

**MINUTES**  
**HORRY COUNTY COUNCIL**  
**REGULAR MEETING**  
**County Council Chambers**  
**November 1, 2016**  
**6:00 p.m.**

**MEMBERS PRESENT:** Mark Lazarus, Chairman; Tyler Servant; Bill Howard; Harold Worley; Gary Loftus; Paul Prince; Johnny Vaught; Jimmy Washington; Harold Phillips; Jody Prince; and Cam Crawford.

**MEMBERS ABSENT:** Al Allen

**OTHERS PRESENT:** Chris Eldridge; Pat Hartley; Steve Gosnell; Arrigo Carotti; Justin Powell; Barry Spivey; Lisa Bourcier; and David Schwerd.

In accordance with the FOIA, notices of the meeting were provided to the press stating the time, date, and place of the meeting.

**CALL TO ORDER:** Chairman Lazarus called the meeting to order at approximately 6:00 p.m.

**INVOCATION:** Mr. Phillips gave the invocation.

**PLEDGE:** Mr. Crawford led in the pledge.

**PUBLIC INPUT:**

1. **Louise Carson** spoke regarding the Children's Recovery Center, a child advocacy center for Horry and Georgetown counties. They serviced the children that were victims of child abuse, sexual abuse, and physical abuse. She wanted to spread awareness and to let everyone know that the center was operating in the community. They would welcome anyone who would like to tour the center.
2. **Ms. Marian Vozar** spoke regarding rezoning Ordinance 98-16. She was a neighbor to Martin Price who was requesting the rezoning. Her home was directly behind his with only a wire fence separating her back yard from where the animals were. She was in favor of his rezoning.
3. **Ronald Phillips** spoke regarding a monument for fallen soldiers from the Afghanistan War. He was the proud father of a fallen soldier who lost his life in Afghanistan fighting the war against terrorism. He had the support of the Gold Stars, the Blue Stars, VFW Posts of Myrtle Beach and Conway, the Rolling Thunder, Soldiers for the Fallen, Bikers for the Fallen, and the SOS of South Carolina based out of Columbia. He asked what needed to be done to implement getting a monument for the war against terrorism placed on the courtyard. Mr. Randy Haldi said that regarding the existing monuments on the courthouse property across the street, the funds were raised by private entities. They would need to get permission from County Council as well as the City of Conway because it was located in the city limits. He would be glad to give him the information on how that process would be handled. Chairman Lazarus told him they were very sorry for his loss and thanked his son for his service in giving the ultimate sacrifice to our county.
4. **Mark Webster/Ben Enstrand** spoke regarding Ordinance 85-16. Mr. Webster said he was president and publisher of *The Sun News*. *The Sun News* strived to be good citizens to the community as well as provide a product that a lot of people want. In cases where people do not want the product, they felt they had a very strong system in place although not 100% full proof. At times, they had to address repeat issues. Most of the complaints that they filtered through about people not wanting their product they mitigated very quickly and came to positive resolutions. His goal that night was to request that the ordinance be tabled so that there could be further conversation among the parties about coming to



an agreeable solution. The thing they were trying to avoid, which wouldn't be fair to the taxpayers or the McClatchey shareholders, was that it go to litigation route which could be very costly. They thought they had a strong position and he was sure the county thought they had a strong position but he always thought it best to look everyone eye to eye and say let's work this out. That was what they were willing to do. He appreciated them taking the time to listen and look over the information sent. He would appreciate it if they could continue the conversation about Ordinance 85-16. Mr. Enstrand, the national director of delivery operations for Global Ad Distributions, thanked them for letting them speak on the ordinance. They directly partnered with *The Sun News* and delivered multiple products for them. On October 27<sup>th</sup>, the county attorney and members of County Council received letters from their council outlining the details and the reason they believed the ordinance violated the First Amendment of the Constitution. He was there to reiterate that position. They also included a copy of the opinion of the attorney general of the state of South Carolina recognizing the First Amendment section of the distribution of free newspapers. He brought with him an independent contractor, Jenny Stanley, who would be severely directly affected by the fines that would be levied if the ordinance was passed. Global was respectfully asking that they table the ordinance in an effort to put together a more productive dialogue in finding some common ground.

**APPROVAL OF AGENDA CONTENTS:** Mr. Vaught moved to approve, seconded by Mr. Washington. Mr. Worley requested to add \$2,000 for the Atlantic Beach Recreation Department. Chairman Lazarus said that it would be added under the Recreation Resolution R-10-16. Mr. P. Prince added \$1,000 for the Beach Ball Classic. Chairman Lazarus said they would add that also to Recreation Resolution R-10-16 under consent agenda. Chairman Lazarus added a presentation by Mr. Gosnell on trash pickup in unincorporated areas. Ordinance 64-16 was removed from consent agenda and put under reading of ordinances due to a scrivener's error. It was second reading and not first reading. Mr. P. Prince requested to remove Ordinance 85-16 from the consent agenda and place it under reading of ordinances. Chairman Lazarus removed Ordinance 92-16 from the consent agenda and placed it under reading of ordinances. **Mr. Vaught moved to approve the amendments, seconded by Mr. Washington. The motion was unanimously passed. The main motion as amended was unanimously passed.**

**APPROVAL OF MINUTES:** Regular Meeting of October 18, 2016: **Mr. Washington moved to approve the October 18, 2016 Regular meeting minutes, seconded by Mr. Loftus. The motion was unanimously passed.**

**APPROVAL OF CONSENT AGENDA:** Mr. Vaught moved to approve, seconded by Mr. Phillips. Chairman Lazarus withdrew Ordinance 96-16 from consent because it had been withdrawn by the applicant. **The motion was unanimously passed.** The consent agenda consisted of the following:

Third Reading – **Ord. 87-16** approving & authorizing the administrator to execute a lease agreement with Executive Helicopters, Inc., d/b/a/ Executive Helijet, of Hangar 352 and adjacent parking areas at MYR.

Third Reading – **Ord. 88-16** to amend the County Code removing the requirements for telecommunication towers from individual zoning districts and to further amend the Code pertaining to building and/or structure-mounted telecommunications tower facilities.

Third Reading – **Ord. 89-16** approving & authorizing the administrator to subdivide and sell an approximate 5-acre portion of the existing Cool Springs Industrial Park property.

First Reading – **Ord. 93-16** amending and restating Ordinances 105-96 and 111-01, and other matters relating thereto, this amended and restated ordinance to be known as the Hospitality Fee & Local Accommodations Fee Ordinance.

First Reading – **Ord. 104-16** to provide for a home detention program as an alternative to the incarceration in certain cases in Horry County.



First Reading – **Ord. 105-16** to amend the County Code pertaining to the side-yard setback requirement for two-story single-family structures.

First Reading – **Ord. 107-16** authorizing performance of emergency road repair for the purpose of maintaining public health and safety and when conditions warrant, and to authorize the administrator to take emergency road repair action.

First Reading – **Ord. 108-16** to establish Georgetown County Project Top Gun Joint County Industrial & Business Park in conjunction with Georgetown County, such park to be located in Georgetown County; to authorize the execution and delivery of a written park agreement with Georgetown County as the requirement of payments of fee in lieu of ad valorem taxes with respect to park property and the sharing of the revenues and expenses of the park; to provide for the distribution of revenues from the park, and other matters related thereto.

First Reading of the following ordinances to approve the request to amend the official zoning maps:

**94-16** David Brown, agent for Waterfall Investments & Construction; **95-16** Scott Kluska & Wanda Harunk; **97-16** Jeff Jordan, agent for Verona Jordan; **98-16** Martin Price, agent for Andy Simko; **99-16** Marquette Lane, agent for Van Lane; **100-16** Shana Thompson, agent for Kenneth Webster; **101-16** Berry Gause; **102-16** Mark Hardee, agent for T&T Rental Properties; & **103-16** Teresa Sinkler & Chuck Dozier, agents for Benjamin & Ruby May.

**Resolution R-85-16** to authorize the Horry County Department of Airports to enter into a concession agreement with transportation network companies operating at airports within the county.

**Recreation Resolution R-10-16** approving allocations of council recreation funds to Loris Booster Club, Coastal Youth Ballet Theatre, Beach Ball Classic, Longs Volunteers, and Atlantic Beach Recreation Department.

## **PRESENTATIONS / RESOLUTIONS:**

**Presentation on trash pick-up in unincorporated areas (Steve Gosnell):** Mr. Gosnell said they had presented to the I & R Committee an update on the storm debris pick-up and he wanted to present a condensed form of that for the council as well as discussion on the houses that had been impacted by the floods. He introduced John Bury who was with the monitoring company, Tetra Tech, who was the managing contractor and was employed with Phillips & Jordan. Mr. Bury was there to provide a briefing on the debris removal operations. He wanted to talk about a two-phased approach based on the Horry County Debris Management Plan starting before the storm with project planning and immediately after the storm with roadway clearing activities for local and SCDOT roads. He then presented a PowerPoint presentation on their approach. They moved very quickly into Phase 2, woody right-of-way debris collection program staging material at the debris management site and then reevaluating the different programs as the water receded. Mr. Wayne Floyd with Phillips and Jordan said they were a large clearing and grading contractor who worked the east/west coast. They had a great deal of experience in storm debris response and recovery efforts. The largest being Katrina for the US Army Corps of Engineers where they moved approximately eleven million cubic yards there, and again in the Alabama tornados in 2014 as well as most recently the South Carolina ice storm with South Carolina DOT. Mr. Bury said that Tetra Tech's function as debris monitor was to document the debris removal operation. It was an engineering firm that had experienced many of the nation's largest hurricanes, ice storms, floods, as well as incidents that had occurred in the state of South Carolina over the last three years. Mr. Floyd said it was decided they would take an approach to move in a counter clockwise method throughout the county beginning in Garden City, District 4. He had split the area up into regions. The river was a huge impediment in transporting the material from those individual streets to the debris management site over by the MURF. They would have completed the first pass in District 4 on the south side of the river. He already had crews moved into the Bucksport area and would probably be about a week and a half before they would complete a first pass. In Region 5 they had had resources there for a week. It would probably be another week to a week and a half to complete a first pass. In the grand scheme of things, most of the debris was concentrated in Region 4 as well as the coastal areas. The further north you moved along the coast the slimmer the debris. They were having very long hauls in regions 2 and 3 not to mention the traffic issues in



Horry County. They were working with public works on finding an additional site to help expedite the removal of debris in the northern part of the county. They had 21 hauling units in and about the county moving debris. Mr. Bury's guys were assigned to one of those trucks and they would do the documentation required for reimbursement through the FEMA public assistance program for debris removal. Mr. Bury said that they were looking at bulk construction demolition debris. Bulk disaster debris was defined as debris generated by the house. To date, residents had been encouraged and instructed to self-haul their debris to the convenience and recycling centers as well as the landfill. Now, looking at the amount and number of homes in the area impacted by the flood event, they had re-evaluated that need. He presented examples of debris and estimated between 400 – 500 homes were impacted. The list grew as well as the number of volunteer groups. There had been volunteer groups mobilized to the area that were doing cut and gut missions or muck outs. Those numbers were growing every day and the volunteer groups go into homes, take out the flood debris, and place it on the right-of-way. They were targeting subdivisions based on the inundation from the flood waters after Matthew. He presented a GIS map with examples of the target areas. They were looking at them on a strategic basis where they had observed the flooded homes. Over 2,000 yards a day had been collected. 5,642 cubic yards of bulk debris had been self-hauled to the landfill and convenience centers. They anticipated that to grow. They estimated the woody debris to be 47,490 cubic yards based on an estimated quantity out of the debris management plan of 150,000 cubic yards or more than 25% complete for a grand total of 53,132 cubic yards. They incorporated GIS identifying where those loads had been picked up as well as assets throughout the county. It had been a great team effort.

Chairman Lazarus asked Mr. Gosnell if this opened up for more debris removal. Mr. Gosnell said that the difference between then and what they voted on originally, they were just talking about vegetative debris. They had over 400 – 500 houses that had direct impact. They were proposing to begin picking up the bulk household waste that came out of those structures on a one time basis in flooded areas only. That was the change that would be different from what had been done in the past. Prior to that day, they had basically asked everyone to take it to the convenience centers or landfill. It was just too much. Based on what they saw in the field, the quantity was too much for the property owner to handle. Chairman Lazarus told council that there was a corrected version of Ordinance 106-16 that they would vote on that night. Mr. Gosnell said that ordinance had to do with the ability to get into private roads and private subdivisions. It was separate from the debris issue. They had approved the debris management plan. They were simply updating them on the change to pick up the flood damaged house debris rather than just the vegetative debris. It was just an update and they needed to be aware of it.

Mr. Vaught said that in the last meeting, they had recognized the fire people, police, and emergency responders for all their work during Matthew. He thought they were far overdue recognizing the public works people. He had lots of people call him and tell him how good they were to get out there and help clear their property, help with their debris, get roads fixed and that kind of thing. They were putting in the same kind of hours that the fire and police were putting in right after the storm and they were out there the next day. He wanted to publicly commend Mr. Gosnell and his people for their hard work and recovery effort after Matthew. Mr. Gosnell said he would pass that along.

Mr. Loftus said he would second Mr. Vaught's praise of what the county and everybody had done. It had been an amazing effort and he and many of his neighbors appreciated it. Regarding the one time debris removal, he asked if there would be any advanced warning to the residents as to when they would arrive. Mr. Gosnell said they were meeting 3 days a week on the debris management effort. That was one of the topics for discussion on the next day's meeting. How would they get the word out and let them know they were coming so they knew if they didn't make that cut, they would be doing it themselves.

Mr. P. Prince asked if there was a phone number the public could call. Mr. Gosnell said that the debris hotline's phone number was (843) 340-9536.

Mr. Crawford said he wanted to echo Mr. Vaught in commending Mr. Gosnell and Mr. Powell and all the staff for all the hard work they put in during the storm. It was very much appreciated.



Chairman Lazarus thanked Mr. Bury and Mr. Floyd for all the hard work. They were doing a great job. He appreciated it and knew the residents especially appreciated it.

#### READING OF ORDINANCES:

Third Reading – **Ord. 85-16** to amend the County Code pertaining to distribution of unsolicited materials. **Mr. Vaught moved to approve, seconded by Mr. Loftus.** Mr. Vaught said they had a hard copy of the ordinance and he offered an amendment to it. One of the questions he had from some of the people who offered comments about it was that they weren't giving the deliverers of the advertising pieces any kind of notice. **Mr. Vaught moved to amend to add upon complaint made or notice otherwise provided to Horry County Government personnel.** He wanted that added as part of his discussion. Chairman Lazarus clarified that was to be added on sections A and C of what was in front of them. **It was seconded by Mr. J. Prince.** Chairman Lazarus said that they were going to ask for a deferral and send it back but they needed to get the amendment into record. Mr. Worley asked why they needed to get it into it. Why couldn't they do it in committee? Chairman Lazarus said it wouldn't go back to committee. It would go to the attorneys and once the attorneys and their attorneys come to a conclusion, they were also going to ask them to speak with Mr. Carotti to initiate a friendly declaratory judgment action which according to Mr. Carotti was a very simple process where a judge could give a ruling on the constitutionality of it. By adding the provision in it, it takes it out of what everybody was considering in code enforcement hands or police hands. If a resident made a complaint if they have put done due notice by what the newspapers or other people that distribute these had been put on notice and they still continued to deliver that product to either an abandoned house or a resident's house. That due notice had been put in place. That was why it needed to be put in place.

Mr. Worley asked what the point was if there was enough on council to pass it, it was once thing, but if not, he wasn't going to vote for it no matter what they did to it. Why go through that process if the votes were not there to pass it in any form.

Chairman Lazarus said he would find out if anyone would pass the amendment first of all.

Mr. P. Prince asked Mr. Carotti about the state's litter laws. Were we overstepping any state law already in existence and why was this necessary if there was?

Mr. Carotti said this was drafted to the best of the county attorney's office's ability to comport with constitutional and state law. Mr. P. Prince asked if we were overriding any state law. Mr. Carotti said this was presented with the county attorney's office with that opinion attached to it. That it did not.

A vote was held on the motion as amended:

<u>Yea:</u>	<u>Nay:</u>
Washington	P. Prince
Vaught	Worley
Crawford	Servant
Loftus	
Lazarus	
J. Prince	
Phillips	
Howard	

**The amendment passed eight to three.**

**Mr. Vaught moved to defer the main motion as amended back to the action that Mr. Carotti described, friendly declaratory judgement action, provided the interested parties join with the county in discussion and working together before it came back to council.** Chairman Lazarus said the deferral meant that council

was asking Mr. Carotti to discuss with the parties a friendly declaratory judgment action. We would see where that went between the parties and any other questions or concerns that the parties may have. He asked Mr. Carotti to sit down with the parties and then at the appropriate time it would be brought back at a future meeting once they had sat down and hopefully come up with a resolution.

Mr. Loftus asked Mr. Carotti to explain exactly what they were going to do. Chairman Lazarus said they had a motion to defer, and asked for a second. **Mr. Howard seconded the motion to defer.**

Mr. Carotti said that all the county had received thus far as opposed to expending any effort whatsoever to provide a viable alternative were threats of litigation and the blanket statements that the proposed ordinance was blatantly unconstitutional. What had been suggested was that he approach the complaining parties to try to find out if they did have any viable alternatives for consideration by council because they had been provided none. Also, to suggest to them that if we can't reach an agreement that we jointly present to the court of common pleas across the hallway what's been commonly referred to as a friendly declaratory judgment action. All we would be doing was putting their positions before the court together and saying "your honor, please decide the issue of constitutionality for us" and we will be bound by that decision and abide by that decision. It was a cost effective and expeditious way of having such matters judicially decided.

Mr. Loftus asked if it would come back to county council once it was completed for third reading or whatever. Mr. Carotti said if it was declared constitutional.

Chairman Lazarus said or if we don't make it across what they were saying was that once you sit down with the new provision that was in there, they may be just fine with what was written or they may have a couple of small additions that we could fix on council without having to do that. If that wasn't the case, then they would move forward with the friendly declaratory judgment action.

Mr. P. Prince said he didn't want to bring up an ordinance that would cause court cases and so forth that cost a lot of money. Chairman Lazarus said that was what they were trying to avoid. Mr. P. Prince said he also didn't want to pass an ordinance where we started charging \$300 - \$400 fines everywhere you looked and caused it to be bogged down in court cases. There were already a lot of cases that could be worked on that we weren't working on strong enough.

Mr. Carotti said there was court precedent indicating that we were not going to be able to use the litter laws to enforce what we wanted to try to do here.

Chairman Lazarus said they wouldn't be there then if they didn't have residents complaining in districts that said they had called the distribution companies or newspapers and asked them to stop delivering to their house and they continued to deliver to their house. That's the stop gap measure that they have. As Mr. Webster said, we were not in a perfect world and it did happen. All this did was give notice. We have to be given notice by a resident. We are not out policing this or anything of that nature. It was notice given by a resident or a next door neighbor of an abandoned house or someone that hadn't been living in a particular house and said why are you piling up papers or literature in that particular area. Once the notice is given, and they continue to do it, then we have some action that we can take. Not to say that the people that were in the room tonight are the ones that were doing it, but there were others out there that were doing it. There was obviously a problem with the system and we are just trying to fix the system.

Mr. Vaught said he wanted to remind Mr. Prince that this was a litter issue. That it was brought up because people were considering litter in their yard. That was why this was brought up in the first place.

**Mr. Worley moved to table the ordinance, seconded by Mr. Servant.**



Mr. Vaught said that tabling to him meant to put it aside until the issue happened to come up again. A deferring meant that they deferred action to some later point and time but they would take action. The issue would not go away. He didn't want to see it tabled. He would vote against it.

Chairman Lazarus asked Mr. Carotti that with the direction given by the Chairman and by other council members to basically negotiate with the parties, deferring or tabling, he would still do the same thing, correct.

Mr. Carotti said yes. What he understood the intent of the motion to table which was probably a motion to postpone indefinitely which did not have precedent, but the thought the intent was to allow the process to take place and run its course through the attorney's discussions and when he reported back to council what the result of those discussions were, if it then came to a point of time for it to be brought back up to council for consideration, council would do that giving him the opportunity to go through that process.

Chairman Lazarus said it would be the chairman's discretion to put it on the agenda. If he didn't then it would be up to council to get it put on at a future council meeting.

Mr. Carotti said correct. Mr. P. Prince asked if the tabling was to pass, council had to vote to bring it back on the table. Chairman Lazarus said correct. Mr. Carotti said you had to vote to remove it from the table.

Chairman Lazarus said they had a motion and a second on the floor to table. He called for a vote on the tabling.

<u>Yea</u>	<u>Nay</u>
P. Prince	Washington
J. Prince	Vaught
Worley	Crawford
Servant	Loftus
	Lazarus
	Phillips
	Howard

**The motion failed seven to four.**

Chairman Lazarus called for a vote on the main motion to defer:

<u>Yea</u>	<u>Nay</u>
Washington	Worley
Vaught	Servant
Crawford	
P. Prince	
Loftus	
Lazarus	
J. Prince	
Phillips	
Howard	

**The motion to defer passed nine to two.**

First Reading – **Ord. 92-16** amending the County's business license law in the area of business license denial, revocation, and appeal; and amending the County Code pertaining to late-night establishments. **Mr. Howard moved to approve, seconded by Mr. Loftus.** Mr. Vaught said he had multiple questions about the ordinance. They had previously considered an ordinance to regulate businesses that were going to sell alcohol after 2:00 a.m. He raised the question then as to what was the problem. How many establishments were a problem? That ordinance failed. Now, they had this ordinance that appeared to put obstructions in front of businesses that were



wishing to open and sell alcoholic beverages after midnight. Why did this ordinance come up? Were there problems out there that we could not deal with?

Mr. Carotti said there were problems out there. They were well documented by way of call history and the over two dozen public nuisance actions that had been prosecuted against businesses since 2003. Actually we were close to three dozen at the moment. What inspired the public nuisance actions at a considerable time and expense were the inordinate amount of police calls and arrests that are made at late night establishments which seem to foster serious criminal activity. Not every club or drinking establishment but a significant amount to cause some concern. Public nuisance actions also only shut down businesses for one year. Public nuisance actions are only brought after the harm to the community has already occurred. Drugs have been sold. Thefts have occurred. Prostitution has occurred. Shootings have occurred. Well documented. The first time around, staff addressed it with a broad brush and proposed an ordinance which compelled the shutting down of late night establishments that had on premise consumption of alcoholic beverages and stay open past midnight. Shut them down at 2:00 a.m. It had been done in other jurisdictions that way but it was felt by council that that penalized good businesses. It did. It imposed undue burden on good businesses the same as it would on those that they were trying to prevent from fostering and facilitating criminal activity and violating the laws themselves. There had been close to three dozen. All the adult entertainment businesses that were operating illegally for more than a decade and a half here in Horry County were shut down in 2015. That was after we underwent an arduous time in 2013 passing new adult entertainment laws.

What they proposed in this case as an alternative, staff was asked to go back to the drawing board and see what type of tools they could create to help deal with the abhorrent businesses behaviors and activities. They continue to crop up. You close them down for a year and they will come back in a different form and open up again. History had shown that it was far easier to prevent these deviant activities and deviant businesses in behaviors and criminal activity to prevent it from happening than to uproot them once they had gained a foothold. This ordinance would give them the tool to do so, but what was critical about this and what was so different about this from the last ordinance that council considered, it doesn't penalize any of the good existing businesses. It only applies to late night establishments that seek to open up after January 1, 2017. Part of what was being required was really not a terrific burden at any rate. It was a pre-clearance process. The City of Myrtle Beach since 2014 had enacted a similar process by way of requiring a detailed safety plan from these type businesses. They applied it across the board. They didn't distinguish between new businesses and existing businesses so in the City of Myrtle Beach everyone is required to submit a safety plan and abide by it. What this ordinance did was require a pre-clearance process. Basically, what the business has to do is let them know who they are. Really know who they are by completing a detailed application that identifies who is involved in the business, who would be operating the business, and most importantly, requires that they identify any criminal or otherwise unlawful or nuisance history. Tell us about your past. We find that out too late that we had already dealt with these people in different forms before and here they are all over again causing us to bring another public nuisance action against them. This would help level the playing field when it came to detection of the criminal element trying to set up shop here. Should be an easy process for most to complete. What it included as well is for them to submit a safety plan. This safety plan basically contained assurances that the business would enforce and have in place specific measures to insure lawful operations and safe drinking practices like the prevention of underage drinking for instance, provide for the safety and security of employees and patrons, protection of the property, and appropriate response to emergencies or dangerous or threatening situations together with such policies in place. All it was doing was requiring these businesses to come to us with transparency and give us some assurance that they are going to operate it lawfully. Again, it would not apply to existing businesses that have a proven track record of operating lawfully and properly unless they go awry. Unless they themselves become problem businesses then it doesn't apply to them. And, it should involve the same staff that we have in place in Horry County to implement this program with the addition of perhaps the cost of a hearing officer in the event there are any appellant appeal that is taken by businesses against whom we take action. So, this gives us the tool in our business license law which heretofore had been very weak. We had not been able to use our business license law to control this behavior. To meet it at the gate and stop it there as opposed to trying to get it out of the house once it has established itself inside our community. That was what this ordinance did.



Mr. Vaught asked about the qualifications of the hearing officer. He was not to be an employee of the county? Mr. Carotti said that was correct. Mr. Vaught asked if it would be a volunteer who had the judgment capabilities. Mr. Carotti said he would be tapping into Myrtle Beach who already had a list of individuals that had performed this type of activity. It would be a hearing officer as opposed to a panel of individuals. A hearing officer who was very well qualified. He would like to say probably an attorney would best fit the bill to act as an impartial and objective judge but someone who had some experience in the area.

Mr. Vaught said he didn't see how somebody who was just appointed as a volunteer hearing officer could have any authority to carry out any orders or issue any orders. Because if we are having a hearing officer who would approve or disapprove things, they don't have any authority if they are not part of this county. Mr. Carotti said they would be part of the county. They wouldn't be an employee of Horry County Government because it could be claimed they had some kind of a bias. They act as an independent neutral to hear a case and we had that kind of system set up elsewhere. The federal government had neutrals to hear cases. The American Arbitration Association had arbitrators. He was a certified circuit court mediator and arbitrator. It was just someone who was qualified to be able to act as a neutral, a judge, in an appeal. That was all they would be handling. The decision would be made by the appropriate county individuals that would be in collaboration with one another such as the Horry County Police Department, the county attorney's office, and whoever else the administrator would want involved in the process of making these decisions on these businesses. If the businesses disagree, they could pursue an administrative appeal. That was all this was and it is found elsewhere in county government and local government. An administrative appeal process from there if they are dissatisfied with the results, assuming that the neutral or the hearing officer upholds the county's decision, remember they are not representative of the county, they are the neutral judge, then they go across the atrium to circuit court and contest the action.

Mr. Vaught asked about the license inspector mentioned in the ordinance. Did the county already have someone in that position? Mr. Carotti said that we would have the business license department that would be coming upstairs from the treasurer's office under the direct supervision of the administrator.

Mr. Vaught referenced the section that required them to pay for a background check. Was that not already being done by the licensing people? Mr. Carotti said no. There were certain legal requirements that were put in place and restricts our ability to just willy-nilly conduct a criminal background check. This would formalize that process, legalize that process and make it clear to any applicant that that process would be undertaken. All in compliance with the law. There was more than one attorney that worked on the draft. One being Scott Burkhold who drafted our adult entertainment business ordinances and who was extremely well versed in constitutional law. He had him put stuff in that he didn't really want to.

Chairman Lazarus said the real question was when that applicant applies for their alcohol license, they have to have a background check. SLED does a background check on them under the application. It was put on notice that where the store front was they had to put a yellow sticker up.

Mr. Carotti said he could confirm by personal experience that the level of background check that was done by the state, if that occurred, was not fully acceptable under every circumstance. DHEC had stormwater regulations too and Horry County exceeded them by far. He had witnessed that there was more to be researched than perhaps what the state found.

Mr. Vaught asked about the safety plan. Who would go out and see if they carried out the safety plan. The requirements of the safety plan were very extensive but who would go out and see that it was actually being carried out.

Mr. Carotti said this was a collaborative effort among the business license department, the Horry County Police Department, Horry County Attorney's office, and whoever else the administrator deemed appropriate to become part of the process. It would be a collaborative process within the Horry County government to make sure the regulations were complied with. He had spoken to Tom Ellenburg about Myrtle Beach's safety plan process.



What triggers a review of their safety plan process was probably a bunch of police calls to that establishment and then you go and find out that they haven't been complying with the safety plan and they have to provide further assurances as one remedy to make sure that they will be in compliance from that point forward. It would be among that group that would go out and make sure that they were in compliance with what had been submitted in terms of pre-clearance as well as a safety plan.

Mr. Vaught said it seemed we were almost setting up another kind of bureaucracy or something to go out there to do something. It was really a paper tiger. This is a plan that everybody said this is what I am going to do and you go out there and bust them for it when there is a problem. Which obviously if there is a problem they are doing something illegal that may or may not be part of the safety plan. He didn't see the need for the safety plan.

Mr. Carotti said that what he had been told by Myrtle Beach's attorney, Tom Ellenburg, the safety plan had worked wonders in Myrtle Beach.

Mr. Vaught asked about the one-time fee and letter. We say there is an annual fee, regulatory fee of \$250 and then investigative fee for another \$250 and the fees can be paid with the application. One of them covers the background check and the other is the cost of applying for the pre-qualification letter.

Mr. Carotti said it would be for the county to administer the process for each business.

Mr. Vaught said that we were saying that each pre-clearance letter should remain valid for a period of one calendar year unless revoked. It could be renewed by making payment of the annual fee. So they had to pay \$250 every year to be pre-qualified whether or not there had been a problem with them. He had a problem with that.

Mr. Carotti said the reason why it was put in that way was for Horry County government to be able to know from year to year that they are governing their business as they had represented they would. Changes occur and policies are modified over time and the county wants to keep abreast and on top of the businesses to make sure they remain in compliance. It is only costing them \$250 a year.

Mr. Vaught said there was a business out there doing business, straight up with no problems whatsoever, yet they have to come back and pay \$250 every year just because we say so.

Chairman Lazarus suggested Mr. Vaught offer an amendment to that because he agreed with him. As long as they hadn't had a violation then we just need to have an amendment with it. There was no need to argue with Mr. Carotti about it.

Mr. Vaught said he wasn't arguing with Mr. Carotti. He was just looking at it from the standpoint of trying to be business friendly and trying not to put up barriers to business.

Mr. Carotti said they do the same thing at a lesser cost for business license, an annual fee.

Chairman Lazarus said they still had to come back and get their business license. The bottom line was we were having to spend a tremendous amount of time, effort, and dollars for nuisance violations for the same establishments, and we are having to cross to the court room. What we are doing is tying this to their business license so we don't have to spend those dollars and that time and energy and waiting for a long time to get a court date while they still operate. We have a better system in place tying it to the business license. That was why this ordinance was here.

Mr. Eldridge said that when the police department told him where the next shooting was going to be because one of these establishments is opened back up and then it happens, that was what they were trying to head off. So we are not doing the nuisance action after someone is shot in the parking lot, after there is gunfire exchange between patrons and the private security at the club. They are trying to head things off before they happen.



Mr. Vaught said he understood. We don't need those problems. **Mr. Vaught moved to remove Section 12.5-174 (b), seconded by Mr. P. Prince for discussion.** That was only to remove the fact that they have to reapply and pay the fee every year. Unless we have a problem and we pull their clearance or letter, they shouldn't have to come back and pay for something over and over again.

Mr. Carotti said removing B removed a lot more than just removing the payment.

Chairman Lazarus said it should just be a one-time fee as long as they are not in violation and are in compliance, everything else should stay.

Mr. Vaught said they needed to change the language to that extent and he would have no problems with it. That was his intent.

Mr. Carotti asked with respect to the fee.

Mr. Vaught said right.

Chairman Lazarus said to a one-time fee as long as they have stayed in compliance. We had a motion and he asked if they had a second. **Mr. Crawford seconded.**

Mr. P. Prince said he understood the part they were just talking about but they had said there was more to that section than they were talking about. He asked if any business that went to get a business license had to do this.

Mr. Carotti said no. It was only for late night establishments defined as a club, bar, drinking place that allows on premise consumption of alcoholic beverages and stays open past midnight.

Mr. P. Prince asked if the part he was talking about was additional besides the license fee each year. He didn't think they needed to add more fees on getting license to do business. It was already enough struggle to get your business license.

Mr. Carotti said Mr. Vaught's amendment reduced that to a one-time \$500 fee and that was it.

Mr. Vaught said the work it took to get the pre-clearance letter together was valid.

Mr. Worley said he understood where Mr. Carotti was coming from, but they were going to be going to the ABC board for a beer, wine, and liquor license and they require a background check. It would seem dumb for them to have to pay for it there and then turn around and have to pay for another one. That didn't seem right to him.

**Mr. Servant moved to defer back to the Administration Committee, seconded by Mr. J. Prince. The motion was unanimously passed.**

Second Reading – **Ord. 64-16** to approve the request of Thomas & Hutton, agent for Robert Sheaham, Sea Mountain Village, LLC to amend the official zoning maps. **Mr. Vaught moved to approve, seconded by Mr. Phillips. The motion was unanimously passed.**

**Emergency Ord. 106-16** proclaiming a public health emergency within Horry County as a result of Hurricane Matthew, and authorizing the appropriate action to be taken in connection therewith, in accordance with FEMA's Public Assistance Program. **Mr. Loftus moved to approve, seconded by Mr. Worley.** Mr. Carotti said no amendment was needed. To just move on the version that was on the dais but it would be recommended that the ordinance be deferred until the November 15<sup>th</sup> meeting. **Mr. Vaught moved to defer until the November 15<sup>th</sup> meeting, seconded by Mr. Loftus. The motion was unanimously passed.**



Second Reading – **Ord. 82-16** to approve the request of Monica & Joe Jenkins to amend the official zoning maps. **Mr. P. Prince moved to approve, seconded by Mr. Loftus. The motion was unanimously passed.**

Mr. Worley wanted to add something for council to consider on the distribution of unsolicited materials. Our First Amendment rights was a basic in the reason government stays in business so to speak. With the stress that is on newspapers and printed materials now, they were having a tough time and were struggling so he, as one that certainly recognized the press in keeping our politicians straight, he believed without them we would not have a country. The country that we knew would be taken over by dictator politicians and there would be no one to tell the story on them. He just wanted them to be real careful about what they do to not put undue pressure on them so they couldn't make a living.

**OLD/NEW BUSINESS: None.**

**ANNOUNCEMENTS:** Mr. Servant announced that the St. James Girl's Golf team won the state championship again for the second year in a row. They were back-to-back state champions.

Chairman Lazarus said the election was Tuesday and council encouraged everyone to get out and do their civic duty to vote, no matter who you voted for. Council did pass unanimously the Ride 3 program which supported the 20 road projects that would go before the ballot box. That sent a clear message from 11 districts and the chairman that council was in support of that and there was no plan B if we wanted to continue the road projects that mostly benefit the citizens of Horry County. He encouraged everyone to get out and vote on the following Tuesday.

Mr. P. Prince said that everyone needed to get the referendum and read it so they could understand it and go vote for it one way or another. Don't wait until it was passed or not to start asking questions. Get an understanding of it now and go vote on it.

Chairman Lazarus said they could find a copy of Ride 3 on the county's website along with a list of the 20 projects.

**Memorial Dedications:** Charles Graham; Fred Martin; Betty Jean Skipper; Coupe De Ville; & Rebecca Con Gregory.


**Upcoming meetings:** Regular Council Meeting November 15 & December 6, 6:00 p.m.; Public Safety Committee – November 28, 9:00 a.m.; I & R Committee – November 29, 9:00 a.m.; Administration Committee – December 13, 4:00 p.m.; Transportation Committee – November 28, 4:00 p.m.; and Fall Budget/Planning Retreat – December 1, Coastal Carolina University.

**EXECUTIVE SESSION: None.**

**ADJOURNMENT:** With no further business, **Mr. P. Prince moved to adjourn at approximately 7:13 p.m. and it was seconded. The motion was unanimously passed.** The meeting was adjourned in memoriam of: Charles Graham; Fred Martin; Betty Jean Skipper; Coupe De Ville; & Rebecca Con Gregory.



**HORRY COUNTY COUNCIL**




Mark Lazarus, Chairman

Harold G. Worley, District 1  
Jimmy Washington, District 3  
Tyler Servant, District 5  
Harold Phillips, District 7  
W. Paul Prince, District 9  
Al Allen, District 11

Bill Howard, District 2  
Gary Loftus, District 4  
Cam Crawford, District 6  
Johnny Vaught, District 8  
Jody Prince, District 10

Attest:



Patricia S. Hartley, Clerk to Council