

August 19, 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: Mike Perkis, Mayor
Jerry Kaynard, Mayor Pro Tem
Chauncey Clark, Councilman
Hartley Cooper, Councilwoman
Susan Middaugh, Councilwoman
Pat O'Neil, Councilman
Mary Jane Watson, Councilwoman

Mayor Perkis led the Pledge of Allegiance, followed by a prayer by Councilwoman Watson. Residents and one member of the media filled Town Hall.

I. FORMAT – Mayor Perkis opened the floor for comments.

Fred Wszolek, 3104 I'on Avenue, stated he approves of Council selling Town property, but selling five lots at one time will not produce the prices the Town could receive, as well as might depress property values. The Town should consider selling lots subsequently.

Chuck Galis, 1817 Back Street, stated the Town should have required business license compliance earlier instead of creating the coffee shop ordinance to regulate compliance.

Wayne Stelljes, 3014 I'on Avenue, thanked the Mayor, Council, staff, Police and Fire departments regarding their help with the new school.

Drew Harris, owner of Café Medley expressed appreciation to those who worked on the coffee shop text amendment, and believes it is reflective of the community in whole.

Carlson Huey, 828 Middle Street, spoke on behalf of the Battery Gadsden Cultural Center. It is now operating again and its purpose is for civilian history, as well as space for artists to work and perform. There is a new Board of Directors, and 50-60 people expressed interest in being a member of the organization. Councilwoman Watson recommended for herself and Administrator Benke to meet, followed by a meeting with the Board, in order to move forward and to discuss a lease agreement. Resident Barbara Spell inquired why a council member was needed to serve on this Board.

Councilwoman Watson answered that the Recreation Committee budget will fund some of the functions, and she will serve as an ex-officio member for the Town Council to work with the organization. Mr. Huey commented that the Board was in favor of Councilwoman Watson being an ex-officio member. The Cultural Center reports will be on the Recreation Committee. Councilwoman Watson stated this is a great opportunity to help with functions for the residents of the Island.

Alison Bourland, 1607 Atlantic Avenue, stated her appreciation of Drew and Michelle of Café Medley; and while they may not always be here, the ordinance will always be here.

Buff Ross, 2820 Atlantic Avenue, stated he supports the coffee shop ordinance because it was well researched, well written, and is protective to the community.

Beverly Bohan, 1740 Thompson stated she would like to move the horse trough that was previously on her property, but a former owner moved it into the marsh. She stated historical documents show that the trough was on her property. Building Official Randy Robinson stated the trough is on Town property, and is marshward of the critical line. Administrator Benke asked Ms. Bohan

to put her request in writing, and he and Mr. Robinson will research the proper regulatory agency requirements.

Rita Langley, 1618 Middle Street, stated she was concerned with the alcohol percentage for the coffee shop ordinance.

Loren Ziff, 1412 Thompson Avenue, stated he agreed with Mr. Stelljes' comments regarding the school. The ribbon-cutting ceremony is on September 22 at 10 am. The community tour will be September 27 at 10 am. He stated he is proud of this community asset and thanked Council for its support.

II. COUNCIL ACTION ITEMS

1. (a) Motion was made by Councilman Kaynard, seconded by Councilman O'Neil, to approve the Minutes from May 20, 2014 meeting as amended, carried unanimously.

(b) Motion was made by Councilman Kaynard, seconded by Councilman O'Neil, to approve the Minutes from the July 15, 2014 meeting, carried by a vote of 6, with Councilwoman Watson abstaining due to absence from the meeting.

(c) Motion was made by Councilman O'Neil, seconded by Councilman Kaynard, to approve the Minutes from the August 4, 2014 Special meeting, carried by a vote of 6, with Councilman Clark abstaining due to absence from the meeting.

2. Motion was made by Councilman O'Neil, seconded by Councilman Clark, to have Second Reading and Ratification of Ordinance No. 2014-08, An Ordinance to Amend Zoning Ordinances Regarding Eating Establishments Within the Community Commercial District ("coffee shop" ordinance). Councilman Kaynard recused himself from discussion and voting; and submitted a Statement of Potential Conflict which is included as Exhibit 1 in these Minutes.

Councilman O'Neil asked Zoning Administrator Joe Henderson to review the changes made since their last meeting. Mr. Henderson stated Council had asked for clarification at their last Workshop on several items. The only change of the original text is a clarification made by the Planning Commission at their August 13th meeting that the 15% alcohol provision is for on-site consumption only; it is not to include the retail sale of beer or wine. Aside from that there were three questions from the Workshop:

1-Why not restrict the coffee shop use to the area between Station 22 and 22-1/2? Mr. Henderson stated this was initially presented to the Planning Commission during the first meeting. The first draft ordinance limited the use between a one block area. However, after staff research and discussion with the Town Attorney, it was believed it would constitute an exclusionary zone and/or spot-zoning.

2-How would staff enforce the restrictions placed on coffee shops? This is a text amendment to allow a use by special exception that will have to be reviewed by the Board of Zoning Appeals. During the applicant's presentation they will have to first meet all the requirements established for special exception, as well as have their parking plan reviewed by the Design Review Board. For enforcing the 15% alcohol on-site consumption provision, the Town can cross-reference the business' alcohol sales reported to their insurance carrier with its report to the S.C. Department of Revenue each year. Mr.

Henderson noted that restaurants currently in operation should demonstrate that they are not exceeding the 50% alcohol sales provision.

3- Should staff add a maximum occupancy restriction for seating within the coffee shop use? Mr. Henderson did not think this would be an issue from a regulatory standpoint.

Councilman O'Neil suggested that wording for the 15% on-site consumption of alcohol be more concise, such as that sales from on-site consumption of alcohol shall constitute no more than 15% of total revenue, excluding carry-out beer and wine sales.

Councilman Clark stated the 300 foot limit establishes a premium to the location of the establishment. When a sale occurs, they sell the building and the license at a premium and it monopolizes that location to that operation. Mr. Henderson stated the special exception does not continue with the property. The special exception is granted for a certain use, and only to that applicant. If the special exception is granted for a particular location and they go out of business so too does the special exception. That location and the 300 foot limitation is opened up. Councilman Clark answered that if a corporation is established and within the corporation they change the board members, the operation continues but under different ownership. The concern is it could create a monopoly. If a business location does not work because of its location, and someone wanted to open a successful coffee shop across the street but it is within the 300 foot limit, it would not be allowed. The ordinance will preclude free enterprise in that regard.

Motion to amend Ordinance 2014-08 was made by Councilman O'Neil, seconded by Councilwoman Middaugh, in the following ways: (changes in italics)

Amendment 1: Section 21-203 Amendments:

- **The definition of Coffee Shop would read: "A small establishment that does not provide full service of food and beverages, but limits its offerings to particular foods and beverages. These limited commodities must reflect a core business of the coffee shop use and a limited number of ancillary non-core items as a measure to keep from serving menu items indicative of a full service restaurant. Light meals shall include, but not be limited to, soups, sandwiches, salads, baked goods, desserts, ice cream, cheese plates, typical breakfast items and may only be made available by way of counter service. Sales of food and other goods shall constitute at least eighty-five (85) percent to total revenue, and limit alcohol sales to beer and wine only (per SC Code of Regulations 7-200-1 and SC Code of Laws 61-4-500); *revenue from on-site consumption of alcohol shall constitute no more than 15% of total revenue (excluding carry-out sales of beer and wine).*"**

- **The definition of Formula Restaurant/Eating Establishment would read: "A restaurant or other eating establishment consisting of four or more franchise businesses, where food and beverages are prepared for consumption either on or off the premises and which is required by contract or other arrangement to offer *standardized versions* of any of the following: menus, ingredients, food preparation, décor, uniform, architecture or similar standardized features."**

Amendment 4: Section 21-50 (C) (2) (c) would read: "In addition, outdoor patios, porches and decks are permitted provided such outdoor space does not exceed twenty-five (25) percent of the coffee shop's available floor area devoted to patron seating. The total number of patron seats, inclusive of outdoor patios, porches and decks, shall not exceed twenty-five (25).

Motion to amend Ordinance 2014-08 carried by a vote of 6 (Councilman Kaynard recused). Ordinance 2014-08 as amended and approved by Council carried by a vote of 6 (Councilman Kaynard recused).

3. 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. Councilman O'Neil stated that he and Administrator Benke prepared another draft for Council's review. It will be discussed at the next Council Workshop.

4. Motion was made by Councilwoman Middaugh, seconded by Councilman Clark, to have First Reading, Ordinance No. 2014-10, Authorizing the Issuance of a Not Exceeding \$1,680,000 Waterworks and Sewer System Revenue Bond, Series 2014 of the Town of Sullivan's Island, South Carolina and Amending in Certain Respects the Town's General Bond Ordinance, carried unanimously. A Special Meeting will be held before the Council Workshop on September 8, 2014 to have Second Reading of this ordinance.

III. REPORTS AND COMMUNICATIONS

1. General and New Correspondence – Correspondence was received from Wallace Barr of Harbourtown Real Estate, Todd Abedon, 2213 Middle Street; and Chuck Gallis, 1817 Back Street, regarding the coffee shop ordinance. Other correspondence received included the Island Turtle Team Newsletter; a note of appreciation from Carlin Timmons of the National Park Service to the Fire Department for assistance during National Lighthouse Day; from Mayor Joseph Riley, Jr., City of Charleston, regarding Battery Gadsden Cultural Center; from Hal Coste regarding a request to reestablish a lease agreement at Battery Gadsden; and from Fred Wszolek regarding the sale of Town property.

2. Attorney Report - No report.

3. Boards and Commissions – No report.

IV. COMMITTEE REPORTS

Finance Committee – Mayor Perkis. Monthly report rendered.

South Carolina Water Quality Revolving Fund Authority - Comptroller Blanton reported that the Town is required to have a Debt Service Reserve Fund account under the terms of the loan. Within the account, the Town is required to maintain a balance equal to the annual debt service of the loan. **Motion was**

made by Councilman Kaynard, seconded by Councilwoman Middaugh, to authorize staff to establish an account with the South Carolina Local Government Investment Pool to meet the requirements of the loan agreement with the South Carolina Water Quality Revolving Fund Authority, carried unanimously. The July revenues and expenditures are as expected. Mr. Larry Finney of Greene, Finney & Horton, LLP will present the Town's fiscal year 2014 audit at the September Council meeting.

Public Safety Committee – Councilman Clark. Monthly reports rendered. Police Chief Howard reported that during the first two days of school a few changes were made to the transportation route for student drop-off and pick-up at the school, and traffic flow improved.

Water and Sewer Committee – Councilwoman Middaugh. Monthly reports rendered.

I&I Project – Water and Sewer Manager Greg Gress reported that an agreement has been signed with the contractor and engineer; and he is sending in the Notice to Proceed. The crew should be mobilized by the end of September or beginning of October, and it should take about six months to complete the 38,000 linear feet. He is writing a public service announcement for the residents.

FEMA Hazard Mitigation Grant application – FEMA has the application. HDR is preparing information to submit in October. The Town will be notified in February if the funds will be awarded.

Status of CWS water pipeline repair – Mr. Gress expressed appreciation to Charleston Water System for quickly repairing the leak; and to the Isle of Palms Water and Sewer Commission for continued water and fire protection during the leak. Councilwoman Middaugh expressed her appreciation for the staff having the foresight to set up this agreement with the Isle of Palms before this emergency occurred.

Next meeting – The next Water and Sewer Committee meeting is August 21, 2014 at 9:00 a.m.

Administration Committee – Councilman Kaynard. Monthly report rendered. A Special Meeting of Town Council is scheduled for Saturday, August 23, 2014 from 9:00am – 12:00noon at 2050-B Middle Street for the purpose of legal advice from the Town Attorney in the matter of Bluestein et al. v. Sullivan's Island 10-CP-10-5449. Patrol Officer Douglas Archer resigned from the Police Department effective August 31, 2014. The applications for Boards and Commission expiring seats will be discussed in Executive Session tonight. Councilman Kaynard expressed his appreciation to Council, staff, and the Town for the school project being completed on time.

Land Use and Natural Resources Committee – Councilman O'Neil. Monthly report rendered. Mr. Robinson attended a week-long seminar regarding the Community Rating System last week. The next LUNR Committee meeting is scheduled for August 29, 2014 at 9:00am at 2050-B Middle Street.

Public Facilities Committee – Councilwoman Cooper. Monthly report rendered. Work continues with Creech & Associates and Hill Construction on schematic design and construction pricing. The Committee is in process of setting a meeting date for the Public Facilities Committee and the Design Team.

Recreation Committee – Councilwoman Watson. No items to report.

Motion was made by Councilman Kaynard, seconded by Councilwoman Middaugh, to go into Executive Session at 7:43 pm., for Personnel – Boards and Commissions applications; and Legal Advice – Contractual Matter (Town Property/Lot Sales), carried unanimously.

Councilwoman Watson left the meeting at this time.

Upon returning to Regular Session, Mayor Perkis stated that no votes or action were taken in Executive Session.

Motion was made by Councilman Kaynard, seconded by Councilman O'Neil, to reappoint Rusty Bennett, Carlsen Huey and Manda Poletti to two-year terms on Planning Commission; reappoint Mark Howard to a three year term on the Design Review Board; reappoint Nat Robb to a three year term on the Tree Commission; and reappoint Tim Reese to a six year term on the Election Commission, carried unanimously 6-0.

Motion was made by Councilman Kaynard, seconded by Councilman O'Neil, to advise Tim Reese to respond with counter offer; allow the buyers' agent to review only a copy of the appraisal; and advise buyer to remove finance contingency, carried unanimously 6-0.

Motion was made by Councilwoman Kaynard, seconded by Councilwoman Middaugh, to adjourn at 9:40pm, carried unanimously.

Respectfully submitted,



Ellen Miller