



MINUTES
REGULAR MEETING
FAIRFIELD COUNTY COUNCIL
JUNE 25, 2001

Present: David L. Ferguson, Chairman; Robert W. Davis, Vice-Chairman; Russell David Brown, Kamau Marcharia, Carnell Murphy, Mary Lynn Kinley, Carolyn B. Robinson, Council Members; J. Clay Killian, County Administrator; Shryll M. Brown, Clerk to Council.

In accordance with the South Carolina Code of Laws, 1976, Section 30-4-80 (e), as amended, the following persons and/or organizations have been notified of the time, date, and location of this meeting: The Herald-Independent, The State, and Winnsboro Cablevision, and twenty-two other individuals.

1. CALL TO ORDER

Chairman Ferguson called the meeting to order at 6:05 P.M.

2. Afterwhich, Vice Chairman Davis gave the invocation.

Council agreed to amend the agenda to defer Item 5G until after the budget work session. Council also agreed to add an executive session as Item 12A to discuss a personnel issue and economic development matters. *Council Member Kinley made a motion to approve the amendments to the agenda as stated. Motion seconded by Council Member Marcharia. Motion carried unanimously.*

3. APPROVAL OF MINUTES

Vice Chairman Davis made a motion to approve the minutes of the regular meeting of May 30, 2001; budget work session of May 30, 2001; special meeting of June 6, 2001; and special meeting of June 7, 2001.

Mr. Larry Dozier introduced Mr. Mike Tanner as the new EMS Director.

Public Hearings

A. An Ordinance To Amend Ordinance No. 335, Which Established A Zoning Ordinance For Fairfield County, South Carolina, In Order To Add Language Exempting Certain Temporary Uses From Obtaining A Temporary Use Permit; Addition Of Language And Conditions Allowing Temporary Sale Stands In B-1 As A Temporary Use; Addition Of Language And Conditions Allowing Festivals As A Temporary Use; Addition Of Language And Conditions Allowing Motorcycle, Truck, And Car Shows As A Temporary Use; And Allow For Temporary Dependent Care Residences As An Allowable Temporary Use With Conditions

Murphy: "I asked for someone to give me the definition or to the people what festival means.

Ferguson: "Mr. Stowers, will you come to the front and answer this question for us, please."

Stowers: "As our Zoning Ordinance probably does not have a definition of festival in there, our Zoning Ordinance does specify that it will be the definition as in a Webster unabridged dictionary. I do not have that with me right now. I can go ahead and get a copy of that to each board member."

Murphy: "The only reason I raised that whether or not it is an established festival. Festival or event or whatever, I think we just need to know what we are talking about. It could be a festival someone could have something and could be a festival and could be exempt. I think we could put a little tighter language. That is just a point I would like to raise."

Marcharia: "I still have some concern about the Ordinance--Motorcycle, Car, and Truck show and the temporary depended care residence, in terms of the language, how it reads, and the public would really be severely impacted particularly with temporary dependent care. We talked about that and that's when someone lives adjacent to an heir or family member. For instance they might purchase a trailer per water septic tank and then in the event that something happens they have x number of days to remove all that equipment off that land--the trailer and all that. If we're going to address that at some point and time and also the language that's in the truck/car show. It's still very objectionable for the community."

Ferguson: "Mr. Stowers refresh my memory on the time limit for moving mobile homes or non-permanent residence from the temporary care situation."

Stowers: "It says that the temporary residence shall be removed when 120 days of termination of medical necessity needs or non-renewal of the temporary permit whichever is earliest on that."

Marcharia: "The hardship, Mr. Chairman, I was referring to, if for instance a family that goes and purchases a trailer and spend thousands of dollars say 15, 16 thousand dollars to put that trailer there, pay a thousand, two thousand for a septic tank, electrical hook-up, water and within two months the family member passes away, within 120 days all that has to be off the property and moved. Depending on the economic status of that particular family that could be a serious burden to the family. We need to reflect on that a little bit more. That's my concern."

Murphy: "I really want to talk more about the whole Ordinance 335 and the inception of it, and the protection of it, but if it weren't for this Ordinance, we wouldn't have a reason to be here. So the flaws that it has are better than nothing at all. And that we need to work to look at the classifications that we have and look at some mid-range classifications that we have to accommodate some other things too. That's what council is going to have to aim, as we talk about earlier to accommodate all the classifications inside of this Ordinance. We've been working on some, trying to get them down. As much headache that you think that this may bring, if it wasn't there you may have permanent headache. An example, let's just use the changing of the Zoning from 1 to B2 it wouldn't be nothing but just open land if we didn't have the Ordinance or anything to go by your house."

Hearing no further comments, the Chairman officially closed public hearing at 6:18 P.M.

B. An Ordinance To Amend The Fairfield County Zoning Ordinance, Ordinance No. 335, To Provide For The Zoning Reclassification From RD (Rural Resource District) To R-1 (Single Family Residential District), Of A Parcel Of Land Owned By Clarence O. and Betty M. Trapp, Containing Approximately 1.0 Acre, Tax Map No. 246-00-01-037, Located At 15742 State Highway 215S, Winnsboro, South Carolina, 29180

Trapp: "Actually what we are doing—what we would like to do—we have an acre of land where we are right now and if you leave it as RD as you have it in the records now, we have a 1/2 acre of land back there doing nothing with. You can't put nothing on it and we are determined to come on behalf of my son which is due to get married on August 25th and he needs somewhere to stay. We don't have the type of money to go out and spend \$3,000 an acre for land. We're really asking to re-amend this and put it back as R1 and give us the opportunity to put in a single-family residence. The land is surrounded by all family members. We have a bunch of family members that are off that are due making plans now to move back. She has a large family and the land that was left there is only 1/2 acre lot and they really

can't move back and do anything with it. Right now we're getting ready for my son's house. We understand it's going to have to be a doublewide mobile home; a manufactured home, or a Jim Walter house. We are at your mercy trying to get this approved and get it through and I know it's a lot of people in Fairfield County that feel the same way I do because a lot of people in Fairfield County are in the same boat that we are in. You are probably going to see this further down the line because you have a lot of big families in Fairfield County."

Marcharia: "I have spoken with Mr. and Mrs. Trapp and I have spoken with members of the community in close proximity to Mr. and Mrs. Trapp and there has been no opposition to their request to have that rezoned in that district."

Robinson: "It's noted though that if you reduce it from 1 acre or less you still have to meet our DHEC requirements for water and sewer, and I hope that's been pointed out to you."

Hearing no further comments, the Chairman closed public hearing at 6:22 P.M.

C. An Ordinance To Amend The Fairfield County Zoning Ordinance, Ordinance No. 335, To Provide For The Zoning Reclassification From RD (Rural Resource District) To I-1 (Industrial District) Of A Parcel Of Land Owned By Gladys L. Bass, Gene W. Bass, And Joyce B. Pope, Containing Approximately 43.67 Acres, Tax Map No. 102—00-00-008, Located At US Highway 321N. And Old Chester Road, Winnsboro, South Carolina, 29180, **And Of A Parcel Of Land Owned By Joyce Pope Haizlip, Containing Approximately 2.0 Acres, Tax Map No. 102-00-00-071, Located Also At US Highway 321N. And Old Chester Road, Winnsboro, South Carolina, 29180**

Hemlepp: "Tonight the week before the anniversary of the Declaration of Independence, I get to come before as Michael Hemlepp, private citizen--a member of a neighborhood called Adger here in Fairfield County. Many of the other members of that neighborhood met at my house last Thursday or have called my wife Betsy or I, to talk about this zoning Ordinance—changing what everybody in the neighborhood refers to as the Old Bass land to industrial. When we had that meeting on Thursday night, there was unanimous opposition to it. In the phone calls that we have gotten and the people we have talked to there is unanimous opposition to it, and what has frustrated all of the people I have talked to, and frankly it was frustrating that night when we spoke, is they all kept saying we have to tell them why they shouldn't do this, we should go before council and tell them why they shouldn't do this, and I think there are other members of the

community who can tell you why you shouldn't do this. Next week is the 4th of July, the Declaration of Independence was signed on the 4th of July, and really we don't have to tell you why you shouldn't do this. You should be telling us why you should, and I thought of all the different reasons and there's not one good one. Zone it industrial because the property owners who don't live there want to be able to sell it, we pay the price. We're the ones who live in that neighborhood. Zone it industrial because some company that may be this wonderful company says they're going to come you don't know they're going to come, and once you open the barn door, the horses are going to escape. We've been through a lot of talk about a company coming to this property, what if they don't? Is there any way of controlling what does go on that property and the answer ladies and gentlemen, if you know, is no, there is no way. The cost to the neighborhood outweighs the financial benefits to the county. There's not a soul in this room who wants to deny economic development for Fairfield County, or at least none that I know. There's not a soul in this room who doesn't want to see more industry. No one in this room doesn't want to see the tax base get more diverse, which I know is a concern for council as the nuclear plant depreciates, we've got to diverse. But what about the other industrial land in Fairfield County, it's not filled. I am so thankful Councilman Murphy that you brought up the zoning, about how important Ordinance 335 is. Councilman Marcharia, you and I had a discussion about this a year and a half ago, how important zoning is. The purpose of zoning is to control growth. If you don't have zoning, it's uncontrolled. Anybody can do anything anywhere, but ladies and gentlemen changing a pasture into an industry is not controlled, it's reaching for straws. If industries will come, let's reach for more, that's not control. I know that there are other people who want to talk to you. I know that there are people who have very valid reasons and they want to express those reasons. The Hernandez family, who has just recently moved into the neighborhood and whose home will be completely surrounded by this industry. The Burroughs families who for years have in their front yard and underneath there homes the runoff from that property. Not only members of the community who live in Adger but members of the community who live on the other side of the tracks--Mr. Watford who lives nearby. All of those neighborhoods on the other side will be cutoff on 321 North. That's if a company comes in with rail, because ladies and gentlemen you know and I know, that if a company wants rail access, they don't want rail access to watch the train go by. They want to have rail access so the train can stop. That cuts off Old Chester Rd. and cuts it in half. That makes the only access from 321 to the other side of the railroad tracks on Old Chester Highway, going under the railroad trestle on 200. If trucks can fit under 200, then of course all of the people there will be cutoff from 321. There are so many different reasons, and I'm not going to go into them, I'm going to let the other members of the community go into them. I will tell you that as for me, I'm not really concerned about the reasons why not, I'm concerned about the reasons why should we and there are no valid reasons why we should. This is such a good example of the democratic process, especially the week before the anniversary of the Declaration of Independence. You are the elected representatives; you represent our community, even though none of you

live in that community, you represent us. We're here to tell you we don't want it, and there is yet to be one valid reason why it should be there. Thank you."

Jackson: "I did not attend this meeting. I did get a letter for this meeting, but I did not attend. I wish I had now. I kept hearing Mr. Hemlepp make the comment about one valid reason. I hope that standing before you now, is one valid reason. I'm unemployed. I live on 321, and it would be a wonderful thing to have ten, twenty, thirty, sixty new jobs in Winnsboro. One new job would be enough for me. I understand that from talking to certain council members, that this is not just a fly-by-night decision. You didn't just stand around and say let's pick a spot and put it. This has been researched, and I can understand that also. Personally I have one person that really comes to mind as another valid reason for myself, it may not be for Mr. Hemlepp or anyone else in this room but for myself, is my 9-year-old son at home. Without more jobs, industry coming in Fairfield County, I shudder to think what my taxes are going to be like, what our economy is going to be like here in Fairfield County, and I just bought a brand new house in Fairfield County and I love it. I love the community. I can't think of one reason personally not to put it there or anywhere else. If we jostle this thing around long enough, we have an opposition here and they're because of putting it in each and every individual spot that we have a train track at. That's one business we're going to push away, and in Fairfield County where I used to be employed (Ridgeway Gold Mine), with it gone; HON, who left us awhile back. All the other layoffs including MACK and we can't afford as a County let this company slip away, and if we have a chance for the for this company to come in and I don't live close where this proposed property is like some of the other residents do (that's a given). I am looking at the welfare of Fairfield County and maybe a little selfishly I am looking at it for me and my family and me--where is my son going to be at in ten years and what is he going to do for us. On a lighter subject, my wife even made the comment well if they do use the train down there at least the train will have to slow down before it get toward our house maybe it won't rumble our house as quite as bad, but besides that I don't have anything else I just hope you take that under consideration."

McCabe: "We do need any additional industry. Coming from a large company myself and seeing what's happened around here a few times if this company comes in and goes under. They will be a bind to sell that land to anybody that has a few bucks. You won't have control over that. They may want to just want to sell part of it and you won't have any say in that. Also if you are going to industrialize this part, what about the other land up and down the road and in front of it. Does it have to come before the Council to be industrialized, or is the rest already there? I think this is a case of the camel getting it's head in the tent and once it gets in there you don't have a way to stop it. I am definitely opposed to it."

Mann: "I am not here to talk about the perspective industry. It may or may not come here. It's been referred to before. There are a number of elderly

residence that live on 321 North. Mailboxes are on the east side of that highway. Most of these residents--many of them live across that highway; increased traffic flow puts them at peril. I am opposed to expanding the industrial site for industrial area base in this county until we fill up what we have. At the present time, there are three vacate buildings and properties in Fairfield County that I know of. One of them is just a short distance away called HON; what used to be Charm at Ridgeway—it's been open; occupied; open. We have another called JPM. We have properties where we have developed infrastructure when we put a pipeline in to the town of Blythewood. We need to develop that land first and not migrate into the rest of the county. If we do we will be facing the similar problems with other counties with widespread industrial; complexes scattered within residences. I would urge you to not rezone this property."

Dove: "I happen to live right across from that same land and have watched it through the years; and one thing happened real odd this morning as I heard Michael talking about the train and different ones. Mr. Vice-Chairman, what happened to you this morning coming to work?"

Davis: "I was a bit late."

Dove: "Why?"

Davis: "It was because of a train."

Dove: "Just so happened a train happened to be there and he couldn't get through to come to work and was late. Being a small area with only six of us working there with no management other than me in charge, it's real simple--I'm going to be late. You just carry on and get your work done. That would work for some people but not for someone who has to punch a clock. Then one of the minor things to some people, I'm fortunate or unfortunate my wife is still here today. I've had two cars towed right there turning in my driveway with my wife and child with no more traffic than there is out there now. You're talking about increasing traffic, that's going to get much worse--much worse. It's already getting worse with a lot of the motorcycles. They were talking about car and truck shows and motorcycles—whatever, there is a lot of it out there. I just want you to, if you could, investigate to see if there are other possible locations for this business. Like Michael said, I'm not opposed to economic growth because we need it. In regard to what was said a while ago, one job? I've got five days, and I plan on retiring. You can put in for my job. I would like to watch the birds fly over and not watch a plant being built across the road."

B. Hemlepp: "I just want to say one last time especially in case no one else speaks. In no way is anybody in this room against any kind of industry coming to this county. We live in a neighborhood—and we do have our own name—Adger. We live in our own community, and this would be devastating to us through many different ways—property value, noise, whatever. You can't guarantee that this

company will come. It is not set in stone. If this company doesn't come, what could come, once it's industrial, a hog processing plant could come; a chemical plant could come, and it could just be open to anything and be devastating to our community. We just want to ask that you please not sell our souls for industry to come into this town in this particular area when there are so many other places that are open. There are very viable places that are not around a whole community. That's just the bottom line, there are plenty of other places they can go besides this, and I hope that you please take that into consideration."

Barnett: "I would like to expand just a moment on the subject that Billy Dove just mentioned—that's traffic. We don't know a lot about this property, and we just said a minute ago we're not opposed to this company; we're opposed to rezoning for industrial growth. We all know that on the east end of Hwy 321 it's already tremendous amount of traffic and congestion. We don't know how many trucks are going to be leaving this property everyday, but if they're going the direction of I-77, in my opinion they're either going to have to use Hwy 321 N. toward 321 E. toward that school, or turn to go out toward the Smallstown area--the heavily congested residential area. A lot of those homes stand real close to the road. I think it would create a terrible traffic problem and in all probability could result in catastrophic situations. Traffic to me is one of the main concerns; I understand there has been a traffic study made. Also, it was indicated to me that this already so-called industry on 321 (Fairfield Electric Co-op), I don't particularly call that an industry and sure it does create some traffic, but just because it hasn't created a problem doesn't mean that we need to increase the problem by having more large vehicles leaving this area everyday."

Murphy: Since the first reading of this Ordinance is not debatable. Since we have so many people here tonight, I think I need to say something for my own satisfaction to the group. I can remember when 321/21 was the main thoroughfare from Charlotte to Columbia and down. Those highways were busy, quite busy, much more than what they are now. One thing I want you to consider is that this is a rail; we want a rail site for this. That means that they are going to shipping and bringing in mostly by rail. I don't want the community to get up in an arm about something that may not be there. Let me just say this first. I always vote how the community wants to be. I vote the way the community say they want something there because I'm not here as Carnell Murphy, representative for myself, I'm here for the people. Even if you're not in District 1, I'm still there for all the people. I'm here for Mr. Jackson back there when he said, and it reminds me of a story that Dick Riley said, and I won't go into that but ya'll have heard me say that. Long ago he was up in the upper State and they talking about how robust the economy was and this young man came up and he was giving all the statistics and he walked up to them just like Mr. Jackson. He said, "Mr. Governor, unemployment is 100 % at my house," because he was unemployed. Now the most thing is that I don't know where—if zoning was permanent, then we wouldn't be here trying to change it and we wouldn't be here changing and making requests for change. So it moves from time to time the way council votes

and different things like that in this process. We have to look at the total impact of the county when it comes to this. There is a reason for putting it there. You can find a valid reason. You may be able to find two reasons for it not to be there and one reason why it should be there. Nothing I know is absolute in this world. Even death is not an absolute, is it? We have to look at things in the totality--60 jobs, clean industry, sure it may be good for the county. Is it good for the neighborhood? Can we find somewhere else? It's not good for the neighborhood; you've said that it wasn't good for the neighborhood. I've told the ones that called me exactly the way I felt on it. I had someone to call me 8-10 miles away and voiced his opposition for it. Well if we were zoning 8 and 10 miles away then we would have nothing in Fairfield County would we? So we got to drive a little bit back home. Don't want anybody to say Carnell Murphy standing on the fence. I want to tell you exactly where I stand. There are valid reasons--it's a rail spur; another thing too, this land has been on the list to be industrial property for a long time. It's been in Columbia to be shown for a long time. So it's not just an overnight thing that you've said. I don't want anybody if anybody being there to scare you. I think council will consider it, and they are going to do what I think is good for that community and they'll probably look elsewhere. But I would be remiss if I didn't tell you that there are valid reasons and there are reasons that we shouldn't do it. I'm glad to see all the people here and as Mrs. Kinley said on a lot of occasions the government works best when people get involved and you're involved and I'm listening to you."

Busby: "I know most of the people here. Some of them won't admit that they know me but I get along. I live right in the middle of the area there on 321—my wife and I. I'm just 84 years old; she's 87, but don't tell anybody. I can't conceive an organization—but the thing is to organize; just go and get it; and if that property was advertised in Columbia for an industrial job, then why are we here now? Why don't the man come on in."

Murphy: "He might have a point there."

Hernandez: "I live right in the middle of the area they're talking about. I recently just bought a house there. My husband and I, along with our son Christopher. Every morning we go outside and see the cows in the back behind there. Of course we hear the train and it's a beautiful area, but why put an industry there when it's farmland. It's been there for a long time and I know everybody here feels the same way I do. It's my home and I don't want an industry right behind it. Like I said, my husband is a truck driver and he's gone a lot of the time, and there's nobody there but my son and me. If you put an industry there you going to have all kinds of people coming in and out—riding in and out of the roads and everything. I just feel like you shouldn't put an industry there. That's the way I feel and I know everybody else feels the same way."

Ayers: "I do not live in the immediate area of Adger. My problem with it is that I feel like there are so many more industrial sites in Fairfield County, and

like someone else said, we need to make use of those first, rather than putting an industry in a neighborhood, why not a build a rail spur to some of these industrial areas instead of showing land. If its been advertised as industrial in Columbia, that doesn't necessarily mean that we knew it here in Fairfield County. My problem is with the traffic. It's amazing how much traffic there is on Smallstown Rd. now and if you have industry and traffic backing up at those rail crossings, I can't imagine what it would be like."

Caulder: "We too are located right across from this site. We're very concerned that we're talking 24-hour operation possibly of this industry or whatever industry may occupy that site now or later. We're talking about lighting. All of us there will not know darkness anymore. The peace and tranquil nights, as we have now, will be gone. Now I know about where each one of you live and you too enjoy the peace and quiet of the country. That's what we want here on 321 Adger. It's already stated; we aren't against economic development at all. We just don't want it across the street from our homes. We probably are only one of the closest to that highway and Mr. Murphy mentioned the rail process would probably take on a lot of the traffic. Well we already hear the train several times and we live with that. It only takes one truck to wake you up at 5:00 in the morning and these days with the trucks and mufflers and all of that, you know one time is all it takes. You don't need a hundred trucks or what have you. The noise that we may be subject to, I mean there's no quiet industry that operates during the night. Again it only takes one time to be awoken and you're awake. I too have a daughter who retrieves the mail most of the time with supervision and two sons, one older. We have the traffic there and there will be traffic in and out of that plant—employees as well as deliveries and pick-ups. It only takes one of those as others have alluded to. So we're at your mercy to think long and hard the positive aspects of it as well as the negative and hope that you will search diligently for a more suitable place here in Fairfield County."

Fee: "I live right across from the proposed site. I grew up in town, so I know how congested things get. I have four small boys and once a plant comes to that area, the people are going to be there. There is hardly anytime that you won't see anybody there. Mr. Murphy made the comment that zoning is not permanent. That may be true, but once a structure is there, it is permanent; we can't get rid of it. We can't get rid of who would replace that industry once it leaves or if it never leaves. My point is, we came out there for peace and quiet and we won't have it. If you don't live around there, then certainly the situation would not touch you as deeply as it does us. So when I heard about it I was very upset (me and my family), and I just wanted to know that although I am not against jobs because we do need them. I am against my whole family's way of life being disrupted. It is easy for you to get the small, rural community and say this is a nice spot but we have to live there. We have to live there once the council as met; once the council has gone; we have to live there with the problem that the industry brings or doesn't bring. So on behalf of me and my family we are not for it coming there."

Mr. Davis: "I think whatever I would have to say at this point would be ditto to the folks that have spoken already, however I would like to emphasize the fact that we mentioned the fact that we like to hear from the people in the community. We heard from the people in the community; we heard from the neighborhood. Our job is to do the best we can for Fairfield County, not only for today but for tomorrow. Sixty jobs have been proposed with this particular industry, but from the history that I can attest to the past several years as a council member, we only see about seventy-five percent of the figure that we actually given up front. I think when you have this number of established residents, the number of established homes in the area, the people have pulled themselves out to appeal to council. I think its very imperative upon us to listen to the immediate community most of all, most of all. However people anywhere in Fairfield County do have a voice with such ordinance whether you are one mile from I; a hundred miles from it. If you are a property owner you have just much voice as from someone sitting right close to it. We have sympathy for Mr. Jackson's view. But we have got to weigh what is best for the entirety of Fairfield County. Will we, or will we not do an injustice to the established residents of this area if we were to rezone this. Who deserves more consideration here I think. And believe you me, I am certain without a doubt that we need every job we can muster here in Fairfield County, without question. But are we willing to try to do that and sacrifice our neighborhoods; our communities, I don't think so. So council members, you have heard from the community, you've heard from the people; they have spoken and they have spoken extremely well. I am in support of the people."

Hearing no further comments, the Chairman closed public hearing at 6:58 P.M.

4. COMMITTEE REPORTS

A. Personnel and Justice Committee

Committee Chairman Kinley made the following report and recommendations:

(1). Salaries for part-time Magistrates. Council Member Robinson asked if this new pay structure, which is mandated, has been written into the proposed budget for this year. Hearing an affirmative answer, *Council Member Robinson made a motion that Council adopt the pay scale as presented. Motion seconded by Vice Chairman Davis.* Council Member Brown asked if, in the past, when a position was vacated, would a person come in at a same spot of the vacated position. He also asked if, at the time this happened, was there a transition period where there were numerous open slots and none were filled at that time. *The motion carried.*

(2). Economic Development Department Administrative Assistant. The committee is recommending approval of the salary range for the Administrative Assistant. *Council Member Kinley made a motion for Council to accept the job description and salary range for the Administrative Assistant – Economic Development Department. Motion seconded by Vice Chairman Davis, and unanimously approved by Council.*

B. Public Facilities and Transportation Committee

Committee Chairman Marcharia made the following report and recommendations:

(1). 2000 Edition Of International Building Codes. The committee is recommending approval. Mr. Hill was asked to come back to the committee to report back on two issues. Third Reading and Public Hearing is scheduled June 28, 2001, 6:00 P.M.

5. OLD BUSINESS

G. Third And Final Reading: Ordinance No. 408 – Deferred until after budget work session.

H. Third And Final Reading: Ordinance No. 409 – An Ordinance To Establish The Fairfield County Vehicle/Equipment Replacement Fund; To Establish Criteria And Schedules For The Replacement Of Vehicles And Equipment In The Fairfield County Fleet; To Establish The Fairfield County Vehicle/Equipment Replacement Committee; And To Provide For Other Matters Related Thereto.

Council Member Robinson made a motion to accept Third and Final Reading of Ordinance No. 409. Motion seconded by Council Member Kinley, and unanimously approved by Council.

I. Third And Final Reading: Ordinance No. 406 - An Ordinance To Amend The Fairfield County Zoning Ordinance, To Provide For The Zoning Reclassification From RD (Rural Resource District) To B-2 (General Business District), Of A Parcel Of Land Owned By Carl Van Harrison Containing Approximately 1.78 Acres, Tax Map No. 219-00-00-008, Located At 16530 State Highway 34E, Ridgeway, South Carolina, 29130. *Council Member Kinley made a motion to approve Third and Final Reading of Ordinance No. 406. Motion seconded by Vice Chairman Davis. Motion carried. {Council Member Robinson voted no}.*

J. Second Reading: Ordinance No. 413 – An Ordinance To Authorize The Execution And Delivery Of A Lease/Purchase Agreement By And Between Wachovia Leasing Corporation, As Lessor, And Fairfield County, South Carolina, As Lessee, For The Lease/Purchase Of Two Pumper Trucks And One Tanker Truck; To Provide The Terms And Conditions Of Such Lease/Purchase Agreement; To Designate Such Lease/Purchase Agreement As A “Qualified Tax-Exempt Obligation” Within The Meaning Of Section 265(b)(3) Of The Internal Revenue Code As Amended; To Authorize The Execution And Delivery Of All Documents Necessary Or Appropriate To The Consummation Of Such Lease/Purchase Agreement; And To Provide For Other Matters Related Thereto. *Council Member Robinson made a motion to accept Second Reading of Ordinance No. 413. Motion seconded by Council Members Brown and Kinley, and unanimously approved by Council.*

6. NEW BUSINESS

A. First Reading (By Title Only): Ordinance No. 412 - An Ordinance To Amend Ordinance No. 335, Which Established A Zoning Ordinance For Fairfield County, South Carolina, In Order To Add Language Exempting Certain Temporary Uses From Obtaining A Temporary Use Permit; Addition Of Language And Conditions Allowing Temporary Sale Stands In B-1 As A Temporary Use; Addition Of Language And Conditions Allowing Festivals As A Temporary Use; Addition Of Language And Conditions Allowing Motorcycle, Truck, And Car Shows As A Temporary Use; And Allow For Temporary Dependent Care Residences As An Allowable Temporary Use With Conditions. *Council Member Brown made a motion to approve First Reading (by title only) of Ordinance No. 412. Motion seconded by Council Member Robinson.* Council Member Marcharia asked for a clarification/legalities of the ordinances being augmented together under one Zoning Ordinance. Council Member Murphy stated he wished to raise the question again of the definition of “festival.” The Chairman stated this will be go back in committee to address this verbiage and the verbiage Mr. Marcharia had. *The motion carried.*

B. First Reading (By Title Only): Ordinance No. 414 - An Ordinance To Amend The Fairfield County Zoning Ordinance, Ordinance No. 335, To Provide For The Zoning Reclassification From RD (Rural Resource District)

To R-1 (Single Family Residential District), Of A Parcel Of Land Owned By Clarence O. and Betty M. Trapp, Containing Approximately 1.0 Acre, Tax Map No. 246-00-01-037, Located At 15742 State Highway 215S, Winnsboro, South Carolina, 29180

C. First Reading (By Title Only): Ordinance No. 415 – An Ordinance To Amend The Fairfield County Zoning Ordinance, Ordinance No. 335, To Provide For The Zoning Reclassification From RD (Rural Resource District) To I-1 (Industrial District) Of A Parcel Of Land Owned By Gladys L. Bass, Gene W. Bass, And Joyce B. Pope, Containing Approximately 43.67 Acres, Tax Map No. 102—00-00-008, Located At US Highway 321N. And Old Chester Road, Winnsboro, South Carolina, 29180, **And** Of A Parcel Of Land Owned By Joyce Pope Haizlip, Containing Approximately 2.0 Acres, Tax Map No. 102-00-00-071, Located Also At US Highway 321N. And Old Chester Road, Winnsboro, South Carolina, 29180

Council Member Murphy made a motion to approve Ordinance No. 414 and Ordinance No. 415 in accordance with Council's non-debatable section on First Reading. Motion seconded by Council Member Marcharia. The motion carried. {Council Member Brown abstained from voting on Ordinance No. 414 and 415}.

7. COUNTY ADMINISTRATOR'S REPORT AND CORRESPONDENCE:

The County Administrator reported on the following items:

(a). Departmental Reports.

(b). Lease for Economic Development Office Space. Have secured proposed lease with First Citizens for office space. Monthly rental rate is \$200.00/month. *Council Member Robinson made a motion to approve the lease to allow the Economic Development office to relocate to a facility out of the County building. Motion seconded by Council Member Brown, and unanimously approved by Council.*

(c). Space in park downtown next to Courthouse. Request from Downtown Development Association for an information kiosk. *Council Member Brown made a motion to approve the request for an information kiosk. Motion seconded by Council Member Robinson.* Chairman Ferguson asked what would be the tie-up time on this, i.e., can the County do what it wants

to do with it at anytime in the future. Mr. Killian expressed that the property would remain the property of the County, and offered to draft an agreement that would allow the County to revisit the matter as needed to determine if there is a reason the County would need that space. Council Member Robinson asked who will be responsible for the upkeep of the property. Mr. Killian responded that maintenance would be. Council Member Murphy maintained that who owns what; what is leased and why it's leased needs to be made as clear as possible. *Council Member Robinson made an amendment to the motion to include based upon working out an agreement so that everything works for the betterment of the Council as well as for the Downtown Development Association and the present party. Amendment to the motion seconded by Council Member Kinley, and unanimously approved by Council. The main motion carried.*

(d). Tobacco Settlement Grant Project. Money was set aside by the Department of Commerce for infrastructure grants in underdeveloped and developing counties. Grant proposal cost approximately \$1.4 million dollars for water and sewer improvements in the Walter Brown Industrial Park. Have worked with the Town of Winnsboro on this project. They will be the ultimate owner of the improvements, and will be the applicant for the funds. Pre-applications due end of this week. *Council Member Brown made a motion to apply for the Tobacco Settlement Grant Project. Council Member Marcharia asked with this type of money, did any of the other community members have an opportunity to have any input about the tobacco money. Mr. Killian responded that the Council was apprised of this four or five weeks ago, and used the criteria that the State used {going through the COGs for screening}. Further, he pointed out that all areas of the County was looked at to find one that might best fit within the criteria, and because the grant is tied into water and sewer, and the Town of Winnsboro is the primary owner of all the industrial grade water and sewer systems in the County, that narrowed the focus based on the criteria. The motion carried.*

(e). Jenkinsville Water Company Resolution. Received grant for improvements to that system. Bid tabulation sheet attached listing a number of contractors that bidded on the project. Low bid received from Gar-Con, Inc., for \$180,606.25. Recommendation from HPG and

Administrator as well to award the contract to Gar-Con, contingent upon their receiving all approvals and clearances by the State. *Council Member Robinson made a motion to adopt the Resolution, awarding the bid to Gar-Con, Inc. Motion seconded by Vice Chairman Davis.* Council Member Murphy asked if the bid process was comparing apples to apples. Mr. Killian responded that every bidder had the opportunity to pick up the same set of plans in which to bid. Chairman Ferguson asked if this was within the parameters of the grant. Mr. Killian responded that grant funds are sufficient to cover this. *The motion carried unanimously.* Council Member Murphy inquired who will own the connector, and called Council's attention to the reference line on the letter addressed to the County from HPG. *Mr. Killian was asked to research who owns the connector.*

(f). Community Development Survey. Asking Council to complete attached survey and return to Finance Department. This survey will give a basis on which to make next funding decisions and applications for competitive dollars.

8. CLERK TO COUNCIL'S REPORT AND CORRESPONDENCE:

The Clerk reported on the following items:

- a. Chamber of Commerce report.
- b. Workforce Investment report.
- c. Building for Change report.

9. BOARD AND COMMISSION MINUTES

Provided as information.

10. INFORMATIONAL ITEMS

None

11. PUBLIC COMMENT

None

12. COUNTY COUNCIL TIME

(a). Robinson: Reception to officially welcome Mr. Killian as County Administrator, Wednesday, June 27, 2001.

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(b). Marcharia: Concerned about 100's of thousands of dollars in grants that come, and are pushed right through. Challenged the Council to be more focused on that and how the Council can be good stewards of the taxpayers' money.

(c.) Davis: Echoed the sentiment of rushing to judgment or taking immediate action on something and urged Council to be cautious of that.

(d). Murphy: "I asked the question the other night whether or not we were really on firm, solid ground based on case law, statutory law or Attorney General opinion in dealing with grandfathering a project. *I would like to place a motion on the floor that we get with our Attorney to make sure the grandfathering of property that we make in Fairfield County meets all the legal requirements {that Council has made}*". Motion seconded by Council Member Robinson.

Davis: "Are you speaking in reference to future?"

Murphy: "I am not talking about the future. The reason I said that is because I don't know how much...I guess I probably should also add an amendment to that to say that if this motion passes, then I will put another motion on the floor, but amended that 'any properties that are caught up in this; that any improvements to the property should cease at this time until the final information comes back on this case (of grandfathering), and what is legal and what is not'

Davis: "Are you speaking in reference to a parcel or the most recent parcel?"

Murphy: "Yes sir."

Davis: "Did we not look at that already?"

Killian: "We did have our attorneys, for the record, review the documentation..."

Murphy: "Based on what?" Remember, I said case law; statutory law, or an Attorney General's opinion on similar cases such as this one—not an opinion of that person."

Killian: "I don't think they researched case law, but they did look at all the documentation that we had in our files."

Murphy: "Eighty five percent of the laws in South Carolina are case law."

Killian: "Sure."

Ferguson: "I personally don't know how in-depth...I have received some written communication from that group that has been...there were some

things talked to them about from certain Council Members that I was not privileged to on the floor that night. I am a little bit hesitant to go into a lot of depth and a lot more expense with this thing when this Council, right here, all seven, without exception, knew about that thing over two years ago (was discussed with this Council over two years ago). One person on this Council directly involved with it, verified what I said that night on Council. What I am saying is I don't know how much further we need to take this and who it is benefiting and who it is costing because I think it is costing the taxpayers, and I am not overly sure that is where it should be going."

Murphy: "I'm the reason Mr. Chairman, and I said that night I raised the question about the legality of it that night on the floor and the minutes should reflect that. It should reflect that and the only thing I'm saying, we listened to that community and the driving force was the voices from that community and I think we owe the people in all communities that consideration. I'm not saying anything will come out of it, I'm just saying we owe them that consideration."

Kinley: "Would not that had already been done before we make any decisions on this council we ask the administrator to check it legally. I don't think we would have blindly made any of those decisions."

Murphy: "We didn't blindly do it, and he said we all had worked with rules that we had and things such as that. We don't know if there is a supercedent to the rules and regulations that we have established here and that's been established in case law, statutory law, even in the attorney generals opinion in cases such as this. If its not we are on firm ground, but if its not then I think we do owe it. We told those people we hear your voice and I want to tell the people that's on the other one we heard your voice and that we are going to do the same thing to make sure that everything that we have is done above board and it's legal, and I'm not saying its that, but on the issue I don't know whether I did discuss it with some of the people standing around here, I don't know if somebody referenced me or not, but whatever they said I can say it here right now, I know that was approved in a special meeting, but the only thing on the agenda was that and I wasn't there."

Ferguson: "But it was discussed with you?"

Murphy: "Yes sir it was done in a special meeting, the only thing on the agenda."

Ferguson: "There's a question that I want answered first. Mr. Killian if we go back to a lawyer now and we tell them to do case study after in January we give

this young lady the ok to go ahead and incur cost and in her project, where does that leave us legally? What responsibility have we occurred?"

Killian: I am delving in an area where I am extremely not qualified, and that's being an attorney. I do know situations in the past, in other experiences that I have been involved with where a governing body or an official of a county or city has given the go ahead to a project or to a rezoning, not a rezoning issue, but a project before a rezoning or say it was grandfathered or mistakenly gave approval to a sub-division or to a sign or something of that nature, and then it was called to that official's attention after the fact. Courts have held that if the person that was given the approval started expending money based on the advice of the governing body or of the official of the organization that granted approval, then courts have generally ruled in the favor of the person who started spending the money. In this case we, through council action authorized this particular project to move forward and funds have been expended on engineering and other studies of that nature. That doesn't mean that's going to be the outcome if the case got to that level, but any other cases where funds have been spent on good faith based on determination or direction from a public official, courts have generally ruled with the person that is putting that use in. I'm not sure that answers your question."

Ferguson: That is kind of what I figured, but I'm no lawyer so I didn't take that to be the case. State your motion again, Mr. Murphy."

Murphy: *"My motion was that we have the have the county administrator to get with the county lawyer (or whatever) and make sure that the grandfathering of properties that we have made a decision on was legal based on case law or statutory law or even attorney general's opinion in cases like this one. {If we are lying I'm not saying we can change anything on this one, but it can sure help us in the future.}"*

Ferguson: "We had a second. All in favor signify by saying aye. All opposed by nay."

Brown : "One abstention"

Ferguson: The nays have it."

Murphy: *"Mr. Chairman, I request a roll call vote since Mr. Marcharia is coming in so we can make sure he has privy to it."*

Ferguson: "Mr. Marcharia are you aware of the discussion on the floor at the present time?"

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Marcharia: "Mr. Chairman I am sorry, I apologize to council. I did hear most of it; I didn't hear the final conversation."

Ferguson: "The motion is that we go back to the lawyer and get him to do case study on past cases...grandfathering, to see if what we did was legal on this issue. Mr. Murphy wants a roll call vote so we will go back and vote again."

Brown: "Mr. Chairman. what you said is not what Mr. Murphy said. Your motion that you were saying I can vote on it. The motion that Mr. Murphy was saying that was cite specific, I cannot vote on."

Murphy: "I wasn't cite specific. We grandfathered more than one. We are not talking about a certain piece of property. We're talking about to make sure that we are doing things right, because some other issues of grandfather will come up. We need to have some firm basics on what we need to do. We may need not, and I agree with Mr. Killian that there are probably people who spend money and they have been given an official go ahead, that we are liable that we have exposed them to and that save us exposure in the future we can get a definitive answer on this. That's what I'm saying it's not cites specific. It's not—it's just where we stand on grandfathering--whether an application or what needs to be there for grandfathering to play in."

Ferguson: "How many properties have we grandfathered in since we rezoned?"

Killian: "We can go back and look at it. Those that had uses in place that were non-conforming uses when the zoning ordinance was adopted were automatically grandfathered. I'm going to assume that you are not talking about those properties. I'm only aware of one property where council has actually..."

Murphy: "We've had more than one, we had the quarry at Rion."

Brown: "We've had one or two more."

Ferguson: "They were already in existence. We have already grandfathered one piece of property."

Murphy: "No all of them. They weren't in the plan."

Ferguson: "They were already in existence."

Murphy: "Everything has to be in existence to be grandfathered."

Ferguson: "Ok"

Robinson: "I think at this point what we also need to know is, should we ever come up before a judge if he issues and order. The main thing he is going to say is at the council you knew or you should have known. Another standard verbiages

that are always going to come down in an order from a court or from an appeal and I think the money that we spend to have an answer so that we do know is well spent money that would possibly keep us out of court. In any issue and we have already grandfathered or we consider to grandfather. You knew or should have known.”

Ferguson: “Is there anybody on this Council that did not know two and one half years ago that this piece of property (this one specific piece of property that I am discussing)...is there anybody on this Council that did not know two and one half years ago what the intent of the landowner was?”

Murphy: “What does that have to do with the motion?”

Davis: “I am not answering your question; however, I would like to make a statement. No matter what you do, you can, at any point and time be taken to court for any reason. You can go to the Supreme Court today; that does not mean the fact that you won’t be taken to court tomorrow on the same issue. That really has no relevance as to what the future holds as far as legalities on any item. You can’t just place them into concrete, and say we have done this, and this is solid. You can’t do that with the intent that it is not going to get you in court or that’s going to always put you on solid ground.”

Robinson: “My point when I said ‘you should have known’, I am referring to the law. We knew, or should have know, because we are a public entity—elected officials. We should have known what the law says that would protect us so that we do not spend money on frivolous lawsuit. It’s not whether we knew a particular issue; that has nothing to do...we knew or should have known the law—not an issue.”

Murphy: “It’s more now, since it was brought up before Council in a public session. If it’s denied, and we are doing something after this without getting an opinion, it could really weigh real tough.”

Marcharia: “I hope ignorance is curable. I have to ask a question of those who have been on this Council for 10, 15, 16 years—those who are in real estate; those who are in law and do this for a living – do not know the technical language of grandfathering in. Does it have to say something like ‘at the time that you actually something in, it is either already manifested itself actually working; already made the request or been granted. Is that the kind of context of grandfathering in? Is that the language? You know this?”

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Brown: "All of this is new territory for us. You have been here since zoning was passed. That's what we are saying. It is all new territory for us. You have been here just as long as zoning has been here. I am in the real estate business; Carolyn is legal."

Robinson: "I am not an attorney. I can't give advice."

Brown: "We all know about equal amount of zoning."

Marcharia: "We have a zoning director. In terms of grandfathering in – it must be in writing. I have read some things, and just as layman's terms, my understanding of it was that if pre-existing (things that were existing) or in the process when this law was changed. If you are speaking of a few weeks ago, what I remember reading, there were some letters and intent of having the property built for the purpose that was expressed. If that is true, to me, that constitutes grandfathering. If it is not, clear it up for me."

Murphy: "I think that is what we are trying to do – with getting the lawyers to clear it up."

Davis: "To answer to some degree Mr. Marcharia's concern, that has been done—with the zoning director; with an opinion from the county administrator, with his contacting legal counsel – is that not their view that we were on solid ground at that time?"

Killian: "As I understood their review of the documentation we provided to them, which included the 1997 letter; the action taken by the Council. I think they wrote in their opinion, it was clearly the intent of the property developer (the person who bought that property) to do the things that were in their letter long before we had zoning in place. They never contemplated rezoning because when they bought the property, there was no zoning. I think that is what they based their opinion on was the fact there was no zoning and when they bought the property, they had clear intentions of doing what they said they were going to do; therefore, based on all of the documentation showing that, they felt like Council was appropriate in grandfathering that use in because the only thing they were waiting on was the provision of water."

Marcharia: "Then I don't understand the legal question. That is quite clear to me. What is the legal question?"

Murphy: "It's whether or not what constitutes a procedure."

Marcharia: "A what?"

Murphy: "The procedure."

Marcharia: “The procedure? If I just understood what you just said and the intent was there before the zoning and it was clearly in writing that this is what I am going to do with this particular property, and zoning came along, and you looked at the letter and said you have already requested you are going to build...we are going to allow you to do this because you have already requested it, and we are going to zone it to that degree, then that is legal. The Rock Quarry, there was a young lady that had already been moving her stuff, and we agreed that since it was already in progress, that we could grandfather that in, and we made some stipulations. Sounds like it complies with the law, unless I am missing something.”

Kinley: “I think the Council has always operated under the guidelines that we were legal. I have now made a decision up here that I didn’t feel like we looked to the administrator and the attorney to make us legal with what we decided.”

Murphy: “We would be remiss if we did not operate like that – passing things that we thought were legal. We would be a sad case if we passed things that we thought may not be legal. You do have...and that 84-year-old gentleman said if all of this is in Columbia about this property being industrial property, they should come on. Was that property as designated by the County as possible industrial site. Does that qualify?”

Marcharia: “If it is in Columbia, who made the decision?”

Murphy: “The County sent it down there.”

Marcharia: “Then the County must have cleared that to send it there.”

Murphy: “Those are the kind of questions I am talking about that would be cleared up with a legal review.”

Marcharia: “Do we need a vote on that, or do we need to instruct the administrator...”

Ferguson: “Have we discussed enough?”

Robinson: “He called for a **roll call**.”

Brown: “This is not cite specific?” “Yes”.

Robinson: “Aye”.

Marcharia: “Can I ask a question. I am still not clear. I don’t want to vote if I am not clear. As Mr. Brown said, if it is not cite specific, we are looking at this as the whole county as it applies. It is clear to me we have done the right thing.”

Ferguson: “Let Mrs. Brown read you the motion, and then we will vote.”

S. Brown: *"Mr. Murphy's motion was "to have the county administrator to get with the county lawyer to make sure that the grandfathering of property {corrected by Mr. Murphy to say "properties"} that the county made decisions on was legal based on case law, statutory law, or attorney general opinion."*

Marcharia: "Yes."

Davis: "No."

Kinley: "No."

Ferguson: "No."

Murphy: "Yes"

The motion carried 4-3. {Chairman Ferguson asked Mr. Killian to set this up}.

Murphy: "I don't see where any good, sound legal advice is going to come back to haunt us. In cases where there has been a mistake, the case that come down on the side of the person that was in the process of doing something, this can be as a focus for the future. It does not say we could change anything."

Davis: "It's real strange, as has been pointed out earlier, this is not the most recent grandfathering that we have done. We have had ample time to listen to and gone through several grandfathers of property. Why are we in such an uproar in the middle of the stream? Why are we putting ourselves in the middle of the stream? It is a little baffling that you are going to rehash what we have already heard the administrator say an attorney has given up the o.k. we are on solid ground. We are going to pay him, as well as possibly other people, to go back to the drawing board per hour and do the same thing again."

Murphy: "He didn't say the whole scope of the opinion that the lawyer gave was based on that. We asked for a total scope of it. I can remember a property that I questioned that was in a neighborhood that the building was already up for years, and we questioned whether or not it should be grandfathered. It was a question about whether it should be grandfathered or not, versus one that had a letter for the plans. That was my argument with those two properties before. This is not the first time that I have brought it up."

Marcharia: "What Mr. Killian said, and my comments are that, if it is pre-existing conditions, it is not about what's going to happen in the future because the buck stops here. It is pre-existing conditions that exist, and we have already passed it, we are going to cause taxpayers money with this vote. I have already voted; I might have voted incorrectly because if we have already passed three or

four of them already, and they are already pre-existing conditions, then what is the question. I hear Mr. Killian saying what we did, the lawyer has advised that it was legal from that perspective. Are we looking for something that might happen in the future?"

Murphy: "His decision was solely based on the documentation that we gave him – the letter that was on one; the existing of the Quarry on another; the existing of all these other things. Those conditions, whatever grandfathered was, was stated from the local level. There may be some state governance that have been to court to rule in a case similar to this one that we could get guidance from that we don't make the next mistake. This one, I don't see where we are going to be able to correct it even if it were a mistake – that it would save us from future mistakes."

Robinson: "The way we are going now, we don't know what the next request will be that is out there. We need to have sound ground to go forward because we would not continue to rubber stamp it or make the same mistake."

Davis: "In view of what Mrs. Robinson just said, you take then on a case-by-case basis – what we have done up to this point."

Marcharia: "I don't know how to ask for a recall on the vote. The more we talk about this, the right decision that we made based on the legal opinion that we have already received are pre-existing conditions was the correct decision to make. What might happen, might happen. The sky may fall tomorrow. I am not exactly sure. What we have done, I can live with that. I don't want to make a decision that might impact the citizens and cause us money and put us in a legal bind in some kind of way. I think what we have done thus far has been legal, and if it is not legal, folk need to take whatever steps they need to take to straighten it out. I am missing the legal argument."

Brown: "I want the record to show that the letter that I had written to you previously, that when we took up new business combining B & C, that I did abstain."

Davis: "With Mr. Marcharia's statement, apparently, there is some misunderstanding on the manner in which his vote was cast. To be proper and adequate, I think he is in the process of reconsidering his motion, I think, based on what he said."

Marcharia: "Listening to what is been said, I am asking for a legal definition, I am hearing what might can happen. What we have done thus far appears to be

legal, and there has been no dispute of that – or proven that to be contrary. What might happen down the road, we can stop that right here and can still find this information out.”

Murphy: “It is not stopping anything.”

Marcharia: “I would rescind my vote on that.”

Ferguson: “You can’t rescind your vote, but you can call for a revote. You were on the winning side. That is your option (whatever you want to do).”

Marcharia: “It has not been demonstrated to me clearly that we have done something illegally here or cause them to question legally. I think what we have done and what we have reviewed, to me, from what I know the administrator, and what I have asked since I have been on this Council, is legal and proper thus far. What might happen, if you can give me a legal precedent or show me the possibility of it being wrong legally then I would maintain that vote – but I would withdraw it.”

Murphy: “May I ask the Administrator what was taken into consideration in the attorney’s opinion to us.”

Killian: “We provided a copy of the documentation that was in our zoning file; which included the original letter from the landowner (on the one case you are talking about). I can’t speak for the others; copies of Council minutes and the motions that were in those minutes, and the amendments to the motions; I believe we provided copies of the rezoning application that was pending at the time that you got the opinion. Obviously, when you grandfathered it, the rezoning application had not been received at that point. It was all local documentation.”

Murphy: “The reason I made the motion was it may be something out there that we have added (actually had adjudicated) that sets precedence on what it is, and all we are asking for is whether or not, if it is out there, for us not to make the mistakes in the future.”

Marcharia: “I would like to vote again, Mr. Chairman – however, that process works parliamentarily.”

Ferguson: “We will now re-vote”.

Murphy: “Are we going to do this process because the Administrator is not going to do anything after this vote if it fails.”

Marcharia: “If some of the Council Members think that there might be a legal question in the future, might overstep some boundaries...but if that is speculation

on what might happen, why do we need a vote for that. We can instruct him to do that, can we?"

Murphy: "We are making an official action of Council or whether we instruct him. We voted it up; now, if we vote it down, are we going to go back and do it anyway."

Marcharia: "I hope that we instruct Mr. Killian to carry this out, but that is just as official as a vote, and I hope he carries it out."

Murphy: "That's all the motion was."

Robinson: "To vote is whether or not to give him the right to do that (as instructions.)"

Ferguson: "In past cases and present cases."

Marcharia: "You're telling me we can't instruct the Administrator to do something without a vote?"

Robinson: "On this particular issue, the vote is no, then we are not asking him to do the work and get us a legal opinion. If we vote yes, we are asking him to get us a legal opinion, and we are instructing him with that vote."

Davis: "The information from the attorney's office was here; we had that in hand, as well as where the motion was made to send the letter to the individual in question. An attachment or amendment to the motion was made in reference to the 1997 letter."

Murphy: "Do we have a motion on the floor?"

Davis: "Mr. Marcharia had a question."

Marcharia: "I wanted to recall my vote. I think I voted incorrectly."

Ferguson: "Would you read the motion on the floor?"

Murphy: "There is no motion on the floor."

S. Brown: "The one that was passed?"

Ferguson: "If we are going to re-vote, that is what we are going to revote on."

Killian: "The appropriate thing Mr. Marcharia needs to do, or somebody on the prevailing side needs to do, is make a motion to reconsider the vote. Then you would have to vote on whether or not to reconsider. If the vote to reconsider fails, then you cannot revote the motion. If the vote to reconsider passes, then you can revote the motion."

Marcharia: *"I so moved that we re-vote"*

Davis: *"Second."*

Ferguson: *"All in favor, signify by saying aye." Opposes, nay."*

Ferguson: "We do revote – (on the same motion)."

Killian: "You have now voted to reconsider the motion that was on the floor."

Murphy: "The issue that was on the floor; it's a vote to reconsider the issue on the floor."

Davis: "I make a motion that we revote the motion that we just voted on."

S. Brown: "The same motion?"

Kinley: "Second."

Ferguson: "All in favor of that motion, raise your right hand {Robinson, Brown, Murphy}; all opposed, raise your right hand (Marcharia, Davis, Kinley, Ferguson). The motion failed."

Robinson: "So, am I to understand that we will never have an opinion that has the full ramifications of grandfathering and open ourselves up to the legalities and whatever else the citizens may ask legally of us?"

Davis: "I hope that is not what you are getting?"

Robinson: "You have voted on..."

Davis: "We can do it independently on each item..."

Robinson: "I have the floor, and I was making some statements. With what we have just reconsidered, we are not in a position, at this time, or apparently, the wishes of this Council, not to have a full legal opinion to guide us in our decisions on grandfathering and what it means in full ramifications all the way to the Supreme Court of South Carolina and the law that controls the courts in this State. That is what I understand – that this Council, in their wisdom, does not want those opinions."

Ferguson: "In opinions of the past, each grandfathering is an individual, stand on its own merits, opinion. If you go all the way through the court system, it is not now do you grandfather, it is each individual case that is weighed as a grandfathering case."

Brown: "I tend to differ with your legal explanation. We had one grandfathering situation on Lake Wateree that had no logic and theory in voting it down at all. The pre-existing building, been there forever, and will be there for a few years. He was not allowed to get the zoning designation he wanted. We also had a piece of property in Rion that was treated differently, with not a whole lot of reasoning or logic either if you look at it the way you are saying to look at it. You

cannot be bias; you cannot be discriminatory in hearing zoning with this grandfathering - or whether is giving somebody a B1 or B2. I think you were saying we won't take these on an individual basis. Each one stands on its own. If you don't treat them all the same then you are being bias and prejudice in your thoughts in some cases, and that's what you were creating and that's why we want to know if we can get a legal opinion telling us how to do this. I have also asked for us to have our zoning expert to come up here and train county council. I have been asking for that for a while. I think we need that—I desperately think we need to have to instruct us how to handle things like this. We haven't done that and we haven't gotten a legal opinion;; we were shooting from the hip. We don't know that (I'm not going to say we don't know what we are doing); we are very astute politicians--we know exactly what we are doing sometimes. But on zoning issues, I don't know if we know exactly what we are doing at all times. And that's why we just tried to pass a motion that would give us leadership in doing what we should do. So unless you want to create a very unbiased, uncalculating--not on good legal sound footing, that's what we've done. That's where we are. That's saying we can each one individually, I think that would come back and bite us faster than anything."

Ferguson: "That's not what I said Mr. Brown. I said when they go to court, if you take these things to court. Each one is weighed on its individual merit, and it is. It's not a collective thing. If one of these things go to court, each one is weighed on its own merit, it's not against the system; does this prove to be a grandfathered issue or does it not. I'm not talking about what we do, I'm talking about if these things go to court."

Brown: "I'm saying what we do."

Murphy: "Grandfathering as Mr. Marcharia said proves this in cases. What does this mean? Where does it start? Because there is different degrees on what it was and different degrees, and the only thing in my motion...I'm trying to clear up for further action of council that we wouldn't have that it would be solid, because other than...it's different from all other zoning issues. You can change it from a RD to a B1 or..that's the discretion of the council at that time, but grandfathering could be a legal issue--it could be a legal issue."

Robinson: "Whenever any case - each case does go to court on its own merit, but whenever you have to present that case or when you defend that case, all case law that is out there applies equally to each individual case. There is a question

legally where in, is asked who is competent to make a will? That is three criteria, and don't think that there is not an 1880 - something case that sits in the law, in South Carolina law, called the Hollow Log Case law, where that man, everybody thought he was looney tune. But they don't refer to that case because he met all three criteria of what it takes to make a legal will. So what we were asking is go back and find that case law saying that we are going to be on sound ground and that we have not and would not continue to make the same mistake, because in this deliberating capacity, we need someone who is going to guide us and give us a sound, based on all criteria that's out there, decision. I do not want to put the taxpayers at the expense because of my negligence of not understanding the law so that we put them to an unnecessary expense. It seems at time that we are scared of trying to know what the law is, and we fight that, and to me that's not me taking advantage of a one-time fee so that then from now on I have a basis to go on, and I know I am on sound ground when I make my decision."

Davis: "I've heard the terms make the same mistake, what mistake is that?"

Robinson: "I'm just saying, if we continue to use the same criteria, lets say it's right then we're ok and we know we're ok. But if we were wrong, then we will continue to make the same wrong mistake each time. I just want to know that the decisions that I make are sound."

Davis: "So are you saying that we have made a mistake?"

Robinson: "No I am saying *if* we made a mistake, and we are going to continue to use the same logic, then we would continue to make a mistake. On the other hand, if we have the opinion that we are asking for, then we know we are not making a mistake."

Davis: "I think it's already in the zoning ordinance exactly what constitutes grandfathering."

Marcharia: "I'm glad you brought that up because again we have back again before us the bike, truck, car show, and festival issues—very punitive, very detrimental to the African American community. I'm just going to put it like that. Then you have groups of people who have turkey shoots—have guns and there's no permit required, you gutted the ordinance they don't have to be forced to have to shoot away from any residents anymore. They can do virtually what they want to do. How's that group different from the motorcycle—who runs that group ethnically? You know this, you were the Chairman when this happened. So you

want to talk about bias and discrimination, that's a perfect example, but they're not zoning how we discriminate against individual citizens. So that has happened and we still don't know. We're getting ready to vote on this again. I've raised it when we first started tonight about the language in it. If you're at the lake and you have a show, you can't wear a bathing suit. My goodness, what do you mean you're at a lake and you can't wear a bathing suit?"

Council Member Marcharia made a motion to go into executive session at 8:45 P.M. to discuss an economic development matter. Motion seconded by Council Member Kinley. Motion carried.

Council Member Murphy made a motion to come out of executive session and return to regular session at 9:30 P.M. Motion seconded by Council Member Brown, and unanimously approved by Council. No formal action was taken.

With Council's approval, the Chairman pointed out that the budget work session will not be dealt with as a separate matter, but will be incorporated into the regular meeting.

Budget Work Session Discussion

Mr. Killian pointed out that there were several questions that came out of the last work session that Council wanted answers to prior to moving forward. Mr. Killian distributed a copy of the Ordinance as he understood it to stand currently. The Council discussed:

1. General Fund Budget.
2. Fire Board Distribution And Incentive Program. *Council approved the \$30,000 request.*
3. School Resource Officer Agreement. *Consideration to appropriate \$46,000, plus \$8,000 support – total \$54,000.*
4. EMS. *Consideration to fund \$275,000.*
5. Career Training Center. *Vice Chairman Davis made a motion to fund the project to some degree, with contingencies. The contingency to set aside a figure, conditional upon this project being determined to be on legal footing. Motion seconded by Council*




Minutes 06/25/2001 RM

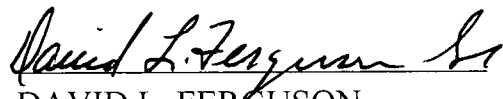
- Member Marcharia. The vote was tied 3-3 {Council Member Murphy did not vote}.*
6. Life Insurance. *The increase in life insurance to \$12,650. The adjustment will go up in the general fund budget.*
 7. *Council Member Murphy made a motion to place an additional \$15,000 in the special projects account. Vice Chairman Davis seconded the motion. The motion carried unanimously.*
 8. Recap:
 - a. \$275,000 – EMS
 - b. \$ 81,650 – General Fund
 - c. \$ 30,000 – Fire Board Millage
\$386,650

After receiving the above recap and hearing all discussion of the budget, Council Member Murphy made a motion to approve Third and Final Reading of Ordinance No. 408 (FY 2001-2002 Budget). Motion seconded by Council Member Brown. Motion carried 6-1. {Vice Chairman Davis voted no.}

14. ADJOURN

The meeting was adjourned at 12:20 A.M. {Tuesday morning, June 26, 2001}, upon the unanimous approval of Council.


SHRYLL M. BROWN
CLERK TO COUNCIL


DAVID L. FERGUSON
CHAIRMAN