

A regular meeting of the Beaufort City Council was held on December 11, 2007 at 6:00 p.m. in the County Administration Building, Ribaut Road. In attendance were Mayor Pro Tem George H. O'Kelley, Council members Donnie Ann Beer, Gary B. Fordham, Mike Sutton, City Manager Scott Dadson. Mayor Bill Rauch was recuperating from injuries he received in an accident. 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 Pro Tem called the meeting to order at 6:00 p.m.

### **PLEDGE OF ALLEGIANCE**

The invocation was given by Rev. Leon Meadows of Riverview Baptist Church. The Pledge of Allegiance was led by the Mayor Pro Tem.

### **UPDATE ON MAYOR'S CONDITION**

Mayor Pro Tem O'Kelley provided an update on the Mayor's condition stating he is still in the hospital recuperating from the December 5<sup>th</sup> vehicle accident.

### **MINUTES**

The minutes of the regular City Council meeting of November 27, 2007 were presented to Council for review.

On motion by Councilwoman Beer, second by Councilman Fordham, Council approved the minutes as presented.

### **ORDINANCE ANNEXING A 1.37-ACRE PARCEL OF PROPERTY ON SC 280**

The ordinance annexing a 1.37 acre parcel of property located at 138 Parris Island Gateway (SC 280) identified as District 100, Tax Map 29, Parcel 52A was presented for second reading and adoption.

Councilwoman Beer moved to adopt the ordinance on second reading. Councilman Fordham gave second.

Libby Anderson, City Planner, stated the majority of the parcel is located on the west side of Highway 280 and a very small portion on the east side.

Council unanimously adopted the ordinance on second reading. (Copy of Ordinance at end of November 27, 2007 minutes)

### **ORDINANCE ZONING A 1.37 ACRE PARCEL OF PROPERTY ON SC 280**

The ordinance zoning 1.37 acres of land located at 138 Parris Island Gateway identified as District 100, Tax Map 29, Parcel 52A to General Commercial and Highway Commercial was presented for second reading and adoption.

Councilwoman Beer made a motion to adopt the ordinance. Councilman Fordham seconded the motion.

Libby Anderson, City Planner, said the proposal is to zone the west side of the property which is about 1.27 acres to General Commercial. That would be consistent with the zoning of Cross Creek Apartments and the Cross Creek Shopping Center also located on the west side of Highway 280. The smaller portion of the parcel, .1 acre, is proposed to be rezoned Highway Commercial which is consistent with the surrounding zoning on the east side of the highway. She said she contacted the realtor regarding the split zoning since the original request was Highway Commercial. The realtor said the potential buyer is considering a retail business not an auto related use and the proposed zoning would be consistent with that use.

**Carl Wedler**, 502 Prince Street, asked for a clarification of Highway Commercial zoning. Ms. Anderson replied that it is the city's most intense commercial zoning designation and permits multi-family development and all types of office and commercial development. The major difference between General Commercial and Highway Commercial is the auto oriented uses.

Council adopted the ordinance on second reading. (Copy of ordinance at end of the November 27, 2007 minutes)

#### **ORDINANCE REZONING 46 PARCELS OF PROPERTY FROM GR TO NC**

The ordinance rezoning 46 parcels of property in the area of Greene and Baggett Streets from General Residential to Neighborhood Commercial was presented for second reading and adoption.

Councilwoman Beer made a motion, seconded by Councilman Fordham, to adopt the ordinance on second reading.

Libby Anderson, City Planner, said the 46 parcels are owned by 35 property owners and she listed the various uses in the area. The proposed NC zoning is a low intensity commercial district that allows small scale offices and commercial uses; auto related commercial uses are not permitted. The proposed zoning is consistent with the City's Comprehensive Plan.

**John Gadson**, 1907 Greene Street, said after the public hearing he spoke to most of the residents and few of them object to the rezoning. During first reading, Mr. Watson wanted the area to remain residential and affordable homes be built for low to moderate income people. Since talking with him, he understands houses can still be built there and has no objections but would like it to remain residential. The neighborhood is changing; therefore, the NC zoning seems to be the best choice. The residents of the neighborhood prefer home ownership to the Housing Authority building rental units, he said.

Council unanimously adopted the ordinance on second reading. (Copy of ordinance at end of the November 27, 2007 minutes)

#### **PRESENTATION – 2007 CAFR CITY AUDIT**

Charles Talbert, with the firm of McAbee, Talbert, Halliday & Co. who prepared the City's audit,

distributed the Comprehensive Annual Financial Report (CAFR). He explained that CAFR represents the highest level of financial reporting in the government. This document can be submitted to the Government Finance Officers Association (GFOA) for review. Assuming the City is successful, the City will receive a plaque recognizing the highest level of achievement has been met. Also, the City will receive a certificate and it will be included in the next CAFR demonstrating that the City has met that level of achievement in financial reporting.

He outlined the contents of the document, reviewed the financial high lights, and covered required disclosures that they include in terms of discussing with governing boards. The auditors report, showed a clear unqualified opinion which is something of which to be proud.

Discussing other matters, he recommended items for consideration in terms of enhancing the operations and accounting functions within the City. The first recommendation was to segregate payroll functions; another was that journal entries do not have the documentation as to why they are being made and they should be enhanced and reviewed by the finance director; general ledger accounts should be reconciled to supporting documentation on a monthly basis; employees should be cross trained so that every position is appropriately backed-up in the event of an unexpected absence; also, a minimum of one week vacation should be taken by all finance-related employees to prevent employee burnout resulting in inefficiencies. He also mentioned that he is not sure the City has all the core competencies needed relative to the financial arena. He suggested the accounting segment be reviewed.

The City Manager and the Finance Director stated they are aware of the issues mentioned and intend to correct them. The Finance Director, Shirley Hughes, provided Council a copy of her response to the Management Letter addressing their recommendations.

### **BEAUFORT COUNTY ARTS COUNCIL – MERMAIDS**

J. W. Roane, Executive Director of the Arts Council of Beaufort County, made a presentation on the mermaids and the auction. He said when they accepted the loan of \$55,000 from the City last year they were \$27,000 in the red. They are now \$1,500 in the black. He added that Council assumed the loan was part of the 1% of capital projects committed by Council in its resolution concerning public art. He distributed a handout showing the project expenses. He stated the \$55,000 should not have been a loan but an investment in the future of Beaufort because that money would not have paid for the advertisements or promoted Beaufort so positively. He presented a check to the City for the \$55,000 but suggested Council let the Arts Commission keep the money so they can continue to promote the arts in the County or place the money in an arts escrow fund that could be used for another project.

### **SOUTHSIDE PARK PLAN**

Brian Coffman, the chairman of the Southside Park Advisory Commission, presented the background for the conceptual master plan. Explaining the site was originally the wastewater treatment plant, he said Beaufort-Jasper Water & Sewer Authority will retain five acres of the Park. Their primary entrance will be from Waddell Road which will also provide the public a secondary entrance to the Park. The Authority will clear some of the underbrush through the buffered areas that will create sight lines for security. Walking trails, a playground along Southside Boulevard, restrooms in the existing building, a picnic area, a pavilion in the center, and a fenced dog park are

being proposed. He said the Commission believes funding can be found for those items with the cooperation of the water and sewer authority. Certain items labeled as Phase II are a wetland area and an interactive fountain. During the past month, two other meetings were held for community input and interest in a skating area and a community-center type structure for receptions, etc. were brought up. Discussions with Beaufort County PALS, who own the 9 acre parcel adjacent to this park, were held and plans are to combine the two walking trails.

Russell Byrd of the City's Planning Department listed the items to be included in Phase 1, the groups who have volunteered for several projects, and the estimated costs. Some of those are constructing a gazebo, producing and implementing a landscaping plan, designing the dog park, and various work to be completed by B-JWSA. Some items will be paid for through grants and some will have to be addressed through the upcoming budget.

Councilwoman Beer moved to accept the proposed plan for Southside Park submitted by the Commission. Councilman Fordham gave second.

Councilman Sutton suggested reusing the existing fencing for the dog park. Mr. Byrd said it is possible. Mr. Sutton also asked about renaming the current Wastewater Way.

Council unanimously accepted the proposed plan.

#### **ACCEPTANCE OF ROADS INTO CITY SYSTEM**

The South Carolina Department of Transportation is being asked to remove Palmetto Street, from Boundary Street to 100 feet beyond the Morris Street intersection, Morris Street from Sycamore Street to 100 feet beyond the Palmetto Street intersection, and Sycamore Street from Lovejoy Street to 100 feet beyond the Morris Street intersection for the construction of the Municipal Complex.

Councilwoman Beer moved to accept the roads. Councilman Fordham seconded the motion.

The City Manager said it is necessary for the encroachment permits while the municipal complex is being built. He said this will add about one quarter of a mile to the City's one mile of road system to maintain.

Council unanimously accepted a portion of Palmetto, Morris, and Sycamore Streets.

#### **FRANCHISE FEES**

The City Manager provided an update on the status of SCE&G's and the City's reconciliation of certain funds. There is a percentage of the franchise fee that is collected that is used for under grounding purposes. A portion comes from the City and is matched by SCE&G for projects around the City. The last under grounding project was during the Port Republic Streetscape. He said staff has envisioned the expenditure of current funds and the three main issues that we are aware of occurring are Bladen Street Streetscape, Greenlawn Street, and Boundary Street. Approximately \$140,000 annually is generated by the franchise agreement. If the Boundary Street under grounding does not start for two years, there would be about \$471,853 available for the project. If the project is started, it may have to be continued several years later in order to have the funding. The Bladen Street Streetscape has been approved and Boundary Street is in the process of being surveyed and

engineered. While the work is going on, this is the time to consider under grounding. This only includes SCE&G lines, not the variety of sub-rental lines on various poles. These will have to be negotiated. If Council does not agree with the project list, staff needs to be aware so the funds are not appropriated. Mayor Pro Tem O'Kelley said he would like to discuss this further.

Council agreed to add this as a work session item.

#### **ORDINANCE - MASC SETOFF DEBT**

An ordinance relating to the recovery of collection costs as a part of delinquent debts collected pursuant to the Setoff Debt Collection Act was presented for first reading.

Councilman Fordham made a motion, seconded by Councilwoman Beer, to approve the ordinance on first reading.

Shirley Hughes, Finance Director, said the Setoff Debt Collection Program aids in the collection of outstanding fines in the Municipal Court and is collected from the debtors' South Carolina tax return. When the City entered into an agreement with the Municipal Association in 2002 there was a 15% administration fee for every debt collected. That fee is no longer the City's responsibility. It is now an additional fee collected from the debtor when recovered from their tax return.

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

#### **ORDINANCE - TETHERING OF DOGS**

An ordinance amending Section 6-4022 of the City's Code of Ordinances to provide regulations concerning the tethering of dogs was presented for first reading.

Councilwoman Beer made a motion, seconded by Councilman Fordham, to approve the ordinance on first reading.

Bill Harvey, City Attorney, stated he was asked to review the State law; there is no State law. A dog tethering bill was introduced but died in the 2007 session. Using the bill that was introduced, he created the proposed ordinance. The bill does allow for a municipality to alter the periods to either prohibit what is in subsection (h), chaining or (i), cable trolley system or to alter the periods in the bold and underlying lettering.

Also, neither State legislation nor this bill addresses dangerous dogs. He tried to modify the Section of the City's Code to change the existing ordinance to apply to dangerous dogs. However, the current ordinance states a dangerous dog can be restrained on a chain but the proposed tethering ordinance prohibits that. He said Council needs to be aware of that before entering into this ordinance because the proposed ordinance lessens the restrictions that currently are allowed with regard to dangerous dogs. Council asked how the time would be measured and how is dangerous defined.

Councilman Sutton said it appears something needs to be done and he is in support of the City taking the lead. He shared pictures of six dogs being taken care of in the City limits but they are all

tethered and in the same backyard. Complaints have caused the Animal Control Officers to visit this house many times and have found nothing wrong. He believes something is wrong with tethering six dogs in one yard. It is important that this be approved on first reading and then make adjustments accordingly. The County held a committee meeting where Sheriff Tanner spoke about the mistreatment of animals and why this ordinance is important. Mr. Sutton offered Council the opportunity to listen to a tape of that meeting. The City relies on the Animal Control Officers so it is very important to have sufficient wording so the regulations allow enforcement but don't allow neglect.

Mayor Pro Tem O'Kelley suggested he and Councilman Sutton meet in this regard and review the cruelty section. Then provide the City Attorney a copy if revisions are needed before the next Council meeting. The City Manager recommended writing a letter to the County Council on behalf of City Council that it is the City's desire that this ordinance be adopted.

Councilman Fordham suggested passing the ordinance in January. If the County adopts it and there are changes, City Council could make amendments also.

**Laura Von Harten**, County Councilwoman, stated this was an information item on the County's agenda in October. Chairman McBride said it would reappear on the November agenda; however, it did not. Ms. Von Harten said the chairman indicated to her that he did not wish to see this proceed any further as he did not think this was an appropriate action for the County. She said she did bring up the subject as an off agenda item during the County Council meeting last night. It was not heard but Chairman Newton directly requested that Mr. McBride take up the matter in January's Community Services Committee meeting. She said there is resistance within the committee; however, she thinks there is enough support in the full Council to move forward along with Sheriff Tanner's support which is critical; it underscores the need to move forward. She replaced the word tether with the care and confinement of dogs to keep the ordinance's wording neutral.

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

### **FOUNTAIN FOR CHARLIE KNOTT PARK**

A request from the Point Property Owners Association for the City to participate in the purchase of a fountain for the Charlie Knott Park was presented to Council.

The Mayor Pro Tem said the cost of the fountain chosen by Dewitt Helm and Martha Young from selections provided by Eliza Hill is \$5,480. A donor will provide \$3,000 of that cost. The fountain is 66 inches tall by 88 inches in diameter. Mr. O'Kelley stated he phoned a landscaper in Charleston, SC and received prices for two other tiered fountains; a 98 inch fountain for \$3,859 and a 82 inch fountain for \$3,119.

Dewitt Helm, President of the Point Property Owners Association, said the Point residents appreciate all the work that has been performed in the Park in the last three years including the stormwater project. The specifications of the proposed fountain with a diameter of 88 inches will fit in the opening in the brick in the center of the park which has a diameter of 110 inches. The quote for the fountain, shipping, and a float switch, which will generate a continuous flow of water, totals a little

less than \$6,000. With the donation from the Point resident, the City's cost will be approximately \$2,617.26 plus the cost of the float switch. The anonymous donor has also agreed at their own expense to provide a plaque which could be mounted in front of the fountain with an inscription that would read "This Fountain is Dedicated to The Children of The Point by The Grandparents of Josh and Lilly Borque." He encouraged Council to accept the donation. Mayor Pro Tem O'Kelley said Council is considering the donation; however, the City is being asked to pay for half the cost of an unbudgeted item. Also, Mr. O'Kelley said he is not comfortable with the idea of the plaque or a time limit on placement of the fountain. Mr. Helm said that was not submitted as a contingency but a reasonable suggestion. Mr. Helm stated the donor would like to make the donation to the City this year for tax considerations. The fountain has to be paid for when the order is placed. Another resident has agreed to place the charge on their credit card and collect the repayment from the City if there is a commitment that he will be reimbursed in 2008. He said he is representing those two citizens. Council would be accommodating the City in finishing the Park that has been an eyesore for three years.

The City Manager said the City can accept a donation and offered to write a letter for tax purposes stating \$3,000 has been received. If Council is concerned about pricing and the person still wants to make the donation, then the decision can be made on how it is to be spent. Mr. Helm said he would have to consult with the donor to see if that is suitable. He added that the attitude of the executive committee is that the City has not finished the Park and it could be finished reasonably. Their solution is to order the fountain, charge it to one of the POA member's credit card, and when the bill comes due next year, the City can reimburse that person. The City Manager suggested the donor deposit his donation with the City and a letter will be written to allow him the tax deduction. When the funding can be determined and pricing is decided, the same thing would be accomplished. Mr. Helm said he does not have the authority to make that commitment. He wants the City to approve the purchase of this fountain with the understanding that \$3,000 will be paid for by an anonymous donor who will also pay for the installation of a plaque with the above wording at no charge to the City and the City will not expend any funds until 2008.

Councilwoman Beer moved to approve the request as stated. Councilman Sutton seconded the motion.

Mr. Sutton suggested using the money repaid by the Arts Council since this is essentially public art. Councilman Fordham said he is opposed to using that money to fund this request. The City Manager explained that Park was repaired with Stormwater fees because it is a retention pond and has involved in-kind work over a period of time using operating funds. He is not certain of the amount spent over the 3 years. Councilman Fordham agreed. Mr. Sutton said in his opinion, it is time to put a fountain in that park. He asked for help in finding the funding.

**Leslie Hendricks**, chairman of the Public Art Commission and member of the POA, said in her opinion, a fountain is an art project and should be considered by the Commission first. Mr. Sutton said the \$55,000 was loaned to the Arts Council with no stipulation of how it was to be spent when it was repaid. The City Manager further explained the loan was a percentage of the Capital Improvement Project at Waterfront Park. Mr. Sutton asked for a commitment on funding the fountain from the repayment of that loan. The City Manager agreed that would be a funding source; however, he doesn't believe the donor should purchase the fountain but instead donate the money to

the City towards a fountain. The Mayor Pro Tem, Councilman Sutton, and the City Manager agreed this is a fiscal matter for the City and would not be necessary to go before the Arts Commission. Mr. O'Kelley stated the fountain that was there cannot be used again. This would be considered a replacement.

**Ann Helm** asked if there is a time frame on the purchase of the fountain. The City Manager said as long as the funds are available, it can be done. If Council agrees to use the money repaid by the Arts Commission, the motion would have to be amended and a cash donation would have to be deposited with the City. A letter for the tax credit will be provided to the donor.

Mayor Pro Tem O'Kelley said he is in favor of the fountain but he also expressed his concern with a private citizen or donor designating the wording for a plaque on a city-owned property because of establishing precedence. Councilman Sutton asked if the donation for the fountain is contingent on the plaque and wording. Mr. Helm said he did not know that. Mr. Helm also pointed out that the proposal for the bronze plaque identifying the Park was also submitted to the City Manager for review. He stated the City Seal is missing from the copy. Referring to the fountain, he stated if Council approves the fountain without the plaque and he delivers a check for \$3,000 tomorrow, when would the fountain be ordered. The City Manager replied the order would be placed within two weeks.

Councilman Sutton suggested removing the portion of the inscription from the plaque that relates to a particular family. Council agreed to the wording "This Fountain is Dedicated to the Children of The Point".

Councilman Sutton moved to amend the motion to provide a fund for the purchase of a fountain for the Knott Park at The Point with the \$3,000 contribution from the donor and the City's share not to exceed \$3,000. Also, the plaque as presented was not accepted. Councilwoman Beer seconded the amended motion. The vote was unanimous.

Council unanimously approved the request as amended.

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

The City Manager reported an updated fiscal report from the most recent information provided by the County on the stormwater fees for 2007. The net amount due the City is \$317,469.12 if everyone who is billed pays.

### **MOTION TO ADD ITEMS**

On motion by Councilman Sutton, second by Councilwoman Beer, Council added a personnel matter and a contractual matter to items already listed for executive session.

### **EXECUTIVE SESSION**

On motion by Councilwoman Beer, second by Councilman Fordham, Council voted to move into executive session pursuant to Title 30, Chapter 4, Section 70(a)(2) of the South Carolina Code of Laws to discuss negotiations incident to pending litigation, the appointment/reappointments to the City of Beaufort-Town of Port Royal Planning Commission, a personnel matter, and a contractual matter.

The City Manager, the City Attorney and the City Clerk left the room before the personnel matter was discussed.

**OPEN SESSION**

**Ethics Commission**

Upon returning to Open Session, Councilwoman Beer moved to make public the following statement: City Council has been informed that Mayor Bill Rauch has been served with a complaint by the State Ethics Commission, apparently alleging some misconduct on his part. The investigation predates the Mayor's automobile accident. Council was advised that a hearing is scheduled for March, 2008. No member of Council has seen the complaint and none has any personal knowledge of the contents. Councilman Sutton gave second. The vote was unanimous.

**ADJOURNMENT**

There being no further business to come before Council, the meeting was adjourned at 9:45 p.m.

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BILL RAUCH, MAYOR

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COUNCILWOMAN DONNIE ANN BEER

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COUNCILMAN GARY B. FORDHAM

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COUNCILMAN GEORGE H. O'KELLEY, JR.

\_\_\_\_\_  
COUNCILMAN MIKE SUTTON

ATTEST:

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BEVERLY W. GAY, CITY CLERK