

November 15, 2011

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
Michael Perkis, Mayor Pro Tem
Hartley Cooper, Councilwoman
Jerry Kaynard, Councilman
Madeleine McGee, Councilwoman
Patrick O'Neil, Councilman
Absent: Mary Jane Watson, Councilwoman

Motion was made by Councilman Perkis, seconded by Councilman O'Neil, to go into Executive Session at 5:05 pm for legal advice concerning 1) S.C. Code 5-17-10 et seq (referendum) and Sullivan's Island Code 21-117 (short term rental), carried unanimously.

Motion was made by Councilman O'Neil, seconded by Councilwoman McGee, to come out of Executive Session, carried unanimously.

Mayor Smith called the public hearing to order for the annual Charleston County Community Services presentation of the urban entitlement program by Ms. Janna Murray. Councilman Perkis, who serves on their Board, added that Charleston County was noted as being the Best Practice County for the five year plan, which outlines the objectives and goals of the five-year funding. He continued that the funding primarily goes to the low and low-middle income, so Sullivan's Island does not typically qualify for funding. Councilman Kaynard stated that he serves on the Board of the pro-bono legal services, a non-profit organization that receives funding through this program.

The Pledge of Allegiance was led by Mayor Smith, followed by a moment of silence. Town Hall was paced with citizens and no members of the media were present.

Mayor Smith presented Margaret Skinner with a Resolution of Appreciation for her years of service to the Tree Commission.

Mayor Smith presented Jeri England a Resolution of Appreciation for eight years of service as a librarian at the Edgar Allen Poe Library.

Mayor Smith presented the department heads with a Resolution of Appreciation for the life saving and service efforts during recent events by Town Staff.

Councilman Kaynard acknowledged that former Councilwoman Alys Anne Weideke was in the audience tonight.

The floor was opened for comments from the public.

Kelly Messier, 2730 I'on Avenue, stated she was the landscape architect for homeowners Tim and Melissa Kelly at 1456 Thompson Avenue, and commented on the removal of the sidewalk in front of their property. (The 50 foot sidewalk was actually destroyed during demolition of the previous home). She stated the Kelly's and Danielson's were led to believe that permission to remove the sidewalk was given to them in 2007 and 2010 by both the Town and the Department of Transportation. The Kelly's have completed their driveway and landscaping without reinstalling the 50' section of sidewalk, and only grass is planted where the sidewalk had been. She continued that this was not a sidewalk because it did not connect to anything, it was dangerous as well as an eyesore, and was not ADA compliant. It was initially discussed with Administrator Benke and Building Official Randy Robinson in July 2010. The SC Department of Transportation told Mr. and Mrs. Kelly that they did not want the sidewalk removed in front of 1456 Thompson unless it was also removed from 1460 Thompson. Bill Danielson is the owner of 1460 Thompson and did not object to the sidewalk being removed. Ms. Messier said that an encroachment permit was received from SCDOT in September 2011 with permission to remove, and also was asked to obtain letters from neighbors Red Wood, Bill Danielson, and Eric Dodson, as well as the Town. Mr. Benke stated the letter was to go before Council in October 2011.

Mr. Robinson distributed the ordinance concerning "right of ways" but there is nothing specific about sidewalks in the ordinance. It does say if a sidewalk is damaged, it needs to be repaired. He also stated that the Certificate of Occupancy has not been issued on the house at 1456 Thompson Avenue. The Kelly's have planted only grass where the sidewalk was, so it is available as a right of way for parking.

Councilwoman McGee stated she heard before that the homeowners had not been given permission to remove the sidewalk and did not want to set a precedent. She wanted staff to look at the Town's past actions regarding sidewalks. She questioned if the sidewalk is removed and it still remains a right of way, what could it be used for in that regard – would it be for parking? And, if the sidewalk is removed, perhaps the homeowners on the entire street should be given the right to remove their sidewalk because it does not make sense to have bits and pieces of sidewalks.

Councilman Perkis stated he first voted, as everyone did, to deny not replacing the sidewalk because he was concerned about precedence. Council and staff have spent time requiring residents to take landscaping out of the right of ways for reasons of parking and safety. At this time, he stated that the sidewalk did not add value to anyone walking on the small street.

Councilman O'Neil asked Administrator Benke to comment on his interaction with the subject. Administrator Benke stated the Department of Transportation's comment was needed because it is their sidewalk and their road; then make a request before Town Council. The encroachment permit should say it is subject to local jurisdiction.

Councilman Kaynard commented that while there might have been misunderstandings in the process, the sidewalk is not very useful and might have been dangerous. The removal was an improvement for everyone, and may not make sense for Council to impose a requirement. Councilwoman McGee added that if Council approved this removal, perhaps they should approve for everyone on the street.

Councilwoman McGee made a motion, seconded by Councilman Kaynard, that Council make an exception to let this stand and not require the sidewalk; and that the remaining property owners in that block be notified that it is a possibility to remove their sidewalk if they choose. Councilman Kaynard agreed that Council should belatedly approve the removal of the sidewalk, but not necessarily ask every homeowner if they want to remove their sidewalk, as this is a unique situation, as well as an improved situation.

Councilman Perkis made a motion to amend Councilwoman McGee's motion to specifically approve the removal of sidewalk of 1456 Thompson Avenue and 1460 Thompson Avenue. Amendment seconded by Councilman Kaynard, carried unanimously. The motion, as amended, carried unanimously.

Special Olympics representative Paula Byers, and her colleague, Eddie Gregory, thanked the Sullivan's Island community, Town Council, and Dunleavy's Pub for embracing the Special Olympics and Polar Bear Swim. Over \$50,000 was raised last year, and the money goes toward the Special Olympics held at The Citadel each year. Bill Dunleavy of Dunleavy's Pub stated that this is the 18th year of the Polar Bear Swim, and he is requesting the time of the swim to be at 1:00 pm. He continued that he was concerned about the liability insurance policy the restaurants were required to have to participate in this event. He asked that Council consider using the January 2012 hospitality tax money to cover the cost of the police officers.

Council agreed that the swim could take place at 1:00 pm, and that the liability insurance special event policy should be for \$1 million per restaurant or \$3 million collectively. Ms. Byers stated that Special Olympics will have a \$1 million on the Dunleavy property and a representative of Home Team Barbeque Restaurant stated they have a \$2 million policy now and have already added the Town of Sullivan's Island for the special event at \$1 million. Therefore, the insurance matter is resolved. Drew Harris of Café Medley stated that his insurance office states he is covered and does not need a special event policy. As for the hospitality tax, Councilman Perkis stated the tax is paid by the patrons, not the restaurants; and currently the hospitality fund has already been budgeted for the year.

Barbara Spell, 1702 Atlantic Avenue, stated she was pleased with the previous dialogue concerning the sidewalk and Polar Bear swim; but it was more discussion than had ever occurred on the school matter, and she would love to see this type of dialogue regarding the school.

Wayne Guckenberger, 2105 Pettigrew Street, stated the one-day insurance policy needs the Town of Sullivan's Island to be the named insurer; not the additional insurer. He also commented on the accreted land, proposing that the maintenance and rationale for the accreted land fronting the

Pettigrew Street Unit 3C be identical to the maintenance and rationale for the accreted land fronting the Bayonne Street Unit 4.

Jo Hutchinson, 2663 Bayonne, inquired how it will be determined what houses will have trees left in front of it in the accreted land.

Skip Scarpa, 2102 Atlantic Avenue, stated he put stakes at the four corners of where the new school will be, and invited everyone to take time to go look at it.

Barbara Spell, 1702 Atlantic Avenue, stated that one school board member told her that the conceptual drawings from the last public meeting that Ms. Spell sent to her were not like the proposed school building. There was discussion regarding different versions of the drawings on various websites. Mayor Smith commented that Council should hear something from the architects in December.

Mark Howard stated it was a ghastly rendering and the architectural firm was off-base. Council should tell the school district that a new architectural firm should be used because that drawing cannot be improved.

Councilman Perkis reminded the audience that the lease gives Town Council the final say in the design.

Motion was made by Councilwoman McGee, seconded by Councilman Kaynard, to approve minutes from the regular meetings on September 20, 2011 and October 18, 2011, carried unanimously.

Reports and Communications

General and New Correspondence – Correspondence was received from the Historic Charleston Foundation regarding the proposed plans of the new school; from Kernodle Root & Coleman regarding the intent to incorporate the City of James Island; from Wayne and Katherine Guckenberger requesting a change to the proposed management plan for the accreted land; and from Jenny Sanford regarding the proposed management plan.

Attorney Report – Attorney Dodds stated Council had before them a proposed Order of Town Council to overturn the use variance granted to property at 2063 Middle Street by the Board of Zoning Appeals. Councilwoman McGee stated it appears there are no written policies about the definition of physical expansion, and would like that to be addressed before there are additional requests. Councilman O’Neil stated it should be added to the Real Estate Committee at some point, as it is an interpretation of the Zoning Ordinance. Mayor Smith signed the Order of Town Council, Permit Application No. 2011-1085.

Mayor Smith stated there was also the school referendum to consider. **Motion was made by Councilman Kaynard, seconded by Councilman O’Neil, that Council direct the Town Attorney to bring a declaratory judgment action for interpretation and clarification of the petition for referendum on**

the Sullivan’s Island Elementary School and whether or not the referendum should be held, carried unanimously. Attorney Dodds stated this will be expedited as quickly as possible.

Boards and Commission Reports –

Board of Zoning Appeals – Attorney Dodds reported that the attorney for 2063 Middle Street asked for a re-hearing of the Board’s original decision, and it is a legitimate application if it is timely. Attorney Derk Van Raalte will determine if the appropriate timeframe was met.

Administrator’s Report, Administrator Benke. The Charleston County Community Services public hearing was held earlier this evening. The special event request concerning the polar bear swim was held during the public comment section. The nationwide emergency alert was held on November 9, 2011. The Sullivan’s Island emergency alert system was tested also on November 9 and the regular testing time on November 12.

Ways and Means Committee, Councilman Perkis. Monthly report rendered. Councilman Perkis commented that the Town receives approximately \$240,000 in hospitality and accommodation taxes. Last year the Town spent \$300,000; therefore, \$60,000 was taken out of reserves. This year about \$214,000 is budgeted. The total budget probably will not be balanced due to expenses for the new Town Hall building, and reserves will need to be used again. The hospitality fund is spent on projects that are entirely appropriate such as street markers, roads, along with Fire and Police expenses.

The interpretation of the cell tower lease agreement has been determined and the decision is being negotiated. The company was correct and they wanted their money back for the last 18 months. The Town is going to give back about \$3,500 per month until about \$40,000 for the year. The Town was receiving about \$60,000 per year, so we will be about \$20,000 short. Attorney Dodds stated the negotiation has not yet been completed.

The negotiations on the new telephone system with Windstream are complete and it will save the Town about \$1,500 per month.

Personnel Committee, Councilman Kaynard. Monthly report rendered. The Audible Alert system continues to be tested and is working properly. Water and Sewer Manager Greg Gress has recommended change of status for Tyler Potter from General Laborer to Operator Trainee with the appropriate salary change. **Motion was made by Councilman Kaynard, seconded by Councilman Perkis to approve the change of status of Tyler Potter with the appropriate salary change, carried unanimously.**

Water and Sewer Committee, Councilman Perkis. Monthly reports rendered. Correspondence received from consultant Raftelis Financial Consultants regarding the Town policy to assess a minimum monthly utility bill to owners of vacant lots will be shared with a resident questioning this policy. The language for the zoning ordinance pertaining to the commercial district overlay districts is being discussed, and should be ready for the December 5th meeting. Councilwoman McGee stated that the sequence should be you have to incur the cost of providing water and sewer, and that could be part of any collaborative effort to do it. If that requires an easement, and if that requires relocating taps, then

you can do those. That provides the language to do any one of the three options, and the ordinance should give all three options. Mr. Gress reported that the Town received the first check toward the awarded Energy Grant. He also reported that letters were sent to residents of Poe Avenue informing them of the new water lines to be installed in their area.

Building and Construction Committee, Councilwoman Cooper. Monthly reports rendered. The sidewalk removal on Thompson Avenue was discussed earlier in the meeting.

Fire Committee, Mayor Smith. Monthly report rendered. There was small fire at a residence on Patriot Street. Assistant Fire Chief McDaniel stated after talking with Building Official Robinson, the electrical wiring is substandard, and the owner will come back to the Town for permitting, or it will need to be torn down. Officer Mast discovered a fire on the porch at Sunrise Presbyterian Church at 1:45 am this past Saturday morning and alerted the Fire Department. Because of Officer Mast, the Fire Department had a much easier job in allowing them to extinguish the fire quickly.

Recreation Committee, Councilman Kaynard for Councilwoman Watson. The Park clean-up was November 13, 2011 and went well. Other items will be discussed at future meetings.

Real Estate Committee, Councilman O'Neil.

Consideration for a new Town Hall - The consultants have been working on the space needs information, and a meeting is tentatively scheduled with David Creech for Tuesday, November 22nd at 4:30 with the New Town Hall Building Committee.

Urban Greenbelt Grant Project – Administrator Benke and Attorney Dodds will meet to go over the terms of the contract.

Accreted Land Management Plan – The last workshop was held on Friday, November 4, 2011. The Real Estate Committee will have a special meeting on Friday, November 18, 2011 at 3:00 pm to review edits made on November 4th.

Open Space Protection for Town Parcels - Attorney Dodds and Councilman O'Neil will meet to discuss changed to the last version of the contract.

Island Club Structural Improvements – Councilwoman Cooper reported the committee continues to work on this.

Councilman O'Neil stated he wanted to add one item to the Real Estate agenda regarding how to proceed with the design review process of the school. Initially there was a three member review panel to be the initial point of contact with the architect. That panel consisted of Mayor Smith, and Design Review Board Members Pat Ilderton and Steve Herlong. At this point, he proposed a different method of addressing the Town's review of the design. **Motion was made by Councilman O'Neil, seconded by Councilman Kaynard, that Town Council serves as point of contact for initial review at each of the stages, and further Council invites the members of the Design Review Board to attend with them and allow them to participate, although the Design Review Board will not be making any decisions as a Board; and to dissolve the three member review panel, carried unanimously.**

The next meeting with the school architect is tentatively scheduled for Monday, Dec. 5th at 5:00 pm, and is open to the public but Town Council will not be soliciting public input at this time.

Police Committee, Mayor Smith. Monthly report rendered.

Streets and Maintenance Committee, Councilwoman McGee.

Dept. of Transportation Stop Sign at Station 22-1/2 and Middle Streets – Administrator Benke is setting up a meeting with Mr. Nesbit of the S.C. Department of Transportation.

Managed Parking –The agreement and scope of services from Bob Wallace of Tindale-Oliver and Associates is in Council’s agenda packet. Councilwoman McGee stated when this was first approved, it was at \$9,000, and with an added public presentation, trip, and other details it is now \$12,000. Also, if Council decides after the completing the study it wishes to try testing between May and September, there will be additional funding needed to get ready for that test. Councilman Kaynard commented on the Exhibit A concerning why Items 1 j-k were not included in Phase I; the completion date; and the effective time frame. If Phase I work is presented at end of January, there is not much time before implementation in May. Councilwoman McGee stated Administrator Benke and Attorney Dodds should review, and thought that Administrator Benke could proceed without coming back to Council. **Motion was made by Councilwoman McGee, seconded by Councilman O’Neil, to approve a contract with Tindale-Olivers and Associates from \$12,000 plus expenses, carried unanimously.**

Motion was made by Councilman O’Neil, seconded by Councilman Perkis, to defer Second Reading of Ordinance 2011-06, An Ordinance to Amend Sections 21-9, 12, 19, 21, 22, 24, 27, 31,48,49, 50, 51, 52, 53, 54, 59 and 143 of the Zoning Ordinances for the Town of Sullivan’s Island. Councilman O’Neil stated that he wanted to defer for discussion at the next Council Workshop because he wanted clarification from the Planning Commission before Second Reading. **Motion carried by a vote of 5, with Councilman Kaynard abstaining.**

Motion was made by Councilman O’Neil, seconded by Councilman Perkis, to adjourn at 9:30 p.m., carried unanimously.

Respectfully submitted,

Ellen Miller
Town Clerk