

A special session of the Beaufort City Council was held on May 22, 2014 at 5:00 p.m. in the City Hall, 1911 Boundary Street. In attendance were Mayor Billy Keyserling and council members Donnie Ann Beer, Mike Sutton, and Mike McFee, and City Manager Scott Dadson.

George O'Kelley was absent.

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

Mayor Billy Keyserling called the meeting to order at 6:00 PM.

Councilwoman Beer led the invocation, and the mayor led the Pledge of Allegiance.

Mayor Keyserling said Councilman O'Kelley was unable to attend the meeting.

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 Sutton, to approve the ordinance on first reading. Mr. Dadson said the city attorney, **Bill Harvey**, would discuss 3 ordinances. Mr. Dadson indicated the Redevelopment District on an overhead. One project that council has worked on since 1999 is the Boundary Street Gateway project. He showed the TIF2 district. The Boundary Street Master Plan was adopted in 2006 and named a Redevelopment District. The Master Plan addresses connectivity, road congestion, growth and redevelopment, and increases livability and walkability. In 2007 – 2008, as part of the penny sales tax, a project that was voted on by the voters was this road project. Beaufort County allocated \$9 million+ through the referendum and then impact fees toward the project, but the fees were significantly less than expected. The total from the county was \$11,646,000. The county expended \$3,826,000 for design and engineering; the city applied on October 31, 2011 for the TIGER grant and received it in December of that year, which replaced the gap in funding caused by the lost impact fees.

Mr. Dadson showed the budget, including the amount the city had spent for its share and the funding from the TIGER grant, local sales tax, and TIF2. Approximately \$26.9 million is the amount going forward, after design. The county, the City of Beaufort, the federal government, and the DOT are partners. Getting the overheads into the duct bank is another piece that must be solved in order to move forward.

Mayor Keyserling asked about the cost of the duct bank; Mr. Dadson said the City of Beaufort is paying for it as part of the project. Councilman Sutton asked who was authorized to be in the duct bank. Mr. Dadson said there would be several utilities in the duct bank: power, utilities, cable, etc. The bank is designed for future uses and has

space for them. Councilman Sutton asked if there were any franchise agreements with others for the use of the duct bank. Mr. Dadson deferred to Mr. Harvey on that.

Mr. Harvey said there are other franchises in this; the cable companies have agreements with SCE&G and part of the agreement is to use the poles, and other legal rights will jointly force the cable companies off the poles. Mayor Keyserling PaPageasked if they will pay the city for rental on the duct bank, since those companies have this relationship with SCE&G for pole rental. The city has to reach agreement with SCE&G still, Mr. Harvey said, and they anticipate that the other utilities will be in the duct bank, but they haven't gotten to that issue yet.

Mr. Harvey said when the Boundary Street Master Plan was created, this as seen as the opportunity for an economical relocation of all of Boundary Street's utilities into a duct bank. SCE&G took the position that they had prior rights in the right-of-way. The City of Beaufort challenged that, but there was no documentation, so they then took a position that they *still* had a right to it.

Councilman Sutton asked if this was Item B on the agenda. Mayor Keyserling said Mr. Harvey was giving them a history. Councilman Sutton said what Mr. Harvey was discussing was a different resolution. Mayor Keyserling said he needed to have an overview. Mr. Harvey said the history is pertinent to all 3 ordinances.

Mr. Harvey said the City of Beaufort filed a lawsuit asking the court to detail the rights and obligations in regard to SCE&G's being in the right-of-way. It has been negotiated since then as to who is to pay and how the money will be derived for the relocation of the power lines. It's a 20-year franchise agreement that goes until 2019. Paragraph 14F says that when there are more than 25 customers (which there are), if there is a non-standard project (such as relocation underground), SCE&G has the right to create a special Franchise Fee District, which Mr. Harvey said is where they are today: SCE&G will pay up to \$2.8 million to relocate the power lines into the city's duct bank, and that will happen through the creation of a special Franchise District comprised of the properties that most directly benefit from the relocation of these power lines. This is a solution to the litigation and one that provides a way to do what needs to be done, which is to put the power lines underground. The City of Beaufort can create this district, or allow SCE&G to recoup the money by a citywide increase, or the power lines can remain untouched and SCE&G will be forced to leave them above ground, but also forced out of the right-of-way.

Mr. Harvey said this is the best opportunity to get SCE&G to do this and utilize the franchise fee for reimbursement. The franchise fee will expire in 4-5 years, so SCE&G and the city need that extra time; they propose 30 years, and the staff of the City of Beaufort has agreed. Mr. Harvey detailed the other ordinances up for first reading.

Mayor Keyserling said he had some general questions and proposed that the motion be taken off the table. Councilwoman Beer said she would remove her motion.

Instead, **Councilman Sutton made a motion, second by Councilwoman Beer to put the second motion on the table (#2) for discussion** as well. Mayor Keyserling said this franchise fee is one option, and there's another. Mayor Keyserling said they were told that the city would have the option of adding 7% to the bills of the ratepayers in the district paying for this, or it could be citywide. **Danny Kassic**, SCE&G customer relations, said there's a program, which is a non-standard service, where SCE&G is obligated to match the city's investment to fund the duct bank. The second option is the creation of a special franchise district that allows for up to 7% of gross electric revenues. He doesn't know Beaufort's gross revenues, he said, but staff has the numbers they have estimated, so staff should have that answer.

Mayor Keyserling asked how many ratepayers there are in the City of Beaufort. 15,000, Mr. Kassic said. If it's spread out, Mayor Keyserling said, what's the different in electric bills for 160 people vs. for 15,000 people. Mr. Kassic said currently SCE&G writes the City of Beaufort a check for 5% of gross electric revenues as their franchise fee deal. **Kathy Todd** said she was working out the number Mayor Keyserling requested.

Mr. Kassic said what's being considered is 7% of the gross electric revenue for customers defined as being in the district. Mayor Keyserling asked, if within that district, there are 30 more businesses added in 2 years, and therefore SCE&G's income increases, does that work the 7% down for the remaining/original 160 customers? Mr. Harvey said the reimbursement obligation is up to 19 years, or until the amount expended by SCE&G for the duct bank relocation is paid off, which is estimated to be \$3.8 million. That's the power company's portion. Mr. Kassic echoed that that's the power company estimate.

Mr. Kassic said the estimated numbers are reflected in the document; SCE&G's cost of capital with a credit for the power company's removal and relocation of lines as provided in the agreement: \$3.8 million. Councilman Sutton said they are using 7% on top of the 5% existing franchise fee, so the gross of the area in question 12%. Mr. Kassic said that's correct. Mayor Keyserling asked if SCE&G had projected growth. Mr. Kassic said he has done undergrounding in many places. Typically, there's a decline when the project starts because of construction, but after, he has seen varying results, so he doesn't want to make a guess as to growth or decline. Mr. Dadson said they had calculated 1% growth.

Councilman McFee said the cost in total may be up to \$3.8 million. Mr. Kassic said that's not an estimate – it's a real number – and is exclusive of the duct bank because the city is building it. Councilman McFee said that includes the power company's carrying costs, and Mr. Kassic said that's correct. Councilman Sutton asked Mr. Dadson if they have a citywide number. Mr. Dadson asked Mr. Kassic if their numbers were proprietary. Mr.

Kassic said they're not. \$20.2 million (approximately) were the gross revenues, Mr. Dadson said, for the city. Mr. Dadson said they would calculate that on the gross. Mr. Dadson explained how to calculate that by using the staff's estimates; it would be a 4.5 years or less pay-off period, they estimate. Mayor Keyserling said with a longer period, the amount charged would go down. Mr. Dadson said yes. Mr. Dadson said the costs need to be broken down; there's a minimum payment amount, but the term can be changed. Mr. Dadson said it's whatever ratepayers are within the special service district; right now its 160 property owners.

Councilman Sutton asked what the rate increase looks like on a standard utility bill. It's \$180 on a \$1200 bill, Councilman McFee said. Mayor Keyserling said the newspaper didn't print public notice on this matter, and it's a special meeting for people who may feel the impact of this. Council doesn't want to appear to be "conspiring" to raise consumer/citizen's rates. He begged the newspaper to make this public knowledge and suggested maybe the city and SCE&G could advertise this matter so that people would know about it.

Mayor Keyserling said second reading would be June 10, which is the deadline for funding. Someone corrected him that June 10 was a day after that deadline Mayor Keyserling asked Mr. Dadson how to schedule it. Mr. Dadson said they could do second reading June 3, if they wanted to. Mayor Keyserling said, "So then this whole deal would be done in on Special Meetings." Mayor Keyserling said he suggested voting first reading and then finding ways to ensure that the public knows about this.

Councilman Sutton called the question on the first ordinance. Mayor Keyserling asked if it *had* to be for 30 years, or if it could be the end of this 4-5 year period and then considered again. He feels that the city is "subsidizing the power company...and it's a windfall for SCE&G." The city is paying half of it, and there are 12-14 proposed buildings, so that many ratepayers are paying that much more, and the current ratepayers are then paying for this.

Mayor Keyserling asked if there was a reason to do the 30 years. Mr. Harvey said 30 years is what SCE&G said they require, and Mayor Keyserling asked why they require that. Mr. Kassic said as the district grows, all those customers will have the franchise fee advanced, and they will be charged 5% unless the city wants to change it to 7%. On a \$1000 bill per month, that generates \$120 for the City of Beaufort. Ms. Todd knows the cost of capital, he said. They are hoping for growth, but there's no guarantee. The proposed settlement is still being worked through. The 30-year agreement provides protection in regard to the costs and how they are paid. There's also a significant credit (to the city) that goes with the project, he said, and SCE&G "didn't want to fight with our partners," so there's an offset in the distribution costs, KS said. "Instead of arguing about being in the right-of-way," SCE&G decided that there's a credit that will be given to the city. They "are looking for a long-term agreement, which is the rationale behind the 30 years."

Councilman Sutton called the question on Agenda item A. **The motion passed unanimously on first reading.**

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

Councilwoman Beer made a motion, second by Councilman McFee, to approve the ordinance on first reading. Mr. Harvey said, “There is wordsmithing to be done that will cause some minor edits between now and second reading.” Councilman Sutton said they had already made this motion.

Adina Foster has a property in the franchise area within 2 blocks of where the underground work would be done and 4 others within a few blocks of the franchise area, and she believes she will receive no benefit from the franchise fee. She asked why she should have to pay for it. This is for the whole city’s benefit, so she would rather the city as a whole paid for it, not just those in the special district. Mayor Keyserling said the advantage of the undergrounding to the people in the district is that it will “vastly improve property values.” Ms. Foster said she can’t even see power lines from the properties she owns. Mayor Keyserling said in Pope Village, they can be seen. Ms. Foster reiterated that she feels the whole city’s residents should pay for it.

Courtney Worrell, 303 Associates, said years have gone in to the Boundary Street Redevelopment District, and she feels that additional burdens for owners and tenants should not be perceived as a disincentive to relocate into the district because of higher utility costs. Ms. Worrell asked council to consider that at Beaufort Town Center, they have already paid to underground lines on some of 303’s parcels, so she asked if they “would be paying twice” because they are in this district. Mayor Keyserling said he assumed so, and Mr. Harvey said yes.

Ms. Worrell asked if the parcels on Greenlawn would be undergrounded, and Mr. Dadson said not in this round of undergrounding. Ms. Worrell said those users on Greenlawn receive no direct benefit from this, because they will still have power lines right in front of their buildings, but will still have to pay the additional 7%. Mayor Keyserling asked if it is “only those facing Boundary Street that get hooked into this project.” Mr. Kassic said, “However the district is defined, the requesting party defines it.” So the City of Beaufort would define the district, as they choose, not SCE&G. The power company will identify the parcels and the meters on them.

David Temple said anything involved with the power lines on Boundary Street can be taken to the areas a block or so off Boundary Street. So people not involved with the power lines on Boundary Street, if they are in the tax district, will be paying the fee. Mayor Keyserling asked him, “If you’re fronting Boundary Street, you will be connected, and if you’re not, you don’t?” Mr. Kassic said the power company’s position is not to

decide who's in and who's out of the district: "Who pays is a function of what the City of Beaufort wants to accomplish." In his experience, some entities claim no benefit, and others, not in the district, have claimed a benefit. "Staff will tell us who's in," he said. The customer must connect to the system and has to pay to do that.

Mr. Dadson said they had built in the contingency that those who feed off that line are part of the project. Councilman McFee said, "If your pole is being moved, that you get power from, you are part of the project, and if not, you stay on the pole." Councilman Sutton asked if just distribution lines were going underground. Mr. Kassic said yes, just distribution, not transmission lines. **The motion passed unanimously.**

ORDINANCE ESTABLISHING A BOUNDARY STREET 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 first reading. Councilman Sutton said by second reading, they need to know what the citywide expense amount would be, by percentage *and* by term, so it's clearer what they are dealing with. They know the lines are going underground, he said. The power company will get off the poles, and the poles will disappear, but how they get there and how it's paid for is what they are debating. Mayor Keyserling said they would vote on this last agenda item, and then "make a list for staff." **The motion passed unanimously.**

Mr. Dadson said he hears that council want to know the full value of the customer base and what percentage over time would make that work. He offered to do it in 1% increments. Mayor Keyserling said that would work, and they also need to discuss the timing for second reading. Councilman McFee asked if the letter that went out stated that there would be a second reading. Mr. Dadson said it did not. Mayor Keyserling said only 2 people came to the special meeting out of 160 some-odd people who got the letters, but the letter didn't have a time frame in it.

Councilman Sutton said June 10, 2014 is the next regularly scheduled council meeting. Councilwoman Beer said it had to be done by June 9 to satisfy the Federal Highway Commission. Mayor Keyserling said they would do second reading on June 3, 2014, at the time of the regular council meeting at 7:00 p.m. Councilman Sutton asked if they could cancel the following meeting, June 10. Mr. Dadson said at that regular meeting, they would need to vote budget. Councilman Sutton asked if they could move that vote. Mr. Dadson said they would stay with the plan.

MAYOR'S REPORT

Mayor Keyserling said he recommended going to the Gullah Festival to see 350 single-leg amputees from Sierra Leone who founded the SLA Soccer Association. They travel

throughout the world to promote peace and they are “incredible.” He said it was “a very powerful experience.”

REPORTS BY COUNCIL MEMBERS

Councilwoman Beer said she would be at the Memorial Day parade and said “it’s disappointing when others aren’t.”

There being no further business to come before council, **Councilwoman Beer made a motion to adjourn, seconded by Councilman McFee. The motion passed unanimously** and the meeting was adjourned at 7:10 p.m.