

## 220081113 City Council Minutes

Mayor Buelterman called the Consent Agenda meeting to order at 6:30pm. Council members present were Mayor Pro Tem Wanda Doyle, Charlie Brewer, Eddie Crone, Dick Smith and Paul Wolff. Also present were City Attorney Bubba Hughes, City Manager Diane Schleicher and Planning and Economic Development Director Brannyn Allen.

Mayor Buelterman listed the following items on the Consent Agenda:

- Beach Task Force Committee: Request for City Council to send a letter to Jasper Joint Project Office on behalf of the City requesting Tybee Island to be part of Georgia/South Carolina Jasper Port Long Range Planning.
- Special Events Application: Lights on for Tybee 12/12/08 6:30pm: asking for closure of Tybrisa Street from 5:30pm -9:00pm this includes all around the Roundabout. Also tree setup & any preparations as needed for this event will be provided by DPW.
- Special Events Application: Polar Bear Plunge January 1, 2009 11:00am-1pm, requesting waiver of fees for special event (\$100), vendor fee (\$25) & Beach Permit fee (\$25) Totaling \$150. Also asking for the City to Co-Sponsor Event.
- Special Events Application: St. Michael's Oyster Roast-February 1, 2009 10:00am to 6:00pm at Memorial Park Pavilion.
- Special Events Application: Art in the Park-Mom's Day May 9<sup>th</sup>-10<sup>th</sup>, 2009 10:00am-6:00pm. Permission for vendors to drive on grass for loading & unloading only. Also asking DPW to provide trash/recycle containers. TAA to pay for parking cones and Port-a-Jons.
- Special Event Application: Festival of the Arts-October 17<sup>th</sup>-18<sup>th</sup>, 2009 10:00am-6:00pm. Requesting 45 parking passes for artists & volunteers, also 7-15 vendor spots at base of pavilion and additional vendor spots between Marine Science Center and the strand.
- Special Event Application: Art in the Park-Tybee Days November 21-22<sup>nd</sup>, 2009 10am to 6pm. Permission for vendors to drive on grass for loading and unloading only. Also asking DPW to provide trash/recycle containers TAA to pay for parking cones and Port-a-Jons.
- Resolution to Authorize Ms. Schleicher to apply for Georgia Recreational Trails Grant/max \$12,100 City Share
- Request for applicants to the Better Hometown Board of Directors: To be appointed in January, 2008.
- Suspension of Parking Enforcement: Only for payment & parking duration at meters from 11/28-12/31/2008. 100-00-34-5415 parking revenue loss is estimated to be less than \$20,000
- Minutes for City Council Workshop: 10/18/08
- Alcohol License for Special Event- St. Michael's men's Club @ Memorial Park.
- Motorola Agreement for Police Department/Maintenance and Support.

Mayor Buelterman adjourned the Consent Agenda.

Mayor Buelterman called the regular meeting of the City Council to order at 7:00pm. Those at the consent agenda were also in attendance for the regular meeting.

**Invocation and Pledge of Allegiance:**

Sister Terancia of St. Michael’s Catholic Church gave the invocation and everyone recited the Pledge of Allegiance to the Flag.

**Report of Officers, Boards, Standing Committees and or invited guests:**

Mr. Joe Wilson gave the quarterly report for DPW. He said he is coordinating with the Corps of Engineers trying to map the infrastructure on the Island.

He said he is working on the crossovers in house and is about half way through the one in front of the Marine Science Center. He said they are looking for a significant money savings there. He said the crossover at Bay & Byers will have the hearing around February for the permit.

He said the 14<sup>th</sup> Street drainage project is going out for bid soon.

He said they are trying to get a GPS unit and software to further locate mapping of other city infrastructure such as crossovers, beach swings and a tree inventory. He said if they ever have a hurricane FEMA will replace the items that are mapped. He said the Corps of Engineers is taking care of the site right now.

He said they are planning to purchase electric cars to replace the vehicles doing bathroom maintenance and parks and recreation as well as parking enforcement.

Ms. Bonnie Kline gave the quarterly report for Finance. She said they are still working with the auditors on the June 30<sup>th</sup> audit. She gave the following Financial Report Summary:

	Revenue	Expenditures	Net Income
General Fund	\$7,722,162	\$6,460,632	\$1,261,530
Water Sewer Fund	\$ 770,237	\$ 930,483	(\$ 160,246)
E-911 Fund	\$ 42,137	\$ 42,137	-0-
Hotel/Motel Tax Fund	\$ 719,690	\$ 719,690	-0-
Solid Waste Fund	\$ 280,766	\$ 421,854	(\$ 141,088)
Campground Fund	\$ 413,239	\$ 476,011	(\$ 62,772)

Ms. Kline said when they changed the fiscal year they knew there would be problems but they didn’t know what they would entail. She said the main problem is she can’t put the 09 budget into incode with the 08 budget still in there so she has been putting it on excel worksheets because it is an important component. She said she has been speaking with incode every couple of days and it’s looking like she will continue to use the excel sheet until the end of the year. She said on January 1<sup>st</sup> they can install the 09 budget and put all the expenses in and they will be able to run reports with actual figures. She said the campground figures include the interest but not the principle payments.

Mr. Brewer said in looking at last year's annual report it said we are supposed to maintain six months of O/M budget in a unreserved unfunded account. Ms. Kline said that was a goal of a previous council. Mr. Brewer said he intends to firm that goal up later. He asked where the unfunded balance is located on the summary just presented and how many months do we currently have today to go towards the six months worth of O/M coverage. He requested to see that in a management financial summary presented on a monthly basis so that council can see where they are financially. He asked when they would receive the audit report for June 30<sup>th</sup>. Ms. Kline said it has to be at the State Auditor's office by December 31<sup>st</sup> so their goal is the first part of December. Mr. Brewer requested that once an audit finding is received it should be presented to council by the Audit Committee to allow council to ask questions.

Ms. Kline presented a graph showing the fund balance. She said at June 30<sup>th</sup> it shows about 5 ½ months of reserve. Mr. Brewer asked if the fund balance was the same as the unreserved fund balance. Ms. Kline said that is the total fund balance and most of that is unreserved. Mayor Buelterman said when they researched the six month goal they contacted other beach towns and the most he found was 30 days. He said he thinks six months is a good goal and they should continue on it. Ms. Kline said at a recent GMA Class on Revenue Administration where they were discussing current conditions and economic hardships, the more they talked it occurred to her that Tybee may be in better shape than some of them. She said Tybee has diverse revenue sources beyond property taxes. She said our 19% parking revenue is a good source along with our healthy hotel/motel tax. She said they are currently reviewing water / sewer rates and doing compliance reviews; having GMA do an audit of liquor taxes and hotel/motel taxes and they are increasing collection efforts to insure we are getting the money that is due us. She said departments have submitted budget cuts to reduce the FY 2009 operating budget by approximately 10% and those cuts were not eliminated from the budget but were transferred to contingency accounts. She said they have implemented a hiring freeze also. Mr. Brewer asked how much money the 10% represented. Ms. Schleicher said \$1,012,895.

Chief Sasser gave the Fire Department's quarterly report. He said they currently maintain Thirty Eight members and have two part time positions being held by Master Firefighters from Savannah and one full time paid Firefighter.

He said the new tanker-pumper truck had a Class A foam system installed. He said for the third quarter they had seventeen calls with six being false alarms.

He said on one call they were able to use thermal imagery to locate where the shorted wire had caught the insulation on fire in the attic and without that equipment they could have had a fully involved fire within the hour.

He said they installed the voice alert sirens for the Fire Department, Police Station and MRS property.

He said five new satellite phones were purchased and placed in the hurricane supply inventory making a total of nine. He said emergency management completed the community service mail-outs by utilizing the water bills to alert residents about the dangers of flooding.

He said the ocean rescue stats were presented in the previous council meeting.

Ms. Allen gave the first quarter fiscal year report for Planning and Economic Development. She said they try to provide training to staff members on a continuous basis. She said they presented four Text Amendments to Planning Commission.

She said just like everything in her department the Planning Commission Petition activity has slowed considerably. She showed a graph with a total of 12 Petitions having been processed for a total of \$1,762.50. She said they processed four accounts receivables for \$2,450. She said they are down considerably on building permits with \$26,018.50 thus far in 2008. She said business licenses are holding steady at \$6,240 with renewals having been sent out for this year. She said Community Facility Permits brought in \$8,160 which is a new report this quarter. Mr. Brewer asked for the report on Community Facility permits to include the number of times the city waives the usage fees and what that amount would be.

Chief Price gave his quarterly report and said the pirates' parade and Halloween went off without a glitch and everything was fine. He said the new flashing speed limit signs were shipped today and will be installed shortly. He said everything has backed down for them and is slow right now. Ms. Doyle asked where the new sign would be installed on the North End. Chief Price said about the middle of the block where the bank building is. He said the other one will be heading north on Butler around 12<sup>th</sup> and 13<sup>th</sup> street.

Mr. Hemphill gave his quarterly report for the Campground. He said they have five new employees and have recruited and been very successful in their campground host program. He said they have new programs consisting of Pot Luck Dinners on Monday nights and they are starting a movie night in their pavilion. On Wednesday they have trivia night with game night being on Thursday. He said the number of groups has actually gone down because of the economy but the actual numbers in the groups has gone up. He said they have expanded their service offerings with the rental of the pavilion with audio/video equipment based on the number of coaches.

He said next Friday they have the campground celebration which is their annual open house for the community. He said Rivers End Campground was showcased the first week of November on a show titled "Whats the Stuff Outdoor Adventure." And they plan to take a look at it.

He said they are also planning the Third Annual Tybee Turkey Day Feast on Thanksgiving Day with the campground furnishing the birds and everyone else brings a dish. He said there are a whole mess of Hemphill's coming down for Thanksgiving.

He said three of the six cabins will be online for rentals by Thanksgiving. Mr. Brewer asked how Mr. Hemphill was doing on his projections against his revenue and if he was holding expenses. Mr. Hemphill said they are doing more reservations but they are for shorter durations and they will have to drop back and reassess some of those revenue projections because of the cabin issue along with the original number of cabins purchased being decreased. Mr. Brewer asked for Mr. Hemphill to include the highpoints of the dollar figures in his quarterly reports.

Mr. Brown asked what the life expectancy was for the audio video equipment that was installed in the outdoor pavilion without it being sealed off. He requested Mr. Hemphill cover the equipment with plastic.

Mr. Reese submitted his quarterly report for the Water and Sewer Department and asked Council if they had any questions.

Ms. Nesbitt gave the YMCA quarterly report. She said the monthly Friday night skate nights have been very popular with over 500 skaters participating. She said they have a quarterly newspaper being sent out to all residents on Tybee. She said they had eight teams from Savannah come and participate in the volleyball tournament raising over \$500 for the Y scholarship program. She said the annual pumpkin patch was attended by seventy five children.

She said ballroom dancing begins this week and classes will be held on Tuesday evenings in the cafeteria.

She said both Y soccer teams are to be commended for competing with teams that have many more children to choose from and making it to the finals and the under 12 team actually made it to the championship game.

She said gymnastics begins next week and basketball signups are being held right now.

She said one of their newest endeavors is the Tybee Teen Cuisine Workshops on Wednesday nights at 4:30 in the school cafeteria and it's open to all youth 11 to 14 years old. She said they want to thank all the local Tybee chefs that will be assisting with this program. She said the cooking classes were filmed and the new class called edit teen will learn how to edit this film and produce a film to be shown on channel 7 as well as hosting a monthly teen show which will be aired on channel 7. She thanked Todd Smith and Michael Bodine for their assistance with this endeavor.

She said Tai Chi and Zoomba classes are being offered and kids night out is offered monthly for youth 3 to 12 years old. She said in the afternoon there is the afternoon fun club that offers children 4 and over help with their homework, arts and crafts and games. She said seniors 62 or older are eligible to take any classes at the Y for free.

She thanked the City of Tybee and its residents for their support. She complimented Hillary, Haley and Fritz as well as all the other Y employees for their dedication and hard work. She said in January they will begin the priceless gifts campaign which is the source for scholarships for children and adults on Tybee who need financial assistance to participate. She said all the money raised on Tybee stays on Tybee. She said they gave out over \$25,000 in scholarships in 2007 and they expect to do that again this year and more next year.

**Visitors:**

Julian Pafford of Georgia Power Company talked about the scheduled power outage on Saturday, November 15, 2008. He said power will be out from 7:00am to 1:00pm on Tybee Island and parts of Wilmington Island.

Chantel Morton announced the Lights on for Tybee on December 12<sup>th</sup> at 6:30pm and the Christmas Parade on December 13<sup>th</sup> at 3:00pm.

Corrected on 3/03/09vw

Eric Thomas owner of Huc a Poos, said he feels he has figured out how to have success at his business. He said he caters to families during the early hours and on the weekends they cater to people that enjoy music and are more social and they do it in a beachy outdoor environment that attracts a lot of people. He said they have made it work under the rules council has set for them. He said he has designed his business to meet those needs and he has never had a violation. He said he again has to stand in front of council and defend himself on why he should be able to operate his business under the rules that council gave him. He said once again he is here because one couple having a personal issue against him are making this happen. He said this couple has publicly stated that Huc a Poos is blight on Tybee or an eyesore and so he built a fence. He said this new ordinance will negatively affect one business which is his and it will affect every person and resident that wants to enjoy music on their deck or screened porch after a certain hour. He said there are 45 complaints against his business and 100% of them are from the Tsoulos's and 100% of them have found no violation.

Don Ernst requested the City of Tybee co sponsor the Polar Bear Plunge. Mayor Buelterman told Mr. Ernst that co- sponsorship had been approved on the Consent Agenda.

Holly Halls said the proposed noise ordinance will affect a number of businesses such as Fannie's and StingRay's and she wonders why this would be considered in a beach town when we are trying to generate business. She said if you take away one of the few things there are for young people to do on Tybee, they won't come back.

Edwin Longwater proposed cutting down all the trees to eliminate the deafening noises from the Cicadas to abide by the noise ordinance.

Annie Estes asked if the new noise ordinance would mean no music would be allowed on the pier.

**Disclosures / Recusals:**

Mayor Buelterman disclosed friendly relationships with the owners of Huc-a-Poos and Stingray's.

Mr. Brown disclosed friendships with owners of Stingray's.

Mr. Brewer recused himself from discussion on the Noise Ordinance due to his Son's ownership of 1106 because they do have outside music.

Mr. Wolff disclosed that he owns a B&B but will not be affected by the Text Amendment because of having only two bedrooms. Mr. Hughes said any effect the Text Amendment may have on Mr. Wolff would be remote and speculative.

**Mr. Smith moved that Mr. Brown and Mayor Buelterman be able to participate in discussion and voting on the North End Cultural Overlay District, Mr. Crone seconded. The vote was unanimous with Mr. Brown not voting.**

**Public Hearings:**

Mayor Buelterman opened the public hearing for a zoning variance (Section 5-090) from Section 3-090, Schedule of Development Regulations, and Height Variance for new single family structure. Elizabeth & Thomas Shook at 3 Tenth Street. PIN 4-0006-15-006, Zone R-2. Mr. Shook said they have been plagued with flooding problems at their house due to being the lowest elevation in the area. He said the proposed foot print would be smaller than the current footprint.

Mr. Hughes explained that Tybee had a problem with people altering their elevation and then wanting to go thirty five feet from where they stopped the fill. He said the ordinance got amended to address that so that it requires the elevation to be calculated based on the natural grade before any construction. He said there is no variance available to what the elevation counts as. He said if the acceptance or whatever to the elevation results in the structure ultimately being higher than thirty five feet from what the pre construction grade was, it amounts to a height variance. He said flooding and other considerations as recognized in the Master Plan are things that should be taken into account.

Mr. Brown asked if the Shooks would be able to bring in fill to bring the average grade equal to the grades on both sides and the rear of the property. Mr. Hughes said he thinks they have to address the drainage in a way that will maintain the same retention of their lot along with the servitude on their lot from the others. Mr. Wolff suggested they have the zoning department look at this in the future when this situation occurs and someone is in a bowl that they be allowed to shoot the average adjacent grade to the property lines and fill to that point.

Ms. Allen said the petitioners are coming in Thirteen Feet on their side setback in order to meet the requirement in the code for a height variance.

Mr. Brown asked Mr. Cramer why he wouldn't consider dropping the pitch of the roof in order to meet the code requirement for height. Mr. Cramer said they are trying to use a shed shingle type roof structure and they require the proposed roof pitch. He said he has designed a lot of flat roofs over the years and every time it rains he gets calls about them. Mr. Wolff asked if a metal roof with a shorter pitch would work. Mr. Cramer said metal flat roofs leak also. He said he is putting the A/C in the truss of the house and if he flattens it out anymore he won't be able to get the mechanical systems in without putting them in the living area.

Mr. Bruce Remler spoke in favor of the petitioner.

Mayor Buelterman closed the public hearing.

**Ms. Doyle moved to approve, Mr. Crone seconded.** Mr. Wolff said he thinks this could be designed to be under the height limit without messing up the architecture but he also thinks the ordinance is flawed by not allowing them to shoot the adjacent grade to the adjoining properties. **The vote was unanimous.**

Mayor Buelterman opened the public hearing for a Text Amendment (Section 5-110) to Section 3-060.A Bed and Breakfast (residential) Cathy Kilday/increase number of rooms; add afternoon snack; add special events. Mr. Smith asked how special event parking would be calculated. Ms. Allen said that was one of Planning Commission concerns and it remains to be seen. Mr. Wolff clarified that the parking plan for special events would have to be presented when they come for the special review. Ms. Kilday said primarily the request to host special events is for small weddings that have to be moved from the beach because of in-climate weather. Mr. Brewer asked if Ms. Kilday had considered using public facilities for the small weddings. Ms. Kilday said it would be difficult to arrange at the last minute. Mr. Brewer said a lot of times it starts at one level but over time ends at another. He said weddings are a very competitive business and brides are very demanding and he is concerned that an afternoon snack could result in caterers, tents and a band. He asked how far Ms. Kilday saw this going. Ms. Kilday said the afternoon snack is not intended to cover the weddings but only to cover the guests at the Inn.

Ms. Allen said one way staff has addressed the event issues is asking the owners to re submit their parking plans every six months. Mayor Buelterman said they have received complaints from neighbors of B & B's regarding wedding events which led to the initial decision on events in residential neighborhoods. He asked if it was true one of them could have a party at their home with more than twenty people. Ms. Allen said yes. Mr. Brewer said he has two neighbors on each side and one recently had a wedding for their son but they only have two children and have had only one wedding in ten years; but the problem is when you have a business and that is what they do for a living and the neighbors are disturbed by an industry and its an ongoing issue. He said he doesn't think you can compare them. Ms. Kilday said she is not opposed to putting it in writing that they are not intending to host those kinds of events that include caterers and bands. She said it is very low key and she wouldn't have a problem putting those kinds of conditions that would not take place because it would be inappropriate.

Mayor Buelterman closed the public hearing.

Mr. Brewer asked Mr. Hughes to explain why Mr. Wolff can be allowed to vote when he is an owner of a B & B. Mr. Hughes explained that Mr. Wolff is limited to how many units he can put in because his structure is already built and he doesn't believe it's a conflict.

**Mr. Smith moved to approve w/conditions: 1) Expansion from five rooms to seven rooms subject to administrative site plan approval by staff; 2) Afternoon snacks allowed for residents of the Inn; 3) Hosting of special events for up to twenty people subject to one-time special review by Planning Commission and approval by Mayor/City Council. Mr. Wolff seconded.** Mr. Brown asked if this applied only to the Kilday's property. Mr. Hughes said this is a text amendment and a legislative act that will apply to all residential B & B's. **The vote was 5 in favor with Smith, Wolff, Brown, Doyle and Crone voting in favor and Mr. Brewer voting in opposition.**

Mayor Buelterman opened the public hearing for a Text Amendment & Map Amendment- North End Cultural overlay. Ms. Allen said the intent of this amendment is to bring what is primarily public property into conformance with our zoning text and zoning map. She said the affected properties include the Tybee Light station, North Beach Parking Lot, Shrine

Club and the beach. She said she overlooked the Shrine Club and the North Beach Grill and there are no provisions in this ordinance for those uses. She said if they are bringing them into conformance everything needs to be in there.

Mr. Hughes said he would prefer that they hold off on 1<sup>st</sup> and 2<sup>nd</sup> readings in order to allow him to add to the language and bring it back for the next meeting. Ms. Allen asked if council wanted it to allow the reenactments. Mayor Buelterman said yes. Mayor Buelterman asked if this would allow a Marine Science Center. Ms. Allen said it would.

**Mr. Wolff said if appropriate he would move to continue this with the conditions added by the Planning Commission and ask staff to address the issues discussed this evening.**

Mr. Hughes explained that if Mr. Wolff's motion carries, the public hearing will have to be re-advertised. Mr. Wolff withdrew his motion. Mayor Buelterman closed the public hearing. No action taken by council. Mayor Buelterman asked that this amendment come back in December. Mr. Hughes said it will not be re-advertised.

#### **Business Legally Presented:**

Mayor Buelterman opened the business meeting.

Ms. Doyle asked that the Memorial Park Plan be put on the council work session agenda in January.

#### **Consent Agenda Items:**

**Mr. Wolff moved to approve. Mr. Brown seconded.** Mr. Hughes said regarding the Polar Bear Plunge that we have agreed to allow the event and waive the liability requirement. He said we are not assuming anyone's liability for anything. **The vote was unanimous.**

#### **Way finding signs /Contract with Frazier & Associates:**

Ms. Allen said included in council packets are copies of the scope of work, the contract, and the proposal from the contractor that we selected as well as an article that they wrote about way-finding. She said they were overwhelmed by the response to the RFP and they received 28 proposals. She said they were from all over the nation including Canada. She said those that were over \$200,000 did not make the first cut. She said they ultimately narrowed it down to their seven favorites. She said Frazier and Associates came in at \$48,000 including travel fees and were not the lowest bidder but were far more qualified than the lowest bidder. She said their first step will be to inventory every sign on the Island and evaluate are they functioning as they should be and is there a way to make them function better. Mr. Wolff volunteered to proofread everything in order to eliminate extra expenses that would be incurred if there are spelling or grammatical errors. He said the contract stipulates that if they design the signs for us we will have to go back to them to order more signs. Ms. Allen said the sign package they produce will be a complete package and it is up to us to determine what we will fabricate. Mr. Wolff asked Mr. Hughes to review and make sure we own the product after they design it because we are paying them to design it and if they own it they can turn around

and sell our design to somebody else. Mr. Hughes said he has other issues with the contract that are not major. Mr. Wolff said the other issue he has is the reimbursable expenses are billed at cost plus 15% which presents a pretty good incentive to splurge. Ms. Allen said that was standard in all the proposals that they saw and some were 20 to 25%. Mr. Brown asked how many people get lost on this little Island. Mayor Buelterman said this was something the city council put in the budget several years ago and asked staff to look into. Mr. Brewer asked if this was leading into commercial businesses being able to purchase signs with a way finding type design to show where their businesses are located. Ms. Allen said they would have access to the pattern book just like any other publication at city hall. **Mr. Wolff moved to approve contingent on Mr. Hughes and the Zoning Department fine tuning the wording before signing. Mr. Smith seconded. The vote was 5 in favor with Wolff, Smith, Brewer, Crone and Doyle voting in favor and Mr. Brown voting in opposition.**

#### **Final Budget Amendment for Fiscal Year 2008 Budget:**

Ms. Schleicher said this is the final budget amendment that we have to do for the audit. Ms. Doyle said on the first page it has Beach Renourishment Revenues as \$3,940,000 and then over on page ten in the same column it has \$2,218,263 and she asked why those two numbers are different. Ms. Kline said we actually got more revenue in than we could spend in six months so that the Beach Renourishment is still going on. She said we got the Two Million and Nine from the state. She said we had more revenue than we had a chance to spend in that six month period. Ms. Doyle asked why the parking revenue of \$21,150 was so low on the first page and she couldn't tell if it was from meters or decals. Ms. Kline said she is not sure what accounts we use and she basically adds those together when she looks at parking. She said they don't separate the areas of the island as they used to but instead it is separated into pay & display, meters and decals. Ms. Doyle asked how the auditors treat the Beach Renourishment. Ms. Kline said the balance that got added to the fund balance this year and looked like a profit was a lot of that federal money that came in. She said it wasn't all spent this year but it will be spent eventually. Mayor Buelterman asked how much the city spent on beach renourishment. Ms. Kline said they can determine the amount. **Mr. Wolff moved to approve, Mr. Crone seconded. The vote was unanimous.**

#### **2<sup>nd</sup> Budget Amendment for 2009 Budget:**

Ms. Schleicher said any funds spent out of contingency would have to be approved by council. General Funds from Various Departments \$835,395; Water Sewer enterprise fund \$144,275; River's End RV Park and Campground Enterprise Fund Capital Fund \$20,000 to River's End Contingency Fund for a total of \$999,670 added to City's contingency funds. **Mr. Wolff moved to approve, Ms. Doyle seconded. The vote was unanimous**

#### **Policies and Procedures for accessing City Archives:**

Mr. Hughes said the city has a records management archives policy that was adopted in 2002. He said he doesn't think council needs to do anything but he thinks they should review it

in order to determine if they need to change it. Mr. Wolff said he would like to see us have backups of all of our files in case we have a serious storm and have to evacuate and we need all the help we can get to make that happen. He said he doesn't see the problem with department heads going through the clerk of council who is in charge of keeping the records; checking out what they need in their department and copying those in the proper format and getting us an alternate form to keep in a safe place out of harm's way.

Ms. Woods said she would like to limit the amount of files that can be taken from the archives room in order to have a small security measure to insure there are not multiple files outstanding from the archives room in case of an emergency and to insure that all files are accounted for. She said she wants to do a complete assessment of existing records and implement a records management system that will provide backup copies of critical records. Mr. Wolff said it looks as if Ms. Woods is developing an SOP. Ms. Woods said that is exactly what she is doing and requested that no archivist be allowed to work for the city unless they work under her supervision. She said the reason she is requesting the archivist work under her supervision is to make sure the critical records are copied first and then from that point all departments can copy the remaining records into the system. Mr. Wolff said he would like to see the departments cooperate with this and use the folks that have free time right now to get this done.

Mr. Hughes said the existing plan is consistent with the charter. He said it should be easy enough for departments to copy their existing records and deliver a copy to the clerk for the permanent record. Mr. Brown asked if the intent was to let the left hand know what the right hand is doing. Mr. Hughes said yes. Mr. Brewer said he thinks the intent is to define how the records will be managed and handled. He said it appeared in some of the conversation contained in e-mail that there wasn't total agreement on that process. He said in speaking with Ms. Woods he thinks she is in proper form to determine and redefine how the records will be handled and maintained. He said it's her charge according to the charter. He said he is very concerned that folks don't understand the procedures for handling records. He said earlier tonight a gentleman said he had a large file that former Zoning Administrator Dee Anderson maintained but it could not be located by the zoning department. He said that is what happens when you lose control of your records. He said he believes Ms. Woods is doing the right thing moving forward with this. Mr. Crone said that isn't the only file that has been lost.

Ms. Woods said she intends to implement the proposed security measures for the archives room and needs to know if council is not in favor of the proposed policy. Mr. Brown said Ms. Woods will be the gatekeeper and everyone needs to let everyone else know what they are doing. Mr. Wolff asked for clarification if Ms. Woods intended to directly supervise everyone copying records or if she was asking that they check them out from her so that she knows what is where. Ms. Woods said she was asking that they check them out in order for her to know what is where.

Ms. Schleicher said there is a meeting scheduled on Monday with Todd, Brannyn and the Clerk of Council and perhaps they could let council know what came of it. Mr. Brewer asked Ms. Schleicher if everyone with the city had been properly trained on how to handle records or

would they just grab a bucket full and lose them. Ms. Schleicher said no the Clerk has not come and talked to them and that's why the meeting is important.

Mr. Brewer said Ms. Kline did a fine job of answering a lot of his budget questions. He said he requested there be a standing time in their second meetings to allow the City Manager and Finance Officer to give a report on finances and answer questions council might have to insure everything is where it needs to be. He said he feels they should spend more of their efforts being fiscally responsible. Mayor Buelterman said he wants to make sure they have adequate advance notice of questions in order to provide reports.

**1<sup>st</sup> Reading of Ethics Ordinance to Establish an Ethics Commission and Repeal existing Ethics Ordinance.** Mr. Hughes said they discussed virtually the same ordinance at their last meeting and this is the last version from the Ethics Commission. He said everyone was going to review it in order to make suggested revisions or to deal with it as council sees fit. He said it does repeal the existing Ethics Ordinance. Mr. Crone said he agrees with the first part but doesn't believe they need a commission. Mr. Wolff said he thinks they will be throwing the baby out with the bathwater. He said they have a perfectly good Ethics Ordinance that needs some modification and what is sorely lacking in what is before them is the requirement to recues if you live within 200 feet instead of the 500 feet that could be overkill if you live within that distance to a subject property. He said he thinks they still need something for campaign contributions over \$500 because they have seen obvious issues with that. He said it also lacks definitions for some of the specific situations that the current ordinance has, that were important and labored over for months. He said they absolutely need an Ethics Commission for independent judgment and consideration and he doesn't think they should be judging themselves when one of them is the subject of an ethics complaint.

Mr. Smith said when it all comes down to it they have to judge themselves because when the commission gets through with it, it comes to city council for a determination. He said on page 9, number 2 under Section 10 Council; he has talked to chairman Beeson today and where they say if the commission requires legal services and the city attorney cannot or is unable to provide, the commission is to be represented and assisted in carrying out its responsibility by an attorney appointed by the Ethics Commission. He requested that the addition of that appointment be confirmed by city council. He said Chairman Beeson has no problem with that. He said he disagrees with the \$500 disclosure requirement causing a controversy because he made sure he did not accept more than \$100 from any one person and there was a party he was asked to attend and then told he needed to claim it on his disclosure. He said he cannot recollect anyone coming before them that he received a dime from. He said one thing this proposed ordinance would eliminate is a nine paragraph letter from Mr. Hughes late in the evening before a council meeting talking about recusals and who needs to recues. He said there had to be in excess of nine different areas that Mr. Hughes had to go to in order to determine what they were supposed to do. He said he knows the existing ordinance was well intended and his wife worked on it along with a lot of people and he appreciates every

volunteer hour they spent but this is so much simpler. He said an ethics ordinance should be for the common man to read and understand and not to have to be interpreted by the city attorney or anybody else's attorney in his opinion.

Mr. Hughes said there is no 500 foot rule or a rule that a serving commission member has to step down in the event they qualify to run for city council.

Mr. Brown said he likes the idea of council appointing one or two people to sit on a commission but only acting on an as needed basis. He said this last issue has probably cost the city several thousand dollars in legal fees.

Mr. Hughes said council can set up the commission any way they want to. He said the current commission doesn't meet unless there is a complaint. **Mr. Crone moved to accept the Ethics Ordinance Article A and do away with Article B, the Ethics Commission. Mr. Brown seconded for discussion.**

Mr. Brown asked if they could change the procedure for how the commission is formed. He asked if they could select members from a pool of appointees. Mr. Hughes said they are having a hard time filling positions now.

Mr. Crone said this city was founded in 1887 and this is 2008 and this city has never had an ethics commission. He said we have survived and he doesn't remember there ever having been a problem with people not being ethical.

Mr. Brewer said there is a complaint that is currently being considered by the commission and he is concerned with making changes while there is a process in place. Mr. Brewer said it takes several months to go through this process that is now gaining momentum with lawyers involved. He said he was just involved in a situation and he had to have a lawyer represent him and it took a lot of time to find out that the vote was going to be in his favor. He said he is disturbed it takes so much time and very disturbed it takes so many lawyers. He said he doesn't believe that when the committee wrote this ethics ordinance that they ever dreamed that the complainant would have his own lawyer, the City Attorney, and the City Attorney's own lawyer, if the City Attorney has given his blessing to someone's participation in a discussion. He said now the Ethics Commission wants their own lawyer. He said pretty soon everyone will have their own lawyers and this is going to cost a lot of money. Mr. Brewer asked if the City has been shown to be unethical and to require this sort of a stringent requirement.

He then requested that a copy of the letter his lawyer wrote be given to each council member. He said his lawyer went to great lengths describing problems with the ethics ordinance. He said he referred to our ordinance using the term conflicting interest repeatedly and there is no such legal term. He said he is not knocking the volunteers that put the ordinance together but the signs are very clear that this is not a good ordinance. He said it's complicated and hard to follow and they need to move away from the current ordinance because it's a problem. He said when someone brings a complaint it should be handled within two weeks. He said an immediate group should be formed to look at it in order to get an immediate response. He said it's unfair for someone under a fictitious complaint to have to wait three or four months for it to be resolved.

Mr. Crone said this thing has been postponed long enough and they need to make a decision one way or another and keep it or do away with it.

**Mr. Smith moved to call the question. Ms. Doyle seconded. The motion failed with only Smith and Doyle voting in favor.**

**The vote on Mr. Crone's original motion was 2 to 4 with Crone and Brown voting in favor and Brewer, Doyle, Smith and Wolff voting against.**

**Mr. Smith moved to accept the ordinance as prepared by Mr. Hughes with the addition of the Attorney being confirmed by Council in Section 10 paragraph 2. Ms. Doyle seconded.**

Mr. Brewer said he feels the city attorney should be the definitive authority on what is ethics. He said he feels they are starting to subjugate his legal council to us into other areas. Mr. Hughes explained that if you rely on the city attorney's legal opinion that should be the end of it or else the complaint should be against the city attorney. He said that is not the way our current or this proposed ordinance is.

**Mr. Smith amended his motion to state if there is a complaint against a Council member or a Planning Commission member and they were acting at the City Attorney's advice then the complaint would be invalid. Ms. Doyle seconded the amended motion.** Mr. Hughes explained complaints could still be made against the City Attorney.

Mr. Wolff said there are some glaring deficiencies in this ordinance with one being if you don't have the 500 foot rule you could be voting on a petition from your next door neighbor. He said they haven't had to declare contributions in excess of \$250 because there have never been any until this last campaign when the big money came into Tybee politics. He said what is before them is nowhere near as comprehensive or as meaningful as what is on the books right now and if you are undoing it, it is a step backward.

Mr. Smith said the first time he ran for city council he received a contribution of \$1,000 from the Realtors Political Action Committee and it was disclosed and he got \$500 from the Homebuilders Association and it was disclosed; he got \$500 from Dr. Joe Nettles and his wife and it was disclosed so this is not the first time there has been big money involved during a campaign.

Mr. Brown said Council members have always recused themselves when their neighbors, family members or friends came before them with a petition and the ordinance limits have no bearing on that. Mr. Hughes said the effort in the last ordinance was to establish it where everyone knew what the rules were and 500 feet is clear. Mr. Wolff said that is his point and this ordinance doesn't require recusal for anything basically. Mr. Hughes said it does require recusal for financial interest and so does the charter. He said if you have a financial interest regardless of what you put in this ordinance you have to disqualify yourself under the charter.  
**The vote was tied with Smith, Doyle and Brewer in favor and Brown, Crone and Wolff opposed. Mayor Buelterman voted in opposition.**

**1<sup>st</sup> Reading Charter Amendment to Section 4:15** regarding the rules of the Municipal Court of the City to provide that the court will make its rules subject to council's approval of the court. **Mr. Wolff moved to approve, Mr. Crone seconded. The vote was unanimous.**

**1st Reading of Charter Amendment to Section 6.29** relating to the timing of adoption of the operating budget in relation to the end of the fiscal year. **Mr. Crone moved to approve. Mr. Wolff seconded. The vote was unanimous.**

**1<sup>st</sup> Reading of Charter Amendment to Section 6.32** relating to the capital budget and the adoption requirement prior to the end of the ensuing fiscal year. **Mr. Crone moved to approve. Mr. Wolff seconded. The vote was unanimous.**

**Amendment to code of ordinances to create Section 42-64 so as to make it unlawful to create or permit the creation of music or loud noises, amplified or otherwise, at certain times of the day, to repeal conflicting ordinances and to establish an effective date.**

Mr. Wolff asked if staff had given any input into the ordinance before them today. Mr. Hughes said his understanding is that staff was opposed and department heads have expressed concerns about it. He said it has been modified a couple of times as a result of that and to add an exemption for approved special events. Mr. Wolff said he would like to see changes like for instance the requirement for insulated walls because Jenny Orr has a lot of money invested in the garage doors she pulls down in case of rain or cold and they are not insulated and they are not windows. He said perhaps they could have shutters on a screen porch to block the sound. He said there are a lot of ways to do this without making someone completely rebuild their business that has been going on for years. He would like to see something from the zoning department that addresses issues in terms of building codes and in terms of decibel levels that have served us well before. He said as a business owner has pointed out there has only been one person complaining and it has been consistent.

Mr. Hughes said he understood a few meetings back that council wanted a sound engineer to come and look at the situation. Mr. Brown said he doesn't believe the city needs to pay for that type of investigation but if the business owner wants to pay for that type of investigation it would be well and good. He said he has had several neighbors call him about the noise but they do not want to give the business owner a hard time and that is the reason you are not hearing from a lot of them. Ms. Allen said regarding the consultant she understood there was one specific incident that they were to get an opinion on. She said she has suggested they go back to that consultant or another for some technical input on what needs to be in a noise ordinance. She said there are people with technical expertise that can guide us through this for something that is hopefully equitable for everyone. She said she doesn't feel that she or anyone on her staff has that expertise.

Ms. Doyle said Bill Dowell has a lot of good information because of research done during the Chandler House petition and he is willing to share it with Ms. Allen and Mr. Hughes.

Mr. Smith said they limited the noise outside until 11:00pm for the Chandler House because of Mr. Dowell and they limited the noise outside for Tybee Trees to 11:00pm because of one person. He said they have an ordinance that limits Mr. Brown and Ms. Doyle from starting their business on the weekends until 10:00am. He said his idea is that inside music can go on twenty four hours a day for seven days a week if that is the way you want to count your hours. He said he thinks 11:00 o'clock at night is late enough. He said his understanding is one of the reasons staff objected to it was because it was not confined to businesses and was defined as any outside noise. He said they have problems in other areas of the city and short term rentals are a problem and have been for several years. He said he doesn't see that this is unfair or targeting any one person.

Mr. Brown said if they want to fine tune this ordinance they could put some kind of decimal level on it that would be taken at the property line where the noise is coming from. He said if you want to define the levels after 11:00 o'clock then Mr. Thomas can continue to do what he is doing. He said he believes Fannie's and Stingrays cut off the outside music after 11:00pm not because they have to but just to be courteous to their neighbors.

**Mr. Wolff moved to ask staff to research this issue more deeply in order to try and resolve inconsistencies in the current ordinance and to use resources as they see fit to hire a consultant if necessary to come up with something better.**

Mr. Brown asked if they were providing an open checkbook for this research. He asked Mr. Hughes what the Savannah Ordinance said. Mr. Hughes said he doesn't know the Savannah Ordinance but believes it has decimal levels and time controls. Mr. Smith said Savannah shuts people down and sends them home if they violate the ordinance.

Mr. Smith asked when council would get this back in front of them. **Mayor Buelterman asked for an amendment to request this ordinance come back for the 2<sup>nd</sup> meeting in January. Mr. Smith agreed and Ms. Doyle seconded. The vote was 4 in favor with Wolff, Doyle, Brown and Crone voting in favor and Mr. Smith voting in opposition. Mr. Brewer recused.**

**Ethics Commission's request to be provided with an Attorney.**

Mr. Crone asked who would have control over the commission contacting the attorney.

**Mr. Wolff moved to approve Mr. Darden as requested by the Commission subject to Mr. Hughes rate and with the stipulation that only the Chair will be able to make contact. Mr. Smith seconded.** Mr. Brewer asked if Mr. Darden was a qualified expert on Ethics. Mr. Hughes said he knows Mr. Darden used to live on Tybee but no longer does and he knows him to be a good, reputable and competent attorney with a lot of his cases being in criminal defense. Mr. Hughes said Mr. Toporek as a commission member recommended him and seems to be well acquainted. **The vote was Wolff and Smith in favor and Brewer, Brown, Crone and Doyle opposed.**

Mr. Brewer said he was bothered by the vote on the Ethics Ordinance. He said it seems a large number of folks here are dissatisfied with the current ordinance. He said he agrees with Mr. Crone and wants to go back and revisit the Ethics Ordinance tonight.

**Mr. Brewer motioned to reconsider Mr. Smith's original motion on the Ethics Ordinance. Mr. Smith seconded.**

Mr. Brewer asked that council consider the ordinance on a point by point basis. Mayor Buelterman said he voted against the original motion because he wants the \$500 recusal amount left in to discourage large amounts of money from coming into the political process on Tybee. Mr. Smith suggested he not accept the money. Mayor Buelterman said he thinks it would prevent people from giving the money which would be a good thing. Mr. Brown said he voted against Mr. Smith's original motion because of the Commission and the Island being so small and it pits neighbor against neighbor. He said they were elected to a position where it's up to council to deal with these ethics problems and even if it is against one of them, it will eventually have to come back to them for a decision. Mr. Crone agreed with Mr. Brown about the Commission.

Mr. Brewer said he feels considering the critics they have had regarding the current Ethics Ordinance that they should move away from it. Mr. Smith said they need something other than what they have right now.

Mr. Hughes explained the motion that was made was to reconsider Mr. Smith's motion.

**The vote was Brewer, Brown, Crone, Doyle and Smith in favor and Wolff opposed.**

Mr. Hughes explained that a yes vote on Mr. Smith's motion would approve the Cedar Town Ordinance with the proposed changes by Mr. Smith and a no vote would mean the motion failed and the floor would be open for another motion.

**Mr. Smith's original motion was to accept the ordinance as prepared by Mr. Hughes with the addition of the Attorney being confirmed by Council in Section 10 paragraph 2 and to state if there is a complaint against a Council member or a Planning Commission member and they were acting at the City Attorney's advice then the complaint would be invalid. The vote was Smith and Doyle voting in favor and Brewer, Brown, Crone and Wolff voting in opposition.**

**Mr. Brewer moved to accept and adopt Article A, Mr. Brown seconded for discussion. Mr. Brewer amended his motion to include the provision that if there is a complaint against a Council member or a Planning Commission member on any issue that the City Attorney has given an opinion should be a defense to any complaint of unethical behavior. Mr. Brown seconded. The vote was Brewer, Brown, Crone, Doyle and Smith in favor and Wolff opposed.**

**Mr. Brewer moved to eliminate Section B of the code of Ethics. Mr. Crone seconded. The vote tied with Brewer, Crone and Brown voting in favor and Doyle, Smith and Wolff voting in opposition. Mayor Buelterman voted in opposition.**

**Mr. Smith moved to approve Article B of the Proposed Ethics Ordinance with the addition of the Council having confirmation over an Attorney being hired by the Ethics**

**Commission. Ms. Doyle seconded. The vote was Smith and Doyle voting in favor and Brewer, Brown, Crone and Wolff voting in opposition.**

**Mr. Wolff moved to go into Executive Session to discuss Litigation. Ms. Doyle seconded. The vote was unanimous.**

**Mr. Wolff moved to end Executive Session, Ms. Doyle seconded. The vote was unanimous.**

**Mr. Wolff moved to adjourn, Ms. Doyle seconded. The vote was unanimous.**

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**Mayor Jason Buelterman**

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**Vivian O. Woods, Clerk of Council**