

City of West Columbia, SC

Regular Council Meeting

July 1, 2014 at 6 p.m.

Members Present:

Joe Owens, Mayor
Casey Jordan Hallman, Mayor Pro-Tem
Eric L. Fowler
L. Dale Harley
Boyd J. Jones
Temus C. Miles, Jr.
Tommy Parler
Teddy Wingard
B.J. Unthank

Members Absent:

None

Others Present:

Jenny Cunningham, City Administrator
Mardi Valentino, City Clerk/PIO
Rick Hodge, City Treasurer
Stuart Jones, Building Official
Jamie Hook, Sanitation/Street/Parks Superintendent
Dennis Tyndall, Police Chief

Wyatt Coleman, Fire Chief
Brian Carter, Assistant City Administrator
Donna Smith, Director of Economic Development
Anna Huffman, IT Systems Administrator
Justin Black, Staff Accountant
Members of the Public and Press

Agenda Item I – Call to Order

Chairperson Unthank called the meeting to order at 6 p.m. and noted a quorum was present. *The State, Free Times, Lexington County Chronicle, Cayce-West Columbia News, The Columbia Star* and radio and television stations were notified of the meeting by e-mail on June 27, 2014 and a revised agenda on July 1, 2014.

Agenda Item II – Determination of Quorum

Chairperson Unthank noted a quorum was present to conduct business.

Agenda Item III – Invocation

Mayor Owens gave the invocation followed by the Pledge of Allegiance.

Agenda Item IV – Pledge of Allegiance

All attendees at the meeting recited the Pledge of Allegiance before the flag of the United States of America.

Agenda Item V – Announcements/Communications by Mayor

Chairperson Unthank recognized Mayor Owens who stated that last Friday the council held a meeting. He said the majority of council members voted to give Robert Bolchoz, Esq., the special independent investigator an additional \$5,000.00 because he had not finished his inquiry. He said wanted to make the announcement for the benefit of citizens who had not attended the special council meeting on June 27, 2014.

Chairperson Unthank stated that Mr. Bolchoz did tell council in the beginning that additional time was a possibility and a lot of people still want to interview with him. Mr. Bolchoz did not want to deny them the right to speak. Chairperson Unthank explained that was the reason council approved the additional money.

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Agenda Item VI – Citizens’ Requests for Appearance

- A. Chairperson Unthank recognized Mr. Clint McKoy, who said he lives at 2015 Klapman Road. He and his wife decided to reinvest into the community and built a nice custom home on Klapman Road in a beautiful, old neighborhood. They put custom features in the home and custom landscaping to beautify their lot. They are very much opposed to rezoning the property located at US Highway 378 (Sunset Boulevard) and Klapman Road from residential to commercial because it is across the street from their home. He wants to protect the area from commercialization and spoke to his neighbors who indicated they also oppose the rezoning. He presented a petition with their signatures and asked council to protect the beauty and privacy of the neighborhood by not rezoning the backside of the property from residential to commercial. He said there are three commercial lots in the front of the property so if a business could expand without coming into the neighborhood. He emphasized that commercialization would devalue the properties in the neighborhood. Chairperson Unthank asked Mr. McKoy what were the comments of the Planning Commission members when he presented his position. Mr. McKoy responded that the members expressed empathy, but voted for the rezoning. He said four people from the community and one real estate agent representing the property owners were present. He expressed surprise that the members sided with the real estate agent and did not consider the impact of commercialization to the neighborhood.

Chairperson Unthank asked if council members had any questions. Mayor Owens asked Mr. Brian Carter, Assistant City Administrator, if any business was identified to go on to the property. Mr. Carter responded that there was no specific applicant. He explained the property owner wants to open up the property to commercial uses allowed in a C-2 (general commercial) zoning classification. He said there have been discussions of various activities ranging from retail, a convenience store or a gas station, but nothing has been submitted to the city. Mayor Owens asked if the rezoning would be near Mr. McKoy’s house. Mr. Carter responded that the lot is currently split-zoned and the portion of the lot considered by the Planning Commission is the southern portion directly across the street from Mr. McKoy’s property. Chairperson Unthank said he could see Mr. McKoy’s concern because of the nearness to the neighborhood. He asked what is on the same side of the street beyond the property under consideration. Mr. McKoy responded the property beyond the lot is mostly wooded with a couple of fields. He noted that there is a house at the very end on the right side of the road and a house on the lot under consideration at the front of the property with large older trees at the back of the lot, which offers privacy for the neighborhood if the back portion of the lot were left residential.

Mayor Owens suggested that council table the vote to change the zoning classification for further discussion and clarification of what kinds of businesses would go on the property. Chairperson Unthank said that could be discussed when the item came up for consideration under new business.

Agenda Item VII – Presentations and Recognitions

- A. Chairperson Unthank recognized Mr. Gregg Pinner, executive director of the West Metro Chamber of Commerce. Mr. Pinner introduced Mr. Steve Cohen, a chamber board member and chairman of the “Rhythm on the River” concert series sponsored by the chamber. Mr. Pinner said after the West Columbia Riverwalk Park opened in late 2002, that The River Alliance did a concert series in 2003 and 2004. West Metro took over the concert series in 2005 and is now celebrating the 10th year of providing the “Rhythm on the River” concerts. Mr. Pinner presented a plaque to council to recognize the city’s support of the concert series which has become a premier event in the Midlands area. Mr. Allan Taylor with Ed’s bartending Service presented a check in the amount of \$1,549.00 to the West Columbia Beautification Foundation as donated proceeds from the “Rhythm on the River” concerts.

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Agenda Item VII – Presentations and Recognitions (continued)

- B. Chairperson Unthank recognized Fire Chief Wyatt Coleman, who introduced Battalion Chief Marquis Solomon. He gave a presentation on the merits of an automatic aid agreement with the Lexington County Fire Dispatch and Fire Service. Chief Solomon explained the agreement would dispatch respective assigned fire department units on an automatic basis to respond to fires, hazardous materials incidents, rescue and extraction situations and other types of emergency incidents within the scope of services provided by the fire departments participating in the agreement. A computer-aided dispatch system would automatically select the most appropriate units for dispatch, which allows the closest, most appropriate emergency response regardless of the jurisdiction where the emergency occurs. All participants would use standard command procedures, use standardized response criteria and maintain a mutually agreed upon inventory of equipment based upon minimum National Fire Protection Association (NFPA) standards. Chief Solomon stated the participants would assume responsibility for all liabilities and would maintain sufficient liability insurance as set forth under the SC Tort Claims Act. He noted the agreement may be terminated by either party giving a 30-day written notice. He said the agreement would bring more resources to the city's fire department because the county has resource capabilities not currently available to West Columbia. He estimated the cost of the transfer to automated aid would be about \$1,250.00 for a data firewall, a printer to print response information and upgrades to the station's speaker system. He said the cost should be weighed against the city's access to \$13 million in equipment and improved response time. Implementation would be only a few weeks after the agreement is signed.

Council members discussed the implications of entering such an agreement. Council Member Parler stated that he felt council should look closely at the agreement because he had serious concerns about the impact to West Columbia. He said when he was at the West Columbia Fire Department the city entered into a mutual aid agreement with Lexington County and the city numerous times seemed to be on the short end of the stick. He expressed concern about using city fire personnel, equipment and resources to fight fires for Lexington County and that the city would be depleting its manpower to assist the county. He said if the agreement is approved he would like a report after one year to see the responses by participant. Council Member Miles noted that the city would have a 30-day opt out clause and could carve out the requirement for non-emergency responses. Council Member Harley said his father fell some years ago and the city responded within two minutes while the county responded 45 minutes later from Swansea. He expressed concern that the city would get quick response time if the responders are coming from across the county. Council asked Chiefs Coleman and Solomon to provide additional information about the automatic aid agreement.

Agenda Item VIII – Approval of Minutes for Previous Meetings

- A. Chairperson Unthank entertained a motion for approval of the minutes for the Preliminary Budget Work Session held April 21, 2014. Council Member Parler so moved and Mayor Owens seconded. The motion passed unanimously.

Agenda Item IX – New Business

- A. Chairperson Unthank entertained a motion for first reading consideration of the Planning Commission's recommendation to approve a map amendment to change the zoning classification at 2119 Sunset Boulevard (TMS# 004666-07-003) from split-zoned C-2/R-4 (general commercial/low-density residential) to C-2 (general commercial).

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Agenda Item IX – New Business (continued)

Mayor Owens so moved and Council Member Jones seconded. Chairperson Unthank recognized Mr. Carter who said on June 23, 2014 the West Columbia Planning Commission considered a request from the property owner to rezone a portion of 2119 Sunset Boulevard. He said the property currently is zoned C-2 and R-4 and was annexed into the city in June 2004. He said the Planning Commission in July 2004 recommended a split zoning classification for this lot based upon the location of other property that fronted Sunset Boulevard, the majority of which is zoned C-2 (general commercial). He explained that this particular lot is deeper and much larger than the surrounding lots so the southern portion was included in the R-4 district. The applicant for the zoning request owns the lot is represented by Mr. Gene Brazzell, Jr. of M & R Realty. He said the lot can be developed commercially, but the southern portion of the lot is zoned R-4 creates some limitations for the developer due to cost. The lot slopes toward Sunset Boulevard which means a building would need to be situated toward the southern portion of the lot to accommodate storm drainage. If a building has to be situated entirely in the C-2 area then it could increase the cost of the development or reduce the size of the structure. The applicant is asking for the entire lot to be zoned C-2 to allow for less restrictive requirements for land development standards. He said if the lot remains as a split-zoned parcel the southern portion of the lot currently zoned R-4 could still be developed to some level. He explained that at least 50 feet of the R-4 area could be encroached by a structure and the remainder could be developed as parking. The property owner would need to apply for a special exception to the Zoning Board of Appeals, which increase the time and cost for the developer. He said a landscape buffer would be required for the western side of the property because adjacent undeveloped parcel is zoned R-4 residential. He noted that the Planning Commission did hear and consider comments both in favor and in opposition of the request. He said the Planning Commission voted unanimously to recommend the zoning change to council.

Chairperson Unthank recognized Council Member Miles who asked when was the property annexed into the city and how long has the owner owned the property. Mr. Carter responded the property was annexed in to the city in 2004 and the property owner has owned it for decades. Council Member Parler asked if a buffer yard would be required. Mr. Carter responded there would need to be a buffer yard along the west side of the property. Chairperson Unthank stated that the question could be asked at what point does the commercialized area stop encroaching on the residential area, because rezoning the property would open up commercial development along Klapman Road. Council Member Harley commented that he would not want to live across the street from a commercial building and express concern that if the property were to be rezoned that a building could be pushed further back on the lot. Mayor Owens suggested using a common sense approach because if the city knew what kind of business would be going on the property that could help Mr. McKoy.

Chairperson Unthank recognized Mr. Gene Brazzell with M&R Realty, said he was working with the owner to have the split-zoned property changed to a single zoning classification. Mr. Brazzell said there are a lot of trees on the southern side of the property that are on highway right-of-way. He said if any trees needed to be removed on the property itself that as few trees as possible would be taken out. He explained there would be no ingress-egress from the backside of the property onto Klapman Road so there would be little increase in traffic. Most traffic would go to Sunset Boulevard from Klapman Road instead of Hook Avenue because of the light at the intersection with Klapman Road. Mayor Owens asked if Mr. Brazzell had any idea of what kind of business would go on the property. He responded there have been some interested parties, but nothing solid at this time.

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Agenda Item IX – New Business (continued)

Council Member Miles expressed his concern that, with all due respect to the people who are asking council to not make the change, he does not see where council is preventing a whole lot of disruption of their lives by not making the change. He said that the people who want to develop the property can go ahead and develop the property. He stated that on the flip side if council does not make the change it makes the property less developable. He said that developers already can come under the city's scheme into the building area with no modification of the zoning. Mr. Miles said council is not doing the opponents any big favor leaving the zoning the way it is because there is no proposal to make the property more restrictive. He stated the only thing council would be doing instead of saving the people discomfort in their lives would be putting someone out of the best use of the property.

Mr. McKoy asked Chairperson Unthank if he could speak. Chairperson Unthank allowed Mr. McKoy the opportunity to speak. Mr. McKoy said if council rezones the property as commercial it would open up the door to other nearby lots being zoned commercial. He said if the southern portion of the lot is left residential it protects the lot beside and the neighborhood as well.

Council Member Harley said that when the property was annexed in 2004 the problem of commercial development should have been addressed at that time because now the rules are changing on Mr. McKoy to do something different. Mr. Carter responded that in 2004 the property was used for residential use and the owners at that time were not concerned about the property being split-zoned. He said since then the ownership of the property has passed to one of the children of the original owners. He said the current owner is looking to sell the lot. Mr. Carter clarified that the request that came before the Planning Commission was without staff recommendation. He said the Planning Commission decided to recommend to council to approve the zoning change.

Chairman Unthank said when the Planning Commission makes a recommendation to council that council typically defers to the wisdom of the Planning Commission members because they understand the issues and make wise choices. He said council almost always approves the Planning Commission's recommendation. He said this time obviously there is some dissent among council. Chairman Unthank said that there is suggestion to table the vote for further discussion to allow council an opportunity to explore the different avenues of the issue more carefully. He said there is a motion of the floor, which has been properly seconded, but Council has a desire to table vote.

Mayor Owens said that council would probably feel a lot better if they knew what kind of business was going on the property. He said if the zoning is changed the developer could put whatever was allowed in C-2, but some businesses would be more compatible to the area than others. He said he said he would not vote against something that would be compatible to the neighborhood. He said council should take a closer look at the request and if Mr. Brazzell could tell council what the developer wants to put on the property then council would go along with the change. He said that would go a long way toward relieving the minds of not only Mr. McKoy, but the other people who signed the petition.

Chairperson Unthank said the situation is a bit of a Catch 22, but Mr. Brazzell would not know until the zoning on the lot is changed what kind of business would be developed. Council Member Parler asked whether or not developers who are interested in the property would back out if council did not approve changing the zoning on the property. Mr. Brazzell said that several people have expressed interest in the property, but it is predicated on the zoning for the entire property being C-2.

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Agenda Item IX – New Business (continued)

Mr. Brazzell explained when property is split-zoned then it restricts how a developer can use the majority of the property, which makes it less attractive to someone who wants to purchase the property for development. A split-zoned property increases the cost of development or restricts where structures can be placed. He said whenever a building is constructed on property a retention pond is required, which according to engineering requirements has to go at a particular location on the property. That could make placement of a building on the property undoable. He said developers have to put up money to tie up a property, engage engineers, do site planning and extend expenses which could be as much as \$50,000 or more to find out whether or not the project is viable.

Chairperson Unthank suggested that since the motion is for first reading then council has an opportunity to determine if changing the zoning is the best course of action to take. He said council could go ahead and vote on the motion then council would have until the next council meeting to discuss and decide what is best. He said if council approved the first reading then it would give the option to disapprove it at second reading if council comes to that conclusion. Chairperson Unthank called for the vote for first reading on the Planning Commission's recommendation to approve the map amendment for 2119 Sunset Boulevard. Mayor Pro-Tem Hallman, and Council Members Jones, Fowler, Unthank, Parler and Miles voted in favor. Mayor Owens and Council Members Harley and Wingard voted in opposition. The motion passed six votes to three votes.

Chairperson Unthank assured Mr. McKoy that the issue is not off the table. The next vote would not be a rubber stamp because council did want to consider the issue. He said he had a lot of compassion and concern for the neighbors behind the lot. He said council will be discussing the issue. Mr. McKoy thanked council for their consideration.

- B. Chairperson Unthank entertained a motion to allow Police Chief Dennis Tyndall to campaign for public office while employed with the city of West Columbia. Council Member Parler so moved and Council Member Miles seconded. Chairperson Unthank recognized Mayor Owens who said that his name is on the bottom of the resolution to sign on behalf of council. He said that if his name is going to be part of the resolution he would like to know when this was in a planning session. He said he did not know about the resolution. He wanted to know why council should have to vote to let the police chief run for office while the city pays him. He said he would like some guidelines for when the chief would start campaigning. He said that the present sheriff, James Metts, has not been convicted of anything and if exonerated he would go back to being the sheriff of Lexington County. Mayor Owens said he felt the resolution was totally premature.

Council Member Miles stated it was his understanding that when Mayor Owens was employed at the city and ran for county council, he went to council and asked the members for their blessings for him to campaign. He said that was the intention behind the resolution. He said but instead of asking members of council for a consensus he would prefer to do things out in the open as a formal vote. Mayor Owens responded that he did not ask to take off time. He said he worked a full campaign in the afternoons and on the weekends. He said that was a lot different than this. Council Member Miles said he had no knowledge of Chief Tyndall asking to take off time. He said as far as Mayor Owens' notice of the resolution, the resolution was available this past week. He said it was e-mailed out to everyone. Council Member Miles asked when the resolution was first circulated. City Clerk Mardi Valentino responded that she sent the council meeting packets out at 4:17 p.m. on Friday, June 27, 2014. Council Member Miles said the current ordinance requires the mayor to sign resolutions.

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Agenda Item IX – New Business (continued)

Chairperson Unthank said that everyone on council got the same e-mail. He said the resolution was not for the police chief to campaign on city time, but to allow him the opportunity to put his name in the running. He said he did not see any problem with that and it is actually part of the city ordinances that anyone who is employed by the city must get agreement from city council to run for public office. He said Chief Tyndall has expressed some interest in doing so. Chairperson Unthank asked if there was any more discussion and received no response. He called for the vote. Mayor Pro-Tem Hallman and Council Members Harley, Jones, Fowler, Unthank, Parler, Wingard and Miles voted in favor. Mayor Owens voted in opposition. The motion passed eight votes to one vote.

Agenda Item X. – Adjournment

Chairperson Unthank entertained a motion to adjourn. Council Member Parler so moved and Council Member Miles seconded. The motion passed unanimously. Council adjourned at 7:42 p.m.

Respectfully submitted,

Marta M. Valentino, CMC
City Clerk/Public Information Officer