

**COMMITTEE of the WHOLE COMMITTEE  
MINUTES  
SEPTEMBER 25, 2007**

The Committee of the Whole Committee met on Tuesday, September 25, 2007 in the Committee Room, located on the second floor of the Administration Building beginning at 3:35 p.m. Mr. Derrick, Committee Chairman presided.

Members Attending:

William C. Billy Derrick, Chairman	Debra B. Debbie Summers, V Chairman
James E. Kinard, Jr.	George H. Smokey Davis
Bobby C. Keisler	Johnny W. Jeffcoat
John W. Carrigg, Jr.	William B. Banning, Sr.
M. Todd Cullum	

Also attending: Katherine Hubbard, County Administrator; Larry Porth, Finance Director/Assistant County Administrator; other staff members, citizens of the county and representatives of the media.

In accordance with the Freedom of Information Act, a copy of the agenda was sent to radio and TV stations, newspapers, and posted on the bulletin board located in the lobby of the County Administration Building.

**Drafts Cemetery/Dawson Park Update - Heath Taylor, Esq. and Joe McCullough, Esq. – Mr. Derrick** opened the meeting for the Drafts Cemetery/Dawson Park update.

**Mr. Heath Taylor of the Taylor Law Firm, LLC located at 3618 Sunset Boulevard, Suite D, West Columbia, South Carolina, 29169, representing the developer of Dawson Park, NBT.** Members of Council, Heath Taylor. I appreciate you all taking the time out of your schedule to hear us. I guess what we are doing here today is sort of giving you an update of where we are from our prospective, what we've done, what we've continued to try to do. I'm a little bit, I guess, discouraged coming here today after Mr. McCulloch and I have been talking this morning, earlier and recently a few minutes ago and seems like we're sorta getting at that point where there appears to be some sort of an impasse. Hopefully that is not the case, but I want to give you an idea of where we've been so far. As you are all aware it was back in June, two, the remains of two individuals were found on this property out off Highway #1. My client immediately stopped construction and called the Sheriff's department, I think everybody is up to speed from where we went from there. After that we undertook significant efforts, at significant expense, to find out if this was in fact a large scale cemetery. Persons who claim to be members of this family that are in this cemetery - I think that it's been reported throughout the media, to the sheriff's department and possibly to members of this council, there are possibly hundreds of bodies there. My client has spent significant sums of money to date just on his expert, somewhere in the neighborhood of \$15,000 to \$20,000 and have found no additional remains on this site, nothing, just the two that were originally located. In fact, after a significant amount of research, two of the individuals that were told or represented to the sheriff's department to be definitively in this cemetery, Frank Drafts and Lillian Drafts, which we ultimately located their birth certificates, they were buried in another cemetery; the Strothers' Cemetery across town, not even at this site, at least that's what their death certificates indicate. So all the research we've done and the money my client has spent has indicated this was not a large scale cemetery, on top of doing the research through death certificates and things of that nature. Actually, you heard about the ground penetrating radar we were going to use, we've done that. Basically what it was telling us – we dug back, basically a cross section of this site and again have found no additional grave sites. At least from a scientific standpoint we have found this is not a large scale cemetery. Initially, we had offered the family basically two to four lots in the center of the subdivision, to basically re-intern the

remains, that was initially rejected. Since we have come to the realization, or least what an apparent realization to us, that this is not a large scale cemetery and we've offered them a quarter-of-an-acre on the rear of the property and that's what we were negotiating about. We'd hope that they would have access from their property, which joins the subdivision property. Apparently they don't own all the way back that far. We were negotiating with some folks to try to get them an easement back there and again that's where Mr. McCulloch and I believe we may be coming to an impasse. Along those lines, we don't believe we are legally obligated to provide them anything. If, if we do anything in this matter, I think our next step is to ask you folks to vote under the statute whether or not these two individuals need to be relocated. When in fact they've already been taken out of the ground, not by our doing, but by the sheriff's department doing, so they are no longer there. Typically in the relocation of a cemetery, it is, we have located something and we are asking the Council to let us move it, well they have already been moved. So essentially what we would be asking Council if we can't get this thing resolved, is to basically give your blessing to the initial removal that the sheriff's department did, and as I understand the statute, that then the Council and persons who contend that they are family members decision as to where the remains are relocated. But to date, that's where we are. This is costing my client basically \$800 a day just in interest to carry this project. This has been going on since June and again I think he, we are taking all the steps we can to try to resolve this. That's where we are from our perspective. I'm sure, I know Mr. McCullough being the fine lawyer he is, is going to have a much different perspective. But that's where we are. I'll be happy to answer any questions.

Mr. Derrick opened the floor for any questions for Mr. Taylor.

Mr. Derrick thanked Mr. Taylor for being here today and sharing his update.

**Mr. Joseph M. McCulloch, Jr. of the Law Offices of Joseph M. McCulloch, Jr. located at 1426 Richland Street, Columbia, South Carolina, 29211, representing the Drafts family.** Mr. Taylor is an old friend and a fine lawyer. I did not come anticipating much of a presentation but I would not be representing my clients if I did not have one or two things to say, so let me try to be brief. I've provided each of you with a brief statement of the family, which was intended to bring you up-to-date without a closing argument as well as a second page. It really is why we are here. And the problem with this situation and why it may ultimately have to lead to litigation if cooler heads don't prevail is the very simple precept that you can't put a blindfold on and forge ahead with a development when you know there is a problem there. Because everybody knew, certainly my clients knew and had been to see the Hendrix family frequently over the years immediately preceding, I am talking about the year before, they had pointed out to the Hendrix family, members of the family at least, exactly where the cemetery was located. So it was not a secret. This is not an abandoned cemetery by any means, but I don't want to send a message to the developer sitting in the back of this room that this is his fault. It's a problem; it is a problem with a solution. Whether this Council gets to argue, I guess, to order a solution or whether a court does that I don't know. But I know that the solution here is uniquely within the possession of the developer. Now Mr. Taylor tells us that his client has spent about \$15-20,000 digging around out there looking for bodies and hasn't located... What he didn't tell you is that the state archeologist who your sheriff's department brought in to this on the front end tells us as recently as three weeks ago the reason you are not finding more bodies is largely probably because some of them have simply deteriorated over the many years. But for those that have not completely deteriorated, they could be under the compacted ground or under the asphalt because of course the roads are now paved in there. And all these things were not done with our agreement or acquiescence but they were done by the same developer who forged ahead and purchased this property knowing that there was, according to that document, a cemetery or burial sites on the property. Maybe that would have been a good time to bring in the guys with the sensing devices. But be that as it may, I mean, we have been now talking with the developer in good faith for several months. We have, you know we started at a place as Mr. Taylor tells you that my clients very

much wanted those bodies that were removed to go back in the ground. They weren't moved by the sheriff's department to make your job any easier or make the next court's job any easier they were removed because they didn't know whether this was a homicide scene or what. But once it was determined that these were from a cemetery or a burial ground, the problem and the reason that my clients would not at that time willing to just put them back in ground on .18 acres, which is what the two lots that were originally proposed by the developer, is because we didn't know how many other bodies were out there because the family histories tell us that there are a number of bodies buried out there; whether they remained there or not we haven't located them. And now we have this discussion and negotiation has evolved to a point where the developer has spent money and he has indeed. Did he have to? If he hadn't, he wouldn't have paved roads out there right now; he'd be shut down. But he has proceeded and he has because he owns this property. An understanding and an ability to solve this is very simple. What this family wants is a parcel of property that is a dedicated portion of ground as required by a 1929 deed and I'm told that you folks have some appreciation for the facts of this. But as you see as outlined there and about 1929 the Draft family, some portion of it, sold this, a piece of the property where evidently these two bodies were buried and said we are all going to get together we're going to lay out the boundaries of this cemetery later but we're going go ahead and sell it to you now. And somewhere between that transaction and the one that this developer acquired the property, that reservation, that specific recognition of the cemetery that just kind of disappeared in the paperwork. I am certainly not accusing this developer because I don't think he made it disappear. I don't know who did maybe if we have a lawsuit we'll get to find out. But the fact is that everybody knew in 1929 and they dedicated some ground. There is a cemetery there and we are willing to allow bodies, if others are found, the two that have been located. This family is not requiring, not unwilling and not requiring that they go back to their burial place. They have agreed to find a reasonable place, a reasonable size piece of property on the boundary where there is a dirt road and where the Amaker family who are descendants of the Draft family still live. And my proposal to the developer was several weeks ago, yesterday and right now, find a piece of property that's not in the heart of your division, it's not in the middle of your subdivision, find a piece of property right on the border of that property that also borders that little dirt road, segregate that property by a fence that excludes everyone in the subdivision so we don't have to worry about vandalism. Put a gate on the outside of the cemetery onto that little dirt road so that people can drive down that dirt and visit their ancestors, visit a new cemetery that is dedicated by the Draft family. Don't put it in the wetlands, don't go all the way to the back of this property and then where the ground starts to drop off and go down to the wetlands, don't put it back there on a slope so that when there is a hard rain the bodies float out of the ground as they did in your community in 1989 and 1990, the Macedonian Baptist Church in Irmo the bodies floated up after a heavy rain. You're asking for trouble and frankly the Drafts family doesn't really want their cemetery in the back of the bus, in the back of this property, right next to the wetlands and the mosquitoes. They want it in a place that they can get to, right down a little dirt road that used to take them right to that cemetery. So the solution is there and we can get there but cooler heads are going to have to prevail. So, the next time we come before you that logic reason will prevail and we can get on with all of this. Thank you very much.

Mr. Derrick opened the floor for any questions for Mr. McCullough.

Mr. Derrick thanked both attorneys for the information presented.

### **Strategic Vision Goals and Objectives Update (Goals 1,2,3) - Katherine Hubbard, County**

**Administrator** - Ms. Hubbard presented an update for the Strategic Vision Goals and Objectives with a spread sheet listing the three primary goals and objectives outlined with a timeline. She said this would help them prepare for the upcoming Strategic Re-Visioning Retreat planned for October 14<sup>th</sup> and 15<sup>th</sup>. Ms. Hubbard indicated that the spread sheet shows the County is actually ahead of schedule on a number of challenges. For information only. No action taken.

**Old Business/New Business - Revised Building Use and Naming Policy**

**New Business - Saxe Gotha Industrial Park Property Sale** - A motion was made by Mr. Davis, seconded by Mr. Banning to recommend to full Council that staff prepare an ordinance for the distribution of tax revenue from the Saxe Gotha Industrial Park property sale particularly for the school portion of that budget to be distributed based on average student enrollment by the County's five school districts.

The vote in favor was unanimous.

**New Business - Building Use and Naming Policy** – A motion was made by Mr. Jeffcoat, seconded by Mr. Carrigg to recommend to full Council that staff prepare a resolution to rename the Lexington County Law Enforcement Complex to the Lexington County James R. Metts Law Enforcement Complex.

A motion was made by Mr. Davis, seconded by Mr. Cullum to table the motion.

In Favor:	Mr. Derrick	Mr. Davis
	Mr. Cullum	Ms. Summers

Opposed:	Mr. Kinard	Mr. Keisler
	Mr. Jeffcoat	Mr. Carrigg
	Mr. Banning	

Vote on original motion:

In Favor:	Mr. Jeffcoat	Mr. Carrigg
	Mr. Kinard	Mr. Keisler
	Mr. Banning	

Opposed:	Mr. Derrick	Mr. Davis
	Ms. Summers	Mr. Cullum

There being no further business, the meeting was adjourned.

Respectfully submitted,

Judy R. Busbee  
Assistant to the Clerk

William C. Billy Derrick  
Chairman

Diana W. Burnett  
Clerk