

MINUTES

A Special Called Meeting of Walterboro City Council was held at City Hall on Tuesday, July 31, 2012 at 12:00 Noon with Mayor Bill Young presiding. The purpose of this meeting was to consider the bids received for the Arborscape Project and to hold a workshop on the proposed Unified Development Ordinance.

PRESENT WERE: Mayor Bill Young, Council Members: Paul Siegel, Dwayne Buckner, Charles Lucas, Randy Peters, Tom Lohr and Bobby Bonds. City Manager Jeff Lord, City Clerk Betty Hudson and City Attorney George Cone were also present. Approximately 8 persons were present in the audience.

There being a quorum present, the Mayor called the meeting to order and gave the invocation. Council Member Bobby Bonds led the Pledge of Allegiance to our flag.

The Mayor announced that this is a Special Called Meeting, as the result of a motion in the last regular meeting to look at the Unified Development Ordinance and to consider the bids that came in for the Arborscape Project and to move that forward. This saves us two weeks in moving forward on the Arborscape Project.

OLD BUSINESS:

There was no Old Business before Council.

NEW BUSINESS:

1. Consideration of Bids Received for the Arborscape Project

City Manager Lord reported that the City received three bids for the Downtown Arborscape project. He said, we added them together and what you see at the end there is the total with all the additional alternatives, but not the reduction alternatives. These alternatives were put in just in case the price was more than what we had budgeted, but this is the total amount. The bids received were as follows:

J. S. Construction Services	\$721,876.00
Wildwood Contractors, Inc.	\$768,826.15
L-J, Inc.	\$1,076,900.00

City Manager Lord recommended acceptance of the low bidder, J. S. Construction Services, in the amount of \$721,876.00. He said, this is within the budgeted amount for this project and you have a letter enclosed from the engineering consultants recommending them as a good company to do the work, so we are seeking your approval of the low bid from J. S. Construction Services.

A **motion** was made by Council Member Lucas to accept the low bid from J. S. Construction Services in the amount of \$721,876.00 for the Arborscape Project. Council Member Buckner seconded the motion.

In discussing the motion, Council Member Lucas asked where is J. S. Construction located? Mr. Lord responded, I believe they are in the Hilton Head area.

Mayor Young indicated that there is a difference of \$46,950.15 between the lowest bidder and the next lowest bidder Wildwood Contractors, Inc. of Walterboro.

Council Member Bonds asked the City Manager, what percentage is that difference? Mr. Lord said that is going to be a 7% or 8% difference. He further stated that part of the funding for this project \$350,000 is through the Colleton Transportation Commission, and they do require you to select the lowest responsible bidder, or you don't get that funding.

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Mayor Young stated, if we don't accept the low bid, then we don't get the money from the Colleton County Transportation Committee. Mr. Lord responded, yes.

Council Member Peters then said, I see there is no figure there for Alternate 3 (Stamp Crosswalk) on the lowest bid, when everybody else has a bid on this. What is this about? He asked if there is an additional charge. Mr. Lord explained that the original specifications called for brick pavers, and this alternate is a deduct, if you don't use real brick pavers. You use stamped asphalt, and what they are saying is they are going to charge the same amount for either choice. Council Member Peters then said, so if we get real bricks from them, it will be the same amount? Mr. Lord responded, yes.

Council Member Buckner told the City Manager that he wanted to make sure that we have noted in our contract wherein the contractor could not increase its bid. He asked, is this locked in at \$721,876, because I don't want it to be where they can say, we made a mistake and can see that we are \$40,000 lower than the next person and then try to come back and come up with another \$30,000 or \$20,000.

City Manager Lord responded, there are bid specifications on this, and then of course you have the design documents which dictate what they are going to do. Having said that, in any project there is a possibility for a need for a change order for unanticipated things that could not be predicted. It happens with every project, and so it's possible that could happen here.

Council Member Buckner then asked Attorney Cone, with the difference of \$46,000, can you see an argument could be made legally to raise the bid?

City Attorney Cone responded, you could ask prior to the award of the contract that they would confirm their figures. Once the contract has been awarded and they agree to the specifications in that amount, they are bound to do it. He then asked the City Manager, does the contract provide for a performance bond? Mr. Lord noted that the contractor has a bid bond and a performance bond, and they have already signed something that says the prices they are offering are good for at least 90 days. They have to give us the price that they will do it.

Mayor Young then said, you have said there is a \$350,000 grant from the Colleton Transportation Committee. Do you know of any method that would allow us to award this bid to the local company? Mr. Lord responded, you could delete the \$350,000. He also stated that he did not know of any exception that the Transportation Committee could make, so that the award could go to the local company.

Council Member Bonds then said, I am going to be honest. I would want to give that \$46,000 difference to a local person. I think that local people have worked here and have local crews and their money is going to come right back here and get spent in Walterboro. I mean, we are going to make that money back. However, if we are going to lose a \$350,000 grant, we can't do it.

Council Member Bonds then asked the City Manager, is there absolutely no way to work this out to see if the County could do this? Mr. Lord responded, if you want to do that, then you are going to have to submit a request to them. We have to wait until the next County Transportation Committee Meeting. They will review it and give you an answer, then we'll bring it back to you for approval. It's going to add a month.

Public Works Charlie Chewing pointed out that the bid procedure applies under the State rules. He said, I think that is what they brought down to the Colleton Transportation Committee as to what the requirements are for this money.

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City Manager Lord noted that the only way that they (the contractor) could justify anything higher is if they requested a Change Order for things that could not be foreseen, and then we have to approve those changes.

Attorney Cone added, and if they can't complete it for the money, the bonding company is responsible for making sure that it gets done.

Further discussion was held in which various Council Members expressed their concern on whether or not the City could award the contact to the local bidder.

Concluding the discussion, Council Member Siegel stated, I know we want to give businesses locally when we can afford to give business locally, but we can't rig a bid. We have to be extremely careful that we don't reject a legitimate lower bid where the people are capable of doing it. He also said, we do have to make sure that they have complied with all the bids, but people who bid on these projects also have their rights, too. We have to be concerned that we do not trample over the rights of somebody who claims to be the winning bidder in a legitimate bidding process. I just want to be careful about going over the limit to promote local businesses. We want them to make competitive bids, we want them to win and we want them to be as close as possible.

Council Member Buckner then asked what is the county's percentage for being above the local bidder. Mayor Young replied it seems like it is 3%. It was noted that the percentage here is 7%. Mr. Buckner then said, so that's twice what the county's percentage is.

Council Member Lucas felt that percentage was not an accurate way to look at money. He said, if we are talking about a \$200 machine and its 10%, okay, but when we are talking about \$600,000 or \$700,000 or a one million dollar project, then 10% is a lot of money. I don't think that there should be an arbitrary percentage on high dollar value. It adds up when it's very expensive.

No further discussion was held and the motion to accept the low bid of \$721,876.00 from J. S. Construction Services for the Arborscape Project passed with a vote of 5/2 with Mayor Young, Council Members Siegel, Buckner, Lucas and Lohr voting in favor. Council Members Bonds and Peters voted against the motion.

PUBLIC INPUT ON AGENDA ITEMS:

At that point, the Mayor announced that he would now receive any comments or questions on agenda items from the public.

Mr. Peden McLeod appeared before Council and asked Council to consider putting something concrete in writing about the Historic District. He said, as I understand it, the desire is to try to preserve some of the historic buildings. Mr. McLeod said, I have a particular reference to the property at the corner of Neyle and Memorial Street, which is certainly not a historic building. Once, when we tried to renovate an old house at 517 Hampton Street (Tax Map # 163-12-00-189) we had quite a time trying to adhere to the Secretary of Interior's Guidelines. By following the Department of the Interior's Guidelines, they require, for example if it's a chimney on there, then it has to have identical composition bricks. If you replaced that chimney, it had to be the original old glass, some was old and some was new.

He said, I think preservation of our Historic structures is something City Council ought to address, but to leave any loose ends to some Federal regulations, the Department of the Interior's Regulations, is a little dangerous. I finally gave up on

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trying to meet their guidelines, because it was going to cost a fortune to do what they wanted.

Mr. McLeod also told Council that the State and subsequently the counties and cities all adopted the Southeastern Building Codes. He stated about a month or two into the rehabilitation of the State House, they found out that it was covered by the Southeastern Building Codes, which meant it was required to be earthquake-proofed. Well, it happened to cost about \$18 million more than what they anticipated, because Southeastern Building Codes applied to everybody. I just think, if you adopt something, I don't think my building ought to be in the Historic District. If it is, Council should come up with concrete things in writing as to what it is, and not fall back on relying on the Department of the Interior Regulations. That will hang somebody by the neck.

Mr. McLeod further commented on Tax Map # 163-11-00-244. He noted that the proposed change on this property is natural preservation. He told Council, he felt this lot should really be zoned commercial. The lot is located on Ireland Creek Drive, which is a couple of lots down from those apartments. This property belongs to Ivanhoe Road, Inc. Mr. McLeod concluded by stating, I just want to caution you not to adopt something that adopts any kind of Federal regulations.

Mr. Andy Ulmer told Council that he had hired an attorney and among other things we have uncovered some of the Federal guidelines, which in essence says if a photograph can be produced of what used to be on the property, they can force you to build to it. In my case, I am not sure that is onerous because in years past, it was Marvin's Feed and Seed, which was a cluster of sheds and chicken pens. I think you know my position on the rest of my property; I would prefer not to be in the Historic District.

Ms. Marsha Johnson told Council, I have been at meetings where citizens have come in and pressed for things that were in the Historic District. She further stated, in this particular area, there are a lot of elderly people who own historic houses. One of the things we talked about is how important it is to have a set of guidelines that foster preservation which allows people to do it in an economic way. One of the things mentioned at the last meeting was that they can actually cause you to have to repair historic artifacts; it would be cost prohibitively to do this. The intention was to allow citizens to preserve the historic flavors of things, but not when it was financially prohibitive and to allow the appeal process to include financial concerns.

She further stated, it's important to have flexibility in your guidelines but it is also important to have some ability to create and preserve. I assume that anyone living in the Historic District would not want a gas station right across the street from their historic house, and that can happen. We don't want something hideously ugly right at the top of Washington Street, which is an area that everybody has worked so hard for. While Andy might not do it, we are not all going to live forever, and so if we don't have protections in the area, then we don't preserve the area. I know there has been a tremendous amount of rework in that area, and I really think you would be better off if you hired somebody to do it, because the people who were doing them don't really understand the legality of things, and they left out things and they put things in. So, it's an important area and I think it is an area that it might behoove us to at least have some kind of professional guidance on.

Mr. Andy Ulmer said that gas stations or any other use should be governed by zoning. It has nothing to do with the Historic District. It does not apply. On another issue, Mr. Ulmer asked that Council not refer this back to the Planning Commission until such time that Council fills the two vacancies on the Planning Commission.

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Ms. Sherry Cawley, Chair of the Historic Preservation Commission, told Council that the two historic districts that were already established in the City were established as National Registered Historic Districts. Their guidelines are based on the Department of the Interior and Parks. Their guidelines are very rigid and they do control and have a lot of very strict rules.

Ms. Cawley pointed out that in the original ordinance which was passed for the Historic Commission, it was to create a Business District and a Local Historic District. Now, they do not have the same rules as a National Historic District, and even within the National Historic District, they are based on whether you are a contributing factor or a non-contributing factor. So, if your house, I don't care if it is 100 years old; if it does not meet their guidelines as contributing to a historic house, then it does not fall under their rules. It would fall under the local Historic District rules.

She said, and we have never completed the ordinance by finishing out the local Historic District. So, what we are trying to do and what we want to do is get the pigeon holes in and the other two districts to create a Local Historic District. The guidelines would not be the same rigid National Register, but would be a local Historic Register of what you can and cannot do. For over a year, we have worked on the guidelines. What we do with these guidelines is we've gone to the State Archives and History and had their people come and talk and work with us. We have gone to other communities that are similar to ours and asked for their guidelines and worked with their guidelines to come up with ideas.

Ms. Cawley also told Council, one of the things that we have said from day one is that Walterboro is not Charleston, and it is not Savannah. Walterboro should be done as Walterboro. One of the things that we decided was that as we create the rules for the Business District, which we have done everything but put in diagrams and pictures, was that we would put in there the clauses for each of these things that "building materials have changed over the years, and there are many things that are similar as the old product that are better than the old product." As long as it doesn't take away from the overall appearance of the building, we are allowing those new products to be used without any distinction.

Ms. Cawley also stated that there is a section for new construction. The basis for new construction is only that we ask you to keep it within your neighbors. In other words, to be similar in style and whatever you are using within that area and not have some pointy thing in the middle of downtown or if it changes the outlook of what it is. That's what historic preservation is all about. It's not about telling you that you can't do this. We don't care what's in your building. Now, the National Register does, because they can tell you how to fix the inside of your building. We are not interested in that, we are interested in the facade of your building as seen from the street. We don't have any control and we don't want it over what you do inside your building.

Mr. Peden McLeod, told Council that when he came to City Hall to review the map of changes, it did not have a word on it about historic, not one word. The historic part just came up yesterday afternoon for me. If Council has adopted what she (Mrs. Cawley) calls a local ordinance dealing with it, then everybody has a chance to read it, complain about it or go along with it, but in the absence thereof to just rely on the Department of the Interior's regulations is like buying a pig and a poke.

Mr. Bob Smith, former member of the Planning Commission, addressed Council on the Unified Development Ordinance. He said that he was involved first-hand to an extent in developing the ordinance. There has been a lot of work that has gone into this. However, my concern as a businessman from sitting on the Planning Commission is that I felt like I was a voice crying in the wilderness. It seems like a lot of concern has been placed on the historic side. I think there are two things related to the

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Historic District. One, we should not look at expanding a district in anyway whatsoever until the review process has been properly proven. Also, speaking to Mr. McLeod's point, if in fact this is true, until we have had these local regulations for those defined sections administered and administered within the confines of what would apply and not instigate expansion until we see what we have. The primary concern I had was that it was seemingly ineffective.

Mr. Smith further said, if you look around the city, there are very few large tracts of property or groups of lots that remain undeveloped. Many of the properties, I would dare say, a large majority is one acre or less. Many of those are probably a half acre or less. One thing that came up in the context of our Commission developing these things had to do with the buffer zones, screening and parking. Those provisions in my estimation as a business man are too regulatory and would severely limit, if not make it impossible to develop some of these lots. So, I think due consideration needs to be given to those things and also the history as to how they have been addressed in the past on larger projects where enforcement has not been on an equitable basis. It is a daunting task, and I realize it. I just want us to get it right. I think that one of the things that came up on the smaller lots is that you can always go to the Appeals Board or whatever government agency to get an exception. Well, it seems like there are a lot of things that come in; if you can avoid it on the front end, I think that is a fruitful thing to do.

City Manager Jeff Lord then asked Planning Director David Dodd to go through a time line of how we got to the regulations that we are presenting to you today, starting with the original restrictions on the Downtown Improvement District and bringing it forward. I think a lot of question about the lack of local going to national rules was something that was attempted to be addressed during this process and hopefully we can eliminate that a little for you.

WORKSHOP:

Proposed Unified Development Ordinance

The Meeting then entered into Council's Work Session to discuss the Unified Development Ordinance. Planning Director David Dodd told Council that he had put together a list that goes in order to where we are today, and it is entitled "Commercial Design Guidelines." He gave the following highlights:

1. The first Commercial Design Guidelines basically came about with the adoption of Ordinance # 1984-5 in **April, 1984**. This established the Downtown Improvement District and the minimum standards that went with it. That's 28 years that we have had historic preservation guidelines for commercial buildings in most of the downtown area. Those guidelines are Exhibit C of that same ordinance.
2. Those standards later were adopted with the current Zoning Ordinance as the Central Business District standards. So, we have had downtown commercial standards for a number of years.
3. **In 2000**, the Historic Preservation Ordinance was adopted. That ordinance established the Historic Districts, which are the Walterboro National District, the Hickory Valley National District and the Downtown Improvement District. In that ordinance, it gives the Historic Preservation Commission the responsibility to establish districts or zones and to establish design guidelines.
4. **In 2003**, our current Zoning Ordinance was adopted, and in the Central Business District, the building standards were added that were the same as

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those color and facade standards in that 1984 Ordinance. In addition to that, there was also a section on reconstruction, annexation and demolition.

At this point, City Manager Lord added, in **2003** it was incorporated into the Zoning Ordinance. Also, the City Code, separate from the Zoning Ordinance, talked about the Downtown Improvement District and it gave review authority at that time to the Downtown Improvement District Review Board, but in **2006** that authority was given to the Board of Zoning Appeals (BZA).

5. In **2009**, the Historic Preservation Commission started working on "Commercial Design Guidelines" to add to what those standards are for the Central Business District. Around that same time, the Planning Commission had been approached to look at expanding the Central Business District, which would enable areas that are adjacent to it that don't have setbacks and parking requirements of the zones they are in, to be allowed to be more compliant by being in the Central Business District. The Historic Preservation Commission held an open forum, invited the general public and all downtown merchants to come and talk about what they would like to see with the Historic Commercial Design Guidelines. The Historic Preservation Commission continued working on those based on what they got from that input session.
6. In **May 2010**, the 2010 Comprehensive Plan was adopted and Chapter 2 of the Comprehensive Plan under Goals and Objectives states that part of the historic resources goals are to create an overlay district with design guidelines.
7. The Historic Preservation Commission provided Commercial Design Guidelines on **May 2010** to Benchmark for its inclusion in the UDO. In **June 2010**, Benchmark held a public input meeting where all commercial businesses in town were invited. It was put on the website, a notice was placed in the newspaper and notices were sent out with the water bills. We tried to get as much public input on all aspects of the Zoning Ordinance which includes the Historic Design Guidelines and historic areas. They also conducted a public input survey. The following month, in July, they provided the first draft of Chapter 2 which referenced the Historic Overlay District and the Historic Design Guidelines in Chapter 4, which came the following month in August. Chapter 4 included the Historic Preservation Overlay, Historic Downtown Walterboro Design Guidelines.

At this point, City Manager Lord said, the thing that keeps coming up is the lack of guidelines for these commercial structures. That was part of the original draft of this ordinance. It was taken out because there were concerns by some of the Planning Commission members that it would be overly restrictive. So, those standards that were previously listed, the facades standards, the color standards and all those things were incorporated and expanded upon in those guidelines, were taken out, in response to that request to not be overly burdensome. So, the only reason that it's not in there is because it was taken out by the Planning Commission.

Mr. Lord further stated, we have put in your packets a copy of those guidelines. It goes through very clearly what the standards are. It has the drawings and this is a result of what the Historic Preservation Commission submitted based on their work, then Benchmark condensed it down, put in more manageable drawings so that it more reflects what was already in place. So, if the concern is a lack of guidelines, they are available if you want to include them.

Mayor Young then asked, if everything else is taken out and the only thing that's left is the Secretary of the Interior's Standards, then does that make

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it look like that's the only standards we have? Mr. Lord responded, yes and that is the only standard you would have.

Mayor Young then asked if the Secretary of the Interior Standards were more restrictive than the other standards which the Historic Preservation Commission had recommended? Mr. Lord responded, that's where you get into the question of interpretation which is a concern. So, if you want to be clear and you want the guidelines, then the guidelines that were presented would be the way to do it, or some variation of those. If you want to keep it vague, where it could be interpreted more strictly or less strictly, then you could refer to the Department of the Interior's Standards.

Mayor Young then asked, are we required to adopt the Secretary of the Interior's Standards? Mr. Lord then said, I don't think so.

Council Member Peters then said, from what I understand and from what I gathered from Ms. Cawley's remarks is that the City has never completed appointing their historic organization. In other words, our commission, the local, has never finished that ordinance. Mr. Lord responded, that ordinance (the new UDO) will do that. Mr. Lord further explained that the intent was to incorporate that into this ordinance. That will be accomplished with the passage of this ordinance.

Mr. Peters then said, but this ordinance they are wanting to pass is the Department of the Interior's specifications, where we want our own specifications? Mr. Lord added, which were presented to the Planning Commission, but were taken out. Mr. Peters then said, well, what I'd like to do is resubmit that to the Planning Commission.

Mr. Dodd then continued with his presentation:

8. A year ago, we the Historic Preservation Commission's presented recommended Commercial Design Guidelines to Benchmark, our consultants. They took those design guidelines suggestions and produced the design guidelines that you see included in the original draft of Chapter 4. So, we did have a professional group work on the information provided and it came back in the form of the original draft of Chapter 4.

It highlights what areas are being included that were not already included in those three districts, which are the Walterboro National, the Hickory Valley National and the Downtown Improvement District. The donut holes will also now be included which were not included before. We now have one local district overlay that includes the two National Districts the Downtown Improvement District and all those donut holes in between.

9. The first draft of the ordinance referred to the Commercial Design Guidelines. It referred to the Residential Design Guidelines which were adopted with the Historic Preservation Ordinance, and they were made by Winter and Company, which is also a professional design group. We've had two professional design groups that have basically provided us two professional sets of design guidelines, one for residential and one for commercial.
10. In **Sept., 2010**, a Special Called Planning Commission Meeting was held where we received and reviewed Chapter 4 from Benchmark. Our minutes show that Benchmark made the statement that 63% of the people who were surveyed recommended having guidelines for both resident and commercial. At this

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meeting, Planning Commission Member Bob Smith expressed his concern as he did today about the cost of the requirements, stating that he questioned whether we wanted to encourage growth or discourage growth. Mr. Dodd further stated, it was after that, that the Commission voted or decided to recommend to Benchmark to take those Commercial Design Guidelines back out of the ordinance. Two months later in November, we received the 2nd draft of the UDO, in which all of the Historic Preservation Overlay requirements had been removed and only left a reference to any adopted design guidelines as the Secretary of the Interior Standards.

11. In **January of 2012**, we put the 4th draft out for public review, so the Overlay District could be looked at and scrutinized for 6 months. The standards are not included in the current draft. We tried to make it as transparent as possible, open to the public for whatever input they could give us, to give them back something that they would find compatible to work with.

Mr. Dodd then concluded his presentation.

Council Member Lucas asked, what governs what goes downtown? It seems like there are 5 or 6 different references to these guidelines? I am confused now as to what really governs downtown under the current program?

Mr. Lord then said, and that is exactly why we are going with a Unified Development Ordinance. Before, we had guidelines in the administrative code, and we had guidelines that were adopted in a separate ordinance, then we had the Zoning Ordinance. The Unified Development Ordinance is putting this all together so you are not trying to figure out where this is coming from.

Council Member Lucas stated that he had come up with his own version and proposed the following recommendation. He said that this is more in line with the current ordinance. This is just a draft recommendation and the Planning Commission may need to fine tune it. Basically, it would keep the Central Business District and the Downtown Improvement District would really go away for understanding. The Central Business District would be from Jefferies to Wichman, Lucas and Walter Streets from Hampton to Wichman (the store fronts) and would not be part of this Historical Overlay. We already have our facades protected with the current regulations and guidelines. The request for anything in this area would go to the City for approval. If approval is not given to the requesters, the expectation is that the person could appeal to the Board of Zoning Appeals. I just think being in the Historic District could pose a problem for new businesses coming in, knowing that they are going to have to meet these requirements (in the UDO) when it is already protected under the current ordinance.

Council Member Buckner then asked, let's say I bought a building in downtown Walterboro. I own it, can I tear it down? Mr. Lord responded, if you get a demolition permit and you'd have to go to the BZA to get that permit. Mr. Buckner then said, let's say I got those permits and it's torn down, now I want to build something new. What am I going to use to build this new building by in downtown Walterboro? He added that this would be according to the current ordinance.

Mr. Lord then read from the current code book which summarized that the "the construction of new buildings or building facades shall be architecturally compatible with existing facades in the CBD."

Mr. Buckner then asked what would be the standards under the proposed new UDO?

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Council Member Lucas then said, first off, you can't just go in and tear down a building. You would have to make every effort to maintain the facade under the current Central Business District special stipulations. Ms. Sherry Cawley added, you would have to try to save it only if it were "contributing."

Mr. Lord then answered the question according to the new UDO, which stated that the "building types for which there are not adopted guidelines shall be compatible with the massing, size, scale and architectural features of nearby structures."

Council Member Buckner then asked, so, do we have any adopted guidelines. Mr. Lord answered, that's what the contention is here. There were guidelines presented to the Planning Commission. They were not put in the proposed ordinance.

Council Member Lucas said he felt the question is whether the CBD should be in the Historical Overlay or not. Mayor Young added, another question would be, "are the restrictions they have been presented by the Planning Commission, the way we want to go." I think there is some danger in trying to reinvent the wheel. People have worked on this a long time. The problem we have is we really do need to get this adopted, and at the same time we don't need to rush through it and make mistakes. So, we need to figure out a way to do this that will allow us to get the document adopted and at the same time address these concerns that Council has and some of our citizens have.

Council Member Peters then said, my comment would be, can we go ahead and adopt the rest of it and put aside that section?

Attorney Cone stated you could possibly adopt the ordinance and say the new Unified Historic District guidelines will not go into effect, until they have been drafted and adopted, and that until that time, the guidelines that are currently in effect will govern those areas.

Attorney Cone further stated, what I am saying is you can adopt the district and say that the guidelines that apply to that district will not apply to that district until they are drafted and adopted by Council. And until that time, the guidelines and restrictions under the current ordinance for those specific areas will apply. Now, that will leave all those donut holes just like they are, if you did that.

Mayor Young added, that will give us some time to work on it and at the same time adopt the rest of the U.D.O. Now, I am concerned about the other developments that are being proposed and not having this done.

Ms. Marsha Johnson added, the reason that the rest of the Planning Commission wanted to have it go to the Board of Zoning Appeals was that they were trying to respect the concerns that residents have. The guidelines, the way they were, still gave flexibility for businesses that have small lots to come in and request something, but it would also give the surrounding people, businesses or residents, a chance to be notified.

Mayor Young then asked Mr. Dodd, the signs and buffers and I think that buffers are important. If you look at the areas of the City that are required to have buffers as compared to the areas that don't have it, you can see a huge difference in the way our city looks. It is a lot more attractive. Do we not have a mechanism for adjusting the size of buffers for smaller areas other than going to the BZA? Mr. Dodd responded, there is a scale and I think that is in Chapter 2. Mayor Young then said, I thought we had a way of adjusting that to a smaller size lot.

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Attorney Cone added, we had one but the amount that could be adjusted was a limited amount, then they could go to the Appeals Board. I think the building department had some leeway up to I think 25%, and then they had to go to the board.

Mr. Dodd said, Chapter 7 is a section on buffer yards on page 7-3, and depending on the district, whether it's single family residential verses commercial, the scale is 0 feet up to 30 feet, but it is 0, 10, 10, 15, 0 back in the Central Business District. As the commercial uses get less restrictive, the buffer gets more restrictive. It gets wider.

Mayor Young then said, will it suit Council to take Attorney Cone's suggestion? He then asked the City Manager if it would be appropriate to take George's suggestion and then send it back to the Planning Commission saying we'd like for it to come back to us? Mr. Lord responded, you would put that in the language in the adopting ordinance saying these provisions remain intact until such time. Then you don't change anything in the book, then it would come back to you with that change.

Attorney Cone added, that will allow people to go forward with requesting building permits with some certainty, except in the donut holes that we currently have. Everywhere else in the City could go forward, until such time, I assume we will have a pending zoning requirement, telling them it might change, but like Jeff said when we adopted our code of ordinances, we postponed zoning and we can adopt the zoning and postpone the historic district.

Mayor Young added, this would give us time to look at it and make sure we do it right.

Council Member Lucas added, I would like us to consider whether we want the Central Business District to be in the Historical Zone or not. My feeling is to keep it out of the Historic District and have its own guidelines.

City Manager Lord, it is currently in a Historic Zone. Most of it is already there. The only thing that's not already there is sections where the CBD is being extended. So, to take it out of the Historic District would be a change. To leave it in, would be the same.

Council Member Lucas said, I would like it to come out.

Attorney Cone asked City Manager Lord, is the configuration of the historic district part of the ordinance. Jeff answered yes. Attorney Cone said, we just won't adopt that configuration and those guidelines until such time as they have been proven. Everything that currently is in effect in those areas will stay in effect, until that particular chapter or verse of the Zoning Ordinance is passed.

Mayor Young added, we can come up with our own guidelines as opposed to the Department of the Interior. We could look at it and maybe it will be more compatible for the people who are in the donut holes.

Mayor Young then said, we will be recommending to approve the rest of the U.D.O., setting aside the Downtown Historic Overlay part, leaving it the same as it is, until that time we can study it further and bring in the Historic Preservation Commission and others who want to have input on it.

A brief discussion was held on the wording of the recommendation.

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Council Member Buckner then asked Council Member Lucas why he had a concern for not wanting the Central Business District in the Historic Overlay District. Mr. Lucas responded that it could deter businesses from coming in and they would have to follow the historic guidelines, whereas we already have guidelines that already protect the downtown.

Marsha Johnson suggested that since there are so many different names for these overlays, why don't we just have one set of guidelines, one name and respect the historic aspect. Then, we could keep the marketing by calling it "historic downtown," because that is a good marketing tool.

Mayor Young said, we will give direction to staff to take this UDO back to the Planning Commission and then we will address the Historic Overlay District and hopefully give it one name.

Council Member Peter reminded Council that there are still two open positions on the Planning Commission.

Mayor Young suggested, if you know anyone who would be good, please encourage them to send in a letter.

There being no further business, a motion to adjourn was made by Council Member Lucas, seconded by Council Member Buckner and passed unanimously. The Mayor adjourned the meeting at 2:00 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: September 25, 2012