

A regular meeting of the Beaufort City Council was held on June 10, 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 Cantor Sheldon Feinberg (ret.) Beth Israel Congregation. The Pledge of Allegiance was led by the Mayor.

### **PUBLIC COMMENT**

**Evan Thompson**, Director of Historic Beaufort Foundation, stated bids for the restoration of the Arsenal on Craven Street were opened last week. Work is to begin in July and be completed in about six months. Additionally, the Foundation learned today that they are now a local partner of the National Trust for Historic Preservation.

**Edna Horn** thanked Council for approving the stormwater project on Langhorn Drive.

**Maurice Ungaro** mentioned the construction fence has been up for some time at the site at the corner of Bay and Carteret Streets. It is a big inconvenience to the public. It is a danger to the public because vehicles cannot exit at the bridge and vehicles trying to enter into the former entrance of the Park at Carteret Street find they have to make a 3-point turn at the foot of the bridge. There is also poor access for the EMS. He asked Council to consider these things and redraw the construction boundary so that there is access at the foot of the bridge.

### **PUBLIC HEARINGS**

A public hearing was held to receive comment on the *revision to Section 6.8.I.3 "Boundary Street Redevelopment District Ordinance, Building Elements, Colonnades/Arcades,"* to clarify where colonnades can be located. A Notice of Publication was duly published in the Beaufort Gazette on May 26, 2008. The Joint Planning Commission recommended approval of the revision.

Libby Anderson, City Planner, stated a discrepancy in the section of the Boundary Street Redevelopment District Ordinance pertaining to Colonnades/Arcades was recently found. The ordinance states that colonnades are located over sidewalks. Then another section states they may not encroach into the right-of-way. After consulting with the City architect, the revised wording is being proposed; they "may" be located in the right-of-way; however, if they are permitted in the r-o-w they cannot have the enclosed space option above. It can be a balcony or a porch but not habitable space.

During the discussion, Council addressed the fact that that would expand the living space and the

more weight you have above those colonnades the more chances for an accident. Ms. Anderson added that probably where this ordinance would apply would be a private or a publicly owned street; however, an encroachment permit would still need to be obtained by the developer. The City Manager pointed out from a use perspective, this would be applicable on parallel, lower speed streets. He also suggested investigating the ownership of r-o-ws further before second reading. Ms. Anderson also stated that a commercial building is required to provide shelter from the street. The options are a colonnade, a balcony, or an awning.

There being no other comments, the public hearing was closed at 6:15 p.m.

A public hearing was held to receive comment on the *revision to Section 3.17.H, "Administrative Appeals, Appeal to Circuit Court"*, to clarify that appeals to Circuit Court from ZBOA decisions on administrative appeals must be made within 30 days. A Notice of Publication was duly published in the Beaufort Gazette on May 26, 2008. The Joint Planning Commission recommended approval.

Libby Anderson, City Planner, said other appeal sections in the ordinance have a deadline and since there was not an appeal time in this section staff is recommending adding the state law requirement of 30 days for clarity.

There being no other comments, the public hearing was closed at 6:20 p.m.

A public hearing was held to receive comment on the *revision to Section 6.5, "Measurement and Exceptions,"* to revise the standards for the critical line setback. A Notice of Publication was duly published in the Beaufort Gazette on May 26, 2008. The Joint Planning Commission recommended approval of Option 1 on a vote of three to one.

Libby Anderson, City Planner, stated two options are proposed. The critical area buffer is established by the South Carolina Office of Ocean and Coastal Resource Management. The current ordinance requires development to be set back a certain distance from the critical area. Currently the setbacks are 30 feet for a single family development and 50 feet for multi-family and non-residential development. The intent of the critical area buffer is to protect the salt water marshes from runoff and development activity; however, a parking lot could be built of impervious materials. The ordinance only addresses impervious surfaces. She recommended adding wording "vehicular areas." Another section dealing with non-residential and multi-family development posed a challenge. For those type developments there is a 50 foot buffer from the critical area. An average has been allowed and it has been difficult to administer over the years. The designers are quick to show the 35 foot line but over time staff is not sure that is working. Staff is suggesting eliminating the option for the averaging and simply state it is a 50 foot setback.

Option 2 comes from the Northern Regional Plan and Council regarding police protection for wetlands. Ms. Anderson said the ordinance could be revised to make it consistent with the County's environmental standard for the critical area. They have 50 feet for single family development and 100 feet for nonresidential and multi-family development. The Northern Regional Plan recommends that consistent environmental standards be developed in the jurisdictions. She read the criteria for the width of the critical buffer as stated in the County ordinance.

Councilman Sutton asked if there is any protection or has any consideration has been given to rebuild a structure that is destroyed due to a hurricane or other catastrophe on the existing lots. Ms. Anderson said the setback for a single family dwelling can be adjusted by the administrator complying with current zoning setbacks except for historic structures. Mr. Sutton also asked if the issue of rebuilding existing structures was discussed at the Planning Commission meeting. Ms. Anderson replied that they did say they thought more public input was needed and the Commission suggested they hold a public hearing on Option II. Mr. Sutton stated before the ordinance is presented for first reading, he would like this issue to go back to the Planning Commission because he believes some protection should be in place. Councilwoman Beer suggested including wording that the house can be rebuilt in the original footprint. Ms. Anderson stated there is a section of the ordinance that addresses existing vacant lots of record if the lot is too small, without going to the ZBOA the staff and applicant can work together to get the house on the lot even if it is in violation of the setback and in the case of post-disaster rebuilding the same concept could be applied.

**Don Starkey** said he supports both options with the 35 foot buffer. Option 2 will prevent larger developments or subdivision of big lots placing houses right on the water. He mentioned another reason is zoning shopping where an applicant wants to be annexed so their house can be closer to the water. The water should be constantly protected, he added.

**Ann Kitchell**, 1108 Hookstra Drive, said she has worked with many communities sending out buffer ordinances. She asked Council to be consistent with the terms setback vs. buffer; they have different meanings. She also asked Council to consider strengthening selective clearing and vegetative standards. Information on natural area buffers is not provided which is important. Language concerning enforcement could be included, she said. She disagreed with the section that states this provision shall not apply to public land because, in her opinion, that should set the standards for buffers. Also, tidal buffers should be expanded to fresh water wetlands and then consider having a public information program. She pointed out that some communities actually add wording to their ordinance pertaining to a fund for restoration projects to which citizens can apply to buy trees. She offered to provide information from other locations. Councilman O'Kelley stated that it is his belief that OCRM standards apply to freshwater wetlands as well.

Councilman Fordham asked Ms. Anderson to check with the Corps of Engineers or OCRM as to whom sets standards. Mr. O'Kelley said he believes the Corps only gets involved if it is a navigable area.

**Bart Fisher** said he is concerned about the view corridors. Giving an example of a lot that is 150 feet wide, it appears a person could only remove vegetation for 50 feet of the 150 feet looking onto the marsh. That seems very restrictive and asked that be addressed. Ms. Anderson said the County's current ordinance is weak on the vegetation removal standards but she believes non native vegetation could be cleared. The point is to restrict development and preserve as much pervious surface. Any substantial vegetation removal would be very limited. Councilman O'Kelley said the ordinance does not say you can remove non native vegetation it says 1/3 of the lot or 75 feet which ever is less. Ms. Anderson said the ordinance is easier to regulate with new construction; existing developed lots may present a challenge.

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

## **MINUTES**

The minutes of the regular City Council meeting of May 27, 2008 were presented to Council for review. On the bottom of page 2, Sherry Wiles name was incorrect.

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

## **ORDINANCE REZONING 10 VERDIER BLUFF ROAD**

The ordinance rezoning a portion of 10 Verdier Bluff Road identified as District 120, Tax Map 5, Parcel 362, from R-1 to MED was brought up for reconsideration by vote of Council at the last Council meeting.

Libby Anderson, City Planner, briefly reviewed the rezoning request from the May 13, 2008 Council meeting stating the applicant would like the entire parcel to be under one zoning designation. As it is now, it is split zoned.

Councilman Sutton moved to table. The motion failed for lack of a second.

Councilman O'Kelley moved to deny the request. Councilman Fordham gave second.

Councilman Sutton explained his reason for moving to reconsider the request. He said without a good reason or explanation, he is not willing to rezone; however the applicant is not present tonight.

The request to rezone was unanimously denied.

## **TDAC GRANT RECOMMENDATIONS**

Thirteen agencies submitted 14 applications to the Tourism Development Advisory Commission for the funding period July 1, 2007 through June 30, 2008 resulting in a recommendation by the Commission for: (1)Arts Council of Beaufort County-\$10,000; (2)Beaufort Arts Association-\$500.00; (3)Beaufort Performing Arts-\$7,000; (4)Beaufort Regional Chamber of Commerce-\$10,000; (5)Beaufort Regional Chamber of Commerce-\$35,000; (6)Beaufort Three Century Project-\$2,500; (7)Beaufort County Black Chamber of Commerce-\$2,500; (8)Exchange Club of Beaufort-\$1,550; (9)Guild of Beaufort Galleries-\$4,250; (10)Historic Beaufort Foundation-\$5,000; (11)Lady's Island Garden Club-\$1,500; (12)Lowcountry Tourism Commission-\$12,600; (13)Main Street Beaufort, USA-\$44,598; and (14)Penn Center, Inc.-\$4,000 for a total of \$140,998.41. These recommendations were presented to Council for approval and funding.

Councilwoman Beer moved to approve the recommendations as presented by the Commission. Councilman O'Kelley seconded the motion.

Jeff Evans, TDAC Chairman, was present to answer questions.

Councilman Fordham expressed his concern with #7, Black Chamber of Commerce, stating there should only be one Chamber of Commerce instead of providing financial support for two and he will not vote for the recommendation. Councilman O'Kelley agreed there should be one unified

Chamber of Commerce. Mr. Evans explained the process used for their recommendations.

Councilman Sutton inquired if the use of the grant is taken into consideration each year. Mr. Evans replied that is one of the things they review in the process. They also take Council's prior year decisions into consideration. He stated everyone that applied received some portion of their request because they would not have applied unless they feel they are worthy of funding. There is a final report of how the funds are used.

Councilwoman Beer moved to amend her motion and consider #7 separately. Councilman O'Kelley seconded the motion. Council members Rauch, O'Kelley, Beer, and Sutton voted in favor of funding the Black Chamber of Commerce. Councilman Fordham voted nay. The motion passed 4 to 1.

Council approved the Tourism Development Advisory Commission's recommendations.

### **REQUEST TO DESIGNATE SONG**

A resolution designating "Ode to Beaufort" as the City's Official Song was presented to Council for consideration

The City Manager said he spoke with Cantor Feinberg, the requestor, and recommended finding another way to honor the song.

On motion by Councilman O'Kelley, second by Councilwoman Beer, Council unanimously tabled the request.

### **REQUESTS BY BEAUFORT WATER FESTIVAL**

A letter from the Beaufort Water Festival Committee requesting use of the Waterfront Park, other facilities and closure of certain streets for dances, a bed race, and a parade for the 2008 Water Festival from July 11-20, 2008 was presented to Council.

Les P. Brediger, 53rd Water Festival Commodore, appeared before Council to answer any questions they may have. He stated there will not be a street dance this year; therefore, Bay Street will not be closed off for the evening.

The City Manager stated the requests are similar to those submitted in the past including the closure of Bay Street from Bladen to Newcastle from 4:30 p.m. to 6:30 p.m. for the Bed Race; permission to hold the parade on Saturday, July 19th beginning at 10:00 a.m. on Bladen Street and concluding on Bay Street adjacent to the Federal Courthouse at approximately noon, subject to approval of the Department of Transportation with security provided by the City's Police Department.

On motion by Councilwoman Beer, second by Councilman O'Kelley, Council approved the 17 requests as agreed upon and presented by staff.

Councilman Sutton inquired about the fencing to be sure they would be removed the night of the event.

### **RESCHEDULE COUNCIL MEETING**

The July 8, 2008 Council meeting will be rescheduled to July 15, 2008 and held in the Friends Room at the Arsenal on Craven Street.

On motion by Councilwoman Beer, second by Councilman Fordham, Council approved rescheduling the regularly scheduled meeting for July from the 8<sup>th</sup> to the 15<sup>th</sup>.

### **ORDINANCE AMENDING FY08 BUDGET**

The ordinance amending the fiscal year 2008 budget to receive the payment for the sale and appropriate the use of the funds for the Southside Park Project 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 UDO REGARDING COLONNADES**

An ordinance amending Section 6.8 of the Unified Development Ordinance "Boundary Street Redevelopment District," to clarify where colonnades can be located was presented for first reading.

Councilwoman Beer made a motion, seconded by Councilman O'Kelley, to approve the ordinance on first reading. The vote was unanimous. (Copy of ordinance at end of these minutes)

### **ORDINANCE REVISING UDO SETTING TIME LIMIT FOR APPEALS TO CIRCUIT COURT**

An ordinance revising Section 3.17.H of the Unified Development Ordinance, "Administrative Appeals, Appeal to Circuit Court" to set a time limit within which appeals to Circuit Court from Zoning Board of Appeals decisions must be made was presented to Council.

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

Councilman O'Kelley suggested changing the wording of the sentence in item 4. "Determination of Appeal." to read "At the next term of the Circuit Court, in Chambers, or at a time to be set by the court..." and moved to amend the motion to include that wording. Councilwoman Beer seconded the motion. The vote was unanimous.

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

### **MOTION TO ADD ITEM TO AGENDA**

Councilman O'Kelley moved to add an item to the agenda regarding consideration of the Southside Park budget. Councilwoman Beer seconded the motion.

The Mayor stated this was discussed during the meeting yesterday and even though it is budgeted, he felt Council should be informed.

Shirley Hughes, Finance Director, explained funding sources are being provided by a variety of

areas. The cost for the project has not been determined. Some are in-kind services, many of them as a result of the agreement with B-JWSA, there are City funds from money allocated in FY08, and an additional \$80,000 from the current budget along with about \$110,000 from the sale of the Duke Street property. A PARD grant was applied for and \$15,921 was received with a required match of \$3,981. Referring to expenditures, Ms. Hughes stated the Committee voted last night to authorize the purchase of asphalt milling to be used on the trails. The vendor will provide approximately 1,100 tons and deliver to the site. Twenty-five thousand dollars will be used for basic playground equipment and \$5,000 for items in the picnic area. The budget changes as organizations volunteer funds and more finite numbers are determined.

On motion by Councilwoman Donnie Beer, second by Councilman Sutton, Council accepted the budget as presented.

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

The City Manager provided the status of the *Smoking Ban* stating it is currently not being enforced upon advice of the City Attorney. A letter is being prepared to send to the business owners giving advance notice of how it is to be enforced. Because the business license is the key to enforcing the ordinance, a "hot line" will be set up on the City's system that will help in tracking complaints. Numerous complaints will trigger an investigation. The objective is to get the businesses to police themselves. Councilman Sutton said the smokers are being pushed outside which will increase the litter associated with smoking. That needs to be addressed.

The City Manager said he met with the *Waterway Commission* chairman. The previous chairman cannot serve because of his position as judge. Edward Dukes was recommended as his replacement. Main Street Beaufort, USA has asked that Kevin Cuppia represent their organization and the Chamber of Commerce will provide a representative. They will meet to discuss the Day Dock.

The City Manager asked Libby Anderson, Planning Director, to address Council's request on the preparation of a "*big box retail*" ordinance. He stated Council's directive during the work session is to hold first reading of the ordinance before sending it to the Planning Commission. Ms. Anderson pointed out that normally an ad is not placed in the newspaper advertising a public hearing; the audience is, however, allowed to comment. The Mayor suggested placing an ordinance on the June 24th agenda for first reading. After the ordinance is presented to the Planning Commission for their recommendation, Council can hold an official public hearing and second reading.

Councilman Sutton referencing the multi-story and 70,000 sq. ft asked about the maximum height in the Commercial district and wondered if the sq. ft would double in a two-story building. Ms. Anderson replied that any building with a foot print of 70,000 sq. ft. would be limited to the Highway Commercial district. Mr. Sutton said he wants to limit the retail space. The City Manager said the first objective is to place retail structures over 70,000 sq. ft. in a particular zoning classification. The boundary areas for the district were revised. The City Manager explained overlay districts vs. zoning districts and he suggested staff will determine which to use before the June 24<sup>th</sup> meeting.

**COUNCIL REPORTS**

**FORDHAM:** Councilman Fordham expressed his concern with the steps the City has taken to control the gas useage. He said he has observed the fire trucks responding as a first responding unit to a vehicle accident several times on Ribaut Road. It seems it would be better to send a smaller vehicle, he said and asked for a report on gas conservation at the next meeting or the July meeting. The City Manager responded he will be happy to make that presentation, in fact, he has already directed staff to consider operations and capital, investigate bio-diesels vs. regular diesel, and investigate two riders in a vehicle vs. one to a truck. He said he will have that information for the July meeting. The Mayor suggested checking the gas savings on stop lights vs. roundabouts. Councilman Sutton mentioned that the Public Works Department drives big size vehicles and there is usually one person in the truck. He said smaller vehicles need to be considered. The City Manager said the shift is not easy but the challenge is there. He asked Council if they would prefer the City not respond as a first responder and let the County’s EMT units do that. The Mayor stated Council wants the service delivery but not in the large fire truck. The City Manager said if the County provides the service that would eliminate the cost and risk. Another challenge is what can be done with the capital to provide a different responding structure instead of the large fire trucks. The Mayor asked if dispatch can make that discrepancy. Councilman O’Kelley said dispatch does not know the extent of the accident. He also questioned the size of the truck driven by the fire chief. The City Manager explained that the directive needs to come from Council in operation and maintenance, service deliverability and in capital that decreases that and still covers exposure of risk. The trucks are used because there is a possibility that more equipment is needed and if the City does not cover that, have we exposed a risk and the possibility of a suit? He stated the City responds faster and asked Council what they want the firemen to do. Councilman Fordham said he wants them to be first responders. The Mayor said Council doesn’t want the firemen to be trained as paramedics. They are doing a great job; it is the size vehicle they use when they are responding. He asked that this discussion continue at the July Council meeting with the fire chief in attendance to answer questions.

**ADJOURNMENT**

There being no further business to come before Council, the meeting was adjourned at 8:45 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.

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COUNCILMAN MIKE SUTTON

ATTEST:

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BEVERLY W. GAY, CITY CLERK