

December 16, 2008

The regular meeting of Town Council was held on the above date at Town Hall, all requirements of the Freedom of Information Act having been satisfied:

Present were: Carl J. Smith, Mayor  
Pat O'Neil, Mayor Pro Tem  
Buddy Howell, Councilman  
Jerry Kaynard, Councilman  
Mike Perkis, Councilman  
Mary Jane Watson, Councilwoman

The Pledge of Allegiance was led by Mayor Smith, followed by the invocation by Councilman Howle. There were 32 members in the audience including two members of the media.

The floor was opened for comments from the citizens. Julia Khoury, 1728 I'on, stated she was against adding members to the Planning Commission. Bill Lynch, 1814 I'on, stated he previously applied for the Planning Commission. He is concerned about the make-up of the commission, and the process moving along too quickly. Henry Hagerty, 2213 Myrtle, stated the problems in the commercial district are not just noise, but also drunk people. He also was concerned about an incident near his home involving a man who supposedly matched his description according to police, following a woman in the area. Craig Bennett, Jr., Station 23 & I'on Avenue, stated he had been a summer resident for 55 years and is concerned about the island becoming a destination for drinking. Jeep Place, 2256 Myrtle Ave., stated he does not have a problem with noise; that Council tends to only listen to a few people. Sonny Enloe, who lives behind Dunleavy's Pub, suggested a survey be sent out to all residents concerning the commercial district activity. He also stated that he spoke directly with Harry Seels concerning the loud bass level of music, and the situation has improved dramatically. Susan Romaine, 7 Conquest, stated there is a safety issue when driving down Middle Street in the commercial district. She also stated that if the membership of the Planning Commission was increased, it would open it up for anyone to apply. Loren Ziff, 1412 Thompson, inquired as to when the final report on the commercial district would be available. Councilman O'Neil responded that they will be reviewing the draft tomorrow, and will have a better idea at that point. Ann Smith, 2307 Atlantic, stated she takes Jasper Avenue to go home at night so she does not have to drive down Middle Street. Emily Abedon, 1758 Atlantic Avenue, stated there are similar noise problems around the Sand Dunes. There needs to be some balance in the situation. Paul Flaherty, 2208 Atlantic, questioned why restrict restaurants to the 300 feet? Mayor Smith responded that the other ordinance handles the rest of the commercial district. Barbara Flaherty added it is hard to get through people when driving on Middle Street at night. Bill Dunleavy stated that Sonny Enloe contacted him to try to resolve a problem or situation before calling the Police. Mr. Dunleavy added that he has had no complaints on the amplified music at Dunleavy's. He then gave a brief history of noise complaints from January

through November 2008. Rusty Bennett, 3124 Marshall, and an owner of Poe's, stated the vast majority of complaints are when patrons go to their cars; the other noise issues on the island are not in the business district. Larry Middaugh, 2420 Raven, stated that Sullivan's Island has not been a bar destination in the past, and it needs to be considered how to deal with drunk people when planning for the future. Madeline McGee, I'on Avenue, stated she and other neighbors are concerned about the bar activity, and that she has referred to the noise ordinance with the rental property next to her. She added that the number of complaints do not give the total picture, as people do try to work out problems without calling the police. Councilman Kaynard asked Chief Howard to respond to Mr. Hagerty's situation. Chief Howard responded that a woman walking her dogs thought she was being followed, and the man supposedly walked toward the area near Mr. Hagerty's house. The police officers visited Mr. Hagerty to question him. Mr. Hagerty stated that the police conduct was very professional, but the situation concerned him. Chief Howard added that he wants the entire island to be safe. He has increased the officers' patrols in the early morning hours when the bars are closing, and he welcomes any suggestions.

**Motion was made by Councilman Howle, seconded by Councilwoman Watson, to approve the Regular Meeting minutes from November 18, 2008, and Special Meeting minutes from November 18, 2008 and December 8, 2008, carried unanimously.**

#### **Reports and Communications**

**Motion was made by Councilman Howle, seconded by Councilman Kaynard, to approve a Resolution Honoring Myra Hills in Celebration of her 100<sup>th</sup> Birthday, carried unanimously.**

**General and New Correspondence – none**

**Attorney Report – no report**

#### **Board and Commission Reports –**

Planning Commission – Mr. Hal Currey presented a draft of the Comprehensive Plan to Council. He stated he will attend the next Real Estate Committee meeting to answer any questions.

**Administrator's Report**, Mayor Smith for Administrator Benke. The "Dear John" production crew completed the shoot on December 8, 2008 at Fort Moultrie. There were no issues or complaints associated with the event. The portion of Poe Avenue covered with dirt was property cleaned to the satisfaction of the Town. Council agreed that the Stimulus Plan list was accepted as presented. **Motion was made by Councilman Howle, seconded by Councilman O'Neil, to approve Dunleavy Pub's request concerning the Polar Bear Swim Event, carried unanimously.** Council also approved the special event request of Seel's on Sullivan's for the Polar Bear Swim, and

the Charlie Post Classic to be held on January 31, 2009. Chief Stith, Chief Howard and Administrator Benke will meet regarding the clarification of fencing area for the Polar Bear Swim.

**Ways and Means Committee**, Councilman Perkis. After discussion at the Committee meeting, Council decided to not approve the workers comp deductible resolution. Other discussion included no changes to the hiring plan for firemen, no Town Hall capital project, no hire of a Recreation Director or funding of Creative Spark activities; cancellation of ordinance codification; Councilwoman Watson will discuss the July 4<sup>th</sup> celebration funding with the Park Foundation, and search for outside donations for other holiday events before cutting from the budget. The decision regarding police equipment was put on hold. Council approved the shifting of funds to a Morgan Keegan CD for maximization of interest.

**Personnel Committee**, Councilman Kaynard. Monthly report rendered. Councilman Kaynard inquired if Council wanted to close Town Hall early on New Year's Eve. Mayor Smith stated he typically does visit Town Hall that day, and lets staff leave a little early.

**Water and Sewer Committee**, Councilman Perkis. Monthly reports rendered. A resident has been notified that Town Council will review the request to waive the basic facility charge with the staff. The definition of "buildable lot" will be discussed at the next meeting.

**Building and Construction Committee**, Councilman Howle. Monthly report rendered. Councilman Howle reported that activity has slightly increased.

**Fire Committee**, Mayor Smith. Monthly report rendered. The park and station lighting were held on December 5, 2008.

**Recreation Committee**, Councilwoman Watson. The annual Polar Bear Swim will be held on January 1, 2009. The Charleston Running Club will sponsor a 5-K run, 15-K run, and 5K walk on January 31, 2009. The next Park Foundation meeting will be December 28, 2008. Councilwoman Watson will discuss the July 4<sup>th</sup> fireworks celebration and the holiday lighting.

**Real Estate Committee**, Councilman O'Neil. Councilman O'Neil reported that Council received the Planning Commission's draft of the Comprehensive Plan, and will review it at the next Committee meeting. The Design Review Board has proposed an amendment to Section 21-109(F)(8) which would allow staff to approve minor alterations or changes to design after a Certificate of Appropriateness has been issued. Councilman Kaynard was concerned with the wording of the ordinance; however, it will be reviewed by legal counsel before forwarding to the Planning Commission for review. Motion was made by Council O'Neil, seconded by Councilman Perkis, to send to the Planning Commission for review and public hearing a proposed amendment to Section 21-109(F)(8) after review by the Town Attorney, carried unanimously.

**Police Committee**, Mayor Smith. Monthly report rendered.

**Streets and Maintenance Committee**, Councilwoman Watson for Councilman Presson. The SCDOT has approved street closures on January 1 and 31, 2009 for Island events. Staff met with the SCDOT and Charleston ROADWISE to discuss the 2009 paving of Middle Street. Drawings of all Town sewer line and water line replacement drawings will be provided to the various engineers.

### **Ordinances**

**Mayor Smith duly ratified Ordinance No. 2008-13, an Ordinance Amending Section 10 of the Code of Ordinances for the Town of Sullivan's Island to Revise Business License Fees for All Classifications.**

**Mayor Smith duly ratified Ordinance No. 2008-9, An Ordinance Amending Section 21-50 to Prohibit New Bars and Restaurants Within 300 Feet of Any Existing Bars and Restaurants Between Station 22-1/2 and Station 22 Streets.**

**Motion was made by Councilman Howle, seconded by Councilman O'Neil, to have Second Reading of Ordinance No. 2008-12, An Ordinance to Amend Chapter 21, Zoning, Article III, RS-Single Family Residential District, Section 21-26, Article IV, CC-Community Commercial District, Section 21-55 and Article XXI, Definitions, Section 21-203, Clarifying What Constitutes Impervious/Pervious Surfaces and Materials, carried unanimously.**

**Motion was made by Councilman Howle, seconded by Councilwoman Watson, to suspend the rules to have Third Reading of An Ordinance to Amend Chapter 21, Zoning, Article III, RS-Single Family Residential District, Section 21-26, Article IV, CC-Community Commercial District, Section 21-55 and Article XXI, Definitions, Section 21-203, Clarifying What Constitutes Impervious/Pervious Surfaces and Materials, carried unanimously.**

**Motion was made by Councilman O'Neil, seconded by Councilwoman Watson, to have Third Reading of An Ordinance to Amend Chapter 21, Zoning, Article III, RS-Single Family Residential District, Section 21-26, Article IV, CC-Community Commercial District, Section 21-55 and Article XXI, Definitions, Section 21-203, Clarifying What Constitutes Impervious/Pervious Surfaces and Materials, carried unanimously.**

**Motion was made by Councilman O'Neil, seconded by Councilman Howle, to defer Second Reading, Ordinance No. 2008-11, An Ordinance to Amend Section 14, Offenses-Miscellaneous, Sections 14-16(D) and 14-16(E) Noise; Sound Producing Devices in Retail Establishments, Pertaining to Noise Generated by Deliveries to Retail Establishments, carried by a vote of five, with Councilman Kaynard abstaining.**

**Motion was made by Councilman Howle, seconded by Councilman O'Neil, to have Third Reading of Ordinance No. 2008-10, An Ordinance to Amend Chapter 21, Zoning, Article XVI, Nonconformities, Section 21-49 (H), Historic Buildings, Pertaining to the Non-Conforming Status of Designated Historic Buildings Providing that Conforming Status May Apply to Height, Setback, Yard, Area and Other Dimensional Requirements Only; and that Alteration or Removal of Architectural Features and/or Historic Fabric May Result in the Loss of Historic Designation and Conforming Status, carried unanimously.**

**Motion was made by Councilman O'Neil, seconded by Councilman Kaynard, to have Third Reading, Ordinance No. 2008-8, An Ordinance Amending Section 17-3 Planning Commission Membership; Terms; Vacancies, to Add an Eighth and Ninth Member. Councilman Kaynard made a motion to defer the reading of this Ordinance until after executive session; there was no second to the motion.**

Councilman Kaynard stated his understanding at the last Council meeting was that they had consensus to have this reading when Council was all present. Mayor Smith replied that he understood to hear this reading at the beginning of tonight's meeting because Councilwoman Watson needed to leave the meeting early. At that time, it was unknown that Councilman Presson would be late to tonight's meeting. Councilman Howle stated that Council members know the will of Council, and procedurally Council must proceed with this Ordinance. If four members support the ordinance and three do not, then Council should not hamstring it. Mayor Smith noted that he would have voted against the ordinance at the first reading and the ordinance would have failed at that time; however, he agreed to give it first reading. **Motion was made by Councilman Kaynard, seconded by Councilwoman Watson, to table the existing motion. Motion failed by a tie vote, with Mayor Smith, Councilman O'Neil, and Councilman Perkis casting the nay votes. Back to the original motion by Councilman O'Neil for Third Reading of Ordinance No. 2008-8, An Ordinance Amending Section 17-3 Planning Commission Membership; Terms; Vacancies, to Add an Eighth and Ninth Member; motion failed by a tie vote with Mayor Smith, Councilman O'Neil, and Councilman Perkis casting the nay votes.**

**Motion was made by Councilman Howle, seconded by Councilman O'Neil, to go into Executive Session at 7:45 p.m., carried unanimously.**

Councilman Presson entered the meeting at this time.

Upon returning to Regular Session, Mayor Smith noted that no action or votes were taken during Executive Session. Councilman Kaynard requested to place the amendment to increase the Planning Commission membership from seven to nine members on the January agenda for first reading.

There being no further business, the meeting was unanimously adjourned.

Respectfully submitted,  
Ellen McQueeney