

March 20, 2007

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
Patrick O'Neil, Mayor Pro-Tem
Debra Hazen-Martin, Councilwoman
Jane Ellen Herron, Councilwoman
Charles Howle, Councilman
Michael Perkis, Councilman
Everett Presson, Councilman

The Pledge of Allegiance was led by Mayor Smith, followed by the invocation by Councilwoman Herron. There were 30 members in the audience, including three members of the media.

The floor was opened for comments from the citizens. Rick Graham, 2102 I'on Avenue, wanted to know the standard for painting the curbs yellow, as it is difficult to sometimes turn corners due to parked cars. Councilman Presson stated that the Highway Department is responsible for curb painting. This will be discussed in Streets and Maintenance Committee next month. Tom Rutland, 1814 I'on Avenue, read a letter concerning the commercial district, commercial parking, and ensuring quality of life on Sullivan's Island. Jackie Shedrow, 2214 Jasper Boulevard, thanked Council for their support of the recommendation to limit the size of commercial and residential development of split-lots. She stated she is authorized to speak for her neighbors, June Fisher, Brian Tezza and the Rainwaters, to state their support of the measure. Secondly, she applauded the effort of the Citizens Committee; however she stated at the meetings she attended that there was very little actual participation of non-business owning residents. She commented that she and her neighbors have not been notified of a meeting since February 6th. She also commented about commercial district employee parking at the Fire Station after 10:00 p.m. Councilman O'Neil stated that there is no day or time restriction for employees parking at the Fire Station. Skipper Condon, 2201 I'on Avenue, stated he agrees with Ms. Shedrow about the meetings of the Citizens Committee, however, believes the committee is working well. As far as parking, the Police can enforce parking too close to the corners. Jerry Kaynard, 2501 Atlantic Avenue, stated the Committee is alive and well, and is communicating by e-mail. There have been 15-20 people who participated in various meetings at various times. He complimented Council on the good job they are doing, especially the employee parking at the Fire Station, which was a recommendation of the Committee. Another recommendation of the Committee was for a comprehensive study of the commercial district. In the last week, the Planning Commission has met and voted to ask Council as well for a comprehensive study for the commercial district and included public facilities in the surrounding area such as Fire Department, Park, and school. This is a positive effort. He also stated he is in opposition to the current version of the first ordinance on the agenda regarding split-zoned lots. He

would support if it had general application to every lot on the island of equal size; however, it does not make sense to single out a dozen lots and to impose a restriction that does not apply on other lots of similar size. That issue should be studied as part of a commercial plan. Rusty Bennett, 3124 Marshall Avenue, stated the Citizens Committee has been a good effort and disagrees that it has primarily been business owners at the meeting. Loren Ziff, 1412 Thompson, stated he has been a part of the Citizens Committee, and in addition to the parking, he would like to see improved foot patrol from 10pm – 2am in the blocks around the commercial district. Attorney Bill Barr stated that on behalf of Heidi Brown, he would ask Council to follow the recommendations of the Planning Commission and the Design Review Board on the new proposed ordinance concerning additional historic structures on a lot. He respectfully asked Council to consider reinstating the deleted language in the ordinance “shall not be allowed unless the Design Review Board Review determines that special circumstances justify such reduction or relaxation of the norm.” It should be included to give the Design Review Board flexibility to deal with historic structures that might vary slightly from the 1200 square foot limitation. Overall, however, Mr. Barr states this ordinance is a step forward. Councilman O’Neil stated there is flexibility in the ordinance for the Design Review Board; however, it is a little more specific. He also stated that although the Citizens Committee is not sanctioned by Council, it would be helpful if extra steps could be taken to ensure that everyone in the geographic area around the commercial district be informed of the meetings. Carol Antman, 1714 Atlantic Avenue, spoke in behalf of Creative Spark. She approached Council to consider funding some of the activities this year on the island. She has received a pledge from the Park Foundation for \$2,500, and some businesses are also contributing. Business owners in the audience offered their pledges to the Creative Spark activities during the meeting. Councilwoman Hazen-Martin asked Ms. Antman to submit the budget to Council, showing the shortfall that would be needed.

Motion was made by Councilman Howle, seconded by Councilwoman Herron, to approve the minutes of the February 20, 2007 meeting, carried unanimously.

Reports and Communications – Mayor Smith signed a Proclamation of March 2007 as American Red Cross Month.

Councilwoman Hazen-Martin requested to include the reading of a Resolution for Frances Varn at this time rather than during Committee report. Councilwoman Hazen-Martin stated that Frances was a long-term employee of the Town as Clerk of Court, and she passed away on February 28.

Mayor Smith read a Resolution thanking Frances Varn for her many years of service to the Town as Clerk of Court.

Motion was made by Councilman Howle, seconded by Councilman O’Neil, to approve a Resolution Directing Planning Staff to Prepare Language to Amend Section 21-138 and Direct Planning Commission to Hold a Public Hearing Regarding Amendments to 21-138, carried unanimously.

Motion was made by Councilman Howle, seconded by Councilwoman Hazen-Martin, to approve the Mutual Aid Agreement between Town of Sullivan's Island and the City of Isle of Palms regarding an emergency water source, carried unanimously.

General and New Correspondence – Administrator Benke stated a letter was received from Archives and History announcing the consideration of the four historic districts and the multiple property designation application. That review will be on April 13, 2007 in Columbia.

Attorney's Report - There was no Attorney's Report.

Board and Commission Reports

A. Planning Commission – Administrator Benke stated a draft copy of the Planning Commission minutes were included in Council's agenda. The Planning Commission is asking Council to do a comprehensive study of the commercial district and hold a public hearing to change the definition of lot. Zoning Administrator Prause stated this change came about when a resident inquired about reestablishing a lot line, and it was noted that the definition of "lot" needs to be clarified in the ordinance.

B. Board of Zoning Appeals – no items to report.

C. Design Review Board – no items to report.

D. Tree Commission – no items to report.

E. Municipal Elections Commission – no items to report.

Administrator's Report, Administrator Benke. Station 22-1/2 Street between Middle Street and I'on Avenue was closed on March 16 and 17 for the St. Patrick's Day celebration. The Police Committee and the Police department staff will meet to review the event. Charleston County Public Works has advised storm water drainage work remains to be completed between Station 20-1/2 Street and Station 22 Street. Engineers have advised against sidewalk work in the area at this time. Council instructed staff to proceed with a grant request to install sidewalks and lighting. The amount of \$5,000 was authorized for professional fees. The Town Attorney is preparing the 15 year extension on the lease of the building for the Island Club. Council authorized funds necessary to remove and repair chain on the park perimeter, and stabilize mortar shells and investigate shell walkway at the War Memorial Monument at Station 12 Street.

Ways and Means Committee, Councilman Perkis. Financial statement shows revenues looking ok and most expenses are under budget. Town Administrator and Councilman Perkis are to meet with Wachovia next week. Investment Policy has been

sent for review to Schleeter, Monsen and Debacker, but it will not be reviewed until after tax season. The revised pricing for the digital radio purchase is approximately \$290,500.

Personnel Committee, Councilwoman Hazen-Martin. Vacant commission positions and letters of interest for the Tree Commission and Municipal Election Commission will be discussed in executive session tonight. The Clerk of Court position has been advertised as part-time employment.

Water and Sewer Committee, Councilwoman Hazen-Martin. Monthly reports rendered. The Isle of Palms Interconnect Agreement was signed tonight. The DHEC Water System Survey Report indicated a good inspection, although some well repair is needed. We have jointly hired an attorney with the City of Isle of Palms to question the NPDES decision. A hearing by the Administrative Law Judge will be held on April 27, 2007. Councilwoman Hazen-Martin stated that the Town has been involved in a lawsuit concerning underground lines being installed by SCE&G. The Town was found at no fault with the resident's complaint and the subcontractor's complaint.

Building and Construction Committee, Councilman Howle. Monthly report rendered. Permit revenues are down. We have not yet heard from the FEMA five-year audit.

Fire Committee, Councilwoman Herron. Monthly report rendered.

Recreation Committee, Councilwoman Herron. The building inspector is working with a contractor and structural engineer to obtain an assessment of the bandstand, and should have a scope of work next week. State Accommodations Tax funds may be used to make repairs to the tennis courts at Station 20.5 Street. Creative Spark has requested the Town to fund various summer programs in the amount of \$5,000. The Park Foundation Dance is April 27th.

Real Estate Committee, Councilman O'Neil. Three ordinances are on the agenda tonight for Second Reading. Discussion regarding allowances for mass and scale based on neighborhood compatibility will be held at the April Committee meeting. The Land Management Baseline Report has not yet been received. There was discussion regarding the variance approval process. Attorney Dodds stated that a variance runs with the property, not the owner. The Resolution to direct the Planning staff to prepare language regarding second story square footage limitations for accessory structures was approved tonight.

Police Committee, Mayor Smith. Monthly report rendered. Mayor Smith would like to meet with the Police Committee next week to discuss the St. Patrick's Day celebration.

Streets and Maintenance Committee, Councilman Presson. Tony Fallaw, the project manager for the Ben Sawyer Bridge project advised the Town that the bridge replacement project list has been revised, and the Ben Sawyer Bridge project has been re-

activated. The current timeline includes contract letting in Fall 2008 and project completion in Fall 2010.

Motion was made by Councilman O'Neil, seconded by Councilman Perkis, to defer Second Reading of An Ordinance to Amend the Zoning Ordinance as Contained in Sections 21-19D, 21-24F, 21-27D, 21-31D, 21-49D, 21-52C, 21-54F, 21-59D and a Resolution to Invoke the Pending Ordinance Doctrine, carried unanimously.

Motion was made by Councilman Perkis, seconded by Councilman Howle, to have Second Reading of an Ordinance to Amend Sections 21-20C.(2)(b), 21-25A.(2), 21-25C.(1), 21-27A.(2), and 21-27 A.C. (1) of the Zoning Ordinance Regarding Size, Principal Building Lot Coverage and Square Foot Limitations of Historic Structures as Accessory Dwelling Units.

Motion was made by Councilman O'Neil, seconded by Councilman Howle, to amend the ordinance Section 21-20.C.(2)(b) to read as follows, carried by a vote of 6, with Councilwoman Hazen-Martin abstaining from the vote.

The amendment to Section 21-20C.(2)(b), 21-25A.(2), 21-25(C). (1), 21-27A.(2), and 21-27 A.C. (1) of the Zoning Ordinance Regarding Size, Principal Building Lot Coverage and Square Foot Limitations of Historic Structures as Accessory Dwelling Units shall read as follows:

Section 21-20C.(2)(b): The size of the historic structure is less than twelve hundred (1200) square feet of heated space at the time of its designation as historic and is listed as an historic property as described in Section 21-94 Historic Property Designation Criteria; provided, however, that a structure reduced to less than 1200 square feet of heated space after its designation as historic may qualify for special exception approval for an additional dwelling on the same lot, but only if the Design Review Board review determines and specifies in findings, that:

- a) Special circumstances justify such reduction in square feet based on the criteria listed in Section 21-94D. (1-8); and*
- b) The portions removed from the historic property were added less than fifty (50) years ago and/or obscured an earlier feature of the historic house which contributed substantially to the most important elements of its historic character, definition and integrity. Examples of the latter instance include the removal of an enclosure of a porch when the open porch had been characteristic of a particular type of Island structure, or removal of an addition which covered a distinctive feature of the structure that is shared by neighboring structures.*

These provisions shall supersede any inconsistent provisions contained in other portions of Chapter 21 relating to the use of historic structures as accessory dwellings, including but not limited to Section 21-140.

- 2. Section 21-25.A.(2) Principal Building. A building or buildings in which the principal use of the lot is conducted. The term also specifically applies to*

multiple dwellings located on the same lot, including an historic structure used as an accessory dwelling unit.

3. **Section 21-25.C.(1) : The DRB may increase by no more than twenty percent (20%) the maximum permitted Principal Building Coverage Area if this or other modifications achieve greater Neighborhood Compatibility described in Article XII, except as provided in Section 21-20C.(2)(j) regarding historic properties with a second structure on the same lot.**
4. **Section 21-27.A.(2): Principal Building Square Footage: The entire square footage encompassed within the exterior portion of the Principal Building or Buildings, specifically including more than one dwelling on the same lot and historic structures used as accessory dwelling units, but not including**
 - (a) interior space not readily useable as living space (attic used only for storage or parking area beneath dwelling);
 - (b) structures that are not used as living space;
 - (c) exterior porches and decks; and,
 - (d) exterior stairs.
5. **Section 21-27.C: Design Review Board.**
 1. **The Design Review Board may increase by no more than twenty-five percent (25%) of the maximum permitted Principal Building Square Footage if this or other modifications achieve greater Neighborhood Compatibility as described in ARTICLE XII, except as provided in Section 21-20C.(2)(j) regarding historic properties with a second structure on the same lot.**
 2. **However, in no case shall any Principal Building Square Footage exceed 5,600 square feet.**
6. **Section 21-140 Historic Structures**
 - A. **Historic Structures as accessory dwelling units in the RS-Residential District.**

Historic structures are permitted as an accessory dwelling in the RS-Residential District subject to the following conditions: As an incentive to preserve historic structures and avoid their demolition, a second dwelling may be constructed on the same lot as an historic structure, and the historic structure may be used as an accessory dwelling, when all of the following conditions are met:

 1. *Prior use shall have been used as a dwelling; and*
 2. *The size of the historic structure is less than twelve hundred (1200) square feet of heated space at the time of its designation as historic and is listed as an historic property as described in Section 21-94 Historic Property Designation Criteria; provided, however, that a structure reduced to less than 1200 square feet of heated space after its designation as historic may qualify for special*

exception approval for an additional dwelling on the same lot, but only if the Design Review Board review determines and specifies in findings, that:

- i. Special circumstances justify such reduction in square feet based on the criteria listed in Section 21-94 D. (1-8); and**
- ii. The portions to be removed from the historic property were added less than 50 years ago and/or obscured an earlier feature of the historic house which contributed substantially to the most important elements of its historic character, definition and integrity. Examples of the latter instance include the removal of an enclosure of a porch when the open porch has been characteristic of a particular type of Island structure, or removal of an addition which covered a distinctive feature of the structure that is shared by neighboring structures.**

3. In the event the historic structure does not meet current FEMA elevation requirements, the Design Review Board finds that bringing it into compliance would significantly impair the historic and architectural character of the structure; and

4. In the event the historic structure meets current FEMA elevations requirements, the Design Review Board finds that there is no feasible design solution for an addition to the historic structure that would not significantly impair the historic and architectural character of the structure; and

5. No separate utility service meters shall be permitted; and

6. The bottom elevation of the new second structure's first story floor joists shall be no greater than two (2) feet above the FEMA base flood elevation; and

7. The Design Review Board must find that the height, scale, mass and placement of the second structure are appropriate to and compatible with the lot on which it is sited, the character of the historic structure and surrounding neighborhood. When necessary to achieve such appropriateness and compatibility, the Design Review Board may impose stricter limits on height, setback, size and coverage than those of the zoning standards; and

8. Permission to build a second structure and to use the historic structure as an accessory dwelling is approved as a special exception by the Board of Zoning Appeals; and

9. The following conditions as covenants running with the property shall be placed on the real estate title to the property by the owner of the lot by recording deed restrictions for the benefit of the Town of Sullivan's Island on the owner(s) title and recording the same in the RMC office for Charleston County before a building permit is issued:

- (i) *The lot shall remain in single ownership; more specifically, regardless of the type of ownership every owner, member, partner, shareholder, or unit owner, must have the same percentage of ownership in the historic structure as in any additional structure(s); and*
- (ii) *Every owner, member, partner, shareholder or unit owner must have the same amount of control over the use of the historic structure as over any additional structure(s); and*

10. *Discretionary increases by the Design Review Board in principal building coverage, impervious surface coverage and square footage may not be granted to properties with a second structure.*

11. *If the historic structure used as an accessory dwelling is destroyed, it may not be replaced*

12. *The historic structure used as an accessory dwelling may be used as a long-term rental, but only so long as the principal structure is occupied by an owner of the property as primary residence and a current business license is held on the same property. Primary residence is defined as a dwelling where the owner or owners reside on a permanent basis and are assessed at the four percent (4%) assessment rate on their ad valorem property tax.*

Formatted: Bullets and Numbering

B. Accessory Use as Special Exception

This accessory use shall be permitted if approved as a Special Exception in the RS-Residential District under ARTICLE III. Sec. 21-20 C. and upon the approval of the Board of Zoning Appeals.

Motion was made by Councilman O’Neil, seconded by Councilman Perkis, to have Second Reading, as amended, of an Ordinance to Amend Sections 21-20C.(2)(b), 21-25A.(2), 21-25C.(1), 21-27A.(2), and 21-27 A.C. (1) of the Zoning Ordinance Regarding Size, Principal Building Lot Coverage and Square Foot Limitations of Historic Structures as Accessory Dwelling Units, carried by a vote of 6, with Councilwoman Hazen-Martin abstaining from the vote.

Motion was made by Councilwoman Hazen-Martin, seconded by Councilman Perkis, to have Second Reading of An Ordinance to Amend the Zoning Ordinance as Contained in Section 21-17 regarding demolition, removal, or relocation of principal or accessory use buildings or structures over fifty (50) years old.

Motion was made by Councilman O’Neil, seconded by Councilman Howle, to amend the ordinance to read as follows, carried unanimously.

The amendment to Section 21-17 of the Zoning Ordinance regarding demotion, removal or relocation of principal or accessory use buildings or structures over fifty (50) years old shall read as follows:

Section 21-17: Demolition, Partial Demolition, Removal, Alteration, or Relocation of Principal or Accessory Use Buildings or Structures Over fifty (50) Years Old.

Notwithstanding the provisions of Section 21-94.E. regarding owner notification, no principal or accessory use building or structure over fifty (50) years old, excluding structures consisting of driveways, fences, swimming pools, not already identified as historic pursuant to Sections 21-94.A. or 21-95.A. shall be demolished, partially demolished, removed, altered, or relocated on a lot until the same shall have been reviewed by the Design Review Board to determine if the building or structure shall be designated as an historic property pursuant to the provisions of Section 21-94.D. (1) – (8).

In the event the Design Review Board determines that the building or structure should not be designated as a historic property, a permit for demolition, partial demolition, removal, alternation, or relocation may be issued by the building inspector provided the demolition, partial demolition, removal, alteration, or relocation meets all other applicable zoning and building requirements and provided the permit is issued within one year from the date of the determination of the Design Review Board.

If more than one year has elapsed since such a determination by the Design Review Board and no demolition, partial demolition, removal, alteration, or relocation permit has been issued, or if such a permit has expired or been terminated, no demolition, partial demolition, relocation, removal, or alteration permit nor any renewal of such permit shall be issued until the structure and/or building again be reviewed by the Design Review Board to determine if the building or structure shall be designated as a historic property pursuant to the provision of Section 21-94 D (1) – (8).

Motion was made by Councilman Perkis, seconded by Councilman Howle, to have Second Reading, as amended, of An Ordinance to Amend the Zoning Ordinance as Contained in Section 21-17 regarding demolition, removal, or relocation of principal or accessory use buildings or structures over fifty (50) years old, carried unanimously.

Motion was made by Councilman Presson, seconded by Councilman Perkis, to have Second Reading of An Ordinance to Amend Section 14-29 1(C) (8) and Section 14-29 1(F) (3) to delete the definition of Retail Tobacco Store and the exception for Retail Tobacco Stores, carried unanimously.

Motion was made by Councilwoman Hazen-Martin, seconded by Councilman Howle, to defer Second Reading of An Ordinance to Convey Battery Logan Property to Federal Government, carried unanimously.

Motion was made by Councilman Howle, seconded by Councilwoman Herron, to go into executive session for legal advice on the cell tower agreement and dock permit application for Station 12; and personnel matters, carried unanimously.

Upon returning from executive session, Mayor Smith stated no votes or action was taken.

Motion was made by Councilwoman Hazen-Martin, seconded by Councilman Howle, to appoint Leo Fetter to the Tree Commission, carried unanimously.

Motion was made by Councilman Presson, seconded by Councilman Howle, to appoint Steve Steinert as associate judge, carried by a vote of 5-2 with Councilwoman Hazen-Martin and Councilwoman Herron casting the opposing votes.

Motion was made by Councilman Howle, seconded by Councilman O'Neil, to adjourn, carried unanimously.

Respectfully submitted,

Ellen McQueeney