

A regular meeting of the Beaufort City Council was held on March 22, 2011 at 6:00 p.m. in Council Chambers, Beaufort Municipal Complex, 1901 Boundary Street. In attendance were Mayor Billy Keyserling, Council members Donnie Ann Beer, Gary Fordham, Mike Sutton, Mike McFee, and City Manager Scott Dadson.

In accordance with the 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 7:12 p.m.

INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was led by Reverend Amanda Atkin of Baptist Church of Beaufort, and the Pledge of Allegiance was led by the mayor.

Councilman Sutton made a motion to include on the agenda an Executive Session regarding land acquisition, sale or lease. Councilwoman Beer seconded the motion. The motion passed unanimously.

PUBLIC COMMENT

Walter Gay told council that he had contacted SCDOT about potholes and was told they would require a special request from council. Mayor Keyserling asked if the city manager was aware of where the potholes were. Mr. Gay said there is “a big one” over near First African Baptist Church and near the Rhett House Inn that are causing visitors on the buggy and walking tours to be jostled or fall. He agreed to give a list of the potholes he’s aware of to the city manager.

PUBLIC HEARING: ORDINANCE REZONING SIX PARCELS OF PROPERTY AT 88 ROBERT SMALLS PARKWAY TO HIGHWAY COMMERCIAL DISTRICT

Mayor Keyserling opened this public hearing. **Libby Anderson** showed a graphic of the parcels. This is the site of the Stokes Honda dealership. Two of the parcels are in the Beaufort city limits and four are in Beaufort County. A petition has been submitted to annex them into the City of Beaufort. The applicants desire to demolish the existing building on the site and put up a new building. To develop the site as they desire, the development would straddle the two property lines between the city and the county, so they must all be located in one political jurisdiction. The six parcels currently have three different classifications, all of which are proposed to be rezoned to Highway Commercial District to support the current and proposed activity.

Ms. Anderson showed a map of the current city zoning, noting that there is a mix of zoning along Highway 170. Public notification has been made and no public comment has been received on the rezoning. Staff recommends approval, and the Planning Commission heard the rezoning proposal last month and also recommended approval. There being no public comment, Mayor Keyserling closed this public hearing.

PUBLIC HEARING: ORDINANCE REZONING A PARCEL OF PROPERTY LOCATED AT 1004 DUKE STREET, FROM GENERAL RESIDENTIAL DISTRICT TO NEIGHBORHOOD COMMERCIAL DISTRICT

Mayor Keyserling opened this public hearing. Ms. Anderson said this is a single lot and showed a graphic of the property. The property is located in the Beaufort Historic District. The lot is about 220 square feet and has a single family dwelling on it. It is considered a contributing historic resource. The house is about 750 square feet. The proposed zoning permits all kinds of residential uses as well as low-intensity office and commercial uses. Ms. Anderson pointed out the zoning on properties near the proposed rezoning. The comp plan designates this area as G-2 for mixed use development; land uses include residential, neighborhood mixed use centers, and neighborhood commercial, including retail, office, and civic uses. Public notification letters were sent out, and notices ran. The two comments received were included in council's agenda packets. Staff recommends approval. The site is near Charles Street, which has urban infrastructure. There is a precedent for interior lot rezoning on Washington Street, a block north of this Duke Street site. The comp plan provides support for the rezoning. The Joint Municipal Planning Commission unanimously recommended approval.

Dwayne Smalley, 802 Charles Street, is among the third generation of his family to live at that address. He is not in favor of the commercial rezoning. He does not like the rezoning as a solution to the short-term rental issue. None of the residents around the site are in favor of the rezoning, either, he said. "Pretty much everyone supports the short-term rental policy," he said, "but no one wants to see it rezoned commercial." He had attended the Joint Municipal Planning Commission meeting. The precedent Ms. Anderson cited does not seem to him to be sufficient justification for rezoning this commercial because what she cited is an empty lot and didn't benefit the neighborhood. He characterized the Joint Municipal Planning Commission deliberations as rationalizing the fact that it has taken so long to come up with a short-term rental policy that they "can't hold up these owners any longer." It was also stated that the investors have put a lot of money into the property, which he agreed with, and that it's time for them to get money out of it. Finally, he said, it was said that they wouldn't wait to consider the long-term impact of such a rezoning, as they needed to do something now.

Residents of the area had spoken against the ordinance change at the Joint Municipal Planning Commission meeting, Mr. Smalley said; a renter of 9 months spoke in favor of it. Mr. Smalley supports short-term rentals at the site but doesn't support "creating a loophole just because it's in the Northwest Quadrant." He doesn't believe this same solution would be applied "for someone else who wants to conduct short-term rentals in another neighborhood." He has been involved in Northwest Quadrant issues for two years. Good ideas have been put forward, including 100 points just in the study group's plan for neighborhood revitalization. Rezoning from residential to commercial was not in the plan, so he asked why it's being allowed at this time. He said there needs to be a short-term rental policy designed that works for the whole city, not create loopholes. When the current owners sell the property, there will be new owners; his family has been in the neighborhood for 90 years, and he would like to be there at least another 30 or 40. He feels council will be creating a problem for the residents. He

suggested that the council come up with a temporary licensing process for the short-term rentals until a complete ordinance for the city can be drafted.

Councilman Sutton complimented Mr. Smalley's presentation. He pointed out that two of Mr. Smalley's family properties are zoned Neighborhood Commercial District. Mr. Smalley said he believed they were zoned residential. Mayor Keyserling said it was clear that the lot was clearly subdivided, the only one in at least two blocks. Had it not been subdivided, Mayor Keyserling said, it would be the same as the ones between it. Mr. Smalley called that "a new and novel argument," that at one time it was zoned something else. He feels going forward, in a neighborhood, residentially-zoned district, they are trying to find a solution to the short-term rental issue for the entire city, while ignoring that this rezoning can have a long-term impact on the neighborhood it's in. He asked what's to stop the next person who buys a residentially-zoned lot, invests some money, and then decides they want to flip it to a commercial property. Mayor Keyserling replied that that is a hypothetical question, but there's not likely to be another such lot that is surrounded on three sides by neighborhood commercial zoning. He agreed that it's unfortunate that the two issues have been conflated. The short-term rental was raised before the planning for the city, sector-by-sector, Mayor Keyserling said. Mr. Smalley said the residents are concerned about the encroachment that could be beginning to happen if council allows this precedent and that there's nothing to stop something similar from happening in the future.

Mr. Smalley said the residents understand that Charles Street is zoned commercial, but this property is not on Charles Street. He reiterated that his concern is less with the zoning than with this action as a solution to the short-term rental issue. Councilwoman Beer said pieces of property have been rezoned on Ribaut Road "because it made sense." When the city goes to form-based code, it will change everything, she added.

Chris Lempesis said he is the nine-month renter Mr. Smalley referred to. He lived in the house and confirmed that it's tiny. The neighborhood "has a lot of great folks" and is surrounded by commercial businesses. He has lived next door to short-term rentals and had a good experience. From his experience, he feels this is not a detriment to Beaufort and hasn't been harmful. He feels this is about one piece of property, not about short-term rentals. There being no further public comment, Mayor Keyserling closed this public hearing.

MINUTES

The minutes of the work session on March 1, 2011 were presented to council for review. On page 6 of the minutes, Councilwoman Beer noted that Erica Dickerson's first name was incorrectly spelled Erika. **On motion by Councilman McFee, second by Councilwoman Beer, council voted unanimously to approve the minutes as amended.**

MS made a motion, seconded by DB, to table agenda Items A-C under Old Business in the meeting agenda at the owner's request. The motion was approved unanimously.

BUSINESS LICENSE APPEAL – BUS ROTATION SLOT

Officer William Carter, Tour Coordinator, said Mr. Gay's bus was inspected per the ordinance and was found to be able to be used for business. Councilman Sutton said he understood the bus was inspected and is up to standards to operate and has a taxi permit on the back. Officer Carter said yes. **Councilman Sutton** said the license to operate was temporary, so he **made a motion, second by Councilwoman Beer, to restore the previously issued year-long license to run throughout its term.**

Rose White, Suthern Rose Buggy Tours, said her business had tried to get a bus license since last April. She reviewed the ordinance and their experience with Mr. Gay's appeal of the revocation and reinstatement of his license. Mayor Keyserling told her that the license was restored on the same basis on which it was issued, and Officer Carter will continue to monitor Mr. Gay's operations and anyone who observes it not being used properly "has the right and obligation to report it."

Ms. White said her company would still like to have a bus license and cited that in the ordinance there are both local and non-local licenses available. They would like to have one of the non-local licenses transferred to a local license, so they can run buses, especially in inclement weather. They would also like consideration for running a bus tour in their carriage slot on hot days or to use one of the non-local spots on a regular basis.

Councilman Fordham said they need to apply for the license. He is in favor of voting against the issuance of any licenses, should a vote come, owing to the continual fighting between the Whites and Mr. Gay. Mayor Keyserling said a resident wouldn't be eligible to apply for a non-local license. They could get a waiver, possibly, by applying for it, but he didn't know to whom. The city manager or Officer Carter might be able to tell her if they could qualify for it. Mayor Keyserling said TMAC was charged with looking at all of the tours. Council can neither issue a license nor change the ordinance without public notice and discussion.

Peter White said they have been working hard for a year to get a bus license so they can use a bus in the hot season. They have gone through the proper channels, he said, and feel "blindsided" by the reinstatement of Mr. Gay's license. Mayor Keyserling told Mr. White it "is not really about you. It's about the ordinance. The license suspension and restoration was about that." The debate is not about the carriages and the customers, it's become about the operators, Mayor Keyserling said, which was what raised Councilman Fordham's ire. He suggested that the Whites speak to the city manager and Officer Carter to see if there is a process they can put forward on their behalf.

Councilman Sutton said the sequence of events for tourism issues is to bring them to the TMAC table for consideration of how the business of tourism can be done better. Council will then consult with TMAC about how tourism can be done best. It's been reconvened and he suggested Mr. White draft a memo to TMAC about "the business you know best, including the bus rotations and how there may be a need for a bus in the carriage slot rotation and how that

would work.” The discussion needs to be had in the workshop format with TMAC, Councilman Sutton said. He’s not comfortable doing a single-line item regarding tourism when they have reconvened the TMAC board. Councilman Sutton said council is aware that the ordinance is not perfected and the most recent change regarding the license revocation after 60-days of non-use still needs some work, as evidenced by recent events. He asked Mr. White to please use TMAC to resolve the issues because there will be more changes in the ordinance related to tourism if it’s brought to council via TMAC. Many frustrations have been solved, and “things are a lot better than they were a year ago,” Councilman Sutton said.

Ms. White said their concern is not what Mr. Gay does with his business but that this summer when it’s hot, they can continue to provide tours for visitors. **The motion passed unanimously.**

BUSINESS LICENSE APPEAL – CONSIDERATION OF PENALTY WAIVER

Mr. Dadson said that as a part of the business license audits, staff discovered a discrepancy with Insurance Specialists. A letter was sent and there was a meeting for clarification. Staff, the city attorney, and the business license administrator are satisfied that they have clarified the appropriate amount has been paid for business licenses. They can only go back three years; the penalty is large, and staff recommends approval of the waiver of the penalty. “Everybody is clear that we now know how to collect this particular business license,” Councilman McFee said.

Mandy Michaels from Insurance Specialists provided background on how the company operates. They have offices – and business licenses – in Atlanta and Norcross, GA. There, they don’t report gross receipts to the city. In Beaufort, they have an office, but it is “strictly an administrative center.” They don’t sell or service policies here. There was some confusion among the accountants in Atlanta who were not familiar with Beaufort ordinances, and the administrative office in Beaufort. The business will pay the taxes they owe, she said, but they are asking council to consider the appeal regarding the penalty. Councilman McFee asked for clarification on the nature of the amount the business was in arrears. Ms. Michaels said in the other cities in which they do business, they are not required to record gross receipts. They now have local accountants, who submitted a letter detailing that the way the business’s gross receipts were recorded was incorrect, because they included collected premiums and commissions, which created “a huge difference.”

Councilman Sutton said the firm and the city appear to be in agreement now about where the firm stands. Councilwoman Beer said it sounds like a mistake that has been taken care of. Mayor Keyserling said the firm sets an example of “the kind of business we want more of— people living and working downtown.”

Councilwoman Beer, second by Councilman Fordham, made a motion to waive Insurance Specialists’ penalties. Councilman Sutton confirmed with Councilman McFee that this is the correct figure. **The motion passed unanimously.**

REQUEST FOR WATERFRONT PARK USAGE CO-SPONSORSHIP FROM COMMUNITY BIBLE CHURCH FOR “SOUL PATROL EGG HUNT”

Councilwoman Beer, second by Councilman Fordham, made a motion to accept the request for the event, slated for April 23, 2011. Councilman Sutton asked why the event was slated for six hours. A church representative said the actual event is scheduled from 11 am – 2 pm, and the additional time requested is for “set-up and tear-down.” **The motion passed unanimously.**

REQUEST FROM CHILD ABUSE PREVENTION ASSOCIATION TO HOST ANNUAL “CAPA ANGEL WALK” ON THE SIDEWALKS IN THE DOWNTOWN AREA

Councilwoman Beer, second by Councilman Fordham, made a motion to accept the request for the event, slated for April 30, 2011. **The motion passed unanimously.**

REQUEST FOR WAIVER OF OPEN CONTAINER FROM THE GUILD OF BEAUFORT GALLERIES FOR THE ART WALK

Councilwoman Beer, second by Councilman Fordham, made a motion to accept the request for the event, slated for March 26, 2011, 4-9 pm. **The motion passed unanimously.**

REQUEST FOR STREET CLOSURE FOR THE BEAUFORT MEMORIAL CYCLING CLASSIC

Councilwoman Beer, second by Councilman Sutton, made a motion to accept the request for the event slated for May 3, 2011, 4 – 11 pm. **The motion passed unanimously.**

MAYOR’S REPORT

Mayor Keyserling encouraged council members, when they talk to people on the street, to encourage them to help with the Beaufort 300 efforts.

REPORTS BY COUNCIL MEMBERS

Councilman McFee responded to Councilman Sutton’s concern about the conflict of the bike race and a council work session by saying that no conflict would occur this year.

Councilman Sutton reiterated encouragement for support of Beaufort 300 and for the charettes.

Mayor Keyserling said April 3, a celebration will be held at City Hall for a Brigadier General designee who grew up in Dale. She is coming back from Afghanistan to receive it, then returning to Afghanistan.

Councilwoman Beer said Lt. Dan Weekend is progressing and encouraged help and contributions.

There was a brief conversation with the Scout guests, and Councilwoman Beer encouraged their attendance at a work session as well. Mayor Keyserling suggested they take a field trip to a charette.

EXECUTIVE SESSION

On motion of Councilwoman Beer, seconded by Councilman Fordham, council voted to move into Executive Session pursuant to Title 30, Chapter 4, Section 70(a) (2) of the South Carolina Code of Laws for discussion of land acquisition, sale, and lease. The motion was approved unanimously.

Councilwoman Beer, seconded by Councilman Sutton, made a motion to come out of Executive Session and resume the regular session. The motion was approved unanimously.

ADJOURNMENT

There being no further business to come before City Council, Councilwoman Beer made a motion to adjourn, seconded by Councilman Sutton. The motion was approved unanimously, and the meeting was adjourned at 9:07 p.m.

ATTEST: _____
IVETTE BURGESS, CITY CLERK