

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

**Date:** Tuesday, August 3, 2010

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

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

**Present from Town Staff:** Stephen G. Riley, *Town Manager*; Curtis L. Coltrane, *Assistant Town Manager*; Charles Cousins, *Director of Community Development*; Scott Liggett, *Public Projects & Facilities Director*; Susan Simmons, *Director of Finance*; Jill Foster, *Deputy Director of Community Development*; Ed Boring, *Deputy Fire Chief*; Teri Lewis, *LMO Official*; Nancy Gasen, *Human Resources Director*; Tom Fultz, *Director of Administrative Services*; Steven Markiw, *Deputy Finance Director*; Shawn Colin, *Comprehensive Planning Manager*; Marcy Benson, *Senior Grants Administrator*; Mike Roan, *Urban Design Administrator*; Heather Colin, *Development Review Administrator*; Bob Klein, *Building Official*; Nicole Dixon, *Planner*; Connie Pratt, *Code Enforcement Officer*; Brian Hulbert, *Staff Attorney*; Susan Blake, *Executive Assistant*

**Present from Media:** Tom Barton, *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. 25<sup>th</sup> Anniversary of the Hilton Head Island-Bluffton Leadership Program**

Barbara Conway, Chairman of the Board of Regents, accepted the proclamation.

**6) APPROVAL OF MINUTES**

**a. Regular Town Council meeting of July 6, 2010**

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

**b. Special Joint Meeting of the Town Council and Beaufort County Council of July 12, 2010**

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

**7) REPORT OF THE TOWN MANAGER**

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

The Town Manager reported on the items of interest.

**b. Semi-annual report of the Board of Zoning Appeals – Roger DeCaigny, Chairman**

Mr. DeCaigny provided Town Council with an update on the Board of Zoning Appeals activities for the first half of 2010.

**c. August 2010 Policy Agenda, Management Targets and CIP Updates**

Mr. Riley noted the Updates were attached to the agenda package and invited council members to contact him or staff if they had any questions.

**8) REPORTS FROM MEMBERS OF COUNCIL**

**a. General Reports from Council**

Mr. Williams thanked staff for cleaning up the stop signs on Lagoon Road. He also spoke about the future of all-electric cars and the need for permitting charging stations at the owner's home. He would like to see a review of the permitting process so that this type of request would be responded to very quickly. Mr. Williams also advocated adding volt charging stations at the beach parks for electric cars in the future.

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

No report.

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

The committee would be making a recommendation to fill a vacancy later in the meeting.

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

The Committee heard a staff presentation regarding LMO amendments for separation of auto sales establishments and also whether they should be located on a major or minor roadway. These would be coming forward with a recommendation.

The next item they reviewed was the Coligny area plan. There were several suggestions and comments made. The Committee was recommending to Town Council that they negotiate with SCDOT to take over pertinent roads in the area that would facilitate a walking district and that Coligny Circle be re-designed for pedestrian use.

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

The Public Facilities Committee had a very lengthy meeting at which they reviewed a request from the Hilton Head PSD for an easement for a lift station on the north end; the Public Art Program identified three potential locations for public art; they heard a request to create a Cancer Survivors Park at the old Gullah Flea Market location; and a detailed proposal for the Mitchelville Preservation Project that included a request to lease Fish Haul Creek Park from the town for a nominal fee. These would all be coming forward with recommendations.

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

At their last meeting, the Sheriff's Office provided the 2010 Second Quarter crime statistics and a comparison with the same period in 2009.

**9) APPEARANCE BY CITIZENS**

None.

## 10) UNFINISHED BUSINESS

- a. **Second Reading of Proposed Ordinance No. 2010-13 to amend Chapter 1 (General Provisions) of Title 4 (Finance and Taxation) of the Municipal Code of the Town of Hilton Head Island, South Carolina by amending Section 4-1-30 Audit Required; and providing for severability and an effective date.**

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

- b. **Second Reading of Proposed Ordinance No. 2010-17 authorizing the granting of a temporary access easement to Rufus Boyd Laughlin across real property owned by the Town of Hilton Head Island, South Carolina located within the heirs of Alex Patterson subdivision on Marshland Road for the purposes of installing and maintaining a driveway pursuant to the authority of S.C. Code Ann. Sec. 5-7-40 (Supp. 2009), and Sec. 207029, 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. Williams seconded. The motion was approved by a vote of 6-1. Mr. Ferguson was opposed.

## 11) NEW BUSINESS

- a. **Consideration of a recommendation that the Town Council for the Town of Hilton Head Island provide direction to staff concerning a recent request from American Tower to place telecommunication towers on two Town-owned properties. Further direction should be provided relating to the Council's desire to improve wireless communication within the Town.**

Mr. Heitzke moved to approve. Mr. Williams seconded. Mr. Jim Vaughn advocated for a mapping survey to be done to determine the need for the towers. Jay Sanders, who represented American Tower, said that once they had direction from Town for the locations of the towers, they would be able to provide a mapping survey showing the lack of coverage.

Mr. William asked for confirmation that the tower would be available for use by the other cell phone companies on the Island. Mr. Sanders said they were designed for at least four total carriers. Mr. Williams asked if the Town would be receiving revenue from the leasing of the towers and Mr. Sanders said that was correct.

The motion was approved by a vote of 7-0.

- b. **Consideration of a recommendation that the Town Council for the Town of Hilton Head Island allocate funds in the fiscal year 2011 capital improvement budget to clean up the proposed sailing and rowing site to include the demolition of the existing pier, direct staff to apply for a DHEC/OCRM dock permit and designate funding in the 2012 capital improvement budget for site design and construction.**

Mr. Heitzke moved to approve. Mr. Safay seconded. Mr. Williams wanted to know how much money was being allocated in the 2011 CIP for the demolition and permitting. Steve Riley said it was approximately \$62,000. Mayor Peeples asked if the maker and seconder of the motion would like to add reference to an approximate cost of \$62,000.00. Mr. Heitke and Mr. Safay concurred. The motion was approved by a vote of 7-0.

- c. **Consideration of a recommendation that the Town Council for the Town of Hilton Head Island provide direction to staff relating to drafting a community appearance standards ordinance.**

Mr. Heitzke moved for approval and Mr. Williams seconded. The Mayor asked for a staff presentation. Jill Foster, Deputy Director of the Community Development Department noted the memo recommended that staff work on providing proposed amendments to the Municipal Code to add a community appearance standards code. She explained that our current code can enforce Town regulations if the building is unsafe and uninhabited. But not against buildings that are simply in disrepair, while still inhabited and deemed structurally safe. Jill Foster was seeking direction from the Town Council exactly what type of regulations they wanted staff to pursue. Her first impression was that they wanted staff to only regulate commercial, non-residential and multi-family complexes; exempting single family and manufactured homes. This was confirmed. On page four of the staff memo was what she had presented to the Planning and Development Standards Committee as those parts of the International Property Maintenance Code, Chapter Three that she believed Council wanted regulated. Ms. Foster sought Council's input as to whether there was anything in the list that they would like to have removed or perhaps, added that was not there. The P&DS requested that the appearance codes be regulated from an aesthetic perspective only. Mayor Peebles cautioned that buildings with moldy exterior were not an issue he wished to target for regulation. Jill Foster asked about unpainted buildings or ones desperately in need of a new coat of paint and the Mayor said he personally did not want to go after those either. Mayor Peebles referred her to pictures that showed sinkholes in the parking lot, siding falling off buildings – these were things beyond normal disrepair that should have been taken care of without having to be ordered to do so. Mr. Safay thought there was room for review and if the problem was excessive, then perhaps the Town should be able to warn and ultimately, if necessary, cite a building owner.

Mr. Harkins observed that it was a sign of the economic conditions at this time that many of the building owners found themselves in bad shape. He thought the direction Mr. Safay was proposing relative to a problem that was *excessive*, was the key word.

Jill Foster said that if Council agreed with the proposals, she planned to present proposed ordinance amendments to the Planning & Development Standards Committee at either their August or September meeting.

No vote was needed because all Council did was give direction to staff on how to proceed with possible amendments to the LMO regarding an appearance standards code.

**d. Consideration of a Resolution of the Town Council for the Town of Hilton Head Island to grant up to One Million Dollars to The Heritage Classic Foundation in order to assist the Foundation in meeting its obligations to the PGA to secure the Heritage Golf Tournament for 2011.**

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

Bob Keegan was not in favor of this proposal. He thought the hospitality businesses were the largest beneficiaries of the Tournament and so it seemed to him they should shoulder the shortfall rather than the taxpayers.

Mike Stefanik spoke of some corporations he had contacted as potential sponsors. Mr. Stefanik was also in contact with the Heritage Classic Foundation to share his information.

Mike Lawrence talked about the economic impact of the golf tournament and the difficulty the Island would have if it had to recover from a loss of this tournament.

Stu Rodman informed Town Council that as a resident, he strongly supported the grant. He also said that as a member of the Finance Committee for the Beaufort County Council, they would be reviewing a similar proposal at their next meeting.

The motion was approved by a vote of 7-0.

**e. Consideration of a recommendation that the Town's stormwater utility fee be increased to \$108.70 and that Council authorize the Mayor to send a letter to County Council Chairman Weston Newton.**

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

**f. Consideration of a Proposed Order from the Revocation Hearing held in Town Council Chambers on July 6, 2010, revoking the business license of Club Paradise d/b/a Prana pursuant to Section 10-1-150 of the Municipal Code of the Town of Hilton Head Island.**

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

Michael Mogil introduced himself as an attorney asked to appear before the council by Jay Stever, who is the agent for Island Cabaret. Mr. Mogil said that Mr. Stever objected to the revocation of the business license of Club Paradise d/b/a Prana on the grounds that he was not represented at the prior hearing – there was some confusion about the hearing notice from June 28, 2010 and whether or not Mr. Stever received it. Further Mr. Stever was under the impression that AOE, LLC was hiring an attorney, but that attorney never appeared at the July 6, 2010 Town Council meeting. Mr. Mogil noted that criminal citations that were issued by the Beaufort County Sheriff's Office were not issued to Island Cabaret or Club Paradise, but to the individuals who managed the night club. Those citations were contested in municipal court and have never been resolved. As far as Mr. Mogil understood, there has never been a conclusive finding that Prana (or its other names) actually violated the Town's noise or nuisance ordinances. Finally, it was Mr. Stever's concern that the special exception that has been recognized by the Town pursuant to Judge Kemmerlin's Order from 2000 not be terminated by a license revocation by the Town. Mr. Mogil advised that it was the request of Mr. Stever that the Revocation action be stayed so the Town Council can consider his facts on the record about whether there has actually been a violation sufficient to revoke the license and whether he had proper notice or, Mr. Stever would propose he would voluntarily suspend the license that exists now rather than require Town to revoke it. And then apply to renew the license once he has a different management group in there.

Mr. Williams asked if the Club was currently operating and Mr. Mogil confirmed that it has been closed at the present time.

Brian Hulbert, Staff Attorney, reminded the Town Council that Mr. Jay Stever was personally served by Steven Markiw, Deputy Finance Director and Bruce Seeley, Inspections, Collections and Audit Manager. Mr. Markiw personally told Mr. Stever that they were going after Club Paradise d/b/a Prana at the time of service. This was an administrative hearing, not a judicial hearing so whether or not someone has been convicted did not bear upon any administrative action the Town Council opted to take. Brian Hulbert advised that, as regarded Mr. Stever's request to voluntarily suspend his license instead of Town revoking it, that would be the same action regardless – they would not be doing business. Town Council can revoke it, as they have already voted to do, and should Mr. Stever find a suitable alternative to replace Prana's business, he could do what he would have to do anyway; that is, apply for a business license once he was able to show the town that he has taken appropriate steps to ensure there won't be the same violations in the future. This was, in Mr. Hulbert's opinion, the better course of action.

Steve Riley suggested that the Town Council go into Executive Session for a legal briefing on this Club Prana matter before taking a vote. At 5:20 p.m., Mr. Heitzke moved to adjourn to Executive Session for the reason stated by the Town Manager. Mr. Safay seconded. The motion was approved by a vote of 7-0.

At 5:34 p.m., the Mayor called the meeting back to order. Mr. Heitzke moved that the Town Council for the Town of Hilton Head Island adopt an Order revoking Business License Number 3738 issued to Club Paradise d/b/a Prana as prepared by legal counsel. Mr. Williams seconded. The Mayor said he would like to clarify that what was not in front of the Town Council was anything to do with the special exception that was granted to this business nor was it affected by action taken by Town Council.

The motion was approved by a vote of 7-0.

**12) EXECUTIVE SESSION**

Mr. Riley said that he needed an executive session for contractual matters regarding land acquisition; legal advice pertaining to pending and potential litigation; and personnel matters relating to appointments to boards and commissions.

At 5:36 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.

The Mayor called the meeting back to order at 7:20 p.m. and asked if there was any business to take up as a result of Executive Session. He also noted for the record that Mr. Williams was present during executive session, but then had to leave.

Mr. Laughlin moved to appoint Jason Presley to the Accommodations Tax Advisory Committee. Mr. Ferguson seconded. The motion was approved by a vote of 6-0.

**13) ADJOURNMENT**

At 7:21 p.m., Mr. Heitzke moved to adjourn. Mr. Safay 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