

MINUTES
BUILDING CODES (BDS) COMMITTEE
OCTOBER 4, 2021
6:00 P.M.
6th committee meeting

Committee Members: Diane Kuzniar (Chair), Dale Black, Taft Matney
Others present: David Dyrhaug, Business and Development Services Director, and Brandon Madden, City Administrator

1. Call to Order- Chairwoman Kuzniar

2. Public Comment

3. Reading and Approval of Minutes

a. Building Codes Committee Meeting: September 7, 2021

Motion: Councilman Matney made a motion to approve the minutes with Councilman Black seconding.

Vote: The vote was unanimous (3-0).

4. Reports or Communications from City Officers

a. BDS Director David Dyrhaug

Mr. Dyrhaug reported the department has 82% of the budget remaining.

One of the department's employees transferred to the Public Works Department, so BDS is currently looking for a replacement.

5. Unfinished Business- There is no unfinished business.

6. New Business

a. An ordinance to provide for the annexation of property owned by Gail C. Frost and Sarah S. Coates, and located at 220 Fowler Circle (Tax Map Parcel: M007.03-01-010.01) by one hundred percent petition method; and to establish a zoning classification of R-M1, residential, for said property

The City has received a signed petition requesting the annexation of a tract of land consisting of one parcel pursuant to South Carolina Code of Laws Section 5-3-150. This petition includes approximately 10 acres owned by Gail Frost and Sarah Coates and is located at 220 Fowler Circle.

The applicant has requested that this tract be zoned R-M1, Residential, upon annexation into the City of Mauldin. Zenith Real Estate has this property under contract for purchase. Zenith Real Estate is described on their website as a residential acquisitions, holdings, and development company. Zenith Real Estates anticipates developing this property for 50-80 townhomes at an average sales price in the mid \$200,000's.

Motion: Councilman Matney made a motion to send this item to Council with Councilman Black seconding.

Councilman Black asked about the sewer lift station. Mr. Dyrhaug said he understands the sewer will be lifted from Fowler Circle towards Butler. There is no gravity flow.

Councilman Black then asked if there are any road improvement plans. Mr. Dyrhaug answered no.

Vote: The vote was unanimous (3-0).

- b. An ordinance to adopt a revised business license ordinance in accordance with the Business License Standardization Act (2020 Act No. 176)

In September 2020, the South Carolina General Assembly passed the S.C. Business License Tax Standardization Act, Act 176. This Act is intended to streamline the business license process throughout the state by creating the same process for taxing jurisdictions across the state.

Staff has been working with the Municipal Association of South Carolina (MASC) to prepare to update the City's business license in accordance with Act 176.

The MASC new model business license ordinance achieves compliance with the S.C. Business License Tax Standardization Act. However, there are a few notable differences between MASC's new model ordinance and the City's current ordinance and business license practices. These include the following:

1. License expiration. Although the City maintains the same April 30 deadline for business license renewals as in the model ordinance, the model ordinance sets the license expiration as April 30 instead of December 31 as in the City's ordinance. The main effect that the new April 30 expiration will have on the City is that contractors and other businesses not located in the City will not have to apply for a license until after May 1 instead of January 1. The draft ordinance includes an expiration date of April 30.
2. Income tax documentation. The City currently requires the applicant to provide portions of their state or federal income tax returns reflecting gross receipts and gross revenue figures when renewing the license. This is not required by the model ordinance, although the model ordinance does provide the municipality to request this information at the municipality's discretion. MASC has indicated that there would not be an issue with the City including the requirement to provide income tax documentation as part of the ordinance that the City adopts. The draft ordinance includes the requirement to provide tax documentation plus procedures relating to applicants who have filed an extension for their income tax.
3. Late penalties. The City currently establishes a late penalty of ten percent of the unpaid tax for each month or portion thereof after the due date plus a \$25.00 processing fee. The model ordinance establishes a late penalty of five percent and no processing fee. While MASC advises against late penalties in excess of five percent, Act 176 does not place any limits on late fees. The draft ordinance includes the late penalties of ten percent for each month plus a \$25.00 process fee.
4. Court fines. The City currently establishes a maximum fine amount of \$750.00 while the model ordinance establishes a maximum fine amount of \$500.00. Title 5 of the South Carolina Code of Laws appears to provide the municipality the authority to establish fines and penalties for the

violation of municipal ordinances and regulations not to exceed \$500.00 (Section 5-7-30). Per MASC, the \$750.00 fine would only be permissible if it included court assessments. The draft ordinance includes a maximum fine amount of \$500.00.

5. Hearings on appeals. The City currently provides that a hearing on an appeal for a license that has been denied, suspended, or revoked shall be held within 30 days after receipt of a request for such appeal. The model ordinance provides the City with 10 business days to hold such an appeal. MASC has indicated that this ten business days lead time has been recommended based on a study of recent case law. The draft ordinance includes a lead time of 10 business days for the City to hold a hearing in response to an appeal.

6. Early payment discount. The City currently offers a two percent discount to businesses that renew their business license on or before February 15. The model ordinance provides no such incentive. MASC has commented that businesses using the statewide business license payment portal will not be eligible to receive this discount. The draft ordinance includes the early payment discount that has been traditionally available in the City.

7. Business license fee abatement incentive program. The City currently offers a business license fee abatement program as an incentive to encourage private capital investment and reinvestment within the City. The model ordinance provides no such incentive program. MASC does not anticipate that the statewide business license payment portal will be able to administer this type of program unless the abatement was provided as a refund instead of a discount. The draft ordinance includes the abatement program as currently structured in the City.

After reviewing and correcting the City's business license data as needed, MASC staff have conducted an analysis of whether the City's business license rates will need to be adjusted so that the City does not receive a windfall from adopting the new statewide class schedule. In its analysis, MASC has projected that the City will not receive a windfall, but instead will incur a loss in revenue by switching to the new statewide class schedule. Specifically, their analysis projects that the City will lose \$35,764.83 in the first year.

The City has the option of simply absorbing the revenue loss and keeping the same business license rates that it currently applies. Or the City may adjust its rate to achieve revenue neutrality.

Motion: Councilman Matney made a motion to send this item to Council with Councilman Black seconding.

Vote: The vote was unanimous (3-0).

7. Public Comment- None

8. Committee Concerns- None

9. Adjournment- Chairwoman Kuzniar adjourned the meeting at 8:15 p.m.

Respectfully Submitted,
Cindy Miller
Municipal Clerk