

**THE TOWN OF HILTON HEAD ISLAND  
REGULAR TOWN COUNCIL MEETING**

**Date:** Tuesday, January 6, 2009

**Time:** 4:00 P.M.

**Present from Town Council:** Thomas D. Peeples, *Mayor*; Ken Heitzke, *Mayor Pro-Tem*; John Safay, George Williams, Drew Laughlin, Bill Ferguson, *Councilmen*.

**Absent from Town Council:** Bill Mottel, *Councilman*

**Present from Town Staff:** Stephen G. Riley, *Town Manager*; Gregory D. DeLoach, *Assistant Town Manager*; Curtis Coltrane, *Assistant Town Manager*; Lavarn Lucas, *Fire Chief, Fire & Rescue*; Charles Cousins, *Director of Community Development*; Nancy Gasen, *Director of Human Resources*; Scott Liggett, *Director of Public Projects & Facilities*; Susan Simmons, *Director of Finance*; Steven Markiw, *Deputy Finance Director*; Paul Rasch, *Emergency Management Coordinator*; Brian Hulbert, *Town Attorney*; Teri Lewis, *LMO Official*; Heather Colin, *Development Review Administrator*; Sally Krebs, *Natural Resources Administrator*; Sarah Skigen, *Natural Resources Associate*; Shawn Colin, *Senior Planner*; Shea Farrar, *Senior Planner*; Nicole Dixon, *Planner*; Susan Blake, *Executive Assistant*

**Present from Media:** Daniel Brownstein, *Island Packet*

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**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**

**6) APPROVAL OF MINUTES**

**a. Regular Town Council Meeting of December 16, 2008**

Mr. Heitzke moved to approve. Mr. Safay seconded. The motion was approved by a vote of 6-0.

**7) REPORT OF THE TOWN MANAGER**

**a. Town Manager's Items of Interest**

The Town Manager reported on some items of interest.

**8) REPORTS FROM MEMBERS OF COUNCIL**

**a. General Reports from Council**

Mayor Peeples announced that the Town Council will hold a public hearing on January 20, 2009 at 4:30 p.m. in the Benjamin M. Racusin Council Chambers on the following items: Amendment of the Comprehensive Plan and a Development Agreement between the Town of

Hilton Head Island and PVI Shelter Cove Limited Partnership for the Mall at Shelter Cove Property located at 24 Shelter Cove Lane.

**b. Report of the Inter-Governmental Relations Committee – George Williams, Chairman**

Mr. Williams advised the committee would be taking a look at the pre-filed bills at their next meeting on January 20th.

**c. Report of the Personnel Committee – Drew Laughlin, Chairman**

Mr. Laughlin informed the Town Council that the Personnel Committee will need to schedule a meeting in the near future to fill vacancies on the Construction Board of Adjustment and Appeals Committee and on the Beaufort County Aviation Board. The Mayor said he would like to see the Town publicly advertise for applicants to sit on the Aviation Board.

**d. Report of the Planning and Development Standards Committee – Drew Laughlin, Chairman**

The Chairman reported that the Committee looked at a Comprehensive Plan Amendment with respect to the Mall as well as a developer agreement and a Zoning Map Amendment. He felt the language for the Comprehensive Plan was adequate to at least accommodate doing what they wanted to accomplish. Mr. Laughlin said it was fair to say that going forward the committee would probably need to look at the Comprehensive Plan some more. There was the issue of how much flexibility was needed in terms of density caps in PUDs and what kind of language do you craft to accommodate that. The language that was put before the Committee with respect to the Mall matter would, Mr. Laughlin opined, be very difficult for anybody else to meet because it would require a development agreement which would also require a minimum of 25 acres and would have to support a finding of a Town-wide benefit. The committee had a matter on the same agenda which kind of illustrated the need to “massage” that language some because what they also looked at was a ZMA application from Shipyard which had outgrown their administrative building and needed to expand it. Mr. Laughlin said that everybody felt like that application should have been approved, however, with the interpretation of the existing Comp Plan language, that was problematical because it would result in an additional 1,000 square feet of density – even though it was really for the POA’s administrative purposes. The feeling was that whatever language we came up with going forward for the Comp Plan amendment should be able to accommodate something like the Shipyard’s needs. Mr. Riley interjected that there had been a prior discussion about directing staff to go back and come up with further language changes to the Comp Plan. He suggested that the Town Council might want to put out a motion tonight in order to get this moving forward. Mr. Laughlin responded that to the extent that this would require a motion, yes, because this (Shipyard) application would be held up until it’s done. The motion was made by Mr. Laughlin asking staff to further review the Comp Plan language to arrive at some greater flexibility that would accommodate minor things like this that are really needed by the community and would not be amendable to a development agreement or, probably, a finding of a Town-wide benefit, for that matter. Mr. Safay seconded. The motion was approved by a vote of 6-0.

The Committee’s LMO amendments would also be coming forward with a recommendation.

**e. Report of the Public Facilities Committee – John Safay, Chairman**

No report.

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

In Mr. Mottel's absence, Mr. Williams spoke about the Public Safety Committee's meeting the previous day. The first item on their agenda was a request from the Solicitor Duffie Stone for funding for a Career Criminal Team. As a result of a conflict, Mr. Stone was not present at the meeting so that matter was postponed.

The second issue was a request by Sheriff Tanner for consideration of an ordinance requiring bars to close at 2 a.m. After much discussion, the Committee came out with a motion for the Town to pass an ordinance requiring that the sale and consumption of alcohol end at 2:00 a.m. There was also some direct discussion about the particular problems at one local club on Pope Avenue. Staff has drafted a proposed Ordinance reflecting the Committee's recommendation for stopping the sale and consumption – not closing the bar itself – at 2 a.m. Mr. Williams did not know if the Council members would like the Committee to present a proposed Ordinance at the next meeting or to place the matter on the agenda for a formal discussion in such a way to determine whether the Ordinance was satisfactory in its current form or needed to be refined.

The Mayor wondered if they had asked staff to see if the Town could enhance their ability to close down establishments or withdraw their business license if they were causing problems. Mr. Williams replied that there were discussions about that but after the Sheriff's presentation, the sense of the Committee was that this route would take a long period of time working its way through the legal system before it resulted in actually shutting down an offending establishment. Mr. Williams said he had a concern about how all of these potential changes would impact the businesses that were operating legally and safely. But none of the many options that staff presented to the committee seemed to be enforceable. There were discussions about hiring private security because the Sheriff's policy was not to allow any of his officers to work these types of security jobs off-duty.

Mr. Heitzke said the main point was that the Committee did not move to close the business, but rather to close the sale and consumption of alcoholic beverages at 2:00 a.m. Mr. Heitzke also pointed out the difficulty of trying to determine which bar was the source of the problem since some of the incidents actually occurred in a common parking area for numerous facilities.

Mr. Ferguson said that the Sheriff also mentioned the difficulty his office would have if they were trying to build a case against a specific establishment because he would have to go through SLED. State law prevents him from directly investigating these types of situations.

Mr. Safay asked if there were two issues the committee wanted the Council to vote on: 1) to cut off liquor service and consumption at 2:00 a.m. and 2) draft a new town ordinance that would create a public nuisance ordinance. Mr. Williams replied that staff was going to go back and review what they have now to see if anything else needed to be done to it. That was a subsequent issue. So all the Committee was recommending was to require establishments to stop the service and consumption of liquor at 2:00 a.m.

Mayor Peebles said that he hoped that they would also try to see what else could be done from a business license standpoint. Surely, the Town had some ability to deal with the people who

were causing the problems rather than take a blanket approach towards a solution that would impact all of the businesses.

Mr. Ferguson added that there was a tough balance between handling the issue fairly without hindering the establishments who were operating legitimately. And it was also very important for Council to act to maintain the Island's excellent public image.

**9) APPEARANCE BY CITIZENS**

Roy Prescott, owner of Remy's Restaurant, spoke against the proposal to require all establishments to close at 2:00 a.m. when they are not all part of the problem.

**10) UNFINISHED BUSINESS**

**a. Second Reading of Proposed Ordinance No. 2008-31 to amend Title 16 of the Municipal Code of the Town of Hilton Head Island, South Carolina, the Land Management Ordinance, Chapters 5 and 6 to revise articles and sections. These amendments, commonly referred to as *Land Management Ordinance, Natural Resource Amendments* as noticed in the Island Packet on September 28, 2008, include changes that provide for general amendments to: buffer standards, permitted activity in street buffers, permitted activity in other buffer areas, tree replacement fund, and relation of specimen trees and providing for severability and an effective date.**

Mr. Heitzke moved to approve. Mr. Laughlin seconded. The motion was approved by a vote of 6-0.

**11) NEW BUSINESS**

**a. None.**

**12) EXECUTIVE SESSION**

Steve Riley said that he needed an executive session for contractual matters pertaining to land acquisition, including requests to acquire town land, easements over town land, and leasing of town land; contractual matters pertaining to potential construction at Coligny Beach Park; contractual matters pertaining to a request for a waiver of a right of first refusal in the Northridge Commercial development; legal matters pertaining to a potential settlement of ongoing litigation and legal matters pertaining to potential litigation.

At 4:32 p.m., Mr. Heitzke moved to adjourn to Executive Session for the reasons stated by the Town Manager. Mr. Safay seconded. The motion was approved by a vote of 6-0.

Mayor Peoples called the meeting back to order at 6:02 p.m. and asked if there was any business to take up as a result of executive session. Steve Riley stated for the record that Mr. Safay had to leave after executive session.

Mr. Heitzke moved that the Town Council for the Town of Hilton Head Island adopt a Resolution authorizing the Mayor and Town Manager to execute and deliver a waiver of repurchase option for 10.23 acres in Northridge, TMS R511 008 000 0254 0000. Mr. Ferguson seconded. The motion was approved by a vote of 5-0.

Mr. Heitzke moved that the Town Council for the Town of Hilton Head Island adopt a Resolution authorizing the execution of a temporary access and construction easement and

parking lot reconfiguration agreement, two (2) pathway easements, a drainage easement and a temporary construction easement regarding parcels R511-008-000-0192-0000 and R511-008-000-0399-0000 in conjunction with the Mathews Drive Roadway Improvement Project. Mr. Ferguson seconded. The motion was approved by a vote of 5-0.

**13) ADJOURNMENT**

At 6:05 p.m., Mr. Heitzke moved to adjourn. Mr. Williams seconded. The motion was approved by a vote of 5-0.

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Susan Blake, Secretary

Approved:

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Thomas D. Peeples, Mayor