

A regular meeting of the Beaufort City Council was held on May 13, 2008 at 6:00 p.m. in the County Administration Building, Ribaut Road with a workshop beginning at 5:00 p.m. regarding financing options. In attendance were Mayor Bill Rauch, Mayor Pro Tem George H. O'Kelley, Councilmen Gary B. Fordham, Mike Sutton, and City Manager Scott Dadson. Councilwoman Donnie Ann Beer was out of town. 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 Rev. Shannon Mullen, Pastor of St. John's Lutheran Church. The Pledge of Allegiance was led by the Mayor.

PROCLAMATION – NATIONAL TOURISM WEEK

On motion by Councilman Sutton, second by Councilman O'Kelley, Council voted to adopt the proclamation designating May 12 – 18, 2008 as National Tourism Week in the City.

PROCLAMATION – TEEN PREGNANCY PREVENTION MONTH

On motion by Councilman Sutton, second by Councilman O'Kelley, Council voted to adopt the proclamation designating the month of May as Teen Pregnancy Prevention Month.

PUBLIC COMMENT

Cecile Dorr, President of the Lady's Island Garden Club, gave an update of the club's Tree Walk Project which began yesterday with approximately 60 people attending. She displayed the small signage to be used to identify the trees and distributed booklets of a self-guided tour of the Tree Walk to the Council members. She also mentioned that they are researching the history of the lady for whom Morrall Park is named. They would like to erect a sign in her honor and to identify the park.

Charles Williams, Lowcountry Estuarium, gave a brief history of the Estuarium's accomplishments and asked Council to consider their funding request in the amount of \$15,000 for FY08-09.

Ginny Rone, Development Director of the Arts Council of Beaufort County, stated the Bits & Pieces Puppet Theatre held in the Waterfront Park Saturday was a great event and thanked Council for their support of the Community Arts Grant Fund which 100% of the funds have been regranted to artist, teachers, schools, and arts organizations.

MINUTES

The minutes of the regular City Council meeting of April 24, 2008 were presented to Council for review. The following changes were made on page 1, under Proclamation, Angel Flewelling's last name was inadvertently omitted and on page 4, the 6th line under City Manager's Report,

“municipal complex” should be added before construction and on the same page under Mayor’s Report, add “Clerk of Court candidates to the next meeting to be interviewed” after inviting.

On motion by Councilman O’Kelley, second by Councilman Fordham, Council approved the minutes as amended.

DESIGNATING MARYLAND FRIED CHICKEN SIGN AS HISTORIC

A public hearing was held on February 26, 2008 on designating the Maryland Fried Chicken sign, located at 111 Ribaut Road, as an Historic Sign under Section 7.2.G,13 of the Unified Development Ordinance.

Libby Anderson, City Planner, explained the historic designation exempts a sign from the requirement for non-conforming signs which would require the existing sign be removed and replaced with a sign meeting the current requirements. She stated the applicant was asked to submit a plan for restoration of the sign to its original appearance. A restoration plan has not been submitted to date. If a plan for restoring the sign, together with a time frame indicating when the sign will be restored, is not submitted by the end of May, staff recommends that the sign be treated as a non-conforming sign and be turned over to the City’s Codes Compliance Officer for enforcement.

Councilman Fordham said in his opinion this sign does not qualify as historic.

Tim Cieplowski of Maryland Fried Chicken explained that the sign company is having trouble locating the parts to repair it to its original design. He does have a proposal to refurbish the sign which he briefly outlined for Council. He added that it could take up to six months to repair.

Councilman O’Kelley said the sign is of extraordinary significance to the property. The Mayor pointed out that it is also of exemplary technology of the period. Councilman Sutton commented that the Historic Review Board discussed this issue and he thinks of all the signs this one would be historic and is certainly unique.

Councilman O’Kelley moved to designate the sign as historic. Councilman Sutton gave second. Councilmen O’Kelley, Sutton, and Rauch voted in favor of the motion. Councilman Fordham voted nay. The motion passed 3 to 1.

ORDINANCE SETTING ELECTION & FILING FEES FOR MAYOR & COUNCIL

The ordinance setting the municipal election for November 4, 2008, the filing deadline as August 15, 2008 and the filing fee for mayor as \$250 and the filing fee for council seats at \$150 was presented for second reading and adoption.

Councilman Sutton moved to adopt the ordinance on second reading. Councilman Fordham gave second. The ordinance was adopted unanimously. (Copy of Ordinance at end of April 24, 2008 minutes)

ORDINANCE PROVIDING FOR THE ISSUANCE OF GO BONDS

The ordinance providing for the issuance of General Obligation bonds in the amount of \$15,000,000

was presented for second reading and adoption.

Councilman Fordham moved to adopt the ordinance on second reading. Councilman O'Kelley seconded the motion.

Shirley Hughes, Finance Director, stated this ordinance is a result of the referendum when the people voted to issue up to \$15,000,000 in GO bonds for a term not to exceed twenty years using the proceeds to build the municipal complex and an addition to the central fire station. When the ordinance is adopted the bonds can be issued.

Paul Trouche, the City's Bond Counsel from Charleston and associated with the law firm of Haynsworth, Sinkler, and Boyd, restated that the bonds were authorized by referendum last October. They do not count against the City's 8% debt limit. A lower rate of interest is expected and the impact on tax payers minimized, he said.

Lyman Wray, of Wachovia Securities and the City's financial advisor, explained various options he developed in preparing for the bond issue. Using the \$15,000,000 and calculating the average growth in the personal property values from 1998 – 2006, he equated the percentage which is about 2.62%. Assuming new growth by reassessment, the millage impact would be about 16.5 mils. The City plans to sell the existing buildings once the new buildings are completed at an estimated value of \$2,500,000, assuming the buildings are sold in 2011. One option could be to borrow \$12,000,000 for the complex and use the proceeds from the existing buildings to build the fire station instead of borrowing that money, he said.

Ms. Hughes displayed a listing of specific homes across the City with various values and took the tax rate equated in mils to show the increase in annual payments.

David Taub, former mayor, addressing an article that appeared in the Beaufort Gazette stated these are difficult times and suggested Council look for additional sources of revenue to reduce the mils.

The City Manager stated the TIF II funds received from the gateway corridor or Boundary Street project are being applied to the cost of the structure as well as money set aside from the City's Land Acquisition Fund along with a CD for a total of \$8.8 million.

Mr. Trouche said the reason for getting a good rate on the bond is because of the prudent fiscal management of the City. If there were no fund balance, a higher rate of interest would be paid because the City would be penalized by the rating agencies. Also, because of the Federal Tax Law the existing fund balance cannot be pledged or a sinking fund would be created and the bonds would be taxable making the interest rate 50% higher.

The finance director said TIF II as it relates to the municipal complex has been turning about \$300,000 over and above the cost of the debt service that has to be paid on the \$6,000,000 worth of bonds that were initially issued and being used to fund part of the municipal center. Moving into the 2009 budget, it is being estimated that the revenues will be about \$900,000 with approximately \$230,000 being set aside.

Mr. Wray stressed the importance of a fund balance restating the rating agencies do look at that.

Mr. Taub asked Council if they would be willing to commit the differential on the TIF bond and the revenue to the debt service on this project. The Mayor said that is prudent; however, that is difficult.

The ordinance was adopted on second reading. (Copy of ordinance at end of the April 24, 2008 minutes)

ORDINANCE ADOPTING THE CITY'S FY09 BUDGET

The ordinance adopting the city's fiscal year 2009 budget was presented for second reading and adoption.

Councilman O'Kelley moved to adopt the ordinance on second reading. Councilman Fordham gave second.

Shirley Hughes, Finance Director, briefly gave an overview of the four major funds that handle the majority of the services the City provides. During the review of the stormwater portion of the budget, the City Manager mentioned the intention of this budget is to go to bid for the Duncan/Langhorn drainage project. Councilman Fordham asked that Ms. Horne be notified, since she has endured several years of flooding, that the project should begin in late summer.

Edie Rodgers, former Council member, expressed her excitement with the decision to work on the drainage problem in that area that affects Ms. Horne and offered to contact Ms. Horne who is out of town.

The ordinance adopting the FY09 budget was unanimously adopted. (Copy of ordinance at end of the April 24, 2008 minutes)

ORDINANCE SETTING THE TAX LEVY

The ordinance providing for the levy of taxes for FY09 in the amount of fifty-two and eight tenths (52.8) was presented to Council for second reading and adoption.

On motion by Councilman Sutton, second by Councilman O'Kelley, the ordinance was adopted on second reading. (Copy of ordinance at end of the April 24, 2008 minutes)

REQUEST BY GULLAH FESTIVAL FOR WAIVER OF BUS FEES

A request from the Gullah Festival Executive Board for the registration requirements and the \$10.00 fee for chartered buses be waived during the 2008 festival was presented to Council.

Councilman Fordham moved to approve the request. Councilman O'Kelley seconded the motion.

Councilman O'Kelley said the Festival's plan for the buses doesn't seem to work. Also, he said he has a problem with excusing the fees. Police Chief Jeff Dowling said there have been several meetings with the festival committee and a new bus pattern is going to be tried this year mainly to get the elderly and handicapped closer to the Park. Once unloaded, the buses will park at Beaufort Elementary School. Councilman Sutton stated that it seems the buses are not monitored and they are

parking in any open space throughout the City. He asked if the Tour Coordinator is in charge of the buses or has an officer been assigned to check on them. Chief Dowling stated this is the first he heard that the buses are not parking in the designated area. Mr. Sutton asked if the registration requirements are waived they won't receive the placard from the Chamber of Commerce along with instructions. Chief Dowling said there will be rules to follow and they are only allowed in certain areas. If the problem had been brought to their attention, there would have been someone monitoring them. The City Manager said the rest of the application has been worked out. If the issue is control, Council could make one of the conditions that they be required to display a sticker. The Police Chief added that four parking spaces in the Waterfront Park where the horse carriages usually are have been sacrificed so the buses have room to turn from the loading zone. Mr. O'Kelley asked if the carriages will be loading and unloading on Bay Street during the festival because that is not acceptable to him. The Police Chief replied that New Castle Street has been designated as the temporary carriage pickup/drop off area.

Peter White, Southurn Rose Buggy Tours, said the companies were told they would be operating from Bay Street during the festival. In reply to Mr. White's question of why it didn't work, Mr. O'Kelley replied that he was told by several merchants the carriages took extra spaces and he doesn't want the carriages on Bay Street during festivals.

Rose White said several merchants told her they wanted the carriages to be on Bay Street all the time because while the people are waiting for the carriage ride they shop in the stores. She said moving the carriages to New Castle Street will shut their business down because the buses use that street to get to the Park and they have to contend with them. Mr. O'Kelley said he will poll the merchants this week and report back to Council with his findings. Ms. White said they used one parking space plus the loading zone by the clock. She said they are expecting school buses on that Thursday and Friday for carriage tours and other buses on the weekend and asked where they are to park. The Police Chief stated those details can be worked out.

Council voted unanimously to waive the registration requirements and the \$10.00 bus fee.

REQUEST TO CLOSE STREET FOR GRAND OPENING

A request by Razor-Sharp Records South, Inc. to close the 700 block of Carteret Street on May 17, 2008 for two hours during their grand opening event was presented to Council.

Herbert Goodwin, Jr., CEO of Razor-Sharp Records, said they are expecting 500 people to attend their grand opening and would like the traffic redirected during their ribbon cutting ceremony this Saturday at 1:00 p.m.

The City Manager noted that staff has recommended against redirecting the traffic because it is major thoroughfare. Mr. Goodwin suggested using the sidewalk instead. The Police Chief said the reason for recommending against the request is because it is a US primary highway and rerouting the traffic will require four officers. If the sidewalk can be used instead, the police department will assist event-goers in crossing the street.

Councilman O'Kelley moved to deny the request. Councilman Fordham gave second. The request was unanimously denied. However, the mayor assured Mr. Goodwin the City would work with him.

REQUEST BY BAPTIST CHURCH OF BEAUFORT TO CLOSE STREET

A request by the Baptist Church of Beaufort to close Charles Street between Prince and King Streets on Saturday, June 28, 2008 between 1:00 and 8:00 p.m. for their Community Patriotic Celebration.

On motion by Councilman O'Kelley, second by Councilman Fordham, Council approved the request.

ORDINANCE AMENDING FY08 BUDGET – 3 GRANT AWARDS

An ordinance amending the FY2008 budget to accommodate three grant awards - \$1,250 from the Municipal Association for reimbursement of fire protection items, \$12,136.28 and \$3,785.66 for two PARD grants for Southside Park was presented for first reading.

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

Shirley Hughes, Finance Director, explained notification of three grant awards was recently received. The General Fund is being amended for the Municipal Association grant (\$1,250) and the Park Fund is being amended for the two PARD grants (\$12,136.28 and \$3,785.66)

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

ORDINANCE AMENDING SCE&G FRANCHISE

An ordinance amending the current SCE&G franchise was presented for first reading.

Councilman O'Kelley made a motion, seconded by Councilman Fordham, to approve the ordinance on first reading.

The City Manager explained the franchise ordinance allows SCE&G to operate within the City and outlines the route that was proposed by the Pole Committee in working directly with SCE&G about how to mitigate transmission poles through the City. The number of poles and guide poles has lessened with the pole height being forty-five feet and the electric transmission line not exceeding 115 kilovolts.

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

ORDINANCE AMENDMENT – SMOKING BAN

An ordinance amending Section 6, Chapter 5 of the City's Code of Ordinances regarding smoking in public places was presented for first reading.

Councilman O'Kelley made a motion, seconded by Councilman Fordham, to approve the ordinance based upon the City of Greenville's ordinance and approved by the SC Supreme Court.

Councilman Sutton commented that this ordinance will be enforced by the office of the City Manager. He asked what the procedure will be after the call or complaint is received. Either a

police officer or codes enforcement officer will be contacted for investigation, according to the City Manager.

Lesley Pressley, Rosie O'Grady's Pub, said her establishment is actually a bar not a restaurant and 95% of their customers are smokers. She said this business is her and her husband's livelihood and with the current economy their revenues are down about 15%. If this is a right-to-work issue, most of their employees are smokers. The ones who are not, willingly applied for jobs knowing it is a smoking environment, she said. Since the smoking ban went into effect in the County, many businesses have been hurt economically and some will be put out of business. This decision should be left to the discretion of the business owner, she said.

Councilman Sutton said the smoking ban is the right thing to do; however, his issue is enforcement. He asked about making this a referendum on the ballot in November. Councilman O'Kelley said Council was elected to deal with the tough issues and Council should make the decision.

Geri Lester-Baldasare with DHEC, said second hand smoke exposure has been identified as the leading health hazard by various health and environmental groups. In partnership with CDC, DHEC focuses on the goal of elimination of the public's exposure to second hand smoke and supports efforts to protect the citizens from the hazards and dangers of second hand smoke exposure.

Councilman Fordham said it may be a good idea to put it on the ballot as a referendum. Councilman O'Kelley disagreed stating he cannot see spending the citizen's money on a referendum for something that Council should vote on.

Bill Clark, retired fire fighter, said bar tenders know bars are smoke filled environments. It is their choice.

Mandy Kruger, representing the March of Dimes, spoke on behalf of mothers and babies and asked that this ordinance be adopted to reduce smoking and second hand tobacco exposure. One in six babies in South Carolina is born prematurely. Smoking doubles a woman's chance of having a low birth weight or premature baby. The 2005 Institute of Medicine Study states the annual economic impact through medical, educational, and loss of productivity for an infant through early childhood is greater than \$26.2 billion annually.

Lesley Pressley said a bar is not a place for mothers and babies. There should be guidelines regarding restaurants and bars as far as smoking. She agreed with having a referendum to let the people speak.

Don Starkey said the ordinance can be enforced by a sign. It would not take a lot of money. He said the people elected Council and they can vote for the citizens.

Rod Mattingly said New York passed an ordinance to ban smoking in public businesses and it did not hurt business that much. He said it is Council's responsibility to make the decision.

Councilman Sutton said adopting the ordinance is the right thing to do and he hopes the no smoking signs will serve the purpose.

The ordinance was approved unanimously on first reading. (Copy of ordinance at end of these minutes)

ORDINANCE REZONING 10 VERDIER BLUFF ROAD

An ordinance rezoning 10 Verdier Bluff Road identified as District 120, Tax Map 5, Parcel 362, from R-1 to MED was presented for first reading.

The City Manager stated the owner of the property requested this rezoning request be tabled because he could not be present tonight due to a family situation.

Councilman Sutton made a motion, seconded by Councilman O'Kelley, to deny the rezoning request for 10 Verdier Bluff Road.

Councilman Fordham called the question.

Council unanimously denied the request to rezone the property from R-1 to MED.

ORDINANCE ANNEXING 70 HARDING STREET

An ordinance annexing a 2.5 acre parcel of property located at 70 Harding Street, identified as District 100, Tax Map 29B, Parcel 61, was presented for first reading.

Councilman Fordham made a motion to deny the request. Councilman O'Kelley seconded the motion.

Councilman Fordham said he thinks this request is zoning shopping and he sees no benefits to the annexation. Councilman O'Kelley said he looked at the area and he doesn't think the property is wide enough to build a road there with the way the marsh intrudes.

Benjamin Gecy, realtor and partner in the project, answered some of the questions posed during the public hearing held on April 8, 2008. He provided a letter from the New Kirk Environmental that he said would explain why they want to construct the road. He said they do own Lot 15 and would have to build a bridge across marsh to access the property. After a careful evaluation of the environmental impact of the bridge, they decided to purchase Lot 20. Lot 15 is in the City and zoned GR. They applied for GR zoning in the City for Lot 20 to gain access to Lot 15 without building a bridge which would take a year in the permitting process. He added that there is adequate space between the critical line and the property line on Lot 20 for a road. He would prefer both lots be in the City and not have to work with the City and the County on the development.

Jeff Ackerman, engineer, agreed there is adequate space to build a road across Lot 20 with curb and gutter on each side to carry the storm water into a detention pond for treatment. Therefore, the road would have less impact than the bridge over the marsh. He explained the process the water goes through before continuing to the river. The 8 to 10 foot road right-of-way would begin from the 30 foot buffer area which extends from the critical line that is established by OCRM. The bridge on the other hand would be built in the critical area. Their reason for requesting Lot 20 be annexed into the City is to lessen the confusion of having to approach two agencies to accomplish their project.

Councilman Sutton said this is an environmentally sensitive area and he does not think this plan for the road is the best for the environment.

Dave Robles said the residents are not opposed to Mr. Gecy developing the property; however, they do object to the road being built on that piece of property and annexing it into the City.

Don Starkey said, in his opinion, this is a flagrant use of zoning and annexation for personal use because the property could not be used under the county's 50 foot buffer. He asked why Mr. Gecy did not admit that. He said he hopes Council denies the request.

Rich Sanger said he lives adjacent to the property in question and noted that whole area is low and water overflows from a deep ditch into his yard on a high tide. He said the road is a violation of the covenants and everyone there abides by them.

Jeff Ackerman stated zoning shopping was not Mr. Gecy's intention. The county has procedures to obtain a variance from the buffers and Mr. Gecy has not asked for a special use permit. Since three-fourths of the property was already in the City, they thought the project would work better under one zoning.

Don Halkin said he is the actual owner of the property and Mr. Gecy has been speaking on his behalf.

Libby Anderson, City Planner, said if the property is to be used solely for access, the zoning is not that important even though it is not the ideal situation to have a project with split zoning but it would not impact the development.

Council unanimously denied the request to annex. (Copy of ordinance at end of these minutes)

ORDINANCE ZONING 70 HARDING STREET

The ordinance zoning the 2.5 acre parcel of property located at 70 Harding Street to General Residential presented for first reading was not considered since the ordinance to annex the property was denied.

ORDINANCE AUTHORIZING CITY MANAGER TO ENTER INTO DEED FOR 0.20 ACRES OF LAND BELONGING TO THE CITY

An ordinance authorizing the City Manager to enter into a deed on behalf of the City to Bruce K. Bonge d/b/a South Bay Restoration & Development, LLC for 0.20 acres of land, identified by the Beaufort County Assessor's Office as tax parcels R120 004 000 474 and R120 004 000 473 for \$120,000 was presented for first reading.

Councilman Sutton made a motion, seconded by Councilman O'Kelley, to authorize the City Manager to enter into the deed with Mr. Bonge for the sale of the Duke Street property. The ordinance was approved on first reading. (Copy of ordinance at end of these minutes)

COUNCIL REPORTS

O’KELLEY: Councilman O’Kelley complimented the City Manager and the Public Works Department for responding so quickly when he reported the directional sign on the corner of North and Bay Streets was cantered down after a vehicle hit it which could have been a hazard.

SUTTON: Councilman Sutton addressed the sinkage at the marina end of the Waterfront Park near the boat ramp. He questioned whether the use of the water lines by the cruise boats could be causing the pavers to sink if there was a leaky hose.

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 and the appointment reappointments to the Joint Planning Commission, the Beaufort Housing Authority and the Arts Commission.

OPEN SESSION

Beaufort Housing Authority

Upon returning to Open Session, Councilman O’Kelley moved to reappoint Linda Robinson to serve on the Board of Commissioners for the Beaufort Housing Authority. This term is from January 14, 2008 through January 14, 2013. Councilman Sutton seconded the motion. The vote was unanimous.

Public Arts Commission

On motion by Councilman O’Kelley, second by Councilman Sutton, Council appointed Lana Hefner to serve a three term on the Public Arts Commission. This term will expire May 2011.

ADJOURNMENT

There being no further business to come before Council, the meeting was adjourned at 9:00 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