

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

**Date:** Tuesday, May 5, 2009

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

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

**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*; Susan Simmons, *Director of Finance*; Scott Liggett, *Director of Public Projects & Facilities*; Tom Fultz, *Director of Administrative Services*; Jill Foster, *Deputy Director of Community Development*; Brian Hulbert, *Town Attorney*; Steven Markiw, *Deputy Finance Director*; Paul Rasch, *Emergency Management Coordinator*; Teri Lewis, *LMO Official*; Randy Nicholson, *Comprehensive Planning Manager*; Jayme Lopko, *Senior Planner*; Shawn Colin, *Senior Planner*; Heather Colin, *Development Review Administrator*; Anne Cyran, *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**
  - a. **Public Service Recognition Week**

Staff members Kenny Barrett, Lavarn Lucas, Charlie Forton and Nan Johnson accepted the proclamation on behalf of all Town employees.
- 6) **APPROVAL OF MINUTES**
  - a. **Regular Town Council Meeting of April 21, 2009**

Mr. Heitzke moved to approve. Mr. Williams seconded. The motion was approved by a vote of 5-0-1. Mr. Safay abstained as he was unable to attend the April 21<sup>st</sup> meeting.
- 7) **REPORT OF THE TOWN MANAGER**
  - a. **Town Manager's Items of Interest**

The Town Manager reported on some items of interest.
  - b. **April 2009 Quarterly Report**

Steve Riley noted that the report was included with the agenda package. He invited the Town Council members to contact him if they had any questions.

**c. All Hazards Public Information Program – Paul Rasch**

Paul Rasch gave a power point presentation explaining the newly developed All Hazards Public Information Program.

**8) REPORTS FROM MEMBERS OF COUNCIL**

**a. General Reports from Council**

No report.

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

The committee was scheduled to conduct a meeting on May 19 but that depended on what takes place in Columbia in the next two weeks.

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

The committee has several meetings scheduled to interview applicants for various boards and commissions. They expected to have recommendations for the Council in time to fill vacancies by June 30<sup>th</sup>.

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

It was reported that the committee reviewed the proposed Shelter Cove Mall developer agreement; the results of which were in today's meeting agenda package. The Chairman would be proposing some modifications to the agreement when they discuss it at today's meeting.

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

At their meeting today, they reviewed the proposed update of the Honey Horn Master Plan and this would be coming forward to the full Council with a recommendation. They also had a discussion regarding a potential increase in the Storm Water Utilities Fees, but no action was taken.

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

The Committee will meet on June 1<sup>st</sup> and hear the first quarter crime statistics report.

**9) APPEARANCE BY CITIZENS**

Jim Vaughn spoke about some issues he had been experiencing with the Town's Code Enforcement personnel regarding signage at his place of business.

Robert Keegan expressed his opposition to a proposal he read about in the newspaper for a pool hall in Southwood Park.

**10) UNFINISHED BUSINESS**

**a. Second Reading of Proposed Ordinance No. 2009-11 to amend Title 16 of the Municipal Code of the Town of Hilton Head Island, South Carolina, the Land Management Ordinance, Chapter 3, Articles I and XI. These amendments**

commonly referred to as Street Naming Amendments as noticed in the Island Packet on January 25, 2009, include changes that provide for amendments to: Street naming and renaming requirements; and providing for severability and an effective date.

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

- b. Second Reading of Proposed Ordinance No. 2009-13 to amend the “Land Use Element,” an element of the “Town of Hilton Head Island Comprehensive Plan;” and providing for severability and an effective date.**

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

- c. Second Reading of Proposed Ordinance No. 2008-34 to amend Title 16, “The Land Management Ordinance,” of the Municipal Code of the Town of Hilton Head Island, South Carolina by amending Section 16-4-102, the Official Zoning Map and the Shipyard Plantation Master Plan with respect to that certain 1.30 acre parcel, located at 10 Shipyard Drive to increase the density assigned to the parcel by 1,000 square feet for administrative offices with associated parking for the Shipyard Plantation Security Operations, the Shipyard Plantation Property Owners’ Association and for visitor pass distribution; and providing for severability and an effective date.**

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

- d. Second Reading of Proposed Ordinance No. 2009-16 authorizing the execution of access easement agreements granting access easements over property owned by the Town of Hilton Head Island, South Carolina in the vicinity of Mathews Drive to J.M.K.H. Properties, LLC, Pineland Associates, LLC and Cahoon Hilton Head, LLC pursuant to the authority of S.C. Code Ann. Sec. 5-7-40 (Supp. 2008), 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. Heitzke moved to approve. Mr. Safay seconded. The motion was approved by a vote of 6-0.

## 11) NEW BUSINESS

- a. First Reading of Proposed Ordinance No. 2009-06 authorizing the execution of a Development Agreement with PVI Shelter Cove Limited Partnership for the redevelopment of the Mall at Shelter Cove pursuant to the authority of S.C. Code Ann. Sec. 5-7-40 (Supp. 2002), 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. Ferguson moved to approve. Mr. Safay seconded.

Mr. Laughlin advised that he had a motion to make some amendments to the development agreement that was in the agenda packet. There were some items that were never completely resolved to everyone’s satisfaction. Those issues dealt with the duration of the agreement and the space in the Mall that was to be made available to the Town. The existing proposed agreement had timelines leading to a three year completion date with an opportunity for the Mall owner to obtain another year extension if necessary to secure financing. The Mall owner

was concerned that this timeframe would actually make it more difficult for him to obtain financing so he requested a longer duration. The second significant issue related to a space to lease to the Town that was unfinished, would be very expensive to make it useful and was not accessible from inside the Mall since it only had an exterior entrance. The amendments were intended to address those issues.

On page 5 of the proposed development agreement there was a change in III. A. to add "*Community Service uses and*" in front of "general Commercial uses..."

On page 9, language changed to reflect the space will be approximately 4,532 square feet and a floor plan attached to indicate this space was the old "Foot Locker" store space. Verbiage was added: The Community Service Space "*will be available for use immediately upon approval of the Rezoning Application and the execution of this Agreement and...*" "*PVI shall deliver the Community Service Space in good condition, "as is" and broom clean.*"

On page 14 J. Development Timing paragraph 2. change "eighteen (18)" months to read "*twenty-two (22).*" And in paragraph 3. change "six (6)" months to "*thirty-six (36)*" and add (months from the) "*effective date, and shall commence construction within sixty (60) days of receipt of all necessary permits and approvals.*"

On page 15, paragraph 4, delete three (3) years and add (within) "*forty-eight (48) months.*" In paragraph 5, add "*reasonably*" to the last sentence: "...if PVI cannot demonstrate substantial progress, as *reasonably* determined by the Town..." Following that sentence, add a new paragraph to read: "*The time periods set forth in Articles J (1-5) above represent the outside limits within which the work described therein must be completed. PVI agrees that it will diligently pursue all necessary permits and approvals required for the construction and site improvement work authorized by this Agreement, and will complete such work sooner if possible.*"

Mr. Laughlin moved that the Development Agreement be amended as detailed above. Mr. Safay seconded.

Assistant Town Manager Curtis Coltrane provided a brief synopsis of the Mall Agreement and also pointed out that these changes, if approved, would require the agreement be returned to the Planning Commission and for required public hearings. He also advised that all of these changes had been reviewed by Attorney Chester Williams on behalf of PVI and he did not think there were any questions related to the changes.

Councilman Williams expressed his feeling that these substantial changes were being handled in a rushed manner and he was not comfortable with it.

Mr. Safay said he thought these amendments would enhance the proposed agreement and "make it a better deal." He pointed out that a local vendor preference provision had already been added which would hopefully bring some work to local businesses.

Mayor Peoples referred back to the page 9 suggested change "as is and broom clean." He felt that "as is" was pretty explicit so if they found, for example, that the HVAC did not work, did that mean the Town had to accept it "as is." The Mayor recommended that money be spent to hire a professional inspector to ensure that the building mechanicals were in proper working order. On page 15, fifth paragraph, the sentence that included "*reasonably*" determined. He wanted to omit the word "*reasonably*." The maker of the motion to amend and seconder agreed to delete the word "*reasonably*." The amendment was approved by a vote of 4-2. Mr.

Williams and Mr. Heitzke were opposed.

Chester Williams, local counsel for the owners of the Mall, advised that Mr. Petrie did not have any problems with the proposed changes. The General Manager of the Mall, Ms. Roni Allbriton, has assured Mr. Williams that the HVAC system was in good working condition. And they did not have any objection to the Town conducting a professional inspection of the mall building.

Ms. Barbara Hall expressed her strong support for allowing the Mall to add density in order to build a cinema complex.

Claude Boulay spoke of his opposition to the proposed rezoning.

The Mayor called for a vote on the amended motion. The amended motion was passed by a vote of 4-2. Mr. Heitzke and Mr. Williams were opposed.

There was then a motion by Mr. Laughlin to amend the proposed lease in order to give the Town the ability to terminate the lease for the Community Space, if desired, upon ninety days' written notice. It was pointed out that, if the Town did elect to terminate, the Mall owner would be able to revert the space for commercial purposes. Mr. Safay seconded. The Mayor asked why they wanted to do this. Mr. Laughlin said that some members of Council wanted such a provision included and that he personally did not care if it was in there or not. Mayor Peebles said that he could not fathom a scenario where they would want to return that square footage to the Mall for commercial use. Furthermore, he could not imagine what kind of situation there would ever be that a not-for-profit entity on Hilton Head Island couldn't use 4600 square feet of space.

Mr. Safay said the idea behind that was simply to have the option available. He didn't think it would realistically happen but one doesn't know what situation could come up over a 20 year period; there could be a new mall owner, new members of Town Council who might need the right to terminate the lease, but it's better to have the option, than not. Mayor Peebles suggested that the wording be very proactive that the Town Council would have to vote to terminate the lease. The amendment to the lease was approved by a vote of 6-0.

**b. First Reading of Proposed Ordinance No. 2009-19 to raise revenue and adopt a budget for the Town of Hilton Head Island, South Carolina, for the fiscal year ending June 30, 2010; 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. Heitzke moved to approve. Mr. Safay seconded. Steve Riley pointed out that this was in fact, First Reading by Title Only and he distributed a revised Ordinance that had the millage amounts included and the budget document. The Town Manager made a power point presentation to Council providing detailed information on the budget proposals. A 0.5 increase in the millage to 19.86 was being proposed. Because this was a reassessment year, they would probably have to come back in August or September to review the millage rate.

Also included was a cover memo which outlined the proposed dates for the FY2010 Budget workshops. The dates were approved by the Mayor.

The First Reading of the Budget by Title Only was approved by a vote of 6-0.

**12) EXECUTIVE SESSION**

Steve Riley said that he needed an executive session for contractual matters pertaining to land acquisition including a request to buy Town-owned land; and a possible acquisition of land; contractual matters regarding an agreement with Hilton Head PSD pertaining to the construction of sewer lines to service Green Shell Park and legal matters pertaining to potential litigation.

At 5:18 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 Peeples called the meeting back to order at 6:15 p.m. and asked if there was any business to take up as a result of executive session.

Mr. Ferguson moved that the Town Council for the Town of Hilton Head Island, South Carolina adopt a Resolution authorizing the execution of an agreement with the Hilton Head Island Public Service District for the installation and maintenance of sewage infrastructure in the vicinity of Squire Pope Road. Mr. Heitzke seconded. The motion was approved by a vote of 6-0.

Mr. Laughlin moved that the Town Council for the Town of Hilton Head Island adopt an Ordinance authorizing the execution of an agreement and deed for the sale of 0.193 acres to Hilton Head Christian Academy. Mr. Heitzke seconded. The motion was approved by a vote of 6-0.

Mr. Laughlin moved that the Town Council for the Town of Hilton Head Island, South Carolina authorize the execution of a contract for the purchase of 4.702 acres on U.S. Highway 278 and Gardner Drive from Hilton Head Christian Academy for Seven Hundred Seventy Five Thousand (\$775,000.00) Dollars. Mr. Heitzke seconded. The motion was approved by a vote of 6-0.

**13)ADJOURNMENT**

At 6:17 p.m., Mr. Heitzke moved to adjourn. Mr. Ferguson seconded. The motion was approved by a vote of 6-0.

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Susan Blake, Secretary

Approved:

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Thomas D. Peeples, Mayor