

A work session of the Beaufort City Council was held June 17, 2014 at 5:00 p.m. in the Beaufort Municipal Complex, 1901 Boundary Street. In attendance were Mayor Billy Keyserling and Council members Donnie Beer, Mike Sutton, Mike McFee, and George O'Kelley, 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.

### **CALL TO ORDER**

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

### **CAPITAL PROJECTS AND PLANNING – BOUNDARY STREET REDEVELOPMENT**

Mr. Dadson said there are a capital project and a planning issue to discuss. The Boundary Street Plan and its code “are framed by the road network, which has widths and requirements.” “The gateway to TIF has been in place since 1999,” he said, and then this council enacted a TIF 3. The building-out of the public safety building, the road network, etc. have been ongoing projects. Boundary Street Redevelopment is funded with the penny tax, a TIGER grant, and TIF 2. There is a capital budget that **Kathy Todd** will cover.

Mr. Dadson said an applicant wants to build on Boundary Street, and the plan says that, until the improvements on the Greenlawn streetscape are put in, they're the developer's responsibility. Staff can't waive that, but if it's in the CIP, council should tell the developers what they can/should/shouldn't do on Greenlawn. He and Ms. Todd will cover the financials; council would have to move the money, Mr. Dadson said. The grant is still in the award phase. Council can make a decision when they know what's left in the grant, and can decide what pieces to do first of those that can be paid for.

Mayor Keyserling said the developer is aware that the Greenlawn streetscape is in the plan, but that it's not in the budget. The developer is asking for staff to make a commitment that it can't make, which is that the developer is not responsible for those costs “until one day” for the redevelopment of Greenlawn. Mayor Keyserling said he wants this project to “light the fuse to get going.” Mr. Dadson said staff feels that the city should have some part in the finances the project needs to get this going. Mr. Dadson said that they need to ensure that some information is ready, so when a developer comes in, they can tie into one another.

Ms. Todd said at the end of FY2013, the fund balance for TIF 2 was \$5.77 million; it will be \$7.5 million by the end of FY2014. There will be an increase to \$9.3 million available. The capital project budget items are for way-finding signs, Boundary Street for \$8.2 million, and access through Quality Inn – the total is \$8.5 million approximately. Approximately \$550,000 will be uncommitted at the end of FY2015.

The committed \$8.2 million for Boundary Street, Ms. Todd said, is the focus. The county engineer budget for Boundary Street accounting for all the resources plus what was needed to fulfill unknowns and contingency was \$6.34 million of that budget. But in preparing for FY2015,

there are other unknowns, and they wanted to make sure they had resources for them as they came up. Ms. Todd showed the projects that had been allocated for out of TIF 2, but they had to be rerouted to the Boundary Street project. "When the unknowns become known, the resources may end up being freed up," Ms. Todd said, and staff will provide council with quarterly financials for Boundary Street and where they are on the resources and the "unknowns."

Councilman O'Kelley said this budget is "a bit misleading," as the boardwalk and the roundabout were off the table. Ms. Todd said they were approved in the FY2014 capital projects budget. They aren't getting done, so they collapsed those resources and put them into Boundary Street. Mr. Dadson said when they did the FY2014 budget, for the TIGER grant, "the roundabout" is the intersection, not an actual roundabout, and the boardwalk is "integral" and is in the TIGER plan. Staff has said they think it can't be done, but it still has the title and still "sits there." The Greenlawn improvements, Plaza trail network, and park are all pieces of the plan, Mr. Dadson said, and were all applied for originally in TIGER, but "costs have bumped them out." The feds would love to see the project finished as per the grant verbatim, he added, but they know it probably won't be.

Mayor Keyserling said the "bumped" items were in the original request to the county, but the City of Beaufort "self-selected," so county wouldn't select. Ms. Todd said as the number changes for the contingency, "the resources can be freed up," and council can reapportion them in their priority order for projects. The boardwalk was lowest of those priorities, Mr. Dadson said, and he reviewed the highest elements of the project.

Mayor Keyserling asked, if they added \$20 million in property value, what the property tax and TIF implications are, i.e., with building the apartment complex at Ashley Point. 54 units is easily \$20 million in new value, he feels. Mayor Keyserling also feels the Boundary Street project has much more potential "payback than the city has ever done on a project." Mr. Dadson said natural growth citywide last year was less than 1%, "but that's still healthy growth." He cautioned council that TIF 2 is up in tax year 2017 (FY 2018), and the City of Beaufort had asked the county and the school board to extend 15 years, but they had said no; the city then did TIF3 themselves. "This TIF produces money and outcomes," Mr. Dadson said. He would encourage the developers and the City of Beaufort to extend on TIF2, getting the county and the school board onboard. "TIF 3 is 25% of a dollar overlaid on top of that," he said. "It's a TIF that produces real dollars." The \$20 million is less than 1% of the total market. Mayor Keyserling said for \$1.2 million of capital investment, they will have doubled their growth. If they get the Greenlawn streetscape done quicker and don't wait 3 years, they "won't lose it and can get it clocked in as it comes online." Mr. Dadson said "you can't hold on the vertical to be built to the lines it needs to be built to ... When the stuff in the right-of-way, there (are) a couple of years of work." Council can set the parameters of how much work they will do on the streetscape, so that **Libby Anderson** can put that information in a file about the city's expectations and "can get its vertical side going."

Mayor Keyserling said the TIF will grow, but he thinks its only fair that they ensure that the units are built. The risk, if they aren't constrained by time, would be if it were tied to something specific, and the developer wants to start before the city is ready. Councilman Sutton said he'd rather lead than follow. Mr. Dadson said they "will move money to set the corners of everything," because Ms. Anderson needs that, "and a private (sector) person can tie into that and determine who does what at the line." They would do that one time, and as funds become available, they "would move it in," Mr. Dadson said.

Councilman Sutton said they are creating a paper document to give a developer, and he is wondering, "Who does it first?" Mr. Dadson said council could do it right now. They will have to move capital by an amendment to the resolution. Councilman Sutton said when the economy strengthens, they have to be ready to go vertical. If they haven't mapped out the infrastructure hardscape that they plan to be there, "shame on us." The Redevelopment Commission could work out development zones. Mr. Dadson said they have numbers for Greenlawn and for the plaza road network that are a couple of years old. They sit highest on the priorities because they are the "knowns." The numbers will adjust, as new aspects of the project are "known." He cautioned again that in 2017, the TIF "stops growing."

Mr. Dadson said the city has done projects where it did the infrastructure work: "The concern is the quid pro quo." Mayor Keyserling said Councilman Sutton is saying that the vertical is ahead of the city, or has the potential to be. Mr. Dadson said this would give Ms. Anderson "a tool to engage the vertical." Councilman Sutton asked how to trigger the city's part of the Greenlawn streetscape to happen. He asked how far in the planning process the applicant for the project is, and if the developer had the encroachment permit. Mr. Dadson said with 3 actions, the city's part could go before council next week.

Councilman McFee said the city would have to take the road. Mr. Dadson agreed. They can make a resolution to move money, and then a resolution to direct staff to say they want this vertical construction done, which is the city's commitment against TIF2. The third thing is to "make clear that council will consider accepting the road when that's ready to roll." It's a matter of timing, Mr. Dadson said, doing a section at a time.

Ms. Anderson said the developers have to deal with DOT themselves. They "are eating up some right-of-way," so some streetscape improvement is on their property. Mayor Keyserling said he drove down Greenlawn today, and "there's almost a tree canopy there." This streetscape "could be a trophy for Boundary Street Redevelopment if it happens," he feels.

Mr. Dadson said they have already made it a redevelopment district. They adopted TIF 2 and TIF 3 and did the CIP. They have prioritized this in public policy terms, so staff feels it's easier to endorse it. Mayor Keyserling said he wouldn't be as aggressive if he didn't already know it's there: "We're committed so we should get it going." Councilman Sutton asked if the developer needs the encroachment permit first. Mr. Dadson said the mayor is right. The staff will prepare the money-moving resolution, and "then bring back the encroachment permit at the right time."

Councilman O'Kelley said if you look at the Boundary Street Plan, the buildings on Greenlawn are right on the street, and he wonders if the trees will still be there if this development happens. Mayor Keyserling said Councilman O'Kelley's right, "but new trees will go in." Mr. Dadson said the city will engineer it, but the property owners will have responsibilities. They can work those things out now if they get started.

Mr. Dadson said there's a caveat in that they still have work, and the development community can help, by getting the county to step in with TIF 2 and TIF 3. Those will finish the project up, and "improve the quality of life for the county and the city and the school board if they join." Councilman Sutton said they have to have a story to tell the county, and this plan would be easier to articulate a return on investment to them. It's likely to be 6% properties. It's the redevelopment zone/business corridor. If they can't sell vertical, because the city has none, they won't get developers.

Mr. Dadson said when they award the project, this will be a way to show that something real is being done on Boundary Street. Mayor Keyserling said he would sit with the county finance committee chair and ask him to see what he can do. But the city could be ahead of the curve for once; the developer has the capacity. Councilman Sutton said they have the desire, but it's about timing and market. He said Ashley Point "is not a new plan."

Mr. Dadson said these apartments would be within a five-minute walk of retail, "which is the plan, and the plan will work." Councilman Sutton said "it's been cooking for 7 years," and they should be prepared for it to happen.

Councilman McFee said it's "the appropriate way to go," but he would like to see the county at the table. Councilwoman Beer agreed that they "should go for it." Councilman O'Kelley said he knows "there's tweaking that needs to go on." He said he had spoken "with someone about the size of the lanes" on Boundary Street. The neighborhood streets' sidewalks are 8', and the lanes are 10'. He told the numbers for the alleys as well. He is concerned that an 8' sidewalk "could get in the way of driving lanes." Mr. Dadson said council fought the DOT to get it to give up more lane width on the Boundary Street Plan. The city succeeded, and the lanes are 11'. They wanted 9' on the neighborhood streets but gave up and took 10'. The slower the lanes, the fewer accidents there are, it's been proven. He said that "staff bought that argument." Mayor Keyserling said he had seen the computer modeling and is "amazed that people will get there just as fast" with slower speeds. Councilman O'Kelley said he's concerned people will "sue the city for the narrow streets" if there are accidents that can be attributed to lane size. Mr. Dadson said Bladen is 10'; Bay Street is 10', and "Charles Street is just like this." Mr. Dadson said he feels they have fought this battle. He said the City of Beaufort knows real numbers on this because of previous streetscape projects. Mr. Dadson said he thinks, "It will be nice to see vertical, to see buildings going up." Mayor Keyserling said he hopes it will.

Mr. Dadson reiterated what the 3 actions of staff would be to get this going. Mayor Keyserling said there's nothing wrong with saying something about timing, but they aren't committing to

it. Mr. Dadson said they would like to engage the engineer for the streetscape. They will have a technical review committee process and he'd like the engineer to meet everyone, talk about what's there and what's called for, etc. Mayor Keyserling agreed. He wants to make sure that "as soon as possible we can get the fuse lit." Ms. Todd said if council is updated quarterly, when the \$1.2 million is in hand – Mayor Keyserling interjected that "we may not have it, and I don't want that to be a condition of someone going vertical." He said he wants "to state the city's commitment." Mayor Keyserling said he's "been waiting for this time."

Councilman Sutton said as they see potential for vertical growth for Boundary Street, they will go through it with the applicants and make it happen. Walgreens and McDonalds were both challenges, but they got through it and built. What worries him is the code for the Boundary Street Redevelopment; Ms. Anderson said, "It's folded in now." There are still roadblocks to development in the corridor, Councilman Sutton said. It's not city dollars being spent in this case, but partnerships must be developed. He said "the code is new to us," and council wants to give staff the power to make projects happen. The intent of the redevelopment zone is to make it go vertical. The site City Hall is on was a brownfill, and now it's a vital part of the city's corridor. He wants to make sure they "give staff the ability to push back against roadblocks."

Councilman Sutton discussed trees, by way of example, on Greenlawn. He said knows how important they are to people. He "won't have a dog in the fight on trees in the development zone," but he wants "to make sure we are clear on this." This apartment project removes 14 trees and saves 13. There are some trees they can't remove; the developer has been told, and Councilman Sutton asked if that stops the project. Mr. Dadson said from a broad policy perspective, Boundary Street and Bladen Street have form-based codes of their own, and they want to give latitude to allow more staff administrator decisions. And it's probably worth council going through this with the Design Review Board and the Redevelopment Commission "to determine how much will be 'shall' and how much will be 'should.'" Mr. Dadson said he would also like staff to have latitude, but "council sometimes gets called when staff has latitude." Councilman Sutton said he understands that and just wants to prepare for roadblocks.

Mr. Dadson said he thinks it's a good idea to give staff leeway, and council has allowed that, but where the appeal goes has been debated; maybe it's an appeal to a different board, or maybe it's made easier to appeal. Maybe they form an appeal board. Mr. Dadson "maybe how to quickly solve problems is what needs tweaking." Regulators and developers look at things differently, and a third-party could make suggestions to solve problems. Councilman Sutton said contractors and developers spend "a lot of time on steps," preparing for a project, "and then the building codes stamp won't let it go forward." Mr. Dadson said agreed, and said that's why they have the TRC "to try to attack everything they can up front, so if there are issues, how can they be resolved?"

Mayor Keyserling said they can't get confused with Boundary Street and the Beaufort Code. Bladen is in the Historic District, for example, and "it's complicated." Mr. Dadson said "they're both complicated." Mayor Keyserling said he sees "this project in a grossly underbuilt

environment vs. what the rest of the city is.” He felt like staff worked well with Walgreens and got what the city wanted on the most important issue, which was to move through the property.

Mayor Keyserling said they need flexibility as they get this project moving. Mr. Dadson said McDonald’s is a good example, too; their corporate saw the money commitment and said they would do it that way. Mr. Dadson said council could tell staff how much flexibility they want staff to have. If on Boundary Street they want to give staff more flexibility, but less in others – with more oversight for council – staff “would appreciate that.” Councilman Sutton said they had made Boundary Street a redevelopment zone so that they *could* treat it differently. They’ve worked hard to make this go vertical, so they should go vertical, he feels. Mayor Keyserling said they have to be careful about precedents, though, “so people don’t say you gave it to him, you have to give it to me.”

Ms. Anderson said with form-based code, there’s not a lot of room for debate: “It’s all spelled out.” When there are “shoulds,” that’s when it goes to a Design Review Board. **Bill Harvey** said that the Metropolitan Planning Commission “can’t disregard a ‘shall’.” Councilman Sutton said he knows that they can do a resolution, but he’s trying to figure out how to make that happen. Councilman Sutton asked, if it says “should” in the ordinance, if it goes to a volunteer board? Ms. Anderson said, “That’s a design guideline trigger.” He asked if a city architect could take it over. Ms. Anderson said they could consider that.

Councilman Sutton said “this kind of development doesn’t match up with everything,” and he thinks “each project should stand on its own merits.” He’s concerned about bureaucracy, codes, etc., chasing off development that might not come back. Mr. Dadson said that’s a healthy debate to have. If council wants to see that, they can send the Boundary Street Code to the Metropolitan Planning Commission and “say they want more flexibility, and they can dig into it, and staff will work with them on it.” The boards and commissions are the people who have to help council make decisions on that process: “It’s set up for people beyond this council to be reasonable or to give options for a situation the city or the developer might not be able to see.”

Mayor Keyserling said with code as it is, there is “a default position, which is the city, which is the code.” If you want to do something different, you can, but you have to demonstrate how to do it. Mr. Harvey asked if Councilman Sutton knew the ADA requirements, which Councilman Sutton had brought up again in relation to the Ashley Point apartments; “they are so broad,” Mr. Harvey said, “that they rely on codes to lay it out.” They don’t want Ms. Anderson to be forced into a position of determining whether something is ADA compatible. Councilman Sutton said the architect should put it in their plans. Councilman Sutton said as a contractor, when a building is presented, they have to ask if it’s engineered, and if they have an architect or engineer who has a stamp and will be responsible for the drawing, so the contractor’s not. Mayor Keyserling asked why they would bend the code, and then have “the ADA slaps us in the face.” Councilman Sutton said, “The number (in regard to plans) should be the use, not the ADA requirement.”

**Maxine Lutz** asked if Councilman Sutton was arguing against the restrictiveness of form-based code and wondered “if we will come up against this every time,” since the code is “about predictability.” Councilman Sutton said it would be nice if it would work every time. He said City Hall, Walgreens, and McDonald’s all spent more money to meet the urban planning standards of 2-stories against the street. Mayor Keyserling said there’s no built environment on Boundary Street, so it’s different in regard to the form-based code; there are built environments elsewhere. Those determine placement on the lot, mass, scale, and relationship to the street. Once they do have a built environment on Boundary Street one day, it will be easier for people to understand.

Councilman Sutton said he had never known that the reason “why 5’ didn’t work was because of ADA ... the council won’t bend to this.” Mr. Dadson said the developer has appeal options, which is part of the requirement. Ms. Anderson clarified what she had said earlier about the ADA requirement. Mayor Keyserling asked if they could have a colonnade with a sidewalk that connects them. Ms. Anderson said they had looked at doing that. There was continuing discussion about these requirements between Councilman Sutton and Ms. Anderson. He said, “Using the fixed number triggers design questions.” Councilman McFee said that’s the trade-off for the predictability, which Ms. Anderson said is what makes having a code “easy.”

Ms. Anderson said if there were to be “a real problem with the code,” staff would bring changes to council; council has already made two changes to the Boundary Street Code. Councilman Sutton said architecture shouldn’t go to a citizen board to be resolved. Mayor Keyserling said the developers have an architect, and the city has an architect. The developer’s architect is now trying to put stairs in because he hadn’t read the code, Mayor Keyserling thinks.

Mayor Keyserling said Ms. Lutz had posed a question about the form-based code, and Mayor Keyserling said it would make things more predictable. If there were a building on each side of this lot where the apartments are proposed to be built, this wouldn’t be a problem because the architect would realize there was a code, etc. With this project, the *next* project will know that there is a form they need to follow.

Councilman Sutton said the solution is “to drop the ‘shalls’ and leave the ‘shoulds’.” He said when they “put a fixed depth on something, it creates huge blocks to the ability to build.” Mayor Keyserling said when they start something, they learn something new, including what goes wrong. That’s where the variance process comes into play.

Mayor Keyserling asked at what point the code rules and what is aesthetics, because they don’t want to have cookie cutter buildings. Mayor Keyserling asked, in regard to the apartment development, if the porch is the principle issue with the form-based code or if it is the placement, the relation to other structures. Councilman Sutton said if they use a particular measure of depth, and the code for each development is the same depth, the projects “will all look the same.” There are a lot of variables, Councilman Sutton said, so they shouldn’t lock in a fixed number “to get people to use the street side of the building, slow down, and walk.”

Mayor Keyserling said flexibility shouldn't be a threat to a form-based code. Councilman Sutton said the architects should get to decide the porch size. Mayor Keyserling said, "People build way more porch than they need" because architects draw the porches "to make the porch do what the architect couldn't do for the house." He asked if a porch is "that fundamental to it," in residential or commercial buildings. Councilman Sutton said urban planners lock them into it "because the city had no experience with this." Mayor Keyserling said he doesn't "want to throw out form-based code on a colonnade." Councilman Sutton said when they get a form-based code, he knows that he doesn't want all the houses to look the same. He thinks they need to give design pros the flexibility and the staff, too. "If you lock in the box," as form-based code could, "you leave the design pro out," if everything is already told to the architect that (s)he has to do.

Mr. Dadson said nothing is built under the code on Boundary Street except for City Hall, McDonald's, the other municipal/courts building, and this apartment complex (will be). He said no other buildings (in Town Center, etc.) on Boundary Street were built to the Boundary Street code. Mayor Keyserling said he agrees with Councilman Sutton on Bladen, but if the buildings there "were built as infill, it wouldn't pop out like it does." Mayor Keyserling said Councilman Sutton should look at the Village of Port Royal. They planted oaks in it. They had 4 different plans, each of which had 4-5 elevations, and no 2 could be on the same street. With a canopy of oaks, "you'd think it had been there forever ... There's been no denial of creativity." Councilman Sutton conceded that "most houses are boxes with creativity wrapped around them."

Councilman Sutton said this (apartment) building has already evolved. They met the intent, but the language is not allowing them to proceed, he feels. Mr. Dadson said, "They can design anything." Mayor Keyserling said McDonald's changed because "they wanted that lot." Councilman McFee said he thinks "there should be more latitude given so the creativity isn't beholden to the requirements." Councilman Sutton said he "goes back to the purpose: a colonnade, if it meets the ADA, who cares?" Ms. Anderson said the ADA only comes into play if it's *not* met. Councilman Sutton went to the white board to continue the debate about the apartment complex, its staircase, and the colonnade. He argued that the developers "are meeting the urban planners' intent but are hung up on a number by a few feet." Mr. Dadson said the basic issue is that the Zoning Board of Appeals is the only entity that can rule on this until or if they change that process.

Mayor Keyserling said that they should be careful about setting precedence when they make exceptions. Mayor Keyserling said they need to talk about this more; they aren't giving staff much yet. Maybe they should have the matter before them in another work session. Mr. Dadson said this also should be discussed with the planning boards. Council can present their concerns to the boards and ask them for their thoughts on this. That's what he would recommend.

## **CITY COUNCIL SUMMER SCHEDULE**

Mayor Keyserling said he thinks council should keep the normal schedule because there are so many things to talk about and so much work to do. Councilman Sutton said if he has to be out of town, he'll be out of town. Councilman McFee said they have "thrown in more extra sessions in the last 2 months," and this has "confused the public and overtaxed (council)." He agree that they have too much work to do to take a month off, but he thinks they should keep to the regulation schedule for the rest of the year and avoid special meetings. Councilman Sutton said, "as long as the meetings are productive," and he has no plans to go out of town, he's fine with keeping to the schedule. But if business gets in the way, he won't be here. There was general agreement with this plan.

Mayor Keyserling said the Chamber of Commerce has been putting together an F-35 ribbon cutting on July 11, and they are trying to do an event on that Friday evening with fireworks.

There being no further business to come before City Council, the meeting was adjourned at 7:00 p.m.

ATTEST: \_\_\_\_\_  
IVETTE BURGESS, CITY CLERK