

A regular meeting of the Beaufort City Council was held on May 27, 2008 at 6:00 p.m. in the County Administration Building, Ribaut Road with interviews with the Clerk of Court candidates at 5:30 p.m. 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.

INTERVIEWS

Interviews of the three Clerk of Court Candidates were held in ten minute intervals beginning at 5:30 p.m.

CALL TO ORDER

The Mayor called the meeting to order at 6:00 p.m.

PLEDGE OF ALLEGIANCE

The invocation was given by Councilwoman Donnie Ann Beer. The Pledge of Allegiance was led by the Mayor.

PUBLIC COMMENT

Dee Dee Sandt, Executive Director of the Beaufort Performing Arts, thanked Council for their generosity which allowed them to apply for more grants. She introduced the newly hired BPA Executive Director Bonnie Hargram who is her replacement.

Wayne Reynolds, Bay Street resident, addressed the signage on the property owned by the Open Land Trust at the corner of Ribaut Road and Bay Street. Speaking on behalf of a portion of the neighborhood, he expressed their objection to commercial signage because this is a residential corner. He said they would like the City to consider other sites. He read portions of the sign ordinance which he believes to be in conflict with the signage. The corner of Boundary and Ribaut Streets would be more appropriate from a residential standpoint, he said.

Louis Rabinowitz, 2106 Bay Street, said many of the neighbors believe the signs/banners increase the amount of traffic and the speed.

MINUTES

The minutes of the regular City Council meeting of May 13, 2008 were presented to Council for review. The following change was made on page 9, 8th paragraph, change "rezone" to annex.

On motion by Councilman O'Kelley, second by Councilman Fordham, Council members Sutton, Fordham, O'Kelley, and Rauch approved the minutes as amended. Councilwoman Beer abstained since she did not attend that meeting.

ORDINANCE AMENDING THE FY09 BUDGET – 3 GRANT AWARDS

The ordinance amending the City's fiscal year 2008 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 second reading and adoption.

Councilwoman Beer moved to adopt the ordinance on second reading. Councilman Fordham gave second. The ordinance was unanimously adopted on second reading. (Copy of Ordinance at end of May 13, 2008minutes)

ORDINANCE AMENDING SCE&G FRANCHISE

The ordinance amending the current SCE&G franchise was presented for second reading and adoption.

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

The Mayor pointed out this ordinance/agreement permits SCE&G to run their transmission lines down the current corridor. The two items still to be decided are the height and the composition of the poles. The chairman of the Pole Committee, David Lott, said SCE&G is waiting for the City to decide on pole height. SCE&G is prepared to display pictures at a meeting showing the existing poles and where the new ones will be located. Also, they have photographs of various poles with dimensions of the base and the height. He will talk to the City Manager about setting a time for a meeting and he would like the display set up in advance for people to see.

Councilman Sutton asked about setting up a display in the Green Street area for the residents to view throughout the process. Mr. Lott said that could be done but he would also like that same information to be in the gym.

Councilman O'Kelley stating the agreement was not clear that the City had the choice of pole height and composition, suggested changing the wording in the seventh paragraph of page three to clearly state "The City shall have the choice as to the final height and composition of the poles."

Councilman Sutton moved to amend the motion to approve the language provided by Mr. O'Kelley. Councilwoman Beer gave second. The ordinance was unanimously adopted as amended. (Copy of ordinance at end of the May 13, 2008 minutes)

ORDINANCE AMENDMENT – SMOKING BAN

The ordinance amending Section 6, Chapter 5 of the City's Code of Ordinances was presented for second reading and adoption.

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

Sherry Wiles said she has worked downtown for 25 years and the last couple of years have been difficult financially. She said she has discussed this ordinance with the small businesses downtown and they feel Council will pass it regardless of their thoughts. The small retailers will suffer the most. The problem is prohibiting smoking within a distance of ten feet from any entry. That eliminates just about every restaurant on Bay Street that has a waterfront patio. She suggested Council delay second reading and talk to the businesses to see how it affects them before the businesses move to another location. She asked there be a compromise and given more thought.

Councilman O'Kelley said he authored the ordinance; however, this has been discussed longer than just two weeks. He added that Council has talked to the business owners. For health purposes, this is the right thing to do. Ms. Wiles mentioned that the City of Greenville has amended their ordinance since it was heard by the Supreme Court and adopted by their Council. She asked that the patios not be included in the prohibited areas.

Joy Lock, Main Street Executive Director, responding to the Mayor's question about comments said no complaints have been presented to the Board of Directors.

Leona Foster, Hemmingway's, said the smoking ban will cause them to lose customers. There should be a compromise and allow smoking outside.

Matt Patrovas, Regional Director for the Dept. of Health and Environmental Control, said the department is very supportive of any measure that is taken to protect the public's health. He said statistics show that businesses do not suffer from a smoking ban; business actually improved. Exposure to second hand smoke is a documented health hazard and this is a great opportunity for the City to protect its citizens.

Councilman Fordham said this ordinance also affects professional offices, clubs and everywhere. He asked why ten feet was chosen as the distance. He also said he has a choice as to whether to enter a business because they allow smoking or not and No Smoking signs could be posted. He will vote against the ordinance, he said.

Councilwoman Beer said she hears the concerns but other areas have prohibited smoking in public places. There are more people who do not smoke than who do smoke. She objects to people throwing their cigarette butts on the ground in the Waterfront Park. She said the distance can be changed; however, she is in favor of the ordinance.

Councilman Sutton said only one business was represented at the first reading and one now at second reading. Health officials spoke and Council realizes it is a health issue and it is time to ban indoor smoking. This ordinance is a compromise for the City of Greenville but not perfect because there is no real enforcement of this ordinance and may be ignored unless complaints are taken to City Hall. He added that changes can be made to fit our City. There is vagueness and asked Council to help to make a further compromise on the outdoor section.

Councilman Sutton moved to amend the motion and delete Section 6-5005 from the ordinance concerning the distance of ten feet from any entry into an enclosed area where smoking is prohibited and add language that the distance would be the entry to the business.

Council discussed the intent and Ms. Beer suggested eliminating that paragraph. Councilman O'Kelley stated that when smokers are standing at the entrance, the smoke affects him. Mr. Sutton pointed out that the proposed ordinance with the ten foot distance eliminates costly outdoor seating arrangements. Councilwoman Beer seconded the motion.

Councilman Sutton said let the business owners police their establishment. He said he is willing to compromise if Council would agree and possibly ban smoking in the City limits. Councilwoman

Beer said usually the smoke outside is disbursed and is not a problem.

Ms. Wiles said it is a good amendment because all the outside tables at Hemmingways are within ten feet of the entrance. It is also up to the businesses to be sure their employees abide by rules.

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

Council members Rauch, Beer, Sutton, and O'Kelley voted to adopt the ordinance on second reading as amended. Councilman Fordham voted nay. The ordinance was adopted 4 to 1. (Copy of Ordinance at end of May 13, 2008 minutes)

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

The 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 second reading and adoption.

On motion by Councilman O'Kelley, second by Councilman Fordham, Council adopted the ordinance on second reading. (Copy of ordinance at end of the May 13, 2008 minutes)

CANCELATION OF COUNCIL MEETINGS

A suggestion to cancel the second Council meeting in July, the Council work session of August 5, the Redevelopment Commission meeting of August 7, and the August 12th Council meeting to allow Council and staff to take vacation time was presented to Council for consideration.

Councilman Fordham made a motion, seconded by Councilman O'Kelley, to cancel the meetings mentioned above.

BANNER FEE REFUNDS

During the City Manager's Report at the April 24, 2008 Council meeting, the City Manager mentioned the City was asked by the Open Land Trust not to hang banners on the corner of Bay Street and Ribaut Road any longer. He mentioned that \$5,200 in fees were returned to organizations wishing to display their banner.

A list of the eleven organizations, dates and amounts were submitted in the agenda packets for Council's review. The criteria proposed for use if banners were allowed to be hung at that intersection were submitted by the Public Works Director and addressed by the City Manager.

Councilman Sutton calculated the amount of times some of the organizations display banners stating that is approximately one day a month the bucket truck and crew are erecting/removing signs. The City Manager noted that banners are seasonal according to the events to be held in the Park.

Councilman Fordham noted an event for the Edisto River Festival was scheduled to be hung two times. According to the City Manager, the proposed rules require the banner to be installed for only

local charitable, religious, or non-profit organizations. Also, banner installation costs will increase from \$50.00 to \$100.00 per week.

The Mayor said he thinks that the current location is the wrong place to hang banners. They should be located at Lovejoy Park near Sycamore Street and the future City Hall building. He said it is a commercial area with a higher traffic count and the property is owned by the City. Councilman Sutton stated that might be the right place but not until the complex is completed. He said he has reviewed the proposed criteria for the corner of Ribaut Road and Bay Street and likes the change in procedure. He is concerned there is a frequency issue with certain groups. He added that some of the non-profit groups have commented that they cannot afford to advertise anywhere else. Councilman Fordham and Councilwoman Beer agreed.

Wayne Reynolds said the banners are against the sign ordinance which he has read and Council is ignoring the wishes of the neighborhood. He is in favor of the civic groups having the opportunity to display announcements at a reasonable cost but the corner of Ribaut Road and Boundary Street is more suited to hang banners. He believes the Open Land Trust really does not want the banners hung on their property because they think it is a violation of their charter but they do not want to fight about it. He said the neighborhood has been greatly improved and the banners should not remain on that corner. Councilman Sutton stated Council agrees with most of those points; however, things happen a little slower in Beaufort. He is willing to phase that location out but until consideration has been given to all the groups, he is not willing to just stop hanging the signs for the civic groups. Mr. Reynolds asked Council to consider the availability of the location at City Hall and said both the organizations and the neighbors would win if a better location is evaluated. Councilman O'Kelley said until this issue came up, he never thought about the banners. They can be relocated to the municipal complex site once it is completed but not during construction. Mr. Sutton agreed. He suggested obtaining a design on how they are to be hung and perhaps the Parks Department can assist. Councilwoman Beer agreed and said the neighborhood can know the current location is temporary. That corner is a very visible area and since they have been regulated she has not found them offensive. Councilman Fordham said he has no objections to Councilman Sutton's suggestions. The Mayor recommended contacting the Construction Manager regarding when the banners could be hung without interfering with construction. The City Manager added that the banners are allowed under "temporary signs" in the UDO and are not in conflict.

The City Manager said the proposed rules for hanging banners are appropriate. He added that Lovejoy Park can be the new location and suggested a reasonable amount of time would be in approximately 15 months but he will check with the Construction Manager. A time frame is necessary in order to advise the organizations so they can plan. He agreed working with the Parks Department staff is a good idea so that the area will be attractive.

Councilwoman Beer moved to adopt the rules for hanging banners. Councilman O'Kelley seconded the motion.

Council agreed the same rules for co-sponsoring events in the Park will apply for the banners in that only City co-sponsored events will constitute a no charge.

The rules for hanging banners were approved unanimously.

RECOMMENDATION ON CONSULTANT TO UPDATE THE CITY'S COMP PLAN

State law requires jurisdictions enforcing zoning ordinances to have a comprehensive plan and to update that plan every ten years. The City's current comprehensive plan is required to be updated by 2009. Funds have been budgeted for this update.

Councilwoman Beer moved to approve the recommendation for the consultant. Councilman Sutton seconded the motion.

Libby Anderson, City Planner, said an RFQ, Request for Qualifications, was released in February for consulting services to update the comprehensive plan. Fourteen firms responded. After the member selection committee reviewed the qualifications, six firms were interviewed. After discussing the merits of each design team, the selection committee unanimously agreed to recommend The Lawrence Group as the consultant to update the plan. The Davidson, North Carolina office would be handling the City's update. They are partnering with two sub-consultants, Kimley-Horn who is currently doing the engineering for the Boundary Street Master Plan and Rose & Associates, an economic development consultant.

Councilman Fordham inquired as to why the staff cannot update the Plan. Ms. Anderson replied that many things have changed in the last ten years. A lot of study in terms of design and function needs to be done and the area from downtown to Whale Branch needs to be considered and a decision made on how these areas are to develop in the next twenty years. The City does not have an urban designer or a landscape architect on staff and those issues need to be reviewed in a detailed manner as part of this planning process.

Council unanimously approved hiring The Lawrence Group to update the comprehensive plan.

THIRD QUARTER FINANCIAL REPORT

The City Manager reported the City of Beaufort received its **upgrades** from Standard and Poor and Moody. A double upgrade was received from Standard and Poor (AA-) and a single upgrade from Moody from A to A-1. In the market today, this is great news. The City's financial advisor estimates that the rating upgrades will provide approximately \$85,000 to \$100,000 in present value savings on the \$15,000,000 GO Bond sales. He also said there were six bidders for the sale of the bonds today with the winning bid of 4.14% to Wachovia Securities. The reasons for the upgrades were the financial management of the City, the fiscal financial policies and the fund balances. These three things allowed the City to obtain the best rates for the cost of borrowing. Shirley Hughes, Finance Director, stated \$1.4 million was saved over the life of the bond.

The **third quarter report** was presented by Ms. Hughes. She commented that two large revenue sources (Business License Fees and Franchise Fees) are not received until the last quarter. These along with some other fees will make up the difference in the general fund.

Status of the differential between overpayment by the County – Ms. Hughes said a lot of time was spent working with County staff to reconcile what they determined was an overpayment to the TIF District. Initially the County said the amount was \$830,000. The problem was determined to be, in part, based on the movement of properties from Ladys Island into the City limits. The parcels

were not properly categorized between tax district 120 which is the City's basic tax district and 123 which were supposed to be the City property on Lady's Island. Therefore, the calculations done to determine the amount of money the City owed the Ladies Island/St. Helena Fire Department through the TIF did not include the correct properties. So Ladies Island Fire Department was underpaid; that has been reconciled. Once all properties in all districts were properly allocated into the correct districts, it has been determined that the \$830,000 was actually \$573,000 of which \$215,000 is actually the City's because with the TIF, the City keeps the increment. Adjustments have now been made and the City does not owe the County, nor does the County owe the City.

CITY MANAGER'S REPORT

The City Manager pointed out Councilman Sutton asked for reports on various items which was included in the weekly report.

MAYOR'S REPORT

The Mayor said he received an e-mail from Neil Liptsitz regarding the **horse carriages** in front of his shoe store on Bay Street during the recent festival. The Mayor suggested forwarding the complaint to the Tourism Management Development Advisory Commission to review the arrangements for the horse carriages during festivals and present their recommendations. Councilman O'Kelley said he spoke to the Tour Coordinator and he thought everything was okay. He does not think the carriages should be displaced from the Park. They rent that space and that should not be changed, the buses should unload somewhere else. The carriages were using the yellow lined area in front of the clock plus a parking space. He talked to Mr. Liptsitz because the carriage customers and employees were sitting on his steps. Bay Street is not a good solution. Councilman Sutton said he observed the area while the carriages were there and it appears to be a bigger risk with the traffic. The potential for an accident is much higher than on New Castle Street. He said this was a problem last year and he has trouble with repeats.

COUNCIL REPORTS

SUTTON:

Councilman Sutton moved to **reconsider the rezoning of Verdier Bluff** from the last meeting, at the June 10th meeting of Council. Councilwoman Beer seconded the motion. The vote was unanimous.

Mr. Sutton also mentioned that for two years now **festivals set up fences** and don't take them down when the event is over until the following day. If this continues, he will not support events held in the Park using barricades because people's view and use are blocked the next day. The festivals should pay overtime for staff to demobilize the fences when the event is over.

EXECUTIVE SESSION

On motion by Councilman O'Kelley, second by Councilwoman Beer, 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 a legal matter and the appointment/reappointments to the Joint Planning Commission.

OPEN SESSION

Joint Planning Commission

Upon returning to Open Session, Councilman O'Kelley moved to appoint Wayne Reynolds to a 2-

year term on the Joint Planning Commission. Councilman Sutton seconded the motion. The vote was unanimous. The term will expire January, 2010.

ADJOURNMENT

There being no further business to come before Council, the meeting was adjourned at 8:50 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