

A regular meeting of the Beaufort City Council was held on January 26, 2010 in the Beaufort Municipal Complex, 1901 Boundary Street. In attendance were Mayor Billy Keyserling, Council members Donnie Ann Beer, Gary B. Fordham, Mike Sutton, Mike McFee, 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.

#### **EXECUTIVE SESSION**

At 5:12 p.m., on motion by Councilman McFee, seconded by Councilwoman Beer, council voted to meet in Executive Session pursuant to Title 30, Chapter 4, Section 70(a) (2) of the South Carolina Code of Laws for a discussion and advice from legal counsel regarding a lawsuit.

#### **CALL TO ORDER**

The Mayor called the regular meeting to order at 6:06 p.m.

#### **INVOCATION AND PLEDGE OF ALLEGIANCE**

The invocation was given by Pastor Mel Arant of Waters Edge United Methodist Church. The Pledge of Allegiance was led by the Mayor.

Councilwoman Beer, seconded by Councilman Fordham, made a motion to come out of Executive Session and resume the regular council meeting at 6:08 p.m. The motion was approved unanimously. Mr. Dadson said council had discussed a pending legal action.

Councilman Sutton, seconded by Councilman Fordham, made a motion to appeal the judgment received from the State Circuit Court judge in the lawsuit against the city brought by the owner of the Airport Junction property. The motion was approved unanimously.

#### **PROCLAMATION OF FEBRUARY 8, 2010 AS BOY SCOUTS OF AMERICA CENTENNIAL CELEBRATION DAY**

The mayor read the proclamation. Councilwoman Beer, seconded by Councilman McFee, moved to approve the resolution. The motion was approved unanimously.

#### **PUBLIC COMMENT**

**Bonnie Hargrove**, former executive director of Beaufort Performing Arts, said that the BPA board had voted to shut the organization's doors. The task force for BPA was formed with a vision of growth and that's not happened because of the economy and other reasons. The theatre program is strong, and partnerships have been good, but 70% of their donor base has dried up, and they can't maintain the current business model. A focus group has said there need to be major cuts. Hargrove said "the board is tired." She asked council to consider ways to help, possibly by helping to overcome a short fall of \$25,000.

**Angela Hegstrom**, 2704 Bull Street, said she had studied the revised UDO, and it has no specific use standards for "indoor entertainment." It's listed as an example of a category. All other commercial uses have specific standards, and she asked council to do the same with indoor entertainment.

#### **MINUTES**

The minutes of the regular council meeting on January 12, 2010 were presented to council for review. Councilwoman Beer, seconded by Councilman Fordham, moved approval of the minutes. Councilman McFee said he, rather than Councilman McFee, as was stated, attended the Fort Sumter Preservation Trust meeting. Council voted unanimously to approve the minutes as revised.

The minutes of the council work session on January 19, 2010 were presented to council for review. Councilwoman Beer , seconded by Councilman Fordham, moved approval of the minutes. Council voted unanimously to approve the minutes.

**ORDINANCE REVISING PART 5, CHAPTER 1, ARTICLE D OF THE CODE OF ORDINANCES PERTAINING TO THE PRIVATE SEWAGE DISPOSAL CODE**

Councilwoman Beer moved and Councilman Fordham seconded approval of the revision to the ordinance on second reading. Libby Anderson said the 2006 ordinance became effective in July 2008, and this revision will bring it up to date in referencing the correct code and by cutting appendices. The motion passed unanimously.

**UDO AMENDMENT REVISING SECTIONS 6.2, 7.1, AND 11.2 TO REVISE THE STANDARDS FOR TOWNHOUSE DEVELOPMENT**

Ms. Anderson asked that the second reading be tabled so staff can make a clarification to the wording regarding the grandfathering provision for existing developments. Councilwoman Beer moved and Councilman Fordham seconded tabling the vote. The motion passed unanimously.

**ORDINANCE REVISING PART 5, CHAPTER 1, ARTICLE A OF THE CODE OF ORDINANCES, PERTAINING TO THE RESIDENTIAL BUILDING CODE**

Councilwoman Beer moved and Councilman Fordham seconded approval of the revision to the ordinance on second reading. Ms. Anderson said this also pertains to the changes in the ordinance to reference the 2006 code and changes wording so they don't have to come to council every 2 years. The motion passed unanimously.

**AMENDMENT REVISING SECTIONS 8.1 AND 9.4 PERTAINING TO LOT RECOMBINATIONS**

Councilwoman Beer moved and Councilman Fordham seconded approval of the revision to the amendment on second reading. Ms. Anderson said this will make lot recombination easier in non-conforming lots and eliminates the requirement for consolidation of non-conforming lots. The motion passed unanimously.

**AMENDMENT REVISING SECTION 5.1 OF THE UDO TO PERMIT INDOOR ENTERTAINMENT IN THE LIMITED INDUSTRIAL DISTRICT BY SPECIAL EXCEPTION**

Councilwoman Beer moved and Councilman Sutton seconded approval of the revision to the UDO on second reading. Ms. Hegstrom said she lives close to a light industrial area. As she stated previously, she discovered that there are no specific use standards for indoor or outdoor entertainment in the city's UDO except for "live entertainment" of a sexually oriented nature. She's opposed to the special exception because there are no use standards, which is what a special exception would follow. Because those standards aren't in place in the UDO, she feels it's a re-zoning of light industrial and will bring a lot of people into her neighborhood.

Mayor Keyserling said this amendment makes it possible for someone to attempt to get an exception to change the use. An application would go through the public process, and they would have to be specific about use and then that use would have to be approved.

**Sue Partridge**, 309 Frazier Drive, said that the neighborhood has been in this process for 8-10 years and during that time they have gotten buildings that aren't compatible with the neighborhood. Therefore, property values have gone down, and at the time, they were told they would have the opportunity to

speak, but their words “fell on deaf ears,” even though they “talked to everybody.” They asked for the buildings “to be conducive to the neighborhood,” but they weren’t. Mayor Keyserling said three zoning districts are under discussion in this matter; no one has anything pending to his knowledge. He thinks those who’ve spoken up *are* being heard, even if they’re not being agreed with. He believes the BES building was a different issue. Councilwoman Beer agreed.

Ms. Anderson said the specific use standards section uses are approved by staff administratively or by special exception. Special exceptions go further and can be done on a case by case basis; the special exception is more powerful because it’s done in a public forum and can be tailored to the use at hand. She reminded that even if it doesn’t say it has specific use standards, all *other* standards still apply.

The motion passed 4-1 with Councilman Fordham opposing.

**Dartha Pearce**, 302 Frazier Drive, asked for clarification of what sort of business might be put in the space next to her house. Mayor Keyserling said the special exception change under discussion would only apply to the use of the building; the standards would remain the same. If the use changes, the development standards and requirements would have to be met, and additional standards can be imposed, i.e., hours of operation, etc. Ms. Pearce asked for rules as to what could be coming in next to her under special exception; she wouldn’t be comfortable with certain uses.

Ms. Hegstrom asked if signs would be placed on the property, and notification given in writing of the request for special exception. Ms. Anderson said a request for special exception is heard by the ZBOA after a public hearing which is announced with signs posted 15 days prior and advertisement in the Beaufort Gazette. Letters are sent to property owners based on tax records of who lives there. Councilman Sutton asked Ms. Anderson to clarify what Ms. Pearce’s experience would be. He feels the service notification standard of 200’ might not work in all neighborhoods with changes. If 200’ doesn’t work, then it might need to be changed and should be discussed in a work session. Ms. Anderson said they can do whatever they like, and agreed that it needs to be written down.

Ms. Hegstrom asked if under the special exception the real property gets the special exception or the business license gets it. Mayor Keyserling said it’s specific to the property, and for that use and that use only. It can have a different owner, but it has to have the same use and the same building. Ms. Anderson said a health club, if it goes out of business, can’t be replaced with a bowling alley without a separate application, though they’d both be light industrial. It’s a different use.

#### **UDO AMENDMENT REVISING SECTION 5.4B TO ADD REQUIREMENTS FOR FENCING AROUND SWIMMING POOLS**

Councilwoman Beer moved and Councilman McFee seconded approval of the revision to the ordinance on first reading. Councilman Sutton asked if this changes with the accessory dwelling. Ms. Anderson said it’s all in the same section. The current requirements are in the appendices; when the current codes were adopted, the appendices weren’t adopted, so they can’t be enforced. This will put them in the zoning ordinance instead. The motion passed unanimously.

#### **DISCUSSION REGARDING BUGGY TOURS**

Mayor Keyserling said council received a 29-page quarterly report on the “challenges” facing the two local tour operators. Mr. Dadson said the tour operators weren’t invited but Chief Clancy and Officer Carter were available to answer questions. Councilman Fordham said after reading about the problems, both buggy tour operators “sound like two first graders arguing.” He feels that if they don’t get their acts

together, he wouldn't support giving licenses to either operator the next time they come up for review. He said he "was totally disgusted" when he read it. Councilwoman Beer said it's not known whose horse's mess is being cleaned up, and she feels both companies should have to split the cost of clean-up. Mayor Keyserling said each day one calls and says the other isn't cleaning up their mess. He regrets the police are burdened with two companies that can't work together. Councilman Sutton said the banter between the companies is monopolizing the officer's time. The fees they pay seem to make them feel that they "own" the officer. The ordinance set the program up that way, and it needs revision. He was disgusted, too, but then realized that he's seen the problems (and clean-up) happen in his neighborhood. With 2.5 months of reports, mostly about who didn't clean up something, he'd like the operators in a work session discussing how it can work in the future. He agrees that a third party could do clean-up. On the anniversary date of the agreement, if the bickering continues, he'd like to see just one operator permitted and their single license would be in jeopardy if they don't follow the rules. Councilwoman Beer said she didn't think that could be done. Councilman Sutton said he supports horse and buggies if they can get their acts together.

Councilman McFee said in Savannah and Charleston, they have much bigger operations, and they must have issues. The clean-up in Charleston is done by a private party that the buggy companies pay for. This is a waste of time for the police and the citizens. He's on board with "regrouping or removing." Councilman Sutton said they're obviously lying about what's happening, and the clear violations of the ordinance he's witnessed are not what's in the report. A good operator would find a way to make it work. Mayor Keyserling said when there were two other operators, they had the same problems. Council is the point of contact, and he feels it's time for a serious discussion about the business and resources. It keeps being postponed, and they need a work session with the owners. Legal council will tell them how to enforce the contract more strongly. Councilwoman Beer said the clean-up issue is a health and safety issue. Mr. Dadson said there should be a review by the city attorney and police input is welcome. Chief Clancy said the report speaks for itself. It is available on the web site. Councilman Fordham asked that when they're invited to the work session, there be frequent mention of the word "fire."

#### **APPOINTMENTS TO BOARDS AND COMMISSION: SELECTION OF TERMS FOR MEMBERS OF THE REDEVELOPMENT COMMISSION**

Mayor Keyserling said 5 new members are being appointed. To meet the statute regarding rotation, 7 people will be selected for a 1-year term: Michael McNally, Martin Goodman, James Bellew, Ed Barnhardt, Bob Pinkerton, James Rugala, and Denise Bolin. Jon Verity and Wendy Zara will have 2-year terms.

#### **CITY MANAGER'S REPORT**

Mr. Dadson said that council will be in their retreat, not in their regular work session, next Tuesday, February 2, 2010. This retreat is open to the public.

He said that Paul Sommerville had informed him that the Public Facilities committee had passed a resolution at the county council's Public Services committee meeting to move forward with the Boundary Street Project. BTAG is an advisory group that helps to determine how to manage more limited resources (i.e., impact fees) with larger expenses. They didn't agree with staff recommendations and as a committee, BTAG elected to remove 5A (the Bluffton Parkway bridge over the marsh) and the Parkway will end at Burnt Church Road. Because of that, BTAG discussed how to use those monies best and will extend Highway 278 from 2 lanes at one point, to improve Highway 170, and to put money back into the Boundary Street Project. The engineering for the Boundary Street Project was held up during

this uncertainty. Where the monies will be put has not been decided yet, but moving forward with the engineering has been.

### **REPORTS BY COUNCIL MEMBERS**

Councilwoman Beer said the city has now taken out 119 tons of trash in 6 neighborhoods. She offered public thanks for what they've done. Mayor Keyserling wants to have a party at 200 tons. Councilwoman Beer thanked the police and fire departments, too. The next clean-up area is south of Hermitage Road, and Mayor Keyserling asked for volunteers to organize it because they don't have a neighborhood association.

Councilman Sutton called up Ms. Hargrove to speak with again about BPA; he said he understood her to say that the board is not going to move forward; there is hope but a shortfall. She said she has permission to get a line of credit and could pay \$15,000 of it back by June 30. Councilman Sutton asked how the BPA board feels about her championing the cause when they're "tired." The city is a partner in BPA and has a long history of supporting it. He wants to know how the \$15,000 the city gives BPA could be leveraged. Ms. Hargrove said she will take a pay cut as will the rest of staff and redo their business plan as all arts organizations are having to do. A lot of people want to help because they realize the community will lose a huge asset. Season ticket holders won't have a show to go to if they close the doors now. Councilman Sutton said the city's a partner with a dedicated budget stream. He wants to know if they could creatively use that money the city provides, i.e., give \$30,000 this year and \$10,000 next, etc. Ms. Hargrove said she thinks that would save BPA. The business plan they have doesn't work and needs to be restructured. Councilman Sutton said that if BPA regrouped their board, BPA and the city are current partners, and they shouldn't forgo an opportunity to act creatively. Ms. Hargrove said they would need more input from the city. Councilman Sutton asked Shirley Hughes what the city might be able to do and asked her to take a look at it.

Councilman Sutton said today was the grand opening of Beaufort's arts center, a mixed media complex and a community arts center. It's not the same as BPA, but it will be a great facility for community use at Beaufort High School.

Councilman Sutton recalled that two years ago, the capital budget plan had \$10,000 set aside for a radar display. Ms. Hughes said it's not in the CIP this year. Councilman Sutton asked Chief Clancy if it could be effectively used if they bought it. Chief Clancy said yes, it might be effective to get people's attention. Councilman Sutton asked if it could be used on east / west streets downtown. Chief Clancy said yes. They track traffic hotspots where there are wrecks or citizen complaints, and they'd use it in those areas. They've borrowed some in the past from the county. Port Royal has one. Councilman Sutton would like to see the budget amended, and Mr. Dadson said staff can amend it. Mayor Keyserling asked if council concurred. Councilwoman Beer said she'd consider it and would like to hear its impact on the budget. There was general agreement with her among council.

Councilman McFee said the first meeting of the Tricentennial Commission went very well. They're looking at licensing of logos and branding. There are very talented and motivated people who are looking to do this inexpensively but professionally. The next meeting is February 8 in the City Hall conference room.

### **ADJOURNMENT**

There being no further business to come before City Council, Councilman Fordham made a motion to adjourn, seconded by Councilwoman Beer. The motion was approved unanimously, and the meeting was adjourned at 7:16 p.m.

ATTEST: \_\_\_\_\_  
SHIRLEY HUGHES, ACTING CITY CLERK