

A regular meeting of the Beaufort City Council was held on January 22, 2008 at 6:00 p.m. in the County Administration Building, 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, 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 Dr. Lawrence Miller of Grace Chapel AME Church. The Pledge of Allegiance was led by the Mayor.

PUBLIC COMMENT

Jay Weidner, Calhoun Street resident, said he has noticed over the past few months that the litter is out of control in some areas of the City. Also, along Calhoun, Harrington, and the north side of Boundary Street where curbs have been added, debris collects in the gutters. He asked that the street sweepers be made aware of this; however, because there are square corners it will require someone with a shovel to assist the driver in cleaning them.

Councilman Fordham commented that the Public Works Director should be monitoring areas for debris.

PUBLIC HEARING

A public hearing was held to receive comment on the Unified Development Ordinance amendment revising Section 6.5.K to clarify the height limit in the Core Commercial District. A Notice of Publication was duly published in the Beaufort Gazette on January 7, 2008. The Joint Planning Commission voted to table the application until the February meeting so that the consultants, Lord, Aeck, and Sargent, preparing the preservation plan update could be contacted for a recommendation.

Libby Anderson City Planner, said the current height limit in the Core Commercial District is 50 ft. subject to certain conditions limiting the height of the building to 35 ft. at the street. Section 6.5.K.11 of the UDO is unclear and incomplete. There is no formula for determining how the sky exposure plan is calculated and no definition of what constitutes an open area. Staff believes that the size, scale, and mass of new construction can be addressed through the Historic District Review Board design review process. Eliminating the 35 ft. maximum height at the street will give the HDRB the flexibility to address the height of new construction on a case-by-case basis.

Joy Locke, Main Street Beaufort, USA Executive Director, stated Main Street has been working for years to address the shortage of parking spaces in the Core Commercial District. A consultant was hired last year to update the parking study and that study indicated that by 2012 the City will be short 350 parking spaces. The study also evaluated potential locations and the site determined to be

the best was the corner of Scott and Port Republic Streets. Prior to spending money for a design for the construction of a parking building at this site, the City Planning Department was asked what height is permitted under the current zoning but the ordinance was unclear. There has been discussion about waiting until the Preservation Plan has been updated before making a decision on this issue but that plan will not address a parking structure.

Kevin Cuppia, representing the parking committee for Main Street, said he has spoken to the City Council for numerous years regarding parking and a parking structure is needed as indicated by the study. The committee has been told that Scott and Port Republic Streets is the best location. They need to know what can be done before entering into this process. The preliminary designs indicate a parking study would need to approve 50 feet in height to provide 300 parking spaces. The Historic Review Board provides a valuable function; however, they do not control zoning. He asked Council to approve the revision in order to move forward with this project.

John Deering, partner with Greenline Architecture in Savannah, Georgia, said he has assisted in the design of two parking structures in Savannah's historic district. The language in the City of Beaufort's ordinance needs to be clarified because it is ambiguous and encouraged Council to review the wording.

Jay Weidner, Historic Beaufort Foundation Board Member, agreed the language is hard to interpret and needs clarification. He added that the City's rights-of-way vary a lot and depending on the width of the street, a fifty foot building could be appropriate but on Scott Street that building would appear to be massive and out of scale. In his opinion, it is important that the consultants who are experienced in what is appropriate in historic districts provide verbiage that is functional and would allow the HDRB to make the appropriate decision when needed.

Ms. Anderson addressing questions raised by Councilman O'Kelley regarding the historic preservation planners, replied Lord, Aeck, and Sargent were in Beaufort the first of December and held numerous meetings with various focus groups. A draft is expected next month. Also, they may suggest that the Milner Report be updated or address specific areas. They were asked to address the sky plane and provide their response before February 4, 2008. Councilman Sutton stated he thinks this is not an issue of height but of setback.

Hall Sumner, representing Main Street, said they specifically asked the consultants the question about the parking garage and their response was that was beyond their scope. Therefore, Main Street supports the proposal to eliminate subsections (a) and (b) of the ordinance and allow the HDRB to say 50 feet is the maximum.

The Mayor said there are two versions of what the consultants may do and when. It would be helpful to know their recommendation at the next meeting. The City Manager stated the original contract with Lord, Aeck, and Sargent does not include reviewing heights of parking structures. The request for asking them was directed by the Planning Commission. Council was specific in that they felt zoning should be objective and not subjective and the consultants stated then they were not going to opine on that issue. The City Manager said he will follow up on Ms. Anderson's call and ask for their opinion on the sky plane.

Dick Stewart said he is involved in the parking structure issue. He asked City Council to consider asking the preservation planners to provide the design guidelines that would make a 50 foot parking structure appropriate at the site that has been identified. That would give guidance to the HDRB.

Councilman O'Kelley referred to an article in the Post and Courier that Mt. Pleasant is considering an 80 foot structure near Patriot's Point. He asked for heights of various buildings on Bay Street so he can compare heights. It was noted that the Regions Bank on Bay Street is 58 feet tall and the Beaufort Inn on Craven Street is 47 feet tall.

Councilman Sutton said he liked the idea of asking a pointed question about a structure. He said the Milner Report was prepared with supporting data. Bay Street is a 3-block city-scape and it would be wrong to interject a different height design inside that area. However, he has no objections to that occurring on Port Republic Street but there is a residential feel on Craven Street so it may not be appropriate. Particular projects could be warranted but not city-wide and he would like that specific question to be asked of the architect. Then Council can decide later about whether to keep the sky plan or not. He said studying this issue, sky plane theory was probably not defined because there is not a model that works for a 3-block city. He is convinced that an architectural board could agree on a design for a parking structure that fits in the historic district. He would like to wait for the report if it is timely and discuss this in a workshop. The Council workshop is scheduled for February 5th and the City Manager agreed this issue could be discussed at that time. He added that if this is site specific then it is a variance issue. Also, the sky plane language needs clarifying and 50 feet is in the ordinance. He suggested clarifying the language in the ordinance and let the process work by design. The Mayor suggested inviting the chairman of the Planning Board and a representative from the consulting group to the February 5th workshop.

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

MINUTES

The minutes of the regular City Council meeting of January 8, 2008 were presented to Council for review.

On motion by Councilwoman Beer, second by Councilman O'Kelley, Council approved the minutes as presented.

ORDINANCE AMENDING SECTIONS OF THE TOURISM MANAGEMENT ORDINANCE

The ordinance amending Sections 7-11006 through 7-11073 of the City's Code of Ordinances regarding the Tourism Management was presented for first reading.

Councilwoman Beer moved to adopt the ordinance on second reading. Councilman Sutton seconded the motion.

In reply to Councilman O'Kelley's question regarding Section 7-10056, the Tour Coordinator said there are several non-toxic, water soluble markers available.

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

MERMAID PLACEMENT

Donna Starkey, Battery Shores resident, said she and her husband are part of a group of eight donors who purchased the mermaid de Liberte at auction from the Arts Council of Beaufort County to give to the City. She asked Council to accept the mermaid for the City and place it on the east end of Bay Street near the corner of New Street in Elliott Park. There is no responsibility attached; however, they would like to place a plaque on the concrete base listing the name of the art, the artist, and naming the list of donors.

Councilman O'Kelley objected to the placement of a plaque. He asked if the mermaid would be considered public art and would it have to be presented to the Public Art Commission. The City Manager said Council should have the right to allow items to be placed on City property.

Councilman Fordham said he doesn't think it is appropriate for the City to accept this.

Councilman Sutton said this be an opportunity for public art to remain public. There are other locations where it would be appropriate also. Since Mr. O'Kelley objected to the plaque, Mr. Sutton suggested rewording the plaque for the mermaid. Mr. Sutton asked Ms. Starkey her feelings about the Public Arts Commission recommending options for placement of the mermaid. Ms. Starkey replied that any compromise is worth considering. She reminded Council the mermaid is art that was already on public display and the plaque would be tasteful. If that is an issue, limits should be set.

Councilwoman Beer agreed with Councilman Sutton to forward the request to the City's Public Art Commission for a decision. They may offer more than one location that they would deem appropriate and then Council could decide which place would be suitable. The Mayor recommended the Commission also comment on the plaque.

Councilman Sutton moved to accept the piece of art after it and the plaque have been reviewed by the Public Art Commission who will recommend an appropriate location. The Mayor asked that the Commission opine on three specific issues: 1) should the mermaid be accepted by the City; 2) if so where should it be placed; and 3) provide a recommendation on the plaque – which is a policy question. Councilwoman Beer seconded the motion.

Councilman O'Kelley stated he has no problem with forwarding this to the Arts Commission; however, he may still vote against the plaque because it is a bad precedent to let people name items.

Ms. Starkey added that people do want recognition or credit for their donation.

Council members Beer, Sutton, O'Kelley, and Rauch voted in favor of the motion. Councilman Fordham voted nay. The motion passed 4 to 1.

ORDINANCE AMENDING FY08 BUDGET (#3)

The ordinance amending the City's FY08 budget for the purchase of a fountain for Knott Park in an amount not exceed \$6,000 was presented for first reading.

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

FREEDOM MALL PLAQUE

Several meetings ago, Councilman Fordham inquired about placing a plaque at the west end of the Waterfront Park indicating that area was the "Freedom Mall." The names of the Councilmen at that time were researched and presented to Council in a format for a plaque.

The title, Mayor Pro Tem, was determined unnecessary and to be left off the plaque.

On motion by Councilwoman Beer, second by Councilman O'Kelley, Council agreed to order the plaque for \$1,099.00 including shipping and mounting hardware.

BUDGET OBJECTIVES- FY09

Shirley Hughes, Finance Director/Asst. City Manager, explained one of the policies passed by Council was that staff would provide on a quarterly basis a report that summarizes the budget at that time in comparison to previous years.

The quarterly report is for the General Fund, Parks & Tourism Fund, Storm-water Fund and Solid Waste Fund. Spreadsheets were provided showing comparisons starting with FY2004 through FY 2008.

Councilman Sutton inquired about the fund balance that is not committed. Ms. Hughes explained what made the changes or adjustments in the fund balance from FY02 through FY07 stating the fund balance will change as a result of either more or less revenue taken in or more or less spent than budgeted.

Mr. Sutton asked where the refund from the Arts Commission is shown. Ms. Hughes pointed out it was a receivable, not a revenue, but part of the fund balance in the Park & Tourism Fund.

FY08 QUARTERLY REPORT

The City Manager reviewed the updated five-year plan stating housing is down and that will affect permit fees and business license collections. There are fixed costs built into the system that will have to be dealt with in the budget. Referring to the fund balance, he said the purpose of explaining that was to give a clear understanding of how much has been reserved. He stated it should be appropriated towards the CIP budget. Staff intends to go out for bond at the end of the first quarter. The fifteen million dollar bond is directly related to the current cash position in TIF I and II.

There are increasing cost pressures for this year's budget because capital requests were put off last year. As we look at cost issues, there are three things; increasing cost pressures, capital – ops service levels, and outsourcing of possible issues as ways to reduce costs. Staff would like direction on rate and fee setting as it deals with property taxes, business licenses, permits and fees, and natural growth rate.

The Mayor asked about the CIP budget. The Finance Director said four months of operating expenditures were provided showing the actual amount versus the recommended amount. The 2007

figures show the adjustments for land acquisition as well as the bond payment. Based on the audited 2007 amount, \$1,000,250 could be moved into a reserve account. If some of that fund is used, one time revenues should be considered which makes it appropriate to place it in the CIP. The Municipal Complex would be an example. The City Manager said this year shows the difference being \$868,777. He reminded Council that if the CIP is adopted, the money has to be managed over future years. That would leave the necessary balance in the fund balance reserve for cash flow purposes. Direction on rate and fee setting would be appreciated by the February 5th workshop and this will be on that agenda.

COUNCIL REPORTS

FORDHAM: Referring to the Public Works portion of the City Manager's Report, Councilman Fordham asked for the status at the next meeting of the County's vacuum truck, bids needed, and the area that needs to be repaired. He asked, too, if the City should consider bidding out watering the plants, cleaning up areas, etc.

O'KELLEY: Councilman O'Kelley said he received a phone call Sunday morning from a citizen who was concerned about the seven dogs being tethered during the extreme cold Sunday night. A police officer went to the house and when no one answered the door, he called Beaufort County Animal Control. They said according to the Sheriff they were not to enforce the City's ordinance; therefore, they would not respond. Mr. O'Kelley said he rode by the residence Monday morning and five of the seven dogs were still lying outside on the ground. The police officer did say he could make a cruelty case because they were left out in that weather and some did not have food or water. Councilman O'Kelley said his concern is that the Sheriff will not enforce the ordinance even though there is a memorandum of understanding that Animal Control will enforce the City ordinances regarding lease laws, etc.

BEER: Councilwoman Beer expressed her concern with the Sheriff not enforcing the City's ordinance.

SUTTON: Councilman Sutton said he spoke to the animal control officers regarding their position in this issue. They explained a warrant has to be signed to remove the animals from private property. The Sheriff provides the staffing but the shelter is a county budget line item. The shelter is inadequate and they are down sizing. The County Council Committee has the issue of tethering on their agenda for the 23rd of this month. Mr. Sutton said he is hoping the committee will understand the need and proceed with the preparation of a similar ordinance. Animal control will not respond to a neglect case based on tethering until this is worked out with the Sheriff. Mr. Sutton questioned whether they would respond if the case were not based on tethering even though neglect is neglect. He said he understands the Sheriff to mean that unless the City's ordinance is the same as the County's ordinance, he will not enforce it.

Another item he brought up was a photograph taken by a citizen of the Waterfront Park waste storage area where the oil disposal and refuse containers for the restaurants are stored. He questioned why they were placed next to each other and suggested that issue be addressed. He also mentioned the power lines that are being placed by the School Board Building that is upsetting the citizens.

RAUCH: The Mayor inquired about the time table for Southside Park. The City Manager

answered there is a meeting tomorrow with B-JWSA representatives. There will be a meeting with staff to discuss the dates and times before the committee meets.

He also asked the status of the power poles. The City Manager reported SCE&G will meet with the Pole Committee again to discuss the digital aspect. An agreement has been drafted by the City Attorney and was sent to SCE&G for comment. The City Attorney added their revisions have been received and the provisions are being compared. The agreement will not go back to the committee; however, the height issue will.

EXECUTIVE SESSION

On motion by Councilman O’Kelley, second by Councilman Sutton, 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 proposed contractual arrangements, legal advice, and the appointments/reappointments to the Building Board of Appeals.

OPEN SESSION

Building Board of Appeals

Upon returning to Open Session, Councilman O’Kelley moved to reappoint William O’Neal (Mech. Engineer), Allen Patterson (Gen. Contractor), Mark E. Roseneau (electrician), Thomas Whitmore (Plumbing Contractor), Tommy Bennett (SCE&G representative) and Steve Patterson (Contractor) and to appoint Eddie Bootle (Mech Contractor) for a 4-year term expiring in January, 2012. Councilwoman Beer gave second. The motion passed unanimously.

ADJOURNMENT

There being no further business to come before Council, the meeting was adjourned at 9:40 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