



TOWN OF SURFSIDE BEACH ♦ TOWN COUNCIL CHAMBERS
March 9, 2010 ♦ 6:30 P.M.

TOWN COUNCIL
REGULAR
MEETING MINUTES

1. CALL TO ORDER

Mayor Deaton called the meeting to order at 6:30 p.m. Mayor Deaton and Councilmembers Blair, Johnson, Martin, Childs and Samples were present. Mayor Pro Tem Truett was absent. A quorum was present. Staff present: Administrator Booth; Clerk, Pinnell; Public Safety Director Christenson, Fire Chief Packard and Building Director Donevant. Attorney Mr. Smith was also present.

2. INVOCATION AND PLEDGE OF ALLEGIANCE.

Mayor Deaton asked for candidates in attendance to stand and introduce themselves. Rod Smith, Bill Rempfer, Ann Dodge, Rebecca Hiatt and Doug Samples were in attendance. Mayor Deaton thanked the candidates for running and announced that there would be a candidates' forum on Sunday, March 28, 2010 in council chambers. The refreshments will be provided by the Coastal Carolina Association of Realtors.

Carmen Carella, police chaplain, gave the invocation. Mayor Deaton led the pledge of allegiance.

3. AGENDA APPROVAL

Mr. Samples made a motion to approve the agenda as submitted. Ms. Blair seconded the motion. **All voted in favor. MOTION CARRIED.**

4. MINUTES APPROVAL – Regular meeting minutes February 23, 2010. Mr. Johnson made a motion to approve the minutes including the changes previously directed by Councilman Samples. Mr. Martin seconded the motion. **All present voted in favor. MOTION CARRIED.**

5. PUBLIC COMMENTS Agenda items only, 3 minutes per speaker.

Mayor Deaton stated that there has been a lot of interest in the pier adding that the council is a policy making body; they are not here tonight to make a decision tonight on who will be the lessee of the pier. Councils' job here tonight is to create a policy to move forward with the leasing process. Mayor Deaton asked how many people in attendance were there to speak on the pier property. There was a show of 4 hands. Mayor Deaton stated that if there were a number of people he was going to ask it to be restricted to 5 people but since there are only 4 all would be allotted the 3 minutes to speak.

Tommy Moore, 517 Maple Drive: "I've been here 30 years and this is my first council meeting. I'm here as a concerned citizen. I heard what was going on down at the pier and that Jack may or may not be there in the future. I know he's been there for, I don't know how many years, but he's always run a good clean restaurant; always represented the town of Surfside in a mighty fine way. He's got a good family; he's always done the right thing as far as community is concerned and I would like to see town council do the right thing by him and give him the opportunity to renew the lease or at least give him

53 the opportunity to be there if it is a competitive bid process which I'm not sure how you
54 all are planning on going about it, but we need to look after Jack. Jack has looked after a
55 lot of people in this community over the years and that's all I've got to say."

56
57 **Tom Dodge, 1415 N. Poplar Drive:** "I just want to ask the council to think long and
58 hard about Nibil's restaurant. It's not just a fine establishment, it's part of what Surfside
59 Beach is. For over 20 years Jack has run a class operation; great food, friendly, just a
60 super place. He's a proven winner, we should bend over backwards to keep him here.
61 The good will of Nibil's is tremendous; the lease should not be only about money. Look
62 at his past proven performance and please make sure the RFP's are received sealed and
63 only opened in front of the entire council, not just a select few. Thank you."

64
65 **Rebecca Hiatt, 719 North Myrtle Drive:** "I just want to say a few words about the
66 restaurant on the pier. Had the same operator for quite a few years; it's been very
67 successful. Not only do the residents here like the restaurant but there's a lot of the
68 public out there in other places, vacationers, look forward to coming here to that
69 restaurant. We know what we got now but when you bring somebody else in you don't
70 know what we're going to have and you don't know how long it's going to last so I just
71 want you all to think about that real hard."

72
73 **Bob Hess, 811 N. Ocean Blvd, 24 unit condominium SeaShell, president of the HOA:**
74 "I'm a 16 year part time resident. When my wife and I think about coming down here to
75 Surfside we think about Nibil's, Gulfstream Restaurant and the Brookgreen Gardens;
76 those are our highlights. They're very valuable assets to Surfside. Thanks."

77
78 **6. COMMUNICATIONS**

79 **a. Donnie Sliker 5 Years**

80 Police Officer Donnie Sliker was recognized for 5 years of service.

81
82 **b. Butch Packard 5 Years**

83 Fire Chief Butch Packard was recognized for 5 years of service.

84
85 **c. Building Report**

86 Mr. Booth reported that the building department has been busy with the
87 ordinances. The town is beginning to see a little uptick in business and permits
88 which has been keeping the department quite busy. The town is concentrating on
89 code enforcement by taking a close look at those properties that are foreclosed
90 and for sale so that they do not get too far out of compliance.

91
92 Mr. Childs asked Ms. Donevant if Mr. Booth was referring to the National
93 Maintenance Code. It was confirmed that this was the reference. Mr. Childs
94 stated that he feels that this code would cover many of the neglected properties.
95 Mr. Booth stated that there are some new laws and regulations coming to give
96 towns more authority to address neglected properties. Mr. Childs stated that he
97 hopes that new laws will be put into place adding that neglected properties "drag
98 the neighborhood down." There was some discussion regarding placing
99 mechanical leans on foreclosed properties. Mr. Samples stated that there are
100 some homes on the south end that are boarded up and asked if there have been
101 any illegal activities such as break-ins. Mr. Booth answered "not to our

102 knowledge". Mr. Samples commented that these homes "look like they're from
103 the inner city as opposed to the Town of Surfside Beach."
104

105 **d. Public Safety Report**

106 Mr. Booth reported that he has had the opportunity to speak with some of the
107 young police officers in the last few weeks and stated that he wanted council to
108 know that they are dedicated and knowledgeable and he is very impressed with
109 what he has seen adding that he knew that they were a caliber above but now he
110 is convinced they are and that the town is fortunate to have the police force that it
111 does. Mr. Booth reported that a police officer was recently hurt in an incident
112 adding that even in a small town there is some danger out there and added that
113 since the town has a police force that is visible the town seems to be able to deter
114 some crime out there. Mr. Booth reported that 306 tickets were issued this past
115 month. Mr. Booth reported that the town is getting ready for the summer season.
116

117 **e. Administrators Report**

118 Upcoming Census

119 Mr. Booth reported that the Census is coming up and everyone, especially
120 those running for election, needs to get the word out and that it is very
121 important for people to fill out the Census forms when they come in the mail.
122 It is very important that everyone gets counted. Mr. Booth stated that he
123 realized that people live here 6 months and somewhere else the other 6
124 months but really feels that in the long term most of these people will end up
125 living here and they should call this their home since it takes 10 years to get
126 recounted.
127

128 The Pier

129 Mr. Booth reported on the pier project. The contractor has been given until
130 March 26th to complete the project; they have lights out and will begin to
131 work at night. A few of the pilings are already in and once they get all of the
132 pilings in they will go underneath and finish. The fisherman can use the pier
133 once the pilings are in and the other pier maintenance will not affect the
134 operation or the fishing.
135

136 Other Projects

137 Mr. Booth reported that there is a bid out for one of the crossovers in town.
138 Mr. Johnsons asked what percentage of the pier has been completed. Mr.
139 Booth stated that the majority of the work was the initial setup and he feels
140 that at least 50 percent has been completed adding that putting the pilings on
141 is fairly simple. The time consuming part of the job was getting the crane out
142 on the pier and putting on the railings.
143

144 Mr. Johnson asked about the timeline for the completion of the stage decking
145 by the pier. Mr. Booth stated that once the contractors' material is out of the
146 way he will place the pilings for the decking. The town had gone out for 3
147 bid quotes on building a deck; the price is under \$5,000 and the town has all
148 of the materials and it should take 2 to 3 weeks to complete. It was
149 confirmed that it would be 2-3 weeks from March 26th. Mr. Samples asked
150 if council could be provided with the drawing of the plan for the deck adding

151 that he is not sure that deck options have not been discussed publicly. Mr.
152 Booth stated that he knows that it was brought to council and council was
153 shown the plan adding that it is just a deck. There was some confusion
154 regarding what decking on the pier was being discussed. Mr. Booth stated
155 that two separate things are being discussed. "As soon as they get the crane
156 out of the way I will start having the wood put down on the deck for the
157 pier." Mr. Booth stated that there is also a deck that is going out front. It was
158 confirmed that a good portion of the decking will be done prior to the start of
159 the season and it will not stop people from going out onto the pier. Mr.
160 Booth stated that the town staff is working on a number of projects including
161 50/50's and the plan is to use part-time labor for the replacement of the
162 decking. Mr. Samples asked Mr. Booth to supply him with a schedule. Mr.
163 Booth stated that he would provide a schedule and that they would mostly be
164 working on weekends.
165

166 **7. PRESENTATION**

167 *Request for Proposal*

168 Attorney Mr. Smith stated that the terms Request for Proposal and Request for
169 Qualifications are used interchangeably. A Request for Proposal typically pertains to
170 things like leases; a request for proposal on why someone should be granted a contract.
171 A Request for Qualifications usually pertains to professional services such as engineer,
172 attorney or accountant.
173

174 Mayor Deaton stated that the town has accomplished a lot to be proud of. The number
175 of events held in town has increased; Yaupon parking lot has been completed; there is a
176 new fire station and improvements to Surfside Drive have been approved. Mayor
177 Deaton stated that this is the first time that the town is going to be involved in a contract
178 that will generate direct funds for the Town of Surfside Beach adding "so, that's pretty
179 exciting; it's an earning asset. Our pier is our only earning asset, so this is a little
180 different animal than we're used to. We're starting the process tonight; we're a policy
181 making body. We're not here to determine who will occupy that space; we're here to set
182 the policy in motion, to create the policy for the pier lease in the future. We're not here
183 to evaluate the legal aspects of a 60 page lease. That's not our goal tonight. That's not
184 our charge. We're here to get our legal firm in place in understanding and create a
185 packet so they can move forward. Mail these packets out and get them out to the proper
186 people that are interested in the process and get them back and make a decision at a later
187 time. So that's what we're doing tonight. We're not here to discuss who's going to be
188 there or when they're going to be there. We're here to start the process of the policy
189 making."
190

191 Mr. Smith stated that he provided an 8 page draft of what would constitute qualifications
192 and evaluations. Mr. Smith stated that he reduced it into a 2 page talking point handout
193 that he will talk from. Mr. Smith stated that he would be happy to answer any questions
194 from council on anything. Mayor Deaton asked if Mr. Smith needed a consensus from
195 council. Mr. Smith stated that he is looking for a consensus vote from council to adopt
196 some or all of the recommendations as to how council is going to evaluate the new
197 tenant; what criteria the tenant should submit to help in this regard. Mr. Smith stated
198 that he is also looking for a date that the packet needs to go out to the bidders and also
199 the number of days the people should have for the submission to come back and his

200 recommendation is 45 days but it could be narrowed down to 30 days but this may be an
201 inconvenience to the bidders. Mr. Smith stated that the council would review the packet
202 to determine, in their opinions, what best meets the needs of the town. Mr. Smith stated
203 that 6 items are being addressed and noted that they are not in any particular order. The
204 town has a lot of assets such as its fire trucks but at the end of the day this asset did not
205 make anything as opposed to the pier which brings in funds for the town. Mr. Smith
206 stated that the pier is a financial transaction. It was suggested by the Mayor for council
207 to withhold comments until after the attorneys' comments.

208
209 Mr. Smith stated that council was given a draft and the items presented for council to
210 consider when reviewing the bid receipts were: the capacity of the operation which is the
211 experience in a restaurant business; the capacity of funding, does the bidder have
212 sufficient cash flow to meet the operating costs and rent; the capital which is the net
213 worth sufficient to fund working capital if needed; collateral or the amount of assets that
214 a company or guarantor owns that could be used to pay a lease if the restaurant failed;
215 require character, integrity and a reputation; and the credit history of the company and
216 owners. The attorney confirmed that this two page document being presented is a
217 consolidation of information previously submitted to council. There was some
218 confusion regarding the documentation being presented. Mr. Smith stated his firm
219 believes "this to be the most comprehensive of your, how you would evaluate, which
220 one or more of you asked me for, as well as, I'm about to go over 20 criteria that the
221 bidders would submit, so what started out as a request for, 'tell us what the bidders
222 should do', which is what we did and we sent all that to you in e-mails and we even, as
223 we would get feedback, we would update it, that's why there were two versions of it,
224 then, finally, I was asked, lastly I was asked, our firm was asked, to provide what criteria
225 you should use in your selection process. I was kind of operating under the idea that you
226 would come up with your own criteria but if you wanted criteria we were more than
227 happy to provide that and that's what those first 6 are and I'll be more than happy to go
228 through the other 20 but your criteria is listed at the top of the page; it's headed, it says,
229 'criteria for council to use in selection process' and then the second part that I'm going
230 to go through, momentarily, and I'm sure that's what some folks in the audience are
231 most interested in, is the criteria that the bidders must submit and with those 2 things, in
232 your hands tonight, I'm in hopes that we can walk away with a consensus vote, that you
233 want, that will go in the package. If you don't want that to go in the package, fine, you
234 can tell me what, if any, of them, you do want to go in, whether you want all of it, some
235 of it, none of it." Mr. Smith stated that his law firm works for the town and they want to
236 do what council wants them to do. Mr. Smith confirmed that the 6 criteria are to keep
237 the 7 members of council focused on what to look at when the proposals are received.
238 Mr. Smith gave some examples adding that this would be an elimination process. **There**
239 **was consensus of council; council was in agreement to the criteria submitted.**

240
241 Mr. Smith stated that a form will be provided to the bidders. They would include base
242 rent by the year, additional rent by percentage of gross sales, capital improvements by
243 tenant, financial statements and tax returns would also be included. Mr. Smith stated
244 that the bids would be received in sealed envelopes and they would remain sealed until
245 council is available to review them in executive session. The information on the bidders
246 who do not get awarded the bid would be sealed and returned to the bidders; they would
247 not be subject to copying. Mr. Smith stated that this is a council form of government
248 and 4 of 7 must agree to the tenant put in place and he would expect that council would

249 want to see financial information. Mr. Smith suggested to council that they consider a
250 second award of a secondary bidder. This would allow council to have an option to
251 award a second bidder if anything happened to the first bidder. Mr. Smith explained that
252 council may want to keep the family beach quality and not have a full bar in that
253 location; it would be a full family restaurant. Experience with tenants in non-owned
254 common areas would be considered. Current restaurants owned and operated would be
255 considered; experience in seaside food operation and hurricane experience and plans for
256 closure should also be considered. Business interruption insurance is another
257 consideration; a proposed menu and pricing, the town may not be looking at an
258 expensive restaurant to go in that location; dress code and uniforms should be
259 considered. Other things to consider: proposed operating and hours by season, proposed
260 parking requirement, credit rating from agencies, current or past judgments, lawsuits,
261 bankruptcies, litigation, rental payment history, business license payment history,
262 compliance with sales tax returns, no violations to previous lease agreement, no past
263 indication of conflict with landlords or other tenants, EEOC compliance, name of the
264 restaurant, operation and design concept, accommodations for persons with disability,
265 who the board of directors are, interest in any other business ventures, sole
266 proprietorship, partnerships or corporations. Mr. Smith stated that these are all things to
267 consider. Mr. Smith stated that there is an added line that reads "there are substantial
268 changes and disagreement from the previous lease and failure to consider these changes
269 in the proposal shall not excuse compliance"; if someone bids under the impression that
270 the previous lease would apply it does not. Mr. Smith stated that whatever council
271 decides will be incorporated into the document and would be presented along with a
272 copy of the proposed lease proposed by the firm. It was confirmed that the list of 20
273 criteria is what is being presented to council. Mr. Samples stated that he had sent an e-
274 mail to council regarding the criteria and he is aware that one councilmember agreed
275 with adding one particular criterion he suggested but did not hear from any other
276 councilmembers and added that he also sent it to Mr. Smith. The criterion involved
277 community goodwill and asked if this was a legitimate criterion to add and added that
278 goodwill is recognized in accounting and finance. Mr. Smith stated that he could add
279 this in as a criterion. Mr. Samples stated that if council agreed then he would like to add
280 it in. Mr. Smith stated that goodwill would just need to be defined for clarification.
281 There was further clarification of what goodwill is. Mr. Samples stated that he looked
282 up the financial term and to him it is an intangible but recognized asset that can occur for
283 a number of reasons but specifically based on relationships and a company's history.
284 Mr. Samples stated that he would suggest the bidders to submit what they consider to be
285 goodwill and submit it for consideration. Mayor Deaton specified how many ball teams
286 they sponsored, how many local charities they contribute to and Ms. Blair asked if
287 community involvement and support would also be considered. It was agreed that it
288 would. Mayor Deaton stated that this is something he would consider even without
289 adding as a criterion.

290
291 Mr. Smith stated council can make an objective decision but then there is subject, which
292 is something important to consider. Council will look at these criteria and will apply
293 objective or subjective decisions. Mr. Samples stated that the evaluators in terms of
294 criteria cannot evaluate without stated criteria. Mr. Smith stated that this is correct. Ms.
295 Blair asked if bidders submit additional criteria can council evaluate this. Mr. Smith
296 stated council could; the council has a fiduciary responsibility to select the best bidder.
297 Mr. Smith stated that things could also be added. Responsiveness of bidder could also

298 be considered. Ms. Blair stated that “we could probably sit here until midnight and
299 continue to come up with criteria as we delve into it, and things that we’d like to know,
300 but I think, if we do have kind of a broad ending category; if you have an applicant for a
301 job that has a lot more that they want you to know about them then what’s asked on that
302 application they’re going to submit that. If they’ve been successful and they’re proud of
303 what they’ve done; whether it’s civic, whether it’s career, whether it’s training, whether
304 it’s volunteer, whether it’s church, whatever they’ve done in their lives that they’re
305 proud of and they think will maybe have an effect on that hiring bodies decision, they’re
306 going to want to submit and I think the same holds true here. Any business out there that
307 has been involved in community, in whatever aspects that they want us to know, will
308 take the time to write it down.”

309
310 Mr. Samples stated that he appreciates Ms. Blair’s comments but he is trying to figure
311 out how council will score the proposals. Mr. Smith stated that council can do it any
312 way they want to. Mr. Samples stated that he is a little concerned that if council was to
313 award a contract based on criteria that was not delineated that council may subject itself
314 to protest or lawsuits and then why have the criteria at all. Mayor Deaton and Mr. Smith
315 explained that the criteria are to be used to keep the council focused. Mayor Deaton
316 stated “I think too, I have the confidence in this council, in that this is going to be a
317 presentation, people are presenting their position to us and it’s persuasion and if you’re
318 in a persuasive position then it’s in your own best interest to make your best case and I
319 think that anyone who bids will be doing that.”

320
321 Mr. Samples stated “I understood that while we have these criteria that we are issuing,
322 what I understood you to say was that we could take that, a proposal, and decide to
323 award it to anybody who submitted based on, it almost sounded like, a whim.”

324
325 Mr. Smith stated that council is the decision makers and as long as there are 4 who
326 decide to award a contract council can do so. Mr. Samples stated “so what I said is
327 correct?”

328
329 Mr. Smith: “Yes. There’s never been any dispute about that. I thought I made myself
330 clear in no less than 10 e-mails and here tonight. The seven of you sitting in box
331 together, 4 of you voting can do anything you want to in regard to this contract. I made
332 that clear. All this is, is a road map to get you there.”

333
334 Mayor Deaton clarified that the goal here tonight is for council to submit this for a
335 package so that we can get a package out to the bidders and begin the process and “not
336 to have hypothetical situations of what will or will not happen in the future”. The goal
337 of council is to review this information and accept or deny or modify and move forward.

338
339 Mr. Smith stated that he agrees with Ms. Blair to add a 21 to include bidder to add any
340 other information they would like to provide. Mr. Samples stated that the council is
341 making decisions that will have an impact on how this is administered in the future and
342 one item he would like to address, which he also conveyed in writing, is the percentage
343 gross sales rent. Mr. Samples stated that the current landlord does not use percentage
344 gross sales of rent and “ he’s a pretty sharp business . . . the previous, Mr. Scalise, in that
345 lease, did not.” Mr. Samples stated that part of the reason he has a problem with this is
346 that it turns the town into an auditor. The town will need to know the gross sales so that

347 it can calculate the percentage and he believes the town is having a problem with that on
348 one of the current town contracts. Mr. Samples stated that he feels this creates an
349 atmosphere of confrontation. The Charleston Folly Beach Pier does use a percentage of
350 gross sales and over a 5 year period the amount of rent raised was less than 1 percent of
351 the total rent and asked why make someone go through this process and this would be
352 obligating the town staff. This was in reference to 1-A-2. Mr. Martin stated that he
353 agrees with Mr. Samples and he believes this item violates the "keep it simple
354 principal". Mr. Smith stated that this probably does violate this principal but the reason
355 it was put in was that "the town is going through a concerted effort to improve the pier.
356 We're spending dollars; Mr. Booth just talked a few minutes ago about all the things
357 he's doing down there on the pier. We're spending dollars and every dollar that we
358 spend increases the opportunity for that restaurant to make even more money and we
359 would like to participate in that. The town would." Mr. Smith stated that he feels this
360 protects the town in that if the town spends money on improvements the full benefit
361 should not be that of the tenant. The town should get 10 percent because the town
362 helped the tenant make the money by making the improvements. Mr. Martin stated that
363 this is a 5 year lease and if at the end of 5 years it appears that things are so much
364 improved the town could put it in then and in the meantime there will be less staff time
365 monitoring accounts adding that the town has a relatively small staff and a small town
366 and that Surfside Beach is not Charleston and the town does not have someone that can
367 be dedicated to watching this lease. Mr. Smith stated that this item could be removed.
368 Mr. Johnson stated that if this could be added after the 5 years what does this do for the
369 automatic renewal. Mr. Smith stated that there will not be an automatic renewal; there
370 will be a town option to renew. Renewal would be based on satisfactory performance.
371 **There was a consensus to delete and replace this item 1-A-2 annual base rent.**

372
373 Mr. Smith stated that some council members asked why he did not include a continuing
374 guarantee of payment. Mr. Smith explained that whoever the tenant is whether he is a
375 subchapter S corporation or an LLC, this corporation it is not financially viable. The
376 town would require that whoever owns that corporation to guarantee the lease payment.
377 Continuing guarantee of payment would not require the tenant to resign a new lease after
378 5 years. This could be good for 20 years but many things could happen in 20 years. Mr.
379 Smith stated that his firm is recommending that whoever guarantees will be required to
380 sign new documents every 5 years; this way if there is a financial change in the
381 guarantor the town would be protected. Mr. Martin stated that the lease was prepared to
382 protect the town but there was one section he thought to be unreasonable. The item
383 stated that the town "might someday put together a magazine advertising the pier and
384 you are required to take a quarter page ad in that magazine." Mr. Smith stated that this
385 was something that came out of the Charleston lease. Mayor Deaton asked if we could
386 return to this item once the package is agreed upon.

387
388 Mr. Samples asked about capital improvements section stating that the capital
389 improvements that are mentioned are for the demised premises, where Nibil's currently
390 exists. Mr. Smith stated that this includes the area within the 4 walls. The tenant can
391 propose anything else they want, other than the 4 walls, and the town can take this into
392 consideration. Mr. Smith stated that this is asking the tenant what they are proposing to
393 do within those 4 walls to improve the towns' asset. It was confirmed that this item
394 could be evaluated during the choosing of a tenant. Mr. Samples asked if council would
395 be able to discuss capital improvements in public prior to making a decision. Mr. Smith

396 stated that this evening council will instruct him when the packets should be available to
397 pick up and once sealed bids are received they will be opened for the first time by
398 council in executive session; they will be reviewed and if it is agreed to choose a
399 primary and secondary the council will then return the remaining bids to the bidders.
400 The bid would be awarded then the capital improvements of the primary bid could be
401 announced. Mr. Smith stated that there are things that the council cannot disclose such
402 as financial worth. **There was consensus of council to move this into a packet to be**
403 **submitted to bidders at some future time and date to be discussed shortly.**
404

405 Mr. Samples stated that he had additional questions regarding items he wanted to
406 address to assure a fair procurement. Items such as limiting who could apply, could it be
407 councilmembers? Mayor Deaton stated that unless it violates an established policy it
408 could be considered. Mr. Smith stated that by asking questions related to the 21 item
409 criteria information would be disclosed and if council feels that there is some ethical
410 issue then council should act upon it. Mr. Childs stated that if council felt at that point
411 that a relationship disclosed did not feel right then council could use their best judgment.
412 Mr. Smith confirmed that the criteria were built to address concerns such as the ones
413 addressed by Mr. Samples.
414

415 Mr. Smith recommended council to go out to bid on April 15th and the bidders would
416 have 45 days to submit their bid. Mr. Martin made a motion to accept the
417 recommendation of the town attorney. Ms. Blair seconded the motion. Mr. Samples
418 asked if simple information such as a sketch of the premises and a qualification form
419 would be included. Mr. Smith stated that it would. Mr. Samples asked about the
420 incorrect onsite address. Mr. Smith stated that the address has been corrected. **All voted**
421 **in favor. MOTION CARRIED.**
422

423 The magazine issue was brought back up. Mr. Smith stated that this section could be
424 removed or the words 'if applicable' could be added to address the situation if it ever
425 came up. Mr. Martin stated that from a tenant perspective this is an unknown since there
426 is no current magazine and he would prefer this be removed. **There was consensus**
427 **from council to remove this section.** Mr. Samples asked if the town currently charges
428 for utilities. It was confirmed that it does not. Mr. Samples asked if this could be
429 removed. Mr. Smith stated that he would recommend leaving the utilities in. The town
430 has no control over usage.
431

432 **Other Items**

433 Mr. Booth stated that he will be starting interviews for the Public Works Director on
434 Thursday and Friday. Thursday between 1pm and 3pm the administrator will go over
435 the budget. It was confirmed that this is not a council meeting.
436

437 **8. BUSINESS**

438 **a. Second Reading Ordinance #10-0679: Amend Ordinance Chapter 9 Motor** 439 **Vehicle and Traffic**

440 This ordinance increases the times and the dates. Mr. Childs made a motion to
441 adopt second reading of ordinance 10-0679 to amend chapter 9 motor vehicles
442 and traffic. Mr. Martin seconded the motion. Mr. Booth stated that it would take
443 the town a few days to get the signs up with the new dates and times. Mr.
444 Samples suggested giving the public time and warning tickets. Mr. Booth stated

445 that the town will be fair with the public. **All voted in favor. MOTION**
446 **CARRIED.**

447
448 **b. Proclamation #10-69: Arbor Day**

449 The town clerk read the proclamation.

450
451 **c. Decision Paper: Reappoint Evelyn Cockey to Election Commission**

452 Mr. Samples recused himself from voting since he is running for re-election. Mr.
453 Johnson made a motion to reappoint Evelyn Cockey to the Election Commission.
454 Mr. Martin seconded the motion. **All voted in favor. MOTION CARRIED.**
455

456
457 **d. Decision Paper: Budget Amendment 10-4300-485 Contractual Services**

458 Mr. Booth explained that the town is looking to amend the budget for \$5,450.
459 The state charges the town \$50 per day for each juvenile housed. Two juveniles
460 were housed for an extended period and the cost came to \$5,450. The town does
461 not anticipate this to be a recurring expense but in order to pay this invoice the
462 town needs to amend the budget. Mr. Samples made a motion to accept staffs'
463 recommendation. Mr. Martin seconded the motion. Mr. Samples stated that in
464 South Carolina the tax payers have to pay for incarceration of youth offenders
465 and he feels that it creates a negative incentive system on local governments.
466 Mr. Booth confirmed that this would come from the general fund. Ms. Blair
467 suggested that the town let the Juvenile Justice Service know that Mr. Ferguson
468 has not been the towns' administrator for years. **All voted in favor. MOTION**
469 **CARRIED.**

470 **9. DISCUSSION**

471 *Personal Fireworks: Councilman Childs*

472 Mr. Childs stated that the town is going to spend \$25,000 to put on a fireworks display
473 and added that any town or city he has been in that provides a fireworks display
474 eliminates use of personal fireworks. Mr. Childs stated that he does not feel there is a
475 need for people to light their own fireworks; there is a bodily and structural liability.
476 Mr. Childs stated that he would like to be proactive before something happens and he
477 would like to see fireworks prohibited on July 4th and added that there is also a lot of
478 garbage left on the beach. Mayor Deaton stated that this could be requested to go on a
479 future agenda. Mr. Martin made a motion to bring the fireworks ordinance be brought to
480 council in a draft form that has the exception for the 4th of July removed. Mr. Childs
481 seconded the motion. **Ms. Blair, Mr. Martin, Mayor Deaton and Mr. Childs voted**
482 **for. Mr. Johnson and Mr. Samples voted against. MOTION CARRIED.**
483

484 **10. PUBLIC COMMENTS – Agenda Items only – 5 minutes per speaker**

485 Ron Ott, 7th Avenue N: "Let's do away with Christmas too, alright? The 4th of July
486 with public fireworks made this town very unique so we'll do away with Christmas and
487 birthdays, too. Let's get rid of them, too. Two workshops ago I went for a ride here and
488 I've been thinking about it and I got a little confused about this parking plan that you put
489 out. I listened to the, nice guy, riding in a helicopter, I mean, the town ain't that big.
490 This isn't Atlanta, Georgia. We don't need a helicopter. He definitely didn't need a
491 helicopter. He could have walked it but then I found out you paid \$48,000 for that? I
492 don't trust you, no more. I don't trust you. Whoever put that out, I don't trust you no
493 more. Now you're going to put the business on the pier out and I have to trust you on

494 that. Goodwill? You know what goodwill brings us don't you? Paoli, bribes and you
 495 talk about the little things like a magazine well how about we buy the baseball team
 496 uniforms. It gets big, maybe we send everybody on a cruise, how about that? Because
 497 that's what goodwill gives you. It all comes under the same line. You bought the pier.
 498 The people of Surfside Beach are now in business. We own the pier, the people do and
 499 we want our biggest bang for our buck but I'll tell you what, we want you to be fair here.
 500 We want you to be fair. That's what we need."

501
 502 **Jim Mays, Owner Sea Dogs Ice Cream, live at 911 S. Ocean Blvd.:** "This is likely
 503 going to be my last council meeting to attend. My wife Kathy and I, with great regret,
 504 we are selling our ice cream business as reported by the Sun News this afternoon as
 505 breaking news which impressed me. We have sold our business and Kathy and I will be
 506 leaving after August the 15th. I was retired before we opened the business and now,
 507 unfortunately, for health reasons I can't continue. Our goal as I expressed to council last
 508 year was to partner with the town in their effort to make the Surfside Pier the focal point
 509 of Surfside. We put our hearts and all of our energy into making that happen. I don't
 510 think you'll find anyone that feels Sea Dogs Ice Cream on the Surfside Pier is not now
 511 an asset to the Town of Surfside. We want to take this opportunity to express our
 512 appreciation to some folks that have made a special effort to support us. At the top of
 513 that list are councilmen Doug Samples and Bob Childs. These gentlemen often visit the
 514 pier to keep abreast of the heartbeat of the towns' prized asset. They have a genuine
 515 interest in the future of a pier enterprise. The opinions and votes that these
 516 councilmembers make should be taken seriously. Their knowledge is based on first
 517 hand observation and research, not special interest groups or what is politically correct.
 518 I especially want to encourage you to consider the work Doug Samples does for the town
 519 in his upcoming bid for re-election to council. He has the balance between the interest
 520 of Surfside citizens and Surfside's commercial businesses. Doug Samples is an asset to
 521 Surfside and finally I can't leave without telling you about my good friend Jack Cahill,
 522 owner of Nibil's Restaurant on the pier. When Kathy and I bought the ice cream shop
 523 on the pier Jack welcomed us and advised us on ways to succeed. He didn't treat us like
 524 a competitor or try to beat us out of every customer's dollar. Jack and his family have
 525 built the Surfside tradition on that, and they know that the long term success is built on
 526 partnership, excellent service, excellent product and honesty and as you make your
 527 decision on the future of Nibil's I would ask that you consider more than just rent as you
 528 discussed tonight but the experience and the track record of the owner of the restaurant is
 529 a very important factor. The town has a treasure in Jack Cahill and his family-run
 530 business, Nibil's. So Kathy and I are off to start our final season at Sea Dogs Ice Cream.
 531 We'll be leaving Surfside for Florida. We're leaving with mixed emotion and sadness to
 532 leave all the many friends we have made especially Kathy as she put her whole heart
 533 into trying to make Sea Dogs Ice Cream business a business that Surfside can be proud
 534 of and point to at the pier. Sometimes I'm not sure whether she'll come with me or want
 535 to stay here with Sea Dog. Thank you."

536
 537 **Gene Maruca, 116 7th Avenue S.:** "I've been in the town of Surfside for 25 years. I've
 538 built much along Ocean Blvd. I also owned a restaurant on Ocean Blvd. One of the first
 539 persons in that restaurant was Jack Cahill welcoming a competitor, offering his help.
 540 That's my idea of a family beach. You know, how much more could we do for each
 541 other? I stood in the back tonight and I listened to our esteemed attorney. One thing
 542 struck me, where in the process of offering a five year lease, which is a good thing I

543 guess, with the option to renew. How about the 22 years that the Nibil operation
544 operated on that pier. We don't extend them the courtesy of the option to renew? We
545 awarded someone here for 5 years of service. It seems to me that we're showing the
546 Nibil's operation the door after 20 odd years of service. It's not my idea of a family
547 beach. Thank you."

548
549 **Randle Stevens, 412 1st Avenue North:** "It's just kind of interesting listening to you all
550 talk about putting out bids, getting money from people. I had gone online and looked up
551 the inflation rate for the last 6 and a half to 7 years and it came out to 2.54 percent. The
552 reason I bring that up is because the reckless way this town council spends money, for
553 example, this right here in 2003 cost the town, the comprehensive parking study, \$4,850.
554 Yet we turn around and we spend 1,000 percent more for a parking study. 1,000 percent
555 in 6 years; that's a lot of money and inflation was only 2.5 percent and you had in this
556 study they quote that they used the comprehensive parking plan from 2003 and they also
557 used Earthworks for this study and I'm thinking, wait a minute, you all are really talking
558 about discussing about renting the pier and getting money here but you're spending the
559 taxpayers money like a drunken sailor that just won the lottery and then I was looking at
560 the paper, a lady wrote a article and talked about GSATS and then it says Surfside Beach
561 Town Administrator was directed Monday to look at and identify some of the
562 stakeholders and view the 1999 plan to see if it needs to be updated. This is the frontage
563 road that was in the paper on March 2nd. Are we, again, going to spend 1,000 percent
564 more money. We've got a 1999 plan, we have a 2005 plan, we have a 2003 parking plan
565 and now we have a 2010 comprehensive parking plan. We spent more money on plans
566 for a two mile half mile wide city that nothing but common sense should tell people we
567 got to hold back a little bit on this economy. 1,000 percent inflation is what you all
568 spent; believe me, I think that's not very good government. That's irresponsible
569 government. We need some common sense. You need, somebody should have stood
570 up, right at that time and said 'time out' and where were the bids? Did you only take
571 one person? Was there not 4 or 5 bids? Yet you spent \$48,000 of all these peoples'
572 money. 6 and a half years before that you spent \$4,800 and they used the same plan to
573 do the study and in looking at this plan you got parking lots on private property and I
574 could show you where they are and you've got a situation over here, right next door,
575 where you built a fire department and when did you file suit to close the road here? In
576 September; you built the fire department, you started last year. Where was the common
577 sense? When are you all going to get these things straight; quit putting the cart before
578 the horse? This is not responsible government. You're spending my money and
579 everybody else's money, \$48,000, 10 times what it cost. We got a lawsuit, everybody
580 should know about it. Surfside Cleaners is suing us, suing the town of Surfside which is
581 the City of Surfside because you all built the fire department over there and somebody
582 said you had signatures but the man at the Surfside Cleaners said he never signed any
583 paper. He is represented by William Bryant, lawyer right here in town, on 17 next to
584 Mr. Truett's insurance company and I talked to him at length about that. How much
585 more is that going to cost us? You all need to think about this. Thank you."

586
587 **Harry Kohlman, 1610B S. Ocean Blvd:** "I just want to thank Mr. Childs, Mr. Truett
588 and Mr. Booth, Brian Newell for the bocce courts. They're excellent, we're having a
589 great time there. It's good when the community and the town can get together and really
590 put something nice for the people in town. Thank you."

591

592 *Anna Johnson, 711 North Cedar:* “I have to say something about Nibil’s. When my
593 husband passed away they were there with food, with love and caring so even though
594 they don’t live in the community, their business is here but they do care about the
595 people. We saw those kids grow up in that business and I know my grandchildren, my
596 great grandchildren when they come they say ‘we want to go eat at that restaurant down
597 there on the pier, so, thank you.”
598

599 **11. COUNCIL COMMENTS**

600 *Ms. Blair:* “Thank you all for coming. I, too, want to offer thanks to Brian and those
601 who are working to regain our tree city declaration; that was part of what that
602 proclamation was about and why we had to address Arbor Day and get that going so that
603 we could reclaim that designation and I think that’s obviously a great thing. The other
604 thing, on a lighter note than all we’ve heard tonight. How many Irishmen and ladies do
605 we have out there, any? Well, top of the mornin’ to ya. Saint Patrick’s Day is coming
606 up and will be before our next meeting. Lots of festivals going on this weekend and I
607 bring that up because I foresee that once we have Surfside Drive done and ready that’s
608 the next festival that we can work on and have something here in Surfside for Saint
609 Patrick’s Day as well, so, I think that that venue will open up a lot for us or abilities for
610 us to have a lot more events and I look forward to being able to work on that at some
611 point in the future. Thank you all for coming. Have a great week.”
612

613 *Mr. Johnson:* “Good evening ladies and gentlemen. Thank you for coming out. If you
614 didn’t know it there’s an election coming up just from comments and legal and illegal
615 campaign signs. They’re everywhere and they’re going to be up more and more each
616 day and each week so if you think that you see an illegal campaign sign that’s in the
617 right of way where it shouldn’t be please call the town and notify them. Thank you.”
618

619 *Mr. Samples:* “We are in an election cycle and I want to remind everybody that April
620 6th is Election Day and, you know, I’ve made no secret about, I support extending the
621 existing lease on the pier and frankly my reasoning is very simple. The current
622 restaurant is low or no risk to the town, 23 years, proven. Let’s be honest Nibil’s is
623 consistent with our town model, the Family Beach. It’s consistent with what I think are
624 the values in Surfside Beach that small is better and we say that we support small
625 business so I just encourage everybody to think about that, whose going to be involved
626 in making the decision and let’s do the right thing. Let’s do the right thing and I didn’t
627 pay Jim Mays, on a lighter note, Jimmy, Kathy, I will be very sad to see you all leave but
628 I wish you the best and I really do appreciate those more than generous comments.”
629

630 *Mr. Childs:* “Mr. Stevens you have a saying you always just call it the way it is, well,
631 I’ve never agreed with anything you’ve ever said and I don’t think I’ll ever agree with
632 anything you ever say as long as I live but for the parking study I believe you and I are
633 on exact . . . I think we could agree on that.”
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635 *Mayor Deaton:* “I’d like to thank everyone for coming tonight.”
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12. ADJOURNMENT

Mr. Johnson made a motion to adjourn. Mr. Childs seconded the motion. **All present voted in favor. MOTION CARRIED.** The meeting was adjourned at 8:30 PM.

Approved: March 23, 2010

Sharon Pinnell, Town Clerk

K. Allen Deaton, Mayor

Joseph P. Martin, Town Council

Vicki W. Blair, Town Council

James S. Truett, Mayor Pro Tem

Douglas F. Samples, Town Council

Mark L Johnson, Town Council

Robert F. Childs, III, Town Council

Clerk's Note: This document constitutes minutes of the meeting, which was audio taped. This meeting was transcribed by Clerk Pinnell . In accordance with FOIA, meeting notice and the agenda were faxed and/or emailed to local media and interested parties. A complete list is on file in the clerk's office. The agenda was posted on bulletin boards outside Council chambers and in the town hall reception area. Meeting notice was also posted on the town marquee. When *** is used a section of the transcription is inaudible.