

THE TOWN OF HILTON HEAD ISLAND
REGULAR TOWN COUNCIL MEETING

Date: Wednesday, November 3, 2010

Time: 4:00 P.M.

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

Present from Town Staff: Greg DeLoach, *Assistant Town Manager*; Charles Cousins, *Director of Community Development*; Scott Liggett, *Director of Public Projects and Facilities*; Lavarn Lucas, *Fire Chief*; Brad Tadlock, *Deputy Fire Chief, Operations*; Ed Boring, *Deputy Fire Chief, Support Services*; Susan Simmons, *Finance Director*; Nancy Gasen, *Director of Human Resources*; Tom Fultz, *Director of Administrative Services*; Julian Walls, *Facilities Manager*; Brian Hulbert, *Staff Attorney*; Jeff Buckalew, *Town Engineer*; Sally Krebs, *Natural Resources Administrator*; Sarah Skigen, *Natural Resources Associate*; Anne Cyran, *Senior Planner*; Cinda Seamon, *Fire and Rescue Public Education Officer*; Connie Pratt, *Code Enforcement Officer*, Rick Arnold, *Code Enforcement Officer*; Alice Derian, *Contract and Services Administrator*; Joe Orsini, *Network Technician*; Vicki Pfannenschmidt, *Administrative Assistant*

Present from Media: Tom Barton, 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. Tom Seibt

Tom Seibt accepted the Commendation.

6) APPROVAL OF MINUTES

a. Regular Town Council Meeting of October 19, 2010

Mr. Heitzke moved to approve. Mr. Williams seconded. Mayor Peeples requested the statement he made in Item 10 a. of the October 19 meeting minutes be deleted as it was incorrect. The motion was approved by a vote of 6-0-1. Mr. Safay abstained because he was not present at the October 19, 2010 meeting.

7) REPORT OF THE TOWN MANAGER

a. Town Manager's Items of Interest

The Town Manager reported on some items of interest.

b. Proposed 2011 Town Council meeting dates

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

8) **REPORTS FROM MEMBERS OF COUNCIL**

a. General Reports from Council

Mr. Ferguson stated he had several concerns and questions about New Business Item 11c and they would take quite a bit of time. He asked for the item to be postponed until all of his questions are answered. Mayor Peebles suggested it would be best to address his concerns when they reach that item on the agenda.

Mayor Peebles said he would like to take the opportunity to compliment the local candidates in the recent election. He felt the community experienced issue oriented campaigns and all races for office were well run.

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

Mr. Williams reported he attended the recent meeting of LCOG and received a pamphlet concerning information on the four-county region. He said it was distributed to all members of Council and encouraged all to review it as it was very interesting. He also reported LCOG voted on a resolution asking USCB not change their name due to the cost. Included in the resolution it was recommended if USCB does change their name it should be changed to Lowcountry which ties in to the region. He stated this may be an item for discussion at the next Intergovernmental Committee meeting.

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

Mr. Laughlin stated there would be a meeting in the near future to interview applicants for the vacant seat on the Design Review Board.

d. Report of the Planning and Development Standards Committee – Bill Ferguson, Chairman

Mr. Ferguson reported the Committee met on October 27 and as a result recommended Town Council vote in favor of Proposed Ordinance 2010-15 concerning Property Maintenance Code which will be on the November 17, 2010 Town Council agenda.

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

No report.

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

Mr. Harkins reported the Committee met on Monday, November 1 to review the 3rd Quarter Crime Stats, discussed needs of the Sheriff's office, and safety in various areas of the Island. As a result, Mr. Tom Fultz will be preparing a list of items of concern for Town Manager review.

9) **APPEARANCE BY CITIZENS**

Mary Amonitti spoke on the recent election.

10) **UNFINISHED BUSINESS**

a. None.

11) **NEW BUSINESS**

a. Consideration of a Resolution of the Town Council of the Town of Hilton Head Island, South Carolina, endorsing the creation of a Regional Economic Development Plan by

the Lowcountry Economic Network and Alliance.

Mr. Heitzke moved to approve. Mr. Laughlin seconded. The motion was approved by a vote of 7-0.

- b. First Reading of Proposed Ordinance No. 2010-27 providing for the issuance and sale of not exceeding \$25,000,000 in aggregate principal amount of the Town of Hilton Head Island, South Carolina, Stormwater System Revenue Bonds, in one or more series, for the purpose of financing certain capital improvements and refinancing all or a portion of the \$17,000,000 original principal amount, Town of Hilton Head Island, South Carolina, Stormwater System Revenue Bonds, Series 2002, and other matters related thereto; and providing for severability and an effective date.**

Mr. Heitzke moved for approval. Mr. Harkins seconded. Susan Simmons explained the above ordinance would combine two items; an advance refunding of existing bonds and issuance as new bonds. She further explained interest rates are low but the bond cost is fairly high because of the complicated structure. With that in mind, staff is recommending more funds be borrowed which would last for several years to cover the stormwater costs.

Mr. Williams said he has been struggling with the Stormwater Utility Fee. He stated it is growing rapidly as the millage rate is held steady and we continue to obligate the Town for a period of time without considering long term cash flow and needs.

Mr. Harkins asked if there had ever been an engineering analysis of the Town's exposure to capital outlays of the future. Scott Liggett said there has not been an analysis to that degree. Mr. Liggett explained there is aged infrastructure and problems have arisen that need dealt with on a regular basis. Mr. Harkins spoke of concern for taking on debt without knowing the financial picture. He suggested staff conduct an engineering analysis to determine needs.

Mayor Peebles stated he didn't want the public to think the Town took over the planned unit developments stormwater infrastructure without knowledge of the costs. He explained it is a service that can and should be provided to gated communities that pay taxes. Mayor Peebles stated 70% of the community lives in gated communities it was a fairness issue and they should receive a return for their stormwater utility fee. Mr. Liggett explained that with the bond money and fees coming, in staff will pursue a study to inventory and model long-term needs. The motion was approved 6-1-0. Mr. Williams was opposed.

- c. Consideration of a recommendation that the Town Council of the Town of Hilton Head Island direct staff to initiate a franchise agreement with Republic Services for island-wide waste and recycling collection and initiate a contract with Sonoco Recycling for processing of recyclables from single family residences and cart-based multi-family properties.**

Mr. Safay moved to approve. Mr. Williams seconded. Sarah Skigen introduced Jim Frey from Resources Recycling System. Mr. Frey gave a presentation concerning the process, issues and details of the agreement and contract. Ms. Skigen and Mr. Frey answered questions from Council concerning the contract and services which will be offered to citizens. A number of residents, property owners, regime managers and property association representatives spoke in opposition concerning various segments of the entire program.

Mr. Harkins stated his constituents feel the Town should recycle but should set standards for haulers and require all of them to recycle and the customer should have the right to pick their own hauler. He added this would limit the role of government and permit free competition.

The consequence of free competition is that the good rises to the top and over time there would be one or two haulers for the community. He suggested thinking about limiting the role of government in this instance.

Mr. Ferguson stated in order for him to make a logical and learned decision he would need to combine 11c, 11d and 11e and not vote for them separately. Mayor Peoples explained if Council voted against item 11c there would be no need to move on to 11d or 11e. Mr. Ferguson stated his opposition to having one hauler for the Island and stated he could not vote in favor of the item. He proceeded to ask questions and receive answers concerning the process.

Mr. Heitzke stated it was his understanding that participation is not a requirement but a choice. Mr. Hulbert confirmed it was by choice and residents that choose to participate must use the designated hauler and residents that did not choose to participate would have to take their waste and recyclables to the collection site.

Mr. Laughlin stated he does have concern for the affect on the commercial marketplace. He said he believes this will raise recycling participation rates and will substantially reduce costs to most customers and that those benefits outweigh his concerns for the marketplace. Mr. Laughlin stated his concerns on the RecycleBank noting he is not convinced earning points will have an impact on recycling rates. He added that the RecycleBank actually increases costs. He also mentioned that it might be a good thing to not require participation of condominium regimes.

Mr. Safay informed Council that the Committee evaluated Mr. Harkins' recommendation and the individual haulers informed them the cost would increase by as much as 50%. He stated that after full review it came down to the recommendation before Council today, Mr. Harkins' recommendation, or to do nothing. The Committee felt this was the best proposal. Mayor Peoples stated the agreement should be modified to make sure it is clear there will be no trash picked up on the edge of the road. He stated all trash receptacles are to be in a service yard or up next to the house. He also explained there will be built in mechanisms so the Town can enforce compliance on the part of the franchisee. He confirmed this will add costs to the Town. Mayor Peoples stated the monies received from the franchise fee, free recycling for Town properties and money for the sale of the recyclables will help defray costs to the Town to have such a program.

After lengthy discussion, Mr. Laughlin moved that the RecycleBank, Inc. program be unbundled from the contract with the hauler and considered separately. Mr. Safay seconded. The motion for amendment was approved 5-2. Mr. Harkins and Mr. Ferguson were opposed. Additionally, Mr. Laughlin made a motion that in cases where a horizontal property regime contracts with a hauler as opposed to individual owners, those regimes are allowed to continue to contract with haulers of their choice. The motion for amendment died for lack of a second.

The amended motion was approved 5-2. Mr. Ferguson and Mr. Harkins were opposed.

d. First Reading of Proposed Ordinance No. 2010-24 granting Republic Services, Inc. a non-exclusive franchise for the purpose of conducting waste hauling and recycling collection for single family residential and certain multi-family residential units within the Town of Hilton Head Island; and providing for severability and an effective date.

Mr. Williams moved to approve. Mr. Safay seconded. Sarah Skigen reviewed the materials included with the franchise agreement noting Exhibit A and the pricing schedule will be revised for the second reading as a result of the amended motion to remove RecycleBank, Inc. from the

agreement. Mr. Heitzke moved to amend to strike any references to RecycleBank, Inc. from the franchise agreement and all the exhibits. Mr. Safay seconded. The amended motion was approved 6-1. Mr. Harkins was opposed.

Comments and suggestions were heard from members of the public. Mr. Hulbert explained the definition of non-exclusive franchise and based on cost staff has recommended and Council has chosen to grant one franchise at this time but can grant additional franchises in the future. Mr. Ferguson asked about the “opt out” provision. Mr. Hulbert suggested it be viewed as an “opt in” provision as opposed to opting out. Individual residents are not required to participate and can take their waste and recyclables to a collection center. Mr. Laughlin asked if staff could between now and second reading consider the potential ambiguities that Mr. Chet Williams pointed out in the language of the agreement. Mayor Peeples agreed and suggested they be dealt with tonight. He also commented on the concern of the contract price increasing if the company would unionize and asked the staff attorney for clarification. Mr. Hulbert confirmed the contract pricing would stay the same for the length of the contract which is five years.

The Mayor asked Mr. Riley to review a number of items to change in the agreement. Mr. Riley stated the following items need amended:

Section III, consistency in the use of “scope of work” or “scope of services”;

Page 2, reference to the different descriptions of waste. Sarah Skigen stated this comes from Federal Solid Waste Guidelines and she will ask for clarification on all of them. Mr. Riley stated the disposal facility language depends on what the type of waste is, where the facility is, and if the State or the County directed us to a different facility due to closing or if the facility is temporarily unavailable.

He suggested anywhere there is “contractor” referenced, it should be changed to “franchisee”, “contractor respondent” should also be “franchisee” and wherever it says “contractor administrator” should read “franchise administrator”.

Mr. Heitzke moved to authorize the above changes. Mr. Williams seconded. The motion was approved 5-2. Mr. Ferguson and Mr. Harkins were opposed.

Mr. Hulbert offered to point out page by page the sections that needed to be addressed to eliminate references to RecycleBank. He pointed out the following proposed changes:

Exhibit A:

Scope of Work and Service Performance Specifications.

Section A-1.5, delete: *Paragraphs 5.6 and 5.7;*

Section A-1.8, Paragraph 8.12 – delete: *and implement recycling Participation incentive rewards system (RecycleBank or equivalent as determined by the Town);*

Section 3.7 delete: *both, and the recycling participation system service provider;*

Section A-2.4, Section 4.3 delete: *that will become the foundation for tracking participating in the recycling program;* and *both, and the recycling participation incentive system service provider;*

Section A-2.5: delete in title the words: *Incentive System*

Section 5.1 delete: *the recycling participation data from each service unit that has set out recyclables at the time of collection. These reports must be available online and via email so*

they can be transmitted to the rewards Provider to manage the rewards program.

Section 5.2 delete: *for the recycling participation incentive system;*

Section 5.4 delete: *incentive system provider, etc.;*

Section 5.5 delete: *and recycling participation incentive systems;*

Section A-2.6: Recycling Participation Incentive Accounts and Recycling Rewards Program.

Rename as: *Recycling Education Program*

Delete: *Paragraphs 6.1 through 6.6*

Modify Fees in Exhibit B To:

Single Family Based Price Year 1 change amount from: *\$62.40 to \$59.85; all other calculations to be adjusted with a decrease of \$2.55 a quarter.*

Multi Family Base Price change amount from: *\$44.25 to \$41.70; all other calculations to be adjusted with a decrease of \$2.55 a quarter.*

Exhibit F:

Delete on title page: *RECYCLING INCENTIVE PROGRAM;*

Delete: *pages 1, 2 and 3 that deal with the RecycleBank.*

Mr. Heizke moved to make the above amendments. Mr. Williams seconded. The motion was approved 5-2. Mr. Ferguson and Mr. Harkins were opposed. The amended motion was approved 5-2. Mr. Ferguson and Mr. Harkins were opposed.

e. First Reading of Proposed Ordinance No. 2010-25 to amend Title 9 (Health and Sanitation) of the Municipal Code of the Town of Hilton Head Island, South Carolina by amending Chapter 6 (Recycling) Section 9-6-10, Section 9-6-20, and Section 9-6-30; and providing for severability and an effective date.

Mr. Heitzke moved to approve. Mr. William seconded. Brian Hulbert gave an overview of the proposed ordinance. He explained with this amendment residents of single family homes and multi-family units who desire commercial waste collection must use the commercial hauler and at this point there will be only one franchised collector. Public comment followed. Numerous members of the audience spoke of concerns with the proposed ordinance. After questions concerning haulers offering recycling to commercial establishments, Sarah Skigen explained that in Section 9-6-40 sub-section A, because they were addressing residential as the primary they struck commercial establishment and by doing so they inadvertently removed the requirement for waste haulers to offer recycling service to commercial establishments. Mayor Peoples asked Mr. Riley for a recap of the needed changes. Mr. Riley stated the following changes need addressed:

In the Definition Section 9-6-10 amend the definition of single stream to change the section reference from 9-6-30 to 9-6-50;

In Section 9-6-40 Solid waste and recycling collection service stating waste haulers shall offer a reasonable voluntary waste and recycling service to all cart based single family and multifamily residential dwelling which has the crossed out words and commercial establishments, the words commercial establishments need to be included as a separate sentence following multi family residential dwellings;

Also in Section 9-6-60 sub section (e) on page 5 should state the Town through the franchisee should provide a recycling receptacle.

Mr. Heitzke moved to amend the motion. Mr. Williams seconded. The motion was approved by a vote of 5-2. Mr. Ferguson and Mr. Harkins were opposed.

The amended motion was approved by a vote of 5-2. Mr. Ferguson and Mr. Harkins were opposed.

12) EXECUTIVE SESSION

Mr. Riley said that he needed an executive session for contractual matters pertaining to land acquisition; legal advice pertaining to proposed condemnation of properties for the Dunnagan's Alley roundabout project; and legal advice relating to pending litigation.

At 7:18 p.m., Mr. Heitzke moved to go into Executive Session for the reasons stated by the Town Manager. Mr. Williams seconded. The motion was approved by a vote of 7-0.

Mayor Peeples called the meeting back to order at 7:42 p.m. and asked if there was any business to take up as a result of executive session. Mr. Safay was not present as he had to leave prior to the executive session.

Mr. Williams moved that the Town Council for the Town of Hilton Head Island adopt a resolution authorizing the commencement of condemnation proceedings for the purpose of acquiring right of way for the Dunnagan's Alley/Arrow Road roundabout project. Mr. Heitzke seconded. The motion was approved by a vote of 6-0.

13) ADJOURNMENT

At 7:43 p.m., Mr. Heitzke moved to adjourn. Mr. Williams seconded. The motion was approved by a vote of 6-0.

Vicki Pfannenschmidt, Secretary

Approved:

Thomas D. Peeples, Mayor