



# City of Gulfport Florida

## City Council Special Meeting Minutes

Monday, June 24, 2019

The Special Meeting of the Gulfport City Council was held on Monday, June 24, 2019; in the City Hall, City Council Chambers, located at 2401 - 53rd Street South, Gulfport, Florida.

Samuel Henderson, Mayor, called the meeting to order at 5:00 p.m. The invocation was given by Councilmember Michael Fridovich followed by the Pledge of Allegiance.

### **Roll Call:**

Present were: Councilmembers Michael Fridovich and Daniel Liedtke; Vice Mayor Paul Ray; Mayor Samuel Henderson; City Manager James E. O'Reilly, City Attorney Andrew Salzman and City Clerk Lesley DeMuth. Councilmember Christine Brown asked to be excused.

### **1. Public Comment.**

Mayor Henderson opened public comment. Neither hearing nor seeing anyone who wished to speak, Mayor Henderson closed public comment.

### **2. Resolutions:**

- 2.a Resolution No. 2019-32: A Resolution of the City of Gulfport, Florida, authorizing the Mayor and appropriate Legal Counsel to finalize and execute a Settlement Agreement in accordance with the Proposed Stipulated Order of Dismissal and Court's Retention of Jurisdiction; Case No.: 8:17-CV-00035-SCB-AEP - Suncoast Waterkeeper, Our Children's Earth Foundation, and Ecological Rights Foundation, v. City of Gulfport; and providing for an effective date.

City Clerk DeMuth read Resolution No. 2019-32 by title.

Mayor Henderson asked City Attorney Salzman to provide his counsel on what councilmembers responses should be and what their roll is in terms of informing the public.

City Attorney Salzman advised if council approves this resolution, which is in essence entering into the stipulation, litigation is not over at this point; litigation continues on for at least 45 days. The council should not be discussing this matter until the city has the final court order accepting and dismissing this matter; at that point, everything becomes public and public discussion would be appropriate by councilmembers. City Attorney Salzman stated prior to that time this is still active litigation which is an exception to disclosure and recommendation that there should be no comments from staff or council.

City Manager O'Reilly advised if there were any specific questions, Attorney Hennessy was present.

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

Motion by Councilmember Liedtke, second by Vice Mayor Ray to approve Resolution No. 2019-32.

In response to questions by Councilmember Fridovich, Attorney Hennessy explained the stipulated penalties for SSO's will fundamentally be based on whether it was beyond the city's ability to control, the city has the option of two different public interest projects; it can do a living shoreline project or make a contribution of \$25,000 to Tampa Bay Estuary, the \$649,000 is a total number and the only expenses that remain in the lawsuit is the city's insurance company's payment of his fees, the experts they have retained and the expenses they may have incurred and the City of St. Petersburg is in agreement with the by-pass project. Councilmember Fridovich advised he is still not happy with the agreement.

In response to a question by Vice Mayor Ray, Attorney Hennessy explained the Stipulated Order of Dismissal will be entered by the Judge. The Judge will retain jurisdiction to make sure the city and the other parties abide by the Agreement and will only retain jurisdiction until such time as the city comes back and say that everything the city is obligated to do has been accomplished: the by-pass project, the additional environmental project which is likely to be the payment of \$25,000 and the statement that there aren't any fines or penalties outstanding. Attorney Hennessy advised if this all occurs, suggesting the city get this accomplished as early as it can, the city can petition the court and they will terminate the Agreement. If the city has events in the future that are considered violations of the Clean Water Act, nothing in this Agreement covers those future events after it is terminated.

Mayor Henderson thanked Attorney Hennessy and felt this is far improved from what had been offered last time and this is the most diligent route.

Councilmember Fridovich asked if the other side is in agreement with what has been offered here and Attorney Hennessy said this is the one and only deal. They understand this will be executed tonight by the Mayor and himself and they will be required to sign it; they have already indicated their intention to do so by signing the prior draft of the term sheet.

Roll Call:	Councilmember Fridovich	No
	Vice Mayor Ray	Yes
	Councilmember Liedtke	Yes
	Mayor Henderson	Yes

Motion Carried: 3 to 1

**3. Adjournment.**

Motion by Councilmember Liedtke, second by Councilmember Fridovich to adjourn.

Date Approved: \_\_\_\_\_

\_\_\_\_\_  
Samuel Henderson, Mayor

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Lesley DeMuth, City Clerk