

A regular meeting of the Beaufort City Council was held on February 8, 2005 at 6:00 p.m. in County Council Chambers, 100 Ribaut Road. In attendance were Mayor Bill Rauch, Mayor Pro Tem Frank Glover, Council members Donnie Ann Beer, George H. O’Kelly, Jr. and the Acting City Manager Ross Jones. The City Manager John F. McDonough and Councilman Gary B. Fordham were unable to attend due to sickness. In accordance with 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.

### **INVOCATION/PLEDGE OF ALLEGIANCE**

The meeting was opened at 6:00 p.m. with an invocation by Councilwoman Donnie Ann Beer. The Pledge of Allegiance was led by the Mayor.

### **ITEM TABLED**

The Mayor announced Council intends to postpone discussion of the day dock for two weeks but comments on this item may be heard during public comment or when the item comes up later on the agenda.

### **PUBLIC COMMENT**

**Tommy Logan**, Ribaut Road resident, said in October, 2004 during a political forum, he asked the candidates to consider the possibility of removing the Alternate Highway 21 designation on the portion of Ribaut Road from Boundary Street to the McTeer Bridge and rerouting traffic through Port Royal and across the McTeer Bridge. Two of the candidates running for council seats indicated the idea had merit and said they would look into it. He asked that this alternate route be tried for a year. He also asked Council to take into consideration that Ribaut Road bisects one of the older neighborhoods that should be preserved and the large trucks of two axles or more are dangerous. The mayor replied that he and Marvin Dukes met with Elizabeth Mabray of the SCDOT about a year ago about this matter and at that time she recommended waiting until the construction in Shell Point was completed. Mr. Dukes recently sent a letter asking her to reconsider this matter now that it is complete. However, this is between SCDOT and the Town of Port Royal. Mr. Logan said he would approach the Town of Port Royal Council about this but asked City Council to support it too.

**Libby Barnes**, Chamber of Commerce Executive Director, invited Council to attend a Business Development Forum beginning at 6:00 p.m. at the Technical College of the Lowcountry in the Student Center, Building 12 on February 16<sup>th</sup>. The program is being co-hosted by the Beaufort County Council Economic Development Committee and the Beaufort Regional Chamber of Commerce. Ten different organizations/agencies will be presenting the kinds of resources and programs that they provide to support growth and expansion of the existing small businesses. She also reminded Council of an e-mail invitation sent to them yesterday regarding Leadership South Carolina. The group will be in Beaufort on February 16 and 17. On the 17<sup>th</sup>, at the Best Western Sea Island Inn between 7:30 a.m. and 12:00 noon, a panel of individuals will be present who have expertise in the social issues that impact the state. She also thanked Council for supporting the Mayor’s Medical Technology Task Force. The Committee is identifying how the City can support the attraction and retention of medical and medical technology types of businesses. She said this should be a long term viable solution and a good project for the City.

**Shirley Sutton**, Carolina Buggy Tours employee, asked Council to reconsider the ordinance restricting tour bus groups. Before the ordinance was changed last June, they were allowed to tour Beaufort via carriages during a specific time period. With the busy season about to begin, the bus companies are calling to inquire as to whether they will be able to tour as they did last year. Because of their schedules, they have to leave Beaufort by 1:00 p.m. to meet other commitments. She asked if a different routing system could be established during the five months the bus tours visit Beaufort.

**George Trask**, 1211 Bay Street, said he and his neighbors are in favor of the day dock as evidenced by them agreeing to the concessions that allowed the day dock to be there. He said they are confident Council will live up to the agreement between the residents and the City and not extend the existing day dock any further west. He referred to threats to the Historic District that have occurred over the years involving commercial endeavors. He also mentioned other residential neighborhoods that have been destroyed by too many bed and breakfast establishments, large marinas, etc. The proposal will allow people to visit the shops and restaurants by boat which is a commercial venture and is against the zoning, the Comprehensive Plan, and endangers the National Landmark designation by encroaching into the historic neighborhood. He asked Council to consider an alternative. Speaking against tour buses, he said no money is added to the economy when they visit and encouraged Council to strengthen the regulations through the tourism ordinance.

### **PUBLIC HEARINGS**

A public hearing was held to receive comment on the **zoning of 21 parcels of property located on Greenlawn Drive** “Neighborhood Commercial” **and 2 parcels on Greenlawn Drive** to “General Commercial”. The existing zoning of all the parcels is Suburban. All the parcels are located in District 100 on Tax Map 1. The following properties are proposed to be zoned “Neighborhood Commercial”: Parcel 242 (1406 Greenlawn Dr.), Parcel 243 (1408 Greenlawn Drive), Parcel 244 (1502 Greenlawn Drive), Parcel 245 (1504 Greenlawn Drive), Parcel 246 (1506 Greenlawn Drive), Parcel 247 (1508 Greenlawn Drive), Parcel 248 (1602 Greenlawn Drive), Parcel 251 (1608 Greenlawn Drive), Parcel 252 (1609 Greenlawn Drive), Parcel 253 (1607 Greenlawn Drive), Parcel 255 (1603 Greenlawn Drive), Parcel 256 (1601 Greenlawn Drive), Parcel 259 (1503 Greenlawn Drive), Parcel 260 (1409 Greenlawn Drive), Parcel 262 (1405 Greenlawn Drive), Parcel 263 Greenlawn Drive), Parcel 5A (1706 Greenlawn Drive), Parcel 5C (1710 Greenlawn Drive), Parcel 5M (2516 Greenlawn Drive), Parcel 5P (1705 Greenlawn Drive), and Parcel 5Q (1703 Greenlawn Drive). The following properties are to be zoned “General Commercial”: Parcel 249 (1604 Greenlawn) and Parcel 250 (1610/1606 Greenlawn Drive). A Notice of Public Hearing was duly published in the *Beaufort Gazette* on January 24, 2005. The City of Beaufort-Town of Port Royal Joint Municipal Planning Commission recommended approval.

Libby Anderson, City Planner, noted this rezoning request is a result of a petition for annexation. The 23 parcels totaling 5.7 acres have frontage on Greenlawn Drive and are located in what is known as the Greenlawn Subdivision. This narrow residential strip is located between two commercially zoned and developed pieces of property. The property is currently located in the county and zoned Suburban. The proposed zoning for 21 of the parcels is “Neighborhood Commercial” and “General Commercial” for the other two.

There being no other comments, the public hearing was closed at 6:34 p.m.

A public hearing was held to receive comment on revising **Sections 5.1 Use Tables, 5.3.D Specific Use Standards, Commercial Uses, Section 5.4.F Home Occupations, and Section 11.2 Definitions** of the Unified Development Ordinance to address tattoo facilities and body piercing facilities. The City of Beaufort-Town of Port Royal Joint Municipal Planning Commission recommended keeping the current requirements for tattoo facilities and recommended denial of the request to change the ordinance as it relates to those facilities. They recommended approval of the other three revisions.

Libby Anderson, City Planner, pointed out there are four amendments proposed to the UDO relating to tattoo facilities and body piercing. Currently, tattoo facilities are permitted in the Limited Industrial District as a conditional use. According to an interpretation by the MASC of the state legislation, local governments have the authority to prohibit tattoo facilities. Therefore, the first amendment is to delete tattoo facilities as a permitted use in the City. The second change relates to body piercing. The interpretation of state law requires body piercing facilities to be permitted. The City's UDO does not address this and in an effort to take control of the issue, staff is proposing to permit body piercing facilities as a conditional use in the Limited Industrial District. The next amendment is to add body piercing facilities and tattoo facilities to the section that lists prohibited home occupations. The last revision adds definitions for body piercing, the facility, and tattooing.

**Dave Radford**, Joint Planning Commission member, gave his reasons for voting to keep tattoo parlors. In his opinion, if the legislation is challenged, it could be changed so that they cannot be eliminated. He said it isn't fair to eliminate tattoo parlors but allow body piercing and sexually oriented businesses and when he agreed to serve on this Commission he agreed to serve everybody.

**Rusty Williams**, Lady's Island resident, stated he and his wife want to open a tattoo business and asked Council to reconsider and allow tattoo facilities to remain in the City. Tattoos are considered body art and people are going to other places when that money could stay here.

There being no other comments, the public hearing was closed at 6:40 p.m.

#### **MINUTES: REGULAR MEETING – JANUARY 25, 2005**

The minutes of the regular City Council meeting of January 25, 2005 were reviewed by Council and on page 12, it was noted that Mr. Wedler's name was inadvertently misspelled.

On motion by Councilwoman Beer, second by Councilman Glover, Council voted to adopt the minutes of the regular City Council meeting of January 25, 2005 as amended.

#### **DAY DOCK EXPANSION**

The mayor asked if there were any other comments regarding reconsideration of the day dock.

**Gary Groves**, 1203 Bay Street, said the objection is with the proposed westward extension of the day dock. He presented his solution for consideration which would be to place pilings for a floating dock next to the seawall. The benefits to this option would be no extension further westward, a longer day dock could be built, and the current and tide would not be a problem.

**Donna Starkey** said she would like things to be preserved as they are and remain unique.

**Tommy Logan** agreed with George Trask regarding the encroachment to the Bluff. The Beaufort County Rural and Critical Lands Board and the Beaufort County Open Land Trust have gone to great lengths to preserve open space. The Bluff is one of the things that makes Beaufort unique and should remain as it is without being encroached upon for generations to come.

**Edie Rodgers**, Jericho Woods resident, said she agreed with the two day dock proposals Council approved; however, she attended the Waterway Commission meeting when Henry Chambers offered another option. She wanted Council to be aware of that recommendation and suggested they contact him. The mayor replied he was aware of Mr. Chambers' suggestion but the Downtown Marina Dock Master doesn't want the day dock users interfering with the marina customers.

Councilman Glover moved to table this discussion. Councilwoman Beer gave second. The motion passed unanimously. This item will be brought to Council again in two weeks.

### **ORDINANCE CLOSING THE WIGG STREET R-O-W & ACCEPTING THE FULLER STREET R-O-W**

The ordinance closing the Wigg Street right of way and accepting the newly developed Fuller Street right of way was presented to Council for second reading and adoption.

Councilwoman Beer made a motion to adopt the ordinance on second reading. Councilman Glover gave second.

Matt Horn, Assistant to the City Manager, stated when this ordinance was approved for first reading, Council inquired as to why a portion of the right of way was being offered to the owners of 2416 Joyner Street, as opposed to the other adjacent property owners. Staff performed a title search of the property and determined that other properties fronting Joyner and Elliott Street were platted as part of the Hundred Pines Subdivision. The property at 2416 Joyner Street, as well as the Wigg Street right of way, were platted from a parcel previously owned by the Mather school and not included in the Hundred Pines Subdivision.

Councilman Glover said he does not feel comfortable deeding that land to one property owner and suggested offering it for sale even though the likely buyer would be the owner of 2416 Joyner Street. Mr. Horn said there could be three likely buyers interested in that small piece of property when the two adjacent lot owners are considered. Councilman O'Kelley suggested contacting them and asking for an offer since it could be of value to each of them. Council concurred.

Councilman Glover moved to amend the ordinance and instruct staff to advertise the parcel for sale by bid. Councilman O'Kelley gave second. The motion passed unanimously.

Council voted unanimously to adopt the ordinance as amended on second reading. (Copy of the ordinance at end of the January 11, 2005 minutes)

### **ORDINANCE AMENDMENT PERTAINING TO RULES OF PROCEDURE & DECORUM**

The ordinance amending Part 1, Chapter 3, Article A of the Code of Ordinances pertaining to rules of procedure and decorum was presented to Council for second reading and adoption.

Councilwoman Beer made a motion to adopt the ordinance on second reading. Councilman Glover gave second.

Councilman Glover expressed further concerns about Section (b) regarding motions. During a lengthy discussion, the City Attorney clarified the procedure for reconsidering a motion stating that wording was approved by the Municipal Association in order to extend the time to reconsider, by one meeting.

Council voted unanimously to adopt the ordinance on second reading. (Copy of ordinance at end of the January 25, 2005 minutes)

### **THE CASE OF ANGUS v. CITY OF MYRTLE BEACH**

Bill Harvey, City Attorney, addressed Council concerning Section 6-1-320 of the South Carolina Code of Laws which provides a mechanism by which local governing bodies may increase millage and he explained that calculation. In 1998, there was a county-wide reassessment in Horry County which included Myrtle Beach. Following that year the City of Myrtle Beach used the rollback millage formula as set forth in the statute and used the three specific adjustments outlined in the statute that must be considered in deriving the rollback millage. But they added two more adjustments in their assessment of the millage in the year 99/00. An appeals allowance of 7.5% was factored in assuming that at least that amount of the full assessed taxes would be rolled back in an appeals process. They also applied an estimated tax collection of 86% to account for the fact that all taxes would not be collected. Other municipalities within the state have followed this procedure, in fact, the City of Beaufort has used a factor of 85% to account for taxes not collected. However, by using that factor, the millage rate is effectively higher than what it would be had a collectability factor of 100% been used. Under the statute, the only way to avoid the restrictions of Section 6-1-320 is to hold a special meeting specifically for the purpose of considering overriding the millage restrictions and allowing a higher millage rate over and above what is allowed by the statute. Myrtle Beach did not hold a special meeting and therefore did not follow the statutory procedure and they were challenged and since they had not followed that procedure, their millage rate for that year was improper. The case has been remanded back to the Circuit Court to fashion a remedy. Therefore, it is incumbent upon the City of Beaufort to hold a special meeting solely for the purpose of taking a vote to increase the millage rate. Public notice of the meeting must be provided, notifying the public that the governing body is meeting to vote to override the limitation and increase the millage rate.

Council agreed to hold a special one agenda meeting at 5:30 p.m. prior to the regular council meeting of February 22, 2005 pending approval of the City Attorney.

### **ORDINANCE ANNEXING 23 PARCELS ON GREENLAWN DRIVE**

An ordinance annexing 23 parcels of property located in the Greenlawn Subdivision and adjacent to Greenlawn Drive was presented to Council for first reading.

Councilwoman Beer moved to approve the ordinance on first reading. Councilman Glover gave second.

Libby Anderson, City Planner, answered questions posed by Councilman O'Kelley relating to the

parcels on Greenlawn Drive that are not being annexed.

Council approved the ordinance on first reading. (Copy of ordinance at end of these minutes)

### **ORDINANCE ZONING 23 PARCELS ON GREELAWN DRIVE**

An ordinance zoning 21 parcels located on Greenlawn Drive Neighborhood Commercial and zoning two parcels on Greenlawn Drive General Commercial was presented to Council for first reading.

On motion by Councilwoman Beer, second by Councilman Glover, Council approved the ordinance on first reading. (Copy of ordinance at end of these minutes)

### **RESOLUTION – BEAUFORT HOUSING AUTHORITY**

A resolution regarding the composition of the Beaufort Housing Authority Board of Commissioners was presented to Council for approval.

Councilwoman Beer moved to adopt the resolution. Councilman Glover gave second. The motion passed unanimously. (Copy of resolution at end of these minutes)

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

Council was reminded of the invitation to a site visit on Monday afternoon in the City of West Columbia to view their municipal complex which is similar to the complex planned by the City. The plan is to leave at 11:30 a.m. from City Hall. Additionally, TMAC met today to review the recommendations requested by Council. A report should be presented at the next Council meeting.

### **MAYOR'S REPORT**

The mayor stated the 50 ft. height limitations are appropriate in the historic district; however, in his opinion, they should increase the further away you get from the district. He asked that the Planning Department study this before a proposal is presented and it becomes an issue.

### **REPORTS BY COUNCIL**

**GLOVER:** Councilman Glover referring to the request made earlier by Carolina Buggy Tours suggested TMAC review their concern. The mayor, having attended the TMAC meeting this morning, stated the committee heard the same request and stated they said it would not be reconsidered. Mr. Glover asked that Council formally request the Commission to review it.

### **EXECUTIVE SESSION**

On motion by Councilman Glover, second by Councilwoman Beer, Council voted to move into executive session to discuss appointments/reappointments to the Historic Review Board, Beaufort Housing Authority, and the Public Art Commission.

### **OPEN SESSION**

#### **Public Arts Commission**

Upon returning to Open Session, Councilwoman Beer moved to appoint Janet Mosely to serve on the Public Arts Commission in the at-large position for a term of three years to expire in February, 2008. Councilman Glover gave second. The motion passed unanimously.

**Beaufort Housing Authority**

On motion by Councilman Glover, second by Councilwoman Beer, Council appointed Mike Boyne to serve on the Beaufort Housing Authority for a five year term expiring in 2010.

**ADJOURNMENT**

There being no further business to come before Council, the meeting was adjourned at 7:50 p.m.

\_\_\_\_\_  
BILL RAUCH, MAYOR

\_\_\_\_\_  
COUNCILWOMAN DONNIE ANN BEER

\_\_\_\_\_  
COUNCILMAN FRANK GLOVER

\_\_\_\_\_  
COUNCILMAN GARY B. FORDHAM

\_\_\_\_\_  
COUNCILMAN GEORGE H. O'KELLY, JR.

ATTEST:

\_\_\_\_\_  
BEVERLY W. GAY, CITY CLERK