



**CITY COUNCIL MEETING
JANUARY 25, 2021- 7:00 PM
109 SOUTH KING STREET
DEPOT COMMUNITY ROOM**

MINUTES

PRESENT: James F. Palmer, Mayor
George R. Crowley, Mayor Pro Tem
Ray Mitchell Denmon, Councilman
Al Edwards, Councilman
Jacqueline Palazzolo, Councilwoman

ALSO: Paul Worley, City Administrator; Larry Vickery, Utilities Administrator; Sharon Nelson, City Clerk; George Govignon, City Attorney; Lenny Nesbitt, Fire Chief; and Tony Pyle, Police Chief.

1. **Council Meeting Called to Order**

Welcome

Mayor Palmer called the meeting to order and welcomed everyone in attendance.

Invocation

Utilities Administrator Vickery gave the invocation.

2. **Pledge of Allegiance**

Mayor Palmer led the group in the Pledge of Allegiance to the United States Flag.

3. **Amendment or Approval of Proposed Agenda**

Councilman Edwards made a motion to approve the January 25, 2021 agenda as presented. Councilwoman Palazzolo gave a second with all voting aye. Motion approved.

4. **Amendment or Approval of Minutes**

Mayor Pro Tem Crowley made a motion to approve the minutes of the City Council meeting of January 11, 2021. Councilman Denmon gave a second with all voting aye. Motion approved.

5. **Mayor's Comments**

None

6. **Public Hearing and Comments**

Announce at this time, public hearings will be held. The public will have the opportunity to make pro and con comments with a ten minute maximum time limit for each side of the matter, with each person speaking having filed a financial disclosure statement five days prior to the hearing if required, with each person giving their name and address. An inquiry should be made to determine if any elected official has filed a disclosure statement regarding ownership or special interest in any of the agenda items. Zoning Land Use Maps on display in Council Chambers for Zoning Advisory Board and Council hearings.

A. Public hearing of a beer and wine package license request at a location of 1600 Dews Pond Road by Madan Patel (Ginger's Grocery). Mr. Patel will also serve as the store manager.

- Mayor Palmer opened the public hearing.
- City Administrator Worley gave the report on legal requirements and notices stating that all had been met.
- Mayor Palmer opened the floor for public comments.
- Mark Kirby of 168 Harmony Drive, Calhoun, stated that he was the pastor of Evangelistic Outreach Ministries and the church was opposed to the issuance of the license. He presented pictures showing the proximity of the church to the convenience store. He stated that the church had been hit one time already by a sober driver and church members felt that issuing the beer package license could result in more accidents by drunk drivers.
- Mr. Larry Kirby of 636 Old Grave Road, Resaca, and brother of the Pastor stated that their concerns were about protecting the children as they play in the parking area.
- Mr. Dilip Patel, owner of the building, stated that alcohol was already being sold across the street and that Mr. Patel was trying to add the beer and wine package sales in order to help his business survive.
- City Attorney Govignon stated that OCGA 3-3-21 (a)(1) specifically prohibits distilled spirit sales within 100 yards of a church and Section 6-91(a)(1) of the Calhoun code of Ordinances mimic's State law. There is no prohibition under local or state law pertaining to beer and wine sales near churches and the request from Ginger's Grocery is for package beer and wine only. Municipal counsel noted that in 2018 in a similar situation, the Gordon County Board of Commissioners were required to issue a local license. According to the Court of Appeals of Georgia ruling for *In re Sharpee Baps Corp.*, 346 Ga. App. (2018):

"The subjective concern was not substantiated by any evidence, such as an instance of other underage sales of tobacco at this location. This is also not a case where evidence of increased traffic patterns, criminal activity in the vicinity, or come other factor was present with the relative proximity. The ordinance requires mor than a mere substantive concern and requires that the evidence not merely be in regard to proximity *alone*."

Mr. Govignon noted that the Superior Court of Gordon County was reversed on appeal when the local judge upheld the County

Commissioner's denial of a license as findings of fact based on mere conjecture cannot be upheld because mere conjecture does not constitute evidence upon which findings may be based. In consideration of the facts at hand with those considered by the governing board for the County in 2018, there would not be sufficient information to deny a license to Ginger Grocery, and the legal defense of a denial would more that likely result in a loss and responsibility for litigation fees and costs.

- Councilwoman Palazzolo stated to Mr. Kirby that his church and the store do share a driveway and wondered if they might work together to install some type of barricade to keep people from cutting through the property. Mr. Kirby stated that they had tried to years ago and were told there was an easement on the driveway that prohibits this.
- Mayor Palmer stated that it makes it difficult when a request is outside what the ordinance allows. He noted that changes could be made to the ordinance in the future to be more restrictive. He did remind those present that this is a package license and there is no consideration for consumption on the premise.
- Mayor Palmer closed the public hearing and called for a motion concerning the alcohol request.
- Mayor Pro Tem Crowley made a motion to approve the beer and wine package request and addressed Mr. Kirby noting that the council had been through this before and denied a license because people didn't want it and it was reversed. He noted that the owner has rights as well. Councilman Denmon gave a second with all voting aye. Motion approved.

7. Old Business

- A. Mayor Palmer gave the second reading of an annexation and zoning request of R-1B (County zoning is R-3) by Susan French for 0.45 acre at a location of parcel GC55-008, which adjoins her city parcel (C55-006) at 109 Pine Hill Drive. The Zoning Advisory Board meeting will be held February 4th and the public hearing February 8th.
- B. Mayor Palmer gave the second reading of a zoning change request from R-2 to C-2 by Johnathan Stone for 0.59 acre at a location of 104 Henderson Bend Road (Parcel C21-012). The Zoning Advisory Board meeting will be held February 4th and the public hearing February 8th.
- C. Mayor Palmer gave the second reading of a beer package license request at a location of 125 Red Bud Road by Mufti F. Islam DBA: A 1 Grocery, LLC. The proposed store manager is Mirza M. Baig. The public hearing will be held February 8th.

8. New Business

- A. Mayor Palmer stated a motion was needed to approve/amend the budget calendar for Fiscal Year 2021-2022. Councilwoman Palazzolo made a motion to approve the budget calendar as presented. Councilman Denmon gave a second with all voting aye. Motion approved.

9. Other Written Items Not on the Agenda

10. Work Reports

- A. Paul Worley, City Administrator gave the general cash report for December stating that the general checking fund balance was \$5,483,067. He did note that December is normally the strongest month for this fund due to property tax payments. The 2011 SPLOST is \$150K lower than last month due to drawdowns for the Peters Street project. The 2018 SPLOST continues to build and has \$3.457 million. The revolving loan fund is building a reserve and currently has a balance of \$177,845. Hotel Motel tax is better than last month at \$61,755, but is still down approximately 30% compared to this time last year. He also noted that soil and erosion plans for the new police station had been submitted and once approved Community Development would be able to issue permits and the City could break ground on the project. Mayor Pro Tem Crowley made a motion to approve the general cash report as submitted. Councilman Denmon gave a second with all voting aye. Motion approved.

- B. Larry Vickery, Utilities Administrator gave the utilities cash report for December stating that total operating revenues were \$7,013,170 and total savings and reserves were \$11,381,165 for a grand total of \$18,394,470. He then presented a graph from MEAG showing the 12 month rolling generation for nuclear, coal, gas and hydro power. Non-emitting resources are 69% which includes Nuclear resources of 61% and Hydro resources of 8%. He noted that non-emitting meant that these resources were pollution free. He also stated that Vogel 3 will be online this fall and that Georgia is one of the few states with this level of non-emitting resources. We are in a very good position and this has taken place without many restrictions. He also noted that pricing of natural gas was driving coal out of the market with Gas at 24% versus Coal at 2%.

- C. George Govignon, City Attorney had nothing to report.


11. Motion to move to Executive Session, if needed

12. Motion to return to General Session

13. Motion to Adjourn


There being no further business to come before the Council, Mayor Pro Tem Crowley made a motion to adjourn. Councilwoman Palazzolo gave a second with all voting aye. The motion was approved and the meeting adjourned at 7:32 p.m.

Approved:



James F. Palmer, Mayor

Submitted:



Sharon Nelson, City Clerk