

Walterboro City Council
Regular Meeting
April 22, 2008

MINUTES

A Regular Meeting of Walterboro City Council was held at City Hall on Tuesday, April 22, 2008, 2008 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 and City Attorney George Cone were also present. City Clerk Betty Hudson was absent and Bonnie Ross served as meeting recorder.

The Mayor welcomed everyone to the meeting and stated he was glad to be back seated with Council again.

The invocation was given by Council Member Smalls, followed by the Pledge of Allegiance to our flag led by Council Member Lucas.

Mayor Sweat then recognized Mayor Pro-Tem Bill Young for opening remarks. The Mayor then stated, on his behalf as Mayor, he wanted to thank Mr. Young for carrying on as Mayor for several months while he was out.

Mayor Pro-Tem Young then stated he wanted to publicly thank everyone who has helped over the last several months, especially Charlie Chewing who served as interim City Manager. He stated, I relied on Charlie heavily and I really appreciate his help. He also thanked Jeff Lord, the department heads and city staff who also did a great job. He said, I especially want to thank my fellow Council Members for their support and cooperation. I am very proud of the way this Council handled itself during some trying times.

APPROVAL OF MINUTES:

The Minutes of the April 8, 2008 Public Hearing and Regular Meeting were approved as submitted on a motion made by Council Member Parker, seconded by Council Member Smalls, and passed with all members voting in favor.

OLD BUSINESS:

There was no OLD BUSINESS before Council.

NEW BUSINESS:

Ordinance # 2008-05, was given First Reading Approval on the motion of Council Member Cannady, seconded by Council Member Lucas and passed unanimously, being: **AN ORDINANCE TO AMEND CHAPTER 4, BUILDING REGULATIONS, ARTICLE I, SECTION 4-1, BUILDING CODES-ADOPTED, SO AS TO UPDATE REFERENCES TO THE BUILDING CODE EDITIONS, AND FEE SCHEDULE.**

Discussion to Reactivate the ADA Review Committee and Appoint New Members

After a brief explanation of this agenda item by Mayor Sweat, a motion was made by Council Member Peters, seconded by Council Member Smalls to reactivate the ADA Review

Committee and appoint Mr. Darrin Sisk, Ms. Melissa O'Quinn and Mr. David Dodd to serve on this committee. The motion passed unanimously.

Requests for Authorization to Issue a Temporary Certificate of Zoning Compliance for a Mini Carnival

1. A request for authorization to issue a temporary Certificate of Zoning Compliance to the Rice Festival Committee for a mini carnival to be located at the 1200 block of Sniders Highway on April 23-27 was before Council. In a letter from the Committee, the request was as follows:

- a) Permission to locate the Rice Festival Carnival on a vacant lot in the 1200 block of Sniders Highway, owned by Todd Land (next to old Burger King) and across the street from the Welcome Center.
- b) Dates of carnival to be April 23-27 (Wednesday-Sunday)
- c) Set up dates: Friday April 18 and Tuesday, April 22.

A motion was made by Council Member Cannady, seconded by Council Member Peters, to approve the request as submitted. In discussing the motion, City Attorney Cone stated he received a call from Ms. Geita Patel, who was concerned about security for the businesses in the area. City Manager Lord responded that he and Chief Rhodes have addressed the problem to have onsite parking, and the city has personnel for security. He added that some of the businesses in the area have started putting up signs saying their parking is for their businesses only. Police Chief Rhodes pointed out that the county will have a carnival going on at the same time as the Rice Festival's carnival. Their biggest concern was parking and how to enforce no parking in their parking lots. They have the right to put signs up for their customers only. If anyone parks there who should not, their vehicles could be towed at the owner's expense. Hopefully, it will not come to this. The businesses will have someone out there, asking people not to park in their lots. On a question by Council Member Parker, Chief Rhodes affirmed that his officers will be there.

The motion then passed with all members voting in favor.

2. A second request for authorization to issue a temporary Certificate of Zoning Compliance for a mini carnival to be located at the Walterboro Christian Center, 320 Robertson Boulevard on April 24, 2008 through April 27, 2008 was before Council.

A motion approving this request was made by Council Member Smalls, seconded by Council Member Peters, and passed unanimously. In discussing the motion, Council Member Lucas asked if the Police Department had added security for this carnival. Chief Rhodes affirmed that the Department did have in place the added security. **The motion passed unanimously.**

Discussion of a New City Ordinance Regulating Smoking in Public Places

Council Member Bill Young opened the discussion of this agenda item. He stated that each Council Member should have already received a copy of the Greenville, South Carolina Smokefree Ordinance and a copy of the Supreme Court's response. Mr. Young then gave the following highlights of the Greenville ordinance.

-To provide a more comprehensive provision for protecting the public against the harmful effects of secondary smoke.

-“Whereas, upon assessing current conditions and more recent medical findings made by authoritative sources, Council has determined that neither the state's Clean Indoor Air Act nor the City's existing ordinance sufficiently addresses the pressing public health issues and quality of life considerations arising from the harmful effects of secondary smoke.”

-Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke is a cause of disease in healthy nonsmokers, including heart disease, stroke, respiratory disease and lung cancer.

-The National Cancer Institute has determined that secondhand smoke is responsible for the early deaths of up to 65,000 Americans annually.

-The Surgeon General has determined that secondhand smoke causes disease and premature death in nonsmokers exposed to smoke.

-Children exposed to secondhand smoke have an increased risk for sudden death syndrome, acute respiratory infections, ear problems, and more severe asthma.

-Adults exposed to secondary smoke have a higher risk of coronary heart disease and lung cancer.

-There is no safe level of exposure to secondhand smoke, and separating smoking and non smoking sections of indoor areas does not sufficiently remove the threats of secondhand smoke in enclosed areas,

-A significant amount of secondhand smoke exposure occurs in the workplace. Employees who work in smoke-filled businesses suffer a 25-50% higher risk of heart attack and higher rates of death from cardiovascular disease and cancer, as well as increased acute respiratory disease and measurable decrease in lung function.

-Smoke-filled workplaces result in higher worker absenteeism due to respiratory disease, lower productivity, higher cleaning and maintenance costs, increased health insurance rates, and increased liability claims for diseases related to exposure to secondhand smoke.

-Certain outdoor events, such as parades, festivals, and other public gatherings result in nonsmokers finding themselves in close proximity to smokers which can result in the same effects of exposure as when nonsmokers are exposed to smoke in the same enclosed space.

-When there is a presence of second hand smoke in enclosed spaces or in outside areas where there is a public gathering resulting in people being in close proximity in places that are otherwise open to the public at large inevitably results in persons who do not smoke being forced to bear unwarranted health risks and inappropriate deprivation of peaceful enjoyment of the premises to which they have been invited or permitted to enter, even when steps have been taken to separate "smoking" and "nonsmoking" areas within the confined space.

-The City recognizes that smoke creates a danger to the health and safety of the public at large and that, in order to protect the health and welfare of the public, it is necessary to restrict smoking in the manner provided for in this ordinance.

-Smoking shall be prohibited in all enclosed public places within the City, including but not limited to the following places:

- A. Galleries, libraries and museums.
- B. Areas available to and customarily used by the general public in businesses and nonprofit entities patronized by the public, including but not limited to, professional offices, banks, laundromats, hotels and motels.
- C. Bars.
- D. Bingo facilities.
- E. Convention facilities, conference centers, and exhibition halls.
- F. Educational facilities, both public and private.
- G. Elevators.
- H. Health care facilities.
- I. Hotel and motel lobbies.
- J. Licensed child care and adult day care facilities.
- K. Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities.
- L. Polling places.
- M. Private clubs when being used for a function to which the general public is invited.
- N. Public transportation facilities, including buses and taxicabs, and ticket, boarding and waiting areas of public transit depots.

- O. Restaurants.
- P. Restrooms, lobbies, reception areas, hallways and other common use areas.
- Q. Retail stores.
- R. Rooms, chambers, places of meeting or public assembly, including school buildings.
- S. Service lines.
- T. Shopping malls.
- U. Sports arenas.
- V. Theaters, performance halls, lecture halls, and similar facilities, inclusive of lobbies, audience seating, dressing rooms, projection booths, back stage areas, and the stage, but excluding smoke on stage when it is an integral part of a theatrical performance.

-Smoking shall also be prohibited in certain outdoor areas when the use involves a gathering of the public, regardless of the number actually assembled for the event, performance, or competition. This prohibition shall apply to:

- A. Amphitheaters.
- B. Ball parks and stadiums when in use for athletic competitions or public performance.
- C. Parades and special events on public streets and City property, although the City Manager has the discretion, but not the obligation, to establish designated smoking areas in or in proximity to the parade or event area.
- D. Dining areas in encroachment areas on public sidewalks, plazas, and parks and dining areas on decks, balconies, and patios of restaurants and bars.
- E. Zoos.

-Reasonable Distance of Entry and Outdoor Area. Smoking is prohibited within a distance of ten (10) feet from any entry into an enclosed area where smoking is prohibited, so as to insure that tobacco smoke does not enter the area through entrances, windows, ventilation systems, or other means. Smoking is also prohibited within ten (10) feet of the boundary of the outdoor areas where smoking is prohibited.

-The following areas shall be exempt from the provisions of this Ordinance.

- A. Private residences, except when used as a licensed child care, adult day care, or health care facility.
- B. Hotel and motel rooms that are rented to guests and are designed as smoking rooms, provided, however, that not more than twenty percent (20%) of rooms rented to guests in a hotel or motel may be so designed. All smoking rooms on the same floor must be contiguous and smoke from these rooms must not infiltrate into areas where smoking is prohibited under the provisions of this Ordinance.
- C. Retail tobacco stores; provided that smoke from these places does not infiltrate into areas where smoking is prohibited under the provisions of this Ordinance.
- D. Private and semiprivate rooms in nursing homes and long-term care facilities that are occupied by one (1) or more persons, all of whom are smokers and have requested in writing to be placed in a room where smoking is permitted; provided that smoke from these places does not infiltrate into areas where smoking is prohibited under the provisions of this Ordinance.
- E. Private clubs that have no employees, except when being used for a function to which the general public is admitted.
- F. Outdoor areas of places of employment except those covered by the provisions.

-This ordinance shall be enforced by the Office of the City Manager or an authorized designee.

-A person who smokes in an area where smoking is prohibited by the provisions of this Ordinance shall be guilty of an infraction, punishable by a fine not exceeding fifty dollars (\$50).

-A person who owns, manages, operates, or otherwise controls a public place or place of employment who fails to comply with the provisions of this Ordinance shall be guilty of an infraction, punishable by:

- A. A fine not exceeding one hundred (\$100) for a first violation.
- B. A fine not exceeding two hundred (\$200) for any subsequent violation within one (1) year.
- C. Repeated violations of this ordinance by a person who owns, manages, operates, or otherwise controls a public place or place of employment may result in the suspension or revocation of any occupancy permit or business license issued for the premises on which the violation occurred.

-The City shall engage in a continuing program to explain and clarify the purposes and requirements of this Ordinance to citizens affected by it, and to guide owners, operators, and managers in their compliance with it.

-It is the intent of Council to prohibit smoking wherever the private choice of smoking intrudes or has the capacity to intrude upon the right of persons concerned about protecting their own rights to be free from the hazards and inconvenience of secondhand smoke in places where they work, stand, sit, walk, dine, drink, read, study, or engage in entertainment and recreation. All provisions shall be construed to achieve these purposes.

Councilman Young pointed out that Council also received a copy of the Supreme Court's ruling on the Greenville Ordinance, where it was found to be legal.

Council Member Cannady then asked for clarification of the word, "general public." Attorney Cone responded that this is the "unrestricted public," not any special class of people within a business. You generally consider a business open to the general public that sells things, such as insurance or dry goods, etc. where you have an invite by the nature of the business for people to come in. It's generally the general public that's asked to patronize those businesses.

Mr. James Brown, a resident on State Street and a retired State Trooper addressed Council. He stated that his wife works for Fat Jack's Grillin and Chillin in Walterboro. A lot of her customers there do a lot of smoking. Mr. Brown expressed concern for his wife's health working in a smoking environment. He stated he was here tonight to support Councilman Young and to support the ban on smoking if possible, without being on the edge of getting anybody mad, he stated if the ordinance passed, I would very much appreciate it.

Council Member Lucas asked if there were an actual ordinance already written up. Council Member Young then asked Attorney Cone, how much changes would need to be made to the Greenville Ordinance, to make it apply to Walterboro? Attorney Cone replied, there would be some changes, but not a great deal. I don't think we have some of the facilities, but it does not hurt, in view of future growth, to have those included. Council Member Young then asked if it would be correct to assume by using the Greenville Ordinance it would protect us from litigation against the ordinance, since this has already been through the Supreme Court. Attorney Cone responded that people can challenge the ordinance; however, he does not feel the challenge would be successful, at least up through the State Supreme Court, which goes both through the trial court and the circuit court.

Attorney Cone then suggested that after Council's discussion and you want to look further, then it might be in order to have staff to review, revise and present a proposed ordinance for the City.

Council Member Young then asked the City Manager if this could be done, so we could have first reading at the next meeting. It was also agreed to schedule a public hearing at the same time. On the request of Mayor Sweat, City Manager Lord agreed to have the new ordinance available for first reading at the next Council Meeting.

Requests for Qualifications (RFQ) for Engineering Services Involving Water Distribution and Wastewater Collection Systems Improvement Projects

Utilities Director Wayne Crosby informed Council that the City has had a number of improvement projects for both water and wastewater over the last several years. In an effort to make ourselves more efficient when dealing with our engineers, the City asked for qualifications from engineer firms to encompass both water and wastewater improvement projects over the years to come. Submittals were accepted on April 14th. With the assistance of City Manager Jeff Lord and Public Works Director Charlie Chewning, those firms were evaluated using the following criteria:

Professional staff qualifications	20%
Staff experience on similar projects	20%
Ability to meet time and budget requirements	20%
Knowledge of the city's water and wastewater system	20%
References	10%
Location of the firm	10%

Mr. Crosby reminded that a copy of each firm's evaluation sheets had been submitted to Council. He then recommended that staff be allowed to seek bids from the top three rated firms, with B. P. Barber as No. 1 firm, Thomas & Hutton as the No. 2 firm and Davis and Floyd as the 3rd firm. He stated, it is our recommendation that you allow us to go to the first (or the highest ranked) engineer firm to do the projects (water and wastewater) and negotiate a fee for those projects. If there is some conflict where they are already in a project for us, then allow us to move down to the second engineering firm, then the third.

City Manager Lord stated, this gives us more negotiation power with them, because they know there is somebody standing behind them. For each project and each negotiation, we will come back to Council for approval. This really standardizes the process, so every time we do a project, we don't have to go back again and ask for qualifications, and they will just submit the same information each time. So, we will have a standard process by which we would just go down the list. If any firm has too many projects, then we'll just go on to the next one and tell them they need to finish up those others, before they can be considered again.

At this point, Council Member Young asked if he could speak again on the smoking ordinance. He then asked staff to talk with the County Administrator tomorrow and let them know what Council has done, and then forward a copy of the rewritten ordinance. Tell them it has not been approved yet, but that is where we are and what we are doing.

A motion was made by Council Member Cannady to allow staff to use the RFQ for the three top engineering firms and to negotiate with them. Council Member Peters seconded the motion that passed with all members voting in favor.

Consideration of Bids for a Generator Storage Building for the Wastewater Treatment Plant

Utilities Director Wayne Crosby stated that a little over a year ago, the City purchased five standby generators for emergency use for water wells and lift stations. We had asked, this past year, that you allow us to build a generator shed to store those. It is a great expense and certainly is something that we need. This generator shed will house the generators, give us a place to work on them, and help to keep them out of the weather. We were budgeted for \$25,000. We asked for proposals on this shed. It was advertised and we received only 2 bids for what we asked. The low bid was Beacon or Brightwell Engineering at \$27,422. He then recommended the acceptance of the low bid from Brightwell Engineering.

On a question from Mayor Sweat, Mr. Crosby stated the shed would be built at the Wastewater Treatment Plant. This was chosen for a number of reasons. One, the electrical is already there. The only expense we would incur is the actual building expense. Mayor Sweat stated the only problem we foresee is, if we have a storm which could give a tree problem on the road, coming out. Mr. Crosby responded that this concern had been addressed and two things kept coming up. One, if it's a named storm or hurricane, we generally disburse those generators throughout anyway. During the last storm, we placed two generators at City Hall, one at the shop on Robertson Boulevard and one at the Welcome Center.

A motion was made by Council Member Parker to accept the low bid of \$27,422 from Brightwell Engineering to build the generator shed as recommended. Council Member Smalls seconded the motion. In discussing the motion, Council Member Young asked if there were any other building available to the city to house the generators before the money is spent? City Manager Lord answered there is no large unit available. They (the generators) take up a large space and you need to have room around them in which to work. Mr. Crosby added that the manufacturer's recommendation asks for certain electrical requirements that we plug these in. The heater box stays warm, so they are available in emergencies, and we have staff at the Wastewater Treatment Plant, so that's another reason for that location. We have someone there all the time, and the generators need to be cranked on a random regular basis.

On a question by Council Member Parker, Mr. Crosby stated that the dimensions of the building are 50 ft. x 20 ft. It is 20 feet deep and 50 ft. long. So each bay would actually be 10 ft. wide to accommodate one generator.

The motion then passed with all members voting in favor.

Funding Request from the Colleton County Veterans Council

Mr. James White, on behalf of the Colleton County Veterans Council, appeared before Council requesting support for funding a Colleton County Veterans DAV Honor Guard for ceremonial service during burials, to help support the spouses of veterans. He stated we need to do something in Colleton County to support veterans. Also present on behalf of the Colleton County Veterans Council was Mr. Price Tucker, Chairman and Mr. Johnny Holmes, Commander for the Honor Guard Unit. Currently, we have 14 persons willing to volunteer services for funerals in the community. We already have the weapons in hand, and we are trying to get this unit put together before Veterans Day of this year. We are asking the City to consider supporting us financially (in the amount of \$2,679.88) to buy the units and other gear to get the Honor Guard up and running by Veterans Day of this year. That cost is a one time request. Mr. White stated, we ask that this request be honored by your putting the monies in your 2008-09 budget and have it available by the first month after the passing of the new budget, which would be in July.

Mayor Sweat stated that more than likely, we will look at it at budget time. Council Member Cannady then asked if the County had been approached for funding. Mr. White stated they had not contacted the County yet, and this is our reason. We had a van that we purchased back in 1977 to carry the veterans back and forth to the VA Hospital, and the county put up the money for that. That van now has well over 150,000 miles and is breaking down constantly. Not only will we need another van, but the cost has also gone up. When we purchased the van, it cost \$5,000+, now it will cost \$12,000+. So, we did not want to ask the county for this, when we know in the near future we will be asking them to fund another van. That is why we came to you to support the honor guard. We will be going through the same procedure with the county in requesting that they plan for the \$12,000 in their upcoming budget.

Mayor Sweat then thanked Mr. White for coming before Council and noted that his request would be one of the top items on the agenda for the budget sessions. Mr. White then said, if you

can't do the whole amount, please do half or a quarter. Just don't let us hang out there. I think their services will be greatly appreciated by all the community. The honor guards will not only be available for burials, but also for parades, Memorial Day or for action we may have at the Victory House Nursing Home. Any other community services that they may be able to render, as long as it's for Colleton County, we will take care of it.

Mayor Sweat then reminded everyone that this is Rice Festival Week. He invited all persons to attend and enjoy the festival. The parade will be on Saturday. He reminded vendors not to put up private booths, but to go through the Rice Festival to set up booths. When you go through the festival, the minimum charge is \$150.00. If you are ticketed for being set up without the approval of the Rice Festival, the minimum charge will be \$500.00 per day. So, we would suggest you go through the Rice Festival as designed.

COMMITTEE REPORTS:

Under Committee, Council Member Lucas reported that during the City Appearance Board's city wide cleanup two Saturdays ago, we collected 205 bags of trash and a total of 3,020 pounds of litter within the City. He thanked the Appearance Board for sponsoring the cleanup, and especially Ms. Bonnie Ross, who is the coordinator from the City to that board. She did a wonderful job, worked hard and helped to make it a success.

A motion to enter an executive session to discuss matters relating to the proposed location of services was made by Council Member Lucas, seconded by Council Member Cannady. The motion passed unanimously. The meeting then entered an executive session.

The meeting returned to Open Session with no action taken as a result of the executive session.

There being no further business to consider, motion to adjourn was made by Council Member Young, seconded by Council Member Parker and passed unanimously. The Mayor adjourned the meeting at 7:50 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 June 10, 2008