

20100722 City Council Minutes

Mayor Buelterman called the Consent Agenda meeting to order at 6:30pm on Thursday, July 22, 2010. Council Members present were Mayor pro tem Shirley Sessions, Wanda Doyle, Bill Garbett, Frank Schuman, Sr., Kathryn Williams and Paul Wolff. Also present were City Attorney Bubba Hughes, City Manager Diane Schleicher and Zoning Director Jonathan Lynn.

Mayor Buelterman listed the following items on the Consent Agenda:

- Community Resource Committee Appointment-Libby Bacon
- CORE MPO Citizen's Advisory Committee-Clerk is to advertise 2 openings with a deadline of Friday, August 6, 2010-Appointments will be made August 12th.
- Application for Special Event Beer/Wine Alcohol License.
Applicant: Susan Smith for Savannah Area Chamber of Commerce Location: Tybrisa Pier & Pavilion Date: 8/19/2010.
- Special Event Application for 2011 Tybee Wine Festival Date: April 15-17
Applicant: Friends of the Tybee Theater Location: Tybee Lighthouse grounds.
- Special Event Application for Lights on For Tybee Date: December 3, 2010, 6:30pm
Applicant: Tybee Island Better Hometown Location: Tybrisa Roundabout
- Special Event Application for Tybee Holiday Parade Date: December 4, 2010 11:00am
Applicant: Tybee Island Better Hometown Location: 5th Street to Butler to end at Strand.
- Memorandum of Understanding with Georgia Main Street Program
- Resolution authorizing Georgia Fund 1 to transfer our monthly LOST money into our new Suntrust Account.
- Tybee Island Memorial Historical Cemetery Guidelines and Regulations
- Chatham County Letter/Resolution-Hwy 80-Added to Meeting Minutes

A presentation was given by the Department of Natural Resources outlining ways the DNR provides information and resources to the public. Presenters were Brad Gane, Karl Burgess and Sonny Edwards.

Mayor Buelterman adjourned the Consent Agenda.

Mayor Buelterman called the regular meeting of the City Council to order at 7:10pm. Those present at the Consent Agenda were also in attendance for the regular meeting. Hank Perry of Trinity Chapel gave the invocation and everyone recited the Pledge of Allegiance to the Flag.

Mayor's Announcements

Mayor Buelterman thanked city staff that participated in the Hurricane exercise conducted on July 14th. He said it went very well and we learned a lot of lessons but overall we are prepared.

Wanda Doyle said the Public Safety Committee was briefed on the exercise by Jimmy Brown and they have requested he give a presentation to council after all of the final determinations are made.

Proclamations and Recognitions

Mayor Buelterman announced John Dowell as Employee of the 1st Quarter of 2010-John works in the Water/Sewer Department.

Mayor Buelterman announced Sandy Herring as Employee if the 2nd Quarter of 2010-Sandy works in the Department of Public Works.

Martha Reimann of the Department of Cultural Affairs presented the Main Street-Better Hometown Designation to the City of Tybee. Mayor Buelterman recognized Chantel Morten and the BHT Board members for their hard work on getting this designation.

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

Woody Hemphill presented the Monthly Financial Report for the River's End Campground ending June 30, 2010.

Chantel Morton gave an update on the Better Hometown Initiative.

Citizens to be heard

Mr. Mark Trotter said initially he was requesting an amendment to the code to allow a beach chair rental business on 6th Street and 7th Street. He said after meeting with the City Manager and hearing the issues of having a rental business in a residential area he wanted to amend his request for a North Beach Location for his business. He observed that there were approximately 700 to 1,000 people on that section of the beach on each day that he visited the area.

Lisa McKenzie addressed the North Beach Grill situation. She said she has no personal agenda here but was a concerned citizen that felt she should come and speak. She said when she first heard about the situation of a city official leasing the North Beach Grill through a lease governed by the city at an extremely low below market rent she was floored. She said it doesn't matter who the official is but what does matter is the impropriety of the situation. She said the outside attorney hired to review this case and in his opinion quoted several decisions in cases such as these that have gone before the Supreme Court and were found to be unethical and gives five case examples of this. He also points out that our own Tybee Ethics Ordinance Section 23-3/23-4 and 23-8 would not allow for this situation to be legal. He further points to Georgia Law O.C.G.A. 36-30-3 which essentially states the same thing. He then tells the city how to correct the issue with our city official staying in the lease and staying on council. She explained that the attorney recommended a blind trust be established that allows for the other partner involved in the business to be the managing partner thereby eliminating the appearance of impropriety. She said business licenses and alcohol license have already been issued for this business and the reason the other partner did not submit the applications is because of being in default on his lease payments to the city. She asked if those issues had been resolved and whose name the business was in. She said she understood that the city had offers to buy out the lease and if the managing partner was in default from back rent then the original lease would have been made null and void and could have essentially been terminated at that time back in 2009. She said if another attorney has to tell the city how to fix an unethical situation then that in itself is unethical. She said this situation will come under scrutiny and open a can of worms for each construction repair, advertising, voting on council regarding event permits or paving of the North Beach Grill parking lot because all of our events in theory could take business away from the North Beach Grill which would intern affect the vote of this council

member. She said she also questions our Ethics Commission and council going into Executive Session to discuss this and vote on it because she thought it was illegal to vote in Executive Session on anything except to buy real estate. She asked how a consensus of opinion differs from an actual vote and she is not sure this is not a violation of the Georgia Open Meetings Act. She said in reading the minutes from the Ethics Commission meeting, they had two members resign from the Forever Tybee Organization in order to vote on this matter even though one member stated that they still remain close personal friends of some years standing of the official. These two Commission members supported this council member during the election vigorously and even if they resign from the forever Tybee organization are they still a member of the Tybee neighbors group which is another organization that supported this council member very loudly and clearly. How can their vote not be construed as biased?

Ms. McKensie asked how this city could allow this lease not to be renegotiated to reflect market value when it came up for renewal the last time. She said the rent is \$1,200 a month which is about \$14,400 a year. The market rent on this property due to its location is about \$4,000 monthly with an annual income of around \$48,000 a year and if you tack on a percentage of monthly sales it could even be higher. She said the lease is just gravy for the city. She said she knows council just approved a budget with lots of cuts in it in order to balance it and she knows one of the things cut was salaries for long time city employees in one line item. She thinks it would behoove the city to get a better understanding of real estate transactions in order to help out our revenue issues. She asked why a city employee should have to suffer when this is a \$50,000 a year lease. She said if she were a fellow city council member, she might resent the fact that she was put into the unnecessary position of deciding whether or not the city council person in question is indulging in unethical behavior or is using the city lease for personal gain. She said council worked very hard to get elected and ran on the platform of clear, open and transparent government and most of them were supported by the forever Tybee organization and were very vocal about the ethics of the past councils, even purchasing bumper stickers that read "Got Ethics". She said this attorney has given council seven examples stating that this is illegal and unethical. Now as council members you are faced with an actual real life ethics dilemma involving one of your own.

Mayor pro tem Sessions asked Mr. Hughes to address whether this situation was illegal or unethical. Mr. Hughes said Ms. McKensie was referring to the opinion of Mr. McRea and some of the cases he discussed in the letter. Mr. Hughes said he had a conflict so some of the issues were referred to Mr. McRea for his opinion. Mr. Hughes said if a council member has a financial interest in a transaction that the government is involved in, in a contract sense it is void because it is not lawful. He said it is not illegal in the sense that there was a crime committed.

Cathy Liberatori and Carol Husein requested to conduct a stand up paddleboard rental business and provide instructions on the beach. Ms. Husein explained their business plan to council. Ms. Schleicher asked what location they planned to run their business out of. Ms. Husein said they are flexible but ideally it would be where the public could access them; possibly on either side of the pier or at North Beach.

Mr. Garbett said the ordinance at Tybee limits the number of beach businesses located on the beach and there are a number of existing businesses that rent paddleboards. He asked if they would consider not actually being on the beach. Mayor Buelterman explained that there have been a number of people requesting to sell wares on the beach etc. but he believes they have been turned down out of respect for the existing business owners that pay taxes on Tybee. Ms. Husein said they are not opposed to a store front and are planning on eventually having a designated store for just paddle boarding but even the initial investment for equipment to rent on the beach is huge and they are footing the expense themselves. She explained the boards are usually twelve feet long and are very unwieldy to carry

especially if there is a strong wind and most people do not have a rack system on their vehicles that could handle this type of board.

Mr. Wolff suggested they consider a business plan much like the Kayak businesses that transport their kayaks to a central location for customers to be able to utilize them without having to carry them and would allow Ms. Husein and Ms. Liberatori to have their business located in a remote location. Ms. Husein said the problem is people don't know what they are unless they see them. She said she recently bought a truck to haul equipment and the trailer idea has been on their minds. Ms. Liberatori said they can rent a storefront but they need the visibility of the beach.

Mr. Frank Kelly addressed council concerning the beach chair rental business request. He said the existing beach rental businesses do not have trash receptacles or cigarette butt receptacles at their locations. He said if council is going to look at the ordinances maybe they could look at the lack of trash receptacles. He said the beach businesses on Tybee do not pay taxes on Tybee but on Hilton Head they pay 2% and on Jekyll they pay 3% back to the city just like hotel tax. He said the money could help with renourishment as well as cleanup.

Mr. Jay Burke said they employ about twenty kids at their beach rental businesses and they do a good job of picking up trash in the morning and afternoon in his opinion. He said if the city wants to ban cigarette butts on the beach he is all for it but doesn't think it needs to be turned around on beach rental businesses to enforce an existing problem. He said their family has the locations north of the pier and they worked hard to get that ordinance in place. He said his dad started it over 55 years ago. He said he doesn't have a problem with anyone opening up a business at one of the offset ramps and there is probably ample business over there for both businesses. He asked when enough is enough and said Tybee doesn't want residential and commercial mixed type businesses. He said it seems every year someone comes down here and thinks Tybee is having a good year, why don't we make some money. He said his family established their business by working hard and they are grateful for Tybee allowing it. Mayor pro tem Sessions asked Mr. Burke what he considered to be an equitable fee considering where they are today with the renourishment issue. Mr. Burke said he doesn't believe the city will get enough money off of the beach businesses to clean up the beach and provide lifeguards. He said being 2 ½ to 3 miles long we have a limited amount of commercial real estate land but he is not opposed to sitting down and mediating with the city.

Ms. Williams said that she and Ms. McKensie disagree on a lot of issues including the personal aspect of her comments. She said she did initially apply for the liquor license in her name because she wanted to be transparent about what she was doing. She said she and her partner are planning on applying but needed to get through this process first. She said it was not because he could not get a liquor license and all of those situations would have to be remedied in order to get a liquor license. She said most of the cases Mr. McRea's letter cited were about city council selling goods and services to the city and that is clarified in part of his opinion.

Consideration for the Consent Agenda

A Motion by Paul Wolff to approve the consent agenda was seconded by Frank Schuman. The vote was unanimous.

Consideration Local Requests & Applications-Funding, Special Events, Alcohol License

- Request for Beach Chair Rental Business. Applicant: Mark and Amy Trotter
Location: 6th Street and 7th Street.

Mayor Buelterman asked Mr. Hughes if our ordinance was intended for there to only be one business located at each location. Mr. Hughes said that was the intention.

Mr. Wolff said council needs to take a good look at this ordinance that looks as if it was last amended in 1983 with just a minor change in 2007. He doesn't see a conflict with the residential area if the ordinance is amended. He asked if the vendors had to pay \$300 for each of the 9 locations listed in the ordinance. Mr. Lynn said yes along with a business license fee. Mr. Wolff said they need to take a look and update this ordinance. Mayor Buelterman said they considered allowing a beach business in the residential area but the neighbors opposed it and council ended up not approving it. Mr. Wolff said there is no provision for removing the equipment in an emergency situation like a hurricane. He said that alone makes it worth revisiting.

Ms. Doyle said if you visited and took a poll of the people living at 6th and 7th Street you would find the residents don't want the beach businesses in the residential sections. She said 10th Street has shown us the citizens do not want it. She said the Burkes have a location at 13th Street but the residents don't want the umbrellas set up out there on the beach. She said there are issues and these are residents that pay taxes on this island so we do have to take that into consideration. She said after reading the ordinance she thinks there are things that council needs to go back and take a look at. She suggested council not allow any additional beach businesses. She said they should take a look at the ordinance in a workshop and discuss it. Ms. Williams said she agreed with Wolff and Doyle and said the city should have a work shop to deal with all beach concessions as the issue and not as a part of a public hearing. She said we could have input from beach concessions as well as beach businesses. She said maybe that would eliminate the people coming in every year. As Wolff said we need to have contingencies regarding evacuations and also make sure if the DNR has to issue letters of permission then that should be addressed at the same time. She recommended council host a public workshop and advertise it well in order to get everyone's input into this situation.

Sessions explained to the people requesting beach businesses tonight that there are probably residents in the community that would love to have a beach concession and if we ever decide to go that route maybe we should open it up to some kind of bid process in order to be fair and equitable.

Mr. Garbett said he is perplexed by this whole situation and this ordinance came up earlier while discussing parking trailers and just leaving them on the beach and there was an exemption for beach equipment rentals. In reading the whole ordinance it is borderline bizarre. He said in his opinion normally if you allow people to use public property for business then you would actually put it out for bid. He said this may grandfather some people in but other cities and businesses would not allow this. He said council should expect them to clean up where their businesses are located and some type of emergency arrangement needs to be determined. He said they received a beach rental business license fee list from staff and they are not exorbitant fees but there are several locations that do not allow it at all and others have a percentage of the profits so there is quite a variety of ways to manage this. We should have a workshop and look into it closely.

A Motion by Wanda Doyle to deny was seconded by Shirley Sessions. The vote was Doyle, Sessions, Garbett, Williams and Wolff in favor of denial and Schuman opposed.

- Request to Conduct Stand up Paddleboard Rentals & Instructions on the beach
Applicant: Cathy Liberatori.

A Motion by Wanda Doyle to deny was seconded by Bill Garbett. The vote was Doyle, Garbett, Sessions, Williams and Wolff in favor of denial and Schuman opposed.

- Special Event Application for Tybee Island Pirate Fest Date: October 8-10, various times and locations (mainly at SE Parking Lot) Applicant: Tybee Fest

Diane Schleicher said staff recommends Pirate Fest follow the special event policy and also that Tybee Fest and Pirates Fest get a letter of permission from the DNR if they are going to be blocking any of the public crossovers for their event. On their application they had a request for on duty police department officers when they meant off duty and they presented their trolley schedule to council along with their financial report. She said they have taken care of everything. She said according to the policy the maximum amount of waived fees for any direct services from the city cannot be over \$2,000 for the whole event including the parade. Ms. Doyle asked if the permission letter was a new thing with the DNR. Ms. Schleicher said they should have done it last year but it didn't come to her attention until after the fact. Mr. Garbett said he thought Tybee Fest submitted the \$2,000 in their budget request for this year and he wanted it noted.

A Motion by Paul Wolff to approve on condition of Tybee Fest receiving a permission letter from DNR for the crossover closing and not exceeding \$2,000 of waived city service fees was seconded by Kathryn Williams. The vote was unanimous.

- Special Event Application for 14th Annual Tybee Island Festival of the Arts.
Date: October 16-17, time TBD Applicant: Tybee Arts Association Location: SE Parking Lot

Ms. Schleicher said everything is in order and they are going to use the same tent.

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

Ms. Williams suggested Wolff contact City of Savannah in order to use their recycling trailer for the event. Wolff said he will need a place to park it. Mr. Adams said he would find a parking place for the trailer.

The vote was unanimous.

Public Hearing

- Request for Private Parking Lot, 203 14th Street-Applicant: Jack Rosenberg

Mayor Buelterman opened the public hearing.

Mr. Lynn said staff contends that the length of the property along 14th Street as shown on the survey is 78 feet 7 inches and we require a minimum parking spot of 9 by 18 which is 72 feet if you put four spots together which doesn't leave a lot of room for larger vehicles. He said their recommendation is for only three spaces to be allowed along 14th Street and 4 spaces along 2nd Avenue with a total of 7 spaces. Mr. Schuman said this owner lives in Atlanta and he asked if the owner needed to be here in order to rent parking spaces. Mr. Lynn said someone has to be there to kind of oversee it and take the money. It cannot be left unattended while it is in operation.

Mayor Buelterman closed the public hearing.

A Motion by Bill Garbett to approve with Jonathan Lynn's recommendation of 3 spaces along 14th St. and 4 spaces along 2nd Avenue was seconded by Frank Schuman. The vote was Garbett, Schuman, Doyle, Sessions and Wolff in favor and Williams opposed.

Ms. Williams said she believes it is a public safety issue to have these lots located on a single lot with a house on it and with the people cramming cars to park. She believes it will be extremely difficult for them to stay out of the city right of way. Mayor Buelterman asked if there was any public notification for this petition. Mr. Lynn said the property is not posted but letters are sent out. Mr. Schuman asked if there would be enforcement to insure only 7 cars were parked there and not on the right of way. Mr. Lynn said if he is not on the island, the Police Department has a list of private parking lots currently permitted. He said while they are riding around they are constantly checking.

Consideration of Bids, Contracts, Agreements and Expenditures

- Approval of proposal for Phase 1 of the Memorial Park Grant

Mr. Wolff said the city received three bids after putting it out for bid twice. The committee scored and rated them on their bid price, credentials, expertise of designated staff, performance, managerial capabilities, references, capability to perform the scope of work, price proposals and maximum energy reduction. He said according to the rating scale the average numbers were 95.3 for Peacock Construction Co. 71.3 for Brown Construction and 84.5 for Keith Ray Construction. Wolff said the committee recommended they award the bid to Peacock Construction. Mr. Lynn said while reviewing the bids it was determined that Peacock Construction and Brown Construction had roughly the same energy reduction of around 24%. He said that came with Peacock actually leaving out the ability to do insulation in the cafeteria and the old school which reduced the price drastically while still proposing the same energy reduction as the next lowest bid which did propose insulation in the cafeteria and old school which might cause concern. There was a section in the bid where the contract award has to be adhered to and if they don't meet their own stated energy reduction on average for the first twelve months, they will have three months to go back in and fix it and after that time if it isn't fixed their performance bond gets forfeited back to the city which is the amount of the contracted price of \$194,100 and was written into the proposal. Mr. Lynn said all three contractors are within Chatham County. Mr. Hughes asked why two of the contractors did not have charges for performance bonds. He said his assumption is because they are required to have a performance bond; it would be that it is built

into their bid price instead of as a separate item. Wanda Doyle said she had talked with one of the energy Engineers today and he felt the scope of work was written very loosely and was left to a lot of self interpretation. She said the example given was where to add insulation. She said she wasn't in on this process but feels that if anything like this is done again it needs to be written differently in order to average the playing field for everybody. She said she understands that two Engineers took a look at this and they both felt the same about the way the RFP was written. Ms. Sessions asked if we have a system or process in which all of the companies that are quoting or bidding are invited to a pre-bid conference where everyone is allowed to ask questions, hear the same thing, make sure everyone understands the scope of work and then do a walk through. She asked if that is something we do and if it is required. Mr. Lynn said they did have a pre submittal conference on June 10th where anyone interested in bidding was invited to attend. He said they informed everyone there that the bid was intended to be vague in order to get some good ideas about what we could do. He said if you did not attend that meeting you were not allowed to bid on the project.

A Motion by Paul Wolff to approve awarding bid to Peacock Construction for energy upgrades to City Hall, Gym, Cafeteria, Old School, YMCA and Fire Station for the amount of \$194,100 was seconded by Kathryn Williams.

Ms. Sessions asked if there was a notice or information regarding change orders. Mr. Lynn said it was written into the RFP that no change orders could come up given that it is a grant project. Ms. Sessions asked if there is a process for approving each stage to make sure whoever our department head is or whoever the staff is that is working with this will sign off on each activity as the work is being done. Mr. Lynn said the staff and building inspector will be working with them every step of the way.

Motion Amended by Mr. Wolff to add and authorize the Mayor to sign the contract after City Attorney's review was seconded by Ms. Williams.

Mr. Garbett asked if it's true that we will not be able to complete the job as written. Mr. Lynn said this will allow us to go ahead and do phase 1 and start on phase 2 possibly doing the geothermal. He said we will take the deductions and complete the actual grant but GEFA has been contacted and they are okay with this. Mr. Garbett asked if we would be penalized. Mr. Lynn said no. Ms. Sessions asked if there is a clean process for the contractor to submit his invoices with proper documentation and for us to pay him. Mr. Lynn said we will be getting invoices from Peacock Construction and not the subcontractors and the city will pay those invoices and submit quarterly invoices to GEFA to get reimbursed. Mr. Wolff said everyone working on this has participated in four webinars specifically on the compliance process. He said Andrea Shore is our manager for the project and she has been very helpful. He said

everything we have tried to do will fall within the scope and her bottom line is as long as you are in good faith working toward the goals as explained in the grant that it is going to be okay. He said we do have ten years according to the grant to contain the revolving loan fund internally to use the savings on electricity to accomplish every goal in the grant, so we may get there and we should get there.

Mayor Buelterman said the Community Resource Committee expressed interest in helping especially with education and things like that.

The vote was Wolff, Williams, Garbett, Sessions and Schuman in favor and Doyle opposed.

Consideration of Ordinances, Resolutions

- 2nd Reading Ordinance to Amend Section 58-179 of the Code of Ordinances Pertaining to Regulatory Fees Applicable to Resident Vendors

A Motion by Bill Garbett to approve was seconded by Wanda Doyle. The vote was unanimous.

City Manager's Report

- Action Items

Mr. Wolff asked that as soon as possible we work it out to get more recycling cans on the beach or have them picked up more frequently.

Mayor Buelterman said he would be interested in finding out how much money we get for selling the recyclables from the beach. Mr. Wolff said we get .38 a pound. He said the first week we did it several years ago, we had 1,100 lbs.

Mr. Wolff said he would like for the recycling bins to be the first thing people see as they are coming off of the beach and not the last thing.

Mr. Wolff said the curb stops in Memorial Park are at a very strange angle and if it's for the drainage swales that are there, we could put heavy duty gravel in the swales kind of like French drains. He said they could get twice as much parking by moving the stops around. He requested this be done as soon as possible.

Ms. Williams asked for the workshop on beach concessions to be added to the action items list.

Council, Officials and City Attorney Considerations & Comments

Jason Buelterman

- Report on Preliminary Feasibility Study for the Tybee Charter School

Mayor Buelterman requested to hold off on this item.

- Mayor Buelterman asked that the letter/Resolution-Hwy 80 be included in the minutes for the meeting.

Bubba Hughes

- After the Fact Variance Issues

Mr. Hughes requested to hold off on this item.

- T-Mobile Lease Amendment

Mr. Hughes requested to hold off on this item

- Ethics Issue on North Beach Grill & its ownership and opinion of the Ethics Commission.

Kathryn Williams stepped down and did not participate in this discussion and vote.

Mayor Buelterman said council received an opinion from the Ethics Commission which prior to that we had received an opinion from Mr. McRae. He asked Mr. Hughes to give a brief background regarding Mr. McRae's expertise on Ethics issues. Mr. Hughes said he has never met Mr. McRae. He makes presentations concerning the topic at seminars and programs sponsored by the GMA. He represents City's and Counties near Rome Georgia and was previously an official with the State Ethics Commission. He said when the conflict came; he looked for someone that could be objective and independent to render an opinion based on the information provided. Mr. Hughes said he issued two letters with the second one being issued to clarify that there were certain steps that he recommended be followed in the first letter. His second letter was to clarify that those steps had been taken. Mr. Hughes said in the time the opinion was written we had received a letter from Mr. Borders attorney making reference to litigation and in the course of defending potential litigation, it's not at all unusual to have to retain outside assistance. Doing that, especially in the context of something like this where he has a conflict, in his view is entirely appropriate. Mr. Hughes said the issue of going into executive session on elected officials themselves, which there has been some disagreement about. There are two reasons he believes this is appropriate in circumstances like this, State Law on open records provides that when an agency is deliberating upon possible discipline in a personnel context, they can go into executive session for that purpose. Because under the Ethics Ordinance council has the ability to impose a sanction against one of their

own, he thinks they are well within their rights to do that. He said there is a particular sentence in the same exception specifically requiring all meetings where there will be discussion of filling a vacancy. The agency itself has to be open.

Mr. Hughes said the Ethics Commission on June 25' 2010 rendered what he would consider to be an advisory opinion based on primarily the opinion of Mr. McRae. They concluded that as long as the required degree of separation was in place with respect to any negotiations with the city, that there would be no ethical violation and included that there had been none up until that point.

Mr. Hughes said according to the letter Mr. McRae felt that if there had been direct negotiations regarding the terms of the lease, it would clearly be improper but because this was an existing lease and this lease has a clause about affiliates. He said because that clause was in there, there was nothing for the city to act on.

Mr. Hughes said there was a comment earlier about declaring the lease in default. He said he was trying to do that before any of this happened and had given notice but the lease has got a cure provision in it and because the rent was paid and the default was cured there wasn't anything to do.

Ms. Doyle has felt from the beginning and she was quoted as saying this was a conflict and she hasn't changed her mind. She said she agreed that the best step to take was to have someone from the outside come in and take a look at this. She said he is a good ethics attorney and she and Kathryn have sat through one of his ethics training classes in Athens. She said one of her concerns was the liquor license and Ms. Williams had cleared that up. She said another question brought up tonight is the fact that we have people sitting on an Ethics Commission that were a part of a political action group. She said it doesn't matter who that political action group is but the fact that they are sitting there on that ethics commission when they were big players in this pact does bother her. She said they need to take a look at their process for appointees. Mr. Garbett said the Governor would never appoint supporters to state boards and that is kind of the rule, you pick qualified people often times who are acquaintances. Ms. Doyle said she understands this sometimes happens at the state but this is Tybee Island and that's where her concern is. Ms. Sessions said she believes this is the result of a bad contract which allowed all of this to happen and Tybee has learned its lesson and will hopefully not allow this to happen again. She said they all agreed to abide by the Attorney's advice and having input from the Ethics Commission was helpful. Mr. Hughes said you have some relief in this sort of thing in the leasing context as the result of action taken by the legislature in the last session. He said for the first time there are bidding requirements regarding the leasing of municipal property. It sets a five year term with one renewal and will make a lot of our lives easier.

A Motion by Paul Wolff to accept the Ethics Commission's decision and both letters of opinion provided by Mr. McRae was seconded by Frank Schuman. The vote was Wolff, Schuman, Garbett and Sessions in favor and Doyle opposed.

Executive Session

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

A Motion by Paul Wolff to go back into Regular Session was seconded by Kathryn Williams. The vote was unanimous.

Adjournment

A Motion to adjourn by Paul Wolff was seconded by Frank Schuman. The vote was unanimous.