



Mayor
Elise Partin

Mayor Pro-Tem
James E. Jenkins

Council Members
Phil Carter
Tim James
Hunter Sox

City Manager
Tracy Hegler

Deputy City Manager
Jim Crosland
Assistant City Manager
Michael Conley

**City of Cayce
Regular Council Meeting
Tuesday, April 4, 2023**

The April 4, 2023 Regular Council Meeting was held this evening at 6:00 p.m. in Council Chambers. Those present included Mayor Pro Tem James Jenkins and Council Members Phil Carter, Tim James and Hunter Sox. City Manager Tracy Hegler, Deputy City Manager Jim Crosland, Assistant City Manager Michael Conley, Municipal Clerk Mendy Corder, Police Chief Chris Cowan, Fire Chief Steven Bullard, Finance Director Kelly McMullen, Human Resources Director Lynn Dooley, Utility Director Betsy Catchings and City Attorney Danny Crowe were also in attendance.

Mayor Pro Tem Jenkins asked if members of the press and the public were duly notified of the meeting in accordance with the FOIA. Ms. Corder confirmed they were notified.

Call to Order

Mayor Pro Tem Jenkins called the meeting to order and Council Member Sox gave the invocation. Mayor Pro Tem Jenkins led the assembly in the Pledge of Allegiance.

Approval of Minutes

Council Member James made a motion to approve March 7, 2023 and March 22, 2023 Regular Council Meeting minutes as written. Council Member Sox seconded the motion which was unanimously approved by roll call vote.

Public Comment Regarding Items on the Agenda

Mr. Shelby Judd – Item III. A. Mr. Judd stated that he was the co-owner and festival director of Hidden City Music Festival. He stated that Hidden City was born out of a desire to bring world class entertainment to the area and promote local businesses and highlight the City of Cayce. He stated that as a locally owned business, run by a Veteran he and the other co-owner understood the importance of hearing regulations and maintaining a positive relationship with the community. He stated that with Council's approval, Hidden City planned to conduct a firework display from approximately 8pm to 10 or 10:30pm depending on the noise Ordinance waiver. Mr. Judd stated that the majority of fireworks would be close proximity Pyro-technic stage near the festival area and would generate minimal noise. He stated that there would be a total of seven (7) launches of those types of fireworks which would last no longer than five (5) seconds each. He stated that towards the end of the display, they planned to incorporate Class Bravo fireworks, which were a step down in intensity from standard

Fourth of July fireworks. He stated that those combinations would last no longer than 10 seconds with a finale going for 30 to 60 seconds.

Mr. Judd stated that he wanted to address an article by WLTX from the March 22, 2023 Council Meeting, which claimed at last year's music festival the organizers did not have approval for fireworks but proceeded with a display despite being asked to stop by the police. He stated that information was inaccurate and misleading and he found it disappointing that WLTX did not contact him for clarification. He stated that due to an error in the approval process, they were granted permission to launch close proximity fireworks and at no time were they asked to stop, nor do they receive a citation for the fireworks. He stated that they did receive a citation for noise despite having a 45-minute noise Ordinance waiver which they believed was issued in error.

Mr. Judd stated that Hidden City had worked diligently both this year and last year to meet the requirements of the City Ordinance despite what they viewed as constantly moving goalposts and sometimes suggestive rules. He stated that they fully intended to comply with the rules. He stated that they acknowledged that the process had been a learning experience for both his team and the City. He stated that they were committed to being good stewards of the community while bringing a world class festival to Cayce. Mr. Judd stated that to address noise concerns they had proposed a plan that would limit their sound based on objective sound levels rather than the current subjective Ordinance. He stated that additionally, they were going to distribute hanger PSAs to the area affected by noise last year. He stated that this initiative aimed to achieve several goals; one (1) to inform the public about the festival schedule, two (2) notify residents about the fireworks display, which they believed could be enjoyed by the local community and three (3) provide a hotline number for the local community to call if they have any complaints or concerns during the festival. Mr. Judd stated that he wanted to emphasize a commitment to the local community and its businesses. He stated that last year they conservatively estimated that the music festival brought over \$500,000 in revenue to the local community and over two thousand of the attendees traveled over an hour and a half to come to Cayce. He stated that as Hidden City continued to grow, their goal was to forge long lasting partnerships with the City and local businesses while providing entertainment that everyone could enjoy.

Mr. Joseph McDougall – Item III. A. Mr. McDougall stated that he was a junior associate at McDougall, Self, Currence, McLeod Law Firm as well as part of Hidden City. He stated that he had deep ties to Cayce and Columbia. He stated that he grew up in Columbia and his cousin was Ms. Mendy Corder, the City's Municipal Clerk. He stated that their goal was to bring something unique and exciting to the Midlands and they believed the Hidden City Music Festival was the perfect opportunity to do that. He stated that they understood there had been some concerns raised regarding the noise level of the fireworks display proposed for the music festival as well as some miscommunications about the nature of the event and its impact on the community. Mr. McDougall stated that as event organizers, they were aware of the concerns, and they

ensured they would find a balance that accommodated both the community and the festival attendees.

Mr. McDougall stated that while they recognized that the noise generated by the fireworks could be disruptive, it was important to remember that it was a onetime annual occurrence. He stated that the firework display would be held on a single evening that would conclude by 10:30pm at the latest. He stated that by limiting the timeframe and providing proper notice to the community they aimed to minimize any potential disruption in the surrounding area. He stated that with clear communication and timely reminders of the event they believed that fireworks should not be an undue disruption for anyone in the vicinity. Mr. McDougall stated that it was important to recognize the type of event they were organizing was new and was the new norm for younger generations. He stated that Electronic music was the fastest growing music genre in the world and it resonated with today's youth in much the similar way as rock 'n 'roll did for previous generations. He stated that parents and authorities once viewed rock bands like Led Zeppelin, Guns and Roses, Kiss and even Elvis as loud and vulgar but these were the bands that shaped the soundtrack of everybody's youth. He stated that Electronic music faced the same similar unjustified stigma.

Mr. McDougall stated that their music festival aimed to bring people together to celebrate the community, showcase local businesses and provide memorable experiences for all attendees, especially those in the younger community. He stated that he believed that embracing the event and working with them to grow it could have a significant positive impact on the local community and the local economy. He stated that music festivals like EDC Vegas had generated over \$1.3 billion in revenue for their host city since 2011. He stated that EDC Orlando brought over \$50 million to Orlando in 2019. Mr. McDougall stated that they aspired to have similar results in Cayce. He stated that instead of resisting inevitable changes in musical and cultural trends they implored the City to adopt an innovative forward-thinking approach to embrace these developments. He stated that supporting the music festival and working with them to cultivate a world class event would not only put Cayce on a national map that would create a vibrant, inclusive environment that attracted younger generations to the City.

Mr. McDougall stated that they understood that there might be some opposition, but they wanted to assure everyone that they were committed to working with the community and maintaining a positive relationship. He stated that they genuinely cared about Cayce and the residents, and did not want to leave the community due to any misunderstandings or procedures. He stated that before making a decision based on perceived notions about the event, or its potential impact on the community, they encouraged Council to attend the festival and witness firsthand the positive atmosphere and vibrant celebration that it brought by experiencing the event. He stated that Council could make a more informed and accurate assessment of its true value and impact on the community. He stated that they believed that the music festival had the potential to be long lasting and foster a sense of unity among the residents. Mr. McDougall stated

that they were dedicated to building a strong partnership with the community ensuring that their event reflected the values and spirit of the people who call Cayce home.

Mr. Gerald Cromer – Item III. A. Mr. Cromer stated that he had lived in Cayce for 63 years. He stated that he used to attend car races at the Historic Columbia Speedway in Cayce and there were some nights that he could hear the cars running all the way down almost to 12th Street close to where he lived. He stated that no one had said anything about the sound level that would come from the music festival. He stated that he was surprised there was not anyone from his neighborhood in attendance since there were so many complaints last year. He stated that his neighborhood bordered on the edge of the speedway and he had a little bit of expertise in sound. He stated that he worked in broadcasting for almost 30 years and although audio was not his forte, his was in radio frequency transmissions, but he had to deal with audio. He stated that audio was measured in DB and it was not linear, but logarithmic. Mr. Cromer stated that a sound level of 10 DB, if it went to 20, that would be 10 times what it was at 10 DB. He stated that every time sound increased 10 DB, it was doubling 10 times the sound.

Mr. Cromer stated that fireworks were 145 DB. He stated that 115 DB was recommended for a maximum of 30 seconds before one would start having damage to their ears. He stated that sound was measured with sound level meters. He stated that he doubted if the City had one; but would need one if the City was going to have some control over sound level and fireworks. He stated that if the City was going to dictate to the festival organizers about sound level, then there would have to have some parameters to hold on to. He stated that if one could not measure the sound, how could they say it was too loud. He stated that the City should have a sound level meter and should have someone that was trained in using it because many factors went into how to use a sound level meter. Mr. Cromer stated that he doubted what he said was going to change anyone's vote but Council needed to know what they were voting on and how to measure some of the items they were voting on and talking about.

Items for Discussion and Possible Approval

A. Consideration of Fireworks Exemption Request for Hidden City Music Festival

Ms. Hegler stated that Council had this item before them at the March 22, 2023 Council Meeting and asked staff to get a timeline for the firework display and discharge timeline. She stated that as of that morning, and what was in Council's agenda packet on Friday, the State Fire Marshal permit was for 7pm to 9pm. She stated that staff received word from the Fire Marshal that the State Fire Marshal did extend that timeline to 7pm to 10:30pm. She stated that Council also asked about potentially putting together a firework permit and she talked to City Attorney, Mr. Crowe, about that potential so Council could set some potential parameters around their approval if that was their will. Ms. Hegler stated that there was a draft of the potential permit in Council's agenda packet. She stated that what was before Council, and it was deferred

form the last Council Meeting, was to grant an exception for fireworks. She stated that Council had information on timing from the Fire Marshal permit that she relayed to them as well as the information the event organizer mentioned earlier in the meeting of the timeline he was requesting and then a possible permit for their consideration.

Council Member Sox made a motion to approve exemption under Ordinance Section 29-47 for the Hidden City Music Festival, in accordance with the state permit that they had been granted allowing fireworks between the hours of 7pm and 10:30pm and asked that the City put a public notice out that Council had approved this ordinance exemption, so the City could better inform the citizens of the exemption that Council approved. Council Member Carter seconded the motion.

Council Member James asked City Attorney Crowe to help him better understand how, with Council giving a permit, what restrictions they had and how it lined up with the other Ordinance such as the noise Ordinance. Mr. Crowe stated that the permit was what was contemplated by section 20-47 Special Events permit to be approved by City Council. He stated that the example that he drafted and was included in Council's agenda packet had five (5) principal provisions. He stated that one (1) was that the terms or conditions of the permit were that the event applicant and the pyrotechnic company would comply with any federal, state, municipal regulations and requirements including any permits, so that would require compliance with the State Fire Marshal permit. He stated that in order to maintain order, if needed, the event applicant and pyrotechnic company would agree to cease the use of fireworks immediately upon the direction and sole discretion of the Cayce Fire Chief or his designee or the Cayce Police Chief or his designee as a public safety provision. Mr. Crowe stated that the third provision was that the event applicant and the pyrotechnic company agree that the permit could be revoked immediately, for violation of any term of the permit in the sole discretion of the Fire Chief or his designee or the Police Chief or his designee again, that would be a public safety issue. He stated that the fourth provision was the hours of use with range of discretion on Council's part. Mr. Crowe stated that he would say that Council could not, in keeping with the hierarchy of state and local law, grant hours beyond those granted by the State Fire Marshal but could grant lesser powers. He stated that Council could not be more permissive than the state but could be less permissive than the state. He stated that the final provision was that 24 hours prior to the event, the applicant host a \$2,500 bond against any violation of the permit or failure to comply, which would be refundable. He stated whether or not there was a violation would be the determination of the Fire Chief or Police Chief. He stated that was what he would call a good faith compliance bond. Mr. Crowe stated that since the fireworks division in the City code had very little teeth, by way of criminal penalty, that Ordinance provided for an infraction with a \$1,000 fine. He stated that the idea was that while that might be an appropriate remedy when dealing with a teenager setting off fireworks in the driveway, but when there was a special event, some other type of monetary enforcement might be well advised.

Council Member James stated that the reason he pointed that out was it seemed like a great deal has gone into the drafted permit that he requested from the last meeting and there were restrictions that might not have been there in the past. Mr. Crowe stated that Council Member James had asked earlier how it related to the noise Ordinance. He stated that the noise Ordinance was separate. He stated that the noise Ordinance set a timeframe for lower tolerance of loud noise from 10pm to 7am. He stated that the noise Ordinance discouraged loud noise after 10pm but allowed for a waiver of that time period, an extension to 11pm, by action of the City Manager or her designee. Mr. Crowe stated that the noise that resulted from the shooting of fireworks was not covered by that section since they were separate things. He stated that there could be a fireworks violation, but not a noise violation. Council Member James asked Mr. Crowe if the fireworks violation was up to City Council to give a permit and the noise Ordinance was up to the City Manager. Mr. Crowe stated that was correct.

Mayor Pro Tem Jenkins asked Mr. Crowe if the State Fire Marshal superseded the City's Ordinance. Mr. Crowe stated that the State Fire Marshal could set a time period within it was okay to shoot fireworks according to the state and the City could not extend that time but could restrict the hours within the State Fire Marshals determination. Council Member James asked Council Member Sox if his motion was to move until 10pm or 10:30pm. Council Member Sox stated that he realized that he misstated the section as 29-47 and not 20-47 so the motion would have to be restated. He stated that in that motion, he would like to include that the time period that Council allowed the fireworks fit within the state's approved permit and the permit that the City grants them. He stated that if the state's cutoff time was 10:30pm, and the event was approved to 10pm, than the hard stop for the fireworks was then, so the event could not go on with loud music and then stop at 10pm and fireworks start from 10pm to 10:30pm without music. Council Member James asked Mr. Crowe if he tracked that Council Member Sox was stating that he wanted to make sure that was consistent with the state. Mr. Crowe asked if he wanted to be consistent with the 10pm as well so, if it was 7pm to 10:30pm, or 7pm to 10pm.

Council Member Sox stated if it was 7pm to 10:30pm in the event permit that the City grants was a hard stop for music at 10pm then they would be able to shoot fireworks from 10pm to 10:30pm only. He stated that if the City granted a permit to 10:30pm it would still allow the fireworks to fit within the state permit and the City permit at 10:30pm. Mr. Crowe asked 7pm to 10:30pm even if the noise restriction was to 10pm so the event organizers could do fireworks after 10pm to 10:30pm. Council Member Sox stated that he would like them to coincide but also allow so it was not a hard stop at 10pm. He stated that it was his understanding that the permit had not been granted yet by the City for the event so if the event ran to 10:30pm, he wanted the fireworks to be allowed to 10:30pm and if the event ran to 10pm, he wanted them to be allowed to 10pm. Council Member Sox stated he wanted it to be in accordance with the state permit. Council Member James stated that Council did not have the event permit yet and he asked Council Member Sox if he was saying Council did not know if it was

stopping at 10pm or 10:30pm. Council Member Sox stated that yes, so considering that was the case, then he would revert back to his original motion that Council's decision just coincide with whatever the state permit was. He stated that he did not want that to hinder on staffs' decision as well, based on what time Council approved fireworks to end.

Mayor Pro Tem Jenkins stated that he needed clarification, because if Council issued the permit that Mr. Crowe worked hard on drafting and it stated 9pm. Mr. Crowe stated that the permit had 9pm on it because at the time he drafted it, 10:30pm was not an option, because 9pm was the cutoff time in the Fire Marshal's original determination. Mayor Pro Tem Jenkins stated that he was thinking about the citizens of Cayce. Mr. Crowe stated that under section 20-47 and the fireworks section, neither had a set end time. He stated that it did not set an end time for the special permit for fireworks. Mr. Crowe stated that in theory, the event could go to 11pm except that the Fire Marshal said the event could not go past 10:30pm.

Council Member Sox stated that fireworks were held at University of South Carolina football games and they were having a firework show after the spring game in a couple of weeks. He stated that the Columbia Fireflies also had firework shows regularly. He stated that he appreciated Mr. Cromer's remarks on the decibel ratings. He stated that the City allowed citizens to shoot unregulated fireworks that it was unknown what the decibel ratings were on the Fourth of July and on New Year's Eve without seeing what they were and approving the decimal rating. He stated that he thought Council should approve the special permit for the music festival. Council Member Sox stated that it seemed that the organizers wanted to put on an event that was lasting in Cayce. He stated that they wanted to work with staff from what he had heard from them. He stated that even before the last Council Meeting, he was told that they had been very cooperative and open with staff so he did not see why Council should withhold allowing fireworks to the event. He stated that he was under the understanding that there was about 4,500 people at last year's event with the majority of them coming in from out of state and out of town. Council Member Sox stated that he thought it was great for people to see Cayce and he thought he was great that the event organizers wanted to return to the City.

Mayor Pro Tem Jenkins stated that if Council approved the exemption then it would go through the City Manager and Mr. Crowe. He stated by approving the exemption, the City Manager would have no word in it. Mr. Crowe stated that the City Manager would be able to determine the noise hours which do not include fireworks. He stated that Council would set the fireworks time period and the City Manager would set the noise waiver. Ms. Hegler stated that Mayor Pro Tem Jenkins was pointing to the permit in the agenda packet which was fireworks specific. She stated that Council would set those parameters and it would become staff's responsibility to enforce those parameters. She stated that was separate, as Mr. Crowe just stated, from the overall administrative review of the rest of the event which was still ongoing.

Council Member Sox stated that Council had not touched on if they wanted to approve the motion that he originally made, or allow him to backtrack and rephrase it. He stated they had not discussed if they wanted to apply it to the Ordinance that Mr. Crowe put together for Council or if they wanted to apply it without that. Council Member James stated that he thought Council Member Sox's motion that was on the floor was to mirror that of what the State Fire Marshal had already permitted. Council Member Sox stated that was correct and not with the special event fireworks permit that was in the agenda packet. He stated that his motion had to be restated because it did not address the right section of the Ordinance. Council Member Sox withdrew his original motion and Council Member Carter withdrew his second.

Council Member Sox made a motion to approve exception under Ordinance Section 20-47 for the Hidden City Music Festival in accordance with the state permit that they had been granted, allowing fireworks between the hours of 7pm and 10:30pm and included that the City put a public notice out that Council had approved the firework Ordinance exemption. Council Member Carter seconded the motion. Council Member James voted yes. Mayor Pro Tem Jenkins voted no.

B. Acceptance of Donation of the Thomas A. Newman Boat Landing from Dominion Energy

Ms. Hegler stated that the City first entered into an agreement with then SC&G in 1983 to maintain the public boat access located on the Congaree River. She stated that was once historically known as Granby Landing. She stated that throughout the years, the City had made significant upgrades to the boat landing and maintained the parking area there. She stated that the City had continued to extend the lease at no cost with SCE&G and Dominion Energy had offered the City the generous donation of outright ownership of the Thomas A. Newman Boat Landing. Ms. Hegler stated that the reason that this item had come before Council as a request and a consideration was that the City was often in a situation where it could be granted monies to make improvements to the boat landing, but because the City did not own it, staff could not access those funds. She stated that the City had such an opportunity before it currently. She stated that Dominion had graciously offered the donation of land and staff's recommendation was to accept it. Ms. Hegler stated that Council was also asked to approve the agreement of the gift of property document that was in the agenda packet that was prepared by Dominion, and to authorize the City Manager to execute the agreement and any related closing documents and take such further actions as recommended by the City's attorney. She stated that Council would first be saying yes to accepting the donation and then all the subsequent paperwork that would go with that.

Council Member James stated that his motion was to postpone this item to the May 2 Council Meeting giving Council a little more time to be able to research. He stated that the land donation was a great gift but liability did come with a gift. He stated

that he had not had enough time to build good research into what this would mean to the City bringing on this piece of property. He stated that he did speak with the City Manager that afternoon and understood that there could be some other grants that could be connected to this in time and hopefully they would not go away in a 30-day period. Council Member Sox seconded the motion. Mayor Pro Tem Jenkins stated that from the time he started serving on Council the City had done work on the boat landing and that started with SCE&G. He stated that when Dominion bought the property from SCE&G all that went with it. Mayor Pro Tem Jenkins stated that now Dominion wanted to gift it to the City. He stated that the City had been spending City funds maintaining it and did not own it. He stated that now the City had a chance to own it, and not waste City funds. He stated that it was possible that Dominion might withdraw their gift to the City of Cayce if Council did not accept it that night. Mayor Pro Tem Jenkins stated that the City would still maintain the boat landing on the property and it would still cost the City money. He stated that he did not understand the logic behind not accepting the donation.

Council Member Sox stated that he was not opposed to it but would like some more time to research it given the state's unfair civil liability laws. He stated that he would love to know how many incidents happened there where the City might be in a predicament to be sued, based on the amount of incidents for the past few years. He stated he would like to know that before the City accepted the donation. He stated that was the reason he seconded the motion. Mayor Pro Tem Jenkins stated that he understood Council Member Sox's concern, but the City had insurance. Council Member James stated that anything the City did not own, it did not have to insure. Ms. Hegler stated that the City had to maintain it. Council Member James stated maintaining it versus owning were two (2) different things. Mayor Pro Tem Jenkins stated that was why the City had insurance.

Council Member Sox stated that there were all kinds of incidences where if something happened on the property the City could be sued depending on the insurance protections that the City had compared to the people that were in the incidents. He stated he just wanted to look at it a little further and get a little bit more information before he would be comfortable accepting it. Council Member Sox stated that given that the City had taken care of it for the past years, he expected that if Council did accept the donation, the property would be in great condition. Mayor Pro Tem Jenkins stated that Council had to put faith in their City Manager and City attorney to make sure that the I's were dotted and the T's crossed. He stated that was what they were there for. Mayor Pro Tem called the question. Council Members Carter, James and Sox voted yes. Mayor Pro Tem Jenkins voted no.

Committee Matters

- A. Approval to Enter the following Committee approved Minutes into the City's Record

Museum Commission – February 1, 2023
Events Committee – February 9, 2023

Council Member Sox made a motion to enter the Committee approved minutes into the record. Council Member Carter seconded the motion which was unanimously approved by roll call vote.

City Manager's Report

Ms. Hegler stated that she did not have anything to report.

Council Comments

Council Member Carter stated that the Soiree on State was the best day. He stated that it was wonderful and all the credit went to Ms. Corder, Ms. Hegler and the staff that put it together. Ms. Corder stated that the crowd size estimate was 3,500 people. Council Member Sox stated that was the highest attendance count estimate so far. Council Member James stated that Tartan Day was another great event.

Executive Session

- A. Receipt of legal advice relating to claims and potential claims by and against the City and other matters covered by the attorney-client privilege
- B. Discussion of appointment to fill the vacant City Prosecutor's position and approval of contract

Council Member Sox made a motion to move into Executive Session. Council Member Carter seconded the motion which was unanimously approved by roll call vote.

Reconvene

After the Executive Session was concluded, Council Member Carter made a motion to reconvene the Regular meeting. Council Member James seconded the motion which was unanimously approved by roll call vote. Mayor Pro Tem Jenkins announced that no vote was taken in Executive Session other than to adjourn and resume the Regular meeting.

Possible actions in follow up to Executive Session

- A. Appointment of a City Prosecutor

Council Member James made a motion to approve the contract and the appointment of the new City Prosecutor, Mr. Shawn Graham. Council Member Sox seconded the motion which was unanimously approved by roll call vote.

Adjourn

Council Member Carter made a motion to adjourn the meeting. Council Member James seconded the motion which was unanimously approved by roll call vote. There being no further business, the meeting adjourned at 6:54 p.m.

James Jenkins, Mayor Pro Tem

ATTEST:

Mendy Corder, CMC, Municipal Clerk

