

A special meeting of the Beaufort City Council was held on June 3, 2014 at 7:00 p.m. in council chambers in the Beaufort Municipal Complex, 1901 Boundary Street. In attendance were Mayor Billy Keyserling and council members Donnie Ann Beer, Mike Sutton, Mike McFee, and George O’Kelley.

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

Councilwoman Beer led the invocation. Mayor Keyserling led the Pledge of Allegiance.

PUBLIC COMMENT

David Lott, Laudonnaire Street, said the new parking spaces at Basil Green Park are good but have had “unintended consequences.” People stop in the middle of Rodgers Street to let people in and out of cars, and that “poses a danger.” Across from the new spaces, people are parking on the opposite side of the street where there are no parking spaces. He had seen that they blocked two blocks of the sidewalk, so people had to walk in the street. Parking on the west side has to be restricted, Mr. Lott said.

Peter White, Suthern Rose Buggy Tours said there’s a problem of safety with Sea Island Carriage Company’s horses. He has gone through the proper channels, he said, about a horse’s safety, and “has exhausted those resources,” so he came before council “to ask for direction.” Mr. White said he would give TMAC a 10-page report about issues he and **Rose White** would like TMAC to look at at its next meeting. “Things at the Waterfront are great,” he said, and there is “no problem with fighting or anything like that.”

March 10, a horse named Merlin returned from his third tour, and the driver drove him to the water trough, and then the horse “keeled over ... out cold.” The driver tried to get him up and Mr. White suggested they unhook his harness and gear, and he was able to get up “after what felt like 10 minutes.” The Waterfront Park was “full of tourists” and Suthern Rose had a full buggy. There were “gasps around the parking lot,” and some people were crying.

On May 30, Merlin was between two horses at the trough keeled over again without warning. One of the Suthern Rose drivers missed being fallen on, which would’ve killed or seriously injured him. June 1, Sea Island Carriage Company brought Merlin in again to work, and The Whites felt he hadn’t been cleared by a vet and was “an extreme danger to people and to other horses,” which could’ve been spooked had he fallen over.

Mr. White said they feel the horse isn’t being properly vet checked, as the ordinance states, and Officer **Hope Able** can concur that there had been no vet check, but Officer Able said she doesn’t know about horses and has to rely on a vet’s assessment. Vet’s clients’ are the boss,

Mr. White said, and the bosses dictate what they want done to their horses. At the city's required bi-annual vet check, he has seen the Sea Island Carriage Company vet "stand away from the horses and sign off on the papers" without checking the horses; Both Mr. and Mrs. White have witnessed this. Another time, the Sea Island Carriage Company vet came and "chatted with the drivers," then started to leave and "told the drivers that all he did was sign off papers and give **Walter (Gay, Sea Island Carriage Company's owner) medicine**" to give to the horses.

The Whites feel the problem is not solved. They have consulted two different vets and when told the symptoms Merlin shows, the vets told him that they think Merlin needs an extensive health check to find the problem, which could be neurological or a sleep disorder (though when they have this disorder, they don't fall on their side, Mr. White said). Mr. White said that Merlin also fell twice last year onto his knees, not his side, and people "joked that he was sleeping." Suthern Rose wants to ensure that the horse doesn't keel over again and potentially injure or kill someone. Mr. Gay and his employees "say it's just a sleep problem, but that doesn't remove the danger of his illness."

Mr. White said he feels the city needs an unbiased vet to monitor the city's buggy horses, and in Charleston companies are required to have two health checks by their own vets, plus a city vet comes from 5 hours away once a year to check all the carriage companies' horses. He strongly suggested that this be added to the ordinance. His drivers keep their distance from the water trough when Merlin is working now "and give him a wide berth," and they would like him taken off the streets until it is determined that he is safe to work.

Mr. White went on to describe other ill and unshod horses that work for Sea Island Carriage Company, and he said "this doesn't look good for Beaufort ... in the age of the Internet." People will avoid the tours *and* the city if they don't care for their horses, he feels. A vet visit should include a visit to the farms where the horses live. When horses stand in muck, they come unshod and get abscesses; they also need to have proper amounts of water at the farm, and an unbiased person needs to check that.

Councilman O'Kelley said Officer Able or the city manager need to let council know if the Sea Island Carriage Company vet has looked at the horses. There's an immediate problem with a passed-out horse that needs to be addressed. He said they should direct staff to look into this. Councilman Sutton said he had advised the city manager that these things were happening, and "there's been no action taken." He said he believes the city ordinance allows a spot check of health and living conditions of the horses; "there appears to be no trigger to make these happen, though." Mr. White said "there's something in the ordinance" about the city having its own vet.

There being no further public comment, Mayor Keyserling moved to council business. Councilwoman Beer made a motion, second by Councilman McFee, to consider all of the ordinances relating to the agreement with SCE&G for the purpose of discussion. The motion passed unanimously.

Mayor Keyserling said that he has received more questions and comments about this matter than he did about the Waterfront Park parking lot. He is “angry at where the city has been put ... between a rock and a hard place.” He feels it’s important to consider why this is last-minute. He “jumped on the city manager, the city attorney,” and himself, and he now has a better understanding of why that is. When the city got the TIGER grant in 2012, “the Boundary Street idea became real as a project.” They knew, Mayor Keyserling said, that they were moving forward then, and they knew the duct bank would be the first part of it. There have been efforts to work with SCE&G to come to a resolution. He feels that if they start with the history of what’s been going on, people may feel less that they are being pushed quickly into something.

Bill Harvey, city attorney, said the \$12.5 million for the TIGER grant “changed the atmosphere for this project.” The engineering, the discussion, the Boundary Street Master Plan, etc. have been ongoing for a number of years. During that period of time, up until 2010-2011, they have attempted to engage SCE&G in a discussion about their participation in the underground relocation of utility lines on Boundary Street. For more than a year, there was “a back and forth where we were told that SCE&G had ... prior rights to the right-of-way.” They believed were legally allowed to stay where they were, in other words, Mr. Harvey said. They therefore had the right to be fully compensated if the city wanted them to move. The city asked for the easement document that gave them prior rights, which the city had searched for in all possible sources. In the middle of last year, the discussion continued, and the city finally resolved that SCE&G could not produce a document that gave them the prior rights they claimed to have.

Mr. Harvey said SCE&G claimed that “their long-time use of the poles gave them prior rights,” but the city disagreed and said that unless SCE&G produced a prior rights document, they had no prior rights. Last spring, the city brought a declaratory action in the Beaufort County Court of Common Pleas to get the court to declare that SCE&G did not have prior rights. This began to generate discussions that led to where the City of Beaufort and SCE&G are today, Mr. Harvey said. SCE&G will relocate their power lines and will advance up to \$2.8 million for that relocation. They have chosen, with the city’s approval of the special franchise fee district, to use their right to utilize this to reimburse themselves for their contribution to their non-standard service (NSS) project, which is defined as the relocation of utility lines. It’s been utilized before to bury lines on Bladen Street. This gives SCE&G the right to impose a special franchise fee on top of their regulation franchise fee. They came to the city and asked it to create a district, but it’s the city’s change to make. SCE&G has elected to reimburse themselves in this manner.

Mr. Harvey said there has been discussion about cable providers. Until a resolution was reached with SCE&G, cable providers were SCE&G’s tenants, and “there was nothing the City of Beaufort could do” about getting them to come off the poles. When the utility provider puts the lines underground, then the cable providers have to follow suit, per the statute. The City of Beaufort is in active discussions now with Hargray and Century Link. First, though, this matter must be resolved with SCE&G.

Mr. Lott said that he was part of a written agreement committee that worked with SCE&G, which agreed to bury the power lines along certain routes (in Pigeon Point, on North Street, etc.). The residents of those areas “were going to have very tall transmission poles, but the lines would be buried,” Mr. Lott said. The agreement said the City of Beaufort and SCE&G “would use their best efforts to get the cable companies to join in.” At that point, although the electric lines were buried, “they cut off the tops of the poles and the cable lines are still there.” Mr. Lott said “the source of the objection was that the cable companies refused to put the cables underground.” He had heard at this council meeting that they are obligated to do so by statute. These 2 service providers “make a lot of money in the city,” but were uncooperative and could have buried the lines cheaply when the trench was dug, he said.

Mr. Lott said not to forget that this other agreement was entered into. This new agreement should be used as an opportunity to require the cable companies to participate. Mayor Keyserling said when he became mayor, he met with SCE&G and went to meetings in which SCE&G said they would take the leadership because the poles belonged to them. They also agreed to do landscaping because the poles belonged to them. These things haven’t happened. He distrusts this franchise agreement because **David Temple** had said that 3 poles would go down for every one that went up. That didn’t happen. No one benefitted from this, Mayor Keyserling said, only SCE&G, whose loop was continued to Lady’s Island. The City of Beaufort had to go to court even to have a conversation with them about this. The City of Beaufort got assurances from SCE&G that they would use all the authority they had to do what Mr. Lott is talking about, Mayor Keyserling said. He is hesitant to enter another long-term agreement when they didn’t honor the other one.

Mr. Lott said they need clarification as to the rules in regard to the cable lines and the cable companies’ role. He doesn’t know what happened. Mr. Lott added that there is an alternative to the franchise agreement if the city establishes its own utility; the utility has convinced people against that, but Mr. Lott feels there’s “volunteer talent,” which he offered to head up, to look at the idea and see if it’s viable. Mayor Keyserling said there are “Electric Cities” in South Carolina and they were considered in **David Taub’s** administration.

Mr. Taub said he was mayor during the last negotiation. He said the city “paid \$50,000 to hire professionals whose job it was to help cities become their own utility cities.” SCE&G intimidated the city because they said the City of Beaufort would have to buy them out and pay them for what they lost. The City of Beaufort was scared of owing millions. There probably is federal legislation now in regard to this, Mr. Taub said, and “there are professionals who do this sort of thing.” It might be worth looking into, he feels, “instead of nailing the city to SCE&G for another 30 years.”

Councilman Sutton said the first reading was for an ordinance that says the utility provider will get the low-voltage companies off the poles. The power company “hasn’t been a great player in the city,” he feels. Councilman Sutton said that “the huge poles were to come down when the lines were buried,” but they haven’t moved, so he has concerns about this new agreement. He said he hopes to hear legal advice on this that reassures him. Councilman Sutton said he

supports the Boundary Street Redevelopment, and so do the voters. "This is not something we want to back out on," but he thinks there needs to be a discussion about low-voltage lines.

Councilman Sutton showed photos of power lines on Boundary Street. 69 poles will have to come out between Chik-fil-A and the City Hall building. "It's hard to see whom these lines serve," he stated. New businesses have no overhead power lines attached to them, Councilman Sutton said. The private sector puts new lines underground, and that's the law. Even with remodeling, they try to get the lines underground. The low-voltage providers have never done this. He puts in the conduit and allows the low-voltage company to use it on the projects he works on.

Councilman Sutton showed a photo of lines and said the same line on a different pole further down goes nowhere. The public hears this battle about the poles, but in fact "the low-voltage providers need to clean house," and the power company needs to make that happen. He feels a lot of wires are going nowhere, and the trees continue to be chopped out, sometimes for the lines of an owner who's not in business anymore in the city. Councilman Sutton has never seen anyone representing a low-voltage provider who's come to a meeting, possibly for legal reasons, "because they piggyback on the power company."

Councilman Sutton said **Dick Stewart** has developed a piece of property and buried all the lines on Boundary Street, but that stops where his property ends. Either Mr. Stewart has a connection to the low-voltage providers that the city doesn't have, or he can tell the City of Beaufort how to do what he's done. The low-voltage companies need to be part of the city; they have no franchise agreement with the City of Beaufort.

Mayor Keyserling said he agrees, but he met with the project engineer that day, and in 36 hours, the city and the project manager have moved farther forward with the low-voltage people than has happened in 2 years with SCE&G. They are close to a resolution to the problem. There's an amendment to the franchise agreement that begins to address the low-voltage matter.

Kathy Todd said she "would pull the ordinance and put it on the next agenda" per Councilman Sutton's request.

Kathy Lindsay said she wanted to understand the lawsuit. The settlement was consistent with the 1999 franchise agreement that SCE&G will relocate their lines to a duct bank for \$2.8 million, to be shared among the customers in the franchise base that the city determines. The settlement agreement is in line with the 1999 agreement. Mayor Keyserling said there would be a change that will be discussed. SCANA talks about putting in infrastructure and being a part of the community, and he thinks they should do what they say they will do in this community. Ms. Lindsay said the settlement has, for all practical purposes, no additional conciliation by SCE&G. Mayor Keyserling said there is "a requirement that they be more proactive in the future in the relocation of lines." Ms. Lindsay asked if there were "any teeth in that aspect of the settlement agreement." Ms. Lindsay said she doesn't see the City of Beaufort getting anymore

out of this than they got in the original settlement agreement. Mayor Keyserling said it is not in the settlement agreement; it's in the ordinance they are considering today.

Councilman Sutton said the 1999 franchise agreement had terms that allowed modification after 9 or before 10 years. There's nothing to his knowledge that said that if they pass this, anything changes in the 1999 agreement. It extends it for a period of 30 years from today. Councilman Sutton asked Mr. Harvey if they have missed an opportunity to negotiate in the franchise agreement. Mr. Harvey said yes, between the years 9 and 10 for the current franchise agreement. Councilman Sutton said prior to second reading, there's no chance to modify the franchise agreement to add responsibilities. Mr. Harvey said there's no legal right for the city to modify that. Councilman Sutton asked "what teeth they have to get the low-voltage providers to get off the poles." Mr. Harvey said the city is going to add an amendment. The city and SCE&G are going to use their best efforts to make it happen. Councilman Sutton said the low-voltage companies could do the same thing when the attorneys are done debating. Councilman McFee said the low-voltage companies don't have a franchise agreement with the city.

Mr. Harvey said Hargray has a state franchise agreement to provide business. Century Link operates under an agreement from 1980 and has an ability to modify under their franchise agreement. Councilman O'Kelley asked if there were low-voltage providers present and representatives from Hargray and Century Link stood up. Mayor Keyserling said that the poles are SCE&G's, and "they should be the driver." Mayor Keyserling said he is nervous to the extent the city attorney and the company engineer are in negotiations. Now that they are convinced SCE&G lines will be relocated, Hargray said as of last week, Century Link wasn't aware that SCE&G was taking the poles down.

Greg Alford, SCE&G, said the company has a statutory right to be in the DOT right-of-way. Rather than litigate that, they made this concession. Even if the city had won \$825,000 of the suit, "when SCE&G is vilified by the city, that's difficult." The regulatory bodies won't let SCE&G do anything outside of the regulatory structure. In regard to the poles, Mr. Alford said, many of the lines aren't SCE&G's. He had "sent letters to people at Charter, Hargray, and Century Link" that said SCE&G has its lines underground and the low-voltage providers need to, too, but federal law prevents them from *forcing* the low-voltage providers to get off the poles. SCE&G doesn't own all the poles. He said they will face an issue, even if there's an agreement; SCE&G has very few poles now, and the communication companies own a lot of the poles they're on, and can't be forced off them. SCE&G's hands are tied trying to force the low-voltage providers off of its poles. **Danny Kassic** has been trying to work within the guidelines that the city and the utility have to work within, Mr. Alford said: "The city needs to deal with this up front now." He can't make the low-voltage providers get off the poles, he reiterated.

Mr. Alford said SCE&G has made efforts and will cooperate with the city. They have fulfilled their part of the agreement, but they are bound by state and federal statutes. They cannot impose costs from Beaufort on other ratepayers in the state. Mayor Keyserling said in Hampton County, they put up a special building. Mr. Alford said, "That's where the \$825,000 is. Councilman Sutton asked, when SCANA abandons a pole, if they have responsibility for the

pole. Mr. Alford said they do. Councilman Sutton said the pole is in the way, and that's a problem. Mr. Alford said, "If you kick them off, I'll take down the pole." Mayor Keyserling said where there are abandoned poles, SCE&G has been taking them down. Mr. Alford said they don't want the poles up because it's a potential liability, but their hands are tied.

Mr. Stewart said this situation is not unique; the statutes were put in place so predatory utilities couldn't penalize others who were on their pole. A set of users on one pole was superior to having 4 poles for 4 providers. It's a basic regulatory construct that's been in place for at least 30 years, he said, and SCE&G has no control over it.

Fred Washington, 804 West Street, said he is "a believer in burying wires." When his house was renovated, he ensured that the lines to his house were buried. SCE&G agreed to do that, but the low-voltage carriers would not. He had the lines to his parents' house next door taken down, too, because he believes in it. Mr. Washington said, as an average citizen, he is concerned about who's going to pay and what they will get for it. He believes in burying lines because when a storm comes, poles lean toward his house. He would like to have a conversation about having the poles removed from his neighborhood.

Mr. Washington said he will be locked into paying the additional 2% and still have the poles there in 10 years. He feels there needs to be a city-wide plan implemented. He believes that what is done on Boundary Street should be done throughout the city. He doesn't mind paying for something he will get a return on. He's concerned that the agreement will leave the city with no choices. The average citizen needs to be listened to, too, Mr. Washington said. Councilman Sutton said the franchise agreement allows what Mr. Washington is talking about. There was a citywide study completed, and there is a list of over-story trees that are having an impact, and burying those lines is listed as a capital project. If the city doesn't do a franchise agreement, there will not be a funding source to do this throughout the city. Mr. Washington said the average citizen doesn't see what they will get for paying the franchise fee.

Mayor Keyserling said in the capital budget, there were test areas to be done. Ms. Todd said there are projects for underground using the initial NSS that is in addition to this special franchise agreement. SCE&G and the city have done this and will do it throughout the city until 2027. Mayor Keyserling said it's roughly \$6 million per mile. If the 2% works for Boundary Street, people may go back to SCANA and say, "Why don't you do this throughout the city?" Mr. Washington asked if there wouldn't be a savings on insurance when utilities go underground. There are a lot of areas where falling objects and wire cause problems after a storm. There needs to be a way to think strategically about how the different costs have an impact on each other, he feels.

Mr. Taub thanked city staff for being forthcoming about providing information he has requested from them. He said Ms. Todd has given him conservative estimates based on the TIF fund balance. He said by the end of the TIF bond tenure in 2017, the fund balance will be roughly \$12.5 million, which comes from "conservative estimates" Ms. Todd provided him. He showed and discussed what's encumbered against those funds for the Boundary Street

Redevelopment project. Ms. Todd told him there's a contingency for \$8.3 million committed for engineering "and all that." Mr. Dadson has indicated he will use \$150,000 for the upfit of the municipal building for the new tenant. \$2.4 - 4 million will be the TIF fund balance, he said: "The TIF funds are for these sorts of things." 2% for all the ratepayers for 7 years is "a tax without representation." "Those monies will never be on the general ledger," Mr. Taub said. "They'll be on (SCE&G's) books." If SCE&G gets a rate increase, "they will perhaps get a windfall," he said. He asked why the City of Beaufort didn't use the TIF instead, which will leave \$1.2 or \$1.5 million for other purposes. He said, "Why add another tax when you already have the money?" He suggested tabling the franchise decision and checking the numbers he'd presented.

Mayor Keyserling said he wouldn't do it because "in the budget for many years, the city invested in infrastructure, and nothing happened except buildings being for sale." These dollars are being used as leverage. There are 144 potential new ratepayers who would add to the TIF and generate more customers to allow the city to amortize and "get out of this thing faster." Mayor Keyserling said you could take everything you spend to make something pretty or go to the private sector and say, If we do this, it will bring more growth. Mr. Taub said the money is there, and they will decide later how to spend it. He thinks they should spend it now. Mayor Keyserling said the dollars for Greenlawn were in the initial Boundary Street Master Plan.

Mr. Lott said, "This is magical thinking." The only way this will happen, he believes, is if everyone shares the cost, so they need to sit down and decide the goals and how they're going to reach them. Mr. Lott said when they negotiated the agreement he referred to earlier, and SCE&G said they would make their best efforts, several years later, SCE&G wrote 3 one-paragraph letters to the cable providers and now use that as evidence that they have tried to get them off the poles.

Mr. Lott said there's no "magic money," and he urged council to enquire of the low-voltage providers as to why they haven't participated in the past and what it would take for them to do it. He said it's very hard to find the person to speak to who's in authority. They need to be willing and able to be involved, and it will require extensive discussions and no more efforts to push it off on others.

Mitul Desai, Firehouse Subs, said there is blame being laid on different parties, and he asked when it would be laid on the city. He said there's no way to know that the same thing won't happen in this agreement with SCE&G as happened in the last. The city "can't get this project done on 3 little streets, so how will the citizens know that *this* will get done?" he asked. It seems to him as if everyone is only laying blame. The city has a responsibility to go after SCE&G to make them get it done or go to the cable companies.

Chris McCorkendale, vice president of operations and strategic sales, Hargray Communications, runs the operations of the organization. He's local, he said, and most of his executive team is, too. Mr. McCorkendale told how much Hargray has spent to support communications infrastructure in the county and around it. He said he "bristles at hearing about the lack of commitment to the community," because they have demonstrated that by past actions. Mr.

McCorkendale lives south of the Broad. He “drove past the communication facilities on Boundary Street,” and he supports taking them down and “thinks it will do a lot for the City of Beaufort.” He met with city staff after consulting with his counsel. Mr. McCorkendale thinks “doing the right thing means executing this project efficiently” and taking care of customers while they do it. Also, Mr. McCorkendale said, there are arguments that they have a right to be on the poles. His leadership in Beaufort doesn’t know he is at this meeting. He supports getting off the poles.

Mayor Keyserling said, in meeting with the project engineer, Thomas and Hutton has asked anyone who has anything to do with the poles in the right-of-way to come to meetings, “but no one has come.” The engineers have worked on over \$4 million of the project and have met with “everybody,” but according to the engineer, there’s been no cooperation from the low-voltage providers. The city has been serious about this for more than ten years, Mayor Keyserling said, and trying to get all the organizations to be at the table for the last two. He said there is a motion here because this is wrapped up in federal dollars. The project engineer said people haven't been coming from the cable companies.

Mr. McCorkendale said as an organization they find it’s better to engage the local leadership to make change. “This was never a pipe dream,” he said; they “have always taken it seriously.” They got a letter in July 2013 that he said was a “keep cost” letter that requested they take the lines off the poles *at their cost* and that was “not a discussion, so they rejected the notion.” Mayor Keyserling said Century Link and Hargray have come a long way in the last 36 hours.

Duran Standard, a vice president at Century Link, said they “have a vested interest.” He agrees that “the pole lines aren't pretty,” but “this didn’t occur overnight.” He would love for everything to be buried, but “it doesn’t happen without economics.” They will have to divert resources from improving their overall network in order to take their lines off of poles. They responded to the Thomas and Hutton letter the same way Hargray did: by not responding. They were going to have a workshop, but that didn’t occur “because of legal situations they found themselves in.” Mr. Standard said they support the project but have concerns about absorbing the costs.

Councilwoman Beer said she wishes she were “more tech-savvy.” She’s been an SCE&G customer since 1959 and a Hargray customer for 20-25 years. She said she also works with the Red Cross and went to the Northeast after Hurricane Sandy, and they need to do what they can to ensure they will get power after a storm, so they should do whatever they can to make utilities safer.

Councilman McFee said there’s no disagreement among any of the parties involved. Since 2006, he’s been surprised at the cost of this project. He thinks the 2011 letters were in response to the issue on North Street and the other places, not to the Boundary Street project. Councilman McFee said it would take a lawsuit to have the other parties discuss this with them. They are all parties in a partnership. He believes there are CIP directions that preclude the city from paying for everything. To use TIF money on this project would “shortchange the citizens for other

projects.” He said he believes the partners are working with the city, “though later than they had the opportunity to.” He feels they need to make adjustments to the franchise agreement.

Mayor Keyserling said having all of the lines underground would be safer and great, but it’s very, very expensive, so the Tree Board looked at neighborhoods to determine a pilot program in 4 of them, hoping to sell the community on the idea that undergrounding should be done. Mr. Washington said he understands costs. “What’s important is to get a process going for problem resolution,” he feels. He’s “looking for leadership to sit down and get this resolved.” Mayor Keyserling said there are options to pay 50%, and the city would like it to come from their partners.

ORDINANCE EXTENDING THE ELECTRIC AND GAS FRANCHISE AGREEMENT BETWEEN THE CITY OF BEAUFORT AND SCE&G FOR A PERIOD OF 30 YEARS COMMENCING 2014

Councilwoman Beer, made a motion, second by Councilman McFee, to approve the ordinance on second reading. The motion passed unanimously. Councilman Sutton asked Ms. Todd if the 2% surcharge applies to a 10-year term or 7 years. Mayor Keyserling said this was passed on first reading, and at that time, they were talking about a 10-year period on a limited amount of people, so they need to amend the motion to get it to where they want it now. Mr. Harvey said the franchise agreement says it shall last no longer than 10 years. The question here is 7% on a smaller district or 2% citywide, which will pay off the reimbursed amount more quickly. It will only be done until this is paid off. Mr. Harvey said for this project, the special franchise fee district is not to last longer than 10 years. Councilman Sutton said the language in the current franchise agreement is “not to exceed,” and he thinks they should change it from 7% to 2%. Councilman O’Kelley said it doesn’t need to be amended “because it’s just background,” and Mr. Harvey agreed. Mayor Keyserling said they were 2 ordinances ahead of where they are supposed to be considering for a vote.

Councilman Sutton said the original agreement was for 20 years, and they are being asked for a 30-year agreement now. He questions why it’s 30 years, not 20. The 2% additional fee is not to exceed 10 years.

Danny Kassic, SCE&G, said the term should be that long because of “concern about how long the city would utilize other projects through 2027, plus this project.” Beaufort is one of the most effective users of the NSS fund. Councilman Sutton asked him why 30 years is the magic bullet. 5% of customer fees is the city’s money, and the 2% will also be collected for the city. If this project is paid for in 7 years, Councilman Sutton doesn’t understand why the power company is pushing for a longer window. Mr. Kassic said when there’s economic development, like the \$800,000 that goes to offset the power company’s costs – Councilman Sutton asked how 30 years helps SCE&G. Mr. Kassic said they “have accrued benefits.” SCE&G puts money into the NSS fund. Ms. Todd said they put in about \$200,000 a year. Ms. Todd said she didn’t go beyond 2027. Mr. Kassic said that kind of term is usual, a condition of an \$800,000 - \$1 million offset. Councilman Sutton said he’s not getting a clear enough answer. He still doesn’t understand why it should be 30 years if they aren’t getting the money.

Mr. Alford said SCE&G has committed to economic development, and when they make a capital investment, they want to know that they have a long-term relationship – because it’s a large-scale commitment, they want a long-term relationship. Councilman Sutton said he would agree to 30 years “with language in the ordinance that will make SCE&G a better partner.” Mr. Alford said the ordinance can say what it says, but they “are bound by their higher-ups,” so they “will not need to abide by it.” Councilman Sutton said he would like to add that in regard to the low-voltage providers, in a timely manner, SCE&G will write to all of them to remove the lines from their poles; it’s simple but not binding. Mr. Alford said they will write a letter, but they can’t force them off the poles. Councilman Sutton said he wants to ensure that the power company is talking to the low-voltage providers. Mayor Keyserling said the city’s side of that would be the ordinance that was passed on first reading.

Mr. Kassic said they can control the poles they own, but because of federal law and existing contracts, “the things contemplated in the ordinance are unlikely to be done.” The poles on Boundary Street may not even be owned by SCE&G. Mr. Alford said the 2011 letter “was because of concerns that SCE&G hadn’t done anything.” He said that sending “a letter saying, ‘Please get off our poles’ is about as much as we can do under the current legal structures ... I can’t promise you it will have the desired effect.” Mayor Keyserling said he hears Mr. Alford, but they need to talk in terms of putting it in the agreement. Mr. Alford said there’s a joint cooperation agreement. Mr. Harvey said it’s in the agreement, but what council is trying to do is ensure that when SCE&G goes underground, it will do what’s necessary to bring the cable providers underground, too, per state statute. Mr. Washington said Hargray, Century Link, and the power company should sit down and talk. They could agree tonight to meet and start the resolution process since they’re all at the council meeting.

Mr. Kassic said he’s “committed to removing SCE&G’s stuff and to work on the poles that they own to work within federal legal authority to work with” the other service providers. Mr. Kassic said he’s “\$800,000 in for a long deal.” He needs to make sure what his agreement is. He said he’d work within the authority he has.

Mr. Desai asked why they “are going to only put it on SCE&G and not on Charter, Century Link, and Hargray instead of pointing fingers.” Councilman Sutton said it’s in legal process right now. Mr. Desai said they could wait on this until the legal process is done. **Masesh Desai** said the only way he will believe the low-voltage people is if they remove it in 6 months, or if they don't, they are liars. Until then, he would hold the project.

Chet Patel said that he read the franchise agreement that the city has with SCE&G. Sec 14 H is about creating the special district. It’s clearly written that once the lines go down, the poles go down in 3 months, so SCE&G has already agreed to it.

There was a discussion of the costs to connect. Mr. Temple said the city has agreed and budgeted to get power to the point of service, and the property owner will not pay for it. Councilman Sutton said in regard to overhead facilities/power poles, it’s the lines – not the poles – that they must remove in 3 months. Councilman Sutton said the community partners

are working to make this project happen, and he will believe that in good faith. Mr. Patel said that there are poles behind his property that have the lines off them, but the pole is still there.

Mr. Stewart said the federal legislation is so that councils can't force the low-voltage providers to raise rates, etc. The regulation construction is to protect the consumer. "If people choose to pay for this, they choose to pay for it," he said. "This is no surprise to anyone who went to the meetings," he added. "The utilities are not bad people and shouldn't be painted that way," he feels. "They have been forthright."

ORDINANCE APPROVING THE RESOLUTION OF THE PENDING LITIGATION AND APPROVING THE AGREEMENT FOR RELOCATION SERVICES AND OTHER WORK IN PROGRESS (OWIP) AGREEMENT WITH SCE&G

Councilman McFee made a motion, second by Councilwoman Beer, to approve the ordinance on second reading. Mr. Harvey said this contemplates the Boundary Street franchise fee district, and it will be amended to do the citywide 2%, so the draft before council is not the final draft. The language will be amended to reflect the *new* Boundary Street franchise fee district. The draft of the third ordinance doesn't say that. Councilman Sutton said he's hearing Mr. Harvey say the language may change to reflect the final ordinance for 2% citywide, not 7% for only 160-180 ratepayers. **The motion passed unanimously.**

ORDINANCE ESTABLISHING A SPECIAL FRANCHISE FEE DISTRICT AND APPROVING CHARGES FOR SERVICES PURSUANT TO THE FRANCHISE AGREEMENT WITH SCE&G FOR RELOCATION SERVICE AND OTHER WORK TO BE PERFORMED BY SCE&G WITHIN THE DISTRICT

Councilwoman Beer made a motion, second by Councilman McFee, to approve the ordinance on second reading. Ms. Lindsay said this ordinance is about how to pay for this. Mr. Taub had mentioned using surplus TIF funds in lieu of the Special Franchise District. Councilman McFee had said there are other commitments for the TIF 2 funding to do other CIPs. Ms. Lindsay said she thinks "this is terrible idea to finance something" because it's a "hidden debt." It's on the bills, "so there's no certified statement." It's a construction cost just like any other, she feels. It's part of the project, and if they did it through the TIF surplus funds, they already have those. This doesn't make sense since they already have the TIF money. The redevelopment plan must have other projects, which is why they have the TIF in the first place for things like the boardwalk, Ms. Lindsay said. Now this is asking people to pay \$2.7 million, and there's already money that's been collected that can be used.

Ms. Todd explained that the money Ms. Lindsay is referring to is not a "surplus," because they are uncommitted, not leftover after the projects have been done. Ms. Lindsay said she misspoke, and they are using money from the TIF for \$8.2 million. Ms. Todd said that is committed out of TIF to use for the Boundary Street Redevelopment. Ms. Lindsay said rather than go back to the taxpayers, only recently is the \$2.7 million being discussed; it's been in litigation, but it was never considered when discussing other projects.

Councilman Sutton asked how they'd know when the construction costs are covered; Mayor Keyserling said a budget would be established, and there would be a quarterly accounting of

what has been collected, showing if they're on track. If the apartments are built, they may end it earlier, he said. **The motion passed unanimously.**

ADJOURNMENT

There being no further business to come before City Council, **Councilman O'Kelley made a motion to adjourn, seconded by Councilwoman Beer. The motion was approved unanimously,** and the meeting was adjourned at 9:49 p.m.

ATTEST: _____
IVETTE BURGESS, CITY CLERK