

City Council Minutes, January 12, 2023

Mayor Sessions called the meeting to order at 6:30PM, January 12, 2023. Those in attendance were Brian West (via Zoom), Monty Parks, Nancy DeVetter, Barry Brown, Jay Burke (via telephonic conference) and Spec Hosti. Also attending were Dr. Shawn Gillen, City Manager; Michelle Owens, Assistant City Manager; Bubba Hughes, City Attorney; Tracy O'Connell, City Attorney; George Shaw, Planning and Zoning; and Jan LeViner, Clerk of Council.

Opening Ceremonies

Call to Order

In Memoriam – 2022

Invocation: Jan LeViner, City Clerk

Pledge of Allegiance

Recognitions and Proclamations

Jaime Spear approached Mayor and Council to introduce **Joel Rodriguez, Water/Sewer Department Employee of the 3rd Quarter**. Mayor Sessions and Council thanked Mr. Rodriguez for his dedication to the City.

Jaime Spear approached Mayor and Council to introduce **Danielle Bucher, Finance Department as Employee of the 4th Quarter**. Mayor Sessions and Council thanked Ms. Bucher for her dedication to the City.

Consideration of Boards, Commissions and Committee Appointments

Planning Commission - 3 seats open

Mike Harrell

Mariah Hay

Susan Hill (incumbent)

Julie Livingston

Jack Long

Robert Matkowski

Jeri Monroe

S. Michelle Nooney

Ballots were distributed and collected by the Clerk, Jan LeViner. Ballots were tabulated. After the ballots were counted: Julie Livingston, Robert Matkowski, and Michelle Nooney received the majority of votes. (Ballots attached)

Mayor Sessions added the following to the Consent Agenda:

- Special City Council Meeting Minutes, December 21, 2022
- Minutes, City Council Meeting, December 8, 2022
- Attachments to Minutes, December 8, 2022
- Agenda Request: Alcohol License Request Critz Tybee Run Fest-Special Event Beer and Wine February 3-4, 2023
- Agenda Request: Entertainment License-Zunzi's Operations, LLC dba Zunzibar
- Budget Amendment approval of budget transfer from 100-00-39-1300 to 350-7564-54-2500 for \$16,225 for parking kiosks and from 100-7564-53-1600 for \$11,500 for handheld ticket writers.
- Resolution 2023-02: Chatham County to Superintend Municipal Elections
- Resolution 2023-03: Qualifying Officer, Tybee Island Municipal Election

Nancy DeVetter made a motion to approve the consent agenda. **Monty Parks** seconded. Vote was unanimous to approve, 5-0. Jay Burke left the meeting.

Public Hearings

Variance: Requesting to disturb wetland buffer - Solomon and Polk - R-1, William Christiansen. **George Shaw** approached Mayor and Council. Mr. Shaw stated the petitioner, Mr. Christiansen owns the property at the corner of Polk and Solomon. This is a large preplanned property, 24 lots approximately, and toward the south of the property along Solomon there is a wetland and in addition, over the years residents have dumped trash in that area. Mr. Christiansen is requesting, in order to remove the trash, he needs a variance. The trash is in the buffer, the City has a 25' wetland buffer and the petitioner would like a variance to clean the trash. Also, the USACE will have to make a determination as to the what happens in the wetland as the City jurisdiction over the buffer. Staff recommended approval and the Planning Commission recommended approval, 4-2. Mr. Parks stated the map in the presentation is not in his packet. Mr. Shaw confirmed as he added for clarity. Mr. Shaw further explained the map. Mr. Parks asked if any of the buffer is in the area of Storer Avenue. Mr. Shaw confirmed it is the City rights-of-way. Mr. Parks asked Mr. Hughes for clarification as if he votes in favor of the variance, what does it give the petitioner the right to do. Mr. Hughes responded this is complicated property but yes the petitioner can start digging within the perimeters of the permit except for city property. Mr. Parks stated if a variance is granted as depicted on the map, we are granting into the City easement. He further asked Mr. Shaw how deep are they digging. Mr. Shaw responded the borings only go 5' - 6'. Mr. Parks asked about the trees on the property. Mr. Shaw stated there are not many and they are not marked on the plans before them. Mr. Hughes stated the variance could be authorized subject to items or not approved until all questions have been addressed. Mr. Parks stated he has many questions to be considered. Mr. Hughes asked Mr. Parks to provide the list so those items can be addressed. Mayor Sessions clarified what Mr. Hughes is asking for are items in question so he, Mr. Shaw and Mr. Christiansen can work toward resolving. Mr. Hughes confirmed. He then made reference to the applicable Land Development Code section regarding buffers. Mark Boswell, Civil Engineer, approached Mayor and Council. Mr. Boswell stated the trees on the property are Chinese Tallow's which are invasive. He further stated the big plans he submitted to Planning and Zoning do have the trees delineated on them. Mr. Parks asked Mr. Boswell how deep are they digging. Mr. Boswell responded 3.5' to the worse case 5'. On Mortar cars were found for example. With the seven (7) borings, most revealed plastics, concrete and wood. Mayor Sessions asked if a staff member is present when these diggings will take place. Mr. Boswell responded no but could be present. Mr. Boswell stated the purpose of the variance is to get the trash out of the buffer. Mr. Parks expressed his concerns with going into the buffer for trash removal. Mr. Hosti confirmed the buffer belongs to the petitioner. Ms. DeVetter stated the downed trees would have to be removed to see what is under them. Mr. Boswell confirmed. Mr. Hughes confirmed there can be no cleaning of the wetlands without the USACE permission. Mr. Parks asked how time sensitive is this matter as he would like Mr. Hughes to meet with the petitioner to address concerns. Mr. Christiansen approached. He stated he is willing to work with the City to have the property cleaned. **Susan Kimble** approached Mayor and Council. Ms. Kimble stated she is representing approximately 40 residents that are concerned about the tract of land that is located at Polk and Solomon. She read from a prepared statement (attached) expressing their concerns. Mayor Sessions thanked Ms. Kimble. Mr. Boswell clarified these are lots of record and evidentially build homes. He continued, gravel would not be brought in as fill as the fill would have to be clean dirting, and transplanted with Wax Myrtle's or some sort of native plant. **Monty Parks** made a motion to have Mr. Hughes communicate with the owner of the property to discuss issues that were raised and report back at a future meeting. **Spec Hosti** seconded. **FOR DISCUSSION: Ms. DeVetter** stated information on the trees needed to be included in what is brought back to Mayor and Council. Vote was unanimous, 5-0.

Variance: Requesting expansion of setback encroachment – 817 1st Street – 40019 05001C – Zone R-T – David Toman. **George Shaw** approached Mayor and Council. Mr. Shaw stated Mr. Toman owns a unit in Salt Pines complex, zoned R-T which has a 20' rear setback

and almost all the units have this setback. Mr. Toman has a back deck that goes to the back of his property, 11.7' from the exterior fence and would like to screen the existing deck, put up columns and put an unscreened open deck above it. Staff recommended denial and Planning Commission recommended approval, 5-1. Ms. DeVetter confirmed the existing deck is non-conforming and the petitioner would like to expand that non-conforming and put one on top. Mr. Shaw confirmed and those who have decks, are non-confirming. Dr. West asked if the existing deck was permitted. Mr. Shaw stated he did not know. Mr. Toman approached Mayor and Council. He stated he would like to screen in the existing deck and put a porch on top. He is not building further out just up. Ms. DeVetter asked the petitioner if there was a hardship. Mr. Tomas stated at they have no gutters, the rain comes down and washes out their base for the main structure of the house. By adding a roof to the existing deck he will be able to add gutters. Mayor Sessions thanked Mr. Toman. **Spec Hosti** made a motion to approve. **Monty Parks** seconded for discussion. Voting in favor were Spec Hosti and Brian West. Voting against were Monty Parks, Barry Brown and Nancy DeVetter. Vote to deny, 3-2.

Text Amendment: Sec. 7-050 – Tree removal requirements – calculation of trees required per lot – City of Tybee Island. **George Shaw** approached Mayor and Council. Mr. Shaw stated the City currently calculates the number of trees that are required on a lot by the square footage of the lot, which is three (3) trees per every 4,500 sq. ft. Recently Staff came across an issue with property that is 3/4 marsh and the number of required trees could not fit on the lot. What is before Mayor and Council is an amendment to have three (3) trees per every 4,500 sq. ft. of upland and the upland would be defined as landward of the DNR marked delineation line. Planning Commission voted unanimously to approve as well as Staff. **Spec Hosti** made a motion to approve. **Nancy DeVetter** seconded. Vote was unanimous to approve, 5-0.

Consideration of Ordinances, Resolutions

Second Reading, 2023-01, Sec 4-051, Short Term Rentals. **Mr. Hughes** stated there was a public hearing previously and it was passed on first reading. This is incorporating the Short Term Rental Ordinance that was previously in Chapter 34 of the Code into the Zoning Code of the City since it became district specific as to R-1, R-1B and R-2. It is more appropriate to be in the Zoning Code, 4-051.12. **Monty Parks** made a motion to approve. **Barry Brown** seconded. Voting in favor were Monty Parks, Barry Brown and Nancy DeVetter. Voting against were Brian West and Spec Hosti. Motion to approve, 3-2.

Council, Officials and City Attorney Considerations and Comments

Bubba Hughes the property at 708 Butler is now marked and the applicant has gotten the approval from DOT for the entranceway off of Butler Avenue. The Agreement in the packet as to the recording of the necessary documents that includes the Conservation Easement with respect to the trees, façade easement and the covenants, which will be applicable in the subdivision, will need to be recorded prior to any permit being issued. This is let the public know that the trees are currently marked with color coded ribbons as to which trees are to be removed; which to be pruned; and which are remaining. Mr. Shaw stated the trees with the green ribbons are to be removed; pink ribbons are to be pruned; and faded pink that are in the rights-of-way are to be moved. Mr. Hughes asked Mayor and Council to authorize the Mayor signing the Agreement when everything is finalized by the developer. **Spec Hosti** made a motion to have the Mayor sign the Agreement when everything is finalized. **Barry Brown** seconded. Voting in favor were Brian West, Barry Brown, Spec Hosti and Brian West. Voting against was Nancy DeVetter. Motion approved 4-1.

Robert Bryson: **Release Agreement.** **Dr. Gillen** stated the City is adding five (5) years of time to Chief Bryson's pension plan. There is no immediate budget impact but in future budgets there would be an impact of approximately \$37,000 amortized over the next 10 years. Dr. Gillen

stated Chief Bryson is not retiring early as he is currently eligible for retirement. **Nancy DeVetter** made a motion to approve. **Monty Parks** seconded. Voting in favor were Monty Parks, Nancy DeVetter, and Barry Brown. Voting against were Brian West and Spec Hosti. Motion to approve, 3-2.

Barry Brown would like to have a discussion regarding the future of the **Tybee Island Fire Department - Firehouse Multi-Purpose Building** as he would like to have an architect do drawings. This discussion could be at an upcoming City Council Workshop. Dr. Gillen stated they are awaiting approval from a grant that would provide funding for a work shelter where fire department personnel housed. This building would withstand a category 5 hurricane.

Monty Parks stated in the past he has brought up the topic of **Marine Science Bathrooms and Manual traffic control at Johnny Mercer and Highway 80**. It was his understanding DPW was going to move the portable bathroom from the south-end and rework it and put it in place by the Marine Science Center. Evidentially plans changed as the bathroom was beyond repair and his concern is he would like a bathroom of some sort in place for the season. Dr. Gillen confirmed the bathroom at 14th Street Parking Lot is beyond repair and he will speak with Mr. Gulbranson to get pricing, purchase and if necessary do a budget amendment for the cost. Mayor pro tem Brown if a bathroom could be built at the location. Dr. Gillen stated he will look into it. Mr. Parks will bring this back for an update from Dr. Gillen. Mr. Parks stated in November 2022 he asked Dr. Gillen to look into a manual traffic control at Johnny Mercer and Highway 80 which would include conversations with Chatham County. He would like to know the status. Dr. Gillen stated he had a short conversation with the Chief of Police, Chatham County, regarding this but has not heard back. Mayor Sessions recommended Dr. Gillen reach out to Chatham County Manager as he is the responsible party.

Shawn Gillen approached Mayor and Council to give an update on his **Action Item List**. Mayor Sessions thanked Dr. Gillen.

Jan LeViner approached Mayor and Council to read the **Call to Election and Public Notice - Qualifying Notice**. Mayor Sessions thanked Ms. LeViner.

Monty Parks made a motion to adjourn to executive session to discuss personnel, litigation and real estate. **Brian West** seconded. Vote was unanimous to approve, 5-0.

Monty Parks made a motion to return to regular session. **Spec Hosti** seconded. Vote was unanimous to approve, 4-0. Brian Parks left the Zoom Meeting.

Spec Hosti made a motion to adjourn. **Monty Parks** seconded. Vote was unanimous to approve, 4-0.

Meeting adjourned at 9:45PM

Janet LeViner, MMC
Clerk of Council