

MINUTES

A Public Hearing and Regular Meeting of Walterboro City Council was held at City Hall on Tuesday, June 26, 2012 at 6:15 P.M. with Mayor Bill Young presiding.

PRESENT WERE: Mayor Bill Young, Council Members: Paul Siegel, 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. **Council Member Dwayne Buckner was ABSENT.** Approximately 18 persons were present in the audience.

There being a quorum present, the Mayor called the meeting to order and called on Mr. Horace Simmons for the invocation. Mr. Simmons asked that everyone repeat the Lord's Prayer. Council Member Peters led the Pledge of Allegiance to our flag.

PUBLIC INPUT ON AGENDA ITEMS:

Mr. Arden Lommen addressed Council regarding the agenda item no. 1, under New Business, "Consideration of a Motion to Have the City Manager Draft an Ordinance to Place on the November General Election Ballot a Referendum to Allow Sunday Alcohol Sales." Mr. Lommen spoke in opposition to this item. He felt that cigarettes and alcohol are the entry drugs for drug addicts. He said, if we have somebody that is drunk six days of the week, and they come to Walterboro drunk on Sunday, too, then I would prefer that they go some place else.

Mr. Horace Simmons, a city resident, also spoke against Sunday sales of alcohol. He said, I don't drink, I don't like drinking, it's not a good thing. We have enough bad news in Walterboro, and we don't need to add anything else to it. There is no need to add more fuel to the fire.

Mayor Young then spoke to clarify the action that Council will be taking on this agenda item. He said, what is before Council tonight is whether or not to allow the citizens to vote on that question. It's not before us to decide whether or not to allow alcohol sales, it is whether or not to allow the community to speak to that.

PUBLIC HEARING: (There were four (4) Public Hearing Items, which were properly advertised in the local newspaper).

1. **Project Amendment CDBG 4-CI-11-034 Jackson Street Pump Station Project, Chris Bickley, Lowcountry Council of Governments**

The Mayor opened a public hearing, duly advertised, to receive public comments on CDBG # 4-CI-11-034, Jackson Street Pump Station Project. A copy of the sign-in sheet is attached as part of these minutes.

The Mayor then recognized Mr. Chris Bickley of Lowcountry Council of Governments (LCOG), who was present to conduct the hearing.

Mr. Bickley announced that the City is holding this public hearing in accordance with its Citizen Participation Plan, which provides for public input. He stated that the City was awarded a \$340,000 CDBG grant in July last year to make improvements to the Jackson Street Pump Station. The project was designed, permitted and bid with prices that came in under budget. As a result, there is an under-run of \$101,000 in this project. The City has submitted a project amendment to use these funds and to provide some additional local funds to upgrade a second pump station on Birch Street. The estimated cost of this upgrade is \$155,000, and the City would be committing to the short fall of \$52,000 over the original amount of match required for the project. The proposed work at the Birch Street Pump Station would benefit an additional 117 people, of which 92 are low-to-moderate income individuals. The revised beneficiary

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numbers for the whole project, as amended, would be 462 people, of which 340 or 74% would be low-to-moderate income individuals. He concluded by stating that this project is before you tonight for public comments.

The Mayor then opened the floor to receive any public comments. No public comments or questions were received. Mr. Bickley told Council that LCOG appreciates the opportunity to work with the City on this project. Mayor Young stated that the City appreciates everything that the COG does, including Michelle. The LCOG is instrumental in helping the City with a lot of CDBG grants that provide services to our citizens.

The next Public Hearing items on the agenda were as follows:

- 2) **Ordinance # 2012-06**, An Ordinance Adopting the City Enterprise Budget for Fiscal Year 2012-2013 and Matters Relating Thereto.

No public comments or questions were received on this item.

- 3) **Ordinance # 2012-07**, An Ordinance Adopting the City Budget for Fiscal Year 2012-2013 and Matters Relating Thereto.

No public comments or questions were received on this agenda item.

- 4) **Ordinance # 2012-08**, An Ordinance of the City of Walterboro, South Carolina Amending the Comprehensive Fee Schedule for Finance Department, Zoning and Code Services and Sanitation Department

Mr. Rick Tobin of the Colletonian newspaper, raised a concern on the fee for Sexually Oriented Businesses. He asked if this fee was set exceptionally high so as not to attract those kinds of businesses? Mayor Young responded, I think this is just "correcting a mistake." I don't think there is a change in that. City Manager Lord added, when we codified the Code two years ago, we switched things over and created a Comprehensive Fee Schedule and put everything together. That was one fee that did not get moved over. So, we are just moving it over. It is not a change.

There were no further public hearing items for discussion. The hearing was closed and the regular meeting began.

APPROVAL OF THE MINUTES:

The Minutes of the June 12, 2012 Regular Meeting were approved as submitted on the motion of Council Member Peters, seconded by Council Member Lucas and **passed unanimously, except Council Member Buckner was absent and did not vote.**

OLD BUSINESS:

1. **Ordinance # 2012-06**, An Ordinance Adopting the City Enterprise Budget for Fiscal Year 2012-2013 and Matters Relating Thereto, was given Second Reading and Adoption on the motion of Council Member Lucas, seconded by Council Member Peters and **passed with all members present voting in favor, except Council Member Buckner was absent and did not vote.**
2. **Ordinance # 2012-07**, An Ordinance Adopting the City Budget for Fiscal Year 2012-2013 and Matters Relating Thereto, was given Second Reading and Adoption on the motion of Council Member Lucas, seconded by Council Member

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Bonds, and **passed with all members present voting in favor, except Council Member Buckner was absent and did not vote.**

3. **Ordinance # 2012-08**, An Ordinance of the City of Walterboro, South Carolina, Amending the Comprehensive Fee Schedule for Finance Department, Zoning and Code Services and Sanitation Department, was given Second Reading and Adoption on the motion of Council Member Siegel, seconded by Council Member Lucas and **passed with all members present voting in favor. Council Member Buckner was absent and did not vote.**

NEW BUSINESS:

1. **Consideration of a Motion to Have the City Manager Draft an Ordinance to Place on the November General Election Ballot a Referendum to Allow Sunday Alcohol Sales**

Mr. Hank Amundson, Economic Development Coordinator for the City, introduced this agenda item. He told Council this agenda item was the result of a recommendation from the Economic Development Commission in response to businesses requesting that this be put up for a vote of the people. The reasons were cited in several letters sent out with the agenda. He stated, there were more comments, but I was asked by the Commission to get a sampling of the letters on local businesses. Some reasons cited were: 1) revenues, 2) return customers as stated by several of them, and others.

Mr. Amundson pointed out that the request is that City Council would consider an ordinance to put this up for a referendum vote of the people.

Mayor Young then asked the City Attorney, if the motion would need to have two possible ways that the question could be put? He said, does that need to be in a motion to start with or can that be part of the discussion?

City Attorney Cone responded, you can move that Council considers the alternatives and then go ahead and discuss it and then afterwards make a motion as to whichever way you want to go.

The Mayor then entertained a motion "to consider the request from the Economic Development Commission." Council Member Lucas so Moved, and Council Member Peters seconded the motion.

In discussing the motion, Council Member Lucas asked if Council could have maybe three choices with two options on the sales, plus a "no, as opposed to picking one or the other question? Attorney Cone responded, I think you have to pick one or the other. It's the way I interpreted, but now I can go back and look for another authority, but that was my initial interpretation of it. You either allow on-premise and off-premise sales or just on-premise sales.

Mr. Amundson stated, in speaking with the Dept. of Revenue, you can ask one question, and this probably would be something that we would draft in the ordinance. In some opinions, there are two separate questions for you to ask and there would be two separate votes, and that would be something for us to find out in the drafting of the ordinance.

Council Member Peters then asked if off-premise sales would be at a grocery store. Mr. Amundson responded, this would be a grocery store, a gas station or a convenience store. Mr. Peters added, then on-premise sales would be where they sell

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in a restaurant. Mr. Amundson then noted that "off-premise" is not sale of liquor. Off-premise sales are only beer and wine.

Council Member Bonds then said, so what we would be doing is letting the public decide is whether it's option A, "on- premise," or option B, "on-premise and off-premise" and option C, how would that be. I am not sure I understand.

Mr. Amundson responded, there are separate questions, because you can see that some places, people have local option permits and some people have seven-day beer and wine permits. Some people have one permit, but most of them have both.

Mayor Young then asked, so what you are saying is we can ask either/or, both or none? Mr. Amundson responded, but there will not be a "none" vote because a "no" vote is none.

City Manager Lord then stated, I thought those two questions had to be together in a vote. Can they be separate? Mr. Amundson responded, that was the opinion, when I first spoke to the Municipal Association. Mayor Young then stated, I was under the impression that it was a question of "on and off-premise" or just "on-premise" sales, but not either.

Attorney Cone then stated, theoretically, and I have not looked anywhere, but you could have two referendums, or you could have three. I think it might be confusing to the public; one saying whether you want on-premise, one saying whether you want off-premise, and one saying whether you want "on and off-premise" sales. You couldn't have them as alternatives, but you could have three separate referendum issues on it. Mayor Young added, or you could just put one question before them. Attorney Cone then said, well, you've got to have one of those three questions that the statue says, for a single referendum, but you can have three separate questions, I think.

City Manager Lord then said, if you want to put both the questions on the referendum, you could choose to do it either separately as two different questions or together as one question.

Council Member Siegel then asked the City Manager, does this decision have to be made here, before the drafting of the ordinance? City Manager Lord responded, if you want to do it, then we can draft it, and then you consider the ordinance in two readings, and if it passes those two readings, the ordinance is approved and then it goes on the ballot. Council Member Siegel then asked, so now we are merely deciding whether we are going to have a referendum? City Manager Lord responded, right now, you are merely deciding if you want to hear the ordinance, and if you do want to hear it, what do you want it to say? Mayor Young added, and we are deciding whether or not to put it to the people. City Manager Lord then added, and that would be the final reading of the ordinance. Mr. Siegel added, but it is subject to change at second reading?

City Manager Lord then stated, if this is something you want to do, then a vote today would tell us that you want us to draft the ordinance, and you want the ordinance to say "first question, second question or third question." In which case, at the next Council meeting, I believe we will have it drafted to come to you and then you will hear the ordinance twice. If it passes twice, then that's when you are deciding whether it goes on a referendum. Do you want staff to draft the ordinance for you, and if so, what does it need to say?

Council Member Lucas then asked, what is the deadline that we would need to have it ready for the referendum? Mr. Amundson stated, the statue reads that it's to

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be submitted and received by the Election Commission 60 days prior to an election. It is recommended to be 90 days. Mayor Young then said, Eric told me August 15 was the deadline for this. City Manager Lord then said, it allows us 60 days, so we would need to handle this in July, that way we can get it in by August, and have a little buffer in there, just in case something happens. Council Member Bonds then asked, so two readings would be in July. City Manager Lord responded in the affirmative.

Mayor Young reminded Council that the motion on the floor was "to consider the Economic Development Commission's proposal, and we really should have voted on this. **The motion to consider the proposal of the Economic Development Commission then passed with all members voting in favor, except Council Member Buckner was absent and did not vote.**

The Mayor then said, if I understand it correctly, if we want to go forward with this, we could instruct the staff to prepare a sample ordinance or an ordinance to bring back to us that would authorize the question on the referendum. At that time, we would vote whether or not to go forward with it. Is that what you are saying, Jeff?

City Manager Lord responded, yes, and in that motion, we would need to know if you want to have the question of "on-premise," off-premise, both separately or both together. Mayor Young then said, so you are wanting us to decide that now. Council Member Bonds then said, If they are going to decide one question, shouldn't they decide both questions. I mean some might be in favor of having on-premise, but not be in favor of having the off-premise sales. Council Member Lucas then added, I would say, have three questions.

Further discussion was held, and the City Manager stated, I think you can have either two questions or one question. Mayor Young then said, they vote either yes or no. If they vote no to both of the questions, then that is that. Don't you normally give an explanation of the question on the ballot? So, one question would be to allow alcohol sales "on-premise and off-premise" and the other question would be to allow it, "only on-premise."

City Manager Lord then explained. If you did it with two questions, the first question would be to allow it "on-premise," the second question would be to allow it "off-premise." If you did it as one question, it would be just one question of: "Do you want to allow on and off-premise alcohol sales?"

Mayor Young then said, so if you do that, then the idea behind this request for them is mainly for the interstate area. The other is kind of an additional consideration. So, if you do it that way, you could come with "beer and wine sales on Sunday off-premise" and nothing for the restaurants who are making the request. Mr. Rick Tobin of the newspaper, the Colletonian, then asked, couldn't you include a stipulation for both?

Mr. Lord then said, that's another option. You can just say "yes on this one," "yes or no" on this one, "yes or no" on that one. That's one option. The other option is just one question with "yes or no" for both.

Council Member Peters then asked, what was the recommendation from the Economic Commission. Mr. Amundson responded, their recommendation was actually for "on-premise." That was what the recommendation was, because the older version of the law that was considered in the meeting, use to say that you had to pass "on-premise" first, and then wait until the next election to do "off-premise," but that was changed to where you can do both at the same time. Mr. Amundson further stated, again, this is not to allow alcohol sales, it is to allow businesses the option to purchase a permit, to sale alcohol on Sundays. It's not automatic that everyone should do it.

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Mayor Young then asked, what happens on Saturday night, if you have Sunday alcohol sales? Can they continue all night long or do they have to stop sales at 2:00 A.M.?

City Manager Lord responded, that is a different ordinance that shuts down bars and restaurants at 2:00 A.M.

Mayor Young then said, well, I guess my question is, if we have Sunday alcohol sales, when do they start? If they don't start at 12:01 A.M. Sunday morning, when do they start? Mr. Hank Amundson responded, I think it is actually at 10:00 A.M. the next day.

Council Member Lohr then said, was this request made for primarily "on-premise sales only," like the restaurants? Were there any grocery stores, gas stations, anybody like that wanting to do this? Mr. Amundson responded, yes, but at that time I said to them, I thought it was a year or two years later situation. Some of the letters that have come in, are actually from restaurants or places that don't even sell alcohol.

Mayor Young then asked, what have most other cities done when they have had this question? Have they gone with "on-premise" or have they gone with "both?" I know you have a list here for us, and it looks to me like almost all of them who have approved it, have gone with "on-premise" and beer and wine. Edisto Beach is both. Yemassee is both. Almost all of them are. Santee is "no" on seven-day beer and wine. Greer is "yes" on on-premise and "no" on off-premise. Mr. Amundson pointed out that Dorchester is "yes" on both questions.

Mayor Young then asked, what's Council's pleasure? Council Member Lucas stated, I would say, have two questions. We could let the people have a choice.

A motion was then made by Council Member Bonds that staff prepare a proposed referendum ordinance asking two questions to be considered by our citizens - one for the consumption of alcohol on premise and one for the purchase of alcohol on Sunday off-premise. Council Member Paul Siegel then added, what we need is a referendum to allow the sale of permits, not to allow the general sale of alcohol. Council Member Bonds then said, I will modify my motion, "however it needs to be consistent with the law." Council Member Lucas seconded the motion.

In discussing this motion, Council Member Bonds stated, I would like some additional information about the timing and what input we have on the timing issue that you brought up Mayor, 10:00 or 1:00, these kinds of things. I would like to know that before the next meeting. Mayor Young then added, and do we have any authority on any of that (the timing), or is that all state law? City Manager Lord responded that he would check on this.

Council Member Lucas then asked the City Manager, would you be able to word it in plain text, like "if it's on-premise, this means it's restaurants." Mr. Lord responded, the language for the referendum is set out in the state law. Mayor Young then asked Mr. Lord, does it come with an explanation as to what each means? Usually, a referendum question has an explanation with it. City Manager Lord responded, I will look at it. Mayor Young then told the City Manager, and we are asking you to prepare this for us, we are not asking you to put this on the ballot at this time. City Manager Lord responded, correct. This is just to prepare the ordinance, so you can consider the ordinance, but the language for one of them is: "Shall South Carolina Department of Revenue be authorized to issue temporary permits in this municipality for a period not to exceed 24 hours?" So the language is exactly set out.

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Mayor Young then asked, do you have a sample of the explanation for that question? City Manager Lord responded, no, that's just all it has in the language. It does not say there is an explanation.

The motion to have staff prepare the ordinance for Council's approval, then **passed with all members voting in favor, except Council Member Buckner was absent and did not vote.**

COMMITTEE REPORTS:

There were not committee reports given.

EXECUTIVE SESSION:

At this point, the Mayor announced to the audience that you have about 10 minutes to get to the polls if you haven't voted yet in the runoff election and you are eligible to vote in that.

A motion to enter an Executive Session was then made by Council Member Lucas, seconded by Council Member Bonds and passed unanimously. Council Member Buckner was absent and did not vote. The Mayor then announced that the meeting would enter into an Executive Session for the receipt of legal advice. The meeting then convened into an Executive Session.

The meeting returned to Open Session with no action being taken as a result of the Executive Session. There being no further business, a motion to adjourn was made by Council Member Lucas, seconded by Council Member Lohr 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: July 10, 2012