

**City of Cayce
Special Council Meeting
September 20, 2012**

A Special Council Meeting was held this afternoon at 3:15 p.m. in Council Chambers. Those present included Mayor Elise Partin, Councilmen Steve Isom, Tim James, James Jenkins, and Kenneth Jumper, City Manager Rebecca Rhodes and Mendy Corder, Administrative Coordinator. Municipal Clerk, Tammy Barkley was unable to attend due to a family illness. Shaun Greenwood, Director of Planning & Development, Charles McNair, Director of Public Safety, and City Attorney, Danny Crowe were also in attendance. Mayor Partin advised that members of the press and the public were duly notified of the meeting in accordance with the FOIA.

Mayor Partin opened the meeting and Councilmember Jumper gave the invocation. The assembly recited the Pledge of Allegiance.

Other

A. Approval of Resolution Approving Multi-Jurisdictional Metro Narcotics Agreement

Councilmember James made a motion to approve the Resolution as presented. Councilmember Isom seconded the motion which was unanimously approved by roll call vote.

B. Approval of Ordinance to Amend the Zoning Ordinance – First Reading

Councilmember Isom made a motion to delay the question on the table. Hearing no second, Mayor Partin announced that the motion died. Councilmember James asked for information to become educated on this issue. Councilmember Isom stated the point of order that according to Roberts Rules, a motion is required to be made and a second prior to discussion taking place. Councilmember James made a motion to approve the Ordinance to amend the Zoning Ordinance on first reading. Councilmember Jenkins seconded the motion.

Mr. Greenwood stated that he and staff have been working on cleaning up various aspects of the Zoning Ordinance for a couple of months. He stated that during that process, several grammar, spelling and formatting errors were found. In addition, he stated that substantive changes were also found which could affect how some things are interpreted. He stated most of the changes are to clean up the Ordinance. He reviewed the seven substantive changes with Council (these changes are attached to these minutes). A red-line copy of all the changes was provided.

Mr. Greenwood stated that hopefully they have created a more professional document that can be placed on the City's website upon Council's approval. Councilmember James thanked Mr. Greenwood and his staff for their efforts in correcting the document. He inquired if there was anything in the Ordinance amendment that has been changed that has not gone before Council. Mr. Greenwood advised that the only things changed that are new is the addition of the language in the definition of condominium at the City Attorney's request and the definition of the private and public garages. Councilmember James inquired if these changes need to go before Council. Mr. Greenwood stated that the definitions of garages are the accepted planning definitions. He stated that he would discuss the issue of carports with Council later in the meeting and that is where the definition of garages could come into play. Ms. Rhodes stated that these are commonly accepted definitions. She stated that all the changes were submitted to the Planning Commission and the Planning Commission has recommended the changes as submitted. Councilmember James stated that as he reads the definitions, the lay person would recognize the condominium or private garage. Mr. Greenwood stated the goal is to make the Ordinance easier to read.

Councilmember Jenkins stated it may be easier to note all the changes that have been made, make a list of them, and have Council approve them. Ms. Rhodes stated that this is just getting the Ordinance to where it is actually functional and staff will still need to redo the entire Zoning Ordinance and the Land Development Regulations as the last time they were amended was in 1999. Councilmember Isom thanked Mr. Greenwood for his efforts. He quoted Mr. Greenwood as saying that this is "more than just a grammar change." He pointed out that Councilman James brought up the point of the Ordinance being in layman's terms and he knows that changes were discussed with the City Attorney. However, he stated that was the point of his concern in that it is more than just grammar changes. He stated that grammar and format changes are needed and that those are straight and simple processes. But he felt that those should not be confused with the substantive issues and they are all delineated very clearly. He stated his concern is illustrated by what happened with the banner Ordinance whereby there were a number of unintended consequences from the interpretation. He stated that it reminds him of what the courts do sometimes when they interpret the letter or spirit of the law and there is some latitude there. He stated that the C in Cayce stands for compassion for people and in these hard economic times we want to be compassionate to people. But, he stated the C in Cayce also stands for a common sense approach. He stated he thinks that this issue is the bifurcation of two topics—he stated he totally approves the corrections to the grammar and formatting but that the other issues deal with the meaning and there is a lot of nuances that Council has not discussed that needs to be looked at in detail.

Ms. Rhodes stated that she again points to the actual ordinance whereby the three definitions are mentioned in the Ordinance along with the typographical errors. If Council wants to table this until a new Council is elected in November, that is completely their call, but right now the City has a Zoning Ordinance that is incorrect and is not something it would want its citizens to see. Councilmember Jenkins stated that crossing all the t's and dotting the i's are corrections and not changes. Ms. Rhodes stated that the changes made to the definitions of condominium and garages are

accepted industry definitions. Mr. Greenwood stated there may be a little confusion because he went a little beyond the three items. He stated that while the list includes the three issues being discussed, it also includes anything that was not strictly grammar, punctuation or formatting. He stated that the issues of a section number appearing twice and correcting this will not change the wording or meaning of the Ordinance. He stated that while these may not be substantive changes in the City Attorney's opinion, it was more than just a grammar fix and he wanted to bring these to Council's attention. Mayor Partin thanked Mr. Greenwood and his staff for their efforts in correcting the document. Councilmember James stated that he did not want to minimize what Councilman Isom stated because there have been some unintended consequences when it came to the banners, but his point here is that they are probably going to mount up quicker with an inaccurate and unprofessional document than they would with the recommended changes. After discussion the motion passed four to one with Councilmembers Jumper, Jenkins, James and Mayor Partin voting yes and Councilmember Isom voting no.

Ms. Rhodes stated that there was a public hearing held at the Planning Commission meeting regarding the amendment to the Zoning Ordinance.

C. Discussion of Zoning Ordinance regarding Communication Towers and Car Ports

Mr. Greenwood stated that he is asking for Council's guidance in regards to how the City regulates communication towers and antennas. He stated that the City's ordinance is overly restrictive when compared to surrounding municipalities. He stated that one provider has stated that they have a number of customers that are not able to receive adequate service because our ordinances severely restrict where towers can be located. He stated the City's set back requirements are extremely restrictive and provided Council with a table comparing Cayce's ordinances versus those of Springdale, West Columbia, Town of Lexington and Columbia. He reviewed the City's ordinances with Council stating that the setbacks limit the property available for communication towers. Ms. Rhodes stated that the City's cell tower ordinance was approved 10 years ago and is very much outdated and the concern with them falling is no longer a concern because of the structure of the newer towers. She stated that in a recent court case if there is a municipality whereby a customer cannot obtain service due to the lack of cell towers and because of strict restrictions placed on these companies by municipalities, the FCC can override the City's Ordinances.

Mr. Greenwood stated that due to the potential impact this lack of service can have on the citizens of Cayce, he is requesting that Council provide guidance on whether a change to the City's ordinance needs to be considered. Additionally, he stated that if a change is considered, staff would need guidance on zoning, setbacks, height restrictions and proximity. He stated that it appears that West Columbia, Springdale and Town of Lexington have similar Ordinances. Mayor Partin stated she would like to see it amended and it is part of being business friendly and providing service to the citizens. She stated she would like to see recommended changes presented to Council. Councilmember Isom stated that less regulation is a good thing,

but needs to be consistent. He stated he was absolutely in favor of changing it, but a public hearing is needed.

Mr. Greenwood asked Council to provide him with their concerns. Mayor Partin stated that aesthetics and character of the district is a concern. Councilmember Jenkins stated he wanted to make sure that towers that are put up are pleasing to the eye. Mr. Greenwood inquired as to how Council would want to regulate it. Mayor Partin stated that under some circumstances within the table provided it is conditional and under others it is as a special exception. Councilmember Jenkins suggested that the City's ordinance limit the height and if it is limited, would the company be able to get the FCC to override it. Mr. Greenwood stated the tower company would have to prove that they have gone through all available means to make it happen and they still cannot provide service at the level required and therefore then, the FCC can overrule the City's ordinance on where they want to place it and how high it needs to be. He stated that he would talk to some people in the industry to find out what the trends are and the newest technology available. He stated that any changes recommended would need to go to the Planning Commission in October and would not come back to Council for review until November. Mayor Partin stated she would like to see the best practices being used in other municipalities. She stated it would be helpful when it comes back to Council for review, to see photographs of towers. Councilmember Jenkins asked that the latest technology available also be provided to Council.

Mr. Greenwood stated that in reference to detached carports, there are two interpretations within the City's Ordinance regarding the placement of these types of structures. He provided Council with photographs of detached carports currently in the City and reviewed the interpretations with Council. He asked for Council's guidance as to whether the intent of the ordinance was to prohibit the placement of unattached carports in the front yard of residential properties. He stated that he has discussed the issue with the City Attorney and because there are two interpretations, those that are already in place would have to be grandfathered. Councilmember Isom stated that he does not feel the City should do anything that would place additional stress on its citizens. Mayor Partin stated that there is the option to appeal the decision of the Zoning Administrator and she feels that is sufficient. Ms. Rhodes stated that from what Council has said, Council does not want to allow detached structures in the front yard, but does want to see if there is some research available regarding structures made with materials that match the home. Councilmember James stated that the whole reason we would want to do this is that it would be aesthetically pleasing to the eye. Mr. Greenwood stated we could look at how it could be approved through a special exception granted by the Planning Commission. Ms. Rhodes stated that staff would bring back to Council the addition of carports as an accessory building. Councilmember James inquired if the City had a copy of all the subdivision covenants as it is already restricted in one of the neighborhoods. Mr. Greenwood stated that State Law states that once the neighborhood presents the covenants in writing, the City could not approve building codes in conflict with the covenants but that the city does not currently have any copies of neighborhoods' covenants.

Councilmember James made a motion to adjourn the meeting. Councilmember Isom seconded the motion which was unanimously approved by roll call vote. There being no further business, the meeting adjourned at 4:30 p.m.

Elise Partin, Mayor

ATTEST:

Tammy P. Barkley, CMC, Municipal Clerk

Substantive Changes

1. Table of Contents:
 - Section 5.9 Vested Rights changed to 5.10 Vested Rights due to 5.9 Nonconformities already existing.
 - Section 7.14 Large Scale Commercial Development (Big Box) changed to 7.15 Large Scale Commercial Development (Big Box) due to 7.14 Car Wash, Single Bay, Fully Automated already existing
2. Article 2 Definitions:
 - Condominium definition changed to read as “A unit in a multi-unit structure owned by individuals, partnerships, corporations, or other business entities or entities which has use of all common areas associated with that structure.
 - Garage, Private definition changed to read as “A structure that is accessory to a single- or two-family dwelling, is used for the parking and storage of vehicles owned and operated by the residents thereof, and is not a separate commercial enterprise available to the general public.”
 - Garage, Public definition changed to read as “A structure or portion thereof, other than a private customer and employee garage or private residential garage, used primarily for the parking and storage of vehicles and available to the general public.”
3. Article 5, Section 5.9 Vested Rights and all sub-sections:
 - Changed to 5.10
 - Section 5.10-5 Effective Date deleted because it is not necessary.
4. Article 6, Section 6.2 Purpose of Districts:
 - Development Agreement District was added to describe the purpose and intent of the district established in Section 6.11.
5. Article 7
 - Table on page 7-1 (Large Scale Commercial Development (Big Box) 7.14 changed to read as Large Scale Commercial Development (Big Box) 7.15)
 - Section 7.14 Large Scale Commercial Development (Big Box) changed to Section 7.15 Large Scale Commercial Development (Big Box).
6. Article 8
 - Removed Table 8-A and Table 8-B from the middle of section 8.4 Common Signage Plan Required.
 - Table 8-A and Table 8-B inserted between sections 8.4 and 8.5.
 - Amended Table 8-B to include the letter “F” in the list of conditions. The letters of the corresponding conditions were changed in the table to reflect this correction.
7. Article 11
 - Removed the signature block following section 11.4 Effective Date because it is not needed.