

**SPECIAL CALLED COUNCIL MEETING
SEPTEMBER 21, 2006**

A special called meeting of the Statesboro City Council was held September 21, 2006 at 9:00 a.m. in the Council Chambers at City Hall. Present were Mayor William S. Hatcher, Council Members Will Britt, Tommy Blitch, Gary Lewis, Joe Brannen and John Morris. Also present were City Manager George Wood, Director of Finance and Administration Judy McCorkle, City Attorney Sam Brannen, Planning Director Jim Shaw, and City Engineer Maz Elhaj.

APPEAL HEARING:

City Solicitor Keith Barber stated this is an administrative due process hearing in which City Manager George Wood is appealing to the City Council the decision of the Alcohol Control Board to approve the issuance of a distilled spirits license to Jonathan Starkey, owner of Rude Rudy's. Mr. Barber stated this appeal was filed on the basis that the application failed to comply with the City's alcohol ordinance in two areas: (1) the timeline in which the application was filed, and; (2) does not have adequate parking. He asked Council to overturn the decision of the Alcohol Control Board to issue this license.

Wes Taulbee, attorney for Rude Rudy's, asked the Council to uphold the decision of the Alcohol Control Board to grant the distilled sprits on the grounds they do meet the parking requirements and additional parking has been pledged to them from Henry Doyle. On the issue of the time line he stated that Baja Burritos was selling alcohol until the end of spring semester.

City Manager George Wood stated that Rude Rudy's does not meet the timeline or the required parking. When Mr. Popkin paid his March excise tax late in May 2006 he told Lyn Dedge and Judy McCorkle that Baja was closed. He never filed excise taxes for April. He has an invoice from Coleman Sales for one delivery but this could have been taken to his other establishment. Mr. Wood asked where is his evidence of actual sales in April or May. We don't have this. He continued to say if there were sales, the excise tax should have been paid and state sales tax copies should be provided. He stated the Georgia Department of Revenue Sales Tax Division would not release this information to the City but they would release it to Mr. Popkin. Mr. Popkin could request this under the Georgia Open Records Act and City Attorney Sam Brannen could draft a letter for him to make this request. The core issue is whether this application was timely and where are the records of sales for the month of April to prove this. Mr. Wood recommended that the City Council request this information before making a decision on this. He said the sales tax reports should be produced to this Council.

Mr. Wood read a memo dated September 17, 2005 to the Council and stated this amendment to the ordinance was drafted because Archibald's and the Pondhouse did not meet the distance requirements. This application was turned down in October 2005 and in November 2005 when the Alcohol Control Board applied this part of the ordinance. This was the third time this applicant had been to the Alcohol Control Board. The Orient Express did not apply for liquor because they knew they did not meet the parking requirements. No parking has been added or removed and nothing has changed. If the Council grants this request, then you will have to grant a request from Orient Express for distilled spirits. You would have four establishments in this center with liquor and this would overload this parking lot.

In summary, Mr. Wood stated Rude Rudy's does not meet the parking and does not meet the timeline. He said if the Department of Revenue would provide a sales tax report to show otherwise then he would drop this part of the appeal. City Solicitor Keith Barber ask if the parking would be enough to deny the application and Mr. Wood replied yes, but the first consideration should be the timeline and was the application timely.

Wes Taulbee, attorney for Rude Rudy's, said according to the time line provided by Judy McCorkle, an excise tax report for March was filed on May 16, 2005 and Rude Rudy's did have a license to sell and could sell alcohol during the month of April 2005. He stated to Mr. Wood that not paying taxes does not mean that they are not in business and ask Mr. Wood could they legally sell alcohol during the month of April. Mr. Wood replied yes. Mr. Taulbee referred to a letter signed by Aaron Popkin in which Mr. Popkin states he was open until the end of the semester. He then referred to a distributor's report from Savannah Distributing dated April 19, 2005 showing a delivery in April to Baja Burrito. He asked Mr. Wood would the application be timely if there were sales in April. Mr. Taulbee then referred to the memo on parking requirements read by Mr. Wood.

City Solicitor Keith Barber asked Mrs. McCorkle about the time line. Mrs. McCorkle said on May 16, 2005 Aaron Popkin filed an excise tax report for the month of March. At that time Lyn Dedge told Mr. Popkin his April report would be due in a few days. Mr. Popkin responded saying Baja was closed and there would not be an April report. In a letter dated May 27, Mrs. McCorkle followed up on the delinquent April report. Mr. Popkin never responded. She assumed, as he had stated, that he was closed in March. If he closed in March 2005, an April 2006 application would not meet the 12 months grandfathering timeline.

Mr. Barber asked Mrs. McCorkle if there was anything more she wanted to add to this information and Mrs. McCorkle replied that she agreed with Mr. Wood that the sales tax reports from the Department of Revenue would show when this business actually closed.

Mr. Taulbee asked Mrs. McCorkle prior to May 16, 2005 was there any reason to believe that Baja was closed. Mrs. McCorkle replied that Baja did not file an excise tax report for April nor a semi-annual report for that period. We took his word that he was closed and assumed he had no reason to lie. Mr. Taulbee asked if Baja was selling alcohol in April 2005 wouldn't Mr. Starkey's application meet the time line. Mrs. McCorkle replied if Baja was selling alcohol in April 2005, he defrauded the City out of excise tax revenue and did so illegally. She said also, there is no record of sales for this period. Mr. Taulbee asked where could a person go to get something to show this is illegal and Mrs. McCorkle replied it's in the City's ordinance.

Mr. Barber asked City Planning Director Jim Shaw to comment on the parking required for this location. Mr. Shaw stated there were 294 spaces required in this shopping center and only 168 available. Mr. Barber asked was there adequate parking there and Mr. Shaw said no. Mr. Barber asked what if you figure in the Henry Doyle spaces and Mr. Shaw commented that in a shopping center you have shared spaces that everyone uses and Mr. Doyle's spaces were included in the calculation and there is still not adequate parking.

Mr. Taulbee asked Mr. Shaw if he would agree that Mr. Doyle owns separate property from the Plaza and Mr. Shaw said yes. Mr. Taulbee stated that this property is not connected to that of Mr. Holmes Ramsey. Mr. Barber then asked Mr. Shaw if there was any doubt that the calculations for this were not included by the City and Mr. Shaw replied the shopping center still comes up short in parking.

Mr. Barber asked Chief Stan York if parking in University Plaza has become a public safety concern. Chief York replied yes. Chief York stated there are major concerns with the parking; the vehicles are double parked in the emergency lanes and parking overflows into the residential areas. It is overcrowded and an emergency vehicle would not be able to get into the parking lot in an emergency situation. Chief York stated that on Thursday, Friday and Saturday nights the Police Department receives numerous calls regarding problems at University Plaza and about sixty to seventy percent of his officers are working that area. Chief York stated between the hours of 10:00 pm and 2:00 am when the establishments close and everyone ventures out into the parking lot, there are people that are heavily intoxicated. There is underage drinking, public drunkenness, possession, alcoholic beverages outside, illegal drugs, arrays, fights, and assault & battery. These are some of the problems that occur in the parking lot. Chief York also stated during this time it is impossible to get his patrol cars in the area and he does not think you could a fire truck in there. These are observations made by the officers and the area is a problem for law enforcement and emergency services.

Mr. Barber asked City Attorney Sam Brannen in his forty years serving as City Attorney has he read, interpreted and written the City ordinances the entire time. Mr. Brannen replied yes. Mr. Barber asked Mr. Brannen if he had read the City ordinance regarding parking. Mr. Brannen replied yes, numerous times. Mr. Barber asked Mr. Brannen his opinion on Rude Rudy's being entitled to a liquor license. Mr. Brannen replied that he agreed with Jim Shaw and they do not meet the parking requirements. Mr. Brannen stated the bottom line is there is not enough parking.

Mr. Barber asked Mr. Brannen if he had read the City ordinance regarding the twelve month grandfathering. Mr. Brannen replied yes. Mr. Barber asked Mr. Brannen his opinion based on grandfathering if Rude Rudy's is entitled to a liquor license. Mr. Brannen replied he is not, basically he indicated he was out of business, not going to suffer the penalty of the violation, not selling anymore and was closing up. The City assumed he was closed.

Mr. Taulbee asked Mr. Brannen would he agree with Mrs. McCorkle and Mr. Wood that it was legal for Baja Burrito to sell beer, wine and liquor during the month of April. Mr. Brannen replied he did not hear them agree to that. Mr. Brannen said he endorses what Mrs. McCorkle said.

Mr. Taulbee asked Mr. Brannen if he agreed that section 1600 and 1600.1 of the parking ordinance was written and instituted in connection with zoning, building and transition and was not written to be incorporated into the alcohol ordinance. Mr. Brannen replied it was written to be incorporated into the alcohol ordinance. The parking restrictions were meant to go to all shopping centers, new and existing.

Councilman Joe Brannen asked Mr. Brannen what is the definition of a City official? Mr. Brannen replied all the elected officials plus the City Manager. The Council has given the City Manager the authority to run the city, so he would be an official.

Councilman Blich asked Mr. Wood to determine the grandfathering clause do we need to get the sales tax reports from the Georgia Department of Revenue. Mr. Wood replied that's correct. We tried to get that information but the Department of Revenue would not release it to the City based on confidentiality issues, but Mr. Popkin could request this information. Councilman Blich stated the sales tax reports would prove if the grandfathering was lost.

Councilman Britt stated why would Mr. Popkin want to do this? Mr. Britt stated he knows that Mr. Popkin was open in April, he received orders and the managers paid for it.

Mayor Hatcher stated he had a question about an invoice from Coleman Sales and believes that Chief York went to Coleman Sales in Vidalia and asked Chief York to comment. Chief York stated he was asked to verify the accuracy of the invoice and was accompanied to Coleman Sales by Vidalia Police Chief Frank Waitts. Chief York stated they arrived at Coleman Sales and met with Mr. William Beddingfield. Chief York asked Mr. Beddingfield if the invoice in question was accurate. Mr. Beddingfield replied yes, it is the same invoice that I provided to and was requested by one of your Councilmen. Mayor Hatcher asked Chief York if he knew which Councilman made that request. Councilman Britt said he did. He stated he did his due diligence and checked with Coleman Sales as well as several other distributors because he knew that Mr. Popkin was in business. City Attorney Sam Brannen asked Councilman Britt if had prejudged the outcome of this hearing. Mr. Britt replied no. Mayor Hatcher asked Mr. Britt if he had any vested interest in this hearing and Mr. Britt replied no sir.

Mr. Taulbee informed the Council that the Alcohol Control Board acted properly in issuing the liquor license and he would like the City Council to uphold the decision of the Alcohol Control Board.

Mr. Barber stated that Rude Rudy's does not meet the parking requirements and does not meet the grandfathering requirements. Mr. Barber stated this decision would be a defining point in this City's history. The decision will send a message to the community whether or not we support the ordinance. Mr. Barber requests that the Council vote to deny Rude Rudy's a liquor license.

Councilman Morris made a motion to table the decision until we can get information from Mr. Popkin regarding the sales tax reports with the Georgia Department of Revenue. Councilman Blich seconded the motion. Councilman Brannen stated we came to make a decision today. Councilman Lewis said I second that. Councilman Brannen stated Mr. Popkin may not be cooperative. Councilman Morris and Councilman Blich voted in favor of the motion. Councilman Brannen, Councilman Lewis and Councilman Britt voted against the motion. With a 3-2 vote, the motion was denied.

Councilman Britt made a motion to uphold the decision of the Alcohol Control Board and grant a beer, wine and liquor license. Councilman Lewis seconded the motion.

Mayor Hatcher stated a year ago a group of citizens came to us regarding activities taking place at this same location and as a result, we took steps and amended the ordinance we are talking about this morning. Mayor Hatcher stated you heard Chief York testify to the kind of situations we have at University Plaza. If you vote to uphold this decision, we are disregarding the safety of the citizens.

Councilman Britt, Councilman Brannen, and Councilman Lewis voted in favor of the motion. Councilman Morris and Councilman Blich voted against the motion. With a 3-2 vote the motion was approved.

PLANNING SESSION

City Manager George Wood stated in the interest of time, we need to decide what we're going to discuss. The red light enforcement can wait. The front yard parking has become an issue. The Occupational Tax Ordinance is time sensitive and possibly the Adecco Building.

OCCUPTIONAL TAX ORDINANCE:

Director of Finance and Administration Judy McCorkle stated she had developed a new ordinance from the previous one and the GMA model ordinance. This helps keep us in compliance with state law and City Attorney Sam Brannen and City Manager George Wood have reviewed the proposed ordinance. The biggest change is in going to the gross receipts method. The method we would like to change to is gross receipt in combination with profitability. Using the profitability is how you determine what tax class a business is in. The City has 1301 businesses and about 70% of them follow into the two lowest tax classes. Mrs. McCorkle stated we have 6 tax classes and they pay one base fee in each class as follows:

Class	total # of Businesses	Amount in Taxes
1	380	\$ 75.00
2	512	\$112.50
3	233	\$150.00
4	70	\$187.50
5	81	\$225.00
6	25	\$262.50

She stated a SIC code (Standard Industrial Classification code) is assigned to every business. This code is based on statistics from the IRS where they determine the profitability of businesses nation wide. The SIC code determines what tax class the business will be in. She said we are recommending going one step further and instead of charging them the one flat fee, we charge them based on their gross receipts and profitability. She discussed a new proposed rate schedule which was provided to the council members for review.

Mr. Wood stated this will in turn help the smaller businesses within the City. We don't want a smaller business to pay the same as a million dollar business. He stated there is an issue of tax equity but there is also the issue of tax revenue and at some point the city will need more revenue. Despite having a booming economy in Statesboro, the sales tax goes to the school board and the question becomes do we tax property or something else? Mr. Wood stated the system we are using now does not generate a lot of revenue and the new system will generate revenue plus make an equal balance from the larger businesses in comparison to the smaller businesses.

Councilman Britt asked if we have an idea about where this will put us at in revenues. Mr. Wood stated around \$400,000 but that is an estimated amount. Mrs. McCorkle stated we know what tax class businesses are in, but we don't know what the gross receipt bracket will be. Councilman Morris asked what requirements are going to be placed on them. Mrs. McCorkle stated we will send them a form yearly, the business will tell us what the gross receipt for the previous year was, they'll

return the form to us, and will send out an invoice with the fee amount they owe. Councilman Morris asked what kind of checks and balance would we have and Mrs. McCorkle replied the state law allows us to ask for information from the Georgia Department of Revenue and we could go in and have an audit done. She stated we will need to have a public hearing before we can adopt this.

ADECCO BUILDING:

City Manager George Wood stated it makes sense to give the building to DSDA because they will put it to better use. He stated the Adecco building houses our vital records. The logical thing is to agree to the swap, but with a condition stating to wait one year until the records are cleared from there. Mr. Wood stated if DSDA needs it sooner the new Police Department will be completed in July 2007 and there is plenty of room for the records there.

Mrs. McCorkle stated we want to go with Municipal Code for the scanning of the records because they do the codification for our ordinances. She stated they'll make it available on the Internet and on our server for everyone to have access to. Lee Ann Joy, the Records clerk, is going through the boxes and has a total of 707 boxes, which 122 have already met their retention date and can be disposed of. Councilman Morris asked will hiring interns be necessary and Mrs. McCorkle said to give Lee Ann another couple of months and see how she does; she is making great progress and may be able to handle it herself. She stated if by Christmas there isn't a significant amount of records completed, then we can look at getting an intern. Mrs. McCorkle said she would rather use the money towards the scanning rather than hiring another person. She said if the Council is in agreement she would like Municipal Code to come and get the first 36 boxes. Mr. Wood stated we need to take official action since the cost is over \$10,000. We will put it on the October 4, 2006 council meeting agenda.

POLYCARTS:

City Manager George Wood stated Maggie Fitzgerald is putting an article in the newsletter on the polycarts to educate the public on the rules and regulations of having a polycart. He stated City Marshall Kara Lundy works in the Planning Department and citizens can give her the name and address where a polycart problem exists and she will take care of the citation. Mr. Wood stated the first offence is a warning and the second offence is a citation. Mr. Wood stated Bobby Colson, Director of Public Works, uses a door hanger to inform the public and possibly, this is a policy we could use as a reminder. Mrs. McCorkle stated when a person request services and receives a polycart they sign an "on order" which states carts must be placed curb side no earlier than 6:00 p.m. the evening before pick up and carts must be removed no later than 8:00 a.m. the day after pick up. Failure to cooperate will result in a fine of \$10 a day until the cart is removed. Councilman Britt asked how do we know whose polycart is whose and Mr. Colson stated the polycarts have numbers on them. Mayor Hatcher stated the City Marshall can verify the cart's ownership and take care of the situation.

PARKING:

City Manager George Wood stated legally we can not write a set of rules that states what is right and what is wrong; so, whatever we decide, it would apply across the board. Planning Director Jim Shaw stated the primary problem is parking in the yard areas. His concerns are writing an ordinance that will cover every situation. Problem 1) No parking in front of a house unless there is paved parking lot. Needless to say, that causes the citizens to pave their parking lot. 2) Parking in front of the yard only; however, their vehicles may stick out into the road. 3) Parking on side lots

whether it is grass or pavement; although, in a number of cases the side lot is too narrow. 4) On a corner lot both sides of the lot are considered front yard. Mr. Shaw stated there are numerous ideas but problems with each of them. Mr. Wood stated another issue that compounds this is Statesboro does not have enough streets and the question is where on the road can a citizen park without creating a safety hazard.

Councilman Morris asked should we single out rental users verses home owners. He said we should put responsibility on the landlord requiring they provide adequate parking for the tenants. Then, we could specify the tenants use a parking bumper for their car and any additional cars will have to be parked on the side of the road. Mayor Hatcher stated you can not single out the landlord; everyone needs to be treated equally. Councilman Morris stated the landlord should be responsible for his property and if he rents the house out he should have parking for his tenants as well as any visitors. He stated maybe we should enforce no more than three vehicles unless they're related.

Councilman Lewis stated he liked Councilman Morris's idea of one or two family members fine, but if you have five or six and the cars are parked hap hazardly, that is when the complaints occur. He stated at that point, they can parallel park in an orderly fashion in the yards. Councilman Brannen asked Chief York how much of a problem would we create if we require a citizen to park on the street rather than in the yard. Chief York stated with the width of the streets and driveways on a neighborhood street, along with the growth in population, this would create a problem in the near future. Councilman Britt asked can we meet with some of the land owners and ask them their opinions. Councilman Lewis stated we can, and it may or may not do any good; but, maybe angle parking will help. Councilman Morris stated if the angle parking looked uniform it may work. Mr. Wood stated we should work on it and speak to other cities.

ADJOURNED

Being no further business the special meeting adjourned at 12:05 p.m.