

## **MINUTES**

A Regular Meeting of Walterboro City Council was held at City Hall on Tuesday, October 11, 2011 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 17 persons present in the audience.

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

The Mayor announced that we were pleased to have a good article about the City in the front page of Post & Courier yesterday, recognizing the hard work by our staff and our Public Safety Officers. It's good for them to get a chance to take a bow once in a while. Most of the time they don't get that opportunity, so we were glad to have some good news.

### **PUBLIC INPUT ON AGENDA ITEMS:**

No public comments were given on the agenda items.

### **APPROVAL OF THE MINUTES:**

Upon motion by Council Member Peters, seconded by Council Member Lucas, the Minutes of the September 27, 2011 Regular Meeting were approved as submitted with all members voting in favor.

### **OLD BUSINESS:**

There was no Old Business before Council.

### **NEW BUSINESS:**

1. Donation of Property on Detreville Street for Use as a Park, by Board of Directors of Live Oak Cemetery

The Mayor stated, it is my understanding that this would be a perpetual lease and this is necessary because of the way the property is deeded to the cemetery board.

At this point, Mayor Young and Council Member Lucas recused themselves from voting on this agenda item due to the fact they are members of the Board of Directors for the Live Oak Cemetery.

A motion was made by Council Member Peters to accept the donation of the Detreville Street for Use as a Park as submitted. Council Member Lohr seconded the motion.

In discussing the motion, Council Member Siegel asked the City Attorney, for the record, is there such a thing as a perpetual lease, which seems, on its face, to be a violation of the rule on perpetuity? Attorney Cone responded, I think the instrument creating the interest in the City would have to be determined based on whatever instrument that granted it to the cemetery trustees. I assume it was granted with restrictions for use as a cemetery and not to convey it out. I haven't seen the deed, but they could lease it for 99 years with options to renew. Council Member Siegel then stated, I just have concerns about putting City money into this. I hoped that we would

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go into a negotiation and you would be able to review those documents and give an opinion. Attorney Cone responded, we have to review the type of ownership, provided the type of ownership is satisfactory to the City, and I think anything that is a 99-year lease or better would probably be satisfactory to the City, but I don't know right now what they can do, because I have not seen the instrument creating the ownership interest in the trustees.

Council Member Siegel pointed out, in regards to this matter, there are some plans from Wood + Partners dated 2010. Has this matter been in the planning stage for a few years? City Manager Lord responded that when the park master plan was being created, during the public hearings, etc., it was communicated to the City from the Live Oak Cemetery Board that they had an interest in giving this property to the City at that time. So, we asked Wood+Partners when they are looking at the Mayfield Park, to also consider what would happen with that parcel should the City take it.

Mr. Siegel then asked if the park at the intersection of Detreville and Dowling Street is a county park? Mr. Lord responded that this was taken care of by the joint Recreation Commission. The City has now undertaken the responsibility for that park.

Council Siegel asked, just for the record, I think it is important for the public to know how much money was appropriated for the improvements on this piece of land that the cemetery association wants to seed to us at some point. It's more than cutting grass, though. City Manager Lord responded, I do not have that information in front of me. The City did the bond, and in that bond was a schedule of costs which included the improvements for this piece of property. Council Member Siegel then stated, I just want to make sure it qualifies for those funds and the form of ownership that we are going to undertake. It looks like it would be a nice addition. City Manager Lord responded, it's a G.O. Bond, and I don't see any restrictions on it. This is in the recreation master plan. That recreation master plan states the improvements and the associated estimated cost of those improvements. The bond was issued based on that master plan. The only question now is what is the instrument of ownership.

Council Member Buckner asked, who would be the primary party to be responsible for any accidents which may occur on this property, since they are only leasing it to us? City Manager Lord responded, this is probably a better question for the attorney, but I would say if we are putting it out there as a City park, it becomes the City's liability like any other park. City Attorney Cone added, it would be covered under our current IRF policy with the Insurance Reserve Fund under the State Budget and Control Board, which insures our parks. If we took it over and maintained the property, it would be covered by that policy.

Council Member Buckner then asked, since we don't actually own it, and we are just leasing it, would there be a problem? City Attorney Cone responded, there will be no problem with it being covered under the IRF. We will just list it under our schedules of property. We have leased other properties in the past and just listed them during the time of our leasehold state and then insured it.

Council Member Peters then asked, as I understand it, there is no exchange of money for this piece of property. City Manager Lord responded, that is correct, other than the anticipated improvements.

Council Member Bonds then stated, this obviously was adopted before Mr. Siegel and I came on board. Is this the park as it exists now, are we talking about the park in Mayfield Terrace? Using a small map, Mr. Lord pointed out that the piece of property to be donated to the City is the larger parcel (located on Detreville and Dowling Street), which is currently pretty much just an open field. Mr. Bonds then asked, is this where the old caretaker's house use to be? Mr. Lord responded affirmatively. He also noted that a playground is planned in the top corner area of the property.

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Council Member Siegel then asked if the motion should include the wording "subject to the actual lease." He said, since we haven't seen a proposed lease, then we need to authorize the City Attorney to negotiate a draw instrument, because it's not "fee simple." If we were taking a deed, that's different. So, in terms of parliamentary procedure, I want to add that condition, because I am really for doing this, but I want to insure that we have it tied down.

Council Member Peters then **amended his motion** with the approval of the second that the City would accept the donation of the Detreville Street property as per the advice of the City Attorney toward the legal aspect of a perpetual lease between the Live Oak Cemetery Board and the City, with a very long term lease. Council Member Buckner seconded the **motion that passed with a vote of 5/0, with Council Members Buckner, Lucas, Peters, Lohr and Bonds voting in favor, and Mayor Young and Council Member Lucas abstaining due to a conflict of interest.**

2. Participation in the National League of Cities Prescription Discount Card Program

Mayor Young stated that he had asked that this item be placed on the agenda. He explained that this is a program provided by the National League of Cities for its member cities. There will be a minimal cost to the City, probably just in terms of providing people with the cards. For example, if we were to send out the cards with the water bills, it would cost about \$60 to \$100. There is no actual cost to the City, nor to the residents. It provides an average savings of 23% on prescriptions for people who do not have insurance or whose insurance does not cover a particular prescription. We believe that all of the pharmacies in Walterboro are part of the National League of Cities' program already, as far as we can tell. There is no enrollment or membership fee. There is no limit on how many times the card can be used. There is no age requirement, no income requirement, and all family members are covered.

A motion was made by Mayor Young to approve the National League of Cities Prescription Discount Card Program for the City of Walterboro. Council Member Lucas seconded the motion.

In discussing the motion, the following points were raised.

Council Member Lucas asked, when we send out the cards with the water bill, are we sending a blank card for them to fill out, or will we send a card to a specific person? City Manager Lord responded, this would not be a card to a specific person. He then showed Council a copy of a printout of what the card would look like. It will have the City of Walterboro and the City logo on it. Mr. Lord stated that no one would have to sign up for these cards. All they would have to do is present the card to the pharmacy. They will not have to submit their personal information or anything. We will have stacks of these cards printed for us, and anybody who wants a card can have one. Council Member Lucas said, even people who live outside the City technically could use these cards, so it is really a community thing and not just for the City.

Council Member Siegel stated, in theory, it sounds like it's a good idea especially if we are helping people, but I am concerned about the brand CVS Caremark, that the program is being operated by, which is a CVS chain of pharmacies. I would not want to prejudice or promote one pharmacy over any other pharmacy in the town of Walterboro. I know you said that most of our pharmacies would accept this same card.

Mayor Young then said, I did not see that in the fine print, Mr. Siegel. That's the first time I realized that CVS has anything to do with this, but it's certainly open to all of the pharmacies in Walterboro. Mayor Young then read off the list of participating pharmacies in Walterboro.

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Council Member Siegel then said, I am just concerned about the City's association with the name of one pharmacy, and whether that gives some appearance of an endorsement by the City of one pharmacy or gives one pharmacy an unfair advantage.

Mayor Young pointed out that there is a substantial list of cities participating in this program in South Carolina. It certainly is not my intent to promote any pharmacy over another pharmacy just to try and get a benefit for our citizens.

City Manager Lord pointed out that the cards would show the City of Walterboro on one side and would show the logo CVS Caremark on the top of the back side.

Mayor Young then asked the City Manager whether the wording "CVS Caremark" would have to be printed on the cards? City Manager Lord responded, they are the provider, so I don't think they would want their name off the card. They are the administrator of the program.

Mayor Young then stated, there are still details to be worked out as to how this will be done. What I am asking for is Council's approval of the program so that staff can work out the details.

Council Member Siegel then asked, have the other pharmacies actually been questioned as to their position regarding the City endorsing this? I know they are listed as participating, whether they are willing or like it, I don't know if that is even an issue.

Council Member Buckner then stated, if we are going to be providing this service, then to me, it should be an added bonus for the residents of the City of Walterboro, and so why are we expanding it to those outside the City limits. How can we control it so that's it just for the residents of the City? City Manager Lord responded, it's not just for the City, but it's for residents all over the country. This is not a program where the City is putting something in. If the City were to invest in it, then I can see where the City taxes are going to pay for something which only the City residents should get a return on. This is a program open to everybody through the National League of Cities, which Walterboro is a member.

Further discussion was held on the participating pharmacies. Council Member Peters pointed out, it is my understanding that if anyone came to Walterboro from another city or another state, they would be able to use the card at our drug stores here. He said, I don't see where it is a personal endorsement of any kind or where the City of Walterboro is endorsing some particular pharmacy, because anybody can use the card, whether they are from Walterboro or Wyoming.

Mayor Young then stated, it just looked like a good program and something that a lot of our residents could benefit from. It doesn't cost us anything. But I understand your concern too, and I really had not considered that aspect of it. That really is a valid point.

Council Member Siegel then stated, I know that we allow people to put banners across the streets that are clearly promotionally for a particular business, but it doesn't say the City of Walterboro on it. We do that as an accommodation, subject to conditions. He then asked the City Attorney to give an opinion. He asked, are we allowed to implicitly endorse one particular business?

Attorney Cone responded, if you want to endorse them. Some people won't read the fine print, in fact a lot won't. AARP issues a similar drug card through

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Walgreen's and you can use it at Bi-lo and all the other drug stores, too. That's just what they do and how they work out the program. But if you want to put an enclosure when you send the information saying, "This card is valid and list all the local pharmacies," you can do that. Council Member Siegel stated he would definitely agree with that.

Mayor Young then asked if the card could also say that it's good at all of the drug stores in Walterboro. City Manager Lord stated, right now it says "9 out of 10 pharmacies nationwide," and I am sure we can edit this. We can talk to them about editing this content. Council Member Bonds suggested putting in the names of the local pharmacies that will accept the card.

Council Member Siegel then stated, I like the idea of somehow if we promote this that we say there are other pharmacies that use this card, and you can print their names in alphabetical order. CVS would be near the top. That's an arbitrary way of promoting it. I don't want to send out something on behalf of "one" pharmacy, and I love Hiott's, and if it were Hiott's, I'd have the same questions. So, I would ask you to amend your motion to say any mailing we send out that it be made clear that it's not exclusively for CVS. Mayor Young then stated, I think we can just ask the City Manager to do that in the process.

Council Member Peters then said, if you are concerned about having the name of the City of Walterboro identified with this, why don't we just take our logo off and our name off and just put the National League of Cities at the top of the card?

Mr. Siegel then said, if the City Manager would agree to put the names of the participating pharmacies, then I would certainly vote for it.

Council Member Buckner then asked, do we have to put CVS Caremark anywhere on this? City Manager Lord responded, we can certainly ask them, but they are the provider. When you hand the discount card to the pharmacy, they will need to know who to send the bill to. To get the discount, they have to be able to tell the discount provider that they gave you the discount. We can ask, but I can't imagine they will take their logo off the card.

The discussion concluded, and the **motion to approve the National League of Cities Prescription Discount Card Program passed with all members voting in favor.**

**COMMITTEE REPORTS:**

There were no committee reports given.

There being no further business to consider, a motion to adjourn was made by Council Member Buckner, seconded by Council Member Peters and passed unanimously. The Mayor adjourned the meeting at 6:46 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 25, 2011**