

**CITY OF CAYCE  
Regular Meeting  
August 14, 2007**

The regular monthly meeting of Cayce City Council was held this evening at 6:05 p.m. in Council Chambers. Those present included Mayor Avery B. Wilkerson, Jr., Councilmen James Jenkins, Kenneth Jumper, Robert Malpass, and Rick Myers, City Manager John C. Sharpe, and Tammy Barkley, Municipal Clerk. City Attorney, Danny Crowe, Frank Robinson, Director of Utilities, Blake Bridwell, City Engineer, Chief Charles McNair, Director of Public Safety and Director of Planning & Development, Ken Knudsen was also in attendance. Garry Huddle, Municipal Treasurer was unable to attend due to a conflict in schedule. Mayor Wilkerson advised that members of the press and the public were duly notified of the meeting in accordance with the FOIA.

Mayor Wilkerson opened the meeting with the invocation and led everyone in the Pledge of Allegiance.

**Approval of Minutes**

The minutes of the July 10, 2007 Regular Meeting were presented for approval. Mr. Jumper made a motion that the minutes be approved as submitted. Mr. Jenkins seconded the motion which was unanimously approved.

**Presentations and Proclamation**

- A. Presentation of Employee of the Quarter Award – 2<sup>nd</sup> Quarter

Mayor Wilkerson presented the Employee of the Quarter Award for the second quarter of 2007 to Mr. Calvin McGee, Utilities Crew Leader II. He thanked Mr. McGee for his commitment to the City and congratulated him on winning the award.

- B. Presentation by Ms. Karen Wigfall Re Youth Programs

Ms. Karen Wigfall appeared before Council to discuss the possibility of the city sponsoring youth programs. She stated that problems with gangs are discussed every day on the news, in the newspapers and in neighborhoods. She stated that while she felt

Cayce did not have a major gang problem at this time, it would be a good time for the city to consider sponsoring youth programs to eliminate the growth of this problem. She stated that during league season at Spires Gym, youth do not have access to the facilities. She stated that for young people in elementary schools, day cares are available. However, for middle and high school students, there is no place for them to go. She recommended that the city look into building a community swimming pool that would provide a place for children to go when school is not in session. In addition, she stated that programs could be provided that would teach the youth how to swim and lifesaving techniques. She stated that the new gym built at the new Busbee School is not being utilized and felt that the old Busbee School was not being utilized to its potential. She recommended that Council try to obtain recreation funds to create youth programs. She stated that she is willing to rally in any way possible for the support of a public swimming pool that would provide a place to keep kids off the street. Mayor Wilkerson asked that staff check with the Lexington County Recreation Committee and the School District on their plans for the old Busbee School.

C. Presentation by Ms. Vicky Beard Re Property Offer – Moss Creek

Ms. Beard appeared before Council asking that she be allowed to purchase a lot owned by the city in the Moss Creek subdivision for the purpose of building a home. She stated the lot is located just past Mill Pond Rd. on the left and is in phase 3 of the subdivision. She stated that she has checked out the property and noted there were easements on the lot. She has also talked to a surveyor and appraiser and would like to purchase the lot to build a 2000 sq. ft. home for her. Mr. Knudsen stated that he would research the property and noted that the property is one of the rights-of-way the city purchased and would need to check the restrictions on the property. Mr. Myers asked that staff take into consideration the access roads to the property. Mr. Knudsen asked that Ms. Beard stop by the office to meet with him and he would research the issue. The City Manager stated that he would also have the City Attorney review the issue as well.

D. Presentation by Mr. Ken Simmons Re State Street Streetscape Project

Mr. Simmons appeared before Council and provided details of the State Street Streetscape Project. Mayor Wilkerson inquired if staff resolved the utility issue. The City Manager stated there were no conflicts with regard to this issue. Mr. Myers inquired as to how long the project would take to be completed. Mr. Simmons stated it would take 120 days to complete once construction begins. Council thanked Mr. Simmons for providing the additional information.

E. Approval of Proclamation – National Payroll Week

Council considered for approval a proclamation proclaiming the week of September 3-7, 2007 as National Payroll Week. Mr. Myers made a motion to approve the proclamation. Mr. Jumper seconded the motion which was unanimously approved.

## **Ordinances**

### **A. Approval to Repeal Sec. 40-116(b) of City Code – Utilities – First Reading**

Council considered for first reading the approval of an ordinance repealing Section 40-116(b) of the City of Cayce Code of Ordinances regarding sewer caps for out of city customers. The City Manager stated that in 2004, Council approved a water and sewer rate increase which included the deletion of the sewer cap for both in-city and out of city customers. By oversight, he stated that the 1995 ordinance which included the out of city sewer cap remained in the Code of Ordinances. This has been brought the city's attention recently by an out of city customer. The City Manager stated that the City Attorney has draft a specific ordinance repealing the 1995 Ordinance to correct the City Code of Ordinances.

Mr. Malpass made a motion to approve the Ordinance repealing Section 40-116(b) of the City of Cayce Code on first reading. Mr. Jumper seconded the motion which was unanimously approved.

### **B. Approval of Ordinance on Temporary Lease Agreement for DNR Canoe Launch – First Reading**

Council considered for first reading an Ordinance approving a Lease of City property with the SC Department of Natural Resources (DNR) for the construction of a head trail and canoe input for the proposed Congaree Creek Canoe Trail. The City Manager stated that the City Attorney has drafted an Ordinance authorizing a lease for the City property to DNR. The lease has just recently been prepared and reviewed by both the City Attorney and Mr. League. The City Manager provided Council with a copy of the proposed lease.

Mr. Myers made a motion to approve the Ordinance on first reading. Mr. Jenkins seconded the motion. Mayor Wilkerson stated that Council would review the proposed Lease Agreement while DNR reviews the issue with their Board at their late-September meeting. Mr. Myers stated that consideration should be given to improving and maintaining the property on a long-term basis. Mr. Barry Beasley stated that DNR has the funds to improve and maintain the property as suggested by Mr. Myers and they have plans to do so. After discussion, the motion was unanimously approved. It was suggested that the issue be brought back for second reading at the October Council meeting.

### **C. Approval of Ordinance Authorizing and Approving Implementation, Administration and Enforcement of Lexington County Stormwater Management Ordinance within the Corporate Limits of the City of Cayce – Second Reading**

Council considered for second and final reading the approval of an Ordinance authorizing and approving the implementation, administration and enforcement of the Lexington County Stormwater Management Ordinance within the corporate limits of the

City of Cayce. Mr. Myers made a motion to approve the Ordinance on second and final reading. Mr. Malpass seconded the motion. Mayor Wilkerson inquired if any of the projects to be done would be brought back to Council for review. The City Manager stated that this particular ordinance was only to implement the program. Other phases for the stormwater management program will have to be worked on and agreed to by the county and the cities in reference to corrections for stormwater problems and how to pay for them and prioritize them. Mr. Malpass inquired as to the city's main problem with stormwater. Mr. Knudsen stated that the city previously performed an inventory of drainage structures and that the city had five years to perform wet-dry testing of those structures which will indicate the locations of problems regarding stormwater. Mr. Malpass stated that he did not feel this program would help alleviate the city's drainage and flooding problems. Mr. Myers stated that there are several phases to the program and the program should address these issues in future phases.

Mr. Myers made a motion to approve the Ordinance on second and final reading. Mr. Jumper seconded the motion which was unanimously approved.

D. Approval of Ordinance Amending Chapter 22 of the City of Cayce Code of Ordinances to Regulate and Control Outdoor Burning – Second Reading

Council considered for second and final reading the approval of an Ordinance amending Chapter 22 of the City of Cayce Code of Ordinance to regulate and control outdoor burning. Mr. Myers inquired as to the city's efforts in educating residents on the new Ordinance. The City Manager stated that the Ordinance was placed on the city's web site, The State and The Chronicle have included articles in recent issues, and Public Safety has either met with or contacted the following Crime Watch/Neighborhood groups—Hunters Mill, Churchill Heights, Broadacres, Riverland Park, Edenwood, and Julius Felder. The City Manager advised that no negative comments have been received in regards to the Ordinance.

Mr. Myers made a motion to approve the Ordinance on second and final reading. Mr. Malpass seconded the motion which was unanimously approved.

**Contracts, Agreements, Other**

A. Approval of Moss Creek Homeowners Association Request Re Street Signs

The City Manager advised that the city recently received a request from the Moss Creek Homeowners association to install decorative street and stop signs at the entrance to their subdivision. He stated that a letter has been sent to Lexington County to see if they would have any objections to this request but that no response has been received to date. He stated that in the event that the County has no objection to the request, Council would also need to approve the request. He stated that the cost of having the signs made and installed would be borne by the Homeowners Association. The City Manager provided Council with photos of the proposed signs.

Mr. Myers made a motion to postpone the issue until approval is received from Lexington County. Mr. Jumper seconded the motion which was unanimously approved.

B. Approval of Wastewater Treatment Plant Improvements

Mr. Robinson advised that there had been some reoccurring instances of excess water in the clarifiers in the wastewater treatment plant which has caused problems and is a source of possible NPDES permit violations. Staff asked American Engineering to take a look at this issue and their recommendation has several options. Mr. Robinson stated that staff recommends Option 1A versus the other two options which includes the purchase of two skid-mounted diesel pumps which could be used in various locations later on. Mayor Wilkerson asked if this item was included in the FY07-08 budget. Mr. Robinson advised that it was not included in the budget. The City Manager stated that it would be a "construction in progress" project and funds would come from reserves and would be booked as part of the current plant. Mr. Myers inquired if this was a recent problem. Mr. Robinson stated that the problem has existed for some time. Mr. Myers inquired if the city has experienced violations. Mr. Robinson stated the plant has experienced violations but has not yet been fined. He stated that staff solicited the assistance of American Engineering to pinpoint the problem. Mr. Myers inquired as to what was causing the problem. Mr. Robinson stated that the problem stems from heavy rains and heavy flows coming into the plant.

Mr. Bridwell explained that the city has more flow coming into the plant since the Joint Water & Sewer Commission is pumping now. Mr. Malpass inquired if it was a design or operational problem. Mr. Robinson explained that it was a hydraulic problem. He stated that when the expansion of the wastewater treatment plant was done, there was originally going to be two discharges going into the river. He stated that DHEC required the city to turn it into one combined discharge. In doing so, he stated that the piping between the clarifiers on the new side of the plant was not big enough to move the water from the clarifiers through the contact chambers to meet the 20 mg maximum flow that the plant had been permitted to flow. Mr. Bridwell stated that because the chambers are in series instead of being separate or parallel, the pipe is overloaded for a peak hydraulic condition. The City Manager stated that because this is part of the existing plant, under the contracts with the Town of Lexington and the Commission, any capital improvement made that does not increase the capacity, the entities will be required to pay their pro rata share for this project.

Mr. Robinson stated that as the flows continue to increase over the next three years prior to the completion of the new expansion of the plant, this will become more vital in order to support the flow. Mr. Myers inquired about the status of the pump around near Riverland Park. Mr. Robinson advised that this has not gone into place yet and when the upgrade to Pump Station No. 1 is done, the pumps will be shut down and rental pumps will be returned to the supplier. He stated construction on Pump Station No. 1 was scheduled to begin by the end of next month. Mr. Myers inquired if the city could use the same pumps slated for the Riverland Park project with the Pump Station No. 1 project. Mr. Robinson stated that the pumps for this particular improvement

needed to remain on-site at the plant to be used at any time heavy rains and/or flows are experienced.

Mr. Malpass made a motion to approve the Wastewater Treatment Plant Improvements Option 1A as recommended. Mr. Jumper seconded the motion which was unanimously approved.

C. Bid Award – Wisconsin Street Sewer Relocation Project

The City Manager stated that staff met with the owner of Charleton Hall Galleries in the spring this year. He stated that the owner has an option to purchase this property and in order for him to build the art gallery there, the sewer line that runs through the middle of the property needs to be relocated. He stated that the owner of the Gallery is ready to move forward with the contract, but cannot develop the property with the sewer line in its present location.

The City Manager advised that design plans for the project were prepared by American Engineering and a sewer construction permit has been received from DHEC. He stated that American Engineering estimated the project cost at \$196,875.00 and five local contractors were contacted and invited to bid on the project. He provided Council with information received from the bids noting that TNT, Inc. submitted the low bid at \$107,354.00 for the project. He stated that funding for the project could be taken from the O&M Capital Reserve Account.

Mr. Myers inquired if the city had an easement for the sewer line. The City Manager stated that the line was installed in the early 80's and that staff has discussed this with the owner of the property at that time. He stated the previous owner remembers granting the easement, but staff cannot locate any documents relating to the granting of the easement and it was not filed at the county. Mr. Myers inquired if the city had any guarantee that the property would be developed as proposed if the city moved the line. The City Manager stated that the Gallery owner's property in Columbia is up for sale and he will be relocating the business.

Mayor Wilkerson inquired if there was a contract on the property. Mr. Robinson advised that there is an option on the property, but it is not sold until the line is moved. Mr. Myers inquired if the city could have the previous property owner sign a statement stating he granted the easement to the city. Mr. Crowe advised that he has not reviewed this issue but that it is law that easements must be recorded. The City Manager advised that if the city did not move the sewer line, it would put the development in jeopardy. Mr. Myers stated that the current owner of the property would have to move the line if he wanted to sell it. Mr. Myers inquired if the owner of the property purchased the property knowing that it had a sewer line running through the property. Mr. Robinson advised that Mr. Thornton was made aware of the line and has continuously requested that the city relocate the sewer line. Mayor Wilkerson asked the City Attorney to provide Council with recourse of action. The City Attorney stated that the city could bring an action to try to have the court declare that the city is entitled to a prescriptive easement. Mr. Myers suggested that another option would be to negotiate

with the owner or proposed developer of the property to share in the cost of moving the line. He stated that he is not opposed to the project, but did not feel that the city had a guarantee that the project would happen. He stated that if the city moves the line at the city's expense, it would be improving the value of the property for the owner with no real project on the books. Mayor Wilkerson inquired if an agreement could be negotiated with either the owner or the proposed developer. He stated that if the owner does not sell the property and it remains vacant, there would be no need to move the sewer line. Mr. Myers suggested that an agreement be negotiated. Mayor Wilkerson stated that the city wants to see the project move forward but the concern is whether the project will happen. Mr. Robinson inquired if it would be feasible to have the owner or project developer move the line and when the project is done, the city would reimburse the developer for the costs up to the low bid of \$107,354.00. Council felt this would be a feasible option. It was also suggested that a specific time frame be placed in the agreement for the completion of the project of either 36-60 months. Mr. Thornton and representatives of the Charleton Hall Galleries was in attendance. Mr. Pete Denton with Charleton Hall stated that the property is currently under contract with the requirement that the sewer line must be moved and that once the sewer line has been relocated, the contract will close in 30 days. Mr. Myers explained that the city has been in this situation before where the city bears the cost of the improvements and the project falls apart. Mr. Robinson advised that the bid received is probably only good for 30 days.

Mayor Wilkerson inquired of Mr. Denton on the assurance of the project being completed. Mr. Denton stated that the Gallery has its building downtown up for sale and has completed due diligence on this property. He stated that the project includes the construction a 30,000 sq. ft. facility on the new property. He stated that there is a 99% certainty that the project would indeed happen. The City Attorney stated that another alternative would be for the city to enter into an agreement whereby the city would move the line at its expense, Mr. Thornton would close on the property with Charleton Hall Galleries and the penalty would be some reimbursement to the city for relocating the line in the event the property contract does not go through within a specific amount of time.

Council asked that staff and the City Attorney meet with Mr. Thornton to discuss terms of an agreement to be presented to Council for review and approval.

Mr. Myers made a motion to accept the recommendation of staff and award the bid for the relocation of the sewer line to TNT, Inc. in the amount of \$107,354.00 and to authorize the City Manager to execute the contract based on an agreement with Mr. Thornton and Charleton Hall Galleries for a future development at a so stated date not to exceed 2010. Mr. Malpass seconded the motion which was unanimously approved.

#### D. Bid Award – State Street Streetscape Project – Phase 1

The City Manager stated that at the July Council meeting, Council approved issuing a Notice of Intent to award the contract for the State Street Streetscape Project Phase 1 to the low bidder, L-J Inc. He stated that this was done in order to expedite the project and allow the contractor to take care of necessary tasks such as obtaining

bonds, meeting with the architect, etc. He stated that this phase of the project consists of sidewalks, decorative street lighting, new curbing, and landscaping from Railroad Avenue to Lexington Avenue. He stated that bids were received and reviewed on July 10, 2007 and provided Council with the bid tabulation. He advised that the low bid was received from L-J, Inc. in the amount of \$183,952.00. He stated that Ken Simmons and Associates were awarded the contract for architectural design and that SCDOT has approved the design and construction plans. He advised that the first phase will be funded with a TEA-21 Grant in the amount of \$141,700 that has been awarded to the city and that the city would be responsible for the remainder of the project of approximately \$42,252.00 either from TIF Funds or General Fund revenues.

Mr. Jumper made a motion to award the bid to the low bidder, L-J, Inc. in the amount of \$183,952, that authority be given to the City Manager to execute the contract on behalf of the city, and that TIF funds be used to the extent of the law allowable to fund the city's portion. Mr. Malpass seconded the motion which was unanimously approved.

E. Approval of FY07-08 Memorandum of Agreement between the City of Cayce and the South Carolina Department of Juvenile Justice

The City Manager advised that the SC DJJ has submitted the FY07-08 Memorandum of Agreement with the City for DJJ juvenile detention services. He stated that the Agreement is virtually the same as the FY06-07 Agreement and that the City Attorney has recommended that modifications be made to the agreement as was done last year which would delete the disclaimer of financial responsibility by DJJ for medical costs and inserting the transport clause that been included in past agreements. He stated that the modification has been made to the agreement as proposed by the City Attorney.

Mr. Malpass made a motion to approve the FY07-08 Memorandum of Agreement with the proposed modifications as stated above and that authority be given to the City Manager to execute the agreement on behalf of the city. Mr. Jumper seconded the motion which was unanimously approved.

F. Reconsideration and Approval of Business Appreciation Day

Ms. Barkley stated that in May, Council considered a proposal from the Events Committee to host a Business Appreciation Day. At this meeting, Council suggested that the event be held in conjunction with the grand opening of the new extension of the Cayce Riverwalk Park in the proximity of the Government Locks. She stated that the Events Committee members asked that Council reconsider the proposal as holding this as a separate event. The Committee felt that combining this event with a grand opening would dilute the value being placed on the importance of businesses in the community. In addition, the proposal promotes a "family" event to encourage more visitors the River walk and grand openings are normally held during business hours which would defeat this purpose. Also, holding the event at the Government Locks would present logistical problems since access is limited and there are no restroom facilities.



Mr. Myers suggested that the city contact the West Metro Chamber of Commerce to obtain their interest in hosting a Chamber event to promote membership in the Chamber. Ms. Barkley advised she would meet with the Chamber's Executive Director regarding the issue.

Mr. Myers made a motion to postpone the issue until further information is obtained from the West Metro Chamber. Mr. Malpass seconded the motion which was unanimously approved.

### **Committee Matters**

#### **A. Appointments and Reappointments**

##### **Cayce Housing/Construction Board of Appeals – Two Positions**

Mr. Xen Motsinger's term expires August, 2007. He has been contacted and would like to serve again. It is recommended that Mr. Motsinger be reappointed to the Board. Mr. Myers made a motion to reappoint Mr. Motsinger to the Board. Mr. Jumper seconded the motion which was unanimously approved.

Ms. Bonnie Kelly has moved outside the city limits and will no longer be able to serve on the Board. There is no recommendation at this time. Mr. Jumper made a motion to postpone the issue until a replacement member can be submitted for review. Mr. Myers seconded the motion which was unanimously approved.

### **Public Comment**

Mayor Wilkerson inquired if anyone in attendance had signed the speakers' list to address Council on municipal matters listed on the agenda. Ms. Barkley advised that no signatures had been obtained.

### **City Manager's Report**

The City Manager stated that the July financial reports would be sent to Council hopefully by the end of the week.

He provided Council with the following dates:

- August 20, 2007 – Lexington II Schools begin
- August 20, 2007 – The City Manager will be on vacation this week
- August 27 – LCMA – Platt Springs United Methodist Church – RSVP to Mendy Corder
- September 4, 2007 – Regular Council Meeting
- September 15, 2007 – Guided Nature Tours – 10 a.m. (Children's Tour) and 1:00 p.m.
- September 18, 2007 – West Metro Annual Dinner – Embassy Suites

Status of Public Relations Project – the City Manager advised that staff has met with MASC to obtain their assistance on producing an RFP for the project. In addition, staff has met with Forest Acres who is currently working with a PR firm and will be meeting with USC later this week to discuss the possibility of assisting the City with a survey.

Mr. Malpass inquired as to the timing of improvements by the County to the State Street Park. The City Manager advised that the County will be upgrading their parks in the fall.

Mr. Jumper stated that he attended a recent meeting with the Hunters Mill homeowners and was asked about the status of a fire/police substation in that area. The City Manager stated that the City previously entered into an Automatic Aid Agreement with the County which would provide adequate fire service to the Three Fountains area and that the agreement replaced the need of building a fire substation. In reference to the police substation, he stated that the city is continuing to discuss this option with Carroll McGee on property that may be available in the area. Mr. Jumper stated that he recently held a conversation with Mike Flack of the Columbia Metropolitan Airport who stated that there may be a location in that area that would be feasible for a police substation. The City Manager asked Mr. Jumper to contact Mr. Flack regarding this issue and to provide additional information to the City Manager for further review. It was suggested that staff attend the next Hunters Mill homeowners meeting to discuss this issue in detail.

Mr. Myers inquired as to the city's efforts in eliminating the brown water issues. The City Manager advised that the issue has been discussed with American Engineering and they have found three areas of concern outside the perimeter of the plant. Mr. Robinson stated that staff is currently taking samples and having the samples evaluated.

Mr. Myers inquires as to Public Safety's efforts regarding the recent break-ins in the Moss Creek subdivision. Chief McNair stated that an arrest has been made on the home invasions and that his staff is working on the car break-in issues. He stated that he has assigned two investigators, currently has a covert operation in place, and additional patrols are being made in the subdivision.

The City Manager stated that staff is currently working on a street light program and have found that several of the lights are not in working order. Staff will continue their efforts in correcting this issue.

### **Executive Session**

- A. Receipt of Legal Advice Re Time Warner FCC Petition
- B. Discussion of Proposed Contractual Arrangement and Receipt of Legal Advice Re Parkwood Sewer Main Project

Mr. Myers made a motion to move into Executive Session to discuss the matters above. Mr. Malpass seconded the motion which was unanimously approved.

### **Reconvene**

After the Executive Session was concluded, the Regular meeting was reconvened. Mayor Wilkerson announced that no vote was taken in Executive Session other than to adjourn and resume the Regular meeting.

Mr. Malpass made a motion to approve the City's participation in the Time Warner lawsuit at a cost of up to a maximum of \$5,000.00. Mr. Jenkins seconded the motion. The motion passed four to one with Mr. Malpass, Mr. Jenkins, Mr. Jumper and Mayor Wilkerson voting yes and Mr. Myers voting no.

Mr. Jumper made a motion to authorize staff to designate as the Parkwood Mobile Home Park and The Grove at Methodist Park sewer main project as a city project and pursue any necessary land acquisition, including any appraisals and condemnations, contingent on the owners of Parkwood Mobile Home Park and The Grove at Methodist Park paying all costs into escrow for the city with the exception of the \$115,396 expenditure of the city previously approved by Council at the February 6, 2007 Council Meeting. Mr. Malpass seconded the motion. The motion passed four to one with Mr. Malpass, Mr. Jenkins, Mr. Jumper and Mayor Wilkerson voting yes and Mr. Myers voting no.

There being no further business, meeting adjourned at 8:45 p.m.

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Avery B. Wilkerson, Jr., Mayor

**ATTEST:**

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Tammy P. Barkley, CMC, Municipal Clerk