

February 17, 2004

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: J. Marshall Stith, Mayor  
Carl J. Smith, Mayor Pro Tem  
Jane Ellen Herron, Councilwoman  
Patrick M. O'Neil, Councilman  
Alys Anne Wiedeke, Councilwoman  
William J. Wood, Councilman

The Pledge of Allegiance was led by Mayor Stith, followed by the invocation given by Councilman Wood. There were 37 private citizens present, and two members of the media.

The floor was opened for comments from the citizens. Mr. Bachman Smith presented Council with a Resolution concerning an agreement with The Nature Conservancy to allow six docks to be constructed in Rat Hall Creek. The Town is involved in this issue solely because it was a party to a lawsuit in 1978 wherein the permit issued for the construction of the State Ports Authority Wando Terminal was challenged. Pat Ilderton gave an update on the African American cemetery. The ground breaking is March 11, 2004. The lot has been cleaned, leaving a buffer for privacy. There will be a low fence; perhaps 1-1/2 feet, and a historical sign. They will do something if parking in the area becomes a problem. They are trying to raise funds for an escrow account to perhaps keep the Town from having to expend funds in years to come. A foundation plan needs to be submitted. Greg Gress stated that a water main runs through the property; he will take another look at it. Rick Graham of 2102 I'on asked how Council is going to handle Cooper Consultants suggestions. Councilman O'Neil stated that they had discussed at the committee meeting on how to proceed. Council met with Scott Parker, the chairman of the Planning Commission, and also received advice from the Town attorney about what needs to be done in order to convey those recommendations to the Planning Commission without invoking the pending ordinance doctrine. Cooper Consulting hopes to get final written recommendations to Council by the second or third week of March. Time should be allowed to decide what to send to Planning Commission and for advertising for the public hearing. Scott Parker recommended to have the entire package sent to the Planning Commission and they can decide best how to organize it. Tim Reese, 305 Station 20 questioned whether the Zoning Administrator could invoke the pending ordinance doctrine once the public hearing was advertised. Attorney Larry Dodds stated that in each given section that Council is not yet ready to invoke the pending ordinance doctrine, Council will put in the end of the section that it would take effect, for instance, thirty days after ratification. Mr. Prause does not invoke the pending ordinance doctrine until Council makes the decisions regarding the ordinance, which determines what Mr. Prause does.

The minutes of the January 20, 2004 meeting were approved as written.

Mayor Stith asked Attorney Larry Dodds his opinion concerning the Resolution presented by Bachman Smith. Mr. Dodds stated that although he does not know all the facts of the case, Jimmy Chandler is one of the foremost environmental lawyers in the state

and he has endorsed the agreement. Based on that, he told Bachman Smith that he would recommend Council to approve the resolution. However, as he reads the resolution he would like to make a disclosure that Bell Hall Plantation has been a client of his, and this might be a small conflict of interest, but he is not involved in this case, and bases his recommendation on the fact that Jimmy Chandler is endorsing it. Mayor Stith stated that Councilwoman Wiedeke represents the Save the Wando Group and has also signed off on it as one of the entities whose signature is needed.

Motion was made by Councilman Smith, seconded by Councilman Wood, to pass A Resolution to approve the agreement with the Nature Conservancy to allow six docks to be constructed in Rat Hall Creek in Mt. Pleasant, S.C., carried by a vote of five, with Councilwoman Wiedeke recusing herself from the vote.

A Resolution for the Adoption of the Revised Charleston Regional Hazard Mitigation Plan by Charleston County Council was approved.

A Proclamation of the Month of March 2004 as American Red Cross Month was approved.

New Correspondence - There was no general or new correspondence.

Attorney's report - There was no attorney's report.

Administrator's Report, Mayor Stith for Administrator Benke. The Fire Chief and Administrator toured the beach with Bill Wilkes of the Charleston Conservation District to identify area for sand dune fencing. An eight hundred foot area from Station 18-1/2 to Station 18 has been selected. The Town will dig the holes and install the posts; CCD volunteers will install the fencing on April 24, 2004. Members of Council and staff were invited to attend the HL Hunley Memorial Service at Sunrise Presbyterian Church, which was held at the same time as Council meeting. ETV featured Sullivan's Island, along with Mt. Pleasant and Isle of Palms, on February 9<sup>th</sup> in a one-hour live broadcast that marked the beginning of the ETV digital broadcast in the area. A copy of the program is being forwarded to the Town.

Ways and Means Committee, Mayor Stith. The financial report was represented. There will be a special meeting of Council on March 16, 2004 at 6:30 p.m. to hear the results of the 2003/2004 financial audit by Schleeter Monson and Debacker.

Personnel Committee, Councilwoman Wiedeke. An advertisement was placed in the Post & Courier requesting applications for the position of Accounts Payable/General Office Clerical. Twenty-four applications were accepted through February 16, 2004. Motion was made by Councilwoman Wiedeke, seconded by Councilman Wood, to approve the nomination of Dr. Will Post to the Tree Commission, carried unanimously. Dr. Post will serve in the unexpired term of Harriett Ethridge through August 2005.

Water and Sewer, Councilwoman Wiedeke for Councilwoman Hazen-Martin. The wastewater upgrade construction minutes are included in Council's notebooks. The next water/sewer working meeting will be February 27<sup>th</sup>. The inclement weather has been a problem, but it is on schedule. HDR and the Town have expressed concerns to the

contractor about finishing on time.

There was discussion concerning the easement with the wastewater treatment line at 1312 Poe Avenue. Greg Gress and the Water/Sewer Department have recommended that the owner should not build any construction over the line which is over a Town easement and believe the language of the easement should protect the Town and prevent building on top of it. Mr. Dodds stated that this particular property is somewhat unique. The easement runs right through the middle of the property. The owners are asking for a walkway over the easement that connects the house to an addition. The owners have agreed to acknowledge the easement, to acknowledge the size of the easement, and to pay any additional costs that the Town may have in the event we ever had to repair that easement. They also agreed that in the event any damage is done to the structure caused by the existing pipe on the easement, it would be at their cost, unless the Town was willful or wanton with their actions. The easement will be recorded and will be binding on any successor. Mr. Dodds stated there are probably eight lots that are similarly situated, one of them has already been granted the right to build. Mr. Gress stated that there are only steps on the property that was already granted the right to build; there is no building over the line. Mr. Gress stated another concern he had was if the pipe ever backs up, there could be fines from DHEC. An option is to move the line, which would be expensive, and we are under no obligation to do this. Councilman O'Neil questioned whether the easement, if granted, would specify vertical clearance above the width of the run of the easement. Mr. Dodds stated that wording can be added in the language. Mr. Dodds stated direction needs to be given to the building inspector. The building inspector, Randy Robinson, stated that a walkway may not be allowed under our current code, that it needs to be a room because the new structure would have to be functionally integrated into the other structure. Council will ask the owners to come to the next Water & Sewer working meeting.

The Mutual Aid Agreement by the American WaterWorks Association has been executed. It is a preparedness program for a co-op of existing public and private utilities interested in assisting each other in times of emergencies by providing and/or receiving emergency assistance.

Greg Gress spoke to HDR concerning the tree survey, and is waiting on a proposal from them to identify trees and problems for relocation. The issue is locating trees and structures in the right-of-way of where water lines will go. Fifty-nine trees have been found, mostly oaks and hardwoods; 211 palmettos; 109 trees have canopy issues where the canopy indicates the underground roots are in the right-of-way. HDR will evaluate which can be saved, which should be saved, and which perhaps are not viable to be saved. All the palmettos may be able to be saved, and a plan is being formulated. One option is public tree planting initiatives around the island in areas where planting could be used such as the wastewater treatment plant or perhaps at Breach Inlet. Areas will be identified with the help of the Tree Commission. Another option to discuss is for islanders to adopt a tree, where the person pays the cost of digging and transportation. The adjacent property owner would have first choice.

Headworks repair postponed due to inclement weather. There was a water main break at Station 22-1/2. There were incidents of red water after the break. The next Water & Sewer working meeting is February 27<sup>th</sup> at 3:00 p.m., with a tour behind the mound to look at potential storage sites at 4:00.

Building and Construction Committee, Councilman Wood. The town ordinance will be reviewed related to house demolition and moving; and hours/days of construction activity. Eleven home plans are on the building inspector's desk. Monthly report was

presented.

Fire Committee, Councilman Wood. Monthly report was presented. The Oyster Roast was held on February 14. Attendance was good despite the inclement weather conditions. Vacation rental inspections have been going well, with only a few violations noted.

Recreation Committee, Councilwoman Herron. Dunleavy's Restaurant request to close Station 22-1/2 Street on March 14, 2004 and March 17, 2004 for St. Patrick's Day was approved. Weddings on April 22<sup>nd</sup> at 4:00 and 6:00 in front of the Sand Dunes Club were approved. A request for a wedding on June 19 at 10:00 am on Station 18 was received. The Town Administrator will contact Ms. Pruitt for additional information before giving approval.

Real Estate Committee, Councilman O'Neil. Cooper Consulting presented the summary of the near-final zoning and design recommendations at the Sand Dunes Club on January 21<sup>st</sup>. Cooper Consulting's invoice number 6 was reviewed at Committee meeting. Motion was made by Councilman O'Neil, seconded by Councilman Wood, to pay Cooper Consulting's invoice number 6 in the amount of \$4,743.20, carried unanimously. Recommendations for historic preservation are in the Senate Bill 277 that makes administrative changes to existing law that permits local governments to grant special property tax assessments to rehabilitated historic properties. The Municipal Association has been supportive of the bill, and it is now moving over to the House. Letter was received from Dr. Chris Marsh of the Spring Island Foundation regarding his preliminary examination of the accreted land on November 21, 2003. He gave preliminary recommendations on how the Town could proceed, if desired, with a study to lead to a management conservation plan for the RC-1 area. The Town law states that it can contract for professional services outside of the state procurement process. The reasoning is that when professional expertise is needed, it is important to get the best possible resources, not just the lowest bidder. The Administrator will ask Dr. Marsh to come meet with Council. Councilwoman Wiedeke stated she would like to mention corrections to the February COSI newsletter. The article concerning trees stated Dr. Marsh was from the Sea Island Institute (should have been Spring Island Foundation); and that he submitted his recommendations for the management of the accreted land at the beach and the marsh (he submitted preliminary recommendations on how we could proceed with a study, but he has not recommended management).

Police Committee, Mayor Stith. Monthly report rendered. The Polar Bear Swim and Charlie Post Run took place without incident. Detective Culnon received a thank you note from the Daisy Troop for coming to talk to them about safety.

Streets and Maintenance Committee, Councilman Smith. The location of a cell tower on the island to improve service and reception continues to be investigated. Dr. Mithoefer has submitted information concerning architectural approaches to towers. Sunrise Presbyterian Church has requested the Town assist in the re-placement of a streetlight at the intersection of Jasper Boulevard and Middle Street. The pole number has been identified and the Administrator will correspond with SCE&G. Councilman Wood stated that the horseshoe at the mortar battery could be a possible storage shed of about 5,000 sq ft. It will be toured on February 27<sup>th</sup> at 4:00.

Motion was made by Councilman Smith, seconded by Councilman Wood, to go into executive session to obtain legal advice regarding the second reading of the dock ordinance, carried by a vote of 4-1 (Councilman O'Neil recused himself; Councilwoman Wiedeke casting negative vote).

Motion was made by Councilman Wood, seconded by Councilwoman Wiedeke, to come out of executive session and go into regular session, carried unanimously.

Motion was made by Councilwoman Wiedke, seconded by Councilman Smith, to have second reading of the dock ordinance.

Motion was made by Councilman Smith, seconded by Councilman Wood, that we amend the second reading of the dock ordinance, carried by a vote of five, with Councilman O'Neil abstaining.

The amendment reads. Chapter 21: Section 21-40 Area RC-2 restrictions:

a) No dock shall be permitted to be constructed across marshland in the area in the RC-2 district from the centerline extension of Station 18 to the center line extension of Station 27. In all other areas of the RC-2 district where the length of the dock shall not exceed three hundred feet (300') in total length; provided, however, if the dock extends to a creek two hundred feet (200') or more in width measured from marsh grass to marsh grass (or land if there is no marsh grass on both sides of the creek), the length of the dock may extend up to eight hundred feet (800') as long as it does not cross a creek greater than eight feet (8') wide (marsh grass to marsh grass) to reach the two hundred (200') foot creek.

c) Pier head, floating dock and boatlift

- 1) The head of the permanent dock/"pier head" structure shall be no greater in size than two hundred twenty five (225 s.f.) square feet.
- 2) In addition to the permanent pier head of the dock there may be one floating dock no greater than eight (8') feet by twenty (20') feet. An attached structure for storage ("dock box") may be placed on a dock or floating dock provided it is included in the above two hundred twenty-five (225 sq. ft.) square feet of the "head" or one hundred sixty (160 sq. ft.) square feet of the floating dock and provided it does not exceed three (3') feet in height and does not exceed thirty-two (32 sq. ft.) square feet in floor area.
- 3) In addition to the permanent pier head of the dock there may be one boat lift, not to exceed four vertical support pilings with a maximum lift capacity of 13,000 pounds.
- 4) The boat lift and primary access ramp or ladder to the

floating dock shall only be accessed directly from the pier head; no additional walkways or catwalks shall be allowed to provide access to the boat lift or floating dock, nor shall access to these components be allowed from the walkway leading to the pier head.

d) No docks or pier heads or other associated structures shall be allowed to be built closer than ten (10') feet from extended property lines with the exception of common docks shared by two adjoining property owners. Provided, however, a dock may be constructed over extended property lines in areas when angled docks currently exist and cross over extended property lines, provided the angled placement would result in the dock being shorter than if built within the extended property set back lines and meets the criteria of Section 21-40a.

e) The maximum width of the walkway or pier between the highland and the pier head shall be four (4') feet. The walkway may have a railing but shall have no walls which impede the flow of air through the walkway. Only one walkway access to the pier head shall be allowed with no deviations or extensions providing access to other dock components.

g) Electrical lighting shall be allowed only at the head of the dock and not along the walkway, provided said lighting is shielded to direct the light down onto the dock and away from any adjoining residences and further provided the electrical power is constructed and attached in conformance with applicable electrical safety codes as promulgated by the building regulations for the Town of Sullivan's Island.

*(The other paragraphs of Section 21-40 remain unchanged)*

This ordinance shall be effective immediately upon final reading.

Motion was made by Councilman Smith, seconded by Councilman Wood, to have second reading of the amended version of the dock ordinance to Amend Sections 21-40 (a), (c), (d), (e) and (g) of Chapter 21, Zoning Code of the Town of Sullivan's Island Code of Ordinances Pertaining to Dock Regulations, carried by a vote of five, with Councilman O'Neil abstaining.

Motion was made by Councilman O'Neil, seconded by Councilman Wood, to defer Second Reading on An Ordinance Amending Section 21, Zoning Code of The Sullivan's Island Code of Ordinances By Establishing An Old Fort Historic District Overlay District, Identifying Its Location, Amending The Official Zoning Map and Including Provisions Regarding the Removal and Demolition of Certain Buildings; carried unanimously.

Motion was made by Councilman Smith, seconded by Councilman Wood, to defer Second Reading of An Ordinance Amending Section 21, Zoning Code of the Sullivan's Island Code of Ordinances by Establishing an Historic District Overlay District, Identifying Its Locations, Amending the Official Zoning Map and Including Provisions Regarding the Removal and Demolition of Certain Buildings, carried unanimously.

Motion was made by Councilman Wood, seconded by Councilman O'Neil, to

adjourn, carried unanimously.

Respectfully submitted,

Ellen McQueeney  
Town Clerk