

## City Council Meeting 20110908

Mayor Jason Buelterman called the consent agenda to order at 6:30PM. Those in attendance were Paul Wolff, Kathryn Williams, Frank Schuman, Mayor pro tem Shirley Sessions, Wanda Doyle, Bill Garbett, and Bubba Hughes, City Attorney. Also in attendance were Diane Schleicher, City Manager, Dianne Otto, Acting Zoning Director, and Jan LeViner, Clerk of Council.

Mayor Buelterman listed the following items on the consent agenda:

- August 18, 2011 City Council Meeting Minutes
- August 25, 2011 City Council Meeting Minutes
- Tybee Island Tourism Bureau DBA Tybee Fest Pirate Fest, October 6-9, 2011, Beer and Wine
- Out of state travel for members of the Public Safety Committee and staff to visit the new Bluffton, S.C. Public Safety Building
- Cycle 14 Coastal Incentive Grant Award Agreement between the City of Tybee Island and the Georgia Department of Natural Resources, Coastal Resources Div. for the project entitled "Tybee Tidy – Combating Litter by Land for the Sea"
- Georgia Department of Transportation Local Maintenance and Improvement, Grant Program, Certificate of Ownership and Agreement
- Resolution, Short Term Work Program

Mayor Buelterman asked if the item on the agenda regarding the Revocable License/Indemnity Agreement/Right-of-Way; Sundae Café/Kevin Carpenter; 304 First Street could be added to the consent agenda. Mr. Hughes stated that this is being handled the same way as if an awning may go over a sidewalk as they are encroaching on city property. Mr. Garbett asked if this was an existing encroachment. Ms. Otto stated as there is concrete there now that is crossing the property line but the cooler would be considered a new encroachment. Ms. Williams asked how condensation would be directed. She feels that it is important that it not drain on the sidewalk or parking lots as it might become slippery and cause a liability. She asked that if this request was approved, any run-off would be directed to the gutter system or away from the sidewalk. Mr. Carpenter indicated earlier in the day he would attend the meeting and be available for questions.

**Paul Wolff** made a motion to adjourn to Executive Session. **Shirley Sessions** seconded. Vote was unanimous.

**Paul Wolff** made a motion to return to regular session. **Kathryn Williams** seconded. Vote was unanimous.

Mayor Buelterman called the regular meeting to order at 7:00PM.

Opening Ceremonies

Call to order

Invocation: Kathryn Williams

Pledge of Allegiance

Mayor Buelterman introduced the candidates for the upcoming election. He then announced the 9-11 Remembrance – 10 Year Anniversary on Sunday, September 11, 2011 at 4:00PM. The ceremony would be held at Memorial Park.

Shirley Sessions announced that there would be a Candidate Forum on September 27, 2011 at 7:00PM, City Hall.

Kathryn Williams announced there would be a beach sweep on September 24, 2011.

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**Joey Burel, Chairman, Rising Tyde Community Food Pantry** gave a report on the progress of the food pantry. Shelving has been installed and she thanked everyone for all their help. The Pantry will open on the third Tuesday of each month beginning September 20, 2011 from 10:00 – 11:00AM and again from 6:00 – 7:00PM. Individuals will need to bring photo identification and proof of residency to qualify. They are now accepting food items as well as donations and food can be dropped off at the YMCA, Trinity Chapel or All Saints Church. Those wishing to volunteer are asked to be at the pantry, September 13<sup>th</sup> at their preferred time they will volunteer. Ms. Sessions asked if volunteers needed to call anyone or should they attend the training? Ms. Burel stated no, they needed to ensure they were at their preferred time as the training would be specific to morning or afternoon hours. Ms. Doyle asked everyone to visit the pantry as it has been completely remodeled and looks wonderful.

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**Woody Hemphill, River's End Campground** gave his summary of July 2011 revenues and expenditures.

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**Consideration of Bids, Contracts, Agreements and Expenditures.**

**Transportation Enhancement Memorandum of Understanding, Historic Bicycle/Pedestrian Trail, \$200,000.00 of Federal Transportation Enhancement Funding.** Ms. Schleicher stated that the City had been awarded a \$200,000 grant and matching funds will come from SPLOST, in-kind work and DPW as they will do the initial bed work on the path to save costs. Mayor Buelterman asked Ms.

Schleicher to confirm the SPLOST money was budgeted. She confirmed and indicated that if there were monies left over it would be used to do the multi-use trail. Ms. Doyle asked how much money was budgeted for this project. Ms. Schleicher stated that there was \$200,000 from the grant and \$153,320 from SPLOST although she does not feel they will use the entire amount. Mayor Buelterman asked Ms. Schleicher what exactly we were voting on. She replied that this is an understanding that the City will follow the rules set forth by DOT which will qualify the City for the grant. **Bill Garbett** made a motion to approve. **Paul Wolff** seconded. Vote was unanimous.

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**Shirley Sessions** made a motion to approve the Consent Agenda. **Wanda Doyle** seconded. Vote was unanimous.

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### **Public Hearings**

**Site Plan with Variance, 407 First Street, Applepeel Properties.** Ms. Otto stated that this is a site plan approval with variance. This was heard at the Planning Commission Meeting on August 16, 2011 and was approved 6-0. Mr. Wolff asked if this variance request was just for parking. Ms. Otto confirmed as there is no off-street parking. Ms. Williams asked if there was enough room for the propane tanks. Ms. Otto confirmed that the site plan shows adequate space. Ms. Efird was asked to answer questions from council. She stated that she will be using 120 gallon tanks which require no setback. Mr. Garbett asked where the employees would park. Ms. Efird stated that they would park on the street using Tybee Island stickers. Ms. Williams asked if the trees would have to be relocated on the Island. She replied that the palm trees in question are too large to get out in one piece and they are looking at other options. Ms. Doyle asked if the handicapped parking space would be used by employees. Ms. Schleicher stated that this space was put in as a courtesy for the previous owner and would now be available to patrons as Ms. Efird indicated she does not have any employees that are eligible for handicap parking. Mr. Herring approached council and asked how the dryers were going to be vented. Ms. Efird stated that the dryers would be vented through the roof. **Frank Schuman** made a motion to approve. **Shirley Sessions** seconded. Vote was unanimous.

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**Text Amendment and Map Amendment, 6A and B, 8, 10, and 12 Brewer's Landing, 919A and B, 921, and 923 Old Highway 80.** Ms. Otto stated that this was a tax amendment /map amendment for properties that are in the vicinity of the Brewer's Landing area. The current zoning map shows portions of these properties currently zoned Environmental Conservation (EC). The properties that are included in this request, currently zoned EC, would be changed to R-1-B. Mr. Hughes explained that the rule is when a district line divides a lot such as this; it would be treated as the

least intensive district. He also feels this is a result of a mapping inaccuracy about where they put the boundary line of the EC as it is high ground that the structures are built on. Mr. Wolff visited the area and noticed that some of the houses are in the buffer. Ms. Doyle would like to know if this were approved would it change anything for the homeowners such as taxes, etc. Mr. Hughes stated that it would correct the zoning map. Mayor Buelterman asked Mr. Hughes if there would be any negative tax implications that would result to the property owners. Mr. Hughes stated that he did not think so, if anything it would result in a lower tax rate as it would not be zoned EC. Ms. Sessions asked why this is before council tonight. Mr. Hughes stated that we were in the process of cleaning up the zoning map. She further asked if the homeowners had been made aware that this was being discussed this evening and Ms. Otto stated that all homeowners affected by this had been notified by mail prior to the Planning Commission. Ms. Williams confirmed with Ms. Otto that there are two lots that do not have structures on them. Ms. Randy Brewer approached council. She brought her survey map that was done in 2001. At that time it was zoned R-1-B. In 2004 or 2005 the map was redrawn and is the same as on record in the Zoning and Planning Office. Mayor Buelterman asked Ms. Otto if this was approved would it cause any problems for the current homeowners if they wanted to build a deck or add onto their homes. Ms. Otto said that it would rectify issues that could be proposed at that time if the change was not made. Mr. Hughes agreed. Ms. Williams asked Ms. Brewer to make her maps available to staff so they could make a copy to review as there seems to be a great deal of unanswered questions. She would like to table this until it can be further reviewed and staff could provide a timeline of events. Mr. Wolff agreed that it should be continued to the next meeting. He would also like Ms. Otto to check the county records and see what is on file. Mr. Davis approached council and stated that he did the engineering on these lots as a private engineer prior to working for the City. The zoning line was clarified and there was no plan for houses to be built in the EC. The DNR also flagged the line and on every lot he was required by his client to lay out a house footprint to insure that each lot was buildable without getting in to the 25' DNR buffer line. He has as-builts and will be happy to provide to the City. Mr. Hughes stated that the subdivision plat was recorded in 2000. Barry Brown approached council and stated that all the paperwork he has indicates that these properties are zoned R-1-B and the plat was recorded at the courthouse in 2004 or 2005. Ms. Williams asked Mr. Hughes to address the C-2 issue as well as what is before council this evening. Mr. Hughes stated that the C-2 issue should not be dealt with at this location right now. Mr. Wolff suggested that all the lots be zone R-1-B with the exception of the C-2 zoned lots. **Kathryn Williams** made a motion to continue to the first meeting in October (October 13, 2011) to give staff time to respond to council's questions and also explore the

duplex lots and how any action council takes could adversely affect them. **Shirley Sessions** seconded. Vote was unanimous. Frank Schuman would also like two maps.

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**Text Amendment; Section 3-160, Protective Screening; First Reading.** Ms. Otto stated that the Protective Screening Ordinance was first heard by the Planning Commission on June 21, 2011. They voted 5-0 to send it to council so they would have their comments. On the July 14, 2011 city council meeting it was decided that the City Attorney and staff would continue to work on the ordinance. What council has before them this evening is a much simpler version of the previous ordinance. Mr. Garbett suggested that the language be changed from "lawn" to "area beneath and between the planted trees be kept free of foreign debris and foreign growth." **Paul Wolff** made a motion to approve as amended. **Kathryn Williams** seconded. Voting in favor were Paul Wolff, Kathryn Williams, Frank Schuman, Shirley Sessions, and Bill Garbett. Voting against was Wanda Doyle. Motion carried.

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**Text Amendment; Section 3-165, Greenspace; First Reading.** Ms. Otto stated that this was heard at the August 16, 2011 Planning Commission meeting and the vote was 6-0 to approve with staff inserting a definition for vegetative state and modifying the requirement that mulch, pine straw, or other ground cover that is around the shrubs could not exceed the limit of the drip lines for those shrubs and trees. The definition of vegetative state comes from the Green Book, the state reference book for erosion control. Mr. Wolff questioned the verbiage that it must be sod forming grass rather than native plants. He would prefer to have native plants rather than grass. Ms. Otto explained that according to the Green Book that is the definition for vegetative state. Mr. Wolff feels it should be changed. Mr. Garbett agrees. He feels that it should include perennial flowers, plants and trees. He further stated that this definition does not cover what council intended residents to have on their property as they need more flexibility. Mayor Buelterman suggested that staff retool the ordinance and bring back to council. Ms. Otto confirmed that "rocks" have been removed from the ordinance. Ms. Doyle would like the last sentence of the ordinance clarified pertaining to the drip line of the trees and shrubs. Mayor Buelterman asked if the wording "vegetative state" could not remain in the ordinance without restrictions. Ms. Otto stated that the intent was to allow more than a vegetative state which would also allow beddings. Mr. Garbett stated it would be best to have a definition. Ms. Sessions asked council to share their thoughts with Ms. Otto via emails so she could craft the ordinance. Ms. Williams is also concerned about the drip line of the plants. She also feels that mulch is only good for six months but is a good temporary fix until a more permanent "vegetative state" can be completed. **Paul Wolff** made a motion to continue until the first meeting in October (October 13, 2011). **Shirley Sessions** seconded. Vote was unanimous.

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**Revocable License/Indemnity Agreement/Right-of-Way;**

**Sundae Café/ Kevin Carpenter; 304 First Street.** Mayor Buelterman stated that this is not a public hearing. Kevin Carpenter approached council. He stated that the cooler does have a drain line and it would be diverted to each side of the cooler which would help irrigate the grassy area. Mr. Garbett confirmed that the drainage would go to the rear of the property in this way there would be no danger of slippery sidewalks. **Paul Wolff** made a motion to approve. **Frank Schuman** seconded. Vote was unanimous.

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**Text Amendment; Section 5-040, Application for Permits or Actions; First Reading.**

Ms. Otto stated this was heard by the Planning Commission in May of 2011 and is before council tonight along with two other Article 5 sections. This is a priority due to subsection "H" which allows staff to do administrative minor subdivisions which council asked to be stricken. Mr. Wolff asked Ms. Otto to correct the grammatical errors within the subsection. Mayor Buelterman had a question pertaining to Section C-8. He asked for a definition of "projects". Ms. Otto explained that single family is exempt from a land disturbing permit but not exempt from soil erosion control. Ms. Doyle asked why "Zoning Administrator" was removed and "designated city official" replaced in section D. Ms. Otto explained that the "designated city official" would be the person designated by the City Manager as the City has not had a Zoning Administrator for several years and now the position is open as Planning and Zoning Manager and they want to title to match the ordinance. Ms. Williams asked Ms. Otto if someone picked up paperwork to do a variance request, filled it out and brought it to city hall on a Saturday when the Zoning Office was closed, would they be allowed to give it to the cashier or do they have to come to the office during normal business hours. Ms. Otto stated that it is mandatory that the individual call and schedule an appointment with staff for a submittal. Mr. Wolff asked that the grammatical changes be made as stated. **Paul Wolff** made a motion to approve as amended. **Frank Schuman** seconded. Vote was unanimous.

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**Text Amendment; Section 5-041, Lot Recombination; First Reading.**

Ms. Otto stated that this is proposed to be a newly created section in Article 5 and was written by the City Attorney in response to subsection 'H' in 5-040 which was just approved. She further stated that when the administrative subdivisions were changed not to be done by staff, the City Attorney felt it necessary to distinctly state that staff would be handling lot recombination. When this was presented to the Planning Commission in May of 2011, they were opposed as they did not have the benefit of the City Attorney's input and their vote was to strike the entire section. Mr. Wolff agrees that these approvals should come before council. Mr. Hughes when asked by Ms. Doyle does not see the risk of recombination of lots being anything like the subdividing of lots. Mr. Wolff asked Mr. Hughes if the Master Plan supersedes the Land Development Code. Mr. Hughes stated that the Master Plan usually set goals and does not set specific rules for specific properties. Mr. Wolff feels that we owe it to any resident that would be impacted by a new structure based on a recombination of lots, to be able to voice their concerns in a public hearing. **Paul Wolff** made a motion to continue to next meeting,

September 22, 2011. **Shirley Sessions** seconded. Discussion: Mr. Garbett would prefer to vote on this matter and still have feedback from staff. Those voting in favor were Paul Wolff, Kathryn Williams, Frank Schuman and Shirley Sessions. Voting against were Wanda Doyle and Bill Garbett. Mayor Buelterman confirmed with Ms. Otto if council does nothing then the approval is at staff level. Ms. Otto stated that currently lot recombination is not addressed in the code. This is to clarify that staff would be approving lot recombination.

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**Text Amendment, Section 5-156, Survey Requirements; First Reading.** Ms. Otto stated this was heard at the August 16, 2011 Planning Commission meeting and is a section within Article 5. The directive from council was that staff prepare an ordinance that would require an as-built survey to be done at the foundation stage of construction. Previously the as-built survey was required at time of completion. What is proposed is to rename the section 5-156 Survey Requirements. The three different types of requirements would be foundation survey, as-built drawing at the completion of the project and height certification if required by the City. Planning Commission did approve 6-0. Ms. Otto stated that additional language has been inserted as a recommendation from the Planning Commission where in addition to the foundation survey a letter by the architect or the contractor will be received stating that they have compared the foundation survey to their building plans and they are certifying they are correct. Ms. Doyle stated that if this had been in place previously there probably would not have been past issues. Mr. Schuman concurred. Mr. Cowart approached council stating that a house across the street on 2<sup>nd</sup> Terrace was surveyed recently and the roof was off ¾" due to settlement. He was tasked with correcting the problem so the bank would give the buyers a Certificate of Occupancy. Ms. Otto stated that this was not an encroachment into a setback but the overhang was off the property. She further stated that the as-built that was received by the City showed the overhang was over the property line. Mr. Onyskiw approached council and commended staff for the writing of the ordinance. He agrees that an inspector needs to check the foundation to ensure compliance. Ms. Williams feels that more than one person should be designated to accept and approve paperwork received in the Zoning Department. Mr. Schuman suggested that there be an additional inspection after the foundation is poured to insure they are within the site plan. **Paul Wolff** made a motion to approve. **Bill Garbett seconded. Vote was unanimous.**

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**Text Amendment; Section 9-030, Building Permits; First Reading.** Ms. Otto stated that this section was adopted by city council in October 2010 as a full article. At that time a sentence was inserted between first and second readings. That sentence has caused staff to have difficulties in the interpretation of the sentence as opposed to the of homeowners and builders. The sentence states that a permit is not required for

maintenance and/or repair work that does not necessitate or involve structural alterations, expansion of a structure and does not require the work be performed by a licensed trade such as electrical or plumbing. Ms. Otto is asking that this sentence be removed from the ordinance. Ms. Williams suggested that residents need to call Ms. Otto for clarification as to the requirement of a permit. Mr. Cowart stated that the City is not monitoring the handyman on the Island. They need to be state certified as general contractors. A handyman is someone that does minor work around the home such as fix a door knob. **Paul Wolff** made a motion to approve. **Kathryn Williams** seconded. Vote was unanimous. Discussion: Ms. Williams commented that in recent months the council has passed an ordinance to address unpermitted work on the Island requiring the applicant to pay double the permitting fee.

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**Article17, Shore Protection. For discussion only.** Mayor Buelterman stated that this is for discussion only. Ms. Otto asked that if anyone has further feedback on the draft please forward so she can take it to the Planning Commission. Mayor Buelterman asked for clarification in the case where there are no dunes, how would you determine the setback. Ms. Williams replied that our charter stipulates the main seawall along with the front of the beach would dictate the setback. Mr. Schuman asked Ms. Otto if the back river could be addressed in the ordinance as there is not a seawall or dunes. Ms. Williams suggested that council email Ms. Otto any questions or concerns so she can take to the planning commission.

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**Paul Wolff** made a motion to adjourn to Executive Session. **Shirley Sessions** seconded. Vote was unanimous.

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**Paul Wolff** made a motion to return to regular session. **Kathryn Williams** seconded. Vote was unanimous.

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Mayor Buelterman announced the City Council Workshop for Saturday, September 10, 2011 is scheduled for 9:00AM to 1:00PM.

Meeting adjourned.