

Walterboro City Council  
Public Hearing and Regular Meeting  
October 23, 2012

**MINUTES**

A Public Hearing and Regular Meeting of Walterboro City Council was held at City Hall on Tuesday, October 23, 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, and Bobby Bonds. City Manager Jeff Lord, City Clerk Betty Hudson and City Attorney George Cone, were also present. Council Member Thomas Lohr was absent. There were 21 persons present in the audience.

There being a quorum present, Mayor Young called the meeting to order and called on Council Member Buckner for the invocation, and Council Member Siegel to lead the pledge of allegiance to our flag.

**PUBLIC INPUT ON AGENDA ITEMS:**

No public comments were given on agenda items.

**PUBLIC HEARING:**

1. Authorization and Issuance of Public Finance Authority, State of Wisconsin, Multifamily Housing Mortgage Revenue Bonds Series, Not to Exceed \$30,000,000 to Finance Acquisition, Rehabilitation and equipping of Residential Rental Facilities for Families Low-to-Moderate Income in States of Texas, Mississippi, Georgia, South Carolina and North Carolina. A Portion of the Bonds in the Amount of Approximately \$3,900,000 to be Used to Make Loan to CHG-Druid Hills, LLC, to Finance the Acquisition, Rehabilitation and Equipping of an 80-Unit Facility Known as Druid Hills Apartments Located at 300 Sniders Highway, Walterboro, SC.

The Mayor then acknowledged that Ms. Caitlin Lanctot was present on behalf of the Public Finance Authority. Ms. Lanctot addressed Council and stated that her organization will be the issuer of the bonds for Druid Hills Apartments. She stated that she just wanted to be present to answer any questions anyone may have. She stated, by approving the financing tonight, the City is under no obligation or any sort for financing with respect to the bonds. The developer is responsible if anything happens and to pay back the bonds. She then asked if there were any questions.

City Manager Lord then offered a brief explanation of this agenda item. He stated that the Public Finance Authority has a joint venture between the National League of Cities and the National Association of Counties to provide tax exempt bonds to projects such as this to provide new and low-income public housing. The private entity, Chisom Housing Group is proposing to buy eleven different developments, one of which is in the City of Walterboro. As part of that, they are also committing to do some improvements. In their application, they submitted to do some ADA improvements, ground faults' interrupters in the kitchens and baths, work in the parking lot, new windows, new roofs, doors, security, locking hardware, cabinets and counter tops and plumbing improvements. The net effect of what they have applied for is to acquire the Druid Hills Apartment Complex and improve it. I believe the current owner is in bankruptcy, and so we will have somebody not in bankruptcy running it, and also doing some improvements. Mr. Lord further stated, when we received this request, I communicated with Mr. Hans Juhle (of Chisom Housing Group), and I mentioned to him some other improvements, which I recommended that he consider, which are security related. He has sent a letter committing to do basically everything that I recommended, which were: repair all existing exterior lighting fixtures, install a minimum of three (3) new wall-or pole-mounted exterior lights, install

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a security camera system and install a minimum of five hundred linear feet of perimeter fencing.

Mr. Lord stated that the letter from Mr. Juhle committing to this is in the agenda packets, as well as a resolution. So, basically, we have a nonprofit entity that is applying for bonds to buy a development that is currently in bankruptcy with the commitment to do improvements to it. In addition to that, they have also agreed to do some other improvements recommended. Again, the City does not have any liability in this, and I believe this is because of the National League of Cities participation that they are required to come to you for approval.

Ms. Lancetot clarified by stating, this is actually a requirement if you are using TEFRA bonds that we would need to have a public hearing.

There were no comments or questions from the public. The public hearing was closed and the regular meeting began.

Next, City Manager Lord introduced Mr. Drew Page, the new Economic Development Director, who started yesterday. Mr. Page is from Athens Clark County, Georgia, where he started their economic development organization and worked there for several years. Mr. Lord noted that Mr. Page has vast experience in Economic Development and we are looking forward to working with him.

**APPROVAL OF MINUTES:**

The Minutes of the August 28, 2012 Public Hearing and Regular Meeting were approved as submitted on the motion of Council Member Peters, seconded by Council Member Lucas and passed with all members in favor, except Council Member Lohr was absent and did not vote.

**OLD BUSINESS:**

There was no Old Business before Council.

**NEW BUSINESS:**

1. **Ordinance # 2012-16**, An Ordinance Amending the Business License Ordinance Provisions for Insurance Companies, **First Reading**.

Mr. Lord stated that the Dodd-Frank Act, which is a federal legislation in response to a financial crisis, required some changes to the way insurance brokers are taxed. Those federal changes were then adopted in state law recently, and this requires a change in the way that we collect this tax. Basically, the biggest difference is where before the tax was assessed at the location of the site's insured, but now it goes to the home state of the entity involved. So, if you have a corporation that has multiple locations, the tax is paid to the state of the home office, not the individual locations. So, this is basically a "HAVE TO," because of the Dodd-Frank Act and state law. It incorporates the changes that they did into our business license ordinance so that what we are doing matches with what we have to do. Also, associated with it is a new agreement with the Municipal Association. Basically the new setup would be that the state is going to charge a 6% tax. Before, the state charged 4% and we collected 2%. Now, it's going to be that the state will collect 6%.

A motion was then made by Council Member Peters giving First Reading Approval to Ordinance # 2012-16, An Ordinance Amending the Business License Provisions for Insurance Companies. Council Member Lucas seconded the motion that

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passed with all members voting in favor, except Council Member Lohr was absent and did not vote. In discussing the motion, Council Member Lucas asked what is the end result money wise, is it an increase or decrease?

City Manager Lord responded, that's a great question and I will tell you that nobody knows the answer. My thought is that it's going to be a decrease. There are no corporations with their headquarters in Walterboro. So, there's a possibility there could be some loss there. However, this does make it easier to find people who haven't been paying taxes when they should have been. So, there could be some benefits there.

Mayor Young then stated that the Municipal Association has worked to get this law passed in such a way that when this money is collected, it is set aside as separate from other state funding. It does not go into a pot with everything else. It is set aside for this purpose. In that way, municipalities are protected so that when it's divided back up, then you can get what you are supposed to get. It does not go somewhere else.

Council Member Buckner then said, to make sure I understand this. He then asked Mr. Lord why is the Municipal Association collecting this tax? Why are they serving as a middle man? Mr. Lord responded, this is a service that they have provided for the cities since this tax was created as far as I understand. The Municipal Association serves several functions like this. They collect the insurance tax and serve as an insurer for the cities. They serve as a vehicle for the cities to be able to work together.

Council Member Buckner then asked, why can't we just get this money ourselves? The Mayor noted that this money actually goes to the state. This is required, and we do not have a choice.

The motion then passed unanimously, except Council Member Lohr was absent and did not vote.

2. **Consideration of Agreement between the City of Walterboro and the Municipal Association of South Carolina for Collection of All Business License Taxes from Insurance Companies and Administration as Municipal Agent of Municipal Brokers Premium**

At this point, Attorney Cone pointed out that there was no need to act on this agenda item. This agreement has already been authorized when Council acted on the previous agenda item to approve first reading of the **Ordinance # 2012-16**. This is noted in the last paragraph of the ordinance.

3. **Ordinance # 2012-17, An Ordinance to Amend the Code of Ordinances of the City of Walterboro, So As to Clarify and Strengthen the Ordinance as Related to Procurement Procedures So As to Provide for a Local Preference in the Evaluation of Bids, Proposals, and Qualifications, First Reading.**

Mayor Young said that he started looking at this several weeks ago and spoke with the City Manager about it. He said, I had an idea of how to go forward with creating a local preference ordinance. I asked Mr. Lord to look into it and he looked at what some of the other places were doing, and we came up with this ordinance. Mayor Young further stated, my idea behind it is that I don't feel like Council needs to be sitting here deciding if \$50,000 is close enough to the low bid to give it to the local bidder or is \$80,000 enough. This ordinance would give some preferences to our

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local vendors, give them an opportunity to get the business, and would give us some rules to go by so that they aren't just arbitrary from bid to bid.

City Manager Lord then pointed out that this ordinance has two major affects. I think it is to protect both concerns when you are talking about local preference. First, it sets the standards, so it's not arbitrary. You have set rules so that everybody understands the rules when going into a bid process. It also provides that you have that buffer so that the local vendor has its own features to get the contract. The second thing is that it takes into consideration trying to preserve taxpayer money and not paying more for something than you have to. This ordinance sets different demands of 5% and 2% depending on the size of the project and the location of the company claiming local preference by which they can qualify for local preference. If they qualify for local preference, then they have the option of matching the low bid. So, here you have extra protection for local vendors. It also preserves taxpayer monies where you can get the bid, but you have to match the low bid.

A motion was then made by Council Member Lucas giving First Reading Approval to Ordinance # 2012-17, being: An Ordinance to Amend the Code of Ordinances of the City of Walterboro, So As to Clarify and Strengthen the Ordinance as Related to Procurement Procedures, So As to Provide for a Local Preference in the Evaluation of Bids, Proposals, and Qualifications. Mayor Young seconded the motion.

In discussing the motion, Council Member Buckner asked for further clarification. He asked if the local bidder could bid and then if their bid was higher than someone outside of the City who had a lower bid, they now can come back and match that lower bid? Mayor Young clarified that the local vendor can come back, not the vendor out of town. Council Member Buckner further asked, so the local vendor can come back and bid lower or match the bid of the outside person who bid lower then he did after the first initial bid. City Manager Lord responded, it's not another round of bidding. It's just a simple bid process, you are done and then you look at it and say according to the chart and you do qualify as a local company, then if your bid is within 3% of the bid, then you have the option of getting the contract if you agree to match that low bid. The purpose of having both the percentage and the match is because if you were to just say the local bidder could just match the bid, then you would not have anybody bidding on projects because there would be no competition. So, if the people who are not from the City or County know that they have to beat the local bidder by 3%, then they know they have a shot, which means we've got competition. To preserve competition, you preserve the taxpayer's money by making them match the lower bid and you also give that preference so that they have the option of matching that low bid.

Council Member Buckner then stated, but they have to come within 3% of the lower bid which may have come from the outside. Mayor Young explained that it's not just 3%, it depends on how much the bid is, it changes. It's 5% up to \$5,000 and then it changes as it goes up. \$5,000 - \$25,000 is 4%, above \$25,000 is 3% and within the City it's a little bit lower than within the County, but the County also gets a preference.

Council Member Buckner stated, this is a good first step in the right direction. This is just first reading. However, in addition to that I was wondering if Mr. Lord explored the preference for women and minority owned businesses so that we can also include that in this ordinance? Mr. Lord responded that the Council before had negative results on this. Council Member Buckner then said, but we have two new Council Members. He then asked if anyone had any problem with including in this preference for local vendors a preference also for women and minority owned businesses?

Council Member Siegel then stated, they are qualified automatically.

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Council Member Peters then said, I have a problem with them automatically getting a preference. They should get treated like everybody else.

Council Member Buckner responding to Council Member Peters then stated, with all due respect, women and minority owned businesses have historically been discriminated against in terms of receiving government contracts. So, that's why I am proposing to put this in place to try and level the playing field, so if we are going to do a preference for local vendors, then my hope would be that we would include a preference also for **qualified** women and minority owned businesses, who can also have a clear shot at getting contracts.

City Manager Lord reminded that Council recently adopted a change in a similar ordinance to add language to encourage women and minority owned businesses.

Mayor Young then said, this has been brought up before and gone before Council and I understand that it can continue to be brought up.

Council Member Bonds then said, let's say that a minority owned business out of Charlotte and they have a bid against a local vendor, who is a non-minority, then what do you do under this type situation?

Council Member Buckner then said, as Councilman Siegel has pointed out, this would be for local women and minority owned businesses. So, I guess they would have a double take at it.

Council Member Siegel then said, that seems to be redundant because qualified minority vendors locally, if qualified, they get the same break as any other local vendor. Mayor Young stated, they get the break and we have language that encourages considering women and minority businesses in our procurement policy already.

In concluding, Council Member Buckner stated, it would be my hope if we were to move forward with second reading, that the ordinance would include a preference for women and minority owned businesses. Mayor Young then said, let's get the local preference first. I don't want us to be weighed down, because we put something else in there.

Council Member Lucas then asked, what happens if we get a City business that's within the 3% and a County business that's within the 5% range, who gets the preference between those two? City Manager Lord responded, it's going to be the one that comes the closest. Basically, you take the original value, then you are going to change them according to the chart. If the County comes in and they have less preference, but because their price was more competitive, they end up being the lower bid, then they would get the opportunity.

After further questioning, Council Member Lucas told the City Manager, I had a hard time understanding exactly what you were saying in this ordinance. I don't understand how any business would be able to understand what you are trying to say in there. I mean, I understand from talking to you what the intent is, but it's confusing to me.

Further discussion was held and Council Member Bonds agreed that the percentage language was cumbersome. Mayor Young said, basically if the low bid on something was \$100,000 and a local vendor bid \$103,000, then they would have the option of matching the \$100,000 bid. I mean that's it in a nutshell.

Council Member Peters then asked, will the \$5,000 rule still stand that we have where the City Manager can spend up to \$5,000 without coming before Council. City Manager responded that this figure is actually up to \$25,000. Mayor Young responded

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that this does not change that, this would be for things that are put out for bid. Mr. Lord responded, we are required to get prices and bids on anything more than \$5,000, and anything more than \$25,000 comes to Council.

Council Member Buckner stated, now I have been on this Council going on over 4 years and I can say that at least the contracts that have come before this Council while I have been here to vote on, I can't recall one minority owned business that we have awarded a contract to. There may be one woman minority owned business which is the contract we just approved with BES, who is doing our parks. If we dig deeper, we would find, when was the last time we awarded a contract to a woman or minority owned business. I think we need this. I would hope that we could look into placing that information, some type of preference along with the local preference, in this ordinance so that we can address both issues at the same time. That would be my position, but I am going to approve first reading of this ordinance as it stands, in hopes that when we get to second reading, we can include the preference for women and minority owned businesses.

Finance Director Bill Floyd then said, of course I have not been here for the last 20 months, but I can recall previously for the installation of the a/c system in the annex, that was through a minority owned business out of Charleston, SC.

Mayor Young then asked Council Member Buckner, do you want us to lose the opportunity to give local people a preference by adding other things to it that might cause it to be defeated, because that's what might happen? I want to make sure that our local vendors get this local vendor preference. If you weigh it down with other things to try to get it done at the same time, you may cause the whole ordinance to be defeated. So, I think you should think about that, too.

The discussion concluded and the motion to approve Ordinance # 2012-17 on First Reading was approved with all members voting in favor, except Council Member Lohr was absent and did not vote.

4. **Resolution # 2012-R-06**, A Resolution Approving the Issuance by the Public Finance Authority of Bonds on Behalf of (Chisom Housing Group) CHG-Druid Hills, LLC .

A motion to adopt Resolution # 2012-R-06 as submitted was made by Council Member Peters, seconded by Council Member Lucas.

In discussing this motion, Council Member Buckner asked, is there in the application that these apartments will remain low-to-moderate income housing? Mayor Young responded it is my understanding that this is Section 8 Housing.

Council Member Bonds asked if any additional units were being added? City Manager Lord responded, No. Council Member Bonds then asked if the buffering requirements for the housing would be in compliance with our new Zoning Ordinance? What are they going to do about buffering?

City Manager Lord responded, they are not required to do buffering. If they were building on this tract, then they would be required to do buffering. What they have agreed to do is put in a fence, which will be part of the property. The fence would come down between the two units, between Druid Hills I and II.

City Manager Lord further stated, the units back up to each other and there is a swell between the two. The fence is intended to go where that swell is, to provide a separation between the two developments.

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On a question by the Mayor, City Attorney Cone agreed that this resolution does not in any way obligate the City financially.

The motion to adopt Resolution # 2012-R-06 then passed unanimously, except Council Member Lohr was absent and did not vote. A copy of said Resolution is attached as part of these minutes.

**COMMITTEE REPORTS:**

There were no Committee Reports given.

**EXECUTIVE SESSION:**

A motion to enter an Executive Session was then made by Council Member Bonds, seconded by Council Member Lucas and passed unanimously. The Mayor announced that the meeting will convene into an Executive Session for a discussion of appointments and receipt of legal advice.

The meeting then entered into an Executive Session.

The meeting returned to Open Session, and a motion was made by Council Member Peters to reappoint George Cone as City Attorney for another one year term. Council Member Lucas seconded the motion that passed with all members voting in favor, except that Council Member Lohr was absent and did not vote.

A motion to reappoint R. Clenton Campbell as City Prosecutor for another term was made by Council Member Lucas and seconded by Council Member Peters. Council Member Bonds, Siegel and Buckner recused from voting on this matter due to a potential conflict of interest in that their law firms might appear from time to time in City court. Mayor Young then asked what happens when 3 Council Members abstained from voting and there are only 3 members left? Does this still constitute a majority? City Manager Lord responded, there is still a quorum, two votes could get it.

The motion then passed with a majority vote with Mayor Young, Council Members Lucas and Peters voting in favor. Council Members Buckner, Bonds and Siegel recused themselves from voting. Council Member Lohr was absent and did not vote.

There being no further business to consider, a motion to adjourn the meeting was made by Council Member Peters, seconded by Council Member Bonds and passed unanimously. The meeting adjourned at 7:20 P.M. Notice of this meeting was distributed to all local media and posted on the City Hall bulletin board at least twenty-four hours prior to meeting time.

Respectfully,

Betty J. Hudson  
City Clerk

**APPROVED: January 8, 2013**