

City of West Columbia, SC

Attachment III.A

Special Council Meeting

March 17, 2014 at 6 p.m.

Members Present:

Joe Owens, Mayor
Casey Jordan Hallman, Mayor Pro-Tem
Eric L. Fowler
L. Dale Harley
Boyd Jones
Temus C. "Tem" Miles, Jr.
Tommy G. Parler
B.J. Unthank
Teddy Wingard

Members Absent:

None

Others Present:

Jenny Cunningham, City Administrator
Myron Corley, Deputy City Administrator
Donna Smith, Director of Economic Development
Sid Varn, Director of Planning & Engineering
Stuart Jones, Building Official
Rick Hodge, City Treasurer

Sid Varn, Director of Planning and Engineering
Brian Carter, Assistant City Administrator
Charles Garren, Public Works Director
Wyatt Coleman, Fire Chief
Dennis Tyndall, Police Chief
Members of the Public and Press

Agenda Item I – Call to Order

Mayor Owens called the meeting to order at 6 p.m. and noted a quorum was present. *The State, Free Times, Lexington County Chronicle, Cayce-West Columbia News, The Columbia Star, COLADaily.com* and radio and television stations were notified of the meeting by e-mail on March 13, 2014.

Agenda Item II – Invocation and Pledge of Allegiance

Council Member Fowler gave the invocation followed by the Pledge of Allegiance.

Agenda Item V – New Business

Mayor Owens stated that the agenda would be taken out of order in order for council to vote on Agenda Item C., which is first reading consideration of proposed changes to the city ordinance regarding Section 1-2-5, *Mayor Pro Tem*; Section 1-3-3, *Quorum and Rules of Order*, Section 1-3-8, *Committees* and Section 1-4-6, *City Administrator*, then council will go into executive session to discuss a contractual and legal matter.

Mayor Owens said that although the changes to the city ordinance seem innocuous, there are real perils in them. He said one is to change the ordinance so that the mayor cannot preside over the meetings. He stated that by tradition the mayor always had the position where he spoke for the city. He said another issue is that anyone we appoint would not answer to the city administrator but would answer to the council. He read from Section 1-4-6 (a) of the West Columbia Code of Ordinances, "The office of city administrator is hereby established. ... The city administrator shall serve at the pleasure of the council for an indefinite term, subject to the personnel policies and procedures of the city. (b) The city administrator shall be the chief administrative officer of the city government. S(he) shall be responsible to the council for proper administration of the policies and affairs ... S(he) is to (1) direct, supervise, and coordinate administrative activities and operations of all city departments; (3) appoint, and remove department heads for cause with approval of council."

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Agenda Item V – New Business (continued)

Mayor Owens said another bone of contention in his opinion was the committees. He said he was told that a committee acted improperly against the ordinance. Mayor Owens stated, “Here’s what it says, very specifically, (Section 1-3-8 (b)), ‘Special committees may be appointed by the mayor at any time to make investigations and recommendations regarding any matter.’ And that is one thing they (council members) are trying to change.” He said the city administrator as created by the ordinance is the manager of the city.

Mayor Owens stated they (council members) are asking the mayor pro tem to replace him as the presiding officer. He said that the mayor pro tem is not interested in making that move because she believes it is not lawful under the law. He stated, “When another official may take a primary role of leadership other than the mayor or mayor pro-tem is another matter altogether. Although the council form of government, the mayor is elected at large by the citizens of West Columbia to serve as mayor. It may not be explicitly stated in the city code, but the mayor is considered the spearhead of the city and to appoint another official to serve in the mayor’s role could be considered by the electorate as a usurp of the electorate’s authority.” He said that means that this (proposed) ordinance is an usurp of power. He said that the fact that the citizens elected him as mayor means nothing to some of these people.

Mayor Owens said if anyone wanted to come up and speak he was allowed to under the rules and could come to the mike. Council Member Miles stated, “That’s out of order, Mayor.” Mayor Owens replied, “No, it’s not.” Council Member Miles responded, “Yes it is.” Mayor Owens stated, “Tell me how.” Council Member Miles stated, “It’s not on the agenda.” Mayor Owens stated, “The mayor may allow … the presiding officer may allow people to speak not on the agenda.” Council Member Miles stated, “Mayor, I haven’t heard the responses from the floor. May I address the audience?” Mayor Owens responded, “You are out of order. We are going to do this with civility and we’re going to do it by order, *Robert’s Rules of Order*. You have to be called on to be recognized and you’re not recognized.” Council Member Miles responded, “Then move the process along then.” Mayor Owens replied, “It says here that the mayor can allow people to speak. … I am the presiding officer and I’m sure it’s in here and I’m sure I’ll find it. I feel like I am fully capable under this code to do that. Now would anybody like to come forward and speak.”

Mayor Owens recognized Mr. Bobby George, who stated that he lives at 518 B Avenue. He said, “Thank you for letting me speak. I had requested to get on the agenda, but I think I’d missed the deadline and I had just found out about this session yesterday. Speaking with some neighborhood colleagues, I’m active in the Guignard Association. I have about five things I want to talk about. One, it came to our understanding that the chief of police was … there’s a motion to extend his contract by three years, well when the motion from the council bench. To me that struck me as an unusual way to extend the chief of police’s contract. Just on the surface. I don’t know all the rules behind that, but it sounds like a personnel action and I thought that might be handled differently. Second, we’ve gotten word that there is some division, inappropriate division, on the council, and I think that may have extended to, this is just antidotal, but extended to the police department. That there may be some divisions on the department. I’m a parent, a homeowner, active in the community and care dearly about the community, and one thing we don’t want to have is division in our police department. We’re proud of them. We routinely interact with them on the street at, our house. The fine officers, they interact with our kids around the neighborhood. They’re great community enforcement and policing. They’re at our neighborhood association meetings, which we normally average about 33 persons at our monthly meetings. We have a variety of different representatives come to our sessions and they’re very informative, very professional and we’re proud of them. Hearing that there that may be some division on the police department does not sit well with me and I think I also, in addition to myself, speak on behalf of my neighborhood. We have a great police department and any kind of division on that police department to me is unacceptable as a homeowner, businessman, a veteran and a father.”

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Mr. George continued, “We realize this is a political world and that we have different opinion on council and that’s why we elect you. I ran in an election myself and it was a very positive experience and have a fantastic representative in Tem Miles for our District Four. However, this is a time where we need to have unity more than ever. We have so many issues facing the city. Crime – we have some residual stuff coming from Columbia. This is the normal feeding area; Gervais Street Bridge, Blossom Street Bridge, Jarvis Klapman, etc. This is not the time to have division. We’ve got major economic interests at stake developing the riverfront in a wise manner. I think the board (council) has made a good decision on getting help, to hire a professional company to help us develop our area west of Columbia over the Gervais Street Bridge. I’ve been coming to the meetings for the last two years since I’ve been a resident. I’d like to say that I’m a bit underwhelmed with the a) citizens’ participation and it’s nice to see a big crowd tonight, I wish it were like this every night, every month. I think it’s important, I think you can see it from the turnout here, that this is what it takes to get folks to show out and show their interest, that’s awesome. However, I understand you are going into executive session and I appreciate your overview, Mayor Joe, I’m a big supporter of yours. I’m not sure what’s going to happen in executive session.”

Mayor Owens stated, “This will not be discussed. What we’re going to discuss in executive session is the two contacts for personnel. This is not an item that we’re discussing in executive session. I appreciate your thoughts, Mr. George, and if you’ve got any other thoughts.” Mr. George replied, “I do, just a couple more.”

Mr. George stated, “To me, the idea of changing the responsibilities from the mayor to the (mayor) pro-tem strikes me as a bit unusual. As a student of public administration and a master’s of public administration with some of your staff, this seems to me to be a bit unusual and I think there should be more sunshine and transparency when it comes to these kinds of decisions. I do have the agenda. I just pulled it up on my SmartPad. I didn’t see it yesterday. I see it’s published. Again, great turnout tonight, and I guess there’s been, for lack of better words, campaigning going on with the council’s constituencies to show up and that’s fantastic. Hopefully, this is like the beginning of a new way of sunshine and transparency for council. I’m personally pleased with the way you run these meetings and I hope that you will continue to have those to lead it. Thank you very much.”

Mayor Owens stated, “This won’t be in my opinion personal, but I received a phone call this morning at 9:15 and was told that I could go quietly into the night. That there was votes here to expel me from the position of presiding official. I indicated to him that was an offer I could refuse. I don’t think it is lawful. I don’t believe it will bear up under scrutiny and I don’t believe bear up legally. What you have is a mayor elected by all people in the districts and the change you’re trying to make could amount to this. They can appoint one of those council members to be the presiding officer. If that usurps sticks that could mean that in some cases a person who got 50 votes could override a mayor who ran at large and got almost 900 votes. That is where I’m coming from. I believe this is, … we’ve got too much, … I am trying to get something done with the place down on the river. I don’t have time for this. This is nothing but something that’s going to split the council. If somebody calls in here and I’m not the presiding officer, who they go to? Also it says in here, they’re asking the city administrator, … it says that the city administrator shall communicate with the mayor in between meetings to keep him informed so he can keep the city informed. That’s another one they want to change. That doesn’t make any sense. Makes no sense. I want to ask one question. How many people out there believe that the mayor should not be the presiding officer? Anybody? Who thinks he should? I think I know the will of the people. I hope they know. I have done nothing in any matter what so ever, in my opinion, to be removed. It’s just no reasoning except politics. So with that we’re going to adjourn to executive session. I’m not going to ask for a vote. Yes, I’ll ask for a vote for it on it now. So let’s do it and move it forward.”

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Agenda Item V – New Business (continued)

Mayor Owens stated, “On the agenda, when I find it …” Council Member Tem Miles stated, “Mayor, before we move on I would like to once again request …” Mayor Owens responded, “You’re out of order on that. I’m fixing to call for a vote. You and I discussed this in private and no filibuster.” Council Member Miles stated, “I’m a public officer, …” Mayor Owens replied, “You are out of order and I have instructed the police department if people are called out of order then they shall not speak. That’s all within the rule. This is not an argument. This is a statement of fact. Council Member Miles said, “I request an appeal of your ruling that I’m out of order.” Mayor Owens said, “Beg your pardon?” Council Member Miles responded, “I request an appeal of your ruling that I’m out of order.” Mayor Owens responded, “There is no appeal.” Council Member Miles stated, “Yes, there is.” Mayor Owens stated, “No, there is not. You make the rules up. You told me the city administrator did not, … I’m asking for the vote. Let’s move forward.”

C. Mayor Owens entertained a motion for first reading consideration of an ordinance to amend Section 1-2-5 (a), entitled, *Mayor Pro-Tem*, of the West Columbia Code of Ordinance to incorporate changes to the text as follows:

(a) The Council shall annually, at the first regular council meeting in October following the City’s council elections, elect as provided by the terms herein, one (1) of its members as mayor pro-tempore for a term of one (1) year. Said term of one (1) year shall run from the first regular meeting in December of each year to the first regular meeting in December one year hence.

Council Member Miles made a motion to amend Section 1-2-5 (a) as indicated and Council Member Unthank seconded. Mayor Owens stated, “Discussion time. I’m going to say this. This is unlawful. It will be tested in court. We’re going to spend a lot of money trying to do the right thing. This mayor was elected at large. I was not elected by these people. I was elected by y’all.” I ask that the rule of law be carried through and this proposal not be voted on in the affirmative. So we’re ready to go. Have a motion properly seconded. If you know the will of the people see what that means to y’all.”

Council Member Miles asked, “Could you clarify the motion again?” Mayor Owens responded. “Six, one, two, five, mayor pro-tem, which states that the mayor pro-tem shall conduct the meetings as opposed to the mayor.” How do you read it?” Council Member Miles stated, “I don’t read it as doing that, I read that being as Section 1-3-3. You ordered 1-2-5 and that’s adjustments to term of the mayor pro-tem.” Mayor Owens responded, “Well, okay.” Council Member Miles stated, “We can take them up (unintelligible) or we can go one by one.” Mayor Owens responded, “We’re going to go one by one and the people … Several years ago, me and Mr. Fowler remembers, the mayor pro-tem …” Council Member Miles stated, “Call the vote, Mayor.” Mayor Owens stated, “Wait a minute, discussion … this is discussion.” Council Member Miles stated, “Not after you have called the vote, Mayor.” Mayor Owens stated, “I haven’t called it, I’m pursuing discussion.” Several other council members stated, “You did call for the vote.” Mayor Owens stated, “We’ve had the mayor pro-tem elected for one year and we were told by court administration to change it. So that’s where we are at now. The motion is properly seconded, so let’s vote.” Mayor Owens called for the vote to change the mayor pro-tem term to one year.

Council Members Harley, Jones, Miles, Parler and Unthank voted in favor of the motion. Mayor Owens, Mayor Pro-Tem Hallman and Council Members Fowler and Wingard voted in opposition. The motion passed five votes to four votes. The names of the council members and how they voted were stated aloud for the proceedings.

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Council Member Parler asked to be recognized. Mayor Owens recognized him to speak. Council Member Parler asked, “Could we not have Council Member Miles explain to us the purpose and the reason for setting forth this change of rules and change of authority?” Mayor Owens responded, “It’s not going to make any difference.” Council Member Parler stated, “Well, you haven’t allowed us to speak on that and all I’m asking is that we’ve heard your side of the argument and that’s fine. I applaud you for that. But I think you need to find out the reasons that he is doing this. I’m sure these people don’t know why he’s doing it, why we’re doing it. But there’s got to be a reason that he’s doing it. So all I’m asking is that he explain his statement and I think it’s only fair that we hear from him. Mayor Owens stated, “Well, he didn’t write the ordinance.” Council Member Miles stated, “I most certainly did.” Mayor Owens asked, “Oh you did?” Council Member Miles responded, “I did.” Mayor Owens asked, “You mean you wrote the changes too?” Council Member Miles stated, “I wrote the proposed ordinances, which is a (unintelligible). Mayor Owens asked, “Then why, … what is your purpose in doing it?” Council Member Miles asked, “Am I being recognized?” Mayor Owens stated, “You are being recognized.”

Council Member Miles stated, Thanks so much. Thank you, sir. In my short time on council it has become apparent to me that you are abusive in the process. There is no better example besides what you have done here tonight that we are proposing substantive changes. As far as your specific comments earlier of our review of your powers to appoint committees, the most contentious issue, the most important issue that has affected this city is the identification and continuance of the contract of the police chief, regardless of what side you fall on. I was shocked that I learned last week you had convened a special committee without notifying anyone else. And I agree that it is within your power to convene a special committee. We are a public body under the terms of FOIA (Freedom of Information Act), which is a state law. It requires any meeting of a public body to be noticed at least 24 hours in advance. That’s for several reasons. So your fellow council members who serve will have notice that you’re going to convene a meeting. So the members of the press, press corps is here, I would wager to say that none of them received notice of your special meeting. And also for these people who are so interested in the process so they are aware there’s going to be a meeting going on.”

Mayor Owens stated, “This was personnel and it could not be done in open session. It would have had to have been in executive session. However I want you to be mindful. Special committees may be appointed by the mayor at any time to make investigations and recommendations regarding any matter.” Council Member Miles stated, “Mayor, I am talking about the Freedom of Information Act, which trumps local ordinance. The requirement is that an agenda be published. You can (unintelligible) into executive session at close to take up personnel matters. But this is a fast and hard requirement that notice be provided via an agenda.” Mayor Owens responded, “This has been used many times. I know when Mac Rish was mayor and Preston Cantrell was the mayor pro-tem, they met many times (unintelligible) and come back to tell us. It is in the purview of the mayor. I don’t believe you can change that. I don’t think I did anything improper. I heard a rumor. I met with the city administrator, who’s the chief administrative officer. I asked the mayor pro-tem to meet with us and we went and we had a meeting. And there is nothing requires, nothing requires … the FOIA does not require it.” Council Member Miles responded, “I agree you could have done that, Mayor. But the problem is you convened a special committee meeting.” Mayor Owens responded, “No, I did not.” Council Member Miles responded, “(unintelligible), but I pointed that out to you.”

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Mayor Owens stated, “No, that’s what you said. Special committees may be appointed by the mayor. Even if I did appoint one the ordinance allows it.” Council Member Miles stated, “The Freedom of Information Act doesn’t, which trumps your ordinance.” Mayor Owens stated, “I’ve heard that.”

Council Member Fowler asked to be recognized. Mayor Owens recognized him. Council Member Fowler asked, “On this what we’re talking about right now,(Section) 1-3-8, is there any particular number that should be on this particular committee?” Mayor Owens responded, “No.” Council Member Fowler stated, “If not, then I would say that if we have any more committees come up, special committees, that we have at least not less than four council members where everybody can hear this.” Mayor Owens stated, “I don’t have any problem with that. I’m acting under the ordinance as it is written today.” Council Member Fowler said, “I would like to amend this if I could.” Mayor Owens responded, “There shall be such standing committees of the council as the council may provide, the members of which shall be appointed by the mayor and mayor pro-tem. Special committees may be appointed by the mayor at any time to make investigations and recommendations regarding any matter. And we will move on to vote on that.

- C. Mayor Owens entertained a motion for first reading consideration of an ordinance to amend Section 1-3-8, entitled, *Committees*, of the West Columbia Code of Ordinance to incorporate changes to the text as follows:
- (a) There shall be such standing committees of the council as the council may provide, the members of which shall be nominated by the mayor pro-tempore.
 - (b) Special committees may be appointed by the mayor pro-tempore at any time to make investigations and recommendations regarding any matter.

Council Member Miles made a motion to amend Section 1-3-8 as indicated and Council Member Harley seconded. Mayor Owens asked, “Tell me what the remedy is?” Council Member Parler asked, “What section are we moving on?” Council Member Miles responded, “I think it’s a misdemeanor charge before the circuit court.” Council Member Fowler stated, “I would like to have at least four council members on committees.” Council Member Miles stated, “By ways of the Freedom of Information Act.” Mayor Owens responded, “Crying in a bucket!” Council Member Unthank asked, “I’m sorry, what did you say?” Mayor Owens stated, “It’s a (unintelligible) by (unintelligible).” Council Member Miles stated, “This the same foul that you cried when Chief Tyndall’s contract last week.” Mayor Owens responded, “Alright, was I not right?” Council Member Miles replied, “You were.” Mayor Owens stated, “Okay.” Council Member Miles stated, “I voted with you, Mayor. I was with you on that.” Mayor Owens stated “No, you didn’t. You did not.” Council Member Miles stated, “I absolutely did vote with you.” Mayor Owens stated, “You voted to go into executive session. The record shows that you voted to give the contract. Now that’s on the record. Do you disagree with me?” Council Member Miles stated, “You cannot not take a vote on a state law unless you have a personal conflict of interest.” Mayor Owens stated, “But you didn’t have one.” Council Member Miles stated, “Which I did not. We lost on the procedural issue to go to executive session. I voted with you. The substantive motion came up. I had no choice but to follow through and cast a vote, which I am required to do as a member of council.” Mayor Owens asked, “And you and to vote in the affirmative, you had to?” Council Member Miles stated, “If I have voted, … to not do it, it still would have been a vote. We’re talking about two different things here.”

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Mayor Owens stated, “You were told … I told you that I believed this to be out of order. Let’s (unintelligible). I let you talk. I said I don’t believe this is legal. It’s not on the agenda and I will not make any effort to put it on the agenda. If you do this it’s going to be illegal. The day after that it was declared illegal.” Council Member Miles stated, “I never said insisted it was legal. I would have preferred not to take a position on it.” Mayor Owens asked, “What’s your gripe? What’s your gripe? Did I rule that it was illegal?” Council Member Miles responded, “No, I don’t have gripe. I’m just saying that your complaint about that was the agenda, which is the same violation you committed by holding a meeting of a special committee.” Mayor Owens stated, “I’ll tell you what. I’ll go meet with Donnie Myers (11th Circuit Solicitor) and let him rule on it. I know you’re a lawyer, but you also said that Jenny (City Administrator Cunningham) would not have authority over the people appointed by council. Did you not say that?” Council Member Miles responded, “Did not. I did not. Mayor, you and I have talked about this what I said before. Mayor Owens stated, “You’ve got to be kidding. I said then who in the world do they appoint, do they report to. You said, ‘the council.’ I said you can’t do that it would be total chaos.” Council Member Miles stated, “I told you simply that Jenny is not in charge of personnel decisions in the police department. You and I talked for three hours on the phone and you intentionally (unintelligible) my words when you spoke to other council members.” Mayor Owens responded, “Are you telling me that … do you want me to read it to you? It says that she shall be … the office of the administrator is hereby established. The city administrator shall be the chief administrative officer of the city government. Shall be responsible to council for proper administration of polices and affairs of the city, and to that end shall direct, supervise, and coordinate administrative activities and operations of all city departments. All. All city departments.”

Council Member Fowler asked to be recognized. Mayor Owens recognized Council Member Fowler. He suggested that any special committee will have not less than four council members on it and be called by whatever we have to do, but at least and not less than four council members on any special committee. That’s because we know when another one will come up. I would like to see it mandatory that we have at least four.” Mayor Owens stated, “I have no comment. The law says if you have less than a quorum you can do that. Four would be less than a quorum. I was going by what I read in the ordinance. I wasn’t trying to do anything nefarious, hide behind something. The mayor may appoint to make investigations and recommendations. That’s not a special meeting that’s an inquiry.” Council Member Fowler stated, “Well it just says right here in the thing, special committees, if we’ve got special committees I would like to see four members of council on there.”

Council Member Miles stated, “Mayor, Section 2-1-1 of the public safety title; Composition of the department; appointment, ‘the police department of the city shall consist of a chief, appointed by council, and such other officers as the chief shall deem necessary for the safety and good order of the city.’ That’s what I was pointing out to you when I said under the current enacted ordinances that the decision of the personnel rests with the chief. If we wanted to change that we could that we could take up the ordinance. But that is currently enacted.” Mayor Owens stated, “We don’t have to. Does anybody here on this (unintelligible) belief that Jenny is … that all departments report to Jenny? There is no way to have one, how do they get (unintelligible) if they’re not (unintelligible). They are not a stand alone.” Council Member Miles stated, “You and I had that discussion and your response to me was that the police department is just not (unintelligible). I (unintelligible) it is a lot more than that.

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Agenda Item V – New Business (continued)

Mayor Owens stated, “That’s what I am telling you.” Council Member Miles stated, “You changed your story then.” Mayor Owens responded, “No.” Council Member Miles stated, “I told you that Jenny controlled everything else but personnel decisions. You’re not singing the same song, Mayor.” Mayor Owens stated, “Direct, supervise and coordinate the administrative activities and operations of all city departments. Show me somewhere there it says police.

Council Member Miles stated, “You have a more specific action that was enacted later when you . . .” Mayor Owens responded, “That’s your opinion.” Council Member Miles stated, “That’s legal interpretation.” Mayor Owens stated, “Your opinion the last time was that you could take that vote. I told you it was illegal. You went on a voted anyway. Now the law says that was not a legal vote.” Council Member Miles responded, “I’ve never said it was a legal vote.” Mayor Owens asked, “Then why in the world did you do it then?” Council Member Miles replied, “Cause I had an obligation as a council member to take a vote unless I have a personal conflict of interest. It was not in my purview to not vote.” Mayor Owens asked, “Does that obligation include you had to vote to break the law? Is that what you are telling me?” Council Member Miles replied, “I had to cast a vote. I did not have a (unintelligible). A yes vote or a no vote is still a vote.” Mayor Owens asked, “Was your vote a legal vote?” Council Member Miles said, “It was an illegal vote. I told you all along that it was illegal. I never contested the legality of the decision.” Mayor Owens stated, “Tem, you’ve been on council four months.” Council Member Miles stated, “And you’ve been an obstructionist ever since I’ve been on it.” Mayor Owens responded, “No, you’ve been the obstructionist. This is my town. I was elected by this town. This is my town.” Council Member Miles stated, “You know that there is nothing in state laws that requires you to be the presiding officer. We are not taking away your duties as mayor. We are simply exercising our right, which is expressly granted by the state law. Council determines its rules of procedure and operations. This is (unintelligible).”

Mayor Owens stated, “I’m going to read this one more time for you and see what you think about it. It says, the mayor is considered the head of the city. He is endowed with certain responsibilities.” Council Member Miles stated, “Please tell me there was a presiding officer as one of them. That everything that I’ve read goes back as cites the fact that council controls its own rules of procedure and operation.” Mayor Owens stated, “I think that the rule is in the fact that what is trying to be taken away from the mayor by these (unintelligible) people here actually cancels the vote for these people.” Council Member Miles stated, “They voted you for mayor. We’re not removing you as mayor.” Mayor Owens stated, “Your removing me from, . . . you told me I could go cut ribbons and do things like that I just couldn’t preside at the meetings.” Council Member Miles said, “You can do anything under this except for presiding at meetings.” Mayor Owens stated, “We’re going to see how smart you are, because this will not stand. There’s not a city in South Carolina where the mayor does not preside, if he is healthy or she is healthy. So custom means a lot.” Council Member Miles stated, “This is my baby, I drafted this, and to the extent that there is disagreement in the electorate, I’ll stand accountable for that. But this is the best thing for the city. You’re unaware of the man and the way he acts and behaves when we’re in executive session.” Mayor Owens asked, “Well, what did you call me this morning on the phone?” Council Member Miles replied, “I called you an idiotic asshole and responsible for personal attacks (unintelligible).” Mayor Owens stated, “Now who is acting like that?” Council Member Miles stated, “It was a very personal attack you’ve put up against me. That was a personal conversation. I am not going to weigh into it.”

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Mayor Owens stated, “You called me and told me that you had the vote and maybe you do at this particular meeting, maybe you do, but it’s not over.” Council Member Miles stated, “You’ve said in executive session in front of people who were here to discuss business and told councilman, ‘Piss on you, big boy,’ and dropped f-bombs.” Mayor Owens responded, “I’ve never dropped an f-bomb. You’re an outright liar. I’ve never …” Council Member Miles stated, “You’ve almost got into a fight in the court with a fellow council member last week at the end of the last meeting we had.” Mayor Owens stated, “So we had a disagreement. What’s that to you?” The meeting was over.” Council Member Miles stated, “As the presiding officer …” Mayor Owens responded, “That meeting, I wasn’t presiding out there.” Council Member Miles stated, “But you were the mayor then. It’s two separate things.” Mayor Owens stated, “What the problem is you want be, but you need to wait your turn.” Council Member Miles stated, “I don’t want to be the mayor.” Mayor Owens stated, “Oh, tell me that. You wanted it four months into it and you already want to be it. Give me a break.” Council Member Parler asked, “Can we go ahead and vote on something. This back and forth …”

Council Member Fowler asked to be recognized. Mayor Owens recognized him. Council Member Fowler stated, I would like to amend the previous motion regarding a special committee, and I don’t know if we will ever have another one, but if we do then I would like to see instead of four, I would like to see three council members on that committee, to be a part of that committee.”

Council Member Miles made a motion to amend to the motion to add that at least three council members would be appointed to special committees. After some discussion, Council Member Miles was asked to restate the amending motion. He stated, “The motion is whether or not to amend the proposed changes to Section 1-3-3 (the correct section is 1-3-8) to add at the end of the current language requiring that for a special committee consist of at least three council members.” Council Member Harley seconded the motion. Mayor Owens stated, “All in favor say aye.” All council members voted in favor of the amending motion and none voted in opposition. The motion passed unanimously.

Council Member Miles stated, “We have to bring up the substantive amendment.” Mayor Owens asked, “And that is?” Council Member Miles stated, “The question on call is the adoption of the proposed change to Section 1-3-3 (the correct section is 1-3-8) as amended.” “Mayor Owens stated, “Now we will have three people.” Council Member Miles replied, “There will be three people. We voted to amend the proposed amendment, but now we need to vote on the substantive amendment.” Mayor Owens stated, “Okay, there’s a motion. Do we have a second?” Council Member Harley seconded the amended motion to adopt the proposed changes to Section 1-3-8 regarding committees. Mayor Owens called for the vote. All council members voted in favor of the motion and none voted in opposition. The motion passed unanimously.

Mayor Owens stated, “I’m going to read this opinion one more time and I hope, Tommy Parler, you’re the only person in here that I have any hope. The rest of this thing has been cut and dried for a while, but I’m gong to read what the attorney general said. Plus another official can take the primary role of leadership other than the mayor pro-tem is a different matter altogether. Under the council form of government the mayor has the same rights as other council members.”

(At this point the tape was at the end of Side A on Tape 1 and stopped recording. The minutes resume with Side B on Tape 1.

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Mayor Owens stated, “I’m the only one elected at large by the citizens of West Columbia to serve in that capacity as mayor. It may not be explicitly stated in the city’s code, but the mayor is the figure head of the city and to appoint another official to serve in the mayor’s role would be considered by the electorate as usurping the electorate’s decision. So what they’re saying, basically what they said, regardless how many people voted for me, even though I run city wide, they’re trying to take away my rights as mayor.”

Council Member Parler stated, “That’s not what it says. As Tem tried to explain just now, it’s not taking away any rights from you as mayor. The only thing it is doing is not allowing you to be the spoke person as far as the meetings are concerned.” Mayor Owens stated, “That’s taking away from the mayor. When I was elected that was the rule.” Council Member Parler stated, “But, what Tem is going by, and I’ve read this code a half a dozen times today, it’s on my I-Pad and it’s in our packet tonight. That it’s perfect legal to do what he is proposing to do. But it’s not taking away or reducing any your responsibilities as mayor. You’re still a mayor of the city. You were elected by the people to be mayor. You are still mayor of the city. It’s just simply not allowing you to conduct the meeting.” Mayor Owens stated, “And that is taking away a part of the mayor’s responsibility. And this I think is where I’m going to the AG’s office with. And it says it may not be explicitly stated in the city code, but the mayor is the figurehead of the city. At to that end, and to appoint other officials to serve in the mayor’s role may be considered by the electorate as the usurping of the electorate’s decision. Now that’s what you’re doing. You’re saying is that even though I was elected to be the mayor what’s next? Will I be permitted to come to the meetings? Where are we going with this?”

Council Member Miles stated, “Mr. Mayor if I could respond to that. I think, and if you would clarify for me, are you reading the (unintelligible)? Mayor Owens stated, “Whatever I’m reading is the conclusion to what’s going on here.” Council Member Miles stated, “I feel (unintelligible) is the attorney general’s opinion that you’re reading. Let me explain to you that …” Mayor Owens responded, “You told me that the attorney general’s opinion meant nothing at all. It had no power.” Council Member Miles stated, “I also told you that the report was the same as toilet paper. It’s not binding at all. So that’s from years that I’ve worked in the courts and I worked in the Senate and that is the binding precedential effect of the attorney general’s opinion. But I would like to point out to you that in the case that you keep citing back to in the opinion, the City of Mullins proposed ordinances are vastly different than what we’re attempting to do here. And the attorney general’s opinion, beyond my general criticism of attorney general opinions, let me tell you, this is probably the worst written attorney general’s opinion I’ve ever read. There were several, several changes that were proposed and instead of aggressive in one by ones so you can tell what they made an opinion on they simply just said, ‘oh it might be okay, it might not be okay, it’s a problem here, it’s a problem there.’ ” Mayor Owens stated, “And didn’t it say here that it was replete with things like that.” Council Member Miles responded, “Exactly. But it’s generalized all over. So let me tell you what they were trying to do in Mullins. ‘The mayor pro-tem shall be the chief executive officer of the city. He or she shall cause the ordinances and the laws of the government of the city to be duly executed and put in force. He or she shall preside at all meetings of the council and in his absence the council shall elect a presiding officer for the meeting and he or she shall preside.’ ” Council Member Miles stated, “Another change, ‘The mayor pro-tem shall appoint all committees, especially the standing committees of finance, streets and sanitation, fire, water, sewer, waste treatment and recreation.’ ”

Mayor Owens asked, “Do they have a mayor there?”

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Agenda Item V – New Business (continued)

Council Member Miles said, “Hold on, another change. ‘The mayor pro-tem shall sign in the name and on behalf of the council all contracts and agreements made by the council and shall see that such contracts and agreements are faithfully performed by those contracting with the city. He or she shall also sign a deed to real property sold by the city and all checks and other obligations issued or authorized by the council.’ I will tell you that at Mullins they tried to neuter their mayor. That is not what we are doing here. (Unintelligible – both Mayor Owens and Council Member Miles speaking at once.)

Mayor Owens stated “You know, without a doubt, I don’t think anybody up here would agree with it.” Council Member Miles stated, “I would agree with you 100 percent that what Mullins tried to do with …” (Unintelligible – both Mayor Owens and Council Member Miles speaking at once.). Mayor Owens stated, “You’ll tell me that those attorney’s decisions ain’t worth a durn till you get what you like.” Council Member Miles said, “No, this is the one that you keep citing to, Mayor.” Mayor Owens stated, “No, no, I ain’t mentioned Mullins.” Council Member Miles stated, “Do you don’t know what the name of it is? I asked you Mayor. But that’s it.” Mayor Owens stated, “But you said it ain’t worth a durn.” Council Member Miles responded, “No it’s not. You and I are in agreement. Let’s find some common ground.” Mayor Owens said, “Common ground is when you came to the meetings …” Council Member Miles stated, “You’re not going to run this city , Mayor. I may lose the vote, but your meddling, you’re trying to run the city singlehandedly, is over. It’s in the past. I hope it does. It needs to change. This is for the betterment of this city. State law says that you, state law says that you are a council member like all other council members.”

Mayor Owens responded, “Absolutely. (Unintelligible.) I don’t believe this will withstand the scrutiny of law. I just wanted to tell you all I don’t know what he’s talking about, I will not run the city. Let me, let me just cite some things that’s happened. When I came here we were fixing to get involved in tax increase. I cut 1.2 million dollars from the budget.” Council Member Miles stated, “How did you do that, Mayor? You can’t act unilaterally.” Mayor Owens said, “I (unintelligible) a reduction. I went to the police chief and you’re out of order, I’m speaking. I went to the police chief. He had 16 detectives and I said we can’t have that many detectives. We’re going to have to reduce them. So it was done. We didn’t fire anybody. We didn’t kick anybody out the door. But officers who were detectives when we had an opening, a vacancy in the patrol, we put them back on patrol. Some of them went to other jobs. Now that’s the way it was. I didn’t do it by myself. I suggested. I went down to Public Works which I had [ran] for three years. I had 29 people. When I got there they had 43 people. I asked Charles (Garren, Public Works Director) to let’s try to get it down to 30, cause we’d cut out, we had cut out commercial garbage. And that saved another some four hundred and something dollars. Is that a bad mayor?” Council Member Miles stated. “It’s a violation of state law that says you can’t act unilaterally if you did it by yourself. Otherwise, …” Mayor Owens stated, “You mean I can’t make a suggestion to a department head?” Council Member Miles stated, “No, you said you did it. You said you did it.” Mayor Owens responded, “Listen, if I’m ever changed to be hanged and you’re the only lawyer available, tell them to go ahead and hang me.” Council Member Miles stated, “I certainly will, Mayor.”

Council Member Harley asked, “Can we get back to the agenda tonight? Mayor Owens said, “Well, you’re gonna to win this one, Dale, but I’ve got some bad (unintelligible) for you, so go ahead. What is the next one? To strip my powers of …” Council Member Miles asked, “Are you authorizing me to call the next motion? I’ll be happy to do it.” Mayor Owens responded, “Go ahead.”

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C. Council Member Miles stated, “The next matter up for consideration is proposed amendment to 1-3-3, Quorums and Rules of Order. Need a motion to take it up.” Council Member Unthank stated, “So move.” Council Member Harley stated, “Second.” Council Member Miles said, “Question’s before the body.” Mayor Owens said, “I don’t think anybody knows what it means yet.” Council Member Miles stated, “Call for the question.” Mayor Owens said, “No, not until we get an explanation. He made the motion.” Council Member Miles said, “I’ll be glad to explain it to you. This is a change which will provide a majority of the council members serving shall constitute a quorum for conduct of business at any meeting. It means if you have a majority of the membership here you can conduct a meeting. In the next sentence we include a strike and insert. Previously it read the mayor or mayor pro-tem shall preside, except in the absence of both, at which time previously it provided for the mayor pro-tem. We are currently striking the language that provides for the mayor to serve as the presiding office and the change will now read the mayor pro-tem shall preside except in the absence of the mayor pro-tem the members shall elect a presiding member.”

Mayor Owens said, “It also says there that the mayor pro-tem is a back up to the mayor and would conduct meetings only in his absence, sickness or whatever.” Council Member Miles stated, “Actually, Mayor, it doesn’t and I think currently we could probably put a new presiding officer in without doing a change to the ordinance. Because it currently reads that the mayor or the mayor pro-tem shall preside. But we want to make sure that it is clear. I think by an affirmative vote under our current ordinance we could change the presiding officer over to the mayor pro-tem. Cause there is no primary or secondary language included in here, but you hold the presiding spot. But just so we are all clear on the same base going forward we want to make the change. Is that a sensible enough, good enough explanation to call for the question?” Mayor Owens stated, “So you are saying basically, essentially, the mayor is not the mayor.” Council Member Miles responded, “No, no, no, I’m not. What I’m saying is you are not the presiding officer. And that’s my problem with you, Joe. You know what I’m saying. You refuse to admit it. And then you go back and tell people that I said other things.” Mayor Owens said, “You’re not denying what you said on the telephone this morning.” Council Member Miles said, “No, no, and that’s not my point. I’m a big boy. I’m direct. I’ll tell you what I said and what I did and what I didn’t do. I don’t need you or anyone else to speak for me.” Mayor Owens asked, “Why did you call me?” Council Member Miles said, “To allow you an opportunity to save face, Joe.” “Mayor Owens said, I’m not, … these people out here, … how many people out here are with me?” (People seated in the council chamber responded with applause.) Mayor Owens said, “I got, … I won by over 60 percent. You don’t care about that. This is an abuse of power and it will not stand. It will not stand.”

Council Member Miles asked, “Mayor, will you call the question?” Mayor Owens responded, “Yes. Everybody, all members who want to strip the mayor of his powers as mayor and to hold meetings say aye.” Council Member Unthank stated, “I would like to have the proper wording.” Council Member Miles stated, “The question before the body is adoption of the proposed changes to Section 1-3-3, *Quorum and Rules of Order*. If you are in favor please vote aye.” Mayor Owens stated, “You can’t call for a vote. It’s the mayor’s job.” Council Member Miles, “You just asked me, you just asked me …” Mayor Owens said, “I asked you to explain what you’re voting on.” Council Member Miles responded, “And I did that and then he said wanted a proper call. You deferred to me, Mayor.” Mayor Owens stated, “I deferred to you to explain what you’re doing. So, show of hands. This is against it.” Council Member Miles said, “The vote needs to be cast in the affirmative.”

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Mayor Owens stated “I would like for Mr. Fowler to be allowed to speak to say what he just said.” Council Member Fowler stated, “I have said when you come up here, you are the mayor. You’re still the mayor. And I won’t go against what we’ve done. We’ve been here for 20 years you and I both and they elected you as mayor. I think it should stay like it is. Maybe I see some of the things that are being said here, but you’re still the mayor.” Council Member Parler stated, “Well, that’s what we’ve said all along here.” Council Member Fowler said, “Well, that’s all I’m saying.”

Council Member Miles asked, “Mayor, will you call the question, please?” Mayor Owens responded, “Sure.” Council Member Miles, “It was put out in the affirmative when the motion was made and when it was seconded, so I would appreciate it if you would call the question in the affirmative.” Mayor Owens stated, “All in favor of taking away the mayor’s authority to …” Council Member Unthank stated, “That’s not what it is.” Mayor Owens responded, “That’s what it means. It says that the mayor shall not hold the meetings. To me if that’s not an infringement of power, I don’t know what is. So let’s vote. All in favor of taking the mayor’s authority away to conduct the meetings say aye.” Council members Harley, Unthank, Jones, Parler and Miles responded with ayes. Mayor Owens said, “All in favor say no.” Mayor Owens, Mayor Pro-Tem Hallman and Council Members Fowler and Wingard responded with no.” The motion passed five votes to four votes.

Mayor Owens stated, “It won’t stand, big boy. We’re now …” Council Member Miles, said, “Mayor, you’re losing some applause out there.” Mayor Owens said, “Pardon?” Council Member Miles repeated, “Mayor, you’re losing some applause out there.” People in the council chambers responded by applauding. Mayor Owens said, “Thank you. Thank you. Want to do it again?” Council Member Miles said, “Yes sir, you better go (unintelligible).” Mayor Owens responded, “No do you want some more applause?” Council Member Miles said, “I’m sure there’ll be another volley coming when we get finished up with this last one, possibly a standing ovation.”

Mayor Owens said, “Okay, let’s go.” Council Member Miles said, “The amendment which is up for consideration, the amendment to Section 1-4-6, *City Administrator*. It simply removes language that’s provided, ‘In order to keep the mayor informed, the city administrator shall communicate with him between council meetings on problems and conditions concerning any department or activity of the city.’ The intent behind this is to remove the language which specifies to keep the mayor informed. State law requires that the mayor is a council member, but under our form of government which is a council form of government, the mayor is a council member like all other council members. By removing this you would be back under the general language which requires the city administrator to keep all council informed.” Mayor Owens asked, “Well, do you know how cumbersome that’s going to be? Are you’re going to be able to come down and sit down and talk with the administrator every day? I am a full-time mayor. I get here at 9 o’clock in the morning and I’m here until five. And that is the reason I think this … What’re we going to do if somebody calls and wants to talk with the mayor about a piece of land he wants to develop?” Council Member Miles said, “ ‘The city administrator shall relate to and communicate with the mayor and the council as a whole any and all problems, situations and conditions which arise concerning the departments or the activity of the city.’ That’s what we’re going to do.” Mayor Owens stated, “They may not call the city administrator. What if they call the mayor? And they do a lot. What is my obligation to tell you that?” Council Member Miles responded, “If it’s business of the city and you want to take some action on it you need to bring it to council.” Mayor Owens said, “No, not if it’s just information.” Council Member Miles said, “Take the information do with it whatever you will with other information.” Mayor Owens said, “I may very well decide unilaterally not to even discuss it.”

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Council Member Miles stated, “I think that’s what you’ve been doing all along. I know you’re just like an elephant, you don’t know, with your memory.” Mayor Owens responded, “What specifically you say that I had been doing.” Council Member Miles responded, “Mayor if you haven’t told me, I can’t tell you.” Mayor Owens stated, “Name one! You said that I’ve been doing things unilaterally. I said name one.” Council Member Miles responded, “I can’t what you haven’t told me, Mayor.” Mayor Owens stated, “Well, you made the accusation! You should know something. You made the accusation I was doing it unilaterally. I asked you to point out anything that I have done unilaterally. Now, I’d still like the answer.” Council Member Miles said, “And I’m not going to be able to tell you things you have not told me because that is an impossibility.” Mayor Owens replied, “What you can’t tell me is things that I haven’t done.” Council Member Miles stated, “That’s a fair assumption to work with.”

Council Member Harley stated, “I make a motion that we accept item 1-4-6.” Council Member Miles stated, “I second that motion.” Council Member Fowler asked, “Read that again please.” Council Member Miles asked, “Would you like the whole of the text?” Council Member Fowler responded, “Just whatever it says right there that you want the vote.” Council Member Miles said, “So I saying it’s the subsection of the current ordinance, would you like the entire subsection?” Council Member Fowler said, “Is the mayor allowed to …” Mayor Owens stated, “I would like to make a statement. What basically this is saying Jenny (Cunningham, City Administrator) can’t come to me and tell me things that are happening here in the city during the day.” Council Member Fowler said, “She’s to inform you and the council.” Mayor Owens said, “That’s not what it says.” Council Member Miles said, “Yes it does, Mayor. Subsection (c). ‘The city administrator shall relate to and communicate with the mayor and council as a whole any and all problems, situations and conditions, which arise concerning the department or activity of the city.’ ” Mayor Owens said, “And there is another one that says, the city administrator shall communicate between meetings with the mayor.” Council Member Miles said, “That’s what we are striking. That’s right.” Mayor Owens asked, “You guys had your fun?”

Council Member Fowler asked, “Didn’t you just say that she would go to the mayor and the council. That’s what you’re saying?” Council Member Miles stated, “Yes, that’s right. The only thing we’re changing.” Mayor Owens stated, “He said she can’t go to the mayor.” Council Member Miles stated, I’m not saying that, Mayor.” Mayor Owens responded, “Yes it is.” Council Member Fowler stated, “She’s going to the mayor and the council.” Mayor Owens asked, “Okay, who does she go to first?” Council Member Fowler said, “As long as everybody gets the information is the way I see it.” Council Member Miles stated, “That’s exactly right.” Mayor Owens asked, “Alright y’all, what information have I held back?” Council Member Miles stated, “I can’t tell what information you’ve held back. But I’ll tell you there is a consensus amongst the membership that you treat us like mushrooms. You feed us crap and keep us in the dark. You get information and you don’t turn it out. You don’t tell us things you don’t want us to know. You pick and choose things that you bring to us.” Mayor Owens responded, “Name one!” Council Member Miles said, “And that’s not just me, that is a consensus among the membership.” Mayor Owens stated, “Name one! Name one!”

Council Member Fowler said, “I’ll ask you to move on.” Mayor Owens said, “Well, I would like him to name one. He’s made an accusation.”

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Council Member Harley stated, “Well, there’s one, Mayor, the ‘black opps’ committee in the Police Department.” Mayor Owens stated, “I’m not part of that.” Council Member Harley asked, “Oh, you aren’t? I thought you and Ms. Hallman here were a special committee for ‘black opps.’” Mayor Owens asked, “What’s a black opps?” Council Member Harley said, “Secret one, secret one.” Mayor Owens responded, “It wasn’t any secret.” Council Member Harley stated, “Well, then why am I just finding out about it tonight. Why wasn’t I informed.” Mayor Owens responded, “Why don’t you come down, why don’t you come down to the office then.” Council Member Harley said, “I do.” Council Member Miles stated, “We appreciate the invitation, Mayor.” Mayor Owens stated, “I never see you.” Council Member Fowler stated, “I think that she [the city administrator] informed you and I think in some way we should be informed.” Mayor Owens stated, “It is critical that the mayor know. If not, then you’re taking, you said all your taking away is me presiding over meetings. This is another bite out of the mayor’s responsibilities.” Council Member Miles stated, “No, Mayor. This treats you like any other member of council.” Mayor Owens responded, “But I’m not any other member of council. I was elected at large. By tradition a mayor has always held ...” Council Member Miles said, “Mayor, we’re citing a long tradition of what the state law is another. ‘Each member of council including the mayor shall have one vote.’” Mayor Owens stated, “Absolutely. Have you ever seen me vote twice?” Council Member Miles said, “I have not, but I’ve seen you forbid some votes.” Mayor Owens responded, “No you haven’t. No you haven’t. Name one.”

Council Member Miles said, “Under a council, this is the attorney general opinion, the same one that you are so fond of, under a council form of government, which we are here, a mayor is merely another member of the municipal council, has the same power, one vote as each of the council.” Mayor Owens stated, “Then go on to the one about the mayor is elected at large. So under your, under your, what’s going on here, you can actually have a person like you that got about 50 votes.” Council Member Miles said, “85, Mayor 85.” Mayor Owens stated, “Well, I know it wasn’t nothing to say grace over.” Council Member Miles stated, “You did everything you could to round them up for somebody else.” Mayor Owens stated, “I sure did, because I knew you were trouble. Next time I’ll be a (unintelligible).” Council Member Miles, “Mayor, I know you going to have it your way, but it’s not just me that’s trouble. If (unintelligible) your powers is what you classify as trouble, it’s not just me. There’s a few other folks up here who’d vote on everything that I propose.” Mayor Owens responded, “No, not everybody voted.” Council Member Miles said, “I said a few others. I didn’t say everybody. I think there has been a call.”

Mayor Owens stated, “I think there has been what, a (unintelligible)?” Council Member Miles responded, “A call. I think there’s a motion, seconded.” Mayor Owens stated, “All in favor to prevent the city administrator from conferring with the mayor.” Council Member Unthank stated, “That’s not what it says.” Mayor Owens responded, “That’s exactly what it says.” Council Member Miles stated, “I’ll read the entire text.” Mayor Owens stated, “Nobody wants to hear it.”

Council Member Miles stated, “Apparently the mayor incapable of repeating it in the proper question form. Section 1-4-6, *City Administrator*, Subsection (c), ‘The city administrator shall relate to and communicate with the mayor and council as a whole any and all problems, situations and conditions which arise concerning the department or activities of the city which, in the opinion of the city administrator, is of significance. Parenthesis, “except for the purpose of inquiry, the members of the council shall communicate directly with the city administrator in any and all matters concerning any department or activity of the city,’ period, end of parenthesis.”

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Council Member Miles stated, “This is the only change. This next sentence that I’ll read will be struck if this amendment passes. ‘In order to keep the mayor informed, the city administrator shall communicate with him between council meetings on problems and conditions concerning any department or activity of the city.’ It continues on down, would you like me to read the rest of the paragraph?” Mayor Owens responded, “No. I’ll subtext to for you. What you’re saying is the elected head of this city is not able to communicate with the city administrator unless you say so. Basically that’s what you’re saying.” Council Member Miles responded, “No. Not basically, not (unintelligible), not in any way is that what I’m saying.” Mayor Owens spoke toward the audience, “What do y’all think? Does it sound like it to y’all?” Council Member Miles reread, “‘The city administrator shall relate to and communicate with the mayor and council as a whole.’” Mayor Owens asked, “What about between meetings what’s it say?” Council Member Miles responded, “Nothing.” Mayor Owens stated, “It says between meetings the administrator shall meet with the mayor between meetings and inform him of (unintelligible) things that happen.” Council Member Miles stated, ‘No we’re talking about what the amendment says.” Mayor Owens said, “Well, so what. Does it mean that I can’t meet with the administrator without y’all there?” Council Member Miles asked, “Can you just put the question to the call?” Mayor Owens responded, “No. I need to clarify. Are you saying that I can’t meet with the administrator without you there or somebody there?” Council Member Miles stated, “No. I’m not saying that at all.” Mayor Owens stated, “But she’s not to report to me.” Council Member Miles stated, “I’m not saying that at all.” Mayor Owens asked, “Then what are you saying?” Council Member Miles stated, “She is to communicate with you and us. It simply removes the direction that she communicate with you in between council meetings. You are treated like every other council member.” Mayor Owens stated, “That is another one of those little tidbits that you float up and you’re not doing anything except letting me preside at meetings.” You keep adding, keep adding, keep adding.” Council Member Miles stated, “Hold on Mayor, I take exception with that. These were posted five days in advance of this meeting. I put what I want to change in writing so you would not go back and speak for me. Anyone who’s been interested in what I wanted to do has had my words in writing. At the very top of it, it says, ‘To Mayor and all members of council from Tem Miles.’ There’s no doubt about whose words they are. Three proposed changes to ordinance and it lays out every one of them. Don’t say I’m trying to hide stuff and add stuff at the last minute.”

Mayor Owens stated, “I’m not saying … you learned your lesson the last time, I hope.” Council Member Miles asked, “You mean when I voted with you?” “Mayor Owens responded, “No, no, no, when you voted against my rule when I didn’t call it.” Council Member Miles stated, “I didn’t vote against your rule, I voted with you Mayor.” Mayor Owens stated, “Naw, you voted to approve it. You voted to go into executive session, but when the other vote came you voted the other way. The only two people who voted against it was Casey and I. Now that record is clear. So don’t put …” Council Member Miles stated, “All substantive motions (unintelligible). I did.” Mayor Owens said, “That was executive session that you voted on. Don’t make something that’s not (unintelligible).” Council Member Miles stated, “I disagree. I voted against taking up Chief Tyndall’s contract. I voted with you on the procedural issue of not taking it up. We lost that. I had an obligation to cast a vote.” Mayor Owens stated, “You admit to …” Council Member Miles stated, “You’re not pleased with the way I chose.” Mayor Owens asked, “What was the difference with the attorney general. Because their ruling is illegal?” Council Member Miles stated, “Your no vote is just as illegal as my yes vote. You took a vote which was not noticed on the agenda.”

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Mayor Owens responded, “I asked not … I called it out of order.” Council Member Miles stated, “And I agreed with you on that. I agreed with you on that.” Mayor Owens said, “It should not have been taken as a question.” Council Member Miles stated, “I agreed with you Mayor, we lost on that issue.” Mayor Owens stated, “We didn’t lose.” Council Member Miles stated, “Together, yes we did. I voted with you Mayor.” (Unintelligible) voted not to go into executive and when it was called to question (unintelligible). That’s not a vote?”

Council Member Unthank stated, “We would like to have a call for the question so that we can vote and move on.” Council Member Miles stated, “Mr. Unthank is requesting that the question be called.” Mayor Owens said, “Okay, this going to explain one more time. This basically says that I am not … the administrator is not to communicate with me during meetings.” Council Member Fowler stated, “It says when the administrator is supposed to come to you and comes to us. That all of us need to be informed of what is going on in this government.” Mayor Owens stated, “That is tradition from way back when and (unintelligible) has, I hope you know it, has a …” Council Member Fowler said, “I’m sorry,” and got up and left the dais and the room. Mayor Owens stated, “I will wait for Mr. Fowler to come back and we’ll take a vote.”

Mayor Owens stated, “Ladies and gentlemen I just want to tell you this is the worst abuse of raw power that I’ve ever seen in my 25 years in local government. I have never, ever seen the push down, not my throat, your throat. Y’all elected me to be mayor. Mr. Miles was elected four months ago. He’s already acceded to the mayor as far as that goes.” Council member Miles responded, “Mayor, I’m the mayor pro-tem?” Funny, you deferred to me (unintelligible) quite often tonight, but what I am proposing isn’t to replace me as the presiding officer but the mayor pro-tem.” Mayor Owens stated, “Well, that’s your intent. Let’s face it. You said I wrote this (unintelligible) so I asked you to explain it.” Council Member Miles replied, “I did.” Mayor Owens said, “So what did I do wrong? I asked you to explain it your (unintelligible).” Council Member Miles responded, “No, you said I was trying to ascend to the mayor after four months. That’s not the case at all. Nothing in here vests in me more than any other council member and does rather allow for a more efficient process of doing the city’s business.” Mayor Owens stated, “We’re going to see how it works here.”

An unidentified person asked, “Tem, what’s the benefit of what you’re proposing. Can you explain that?” Council Member Miles responded, “You’ll have a presiding officer who (unintelligible) the way the meeting is being conducted tonight.” The unidentified person asked, “So it’s a personality conflict?” Council Member Miles responded, “No it’s a matter of … (applause interruption). Let me ask you, is there a single person in here who thinks that this meeting has been well presided over tonight in your heart of hearts?” People in the audience responded with applause. Mayor Owens stated, “Did you hear that? With the exception of you.” The unidentified person stated, “Then you guys need to work it out.” Mayor Owens stated, “I knew it was coming. You know, you do everything you can. I’m down here working every day. I see these guys come in at meetings and I wonder how this full of information is going to go though any one of their (unintelligible). I want to see how that works. Cause everybody calls me about a lot of things. Some about the city. Some about other things that have to do with the city. I don’t feel as though I have the time to run to you Mr. Miles and tell you here’s what.” Council Member Miles stated, “So you (unintelligible) that you don’t tell me everything.” Mayor Owens stated, “I don’t think you understand what it is.”

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Agenda Item V – New Business (continued)

Mr. Bobby George, who previously was recognized to speak before council, asked, “Mr. Mayor, may I speak.” Mayor Owens responded, “Yes, sir.” Mr. George stated, “I don’t feel comfortable that this vote go on tonight. There seems like there’s too many unanswered questions. So I request that this [Rogers] Rules of Order that this vote is postponed to the next council meeting. I don’t know if that’s appropriate here.” Mayor Owens stated, I will take it under advisement and I certainly agree with you.” At this point Council Member Fowler returned to the dais.

Conversation ensued between Mayor Owens and unidentified people in the audience. Mayor Owens stated, “I’m just trying to do my best and hold on to what the mayor has traditionally had for 90 years. I would like to get the attorney general’s (unintelligible) on this and then, good or bad, take it to a judge, cause he said the AG’s opinion was not any good. I have been before the AG’s opinion that he wrote that I was a dual office holder. We went to a hearing, me and my attorney (Van Barnette, Esq. The judge, Judge (unintelligible) said ‘the Attorney General, … seldom has in my career as a judge, … I’ve never seen an AG’s opinion overturned by a judge.’ He (Judge) said, ‘We are not …’, he told my lawyer that, ‘Van, we’re friends, we worked together at the AG’s office, but I’m not going to reinvent the wheel here. The AG’s opinion is the AG’s opinion,’ and that was the end of it. Even though he (Council Member Miles) [don’t] respect what the AG’s opinion is.”

Several people from the audience spoke to Mayor Owens asking who would they call if they had problems. Mayor Owens responded, “Who do you call? If they take away my powers as mayor, who do you call? I have never denied a vote on anything except when I knew it was illegal. Two days later the attorney general agreed. Nikki Setzler (city attorney) said that’s patently illegal to do a contract without putting it on the agenda. I warned them of that. I knew the law on it and that’s my price.”

Council Member Miles asked, “Will you call the question, Mayor?” Mayor Owens asked, “Did y’all hear the recommendations of two veterans out there that have sacrificed a lot for this country and they asked that this be delayed until the next meeting and we can get a formal opinion of the attorney general?” Council Member Miles stated, “You’ve got a motion before you that’s properly seconded.” Mayor Owens said, “Could this be delayed until the attorney general can weigh in on this and perhaps he can go to a judge that would really save us some money because this is not going to be an easy one, an easy thing.” Council Member Miles responded, “That’s not an amendment, Mayor.” Mayor Owens stated, “Well, whatever it is, I’m asking it to be added to it.” Council Member Miles said, “It’s up for call and that’s not a proper amendment.” Mayor Owens asked, “What would be proper then?” Council Member Miles responded, “Change text with a substantive amendment.” Mayor Owens stated, “Okay. I want to change the text of the proposed amendment to put off this vote until we can do more research and have the attorney general rule on the legalities of what the mayor’s job is. Is that legal enough?” Council Member Miles responded, “No. It doesn’t.” Mayor Owens asked, “(unintelligible), then how would you do it then?” Council Member Miles replied, “You’ve asked for an amendment. An amendment needs to be to the text of the present amendment.” Mayor Owens said, “How about we table it until we can get something from the attorney general because I figure we’re going to do this again, guys. So what are you afraid of, Dale (Harley) that’s shaking your head.” Council Member Harley said, “Mayor, what’s the (unintelligible) taking (unintelligible) the public. Mayor Owens said, “There’s people out there in the audience that have been …” Council Member Harley said, “I can’t listen to the audience.” People in the audience began speaking and shouting. “Mayor Owens said, “Oh my God! (unintelligible) absolutely nothing.” People continued to shout and make comments.

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Agenda Item V – New Business (continued)

Mayor Owens said, “You know, there’s an old thing about old English law. The will of the people should be (unintelligible). The tape on Side B ran out at this point and a new tape was inserted in to the recorder. A portion of the meeting was not recorded at this point. A conversation ensued between Council Member Unthank and Ms. Karen Hoover, who recently bought city property located at 351 Meeting Street.

Council Member Unthank stated, “That is not true. You are telling your side of the story. I’d say this is totally improper.” Mayor Owens stated, “They should be allowed to speak, this is their town not yours.” Council Member Unthank stated, “Another thing, Mrs. Hoover, (unintelligible)a \$50,000.00 discount on a piece of property that the city paid a \$150,000.00 for. I think that was a pretty good deal. He (Mayor Owens) gave it to her for \$100,000.00. \$50,000 less than you the citizens of West Columbia paid for it.” Mayor Owens stated, “And you voted for it.” Council Member Unthank said, “How would I feel about giving Mrs. Hoover \$50,000.00 in cash money because that’s basically what it amounts to.” Mayor Owens stated, “You voted for it.” Council Member Unthank said, “You didn’t ask for a no vote on both of them.” Mayor Owens said, “I said all in favor, didn’t I?” Council Member Unthank said, “I stood up against this because it’s not only bad for the city in terms of the money that we’re giving away to a citizen for no reason other than Joe just decided to give her a discount, but it’s also at the corner of the property at State and Meeting Street, which is a jewel piece of property for the development of that entire four-acre piece of property. And now, we still have the old filling station on the corner and that’s not going to change, but I digress. I would like to get back to the business at hand and call for the question.” Mayor Owens responded, “Well, I would like you to tell the truth. You voted for it. It’s in the record that you voted for it.” Council Member Unthank stated, “You did not call for a no vote on both of those (unintelligible).” Mayor Owens said, “I said all in favor say aye.” Council Member Unthank stated, “I would like to call for the question, please. Who else on council would like to go ahead and vote on this issue.” Mayor Owens stated, “Naw, I say we stay here all night. I got a lot of friends out there and I’ll hang around.” Mayor Owens spoke to a person in the audience, “Please, Miss Anne.” Council Member Unthank stated, “I believe you are out of order.” Mayor Owens stated, “Well, it’s not in your purview.” The person Mayor Owens spoke to continued to speak.” Council Member Miles stated, “We are not allowed by state law to address the (unintelligible). Whether it’s tonight, tomorrow or whenever, we have to hash this out in an open forum. This is not allowed to be discussed in executive session. This is your business. This is maybe the most important thing …” People in the audience make comments to council asking council to table the motion. Mayor Owens stated, “Mr. Unthank says this is not spite. Since we’re airing laundry, let me tell you. Before the mayor pro-tem vote came he called me four or five times to say I was the best mayor he’d, we’d ever known. He told me that. I’ve got a recording of it. And then when I chose not to vote for you I became the anti-Christ. So (unintelligible) that I was the best mayor that you’d ever seen. Deny that. Deny it.” Council Member Unthank stated, “You know what, Joe, you’re a master at twisting words and this is why we’re all are voting on it.” Mayor Owens stated, “You didn’t say that?” Council Member Unthank said, “This is why we are voting on this tonight. This is what we are dealing with every meeting and this is why Tem Miles came up with these ordinances to help us so we can move forward with these meetings. This is the type of meetings, this is the way Joe’s been holding meetings. He told me in several meetings, he virtually cussed at me. He said three times, ‘Piss on you.’ Do y’all, do y’all like to hear it that way? He didn’t say ‘Piss on you.’ ” Mayor Owens responded, “I’ll tell you why. I called him out of order and he kept talking. I said, ‘You’re out of order.’ ”

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Agenda Item V – New Business (continued)

Council Member Unthank stated, “So we’re trying to bring some civility back. That’s why Tem has the majority of council on his side.” Someone shouted from the audience, “If you were out of order, was that so? If you were out of order, was that so?” Council Member Parler responded, “I can answer that. No, he was not out of order. He was not out of order. He was in proper order.” Mayor Owens stated, “That is not your decision. That decision is the mayor’s.” Council Member Parler responded, “It wasn’t a decision made (unintelligible), Joe. He wasn’t out of order when he said what he did.” Mayor Owens stated, “It was like a filibuster. His time was up. He kept on ...” Council Member Unthank stated, “No, no, Joe. That was totally your decision.” Mayor Owens stated, “Well, say that’s the truth ...” Council Member Unthank said, “That’s the reason that we need to have a call for the question.” Mayor Owens stated, “Well, what (unintelligible) agreed to do it. But how did I get to be in four months ...” Council Member Unthank said, “You are a master, as I said, of twisting words. You won’t even ask, you won’t ask to call for the question, but whether the question is actually (unintelligible), you say the ...” Mayor Owens asked, “I’m going to ask you one more time, did you say that or did you not. Did you not tell me several times I was the best mayor this town ever had.” Council Member Unthank stated, “Joe, I ‘m not even going to answer that. I’m not going to get ... We’re not here to talk about yours and my personal differences. We’re here to talk about the ordinance at hand that Tem Miles has drawn up, that says that you and council will be addressed by the city administrator.”

Mayor Owens stated to a person in the audience, “Yes, ma’am, I recognize you.” The person’s remarks were unintelligible. Mayor Owens recognized several more people to speak, but they did not come to the podium to speak nor did they identify themselves to council.

A person in the audience asked Council Member Unthank if Mayor Owens apologized for speaking inappropriately to him after the meeting. Council Member Unthank stated, “Yes, ma’am, yes, he did. He did apologize. In the last meeting he looked at me and he said, ‘You remember our conversation before. We’re back to where we started.’” Mayor Owens responded, “Boy, you made that deal. We went to Miles (unintelligible.) I apologized.” Council Member Unthank stated, “I would really like to have a call for the question.” Mayor Owens said, “I’ll call it. We went to my office. We discussed old times. Your dad and how I had supported him.” Council Member Unthank said, “My deceased father whom I loved (unintelligible) ...” Mayor Owens responded, “And so did I. (unintelligible.) I thought it was over and I said I would be willing to work with you.” Council Member Unthank said, “Alright, I want to call for the question.” Mayor Owens said, “We got up. We shook hands. We hugged, but apparently it wasn’t good enough.” Council Member Unthank stated, “Well, apparently you said we’re back where we started from.” Mayor Owens said, “Well, even worse. I’m not convinced (unintelligible).”

Mayor Owens recognized another person from the audience who spoke. Mayor Owens said, “Okay, it’s a foregone conclusion that I’ve been bush-wacked, ambushed. I guess the will of the people (unintelligible). That’s the way it is. Call for the question. All in favor say aye.” Council Member Fowler asked, “Let me speak one more time.” Mayor Owens responded, “One more time Mr. Fowler asked to speak.” Council Member Fowler stated, “This says the administrator, if she has anything to come down, must go to the mayor and then the mayor explains to the council or how does this work? As long as we’re all informed, it’s like these people say, we all need to get on the same page and if this will get us on the same page.”

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Agenda Item V – New Business (continued)

Council Member Fowler continued, “She would go to the mayor . He is the mayor, but he would come to us or Jenny would come to us or how would we get the information. As long as we get all on the same page as ...” Council Member Miles stated, “The ordinance already provided for that. The unchanged portion of this ordinance reads, Subsection (c), ‘The city administrator shall relate to and communicate with the mayor and council as a whole any and all problems, situations and conditions which arise concerning the department or activity of the city ...’ ” Mayor Owens said, “It also says that the administrator between meetings shall communicate with the mayor.” Council Member Miles said, “That’s the only portion that we changed.” Mayor Owens said, “I wonder how, I wonder how she’s going to get around to all of y’all in an emergency.” Council Member Miles responded, “Probably telephone or e-mail.” Mayor Owens responded, “If you’re available.”

Mayor Owens stated, “Okay we’re going to call for the question.” A council member stated, “I’ve done called for it.” Mayor Owens responded. “Well, we’re going to do it then. Let’s vote.” Council Member Miles said, “We need to restate the question because I can’t (unintelligible). The matter before council is adoption of the proposed changes to Section 1-4-6, City Administrator, as stated on the text.” Mayor Owens stated, “The city administrator shall not be able to inform the mayor first.” Council Member said, “She will inform you of anything that comes down.” Mayor Owens stated, “Not according to this. Not according to this.” Council Member Fowler said, “I think what it says here. She can come to you with any problems and come to us as long as we all have the problems we can work on them.” Mayor Owens asked, “How many of you guys have been the mayor?” Council Member Miles asked, “Mayor, will you call the question?” Mayor Owens responded, “Sure.”

Mayor Owens stated, “All in favor say the word aye.” Council Members Harley, Unthank, Jones, Parler, Miles and Fowler voted in favor of the motion to adopt proposed changes to Section 1-4-6. Mayor Owens, Mayor Pro-Tem Hallman and Council Member Wingard voted in opposition. The motion passed six votes to three votes.

Mayor Owens stated, “Folks, I appreciate you coming. I’m sorry to say that the spectacle you’ve seen here is unbecoming of what happened to the people out there who supported me, and that is my final word. And I will guarantee you 99 percent of the people out there support me and my efforts and what I’ve done. I don’t know what you’ve done in four months. This is the first reading. We will have a second reading. And we will have some legal discussion and we’ll see if Mr. Miles is the Clarence Darrow he claims to be.”

Agenda Item III – Adjourn to Executive Session to for a Contractual Matter

Mayor Owens stated, “Make a motion to adjourn to go to executive session.” Council member Fowler so moved and Council Member Parler seconded. Mayor Owens asked for those in favor to say aye. Mayor Owens, Mayor Pro-Tem Hallman, and Council Members Parler, Fowler, Jones and Wingard voted in favor. Mayor Owens stated, “Executive session.” Council Member Miles said, “No, we need a call, we need a call.” Council Member Unthank stated, “Call for the question.” Mayor Owens stated, “I thought we just had one.” Council Member Unthank said, “No, we didn’t.” Council Member Miles said, “We’ve got to record the names.” Mayor Owens asked, “You’re talking about to go into executive session?”

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Agenda Item III – Adjourn to Executive Session to for a Contractual Matter (continued)

Council Member Fowler stated, “I’ll make a motion we go to executive session, please. We’ve got some other contract stuff here that we’ve got to go over. Jenny’s contract stuff.” Someone from the audience asked, “Can you put the name on the record?” Council Member Miles said, “Mayor, if you would, call the question please.” Mayor Owens stated, “I did. All in favor of going into executive session say aye.” Mayor Owens, Mayor Pro-Tem Hallman and Council Members Parler, Fowler, Jones and Wingard voted in favor to adjourn to executive session for a contractual matter. Mayor Owens stated, “Any opposed.” Council Members Harley, Unthank and Miles voted in opposition. The motion passed six votes to three votes. Mayor Owens stated, “Thank you. I appreciate it. I know the will of the people, so we will continue the task.” Council adjourned to executive session at 7:49 p.m.

Agenda Item IV – Reconvene to Regular Session

Mayor Owens stated, “We have two contracts. We need to make a motion to come out of executive session.” He entertained a motion to adjourn executive session and reconvene to regular session. Council Member Parler so moved and Council Member Jones seconded. Mayor Owens asked those in favor to vote aye. All council members voted to adjourn executive session and reconvene to regular session. Mayor Owens asked if any one opposed the motion and received no response. The motion passed unanimously. Council reconvened to regular session at 8:35 p.m.

Mayor Owens stated, “Consideration of an employment contract for the city administrator. Somebody make a motion.” Council Member Unthank stated, “I move that we accept the contract for the city administrator.” Council Member Harley stated, “Second.” Mayor Owens stated, “All in favor? Any discussion first. Any discussion? No council members responded to Mayor Owens request for discussion. All council members voted in favor of the motion to accept an employment contract for City Administrator Jenny Cunningham and none voted in opposition. The motion passed unanimously.

Mayor Owens stated, “Okay. Reconsideration, or consideration to vote on an employment contract for the police chief. (Unintelligible) let me know what it is from the last time. It’s three years and I’ll entertain a motion to approve it.” Council Member Harley stated, “I’ll make that motion.” Council Member Jones seconded the motion. Mayor Owens stated, “All in favor say aye or a show of hands.” Council Members Harley, Unthank, Fowler, Parler, Miles and Wingard voted in favor of the motion to accept an employment contract for Police Chief Dennis Tyndall. Mayor Owens asked, “Any opposed?” Mayor Owens and Mayor Pro-Tem Hallman raised their hands to vote in opposition.

Council Member Jones stated, “I didn’t vote.” Mayor Owens said, “I’m sorry. Would you like to vote? Let’s do it again. All in favor.” Council Members Harley, Unthank, Fowler, Jones, Parler, Miles and Wingard voted in favor of the motion. Mayor Owens asked, “Any opposed?” Mayor Owens and Mayor Pro-Tem Hallman raised their hands to vote in opposition. The motion passed seven votes to two votes.

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Agenda Item VI – Adjourn

Mayor Owens recognized Council Member Fowler who stated, “I make a motion we adjourn.” Mayor Owens said, “I think that’s good. All in favor say aye.” All council members voted in favor of the motion to adjourn the meeting and none voted in opposition. The motion passed unanimously. Council adjourned at 8:50 p.m.

Respectfully submitted,

Marta M. Valentino, CMC
City Clerk/Public Information Officer