

**MINUTES
ORANGEBURG COUNTY COUNCIL
November 4, 2013
5:30 P.M.**

Pursuant to the Freedom of Information Act, the news media was notified and notice was posted on the bulletin board 24 hours prior to the meeting.

MEMBERS PRESENT:

**Johnnie Wright, Sr.
Janie Cooper-Smith, Vice Chairman
Heyward H. Livingston
Willie B. Owens
Johnny Ravenell
Harry F. Wimberly
Clyde B. Livingston**

MEMBERS ABSENT:

OTHERS PRESENT:

**Harold M. Young, County Administrator
Angel Howell, Executive Assistant
Megan Dangerfield, Clerk to Council
Jerrod Anderson, Assistant County Attorney**

CALL TO ORDER

Johnnie Wright, Sr., Chairman

MOMENT OF SILENCE

Moment of silence observed

APPROVAL OF MINUTES

October 21, 2013

Motion by Councilwoman Cooper-Smith, seconded by Councilman Ravenell, to approve minutes of October 21, 2013. Motion passed unanimously.

PUBLIC COMMENTS:

AGENDA ITEMS

None

PUBLIC COMMENTS:

OTHER MATTERS

None

1. RESOLUTION HONORING DELTA SIGMA THETA SORORITY, INC.

Councilwoman Cooper-Smith read the contents of the resolution in its entirety.

Chairman Wright asked for a motion. Councilman Cooper-Smith made a motion and it was seconded by Councilman Owens. Motion carried.

2. PROCLAMATION DECLARING NOVEMBER "PANCREATIC CANCER AWARENESS MONTH"

Chairman Wright read the contents of the Proclamation.

Councilman Wright asked for a motion. The motion was entered by Councilman Heyward Livingston and seconded by Councilman Owens that the Proclamation be passed. Motion carried.

3. ORDINANCE-THIRD READING AND PUBLIC HEARING

AN ORDINANCE OF THE COUNTY COUNCIL OF ORANGEBURG COUNTY, SOUTH CAROLINA, AMENDING THE ZONING MAP OF UNINCORPORATED ORANGEBURG COUNTY, SOUTH CAROLINA, TO CHANGE THE ZONING DESIGNATION FOR THE REAL PROPERTY DESCRIBED AS TAX MAP NUMBER 0233-00-04-040.000 FROM FA (FOREST AGRICULTURAL) DISTRICT TO RC (RURAL COMMUNITY) DISTRICT; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

Chairman Wright asked County Administrator Young to give a brief summary for those who may not have been to the previous meetings. Administrator Young stated that this was in reference to a request to rezone a parcel located at 5423 Charleston Highway in Bowman from Forest Agricultural to Rural Community. He stated that this matter had been before the Council twice and before the Public Service and Planning Committee once. The Committee voted to approve the request. The request was for the purpose of allowing a funeral home to be built on the property. He stated that it was the recommendation of the Planning Commission that Council approve this rezoning request as well.

Councilman Wright opened the floor for public hearing. Mr. James Miller, an adjacent landowner came forward. Mr. Miller stated that he did not have a problem with a funeral home being on the property but had concerns that a new zone distinction could allow for other things. Mr. Miller also stated that Henry Clay Simmons owns the property and should be the one to request the rezoning, not his nephew, Desmond Simmons, who plans to operate the funeral home. Mr. Miller also stated that this was a spot zoning issue.

Councilman Clyde Livingston asked Mr. Harold Young if it's possible to grant an exception to allow a funeral home under the current zoning. Mr. Young stated the only way that would be possible would be to change the ordinance itself, which the council has the ability to do. But as the district is zoned now, a funeral home is not allowed. Councilman Harry Wimberly stated that the council approved the change in zoning for that particular parcel to build a funeral home. Councilman Wimberly also stated that if Mr. Simmons chose to build a convenience store than he would need to come back before the council. Mr. Young stated that if the use is allowed in the Rural Community district, Mr. Simmons

would not have to go through the rezoning process again. Councilman Wimberly stated that if the Council changed the ordinance for him to build a funeral home then that's the only thing he can build. Mr. Young said he would have to check the legality for restrictions. Richard Hall, Planning Director, stepped forward and stated that the law does not allow the council to stipulate a single use within a zone. He stated when you change the property to Rural Community, you allow anything that's in the RC table. Nightclubs and bars are not allowed in a RC zone. It's a rural community district and by definition, should promote community self-sustainment by allowing things the community needs. Regarding spot zoning, he stated that the comprehensive plan has identified that area as a growth area so it's not spot zoning. Councilwoman Janie Cooper-Smith stated that she would like to clarify that the ordinance was requested by the owner, Henry Clay Simmons, and Richard Hall confirmed. Councilman Livingston stated that it didn't make sense to change what's allowed in a Forest Agricultural district and asked what was allowed in a Rural Community district. Richard Hall stated that convenience stores or anything that would help a community be self-sustaining. Councilman Owens asked Mr. Hall for the definition of spot zoning. Mr. Hall defined spot zoning to be when a property is rezoned and it doesn't comply with the rezoning and comprehensive plan. He stated that the comprehensive plan is a map that underlies the zoning map and land use in that particular area was identified as a potential growth area for an expanding Bowman.

Councilman Wimberly stated that he gets confused when someone says that they can't do this or that and council sets the law. He also stated that if the County Council says only a funeral home can go there, then that's the only thing that can go there. He asked if he was correct. Mr. Hall stated that yes, with an ordinance, that was correct, but the comprehensive planning law with the state says you can't rezone property and then limit what can go there. He also stated that Council would have to change what's allowed in that district and that the Council had full power to do that. Councilman Wimberly asks if it was acceptable for Mr. Summers to sign an affidavit stating he would only build a funeral home on the property and that he would come back before planning and the Council if he decided to build something else. Mr. Hall stated that was a question for legal. Harold Young said that he was not sure but that he and Attorney Jerrod Anderson did discuss that Desmond Simmons had proxy of his uncle to use the property. The withdrawal from the uncle would kill the rezoning so the affidavit from the uncle would be something that the County could legally stand on to make sure it was a funeral home.

Councilman Wimberly stated that he was trying to establish authority when the County Council changed the zoning area for a specific purpose, that's what is put in place. He stated that the adjacent landowner doesn't have a problem with a funeral home but he may have a problem with a nightclub. He also stated that the Council needs to set that priority now because they are seeing more and more changes to accommodate businesses in the county. He said that he is all for more businesses in the county, but that Council needs to set that authority.

Councilman Ravenell asked Mr. Hall if all intersections appeared as a circle at a crossroads. Mr. Hall stated that they did not appear in a circle but they were a designated growth area for lighter commercial use and nightclubs are not allowed in a RC district.

Mr. Ravenell stated that this issue had been before Council three times, had been discussed at length and that he believes Mr. Simmons intent is for a funeral home. Councilman Clyde Livingston asked what could be allowed in a RC district. Mr. Young read the list of businesses allowed. Councilman Clyde Livingston asked how large the parcel is. Mr. Hall stated that the property was 5 acres with 300-500 feet of frontage. Mr. Miller stated that there are deed restrictions on the property and it cannot be subdivided or have mobile homes placed on the property.

Councilwoman Cooper-Smith stated that Mr. Simmons says that he is building a funeral home. She understands Mr. Miller's concerns but the Council needs to take Mr. Simmons at his word.

Mr. Stevens, a concerned citizen, commended County Council for their wisdom and vision in moving Orangeburg from an undeveloped county to a developing county. He stated that when the Council took on this venture, they looked at not only large corporations but also small businesses. He asked Council to keep true to their word and allow Mr. Simmons to build his funeral home.

Laura Simmons Fogle, Henry Simmons sister, stated that Henry Simmons would not allow a nightclub. Other funeral homes came in to protest this ordinance so the adjacent land owners should know that Mr. Simmons's intent is to build a funeral home. She stated that if Desmond Simmons did not build a funeral home, he would have to deal with family first.

Chairman Wright closed the public hearing. He asked for a motion to pass third reading of the Ordinance. A motion was made by Councilman Wimberly to rezone parcel 0233-00-04-040.000 from Forest Agricultural to Rural Community for the purpose of a funeral home. This was seconded by Councilman Ravenell. Motion Carried.

4. ORDINANCE-THIRD READING AND PUBLIC HEARING

AN (FLOOD) ORDINANCE AMENDING CHAPTER EIGHTEEN OF THE ORANGEBURG COUNTY CODE OF ORDINANCES TO REPEAL THE EXISTING ORDINANCE AND REPLACE WITH DEFINITIONS, POLICIES, AND STANDARDS IN CONFORMITY TO THE NATIONAL FLOOD INSURANCE PROGRAM; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Chairman Wright asked that County Administrator Harold Young give a brief summary. Administrator Young stated that flood rate maps for communities across South Carolina were being updated as a part of the map modernization initiative by SCDNR and the Department of Homeland Security under FEMA. They have issued preliminary flood insurance and study maps and reports that contain proposed flood hazard determinations. As a result of these studies, the Planning Department recommends that the Ordinance be

approved by Council. Chairman Wright opened the Public Hearing. No comments were received and the Public Hearing was closed.

Councilman Owens made a motion to approve the ordinance for third and final reading, which was seconded by Councilwoman Cooper-Smith. Motion carried.

5. ORDINANCE-SECOND READING

AN ORDINANCE OF THE COUNTY COUNCIL OF ORANGEBURG COUNTY, SOUTH CAROLINA, AMENDING THE ZONING MAP OF UNINCORPORATED ORANGEBURG COUNTY, SOUTH CAROLINA, TO CHANGE THE ZONING DESIGNATION FOR THE REAL PROPERTY DESCRIBED AS TAX MAP NUMBER 0282-12-05-001.000 FROM FA (FOREST AGRICULTURAL) DISTRICT TO CG (COMMERCIAL GENERAL) DISTRICT; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

Chairman Wright asked that County Administrator Young give a brief summary. Mr. Young stated that the property owner of 2930 Cleveland Street in Elloree was requesting this change so he could put a billboard on the property. The first reading and public hearing were held October 9, 2013.

Councilman Heyward Livingston made a motion to approve the ordinance for second reading, which was seconded by Councilman Ravenell. Motion carried.

6. ORDINANCE-SECOND READING AND PUBLIC HEARING

AN ORDINANCE PROVIDING FOR AN EXTENSION OF THE INVESTMENT PERIOD AND TERMINATION DATE FOR MONTEFERRO USA, INC. UNDER ITS FEE IN LIEU OF TAX AGREEMENT WITH ORANGEBURG COUNTY PURSUANT TO SECTION 12-44-30(13) AND 12-44-30(17) OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED, THE ISSUANCE OF AN INFRASTRUCTURE CREDIT, AND OTHER MATTERS RELATED THERETO

Chairman Wright asked that County Administrator Young give a brief summary. Mr. Young yielded to Jerrod Anderson. Mr. Anderson stated that Monteferro USA, Inc. was seeking to extend the existing fee in lieu for another ten years and also to extend the investment period for another five years. The company plans to invest 2.1 million, add ten new jobs, and invest twenty five thousand dollars in road improvements. If Council approves the ordinance, the company would be able to get a SSRC credit for one third of the amount for three years. He also stated that there had been no changes since the first reading. Chairman Wright opened the Public Hearing. There were no comments. Chairman Wright closed the Public Hearing. There was a motion by Councilman Owens, seconded by Councilman Wimberly to approve second reading of the ordinance. Motion passed unanimously.

7. VOTE FOR EXECUTIVE SESSION

Chairman Wright asked for a motion. Motion was made by Councilwoman Cooper-Smith and seconded by Councilman Owens. Motion carried.

8. EXECUTIVE SESSION

a. ECONOMIC DEVELOPMENT UPDATE

Before adjourning, Chairman Wright introduced Megan Dangerfield as the new Clerk to Council. County Administrator Young stated that Mr. O'Neal Williams passed away the previous Friday. He had been a county employee for 41 years and loved his job so much that he was buried with his county uniform. The Council recognized his loyal service for 41 years.

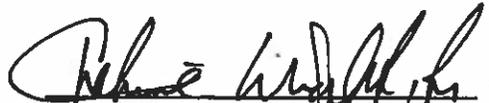
9. VOTE FOR ADJOURNMENT

Councilman Owens voted for adjournment. Motion seconded by Councilwoman Cooper-Smith to adjourn.

10. ADJOURNMENT

Meeting adjourned.


Megan Dangerfield, Clerk to Council


Johnnie Wright, Sr., Chairman