

THE TOWN OF HILTON HEAD ISLAND

REGULAR TOWN COUNCIL MEETING

Date: Tuesday, June 7, 2011

Time: 4:00 P.M.

Present from Town Council: Drew A. Laughlin, *Mayor*; Ken Heitzke, *Mayor-Pro Tem*; Bill Ferguson; George Williams, Bill Harkins, Kim Likins, Lee Edwards, *Council Members*.

Present from Town Staff: Greg DeLoach, *Assistant Town Manager*; Scott Liggett, *Director of Public Projects and Facilities*; Lavarn Lucas, *Fire Chief*; Nancy Gasen, *Director of Human Resources*; Susan Simmons, *Director of Finance*; Steven Markiw, *Deputy Finance Director*; Jill Foster, *Deputy Director of Community Development*; Brian Hulbert, *Staff Attorney*; Jeff Buckalew, *Town Engineer*; Cary Gaffney, *Storm Water Administrator*; Galen Knighten, *Engineering Technician*; Teri Lewis, *LMO Official*; Heather Colin, *Development Review Administrator*; Nicole Dixon, *Senior Planner*; Trudie Johnson, *Floodplain Administrator*; Anne Cyran, *Senior Planner*; Paul Rasch, *Emergency Management Coordinator*; Debra Cyrilla, *Accounting Specialist*; Vicki Pfannenschmidt, *Executive Assistant*

Present from Media: Tom Barton, *Island Packet*

1) CALL TO ORDER

Mayor Laughlin called the meeting to order at 4:00 p.m.

2) PLEDGE TO THE FLAG

3) INVOCATION

4) FOIA COMPLIANCE – Public notification of this meeting has been published, posted and mailed in compliance with the Freedom of Information Act and the Town of Hilton Head Island requirements.

Mayor Laughlin stated Mr. Riley would not be present for the meeting because he was attending his son's high school graduation ceremony.

5) Proclamations and Commendations

None.

6) Approval of Minutes

a. Regular Town Council Meeting – May 17, 2011

Mr. Williams moved to approve. Mr. Harkins seconded. The minutes from the May 17, 2011 Town Council meeting were approved by a vote of 6-0-1. Mr. Heitzke abstained because he was not present at the meeting.

7) Report of the Town Manager

a. Town Manager's Items of Interest

Assistant Town Manager Greg DeLoach reported on some items of interest.

8) Reports from Members of Council

a. General Reports from Council

Mr. Williams referred to his report to Council at the May 3, 2011 meeting concerning the proposed construction of an acceleration lane at Windmill Harbor by LCOG. He had stated the Committee had thought it would qualify for Guide Share funds and have since found out it does not qualify so the project has been removed from consideration.

Mr. Harkins requested clarification on a report in the newspaper that there may be a three year window for applying a millage increase and if so, what is the formula and what can be done with the revenue generated. Mayor Laughlin agreed that Town Council needs the answers to the questions above.

Mr. Ferguson stated he attended a recent meeting of the LMO ReWrite Committee and he noticed the high priority and high emphasis on redevelopment. He said he feels they are getting away from economic development because there are certain areas that are not built and developed yet the emphasis is on those areas. He said he feels all areas should be placed under Economic Development and that would solve any confusion to parties that would like to develop and parties that would like to redevelop.

Mr. Ferguson stated he received a letter from someone who had a bad experience at one of the local lodging establishments. He passed it on to Greg DeLoach asking that the person be contacted.

Mrs. Likins asked for an update on the Economic Development Commission. She said the LMO ReWrite Committee has had many discussions concerning their work and how it will help development be easier to get done, as well as redevelopment, but it is not going to ignite the type of economic development they are hoping to see in the community. She said it is going to take a separate effort and the Committee would like to know the status of the proposed Economic Development Commission. Mr. DeLoach said a position paper for discussion will be forthcoming to Town Council in the near future. Mayor Laughlin stated he would like to a report from the LMO ReWrite Committee added to Town Council agendas going forward under Reports from Members of Council.

Mr. Ferguson wanted it on the record he will have a problem with raising the millage rate. He stated there are areas on the Island that cannot withstand an increase no matter how small it is.

b. Report of the Intergovernmental Relations Committee – George Williams, Chairman

No Report.

c. Report of the Personnel Committee – Lee Edwards, Chairman

Mr. Edwards reported the interview process has concluded and the Committee will be making recommendations in today's Executive Session.

d. Report of the Planning & Development Standards Committee –Bill Ferguson, Chairman

Mr. Ferguson reported the Committee met on May 25, 2011 to review additions to uses on the waterfront mixed use zoning districts on the Island. He stated the

Committee voted in favor of the changes by a vote of 2-1 with two exceptions including nighttime operations and lighting for nighttime operations.

e. Report of the Public Facilities Committee – Kim Likins, Chairman

No Report.

f. Report of the Public Safety Committee – Bill Harkins, Chairman

Mr. Harkins report the Committee met on June 6, 2011 and Fire Chief Lavarn Lucas conducted a presentation on the 2010 Hilton Head Island Fire and Rescue Annual Report. He stated it was an excellent report documenting resources and new technology being used to benefit citizens. He noted the response time is very competitive with other communities and the department continues to improve. He encouraged everyone to read the report. Mr. Harkins said the Committee also discussed the Beaufort County proposed towing ordinance. He said the Committee will be reviewing the ordinance once it is approved.

9) Appearance by Citizens

None.

10) Unfinished Business

a. Second Reading of Proposed Ordinance No. 2011-07

Second Reading of Proposed Ordinance No. 2011-07 to amend Title 16, "The Land Management Ordinance," of the Municipal Code of the Town of Hilton Head Island, South Carolina, by amending Section 16-4-102, the Official Zoning Map with respect to those certain parcels identified as Parcels 161 and 166 on Beaufort County Tax Map 11, from OL (Office/Institutional Low Density) to the CC (Commercial Center) Zoning District; and providing for severability and an effective date.

Mr. Harkins moved to approve. Mrs. Likins seconded. Mr. Heitzke said he was not present at the last meeting when this item was introduced. He stated this is not a redevelopment issue but a development issue. He said he feels Town Council is setting a bad precedence voting for this and it is spot zoning in order to be able to sell a small piece of property. The motion was approved by a vote of 5-2. Mr. Heitzke and Mr. Williams were opposed. Mr. Williams requested that legal counsel review and make sure that this is a legal action and not spot zoning.

11) New Business

a. Consideration of a Recommendation

Consideration of a Recommendation from the Accommodations Tax Advisory Committee for the Chamber of Commerce Visitor and Convention Bureau's proposed 2011-2012 "30 Percent" Budget.

Mr. Heitzke moved to approve. Mrs. Likins seconded. Mayor Laughlin invited Mr. Shay to speak. Mr. Shay spoke concerning the review of the VCB budget. He asked for more direction from Town Council for the Committee in conducting the process. Mayor Laughlin stated that a proposal will be coming forward to Town Council in the future to address the process. The motion was approved by a vote of 7-0.

b. First Reading of Proposed Ordinance No. 2011-08

First Reading of Proposed Ordinance No. 2011-08 to revise language and defined terms to be consistent with the National Flood Insurance Program regulations 44 CFR, Parts 59 and 60; clarify the scope and purpose of the Ordinance and correct outdated reference to the International Building Code.

Mr. Heitzke moved to approve. Mr. Williams seconded. After the vote Mayor Laughlin received comments from Mr. Chester Williams, a member of the audience on the revised wording of Section 15-9-317(4). Mr. Williams had a concern about the use of the phrase “currently adopted” to modify the referenced edition of the International Building Code. Mayor Laughlin requested staff to investigate Mr. Williams’ concern. The motion was approved by a vote of 7-0.

c. Proposed Storm Water Management and Utility Intergovernmental Agreement with Beaufort County

Mr. Williams moved to approve. Mr. Heitzke seconded. Mr. Williams explained this agreement was reviewed by the Intergovernmental Relations Committee in great detail and noted the substantial decrease in administrative costs from Beaufort County. The motion was approved by a vote of 7-0.

Mayor Laughlin said the time was 4:40 p.m. and the Public Hearing was scheduled for 5:00 p.m. He asked Mr. DeLoach if he had any reason for Executive Session. Mr. DeLoach stated he needed an executive session for land acquisition matters; legal advice related to a settlement of a lawsuit; personnel matters related to appointments to boards and commissions; and legal advice related to R. H. Realty and Rentals.

At 4:41 p.m., Mr. Heitzke moved to go into Executive Session for the reasons stated by the Assistant Town Manager. Mr. Williams seconded. The motion was approved by a vote of 7-0.

Members of Town Council returned to Chambers at 4:59 p.m.

12) 5:00 P.M. Business License Revocation Hearing

a. R. H. Realty & Rentals, Inc.

Mayor Laughlin commenced the hearing at 5:00 p.m. asking Steven Markiw to approach the dais. Mr. Markiw stated the review of the finance records of R. H. Realty and Rentals had been completed and it was determined that they did have the ability in the past and also have the ability in the present to make the payments to the Town of Hilton Head Island in accordance with the bankruptcy agreement.

Mr. Michael Mogil, Legal Counsel for R. H. Realty and Rentals approached the dais. He explained Mr. William Hoisington and Mr. Robert Hoisington were present to explain the documents submitted to the Town for review. He stated that R. H. Realty and Rentals reduced required payments in 2008 and did not complete compliance with the bankruptcy plan, but did continue to make payments, even though they were reduced. He explained they do not have the ability to pay the full amount all at once. He said they would like to continue making payments. Mr. Mogil stated if R. H. Realty and Rentals is shut down that could result in the Town not receiving the past due funds and losing the on-going revenue stream. Mr. Mogil said R. H. Realty and Rentals is paying the current applicable taxes on-going. He suggested rather than revoking the license, Town Council could let them stay in

business and make payments on the funds owed. He referred to the proposed payment schedule R. H. Realty and Rentals submitted. He referred questions to Mr. William Hoisington and Mr. Robert Hoisington.

Mrs. Likins asked if R. H. Realty and Rentals had any brokerage accounts or any money on deposit that could be used to pay the debt. Mr. William Hoisington responded explaining that they had an E-Trade account and all monies were transferred back in to the account and the funds were procured from a re-finance in their Cost Rica house which was used for repairs and on-going expenses for their company. He explained there is no money in the account that would satisfy the amount they owe the Town. Mrs. Likins asked him to clarify there is no money on deposit anywhere that could help satisfy the account. Mr. Hoisington responded there is no surplus cash in any accounts to pay the amount owed. He explained funds that come in from the home in Costa Rica offset their Hilton Head Island expenses.

Mr. Harkins asked Mr. Markiw if he noted any irregularities in the review of R. H. Realty and Rentals financial documents. Mr. Markiw noted that the net income on the income sheet and the balance sheet do not tie together. He explained they did find that in December of each year funds were transferred out and it was not reflected on the income statement but appeared to go to a Costa Rica account. He said it was determined that there were sufficient funds coming in to the account to satisfy their debt but what R. H. Realty and Rentals was doing with those funds could not be tracked.

Mr. Edwards asked if they have been making the agreed upon monthly payment. Mr. Markiw said they have not. Mr. Hoisington said since March they have not been making the full payment but have been paying \$750 per month for the priority and \$500 for the unsecured. Mr. Edwards said the agreed upon amount was a condition for R. H. Realty and Rentals to remain in business until the Town could complete the audit. Mr. Hoisington said he did not think that was part of the agreement.

Susan Simmons stated the agreed amount to be paid to the Town was \$2500 per month and R. H. Realty and Rentals was only paying \$1250 per month. Mrs. Likins stated she knew that the \$2500 required payment was part of the agreement because she was the one that made the motion. Mr. Williams asked how R. H. Realty and Rentals plans on making the payments in their proposal when they have not made the agreed upon payments at the last hearing. Mr. Hoisington said he is quite certain they will be able to make the payments as outlined in their proposal. Mr. Williams reviewed the past history of R. H. Realty and Rentals of taking it upon themselves to decrease required monthly payments.

Mr. Robert Hoisington approached the dais and said he did not get anything in writing stating the amount they were supposed to pay. Mrs. Simmons stated the approved minutes were reviewed from the March 1, 2011 hearing and Mrs. Likins did in fact make the motion for R. H. Realty and Rentals to pay \$2500 per month and William and Robert Hoisington were asked to confirm that they understood and they did confirm they understood and repeated that they were to pay the \$2500 per month during the review of their financials.

Mr. Mogil spoke suggesting different options for Town Council to consider because if R. H. Realty and Rentals license is revoked, it would be very unlikely the amount due could be recovered.

Mr. Ferguson said that what he is interested in is for R. H. Rental and Realty to pay 100% of the amount owed to the Town. He said that includes fees and penalties. He stated they need to own up to the responsibility.

Mr. Markiw pointed out that on the documentation from R. H. Realty and Rentals a payment of \$168,000 is shown and he has a copy of the check which was for \$80,000 not the \$168,000 stated. He added that they have not been able to validate the other payments listed. He concluded stating R. H. Realty and Rentals has not paid over \$263,000 to the Town.

Mr. Williams moved to revoke the business license of R. H. Realty and Rentals, Inc. Mr. Heitzke seconded. Mrs. Likins moved to amend the motion so that the revocation becomes effective on August 1, 2011; unless R. H. Realty and Rentals has paid the full amount owed by that time. Mr. Williams seconded the amendment. The amendment was approved by a vote of 7-1. Mr. Ferguson was opposed. Mayor Laughlin said the Town is trying to recover public funds that were converted and this money has been owned since at least 2005. He said he believes that R. H. Realty and Rentals could have done better and stuck with the original agreement. The amended motion was approved by a vote of 6-1. Mr. Ferguson was opposed.

The hearing concluded at 5:33 p.m. and Town Council returned to Executive Session.

13) Executive Session

Mayor Laughlin called the meeting back to order at 5:44 p.m. and asked if there was any business to take up as a result of executive session.

Mr. Edwards moved that the Town Council for the Town of Hilton Head Island adopt an ordinance authorizing the execution of those certain Parking Easement Agreements with Rowe Highsmith, LLC over property owned by the Town of Hilton Head Island, South Carolina. Mr. Heitzke seconded. The motion was approved by a vote of 7-0.

14) Adjournment

Mr. Heitzke moved to adjourn. Mr. Williams seconded. The meeting was adjourned at 5:45 p.m.

Vicki Pfannenschmidt, Secretary

Approved: June 21, 2011

Drew A. Laughlin, Mayor