

A regular meeting of the Beaufort City Council was held on August 26, 2008 at 6:00 p.m. in the County Administration Building, Ribaut Road with an executive session at 5:30 to interview candidates for the Historic District Review Board. In attendance were Mayor George H. O'Kelley, Council members Donnie Ann Beer, Gary B. Fordham, Mike Sutton, and 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.

PLEDGE OF ALLEGIANCE

The invocation was given by Minister Alexander McBride of the First African Baptist Church. The Pledge of Allegiance was led by the Mayor.

PRESENTATION – GFOA PLAQUE

Kathy Todd, Audit Manager, and Rick Tindol, CPA, with the audit firm of Karp, Ronning & Tindol, from Savannah, Georgia made a presentation of the GFOA plaque to the City, an achievement for financial reporting presented to the City, a recognition that is not easy to obtain.

PRESENTATION

The presentation From Beaufort Isere, France by Dennis Adams was deferred to the next meeting since Mr. Adams was absent due to illness.

PROCLAMATION – LITERACY VOLUNTEERS

On motion by Councilman Sutton, second by Councilwoman Beer, Council voted to adopt the proclamation designating September, 2008 as Literacy Volunteers of the Lowcountry Month.

PROCLAMATION – SILVER STAR BANNER DAY

On motion by Councilwoman Beer, second by Councilman Sutton, Council voted to adopt the proclamation designating May, 2009 as Silver Star Banner Day.

PUBLIC COMMENT

Evan Thompson, Historic Beaufort Foundation, Executive Director, stated because the City is a certified local government which is a designation recognized by the State Dept. of Archives and History, the City has been able to obtain grants for historic preservation. HBF has received over \$60,000 through the City's CLG to stabilize various old buildings. A report has to be prepared annually by the City showing they are in compliance with the CLG Standards. The Historic District Review Board is an important element of that report and those members must fill certain criteria. He suggested the board be expanded to seven with one member representing Main Street USA to be sure there are enough members present to make a good decision. The Mayor suggested those recommendations be presented in writing to the City Manager for Council to consider during a workshop.

John Gadson, Historic District Review Board Chairman, stated the makeup of the current membership in his opinion has made a good, congenial board. New members have to learn the rules which take time. He explained the process for the two different meetings stating during the conceptual portion no vote is taken.

PUBLIC HEARINGS

A public hearing was held to receive comment on the **revision of Sections 5.1, 5.3.D, and 11.2 of the Unified Development Ordinance to add a definition for large retail establishments**, to make such establishments conditional uses in the Highway Commercial District, and to set out specific use standards for the approval of such uses. A Notice of Publication was duly published in the Beaufort Gazette on August 11, 2008. The Joint Planning Commission recommended that the definition of large retail establishments be based on total tenant space not the building footprint, that large retail establishments only be permitted in the area outlined in green on the Regional Commercial Planning Area Map, and that any large retail establishment ordinance be considered an “interim” measure and that it be revisited after the comprehensive plan is updated.

Libby Anderson City Planner, reminded Council this ordinance addressing “big boxes” and restricting the location specifically to the Highway 170 and 280 areas was prepared at the request of City Council. Large retail establishments are defined as establishments with 70,000 sq. ft. per floor. Staff is recommending these establishments be permitted as a conditional use in the Highway Commercial District. Ms. Anderson listed four conditions that should be applied.

Patrick Moore, Director of the Coastal Conservation League, said they support the ordinance. His concerns are that any large scale retail business should consider the traffic over the bridges and that large scale retail will pull business from the downtown core areas. In respect to the Form Based Code, he encouraged Council to allow these retail establishments as long as they conform with the Boundary Street Form Based Code and keep traffic, shopping, and commerce as close to the downtown area as possible. He repeated Ms. Anderson’s statement that this is an extension of the Northern Regional Plan which has been approved by the Town of Port Royal, Beaufort County, and the City of Beaufort and it is important that the Town and the County follow the City’s efforts and adopt a similar ordinance to avoid zoning shopping.

Harley Laing, member of the Joint Planning Commission, explained the reason the Commission suggested this be considered as an interim measure. He stated they had an extensive discussion regarding traffic flows and it may not be desirable to pull all the traffic to one single area because that is where the “big box” stores would be located. Traffic flows will be a key part of the Comprehensive Plan and that is critical as to where the large establishments should go. He said the need for roads and highways are determined by land uses.

Councilman Sutton asked if a large retail business could be built on Boundary Street under the current guidelines and if that was staff’s reason for considering footprint instead of sq. ft. Ms. Anderson replied that they are permitted but first the developer would have to appear before the Zoning Board of Appeals for a Special Use Permit. Mr. Sutton said that maybe the footprint needs to be reconsidered as a controlling factor instead of total square footage in the building. Ms.

Anderson said that was their suggestion. The issue about traffic is probably unrelated to footprint vs. total square footage. Staff feels a building footprint is the better way to go. It is less restrictive and less limiting.

Don Starkey said he lives on that side of the City and wants to be sure that it is interim measure. One concern is using a 20,000 sq. ft. building and based on the UDO that is a large parking lot. He recommended adding pervious surface in order to limit the runoff to at least 50%. He said he supports the idea of having “big box” stores based on traffic studies.

There being no other comments, the public hearing was closed at 6:50 p.m.

A public hearing was held to receive comment on the **revision of Sections 5.1., 5.3. D, and 11.2 of the UDO to add a definition for banquet halls**, to make such facilities conditional uses in the Office Commercial District, and to set out specific use standards for the approval of such uses. A Notice of Publication was duly published in the Beaufort Gazette on August 11, 2008. The Joint Planning Commission tabled a recommendation on the revision until the definition of “private functions” could be better defined.

Libby Anderson City Planner, stated the owner of a building in the Historic District inquired about using the property which is zoned Office Commercial as a venue for weddings, rehearsal dinners, parties, etc. This use would be considered a retail or entertainment use in the City’s Unified Development Ordinance but neither use is permitted in the OC District. The hours of operation of banquet facilities are different from most office uses; therefore, staff believes it is acceptable to allow banquet hall-type uses in the OC District as a conditional use.

Paul Brewer, owner of the building, the Anchorage, said he has been approached by many caterers, wedding planners, etc. to take advantage of the building. He said it would be a wonderful use for this structure and have a positive impact on the City.

Jay Weidner, DHRB, said the Anchorage was originally an annex to the Sea Island Motel. Beaufort has a real need for an assembly room with style and he supports the idea.

Evan Thompson, HBF, stated it is good to have adaptive reuse of this type building. One concern he raised is that it is on the edge of a residential neighborhood and wedding receptions can be loud. That should not prevent the use but the noise should be regulated.

Ms. Anderson said this area is designated for a zoning change in the Preservation Plan. The suggestion is to rezone to Core Commercial and it does not require onsite parking.

There being no other comments, the public hearing was closed at 7:05 p.m.

MINUTES

The minutes of the regular City Council meeting of July 15, 2008 were presented to Council for review. The following change was made on page one under Public Comment. Otter Circle was inadvertently misspelled.

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

DAY DOCK

Steve Tully, Chairman of the Waterway Commission, made a presentation regarding expansion of the City's day dock facilities. Mr. Tully stated the Commission was reactivated in June to recommend a location for the expansion. After numerous meetings and taking a poll regarding Option A and B, the Commission again recommends a new 200 ft. single use, floating day dock be built along the Waterfront Park seawall. He asked Council to defer the recommendation until the issue with the cruise ships is resolved. The Mayor stated he did not anticipate any action by Council tonight. Mr. Tully said the main factor considered in placement of the day dock was the economic opportunities and what would bring the boater to Beaufort.

The existing day dock is not visible unless you go through the mooring fields so it is avoided by transient boaters and it is more of a multi-use facility. He said that adding on to the existing day dock will not relieve the three uses: the dingy dock; the boat landing and the day dock. The Commission considered the Waterfront Park as the front door to the City and thought a single use facility in that area would be attractive to a transient boater thereby generating economic opportunity for the City.

The only objection the cruise ship company has is if they will have room to dock their boats. Mr. Tully suggested obtaining an asymmetric survey of the seawall to be certain there is room and depth for two cruise ships as well as a 200 foot day dock. Another objection came from HBF who prefers the dock to be on the waterfront and not on Bay Street. Also, a call was received from the owners of the Cuthbert House Inn and the Bay Street group who do not want it located on Bay Street. Henry Chambers does not want it on the Waterfront. The Downtown Marina Dock Master prefers Option "B". Councilwoman Beer stated she was under the impression that the day dock was primarily for the residents to access the downtown area by boat and not so much for the transients.

Councilman Fordham asked about funding to which the City Manager replied that it is budgeted in the Capital Investment Project (CIP) Fund and the price is based on the plan prepared by Hobbs, Upchurch engineering. Mr. Tully added that there are grants available.

Evan Thompson, HBF, stated they still oppose the extension of the day dock along the Bay Street bluff (Option B) because they feel the view from the houses on the bluff should not be obscured by any further extension to the west. Since Beaufort is a waterfront town, access to the town from the water should be improved, he said. They are not totally in favor of Option A either because when the cruise ships are tied at the Waterfront Park there is no view. It is important to compare the economic impact of the people who are on those cruises to providing greater access to the people who would go to the restaurants or spend the day in Beaufort. It is important to keep the Waterfront vibrant by providing greater access.

Scott Myers said he has been working toward putting a gourmet market and restaurant in the former Piggly Wiggly on Port Republic Street. He said the business will not survive as a 10,000 sq. ft. grocery store downtown; what he thinks will work is to include medicines, catering, and things that will also appeal to boaters.

Don Starkey said he supports the area along the sea wall; however, he is curious to know where. He stated that the proposed location is 18 to 20 feet deep. He asked how much depth the cruise ships need. Councilman Sutton pointed out that the western end is about 19 feet deep and the other end is very shallow. The letter from the cruise line indicated they require 8 or 9 feet at mean low water to safely moor the vessel. Mr. Tully said they prefer to tie up at the seawall where the open space is so they can obtain fresh water from the Marina. He is recommending the underwater survey be done by Gasque and Associates, Inc. to clarify the depth and then ask the cruise line to fax their files to be certain of the depth needed.

Henry C. Chambers submitted an e-mail he received from Rick Griffin, Downtown Marina dock master, citing reasons for wanting Option B to be the location for the expansion of the day dock. Mr. Chambers said he does not agree with the Commission's recommendations. The day dock was primarily built for small boats and for the residents who wanted to visit downtown by water. The cruising boats were to dock at the marina. He asked that the view at the seawall remain unobstructed.

Tommy Logan read a letter he authored four years ago when this recommendation was brought up stating the Park was built to clean up the waterfront and mimic the Battery in Charleston. He favors an unobstructed seawall.

Mayor O'Kelley stated there is a strong tide in Beaufort River. He questioned how steep the access ramp would be to a dock in front of the seawall and stated that it could be a problem for some people. Also, having an unattended open portal at the seawall, would be a liability. The current day dock has no steep ramp but he is not sure how the addition would work there. Councilman Sutton recommended waiting for the results of the survey before the details of the expansion are decided. He added that the City has an obligation to ensure there is water under the boats at the marina and the survey would answer those questions.

Councilman Fordham pointed out that everyone cannot be pleased and he is not in favor of extending the day dock. Mayor O'Kelley said there is a need to know the depth of the water at the seawall. Council concurred that the City Manager should authorize the asymmetric survey of the seawall.

Mr. Tully stated the recommendation of the Commission is Option A, to build a new 200 foot single use, floating day dock at the seawall. Councilwoman Beer read portions of the minutes from four years ago regarding the recommendations at that time and Council's comments. The vote at that time was to explore a fourth option of a 50 ft. extension and a "T" configuration. Mr. Tully stated that extension is the reason the Commission was reinstated because it changed the day dock.

ORDINANCE AMENDMENT TO COMPLY WITH NEWLY ENACTED STATE LAW

The ordinance amending the regulation of discharge of firearms to comply with newly enacted State law was presented for first reading.

Councilwoman Beer moved to approve the ordinance on first reading. Councilman Fordham gave second. The vote was unanimous. (Copy of Ordinance at end of these minutes)

ORDINANCE RELATING TO SIDEWALK VENDING

The ordinance amending Sections 7-9007 and 7-9011 of the City's Code of Ordinances relating to sidewalk vending to specify a new location in the Waterfront Park, include a sunset clause, and state that vending carts may be required to relocate during specific festivals and events was presented for first reading.

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

ORDINANCE AMENDING THE FY09 BUDGET

An ordinance was presented for first reading amending the City's FY 2009 budget to transfer the payment for the sale of the Duke Street property to the Southside Park Project.

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

ORDINANCE ADDING REGULATIONS FOR SIDEWALK CAFES

An ordinance revising Part 7 of the City's Code of Ordinances to add regulations for sidewalk cafes was presented for first reading.

Councilwoman Beer made a motion to approve the ordinance on first reading. Councilman Sutton seconded the motion.

Libby Anderson, City Planner, stated the Charleston ordinance was used as a model for outdoor dining on public sidewalks in the City. Staff revised that ordinance very slightly and sent copies along with a memo to Main Street, Beaufort, several restaurants, and the chairman of the Hospitality Association for comment. A response was received from the owner of Emily's Restaurant who brought up several issues that Council may want to consider. Those issues are: 1) the hours of operation, the draft ordinance limits the hours of operation of sidewalk cafes from 7:00 a.m. to 11:00 p.m. Mr. Winburn, the restaurant owner, stated his restaurant is open after 11:00 p.m. 2) beer & wine, beer and wine are permitted outside; however, liquor is prohibited. 3) fees, fees for use of the public sidewalk for purposes of a sidewalk café are set in the ordinance at \$9.00 per square foot and requires a damage deposit fee of \$500. Mr. Winburn stated the fees are too high.

The Mayor suggested extending the hours of operation to 1:00 a.m. He said Mr. Winburn indicated that the Charleston ordinance has three levels of charge for use of the sidewalk and asked why. Ms. Anderson replied it is based on different areas of the City. The Mayor suggested lowering the \$9.00 per square foot fee. He also asked about adding a revision about revoking the business license if the business did not comply with the maintenance and cleanup as opposed to a security deposit. Ms. Anderson agreed the business license could be revoked but without a damage deposit the City would have to make the repairs. Councilman Sutton said he does not support charging a square foot price and he would like to know more about the liquor license issue. If the rights of use are extended outside the building, is that not now considered part of the business establishment, therefore, the state law may allow the liquor license use. Regarding extending the hours of operation, he said he is not sure whether he supports that because turning an outdoor café into an outdoor bar is not the

intent of the ordinance.

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

RESOLUTION – SCHOOL IMPACT FEES

A resolution setting fees for residential units, commercial development, and a credit for affordable housing to be collected and forwarded to the Board of Education for use in schools capital construction was presented for approval.

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

MAYOR’S REPORT

The Mayor questioned whether banning hand held phones and text messaging in the City while driving should be considered for safety reasons. He suggested it be a topic at a work shop.

COUNCIL REPORTS

FORDHAM: Councilman Fordham stated he sent an e-mail regarding the traffic light problem. He was advised that there will be a meeting with DOT this week.

BEER: Councilwoman Beer stated that children in the 4th and 5th grades in the County have been to the STAR Base program at the Air Station. It is a hands on science and math program. This is the tenth year and she is on the Board of Directors. The scores improve from 10 to 46% percent in the five day program.

Design Review Board Appointment

On motion by Councilman Sutton, second by Councilwoman Beer, Council voted to appoint David Karlyk to serve a two-year term on the Design Review Board. That term will expire August 2010.

ADJOURNMENT

There being no further business to come before Council, the meeting was adjourned at 8:20 p.m.

GEORGE H. O’KELLEY, JR, MAYOR

COUNCILWOMAN DONNIE ANN BEER

COUNCILMAN GARY B. FORDHAM

COUNCILMAN MIKE SUTTON

ATTEST:

BEVERLY W. GAY, CITY CLERK