a barge spraying, what he thought was dispersant, approximately 1 mile outside the pass on two occasions. A few weeks later he had some of the symptoms; throat and cramps in the arms.

Mayor Kennon advised that BP said they did not spray dispersants outside the well head. He stated the city asked those very specific questions over and over.

Kit Alexander explained that the city has test results that show a dispersants marker in Cotton Bayou of 66 parts per million. The allowable amount of that marker in concentration is 750,000 parts per million. She explained what the city is trying to find is connecting it specifically to Corexit, which takes 6-8 weeks. The results should be back within the next 2 weeks.

2. Proclamation declaring October 3 - 9, 2010 as Fire Prevention Week. Craig Stephenson read the proclamation.

Resolutions

1. Resolution to reject bid for boat motor for Police Department. **Motion made (Silvers/Holk) to adopt the resolution.** Roll Call vote revealed: Silvers, aye; Holk, aye; Carranza, aye; Carroll, aye; Kennon, aye. **Passed (5-0)**

2. Resolution to award bid for two boat motors for the Police Department. **Motion made (Silvers/Holk) to adopt the resolution awarding the bid to Paradise Marine.** Roll Call vote revealed: Silvers, aye; Holk, aye; Carranza, aye; Carroll, aye; Kennon, aye. **Passed (5-0)**

3. Resolution to award bid for two EMS Treatment Trailers. **Motion made (Silvers/Carroll) to adopt the resolution awarding the bid to Featherlite.** Roll Call vote revealed: Silvers, aye; Holk, aye; Carranza, aye; Carroll, aye; Kennon, aye. **Passed (5-0)**

Ordinances

1. Second Reading - An Ordinance to amend the Code of Ordinances, City of Orange Beach at Section 2, Permanent Reserve Fund. **Motion made (Holk/Carroll) to adopt the ordinance.** For the record, Councilmember Carranza asked if this amendment does away with the committing the \$300,000+ the city was paying for the loss of revenue insurance policy and the \$500,000 from the tax district at The Wharf to the Reserve Fund. Clara Myers, Finance Director, explained the amendment makes the ordinance more generic. She stated the commitments to the fund will be at the discretion of the council and will be decided during the budget process. Councilmember Carranza stated that the purpose of the Reserve Fund was to create the city's own self insured pool instead of buying an insurance policy. She asked if the city was going to designate anymore funds to be put into the Reserve fund to accrue year's operating expenses or if the city was going to buy an insurance policy. Ms. Myers replied that \$7 million, which is what is presently in the Reserve Fund, is more than the city received previously from the insurance company after the \$500,000 deductible. Councilmember Carranza asked Al Bradley, Finance Committee Member, if he felt comfortable with the amount of money in the reserve fund. Mr. Bradley stated he felt like it needed to continue to grow and could do so during the budget process. Roll Call vote revealed: Silvers, aye; Holk, aye; Carranza, aye; Carroll, aye; Kennon, aye. **Passed (5-0)**

2. Executive session to discuss pending and threatened litigation. **Motion made (Silvers/Carranza) to go into executive session to discuss pending and threatened litigation.** The City Attorney advised the Council that a declaration was required by the Opening Meetings Act for an Executive Session; therefore, she stated for the record that she was duly qualified and had the personal knowledge to provide the requisite declaration for the stated purpose of the Executive Session authorized by the Act and informed the Council that an Executive Session was necessary for the purpose so stated and that discussions would imperil and/or have a detrimental effect upon the city if disclosed outside of an Executive Session or would otherwise be contrary to law; and,

The Mayor directed the City Clerk to enter said motion, purpose and declaration into the minutes of the meeting and called for a vote on said motion; and,

Said vote in regard to the motion for Executive Session was taken with the "ayes" and "nays" being recorded into the minutes as follows: Silvers, aye; Holk, aye; Carranza, aye; Carroll, aye; Kennon, aye. **Passed.**

The Mayor declared that a majority of the votes being in favor of the motion, that such motion had therefore passed and the Council would forthwith recess into Executive Session for the purpose as

stated in said motion and no other purpose, in accordance with the Act and reconvene in approximately 10 minutes.

Time: 6:17 p.m.

Mayor Kennon reconvened the meeting at 6:28 p.m.

Motion made (Sillers/Holk) for unanimous consent to suspend the rules to add an item to the agenda. Roll Call vote revealed: Silvers, aye; Holk, aye; Carranza, aye; Carroll, aye; Kennon, aye. **Passed (5-0)**

Motion made (Carranza/Sillers) to add one item to the agenda; a resolution authorizing the Mayor to settle the case of Orange Beach vs Pilcher, in the amount of \$17,737,22 plus any costs of court and to execute such document to effectuate said settlement. Roll Call vote revealed: Silvers, aye; Holk, aye; Carranza, aye; Carroll, aye; Kennon, aye. **Passed (5-0)**

Resolution authorizing the Mayor to settle the case of Orange Beach vs Pilcher, in the amount of \$17,737,22 plus any costs of court and to execute such document to effectuate said settlement. **Motion made (Carranza/Holk) to adopt the resolution.** Roll Call vote revealed: Silvers, aye; Holk, aye; Carranza, aye; Carroll, aye; Kennon, aye. **Passed (5-0)**

XIV. ADJOURN

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

Time: 6:30 p.m.

APPROVED this the 19th day of October, 2010.

Cathy Constantino, MMC
City Clerk

Anthony T. Kennon
Mayor