

**MINUTES OF THE MEETING**  
**SMYRNA TOWN COUNCIL**  
**NOVEMBER 19, 2007**

The meeting was called to order at 7:30 p.m. by Mayor Patricia A. Stombaugh. Council members present were A. Douglas Chervenak, Gene A. Mullen, Lawrence O. Thornton Jr. and Valerie M. White.

Also present were Town Manager David S. Hugg III, Chief Richard H. Baldwin Jr., Attorney John Terence Jaywork and Recording Secretary Carol C. McKinney.

Mayor Stombaugh explained that Councilman Pressley will be a few minutes late since he is bringing his wife home from the hospital this evening.

**ADDITIONS/DELETIONS TO PUBLISHED AGENDA**

Councilman Mullen made a motion to strike 8-C, Set Date and Time for Workshop ref. E. Mt. Vernon Street Issues (November 28<sup>th</sup> at 5:30 p.m.). He said that was voted on by Council at the last meeting. Motion was seconded by Councilman Chervenak and carried unanimously.

Mr. Hugg asked for clarification of Council action. He said that matter, since the matter did not receive a favorable vote at the last meeting, we are not having a workshop?

Councilman Mullen said that is correct.

Councilwoman White said the workshop was approved. The date failed later in the meeting.

Councilman Mullen said that wasn't his understanding from the minutes.

Mr. Hugg said on Page 3 of the minutes and of the public discussion, there was a motion to hold a workshop that appears to have passed with Council members Pressley, Thornton, White and Mayor Stombaugh in favor and Councilmen Mullen and Chervenak opposed. He said he believed that motion was relative to the same matter.

Councilman Mullen apologized and said he was wrong. Actually, this is an agenda item for setting a date and time that has already been done. If Council wants to bring it back to the floor, we need a motion to bring it back.

Mr. Hugg said we did not agree to the date and time. We did have a motion agreeing to hold a workshop.

Mayor Stombaugh agreed saying the vote was three to three on the date and time.

Councilman Mullen made a motion to accept the agenda as originally presented. Motion was seconded by Councilwoman Pressley. Council members Pressley, Thornton, White and Mayor Stombaugh voted yes, Councilmen Brown, Chervenak and Mullen voted no. Motion carried.

Councilman Mullen said this was not an approval to set a time and date for a workshop. This was to leave that item on the agenda.

#### MINUTES OF PREVIOUS MEETING

Councilman Pressley made a motion to approve the minutes of November 5, 2007 as presented. Motion was seconded by Councilman Mullen and carried unanimously.

#### REPORTS

##### BILLS AND FINANCIAL STATEMENTS:

Mr. Hugg reported that we have nothing to bring under this item tonight.

##### PRESIDING OFFICER:

Mayor Stombaugh congratulated Councilwoman White and the Tree Commission. She said the Happy Harry's parking lot is finished and they recently held a tree planting and dedication ceremony.

Mayor Stombaugh thanked Council for allowing her to attend the New Orleans Conference with the Delaware League of Local Governments. She added that it was very intense and informative and she attended a number of sessions.

Mayor Stombaugh said that, being on the emergency evacuation program we are trying to put together, you don't realize the devastation that city experienced. There were a lot of lessons learned. Mayor Stombaugh said she brought back a lot of information that she will share with Council at a later date.

##### TOWN ATTORNEY:

Mr. Jaywork reported that he has been busy with several projects. We have closed on one property for the Municipal Parking Lot expansion. We have also been working on the Dangerous Building ordinance.

**POLICE CHIEF:**

Chief Baldwin said that a copy of his written report was in packets. It included the monthly stats year-to-date. He added that staff officers attended some NIMS training. Chief Baldwin said they had a good time on Halloween.

Mr. Hugg said the police were a big help in getting the folks around the rowdy crowds at his house. He added that everyone seemed to have a great time and all appreciated having the officers being through the neighborhoods.

**TOWN MANAGER:**

Mr. Hugg said his written report was in packets. The 2007 Major Street Project is now complete. This is the fourth year of trying to get ahead of the game on streets and paving. We hope to catch up in another year or so by concentrating on some that really need work.

Mr. Hugg reported that he met with DelDOT on the first phase of the downtown project. Phase 1 is the Four Corners intersection and south on Main Street. We hope to start the streetscape early next year.

Mr. Hugg said he met with DelDOT on Route 13. We hope that work will start early next spring.

We are slowly working on acquisition of land for the parking lot. Then, we can design and expand the area. We are making progress on improvements in the parking situation downtown.

Councilman Pressley asked if that will start after Christmas.

Mr. Hugg said it is in the design phase now. We have been talking with DelDOT. They have to acquire some easements. We will probably award bids in May or June next year. Mr. Hugg said if everything works out, we will have significantly more parking available. We have worked out some temporary access to the PNC lot. With the new Pharmacy Museum Lot, we will have twenty or more spaces. Signage will be an issue. He added that he thinks we can work it out. We have learned a lot from other communities who have gone through this.

Councilman Pressley asked if we will let people know ahead of time. Mr. Hugg said we will have workshops, one early next year with DelDOT when we start construction.

Councilman Chervenak said he thinks the Town of Smyrna is giving more notice to businesses than DNREC gave folks when they did Glenwood Avenue.

Mayor Stombaugh said she was fortunate to sit with some of the Council from Lewes. They just finished downtown renovations. They have a Chamber and said the lady there did a wonderful job and it went very well. They did advertising to get the word out to residents and businesses. Mayor Stombaugh said they felt sure this person would be willing to come to Smyrna and talk to the Merchant's Association.

**COMMITTEES:**

Councilman Pressley said Business Development met on November 8<sup>th</sup>. Minutes should be in packets. They started discussion on the Home Occupation Ordinance.

Councilman Pressley said Personnel met on November 14 and minutes should be in packets. One item is on the agenda for action tonight.

Councilman Mullen said the Finance Committee met on November 13<sup>th</sup>. They have started the 2008 budget process getting down to line items, etc. They also started discussion on the 2008 tax rate. Mr. Stulir provided us with a rough draft of the budget. He also informed us that the year-end inventory will be done on December 29<sup>th</sup>. Their next meeting is November 27 at 5:00 p.m. Councilman Mullen encouraged all members of Council to try to attend.

Councilwoman White reported that the Tree Commission met. They are continuing to work on a dangerous tree ordinance and locations to do our 1000 tree program. Councilwoman White said they are also working on an ordinance to have trees in the future for developers who come in so that they will be responsible to plant more trees on property that they clear.

Chief Baldwin reported that the Public Safety Committee met but did not have a quorum present. Those present talked about traffic concerns on Greens Branch Lane. We are working to get signage up and speed bumps in place.

Chief Baldwin also reported that they discussed the Quality of Life Unit and how that unit is working out.

Chief Baldwin said they discussed 2008 Budget requests. They also considered no parking on Providence Drive, a request concerning visibility at the intersection of S. Delaware and Hamilton Lane and the possibility of making that a 4-way stop intersection.

Chief Baldwin said he will be reporting back to the Police Building Committee after meeting with Mr. Lenihan and others on progress for the new building. Also, Mr. Mood questioned about the name change for Gate Way. He requested that the Fire Company be apprised of any name changes on streets.

Mayor Stombaugh reported that the Town of Smyrna will have Caroling on the Plaza from 6:30 to 7:30 p.m. on Monday, November 26<sup>th</sup>. She read the various events from the program. Mayor Stombaugh invited everyone to join us.

Mr. Hugg advised Council that they have a workshop at 5:30 p.m. tomorrow evening downstairs. Tony DiPrima will be our facilitator. He is the City Manager of Dover and their former Planning Director. That agenda was in the envelope on Council table tonight. This is a public workshop but, unless Council decides that the public can have input, it is for the Council to meet and discuss rules, responsibilities, etc.

#### RECOGNITION OF VISITORS

Visitors present included Marian Bower, Michelle Roberts, Jamie Jarman, Gordon & Helen Miller, George Wicks IV, Joan MacKnight, Dottie Nulty, Ali Cheeseman, David Pleasanton, Al & Tish Pickett, Wilbert Bordley, William Wilson, Seth Clevenger, Jaci Hugg, Larry Douglas, William Coulter, Regina Brown, Conrad Hebert, Ruth Bower.

Mayor Stombaugh said this is the time for anyone in the audience to address Council. She added that each person wishing to speak must come to the microphone, give their name and address for the record, and limit their comments to 3 minutes. Council is not obligated to respond tonight.

Al Pickett of 24 N. Main Street said basically, their property is involved with flooding caused by the properties on E. Mt. Vernon Street. He said there was a proposed workshop date of November 28 which he asked to be changed to the first week of December. He said he will be unable to attend next week and he would like input.

Joan MacKnight of 735 Radnor Lane expressed concern about construction traffic coming through BonAyre which is a senior citizen development. She pointed out that a lot of elderly people ride bikes and are in danger from large vehicles. Ms. MacKnight asked if Brenford Road could be designated as the route for construction vehicles coming into the Gemcraft site.

Ms. MacKnight also asked if center lines could be painted on their streets so drivers will know which side of the road to drive on. She also asked for bicycle lanes to be painted on both sides of their streets.

Ms. MacKnight said the Route 13 light is causing traffic to detour through their neighborhood to avoid work in progress.

Councilman Mullen asked if we are going to run into the same problem on School Lane. Chief Baldwin said the potential is there.

Councilman Brown asked if we have taken over the roads in BonAyre. Mr. Hugg replied we have part of them. He said we have taken in the part Ms. MacKnight is referring to but not the areas west or in Hickory Hollow.

Councilman Brown asked if we can paint the roadway. Mr. Hugg replied that bike lanes have specific requirements. There is also a legal issue about painting a yellow center line in terms of enforcement. It is an issue we have addressed about other streets.

Mr. Hugg added that within a certain distance from an intersection, we can designate lanes. He said this may be an issue for the Public Safety Committee.

Councilman Mullen said he thinks that, if the town or the Chief went to Gemcraft Homes and asked them to make trucks come in off the other road, it would be helpful. They could put up signs at BonAyre saying no construction vehicles.

Ms. MacKnight said this is a community of elderly residents. These people can't walk so they ride their bikes. She added that they have had some near misses with construction and other vehicles. Ms. MacKnight asked that we please keep in mind that these are elderly citizens.

George Wicks of 414 West Street in Clayton said he owns Diamond State Landscaping and is the current mowing contractor for the Town of Smyrna. Mr. Wicks said the Town opened bids on November 15 for the 2008 Mowing Contract. He pointed out to Council that there were four bidders and two were way high on their bids. Mr. Wicks and the other bidder were very close. He said that Marenco's bid was low for parks and other areas to be mowed weekly but their bid for code enforcement work was much higher than his. Mr. Wicks passed out a memo comparing projected costs for his company for the next several years and told Council that his firm will save the Town money if they award the bid to him.

Mayor Stombaugh closed the public portion of the meeting.

#### OLD BUSINESS

#### THIRD READING: ORD. NO. 012-07, CH. 70, UTILITIES, ART. III, ELECTRIC, ART. II, WATER/SEWER AND ART. I, GENERAL

Councilman Mullen made a motion to consider this the third and final reading of Ordinance No. 012-07, Chapter 70, Utilities, Article III, Electric, Article II, Water/Sewer and Article I, General. Motion was seconded by Councilman Brown.

Councilman Chervenak said he was at the Utility Committee when this was discussed. It is a good ordinance. He said the problem is that, on November 5, Council decided that they did not

have to follow the Code of Conduct or the Charter. In 2005, they decided they didn't have to follow Town ordinances. We are wasting our time passing ordinances. Councilman Chervenak said he is the only one who says our Charter means something. Our Ordinances mean something. If they don't, let's, as a Council, say that we are wasting our time. He said this is a good ordinance. It outlines what the Town employees will follow. If we say to people that it will only be enforced if or when we want, this is a meaningless document.

Councilman Mullen said there is a policy in packets concerning the remote disconnect/reconnect collar procedures. He said he just wanted to remind Council members that this is already in the ordinance.

Council members Brown, Mullen, Pressley, Thornton, White and Mayor Stombaugh voted yes. Councilman Chervenak voted no. Motion carried.

**A RESOLUTION TO ENACT A MORATORIUM ON ISSUANCE OF PERMITS  
FOR ANY COCKTAIL LOUNGE, BAR, BILLIARD PARLOR OR SIMILAR PLACE  
OF INDOOR ENTERTAINMENT EXCEEDING 6,000 SQUARE FEET AND SERVING  
ALCOHOLIC BEVERAGES AND OFFERING LIVE ENTERTAINMENT IN THE TOWN  
OF SMYRNA**

Mr. Hugg said staff has been working on a draft ordinance that we were instructed to draft. We have not been able to complete that work yet because we have a variety of other issues we are working on and legal staff is also very busy. Mr. Hugg requested that Council extend the moratorium until the end of December. He said the draft can be ready for Council at their next meeting. It was noted that it then needs to be referred to Planning and Zoning for a review and recommendation back to Council.

Councilman Brown said it isn't fair to extend the deadline because government wasn't able to meet that deadline. He said we need to look at the repercussions this may have. With information relayed to him by the Town Manager, he said he is torn about this decision. Councilman Brown added that he can't agree to hold off just because we aren't ready. He asked to be shown a valid reason why we should extend the moratorium.

Councilman Mullen said we originally passed this in September for sixty days. It is built into the resolution that, basically for cause shown, Council may extend it no more than an additional 90 days. Councilman Mullen said we are already at the end of November. The original ran through November 5. He said he doesn't see any problem with giving staff more time to

come up with an ordinance on this.

Mayor Stombaugh said she doesn't want to see us doing anything in haste. We are setting rules here for the future. We have received letters and none of them were in favor, all have been opposed to this type of entertainment complex.

Councilman Brown asked why he hasn't seen a copy of them. Councilmen Pressley and Mullen said they received copies of letters in their packets.

Councilman Pressley said he voted for this in September because it had a sixty day limit. He said it isn't good to extend this.

Councilman Brown asked if Councilman Pressley thinks it is fair that we don't give extensions on electric but we give the government extensions. Councilman Pressley replied that maybe we should table this until we are ready.

Mr. Hugg said the issue was raised for a moratorium because the Town has no specific requirements to limit or prohibit this type of venue. The concern was that we need to develop something. Mr. Hugg explained that we had an inquiry from someone considering this type of entertainment here. Staff felt that there was enough concern that we need breathing time to come up with some regulations. Mr. Hugg said if you table the moratorium, it will simply say that you don't want to deal with it. He added that he feels that staff can commit to having a document to you for your consideration in time for the next Council meeting. Mr. Hugg said it can be referred to P&Z for their December meeting and their recommendation should be back here so you can adopt the ordinance at the first meeting in January.

Chief Baldwin said he saw the proposal that came to staff. The gentleman brought it to the police department. Chief Baldwin said this could have a huge impact on the Town of Smyrna. He encouraged Council to take the time to consider this carefully.

Councilman Brown said his concern is precedent where we exclude one type of business or another. We tell one they can be here but another that they can't.

Councilman Mullen said he doesn't see it that way at all. He said he sees it as an opportunity for the Town to establish

an ordinance that regulates businesses of certain types. The Town of Smyrna doesn't require any commercial entity to have a license. This is merely a way to get an ordinance in place that regulates these types of establishments. He added that the fact of the matter is, you can have a cocktail lounge next to a church. We don't have any rules to prevent that. We are not asking to restrict them, but to have rules in place when they come here.

Councilman Thornton said we have had moratoriums that were extended. We had one for tattoo parlors and body piercing establishments and extended that one. We want to do this as efficiently and quickly as possible. This extension will give staff and the attorney's office time to review and make sure we are doing the right thing.

Councilman Mullen made a motion to extend the moratorium on the Issuance Of Permits For Any Cocktail Lounge, Bar, Billiard Parlor Or Similar Place Of Indoor Entertainment Exceeding 6,000 Square Feet And Serving Alcoholic Beverages And Offering Live Entertainment until January 8, 2008 with a draft coming back to Council at the second meeting in December. Motion was seconded by Councilman Pressley and carried unanimously.

**SET DATE AND TIME FOR WORKSHOP TO DISCUSS**  
**E. MT. VERNON STREET ISSUES**

Councilman Chervenak made a motion to bring this issue back to the floor. Motion was seconded by Councilman Thornton. Council members Pressley, Thornton, White and Mayor Stombaugh voted yes. Councilmen Chervenak and Mullen voted no. Motion carried.

Councilman Chervenak asked Councilman Pressley if he had any involvement in this project. Councilman Pressley replied that he did not. He said if he did, he would have recused himself.

After discussion, Councilman Brown made a motion to hold a public hearing at 5:30 p.m. on January 16, 2008 to discuss E. Mt. Vernon Street issues. Motion was seconded by Councilwoman White.

Councilman Mullen said we have had this discussion before. He said he wanted to put Mr. Jaywork on the spot. Councilman Mullen said it is his feeling that this is a civil matter. He added that he doesn't see any problems being solved in a public

workshop. If the Town holds a public workshop, the information presented there could be used by any party in a civil proceeding. He asked Mr. Jaywork if this is correct.

Mr. Jaywork said if there is a public workshop and there is information that could help either side in a lawsuit, you are correct. It is a civil action. Mr. Jaywork said he already wrote a 15-20 page analysis explaining this. If the Town Council feels that the Town has some liability, it is up to them. This is a civil matter between the property owners. The drainage issue is an aside issue. If somebody is discharging water onto somebody else's property, that is a civil matter between the property owners.

Councilman Chervenak said now we are entering into a dispute between people and Council is entering into a contest.

Councilman Brown said he thought the intent was to see where the Town stands as far as involvement in the issue. He asked what is the intent of the workshop.

Mayor Stombaugh said if all parties came together, there could be some settlement and the Town would not have to spend money in court.

Councilman Brown said he doesn't think it is in the best interest of the town to be arbitrators.

Councilman Chervenak said this has been discussed and now they have come to an impasse between the two parties.

Councilman Mullen noted that some of the problems on this project we are not going to solve unless buildings are removed. This Town can't do that. He said he doesn't see this Council taking on the responsibility and liability that it puts on us to have a workshop on this issue. It is a civil matter and this is where it needs to stay.

Councilwoman White said she sees a large mess over there that possibly could have been avoided but it has been done. We need to look at it as a learning process.

Mr. Hugg called attention to Mr. Jaywork's extensive analysis on the subject. There were things that we should learn from. He added that he agrees with Mr. Jaywork. The Town has responded to this matter by virtue of his analysis. That analysis was provided to all parties involved as a final

response. Mr. Hugg said he doesn't know what we gain by getting into the middle of what is a civil matter.

Councilman Brown asked if an agenda has been established for this workshop.

Mayor Stombaugh replied that she doesn't have one.

Councilman Thornton said he made a comment at the last meeting. He said he understands the civil ramifications. We have held workshops where the Council listened to citizens without taking action. He added that his feeling is that we have a difference of opinions on what happened and no one has had the opportunity to vent their frustrations. Councilman Thornton said we owe it to the parties to listen to what they have to say. We don't have to say anything.

Councilman Chervenak said no vote will be taken. No motion is going to be made. However, we may have a quorum and that will constitute a meeting.

Mr. Jaywork said that when you announce something as a workshop, you make a public statement that no action will be taken. Legally, he said he supposes there is nothing that would prevent Council to take an action but it would be unusual.

Mayor Stombaugh asked Mr. & Mrs. Pickett if they feel this would help. Mr. Pickett said he certainly thinks it would help them. He added that he still has a water problem. Basically, there was a code broken. That small house built in front of our carriage house is zoned Central Commercial. The side yard is supposed to be planted ground. Concrete is not plantable. Basically, the code was broken. Mr. Pickett said he blames the property owner, not the Town.

Councilman Chervenak said it sounds like we are having the workshop tonight. He asked if Mr. Pickett feels the workshop will solve anything. Mr. Pickett replied yes.

Mayor Stombaugh said she was hoping there would be an answer from this. She added that the Pickett's carriage house goes back to the 1700's. It is so well preserved. She said she was so totally impressed when she went in there. Mayor Stombaugh said she sat here with the Pickett's in an appeals hearing before she was elected Mayor. She added that she sat there because of something the Town allowed. They were acting in good faith, trying to be good citizens. Mayor Stombaugh said

she told them to go ahead with a suit against the Town. The Pickett's have not done this because they don't want the citizens of the Town to have to pay out money for this. Mayor Stombaugh said the Pickett's are sacrificing themselves because they don't want the citizens of the Town to have to pay for this. She said she feels a terrible injustice has been done to them.

Councilman Brown said we are not arbitrators.

Councilman Chervenak said when you say what you just said, you are endangering the entire workshop process. Your opinions are entirely one sided. He added that Mayor Stombaugh isn't having a workshop, she is having a forum for her personal opinion.

Council members Thornton, White and Mayor Stombaugh voted yes. Councilmen Chervenak, Brown and Mullen voted no. Councilman Pressley was recorded as not voting. Motion failed for lack of a majority vote.

#### CONTRACT EMPLOYEES' NEGOTIATING COMMITTEE

Councilman Mullen said this was tabled at the last meeting. He said he made a motion, seconded by Councilman Chervenak to include all members of Council on the contract employees negotiating committee. This was tabled until Councilman Brown was present.

Councilman Thornton said when we discussed this originally, he offered a compromise that only Mr. Hugg's contract be negotiated by Council-as-a-whole.

Mayor Stombaugh said if Council meets as a whole, Council members would get paid for the meeting.

It was noted that Council is only paid for regularly scheduled Council Meetings and Special Council Meetings.

Councilman Pressley said then why don't all committees have full council on them. He said you are telling him you don't trust him. It comes back to Council for a vote anyway.

Councilman Mullen said it has nothing to do with that. Four members of Council are on that committee. He added that he respects the Mayor for resigning. Councilman Mullen added that it gives him an uncomfortable feeling knowing that a majority of

Council agrees on something that the other three don't know anything about.

Mayor Stombaugh said this committee has done a wonderful job. That is what negotiations are for. They talk ideas out. Sometimes ideas are changed. You sit down and negotiate things. They make recommendations for the committee. There isn't a majority any more, she said she resigned. She added that she doesn't feel it is necessary for the whole council to be involved. She said the committee doesn't come back to Council with a decision, but with a recommendation. They are doing the work . They will come back to you and you can present your opinion at that time.

Council members Chervenak, Mullen and Thornton voted yes. Council members Brown, Pressley, White and Mayor Stombaugh voted no. Motion failed.

#### ICMA PROPOSALS FOR CONSULTING SERVICES

Mr. Hugg said that a little over a week ago, he mailed to everyone three proposals he got back from ICMA to provide consulting services in response to Council's concerns on employee efficiency. This was discussed in Personnel Committee. They will have someone present on December 3 at 7:00 p.m. to make a presentation to Council on their proposals, their expertise, etc.

Councilman Pressley asked that the civilian members of the Personnel Committee get a copy of these proposals.

Councilman Pressley said this is something we have been looking at in Personnel for the last four or five months.

Mayor Stombaugh asked if we need to get other bids since this involves a sizeable amount of money. Mr. Hugg said not necessarily. This is a professional organization that advises governments across the country. He said he thinks we can contract directly with them. He noted that they recently did some work for Rehoboth Beach.

#### NEW BUSINESS

##### REFER TO PLANNING & ZONING COMMISSION/BOARD OF ADJUSTMENT ORD. NO. 014-07, APP. B, SUBDIVISION AND LAND DEVELOPMENT ORDINANCE, REF. HOMEOWNER ASSOCIATION REPORTING RESPONSIBILITIES

Mr. Hugg said Councilman Brown brought this issue to our

attention. He recognized that a lot of staff time is spent on issues that are Home Owner Association (HOA) responsibilities. Some HOA's meet regularly while others do not. One of the problems is that the people who live in the developments and the Town don't know anything about them. This is a step to require that certain information is provided to the Town that will allow us to insure that the HOA has looked into a problem before we get sucked into it. The action tonight is to refer it to the Planning & Zoning Commission.

Councilman Chervenak asked what happens if there isn't a HOA? Councilman Brown said it all falls to code enforcement.

Mr. Hugg explained that we require a home owner association to be established as part of final recordation of a subdivision. Some just don't organize one.

Councilman Brown said it would lead back to a home owner association issue but the Town spends money trying to resolve HOA matters.

Councilman Mullen added that under State law, the developer is required to have a home owner association before turning a development over. They usually fall by the wayside in six months. Now, we are adopting something to hold their feet to the fire. He asked what the penalty is.

Councilman Brown said we haven't gotten to that step yet.

Councilman Chervenak said the Town can go in and levy the HOA for whatever they do.

Mayor Stombaugh said people should be made aware of these things up front. She said she has learned through the P&Z about these 1/8 acre lots. People need to be told that there is a home owner association. They need to know that there are water management areas that are included and what you see is what you get. Mayor Stombaugh said home buyers should be put on notice that they can't build a deck because there is no room. People should know these things up front. She added that the people developers bring in to sell the properties are not realtors. They are just sales people brought in by the developer to sell houses.

Councilman Mullen said during the closing process, the home owner is provided a plot plan for the lot. Most easements and setbacks are shown on that plot plan.

Mayor Stombaugh said they don't know what most of that means. We need to make these developers accountable.

Councilman Brown made a motion to refer Ordinance No. 014-07 to the Planning & Zoning Commission for review. Motion was seconded by Councilman Chervenak and carried unanimously.

**FIRST READING: ORD. NO. 015-07, CHAPTER 2, ADMINISTRATION, REF.  
ACTIONS OF COMMITTEE/COMMISSION MEMBERS**

Mr. Hugg noted that Councilwoman White brought this to our attention and asked that we draft an amendment to the ordinance. It prohibits committee/commission members from directly contacting Town employees. Mr. Hugg said this requires two additional readings.

Councilwoman White made a motion to consider this the first reading of Ord. No. 015-07. Motion was seconded by Councilman Brown.

Councilman Mullen said he understands the reasoning but asked if anyone could clarify it.

Councilman Brown said we don't want committee members coming in to tell employees what to do.

Councilman Chervenak said commissions are a paid entity and are different from a committee.

Councilman Brown explained that he recently had a situation and Mr. Hugg wasn't available. He just had to sit tight until he could reach Mr. Hugg.

Councilman Chervenak said if a chairperson is not there and something needs to be accomplished, then what?

Councilwoman White said she doesn't feel that committee members should come and take up staff time with requests when the chair and council don't know about it.

Mr. Hugg said this is pretty much the same as with Council members. The existing ordinance just doesn't speak to committee/ commission members.

Councilman Mullen said any task that any Town employee performs for anyone except Mr. Hugg shouldn't occur anyway.

Motion carried unanimously.

**REQUEST FROM SMYRNA SCHOOL DISTRICT TO INSTALL A WELL FOR NON-DOMESTIC USE AT SMYRNA HIGH SCHOOL**

Mr. Hugg explained that this is a housekeeping issue. The Town does not permit installation of private wells in the area where we have the water supply franchise. We have, from time to time, allowed irrigation wells for farm uses. Smyrna High School has a small well for their livestock. They need this well for watering the athletic fields. Council needs to authorize this well to exist within the Town limits then we can exclude it from our water allocation reporting and insure it is for non-domestic use only.

Councilman Chervenak asked if it will draw from the same aquifer as the Town does. Mr. Hugg said we have plenty of water in our aquifer. He added that staff recommends approval.

Councilman Chervenak made a motion to approve the well at Smyrna High School for non-domestic water use only. Motion was seconded by Councilman Brown and carried unanimously.

**EXECUTIVE SESSION TO DISCUSS PERSONNEL MATTER IN WHICH THE NAMES, QUALIFICATIONS AND PERFORMANCE OF INDIVIDUAL EMPLOYEE(S) WILL BE DISCUSSED**

Councilman Mullen made a motion to go into executive session to discuss a personnel matter in which the names, qualifications and performance of individual employee(s) will be discussed. Motion was seconded by Councilman Pressley and carried unanimously. Council retired to Executive Session at 9:08 p.m.

Councilwoman White made a motion to adjourn the Executive Session. Motion was seconded by Councilman Pressley. Council returned to regular session at 10:07 p.m.

**OTHER COUNCIL BUSINESS**

Councilman Mullen resigned from the Police Union Negotiating Team.

**ADJOURNMENT**

Councilman Mullen made a motion to adjourn, seconded by Councilwoman White. Meeting adjourned by unanimous vote at 10:10 p.m.

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Council Secretary

ccm

Smyrna Town Council

November 19, 2007