

MINUTES OF THE FOREST ACRES CITY COUNCIL MEETING JANUARY 12, 2012

Mayor Frank Brunson and Council members, Ginger Dukes, Charles Fetner, Curt Rye, Jr. and Shell Suber, Jr. were present. Also attending were City Administrator Mark Williams, Assistant City Administrator Jake Broom, Police Chief Gene Sealy, Finance Director Bob Massa, Building Official Clark Frady, and City Attorney Lee Holloway.

Mayor Brunson called the meeting to order at 5:15 p.m.

1. Invocation and Pledge of Allegiance

Mr. Fetner gave the Invocation and the introduced Life Scout Matthew Ballase who led the Pledge of Allegiance.

Public Hearing- AN ORDINANCE FOR THE CITY OF FOREST ACRES, STATE OF SOUTH CAROLINA, PROVIDING THAT THE CODE OF ORDINANCES, CITY OF FOREST ACRES, BE AMENDED BY ADDING A SECTION TO BE NUMBERED CHAPTER 21, ARTICLE XIII A, COMMERCIAL ENTERPRISE/REDEVELOPMENT ZONE (C-5).

2. Attorney Holloway called the Public Hearing to Order at 5:19 p.m.

Attorney Holloway stated that the purpose of the hearing was to entertain a change in the City of Forest Acres Zoning Ordinance. The city is currently undergoing a total revision of the Zoning Ordinance, however, as it is not complete, the decision was made to have a public hearing on a portion of the ordinance. Currently there are several zoning districts in Forest Acres and this proposal is to create a new and entirely separate zoning district called Commercial Enterprise Development District (C-5). This hearing is for the public to voice the suitability of this new district in Forest Acres. At the conclusion of a presentation both Council and the audience will be given an opportunity to ask questions. Following will be an opportunity for those who are in opposition or in favor of the proposed C-5 zoning district. Mr. Holloway said that if anyone in the audience or who are not present have additional comments or questions subsequent to the public hearing they should submit them to City Administrator Mark Williams.

On December 17, 2011 a public notice was published in The State Newspaper regarding this C-5 proposal. This proposal is approximately 90-95% similar to the C-3 general commercial zoning present in the city. Most retail stores are currently located in the existing C-3 zoned areas. This new zoning creates a distinct situation that only applies to shopping center areas that have a minimum of 5 acres and to a building that is a minimum of 250,000 square feet. Regulations in the proposed zoning would be somewhat different due to being only in high density areas. Allowed in the new proposed C-5 zoning that are not allowed in the C-3 zoning are single-family residences, drive-in restaurants, barber/beauty shops, post offices, public schools, private schools, charter schools and several other types of establishments that are listed in entirety in the proposed ordinance. A complete list of non-allowable businesses is also in the proposed ordinance. Council member Ginger Dukes asked for clarification that the permissible accessory buildings that are allowed in this proposal are the same as storage facilities. Mr. Holloway said that was accurate and the accessory buildings was in the proposal for single family residences that have a single outlying building, pool house, etc. on the property. Ms. Dukes suggested the accessory buildings be stricken from the proposed ordinance. Mr. Holloway said that could be taken into consideration. Ms. Dukes asked if businesses in the proposed C-5 areas would be allowed to have a larger sign than in other zones and Mr. Holloway said that there are special sign provisions in the C-5 classification that would not be allowed in any other areas.

Mr. Holloway said that the height provision originally proposed by the Forest Acres Planning Commission was 75 feet or 6 stories and was changed at the ordinance's first reading to be 65 feet or 5 stories and the current standard is 35 feet or 3 stories in other zones. The height authorized in the version of the ordinance recommended by the Planning Commission provided in certain situations a height up to 7 stories at specific parts of a building. This discrepancy needs to be resolved at 65 feet/5 stories or 75 feet/6 stories.

Administrator Williams pointed out that the 2005 PDD standard established the height restriction of 65 feet and the Planning Commission and City Council subsequently approved a PDD application for the former Peerless Group that called for an additional 4 stories of residential development on top of the parking deck and that would have caused a conflict with zoning at some point had that plan ever been executed.

Mr. Holloway asked if anyone had any questions. He asked if anyone would like to speak in favor of or offer any changes to the proposed C-5 zoning ordinance. He asked if anyone would like to speak in favor of the adoption of the C-5 proposal. He asked if any parties would like to speak in opposition to the adoption of the C-5 proposal.

No further questions or comments were forthcoming and Holloway closed the public hearing.

3. Approval of Minutes:

a. City Council Meeting on December 13, 2011:

On a motion by Mr. Fetner and seconded by Mr. Rye, Council unanimously approved the minutes of the Regular Meeting of City Council of December 13, 2011 as presented.

4. Mayor's Issues & City Projects:

a. Jordan Anderson Racing:

Jordan Anderson presented a framed collage of promotional materials to the City of Forest Acres. He said that the 2011 racing season was a great year for his racing team and in promotion of the City of Forest Acres. He thanked the City Council for their support and recognition.

b. Citadel/Idalia Parks:

Administrator Williams stated that the landscape architects have an appointment to meet a tree arborist on Monday, January 16th to examine which trees may need to be eliminated and then the project should be ready to go to bid on February 1, 2012.

5. New Business:

- a. First Reading, AN ORDINANCE FOR THE CITY OF FOREST ACRES, STATE OF SOUTH CAROLINA, PROVIDING THAT THE CODE OF ORDINANCES, CITY OF FOREST ACRES, BE AMENDED BY AMENDING SECTION 18-4 (d) OF SAID CODE; PROVIDING FOR A LOCAL HOSPITALITY TAX.

Administrator Williams stated this ordinance would give Forest Acres additional leverage when a business is in arrears with Hospitality Tax payment(s). On a motion by Mr. Rye and seconded by Mr. Fetner, the ordinance was approved unanimously.

- b. First Reading, AN ORDINANCE FOR THE CITY OF FOREST ACRES, STATE OF SOUTH CAROLINA, PROVIDING THAT THE CODE OF ORDINANCES, CITY OF FOREST ACRES, BE AMENDED BY REVISING SECTION 9-15 IN ORDER TO ADD SUBSECTION (f) OF THE CITY BUSINESS LICENSE ORDINANCE PROVIDING FOR SUSPENSION OR REVOCATION OF LICENSE.

Administrator Williams stated this ordinance would authorize City Council to suspend or revoke a business license for non-payment of Hospitality Tax. On a motion by Mr. Rye and seconded by Mr. Fetner, the ordinance was approved unanimously.

6. Old Business:

- a. Second Reading, AN ORDINANCE FOR THE CITY OF FOREST ACRES, STATE OF SOUTH CAROLINA, PROVIDING THAT THE CODE OF ORDINANCES, CITY OF FOREST ACRES, BE

AMENDED BY ADDING A SECTION TO BE NUMBERED CHAPTER 21, ARTICLE XIII A, COMMERCIAL ENTERPRISE/REDEVELOPMENT ZONE (C-5).

Mayor Brunson asked Richland Mall owners Bill Walkup and Don Taylor to address any concerns they may have about the C-5 zoning prior to Council's vote on the ordinance. Mr. Walkup said that they would like the flexibility of adding residential housing to the top of the parking garage, and said he believed the proposed height regulation was too limiting. He acknowledged that the malls previous owners had proposed several floors of development that would not have been borne structurally, and although he and Taylor have no current plans to build atop the parking deck, he would like to have that potential. Walkup also asked for clarification on the meaning of the reference to "perimeter streets" affecting height limitations.

After additional discussion, Attorney Holloway agreed that further clarification is needed prior to a vote by Council.

Ms. Dukes brought up concerns about the digital sign dwell times proposed in the C-5 ordinance and stated that the 6-seconds image intervals seems to be too fast and could prove distracting to motorists. Conversation ensued about this concern.

Council voted unanimously to end discussion on the sign portion of the C-5 proposed ordinance at this time. Ms. Dukes voted to oppose the 6-second sign portion of the ordinance. Council voted unanimously to pass the ordinance as amended by Mr. Rye's motion to delete item 21.2 on accessory buildings.

- b. Second Reading, AN ORDINANCE FOR THE CITY OF FOREST ACRES, STATE OF SOUTH CAROLINA, PROVIDING THAT THE CODE OF ORDINANCES, CITY OF FOREST ACRES, BE AMENDED BY ADDING A SECTION OF SAID CODE; PROVIDING FOR THE ANNEXATION OF 6419 BRIDGEWOOD ROAD, TMS 16803, BLOCK 6, LOT 15.

On a motion by Mr. Suber and seconded by Mr. Fetner, the ordinance was approved unanimously.

- c. Discussion regarding proposed new Zoning Ordinance

Administrator Williams stated that room for discussion remains on the zoning ordinance. He, Jake Broom, and Attorney Holloway met to discuss the new ordinance to clarify a few points on the entire ordinance. The C-5 portion is the only portion of the ordinance that was thought ready to be brought to Council and approximately 90% of the content remains for Council to consider.

Attorney Holloway stated that it would be appropriate for Council to offer some policy clarification on some of the ordinance's provisions. For instance, the new ordinance proposes to change the Zoning Board of Appeals and the Planning Commission from seven to five members. Mr. Holloway asked Council if they wanted five or seven members on the ZBA and Planning Commission. Administrator Williams recommended that both remain at seven members and Council agreed.

Mr. Holloway noted that the current zoning requires a minimum 2 acres to create a zoning district and asked Council if they would prefer to keep the requirement at 2 acres, but the version recommended by the Planning Commission allows less than 2 acres. Council unanimously opted to keep the current requirement of a 2 acres minimum.

Mr. Holloway said regarding Public Hearings the process currently is Planning Commission has a hearing and but that Council conducts the official Public Hearing with public comment(s). The new zoning ordinance proposed that hearings be conducted by the Planning Commission. Council disagreed and unanimously agreed to retain the authority to conduct public hearings for the purposes of zoning.

On the topic of consideration of a zoning appeal the current ordinance provides once per 12 month period. Under the current provision if a rezoning request is withdrawn prior to a public hearing the request cannot be reconsidered for a year. Under the new proposal once the advertising has been in effect than it cannot be withdrawn. Council agreed to leave the provision as is.

For purposes of annexation currently a person brings the petition to Council and Council makes a decision. Under the new proposal a request for annexation would go to the Planning Commission and they would make a recommendation or not whether Council should annex the property. Council agreed that annexations should remain as is.

Regarding height of buildings currently it is 65 feet/5 stories or 45 feet/3 stories. Council agreed for the height provision to remain as is.

Concerning parking, shared parking is not allowed currently. Council agreed that the flexibility of shared parking should be allowed.

Relating to wireless communication towers, does council want to require that the towers have four legs and guy wires or restrict them to a monopole design? Council agreed to leave the current regulation in force.

Satellite dishes are required by current regulation to be placed only in rear yards. Council agreed that satellite dishes could be placed in side yards as well if it is necessary.

Under the new ordinance business landscaping requirements allow the use of certain named plants, but also requires a topographical plan at 1-foot contours showing the location of any berms and irrigation systems. Administrator Williams said the thinking behind those requirements was that without such information it is hard to predict if new development will create a run-off problem for adjacent properties. These requirements may be more understandable for a development of a new site, however, for a business opening in an established site the costs of these requirements are significant. Council deferred making a decision at this time.

On the topic of signs, off-premise signs are not currently allowed. Council agreed to continue not-allowing off-premise signs. Sidewalk signs are currently not allowed. Council agreed to allow sidewalk signs with size restrictions to be specified at a later date.

7. City Administrator Report:

- a. Discussion of amending bonding requirements for contractors & Fire Inspection Program:
Administrator Williams deferred discussion to the February 2012 meeting.
- b. Hospitality Tax Application Cycle:
Administrator Williams recounted that the city has been operating under a moratorium for the last eighteen months for new hospitality tax applications and unless Council decides otherwise Williams said he would continue to administer that policy. Williams said he would contact Council about a meeting to review received applications.
- c. Flood insurance at city hall:
Administrator Williams said that with the revision to the flood zone standards in September 2010, the corner of City Hall is now in a flood zone, and the City has the option to obtain flood insurance coverage for the perceived risk (even though Williams said he thought it was minimal). The annual premiums would be \$2,700. Council agreed the risk was minimal and opted to forgo insurance coverage.

- d. **Capital Equipment for FY 2012 Lease/Purchase**
Administrator Williams stated that all except the garbage trucks had been previously approved. One new truck, one truck/chassis/ packer body, and one truck/chassis and we will move an existing packer body onto it. The debt service budget was budgeting in the current budget for the first six-months payment and the remaining amount will be budgeted moving forward. Williams anticipates the rate to borrow this money will be around 1.85-1.9% for four years.

On a motion by Mr. Fetner and seconded by Mr. Rye, the additional necessary purchases were approved unanimously.

- e. **Audit:**
Administrator Williams stated the audit results should be ready for the February 2012 meeting.

8. **Police Chief's Report:**

- a. **Annual Police Report**
Chief Sealy stated that the Annual Police Report should be ready for the February 2012 meeting.

9. **Community Forum:**

Forest Acres resident Kathy Davis asked if it was considered a crime and if there was any recourse for the if someone sends her unsolicited/unwanted text messages of a sexual nature. Chief Sealy responded that it would be considered a crime. Attorney Holloway said that the FAPD has jurisdiction to take the report but that the municipal court would have no jurisdiction over the crime.

10. **Council Items:**

Councilman Suber asked when the Farmer's Market would re-open; Administrator Williams said April 2012.

11. **Executive Session:**

On motion by Mayor Brunson and seconded by Mr. Rye, Council unanimously approved to adjourn the Regular Meeting to go into Executive Session at 6:16 p.m. for a legal briefing by City Attorney Lee Holloway.

At 6:26 p. m. on motion by Mr. Fetner, seconded by Mr. Rye, Council exited Executive Session p.m. for legal briefing by City Attorney Lee Holloway. No action was taken in executive Session.

12. **Adjourn:**

There being no further business, on a motion by Mr. Rye, seconded by Mayor Brunson, the meeting ended at 6:26 p.m.

Respectfully submitted,

Maria Queen
Administrative Assistant
City of Forest Acres