INTRODUCTION
A regular meeting of the City Council of Fort Walton Beach, Florida, was held on Tuesday, March 23, 2010, at 6:00 p.m. in the Council Chambers at City Hall, with the following members present:

Councilmen: Mike Holmes, Dennis Reeves, Bill Garvie (Mayor Pro Tem), Bobby Nabors, Bill Patterson, and Dick Rynearson

Absent: Mayor Mike Anderson; Seat 2 Vacant

Also Present: Robert Mearns, City Manager; Helen Spencer, City Clerk; Toni Craig, City Attorney; Department Directors and Media.

CALL TO ORDER
The Mayor Pro Tem called the meeting to order and welcomed everyone. He requested anyone who wished to address Council to approach the podium after being recognized, then state his or her name and address for the record.

INVOCATION/PLEDGE OF ALLEGIANCE
Dave Lester, First Reader, Christian Science Church, gave the Invocation and led in the Pledge of Allegiance.

PROCLAMATION—KICK BUTTS DAY
The Mayor Pro Tem presented Linda Litschauer, representing the FWBHS Students Working Against Tobacco (SWAT) of Fort Walton Beach High School, a proclamation for Kick Butts Day.

PROCLAMATION—HANDS AND LINKING ARMS DAY
The Mayor pro Tem presented Bishop Wendell Brock a proclamation for Helping Hands and Linking Arms Day.

STUDENT ACE AWARD
The Mayor Pro Tem presented the Student Ace Award for March to Rebecca Gornto of Choctawhatchee High School.

DISTINGUISHED BUDGET AWARD
The Mayor Pro Tem presented the Distinguished Budget Award to Finance Director Brandy Wunker.

APPROVAL OF AGENDA
The Mayor Pro Tem requested item 9.3, Discussion of Potential Litigation Against Merrill Lynch, be moved to after Item 2.2, a presentation on the Census 2010. The Mayor Pro Tem explained the attorney present to discuss the potential litigation is from out of town and requested he be placed earlier on the agenda.

Mr. Patterson moved to approve the agenda as the business of the day, as amended, moving Item 9.3, Potential Litigation Against Merrill Lynch, to after Item 2.2, Presentation on the Census 2010. Mr. Reeves seconded motion and it carried unanimously with Holmes, Reeves, Garvie, Nabors, Patterson, and Rynearson in favor (Seat 2 Vacant).
FY ANNUAL AUDIT AND COMPREHENSIVE FINANCIAL REPORT

The Mayor Pro Tem thanked everyone involved with the budget, stating it is a credit to all involved that such an excellent budget report was given in these tough economic times.

The Finance Director requested a motion from Council to accept the CAFR.

Mr. Rynearson moved to accept the Comprehensive Annual Financial Report (CAFR) for the fiscal year ended September 30, 2009. Mr. Reeves seconded motion and it carried unanimously with Holmes, Reeves, Garvie, Nabors, Patterson, and Rynearson in favor (Seat 2 Vacant).

CENSUS 2010 PRESENTATION
Cam Johnson, Public Information Officer, provided information on the 2010 Census and discussed its importance to the City of Fort Walton Beach in regards to the appropriation of federal and state funding, budget planning, transportation needs, and business development.

DISCUSSION OF POTENTIAL LITIGATION AGAINST MERRILL LYNCH
Glen Thomas, the City’s General Pension Attorney from Lewis, Longman, and Walker, discussed the basis of the potential lawsuit with Merrill Lynch. He described the actions of Merrill Lynch as a breach of fiduciary duty and a conflict, explaining that the job of Merrill Lynch is to look after and monitor the money managers of the pension fund. However, Merrill Lynch kept money managers that they shouldn’t have, and retained money managers they should have let go, and because they were looking after their commissions instead of the pension funds, the allegation is that the pension funds lost money, although it is not really known if funds were lost.

Mr. Thomas discussed the contingency agreement from Beggs and Lane and stated it is a very standard agreement. He informed this is a special type of law and Beggs and Lane knows the in and out of this type of investigation and know exactly what to look for, and he recommended going forward with the contingency agreement.

The City Attorney advised an issue of the agreement is if the City decides to move forward with the lawsuit then decide to stop it, the City may be responsible for costs incurred up to the time it is stopped. She advised Council to stay with the lawsuit until it is done which may take two to three years.

Mr. Thomas recommend that language be included in the agreement with Beggs and Lane that states any initial investigation that is done is at the risk of Beggs and Lane if they decide not to pursue the lawsuit.

Mr. Nabors moved to go forward with supporting the lawsuit with the stipulation that any investigation that is done is at the risk of Beggs and Lane if they decide not to pursue the lawsuit; and to authorize the City Manager to send the case forward as a cause of action. Mr. Patterson seconded motion and it carried unanimously with Holmes, Reeves, Garvie, Nabors, Patterson, and Rynearson in favor (Seat 2 Vacant).

CONSENT AGENDA
Mr. Reeves moved to approve the following Consent Agenda items. Mr. Holmes seconded motion and it carried unanimously with Holmes, Reeves, Garvie, Nabors, Patterson, and Rynearson in favor (Seat 2 Vacant).
APPROVAL OF MINUTES
Approval of the minutes of Regular Council Meeting of March 9, 2010 and the Special Council Meeting of March 15, 2010.

SATISFACTION OF LIEN—210-212 STOKES AVENUE
Satisfaction of Lien for property at 210-212 Stokes Avenue as the assessment for street, drainage, and sewer improvements have been paid in full by the property owner.

RES. 2010-10, CDBG BUDGET AMENDMENT
A RESOLUTION OF THE CITY OF FORT WALTON BEACH, FLORIDA, AMENDING THE FISCAL YEAR OCTOBER 1, 2009 THROUGH SEPTEMBER 30, 2010 BUDGET TO MAKE CERTAIN AMENDMENTS TO APPROPRIATIONS OF CITY FUNDS; AND PROVIDING AN EFFECTIVE DATE.

PUBLIC COMMENTS
Lt. Col. (Ret) Carmen Reynolds, 9621 Sunnybrook Drive, Navarre, re-addressed the issue of the Shariah Law which was discussed at the March 9, 2010 Council meeting. She advised she provided additional information to the City Clerk for distribution to Council, as well as to citizen Lee Bobo, who provided input at the March 9 meeting. Ms. Reynolds discussed how the Shariah Law works and discussed key individuals on the Shariah finance in the United States; their roles in their respective countries; and the need to take a stand against the Shariah-financed institutions in the US. Ms. Reynolds asked that Council reconsider their decision and to draft an ordinance that prohibits the City from doing business with financial institutions who are Shariah Compliant.

Council advised they had discussed this issue previously and consensus at that time, and as of now, is to take no action.

Chris Gibson, 249 Brooks Street SE, questioned the need for Ladder Truck #6 to respond to non-emergency medical runs. Mike Dutton, Fire Chief, explained that Rescue Truck #6 is the first respondent vehicle; however, Ladder Truck #6 will respond to a call in the event Rescue Truck #6 is unavailable. Chief Dutton further explained that emergency calls go through Central Dispatch in Crestview, and they determine whether the call is an emergency or non-emergency.

Ms. Gibson also discussed her displeasure that a softball field at the Fairgrounds was lost to the county due to the construction of the courthouse annex. Jeff Peters, Recreation/Cultural Services Director, advised two softball fields are left at the Fairgrounds, and that with the renovation of Chester Pruitt Park, plans are to use that park for co-ed softball. Mr. Peters advised that when grants become available, there are areas in the City that are being looked at for a possible sports complex.

Ms. Gibson also discussed the Library Cooperative with Okaloosa County and the amount of funding the City contributes to the library, as opposed to non-residents who use the City facility.

As there was no one else who wished to speak, public input was closed.

ORDINANCE 1818—REMOVES LANGUAGE FROM SECTION OF THE LDC
The City Attorney read the ordinance on first reading by title.
ORD. 1818 (CONT)
AN ORDINANCE OF THE CITY COUNCIL OF FORT WALTON BEACH, FLORIDA, PROVIDING AUTHORITY & INTENT; REPEAL OF SECTION 13.30.8, TEMPORARY USES; AMENDING CHAPTER 15, ZONING DISTRICTS, OF THE LAND DEVELOPMENT CODE, BY DELETING FARMERS MARKETS AND OUTDOOR SALE AND DISPLAY; AND SETTING AN EFFECTIVE DATE.

Samantha Abell, Planning Manager, advised this ordinance removes “Farmers Market” and “Outdoor Display and Sales” from Table 15-2 of the Land Development Code, in order to provide internal consistency subsequent to Ordinance 1823, which provides for both “Farmers Markets” and “Outdoor Display and Sales” within the City’s Code of Ordinances.

The Mayor Pro Tem opened the public hearing. There was none.

Mr. Nabors moved to adopt Ord. 1818 on first reading. Mr. Reeves seconded motion and it carried unanimously with Holmes, Reeves, Garvie, Nabors, Patterson, and Rynearson in favor (Seat 2 Vacant).

ORDINANCE 1820—AMENDS SECTION 10.52.04, BASES OF CHARGES FOR CITY WATER SUPPLY
The City Attorney read the ordinance on second reading by title.

AN ORDINANCE OF THE CITY OF FORT WALTON BEACH, FLORIDA; PROVIDING AUTHORITY; AMENDING SECTION 10.52.04, BASES OF CHARGES FOR CITY WATER SUPPLY, OF THE CODE OF ORDINANCES TO CORRECT AUTHORITY FOR MINIMUM FEE FOR 2,000 GALLONS; AND PROVIDING AN EFFECTIVE DATE.

The Finance Director advised there were no changes to the ordinance since first reading.

The Mayor Pro Tem opened the public hearing. There was none.

Mr. Reeves moved to adopt Ord. 1820 on second reading. Mr. Rynearson seconded motion and it carried unanimously with Holmes, Reeves, Garvie, Nabors, Patterson, and Rynearson in favor (Seat 2 Vacant).

ORD. 1824—NO COST GRAVES FOR CITY POLICE/FIREIGHTERS AND CITY RESIDENTS OF THE ARMED FORCES KILLED IN ACTION
The City Attorney read the ordinance on second reading by title.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FORT WALTON BEACH, FLORIDA AMENDING SECTION 10.10.15, ENTITLED COST, PAYMENT FOR LOTS, CRYPTS, NICHES, OF THE CODE OF ORDINANCES BY ADDING SECTION 10.10.15.1 ENTITLED “EXEMPTION FOR CERTAIN PERSONS;” DEFINING ELIGIBILITY; PROVIDING FOR VERIFICATION OF STATUS; PROVIDING FOR ASSIGNMENT OF CEMETARY PLOT OR WALL NICHE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Mr. Reeves advised it was his understanding that the intent of the ordinance was to provide a burial plot, but that the ordinance includes interment services for qualified persons. Mr. Patterson responded his intent was to provide a burial plot to Fort Walton Beach police officers and firefighters who die performing their jobs, and any member of the United States military killed in action who is a resident of Fort Walton Beach, including reserve or guard members. The City Manager informed it was his understanding the ordinance was to provide the interment services but that Council could amend the ordinance to exclude the interment services.
ORD. 1824 (CONT)
Mr. Reeves moved to amend Ord. 1824 to provide a cemetery plot or wall niche at no cost to Fort Walton Beach police officers and firefighters who die performing their jobs, and any member of the United States military killed in action who is a resident of Fort Walton Beach, but not to provide interment services. Mr. Nabors seconded motion.

The Mayor Pro Tem opened the public hearing.

Chris Gibson, 249 Brooks Street SE, questioned why the City is offering this for military when most military members are buried at the military facility in Pensacola. Ms. Gibson also discussed the cost for perpetual care and that by giving a plot for free takes away funding for maintenance and perpetual care for the cemetery. Mr. Nabors commented that the loss of military in the city is next to none, and that the City would not lose revenue for the very few times a burial plot would be provided.

As there was no one else who wished to speak, the public hearing was closed.

The Mayor Pro Tem called for the vote on the amendment and it carried unanimously with Holmes, Reeves, Garvie, Nabors, Patterson, and Rynearson in favor.

Mr. Reeves moved to adopt Ord. 1824 on second reading, as amended. Mr. Nabors seconded motion and it carried unanimously with Holmes, Reeves, Garvie, Nabors, Patterson, and Rynearson in favor (Seat 2 Vacant).

HISTORIC SITES BOARD APPOINTMENT
Mr. Reeves nominated Mark Franks, 1057 Emerald Lane, Fort Walton Beach, to serve on the Historic Sites and Structures Advisory Board for a four-year term beginning March 23, 2010 until March 23, 2014. The Mayor Pro Tem called for the vote on the nomination and it carried unanimously with Holmes, Reeves, Garvie, Nabors, Patterson, and Rynearson in favor (Seat 2 Vacant).

CODE ENFORCEMENT BOARD APPOINTMENT
Mr. Reeves nominated Beth McHenry, 21A Wright Parkway, Fort Walton Beach, to serve on the Code Enforcement Board for a three-year term beginning March 23, 2010 until March 23, 2013. The Mayor Pro Tem called for the vote on the nomination and it carried unanimously with Holmes, Reeves, Garvie, Nabors, Patterson, and Rynearson in favor (Seat 2 Vacant).

COUNCIL APPOINTMENTS
The City Manager recommended the Council appointments be tabled until the May 25, 2010 Council meeting when the two new members of Council have been appointed. The City Manager noted that until that time, Staff will attend any meeting that is not currently represented by Council.

Mr. Nabors moved to table the following Council appointments until the Council meeting of May 25, 2010. Mr. Reeves seconded motion and it carried unanimously with Holmes, Reeves, Garvie, Nabors, Patterson, and Rynearson in favor (Seat 2 Vacant).

MAYOR PRO TEM
Bill Garvie is the current Mayor Pro Tem.

ECONOMIC DEVELOPMENT COUNCIL
The late Virgil Miller was primary; Bill Patterson is alternate.
COUNCIL APPOINTMENTS (CONT)

OKALOOSA COUNTY LIBRARY COOPERATIVE
Bill Garvie is primary; Dennis Reeves is alternate.

OKALOOSA HOUSING PARTNERS, INC.
Bill Garvie is primary; Mike Anderson is alternate.

OKALOOSA COUNTY LEAGUE OF CITIES BOARD
Mike Anderson is primary; Dick Rynearson is alternate.

OKALOOSA-WALTON TRANSPORTATION PLANNING ORGANIZATION
Mike Holmes, Bill Garvie, and Bill Patterson are primaries; Dick Rynearson, Dennis Reeves, and Bobby Nabors are alternates.

REGIONAL UTILITY AUTHORITY
Bill Garvie is primary; Dennis Reeves is alternate.

TOURIST DEVELOPMENT COUNCIL
Bobby Nabors is primary; Mike Holmes is alternate.

WEST FLORIDA REGIONAL PLANNING COUNCIL
The late Virgil Miller was primary; Bill Garvie is alternate.

RECESS
The meeting recessed at 7:33 pm.

RECONVENE
The meeting reconvened at 7:40 pm.

NOMINATIONS FOR COUNCIL SEAT 2
The Mayor Pro Tem advised that nominations for appointment to fill vacant City Council Seat 2 will be made this evening, with the appointment being made at the April 13, 2010 Council meeting.

Mr. Rynearson nominated Dean Covey, 270 Brooks Street SE.

Mr. Patterson noted he nominated Glenda Glover, 115 Waynell Circle SE and Janet Wilson, 368 Gardner Drive SE, at the previous meeting.

Mr. Nabors nominated Bob Hudgens, 256 Ventura Circle, and joyce gillie gossom, 25 Bay Drive SE.

Mr. Garvie nominated joyce gillie gossom, 25 Bay Drive SE.

The Mayor Pro Tem announced the nominations were closed. He advised the following citizens have been nominated by City Council to fill the vacancy on City Council Seat 2: 1) Dean Covey, 270 Brooks Street SE; 2) Glenda Glover, 115 Waynell Circle SE; 3) joyce gillie gossom, 25 Bay Drive SE; 4) Bob Hudgens, 256 Ventura Circle; and 5) Janet Wilson, 368 Gardner Drive SE.

The City Attorney informed that a seat is not open to nominations until a vacancy is declared. She explained the current vacancy for Seat 2 was declared vacant upon the death of Mr. Miller, and that is the only vacancy that nominations are being taken for.
NOMINATIONS FOR SEAT 2 (CONT)
The City Attorney advised a second vacancy will be declared upon the resignation of Mr. Garvie on April 13, and nominations for that seat will begin at that time, and that a third vacancy will be declared in November.

The City Attorney discussed several voting options Council can take, and clarified that those appointed will serve until the particular seat comes up for reappointment.

RES. 2010-9, AMENDMENT TO COMPREHENSIVE FEE SCHEDULE
A RESOLUTION OF THE CITY OF FORT WALTON BEACH, FLORIDA, AMENDING THE CITY’S COMPREHENSIVE FEE SCHEDULE FOR WATER AND WASTEWATER CHARGES BY ADJUSTING CERTAIN FEES; AND SETTING AN EFFECTIVE DATE.

Brandy Wunker, Finance Director, advised the current rate structure for utilities does not provide sufficient revenues for debt service coverage as required by the 2005 bond ordinance, revenue sufficiency to eliminate on-going losses, or capital improvements that have been delayed in prior years.

Ms. Wunker continued that a Utility Rate Study findings recommended a series of multi-year rate adjustments to provide sufficient revenues for current and projected fiscal requirements through FY 2013-14. Ms. Wunker discussed the proposed rate changes in detail.

Michael Beedie, City Engineer, discussed the City’s existing waste water treatment facility, informing it is 30 years old and in order to meet upcoming regulatory requirement and to keep the system functioning, costly repairs would be required in the coming year, and a new lease for the existing sprayfields would be required. Mr. Beedie advised that the City chose to enter into an Interlocal Agreement with the County for wastewater treatment because the impact to the rate payers was less substantial. Mr. Beedie advised that Mike Rocca from the firm of Brown & Caldwell, who conducted the rate study, was available to answer any questions.

Discussion included the capital improvement projects that will occur and that the increase is sufficient to cover the City’s debt service.

The Mayor Pro Tem asked for public input. There was none.

Mr. Rynearson moved to adopt Res. 2010-9. Mr. Patterson seconded motion.

Mr. Rynearson commented that while no one likes rate increases, he appreciates that the increases will be done gradually, and that the increases may cause less water usage which will help conserve water.

Mr. Reeves expressed his concern over the implementation and the percentage of the rate increase, especially among small business owners. Mr. Reeves also discussed that money has been taken from the enterprise fund for years, and that he will not support this resolution on principle. Mr. Reeves stated he appreciated the work that Staff has done and the study that was conducted.

Mr. Nabors stated he wants to make sure the rates being voted on justify the product being received and the cost of the product received, and after reading the study that is exactly what the rate increase does.

Mr. Holmes stated that this is something that has to be done and he hopes it is monitored closely.
RES. 2010-9 (CONT)
Mr. Patterson stated the infrastructure is aging and it needs to be corrected now, and not passed on to future generations.

The Mayor Pro Tem called for the vote on the motion and it carried by a vote of 5 to 1 with Holmes, Garvie, Nabors, Patterson, and Rynearson in favor and Reeves opposed (Seat 2 Vacant).

CONSIDERATION OF A GRANT OF EASEMENT TO GULF POWER
Mr. Beedie advised that Gulf Power is requesting an easement for the installation of guy wire(s) and anchors on Golf Club property to provide electrical services across Lewis Turner to the new courthouse annex located at the fairgrounds. The granting of the easement for the guy wire(s) and anchors has no financial impact on the City.

The Mayor Pro Tem asked for public input. There was none.

Mr. Reeves moved to authorize the Mayor to execute an easement with Gulf Power for the installation of guy wire(s) and anchors on Golf Club property to provide electrical service across Lewis Turner Boulevard to the new Okaloosa County Courthouse Annex located at the fairgrounds. Mr. Rynearson seconded motion and it carried unanimously with Holmes, Reeves, Garvie, Nabors, Patterson, and Rynearson in favor (Seat 2 Vacant).

CITY MANAGER REPORTS
Mr. Beedie updated Council on the progress of the Wastewater Treatment Plant, advising that the City and County got together and that as of March 12 the flow is being sent to the county plant. Mr. Beedie continued that the county made some modifications to the potable water system to allow reuse water to be sent to the golf course and it is now a working system. He advised the decommissioning process will begin at the City plant and once totally decommissioned a determination will be made whether to demolish the structures.

Mr. Beedie advised that Human Resources will be meeting with the two remaining employees at the plant to discuss employment options.

MAYOR/COUNCIL COMMENTS
Mr. Rynearson discussed his concern that the Historic Sites and Structures Board did not have a quorum at its March 16, 2010 meeting, and that the lack of quorum is holding up a builder from moving forward with his project. He stated he is looking for a solution. The City Manager advised the meeting has been rescheduled to this Thursday, March 25, at 5:30 pm. The City Manager relayed that the Business Retention Panel had suggested that the review responsibility of the Historic Sites Board be curtailed and that an ordinance is being prepared to bring forward to Council for action. The Mayor Pro Tem advised he contacted members of the Historic Sites Board and that this lack of quorum was a rare occurrence for the Board.

Mr. Rynearson noted that there are five excellent candidates for the vacant position on Council and it will be a difficult job but he will be honored to serve with any of them.

Mr. Holmes discussed the editorial in the Daily News on March 21 in reference to the efforts of the downtown merchants to stay open until 9 pm, and his opinion that the article was a disservice to the City and the downtown merchants.
MAYOR/COUNCIL COMMENTS (CONT)
Mr. Garvie advised the Mayor asked him to present to Council a request from the Soka Gacci International organization to have their president made an honorary citizen of the City on the event of their 50th anniversary. The City had prepared a proclamation for the organization and attended their exhibit last year. The organization is going around the country asking various cities to make the individual an honorary citizen of their city.

Council declined to take action on this request.

ADJOURNMENT
There being no further business, the meeting adjourned at 8:37 pm.

APPROVED: _______________________

MAYOR: ___________________________

ATTEST:

CITY CLERK

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