

20091112 City Council Minutes

Mayor Jason Buelterman called the Consent Agenda meeting to order at 6:30pm on Thursday, November 12, 2009. Council Members present were, Mayor pro tem Doyle, Barry Brown, Dick Smith and Paul Wolff. Councilman Eddie Crone was absent due to illness and Councilman Charlie Brewer was absent due to being out of town on Business. Also present were City Attorney Bubba Hughes, City Manager Diane Schleicher and Planning and Zoning Director Jonathan Lynn.

Mayor Buelterman listed the following items on the Consent Agenda:

- City Council Minutes for 9/24/09
- City Council Minutes for 10/22/09
- Participation in Systemic Alien Verification for Entitlements (SAVE) Program and approval of: Memorandum of Agreement, Addendum to the MOA, and the USCIS Anticipated Collections from Non-Federal Sources Document. Attorney Hughes explained the SAVE program is part of Homeland Security verifying that people receiving benefits from the city, or the city contracts with, and city employees are all legally in the country.
- Extension to Motorola Maintenance and Support Agreement for Police Department for Vehicle Laptop Computers December 1, 2009 through November 30, 2010. Annual Cost \$629 Budgeted Line Item 100-3210-52-1300
- GDOT Permit for Stamped Concrete Crosswalks at 3rd, 11th, and 13th Streets and for Solar Powered Blinking Pedestrian Signs on the shoulder of both sides of Crosswalks from 2nd Street to Tybrisa Street. Right of Way Mowing & Maintenance Agreement by and between the GDOT and the City of Tybee Island in reference to the Article XI, Work Plan of the Agreement. Infrastructure Committee recommended the permit.
- Memorandum of Agreement with Chatham County for county allocation of funds for Lifeguard Costs -\$10,000 Budget Line Item: 100-6124-51-1200
- Special Event Beer & Wine License, Gallery By the Sea Sunday, December 5th 2009 Address: 1016 (E) Hwy 80 Applicant-Gayle Bolton.
- Special Event Application, Polar Bear Plunge Friday, January 1, 2010 11am-1pm Walter Parker Pier & Pavilion/Beach. Approved waiver of all fees. Special Event Application Fee (\$100) Vendor Fee \$25) and Beach Permit Fee (\$25) Hughes and Buelterman responded waiver of fees does not constitute sponsorship.
- Special Event Application, EVP Tour Pro-Am Beach Volleyball: Saturday, May 22 (7am-7pm) Southside of the Pier on the Beach. Applicant: Savannah Sports Council-Ben Wilder Wolff asked if we need DNR approval. Lynn stated no.
- Sustainability Initiative-Begin process of establishing task force to help Tybee become leader in sustainability/energy efficiency initiative while saving taxpayer's dollars.
- Williams Storm Water Agreement & Funding-Up to \$2,000 for Engineer reimbursement, to be paid out of 14th Street Drainage Project budget

Executive Session:

A Motion by Councilman Wolff to go into Executive Session to discuss Litigation was seconded by Mayor pro tem Doyle. The vote was unanimous.

A Motion by Councilman Wolff to end Executive Session was seconded by Councilman Brown. The vote was unanimous.

Mayor Buelterman adjourned the Consent Agenda.

Mayor Buelterman called the regular meeting of the City Council to order at 7:00pm. Those present at the Consent Agenda were also in attendance for the regular meeting. Perb Fortner gave the invocation and everyone recited the Pledge of Allegiance to the Flag.

Consent Agenda:

A Motion by Councilman Smith to approve the Consent Agenda was seconded by Councilman Wolff. The vote was unanimous.

Mayor's Announcements:

Mayor Buelterman announced there would be four positions coming open on the Planning Commission and asked for anyone wanting to apply to please do so to the clerk's office by the end of December.

Pictures were displayed of the recent fire on Jones Avenue and Mayor Buelterman thanked Chief Sasser and the rest of the Fire Department and Volunteers for their quick response and diligence in not letting the fire spread to surrounding structures.

Mayor Buelterman congratulated the candidates who ran for office and thanked everyone that came out and voted. Outgoing council members will be honored at the council meeting in December. New council will start in January.

Proclamations:

Mayor Buelterman presented Better Hometown Coordinator, Chantel Morton with a Proclamation proclaiming Thanksgiving Day, 2009 thru New Year's Day 2010 as "Tybee for the Holidays". This is to promote community involvement in city wide festivities and holiday events and encourage citizens to spend their dollars for the holidays on Tybee instead of malls and the internet.

Citizens to Be Heard:

Chantel Morton gave an update on the activities and events scheduled for the "Tybee for the Holidays".

Perb Fortner gave an update on the Tybee Island Business Alliance and announced the next meeting will be on November 18th, 11:00-1:00 with lunch provided. There will be a roundtable discussion on problems facing the businesses. Work and effort continues with City staff and residents on numerous issues. He also complimented the City's parking department and the customer service they practice with visitors to the island and recognized the team with Certificate of Appreciations for each member as Ambassadors for Tybee.

Mel Gordon and Eddie Wilson presented Friends of the Tybee Theaters with a check for \$4,000 from the proceeds of the "Lefty the Pirate" play and thanked the Mayor and Council for all of their support. The Friends of the Tybee Theaters announced a star, through the theater's current fundraiser drive, has been purchased for Mel Gordon and Eddie Wilson and will be placed in the front of the theater.

Kathryn Williams reminded everyone this Saturday at 9:00AM is the next Adopt-A-Highway day.

Don Ernest invited everyone to the pier at 12:00 noon on New Year's Day for the Polar Bear Plunge.

Public Hearings:

Variance Request for setback encroachment of existing stairs (Sec 5-090), 1701 E & F Chatham Avenue Zoned R-2, PIN 4-0010-05-018, Petitioner: Donald Brown (Kern-Coleman) for D.L. Sweeney. Planning Commission recommends approval (4-1).

Jonathan Lynn stated the applicant purchased the property out of foreclosure. It had just been built and a Certificate of Occupancy had not been issued. The new owner came in with his "As Built" drawing to request the CO. On the drawing we noticed the existing stairs were encroaching into the side yard setback about 1.5 feet. After consulting with the city attorney we determined this was not an "after the fact" variance due to the fact Mr. Sweeney did not own the house during or have anything to do with the construction of it but had inherited it. He is eligible to request a variance as it creates a hardship with him inheriting the problem. It is actually the landing that encroaches and if it is removed, according to Mr. Sweeney, it would not be ADA accessible.

Councilman Brown asked since this is zoned R2 and the plan shows 10 foot setback all the way around the house, where is the front yard setback. Lynn responded where the other set of stairs are.

Discussion was held on the front door not facing the 20 foot easement. Lynn stated the Land Development Code states the 20 foot setback only has to be from one of the property lines, it does not have to be where the front door is located. The property owner can determine where the front is.

Councilman Smith stated according to the drawing from Kern-Coleman, the house is built over part of the 20 foot access easement. Lynn states yes it is. When the department got the request for the Certificate of Occupancy the applicant was given a list of things that would have to be corrected before the CO could be issued. The two outstanding factors were the stairs would have to receive a variance to allow them to become a non-conforming use and Mr. Sweeney would have to work to do what he had to and make adjustments for the easement and make sure the structure was not in that easement. He would not receive his CO until both of these factors have been satisfied. Councilman Wolff stated there is no excuse for building a new house that doesn't conform to code and asked if the builder is still

in this area and do we have any recourse to go back on him. He empathized with the owner that purchased the home out of foreclosure but this property has a lot of things wrong and considering it was brand new and there were many options for design and construction that would not have encroached upon the setbacks. Lynn responded when the house was first built, on the first set of plans the surveyor actually showed the easement at 17 feet where it touches the house. He took it upon himself to reduce the size of the easement. We approved it based on that. When we received the "As Built" from Mr. Sweeney we see there is a 20 foot easement all the way through the property. Wolff stated if the reasoning for leaving the stairs in the setback is for ADA, they can't be anyway they are stairs. The builder is responsible not the owner. Smith responded the builder is in foreclosure we can't go back on him. This needs to be tabled and allow the owner to get the legal problems worked out. Building the house over the access easement affects the people it serves behind them. Brown stated it looks like the person laying the house out made the mistakes because the house on the back side is not following the 10 foot setback. If the house was turned just a little the wedge on the stairs would not have been in the setback. There is a monopoly of things going wrong. He agreed with Councilman Smith this needs to be tabled until the issues can be worked out.

Donald Brown with Kern-Coleman addressed council to clarify it is not an ADA issue with the stairs. They have elevators, etc on the property that addresses that. It is the building code on the size restrictions. The depth of the stair landing has to be equal with the width. With the minimum width of the stairs being 36 inches the stair landing has to be 36 inches wide. If the stairs are four feet wide the landing has to be four feet wide. This is not an ADA code it is a building code. In response to the 20 foot access easement the applicant has been notified this is an issue. Mr. Brown stated he was not aware until Mr. Lynn stated it this evening that there were previous plans where the surveyor had reduced the size of the access easement down to 17 feet. He asked for leniency because of the situation. The part of the stairs that overhangs into the easement is much like eaves of a house. There is no pillar or structure that sits in it.

Smith asked where the required parking was. There is no garage, etc shown on the drawing. Lynn responded the parking is under the house. Mayor pro tem asked Mr. Lynn if the variance was issued, could the applicant still not get a CO because of the Access Easement. Mr. Lynn responded that is correct. Mr. Lynn stated applicant is aware both issues have to be corrected. They could be done separately or together.

David Postle, former Planning Commission member, spoke against the petition due to the code stating retroactive variances are not allowed.

A Motion by Councilman Smith to continue until problems with the Access Easement are cleared up was seconded by Councilman Brown. The vote was unanimous.

Special Review for Residential Bed and Breakfast (Sec 3-060), 8 Palmwood Ct
PIN 4-0002-24-005, Zone PUD Petitioners: Randolph and Priscilla Bishop
Planning Commission recommends denial (4-1)

This petition was withdrawn at petitioner's request. Mayor Buelterman opened the Public Hearing for the item as it had been advertised and asked if anyone wished to speak for or against. No one did and the Public Hearing was closed.

Council, Officials and City Attorney Considerations and Comments:

Mayor Jason Buelterman

Corp of Engineer's letter of response on seawall and groin field removal

Mayor requested the letter be attached as part of the Minutes.

Mayor Buelterman asked Councilman Wolff to give an update from the Infrastructure Committee on the Davis's request to have the portable restrooms in the 14th Street parking lot moved. Wolff stated due to cost and other logistics they recommended the restrooms remain where they currently sit. Mayor Buelterman asked if Councilman Wolff would have this put back on the next agenda for the Infrastructure Committee meeting as Mr. Davis was not aware it was being discussed and would like the opportunity to be present. And to also bring it back on the December's agenda for Council. Councilman Wolff stated he would.

Councilman Barry Brown

Merit Raises

Councilman Brown would like to see merit raises run hand in hand with the COLA at the first of the year. If a supervisor sees someone doing an outstanding job they should be able to give the 1.5% raise. Councilman Smith asked for it to remain in contingency and taken out as needed up to \$25,000.

A Motion by Councilman Brown to use up to \$25,000 out of Contingency fund in order to allow Department Heads to give merit raises of up to %1.5 to deserving employees starting January 1st, was seconded by Mayor pro tem Doyle. The vote was unanimous.

Hospitalization for retirees

Councilman Brown asked Mrs. Schleicher if a survey had been done with employees of who would be interested in paying into a plan. Mayor Buelterman confirmed this would be hospitalization for retirees from when they retired early at 55 to 65 when SSN would start. Mrs. Schleicher stated a survey had been done. Of those surveyed, 17% said no and 12% said yes they would pay into a plan with City matching. This is after twenty years of service and after age 55. On being asked would they participate paying 50% minimum at time of retirement after 20 years of service and being offered early retirement at age 55, 19% said yes, 21% was non-applicable, 31% said no. Councilman Brown requested City Manager check on what Chatham County government and schools do in order to provide this for their retirees. Mayor Buelterman requested the City Manager look into health savings accounts.

Councilman Dick Smith

Campground Enterprise Fund

Councilman Smith suggested the money that the campground owes to the general fund, somewhere in the neighborhood of nine hundred thousand dollars, be forgiven. We also change the campground from an Enterprise Fund to a line item in the Budget, and just fund it. The way it is being done now it would never be paid; it would just continue as a debt of \$300,000 a year and keep going in a circle. Mayor Buelterman asked if the auditors recommended this to be done. Smith answered he doesn't believe the auditors gave a recommendation one way or the other. Mrs. Schleicher discussed it providing services and being used that way.

Councilman Wolff asked for the Finance Director's recommendation before council taking action. Mary Hogan, Finance Director, stated she had spoken to the auditors and they preferred it to stay as an Enterprise Fund, but they also understand the confusion with it being that way, and said it was up to council. Ms. Hogan also stated there was no disadvantage of changing it and it would make the accounting cleaner. She stated the Finance Department could handle it either way.

A Motion by Councilman Smith to forgive the Campground Debt to the General Fund and change the accounting system for the Campground from an Enterprise Fund to the General Fund, was seconded by Mayor pro tem Doyle. The vote was unanimous.

Dry Trash Enterprise Fund

Councilman Smith said the Dry Trash fund is set up the same way as the campground but with no debt and it is still losing money. We need to take whatever the dump is costing us, add it to DPW's budget and take it away from the Sanitation Fund. We charge people to collect their garbage and recycle but we don't to dump at the city dump. Mrs. Schleicher stated she would restate the budget on both accounts and bring it back to council in a formal way. Mrs. Hogan stated the other portion we are not billing for is the Senior Citizens part and the Finance Department would need direction for that. Smith stated his goal is to see the Sanitation Fund break even. The Water/Sewer Fund is close and he wants to see this one do the same. Mayor pro tem Doyle asked if we need opinion from Joe Wilson, Public Works Director. Mr. Wilson responded it would be ok with him. It does not matter but he thinks it would help the Finance Dept.

A Motion by Councilman Smith to take all expenses associated with the Dump out of the Sanitation Enterprise Fund and account for that expense under DPW; everything we charge a fee for would go through the Enterprise Fund; and to include Senior Citizens recycling, which we do not charge for but need to account for, was seconded by Mayor pro tem Doyle. The vote was unanimous.

Executive Session:

A Motion by Councilman Wolff to go into Executive Session to discuss personnel was seconded by Councilman Brown. The vote was unanimous.

Adjournment:

A Motion by Councilman Wolff to end Executive Session and adjourn was seconded by Councilman Brown the vote was unanimous.

Jason Buelterman, Mayor

Vivian O. Woods, Clerk of Council