



The Town of Hilton Head Island Regular Town Council Meeting

March 18, 2014

4:00 P.M.

AGENDA

**As a Courtesy to Others Please Turn Off/Silence All Mobile Devices During
the Town Council Meeting**

- 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. Parkinson's Awareness Month
- 6) Approval of Minutes**
 - a. Town Council Meeting – March 4, 2014
- 7) Report of the Town Manager**
 - a. Hilton Head Island Airport Update – Jon Rembold, Airports Director
 - b. Town Manager's Items of Interest
 - c. February, 2014 Policy Agenda, Management Targets and CIP Updates
- 8) Reports from Members of Council**
 - a. General Reports from Council
 - b. Report of the Intergovernmental Relations Committee – George Williams, Chairman
 - c. Report of the Personnel Committee – Lee Edwards, Chairman
 - d. Report of the Planning & Development Standards Committee – John McCann, Chairman
 - e. Report of the Public Facilities Committee – Kim Likins, Chairman
 - f. Report of the Public Safety Committee – Marc Grant, Chairman
 - g. Report of the LMO Rewrite Committee – Kim Likins, Ex-Officio Member
- 9) Appearance by Citizens**

10) Unfinished Business

a. Second Reading of Proposed Ordinance 2014-04

Second Reading of Proposed Ordinance 2014-04 to repeal Chapter 7 of Title 9 of the Municipal Code of the Town of Hilton Head Island, South Carolina and to enact a new Chapter 7 of Title 9, Outdoor Burning; and providing for severability and an effective date.

b. Second Reading of Proposed Ordinance 2014-06

Second Reading of Proposed Ordinance 2014-06 authorizing the execution of an Easement Agreement granting and easement by the Town of Hilton Head Island to Synovus Bank for the construction, repair, maintenance, and use of a boardwalk located in the Singleton Beach Area on Hilton Head Island, South Carolina, pursuant to the authority of S.C. Code Ann. Sec. 5-7-40 (Supp. 2011), and Sec. 2-7-20, *Code of the Town of Hilton Head Island, South Carolina*, (1983); and providing for severability and an effective date.

11) New Business

a. Consideration of a Recommendation – Sale of Property

Consideration of a Recommendation that Town Council authorize the Town Manager to work with Beaufort County to negotiate a contract for the sale of approximately 0.075 acres of jointly held property to neighboring property owner, Mr. Andre White, to rectify encroachment issues that were not identified during the County's title research of the property prior to the County and Town closing on the sale.

b. Consideration of a Recommendation – Capital Project Sales Tax Commission

Consideration of a Recommendation of an appointment to the Beaufort County Capital Project Sales Tax Commission.

12) Executive Session

a. Land Acquisition

b. Legal Matters

c. Contractual Matters

d. Personnel Matters – Appointment to the Capital Projects Sales Tax Commission

13) Adjournment

Proclamation

BY

THE TOWN OF HILTON HEAD ISLAND

***WHEREAS,** Parkinson's is the second most common neurodegenerative disease in the United States, second only to Alzheimer's; and*

***WHEREAS,** even though there is inadequate comprehensive data on the incidence and prevalence of Parkinson's disease, as of 2014, it is estimated that the disease affects over 1,000,000 people in the United States; and*

***WHEREAS,** although research suggests the cause of Parkinson's disease is a combination of genetic and environmental factors, the exact cause and progression of the disease is still unknown and there is no objective test for Parkinson's disease and the rate of misdiagnosis can be high; and*

***WHEREAS,** symptoms of Parkinson's disease vary from person to person and include tremor, slowness, difficulty with balance, swallowing, chewing, speaking, rigidity, cognitive problems, dementia, mood disorders, such as depression and anxiety, constipation, skin problems, and sleep disruption; and*

***WHEREAS,** there is no cure, therapy, or drug to slow or halt the progression of Parkinson's disease; and*

***WHEREAS,** increased education and research are needed to help find more effective treatments with fewer side effects and, ultimately, an effective treatment or cure for Parkinson's disease.*

NOW, THEREFORE, I, Drew A. Laughlin, Mayor of the Town of Hilton Head Island, South Carolina do hereby proclaim the month of April, 2014 as

PARKINSON'S AWARENESS MONTH

in Hilton Head Island, South Carolina.

IN TESTIMONY WHEREOF,** I have hereunto set my hand and caused this seal of the **Town of Hilton Head Island** to be affixed this **18th day of March, in the Year of our Lord, two thousand and fourteen.

Drew A. Laughlin, Mayor

Attest:

Victoria L. Pfannenschmidt, Town Clerk

THE TOWN OF HILTON HEAD ISLAND

REGULAR TOWN COUNCIL MEETING

Date: Tuesday, March 4, 2014

Time: 4:00 P.M.

Present from Town Council: Drew A. Laughlin, *Mayor*; Bill Harkins, *Mayor Pro Tem*; George Williams, Kim Likins, Lee Edwards, Marc Grant, John McCann, *Council Members*

Present from Town Staff: Steve Riley, *Town Manager*; Greg DeLoach, *Assistant Town Manager*; Charles Cousins, *Director of Community Development*; Lavarn Lucas, *Fire Chief*; Scott Liggett, *Director of Public Projects and Facilities/Chief Engineer*; Susan Simmons, *Director of Finance*; Brad Tadlock, *Deputy Fire Chief of Operations*; Julian Walls, *Facilities Manager*; Brian Hulbert, *Staff Attorney*; Shawn Colin, *Deputy Director of Community Development*; Jayme Lopko, *Senior Planner*; Joheida Fister, *Fire Marshal*; Melissa Cope, *Systems Analyst*; Vicki Pfannenschmidt, *Executive Assistant*

Present from Media: Dan Burley, Island Packet

1) CALL TO ORDER

Mayor Laughlin called the meeting to order at 4:00 p.m.

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. Disabilities Awareness Month

Nancy Pinkerton, Member of the Beaufort County Disabilities and Special Needs Board, was present to accept the Proclamation.

b. Girl Scout Week

Donna Lee, Communications Manager of Girl Scouts of Eastern Carolina, Nancy Borghesi, Board Member, and several local Girl Scouts and Brownies were present to accept the Proclamation and presented Mayor Laughlin with his favorite cookies.

6) Approval of Minutes

a. Town Council Meeting – February 18, 2014

Mr. Harkins moved to approve. Mr. McCann seconded. The minutes of the February 18, 2014 Town Council meeting were approved by a vote of 7-0.

7) Report of the Town Manager

a. Town Manager's Items of Interest

Mr. Riley reported on some items of interest. He made reference to a letter received from the Beaufort County Council Chair concerning the creation of a Capital Projects Sales Tax Commission and that Town Council was asked to appoint one member within 30 days. After discussion, it was the consensus of Council to participate and the Town Manager was directed to create a short list of names to be considered for the appointment. It was also suggested that if any member of Council had suggestions for the appointment they should submit the name or names to the Town Manager and he will share them with Council. Mayor Laughlin noted this would be an action item for the March 18 Town Council Agenda with review and discussion first taking place in Executive Session.

b. Ocean Point Beach Renourishment Project Update - Scott Liggett

Mr. Liggett updated Town Council on the project in detail noting the bids had come in over budget. He explained there was June 30 deadline for completion of the project and of the need to move forward. He explained in order to do so a budget amendment would be needed of no more than \$200,000 but he would not know the exact amount until negotiations concerning the bids were complete. Mr. McCann moved to authorize the Town Manager to proceed with awarding the bid to get on with the construction of the beach renourishment project and to bring back to Town Council a budget amendment for up to an additional \$200,000 to cover the expected cost overruns associated with this project. Mr. Williams seconded. Mr. Edwards requested further information concerning the project and the bids. Mr. Liggett responded noting he did not want to jeopardize the negotiations by discussing the specifics in open session. Mr. Riley suggested the motion be tabled so Council could discuss it during Executive Session. Members of Council were in agreement to hold the motion and take it up after Executive Session.

8) Reports from Members of Council

a. General Reports from Council

Mayor Laughlin stated he was contacted concerning the progress of the LMO Rewrite project. He stated the Committee has implemented a process which will help expedite the project. Mayor Laughlin commented on the existing RM4 and related areas, including the Ward 1 Master Plan, noting there is a need for a comprehensive review of all of the areas.

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

No report.

c. Report of the Personnel Committee – Lee Edwards, Chairman

No report.

d. Report of the Planning & Development Standards Committee – John McCann, Chairman

No report.

e. Report of the Public Facilities Committee – Kim Likins, Chairman

Mrs. Likins stated the Committee met earlier in the day and approved to move forward a recommendation to Town Council to authorize the Town Manager to work with Beaufort County on the sale of a small portion of land that will rectify an encroachment issue.

f. Report of the Public Safety Committee – Marc Grant, Chairman

Mr. Grant stated the Committee met on March 3 to review the Fire and Rescue Update to the 2013 Strategic Plan and Fire and Rescue Annual Report.

g. Report of the LMO Rewrite Committee – Kim Likins, Ex-Officio Member

Ms. Likins noted the Committee would be meeting on Thursday, March 6 at 8:30 a.m.

9) Appearance by Citizens

None.

10) Unfinished Business

None.

11) New Business

a. First Reading of Proposed Ordinance 2014-04

First Reading of Proposed Ordinance 2014-04 to repeal Chapter 7 of Title 9 of the Municipal Code of the Town of Hilton Head Island, South Carolina and to enact a new Chapter 7 of Title 9, Outdoor Burning; and providing for severability and an effective date.

Mr. Harkins moved to approve. Mr. McCann seconded. Chief Lucas explained the proposed changes/additions and deletions to the ordinance. He explained there would be two days per month that citizens could burn noting that if there was inclement weather, make-up dates would have to be scheduled. He reviewed the calendar and explained the process. Mr. Edwards suggested increasing the allowance to four days per month and Mr. Williams was in agreement as he felt it would not increase burning but it would spread it out. Mrs. Likins asked if an ordinance similar to Beaufort County was considered with four weeks during the year allotted. It was explained the Public Safety Committee reviewed many options and after considerable review of the options which included citizens input, two days per month was the recommendation. Beth Drake spoke in opposition to permitting burning. Dot Law thanked Town Council for working on a compromise and encouraged periodic review. Michael Cohen spoke in support of increasing it to four days per month. Viola Jones spoke in opposition to the entire ordinance requesting Council to return to the original ordinance. After further discussion, Mr. Edwards moved to amend the ordinance to increase the permitted days for burning to four days per month. Mr. Williams seconded. A gentleman from Ward 1 spoke suggested the Fire Chief control the number of people burning by limiting the number of permits per day. Denise Stringer spoke in opposition of burning. Michael Cohen spoke in support of increasing it to four days per month. The motion to amend the ordinance failed by a vote of 2-5 (Mr. Grant, Mr. McCann, Mrs. Likins, Mr. Harkins and Mayor Laughlin were opposed.) The original motion was approved by a vote of 6-1 (Mr. Edwards was opposed.)

b. First Reading of Proposed Ordinance 2014-06

First Reading of Proposed Ordinance 2014-06 authorizing the execution of an Easement Agreement granting and easement by the Town of Hilton Head Island to Synovus Bank for the construction, repair, maintenance, and use of a boardwalk located in the Singleton Beach Area on Hilton Head Island, South Carolina, pursuant to the authority of S.C. Code Ann. Sec. 5-7-40 (Supp. 2011), 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. Harkins moved to approve. Mr. McCann seconded. The motion was unanimously approved by a vote of 7-0.

c. Consideration of a Resolution – Public Art

Consideration of a Resolution of the Town of Hilton Head Island, South Carolina, authorizing the execution of a gift agreement with the Community Foundation of the Lowcountry for the acquisition of the “Sail Around” sculpture.

Mr. Williams moved to approve. Mrs. Likins seconded. Ms. Carolyn Torgerson spoke on behalf of the Community Foundation of the Lowcountry. The motion was approved unanimously by a vote of 7-0.

d. Consideration of a Resolution – Coligny Project

Consideration of a Resolution of the Town Council of the Town of Hilton Head Island, South Carolina, asking the Town Manager to direct staff to engage a consultant to prepare a concept plan for the Coligny Area consisting of certain elements and to request the Planning Commission develop a recommendation to the Town Council on the plan.

Mr. Harkins moved to approve. Mrs. Likins seconded. The motion was unanimously approved by a vote of 7-0.

e. Consideration of a Recommendation – Arts Center of Coastal Carolina

Consideration of a request that Town Council authorize immediate release of ATAX Funds in the amount of \$86,000 previously awarded to the Arts Center of Coastal Carolina.

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

12) Executive Session

Mr. Riley stated he needed an Executive Session for contractual matters pertaining to land acquisition to include the use of condemnation, if necessary; contractual matters pertaining to a proposed Memo of Understanding with Heritage Plaza; contractual matters pertaining to a proposed Memo of Understanding with USCB; and contractual matters pertaining to the negotiations for the Ocean Point Emergency Beach Renourishment Project.

At 5:39 p.m. Mr. Harkins moved to go into Executive Session for the reasons given by the Town Manager. Mrs. Likins seconded. The motion was approved by a vote of 7-0.

Mayor Laughlin called the meeting back to order at 6:52 p.m. and stated there were items to address as a result of Executive Session. He referenced the tabled motion concerning the Ocean Point Beach Renourishment Project. For reference the motion as noted above was: Mr. McCann moved to authorize the Town Manager to proceed with awarding the bid to get on with the construction of the beach renourishment project and to bring back to Town Council a budget amendment for up to an additional \$200,000 to cover the expected cost overruns associated with this project. Mr. Williams seconded. The motion was unanimously approved by a vote of 7-0.

Mayor Laughlin stated the two items below involve property acquisitions, one of which involves a property of his client and the other involves a group of properties, one of which involves his client. He stated he was recusing himself and handed the gavel to Mayor Pro-Tem Harkins. He then left the dais. The required Conflict of Interest forms are attached.

f. Consideration of a Resolution for the purchase of land within the Pope Avenue Corridor.

Mr. Williams moved that Town Council adopt a resolution of the Town Council of the Town of Hilton Head Island, South Carolina, authorizing the execution of a contract for purchase of 5.54 acres and two office buildings on Hilton Head Island, South Carolina from Carolina Office Park, L.L.C. now known as Glover Real Estate, LLC for one million six hundred seventy-five thousand dollars (\$1,675,000.00). Mrs. Likins seconded. The motion was approved by a vote of 6-0.

g. Consideration of a Resolution for the purchase of land within the Pope Avenue Corridor, to include potential condemnation.

Mr. Williams moved that Town Council adopt a resolution of the Town Council of the Town of Hilton Head Island, South Carolina, authorizing condemnation, if necessary, pursuant to S.C. Code Section 28-2-10, *et seq.*, of ownership rights over that certain parcel located in the Pope Avenue Corridor Area and known as R552-015-000-0406-0001. Mr. Edwards seconded. The motion was approved by a vote of 6-0.

13) Adjournment

Mr. Williams moved to adjourn. Mr. McCann seconded. The motion was unanimously approved by a vote of 6-0. The meeting was adjourned at 6:56 p.m.

Vicki Pfannenschmidt,
Executive Assistant/Town Clerk

Approved:

Drew A. Laughlin, Mayor



Items of Interest

March 18, 2014

1. Town News

The Lowcountry Area Transportation Study (LATS) Metropolitan Planning Organization is charged with determining how the area's federal transportation dollars will be spent. The long range transportation plan (LRTP) will identify current and future transportation needs and provide a financially-constrained set of multimodal strategies to address these needs. The following are ways the public can get involved:

Interactive Map

LATS is looking to engage the public with several different tools. The online interactive map enables you to share your thoughts on the types and locations of transportation projects to be included in the LRTP. It's a quick and fun way to tell us how you travel and identify where transportation improvements are needed. Give it a try at <http://lowmpo.metroquest.com>.

Public Workshop

Please join us—and bring friends and colleagues—at the first public workshop. This fun and interactive event will help shape the vision of the plan and identify the incremental steps to achieve it.

When: Thursday, March 13th – 4:30pm to 6:30pm

Where: Bluffton Library (120 Palmetto Way, Bluffton, SC)

What to Expect: Maps and exhibits, brief presentation, Q&A, small group activities, mapping exercises

Facebook

Join our online community by liking us on Facebook (www.facebook.com/2040LATSLRTP). Hear the latest news, offer commentary, and post pictures.

LATS MPO Webpage

Check out our webpage to learn more about the MPO and its responsibilities. As the long range transportation plan takes shape, we will be posting maps, presentations, and documents.

www.lowcountrycog.sc.gov/transportation/latsmpo/Pages/default.aspx

(Contact Jill Foster, Deputy Director of Community Development at 341-4694 or jillf@hiltonheadislandsc.gov)

The Town was successful in its grant application to the South Carolina Department of Transportation (SCDOT) for the Fiscal Year 2013 Federal Resurfacing Match Program. This is a 50% matching grant program and the Town is contributing \$771,132.50 towards the resurfacing of four SCDOT roads within the Town limits. These are portions of Gum Tree Road (from Wild Horse Road to Squire Pope Road), Mathews Drive (from William Hilton Parkway to Beach City Road), Beach City Road (from Mathews Drive to Dillon Road), and Folly Field Road (from Starfish Drive to the terminus are the Westin/Marriott-Barony). The Town's contributions were funded through hospitality taxes. In addition and under the same grant program, Beaufort County is funding half of the resurfacing of Squire Pope Road (from US 278 to Gum Tree Road), Folly Field Road (from William Hilton Parkway to Starfish Drive) and all of Deallyon Avenue.

The contractor is Preferred Materials, formerly APAC, and the projects will be administered by SCDOT. Work on the Hilton Head Island roads began in early March and is expected to be completed by mid-April. The contract deadline is May 31st.

(Contact: Jeff Buckalew, Town Engineer – phone 341-4772 or jeffb@hiltonheadislandsc.gov)

The Town is nearing completion of construction on the roadway intersection improvement project at William Hilton Parkway (US 278 Business) and the entrance to Leamington. Total construction costs, including the new traffic signals will be roughly one million dollars and is to be completed by March 25th. The work is being funded by Hospitality Taxes. Along with the 40,000 or so motorists that travel through this area daily, residents of the Leamington Community and patrons of the Fresh Market Shoppes, and Hargray offices will benefit directly, as they will be able to more safely make left turns to and from William Hilton Parkway at a signalized intersection.

This project originated from the Town's desire to improve traffic safety in the corridor, enhance emergency response to adjacent properties, and improve pedestrian safety and connectivity of the Town's ever-expanding pathway network. The project includes a new signalized intersection at William Hilton Parkway and Leamington, with a new roadway segment on Town property across from Leamington. This new road shall connect at a three-way intersection with the existing road that connects the Fresh Market Shoppes and Hargray developments. The median crossings of William Hilton Parkway at the Fresh Market Shoppes and Hargray developments adjacent to the new intersection will be closed. Pathway facilities will be connected, with a new signalized crosswalk at the new intersection. Although the large hollies in the median were removed from this area, the project will be re-landscaped with a low country appeal and better sight lines for motorists.

(Contact: Jeff Buckalew, Town Engineer – phone 341-4772)

Noteworthy Events

- a) Some of the upcoming meetings at Town Hall:
- Planning Commission – March 19, 2014, 3:00 p.m.
 - LMO Rewrite Committee – March 21, 2014, 8:30 a.m.
 - Board of Zoning Appeals – March 24, 2014, 2:30 p.m.
 - Town Council Workshop – March 25, 2014 9:00 a.m.
 - Design Review Board – March 25, 2014, 1:15 p.m.
 - LMO Rewrite Committee – March 27, 2014, 8:30 a.m.
 - Public Projects and Facilities Committee – April 1, 2013, 2:00 p.m.
 - Town Council – April 1, 2014, 4:00 p.m.

(Meetings subject to change and/or cancellation. Please visit the Town of Hilton Head Island website at www.hiltonheadislandsc.gov for meeting agendas.

2014 Hilton Head Island Events

March 21, 2014~5:00 p.m.-8:00 p.m. March 22, 2014~11:00 am.- 6:00p.m.	Wingfest Island Recreation Association	Shelter Cove Community Park
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**2014 Policy Agenda
Thru February, 2014**

Top Priority

Target	Chief Contact	Comments
<ul style="list-style-type: none"> Tax Increment Financing Extension 	Steve Riley/Susan Simmons/Charles Cousins	Successful meetings with School Board and Hilton Head PSD. Meetings scheduled with County. Staff developing ordinances and resolutions required to implement Extension.
<ul style="list-style-type: none"> USCB Facility Development 	Jennifer Ray	Consultants working on capacity studies, traffic analysis, and preliminary cost estimates. Surveying and wetland delineation anticipated to begin within next few weeks. MOU with USCB in progress.
<ul style="list-style-type: none"> Coligny Area Development 	Jennifer Ray	Staff scheduling meeting with Planning Commission and consultant to discuss development of a plan for Coligny Area.
<ul style="list-style-type: none"> Island Recreation Center Expansion 	Jill Foster/Scott Liggett	Town Council gave approval to the conceptual planning for the expansion. Design and construction will be scheduled into future the CIP.

High Priority

Target	Chief Contact	Comments
<ul style="list-style-type: none"> Land Management Ordinance Rewrite 	Teri Lewis	The LMO Rewrite Committee is on target to complete review of all draft chapters by the end of March. The public hearing process at the Planning Commission is anticipated to start in May.
<ul style="list-style-type: none"> Arts Collaboration Study 	Jill Foster	Cultural Planning Groups re-visits the Island on March 5 & 6 for final interview meetings, with an anticipated April timeframe for submitting the final plan to Town Council.
<ul style="list-style-type: none"> Chaplin Linear Park 	Jennifer Ray/ Scott Liggett	Staff negotiating with consultant regarding professional services for detailed design/construction documents for phase 1 elements.
<ul style="list-style-type: none"> Heritage Plaza Road Extension 	Shawn Colin/Charles Cousins	Discussions ongoing with affected property owners

Moderate Priority

Target	Chief Contact	Comments
<ul style="list-style-type: none"> Shelter Cove Park 	Jennifer Ray	Developer's consultants moving forward with detailed design/construction documents. Conceptual submittal to be reviewed/approved by

**2014 Management Agenda
Thru February, 2014**

Target	Chief Contact	Comments
<ul style="list-style-type: none"> Economic Development Corporation 	Shawn Colin	EDC is actively pursuing Executive Recruitment firms to employ in finding a qualified Executive Director. Selection of Recruitment Firm is expected to be complete in April EDC schedule to present outline for work plan and
<ul style="list-style-type: none"> Shelter Cove Town Centre Development: Rezoning 	Heather Colin	No application submitted at this time.
<ul style="list-style-type: none"> ATAX Additional Funds Criteria 	Susan Simmons	The ATAC Committee met February 18 and decided to create separate grant process for these one-time funds. Will establish grant calendar at next meeting on April 3. Although State and Town laws require ATAC to make recommendation to Council, ATAC mentioned its
<ul style="list-style-type: none"> Vacant Underserved Property Inventory and Map: Report 	Shawn Colin	Inventory and Map are complete and have been used to assist with inquiries regarding property needs and availability.
<ul style="list-style-type: none"> Regional Transportation Model: Development 	Shawn Colin	Regional Model has been completed and is housed at LGOC. Additional efforts may be required by LATS MPO.

**CIP Monthly Report
Thru February, 2014**

Project	Chief Contact	Comments
<ol style="list-style-type: none"> Fire Station #6 Wm. Hilton Parkway / Leamington Intersection Improvements Wm. Hilton Parkway Mast Arm Projects Rowing and Sailing Center Pembroke Drive Pathway Gardner Drive Pathways Ocean Point Interim Beach Fill Project Town Hall – Business License Office Reconfiguration 		<ol style="list-style-type: none"> Under Construction. To be completed summer 2014. Under Construction. To be completed winter 2014. Under Construction. Construction of dock is under contract. Proposals have been received for upland improvements. Staff completing due diligence. Construction scheduled for completion in fall 2014. Under Construction. Under Construction. Proposals received, Staff completing due diligence. Under Construction – work targeted for completion in March 2014.

MEMORANDUM

TO: Town of Hilton Head Island Town Council

FROM: Lavarn Lucas, Fire Chief

Via: Brian E. Hulbert, Staff Attorney
Gregory D. DeLoach, Esquire, Assistant Town Manager
Stephen G. Riley, ICMA-CM, Town Manager

RE: Proposed Ordinance Number 2014-04, allowing the outdoor burning of yard waste in the Town of Hilton Head Island

DATE: March 5, 2014

There were no changes to Proposed Ordinance 2014-04 as a result of first reading held on March 4, 2014.

AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND

ORDINANCE NO. 2014-

PROPOSED ORDINANCE NO. 2014- 04

AN ORDINANCE TO REPEAL CHAPTER 7 OF TITLE 9 OF THE MUNICIPAL CODE OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA AND TO ENACT A NEW CHAPTER 7 OF TITLE 9, OUTDOOR BURNING; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Hilton Head Island, South Carolina previously adopted Ordinance 2013-12, Chapter 7 of Title 9 entitled “Open Burning” on November 5, 2013; and

WHEREAS, many residents of Hilton Head Island have expressed that a hardship in the ability to dispose of yard waste has been created by the prohibition of open burning of yard waste.

WHEREAS some residents have expressed concern that the existing restrictions on recreational burning is considered overly restrictive; and

WHEREAS Town Council finds that it is in the best interests of the residents of Hilton Head Island to allow some outdoor burning of yard waste during certain parts of the year; and

WHEREAS Town Council finds that it is in the best interests of the residents of Hilton Head Island to change the restrictions on recreational burning; and

WHEREAS, the Town Council now desires to repeal the current Chapter 7 of Title 9, Open Burning and enact a new Chapter 7 of Title 9, Outdoor Burning.

NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA; AND IT IS ORDAINED BY THE AUTHORITY OF THE SAID TOWN COUNCIL, AS FOLLOWS:

NOTE: **Underlined and bold-face typed** portions indicate additions to the Municipal Code. ~~Stricken~~ portions indicate deletions to the Municipal Code.

Section 1. Amendment.

- A. That Chapter 7 of Title 9 (Open Burning) of the Municipal Code of the Town of Hilton Head Island, South Carolina, is hereby repealed.

~~Chapter 7~~
OPEN BURNING

~~Sec. 9-7-10. Definitions.~~

- ~~(a) Applicant(s). Individual(s) seeking a permit to conduct a fire.~~
- ~~(b) Burn Permit. A legal document issued by the Fire Chief on behalf of the Town granting temporary permission to conduct a fire.~~
- ~~(c) Commercial burn. Burning performed for the purpose of commercial profit, land clearing, and all other burning not classified as residential burning or recreational fire.~~
- ~~(d) Fire Chief. The individual in charge of Fire & Rescue. For the purpose of this chapter, the Fire Chief may designate members of Fire & Rescue as his designee.~~
- ~~(e) Fire extinguishing equipment. A garden hose connected to a water supply or other approved equipment including but not limited to, a 2A:10BC fire extinguisher, 2.5 gallon pressurized water fire extinguisher or a 5 gallon bucket of sand.~~
- ~~(f) Natural vegetation. Including, but not limited, to grass, pine straw, pine cones, tree limbs, branches, leaves and similar items of yard waste.~~
- ~~(g) Open burning. The burning natural vegetation, outdoors when it is not contained within an incinerator, outdoor fireplace, barbecue grill, or barbecue pit.~~
- ~~(h) Outdoor Fireplace—An assembly consisting of a hearth and fire chamber or similar prepared place of noncombustible material in which a fire may be made and which is built in conjunction with a chimney and receives a Town issued building permit.~~
- ~~(i) Recreational fire. A fire for the purpose of pleasure, religious, ceremonial, or other similar purposes not including a fire intended for disposal of waste wood, pine straw, leaves, grass or trash.~~
- ~~(j) Trash. All waste material not defined as natural vegetation.~~

~~Sec. 9-7-20. Open Burning Prohibited.~~

~~No individual or group of individuals shall be allowed to kindle or maintain any open burn, or to allow any such fire to be kindled or maintained. Open burning is prohibited except for the following:~~

- ~~(a) Outdoor Cooking. This ordinance shall not apply to outdoor fixed and portable barbecues, food smoking units, and outdoor cooking stoves.~~
- ~~(b) Outdoor Fireplace which receives a Town issued building permit and is properly maintained.~~
- ~~(c) Recreational Fires.
 - ~~(1) Recreational fires contained within a container, pit, barrel, or other non-combustible enclosure intended for recreational fires or cooking must be located at least 15 feet from any structure or stored combustible materials. Examples of containers are metal fire rings or burn barrels, manufactured units for open flame type burning (such as a chimeneas and fire pits), other non combustible constructed enclosures with a minimum depth of 12 inches and completely enclosed by a non-combustible material such as steel, brick, masonry or stone lining the perimeter. An exception to the minimum depth must be approved by the Fire Chief.~~
 - ~~(2) Recreational fires not contained in a pit, barrel, or other non-combustible enclosure intended for recreation or cooking shall not be conducted within 50 feet of any structure or stored combustible material.~~~~

- ~~(3) — A recreational fire shall not include a fire intended for disposal of waste wood, pine straw, leaves, grass or trash.~~
 - ~~(4) — A recreational fire shall not exceed an area greater than three feet in diameter and two feet in height, unless an exception is approved by the Fire Chief. Only one recreational fire may burn at a time on any site, unless an exception is approved by the Fire Chief.~~
 - ~~(5) — Recreational fires are restricted to burning natural vegetation, commercially prepared fireplace logs, and charcoal, but shall not include the burning of trash or items of yard waste including but not limited to pine straw, leaves, grass.~~
 - ~~(6) — Prior to burning, the automated burn permit line shall be called to determine if burning is allowed on that day.~~
 - ~~(7) — A competent adult who is capable of controlling the fire, taking emergency action, and calling for assistance is required at the site at all times while the fire is burning.~~
 - ~~(8) — The individual responsible for the recreational fire shall maintain a garden hose connected to a water supply where water is available. If water is not available, then alternate approved fire extinguishing equipment shall be on hand to control and extinguish the fire.~~
 - ~~(9) — No accelerants can be utilized to start a fire with the exception of charcoal lighter fluid. Such prohibited accelerants include, but are not limited to, gasoline, diesel fuel, or any other type of flammable fluid.~~
 - ~~(10) — Fires that illuminate the beach shall be extinguished prior to 10:00 p.m. from May 1st to October 31st.~~
 - ~~(11) — The Fire Chief shall be allowed access to inspect the property on which any recreational fire is located. The Fire Chief is authorized to require any recreational fire that is determined to be in an unsafe container or is a public safety or health hazard to be extinguished immediately.~~
 - ~~(12) — No fires shall be allowed when an extraordinary fire hazard is declared as set forth in Sec. 9-7-40.~~
- ~~(d) — Open Burning by special permit — Exceptional Circumstances — Debris in the form of natural vegetation generated at the site of a one or two family dwelling as a result of severe windstorm, hurricane, tornado, or other natural disasters may be burned with approval of the Town Manager and the Fire Chief for a specific and limited timeframe. Prior to burning a permit is required to be obtained and the following regulations shall apply.~~
- ~~(1) Burning may occur on the dates listed on the permit between the hours of 9:00 a.m. and 6:00 p.m. or sunset, whichever occurs first. All open burning fires shall be fully extinguished by 6:00 p.m. or sunset, whichever occurs first.~~
 - ~~(2) The individual responsible for the burning shall have an approved permit in their possession at the site.~~
 - ~~(3) Prior to burning, the automated burn permit line shall be called to determine if burning is allowed on that day.~~
 - ~~(4) A competent adult who is capable of controlling the fire, taking emergency action, and calling for assistance is required at the site at all times.~~

- (5) ~~The individual responsible for the burning shall maintain a garden hose connected to a water supply where water is available. If water is not available, then alternate approved fire extinguishing equipment shall be on hand to control and extinguish the fire.~~
- (6) ~~Burning is restricted to burning natural vegetation generated at the site and shall not include trash.~~
- (7) ~~Burning shall not be conducted within 50 feet of any structure or stored combustible material.~~
- (8) ~~The fire shall not exceed an area greater than three feet in diameter and two feet in height, unless an exception is approved by the Fire Chief. Only one recreational fire may burn at a time on any site, unless an exception is approved by the Fire Chief.~~
- (9) ~~The Fire Chief shall cause to be published in a newspaper of general circulation within the Town of Hilton Head Island, a public notice of the dates that will be authorized for burning by special permit. The Fire Chief shall cause to be published in a newspaper of general circulation, within the Town of Hilton Head Island, a public notice of revocation of any dates in which burning by special permit are revoked.~~

~~Sec. 9-7-30. Commercial burning.~~

~~Commercial burning is prohibited except for:~~

- (a) ~~*Storm debris.* Debris in the form of natural vegetation generated as a result of severe windstorms, hurricanes, tornadoes, or other natural disasters may be burned at approved sites in accordance with the Town's Debris Management Plan and with a permit issued by the Fire Chief and all other appropriate permitting agencies. All man-made materials and processed natural materials shall be disposed of in accordance with Federal Environmental Protection Agency and State Department of Health and Environmental Control Regulations.~~
- (b) ~~Outdoor Fireplace which receives a Town issued building permit and is properly maintained.~~
- (c) ~~*Bonfires, ceremonial.* Local schools may be issued special permits to conduct a bonfire. Items that may be burned in a bonfire are limited to untreated wood/lumber and other natural unprocessed forest products. The permit shall list the fuel area size limitations applicable to this burn. Inspections by the Fire Chief are required prior to and during the construction of the bonfire.~~
- (d) ~~Recreational fires at commercial businesses. Commercial businesses may conduct recreational fires when contained within a container approved by the Fire Chief.~~
 - (1) ~~Recreational fires contained within a pit, barrel, or other non-combustible enclosure must be located at least 15 feet from any structure or stored combustible materials. Examples of containers are metal fire rings or burn barrels, manufactured units for open flame type burning (such as a chimeneas and fire pits), constructed fire pits with a minimum depth of 12 inches and completely enclosed by a non-combustible material such as steel, brick,~~

masonry or stone lining the perimeter, unless an exception is approved by the Fire Chief.

- ~~(2) — A recreational fire shall not include a fire intended for disposal of waste wood, pine straw, leaves, grass or trash.~~
- ~~(3) — A recreational fire shall not exceed an area greater than three feet in diameter and two feet in height, unless an exception is approved by the Fire Chief.~~
- ~~(4) — Recreational fires are restricted to burning natural vegetation, commercially prepared fireplace logs, and charcoal, but shall not include the burning of trash or items of yard waste including but not limited to, pine straw, leaves, grass.~~
- ~~(5) — Prior to burning, the automated burn permit line shall be called to determine if burning is allowed on that day.~~
- ~~(6) — A competent adult who is capable of controlling the fire, taking emergency action, and calling for assistance is required at the site at all times while the fire is burning.~~
- ~~(7) — The individual responsible for the recreational fire shall maintain a garden hose connected to a water supply where water is available. If water is not available, then alternate approved fire extinguishing equipment shall be on hand to control and extinguish the fire.~~
- ~~(8) — No accelerants can be utilized to start a fire with the exception of charcoal lighter fluid. Such prohibited accelerants include, but are not limited to, gasoline, diesel fuel, or any other type of flammable fluid.~~
- ~~(9) — Fires that illuminate the beach shall be extinguished by 10:00 p.m. from May 1st to October 31st.~~
- ~~(10) — The Fire Chief shall be allowed access to inspect the property on which any recreational fire is located. The Fire Chief is authorized to require any recreational fire that is determined to be in an unsafe container or is a public safety or health hazard to be extinguished immediately.~~
- ~~(11) — No fires shall be allowed when an extraordinary fire hazard is declared as set forth in Sec. 9-7-40.~~

~~Sec. 9-7-40. Extraordinary fire hazards.~~

- ~~(a) The Fire Chief shall have the authority to declare the existence of an extraordinary fire hazard when, due to climatic, meteorological or other conditions, the forest, grass, woods, wild lands, fields, or marshes within the Town of Hilton Head Island become so dry or parched as to create a fire hazard endangering life and property. The declaration and restrictions for burning shall remain in effect until such time as the Fire Chief determines that the extraordinary conditions which threaten life and property no longer exist.~~
- ~~(b) After declaration of an extraordinary fire hazard, the Fire Chief shall cause to be published in a newspaper of general circulation within the Town of Hilton Head Island, a public notice of declaration of an extraordinary hazard.~~
- ~~(c) The Fire Chief shall cause to be published in a newspaper of general circulation within the Town of Hilton Head Island a public notice of revocation of the declared extraordinary fire hazard.~~

- ~~(e) During a declared extraordinary fire hazard, burning of any kind shall not be allowed with the exception of outdoor cooking such as outdoor fixed and portable barbecues, food smoking units, and outdoor cooking stoves.~~

~~Sec. 9-7-50 Violations~~

- ~~(a) The Fire Chief is authorized to order the extinguishment of any fire that violates the provisions of this chapter or creates a public safety hazard, public nuisance or a public health hazard.~~
- ~~(b) Any individual(s) violating any provision of this chapter shall be subject to the penalties set forth in section 1-5-10 of this Code. Each day's continued violation constitutes a separate offense.~~

B. A new Chapter 7 of Title 9 (Outdoor Burning) of the Municipal Code of the Town of Hilton Head Island, South Carolina, is hereby adopted; **see Attachment "A"** for language of new ordinance.

Section 2. Severability. If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. Effective Date. This Ordinance shall become effective April 1, 2014.

PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND ON THIS ____ DAY OF _____, 2014.

Drew A. Laughlin, Mayor

ATTEST:

Vicki Pfannenschmidt, Town Clerk

First Reading: _____

Second Reading: _____

Approved as to form: _____
Gregory M. Alford, Town Attorney

Introduced by Council Member: _____

Attachment "A"

Chapter 7 OUTDOOR BURNING

Sec. 9-7-10. Definitions.

- (a) **Applicant(s): Individual(s) seeking a permit to conduct outdoor burning and who will be held responsible for conducting the fire.**
- (b) **Burn Permit: A document issued by the Fire Chief on behalf of the Town granting permission to conduct a fire within the specified time frames and regulations.**
- (c) **Commercial burn: Burning performed on commercial property or for the purpose of commercial profit, land clearing, and all other burning not classified as open burning or a recreational fire.**
- (d) **Currently Adopted International Fire Code: The edition of the International Fire Code most recently adopted by Town Council and which remains in effect as a law enforceable within the Town.**
- (e) **Fire Chief: The individual in charge of Fire Rescue. For the purpose of this chapter, the Fire Chief may designate members of Fire Rescue as his designee.**
- (f) **Open burning: The burning of yard waste other than yard waste authorized to be burned as part of a recreational fire.**
- (g) **Recreational fire: A fire for the purpose of pleasure, religious, ceremonial, or other similar purposes not including a fire intended for disposal of construction waste, yard waste (with the exception of tree limbs, branches and pine cones) or trash.**
- (h) **Trash: Anything that can be fuel for fire which includes but is not limited to combustible and noncombustible waste materials such as paper, rags, cartons, tin cans, metals, mineral matter, glass crockery, food, garbage, and discarded furniture and tires.**
- (i) **Yard waste: Including, but not limited, to grass, tree limbs, branches, leaves, pine straw, pine cones and similar items.**

Sec. 9-7-20. General Prohibitions.

- (a) **It shall be unlawful for a person to kindle or maintain any outdoor fire, or to allow any such fire to be kindled or maintained unless it is in accordance with this chapter.**
- (b) **It shall be unlawful for a person to engage in outdoor burning within the Town of Hilton Head Island unless the burning is specifically permitted by this article and in accordance with the currently adopted edition of the International Fire Code.**
- (c) **It shall be unlawful for a person to engage in the outdoor burning of trash within the Town of Hilton Head Island.**
- (d) **It shall be unlawful for a person to engage in the open burning of yard waste within the Town of Hilton Head Island except on days specified by the Fire Chief not to exceed two days per month. Specified burn days shall be selected on an annual basis and printed in a newspaper of general circulation within the Town of Hilton Head Island. Burning of yard waste shall be in accordance with the edition**

of the International Fire Code adopted by Town Council at the time of the burning and the following:

- (1) A permit to burn must be obtained from Hilton Head Island Fire Rescue prior to any open burning.
 - (2) A permit issued by Hilton Head Island Fire Rescue shall state the rules and regulations related to open burning and shall be issued to a specific individual for a specific residential address.
 - (3) A permit shall remain valid for the person issued to at the residence issued for as long as the person resides at the residence.
 - (4) The applicant shall call the Town of Hilton Head Island Communications Center the day of the intended burn to determine if open burning is permitted on that date. The applicant shall provide their permit number, name, address and telephone number to the Communications Center. Failure to register with the Communications Center on each occasion or failure to follow the regulations as stated on the permit may result in revocation of the permit and shall be considered a violation of this ordinance.
 - (5) Burning may occur between the hours of sunrise and sunset. All open burning fires shall be completely extinguished prior to sunset. A smoking or smoldering fire will not be considered a completely extinguished fire.
 - (6) If burning is prohibited on the days specified for burning due to weather conditions, the Fire Chief may authorize alternate dates.
 - (7) No accelerants may be utilized to start a fire with the exception of charcoal lighter fluid. Such prohibited accelerants include, but are not limited to, gasoline, diesel fuel, or any other type of flammable liquid.
 - (8) Burning is restricted to the burning of yard waste which is generated at that particular site and shall not include trash or yard waste from a different site.
 - (9) The Fire Chief shall be allowed access to inspect the property on which any open burning is occurring. The Fire Chief is authorized to require any open burning fire that is determined to be unsafe or is determined by him, or his designee, to be a public safety hazard to be extinguished immediately.
- (e) Open Burning by special permit -Exceptional Circumstances – Debris in the form of natural vegetation generated at the site of a one or two family dwelling as a result of severe windstorm, hurricane, tornado, or other natural disasters may be burned with approval of the Town Manager and the Fire Chief for a specific and limited timeframe. Prior to burning a permit is required to be obtained and the following regulations shall apply. Regulations contained in section 9-7-20 shall apply except as follows:
- (1) Burning may only occur on the dates approved for Exceptional Circumstances.
 - (2) The Fire Chief shall cause to be published in a newspaper of general circulation within the Town of Hilton Head Island, a public notice of the dates that will be authorized for burning for exceptional circumstances. The Fire Chief shall cause to be published in a newspaper of general circulation, within the Town of Hilton Head Island, a public notice of revocation of any dates in which burning by special permit are revoked.

- (f) It shall be unlawful for a person to engage in commercial burning within the Town of Hilton Head Island except for the following:

(1) *Storm debris.* Debris in the form of natural vegetation generated as a result of severe windstorms, hurricanes, tornadoes, or other natural disasters may be burned at approved sites in accordance with the Town's Debris Management Plan and with a permit issued by the Fire Chief and all other appropriate permitting agencies. All man-made materials and processed natural materials shall be disposed of in accordance with Federal Environmental Protection Agency and State Department of Health and Environmental Control Regulations.

Sec. 9-7-30. Exemptions.

- (a) Recreational Fires at residential and commercial properties shall be allowed in accordance with the currently adopted edition of the International Fire Code and the following:

- (1) Prior to burning, the automated burn line shall be called to determine if burning is authorized on that day.
- (2) A recreational fire shall not include a fire intended for disposal of trash or yard waste such as pine straw, leaves, grass. A recreational fire may include pine cones, tree branches and tree limbs.
- (3) Recreational fires are restricted to the burning of approved natural vegetation, commercially prepared fireplace logs, and charcoal, but shall not include the burning of trash or items of yard waste including but not limited to pine straw, leaves, or grass.
- (4) No accelerants may be utilized to start a fire, with the exception of charcoal lighter fluid. Such prohibited accelerants include, but are not limited to, gasoline, diesel fuel, or any other type of flammable fluid.
- (5) Fires that illuminate the beach shall be extinguished prior to 10:00 p.m. from May 1st to October 31st.
- (6) No fires shall be allowed when an extraordinary fire hazard condition is declared as set forth in Section 9-7-40.
- (7) The Fire Chief shall be allowed access to inspect the property on which any recreational fire is located. The Fire Chief is authorized to require any recreational fire that is determined to be unsafe or a public safety hazard be extinguished immediately.

- (b) Bonfires. Bonfires shall be allowed in accordance with the currently adopted edition of the International Fire Code.
- (c) Outdoor Cooking. This ordinance shall not apply to outdoor fixed and portable barbecue grills, food smoking units, and outdoor cooking stoves.
- (d) Outdoor Fireplaces. This ordinance shall not apply to outdoor fireplaces which have received a Town issued building permit and are properly maintained.

Sec. 9-7-40. Extraordinary fire hazard conditions.

- (a) The Fire Chief shall have the authority to declare the existence of an extraordinary fire hazard condition when, due to climatic, meteorological or other conditions, the forest, grass, woods, wild lands, fields, or marshes within the Town of Hilton Head Island become so dry or parched as to create a fire hazard endangering life and property. The declaration and restrictions on burning shall remain in effect until such time as the Fire Chief determines that the extraordinary conditions which threaten life and property no longer exist.
- (b) After declaration of an extraordinary fire hazard condition, the Fire Chief shall cause to be printed in a newspaper of general circulation within the Town of Hilton Head Island, a public notice of declaration of an extraordinary hazard condition.
- (c) The Fire Chief shall cause to be printed in a newspaper of general circulation within the Town of Hilton Head Island a public notice of revocation of the declared extraordinary fire hazard conditions after the Fire Chief determines that the extraordinary conditions which threaten life and property no longer exist.
- (d) During a declared extraordinary fire hazard condition, burning of any kind shall not be allowed, with the exception of outdoor cooking such as outdoor fixed and portable barbecue grills, food smoking units, outdoor cooking stoves, and outdoor fire places.

Sec. 9-7-50 Violations

- (a) The Fire Chief is authorized to order the extinguishment of any fire that violates the provisions of this chapter or he determines creates a public safety hazard.
- (b) Any individual(s) violating any provision of this chapter shall be subject to the penalties set forth in Section 1-5-10 of this Code. Each days continued violation shall constitute a separate offense.

MEMORANDUM

TO: Town Council

FROM: Stephen G. Riley, ICMA-CM, Town Manager

VIA: Gregory M. Alford, Alford Law Firm

DATE: March 5, 2014

SUBJ: Proposed Ordinance 2014-06

There were no changes to Proposed Ordinance 2014-04 as a result of first reading held on March 4, 2014.

AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND

PROPOSED ORDINANCE NUMBER : 2014-06 ORDINANCE NUMBER: 2014-____

AN ORDINANCE OF THE TOWN OF HILTON HEAD, SOUTH CAROLINA, AUTHORIZING THE EXECUTION OF AN EASEMENT AGREEMENT GRANTING AN EASEMENT BY THE TOWN OF HILTON HEAD ISLAND TO SYNOVUS BANK FOR THE CONSTRUCTION, REPAIR, MAINTENANCE, AND USE OF A BOARDWALK LOCATED IN THE SINGLETON BEACH AREA ON HILTON HEAD ISLAND, SOUTH CAROLINA, PURSUANT TO THE AUTHORITY OF S.C. CODE ANN. SEC. 5-7-40 (SUPP. 2011), AND SEC. 2-7-20, *CODE OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA*, (1983); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

LEGISLATIVE FINDINGS

WHEREAS, Synovus Bank is the owner of property located in Beaufort County, South Carolina located at #8 First Street, Lot 4A, Burkes Beach, Hilton Head Island, South Carolina, identified as R510-012-000-0030-0000 by the property tax records for Beaufort County, South Carolina; and,

WHEREAS, the Town of Hilton Head Island (the “Town”) is the owner of property located in Beaufort County, South Carolina, located between Synovus Bank’s aforementioned property and the Atlantic Ocean, identified as R510-012-000-0002-0000 by the property tax records for Beaufort County, South Carolina (“Town Parcel”); and,

WHEREAS, Synovus Bank’s predecessor in title has constructed a boardwalk and deck (the “Boardwalk”) over and across the Town Parcel without the Town’s permission, approval, and/or authorization, which is depicted on the attached Exhibit “A” ; and,

WHEREAS, the Town has determined that removal of the Boardwalk would cause more environmental damage and disturbance than allowing the Boardwalk to remain in its currently installed state; and,

WHEREAS, the Town has agreed to convey to Synovus Bank an easement for the construction, repair, maintenance, and use of the Boardwalk, subject to certain terms and conditions as set forth therein, and the Town Council for the Town of Hilton Head Island, South Carolina, has determined that it is in the best interests of the Town to execute such an Easement Agreement for the same; and,

WHEREAS, under the provisions of S.C. Code Ann. § 5-7-40 (SUPP. 2011) and § 2-7-20, *Code of the Town of Hilton Head Island , South Carolina*, (1983), the conveyance or granting of an interest in real property owned by the Town of Hilton Head Island must be effected by Ordinance.

NOW THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, AS FOLLOWS:

Section 1. Execution of Agreement.

- (a) The Mayor and Town Manager are hereby authorized to execute and deliver the Easement Agreement which is attached hereto as Exhibit “B”; and
- (b) The Mayor and/or Town Manager are hereby authorized to take such other and further actions as may be necessary to complete the transactions contemplated in the Easement Agreement.

Section 2. Severability.

If any section, phrase, sentence or portion of this Ordinance is, for any reason, held or deemed to be invalid or unconstitutional by any court of competent jurisdiction, then such section, phrase, sentence or portion shall be deemed a separate, distinct and independent provision and shall not affect the remaining portion thereof.

Section 3. Effective Date.

This Ordinance shall become effective upon adoption thereof by the Town Council for the Town of Hilton Head Island, South Carolina.

PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND ON THIS _____ DAY OF _____, 2014.

By: _____
Drew A. Laughlin, Mayor

ATTEST:

By: _____
Victoria L. Pfannenschmidt, Town Clerk

First Reading: _____

Second Reading: _____

APPROVED AS TO FORM:

Gregory M. Alford, Town Attorney

Introduced by Council Member: _____



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Stephen G. Riley, ICMA~CM, *Town Manager*
VIA: Charles Cousins, AICP, *Director of Community Development*
FROM: Shawn Colin, AICP, *Deputy Director of Community Development*
DATE: March 5, 2014
SUBJECT: Request for the sale of land owned jointly by the Town and Beaufort County

Recommendation: That Town Council authorize the Town Manager to work with Beaufort County to negotiate a contract for the sale of approximately 0.075 acres of jointly held property to neighboring property owner, Mr. Andre White, to rectify encroachment issues that were not identified during the County's title research of the property prior to the County and Town closing on the sale. The project was reviewed by the Public Facilities Committee at their meeting on March 4, 2014. The Committee voted unanimously to recommend approval to Town Council.

Summary: The proposed sale of land will mitigate an existing encroachment issue on property held jointly by the Town and Beaufort County. Recommended compensation from Mr. White for this transaction are \$21,516 plus costs incurred to complete the closing transaction. The County would like an additional condition placed on the property to prohibit any commercial development rights associated with the exchanged property.

Background: The Town and Beaufort County jointly purchased property located along Beach City Road in January 2013, with the County taking the lead to complete the closing transaction. An existing encroachment, present on the subject parcel, was not discovered prior to the Town and County completing the closing. Subsequent to the closing the encroachment was brought to the attention of the Town and County by the affected neighboring land owner, Mr. Andre White.

Mr. White has an access easement over the property at the end of Beach City Road. Both a driveway and privacy fence are currently located on the Town and County property. To rectify this issue and address the preexisting encroachment, Staff recommends that the Town agree to sell an approximately 0.075 acre portion of the jointly held property to Mr. White. A proposed sales price of \$21,516 has been used in preliminary discussions with parties involved and has received County support. As such, Staff recommends a sale price of \$21,516, plus costs incurred by the Town and County to complete the closing transaction.

In addition, the County has requested that the transaction also be subject to a condition that no commercial development rights be allowed on the land transferred to Mr. White.

Attachments: *Exhibit A – Property Vicinity Map*

VICINITY MAP

N.T.S.

The map shows the following roads and landmarks:

- Palmetto Hall** (top center)
- Beach City Road** (top left to middle right)
- Paycalle Road** (top right)
- 15th Ave** (top right)
- 16th Ave** (top right)
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- 100th Ave** (top right)

BEACH CITY ROAD 50' R/W

EDGE OF PAVEMENT

EDGE OF PAVEMENT

51.0'

97.5'

N 48°25'36" E 148.52'

40.13'

CMR

Recommend a sales price of \$21,516 plus legal fees.



☒ - ELECTRIC TRANSFORMER
☐ - TELEPHONE SERVICE
☐ - WATER METER
☐ - VALVE BOX
☐ - IRRIGATION CONTROL VALVE
☒ - 1/2" IRON PIN FOUND
 CMF ☐ - 3" CONCRETE MONUMENT SET

PROPERTY AREA = 0.50 Ac. (21,991 Sq. Ft.)

ADDRESS:# 282 BEACH CITY ROAD

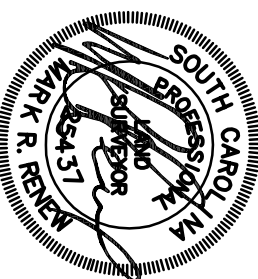
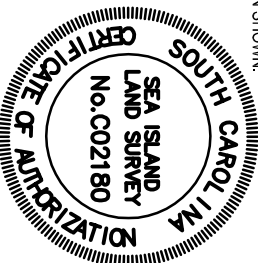
DISTRICT: 510 , MAP:5, PARCEL: 10H (PARENT)

THIS PROPERTY LIES IN F.E.M.A. ZONE C

COMMUNITY NO. 450250, PANEL: 0009D, DATED: 9/29/86
(NO MINIMUM ELEVATION REQUIRED)

1. THIS PLAT HAS BEEN PREPARED WITHOUT BENEFIT OF A COMPLETE TITLE SEARCH BY SEA ISLAND LAND SURVEY, LLC.
2. THIS PROPERTY MAY BE SUBJECT TO EASEMENTS OF RECORD AND COVENANT RESTRICTIONS AS RECORDED IN THE OFFICE OF THE ROD FOR BEAUFORT COUNTY.
3. SUBJECT PROPERTY DOES NOT APPEAR TO BE AFFECTED BY THE BEACHFRONT SETBACK REQUIREMENTS OF THE S.C. BEACH PROTECTION ACT OF JULY 1, 1986.
4. BUILDING SETBACKS, WHETHER SHOWN OR NOT, SHOULD BE VERIFIED BY THE LOCAL BUILDING AUTHORITY OR ARCHITECTURAL REVIEW BOARD.
5. USE OF THIS PROPERTY MAY BE AFFECTED BY THE TERMS OF COVENANTS RELATING TO THIS PLANNED RESIDENTIAL COMMUNITY.

I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "A" SURVEY AS SPECIFIED THEREIN. ALSO THERE ARE NO VISIBLE ENCROACHMENTS OR PROJECTIONS OTHER THAN SHOWN.



NOT VALID UNLESS EMBOSSED.

N/F PERRY WHITE
R510 005 000 0249 0000

R510 005 000 0249 0000

ASBULT SURVEY OF:

LOT 2, BEACH CITY ROAD,
HIDDEN BEACH SUBDIVISION, HILTON HEAD ISLAND
BEAUFORT COUNTY, SOUTH CAROLINA

PREPARED FOR: WALSTAR DEVELOPMENT CO., LLC

DATE: 12/17/07

SCALE: 1" = 30'



SLIS Sea Island Land Survey, LLC

4D Mathews Court,
Hilton Head Island,
SC 29926
Tel (843) 681-3248
Fax (843) 689-387
E-mail: sils@sprynet.com

FILE No.: 05608/10 DWG No.: 4-1284

COPYRIGHT © BY SEA ISLAND LAND SURVEY, LLC. CAD: MC FIELD: GN

MEMORANDUM

TO: Town Council

FROM: Stephen G. Riley, Town Manager

DATE: March 12, 2014

RE: **Appointment to Capital Projects Sales Tax Commission**

Recommendation

That the Town Council appoint a representative to the Capital Projects Sales Tax Commission recently created by County Council.

Summary

The County has voted to create a Capital Projects Sales Tax Commission as a prelude to a possible Capital Projects Sales Tax referendum. Under State law, the Commission is charged with creating a list of capital improvement projects to be presented to the voters. The Commission must be composed of six members; three appointed by the County and three representing the municipalities in the County under a population-based formula. The Town is entitled to one appointment. Failure to make our appointment within 30 days means the County Council would make the appointment.

Background

As noted in the attached letter from the Chairman of Beaufort County Council, they have voted to create a Capital Projects Sales Tax Commission. This is the Commission that will draw up a list of potential Capital projects for inclusion in a potential future capital project sales tax referendum. The Commission's list may not be altered or changed by the County Council.

The Committee must consist of six individuals. Three of the appointments shall be made by County Council. Three representatives are to come from the municipalities in the County based on a population formula. Pursuant to that formula, Hilton Head Island is

entitled to one appointee. None of the other municipalities have sufficient population to have an automatic appointment. As such, and again pursuant to State Code, our appointee will make the selection of the other two municipal representatives from among the other four municipalities: Beaufort, Port Royal, Bluffton and Yemassee.

Attached is a summary sheet describing the main points of the Capital Projects Sales Tax Act as set forth in the State Code.

Additional Information: Local Option Sales Tax

Attached also is summary information on the Local Option Sales Tax Act. This is a separate tax, also imposed by referendum. Although not a direct part of the above discussion, this information is being provided because the other municipalities are advocating the Local Option Sales Tax (LOST) as an alternative to a Capital Projects Sales Tax referendum.



OFFICE OF THE COUNTY ADMINISTRATOR
COUNTY COUNCIL OF BEAUFORT COUNTY

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COUNTY ADMINISTRATOR

CHERYL HARRIS
EXECUTIVE ASSISTANT

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BRYAN J. HILL
DEPUTY COUNTY ADMINISTRATOR

JOSHUA A. GRUBER
STAFF ATTORNEY

February 25, 2014

Hon. Drew Laughlin
Mayor, Hilton Head Island
One Town Center Court
Hilton Head Island, SC 29928

Mr. Steve Riley
Hilton Head Island Town Manager
One Town Center Court
Hilton Head Island, SC 29928

Re: Notification of Beaufort County Council Action
Formation of Capital Project Sales Tax Commission

Dear Mayor Laughlin and Mr. Riley:

On February 24, 2014, Beaufort County Council adopted Resolution 2014/5, a copy of which is enclosed for your review, which creates the Beaufort County Capital Projects Sales Tax Commission. The Commission will be composed of three (3) representatives appointed by the County and three (3) representatives from within the municipalities located in Beaufort County.

Based upon the statutory formula provided in South Carolina Code of Laws § 4-10-320(A)(2), and the current population figures for the Town of Hilton Head, the Town will be entitled to appoint one (1) member to the Commission. Pursuant to 4-10-320(B), the Town will have thirty (30) days from the adoption of the Resolution in which to appoint its representative. Please note that this representative must be a resident from within the municipal boundaries of the Town.

Due to the closely proportionate populations for the majority of the remaining municipalities within Beaufort County (City of Beaufort, Town of Bluffton, Town of Port Royal), South Carolina Code of Laws § 4-10-320(A)(2)(d) states that the remaining two (2) municipal appointments will be determined by a joint meeting of the Commission appointees of the municipalities in the County. These appointees will be required to be residents of municipalities that do not currently have representation on the Commission.

Should you have any questions, please do not hesitate to contact the County's Legal Department at 843-255-2055.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Paul Sommerville".

D. Paul Sommerville
Beaufort County Council Chairman

Enclosure: (1)

cc: Gary Kubic, Beaufort County Administrator
Bryan Hill, Deputy Beaufort County Administrator
Joshua Gruber, Beaufort County Attorney

RESOLUTION NO. 2014/5

A RESOLUTION OF BEAUFORT COUNTY COUNCIL TO ESTABLISH A COMMISSION TO CONSIDER PROPOSALS FOR FUNDING CAPITAL PROJECTS IN BEAUFORT COUNTY, SOUTH CAROLINA, PURSUANT TO SECTION 4-10-300, ET SEQ., OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED; TO PROVIDE FOR THE COMPOSITION AND APPOINTMENT OF SUCH COMMISSION; AND OTHER MATTERS RELATED THERETO.

WHEREAS, in accordance with Section 4-10-300, *et seq.*, of the Code of Laws of South Carolina, 1976, as amended (the "act"), the governing body of a county may impose a one percent sales and use tax (a "Capital Project Sales Tax") by ordinance, subject to a referendum, within the county area for a specific purpose or specific purposes and for a limited amount of time; and

WHEREAS, pursuant to the Act, the governing body of a county is authorized to create a commission, consisting of six members, all of whom must be residents of the county, appointed as set forth in Section 4-10-320 of the Act, to consider proposals for funding capital projects within the county area, and to formulate the referendum question that is to appear on the ballot pursuant to Section 4-10-330(d) of the Act; and

WHEREAS, the Beaufort County Council ("County Council"), being the governing body of Beaufort County, South Carolina (the "County"), a body politic and corporate and political subdivision of the State of South Carolina, desires to create a commission in accordance with Section 4-10-320 of the Act to consider proposals for funding capital projects within the County area and to formulate a referendum question during the imposition of a Capital Project Sales Tax which shall appear on a referendum ballot in accordance with the provisions of the Act;

NOW, THEREFORE, be it resolved by County Council, in a meeting duly assembled, that:

Section 1. Creation of Commission. There is hereby created a "commission", within the meaning of Section 4-10-320 of the Act, The Beaufort County Capital Project Sales Tax Commission (the "Commission"). The Commission shall consist of six (6) members, all of whom must be residents of the County, appointed as set forth in Section 4-10-320 of the Act.

Section 2. Effective Date. This resolution shall be effective immediately upon its adoption.

Section 3. Repeal and Rescission. All orders and resolutions in conflict herewith are, to the extent of such conflict only, repealed, and rescinded.

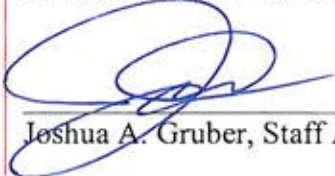
NOW, THEREFORE, BE IT RESOLVED BY BEAUFORT COUNTY COUNCIL that a resolution establishing a commission to consider proposals for funding capital projects in Beaufort County, South Carolina pursuant to S.C. Code Ann. § 4-10-300, *et seq.*, is hereby adopted.

DONE this 24th day of February, 2014.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: 
D. Paul Sommerville, Chairman

APPROVED AS TO FORM:


Joshua A. Gruber, Staff Attorney

ATTEST:


Suzanne M. Rainey, Clerk to Council

Capital Projects Sales Tax Act

- Authorized under Sec. 4-10-300 of the Code of Laws of South Carolina
- Allows imposition of a one percent sales and use tax by ordinance, subject to a referendum, for a specific purpose or purposes.
- The referendum must be held at the time of the general election (even years)
- The tax may be imposed in two-year increments up to 8 years in total
- If approved, imposition of the tax would commence on May 1st following the referendum vote
- Projects eligible for inclusion include:
 - a) highways, roads, streets, bridges, and public parking garages and related facilities;
 - b) courthouses, administration buildings, civic centers, hospitals, emergency medical facilities, police stations, fire stations, jails, correctional facilities, detention facilities, libraries, coliseums, educational facilities under the direction of an area commission for technical education, or any combination of these projects;
 - c) cultural, recreational, or historic facilities, or any combination of these facilities;
 - d) water, sewer, or water and sewer projects;
 - e) flood control projects and storm water management facilities;
 - f) beach access and beach renourishment;
 - g) dredging, dewatering, and constructing spoil sites, disposing of spoil materials, and other matters directly related to the act of dredging;
 - h) jointly operated projects of the county, a municipality, special purpose district, and school district, or any combination of those entities, for the projects delineated in subitems (a) through (g) of this item;
 - i) any combination of the projects described in subitems (a) through (h) of this item;
- The referendum must specify the projects and the cost for each project, in order of priority. A formula or system by which multiple projects may be funded simultaneously may be provided for.
- The County Council is authorized to create a six person commission composed of three representatives appointed by the Council and three members drawn from the municipalities in the County according to a population formula contained in State law
- The Commission formulates the referendum question. County Council may decline to not place the question on the ballot; but may not alter the list of projects nor the priorities
- Based on the most recent census data, the Hilton Head Island Town Council is entitled to appoint one member to the Commission.
- No other municipality has sufficient population to have an appointee. Under the formula, the Town appointee shall select the other two appointees from among the municipalities not represented.
- Current best estimates are that a one-percent sales tax would generate \$21.9 million per year, assuming groceries are excluded.

Local Option Sales Tax

- Authorized under Sec. 4-10-10 of the Code of Laws of South Carolina
- Allows imposition of a one percent sales and use tax by ordinance, subject to referendum
- The referendum must be held on the first Tuesday following the first Monday in November (odd or even years)
- If approved by referendum, imposition of the tax would commence on May 1st following the referendum vote
- Once the referendum has been approved by the voters, the tax may be ended through a petition by 15% of the voters in the County requesting a referendum vote to repeal the tax
- Proceeds must be used for a combination of property tax relief and general revenues in the proportions specified in State law.
- The law has a five-year phase-in of the allocations made between the property tax relief and general revenue accounts as follows:
 - 1) During the first year, sixty-three percent to the Property Tax Credit Fund and thirty-seven percent to the County/Municipal Revenue Fund.
 - 2) During the second year, sixty-five percent to the Property Tax Credit Fund and thirty-five percent to the County/Municipal Revenue Fund.
 - 3) During the third year, sixty-seven percent to the Property Tax Credit Fund and thirty-three percent to the County/Municipal Revenue Fund.
 - 4) During the fourth year, sixty-nine percent to the Property Tax Credit Fund and thirty-one percent to the County/Municipal Revenue Fund.
 - 5) During the fifth year, and each year thereafter, seventy-one percent to the Property Tax Credit Fund and twenty-nine percent to the County/Municipal Revenue Fund.
- Town Council would determine how to spend its portion of the County/Municipal Revenue Fund. These funds may be used for operations, capital or debt service.
- The law includes a “robin hood” provision wherein five percent of the gross proceeds are retained by the State from Counties collecting more than \$5 million annually and redistributed to Counties collecting less than that amount.
- Current best estimates are that a one-percent sales tax would generate \$20.7 million per year, assuming groceries are excluded.
- Current estimates of the amounts to be generated in each of the first five years for the Property Tax Credit Fund and the County/Municipal Revenue Fund – and the expected allocation among the Counties and the municipalities - is shown on the attached sheet

**Estimated Local Option Sales Tax (LOST) Revenue
Reconciliation by Fund and by Taxing Entity**

Property Tax Credit Fund						
	Beaufort County Property Tax Credit Fund	City of Port Royal Property Tax Credit Fund	Town of Bluffton Property Tax Credit Fund	City of Beaufort Property Tax Credit Fund	Town of Hilton Head Property Tax Credit Fund	Total Property Tax Credit Fund
1st Year	8,726,590	642,578	737,667	729,453	2,188,473	13,024,761
2nd Year	9,003,624	662,977	761,085	752,610	2,257,948	13,438,245
3rd Year	9,280,659	683,377	784,503	775,767	2,327,424	13,851,730
4th Year	9,557,694	703,776	807,921	798,925	2,396,899	14,265,214
5th Year	9,834,728	724,175	831,339	822,082	2,466,374	14,678,699
Municipal Revenue Fund						
	Beaufort County Municipal Revenue Fund	City of Port Royal Municipal Revenue Fund	Town of Bluffton Municipal Revenue Fund	City of Beaufort Municipal Revenue Fund	Town of Hilton Head Municipal Revenue Fund	Total Municipal Revenue Fund
1st Year	3,625,617	347,969	641,016	814,406	2,220,455	7,649,463
2nd Year	3,429,637	329,160	606,367	770,384	2,100,430	7,235,978
3rd Year	3,233,658	310,350	571,717	726,363	1,980,405	6,822,494
4th Year	3,037,679	291,541	537,068	682,341	1,860,381	6,409,009
5th Year	2,841,700	272,732	502,418	638,319	1,740,356	5,995,525
Total of Both Funds						
	Beaufort County Municipal Revenue Fund	City of Port Royal Municipal Revenue Fund	Town of Bluffton Municipal Revenue Fund	City of Beaufort Municipal Revenue Fund	Town of Hilton Head Municipal Revenue Fund	Total LOST Funds
1st Year	12,352,207	990,547	1,378,683	1,543,859	4,408,928	20,674,224
2nd Year	12,433,262	992,137	1,367,452	1,522,995	4,358,378	20,674,224
3rd Year	12,514,317	993,727	1,356,220	1,502,130	4,307,829	20,674,224
4th Year	12,595,373	995,317	1,344,989	1,481,265	4,257,280	20,674,224
5th Year	12,676,428	996,907	1,333,757	1,460,401	4,206,731	20,674,224

Source of Sales Tax Amounts: SCDOR's Annual Report for FY12.

For illustrative purposes only. In this example, sales tax are assumed level at the FY12 amounts for all five years.