

Walterboro City Council
Regular Meeting and Public Hearing
August 28, 2012

MINUTES

A Regular Meeting and Public Hearing of Walterboro City Council was held at City Hall on Tuesday, August 28, 2012 at 6:15 P.M., with Mayor Bill Young presiding.

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. There were approximately 45 persons present in the audience.

There being a quorum present, Mayor Young called the meeting to order and welcomed everyone to the meeting. Council Member Buckner gave the invocation and Council Member Peters led the pledge of allegiance to our flag.

PUBLIC INPUT ON AGENDA ITEMS:

No public comments were made on agenda items.

PUBLIC HEARING:

The Mayor opened a public hearing, duly advertised, to receive public comments on Ordinance # 2012-13, being: An Ordinance Relating to the Licensing and Regulation of Residential Rental Properties within the City of Walterboro.

Ms. Lynn Rhode of Round O, South Carolina, asked Council what would be the actual fee as a result of this ordinance. She pointed out that the ordinance did specify an inspection fee of \$15.00. City Manager Lord responded that the inspection fee of \$15.00 will be the only fee charged.

Mr. Leonard Hultquist, a City resident on Webb Street, was in favor of the passage of the rental ordinance. He said, I am in favor of it, because I think it puts a level playing field for all of us.

Mr. Darrall Altman, a property owner on Culpepper Lane, spoke against the approval of the ordinance. He told Council that he has seen insurance companies require that people do things to maintain and upgrade their homes. So, it sounds like this ordinance is trying to do something that the insurance company is already doing. I submit that if you are going to inspect my residence as rental, and I do everything I can to maintain my houses, then I proposed that you inspect every house in the City of Walterboro, because there is a tremendous amount of homes which are degrading and affects my home that I rent and maintain. I submit that probably a lot of other folks here have the same kind of situation. I question the valid values of what you are doing here.

Mr. Altman told Council that he appreciates the community's leadership efforts in the last two or three years to try to improve the image of Walterboro. He said, I think what we are doing (with the ordinance) is a big mistake and we are singling out a very few folks. It's all downhill. Most of us here have enough rentals, and we are going to be able to withstand this financially, but there are a lot of folks out there, that this cost is going to be relayed to them. It's not going to hurt each of us individually, but this will affect some folks who cannot afford that extra money.

Mr. Mike Katchuk, a City resident and rental property owner, spoke in opposition to the passage of the ordinance. He told Council that he and his wife own quite a few rental properties. He said that it's a real chore trying to keep up with the tenants out there. The majority of the time, I believe, we are losing money when we have to go back and constantly repair things, and we have no way of recouping our money. Just on the simplest of things, most of the time we have to repaint it. We

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have to either put new doors on or new windows in it. I just feel that this is a very costly thing, especially if you have more than 1 or 2 units. I believe that the people who are staying in our apartments/homes are safe. I have only seen improvements around here in the last 10 years on housing throughout the City. People who have quite a few run-down places have actually improved them quite a bit.

Mr. Katchuk pointed out that there are laws or ordinances on the books already, such as specified in the 2006 International Building Code about being safe, usage and etc. I mean that the words are almost taken right out of the book here as to the purpose and the intent. A lot of time was spent in preparing and making this presentation, when we have already have it, if we enforce it and stick to it. We don't need new laws and new taxes, and I oppose it.

Mr. Mark Metts, a City resident on Maplewood Drive, said, I would just second what he has said. I don't have many rental properties, just a couple. After we pay insurance and taxes, it just doubles it. Recently, we had somebody ready to move in our rental, but we put it off a month to fix up the property ourselves. We had to fix it up and paint it. I had to put in \$3,000 for two drain fields and we are in the City limits. I could not even tie into the City sewer. We have to waive deposits a lot of the time, so we can get tenants. We know they are good people, but they are struggling, or they are just young and getting on their feet. We had to go up on our rent. It's got to stop somewhere. We take care of our properties, and if we don't, the market will take care of it.

Mr. Paul Walker, a rental business owner, addressed Council to oppose the passage of the ordinance. He stated, I have been told by the City that you have received very little complaints from tenants or landlords in the past several years on this issue. Therefore, I do not understand the need to create an ordinance for a problem that doesn't seem to exist. I have asked the City for an explanation why it would create such an ordinance that would implement additional government intrusion into an area for which the public is not complaining or asking for assistance. I was told there were two reasons:

- 1) The City is seeking grant money.
- 2) To determine who owns residential rental property in the City and where it is located.

Mr. Walker then addressed both of the above reasons:

- 1) The City is seeking grant money.

If this is the reason, then the City is wanting this ordinance strictly for monetary purposes, rather than wanting what is in the best interest of the people who live in the City. The citizens of Walterboro will pay for this grant.

- 2) To determine who owns residential rental property in the City and where it is located.

The City already has access to this information through its current business license ordinance. If you currently own rental property in the City, you are required to file and pay an annual business license application and fee based on the gross rental receipts for the property. Along with this annual application, you are required to list the address and gross receipts of each individual rental property. Also, on this application the City asks for detailed information regarding the property owner as far as name, address and contact information. If it's the City's purpose to truly determine where the rental properties are and

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who owns them, then the City needs to do a better job of enforcing the existing ordinance. Requiring landlords to register rentals under a new ordinance will only affect the ones of us who are currently complying, which the City says is not the problem. The only ones of us who will register are the ones already complying with the current Business License Ordinance. The landlords, not complying with the business ordinance, are not going to comply with the new ordinance either. They just won't register their properties.

If nothing else, the timing of this ordinance is horrible. This economy, especially real estate is the worst we have ever seen. Tenants are struggling to pay their rent and we, as landlords, are seeing the highest vacancies and most challenging situations, since I have been in the real estate business. Everybody is struggling to survive and this is not the time to impose additional and unnecessary costs on the tenants or landlords.

Mr. Walker told Council that the tenant loses when their additional costs are passed on in the form of rental increases, which in turn forces tenants to either vacate or increase the number of people living in their household in order to pay the rent. This, in turn, creates the housing problems which you state you are trying to prevent. The City ordinance will definitely affect the profit on residential rental housing in this City, and therefore investors will not be willing to pay a comparable price for a house in the City verses a house in the county or other municipalities for their return on their investment will be higher outside the City.

In conclusion, Mr. Walker said the ordinance itself is too intrusive and is a prime example of too much government intervention. This ordinance is too expensive and I am not talking about the inspection fee, but the enforcement part of it. This ordinance is subject to too much interpretation by the code enforcer. There is no clear guidance. We will all be at the mercy of the code enforcer's interpretation or opinions. We are afraid that the code enforcer will use this ordinance to nitpick our properties and enforce upon us petty issues. This ordinance will require too much administration and demand on landlords' time and resources. There are already extensive state and federal housing laws already in place. Tenants have many available options. This ordinance is not needed. It does not benefit and is not in the best interest of the people of Walterboro. Therefore, I ask the Council and the Mayor to not pass this ordinance.

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

APPROVAL OF THE MINUTES:

The Minutes of the July 16, 2012 Public Hearing and Regular Meeting were approved as submitted on the motion of Council Member Peters, seconded by Council Member Buckner and passed with all members voting in favor.

OLD BUSINESS:

1. **Ordinance # 2012-13**, An Ordinance Relating to the Licensing and Regulation of Residential Rental Properties within the City of Walterboro, Second Reading and Adoption.

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No motion was made to approve Second Reading of Ordinance #2012-13; therefore, this ordinance failed for lack of a motion.

NEW BUSINESS:

1. **Consideration of Bids Received for Parks Improvement Project**

City Manager Jeff Lord informed Council that three bids were received for the Parks Improvement Project. This is the project which was funded through GO bonds borrowing last year. We have a park master plan and this is the plan to implement that. It was bid out with 9 different alternates with the ability to be able to choose which alternate(s) to be used. He informed Council that the low bid for the total project was \$1,251,729.64 from BES.

The bids received were as follows:

	<u>Total</u>
BES	\$1,251,729.64
Carolina Contracting Solutions	\$2,018,000.00
Wildwood Contractors	\$1,329,286.92

Mr. Lord told Council that in order for the City to come within the available funding, the recommendation is to approve the low bidder without Alternate 6 (which is resurfacing of tennis courts 3-6) and Alternate 8 (which is the Mayfield Terrace Expansion Project). The total for the low bid would then be \$1,074,321.46. In further explaining this figure, Mr. Lord said this would be the (new) amount for the low bid, if you leave out Alternate 6 and Alternate 8.

A motion was made by Council Member Peters to approve the low bid from BES without Alternate 6 and Alternate 8 for a total of \$1,074,321.46. Council Member Lohr seconded the motion.

In discussing the motion, Council Member Peters asked if staff had received a detailed scope of work from the companies as to what they are going to do and how they are going to do it? . Mr. Lord responded, we have detailed plan sheets and there is a program of work that they are going to have which the engineers drew up. So, they will have to follow that. Mr. Peters then asked, so do we know the exact scope of work for the two tennis courts? Mr. Lord responded that the contractor will have to mill down and resurface those two tennis courts.

Mayor Young reminded that the contractors bid on the scope of work. Mr. Lord agreed that everybody bid on the scope of work.

Attorney Cone then asked the City Manager, do we require a performance bond? Mr. Lord answered affirmatively. To further answer Mr. Peters' question, Attorney Cone said that a bonding company will assure that the City receives the scope of work described in the bidding documents.

Council Member Lucas then questioned the bid received in the amount of \$1,251.729.64 (submitted by BES), which was the low bid. He asked in relation to this same bid for \$1,074,321.26, what is the difference between those two amounts? Mr. Lord responded that the difference is not doing Alternate 6 and Alternate 8. Mr. Lucas then asked, now, does this affect any of the other bids when that adjustment was made to the low bid? Mr. Lord responded, yes, it would mean that all of the other bids would be adjusted accordingly. There is a \$77,000 difference either way.

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Council Member Peters disagreed that the difference was \$77,000. He explained his calculation of this amount. He believed there was a \$13,000 difference between the local bid and the low bid just on two items. Mr. Lord responded, I had a \$77,000 difference, and if you take that into account, it's still going to be about a \$69,000 - \$70,000 difference.

Further discussion was held, and City Manager Lord said, I don't know of any combination of selecting different alternates that would change the low bidder.

Council Member Buckner then asked, Mr. Lord in doing a background check on this company BES, was this the company that did the parks project for the county? When Mr. Lord answered affirmatively, Mr. Buckner asked what was the outcome of that? City Manager Lord responded, my understanding was there were questions over their licensing through the LLR. However, I do know we checked on their license now and they are properly licensed.

Mr. Buckner then said, so at that time with the county, they did not have the proper license. Mr. Lord responded, yes, that's my understanding.

More comments were made on whether BES was considered a local company. Council Member Peters pointed out that this company has a man who works for them who live in Colleton County. Mayor Young said, I just don't want there to be any confusion about when you say local when both companies identify themselves as local.

Council Member Buckner then said, I am going to be voting against BES, because of the fact that I believe we should support our local businesses. We advertise and we promote, "Keep your Bucks in the Boro," and I think we need to send a message to all of the business community that we support our local businesses. Even though it's a little extra money, we will get it back. So, I am going to be voting against BES for that reason.

Council Member Lucas then said, how much money do we have funded for this project right now that's available? City Manager Lord responded that the available funding including what we are going to need for the balance of the design fees is \$1,211,304.81, which is GO bonds and the Municipal Association rebate. Of that amount, \$74,881.49 will have to go to design fees.

Mayor Young then explained that the City had issued a GO Bond to do the Parks Improvements Project. So this is borrowed money. We have already decided to take \$140,000 of rebates from the Municipal Association and apply it to the Parks Improvement Project in order to come in under budget, and as I understand it, we have also cut the Mayfield Park expansion. We have also cut off the paving of four tennis courts to make it come in under budget, and now there is discussion about not accepting the low bid. Is that what I am hearing, in spite of all of that?

Council Member Lohr then told the City Manager that he needed further clarification. He said, we have utilized about all of the monies that you mentioned and now if I am hearing it correctly, we are going to be looking for \$77,000 more dollars' in cuts from somewhere else that we haven't identified yet? Is that correct? Mr. Lord responded, yes, you would either have to cut something or go into your fund balance.

Mr. Lohr then asked the Council Members, do you have any thoughts about what else you are going to cut worth \$77,000?

Council Member Buckner then said, my concern has been the prior dealing with this company in the county. So, now looking back at their prior dealings with the

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county and now looking forward with possible dealings with us, I have some concerns about that. So, the default would be the next low bid, which is the Wildwood Contractors, which is a local company. I understand that it's \$77,000 more extra dollars, but at the end of the day, we will get that money back by those individuals utilizing the services in Walterboro as they complete the project. The fact that they are a local company would mean they have more pride in making sure that the parks they are riding by every day are going to be done professionally. So, therefore, I will be voting against BES for these reasons.

Mayor Young then asked the City Manager whether BES has done work for the City before?

City Manager Lord responded that BES has done work for the City before. In 2010, they did a very expensive water line project. It was a good experience for us and we did not have any complaints about how they pursued that project. Additionally, our consultants have done a thorough background check and talked to other jurisdictions where they have done some parks work, and they too reported a good experience with them (BES).

Mr. Lohr then said, with all due respect, I never really heard anybody reply to the question I asked. I am saying, what are we going to cut for \$77,000, because I would like to know and perhaps these folks would like to know, I mean, it sounds wonderful to say we are in favor of cutting something, but I want to know what? I probably could have made a very good case, which would have put us further in the hole to pave all 6 tennis courts. I generously said, let's not worry about 4 of them. So, again, you can't pin me to the wall to say that I don't want to do things locally, but I want to get all the cards on the table. So, if you don't answer tonight, then I would probably say, let's table it and think about it. I know there is another motion on the floor, but I am not satisfied with generalities, I want to hear what you've got on your minds.

Council Member Lucas answered, we are not looking at what we are going to cut. We've already cut what we wanted to cut. Now, the point is, are we going to take the low bid or are we going to go into the general fund and pay more for the same thing? That, I think is the question. We've already made cuts.

Mayor Young then said, I agree, I'd like to know if we are not going to accept the low bid and we are going to cut improvements to our parks in order to accept the low bid, then I'd like to know what we are going to cut, too?

Council Member Lohr stated, one of the things that I have been the proudest of are the parks where families and folks could go out and enjoy things, and they are all over town. So, I think if we want to do the parks right, then we ought to do them as closely as we can to what has been proposed. I have already recommended that you leave 4 courts alone. I think we are not going to be really popular if we start cutting somewhere else. Mr. Lucas is right, we are not there yet, but we are going to have to get there, and I don't like to hold anything back.

Council Member Buckner then commented, if I was going to cut any proposal on these parks, it would be the resurfacing of the tennis courts. Number one, we (the City) don't even own the tennis courts. Is that correct? Mr. Lord responded, yes. Mr. Buckner further said, so I would have a problem investing in something that we don't even own, that's the first thing, based on a prior agreement with the county that was supposed to do a job and they didn't do it, and now we are talking about going back and spending another \$90,000 on property we don't even own. So, if I were to cut \$77,000, it would be the resurfacing of these two tennis courts.

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Mr. Buckner further stated, the bottom line is what's in the best interest of the citizens in the City of Walterboro? We just approved one last contract with a company to do the downtown that wasn't from Walterboro and we said, we would choose an outside company, with a pigeon hole based on getting grant money. That's one project that did not go local. So now, we have an opportunity to get a local company with local people to do our parks for an additional \$77,000, which I think is worth the message that we are sending that we are keeping our "Bucks in the Boro" and not going outside of Walterboro, when we have capable people here within the City who can do this job for us.

The motion to approve the low bid of \$1,074,321.46 from BES Construction for the Parks Improvement Project then passed with a vote 4/3 with Mayor Young, Council Members Lucas, Lohr and Siegel voting in favor. Council Members Buckner, Peters and Bonds voted against the motion for approval.

The Mayor then commented, I would like to say that all of us sitting up here know the people at Wildwood and they are our friends. It would have been great if their bid had been the low bid, but we are charged with the public trust to spend the public's money wisely. Sometimes, we have tough decisions to make and this is one of those times. I feel like we are spending money that we borrowed and that you, the taxpayers, are going to be paying back, and it behooves us to accept the low bid.

2. **Request for Street Closing for 4 P.M. for the Annual Christmas Parade at 6 P.M. on December 2, 2012 by the Rice Festival Board**

A motion to approve the request as submitted was made by Council Member Lucas, seconded by Council Member Bonds and passed unanimously.

There being no further business to consider, a motion to adjourn the meeting was made by Council Member Bonds, seconded by Council Member Lucas and passed unanimously. The meeting adjourned at 7:05 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: October 23, 2012