

**COUNCIL MEETING
SEPTEMBER 20, 2005-6:00 P.M.**

A regular meeting of the Statesboro City Council was held September 20, 2005 at 6:00 P.M. Present were Mayor William S. Hatcher, Council members John Morris, Gary Lewis, Tommy Blich, Joe Brannen, and Will Britt. Also present were City Manager George Wood, City Attorney Sam Brannen, City Engineer Maz Elhaj, and Planning Director Jim Shaw. Director of Finance and Administration Judy McCorkle was absent.

APPROVAL OF THE SEPTEMBER 7, 2005, REGULAR MEETING MINUTES

Councilman Brannen made a motion, seconded by Councilman Blich to approve the minutes of September 7, 2005, as presented. Councilmen Brannen, Blich, Morris, Britt and Lewis voted in favor of the motion. The motion carried by a 5-0 vote.

RECOGNITIONS: BRENDA MENCK OF ORCHARD HILLS NEIGHBORHOOD

Mrs. Brenda Menck of the Orchard Hills neighborhood brought before the Mayor and City Council her concerns regarding development in this neighborhood. She reported there have been discussions of whether the covenants that govern this neighborhood are still in effect that was set in 1959. She said there has been an argument made that the City has an ordinance that nullifies covenants. She requested the covenants to be followed, and reported people have been developing in this area that has not been following the covenants due to the size of the house being constructed. She asked the Mayor and Council's assistance in rectifying this matter.

City Attorney Sam Brannen said the restricted covenants are null and void by operation of State law, not City ordinances. Covenants in areas with comprehensive zonings are null and void after 20 years and are not enforceable. If they were enforceable one of the lot owners could bring forth a lawsuit. Mr. Wood informed Mrs. Menck that she could hire an attorney to make the determination if the covenants are null and void. She said when City employees violate the covenant, they should be held to the same standards, if not higher. Mr. Wood said the City employees who own lots in this neighborhood have been told the covenants and restrictions do not apply.

Another issue discussed was wetlands on Harden Road. Mr. Wood informed Mrs. Menck that the City Ordinance states the Core of Engineers determines if wetlands are present. Mrs. Menck reported her property does not drain properly because the property on the other side of Harden Road was encroached upon without the appropriate approval. It has been several years and it still does not drain as it should. City Engineer Maz Elhaj reported he was unaware of the drainage issue until several weeks ago.

Councilman Lewis, Councilman of this district, reported the City needs to think about the situation before approving other buildings in this neighborhood. Mayor Hatcher thanked Mrs. Menck for all concerns expressed, and informed her that the City would take action. He extended an apology for mistreatment if this is the case.

LAURA MILNER – ALCOHOLIC BEVERAGES

Dr. Laura Milner, a teacher at GSU, asked everyone concerned about underage drinking to stand. A large group of supporters were present. She brought before the Mayor and City Council her concerns about underage drinking, health risks of binge drinking, bars vs. restaurants that pertains to Article VII, Sec. 6-157 of the City's Alcohol Ordinance, and Statesboro's reputation posted on the internet about night life taking place at the "Woodin Nikel", a nightclub owned by Councilman Britt. She gave details about events that take place on Wednesday nights which is considered "Ladies Lock-Up Night" and displayed several large graphic photos of the event. She asked the Council to enforce the law and amend the law regarding alcoholic beverages as areas such as Marietta, Athens, and Fulton County that forbid establishments from giving away alcohol or promoting binge drinking through games and contests.

Dr. Milner said a strong commitment is needed from the City Council to enforce the law, improve the law, and work with concerned members of our community to protect those who may not always be able to protect themselves. Mayor Hatcher thanked Dr. Milner and all supporters for being present. After hearing grave acquisitions, Mayor Hatcher said the City will not sit on its hands. He and the City Council will do what they can to make this place what he sense they want it to be. Councilman Blich assured all that he was against underage drinking and things would be applied as it should be. An unknown speaker asked a motion from the Council. Mayor Hatcher ruled this out of order. She said if a motion is not made, seconded and approved this does not commit any civic proof of action and asked at what point a report can be expected based on the graphic photos and testimonials. Mayor Hatcher informed the speaker this would begin immediately and encouraged each one who has an interest as they expressed to hold the City accountable. He assured everyone this would not be swept under the rug.

Someone from the audience requested a response from Councilman Britt, and asked how he can justify what he is allowing to happen in his restaurant and sit there as a Councilman. Mayor Hatcher allowed comments from Councilman Britt at his will. Councilman Britt reported he along with about 25 other individuals is involved in the sale of alcohol. He said they are a very heavily regulated business. By being regulated, we have an ordinance and a State requirement that is governed under City Police Chief Stan York's rules, as well as Bulloch County Sheriff Lyn Anderson's rules. He said, "At no time ever have I tried to act in any establishment that I own in a way that is disrespectful to women." Councilman Britt said his establishment is very strict about underage drinking as shown in records the Statesboro Police Department has and the Department of Revenue. Mayor Hatcher again urged the citizens to make the City accountable.

RECESS – Mayor Hatcher granted a 10 minute recess.

SECOND READING OF ORDINANCE #2005-09 TO AMEND THE RETIREMENT PLAN REGARDING ELIGIBILITY BASED UPON THE AVERAGE NUMBER OF HOURS WORKED WEEKLY

Councilman Morris made a motion, seconded by Councilman Lewis to adopt the second reading of ordinance #2005-09 amending the retirement plan regarding eligibility based upon the average number of hours worked weekly. Councilmen Morris, Lewis, Britt, Brannen, and Blich voted in favor of the motion. The motion carried by a 5-0 vote.

SECOND READING OF ORDINANCE #2005-10 DENOTING THE ELECTION DISTRICTS FOR PROPERTIES RECENTLY ANNEXED INTO THE CITY

Councilman Brannen made a motion, seconded by Councilman Britt to approve the second reading of ordinance #2005-10 denoting the election districts for properties recently annexed into the City. Councilmen Brannen, Britt, Morris, Lewis and Blich voted in favor of the motion. The motion carried by a 5-0 vote.

FIRST READING OF ORDINANCE #2005-11 AMENDING THE STATESBORO MUNICIPAL CODE REGARDING ALCOHOLIC BEVERAGES

Mayor Hatcher reclused himself from this issue due to being a Board Member at Farmers & Merchants Bank who is one of the applicants. Mayor Pro tem Joe Brannen presided over this item. Mr. Wood reported recently several businesses encountered similar problems with the Alcohol Control Ordinance that if they go out of business temporarily, there is no provision in the ordinance now that says they can continue. He reported if a business closes now and has not met the proximity requirements of the ordinance, it would not be allowed to sell distilled spirits, but could sell malt beverages. He said some of the businesses are grandfathered now. This has affected two businesses; one is the expansion of GSU (Kennedy Hall) near the Pond House.

Mr. Wood made a recommendation to amend the ordinance. He said there are concerns that if this happens with a multi-tenant situation such as a shopping center that parking could become overloaded. Parking requirements for retail establishments are less than they are for restaurants, which a provision has been added. Attorney Marc Bruce representative for Farmers & Merchants Bank was present. He asked the City to consider this to represent the value of what their customers own, and to make it consistent with the beer/wine sales. Attorney Stephen Rushing representative for the potential buyer was also present.

Councilman Britt reported the State allows an establishment that has stopped doing business to reopen as long as it is within 12 months, and then they are grandfathered. Mr. Wood said the Alcohol Control Board met today and recommended approval. Councilman Morris made a motion, seconded by Councilman Lewis to adopt the first reading of ordinance #2005-11 amending the Statesboro Municipal Code regarding alcoholic beverages. Councilmen Morris, Lewis, Blich, and Britt voted in favor of the motion. The motion carried by 4-0 vote.

FIRST READING OF ORDINANCE #2005-12 AMENDING THE CODE OF ORDINANCE REGARDING THE LOCAL HOTEL-MOTEL TAX

Mr. Wood reported this is a technical amendment and criteria of the Georgia Department of Community Affairs. City Attorney Brannen said this amendment fills in all the cracks from when it was first amended and brings the information up-to-date and current. Councilman Britt made a motion, seconded by Councilman Brannen to adopt the first reading of ordinance #2005-12 amending the code of ordinance regarding the Local Hotel-Motel Tax. Councilmen Britt, Brannen, Morris, Blich, and Lewis voted in favor of the motion. The motion carried by a 5-0 vote.

ADOPTION OF JOINT RESOLUTION #2005-29 REGARDING THE FINAL LEG OF THE VETERANS MEMORIAL PARKWAY

Mr. Wood reported in May 2003 a joint resolution was adopted, and the Georgia Department of Transportation was asked to make a determination between two alternate routes and to acquire the property before development encroached into it. He said if development came in now, neither the City nor the County's Planning Staff could tell them exactly where the road is going, and where they can not put their development. He recommended passing a new joint resolution to forward to the GDOT to get this determined. The key issue is to get the land acquired before development goes in. Councilman Brannen made a motion, seconded by Councilman Britt to adopt resolution #2005-29 a joint resolution of the Bulloch County Board of Commissioners and the Mayor and City Council of the City of Statesboro regarding the final leg of the Veterans Memorial Parkway. Councilman Britt asked Mr. Wood if he knew the GDOT's timeline for this project. Mr. Wood said he hopes former Commissioner Raybon Anderson, who is on the GDOT Board, can get them to make this a high priority. He said part of the frustration is that this has not moved forward in several years. He does not know the GDOT timeline. Councilmen Brannen, Britt, Lewis, Blich, and Morris voted in favor of the motion. The motion carried by a 5-0 vote.

ADOPTION OF RESOLUTION #2005-30 ADOPTING THE SCHEDULE OF FEES AND CHARGES FOR THE WATER AND WASTEWATER DEPARTMENT

Mr. Wood reported Wayne Johnson, Director of Water/Wastewater has recommended two changes to the schedule of fees and charges for the Water and Wastewater Department. This would include a Return Trip Service Fee and a rate adjustment for Septic Tank Haulers to \$30 per 1,000 gallons of truck tank capacity; larger trucks would pay a prorated fee. Councilman Morris made a motion, seconded by Councilman Lewis to adopt resolution #2005-30 adopting the schedule of fees and charges for the Water and Wastewater Department. Mayor Hatcher asked if residents would be made aware to be there before being charged a Return Trip Service Fee.

Mr. Wood said the City would begin informing them, and would make sure the applicant understands. Councilmen Morris, Lewis, Brannen, Blich, and Britt voted in favor of the motion. The motion carried by a 5-0 vote.

ACCEPTANCE OF THE RESIGNATION OF COUNILMAN MORRIS FROM THE ALCOHOL CONTROL BOARD & APPOINTMENT OF COUNCILMAN LEWIS TO FILL THAT TERM FOR A CITY COUNCIL MEMBER SEAT

Councilman Brannen made a motion, seconded by Councilman Blich to accept the resignation of Councilman Morris from the Alcohol Control Board and to appoint Councilman Lewis to fill his term for the City Council member seat. Councilmen Brannen, Blich, Britt, Morris, and Lewis voted in favor of the motion. The motion carried by a 5-0 vote.

AUTHORIZATION FOR THE MAYOR AND CITY CLERK TO EXECUTE NECESSARY DOCUMENTS FOR THE STATESBORO NATURAL GAS DEPARTMENT TO PARTICIPATE AS A CHARTER MEMBER OF THE NEW SUBSCRIBED SERVICE FOR REGULATORY COMPLIANCE

Natural Gas Director Steve Hotchkiss reported the biggest problem is regulatory compliance that applies to operators qualifications. Mr. Hotchkiss said his department has made attempts to the Georgia Municipal Association Gas section to build their own program but it has gotten out of hand. He said although the cost for participating as a Charter member is relative expensive; it is a good buy for the City.

Councilman Brannen inquired about the annual cost of \$14,000 that must be subscribed for three years. Mr. Hotchkiss said this cost is for initial commitment for a three year period due to the hiring process. Councilman Brannen asked if this amount has been budgeted. Mr. Wood said it is not budgeted but Mr. Hotchkiss has it within his funds. Mr. Hotchkiss said the cost would be designed into the cost of gas, and may decrease depending on the number of cities participating. Councilman Blich asked if the City has to keep in compliance with Federal and State regulations. Mr. Hotchkiss said yes, because the federal code is administered by the State.

Councilman Blich made a motion, seconded by Councilman Morris to authorize the Mayor and City Clerk to execute the necessary documents for the Statesboro Natural Gas Department to participate as a charter member of the new subscribed service for regulatory compliance provided by the Municipal Gas Authority of Georgia. Councilmen Blich, Morris, Britt, Lewis, and Brannen voted in favor of the motion. The motion carried by a 5-0 vote.

CONTRACT WITH THE GEORGIA DEPARTMENT OF TRANSPORTATION FOR FINANCIAL ASSISTANCE WITH THE SAVANNAH AVENUE/NORTHSIDE DRIVE INTERSECTION IMPROVEMENTS

Mr. Wood reported City Engineer Maz Elhaj has done a good job in requesting assistance from the GDOT as part of a City contract for reimbursement of approximately \$200,000. This is a standard contract. Councilman Brannen made a motion, seconded by Councilman Lewis to authorize the Mayor and City Clerk to execute the necessary documents to contract with the Georgia Department of Transportation for financial assistance with the Savannah Avenue/Northside Drive Intersection Improvements. Councilmen Brannen, Lewis, Britt, Blich, and Morris voted in favor of the motion. The motion carried by a 5-0 vote.

TRANSFER OF OWNERSHIP OF TWO HOUSES THE CITY OWNS AT 25 & 27 WEST GRADY STREET TO THE STATESBORO-BULLOCH COUNTY LANDBANK AUTHORITY FOR SALVAGE BY HABITAT FOR HUMANITY

Mr. Wood said the City was unsuccessful with the sale of the houses and made a recommendation to give them to the Bulloch County Landbank Authority. They would allow Habitat for Humanity to salvage whatever materials they can use before the City's Public Works Department demolishes them.

Councilman Britt made a motion, seconded by Councilman Morris to transfer ownership of two houses (but not the underlying real estate) the City owns at 25 and 27 W. Grady Street where the new Police Station will be built, to the Statesboro-Bulloch County Landbank Authority for salvage by Habitat for Humanity of any usable materials, and residual demolition by the City's Public Works Department. Councilmen Britt, Morris, Brannen, Lewis, and Blich voted in favor of the motion. The motion carried by a 5-0 vote.

APPROVAL OF A WAIVER OF BOTH THE APPLICATION FEE AND THE PER DIEM FEE FOR TEMPORARY VENDORS REQUIRED BY SEC. 18-2 C OF THE MUNICIPAL CODE, IF THEY ARE PARTICIPATING IN THE FIRST FRIDAY'S DOWNTOWN

Mr. Wood reported this is done each year for certain festivals. The Downtown Statesboro Development Authority has requested the City to give a blanket waiver for every First Friday event held each month. Stephanie Howell, Director of the Downtown Statesboro Development Authority reported the events are two to three hours. She requested the Mayor and City Council to waive the fees. Councilman Britt made a motion, seconded by Councilman Brannen to approve a waiver of both the application fee and per diem fee for temporary vendors required by Sec. 18-2 c of the Municipal Code, if they are participating in the First Fridays Downtown, as requested by the Downtown Statesboro Development Authority. Councilmen Britt, Brannen, Lewis, Morris, and Blich voted in favor of the motion. The motion carried by a 5-0 vote.

STAFF REPORTS:

CITY MANAGER- JOINT LOCAL DEVELOPMENT FUND GRANT WITH THE BULLOCH COUNTY COMMISSIONERS

Mr. Wood reported he and Director of Parks and Recreation Mike Rollins met to discuss a Local Development Fund Grant Mr. Rollins is preparing. He is requesting the City's endorsement of a Joint Local Development Fund Grant with the Bulloch County Commissioners in the amount of \$50,000. This would enable SHS home baseball games to transfer to Mill Creek Regional Park due to the new school construction that will be built on their current field. Mr. Wood said the City has no reason not to help with this to allow a suitable location.

Councilman Brannen made a motion, seconded by Councilman Morris to authorize the Mayor to execute documents supporting an application for a Local Development Fund Grant in the amount of approximately \$50,000 requested by the Statesboro-Bulloch County Parks and Recreation Department.

Councilmen Brannen, Morris, Blich, Lewis, and Britt voted in favor of the motion. The motion carried by a 5-0 vote.

CANCELLATION OF THE MUNICIPAL ELECTION

Mr. Wood gave the report in the absence of Judy McCorkle Director of Administration and Finance. He reported if no write-in candidates are registered by the end of the week, the election would be cancelled.

PLANNING DIRECTOR- PUBLIC HEARINGS

Planning Director Jim Shaw reported the following public hearings are scheduled for the October 4, 2005 Council Meeting:

V 05-09-01 David Brown, Blanchard Equipment, is requesting a variance of the 60 square-foot sign area and 8-foot sign height limitations to allow a sign with an area of 98.1 square feet and a height of 30 feet for property located at 201 Stockyard Road.

RZ 05-09-02 Charlene Hendrix is requesting the rezoning from R-15 (Single-Family Residential) to CR (Commercial Retail) for property located at 110 and 112 North Foss Street.

RZ 05-09-03 Joseph Moore is requesting rezoning from R-6 and R-8 (Single-Family Residential) to R-4 (High Density Residential) for property located at 210 West Main Street.

RZ 05-09-05 Jason Williams, Plantation Properties and Land Investments, LLC, is requesting the rezoning from R-3 (Medium Density Multiple Family Residential) to R-4 (High Density Residential) for a 2.3 acre tract located 900 feet south of East Main Street and 500 feet east of Veterans Memorial Parkway.

V 05-09-06 Donald Marsh is requesting a variance to reduce the required 15' front yard buffer to 7.5 ' along East Olliff Street and a portion of Oak Street for property bounded by Northside Drive East, Oak Street, and East Olliff Street.

RZ 05-09-07 R. Brant Lane, Maxwell-Lane Engineering, is requesting the rezoning from O (Office and Business Office) to CR (Commercial Retail) for a 2.29 acre tract located at the northwest corner of U.S. Highway 80 East and Cardinal Drive.

RZ 05-09-08 Brad Williams, Dabbs Williams General Contractors LLC, is requesting an amendment of the previous PUD approval by modifying the height limitation to allow two residential structures with a height of 48 feet for a 3.56 acre tract located at the northeast corner of Tillman Road and South College Street.

AN 05-09-09 Charles Perry, EMC Engineering Services, Inc. is requesting the annexation and zoning assignment of CR (Commercial Retail) of a 1.16 acre tract located at 16779 Highway 80 West.

RZ 05-09-10 Charles Perry, EMC Engineering Services, Inc. is requesting the rezoning from L-I (Light Industrial) to CR (Commercial Retail) for a 3.5 acre tract located on the west side of Highway 80 West, 1600 feet north of its intersection with Stockyard Road.

TRANSPORTATION ENHANCEMENT GRANT APPLICATION FOR PHASE II DOWNTOWN STREETScape IMPROVEMENTS

Planning Director Jim Shaw reported this would cover West Main Street, and the North-South Main Intersection to College Street. He said the total project cost is estimated at \$622,000. The local match would be approximately \$124,000. He requested the Council's approval to authorize the Mayor to execute the application, which has to be in by this Friday due to the time crunch. Mr. Wood reported this would be the 2nd Phase of the Streetscape Improvements Project. He said the City is in the process of finishing improvements with GDOT for Phase 1.

Councilman Blich made a motion, seconded by Councilman Morris to authorize the Mayor to execute the Transportation Enhancement Grant Application for the Phase II Downtown Streetscape Improvements. Councilmen Blich, Morris, Britt, Brannen, and Lewis voted in favor of the motion. The motion carried by a 5-0 vote.

ADJOURNMENT

Being no further business, Mayor Hatcher adjourned the meeting.