

MINUTES OF THE PUBLIC HEARING AND MEETING
SMYRNA TOWN COUNCIL
December 15, 2008

OPEN REGULAR COUNCIL MEETING

The regular council meeting was called to order by Mayor Patricia Stombaugh at 7:30. Council members present were Memphis P. Evans, William D. Pressley Sr., Lawrence O. Thornton, William C. Raynor, and Gene A. Mullen.

Also present were Town Manager David S. Hugg III, Police Chief Richard H. Baldwin Jr., Attorney Erika Schrader, and Recording Secretary Valerie L. Heritage.

Mayor Stombaugh asked everyone to rise for the Pledge of Allegiance. Mayor Stombaugh asked for a moment of silence.

Mr. Hugg stated that Councilwoman White would not be present tonight; she is not feeling well, but she is available by phone if needed.

Mayor Stombaugh stated she had a correction - today is the 15th. Mr. Hugg stated that is the date the agenda was last revised.

ADDITIONS/DELETIONS TO PUBLISHED AGENDA

Councilman Raynor stated he thinks there should be a change under Old Business, Resolution to Set Tax Rate. He said it should come after Resolution to Adopt 2009 Budget. Mr. Hugg stated it dose not matter what order you do that in; the two items have to be done; the budget was based on the current tax

rate and the resolution simply confirms that. He said if Council wants to change the order that is perfectly fine. Mr. Hugg said there are two changes already marked on the agenda in front of you - the Annexation and Legislative Fact Finding for Rick Horsey's property with the concurrence of the applicant has been postponed until January 19th to accommodate work by staff and the applicant's schedule. Mr. Hugg said also item 9)a), Kent County's hearing for the community block grant program for 2009 is actually scheduled for Wednesday night of this week. He said they called and asked that we not consider the resolution until after the hearing. Mr. Hugg said proposes that item 9)a) be postponed until January 5, 2009.

Mayor Stombaugh asked if there were any other additions or deletions. There was nothing else.

Councilman Mullen made the motion to accept the agenda as presented and with the stated changes. Motion was seconded by Councilman Evans. Motion passed with Council members Evans, Pressley, Thornton, Mullen, and Raynor, and Mayor Stombaugh voting for.

MINUTES OF PREVIOUS MEETING

Mr. Hugg stated the November 3rd minutes are the minutes of the public hearing only; we had to have them completed and submitted to DelDOT in order to meet some permit requirements for the downtown project so this is my best interpretation of the tape from that evening. He said we have not done the other minutes for the two meetings in November due to Ms. McKinney's absence. Mr. Hugg said the minutes of December 1, 2008, the very end pages 39 and 40 need to be amended. He said on page 39

- the executive session to discuss property purchase, the motion itself when Council came back into regular session was to not accept the offer at this time. Mayor Stombaugh asked if that was included in the minutes that were on the table in front of Council. Mr. Hugg stated yes that is correct.

Councilman Mullen made the motion to accept the minutes of the public hearing of November 3, 2008 and the minutes of the council meeting of December 1, 2008 with the stated changes. Motion was seconded by Councilman Pressley. Motion passed with Council members Evans, Pressley, Thornton, Mullen, and Raynor, and Mayor Stombaugh voting for.

REPORTS

A. Bills and Financial Statement - Mr. Hugg stated other than the information that was included in Council's packet that Mr. Stulir provided there is nothing else to add.

B. Presiding Officer - Ms. Stombaugh she would like to wish everyone a Happy Holiday a Happy New Year.

C. Town Attorney - Ms. Schrader stated there was no report.

D. Police Chief - Chief Baldwin stated in Council's packets this evening is his report to Mayor and Council. He said the first item is kind of good news bad news. He said the bad news is they are going to be losing an excellent police officer for about six months to a year. Chief Baldwin said he has enlisted in the Air Force Reserves, he will be away at least six months for training and he believes his duty assignment will be Dover Air Force Base and when he is back at Dover he is hoping to be

able to work for us when he is not flying. Chief Baldwin said he is an excellent police officer and we wish him the best. Chief Baldwin said also included in the packet are the police stats through November of this year. He said he lied because he had told Council that they included the school resource officers and the quality of life unit reports. Chief Baldwin said they were included with the Public Safety Committee material but not with Council's. He said if anybody wants it he would be happy to provide it for them.

E. Town Manager - Mr. Hugg said he apologized his report was not in Council's packet. He said it is on the desk this evening. Mr. Hugg said he had nothing else to add.

F. Committees - Councilman Pressley stated there was a Personnel Committee meeting on December 10, 2008. He said it was a very short meeting. Councilman Pressley said they had an executive session to discuss some personnel matters, and other than that they welcomed their new member Ms. Regina Brown to the committee.

Councilman Mullen stated the Finance Committee met on December 9, 2008 specifically to discuss and address some revenue enhancements and adjustments that goes along with the budget. He said you will also see on the agenda many recommendations that we will get into and he will make comments as they come up on the agenda.

Mayor Stombaugh stated there was a Public Safety Committee meeting last Thursday night and the minutes are not finished in the packet yet. She said a number of things were discussed. Mayor Stombaugh asked Chief Baldwin if there was anything in

particular he wanted to talk about. Chief Baldwin said no but he did recall in his police report that there was good news and bad news. He said the bad news is they are losing an officer, and the good news is with finances being as tight as they are there will be some savings on salary costs.

Mayor Stombaugh said they did form a sub-committee; they are trying to finalize the emergency operations plan for the town and they formed a sub-committee and Councilman Thornton volunteered to serve on it along with Chief Baldwin, a member of the fire company, and a member of the ambulance service. She said they are going to be working on that and try to wrap that up.

Mayor Stombaugh asked if there were any other committee reports. There were none.

RECOGNITION OF VISITORS

Visitors present were Larry Graf, Jim Veit Sr., Milton Stroup, Helen & Gordon Miller, Laurence Koehler, W. Burns, Dee Watson, Seth Clevenger, Barbara Allsopp, Deb & Mike Babbitt, Michelle Lawrence, Bob Wilson, Wil Bordley, Arthur Brown, Art Ricker, James Wolfe, Leslie Montgomery, and David Bigesby.

Mayor Stombaugh stated this portion of the meeting is open to visitors to step forward to the microphone. She said please give your name and address because it is recorded. You have three minutes to address Council, at the end of the three minutes Council may refer to a town staff member or to a committee. She said they are not obligated to respond tonight. Mayor Stombaugh said we have a digital timer which will be

facing the speaker so they will be able to watch and know when they need to start wrapping up. Mayor Stombaugh asked if anyone would like to step forward and address Council.

Mike Babbitt of the Towne & Country subdivision came forward to speak. Mr. Babbitt said he was here to express concern about the tax rate or the tax increase that he had read about last month in the Smyrna Times. He said the concern that he has, the last thing that he read was that there would be about a 20 percent increase - is that true? Councilman Mullen stated there is no tax rate set yet. Mr. Babbitt said he is here to express his concern that a tax rate of 20 percent is at this time really too hard for your constituents and residents to deal with. He said he works in Newark at an engineering firm and we have had to lay off several people. Mr. Babbitt said next month he has to look at reduced hours, but we probably all have friends and family that we know of where things are getting really tough. He said he wants Town Council to realize the very almost hard times, really even desperate times that we are going to see and he does not think a really huge increase would not be prudent at this time.

Councilman Mullen said just to clarify there is no tax increase listed on the agenda for tonight's meeting and none was recommended by the Finance Committee. He said it was discussed rather lengthy, but the Committee did not recommend it.

Barbara Allsopp, 748 Dorchester Court, Smyrna came forward to speak. Ms. Allsopp said she is just going to say what she noticed over this past year. She said the power adjustment cost the lowest for her was \$3.00 and the highest this year was \$26.00 and she has all of her bills with her tonight. Ms.

Allsopp said once again it fluctuates and she is back up to \$17.00 for December. She said she does not know what is going on and she knows it has been explained but it is one of those costs that are really hard to deal with at this time. Ms. Allsopp said also it was mentioned about the tax increase. She said she was at the meeting two weeks ago and she just trusts that Mayor and Council will stick to not increasing the tax and sticking to the budgets - under 2008's budget that was expressed two weeks ago.

Larry Graf, 849 Fayette Road, Smyrna came forward to speak. Mr. Graf said he moved to Smyrna in 2005; saw a tax on the house of \$140.00. He said then they went through the assessment and that year it went up to \$500 and some dollars. Mr. Graf said of course he heard about the assessment and some of the inequities that took place in it and he did get freedom of information and checked some of the records but he won't go into that. He said then we had last year and saw the we're going to increase the tax, he thinks about 40 percent at least that is what he got, but we are going to decrease the electricity. Mr. Graf stated he can remember reading that in the newspaper. He said for the tax that was true, but his electricity went up 7 percent and he is talking about the rate per kilowatt. Mr. Graf said then he heard about this last paper and he is very happy to hear that there probably not be a tax increase. He said somewhere along the line last year the rates went up he thinks on the electricity, probably about mid-year, but he did not hear anything about it; maybe there was and he missed it. Mr. Graff said he thinks in communicating that should be something that is done - notifying the public. He said the one last thing he has and his question would be that he sees we're going to increase the taxes because our rate of electricity is too high but we are

going to decrease the electricity, but yet the rates went up during the year so the rates of electricity go up and he heard the same thing in the paper again this year. Mr. Graf said this is kind of like a shell game, sorry, but that is what it appears to the public. He said he understand the problems as far as trying to finance and running operations, corporations, whatever it may be, been there done that. Mr. Graf said one of the things that and that he would ask is - what is the transparency between the electric company or electric business and the town business? He asked do you have performance; do you have done allocations just to see those things? Mr. Graf said it may be something to take a look at and if it is not done, but it is something that should be there and he thinks the public would enjoy seeing just what that means. He said it is hard to envision 2 million plus; whoops, it's not there now. Mr. Graf said he is sorry but he is a little emotional about this because he has been watching this going for the last three years.

Mayor Stombaugh asked if there was anyone else that would like to address Council. No one came forward. Mayor Stombaugh said seeing no one step forward we will close this portion of the meeting and return to the regular Council meeting.

OLD BUSINESS

B. Resolution to Adopt 2009 Budget - Councilman Mullen made the motion to adopt the fiscal year 2009 budget as presented and as described in the resolution. Motion was seconded by Councilman Thornton.

Mayor Stombaugh stated the last packet she received was before the last Finance Committee meeting, the last budget meeting. She asked if there were any changes. There were none. Mayor Stombaugh asked if there was any other discussion.

Councilman Pressley stated he wanted to ask Mr. Hugg about the resolution that he had asked about today; is that something that we already have in here or did we decide not to do it. Mr. Hugg said Councilman Pressley had asked whether the resolution could include certain other conditions and Mr. Hugg had sent Councilman Pressley back an email stating that since the resolution had already been posted, if you want to include those conditions you could do so as part of the motion. Councilman Pressley said the only reason he had brought it up, he was not at the last Finance Committee meeting because he had other things to go to, he just thought to benefit everybody that our resolution was going to be that all new hiring and any new capital projects was going to come before Council for full vote before they were done.

Councilman Mullen stated we can certainly do that by amending the resolution. He said just so everybody knows there is no provision in the budget for any more hiring. Councilman Mullen said if somebody leaves an established position there is a possibility of replacing them. He said if Council wants that option to hire we certainly can. Councilman Mullen said as far as capital projects there has been no money allocated for any other capital projects other than the Four Corners area and the Public Works. He said that is the only money that has been allocated in 2009. Councilman Mullen said basically the capital projects for 2009, other than those two, are somewhat dead in the water at this point.

Councilman Pressley said if the rest of Council did not have a problem with it he would like to add that into there just for the simple reason that all members of Council would be on the same wave length.

Councilman Mullen said as far as the Finance Committee and staff, as we were going through the budget, we all basically agreed that notwithstanding what Councilman Pressley just said that there would be a minimum of 90 day period before any hiring whether it was new or replacement or whatever. Councilman Mullen said he would amend his motion to adopt a resolution for the fiscal year 2009 budget with the following criteria: Council approves all hiring and only inclusion of the capital projects of the Four Corners area and the Public Works facility. Councilman Pressley asked if Councilman Mullen wanted to make that all new hires. Councilman Mullen said all hires. Councilman Pressley asked if we had to fill a position it will have to come through Council? Councilman Mullen stated yes.

Councilman Thornton clarified all hires would include new hires as well as replacements. Councilman Mullen said that is correct. Councilman Thornton seconded the amended motion. Motion passed with Councilmen Thornton, Mullen, Evans, and Pressley voting for, and Councilman Raynor and Mayor Stombaugh voting against.

A. Resolution to Set Tax Rate - Mr. Hugg said the proposed resolution simply retains the current tax rate of 25.26 cents per hundred dollars of assessed valuation that is in effect for fiscal year 2008.

Councilman Thornton made the motion to adopt the resolution to retain the current tax rate of 25.26 cents per hundred dollars of assessed valuation. Motion was seconded by Councilman Pressley.

Mr. Hugg asked that all Council members please speak into the microphone, we have had some trouble hearing and the audience from time to time suggested that they have trouble hearing as well.

Councilman Mullen wanted to clarify that the proposed 2009 tax rate is 25.26 cents per hundred which is exactly the same as it was last year.

Motion passed with Councilmen Thornton, Mullen, Evans, and Pressley and Mayor Stombaugh voting for, and Councilman Raynor voting against.

D. Award of Bids

1. General Trades for PW Complex - Mr. Hugg stated Council has before them an updated letter from KCI which supersedes the bid tab that was put into Council's packets. He said after review of the bids, particularly the review of the two lowest bids, the engineer has determined and recommended that the lowest bidder was not responsive in a number of key areas, and upon comparison of the two lowest bidders has recommended that the bid be awarded to Kent Construction Company in the amount of \$703,911.00. Mr. Hugg stated staff concurs with this recommendation.

Councilman Mullen made the motion to accept the recommendations of staff and KCI for the Municipal Public Works

Maintenance and Mechanical buildings to Kent Construction of \$703,911.00. Motion was seconded by Councilman Raynor.

Councilman Pressley asked if we were still close to our budget. Mr. Hugg stated we are still close to our budget, he thinks just a little bit below.

Mayor Stombaugh asked if there was a proposed finish date. Mr. Hugg stated the foundation work, HVAC and electrical work has already begun. He said this is the contract for the actual erecting and finishing of the buildings. Mr. Hugg said the buildings are on order and will be delivered probably the first week in February. He said we are looking forward to the building being done and fully occupied probably by April or the first week in May.

Motion passed with Councilmen Evans, Pressley, Thornton, Mullen, and Raynor, and Mayor Stombaugh voting for.

Mayor Stombaugh stated 8)e) the third reading of Ordinance No. 010-08, the Knox Box still remains tabled. She said the updated information on that is that she has made numerous phone calls to Mr. Dryden and we are trying to set up a meeting between the fire company, the town hall, and the pharmacy board and it has been a little challenging to get everybody together. Mayor Stombaugh stated they are hoping there will be a meeting this Wednesday so this should be able to be voted on at the next meeting.

F. Basic Meeting Procedures (tabled from November 17, 2008) -
Mayor Stombaugh stated this was also tabled and she asked to

have it brought from the table. She asked if there was a motion to accept.

Councilman Mullen said he did not see the finished copy. Councilman Thornton stated they received a finished copy from Mr. Jaywork on December 2, 2008 via email. Councilman Mullen said he was not sure if that was the one.

Councilman Thornton made the motion to accept. Motion was seconded by Councilman Mullen. Motion passed with Mayor Stombaugh, Councilmen Evans, Pressley, Thornton, Mullen, and Raynor voting for.

Mayor Stombaugh explained that we really did not have any policies or procedures to follow at basic meetings. She said Council did not feel that Parliamentary Procedures fit our meetings so we came up with a basic meeting procedure and finally got it passed so now we have a guideline.

G. First Reading, Ord. No. 011-08, RE: "Advance Payment Policy" - Mr. Hugg said to refresh your memory this was the one piece of the change in the utility rules and policies that was recommended by the Utility Committee that actually required an ordinance amendment. He said Ms. Schrader has provided both a legal analysis and a copy of the proposed change. Mr. Hugg said it basically strikes the provision that dealt with residential payments and therefore makes the language more consistent with the rules that were adopted at the last Council meeting. He said this is the first reading unless Council chooses to waive the three reading rule.

Councilman Mullen made the motion to waive the three reading rule for Ordinance No. 011-08. Motion was seconded by Councilman Evans. Motion passed with Mayor Stombaugh, Councilmen Pressley, Thornton, Mullen, Raynor, and Evans voting for.

Councilman Mullen made the motion to adopt Ordinance No. 011-08 dealing with advance payments of residential electric customers. Motion was seconded by Councilman Thornton. Motion passed with Mayor Stombaugh, Councilmen Pressley, Thornton, Mullen, Raynor, and Evans voting for.

NEW BUSINESS

B. Request that the Town Manager be added as a voting member of the Dover/Kent County MPO Technical Advisory Committee - Councilman Mullen made the motion to add the Town Manager as a voting member of the Dover/Kent County MPO Technical Advisory Committee. Motion was seconded by Councilman Raynor. Motion passed with Mayor Stombaugh, Councilmen Pressley, Thornton, Mullen, Raynor, and Evans voting for.

C. Recommendations of the Finance Committee - Councilman Mullen stated at the last Finance Committee meeting they discussed a lot of revenue enhancements on fees and applications and things like that. He said before Council is a resolution authorizing the Town Manager to adjust certain fees and charges for fiscal year 2009. Councilman Mullen said most of these fees have not been changed in a very, very long time. He said there are a couple of new fees. Councilman Mullen made the motion to adopt the resolution as presented for authorizing the Town Manager to adjust certain fees and charges for fiscal year 2009. Motion was seconded by Councilman Thornton. Councilman Pressley

asked if this was just the first reading. Councilman Mullen explained this is a resolution so it does not carry the weight of an ordinance.

Mr. Hugg stated there is one ordinance amendment which is the next item on the agenda dealing with rental properties.

Councilman Mullen explained these are adjustments to fees that do come under the umbrella of the manager to adjust as he sees fit.

Councilman Pressley asked if they were going to do each one individually or all in one. Mr. Hugg stated he wanted to give a little background. He said a number of these fees, particularly the rezoning, conditional use, special exception, variance, the ones that are the Planning & Zoning fees we did a quick survey of comparable communities and found in virtually every case our fees are significantly or somewhat below what is charged in most other jurisdictions. Mr. Hugg said the building permit and construction values are our schedule of values which he does not believe has been changed in ten years is about 15 percent below the schedule of values used by Kent County which is the one most jurisdictions follow. He said there are a couple of new fees; we currently do not charge any fee for annexation, although we actually do incur some advertising and legal costs so we think it is appropriate that if someone wants to annex into the Town of Smyrna that they should at least cover the cost of the advertising and legal fees. Mr. Hugg said we do charge the rezoning fee. He said we do not charge an administrative overhead charge for electric agreements for the developers which the Finance Office indicated can be substantial and we should charge. Mr. Hugg stated we also do not charge an application

fee for new or relocated utility services. He said we are also proposing that some of the fees like the contractors license and the rental license which have not been CPI adjusted are not subject to the CPI adjustment and have not been changed in a number of years be increased at least by some amount to bring them more consistent with current costs. Mr. Hugg said he does want to make a point that there are other fees that are by code adjusted automatically by the CPI January every year. He said what he would like to see is at some point move to having a majority of our fees automatically adjusted so to keep pace with the actual costs. Mr. Hugg said except for rental license fee the rest of these are as Councilman Mullen said are theoretically administratively set, but he felt they needed to come through the Finance Committee and to Council rather than simply be adjusted by staff.

Councilman Pressley said the fee for a variance is a big jump from \$175.00 to \$250.00 for residential, for somebody that wants a fence or something that is a big jump. Councilman Mullen stated he had asked Mr. Hugg to put a special exception for a fence variance so he will amend his motion.

Councilman Pressley said another one is \$35.00 to \$60.00 for rental property. He said he does not see a problem with raising it to something; again these are tough times this year and making these landlords go after these homeowners to raise their rent. Councilman Pressley said as a landlord somebody has got to suck it up, he is not saying we should not do it but it is a big jump. He said correct him if he is wrong but there is really no cost to the town for this it is basically for keeping paperwork here. Mr. Hugg said the inspection fee is actually a separate fee; this pays for administrative costs. Councilman

Pressley said he is all for raising it to a certain amount but \$35.00 to \$60.00 is a big jump.

Councilman Mullen said you will be addressing that separately because that is an ordinance change and he does not know if anyone wants to waive the three reading rule. He said if you read the ordinance there isn't any set fee it just says insert in lieu thereof as set forth in the fee schedule so we can make it just about anything you want.

Mayor Stombaugh said the fee schedule does have a specified amount. Councilman Mullen said it is an ordinance and we can change that. Mr. Hugg said it might make sense to actually consider the ordinance amendment first and then act on or to amend you motion to exclude the rental license fee because the next item on the agenda is actually an ordinance change. He said part of that adoption if you choose to you could set that fee at that time.

Councilman Pressley said he thinks it should change, but he thinks it is a big jump. He said you get the renter with a \$250.00 collar; you have a lot of expenses that you have to pass on.

Councilman Mullen amended his motion to delete the rental property license fee because it is addressed in an ordinance. Mr. Hugg asked Ms. Schrader if that would cause a problem. Ms. Schrader suggested maybe Councilman Mullen should consider withdrawing his motion. Councilman Mullen withdrew his motion.

Councilman Pressley asked about the electric agreement. He asked we do not charge anything for that now? Mr. Hugg said we do not charge an administrative charge, when we do an electric

agreement with a developer we estimate a charge for the engineering, the materials, the manpower, and the equipment, but there is actually some administrative costs that depending upon the size of the project can be fairly significant. Councilman Pressley asked what the 10 percent would be based on. Mr. Hugg said it would be based on the total hard cost of the electric project. He said if someone had a \$50,000.00 electric project we would add \$5,000.00. Mr. Hugg said that would cover the administrative costs of the staff in processing the payment, keeping track of the accounting, and what have you. He said this is actually came from a comment that was made by our internal auditor last year that we don't cover and we should cover all of our administrative costs that are associated with development. Councilman Pressley said as long as they know ahead of time. Mayor Stombaugh said the majority of these are related to developers right? Mr. Hugg said a number of them are; some of them like conditional use, special exception, or variance they could be an individual property owner. He said the variance that pops up most often is either a fence or a shed and Councilman Mullen did indicate that fence variance is the one that probably is already priced at \$175 appropriately. Mr. Hugg said it does not require anywhere near the kind of costs as other variances. Staff reminded Mr. Hugg that fences do not require variances only fence adjustments. Mr. Hugg said so it is not covered by this then that is even better. Councilman Pressley said so for additions and all that it is going to go to \$250.00. Mr. Hugg clarified for a variance for an addition that is correct. He said part of a variance is that it is supposed to reflect a hardship not just because he wants to make his room six inches wider and it will encroach upon his side yard setback. Mr. Hugg said the fee needs to be sufficiently high to not only cover the costs but also to make those people who are

seeking the variance fully appreciate that this is essentially a hardship based determination not just because somebody wants their building to be a little bit bigger or closer to the property line.

Councilman Thornton withdrew his second to the motion.

Mr. Hugg suggested considering the ordinance amendment first and then come back to the resolution.

b. First Reading, Ord. No. 012-08, RE: Rental License Fee -

Mr. Hugg said right now the annual rental license fee is set in the code. He said our practice in the last couple of years has been to remove most of the set fees from the code and put them in the administrative fee schedule and this is one of the carryovers that has never been done. Mr. Hugg said this ordinance really has two effects: 1) To remove the actual amount of the fee and substitute language as set forth in the fee schedule, and 2) by action of the resolution set the fee schedule at whatever you ultimately decide to do.

Councilman Pressley said so next year this will not come back to council. Mr. Hugg said next year this will not come back. He said this would only come back to council only as part of an adjustment for all fees.

Councilman Mullen made the motion that we waive the three reading rule for Ordinance No. 012-08. Motion was seconded by Councilman Pressley.

Motion passed with Mayor Stombaugh, Councilmen Pressley, Thornton, Mullen, Raynor, and Evans voting for.

Councilman Mullen made the motion to adopt Ordinance No. 012-08 with the following amendment: section 1 - delete the amount of annual fee of \$35.00 and insert in lieu thereof \$50.00. Motion was seconded by Councilman Pressley for discussion.

Councilman Mullen said he threw \$50.00 in there just to get things going. He said he would rather see it tied to the CPI or some other form of automatic adjustment rather than see this come back to Council every single year.

Councilman Thornton said if we put it on the fee schedule the Town Manager is going to have the option of adjusting it because there is not a figure in the ordinance. He said this figure of \$60.00 was a compromise believe it or not. Councilman Thornton said a number of the Finance Committee members wanted it higher so we struck a bargain with the \$60.00, but he understands what Councilman Pressley is saying.

Councilman Pressley said he would not have a real big problem, but it is money that the town does not actually do anything for. He said he is not saying it shouldn't be changed but going back to the economy - it is hard enough for some landlords to collect what they are trying to collect now.

Councilman Thornton said he thinks part of the issue is the fact that it has been so low for so long that we are trying to play catch up with it.

Mayor Stombaugh stated she agreed with Councilman Pressley. She said she agrees we should increase it some but she does not think this is a year that we should be doubling. Mayor Stombaugh said a lot of people cannot afford to go buy houses now so their only recourse is to rent and she does not think we should deter rentals.

Councilman Pressley said another thing is this will not come into effect until next year because the rental renewals have already gone out for this year.

Councilman Thornton said if you really compute the costs it is what \$2.00 a month?

Councilman Mullen said this is not a cost that the renter pays it is a landlord fee. Councilman Thornton said trust me it is passed on.

Motion failed with Councilman Mullen voting for, Mayor Stombaugh, Councilmen Evans, Pressley, and Thornton voting against, and Councilman Raynor abstaining.

Councilman Thornton made the motion to adopt Ordinance No. 012-08 as written. Motion was seconded by Councilman Pressley.

Councilman Thornton clarified that what this does is deletes the amount of the annual fee of \$35.00 and inserts in lieu thereof "as set forth in the fee schedule".

Motion passed with Mayor Stombaugh, Councilmen Mullen, Evans, Pressley, and Thornton voting for, and Councilman Raynor not voting.

Ms. Schrader wanted to clarify that until the Town Council sets a fee in the schedule for the rental license there is no rental license fee.

a. Resolution regarding FY 2009 Fees and Charges -
Councilman Mullen made the motion to adopt the resolution authorizing and directing the Town Manager to adjust certain fees and charges for fiscal year 2009 as outlined in the resolution. Motion was seconded by Councilman Pressley.

Councilman Thornton said he wanted to make a recommendation. Councilman Pressley said he would like to see the amount of the rental license changed to \$45.00. Councilman Mullen stated he does not know what Council wants to do with this. He said the ordinance that he motioned included \$50.00 and now we struck that and set forth a fee schedule and you want to change the fee schedule to \$50.00 so he does not really know what Council wants.

Councilman Mullen asked for clarification. He said this resolution is not a fee schedule as far as he is concerned. Ms. Schrader stated this is authorizing the

Town Manager to adjust the fee schedule. Councilman Mullen said to adjust certain fees and charges, but only those fees and charges as outlined in the resolution. He said we already passed the ordinance setting the rate for the rental units as set forth in the fee schedule. Councilman Mullen said all Mr. Hugg has to do is do a fee schedule for the rental units and that is it. Ms. Schrader said that is correct. Ms. Schrader stated the intent was to set a rate just as you are authorizing the Town Manager to set the rates for these other items. She said she thinks the Council should set the rate for the Town Manager. Mr. Hugg stated at least for this time he would like them to. He said it can be the old rate of \$35.00 per unit if you do not want to increase it but since you took it out of the ordinance now it does need to be in a fees schedule. Ms. Schrader said her understanding was that the desire of Council was to move that rate out of the ordinances and put it into the schedule and then whatever you decide is the fee; this resolution is advising the Town Manager to take certain action which in her opinion should include what the rate to the rental is.

Councilman Mullen amended his motion to include rental property license fee from \$35.00 per year per unit to \$45.00 per year per unit. Motion was seconded by Councilman Pressley.

Mayor Stombaugh wanted to clarify one thing. She said this is a resolution and it has specified fees, so if we pass this resolution this is what the fees are going to be. Mr. Hugg stated that is correct. He said it is directing him to set the fees at this level.

Motion passed with Mayor Stombaugh, Councilmen Pressley, Thornton, Mullen, and Evans voting for, and Councilman Raynor not voting.

EXECUTIVE SESSION

Mayor Stombaugh stated we need a motion to go into executive session to discuss performance review where performance and qualifications will be discussed, and discussion of role and actions of commission member. Councilman Thornton made the motion to go into executive session for the purpose stated by Mayor Stombaugh at 8:34 p.m. Motion was seconded by Councilman Pressley. Motion passed with Mayor Stombaugh, Councilmen Pressley, Thornton, Mullen, Raynor, and Evans voting for.

Council returned at 9:20 p.m. Councilman Thornton made the motion to come out of executive session. Motion was seconded by Councilman Raynor. Motion carried with Mayor Stombaugh, Councilmen Pressley, Thornton, Mullen, Raynor, and Evans voting for.

Councilman Thornton made the motion to follow through with the two items discussed in the executive session concerning employee evaluation and commission member. Motion was seconded by Councilman Evans. Motion carried with Mayor Stombaugh, Councilmen Pressley, Thornton, Mullen, Raynor, and Evans voting for.

ADJOURNMENT

Councilman Thornton made the motion to adjourn. Motion was seconded by Councilman Raynor. Meeting was adjourned at 9:22 p.m. by unanimous vote.

Council Secretary

vlh