

September 27, 2018, City Council Workshop

Savannah City Government

SUMMARY/FINAL MINUTES

COUNCIL WORK SESSION & CITY MANAGER'S BRIEFING

September 27, 2018 – 10:00 a.m.

PRESENT: Mayor Eddie DeLoach, Presiding

Aldermen: Carol Bell, Julian Miller, Brian Foster, Bill Durrence, Tony Thomas (arrived at 10:15 a.m.), Van Johnson, II (arrived at 10:20 a.m.), Estella Shabazz (arrived at 10:30 a.m.), John Hall

Rob Hernandez, City Manager

Bret Bell, Assistant to the City Manager

Brooks Stillwell, City Attorney

Jennifer Herman, Deputy City Attorney

William Shearouse, Assistant City Attorney

City Manager Hernandez welcomed everyone to the meeting and briefly reviewed the agenda.

Workshop Agenda Items

[1. Minimum Distance Requirements Between Convenience Stores](#)

[ALCOHOL DISTANCE REQUIREMENTS 9.27.2018.pdf](#)

Bridget Lidy, Director of Urban Planning and Design, updated Council on direction given to City staff and the City Attorney's office in August in reference to looking at the distance requirements between convenience stores. She stated they have started the efforts but still feel they need to do more outreach to some stakeholders, as they want to make sure they are looking and thinking of all things as it relates to what would be best for the City.

Ms. Lidy stated staff is currently looking at having a definition for convenience stores and creating a different alcohol license classification for convenience stores, and adding the distance requirement.

She briefly reviewed the current ordinance and how it impacts the different types of retailers under the current classification of licenses.

She stated staff is proposing to come up with a new definition for convenience stores. She stated the definition will have the same wording as the definition for ancillary retail package store but it will go further to state the convenience store may or may not have fuel or gas sales, and is primarily engaged in retailing a limited line of goods that generally include milk, bread, soda, and snacks. Additionally, they may or may not include on-site food preparation.

Ms. Lidy introduced the proposed new licensing classification (License Class K) to Council. She stated discussions were held about having two separate sub classifications within the line item similar to license classification B.

Alderman Durrence asked why is it necessary to differentiate between convenience stores that sell gas and those that don't?

Ms. Lidy replied because we're looking at distance requirements and many times convenience stores that have the dispensing of fuel are located on higher traveled roads. Many issues that are arising are coming from locations that do not have fuel as an option.

Alderman Durrence stated he doesn't have any arguments with what is being proposed but does feel something stronger may be needed other than the small distinction.

Alderman Hall asked for an explanation of unbroken packages in big stores. Ms. Lidy replied unbroken packaged means the bottle or can is not opened. She referred to Ashley Simpson, Revenue Director, who concurred that she was correct.

Ashley Simpson stated you can't open the 6 pack and sell single cans but if it is available from the wholesaler as an individual item it can be sold.

Alderman Miller suggested changing the terminology as someone could interpret that a different way.

Alderman Foster asked should size be specified in ounces or is that too much?

Alderman Hall replied manufacturers make them in all sizes.

Ms. Simpson stated you cannot open a six pack and sell individual cans, but if it is available from the wholesaler as an individual item, it can be sold as an individual item.

Ms. Lidy continued with the presentation stating staff created a GiS map to show some of the considerations being looked at. She stated they are looking at distance between convenience stores as well as location on street types to include arterial, collector, and local street types.

She concluded the presentation stating she hopes to bring a recommendation back to Council in the next few weeks.

Alderman Foster asked if existing locations that have licenses would be grandfathered in. Ms. Lidy replied yes.

Alderman Hall asked if the location gets a new owner will the new owner then be grandfathered in as well. Ms. Lidy replied yes, if they come in within 12 months.

Alderman Durrence asked if staff has a sense of distances yet by looking at the map? Ms. Lidy replied they are toying between feet and yards. The State uses yards as a tool to measure, she stated they have been looking at the data and are thinking about 1,000 feet.

Alderman Durrence stated on the Westside, one of the areas residents have been particularly concerned about that has a proliferation of alcohol establishments is along Bay Street, although they have the overlay there, this will not answer the concerns of that neighborhood.

Ms. Lidy replied one of the reasons staff has been looking at the fuel/no fuel option is as a way to get around that arterial issue.

Alderman Miller stated one of the questions he asked when he received the presentation was why are we doing this? He suggested letting the business establish what it needs to do. He stated the only reason he can remember doing this is because there are too many alcohol establishments. He continued stating he doesn't think people drink because they see a store, they go to the store to get the alcohol and if they don't go in one they will go in another. He questioned why Council is interfering with business.

Alderman Hall stated he believes this came about in one district, particularly in the 5th district, where there were complaints about the proliferation of establishments on one street.

Alderwoman Bell replied because that presented a problem and it was a problem for residential neighborhoods that were in close proximity to the area. She stated she's not as familiar with convenience stores, and sites where alcohol is purchased. She stated she needs to know is it a problem for the police department as it relates to loitering and crime.

Ms. Lidy replied that's why we need to drill down and look at the data.

Attorney Stillwell stated if you look back on the nuisance cases in neighborhoods over the past few years, we have had more problems with convenience stores than any other type of business. Since the State allowed lottery and video gambling machines, what in effect has happened is that convenience stores have turned in to gambling parlors in many parts of the City. He stated we've had many of these issues. People stand around gambling in the stores and buying alcohol and they stand around in the store then they move outside and stand around in the parking lot and in effect it becomes loitering. Attorney Stillwell continued stating the easy solution would be ban the video gambling machines, but

we are preempted by the State law because we cannot regulate anything to do with the lottery or those video game machines. He stated what the City can control is alcohol licenses and set distance requirements for particular type businesses for alcohol licenses. He continued stating so the issue is where are these type of businesses a nuisance or a problem, and where are they not a problem. He stated they are in some areas, but they are not in others but that is the specific problem staff is trying to address, it's not just alcohol. It's the fact that people are trying to turn convenience stores into a neighborhood bar or hang out. He concluded stating he is suggesting a potential mechanism for solving the problem.

Alderman Durrence stated what is being proposed is not the regulation of convenience stores, but which convenience stores can have alcohol?

Attorney Stillwell replied uniformity has to be applied.

Alderman Durrence replied so if a new convenience store is opened and is within 1,000 feet of one that already has alcohol, the new store will not be allowed to get a license. Attorney Stillwell replied that is correct.

Alderman Thomas asked about grandfathering the stores in and how others will be weeded out.

Attorney Stillwell replied the same way everything else is done related to nonconforming uses.

Alderman Thomas stated when you start talking about the little corner stores, it's not only the little corner stores that have to be looked at, we have to look at the chains that have machines as well. He continued stating he knows the City doesn't have any control over the machines, but if everyone's grandfathered in that would mean everyone would have a level playing field as it relates to the issuance of new licenses. He asked if a chain comes to town or one that is already in town and they go to another store and say we want to buy your right to not sell alcohol, can they do that?

Attorney Stillwell replied they can't buy their right to a license but the other store can close and they can then apply for a license, but that doesn't mean someone else can't apply as well.

Alderman Thomas stated when we start talking about the limitations on businesses itself, in a monopoly situation that type of advantage shouldn't be given.

Attorney Stillwell replied he's not suggesting this is an easy problem to solve.

Ms. Lidy showed Council the map and information embedded within it.

Alderman Johnson suggested using yards since the State uses that metric and it is a more favorable measurement for communities.

Alderman Durrence asked about property lines and if that included roadways. Ms. Lidy replied the way the State code is written along a straight line which describes the shortest distance between the two property lines, which is the language that would be used.

Alderman Johnson asked why it wouldn't be door to door, stating the store could have a setback.

Mayor DeLoach asked how the State does it. Ms. Lidy repeated the definition.

City Manager Hernandez stated staff will look at the primary entrance from one establishment to the other.

Alderman Johnson stated he feels the City needs to have stricter guidelines and it needs to be in favor of the community.

Alderman Bell asked Attorney Stillwell if the requirements are fairly lenient for any convenience store once they satisfy the requirements of the local municipality regarding the video gambling machines.

Attorney Stillwell replied his understanding is that virtually any convenience store can sell lottery tickets and have video gambling machines as its regulated strictly by the State.

[2. Savannah Professional Firefighters Association Labor-Management Agreement](#)

[092718 Council Worksession - IAFF Agreement.pdf](#)

City Manager Hernandez stated he wanted to review the existing policy established in 1973 and get feedback from Council.

Supervisory Employees excluded form bargaining unit

City Manager Hernandez stated in the current policy it excludes supervisory employees from a bargaining unit. He stated he would argue that it's time to review the definition because supervisors don't do a lot of what is described in the current policy. He stated many of the tasks from the 1973 policy are reserved for management and not supervisors, as a front line supervisor does not hire, fire or demote employees only members of management have the authority to do so.

Alderman Johnson asked if that was the current policy or if that was the definition that was in the policy? City Manager Hernandez replied this is the definition from the 1973 policy.

Mayor DeLoach asked for clarification about Battalion Captains hiring and firing. City Manager Hernandez replied it is his understanding that they do not in our Fire Department.

Alderman Johnson asked if they participate in the grievance and evaluation processes. City Manager Hernandez referred to Fire Chief Middleton for a response.

Chief Middleton replied yes, they participate in evaluations and evaluate people (their crew). He stated they do initiate discipline. Alderman Johnson asked if they wear a different uniform that differentiates them from line staff. Chief Middleton replied they wear white. Alderman Johnson replied which would indicate management.

Alderman Thomas asked what is the command structure?

City Manager Hernandez replied Chief, Assistant Chief, and Battalion Chiefs which is what I consider to be in the upper management structure. Then there are Captains, Master Fire Fighters, Fire Fighters and Fire Fighter Trainees.

Council had a brief discussion on discipline.

Chief Middleton stated captains can do formal reprimands, it would be considered discipline.

Alderman Miller asked if anyone below the rank of captain have input in that. Chief Middleton replied no.

Alderman Foster stated in 1973 the City initiated an agreement that State law provided that cities over 20,000 population could enter into agreement with Fire Unions. He asked has anything in State law changed since then as he is surprised that the City has not dealt with it since 1973 and then it expired in 2011. He stated the previous Mayor and Administration did not address it and he would like to know why. He also asked why Savannah is the only city in the State that has addressed it. Lastly, he asked what is the definition of the union?

City Manager Hernandez replied he is unsure if there have been any changes in State legislation as he has not tracked the history of that particular section of the Code of Georgia. He stated there were numerous discussions and negotiations from 2012 through 2015 in an attempt to negotiate a successful agreement. That agreement got bogged down over two areas and it reached an impasse in 2015. He stated he doesn't know why Savannah is the only city in the State that undertakes some form of collective bargaining.

Alderman Foster asked if Local 574 represents 100% of the firefighters? City Manager Hernandez replied Georgia is a right to work state and it is not a requirement that employees join the union, it is voluntary.

Bob Milie, Local 574 Representative, replied they currently represent every firefighter from the rank of Master Firefighter and below. He stated voluntary enrollment is at 98% which is the highest density in Georgia, South Carolina, North Carolina and Virginia.

City Manager Hernandez stated typically a Captain in the fire service is assigned to oversee a station or a particular function. The Captain provides supervision on incidents if/when calls come in until they are relieved by a higher ranking officer. Chief Middleton stated City Manager Hernandez is correct in terms of what a Captain does but Savannah Fire is pretty lenient, a Master Firefighter serves the role of a supervisor and Captains are clearly management. He stated even as it relates to calls it's about the person with the most expertise who takes lead, he stated in theory it should be the person with the highest rank but it doesn't always work that way.

City Manager Hernandez continued with the presentation moving on to Management Rights of the City.

Scope of Agreement

City Manager Hernandez stated in 1973 the rules of engagement so to speak for negotiating a new bargaining unit were determined and the following topics were considered for inclusions to discuss: wages; fringe benefits; work week and work day; and other terms and conditions

of employment unless it is specifically excluded by the management rights section or anything pre-empted by State or Federal law. He then briefly discussed the authority of the City Manager and Human Resources.

City Manager Hernandez discussed the classified civil service, stating he wasn't sure if it clarified or muddied up the whole issue of supervisors and managers. He stated it was enacted back in 1949, and is basically the guiding document of how certain employees are treated within the organization. It specifies which positions are included and excluded and it draws the line on what he considers management personnel. In the Fire Department, Captains are part of the classified civil service, whereas Battalion Chiefs are not.

Mayor DeLoach asked for clarification on what that means. City Manager Hernandez replied for example a City Manager and or Police Chief can come in and dismiss an employee for any reason that is not illegal.

Alderman Johnson asked if that was true based on the Berkshire report. City Manager Hernandez replied he believes that was one of the recommendations but he is unsure if it has been implemented.

City Manager Hernandez stated part of the challenge when trying to entice individuals to move up and fill these positions is that it doesn't have those protections, which is a downfall of being in management.

He continued stating you can't separate a Captain in the same way you can a Battalion Chief because of the Civil Service Act.

Termination of Negotiation

Negotiations shall be completed by October 1st and a report generated by the City Manager and submitted to the Mayor and Aldermen.

Economic Benefits

City Manager Hernandez stated any additional benefits granted only applies to that fiscal year.

Alderman Thomas asked for clarification. City Manager Hernandez replied according to the current policy any economic benefits are restricted to that current year.

Alderwoman Bell asked why negotiate wages if they are going to get nothing more or less than general employees?

City Manager Hernandez replied its part of the policy but the position has always been that they will not be treated differently than anyone else. Attorney Stillwell stated our policy has always been that we will negotiate with the union and sometimes there are other employees that want to talk about wages or terms of employment. He continued stating at the end of the day the budget determines wages, salaries and benefits. You give them whatever is set by the budget that year.

Alderman Hall asked why are we not discussing the proposed agreement. City Manager Hernandez replied we decided to go back to the beginning to explain why first before discussing how the proposed agreement was reached.

Representative of the City in Negotiations

City Manager and/or designee shall represent the City in all negotiations with employee unions.

Resolution of Impasses

Alderman Johnson asked if impasse is a legal term. Attorney Stillwell replied he doesn't think there is any legal import to that, as the City never elected to go under the State law. He stated the only basis to negotiate with the union are the rules and regulations Council is currently reviewing.

Internal Conduct of Public Employees' Organizations

City Manager Hernandez discussed when the City revoked recognition.

Dues Check Off

Pertains to deductions of membership dues.

Strike – Prohibition as a Condition of Recognition

City Manager Hernandez stated the City prohibits strikes and work stoppages and slowdowns by any union.

City Manager Hernandez stated that is an overview of the 1973 policy and serves as a guide in how the discussions have been conducted. He continued stating there are certain aspects of the proposed draft that are in line with that policy and there are areas where he believes it is time for the City to deviate. He asked for input from Council to get their feedback. He informed them there isn't anything on the Council agenda for them to vote on today, but may or may not be in the future depending on Council's direction.

City Manager Hernandez stated the agreement that Council has was written by staff and there may need to be some legal refinement.

Alderman Johnson stated Council needs to determine first if they are going to continue to recognize the union.

City Manager Hernandez reviewed the three options given to Council, which were:

- Continue to follow the existing policy as is
- Decide that it's time to refine the policy; or
- Discontinue with collective bargaining altogether

Mayor DeLoach asked Council if they want to move forward and look at revising some areas of the existing agreement or throw it out.

Alderman Miller stated he believes the policy would need to be revised first and then Council could decide if they want to continue or not. He stated he doesn't know what he's continuing with at this point.

Alderman Thomas stated he believes the question is do we want to continue to negotiate or not. He stated he thinks there is a consensus that Council wants to continue.

Alderman Johnson stated a decision needs to be made whether Council negotiates to have an agreement and if so, it has to be done using the 1973, or the 1973 version modified to a 2018 version and then moving forward.

Alderman Foster asked if the City is presently under an agreement?

Attorney Stillwell replied we are continuing to operate under it only honoring dues checkoff.

City Manager Hernandez replied there is no agreement, but there is currently a policy.

Attorney Stillwell replied with the policy there are rules and regulations under which the City Council agreed in 1973 that they would talk to unions, if they agreed to operate under those rules. He stated he thinks the suggestion made by Alderman Johnson is a good way of thinking about this situation, do you want to continue those rules the way they are, they are existing City policy. If Council wants to change or repeal those rules they can. There are certain things in the agreement that are inconsistent with the rules. He stated Council can change the rules and then renegotiate.

Alderman Foster asked we currently are not operating under an agreement, and have been operating under the City rules?

Attorney Stillwell replied the rules are the rules under which we will negotiate a contract. It's the procedural rules to negotiate a contract, if you didn't have those rules you wouldn't have a contract.

Alderman Johnson stated his suggestion or personal opinion would be to continue, but with revisions, because we have 1973 rules in 2018 and we need to operate in the here and now.

Alderman Miller stated we had an agreement in 1973 that was operated on until 2007.

Mayor DeLoach stated as long as the City is taking money out of people's checks, and it's going to the union we are still operating under the policy. He stated therefore there is an agreement of some sort. He concluded stating we may be at an impasse that hasn't been cleared up but

as long as money is being taken from employees checks the City is recognizing that they are a part of a union or association. It's in place but not being enforced and the City needs to move past this point.

Attorney Stillwell stated we are de facto operating under the agreement.

Alderman Miller stated we had an agreement that we were following up to a certain point, but it was derailed by two topics, but there seem to be a lot of other topics in the proposed agreement now. He concluded stating yes we do need to have an agreement and move forward with discussions and could possibly come back after discussions and say we don't want it at all.

Alderman Thomas stated during this period we had three City Managers and it was a very disruptive period in the City of Savannah.

Alderman Johnson stated do we want to continue?

Alderwoman Bell agreed she wanted to continue.

Attorney Stillwell stated the first question is do you want those rules, if so, do you want to amend them and if so, how do you want to amend them.

City Manager Hernandez stated there are only two or three areas in the 1973 policy that causes him anguish. For the most part the rules are relevant but this could be an opportunity for them to be reviewed.

Alderman Durrence stated he needs to know what yes means but is comfortable saying he would like to continue the concept of an agreement because he has a lot of reading to do.

Mayor DeLoach stated Council is in agreement in concept of continuing.

Alderman Durrence suggested Council read the documents over the next two weeks and have a discussion at next workshop.

Mayor DeLoach stated Council will read the documents and will come to the City Manager and City Attorney with their issues and come to a consensus as a group with their questions or concerns as it relates to where they are.

Alderman Foster stated two things still bother him which he hasn't gotten answers to which are why Savannah is the only city in the State that is doing this. He asked City Manager Hernandez to contact other city managers to inquire. Second, is it fair to other employees to have a separate agreement and is it inefficient for the City to spend a great deal of time and money on this because it creates an inefficient government to some degree and are you unfairly representing part of 2,500 employees.

City Manager Hernandez replied anecdotally the reason why other cities don't do collective bargaining is because they don't have to.

He stated he thinks he heard Council say they want to abide by the 1973 policy.

Alderman Foster asked City Manager Hernandez to answer whether this is inefficient government to do this because the taxpayers want to know.

City Manager Hernandez replied the policy doesn't just limit it to firefighters, it doesn't preclude anyone else from organizing and attempting to collectively bargain. He stated Council is under no legal obligation to bargain with anyone. He stated in general if managers have an ability to operate under a formal collective bargaining agreement most would say they would rather not have it because it limits the ability to manage or take certain actions. However on the flip side it brings some specificity to the relationship between employees and managers. He stated it helps them better define the rules in which we operate.

Alderman Johnson stated generally in management this type of thing takes a lot of time and costs money. He stated on the other hand it's because of the labor movement we have the 5 day work week, minimum wage, and a variety of things that creates an opportunity for open communication and checks and balances and becomes a system of equity. He continued stating the bargaining unit will police itself.

City Manager Hernandez stated he is hearing that Council will look at the existing policy and determine if they want to revisit sections. He will meet with Attorney Stillwell and they can concurrently issue a memo identifying areas that they believe need to be revisited. He stated this will give him further direction on refining a draft agreement with the Union. He concluded stating by affirming the policy Council is saying we will continue negotiating with the Union.

Attorney Stillwell stated the Union is not supposed to be contacting members of City Council. Alderman Foster stated they are being contacted and he hasn't returned the calls.

Alderman Johnson stated our employees are also our constituents, to tell an employee that they cannot talk to him is unacceptable to him. He stated the question is how he takes what is brought to him. He continued stating he is not to direct an employee, or ask for information without going through the prescribed protocol.

City Manager Hernandez replied it is in the Charter that employees are not supposed to contact Council about operational issues.

Alderwoman Shabazz stated she is in agreement with the majority of what has been said and the consensus to move forward.

City Manager Hernandez stated he and Attorney Stillwell will send out a joint memo to Council and will bring this back at the next workshop. He asked Council to send any questions to him by next Friday.

Attorney Stillwell briefly clarified to Council what each document they have received is and the outcome of the discussion today. He stated he and City Manager Hernandez will meet and come up with recommendations to bring back to Council. Once a decision is made City Manager Hernandez will then begin to renegotiate the agreement he was already negotiating in accordance with the policy Council adopts.

City Manager Hernandez stated it is his position that it is appropriate for Bob Milie as the Union representative to have conversations with Council. But it would not be appropriate for an individual employee to do so.

Executive Session - Litigation and Real Estate

Upon motion of Alderman Johnson, seconded by Alderman Durrence, and unanimously carried the agenda was amended to add Executive Session.

Upon motion of Alderman Durrence, seconded by Alderman Miller, and unanimously carried Council went into Executive Session for the purpose of discussing Litigation and Real Estate.

Upon completion of this session, a motion was made to come out of Executive Session by Alderman Durrence, seconded by Alderman Johnson, and unanimously carried.

[3. City Manager's Briefing / Council Meeting Agenda Items for September 27, 2018](#)

City Manager Rob Hernandez presented the City Manager's Briefing of the agenda items for the Council Meeting of September 27, 2018. The agenda can be found online and will be made a part of the permanent record.

Savannah Civic Center Discussion

City Manager Hernandez discussed the existing Civic Center and the Civic Center site. He stated he knows Council has received reports in the past from Barrett Sports Group in reference to retaining the Johnny Mercer Theater, which would require approximately \$40 million in upgrades to bring it up to current standards. He stated instead he would like to look at the entire site and has asked the Urban Land Institute to determine the highest and best use for that existing site. They are being asked to look at the site, facility and any proposed uses and consider that within the context of our National Historic Landmark District status and connect it to the Oglethorpe Plan. He continued stating the goal is to determine how to take that existing site and reconnect it with the neighborhoods, and determine if there are opportunities for compatible mixed use redevelopment to take place on the site with or without the theater. He stated they have been asked to come to town and put together a panel of experts to study the future possibilities of the Civic Center site. City Manager Hernandez continued stating staff is planning to release a survey tomorrow which will run for a two week period to gain public input. In addition, he wants to invite members of City Council to sit down with the Urban Land Institute on Tuesday, October 30th at 4 p.m. in the Civic Center ballroom. It will be advertised as a Special Council Workshop to be in conformance with State law. He stated the purpose will be to give Council an opportunity to engage in dialogue with the panel the Urban Land Institute will assemble and colleagues. He stated the panel will present their preliminary findings at the October 30th conversation and within six months publish and release a final report with recommendations on how to proceed with potential redevelopment and reuse of the site.

Alderman Thomas asked if the City is paying for this. City Manager Hernandez replied yes, he believes the contract is \$20,500.

Alderman Thomas stated in a situation like this, the City has one of the world's best colleges in town SCAD and asked why they weren't engaged to come up with a visionary idea, as this is the perfect opportunity right in the midst of their campus.

City Manager Hernandez replied that's certainly one approach we could take but the benefit of going through the Urban Land Institute is that they are clearly impartial. He continued stating typically when dealing with controversial land use related issues the Urban Land Institute is brought in because they are impartial and don't have the connections in the community. He stated they can give a fair, neutral and unbiased recommendation on how to proceed. He concluded stating one could argue that that institution and others have a vested interest in that particular site and may direct recommendations in one direction over the other.

Alderman Johnson stated there have been at least two community/stakeholder committees that were established that did significant work on the use of the future arena and the current arena. He stated they issued findings and it is extremely important to him and he believes it should be to Council as well that the work that was asked of them not be shelved and thrown away.

City Manager Hernandez stated he will make sure those stakeholders are included and invited to the community conversations that will be held. He stated the Urban Land Institute has requested and received all former reports and studies.

There being no further business, Mayor DeLoach declared this Work Session adjourned.

The video recording of the Council meeting can be found by copying and pasting the below link in your url:

<https://savannahgovtv.viebit.com/player.php?hash=LRXR3oOaCzxf>

Luciana M. Spracher
Acting Clerk of Council