

A work session of the Beaufort City Council was held on July 17, 2012 at 5:00 p.m. in the City Hall Planning Conference Room, 1911 Boundary Street. In attendance were Mayor Billy Keyserling and council members Donnie Ann Beer, George O'Kelley, Mike Sutton, and Mike McFee, and City Manager Scott Dadson.

In accordance with the South Carolina Code of Laws, 1976, Section 30-4-80(d) as amended, all local media were duly notified of the time, date, place, and agenda of this meeting.

Mayor Keyserling called the meeting to order at 5:00 p.m.

BOARDS AND COMMISSION INTERVIEWS: HISTORIC DESIGN REVIEW BOARD

Inez Neal and **Mike Rainey** were interviewed in regard to their reappointments to the HDRB. Mr. Rainey said he would like to renew his term. Ms. Neal said she is beginning to feel comfortable on the board and would also like to be reappointed.

Mayor Keyserling reviewed the background and issues of the HDRB, including a controversy about properties in the Historic District having approval authority and the new form-based code. He feels the HDRB will have a similar role in the future to what it has now, but the board needs to do some self-examination to streamline themselves. The development of the form-based code will require all of the review boards to do so, he said. He said most people appreciate and want to protect the Historic District, but he feels the process should be more predictable than it is.

Mr. Rainey said in regard to form-based code, he defers to Historic Beaufort Foundation, but he personally feels that the HDRB's problems are largely generated by architects who don't understand the process or try to circumvent it entirely, and by real estate agents who sell properties without apprising the buyers of the requirements. Because most tourism revenue is generated by people visiting the Historic District, he said he would hate to see "the process watered down." He feels it would "be a slow, evolutionary process" if the Historic District is not preserved, and Beaufort is in jeopardy.

Mr. Rainey added that he understands the purpose that form-based code is driving toward, but he feels he's the anchor for the Historic District. Mayor Keyserling said he would hope that they can avoid houses that are copies of grand houses but "in fifty years are tattered." The Boombeers building is an example of how to incorporate contemporary ideas with historic ones, Mayor Keyserling said. He asked Mr. Rainey how he feels that can be encouraged, and the old houses maintained. Mr. Rainey cited "Dick Stewart's salon" as "a successful renovation and adaptation." He said a lot of it "depends on the personality of the board." He said there have been "some absolute travesties in the last 20 years." He added that 90% of the HDRB's decisions are objective. The board isn't adversarial but is designed to protect, particularly in terms of proportion and scale. Infill requires a smooth transition from old to new to old again, Mr. Rainey said.

Councilman Sutton reminded the board members that they serve at council's pleasure and that it's important that each of them understand the direction the council is driving the city; they can then decide if they want to continue to contribute to the team. He said the mass and scale question will arise in the form-based code discussion; part of it's spelled out in the Milner codes but much of it is worked out in the board's discussion. Form-based code will address that; Councilman Sutton asked if it's possible and correct to go block by block with Milner guidelines to plan for what could be put there in any given year. He asked where they can go when there's no comparison to be made. There will be discussion, he said, and he wanted to know if they feel it's possible to look at individual properties and say, "A building with this amount of mass and scale could go there." Then a design could be created at that mass and scale, and then taken through the HDRB process. Councilman O'Kelley said that sounds like what they did on North Street across from the Episcopal church.

Mr. Rainey said he disagrees that the HDRB works for city council. He said he feels he works for the Department of the Interior for the State of South Carolina. He's *appointed* by city council. He also disagreed that they should leave the board if they disagree with the tack the city is taking; if he disagrees, then he wants to be on the board to give his opinion.

To look at mass, scale and proportion, they have to look at what surrounds the building, Mr. Rainey said. He cited buildings built on Bay Street in the 1940s – 60s that don't fit. He restated that he is not an adversary of form-based code or of the city's direction. He's an advocate for the Historic District and preservation and enhancement of what Beaufort has, and he would not like to see the process diluted to a point where people would be allowed to put up a building that is totally against the context of what surrounds it. The infill buildings should be complementary, Mr. Rainey said. Councilman Sutton said he wants to solve the mass and scale riddle and Milner can't help. Mr. Rainey said according to Milner, an individual building on a street can have anything put up next to it, but a street with three 35' buildings on it should have another 35' building built next to it, not a 50' building.

Mayor Keyserling said form-based code may be the answer to Councilman Sutton's concerns. Overlaid on what's in Beaufort, the code will answer a lot of the questions. Mr. Rainey said form-based code in the Historic District should be a set of guidelines for mass, scale and proportion, but the construction and approval of the design should stay with the HDRB. Council can still talk about the architecture and requirements. Mr. Rainey said he fears for the future of downtown Beaufort; it's less vibrant and spaces are rented to whoever can rent them. He added that there are three or four HDRB members up for renewal, and he feels it should be staggered so that there are always people with experience on the board.

REVIEW PROPOSED RENEWAL OF THE intergovernmental agreement BETWEEN THE CITY AND COUNTY REGARDING STORMWATER MANAGEMENT

Mr. Dadson said this agreement is complementary with the proposed changes in the planning text which had met with the approval of the Planning Commission the night before and with the goals of council on transect zoning and the civic master plan, etc. This is the more formal agreement about how money is raised and distributed among the parties, how the permits are

handled, monitoring, etc. Mr. Dadson said this is the “nuts and bolts of the agreement of how we work together with other jurisdictions collecting money. We have our own ordinance.”

Mr. Smalls said the purpose of the intergovernmental agreement is to define the roles of the county and the city in regard to stormwater: establishing rates, use of revenue, position of existing stormwater infrastructure, construction of new stormwater infrastructure, etc. Mr. Smalls reviewed the history of the intergovernmental agreement. The city manager instructed that new language in regard to stormwater standards be developed in February 2012, Mr. Smalls said. These standards would replace the current city standards. A draft of intergovernmental agreement standards was completed in May 2012 and submitted for review by the Stormwater Commission, which recommended that it go to the Stormwater Board. The next step is for the county to take the intergovernmental agreement to their Natural Resources committee; if they approve it, it will then go to the Beaufort County Council for their adoption / approval. Mr. Smalls said that Mr. Dadson had said that it also needed to be brought to city council for a resolution.

Mr. Smalls went on to summarize the contents of the stormwater document. Everything in the 2001 agreement was studied. He discussed the deletions, changes, and additions to the various articles in that document. There was then a discussion between Mr. Dadson and **Andy Kinghorn** about the changes in the stormwater fee and the savings it would involve at different fee rates.

Mayor Keyserling clarified that Mr. Smalls had said that all the other municipalities had already adopted the intergovernmental agreement. Mr. Kinghorn noted that the old agreement “had the 5% rate.” Mr. Dadson said that Beaufort is the last to adopt the intergovernmental agreement.

Mr. Smalls returned to a summary of changes made to the old intergovernmental agreement. Mr. Kinghorn said they modified some exemptions and controls to “incentivize redevelopment, infill, and other types of projects.” The only area with potential problems, Mr. Kinghorn said, is Battery Creek which will “require some extra investigation...otherwise it becomes the financial obligation of the city to take care of it.” He went on to discuss various options that are available to the city. Once compliance is reached in all of the watersheds, “there is a lot of flexibility in what they require and can require.” The only “political thing we really have to do,” Mr. Kinghorn said, is maintain the water quality standards. Mr. Dadson agreed and said it also allows for working with other jurisdictions to solve problems.

Mr. Smalls continued his review of the changes made to the intergovernmental agreement. He said a good aspect of the agreement is that it can be updated annually. Councilman Sutton asked if the monitoring process now will give significant benchmarks in regard to development. Mr. Kinghorn said there’s a series of data that will show “whether we’re getting better or getting worse.” He added that he feels “we’re in much better shape, particularly on the main Beaufort River stem” because of the new Beaufort-Jasper water treatment facility that was put in, which led to a higher quality of effluent into the river. Mr. Kinghorn said the next Battery

Creek assessment may be better as well. The Shell Point system and the combined Parris Island and MCAS systems also contribute to this.

Mr. Dadson said this is “a good agreement,” and Mr. Kinghorn concurred. Mr. Dadson his recommendation was that they do the resolution by August 13, which will be the same time that the county will do theirs, which is usually done by consent agenda.

Councilman Sutton asked what the purpose of the sand on the roads was. Mr. Smalls said it was on Bladen Street because they had poured concrete and it would “cool it down and protect it for future work.”

Mayor Keyserling asked Mr. Smalls if they had heard anything about the encroachment permits for painting parking spaces on Carteret Street. Mr. Smalls said that Mark Nesbit had said that “yes, it was approved but I can’t find it,” so it will be resubmitted.

CITY- AND STATE-OWNED ROADS IN THE CITY AND ITS CAPITAL AND MAINTENANCE RESPONSIBILITIES

Mr. Smalls said this is the beginning of a discussion about city street ownership in accordance with elements of the master plan. He called the presentation “A Pathway to Street Ownership.” He said primarily it says, for projects where the city is obliged to provide local matching funds, the DOT would be willing to allow for the transfer of roads into the respective road systems for ownership and ongoing maintenance in lieu of a cash contribution. There needs to be a value determined, Mr. Smalls said, and there is a formula for determining that. The credit value can be adjusted to the local government, Mr. Smalls said, according to Article 4. After they determine what the value of a road is, the city can negotiate if it believes the value is different. Mr. Dadson said “we don’t have to sign it.”

Mr. Smalls went on to say that it’s felt that the roadway credit value program lacks key components that are in the best interests of the city, so the staff drafted a memorandum in that regard to account for the components that the city felt were missing. Mr. Smalls then read the draft memorandum. He said that the city wants to “put the onus back on the DOT, so that we don’t get the albatross.” He went on to read that prior to accepting ownership of the DOT rights-of-way, the DOT will perform an assessment on the rights-of-way conditions. If the city chooses to do this, Mr. Smalls said, before they will accept the roads, the DOT will have to assess all of the rights-of-way, so that they can’t say they’re giving a road in “great condition” if it’s not. He went on to list elements of the right-of-way condition assessment, including all known or suspected hazards that may need to be remedied before the transfer of right-of-way ownership.

Mr. Smalls said they also wanted to establish that – if they took ownership – they wanted to have the resources associated with those roads currently to come to the City of Beaufort. He said he’d made it retroactive to January 1, and realizes that the draft memo is “very city-favored, but if you don’t ask, you don’t get.” Mayor Keyserling joked that he would “guarantee

you the *answer* won't be city-favored." There is already an agreement, Mr. Smalls said, in regard to traffic signals and the draft memo says that that agreement can be continued.

Hazard trees on the right-of-way are one of the biggest challenges to right-of-way ownership, Mr. Smalls said. Their disposition will be the DOT's responsibility. He said if the city takes ownership, he wanted to ensure that the DOT remains responsible for maintaining water quality. Mayor Keyserling asked if, at the moment, if there was no agreement, the DOT has that responsibility, and he was told that the DOT is not now responsible. Mr. Dadson said "that they cannot be compelled," but then added that "an argument could be built that if they receive federal highway funds, they could be compelled on certain things." There ensued dissuasion about the word "remain" in this context, and Mr. Dadson said that if the DOT wanted it out, they "would need to pay for something."

Mayor Keyserling asked what it is that exempts the DOT from the environmental regulations. Mr. Dadson said he had "no idea." Mayor Keyserling asked if they could be challenged on something such as the run-off on bridges that is dumped directly into the rivers. He went on to say that he had heard that more than 50% of the impervious surfaces in Beaufort County are state-owned. He was curious if there was any way to hold them accountable, he said. Councilman O'Kelley said the synopsis of it seems to be that the city would "take over maintenance of the streets with help from the DOT." Mayor Keyserling said it would be "more than help. (It would be) *with a guarantee.*"

Mr. Smalls said this agreement would apply to the state-owned streets within the city. There was a discussion about what had been taken in as part of the Boundary Street project. Mr. Smalls said one of the driving forces behind this is the infrastructure that the city could begin to implement if they owned the roads. Mayor Keyserling said, in the event that the city takes possession of the roads, he'd noticed that the DOT keeps traffic signals; he asked Mr. Smalls, if the city wanted to put in 4-way stop signs, if they would be able to. Mr. Smalls said they could. Mr. Dadson said they could do any number of things that they wanted to do in order to calm traffic.

Mr. Smalls continued his presentation with a discussion of the finances involved in street acquisition. The City of Beaufort has 148 lane miles, Mr. Smalls said, where the city provides some type of maintenance on DOT rights-of-way. The cost of maintenance, etc. to the city is \$2054 per lane mile. SCDOT in Beaufort has 535 miles of roads and bridges, but nearly 1600 *lane* miles "because some of their roads have 4 and 5 lanes ... they're spending, apparently, per lane mile what we're spending."

Mr. Dadson said it's important to clarify the numbers when stormwater is factored in. The street system is the largest collector of stormwater before it gets into the system, which the city maintains. If stormwater dollars are added in, "you're up around \$750,000." General Fund dollars and stormwater dollars are used to maintain a lot of the right-of-way, he said. Mr. Dadson added that wider-laned roads create more run-off and increase speed, which increases the need for police to enforce speed limits, which in turn adds more to the General Fund. The

state's standards for roads are the same for both urban and more rural roads. This is about more than just dollars, Mr. Dadson said; it's also about the control the city wants over its infrastructure. Mayor Keyserling said it would be a way to pick up dollars the city's been spending. This is staff's attempt, Mr. Dadson said, to define the terms by which they can negotiate the issues with SCDOT.

Councilman Sutton said the Beaufort budget includes streetlights, which averages out to be about the same as what DOT does county-wide. So, he said, that's the baseline cost minus repair, for maintenance of 148 miles of roads, including signs, clean-up, etc. Mr. Smalls said it includes sidewalk maintenance, but not the installation of new sidewalks. Mayor Keyserling asked if the DOT spent \$2000, and the city spent \$2000, the cost would be \$4000 per lane mile. Mr. Smalls said the DOT's figure is county-wide and "ours is specific to the city."

Councilman Sutton said it will be an arguable point because the DOT will say they "do baseline," and the city's response should be that their baseline is not the city's baseline. Councilman Sutton suggested that they must add in the level of service to the conversation with the DOT; Beaufort wants to maintain the roads at a higher level of service than the DOT does. Mr. Dadson said they should use the ITRE standard for level of service calculation. Mr. Dadson said also that realistically there will still be a level of money-sharing required between the city and the state to accomplish the level Beaufort wants to accomplish.

Councilman Sutton suggested that as the conversation goes along further, council should invite the two state representatives to a work session on this matter. Mayor Keyserling said that, having served in the state legislature, he has concerns about "becoming very interdependent with a very unreliable source." The current highway commissioner, he feels, is very good, but the next commissioner may not be as invested in ownership of the Beaufort area. Legislators also change, Mayor Keyserling said. It's worth pursuing, he said, for the government and public to be educated about "who does what and what the costs are."

Mr. Dadson said he'll get more information together and bring others into the next conversation. Mayor Keyserling suggested that Mr. Smalls come up with a real number to maintain the roads if the city were to give the public the level of service that the city deserves. Councilman Sutton said he feels they also need the base standards for what DOT is to do. If they know those, they can show the DOT the real costs and what it is that they're supposed to be doing. Councilman O'Kelley asked if there was anything else that needs to be factored in. BJWSA, for example, might need to be asked to the table because "all of their stuff is in the right-of-way." SCE&G might also be a player, he said.

A member of the public said Mink Point, Islands of Beaufort, and other communities which have poor state roads would like to be included because they are unhappy about the maintenance of their state roads and have been for seven years. Mr. Dadson said the mayor could send a letter to CTC asking them to pave Mink Point, and Mayor Keyserling asked if that hadn't been done about a year before. Mr. Smalls said the paving cycles are every two years,

and he explained which roads had been covered in the last paving cycle. Mayor Keyserling said another option is to create an improvement district within the county.

Another member of the public said he appreciated efforts to include bicyclists in these plans as the point is to make the neighborhoods more attractive to buyers. He cited a letter to the editor that had suggested council put in a pathway to the park downtown. Mayor Keyserling said he agreed but it's difficult; the city requested sharrows six months ago and a fight ensued over the DOT wanting to use slippery vinyl rather than paint. Mr. Dadson said the SCDOT will always say, "That's fine; just take the road." The city has agreed to the tune of 40 miles of road takeover for control purposes, but no money comes with that. This is an opportunity to make a more equitable transfer.

VARIOUS BOARDS AND COMMISSION VACANCIES

Mayor Keyserling said he thinks they should discuss a deadline for applications to the form-based code advisory commission. Councilman O'Kelley asked if council could get copies of everybody's application that they have received so far. Mayor Keyserling said he'd sent out a spreadsheet of those whom he knew of, and a couple had been added: John Gadsden and Beth Grace. Mayor Keyserling said they had enough applications. Mr. Dadson said the council needed to look at the ones that have been highlighted. After general discussion, July 31st was determined to be the application deadline.

EXECUTIVE SESSION

On motion of Councilwoman Beer, seconded by Councilman McFee, council voted to move into Executive Session pursuant to Title 30, Chapter 4, Section 70(a) (2) of the South Carolina Code of Laws for discussion of contractual matters and legal advice. The motion was approved unanimously.

Councilwoman Beer, seconded by Councilman O'Kelley, made a motion to come out of Executive Session and resume the work session. The motion was approved unanimously.

ADJOURNMENT

There being no further business to come before city council, the meeting was adjourned at 7:03 p.m.

ATTEST: _____
IVETTE BURGESS, CITY CLERK