

A regular meeting of the Beaufort City Council was held on September 12, 2006 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., City Manager Scott Dadson. 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 Mayor called the meeting to order at 6:00.

INVOCATION/PLEDGE OF ALLEGIANCE

The meeting was opened with an invocation by Rev. Susan Ulmer, Pastor of Carteret Street United Methodist Church. The Pledge of Allegiance was led by the Mayor.

PROCLAMATION – CONSTITUTION WEEK

On motion by Councilman Glover, second by Councilwoman Beer, Council unanimously adopted the proclamation designating September 17-23, 2006 as Constitution Week in the City.

PUBLIC COMMENT

Brenda Hood, owner of Legacy and Whimsey located on Pigeon Point Road, said she recently purchased the property and took numerous precautions to avoid flooding. However, about two weeks ago during a heavy rain, there was a problem because the drains on Boundary Street and Pigeon Point Road, drains at Boundary and Charles Streets, and the drains at Boundary Street and Newcastle Street do not drain properly. This problem was brought to the attention of the Public Works Department as well as DOT. In addition to that, the drain before you get to Boundary Street on Pigeon Point does not drain either. The rain water backed up from Boundary Street to her driveway, into the backyard and flooded the shed where merchandise for her shop is stored. She stated she has asked repeatedly that something be done and is asking for Council's assistance to ensure it does not happen again. The Mayor inquired of the City Manager as to whether this problem is on the project list. The City Manager said he would find out and contact Ms. Hood. Taking extra precautions against the flooding, about a week ago during another heavy rain, she decided she had better prepare her property to avoid a recurrence. Walking the area, she noticed there are no drains at Pigeon Point Park and the water runs from that park into her yard. Councilman Fordham asked that a report on this be presented at the next meeting and an update on the drainage projects, mentioning that the fire department used to wash out the drains because they become clogged with leaves and trash. Councilman O'Kelley suggested the drain might be clogged.

Nancy Carion, owner of a business on Boundary Street across from Ms. Hood said they too have had continued problems with flooding in the buildings.

Ms. Hood noted that one of the problems is due to the landscape debris floating into the drains. She suggested a barrier be required to keep mulch in place and the landscape companies should be required to remove the grass and leaves and not blow it in the streets.

Walter Gay, Sandlapper Tours, asked if the City had considered numbering the signal lights in the City for easier directions. Smaller towns follow that method and he has found it very helpful.

PUBLIC HEARINGS

A public hearing was held to receive comment on the proposed **rezoning of a 12-acre portion of a parcel of property located on SC 170, identified as District 120, Tax Map 28, Parcel 138 from Office Commercial to General Commercial**. A Notice of Public Hearing was duly published in the Beaufort Gazette on August 28, 2006. The City of Beaufort-Town of Port Royal Joint Municipal Planning Commission recommended denial.

Libby Anderson, City Planner, said this rezoning request was submitted by the applicant, J.K. Tiller Associates. The property proposed for rezoning is a portion of a larger wooded parcel. This parcel is located on the south side of Highway 170/Robert Smalls Parkway and west of Highway 280. She displayed an excerpt from the zoning map showing that a portion of Parcel 138 is already zoned General Commercial; however, the portion in question is zoned OC and retail activity and restaurants are not permitted. The proposed zoning of GC permits a wide range of office and commercial uses and also allows multi-family development. Referring to the Comprehensive Plan, which designates this area as “Parks and Open Space”, Ms. Anderson said. That does not imply it is to remain open space but suggests there be a limit to commercial development as it extends down Highway 170. Expressing her concern, she stated this may lead to a domino effect. The Northern Regional Plan focuses on land use and is a joint venture between the City, the Town of Port Royal, and Beaufort County. That planning process will develop three scenarios for growth and evaluate them with regard to traffic, population, and economic indicators. The goal she said is that one development scenario will be used by all three jurisdictions. She asked if it is timely to rezone even 12 acres before the results of the Northern Regional Plan are completed. Another concern she mentioned is rezoning and developing this property for a shopping center use without access management standards in place. The Robert Smalls Parkway Plan suggests specific access management standards that should be adopted for Highway 170. The County has adopted the ordinances that implement the plan and standards, she said.

Councilman Fordham stated it appears it would be premature to change this zoning.

Mr. Tiller, representing the owner Dr. John Gray, shared the preliminary plan for the property. Some of the concerns stated by the staff deals with access issues, he said. Additionally, there is a 50 foot buffer requirement that Dr. Gray has placed on the property as a covenant restriction. This further complicates some of the land uses that occur on the pie shaped piece of property. The three accesses to the property from Highway 170 are part of the current access study proposed by the County.

Peter Pelt, Equity One Developers from Atlanta, Georgia, said they have been working with Dr. Gray for about a year and explained the plan. The Mayor asked about the intersection of Old Jericho Road and the reason for that design. Mr. Pelt explained the intent was to screen the center at the point of the intersection; however, the design may change.

Councilman Glover expressed his concerns with the numerous access points stating some things

need to be rethought concerning access management. Mr. Pelt said they are willing to work within the guidelines of what Council believes is best for the public. Councilman Glover added if that many access points are needed, maybe there are some engineering techniques that could be included so that it does not hinder the traffic flow. Councilwoman Beer also inquired about the need for numerous ingress/egress if a signal light is planned.

Councilman Glover asked if a PUD had been considered. The Mayor said a median has been discussed for that highway and asked Mr. Pelt's opinion. Mr. Pelt replied the access can be tailored to accommodate that. The City Manager pointed out the access management plan for Highway 170 will be presented at the next meeting that will address many of these questions.

Mr. Gray noted the current zoning of Office Commercial is confusing and explained how the annexation and zoning occurred.

There being no other comments, the public hearing was closed at 6:55 p.m.

A public hearing was held to receive comments on the proposed **rezoning of a 0.78 acre parcel of property located at 3609 Trask Parkway, identified as District 100, Tax Map 26, Parcel 153A** (Omar's Muffler & Auto Repair) from Urban District to Highway Commercial. A Notice of Public Hearing was duly published in the Beaufort Gazette on August 28, 2006. The City of Beaufort-Town of Port Royal Joint Municipal Planning Commission recommended approval.

Libby Anderson, City Planner, said this rezoning request is the result of a petition for annexation. The property is located on Highway 21, adjacent to the marshes of Albergotti Creek. The area is developed for commercial uses and is the most intense commercial district permitting all types of office and commercial uses including vehicle sales and service. The setback for this use is 75 ft.

Chris Brunson, the applicant, addressing Councilman Glover's concern about the property being large enough for an automobile dealership shared his plans to purchase additional property and the renovation including the reduction of curb cuts.

There being no other comments, the public hearing was closed at 7:07 p.m.

A public hearing was held to receive comment on the proposed **rezoning of property totaling 1.4 acres located on Depot Road, identified as District 120, Tax Map 3, Parcels 515, 517, 518, 519, and 520** from R-3 Medium-High Density Single-Family Residential District to R-4, High Density Single-Family Residential. A Notice of Public Hearing was duly published in the Beaufort Gazette on August 28, 2006. The City of Beaufort-Town of Port Royal Joint Municipal Planning commission recommended approval.

Libby Anderson, City Planner, said the five double frontage parcels are all located on Depot Road. Each lot has a single family dwelling facing Ribaut Road and were built in 1945. Because they are listed on the Beaufort County Above Ground Survey, the applicant would have to appear before the Historic District Review Board before demolishing them. However, because the property is outside the historic district, the Board cannot prohibit demolition but could stay the demo for 180 days. This is a single family neighborhood and the only difference in the uses of R-3 and R-4 zoning is the lot

size. The applicant plans to replat the five lots and create twelve lots. Because the lots have double frontage, they could be divided in half. Staff is concerned about only rezoning a portion of the neighborhood.

Louise Dubs, 2304 Simms Street, said the neighbors are concerned about the rezoning, the trees, and redevelopment. The neighborhood will be changed and it will affect her small house.

Dan Carney, 2302 Simms Street, who recently renovated his house said the other redevelopment has remained in character with the existing area. This R-4 rezoning with increased density will set a bad precedent.

Matt McAlheny, Palmary, LLC, provided Council with a copy of his proposed plan to explain his request to rezone. He said the requested rezoning would allow 14 lots but he only wants 12 lots with an 18 foot wide alleyway behind the houses and a park on Waight Street. Two extra lots would not allow him to do that. He appeared before the Technical Review Committee to discuss the issue of the cars. He prefers them to be located behind the houses with a sidewalk along Simms St. Also, he designed the houses around the trees. Addressing the existing houses in the neighborhood, he said the architecture is not consistent and his plan creates consistency on the 12 lots, similar to what Mr. Carney did, in a southern, cottage style. He plans to relocate the existing 1942 G.I. homes to Prince Street and Duke Street of which Historic Beaufort Foundation approved. He said he could sell the five lots after he removes the houses and the new owners could build whatever they wish. If the zoning is not changed, he would not have room for a park or the alleyway to park the cars. To alleviate Council's concerns, Mr. McAlheny offered to sign a development agreement. Ms. Anderson replying to Mr. Fordham's question of how to ensure the plans are not changed, stated there is no way to condition the rezoning other than a PUD. Mr. McAlheny explained the alleyway is only for the residents to park; it is not meant for traffic. As a solution, the Mayor suggested developing a 10 unit PUD which would be more consistent with the neighborhood and allow Mr. McAlheny to build the park, alleyway, and sidewalk. Councilman Glover said he realizes this is a zoning request; however, the public expects the elected officials to have more control over what and how development occurs. He suggested amending the ordinance to that affect.

There being no other comments, the public hearing was closed at 7:45 p.m.

CONSENT AGENDA

On motion by Councilman Glover, second by Councilman Fordham, Council removed the items listed on the Consent agenda for more discussion.

REQUEST TO CLOSE PORTION OF BAY STREET FOR TRICK OR TREAT EVENT

A request by Main Street Beaufort, USA to close Bay Street from Charles to Carteret Street on October 26 from 4:15 p.m. to 6:00 p.m. for the "Trick-or-Treat in Downtown Beaufort" event.

Councilman O'Kelley opposed the street being closed at 4:15 p.m. because it affects the businesses. Councilman Fordham agreed and suggested the merchants attend Council meetings and state their opposition. Changing the date and location were suggested. The

Mayor reminded Council that Main Street Beaufort is the Merchant's Association.

After further discussion, Councilwoman Beer moved to table the request in order for Ms. Locke to poll her Board regarding moving the event to Saturday, October 28th. Councilman Glover seconded the motion. The vote was unanimous.

REQUEST TO CONDUCT A PARADE ON OCTOBER 29th

A request from the First Presbyterian Church to conduct a "Kirking of the Tartans" parade on October 29 at noon was presented for consideration. Councilwoman Beer moved to approve the request, Councilman Glover gave second. The vote was unanimous.

REQUEST TO SERVE ALCOHOL AT THE WATERFRONT PARK

A request by the Water Festival Committee to serve alcohol in the Waterfront Park for a wine and micro brew tasting on November 4, 2006 from 1:00 to 4:00 p.m. was presented to Council. On motion by Councilman Glover, second by Councilwoman Beer, Council unanimously approved the request with staff's recommendations of being contingent upon the Park being completed.

ORDINANCE REVISING UDO-OUTDOOR DISPLAY OF MERCHANDISE

The ordinance amending Sections 6.4 and 6.6 of the Unified Development Ordinance pertaining to outdoor display of merchandise was presented to Council for second reading and adoption.

Libby Anderson, City Planner, reviewed the events from the past few meetings where Phil Heilker's request was presented and discussed. She also noted that two ordinances have been prepared and are referred to as Options 1 & 2. Option 1 has received first reading and allows outdoor display in the entrance corridor but does not allow sandwich boards. Main Street was contacted at Council's request and they agreed with the changes. Other communities were also contacted and none of them allows outdoor display of merchandise. Therefore, Option 2, which is more restrictive in the historic district and does not allow outdoor display along the entrance corridor, was prepared. The Mayor stated either will treat the districts more fairly but Option 2 is more restrictive.

Mr. Heikler, owner of Mama's Furniture, was asked which of the two options he prefers. He said he prefers Option 1 but he also requested the use of sandwich boards which is not covered in either of the ordinances. Currently the businesses in the historic district have an advantage because they can display indoor merchandise outside which is a powerful marketing tool, he said.

Joy Locke, Main Street Executive Director, said the merchants were asked for comments and only four responded. Option 2 is their preference.

Councilman O'Kelley moved to adopt Option 1. Councilman Glover referring to Mr. Heilker's comments about the ordinance still not being as fair as it should be asked Ms. Anderson what is not included. Ms. Anderson replied sandwich boards are not addressed in either option. Staff nor the Planning Commission supports further use of sandwich boards. She said they are only allowed in the Boundary Street District. The ones on Bay Street are grandfathered. No additional ones are allowed, she said.

The City Manager pointed out Option 1 will also allow all businesses along the corridor in the City limits to display merchandise outside. This is not allowed in the County. Seeing items on Bay Street which is a pedestrian atmosphere with stores fronting the sidewalks is different.

Councilman Glover stated he would be in favor of banning outdoor display everywhere as long as all areas are treated equal. Council members Beer and O'Kelley concurred.

Councilman O'Kelley asked about outdoor items. Ms. Anderson said currently the ordinance states merchandise typically used and stored outdoors may be display outdoors.

Councilwoman Beer moved to table the discussion and ordinance until an Option 3 can be prepared and brought to Council at the next meeting. Councilman Glover gave second. The motion to table was unanimous.

Mr. Heilker inquired about the inclusion of sandwich boards. Councilman O'Kelley said that would not be changed or included in another option.

Walter Gay, Sandlapper Tours, commented that the sandwich boards downtown are not fair either even though they are grandfathered. The Downtown Marina has been selling carriage and bus tour tickets for years. The building next door sells them too; however, their sandwich board states air conditioned buses, carriage tours, etc. He was told the Marina's sign cannot be changed. Ms. Anderson explained the ordinance states any non conforming sign cannot be altered without bringing it into compliance.

Shirley Sutton, spoke on Mr. Gay's behalf stating he has a new business and should be allowed a sandwich board. Ms. Anderson replied that a new business is allowed a temporary sign for six months.

ORDINANCE ANNEXING A PARCEL ON MERIDIAN ROAD

The ordinance annexing a parcel of property located at 32 Meridian Road on Lady's Island identified as District 201, Tax Map 14, Parcel 4 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. The motion was unanimous. (Copy of ordinance at end of the August 22, 2006 minutes)

ORDINANCE ZONING A PARCEL ON MERIDIAN ROAD

The ordinance zoning a parcel of property located at 32 Meridian Road on Lady's Island identified as District 201, Tax Map 14, Parcel 4 to R-3 Medium-High Density Single-Family Residential District 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. Council unanimously adopted the ordinance on second reading. (Copy of ordinance at end of the August 22, 2006 minutes)

REQUEST FOR ROTATION FEE REIMBURSEMENT

A request by Carolina Buggy Tours for a reimbursement of \$1,500 of their rotation fees was presented to Council for consideration.

Councilman Glover moved to approve the request for reimbursement. Councilman O'Kelley seconded the motion but asked for justification of the request.

Shirley Sutton, Marketing and Sales Manager for Carolina Buggy Tours, said she read in the Beaufort Gazette recently that the other carriage company's request was approved due to the loss of days while the Waterfront Park is being renovated. She said they have suffered greater losses, same inconveniences with the trucks and relocation. Also, the Waterfront Park parking area was rented to festivals causing their carriages to be relocated. They feel, to be fair, they should be reimbursed.

Councilmen O'Kelley, Fordham, and Glover voted in favor of the motion. Council members Beer and Rauch voted nay. The motion passed 3 to 2. Councilmen O'Kelley and Fordham spoke in favor of the companies request for a refund.

BID FOR CARRIAGE ROTATION SLOT FEE

In April, 2005, City Council amended the Tourism Management Ordinance to provide for a sealed bid process to allot rotation slots to a maximum of two carriage companies for a period of five years. That process, as specified in the ordinance, is to begin October 1, 2006.

Councilwoman Beer moved to approve the process. The motion died for lack of a second.

Matt Horn, Assistant City Manager, explained that previously the ordinance stated the rotation fee would be \$10,000 with no provision for another company to participate. Council felt that was unfair and there was a need to provide an opportunity for others. Therefore, the ordinance was amended to allow Council to set a minimum bid for the rotation slot fee. The top two bidders in the sealed bid process would be awarded the rotation slots and their bid would be their fee for the next five years. Using a five year average of the Consumer Price Index published by the U.S. Department of Labor and compounding that average against the \$10,000, the minimum bid of \$11,325 was recommended by staff.

Councilman O'Kelley questioned whether the carriage companies had raised their prices according to the CPI.

Councilman Glover moved to reconsider the slot fee. Councilman O'Kelley seconded the motion.

Councilwoman Beer explained that there were three carriage companies and because problems arose between the companies a coordinator had to be hired. The salary was set at \$30,000 with each company paying a third.

Rose White replied to Mr. O'Kelley's inquiry about the price of tickets, said that since the ordinance was amended in June, 2004, "specials" are no longer allowed which affected revenues for both companies. Therefore, both companies agreed to raise the price of their tickets. Referring to the bid process, she suggested guidelines be set on the bidding to eliminate a monopoly from occurring.

Shirley Sutton also said the ticket prices have increased along with their expenses.

Council members Beer and Glover said they don't see the need to increase the fee above \$10,000.

Walter Gay, Sandlapper Tours, expressed his concerns with setting a minimum bid stating, in his opinion, that statement implies its worth. Another question was if bus companies had to comply with a bid process. Council's reply was no because there is not a Tourism Vehicle Coordinator for buses.

Peter White, Southurn Rose Buggy Tours, stated it seems the same rules would apply. He said someone interested in owning and operating a bus company should be given the same opportunity.

Patricia Costilla, Tour Coordinator, read the portion of the ordinance pertaining to buses which states "each bona fide license tour bus operator shall be entitled to a non-competitive purchase of one embarkation/rotation slot for an annual fee determined by City Council." The slots are not bid out; therefore, an opening only arises when a company discontinues his business in the City, she said.

The Mayor suggested contacting the City Attorney regarding the slot rotation fee and the question about the tour bus rotation slot fee.

On motion by Councilman Fordham, second by Councilman Glover, Council unanimously approved a minimum bid of \$10,000 for the rotation fee for the carriage companies.

ORDINANCE AMENDING FY07 BUDGET

An ordinance amending the FY06 City budget was presented to Council for first reading. The Police Chief Jeff Dowling reminded Council that during the budget process in June a salary plan for the police department was briefly discussed and deferred until September. He stated the surrounding jurisdictions passed a pay plan in July which put the City behind and the salary discrepancies dictate where the candidates apply. He presented a handout with figures regarding the differences and listed several reasons that make it difficult to recruit officers. Additionally, he pointed out that before a new hire can begin work, they have to attend the academy for ten weeks. An attractive, competitive salary would bring more certified applicants which means they don't have to attend the academy unless they are hired from out of state. He stated the total cost for this recruitment and retention pay plan for a year is \$163,500. If this were implemented in February, 2007 the cost would be \$68,500.00 for the remaining fiscal year. This plan does not include the command staff and it is a sliding scale with the highest percentage being Patrolman I to a Patrolman III. With an 8% increase added to the recent 4% COLA that is a substantial raise and he said he believes this will retain the officers and help employ more.

Councilman Fordham said he would like time to review this thoroughly and since the information was just received, he suggested deferring a decision to the next meeting. The Mayor pointed out this will be a budget amendment requiring two readings.

The City Manager compared the current and the proposed pay plans stating the City would then be

in a competitive advantage. This would be a new expenditure, requiring new revenue. He cautioned Council that the revenue may not exceed the expenditures since the costs to the City are increasing. At the end of the fiscal year, if the additional revenues are not there, the balance will have to be taken from other expenditures, locate another revenue source, or use the cash reserve in order to have a balanced budget. The following year, the amount will be higher. He added that as the City grows the call volume increases and this stretches the number of police officers, the fire department, and public works even further as they provide services. Growth does increase business license revenues and accommodation taxes. There are other issues to be considered as additional staffing plans to make the community safer but recruitment and retention are good for the police department.

The Mayor said he is uncomfortable approving this in part; the salary now and staffing later. In reply to a question, the police chief identified the calls they answer as victims, complainants, suspects, and witnesses. A study revealed that 80% of the calls in the City involve out of city residents.

Council said it seems the city residents pay for services provided by the Sheriff and yet the City residents have to pay for the crimes committed by others in the City. Councilman Fordham said that is true and asked how the Sheriff's department could assist the City's police department in enforcing the law. Chief Dowling listing the following services provided by the Sheriff, said the communications serve all the jurisdictions, the Sheriff is tasked by statute to handle civil action, animal control, and five courts are staffed by them. He added that they assist on numerous cases and any resources they have are available to the City. Councilman Glover said he is concerned about having to increase the millage rate and agrees with the Mayor that the salary and staffing should be considered together. The Mayor asked that a staffing recommendation to cover the calls and support the community policing effort be provided to Council within the next two weeks. The City Manager offered to provide the information by the weekend.

Councilwoman Beer inquired about using cameras as a security tool. The Police Chief said he was in support of that.

Councilman Glover moved to table the ordinance. Councilman O'Kelley gave second. The motion to table was unanimous.

ORDINANCE ANNEXING A PARCEL OF PROPERTY

An ordinance annexing a 0.78 acre parcel of property located at 3609 Trask Parkway (US Highway 21) identified as District 100, Tax Map 26, Parcel 153A was presented to Council for first reading.

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

ORDINANCE ZONING A PARCEL OF PROPERTY

An ordinance zoning a 0.78 acre parcel of property identified as District 120, Tax Map 26, Parcel 153A was presented to Council for first reading.

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

second. The motion passed unanimously. (Copy of ordinance at end of these minutes)

ORDINANCE AMENDMENT REGARDING TOUR GUIDE CERTIFICATION EXAM

An ordinance amending Chapter 11, Section 7-11015 of the City Code limiting the number of times an individual may take the tour guide certification exam to four tests in six months was presented to Council for first reading.

Councilman Fordham moved to approve the ordinance on first reading. Councilwoman Beer gave second. The motion passed unanimously. (Copy of ordinance at end of these minutes)

CITY MANAGER'S REPORT

The City Manager introduced the recently hired Finance Director Shirley Hughes to Council and the public.

REPORTS BY COUNCIL

BEER: Councilwoman Beer thanked the staff, the police department, the fire department, and all the military bases for the successful 9-11 Fifth Anniversary Commemorative Service held at Pigeon Point Park on September 11th at 7:00 p.m.

EXECUTIVE SESSION

On motion by Councilwoman Beer, second by Councilman O’Kelley, Council moved into executive session to discuss a personnel matter and to receive legal advice related to property.

OPEN SESSION

Upon returning to open session, Councilwoman Beer moved to increase the City Manager’s salary by 4%. Councilman Glover seconded the motion. The vote was unanimous.

ADJOURNMENT

There being no further business to come before Council, the meeting was adjourned at 10:25 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