

CITY OF RINCON
OFFICIAL MINUTES
RINCON CITY COUNCIL CALLED MEETING
MONDAY, DECEMBER 18, 2017
COUNCIL CHAMBERS
107 W. 17TH STREET
7:00 PM

Councilmembers Present:

Reese Browher
Paul Wendelken
Levi Scott, Jr.
James Dasher
Christi Ricker
Ann Daniel

Present:

Ken Lee, Mayor
W.E. Smith, Jr., City Manager
Raymond Dickey, City Attorney
Dulcia King, City Clerk
LaMeisha Kelly, City Planner
Corey Rahn, Fire Chief

The meeting was called to order at 7:02 PM. The invocation was given by Councilmember Daniel and the Pledge to the Flag was recited.

Approval of the agenda with the addition of new business item 2A:

Consideration on Council meeting dates for January.

Motion to approve: Councilmember Daniel
Second: Councilmember Scott
Vote by Council: Unanimous

Approval of the December 11, 2017 minutes:

Motion to approve: Councilmember Wendelken
Second: Councilmember Dasher
Vote by Council: Unanimous

Public Hearing #1:

Turn meeting over to public hearing officer, Raymond Dickey:

Public Hearing on a variance request filed by MM-SAG, Inc requesting a variance to Article VI, Section 6 R4 (J) to subdivide one property and create two lots with lot width less than 100 feet each. The property is owned by MM-SAG, Inc; the property is zoned R-4 (Single Family Residential). (Map# R200-9)

Open public hearing: 7:05 PM

Mark Glisson, said there will be only one lot that will be less than 100 feet. Instead of dividing the lot in half equally, Planning and Zoning Board recommended he keep one at 100 feet and the other at 94.5 feet. Attorney Dickey asked Mrs. Kelly if an ad was placed in the legal organ, the property marked and surrounding property owners notified, she answered yes. Mrs. Kelly said the recommendation was made so there would be only one lot that would not conform with the Ordinance.

Close public hearing: 7:08 PM

Turn the meeting back over to Mayor Lee.

Vote on a petition filed by MM-SAG, Inc requesting a variance to Article VI, Section 6 R4 (J) to subdivide one property and create two lots with one lot width less than 100 feet. The property is owned by MM-SAG, Inc; the property is zoned R-4 (Single Family Residential). (Map# R200-9)

Motion to approve with one lot less than 100 feet: Councilmember Dasher
Second: Councilmember Ricker
Vote by Council: Unanimous

Public Hearing #2:

Turn meeting over to public hearing officer, Raymond Dickey:

Public Hearing on a variance request filed by Rickay Graham requesting a variance to Article VI, Section 6 R4 (B) to allow an automotive storage yard on property located on Jaudon Street. The property is owned by Rickay Graham; the property is zoned R-4 (Single Family Residential). (Map# R215-5A).

Open public hearing: 7:10 PM

Attorney Dickey asked Mrs. Kelly was the legal ad ran, was the property marked and were surrounding owners notified, she said yes. Rickay Graham owner of T & C Towing said he wants to temporarily store up to ten cars on the property. The property has been in his family for two generations and it is actually 2.15 acres but he only wants to use a 100 x 100 foot fenced in area for the cars. He said the area is classed commercial because of the cell phone tower that is located there. The lot will be in the very back of the property and you will not be able to see the cars from several sides and he will have a fence put up. Councilmember Daniel asked what he means by temporary; he said the cars will be there about two or three weeks. Mayor Lee asked where the property was located in reference to

the map in the packet; Mr. Graham said it would be right beside the tower. Councilmember Dasher asked how would he get access, Mr. Graham said he has an easement that he owns. Councilmember Browher asked Mrs. Kelly what zoning would a storage yard have to be in, she said Limited Industrial. Councilmember Ricker asked did the City's recommendation change from denial; the Planning and Zoning Board recommended approval but staff recommended denial based on the Zoning Ordinance. Mr. Graham said he would like for his neighbors to have input because this will not affect the City as a whole but his neighborhood. Councilmember Wendelken said one problem is he may exceed the ten cars and the vehicles could sit there longer than three or four days. The issue is how fair is that to the other companies that are on the wrecker contract or want to be on the wrecker contract, when they are required to have yards in the commercial zone on Highway 21 and there is a lot of additional cost to do so compared to where he is going to be; Mr. Graham said another point is as far as the City appearance where he is going to store cars no one is going to see them granted he has advantage over another because it is his property. Councilmember Daniel asked Mrs. Kelly does the ordinance state a size that the lot should be, she said no. Mayor Lee asked how he came up with ten vehicles at one time on the lot; he said it is a projected amount. He called the police clerk and asked how many cars do they have towed a year and projected. Councilmember Browher asked does this meet the definition of a variance, Attorney Dickey said he does not see the uniqueness requirement other than he is trying to get a variance to allow commercial industrial use in a residential zone, but Council set the standards of what uniqueness is to the City and once that standard is set everybody else can use that same standard. Councilmember Browher said that is one of his main concerns because that will open up Pandora's box, Mr. Graham said he thinks he situation is unique because the tower is used for commercial purpose already. Councilmember Scott said he went and looked at the site as far as the development when they put up the tower and he had a problem because of the fall distance, you can't put a house in that area. His main concern is the residents that live there, but he would much rather something that you can't make attractive like a building or a store front, be in an area similar to this, than to be right on Highway 21 in the city limits. Councilmember Dasher asked was the zoning the same as the tower; Attorney Dickey the laws that govern the tower are not subject to our zoning laws, Mrs. Kelly said it is zoned R4 single family but Tax Assessors code is commercial. Mr. Graham said he provides a valuable service to the community; it is an advantage for his community because they know they can come to him for help. Councilmember Wendelken said the other thing is there is going to be insurance adjustors and individuals, those people are going to come to your tow yard, police are going to come out there, there is a bigger picture to look at. Mr. Graham said he understands the purpose is not to stop growth. Councilmember Wendelken said he has nothing against Mr. Graham having a wrecker business, the question is should it be in a residential area or a commercial area. Councilmember Browher asked what alternative do we have in the event he gets up to twelve or twenty cars, is there anything we can say where he can only have ten cars at a time, Mrs. Kelly said we can't monitor how many cars. Her recommendation is to vote on the variance and approve what area he can have. Councilmember Wendelken asked would the vehicles be in the fall zone of the tower, Mrs. Kelly said towers have been built years ago not to fall but to break and collapse. Councilmember Wendelken stated that we don't allow houses within the fall zone, Mrs. Kelly said there are other limitations but towers don't fall anymore. Councilmember Wendelken said the property can't be used for residential because of the tower, why should we allow someone's vehicle to be placed

there. Mayor Lee said the fact is it is zoned R4, if he wanted to build a house next to the tower he could do it, Mrs. Kelly said it will have to be out of that zone. Attorney Dickey said what you are talking about is an issue with Mr. Graham and the tower company, the tower company has filed property documents that prevent him from using any of that property that is included in the legal description.

Corey Rahn, Fire Chief, said he wanted to make one observation, he doesn't have a say either way on the storage or the way it goes, but the ease of getting a fire apparatus back there will be an issue. He would rather see it in a commercial area like Highway 21. Attorney Dickey asked Mr. Graham if he knew what size easement he had, Mr. Graham said wide enough to get a semi-truck and a crane back there because they had to build the tower.

Traci Rahn, Rahn's Wrecker Service, said Councilmember Wendelken brought up most of her concerns. Mrs. Rahn said we are all in business to make money but we are paying premium property taxes to have a lot on Highway 21 and that is an issue with her. Also people will be coming to retrieve those cars all the time which would be increased traffic, police patrolling to make sure everything is in order; those are things she thinks need to be taken into consideration. She thinks the Rincon contract says the storage lot is supposed to be a one acre lot; Councilmember Wendelken asked is it supposed to be lit also, Mrs. Rahn said she thinks so but she is not sure about Rincon contract. She said another thing is you are supposed to have an office space onsite. These are some things for Council to consider as they figure this out.

DeBorah Lanier said she lives in the community and in terms of the number of vehicles Mr. Graham said there is over two acres. Mrs. Lanier also said the City does a fine job of patrolling the area. If that area when the tower was built was conducive to them traveling in and out than it should be able to handle the traffic going back there. Mrs. Lanier said Mr. Graham has been a good neighbor and he wants to grow his business. She would recommend as part of the community to give him the opportunity to do so.

Close public hearing: 7:46 PM

Turn the meeting back over to Mayor Lee.

Vote on a petition filed by Rickay Graham requesting a variance to Article VI, Section 6 R4 (B) to allow an automotive storage yard on property located on Jaudon Street. The property is owned by Rickay Graham; the property is zoned R-4 (Single Family Residential). (Map# R215-5A)

Councilmember Scott asked Attorney Dickey if a variance is approved can you withdraw the variance if it becomes a nuisance, Attorney Dickey said no. If he decides to stop running the business can someone else go back there and run a business without coming back to Council, Attorney Dickey said yes. There was discussion on variances and conditional use. Councilmember Dasher asked why would we look at doing a variance on R4 instead of doing a rezoning, Mrs. Kelly said there is no light industrial around the area and that would be spot zoning. Councilmember Wendelken how is this not rezoning by a different name.

Councilmember Dasher asked if we approve this can he put as many cars as he wants in that two acres, Attorney Dickey said he can stack them as high as he wants.

Mayor Lee asked if this was to be approved and Mr. Graham wanted to be on the City's wrecker contract he would have to do the things that are required of the contract, Attorney Dickey said yes or Council would have to change the contract because it says the tow yard has to be in a commercial or industrial zone. Councilmember Wendelken said looking to the future there are still others things that would have to be done besides storage of the vehicles: if it has to be well lit, if it has to be fenced with barbed wire, if a manned office has to be built, are we then going to come in and let Mr. Graham build a commercial structure on this residential property. There are many steps he and the City would have to go through in order to help him comply with the City's wrecker contract at the possible detriment of the other participants in the contract; we need to be very careful on how this thing goes for a number of reasons. Attorney Dickey said he has a Home Occupational License now for towing vehicles. Councilmember Browher asked was staff's recommendation to deny based on our ordinance, Mrs. Kelly said yes.

Motion to deny: Councilmember Daniel
Second: Councilmember Browher

Mr. Graham said he has serious concern. A letter was sent to the residents in the area but the City is entertaining conversation from the competition that doesn't live in the area. It is kind of shady that someone would bring up concerns by people that don't live in the area and he wants this on record. Councilmember Wendelken said he would like to address this since he thinks Mr. Graham is directing this at him. Councilmember Wendelken said Rahn's and Smithey's have done business with the City for years and there was no problem with them and we have changed the contract so Mr. Graham could participate not other people, Mr. Graham said there was no contract. Councilmember Wendelken said we have to be concerned about our current providers that provide this service. Everything is fair and there is nothing shady about it.

Councilmember Daniel said she made motion to deny and it had nothing to do with any of that, she made the motion on the fact that it is R4, it is a neighborhood and should remain a neighborhood.

Councilmember Scott asked Mr. Graham would he consider pulling his request tonight. Mr. Graham withdrew his petition and respectfully thanked Council. The motion and the second were withdrawn by Councilmembers Daniel and Browher.

Councilmember Scott said he made that request because there are some concerns Council needs to discuss and by withdrawing it will allow him to come back.

Public Hearing #3:

Turn meeting over to public hearing officer, Raymond Dickey:

Public Hearing on a variance request filed by Adam Parish requesting an 8.5 ft rear setback variance to Article VI, Section 6 R6 (I) to build a deck on the rear of the dwelling located at 117 Crossing Circle. The property is owned by Adam Parrish; the property is zoned R-6 (Single Family Residential). (Map# R254-50B)

Open public hearing: 8:11 PM

Adam Parish said he wants to build a deck in his backyard and he went to the City and they said he couldn't do it because the setbacks are at right at his back door. He wants to build over a 10x 10 concrete slab that is already there, so he can have a bigger area. Attorney Dickey asked Mrs. Kelly if the proper notification advertised, was the property marked and were the surrounding property owners notified, she said yes.

Mrs. Kelly said the Planning and Zoning Board strongly recommended denial because it is not a hardship. He wants a large deck for family gathering and they can build a smaller deck within the setback area. Mayor Lee asked was the concrete slab already encroaching on the setbacks, Mrs. Kelly said by ordinance Council allowed concrete slabs to be within the setbacks. Councilmember Dasher asked if he wanted to extend the slab would he be allowed to do so, Mrs. Kelly said yes. Mrs. Kelly said the rationale behind why Council does not allow decks is because he may leave it as a deck but the next owner may decide to make a sunroom.

Wendell Pedersen, asked if Council allows slab can someone enclose the slab. Mrs. Kelly said they can with a permit if it is allowed. Bob Monroe said if it get approved he will build the deck and wanted Council to know that there are no power lines and no water lines in the backyard.

Close public hearing: 8:20 PM

Turn the meeting back over to Mayor Lee.

Vote on a petition filed by Adam Parish requesting an 8.5 ft rear setback variance to Article VI, Section 6 R6 (I) to build a deck on the rear of the dwelling located at 117 Crossing Circle. The property is owned by Adam Parrish; the property is zoned R-6 (Single Family Residential). (Map# R254-50B)

Councilmember Daniel made the motion to deny and explained why: one there is no hardship and two if we grant this all your neighbors will be in here next week asking for the same thing, probably.

Motion to deny: Councilmember Daniel

Mrs. Kelly said it makes a difference because of storm water and drainage. Councilmember Browner asked could he extend the slab, Mrs. Kelly said yes as long as he has the 20% greenspace.

Second: Councilmember Scott

Vote by Council: Unanimous

Old Business:

1. Second reading of the proposed FY 2018 City of Rincon Budget.

Motion to approve: Councilmember Ricker

Second: Councilmember Browher

Vote by Council: Unanimous

New Business:

1. Mark Glisson requests approval to subdivide a 2.99 acre tract located on Long Street into two lots. The property is owned by MM-SAG, Inc. and is zoned R4 – Single Family Residential. Map# R200-9

Mrs. Kelly said this has to come before Council because staff can not approve.

Motion to approve: Councilmember Dasher

Second: Councilmember Ricker

Vote by Council: Unanimous

2. Request to approve the City of Rincon's Workers Compensation Insurance with Georgia Municipal Association (policy period 1/1/2018 to 1/1/2019) at a total premium amount of \$146,447.

Mr. Smith said the City of Rincon has had some difficulty with our worker's compensation. The premium last year was \$62,000 and we anticipated a true up of \$20,000. We have a quote from GMA and included in the packet is where BITCO, our current insurer, has elected to withdraw. The other price was from Key Risk at \$192,383, which is even worse. Councilmember Browher said we need to come up with a policy to get the claims under control and implement it with an iron fist, this is out of control. Councilmember Scott said employees need to know we have an issue and they need to know the cost and that it affects raises and benefits. Mrs. Kelly asked Council if they wanted a time limit on when the worker's compensation policy would need to be presented to Council, Councilmember Daniel said sixty days should be sufficient. Attorney Dickey asked Council what exactly are they asking for, what policies are they talking about. Councilmember Dasher said what he has been asking for is procedures to improve the accidents we are having. Mayor Lee said we need two things, procedures that would establish what a safe working environment is and a policy that establishes a discipline for people that are not following proper safety procedures that includes discipline up to and including termination. Chief Rahn said he has always had a verbal policy to go to the emergency room and if it just a cut go to one of the local immediate medical facilities. He wanted to know what Council expected because most of the firefighter accidents are not avoidable and are in unsafe environments. Councilmember Dasher said we have more recordables than Georgia Pacific and they have 1500 people and we only have 75. Chief Rahn wanted to know if Council wanted to pay more out of pocket and send people to an Immediate Med. Councilmember Wendelken said it is not about that one big claim, we are filing claims and worker's compensation is paying \$200 and \$500 claims. There was discussion on what we should file and how we should fill

out the forms. All accidents need to be recorded. Councilmember Dasher said we should have an investigation on how we can prevent accidents from happening again.

Motion to approve: Councilmember Ricker

Second: Councilmember Dasher

Vote by Council: Unanimous

2A. Consideration of Council meeting dates for January 2018.

Mr. Smith said because of several conflicts he would like to recommend some changes for the January meetings. The Charter calls for the swearing in to occur on the first business day of the year and he would like to have a called meeting at that time and cancel the January 8th meeting. We would normally meet again on January 22nd but several individuals are going to Mayor's Day at the Capitol so he recommends moving that to January 29th and as a reminder there is a January 16th special called meeting. There were several conflicts, so the January 2nd meeting will start at 8:00 PM and the January 16th meeting will start at 7:00 PM.

Motion to approve: Councilmember Ricker

Second: Councilmember Scott

Vote by Council: Unanimous

3. Administrative Reports:

City Manager – Mr. Smith said at the Eggs and Issues breakfast he grabbed Wesley Corbitt beforehand and asked to speak to him afterwards. He, Mr. Corbitt, Steve Davis, Brett Bennett and Trey from the IDA had a good discussion. He picked up a check from the County for \$270,000 for the tax money, they are behind on the fire fees, they talked about the roundabout and Grandview and a little bit about the east west connector and OmniTrax. He also talked about when they could get together to have a joint meeting on Service Delivery.

Councilmember Dasher asked what year the \$270,000 was covering; Attorney Dickey said it is for 2016/2017. Attorney Dickey the tax forms that were sent to the Tax Commissioner did show there was 1.75 mil increase for Recreation and Roads in the unincorporated areas. There was no decrease for incorporated area but the unincorporated did see an increase.

Fire Department - No written report.

Building/Zoning Dept. – Mrs. Kelly said she has had several conversations with Mr. McBride and he did not drop off his proposal. She also said there was some activity at the shop so she called Mr. McBride and he said he has been going back and forth to get his tools.

Mayor and Council – Councilmember Ricker said she had a complaint on social meeting about a wild party at the MaComber Building and at 12:45 AM the resident said they were

still partying, Mr. Smith said the renters will not be refunded their deposit. Council said Police should be patrolling the City buildings when they are occupied.

Councilmember Scott said there are people leaving trash cans on the curb on a permanent basis and we need to stop that. We need to start passing out notices and fines.

Councilmember Browher asked were we still working on Ridgewood, Attorney Dickey said yes.

4. Executive session to discuss personnel, pending litigation, attorney client privilege, and real estate.

Motion: Councilmember Ricker

Second: Councilmember Daniel

Vote by Council: Unanimous

Motion to return to meeting: Councilmember Ricker

Second: Councilmember Dasher

Vote by Council: Unanimous

5. Follow the statutes of executive session, to put on file an executive session affidavit and resolution.

Motion to approve: Councilmember Ricker

Second: Councilmember Daniel

Vote by Council: Unanimous

6. Take any action that is needed on the items from executive session.

No action taken.

Adjourn:

Motion to adjourn: Councilmember Dasher

Second: Councilmember Daniel

Vote by Council: Unanimous