



**The Town of Hilton Head Island
Regular Town Council Meeting
February 17, 2015**

4:00 P.M. – BENJAMIN M. RACUSIN COUNCIL CHAMBERS

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**
None
- 6) Approval of Minutes**
 - a. Town Council Meeting, February 10, 2015
- 7) Report of the Town Manager**
 - a. Semi-Annual Update of the Planning Commission – Alex Brown, Chairman
 - b. Town Manager's Items of Interest
 - (1) Town News
 - (2) Noteworthy Events
- 8) Reports from Members of Council**
 - a. Planning Commission Crystal Award Presentation to Mayor David Bennett – *Mayor Pro Tem Bill Harkins*
 - b. General Reports from Council
 - c. Report of the Intergovernmental Relations Committee – Bill Harkins, Chairman
 - d. Report of the Community Services Committee – Kim Likins, Chairman
 - e. Report of the Public Planning Committee – Tom Lennox, Chairman
 - f. Report of the Public Facilities Committee – Lee Edwards, Chairman
 - g. Report of the Public Safety Committee – Marc Grant, Chairman
 - h. Report of the Finance and Administrative Committee, John McCann, Chairman
- 9) Appearance by Citizens**

10) Unfinished Business

None.

11) New Business

a. Consideration of a Resolution establishing policy agenda and management agenda

Consideration of a Resolution of the Town Council of the Town of Hilton Head Island, South Carolina, establishing the Town of Hilton Head Island 2015 Policy Agenda and 2015 Management Agenda.

b. Consideration of a Resolution – Circle to Circle Taskforce

Consideration of a Resolution of the Town Council the Town of Hilton Head Island, South Carolina creating the Circle to Circle Committee composed of a broad range of stakeholders formed to develop a Coligny Circle to Sea Pines Circle Area Plan.

c. First Reading of Proposed Ordinance 2015-07

First Reading of Proposed Ordinance 2015-07 of the Town of Hilton Head, South Carolina, authorizing the execution of a reciprocal access easement agreement and a temporary construction easement agreement with William S. Toomer, 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.

13) Adjournment

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

Date: Tuesday, February 10, 2015

Time: 4:00 P.M.

Present from Town Council: David Bennett, *Mayor*; Lee Edwards, Marc Grant, Tom Lennox, Kim Likins, John McCann, *Council Members*

Absent from Town Council: Bill Harkins, *Mayor Pro Tem*

Present from Town Staff: Steve Riley, *Town Manager*; Greg DeLoach, *Assistant Town Manager*; Brad Tadlock, *Fire Chief*; Charles Cousins, *Director of Community Development*; Nancy Gasen, *Director of Human Resources*; Scott Liggett, *Director of Public Projects and Facilities/Chief Engineer*; Brian Hulbert, *Staff Attorney*; Susan Simmons, *Director of Finance*; Julian Walls, *Facilities Manager*; Vicki Pfannenschmidt, *Executive Assistant/Town Clerk*

Present from Media: Zach Murdock, Island Packet

1) CALL TO ORDER

Mayor Bennett 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

Dr. Charlie H. White

Mrs. Orethia White was present to accept the commendation.

6) Approval of Minutes

a. Town Council Meeting, January 20, 2015

Mrs. Likins moved to approve. Mr. McCann seconded. The minutes of the January 20, 2015 Regular Town Council meeting were approved by a vote of 6-0.

7) Report of the Town Manager

a. Semi-Annual Update of the Parks & Recreation Commission – Heather Rath, Chairman
Chairman Rath presented the update for the months of July through December, 2014.

b. Town Manager's Items of Interest

Mr. Riley reported on some items of interest listed below.

- (1) Town News
- (2) Noteworthy Events

8) Reports from Members of Council

a. General Reports from Council

Mrs. Likins stated that she and Council members Lennox and Grant attended the MASC Hometown Legislative Action Day on February 4 and met with legislators. She reported that she and Council Member Lennox also met with Valarie Williams, Executive Director, South Carolina State Housing Finance and Development Authority. She stated she let her know how important workforce housing is in the community and Town Council had made it a priority for this coming year.

Mr. McCann suggested Council discuss roads and sewers prior to the budget workshops in order to lay out a plan as to what the Town should spend and needs to spend to accomplish goals. Mayor Bennett asked Mr. Riley and staff to identify alternatives, recommendations and associated costs for moving forward on sanitary sewer installation as well as unsatisfactory roads. He suggested it be presented to the Public Facilities Committee for review and recommendations. Mayor Bennett also requested that Mr. Riley develop a bonding recommendation plan to include taxpayer impact for presentation to the Finance & Administration Committee.

Mr. Grant stated he attended the MASC Hometown Legislative Action Day and he met with Mayor Keyserling and Mayor Sulka and discussed offshore drilling. He said Mayor Keyserling would be sending him information and he would be sharing it with Council.

Mr. Grant informed Council he attended the LCOG meeting in January and received information concerning Community Block Grants and funds that may be available for roads and actual water and sewer hookup to homes that cannot afford the cost of such. He said he also spoke with Council Member Hamilton and Mayor Sulka of Bluffton concerning strategies they use and said they are willing to discuss them with individual Council members.

9) Appearance by Citizens

John Buchanan addressed Council urging Town Council to request an independent audit of the Hilton Head Island Chamber of Commerce & Visitor and Convention Bureau.

Linda Piekut addressed Council and reviewed the activities and events planned for History Day 2015 scheduled for Saturday, March 28.

Carol Benton addressed Council concerning the Lemoyne Avenue project.

Pamela Martin Ovens addressed Council requesting that Styrofoam cups and coolers be banned from Hilton Head Island.

Nancy Mitchell addressed Council concerning the nuisance of plastic grocery bags and the effect on wildlife and quality of life. She requested they be banned from Hilton Head Island.

Skip Hoagland addressed Council concerning his request of an independent audit of the Hilton Head Island Chamber of Commerce & Visitor and Convention Bureau.

Mary Amonitti addressed Council concerning the nuisance of plastic grocery bags and Styrofoam and suggested that instead of government intervention it would help to work with the businesses towards control of the trash.

10) Unfinished Business

a. Second Reading of Proposed Ordinance 2014-26

Second Reading of Proposed Ordinance 2014-26 of the Town of Hilton Head Island, South Carolina, authorizing the execution and delivery of a lease of real property owned by the Town of Hilton Head Island, South Carolina, with the Beaufort County Sheriff's Office and Beaufort County, South Carolina, 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.

Mrs. Likins moved to approve. Mr. McCann seconded. The motion was approved by a vote of 6-0.

b. Second Reading of Proposed Ordinance 2015-01

Second Reading of Proposed Ordinance 2015-01 of the Town Council of the Town of Hilton Head Island, South Carolina, authorizing the execution of a lease with the Drydock Enterprises, Ltd. d/b/a The Drydock, 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.

Mrs. Likins moved to approve. Mr. McCann seconded. The motion was approved by a vote of 6-0.

c. Second Reading of Proposed Ordinance 2015-02

Second Reading of Proposed Ordinance 2015-02 of the Town Of Hilton Head Island, South Carolina, authorizing the execution of a sale and purchase agreement and the execution of a deed for the sale of approximately 2.4 acres of real property along Spanish Wells Road to the Paddocks Limited Liability Company, 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.

Mrs. Likins moved to approve. Mr. McCann seconded. The motion was approved by a vote of 6-0.

d. Second Reading of Proposed Ordinance 2015-05

Second Reading of Proposed Ordinance 2015-05 of the Town of Hilton Head Island, South Carolina, to amend Title 2 General Government and Administration of the Municipal Code of the Town of Hilton Head Island, South Carolina by amending Chapter 5 (Meetings of Council and Rules of Procedure) Section 2-5-60, Committees of Council; and providing for severability and an effective date.

Mrs. Likins moved to approve. Mr. McCann seconded. The motion was approved by a vote of 5-1. (Mayor Bennett opposed.)

11) New Business

a. Consideration of a Recommendation – Crazy Crab Restaurant/Old Welcome Center Site

Consideration of a Recommendation that Town Council provide direction on a request for certain easements associated with the relocation of the entrance to the Crazy Crab Restaurant located along US 278 next to the former Welcome Center site.

Mrs. Likins moved to approve. Mr. McCann seconded. The motion was approved by a vote of 6-0.

12) Executive Session

Mayor Bennett stated there was a need for an Executive Session concerning legal advice on pending litigation. At 5:05 p.m. Mrs. Likins moved to go into Executive Session for the reasons stated by Mayor Bennett. Mr. McCann seconded. The motion was approved by a vote of 6-0.

Mayor Bennett called the meeting back to order at 5:25 p.m. and stated there was no business as a result of Executive Session.

12) Adjournment

Mrs. Likins moved to adjourn. Mr. McCann seconded. The meeting was adjourned at 5:26 p.m.

Vicki L. Pfannenschmidt,
Executive Assistant/Town Clerk

Approved:

David Bennett, Mayor



Items of Interest

February 17, 2015

1. Town News

Fire Rescue recently completed the first phase of the Incident Safety Officer training curriculum. 23 Line Officers and Senior Staff attended the 3-day training session. The course was held locally and is validated by the Fire Department Safety Officer's Association. Successful completion leads to a national certification for the individuals.

The implementation of the Incident Safety Officer Model has been shown to reduce the occurrence and severity of firefighter injuries when operating at fires and during other emergency incidents. This initiative is a recommendation identified in the Fire Rescue Strategic Plan to improve emergency scene operations.

(Contact: Brad Tadlock, Fire Chief, bradt@hiltonheadislandsc.gov or 682-5153)

Lisa Stauffer, Senior HR Administrator, has earned the IPMA Certified Professional designation from the International Public Management Association for Human Resources (IPMA-HR). To receive IPMA-CP designation, Lisa was required to pass a rigorous review of her technical experience and her understanding of the behavioral competencies important to the role of a public sector HR professional.

(Contact: Nancy Gasen, Human Resources Director – nancyg@hiltonheadislandsc.gov 341-4621)

2. Noteworthy Events

- a) Some of the upcoming meetings at Town Hall:
 - Town Council Land Acquisition Workshop – February 24, 2015, 4:00 p.m.
 - Town Council – March 3, 2015, 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 Committee meeting dates and agendas.

MEMORANDUM

TO: Town Council

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

RE: Proposed Resolution Establishing the Town of Hilton Head Island 2015 Policy Agenda and 2015 Management Agenda

DATE: February 11, 2015

Recommendation: That Council adopt all priorities established at its recent strategic planning workshop.

Summary: The attached, proposed Resolution formally adopts our 2015 Policy Agenda and 2015 Management Agenda as formulated at Town Council's recent annual strategic planning workshop.

Background: On December 4, 2014 through December 6, 2014 and December 18, 2014, Town Council convened for its annual strategic planning workshop with Lyle Sumek, Facilitator. As a result, Town Council established the attached 2015 Policy Agenda and Management Agenda.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, ESTABLISHING THE TOWN OF HILTON HEAD ISLAND 2015 POLICY AGENDA AND 2015 MANAGEMENT AGENDA.

WHEREAS, the Town Council of the Town of Hilton Head Island met in a workshop session on December 4, 2014 through December 6, 2014 and December 18, 2014 for the purpose of developing concepts for teamwork and focused action, and to establish goals and objectives for their term of office; and

WHEREAS, the Town Council for the Town of Hilton Head Island has identified its 2015 Policy Agenda and 2015 Management Agenda (Exhibit "A") for achieving these goals; and

WHEREAS, the Town Council believes that the adoption of the 2015 Policy Agenda and 2015 Management Agenda will provide a framework for action and will provide guidance in executing its desires for itself, for staff, and for citizens of the Town of Hilton Head Island.

NOW, THEREFORE, BE IT, AND IT HEREBY IS, RESOLVED BY THE TOWN COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, THAT the attached 2015 Policy Agenda and 2015 Management Agenda are hereby adopted.

MOVED, APPROVED, AND ADOPTED THIS ____ DAY OF _____, OF FEBRUARY, 2015.

David Bennett, Mayor

ATTEST:

By: _____
Victoria L. Pfannenschmidt, Town Clerk

APPROVED AS TO FORM:

Gregory M. Alford, Town Attorney

Introduced by Council Member: _____

Exhibit “A”
TOWN COUNCIL WORKSHOP
2015 RESULTS

POLICY AGENDA 2015

TOP PRIORITY

- Coligny Circle: Sea Pines Circle Area Plan
- Arts & Culture Collaborative Strategy
- USCB Campus Development
- Mitchelville Project
- Master Plan for Hilton Head Island
- Sewer Service Policy & Plan

HIGH PRIORITY

- Workforce Housing: Policy & Tools
- Economic Development Corporation Plan & Tools
- Town-Owned Land Inventory: Direction
- Community Organization Financial/Performance Review
- Comprehensive Town-Wide Dredging Policy: Management & Direction
- Schools & Education Strategy

MODERATE PRIORITY

- South Island/Sea Pines Sub-Regional Traffic Study
- Arts Center Building: Direction & Funding
- Town Policy/Tool Kit: Aging Office Buildings & Commercial Centers

MANAGEMENT AGENDA 2015

TOP PRIORITY

- Debt/Reserve Policy: Review
- Beach Management Plan: Update
- Public TIF Projects Prioritization
- Private Dirt Roads Acquisition
- Airport Expansion
- Operating/Maintenance Analysis: CIP

HIGH PRIORITY

- Cordillo Tennis Court: Sale
- Departmental Performance Audit
- CDBG Plan
- Shelter Cove Area Redevelopment Project
- NPDES Permit: Compliance Action Plan



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Town Council
FROM: Stephen G. Riley, ICMA~CM, *Town Manager*
DATE: February 11, 2015
SUBJECT: Circle to Circle Committee Proposed Resolution

Attached is a proposed Resolution that would authorize the creation of a Circle to Circle Committee, including Exhibit 1, a memo from Planning Commission Chairman, Alex Brown, describing the Planning Commission's recommendations to Town Council related to: (1) potential committee membership; and, (2) scope of work to develop a Circle to Circle Area Plan.

A RESOLUTION OF THE TOWN COUNCIL THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA CREATING THE CIRCLE TO CIRCLE COMMITTEE COMPOSED OF A BROAD RANGE OF STAKEHOLDERS FORMED TO DEVELOP A COLIGNY CIRCLE TO SEA PINES CIRCLE AREA PLAN.

WHEREAS, the Town of Hilton Head Island has established a reputation as a well-planned community; and

WHEREAS, the Town Council of Hilton Head Island identified development of a Coligny Circle to Sea Pines Circle (Circle to Circle) Area Plan as a Top Priority at its 2014 Strategic Planning Workshop; and,

WHEREAS, the Town Council is desirous of appointing a diverse range of Circle to Circle Committee members to operate under the jurisdiction of the Planning Commission and operate with considerable public input; and,

WHEREAS, Town Council has determined that to accomplish the goal of providing a multidiscipline composition to the Circle to Circle Committee is best served by appointing members recommended in Exhibit 1, Attachment A of this Resolution; and,

WHEREAS, Town Council has determined that to accomplish the goal of developing a Circle to Circle Area Plan is best served by following the scope of work recommended in Exhibit 1, Attachment B to this Resolution.

NOW, THEREFORE BE IT, AND IT HEREBY IS RESOLVED BY THE TOWN COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, that the Circle to Circle Committee is created. The Purpose of the Committee, its membership composition, and scope of work is described in Exhibit 1.

MOVED, APPROVED, AND ADOPTED THIS ____ DAY OF _____, 2015.

David Bennett, Mayor

ATTEST:

Victoria L. Pfannenschmidt, Town Clerk

Approved as to form:

Gregory M. Alford

Introduced by Council Member: _____

Memo

To:	Town Council
VIA:	Charles Cousins, AICP, Director of Community Development
FROM:	Alex Brown, Chairman, Planning Commission
Date:	February 10, 2015
Re:	Circle to Circle Committee Membership and Project Outline Recommendations

Recommendation:

The Planning Commission recommends that Town Council consider the list of potential membership as they make appointments to the Circle to Circle Committee and consider the draft scope of work as they formalize development of a work plan for the Circle to Circle Area Plan.

Summary:

Town Council requested that the Planning Commission outline and recommend a process and to develop a Circle to Circle Area Plan. The Planning Commission was asked to develop a list of potential members for Town Council to consider appointing to a Circle to Circle Committee. In addition, the Planning Commission was asked to recommend a scope of work for the project aimed at producing a Circle to Circle Area Plan.

Background:

While not yet formally adopted by Town Council, the Coligny Circle to Sea Pines Circle Area Plan was listed as a top priority for the Town's 2015 "Targets for Action". Town Council also held discussions and indicated that the Planning Commission should maintain oversight over a Circle to Circle Committee appointed by Town Council and guide the process of developing a Coligny Circle to Sea Pines Area Plan.

Attachments:

- A. *Circle to Circle Area Plan Committee – Potential Membership*
- B. *Coligny Circle to Sea Pines Circle Area Plan – Draft Scope of Work*

Attachment A:

Circle to Circle Committee – Potential Membership

Jim Gant	Chair (PC Member)
Judd Carstens	PC Member
David Ames	Developer
Kyle Theodore	Land Planner
Mike Thomas	Architect
Leslie Richardson	Commercial Stakeholder
David Bachelder	Commercial Realtor
Carlton Dallas	Economic Development Corporation
Jack Daly	Forest Beach POA
Joe Kernan	CSA
Tom Sharp	Traffic/Transportation
***To Be Determined	Town Council Liaison

Coligny Circle to Sea Pines Circle Area Plan – Draft Scope of Work

Base Assumptions

- TC approved plan for Town land at Coligny is not in scope - it will proceed as planned
 - Parking, park, playground, children's museum, new roads adjacent to the park, on-street parking, South Forest Beach pedestrian enhancements and associated street improvements
- TC approved plan for USCB Campus is not in scope- it will proceed as planned
- Allowable uses and densities in LMO as recently approved will remain unchanged
- South Island Traffic Study will be done in conjunction with this effort

Definition of Coligny Area for this Project

- The area from the Old Food Lion on Palmetto Bay Road to Coligny Circle and will generally include properties adjacent to these roadways.

Elements of Coligny Area Plan - Input for TC Charter

- Develop a vision incorporating community input for the future of the study area over the next 20 years. Include definition and vision for sub-areas. e.g. Coligny beach area, church area, Sea Pines Circle area, etc. to define desired community character.
- Review existing conditions and identify challenges to be addressed in the project.
- Prepare a development outlook for each sub-area that includes:
 - Currently known and planned commercial and residential development
 - Build out projections based on allowable development under LMO
- Utilize existing traffic studies and community input to review today's traffic challenges and make recommendations to address:
 - Traffic circulation
 - Bicycle traffic
 - Public transportation
- Work with Town Engineer and traffic consultant to model impact of projected development. Identify options for road improvements required as future development occurs
 - Traffic circulation
 - Bicycle traffic
 - Public transportation
- Assess current and future parking requirements and identify alternatives to address as development occurs.



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Stephen G. Riley, ICMA~CM, *Town Manager*
FROM: Teri B. Lewis, AICP, *LMO Official*
CC: Charles Cousins, AICP, *Community Development Director*
DATE: February 11, 2015
SUBJECT: Crazy Crab Easements

Recommendation: Staff recommends that Town Council approve easements associated with the relocation of the entrance to the Crazy Crab Restaurant located along US 278 next to the former Welcome Center site. It is also recommended that the Mayor or Town Manager be authorized to send a letter to SCDOT giving up rights of the Town of Hilton Head Island to the existing curb cut in the subject area. Additionally because the owners of the restaurant would like to start construction as soon as possible, it is recommended that Town Council allow the Town Manager to execute a Right of Entry to the Crazy Crab Restaurant to begin work prior to second reading of the associated ordinance.

Summary: The Crazy Crab Restaurant owners have been working on plans to redevelop their parking and entrance utilizing the property acquired from the Town in 2013. As their plans have progressed they have identified several easements, which are shown on the attached easements exhibit, which they need from the Town. Additionally, SCDOT is requiring a letter from the Town agreeing with the proposed curb cut and agreeing that this curb cut will be the only US 278 access to the adjacent Town property. The easements, as identified on the attached plat, are:

1. Town Access - Easement A
 - Allows the Town entry to its property across the Crazy Crab Restaurant property.
2. Crazy Crab Access – Easement B
 - Allows Crazy Crab entry across the Town property to provide an adequate radius for the new curb cut.
3. Landscape Easement – Easement C
 - This will be next to the new entrance into the Crazy Crab Restaurant site allowing the owners the opportunity to beautify their new entrance. This easement, which includes the right for the owners of the Crazy Crab Restaurant to grade and install landscaping and irrigation, is revocable in the event that the Town requires use of the area within the easement in the future. The landscaping will be installed and maintained by the Crazy Crab Restaurant.
4. Temporary Grading – Easement D
 - There is an existing berm on the Town's property. This easement would allow the Crazy Crab owners to grade the berm to blend it more with the finished grade of the redevelopment parking lot. The easement would include seeding and mulching a

permanent stand of low maintenance grass that blends with the grass that is already on the Town's property.

5. Temporary Construction Staging and Storage – Easement E

- This easement will allow the Crazy Crab owners to store and stage equipment and materials necessary for the completion of the parking lot redevelopment project. This easement is in the same location as Easement D so the area used for storage and staging will be seeded at the conclusion of the project.

Background: The Town owns property at 100 William Hilton Parkway (the location of the previous Welcome Center). The Town-owned property is adjacent to a parcel owned by William S. Toomer that operates as the Crazy Crab Restaurant. Prior to 2013 a Shared Access and Parking Rights Agreement granted access to the Town's property through the existing entranceway to the Crazy Crab Restaurant from William Hilton Parkway via cross access lanes that connected parking areas on the two properties. The Agreement also allowed restaurant patrons to park on the paved parking areas on the Town's property.

The Town demolished the old Welcome Center building with the intention of keeping that site green and providing open space and views to the marsh; the Town, though, did not want to eliminate the parking nearest the restaurant since it is so heavily used. Town Council, through two readings of an ordinance (November 5, 2013 and November 19, 2013, respectively), authorized the sale of approximately 1.8 acres of Town-owned property to the Crazy Crab Restaurant to facilitate off-street parking improvements for the restaurant.

AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND

PROPOSED ORDINANCE NUMBER 2015-07 ORDINANCE NUMBER 2015-_____

AN ORDINANCE OF THE TOWN OF HILTON HEAD, SOUTH CAROLINA, AUTHORIZING THE EXECUTION OF A RECIPROCAL ACCESS EASEMENT AGREEMENT AND A TEMPORARY CONSTRUCTION EASEMENT AGREEMENT WITH WILLIAM S. TOOMER, 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, William S. Toomer (“Toomer”) owns that certain real property known generally as the “Crazy Crab Restaurant”, with Beaufort County TMS# R511-007-000-0064-0000 and a property address of 102 William Hilton Parkway, Hilton Head Island, South Carolina 29926 (the “Toomer Property”); and

WHEREAS, the Town of Hilton Head Island, South Carolina (the “Town”) owns that certain real property adjacent to the Toomer Property, with Beaufort County TMS# R511-007-000-0152-0000 (the “Town Property”); and

WHEREAS, Toomer has agreed to grant certain easements on or over the Toomer Property for the benefit of the Town Property, more specifically an access easement for pedestrian and vehicular ingress/egress over a portion of the Toomer Property, all as more particularly described in the attached Exhibit “A”; and

WHEREAS, the Town has agreed to grant certain easements on or over the Town Property for the benefit of the Toomer Property, more specifically an access and use easement and a landscape easement over portions of the Town Property, all as more particularly described in the attached Exhibit “A”; and

WHEREAS, the Town has also agreed to grant certain temporary construction easements on or over the Town Property for the benefit of the Toomer Property, more specifically a temporary grading easement and a temporary construction staging easement over portions of the Town Property, all as more particularly described in the attached Exhibit “B”; 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 execute such agreements 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, AND IT IS ORDAINED BY THE AUTHORITY OF THE SAID COUNCIL, AS FOLLOWS:

Section 1. Execution of Agreements.

- (a) The Mayor and/or Town Manager are hereby authorized to execute and deliver a Reciprocal Access Easement Agreement in substantial conformance with the attached Exhibit “A”;
- (b) The Mayor and/or Town Manager are hereby authorized to execute and deliver a Temporary Construction Easement Agreement in substantial conformance with the attached Exhibit “B”;
- (c) The Mayor and/or Town Manager are hereby authorized to execute and deliver a letter/waiver to the South Carolina Department of Transportation, acknowledging

and/or otherwise agreeing to waive an independent curb-cut access to the Town Property; and

- (d) 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 herein and in the attached agreements.

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.

(SIGNATURE PAGE FOLLOWS)

**PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF
HILTON HEAD ISLAND ON THIS _____ DAY OF _____, 2015.**

**By: _____
David Bennett, 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: _____

EXHIBIT “A”

Prepared by and after recording, return to:
McNair Law Firm, P.A. (WJN)
P.O. Drawer 3
Hilton Head Island, SC 29938

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

RECIPROCAL ACCESS EASEMENT AGREEMENT

THIS RECIPROCAL ACCESS EASEMENT AGREEMENT (the “Agreement”) is made this _____ day of _____, 2015 by and between **WILLIAM S. TOOMER**, having an address of 3 North Calibogue Cay Road, Hilton Head Island, South Carolina 29928 (hereinafter referred to as the “Owner”), and the governmental authority of the **TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA**, having an address of One Town Center Court, Hilton Head Island, South Carolina 29928 (hereinafter referred to as the “Town”).

WITNESSETH:

WHEREAS, Owner owns that certain real property designated as “Crazy Crab Restaurant Property” on the “Easements Exhibit, Town of Hilton Head Island & Crazy Crab Restaurant”, prepared by Truitt Rabun Associates on October 21, 2014 and last revised on January 9, 2015, attached hereto as Exhibit “A” and made a part hereof, with a property identification number of R511 007 000 0064 0000 and a property address of 102 William Hilton Parkway, Hilton Head Island, South Carolina 29926 (the “Owner’s Property”); and

WHEREAS, Town owns that certain real property adjacent to the Owner's Property and designated as "Town of Hilton Head Island Property" on Exhibit "A" with a property identification number of R511 007 000 0152 0000 (the "Town's Property"); and

WHEREAS, Owner has agreed to grant certain easements on or over the Owner's Property for the benefit of the Town's Property, and Town has agreed to grant certain easements on or over the Town's Property for the benefit of the Owner's Property; and

WHEREAS, Owner and Town desire to set forth the terms and conditions governing said easements.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, for and in consideration of Ten and No/100 Dollars (\$10.00), the mutual covenants and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner and Town, for themselves, and their respective successors, successors in title and assigns, do hereby covenant and agree as follows:

1. Reciprocal Access Easements.

(a) Owner does hereby grant, bargain, sell and convey to Town, its successors, successors in title and assigns, and create and establish for the benefit of Town, the Town's Property, and any future owner of the Town's Property, and for the benefit of the successors, successors in title and assigns of said parties, and for the benefit of the tenants, customers, business guests, licensees and invitees of each of the foregoing, a perpetual, relocatable, appendant, appurtenant, non-exclusive easement of access, passage and use over and across that 25/100ths (0.25) acre portion of the Owner's Property designated as "Town Access Easement on Crazy Crab Property" on Exhibit "A" (hereinafter referred to as the "Town Access Easement"), for the purpose of pedestrian and vehicular ingress and egress to and from the Town's Property utilizing the entry and parking area of the Owner's Property. The easement herein granted is intended to be transferable with the property benefitted, as said easement is essentially necessary to the use of the property benefitted. In addition to the easement(s) granted in this Article 1(a), Owner agrees, at all times, to provide open, unrestricted access to pedestrians and vehicles traveling between Owner's property and the Town's property as described in the above recitals. Owner shall have the sole obligation for maintenance and repair of all portions of Owner's property (including, without limitation, any improvements to be made to the property and periodic road/driveway maintenance), regardless of the Town's use of the property by virtue of the easement(s) granted in this Article 1(a). The location of the easement(s) described in this Article 1(a) may be relocated and/or otherwise reconfigured on Owner's property upon mutual agreement of the Owner and the Town.

(b) Town does hereby grant, bargain, sell and convey to Owner, its successors, successors in title and assigns, and creates and establishes for the benefit of Owner, the Owner's Property, and any future owner of the Owner's Property, and for the benefit of the successors, successors in title and assigns of said parties, and for the benefit of tenants, customers, business guests, licensees and invitees of each of the foregoing, a perpetual, relocatable, appendant, appurtenant, non-exclusive easement of access, passage and use over and across that 3/1000ths (0.003) acre portion of the Town's Property designated as "Crazy Crab Access Easement on Town Property" on Exhibit "A" (hereinafter referred to as the "Crazy Crab Access Easement"), for the purpose of construction and maintenance of curb cut and driveway infrastructure, including curbing and pavement, and for pedestrian and vehicular ingress and egress to and from the Owner's Property. The Owner's permitted use of the Crazy Crab Access Easement shall also include the non-exclusive right to reasonable access to the property for the purposes of construction, maintenance, repair and replacement of any existing or future curb cuts, curbing and/or driveways located thereon. The Crazy Crab Access Easement shall be appurtenant to the Owner's Property. The easement herein granted is intended to be transferable with the property benefitted, as said easement is essentially necessary to the use of the property benefitted. The location of the easement(s) described in this Article 1(b) may be relocated and/or otherwise reconfigured on Town's Property upon mutual agreement of the Town and Owner.

2. Landscape Easement. Town does hereby grant, bargain, sell and convey to Owner, its successors, successors in title and assigns, and creates and establishes for the benefit of Owner, the Owner's Property, and any future owner of the Owner's Property, and for the benefit of the successors, successors in title and assigns of said parties, and for the benefit of tenants, customers, business guests, licensees and invitees of each of the foregoing, a perpetual, appendant, appurtenant, non-exclusive landscape easement over and across that 138/1000ths (0.138) acre portion of the Town's Property designated as "Landscape Easement on Town Property" on Exhibit "A" (hereinafter referred to as the "Landscape Easement"), for the purpose of allowing Owner to install and maintain landscaping including grading, plantings and irrigation. The Landscape Easement shall be appurtenant to the Owner's Property. The Landscape Easement shall be revocable at the option of the Town, if and when the Town widens William Hilton Parkway also known as U.S. Highway 278, a variable right-of-way (the "Road"). If the Town widens the Road and decides to revoke the Landscape Easement, then the parties hereto agree to cooperate in choosing a suitable replacement easement area that Owner may use for the same or similar landscaping purposes as the Landscape Easement.

3. **Real Covenants.** The easements, restrictions and agreements set forth herein shall run with the land, shall inure to the benefit of, and shall be binding upon the successors, successors in title, heirs and assigns of the parties hereto, shall remain in full force and effect for the term specified herein, and shall be unaffected by any change in ownership of the Owner's Property or the Town's Property, or by any change of use of the Owner's Property or the Town's Property or other circumstances, except as otherwise expressly provided in this Agreement. Each of the rights created under this Agreement shall be specifically enforceable in a court of equity, all parties hereto recognizing and agreeing that damages at law will be inadequate.

4. **Notices.** All notices and elections permitted or required to be made under this Agreement shall be in writing, signed by the party giving such notice or election, and shall be delivered personally, or sent by registered mail or certified mail, return receipt requested to the party entitled to receive such notice or election. The date of personal delivery or the date of mailing, as the case may be, shall be considered to be the date of such notice or election. Unless notice of change of address is given by one of the parties hereto, notices mailed to the addresses set forth above shall constitute proper notice hereunder.

5. **Miscellaneous.** This Agreement shall be binding upon and shall inure to the benefit of Owner and Town, their respective successors, successors in title, legal representatives, heirs and assigns. In the event any provision hereof is held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of any other provision hereof. This Agreement contains the entire agreement of the parties hereto with respect to the subject matter hereof, and no representations, inducements, promises or agreements, oral or otherwise, not expressly set forth herein shall be of any force or effect. This Agreement shall not be modified, extinguished or terminated except by written modification, executed by all parties hereto and recorded in the public records of Beaufort County, South Carolina. All titles or captions of the paragraphs set forth in this Agreement are inserted only as a matter of convenience and for reference, and shall in no way define, limit, extend or describe the scope of this Agreement, nor the intent of any provision hereof. This Agreement shall be construed, governed and interpreted in accordance with the laws of South Carolina. This Agreement shall be subject to all applicable restrictions, covenants, easements, etc. applicable to the Owner's Property and the Town's Property and of record in the public records of Beaufort County, South Carolina. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and such counterparts shall constitute but one and the same instrument.

[Signatures on following page(s)]

HILTONHEAD 892701v2 023369-00003

IN WITNESS WHEREOF, the Owner has executed this Agreement on the ____ day of _____, 2015.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

OWNER

William S. Toomer

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

ACKNOWLEDGMENT

I, the undersigned Notary Public, do hereby certify that **WILLIAM S. TOOMER** personally appeared before me this day and duly acknowledged the execution of the foregoing instrument.

Witness my hand and official seal this ____ day of _____, 2015.

_____(SEAL)
Notary Public for South Carolina
My Commission Expires: _____

EXHIBIT “B”

Prepared by and after recording, return to:
McNair Law Firm, P.A. (WJN)
P.O. Drawer 3
Hilton Head Island, SC 29938

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

THIS TEMPORARY CONSTRUCTION EASEMENT AGREEMENT (the “Agreement”) is made this ____ day of _____, 2015 by and between **WILLIAM S. TOOMER**, having an address of 3 North Calibogue Cay Road, Hilton Head Island, South Carolina 29928 (hereinafter referred to as the “Owner”), and the governmental authority of the **TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA**, having an address of One Town Center Court, Hilton Head Island, South Carolina 29928 (hereinafter referred to as the “Town”).

WITNESSETH:

WHEREAS, Owner owns that certain real property designated as the “Crazy Crab Restaurant Property” on the “Easements Exhibit, Town of Hilton Head Island & Crazy Crab Restaurant”, prepared by Truitt Rabun Associates on October 21, 2014 and last revised on January 9, 2015, attached hereto as Exhibit “A” and made a part hereof, with a property identification number of R511 007 000 0064 0000 and a property address of 102 William Hilton Parkway, Hilton Head Island, South Carolina 29926 (the “Owner’s Property”); and

WHEREAS, Town owns that certain real property adjacent to the Owner's Property and designated as "Town of Hilton Head Island Property" on Exhibit "A" with a property identification number of R511 007 000 0152 0000 (the "Town's Property"); and

WHEREAS, Town has agreed to grant certain temporary construction easements on or over the Town's Property for the benefit of the Owner's Property; and

WHEREAS, Owner and Town desire to set forth the terms and conditions governing said easements and restrictions.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, for and in consideration of Ten and No/100 Dollars (\$10.00), the mutual covenants and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner and Town, for themselves, and their respective successors, successors in title and assigns, do hereby covenant and agree as follows:

1. Temporary Grading Easement. Town does hereby grant, bargain, sell and convey to Owner, its successors, successors in title and assigns, and creates and establishes for the benefit of Owner, the Owner's Property, and any future owner of the Owner's Property, and for the benefit of the successors, successors in title and assigns of said parties, and for the benefit of tenants, customers, business guests, licensees and invitees of each of the foregoing, a temporary, appendant, appurtenant easement over and across that portion of the Town's Property designated as "Temporary Grading Easement on Town Property"

on Exhibit "A" (hereinafter referred to as the "Grading Easement"), for the purpose of allowing alteration of the Town's Property by Owner, including grading of the existing excavation spoil site on the Town's Property in order to lower the spoil site's profile and blend it with the finished grade of the parking improvements on the Owner's Property, as well as seeding and mulching a permanent stand of low maintenance grass that blends with the existing grass on the Town's Property. Grass and landscaping on the Town's Property shall be maintained by Town. The Grading Easement shall terminate upon Owner's completion of the activities and purposes described in this Agreement.

2. Temporary Construction Staging Easement. Town does hereby grant, bargain, sell and convey to Owner, its successors, successors in title and assigns, and creates and establishes for the benefit of Owner, the Owner's Property, and any future owner of the Owner's Property, and for the benefit of the successors, successors in title and assigns of said parties, and for the benefit of tenants, customers, business guests, licensees and invitees of each of the foregoing, a temporary, appendant, appurtenant, non-exclusive easement over and across that portion of the Town's Property designated as "Temporary Construction Staging Easement on Town Property" on Exhibit "A" (hereinafter referred to as the "Construction Easement"), for the purpose of allowing Owner to store and stage parking lot improvement construction equipment and materials on the Town's Property while Owner is constructing parking improvements on the Owner's Property. The Construction Easement shall terminate upon Owner's completion of the parking improvements on the Owner's Property and the issuance of a Certificate of Completion from the Town. As the Construction Easement is in the same location as the Grading Easement, the Construction Easement area shall be graded and seeded by Owner in accordance with the Grading Easement before the Construction Easement area is abandoned by Owner.

3. Real Covenants. The easements, restrictions and agreements set forth herein shall run with the land, shall inure to the benefit of, shall be binding upon the successors, successors in title, heirs and assigns of the parties hereto, shall remain in full force and effect for the term specified herein and shall be unaffected by any change in ownership of the Owner's Property or the Town's Property, or by any change of use of the Owner's Property or the Town's Property or other circumstances, except as otherwise expressly provided in this Agreement. Each of the rights created under this Agreement shall be specifically enforceable in a court of equity, all parties hereto recognizing and agreeing that damages at law will be inadequate.

4. Notices. All notices and elections permitted or required to be made under this Agreement shall be in writing, signed by the party giving such notice or election, and shall be delivered personally, or sent by registered or certified mail, return receipt requested to the party entitled to receive such notice or election. The date of personal delivery or the date of mailing, as the case may be, shall be considered to be the date of such notice or election. Unless notice of change of address is given by one of the parties hereto, notices mailed to the addresses set forth above shall constitute proper notice hereunder.

5. Miscellaneous. This Agreement shall be binding upon and shall inure to the benefit of Owner and Town, their respective successors, successors in title, legal representatives, heirs and assigns. In the event any provision hereof is held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of any other provision hereof. This Agreement contains the entire agreement of the parties hereto with respect to the subject matter hereof, and no representations, inducements, promises or agreements, oral or otherwise, not expressly set forth herein shall be of any force or effect. This Agreement shall not be modified except by written modification, executed by all parties hereto and recorded in the public records of Beaufort County, South Carolina. All titles or captions of the paragraphs set forth in this Agreement are inserted only as a matter of convenience and for reference, and shall in no way define, limit, extend or describe the scope of this Agreement, or the intent of any provision hereof. This Agreement shall be construed, governed and interpreted in accordance with the laws of South Carolina. This Agreement shall be subject to all applicable restrictions, covenants, easements, etc. applicable to the Owner's Property and the Town's Property and of record in the public records of Beaufort County, South Carolina. This

Agreement may be executed in several counterparts, each of which shall be deemed an original, and such counterparts shall constitute but one and the same instrument.

6. Owner agrees to cause all work contemplated hereunder to be performed in a workmanlike fashion with minimal interference to the Town, its successors, assigns, invitees, guests, licensees, and agents. Owner further agrees to cause the work contemplated hereunder to be completed in an expeditious and timely fashion, that the work to be performed hereunder shall at all times be maintained in a safe condition, and that all materials and debris shall be promptly removed upon completion of the activities and purposes described in this Agreement. Subject to the work to be performed pursuant to Article 1 of this Agreement, Owner shall restore any part of the Town's property which may be damaged as a result of Owner's exercise of the rights granted hereunder to its pre-existing state.

[Signatures on following page(s)]

HILTONHEAD 892739v2 023369-00003

IN WITNESS WHEREOF, the Owner has executed this Agreement on the ____ day of _____, 2015.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

OWNER

William S. Toomer

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

ACKNOWLEDGMENT

I, the undersigned Notary Public, do hereby certify that **WILLIAM S. TOOMER** personally appeared before me this day and duly acknowledged the execution of the foregoing instrument.

Witness my hand and official seal this ____ day of _____, 2015.

_____(SEAL)
Notary Public for South Carolina
My Commission Expires: _____

