

Walterboro City Council
Public Hearing and Regular Meeting
June 12, 2007

MINUTES

A Public Hearing and Regular Meeting of Walterboro City Council was held at City Hall on Tuesday, June 12, 2007 at approximately 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, and Franklin Smalls. City Manager Tuck McConnell, City Attorney George Cone and City Clerk Betty Hudson were also present. Council Member Mary Anne Cannady was ABSENT. Approximately 25-30 persons were also in attendance.

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

The Mayor then changed the order of the agenda and recognized Police Chief Otis Rhodes. Chief Rhodes announced that five police officers had completed the Public Safety Officers training program and presented them with their new Police Safety officer badges to replace their old Police officer badges. Those who completed the training were: Lt. Ken Dasen, Officer Sean South, Sgt. Jason Chapman, Sgt. Bert Sweat, and Corporal Paul Potts. Chief Rhodes also recognized and announced the promotion of Sgt. Al Lewis to Lieutenant and recognized newly hired Officer Lt. Clint Crouse.

Chief Rhodes stated that in February, the Police Department started fire fighting classes for public safety. These officers have to complete 172 hours in various firefighting training classes. Chief Rhodes announced that this was the first class to complete the public safety training and that they will perform both police and fire safety duties. Chief Rhodes also stated that this would be an asset to the City of Walterboro and to our citizens in the prevention of fires and the saving of lives where possible.

The Mayor then announced a public hearing to receive public comments on proposed Ordinance # 2007-07, adopting the City Enterprise Budget for 2007-2008.

Council Member Young, Chairman of the City Finance Committee, stated that the budget this year was broken down into two parts. Councilman Young reported that on the recommendation of our auditors, the city now has a general budget and an enterprise budget. The general budget is \$6,651,284, and the enterprise budget, which includes our utilities and the parts of city government which generates revenue is \$4,435,302, but \$1.5 million of this amount has been earmarked for utility expansion and wastewater treatment. The budget includes a cost of living increase for city employees, as well as an enhanced health benefit plan for our employees. Mr. Young stated that for the 2nd time in the 18 years he's been on City Council, the city will have a 3.8% tax increase, which will generate about \$50,000. It will raise taxes on a \$100,000 home by \$15.00 per year. The tax cap referendum and law which was passed by the state legislature has put about every municipality and county in the state in the position of having to do this whether you want to or not, because if you don't do this, then that's revenue that you can never recoup. So, for the 2nd time in 18 years, we have imposed a small tax increase.

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Councilman Young also announced that the city will impose a 6% water rate increase, which will increase the average city water bill about \$1.50 per month. Councilman Young stated that the City still has, if not the lowest water rates in the state, or close to it, even with the increase. We have very good water rates.

No comments were received from the public on Ordinance # 2007-07.

The Mayor then opened the floor to receive public comments on the City's proposed Ordinance # 2007-08, An Ordinance Adopting the City Budget for Fiscal Year 2007-2008 and Matters Relating Thereto.

The Mayor stated that he felt Councilman Young had already discussed the highlights on the general budget. The Mayor commented that in talking with the news media, we have talked quite a bit about what has lead to the fact that some of the increases that the city and local governments are having to take to preserve themselves for things to come in the future. He asked for any discussions or comments about the budget. No comments were received. The regular meeting then commenced.

The Minutes of the March 27, 2007 Public Hearing and Regular Meeting, the May 8, 2007 Public Hearing and Regular Meeting and the June 5, 2007 Special Called Meeting were approved as submitted on the motion of Council Member Lucas, seconded by Council Member Smalls, and passed unanimously. Council Member Cannady was absent and did not vote.

The Mayor then announced the Council Member Cannady was unable to attend the meeting tonight due to a family matter.

Under Old Business, 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 for Second Reading and Adoption.

The Mayor stated that to start, he really needed to explain and comment on this ordinance. He stated that this Ordinance # 2007-04 was generated partly because of his request and some of the other member's of the city requests because the City in enacting the Historical Preservation Ordinance years ago failed to complete its job by enacting all parts of the Preservation Ordinance. One item that was missed was the Certificate of Appropriateness - how it was done and how it related to things that were going on in the Historic District. There are a lot of things that this ordinance attaches that we at that particular point didn't even require building permits for, but now do require building permits for. So, there were a lot of things out there that in the first period when this ordinance was enacted, that was not affected, but yet they are now affected. Mayor Sweat stated that he felt it is the city's responsibility since we created the problem that we also are a part of fixing the problem. So, this ordinance helps fix the problem in his opinion. It doesn't relinquish any one of any wrongdoings. It doesn't relinquish any items that were bad that required a building permit that were still bad. What it does - it is relinquishing a lot of those items that didn't require building permits and gives them a grandfather clause. This ordinance would affect items such

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as fences, handicapped ramps and a multitude of other building issues that are out there in the general public that if this doesn't change, or change does not come about in some matter, then might go back and hurt individuals both monetary and physically for some of the things that have happened in their homes in the past. He just felt it was his responsibility to tell you (the public) where we were coming from with this. We enacted a Preservation Ordinance to help us preserve this community. We did not enhance a Preservation Ordinance to go back and take this community back to the period when it was originally set up. So, therefore, we want to help keep what we have and not destroy it, but we are not there to rebuild what was at one time. We are not here to try to put undue burdens on individuals that live in this city. It's bad enough that we have to raise taxes, or raise water rates, but to attack individuals on individual properties sometimes gets to be rather extreme. So, we have before us 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 Issuance of Building Permits.

Mayor Sweat then MOVED to adopt Ordinance # 2007-04. Council Member Young seconded the motion. The Mayor then opened the floor for discussion - first from Council and then to the general public.

Council Member Lucas stated that his concern is on the Wichman Street house, which is the forefront of all of this. He stated, I think Ms. Newman should feel comfortable that this does not affect anything that is bearing on her house as far as relieving any liability. I will support this if she feels that she is protected and that it's not going to affect her.

Councilman Smalls then asked those person present at the meeting to raise their hands if they lived on Wichman Street. About five persons present at the meeting raised their hands.

The Mayor then opened the floor to receive comments from the general public.

Ms. Sherry Cawley, Co-Chairman of the Historic Preservation Commission, then addressed Council regarding the Wichman Street house. She stated according to the ordinance, the way it reads today, is that if a building was destroyed by fire and if it were to be replaced exactly as it was, then it would not need a Certificate of Appropriateness. In the original building permit, the City was told that the house would be restored "as it was." There was no issue about having a Certificate of Appropriate for this house. That is the way the ordinance reads today. Also, you have to understand that in the ordinance, it does not say anything regarding any other type of permit except a building permit. So, any other problem that would involve other things such as electrical, sewer, etc. has nothing to do with the Certificate of Appropriateness, as designed by the Commission.

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Ms. Carol Black then addressed Council. Ms. Black spoke in opposition to the approval of Ordinance # 2007-04. She questioned the ordinance as written, specifically, Section I which reads: "All non-conforming construction that has occurred prior to the adoption of this ordinance and since the adoption of the Historic Preservation Ordinance, with what would have otherwise been a valid City Building Permit but for the lack of a Certificate of Appropriateness, shall be treated in the same manner as other non-conforming uses that were in existence prior to the adoption of the Historic Preservation Ordinance." She stated that the way it is written that it will grandfather in any nonconforming uses whether it required a building permit or not. I do not oppose City for grandfathering in those that did not apply for a building permit.

Ms. Black further stated that the Wichman Street house was not rebuilt exactly as it was prior to the fire, so that provision that opted out fire restoration does not apply. It all goes back to whether or not that building permit is valid or not.

Mayor Sweat pointed out that the ordinance applies to those constructions that did require building permits and to those that did not require building permits. He pointed out that there were a lot of things that did not require building permits before but now requires a building permit.

Ms. Black then asked the Mayor, do you want this ordinance to grandfather in every single thing that's been done without a Certificate of Appropriateness? Then, my position is the same. I came down here in March to ask you to enforce the Certificate of Appropriateness requirements for two buildings - 1009 Wichman Street and Mr. Walton McLeod's house. Mr. McLeod has now contacted the City, I understand, and wants to comply. He wants his house in compliance and he's going to change it. So, that leaves one building, and I have been waiting for someone to go through the files to see how many people would be affected. I can't see anyone who would be bothered, because no one has checked to see how many people would be affected. So, far the only building you know that's affected is the one that was owned by Mr. George Cone's company, Casper, LLC.

Ms. Black then stated that she is afraid that the people in this town are going to think that City Council is willing to change the law when someone, who either works for the City or has a connection with the City, wants to have a law changed. Because if this is the case then, why didn't Council go back and say to Leadership Colleton, "You didn't know that you had to have a Certificate of Appropriateness, so we are going to grandfather you in?" I don't understand why Council thinks that if they vote for this that they are not saying to the city - "We are going to pick and choose, and when it's our City Attorney's house (his company's house, not his personal house) that we are not going to make him comply." I would be happy for someone to come back and say - there's like 15 people who would have to rip off all these things from their house. I could see the quandary you would be in, but no

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one has bothered doing that. So, all I can infer from this is that there is nobody else that would be affected.

Ms. Cindy Newman, owner of the house in question on Wichman Street, then addressed Council. She told Council that she thinks it's a good idea to actively pursue the Certificate of Appropriateness from now on. She said I think it's desirable to protect the Historic District, and that's one of the reasons I bought my house. However, I don't think it's a good idea to retroactively pardon past negligence. Ms. Newman told Council she was hoping to have her house reinspected, because there were major issues with the house the city inspector should have seen.

Council Member Young then asked City Attorney Cone if the Certificate of Appropriateness had anything at all to do with what the city building inspector would be checking for. He asked, if it had to do with historic preservation and the outside appearance of the building? Attorney Cone responded that the building inspector inspects buildings for the building permits and certificates of occupancy.

Council Member Young stated that he did have some knowledge of the problems Ms. Newman is concerned about with her house. He then asked the City Attorney Cone if the Certificate of Appropriate is related to an "appearance element." Councilman Young pointed out that the COA is not designed to say that electrical is right, the plumbing is right. It does not say that any of those things are right. That's not what it is designed to do. Attorney Cone agreed that is designed to do "outside appearance."

Council Member Young further stated that he believed that the things Ms. Newman is concerned with are separate issues. He said, no one on Council is trying to protect George (the City Attorney), the McLeod's or anybody else. What I don't want is for Ms. Carol Black coming in here and raising cane about everybody in town that's built something that we didn't issue a Certificate of Appropriateness on. It may be our fault for not issuing it, and then we have everybody having to tear things down. Now, she says that she's not interested in that, but for her to keep saying that we are just doing this just for the "McLeods," well, that's just not true - It's just absolutely not true. That was not my intent at all in wanting to pass this ordinance.

Mr. Jack Jackson, a city resident, then addressed Council. He said he felt that everyone had some misunderstanding on what this ordinance means. He said, we should all go back and read it. It doesn't just deal with the outside appearance, but it deals with the whole historic nature. Chapter I is the design guidelines for site design. Chapter II is design guidelines for Rehabilitation of Historic Structures. It details building materials. Attorney Cone then pointed out that all this has to do with is the outside appearance. Mr. Jackson disagreed and stated those building materials could be inside - it could be walls. Mr. Jackson also stated there were guidelines for new construction. He stated he would take exception with Council on this. He then asked that Council consider a compromise. He asked why not give the

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responsibility to this commission to handle exceptions which need to be addressed, rather than pass this blank resolution. Give them the permission to make the decisions on whatever the violations may be to decide if it should be waived or not. That way, I think it would be a much fairer process.

Mrs. Mary Ann Burttt, a city resident, then addressed Council. She told Council that she was concerned that some of the buildings in the Hickory Valley Historic District are now covered with vinyl siding.

Ms. Cindy Newman then told Council that there is a connection between the building permit and the Certificate of Appropriateness. There should have been a COA issued when the building permit was issued. She told Council if you were to declare the permit invalid, then my home would have to be reinspected.

The Mayor responded to Ms. Newman that she could have her home reinspected by request if she wished. Ms. Newman then requested that the City reinspect her home.

Mr. Jackson then stated that the way the ordinance is written, there should never be a building permit issued in Historic District before the Certificate of Appropriateness is issued. Mayor Sweat clarified that the ordinance was written that way, and that's why we are correcting it with this ordinance.

Councilman Young added, 'because we feel like we are responsible for that in some cases and we don't want the citizens to be forced to go in and tear things down because somebody at City Hall dropped the ball. We need to do better in the future.

Ms. Black again emphasized her opposition to the law being changed to protect only one building. She then asked again how many people would this ordinance affect. She stated she does not understand why no one has bothered to find out how many people this ordinance affects. She said, but if you can't prove me wrong, then it can only lead me to believe you are trying to protect one particular house.

Prior to closing the hearing, Councilman Smalls stated that most of the discussion here tonight is about something in the past - something that has already happened. I feel that this ordinance will do two things - to try to cover what would have happened in the past and then make sure that the same mistake is not made again. So, we can sit here all night and talk about what has already happened, but our effort with this ordinance is to try to correct things and not let it happen again.

Councilman Young then asked Attorney Cone if the City were to pass this ordinance, would this take away any legal standing for Ms. Newman, as far as her building.

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Attorney Cone responded that he has no financial interest whether she sues or whether she does not sue. I have no financial interest in the purchase or sale of that house. I acted as a trustee, and a trustee only, and it should not affect, in my opinion, any legal rights she may have.

Ms. Black then argued that the ordinance does affect Ms. Newman's rights. Attorney Cone responded that he did not want to argue legal opinions with Ms. Black. He told Council, you have heard her opinion and you have heard my opinion. Concluding the discussion, Mayor Sweat told Ms. Black that Mr. George Cone is our legal advisor, so we accept what he gives us because he is supposed to keep up with what is legally binding for Council.

The Mayor then called for the vote on the adoption of Ordinance # 2007-04, being 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. The motion for adoption passed with a vote of 4/2 with Mayor Sweat, Young, Smalls and Parker voting in favor, and Council Member Lucas and Thompson opposing the motion. Council Member Cannady was absent and did not vote.

Under New Business, Council adopted Resolution # 2007-R-03, Certificating the May 22, 2007 Municipal Election on the motion of Council Member Lucas, seconded by Council Member Parker and passed with all members voting in favor. Council Member Cannady was absent and did not vote. A copy of said resolution is attached as part of these minutes.

The next agenda item, Consideration of Appointments to the City Boards and Commission was deferred by Council to its next meeting.

Next, Council considered the bids received for the replacement of a new truck for the water department. Utilities Director Wayne Crosby informed Council that the Utilities Department accepted three bids and is submitting for Council's consideration as follows: 1) Rizer Chevrolet \$15,533.63; 2) Materials Management Office (State Contract) \$14,892; and 3) Walterboro Motor Sales \$14,800. A motion was then made by Council Member Parker, seconded by Council Member Smalls to accept the low bid of \$14,800 from Walterboro Motor Sales. The motion passed with all members voting in favor, except Council Member Cannady was absent and did not vote.

Next, the Mayor announced consideration of Ordinance # 2007-07 final adoption and approval of the Enterprise Budget for the City of Walterboro for 2007-2008. A motion to approve Ordinance # 2007-07, an Ordinance Adopting the City Enterprise Budget for Fiscal Year 2007-2008 and Matters Relating Thereto, was made by Council Member Young, seconded by Council Member Parker, and passed with a vote of 6/0. Council Member Cannady was absent and did not vote.

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Next, the Mayor announced consideration of Ordinance # 2007-08, adoption of the City Budget for the City of Walterboro for the year 2007-2008. A motion to approve Ordinance # 2007-08, an Ordinance Adopting the City Budget for Fiscal Year 2007-2008 and Matters Relating Thereto, was made by Council Member Young, seconded by Council Member Smalls and passed with a vote of 6/0. Council Member Cannady was absent and did not vote.

Next, the Mayor opened the floor to receive Public Comments. Ms. Mary Ann Burttt questioned why Council was deferring appointments to the Planning Commission. This Commission is under a deadline to update the Comprehensive Plan this year and desperately needs someone on that commission. There is at least one citizen who has volunteered to serve. The Mayor responded that there are two other people to consider, but this information was not submitted in the agenda packet with the appropriate information, so Council is not aware of who has applied for what position.

Ms. Betty Alexander expressed concern with the problems she is experiencing at Lincoln Apartments with gangs. Chief Rhodes stated staff is working on part of her problem. It has increased somewhat since school has been out. He pointed out that a lot of the problems are coming from people visiting her residents, but the department is working on a plan of action to curtail this problem. He told Council that he and his staff would be glad to meet with Ms. Alexander on this problem sometime in the near future. Mayor Sweat agreed with Chief Rhodes that it was a good idea to meet with Ms. Alexander on her concerns. He informed Ms. Alexander that if it comes back that you need an ordinance to impose a curfew, then come back and present it and I think Council will be most susceptible to listening to your concerns.

Ms. Tammy Smith then told Council she had been a manager of two apartment complexes and agreed there was a gang problem at Lincoln Apartments. She said, I called the police all the time. She asked if the city and the county would work together to help each other, not only for Lincoln Apartments, but for other apartment complexes. She stated there was a drive-by shooting at Walterboro Village. It's an ongoing situation. I understand that Chief Rhodes is really short on help and maybe we could come together to get a bigger budget for him. We have all kinds of gangs coming out there, so it's not just the visitors causing the problems, it's some of the tenants.

Mayor Sweat suggested that she discuss this matter with the other apartment managers, and once you have a plan of action, let us know and we'll be glad to help you put it in place. We need a plan of action brought to us.

Councilman Smalls then told Chief Rhodes he would like to work with him on the gang problem. He said, it's two things we need to find out - who are they visiting and where are they coming from.

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Council Member Parker asked if the lighting there was sufficient. Ms. Smith stated that more lighting was needed. Councilman Parker suggested that more lighting and the cutting of shrubbery would help. Mr. Parker stated that the city cleaned up an area on N. Lemacks and it's cut down considerable on crime in the area.

In regard to the Certificate of Appropriateness, Ms. Gail Doggett stated she wanted to know about the appropriateness of the antennas on top of towers, such as the historical jailhouse. Those antennas are unsightly to say the least. Mayor Sweat agreed, but stated they are providing wireless internet service for the city.

Mayor Sweat then recognized Ms. Betty Thomas as a visitor to the meeting tonight. Ms. Thomas is a fellow councilperson from Cottageville.

A motion was then made to enter an executive session for a personnel matter and a legal matter. A motion to enter executive session was made by Council Member Young, seconded by Council Member Parker and passed unanimously.

The meeting returned to Open Session and there being no further business to consider, a motion to adjourn the meeting 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