

20071129 City Council Minutes

Mayor Buelterman called the Consent Agenda meeting to order at 6:30PM. Present in addition to the Mayor was; Sessions, Crone, Williams, Pearce, Wolff and Doyle.

Also present was City Attorney Bubba Hughes and City Manager Diane Schleicher.

Mayor Buelterman named the following items to the Consent Agenda:

Water Shed Assessment Agreement w/ HGB&D for \$86,000
Wastewater Treatment Plan Phosphorus Study w/HGB&D for \$15,500
Antidegradation Review w/ HGB&D for \$12,500
TEA GDOT Agreement for Butler Ave ADA Sidewalks (Revised Scope)
Amendment to project agreement for Land & Water Conservation Grant-Memorial Park Renovation (Playground equipment) removing splash park.
Special Event Permit for New Year's Eve Fireworks.
Bid Proposal for Fire Station Eastside Driveway & Apron Entrance-Cleve Walker Construction, LLC. \$9,680
Council Minutes for October 11, 2007.
Council Minutes for October 25, 2007
Council Minutes for November 8, 2007

Mayor Buelterman ended the Consent Agenda Meeting.

Mayor Buelterman called the Regular meeting to order at 7:00PM. All City Officials listed as present during the Consent Agenda were still in attendance.

Reverend Andy Lamont gave the Invocation and everyone recited the Pledge of Allegiance to the Flag.

Ms. Sandy Major read a letter from the Economic Development Committee recommending Council request CAT bus service for Tybee without the CAT Tax. She said the EDC recommended the addition of \$1.00 a night per Hotel/Motel room to fund it. Mayor Pro Tem Sessions recommended letting the new City Council make that decision. Ms. Williams said property owners are concerned that once you implement the CAT Tax you are stuck with it and asked if we didn't utilize the buses if the tax could be taken off. Mayor Buelterman asked the EDC to get additional feedback from other businesses before moving forward.

Patricia Wann gave a formal report on the Celebrate Tybee Event. She thanked the volunteers and especially her co-chair Denise Vernon.

Mayor Buelterman and Council thanked Ms. Wann and the Committee for the wonderful 120th Birthday event.

Ms. Williams suggested the City of Tybee consider having an Anniversary Celebration every 5 years. She requested this be added to the Action Items List.

Mr. Ric Hogan, representing a couple of dozen property owners on the strand said recently it had come as a surprise that the city was contemplating putting a three story building in the middle of the south end of the parking lot to be used as a bathroom and lifeguard facility. He said to their knowledge this building never appeared on the site plans that have been shown regarding this project. He said the proposed building would be a large visual obstruction to the view of the Atlantic Ocean. He said this view is the largest single component of value when determining the market value of their property. He said the Chatham County Tax Assessor has taken note of this view and taxed their properties accordingly. He said based on his twenty one years experience in the real estate business on Tybee his professional opinion of the impact this three story building would have on their properties would be from \$100,000 to \$200,000 each. He said adding those figures up would create a negative impact of two to four million dollars. He said he hopes this idea has been trashed because of the economic hardship it represents in comparison to the benefits. He said if this plan should resurface he feels the city is legally and morally obligated to publicly notify all of the property owners of this plan.

Ms. Bonnie Nesbitt said their TIRPOA group has decided the Oceanside Nursing Center will be their holiday project of choice and they have named the project Tybee Cares. She said it is for sustained and prosperous living for the nursing home. She said their fund raising goals are \$1200 for Christmas needs and 100% of the money will go towards it. She said the Christmas Gala will be on Saturday, December 15th from 2:30 to 4:30.

Mr. Larry Nesbitt responded to the CAT proposal and request and reminded council members that everyone except Mayor Buelterman and Mayor Pro Tem Sessions committed to saying no to CAT during their campaign. He said the new council also committed to say no to CAT on Tybee and he wanted to remind all of them of their commitment to the people of Tybee. He said the Master Plan survey showed more negative support for CAT than positive. He said he doesn't feel that anyone can guarantee that they won't get taxed if they get CAT to come to Tybee. He said the public transit system is a money losing operation and they have no where to go but to the taxpayer for money. He said CAT comes to Wilmington Island now and he doesn't know why we can't work out a shuttle system with the Tybee Shuttle picking up the workers at Wilmington Island and bringing them to Tybee to work and returning them afterwards.

Mr. Lou Kietzman asked council about the proposed bike trail. Ms. Schleicher said they propose to go through the Battery Point Subdivision and through the Fleetwood property once the easement is settled and continue through the Buckley property. She said they plan to have the trail go alongside the paving on Evelyn Rd. and then through the unopened right of way from North Wave to the next subdivision. She said people from the city could eventually ride out to Battery Park and when DOT improves Lazaretto Creek Bridge and puts a bike path on it they would be able to go all the way to McQueen's Trail. She said how they improve the trails through North Wave and Sandy Shores is just a rough estimate to meet the Grant requirement and she would like to meet

with the property owners and find what would best suit them and how to make the trail less intrusive. Mr. Kietzman asked about the timeframe. Ms. Schleicher said the Grant cycle is basically to apply now and do the work next winter. Mayor Buelterman explained that Mr. Kietzman wanted to extend the old sidewalk to the end of the Northwaves property and then hook up to the rails to trails. He said he thinks that is something the city can do but at this point we are considering just applying for a federal and state grant. He said the city will have public discussion on it before they work on a trail in front of anyone's house. He said the goal is to go from Ms. White's house to the Lazaretto Creek Bridge on a bicycle safely. Mr. Kietzman requested that the property owners receive ample notice when discussions are held. Ms. Schleicher said she would contact them.

Mr. Joe Kraft said he lives at North Waves and has the same concerns that Mr. Kietzman has about Sandy Shores. He said there is nothing on the side of Evelyn Lane but a ditch. He requested postponing applying for the grant. Ms. Schleicher said the deadline for applying for the grant is tomorrow but even if the grant is received the city can still decline it if the problems can't be worked out with the property owners. She said she is confident the DOT will work with her and allow her to use their right of way because of the pedestrian safety issues.

Ms. Williams said even if they approve the resolution they will not be approving the lines as drawn. Ms. Schleicher said that is correct.

Mayor Buelterman opened the public hearing for the Site Plan Approval for 25 Tybrisa Street requesting a commercial addition to a commercial building in the C-1 Zone for Ziv Navon. Ms. Allen said the request is for an enclosure between the existing Waves store and Aloha store. She said the Planning Commission unanimously approved this. **Mr. Wolff moved to approve contingent on the drainage plan being acceptable to the City's Engineer and City Staff, Ms. Williams seconded, and the vote was unanimous.**

Mayor Buelterman opened the public hearing for a Zoning Variance from off street parking requirements and schedule of development regulations and a variance for two driveway openings and side setback variance for stairs at 1409 Chatham Ave for Frank and Kim Nelson. Ms. Allen said the Planning Commission voted 5 to 3 to deny the variance request for the stairs and unanimously approve the variance request for the driveway. Mr. Sam Liberti w/ Lowtide designs presented a letter to council from the Boylston's. Mayor Buelterman read the letter for the record. **Mr. Wolff moved to deny the variance for Stairs, Pearce seconded and the vote was Wolff, Pearce, Williams and Sessions in favor of denial and Crone and Doyle opposed.** **Mr. Wolff moved to approve the driveway variance, Ms. Williams seconded, and the vote was unanimous.**

Mayor Buelterman opened the public hearing for Conceptual Site Plan Approval for a commercial addition to an existing commercial building at 406 First Street for Brian Malins. Mr. Hughes said there will have to be additional public hearings when the site plan is proposed. He said the feedback from the Planning Commission was that there would be additional variances required on the site plan so they continued it.

Mayor Buelterman opened the public hearing for Site Plan Approval for a temporary commercial building with porch at 1207 Hwy 80 for Doyle Landscaping, Inc. Ms. Doyle recused herself. Ms. Allen said the Planning Commission voted unanimously to approve. Ms. Allen said this is unusual because the Land Development Code does not make provisions for temporary structures and doesn't address temporary structures in commercial districts. She said if council wanted a time limit placed on the structure it could be handled administratively. Mr. Hughes recommended they go through the site plan process and be reviewed annually or some other term set by council to insure that it hasn't become a permanent structure. **Mr. Wolff moved to approve, Pearce seconded, and the vote was unanimous.**

Mayor Buelterman opened the public hearing for Special Review requesting a residential addition to an existing commercial building and a Site Plan Approval for a reconfiguration of their parking plan at 801 First St. for Jamee Barnard. Ms. Allen said the Planning Commission voted unanimously to approve both. Mr. Wolff asked if this would extend the footprint of the existing building. Ms. Allen said no. **Mr. Crone moved to approve the Site Plan, Mr. Wolff seconded, and the vote was unanimous. Mr. Crone moved to approve the Special Review, Mr. Pearce seconded and the vote was unanimous.**

Mayor Buelterman opened the public hearing and said the Text Amendment to Bed and Breakfast Regulations (Section 5-040(E)) was advertised and was tabled by the Planning Commission to come up at a different date. Ms. Allen said all Text Amendments have been postponed until the adoption of the Master Plan and the rewrite or reworking of the Land Development Code. Mayor Pro Tem Sessions asked if the amendment was to include 3 bedrooms for a bed and breakfast. Ms. Allen said no it was to include 5 bedrooms for a bed and breakfast. Mayor Pro Tem Sessions said we would then be approving commercial businesses in residential zones. She said she will have a huge problem with this.

Mayor Buelterman opened the public hearing for Site Plan Approval for a commercial building and swimming pool at 502,504 & 506 First Street for Rocker Developments, LLC. Ms. Allen said the Planning Commission had unanimously approved the site plan without the swimming pool. Mr. Sanders said they have removed the pool from the equation and will come back at a later date to make that request. Ms. Williams asked if there will be living space over the commercial use on Hwy 80. Mr. Sanders said no. Ms. Allen said everything requested is within the zoning guidelines. Mr. Sanders said they are proposing to come in on the unopened Fifth Avenue and add some gravel parking places at the front of the Sally Pierce Nature Trail. Mayor Buelterman said Mr. Pearce wants to know how anything can be done there without city approval since it is our right of way. Mr. Sanders said their proposal would enhance it and create parking for the trail. Mayor Buelterman asked Mr. Hughes if the city is required to open up that right of way. Mr. Hughes said not necessarily but this part has already been opened because it was one of the exits for the Chinese Restaurant and Mr. Gay's business is currently using that access. Mr. Hughes said the conservation easement on the trail includes the entire Fifth Avenue right of way and if you look at this as an enhancement to the trail itself then it is consistent with the conservation easement. Mr. Pearce requested the parking enhancement be left out until they can negotiate with the city at a later time. Mr. Wolff said the trail can use parking and he thanked them for trying to accomplish that and hopes they can work something out at a later time. Mr. Wolff moved to approve, Ms. Doyle seconded. Mr. Pearce asked if Mr. Wolff would amend his motion to address the improvements to the Nature Trail. Mr. Wolff amended his motion to be contingent on working an agreement with the city on any improvements to the Nature Trail. Ms. Doyle seconded the amended motion. Ms. Allen asked for a motion regarding the swimming pool. **Mr. Wolff restated his motion to approve the project contingent upon not putting a swimming pool in until future plans are made giving them easements and nothing can be changed at the Sally Pearce Nature Trail without the prior agreement of Council. Ms. Doyle seconded, and the vote was unanimous.**

Mayor Buelterman opened the public hearing for a Text Amendment to Section 4-050(A) (2): Uses permitted after special review. He explained that this was tabled by the Planning Commission pending approval of the Master Plan and rewording the Land Development Code.

Mayor Buelterman opened the public hearing for a Text Amendment to Section 5-010(J): Shore Protection with Variance Clause. He said this was also tabled by the Planning Commission pending approval of the Master Plan and rewording the Land Development Code.

Ms. Allen explained the Technical Specifications that are being implemented by the Planning Department. She said they are trying to standardize their development review. She said they are recommending the adoption of the City of Savannah's Technical Specifications.

Mr. Crone explained the Infrastructure Committee's recommendation for the proposed change orders as:

The Committee voted no on the change in base material for \$204,925 with fabric and \$187,700 without.

The Committee voted no on the 4" Water Line to the Lifeguard Headquarters building for \$6,082.

The Committee voted yes on the rerouting of a 6" Water Line around the storm inlet for \$2,300

The Committee voted yes on the relocation of a Force Main for \$3,250

Mayor Buelterman asked for discussion of the 1st Reading of the Budget.

Mayor Pro Tem Sessions asked Ms. Schleicher to have the appropriate staff members look into Grant opportunities for their departments needed items for Homeland Security and the Fire Department. She said particularly the \$34,000 for a vehicle.

Ms. Doyle asked that the extra \$23,000 for the YMCA be put into a contingency fund until we look into more programs in the Gym which she is trying to work out with Ms. Brodofsky.

Mr. Redmond said for the record he moved the portion for the capitol equipment around \$4800 to the contingency budget.

Mayor Buelterman asked if the complete updated budget is available for the public on the website. Mr. Redmond said yes it is.

Ms. Williams asked to add the comment to the Infrastructure Committees recommendations about the parking lot base, that they were based partly on the recommendation of the city engineer.

Mr. Wolff moved to approve the Consent Agenda items as listed earlier in the minutes, Ms. Williams seconded, and the vote was unanimous.

Mr. Crone moved to deny the proposed change order for the change in base material for strand parking lot for \$204,925 with fabric or \$187,700 without fabric, Mr. Wolff seconded, and the vote was unanimous.

Mr. Crone moved to deny the proposed change order for a 4" water line to Lifeguard Headquarters building for \$6,082, Mr. Wolff seconded, and the vote was unanimous.

Mr. Crone moved to approve the change order for rerouting the 6" waterline around the storm inlet for \$2,300. Mr. Wolff seconded and the vote was unanimous.

Mr. Crone moved to approve the change order relocating the force main for \$3,250. Mr. Wolff seconded and the vote was unanimous.

Mr. Crone moved to approve the City Manager applying for the Georgia Recreational Trails Grant and Resolution, Mr. Wolff seconded and the vote was unanimous.

Mr. Pearce moved to approve for 1st Reading the 2008 Budget, Mr. Wolff seconded, and the vote was unanimous.

Ms. Doyle announced the Lights on for Tybee 2nd Annual Celebration will be in Seven Flags Park at 6:30PM on December 7th. She said there will be a special appearance by Heather Dalton, Miss Georgia, USA. She said the other special guests are Mr. and Mrs. Claus that have moved to Tybee from the North Pole.

Ms. Doyle announced the Christmas Parade at 3:00PM on December 8th at 14th Street Parking Lot. She said it will start at the South End and end at the Gym where the YMCA will have a small Christmas Party.

Ms. Williams asked if anyone has a Jeep with a roll bar to contact Tybee Beautification so that Nasty Butt can ride in it during the parade.

Ms. Williams said Tybee Beautification will be doing a judging of Christmas Lights on Tybee in December.

Mayor Pro Tem Sessions said she believes the request from the Economic Development Committee to request CAT service to Tybee should be handled by the new council in January. Ms. Doyle said she agrees with Sessions but she is not exactly sure of what the legislation needs to say. Mayor Buelterman said it would take an amendment to state law for Tybee to not be taxed for CAT service. Mr. Wolff said he would like to see this move forward. Mayor Buelterman suggested asking the Economic Development Committee to write down their specific request. Ms. Doyle said she would like the input of additional business owners and not just one. She said there are not that many businesses that are represented at the committee meetings.

Ms. Williams asked Mr. Hughes to give a ruling on if a service fee could turn into a permanent tax. Mr. Hughes said he will look into it.

Mayor Pro Tem Sessions asked for the drop dead deadline for getting a request to Burke Day.

Mr. Wolff said both committees working on the buffer and shore protection ordinance have been on hiatus during the campaigns. He said hopefully they will continue their activity very soon. He requested asking Mr. Hughes to contact the Attorney Generals office and get clarification on whether or not we can include marsh language in a local ordinance and does the E&S Act require a 25' buffer in coastal areas that been stabilized, with or without a permit, whether the 1993 Bowers decision still provides protection for coastal marshlands by requiring a 25' buffer from state waters, and can local governments base this buffer upon the delineation established by DNR's CRD, and are there any elements in the draft that we have been discussing that would not pass state muster and he would like an opinion on the river basin centers comments on EPD's denial of Camden County's LIA application. **Mr. Wolff moved to approve having Mr. Hughes contact the Attorney Generals Office for a formal opinion on these questions, Mr. Pearce seconded, and the vote was Wolff, Pearce, Sessions and Williams in favor and Doyle and Crone opposed.**

Mr. Hughes introduced the **disorderly house nuisance ordinance for 1st Reading**. He said it establishes procedure for dealing with property owners and occupants in residential houses that repeatedly become a problem in a neighborhood. He said there are provisions for prosecution and abatement with the goal being to get somebody's attention to cure the problem. He said it is related to the Short Term Rentals and other issues. He said it specifies what the violations are. Mr. Wolff asked if the short term rental

companies were aware of this. Ms. Schleicher said no. Mayor Pro Tem Sessions asked if this is approved for 1st reading would there be an opportunity for the rental companies to review it and give input before it came for 2nd reading. Ms. Schleicher said yes. Ms. Williams asked when the follow up meeting with the short term rental companies was scheduled. Ms. Schleicher said February. Ms. Williams said the meeting needs to be an advertised meeting so that neighbors of chronic properties can attend and give input as well as property managers. **Mayor Pro Tem Sessions moved to approved for 1st Reading with the understanding that it will come back for 2nd reading when Ms. Schleicher puts it under her name, Mr. Wolff seconded, and the vote was unanimous.**

Mr. Wolff moved to approve the Resolution for the Transportation Enhancement Project, Mr. Pearce seconded, and the vote was unanimous.

Mayor Buelterman said our lobbyist in Washington recommended we request from the Army Corps the possibility of getting reimbursed any funds from the Feds that are allocated for Beach Renourishment. He said since Tuesday he has learned that there might be problems with our own congressional representative agreeing on that policy. He asked to hold off until he can meet with him about that issue.

Mr. Pearce gave a report on the National League of Cities Conference he attended in New Orleans. He said he has given a book of NLC Policies to Ms. Schleicher for the public to review.

Ms. Schleicher announced a Thursday, Dec. 6th meeting at 3:00PM at City Hall to discuss Tybrisa Construction.

Ms. Doyle moved to adjourn, Mr. Wolff seconded and the vote was unanimous.

Mayor Jason Buelterman

Vivian O. Woods, Clerk of Council