

A work session of the Beaufort City Council was held on January 27, 2015 at 5:00 p.m. in the Beaufort Municipal Complex, 1901 Boundary Street. In attendance were Mayor Billy Keyserling, Council members Mike McFee, George O’Kelley, Stephen Murray, and Phil Cromer, and Interim City Manager Bill Prokop.

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.

CALL TO ORDER

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

DISCUSSION WITH DOWNTOWN BUSINESS OWNER ABOUT NOISE

Mayor Keyserling described the history of the issue. **Dick Stewart** said he wants to dispel rumors. No one has advocated doing away with festivals, bars, or restaurants. He once lived in the apartment above Common Ground, and it was so loud, they converted it to an office. They also bought the Beaufort Clothing Co., and the apartments above them, which are “comfortable.” The Saltus building was vacant from 1978-2002 until he bought and renovated it. The Beaufort Clothing Co. building was redone with a tax incentive to encourage downtown living.

Eleven years ago, there was an issue about noise downtown, Mr. Stewart said. He was unable to broker an agreement about it at that time. He feels downtown needs to be “vibrant and energetic,” but people living there and those running businesses also need to be good neighbors. When his company rented out space to a bar at the Old Bay Marketplace, they had issues and didn't renew that bar’s lease. Mr. Stewart went on to detail other incidents with lessors and would-be lessors and described his company’s lease agreement.

Mr. Stewart said his company is planning to have permanent and short-term rentals downtown. He would like to ask the city “to provide guidance.” If the city doesn’t want to have residential on the water side of Bay Street, they should determine that. “We would like to understand what the road is [that the city plans to follow] and how the ordinance is going to be enforced,” Mr. Stewart said. He said if people will be good neighbors and won’t disturb their neighbors, then “that’s the kind of community and composition we should have.”

Since 2001-2002, Mr. Stewart hasn’t done anything on the water side of Bay Street, he said. They have a “high level of interest” in it, though, and in being downtown. Single women are most interested in urban living – if they feel safe. They need to have higher levels of revenue to maintain the buildings downtown, or get more use from the buildings that are there; to encourage residential development downtown, the residents should have “a reasonable level of comfort.” He asked rhetorically if they should be welcoming people living downtown, or if they should “ostracize” people who “have complaints that may or may not be valid.”

Mr. Stewart said he and **Steve Tully** are considering developing Whitehall, and there will be downtown noise concerns. Mr. Stewart stated again that he and other people “need some

guidance.” Mayor Keyserling asked if Mr. Stewart thinks the problem is the ordinance or enforcement of the ordinance. Mayor Keyserling said that he feels it’s building and improving relationships with people that would solve the problem. He said the problem is clear, but what to do about it is less so. He feels “residential and hospitality can be compatible if people think about someone other than themselves.” When bars and restaurants close, the dark, empty spaces downtown can be hazardous. To make it compatible, do they need to make changes? The police chief did research, the mayor said, and in Charleston, there is no outdoor music, bars with indoor music close their doors and windows, and 40+ police officers do nothing but monitor the downtown entertainment, etc., Mayor Keyserling said. Though there are similarities, he said he doesn’t want to compare Beaufort to Charleston. He wants to bring people together to make growing downtown work.

Mr. Stewart said he feels the first step is to “enforce existing ordinances.” The noise ordinance is difficult for a layman to understand, so there may be some misunderstanding. For example, 85 decibels at the property line, is “a prima facie indication of too much noise,” which Mr. Stewart said, “doesn’t mean that 72 (decibels) isn’t disturbing the peace or that something shouldn’t be done.” The ordinance will “vary according to the location.” He said he would like to see Panini’s, for example, where “they choose to close the inside at night and push everything out on the deck,” be encouraged to use their inside area at night “as opposed to just pushing it out into the park.” He feels there should be enforcement of that “menu of ordinances” and “enforcing sort of a common courtesy...expectation of behavior.”

Mr. Stewart said one way it could be funded “is by having a burden on the people who are going to be having outdoor music,” since they are causing the expenditure.” He said there are many examples of cities where this is done. He also suggested there might be “an opportunity to use a portion of” the hospitality tax revenues. DS said he feels enforcement rather than change is what’s called for downtown. Councilman Kelley said he’d recently been in NYC, where a festival did not bother him because of the city noise, and he compared it to a kid riding by his Bay Street office and yelling, which may be loud and in violation, but can’t be enforced.

Eddie Rodgers read a letter from **Maxine Lutz** and **Conway Ivy** of the Historic Beaufort Foundation in regard to noise after midnight and the enforcement of the noise ordinance. The Historic Beaufort Foundation board of trustees unanimously agreed that the ordinance had to be enforced “to achieve residential downtown,” which they called a city goal and one for the preservation of historic buildings. Post-midnight noise, Ms. Lutz and Mr. Ivy feel, should take place inside only, and there should be police patrols downtown from 12 – 3 a.m. This will create a more positive atmosphere downtown, they believe, and draw a variety of people downtown who enjoy nighttime activities.

Jason Bailey, Q on Bay, said he agrees there should be more residential downtown. He feels this problem has been blown out of proportion a little bit. He thinks the rules are clear in regard to decibels, and he “can do business according to that.”

Paul Thompson, Panini’s, said his venue attracts the most attention in regard to noise, and they

have been enforcing. If they are breaking the ordinance, they “should be slapped down.” His is the only outdoor bar, and he is hoping to make the outdoor patio an enclosed structure. He’s “willing to explore other issues,” he said. Tourists and the military come down, and they like to be outside and by the water. The city needs to meet *everyone’s* needs, Mr. Thompson feels: those who want to live downtown as well as visitors and service people.

Councilman Murray asked Mr. Thompson how long he’d owned Panini’s, and Mr. Thompson said 4 years. Adjusting for the noise ordinance in 2014 has led to a significant drop in his revenues. Late night is about 15% of his total business. Prior to 2014, Mr. Thompson had had no issues with noise, but trying to police his establishment’s sound level better has had an effect on his business financially.

Ash Milner, a DJ, said he plays at Plums a lot. He said he agrees with Mr. Bailey, and as long as the enforcement is there, it’s a good thing. Because there’s no live entertainment downtown now (on weeknights *and* weekends), it’s affecting his income. The entertainment downtown has been cut to the point where he feels like there is a problem. He has no bookings downtown for 2015. He said he’d hate to see the end of all live music downtown. Mayor Keyserling explained why the festivals would remain unaffected by this. Mayor Keyserling said he’s “hearing about stronger enforcement” and complaints about open container violations and what people do in the park after dark.

Ms. Rodgers asked about the ordinance: Does it say there can be music outdoor until 1:00 a.m., and people pushed it? The bars do not close at the same time the music stops, she was told.

Donna Patrick is also a DJ part-time. She said she came to Beaufort with the military, then she “chose to live here.” She received a \$485 ticket on her first violation and had never been given a warning. She didn’t have a noise meter because she didn’t know there was a noise ordinance. Ms. Patrick recalled downtown nightlife being more fun. Most people her age don’t go downtown anymore for entertainment, she said. Military people work long hours and then will drive to Charleston, Savannah and Hilton Head Island rather than go downtown, so the bars are losing money, and now they can’t have music downtown. Ms. Patrick’s not against moving people downtown to live, but she feels Waterfront Park is the only place to go for nightlife in Beaufort. If there’s music playing, then people are moving, so there’s less likely to be trouble.

The ability to have bands play during Water Festival has been taken away from the restaurants on the festival’s weeknights, Ms. Patrick said, and the people who volunteer at Water Festival used to go to the bars to support them after the festival activity of the night was over. Water Festival was the busiest week of the year for Beaufort’s bars, and now the downtown revenues have been affected. When the music is turned off, it’s a sign that it’s time to go home. Ms. Patrick cited a music festival in Santa Fe and asked council to consider that. There may be room to move residential downtown, but the military shouldn’t be shut out because there’s nothing to do anywhere else, and that’s being shut down. The quality of people who go downtown has changed now, she feels, and that’s why there’s a problem with activities in the park, etc.

Rose Bruner, security manager for the Depot, said, speaking as a patron, “bored marines are never a good idea.” She said it seems unfair to enforce the ordinance for the bars but not the festivals. If bars are open until 2 a.m., and the music stops at 1 a.m., where will people go? They will hang out in the park, on Bay Street, at the marina, etc. Ms. Bruner said she has stopped going downtown, and she, too, is in the age group that is desirable as patrons, but only Panini’s lets people sit outdoors downtown, so she and her friends are going other places. She understands that people who want to live downtown want a normal noise level, but she believes “they shouldn’t live there if that’s what they want” because it is a downtown music scene.

Meg Godley has lived in Beaufort since 1990 and said the restaurants have been hurt by the things that were brought about to improve Beaufort. Bars and restaurants make money on alcohol, not food. Few of them are making a lot of money.

Ria Gates is a bartender on MCCS, and she said this is affecting her and other bartenders. Marines tell her constantly that “they hate this town,” and there’s nothing to do. At one point, that was not the case. Last year, however, because of the music stopping at 1 a.m. on weekends, people in bars and restaurants began losing money, and there was not a lot going on downtown anymore. The “younger generation” doesn’t want to go out or be downtown now. The open container ordinance can be enforced, but she wants the Marines to *want* to stay in Beaufort and not to move “anywhere else but here.” The city should be encouraging this group to come and drink and hang out downtown, Ms. Gates feels.

Valerie (did not give her last name) is former military and has fond memories of listening to the bands at Bay Street establishments. She recalls working long shifts and going out late and understands that others would want to do that. When the music stops, she, too, goes home. Given the size of the town, there can only be so much to do in terms of nightlife, so the city shouldn’t take away what little they have.

Bob Bible said that council listens to people when they come before it, and he hopes they will in this case as well.

Adina Foster, co-owner of Hemingway’s, said she has been there over 20 years; all of her life savings are in the business, and “we expect some degree of continuity.” If someone moves in as a resident, no one should have to accommodate him, any more than a commercial business can move into a residential district just because they want to.

Andy Corriveau moved to Beaufort when he was in his 20s. He said he feels that the businesses need to comply with the law, and maybe the bar and restaurant owners do not know the law or didn’t until its recent enforcement. He said he and his wife are concerned about safety issues, though they would like to move downtown. It has to be made conducive to live-work in order for downtown to survive. He feels that the noise ordinance should be enforced until they can see if it works.

Chief **Matt Clancy** said he recalled another meeting 15 years ago where people were complaining about police over-enforcement downtown. Some of these complaints are officer-originated. Manpower is allocated by the time of day and where they can best serve for maximum effect. For several weekends in a row, plainclothes officers went downtown with body cameras on to observe how people acted. They saw “several things they could tighten up on,” including letting people leave an establishment with a drink. Things that might be annoying – like people yelling at 2 a.m. – might not be a violation of the law, Chief Clancy said. Other things that have been called in were people urinating in the alley. He said it sounds as if the establishment owners want to be in compliance. The undercover officers had decimeters, but the noise ordinance was not violated during the time the officers were downtown.

Ms. Bruner asked if bands could get a waiver for special events like the Water Festival does. Chief Clancy said that Water Festival gets a permit because it’s a special event. Mayor Keyserling said typically council considers those special events that are for not-for-profits, and an application is made for that. Ms. Bruner said a bar might want to apply to get a special band and play longer. Mayor Keyserling said it would need to be for an exception.

Robert DeTreville said many businesses donate a percentage of their gross for the evening to a cause or not-for-profit, and he asked if that could be a way to do what Ms. Bruner is suggesting. Mayor Keyserling said if it’s done as a way to get around the ordinance, it would not be good. He said when one looks at revenues that come in for the city, it spends \$600,000 in the greater downtown area that is raised by licenses, taxes, and fees. If people want more enforcement, the city will have to raise the revenue to give to the police chief to do that. He said people who urinate, drink, and leave trash there don’t understand that their driving up the cost that is already \$375,000 that goes into the Waterfront Park.

John North said he wanted to “correct a couple misperceptions.” He referred to Councilman Murray having asked Mr. Thompson about Panini’s losing money since the noise ordinance enforcement in 2014. Mr. North said council minutes show that noise has been a problem for years, adding that the noise radiates across the water and “impacts people all along the Beaufort River, all along Ribaut Road, all along Sunset Bluff and now the area that Dick would like to develop right across the river.” In regard to the “concerns expressed about (last year’s) Water Festival,” Mr. North said he was residing on the water side of Bay Street during Water Festival, and “it was the most delightful period since I got here.” He said the “decibels were 20 decibels lower than what Panini’s does on Friday and Saturday night. The music quit at 11:00, the police were in the park, everybody went home. It was the most idyllic week we’ve had.” Mr. North said he fails “to understand why all this entertainment can’t be done from 6:00 in the evening to 11:00 or 12:00 at night, and not have the noise blasting throughout the community, disrupting the values Dick Stewart is trying to create” and preventing the desired residential infill. “If the business model of downtown is going to be dollar vodka drinks...and ‘leave the music going ‘til 2:00...(so) the drunks won’t be rolling around Bay Street’,” Mr. North said, then “council has to be the adult in the room” and not allow “two bars” to use Waterfront Park for “late night entertainment that may not even generate any significant revenue” but “costs the city a fortune.” He continued: “Common sense, Dick Stewart, and other investors” know that

“this city loses development and downtown residents,” so while it’s “easy for the bars to get a whole bunch of patrons to come in here and get all off the track with the facts,” he believes “the demonstrable fact” is that on Friday and Saturday night, “Bay Street is dead at 10 pm.” Few are even on the dance floor at Panini’s at 11:30, according to Mr. North. He said “the kinds of people who begin their night at midnight” are being drawn to Panini’s, and he asked why council would want to “attract (those) kinds of people.”

BOARDS AND COMMISSIONS INTERVIEWS: METROPOLITAN PLANNING COMMISSION

Mayor Keyserling described what the Metropolitan Planning Commission does and asked **Jeffrey Moss, William Achurch, Esther Shaver-Harnett, and Matt D’Angelo** to introduce themselves and describe their interest in the Metropolitan Planning Commission.

The work session was adjourned at 6:50 p.m.

A regular meeting of the Beaufort City Council was held on January 27, 2015 at 7:00 p.m. in the Beaufort Municipal Complex, 1901 Boundary Street. In attendance were Mayor Billy Keyserling, council members Mike McFee, George O'Kelley, Stephen Murray and Phil Cromer, and Interim City Manager Bill Prokop.

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.

CALL TO ORDER

Mayor Keyserling called the meeting to order at 7:00 p.m.

INVOCATION AND PLEDGE OF ALLEGIANCE

Councilman McFee led the invocation and the Pledge of Allegiance.

Councilman McFee made a motion to move the Executive Session from after the work session to after the regular session; Councilman Kelley seconded. The motion passed unanimously.

MINUTES

Councilman McFee made a motion, second by Councilman Kelley, to approve the minutes of council's special meeting and work session January 13, 2015. On page 7, Councilman Murray said that he and Councilman Cromer were left out of the list of people present. On p. 3, in the third paragraph, Councilman McFee said where it says "If they commit to it first and not to the redevelopment reserve, they will be short still," it should be "If they commit to the reserve first and not to Redevelopment..." and on page 5, in reference to which groups should be on the task force, it should have been Main Street Beaufort and *the Chamber of Commerce*, not the Redevelopment Commission. **The motion to accept the minutes as amended passed unanimously.**

AMENDMENT TO FY 2015 BUDGET

Councilman McFee made a motion, second by Councilman Murray, to approve the amendment on second reading. Kathy Todd said this is about the extension of the 2 hours of free parking and the decrease in revenue as a result. There will be a shortfall of approximately \$73,620. Main Street Beaufort's appropriation would be maintained and as much of the \$25,000 for the reserve for infrastructure as they can. What won't be funded would be the Redevelopment Commission. This is the "estimated worst case scenario, Ms. Todd said. "The pecking order of these revenues would be Main Street Beaufort would get their appropriation, then we'd fund the \$25,000. Then...if there's any excess that remained (we'd fund) the Redevelopment Commission," but if there's a shortfall, it would affect the \$25,000 reserve.

Councilman Murray asked if they would need more than what is in the maintenance fund to replace the meters as SP+ plans. Ms. Todd said she feels they are in good shape from an infrastructure standpoint: "We should be OK for awhile." **The motion passed unanimously.**

APPOINTMENTS TO BOARDS AND COMMISSIONS

Mayor Keyserling recommended discussing new appointments in an Executive Session. In regard to the parking task force, he went through the list as to who had agreed to serve:

Nan Sutton
Ginger Aimar
Matt McAlhaney
Gene Rugala
Donna Lang
Pat Harvey-Palmer
Pete Palmer
Lloyd Sidwell
Martha Moriarty
Tony Royal
Edward Dukes
Courtney Worrell
Turner Wortham
Fordham Duncan
Lantz Price
Kevin Cuppia
John Marshall
Bill Chambers
Jan O'Rourke

Councilman Murray said the council is standing up the task force and appointing these members. **Councilman Murray made a motion to create by resolution a task force to advise council on short- and long-term issues related to parking in the commercial core of downtown Beaufort.** Specifically, the task force will offer solutions that will make the most efficient use of both public and private parking assets and advise on future needs. This task force will report its findings to city council no later than June 15, 2015 and will subsequently be dissolved. In addition, those confirmed tonight will be appointed to the task force. **Councilman McFee seconded the motion.**

Councilman Murray said he and Councilman Cromer had spoken to Mr. Achurch and **Blakeley Williams** at the Chamber of Commerce, and it was agreed that percentages, not actual revenue numbers, should be collected as data for the parking study. Councilman Murray suggested that Ms. Todd should write something up to that effect, and she agreed that she would.

MAYOR'S REPORT

Mayor Keyserling urged people to go to the seismic testing and drilling forum at TCL on Thursday night.

He said he had met yesterday with the SC Small Business Chamber of Commerce on "rising seas," and he shared some of the "hot spots", saying the next step was to meet with **Isaiah Smalls**, which might lead to the utilization of the capital projects budget. This is the first place in South Carolina that has set this up.

REPORTS BY COUNCIL

Councilman Cromer said he went to the LCOG board meeting as the city's representative and looks forward to meeting with them.

Councilman McFee said, as the city's representative on the NRPIC (Northern Regional Planning Implementation Committee), he had attended a meeting and described some of what had taken place.

Councilman Murray said he hoped to be able to cover the economic development material at another work session soon. Mayor Keyserling said they would do the same with the Redevelopment Commission item that was on the work session agenda.

EXECUTIVE SESSION

Pursuant to Title 30, Chapter 4, and Section 70 (a) (2) of the South Carolina Code of Law, **Councilman Kelley made a motion, second by Councilman McFee, to enter into Executive Session** for a legal briefing on pending litigation and discussion of land acquisition. **The motion passed unanimously.**

Councilman Kelley made a motion, second by Councilman Murray, to adjourn the Executive Session and resume the work session. The motion passed unanimously.

Councilman Kelley made a motion in regard to the matters discussed in Executive Session on which council would take action. He said council had agreed to settle the Brantley Construction Co. vs. the City of Beaufort case for \$200,000 on the advice of the city attorney. This amount has been on the table – compared to the company's \$1 million+ suit – for some time, Councilman Kelley said. **Councilman McFee seconded. The motion passed unanimously.**

There being no further business to come before council, **Councilman Kelley made a motion to adjourn the meeting. Councilman Murray seconded. The motion passed unanimously,** and the meeting was adjourned at 8:10 p.m.