

Walterboro City Council
Public Hearing and Regular Meeting
September 12, 2006

MINUTES

A Public Hearing and Regular Meeting of Walterboro City Council was held at City Hall on Tuesday, September 12, 2006 at 6:15 P.M., with Mayor Charles H. Sweat, Jr. presiding.

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

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

The Mayor then opened a public hearing, duly advertised in a local newspaper, to receive comments on proposed Ordinance # 2006-20, to amend the Zoning Ordinance, so as to clarify and strengthen portions of the ordinance.

Mr. Gary Davis, a resident at 107 Bellinger St., raised a question on Section 4.7.11 Fences, which states the height of a fence shall not exceed 48 inches and shall not be solid in nature. He asked if this requirement will apply to each corner of the lot where he lives. He said that his home is on a corner lot and because of the traffic in his area, he asked if the 4-foot requirement would be for both sides of the lot, as well as the front. He stated that his fence is a 6-foot fence, and asked whether his fence would be grand fathered in and how long.

City Manager McConnell stated that this requirement applies to the front of the lot. He clarified that this requirement covers the front of your house (wherever it faces), the two lines that run back to the front of your house. Behind that, your back yard and your back side yards are not covered. Mr. McConnell further clarified by stating, you would come down the front, then you come down the sides to the setback in front of your house and that's the area. Then, you can go from that point down the street and across the back, there can be a higher fence. Mr. Davis stated that his house is not all the way up to the corner, it's halfway to the front of his house.

In discussing this matter, it was clarified that Mr. Davis' 6 ft. fence is built from the corner of his house to the sides. He stated this was done because when he first moved to Walterboro, he had several break-ins. On the street itself, he stated that he has a picket fence. It was agreed that Mr. Davis would have no problem meeting the requirement, since this requirement related only to the front property line. Mayor Sweat told Mr. Davis if he had more questions to ask, to contact the Building Director Ronnie Hickman to look at the fence.

Mr. Davis then asked if he were found not in compliance with the ordinance at this point because his fence has been up for 6 years, would it be grand fathered in for any length of time? Mayor Sweat responded that he would have 3 years to conform, and during those 3 years, he could also make an appeal.

There were no further comments received and the public hearing was closed. The Regular Meeting then began.

Walterboro City Council
Public Hearing and Regular Meeting
September 12, 2006

MINUTES/Page 2

The Mayor then announced that the Minutes of the August 22, 2006 City Council Meeting had just been distributed to Council tonight. He then deferred the approval of the minutes to its next meeting, so Council will have time to read over them.

Under Old Business, Ordinance # 2006-20 was given Second Reading and Adoption on a motion by Council Member Lucas, seconded by Council Member Thompson, being: AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF WALTERBORO, SO AS TO CLARIFY AND STRENGTHEN PORTIONS OF THE ORDINANCE. The motion passed unanimously.

Resolution # 2006-10, A Resolution to accompany the Application for Preserve America Community Designation, was before Council. Mayor Sweat stated that Council still had not received a copy of the requested application and information for this program from the Historic Preservation Commission. He then postponed approval of the resolution until Council receives the information.

MINUTES/Page 3

Under New Business, Council considered a request for placement of directional signs for a pumpkin patch at the Live Oak Farm located on Mt. Carmel Road. This request was made by Ms. Susan Butler, owner, and was submitted in a letter to Council. Ms. Butler requested the placement of signs at the following locations:

1. Robertson Boulevard and 17A.
2. Robertson Boulevard and Jefferies both ways.
3. Robertson Boulevard and Bells Highway.
4. Bells Highway in front of Evergreen Church
5. Bells and Mt. Carmel Road.
6. Mt. Carmel Road and Quail Creek at the fork.

She stated that the pumpkin patch is expecting 2,000 people from schools. They already have 1,200 people on their list. On Saturday, October 28, she will host an open house to the public at 1:00 p.m.. She is hoping to have at least 500, maybe 1,000 people to attend. She stated that the directional signs would help to bring people in and direct them to her farm.

On a question by Council Member Parker, Ms. Butler responded that her farm is not in the city limits. It is located just outside the city limits, about 1 and 1/3 miles down on Mt. Carmel Road. Ms. Butler stated that the farm would be opened on Saturday, October 14th to October 28th, which is about 2 weeks.

After a brief discussion, a motion was made by Council Member Young to allow the directional signs for October 14 to October 28. Council Member Smalls seconded the motion. In discussing the signs, Council Member Young questioned the size of the signs. Ms. Butler responded that she believed the signs were 24"x18" plastic cardboard signs made by Signs Plus, no bigger than a small real estate sign. The motion then passed with a vote of 5/2 with Mayor Sweat, Council Members Lucas, Thompson, Smalls and Cannady voting in favor, and Council Members Parker and Young opposing the motion. Council Members Young and Parker agreed that their vote against the motion was because they wanted to know the actual size of the signs. Mayor Sweat asked Ms. Butler to let Council Members Young and Parker know the actual size of the signs.

Next, a motion was made by Council Member Lucas, seconded by Council Member Cannady to appoint Mr. Shawn Jadrnicek of Clemson Extension, and a city resident, to the Tree Protection Committee for an unexpired term ending 1/2007. The motion passed unanimously.

City Manager McConnell reported that Ms. Sue McCunn of 843 Sniders Highway had requested to be considered for appointment to the City Appearance Board. A motion appointing Ms. Sue McCunn to the City Appearance Board was made by Council Member Cannady, seconded by Council Member Smalls and passed unanimously. The appointment was to fill an existing vacancy on the Board, ending 1/09.

Next, City Manager McConnell informed Council that the Great Swamp Commission had recommended unanimously that the BIOS, LLC firm be selected as design firm for the exhibits at the Great Swamp Sanctuary. He reported that BIOS was one of the top companies in the world. Projects Director Jeff Lord has been working with the firm on their contract to get the time and the price down. Mayor Sweat added that this company is based out of Seattle Washington and does projects all over the world. They just finished a new aquarium in China and have completed 3 aquariums in North Carolina, one in Florida, Mississippi, Alabama, Michigan and all over. They come highly recommended. This firm gave a presentation to the Great Swamp Sanctuary Commission and they were very impressed. Mr. McConnell added that the project would be a year project, from the time they start until it is finished. He also stated that all we are doing now is a preliminary layout of traffic flow and design and then the other phrase will have to be contracted out. Mr. McConnell further reported that the total cost should not exceed 12% of the total. When questioned by Council Member Parker on the expected total of the project, Mr. McConnell responded probably about \$120,000 for his fees total. This is just a guess. It's all the way through construction, but the design is \$25,000.

A motion was then made to grant the contract for the exhibits design for the Great Swamp Sanctuary to BIOS, LLC. Council Member Cannady seconded the motion that passed with all members voting in favor.

MINUTES/Page 4

Next, Mayor Sweat reminded Council that the HSMM firm was chosen to do the engineering work on the Loop Project and both of the I-95 interchanges. He was informed by the City Attorney that he did not have a chance to look over the HSMM contract as yet to make sure everything is in compliance. Mayor Sweat then suggested that it might be to our advantage to cut the two-week waiting time down and go ahead and give HSMM preliminary contract approval, contingent on the approval of the City Attorney.

A motion was then made by Council Member Cannady, seconded by Council Member Thompson granting preliminary approval of the HSMM contract, contingent on the approval of the City Attorney. The motion passed unanimously.

Next, the Mayor stated that the steering committee of the Tourism Council consists of the Mayor, the City Manager and an appointee from the City. Also, serving on this Council will be the Chamber of Commerce Board Chairman, an appointee from the Chamber, and an appointee from the Rice Festival. At this time, the Mayor stated that he would like to appoint Jeff Lord to the Tourism Council as the city's appointee, since he works with the A-tax Committee on that particular tourism council. When questioned by Council Member Cannady on whether there was any further information on the Tourism Council, Mayor Sweat stated that everything had not been completely finished as yet. When it is completely finished, we will bring everything before you. Council Member Cannady stated that this item is not even in our budget, and that A-tax had not approved it yet, either. Mayor Sweat responded that they have given preliminary approval.

Mrs. Susan Butler then returned to the meeting and informed Council that the size of the directional signs for the pumpkin patch would be 24"X18".

The Mayor then opened the floor to receive comments from the audience. He asked that comments be limited to about 3 minutes or so.

Ms. Mary Ann Burtt said that years ago the utility company arrived on Savage Street in front of her mother's house, and cut the tops off some ancient oak trees. Her mother called her in distress. Ms. Burtt then called the City Manager, the utility company, the forestry commission and others. As a result, they reached an agreement that utility companies would not cut the top off the trees, because that is the worse thing you can do to a tree, but instead would cut through the old oak trees and run their lines. They also agreed that thereafter, the utility company would work with homeowners, especially when notable trees were in jeopardy and would abide by the International Standards of the Arboroculturalists, and work with the city. After that happened, the city passed a tree ordinance. While the ordinance exempts the utility companies from the requirements of the tree ordinance, it does require a franchise agreement. In the franchise agreement with the utility, it says "the company, meaning SCE&G in this case, will submit an annual line cleaning plan to the City Tree Protection Advisory Committee or its designee, and cooperate with the committee to minimize the impact of trimming of street trees."

Ms. Burtt reported that the Friday and Saturday before Labor Day, Paul Street was blocked, and contractors hired by SCE&G came in and hacked up old oaks and magnolia trees on Paul Street. Some of the small trees were topped. She found out that the work was being done by Louis Tree Service. She said, we did call Todd Litchfield of SCE&G to finish up quickly, but the damage was done. Ms. Burtt expressed concern that this type of tree cutting may happen throughout the city. She told Council that she felt that Paul Street has been disfigured and is afraid this may happen in the old parts of town where big trees and power lines intertwine. Ms. Burtt stated that she felt that SCE&G had not abided by the spirit of the letter of the law and the regulations here, and that the City should put its foot down and demand that it do so.

In regards to the franchise agreement, Ms. Burtt stated that there are several paragraphs on nonstandard service - under grounding of utility lines. She felt that Paul Street would be the perfect place to start with underground lines for Walterboro. Apparently, this fund exists for the utility company, and it is supposed to exist with matching funds from the city. She said that the copy of the franchise agreement she has, is dated in 2000, so this fund has been accumulating. She stated that Paul Street is a short street and only one block long. Apparently, there is an important power line there, so let's protect it by putting it underground.

MINUTES/Page 5

Ms. Burttt then asked Council to consider the following items:

- 1) Using Paul Street as a starting point to put in underground utility lines.
- 2) Consider closing the street for a couple of hours, so you can look at the situation on the cutting of the trees.
- 3) Consider putting in a sidewalk, so people can walk on Paul Street.
- 4) If a sidewalk is put in, consider putting in the underground power lines at the same - it makes sense and it will save money.
- 5) The large 18 wheel trucks are continuing to use Paul Street. The sign that says "No Trucks" has been knocked down. She requested that the City ask the highway department to put the sign back up.
- 6) Renegotiate with the utility company and work with them closely to see that Arborocultural standards are applied when they trim significant trees in the city.

In conclusion, Ms. Burttt, asked that the city look closely at the situation, work with the utility, make them live up to their franchise agreement and consider using Paul Street as the first underground project in Walterboro.

Regarding installing a sidewalk, Council Member Young told Ms. Burttt there are some other areas in the city which have considerably more foot traffic, where we have tried to get sidewalks in, but were turned down. Mrs. Burttt argued that Paul Street, while it's only one block long, is a state highway that leads into downtown, Historic Walterboro, to the Ace Basin and the Artisans Center. Council Member Young then stated that the area on Green Pond Highway, where there is an apartment complex, has a tremendous amount of foot traffic, but we were not able to get sidewalks out there. Even though it would be good to have sidewalks installed in both places, Council Member Young pointed out that it's not from a lack of trying, but we have not been able to make that happen.

City Manager McConnell told Council that staff had committed to continue to clean the asphalt sidewalk on Paul Street, and would ask the Colleton County Transportation Committee (CTC) to put a sidewalk there in our annual request.

At this point, Ms. Burttt then asked that the utility company be called to a task to do some remedial pruning and some cleanup of all the debris that was left behind. Mayor Sweat informed Ms. Burttt that the city has been in touch with SCE&G and has a meeting scheduled with them.

Council Member Cannady then pointed out that there are numerous sidewalks in the City which are still not being maintained and taken care, nor is the property where the growth is coming from. This growth comes from the property owner's side and grows over onto the sidewalks. She said, for the third time, I'm going to ask that something be done about it, because she keeps getting phone calls. She pointed out that the little area between the curb and the sidewalk is being mowed, but staff is not getting what's growing over from the fenced area of someone's property that is not being maintained. Council Member Cannady stated that the complaints she has received were from people walking down Memorial Street, and down by the railroad tracks. Also, you can't even walk down the sidewalks on Black Street. She stated, if we have sidewalks, then we need to maintain them.

Regarding the sidewalks on Greenpond Highway, Council Member Thompson stated that the city has been trying for many years to get sidewalks out there. Now, a huge, beautiful church has been built there with a large congregation, and this makes the need more so to have a sidewalk there. He also stated that he agreed with the need for a sidewalk on Paul Street, because you do see people walking out in the streets. He suggested that the City keep the pressure on the highway department to take a closer look at the areas that need sidewalks.

Council Member Young pointed out the area by the highway department (Sniders Highway) also has a need for a sidewalk. He stated it always concerns me to see the number of people walking at night in the median of the highway. You can't see them, especially when another vehicle is meeting you. It's a dangerous situation and most of the time it's young people walking in the median. He suggested that maybe Council should set a list of priorities, identifying which areas have a priority and which do not.

Next, Mr. Travis Godley stated he had no problem with the ordinances that passed tonight, but wanted to make a suggestion. As a member of the Appeals Board, he would really like to know whenever ordinances like this are coming up. Just as you expressed to Mr. Davis that he could file for a variance once his fence is in non-conformance. He stated

MINUTES/Page 6

that he would like to see surveys done of the area before ordinances are passed to determine the level of appeals that board might have. For example, how many variances are we looking at in the next 3 years. This should be done, simply to make sure that we are not passing ordinances that may suddenly become such a massive amount of variances, that the ordinance has no meaning whatsoever.

As another suggestion from observing the meeting tonight in regard to the size of the sign, Mr. Godley suggested that since there are a limited number of places in town providing or making signs, that they be given a copy of the sign ordinance, so that they can understand where signs are allowed, the sizes allowed and what has to be done in order to put up a sign. He said this might prevent some of the problems in the future, if we just communicate with those businesses. He also said that this may have already been done by the city.

Next, Mrs. Cornelia Neeley then addressed Council. She stated that first, she would like to clear up a confusion. Last week, she was in court with her neighbor (Mr. Willard Long). She said this was not in regards to the civil lawsuit that they filed against her neighbor. This was a temporary injunction hearing that he (Mr. Long) forced, saying that the Neeleys were in violation of the Blue Laws. She told Council, the hearing was heard before Judge King who made a ruling that a temporary injunction against them (the Neeleys) was denied. At that time, he (Mr. Long) was told the other avenues he could pursue, which would be to sue the city for not doing its job, or move forward to ask for a permanent injunction, which is what's he's doing. At this time, Mrs. Neeley told Council they are looking at a special referee to hear the permanent injunction that he (Mr. Long) wants to bring forward because he still feels that we (the Neeleys) are violating the Blue Laws in taking of his business, even though he is not open on Sundays. So, I just want to say, that the City is not involved in this at all. What was decided on that day has no bearing whatsoever on our fence problem. As far as the civil law suit is concerned, Mrs. Neeley informed Council that she wants to go on record and say that we are asking for relief under the South Carolina Unfair Trade Practices Act, and it will take between eight, ten or twelve months to be heard.

Mrs. Neeley then stated that she came before the City's Planning and Zoning Board last night to ask for relief on the fence. The Code Enforcement Officer furnished her with a copy of some regulations, which she has given a copy to Council. Under building, it states that a person does not need a permit if your fence is not over 6 ft. tall. We are referring to a fence 11 ft. tall. I was told last night by members of the zoning committee, that the code enforcement officer was going out to speak to our neighbor (Mr. Long) to tell him he needed to have an application, and approximately 5 ft. of his fence would have to be removed.

Mrs. Neeley stated for the record, that her husband also put up a fence, and he informed Mayor Sweat before he put it up, saying that this is my only form of leverage. When the other fence comes down, I'll crank up my chain saw and mine will certainly come down also.

With that being said, Mrs. Neeley then said, these are the questions that I want to ask tonight to see if you can help me.

1. Where are we in regards to this particular fence? Our neighbor was supposed to be contacted. He was supposed to get a permit application.
2. How many days he has to get this permit. If he does not get the permit, what are the ramifications? Does he have so many days to remove it, because he never had a permit in the first place? Is he fined? If so, who says how much?

She then said, all of this is still up in the air, because we don't know how this person is going to respond. She stated that when the shipping container was going to have to be removed, nobody could figure out how many days he was given. First of all, it was not a sign, but when we got passed that, it was given 30 days to sit there. And believe me, it sat there for 30 days. It moved on the 30th day.

3. If no permit is completed, who will impose the fine? Will it be the Code Enforcement Office, the City Manager, or City Council? Who is going to do it?

Mrs. Neeley stated that she just wanted some kind of idea, some kind of guideline. Referring to page 118 of the zoning ordinance, item No. 5 refers to the fact that if the name of your business changes, then you must come into sign compliance at that time, and the 3-

MINUTES/Page 7

year compliance is rejected. Mrs. Neeley explained that the reason she is bringing this up, is that during the hearing when her neighbor was on the stand, her attorney asked her neighbor, what is the name of your business and he said Foxy's Fireworks Superstore. Her attorney gave the neighbor a photograph saying where does it say Foxy's?

Mrs. Neeley then stated that she was told by the Code Enforcement Officer that there is a procedure that you follow to change a store's name. He told me my neighbor didn't follow it. Therefore, by my neighbor's own admission under oath, he said he did change names on 3 stores that he owns in the interstate commercial district. By the Code Enforcement Officer's admission, proper procedure in place was not followed. Mrs. Neeley then stated that the City Council Members have no choice but to direct that this neighbor should bring his signage into compliance now. It states it on page 118. She stated, you as Councilman have the authority and the obligation to proceed. She informed Council that she has provided them with pictures showing each store and how the names have been changed.

She also stated that there is one item at the neighbor's store where an alligator is holding a U.S. flag up. If you were to examine that flag in the right-hand corner, you'll find that it's tattered to shreds and it's just hanging there in the alligator's hands with no lights on it. It's not being displayed properly, if you look on page 116, item I, there is a correct way to display the flag.

Regarding an attention-getting device on her neighbor's roof, she was told to take hers down, which she did. His device is still there. It's some kind of alligator on the top. Finally, he has a dummy car on his premises. That car never moves, does not have a tag on it, but it's there.

Mrs. Neeley told Council there are issues here that you need to look into. This person had not been tricked. This person volunteered this information in court. These pictures tell the story, and I would like to have something done, so that he will be brought into compliance.

At this point, City Manager McConnell stated that he would like just a minute with Council in Executive Session for a very brief legal matter. A motion to enter an executive session for a legal matter was made by Council Member Young, seconded by Council Member Cannady and passed unanimously.

The meeting returned to Open Session and there being no further business to consider, a motion to adjourn was made by Council Member Thompson, seconded by Council Member Cannady and passed unanimously. The Mayor adjourned the meeting at 7:25 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 26, 2006