



The Town of Hilton Head Island

Regular Town Council Meeting

July 2, 2013

4:00 P.M.

AGENDA

As a Courtesy to Others Please Turn Off All Mobile Devices During
the Town Council Meeting

- 1) **Call to Order**
- 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.
- 5) **Proclamations and Commendations**
 - a. Parks and Recreation Month
- 6) **Approval of Minutes**
 - a. Town Council Special Meeting – June 11, 2013
 - b. Town Council Special Meeting/Budget Workshop/Public Hearing – June 11, 2013
 - c. Town Council Special Meeting – June 12, 2013
 - d. Town Council Special Meeting – June 18, 2013
 - e. Town Council Meeting – June 18, 2013
- 7) **Report of the Town Manager**
 - a. Semi-Annual Report of the Design Review Board – Scott Sodemann, Chairman
 - b. Semi-Annual Report of the Board of Zoning Appeals – Roger A. DeCaigny, Vice-Chairman
 - c. Town Manager’s Items of Interest
- 8) **Reports from Members of Council**
 - a. General Reports from Council
 - b. Report of the Intergovernmental Relations Committee – George Williams, Chairman
 - c. Report of the Personnel Committee – Lee Edwards, Chairman
 - d. Report of the Planning & Development Standards Committee – John McCann, Chairman
 - e. Report of the Public Facilities Committee – Kim Likins, Chairman
 - f. Report of the Public Safety Committee – Marc Grant, Chairman
 - g. Report of the LMO Rewrite Committee – Kim Likins, Ex-Officio Member
- 9) **Appearance by Citizens**

10) Unfinished Business

a. Second Reading of Proposed Ordinance 2013-07

Second Reading of Proposed Ordinance 2013-07 to amend the Municipal Code of the Town of Hilton Head Island by adding Article 6 Section 12-1-611 to Chapter 1 of Title 12, establishing a regulation prohibiting the use of a handheld electronic communication device for the reviewing, drafting, or sending of electronic communications while operating a motor vehicle in the Town of Hilton Head Island; and providing for severability and an effective date.

b. Second Reading of Proposed Ordinance 2013-09

Second Reading of Proposed Ordinance 2013-09 of the Town of Hilton Head Island, South Carolina, authorizing the execution of a lease with the Island Recreation Association, Inc. for property owned by the Town of Hilton Head Island, South Carolina, pursuant to the authority of S.C. Code Ann. Sec. 5-7-40 (Supp. 2012), and Sec. 2-7-20, *Code of the Town of Hilton Head Island, South Carolina*, (1983); and providing for severability and an effective date.

11) New Business

a. First Reading of Proposed Ordinance 2013-08

First Reading of Proposed Ordinance 2013-08 to repeal Chapter 7 of Title 9 of the Municipal Code of the Town of Hilton Head Island, South Carolina and to reenact a new Chapter 7 of Title 9, Open Burning; and providing for severability and an effective date.

b. First Reading of Proposed Ordinance 2013-12

First Reading of Proposed Ordinance of the Town of Hilton Head, South Carolina, authorizing the granting of an easement encumbering real property owned by the Town of Hilton Head Island, South Carolina, commonly known as "Barker Field Expansion", being 17.56 acres on Mitchelville Road, pursuant to the authority of S. C. Code Ann. § 5-7-40 (Supp. 2010), and § 2-7-20, *Code of the Town of Hilton Head Island, South Carolina*, (1983, As Amended); and providing for severability and an effective date.

c. Consideration of appointments to Boards and Commissions

12) Executive Session

a. Land Acquisition

b. Personnel Matters

(1) Appointments to Boards and Commissions

13) Adjournment

Proclamation

BY
THE TOWN OF HILTON HEAD ISLAND

***WHEREAS**, our parks and recreation programs are vitally important to establishing and maintaining the quality of life in our community, ensuring the health of all citizens and contributing to the economic and environmental well-being of our community and lowcountry; and*

***WHEREAS**, parks and recreation programs build healthy, active communities that aid in the prevention of chronic disease, provide therapeutic recreation services for those who are mentally or physically disabled, and also improve the mental and emotional health of all citizens; and*

***WHEREAS**, parks and recreation programs increase a community's economic prosperity through increased property values, expansion of the local tax base, increased tourism, attracting and retaining businesses, and reducing crime; and*

***WHEREAS**, parks and natural recreation areas are fundamental to the environmental well-being of our community by improving water quality, protecting groundwater, preventing flooding, improving the quality of the air we breathe, providing vegetative buffers to development, producing habitat for wildlife, ensuring the ecological beauty of our community, and providing a place for children and adults to connect with nature and outdoors; and*

***WHEREAS**, the U.S. House of Representatives has designated July as Parks and Recreation Month.*

NOW, THEREFORE, I, Drew Laughlin, Mayor of the Town of Hilton Head Island, hereby proclaim July 2013 as

PARKS AND RECREATION MONTH

in Hilton Head Island, South Carolina, to recognize the benefits derived from parks and recreation resources.

IN TESTIMONY WHEREOF**, I have hereunto set my hand and caused this seal of the Town of Hilton Head Island to be affixed this **Second day of July, Two Thousand and Thirteen.



Drew A. Laughlin, Mayor

Attest:



Esther Coulson, Town Clerk

THE TOWN OF HILTON HEAD ISLAND

SPECIAL TOWN COUNCIL MEETING

Date: Tuesday, June 11, 2013

Time: 8:00 A.M.

Present from Town Council: Drew A. Laughlin, *Mayor*; Bill Harkins, *Mayor Pro Tem*; George Williams, Kim Likins, Lee Edwards, Marc Grant (arrived at 8:30 a.m.), John McCann, *Council Members*

Present from Town Staff: Steve Riley, Town Manager

Present from Media: None

1) CALL TO ORDER

Mayor Laughlin called the meeting to order at 8:03 a.m.

- 2) 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.

8) Executive Session

Mr. Riley stated he needed an Executive Session for personnel matters relating to appointments to boards and commissions.

At 8:04 Mr. Harkins moved to go into Executive Session for the reasons given by the Town Manager. Mrs. Likins seconded. The motion was approved by a vote of 6-0.

Mr. Grant joined the meeting at 8:30 a.m.

Mayor Laughlin called the meeting back to order at 10:29 a.m. and stated there was no action to be taken as a result of Executive Session.

11) Adjournment

Mr. Harkins moved to adjourn. Mr. McCann seconded. The motion was approved by a vote of 7-0. The meeting was adjourned at 10:30 a.m.

Vicki L. Pfannenschmidt
Executive Assistant

Approved:

Drew A. Laughlin, Mayor

THE TOWN OF HILTON HEAD ISLAND

SPECIAL TOWN COUNCIL MEETING/BUDGET WORKSHOP/PUBLIC HEARING

Date: Tuesday, June 11, 2013

Time: 4:00 p.m.

Present from Town Council: Drew A. Laughlin, *Mayor*; Bill Harkins, *Mayor Pro Tem*; George Williams, Kim Likins, Lee Edwards, Marc Grant, John McCann, *Council Members*

Present from Town Staff: Steve Riley, *Town Manager*; Greg DeLoach, *Assistant Town Manager*, Scott Liggett, *Director of Public Projects and Facilities/Chief Engineer*; Charles Cousins, *Director of Community Development*; Lavarn Lucas, *Fire Chief*; Tom Fultz, *Director of Administrative Services*; Susan Simmons, *Director of Finance*; Bret Martin, *Deputy Director of Finance*; Julian Walls, *Facilities Manager*; Natalie Majorkiewicz, *Systems & Reporting Administrator*; Nancy Gasen, *Director of Human Resources*; Brian Hulbert, *Staff Attorney*; Victoria Shanahan, *Accounting Manager*; Barbara Wooster, *Revenue Collector*; Vicki Pfannenschmidt, *Executive Assistant*

Present from Media: Brian Heffernan, *Island Packet*

1) **CALL TO ORDER**

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

- 2) **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.

3) **Business License Appeal Hearing Continued from June 4, 2013**

Kigre Inc./Appeal of Final Assessment of Business License Fees

Mayor Laughlin reconvened the hearing. He asked if Mr. Taylor's client was prepared to present the financial documents Council requested. Mr. Taylor referenced a letter he sent on June 6 concerning stipulations proposed for turning over the documents and requested a response from Town Council. Mayor Laughlin responded that Town Council is a body and a meeting would need to take place in order to decide on a response but he was not inclined to negotiate with Kigre concerning documents that are required according to Municipal Code. All Council members concurred.

Mr. Taylor submitted exhibits consisting of income tax returns from Kigre marked confidential and a memo from Mr. Taylor dated 6/11/2013 on behalf of Kigre. Mr. Taylor stated that Mr. Myers was present and would like to address Council. Mr. Myers voiced his concerns with the business license process and announced that Kigre, Inc. has now opening an office in Savannah and will no longer do business on Hilton Head Island.

Ms. Simmons submitted exhibits consisting of Kigre's business license application and some renewal forms (marked confidential) and portions of a court order regarding Kigre.

Mr. Taylor concluded his presentation. Ms. Simmons concluded her presentation.

4) **Executive Session**

At 4:35 p.m. Mr. Harkins moved to go into Executive Session to confer with legal counsel. Mr. McCann seconded. The motion was unanimously approved by a vote of 7-0.

Mayor Laughlin called the meeting back to order at 4:55 p.m. and asked if there was any business to take up as a result of Executive Session.

Mr. Harkins moved that the Town Council direct the Finance Director to review the tax returns provided to Council and recalculate the business license fees and penalties owed, using statistical analysis for any missing years data, and serve the revised assessment on Kigre within 10 days, and refund any monies owed. Mrs. Likins seconded. The motion was unanimously approved by a vote of 7-0.

Mayor Laughlin called for a recess at 4:57 p.m. The meeting was reconvened at 5:04 p.m.

5) Budget Wrap Up

Mr. Riley stated staff was available to answer any questions from Council. Mayor Laughlin emphasized that this is the time for Council members to bring up any concerns or suggested changes in the budget. Mr. Williams spoke concerning removing Stoney Secondary Road (South) Project from the Ten Year Capital Projects Plan. Ms. Simmons stated that since the proposed funding was for fiscal year 2015, it does not impact the budget being adopted by Council for fiscal year 2014.

After lengthy discussion concerning the Community Rowing and Sailing Center, it was decided to keep the original budgeted amount and to go out to bid for the docks to obtain a better idea for the projected costs.

Mayor Laughlin called for a recess at 5:47 p.m. The meeting was reconvened at 6:00 p.m.

6) 6:00 p.m.: PUBLIC HEARING ON THE MUNICIPAL BUDGET FOR FY2013-2014

Mayor Laughlin reconvened the meeting at 6:00 p.m. and opened the Public Hearing for comment on the proposed budget for Fiscal Year 2013-2014. Mr. Riley explained the Public Hearing was duly noticed and advertised in the Island Packet as required by State Law. Mayor Laughlin invited members of the public to speak. There were no speakers. Mayor Laughlin closed the Public Hearing at 6:02 p.m.

7) Revised First Reading of Proposed Ordinance No. 2013-05

Revised First Reading of Proposed Ordinance No. 2013-05 to raise revenue and adopt a budget for the Town of Hilton Head Island, South Carolina, for the fiscal year ending June 30, 2014; to establish a property tax levy; to establish funds; to establish a policy for acquisition of rights of way and easements; and providing for severability and an effective date.

Mr. Harkins moved to approve. Mrs. Likins seconded. The motion was unanimously approved by a vote of 7-0.

8) Adjournment

Mr. Williams moved to adjourn. Mr. Edwards seconded. The motion was approved by a vote of 7-0. The meeting was adjourned at 6:04 p.m.

Vicki L. Pfannenschmidt
Executive Assistant

Approved:

Drew A. Laughlin, Mayor

THE TOWN OF HILTON HEAD ISLAND

SPECIAL TOWN COUNCIL MEETING

Date: Wednesday, June 12, 2013

Time: 3:00 P.M.

Present from Town Council: Drew A. Laughlin, *Mayor*; Bill Harkins, *Mayor Pro Tem*; George Williams, Kim Likins, Lee Edwards, Marc Grant, John McCann, *Council Members*

Present from Town Staff: Steve Riley, Town Manager

Present from Media: None

1) CALL TO ORDER

Mayor Laughlin called the meeting to order at 3:02 p.m.

- 2) 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.

8) Executive Session

Mr. Riley stated he needed an Executive Session for personnel matters relating to appointments to boards and commissions.

At 3:03 p.m. Mr. Harkins moved to go into Executive Session for the reasons given by the Town Manager. Mr. Williams seconded. The motion was approved by a vote of 7-0.

Mayor Laughlin called the meeting back to order at 6:45 p.m. and stated there was no action to be taken as a result of Executive Session.

11) Adjournment

Mr. Harkins moved to adjourn. Mr. Williams seconded. The motion was approved by a vote of 7-0. The meeting was adjourned at 6:46 p.m.

Vicki L. Pfannenschmidt
Executive Assistant

Approved:

Drew A. Laughlin, Mayor

THE TOWN OF HILTON HEAD ISLAND

SPECIAL TOWN COUNCIL MEETING

Date: Tuesday, June 18, 2013

Time: 1:00 P.M.

Present from Town Council: Drew A. Laughlin, *Mayor*; Bill Harkins, *Mayor Pro Tem*; George Williams, Kim Likins, Lee Edwards, Marc Grant, John McCann, *Council Members*

Present from Town Staff: Steve Riley, Town Manager

Present from Media: None

1) CALL TO ORDER

Mayor Laughlin called the meeting to order at 1:00 p.m.

- 2) 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.

8) Executive Session

Mr. Riley stated he needed an Executive Session for personnel matters relating to appointments to boards and commissions.

At 1:01 p.m. Mr. Harkins moved to go into Executive Session for the reasons given by the Town Manager. Mr. Williams seconded. The motion was approved by a vote of 7-0.

Mayor Laughlin called the meeting back to order at 3:59 p.m. and stated there was no action to be taken as a result of Executive Session.

11) Adjournment

Mr. Harkins moved to adjourn. Mr. Williams seconded. The motion was approved by a vote of 7-0. The meeting was adjourned at 4:00 p.m.

Vicki L. Pfannenschmidt
Executive Assistant

Approved:

Drew A. Laughlin, Mayor

THE TOWN OF HILTON HEAD ISLAND

REGULAR TOWN COUNCIL MEETING

Date: Tuesday, June 18, 2013

Time: 4:01 P.M.

Present from Town Council: Drew A. Laughlin, *Mayor*; Bill Harkins, *Mayor Pro Tem*; George Williams, Kim Likins, Lee Edwards, Marc Grant, John McCann, *Council Members*

Present from Town Staff: Steve Riley, *Town Manager*; Greg DeLoach, *Assistant Town Manager*, Charles Cousins, *Director of Community Development*; Lavarn Lucas, *Fire Chief*; Tom Fultz, *Director of Administrative Services*; Susan Simmons, *Director of Finance*; Bret Martin, *Deputy Director of Finance*; Jeff Buckalew, *Town Engineer*; Julian Walls, *Facilities Manager*; Nancy Gasen, *Director of Human Resources*; Brian Hulbert, *Staff Attorney*; Marcy Benson, *Senior Grants Administrator*; Vicki Pfannenschmidt, *Executive Assistant*

Present from Media: Brian Heffernan, *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.

5) Proclamations and Commendations

a. Carolina Day

Mr Jim Robinson, President of the Dr. George Mosse Chapter of the South Carolina Sons of the American Revolution was present to accept the proclamation.

b. Captain Toby McSwain

Toby McSwain was present to accept the Commendation. He thanked Town Council for the recognition and stated that working with Town Staff was a truly enjoyable experience.

6) Approval of Minutes

a. Town Council Special Meeting – May 28, 2013

Mr. Harkins moved to approve. Mr. McCann seconded. The minutes of the May 28, 2013 Town Council Special Meeting were unanimously approved by a vote of 7-0.

b. Town Council Special Meeting/Budget Workshop – May 30, 2013

Mr. Harkins moved to approve. Mr. McCann seconded. The minutes of the May 30, 2013 Town Council Special Meeting/Budget Workshop were unanimously approved by a vote of 7-0.

c. Town Council Meeting – June 4, 2013

Mr. Harkins moved to approve. Mrs. Likins seconded. The minutes of the June 4, 2013 Town Council meeting were unanimously approved by a vote of 7-0.

7) **Report of the Town Manager**

a. Town Manager's Items of Interest

Mr. Riley reported on some Items of Interest.

b. May, 2013 Policy Agenda, Management Targets and CIP Updates

Mr. Riley noted the Policy Agenda update through May was included in the agenda packet, and he was happy to answer any questions from Council.

c. Hazard Mitigation Plan Annual Progress Report

Marcy Benson presented the progress report.

d. Semi-Annual Land Acquisition Update

Mr. Riley reviewed the report.

8) **Reports from Members of Council**

a. General Reports from Council

None.

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

Mr. Williams stated the Committee met on June 17 to review and discuss several bills that did not make it through the legislature this term, and to determine if more background information is needed in order to make decisions of support or opposition. Mr. Williams distributed a draft of a letter to Senator Davis commending him and the General Assembly in successfully adopting two more of the quality of life measures that the Department of Defense wants to see from States that have military bases. The letter included an invitation to Senator Davis to meet with the Intergovernmental Relations Committee prior to next year's legislative session. He asked Council to review the letter and moved for approval to send the letter under the Mayor's signature. Mr. Harkins seconded. The motion was approved unanimously by a vote of 7-0.

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

Mr. Edwards reported the Personnel Committee had concluded the interview process and will be discussing appointments during Executive Session.

d. Report of the Planning & Development Standards Committee – John McCann, Chairman

No report.

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

No report.

f. Report of the Public Safety Committee – Marc Grant, Chairman

No report.

g. Report of the LMO Rewrite Committee – Kim Likins, Ex-Officio Member

Mrs. Likins said the Committee continues to meet weekly with a meeting scheduled for June 19 at 8:30 a.m. and would continue to review the proposed zoning map.

9) Appearance by Citizens

Francine Norz Tobin addressed Council concerning an amendment to the Land Management Ordinance (LMO) to eliminate the distance requirements between an auto sales site and an existing residential use.

10) Unfinished Business

a. Second Reading of Proposed Ordinance No. 2013-05

Second Reading of Proposed Ordinance No. 2013-05 to raise revenue and adopt a budget for the Town of Hilton Head Island, South Carolina, for the fiscal year ending June 30, 2014; to establish a property tax levy; to establish funds; to establish a policy for acquisition of rights of way and easements; and providing for severability and an effective date.

Mr. Harkins moved to approve. Mr. Williams seconded. Mr. Williams reminded all this is a revenue neutral budget and as they get into the reassessments and the property tax rates may change due to such. The motion was unanimously approved by a vote of 7-0.

11) New Business

a. Consideration of a Resolution – Mid Year Workshop Update

Consideration of a Resolution of the Town Council of the Town of Hilton Head Island, South Carolina, updating Town of Hilton Head Island Council 2013 Policy Agenda/Targets for Action, 2013 Management Agenda, and Governance Actions.

Mr. Harkins moved to approve. Mrs. Likins seconded. Mr. Alan Perry of the Island Recreation Association stated the Board has concerns with the direction of the Mid-Year Workshop results. He requested a workshop take place with the board from Island Recreation Association and Town Council. Mayor Laughlin stated a workshop session will be scheduled. The motion was unanimously approved by a vote of 7-0.

b. First Reading of Proposed Ordinance 2013-07

First Reading of Proposed Ordinance 2013-07 to amend the Municipal Code of the Town of Hilton Head Island by adding Article 6 Section 12-1-611 to Chapter 1 of Title 12, establishing a regulation prohibiting the use of a handheld electronic communication device for the reviewing, drafting, or sending of electronic communications while operating a motor vehicle in the Town of Hilton Head Island; and providing for severability and an effective date.

Mr. Harkins moved to approve. Mrs. Likins seconded. Mr. Williams stated he fully supports the concept of no texting Statewide and thus felt there should be a State ordinance. Mr. Harkins stated the Town will be well served if it passes at the State level but this represents one more community against texting while driving and will send a message to the legislature. Mrs. Likins and Mr. Edwards concurred. Mayor Laughlin stated he also prefers that the State would act on the issue but if this ordinance would stop one person from texting while driving, it is worthwhile. Mr. Chester Williams spoke in favor of the proposed ordinance but stated he had issues with the language. The motion was approved by a vote of 6-1. (Mr. Williams was opposed.)

c. First Reading of Proposed Ordinance 2013-09

First Reading of Proposed Ordinance 2013-09 of the Town of Hilton Head Island, South Carolina, authorizing the execution of a lease with the Island Recreation Association, Inc. for property owned by the Town of Hilton Head Island, South Carolina, pursuant to the authority of S.C. Code Ann. Sec. 5-7-40 (Supp. 2012), and Sec. 2-7-20, *Code of the Town of Hilton Head Island, South Carolina*, (1983); and providing for severability and an effective date.

Mr. Harkins moved to approve. Mr. Williams seconded. The motion was unanimously approved by a vote of 7-0.

12) Executive Session

Mr. Riley stated he needed an Executive Session for contractual matters related to land acquisition, including the possible sale of Town-owned land; legal matters regarding the adoption of a written order concerning the Kigre, Inc., matter; contractual matters to a proposed contract; and personnel matters related to appointments boards and commissions.

At 4:38 p.m. Mr. Harkins moved to go into Executive Session for the reasons given by the Town Manager. Mr. Williams seconded. The motion was unanimously approved by a vote of 7-0.

Mayor Laughlin called the meeting back to order at 5:54 p.m. and the remaining New Business items were handled.

b. Consideration of appointments to Boards and Commissions

Council Member Lee Edwards moved that the following town board and commission members be re-appointed:

For the Accommodations Tax Committee, re-appoint Robert Stenhammer to a 3 year term.

For the Board of Zoning Appeals, re-appoint Peter Kristian to a 3 year term.

For the Construction Board of Adjustments and Appeals, re-appoint Neil Gordon, Frank Guidobono, and Ling Graves to 4 year terms.

For the Design Review Board, re-appoint Deborah Welch to a 3 year term.

For the Planning Commission, re-appoint Terry Ennis to a 1 year term, as according to Town Code Section 2-13-40, Council finds extraordinary circumstances to do so and that it is in the best interests of the community. Also, re-appoint Alex Brown to a 3 year term.

Further moved that the following new appointments be made:

For the Accommodations Tax Committee, appoint Rob Bender to a 3 year term to begin 7/1/13 as a Hospitality representative, and appoint Bob Spear to a 3 year term to begin 7/1/13 as a Hospitality representative.

For the Board of Zoning Appeals, appoint Jeff North to a 3 year term to begin 7/1/13 as an At-Large representative, and appoint David Fingerhut to a 3 year term to begin 7/1/13 as an At-Large representative.

For the Parks and Recreation Commission, appoint Andrew Schumacher to a 3 year term to begin 7/1/13.

For the Planning Commission, appoint Judd Carstens to a 3 year term to begin 7/1/13 as an At-Large representative.

Mrs. Likins seconded. The motion was unanimously approved by a vote of 7-0.

a. Consideration of the adoption of a written order regarding Kigre, Inc.

In reference to a draft written order regarding Kigre, Inc. reviewed in Executive Session, Mr. Harkins moved to adopt the written order. Mrs. Likins seconded. The motion was unanimously approved by a vote of 7-0.

13) Adjournment

Mr. Williams moved to adjourn. Mr. McCann seconded. The motion was unanimously approved by a vote of 7-0. The meeting was adjourned at 5:57 p.m.

Vicki L. Pfannenschmidt

Executive Assistant

Approved:

Drew A. Laughlin, Mayor

DRAFT



Items of Interest

July 2, 2013

1. Town News

Fire & Rescue held its Tenth Household Hazardous Waste Round Up on April 27th. Approximately 1400 cars came through our facility during the event dropping off almost 82,000 lbs. of materials.

The Round Up collected:

Almost 36,000 lbs. of paints, pesticides, batteries, and other hazardous materials.

Over 45,000 lbs. of E-Waste including: 181 personal computers, 180 computer monitors, more than 150 printers, 338 televisions, 20 large projection televisions and countless cell phones, radios and miscellaneous electronic devices.

Last but not least, the Beaufort County Sherriff's Department collected 85 lbs. of prescription drugs.

According to our Traffic Engineer Darrin Shoemaker, who is on hand each year with his traffic counter, we saw a 7% increase in traffic over the previous year. In recent years, the intake of hazardous materials has slowly decreased while our E-Waste volume has been steadily growing. Since inception we have collected and recycled over 750,000 lbs. of hazardous materials and E-Waste!

(Contact: Ed Boring, Deputy Fire Chief – Support Services, 682-5152)

At approximately 8:00 PM on the evening of Saturday, May 18th, 2013, an errant motorist turning onto Mathews Drive from William Hilton Parkway opposite Folly Field Road destroyed the power service assembly for the nearby traffic signal at the William Hilton Parkway/Mathews Drive/Folly Field Road intersection. Staff responded to the scene and cooperated with BCSO and Palmetto Electric in an attempt to restore power to the signal to enable its operation until the following Monday morning, but a subsequent power surge destroyed much of the equipment in the signal cabinet. Town staff contacted SCDOT on-call contractor German Technical Group, LLC of North Charleston, SC at about 9:30 p.m. that evening, and they agreed to dispatch a 2-man crew on an emergency basis the following morning to replace the signal cabinet with the Town's spare equipment and to construct a new power service. They arrived on-site from North Charleston at 9:15 AM Sunday morning and worked with Town staff until approximately 1:30 p.m. that afternoon, when power was restored to the signal and its operation was restored. BCSO directed traffic at the intersection from approximately 8:00 p.m. Saturday evening to 1:30 p.m. Sunday afternoon.

(Contact: Darrin Shoemaker, Traffic & Transportation Engineer, 341-4774)

There will be an Accommodations Tax Advisory Committee meeting on Tuesday, July 16 at 9:00am in Council Chambers. The new and reappointed members will be sworn in, Crystal Awards will be presented to the outgoing members, and a reception will be held to thank the Committee for their service.

(Contact: Erica Madhere, Finance Assistant, 341-4646)

Please Note: There is no Town Council meeting scheduled for Tuesday, July 16, 2013. The next regular Town Council meeting is scheduled for Tuesday, August 6, 2012.

2. Noteworthy Events

a) Some of the upcoming meetings at Town Hall:

- Town Administrative Offices Closed in observance of Independence Day – July 4, 2013
- Design Review Board – July 9, 2013 1:15 p.m.
- LMO Rewrite Committee, July 11, 2013, 8:30 a.m.
- Parks and Recreation Commission – July 11, 2013, 3:30 p.m.
- Accommodations Tax Advisory Committee – July 16, 2103, 9:00 a.m.
- LMO Rewrite Committee - July 17, 2013, 8:30 a.m.
- Planning Commission – July 17, 2013, 3:00 p.m.
- Board of Zoning Appeals – July 22, 2013, 2:30 p.m.
- Design Review Board – July 23, 2013, 1:15 p.m.
- Planning & Development Standards Committee – July 24, 2013, 4:00 p.m.
- LMO Rewrite Committee – July 25, 2013, 8:30 a.m.
- Public Safety Committee – August 5, 2013, 10:00 a.m.
- Public Projects and Facilities Committee – August 6, 2013, 2:00 p.m.
- Town Council – August 6, 2013, 4:00 p.m.

(Meetings subject to change and/or cancellation. Please visit the Town of Hilton Head Island website at www.hiltonheadislandsc.gov for meeting agendas

2013 Hilton Head Island Events

Wednesdays, thru October 30, 2013 9:00am-1:00pm	Farmers Market	Shelter Cove Community Park
July 4, 2013 5:00pm-10:00pm	HarbourFest 2013 4 th of July	Shelter Cover Harbour
July 4, 2013 7:00pm-10:00 pm	Summer Jams	Shelter Cove Community Park
July 4, 2013 6:00pm-11:00pm	Harbour Town 4 th of July Fireworks	Harbour Town
July 4, 2013 7:30pm-10:00pm	Skull Creek 4 th of July Celebration	Skull Creek Intracoastal Waterway Hudson's Seafood Restaurant
Tuesdays, July 9-August 13, 2013 7:00pm-10:00pm	Summer Jams	Shelter Cove Community Park
July 11 and July 25, 2013 4:00pm-7:00pm	Water Fun Day	Shelter Cove Community Park

MEMORANDUM

TO: Town Council
FROM: Staff Attorney

Via: Stephen G. Riley, ICMA-CM, Town Manager
Gregory D. DeLoach, Esquire, Assistant Town Manager

RE: Second Reading of Proposed Ordinance Number 2013-07, Prohibiting the composition, reviewing, or sending of electronic messages while operating a motor vehicle in the Town of Hilton Head Island

DATE: June 19, 2013

No changes were made to Proposed Ordinance #2013-07 as a result of First Reading on June 18, 2013.

AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND

PROPOSED ORDINANCE NO.: 2013-07

ORDINANCE NO.: 2013-

AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE TOWN OF HILTON HEAD ISLAND BY ADDING ARTICLE 6 SECTION 12-1-611 TO CHAPTER 1 OF TITLE 12, ESTABLISHING A REGULATION PROHIBITING THE USE OF A HANDHELD ELECTRONIC COMMUNICATION DEVICE FOR THE REVIEWING, DRAFTING, OR SENDING OF ELECTRONIC COMMUNICATIONS WHILE OPERATING A MOTOR VEHICLE IN THE TOWN OF HILTON HEAD ISLAND; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, studies have shown that drivers attempting to compose, send, or review electronic messages on handheld electronic communication devices while operating a motor vehicle pose a special danger to themselves, other vehicles, bicycles, and pedestrians on the roadway; and

WHEREAS, Town Council finds that it is in the best interests of the vehicle operators and other vehicles to prohibit the use of handheld electronic communication devices to compose, send, or review electronic messages while operating a motor vehicle within the Town; and

WHEREAS, Town Council declares that the purpose of this ordinance is to protect the health and safety of the residents and visitors of Hilton Head Island; and

WHEREAS, Town Council now desires to prohibit the use of handheld electronic communication devices to compose, send, or review electronic messages while operating a motor vehicle within the Town in the manner provided for in this ordinance.

NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA; AND IT IS HEREBY ORDERED ORDAINED BY AND UNDER THE AUTHORITY OF THE SAID TOWN COUNCIL, AS FOLLOWS:

NOTE: Underlined and bold-face typed portions indicate additions to the Municipal Code. ~~Stricken~~ portions indicate deletions to the Municipal Code.

That Chapter 1 of Title 12 of the Municipal Code of the Town of Hilton Head Island, South Carolina, is hereby amended by adding Article 6 Section 12-1-611:

Article 6. TEXT MESSAGING

“Section 12-1-611. Electronic Communications While Operating a Motor Vehicle.

(a) **Definitions:**

“Electronic communications device” means an electronic device used for the purpose of composing, reading, or sending an electronic message, but does not include a global positioning system or navigation system or a device that is physically or electronically integrated into the motor vehicle.

“Electronic message” means a self-contained piece of digital communication that is designed or intended to be transmitted between physical devices. “Electronic message” includes, but is not limited to, electronic mail, a text message, an instant message, or a command or request to access an internet site.

- (b) **It shall be unlawful for a person to use an electronic communication device to compose, read, or send an electronic message while operating a motor vehicle on the streets and roads within the Town.**
- (c) **Exceptions. This section shall not apply to a person operating a motor vehicle while:**
- (1) off the traveled portion of a roadway;**
 - (2) using an electronic communication device in a hands free, voice-activated, or voice-operated mode that allows the driver to review, prepare and transmit an electronic message without the use of either hand except to activate, deactivate, or initiate a feature or function;**
 - (3) summoning medical or other emergency assistance; or**
 - (4) using a citizens band radio, commercial two-way radio communication device, in-vehicle security, or amateur or ham radio device.**
- (d) **Penalty. A person who violates this section is guilty of misdemeanor distracted driving and, upon conviction, shall be fined one hundred dollars for a first offense, two hundred dollars for a second offense, and three hundred dollars for a third or subsequent offense. This fine is subject to all applicable court costs, assessments, and surcharges.**

Section 2. Severability. If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

Section 3. Effective Date. Ordinance shall become effective upon adoption by the Town Council of the Town of Hilton Head Island, South Carolina.

PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND ON THIS _____ DAY OF _____, 2013

**By: _____
Drew A. Laughlin, Mayor**

ATTEST:

**By: _____
Esther Coulson, Town Clerk**

**First Reading: _____
Second Reading: _____**

APPROVED AS TO FORM:

Gregory M. Alford, Town Attorney

Introduced by Council Member: _____

MEMORANDUM

TO: Town Council

FROM: Stephen G. Riley, ICMA-CM, Town Manager

RE: Proposed Ordinance Number 2013-09/Execution of a Lease with the Island Recreation Association, Inc.

DATE: June 19, 2013

CC: Gregory D. DeLoach, Esq., Assistant Town Manager for Administration
Scott Liggett, Director Public Projects & Facilities
Brian E. Hulbert, Esq., Staff Attorney

No changes were made to Proposed Ordinance #2013-09 as a result of First Reading on June 18, 2013.

AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND

ORDINANCE NO.

PROPOSED ORDINANCE NO. 2013-09

AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, AUTHORIZING THE EXECUTION OF A LEASE WITH THE ISLAND RECREATION ASSOCIATION, INC. FOR PROPERTY OWNED BY THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, PURSUANT TO THE AUTHORITY OF S.C. CODE ANN. SEC. 5-7-40 (SUPP. 2012), AND SEC. 2-7-20, CODE OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, (1983); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Town of Hilton Head Island, South Carolina, owns a parcel of real property which is more particularly and known as described as Suite L, 58 Shelter Cove Lane, Hilton Head Island, South Carolina; and

WHEREAS, the Island Recreation Association, Inc., desires to use and occupy the Town Property located at Suite L, 58 Shelter Cove lane for purposes of a Senior Center; and

WHEREAS, the Town Council for the Town of Hilton Head Island, South Carolina has determined that it is in the best interests of the Town to enter into a Lease Agreement with the Island Recreation Association, Inc., for its use and occupation of Town Property located at Suite L, 58 Shelter Cove Lane.

NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA; AND IT IS ORDAINED BY THE AUTHORITY OF THE SAID TOWN COUNCIL:

Section 1 Execution of Lease.

- (a) The Mayor and Town Manager are hereby authorized to execute and deliver the "Lease" which is attached hereto as Exhibit "A"; and
- (b) The Mayor and Town Manager are hereby authorized to take such other and further actions as may be necessary to complete the execution of the Lease as authorized hereby.

Section 2 Severability. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall no affect the validity of the remaining portions thereof.

Section 3 Effective Date. This Ordinance shall be effective upon adoption thereof by the Town Council for the Town of Hilton Head Island, South Carolina.

PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND ON THIS _____ DAY OF _____, 2013

**By: _____
Drew A. Laughlin, Mayor**

ATTEST:

**By: _____
Esther Coulson, Town Clerk**

**First Reading: _____
Second Reading: _____**

APPROVED AS TO FORM:

Gregory M. Alford, Town Attorney

Introduced by Council Member: _____

EXHIBIT "A"

LEASE OF SUITE L OF
58 SHELTER COVE LANE

BY AND BETWEEN

THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA,

AND

THE ISLAND RECREATION ASSOCIATION, INC.,
A SOUTH CAROLINA NON-PROFIT CORPORATION

DATED THIS _____ DAY OF JULY, 2013

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under this Lease shall become one from month to month, terminable by either party on thirty (30) days' prior written notice. Such tenancy shall be subject to all other conditions, provisions and obligations of this Lease.

3. RENT:

The following Rent schedule is based on an annual Rent rate of One and 00/100 (\$1.00) Dollar. The Rent shall be payable in equal yearly payments, in advance, beginning on the Commencement Date, and thereafter, on the first (1st) day of every year throughout the entire Lease Term.

4. USE AND COMPLIANCE:

(a) PERMITTED USE: The Lessee shall continuously occupy and use the Leased Premises as the Hilton Head Island Senior Center (herein, the "Permitted Use"), to include all normal daily operations of the Hilton Head Island Senior Center, unless the written consent of the Town is first obtained for any other use. The Leased Premises shall not be used for any use other than the Permitted Use, or which is disreputable, creates extraordinary fire hazards, results in an increased rate of insurance on the Building, or the contents therein, or for the storage of any Hazardous Materials as defined herein (other than those which might be used in the ordinary course of the Lessee's Permitted Use, and then only in compliance with all applicable laws related thereto).

(b) COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS: The Lessee shall comply with all applicable statutes, ordinances, rules, covenants, restrictions, and regulations relating to the use, condition, access to, and occupancy of the Leased Premises and shall maintain the Leased Premises free of trash, litter, and debris, and in a clean and sightly condition.

5. THE LESSEE'S DUTY TO MAINTAIN AND REPAIR:

(a) REPAIRS TO LEASED PREMISES: Except for repairs to be performed by the Lessor, the Lessee shall keep and maintain the Leased Premises in good order, condition, and repair (including any replacement and restoration as is required for that purpose), and every part thereof and any and all appurtenances thereto wherever located, including, without limitation: the foundation, exterior walls, and roof of the building in which the Leased Premises are located, and the structural portions of the Leased Premises; the exterior and interior portion of all doors and plate glass; all plumbing and sewage facilities with the Leased Premises, including the free flow of and to the main sewer line; fixtures; heating and air-conditioning and electrical systems premises serving the Leased Premises exclusively; sprinkler systems; wall, floor, and ceilings applicable to the Leased Premises; and all installations made by the Lessee under the terms of this Lease and any Exhibits thereto, as herein provided. The Lessee shall not make any alteration of, or addition or improvement to, the Leased Premises without securing the Lessor's prior written consent. Any and all roof penetrations must first be approved by and coordinated through the Lessor, in order not to void any warranties on the roof coverings. The Lessee shall save the Lessor harmless on account of claims for mechanics or materialmen's liens, or any other lien, in connection with any work performed by the Lessee, and any such liens shall exist only against the Lessee's leasehold interest and shall be discharged, by bond or otherwise, within thirty (30) days of filing and service of thereof. The Lessee shall keep and maintain the Leased Premises in accordance with all directions, rules, and regulations of the proper officials of any government or other agency having jurisdiction over the

Building, at the sole cost and expense of the Lessee, and the Lessee shall comply with all requirements of law, statute, ordinance, covenants, restrictions or otherwise, governing the use of the Leased Premises and all appurtenances thereto. The Lessee shall maintain the heating and air-conditioning systems for the Leased Premises and shall pay for all repairs that do not exceed five hundred dollars (\$500.00) per occurrence. Any repairs, on any single occurrence, over five hundred dollars (\$500.00) shall be paid by the Lessor (less five hundred dollars (\$500.00) from the Lessee), unless the cause of the repair or replacement is due to Lessee's action(s) or omission(s), which would then cause the Lessee to be liable for the total cost of the repair or replacement. The Lessor shall have the right, but not the obligation, to enter the Leased Premises to repair, replace, maintain or restore, at Lessee's expense, any items which the Lessee is responsible for maintaining, repairing, restoring, or replacing under this Article 6 and for which Lessee has failed to perform hereunder. The Lessee shall reimburse the Lessor within thirty (30) days from the written demand by the Lessor for any cost or expense plus an administrative fee not to exceed eighteen (18%) percent of such cost of expense.

(b) LESSOR NOT LIABLE: The Lessor shall not be liable for any loss or damage to the Lessee's personal property, equipment, fixtures, and improvements to the Leased Premises.

6. LESSOR REPRESENTATIONS:

(a) ZONING: The Lessor hereby warrants and represents that the Leased Premises are properly zoned for the Lessee's Permitted Use(s) and that the Lessee's Permitted Use(s) thereof is permitted upon the Leased Premises.

(b) QUIET ENJOYMENT: The Lessor warrants and covenants that, if Lessee shall perform all of the covenants and agreements as stipulated in this Lease to be performed on the part of the Lessee, the Lessee at all times during the Lease Term shall have exclusive, peaceable, and quiet enjoyment and possession of the Leased Premises without any manner of hindrance from anyone claiming by, through, or under the Lessor.

7. SURRENDER OF LEASED PREMISES:

On or before the Expiration Date, or upon earlier termination of its interest in the Leased Premises as provided herein, the Lessee shall peaceably surrender possession of the Leased Premises to the Lessor with all improvements located therein, in good repair and in the same condition in which delivered to the Lessee, ordinary wear and tear excepted, and the Lessee shall deliver to the Lessor all keys to the Leased Premises. Regardless of the foregoing, at any time prior to the expiration of the Lease Term, the Lessee may, at its cost and expense, remove in a careful manner any unattached trade fixtures, furniture, and personal property placed within the Leased Premises by the Lessee during the Lease Term, and prior to such expiration shall repair any damage caused to the Leased Premises by such removal. All items not so removed shall, at the Lessor's option, be deemed to have been abandoned by the Lessee and may be destroyed or otherwise disposed of by the Lessor without notice to the Lessee, and without any obligation to account for such items, or liability to the Lessee therefore. The provisions of this Article of the Lease shall survive the expiration or termination of this Lease.

8. LESSOR'S RIGHT OF ENTRY:

The Lessor or its employees/agents may enter the Leased Premises at any mutually agreeable time for the purpose of inspecting or maintaining the Leased Premises. In the event of an emergency, however, the Lessor or its employees/agents may enter the Leased Premises without consent or agreement of the Lessee. Keys for this purpose must be held by the Lessor or its employees/agents. In the event that the Lessee desires to change or alter any locks to the Leased Premises, the Lessee will notify the Lessor of the Lessee's request, and the Lessor or the Lessor's employee(s)/agent(s) will have the locks changed or altered at the Lessee's expense.

9. UTILITIES:

(a) UTILITY CONNECTIONS: The Lessor shall at all times cause or make available to the Building for the use of the Lessee, connections for adequate water, electric, gas, telephone, and sewage.

(b) ARRANGEMENT AND PAYMENT FOR UTILITIES: The Lessee shall arrange for the provision of all utilities to be furnished to the Leased Premises during the term of the Lease. The Lessee shall pay for its own telephone, internet, janitorial, cable TV, water, sewage, garbage disposal, electricity services, and any other utility services for the Leased Premises. The Lessor shall have no obligation to provide or pay for any utility service in connection with the Leased Premises.

10. SIGNS:

The Lessee shall not erect any signs or advertisements on any exterior door, wall, or window of the Leased Premises, Building, or the "On Premises" sign located near U.S. Highway 278 without the prior written consent of the Lessor. If the Lessor approves any such signage, all related costs for the installation and fabrication for the signage shall be the sole financial responsibility of the Lessee. The Lessee agrees to maintain such signs as approved by the Lessor in good condition and repair. Any such sign shall otherwise comply all requirements of any law, statute, ordinance, covenants, restrictions, or otherwise, governing the use of the Leased Premises.

11. CONTROL OF THE LEASED PREMISES:

(a) THE LESSEE'S EXCLUSIVE CONTROL: The Lessee warrants and represents that during any Term of this Lease, the daily operations, use, and occupancy of the Leased Premises shall be under the sole and exclusive control of the Lessee.

(b) SURVIVAL: The warranties and representations set forth in this Article shall survive the expiration, cancellation, or termination of this Lease.

12. DAMAGE OR DESTRUCTION OF THE LEASED PREMISES:

(a) DESTRUCTION OF LEASED PREMISES: In the event that the Leased Premises are destroyed, or that damage to the Leased Premises is so extensive that restoration or repairs cannot be accomplished within ninety (90) days, as certified by the opinion of the Building Official of the Town of Hilton Head Island, South Carolina, then the Lessee or the Lessor may terminate this Lease by giving the

other written notice before any restoration or repair is commenced, and in that event, any applicable insurance proceeds shall be paid to the Lessor.

(b) **DAMAGE TO THE LEASED PREMISES:** In the event of an insured loss and subject to the termination provisions set forth herein, the Lessor shall repair or restore the Building to as good a condition as existed before such damage occurred, to the extent of any available insurance proceeds. Should the Lessor provide the Lessee with the opinion of an experienced insurance adjuster that such insurance proceeds will not be sufficient to pay for such repairs or restoration, then the Lessor or the Lessee may terminate this Lease by written notice, in which event all insurance proceeds will be paid to the Lessor.

13. **EMINENT DOMAIN:**

(a) **TERMINATION OF LEASE:** If any portion of the Leased Premises is taken for any public or quasi-public use under any governmental law, ordinance, or regulation, or by right of eminent domain, or by private purchase under threat or initiation of exercise of the right of eminent domain, this Lease shall terminate upon the election of either Party, effective on the date possession of the Leased Premises, or any portion thereof, is taken by the condemning authority or private purchaser as aforesaid. In the case of such partial condemnation and an election by the Parties hereto not to terminate this Lease, then the Rent payable hereunder shall, during the unexpired portion of the Lease, be pro-rated, based upon percentage of square feet of the Leased Premises so taken, of the whole of the Leased Premises stated in this Lease. The Lessor shall promptly provide the Lessee a copy of any and all notices from any such condemning authority, or private purchaser as mentioned above, respecting any requirements that the Lessor surrendered its right to all or any portion of the Leased Premises pursuant to this Article.

(b) **NOTICE OF ELECTION:** Any notice of election by the Lessee to terminate this Lease as provided in this Article shall be given by the Lessee to the Lessor within thirty (30) days after written notice by the Lessor to the Lessee as provided in this Article, or within thirty (30) days after receipt by Lessee of actual knowledge of any requirement that the Lessor surrendered its right to possession to all or any part of the Leased Premises, whichever shall first occur. In the event this Lease is not terminated pursuant to this Article, after taking of a portion of the Leased Premises, the Lessor shall make such reasonable repairs or alterations as may be necessary to make the structure of the Leased Premises and architectural whole, and this Lease shall thereafter be in full force and effect, as provided herein.

(c) **CONDEMNATION:** Any payment or award from the condemning authority shall be the property of the Lessor.

14. **SUBLETTING PROHIBITED:**

Lessee shall not sublet all or any portion of the Leased Premises, or assign or otherwise transfer any of its rights under this Lease, in whole or in part, to any third party without the prior written consent of the Lessor. Any and all documents utilized by the Lessee to evidence any subletting or assignment to which the Lessor has consented shall be subject to prior written approval by the Lessor and its counsel.

15. DEFAULT OF LESSEE:

Occurrence of any of the following shall constitute a Default under the terms of this Lease:

(a) FAILURE TO PAY RENT FOR MONEY DUE: If the Lessee shall fail to pay any payment of Rent, or any other sum of money due and payable under this Lease, whether to the Lessor or otherwise, when due and payable, and such failure shall continue for a period of ten (10) days from the due date thereof;

(b) VIOLATION OF LEASE: If the Lessee shall violate any term of this Lease, or fail to perform any term, condition, covenant, obligation, or agreement to be performed or observed by the Lessee under this Lease, and such failure shall continue for a period of thirty (30) days after the delivery of written notice thereof;

(c) ABANDONMENT OF LEASED PREMISES: If the Lessee shall desert, vacate, or not regularly use the Leased Premises for a period of thirty (30) days or more, even though the Lessee continues to timely pay all Rent Payments when due;

(d) DISSOLUTION: The dissolution of the Lessee for any reason; or

(e) WARRANTIES AND REPRESENTATIONS: Any of the representations or warranties of Lessee as set forth in this Lease are or become untrue or incorrect in any material respect during the term of this Lease.

16. DEFAULT OF THE LESSOR:

Occurrence of any of the following shall constitute a Default under the terms of this Lease:

(a) If the Lessor should fail to perform or observe any of the conditions or terms of this Lease, and such failure to perform or observe shall continue for a period of thirty (30) days after written notice to the Lessor by the Lessee of such.

17. RIGHTS OF THE PARTIES ON DEFAULT:

(a) ALL REMEDIES PRESERVED: Upon Default of the other Party, the Lessor or the Lessee, as the case may be, shall be entitled to pursue any remedy at law or in equity available to it.

(b) ATTORNEY'S FEES AND COSTS: If any legal action or other proceeding is brought for the enforcement of this Lease, or because of a dispute, breach, default, or misrepresentation in connection with all or any of the provisions of this Lease, the successful or prevailing party shall be entitled to recover its reasonable attorney's fees and any costs incurred as a result of any such legal action or other proceeding, whether incurred before the institution of a suit or after the commencement of suit, including appellate proceedings, in addition to any other relief to which prevailing party may be entitled.

18. INTERPRETATION:

The Lessee acknowledges that the Lessee has reviewed and agreed to all the terms and provisions of this Lease and that the Lessee has had a full opportunity to consult with an attorney of the Lessee's choosing concerning the legal consequences of entering into this Lease with the Lessor. As a result of the

foregoing, it is the intent of the Parties hereto that this Lease shall not be construed or interpreted against either Party in any dispute concerning any term or provision of this Lease.

19. NO WAIVER:

The Lessor's acceptance of any payment of Rent following any Default by the Lessee shall not waive the Lessor's rights regarding such a Default. No waiver by the Lessor of any violation or breach of any of the terms contained in this Lease shall waive the Lessor's rights regarding any future violation of such term, or any violation of any other term contained within this Lease. The Lessor's acceptance of any partial payment of Rent shall not waive the Lessor's rights with regard to the remaining portion of the Rent regardless of any endorsement or other statement on any instrument delivered in payment of Rent, or any writing delivered to the Town in connection therewith. Accordingly, the Lessor's acceptance of any partial payment as required by this Lease shall not constitute an accord and satisfaction with respect to the full amount of any such payment.

20. MECHANIC'S LIENS OR OTHER LIENS:

The Lessee shall have no power to subject the Leased Premises or the Lessor's interest in the Leased Premises to any mechanic's lien or any other lien. If any mechanic's lien or other lien or order for the payment of money shall be filed against the Leased Premises by reason of, or arising out of, any labor or material furnished or alleged to have been furnished or to be furnished to or on behalf of the Lessee at the Leased Premises, or for or by reason of any change, alteration, or addition or the cost or expense thereof or any contract relating thereto, the Lessee shall cause the same to be discharged of record against the Leased Premises by bond or otherwise as allowed by law at the sole expense of the Lessee, within thirty (30) days after written demand therefore by the Lessor, and shall also defend on behalf of the Lessor at the Lessee's sole cost and expense, any action, suit, or proceeding that may be brought thereon or for the enforcement of any such lien or order, and the Lessee shall save the Lessor harmless from any judgment, claim, or damage resulting therefrom.

21. ESTOPPEL CERTIFICATES:

The Lessee agrees that at any time and from time to time upon not less than ten (10) days prior written request by the Lessor, to execute, acknowledge, and deliver to the Lessor a statement in writing certifying that this Lease is unmodified and is in full force and effect (or if there have been modifications, that this Lease is in full force and effect as modified and stating modifications), and the dates to which the Rent and other charges have been paid in advance, if any, it being intended that any such statement delivered pursuant to this Article may be relied on by any prospective purchaser or purchasers of the Lessor's interest in the Building or the Leased Premises.

22. WAIVER OF JURY TRIAL:

TO THE EXTENT PERMITTED BY LAW, THE LESSOR AND THE LESSEE EACH AGREE TO WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY LITIGATION ARISING IN CONNECTION WITH THIS LEASE, OR TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE ARISING OUT OF OR WITH RESPECT TO THIS LEASE OR ANY OTHER INSTRUMENT, DOCUMENT, OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith, OR THE TRANSACTIONS RELATED HERETO.

23. HAZARDOUS MATERIALS:

(a) HAZARDOUS MATERIALS PROHIBITED: The Lessee shall not cause or permit any hazardous materials to be brought upon, kept, or used in or about the Leased Premises (other than in the ordinary course of the Lessee's Permitted Use, and then only in compliance with any and all applicable laws) without the prior written consent of the Lessor, which consent may be withheld by the Lessor for any reason. "Hazardous Materials" shall mean any substance, material, or waste which is now or hereafter classified and/or considered to be hazardous, toxic, or dangerous, under any law or regulation relating to pollution or the protection or regulation of human health, natural resources, or the environment, or which opposes or threatens to pose a hazard to the health or safety of any person on or about the Leased Premises or the Building.

(b) LESSOR'S RIGHTS: If the Lessee breaches its obligations under this Article, the Lessor may, but is not obligated to, immediately take, at the Lessee's expense, any and all actions reasonably appropriate to remedy the same, including taking any appropriate actions to clean up or remediate any contamination resulting from the Lessee's use, generation, storage, or disposal of any Hazardous Materials.

(c) INDEMNIFICATION: The Lessee shall indemnify the Lessor and pay the cost of any cleanup or remediation and shall defend the Lessor, and hold the Lessor harmless from any claims, judgments, damages, penalties, fines, or losses which arise during or after the Term of this Lease from or in connection with the presence or suspected presence of any Hazardous Materials in, on, or under the Leased Premises, or within the Building, which Hazardous Materials were brought upon, kept, or used in or about the Leased Premises or the Building, by the Lessee. This indemnity provision shall survive the termination or expiration of this Lease.

(d) SURVIVAL: The obligations of the Lessee as set forth in this Article shall survive the expiration, cancellation, or termination of this Lease.

24. MISCELLANEOUS:

(a) BINDING EFFECT: This Lease shall inure to the benefit of and shall be binding upon the Lessor and Lessee and their respective successors and assigns, if any are permitted hereunder.

(b) ENTIRE AGREEMENT/AMENDMENT AND MODIFICATIONS: This Lease supersedes all prior discussions and agreements between the Parties with respect to the Leased Premises and all other matters contained herein, and constitutes the sole and entire agreement and understanding between the Lessor and Lessee with respect to the Lease of the Leased Premises. This Lease shall not be modified or amended except by an instrument in writing signed by the Lessor and the Lessee.

(c) SEVERABILITY: In the event that any provision of this Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

(d) EXECUTION IN COUNTERPARTS: This Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

(e) **APPLICABLE LAW:** This Lease shall be governed by and construed in accordance with the laws of the State of South Carolina.

(f) **CAPTIONS:** The captions or headings herein are for convenience only and in no way define, limit, or describe the scope or intent of any provisions or Articles of this Lease.

(g) **RECORDING PROHIBITED:** The Parties hereto may not record this Lease in the Office of the Register of Deed for Beaufort County, South Carolina.

(h) **PLURAL/SINGULAR:** Where appropriate, the use of the singular herein shall include and be deemed to be the plural and the use of the plural herein shall be deemed to include the singular.

(i) **NO THIRD PARTY BENEFICIARIES:** The Parties hereto affirmatively represent that this Lease is made solely for the benefit of the Parties hereto and their respective successors and assigns and not for the benefit of any third party who is not a signature party hereto. No party other than the signature parties and their respective successors and assigns hereto shall have any enforceable rights hereunder, or have any right to the enforcement hereof, or any claim for damages as a result of any alleged breach hereof.

(j) **NOTICES:** All notices, applications, requests, certificates, or other communications hereunder shall be sufficiently given and shall be deemed given when delivered in person, or mailed by regular first class mail, postage prepaid (in such case, delivery shall be deemed complete upon mailing), addressed as follows, or to such other place as may be designated in writing by the Parties:

To the Lessor: THE TOWN OF HILTON HEAD ISLAND
Stephen G. Riley, Town Manager
One Town Center Court
Hilton Head Island, SC 29928

With Copy to: Gregory M. Alford, Esq.
ALFORD LAW FIRM, LLC
Post Office Drawer 8008
Hilton Head Island, SC 29938-8008

To the Lessee: ISLAND RECREATION ASSOCIATION, INC.
Frank Soule, Executive Director
P.O. Box 22593
Hilton Head Island, SC 29925

(k) **SURVIVAL:** The obligations of the Lessee as set forth in this Lease shall survive the expiration, cancellation, or termination of this Lease, whether or not expressly stated with respect to any specific obligation.

(l) **FURTHER ASSURANCES AND CORRECTIVE DOCUMENTS:** The Lessor and Lessee agree to do, execute, acknowledge, deliver, or cause to be done all such further acts as may be reasonably determined to be necessary to carry out this Lease and give effect hereto. The Lessor and Lessee agree that each shall, upon request, execute and deliver such other or corrective documents as may be reasonably determined to be necessary, either before or after the execution, cancellation, or termination of this Lease.

IN WITNESS WHEREOF, The Town of Hilton Head Island, South Carolina and Island Recreation Association, Inc. have, or have caused their duly authorized officers and representatives to, execute this Lease as of the date and year first above written.

WITNESSES:

**THE TOWN OF HILTON HEAD ISLAND,
SOUTH CAROLINA**

By: _____
Drew A. Laughlin Mayor

Attest: _____
Stephen G. Riley, Town Manager

ISLAND RECREATION ASSOCIATION, INC.

By: _____

Its: _____

MEMORANDUM

TO: Town Council, Town of Hilton Head Island

FROM: Lavarn Lucas, Fire Chief 

Via: Stephen G. Riley, ICMA-CM, Town Manager
Gregory D. DeLoach, Esquire, Assistant Town Manager

RE: Proposed Ordinance Number 2013-08, Prohibiting the open burning of yard debris in the Town of Hilton Head Island

DATE: June 27, 2013

Recommendation: The Town of Hilton Head Island should adopt an ordinance to prohibit residential open burning of yard debris in order to reduce the risk of wildland fires and provide a healthier environment to our citizens.

Staff has drafted the attached Proposed Ordinance Number 2013-08, repealing Title 9, Chapter 7 of the Municipal Code (Open Burning) and reenacting a new Title 9, Chapter 7.

The Public Safety Committee met on June 4, 2013 and voted 3-0 to forward the ordinance to Town Council with a recommendation to approve.

Summary: This Ordinance prohibits the open burning of yard debris but will not prohibit recreational burning in an approved container or with a permit issued by Fire & Rescue.

The recommendation to prohibit open burning is based upon the following:

1. The open burning of yard debris does not coincide with two of the Town's *Destination 2028 Guiding Principles*:
 - Living in Harmony with Nature, Protecting the Natural Beauty, and Creating a Unique Sense of Place
 - Providing a Serene, Safe, and Healthy Living Environment for Residents, Guests and Visitors
2. The open burning of yard debris does not coincide with at least two of the Town's *Town of Hilton Head Island 2018: Our Goals*:
 - Enrich Lives of Residents and Guests
 - Pre-eminence for Environmental Stewardship
3. The Fire & Rescue 2013 Strategic plan contains a recommendation (BFP-07) which reads, *Fire & Rescue should increase enforcement of current open burning regulation and evaluate the need for a ban on open burning of yard debris.* It is clear that enforcing the existing regulation will not eliminate the unwanted and unwarranted smoke intrusion into peoples' homes.
4. The Town's effort to "go green" is not compatible with open burning.
5. The Town's effort to create an island-wide recycling program should include increased emphasis on composting instead of burning.

6. The Town passed an ordinance prohibiting smoking in public buildings effective May 1, 2007 to ensure that residents and visitors are not exposed to second-hand smoke. This ordinance is intended to provide the same level of protection to residents.
7. Due to the wildland urban interface created by the development of the Town, dangers from out of control fires are more likely to endanger homes than in past years.
8. Open burning creates by-products of combustion that are toxic, thus endangering the health of citizens that are allergic or sensitive to smoke and other by-products of combustion.
9. Open burning fires create smoke that contaminates the interior of residences through open windows and through open doors as citizens enter and exit their dwellings or through their HVAC system.
10. Even with increased enforcement, permitted open burning fires often do not have adequate means in place to extinguish small fires, the pile size is too large, the wrong materials are being burned, or they are left unattended.
11. Open burning fires generate citizen calls to the 911 center reporting what they feel to be out of control fires which ties up dispatchers and responding units which thus in turn increases response times to true emergencies.
12. 911 calls reporting smoke and fires require an emergency response of fire apparatus placing both the emergency responders and public at greater risk.

Burning within the Town of Hilton Head Island is not an island wide occurrence. The major PUDs already forbid open burning either by covenants, by-laws, or just routine practice. PUD's that do not allow opening burning include:

- Hilton Head Plantation
- Indigo Run Plantation
- Long Cove Plantation
- Palmetto Dunes Resort
- Palmetto Hall
- Port Royal Plantation
- Sea Pines Plantation
- Shipyard Plantation
- Wexford Plantation

While this ordinance will apply Island wide, it only changes the existing practices to a limited portion of the Town and only single family dwellings. Multi-family locations are already restricted. The total number of single family residential units affected by the ordinance is 3,189 or only 21.6%.

Considering that the Town consists of slightly more than 20K acres, this ordinance affects only 6,645.3 additional acres or only 31.0% of the Town:

This proposed ordinance does not change any existing restrictions on commercial burning which is already banned. The ordinance refines the language for and continues to allow recreational burning such as camp fires. The ordinance also allows under very limited circumstances the possibility of the open burning of yard debris during significant weather events that may litter Hilton Head Island with unexpected levels of debris.

Background: Unlike in the past, open burning on an Island lot is now surrounded by multi-home subdivisions. The residents of these subdivisions are then subjected to smoke within their homes. This is especially true during times of temperature inversions when smoke won't dissipate. Temperature inversions occur when the air near the ground is cooler than the air above. This prevents upward air movement, therefore keeping the smoke at a lower level.

Wood smoke poses a special threat to people with asthma and COPD and should be actively avoided by those with lung disease. Wood burning generates dangerous toxins including dioxin, arsenic and formaldehyde. Burning wood emits harmful toxins and fine particles in the air that can worsen breathing problems.

On April 1, 2007 an ordinance went into effect to ensure that residents and visitors are not exposed to second-hand cigarette smoke. The Town has stopped smoking in public places because it affects the health of others. The same concept should apply to the open burning of yard debris. Residents who do not wish to breathe second-hand smoke should not be expected to isolate themselves inside their homes or move to a different neighborhood.

The current regulations which were enacted June 15, 1999 were a compromise reached to allow burning under very controlled situations. As the Town has grown, more and more homes are located closer and closer together. Hilton Head Island is not a rural community any longer and open burning of yard debris should be prohibited.

AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND

ORDINANCE NO. 2013-

PROPOSED ORDINANCE NO. 2013- 08

AN ORDINANCE TO REPEAL CHAPTER 7 OF TITLE 9 OF THE MUNICIPAL CODE OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA AND TO REENACT A NEW CHAPTER 7 OF TITLE 9, OPEN BURNING; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Hilton Head Island, South Carolina previously adopted Ordinance 99-18, Chapter 7 of Title 9 entitled “Open Burning” on June 15, 1999; and

WHEREAS, the Town Council now desires to amend various sections of Chapter 7 of Title 9 for the purpose of providing for the health and welfare of the residents and visitors of the Town; and

WHEREAS, smoke from outdoor burning in populated areas can present serious health hazards to individuals with respiratory ailments; and

WHEREAS, smoke from outdoor burning is a common cause of nuisance complaints between neighbors and is often a public nuisance impacting not only residents but visitors of the Town; and

WHEREAS, outdoor burning causing nuisance complaints places demands on resources of the Town of Hilton Head Island Fire & Rescue; and

WHEREAS, Forestry Commission firefighters respond to more than 3,000 wildland fires burning about 20,000 acres per year; 98% of the wildland fires are caused by human activities. Fire departments respond to more than 20,000 grass, brush, woods, or trash fires per year; and

WHEREAS, the Town Council now desires to reenact a new Chapter 7 of Title 9, Open Burning.

NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA; AND IT IS HEREBY ORDERED ORDAINED BY AND UNDER THE AUTHORITY OF THE SAID TOWN COUNCIL, AS FOLLOWS:

NOTE: Underlined and bold-face typed portions indicate additions to the Municipal Code. ~~Stricken~~ portions indicate deletions to the Municipal Code.

Section 1. Amendment.

- A. That Chapter 7 of Title 9 (Open Burning) of the Municipal Code of the Town of Hilton Head Island, South Carolina, is hereby repealed.
- B. A new Chapter 7 of Title 9 (Open Burning) of the Municipal Code of the Town of Hilton Head Island, South Carolina, is hereby adopted; see Attachment “A” for language of new ordinance.

Section 2. Severability. If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. Effective Date. This Ordinance shall be effective immediately upon its adoption by the Town Council of the Town of Hilton Head Island, South Carolina.

PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND ON THIS ____ DAY OF _____, 2013.

Drew A. Laughlin, Mayor

ATTEST:

Esther Coulson, Town Clerk

First Reading:

Second Reading:

Approved as to form: _____
Gregory M. Alford, Town Attorney

Introduced by Council Member:

Attachment "A"

Chapter 7 OPEN BURNING

Sec. 9-7-10. Definitions.

- (a) Applicant(s). Individual(s) seeking a permit to conduct a fire.
- (b) Approved container - Approved containers with the exception of outdoor fire places as defined in 9-7-10(j) must be located at least 15 feet from any structure or combustible materials and are limited to metal fire rings or burn barrels, commercially manufactured units for open flame type burning (Chimenea, fire pits), constructed fire pits at least 12 inches deep and completely enclosed by a non-combustible material such as steel, brick, masonry or stone lining the perimeter with an internal dimension not to exceed five feet in diameter or other installations approved by the Fire Chief.
- (c) Burn Permit. A legal document issued by the Fire Chief on behalf of the Town granting temporary permission to conduct a fire.
- (d) Campfire. An outdoor fire not contained in a pit, barrel, or other non-combustible enclosure intended for recreation or cooking. A campfire shall not include a fire intended for disposal of waste wood, pine straw, leaves, grass or refuse.
- (e) Commercial burn. Burning performed for the purpose of commercial profit, land clearing, and all other burning not classified as residential burning or recreational fire.
- (f) Fire Chief. The individual in charge of Fire & Rescue. For the purpose of this chapter, the Fire Chief may designate members of Fire & Rescue as his designee.
- (g) Fire-extinguishing equipment. A garden hose connected to a water supply or other approved equipment including but not limited to a 2A:10BC fire extinguisher, 2 1/2 gallon pressurized water fire extinguisher or a 5 gallon bucket of sand .
- (h) Natural vegetation. Including but not limited to grass, pine straw, pine cones, tree limbs, branches, leaves and similar items of yard waste.
- (i) Open burning. Burning natural vegetation, outdoors, not contained within an incinerator, outdoor fireplace, barbecue grill, or barbecue pit.
- (j) Outdoor Fireplace – An assembly consisting of a hearth and fire chamber or similar prepared place of noncombustible material in which a fire may be made and which is built in conjunction with a chimney and receives a Town issued building permit.
- (k) Recreational fire. A fire contained within a pit, barrel, or other non-combustible enclosure for the purpose of pleasure, religious, ceremonial, or other similar purposes not including a fire intended for disposal of waste wood, pine straw, leaves, grass or refuse.
- (l) Trash. All waste material not defined as natural vegetation.

Sec. 9-7-20. Open Burning Prohibited.

No individual or group of individuals shall be allowed to kindle or maintain any open burn, or to allow any such fire to be kindled or maintained. Open burning is prohibited except for the following:

- (a) **Outdoor Cooking. This ordinance shall not apply to outdoor fixed and portable barbecues, food smoking units, and outdoor cooking stoves.**
- (b) **Recreational Fires. Recreational fires when contained within an approved container as defined in section 9-7-10(b) for the purpose of pleasure, religious, ceremonial, or other similar purposes.**
 - (1) **Approval of the container must be obtained from the Fire Chief.**
 - (2) **Prior to burning in the approved container, the automated burn permit line shall be called to determine if burning is allowed on that day. Fireplaces that receive a Town issued building permit and are properly maintained are exempted from calling the burn permit line.**
 - (3) **Recreational fires are restricted to burning natural vegetation, commercially prepared fireplace logs, and charcoal, but shall not include the burning of trash or items of yard waste including but not limited to pine straw, leaves, grass.**
 - (4) **Attendance by a competent adult who is capable of controlling the fire, taking emergency action, and calling for assistance is required at the site at all times.**
 - (5) **The individual responsible for the recreational fire shall maintain a garden hose connected to a water supply where water is available. If water is not available, then on-site approved fire extinguishing equipment shall be on-hand to control and extinguish the fire.**
 - (6) **Fires that illuminate the beach shall be extinguished by 10:00 p.m. from May 1st to October 31st.**
 - (7) **The Fire Chief shall be allowed access to inspect the property on which any approved recreational fire container is located. The Fire Chief is authorized to revoke an approval for any recreational fire that is determined to be a public safety or health hazard.**
- (c) **Campfires as permitted in Section 9-7-40**
- (d) **Open Burning by special permit -Exceptional Circumstances – Debris in the form of natural vegetation generated at the site of a one or two family dwellings as a result of severe windstorms, hurricanes, tornadoes, or other natural disasters may be burned with approval of the Town Manager and the Fire Chief for a specific and limited timeframe. A permit is required to be obtained and the following regulations would apply.**
 - (1) **Burning may occur on the dates listed on the permit between the hours of 9:00 a.m. and 6:00 p.m. or sunset, whichever occurs first. All open burning fires shall be fully extinguished by 6:00 p.m. or sunset, whichever occurs first.**
 - (2) **The individual responsible for the burning shall have an approved permit in their possession at the site.**

- (3) Attendance by a competent adult who is capable of controlling the fire, taking emergency action, and calling for assistance is required at the site at all times.
- (4) The individual responsible for the burning shall maintain a garden hose connected to a water supply where water is available. If water is not available, then on-site approved fire extinguishing equipment shall be on-hand to control and extinguish the fire.
- (5) Burning is restricted to burning natural vegetation generated at the site and shall not include trash.
- (6) Burning shall not be conducted within 50 feet of any structure or stored combustible material.
- (7) The total fire area shall not be greater than three feet in diameter and two feet in height. Only one pile may burn at a time.
- (8) The Fire Chief shall cause to be published in a newspaper of general circulation within the Town of Hilton Head Island, a public notice of the dates that will be authorized for burning by special permit.
- (9) The Fire Chief shall cause to be published in a newspaper of general circulation, within the Town of Hilton Head Island, a public notice of revocation of any dates in which burning by special permit are revoked.

Sec. 9-7-30. Permit Required

Applicants are required to obtain a permit to conduct any fire authorized under this ordinance. Recreational fires shall not require a permit so long as they are in an approved container.

Sec. 9-7-40. Campfires

- (a) Applicant(s) are required to obtain a permit for a campfire if the fire is not in an approved container.
 - (1) Permits for campfires are valid only for the day of burning. Fires that illuminate the beach shall be extinguished by 10:00 p.m. from May 1st to October 31st.
 - (2) Permits for campfires may be applied for any day of the week at any Town fire station between the hours of 8:00 a.m. and 5:00 p.m. Any individual, who obtains a campfire permit prior to the actual fire day, shall call Fire & Rescue's automated burning permit telephone line on the day they intend to burn to determine if burning is allowed on that day.
- (b) The Fire Chief shall be allowed access to inspect the property on which any campfire permit is issued. The Fire Chief is authorized to revoke a permit for any campfire that is determined to be a public safety hazard or health hazard.

(c) Campfire restrictions.

- (1) The individual responsible for the campfire shall have an approved permit in their possession at the site.
- (2) Attendance by a competent adult who is capable of controlling the fire, taking emergency action, and calling for assistance is required at the site at all times.
- (3) The individual responsible for the campfire shall maintain a garden hose connected to a water supply where water is available. If water is not available, then on-site approved fire extinguishing equipment shall be on-hand to control and extinguish the fire.
- (4) Campfires are restricted to burning natural vegetation, commercially prepared fireplace logs, and charcoal, but shall not include the burning of Trash or items of yard waste including but not limited to pine straw, leaves, grass.
- (5) Campfires shall not be conducted within 50 feet of any structure or stored combustible material.
- (6) A permit for a campfire shall not be issued for a total fire area greater than three feet in diameter and two feet in height. Only one campfire may burn at a time on any site.

Sec. 9-7-50. Commercial burning.

Commercial burning is prohibited except for:

- (a) Storm debris. Debris in the form of natural vegetation generated as a result of severe windstorms, hurricanes, tornadoes, or other natural disasters may be burned at approved sites in accordance with the Town's Debris Management Plan and with a permit issued by the Fire Chief and all other appropriate permitting agencies. All man-made materials and processed natural materials shall be disposed of in accordance with Federal Environmental Protection Agency and State Department of Health and Environmental Control Regulations.
- (b) Bonfires, ceremonial. Local schools may be issued special permits to conduct a bonfire. Items that may be burned in a bonfire are untreated wood/lumber and natural unprocessed forest products. The fuel area size limitations are not applicable to this burn. Inspections by the Fire Chief are required prior to and during the construction of the bonfire.
- (c) Recreational Fires at commercial businesses. Commercial businesses may conduct recreational fires when contained within an approved container as defined in section 9-7-10(b) for the purpose of pleasure, religious, ceremonial, or other similar purposes.
 - (1) Approval for the container must be obtained from the Fire Chief.

- (2) Prior to burning in the approved container the automated burn permit line shall be called to determine if burning is allowed on that day. Fireplaces that receive a Town issued building permit and are properly maintained are exempted from calling the burn permit line.
- (3) Recreational fires are restricted to burning natural vegetation, commercially prepared fireplace logs, and charcoal, but shall not include the burning of trash or items of yard waste including but not limited to pine straw, leaves, grass.
- (4) Attendance by a competent adult who is capable of controlling the fire, taking emergency action, and calling for assistance is required at the site at all times.
- (5) The individual responsible for the recreational fire shall maintain a garden hose connected to a water supply where water is available. If water is not available, then on-site approved fire extinguishing equipment shall be on-hand to control and extinguish the fire.
- (6) Fires that illuminate the beach shall be extinguished by 10:00 p.m. from May 1st to October 31st.
- (7) The Fire Chief shall be allowed access to inspect the property on which any approved recreational fire container is located. The Fire Chief is authorized to revoke an approval for any recreational fire that is determined to be a public safety or health hazard.

Sec. 9-7-60. Extraordinary fire hazards.

- (a) The Fire Chief shall have the authority to declare the existence of an extraordinary fire hazard when, due to climatic, meteorological or other conditions, the forest, grass, woods, wild lands, fields, or marshes within the Town of Hilton Head Island become so dry or parched as to create a fire hazard endangering life and property. The declaration and restrictions for burning shall remain in effect until such time as the Fire Chief determines that the extraordinary conditions which threaten life and property no longer exist.
- (b) After declaration of an extraordinary fire hazard, the Fire Chief shall cause to be published in a newspaper of general circulation within the Town of Hilton Head Island, a public notice of declaration of an extraordinary hazard.
- (c) The Fire Chief shall cause to be published in a newspaper of general circulation within the Town of Hilton Head Island a public notice of revocation of the declared extraordinary fire hazard.
- (e) During a declared extraordinary fire hazard, burning of any kind shall not be allowed with the exception of outdoor cooking such as outdoor fixed and portable barbecues, food smoking units, and outdoor cooking stoves.

Sec. 9-7-70 Violations

- (a) **The Fire Chief is authorized to order the extinguishment of any fire that violates the provisions of this chapter or creates a public safety hazard, public nuisance or a public health hazard.**
- (b) **Any individual(s) violating any provision of this chapter shall be subject to the penalties set forth in section 1-5-10 of this Code. Each day's continued violation constitutes a separate offense.**



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO:	Town Council
VIA:	Steve Riley, <i>ICMA-CM, Town Manager</i>
VIA:	Charles Cousins, <i>Community Development Director</i>
VIA:	Shawn Colin, <i>AICP, Deputy Director of Community Development</i>
FROM:	Shea Farrar, <i>Senior Planner</i>
DATE	June 19, 2013
SUBJECT:	Barker Field Pump Station Easement

Recommendation:

Staff recommends Town Council approve first reading of an Ordinance authorizing the conveyance of permanent easement rights to Hilton Head Island Public Service District (HHPSD) for the establishment and operation of a sewer pump station and its required infrastructure at the Town's Barker Field Expansion property, as shown on Exhibit "A", with the following conditions:

1. The easement area is limited to a 32 X 32 square foot area.
2. The station is accessed from the existing drive aisle in the park, with no additional curb cuts on Mitchelville Rd.

Summary:

The Baygall Area Sewer Project, which will expand the availability of sewer service in the Barker Field area and allow for the connection of a Town facility to sewer, is currently under design and will require a sewer pump station. HHPSD has requested to locate this station on the Barker Field Expansion property. This station would be similar to the station constructed in the Chaplin area adjacent to Surfwatch.

Background:

Over the years, the Town has worked with various public service districts to help improve the availability of sewer service on the Island. In 2005 Town Council adopted nine sewer policies for this purpose. Sewer Policy 1 states that the Town would commit to bring sewer service to its facilities in a way that benefits adjacent residents. Sewer Policy 2 states that the Town would work with HHPSD to locate sewer pump stations and other appropriate infrastructure on Town property when feasible. Barker Field Expansion, a Town owned property in the Baygall area, could be utilized for a sewer pump station to serve the Town's park property, which is currently on septic, as well as other properties in the area.

The pump station is proposed for an area of the property along Mitchelville Road as shown on Exhibit "A". This location was approved in concept by Town Council on February 6, 2007.

Attachments include:

- A- Location Map
- B- Ordinance
- C- Easement
- D- Plat



ONE TOWN CENTER COURT
 HILTON HEAD ISLAND, S.C. 29928
 PHONE (843) 341-4600

Attachment A
Barker Field Sewer Project Location Map
June, 2013



This information has been compiled from a variety of unverified general sources at various times and as such is intended to be used only as a guide. The Town of Hilton Head Island assumes no liability for its accuracy or state of completion.

PROPOSED ORDINANCE: 2013-12

ORDINANCE: 2013-____

AN ORDINANCE OF THE TOWN OF HILTON HEAD, SOUTH CAROLINA, AUTHORIZING THE GRANTING OF AN EASEMENT ENCUMBERING REAL PROPERTY OWNED BY THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, COMMONLY KNOWN AS "BARKER FIELD EXPANSION", BEING 17.56 ACRES ON MITCHELVILLE ROAD, PURSUANT TO THE AUTHORITY OF S. C. CODE ANN. § 5-7-40 (SUPP. 2010), AND § 2-7-20, CODE OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, (1983, As Amended); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

LEGISLATIVE FINDINGS

WHEREAS, The Town of Hilton Head Island, South Carolina owns real property commonly known as "Barker Field Expansion", located off of Mitchelville Road which is more particularly known and described as:

All those certain pieces, parcels or tracts of land situate, lying and being on Hilton Head Island, Beaufort County, South Carolina, containing 17.56 acres, more or less, shown and designated as "8.61 AC." and "8.95 AC." on that certain plat entitled "A Plat of 'Tract C' 17.56 Acres, Estate of Linda Perry", prepared by Coastal Surveying Company, Jerry L. Richardson, S.C.R.L.S. Number 4784, dated November 30, 1989, last revised January 17, 1990, and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 38 at page 28 (hereinafter the "Town Property")

Beaufort County Tax Parcel R510 005 000 006B 0000; and

WHEREAS, the Hilton Head #1 Public Service District has requested certain easements over, across and through a portion of the above described Town-owned property for the purpose of building, operating and maintaining a sewage pumping station, which sewage pumping station will facilitate sewage service to the Town's property and for ingress and egress to and from the sewage pumping station; and,

WHEREAS, The Town Council of the Town of Hilton Head Island, South Carolina has determined that it is in the best interests of the Town of Hilton Head

Island, South Carolina, to authorize the execution and delivery of the requested easement; and,

WHEREAS, under the authority of S.C. Code Ann. § 5-7-40 (Supp. 2012), and § 2-7-20, *Code of the Town of Hilton Head Island , South Carolina*, (1983, As Amended), the granting of an interest in real property owned by the Town of Hilton Head Island, South Carolina, must be authorized by the adoption of an ordinance by the Town Council for the Town of Hilton Head Island, South Carolina.

NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, AS FOLLOWS:

Section 1. Execution, Delivery and Performance of an Easement encumbering Town Owned Property:

(a) The Mayor and Town Manager are hereby authorized to execute and deliver the Pump Station Easement which is attached hereto as Exhibit "A"; and,

(b) The Town Manager is hereby authorized to take all other and further actions as may be necessary to complete the Town's obligations under the Pump Station Easement.

Section 2. Severability:

If any section, phrase, sentence or portion of this Ordinance is, for any reason, held or deemed to be invalid or unconstitutional by any court of competent jurisdiction, then such section, phrase, sentence or portion shall be deemed a separate, distinct and independent provision and shall not affect the remaining portion thereof.

Section 3. Effective Date:

This Ordinance shall become effective upon its adoption by the Town Council for the Town of Hilton Head Island, South Carolina.

PASSED, APPROVED AND ADOPTED BY THE TOWN COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, ON THIS ____ DAY OF _____, 2013.

THE TOWN OF HILTON HEAD ISLAND,
SOUTH CAROLINA

By: _____
Drew A. Laughlin, Mayor

ATTEST: _____
Esther Coulson
Town Clerk

First Reading: _____

Second Reading: _____

Approved as to form: _____
Gregory M. Alford, Town Attorney

Introduced by Council Member: _____

1. A perpetual, non-exclusive Easement on, over and across that portion of the Town Property described as follows:

All that certain piece, parcel or lot of land, situate, lying and being on Hilton Head Island, Beaufort County, South Carolina, shown and described as "Permanent Sewer Pump Station Easement 1024 Sq Ft" on a Plat entitled "Sewer Pump Station and Access Easements over Tax Parcel R510 005 000 006B, Mitchelville Road, Hilton Head Island, Beaufort County, South Carolina," dated _____, prepared by Sea Island Land Survey, LLC, Mark R. Renew, S.C.P.L.S. 25437, and which is recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Plat Book _____ at Page _____ (hereinafter the "Pump Station Site").

This Pump Station Easement is granted and accepted subject to the following terms:

2. This Pump Station Easement is conveyed subject to all other easements, licenses, and conveyances of record and is subject to the rights herein reserved by the Town, its successors and assigns, to utilize the Town's Property at any time, in any manner, and for any purpose, provided, however, that such use by Town shall not be inconsistent with nor prevent the full utilization by HHPSD of the rights and privileges granted herein.
3. This Pump Station Easement includes an easement for ingress and egress to and from the Pump Station Site from Mitchelville Road and/or an adjoining access right-of-way, on, over and across that portion of the Town Property described as follows:

All that certain piece, parcel or lot of land, situate, lying and being on Hilton Head Island, Beaufort County, South Carolina, shown and described as "Access Easement 971 Sq Ft" on a Plat entitled "Sewer Pump Station and Access Easements over Tax Parcel R510 005 000 006B, Mitchelville Road, Hilton Head Island, Beaufort County, South Carolina," dated _____, prepared by Sea Island Land Survey, LLC, Mark R. Renew, S.C.P.L.S. 25437, and which is recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Plat Book _____ at Page _____ (hereinafter the "Relocatable Access Easement").

4. This Pump Station Easement is for the purpose of providing property for HHPSD to build, operate and maintain a sewage pump station, and for ingress and egress to and from

Mitchelville Road and/or an adjoining access right-of-way to the Pump Station Site, and includes the right to enclose the Pump Station Site with a fence to secure the Pump Station Site, and the rights granted hereunder are for such purposes only. Any other use of the Pump Station Site is a violation of the terms of this Pump Station Easement and is prohibited.

5. HHPSD may not place or store any hazardous material or pollutant of any description on or within the Pump Station Site or Access Easement.

6. HHPSD shall comply with all applicable laws, codes, ordinances and regulations applicable to its use installation, operation and maintenance of a sewage pumping station.

7. HHPSD agrees to maintain the sewage pump station, and further agrees that the use of the sewage pump station shall be under the exclusive control of HHPSD; provided, however, that the Town shall have reasonable access to the Pump Station Easement property for the purpose of making inspections upon twenty four (24) hours' written notice from the Town to HHPSD.

8. HHPSD shall, at its sole cost and expense, cause all timely cleaning, repair, maintenance, renovation or any other work necessary for the safe operation of the sewage pump station.

9. HHPSD shall cause all work contemplated or allowed hereunder to be performed in a workmanlike fashion with minimal interference to the Town, its successors and assigns, invitees, licensees, employments and agents. HHPSD shall cause all work contemplated or allowed hereunder to be completed in an expeditious and timely fashion, and that all construction materials, debris and equipment shall be promptly removed from the Pump Station Easement property upon completion of the work contemplated or allowed hereunder. HHPSD, at its sole cost and expense, shall restore to its pre-existing condition any part of the Town's property and any improvements thereon which may be disturbed or damaged as a result of HHPSD's exercise of any of the rights granted hereunder.

10. The easements granted hereunder are conveyed by the Town and accepted by HHPSD on the condition that HHPSD shall notify the Town, or its successors and assigns, at any time, of its election not to use the easements granted hereunder, or if the easements granted hereunder are not used for their stated purposes for a continuous period of twelve (12) months. Upon such notification, the easements granted hereunder shall terminate, and HHPSD shall restore the Town's property to its pre-existing condition. Upon termination of the easements as described herein, HHPSD shall execute and deliver to the Town a recordable document terminating the easements of record.

11. HHPSD agrees, to the extent provided by the South Carolina Tort Claims Act [S.C. Code Ann. § 15-78-10, *et seq.* (Supp. 2012, as amended)], and HHPSD's property and liability insurance policies, to respond to any claim against the Town, or its successors and assigns, resulting from any acts omissions or claims arising directly or indirectly from HHPSD's exercise of any of the rights granted hereunder.

12. HHPSD shall be solely responsible for any environmental clean-up or remediation related to HHPSD's use of the Pump Station Site which is required by any party, entity or government agency.

(SIGNATURE PAGES FOLLOW)

WITNESSES:

HILTON HEAD # 1 PUBLIC
SERVICE DISTRICT

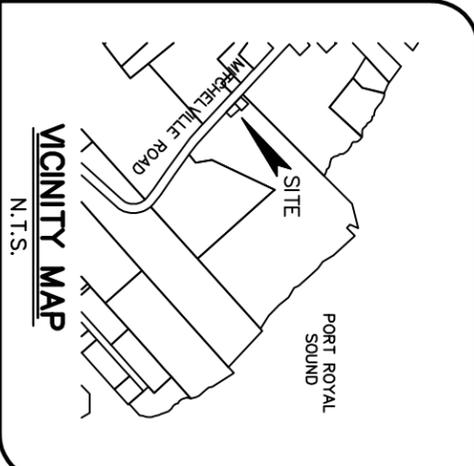
By: _____
Richard Cyr
General Manager

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT) UNIFORM ACKNOWLEDGMENT
) S. C. CODE ANN. § 30-5-30 (SUPP. 2012)

I, the undersigned Notary Public do hereby certify that Richard Cyr, on behalf of the Hilton Head #1 Public Service District, personally appeared before me on this day and duly acknowledged the execution of the foregoing instrument on behalf of the Hilton Head #1 Public Service District

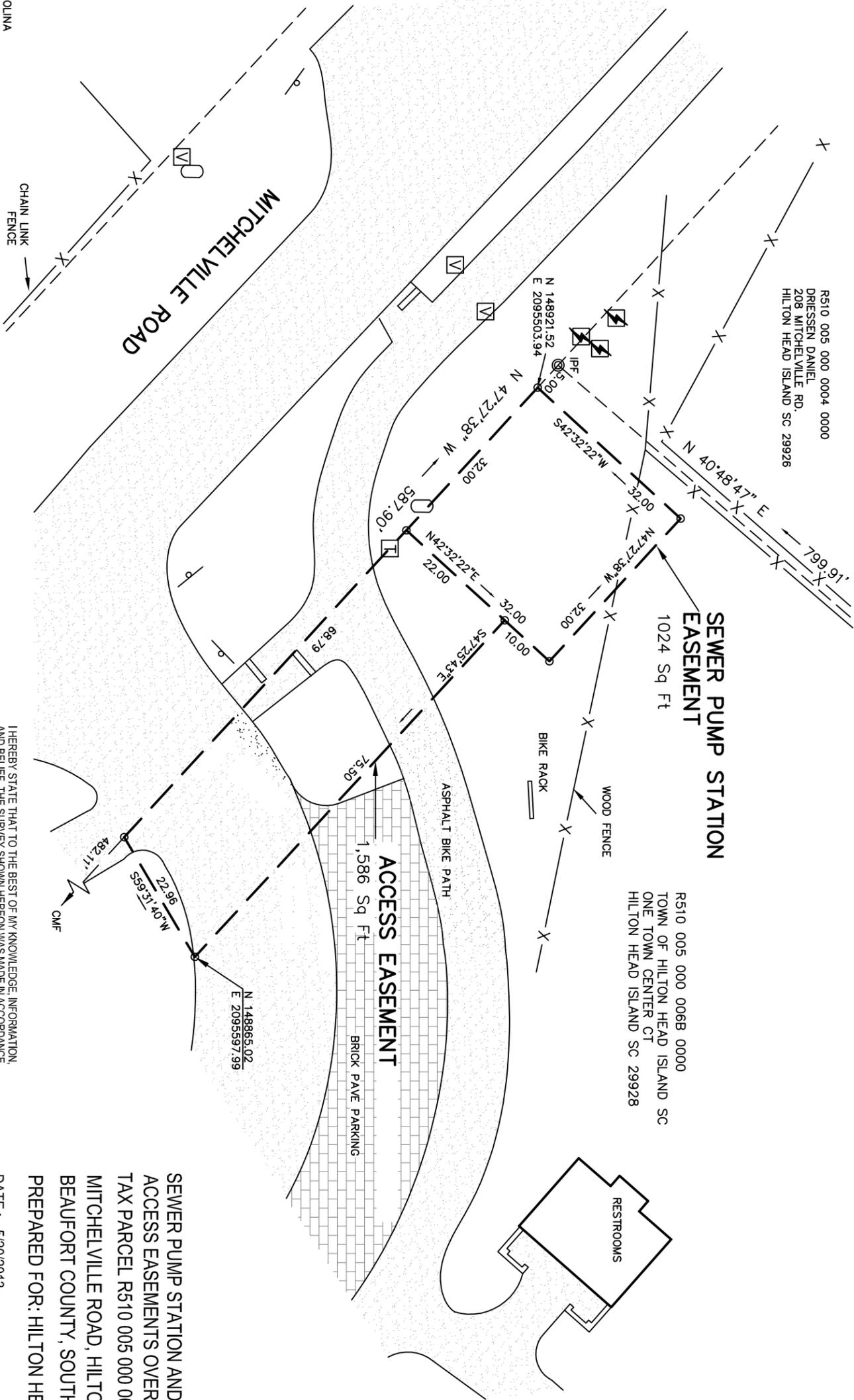
Sworn to and Subscribed before me
on this . Day of _____, 2013.

Notary Public for South Carolina
My Commission Expires: _____



SOME OR ALL AREAS ON THIS PLAT ARE FLOOD HAZARD AREAS AND HAVE BEEN IDENTIFIED AS HAVING AT LEAST A ONE PERCENT CHANCE OF BEING FLOODED IN ANY GIVEN YEAR BY RISING TIDAL WATERS ASSOCIATED WITH POSSIBLE HURRICANES. LOCAL REGULATIONS REQUIRE THAT CERTAIN FLOOD HAZARD PROTECTIVE MEASURES BE INCORPORATED IN THE DESIGN AND CONSTRUCTION OF STRUCTURES IN THESE DESIGNATED AREAS. REFERENCE SHALL BE MADE TO THE DEVELOPMENT COVENANTS AND RESTRICTIONS OF THIS DEVELOPMENT AND REQUIREMENTS OF THE TOWN BUILDING OFFICIAL. IN ADDITION, FEDERAL LAW REQUIRES MANDATORY PURCHASE OF FLOOD INSURANCE AS A PREREQUISITE TO FEDERALLY INSURED MORTGAGE FINANCING IN THESE DESIGNATED FLOOD HAZARD AREAS.

- SYMBOLS**
- ☒ - ELECTRIC TRANSFORMER
 - - TELEVISION SERVICE
 - - TELEPHONE SERVICE
 - - WATER METER
 - ◻ - VALVE BOX
 - SIGN POST
 - IPF ⊙ - 1/2" IRON PIN FOUND
 - CMF — 3" CONCRETE MONUMENT FOUND



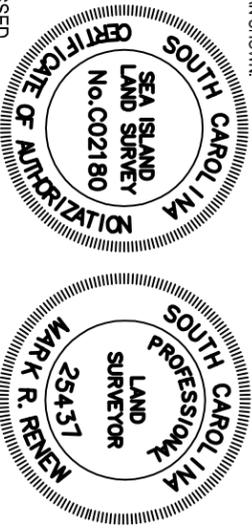
1) A PLAT OF 11.780 AC. MITCHELLEVILLE ROAD, HILTON HEAD ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA
 DRAWN: 9/6/67
 RECORDED IN BOOK 32, PAGE 153, DATED: 12/10/82
 RMC, BEAUFORT COUNTY, SC
 BY: JERRY L. RICHARDSON, S.C.R.L.S. #4784

ADDRESS: # 160 MITCHELLEVILLE ROAD
 DISTRICT: 510, MAP: 0005, PARCEL: 006B
 THIS PROPERTY LIES IN F.E.M.A. ZONE A7 - 14.0'
 COMMUNITY NO. 450250, PANEL: 0009D, DATED: 9/29/86

NOTES:

- 1) THIS PLAT HAS BEEN PREPARED WITHOUT BENEFIT OF A COMPLETE TITLE SEARCH BY SEA ISLAND LAND SURVEY, LLC.
- 2) THIS PROPERTY MAY BE SUBJECT TO EASEMENTS OF RECORD AND COVENANT RESTRICTIONS AS RECORDED IN THE OFFICE OF THE ROD FOR BEAUFORT COUNTY.
- 3) SUBJECT PROPERTY DOES NOT APPEAR TO BE AFFECTED BY THE BEACHFRONT SETBACK REQUIREMENTS OF THE S.C. BEACH PROTECTION ACT OF JULY 1, 1988.

I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "A" SURVEY AS SPECIFIED THEREIN. ALSO THERE ARE NO VISIBLE ENCROACHMENTS OR PROJECTIONS OTHER THAN SHOWN.



SEWER PUMP STATION AND ACCESS EASEMENTS OVER:
 TAX PARCEL R510 005 000 006B,
 MITCHELLEVILLE ROAD, HILTON HEAD ISLAND
 BEAUFORT COUNTY, SOUTH CAROLINA
 PREPARED FOR: HILTON HEAD PUBLIC SERVICE DISTRICT
 DATE: 5/20/2013
 SCALE: 1" = 20'

SILS Sea Island Land Survey, LLC.
 4D Mathews Court,
 Hilton Head Island,
 SC 29926
 E-mail: sils@spynet.com
 FILE No.: 13082
 DWG No.: 4-1721
 COPYRIGHT © BY SEA ISLAND LAND SURVEY, LLC.

NOT VALID UNLESS EMBOSSED.