



CITY OF COLUMBIA
DISTRICT III EVENING MEETING MINUTES
WEDNESDAY, JANUARY 6, 2010
6:00 P.M.
A.C. MOORE ELEMENTARY SCHOOL
333 ETIWAN AVENUE

The Columbia City Council conducted a District III Evening Meeting on Wednesday, January 6, 2010 at A.C. Moore Elementary School located at 333 Etiwan Avenue, Columbia, S.C. 29205. The Honorable Mayor Robert D. Coble called the meeting to order at 6:04 p.m. The following members of Council were present: The Honorable E.W. Cromartie, II, The Honorable Tameika Isaac Devine, The Honorable Daniel J. Rickenmann, The Honorable Kirkman Finlay III and The Honorable Belinda F. Gergel. The Honorable Sam Davis arrived at 6:13 p.m. Also present were Mr. Steven A. Gantt, City Manager and Ms. Erika D. Salley, City Clerk.

INVOCATION

Mr. Michael Bingham, Pastor of Wesley Memorial United Methodist Church; Chaplain of Columbia Fire/Rescue Services; and Member of the Hollywood/Rose Hill Neighborhood Council offered the Invocation.

APPEARANCE OF PUBLIC HAVING BUSINESS RELATED TO THE AGENDA ITEMS

No one appeared at this time.

MINUTES

1. Minutes of June 15, June 17 and June 24, 2009

Upon a motion made by Mr. Cromartie and seconded by Ms. Devine, Council voted unanimously to approve the Minutes of June 15, 17 and 24, 2009 with a single motion and as presented.

PRESENTATIONS

2. Welcome to A.C. Moore Elementary School – Dr. Chantelle Baker-Parnell, Principal

Master Nat Cook and Miss Grace Cook led the audience in the pledge of allegiance.

Dr. Chantelle Baker-Parnell, Principal welcomed everyone to A.C. Moore Elementary School. She cited the many accomplishments of the school.

3. Welcome to the District III Evening Meeting – The Honorable Belinda F. Gergel

The Honorable James Smith thanked Dr. Gergel for her efforts and contributions to the City of Columbia and District III.

Dr. Gergel recognized many of the neighborhood leaders within District III.

Mayor Coble recognized the Mayoral candidates that were in attendance.

4. Welcome to the Hollywood / Rose Hill Neighborhood – Ms. Georgianna Graham, President of Hollywood / Rose Hill Neighborhood Association

Ms. Georgianna Graham, President of Hollywood / Rose Hill Neighborhood Association welcomed everyone to the Hollywood / Rose Hill Neighborhood.

- 4a. **Update on the Mental Illness Recovery Center, Inc. (MIRCI) – Ms. Julie Ann Avin, Executive Director

Ms. Julie Ann Avin, Executive Director announced that MIRCI would be celebrating 50 years of service in 2010 and that the Homeless Recovery Center has been open on Gregg Street for five years. She provided highlights of the MIRCI Program. She invited the members of Council to tour the center on January 20, 2010 at 8:15 a.m.

5. Special Presentation – The Honorable Mayor Robert D. Coble

Mayor Coble presented a Proclamation to Mr. Harold Reaves, Director of Homeland Security declaring January 6, 2010 as Harold L. Reaves Day in the City of Columbia in recognition of his retirement after 23 years of service.

CITY COUNCIL DISCUSSION / ACTION

6. Columbia City Ballet – Ms. Lauren Han, Development & Membership Director

Ms. Lauren Han, Development & Membership Director announced that the Columbia City Ballet will be performing the renowned ballet “Off the Walls and Onto the Stage: Dancing the Art of Jonathan Green” in Chicago at the Harris Theater on February 25 & 27, 2010 in celebration of the 70th Anniversary of the South Side Community Art Center; the oldest African-American cultural center in the country. We will also perform “Off the Walls and Onto the Stage: Dancing the Art of Jonathan Green” at USC Drayton Hall on February 18-20, 2010 in celebration of Black History Month. We have developed a multi-faceted marketing strategy and would ask Council to consider funding the organization from the Hospitality Tax Fund and allow us to work with Ms. Libby Gober, Council Liaison to use it for eligible expenditures for the special performances.

No action was taken.

7. People for the Ethical Treatment of Animals (PETA) Request for Appeal – Officer Robert J. Hall, Columbia Police Department – *Please refer to Item 27.*

8. Update on 2 Guernsey Drive – Mr. S. Allison Baker, Senior Assistant City Manager

Mr. S. Allison Baker, Senior Assistant City Manager recalled that on December 16, 2009, staff was directed to investigate concerns of rising ground water in the basement of 2 Guernsey Drive.

Mr. John Dooley, Director of Utilities and Engineering explained that the house is slightly higher in elevation than a newer house that was built behind it. He said that 25 years ago a drain was built around the perimeter of the house; then tied to a solid wall pipe; and carried to a storm drain. There is a new house that was built where that solid wall pipe was and it has been disturbed. We surveyed the property, but we haven’t completed the design for a new solid wall pipe. We will include French drainage around the newer house, which is constructed on a concrete slab and doesn’t have a basement. I have talked with the Public Works Director and I believe that City forces are capable of doing the work; we will negotiate that.

Councilor Finlay asked if the City of Columbia built both houses.

Mr. John Dooley, Director of Utilities and Engineering said only the newer one.

Councilor Devine asked if a cost estimate is available.

Mr. John Dooley, Director of Utilities and Engineering said no, but it would only be for materials.

Councilor Devine inquired about the timeframe for completing the project.

Mr. John Dooley, Director of Utilities and Engineering said that the design will be complete in the next 10 days.

Councilor Devine said that she is concerned that Ms. Knighter's basement will flood again and there will be more damage before we can make the repairs.

Mr. John Dooley, Director of Utilities and Engineering said that the basements in this area are tough to keep dry under any circumstances. Ordinarily, you might expect to see some type of sump pump in the basement; that would be a safe backup, but it doesn't exist there. Apparently, the system worked fairly well for a while, but over time the French drain became clogged with soil through no fault of ours. The solid wall pipe was disturbed and it needs to be fixed.

Ms. Melissa Gentry, P.E., Director of Public Works said that she can schedule the work as soon as the engineering designs are complete. I have to look at other projects on the docket. I expect construction to start in 4 weeks, if we own the streets and provided we have all of the permits.

Councilor Devine asked if there are any other damage claims.

Mr. S. Allison Baker, Senior Assistant City Manager said that there was a claim for water damage in her basement. We will repair the sprinkler system; we built a retaining wall that will prevent erosion and beautify her property; and we are fixing the rising water problem.

Councilor Devine suggested that we execute a hold harmless agreement once the work is done.

Mr. John Dooley, Director of Utilities and Engineering concurred.

Mr. S. Allison Baker, Senior Assistant City Manager explained that during the demolition of Burton Pack Elementary School, the storm drain system that she was tied into was changed and that contributed to the backing up of water in her basement.

Councilor Davis said that he has pictures showing that there was 3' of water in her basement on Christmas Day. This is appropriate considering the circumstances and how we arrived at this. Staff has put together a plan; we are doing the right thing; and we are going about it the right way.

9. Possible Donation of Real Property – Mr. Steven Gantt, City Manager

Mr. Steven A. Gantt, City Manager reported that we've been offered two parcels of land by a resident in the City of Columbia. One is a small land-locked parcel in the Arsenal Hill Neighborhood that we would like to accept and pass on to the Columbia Development Corporation in hopes of them swapping it in the future for residential development. The other lot is in Woodfiled Park off of Percival Road. It's in Richland County, but it is adjacent to one of our water tanks and we need additional land for security protection of our tank. Staff would recommend that we accept both parcels as a charitable contribution to the City of Columbia.

A motion made by Mr. Cromartie to accept the donation of the two parcels was not seconded.

Councilor Rickenmann asked if staff made sure that there were no liabilities attached to the properties.

Mr. Steven A. Gantt, City Manager said that we walked the area and did not see any problems with either parcel.

Mr. Jackie Mitchell objected to the acceptance of the donated property, because clear title has not been established. We have no idea of what you all are doing; therefore, I object. I do not think the Rosen Company or anybody else has the authority to give away property that belongs to the trust. I am going to leave this in your hands. You all make your decisions on how you're going to do this, but know this, it will not go away.

Mr. Steven A. Gantt, City Manager agreed to do a title search on both properties prior to accepting the donations.

Councilor Cromartie said if there is an issue as it relates to the titles, then we need to make sure we do a complete title search. Sometimes property is acquired through a tax sale; therefore, we need to ensure that the tax sale has occurred; that the property has in fact been cleared; and that due notice is given to all of the parties involved.

Councilor Devine asked the City Attorney if we needed title insurance.

Mr. Ken E. Gaines, City Attorney said probably not; it would have to have some value. We will have a title search done. It appears that there is some question as to whether or not it's owned by an estate.

Upon a motion made by Mr. Cromartie and seconded by Mr. Rickenmann, Council voted unanimously to direct the City Manager to conduct a title search to ensure that the property is clear and to report back to Council.

CONSENT AGENDA

Councilor Devine inquired about **Item 18**. She explained that currently the Attorney General's Office sends a special prosecutor to Municipal Court to prosecute domestic violence cases. How does this work with that? Does it replace that service?

Mr. Ken E. Gaines, City Attorney explained that this will be completely within the Solicitor's Office, because that's where a large number of the criminal domestic violence cases arise. The Attorney General's Office will continue to prosecute in Municipal Court on the non-jury side and the City prosecutors will continue to prosecute on the jury trial side in Municipal Court. This is authorizing the Solicitor to hire someone in his shop for General Sessions CDV cases.

Councilor Cromartie asked about the other funding the City of Columbia provides to the Solicitor's Office. We will be funding 2 positions?

Mr. Ken E. Gaines, City Attorney said that this one is funded for one year by a grant; the grant requires this position to be a fulltime position.

Upon a motion made by Mr. Cromartie and seconded by Mr. Davis, Council voted unanimously to approve the **Consent Agenda Items 10.** through **23.** with a single motion.

CONSIDERATION OF BIDS, AGREEMENTS and CHANGE ORDERS

10. Council is asked to approve Project #WM4204; Pay Difference for City Tee/Value and 60' Stubout off Developer Water Line Extension to Serve Kaiser Business Park, as requested by Utilities and Engineering. Award to Armstrong Contractors, LLC, the lowest bidder in the amount of \$13,320.00. This vendor is located in Columbia, SC. *Funding Source: Water Improvement Fund 5529999-WM420401-851500 - Approved*
11. Council is asked to approve the Purchase of a Ford F-150 XL Vehicle, as requested by the Fleet Services Division. Award to Vic Bailey Ford, Inc., using the SC State Contract in the amount of \$14,835.00. This vendor is located in Spartanburg, SC. *Funding Source: 6308970-658500 - Approved*
12. Council is asked to approve Project #SS7099 (15); Emergency Repair of Bar Screens #1 &2 at the Metro Wastewater Treatment Plant, as requested by Utilities and Engineering. Award to Premier Water in the amount of \$16,630.00. This vendor is located in Charlotte, NC. *Funding Source: Sewer Improvement Fund 5529999-SS709915-851200. - Approved*
13. Council is asked to approve the Purchase of Kimberly Clark Gloves, as requested by the Fire Department. Award to Central Welding and S.J. Smith Company in the amount of \$16,443.76. This vendor is located in Mexico, MO. *Funding Source: 2082306-624900. - Approved*
14. Council is asked to approve the Purchase of a 2010 Chevrolet Equinox Vehicle, as requested by Utilities and Engineering. Award to Love Chevrolet, the lowest bidder in the amount of \$21,644.00. *Funding Source: (Engineering-Real Estate Water 5516227-658500 \$10,822.00); (Engineering-Real Estate Waste 5516228-658500 \$10,822.00) - Approved*
15. Council is asked to approve Project #SS7118; Bluff Road Upgrade, as requested by Utilities and Engineering. Award to ITT Flygt Water & Wastewater Products in the amount of \$30,000.00. This vendor is located in Charlotte, NC. *Funding Source: Sewer Improvement Fund 5529999-SS711801-851600 - Approved*
16. Council is asked to approve Project #WM4012; Revised Cost Estimate for Emergency Repair of the Melrose Elevated Tank, as requested by Utilities and Engineering. Award to Chao and Associates, Inc., in the amount of \$34,926.20. This vendor is located in Columbia, SC. *Funding Source: 5529999-WM401201-851500 - Approved*
17. Council is asked to approve a Contract for Professional Services for the Preparation of the City's Five-Year Consolidated Plan for Fiscal Year 2010-2015, Annual Action Plan and Analysis of Impediments to Fair Housing, as requested by the Community Development Department. Award to Freeman Consulting, Inc., in the amount of \$49,500.00. *Funding Source: Home Administration 9101790106 - Approved*
18. Council is asked to approve a Contract for Professional Services for a Criminal Domestic Violence Prosecutor, as requested by the Police Department. Award to the Fifth Circuit Solicitor's Office in the amount of \$75,582.00. *Funding Source: SC Department of Public Safety 2009 JAG ARRA Competitive Grant - Approved*

19. Council is asked to approve the Purchase of Pulmonetic LTV Systems, as requested by the Homeland Security/EOC Department. Award to Carefusion 203, Inc "DBA" Pulmonetic Systems, as the low bidder in the amount of \$138,404.50. This vendor is located in Chicago, IL. *Funding Source: MMRS 2008 Grant 2549999-658600 JL 9601000208-658600 – **Note:** These are medical ventilators which will increase the hospital's capability during respiratory emergencies (i.e. Pandemic Flu) - Approved*

ORDINANCES – SECOND READING

20. Ordinance No.: 2009-102 – Granting an encroachment to David Norton for installation and maintenance of a brick retaining wall and wooden privacy fence within the right of way area adjacent to 418 South Edisto Avenue and 2000 block of Oceola Street, Richland County TMS #11309-13-10 – *First reading approval was given on December 16, 2009 – Approved on second reading.*
21. Ordinance No.: 2009-119 – Amending the 1998 Code of Ordinances of the City of Columbia, South Carolina, Chapter 21, Stormwater Management and Sedimentation Control, Article II, Storm Drainage; Sedimentation and Erosion Control, Division 33, Sediment and Erosion Control, Sec. 21-84, Application fee for permit and plan approval *First reading approval was given on December 16, 2009. – Approved on second reading.*
22. Ordinance No.: 2009-122 – Granting an encroachment to Michael Beets and Violet Beets for installation and maintenance of a wooden privacy fence and two gates adjacent to 402 S. Prospect Street at the 3700 block of Prentice Avenue, Richland County TMS #13805-10-01 – *First reading approval was given on December 16, 2009. – Approved on second reading.*
23. Ordinance No.: 2009-124 – Amending Ordinance 2009-112 to Charles T. Overturf and Christine Overturf to allow for encroachment for installation and maintenance of flower beds adjacent to 3300 Prentice Avenue, Richland County TMS #13801-04-01 – *First reading approval was given on December 16, 2009. – Approved on second reading.*

RESOLUTIONS

24. Resolution No.: R-2009-079 – Authorizing the filing of a civil action in the Court of Common Pleas against the Tobacco Merchant, 1220 Bower Parkway, Suite E-4, seeking (i) a mandatory injunction requiring compliance with City Code Chapter 8, Environmental Health and Sanitation, Article IV, Pollution Control, Division 5, Regulations and Requirements Relating to Smoking of Tobacco Products, (ii) a declaration that the infraction of said Division is a public nuisance and for an order requiring abatement of the public nuisance, and/or (iii) for any other remedy permitted by law

Mr. Ken E. Gaines, City Attorney explained that the City issued a business license to The Tobacco Merchant to operate as a "cigar lounge" where smoking would be allowed; however, The Tobacco Merchant soon installed a bar and began serving alcoholic beverages. The Business License Division takes the position that smoking is not allowed, because the business is now operating as a drinking establishment rather than a retail tobacco store. The Tobacco Merchant has denied requests to cease smoking in the establishment. This gives the Legal Department authority to file an action, if needed. I think the Business License Division will take further actions and we want this available to us to see if we can get enforcement. As you know, under the Smoking Ordinance, it is an infraction which is a civil penalty of \$25.00. This gives us an option if we can't get this resolved amicably.

Councilor Rickenmann said that he has concerns about what they actually received a license for and what the ABC laws are. We need to have some things clarified before we start going down this path. I want to ensure that we are appropriately treading down the right path.

Mr. Ken E. Gaines, City Attorney suggested that the matter be deferred to the next meeting; we can put it on the executive session agenda so that the attorney handling the matter and the Business License Administrator can brief the Council.

Mayor Coble asked if an amendment of the ordinance would clarify this so that there wouldn't be a legal question about it.

Mr. Ken E. Gaines, City Attorney explained that when the ordinance was passed, there were certain exceptions placed in the ordinance. Mr. Rickenmann expressed to me that he thought Cigar Bars were an exception to the ordinance. I looked at the ordinance and it does not provide an exception for Cigar Bars. He reported that Charleston and Greenville have exceptions for Cigar Bars and you certainly could pass that exception.

This matter will be discussed in Executive Session on January 20, 2010.

25. Resolution No.: R-2009-095 – Authorizing 2010 Eau Claire Community Council's Ribs & Renaissance Arts & Community Festival and consumption of beer and wine at Hyatt Park, Eau Claire Town Hall and the Eau Claire Print Building - *Approved*

Upon a motion made by Ms. Devine and seconded by Mr. Davis, Council voted unanimously to approve Resolution No.: R-2009-095 – Authorizing 2010 Eau Claire Community Council's Ribs & Renaissance Arts & Community Festival and consumption of beer and wine at Hyatt Park, Eau Claire Town Hall and the Eau Claire Print Building.

26. Resolution No.: R-2010-001 – Authorizing Acceptance and Dedication of Streets known as Springhaven Drive, Barrique Lane, Bordeaux Lane, Chablis Drive, Currant Lane, Glencroft Drive, Lanesborough Drive and Nannyberry Lane in Springhaven, Phase I to the City of Columbia; Richland County TMS #06202-06-01 (Portion) CF #284-13 - *Approved*

Upon a motion made by Mr. Davis and seconded by Ms. Devine, Council voted unanimously to approve Resolution No.: R-2010-001 – Authorizing Acceptance and Dedication of Streets known as Springhaven Drive, Barrique Lan, Bordeaux Lane, Chablis Drive, Currant Lane, Glencroft Drive, Lanesborough Drive and Nannyberry Lane in Springhaven, Phase I to the City of Columbia; Richland County TMS #06202-06-01 (Portion) CF #284-13.

CITY COUNCIL DISCUSSION / ACTION

27. **People for the Ethical Treatment of Animals (PETA) Request for Appeal

At 6:59 p.m. Mayor Coble called the hearing by City Council to order on the parade/assembly permit application appeal for the People for Ethical Treatment of Animals also known as PETA. This hearing is part of the procedure for appeal from a denial for a parade/assembly Chapter 22, Article VI, Section 22-167 of the City Code.

Ms. Martina Bernstein, Litigation Council for the PETA Foundation appeared on behalf of PETA.

Mr. Gary Johnson, Assistant City Attorney appeared on behalf of the Columbia Police Department.

- **Mayor Coble concluded the argument portion of the hearing at 8:09 p.m.**

Upon a motion made by Mr. Rickenmann and seconded by Ms. Devine, Council voted six (6) to one (1) to deny the appeal for a Parade Permit as requested by the People for Ethical Treatment of Animals Foundation. Voting aye were Mr. Cromartie, Ms. Devine, Mr. Davis, Mr. Rickenmann, Dr. Gergel and Mayor Coble. Mr. Finlay voted nay.

Upon a motion made by Mayor Coble and seconded by Mr. Cromartie, Council voted unanimously to direct staff to work with the People for Ethical Treatment of Animals Foundation and Ms. Martina Bernstein, Litigation Council for the PETA Foundation to identify an appropriate location for the stationary placement of the statue and if needed, help them to obtain an encroachment permit through an expedient process.

Councilor Devine asked that the Columbia Police Department be aware of the various processes and be able to properly advise applicants.

Councilor Finlay asked staff to provide a clear definition in the ordinance of when it is most appropriate to apply for an encroachment and when it is most appropriate to apply for a parade permit.

APPEARANCE OF PUBLIC HAVING BUSINESS WITH CITY COUNCIL

Ms. Oveta Glover, F.U.N.D.S. Inc. invited the members of Council to participate in the 5th Annual Statewide Black History Parade and Gospel Soiree' Festival on February 6, 2010 in the Waverly and Five Points Communities. She asked Dr. Gergel to bring greetings to the participants. They will be concentrating on youth health issues during the event.

CITY COUNCIL DISCUSSION / ACTION

28. **Annual Dr. Martin Luther King, Jr. Day and March

Mayor Coble explained that the NAACP is hosting the MLK Parade on January 18, 2010, but they did not apply for Hospitality Tax funds, as we asked all parade organizers to do in order to pay for Police overtime. I would ask if the staff could work with the MLK Foundation and Mr. Durham Carter to make an application for Hospitality Tax funding.

Upon a motion made by Mayor Coble and seconded by Ms. Devine, Council voted unanimously to direct staff to work with the Martin Luther King, Jr. Foundation and Mr. Durham Carter to provide Hospitality Tax funding in the amount of \$10,085 for Police services during the Annual Dr. Martin Luther King, Jr. Day and March.

- **Council adjourned the meeting at 8:26 p.m.**

Respectfully submitted by:

Erika D. Salley
City Clerk