

A work session of the Beaufort City Council was held on August 11, 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 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.

BOARDS AND COMMISSIONS

ZONING BOARD OF APPEALS (ZBOA) – **Brad Hill** said Zoning Board of Appeals is pretty cut and dried. There’s little grey area in the applications. The board as a whole is very pro-development and pro-infill, so “when a couple of feet are needed here or there” in order to develop a property, they are very accepting. They get short-term rental applications monthly. He only votes against the special exception when neighbors come in to object because he might have a problem if there were one in his neighborhood. He said he’s typically outvoted. Mr. Hill said Beaufort neighborhoods might get to a degree of saturation with short-term rentals. He feels the board should discuss “How many is too many in any given neighborhood?” They would like some guidance with that.

Councilman O’Kelley said that could be something they could ask **Libby Anderson** for – a count on short-term rentals. Issues might arise including parking, garbage, etc. Councilman Murray said the short-term rental ordinance addresses parking. Ms. Anderson said the majority of Beaufort’s short-term rentals are in Pigeon Point, but she tracks them all and includes that information in the ZBOA’s packets each time. She said they have discussed a spacing requirement. Mayor Keyserling asked if any short-term rental applicants have been turned down, and Ms. Anderson said one on Oaklawn Drive was, and then the applicants asked for a re-hearing and were approved. Councilman Cromer asked about short-term rentals in The Point, and Ms. Anderson said that short-term rentals are prohibited there by ordinance. There’s been a serious inquiry, probably coming up, about opening a B&B in The Point, which would be essentially the same as a short-term rental, with the owner living there and serving breakfast. Councilman O’Kelley said there have been two B&Bs that he knows of in The Point.

Mayor Keyserling asked Mr. Hill if his “subjectivity is uniform” on the board, and Mr. Hill said it’s not. He feels that if people bought a house when their neighbor wasn’t a short-term rental, they have the right to not want people coming and going when it is one. Mayor Keyserling said he could recall no complaints since the city has been allowing short-term rentals. Mr. Hill agreed and said it has been shown that a short-term rental is kept up better than a long-term rental, but he still feels that if a neighbor doesn’t want it, they should have a right to oppose it. Two Zoning Board of Appeals members live next door to short-term rentals, Mr. Hill added, and they have no complaints about it.

Ms. Anderson said they get a wide variety of applications, but the major concern is about short-term rentals and “how many is too many.” Mayor Keyserling asked if the new code would change things for the ZBOA. Ms. Anderson said there might be fewer cases, but there has to be a “relief mechanism.” The principles, though, will be the same. There may be “quite a few cases” to come before the ZBOA initially, as the code is fine tuned, and people may go for a variance rather than an ordinance change.

Charles Aimar asked if there wasn’t a short-term rental in The Point, and Councilman McFee said there is one, but it is in commercial zoning. It can also be considered to be in the Old Commons.

HISTORIC DISTRICT REVIEW BOARD (HDRB) — Mayor Keyserling said there is “unfinished business” to discuss in regard to the Civic Master Plan, “part of which is getting the code completed,” as well as the matter of Historic Beaufort Foundation and others who wanted “guidelines for infill” put into the plan, council didn’t want it there; “we didn’t think that was the place” for it, the mayor said, but no resources that are used today cover infill.

Ms. Anderson said that there was discussion of dealing with this in a “separate process beyond (the form-based code),” so as not to slow down the process of creating the code. “That could take a little bit of time on its own,” she said. The resource materials, Mayor Keyserling said, might be melded together, and whether they are complete or missing “necessary” components, “would be a good conversation to have” among the Historic District Review Board members “when business is slow.” Councilman Murray said the Supplement was produced 25 years ago, and it might be time to look at that. Councilman McFee said the Oregon plan was meant to modernize that a little, but not all of it is applicable “to a town this size.” Ms. Anderson said, “The issue is infill. If you’re . . . renovating a historic house, I don’t think the concept of that has changed much since the secretary of the interior’s standards came out a number of years ago.”

Joel Newman, the HDRB chairman, said he looks at each application the same way, “with a book or not,” by considering, “Does it look appropriate in this context?” He evaluates all of the projects that way, not “based on something written 25 years ago.” Mayor Keyserling said, “But you’re an architect,” so he feels Mr. Newman is “qualified to think like that.” However, new people coming on to the board might need more background. Mr. Newman said he thinks the board is “really good right now.” He reviewed the different people on the board and their backgrounds. He doesn’t know “what their relationship to the books and things is,” but it’s been going well. He added that Ms. Kelly is a “really effective facilitator.” They try, Mr. Newman said, to give applicants solutions, and to make them not have to come back “whenever that’s possible.” If a project is “fundamentally good and just needs a few tweaks,” they will approve it, he said, with staff then giving approval to “what needs tweaking.”

Councilman McFee clarified that the HDRB approves applications conditionally most of the time, if they have a few questions about the application, and lets staff approve those other elements. Mr. Newman said, yes, that’s what they are trying to do, if the application meets “a certain standard.” On occasions when Ms. Kelly is on the fence about something, Mr. Newman

said, she “will send it out and ask the board”; she has good judgment and is efficient, he said, and has a good background. Mr. Newman said he finds it “abhorrent” when people find “a process is so difficult,” so he doesn’t want the Historic District Review Board “to block anything that’s good.”

Councilman Cromer asked if all of the appointments were current on this board. Councilman McFee said he thinks they are “up for one or two reappointments,” and he would check, but he thinks it’s up-to-date.

METROPOLITAN PLANNING COMMISSION (MPC) – Joe DeVito, the Metropolitan Planning Commission chairman, said the Town of Port Royal appointed him as their representative, and the commission has asked him to serve as its chair. He’s been involved with the commission for 14 years now. His time was “reset” when it changed to the Metropolitan Planning Commission. The make-up of the commission is from each of the municipalities north of the Broad and the county, “and that’s unusual,” Mr. DeVito said. With the county representatives, “it’s becoming like it was” when the planning commission just had representatives from the City of Beaufort and the Town of Port Royal: that is, he feels applicants can’t tell which area the various members represent.

Mr. DeVito said the format of the various planning directors could be more uniform, e.g., all of them could include a staff recommendation in their reports, which is helpful for the commissioners. They are looking forward to the next form-based code, from the City of Beaufort, since they now have the county’s code and the Town of Port Royal’s. Mr. DeVito explained that the Metropolitan Planning Commission workshopped those codes as they were being worked on, so that they “didn’t have to dig into it cold when it was done.”

Beaufort County’s representatives don’t live within the growth boundary, Mr. DeVito said, and he’d like to see that change one day. Mayor Keyserling feels “the county guys aren’t always in pace with the city and the town,” and it might be that the county representatives “are trying to protect the county from us.” Forming this joint commission was “historic,” in that they were able to do this north of the Broad but not south of the Broad. Mayor Keyserling said he has seen that a Beaufort County commissioner “might be more aggressively opposed to something” and “might not be in sync with the more urban nature of what they are trying to do.” They bring a county perspective and culture to the planning commission, and Mayor Keyserling said he was curious about Mr. DeVito’s thoughts on that.

Mayor Keyserling asked if Beaufort County staff brings projects that they are working on within the growth boundaries to the Metropolitan Planning Commission. Mr. DeVito replied, “They are supposed to.” They are honoring the agreement, which is that they will bring in projects that are within the growth boundary and are contiguous to either the town or the city. They are bringing those projects to the commission, and “that’s working very well.” Mr. DeVito said he agrees with the mayor that the county representatives are “more outspoken” and “maybe a little harder to bring our way,” and that has “a little to do with the urbanization,” because the county commissioners “don’t have that long-term history of dealing with the urban

environment” that others have. Mr. DeVito said he hopes that will change over time.

The City of Beaufort can zone whatever it wants to without asking the county, Mr. DeVito said. He tries as the chair “to direct it into the code,” i.e., he reminds the commissioners that they “have to make determinations *based on the property, not on the business (that is) on it.*” Some county representatives “have been easier to deal with,” he said, but now neither of the county commissioners currently on the MPC lives within the growth boundary, and “we are struggling with that.” Someone on the county planning commission who lives within the growth boundary was offered a seat on the commission, but that person “chose not to do that.” Mayor Keyserling said the county is trying to do this “from a staff point of view.” Mr. DeVito said staff “has absolutely helped.”

Mayor Keyserling asked Mr. DeVito, in his role working with the Spanish Moss Trail, about the proposed bike and coffee shops in the Depot area. They’re meant to complement the trail, Mayor Keyserling said, and such activity was part of the Civic Master Plan, but “there was a lot of resistance within the neighborhood.” He believes some people in that neighborhood like the Limited Industrial zoning because there are no limited industrial businesses moving in at this time. Mayor Keyserling said the question isn’t whether adding these trail-related businesses is a good idea, but about how the amount of traffic on the trail will increase when they have them.

Mr. DeVito said if they take the trail to Clarendon, when it’s completed, it will be 11.5 miles. Mayor Keyserling said every time he has looked at the trail across Allison Road, he has always seen some activity on it. Mr. DeVito said he thinks the traffic on the trail will keep increasing. Getting the trail to Clarendon, to him, is “a big catalyst to make (Beaufort) more of a destination town.” The trail is “a big hit on Trip Advisor,” Mr. DeVito said, and he expects “we will see the day trippers taking a 10-mile bike ride into Beaufort to have lunch.” He also sees some people on the trail who are using it to walk or bike to their businesses.

The rezoning matter Mayor Keyserling had referred to will come back to the Metropolitan Planning Commission on the August 15, Mr. DeVito said. The Friends of the Spanish Moss Trail have submitted a letter about it to the MPC, though he’s recused himself from that because of his involvement with the Spanish Moss Trail. He thinks the rezoning is a good idea. They “have to show that the trail is an economic driver,” Mr. DeVito feels. He gave the example of Traveller’s Rest, which “was a dying town,” but the trail it built has led to the town “thriving now,” and it has 100,000 people on it every year going from Greenville to Traveller’s Rest on it for lunch or dinner and then coming back. “We’re going to see the same thing,” he said, “as we keep working our way up.”

Mayor Keyserling said the PATH Foundation has “committed another \$2 million against a \$750,000 challenge to the people of Beaufort. Mr. DeVito said the matching grant is for a section of trail from Roseida Road (“where the Parker’s will be”) to Poppy Hill Road, and PATH is fully funding it from there into Clarendon. There’s “also a small piece of the matching grant to the Town of Port Royal” for the trail to go across Ribaut Road, once the Port Authority either signs off on it, or the property sells, “whichever comes first,” Mr. DeVito said.

DISCUSSION: REVISIONS TO LANDSCAPING AND TREE CONSERVATION ORDINANCE

Ms. Anderson showed the proposed changes to the ordinance, which she said is “not as complicated as it looks.”

1. Changes the definition of “grand trees” to what is in the Beaufort County code, where they’re called “specimen trees.”
2. Requires mitigation for the removal of *healthy* grand trees – Currently this isn’t required. If you can mitigate on site, that’s preferred, Ms. Anderson said, but if that’s not possible, a reforestation fee of \$70 per caliper inch can be paid. **Liza Hill** explained that caliper inches are determined by measuring the diameter of the tree up 6” from the ground. Ms. Hill said a 2.5 caliper inch tree is typically 10-12’ tall. Ms. Anderson said the ordinance requires a minimum size of 2.5 caliper inches for mitigation on-site. Ms. Hill explained how PTAC determined the fee. Councilman Murray asked if the 2.5 caliper inch measurement is DBH (diameter at breast height, or 4.5’ from the ground); Ms. Hill said DBH is used for existing trees, not new plantings.
3. Removes the “tree coverage requirement” – This is confusing, difficult, and hasn’t been enforced well, Ms. Anderson said. They feel they can do a better job by using what they’ve been using.
4. Requires a certified arborist’s report whenever grand trees are involved – The proper steps need to be taken before and during construction to keep trees healthy, Ms. Anderson said. The certified arborist’s report will also determine which trees are healthy, which are “the only grand trees we’re worrying about.” The cost of the report will pay for itself many times over. Councilman Murray asked the cost of the Family Dollar report, and Ms. Hill said it was roughly \$300. Ms. Anderson said they would look at that report as an example, and council will see that it was well worth the money.
5. Gives the administrator authority to require mitigation – Ms. Anderson said this applies to developed sites when a *healthy* grand tree is removed, or when the tree being removed is the only tree on the site.
6. Changes the length of the landscape maintenance guarantee from 1 year to 2 years, and requires mitigation when a grand tree on a development site dies within 2 years of project completion. Ms. Anderson said it might take that long for a grand tree to show signs of decline. If a grand tree that was to be saved is declining, the city may ask for mitigation, and the maintenance guarantee gives it leverage. If the tree’s healthy, the developer gets that money back, Ms. Anderson explained. They don’t usually require another maintenance guarantee for any landscaping that the developer is required to put in at the end of that period.

Councilman Murray asked if they had had cases of people letting their landscaping die. Ms. Hill said that has not been a problem. No landscape contractor wants to guarantee the landscaping to the developer without the developer doing irrigation and other steps to maintain it. Ms. Hill said very rarely is the landscaping declining, and what *is* declining, they take care of. Ms. Hill said the developers appreciate someone looking at the landscaping and giving them a list of what needs to be done to keep their property up. Mayor Keyserling asked if that means, then, that they don’t need the 20% guarantee, and Ms. Hill said she “wouldn’t go that far.” A 24” Live

Oak has great value, and if a developer were to let it decline, “walking away from their 20% might be a possibility.” Mayor Keyserling asked what a typical landscaping budget is. Ms. Hill said Family Dollar’s landscaping and irrigation was \$25,000-30,000, and the city holds 20% of that for 2 years.

Councilman McFee said that if they took out a Live Oak, they have to mitigate with the caliper inches of the tree they’re replacing, which would mean more than one tree. Ms. Hill said for Publix, for example, the current ordinance says that the administrator can request at least one-third of the caliper inches of the trees taken out. Publix “only had so much room to plant trees,” and they planted 4- and 6-caliper inch trees. They were able to mitigate on-site with “lovely, almost 20’ tall trees.” Ms. Anderson said putting in the larger trees made a big difference initially and made “a nice impact.” Ms. Hill said 2.5 caliper inches is the minimum, or they can plant what they like, and then pay the balance into the tree fund.

Merritt Patterson said Dr. Mohler “declined to participate in that program and moved to Port Royal to avoid it.” His site had grand trees of 24” and 18”. The site was “unbuildable unless trees were removed.” To replace the trees, there would have needed to be 15 2.5” trees spaced “30-50 feet off of the center” on a half-acre lot, which Mr. Patterson said “would be impossible.” Councilman McFee said the developer could have paid the reforestation fee, then. Mr. Patterson replied that he “recall(ed) that the tree mitigation fee was something on the order of \$15-18,000, so he declined all that, declined to close on his property and . . . built in the middle of a field in Midtown.”

Mr. Patterson said mitigation is difficult on small sites, while it’s easy with large sites like Publix. He gave another example: the parking lot by Bruster’s, which Navy Fed wanted to put an ATM on. The 20 x 20’ space was “completely filled with landscaping, and (there was) no place physically to plant any more things. They put an oak tree and (2 palmettos). At the end of the day, (the builder) couldn’t meet his minimum coverage requirement” for landscaping, and “the mitigation fee at that time . . . in Beaufort County was \$2000.” This person, Mr. Patterson said, had spent his budget on landscaping and irrigation but paid the fee, saying, “It may be blackmail, but that’ll get us open.”

Most of the grand trees weren’t deemed healthy at the Family Dollar, but that’s atypical, Mr. Patterson believes. All the trees on the fire station site were healthy, he said. Mr. Patterson believes staff is not giving accurate numbers; “the impact of the mitigation fees could be much higher” than staff is representing. Referring to the Family Dollar site, he said, “If every tree is healthy . . . the impact fee is \$17,000, not \$2000,” were it not the case that credit is given for declining trees. “There are impacts when you get into the math and do the real science on these things,” he said.

If the city wants affordable housing, Mr. Patterson said, it will “have to be like the tract housing in various developments in the county,” like Shadow Moss and similar subdivisions, which are the only ones bringing in new housing at a lower price point: “not a starter home, but the next one up.” Such subdivisions “will run into serious problems” with their trees if the city changes

the ordinance, Mr. Patterson feels. He gave as an example a 54-acre site in Shell Point with which he is working. All of the trees over 8" have been surveyed. Five acres of detention ponds are required, "then you have to put in the roads." The lots are 50' – "still very small, to me" but bigger than in Shadow Moss and other subdivisions – and filled in with dirt "to get positive grading from the lot to the road." He said, "It de facto forces them, like they did at Shadow Moss, to do all these terrible things where they take down all the trees, put in what they call the 'super slab,' grade the swale between it, get all the water the way it needs to be in the road, and replant the trees along the front." If this isn't done, Mr. Patterson speculated, "it would cost \$500,000 in mitigation," so it would be "impossible to do a subdivision like any of these affordable housing guys do."

The tree survey for this development cost \$17,000; the topo survey was \$22,000. Mr. Patterson said the development agreement they have means that "we have a right to harvest all the trees, but Port Royal said, 'No, we want to know where the trees are before you harvest them.'" On these 54 acres, he said, the developers are "saving the big trees" and putting in 10 acres of parks and 5 acres of ponds. They have no arborist's report, he said.

Mr. Patterson provided another example, this one of an individual who lives on Cat Island on the marsh, for whom, he said, "the tree ordinance came into effect." He "built a sea wall, did some fill," and "removed certain trees." His "mitigation expense, negotiated with the county, was \$23,000," Mr. Patterson said. This homeowner "had no budget for that," and "the bank wouldn't loan him an extra \$23,000." He concluded that this is a \$350,000 marshfront home, but "these numbers would scare you and me."

Mr. Patterson said his point was to give "a word of caution" that "this thing (the tree ordinance) may have repercussions." He went on to describe developments he had done, and said he's "all for the trees, all for the specimen trees," but he feels that "the argument is . . . that this thing may come back and scare us."

Mr. Patterson continued that the application of the tree ordinance "makes no sense . . . in an industrial park context." He feels that "These unknown circumstances are not helping" to bring business to Beaufort, and he said repeatedly that he doesn't "see any problem here," in regard to trees in Beaufort, so he doesn't "know what problem is being solved" by these proposed ordinance changes.

Ms. Hill replied that a priority for PTAC is to identify hazard trees within the City of Beaufort and to have them removed. Over the last 10 years, tree and topo survey are required of developments; from them, an engineer or architect develops a site plan, but if there's no certified arborist's report, no one is looking at the health of the trees on the site – though they should be – and then taking out the unhealthy trees and planting back healthy trees for those that were taken out, or providing funds for them.

Secondly, Ms. Hill said, "If a beautiful healthy tree is in the middle of a (building's) footprint," and there is no other option but to take it out, the developer can do that. In those cases, they

are asking for money to plant trees in the city's rights-of-way, or to be grown on its tree farm. Some tree fund money would be designated to remove hazard trees and to help individuals who can't afford to remove hazard trees to do so, Ms. Hill said: "This is the point of (creating) a tree fund" through mitigation fees.

Leah Palumbo agreed with Mr. Patterson that Beaufort is beautiful, "but thinking long-term," unless new trees are planted on sites that are developed, and declining trees are removed, "that could really change" unless the city's natural beauty is protected and maintained over the next 10–20 years.

Ms. Anderson said industrial park properties in the City of Beaufort are exempt from the tree ordinance except at their perimeter or in buffers. In the interior, they hope that people replace trees they take out and will landscape, but it's not required. The tree ordinance is applicable in Limited Industrial zoning, but not in Industrial Park (IP) zoning. Mr. Patterson said, "That's the problem," because they "have to have coverage requirements in areas that need landscaping" but "not specimen tree stuff." In his industrial property, he planted "because I wanted to," not because it was required.

The city is losing trees, Mr. Patterson believes, "because there are too many trees." In Waterfront Park, "too many trees were planted . . . purposely." He feels that "the new urbanism concept . . . is a formula for tree death . . . Some of these policies are counterproductive to what we are trying to achieve here."

David Tedder said he was "very involved with the first iteration of what the county tried to do about 4 years ago" when it hired "some arborist out of Savannah to come tell them how to fix the ordinance." He has 105 trees on his 2-acre property, and he said, "If I want to cut down a tree, I'm going to cut down a tree for firewood." Mr. Tedder says he has "told the county I have enough trees," because his subdivision's rule was 15 over-story trees per acre post-development. "They were looking for a coverage ratio," which is "the healthy amount" of trees, though they also "tried to save (grand) trees." He thinks this should be the city's policy as well, in lieu of the proposed tree ordinance changes.

Mr. Tedder also gave examples of "infill residential lots" in the county where the developers were asked to pay \$20,000–\$30,000 in mitigation costs to clear the lots. On Lady's Island, he believes, "most of the trees out there are only 50 years old," because Royal Pines was clear-cut farmland before then. Cutting the trees "is a cycle." If someone pays \$25,000 for a lot, he feels, and "then has to pay the same amount of money to get permission from the county to build their house on their lot, it's broken."

Mr. Tedder told council and staff that he had "four different categories of things you need to think about." He pointed out that there's a difference between developed and undeveloped property and "residential vs. commercial," saying, for example, that "a developed site is different than a green field site." He said, "We're getting ready to cut the Spanish Moss Trail through Clarendon, which is in the city. You're going to make me do a tree survey to cut a path

through the woods that we can provide to the public, and we're going to have to pay mitigation for that kind of stuff? . . . Some trees will come down because we're not going to wander this thing (the path) back and forth . . . it's going to be generally straight. . . . I don't see any exception for that kind of thing." Mr. Tedder continued, because Clarendon has so many acres of trees, "Who cares if they cut down 1,000 trees to build this site (the trail)?"

Mr. Tedder said he knows of another site – 11 acres in Port Royal – where a developer spent \$15,000 on a tree survey. Closing is held up because "they figured . . . to build this thing, they're going to have to mitigate 21,231 diameter inches. The cost for that's over \$2 million." Mr. Tedder believes "we're going to restrict that property . . . to the point it can't be developed."

A reforestation fee and requiring mitigation will stop economic development, he predicted. While he thought the Family Dollar example "was probably a good one," he said staff should do the same exercise with Publix, and they "need to look at what (it) would have been under this new ordinance because we were razor thin – (almost) Publix pulled the plug, it got to be so expensive out there for different things. You don't want to kill some of that development that is coming there. And everybody on a residential lot ought to have a building envelope and not have to pay for the building envelope for a normal-size house." He feels it's fine to move a house to save a tree if that's possible, but if it's not, Mr. Tedder said, "don't make them pay because their lot happened to be impacted by God giving them a tree there when it makes the lot unusable." He said he could offer "literally dozens of examples of costs to the economic drivers of this county because of unintended consequences of an ordinance."

Ms. Anderson emphasized that the mitigation requirement only applies to commercial lots. On single-family lots, the trees are looked at individually, so there wouldn't be a \$2 million fee charged for the developer in the example Mr. Tedder had given. Everything that's been described in the ordinance applies to commercial development, not to single-family residential. Ms. Anderson said a subdivision is looked at for the infrastructure, unless they want to clear-cut it. City Walk, for example, "had a lot of trees" and is having the infrastructure put in; they "had to take out some trees that were going in the road right-of-way, but they are planting back trees on the street right-of-way." They will look at each lot as they come in on a case-by-case basis; they already know that some big trees will come down when the lots are developed, Ms. Anderson said, but the developers don't have to mitigate.

Mr. Prokop asked Ms. Anderson why there's a difference in requirements for Industrial Park and Limited Industrial zoning. Ms. Anderson said that was done when the Industrial Park district was established. Mayor Keyserling explained that Ms. Anderson was asked to write a code for the park that would allow businesses that wanted to be there, who came to the city with their plans, to get through the process in 6 months. "So they wrote a code for the park," Mayor Keyserling said; whether that code should be extended to Limited Industrial areas of a certain size "I think is a very valid point."

Ms. Anderson said, "We could certainly look at that," adding that staff had "struggled a little" with this issue in the Limited Industrial zoning in the Depot Road area, which is "right in the

middle of a residential neighborhood.” If it is exempted, she asked, do they want to allow “development . . . to take down . . . a gigantic Live Oak tree in that area? Is that OK to say, ‘You can do whatever you want there’? . . . The residents of that area are very concerned about things. They’d like to keep them the way they are.”

According to Mr. Patterson, for the Industrial Park, “they made a special spot zoning just for that one piece of land.” Three members of the Metropolitan Planning Commission “said this seemed inherently unfair. They said, ‘What’s the difference between . . . IP and Limited Industrial? Why are you having two standards?’ They said, ‘We’re going to approve that, but you have to come back and make it consistent (between) the Limited Industrial and the IP.’ And they acknowledged that Depot Road would be an exception due to its strange configuration and history. So that was said, and nothing has ever occurred.”

Mr. Patterson went on to say that “there are some areas this tree ordinance, or whatever it ends up being, shouldn't apply to.” He said he “wasn't aware” that residential subdivision is exempt from this ordinance. I don't see any words that say that.” Ms. Anderson pointed out that section of the ordinance to Mr. Patterson, who responded, “If I have confusion, I guarantee you, it's confusing.”

Ms. Hill showed an example of how the ordinance would work, using the Family Dollar development: On the site, before the certified arborist's report, there were 500 caliper inches that they wanted to remove. Trees that be saved can be used to offset the number of caliper inches of trees that have to be removed. Ms. Anderson said you could mitigate by saving trees on the site that *could* be removed. There were 225 trees that could mitigate what was taken down at the Family Dollar, for example. They can use other species of trees to offset those caliper inches they're taking down, provided the trees are healthy. The certified arborist's report says trees with a “severe defect” or those set for “imminent failure” do not have to be mitigated, Ms. Hill said. 208 caliper inches of the trees that Family Dollar had planned to save did not have to be saved. The design plan planted back 24 caliper inches of trees onsite. 43 caliper inches were what was unmitigated and subject to the reforestation fee. So, the reforestation fee total was \$3010. Ms. Hill said the developer has the option to plant over the minimum 2.5 caliper inches and would not have to pay the reforestation fee. She estimated that the full cost of landscaping for the Family Dollar was \$30,000. The Family Dollar example is just that, Ms. Hill said: These numbers were not applied to that development.

Councilman Murray asked the private market value of a caliper inch. Ms. Hill said since the recession, tree costs went way down, but now that development is coming back, the price has gone up greatly. A 2.5 caliper inch tree, wholesale with no freight and a 2.5 times mark up, it would be around \$125 per caliper inch now, which they don't think “is palatable” to charge. Councilman Murray said the total cost of mitigation with fees and the certified arborist report would, for Family Dollar, be \$6500-7000. Ms. Hill said yes, but the cost of trees varies, and the slower it grows, the more it costs. Ms. Hill described how tree islands, which are part of the current ordinance, would help with putting in trees for mitigation when space is limited. Per the current ordinance, trees can also be planted around retention ponds, in buffer areas, and on

the street.

Charles Aimar distributed photos of trees: oaks, which he said were about 40 and 50 years old, and “you would say that is a grand tree,” as well as a 15-year-old palmetto and an oak and a commercial lot he owns that he said, “I ought to be able to build fully on.” He was concerned mitigating tree removal. The oaks, which were “saplings that appeared in the 50s,” are disturbing the foundation of a residence. “I’m concerned about burdens placed on someone like my mother or some elderly person that needs to remove some grand trees, and also on me, when I want to build in the core commercial district.” Ms. Hill said to remove trees on residential property in the City of Beaufort, you fill out a tree removal application, and she goes to look at the tree. If there’s no reason to remove it, she’ll say no, and the property owner can go to PTAC to appeal. Trees that are disturbing a building’s foundation have a reason to be taken out; there’s no mitigation, no fee, and no penalty.

Mr. Aimar asked about the 2 trees on his commercial property. Ms. Anderson said they would first determine if they were or weren’t healthy. If they’re not healthy, they can go. Mr. Aimar asked if he would have to mitigate if they were healthy. He can mitigate onsite, Ms. Anderson said, or he can mitigate on his own property with an approved development plan. Ms. Hill said the proposed wording of the ordinance says, if you are unable “to plant onsite in a total that equals the unmitigated caliper inches removed,” then you can plant “on another site within the city limits with an approved development plan owned by the same developer.” Whether it’s planted on residential or commercial property, Ms. Anderson said, there needs to be an approved development plan for the property – it can’t be a vacant lot where it might have to be taken out later for building – and “the point is, if we could get another tree planted, that would be the goal.”

Mr. Aimar said, “To me, an oak and a sable palm is not a rarity in Beaufort.” Ms. Hill said that was a good point, because staff is trying to maintain tree diversity, which is rapidly being lost, so they are asking developers “to look at other species” with which to mitigate when they are taking trees out. Smaller trees do better with development. 24 caliper inch trees don’t tolerate root cutting as well. They are “not trying to only save great old trees,” Ms. Hill said, and the plan is “not about trying to make people spend a lot of money.” It’s about taking out hazard trees, and planting back in order to manage the urban forest.

Councilman Murray said he thinks “that’s a great goal,” but he struggles with this because the city is trying to encourage infill development and is putting money into that, so they don’t want to require additional costs for that kind of development. He wondered if the fee structure is the best way to accomplish the goals that the ordinance changes are meant for. “Maybe the fees” to create “the pot of money to manage trees . . . could come from somewhere else,” he suggested. 85% of the trees in Beaufort are laurel oaks, and this is the city’s attempt to achieve diversity and remove them, Ms. Anderson said; that’s where they started when PTAC said they needed to plant back trees in the street rights-of-way.

Councilman Cromer said people could contribute money to the Beaufort Pride of Place program

for tree planting in the city. He agrees with Councilman Murray, he said, and he doesn't "want to chase people to Port Royal." Councilman O'Kelley said Mr. Patterson, Mr. Tedder and Mr. Aimar had "raised good points."

Mr. Patterson restated his calculation that, in the Family Dollar example Ms. Hill had gone through, *if no credit had been allowed*, "the impact fee would have been \$17,000."

Mayor Keyserling said council should have another work session about this ordinance. He'd like to have **Barb Farrior**, the PTAC chairman, and other PTAC members at that work session. He feels that "it's about the trees, not about the money, sort of like (downtown) parking."

There being no further business to come before council, the work session was adjourned at 6:59 p.m.

A regular meeting of the Beaufort City Council was held on August 11, 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 7:09 p.m.

INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Keyserling led the Pledge of Allegiance, and Councilman McFee led the invocation.

Councilman O'Kelley made a motion to amend the agenda to allow a vote on designating downtown Beaufort as a state cultural district. Councilman Murray seconded. The motion passed unanimously.

Councilman O'Kelley made a motion to designate downtown Beaufort as a state cultural district. Councilman McFee seconded. Councilman McFee explained what a state cultural district is and showed an area in the downtown section that has assets that are considered "points of interest" through the SC Arts Commission. Designating this as an arts/cultural district will enable the application that is spearheaded by USCB to go forward. **The motion passed unanimously.**

PUBLIC COMMENT

Bill Reynolds, Beaufort Tours, said in the fall and spring, no parking spaces are available in the Marina parking lot for his van, so his tour guide can't park the van anywhere legally. She can park between tours with the flashers on, but if she leaves the van, she risks getting a ticket. Mr. Reynolds said he has a letter that he had submitted to TMAC 3 months ago. **Officer Hope Able** had suggested he come to council. He suggested a solution: make the place where the van is currently allowed to stand a permanent parking spot for his van and the van used by Spirit of Old Beaufort.

MINUTES

Councilman McFee made a motion, second by Councilman Murray to approve the minutes of the work session and regular meeting June 23, 2015. The motion to approve as written passed unanimously.

REQUEST FROM THE LOWCOUNTRY JAYCESS TO USE SOUTHSIDE PARK AND ALLOW SALE OF ALCOHOL FOR ANNUAL PARK CHILI COOKOFF EVENT

Ivette Burgess said the Jaycees had also requested a waiver of business license fees for the vendors for the event, to be held October 17. **Melanie Ott**, the event coordinator, said the group had requested permission to serve alcohol from 11 am – 4 pm and for a waiver of the

business license fees for the art and food vendors. The chili cookers won't be selling anything and won't need a license, Ms. Ott said. **Jodie Miller**, Plum Productions, said they expect to have 40–50 artisan vendors, 4 ready-to-eat food vendors, and 2 dessert vendors. Most have mobile food kitchens and already have business licenses. Some of the artisan vendors do, too, Ms. Miller said, but a few new ones, and those coming “from elsewhere,” don't, and they might not want to buy a year's license for just one day. Ms. Miller said the not-for-profit doesn't benefit from their sales. They just charge a fee for the vendors to participate.

Councilman O'Kelley said council had considered a request recently to waive licenses for vendors at an event in Beaufort Plaza. Councilman Murray said that request had been from a for-profit entity asking for a business license fee waiver for other for-profit entities. This is a not-for-profit. Ms. Miller said the vendor fees the Jaycees charge go to the not-for-profit, but the vendors keep what they make over and above that fee.

Councilman Murray said this has been “an ongoing issue,” and he's not sure council has “ever come to clarity” about it. He asked how this was handled for Water Festival. Ms. Burgess said the Water Festival, Gullah and shrimp festivals, and Taste of Beaufort were all grandfathered in, so these things don't apply to them. She has a list of the vendors those festivals use, and she tracks them, but they are not charged separate license fees. Councilman Murray asked if everyone else pays those fees, and Ms. Burgess said they do.

Kathy Todd said the not-for-profit organization having the event is not charged a business license fee, just the event's vendors. Councilman McFee said, “All along, we have had an issue with this”; the statute says the vendors *have* to pay for a license, so council can't change that unless they change the ordinance. Ms. Burgess said there is a temporary business license. Ms. Todd said most vendors pay a base fee – \$25 for local/in-city vendors and \$64 for those from out of town. If they have a city business license already, “they are fine.”

Mayor Keyserling said council needs to have a work session in order to come up with a policy. It's not fair to a local sandwich shop that pays annually for a city business license to compete with “someone who's getting the benefit of being at a festival.” He told Ms. Miller and Ms. Ott that council “won't have this result by October 17.”

Ms. Miller said the fee the group charges artisan vendors is \$100, and “\$66 is absorbed for tent fees.” Councilman McFee asked if Ms. Miller believed that charging the vendors \$125, instead, to cover the temporary license, would prevent them from coming to the event. Ms. Miller said she believes “if it's a hassle,” some vendors “would walk away.” She feels council needs “to keep in mind that people make jam in their kitchens and come to this event.” Ms. Ott said the majority of the vendors would be from Beaufort.

Councilman Murray asked the easiest way to get the temporary business license. Ms. Todd said vendors can fill out the application online, and they can pay by credit card. The rates are online.

Mayor Keyserling said he feels they should discuss this next week in a work session to work out

a plan, and then put it on the agenda for the next meeting. They could do a first reading for a change to the ordinance in September. Ms. Miller said having this clarified “would be awesome” because then Plum Productions “can put the standard language in every application.”

Councilman McFee said the Farmers’ Market should be talked about, too, at this work session.

Mayor Keyserling said, concerning serving alcohol, this is a daytime event, and Plum Productions has a good reputation for dealing with alcohol sales. **Councilman Murray made a motion to approve the alcohol waiver. Councilman McFee seconded. The motion passed unanimously.**

REQUEST FROM MAIN STREET BEAUFORT TO ALLOW ALCOHOL SALES IN WATERFRONT PARK AND ALLOW STREET CLOSURES FOR ANNUAL BEAUFORT SHRIMP FESTIVAL

Councilman Murray made a motion, second by Councilman McFee, to approve the request for the October 2 and 3 event. Ms. Burgess said that Bay Street is closed for the 5K in the morning from 6:45 – 9:00 a.m. The race path includes Newcastle and Carteret Streets, goes over the Woods Bridge, and then doubles back. They want to close the Charles Street Extension, too, for loading and unloading. City police, fire, Coast Guard, and EMS all have contracts with Main Street Beaufort for this event, Ms. Burgess said. **The motion passed unanimously.**

FRIENDS OF THE LIBRARY REQUESTING CO-SPONSORSHIP FOR USE OF THE PARK FOR ANNUAL LIBRARY FALL BOOK SALE

Councilman McFee made a motion, second by Councilman Cromer, to approve the request for the September 25–27 event. Ms. Burgess said it’s the same annual request; nothing has changed. **The motion passed unanimously.**

MOTION TO ALLOW CITY MANAGER TO ENTER INTO CONTRACTUAL AGREEMENT WITH BEAUFORT COUNTY REGARDING INFORMATION TECHNOLOGY (IT) SERVICES

Councilman McFee made a motion, second by Councilman Murray, to table the matter. The motion passed unanimously.

MOTION TO ALLOW CITY STAFF AND ENGINEERING FIRM TO MOVE FORWARD WITH DAY DOCK LOCATION AND PERMITTING PROCESS

Councilman McFee made a motion, second by Councilman O’Kelley, to approve proceeding with the process for the day dock. Mr. Prokop said council would see the plan and proposal when they’re ready. McSweeney was awarded the contract several years ago. This is “the trigger on the design work” and on federal and state permitting. They hope to get the permits completed quickly enough “to have this ready for the Water Festival next year,” Mr. Prokop said. **The motion passed unanimously.**

APPOINTMENTS TO BOARDS AND COMMISSIONS

Councilman Murray moved to appoint Susan Sauer and Vimal Desai to TDAC; Councilman McFee seconded. The motion passed unanimously.

CITY MANAGER'S REPORT

Mr. Prokop said, in regard to Boundary Street, city staff had met with county staff to review costs, and with engineers, so they “are ready to move forward.” They have to balance the county numbers and the city’s numbers. He said council should attend the county’s Facilities Committee meeting for a recommendation to move this forward to the county council, on the condition that they get federal and state approval to release the bid. The contracts with the vendors should be ready to sign in October, so construction can begin in November.

Mr. Prokop thanked the police and fire departments, especially Officer Able, for the Night Out.

There will be a special unveiling this Friday of the monument to safety officers, Mr. Prokop said, and he offered “a special thank you” to **Logan McFee** for the dedication he had shown to the Eagle Scout program and his perseverance with this project. He and **Jacob Denton**, another Eagle Scout whose project benefitted the city, “truly represent the generation of leaders we have coming up in Beaufort.”

One more contract will be coming through, Mr. Prokop said; this one is with Waste Pro, and that’s being finalized. Staff is drafting an RFQ for a firm to study and advise the city about a parking garage. The city is also in the process of reviewing all fees for services and their ordinances. In September, staff will present any potential changes to council. Ordinances that are in conflict with the state law, for example, will be presented for deletion or amendment.

The fire station is on schedule and on budget, Mr. Prokop said. The roof and windows were installed, and sheetrock will be up by the end of the week. In mid-October, the new fire truck will arrive to go in the new fire station. Mr. Prokop told Councilman Cromer that they estimate early December for the grand opening of the fire station.

MAYOR'S REPORT

Mayor Keyserling said USCB hosted 31 K-12 teachers – including “highly recognized scholars” – for 3 weeks as they worked on a project about Reconstruction. He called it “an incredible event.” Mayor Keyserling said that Beaufort ought to be a place for “a center on Reconstruction.” He had met with Dr. **Al Panu**, the new chancellor of USCB, and the message to him was to determine how the Beaufort community could be more aggressive in order to keep the university strong “on this side of the river.”

REPORTS BY COUNCIL

Councilman Murray thanked the police department and Mr. Prokop for the Night Out. The Pigeon Point Farmers’ Market will be tomorrow from 5-8 p.m., Councilman Murray said, and there will be produce, breads, and dog treats. He said it’s been going well and had good support. He thanked *Island Packet/Beaufort Gazette* reporter **Stephen Fastenau** for his coverage of economic development.

Councilman McFee thanked city staff for its support of the Viet Nam vets event the previous week. Councilman O’Kelley added that Councilman McFee had sung “Aquarius” with the Sweetgrass Angels, and the whole event was “very, very good.”

Councilman Cromer said he had been there as well, and it was “a good experience.” He will be attending his first Beaufort History Museum meeting “to help them to survive and thrive.”

Mayor Keyserling said Myrtle Beach council passed an offshore bill. Senator Murkowsky is moving a bill through to allow “seismic testing and drilling within the 15-mile barrier.” The mayor has been told that Senator Scott is a co-sponsor. It could be as close as 3-5 miles if this bill passes.

There being no further business to come before council, **Councilman O’Kelley made a motion to adjourn the meeting. Councilman McFee seconded. The motion passed unanimously,** and the meeting adjourned at 7:47 p.m.