

Walterboro City Council
Public Hearing and Regular Meeting
January 12, 2010

MINUTES

A Public Hearing and Regular Meeting of Walterboro City Council was held at City Hall on Tuesday, January 12, 2010 at 6:15 P.M. with Mayor Bill Young presiding.

PRESENT WERE: Mayor Bill Young, Council Members: Dwayne Buckner, Randy Peters, Charles Lucas, Ted Parker, Franklin Smalls and Tom Lohr. City Manager Jeff Lord, City Clerk Betty Hudson, City Attorney George Cone and Attorney Ashley Amundson were also present. There were approximately 21 persons present in the audience at the meeting.

There being a quorum present, the Mayor called the meeting to order and called on Council Member Smalls for the invocation and Council Member Lohr to lead the Pledge of Allegiance to our flag.

PUBLIC INPUT ON AGENDA ITEMS:

Ms. Marsha Johnson, a city resident, questioned whether something should be done about the Tree Ordinance so that people do not have to come before Council for cutting a water oak. She stated that in the past year, I have seen five Water Oaks crash to the ground. They are obviously dangerous trees and you can't always tell if they are dangerous. Having to wait 6 or 7 weeks to come back and appeal to get a Water Oak removed seems rather unfair. When SCE&G and the city met to discuss the trees, one of the things that the arborists said was that Water Oaks are trees that grow for 20 and die for 40 years. It just seems like it's a real burden for citizens to have to come and appeal for a determination. They are obviously dangerous trees.

Ms. Johnson also commented on Ordinance # 2010-03 regarding the "Economic Development Department". She asked what exactly will this ordinance do in terms of international affairs? Since Council Member Buckner asked to place Ordinance # 2010-03 on the agenda, the Mayor asked that he respond to the question by Ms. Johnson.

Council Member Buckner responded that he proposed this ordinance in order to help emerge Walterboro as a global player on the international plane. We currently have within the City of Walterboro different businesses that are international in scope, for example, we have Asian businesses, business owners

from India, Mexican, Italian businesses and Greek businesses. So, what I wanted to do with the international affairs is to expand the scope of the Economic Development Department to allow the Economic Director to have a focus on being able to track international trade/international business into the City of Walterboro. The University of South Carolina is ranked No. 1 in the nation with their International Undergraduate Business Program. Therefore, Salkehatchie being an extension of U.S.C., any international efforts that we made here in the City would benefit the university and the main campus would also support whatever efforts that Salkehatchie would put in place. My goal eventually is to have an international business pub, so to speak, here in the City of Walterboro. Secondly, we can also look at hosting foreign dignitaries in the City of Walterboro, utilizing the Colleton Center as a place where we host foreign dignitaries, give speeches, and seminars on international trade and investment. Also, we have within our City, the Great Swamp Sanctuary. My goal is to eventually have that be an international tourist destination, so that folks from around the world will come to the Great Swamp Sanctuary and invest in the City of Walterboro.

Mr. Buckner further stated, there is a very successful program called the Sister Cities Program. There are several cities in the state of South Carolina that are involved in that program which was started in the 1950's. The purpose was to build international relationships between cities. There are several cities close in population to Walterboro that are involved in that program. Mr. Buckner gave several examples of municipalities in South Carolina which have sister cities located in foreign countries. Mr. Buckner pointed out that it only costs \$250 a year to be a part of the Sister Cities Program. He said, "I think those international efforts would help the City of Walterboro."

PRESENTATION:

2008-2009 Audit Report was given by Mr. Rep E. Whiddon of Baird and Company, CPAs, LLC. Mr. Whiddon gave the brief presentation of the City of Walterboro's 2008-2009 Audit Report.

1) Mr. Whiddon thanked the City Manager Jeff Lord and Finance Director Bill Floyd for their help with the audit. He stated, they do a good job of getting ready for us.

2) Their firm issued an "unqualified" opinion, which is the opinion you want.

3) The City's unrestricted net assets are close to 6 million dollars with 3.5 million on the governmental fund and 2.3 million in the business type activities.

4) Mr. Whiddon pointed out that the City is in a very good financial position. He stated, you have been good stewards for the City and taxpayers during the past year.

5) From an expense standpoint, your biggest expense which is expected is payroll.

6) The key revenue items are property taxes, sales taxes and business license.

7) The change in net assets were \$507,000 on the governmental side and \$331,000 on the business type activities side for a total of \$839,000. This represents a good year.

8) The city actually spent \$60,000 more in the general fund this past year than you took in. That was by design.

9) Mr. Whiddon pointed out that the transfers coming from the water and sewer may eventually put the City in a situation to revisit some of the tax areas. You don't have to now, but it's something that you need to plan for in the future.

10) The water and sewer system is in a real good financial situation. You have been good stewards in that area as well.

11) With regard to the interest rate on some of the city bonds, Mr. Whiddon stated that money is pretty cheap now. There may be a point where you may want to refinance your interest rate at a cheaper rate.

In concluding, Mr. Whiddon stated that his firm did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses. He said, and that's as good a report as you can get. He further stated, the results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under Governmental Standards, and that's as good a report as you can get.

Council Member Buckner asked Mr. Whiddon, did you find any deficiencies at all with internal control? Mr. Whiddon responded, we will always have some recommendations to make as far as what you would consider a deficiency. We will have some recommendations, for instances there were a couple of adjusting entries, and we are required to bring that to management's attention. You do have a well managed government. I think they are doing a great job. Part of what we do is to try and give some value added benefit and part of that is a recommendation letter, and it states it's a recommendation. If you don't agree with it, you don't have to do it. It's some things that we think you need to know about, or may help. Management will get that letter.

Mayor Young then thanked City Manager Lord, Finance Director Bill Floyd and staff on doing such a good job in managing the city's finances.

PUBLIC HEARING:

The Mayor then opened the meeting for a public hearing, duly advertised, to receive public comments on the following ordinances:

1. Ordinance # 2009-08

An Ordinance to Repeal Chapter 21, the Walterboro Zoning Ordinance and Land Development Regulations; Article IV, Establishment of Zoning Districts and Development Standards; Section 4.7, General Development Standards and Measurements; Subsection 4.7.11, Fences, and to Replace Said Subsection with a

Revised Subsection, Setting Forth Expanded and Clarified Requirements Relating to Fences.

Former Mayor Charlie Sweat addressed Council on this proposed ordinance. He thanked Council for taking this ordinance up and finally getting it done. He said, I must declare that I was not properly doing my job in 2003 when you came up with the other ordinance that was put in place. Back then and still today, we read through these ordinances but we don't actually go through and take a look if something happens, you find out quick that it doesn't work. We did not find out until after I got out of office that this didn't work. Now, we have gone through the process and hopefully with this new ordinance, it will take care of the problem.

2. Ordinance # 2010-02

An Ordinance Adopting and Enacting a New Code for the City of Walterboro, South Carolina; Providing for the Repeal of Certain Ordinances Not Included Therein; Providing for Certain Portions of the City Code Adopted in 2003 to Remain in Full Force and Effect; Providing a Penalty for the Violation Thereof; Providing for the Manner of Amending Such Code; and Providing When Such Code and this Ordinance Shall Become Effective.

No public comments were received on proposed Ordinance # 2010-02.

The Public Hearing was then closed and the regular meeting began.

APPROVAL OF MINUTES:

The following minutes were approved on the motion of Council Member Lucas, seconded by Council Member Parker and passed unanimously:

1. Minutes of the November 24, 2009 Regular Meeting.
2. Minutes of the December 1, 2009 Public Forum.
3. Minutes of the December 8, 2009 Public Hearing and Regular Meeting.

OLD BUSINESS:

1. **Ordinance # 2009-08** was given Second Reading and Adoption on the motion of Council Member Lucas seconded by Council Member Parker and passed unanimously, being:

An Ordinance to Repeal Chapter 21, the Walterboro Zoning Ordinance and Land Development Regulations; Article IV, Establishment of Zoning Districts and Development Standards; Section 4.7, General Development Standards and Measurements; Subsection 4.7.11, Fences, and to Replace Said Subsection with a

Revised Subsection, Setting Forth Expanded and Clarified Requirements Relating to Fences.

In discussing the motion, Council Member Peters asked staff whether the ordinance is now where we can enforce it properly and that it works? Is this what we want it to do? Planning Director David Dodd stated, I think it will be a better ordinance and easier to enforce than our current ordinance. Mayor Young pointed out that the ordinance went through the Planning Commission.

2. Ordinance # 2010-01 was given **Second Reading and Adoption** on the motion of Council Member Buckner, seconded by Council Member Smalls and passed unanimously, being:

An Ordinance to Annex Certain Property to the City of Walterboro, Tax Map # 178-08-00-044 (property owned by Donald Wayne Lake, Jr. and Tammy M. Lake).

3. Ordinance # 2010-02 was given **Second Reading and Adoption** on the motion of Council Member Peters, seconded by Council Member Lucas and passed unanimously being:

An Ordinance Adopting and Enacting a New Code for the City of Walterboro, South Carolina; Providing for the Repeal of Certain Ordinances Not Included Therein; Providing for Certain Portions of the City Code Adopted in 2003 to Remain in Full Force and Effect; Providing a Penalty for the Violation Thereof; Providing for the Manner of Amending Such Code; and Providing When Such Code and this Ordinance Shall Become Effective.

NEW BUSINESS:

1. Ordinance # 2010-03, An Ordinance to Expand the Scope of Services of the Economic Development Department of the City of Walterboro to Include International Affairs; to Rename the Economic Development Department the "Economic Development and International Affairs Department"; and to Set Forth Goals for the Department was before Council. Council Member Buckner moved to adopt the ordinance. Council Member Smalls then asked if this ordinance could be referred to the retreat so Council could have more time to discuss it.

Mayor Young then asked for a second on the motion in order to discuss the matter. Council Member Smalls seconded the motion. Council Member Lohr then asked Council Member Buckner where did Hank Amundson and Mr. Peter Arnoti fit in this proposal. Did they have anything to do with this?

Council Member Buckner stated, this ordinance is just the beginning of an International Affairs Department to allow Mr. Amundson to be able to look into internal affairs. Being able to have that as a part of the Economic Development of the City of Walterboro. Also, eventually we would be working with the county. We

have a regional airport and there are also county international zones. So, I think the city and the county can work together on this.

Council Member Lohr then asked again what did Hank and Mr. Arnoti have to do with the proposal? Did you consult with them? Council Member Buckner then said, well, I can't personally consult with them, but I have spoken with the City Manager.

Council Member Lohr then stated, I will certainly support Mr. Smalls proposal that we can discuss this later, but I don't think you should bring things to Council that affect people who are assigned those tasks now. If you want it up for vote tonight, it's not going to get my vote. What I will say right now is Ms. Johnson asked a question and at that point she was as much informed as I am and yet I am expected to vote on something like that. I'm not going to vote on it tonight, up or down either way. I think that's just a discourteous way to treat employees, to bring about something that affects them and just go right on over their heads. They can't be that hard to get in touch with.

Council Member Buckner then said, I think our Code specifically states that any contact should be with the City Manager, and that Council Members are not to have any discussions with individual employees of the City. The proper chain of command is to speak with the City Manager, and I did conference with the City Manager and explained to him my proposal for an ordinance. So, that was done way before now. As for talking with you personally about the ordinance, well, it's here tonight for discussion and debate. However, In terms of talking specifically to individual employees, that's prohibited under our Code.

Mayor Young then asked if there were any reasons that our Economic Development Department can't deal with international issues, if it presents itself, under the way they are organized now? Do we need to pass a different law in order for them to be able to deal with international business? City Manager Lord responded, there is no prohibition for us doing anything internationally right now.

Mayor Young then said, so as it stands now, they (the Economic Development Department) could deal with international business or international affairs under the same name now and the same department as it exists? City Manager Lord responded, I know of no legal impediment.

Council Member Lohr then said, as far as economic development, it's like the stages of a baby learning to walk. I would put international things coming into Walterboro in the running phase. We still need to help local businessmen. We need to put our emphasis on the job training center that Mr. Arnoti and others have worked very hard on. I am not opposed to anybody dreaming, but perhaps I am reflecting my very pragmatic view of things and that is, let's do the things that we probably can get done pretty quickly. I don't know whether we need this or not, but if we can do international things later, that's wonderful, but right now I think

we need to deal with the businessmen and women that we have in the community and be whatever help we can be to them and then take a look at other businesses close by, maybe the Boeing plant that will have some spinoff industries. Let's stay in the state and in the nation before we start overseas.

Attorney Cone suggested that if the matter is tabled to the retreat, then Council will have a chance to question department heads at the retreat.

Council Member Buckner then said he would like to make another point. The Code specifically states that in order to abolish, establish or alter a department of the City of Walterboro that it has to be done by an ordinance. Therefore, my ordinance to change the name would have to be done by ordinance. That is why I proposed this particular ordinance. As to the issue of whether or not there was information given before hand, I made an attempt to contact several Council Members to talk about this. Council Member Buckner also pointed out that he did leave a phone message for Council Member Lohr. Council Member Lohr noted that he did not get a message.

Mayor Young concluded by stating, I think my point is, whether you change the name or not, that their ability to function in that area is still there.

The motion to adopt Ordinance # **2010-03 was defeated** on a vote of 1/6 with Council Member Buckner voting in favor and Mayor Young, Council Members Peters, Lucas, Parker, Smalls and Lohr voting against the motion for adoption.

2. Ordinance # 2010-04, An Ordinance Making it a Duty of the Mayor to Provide Annually to the City Council and Citizens of Walterboro Information Regarding the State of the City was before Council. Council Member Buckner moved to adopt Ordinance # 2010-04. Council Member Smalls seconded the motion for discussion.

In discussing the motion, Council Member Buckner said, I proposed this ordinance because I thought it would be beneficial to the citizens and business owners to provide them with information regarding the state of our city. Secondly, I think the issue has come up whether or not this should be a duty of the Mayor to provide this information annually. I think that the Code specifically states that the Mayor is recognized as the head of the City for ceremonial purposes. In addition, the Mayor is also the official spokesperson for the City. Our citizens will feel more comfortable about their government when they are given the information about their government. So, I proposed this ordinance to make it a duty of the Mayor to provide this information annually. Therefore, I request that we pass First Reading of this ordinance.

Council Member Peters then said, we are already doing this. We give quarterly reports in open Council. The City Manager does it for us. We take the

goals that we set by Council in 2008, and we update it where we were for 2008. We took the goals that we put on the board in 2009, and quarterly we went through that in open session. Our form of government, if we had a strong Mayor form of government, I could understand a Mayor's state of the City report, because the Mayor would have his own personal agenda, but in our form of government, where there is a Council form of government, then we all are part of the agenda. If you get too many laws out there, you won't be able to do anything. If you make a law that you have to have the Mayor give the state of the City address, then that's just one more law that I don't think is necessary.

Council Member Lohr then said. I would add to Mr. Peters comment that maybe it should be a report from the Mayor and Council to reflect the Mayor/Council type of setup that we have. If we are going to put a date to do it, a month or something like that, I would prefer that it be done after we have had the retreat. Then we can revisit last year's goals, as well as try to set new goals for the upcoming year.

Mayor Young then stated, I'd like to add, that we also do an audit report, like we have had tonight. We go through the budget process, which gives people an opportunity to see where we are spending money and what our goals are through the budget process. We are doing that already. The City Manager gives project updates during the year. I just don't think an ordinance requiring the Mayor to give an address is necessary. The Mayor could give an address of the City, if he wanted to, without the ordinance. A law requiring it, I don't think is necessary. I know that the County Council Chairman does not give a state of the county address and most small cities in South Carolina do not give a state of the city address.

Councilman Buckner then said, I understand that we are under the Manager/Council form of government, but the City Manager is not an elected official. He works at the pleasure of the Council. Therefore, he is not directly accountable to the citizens as an elected official as we are or as the Mayor. In addition to that, there are three municipalities that have the form of government that we have - Council/Manager, whose Mayor does the state of the City address. Those cities are: Rockhill, Myrtle Beach and Sumter. Although it is not done by ordinance, it is an information provided to the cities in conjunction with their Chamber of Commerce. Therefore, I think, it is fitting and proper for our Mayor, with the assistance of the City Manager to provide the residents information regarding the state of our city.

The motion to adopt Ordinance # **2010-04 was defeated** on a vote of 1/6 with Council Member Buckner voting in favor and Mayor Young, Council Members Peters, Lucas, Parker, Smalls and Lohr voting against the motion for adoption.

3. Tree Cutting Appeal Regarding Water Oak located at 125 South Jefferies Boulevard

Attorney Benjamin C. P. Sapp addressed Council regarding a Water Oak tree, which is hanging over his building at 125 S. Jefferies Blvd. He stated that the tree has a shallow root system which is under his air-conditioner. It is affecting the whole area. He said, if it falls on my building, it going to cost a lot of money. My insurance company has sent a letter, which I forwarded a copy to you. They are saying to cut it down. I just need to get rid of this tree, it's starting to fall down. Mr. Sapp reported that Mr. Lee Murdaugh of Murdaugh Tree Service had looked at this tree and agreed that it needs to come down.

Attorney George Cone then stated, since this is an appeal, I will ask Mr. Sapp the question. Do you waiver formal procedures and testimony. Mr. Sapp agreed to waive formal procedures.

Mr. Lee Murdaugh of Murdaugh Tree Service told Council that the large Water Oak tree is covering two houses, two offices, and two parking lots. It has dead hanging limbs. The trunk of the tree is solid and the tree is endangering everything there. It has already caused a cracked foundation. He pointed out that the tree is a danger and a hazard to everything over there.

Mr. Mike Ferrari, Chairman of the Tree Committee, told Council that the Tree Committee went to look at the tree. It is a twin stemmed Water Oak, and it's large in size. It does hang over the building, and from what we saw of it, it looked like a healthy tree. It has some bad branches and our recommendation was to basically trim it. Other than that, we could found no reason under the existing ordinance to have it removed.

Mr. Ferrari further stated, and I agree that Water Oaks are high maintenance trees and it was mentioned here tonight that they are dangerous trees. If they are ignored, they can become dangerous. Any large tree is potentially dangerous. Any tree on a lot that's in proximity where it could fall and hit your structure is a potential danger too.

Council Member Lucas asked Mr. Sapp if the insurance company sent him a letter or did he request a letter. Mr. Sapp responded that he requested a letter. He said if something happens, I've got a big problem on my hands. If this tree falls on my building, I am looking at a mess. It could put me out of business for a couple of weeks. He stated, even if the tree were pruned, the way the tree is growing, it is messing up my roof. I have had roof leaks. The tree is causing immense problems to me.

Mr. Sapp further stated, if this tree falls, it will destroy the back end of my building and take out my air-conditioning unit and then destroy the bail bonds building next to me.

Council Member Smalls then offered the suggestion that the Tree Committee take another look at the tree. Mr. Smalls pointed out a similar situation with a

Water Oak occurred when he worked in maintenance for the school system. A Water Oak fell at Forest Hills Elementary School, and a child was caught under it and broke her leg. That tree looked healthy, but there was a hole in the middle of the tree about 20 feet from the bottom that had begun.

Council Member Smalls then offered a motion to remand the matter to the Tree Committee for further consideration. Council Member Lohr seconded the motion. In discussing the motion, Mayor Young recognized Mr. Lee Murdaugh for further comment.

Mr. Murdaugh stated that the Tree Committee does a great job, but it needs to look at trees a little more carefully. What the Tree Committee needs to do is to get a bucket and ride up to the top and look at the trees. The Tree Committee is doing a good job, but they are not doing the job they should be doing, not on Water Oaks. The tree is a very bad hazard from the trunk. To get the tree in the right perspective to get it out of danger, you have to cut everything down but the trunk.

Further discussion was held. Council Member Buckner asked what is the rule concerning cutting down trees that are alive. What are the circumstances that would allow for a live tree to be cut down in the City? Mr. Ferrari stated, in this case, it has to be posing an "imminent danger to a life or property", or if you are building a structure, it has to be in the footprint of the building. There are a number of things, but in this case, the only thing that would apply would be that. He further stated, from what we could see from the ground, it looked healthy enough to us that pruning would suffice.

Council Member Parker stated that Water Oaks historically rot in the middle. Mr. Ferrari agreed and said, we have a lot of problems with Water Oaks. The reason we have a lot of problems with Water Oaks is people ignore them, they grow fast, and people don't prune them when the branches are small. People don't take care of them because it is expensive. When they get to significant size, we do have major problems. They tend to rot out internally. I wouldn't want to have it hanging over my structure either, but the way the ordinance is written, that has no bearing on whether it's hanging over your structure.

Mr. Murdaugh pointed out that he is a certified arborist tree service. He said, I can sign off that the tree is dangerous in at least 10 spots. The tree needs to come down. It's up against the building, it's up against the fence, it's over two air-conditioners and it has large limbs over half-way across the building. The Mayor then asked Mr. Murdaugh to meet with the Tree Committee and show them all of the things he is telling Council.

In order to expedite the process, Mayor Young asked Attorney George Cone if it were possible for Mr. Murdaugh to meet with Carolyn Powell to point out the deficiencies and then Carolyn could bring it to the Tree Committee. Attorney Cone said anyway the Tree Committee chooses to expedite the manner is fine.

City Manager Lord pointed out that the question here is about evidence. Obviously, Mr. Murdaugh has his own evidence. It's a matter of presenting the evidence that he has which was not presented before. This evidence may qualify for the exemption from the Tree Committee. The discussion then concluded.

The vote on the motion to remand the matter back to the Tree Committee **passed with a vote of 4/3** with Council Members Lohr, Smalls, Buckner, and Mayor Young voting in favor, and Council Members Parker, Lucas and Peters voting against the motion.

4. Discussion of Regulatory Options for Payday/Title Loan Businesses

Council Member Peters stated that he would like to know if Council is still willing to go ahead and proceed with its own rules and regulations against the payday/title loan businesses coming to Walterboro. If so, let's get the ball rolling and not prolong it and take a chance on having another one come in. Mr. Peters further stated, if we were to do something immediately, what I would like to propose is a temporary moratorium on payday loans and title loan companies until Council can get together and come up with an ordinance to restrict them in other ways.

Council Member Lucas also suggested that staff complete a draft ordinance for Council to look at during the retreat, so we can make changes and move forward.

When questioned by Mayor Young on whether this could be done, Attorney Cone responded that he believed that Council could declare a moratorium on issuing further business licenses to new applicants. He said, your moratorium would be in effect until such time as Council either chooses to further address the issue by ordinance or lifts the moratorium. He also suggested that Council set a time limit, just to make sure the issue is finally addressed within some period of time.

Council Member Peters then moved that Council declare a moratorium on issuing further business licenses to new payday loan and car title loan companies in the City of Walterboro for 90 days. Council Member Parker seconded the motion. Council Member Buckner stated that he would not support this, because I don't think we need to restrict trade or commerce in the City. It's a legitimate business, it's a legal business. The only issue I have with it is how big the sign is, but apparently they met our sign ordinance. Therefore, I think we are running a slippery slope when we start restricting legitimate legal businesses and where they can operate in the City of Walterboro.

The motion **passed** with a vote of 6/1 with Mayor Young, Council Members Peters, Lucas, Parker, Smalls and Lohr voting in favor and Council Member Buckner voting against the motion for adoption.

There were no Committee Reports given.

There being no further business, a motion to adjourn was made by Council Member Parker, seconded by Council Member Smalls and passed unanimously. The Mayor adjourned the meeting at 7:30 P.M. Notice of this meeting was distributed to all local media and posted on the City Hall bulletin board at least twenty-four hours prior to meeting time.

Respectfully,

Betty J. Hudson
City Clerk

APPROVED: January 26, 2010