

20100408 City Council Meeting Minutes

Mayor Jason Buelterman called the Consent Agenda meeting to order at 6:30pm on Thursday, April 8, 2010. Council Members present were Mayor pro tem Shirley Sessions, Wanda Doyle, Bill Garbett, Frank Schuman, Sr., Kathryn Williams and Paul Wolff. Also present City Attorney Bubba Hughes, City Manager Diane Schleicher and Zoning Director Jonathan Lynn.

Mayor Buelterman listed the following items on the Consent Agenda:

- 3/25/10 City Council Minutes
- Ethics Commission appointment-Kathy Jackson
- Special Event Alcohol Application-Applicant: Gayle R. Bolton for Gallery By The Sea Date: May 08, 2010 Location: 1016 Hwy 80 East
- Policy to address idling vehicles-Ask Staff to develop a Policy for Council to review.

Executive Session

A Motion by Paul Wolff to go into Executive Session to discuss Litigation, Personnel and Real Estate Acquisition was seconded by Bill Garbett. The vote was unanimous.

A Motion by Paul Wolff to end Executive Session was seconded by Kathryn Williams. 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. Father Thomas Peyton gave the invocation and everyone recited the Pledge of Allegiance to the Flag.

Wanda Doyle announced the dedication of the Veteran's Memorial on Saturday at 11:00 followed by a low country boil fundraiser.

Mayor Buelterman thanked everyone involved with the Flip Flop "Last Song" movie premier party. It was a great success and gave Tybee excellent public relations exposure.

Mayor Buelterman reminded everyone to complete their Census Forms. Forms can be picked up at the YMCA.

Citizens to Be Heard

Cliff Bensen addressed council on issue of the dogs not being allowed to march in the St. Patrick's Day parade on Tybee. He wanted to clear up misunderstandings so hopefully the situation would not happen again. Because of the negative publicity Tybee has received over dog issues such as, the dog park and dogs on the beach, a group of citizens came together to march in the parade. On Face book they invited anyone wanting to participate, making it clear this was not an organized group staging a protest march. No signs would be carried or nothing political would be involved, just Tybee residents getting together dressing up their dogs in green costumes and having fun. Mr. Bensen stated the only point trying to be made was, in spite of all the negative publicity, Tybee Island was a dog friendly community. Apparently someone assumed, without checking it out, that this was a political group and complained. This resulted in the permit being revoked the day before the parade. Because it wasn't an organized group it was hard to notify everyone and some showed up any way. At that time police informed them they could march individually by joining the back of other groups. As they attempted to do so, another officer informed them to get out of the parade or be subject to arrest. Thankfully this did not happen. He hopes this situation was just a result of misunderstandings and lack of communications so next year the dogs would be allowed to march in the colorful costumes and join the celebration.

Libby Bacon gave council an update on the city's community garden. She presented the current design plan. The site is between the YMCA building and the Old School building. DPW has been very helpful with preparing the site. There are two types of gardening, individual and communal. We have twelve individual plots already built. The communal area is two boxes. There is also an area where future dinners can be held. There is a handicap area where the boxes are raised to accommodate wheelchairs or persons unable to bend or squat to garden at the ground level. There is a children's area where the YMCA has a group of children working. As people pay, more beds will be added. Rain barrels are being placed to support the garden. Shirley Sessions stated this project is impressive and everyone that has participated has done a great job. She said Kelly Locamy submitted plans for the raised handicap area to United Way and has been approved for financial support in the "BIG GIVE" Campaign sponsored by the Westin and Liberty Mutual Golf.

Mayor Buelterman gave an update on the 2010 census. He said Tybee's response rate is at 62% and only a few points under the national average of 64%. He announced that census forms are available at the YMCA-Gym. Census forms will not be mailed to PO boxes and census takers will be going door to door starting May 1st.

Reports of Staff, Boards, Standing Committees and/or Invited Guest

Chantel Morton-Better Hometown Coordinator invited everyone to attend the next Visioning Workshop on Wednesday at 5:00. The last workshop was held in July and established work plans for the committee and Better Hometown program. This will help to continue progress towards the Better Hometown designation.

Consideration of Approval of Consent Agenda

A Motion by Paul Wolff to approve was seconded by Kathryn Williams. The vote was unanimous

Public Hearings

1. Site Plan Review for location of temporary building (Sec 5-080) Petitioner: Derek Brown as applicant; Patrick Matthews, owner. Address: 2101 Highway 80
PIN 4-0024-02-001 Zone M-D

Mr. Wolff asked Mr. Hughes if he should recuse himself since he docks his boat at Walsh's dock. Mr. Hughes answered since Mr. Walsh was not involved in this particular business he did not think so. This may be more of a disclosure item and not a recusal item.

Mr. Lynn stated this request is for a temporary building for a ticket booth for Captain Derek's Dolphin Adventures. The current use for the property is a marina, which will stay the same. The current zoning is Maritime District with Community Character of this area shown in the Master Plan as the Lazaretto Creek Maritime District. Right now they are just using a make shift table with an umbrella. This is an old 5'x5' ticket booth they acquired from the historical society. It will be on skids with no land disturbance and not in the right of way. Power will run from the power pole located directly behind it. It will not have electrical wiring underground to impact the marsh area.

Mr. Wolff requested water coming off the roof be directed away from the marsh. This is being placed in the buffer even though it is not intrusive. Wolff suggested it would be better to locate the booth between parking spaces to eliminate people stopping in the middle of the road to buy tickets. Lynn said the two required parking spaces are for core employees.

Ms. Williams asked about the discussion concerning the temporary status and not having to move the building but there was discussion about covering it with a tarp. Mr. Lynn said this is where we do not have a provision in our ordinance for a temporary structure. They are looking

for this to be a temporary structure because the owners are not building a permanent foundation or planning to have water or electricity run to it. He has deferred to the International Building code which states a temporary structure can't be there for over 180 days. At 181 days they can move it or cover it with a tarp as long as it is only used 180 days. Mr. Lynn said if they wanted to throw the temporary structure on the back of a trailer and remove it from the property for a certain amount of time and after that they would not be required to submit another site plan but it would have to be out of use for a certain amount of time. Ms. Williams asked if they could achieve the same thing by putting a long narrow sign across the door or window saying "Temporarily closed", or "Will reopen on a certain date". She said in her opinion a tarp would be unsightly and expensive to move. Mr. Lynn agreed and said as long as it is not in use it didn't matter what kind of requirement they imposed. Ms. Williams stated that would be a better solution.

Mr. Garbett stated this question obviously comes up later regarding the tent on 7th Street. He suggested council review the International Building Code because the city has issued several permits for temporary structures. He asked if there was a requirement on a structure like this to provide restroom facilities. Mr. Lynn stated restroom facilities are not required on temporary structures.

Mark Boswell said the water will run towards the west after going through the buffer. Mr. Wolff requested the runoff be guttered or diverted to a vegetated area. Mr. Boswell said the runoff will fall into the buffer and the buffer is a vegetated area. Mr. Boswell stated the building could be shifted back to the west to allow more room for traffic moving around it. Mr. Wolff said it could simply be a sign asking people not to block the driveway and have employees bring it to their attention.

Ms. Williams asked if DNR had given a letter of approval. Mr. Lynn stated since the city is the LIA and there is no land disturbance going on in the buffer, DNR consideration was not needed. The applicant did confer with DNR.

Ms. Williams asked about one planning commissioner's concern that the bearings were incorrect in the letter and if this created a problem. Mr. Lynn stated it was just a simple error in the letter of approval from Pat Matthews, the property owner where it made a distinction of "East" of Lazaretto Creek and it should have stated "West" but everything is clear. She said she noticed the petitioners planted vegetation right there at the entrance and suggested it would be great to capture the runoff and use it to irrigate those plants.

Mayor Buelterman asked for staff to consider reviewing the Maritime District because it is a growing area with traffic concerns and at some point we might need to consider requesting an extra turn off lane. DOT takes time so approaching them now may help before it gets too busy. Ms. Doyle stated this should be an agenda item for the Public Safety Committee.

Freda Rutherford asked about the requirement for temporary structures to be moved within 90 minutes in the event of an emergency like a Hurricane. Mr. Lynn stated this is the responsibility of the property owner.

Ms. Doyle asked about temporary structures that meet all the building codes with hurricane tie downs, straps, etc, and if these owners would still be required to move them. Mr. Boswell explained the example of the Ice Machine temporary structure and its mobility. Mr. Wolff discussed mobile home restrictions and requirements with no requirements for moving. Wind Restrictions in the Code could help with this.

Ms. Sessions asked if the city should review what we require. Mayor Buelterman asked what the penalties are if the building is not moved and what the requirements are for being moved versus being allowed to stay. Mr. Lynn stated in this case the building is so simple with no permanent connections and can be moved on the back of a pick up if necessary.

Mr. Wolff asked Mr. Lynn and Mr. Hughes to look at the city's liabilities on structures where enforcement was not applied and property owners did not comply. Mr. Hughes stated the liability to the city in those cases is very remote.

Mr. Schuman reminded everyone if a hurricane is coming lives are the most important and immediate need to move and get off the island not temporary structures.

Bill Walsh spoke in favor of the proposal.

A Motion by Wanda Doyle to approve was seconded by Frank Schuman. The vote was unanimous.

2. Site Plan Review for location of tent/temporary structure. (Section 5-090(B))
Petitioner: Paul Theron for Silver Waves, Inc. Address 701 1st St., PIN 4-0026-03-021 Zone C-2.

Mr. Lynn stated the proposed use of the property is the same as the current commercial use. Zoning is C-2 and the Community Character shown by the Master Plan is Arts, Eats, and Eco-Business Corridor. The applicant is requesting location of temporary structure on the corner of the property. The International Building Code restricts temporary structures to 120 sq ft. and what they are asking for is 220 sq. ft or 11' by 20'. Mr. Lynn said the staff has no problem with the use and the reason they are coming forward is the additional 100 square feet. He asked for the site approval to be as a tent vs. temporary structure due to the city's overall comprehensive approach to tents stated back in October of last year. The 180 day restriction would not come into play.

Ms. Williams asked about all the signage. Mr. Lynn stated he has discussed this with the owner and the signs should be removed.

A Motion by Shirley Sessions to approve was seconded by Wanda Doyle. The vote was unanimous.

Mayor Buelterman asked Mr. Lynn to address concerns reported with cardboard trash. Mr. Lynn stated repeated offenders would be referred to City Marshal for enforcement and fines.

3. Updating of Land Development Code Article 15 Soil Erosion and Sedimentation Control Ordinance.

Mr. Lynn stated this is a staff level request in accordance with the state's requirement of Licensing Issuing Authorities to update their Soil Erosion and Sedimentation Control Ordinance before June of this year. This is basically the same as the current one in effect. We are using the states model and the only change is insertion of "Tybee Island, GA" and appropriate City Departments as needed.

Ms. Doyle asked for clarification on why we were not amending it to make it more compatible for Tybee instead of just adding our name. Mr. Hughes stated last time this was reviewed we had issues with the State and the EPA due to restrictions we had that the State didn't. So to make it more compatible and less confusing with all the state agencies we tried to stay as close to the state model as possible. Mr. Hughes stated he has worked with different staff members and Mr. Wolff trying to make it more Tybee specific, but there is really no safe way that won't make getting assistance from the state level agencies more difficult. It is his recommendation we don't change anything. If we have other issues come up we can address them in other ways or with ordinances which we have power to do.

A Motion by Bill Garbett to approve was seconded by Kathryn Williams. The vote was unanimous.

Consideration of Ordinances, Resolutions

1. 1st Reading of Ordinance to Amend the Code of Ordinances Section 66-8(b) (3) and delete in part (b) (2) of Article 9 Section 2: To Regulate the Usage of Motorized Carts on the City Streets.

Mr. Schuman asked since you have to have all the lights on the cart, why they can't be used at night. Because of the smallness of Tybee and savings on parking and omissions night use is a good idea.

Mr. Garbett stated what is missing here is, what a Motorized Cart is. It could be anything from a riding lawnmower, a lawn tractor, and all sorts of things. He stated he had reviewed the Peachtree City Ordinance and it did clarify Motorized Carts as having a gross vehicle weight of less than 1300 lbs. We could have all sorts of bizarre vehicles going up and down our streets if we don't put some restrictions on them. He realizes these are efficient non-polluting pieces of machinery but it is scary thinking about seeing these things running up and down the street and imagining what would happen if one of them pulled out in front of a pickup truck or something. They seem to have no protection, much like a motorcycle. But they do carry up to four people and the result could be tragic.

Mr. Hughes stated Motorized Carts are not defined in our Ordinance but they are in the State Law. Roughly they are defined as vehicles having at least three wheels and weighing approximately 1300 lbs, that won't exceed 20 MPH. That only really fits golf carts. The ability to do an ordinance like this is set out in State law specifically and because we have Hwy 80 to deal with we have to have DOT permission as to where Hwy 80 can be crossed. They cannot be used on Hwy 80 but they can be used to cross Hwy 80. The last version was before council in April of 2009 and it included a provision that golf carts have to park in regular designated parking spaces. Chief Price felt very strongly that decals should not be allowed on golf carts because there is no advalorem taxation on them, which is the theory behind decals for residents. The state law says Motorized Carts cannot be operated after dark unless they have the equipment required by the Commissioner of Public Safety. Mr. Hughes stated he is not aware of exactly what that equipment is but can find out. Previously the police department was not in favor of usage after dark. If you do this you have to have a system of signage. It isn't real clear where the signs have to be except "on the affected streets", stating golf cart usage is regulated and subject to certain regulations. Golf carts are not the same as "low-speed" vehicles that we see going up and down the street. Low speed vehicles are street legal and can be used on the island.

Ms. Sessions asked what the police chief's recommendation is. Mr. Hughes stated he had not received a recommendation this time. He discussed Chief Price's prior recommendations.

Ms. Sessions asked about the cost or placement of signage and is it required to be up before approval. Mr. Hughes said that has not been determined. Mr. Hughes stated the crossing at Jones Avenue has come up. He said signs being placed where carts are prohibited may not be as costly as putting them where carts are permissible.

Ms. Doyle stated there was discussion about allowing crossing at Jones because of the light. She would also like to have the Chief look at both versions of the ordinance as he did have a lot

of input last time. She also agreed with Ms. Sessions about having the information on cost of signs, etc.

Mr. Garbett asked if insurance requirements were covered under state law. Mr. Hughes answered no. He said that was one of the items discussed about eight years ago with Chief Price. Insurance requirements as well as seat belts, is local. You can also allow unlicensed drivers. This version does not permit that. The insurance requirement, because of the way the statute is worded, does not apply in the absence of it being in the ordinance.

Mr. Schuman stated he thinks signage means having designated signage for crossings. He spoke with Chief Price about the ordinance this afternoon and his main concern is the nighttime operations but other than that he is fine with it.

Mr. Wolff stated he agrees with putting signs where golf carts are not allowed and also adding Jones as a crossing and he thinks we have already received DOT approval for the crossing at Jones.

Ms. Sessions stated she is having difficulty with distinguishing between golf carts and the carts going down the streets now.

Discussion was held on vehicle tags.

Ms. Williams agreed we do need the Jones Ave. crossing.

Mr. Garbett stated he also agreed the Jones Ave crossing would be necessary.

A Motion by Frank Schuman to approve for first reading was seconded by Shirley Sessions for discussion. The vote was Schuman and Williams in favor and Doyle, Garbett, Sessions and Wolff opposed.

A Motion by Shirley Sessions to have Ms. Schleicher get Chief Price's recommendation in writing and address concerns at Jones Ave. or determine location for proper crossovers and clarify sign requirements and cost, was seconded by Kathryn Williams. The vote was unanimous.

2. Resolution Authorizing the City to Accept the GEFA Grant and Establish a Revolving Loan Fund to promote the conservation of energy and water resources.

Mr. Wolff explained the resolution is to accept the GEFA Grant of \$299,677.00 the city was awarded to take Memorial Park off the Grid. It includes retrofitting the seven heated and cooled buildings in the park: city hall, gym, old school, YMCA, fire station, cafeteria, and library in order to make them as efficient as possible by replacing lighting with more efficient fixtures and controls, installing smart thermostats, improving insulation where feasible and sealing

doors and windows. The second phase would be to start installing solar photovoltaic panels. He is working with staff on a contract to quantify what we would need to do where and cost. What has been ball parked so far is 16 .5 KW of solar panels on city hall, gym and the school which would provide a good portion of their energy use once the retrofitting has been done. A wind turbine not to exceed 20 KW, mounted to look similar to a flag pole and to get the best results would have to be about 60-100 feet tall and will cost about \$100,000. There will be readers on the turbine and solar panels to tell us how much we are generating and saving and selling back to GA Power and hopefully we will have a surplus of power by the time all of this is done. A possible location for the wind turbine is behind the pavilion in a grove of palm trees. The sound factor, standing at the bottom, is compared to a refrigerator coming on in the next room. The cost for retrofitting the buildings is around \$70,000 and then there are costs for consulting and professional services, etc.

Mayor Buelterman asked if approving this grant means approving all of the items mentioned. He confirmed with Mr. Wolff this is a no match grant. The money comes directly to the city to be used for this. Mr. Wolff stated it is reimbursed funds. One part of the resolution is moving \$100,000 from the unreserved fund into a fund to be used and as we use this fund we can replace it with GEFA money. Mayor Buelterman stated all the specific items would come back to us in a contract with the vendor before we approve it. Mr. Wolff stated we have to approve it before submitting the contract for the GEFA funds. We can approve it in concept and once the contract is drawn up, it can be forwarded to council for review and if there is a problem we can call a special meeting.

Ms. Sessions stated when it is a grant and you don't adhere to everything you said in the grant you can be held liable and in some cases have to pay the money back.

Mr. Wolff stated one of the proposals in the grant is all the money saved in electricity in these buildings, based on 2008, and is about \$63,588.00 and will be rolled back into an internal loan fund for the city until we get all the items completed and we will then open it up to residents and businesses to retrofit their buildings and install renewable systems and pay the city back from their energy savings. That is part of the original proposal and will be written in the contract as well. We are not only taking the park off the grid but leading by example and assisting the citizens to do the same. From a stewardship standpoint in spending the taxpayer's dollars this is a smart way to do it.

Ms. Sessions asked who the contract is with. Mr. Wolff replied GEFA. They wrote the contract and we are filling in the blanks. She expressed concern about the delay in getting this information and the rush in getting it approved.

Ms. Doyle asked if council is supposed to review grants and approve them before we accept them. She is concerned about the \$100,000 coming from unreserved funds and if the money doesn't come back for whatever reason.

Mayor asked if there was anyone that administers this grant that might answer some of the council's questions. Mr. Wolff stated there is a webinar next week on how to implement and comply with the GEFA requirements. He has set it up in city hall with staff and any other council members that want to attend.

Ms. Doyle asked if next time someone could come in and explain the grant to council.

Ms. Doyle asked about the \$21,000 in-kind and if this is enough for the city finance department and city attorney to do all they need to do.

Mayor Buelterman asked if the webinar would be for other cities also. Mr. Wolff answered yes, for everyone that got the grant, about 57 in the state. This is federal stimulus money coming through GEFA. Getting the money back we just have to show documentation that we spent it in accordance with the terms of the grant. He stated all the information has been forwarded to council as he has received it since November, when it was written and approved by last council, to apply for it and now we have it. Part of the grant's terms is not more than 10% of the grant can go towards administration and that is staff time. As proposed in the grant we would have a part-time person in finance and in community development hopefully cross-trained to handle audits, inspections, pre-qualify contractors, and compliance to make sure everything is being done correctly. That is down the road because this is going to take awhile. Time estimated is two-five years to get these systems in place. The \$300,000 is not going to cover it all. But we could be saving \$60,000 a year from then on.

Mayor Buelterman stated some things are good but some things like the turbine can be an issue. Does this lock us in for everything or can we modify what we submit to them? Mr. Wolff stated he would have to confirm that with GEFA.

Mr. Garbett expressed his concern with the height of the wind turbine. Maybe a better location would be close to the campground where all the cell towers, etc are.

Mayor Buelterman asked Mr. Hughes if we would have to have a public hearing for a height variance and Mr. Hughes replied yes for the variance and site plan review. Mr. Hughes stated looking at the contract it looks like we have a little more time, to June 30th, 2010. The resolution agrees to accept the grant. Given the time frame we can act or not act on the resolution but filling out this questionnaire is not the contract. Mr. Hughes commented according to the directive, the questionnaire needs to be submitted back by April 16th but is to assist them in completing the contract. It will come back to the city for review and we can approve or not approve then. If you don't get any money and you don't sign the contract you don't have any risk.

Mayor Buelterman stated by approving this we are not assuming any risk. Mr. Hughes confirmed correct. Mr. Hughes suggested authorizing completion of the form and send it back, don't act on the resolution and see what they send back. Then we can do the resolution and the contract at the same time.

Mayor Buelterman stated getting \$300,000 is great and we want to make sure it is as successful as it can be.

Ms. Sessions stated she liked the idea of the wind turbine.

Mayor Buelterman asked if the questionnaire could be emailed for council to review before being sent to GEFA. Mr. Wolff stated yes.

A Motion by Kathryn Williams was made to authorize completion of the questionnaire and return it to GEFA and revisit the resolution and contract at a later date and was seconded by Shirley Sessions. The vote was unanimous.

3. Resolution to Assign the City's Banking Services to SunTrust Bank

Mayor Buelterman stated this will save the city money. Efforts were made to get local involvement but that was not forthcoming.

Ms. Williams clarified for the public's knowledge; an RFP was sent out and put on all available media asking for bids for the services. We only had four responses. The ability to handle the coinage the city generates, the rebates, and services such as the night drop box led to the recommendation.

Ms. Sessions confirmed with the city manager the \$100,000 we could earn annually was on rebates in using their purchasing card. Ms. Schleicher confirmed. She stated our current bank was costing us \$10,000 a year just for coin rolling.

Mr. Wolff asked about interest rate returns.

Ms. Sessions stated the staff had done a good job answering the public's questions and concerns on the recommendation.

Mayor Buelterman stated having the packet on the web helped this time. The public could see exactly what council saw.

A Motion by Bill Garbett to approve was seconded by Shirley Sessions. The vote was unanimous.

4. Resolution to Amend the Parking Fee Schedule – Increase fines for Parking Violations.

The city manager confirmed this only has to do with fines not actual fees. The current fine amount is too close to actual fees to assist as a deterrent. The other increase is for parking next to a fire hydrant.

A Motion by Paul Wolff to approve was seconded by Wanda Doyle. The vote was unanimous.

Executive Session

A Motion by Paul Wolff to go into Executive Session to discuss Litigation and Personnel was seconded by Wanda Doyle. The vote was unanimous.

A Motion by Paul Wolff to end Executive Session was seconded by Kathryn Williams, the vote was unanimous.

Adjournment:

A Motion by Paul Wolff to adjourn was seconded by Shirley Sessions. The vote was unanimous.

Jason Buelterman, Mayor

Vivian O. Woods, Clerk of Council