

A regular meeting of the Beaufort City Council was held on March 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, Gary B. Fordham, George H. O'Kelley, Jr., and Assistant City Manager Ross Jones. City Manager John F. McDonough was out of town. 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 Rev. Steve Keeler, Pastor of Sea Island Presbyterian Church. The Pledge of Allegiance was led by the Mayor.

PROCLAMATION - DISABILITIES

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

MINUTES: SPECIAL MEETING – FEBRUARY 22, 2005

The minutes of the special meeting of February 22, 2005 were reviewed by Council and it was noted the heading of both sets of minutes inaccurately named 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 February 22, 2005 as amended.

MINUTES: REGULAR MEETING – FEBRUARY 22, 2005

On motion by Councilwoman Beer, second by Councilman Glover, Council voted to adopt the minutes of the regular City Council meeting of February 22, 2005 as amended.

ORDINANCE AMENDMENT – PERTAINING TO BODY PIERCING FACILITIES

The ordinance amending the Unified Development Ordinance by adding restrictions for body piercing facilities 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.

Ms. Libby Anderson, Planning Administrator, said currently, there are three locations zoned Limited Industrial in the City in which these facilities would be permitted. She displayed a map and listed the conditions under which they are permitted and pointed out that the area located off U. S. Highways 170 and 21 would be the best suited given the minimum distance requirement of 300 feet from churches, schools, residential, public parks, or youth centers.

Council voted unanimously to adopt the ordinance on second reading. (Copy of ordinance at end of February 22, 2005 minutes)

ORDINANCE REZONING TWO PARCELS ON GREENLAWN DRIVE

The ordinance rezoning two parcels of property located on Greenlawn Drive and identified as District 100, Tax Map 1, Parcel 254 (1605 Greenlawn Drive) and District 100, Tax Map 1, Parcel 258 (1505 Greenlawn Drive) from R-2 Medium Density Single-family residential to Neighborhood Commercial was presented to Council for second reading and adoption.

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

Ms. Libby Anderson, City Planner, noted the proposed rezoning of the two properties is consistent with the annexation and rezoning of the 23 parcels in the same location adopted at the last Council meeting.

Council voted unanimously to adopt the ordinance on second reading. (Copy of ordinance at end of February 22, 2005 minutes)

AMENDMENTS TO THE TOURISM ORDINANCE

The amendments to sections of the Tourism Management ordinance proposed by Councilman Fordham and approved on first reading at the last Council meeting were presented for second reading and adoption.

Councilman O'Kelley moved to table the amendments to the Tourism Ordinance approved on first reading at the last Council meeting until the Court of Appeals rules on Mr. Gay's appeal. He added that he has been informed the case is on the agenda and should be considered soon without oral argument. Councilman Glover gave second. The motion passed unanimously.

Councilman Fordham moved to amend Sections 7-11067(A),(B), and (E) of the City's Code of Ordinances regarding tourism and pertaining to the sealed bid procurement process and the allocation of rotation slots for carriages. Councilwoman Beer gave second.

David Taub, 414 New Street, said it appears this amendment will allow the existing carriage companies to continue operating in perpetuity as long as they pay the slot fee thereby eliminating competition and creating a monopoly. He asked this amendment be considered further. The City Attorney replied the amendment would allow the carriage companies to renew their business license year after year which is not a monopoly but instead a franchise.

Steve Allen asked if this amendment is approved, how another company could obtain a license.

Steve Harrison, 1009 Craven Street, asked if he bought a license could he decide not to operate his carriages. Council said he could.

Councilwoman Beer said she preferred removing the number of slots allocated in the ordinance and controlling the tours by the number of carriages that can operate at any one time. Councilman O'Kelley asked where the additional carriages would line up.

Rose White, Southurn Rose Buggy Tours, commented that to obtain a license, the company has to be a bonafide company. Also, if there were more than two companies and no rotation slots, there

would be no controlling the order of the carriages. The rules and regulations set out in the ordinance are working and should not be changed, she said.

Bill Sommers said trying to limit the number of carriages by restraining trade could be more complicated. For the businesses granted the right to operate tours, there may be other ways to solve the scheduling problems through the free market exercise, he said.

Council members Beer, Fordham, Glover, and O'Kelley voted in favor of the amendments to Section 7-11067 (A), (B), and (E). The mayor voted nay. The motion passed 4 to 1.

Julia Sanford, 507 North Street, asked if there would be other amendments regarding trolleys because she is concerned about out of town tours coming to the City. Councilman O'Kelley replied the ordinance now allows two horse carriages and four buses on the streets. His proposal would be to limit the number of tour buses to two or three to be equal to the carriage tours.

Carl Wedler, 502 Prince Street, thanked Council on behalf of the Point Association for postponing action on the trolley until there is a court decision on the appeal.

Bill Cobb, 508 Craven Street, a member of TMAC stated the changes proposed should be forwarded to TMAC organized by Council as the tourism advisory group. He asked if the number of buses or any other changes will be presented to that Commission to address before Council makes a decision. He also asked that the public be advised as to what Mr. Gay's appeal consists of and the alternatives.

William B. Harvey, III, City Attorney, replied that in 2003, City Council revoked the business license of Mr. Gay on the grounds that the license previously issued to him was unlawful. The Circuit Court ruled that the issuance of the license to Mr. Gay to operate his vehicle within the Historic District was contrary to the law because the ordinance prohibits the use of theme vehicles for tours in that district. Mr. Gay, through his attorney, has appealed that ruling to the South Carolina Court of Appeals. That appeal is being considered at its term this week. There should be a ruling within four to six weeks by the Court of Appeals, he said. Answering the Mayor's question, Mr. Harvey further replied that Sandlapper Tours cannot be grandfathered because at the time the business license was issued, theme vehicles were already contrary to law. As to whether Sandlapper Tours could be the sole trolley allowed to operate, Mr. Harvey replied there must be competition. The ordinance excludes horse drawn carriages from the prohibition but prohibits theme vehicles.

Walter Gay, Sandlapper Tours, mentioned that he received a letter from the Point Association requesting him to produce the other two trolleys for them to view. Since the vehicles are presently located in Florida, he offered to provide pictures and the bills of sale instead. Then he learned the Point Association President called the company where the vehicles were purchased questioning them regarding Mr. Gay's personal information which they did not have the authority to do. He said he delivered copies of those documents to City Hall this morning for Council's review. He displayed the originals for the public via an overhead projector. He added that people in the Point are concerned that their property values will decrease if the trolley's tour. There are two bus companies touring now on the hour and the half hour and the quarter after and the quarter to the hour allows out of town buses to tour, he said. The fee has not been implemented for buses and that could determine

the number of buses that tour the Point. He said there are a few people who do not want tourists in the City and he asked Council to consider them as the minority who do not need to rule.

Alton Aimar, 1723 Riverside Drive, said the reason given for changing the bidding process for the carriages was because it is not fair due to their investment but that is what is being done to Walter Gay. He said there must be an agreeable solution to allow him to continue operating his business.

Jim Quattlebaum, 411 New Street, said the residents would like Council to provide a system that they can have confidence in for regulating tourism and to allowing it to prosper. Amendments made without TMAC's recommendations do not make him feel confident in the system.

TOURISM FEE SCHEDULE

Ross Jones, Finance Director, reported he and the City Manager met with the Chamber of Commerce to discuss splitting the fees for their assistance in registering the tour buses, both touring and non-touring. The proposal presented is to reduce the annual rotation slot fee for a carriage from \$15,000 to \$10,000. During the negotiations with the Chamber, they said approximately 299 non local buses visited the City last year. Mr. Jones explained the procedure followed when the buses register. The revenue from the parking fee for non-touring buses would be divided 80/20 with the City receiving 80% and the Chamber 20%. Since there is more work for the Chamber with the rotation fee for the touring buses, the City would receive 60% and the Chamber 40% of the fee. The two local buses pay \$2,500 each annually and the split would also be 60/40 because of the time involved in monitoring the rotation during the day.

Councilman O'Kelley asked the reason the buses pay \$2,500 and the carriages pay \$15,000. The Tour Coordinator answered there is less impact with the buses and additional rotation time for the horse carriages. Mr. O'Kelley said due to the complaints he has received, he wondered if this is a disproportionate way to handle it.

Councilman Glover asked how much money has been lost during the time the fee has not been implemented. The Mayor stated the Chamber will send out a letter to the tour companies advising them of the fee increase. They will begin collecting the fee the first of April. The first quarter there were no collections, so the amount lost can be determined by deducting 25% from the amount shown. Mr. Glover noted that the resolution requiring the fees be collected has been adopted; therefore, the fees should be collected starting tomorrow.

Liz Mitchell, Chamber of Commerce Tourism Director, stated it would be unfair to the buses who are not aware of the change and may not be prepared to pay the extra fee on such short notice. She said the Chamber will send out a letter of notification to the tour companies once they receive the letter from the City advising them to do so and when they are to begin collecting the fee. Councilwoman Beer agreed with Ms. Mitchell and suggested beginning April 1, 2005.

Susan Sauer, Discover Tours, said she schedules her clients a year in advance and this fee has not been included since the effective date was not certain. Therefore, she will have to pay that fee. According to Ms. Sauer, TMAC recommended giving advance notice of about six months before increasing fees.

Referring to the non touring parking fee, Councilman O’Kelley asked if the \$10.00 allows the buses to park at the Waterfront all day. Ms. Mullen, Tour Coordinator, replied that usually a bus is only there for a couple of hours. Also, those spaces are used by boats, trailers, and RV’s and occasionally there may not be an available space for the buses. Mr. O’Kelley suggested reconsidering that amount. Councilman Glover questioned charging a fee when a space is not available. Mrs. Beer pointed out that it is actually a registration fee.

Bill Kennedy, Hancock Street, said the City should ensure that someone is responsible for enforcing this ordinance and collecting the fees.

Mayor Rauch reminded Council the cost of the Tourism Coordinator is to be paid through these revenue sources and if the fees are reduced there will be a shortage. He asked Council for funding suggestions. Councilman O’Kelley noted that staff was able to locate funding for the employees’ Christmas bonus; therefore, he feels the shortfall can be funded also. It is not fair for the carriage companies to pay \$15,000 in addition to their business license, he added. The Mayor suggested creating another rotation slot as a solution which would eliminate the duopoly problem and three companies paying the \$10,000 fee would solve the shortfall.

Bill Kennedy commented that in his opinion the local business people are being penalized and the out of town tours are paying less. He said the tour companies from other areas benefit more each day they entertain their clients and that’s who should pay higher fees. Councilman O’Kelley added that many people think the tourists don’t spend money in Beaufort but he believes differently. They may not spend the night but they have to eat and many shop.

Susan Sauer said she brings senior citizen groups to the area in large buses to visit Parris Island and Penn Center and they spend a lot of money shopping. Her tours don’t visit the Point, they ride the carriages, shop and have lunch. She pointed out there are a lot of out of town local sight seeing tour companies based on Hilton Head, in Charleston, and Savannah and these are probably who are upsetting the residents. She offered to fax statistics provided by the State regarding the economic impact on the motor coach industry.

Peter White, Southurn Rose Buggy Tours, spoke to the idea of a third carriage company stating the market can’t support another company. Specials are not allowed now so it isn’t economical to advertise.

Walter Gay said he observed five out of town buses at the Chamber of Commerce one day. The smaller buses coming from Hilton Head basically stop at the Chamber to use the restroom, they don’t eat or shop downtown, he said. Those are the buses, in his opinion, which should pay higher fees.

Councilman Glover replied that it appears the “non-local” touring buses are the ones that Council should address. He asked the Finance Director what would be a fair amount. Councilman O’Kelley inquired as to the amount the companies in Charleston, Savannah, etc. are charged to tour. Councilwoman Beer, having attended several of the TMAC meetings, replied the recommendations proposed by the Committee were based on fees charged in other areas. Since Beaufort is not an overnight destination, the recommended fees are not as high, she said. However, the Chamber is

planning to market tour groups to visit Beaufort and spend the night. She cautioned Council about overcharging which could cause tours to bypass Beaufort.

Councilwoman Beer moved to postpone a decision on the fees until a meeting with the Chamber of Commerce, the Tourism Management Advisory Committee and staff can be scheduled to discuss the impact of raising the fees. Councilman O'Kelley gave second. Council members Beer, Fordham, O'Kelley, and Glover voted in favor of the motion. The mayor voted nay. The motion passed 4 to 1.

REQUEST TO SELL ALCOHOL DURING TASTE OF BEAUFORT

A request by the Executive Director of Main Street Beaufort, USA to hold A Taste of Beaufort at the Waterfront Park, to close certain streets in the Core Commercial area, and to allow alcohol sales and open containers in the public right of way on May 6 and 7, 2005 was presented to Council.

Councilwoman Beer moved to approve the request. Councilman Glover gave second.

Joy Hardy, Main Street Executive Director, explained the event will begin with a concert in the Park on Friday night. They are asking that Bay Street from Carteret Street to Newcastle Street, Port Republic from Scott Street to Charles Street, Charles Street from Bay Street to Craven Street, West Street from Bay Street to mid-block between Port Republic and Craven Streets, and Scott Street from Bay Street to mid-block between Bay and Port Republic Streets be closed Saturday from 5:00 a.m. until 8:00 p.m. Vendors will be set up in the streets and this will ensure pedestrian safety.

Councilman O'Kelley said closing the street affects his and other businesses. Mayor Rauch pointed out Main Street's purpose is to promote business downtown.

Council voted unanimously to approve the requests as outlined by Ms. Hardy, subject to approval by the South Carolina Department of Transportation and security provided by the City's Police Department.

CITIZEN REQUEST

Bill Kennedy, vice president of the Point Association, said an area of King Street has been flooding for several years. A meeting with the consultants and the residents was held last year to review the proposals and resolve the issues. He asked that a neighborhood meeting be held to update the residents on the project. Mayor Rauch asked the Acting City Manager to schedule a meeting with the engineer, City staff, and the residents to review the modified plan regarding the flood gate, the two outfalls and the work beneath a couple of the streets.

CITY MANAGER'S REPORT

The Acting City Manager asked for a clarification on the proposed fees and whether they should not be collected until all questions are answered. Council concurred.

REPORTS BY COUNCIL

BEER: Councilwoman Beer reported she cut the ribbon at the refurbished Farmers Furniture Company on U.S. Highway 21.

FORDHAM: Councilman Fordham asked for an update on the Stormwater Drainage Projects be presented at the next meeting.

EXECUTIVE SESSION

On motion by Councilman O’Kelley, second by Councilman Glover, Council voted to move into executive session to discuss appointments/reappointments of the City Attorney, the Municipal Judge, and the Associate Municipal Judge.

OPEN SESSION

City Attorney

Upon returning to Open Session, Councilman Glover moved to reappoint William B. Harvey, III as the City Attorney for a two year term, expiring in March, 2007. Councilwoman Beer gave second. The vote was unanimous.

Municipal Judge

On motion by Councilman Glover, second by Councilwoman Beer, Council unanimously reappointed Ralph “Ned” Tupper for a two year term as the City’s Municipal Judge which will expire in March, 2007.

Associate Municipal Judge

Councilman Glover made a motion, second by Councilwoman Beer, to reappoint Mary Sharpe as the City’s Associate Municipal Judge for a two year term expiring in March, 2007. The vote was unanimous.

ADJOURNMENT

There being no further business to come before Council, the meeting was adjourned at 8:30 p.m.

BILL RAUCH, MAYOR

COUNCILWOMAN DONNIE ANN BEER

COUNCILMAN FRANK GLOVER

COUNCILMAN GARY B. FORDHAM

COUNCILMAN GEORGE H. O’KELLEY, JR.

ATTEST:

BEVERLY W. GAY, CITY CLERK