

City of Butler

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William B. Whitley,
Mayor
Joel V. Sherlock,
City Attorney
Vicki Wainwright,
Clerk

Council:
Edward Guinn
Mayor, Pro-Tem,
Chas Gassett
Glenn Harris
Amanzie Jenkins
Deborah Williams

October 16, 2018 Council Meeting

Present:

Mayor Barry Whitley
Ed Guinn
Glenn Harris
Chas Gassett
Deborah Williams
Amanzie Jenkins

Media Present:

Taylor Co News

INVOCATION: Mayor Barry Whitley

OLD BUSINESS:

Minutes:

A motion to approve the September 13th Regular Council Meeting/Budget Hearing Minutes and the September 20th Planning and Zoning 1st Reading Minutes was made by Councilwoman Deborah Williams and a 2nd was made by Mayor Pro-Tem Ed Guinn. The vote was unanimous.

NEW BUSINESS:

Liquor License Application: Mr. Jay Patel; Barbari, LLC DBA Butler Liquor:

Attorney Randy Lomax came before the Mayor and Council representing Mr. Jay Patel and Barbari, LLC DBA Butler Liquor in reference to the Liquor Application submitted for the location at 8 Main Street on the Courthouse Square in Butler. The first application submitted by Mr. Patel had been denied due to missing information. Mr. Lomax opened the conversation by stating the issue is whether or not the building is located in a permitted area. He stated that Yes, the building is within a prohibited area close to a polling place, but argued that the City's statute does not state that the business cannot be located there. It states that you cannot sale

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alcoholic beverages with 250 feet of a polling place. He said that he has discussed extensively with his client the fact that there could be 50-60 days a year that they cannot open for business due to voting dates. The clients are willing to take on that responsibility of operating a business within those boundaries even knowing that they may have to be closed 20% of the year.

Mayor Whitley stated that the Council had other issues as well regarding this location. City Clerk Vicki Wainwright stated that the City Attorney Joel Sherlock was unavailable to be in attendance tonight due to scheduling conflicts but had drafted a letter to the Council, which she will read, with his opinions on the liquor store being located at 8 Main Street:

Mayor and Council:

As requested, I have reviewed the second application and updated documentation related to Mr. Babari's application for a package sales liquor license. Additionally, I spoke with Mr. Babari's attorney, Robert Lomax, regarding the deficiencies noted in the previous application.

Based on my review of the revised application, the site location, and the rules set forth in the City of Butler's Alcoholic Beverages Ordinance, I find the application is NOT LEGALLY SUFFICIENT.

First, it should be noted that a license to sell alcohol in the City is a privilege, not a right. This is made clear under Chapter 6, Section 6-32 of the Ordinance.

Second, Chapter 6, Section 6-33(c) requires, "Survey. Each applicant shall submit a survey by a registered land surveyor showing compliance with all distance requirements contained in this chapter." As with the initial application, the applicant has failed to provide the proper and adequate surveyor's certification form in the proper format.

Third, the location proposed by Mr. Babari does not meet the minimum distance requirements of Chapter 6, Section 6-91(e) which requires, "No person shall knowingly and intentionally sell or offer to sell any alcoholic beverage within 250 feet of any polling place or of the outer edge of any building within which such polling place is established for any state or local election days, including primary, special, runoff or general elections." The City Public Works Office determined the subject location to be 236 feet from the Voter's Registration Office and polling station and 117 feet from the Courthouse (also a polling station). In his second application, Mr. Babari provided a new survey noting distances from the two polling places in the City Center square, the Board of Elections (225 feet) and the Courthouse (115 feet). By definition Mr. Babari's proposed location violates Section 6-91(e).

In speaking with Mr. Babari's attorney he explained that Mr. Babari would agree to only be open for alcohol sales when the Courthouse or Board of Elections was not conducting polling. Notwithstanding the extreme difficulty for City and County officials to

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supervise such a time and date sensitive arrangement, the rule does not provide for exceptions based on agreements for closure days. The rule was drafted, deliberated upon, and approved to provide distinct lines within which alcohol was to be available for sale. The proposed property does not meet the rule's requirements.

Fourth, Chapter 6, Section 6-38 provides standards for the grant or denial of an application. Section 6-38(a) provides that, "The mayor and city council, in passing upon any application for an alcoholic beverage license, at the final meeting thereon, **shall be guided by the following factors** as to whether to grant or to deny such application in the public interest and welfare: ... "

(4) *Location*. The location for which the license is sought, as to traffic congestion, general character of neighborhood, and the effect such an establishment would have on the adjacent and surrounding property values. This shall also include:

- a. The character of the neighborhood immediately adjacent to the proposed location;
- b. Whether the proposed location has adequate off-street parking facilities or other parking available for its patrons; and
- c. Whether the location would tend to increase and promote traffic congestion and resulting hazards therefrom.

While it is solely within the discretion and purview of the Mayor and Council to determine if the location proposed by Mr. Babari is in the best interest of the City and its citizens based on the criteria listed in Section 6-38, I have serious concerns about the location due to its lack of off-street parking, the traffic congestion it is likely to cause in a high density traffic area around the Courthouse square, and the hazards such congestion could cause for citizens and visitors on foot in the City Center area.

Respectfully,

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Mr. Lomax stated that if there is a deficiency with the survey, if they could know what that is, they would go back to the surveyor to get that corrected. He said they the surveyor was under the impression that he submitted a proper survey. He also said that if you look at the statute, it does not state that a business cannot be located within 250 feet of a polling place, but that it

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clearly states that no person shall knowingly sale any alcoholic beverage within 250 feet of any polling place. He said that if his clients violated that rule then the Council was within their rights to cite them for that violation and revoke their license, but to deny their application simply because they "might" sale alcohol within 250 feet of a polling place during elections, or they "might" sale alcohol to a minor would be a basis for never issuing a license. He further stated that this liquor store would be a revenue generator for the City of Butler and having a business located in a location that is currently closed is a benefit for the City. As far as the issue of traffic, he stated that Mr. Sherlock is just like him, an attorney and not an engineer, so he cannot know how the business would generate traffic in that area and cannot see how that carries any merit. He stated that he would respectfully submit that his clients have followed the application process, and if the City would like a different survey that they would present one. He feels that for the City to simply deny this application or accept the city attorney's decision to deny the application by what could happen seems unreasonable. He requests that the application be approved.

Mayor Whitley stated that they have some concerns also and that the Council had set the ordinance up so that a liquor store would not be located in certain areas. He also feels that there would not be enough parking places. There are too many obstacles in that area. He further stated that it is the Mayor and Council decision as to whether or not they want a liquor store on the City square, and that is totally up to the Mayor and Council. Mr. Lomax agreed that the acceptance or denial of a liquor license is totally up to the Mayor and Council. Mayor Whitley asked if anyone had any questions.

A gentleman with Mr. Patel stated that there is already a convenience store near there that sells beer and wine. He also stated that Mr. Patel has been doing business in Reynolds for six years with no problems or violations. He stated they picked that location for the safety and security there. He said there is no playing games there or no under-aged selling. He stated that there are two places close by that is set up to sell beer and wine and they are closer on polling days. He also said that a long time ago there was once a law that stated that places that sold alcohol could not sell on election day but that law is no longer in place.

Councilman Harris and Councilman Jenkins asked where the location is. He was told it was where Hugs and Kisses use to be, next door to the gym.

Mayor Pro-Tem Ed Guinn made a motion to deny the application. A second was made by Councilman Chas Gassett. The vote to deny was unanimous.

Mr. Lomax said he understands that they will receive a written report as to why it was denied and asked Ms. Wainwright to forward that to him.

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Gerald Mixon: Comprehensive Plan:

Gerald Mixon with the River Valley Regional Commission came before the Mayor and Council to discuss the Comprehensive Plan that both Cities and County have together that has to be completed for submittal in February of 2019. He went over data including population trends, economic development, and tools and resources. He discussed the report card for Butler's accomplishments and the "want or wish" list for the next five years that has to be documented in order to receive federal and state funds. He also stressed the importance of land use maps and zoning maps. Mayor Pro-Tem Guinn asked about a possibility of an E911 facility location in Butler, or at least capabilities that would enable Butler and/or Taylor County to be self-sufficient regarding emergency radio traffic in the event of a disaster. It was decided that it should be added to the plan should the need ever arise, but there will have to be more in depth conversations regarding this at a later time. There will be meetings with staff and with elected officials coming up and a joint public meeting with Taylor County Commissioners on November 8th at 7:00.

Surplus Equipment:

Eddie Moulton told the Mayor and Council that the Police Department has a 2009 Patrol Car that they would like to put on Govdeals and he would like the Council to vote to surplus the vehicle. A motion to surplus the 2009 Crown Vic Patrol Car was made by Mayor Pro-Tem, Ed Guinn and a second was issued by Councilman Amanzie Jenkins. The vote was unanimous.

Department Head Reports:

Public Works Director David Windham informed the Mayor and Council that the City has been doing well maintenance on the well off of Edgewood Drive and there had been several nights when he and his crew worked all night so that the water being disconnected would not affect the citizens. He also said that the 19/96 infrastructure project is on schedule. He announced that the City of Butler has joined in with the City of Reynolds on a tire recycling project. The City of Reynolds has this project through GEFA and EPD and will be handling everything. The tires can be brought to Reynolds or to Butler at the Butler Fire Department on Friday, November 2nd from 9:00 AM until 4:30 PM and Saturday, November 3rd from 9:00 to 12:00. This will be a manned trailer and can accept anything up to big truck tires. There is a limit of eight tires per person and they cannot be on a rim. He said that this is just a way to help people clean up their yards and neighborhoods.

Hurricane Michael came through on October 10th-11th and the City of Butler had very minimal damage. He would like to thank everyone that was involved for being there and being supportive from start to end. The Community as a whole started preparations on Monday,

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October 8th. The Mayor of Butler, Mayor of Reynolds, and Chairman of the Taylor County Board of Commissioners signed an emergency declaration at 6:00 PM on Tuesday, October 9th and the Taylor County EOC opened at 2:00 PM on Wednesday, October 10th. He said he had rented a 100KW generator to be on site should the City need it to operate a water plant should the City have experienced a large power outage. Luckily that was not the case. The City of Butler loaned it to Sumter County for one and half days until they could get their power restored. The City of Butler's By-Pass Pump was loaned out today to Lee County as they have burned up all of their pumps. He stated that South Georgia is in desperate need due to the Hurricane. He also announced that Taylor County will be opening a temporary debris site at 27 Chalk Mine Road to accept vegetative debris only on Wednesday, October 17th through Saturday, October 20th. It will be open from 8:30 AM until 4:00 PM. This is an approved site by EPD.

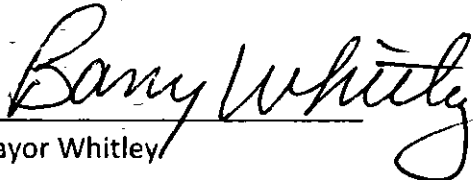
The City Christmas Tree Lighting will be November 29th at 6:30 PM on the Courthouse Square.

Chief Kain Cobb said that the Police Department had 280 incidents. He also said that Qualifying at the Firing Range will be tomorrow morning. He stated that during the storm the red light flickered but they reset it at the battery backup and therefore did not have to sit at the red light all night. There was one house in the entire City of Butler that lost power for about two days. The resident is on oxygen so a generator was available to keep that going.

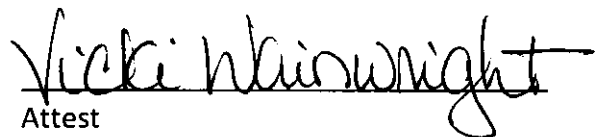
Fire Coordinator Eddie Moulton said that the fire department ran 12 calls last month. Those were three vehicle fires, three woods fires, two vehicle accidents, two alarm service calls and two wires down calls. He announced that pump testing for the fire trucks will be Saturday, October 20th and Sunday, October 21st. The tanker truck that had been surplused has been sold.

ADJOURN:

With no further business Councilman Amanzie Jenkins made a motion to adjourn and a second was made by Councilman Glenn Harris. The vote was unanimous.



Mayor Whitley



Attest