

A regular meeting of the Beaufort City Council was held on January 23, 2007 at 6:00 p.m. in County Council Chambers, 100 Ribaut Road. In attendance were Mayor Bill Rauch, Mayor Pro Tem George H. O'Kelley, Council members Donnie Ann Beer, Gary B. Fordham, Mike Sutton, 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 p.m.

INVOCATION/PLEDGE OF ALLEGIANCE

The meeting was opened with an invocation by Rev. Shannon Mullen of St. John's Lutheran Church. The Pledge of Allegiance was led by the Mayor.

PUBLIC HEARING

The public hearing scheduled to receive comment on the proposed rezoning of a 1.3 acre parcel of property located at 66 Meridian Road, identified as District 123, Tax Map 14, Parcel 9 from R-1 Low Density Single-Family Residential District to R-3 Medium High Density Single-Family Residential District was tabled at the request of the petitioner.

Councilman O'Kelley proposed the public hearing be scheduled after the Joint Planning Commission meets on February 5, 2007 and makes their recommendation. He moved to table the public hearing until the first Council meeting in February. Councilwoman Beer seconded the motion. The vote was unanimous.

PUBLIC COMMENT

Edie Rodgers, Spanish Point, referred to the article in the Beaufort Gazette recently concerning the Day Dock. She recalled the discussion two years ago when the cost for the extension was \$60,000 and she opposed it then. She said, she observes the number of boats daily which are just 3 or 4 dingys. Rarely does she see a boat of any size tied up during the day. Now, she read that the price for the extension is approximately \$135,000 and it bothers her that the City would spend that much of the tax payer's money to extend the Day Dock that is primarily used two weeks during Water Festival. She would like Council to rethink this. Councilman O'Kelley stated there was grant money available and the Marina Dock Master was going to pursue that. Also, there were people who wanted the extension.

Ken Hoffman commented on the need for affordable housing stating Beaufort County has the highest home prices in the State. He urged Council to consider proposals in conjunction with County Council. The Mayor said it has to be County-wide and approximately two years ago, the County was asked to develop a program. If the City had an affordable housing program, it would slow construction.

MINUTES: SPECIAL MEETING

The minutes of the special meeting of December 6, 2006 were reviewed by Council and on page 4, 3rd paragraph from the bottom of the page, there were two typographical errors; "t" was left off this

and aside was misspelled. On page 5, 3rd paragraph from the bottom, "Councilwoman" was inadvertently misspelled.

On motion by Councilwoman Beer, second by Councilman O'Kelley, Council members Beer, O'Kelley, Fordham, and Rauch voted to adopt the minutes of the special City Council meeting of December 6, 2006 as amended. Councilman Sutton abstained.

MINUTES: REGULAR MEETING

Council reviewed the minutes of the regular meeting of January 9, 2007 and the following corrections were noted. On page 3, Mr. Thole's name was misspelled and on page 5, under the review of the minutes of the regular meeting of November 28, the correction was not clearly stated.

On motion by Councilwoman Beer, second by Councilman O'Kelley, Council voted to adopt the minutes of the regular City Council meeting of January 9, 2007 as amended.

ORDINANCE AMENDING SECTION 113003 -HOSPITALITY FEES

The ordinance amending Section 7-13003, City Code, regarding the allocation of Hospitality Fees was presented to Council for second reading and adoption.

Councilwoman Beer made a motion to adopt the ordinance on second reading. Councilman Fordham gave second. Council voted unanimously to adopt the ordinance on second reading. (Copy of ordinance at end of the January 9, 2007 minutes)

ORDINANCE REVISING UDO ADOPTING BOUNDARY STREET REDEVELOPMENT DISTRICT ORDINANCE

The ordinance revising the Unified Development Ordinance adopting the Boundary Street Redevelopment District Ordinance was presented to Council for second reading and adoption.

Councilman Fordham made a motion to table the ordinance until the next Council meeting to allow more study. Councilman O'Kelley gave second. Council members Beer, Rauch, O'Kelley, and Fordham voted to table the ordinance. Councilman Sutton voted nay. The motion passed 4 to 1.

ORDINANCE AMENDING UDO – OUTDOOR DISPLAY OF MERCHANDISE

An ordinance amending Sections 6.4 and 6.6 of the Unified Development Ordinance pertaining to Outdoor Display of Merchandise was presented to Council for first reading.

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

Phil Helker was asked by Councilman Fordham if he had reviewed the proposed ordinance. Mr. Helker said he had not.

Ms. Libby Anderson, City Planner, reminded Council that in April 2006, Mr. Helker submitted an application to amend the UDO to allow him to display merchandise outdoors and to have a sandwich board sign at his business on Ribaut Road. First reading of the ordinance was held last May. Due to objections from downtown business owners, staff was asked to contact Main Street Beaufort, the

Historic Beaufort Foundation and the Historic District Review Board for their input in order to be fair throughout the City. This revised ordinance contains staff recommendations as endorsed by the HBF and the HDRB. Main Street believes the current rules provide sufficient regulation. HBF and the HDRB concur with staff that outdoor display should not be permitted on the entrance corridors and that rules for display in the Historic District should be tightened. Ms. Anderson reviewed the changes as proposed in the ordinance for both the Historic District and the Design District. Four additional restrictions are being proposed to the regulations for the Historic District. The only addition/change to the Design District is a definition of merchandise. Ms. Anderson stated this proposed amendment would allow outdoor furniture to be displayed outside but not a couch or mattress or any indoor item.

Mr. Helker said he asked for a change to be treated fairly like the other merchants in town who can display indoor merchandise outdoors. These proposed changes do make the regulations for the Historic District stricter but does not impact the reason he applied. He presented pictures of businesses that display merchandise in front of their businesses. He asked the difference between a Design District and a Historic District.

Ken Hoffman said it appears the City wants businesses to locate in the City but it is made impossible. This will also deter many of the extra functions that have occurred. He said it doesn't make sense to treat businesses different because of the districts in which they are located. He asked Council to consider whether this is good for the City or fair to the taxpayers.

The Mayor asked the rationale for having indoor merchandise permissible outdoors in one part of town and not the other. Ms. Anderson said in the Historic District, the lot design is different than on Highway 170. The lots are very narrow, with on street parking but not large surface parking lots. There is pedestrian activity that might be enhanced by the outdoor display and the type of merchandise that is sold in the Historic District is different than that of the entrance corridors.

Mr. Helker suggested expanding the Historic District as a solution.

Councilman O'Kelley agreed the original request was for fairness and after many months the ordinance still does not address the request.

Councilman Sutton pointed out that many people have tried to provide the best solution and he agrees Beaufort is still small with merchants trying to make a living. He suggested trying the changes proposed. Councilman O'Kelley agreed.

Roy Fyfe asked how this would affect outdoor display of garden supplies at K-Mart. Ms. Anderson explained certain items such as mulch are considered outdoor items and this would have no effect on that type of display. Councilman Sutton noted that K-Mart does display merchandise in a parking lot and more than five feet from their building. He said he wants this resolved and asked if this ordinance will allow the businesses in the City limits to display seasonal displays fairly. Ms. Anderson replied it is a constant enforcement issue. Staff has been waiting to get the ordinance adopted, provide an educational campaign, and then begin stricter enforcement. The Mayor asked what would be the best rules for everyone in the City and could all business comply. Ms. Anderson replied that parking areas should not be used for display; however, indoor and outdoor merchandise

could be broken into categories. Staff has tried to work with Walmart by having them block off sections of the parking areas so vehicles don't mingle with display items. She agreed the outdoor displays of larger businesses do need to be reviewed.

Laura Von Harten suggested weight be a decision when considering indoor or outdoor objects.

Councilwoman Beer pointed out that everyone cannot be pleased and accommodate Mr. Helker, another business will want to display merchandise that may not be tasteful. She does not believe the entrance to the City should be cluttered. Having a list of items was suggested and the City Manager recommended the area of display be considered instead because that would be easier to enforce. Councilman O'Kelley mentioned adding a requirement that all merchandise displayed outside be removed at the close of the business day. Councilman Sutton, referring to the larger stores, suggested inserting a subparagraph to allow their items to remain outside based on building square footage. Ms. Anderson stated the existing regulations for outdoor merchandise will work with stricter enforcement.

Mr. Helker said one of the draft ordinances presented at an earlier meeting was workable. It stated merchandise had to be located within a certain number of feet of the building. Councilman O'Kelley asked Mr. Helker to give that version to Ms. Anderson.

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

REQUEST TO PURCHASE CITY OWNED PROPERTY

The City Manager stated Gaillard Pinckney submitted a letter at the last Council meeting requesting to purchase a portion of Lot 69 (50 ft. x 60 ft.) adjacent to his property on Pigeon Point Road which he sold to the City in 1948 for \$250.00 to place a well to supply water to the Pigeon Point area. The City Attorney recommends obtaining an appraisal and selling it for fair market value.

In reply to Councilman O'Kelley's question, Ms. Anderson, City Planner, stated it is a buildable lot if the set backs can be met.

On motion by Councilman O'Kelley, second by Councilwoman Beer, Council voted to have the lot adjoining Mr. Pinckney's property appraised and then advise Council of its value.

SCOTT & WEST STREETS – ONE WAY ISSUE

A recommendation providing a recommendation on changing the one-way pairing of Scott and West Streets was presented to Council for consideration. Currently, Scott Street is one-way south between North and Bay Streets and leads into the Waterfront Park; West Street is one-way north. At Council's request, staff met with the Main Street Parking Committee to discuss this issue. They are recommending the streets remain as they are and the driveway that accesses the Park at the BB&T building on Bay Street be a one-way exit with mirrors installed to increase driver visibility. They also recommended that stop signs be installed at the intersection of Craven and Scott Streets, and Craven and West Streets. Another recommendation was that crosswalks be installed at each intersection. It was noted that a similar request was submitted to SCDOT before and denied.

Street Maintenance Discussion

Councilman Sutton stated the City may need to consider taking over the streets and maintaining them. He asked for a report on the costs involved. The City Manager added that requests are frequently made during the “Public Comment” portion of the agenda regarding pot holes, etc. It is frustrating for staff when problems cannot be resolved or services provided. He stated anything that Council can provide for staff to engage in a conversation with SCDOT regarding the City streets and repairing these problems would be helpful. He noted that the local DOT is understaffed and has financial restraints. He suggested Council support an agreement or some form of take over and transfer of money from the State to maintain these streets and drainage systems in a more appropriate way. Additionally, the City needs to own the assets to make these decisions about safety and maintenance issues in the rights-of-way. The Mayor suggested beginning with a meeting with Representatives Catherine Ceips and Scott Richardson to see if it is possible to obtain the money because establishing a street department will be expensive. Councilman O’Kelley offered to serve as Council liaison. Councilman Sutton suggested contacting SCDOT first regarding the requested street improvements compiled by the Parking Committee. Councilman O’Kelley commented on the broken pavement in the bank drive through and suggested that not be repaired until the Park is completed. The Public Works Director said that will be resurfaced along with the parking area adjacent to the playground along with a portion of the lot by the John Cross Tavern.

On motion by Councilman Fordham, second by Councilman O’Kelley, Council approved the recommendations presented by the Main Street Parking Committee and approved submitting the requests to SCDOT.

BEAUFORT PERFORMING ARTS – ONGOING ACTIVITIES

Alan Runyan, Chairman of the Performing Arts Center, stated the PAC was created in 2003 as a nonprofit organization to entertain, educate, and enlighten residents, students, and visitors with programs and dance, music, theatre, and comedy. This vision came about as a result of the Mayor’s task force and Executive Director Dee Dee Sandt was hired in 2004. At that time there were no funding sources; however, since then the program has grown from 4 productions for 500 children to 12 productions for 1,500 children, a concert series, and the audience doubled to 11,000. He stated they are trying to raise \$100,000 this year from sources outside of Beaufort but it is not enough money to keep up with expenses. This is an economic benefit for the City because hospitality revenue is being created. Eighty-five percent of the tickets are sold outside the City’s zip code. Twenty-seven thousand visitors have come to these shows in two and a half years who do not reside in the City limits. The restaurants agree the PAC is affecting their business in a positive way. He requested, on behalf of the PAC, \$25,000 from the City which will be matched in private donations and he encouraged Council to set matching requirements on the Hospitality Tax grants in the future. He added that they need to be permanently funded as part of the City’s budget as are most arts organizations. Without the City’s strong financial support, the Performing Arts Center will not survive.

Council asked questions about matching grants and Ms. Sandt replied that most grant foundations require a commitment from the County, the City and the people. Ticket sales are not considered a part of the match.

In reply to Councilman Fordham’s inquiry, the Mayor with Ms. Sandt’s assistance stated the City

committed \$30,000 in 2004; \$20,000 in 2005; and last year \$10,000. Also, she said money was set aside for curtains, lights, etc. from the Hospitality Fund for five years. The City Manager explained these funds came from the General Fund and the redistribution of the Accommodations Tax monies. Councilman O'Kelley commented that in order for the Performing Arts Center to continue it may be necessary to designate a line item along with the Hospitality Funding. Councilman Sutton commented that he is impressed when an organization can match funds. He asked if it is possible to restructure the Accommodations Tax fund to be used for matching grants. The City Manager pointed out that the State statute guidelines are very clear on the annual distribution and that would have to be researched. Council concurred with assisting with the funding. The Mayor stated to do this, the budget could be amended to add a line item in the Parks and Tourism Fund. Councilman Fordham asked the City Manager to present a recommendation at the next Council meeting.

ORDINANCE ANNEXING A 0.3 ACRE PARCEL ON PALMETTO DRIVE

An ordinance annexing a 0.36 acre parcel of property located at 1411 Palmetto Drive, identified as District 100, Tax Map 26A, Parcel 195 was presented to Council for first reading.

Councilwoman Beer moved to approve the ordinance on first reading. Councilman Fordham seconded the motion.

Libby Anderson, City Planner, replying to Councilman O'Kelley's question about what the lot will be used for said the current proposal before the Design Review Board is to use this as part of a Walgreens Drug Store development. She also mentioned that the Planning Commission recommended Office Commercial as a transitional type of zoning designation which is more restrictive than Highway Commercial. If the Boundary Street Redevelopment District Ordinance is adopted, the zoning won't matter because they will be superceded by the Boundary Street Redevelopment District.

Henry C. Chambers, applicant, was asked why he preferred HC over OC zoning. Mr. Chambers said should the Master Plan and the Polk Street Extension not be implemented, the zoning would be compatible for the entire property. The Mayor asked if the development will conform with what is there or the Boundary Street Master Plan. Ms. Anderson said the application was submitted before the design details of the Boundary Street Redevelopment Ordinance; therefore, not subject to the pending Redevelopment Ordinance. Ms. Anderson said the lot has been proposed to be used for storm water development and in order to be part of the project, it has to be annexed. She added that this lot is shown on the Master Plan with a larger building with a more intense use than the existing single family buildings. Councilman Sutton pointed out that if the adjoining property were to be annexed, under the Redevelopment Ordinance it could have a building 5 stories tall which is different than the current zoning. Without the Boundary Street Ordinance adopted, he is not sure if he wants the intrusion of HC into the neighborhood. The proposed Polk Street Extension was a concern of Council too.

Henry C. Chambers explained the lot is needed because the code restrictions stated the development can not be both in the city and the county. The back portion of the lot is currently reserved and until he is sure the Master Plan is adopted they do not want to give it to the City. The HC zoning is wanted in order to be contiguous with the present zoning of the other parcel. He added that the parking is the only part of the plan that has not been approved because the Design Review

Board wants the parking in front of the building to be angled and the developer wants it to be vertical.

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

ORDINANCE ZONING A 0.3 ACRE PARCEL AT 1411 PALMETTO DRIVE TO HC

An ordinance zoning a 0.36 acre parcel of property located at 1411 Palmetto Drive identified as District 100, Tax Map 26A, Parcel 195 to Highway Commercial was presented for first reading.

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

Traffic Circle Comment

Gaillard Pinckney asked if Council and the City were still considering traffic circles. He is not in favor of them.

Boundary Street Redevelopment District

Henry C. Chambers inquired about the make up of the City's boards/commissions as it relates to the Boundary Street Redevelopment District stating an architect would be needed. The Mayor acknowledged that need and replied that is the reason an amendment to the fee schedule for planning and zoning services is being proposed.

ORDINANCE ESTABLISHING REGULATIONS RELATING TO SMOKING TOBACCO

An ordinance establishing regulations and requirements relating to smoking tobacco products in the City was presented to Council for first reading.

Councilman O'Kelley said this needs more time for comments from the public especially those who own bars and restaurants. Councilman Fordham agreed that the public needs to be notified.

Councilwoman Beer suggested holding first reading tonight and delaying second reading until the end of February in order to receive public input. She said a similar ordinance was passed by the County and Hilton Head and the Town of Bluffton is considering it also. She said it is important because of the employees who work in a smoking environment and are receiving second hand smoke which has been proven to be detrimental to everyone's health. Councilman Sutton said he wants to solicit more information from the business community and he doesn't think they are aware this is on the agenda.

The City Manager suggested delaying this until March and in the meantime post the ordinance on the web site so people will have time to review and prepare for it. Councilman O'Kelley mentioned the fact that smokers standing outside the entrance of an establishment are more annoying. It was noted that Section 8 of the proposed ordinance addresses the distance of 25 feet outside entrances where smoking is prohibited.

On motion by Councilman O'Kelley, second by Councilman Fordham, Council voted to postpone first reading of this ordinance and to hold a public hearing the first meeting in March. Councilman

Fordham gave second. The motion passed unanimously.

RESOLUTION AMENDING FEE SCHEDULE FOR PLANNING & ZONING SERVICES

A resolution amending the fee schedule for planning and zoning services was presented to Council for consideration and adoption.

Councilman Sutton moved to adopt the Resolution. Councilman Fordham gave second.

Libby Anderson, City Planner, pointed out that this amendment is being presented because of the Boundary Street Redevelopment Ordinance. That ordinance will be administered by a City architect who will be contracted to provide the design review services. To recoup the costs of those services, Design Review Board applications, Historic District Review Board reviews, and many other planning related fees, which she outlined, a fee schedule has been established utilizing fees charged by the City of Charleston and Beaufort County. Many of these services do not currently have a fee attached. Councilman O'Kelley noted the work involved in reviewing plans, holding special meetings, etc. and suggested the fees proposed may not be sufficient. The City Manager recommended adopting the resolution as presented and in February further recommendations as far as subdivisions and charging according to increments and site plans can be brought back to Council for further consideration.

Council unanimously adopted the resolution as presented with the understanding that staff will review the changes discussed and bring back to Council at a later date. (Copy of resolution at end of these minutes)

CITY MANAGER'S REPORT

The City Manager reminded Council of the following dates: The Grand Opening of the Waterfront Park is scheduled for March 10, 2007 and next Tuesday, January 30, 2007 the Council Retreat will be held at City Hall beginning at 4:00 p.m. Also, He is requesting a workshop be held regarding the City Hall Complex for Tuesday, February 6th at City Hall beginning at 5:00 p.m.

REPORTS BY COUNCIL

FORDHAM: Councilman Fordham asked if an RFP has been prepared for a City auditor; he received a complaint from the Battery Shores area about pot holes. He is unsure who maintains that road but staff needs to keep Council informed so they can provide answers to their constituents. The City Manager replied that Battery Shores' streets are owned by the City and weather permitting, cold patching will begin next week. On another item, Mr. Fordham said he tried to reach the staff the other day about receiving the Manager's report electronically and reached a recording. The City needs to be more user friendly and personal and a person should answer the phones. Another item of concern was the rollcart system he said. It is suppose to free up employees to perform other tasks and he would like to know what they are. He said he has observed the garbage being manually emptied and he asked why. People in the Spanish Point area in particular have called him about their garbage not being collected. Councilman Sutton said he, too, observed this on Ribaut Road, Pigeon Point, Battery Point, and Battery Shores. The sanitation crews are not using the mechanical mechanism when they don't need to and are collecting in the same manner as they did before rollcarts. He said he did observe them using the system in Higginsonville and it took 12 seconds for a can to go through the full rotation. One of the selling points to Council was workers safety issues.

This hasn't been proven to work and he is concerned this will be more labor intensive with more hours and will demand additional crews and trucks to meet the deadline for one day a week pickup. The Public Works Director stated one problem is the handicap users have doubled. Councilman O'Kelley pointed out that elderly people who do not generate much garbage were able to carry a small bag to the street. The big carts intimidate them and they can't push them especially if their driveway is on an incline. Mr. Smalls stated only 80 small carts were ordered originally. They have reordered but it takes 8 weeks to receive them and as soon as they arrive, they will replace the large ones with the smaller ones. Councilman Sutton suggested an audit be conducted on commercial pickups because there is a different frequency and cost with two different services. Mr. Smalls stated the ordinance states businesses are required to use rollcarts. In February, notices will be distributed that all businesses are required to use rollcarts beginning March 31st. Mr. Sutton said he would like commercial accounts to be reviewed. Councilman Fordham asked the status of the County's audit with the storm water drainage. The Finance Director, Shirley Hughes, said she met with the County Treasurer two weeks ago to discuss the process. They have also gotten pressure from Hilton Head, Bluffton, and Port Royal. They realize they have several different computers that are not compatible so their ability to gather the information is difficult. They are also in the process of purchasing a new software package for their receptor which will do the accessing work and tax billing. They have to do a conversion to the new system and then start the integration between the software programs. They have formed committees that are working on the audits to ensure properties are coded correctly. They are still discussing the issue of storm water fees and whether or not the Federal Government is exempt from those fees.

MAYOR

The Mayor reported he will be meeting with the Secretary of the Navy in Beaufort in a couple of weeks and asked if he should discuss the stormwater issue with him.

EXECUTIVE SESSION

On motion by Councilman O'Kelley, second by Councilman Fordham, Council voted to move into executive session to discuss a personnel matter and appointments/reappointments to the Historic District Review board and the Design Review Board.

OPEN SESSION

City Attorney

Upon returning to Open Session, Councilman O'Kelley moved to approve increasing the City Attorney's hourly rate to \$150.00 for normal matters and \$175.00 per hour for litigation matters. Councilman Fordham seconded the motion. The vote was unanimous.

ADJOURNMENT

There being no further business to come before Council, the meeting was adjourned at 9:25 p.m.

BILL RAUCH, MAYOR

COUNCILWOMAN DONNIE ANN BEER

COUNCILMAN GARY B. FORDHAM

COUNCILMAN GEORGE H. O'KELLEY, JR.

COUNCILMAN MIKE SUTTON

ATTEST:

BEVERLY W. GAY, CITY CLERK