

## GREENWOOD CITY COUNCIL

June 20, 2005 - 5:40 p.m.

### MINUTES

#### PRESENT

Mayor Nicholson; Council Members: Niki Hutto, Linda Edwards, Betty Boles, Herbert Vaughn, Johnny Williams, and Barbara Turnburke; City Manager; Assistant City Manager; City Clerk; Attorney John McCravy; Mike Hatfield of WCRS and Vic MacDonald from the Index-Journal.

#### SPECIAL RECOGNITION

The Golden Girls

The Mayor read the first item and said, "Betty Boles talked to me about recognizing a special group. Some of them go way back from classmates and growing up together, so they are golden guys and girls. I would like to present a proclamation to the Golden Girls."

Mayor Nicholson then read a Proclamation and presented it to the Golden Girls.

#### MINUTES

Mayor Nicholson asked for a motion to approve the City Council public hearing, meeting, and executive session on May 16, 2005, plus special meeting and executive session on June 6, 2005.

Motion was made by Johnny Williams, seconded by Betty Boles, approving the minutes as presented.

The Mayor asked, "Is there any discussion or corrections? All in favor raise your right hand. So moved."

Motion was passed unanimously.

REPORTS

Mayor Nicholson asked for a motion to accept as information the reports from the City Manager for May 2005, and the Commissioners of Public Works Consolidated Financial Reports for the Period Ending April 30, 2005.

Motion to accept the reports as information was made by Niki Hutto, seconded by Betty Boles.

STEVEN BROWN

“Mr. Mayor?”

MAYOR  
NICHOLSON

“Yes?”

STEVEN BROWN

“May I add a little bit to my report?”

MAYOR  
NICHOLSON

“Yes, sir.”

STEVEN BROWN

“I just wanted to report that Saturday’s events were very successful. Those of you who attended observed that there was a steady stream of people all day long. ETV was extremely pleased with the reception and cooperation exhibited by all of the Greenwood volunteers. They told me that they had been treated great, and appreciated all that was done to make the ETV On the Road Program a success. Saturday’s events were very great, and we had good crowds. Charlie played hookie and went to New Orleans, but I will give him credit for planning the event. I won’t give him a bit of credit for Saturday’s success. The food vendors were extremely pleased, and I know that those of you who were there were very pleased also. I just wanted to let you know that we thank you for your participation.”

MAYOR  
NICHOLSON

“Okay. I still can’t understand Charlie choosing between Greenwood and New Orleans. All in favor of accepting the information, raise your right hand. So moved.”

Motion passed unanimously.

CONSIDER

An Ordinance to Give Consent to the Creation of a Joint County Business Park Pursuant to Article VIII, Section 4-1-170, et. seq., South Carolina Code of Laws, As Amended, Which will be Geographically Located with the Municipal Boundaries of the City of Greenwood, South Carolina.

(2<sup>nd</sup> reading)

Under old business, Mayor Nicholson read the first item and asked the City Manager, "We're just talking about the old Lowe's building for now, right?"

STEVEN BROWN

"Yes, it's just that building."

MAYOR  
NICHOLSON

"Okay. Do I have a motion?"

Motion to approve the ordinance was made by Niki Hutto, seconded by Johnny Williams.

"Is there any discussion? Mr. Brown?"

STEVEN BROWN

"Mr. Mayor, there have been some changes since the last meeting. I would like to call on two individuals. One is our City Attorney, Mr. McCravy, and the other is Mr. Watson, who is the County Attorney. We need

to make sure we adopt the ordinance as it is written and that you're approve of the agreement. I'll let Mr. McCravy speak first."

JOHN MCCRAVY

"Thank you. I've given you a letter that more or less summarizes my position on this. First of all, when I first got the agreement and ordinance, we asked them to modify some things. Now that it's done, I'm comfortable with the way it's written, if Council decides to pass it. I don't have any objections to the document itself. The only reservation I have is the concept, and I've outlined this in my letter. This is a creature of first impression for me, as it probably is for you, and I've done some research on it.

The only thing I see that could potentially pose some concern is the actual participation by the partner county. The agreement, as it is written, requires more than one county to be a part of the agreement. In this particular arrangement, the partner county would be receiving one percent of the revenue, but probably most of that one percent, if not all, goes back to the County of Greenwood. I guess I would liken it to a partnership agreement where I partner with a fellow and tell him that he's going to be a one percent partner. I'll give him one percent of the profit, but he turns around and gives it back. Is that really a partnership? That's the only question I have.

When you look at the plain meaning, or the words of a statute, there's nothing that really says you can't do it. I can't say there's a law stating this is not permissible. There's also nothing specifically saying you can do one percent, even though you're taking it back. I don't know what to tell you except I can't give you an absolute legal opinion saying that this agreement is 100%. I can say that all the City is doing is consenting to the agreement. We made it clear that we're not a party to the agreement, but just consenting to it according to the statute.

I will say that I think this is the first of more to come. I think there is going to be more proposed in the future, so I would look at it closely this time, if I were you. It's going to be something that's going to come up again.

As a policy matter, I don't want to recommend whether you pass it or not. I'm just telling you that, from a legal standpoint, I can't guarantee it will hold up. I guess the worse risk to the City would be that the agreement would be undone. That's about the best I can do. Does anybody have any questions?"

NIKI HUTTO

"Well, yes. If Abbeville had an opportunity to do a similar agreement, in which Greenwood acts as their partner and we reciprocate in like kind, wouldn't that make this mutually beneficial to both counties?"

JOHN MCCRAVY

"To Greenwood County and not the City?"

NIKI HUTTO

"Yes."

JOHN MCCRAVY

"Well, I guess..."

NIKI HUTTO

"I would think that if this works successfully for us and Greenwood County and, if Abbeville is kind enough to partner with us, when Abbeville has a similar situation, we would agree to the same in similar terms. I would think that similar counties in a geographic area could partner together in the same venue. That's how I would think it would be beneficial, whether it goes back and forth."

JOHN MCCRAVY

"Well, I'm not addressing the policy side of it. I think that's a good policy. All I'm saying is, just from a legal standpoint, I think there would be a concern as to whether it would be a true partnership or not. If that specific issue was given to a court, by the way that it's written, they could say they are a partner, even though you're going to give them their money back. Is that still a partner? I can't say. Sometimes the court looks at what the language says, and at other times the court looks at what the intent is. If a court says that the intent was to have two real partners that shared a lot of money and expenses in common, then they might not like the agreement. That's all I'm saying. I can't say what the court will do but, as City Attorney, I think it's my responsibility to at least advise you of any concerns that I have from a legal, not a policy, standpoint. You may decide from a policy standpoint that this is a great thing. That's your decision. This is from a legal standpoint. That's all."

MAYOR  
NICHOLSON

“Are there any other questions? Okay, thank you, John.”

CHUCK  
WATSON

“Mr. Mayor and Members of Council, I’m Chuck Watson, the Greenwood County Attorney. We made a presentation, with a lot of scenarios, during a work session with Jeff Fowler, from the Economic Alliance. This format has been reviewed by the Director of the South Carolina Department of Revenue, Burnet R. Maybank, Dan McLeod, Jr. and Tom Martin, both of whom are the economic development geniuses of the McNair Law Firm.

I did not make this up. I wish I was smart enough to understand half of what this does. There are lawyers out there that do this for a living and have recommended it. It was initially set up to help any one of the adjoining counties, such as Abbeville and Laurens, create a partnership whenever they want to. Because it wasn’t available for the cities, they put in a provision for them, if they consent to the creation of this park in their city. As I see it, in the off chance (and I think it will be very unlikely, but certainly possible) that a judge rules against it, the worst thing we would have to do is either amend the agreement to make it suitable to the judge, or give back the extra economic development incentives we would never have gotten in the first place. It would get us right back to where we are now, therefore I don’t see any real risk of harm.

Greenwood County has already passed this. Abbeville County has passed two readings and they’re holding their third reading until next Monday. We’re still excited about the prospects this is going to bring. Investing in economic development and letting this be your engine to generate some of the economic returns, can plow some of those proceeds back into additional development and jump start some areas of the City that you have identified and targeted. I know the Economic Alliance has some areas they’re ready to suggest but, as Jeff and I suggested to you when we first met, it’s certainly possible you may have some areas that you want to have things done, and we can certainly work those up as well. Are there any

questions I can answer for you?"

MAYOR  
NICHOLSON

"Thank you, Chuck."

STEVEN BROWN

"Mr. Mayor, there are a couple of things I'd like to cover with City Council. One is, I'm appreciative of the County working with us on this project because we have a number of 'empty boxes' around town. This will be our first use of this specific legislation. It could be used for purposes, but this is our first time to be able to fill an empty box, take an area which has been empty and not been producing any significant amount of tax, and hopefully turn that situation around. It also gives the City and the County an opportunity to work together, which is a plus.

The other thing is that I can't speak on the legal issues as the City Attorney did, but I can speak on the policy side. I'll have to tell you that I strongly recommend the approval of this ordinance and agreement, even with the reservations of the City Attorney. I truly hope that in the years and months to come, we will have others interested in participating in similar projects.

Chuck may know this better than I do, but I am aware my counter parts in other cities and counties that are using this legislation. I think we're using it as close to the intent of the legislature as possible. I just think it's a plus for Greenwood and, in 6-9 months when we see this empty box as a productive business producing tax, you will look back at tonight, and realize that you did the right thing. I think it's a plus for all of us. At the same time, I appreciate the City Attorney's cautious attitude about it. We ought to be cautious, but I think this is good for us."

MAYOR  
NICHOLSON

"Okay. Is there any other discussion or questions? All in favor of the agreement raise your right hand. So moved."

Motion passed unanimously.

- attach -

CONSIDER

Mayor Nicholson read the second item and asked for a motion.

An Ordinance Amending the City of Greenwood's Official Zoning Map (Ordinance No. 04-020) by Rezoning Property (Approximately 5.02 Acres) located at 1508 Parkway, the Gardens at Parkway, from OPI (Office/Professional/Institutional) to R10 (Residential - High Density).

Motion was made by Barbara Turnburke, seconded by Niki Hutto.

"Is there any discussion? All in favor of raise your right hand. So moved."

Motion passed unanimously.

(2<sup>nd</sup> reading)

- attach -

CONSIDER

Under new business, Mayor Nicholson read the first item and asked for a motion."

An Ordinance Amending the City of Greenwood's Official Zoning Map (Ordinance No. 04-020) by Rezoning Property (Approximately 4.2 Acres) located at 903 Sweetwater Road, From R1 (Single-Family Residential) to GC (General Commercial).

( 1<sup>st</sup> reading)

NIKI HUTTO

"May I ask a question?"

MAYOR  
NICHOLSON

"Yes."

NIKI HUTTO "Prior to us changing the zoning maps, this property was General Commercial, correct?"

STEVEN BROWN "Yes it was. This property, GLEAMNS, and the Shirley property."

NIKI HUTTO "What is this property being used for presently? Is it being used, or just vacant?"

STEVEN BROWN "It is being marketed as commercial property. There is a residence on it, but he does have a license to do some things that are permissible."

NIKI HUTTO "Now, let me ask this question. Once it's sold commercial and you have a general commercial business, wouldn't there be some sort of buffer between it and the residential property behind it, under the new ordinance?"

STEVEN BROWN "There is a buffer requirement between commercial and residential property."

NIKI HUTTO "Okay. So when a new venture does come in, those ordinances will be in effect, correct?"

STEVEN BROWN "Yes."

NIKI HUTTO "Okay."

STEVEN BROWN "If you've noticed, there has been some grading and clearing that has been done. It has been commercial. I double checked before the meeting to verify that it is true."

LINDA EDWARDS "And the property that sits behind it?"

STEVEN BROWN "It's residential, but it was that way before we changed the map."

LINDA EDWARDS "It was always residential?"

STEVEN BROWN "It has always been residential."

LINDA EDWARDS "But through error, the Planning Department included that front piece as residential. If anything

were to go there, will there be a separation where it won't back up to these people homes and deface their value?"

STEVEN BROWN

"When this property was rezoned years ago, the City Council and the Planning Commission did not want to venture into the residential properties. They felt commercial zoning was the best use of those corner properties."

MAYOR  
NICHOLSON

"Okay. Are there any other questions?"

BETTY BOLES

"Are we aware of any businesses that are interested in that particular property at this time, other than the church?"

STEVEN BROWN

"No, ma'am."

NIKI HUTTO

"But the church would be an allowable use in residential anyway, because it's not really general commercial. The buffer zones and landscape standards of the new ordinance will apply to new businesses, correct?"

STEVEN BROWN

"That's correct."

NIKI HUTTO

"Okay. I wanted to make sure."

STEVEN BROWN

"The dimensions of the lot is not deep. There could not be any huge entities like Home Depot there, but a small commercial use."

NIKI HUTTO

"Yes, because you wouldn't have the adequate parking with the zoning regulations."

STEVEN BROWN

"The property would have to meet our new landscaping regulations for commercial property also."

MAYOR  
NICHOLSON

"Okay. Do I have a motion?"

STEVEN BROWN

"Mr. Mayor, are you going to consider my recommendation to expand this rezoning to include the GLEAMNS' and Scott Shirley's properties?"

MAYOR  
NICHOLSON

“Yes. Do I have a motion that, along with Mr. Lance’s property, GLEAMNS and Mr. Shirley’s properties be included for rezoning to General Commercial also?”

Motion was made by Niki Hutto, seconded by Johnny Williams.

“Is there any further discussion? All in favor raise your right hand. So moved.”

Motion passed unanimously

- attach -

CONSIDER

An Ordinance  
Amending the City  
of Greenwood’s  
Official Zoning  
Map (Ordinance  
No. 04-020) by  
Rezoning Property  
(Approximately  
15.5 Acres)  
Located at Trakas  
Avenue and  
Masters Court

Mayor Nicholson read the second item and asked for a motion.

Motion was made by Johnny Williams, seconded by Niki Hutto.

The Mayor asked, “Are there any questions or discussion?”

from R4  
(Residential -  
Medium Density)  
to R-7 (Residential  
- High Density).

(1<sup>st</sup> reading)

BETTY BOLES

"I have one question. This was publicized in the paper, and no one came forth with any letters or anything?"

STEVEN BROWN

"Phil (Lindler) said that no one was opposed to it. He would've been here, but he's at a Ninety Six Town Council Meeting, and is on his way as quickly as he can get through."

MAYOR  
NICHOLSON

"Okay. Are there any other questions or discussion? All in favor raise your right hand? So moved."

Motion passed unanimously.

- attach -

CONSIDER

An Ordinance  
Annexing  
Approximately  
8.55 Acres, More  
or Less, of Karlie  
Hill Subdivision,  
Phase IV.

(1<sup>st</sup> reading)

STEVEN BROWN

Mayor Nicholson read the third item and recognized the City Manager.

"Mr. Mayor and City Council, in previous meetings you have annexed Karlie Hill Phases I, II, and III. This is the forth phase of Karlie Hill townhouses off of Laurel. These are the same style townhouses that are

already in the first three phases, and the owner has asked it to be annexed into the City.”

MAYOR  
NICHOLSON

“Okay. Do I have a motion?”

Motion was made by Johnny Williams, seconded by Niki Hutto.

“Is there any discussion or questions? All in favor raise your right hand. So moved.”

Motion passed unanimously.

- attach -

CONSIDER

Accepting  
Brazington Court  
into the City of  
Greenwood Road  
Maintenance  
System.

Mayor Nicholson read the fourth item and recognized the City Manager.

STEVEN  
BROWN

“Mr. Mayor and City Council, this cul-de-sac off Gracemont was completed by Danny Brothers and his development company. Our City/County Engineer has inspected the road during the development, and has given us a letter stating that it meets our road construction standards. Mr. Brothers has given us a letter of credit as required for the three year maintenance period. He will be responsible for any repairs on the road during the next three years, but if he fails to make those repairs, we have his letter of credit to make them ourselves. After a three year period of time, we would then have 100% responsibility for the roads.”

MAYOR

“It’s that area where the County Bank built six little

NICHOLSON

houses.”

NIKI HUTTO

“Yeah, they look just like the ones that are behind Timberlake off of Highway 72. Didn’t he build a couple on Laurel as well, or was it Haltiwanger?”

MAYOR  
NICHOLSON

“Okay. Do I have a motion that we accept these?”

Motion was made by Niki Hutto, seconded by Herbert Vaughn.

“Is there any discussion or questions? All in favor raise your right hand? So moved.”

Motion passed unanimously.

- attach -

RECEIVE

Report from City  
Manager and  
Executive Director  
of the City of  
Greenwood  
Housing Authority.

Mayor Nicholson read the fifth item and recognized the City Manager.

STEVEN BROWN

“Mr. Mayor... Mr. Lamb, Mr. Elliot and I are responding to City Council’s direction. In the past, we have discussed a proposed project by the Housing Authority and other entities in town that would provide some potential recreational opportunities for the south end. We have always been very positive about that proposal.

A part of making that happen is for the Housing Authority to acquire additional land. A part of the land they acquired was the old foundry that was owned by Greenwood Mills at one time. John will

verify that they were able to purchase it at a good price. However, the destruction of that old foundry is now the responsibility of the Housing Authority, and they have asked if the City would aid in the demolition.

At that time, we naively, innocently or ignorantly thought that it might cost \$25,000 to take it down, and we were directed by Council to solicit formal bids. During the bidding process, we received a low bid of \$44,000, and other bids that ranged from \$80,000, \$104,000 and \$140,000. City Council then asked us to find out why the S& T Company didn't bid. He told John and I that it was a misunderstanding on his part, because he thought all he had to do was dismantle the metal building and leave everything else. That's why he had given John a ballpark figure of about \$25,000. He now says that if he had to bid on it, it would probably be \$100,000 or better. John has recently asked the low bidder of \$44,000 if they are still interested in the project, and they're still willing to sign a contract. Everybody that we have spoken with tells us that, if we can get it done for that price, we need to move quickly.

It is an old foundry, and there are a lot of things that I did not know about it until John took me to the site. The foundry has a lot of smudge and other metal products and materials that are associated with it. It was also built to withstand the atomic bomb, I think. The concrete footings are probably two to three feet thick and maybe five to ten feet deep in the ground. It's not an easy project, and I fully understand why \$25,000 wouldn't touch it.

They can speak for themselves, but I think the Housing Authority is wanting to move, and they're still asking the City for assistance. If you want to assist the Housing Authority, I think we could use some of our Community Development Funds to help them. It's purely your decision. I can tell you as City Manager that if we are ever able to get the project completed, you will be pleased.

Now, a lot of things must happen and fall in place, but this is a good proposal for the south end of

Greenwood which we have often been accused of neglecting. The Housing Authority is doing everything possible to make it happen, and these two fellas are pushing it with everything they have. I think you will be glad to say we had a part in it, but we're not there now. We have this problem that we need to remove first before we can move to step two, three, five or whatever it is. The longer we wait, the more apt that \$44,000 guy may change his mind, so we need to have a decision quick. We need to know tonight if you do not desire to participate, and they will go back to their drawing board."

JOHN LAMB

"As Mr. Brown says, this is just a step process. The first step was securing some funds, and the second was securing the property. We got the property, but need to get it cleared. We have already put aside some potential partners, like the YMCA and others, but it's a step process. You're wondering, if you fully fund this project tonight, will you have a park there in six months? I can't say that, but we're working on it diligently, and we're doing all that we can. We're uncovering areas and turning over every stone to make this work.

The foundry itself, as all of you know, has been there a long time. It's an eyesore and probably borders on being a public nuisance.

The fence is cut, and people are going in and out of it for years, so it's not anything new. I can't think of any major thoroughfare coming in or out of the City of Greenwood that has such an eyesore on it, so getting rid of it would be beneficial to the City.

I understand times are hard and money is tight, but we're in the same boat. We're, trying our best to be an asset to the City by getting rid of the eyesore and providing activities and recreational services for the folks on the south end of Greenwood. Of course, folks on the north end can come too."

BOB ELLIOTT

"Thanks to you, I have been appointed to the Housing Authority Board for last 15 years, and this is one of the most exciting things that I've seen on the south end of town. We're really excited about it, and we got a lot of people in town that are aware and

thinking about it. There are a lot of different boards in town seeing how they may be involved also. My first suggestion to John was to recommend to Steve and Council that the Housing Authority Board would take a 50% pay cut, but he said that y'all were too smart for that! The Southern Railroad has 11 acres adjoining property to the foundry. Hopefully, through some lawyers in Atlanta, we're gonna find out how we can acquire that property to make it an even bigger project. It's recreational, and we hope that's all we ever use it for, so we would really appreciate anything you can do."

MAYOR  
NICHOLSON

"I know the Y (MCA) has really been involved with you all, right?"

BOB ELLIOTT

"Yes they have. We have met with them several times, and they're waiting for us to get all of our loose ends with the foundry and railroad property before they really combine forces to see what we can come up with."

STEVEN BROWN

"For years, I have struggled with the adjacent railroad property because it grows wild and crazy, and they do not maintain it. It begins at the end of the foundry property, runs down the old track bed to the Housing Authority's property and behind Blyth Heights. The people in Blyth Heights have called me continuously wanting us to clean that area because they get rats, snakes, and other vermin coming from it.

NIKI HUTTO

"How much are you all looking for, the entire \$44,000?"

MAYOR  
NICHOLSON

"What do we have in that account, Steve?"

STEVEN BROWN

"In one of those accounts we have several \$100,000, and less in others. I don't think Steffanie has the exact amounts."

STEFFANIE  
DORN

"The last time I looked at it, the oldest fund has about \$300,000 in it."

MAYOR

"Three hundred thousand?"

NICHOLSON

JOHNNY  
WILLIAMS

“So we have enough to do this, and not worry.”

MAYOR  
NICHOLSON

“I think we need to look at doing the whole thing at \$44,000.”

NIKI HUTTO

“So these community funds are not a part of our General Fund?”

STEVEN BROWN

“These are Community Development funds. You have total control over them, and only certain projects are eligible for funding. The foundry is a community development project because of the demolition and clearing. We have no problems with it qualifying, but the staff can not expend that money without your approval.”

NIKI HUTTO

“And this person with this \$44,000 bid realizes that the foundry has to be cleared, not just knocked down?”

JOHN LAMB

“It was under the bid specifications.”

STEVEN BROWN

“If you are inclined to fund this project, I would ask that you specify the Housing Authority to draw the contract because they own the property. Allow John and his Board to get with their attorney to make sure that their contract with this guy is proper. John and I discussed all of this and they’re willing to do it. The Housing Authority will be the lead agency and will actually sign the contract. When they are satisfied with the demolition and are ready for payment, then we can do the paperwork.”

MAYOR  
NICHOLSON

“Do I have a motion that we approve the \$44,000?”

STEVEN BROWN

“It’s \$44,000 and some change.”

JOHN LAMB

“It’s \$44,244.”

STEVEN BROWN

“I could see \$45,000.”

MAYOR

“Okay. Do I have a motion?”

NICHOLSON

Motion was made by Johnny Williams, seconded by Barbara Turnburke.

“Any further discussion or questions? All in favor raise your right hand? So moved.”

Motion passed unanimously.

CONSIDER

A Request for  
Executive Session  
to Discuss a  
Contractual Matter  
- Prosecutorial  
Services.

Mayor Nicholson read the last item and asked for a motion to go into executive session to discuss a contractual matter.

Motion was made by Johnny Williams, seconded by Niki Hutto.

“All in favor raise your right hand. So moved.”

Motion passed unanimously.

Assistant City Manager, Charles Barrineau, introduced intern, Kimberly Haj, who is helping to organize the South Carolina Festival of Discovery.

Meeting adjourned at 6:23p.m.

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Floyd Nicholson, Mayor

ATTEST:

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City Clerk and Treasurer