

Walterboro City Council
Regular Meeting
May, 8, 2007

MINUTES

A Regular Meeting of Walterboro City Council was held at City Hall on Tuesday, May 8, 2007 at 6:15 P.M., with Mayor Charles H. Sweat, Jr. presiding.

PRESENT WERE: Mayor Charles H. Sweat, Jr., Council Members: Charles Lucas, Bill Young, Johnnie Thompson, Ted Parker, Franklin Smalls and Mary Anne Cannady. City Manager Tuck McConnell and City Attorney George Cone were also present. City Clerk Betty Hudson was absent and Bonnie Ross served as recording secretary.

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

The Mayor welcomed everyone to the meeting and informed the public that Council Chambers was now using a new recording system for its meeting. He noted that microphones were stationed throughout the room that could pick up all voices and sounds. He asked that if citizens wished to speak during the public hearing that they come to the podium and give their name and their location.

The Mayor then announced a public hearing duly advertised for public comments on proposed ordinance # 2007-04, An Ordinance to Establish the Effective Date for the Enforcement of the Certificate of Appropriateness as Part of the Historic Preservation Ordinance and the Issuance of Building Permits. He opened the hearing by asking the City Manager to briefly summarize the proposed ordinance.

The City Manager stated the Historic Preservation Ordinance was passed in May 2000. This ordinance contained a provision for the issuance of a Certificate of Appropriateness, which was supposed to have been triggered by the issuance of a building permit. In other words, when one gets a building permit, then it should have automatically triggered a Certificate of Appropriateness, which goes through the city's committee. This committee, in turn, would decide whether or not what you have proposed was in order or not. That was never done - the Certificate of Appropriateness was not developed and adopted until March 21, 2005. So, there were a number of years where construction occurred in the Historic Districts which were not reviewed by the committee for appropriateness. When the Certificate of Appropriateness was adopted, enforcement began.

City Manager McConnell further stated that there has been talk about going back to the effective date of the ordinance, and if your property was not in compliance, then you would have to bring it into compliance before it would be sold. Backdating the ordinance was also suggested. We have not been enforcing the Certificate of Appropriateness and I don't think Council felt comfortable with going back and asking someone to make changes to their property when we had not enforced the Certificate of Appropriateness, and they (the property owners) did not have any way to know anything about it. So, the purpose of this proposed ordinance is to set a date certain as to when the Certificate of Appropriateness process would be absolutely required, and any action or non-action that went on prior to that, would be grand fathered. So, if you had, for instance, a fence that would not be approved today, your fence could stay there forever under the

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grandfather aspects of it, unless you decided to change it. So, if you come in to make any change to any part of your exterior building that's presently grand fathered, then at that point you would have to bring your property into compliance with whatever the committee says.

Mr. McConnell summarized by stating that the purpose of this ordinance is to set a date certain and to grandfather anything that went on previously to the date of adoption of this ordinance, and to provide that if you (the property owners) make changes and destroy your grandfather protection, then you would have to bring it up to code.

Then the Mayor opened the floor to receive comments from the public. He announced that each person has two minutes to speak.

Ms. Carol Black then addressed Council, stating that she was a part time resident of Walterboro, and that she lives full time in Columbia. She then gave Council Members and the City Manager a handout.

Ms. Black stated that she disagreed with Mr. McConnell's description of what Section 10, Certificate of Appropriateness says. She then read the following:

"A Certificate of Appropriateness is required before a building permit can be issued for the demolition, new construction, exterior alteration, modification or addition to properties located in any of the four areas contained in the Historic Preservation Overlay Zone. Any building permit not issued in conformity with this ordinance shall be considered void."

Ms. Black pointed out that Mr. McConnell says that the building permit is issued, and then the Certificate of Appropriateness process is to be followed. Ms. Black then referred to a memorandum issued by City Manager McConnell to the Historic Preservation Commission dated November 29, 2004. Ms. Black then quoted the following statement:

"We have used a Building Permit application in a dual role which includes the Certificate of Appropriateness. When someone applies for a permit in one of the designated areas, that triggers a review by your committee - the same as would a Certificate of Appropriateness. If no permit is needed, there is no review. I know of no case where this procedure has not been followed. However, if you wish to add another requirement to the process, it can certainly be done."

Ms. Black then told Council that this matter has come before you because I came and asked Council a couple of months ago in a meeting to enforce the Historic Preservation Ordinance against 1009 Wichman Street, the house on the corner of Fishburne Street and Chaplin Street. Only because I asked for that enforcement, is this ordinance now being proposed. I have gone and pulled the building permits for streets' A-G. I cannot find no other house so far that would be affected by this retroactive change in effectiveness, aside from a house owned (which I have now learned and was not advised of earlier in Council) - by a company solely owned by Mr. George Cone, the City Attorney. So, again, I ask you. I do not

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believe that it is proper for Mr. Cone to represent the City in this matter, as his company has a personal interest in this retroactive change of the effective date of this ordinance. The only other building I asked you was to enforce this ordinance against was one owed by Mr. Walton McLeod. His brother is Mr. George Cone's law partner. I think it is highly unusual that we are going to change the effective date of the Historic Preservation Ordinance to protect two buildings - one owned by the City Attorney and one owned by his law partner's brother. If Mr. McConnell would be so kind as to do a little research or have his staff to do some research to see how many people as he is claiming would have to make changes to their house - then I would consider whether or not it would be appropriate to make such a retroactive change. Unless they can show us that this is a hardship for people in this town to go back and change the exterior of their houses and unless there are a number of people who have violated this law, then I don't think there is a need for this change and I think it is done solely to protect Mr. Cone's company and Mr. Walton McLeod.

Ms. Black continued stating that Mr. McConnell has chosen not to enforce this law. He says that now it's being enforced. Ms. Black then directed Council's attention to a copy of a building permit that was issued for 703 Carn St. on 2/26/07. It's in the Historic District and he's still not enforcing it. So, I don't understand why if everything is being done correctly now, why are we still having this issue. I ask you to direct him to enforce it now and not to pass this law to protect two people who have a vested interest.

Ms. Mary Corbett, chairman of the city's Historic Preservation Commission then addressed Council. She said one thing I would like you to remember that when the Arts Council put a sign in front of Hampton Street school that was really totally inappropriate. They put the sign up, then they got a building permit and they had to take it down because the city rescinded it because it was not appropriate. Now, you are saying they could have left it there. I just think we are going backwards into this.

Mr. David Smalls stated that he would like to make a clarification. The Arts Council was not the one that did the sign for Colleton County Schools. This group is a separate entity, and they did obtain a building permit.

Attorney Cone then stated he wanted to clarify that "My company held legal title to a piece of property on Wichman Street, as a courtesy to some other people who were rehabilitating the property. Basically, it was to the advantage of the City of Walterboro to help the city preserve its heritage. I had no personal financial interest in it, and still don't. I just tried to help somebody. I fully disclosed this in the past to City Council and they know about it, as for the benefit of other people here, and I have no personal preference to whether you pass this particular ordinance or not."

Ms. Cindy Newman said she purchased the house at 1009 Wichman Street. The way she understands this ordinance - it's going to

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protect people who made a mistake with our house, and I don't think that's fair. Because the way I see it, there should have been a Certificate of Appropriateness taken out when the new plumbing or the plumbing that was supposed to have been done correctly. When it was done, that should have been taken out and it wasn't, and now I have a sewerage line coming outside the house in the middle of Historic District, which isn't very beautiful either. I hope that in fairness to all people involved, that you do the right thing.

Mr. Jack Jackson of 124 Savage Street stated he had no interest in either side of this matter. But there is enough confusion about this that I would urge the Council to at least table this until the facts can be ascertained as to which side of this argument is correct. It's way too early to try to put something into law with this much controversy existing on this issue.

The public hearing was then closed and the regular meeting began.

The Minutes of the April 10, 2007 Public Hearing and Regular Meeting and the Minutes of the April 24, 2007 Regular Meeting were approved as submitted on the motion of Council Member Cannady, seconded by Council Member Parker and passed unanimously.

Under Old Business, Second Reading and Approval of Ordinance # 2007-04, An Ordinance to Establish the Effective Date for the Enforcement of the Certificate of Appropriateness as Part of the Historic Preservation Ordinance and the Issuance of Building Permits, was before Council. However, no action was taken by Council on this agenda item.

Ordinance # 2007-06, An Ordinance Authorizing the City of Walterboro to Join with the Walterboro-Colleton County Airport Commission and the County of Colleton in Conveying Seven and Six Hundred Sixty-two Thousands (7.662) Acres, More or Less, of Land to a Known but Unnamed Distribution Company was next on the agenda. A motion was made by Council Member Cannady, seconded by Council Member Parker, giving Second Reading and Adoption to Ordinance # 2007-06. The motion passed with all members in favor.

Next, Ms. Lou Ann Adams appeared before Council on behalf of Habitat for Humanity. Ms. Adams stated she was last before Council on March 27 asking Council to look into deeding a lot or lots on N. Lemacks Street to Habitat for Humanity to build a house. Ms. Adams then provided a map showing the lots requested on N. Lemacks Street. She informed Council that she did meet with Mr. Cone and Mr. McConnell and looked at some properties on N. Lemacks Street. We discussed lots 43 and 44 and also lots 165 and 171. Ms. Adams informed Council that when she looked at lots 171 and 165, she founded they would be great lots for Habitat for Humanity. There are trees on those lots. She stated that she knows the city has strict ordinances on the removal of trees. She then asked Council to consider donating lots 43 and 44 because these are very narrow lots and they have some length to them. She stated she hoped that

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they could proceed with lots 44 and 43. Mayor Sweat stated that lots 165 and 171 would basically end up as one lot. It is listed as two lots, but it's not wide enough but would really need to be considered as one lot eventually to build a house on. On those lots, Ms. Adams then stated that Habitat would probably have a problem getting the trees removed from those lots, because they are not pine trees.

City Manager McConnell stated that if a tree is in the footprint of a building to be constructed and you can't move the building, then the trees generally are not the problem. Lot 43 and 44 are the ones under contract at this time.

After further discussion, Mayor Sweat suggested that Ms. Adams return back to staff to get a conclusion on lots 165 and 171 and then return to Council.

Under New Business, Proclamation # 2007-02, Designating May as Mental Health Month was approved on the motion of Council Member Parker, seconded by Council Member Smalls and passed unanimously. A copy of said proclamation is attached as part of these minutes.

Last under New Business, Council reviewed a letter, appealing a \$344.61 water bill for Ms. Mary Thomas of 138 Quarters Drive in Ruffin, SC. It was noted in the letter that Ms. Thomas is an elderly woman, on limited income with medical problems including a stroke. Council Member Lucas and Parker agreed that something should be done. Council Member Parker noted that this person has limited funds, and her bill usually runs about \$40 every two months. Council Member Lucas then moved to delete \$300.00 from Ms. Thomas' bill. Council Member Parker seconded the motion that passed with all members voting in favor.

Mayor Sweat then asked if there were any other items for discussion or comments from the public.

Council Member Bill Young then stated:

"I just want to say something because this has come up a couple of times, but I have never known Walton McLeod to ever have anything except the best interest of Walterboro at heart. And he took a house over there that was just an eyesore, something that was falling down, run down, and he certainly made it look a whole lot better, at least, I think almost anybody that saw it before and looks at it now would have to agree with that. And I just appreciate that he did that for Walterboro because it is an improvement. I would hope that we wouldn't do anything to discourage people from making improvements to our buildings in Walterboro and to do things that are going to make our city look better. Walton is not here to defend himself, but he has never been anything but a gentleman that I have ever seen and never done anything except what he thought was best for Walterboro."

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Mr. John Rodgers then thanked the city for its cooperation during the Rice Festival, especially the Police Department.

The Mayor Sweat then called for an executive session for a personnel matter.

A motion was then made by Council Member Cannady to enter an executive session for a personnel matter. Council Member Smalls seconded the motion that passed unanimously. The meeting then convened into an executive session.

The Meeting returned to Open Session, with no action being taken as a result of the executive session.

There being no further business to consider, a motion to adjourn the meeting was made by Council Member Cannady, seconded by Council Member Parker and passed unanimously. The Mayor adjourned the meeting at 6:54 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