

A work session of Beaufort City Council was held on January 8, 2019 at 5:00 p.m. in the Beaufort Municipal Complex, 1901 Boundary Street. In attendance were Mayor Billy Keyserling, Councilmen Mike McFee, Stephen Murray, and Phil Cromer, and Bill Prokop, city manager. Councilwoman Nan Sutton was absent.

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

Mayor Pro Tem McFee called the work session to order at 5:02 p.m. He said Mayor Keyserling might be able to attend the meeting or might not.

EMPLOYEE NEW HIRE RECOGNITION

Matt St. Clair introduced **Joe Musgrave**, a new employee in the Public Works department.

DISCUSSION: DRAFT INVESTMENT POLICY

"This memorializes what we already do for our investments," **Kathy Todd** said, and she explained who likes to have this information. The city does CDs and treasuries, and there are "restrictions on REPOs (repurchase agreements)," she said, which is not something that is currently an issue; it would require consultation with legal counsel if it were ever to be something the city did, but that's unlikely.

Ms. Todd said this is a presentation for council's input before a formal policy is made. It is in the city manager's purview.

DISCUSSION: CREDIT CARD PROCESSING AND CONVENIENCE FEES

Ms. Todd said the current credit card processor is Sterling, which is an affiliate of Palmetto State Bank. Originally, Palmetto State Bank was earning interest on the city's money and absorbing fees on the city's behalf. For about 5 years, there were no fees, she said, but Palmetto State Bank said they couldn't afford to not charge fees anymore, so fees have climbed continually for about 2 years. Meanwhile, city council has said it would like to see more online payments, Ms. Todd said, so when the business license online payments went out to bid, the city was limited in the credit card processors from which they could get bids. Rather than "recreating the credit card process," she explored expanding options for payments, and she got the same rates.

Ms. Todd said, "Almost everybody is passing on" convenience fees to their customers. The city's fees are continuing to climb because more people are paying with cards, and the city's absorbing those fees. She recommends that the official payments move forward, and that the city "pass those convenience fees on" to its customers, except for donations to Pride of Place, for which the city would absorb the convenience fee.

Mr. Prokop said the county has been passing on their fees to customers for years. Ms. Todd said 2.75% is the average fee, with a minimum of \$1.95. The e-check fee is \$1.

Councilman Murray asked Ms. Todd when the last time was that the city bid out processing; Ms. Todd said 2016. Councilman Murray asked how much the volume of processing has increased since 2016. Ms. Todd said the estimated transactions were fairly low; the estimate just for permits is 1,500 transactions to start, for example.

Ms. Todd said in 2017, the total credit card volume was about \$689,000 on about 2,700 payments. The average ticket price is \$255, Councilman Murray said. Ms. Todd told him that the city does not calculate the fee; the credit card processor handles the convenience fees, which is another benefit of doing this.

2.75% is charged across the board, Mayor Pro Tem McFee said, plus a transaction fee. Ms. Todd said the type of card you use doesn't matter with this fee. There is always an option to do an e-check for a \$1 charge, or people can mail a check or come in and pay with a check, she said, and then there is no fee.

Ms. Todd said the city is ready to go with this; the Sterling machines need to be uninstalled, and they already have the new machines.

Councilman Murray suggested that given the amount of transactions that the city will have, and the consolidated amount of the gross fees, they might be able to get the 2.75% down, "at least on card-present transactions." Ms. Todd agreed and said in a year, they might be able to go out to bid again and lower that rate.

Ms. Todd said she would send council a firm implementation date when she has it.

Councilman Murray asked if there is an opportunity to take new business license applications online. Ms. Todd said those "take a different process than the self-service allows, so we would have to design" a new system to do that. Last time she looked into it, a few were taking payments online, she said, but she will look into it again. Councilman Murray said the process is "cumbersome," and on the renewal side, gains have been made. There should be a way to streamline it, he feels, which would also save staff time on the several emails that have to be exchanged. Ms. Todd said there is more to it than filling out an application: some businesses require inspections, for example, so "it depends on the business." A business license application could be submitted online, she said, but they would have to look at how that would fit into the city's zoning ordinances.

Councilman Murray suggested that they could put a disclaimer on the process, stating that the new business license is not valid until staff signs off on it, but the email

exchanges with staff are cumbersome, and there are also people operating out of compliance because the process is difficult, so collections might go up if the process were made “as easy as possible.”

ZONING ISSUES

David Prichard said he would cover zoning issues related to regulatory relief for redevelopment, the number of menu and pre-order boards allowed for drive-thru restaurants, and T5-UC fuel station conditional standards.

Regulatory relief for redevelopment

If a site with changed zoning is proposed for redevelopment, so it would be transitioning from an old development pattern to a new, prescribed pattern, Mr. Prichard asked is it reasonable to allow some regulatory relief for the redevelopment.

In T5-Urban Corridor (UC), Mr. Prichard said, light poles are to be 15’ feet above grade. He showed an “idealized” drawing of the Beaufort Plaza, in which a lot of what is now parking lot would have buildings and landscaping. Structured parking is expensive, he said. Mr. Prichard showed pictures of the conceptual strip mall retrofit: the first level shows shade trees and new buildings sited at the street edge, and then the next phase is “the idealized version.”

For transitions of strip malls with traditional parking lots, Mr. Prichard asked how important it is that the light poles are like those in a traditional development. He showed the Grayco parking lot, where the poles are 28.5’, and in Beaufort Town Center, they used 15’ poles. This applicant asked the city to look at this, he said; his tenants require 5 foot-candles, so he is trying to save money. Mr. Prichard said the city doesn’t “want to put in disincentives to redevelopment,” but they do want to maintain the city’s redevelopment goals.

Mr. Prokop said the 15’ poles would still be in the pedestrian areas. Mr. Prichard said yes, the applicant is willing to have those poles where pedestrians are, but in the parking lot, he wants to have 28’ light poles.

Paul Trask said his transition on the front of his development would be at a pedestrian scale. The concept would be for pedestrian-scale light poles along the buildings that will front that new intersection and all along Robert Smalls Parkway. There will be large box stores to the rear that will require a traditional parking lot to support them, he said. He is not looking for “a dense forest of 15’ poles”; they need a taller pole because of the number of poles that would be required. Mr. Trask said he has photos of other redeveloped shops/malls to show what he’s proposing. This is not inconsistent with what can be seen in other redevelopments or within this community, he said.

Mr. Trask said he was surprised staff has the authority to approve everything in redevelopment districts, but light poles are not included in their purview, so he is requesting that staff have the authority to approve these poles in his development.

Mr. Prichard said the Lowe's light poles looked similar to the height of poles at Grayco and Publix, which are 25' – 28'. Mayor Pro Tem McFee said the coverage becomes greater as the poles are higher, so fewer poles are needed.

Councilman Murray said Mr. Trask had said that there should be more flexibility on redevelopment sites. When council passed the Beaufort Code, it provided "release valves," so staff would have some discretion, and he's surprised light poles were not part of this. Mr. Prichard said the release valve is for 10%, so staff could allow Mr. Trask to have 16.5' light poles.

Councilman Murray thinks there should be more flexibility on redevelopment projects, but he is uncomfortable with modifying the code for one project. Mr. Prichard agreed and said they had used Mr. Trask's project for an example. The issue is bigger than Mr. Trask's request, he said. It's a question of whether greater flexibility is needed and who should administer that. The city has areas that have dual zoning, Mr. Prichard said. Also, the DRB (Design Review Board) could be authorized to grant leeway for redevelopments. Mayor Pro Tem McFee said, "That's too subjective," and Councilman Murray said he could foresee complaints about the board's subjectivity. Mr. Prichard said review boards are not needed if something is "objective," but "normally, the things that go to review boards *are* subjective."

Councilman Murray said the city is trying with its planning to get to "a different place than we are today." Mayor Pro Tem McFee said, as far as procedure, a zoning change "has to come back before" council. In cases of dual zoning, he thinks the city should help with that. He said there is an opportunity for the DRB "to have leeway," but that needs "to be limited." Mr. Prichard agreed. Rezoning is another option, he said, if "you didn't want to give leeway."

Councilman Murray said council was clear about wanting to "allow staff flexibility around redevelopment projects" in the debate on the Beaufort Code, and they give staff the authority and the leeway to do that, which "can put staff in "kind of a precarious position."

Mr. Prokop said there are 3 upcoming projects in addition to Mr. Trask's that are "the same thing," so staff needs to have the flexibility to do this, and they have to be able to justify why their decisions were made. Councilman Murray said there needs to be balance, too, because big box stores will want to use the models that they use everywhere else, and the city has been clear about not allowing those traditional

designs. He is hesitant to endorse a redevelopment that would be “what we’re already dealing with.”

Councilman Murray said he is not sure what “the best way to get there” would be. He wants to make it as easy as possible for those who are investing in the city. Mr. Trask said the light pole issue ties in with landscape design. It would not be practical to submit a landscape plan to staff and have it approved, then have to “meet a DRB requirement” for the light poles. He believes it’s important for staff to have some flexibility to work with developers on this type of issue. Because of zoning, across Highway 170, the light poles he wants to use are “fine,” Mr. Trask said, but not on the side of the highway where his development is.

Mr. Trask feels council “should seriously consider” putting this matter “under staff’s umbrella.”

Mr. Prichard said there are liner buildings in Mr. Trask’s plan, which is important to the Beaufort Code and the Civic Master Plan. He thinks “there should be flexibility,” but he takes one person having the power to make these decisions “very seriously.” If planning staff is given this power, they need to be able to justify the decisions they make, he said. They need to guard against “being arbitrary and capricious,” Mr. Prichard said. Flexibility is “kind of setting up a common law,” and it would establish precedents; they will be challenged if they’re not following it, he said, which can be “fraught,” so they need to be careful about how they do this.

Councilman Murray said the commitment for the Beaufort Code is to review it every 6 months, so staff makes notes of what issues arise between reviews, and lighting might be part of that. Mayor Pro Tem McFee said lighting and landscaping go hand-in-hand, and they *have* to work together. For example, there are sections of Grayco’s lot where the trees have grown over the lights, so there is no light in 3 or 4 places.

Mr. Trask said in his plan is for 2 sidewalk systems that run north to south. They are broad sidewalks with trees, and they could have lower, pedestrian-scale light poles. They will be creating “a green space” – where they could have larger trees – that would lead people from the main center out to the liner buildings, he said. Councilman Murray said those are good points: if the light poles are part of an entire site plan, allowing the taller ones makes more sense.

Mr. Prichard said he wants to “craft language” if council wants staff to have “bounded” authority in “transitioning developments,” or they could change the code to allow T5-UC to accommodate these redevelopments better. They need to figure out how to allow both pedestrian space and “an auto-centric space,” Mr. Prichard said. He thinks the issue may be “just parking lots.”

Mayor Pro Tem McFee said he agrees with Councilman Murray that they should use this opportunity to look at the need for flexibility. This would also apply to new development, he said.

Councilman Murray said if there's an exception made that gives flexibility to staff, it could be "back-stopped by the city manager" for "a second set of eyes on it." Mr. Prokop said "a lot of things" in the Civic Master Plan that are "conceptual" are thought of as "this has to be this way now," and he said Mr. Prichard is saying that there needs to be "a transitional step to that." Councilman Murray said the Civic Master Plan is "a default plan," but it is going to change. Mr. Prichard said yes, but the code doesn't necessarily give that flexibility. A general discussion about this followed.

Mr. Trask said some of the requirements for live-work spaces are "quite onerous and expensive."

Mr. Prokop said Mr. Prichard's staff could have the flexibility to make decisions, Mr. Prokop would sign off on it, and then he would receive quarterly reports on the exceptions that staff had made. Mr. Prichard said the city doesn't want to put the ZBOA in a position where they're not following the law "to do what the city wants them to do."

Councilman Cromer discussed a Charleston strip mall that is "a nice redevelopment" of a conventional strip mall.

Mr. Prichard said an addendum to the code would need to be written in such a way that the conditions are set up for granting flexibility that isn't "arbitrary [or] capricious." He said he would write up something to give to council on this matter.

Number of drive-thru menu & pre-order boards

Mr. Prichard said the Beaufort Code currently allows one pre-order board and one menu board per lane at drive-thru restaurants. On 2 separate occasions, the ZBOA has granted variances to allow second menu and pre-order board when a drive-thru lane is added, including recently for Chick-fil-A, so the question is whether the code should be amended to allow one pre-order and one menu board per drive-thru lane, Mr. Prichard said.

Mayor Pro Tem McFee explained why this was put into the code. The city needs to be careful that additional boards don't litter the landscaping and can't be seen from the street, he said. Mr. Prichard read language from the code that is relevant to boards and the conditions for drive-thrus. He said he assumes that "no one really thought about 2-lanes" when the code was written.

Lisa Sundrla discussed her thoughts on changing the ordinance and what the businesses

she knows of want, which is “no gray areas.” She suggested that they could give staff discretion, see how things work, and then look at changing the ordinance.

Councilman Murray said he thinks the additional boards at Chick-fil-A and McDonald’s are fine, but “the devil is in the details” as far as how the restaurant is sited, and council should rely on staff, he feels, before there are code changes. Mayor Pro Tem McFee agreed and said they don't want to have restaurants with an abundance of signs.

Mr. Prichard said he would look at something that would allow more of the signs, but he would look at how it might affect aesthetics, especially in certain cases.

Fuel station conditional standards in T5-UC

Mr. Prichard said this had come up because of a new Enmark gas station that was proposed on Ribaut Road. He showed an idealized gas station drawing from the Civic Master Plan. The applicant didn't want to follow any of the standards in the code, Mr. Prichard said. Mr. Prokop said “the twist” was that the DRB had recommended approval of all of the applicant’s variance requests.

Mr. Prichard said he feels that the applicant should be able to follow the intent of this transect zone, but the city should look at “the tweaks” to the code that might “need to be made for a gas station” in T5-UC zoning. He showed his suggestions for changes. “The building should be on a corner,” in T5-UC; he asked if it necessarily needs to be. The frontage build-out percentage could be met by the convenience store “and/or liner buildings or pumps,” he said. Fueling stations shall not be located between the building and the adjacent street, per the code; this could be changed, Mr. Prichard said, as could the requirement for one or more pedestrian entries to be located along the primary street frontage.

Mr. Prichard said he’d “rather have a realistic ordinance.” Enmark said they couldn't follow *any* of the requirements of the ordinance, he said, but they could have.

Mayor Keyserling arrived at the meeting.

Councilman Murray suggested looking at neighboring municipalities and what they require in their form-based codes.

Mr. Prichard said the ZBOA had followed the law in its decision, and this was a hardship issue, not a design issue.

Mr. Prokop said the code review would be brought forward in February or March.

Mayor Keyserling said the Enmark purchased the property and should have known what the code was. Mr. Prichard agreed. Enmark wasn’t “really in a hurry,” he said, but there

is a matter of a road proposed to be “right behind” the convenience store building for the use of the senior housing development. With that street coming in, Enmark’s plan would have made more sense if they had followed the code, Mr. Prichard said.

Mr. Prokop said **Walter Nestor** is Enmark’s attorney, and at the ZBOA meeting, he had requested that the city turn the application down so Enmark could “go back and regroup.”

There being no further business to come before council, the work session was adjourned at 6:42 p.m.