

City of West Columbia, SC

Regular Council Meeting
Following the Public Meeting on Urban Chicken Farming

April 7, 2015

Members Present:

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

Members Absent:

None

Others Present:

Jenny Cunningham, City Administrator
Brian Carter, Assistant City Administrator
Stuart Jones, Building Official
Donna Smith, Director of Economic Development
Sid Varn, Director of Planning and Engineering
Mardi Valentino, Director of Human Resources
Jamie Hook, Sanitation/Streets/Parks Superintendent
Marquis Solomon, Fire Battalion Chief
Members of the Public and Press

Wyatt Coleman, Fire Chief
Anna Huffman, IT Systems Administrator
Dennis Tyndall, Police Chief
Scott Morrison, PIO/West Columbia PD
Justin Black, Treasurer
Rick Hodge, Financial Consultant
Kelli Brazell, City Clerk
Kenneth Ebener, Municipal Judge

Agenda Item I – Call to Order

Chairperson Unthank called the meeting to order at 6:12 p.m. and noted a quorum was present. *The State, Free Times, Lexington County Chronicle, Cayce-West Columbia News, The Columbia Star, COLADaily.com* and radio and television stations were notified of the meeting by e-mail on April 2, 2015, and revised on April 7, 2015.

Agenda Item II – Determination of Quorum

Chairperson Unthank noted a quorum was present to conduct business.

Agenda Item III – Invocation

Council Member Jones gave the invocation.

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 the Mayor

Chairperson Unthank recognized Mayor Owens. Mayor Owens disagreed with Council's vote to approve the reimbursement of \$5600.00 in legal fees to Council Member Tem Miles for a regulatory commission. The Mayor stated that the agenda for the March 16, 2015 Special Council meeting was revised and published

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Agenda Item V – Announcements/Communications by the Mayor- continued

three hours prior to the meeting. The Mayor stated the vote taken on the reimbursement of legal fees is not legal, due to the fact, the agenda was revised with less than 24 hour notice. The Mayor stated that he requested an opinion from the city attorney, Nikki Setzler; and the city attorney agreed that the agenda should not be amended within 24 hours of a special meeting. The Mayor also asks that the item be placed back on the agenda and another vote taken, stating the city attorney recommended it. The action item was not added to the agenda for this meeting as the Mayor requested, due to discussion with the city attorney in executive session. Mayor Owens was also upset the citizens, that had requested to speak on this matter, had been left off of the agenda, and all had called more than 24 hours prior to this meeting.

He quoted city ordinance: 1-3-6 Appearance of citizens.

Any citizen who has business with the city shall be entitled to appear before the council at any regular or special meeting to present any matters pertaining to the city with the exception of personnel matters. Persons desiring to speak or desiring to make a presentation must notify the clerk to place the subject matter on the agenda. The Mayor stated there was not a time limit on when they could place it on the agenda.

The Mayor went on to talk about the reimbursement of \$5600.00 in legal fees. He is concerned the fees have no limit placed on them. The Mayor elaborated there is no way to know how much more they will cost. He feels that the reimbursement of fees is not legal. The Attorney General opinion from July 2, 2013, on the reimbursement of legal fees states there is a four-part test to determine public purpose:

- 1) What is the intended ultimate goal or benefit to the public?
- 2) Are the public parties or private parties the primary beneficiaries?
- 3) Is the benefit to the public speculative?
- 4) What is the probability that the public interest will be ultimately served and to what degree?

The Mayor feels the answer to all of the above questions is no. He reiterated the fact that he felt it unjust to leave the re-vote off of the agenda for this council meeting. Chairperson Unthank stated to reconsider a vote, according to our city ordinance, the reconsidered vote must take place before the meeting is adjourned.

Chairperson Unthank informed the Mayor the city attorneys would be present in executive session to discuss the opinion provided; and it would be best to reconsider after council received the Attorney General's opinion. Chairperson Unthank also quoted city ordinance:

1-3-7 Agenda.

Matters to be considered by the council at a regular meeting shall be placed on a written agenda prepared by the clerk-treasurer five (5) days prior to the meeting. Matters not on the agenda may be considered upon approval of the presiding officer.

After further discussion, Chairperson Unthank moved onto the requests for appearances/citizen comment period.

Agenda Item VI– Requests for Appearances/Citizen Comment Period

- A. Chairperson Unthank recognized Ms. Martha Wise, President, Ms. Marion Scott, Vice President, and Mr. Mark Plessinger, Members of the West Vista Guild. The West Vista Guild is a merchant's association comprised of business owners from State and Meeting Street area. It has been around since 1999. Mr. Mark Plessinger, a business owner of Frame of Mind on State Street, introduced himself to Council. Mr. Plessinger brought his business from Main Street in Columbia. He was involved in events and revitalization of that area and wants to help revitalize the West Columbia area as well. Mr. Plessinger reiterated the interest from business owners, in a façade improvement program. The town of Lexington's program matches \$10,000.00 if the business owner spends \$25,000.00. There is an application process involved. The town of Lexington placed money in their budget to help get the revitalization process started.

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Agenda Item VI– Requests for Appearances/Citizen Comment Period – continued

Chairperson Unthank assured Mr. Plessinger the city is excited to make State and Meeting Streets look as good as possible. He informed Mr. Plessinger that Council will soon be working on the budget, and will keep this in mind. He also let Mr. Plessinger know that the city would be in touch with him as the process moves forward.

- B. Chairperson Unthank recognized Mr. Edward Jones of 413 Graham Drive. Mr. Jones would like an adjustment to a sewer tap fee. He explained when he purchased the home he was told it was on city sewer and water. He has been paying for sewer on his water bill. Only when sewage was coming up in his yard, did he realize that he had a septic tank. He has had to pay to have the septic tank pumped, a line to tap onto city sewer, and now a tap fee of \$1000. He requests that the amount of around \$800 he previously paid for in sewer, be applied to the tap fee. Chairperson Unthank stated the city is required by our bond ordinance, not to adjust the tap fees. It is not something the city can legally do and still abide by our bond requirements. Mayor Owens related that a few months ago, Council adjusted the tap fee for Fire House Subs by about \$15,000.00. Chairperson Unthank recognized Council Member Miles, who clarified; the city had made an adjustment to the ordinance that sets tap fees, specifically for restaurants, to bring them in line with the Department of Health and Environmental Control (DHEC) guidelines. Although sympathetic to Mr. Jones's plight, the residential tap fees remain the same. The fees are the same for all of the citizens that live inside the city limits of West Columbia. Council Member Fowler asked if he had been allowed to make payments over time. Mr. Jones stated he was given three weeks to pay the bill. He stated the city was taking a certain percentage of his water and charging him for sewer, and he was not using the sewer service. City Administrator, Jenny Cunningham, informed Council city ordinance states that if sewer is available, then an availability charge is assessed to the account. The availability charge is \$10.58 every two months. Mrs. Cunningham stated staff would check into Mr. Jones's account to make sure he was only charged the minimum and not a percentage. If he was charged incorrectly, staff would adjust his account, as well as, work with him on paying over time. Chairperson Unthank reassured Mr. Jones staff would handle the issue. If he was not happy with the results, he could come back before Council.
- C. Chairperson Unthank recognized Mr. Tom Britt of HB Engineering. Mr. Caughman was called away for a family emergency. Mr. Britt would like to discuss the proposed grading plan for Flow Townhomes impacting city property and a sewer line located at 136 Sunset Boulevard. Mr. Caughman has contacted the city staff and requested the ability to do some grading on city property, at the treatment plant, to make the slopes more consistent and approve the appearance. It is the area near the security fence at the water plant. They would like to re-grade the area and stop five feet from the fence. They would also like to put in a swell to make sure the run-off water does not go onto city's property. There would be increase in run-off. There is an existing sewer line in that area. The city staff is concerned about the additional fill being requested to put over the sewer line. Mr. Caughman and Mr. Britt do acknowledge there will be additional work if the sewer line ever has to be dug up. Mr. Caughman has proposed to do some additional landscaping on the city property if this is approved. Council Member Miles asked if the major problem is the sewer line and; how much dirt would need to be put on top of the sewer line. Mr. Britt stated that there would be four feet of extra dirt to remove if there was a problem with the line. Chairperson Unthank thanked Mr. Britt. He informed Mr. Britt the Council would need to consult with the city engineer, and would get back to him.

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Agenda Item VI– Requests for Appearances/Citizen Comment Period – continued

D. Chairperson Unthank recognized Mr. Jimmy Brooks of 3409 Henbet Drive. Mr. Brooks requested to discuss the payment of legal fees for a Council Member. Mr. Brooks thanked Council for allowing him to speak. As an aside, Mr. Brooks strongly encouraged Springdale to annex into the city of West Columbia. The reason Mr. Brooks is here to speak is because of the \$5600.00 check that was issued to Council Member Miles. His concern was about the manner in which the vote was taken. Mr. Brooks stated that there was not enough notice given to allow citizens to be there when the vote was taken. It is his opinion; every effort has been made to deter citizens from voicing their opinion. He would like to see it re-voted on with ample notice, and in front of people that care about the community. He would also like to see a cap put on the amount that to be reimbursed. Mr. Brooks urged Council to come to a compromise even if a mediator is needed. Chairman Unthank recognized Council Member Miles. Council Member Miles stated for the record, he has recused himself from the discussion of reimbursement fees. Mr. Miles asked Mr. Brooks for clarification of his reason for having issues with vote. Mr. Brooks stated his concerns: the short period of time before the meeting the agenda was amended, and the short notice to the community. Mr. Miles related to Mr. Brooks the reason the agenda was originally amended was because of the proposed Memorandum of Understanding (MOU) for the sale of the property at State Street and Meeting Street. That item was an action item and was voted on that night without issue. Council Member Miles stated this is selective outrage. Mayor Pro-Tem Hallman related that she would like the matter of the MOU re-visited, as well as, the reimbursement of legal fees. Chairperson Unthank stated Council was going into executive session to discuss all of these issues. He moved the approval of the minutes until after reconvening from executive session.

Agenda Item VIII – Adjourn to Executive Session for Discussion of a City Property Contractual Matter, a Water/Sewer Contractual Matter, and a Legal Matter

Chairperson Unthank entertained a motion to adjourn to executive session. Council Member Jones so moved and Mayor Owens seconded with discussion. Mayor Owens stated there was nothing on the agenda that stated Council was going into executive session to discuss the vote on Tem Miles reimbursement of legal fees. He stated if that topic came up in executive session he would leave the room. Chairperson Unthank asked for all in favor of adjourning to executive session. Mayor Pro-Tem Hallman, Council Members Harley, Jones, Fowler, Unthank, Parler, Wingard, Miles voted in favor of adjourning to executive session. Mayor Owens was opposed. The motion passed eight votes to one vote. Council adjourned to executive session at 7:01 p.m.

Agenda Item IX – Reconvene to Regular Session

Chairperson Unthank entertained a motion to adjourn executive session and reconvene to regular session. Council Member Jones so moved and Council Member Parler seconded. Mayor Pro-Tem Hallman, Council Members Harley, Jones, Fowler, Unthank, Parler, Wingard, Miles voted in favor of reconvening to regular session. Mayor Owens stated he would not vote. The motion passed unanimously. Council reconvened to regular session at 8:33 p.m. Chairperson Unthank stated that no action was taken in executive session.

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Agenda Item X – New Business

- A. Chairperson Unthank entertained a motion for first reading consideration of an ordinance to approve the sale of city property at State and Meeting Streets to Estates Properties, LLC. Chairperson Unthank stated Council would table the motion until a future meeting. There was no vote taken.
- B. Chairperson Unthank entertained consideration reappoint Paul Rex Adkins, Water/Sewer Superintendent, and Stephan P. Metro, Park Ranger, for three year terms to the West Columbia Grievance Committee. The terms would end in January 2018. Council Member Miles so moved and Mayor Pro-Tem Hallman seconded. The motion passed unanimously.
- C. Chairperson Unthank entertained consideration to appoint Carol Y. Ostendorff, Water Plant Operator A, for a three year term, to the West Columbia Grievance Committee. The term would end in January 2018. Council Member Parler so moved and Council Member Miles seconded. The motion passed unanimously.
- D. Chairperson Unthank entertained consideration to appoint Dr. Liz Holmes to the West Columbia Beautification Foundation Board. Council Member Boyd Jones made the nomination. Council Member Jones so moved and Council Member Fowler seconded. The motion passed unanimously.
- E. Chairperson Unthank entertained a motion for consideration of bids for a new phone system by Anna Huffman. The city phone system is failing. It is over ten years old and we can no longer get parts for it. AT&T had to come to the city twice in the last week to repair it. If the system fails totally, it will take days to get it back up and running. Out of three bids, the lowest was AT&T. The city will be able to reuse all but 35 handsets. The handsets are \$300.00 each. The total bid is \$31, 811.78. She is asking for a budget amendment for the current year's budget. Mayor Owens so moved and Council Member Fowler seconded. Council Member Miles asked if that cost included the handsets needed. Mrs. Huffman stated the price included everything, even installation. The motion passed unanimously.

Agenda Item VII – Approval of Minutes for Previous Meetings

Chairperson Unthank entertained a motion to approve the minutes for the Special Council meeting held March 16, 2015 and the Special Council Meeting on March 24, 2015. Chairperson Unthank asked for corrections or deletions on either set of minutes. Mayor Pro-Tem Hallman requested that the March 16, 2015 minutes be amended. She is concerned about the way that the adjournment was marked, so she asked the clerk to amend the minutes. Mayor Pro-Tem Hallman stated the vote was marked unanimous and she never voted. The nays were not called for, and she still had questions. City Clerk, Kelli Brazell indicated she made the corrections Mayor Pro-Tem Hallman requested. Chairperson Unthank called for a vote to approve the minutes as amended. The motion passed unanimously with changes.

Agenda Item XI – Adjournment

Chairperson Unthank entertained a motion to adjourn. Council Member Harley so moved and Council Member Parler seconded. Mayor Pro-Tem Hallman, Council Members Harley, Jones, Fowler, Unthank, Parler, Wingard, Miles voted in favor of adjourning the meeting. Mayor Owens was stated he would not vote. The motion passed unanimously. Council adjourned at 8:40 p.m.

Respectfully submitted,

Kelli Brazell
City Clerk