

A regular meeting of the Beaufort City Council was held on March 22, 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, Gary B. Fordham, George H. O'Kelley, Jr., and City Manager John F. McDonough. 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 Mayor called the meeting to order at 6:00 p.m. with Cantor Shelton Feinberg of the Beth Israel Synagogue giving the invocation. The Pledge of Allegiance was led by the Mayor.

### **PROCLAMATION – CHILD ABUSE PREVENTION MONTH**

Councilwoman Beer moved to adopt the proclamation designating April as Child Abuse Prevention Month in the City. Councilman Glover seconded the motion.

Councilman Fordham questioned the third WHEREAS paragraph in the proclamation regarding where the investigations were held and moved to amend the proclamation to include Beaufort County. Councilman Glover gave second. The motion passed unanimously.

Council unanimously adopted the amended proclamation designating April as Child Abuse Prevention Month in the City.

### **PROCLAMATION – MOTORCYCLE SAFETY AWARENESS MONTH**

On motion by Councilwoman Beer, second by Councilman Glover, Council unanimously adopted the proclamation designating May, 2005 as Motorcycle Safety Awareness Month in the City.

### **PROCLAMATION – CONGREGATION BETH ISRAEL**

On motion by Councilman Glover, second by Councilwoman Beer, Council unanimously adopted the proclamation designating April 2, 2005 as Congregation Beth Israel 100<sup>th</sup> Anniversary Day in the City.

### **PUBLIC COMMENT**

**Charlotte Brown** asked when the Gullah Festival's request to use the Waterfront Park would be discussed. The City Manager stated it is currently being reviewed by staff and will be presented at the next Council meeting.

**Tommy Logan** asked the status of a proposal he made a few years ago regarding the City, the Episcopal Church, and the Presbyterian Church purchasing the parcel of land on the corner of North and Charles Streets for joint use parking. He said that should be pursued as it could accommodate at least fifty cars and would be a solution to some of the parking problems. The Mayor suggested Mr. Logan contact the Presbyterian Church members and he would notify the Episcopal Church and schedule a meeting to discuss this further.

### **PUBLIC HEARINGS**

A public hearing was held to receive comment on *a Bureau of Justice Assistance Grant* to announce how the funds will be disbursed. A Notice of Publication was advertised in *The Beaufort Gazette* on March 11, 2005.

Police Chief Jeff Dowling stated conducting this public hearing is one of the requirements of the grant. Drug enforcement is one of the problems faced today; therefore, they are proposing twenty-five percent of the grant be spent on training with the remainder used for overtime and enforcement. It appears federally funded grants will not be available after this year.

There being no comments the public hearing was closed at 6:20 p.m.

A public hearing was held to receive comment on the *Needs Assessment* for community needs and priorities for housing, public facilities and economic development of the City. The CDBG program is designed to provide assistance to units of local government in approving economic opportunities and meeting community revitalization needs particularly for persons of low to moderate income.

Barbara Johnson, Lowcountry Council of Government representative, stated the purpose of this hearing is to gather the needs of the City of Beaufort concerning low to moderate income individuals. She added that this public hearing is required prior to applying for Community Development Block Grant Funds. The grant also requires a 20% match by the City, she said.

There being no comments, the public hearing was closed at 6:30 p.m.

#### **MINUTES: SPECIAL MEETING – MARCH 1, 2005**

City Council reviewed the minutes of the special meeting of March 1, 2005 and it was noted that the heading of both sets of minutes should include the name of the Mayor Pro Tem.

On motion by Councilwoman Beer, second by Councilman Glover, Council voted to adopt the minutes of the special City Council meeting of March 1, 2005 as amended.

#### **MINUTES: REGULAR MEETING – MARCH 8, 2005**

On motion by Councilwoman Beer, second by Councilman Glover, Council voted to adopt the minutes of the regular City Council meeting of March 8, 2005 as amended.

#### **U.S. HIGHWAY 21 ALTERNATE TRAFFIC PATTERN**

Robert Clark, South Carolina Department of Transportation District Engineering Administrator provided an update on Ribaut Road and U.S. Highway 21. The request to change the alternate route from Ribaut Road to Highway 280 was received by the Columbia office and is being reviewed by the Traffic Engineering Department, he said. Within the next week, a letter will be sent to the City, the Town of Port Royal, and the County for comments and a decision will be made once there is a consensus.

Councilman Glover asked what the designation of Ribaut Road would be if Highway 280 is considered Alternate 21 and the possibility of Ribaut Road reverting to its former designation of SC 281. Mr. Clark suggested including that comment when replying to the letter from SCDOT. Another question posed by Councilman Glover regarded the effect of future Federal funding for

resurfacing and other maintenance if Ribaut Road is redesignated. According to Mr. Clark, Federal funds will not be jeopardized by a renumbering.

**Marvin Dukes**, 791 Ribaut Road, said this issue was studied and planned many years ago and now it is time to implement it. Ribaut Road was temporarily designated Highway 21 because the Woods Memorial Bridge could no longer support the strain of the heavy trucks and once the “southern loop” was built they were to be rerouted. The City’s last two Comprehensive Plans included verbiage that called for removing heavy trucks from Ribaut Road. He stated he is glad to see it progressing and he hopes it will be implemented soon.

**Tommy Logan**, 871 Ribaut Road, said this proposal is not meant to harm any business on Boundary Street. The motive is to relieve the truck traffic from Ribaut Road and return the area to a pristine neighborhood. He noticed a truck route sign on Bay Street between the elementary school and Ribaut Road diverting truck traffic back to Ribaut Road. Trucks should not be downtown unless they are making food deliveries to the various restaurants. He asked Mr. Clark if the Highway Department could take these thoughts into consideration.

**Don Starkey**, Otto Circle, noted there are no signal lights from Highway 170 to the Paris Island Bridge. Trying to enter or exit that road is very difficult now and will only get worse with additional truck traffic. U.S. Highway 21 at the intersection of Highway 280 and 802 is also very dangerous and suggested Council consider adding signal lights at those busy intersections.

Councilman O’Kelley pointed out the southern route has less stop lights and with four lanes would be the most expeditious route. He mentioned, too, that it would be difficult for trucks to make the turn off Highway 21 across the railroad tracks onto Highway 280 and questioned if an apron or wider road may be needed to accommodate them.

Councilman Glover asked if Council could receive the results of the volume of truck traffic diverted from Ribaut Road after a year. Mr. Clark answered the annual traffic count would indicate a change in the total volume. Prior to making a change, he suggested performing a single-day classification count to compare to the count once the change is made to determine the impact. That request should also be included in the City’s reply to SCDOT’s letter, he said.

### **STORMWATER DRAINAGE PROJECTS**

Isiah Smalls, Public Works Director, briefed Council on the progress of the five stormwater drainage projects ranked by Council and based on public safety, number of people affected, the commercial property impact, and the ability to leverage the cost with outside funding. The first project, **Depot Road**: the engineering is completed and construction is scheduled to begin in May with the estimated date of completion being October, 2005. The construction cost is \$603,689.49 with the CDBG grant funding \$458,000 and the City contributing \$145,689.49. The second project – **Ribaut Road/Johnny Morrall Circle**: two phases have been developed to resolve the stormwater problems along that area and the local flooding at Dr. Sherman’s office. Phase A, from the outfall to Johnny Morrall Circle is estimated at \$368,300 and Phase B, the back portion of the properties along Ribaut Road is \$100,400 for a total of \$468,700. Sometime ago, SCDOT agreed to contribute up to \$125,000 toward the Ribaut Road drainage problem which is 27% of the cost. The Town of Port Royal and the City of Beaufort are splitting the remainder which equates to \$171,850 each. Mr.

Smalls noted staff is comparing the cost of the County's services for the project to the private sector which will be presented to Council before proceeding. Priority #3 – **Duncan Drive/Langhorn Drive** – the engineering is about 85% complete and staff anticipates beginning this project in April 2006 and completing it in August of that year. The cost for construction is estimated at \$500,000.

In reply to Councilman Fordham's question regarding the length of time it has taken to begin these projects, the City Manager stated that the bids from the private sector exceed the amount of stormwater drainage funding available. If the private sector bids are accepted, only two or three of the projects can be completed; however, Council can make that decision. In the meantime, the staff is working with Beaufort County to maximize the money in order to complete more projects but their manpower and equipment are limited.

Councilman Glover asked if future repairs are planned to solve the problems with the ditch located between Waverly Way and Southside Boulevard. Mr. Smalls said the cost of the Duncan/Langhorn Drive project would be increased by \$300,000 if that is included in the project. There are alternatives that are being considered with the County. If they are chosen to perform the work on Duncan/Langhorn Drive, there could be some savings and then possibly clean out the pipe in the Southside Boulevard canal as originally planned.

The fourth project – **The Point Pond**: Sea water and the flood gate at the Federal Street bridge are the major contributors to the flooding problems. The engineering is 50% completed and the current engineer believes using holes in the flood gate as opposed to having it wide open will delay the tide from coming in. Mr. Smalls informed Council that one major setback was when the engineer assigned to this project quit the engineering firm and the new engineer had to review the previous plans. The construction cost for this project is estimated at \$200,000. The Point residents have indicated they do not want the elevation of the pond, shelf, and bank modified. The plan is to begin with modifying the Federal Street flood gate, change the outfall pipes that empty into the lake, change some of the drainage appurtenances on East and King Streets and then determine the impact. Resolving the problem is a significant challenge to the engineers because King Street, west toward Carteret Street was part of the marsh and the water is trying to seek its natural level, he said. The Mayor asked that a meeting with the Point residents be scheduled to explain this.

Councilman O'Kelley stated one of the original solutions was to dredge the pond. Mr. Smalls said that is still part of the plan because the silt has decreased the storage capacity. This with the flood gate will help to control the water level during an incoming tide and a heavy rain. Councilman Fordham reiterated the need to inform the public.

Project #5 – **Battery Shores** – To eliminate the standing water, road side ditches will be graded to the proper elevation and driveway culverts will be replaced. The cost for construction is \$225,000 provided by the County with the City funding the entire project.

Mr. Smalls advised Council the total cost to the City for the five projects is estimated to be \$1,242,539. The City Manager reiterated staff is trying to complete all five of the projects with the existing funding which will mean more time will be involved; however, if Council decides to only complete two, construction can begin within the next three weeks. The Storm Water Utility Fund program was initially set up for ten years with six years remaining and generates approximately

\$240,000 annually, he said.

**Don Starkey**, Battery Shores, said the Battery Shores residents also need better communication. They were told the project was to begin in September 2004 and no one was told any thing else until tonight. Additionally, there are two houses currently under construction in Battery Shores and culverts have been placed under the driveways but there is already standing water. He recommended the drainage for the new houses be engineered correctly during construction. The City Manager asked Mr. Starkey for a point of contact for Battery Shores explaining that staff relies on the Property Owners Associations to contact their residents.

### **TOURISM ORDINANCE AMENDMENTS**

The ordinance amending Section 7-11067 (A), (B), and (E) of the Tourism ordinance pertaining to the sealed bid procurement process and the allocation of rotation slots for carriages was presented to Council for second reading and adoption.

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

City Attorney William B. Harvey reported to Council that he spoke with Danny Crowe, General Counsel for the Municipal Association in Columbia, today concerning an article that appeared in the newspaper yesterday regarding limiting the number of carriages. Mr. Crowe affirmed the City's right to regulate its streets and the right to control the carriages in the residential historical Point area because of the historical concerns that do not pertain to a lot of other regulatory areas that are primarily in commercial areas. He also affirmed limiting the number of carriage companies to restrict the amount of traffic on the streets and the conflicts between the companies. Further, he affirmed and applauded the fact that multiple companies are allowed as opposed to one and the use of rotation slots in order to avoid franchising. His concern is with the proposed elimination of the sealed bid process which is in the current ordinance, because there is no way for another company to gain entry into the market. If this process is eliminated and not replaced with another mechanism by which another company could at least have the prospect of entry into the carriage business, all competition will have effectively been shut out. It is clear that municipalities are not immune to the Anti-trust Sherman Act restrictions and regulations, he said. Mr. Crowe agreed but shared his concerns and therefore, Mr. Harvey recommended Council include a mechanism into the ordinance to allow competition. The sealed bid process would address that concern and would allow another company to compete with the existing two companies. He added that there are several ways to accomplish this concern. The three year bid process can remain in place; the market can be opened to no limitation of carriage companies, or some other mechanism. He did advise against limiting the carriage tour companies to two without providing a mechanism for another company into the market; thereby, shutting the door to all competition.

The 3-year time period was discussed and whether to expand or shorten that period.

Councilwoman Beer stated she met with David Taub and Carl Wedler, residents of the Point, after the last Council meeting to discuss this further. The goal of that meeting was to establish a fair and equitable model for setting fees, to establish an equal playing field for competition, to prohibit the establishment of a monopoly, and to maximize revenue for the City while establishing a balance

between the needs of the residents of the historic district and legitimate tourism transport business. Their suggestion was to develop an ordinance to satisfy these goals with the following elements: set no limit on number of businesses that may buy medallions, let the market place determine the number of businesses that may operate, set the minimum bid for a medallion at \$10,000 per year for horse drawn carriages accepting all bids in excess of the minimum bid, set a five year cycle for recompetition for medallions, limit the number of operators on the City's streets during any given hour to three by limiting the slot rotations to one every twenty minutes and base sequential rotations on the number of medallions purchased. The Point isn't concerned with the number of companies, just how many carriages are on the street at one time, she said. The traffic problem would be resolved by controlling the number of carriages. The same model should be adopted for the local bus companies, she said.

Councilman O'Kelley expressed his concern with an unlimited amount of carriages and asked where they would line up while waiting to take a tour. He pointed out the importance of heeding the Municipal Counsel's advice along with the City Attorney's recommendations regarding the Sherman Anti-Trust Act. He suggested staff prepare a proposal for Council's consideration. Additionally, he said he would like time to review the notes presented by Mrs. Beer. Councilman Glover agreed.

**David Taub**, 414 New Street, commented that by not limiting the number of companies, the opportunity is opened for competition and because of the investment required, there would not be many interested. If more companies are allowed, the process would be regulated with the rotation slots and the Anti-Trust Act problem is resolved, he said. Addressing the concern of the fees being too high, he suggested reducing the fee to \$10,000 and if a third company applies for a license, the third \$10,000 will be paid. He explained how he perceived the process to work. Councilman O'Kelley suggested setting the fee at \$10,000 for three slots without a bidding process.

**Peter White**, Southurn Rose Carriage Company, said the carriages are already regulated. There are twelve tours allowed per company with sixteen people per carriage. Because of the regulations, there is a limit to how much money can be made and, in his opinion, the market cannot support more than two companies. He said when he entered into this business he did not consider it possible to be forced out by someone with more money. The only reason another company would place a bid is because they are working with one of the competitors.

**Donna Starkey**, Battery Shores, asked if in addition to the fee, the companies could be required to make a proposal as to what they would do for the City.

**Walter Gay**, Sandlapper Tours, said he attended the TMAC meetings and agrees the tour companies are regulated so much now that it is difficult to make any profit and because the tour area is small there is no room for a third company.

**Rose White**, Southurn Rose Carriage Company, said in 1999 there were three companies operating with one of those only conducting specials. Specials were revoked last year by Council which affected the carriage company's income but a plan has been worked out with the tour buses to accommodate them. If an unlimited amount of carriages are allowed, there will not only be parking problems but also the carriage companies will be competing for the passengers and the arguments will begin again.

**Steve Allen** said the number of carriages would affect the rotation and there would be fewer carriages. His proposed company would only work four or five months a year when the buggies can be filled through presales. The carriages would stay in the same rotation and there would be a lot less impact on the City but a lot more tourists. He believes he can fill his carriages even with only one tour an hour.

Mayor Rauch shared his views on how to resolve the problem which is to continue with two companies, use the bid process, change the time from three to four years if necessary, and set a minimum slot fee of \$10,000. This would address the Anti-trust Act. Councilman O'Kelley said he would like to see these proposals in writing.

Councilman Glover moved to table the ordinance. Councilwoman Beer gave second. The motion passed unanimously.

### **WATER FESTIVAL**

A letter from the Beaufort Water Festival Committee requesting use of the Waterfront Park, other facilities and closure of certain streets for dances, a bed race, and a parade for the 2005 Water Festival from July 15<sup>th</sup> through July 25, 2005 was presented to Council.

Several questions regarding the numerous items requested were answered by Police Chief Jeff Dowling and the City Manager. Councilman O'Kelley expressed his concerns with closing Bay Street during working hours because it interferes with his business. He added that recently during an event, cones were placed on the street at 2:00 p.m. for an event that began at night. It appears that there are more and more requests to close Bay Street during business hours and it not only affects his business but everyone on Bay Street. The Police Chief stated he was unaware of street closings that early. Mr. O'Kelley said if the Police Chief can enforce the actual time of closure, and his clients can still access his business, he is satisfied. The Mayor commented that this issue needs to be addressed and perhaps a policy should be developed regarding the closing time for events held on Bay Street.

On motion by Councilman Glover, second by Councilwoman Beer, the requests were tabled for two weeks.

### **RESOLUTION - CDBG HIGGONSVILLE DRAINAGE PROJECT**

A resolution authorizing the City Manager to prepare and submit the CDBG Higgonsville Drainage Project application and to commit funds in the amount of 20% of the grant to meet the matching commitment of the Community Development Program was presented to Council.

Councilwoman Beer moved to approve the resolution to apply for the grant. Councilman Glover seconded the motion.

The Public Works Director, Isiah Smalls, explained the area referred to as Higgonsville is located behind the National Cemetery, along Lafayette Street, National Street, and Palmetto Street. Because of the size of the area, the project will be divided into three areas referred to as Phases 1, 2, and 3. This application is for Phase I in the amount of \$5,200.

The resolution was unanimously adopted. (Copy of resolution at end of these minutes)

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

The City Manager asked the Public Works Director to present an update on the sidewalk maintenance and a letter from the owner/manager of the Bed and Breakfast establishment on New Street.

Mr. Smalls stated he spoke to the B&B owner regarding the **sidewalks** and explained the sidewalk issue would be addressed as funding becomes available.

Council recently approved funding a **city-wide sidewalk repair project** using UDAG funds. This was coordinated with SCDOT to save money, he said. Staff intends to begin demolition the first of next week, during the morning, weather permitting and the contractor will perform the grading and the pouring in the afternoon.

King Street will be paved in 2005 with the **CTC/SCDOT repaving budget** and New Street will fall under the 2006 budget. The mayor suggested those two streets not be paved until the Pond reconstruction is completed. Mr. Smalls indicated the repairs to the Pond should not impact the repaving on King Street.

The **sign** indicating the small eastern portion of Bay Street is one way has been installed.

He met with Brian Webb of the SCDOT District Office at the corner of **Carteret and Bay Streets** who witnessed the problems there for pedestrians wishing to cross the street. A proposal is in place to install a **Pedestrian Crosswalk** on that corner that will cycle through normally until a pedestrian pushes the button and sets the light in motion giving them a chance to cross safely.

He gave an **Update on the Ribaut Road Sidewalk** vegetation control, explaining debris from passing traffic and leaves build up over the months. Two city personnel and inmate labor were assigned to the cleaning of 26 linear miles of sidewalks. Before and after pictures were shown.

The City Manager reported the 100% drawings for the buildings in the **Waterfront Park** were received Friday. Staff has five days to review, make comments, and return to the architects. Bids will go out the following week.

Additionally, he reported the **Municipal Complex Project** Kickoff meeting was held on Friday, March 18<sup>th</sup> with the architect. The purpose of the meeting was to review the space program requirements with the department heads to ensure their needs were the same as the information in the 2001 Space Study.

### **REPORTS BY COUNCIL**

**GLOVER:** Councilman Glover commended staff for removing the tree on the east side of Ribaut Road between First Boulevard and Mossy Oaks.

**BEER:** Councilwoman Beer reminded Council of the request to send sympathy cards to the Sergeant's wife in Hawaii to distribute to the families of the unmarried Marines who died in the helicopter. She read the thank you note she received for hundred plus cards she forwarded to her on behalf of the City.

### **EXECUTIVE SESSION**

On motion by Councilwoman Beer, second by Councilman Glover, Council voted to move into

executive session to discuss land acquisition matters.

**ADJOURNMENT**

There being no further business to come before Council, the meeting was adjourned at 9:10 p.m.

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BILL RAUCH, MAYOR

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COUNCILWOMAN DONNIE ANN BEER

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COUNCILMAN FRANK GLOVER

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COUNCILMAN GARY B. FORDHAM

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COUNCILMAN GEORGE H. O'KELLEY, JR.

ATTEST:

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BEVERLY W. GAY, CITY CLERK