

Wiley Johnson, Mayor

Council Members:

Bob Jackson, Mayor Pro-Tem
Walter Bailey
Aaron Brown
Christine Czarnik
Kima Garten-Schmidt
William McIntosh



Town Administrator
Colin L. Martin

Town Clerk
Beth Messervy

Town Attorney
G.W. Parker

Town of Summerville
COUNCIL MEETING MINUTES
February 14, 2019

ATTENDANCE

Present: Mayor Wiley Johnson, Mayor Pro-Tem Bob Jackson and Councilmembers Aaron Brown, Walter Bailey, Christine Czarnik, Kima Garten-Schmidt, and Bill McIntosh. A quorum was present. Town Administrator Colin Martin, Town Clerk Beth Messervy and Town Attorney G.W. Parker were also present. Public and press were duly notified.

CALL TO ORDER

The regular monthly meeting of Summerville Town Council was called to order at 6:00 p.m. on Thursday, February 14, 2019 by Mayor Johnson. The meeting was opened with prayer, followed by the Pledge of Allegiance led by Councilman Bob Jackson.

PUBLIC COMMENTS

Mayor Johnson called for any comments from the public.

Felicia Whetsell, 155-B Pidgeon Bay Road, spoke to express her concerns with the tennis courts at Doty Park, as her son is unable to play on empty courts because they are being reserved by the Town. Ms. Whetsell stated that she would continue to come to Council meetings until the ban on James Martin is lifted.

Brian Kelley, 107 Manning Court, spoke in favor of keeping the public comment ordinance the way it is, citing First Amendment rights to maintain and protect the citizens of Summerville. Mr. Kelley submitted written documentation of his public comment.

Mr. Kelley spoke a second time, this time addressing the second reading of the smoking ban ordinance on the agenda. Mr. Kelley stated that he was not in favor of the ban, and he submitted written documentation of his public comment.

Gary Bailey, 80 Gaillard Road, spoke in favor of the proposed changes to the public comment ordinance on the agenda. He also stated that Council is easy to get in touch with if he has any concerns that he wishes to share.

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Dora Ann Reeves, 557 Simmons Avenue, gave the background of how Little Main and Short Central came to be known by those names, as she was a part of the change from the way that they were previously referred to.

Jamie Gregson, 1000 Farm Springs Road, expressed her concerns with the median at the corner of Grandview and Highway 78 near Sonic Drive-Thru. She stated that there should be a “right turn only” sign there as to prevent accidents from cars trying to turn left onto Highway 78 from that location.

Rudd Smith, 205 South Hickory Street, spoke in support of the smoking ban ordinance on the agenda. He stated that there are more important problems for Council to consider, such as obesity.

Mike Hostler, 501 King Charles Circle, expressed his concerns with the flooding at his property and the 6 homes of his neighbors, as the properties are very close to Arbor Oaks. Mr. Hostler asked that Council address the problem.

Adrian Kwist, 109 Reynolds Road, stated that before the public comment section of the meeting begins, the audience should give a show of hands for who would like to speak. Then, the presiding officer could decide how much time each public comment should be given, whether it be 3 or 5 minutes.

Brian Kelley, 107 Manning Court, submitted a third document of a public comment for the record.

There being no further comments from the public, Mayor Johnson closed this part of the meeting.

APPROVAL OF MINUTES OF PREVIOUS MEETINGS

Mr. Jackson made a motion, seconded by Mr. Brown, to approve the minutes of the January 10, 2019 Council meeting. The motion carried unanimously, and the minutes were accepted into record.

APPROVAL OF COUNCIL COMMITTEE REPORTS

Mr. Jackson made a motion, seconded by Mr. Brown, to approve the combined minutes of the February 11, 2019 reports from Parks and Recreation, Planning and Development, Public Works, Public Safety, and Finance. Mayor Johnson asked that Mr. Jackson’s motion be amended to exclude the Finance Committee meeting minutes so that they could be voted on separately. Mr. Jackson amended his motion accordingly, and the motion carried unanimously to accept the February 11, 2019 reports from Parks and Recreation, Planning and Development, Public Works, and Public Safety.

Mr. Jackson made a motion, seconded by Ms. Garten-Schmidt, to approve the minutes of the February 11, 2019 Finance Committee minutes. The motion carried 6-1, with Mayor Johnson voting in opposition. Mayor Johnson stated that he would not vote to approve the minutes, because he did not agree with staff using “professional services” as a way to circumvent the RFQ/RFP process.

PETITIONS

Mr. Brown made a motion, seconded by Mr. McIntosh to approve on first reading (in title only) of a petition by South City Construction, Inc. and Jens Franzen to annex Dorchester County TMS# 136-12-03-019 (approximately 0.44 acres) located at 110 Pinewood Drive, currently zoned R-2 Single-Family Residential in Dorchester County and will be zoned R-2 Single-Family Residential upon annexation into the Town of Summerville’s municipal limits. The motion carried unanimously.

PENDING BILLS AND RESOLUTIONS

Ms. Garten-Schmidt made a motion, seconded by Mr. Brown, to approve on second and final reading of an ordinance to amend Chapter 16, Offenses and Miscellaneous Provisions, Article I, In General, Section 16-15 – Smoking of tobacco products, Subsections (b) Intent, (c) Definitions, (d) Prohibition of Smoking in Indoor Workplaces/Indoor Public Places, and (f) Exceptions.

Mr. Bailey made a motion, seconded by Mr. McIntosh, to amend the ordinance to strike “public streets and” from Section 16-15(d). Some discussion followed. The motion to amend failed 3-4 with Ms. Czarnik, Ms. Garten-Schmidt, Mayor Johnson, and Mr. Brown voting in opposition.

Ms. Czarnik made a motion, seconded by Ms. Garten-Schmidt, to amend the ordinance to make the following changes to subsection (12) in the section (c) Definitions, to read: “‘Smoking’ means the inhaling, exhaling, burning, lighting, or carrying of a lighted cigarette, cigar, pipe, or ~~similar device or any other lighted tobacco product~~, e-cigarette or other tobacco product or device intended for use with tobacco in any manner, or in any form which involves the release of any smoke, mist or vapor.” Some discussion followed.

Mr. Bailey made a motion, seconded by Mr. McIntosh, to amend Ms. Czarnik’s amendment to strike “e-cigarettes” and “mist or vapor” from the proposed language. Some discussion followed. The motion to amend the amendment failed 3-4, with Ms. Czarnik, Ms. Garten-Schmidt, Mayor Johnson, and Mr. Brown voting in opposition.

There was more discussion regarding Ms. Czarnik’s motion to amend, and the motion failed 3-4 with Mr. Bailey, Mayor Johnson, Mr. Jackson, and Mr. McIntosh voting in opposition.

Mr. McIntosh stated for the record that he would not vote for the original motion because he felt that this ban should have been done by a resolution instead of an ordinance.

On the original motion to approve on second and final reading of an ordinance to amend Chapter 16, Section 16-15, the motion failed 2-5 with Mr. Bailey, Mr. McIntosh, Mr. Jackson, Ms. Czarnik, and Mayor Johnson voting in opposition. Ms. Czarnik stated for the record that she voted against the ordinance because the amendment that she proposed did not pass.

INTRODUCTION OF BILLS AND RESOLUTIONS

For item 7a, first reading of an ordinance to grant a quit claim deed to Hoover Summerville, LLC for an unopened portion of Gum Street Extension, preserving unto the Town a perpetual easement for drainage and public utilities, Mayor Johnson made a motion, seconded by Mr. McIntosh, to table the item until after Executive Session. The motion carried unanimously.

Mr. Jackson made a motion, seconded by Mr. Bailey, to approve on first reading of an ordinance to amend Chapter 2, Administration, Article II, Mayor and Council, Section 2-97, Order of Business, and Section 2-98, Addressing Council by Member. Mayor Johnson made a motion, seconded by Mr. McIntosh, to divide the question and vote on Section 2-97 and 2-98 separately. The motion carried unanimously.

Mr. Jackson amended his original motion, with Mr. Bailey's consent, to approve on first reading of an ordinance to amend Chapter 2, Article II, Section 2-97. Some discussion followed. The motion to amend Section 2-97 carried 5-2, with Mayor Johnson and Ms. Czarnik voting in opposition.

Mr. Jackson made a motion, seconded by Mr. Bailey, to approve on first reading of an ordinance to amend Chapter 2, Article II, Section 2-98. Mr. McIntosh made a motion, seconded by Mr. Bailey, to amend the proposed ordinance change to change "four minutes" to "five minutes," and to replace "unless otherwise specifically authorized by the presiding officer" with "as recorded by a digital timer conspicuously placed in Council Chambers." Some discussion followed. The amendment to the proposed ordinance change carried 5-2, with Mayor Johnson and Ms. Czarnik voting in opposition.

The motion, as amended, to approve on second and final reading of an ordinance to amend Chapter 2, Article II, Section 2-98 passed 5-2 with Mayor Johnson and Ms. Czarnik voting in opposition.

MISCELLANEOUS

Jack Mitchell with AT&T gave a presentation on the new model ordinances about small cell technology.

Mr. Cornette presented the Memorandum of Agreement in regards to the Berlin G Myers Parkway Phase III. He explained that the purpose of the MOA is to agree to the temporary rerouting of the Sawmill Branch trail down Bacons Bridge Road, through the neighborhood sidewalk network and back to the trail at Luden Drive. This will only be during construction of the Berlin Myers Parkway BMP. The trail will be reestablished and reopen for use after construction of the BMP. It also states that the Town will agree to install signs along the canal where the bank will be benched warning users that the trail may be submerged during significant rain events. Mr. Bailey made a motion, seconded by Mr. McIntosh, to approve Mayor Johnson to sign the agreement.

EXECUTIVE SESSION:

Town Attorney G.W. Parker explained the topics to be discussed in Executive Session: legal matter related to Hoover v. Town of Summerville, et al; personnel matter related to Comprehensive Plan Advisory Committee; and personnel matter related to Town Administrator's contract.

Mr. McIntosh made a motion, seconded by Mr. Brown, to enter into Executive Session at 7:59pm. The motion carried unanimously.

OTHER BUSINESS:

Council reconvened at 8:46pm in Chambers. Town Attorney GW Parker explained that no action was taken on legal matter related to Hoover v. Town of Summerville, et al; personnel matter related to Comprehensive Plan Advisory Committee; and personnel matter related to Town Administrator's contract.

Mr. Brown made a motion, seconded by Mr. McIntosh, to appoint Wesley Birt, Kris Neely, Will Rogan, Mark Pilgrim, Mike Dawson, and Peter Gorman to the Comprehensive Plan Advisory Committee. The motion carried unanimously.

Mr. Bailey made a motion, seconded by Mr. Jackson, to extend the Town Administrator's contract from April 13, 2019 to April 13, 2020, with a salary of \$147,500 and 20 days paid vacation, with all other terms of the contract staying the same. The motion carried 6-1, with Mayor Johnson voting in opposition.

Ms. Czarnik made a motion, seconded by Mr. Brown, to move item 7a on the agenda from the table. The motion carried unanimously. Mr. Jackson made a motion, seconded by Ms. Czarnik, to approve on first reading of an ordinance to grant a quit claim deed to Hoover Summerville, LLC for an unopened portion Gum St. Extension, preserving unto the Town a perpetual easement for drainage and public utilities. The motion carried 6-1, with Mr. McIntosh voting in opposition.

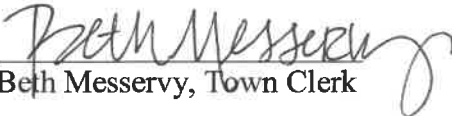
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ADJOURN

There being no further business, the meeting adjourned at 8:51 p.m. on motion of Mr. Jackson, seconded by Mr. Brown.

Respectfully submitted:

APPROVED:


Beth Messervy, Town Clerk


William W. Johnson, Mayor

Mayor Johnson and Members of Council, I'm Brian Kelley of 107 Manning Ct and I'm here to comment on the Unified Development Ordinance.

First I'd like to thank the Council for some actions taken at the workshops you've held. Last month you corrected two substantial problems, editing the statement balancing undefined "community aspirations" against actual property rights and removing the prohibition of one-story buildings in some areas. Yesterday you addressed the treatment of cash advance, payday lending, and title loan services. You removed the location restriction that would have all but banned them. However, if I correctly recall your actions, you maintained some distinction between these alternative banking services and traditional banks and credit unions. Making these services less available to Summerville residents doesn't create better options for them. People with financial emergencies should be able to seek credit where they can find it.

And speaking of making cash unavailable to people, why the ban on drive-through ATMs? We are not yet a cash-less society. Many Americans prefer the privacy and security of cash transactions and the convenience and security of a drive-through ATM.

Of course ATMs won't be the only thing you can't drive to under this ordinance. The first three core principles of the design guidelines that apply to all buildings except single-family homes discuss "pedestrian trip[s]," "pedestrian comfort and activity," and "pedestrian scale." Convenience and preferences aside, are we creating a Summerville where the buildings are fully compliant with laws on disabled access but sited in a town where disabled people can't reach them and others will be reluctant to?

This UDO even reaches into the bedrooms of Summerville. It provides a broad definition of "adult establishments" and then lists problems from littering to drug trafficking to sexual exploitation as the rationale for exiling them to heavy industrial areas. While these problems may be associated with the strip joints and adult movie theaters which are the traditional focus of such bans, it's doubtful there's evidence of them at adult merchandise stores where people buy products for use in their homes. The *Post & Courier* found none when it looked at one local establishment last year.¹ By including locations where "more than 10% of any goods are sold are considered sexually-oriented [sic]," you would both needlessly prohibit harmless activity and create a monopoly for existing businesses.

Finally, the UDO as a whole plans a municipality, and especially a downtown, that is thriving and profitable. Thriving and profitable things are seldom created through central planning², especially planning that tries to modify the behavior of a free people. As you continue your review of this document, please give the citizens of Summerville the good leaving alone they deserve.

Thank you. With the presiding officer's permission I will now submit a copy of these remarks including citations and explanatory materials for publication in the record of this meeting.

¹ https://www.postandcourier.com/news/after-lingerie-store-opens-in-summerville-county-questions-adult-store/article_86227758-b06a-11e8-adbf-e334d458142b.html

² "Men, in general, are sufficiently disposed to occupy themselves in forming projects and schemes: But he who would scheme and project for others, will find an opponent in every person who is disposed to scheme for himself. Like the winds that come we know not whence, and blow whithersoever they list, the forms of society are derived from an obscure and distant origin; they arise, long before the date of philosophy, from the instincts, not from the speculations of men. The crowd of mankind, are directed in their establishments and measures, by the circumstances in which they are placed; and seldom are turned from their way, to follow the plan of any single projector." Adam Ferguson, *An Essay on the History of Civil Society* [1767]
<https://oll.libertyfund.org/titles/ferguson-an-essay-on-the-history-of-civil-society>

Accepted into
record

-kgm

For those of you who do not know me, I am Dora Ann Reaves, and during the last century I was a journalist at The Post and Courier. Part of that time, I was copy desk chief for The Evening Post. At that time, both an evening paper and a morning newspaper, The News and Courier, were published.

The copy desk chief was a very powerful position. He or she made decisions about what stories were in the newspaper and that they were correctly edited.

That means the copy desk chief was in charge of the stylebook. This is an actual book stating how words would be spelled, abbreviated and hyphenated. And, how sentences should be punctuated. Most newspapers use an Associated Press Stylebook as well as compiling their own.

At that time, most commentary in the Post and Courier's stylebook related to Charleston, West Ashley, East Cooper and, to a lesser extent, North Charleston. My effort was to include Summerville data.

As recently as 30 years ago, people in Summerville would refer to "Short Main", "Left Main" or "Right Main" (depending on which direction you were driving), "One-Way Main" or "Little Main." Similarly, there was "One-Way Central," "Little Central" and "Short Central."

I said, "No more!" Just as C.E. Detmold, a civil engineer, created a street map and named the primary streets of Summerville, I decided to codify two street names.

The single blocks of Main and Central became Little Main Street and Short Central Avenue in our stylebook and gradually in common conversations as well.

During renovations in recent years those two streets have continued developing their own identity, I am proud to be part of their past.

Mayor Johnson and Members of Council. I'm Brian Kelley of 107 Manning Ct and I'm here to offer public comment on, of all things, public comment.

Summerville's citizens have a First Amendment right to petition this Council for a redress of grievances. That petition can take many forms including lawsuits, letters, emails and speech.

But public comment at *these* meetings is special. It allows citizens to seek redress in a manner that is vital to any republic, however small. Participants state their views before their fellow citizens in this chamber and in the extended presence of those who view the meeting on the internet or see it covered in the newspaper or on television. No member of this council can claim ignorance of the facts or opinions presented here. Our comments provide a basis for citizens to evaluate your performance and vote accordingly.

The Council has the power to regulate public comment at its meetings, not as a means of stifling dissent, but only to ensure their orderly and prompt conduct. Current rules place comments immediately after the Pledge of Allegiance and require commenters to identify themselves, address their remarks to the Council, and speak for no more than five minutes on any single topic. Also, "the presiding officer may direct that extended comments are provided in writing."

Three proposals have been made to alter the rules:

- First, move comments unrelated to the agenda to the end of the meeting. This could bury the topics citizens want discussed most and elected officials want discussed least. Oppose.

- Second, transfer control of speakers' time from the presiding officer to the whole Council. It's not precisely clear how this would work, but it sounded like a 1970's TV program: *The Gong Show*. I oppose this too, but if you're determined to go ahead with it, I'll buy you a gong myself. It should be quite entertaining.¹

- Third, reduce the time limit to three minutes. This seems unnecessary, but the Council should consider starting a two-minute countdown clock after the speaker has consumed three minutes.

The fairness of any limits, old or new, relies on having alternatives. The most obvious alternative is the submission of written material, which is explicitly permitted by

the ordinance, but seldom used. In reviewing the minutes of the 2018 Council meetings, the only significant submission was in September, when a commenter provided written materials “for the record.” Those materials documented the misbehavior of Members of Council and may be of interest to citizens, but they did not appear in the published minutes² or any addendum thereto. All submitted written materials should be included in the published record of these meetings, giving citizens the same access to written materials that they have to the oral comments made here.

Thank you. With the presiding officer’s permission I will now submit a copy of these remarks including citations and explanatory materials for publication in the record of this meeting.

¹ “When an act was on the verge of being gonged, the laughter and anticipation built as the judges patiently waited to deliver the strike. They would stand up slowly and heft their mallets deliberately, letting everyone know what was coming. Sometimes, pantomimed disputes would erupt between judges, as one would attempt to physically obstruct another from gonging the act. The camera would cut back and forth between the performers on stage and the mock struggle over their fate. Some acts were so bad that two or even all three judges struck the gong at once ... On rare occasions, judges found an act so terrible that they would go onstage, hand a mallet to the performer, and lead him/her back to the table to gong him/herself out.”
https://en.wikipedia.org/wiki/The_Gong_Show

² Town of Summerville Council Meeting Minutes, September 18, 2018;
https://www.summervillesc.gov/vertical/sites/%7BAAE23E2-99CA-4103-85AD-32CB4206F79B%7D/uploads/1809_signed.pdf

Mayor Johnson and Members of Council, I'm Brian Kelley of 107 Manning Court and I'm here to comment on the smoking ban.

I don't use nicotine in any form, nor do I advocate that anyone use it. I have had no financial interest in nicotine use since 1979 when I sold cigarettes as a convenience store clerk.

In January you gave first reading to an ordinance banning outdoor public smoking. The rationale for this ban rests on shaky ground:

- First, an exaggerated estimate of the threat of outdoor second-hand smoke.

There's "little problem" if the smoker is downwind or more than six feet away, according to one Stanford University study.¹ That study also found that, for example, being "exposed multiple times to multiple cigarettes over several hours in an outdoor pub" would exceed EPA standards for particulate matter. This ban prohibits far more than health concerns dictate.

- Second, the desire to reduce cigarette butt litter without simply enforcing a littering rule under the public facilities ordinance.

- Third, the natural political instinct to protect a majority of Summerville residents (non-smokers) from being annoyed by a minority (smokers).

- Finally, the well-intentioned desire to prevent the youth of Summerville from being exposed to the bad example of smokers.

Neither individually nor collectively are these reasons a sound basis for the ordinance.

Far more troubling was the suggestion by some Members of Council that the ban be expanded to include e-cigarettes. The use of e-cigarettes, known as vaping, is an alternative method of consuming nicotine using water vapor rather than combustion. It eliminates an estimated 95 percent² of the health risk of cigarette smoking.

Its introduction concerned public health officials, largely because of the potential for getting teens hooked on nicotine. E-cigarettes come in a wide variety of attractive flavors. They are the wine coolers of nicotine use. What if these teens eventually started smoking actual cigarettes?

The results have been mixed. The bad news: Vaping by teens has increased. The good news: Teen smoking continues to decline and indeed has hit a record low

nationwide.³ Vaping is not the gateway to teen smoking some had feared. And the sale of vaping products to those under 18 is already illegal in South Carolina. There is nothing preventing the Council from banning public vaping by those under 18.

Meanwhile millions of adults have switched to vaping, some as a healthier alternative to smoking, others as the means to break their addiction entirely. A study published last month found it more effective than other methods to stop smoking.⁴ Vaping is saving lives.

Which hasn't stopped some government officials from interfering. A campaign of misinformation is changing opinions. The share of adults who incorrectly said vaping is as harmful as or more harmful than smoking tripled between 2012 and 2015, from 13 percent to 40 percent.⁵ A Summerville vaping ban would contribute to that misperception and discourage cigarette smokers from taking a step that would improve their health.

I ask this Council to choose science over sentiment. Thank you. With the presiding officer's permission I will now submit a copy of these remarks including citations and explanatory materials for publication in the record of this meeting.

¹ <https://news.stanford.edu/news/2007/may9/smoking-050907.html>

²

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/733022/Ecigarettes_an_evidence_update_A_report_commissioned_by_Public_Health_England_FINAL.pdf

³ <https://tobaccocontrol.bmj.com/content/early/2018/10/31/tobaccocontrol-2018-054446>

⁴ https://www.nejm.org/doi/full/10.1056/NEJMoa1808779?query=featured_home

⁵ <https://www.sciencedirect.com/science/article/pii/S0749379716304433>