

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

**Date:** Tuesday, April 7, 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:**

**Present from Town Staff:** Stephen G. Riley, *Town Manager*; Gregory D. DeLoach, *Assistant Town Manager*; Curtis Coltrane, *Assistant Town Manager*; David Cooler, *Administrative Battalion Chief, Fire & Rescue*; Charles Cousins, *Director of Community Development*; Nancy Gasen, *Director of Human Resources*; Scott Liggett, *Director of Public Projects & Facilities*; Brian Hulbert, *Town Attorney*; Heather Colin, *Development Review Administrator*; Paul Rasch, *Emergency Management Coordinator*; Susan Williams, *Communications Manager*; Julian Walls, *Facilities Manager*; Ed Boring, *Deputy Fire Chief*; Brad Tadlock, *Deputy Fire Chief*; Susan Blake, *Executive Assistant*

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

---

**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. Child Abuse Prevention Month**

Antoinette McCutcheon accepted the Proclamation.

**b. National Telecommunicators Week**

Susan Williams accepted the Proclamation on behalf of the dispatchers.

**6) APPROVAL OF MINUTES**

**a. Regular Town Council Meeting of March 17, 2009**

Mr. Heitzke moved to approve. Mr. Ferguson seconded. The minutes were approved by a vote of 5-0-1. Mr. Williams abstained because he was unable to attend the March 17 meeting.

**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**

Mr. Williams observed that there appeared to be a lot of traffic generated by an influx of visitors to the Island. He reminded everyone to be courteous while driving on the roads.

Mr. Ferguson inquired as to when the proposed ordinance regarding dog leash laws would be on the agenda. The Mayor responded that they were seeking a clarification from the State's Attorney General on the law before taking any further action.

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

No report.

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

The committee began reviewing applications in the talent bank and will be scheduling interviews in the near future.

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

At the committee's last meeting they voted to recommend approval of a Fair Housing Resolution as well as LMO Street Naming Amendments. The request for a Zoning Map Amendment for the Shipyard Administration Building to increase their density also received a favorable recommendation. And lastly, the Committee heard a presentation from staff regarding a Comprehensive Plan Amendment to Chapter 8 – Land Use Element. The committee voted to recommend approval of this amendment.

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

The committee received a briefing from a visionary group of citizens who were exploring the feasibility of creating a substantially larger indoor-outdoor performance center to be located on the Island. The committee did not make any recommendations but have encouraged the group to continue their research.

**f. Report of the Public Safety Committee – George Williams, Acting Chairman**

The committee reviewed the fourth quarter crime statistics. They also heard a presentation from the Chief of Fire & Rescue regarding a SAFER grant. Response to this grant offer was required by April 15; therefore Mr. Williams moved to amend the agenda to add consideration of the SAFER Grant. Mr. Heitzke seconded. The motion was approved by a vote of 6-0. The Mayor assigned this matter to New Business item 11.e.

**9) APPEARANCE BY CITIZENS**

Janet Jenkins addressed council about the status of the proposed dog leash ordinance.

**10) UNFINISHED BUSINESS**

**a. None.**

**11) NEW BUSINESS**

**a. Consideration of a Resolution in support of the Marine Corps Air Station Beaufort's requisition of Joint Strike Fighter Jets.**

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

6-0.

**b. First Reading of Proposed Ordinance No. 2009-09 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; and providing for severability and an effective date.**

Mr. Heitzke moved to approve. Mr. Williams seconded. Mr. Safay inquired why the contract was non-exclusive. Assistant Town Manager Greg DeLoach responded that State law only provides municipalities with the authority to grant non-exclusive franchises. The motion was approved by a vote of 6-0.

**c. First Reading of Proposed Ordinance No. 2009-10 to amend Title 9 (Public Nuisance) of the Municipal Code of the Town of Hilton Head Island, South Carolina by amending sections 9-1-112, 113, 114, 115, and 116; and adding new section 9-1-112, Common Nuisances, 9-1-117 Failure to Abate; Abatement by Town; and Section 9-1-118 Public Nuisance Abatement; and providing for severability and an effective date.**

Mr. Heitzke moved to approve. Mr. Williams seconded.

Joel Katz, President of the Hilton Head Island Motor coach Resort, thanked the Mayor and members of Town Council on behalf of the citizens of the Resort for expediting this matter.

Mr. Safay asked about paragraph (b) (1) on page 4 concerning the “.....is hereby declared to be a public nuisance” portion. He felt that left no option for the Town Manager or Town Council to make a determination. Staff Attorney Brian Hulbert said that before any action could occur, law enforcement had to bring a case to the Town Manager and then the Town Manager would determine if it rose to the level of public nuisance, and if so, he then would send the written notice to the property manager.

In response to a question by Mr. Ferguson about enforcement of the ordinance, Sheriff Tanner approached the Council. He explained that the Nuisance Ordinance was an administrative function by the Town of Hilton Head Island. The Town Manager would issue the public nuisance order and any appeals would come back to the full Town Council. The penalties were also administrative, not criminal. The Sheriff’s Department would not enforce the Nuisance Ordinance. He would, however, provide the information such as arrests made at a nightclub. They would bring the arrest records to the Town Manager and he would make the determination whether or not to declare an establishment as a public nuisance.

Mr. Laughlin stated he was in favor of taking this action. But if the intent was to give the Town Manager the discretion to decide whether or not to declare a public nuisance, he thought some word-smithing of the proposed ordinance was in order. For example, in 9-1-118 (b)(2) “for the purposes of this section, three or more calls for service to address separate violations.....within any six month period, or four or more violations within any 12-month period, *shall* constitute a public nuisance.” He felt this language was mandatory in nature, not discretionary. Mr. Safay added that this was the point he was trying to make earlier. He stressed that it was important that the Town Manager have some discretion in these matters in the event there was a situation that could cause injustice to a business. The Town Manager needed to have the flexibility to research the complaints before arbitrarily declaring the business a nuisance.

Mr. Laughlin moved to amend Sec. 9-1-118 (b) (3) to read “Whenever a public nuisance exists

as described in this section, the town manager, *may* (delete shall) send a written notice....” Mr. Safay seconded. The amendment was approved by a vote of 6-0. The amended motion was approved by a vote of 6-0.

**d. First Reading of Proposed Ordinance No. 2009-01 to amend the Municipal Code of the Town of Hilton Head Island by adding Section 17-3-115 to Chapter 3 of Title 17, Establishing a Regulation Restricting the Hours of Sale and Consumption of Alcoholic Beverages at Commercial Establishments in the Town of Hilton Head Island; and providing for severability and an effective date.**

Mr. Heitzke moved to approve. Mr. Williams seconded.

Roy Prescott, owner of Remy’s Bar & Grill, offered his thoughts that Town Council was addressing the recent problems at liquor establishments with the passage of a strong public nuisance ordinance. He wished that they would give the nuisance ordinance a chance to work before passing this early closing law as well.

Mr. Williams stated that he was a great supporter of the Sheriff’s proposal to close bars at 2 AM, but he would be voting in favor of the 3 AM closing.

Mr. Ferguson pointed out that this ordinance was not closing establishments at 3:00 a.m.; it merely prohibited the sale and consumption of alcoholic beverages after 3:00 a.m.

Mr. Heitzke moved to add the word “safety” to the first whereas of the proposed ordinance in order to achieve consistency in the document. Mr. Safay seconded. The amendment was approved by a vote of 6-0.

Mr. Safay said that he was strongly in favor of letting the new public nuisance ordinance be tested over the coming year, along with the 3 AM cut-off, which was a compromise from the Sheriff’s requested 2 AM cut-off. If after some time, the existing problems with unruly patrons have not dissipated, he would be the first one to vote for an earlier, 2 AM prohibition of sale and consumption of alcohol.

Mr. Laughlin commented that he was not pleased about the idea of having to tell businesses what they can and cannot do nor did he like the idea of penalizing responsible business operators because of the actions of a few. He regretted the necessity of passing this proposal but felt if they did not do something, more people were going to get hurt. He, too, said that if it became necessary in the future to vote for a 2 AM cut-off, he would do so.

The amended motion was approved by a vote of 6-0.

**e. Discussion of SAFER grant proposal.**

Mr. Williams explained that there was a presentation by Fire Chief Lucas at the Public Safety Committee pertaining to a SAFER grant from the Department of Homeland Security. The grant was applied for about a year ago and it was for the funding to hire nine entry-level firefighters. It was a five year grant with a sliding scale reimbursement. The Committee (Mr. Williams and Mr. Heitzke) recommended that the Town decline the grant. Mr. Ferguson had to leave the meeting before this presentation and therefore, did not vote. The reason they voted to decline the grant was because the increased staffing was estimated to cost the Town \$465,606 in the first year, not including training or uniform costs. Based on the salary and benefits package, the SAFER grant would pay approximately 75% of the yearly cost in the first year, sliding to 66% in the second year, 40% in the third year and 23% in the fourth year.

The Town would then assume all costs in the fifth year of the grant cycle.

Mr. Laughlin wondered if they accepted the grant and hired the additional personnel, could they then use these new hires to replace staff attrition. Mr. Williams said that it was his understanding of the grant requirements that Town would have to retain the additional staff levels through the sixth year.

Mr. Ferguson asked if the Town needed more firefighters and if they did, how would they be funded.

Mr. Riley said that when it came to public safety, you can never have enough. What Chief Lucas has said was that he wanted Town to be aware of the situation but that if it cannot be afforded, the Town will continue to do the best it can to serve the public safety. As it stands now, about 50% of the Town's budget was public safety related. The State has placed a cap on our ability to raise property taxes and that cap will not enable Town to even cover the costs of the State cut-backs in their annual funding to the Town. Hospitality and accommodations taxes have been used heavily in the past to help pay public safety costs, but those revenues are down in the current economy. Just with the current staffing levels, they were already faced with a shortfall in excess of \$2 million for the upcoming budget year. So, the Town Manager's concern was not whether or not increased firefighter staffing was desirable, but rather this community, under the current circumstances, simply could not afford it even with the grant.

In direct response to Mr. Ferguson's question regarding the level of staffing, Mr. Riley recalled that in the past, when the Town's fire stations were all called into service and more help was needed, they were able to call in back up from nearby communities.

Mr. Safay asked if the Town declined the grant this year, could they re-apply for the grant later on when circumstances warranted it. Mr. Riley said that yes, we could.

Mayor Peebles said that the official reason for declining the grant certainly should be because thanks to the State legislature, the Town cannot come up with the funds to match the grant. Mr. Williams added that he does not think our delegation understood or even cared what they have done to our Town by placing the cap on property tax increases. Steve Riley elaborated that the Town has lost local control over the level of service which we might wish to have because we do not have the legal authority to raise property taxes to fund the service.

Mr. Williams moved to authorize the Town Manager to reject the SAFER grant because of the Town's inability to raise the revenues because of State limitations to match the grant. Mr. Heitzke seconded. The motion passed by a vote of 5-1. Mr. Ferguson was opposed.

## **12) EXECUTIVE SESSION**

Steve Riley said that he needed an executive session for contractual matters pertaining to a draft developer agreement and lease with the Mall and contractual matters relating to land acquisition.

At 5:11 p.m., Mr. Heitzke moved to adjourn to Executive Session for the reasons stated by the Town Manager. Mr. Williams seconded. The motion was approved by a vote of 6-0.

Mayor Pro Tem Ken Heitzke called the meeting back to order at 5:57 p.m. and stated there was no business to take up as a result of executive session. He noted for the record that the Mayor had to leave immediately following executive session.

**13) ADJOURNMENT**

At 5:57 p.m., Mr. Williams moved to adjourn. Mr. Laughlin seconded. The motion was approved by a vote of 5-0.

---

Susan Blake, Secretary

Approved:

---

Thomas D. Peeples, Mayor