

## **20101209 City Council Minutes**

Mayor Jason Buelterman called the consent agenda meeting to order at 6:30pm on Thursday, December 9, 2010. Council members present were: Mayor pro tem Shirley Sessions, Wanda Doyle, Bill Garbett, Frank Schuman, Sr., Kathryn Williams, and Paul Wolff. Also attending was City Attorney Bubba Hughes, City Manager Diane Schleicher, Zoning Director Jonathan Lynn and Clerk of Council Vivian Woods.

Mayor Buelterman listed the following items on the Consent Agenda:

- City Council Minutes 11/18/2010
- Tybee Island Historic Preservation Commission appointment of Joseph P. Griffin, Jr.
- Resubmitted application for 15<sup>th</sup> Annual Beach Bum Parade: May 20, 2011, 6:30PM; North Beach to Tybrisa St.
- One day alcohol license for a special event, Critz Tybee Run, February 5, 2011, Strand parking lot; Applicant Debra Critz.
- 14<sup>th</sup> Street Drainage Improvements-BRW Construction Group-Final Change Order of a deduction of \$85,880.62 Total cost for the completed project: \$847,847.
- Revised Community Services Agreement
- DOT Proposed List of Roadways for the Speed Ordinance-Omitting Chatham Ave.
- Beach Task Force request for City Attorney to ask the State Attorney General for ruling on whether or not DNR is enforcing and/or the army corps is complying with HB 727.

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 also attended the regular meeting. George Walker gave the invocation and everyone recited the Pledge of Allegiance to the Flag.

Tammy Smith gave the annual Sea Turtle Project report. She said they had 67 volunteers on the DNR permit. The volunteers conducted Dawn Patrols from May to August at 6:00AM, monitored existing nest, nest sat during hatching time, coordinated the Turtle Trot Fundraiser, and the Lights Out Campaign. She said Tybee had 19 crawls and 10 nest for the Loggerhead Sea Turtle and statewide we had 1760 nest in GA which is the highest on record and there were 491 just on Cumberland Island.

Chantel Morton gave an update on The Green Team and introduced the following members: Halley Hill with the YMCA, Denise Dubuque with the Finance Department, and Steve Platke with the Campground. She said their mission is to encourage a sustainably working environment, and improve the efficiencies of our offices and buildings by operating more sustainable throughout the Tybee Island City Government; thereby being responsible leaders doing our part in ensuring the Earth's natural resources are available for the generations to come.

Brittany Hughes of the American Red Cross announced a blood drive at the cafeteria on Thursday, Dec 16 from 2-7

George Walker representing American Legion Post 154 requested a waiver of Alcohol License fees for the American Legion. He gave an update on the many community programs they initiated and maintain today.

Consideration for the Consent Agenda

**Frank Schuman moved to approve. Paul Wolff seconded. The vote was unanimous.**

Consideration of approval of the minutes of the regular meetings of the Tybee Island City Council.

City Council Minutes 10/28/2010

**Kathryn Williams moved to approve. Paul Wolff seconded. The vote was unanimous.**

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

Applications for 2011 Alcohol Beverage Licenses as listed below: **Approved by Interim Chief Bryson.**

*Beer/Wine/Liquor, Sunday Sales and Entertainment:*

- American Legion Post 154/George Walker/10 Veteran's Dr
- Benny's Tavern & Restaurant/Alvin Ward, Sr./1517 Butler Ave
- Bernie's Tybee Island/Bernie Reyes/13 Tybrisa Ave
- Bikinis Inc. DBA Rockhouse/Joshua Navon/1518 Butler Ave
- Burn Marine Transport DBA AJ's Dockside/Jacqualand Burn/1315 Chatham Ave
- Café Loco/Joel Soloman/1-A Old Hwy 80
- Huc-a-Poo's Bites & Booze/Eric Thomas/1213 Hwy 80 Ste 2
- Lighthouse Pizza/Richard Hammons/15 A&B Tybrisa St
- Lillypad, Too LLC DBA Doc's Bar/ Rob Parker/10 Tybrisa St.
- Macelwee's Seafood Restaurant/ Lynn Zeigler/101 Lovell Ave
- Nickies 1971 Bar & Grill/Nick C. Alexander/1513 Butler Ave.
- North Beach Grill/George I. Spriggs, Jr/33 Meddin Dr
- Orr Restaurants Corp. DBA Fannies on the Beach/Jennifer Orr/1613 Strand
- PJ's Spirits LLC DBA Sea grass Saloon & Grill /725 First St
- Resort Inns Inc-Dolphin Reef/Harry Spirides/1401 Strand Ave
- StingRay's/Raymond J Rogers Jr/1403 Butler Ave

- Surfside Restaurants Corp. DBA Marlin Monroe's Surfside Grill/Jennifer Orr/404A Butler Ave.
- Sweet Dreams Pavilion/Myrtice Morrison/Tybee Pier-16<sup>th</sup> and Ocean
- The Sand Bar/Ana Olsen/1512 Butler Ave
- The Quarter's Sports Bar/Wayne Barlow/601 First St
- Topsail Bar & Grill/Kim Cauabro/48 Old Tybee Road
- Tybee Island Social Club/Kurtis Schumm/1311 Butler Ave
- Tybee Times/Steven Kellam/1603 Strand Ave
- WindRose Café/Marv Klein/19 Tybrisa St.

*Beer/Wine/Liquor, Sunday Sales:*

- Charly's/Charles J Vonashek/106 South Campbell Ave
- Gerald's a Pig & Shrimp/Gerald Schantz/1115 Hwy 80
- Spanky's Beachside/John Alben Yarbrough/1605 Strand Ave

*Beer/Wine/Liquor:*

- Chatham Hospitality Management dba Sea & Breeze Hotel/Mark Smith/16 Tybrisa St.
- Dizzy Dean's Discount Beer, Wine and Cigarettes/Myrtle Morrison/1516 Butler Ave.
- Santiagos Mexi-Cali/ James Davies/402 First Street
- Sundae Café/Kevin Carpenter/304 First St
- Tybee Island Historical Society/Cullen Chambers/30 Meddin Dr
- Tybee Supper Club/Michael Scarbrough/1 Meddin Dr
- XYZ Liquors/Teresa Jung/302 First St

*Beer/Wine:*

- Chu's Convenience Mart/Aimi Chu-Pruden/725 First St
- Chu's Convenience Mart #101/Mola Jung/306 First St
- Chu's Convenience Mart #102/Mola June 1603 Inlet Ave
- Coastal Fishing Co. & Offshore Ventures, Inc. DBA Tybee Island Bait & Tackle/CT.Cowling/1A Old Tybee Rd
- JayDeep LLC DBA Shell Food Mart/Jatin Desai /1315 Butler Ave
- Tybee Market Inc/Michael J Hosti/1111 Butler Ave

**Kathryn Williams recused herself.**

**Paul Wolff moved to approve. Frank Schuman seconded. The vote was 5 in favor.**

George Walker, Gene Kendrick and Jim Boyle-Requesting waiver of Alcohol Beverage License Fees for the American Legion for 2011.

**Kathryn Williams recused herself.**

**Wanda Doyle moved to approve. Frank Schuman seconded.**

Sessions asked for the total of the waived fees. Schleicher said the total would be \$2,975. Sessions asked that the amount of the waiver request be included on the agenda. Schleicher said she would start a policy. Williams explained the process for requesting waiver of fees within the budget cycle. She expressed appreciation to the groups that have adhered to that process in order to avoid having to request fee waivers during the year which has a negative effect on the city budget overall. **The vote was 5 in favor.**

Vikki Nelson-requesting waiver of Guardhouse deposit of \$500 and user fee of \$150 on January 18, 2011 for Honorary Party for Jim Kluttz for 20 years of service as President of the Tybee Island Historical Society.

No action taken. Postponed until 1<sup>st</sup> meeting in January.

Public Hearings –Zoning Packet Separate

- Variance request, 205A Miller Ave (4-0004-12-007), LDC Section 3-090, Applicant/Owner: Mr. Tyler Randolph

Mayor opened public hearing.

Mr. Randolph submitted a letter for the record but was not in attendance at the meeting.

Mr. Hughes said at the option of the petitioner, he could pay \$35.00 and re-advertise the public hearing in order to be able to attend and present his petition to council.

Mayor closed public hearing.

Mr. Hughes said if the petition is continued and Mr. Randolph decides not to re advertise the public hearing and request that council take a vote, then, council would take it up at the next meeting without further effort.

**Wanda Doyle moved to continue and re advertise for the next meeting, at owner's option. Bill Garbett seconded. The vote was unanimous.**

- Variance request, 404 Butler Ave (4-0004-20-051,056,061,066), LDC Section 3-090, Applicant/Owner: Mr. Alex Salgueiro (on behalf of HOA).

Mayor opened public hearing.

Mr. Lynn presented the petition for this variance request. He said its current use is condos and the applicant is seeking a front yard variance. He said the petitioner is requesting the variance in order to sell the unit, because the lot line with zero setbacks actually runs through the building eliminating their ability to sell the unit.

Mr. Salgueiro said his extensive research has shown that architect John Kern designed this building and permitted it for Mr. Clark. He said according to Mr. Kern this application was filed as a hotel. He said several people have not been able to sell their units because of the setback line that runs through the building. He said lawyers and realtors have picked up on this and now this building is unsellable. He said the owners have paid over twelve million dollars for these condos and pay a substantial amount of property taxes. He said they feel they have a serious hardship here.

Mayor Buelterman asked if this building was built as a hotel. M. Hughes said his understanding is the Gull Reef was built as an extension of the Econo-Lodge, the original hotel on the property. He said this building faces the beach at the corner of Center Street. He said his understanding is this is the building the city was sued over because of granting a height variance in 1994. He said it was 20 units and the building permit was applied for on December 17, 1998. He said the variance that was ultimately granted was on June 20, 1994 and the city took the position that the variance had expired because it was not acted upon for over a year and the court ruled that the title had vested and they were entitled to build.

He said several things trouble him about the petition that was filed and they might be comparing apples to oranges with comparing the Beach House with Gull Reef. He said he would be glad to meet with their attorneys and straighten it out. He said this request is to record a plat that supersedes several earlier plats that affect more than just this building. He said he is very uncomfortable with trying to do that and in fact is not sure you can without the participation of the other people whether their property is impacted or not. He said he wouldn't want council to act on this petition and eliminate the opportunity for the petitioner to be able to reapply, if it turns out their right and this is the only solution. Mayor Buelterman said it doesn't necessarily behoove the petitioners to continue to have this hearing. He said our attorney will meet with you and make sure any issues are ironed out and if you need to come back for this variance, you would be allowed to.

Speaking in favor of the petition was Harold Sims, Bob Wiggins. Bill Ulmer

Mr. Hughes said he would welcome any documents from a bank or lawyer indicating why one of these couldn't sell because obviously that reason didn't exist when they bought theirs. He said he would also like to see something from a banker stating that if a variance is granted the property is sellable and wouldn't be a problem.

Mayor closed public hearing.

**Paul Wolff moved to continue to 2<sup>nd</sup> meeting in January, in order to give attorney time to research the documentation during construction of this building and come back with recommendation. Bill Garbett seconded. The vote was unanimous.**

Consideration of Ordinances, Resolutions

- 1<sup>st</sup> Reading of Land Development Code Article 3 in its entirety without 3-030, 3-050, 3-060, 3-130, 3-140, 3-190,3-200, 3-250.

Section 3-020

Mr. Wolff suggested adding that it requires a 50% or more degree of loss to build back without meeting code.

Mayor Buelterman said approving this with what's not in purple would enable someone to rebuild on the footprint if they were not on a non conforming lot. Mr. Lynn said they would still have to meet the FEMA requirements. Ms. Williams asked if our Tybee ordinance and the FEMA requirements should reflect the same thing in order to be consistent. She said the changes she suggested previously, about commercial verses residential, were not made to this draft. Mr. Hughes said he made those changes and basically you take number 2 and you put except for commercially used structures. Ms. Williams said a non conforming residential use is different than a non conforming commercial use or property because it's usually a use issue with commercial. She said many lots on Tybee, particularly those with the houses tucked in the corner, have plenty of green space and lots of setback in the front. But if they wanted to enlarge these usually small houses, they couldn't do so under this ordinance. It seems if they do not encroach any further into the setback and they maintain the green space required that they should be able to expand a non conforming use or structure as long as they meet all the other aspects of the code. Mr. Lynn said we do actually have that in our code in Article 5. Ms. Williams said it needs to be here or at least referenced if we are talking about continuance of non conforming structures or use. Mr. Wolff asked to add a reference to the FEMA code so that people don't get confused and think they can build back the exact way it was. He said they would know they have to meet the FEMA requirements from this section of the code. Mr. Lynn suggested under number 1 they insert before the last sentence from the bottom: *while meeting all current FEMA regulations*, any non conforming use/structures... Mr. Wolff added while meeting all Tybee, State, and Federal codes. Mr. Garbett asked for a date to be added at the beginning after: *from the ordinance in which this Land Development Code is derived*. Mr. Hughes said he would look up the date and put it in. Mr. Garbett said it seems easier if you are tracking these changes, that you have a date to go by. Mayor Buelterman asked Mr. Lynn to restate the suggested changes.

Mr. Lynn said under 3-020 under number 1, right after time of enactment add the date.

Prior to the sentence beginning, any non conforming structure, but providing any non conforming newly constructed structures meet all building, state and federal regulations.

Mr. Hughes requested that he and Mr. Lynn put that ordinance back together and re send it to council for 1<sup>st</sup> reading.

Section 3-040

**Paul Wolff moved to approve Section 3-040 as written. Wanda Doyle seconded. The vote was unanimous.**

Section 3-070

**Paul Wolff moved to approve with changes: (Add (8) to Section 3-070 (B). It should state "No temporary detached structure will be allowed on the residential use side (s) of a commercial lot where commercial and residential uses are adjacent); in (C) (3) insert in the 2<sup>nd</sup> sentence of (E), a kiosk may be a principle structure or accessory structure in C-1 or C-2, depending upon the circumstances of this kind of property. Kathryn Williams seconded. The vote was Wolff, Williams, Schuman and Garbett in favor and Doyle and Sessions opposed.**

- 1<sup>st</sup> Reading to add Section 18-2 (34-2010) Emergency Access Requirements for Gated Communities

Mayor Buelterman asked if this was an exact carbon copy of what Chatham County has. Mr. Hughes said it's pretty close.

**Kathryn Williams moved to approve Section 18-2, 2<sup>nd</sup> version and add in section 18-2-4. Standards with insertion of (*in all cases a manual override system*) after the colon following access. Paul Wolff seconded. The vote was unanimous.**

- 1<sup>st</sup> Reading amendment to Section 70-43 (23-2010) Pertaining to bill adjustments for water and sewer.

Ms. Schleicher said the infrastructure committee recommended they shorten the time for leak adjustments to 3 months at 50% to things underground and they not give leak adjustments to visible leaks such as, faucets, toilets, aboveground elements to irrigation systems and leaking hoses.

Ms. Doyle said she has concerns with the irrigation part of it because there are a lot of rental properties out here and if there is a lawn maintenance company that rotates the property every two weeks, they will not drive by that house to check for leaks.

**Paul Wolff moved to approve with insertion at the bottom of page to read: Visible leaks, such as faucet leaks, leaking toilet, *above ground* irrigation system or hose leaks are ineligible. Kathryn Williams seconded. The vote was Wolff, Williams, Sessions, Schuman and Garbett in favor and Doyle opposed.**

- 2<sup>nd</sup> Reading Section 58-167 (32-2010) regarding occupational taxes
- 2<sup>nd</sup> Reading Section 34-49 (33-2010) Penalty for violating provisions of the occupational tax and licensing requirements and for other purposes

Mr. Hughes asked to hold off on discussing 2<sup>nd</sup> readings for 58-167 and 34-49, regarding occupational taxes and penalties.

- 2<sup>nd</sup> Reading Water Conservation ordinance to create Section 70-46

**Paul Wolff moved to approve. Bill Garbett seconded. The vote was unanimous.**

#### Action items

Ms. Sessions asked for an update on the cemetery. Mr. Lynn said the granite has been put on order and should be in within the next week or so. They are hoping to be out here the week after Christmas putting it up.

Ms. Williams addressed the Memorial Park Master Plan and said they had a meeting last month and will meet again in January. She said they reviewed the section of the council meeting where the committee presented their proposal and that was helpful for a lot of people. She said staff is working on getting that on channel 7.

Ms. Williams asked to add revamp the personnel policies to the action items list in order to address accrued time and time off. Ms. Schleicher said there are two interns coming in the New Year and one is well trained in Human Resources and they will be working on our policies.

Mr. Wolff asked for an update on the Bike Trail Easement. Mr. Hughes said it is done.

#### Executive Session

**Paul Wolff moved to go into Executive Session to discuss Personnel, Litigation, and Real Estate Acquisition. Kathryn Williams seconded. The vote was unanimous.**

**Paul Wolff moved to go back into Regular Session. Kathryn Williams seconded. The vote was unanimous.**

#### Adjournment

**Paul Wolff moved to adjourn. Kathryn Williams seconded. The vote was unanimous.**