

City Council Minutes, November 8, 2018

Consideration of Items for Consent Agenda

Mayor Buelterman called the consent agenda to order at 6:30PM on November 8, 2018. Those present were Julie Livingston, Monty Parks, John Branigin, Wanda Doyle, Barry Brown, and Shirley Sessions. Also attending were Dr. Shawn Gillen, City Manager; Bubba Hughes, City Attorney; George Shaw, Director, Community Development; Angela Hudson, Finance Director; and Janet LeViner, Clerk of Council.

Julie Livingston made a motion to adjourn to Executive Session to discussion real estate, litigation and personnel. **Wanda Doyle** seconded. Motion was unanimous, 6-0.

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

- Minutes, City Council Meeting, October 25, 2018
- Small Business Saturday Proclamation
- RFP for Flood Mitigation Assistance Grant
- Ante Litem - John Dowell, **TO REJECT**

Mayor Buelterman called the regular meeting to order at 7:00PM. All those present for the consent agenda were present.

Opening Ceremonies

- Call to Order
- Presentation of Colors and Pledge: American Legion Post 154
- Invocation: Ken Douberly, St Michaels Parrish

Recognitions and Proclamations

Chloe Flynn, Tybee Island Youth Council approached Mayor and Council to give a report on the recent Youth Symposium held on October 26 – 28, 2018. Ms. Flynn reported there were ten cities represented to include 76 participants. She gave a synopsis of the discussion topics and events that occurred. Sam LaCates and Trey Travialle approached Mayor and Council to recognize and distribute Certificates of Appreciation to the following individuals who donated their time and services to the Youth Symposium:

- Mike Hosti - Tybee Market
- Matt Pearson - Tybee Market
- Wendy West - Tybee Market
- Eric and Heather Thomas - Huc a Poos
- David Thomas - Hotel Tybee
- Brett Loehr, Hotel Tybee
- Monty Parks, Councilmember, City of Tybee Island

Mayor Buelterman read the **Small Business Saturday, November 24th, 2018 Resolution** and encouraged everyone to support the businesses on Tybee.

Alan Robertson approached Mayor and Council to give his month update on the **Dune Restoration Project**. Mr. Robertson showed a power point presentation which showed the scope of the project to include updates. Currently work is being done between 19th Street and the Pier and the dune system is strong from the Pier to Center Street. Regarding Phase I, he has received the final engineering design from Thomas & Hutton on the dune and the RFP is being drafted. Phase II will be the at grade crossings and Phase III will be an armored structure from Center Street past the turn at Butler and the back inlet and Alley 3. The project

will run through December 2019 which will allow the City to apply for possible extra funding. Mr. Robertson stated repair of the 19th Street dune will take place in the next few days with Guardian bringing in equipment for repair purposes and landscaping will take place on Saturday, November 17, 2018. He reported the project is on time and on budget. Ms. Doyle thanked Mr. Robertson for his hard work regarding the Project.

Lisa Lepofsky, approached Mayor and Council to give an update on the **Concerned Citizens Group**. Ms. Lepofsky stated she is before Mayor and Council to report to the residents to progress that is being made toward equitable crowd control measures during our busiest weekends permitted and non-permitted. She continued, the mediation team agreed to establish thresholds for all events based on statically traffic and crime data at which City actions would be initiated. Ms. Lepofsky then summarized the work done by the Public Safety Committee. (Attached) She then thanked Ms. Doyle, members of the Public Safety Committee, Tybee Island Police Department and Dr. Gillen, City Manager for their assistance. Mayor Buelterman thanked Ms. Lepofsky for her report.

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

Public Hearings

Minor Subdivision, 1 Moore Avenue, Zone R-1-B, PIN 4-0002-02-011, Kimberly Howard and Daniel Brown. George Shaw approached Mayor and Council. Mr. Shaw showed the plat and it encompasses what they would like to create two lots. At some point the deed and plat there is a required part of the railroad right-of-way. Since the initial presentation at the Planning Commission, the City Attorney has found information that may affect this request. Mr. Hughes stated the CSX right-of-way was included in the abutting lots which was not unusual historically for the railroad to convey small portions of the right-of-way to abutting lots along Solomon Avenue. The City cannot locate the title abstract or any conveyances within the change of title by either the railroad or the City to the predecessors entitled to Mr. Brown. He continued, that it does not appear that there is a conveyance of the property to the property owner. Mr. Hughes stated there is a possibility for the property owner acquiring part of the right-of-way that is not the travel portion of the right-of-way. There was a discussion regarding ownership and title of the property. There are two options: (1) they could sub-divide the property or (2) ask for a lot reduction under the applicable Code section. Mr. Parks confirmed those options are not on the agenda for consideration. Mr. Hughes confirmed. Mayor Buelterman asked Mr. Shaw the vote by Planning Commission. Mr. Shaw responded the vote was 5-1 in favor but did not take in to account the current situation. **Kimberly Howard** approached Mayor and Council. Ms. Howard stated her late husband and she bought the property from Mike Hosti 22 years ago. Previously she looked into subdividing the property and it was her understanding at that point the only thing that was in contention at that point was the part of the property that goes into Solomon. She stated the City has been using that portion of the road for last six years. She does not understand with where their driveway is and where their yard is, how that old railroad property is, and she does not understand why it is not theirs as it has been part of the county plat since approximately 1930. Ms. Howard further stated she has been paying taxes on that portion of property for the last 20 years and does not understand how it is not her property. Ms. Doyle asked Mr. Hughes if the portion of land was taken out, would that make the lot too small to build on. Mr. Hughes responded the lots could be subdivided but then they would be considered substandard and the houses would have to meet setbacks to be built. Mayor pro tem Brown asked Ms. Howard if she received title insurance when they closed on the property. She confirmed. Ms. Doyle stated she is not comfortable in making a decision on this request until such time as the issues of the ownership

of the property is clarified. Mr. Shaw stated the City needs to determine who owns the portion of the railroad right-of-way before a decision can be made. If it is determined the City owns the property, there would be negotiations with Ms. Howard as to ownership and taxes. Mr. Parks stated this is the only property in that area that goes into the railroad right-of-way. Mr. Hughes confirmed. Mr. Parks recommended ownership needs to be determined and who has the burden to do that. Mayor pro-tem recommended continuing this request until such time as ownership is determined. Mr. Hughes confirmed as Ms. Howard should seek legal advice. Ms. Howard stated in all the years she has had the property the question of ownership has never been discussed or disputed. She again brought attention to the city plat. Mayor Buelterman recommended (1) Ms. Howard to contest the ownership issue and (2) to determine how much land is needed to meet Code for subdividing the property. He would like to resolve this issue to everyone's benefit. **Barry Brown** made a motion to continue until such time as ownership is determined and to acquire 6,600 sq ft per lot so as to sub-divide into two conforming lots. **Wanda Doyle** seconded. Mayor Buelterman asked Mr. Hughes to restate the motion. Mr. Hughes stated the motion as he understands is to "continue this while that option to explore, the option being the option for them to acquire enough of the unopened right-of-way to have adequate square footage to subdivide into two conforming lots in the R-1B District". He would asked that Mayor and Council also keep the option open of exploring the smaller lots in the Code Section 3-030. Mayor pro tem Brown and Ms. Doyle both accepted the restatement of the motion. **DISCUSSION:** Mr. Parks stated he has two questions: (1) Is it established that the property is the City's to sell or convey. Mr. Hughes stated the City has a deed from the railroad in 1934 conveying the right-of-way to the City. Second question is, if the City were to start manufacturing sub-standard R-1B lots, what basis would the City do that, i.e., what justification. Mayor Buelterman responded there is a part of the Code that allows the City to do that but there is a part of the Code that allows for variances. Vote was unanimous to continue, 6-0.

Variance, Extending Existing deck in setback; 13 TS Chu Terrace, PIN 4-0009-04-006, Deb Baber and Raynette Evans. **George Shaw** approached Mayor and Council and stated the property owners are requesting a variance to add a deck into the set-back. The deck would extend approximately two (2) feet into the set-back. Planning Commission recommending against the petition, 5-1 and Staff recommends denial. Mr. Shaw stated there is no hardship and this would affect the greenspace. **Monty Parks** made a motion to deny. **Julie Livingston** seconded. Voting in favor were Julie Livingston, Monty Parks, John Branigin, Wanda Doyle and Shirley Sessions. Voting against was Barry Brown. Motion to deny, 5-1.

Variance, 1903 Chatham Avenue, Zone R-2, PIN 4-0009-12-002, Brooke Reeve III. **George Shaw** approached Mayor and Council stating this request is to raise the cabin that is on the property but only two (2) feet. The Flood Ordinance requires it be raise base level plus one (1) foot which equates to five (5) feet. Planning Commission unanimously recommended approval as well as Staff. Mr. Shaw stated this will improve the flooding situation to some extent and maintain the historic status. **Pierce Reeve** approached Mayor and Council. Mr. Reeve stated he is one of the four (4) children that own Virginia Reeve's home and this property has been flooded as a result of the last two hurricanes. The small house, cabin, was the servants quarters that was built in the 1930's and it is their desire to maintain and preserve the house as it was originally built. He continued, the property is subject to flooding both with and without hurricanes. After the hurricanes they applied and were approved for Historic Tax Credits. With this designation they can only raise the structure more than two (2) feet. Mr. Reeve stating by receiving both Federal and State tax credits they are wanting to improve the property. Mr. Reeve explained the benefits of the Historic Tax Credit designation which is an

incentive. **Wanda Doyle** made a motion to approve. **Shirley Sessions** seconded. Vote was unanimous to approve, 6-0.

Consideration of Bids, Contracts, Agreements and Expenditures

City Council approve a budget amendment increasing the General Funds' fiscal year 2019 budget by \$87,212 from @12,866,400 to \$12,953,612 in order to fund the Red Valve Capital Project carried forward from FY 2018 and to cover invoices for capital projects that have not been funded in FY 2019 capital budget. Wanda Doyle expressed her concerns as to how we have arrived at this point with a budget adjustment of \$87,212 and asked Ms. Hudson if the additional funding was coming from the general fund balance. Ms. Hudson confirmed. Dr. Gillen responded, after the Infrastructure Committee met on all the capital projects and additional projects were identified to include drainage and backflow preventers. Ms. Hudson confirmed the backflow preventers were in last year's budget but not carried forward. Ms. Doyle recommended the capital projects need to be prioritized at the upcoming city council workshop to include these projects are correctly budgeted. Mayor pro tem Brown recommended more planning needs to be done also as projects need to be identified, estimates done and then budgeted. In that way there is a complete capital improvement project budget. There was a brief discussion regarding the Thomas and Hutton invoices. **Wanda Doyle** made a motion to approve. **Barry Brown** seconded. Vote was unanimous to approve, 6-0.

Enterprise Lease Program, 16 vehicles for TIPD. Budget Line Item 100.3210.52.1316. Wanda Doyle made a motion to proceed with the lease program contingent upon the approval of the contract terms. **John Branigin** seconded. Vote was unanimous, 6-0.

Consideration of Ordinances, Resolutions

First Reading, 10-2018, Article IIA - Disorderly House Nuisance, Sec 22-33. No action taken.

Second Reading, 18-2018, Sec 14-3, Election Officials. Monty Parks made a motion to approve. **Wanda Doyle** seconded. Vote was unanimous to approve, 6-0.

Second Reading, 19-2018, Sec 14-4, Superintendent to Incur Expenses. Monty Parks made a motion to approve. **Julie Livingston** seconded. Vote was unanimous to approve, 6-0.

Second Reading, 20-2018, Sec 14-5, Polling Places. Monty Parks made a motion to approve. **Wanda Doyle** seconded. Vote was unanimous to approve, 6-0.

Second Reading, 21-2018, Sec 14-9, Notice of Candidacy, Time Periods. Monty Parks made a motion to approve. **John Branigin** seconded. Vote was unanimous to approve, 6-0.

Second Reading, 22-2018, Sec 14-10, Designation of Office Sought; Election of Councilmembers. Monty Parks made a motion to approve. **Wanda Doyle** seconded. Vote was unanimous to approve, 6-0.

Second Reading, 23-2018, Sec 14-18, Time of Regular Election, Succession by Incumbent. Wanda Doyle made a motion to approve. **Julie Livingston** seconded. Vote was unanimous to approve, 6-0.

Resolution, 2018-01, Charter Changes. John Branigin made a motion to approve as amended. **Wanda Doyle** seconded. Vote was unanimous to approve, 6-0.

Council, Officials and City Attorney Considerations and Comments

Wanda Doyle, approached Mayor and Council to give an **Update**, on the **Public Safety Committee**. Ms. Doyle stated at their recent meeting they discussed many topics to include

signage; proposed Noise Ordinance; proposed Disorderly Household Ordinance; Concerned Citizens Group; and the Enterprise Lease Agreement. In regard to the proposed Noise Ordinance, until additional data is collected from the new decibel machine, no action is being taken. Once data is collected the Committee will move forward with a recommendation. Ms. Doyle explained Dr. Gillen is currently working on a traffic plan in conjunction with the mitigation of the Concerned Citizens Group for major events on the Island. He will give a presentation to Mayor and Council at the December 13, 2018 meeting. Ms. Doyle stated at the recommendation of the Committee, stop signs are being placed on Jones Avenue at 4th, 8th and 15th Street. This is a result of heavy traffic volume and speeding on Jones and will assist with public safety for the residents, visitors and children.

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

Meeting adjourned at 9:15PM.

Janet R. LeViner, CMC
Clerk