

May 20, 2014

The regular meeting of Town Council was held on the above date at 6:00 p.m. at Town Hall, all requirements of the Freedom of Information Act having been satisfied:

Present were: Jerry Kaynard, Mayor Pro Tem
Chauncey Clark, Councilman
Hartley Cooper, Councilwoman
Susan Middaugh, Councilwoman
Pat O'Neil, Councilman
Mary Jane Watson, Councilwoman

Mayor Pro-Tem Kaynard led the Pledge of Allegiance, followed by a prayer by Councilwoman Watson. Town Hall was full of residents, and also two members of the media.

I. FORMAT – Mayor Pro-Tem Kaynard opened the floor for comments.

Harriet McDougal, 2429 Atlantic Ave., complained of the pine trees in the accreted land near her house, and that they should not be considered part of the maritime forest.

Julia Khoury, 1728 I'on Ave., questioned why there were designated units of the accreted land but they are considering a consistent 100 foot transition zone across all units. The transition zone should be according to science and research of each unit.

Norman Khoury, 1728 I'on Ave., stated he agreed with his wife, Julia Khoury.

Wayne Stelljes, 3104 I'on Ave., suggested everyone should be open-minded, as it will not be possible for all to receive exactly what they prefer for the accreted land transition zone.

Tim Reese, 305 Station 20, stated he was in support of the 100 foot transition zone, as it is fair and equitable. He added the property owners should pay for the management of it by the Town.

Michael Mithoefer, 407 O'Neil Court, inquired if the decision on fees for the filming ordinance had been determined and also if they would no longer be able to have photo shoots on their dock. He stated he also agreed with the comments of Julia and Norman Khoury tonight.

Mark Howard, 1820 Central Avenue, stated there are many questions to be answered about the transition zone including who manages it, plants it, and what can be planted.

Barbara Spell, 1702 Atlantic Ave., commented on the trial regarding the Sullivan's Island Elementary School. She stated the ruling by Circuit Court Judge Dennis was that Sullivan's Island Town Council violated South Carolina law when they decided to ignore a 2011 citizens petition. In his ruling he said only a court can decide the validity of a petition, and that Town officials do not have that authority. She continued that an incorrect message was being said by the Town because the judge ruled that the actions of Town Council were in violation of S.C. State law. The judge also stated the written ruling will make everything clear.

Steve Poletti, 1771 Atlantic Ave., stated he would like to see the accreted land on the island as Edgar Allan Poe described the island in *The Goldbug*, that not a tree of any magnitude was to be found on the island. He also questioned if it is worth the Town selling marsh front lots in order to pay legal expenses for the accreted land.

Barry Krell, 2713 Bayonne Ave., stated it was his understanding the transition zone was up to 100 feet maximum, and each zone would be considered individually by experts hired by the Town to make decisions according to the area.

Edward Robinson, 1901 I'on Ave., stated he attended the trial, and suggested that

the Town include a formal summary of the complaint and ruling as part of the Council minutes in the near future.

Lovic Waring, 2214 Myrtle Ave., stated that a few years back when owners were allowed to cut, everything was cut to five feet and it ruined everything. Now it has grown into a huge jungle. She said that the problem is when some owners do not obey the rules and illegally cut on the weekend when people are not around to report it.

Councilman Kaynard responded to comments regarding the school referendum case. He was at the trial both days and also was a witness representing the Town of Sullivan's Island. Shortly after Judge Dennis announced his decision, the media contacted both Mayor Pro-Tem Kaynard and other Council members. Because Mayor Pro-Tem Kaynard was involved with the press release, he informed the audience what happened in court. The judge first ruled that there was no obligation by the Town Council of Sullivan's Island to call a referendum or vote on the petition and ordinance that was presented to the Town. He ruled that the initiated ordinance was facially defective; therefore, it was invalid and it could not be implemented by the Town. The judge further said that the actions by the Town were lawful and that the Town did not take any action that was incorrect. Finally, the judge found there were no rights violated to any citizen of Sullivan's Island by the actions of Town Council. He also stated the residents and plaintiffs who pursued the case have had an opportunity to voice their opinions in court.

Mayor Pro-Tem Kaynard continued because this was the oral ruling, there are differing opinions of the ruling. However, there was never anything said by Judge Dennis that could have been construed that the Town had acted illegally. The written ruling will be issued at which time everyone can read the actual words of Judge Dennis. That opinion will be the rule of law for that case. He continued that for the last two years the case has been about having a vote in a referendum. However, when it went to court the plaintiffs in the case withdrew that claim for a referendum and a vote; they did not pursue that before the judge at the trial.

Resident Karen Coste challenged his statements regarding the ruling. Mayor Pro-Tem Kaynard responded that it was not time for responsive discussion, and the written opinion will give an answer to any questions.

II. COUNCIL ACTION ITEMS

- 1. 1. Motion was made by Councilman O'Neil, seconded by Councilwoman Middaugh, to approve the Minutes of the April 22, 2014 regular meeting and the May 12, 2014 special meeting.**
- 2. Motion was made by Councilman Clark, seconded by Councilwoman Watson, to approve A Resolution to Adopt Record Retention Policy, carried unanimously.**
- 3. Motion was made by Councilwoman Middaugh, seconded by Councilman Clark, to have First Reading of Ordinance No. 2014-04, An Ordinance to Adopt the Water and Sewer Operating Budget for Fiscal Year 2015, carried unanimously.**
- 4. Motion was made by Councilman O'Neil, seconded by Councilman Kaynard, to defer Second Reading and Ratification of Ordinance No. 2013-09, An Ordinance Amending Section 14-25 of the Code of Ordinances for the Town of Sullivan's Island to Revise Franchise Fees for Filming, Video Taping, and**

Still Photography for Commercial Purposes; and, to Add Language Prohibiting Filming of Any Type within the RC-1/RC-2 Zoning Districts or on the Beach, carried unanimously.

5. 5. Approval of Recommendations for Transition Zone Component of the Protected Land

Management Plan – Councilman Clarke stated the transition zones should have a consistent line. The discussion at the last meeting showed the transition zone ranged from 40 to 100 feet. The beach changes continuously through erosion/accretion, along with a changing critical line, so he stated the transition zone should be 100 feet for all zones.

Councilwoman Middaugh stated that she was in favor of moving forward with the transition zones, although the transitional zones should be proportional to the depth of the zone. If all zones were 100 feet, it would be hard to exercise discretion. Also, she wanted the plan to have more consideration of the critical line.

Councilman O'Neil gave a timeline overview of events in the accreted land, beginning in 2007. He reported that the Land Use and Natural Resource (LUNR) Committee had a good discussion of the transitional zone depth at its meeting last month. He continued that it needed to be decided how to manage and maintain the transitional zone. Also, if it is decided to be 100 feet, how to allow for elasticity in zones that run out of beach before reaching 100 feet. He proposed to schedule the next LUNR Committee meeting for more discussion on this and to develop a plan.

Mayor Pro-Tem Kaynard stated the Phase I and Phase II lists of projects in the accreted land were adopted in October 2013. Some of the projects had been implemented such as the removal of invasive species and the path project off of Station 16 beach path. The transition zone was one of the items on the list. He stated they were trying to search for a formula/method to produce a transition zone that would be fair and equitable to different parts of the island and accreted land. This is just one piece of a comprehensive plan for the accreted land.

Councilman Clark stated he had prepared a motion. It included information from the last meeting concerning a 100 foot transition zone, as well as how to manage and supervise the area.

Motion made by Councilman Clark, seconded by Councilwoman Watson that the depth of the transition zone be 100 feet in the accreted land for each of the following management planning units: Unit/Zone 1 (West); Unit/Zone (West Central); Unit/Zone 3 (East Central), Unit 3A and 3C; Unit/Zone 4 (all). No transition zone is being proposed for Planning Unit 3B at this time, which is in front of the Sullivan's Island Elementary School. Provided, that the transition zones are subject to increase in size by adjustment of the seaward boundary line by up to twenty (20%) percent of the gross transition zone by the Land Use and Natural Resource Committee for site specific conditions. The management strategies for each unit should be Unit/Zone 1(West); Units/Zones 2, 3A, 3C and 4: Remove all species except priority trees. Manage as a maritime grassland while protecting Priority trees. Priority trees in the transition zone are defined as Live Oak, Southern Magnolia and Palmettos, measuring a diameter of at least sixteen (16) inches at four and a half (4-1/2) feet above grade.

Councilman O'Neil stated that this was the first time he had heard of this and was not ready to support it; however, he might be able to after discussion.

Mayor Pro-tem Kaynard expressed he did not believe there was anything new that was not discussed in the Land Use and Natural Resources Committee, with the exception of the tree diameter.

Councilman O'Neil stated it was never decided in the Land Use and Natural Resources Committee what species of trees, the diameter of trees, the definitive 100 foot zone, or the 20% adjustment provision. The discussion had been for a transition zone range of 40 to 100 feet; clearing out the understory; and the trees species list was never intended to be a restrictive list. He stated he did not understand the urgency of voting on this motion, and he had concerns of Council violating its own procedures because it was not appropriate for this to first be introduced at a Council meeting without ever going through the Committee process.

Councilwoman Middaugh agreed with Councilman O'Neil. She then requested that Councilman Clark change his motion to reflect only the portion of the 100 foot transition zone, as that is what the public expected Council to vote on tonight.

Motion was made by Councilman Clark, seconded by Councilwoman Watson to amend the motion to stop after the provisional statement. Therefore, the amended motion would read:

That the depth of the transition zone be 100 feet in the accreted land for each of the following management planning units: Unit/Zone 1 (West); Unit/Zone (West Central); Unit/Zone 3 (East Central), Unit 3A and 3C; Unit/Zone 4 (all). No transition zone is being proposed for Planning Unit 3B at this time, which is in front of the Sullivan's Island Elementary School. Provided, that the transition zones are subject to increase in size by adjustment of the seaward boundary line by up to twenty (20%) percent of the gross transition zone by the Land Use and Natural Resource Committee for site specific conditions.

Councilwoman Middaugh asked the wording to be changed to "up to 100 feet", or "a maximum of 100 feet". This wording was not changed.

Councilman O'Neil stated that this motion is substantially different than what the Land Use and Natural Resources Committee had discussed.

Mayor Pro-Tem Kaynard stated Council had a right to change any recommendation by a Committee, so this is proper as presented to Council. He called for the vote.

Motion to amend carried by a vote of 4-2, with Councilwoman Middaugh and Councilman O'Neil casting the opposing votes.

Motion was made by Councilman Clark, seconded by Councilwoman Watson to approve the motion as amended, carried by a vote of 4-2, with Councilwoman Middaugh and Councilman O'Neil casting the opposing votes.

6. Approval of Tree Removal Plan for Stith Park – Councilwoman Watson stated that twenty years ago, Oak and River Birch trees were given to place in the park. Since that time, the River Birch trees have died. The River Birch trees will be replaced with other types of trees. The two Bradford Pear trees to be removed will not be replaced. Seven Live Oak trees will be removed, and six will be replaced in different areas. **Motion was made by Councilwoman Watson, seconded by Councilwoman Middaugh, to remove the trees designated with a red triangle on the Stith Park tree survey dated May 20, 2014, carried unanimously.** Councilman O’Neil stated that none of these trees were being removed for the new Town Hall. Councilwoman Watson agreed and stated that the *Island Eye News* reported that the trees to be removed were marked with a red ribbon. Because there has been manipulation of the red ribbons in the park, the Stith Park tree survey will be placed on the website to indicate the actual trees being removed.

III. REPORTS AND COMMUNICATIONS

1. General and New Correspondence – Correspondence was received from Father McInerney regarding traffic issues; Marie-Louise Ramsdale about St. Patrick’s Day activities; Paul Flaherty expressing appreciation for the Maintenance department; the Island Turtle Team’s May Newsletter; the National Park Service regarding the National Civil War Commemoration; and dozens of residents messages regarding the Accreted Land Management Plan transition zone width.

2. Attorney Report - There was no Attorney report.

3. Boards and Commissions –

Planning Commission – Report included highlights of the last meeting; and the next meeting will include a public hearing for the proposed text amendments to allow coffee shop uses and define other food service establishments within the community commercial zoning district.

IV. COMMITTEE REPORTS

Finance Committee – Mayor Pro-Tem Kaynard for Mayor Perkis. Monthly report rendered. Fiscal year as of April 30th the Town has received approximately \$1.68 million in property tax revenue and \$896,700 in business license revenue. The Town sold an empty lot for \$605,000 with the closing in the month of April. The cost of relocation and operation of the temporary Town Hall as of April was \$315,300. The cost of the temporary Town Hall is approximately \$4,000 per month. The cost for the design and construction of the new Town Hall as of April was approximately \$44,000.

Public Safety Committee – Councilman Clark. Monthly reports rendered. The Isle of Palms and Sullivan’s Island Public Safety departments will host the annual Emergency Preparedness Meeting at Isle of Palms Fire Station One on May 21, 2014.

Water and Sewer Committee – Councilwoman Middaugh. Monthly reports rendered. The SRF funding for the I&I project is out to bid.

Administration Committee – Mayor Pro-Tem Kaynard. Monthly report rendered. The Maintenance Department hired two part-time temporary employees for the summer; and the Police Department has hired one part-time temporary beach services officer for the summer. Town Hall offices will be closed on Monday, May 26 in observance of Memorial Day. Essential services will remain available and fully staffed.

Land Use and Natural Resources Committee – Councilman O’Neil. Monthly report rendered. The accreted land transition zone was discussed earlier in the meeting. A Public Hearing regarding the Comprehensive Plan will be held on June 17, 2014 at 6:00 p.m., followed by the regularly scheduled Council meeting.

Public Facilities Committee – Councilwoman Cooper. Monthly report rendered. Councilwoman Cooper reported that she and Administrator Benke attended a school construction meeting today, and construction is on schedule. She will get a date for the tour of the school.

Recreation Committee – Councilwoman Watson.

Stith Park Tree Plan - The Stith Park tree plan was discussed earlier in the meeting.

Independence Day – All the activities have been planned for July 4th, and they will be the same activities as last year.

Island Club – The Island Club is not planning to renew its lease with the Town. Councilwoman Watson met with Administrator Benke and Comptroller Blanton to discuss a potential budget, and possible revenue-generating ideas. If the Town does manage the activities at the Island Club, she asked Council to think about how it would be handled. In past years Council has discussed a part-time Recreation director. This person could handle the bookings for private rentals and some responsibilities of the front desk at Town Hall. The Administration and Recreation Committees will meet to further discuss and bring back to Council.

Motion was made by Councilman Clark, seconded by Councilwoman Watson, to go into Executive Session at 8:07 pm for Legal – Update by Town Attorney regarding proceedings to date on Bluestein v. SI 10-CP-10-5449 and Contractual - Raven Drive Lot Sales.

Upon returning to regular session, Mayor Pro-Tem Kaynard stated that no votes or action were taken in Executive Session.

Motion was made by Councilman Clark, seconded by Councilwoman Watson to adjourn, carried unanimously.

Respectfully submitted,



Ellen Miller