

**MINUTES**

A Regular Meeting of Walterboro City Council was held at City Hall on Tuesday, June 23, 2009 at 6:15 P.M. with Mayor Charlie Sweat presiding.

**PRESENT WERE:** Mayor Charlie Sweat, Council Members: Randy Peters, Charles Lucas, Bill Young, Ted Parker, Franklin Smalls and Mary Anne Cannady. City Manager Jeff Lord, City Clerk Betty Hudson, City Attorney George Cone and Attorney Ashley Amundson were also present. Approximately 26 persons were in attendance at the meeting.

There being a quorum present, Mayor Sweat called the meeting to order and called on Council Member Smalls to give the invocation and Council Member Cannady to lead the Pledge of Allegiance to our flag.

**APPROVAL OF MINUTES:**

The Minutes of the June 2, 2009 Public Hearing and Rescheduled Meeting were approved as submitted on the motion of Council Member Parker, seconded by Council Member Lucas and passed unanimously.

**OLD BUSINESS:**

A motion was made by Council Member Lucas, seconded by Council Member Smalls to newly appoint Ms. Linda Kelly to the Accommodations Tax Board. The motion passed unanimously.

**NEW BUSINESS:**

**Resolution # 2009-R-08**, a resolution accepting, ratifying and confirming the results of the June 9, 2009 Mayoral Race Runoff Election was adopted unanimously on the motion of Council Member Peters and seconded by Council Member Cannady. This resolution declares Bill Young elected as Mayor of the City of Walterboro. A copy of said resolution is attached as part of these minutes.

**Funding Recommendations from the Accommodations Tax Advisory Board**

Finance Director Bill Floyd introduced the recommendations for funding from the City's A-Tax Committee. The board met on June 18, 2009 to consider funding requests. Their recommendations for approval were as follows:

- 1) Approval of the budget submitted by Walterboro-Colleton Chamber of Commerce for 30% advertising and promotion money.
- 2) That the following requests be approved and funded out of the 65% Tourism Fund.

	<u>Requested</u>	<u>Approved</u>
South Carolina Artisans Center	\$14,170	\$14,170
Walterboro-Colleton Chamber	\$40,000	\$19,000
Friends of Edisto State Park and the Ace Basin	\$13,000	-0-
Downtown Walterboro Criterium	\$15,000	\$15,000
Lowcountry & Resort Islands Tourism Commission	<u>\$13,000</u>	<u>\$ 7,000</u>
Total	\$95,170	\$55,170

Mr. Floyd stated that \$14,170 approved for the Artisans Center was primarily for bill boards. The \$19,000 for the Chamber was approved by the Committee with the stipulation that those funds not be used for billboards, but be used instead for other budgeted items in the request. The Friends of the Edisto Beach request was not approved by the Committee. The Downtown Walterboro Criterium was approved for \$15,000 and the Lowcountry & Resort Island Tourism Commission was approved for \$7,000.

Attorney Cone recognized that Attorney Ashley Amundson was recently elected as the Chairman of the Walterboro-Colleton Chamber of Commerce Board. Because of a potential conflict of interest and the fact that Ms. Amundson is associated with the law firm of McLeod, Fraser & Cone, Attorney Cone then recused himself and Ms. Amundson from any discussion or advice on matters relating to the Chamber of Commerce and the City of Walterboro.

A motion was then made by Council Member Lucas to approve the funding requests as submitted by the A-Tax Board. Council Member Smalls seconded the motion.

In discussing the motion, Council Member Peters asked if Council had to vote tonight on this matter. He pointed out that the Criterium was given \$10,000 last year, and they want \$15,000 this year. Why are they getting \$15,000? We need to give them the \$10,000 we have been giving them in the past. Why is there an increase? He also said, I really think we need to look at these a little more carefully.

A question was raised by Mr. Jack Jackson, a city resident. He stated that no notice was received regarding the meeting of the A-Tax Board. City Manager Lord responded that the meetings of this Board are advertised well in advance in the newspapers where applications are requested and due dates identified. We also advertise the meetings dates and times on the city's website. The dates are 3 times a year, at the same time.

Council Member Young then asked whether the city sends out a letter or card to the people who might normally apply for these funds, or do we just put a general advertisement in the newspapers? City Manager Lord responded that the city puts a general advertisement in the paper and a notice on the city's website.

Council Member Young then asked, might we in the future notify those persons who have requested funds in the past of the dates? City Manager Lord responded, we could, but we have the same 3 dates every year.

Council Member Young then asked if there were restrictions placed on the use of the 30% funds approved for the Chamber of Commerce. City Manager Lord responded affirmatively. He pointed out that the Chamber of Commerce submitted a budget as required by law. The funds are set aside for matching for grant monies with the Department of Commerce.

Council Member Lucas then asked Mr. Floyd, how much income did he project would be generated as a result of the disbursement of the A-tax funds. The city is dispensing approximately \$55,000. Finance Director Floyd responded between \$110,000 and \$120,000.

In regard to the previous question raised by Council Member Peters on the Criterium funding request, City Manager Lord noted that the Criterium has always asked for \$15,000, but they have only been given \$10,000 in the past. He said, I was not at the meeting and I can't tell you the considerations the committee made, but the only thing I can think of is availability. This time they funded the full request.

Council Member Lucas pointed out that the only reason the City gave them the money this past year was because there was no A-Tax money available.

The motion then passed with a vote of 6/1 with Mayor Sweat, Lucas, Young, Parker, Smalls and Cannady voting in favor. Council Member Peters opposed the motion.

**Appointment of City Judge, Assistant Judge, City Attorney and City Prosecutor**

A motion was made by Council Member Cannady to reappoint Ray Woodard as the Municipal Judge, Pete Constantine and Morrison Payne as Associate Municipal Judges, George Cone as the City Attorney and B. Kim Miller as the City Prosecutor. The Municipal Judge and Associate Judges to serve a two-year term and the City Attorney and City Prosecutor to serve a one-year term. Council Member Parker seconded the motion that passed unanimously.

**Consideration of Bids Received for Wastewater Sewer Rehabilitation Project**

Next Council reviewed a slate of bids received for the Wastewater System Rehabilitation Project as follows as identified by B. P. Barber & Associates:

<b>Contractor</b>		<b>Amount of Bid</b>
Instituform Technologies, Inc.	Chesterfield, MO	\$2,384,755.50
Southeast Pipe Survey, Inc.	Patterson, GA	\$2,460,135.00
Reynolds Inliner, LLC	Charlotte, NC	\$2,578,197.00
Mountain States Contractors, LLC	Mt. Juliet, TN	\$2,642,242.45
Portland Utilities Construction Co.	Portland, TN	\$3,020,655.00
Am-Liner East, Inc.	Berryville, VA	\$3,231,835.00

Public Works Director Charlie Chewning reported that the City received six bids on June 2, 2009 for the Wastewater Sewer Rehab. He stated that the first phase of the rehab project was completed about six years ago. This work will consist of televising, replacement, relining, and manhole repair. He said a lot of the areas in the sewer system are about 50 - 60 years old. He said, we want to reduce the I&I of inflow and infiltration, which has at times overloaded the sewer treatment plant. Mr. Chewning stated that this work is generally called the "trench less technology, where we line the old pipes and don't actually go in and dig a trench to put in new pipes. They will use technology to reline the old pipes.

Mr. Chewning reported that the bids ranged from \$2,384,755.50 to a high of \$3,231,835.00. He then recommended that Council approve the recommendation of B. P Barber and Associates to accept the low bid of \$2,384,755.50 from Instituform Technologies, Inc. of Chesterfield, MO. Mr. Chewning pointed out that these are all very good bid prices.

A motion was made by Council Member Young, seconded by Council Member Cannady to accept the low bid of \$2,384,755.50 from Instituform Technologies, Inc. for the Wastewater System Rehabilitation Project. The motion passed unanimously.

**Consideration of Bids Received for the Bells Highway Pump Station Upgrade Project**

Utilities Director Wayne Crosby reported on the bids received for the Bells Highway Pump Station Upgrade Project. The bids received were as follows:

Tri-County Utilities	Pacolet, SC	\$126,000.00
Wateree Construction Co., Inc.	Sumter, SC	\$134,809.00
Tom Brigman Contractors, Inc.	Newberry, SC	\$135,289.00
Green Construction of Summerville	Summerville, SC	\$137,525.00
Maxcy Hicks & Sons	New Zion, SC	\$140,100.00
James F. Pedersen Company, Inc.	Hollywood, SC	\$145,934.00
RWF Construction, LLC	Florence, SC	\$148,000.00
B&C Land Development	Johns Island, SC	\$149,800.00
Anson Construction Co, Inc.	Charleston, SC	\$150,960.00
Kris Mechanical, Inc.	Easley, SC	\$151,100.00
Seaside Utilities, Inc.	Moncks Corner, SC	\$161,754.00
DuPriest Construction Co., Inc.	Port Royal, SC	\$162,191.03
Grace Utilities, LLC	Greenwood, SC	\$174,900.00
Shoreline Enterprises	Mooresville, NC	\$187,000.00
Hi-tech Construction Company, Inc.	Myrtle Beach, SC	\$219,981.90

Utilities Director Crosby stated that this project was an extension of the Sewer Rehab Project, which is the upgrade of the Bells Highway Pump Station. This is a 30 year old pump station. The city accepted 15 bids on the same day as the Sewer Rehab Project. The bids ranged from a low of \$126,000 to a high of \$219,981.90. He then recommended the acceptance of the low bidder, Tri-County Utilities, in the amount of \$126,000 on the recommendation of our engineering firm, B. P. Barber and Associates.

A motion was made by Council Member Cannady to accept the low bid of Tri-County Utilities for the Bells Highway Pump Station Upgrade in the amount of \$126,000.00. Council Member Smalls seconded the motion that passed unanimously.

At this point Mayor Sweat asked Council Member Young and City Manager Lord to come forward. He then presented a new red rocking chair (with the City Seal) to the Mayor Elect Bill Young and City Council.

There were no Committee Reports given.

The Mayor then opened the floor to receive Public Comments and recognized Ms. Mary Ann Burt, a city resident.

Ms. Burt stated that she came before Council weeks ago complaining about the tree cutting on Paul Street and warned the city that the same act was coming to Wichman Street and Hampton Street. This cutting started on Wichman Street today and Ms. Burt was appalled at the tree cutting work done by the utility contractor. She stated that there was a tall magnolia tree which had every limb removed. She stated that she called the City Manager who said we sent a letter and we can't do any more. She said she then called Representative Bill Bowers who

immediately called Columbia. He came here, got the police, the code enforcer, Jeff Lord and Todd Litchfield to look at the problem.

She further stated, I also think it has a very negative impact on the value of our properties individually. But even more important, I think it has a huge negative impact on the City of Walterboro. We pride ourselves on being a Historic town, a town of great beauty, a town of magnificent trees, and we are giving up those trees, I think, by default. If you go to the website of SCE&G, their own guidelines are published there. They say they abide by the guidelines of the International Society of Arborists. They are violating those guidelines.

I think we need to hold them (SCE&G) accountable. I am asking the City tonight to demand a 90-day moratorium on any further tree cutting, until we can get arborists in town to certify that this is the right or wrong way to trim trees. One of the cardinal sins in tree trimming is you never top the tree, and we know that the Lewis Tree Company, working on behalf of the utility (SCE&G), has topped trees all over town. They topped the Dogwood Tree in front of my house.

I would also suggest that we use this time to amend our own tree ordinance to give us the authority to work with the utility to ask them to abide by their own guidelines.

The Mayor then asked Attorney Cone if the City could move forward with a moratorium.

Attorney Cone stated, I would have to check into it, but I don't see why you couldn't declare a moratorium on this. City Manager Lord affirmed that tickets were issued today on this matter.

Attorney Cone further stated, we can put a moratorium on all tree cutting, but usually you don't try to enjoin violation of an ordinance, because the law says you can't do it. But, if you want to put a moratorium on all tree cutting, whether it violates an ordinance or not, I would think you could do that. But, it might negatively impact some people.

City Manager Lord then said there are two different things here. One is tree cutting and the other is tree trimming. Tree cutting is covered in our code of ordinances and we can and did enforce that today. What is not covered is tree trimming, and I think that may be what Ms. Burtt is asking for is some kind of action regarding tree trimming.

Ms. Burtt responded, yes, I am asking that we amend our tree ordinance to cover the tree trimming.

Mayor Sweat clarified, but the first thing you are asking for is a moratorium, so that they can't trim anymore until we have had a chance to study this.

Councilman Young then asked, can't we make the moratorium on tree trimming and then they will still go through the same process to be able to cut down a tree.

Mr. Jack Jackson, President of the Historical Society, then addressed Council. He said we are also concerned about this. He pointed out that there were a number of trees in our town that were registered in the National Historic Register of Live Oaks, which is part of the Department of the Interior's program. There may be some of those trees that were damaged in this tree trimming on Wichman Street. So, we may have a violation of the Department of the Interior here, which is going to be a bad reflection on all of us. I agree with everything Ms. Burtt has said, this goes to the heart of this community. We need to strengthen this community, not weaken it. I would support a moratorium. I would go so far as to say let Council issue a Cease and Desist Order to SCE&G pending an investigation and hearing to determine whether violations have occurred and also to establish future rules safeguarding the Historic District.

Mayor Sweat then asked for a motion on a moratorium. Attorney Cone then stated, I believe, it is my opinion, that the moratorium would have to be declared by ordinance, seeing as there is not a city ordinance governing tree trimming at this point, so you can move first reading on an ordinance by title, "City of Walterboro Moratorium on Tree Trimming". Then we will get you the text, then it will be the Second Reading that you'll need.

Councilman Young then asked, how can we stop them until we can get an understanding of what they are going to do and how they are going to do it? Can we stop them? What can we do to stop them? Because we are talking July 14 now, it will all be done by the time we have anything to say about it.

Further discussion was held on alternate solutions.

Councilman-Elect Dwayne Buckner suggested that the city file an injunction to keep the contractor from cutting the trees. He said, when they come to trim the trees, you give them the citation from the judge. If we could get that done, I think that would be the best way to do it.

Attorney Cone then stated, if the city wants to apply for it. I think the first step could be a TRO. An injunction to a Temporary Restraining Order could be handled on short notice, provided we could find a Circuit Court Judge. We need to name the South Carolina Electric and Gas or SCANA or whoever the contractor is and then whoever has been contracted to cut the trees.

Council Member Cannady then asked if this is the quickest way we can get something done now.

Attorney Cone then said, I just can't believe that SCE&G is not responsive to your request, but if they haven't been, I think that's the way to get their attention.

Marsha Johnson then stated, maybe we can make a suggestion that instead of delaying their contractors from working at all that they could work in the areas that would be less unsuitable for them to work until we can sort this out. I've received something in the mail that said they would be working in my neighborhood within a month, so they must have other areas that they could work to preserve the historic trees.

Ms. Sue McCunn, Chairman of the City Appearance Board, then stated that she wanted to add her support for Council to do something along the line of providing some criteria for the City as well as the cutting that the Tree Committee could use. While I appreciate the historic value and the aesthetic value, seventh grade science classes on the water cycle are teaching us that "If we don't start preserving the trees, we are not going to have any water", and that's been proven.

Councilman Young then asked the City Manager, if the city could contact SCE&G again and tell them we need to talk before they proceed with this, give them another opportunity to stop this before we do the injunction. The other thing, I would like you to talk with the Municipal Association to see if other cities have run into this, and how they have handled it. We've had a good relationship with SCE&G and surely we can sit down and talk about this.

Attorney Cone then suggested that Council might consider passing an emergency ordinance which would have a temporary affect. He said, if you want to do this tonight, you can if you deem this an emergency, and I think if you can say, it will affect the public safety, etc. and that the City of Walterboro declares a moratorium on tree cutting along roads, highways and power lines for a period of 30 days while the matter is being considered as a permanent ordinance, can be brought before Council for further action. If you move that, I will check tomorrow and make sure we have appropriate circumstances for this to be effective and we will also check on a Temporary Restraining Order.

A motion was then made by Council Member Cannady, seconded by Council Member Lucas, to adopt an Emergency Ordinance to declare a moratorium on tree cutting along roads, highways and power lines for a period of 30 days in the City of Walterboro. The motion passed with all members voting in favor.

On a question raised by Mary Ann Burtt about notifying the tree cutting workers about the moratorium tomorrow so no further damage could be done to the trees, Mayor Sweat responded that the Police Chief will take care of the matter.

The Mayor then thanked everyone for coming tonight. He said, what a really good meeting to go out on.

A motion was then made by Council Member Cannady to enter an executive session for a discussion of negotiations incident to proposed contractual arrangements. Council Member Smalls seconded the motion that passed unanimously.

The Meeting returned to Open Session, and Councilman Peters asked the City Manager if the city received the two letters regarding the railroad right of way. City Manager Lord responded he had not heard anything, but would check on the matter.

There being no further business to consider, a motion to adjourn was made by Council Member Parker, seconded by Council Member Young and passed unanimously. The Mayor adjourned the meeting at approximately 7:30 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: July 28, 2009**