

A regular meeting of the Beaufort City Council was held on July 11, 2006 at 6:00 p.m. in County Council Chambers, 100 Ribaut Road. In attendance were Council members Donnie Ann Beer, Gary B. Fordham, George H. O'Kelley, Jr., and City Manager Scott Dadson. Mayor Bill Rauch and Mayor Pro Tem Frank Glover were 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.

### **CALL TO ORDER**

The meeting was called to order at 6:00 p.m. by Councilwoman Donnie Ann Beer.

### **MOTION TO ELECT PRESIDING MEMBER**

On motion by Councilman Fordham, second by Councilman O'Kelley, Councilwoman Donnie Ann Beer was appointed to serve as the presiding chair in the absence of both the mayor and mayor pro tempore as set forth in Section 1-3003 of the City's Code of Ordinances.

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

The meeting was opened with an invocation by Rev. Shannon Mullen, Pastor of St. John's Lutheran Church. The Pledge of Allegiance was led by Ms. Beer.

### **PUBLIC COMMENT**

**Peter White**, Southurn Rose Buggy Tours, referring to the last meeting wherein he and his wife addressed Council, said the comments made by Walter Gay were not to be confused with their comments. Additionally, he noted there was an error in the letter from the City Manager regarding the payment of their rotation fee which he wanted to clarify. Also, he stated his comments tonight are a follow up to previous appearances regarding their request for the second payment of their slot rotation fee to be waived to compensate for the money they lost due to construction of the Water Front Park. He read an excerpt from the minutes of the February, 2006 Council meeting regarding his request that a comparison of the revenues of Southurn Rose Buggy Tours before and during construction of the Park were to be provided to Council by staff. Once again he requested being placed on the August agenda for a decision. Councilwoman Beer pointed out that the Finance Director is not able to divulge financial information that appears on the business license. That information will have to be provided by the individual. Mr. White agreed to submit it for discussion during the second Council meeting in August. The City Manager suggested the information be forwarded to him in percentages instead of a dollar amount.

### **PUBLIC HEARING**

A public hearing was held to receive comment on the proposed rezoning of the southern portion of a parcel of property identified as District 120, Tax Map 3, Parcel 27 and located at 1800 Boundary Street from General Commercial to Limited Industrial. A Notice of Public Hearing was duly published in the Beaufort Gazette on June 26, 2006. The City of Beaufort-Town of Port Royal Joint Municipal Planning Commission recommended denial of the request.

Councilman Fordham questioned the procedure for public hearings stating occasionally a public

hearing is held before the recommendation from the Planning Commission has been reviewed by Council. He suggested their recommendation be received for first reading, then hold the public hearing. Councilwoman Beer said she recalls the public hearing being held first.

Libby Anderson, City Planner, responding to the City Manager's inquiry of the legal procedure, stated the requirement is that a public hearing be held before the final vote. Typically, the Planning Commission reviews the request, the public hearing is held, and then first reading and second readings are held. Mr. Fordham expressed his concerns with not receiving the Commission's recommendation prior to the Council meeting and the public hearing. He suggested the Planning Commission's recommendation be presented to Council prior to the meeting. Ms. Anderson mentioned that letters are sent to adjoining property owners prior to the public hearing. Therefore, if first reading is held prior to the public hearing, the procedure will be extended. Councilman O'Kelley interjected that this should be discussed by the entire Council.

Ms. Anderson stated this rezoning pertains to the rear portion of the parcel that faces Hamar Street and is also located in the Boundary Street Design District. Other uses in the area include cemeteries and the County's gym/swimming pool recreational area. The current zoning of General Commercial permits all types of office and commercial uses as well as multi-family and townhouse development. Additionally, she said there are two buildings that occupy the site. The front building is used by a moving and warehousing company and the rear building is currently vacant. The GC zoning does not allow warehousing so the current use is a nonconforming use, she said. This parcel was rezoned as part of an area rezoning in 2003 by Council to General Commercial and referred to as the Boundary Street rezoning. Previously, this parcel had been zoned Limited Industrial. In 2004, an application was submitted to change the zoning back to LI which was denied by the Joint Planning Commission. A public hearing was held in July, 2004 to hear the request but first reading has not been held. Referring to the Comprehensive Plan, staff believes industrial use is not consistent with the City's goal of developing Boundary Street into an urban mixed-use district. Even though the Planning Commission recommended denial of the application, they understand the applicants want to reuse the existing building and have encouraged staff to consider solutions to the issue.

Councilman O'Kelley asked the radius used to notify people of the rezoning request. Ms. Anderson replied that a 400 ft. radius for zoning from the edges of the property is stated in the ordinance. Mr. O'Kelley inquired as to whether the residents of Baggett Street were notified. Ms. Anderson said she would make sure before first reading that they are if they were not. Mr. O'Kelley mentioned that a 400 ft. radius may not be a large enough area.

**Mike Sutton**, Craven Street resident, said their company has a warehouse in that area and there are not many residents. There are vacant lots, empty houses, businesses, and one long term resident. He added that this is the only property in that part of the City that is Light Industrial. LI may protect the neighborhood as well as GC, he said.

The public hearing was closed at 6:36 p.m.

### **PUBLIC COMMENT**

**Beverly Dore**, chair of the Beaufort County Democratic Party, arrived late and asked to speak on use of the Waterfront Park. Annually, a fish fry is held at the Waterfront Park during either July or

August. It is scheduled this year for August 26<sup>th</sup> which is 5 weeks after the Water Festival and lasts only four hours. The Pigeon Point Park was suggested by staff; however, she said the attendance would be too large and would not be sufficient for their setup. She asked Council to consider their request of only using the pavilion and the entrance which will also be used by the Water Festival.

The City Manager pointed out that the fee structure will take affect in January, 2007 and the rules have not been completed. More importantly, the Park is in a temporary state of use for the Water Festival. Once the Festival is over, construction will continue in that area. Staff feels strongly about maintaining it as a construction site in order to complete the project. In reply to Councilman O'Kelley's inquiry of when the Park is to be completed, the City Manager explained 38 days were added to the contract which extends it into mid-August.

Councilwoman Beer agreed that the only reason to deny a request is to finish the Park. Ms. Beer offered for Council to review the request and possibly have an answer by the special meeting scheduled for Tuesday, July 18<sup>th</sup>.

Councilman Fordham asked to have something in writing from the landscape company stating the sod being placed at the Waterfront Park is guaranteed.

#### **MINUTES: REGULAR MEETING**

On motion by Councilman OKelley, second by Councilman Fordham, Council voted to adopt the minutes of the regular City Council meeting of June 27, 2006 as presented.

#### **ACCOMMODATION TAX FUNDING GRANTS**

During the June 13th meeting of City Council, a recommendation by the Tourism Development Advisory Commission for awarding the Accommodation Grant money to 13 agencies for the funding period July 1, 2005 – June 30, 2006 were presented and approved by Council. During the June 27<sup>th</sup> meeting, Council voted to reconsider the funding recommendations at this meeting.

Councilman Fordham said when TDAC's recommendations were presented, no one objected. Then he heard later that people had not been notified. Councilman O'Kelley added that the TDAC chairman presented a letter explaining the process which helped to clarify questions.

No one in the audience objected to the distribution of funds; therefore, the City Manager said the checks would be distributed as approved.

#### **CLERICAL SUPPORT – MEMORANDUM OF UNDERSTANDING**

Municipal Court Judge Ralph Tupper submitted an Intergovernmental Services Agreement between the Town of Hilton Head Island and the City of Beaufort for ministerial services at the Beaufort County Detention Center for Council's consideration.

Judge Tupper explained that until recently the personnel employed to assist with the paperwork at the jail were employed by the jail. When the State mandated case management system began, those people became employed by the magistrates as opposed to the jail. The magistrates won't agree to share their employees because of being involved with the system. This means the City's Municipal Recorder must go to the jail at 6:30 a.m. to prepare the paper work for the bond hearings. That

would result in overtime of approximately \$30,000. He met with the City Manager to discuss sharing those expenses with Hilton Head since the City sets bond with them under the contract. He advised him to discuss this with Hilton Head and then present that information to Council for approval. The Town of Hilton Head will pay the City \$4,250 per month for additional help and either he or the assistant judge, Mary Sharp, will conduct the preliminary hearings.

On motion by Councilman Fordham, second by Councilman O'Kelley, Council voted to approve the Intergovernmental Services Agreement.

### **MERMAID STATUES LOCATIONS**

A list of potential locations for the mermaid statues was presented to Council.

Lilly Joplin, Arts Council of Beaufort County, stated the artist's designs have been selected and a tentative list for display of the first 20 mermaids is being presented for approval. She asked for assistance in determining if all the locations are under the City's jurisdiction.

On motion by Councilman Fordham, second by Councilman O'Kelly, the motion passed unanimously to approve the locations for placement of the statues on those properties over which the City has authority.

### **REQUEST TO CLOSE STREET FOR WEDDING RECEPTION**

A letter from Gary Lang of Breakwater Restaurant requesting one block of West Street from Bay Street to Port Republic Street be closed on October 6, 2006 from late afternoon until midnight for a wedding rehearsal dinner was presented to Council for consideration.

Councilman Fordham made a motion to approve the request. Councilman O'Kelley seconded the motion.

Matt Horn, Assistant City Manager, stated staff recommends approval contingent upon the surrounding property owners being notified and that Breakwater be responsible for cleanup.

Councilman O'Kelley noted that the request does not specify a time to close the street. He commented that many of the businesses in that area stay open until 6:00 p.m. including the banks and he is not in favor of closing streets during business hours. Mr. Horn said he would advise Mr. Lang that the street cannot be closed prior to that time.

Councilman Fordman amended his motion to state the street would not be closed before 6:30 p.m. Councilman O'Kelley seconded. The vote was unanimous.

The amended request was approved unanimously.

### **ORDINANCE AMENDMENT – HIRING EMPLOYEES**

An ordinance amending Sections 1-4031 and 2-1001 of the City Code pertaining to the appointment of the offices of finance director and police chief was presented to Council for first reading.

Councilman Fordham made a motion to approve the ordinance on first reading. Councilman

O'Kelley gave second. The ordinance was approved on first reading. (Copy of ordinance at end of these minutes)

**ORDINANCE BORROWING TO PURCHASE ROLLING STOCK**

An ordinance authorizing borrowing of funding for the purchase of mobile carts and the lease/purchase of a new pumper fire truck was presented to Council for first reading.

Councilman Fordham made a motion to approve the ordinance on first reading. Councilman O'Kelley gave second. Council unanimously approved the ordinance on first reading. (Copy of ordinance at end of these minutes)

**REPORTS BY COUNCIL**

**FORDHAM:** Councilman Fordham mentioned he would be e-mailing Council with his comments on the lease with Habitat for Humanity

**EXECUTIVE SESSION**

On motion by Councilman Fordham, second by Councilman O'Kelley, Council voted to move into executive session to discuss appointments/reappointments to the Zoning Board of Appeals.

**OPEN SESSION**

**Zoning Board of Appeals**

Upon returning to Open Session, Councilman O'Kelley moved to appoint Alice Howard and Joan Sedlacek to serve a 3 year term on the Zoning Board of Appeals. Councilman Fordham seconded the motion. The vote was unanimous. Those terms will expire in July of 2009.

**ADJOURNMENT**

There being no further business to come before Council, the meeting was adjourned at 7:17 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