

GREENWOOD CITY COUNCIL

November 21, 2005 - 5:33 p.m.

**MINUTES**

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

ABSENT Johnny Williams

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CALL TO ORDER The meeting in Council Chambers was called to order by Mayor Nicholson at 5:33 p.m. and he welcomed everyone to the meeting.

The Mayor then gave the invocation.

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STATEMENT AND QUORUM Mayor Nicholson read the following statement, "In accordance with the Freedom of Information Act, Chapter 4, Title 30, Code of Laws of South Carolina, 1976, an agenda has been posted on the front door of City Hall and notification of this meeting has been given to the news media."

The Mayor then asked the City Clerk, Steffanie Dorn, if a quorum was present. She said, "Yes, Mr. Mayor, we have a quorum present."

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APPROVAL OF CONSENT AGENDA Mayor Nicholson asked for a motion to approve the consent agenda.

Motion to approve the consent agenda was made by Linda Edwards, seconded by Niki Hutto.

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

Motion passed unanimously.

CONSIDER

Ordinance No.  
05-032 Annexing  
Four (4) Parcels  
of Property  
Owned by Connie  
Maxwell  
Childrens Home  
Located off  
Lowell and  
Maxwell Avenues.

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

Under public hearings, Mayor Nicholson said, "The format that we employ at the public hearings is, if there is anyone here to speak, we ask that you come to the podium, state your name and address for the record and try to limit your comments to not more than three or four minutes."

The Mayor then read the first item and said, "If you look on the screen, it will show you the exact location of this property. Do I have anyone here to speak in favor of the annexation? Is there anyone opposing the annexation? Okay, seeing and hearing none, we will close the public hearing.

As you know, this is second reading. Do I have a motion that we annex this property?"

A motion was made by Niki Hutto, seconded by Betty Boles.

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

Motion passed unanimously.

- attach -

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CONSIDER

Ordinance No.  
05-033 Amending  
the City of  
Greenwood's  
Official Zoning  
Map (Ordinance  
No. 04-020) by  
Rezoning  
Property  
(Approximately  
2.74 Acres)  
Located at 110 &  
108 Enterprise  
Court, from NC  
(Neighborhood  
Commercial) to  
GC (General  
Commercial).

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

Mayor Nicholson read the next item and said,  
"Again, you can look on the overhead projection and  
see where the properties are located. Is there  
anyone here to speak in favor of this rezoning  
change? Is there anyone opposing the rezoning  
change? Okay. Seeing and hearing none, we will  
close the public hearing.

As you know, the Joint Planning Commission  
recommended approval of this request. Do I have a  
motion on the first reading of this ordinance?"

A motion was made by Niki Hutto, seconded by Linda  
Edwards.

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

Motion passed unanimously.

- attach -

CONSIDER

Ordinance No.  
05-034 Amending  
the City of  
Greenwood's  
Official Zoning  
map (Ordinance  
No. 04-020) by  
Rezoning  
Property  
(Approximately  
1.45 Acres)  
Located at 302,  
208 & a Vacant  
Lot on Seaboard  
Avenue, from R7  
(High Density  
Residential) to  
GC (General  
Commercial).

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

Mayor Nicholson read the next item and said, "As you look at the overhead again, you can see the location of this property. Is there anyone here in favor of this rezoning request? Is there anyone opposing? Okay. Seeing and hearing none, we will close the public hearing.

This is first reading. You can see that the Joint Planning Commission also recommended approval of this request. Do I have a motion?"

LINDA EDWARDS

"Mr. Mayor? I need a clarification before you get a motion. Lots 302 and 308 have buildings on it, right?"

STEVEN BROWN

"Yes. The original request was just for this vacant property here (pointing). The Planning Board added the two additional properties there (pointing). I think the original request was for NC. The Planning Board changed it to GC, which is the least restrictive, and added these two properties here."

MAYOR NICHOLSON

"Okay. How are the two properties zoned right now?"

STEVEN BROWN

"It's residential."

MAYOR NICHOLSON

"All of it is residential, even where the businesses are located also, right?"

STEVEN BROWN

"Yes, sir."

NIKI HUTTO

"But there are no businesses located on this piece of property whatsoever, right?"

STEVEN BROWN

"But there are right here (pointing)."

LINDA EDWARDS "The piece of property he's talking about backs up to a set of apartments. They are already having problems with flooding when it rains now. What do they plan to put on this piece of property?"

MAYOR NICHOLSON "I don't think there are any plans."

STEVEN BROWN "No sir, there is not. They want to market the property as Commercial."

MAYOR NICHOLSON "And General Commercial is the least restrictive. The property is adjacent to the apartments. We've been trying to address that drainage problem for years."

NIKI HUTTO "Yes, but no matter what they build; you're going to have a drainage issue. Whether it be houses or apartments, you will still have a drainage issue no matter what the zoning."

MAYOR NICHOLSON "We have to do something."

STEVEN BROWN "The closest commercial property is Ace Hardware. It's Core Commercial."

MAYOR NICHOLSON "Yeah. It's across the street."

NIKI HUTTO "So the Planning Board basically brought in the two present nonconforming uses with this request. I'm almost of the opinion to rezone the nonconforming and to leave the vacant property as it is."

LINDA EDWARDS "I agree."

STEVEN BROWN "Maybe your action should be to deny the original request to rezone the Town & Country property. It will remain residential. Send back these two parcels to the Planning Commission for further study regarding commercial zoning."

NIKI HUTTO "Correct. If the buildings would burn down, their livelihood just went out the door."

STEVEN BROWN "So you can separate what's been recommended."

MAYOR NICHOLSON "Do I have a motion?"

LINDA EDWARDS "Are we going to send it back or deny it?"

MAYOR NICHOLSON "Deny this, send it back to the Planning Board and recommend the rezoning of the property."

STEVEN BROWN

"Mr. Mayor, may I clarify that?

Ms. Edwards, what you would do is to deny the original request, which is to rezone the vacant lot. I would recommend two distinct motions. The second motion would the Planning Commission study those two commercial properties as to whether they would like to recommend some type of commercial zoning to make them conforming."

"Okay, first do I have a motion that we deny this request?"

A motion was made by Linda Edwards, seconded by Betty Boles.

"Is there any further discussion? This is just to deny the original request of rezoning all the properties. All in favor raise your right hand. So moved."

Motion passed unanimously.

"Now, do y'all want to send the buildings back to the Planning Board to make it in compliance?"

A motion was made by Niki Hutto, seconded by Barbara Turnburke.

"Is there any further discussion? This would just be the parcels with the buildings located on them. All in favor raise your right hand. So moved."

Motion passed unanimously.

CONSIDER

Ordinance No.  
05-035 Amending  
the City of  
Greenwood's  
Official Zoning  
Map (Ordinance  
No. 04-020) by  
Rezoning  
Property  
(Approximately  
0.34 Acres)  
Located on  
Maxwell Avenue,  
from RM7 (High  
Density  
Residential -  
Manufactured  
Housing) to NC  
(Neighborhood  
Commercial).

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

DONALD ROBINSON

"My name is Donald Robinson, owner of Robinson and Son Mortuary which has been located on Maxwell Avenue for the last 70 years. I have with me this afternoon other land and home owners that live on Gulf Street. Mr. Carter, Mr. Smith, Mr. Reynolds, another Mrs. Smith, and Mrs. Posey all own property on Maxwell Avenue. We want to deny this zoning and leave it residential as it has been for all these years."

MAYOR NICHOLSON

"Okay. Thank you, Mr. Robinson. Is there anyone else to speak in opposition to this rezoning request? Okay, seeing and hearing no other, we will close the public hearing.

Again, this is first reading. The recommendation coming back from the Planning Commission was denial of this request to rezone this property. So, do I have a motion?"

A motion to deny was made by Niki Hutto, seconded by Betty Boles.

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

Motion passed unanimously.

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CONSIDER

Under unfinished business, Mayor Nicholson read the first item and recognized the City Manager.

Ordinance No.  
05-028 Amending  
the City of  
Greenwood  
Official Zoning  
Map (Ordinance  
No. 04-020) by  
Rezoning  
Property  
(Approximately  
0.36 Acres)  
Located at  
Sloan Avenue,  
Laurens Street  
and Epting  
Avenue from R4  
(Residential  
Medium Density)  
to GC (General  
Commercial).

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

STEVEN BROWN

"Mr. Mayor and City Council, the matter that is before you presently is the rezoning of this piece of property here (pointing) which is bounded by Sloan, Laurens, and Epting Avenue. But before City Council chose to take a second and final reading on the rezoning, you asked me to work with the developers on the two parcels that fronted South Main and a portion of Sloan, which you have agreed in concept to close 200 feet. Since their first presentation to you, they have redrawn their plan positioning the proposed building on those two parcels. I will remind you that they are using an existing piece of property. It isn't open property, nor is it being cleared. It's not easy to do, but I think they have made a good faith effort.

One of our concerns was that our Zoning Ordinance requires a 10 foot wide strip of landscaping on the frontage (pointing). With the building positioned as it is, they have an 8½ foot strip of landscaping which would require a foot and a half variance from the Board of Zoning Appeals. They will hear it and, if anyone is not satisfied with their hearing or decision, then it can be appealed to the Circuit Court. It does not come back to City Council, but I think it is a good faith effort to meeting the 10 foot strip.

The developer also will be asking for a 1 foot variance from 19 feet to 18 feet for certain parking spaces. The other variance will be a 3 foot variance on Laurens Street. It is my understanding that the grade at the rear of the property will require the existing curb to remain. A second curb will be installed and the area between the two curbs will be landscaped."

NIKI HUTTO

"It's going to be such a greater improvement for what is on that corner of South Main Street."

STEVEN BROWN

"Your decision tonight will accomplish three things. It will rezone the property at the corner of Laurens & Epting to General Commercial. Secondly, you accept the conceptual design of the proposed building and landscaping. Thirdly, you are committed to closing approximately 200' of Sloan Avenue."

MAYOR NICHOLSON

"Okay. Are there any questions for Mr. Brown? Do I have a motion for the second reading of this property?"

A motion was made by Niki Hutto, seconded by Barbara Turnburke.

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

Motion passed unanimously.

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CONSIDER

Under new business, Mayor Nicholson read the first item and recognized the City Manager.

Ordinance No.  
05-036 to Adopt  
the Budget for  
2006.

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

STEVEN BROWN

"Mr. Mayor, last year you approved a budget of \$12,212,000. This year we have a budget before you of \$11,940,206, which is a \$271,000 decrease in the 2006 City Budget. Approximately \$284,000 is budgeted from the fund balance. There is no tax increase, but it does include a 2% cost of living raise for the employees."

MAYOR NICHOLSON

"I think you have an explanation in your package. When we had the work session, the only thing that was not included was the cost of living. Do I have a motion in reference to the budget?"

Motion was made by Linda Edwards, seconded by Betty Boles.

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

Motion passed unanimously.

(attach)

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CONSIDER

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

An Ordinance  
No. 05-037 to  
Levy Tax for  
the City of  
Greenwood for  
2006.

(1st reading)

STEVEN BROWN

"Mr. Mayor and City Council, there is no increase in the millage that's set at 101 mills."

MAYOR NICHOLSON

"Okay. The millage will remain the same at 101 mills. Do I have a motion?"

Motion was made by Niki Hutto, seconded by Linda Edwards.

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

Motion passed unanimously.

- attach -

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CONSIDER

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

Ordinance No.  
05-038 to  
Authorize City  
Manager to  
Borrow Money in  
2006.

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

STEVEN BROWN

"Mr. Mayor, each year you pass an ordinance, which is permissive legislation, for the City Manager and the City Clerk, to issue tax anticipation notes if the need arises. Over the past 20 years, we have issued tax anticipation notes only twice. We did not do it this past year, or the previous year. It really depends on our cash flow."

MAYOR NICHOLSON

"Okay. Do I have a motion?"

Motion to approve was made by Niki Hutto, seconded by Linda Edwards.

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

Motion passed unanimously.

- attach -

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CONSIDER

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

Ordinance No.  
05-039 Adopting  
the Business  
License  
Ordinance for  
2006.

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

STEVEN BROWN

"Mr. Mayor, I would defer to the Finance Director Steffanie Dorn. Steffanie will explain any changes."

STEFFANIE DORN

"No, sir. There are no changes. We made a few changes with dates to make everything proper for the coming year. Last year, we adopted the model license ordinance language and that language is still good for the coming year."

MAYOR NICHOLSON

"Okay. So basically, no changes?"

STEFFANIE DORN

"That's correct."

MAYOR NICHOLSON

"Okay. Do I have a motion?"

Motion to approve was made by Niki Hutto, seconded by Betty Boles.

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

Motion passed unanimously.

- attach -

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CONSIDER

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

Resolution No.  
05-011  
Authorizing  
Christmas Gifts  
for City  
Employees.

STEVEN BROWN

"Mr. Mayor, City Council has considered awarding the employees some type of gift at Christmas. A number of years ago you passed an ordinance mandating that if City Council wishes to give a gift, the gift must be identified in a resolution and adopted by City Council. In the years past, you have chosen to give those employees who have been employed a year or greater a \$50 food gift certificate, and a \$25 food gift certificate for those who have been employed less than a year. If you choose to do so this year, you would need to adopt this resolution. In the past, I have been accused by a citizen of recommending this which benefits me personally. For the record, I would note that as City Manager, I have recommended eliminating the Christmas food gifts as a means of reducing our expenditures. I have no recommendation for you because it's purely a City Council decision."

MAYOR NICHOLSON

"Okay. Do I have a recommendation coming from Council that we adopt a Christmas gift for the employees?"

Motion to approve was made by Barbara Turnburke, seconded by Betty Boles.

"Are there any questions or discussion? All in favor raise your right hand. All opposed? Okay. 5-1."

Mayor Nicholson, Linda Edwards, Betty Boles, Herbert Vaughn, and Barbara Turnburke voted in

favor of the motion. Niki Hutto voted against.

Motion passed.

- attach -

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CONSIDER

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

Ordinance No.  
05-040 Annexing  
0.41 Acres at  
109 Wincey Road  
Owned by  
Piedmont  
Technical  
College  
Foundation.

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

STEVEN BROWN

"Mr. Mayor, this property is located on Wincey Road. A little over a year ago, the house was burned to the point that the building had to be demolished, and the owner donated the property to Piedmont Technical College. The lot is divided by the City Limits and the Piedmont Technical College Foundation Board has requested annexation to eliminate the confusion. They want to annex it prior to their construction department building the house to sell."

MAYOR NICHOLSON

"Okay. Do I have a motion that we annex this property?"

Motion to approve was made by Niki Hutto, seconded by Linda Edwards.

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

Motion passed unanimously.

- attach -

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CONSIDER

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

Ordinance No.  
05-041  
Authorizing the  
Issuance of  
Revenue Bond  
Anticipation  
Notes for the  
Commissioners  
of Public  
Works.

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

STEVEN BROWN

"Mr. Mayor: Steve Reeves, the Manager of the Commissioners of Public Works; Mr. Monaghan, who is a Commissioner; and Mr. Robert Galloway, who is a bond attorney, are here representing the CPW."

ROBERT GALLOWAY

"Thank you, Mr. Brown, Mr. Mayor and Members of Council. I appreciate the opportunity to appear before you again. I'm Robert Galloway with the Haynesworth, Sinkler, and Boyd Law Firm in Greenville, and we serve as Bond Counsel to the Commissioners.

This proposed ordinance provides a short term financing procedure for the CPW. With the extreme cost fluctuations of natural gas these days, and if they find themselves in need of doing short term borrowing to purchase supplies of natural gas, this gives them a procedure to borrow up to \$10 million. It is not anticipated that this would involve long term financing. It's a procedure to let them borrow the money with short term financing and pay it back from their customers who they will actually sell the gas.

It's anticipated that there could be a lag in time between being able to act quickly and buy the gas from suppliers at an advantageous price to when they can actually resell it to their customers. So this gives them a short term finance vehicle called a 'Revenue Bond Anticipation Note'. Even though

they don't anticipate ever having to issue revenue bonds to do long term financing of this, it's a requirement of law, not unlike a tax anticipation note that Mr. Brown was mentioning to you in relation to the City Council's finances.

Other than the State Bond Law, there's basically no other vehicle for doing a short term borrowing of this nature. Unless they actually pledge to the lender that, if a need arises and they were not able to pay it back with cash, they would follow with a 'Junior Lien Revenue Bond'. That's for satisfying the law. It's not ever anticipated that the long term bonds would ever be issued. The intent would be that we pay it back from the cash received from the retail or commercial customers that they're selling the gas to. It just provides a short term vehicle to let them repay it with cash which is what the intent. I'll be happy to answer any questions you all may have."

MAYOR NICHOLSON

"Okay. Do y'all have any questions for Mr. Galloway?"

STEVEN BROWN

"Mr. Mayor, may I ask Mr. Galloway a question on behalf of Council? The City's tax anticipation note ordinance expires on an annual basis, cannot this bond ordinance expire and be renewed on an annual basis?"

ROBERT GALLOWAY

"This particular ordinance was drafted, Mr. Brown, without an expiration date. If it came to the point where, the Commissioners had borrowed \$10 million on an accumulative basis, then the authority would have expired. But short of borrowing the \$10 million, there is not an expiration date.

For what it's worth, when you're dealing with a budget with taxes and all in a tax anticipation note, there are certainly reasons that you might have an annual term. There's not any sort of legal or budgetary reason for a termination date of something like this. But that could be an option if the Council were to request a termination date. There's not a legal reason or a requirement for that. The only termination date would be if they ever get to the point where they borrowed in the aggregate of \$10 million; \$3 million one time, \$4 million on another, and then \$3 million on another that would use it all up. But there's not a time limit on that as directed."

STEVEN BROWN "But isn't the assumption of this ordinance the same as the tax anticipation that these monies will be paid back within a given time frame?"

ROBERT GALLOWAY "Yes, sir. In fact, and I may have failed to answer your question. The notes that would be issued have one year maturities, so they have to be paid off within a year, as any given note. The anticipation is that we get paid from the revenues. If push came to shove and they didn't have the revenues, they would have to issue a revenue bond within that one year expiration date to pay off the note, but the maturities are limited to one year or less. That's by law of the notes themselves. It is certainly not anticipated because they're going to have the gas customers to enable them to pay it back"

STEVEN BROWN "If City Council put in an expiration date, would it hinder the ability of the Commissioners to do as they are wishing?"

ROBERT GALLOWAY "Well, the expiration date wouldn't apply to the maturity of the note because there is a one year obligation. But, if you did put a termination date on this authority to issue up to \$10 million, they just may find themselves having to come back and ask for it again."

STEVEN BROWN "That is what I have to do each year."

MAYOR NICHOLSON "It's a yearly thing what we do."

ROBERT GALLOWAY "One is taxation; one is something else that I don't want to get into."

STEVEN BROWN "I'm not trying to make it hard for them. I'm just trying to make sure that City Council understands all of the options that are available to them."

ROBERT GALLOWAY "Sure."

MAYOR NICHOLSON "Okay.  
Are there any other questions for Mr. Galloway?"

NIKI HUTTO "Well, would it cost them more money to reapply for it every year?"

ROBERT GALLOWAY "Yeah. They'd have to pay for a knucklehead like me, but other than that, it would just be going back through the same process. This enables them to pay the lawyer one time, so to speak."

NIKI HUTTO "So you would rather us to do it once a year!"

ROBERT GALLOWAY "Well, on behalf of my client, I would say, 'No.'"

MAYOR NICHOLSON "Well, it looks like they can get the former ordinance and just change the dates on them."

ROBERT GALLOWAY "I would probably tell them there's been a legal change. Just kidding."

MAYOR NICHOLSON "Alright. Thank you, Mr. Galloway. Do I have a motion that we authorize the issue of Revenue Bond Anticipation Notes for the Commissioners of Public Works?"

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

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

Motion passed unanimously.

- attach -

CONSIDER Mayor Nicholson read the eighth item and said, "This is just to comply with some State Law changes that the municipalities must do. Right, Mr. Brown?"

Resolution No. 05-012 to Authorize Worker's Compensation Coverage.

STEVEN BROWN "Yes, sir."

MAYOR NICHOLSON "Okay. Do I have a motion?"

Motion to approve was made by Betty Boles, seconded by Linda Edwards.

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

Motion passed unanimously.

- attach -

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CONSIDER

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

Ordinance No.  
05-042  
Establishing  
and Collecting  
a Local  
Hospitality Tax  
on the Sales of  
Prepared Meals  
and Beverages  
in  
Establishments  
within the City  
of Greenwood,  
South Carolina.

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

STEVEN BROWN

"Mr. Mayor and City Council, may I read my statement:

I am convinced that, in the past, City Council has wisely allocated tax dollars within the City of Greenwood. Within our budget limitations and the soft economy, quality services continue to be provided to our property owners within the City. The City of Greenwood has an unprecedented opportunity to complete a number of projects that will enhance our ability to remain a growth center for the Upper Savannah Region. Approximately 40-45 percent of our retail sales are to persons who live outside of Greenwood County. We are constantly 'brainstorming' to develop programs and other means of making improvements to our Greenwood Community.

It is an ongoing process that will never be complete. These programs cannot and must not be interest specific. To make Greenwood the community that its future citizens will need, we must make a concerted effort to improve all pieces of the puzzle. Those pieces include but are not limited to schools, housing, street and highways, medical

facilities & services, higher education, retirement opportunities, recreation, cultural activities and preservation of our historical heritage and landmarks. A big step in that direction has been taken with the City and County establishing a Visitors & Tourism Center. Tonight, you have the opportunity to provide funding for other pieces of the puzzle of the Greenwood Community.

Over the years, I have made several budget proposals to different City Councils, and I have emphasized the importance of the City of Greenwood positioning itself for the years to come. There is, as we speak, a clamor for property tax relief. The Legislature has been meeting across the State in an effort to receive public input. If property tax is going to be a diminishing source of revenue, then alternative sources of revenue must be identified.

For your review and first reading is an Ordinance establishing a 2% Hospitality Tax on 'Prepared Foods and Beverages'. The Hospitality Tax is a source of revenue that is now being used by most South Carolina municipalities. Other cities such as Columbia, Charleston, Greenville, Spartanburg, Anderson, Aiken, North Augusta, Florence, Orangeburg, Rock Hill, Simpsonville, Seneca, Greer, Lancaster, Georgetown, Lexington, Clemson, Ware Shoals, Laurens, Easley, Hartsville, Mauldin, Goose Creek, Summerville and Mount Pleasant have implemented the Hospitality Tax. These City Councils have adopted the tax to fund projects permitted by the South Carolina Code of Laws. According to the South Carolina Code of Laws and I quote, 'the revenue generated by the hospitality tax must be used exclusively for the following purposes:

1. Tourism-related buildings including but not limited to civic centers, coliseums, and aquariums.
2. Tourism-related cultural, recreational, or historic facilities.
3. Beach access and renourishment.
4. Highways, roads, streets, and bridges providing access to tourist destinations.
5. Advertisements and promotions related to tourism development.

6. Water and sewer infrastructure to serve tourism-related demand.

The proceeds from a located Hospitality Tax must be maintained in a separate fund segregated from the City's general fund. All interest generated by the Local Hospitality Tax fund must be credited to the local hospitality fund account.' End quote.

Some of the projects that would qualify for hospitality funds are:

1. Greenwood Arts & Cultural Center - Federal Building.
2. Greenwood Community Theatre.
3. Greenwood Museum.
4. Center City Master Plan.
5. Streetscape Improvements.
6. Greenwood Visitors & Tourism Office.

Mr. Mayor and City Council, if our goal is to become less dependent upon the property tax for our source of funding to improve our community and to position Greenwood for the future, we need the hospitality tax to be adopted. As your City Manager, I have always been fiscally conservative, and I have a history of not recommending major increases in funding; however, I stand before you tonight convinced that the City of Greenwood, City Council, the Greater Greenwood Community, and your staff are in a position as never before to take the next great step in our journey to leave Greenwood a better place than we received, a place that our children and grandchildren will want to live, work and raise their family. I encourage you to adopt this ordinance and implement the Hospitality Tax. It is an investment into the future growth potential of the City of Greenwood.

A critical element of this ordinance is the definition of prepared food and beverages. The staff has researched this matter thoroughly and the definition that we are recommending is one used throughout the South Carolina and the nation (California, Ohio, Indiana and others). I recommend it because it is concise and clear. Yes, it will affect convenience and grocery stores. Please remember that it is a fee on prepared food and

beverages. It does not consider the physical attributes of the facility in which the prepared food is sold. The definition applies to food and its preparation. It is paramount that the ordinance is applied and enforced in a fair and equitable manner.

Please remember that without growth, the City of Greenwood will die on the vine and our competing sister cities throughout South Carolina will leave us in their dust. I will be glad to answer any questions that you may have regarding this proposal."

MAYOR NICHOLSON

"Thank you, Mr. Brown. Are there any questions? I know we must have two readings. Are we thinking about implementing it in April?"

STEVEN BROWN

"The date would be April 1, 2006, and we will have a public hearing at the next meeting."

BETTY BOLES

"I have a question."

STEVEN BROWN

"Yes, ma'am?"

BETTY BOLES

"You said it would affect grocery stores?"

STEVEN BROWN

"Yes."

BETTY BOLES

"That's only if they have an inside food service similar to most small restaurants."

STEVEN BROWN

"It will affect them if they meet one of the following conditions:

- The food is sold in a heated state or heated by the seller.
- It consists of two or more foods mixed or combined by the retailer for sale as a single item.
- Or it is sold with eating utensils provided by the retailer such as plates, knives, forks, spoons, glasses, cups, napkins, and straws.

So they would have to meet one of those three criteria."

MAYOR NICHOLSON

"Okay. Are there any other questions? Do I have a motion?"

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

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

Motion passed unanimously.

- attach -

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CONSIDER

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

Ordinance No.  
05-043  
Franchise Fee  
on Revenue  
Utilities  
Serving  
Customers in  
Areas Annexed  
into the City  
Limits.

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

STEVEN BROWN

"Mr. Mayor and City Council, it has probably been 18 months ago that you instructed your staff to begin the process to implement a franchise fee on electrical suppliers inside of the City. We have been working with Attorney Jim Brailsford, who has represented the City since early this year. He has been negotiating with the Duke Power attorneys in an attempt reach a mutually agreeable agreement for this franchise fee. Approximately three to four weeks ago, Mr. Brailsford and I were notified by Duke Power Officials that they no longer wanted to negotiate with us. So tonight our attorney has prepared an ordinance for you to be considered for first reading.

I would tell you that there has been some communication between the Duke Officials and local industrial managers, specifically the Greenwood Mills Operations. It appears that Duke Power serves the Harris Textile Plant, which is located physically outside of the City Limits. They serve it from what is referred to as a 'point of distribution' inside the City of Greenwood. They have told the Greenwood Mills Officials that they

would be subject to your franchise fee. I have had conversations with Mr. Harter, from the Greenwood Mills Office, and Mr. Self this afternoon. I have informed them that, from my understanding, it is not your intent to place this franchise fee on any utilities served to entities outside of the City, regardless of the point of distribution. In my opinion, the 'point of distribution' is Duke Power terminology and is not a part of the City's proposed ordinance.

I recommend that City Council clarify to Greenwood Mills Officials that it is not your intent for this franchise fee to be applied to their utilities supplied by Duke. I feel the ordinance states that, but I'm not an attorney. Number Two states that 'on or before the 60<sup>th</sup> day, following the end of each calendar quarter, Duke Energy Corporation will pay to the treasurer of the City of Greenwood a sum of money equal to 5% of it's gross electric revenues derived from Customers within the corporate limits of Greenwood whether residential, general service, or industrial accounts or however designated for the previous calendar quarter.'

Now, one representative from Greenwood Mills called me this afternoon with a concern that Number Three may provide an opportunity for Duke to use point of distribution to charge that fee to them. I responded that I think City Council would be willing to instruct Mr. Brailsford to add some additional language that would even clarify your intentions to a greater degree. So my recommendation would be to pass it on first reading, instruct staff to contact Mr. Brailsford regarding the concerns of Greenwood Mills Officials, and tell Mr. Brailsford that it is not your intent for this to be applied to any entity outside of the Corporate Limits. It will apply to any future annexations of properties or buildings that are served by them, but certainly I have never heard you discuss using this as a means to gain additional funds from the utilities of Harris, Mathews, or to any industrial complex outside of the City.

While this is not a public hearing, we will have one at the next meeting. I really think you can take care of this matter, and we can instruct the attorney to make that clarification. I believe we will satisfy Mr. Self and Mr. Harter, representing Greenwood Mills, and I think that will clarify the issue. I've talked with Mr. Britton with Duke Power, and he believes that if a clarification is

inserted into the ordinance, he can see that your wishes are followed. Am I right Randy?"

RANDAL BRITTON

"As I explained to Steve, if the language is clear enough then we're going to abide by the language of the ordinance. In talking with Mr. Brailsford and Duke Legal Counsel, I'm sure that we can reach a satisfactory conclusion. (inaudible)"

STEVEN BROWN

"Whatever is done, I do not think this ordinance needs to be left to the interpretation of Duke Power attorneys. While I respect Mr. Britton and his counterparts at Duke Power, I think this ordinance should be adopted and enforced, realizing the intent of City Council. Whatever Duke Power has assessed Greenwood Mills in the past, it's totally separate from this ordinance. I would beg of you to make it clear to them that what they did in the past was on their own free will and not of any instruction by the City of Greenwood."

MAYOR NICHOLSON

"Okay, are there any questions or anything? I think that was the intent of only the corporate limits of the City. So do I have a motion?"

NIKI HUTTO

"With the stipulation that we clarify the language?"

MAYOR NICHOLSON

"Yeah, that it be clarified before we have the second reading."

BETTY BOLES

"Will that be done by the attorney?"

STEVEN BROWN

"It will be done by Mr. Brailsford, who is your special attorney on this matter. I would also ask that the Mayor correspond with Duke to make that clear."

MAYOR NICHOLSON

"Okay. Do I have a motion?"

Motion to approve was made by Betty Boles, seconded by Niki Hutto.

"Is there any further discussion? All in favor raise your right hand. So moved."  
Motion passed unanimously.

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RECEIVE

Mayor Nicholson read the eleventh item and recognized the Assistant City Manager.

Receive Report  
on Uptown  
Greenwood  
Transportation  
Enhancement  
Project Phase  
I.

CHARLES  
BARRINEAU

"Mr. Mayor and City Council, if you recall, we received this grant award a year ago and have been waiting for the right time to implement it. After the Christmas holidays, the traffic begins to decline. We don't have a lot of special events until the Spring, so we would like get this project implemented in the next three months. The City did receive approximately \$100,000 from the South Carolina Department of Transportation to provide enhancements on the south end of Main Street.

From the Inn on the Square, the old railroad corridor, and just before the Greenwood High Apartments, you can see the tree bed here (pointing). In the old railroad corridor, we have proposed to relocate approximately 30 cherry trees to South US 25 and will continue with the oak lined streetscape that are existing in the Uptown corridor. So we would relocate approximately 30 to 35 new Darlington oak trees to match the existing ones. In addition, the two asphalted medians at the intersection of Court Avenue, in front of First Citizens and the Inn on the Square, will be removed. We will put planting beds in the center median, with the addition of street lined oak trees.

This is the location of the proposed new library (pointing), so we would be moving the oak tree streetscape in preparation for the construction. Also, as we have proposed in this application, a new entrance sign for the Uptown will be located here (pointing). We have contracted with Davis and Floyd and Yancey Robinson, who is a local landscape architect in the Uptown. Mr. Robinson has created this design which we think will be a wonderful entrance for the Uptown district. Yancey expanded on what we have originally drawn out by adding lighting to the project, but obviously he has the credentials to do that.

We're really excited, and we just wanted to keep you abreast of this project. I would suspect that, in the next three to four weeks, you will begin to see the relocation of those trees. We have submitted this preliminary design to DOT and asked their landscape architect to give us approval. After that, we will seek an encroachment permit. Hopefully, they will begin construction at the first of the year."

NIKI HUTTO

"Where are you going to stick all those cherry trees?"

CHARLES BARRINEAU

"We're hoping to that we would relocate them further south on Highway 25 near the Highway 34 interchange."

MAYOR NICHOLSON

"Charlie, is there anything that can be done to the red light at the Inn on the Square? When I'm walking, it takes every bit of effort to walk fast enough to get across before that light changes."

CHARLES BARRINEAU

"Mr. Mayor, we have applied for an additional \$200,000 to put cross walks there, at Maxwell, and in the center with a push-button cross walk design. We believe we will hear from DOT in January, if we have been approved for that project. Hopefully we'll get that implemented."

MAYOR NICHOLSON

"Okay. Are there any questions or comments? Thank you, Charlie.

Those are really all of the items that we have on our agenda."

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CITY COUNCIL COMMENTS

There were no comments submitted by members of City Council.

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CITY MANAGER COMMENTS

There were no other comments submitted by the City Manager, Steven Brown.

The Mayor said, "Again we want to thank everyone for coming out and being with us at our regular Council Meeting. We extend a sincere Thanksgiving Greetings to each one of you, and have a happy holiday season. Thank you. The meeting is

adjourned."

Meeting adjourned at 6:07p.m.

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Floyd Nicholson, Mayor

ATTEST:

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City Clerk and Treasurer