

**GULF BREEZE CITY COUNCIL
REGULAR MEETING**

JULY 18, 2011
MONDAY, 6:30 P.M.
COUNCIL CHAMBERS

**REMINDER: THERE WILL BE A BUDGET WORKSHOP, SATURDAY, JULY 16,
2011, 9:00 A.M.-1:00 P.M. A LIGHT MEAL WILL BE PROVIDED**

1. Roll Call
2. Invocation and Pledge of Allegiance
3. Approval of Minutes of July 5, 2011 (Regular Meeting)
Approval of Minutes of July 5, 2011 (Special CRA Meeting)
4. **PUBLIC HEARING:** Ordinance No. 05-11: Adoption of the Amendments to the Gulf Breeze Comprehensive Plan Based on the City's Adopted Evaluation and Appraisal Report
SECOND READING AND FINAL PUBLIC HEARING

Ordinance No. 08-11: Modifications to Ordinances Regarding Regulation of Firearms and Ammunition
FIRST READING
5. **CONSENT AGENDA ITEMS:***
 - A. Discussion and Action Regarding Quarterly Beautification Awards
 - B. Discussion and Action Regarding Development Review Board Minutes of July 6, 2011
 1. Ruth Paulding - 308 North Sunset Boulevard
Request to Amend Seawall and Remove Boat Lift Roof
 - C. Discussion and Action Regarding Renewal of School Resource Officer Agreement
 - D. Discussion and Action Regarding Thrift Stores and Donation Sites
 - E. Discussion and Action Regarding Payment of Wastewater Impact Fees, Pensacola State College (PSC)
 - F. Discussion and Action Regarding Budget Workshops

- G. Discussion and Action Regarding Land Design Innovations Acquired by Littlejohn Engineering Associates

***These are items considered routine in nature and will be considered by one motion. If any citizen wishes to voice an opinion on one of the items, you should advise the Council immediately.**

ACTION AGENDA ITEMS:

- A. Discussion and Action Regarding Award of Bid, Construction of New Community Center
- B. Discussion and Action Regarding Establishment of Proposed Millage Rate for Notification to Property Appraiser
6. New Business: Discussion and Action Regarding Ordinance 08-11, Modifications to Ordinances Regarding Regulation of Firearms and Ammunition (COVERED UNDER ORDINANCE SECTION ABOVE)
7. Open Forum
8. Adjournment

If any person decides to appeal any decisions made with respect to any matter considered at this meeting or public hearing, such person may need to insure that a verbatim record of the proceedings is made, which record includes the testimony and any evidence upon which the appeal is to be based.

The public is invited to comment on matters before the City Council upon seeking and receiving the recognition from the Chair.

**MINUTES OF THE REGULAR MEETING OF THE
CITY COUNCIL OF THE CITY OF GULF BREEZE, FLORIDA**

The 1,179th regular meeting of the Gulf Breeze City Council, Gulf Breeze, Florida was held at the Gulf Breeze City Hall on Tuesday, July 5, 2011, at 6:30 p.m.

Upon call of the roll the following Councilmen were present: Dana Morris, J. B. Schluter, David Landfair, Joseph Henderson and Mayor Zimmern.

APPROVAL OF MINUTES:

Councilman Landfair moved for approval of the minutes for the regular meeting held on June 20, 2011. Councilman Schluter seconded. The vote for approval was 5 - 0.

Councilman Schluter moved for approval of the minutes for the special Community Redevelopment Agency meeting held on June 20, 2011. Councilman Morris seconded. The vote for approval was 5 - 0.

**ORDINANCE NO. 06-11: ESTABLISHING A MOTOR EXCLUSION ZONE ON
THE NORTHEAST SIDE OF DEADMAN'S ISLAND
SECOND READING AND PUBLIC HEARING**

The Ordinance was read by title only by the City Clerk. The Mayor opened the floor for public comments. There were no comments made and the Mayor closed the public hearing. Councilman Henderson moved for approval of the Ordinance on Second Reading. Councilman Morris seconded. The vote for approval was 5 - 0.

**ORDINANCE NO. 07-11: AMENDING THE HEIGHT LIMIT FOR PUBLIC
GYMNASIUMS ON PARK PROPERTY
SECOND READING AND PUBLIC HEARING**

The Ordinance was read by title only by the City Clerk. The Mayor opened the floor for public comments. There were no comments made and the Mayor closed the public hearing. Councilman Landfair moved for approval of the Ordinance on Second Reading. Councilman Morris seconded. The vote for approval was 5 - 0.

CONSENT AGENDA ITEMS:

RECOMMENDATION:

That the City Council approve the following Consent Agenda Items: A, C, D, F, G, I, and J.

Councilman Henderson requested that Item B be removed for further discussion and Councilman Morris asked that Items E and H be removed for further discussion.

- A. **SUBJECT: DISCUSSION AND ACTION REGARDING SPECIAL EVENT REQUEST, ANNUAL 5K CAPT'N FUN RUN SATURDAY, AUGUST 6, 2011 - 7:30 A.M.**

Reference: Deputy Police Chief memo dated June 14, 2011

RECOMMENDATION:

That the City Council approve the request for the Annual 5k Capt'n Fun Run to be held Saturday, August 6, 2011, 7:30 a.m.

- C. **SUBJECT: DISCUSSION AND ACTION REGARDING HIGHWAY 98 TRAFFIC SIGNAL AT LIVE OAK SHOPPING CENTER**

Reference: Assistant Public Services Director memo dated June 23, 2011

RECOMMENDATION:

That the City Council table this project at this time and direct staff to meet with the Police Chief to obtain additional crash data and continue to work on the project.

- D. **SUBJECT: DISCUSSION AND ACTION REGARDING DECLARATION OF OIL SKIMMER AND TURBIDITY CURTAIN AS SURPLUS**

Reference: Public Service Director memo dated June 10, 2011

RECOMMENDATION:

That the City Council declare the Oil Skimmer, Model AP48, Serial # 3744 and the Hydraulic Power Pack, Model AP-48PP, Serial # 3744, and 5,000 feet of Turbidity Barrier as surplus and authorize staff to proceed with marketing these items for sale.

- F. **SUBJECT: DISCUSSION AND ACTION REGARDING ENGINEERING AND DESIGN SERVICES FOR HAZARD MITIGATION GRANT**

Reference: Assistant City Manager memo dated June 24, 2011

RECOMMENDATION:

That the City Council direct staff to enter into a contract with Hatch Mott McDonald for stormwater design and engineering services and authorize the Mayor to sign the contract.

- G. SUBJECT: DISCUSSION AND ACTION REGARDING RFQ FOR STANDBY AGREEMENT FOR DISASTER ADMINISTRATION ASSISTANCE**

Reference: Finance Director memo dated June 14, 2011

RECOMMENDATION:

That the City Council instruct staff to develop and issue a Request for Proposal (RFQ) process to solicit qualified businesses to provide FEMA and disaster related administrative services as may be required by the City for an initial term extending for three years.

- I. SUBJECT: DISCUSSION AND ACTION REGARDING UNDERGROUND WIRING NATURAL RESOURCE PROTECTION AND ENHANCEMENT**

Reference: City Manager memo dated June 24, 2011

RECOMMENDATION:

That the City Council approve hiring a consultant to provide a price and phase implementation for underground wiring along U.S. Highway 98.

- J. SUBJECT: DISCUSSION AND ACTION REGARDING PENSACOLA BAY BRIDGE REPLACEMENT STUDY PROJECT ADVISORY GROUP**

Reference: City Manager memo dated June 24, 2011

RECOMMENDATION:

That the City Council appoint the City Manager to be a member of the Project Advisory Group for the Pensacola Bay Bridge Replacement Project.

Councilman Henderson moved for approval of the following Consent Agenda Items: A, C, D, F, G, I and J. Councilman Morris seconded. The vote for approval was 5 - 0.

ACTION AGENDA ITEMS:

B. SUBJECT: DISCUSSION AND ACTION REGARDING SOUTH SUNSET BOULEVARD WIDENING AND REPAVING PROJECT

Reference: Assistant Public Services Director memo dated June 23, 2011

RECOMMENDATION:

That the City Council approve Kenneth Horne & Associates fee proposal of \$36,287 for the design, bidding and construction administration of the South Sunset Boulevard Project. Council also suggested no driveway apron be installed at the driveway going into the back tennis courts, no parking be allowed at that location and the fence be continued across the opening.

Councilman Henderson moved for approval. Councilman Morris seconded. The vote for approval was 5 - 0.

E. SUBJECT: DISCUSSION AND ACTION REGARDING PAYMENT OF WASTEWATER IMPACT FEES, PENSACOLA STATE COLLEGE (PSC)

Reference: City Manager memo dated June 24, 2011

RECOMMENDATION:

That the City Council table this item until the South Santa Rosa Utility Board of Directors meet and approve the payment of 25% of the \$40,560 total from the SSRUS Fund wastewater impact fees for Phase One of the construction of the Pensacola State College Campus. (PSC will pay half the balance, with 25% from the City's Natural Gas Fund.)

Councilman Morris moved for approval. Councilman Henderson seconded. The vote for approval was 5 - 0.

H. SUBJECT: DISCUSSION AND ACTION REGARDING AMENDMENTS OF THE CITY'S CODE OF ORDINANCES IN RESPONSE TO LEGISLATIVE PREEMPTION OF LOCAL LAWS RE: FIREARMS

Reference: City Manager memo dated June 24, 2011

RECOMMENDATION:

That the City Council direct staff and the City Attorney to draft the necessary ordinances to amend the City's Code of Ordinances relative to preemption by the State of Florida of local laws that regulate use of firearms.

Councilman Morris moved for approval. Councilman Schluter seconded. The vote for approval was 5 - 0.

NEW BUSINESS: DISCUSSION AND ACTION REGARDING DISTRIBUTION OF A DONATION BY A RESIDENT

Reference: Verbal report from the City Manager

RECOMMENDATION:

That the City Council approve the following plan for distribution of a donation made by a resident: (1) protective gear for the Police Department; and (2) forward looking radar for the Fire Rescue Boat.

Councilman Henderson moved for approval. Councilman Morris seconded. The vote for approval was 5 - 0.

ADJOURNMENT:

The Mayor adjourned the meeting at 7:00 p.m.

CITY CLERK

MAYOR

**MINUTES OF A MEETING OF THE BOARD OF DIRECTORS
FOR THE COMMUNITY REDEVELOPMENT AGENCY**

A meeting of the Board of Directors for the Community Redevelopment Agency, Gulf Breeze, Florida, was convened at the Gulf Breeze City Hall on Tuesday, July 5, 2011, at 6:57 p.m.

Upon call of the roll for the Community Redevelopment Agency the following members were present: Dana Morris, Mayor Pro Tem J. B. Schluter, David G. Landfair, Joseph Henderson and Mayor Beverly Zimmern..

The purpose of the meeting was for the Board of directors for the Community Redevelopment Agency to consider the following items:

CONSENT AGENDA ITEMS:

RECOMMENDATION:

That the City Council approve the following Consent Agenda Items: A and B:

- A. SUBJECT: DISCUSSION AND ACTION REGARDING LIFT STATION UNDERGROUND ELECTRICAL SERVICE - CRA IMPROVEMENTS**

Reference: Assistant Public Services Director memo dated June 23, 2011

RECOMMENDATION:

That the City Council approve Gulf Winds Electrical, LLC, for the installation of underground electrical service to the Gulf Breeze Plaza Lift Station at a cost of \$5,900 to be paid from CRA Funds.

- B. SUBJECT: DISCUSSION AND ACTION REGARDING SIDEWALK REPAIR AT CVS SHOPPING CENTER - CRA IMPROVEMENTS**

Reference: Assistant Public Services Director memo dated June 23, 2011

RECOMMENDATION:

That the City Council approve Radford and Nix for the replacement of sidewalk at the CVS Shopping Center for an amount not to exceed \$1,000 to be paid from CRA Funds.

Councilman Landfair moved for approval. Councilman Morris seconded. The vote for approval was 5 - 0.

ADJOURNMENT:

The Mayor adjourned the meeting at 6:59 p.m.

CITY CLERK

MAYOR

ORDINANCE 05-11

AN ORDINANCE OF THE CITY OF GULF BREEZE, FLORIDA, AMENDING THE COMPREHENSIVE PLAN BASED ON THE CITY'S ADOPTED EVALUATION AND APPRAISAL REPORT, AND WHICH AMENDMENT INCLUDES CHANGES TO THE GOALS, OBJECTIVES AND POLICIES OF THE FUTURE LAND USE, TRANSPORTATION, HOUSING, INFRASTRUCTURE, CONSERVATION, COASTAL MANAGEMENT, RECREATION AND OPEN SPACE, INTERGOVERNMENTAL COORDINATION, CAPITAL IMPROVEMENTS, AND PUBLIC SCHOOL FACILITIES ELEMENTS OF THE COMPREHENSIVE PLAN PURSUANT TO CHAPTER 163, FLORIDA STATUTES; AMENDING THE FUTURE LAND USE MAP SERIES AND TRANSPORTATION MAP SERIES; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature intends that local planning be a continuous and ongoing process; and

WHEREAS, the City Council adopted the Comprehensive Plan, Ordinance number 06-90 on September 4, 1990; and

WHEREAS, Section 163.3191, Florida Statutes, directs local governments to adopt needed amendments to ensure that the plan provides appropriate policy guidance for growth and development; and

WHEREAS, the City Council, on April 5, 2010, held an advertised public hearing for the proposed Ordinance, which provided for comments and public participation in the process in accordance with the requirements of state law and the procedures adopted for public participation in the planning process, and transmitted the EAR-based Comprehensive Plan Amendments to the Department of Community Affairs on September 29, 2010 for comment; and

WHEREAS, The Department of Community Affairs (DCA) reviewed the EAR-based Comprehensive Plan Amendments, and issued its Objections, Recommendations and Comments (ORC) Report on November 29, 2010; and

WHEREAS, the City Council has reviewed the ORC Report, considered the amended EAR-based Comprehensive Plan and reviewed the response to the ORC Report at two duly advertised public hearings on June 20, 2011 and July 18, 2011, and determined that each

document has addressed all of the DCA comments, and the Council is now ready to adopt the EAR-based Comprehensive Plan.

NOW THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF GULF BREEZE, FLORIDA, AS FOLLOWS:

SECTION 1. The City Council does hereby adopt the EAR-based Comprehensive Plan Amendments, attached hereto as Exhibit "A" (Volume I, Goals, Objectives and Policies) and Exhibit "B" (Volume II, Map Atlas) and incorporated by reference.

SECTION 2. Conflicts. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

SECTION 3. Severability. If an Section or portion of a Section of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Ordinance.

SECTION 4. Effective Date. The effective date of this Plan Amendment shall be the date a final order is issued by the Department of Community Affairs or Administration Commission finding the amendment in compliance, in accordance with Section 163.3184 Florida Statutes, whichever occurs earlier. No development orders, development permits, development agreements or land uses dependent on a part of this Plan Amendment may be issued or commence before the Plan Amendment has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the Florida Department of Community Affairs. An adopted amendment whose effective date is delayed by law shall be considered part of the adopted plan until determined not to be in compliance by final order of the Administration Commission. Then, it shall no longer be part of the adopted plan unless the local government adopts a resolution affirming its effectiveness in the manner provided by law.

FIRST READING and PUBLIC HEARING this 20th day of June, 2011.

SECOND READING and PUBLIC HEARING this 18th day of July, 2011.

PASSED and ADOPTED by the City Council of Gulf Breeze, Santa Rosa County, Florida, on this _____ day of _____, 2011.

CITY OF GULF BREEZE, FLORIDA

Beverly H. Zimmern, Mayor

Attest:

Marita Rhodes, City Clerk

ORDINANCE NO.: 08-11

AN ORDINANCE OF THE CITY OF GULF BREEZE ADOPTING NEW ORDINANCES AND MODIFYING EXISTING ORDINANCES SO AS TO COMPLY WITH LAWS OF FLORIDA CHAPTER 2011-109, INCLUDING ADOPTING SECTION 1-17 OF THE CODE OF ORDINANCES OF THE CITY OF GULF BREEZE CLARIFYING THAT NO PROVISIONS OF THE CODE ARE INTENDED AND SHALL NOT BE CONSTRUED TO BE IN CONFLICT OR INCONSISTENT WITH FLORIDA STATUTES SECTION 790.33, INCLUDING REVISIONS THERETO AS CONTEMPLATED BY CHAPTER 2011-109, LAWS OF FLORIDA; ADOPTING SECTION 8-87 OF THE CODE OF ORDINANCES OF THE CITY OF GULF BREEZE CLARIFYING THAT NO PORTIONS OF THE CITY'S NOISE AND EXCESSIVE SOUND REGULATIONS SET FORTH IN ARTICLE III OF CHAPTER 8 OF THE CODE OF ORDINANCES ARE INTENDED OR IN ANY MANNER SHALL BE DEEMED TO BE IN CONFLICT OR INCONSISTENT WITH THE PROVISIONS OF FLORIDA STATUTES SECTION 790.33, INCLUDING REVISIONS THERETO CONTEMPLATED BY CHAPTER 2011-109, LAWS OF FLORIDA; REPEALING SECTION 11-2 OF THE CODE OF ORDINANCES OF CITY OF GULF BREEZE REGARDING DISCHARGE OF FIREARMS AND EXPLOSIVES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida has enacted Laws of Florida Chapter 2011-109 amending the provisions of Florida Statutes Section 790.33, also known as the "Joe Carlucci Uniform Firearms Act."

WHEREAS, Laws of Florida Chapter 2011-109 establishes that it is the intent of the Legislature through Florida Statutes Section 790.33 to deter and prevent violations thereof and violations of rights protected under the Constitution and laws of the State of Florida relating to firearms, ammunitions, or components thereof, by official authority that occurs when enactments are passed in violation of state law or under color of local or state authority.

WHEREAS, Laws of Florida Chapter 2011-109 expressly preempts unto the State the entire field of regulation of firearms and ammunitions, including the purchase, sale, transfer, taxation, manufacture, ownership, possession, storage, and transportation thereof, to the exclusion of all existing and future county, city, town, or municipal ordinances or any administrative regulations or rules adopted by local or state government relating thereto. Thus, unless expressly authorized by the Florida Constitution or general State law, local governments will be preempted from any manner of regulation of firearms and ammunitions.

WHEREAS, Laws of Florida Chapter 2011-109 establishes various penalties for violating Florida Statutes Section 790.33, including provisions that:

(a) require a court to declare ordinances, regulations, or rules that violate Florida Statutes Section 790.33 invalid and issue a permanent injunction against the local government from enforcing such ordinances, regulations, or rules;

(b) require a court to assess a civil fine of up to \$5,000.00 against the elected or appointed local government official or administrative agency head under whose jurisdiction a violation occurred if the court determines that a violation was knowing and willful;

(c) specify that a knowing and willful violation of the statute by a person acting in an official capacity is cause for immediate termination of employment; and

(d) authorize a person or organization whose membership is adversely affected by the ordinance, regulation, measure, directive, rule, enactment, order, or policy promulgated in violation of the statute to file for declaratory and injunctive relief and for all actual damages attributed to the violation; and in such suits, courts shall award the prevailing plaintiff (i) reasonable attorney's fees and costs, including a contingency fee multiplier as authorized by law, and (ii) the actual damages incurred up to \$100,000.00.

WHEREAS, Laws of Florida Chapter 2011-109 also significantly limits the use of public funds to defend or reimburse the unlawful conduct of any person found to have knowingly and willfully violated Florida Statutes Section 790.33, and provides that such a violation shall be cause for termination of employment or contract or removal from office by the Governor.

WHEREAS, prior to adoption of Laws of Florida Chapter 2011-109 it had been accepted practice of numerous local governments throughout the State of Florida to use their home rule powers to enact ordinances that did not specifically regulate firearms, but which, like ordinances addressing noise and excessive sounds, could impact the use of firearms in the same manner that it would impact other activities generally regulated by such police power ordinances.

WHEREAS, the City of Gulf Breeze, in Sections 8-80 through 8-86 of the Code of Ordinances of the City of Gulf Breeze, has enacted regulations addressing excessive noise and noise pollution that has adverse effects upon public health, safety, welfare, and quality of life, and has adopted other ordinances which may be deemed to conflict with, be inconsistent with, be preempted by, or otherwise be in violation of Florida Statutes Section 790.33, as amended by Laws of Florida Chapter 2011-109.

WHEREAS, the City Council of the City of Gulf Breeze intends by this Ordinance to take all actions necessary so as to assure that no provisions of the Code of Ordinances of the City of Gulf Breeze, including but not limited to Sections 8-80 through 8-86 and Section 11-2, shall be deemed, interpreted, construed, implemented, administered, enforced, etc., in any manner whatsoever to be

a violation of Florida Statutes Section 790.33, including as the statute has been amended by Laws of Florida Chapter 2011-109.

NOW, THEREFORE, be it ordained by the City Council of the City of Gulf Breeze, Florida, as follows:

SECTION 1. Section 1-17 of Chapter 1 of the Code of Ordinances of the City of Gulf Breeze is hereby created to read as follows:

SECTION 1-17. Ordinances Regulating Firearms and Ammunitions.

As established by Florida Statutes Section 790.33, including amendments thereto enacted by Laws of Florida Chapter 2011-109, except as expressly provided by the Florida Constitution or by general law, the Florida Legislature is occupying the whole field of regulation of firearms and ammunitions, including the purchase, sale, transfer, taxation, manufacture, ownership, possession, storage, and transportation thereof, to the exclusion of all existing and future county, city, town, or municipal ordinances are any administrative regulations or rules adopted by local or state government relating thereto. Accordingly, all ordinances, regulations, and rules set forth in or contemplated by this Code which in any manner regulate firearms or ammunitions to the extent that the subject matter thereof has been properly occupied by, reserved to, or preempted by the Florida Legislature (i) are hereby declared to be null and void; and (ii) shall not be interpreted, construed, implemented, enforced or the like in any manner so as to conflict with, be inconsistent with, or violate Florida Statutes Section 790.33, including any subsequent amendments thereto.

The City acknowledges that the whole field of regulation of firearms and ammunitions, including any components thereof, are being occupied by the Florida Legislature and that, except as expressly provided by the Florida Constitution or by general law, the City is preempted from adopting, enacting, implementing, or enforcing any ordinances, regulations, and rules pertaining thereto to the extent that the subject matter thereof has been preempted by the Florida Legislature. Accordingly, as a rule of construction and interpretation applicable to all provisions of this Code, it is hereby directed that no provision of this Code shall be deemed or interpreted in any manner to violate state law, including Florida Statutes Section 790.33; rather, the provisions of this Code shall be interpreted and constructed in a manner so as to not cause or result in a violation of state law, including Florida Statutes Section 790.33.

SECTION 2. Section 8-87 is hereby created to be part of Article III of Chapter 8 of the Code of Ordinances of the City of Gulf Breeze, Florida, and shall read as follows:

SECTION 8-87. No Regulation of Firearms or Ammunitions.

No provisions in this Article are intended to be, nor shall any provision of this Article be in any manner interpreted or construed to be, a regulation of firearms or ammunitions in violation of Florida Statutes Section 790.33, including all subsequent amendments thereto. Notwithstanding any

term or provision of this Article which might appear or suggest otherwise, it is hereby expressly acknowledged that the Florida Legislature is occupying the whole field of regulation of firearms and ammunitions, including the purchase, sale, transfer, taxation, manufacture, ownership, possession, storage, and transportation thereof, to the exclusion of all existing and future county, city, town, or municipal ordinances or any administrative regulations or rules adopted by local or state governments relating thereto and, correspondingly, no provision of this Article shall apply to firearms and ammunitions.

SECTION 3. Section 11-2 of the Code of Ordinances of the City of Gulf Breeze is hereby repealed in its entirety.

SECTION 4. Severability. It is the intent of this Ordinance to establish that the Code of Ordinances of the City of Gulf Breeze are consistent with and do not supersede or conflict with any law, rule, or regulation that has been reserved to or is preempted by the laws, rules, and regulations of the State of Florida relating to the regulation of firearms and ammunitions. Accordingly, if any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance. Further, in the event that any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then it is hereby declared to be the intent of the City Council of the City of Gulf Breeze that this Ordinance be construed to the fullest extent possible in a manner that is valid and constitutional and excepting only such portions of this Ordinance that are necessary in order for the remaining portions hereof to be valid and lawful.

SECTION 5. Conflict. The provisions of this Ordinance shall be deemed to control and prevail over any ordinance, regulation, rule, or portion thereof in conflict with the terms hereof.

SECTION 6. Effective Date. This Ordinance shall become effective upon its adoption by the City Council of the City of Gulf Breeze.

PASSED ON FIRST READING ON THE ____ DAY OF _____, 2011.

ADVERTISED ON THE ____ DAY OF _____, 2011.

PASSED ON SECOND READING ON THE ____ DAY OF _____, 2011.

BY _____
BEVERLY ZIMMERN, Mayor

ATTESTED TO BY:

MARITA RHODES, City Clerk

Edwin Eddy

From: Matt Dannheisser [mdannheisser@dannheisserlaw.com]
Sent: Monday, July 11, 2011 5:13 PM
To: Edwin Eddy; Craig S. Carmichael
Cc: Stephanie Lucas; Matt Dannheisser
Subject: Modifications to Ordinances Regarding Regulation of Firearms and Ammunitions
Attachments: Ordinance_Firearms_and_Ammunitions.pdf

Buz and Shane:

Attached to this email is a first draft of proposed Ordinance No.: 08-11 which is intended to assure that the City's Code of Ordinances complies with the requirements of House Bill 45 (i.e., Laws of Florida Chapter 2011-109). As previously discussed, I have identified two specific ordinances that require modifications so as to avoid conflict with House Bill 45, to wit: (i) the noise ordinances set forth in Sections 8-80 through 8-86, and (ii) the prohibition set forth in Section 11-2 upon discharging firearms without a permit from the City Council.

With respect to the noise ordinances, I have proposed the adoption of new Code Section 8-87 which clarifies that the noise control regulations contemplated in Sections 8-80 through 8-86 do not apply to firearms and ammunitions, and are not to be interpreted in a manner that would violate Florida Statutes Section 790.33 (as amended by recently enacted House Bill 45). With respect to the prohibition upon discharge of firearms or explosives without a permit from the City Council as currently required in Section 11-2, the attached Ordinance simply proposes a complete repeal of that Section.

The proposed Ordinance also provides for the adoption of new Code Section 1-17 which establishes rules of general interpretation and construction regarding regulation of firearms and ammunitions that is to be applied throughout the entire Code of Ordinances. Specifically, that Section acknowledges that the entire field of regulation of firearms and ammunitions has been reserved to the State and that all provisions of the City's Code of Ordinances in conflict therewith shall be null and void, and that no provision set forth in the Code shall in any manner be deemed to be the regulation of firearms or ammunitions unless expressly authorized by the Florida Constitution or general State law.

In light of the potential consequences to individual City Council members as well as City staff for violations of Florida Statutes Section 790.33, before submitting the proposed Ordinance to the City Council for its consideration

I would ask that both of you not only carefully review the proposed Ordinance for accuracy and completeness, but also review the entire Code to determine if there are any other provisions thereof that should be expressly modified so as to comply with the requirements of House Bill 45.

Please give me a call if you have any questions.

Matt

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(850) 432-2028 (Facsimile)
MDannheisser@DannheisserLaw.com

EXECUTIVE COMMITTEE REPORT

JULY 13, 2011

Councilmen Present: Dana Morris, Joseph Henderson, David G. Landfair, Mayor Pro Tem
J. B. Schluter and Mayor Beverly Zimmern

ACTION AGENDA ITEMS:

**A. SUBJECT: DISCUSSION AND ACTION REGARDING QUARTERLY
BEAUTIFICATION AWARDS**

Reference: City Manager memo dated July 8, 2011

RECOMMENDATION:

That City Council approve the Beautification Committee plans to present their quarterly beautification awards at the July 18, 2011 Council meeting.

**B. SUBJECT: DISCUSSION AND ACTION REGARDING DEVELOPMENT
REVIEW REFERRALS FROM JULY 6, 2011 MEETING**

Reference: Development Review Board Minutes of July 6, 2011

- (I) Ruth Paulding
Requests to Amend Seawall and Remove Boat House Roof

RECOMMENDATION:

That the City Council approve the modification to the existing seawall and removal of the boat house roof.

**C. SUBJECT: DISCUSSION AND ACTION REGARDING ORDINANCE 05-11,
ADOPTION OF THE AMENDMENTS TO THE GULF BREEZE
COMPREHENSIVE PLAN BASED ON THE CITY'S ADOPTED
EVALUATION AND APPRAISAL REPORT
FINAL PUBLIC HEARING**

Reference: Assistant City Manager memo dated July 8, 2011

RECOMMENDATION:

That the City Council hold the Public Hearing on July 18, 2011 for a second reading on the adopted EAR-based amendments and approve Ordinance 05-11. The City Attorney presented a change to the City Council relative to the Gateway District adjacent to Chanteclair. (The Council directed changes to be made to the supporting documents to reflect this change.)

**D. SUBJECT: DISCUSSION AND ACTION REGARDING AWARD OF BID,
CONSTRUCTION OF NEW COMMUNITY CENTER**

Reference: City Manager memo dated July 8, 2011

RECOMMENDATION:

That the City Council award the bid for construction and remodeling of the City's Community Center to Hewes and Company with bid alternates 1-6 and alternate 8 for a total cost of \$6,276,275.

**E. SUBJECT: DISCUSSION AND ACTION REGARDING RENEWAL OF
SCHOOL RESOURCE OFFICER AGREEMENT**

Reference: City Manager memo dated July 8, 2011

RECOMMENDATION:

That the City Council approve the renewal of the School Resource Officer Agreement with Santa Rosa County School District for 2011 - 2012.

**F. SUBJECT: DISCUSSION AND ACTION REGARDING THRIFT STORES
AND DONATION SITES**

Reference: Community Services Director memo dated July 6, 2011

RECOMMENDATION:

That the City Council declare a moratorium on thrift stores and donation drop off sites in the Gateway Overlay District and the Central Business Overlay District and direct staff to prepare an ordinance incorporating changes.

**G. SUBJECT: DISCUSSION AND ACTION REGARDING PAYMENT OF
WASTEWATER IMPACT FEES, PENSACOLA STATE COLLEGE**

Reference: City Manager memo dated June 24, 2011

RECOMMENDATION:

That the City Council approve the payment of wastewater impact fees for Phase One of the construction of the Pensacola State College South Santa Rosa County Campus with 25% of the \$40,560 total from the City's Natural Gas fund and 25% from the SSRU fund. PSC will pay the balance.

H. SUBJECT: DISCUSSION AND ACTION REGARDING BUDGET WORKSHOPS

Reference: City Manager memo dated July 8, 2011

RECOMMENDATION:

That a budget workshop be scheduled for Saturday, July 16 from 9:00 a.m. to 1:00 p.m.

I. SUBJECT: DISCUSSION AND ACTION REGARDING ESTABLISHMENT OF PROPOSED MILLAGE RATE FOR NOTIFICATION TO PROPERTY APPRAISER

Reference: Assistant City Manager memo dated July 8, 2011

RECOMMENDATION:

That the City Council establish 1.9 mills, as the millage rate to be provided to the Property Appraiser for notification to property owners to accomplish "TRIM" requirements. That the Tentative Budget Hearing date for adopting the Resolution for Tentative Ad Valorem and Budget be set for a special meeting Wednesday, September 14, 2011, 6:30 p.m. at Gulf Breeze City Hall, and that the Council set Tuesday, September 20, 2011, 6:30 p.m. at Gulf Breeze City Hall as the date for the final millage, budget public hearing.

J. SUBJECT: DISCUSSION AND ACTION REGARDING LAND DESIGN INNOVATIONS ACQUIRED BY LITTLEJOHN ENGINEERING ASSOCIATES

Reference: Assistant City Manager memo dated July 8, 2011

RECOMMENDATION:

That the City Council direct staff to solicit an assignment to the current contract from Littlejohn Engineering Associates for Development Review Services on an as needed basis and authorize the Mayor to sign the contract.

K. INFORMATION ITEMS

**NEW BUSINESS: DISCUSSION AND ACTION REGARDING ORDINANCE
08-11, MODIFICATIONS TO ORDINANCES REGARDING
REGULATION OF FIREARMS AND AMMUNITION
FIRST READING**

Reference: City Attorney e-mailed dated July 13, 2011 and Ordinance

RECOMMENDATION:

That the City Council approve Ordinance 08-11 on First Reading July 18, 2011 and schedule the Second Reading and Public Hearing for Monday, August 1, 2011.