

TOWN OF HILTON HEAD ISLAND
PUBLIC SAFETY COMMITTEE REGULAR MEETING

Date: March 9, 2009

Time: 4:00 P.M.

Members Present: George Williams, *Acting Chairman*, Bill Ferguson, Ken Heitzke, *Alternate*

Members Absent: Bill Mottel

Town Staff Present: Greg DeLoach, *Assistant Town Manager*; Brian Hulbert, *Staff Attorney*; Susan Simmons, *Director of Finance*; Charles Cousin, *Director of Community Development*; Steven Markiw, *Deputy Director of Finance*; Julian Walls, *Manager of Facilities Management*; Vicki Pfannenschmidt, *Administrative Assistant*

Others Present: Tom Peoples, Mayor; John Safay, Drew Laughlin, Councilmen; Captain Toby McSwain, *BCSO*; Ralph Wagner, *Shore Beach Services, Inc.*; numerous members of the public

Media Present:

1. Call to Order.

The meeting was called 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. Approval of Minutes:

Mr. Heitzke moved to approve the Minutes of February 2, 2009. Mr. Ferguson seconded the motion. The Minutes of February 2, 2009 were approved.

4. Chairman's Report:

Mr. Williams stated in lieu of a Chairman's report, he would review the rules and regulations for conducting the meeting. After his review of the procedures he informed the audience all that wished to speak would get the opportunity.

5. Unfinished Business:

None.

6. New Business:

- **Proposed Ordinance Number 2009-09 An Ordinance granting a renewal term of five years to Shore Beach Services, Inc. for a non-exclusive franchise for the**

purpose of conducting certain commercial activities within specified public beach areas on Hilton Head Island

Mr. Heitzke moved to approve. Mr. Ferguson seconded.

Mr. Williams asked Mr. Ralph Wagner of Shore Beach Services, Inc. to approach the dais. Mr. Heitzke asked for a short briefing of the options of the agreement. Mr. Wagner noted the biggest change was discontinuing the daily operation of a shore patrol boat and replacing it with two jet skis on a full time that would be located on the beach. They will have a third jet ski for back-up. He informed the Committee this would be a more efficient way to respond when needed. Mr. Wagner also noted instead of a fixed five-year fee they will submit a budget annually during the budget process. He stated the need for this was because it was too difficult to project five years in advance.

Mr. Ferguson asked if the agreement included the area north of Fish Haul Creek. Mr. Wagner responded the areas in question are not included in the agreement. He noted they do service the beach matting and at time have gone when necessary. He explained they would be available if there is a necessity.

Mr. Heitzke asked for clarification which option staff was recommending. Greg DeLoach approached the dais and informed the Committee that staff is recommending renewal of the franchise agreement, Schedule 3 with Option 1. After review and discussion of Option 1, Mr. Heitzke moved to recommend that Town Council approve Option 1, Schedule 3 of the Franchise agreement with Shore Beach Services, Inc. for 5 years. Mr. Ferguson seconded the motion.

Mayor Tom Peebles asked to approach the dais. He referred to Page 2, Item 7 of the agreement concerning dog litter bags. He recommended the Committee increase the number of locations for dog litter bags from the 45 locations to each beach access. He stated he realized this would be a large expense but suggested it be spread out over a period of time. Mr. Williams stated he felt this could be dealt with annually during the budget process between staff and Shore Beach Services if it was implemented.

The motion was approved unanimously. 3-0

• **Proposed Ordinance Number 2009-07 Prohibited Activities on the Beach**

Mr. Heitzke moved to approve. Mr. Ferguson seconded.

Mr. Williams requested Brian Hulbert approach the dais and review the events leading to this proposed ordinance. Mr. Hulbert explained the Town received a letter stating the Town did not comply with state law noting our existing ordinance allows dogs off leash. He informed the Committee, in order to comply with state law he has put together a proposed ordinance removing the language which causes with our ordinance to conflict with state law. Mr. Hulbert went on to explain that currently the Municipal Code permits dogs to be on the Town beaches without a leash during certain times of the year. The existing ordinance requires that dogs must be under positive voice control of their owners if not on a leash. State Law requires that all dogs be on a leash or similar restraining device at all times when

not on the premises of their owner or keeper. He noted this amendment will remove the current conflict that exists between the Municipal Code and state law. Mr. Hulbert added the amendment will continue to prohibit dogs from being in designated swimming areas on the beach between Memorial Day weekend and Labor Day weekend.

Mr. Williams asked the Committee members if they had any comments. Mr. Heitzke suggested the Committee hear public comments first. Mr. Williams explained the process to speak to the audience and proceeded to hear from the public. He then invited members of the audience to speak. A number of citizens spoke in opposition to the proposed ordinance. A number of questions arose and members of the Committee along with Brian Hulbert answered them. Mayor Peoples spoke and explained the chain of events that brought this issue to light explaining the new ordinance was actually lifting restrictions instead of imposing more. Mr. Safay suggested the Town go through our legislative delegation to address changing state law.

After hearing from all members of the audience wishing to speak, Mr. Heitzke moved to delete the words “on any designated swimming area” from Proposed Ordinance 2009-07. Mr. Ferguson seconded. The motion passed unanimously. 3-0

Mr. Heitzke moved to replace the above deleted language with the words, “other than certified medical service animals” to Proposed Ordinance 2009-07. Mr. Ferguson seconded. The motion passed unanimously. 3-0

Mr. Heitzke moved to recommend the amended Proposed Ordinance 2009-07 to Town Council. Mr. Ferguson seconded. The motion passed unanimously. 3-0

Mr. Heitzke then explained he had to leave the meeting because of a previous commitment. Mr. Williams asked Councilman John Safay to join the Committee.

- **Proposed Ordinance Number 2009-10 Amendment to Title 9 (PUBLIC NUISANCE)**

Mr. Safay moved for approval. Mr. Ferguson seconded.

Mr. Williams asked Brian Hulbert to approach the dais. Mr. Hulbert explained this proposed ordinance was to get a handle on bar violence. He explained it amends the Public Nuisance section of the Municipal Code making it a public nuisance if law enforcement is required to make excessive service calls for certain types of serious offenses to any location within the Town. He further explained excessive service calls are defined as three or more service calls by law enforcement within a six month period or four or more service calls within a twelve month period.

Mr. Williams stated one issue of concern to him is if someone is calling and reporting a nuisance falsely and law enforcement goes to the premises and finds the call is false, that the establishment has a service call recorded. Mr. Hulbert explained the calls must be substantiated and would not count against a business if they are false. Mr. Safay asked if with the proposed ordinance the Town Manager has the authority to suspend a Business

License for a given amount of time in hopes that corrections are made and the business could reopen. Mr. Hulbert responded in the affirmative.

Mr. Williams asked if any members of the audience wished to speak.

Sharon Lester spoke on behalf of Outdoor Resorts. She asked for clarification of the proposed ordinance in regard to noise. Mr. Hulbert responded that as the proposed ordinance as now written, it does not address noise ordinances or lesser forms of ordinances or violations of state law. He stated it is geared towards serious violations such as assault, stabbings and things of that nature. Ms. Lester explained Outdoor Resorts is having serious issues with noise from a nearby establishment. She stated the noise is so bad residents are not able to sleep at night, including that it goes on at times until 4:00 a.m. She distributed a flier from the establishment noting they are conducting a Midnight Madness event which begins at midnight until early hours of the morning. She also noted there are numerous violations against the business but they have not complied with eliminating the noise. She requested the Committee consider including public disturbances in the proposed ordinance.

Several residents of Outdoor Resorts spoke concerning the disturbance during the night and early morning hours caused from noise at the establishment.

Greg DeLoach approached the dais and explained the proposed ordinance could be amended to include noise. Mr. Williams suggested staff prepare an amendment to include noise in the proposed ordinance.

After lengthy discussion, Mr. Safay moved to amend the motion and have staff provide additional language to the proposed ordinance to address the problem with noise. Mr. Ferguson seconded the motion. The motion passed unanimously. 3-0

Mr. Safay moved to recommend the amended Proposed Ordinance 2009-10 to Town Council. Mr. Ferguson seconded the motion. The motion passed unanimously. 3-0

- **Proposed Ordinance Number 2009-01 Regulating the hours for sale and consumption of alcoholic beverages in business and commercial establishments in the Town of Hilton Head Island**

Mr. Safay moved for approval. Mr. Ferguson seconded.

Mr. Hulbert explained the proposed ordinance was before the Committee to assist law enforcement. He noted the original request from Sheriff Tanner was for Town Council to pass an ordinance prohibiting the sale of alcoholic beverages between the hours of 2:00 a.m. and 6:00 a.m. He stated staff has drafted a proposed ordinance which prohibits the sale or consumption of alcoholic beverages at business and commercial establishments between the hours of 3:00 a.m. and 6:00 a.m., Monday through Sunday.

Mr. Ferguson asked if this meant the establishments could still remain open. Mr. Hulbert responded stating they could remain open, this was just regulating the sale and consumption of alcoholic beverages with a cut-off time of 3:00 a.m.

Mr. Bob Hinchey, owner of Hinchey's Chicago Bar and Grill spoke in opposition to the proposed ordinance.

Captain Toby McSwain spoke stating the Beaufort County Sheriff's Office stance remains the same. He informed the Committee members there is a need for the 2:00 a.m. cut-off needed for the sale and consumption of alcoholic beverages. He also stated the problems after 2:00 a.m. did not just come about and they were on-going.

Mr. Williams stated after speaking with citizens and owners of establishments, he is inclined to support the 2:00 a.m. cut-off time for the sale and consumption of alcoholic beverages.

Mr. Williams called for a vote of the original motion. The motion passed 2-1. (Mr. Williams was in opposition)

7. Adjournment:

Mr. Safay moved to adjourn the meeting. Mr. Ferguson seconded the Motion. The meeting adjourned at 6:30 p.m.

Respectfully submitted:

Vicki L. Pfannenschmidt, Secretary

Approved by:

George Williams, Acting Chairman