

The Town of Hilton Head Island Regular Town Council Meeting

November 5, 2013

4:00 P.M.

AGENDA

**As a Courtesy to Others Please Turn Off 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. Hilton Head Preparatory School “Dolphins” Varsity Girls Tennis Team SCISA Class 3-A State Championship**
 - b. Pancreatic Cancer Awareness Month**
 - c. America Recycles Day**
- 6) Approval of Minutes**
 - a. Town Council Meeting– October 15, 2013**
- 7) Report of the Town Manager**
 - a. Planning Commission Proposed Recommendations for 2014 Targets for Action suggested for Town Council - Terry Ennis**
 - b. Town Manager’s Items of Interest**
 - c. September/October, 2013 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 2013-13

Second Reading of Proposed Ordinance 2013-13 to repeal Chapter 7 of Title 9 of the Municipal Code of the Town of Hilton Head Island, South Carolina and to reenact a new Chapter 7 of Title 9, open burning; and providing for severability and an effective date.

11) New Business

a. Consideration of a Resolution - Condemnations

Consideration of a Resolution of the Town Council of the Town of Hilton Head Island, South Carolina, authorizing condemnation, pursuant to S.C. Code Section 28-2-10, *et seq.*, of temporary construction easement rights in property owned by Long Cove Club Associates, L.P., and pathway easement and temporary construction easement rights in property owned by Christian Renewal Church, Inc., The 2000 Group, LLC, 220 Pembroke Place Owners Association, Inc., and DDJ, LLC.

b. Consideration of a Recommendation – Sewer Capacity Rights

Consideration of a Recommendation that Town Council approve the transfer of 50 REUs (Residential Equivalent Units) of sewer capacity rights, held by the Town, to the not-for-profit Project SAFE organization so as to assist income-qualified residents in connecting to the public sewer system.

c. First Reading of Proposed Ordinance 2013-21

First Reading of Proposed Ordinance 2013-21 of the Town of Hilton Head, South Carolina, authorizing the execution of a contract for purchase and sale and the execution of a deed for the sale of 1.8 acres of real property located on William Hilton Parkway to William S. Toomer and Mary K. Toomer pursuant to the authority 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); and providing for severability and an effective date.

d. First Reading of Proposed Ordinance 2013-23

First Reading of Proposed Ordinance 2013-23 amending the Republic Services, Inc. a non-exclusive franchise for the purpose of conducting wastehauling and recycling collection for single family residential and certain multi-family residential units within the Town of Hilton Head Island; and, providing for severability and an effective date.

e. First Reading of Proposed Ordinance 2013-25

First Reading of Proposed Ordinance 2013-25 of the Town of Hilton Head, South Carolina, to amend Title 9 (Health And Sanitation) of the Municipal Code of the Town of Hilton Head Island, South Carolina by amending Chapter 6 (Collection of Solid Waste and Recycling), specifically Section 9-6-10, Section 9-6-20, Section 9-6-40, and Section 9-6-60; and providing for severability and an effective date.

f. Consideration of Appointments to Boards and Commissions

g. Town Manager Review/Compensation

12) Executive Session

- a.** Land Acquisition
- b.** Legal Matters
- c.** Contractual Matters
- d.** Personnel Matters
 - (1) Appointments to Boards and Commissions
- e.** Annual Review of the Town Manager

13) Adjournment

Commendation

A Commendation of the Town of Hilton Head Island Congratulating

All Members of the Hilton Head Preparatory School “Dolphins” Varsity Girls Tennis Team on Capturing the SCISA Class 3-A State Championship

***WHEREAS,** Hilton Head Preparatory School “Dolphins” Varsity Girls Tennis Team defeated Porter-Gaud by a score of 6-0 in a dominating victory to win the South Carolina Independent School Association Class 3-A State Championship on October 19, 2013; and*

***WHEREAS,** the Dolphins ended their second straight unbeaten season with a record of 14-0 and concluded the season with a 28 match unbeaten streak; and*

***WHEREAS,** we applaud Head Coach Job de Boer and Assistant Coach Josh Myers who continue their commitment to excellence coaching the Hilton Head Preparatory School girls tennis program; and*

***WHEREAS,** it is noted from local media accounts that several opposing coaches equated the Dolphin’s talent level to a college tennis team and we look forward to following the college careers of Prep Team members; and*

***WHEREAS,** the Hilton Head Island Town Council recognizes and congratulates each team member: Mariana Gould, Sydnee Wheeler, Ellie Czura, Ellie Zimmermann, Taylor Childress, Catie Meighan, Katie Rankin, Samantha Kriney, Cori Leonard, Alyssa Marotta, Charlotte Ruhlin, Katie Cadden, Ava Nixon, and Shannon O’Brien for a very successful and memorable season achieving excellence in their sport and bringing home another State Title.*

NOW, THEREFORE, I, Drew A. Laughlin, Mayor, of the Town of Hilton Head Island, South Carolina, on behalf of the Town Council, do hereby commend and congratulate Hilton Head Preparatory School “Dolphins” Varsity Girls Tennis Team and Head Coach, Job de Boer and Assistant Coach Josh Myers on capturing the SCISA Class 3-A State Championship

***IN TESTIMONY WHEREOF,** I have hereunto set my hand and caused this seal of the Town of Hilton Head Island to be affixed 5th day of November, two thousand and thirteen.*



Drew A. Laughlin, Mayor

Proclamation

BY
THE TOWN OF HILTON HEAD ISLAND

***WHEREAS**, in 2013, an estimated 45,220 people will be diagnosed with pancreatic cancer in the United States and 38,460 will die from the disease, which is the fourth leading cause of cancer death in the United States; and*

***WHEREAS**, when symptoms of pancreatic cancer present themselves, it is usually too late for an optimistic prognosis, and 73 percent of pancreatic cancer patients die within the first year of their diagnosis while 94 percent of pancreatic cancer patients die within the first five years; and*

***WHEREAS**, approximately 600 deaths will occur in South Carolina in 2013, and there is no cure for pancreatic cancer and there have been no significant improvements in survival rates in the last 40 years; and*

***WHEREAS**, of all the racial/ethnic groups in the United States, African Americans have the highest incidence rate of pancreatic cancer, between 34% and 70% higher than the other groups; and*

***WHEREAS**, the Federal Government invests significantly less money in pancreatic cancer research than it does in any of the other leading cancer killers; and*

***WHEREAS**, The Pancreatic Cancer Action Network is the first and only national patient advocacy organization that serves the pancreatic community in Hilton Head Island and nationwide by focusing its efforts on public policy, research funding, patient services, and public awareness and education related to developing effective treatments and a cure for pancreatic cancer; and*

***WHEREAS**, the good health and well-being of the residents of Hilton Head Island are enhanced as a direct result of increased awareness about pancreatic cancer and research into early detection, causes, and effective treatments.*

NOW, THEREFORE, I, Drew A. Laughlin, Mayor, of the Town of Hilton Head Island, South Carolina do hereby proclaim the month of November, 2013 as:

PANCREATIC CANCER AWARENESS MONTH

in the Town of Hilton Head Island, South Carolina and encourage all citizens to recognize the benefits of early identification, causes, and effective treatments.

IN TESTIMONY WHEREOF**, I have hereunto set my hand and caused this seal of the Town of Hilton Head Island to be affixed this **Fifth day of November, Two Thousand and Thirteen.

Drew A. Laughlin, Mayor

Attest:

Victoria L. Pfannenschmidt, Acting Town Clerk

Proclamation

By
The Town of Hilton Head Island

WHEREAS, each year, the United States generates more than 250 million tons of municipal solid waste – amounting to more than 4 pounds per person per day; and

WHEREAS, according to the Environmental Protection Agency, our nation has reached an overall recycling rate of 34.7 percent, which saves the energy equivalent of 229 million barrels of oil, saves the same amount of energy consumed by over 10 million U.S. households in a year, and avoids greenhouse gas emissions equivalent to removing more than 34 million cars from the road each year; and

WHEREAS, to focus the nation's attention on the importance of recycling, business, industries, government agencies, nonprofit organizations, and individuals have joined together to celebrate America Recycles Day; and

WHEREAS, participating in America Recycles Day 2013 is a way citizens can help raise awareness about the need to reduce waste by reusing, recycling, and buying recycled-content products; and

WHEREAS, the Town of Hilton Head Island has collected over 4,286 tons of residential waste and recycling since implementation of its Waste and Recycling Franchise Agreement, and recognizes the growth of markets for recyclable materials, and the importance of buying recycled products.

NOW, THEREFORE, I, Drew A. Laughlin, Mayor, of the Town of Hilton Head Island, South Carolina do hereby proclaim November 15, 2013, as

AMERICA RECYCLES DAY

in Hilton Head Island, South Carolina, and encourage all citizens to pledge to learn more about recycling options in our community and commit to recycle more materials.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused this seal of the Town of Hilton Head Island to be affixed this **Fifth day of November, Two Thousand and Thirteen.**

Drew A. Laughlin, Mayor

Attest:

Victoria L. Pfannenschmidt, Acting Town Clerk

THE TOWN OF HILTON HEAD ISLAND

REGULAR TOWN COUNCIL MEETING

Date: Tuesday, October 15, 2013

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*; Tom Fultz, *Director of Administrative Services*; Bret Martin, *Deputy Director of Finance*; Jill Foster, *Deputy Director of Community Development*; Brian Hulbert, *Staff Attorney*; Brad Tadlock, *Deputy Fire Chief – Operations*; Ed Boring, *Deputy Fire Chief- Support Services*; Shea Farrar, *Senior Planner*; Melissa Cope, *Systems Analyst*; Vicki Pfannenschmidt, *Executive Assistant*

Present from Media: Tom Barton, *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

None.

6) Approval of Minutes

a. Town Council Meeting– October 1, 2013

Mr. Harkins moved to approve. Mrs. Likins seconded. The minutes of the October 1, 2013 Town Council were approved by a vote of 5-0-2. Mr. Williams and Mr. Grant abstained as they were not in attendance at the October 1 meeting.

7) Report of the Town Manager

a. Town Manager's Items of Interest

Mr. Riley reported on some items of interest. In addition, he updated Council concerning the capsized shrimp boats in Jarvis Creek. Mr. Riley stated the Town is releasing a RFP for the removal of the boats, with a pre-bid meeting next week and actual bids due two weeks later. He said that the OCRM met with the owners of the boats and reached some sort of consent agreement that will be in writing on how they will remove the boats and that the owners have been instructed to get out into the creek and remove the debris. Mr. Riley said that meanwhile the Town will proceed with the bid process.

8) Reports from Members of Council

a. General Reports from Council

Mr. Edwards stated took his boat to the area where the capsized shrimp boats are located and said there is nothing but garbage all over the marsh consisting of foam, plastic wood and other debris. He stated he felt the Town should do whatever is needed to clean up the area. He added that he feels the Town should take any and all legal action to make the parties that are responsible pay for the clean-up.

Mr. Edwards commended all parties concerned in the planning and production of the 350/30 Celebration. He said he felt it was very successful and was approached by many citizens suggesting festivities should take place on the beach on a regular basis. He stated he was in total agreement with the suggestion and the Town should avail themselves to the opportunity of holding various events on the beach.

Mr. Edwards expressed his concern for safety for the pedestrians and bicyclists using the Cross Island Bridge. He stated that even though the SCDOT identifies the off road areas as breakdown lanes, he feels they are pedestrian/bicycle lanes and should be treated as such and made safer for pedestrians and bicyclists.

Mayor Laughlin stated he met with the Executive Committee of the Hilton Head Plantation POA Board concerning their efforts to get approval for a cell tower within the Plantation. He reminded Council that last year they approved an amendment to the LMO for what they felt would facilitate the approvals of cell towers within the PD1's. He said that it appears that the ordinance that was enacted can be interpreted as such that it is not consistent with the intent Council had. He said the ordinance needs revisited by Council to ensure it is written to fulfill Council's intent and asked that staff review it and work on an amendment to correct the matter.

Mr. Grant stated he met with a business owner on Mathews Drive. He explained that she had window treatments installed that are in violation of the sign ordinance. Mr. Grant went to see them and stated he felt they were very attractive. He asked if Council could review the ordinance to see what could be done to assist the business owner to meet compliance of the ordinance.

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

No report.

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

Mr. Edwards reported that the Committee had met earlier in the day to review applications for consideration of vacancies. He said they would be conducting interviews in the near future.

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

No report.

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

No report.

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

Mr. Grant stated the Committee met the previous week and addressed issues concerning the open burning proposed ordinance. He said the Committee recommended that Mr. Riley and staff develop strategies in working with the community in terms of developing solutions for alternatives to open burning of yard debris. Mr. McCann stated that he suggested a committee be led by community members with the assistance of Steve Riley and the Town to come up with ideas of how to handle the issue. Mr. Grant stated if the proposed ordinance is passed a burden is being placed on those who open burn and they need to have alternatives for debris removal. After lengthy discussion, it was decided second reading of the Proposed Ordinance will be placed on the November 5 Town Council meeting agenda.

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

Mrs. Likins stated the Committee continues to meet and is moving forward with the rewrite and confirmed the Committee plans to have a completed proposed ordinance to the Planning Commission by the end of November. Mayor Laughlin encouraged Council members to attend as many of the Planning Commission hearings on the issue as possible noting they will help inform them prior to the presentation to Town Council.

9) Appearance by Citizens

Steve Weber, Esquire addressed Council concerning the solid waste agreement with Republic.

Wes Breinich addressed Council concerning removal of the capsized shrimp boats in Jarvis Creek.

Reg Johnston, Monika Wood, Johanna Reitter and Jean Conlon addressed Council in support of the ban on open burning Proposed Ordinance.

10) Unfinished Business

None.

11) New Business

a. Consideration of a Recommendation – Fire Station 6 Budget Transfer

Consideration of a Recommendation Town Council amend the Capital Projects Fund to provide for a transfer of \$375,000 between capital projects.

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

b. Consideration of a Recommendation – Previous Welcome Center Property

Consideration of a Recommendation that Town Council authorize the execution of a contract for the sale of approximately 1.8 acres of Town-owned property as shown on Exhibit “A” to facilitate off-street parking improvements and that the contract for the sale include the conditions outlined in this memo.

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

Mrs. Likins informed the Mayor she was going to recuse herself before Item 11.c. was addressed and she left the dais. The required Conflict of Interest form will be attached to the approved, signed minutes.

c. Consideration of a Recommendation - Proposed Land Lease with the Boys and Girls Club

Consideration of a Recommendation that Town Council approve adoption of a long-term land lease with the Boys and Girls Club of Hilton Head Island to facilitate development of a First Tee training facility on the Island. The lease involves 14.9 acres of Town-owned land adjoining the Boys and Girls Club facility on Gumtree Road.

Mr. Harkins moved to approve. Mr. Williams seconded. The motion as approved by a vote of 6-0. (Mrs. Likins was not at the dais and did not participate in the vote due to her recusal as noted above.)

Mrs. Likins returned to the dais at this time.

12) Executive Session

Mr. Riley stated he needed an Executive Session for contractual matters pertaining to land acquisition, including possible sale of town-owned land; legal matters pertaining to the Republic Franchise agreement; legal matters pertaining to possible condemnation of property for roadway and pathway improvement projects; legal matters pertaining to pending litigation; and personnel matters pertaining to the annual review of the Town Manager.

At 4:50 p.m. Mr. Harkins moved to go into Executive Session for the reasons given by the Town Manager. Mr. Williams seconded. The motion was unanimously approved by a vote of 7-0.

Mayor Laughlin called the meeting back to order at 6:13 p.m. stated there was no business as a result of the Executive Session and **Item 11.d.** was addressed as stated below.

d. Town Manager Review/Compensation

Mr. Harkins moved to defer the review to an upcoming Town Council meeting. Mr. Williams seconded. The motion was approved by a vote of 7-0

13) Adjournment

Mr. Williams moved to adjourn. Mr. Harkins seconded. The meeting was adjourned at 6:14 p.m.

Vicki L. Pfannenschmidt
Executive Assistant

Approved:

Drew A. Laughlin, Mayor



Items of Interest

November 5, 2013

1. Town News

Richard Spruce, Plans Examiner, has achieved both the Certified Building Official and a Master Code Professional certifications as tested through the International Code Council. To receive the Master Code Professional level, one must pass numerous tests and become heavily certified in multiple aspects of the building, fire, energy, and accessibility codes. When Richard achieved these personal goals, he became one of only 760 others worldwide that have achieved the MCP level of certification.

(Contact Jill Foster, Deputy Director of Community Development at (843) 341-4694 or jillf@hiltonheadislandsc.gov)

Emergency Management Coordinator Tom Dunn has received certification from the South Carolina Emergency Management Association as a South Carolina Certified Emergency Manager. Tom is now one of only 35 certified Emergency Managers in the State.

(Contact Lavarn Lucas, Fire Chief at (843) 682-5153 or lavarnl@hiltonheadislandsc.gov)

The Town of Hilton Head Island Financial Statements for the period ending August 31, 2013 including the Financial Dashboard have been posted on the Town's website. You can view them at www.hiltonheadislandsc.gov

(Contact: Susan Simmons, Director of Finance at 843-341-4645 or susans@hiltonheadislandsc.gov)

2. Noteworthy Events

- a) Some of the upcoming meetings at Town Hall:
- Planning Commission – November 6, 2013, 9:00 a.m.
 - Accommodation Tax Advisory Committee – November 7, 9:00 a.m.
 - Town Council Workshop – November 7, 2013, 6:00 p.m.
 - Planning & Development Standards Committee – November 7, 3:00 p.m.
 - Veterans Day Observance – Town Hall Administrative Offices Closed
 - Design Review Board – November 12, 2013, 1:15 p.m.
 - Town Council Workshop – November 12, 2013, 5:00 p.m.
 - Accommodations Tax Advisory Committee – November 14, 9:00 a.m.
 - Parks and Recreation Commission, November 14, 3:30 p.m.
 - Intergovernmental Committee – November 18, 10:00 a.m.
 - Town Council – November 19, 2013, 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.

2013 Hilton Head Island Events

Friday, November 8, 2013 5:00pm-8:00pm Saturday November 9, 2013 Sunday, November 10, 2013 11:00am-5:00pm	Hilton Head Island Oyster Festival Island Recreation Association	Shelter Cove Community Park
Monday, November 11, 2013 10:00am-11:30am	Veterans Day Observance	Shelter Cove Veterans memorial Park

**2013 Policy Agenda
September/October**

Top Priority

Target	Chief Contact	Comments
<ul style="list-style-type: none"> Economic Development Organization: Creation and Operation 	Shawn Colin	EDC was officially created and started meeting on August 26 th . It has elected officers, reviewed background information and is planning for a strategic workshop to help them define their work and focus their efforts. Regular meetings of the EDC are scheduled for the 2 nd Tuesday of each month.
<ul style="list-style-type: none"> Coligny Area Development Projects: Direction and Funding 	Shawn Colin/ Jennifer Ray	3 Alternative plans were completed by the consultant and presented at a public meeting of the Public Facilities Committee on September 26 th . A workshop to discuss the Coligny project in more details is schedule for November 12 th at 6:00pm
<ul style="list-style-type: none"> Arts Collaboration: Framework and Strategy for Fostering Collaboration among Arts Organizations 	Jill Foster	Interviews continue; web survey is in place and receiving input through October. Another week of community meetings are scheduled for Oct 28-31. Final plan to be ready for review around January 2014.
<ul style="list-style-type: none"> Arts Center of Coastal Carolina: Short-Term Financial Direction 	Steve Riley	Done. Awaiting study.
<ul style="list-style-type: none"> Chaplin Linear Park and Boardwalk: Development and Permitting 	Jennifer Ray	Schematic Design Plans including cost estimates and phasing recommendations are scheduled to be completed by November 2013.

High Priority		
Target	Chief Contact	Comments
<ul style="list-style-type: none"> LMO Modifications 	Teri Lewis	The LMO rewrite draft will be broken up into three sections to move forward through the public adoption process. The first section (Chapter 1 – General Provisions, Chapter 2 – Administration, Chapter 8 – Enforcement and Chapter 9 – Disaster Recovery) is scheduled for a public hearing at the Planning Commission meeting on December 4 th .
<ul style="list-style-type: none"> Aging Office Buildings & Commercial Centers: Policy Direction and Town Tools 	Charles Cousins	LMO rewrite attempting to allow a broader list of allowed zoning uses and more flexibility to encourage redevelopment of existing commercial stock.
<ul style="list-style-type: none"> Recreation Center Expansion: Direction on Future Phases 	Jill Foster	Town Council workshop is set for November 5 to review conceptual site plan for changes to the Center, removing the Aquatic Center and Splash Pad from that location.
<ul style="list-style-type: none"> Mainland Transportation Agreement: Dirt Road Policy Direction, Flyover Funding, and Future Town Acceptance of Private Roads Direction and Funding 	Scott Liggett	Staff is completing a proposed draft policy for the acceptance of private roads. Review by Public Facilities Committee is targeted for November.
<ul style="list-style-type: none"> Solid Waste Contract: Direction 	Scott Liggett	Consideration being given to franchise agreement modifications as proposed by Republic Waste Services
Moderate Priority		
Target	Chief Contact	Comments
<ul style="list-style-type: none"> Beaufort County Strategy: Issues, Positions, Dialogue 	Steve Riley	Ongoing.
<ul style="list-style-type: none"> Recreation Organization, Management and Performance Audit 	Jill Foster	Town Council workshop is set for November 5 for discussion.
<ul style="list-style-type: none"> Land Acquisition Program: Policy Direction, Acquisitions, and Funding 	Charles Cousins	Ongoing


**2013 Management Agenda
September/October**

Target	Chief Contact	Comments
<ul style="list-style-type: none"> Reassessment and Tax Rate Limitations: Direction and Public Information 	Susan Simmons	The County recently issued assessment notices and Finance has responded with a Town website with additional information and links to the County. We are also assessing the need for a newspaper article in November when the County issues the tax bills. We are available to provide Council or others more information.
<ul style="list-style-type: none"> Shelter Cove Area Public Projects: Construction 	Heather Colin/ Scott Liggett	Shelter Cove Community Park master plan scheduled to be reviewed by Parks and Recreation Commission 10/24/13 and Public Facilities Committee 11/5/13.
<ul style="list-style-type: none"> Tax Increment Financing District: Study Extension 	Shawn Colin	Preliminary discussions with outside taxing bodies have been completed. Additional refinement of existing TIF funding situation and projections for extension based upon real reassessment information is underway.
<ul style="list-style-type: none"> Employee Compensation and Benefits: Review and Direction 	Greg DeLoach/ Nancy Gasen	Evergreen Solutions was selected as study consultant. Project plan was finalized, on-site interviews/focus groups were conducted, and position questionnaires have been completed by employees and reviewed by supervisors. External market survey will be initiated in November.
<ul style="list-style-type: none"> Posting of Quarterly Financial Reports Online: Purpose, Method, and Funding 	Greg DeLoach/ Susan Simmons	Enhancements made in October to add a 3 rd year of data so that there are always two full years and the current year-to-date which improves the ability to make comparisons and have expectations for actual amounts .
<ul style="list-style-type: none"> Old Welcome Center Building: Direction 	Scott Liggett	Complete

**CIP Monthly Report
September/October**

Project	Chief Contact	Comments
<ol style="list-style-type: none"> 1. Wm. Hilton Parkway / Leamington Intersection Improvements 2. Wm. Hilton Parkway Mast Arm Projects 3. Honey Horn Access Improvements 4. Fire Station #6 5. Rowing and Sailing Center 6. Pembroke Drive and Gardner Drive Pathways 7. Lemoyne Avenue 	<p>Scott Liggett</p>	<ol style="list-style-type: none"> 1.Contract awarded. Construction start targeted for early November. 2.Bids due October 28, 2013. 3.Construction substantially complete. 4.Construction on-going, targeted completion date June 2014. 5.RFP closes October 25, 2013. RFP for upland park improvements to follow. 6.Contract awarded. Construction start targeted for November 7.Conceptual design complete. Review by Public Facilities Committee scheduled for November 5, 2013.

MEMORANDUM

TO: Town Council, Town of Hilton Head Island
FROM: Lavarin Lucas, Fire Chief 
Via: Stephen G. Riley, ICMA-CM, Town Manager
RE: Proposed Ordinance Number 2013-08, Prohibiting the open burning of yard debris in the Town of Hilton Head Island
DATE: October 22, 2013

No changes were made to Proposed Ordinance 2013-08 as a result of First Reading held on August 6, 2013.

AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND

ORDINANCE NO. 2013-

PROPOSED ORDINANCE NO. 2013- 13

AN ORDINANCE TO REPEAL CHAPTER 7 OF TITLE 9 OF THE MUNICIPAL CODE OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA AND TO REENACT A NEW CHAPTER 7 OF TITLE 9, OPEN 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 99-18, Chapter 7 of Title 9 entitled “Open Burning” on June 15, 1999; and

WHEREAS, the Town Council now desires to amend various sections of Chapter 7 of Title 9 for the purpose of providing for the health and welfare of the residents and visitors of the Town; and

WHEREAS, smoke from outdoor burning in populated areas can present serious health hazards to individuals with respiratory ailments; and

WHEREAS, smoke from outdoor burning is a common cause of nuisance complaints between neighbors and is often a public nuisance impacting not only residents but visitors of the Town; and

WHEREAS, outdoor burning causing nuisance complaints places demands on resources of the Town of Hilton Head Island Fire & Rescue; and

WHEREAS, Forestry Commission firefighters respond to more than 3,000 wildland fires burning about 20,000 acres per year; 98% of the wildland fires are caused by human activities. Fire departments respond to more than 20,000 grass, brush, woods, or trash fires per year; and

WHEREAS, the Town Council now desires to reenact a new Chapter 7 of Title 9, Open Burning.

NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA; AND IT IS HEREBY ORDERED ORDAINED BY AND UNDER 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.
- B. A new Chapter 7 of Title 9 (Open 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 be effective immediately upon its adoption by the Town Council of 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 _____, 2013.

Drew A. Laughlin, Mayor

ATTEST:

Victoria L. Pfannenschmidt, Town Clerk

First Reading:

Second Reading:

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

Introduced by Council Member:

Attachment "A"

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.



MEMORANDUM

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

FROM: Jennifer Lyle, PE, Assistant Town Engineer
Galen Knighten, Engineering Technician

VIA: Scott Liggett, PE, Director of Public Projects and Facilities / Chief Engineer
Jeff Buckalew, PE, Town Engineer
Mitchell Thoreson, Alford Law Firm

DATE: October 23, 2013

SUBJECT: Condemnation for Easement Rights for Construction of the US 278 and Leamington Intersection Project, the Pembroke Drive Pathway, and Gardner Drive Pathway CIP Projects

Recommendation:

Staff recommends authorization of condemnation pursuant to S.C. Code Section 28-2-10, *et seq.*, of temporary construction easement rights in property owned by Long Cove Club Associates, L.P., and pathway easement and temporary construction easement rights in property owned by Christian Renewal Church, Inc., The 2000 Group, LLC, 220 Pembroke Place Owners Association, Inc., and DDJ, LLC.

Summary:

Staff has procured a contractor for the construction of the US 278 and Leamington intersection improvement CIP roadway project and for the construction of the Pembroke Drive and Gardner Drive CIP pathway projects. The temporary construction easement rights on the property owned by Long Cove Club Associates, L.P. is on the US 278 and Leamington intersection improvement project to make necessary changes to the existing northern driveway of the Fresh Market Shoppes to limit it as a right-in, right-out access to William Hilton Parkway when the new signalized intersection is built for left turn movements in and out of the shopping center. The pathway easement and temporary construction easement rights on the property owned by Christian Renewal Church, Inc., are for the construction of the multi-use pathway along Gardner Drive. The pathway easement and temporary construction easement rights on the property owned by DDJ, LLC and the property owned by 2000 Group LLC, both part of the 220 Pembroke Place Owners Association, LLC. are for the construction of a multi-use pathway along Pembroke Drive at the Indigo Run Drive and Pembroke Drive traffic circle.

Background:

The US 278 and Leamington Intersection project has construction funding available in Fiscal Year 2014. Staff has procured a contractor to start construction in November 2013 to ensure the project is complete prior to the 2014 RBC Heritage Golf Tournament in April. The temporary construction easement on the existing drive of the Fresh Market Shoppes, owned by the Long Cove Club Associates, LLC. is for an approximately 3,124 square feet (0.07 ac) easement needed for modification of the curb and roadway markings on the drive for a single lane right-out only exit that will be created with the US 278 median closure at this drive. The project includes creating a new signalized intersection at US 278 and Leamington by providing a new access road on Town owned property from William Hilton Parkway to the access road between Hargray and the Fresh Market Shoppes. The SCDOT approved the signal warrant at this site on the condition that the median closures were included at the Fresh Market North drive to US 278 and the Hargray drive to US 278.

The Pembroke Drive and Gardner Drive pathway projects have construction funding available in Fiscal Year 2014. Staff has procured a contractor to start construction once all easements are obtained. The Christian Renewal Church, LLC., property is adjacent to Gardner Drive. A small segment of the pathway will be built on this property for the pathway easement (260 SF) with a temporary construction easement needed for the construction fill of the pathway (995 SF). The DDJ, LLC and 2000 Group, LLC, part of the 220 Pembroke Place Owners Association, LLC. are properties adjacent to the Pembroke Drive and Indigo Run Drive intersection. Due to the proximity of these properties to the traffic circle, it is inevitable that part of the pathway will be on the properties. A permanent pathway easement of 364 square feet and temporary construction easement of 82 square feet is necessary on the DDJ, LLC property and a permanent pathway easement of 170 square feet and temporary construction easement of 292 square feet is needed on the 2000 Group, LLC property.

Attachments:

- Resolution of the Town Council of the Town of Hilton Head Island, South Carolina, Authorizing Condemnation

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, AUTHORIZING CONDEMNATION, PURSUANT TO S.C. CODE SECTION 28-2-10, *et seq.*, OF TEMPORARY CONSTRUCTION EASEMENT RIGHTS IN PROPERTY OWNED BY LONG COVE CLUB ASSOCIATES, L.P., AND PATHWAY EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT RIGHTS IN PROPERTY OWNED BY CHRISTIAN RENEWAL CHURCH, INC., THE 2000 GROUP, LLC, 220 PEMBROKE PLACE OWNERS ASSOCIATION, INC., AND DDJ, LLC.

WHEREAS, the Town has planned and desires to undertake the Leamington Intersection Project, which project is for the benefit and use of the general public and which project involves, among other things, acquisition of a temporary construction easement from Long Cove Club Associates, L.P. in connection with property consisting of 0.326 acres and shown as Parcel C on a plat recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 33 at Page 168, which easement is depicted on the attached Exhibit “A”; and,

WHEREAS, the Town has planned and desires to undertake the Gardner Drive Pathway Project, which project is for the benefit and use of the general public and which project involves, among other things, acquisition of a pathway easement and temporary construction easement from Christian Renewal Church, Inc. in connection with property known as Beaufort County TMS#: R510-008-000-0276-0000, which easement is depicted on the attached Exhibit “B”; and,

WHEREAS, the Town has planned and desires to undertake the Pembroke Drive Pathway Project, which project is for the benefit and use of the general public and which project involves, among other things, acquisition of a pathway easement and temporary construction easement from The 2000 Group, LLC and/or 220 Pembroke Place Owners Association, Inc. in connection with property known as Beaufort County TMS#: R510-008-000-0506-0000, as well as acquisition of a pathway easement and temporary

construction easement from DDJ, LLC in connection with property known as Beaufort County TMS#: R510-008-000-0402-0000, which easements are depicted on the attached Exhibit “C”; and,

WHEREAS, despite the necessity of acquiring the aforementioned easements, none of the aforementioned easements have been willingly granted to the Town by the aforementioned entities; and,

WHEREAS, 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 proceed with condemnation of the aforementioned easement rights pursuant to S.C. Code Section 28-2-10, *et seq.*

**NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF
THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA:**

1. The Town Attorney is granted authorization to proceed with condemnation, pursuant to S.C. Code Section 28-2-10, *et seq.*, of the aforementioned easement rights as depicted in the attached Exhibits “A”, “B”, and “C”.
2. The Mayor and/or Town Manager and/or Town Attorney are hereby authorized to take such other and further action as may be necessary to complete the actions authorized hereby.

**PASSED AND APPROVED BY THE TOWN COUNCIL THIS ____ DAY OF
_____, 2013.**

(SIGNATURE PAGE FOLLOWS)

Drew A. Laughlin, Mayor

ATTEST:

Vicki L. Pfannenschmidt, Town Clerk

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

Introduced by Council Member: _____

EXHIBIT “A”

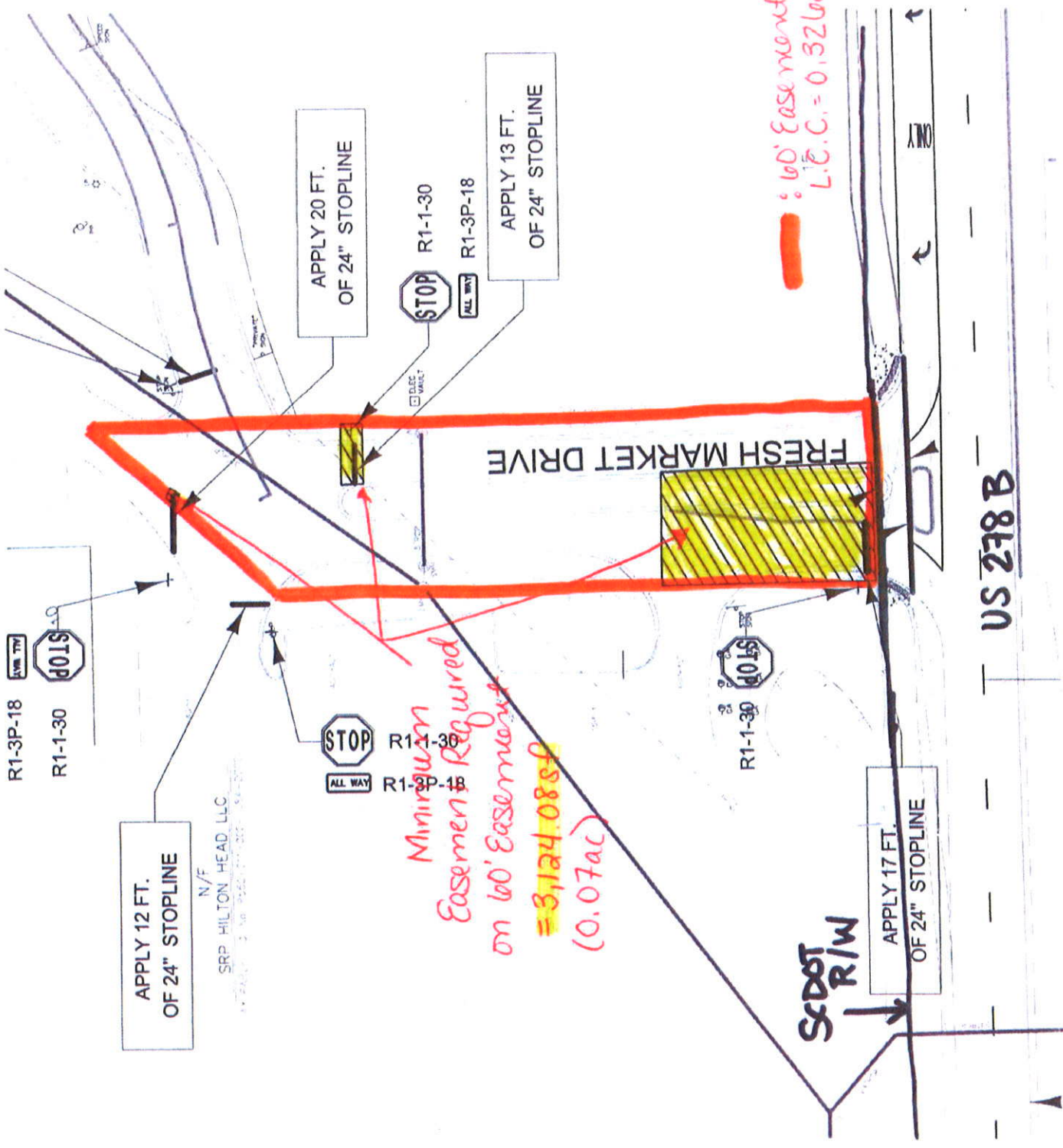


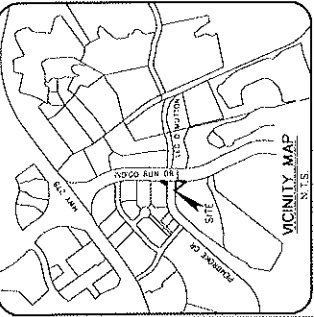
EXHIBIT “B”



CURVE TABLE			
CURVE	LENGTH	RADIUS	DELTA
C1	14.16	42.00	14.09
C2	20.35	93.00	20.31
C3	8.83	42.00	8.81
C4	19.01	93.00	19.00
C5	19.01	93.00	19.00
C6	12.29	42.00	12.25
C7	412.51	943.54	4.09
C8	31.47	30.00	30.05
C9	15.65	18.00	15.35
C10	13.96	849.60	13.96
C11	13.96	849.60	13.96
C12	20.35	93.00	20.31
C13	20.35	93.00	20.31
C14	21.09	25.00	20.47
C15	21.09	25.00	20.47

R510 008 000 0402 0000
DDJ LLC
PO BOX 21486
HILTON HEAD ISL SC 29925
(IMPROVEMENTS NOT SHOWN)

CURVE TABLE			
CURVE	LENGTH	RADIUS	DELTA
C1	14.16	42.00	14.09
C2	20.35	93.00	20.31
C3	8.83	42.00	8.81
C4	19.01	93.00	19.00
C5	19.01	93.00	19.00
C6	12.29	42.00	12.25
C7	412.51	943.54	4.09
C8	31.47	30.00	30.05
C9	15.65	18.00	15.35
C10	13.96	849.60	13.96
C11	13.96	849.60	13.96
C12	20.35	93.00	20.31
C13	20.35	93.00	20.31
C14	21.09	25.00	20.47
C15	21.09	25.00	20.47



TEMPORARY CONSTRUCTION
EASEMENT 82 S.F.

LEG-O-MUTTON ROAD 80' R/W

PEMBROKE DRIVE 100' R/W

LEG-O-MUTTON ROAD 80' R/W

INDIGO RUN DRIVE 150' R/W

TEMPORARY CONSTRUCTION EASEMENT &
PERMANENT PATHWAY EASEMENT OVER:
TAX PARCELS R510 008 000 0506 & 0402
PEMBROKE DRIVE, HILTON HEAD ISLAND,
BEAUFORT COUNTY, SOUTH CAROLINA
PREPARED FOR: THE TOWN OF HILTON HEAD ISLAND

DATE: 7/05/13 SCALE: 1" = 20'



I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE PRACTICES OF LAND SURVEYING IN SOUTH CAROLINA AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "C" SURVEY AS SPECIFIED THEREIN. I AM AWARE OF ANY POSSIBLE ENCUMBRANCES OR PROJECTIONS OTHER THAN SHOWN.



SIS Sea Island Land Survey, LLC.
40 Mathews Court,
Hilton Head Island,
SC 29926
Tel (843) 691-3248
Fax (843) 699-3871
E-mail: sis@spynet.com
DWG No.: 1101/8
DATE: 7/05/13
PREPARED BY: SEA ISLAND LAND SURVEY, LLC

REFERENCE PLATS:

- 1) A SUBDIVISION PLAT OF INDIGO PARK PHASE II, INDIGO RUN, HILTON HEAD ISLAND, BEAUFORT COUNTY, S.C. DRAWN: 10/07/94 RECORDED IN BOOK 33, PAGE 144, DATED 2/16/95 BY: MICHAEL R. DUNGAN S.C.R.L.C. # 11905
- 2) A SUBDIVISION PLAT OF FORMER LOT A, PARCEL 1, HILTON HEAD ISLAND, BEAUFORT COUNTY, S.C. DRAWN: 2/11/02 RECORDED IN BOOK 102, PAGE 1, DATED 12/03/04 BY: MICHAEL R. DUNGAN S.C.R.L.C. # 11905

ADDRESS: PEMBROKE DRIVE
DISTRICT: 510, MAP: 8, PARCELS: 506 & 402
THIS PROPERTY LIES IN F.E.M.A. ZONE A7
BASE FLOOD ELEVATION = 14.0'
COMMUNITY NO. 450260, PANEL: 0008D, DATED: 9/29/86

- NOTES:
- 1) THIS PROPERTY MAY BE SUBJECT TO EASEMENTS OF RECORD AND EGRESS.
 - 2) RESTRICTIONS AS RECORDED IN THE OFFICE OF THE CLERK FOR BEAUFORT COUNTY.
 - 3) SHOWN BY SEA ISLAND LAND SURVEY, LLC.

NOT VALID UNLESS EMBOSSED



TOWN OF HILTON HEAD ISLAND

TO: Town Council
FROM: Steve Riley, Town Manager
DATE: October 17, 2013
RE: Donation of Sewer Capacity Rights to Project SAFE

Recommendation:

That the Town Council approve the transfer of 50 REUs (Residential Equivalent Units) of sewer capacity rights, held by the Town, to the not-for-profit Project SAFE organization so as to assist income-qualified residents in connecting to the public sewer system.

Summary:

Approval of this recommendation would result in the Town transferring ownership rights to 50 REUs, out of a total 81.67 REUs of sewer capacity rights, to Project SAFE. Project SAFE is a program of the Community Foundation of the Lowcountry dedicated to assisting income-qualified residents in connecting to the public sewer system. Project SAFE works with the PSD and has a process in place to verify income eligibility of households seeking to tie onto the public sewer system.

The Town acquired these sewer capacity rights, all of them within the service area of Hilton Head Public Service District (HHPSD), as part of several land transactions over the years. The Town would retain 31.67 REUs for future use on public projects that may one day be built.

Background:

The Town, over the years and as part of its land acquisition program, has acquired sewer capacity rights in the sewage treatment plan of the HHPSD. In two cases, the acquisition of the Fish Haul Park site and the acquisition of the Pineland Mall parcel, the Town did pay separately for the sewer capacity rights that the developer had acquired in advance of planned development. In other cases we bought land and demolished an existing building that had been connected to the sewer system; and the capacity rights accrued to our account. The attached chart shows where these capacity rights came from and how they have been used.

In a similar transaction, back in 2002, the Town worked out an agreement with Broad Creek PSD and the Community Foundation to transfer 10,000 gallons of sewer capacity, which had been obtained as part of the Yacht Cove acquisition, to Project SAFE. Normally, sewer rights are not transferable between jurisdictions. Indeed, normally the capacity rights are restricted to the parcel to which they were first assigned. Broad Creek PSD, to their credit, saw this as a win for the community.

The HHPSD has been extremely cooperative over the years in agreeing to allow the Town to transfer capacity rights to Town public projects, such as at Honey Horn or the new Fire Stations. But these rights are not marketable to private parties. They are assets, which we paid for in many cases, but they are of limited utility. And, where we did pay for the rights, the transaction was integral to the agreement to purchase the property. Each developer was interested in recouping these out-of-pocket costs. But these costs could as easily been reflected in the purchase price. We will not ever use all of the capacity rights that we hold.

As the HHPSD finishes up the Baygall and mid-Spanish Wells sewer projects in the coming months, they expect a great deal of interest from property owners needing assistance to connect to the sewer system. Both of these are projects which we have previously helped to make possible through contributions of TIF funds or by making land available for lift stations. The PSD estimates there are as many as 400 households remaining that may qualify under the Project SAFE guidelines. Contributing these sewer capacity rights to Project SAFE will enable that organization, working in cooperation with the PSD, to assist income-qualified citizens of our Town connect to the public sewer system.

Attachment (1)

Town of Hilton Head Island Sewer Capacity Rights in HHPSD

2/6/12

Capacity Acquired From:	To Be Used For:	Date	REU's	Amount Paid
Wayne Kinser	Fish Haul Recreation	Jan-99	60.0	\$240,000
Pineland Mall Associates	Town Facilities	Jan-01	45.0	\$100,385
Hilton Head PSD	Chaplin Community Park		4.5	\$0
Hilton Head PSD	Convenience/Drop Off Center		0.1	\$0
Abe's Fish House			6.67	\$0
Total			116.27	\$340,385

Capacity Used For:	
Fish Haul Recreation	0
Pineland Tract	0
New Fire Station 3	6.4
New Fire Station 4	5.3
New Fire Station 7	5.3
Chaplin Community Park	4.5
Convenience/Drop Off Center	0.1
Honey Horn (6/18/08)	6.56
Fire Training Facilities Mgmt Center	2.81
Green's Shell Park	1.8
Honey Horn - Barn	0.83
Honey Horn Hach House	1
Total	34.6

Unused Capacity	81.67
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TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Steve Riley, *ICMA-CM, Town Manager*
VIA: Charles Cousins, *AICP, Community Development Director*
VIA: Shawn Colin, *AICP, Deputy Director of Community Development*
FROM: Shea Farrar, *Senior Planner*
DATE: October 28, 2013
SUBJECT: Authorize the Sale of Real Property (Portion of Previous Welcome Center Site)

Recommendation: Staff recommends that Town Council approve first reading of an ordinance authorizing the sale of approximately 1.8 acres of Town-owned property as shown on Exhibit "A" to facilitate off-street parking improvements and that the contract for the sale includes the conditions outlined in this memo.

Summary: If approved, Town Council would approve first reading of an ordinance authorizing the sale of 1.8 acres of Town-owned property adjacent to the Crazy Crab restaurant to increase the availability of parking for the restaurant with the following conditions:

1. The 1.8 acres is combined with the restaurant parcel and has no associated density.
2. Access to the remaining Town property is provided from a shared access location on William Hilton Parkway via a 30' wide re-locatable cross access easement.
3. A Street Buffer from William Hilton Parkway of 75' is proposed to provide adequate buffer in the event that William Hilton Parkway is widened through this area.
4. A 14' re-locatable pathway easement is granted to the Town along the property frontage with William Hilton Parkway.

Town Council voted unanimously to authorize the execution of a contract for this purpose on October 15, 2013 with these conditions, which will provide an opportunity to address additional parking needed for the restaurant with minimal impact on the remaining Town land.

Background: The Town owns a property located at 100 William Hilton Parkway that was the location of the previous Welcome Center. The property is adjacent to a property owned by William S. Toomer that is the location of the Crazy Crab restaurant. Currently, a Shared Access and Parking Rights Agreement exists that grants access to the Town's property through the existing entranceway to Crazy Crab from William Hilton Parkway via cross access lanes that connect parking areas on the two properties. It also allows restaurant patrons to park on the paved parking areas on the Town's property.

The Town recently demolished the previous Welcome Center building and does not anticipate using this property for anything other than green, open space and to provide views to the marsh. The parking on the Town's property, however, is heavily utilized for restaurant parking. It has been proposed that the Town sell a 1.8 acre portion of this property to Mr. Toomer for this purpose.

AN ORDINANCE OF THE TOWN OF HILTON HEAD, SOUTH CAROLINA, AUTHORIZING THE EXECUTION OF A CONTRACT FOR PURCHASE AND SALE AND THE EXECUTION OF A DEED FOR THE SALE OF 1.8 ACRES OF REAL PROPERTY LOCATED ON WILLIAM HILTON PARKWAY TO WILLIAM S. TOOMER AND MARY K. TOOMER PURSUANT TO THE AUTHORITY 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); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

LEGISLATIVE FINDINGS

WHEREAS, The Town of Hilton Head Island (hereinafter “Town”) owns a parcel of real property known as R511-007-000-0152-0000 (the “Town Property”), which is located on William Hilton Parkway, Hilton Head Island, Beaufort County, South Carolina; and,

WHEREAS, the Town has agreed to sell to William S. Toomer and Mary K. Toomer a portion of the Town Property consisting of approximately 1.8 acres, which portion shall be encumbered and combined with property currently owned by William S. Toomer and Mary K. Toomer known as R511-007-000-0064-0000 in accordance with the terms and conditions set forth in that certain Contract for Purchase and Sale, a copy of which is attached hereto as Exhibit “A” (the “Contract”); 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 authorized 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 Contract in a substantially similar form to that attached hereto as Exhibit "A" for the

conveyance of Town-owned real property to William S. Toomer and Mary K. Toomer; 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 Contract as authorized hereby, including the execution and delivery of the Deed and all other documents called for in the Contract.

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 TOWN COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, ON THIS ____ DAY OF NOVEMBER, 2013.

Drew A. Laughlin, Mayor

ATTEST:

Victoria L. Pfannenschmidt, Town Clerk
First Reading: _____
Second Reading: _____

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

Introduced by Council Member: _____

EASTBOUND LANES - WILLIAM HILTON PARKWAY

**+/- 1.4 ACRES REMAIN
TOWN OF HHI**

14' RE-LOCATABLE PATHWAY/EASEMENT

PROPOSED 75' BUFFER FROM WHP (ACCOMODATES WIDENED WHP R-O-W)

30' WIDE RE-LOCATABLE CROSS ACCESS FOR TOWN

**+/- 1.8 ACRES
TO CRAZY CRAB**

NEW PROPERTY
LINE LOCATION

EXISTING PROPERTY LINE LOCATION

MARSHES OF JARVIS CREEK

CRAZY CRAB
RESTAURANT

**EXHIBIT "A" - CONCEPT SKETCH
FOR
WELCOME CENTER/ CRAZY CRAB
PROPERTY
RECONFIGURATION**

PREPARED BY: TOWN OF HILTON HEAD ISLAND
SEPTEMBER 23, 2013

MEMORANDUM

TO: Town Council

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

VIA: Brian Hulbert, Staff Attorney
Gregory D. DeLoach, Assistant Town Manager
Scott Liggett, Director, Public Projects & Facilities
Julian Walls, Facilities Manager

DATE: October 29, 2013

SUBJ: Republic Services, Inc. Franchise and Services Agreements

Recommendation: Staff recommends the approval of Proposed Ordinance 2013-23, amending the terms of the agreement for the non-exclusive Franchise to Republic Services, Inc. for the purpose of conducting waste hauling and recycling collection for single family residences within Hilton Head Island. Specifically, staff and Republic Services, Inc. recommend amending the Franchise Agreement with Republic Services, Inc. and the approval of the attached amended Franchise Agreement.

Summary: Approval of Proposed Ordinance 2013-23 and the amended Franchise Agreement would modify the terms of the existing Franchise Agreement by:

- 1) terminating collection services for multi-family residences, effective January 1, 2014;
- 2) removing Saturday collection services, effective January 1, 2014;
- 3) terminating the franchise fee, effective on December 31, 2013;
- 4) allowing an increase of collection fees of 2.25 % beginning January 1, 2014; and
- 5) terminating the Franchise Agreement on September 30, 2014.

Background: On November 17, 2010 a non-exclusive franchise for collection of residential waste and recycling was granted to Republic Services, Inc. Since the granting of the franchise, issues have arisen which have caused a need to amend the terms of the Franchise Agreement.

AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND

ORDINANCE NO. 2013-

PROPOSED ORDINANCE NO. 2013-23

AN ORDINANCE AMENDING THE REPUBLIC SERVICES, INC. A NON-EXCLUSIVE FRANCHISE FOR THE PURPOSE OF CONDUCTING WASTEHAULING AND RECYCLING COLLECTION FOR SINGLE FAMILY RESIDENTIAL AND CERTAIN MULTI-FAMILY RESIDENTIAL UNITS WITHIN THE TOWN OF HILTON HEAD ISLAND; AND, PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Section 5-7-30 of the Code of Laws of South Carolina 1976 (Annotated), as amended, provides that the municipal government within the State of South Carolina may “grant franchises for the use of public streets and make charges for them”; and

WHEREAS, Section 2-7-20 of the Municipal Code of the Town of Hilton Head Island provides that Council grant, renew, or extend franchises, licenses, or rights in public streets or property by ordinance; and

WHEREAS, the Town Council granted Republic Services, Inc. a non-exclusive franchise to conduct waste hauling and recycling pick-up for single family residential and cart based multi-family residential properties pursuant to the terms as listed in the Franchise Agreement on November 17, 2010; and

WHEREAS, the Town Council desires to amend the non-exclusive franchise and the terms of the November 17, 2010 Franchise Agreement by adding the amended Franchise Agreement to the franchise.

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 SAID AUTHORITY OF COUNCIL:

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

Section 1. **Amendment.** The Municipal Code of the Town of Hilton Head Island, South Carolina, be and the same hereby is amended by adding an amended franchise agreement to Section 10-5-90, which section shall now read as follows:

"Section 10-5-90. Waste hauling and recycling collection franchise granted to Republic Services, Inc.

A non-exclusive franchise for the use of the public streets and roads within the town limits is granted to Republic Services, Inc. to conduct waste hauling and recycling collection service to single family and cart based multi-family residences pursuant to the terms and conditions of the **amended** franchise agreement which is attached hereto and made a part hereof by reference.

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 be effective upon adoption by the Town Council of 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 _____, 2013.

Drew A. Laughlin, Mayor

ATTEST:

Victoria L. Pfannenschmidt, Town Clerk

First Reading: November ____, 2013

Second Reading: _____

APPROVED AS TO FORM:

Gregory M. Alford, Town Attorney

Introduced by Council Member: _____

MEMORANDUM

TO: Town Council
FROM: Stephen G. Riley, ICMA-CM, Town Manager
VIA: Brian Hulbert, Staff Attorney
Gregory D. DeLoach, Assistant Town Manager
Scott Liggett, Director, Public Projects & Facilities
DATE: October 30, 2013
SUBJ: Proposed Ordinance Amendment for Waste Collection and Recycling

Recommendation: Staff recommends that Town Council approve first reading of Proposed Ordinance Number 2013- 25, amending Title 9 chapter 6 of the Municipal Code.

Summary: This Ordinance amends Sections 9-6-10, 20, 40, and 60 of the Municipal Code.

The amendment to Section 9-6-10 is the addition of “Single-family”, defined as any structure containing one (1) residential dwelling unit which is either not leased or leased for 90 days or longer to a single tenant (or single set of tenants). The purpose of this restriction is to remove Republic from servicing single-family short-term (less than 90 days) rentals but allowing Republic to continue to service single-family long-term (90 days or longer) rentals

The amendment to Section 9-6-20 will remove multifamily units from required service by the franchisee, which is consistent with the proposed termination agreement with Republic Services, Inc. Second, the deletion of subsection (d) of this Section, would delete language no longer applicable to residents of the Town.

The amendment to Section 9-6-40 would remove multifamily collection services requirement from the services offered by the franchisee. Additionally, it would require all waste haulers in the Town to offer recycling service to residential dwellings they service and require that it must be added as part of their base price.

The amendment to Section 9-6-60 would require all waste haulers in the Town to use a town-designated recycling processing location for transporting recyclables, which is currently the Sonoco processing center.

Background: On November 17, 2010 the Collection of Solid Waste and Recycling ordinance was adopted. On the same date a non-exclusive franchise for collection of residential waste and recycling was granted to Republic Services, Inc. Since the adoption of the ordinance and the granting of the franchise, issues have arisen which have caused a need to amend the terms of the ordinance and Franchise Agreement with Republic Services, Inc. Pursuant to terms in the proposed termination agreement, the above changes to the Waste Collection and Recycling ordinance are necessary.

AN ORDINANCE OF THE TOWN OF HILTON HEAD, SOUTH CAROLINA, TO AMEND TITLE 9 (HEALTH AND SANITATION) OF THE MUNICIPAL CODE OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA BY AMENDING CHAPTER 6 (COLLECTION OF SOLID WASTE AND RECYCLING), SPECIFICALLY SECTION 9-6-10, SECTION 9-6-20, SECTION 9-6-40, AND SECTION 9-6-60; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Hilton Head Island, South Carolina previously adopted Ordinance 96-41, Chapter 6 of Title 9 entitled "Recycling" on December 3, 1996; and,

WHEREAS, the Town Council previously adopted Ordinance 2010-22, containing amendments to Chapter 6 of Title 9 on November 17, 2010; and,

WHEREAS, the Town Council now desires to amend various sections of Chapter 6 of Title 9 for the purpose of providing for the health and welfare of the residents and visitors of the Town; and,

WHEREAS, the Town Council finds that it is in the best interests of Island residents and visitors to amend certain sections of the Town's Waste and Recycling Code; and,

WHEREAS, the Town Council now desires to amend Chapter 6 of Title 9, Waste and Recycling Code.

NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA; AND IT IS HEREBY ORDERED ORDAINED BY AND UNDER 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.** That Chapter 6 of Title 9 (Collection of Solid Waste and Recycling) of the Municipal Code of the Town of Hilton Head Island, South Carolina, is hereby amended as follows:

Chapter 6 COLLECTION OF SOLID WASTE AND RECYCLING

Sec. 9-6-10. Definitions.

The following definitions shall apply:

Commercial establishment: Any income-producing establishment, for profit or nonprofit, including, but not limited to, those used for retail, wholesale, industrial, manufacturing, dining, offices, professional services, automobile services, hotels, motels and restaurants. **For purposes**

of this title pertaining to collection of solid waste and recycling only, commercial establishments shall include dumpster-based multifamily residential dwellings, and shall exclude all other residential dwellings.

Franchise collector: The entity that has entered into a franchise agreement with the Town to perform solid waste and recycled materials collection.

Hazardous Materials: Any substance or chemical which is a "health hazard" or "physical hazard," including: chemicals which are carcinogens, toxic agents, irritants, corrosives, sensitizers; agents which act on the hematopoietic system; agents which damage the lungs, skin, eyes, or mucous membranes; chemicals which are combustible, explosive, flammable, oxidizers, pyrophorics, unstable-reactive or water-reactive; and chemicals which in the course of normal handling, use, or storage may produce or release dusts, gases, fumes, vapors, mists or smoke which may have any of the previously mentioned characteristics.

Multifamily: For the purposes of this title pertaining to collection of solid waste and recycling only, multifamily means a structure containing more than one (1) residential dwelling unit or residential structures clustered in a manner by which waste and recycling collection can be consolidated.

Recyclable materials: Materials, as designated in section 9-6-50, that would otherwise become solid waste that can be separated, collected, processed and returned to the economic stream in the form of raw materials or products.

Recycling: Any process by which materials that would otherwise become solid waste are separated, collected, processed and returned to the economic stream in the form of raw materials or products.

Recycling collection service: Recycling service provided by waste haulers or participated in by subscribers.

Refuse: Any solid waste, as defined herein, originating from typical household activities.

Residential dwelling: A building or part of a building designed and occupied exclusively for residential purposes by an individual or family unit.

Single-family: For the purposes of this title pertaining to collection of solid waste and recycling only, single-family means any structure containing one (1) residential dwelling unit which is not leased and/or otherwise rented by the owner thereof, and any structure containing one (1) residential dwelling unit which is leased and/or rented to the same tenant(s) (i.e. a single tenant or single set of tenants) for ninety (90) consecutive days or longer. Single-family shall not include structures containing one (1) residential dwelling unit which is rented to the same tenant(s) (i.e. a single tenant or a single set of tenants) for less than ninety (90) consecutive days.

Single-Stream: A recycling process in which materials are collected all mingled together with no sorting required by individual recyclers. Therefore, all materials listed under section 9-6-50 can be deposited in the same receptacle for pickup by the hauler.

Solid waste: Garbage, debris, commercial waste, industrial waste, nonorganic yard waste, white goods, furniture, bedding, ashes, rubbish, paper, junk, building materials, glass or plastic bottles, other glass, cans and any other discarded or abandoned material, including solid, liquid, semisolid or contained gaseous material. For purposes of the chapter, any waste specifically regulated under any state or federal law shall be excluded from the definition of solid waste.

Subscriber: One who voluntarily participates in the waste and recycling collection service offered by the Town's franchised collector.

Waste hauler: An individual, corporation, partnership or other legal entity which collects solid waste and recycling commercially and hauls it to the designated county landfill or recycling processing location.

Sec. 9-6-20. General conditions for granting franchise agreements for solid waste and recycling collection.

(a) The entire incorporated area of the Town shall be subject to the requirements of this chapter.

(b) Trash, nonorganic yard trash, household articles, and recyclables shall be collected in the entire incorporated area of the Town under the following conditions: any single-family ~~or cart-based multifamily residential~~ household shall have the right and option to subscribe to the franchised collector's solid waste and recycling collection service and to receive such service, upon payment to the collector of such fee as specified in the franchise agreement approved by the town council.

(c) Franchise agreements may be obtained from either competitive bidding through the town procurement process or through negotiations with prospective collectors of solid waste and recycling materials.

~~(d) Any single family or cart based multifamily residential households which have signed contracts in place for waste or recycling collection services on April 1, 2011, shall have until their existing contract expires or until September 30, 2012, whichever date is earlier, to begin using the collection services of the franchised collector.~~

Sec. 9-6-40. Solid waste and recycling collection service.

(a) The town's franchise solid waste and recycling collector will provide waste and recycling collection service to all cart-based single-family ~~and multifamily~~ residential dwellings.

(b) With the exception of the town's franchise solid waste and recycling collector, all waste haulers shall offer provide a reasonable voluntary single-stream recycling collection service to all commercial establishments residential dwellings (excluding single-family residential dwellings and dumpster-based multifamily residential dwellings), and such recycling service shall be included in the base price of any waste hauler operating in the town.

(c) Waste haulers may offer waste hauling and recycling collection services to commercial establishments.

~~(b)~~**(d)** The adequacy and reasonableness of the waste and recycling collection service shall be determined by the town manager or designee through an annual review. The franchise collector agreement will be fully evaluated after a five-year term.

~~(c)~~**(e)** Waste haulers and the town's franchise collector shall file a semiannual report (providing information for the six-month period of operation ending December 31 and June 30 of each calendar year) on February 1 and August 1 with the town that shall include the following information:

(1) Waste hauler's fee schedules and frequency of pickup for residential and commercial recycling;

(2) Number of residential solid waste customers **(excluding dumpster-based multifamily residential dwellings)** and the percent using the hauler's recycling service;

(3) Number of commercial solid waste customers **(including dumpster-based multifamily residential dwellings)** and the percent that are using the hauler's recycling service; and

(4) Tonnage of recycling from residential customers **(excluding dumpster-based multifamily residential dwellings)** and tonnage of recycling from commercial customers **(including dumpster-based multifamily residential dwellings)**.

Sec. 9-6-60. Collection of recyclable materials.

(a) It shall be unlawful for any person to place any material not designated for recycling in section 9-6-50 in the recyclable material receptacles.

(b) All information on proper procedures for disposal of recyclable materials and collection dates shall be provided by the waste hauler.

(c) All materials listed in section 9-6-50 shall be collected in a manner compliant with a single-stream method.

(d) For improperly set-out recyclables, the franchise collector will affix to nonconforming recyclables a sticker or tag approved by the town stating the reason for the noncollection and notify the town if collection is not made.

(e) The franchise collector will provide a recycling receptacle(s) sufficient to serve each single-family residence or cart-based multifamily dwelling unit. The town shall retain ownership of all its recycling receptacles and the resident and/or management company shall take proper care to protect such receptacle from loss or damage. Receptacles that are lost or stolen will be replaced one (1) time free of charge. Should repeated loss occur it shall be the responsibility of the resident and/or management company of each property to purchase a replacement from the franchise collector within forty-five (45) days.

(f) All recyclable materials collected by waste haulers and/or the town's franchise collector will be transported to a town-designated recycling processing location.

Section 2. **Severability.** If any section, phrase, sentence or portion of this Ordinance is for any reason held to be 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 be effective immediately upon its adoption by the Town Council of the Town of Hilton Head Island, South Carolina.

**PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE
TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA ON THIS ____ DAY OF
_____, 2013.**

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: _____