

### **Consideration of Items for Consent Agenda**

Mayor pro tem Brown called the Consent Agenda to order at 6:30PM. Those present were Jay Burke, Monty Parks, John Branigin, Nancy DeVetter and Spec Hosti. 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. Mayor Sessions was excused.

### **Mayor pro tem Brown listed the following items on the consent agenda:**

- Minutes: City Council Meeting, September 24, 2020

**Mayor pro tem Brown** 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

### **Citizens to be Heard.**

**Jan LeViner, Clerk of Council** read two emails from residents (attached) regarding Open Containers in the Festival Zone and the proposed Noise Ordinance.

**Demery Bishop** approached Mayor and Council to speak on the proposed Open Containers in Festival Zone. Mr. Bishop read from his letter to Mayor Buelterman dated October 6, 2015 regarding Enforcement of Beach Rules and Crowd Control Task Force Recommendations. (Attached). He stated open containers in the Festival Zone are and will continue to be a priority for the citizens of this Island as was the Task Force that was convened five years ago. Mayor pro tem Brown thanked Mr. Bishop for his comments.

**Jennifer Knox, The Sand Bar**, approached Mayor and Council to speak on the Open Containers in Festival Zone agenda item. Ms. Knox stated she has met with all the bar owners on the south-end and they are in agreement and to make a pledge not to overserve, not to serve more than one drink at a time, and will report all suspicious persons to the TIPD. She explained this is her livelihood and has done everything to be safe. She is asking Mayor and Council take into consideration that the owners are willing to do anything to solve the problem. Ms. Knox would like data and the opportunity to return and speak to Mayor and Council. Mayor pro tem Brown thanked Ms. Knox.

**Ron Goralceyk, 14<sup>th</sup> Street**, approached Mayor and Council to speak on the Open Containers in Festival Zone agenda item. He would ask Mayor and Council not to move forward with the item.

**Rob Hill** approached Mayor and Council to speak on the proposed Noise Ordinance. Mr. Hill stated is he happy Mayor and Council are moving forward with the proposed ordinance. They are a family, enjoy the family environment, and would like his children to be able to go to bed at a reasonable time and not be kept awake late at night due to bar noise.

**Maria Procipio** approached Mayor and Council to distribute maps and drawings regarding the Marine Science Center. Mayor pro tem Brown thanked Ms. Procipio and stated the Marine Science Building would be discussed later in the agenda.

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

### **Public Hearings**

**Site Plan Approval to enlarge warehouse and add office space. 201 McKenzie Street, LLC. Zoning C-2; PIN: 4002602011. George Shaw** approached Mayor and Council and explained the petitioner is asking to enlarge his warehouse space. This would include office space. Staff and the Planning Commission both recommended approval. Mr. Shaw continued, the petitioner did not have time to include the addendum for a dumpster pad in the Planning Commissions packet but it is included in the packet before Mayor and Council. The dumpster pad would be at the end of the parking to the left hand side with a small office space in the front in the warehouse space. The petitioner is also asking for a fence on Laurel and has shown some buffer plantings which was recommended by the Planning Commission. The fence, if put in, would hinder the traffic in the unopened right-of-way. Mr. Hughes stated the Haymans, in exchange for granting the City an easement on the other side, for a drainage issue on Solomon, acquired 30' of the right-of-way from Laurel. Mr. Burke read a letter from Mr. Hayman regarding this agenda item. He is not in favor of a barricade as it would hinder his access but is in favor of enlarging the warehouse. Mr. Hughes stated there is a fence on the property which is not in the center of the right-of-way but is at the edge of the property and is asking for permission to open up half of the Laurel right-of-way. This permission was granted in August of this year. What is currently left of Laurel is 30' which would remain a public right-of-way. The Hayman's would be entitled to use that as well as anyone else. Mayor pro tem Brown stated there is an issue with delivery trucks idling overnight as well. Mr. Parks made reference to the Planning Commissions concerns with the parking of semi-trucks overnight and would recommend deliveries can only be made from 9:00AM – 5:00PM. He stated he does not feel there should be parking there. Mr. Branigin asked Mr. Hughes if the parking of delivery trucks overnight is a separate issue. Mr. Hughes responded it could be a factor in the review site plan applications. He stated the Planning Commission did request a fence as it would create a buffer which is desirable for the residential properties. Mr. Parks stated he listened to the Planning Commission and they raised the same points and felt it is inappropriate for their discussions. He asked Mr. Hughes for guidance. Mr. Hughes stated site plan approval standards have evolved over the years as the ordinance originally just was an informational tool to let everyone know what was happening. The provisions he is referring to were added at a later date(s). Mr. Parks confirmed and would like assurance there will be a dumpster on the property. Mayor pro tem Brown expressed his concerns with the trash trucks picking up the garbage that is at the back of the property. Mr. Parks expressed his concerns for the owner of the adjacent property with the noise from the delivery trucks late at night. Ashley Mosley, Engineer, approached Mayor and Council. Mr. Mosley confirmed there will be a dumpster pad on the property. He stated the initial intent is to use the driveway as others are using it and the buffer (fence) can be taken down. **Monty Parks** made a motion to approve contingent upon a discussion with the neighbors regarding the delivery trucks; the garbage pad included on the property; and the fence is removed. **Jay Burke** seconded. Vote was unanimous to approve, 6-0.

**Text Amendment: Amendment to Article 7, Tree Removal Regulations. George Shaw** approached Mayor and Council. Mr. Shaw stated Ms. DeVetter recommended a change in the current ordinance which would impose stricter fines on illegally removing trees without a permit. The proposed ordinance states if a tree is removed without a permit (1) you may not replace with

a palm tree but with a like species and (2) the replacement tree diameter goes from 2" to 4" breast height. Mr. Branigin asked Mr. Shaw if a replacement tree could not be found what the policy would be. Mr. Shaw stated it would have to be another significant tree which would include a live oak. Mr. Branigin asked should it be made clear that you can substitute any significant tree for whatever significant tree you cannot purchase. Mr. Shaw responded he can make that change. Mr. Parks confirmed that pertains to the removal of trees without a permit. Mr. Shaw confirmed. Mayor pro tem Brown asked the penalty per inch. Mr. Shaw stated it is currently \$50 but the proposed ordinance changes it to \$100.00 per inch, breast height. **Nancy DeVetter** made a motion to approve. **Monty Parks** seconded. Vote was unanimous to approve, 6-0.

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

**Georgia Municipal Employees Benefit System Defined Benefit Retirement Plan; Amendment to Establish an Early Retirement Incentive Program.** **Dr. Gillen** explained the documents have been received from GMA and Mr. Hughes has reviewed for compliance. This changes the current plan to allow for a short window for early retirement. The 45 day window, once approved, would be December 9, 2020, which is the last day staff can take advantage of the program. The incentive, \$10,000 plus 18 months of COBRA, would sunset at the same time. He is asking for approval. **Monty Parks** made a motion to approve. **John Branigin** seconded. Vote was unanimous to approve, 6-0. **Discussion:** **Mr. Hughes** stated this is the first reading of the ordinance and the second reading will be October 22, 2020. The notice will be given on October 23, 2020 for Staff. He further stated, "this is a several step process and there are ordinances to fit each change of the existing retirement plan included within the agenda package. If that is the understanding, at first reading, each of the ordinances approved will be approved on first reading to implement all components of the retirement plan". **Dr. Gillen** confirmed the official notice will be sent upon final approval of Mayor and Council.

**Septic to Sewer Fee Policy.** **George Shaw** approached Mayor and Council. Mr. Shaw stated Staff received a request from a resident who currently has a septic system and he would like to tie into the sewer system and have the fees waived. Mayor pro tem Brown recommended all fees be waived. Mr. Parks asked Mr. Shaw if there is a listing of those who are on septic. Mr. Shaw responded no but the county might have that information. **Dr. Gillen** stated he will follow up. **Spec Hosti** made a motion to approve and to waive all fees. **Monty Parks** seconded. Vote was unanimous to approve, 6-0.

### **Consideration of Ordinances**

**Discussion, 2020-20, Article 4, Chapter 22, Section 22-110 through 22-112, Noise.** **Mr. Hughes** stated the proposed ordinance is a combination of prior ordinances that have been addressed by Mayor and Council and other committees. Those recommendations have not been incorporated as the City is using decibel readers which were thought to be more accurate than a plainly audible standard. The standard was upheld and came from Athens, Georgia several years ago as being completely enforceable for an ordinance violation even in the absence of a complaint. The proposed ordinance is supposed to be in effect for a full 24 hours. He further explained the least restrictive manner of achieving the goal, i.e., the narrower amount of time that the ordinance has added strictness, the more likely the ordinance is to survive a challenge. The proposed ordinance is modeled following the Athens ordinance that survived the challenge. **Mr. Hughes** stated it is his understanding the recommendation of the Public Safety Committee is to move away from the decibel readings. He would recommend the hours be like those in the Athens ordinance which basically for a week night, 100' standard would apply at 11:00PM and ends at 7:00AM the following morning. In this way, any sound that can be audible 100' away, in any zoning district regardless of the sound, it is a violation. During the day, it is allowed to be operating until it gets to 300' away, if it is plainly audible, then it is in violation. Mayor pro tem

Brown expressed his concerns with construction activities. Mr. Hughes responded, variances could be added. He continued, this would include fireworks. The goal is to make the fireworks ordinance remain just as strict as it can be under state law. State law exempts the local government's ability to restrict fireworks on certain holidays and where there is a special permit granted. Mr. Hughes asked Mayor and Council to look at the exemptions and make him aware of any changes. Mr. Branigin stated (1) the way this is written, amplified music on the beach would be covered during the day under the 100' rule and he does not feel this is adequate and (2) with equipment restrictions, there are some uses of tools, such as those doing landscape work as they need to not work during the heat of the day but also at the end of the day (this needs to be an exemption as to allow for work). Mr. Parks stated the proposed ordinance is also meant to reinforce the STVR rules. Ms. DeVetter stated she would like to ensure this in the enforcement mechanism that the fine is included in the administrative fine structure. Mr. Hughes confirmed. A discussion ensued regarding inappropriate noise levels which could include neighbor noise to include ambient noise. Mayor pro tem Brown asked Council to send their questions and comments to Mr. Hughes for inclusion in the first reading of the ordinance for October 22, 2020.

### **Council, Officials and City Attorney Considerations and Comments**

**Mayor pro tem Brown** stated he would like to recommend an **Increase the amount Mayor and Council paid to GMA for retirement.** Dr. Gillen responded Staff is in need of official direction from Mayor and Council prior to moving forward. There is a \$1,200 fee for GMA to do a Study and with Mayor and Council's approval they will move forward. Currently, Mayor and Council receive \$20.00 per year for every year that was served on council. Dr. Gillen recommended raising the amount to \$25.00 per year. **Monty Parks** made a motion for Mayor and Council to review the \$25.00 amount. **Jay Burke** seconded. Voting in favor were Nancy DeVetter, Monty Parks, Barry Brown, Spec Hosti and Jay Burke. Voting against was John Branigin. Motion to approve, 5-1.

**Mayor pro tem Brown** expressed his concerns with **Open Containers in Festival Zone.** He made a correction as the agenda items should read **Open Containers and Consumption (1) from 14<sup>th</sup> Street to Chatham Avenue parking lot area, (2) Second Street to Chatham and (3) Alley 3 area from Alley 3 to the Fishing Pier.** He stated this is due to recent problems that have arisen. Dr. Gillen stated the Use of Force Reports are going up due to alcohol. Mayor pro tem Brown asked Mr. Hughes to craft an ordinance in that effect. Dr. Gillen confirmed with Mayor pro tem Brown it will be "a limit on consumption/open containers in the festival zone to include the beach area from 14<sup>th</sup> Street to Chatham". Mr. Parks recommended Mr. Hughes craft an ordinance for the Festival Zone/Control Zone as was previously defined, this would be the control zone from (1) 14<sup>th</sup> to 18<sup>th</sup> and (2) from Lovell to the beach, this being the festival zone. In additional, (1) from the beach to the water line; (2) from 14<sup>th</sup> to Chatham Avenue; and (3) to include Alley 3 and the Fishing Pier. Mr. Parks expressed his concerns with the security of the Tybee Island Police Officers due to the misbehavior of visitors. He would also recommend a time limit from January 1<sup>st</sup> through August 31<sup>st</sup>. He feels this is a serious matter. Mr. Branigin stated everyone feels this is a serious matter and recommended the City set a meeting between the Command Staff and business owners to discuss the problem(s) as there are actions that can be taken which would have a significant impact on the issues at hand. Ms. DeVetter stated she is in agreement as well. Dr. Gillen confirmed he will set a meeting to include the businesses and TIPD. Mr. Parks asked Mr. Hughes to bring something to the next City Council meeting. Mr. Hughes confirmed.

**Monty Parks** shared his concerns with the **Marine Science Building Improvements.** This would include:

- **Security gate on East side to prevent entrance from beach crossover**
- **Security gate on West side to prevent access to rear of building**

- **Attractive temp/semi-permanent fence in front and around sides, removal of City traffic control barricades**
- **Front sign to identify the building**
- **Upgrade indigenous plant exhibit placards**

Mr. Parks stated he is worried about security issues and is asking Mayor and Council to secure and identify the location as the Marine Science Building. He does understand the difficulty in opening a building with the current conditions. Mr. Parks feels it is important for Mayor and Council to step up and address the concerns. Mr. Hosti asked why the grass and planting have not been cut at the front of the building as they look bad. Ms. Procipio approached Mayor and Council. She stated due to COVID the Marine Science Center on the south-end did shut down and began to do a re-opening plan. A staff member did test positive for COVID and the Marine Science Center was again shut down. With the south-end shut down, the north-beach location was used for Sea Camp(s) at a 45% success rate. Ms. Procipio discussed Mr. Parks's concerns to include the security issues and planned fencing. Mr. Parks recommended Dr. Gillen meet the architect and Ms. Procipio to determine pricing to complete the security fencing and address his other concerns. Dr. Gillen and Ms. Procipio confirmed.

**Monty Parks** made a motion to adjourn to Executive Session to discussion Litigation, Real Estate and Personnel. **Spec Hosti** seconded. Vote was unanimous to approve.

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

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

Meeting adjourned at 9:35PM.

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Janet R. LeViner, MMC  
Clerk