

Consideration of Items for Consent Agenda

Mayor Sessions called the Consent Agenda to order at 6:30PM. Those present were Jay Burke, Monty Parks, John Branigin, and Barry Brown,. Also attending were Dr. Shawn Gillen, City Manager; Bubba Hughes, City Attorney; Tracy O'Connell, Assistant City Attorney; George Shaw, Director, Community Development; and Janet LeViner, Clerk of Council. Nancy DeVetter and Spec Hosti attended via telephonic conference.

Mayor Sessions listed the following items on the consent agenda:

- Minutes: City Council Meeting, October 8, 2020
- T-Mobile - 5th Amendment to Water Tower Attachment Lease Agreement

Mayor Sessions called the regular meeting to order. All those present for the consent agenda were present.

Opening Ceremonies

- Call to Order
- Invocation: Rev. Sue Jackson, Trinity Methodist Church
- Presentation of Colors and Pledge of Allegiance

Recognitions and Proclamations

Tybee Island Fire Department, First Responders and Lifeguards. Chief Harrell introduced the Tybee Island Fire Department members to include First Responders, Life Guards and Volunteers. Mayor Sessions thanked each for their dedication. Certificates of Appreciation were given to each member.

Janice Elliott, HR Director recognized **Employee of Quarter(s)** with a Certificate and gift card:

- **First Quarter: Cale Mathis, Department of Public Works**
- **Second Quarter: Melissa Freeman, Finance Department**
- **Third Quarter: Jennifer Wittendorf, Tybee Island Fire Department**
- **Fourth Quarter: Danny Rapposeli, Water/Sewer Department**

Reports of Staff, Boards, Standing Committees and/or Invited Guest. Limit reports to 10 minutes.

Demery Bishop approached Mayor and Council to give an update on the **STVR Work Group**. Mr. Bishop addressed the proposed Ordinance included in the packet before them tonight (attached). Mayor Sessions thanked Mr. Bishop and his committee for all their hard work.

Kim Webster: Tourism Council Activities Year-To-Date. Ms. Webster rescheduled for November 12, 2020.

Frank McColm and Jerry Davis approached Mayor and Council to give an **Update on the HMGP Grant**. Mr. Davis stated there were twelve homes originally that were approved for the Grant and of those twelve only ten are moving forward. Seven residents have completed their papers, six have received bids from contractors and building permits have been approved. An extension has been requested due to COVID until June 2022. This extension is currently at FEMA for approval. Mr. Davis reported there is no update on the additional homes in the second phase. Mayor Sessions thanked Mr. McColm and Mr. Davis.

Citizens to be Heard.

- **Benny Ward** requested Mayor and Council not approve the proposed Alcohol Restrictions
- **Vicki Worden** requested Mayor and Council not approve the proposed Alcohol Restrictions
- **Laurie Gulbranson** requested Mayor and Council not approve the proposed Alcohol Restrictions. Tybee is a special place and is the main reason they moved here. She is not in favor of the proposed Alcohol Restrictions as she will not be able to take her beverages to the beach and enjoy the sunrise or sunsets.
- **Tim Arnold** requested Mayor and Council to approve the proposed Alcohol Restrictions
- **Paul Lewis** requested Mayor and Council address the tourist problem rather than address the locals. Mr. Lewis also stated the Alcohol Restrictions are ridiculous.
- **Shawna Lewis** stated she loves the tourists that visit the Island and is in favor of open containers. She also feels Mayor and Council need to enforce the ordinances that are in place as the residents have rights and are not to be dictated to. She is not in favor of the ban of Alcohol Restrictions.
- **Eric Thomas** spoke on the proposed Noise Ordinance and asked Mayor and Council not to approve the proposed Ordinance
- **Stuart Smith** stated he is not in favor of the ban of open containers. He asked Mayor and Council not to approve the proposed ordinance on Alcohol Restrictions.
- **Jen Knox** stated she is not in favor of the proposed Alcohol Restrictions Ordinance and asked for clarification of "open container". Ms. Knox recommended the business owners meet with the TIPD to enforce the current ordinances rather than creating more.
- **Jenny Orr** stated one of her concerns are the coolers beach goers bring to the beach goers bring and feels that is the main abuse of alcohol. Ms. Orr asked Mayor and Council to look at that as it is not part of the business community. She also recommended a single serve for customers as this is done in other beach communities.
- **Jerry Cornwell** respectively proposed a meeting with representatives from the TIPD and businesses to address each other's concerns and work toward a solution.
- **Michael Hall** shared his concerns with the proposed Noise Ordinance. He asked for clarification on how the proposed Noise Ordinance in regards to the distance being measured. Mr. Hall also stated this is a potential to not have answers.
- **Ron Goral** stated he is not in favor of the proposed Alcohol Restrictions and is questioning where the restrictions would apply. He does have a petition to present to Mayor and Council but will hold until later.
- **Marianne Bramble** stated both proposed ordinances before Mayor and Council are unenforceable as written. She recommended both be tabled until such time as discussions with the business owners have taken place.
- **Michael Flores** stated setting more ordinances are not enforceable. He asked for Mayor and Council and the TIPD make more visits to establishments to build good faith. Mr. Flores is in favor of a meeting with Mayor and Council and the business owners.
- **Joe Sheffield** feels the single most problem on the Island is public behavior. He recommended enforcement of current ordinances. He is not in favor of the Alcohol Restrictions.
- **Des Ruman** stated he does support the proposed Noise Ordinance.
- **Michael Crosby** asked Mayor and Council not to pass the proposed Alcohol Restrictions. He is a server and by passing the proposed ordinance it will take revenue from the local business owners as well as the wait staff.

Monty Parks made a motion to approve the consent agenda. **John Branigin** seconded. Vote was unanimous to approve, 6-0.

Consideration of Bids, Contracts, Agreements and Expenditures

Results of the Classification and Compensation Study conducted by Evergreen Solutions and to request that the City Council review and implement the plan. Angele Yazbec, Evergreen Solutions

approached Mayor and Council to present the results of the recent Classification and Compensation Study that was done. Information is included in their packets before them tonight. She stated they developed a separate pay plan for Public Safety staff as the salary ranges seems to change more compared to other types of classifications. This is considered an open end design. Ms. Yazbec stated after meetings with the City Manager, Finance, and Human Resources Directors it was agreed to move to the Mid-point Tier 3 Year Class and Comp is the most appropriate method for adjusting employees' salaries. She recommended the City, moving forward, continues to advance employees' salaries with cost of living adjustments and implement and maintain and continue to administer a performance evaluation system. Mayor Sessions asked Dr. Gillen to respond to his plan moving forward. Dr. Gillen stated as far as the implementation of the Plan and how the range will impact the TIPD. He outlined the budgetary impact and how it could be phased in to the budget. They are recommending, beginning in January 2021, they move the entire Public Safety (all sworn staff) to the minimum range which is approximately \$108,000 and starting in July 2021, another \$108,000. January 2022 include the remaining staff with increase in salaries. Ms. Elliott, Human Resources Director, approached Mayor and Council. Ms. Elliott emphasized the important of a yearly Cost of Living Adjustments and Merit Increases as this is a way the City will not fall behind in the future. Mr. Branigin stated it is more important to emphasis a consistent Merit Program to reward the staff you really want to retain. Mr. Parks stated it is his understanding in January 2021, roughly \$109,000 and July 1, 2021 another \$109,000 which covers the next budget cycle and \$130,000 in January 2022. Dr. Gillen clarified in January 2021 and for the remainder of the current fiscal year there is \$108,000 impact. July 1, 2021 there is another \$108,000 adjustment to the budget, which is cumulative. Mr. Branigin confirmed the cost to bring the Public Safety Staff to where they need to be is approximately \$217,000 and the budgetary impact has been split into this budget cycle and next budget cycle but if the City does not implement a merit program for the 2022 budget cycle the City is already falling behind. There was a discussion regarding an evaluation plan by Dr. Gillen. Mr. Parks expressed his concerns with employees being promoted and their salary is less than in their previous position and a policy review needs to be completed. Dr. Gillen confirmed. Mr. Parks asked Dr. Gillen when Mayor and Council could expect a policy. Dr. Gillen responded it would be done parallel to the implementation of the proposed plan. Mr. Parks asked Dr. Gillen for an exact date as without that there will be no progress. Dr. Gillen responded if need clarity on the policy Mr. Parks is speaking of. He continued, there needs to be a (1) Merit Plan that is approved by Mayor and Council; (2) develop a form for the employee evaluation; and (3) ensure management has reviewed promotion policies. He will work with Ms. Elliott to develop a policy and bring to Mayor and Council at the December 10, 2020 meeting. Ms. Elliott stated some "policies" are written as ordinances and will need to be changed to an actual policy rather than ordinance. Mayor Sessions confirmed Dr. Gillen will bring back the policy at the December 2020 meeting. Dr. Gillen confirmed. He asked Mayor and Council to accept the recommendation as presented by Evergreen and the implementation timeframe. **Monty Parks** made a motion to approve the recommendations as presented. **Barry Brown** seconded. Vote was unanimous, 6-0.

Consideration of Ordinances, Resolutions

First Reading, 2020-20, Noise Ordinance. **Mr. Hughes** stated Section 4 as it deals with the beach and parks is not to be considered as part of the proposal before Mayor and Council tonight. He continued this was before Mayor and Council two weeks ago and with the concept of moving

from the decibel readers to plainly audible standards has been discussed since 2008. There have been arguments that a meter reading is not enforceable. Dr. Gillen confirmed the problematic readings of the decibel as it does not pick up all the sound waves. The proposed ordinance has the flexibility for distance and times. The current status is 300 feet from 7:00AM until 11:00PM and 100 feet from 11:00PM to 7:00AM. Mr. Hughes continued that the distances involved are still being considered. The concept that was plainly audible being adequately specific from a constitutional standpoint was upheld by the Georgia State Supreme Court with Athens/Clarke County which is the model for which is before Mayor and Council. The difference is uses abutting residential uses and is made to include other residential abutting residential due to the concept of STVR's. This is for 11:00PM to 7:00AM as it is for sound making devices restricted within those hours. He is asking for recommendations from Mayor and Council. Mr. Hughes feels the advantage to the plainly audible standard is the noise must be identified apart from the ambient noise that is going on in the neighborhood. Dr. Gillen stated for enforcement, the officer would go to the complainant's property and measure the decibel level from the property and if above a certain level then there is a violation. This will include a citation. Mayor Sessions asked the fee for the citation. Dr. Gillen confirmed it is consideration an administrative fine, \$300.00. If the ticket is written by a TIPD rather than Code Enforcement the fine could be up to \$1,000. Mr. Branigin stated the Public Safety Committee has been reviewing the situation for two years and the consensus was the plainly audible reading is better than the decibel reading approach. Their main concerns includes STVR's and may not have been fair to commercial properties. He would recommend taking out the commercial so it be only be property residential bordering residential which would include no mechanical music between the hours of 11:00PM and 7:00AM Sunday through Thursday and midnight to 7:00AM Friday and Saturday. Specific items includes: (1) under Exceptions: include an exception for generator used in conjunction with a power outage; (2) the 300' restriction and the 100' restrictions on the Sunday through Thursday should be lowered to 10:00PM rather than 11:00PM; and (3) under Equipment: Use Restrictions: this prohibits equipment such as power tools from being used between the hours of 8:00PM and 7:00AM Monday through Friday, he would recommend adding the word sunset to 7:00AM is more fair so people who are working in the highest heat of the day can still get in the reasonable amount of work. Mr. Parks stated his main concern as it relates to STVR's, the mechanical music within the residence was not working. He also recommended there should be a meeting to include the TIPD and businesses to discuss not only mechanical music but commercial music as well. **Motion: John Branigin** made a motion to accept the proposed ordinance to include the amendments he offered and dropping the beaches and parks as described by Mr. Hughes. **Monty Parks** seconded. Vote was unanimous to approve to include amendments, 6-0. **Discussion: Jay Burke** stated he is in favor and confirmed the commercial is not being addressed. Mr. Branigin confirmed and would reword, the distant restrictions would still apply but not mandating that commercial be inside the enclosed space and would apply to residential bordering residential, basically houses.

First Reading, 2020-21, Alcohol Restrictions. Jay Burke recused himself due to his occupation. Mayor Sessions referred to Mr. Hughes in regards to the recusal, according the way the Ethics Ordinance is written he does not feel anyone has a true disqualifying conflict including Mr. Burke. If others feel uncomfortable where they cannot be objective, they can also recuse themselves without being considered an abstention. As Mr. Burke is recusing due on ethical grounds under the rule then it would not be an abstention for an affirmative vote. Mr. Branigin made a motion to table the proposed agenda item until November 12, 2020. He stated his reasoning is (1) at the last council meeting, October 22, 2020, Jen Knox came forward and indicated the businesses that she had spoken to wanted to meet with the City and the TIPD, listen to the concerns and offer suggestions on how they might help with the problem. The meeting did not take place. The businesses were not given the chance to offer their opinions or

any solutions and (2) as what is in front of Mayor and Council has not been discussed with any of the bars and businesses nor based on any real discussion with Mayor and Council. Mr. Branigin continued, the City Attorney was asked to write an ordinance, he did, and it was not publically available until Friday, October 16, 2020. With not talking to the businesses and no discussions and his opinion, when Mayor and Council are doing a first reading of a proposed ordinance, it should be in a form that this close to what Mayor and Council intend to adopt. He feels what is before Mayor and Council is not close to what will be adopted. Mr. Branigin stated we need to meet with the businesses, get their ideas and then come back with a fulsome discussion so everyone has the same goal. **Spec Hosti** seconded. Those voting in favor of the motion were John Branigin and Spec Hosti. Those voting against were Monty Parks, Barry Brown, and Nancy DeVetter. Motion fail with a vote of 2-3. Mr. Parks stated the season is continuing due to COVID and the STVR's are still fully booked. He expressed his concerns with the safety of TIPD. **Monty Parks** made a motion (1) no open containers on beach from 14th to Alley 3 at all times (24/7); (2) no open containers in the public parking lots, namely the Strand, 14th and North Beach at all times (24/7); and (3) no open containers in the designated Festival Zone from 10:00PM to 8:00AM Sunday thru Thursday and from 11:00PM to 8:00AM Friday and Saturday nights. **Barry Brown** seconded. Voting in favor were Monty Parks, Barry Brown and Nancy DeVetter. **Discussion: Ms. DeVetter** stated it is important to have the meetings with the businesses so there is understanding moving forward. Voting against were John Branigin and Spec Hosti. Motion approved, 3-2. Mayor Sessions repeated the vote and stated Jay Burke has rescued himself.

Second Reading: Retirement Ordinances/Amended Plan. **Dr. Gillen** stated this agenda item is the early retirement piece and is a change to the Retirement Plan to allow for those early retirements, to get full benefits at an earlier age and it takes an ordinance to move forward. This is the second reading. He stated the other part is a financial incentive which is separate from this which has already been approved by Mayor and Council. The last day for Staff to opt in is December 9, 2020. **Monty Parks** made a motion to approve. **John Branigin** seconded. Vote was unanimous to approve 6-0.

Council, Officials and City Attorney Considerations and Comments

Bubba Hughes stated he will defer the discussion regarding **Alcohol License Fees** to a later date.

Shawn Gillen stated he will defer the discussion regarding **Beach Litter** to a later date.

Shawn Gillen stated he would like to bring back the discussion regarding **Zones/Ordinance on the Beach** until November 12, 2020. At that time he will have the maps as requested by Mayor and Council. He asked Mayor and Council to think about discussions regarding fishing designated areas; surfing designated areas; and signage. Monty Parks recommended Dr. Gillen reach out to Allen Robertson to coordinate with DNR regarding additional signage. Dr. Gillen confirmed.

Shawn Gillen stated he would like direction regarding making **Izlar and TS Chu Public Streets**. **Dr. Gillen** stated in the past the residents and businesses on Izlar and TS Chu have been to Mayor and Council to have those roads made public in that way the City can maintain. These streets are heavily used and as it is a private road they are responsible for repairs. He recommended the City move forward with making these two street public as they are heavily used. Mayor pro tem Brown asked Dr. Gillen if he has received signatures from those who do live on the two streets. Dr. Gillen stated no. Mayor pro tem Brown stated none of the infrastructure has been changed for years and there would be significant charge to bring them up to Code. Dr. Gillen responded the City would absorb the storm water cost and the paving

costs. Mayor Sessions gave a brief outline of her past experiences with TS Chu as she used to live on the street. Mr. Hughes recommended the City get estimates on how much it would cost to add new infrastructure, water lines and sewer lines. Dr. Gillen confirmed.

Monty Parks made a motion to adjourn. **John Branigin** seconded. Vote was unanimous to approve, 6-0.

Meeting adjourned at 10:00PM.

Janet R. LeViner, MMC
Clerk