

## 2008910 City Council Minutes

Mayor Buelterman called the special meeting of the City Council to order at 5:00pm. Council members present were Charlie Brewer, Barry Brown, Eddie Crone and Dick Smith. Also attending were City Manager Schleicher, City Attorney Hughes and Planning Director Allen. Mayor Pro Tem Doyle and Councilman Paul Wolff were absent due to schedule conflicts.

Ms. Allen explained that there are significant changes to the FEMA Maps and Flood Damage Prevention Ordinance. She said both have to be adopted by September 26, 2008. She said it's not mandatory but if we don't adopt it or we relax their standards we risk losing a lot of flood insurance coverage for the island and some other pretty dire consequences.

Ms. Allen said the new maps say there are effectively only two zones on Tybee now. She said they are AE and Velocity zones. She said the AE zone will now require an as built survey during construction at the point that the lowest floor is completed. She said this is a new step that has not been in place before, meaning a time delay and an additional survey required for these projects.

Ms. Allen said in V or velocity zones they will have to submit an as built after placement of the lowest horizontal structural members.

Ms. Allen said Article IV talks about new construction and substantial improvements meaning anything that increases the value of a structure by 50% or more. She said in the AE Zones all new construction or substantial improvements must be elevated at least one foot above the base flood elevation. She said prior to that it was at or above base flood.

Mr. Brown said his personal opinion is that needs to be taken out because it is only a state recommendation and not a FEMA requirement. Ms. Allen said actually that is a FEMA requirement. She said council can relax the ordinance as much as they would like but they need to understand the consequences.

Mr. Brown said he talked with Janis Mitchell of FEMA prior to the meeting and she told him the one foot requirement is not by FEMA but is a recommendation from the State. Mr. Brown gave an example and said if Mr. Smith's house is hit by a category 3 and he has 60% of his value destroyed he would have to cut his house loose and elevate it one foot higher if he is at the required height right now. Ms. Allen said that is correct. Mr. Brown said most of the houses on the island are probably three or four feet higher but there are some that are not even at the code requirement. Ms. Allen said there are quite a few that are not at the code requirement. Mr. Brown said cottages would have to be elevated. He said Ms. Mitchell told him that was not a federal requirement but was a state recommendation. Ms. Allen said they are clearly talking to different people at FEMA because the two people she spoke with today said it was not negotiable and we would jeopardize our flood insurance rating by changing that.

Mr. Brown said we need to find out the facts because council just received this ordinance two hours ago. He said he is tired of getting items at the last minute.

Mr. Brewer said if there is a conflict and we have multiple inputs telling us different directions then we need to get something in writing by the appropriate folks so we can define who the appropriate source is for whatever the information is. Ms. Allen said they have been trying to get that for a couple of weeks and FEMA will not commit to anything in writing. Mr. Brown said Ms. Mitchell offered to allow us to call her from this meeting on speaker phone.

Mr. Smith asked Mr. Brown if Ms. Mitchell would put her comments in writing. Mr. Brown said yes she will but she is not at her desk and that is why she offered to take the call so everyone could hear her answers. Mr. Brown asked who the head person is that can give them the answers.

Mr. Hughes said the direction for how this had to be done came out of the FEMA office in Washington, DC. He said Janis Mitchell has been the contact person they go to with any questions, since he has been with the city. He said he doesn't know who has the ultimate authority to say yea or nay but all of this is voluntary to the extent that if you don't put it in there it may jeopardize flood insurance but it is council's call. He said even if the one foot is not required if it is not put in there it will effect everyone's rates for flood insurance. He said it is his understanding that FEMA regulations do not expressly require that but whether they do or not, if you don't put it in there it's going to affect everyone's flood insurance. He said we have been asking for something in writing and a pre approval which they won't give. He said he doesn't know why FEMA would unload this on the entire community in Hurricane Season with the threat of pulling the flood insurance out from under everybody. He said he doesn't know if Ms. Mitchell is authorized to confirm that the one foot is voluntary or anything else. He said the stonewall everyone including Tybee, Chatham County, City of Savannah and Pooler is running into is it has a major impact on people. He said someone told him today they got two different quotes that were \$4,000 different on their flood insurance in the last two days. He said that is because the Insurance Companies do not know which Maps FEMA is using.

Mr. Hughes said we have to adopt the map also.

Mr. Hughes said he cannot recommend council do anything unless someone warrants they have the authority to make the statement for FEMA and says that if we do leave out that foot requirement or anything else in there, it won't jeopardize our status for flood insurance and it won't jeopardize our rate. He said council needs to adopt what they send and try to back out later. Mr. Brown said it is impossible to back out later and it should be taken out first and then added back in. Mr. Hughes said he doesn't want them to tell us that retroactively no one has flood insurance. He said he can't make that recommendation.

Mr. Hughes asked when will we know what we have sent them is approved or not. He said they might wait until a loss has occurred and then tell us it didn't meet muster and no one is getting reimbursed. He said he can't let council run that risk without pointing it out.

Mr. Brown said Ms. Mitchell mentioned having a rough draft ordinance that she and Chuck Bargeron had worked on back in June. He asked where that ordinance was located. Ms. Allen said she can't answer that question. Mr. Hughes said he has seen it because it was sent to him and it had a lot of the stuff that is in the FEMA requirements adjusted or taken out. He said it dealt with open wood lattice for

example which is expressly required and FEMA had a five year accumulative. He said Ms. Mitchell might not have a problem with it but she hasn't put anything in writing to us that says she has the authority to make that call. Mr. Brown asked if they should have it put in writing before they do the first reading on this. Mr. Hughes said he thinks they don't have a choice but to adopt it. Mr. Brown said Ms. Mitchell told him this ordinance needs to be sent to her by the 23<sup>rd</sup> or 24<sup>th</sup> in order for her to get it in the computer no later than the 25<sup>th</sup>.

Mayor Buelterman said we will have two readings on this and it would behoove us to include this in the ordinance now and if anything comes up we could certainly change it. He said he would hate to jeopardize flood insurance for everybody on the island.

Mr. Brown asked if they pulled the questionable items out then wouldn't FEMA have to put something in writing and at that point we could add them back in.

Mr. Hughes said if a storm comes in the meantime then nobody has coverage and the mortgages will be in default if the mortgage requires them to have flood insurance.

Mayor Buelterman said they can back out of the foot requirement by having two readings later on. Mr. Hughes said Mr. Anderson with Chatham County said they tried to get that out of there and FEMA's position was that it had to be in there. He said it can come out but either you will lose the FEMA flood insurance protection or your rates will be different than they would otherwise.

Mr. Hughes said he would be glad to talk with Ms. Mitchell when she gets back to her office on Friday and putting his communications to her in writing. He said he is uncomfortable without something in writing that expressly states that without having these recommended provisions that came in the FEMA model, that we won't be adversely affected by it.

Mr. Smith said he is not willing to not pass this ordinance today for 1<sup>st</sup> reading and jeopardize not only his flood insurance and mortgage but everyone else's on the island that has a mortgage.

Mr. Hughes asked that the minutes reflect that FEMA Maps are in the room and numbered as follows: 13051CINDOA/135051C0194F/13051C00214F/13051C0213F/13051C0326F/13051C0327F

Mr. Hughes said the variance provisions from FEMA for the flood damage prevention ordinance are different from the ordinary standards in our Land Development Code. He said the ordinance before council has two other sections added to it which changes the text in our zoning and it will be subject to yet another public hearing on the 25<sup>th</sup>. He said it doesn't impact the provisions in the flood damage prevention ordinance but take the variance provisions currently in the zoning ordinance dealing with flood damage out of it and its all dealt with in this ordinance.

Ms. Allen said there is a change under Article VI under definitions where they do talk about substantial improvement. She said they define substantial improvement as any combination of repairs, reconstruction, alterations or improvement to a structure taking place during a five year period. She said the five years will be different from what they have been doing in the past. She said Chatham County has ten years in their ordinance because they went more restrictive than was recommended. She said

five years is what came in the recommended ordinance. She said what that means is substantial improvements cannot be made to a structure to improve it more than 50% of its value more than every five years and that's cumulative. She said if you reach that threshold within the five years you have to come into compliance with the elevation requirements.

Mr. Brown said the Insurance Companies will not pay to elevate houses. He said a person in Windsor Forest was flooded out by a canal during one of the big storms and three years later he was flooded out again. He said the City of Savannah had a five year accumulative law on the books and were not going to let him fix his house for another two years. He said after that the insurance company notified him that would be the last time they paid for it unless he was willing to elevate his house up four feet to meet the new flood requirements. He said on a slab with a brick house that would cost over forty thousand dollars that he didn't have. He said that person ended up having to just about give his house away and live somewhere else on the count of that ruling.

Mr. Brown said his houses are high enough but this ruling will create hardship for others. He said if you have a house in the V zone where the bottom of the beams holding the house up is right at the flood plain. He said that means if they are damaged you might as well cut them off and elevate them a foot higher at a cost of another \$25,000 that the insurance company will not pay for. Mr. Brown asked if Ms. Mitchell doesn't have the power where do we go to find out, who has the power. Mr. Hughes said she may have it but he doesn't know and she hasn't told him. Mr. Brown offered Ms. Mitchell's cell number. Mr. Hughes said he will talk to her when she gets back to her office on Friday.

Mr. Brown said this will affect the 35 foot height limit because people will be coming in right and left to get variances because their houses were designed before this took effect.

Mr. Brown said the kinks need to be worked out before we end up creating undue hardship to a bunch of people that is not necessary by the federal government.

Mayor Buelterman suggested they adopt it now and do their best to get the needed information before the meeting on the 18<sup>th</sup>.

Mr. Brewer asked that a follow-up call be placed to an Insurance Company to determine if they would pay the claim and elevate the house since it is required in the FEMA ordinance.

Mr. Brewer said all of the concerns mentioned should be put in writing and sent to the person responsible that can give us the answers with a copy being sent to Senator Chambliss and a couple of others and let them know we are displeased.

Ms. Allen said she just received an e-mail from Suzanne Cooler, Development Services Engineer at Chatham County that was sent to her from Jason Hunter at the Department of Homeland Security, who has put into writing that the code of federal regulations requires that the lowest floor be at or above base flood elevation. She said it states it will not jeopardize flood insurance if we don't implement the one foot requirement however it will impact the CRS points and insurance premiums but he doesn't quantify what the impact will be.

Mr. Brown said under Section B. (2) Construction Stages this will take care of our problems with piers and everything else on an as built that we have been fighting for years on whether we are three inches outside the line or two inches outside the line before they go up vertically. Ms. Allen said yes and she was pleased to see it in there.

Mayor Buelterman asked about the changes in the flood map.

Ms. Allen said we have gone from having multiple zones to only having two zones being AE and V. She said a much larger percentage of the island is now in a V zone. She said the most significant changes are the ones about the one foot requirement and the five year rebuild that have already been discussed. She said it does make some provisions for flood proofing of non residential structures in the AE zones. She said they are a little different for V.

Mayor Buelterman asked Ms. Allen to explain the zones.

Ms. Allen said if you want to build a retail store in an AE Zone which is interior on the island you would have to flood proof up to a certain point. She said you can choose to flood proof up to that point or you can elevate. Mr. Brown asked of that was flood proof or flood resistant. Ms. Allen said it was flood proof. She said in the V Zone you do not have that choice. Mayor Buelterman asked if it was going to be more expensive to build anything. Ms. Allen said potentially. Mr. Hughes said while it is potentially more expensive to build to the requirements it might lower insurance premiums if possible.

Mayor Buelterman said so they took out some of the less vulnerable classifications and put us in one of two more vulnerable ones. Ms. Allen said correct and they expanded the velocity zone which has stricter requirements.

Mr. Brown asked why the cumulative requirement was in this ordinance and what purpose it will serve the state. Ms. Allen said it is a step towards bringing structures into compliance. She said it's a way to not cheat and it's a loophole that they are closing so that you can't stack your projects without ever having to come into compliance.

Ms. Allen said the County went to ten years on that requirement. Mr. Brown said he thinks the City did too.

**Mr. Smith moved to accept the Flood Damage Prevention Ordinance as presented, Mr. Crone seconded.** Mayor Buelterman said we will send the letter asking the questions outlined tonight. He asked Mr. Brewer to send an e-mail with his concerns to send to the federal folks. **The vote was unanimous.**

**Mr. Crone moved to approve the maps as presented, Mr. Smith seconded.** Mr. Hughes explained the zones to council while the map was displayed. Mr. Brown said if you are in an AE zone and you've been put into a V zone you can pretty much anticipate your insurance going up. **The vote was unanimous.**

Mayor Buelterman presented an alcohol license with Sunday Sales for Tidal Creek Food, LLC at 1106 Hwy 80 for Clay Brewer and Vinny Cusanelli.

Mr. Brewer recused himself due to having a relative with interest in this business.

**Mr. Smith moved to approve the alcohol license for Tidal Creek Food, LLC, Mr. Brown seconded. The vote was unanimous.**

**Mr. Smith moved to adjourn, Mr. Brewer seconded. The vote was unanimous.**

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Mayor Jason Buelterman

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Vivian O. Woods, Clerk of Council