

MINUTES

A Public Hearing and Regular Meeting of Walterboro City Council was held at City Hall on Tuesday, April 27, 2010 at 6:15 P.M. with Mayor Bill Young presiding.

PRESENTS WERE: Mayor Bill Young, Council Members: Dwayne Buckner, Randy Peters, Charles Lucas, Ted Parker, Franklin Smalls and Tom Lohr. City Manager Jeff Lord, City Clerk Betty Hudson, City Attorney George Cone and Attorney Ashley Amundson were also present. There were approximately 16 persons present in the audience at the meeting.

Mayor Young called the meeting to order. Council Member Smalls gave the invocation and Council Member Lucas led the Pledge of Allegiance to our flag.

The Mayor welcomed everyone to the meeting and thanked all the persons involved with the Rice Festival. Mr. Bubba Tripp did a great job on it. The Mayor thanked him, his volunteers, including Donna Laird, City Public Safety Department, the Sheriffs's Department and others. The Mayor also thanked the City's Public Works Department, Parks Department and Water Department for their help with making everything go smooth for the festival.

PUBLIC INPUT ON AGENDA ITEMS:

The Mayor then asked for public comments on agenda items. No public comments were given.

PUBLIC HEARING:

The Mayor then announced a public hearing duly advertised to receive public comments on two proposed Ordinances:

1. **Ordinance # 2010-04**, An Ordinance to Amend Chapter 21, the Walterboro Zoning Ordinance and Land Development Regulations, Section 1.6, Definitions and Rules of Construction, to Add Definitions for "Alternative Financial Services Institutions," "Check-cashing Services," "Deferred-presentment Services," and "Title-lending Services"; and to Create a New Article XI, "Alternative Financial Service Institutions," to Set Forth Regulations Regarding Locations of Such Businesses Within the City of Walterboro.
2. **Ordinance # 2010-05**, An Ordinance to Amend the Walterboro Zoning Ordinance and Land Development Regulations So As to Create a New Article XII to Reestablish and Provide for an Overlay Zone to Include Airport Overlay Zone Height Restrictions and Matters Related Thereto.

No comments were made on the above proposed ordinances and the hearing was closed. The regular meeting then began.

REQUESTS FOR APPEARANCE:

1. Pastor Leon Maxwell, Ecumenical Ministers Association - Update on Handgun Buyback Program

Pastor Maxwell reported that his organization only collected three guns during the recent gun buyback program. He said, we were a little disappointed, but after meeting with the Chief of Police and discussing with the other ministers, we found there were some things that we did not do right and properly prepare. He said, we have \$3,000 worth of gift certificates from Walmart and \$1,500 of this belongs to

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the City of Walterboro. For the sake of integrity, we would like to retry the gun buyback in July, just before the heat of the season to see what happens. After that, we would like to give back to the City the \$1,500 if we have it, because for integrity sake. We want to thank you for helping us to even have this opportunity to do something like this. After July, we will return it back to the Chief of Police. We have it set up so we can cash it back in and get our funds back. We plan to have the program again in July and we will have it at St. Peters AME Church. We have not decided on a 2nd location yet. We want to thank you for entrusting us to try to be a part of helping to do something with the crime in Walterboro.

APPROVAL OF THE MINUTES:

Upon motion of Council Member Buckner, seconded by Council Member Lucas and passed with all members voting in favor, the following meeting minutes were approved:

1. Minutes of the March 23, 2010 Public Hearing and Regular Meeting.
2. Minutes of the April 13, 2010 Public Hearing and Regular Meeting.

PROCLAMATIONS AND RESOLUTIONS:

1. **Proclamation No. 2010-05**, A Proclamation to recognize and commend Ms. Stephanie Drawdy and the CCHS Singers who performed at Carnegie Hall on March 19, 2010. A motion to adopt the proclamation was made by Council Member Peters, seconded by Council Member Lohr and passed unanimously. The Mayor read the proclamation in its entirety into the records. Ms. Drawdy and a member of the CCHS Singers were present to receive the proclamation. A copy of the proclamation is attached as part of these minutes.

OLD BUSINESS:

1. Ordinance # 2010-04 (Second Reading)

A motion was made by Council Member Peters, seconded by Council Member Parker giving Second Reading and Adoption to Ordinance # 2010-04, being:

An Ordinance to Amend Chapter 21, the Walterboro Zoning Ordinance and Land Development Regulations, Section 1.6, Definitions and Rules of Construction, to Add Definitions for "Alternative Financial Services Institutions," "Check-cashing Services," "Deferred-presentment Services," and "Title-lending Services"; and to Create a New Article XI, "Alternative Financial Service Institutions," to Set Forth Regulations Regarding Locations of Such Businesses Within the City of Walterboro.

In discussing the motion, Council Member Buckner stated in looking over this ordinance, we are trying to have a "reasonable restriction on trade" as it relates to these types of businesses operating in the City of Walterboro. But the goal or the spirit of the ordinance is to curtail these types of businesses operating in the City of Walterboro. According to the current ordinance as presented, in order for a particular company or financial institution to have to abide by the ordinance rules, they would need to have been out of business for a consecutive 90-day period. So in essence, a business could operate for 30 days, and then be out for 30 days more, and they wouldn't have to abide by the ordinance, or they could be out for 60 days and still would not have to abide by the ordinance. In this ordinance, it says they would have to be out consecutively for 90 days before they would have to abide by the rules and regulations or this ordinance. Therefore, I do not think this ordinance has the "teeth" that we need for these types of businesses (check cashing). I still think we have too many of them and we need to clean up our city from these types of businesses continuing to operate in the City. So, I am going to vote against this ordinance as written, because I think the 90-day consecutive (for them to be out of

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business before they have to abide by the ordinance) is too long. Once they close their doors, I don't think they should have the opportunity to continue to do business, unless they meet the standards of the ordinance.

Council Member Lucas then proposed to take out the "discontinuance" in the ordinance. He said, to me the 90 days is something that causes them out of their own free will to stop doing business. They have 90 days to get their stuff in order, but if they just discontinue services, it seems to me that they should not be able to come back.

City Manager Lord suggested changing the 90-day period to some other period or have no period whatsoever. In determining the circumstances is where you might get subjective.

Council Member Lucas stated, if a business closes today, then they should not be allowed to open up again next week if they terminate on their own. A discontinuance to me would be "terminating."

Mayor Young pointed out that this is only for an existing business that opens back up. They can open back up in 90 days. A new business of the same kind cannot open back up. City Manager Lord added that no new businesses would be allowed unless they meet the restrictions of the ordinance.

Further discussion was held on the 90-day restriction. City Attorney Cone stated that he did not feel that it would hurt to lower the period from 90 days to 30 days. The likelihood of litigation, just as an estimate, would not be greatly increased. He further stated, but I do think you need to give them some time in case of a natural disaster where businesses are forced to close because of a hurricane, flooding or some other reason. It's within your providence to determine what is a reasonable period of time. I don't think 30 days would cause a great increase in litigation. Ashley has done some further research on this and has talked with Greenville.

Attorney Ashley Amundson reported that the current proposed ordinance is significantly less restrictive than Greenville's ordinance.

Council Member Lohr then asked the attorneys if there was some litigation that took place in the Greenville area. Attorney Amundson responded that Greenville does have a few cases that are pending, but their ordinance is significantly stricter than this one and it has a time period. I think it is actually tied to the lease term, she stated.

Council Member Lohr noted that Georgia and North Carolina statewide did something in this area. He asked, do you have any details about how they handled it? Attorney Amundson responded that she had not done any research on this.

Attorney Cone clarified that as far as the Greenville Ordinance and that litigation, they had given businesses a period of time in which to come in compliance. We essentially are grand fathering the current businesses, and I think that was a business decision to try and avoid litigation and accommodate the people who had these businesses, while at the same time, prohibiting new ones from coming up.

Attorney Cone then told Council, you can offer an amendment to the ordinance, and then you would have to pass the amendment before the ordinance is passed if that's the way you want to do it.

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Council Member Peters then stated, I would like to amend approval of Ordinance #2010-04 to read, in section 11.3, Vacancy, Abandonment, or Discontinuance of Business that for any consecutive 30-day period barring any natural disaster including hurricanes, etc.

City Manager Cone then stated, I don't think you need to put in the part on natural disaster, but you may need to basically, make a motion to amend the proposed Ordinance # 2010-04 to substitute a 30-day period instead of a 90-day period in section 11.3. Council Member Peters so MOVED to amend Ordinance # 2010-04 as stated. Council Member Buckner seconded the motion. The motion passed unanimously.

Council Member Peters made a second motion giving Second Reading and Adoption to Ordinance # 2010-04 as amended; being: AN ORDINANCE TO AMEND CHAPTER 21, THE WALTERBORO ZONING ORDINANCE AND LAND DEVELOPMENT REGULATIONS, SECTION 1.6, DEFINITIONS AND RULES OF CONSTRUCTION, TO ADD DEFINITIONS FOR "ALTERNATIVE FINANCIAL SERVICES INSTITUTIONS," "CHECK-CASHING SERVICES," "DEFERRED-PRESENTMENT SERVICES," AND "TITLE-LENDING SERVICES"; AND TO CREATE A NEW ARTICLE XI, "ALTERNATIVE FINANCIAL SERVICE INSTITUTIONS," TO SET FORTH REGULATIONS REGARDING LOCATIONS OF SUCH BUSINESSES WITHIN THE CITY OF WALTERBORO.

Council Member Smalls seconded the motion that passed with all members voting in favor.

2. Ordinance # 2010-05 (Second Reading)

A motion was made by Council Member Buckner giving Second Reading and Adoption to Ordinance # 2010-05, being:

AN ORDINANCE TO AMEND THE WALTERBORO ZONING ORDINANCE AND LAND DEVELOPMENT REGULATIONS SO AS TO CREATE A NEW ARTICLE XII TO REESTABLISH AND PROVIDE FOR AN OVERLAY ZONE TO INCLUDE AIRPORT OVERLAY ZONE HEIGHT RESTRICTIONS AND MATTERS RELATED THERETO.

Council Member Lucas seconded the motion. In discussing the motion, Council Member Smalls asked if there were any areas or particular space that we are in violation with the height overlay. Mayor Young responded, I am sure there are some places. We are going to do this to come in compliance with FAA. Council Member Peters asked if this matter had been voted on by the Airport Commission. Mayor Young said that the Airport Commission right now, cannot move forward without this being done. We have to have this done.

Attorney Cone reported that he had forwarded a copy of the ordinance to the new Airport Commission attorney for review and asked him to go over it with the Airport Commission. I have received no comments, so I would assume that they go along with it and I suggested it to the county that they might want to amend their ordinance to mirror our ordinance.

The motion then passed with all members voting in favor.

The Mayor then entertained a motion to enter an Executive Session. Council Member Lucas **MOVED** and Council Member Lohr seconded the motion to enter into an Executive Session. The motion passed unanimously.

The Mayor announced that the meeting would enter an Executive Session for a personnel matter on Boards and Commission Appointments and a contractual matter for a discussion of contractual agreement related to planning consultant

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services and a discussion of matters related to the provision of services encouraging the location or expansion of industry and other businesses in the area. The meeting then convened into Executive Session.

The meeting returned to Open Session and a motion was made by Council Member Lucas to appoint Mr. David Evans to the Accommodations Tax Advisory Committee. Council Member Peters seconded the motion. The motion passed with all members voting in favor.

Next, Council Member Lucas **MOVED** to appoint Ivey Johnson to the Youth Advisory Commission. Council Member Peters seconded the motion that passed unanimously.

A motion was made by Council Member Parker to reappoint Lucille Powers to the Historic Preservation Commission for another 2-year term. Council Member Peters seconded the motion. The motion passed unanimously.

Next, the Mayor entertained a motion to award a contract in the amount of \$35,000 to Benchmark CMR for revision of the City Zoning Ordinance. Council Member Buckner then **MOVED** to accept the contract as stated. Council Member Lucas seconded the motion. The motion passed unanimously.

There being no further business, a motion to adjourn was made by Council Member Parker, seconded by Council Member Lucas and passed unanimously. The Mayor adjourned the meeting at 7:18 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: May 25, 2010