



TOWN OF SURFSIDE BEACH ♦ TOWN COUNCIL CHAMBERS

September 9, 2008 ♦ 6:30 P.M.

TOWN COUNCIL MEETING MINUTES

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7 **1. CALL TO ORDER**

8 Mayor Deaton called the meeting to order at 6:30 p.m. and stated that this was a business
9 meeting and asked if everyone in attendance could please conduct themselves in that
10 manner. Mayor Deaton, Mayor Pro Tem Truett and Councilmembers Blair, Johnson,
11 Martin, Samples and Childs were present. A quorum was present. Staff present:
12 Administrator Booth; Clerk Pinnell; Building & Zoning Director Donevant; Finance
13 Treasurer, Hursey and Director of Public Safety Director Christenson.

14
15 **2. INVOCATION and PLEDGE OF ALLEGIANCE.**

16 Pastor Webber, Shepherd of the Sea said the invocation and Mayor Deaton lead the
17 pledge of allegiance.

18
19 **3. AGENDA APPROVAL**

20 Mr. Truett made a motion to add Item 5E under Communications a Proclamation Beach
21 Sweep/River Sweep Day September 20, 2008. Mr. Martin seconded the motion. **All**
22 **voted in favor. MOTION CARRIED.**

23
24 **4. MINUTES APPROVAL**

25 Mr. Truett made a motion to approve the regular meeting minutes from August 26, 2008.
26 Mr. Johnson seconded the motion. All voted in favor. MOTION CARRIED.

27
28 **5. PUBLIC COMMENTS – Agenda Items only**

29 *Rod Smith, 515 14th Avenue N., Surfside Beach:* “I want to speak on item 6A, smoking
30 ban ordinance. I understand that there’s going to be some revision or repeal of some of
31 these ordinances. I’d like to say I firmly support the smoking ban, especially on the
32 beach and in the restaurants, etc. and I think that the fine should remain on the order of
33 100 dollars. A fine of 5 or 10 dollars would be a joke and I don’t think this council
34 should be afraid of any lawsuits. The town will support you; we’re not afraid to spend
35 money to make sure that we continue with the smoking ban. Thank you.”

36
37 *P.L. Mabry, 15th Avenue North:* “I want to speak on the smoking ban. This smoking ban
38 that the town started here in Surfside has had a business effect in this town that I don’t
39 know whether you’ve considered or is being considered. When you have clientele that
40 smoke in your business; your restaurant or bar, whatever, let’s say 2 out of 10, that’s 20
41 percent, now when you lose 20 percent of your clientele when they’ve just went right
42 down the road here 1 mile, they’re not doing business with you anymore but you’re not
43 reaping any benefits of that smoking ban. Now when you’ve lost 20 percent of your
44 gross income, if you lost it, now we’re talking about private businesses but we’ll say it’s
45 individuals, if you lost 20 percent and I think 2 out of 10 is a conservative number for the
46 number of people in some of these establishments that it might be, but you know, these
47 are still private businesses. This is America and I think that unless it’s against the law in
48 the whole state for us to have one for this 1200 acres that we’ve got right here is a little
49 bit hard on these business owners of which you serve also. The biggest point I’m going
50 to make to you, who benefits from this? You say well it’s a cleaner place but the
51 businesses of which support the town, now these businesses also, last year collected over
52 500,000 dollars for this town. They did not get to keep any of that money they collected

53 but they collected it for this town, these private businesses and I can't emphasize private
54 any more than what I am saying it right now. Now to have the no smoking on the
55 ballparks and the recreation areas, I can certainly see that and it's beneficial but when
56 you start administrating private business of which the town makes not mortgage
57 payments for these people and you say 'well they'll have more people to come in there if
58 we don't smoke'; that is a management decision that they need to bank. They could stop
59 smoking in their establishment if they wanted to, that's a personal decision that they
60 should make, not this council, again, who benefits from this smoking ban when these
61 people lose 20 percent and I think that's a conservative number. I think that when this
62 happens and the money doesn't come into Surfside there will not be the money there for
63 the sidewalks on which this council here has put in sidewalks paid for by hospitality tax
64 money. I am not in favor of smoking but I do think that a private business should have
65 the ability to administrate his own business. I don't think that is your mission and if you
66 want to have it on private property, that's another issue but the town property, sure, let's
67 keep that in place but not private property. Like I say the town is going to be losing
68 revenue from this and it's going to cost you to apply it so I appreciate your time, again,
69 I'm not for the smoking but I do think that people do have personal rights, that's their
70 business and they should be able to run their business the way they see fit and I don't
71 think it's a council position to run their business or to deny people from smoking on
72 their private property of which the town makes no mortgage payments for. I think
73 you're hurting them. I know that your heart may be in the right spot but what about the
74 employees that will lose their job by the loss of clientele being in their business. You
75 don't know how you're affecting people's lives. You know I will say this; there was not
76 a person that has to go into any of these businesses. You don't have to go into any of
77 them and if it was such a good business decision they would have made it on their own."

78
79 *Ron Saunders, 313 6th Avenue South:* "I appreciate you giving me the opportunity to
80 speak to you today. I come here to oppose the smoking ban removal from the ordinance.
81 A lot of people worked very hard to get that thing in place. In fact, I agree with Mr.
82 Mabry I didn't know he was going to be speaking about that tonight, I thought the only
83 reason we're going to talk about it was taking the smoking ban from the beach, is that
84 correct?"

85
86 Mayor Deaton answered that they would be looking at a new ordinance tonight; different
87 ordinances with different options.

88
89 *Mr. Saunders:* "While we're speaking on that then, I also feel that the each business
90 owner ought to have the right to make that decision whether or not he's going to allow
91 smoking and I make a decision whether I'm going in it but I don't think we ought to
92 have the right to tell him who can and cannot smoke in there but back on smoking on the
93 beach. If I go down to the beach, since I live here and I'm retired, I go down there quite
94 a bit and you know I have to put up with the odor or I have to get up and move. I have
95 to put up with the litter or I have to pick it up. Most of the tourists that come here
96 already know that they can't smoke any place they want to where ever they came from,
97 especially those people from up north, they've already banned smoking up there, they
98 don't have a problem with it, right Ed? The thing we must have is policy ordinance
99 enforcement; a service that we have not enjoyed in the past. This does not necessarily
100 mean we have to give a citation every time we see somebody with a violation but we
101 ought to at least stop and say 'that's against the law'. Most reasonable people respond to

102 that in a positive way and I have noticed it first hand when it did take place. On this
103 issue, I would encourage you to do the right thing. Do not remove the smoking ban from
104 the beach; instead require the public safety officers to enforce it as we should have in the
105 first place. Thank you very much.”

106
107 *Carol Cook, 313 7th Avenue South:* “I would like to see the smoking ban kept in place,
108 as an asthmatic, I’d like to see it in place for health reasons, as a resident I’d like to see it
109 kept in place for aesthetic reasons and as a taxpayer I’d like to see it kept in place
110 because all of the people from up north who live with smoking bans every day are going
111 to come down here and stay here because it is a smoke free environment and we’re
112 going to get their tax dollars. Thank you.”

113
114 *MaryAnn Hunt, 516 Cypress Drive:* “I am very much in favor of the ban the way it is
115 and in fact I had come here tonight to see if we could get signs on . . . we spend a lot of
116 time on 3rd Avenue South, on the sitting area and then we’re down there enjoying it and
117 this fool comes along and they’re smoking and they throw the cigarette butts over the
118 side on the board, whatever, kids walk barefooted on those dirty things, I mean, it’s
119 ridiculous, or you go on the beach like Mr. Saunders says and you got to move and they
120 make circles with their cigarette butts, I mean they’re artistic, all in the sand. Now that
121 is disgusting. Thank you.”

122
123 *Sue Wahl, 510 South Poplar:* “I’ve been against this ban from the beginning. I think
124 that it needs to go. I don’t go to the bars but I ride by and I look at them and these
125 places, they don’t have any customers but you go up the road, you go down the other
126 side, they all got customers. The “Still Smokin” place, I think they’re doing great and I
127 don’t think it’s fair to stop a business from having it. I mean if you look around most of
128 the major restaurants in this town were smoke free before you even had your ban and I
129 personally think that your ban now is crucifying the little guy and it’s not right. They
130 should be able to make that choice just like the big ones made the choice not to have it.
131 The little person should have the choice if they’re going to allow it or not and as far as
132 on the beach, I mean I don’t go down this beach that often but I don’t think it’s being
133 enforced, if it is, I’d be surprised because drinking is not being enforced and just like
134 you have an ordinance for no drinking at your parks I went to your Labor Day thing and
135 everybody’s walking around with coolers, with beer, with drinks in their little thing-a-
136 majiggy’s and that was a family thing. I mean I don’t see that being enforced either, I
137 mean, you know, which is I think is something more major if you’re at a park where the
138 children are, you know, it’s a children thing and okay, I stepped back to smoke onto the
139 street away from the park but all these people are walking around with their nice
140 alcoholic beverage and I don’t think that’s right either. I mean especially if I can’t even
141 stand there and have a cigarette out in the open air and where there’s bans for alcohol,
142 everybody’s drinking. I mean, let the business owner decide and as far as smoking
143 outside in the air I think it should be allowed because it’s God’s air and I think it’s all
144 right.”

145
146 *Diana Cleary, 413 Cypress Drive:* “I’m against allowing smoking on the beach so I
147 would like the ban to continue. My neighbors go down every morning and try to clean
148 up after the people who smoke on the beach. I think it’s a hazard to the individuals; it’s a
149 hazard to anybody who’s around them for second hand smoke. It is a hazard to our

150 environment and I have no idea what it might be doing to some of sea creatures. Thank
151 you.”

152 **5. COMMUNICATIONS**

153 **A. *Public Safety Report***

154 Mr. Booth reported that the officers were out and active during the threat of Tropical
155 Storm Hanna. The officers were actively saving individuals in the water. Mr. Booth
156 reported that officers were on duty during the Guy Daniels Surfing Contest and he
157 received many letters of praise for the work they and the volunteers did for the event.
158 Mr. Booth reported that officers were also available at the town’s end of summer
159 event, performing traffic and people control. The Public Safety Department has
160 been going through various training sessions from the Amber Alert Training to the
161 Freedom of Information Act training. Mr. Booth reported that all officers are trained
162 in CPR and Lifesaving and the other day while on the beach he came upon some
163 officers performing a lifesaving event and then turned over it over to Director of
164 Public Safety Christenson who gave additional details of a rescue performed by
165 Corporal Watford and two nurses who happened to be in the area at the time.
166 Director Christenson asked Corporal Heath Watford to step forward. Mr.
167 Christenson then presented Corporal Watford with a declaration of recognition.
168 There was applause in the audience.

169
170 Mr. Childs thanked Mr. Christenson for sending his officers to the training session
171 pertaining to dealing with the mentally ill and added that he feels that this is probably
172 right at the top of some of the most important training. Mr. Childs stated that not all
173 people are dangerous they just need help and understanding. Mr. Samples had a
174 question concerning the meter enforcement report. Mr. Samples stated that it reads
175 that there has not been as many people using the meters and that there has been an
176 epidemic of blue handicap stickers at the meters and asked if these were people with
177 Surfside Beach stickers. It was confirmed by Director Christenson that individuals
178 with handicap stickers do not pay for meter parking. Doctors issue these handicap
179 stickers. Mr. Samples had a few other questions and Mayor Deaton instructed Mr.
180 Samples to meet with Mr. Booth to discuss these items at another time when he was
181 more prepared to answer.

182
183 **B. *Building, Planning & Zoning Report***

184 Mr. Booth stated that the Building Department has been going through some
185 training. They have been doing some code enforcement concerning safety issues
186 such as the corner lot on Surfside Drive where skateboarders have been
187 congregating. Mr. Booth stated that they are going to have the owners clean it out or
188 the town will clean it out and charge it back to the owners. Mr. Booth reported that
189 the Building Department is also reviewing ordinances and once they are reviewed
190 they will bring any changes they need to make to the Planning & Zoning
191 Commission and then they would present them to council.

192
193 **C. *Finance Report***

194 Mr. Booth reported that the town is a little low in revenues but not by that much and
195 are in line with expenditures. Personnel is up at 72 percent and it should be at 68
196 percent. Mr. Booth reported that he has a hiring freeze and this should help bring the
197 percentage down to where it should be; an employee in Public Works recently quit

198 and he will not be replaced until April. Mr. Booth reported that the audit went well
199 and the auditors will present their report at the next council meeting.

200

201 **D. Administrator's Report**

202 Mr. Booth gave an update on hurricane preparation stating that the town was as
203 prepared as they could have been if they had a real storm. The lakes were lowered,
204 the buildings and vehicles were secured, arrangement for food and ice was made
205 with local stores and all police vehicles were out patrolling. If there were a real
206 storm they would have been ready to protect and save. Hanna proved to be a good
207 dress rehearsal for any future events. Mr. Martin had a question regarding lowering
208 of the lakes. Mr. Martin stated that it was his understanding that a cement piece in
209 Floral Lake needed to be removed to lower the water level but it was not and
210 questioned the reason for this. Mr. Booth answered that there is a wooden piece in
211 Floral Lake and it was pulled out; the lake was lowered. It was confirmed that there
212 is a concrete section but that piece does not get removed only the wood section gets
213 removed to drain the lake. Mr. Samples stated that Lake Myrtle is still a problem.
214 Mr. Booth agreed and added that his plan is to bring it to the next Stormwater
215 Committee for them to consider as an added project and then he will present it to
216 council to add to the dredging project. Mr. Booth added that they have been in
217 contact with the County agent who advised them to plant vegetation to persuade the
218 birds to go elsewhere. Mr. Booth added that he would need to address enforcement
219 to stop people from feeding the birds. Mr. Samples asked if Mr. Booth intended to
220 move Myrtle Lake up in the priority list. Mr. Booth stated that he would be
221 installing a weir to increase the volume. Mr. Samples recommended that the amount
222 of time and effort in keeping up with these swashes be tracked in order to document
223 for our federal requests for funds. It was confirmed that it is dug out every day.
224 Mayor Deaton stated the he participated in some of the hurricane preparations and
225 was extremely impressed with Mr. Booth and all the Department Heads; behind the
226 scenes these people did a great job; they worked as team. Mayor Deaton added that
227 this town was really ready and he thanked Mr. Booth and the Department Heads.

228

229 Mr. Booth reported that the end of summer celebration was a success and added that
230 they will be continuing with more types of entertainment for the town. Mr. Booth
231 reported that October 4th the town would hold a Family Festival. Mr. Childs stated
232 that the town wants to encourage residents to recycle and he would like to see more
233 recycling bins out during the Family Festival. Mr. Childs stated that there was a
234 suggestion to cut a hole in the top of some of these bins and lock them and suggested
235 that perhaps the town could put some of these bins aside to use for these types of
236 events. Mr. Booth agreed that a hole would need to be put in the bins; this would
237 stop people from throwing other trash in them. Mayor Deaton stated that he wanted
238 to add that the day for the end of summer celebration was a great festival and the
239 staff did a wonderful job adding that it was truly "Mayberry by the Sea". Mayor
240 Deaton thanked everyone who worked the event that day. Mr. Booth stated that the
241 next festival would be even more of a success with 2 bands and many activities.

242

243 Mr. Booth reported that he would be bringing ordinances to council two at a time for
244 the next six months. Many of the ordinances need to be reviewed and adjusted and
245 new ordinances need to be put in place for the pier once the town owns it. Mr. Booth
246 stated that he is going to require that people register their pets as per the town

247 ordinance. Mr. Booth added that council might have to attend workshops regarding
248 the ordinances.

249 **E. Proclamation: Beach Sweep/River Sweep September 20, 2008**

250 Clerk Pinnell read the Proclamation.

251

252 **6. BUSINESS**

253 **A. First Reading Ordinance #08-0643 Smoking Ban Ordinance**

254 Mayor Deaton stated that there would be two versions presented tonight. One
255 version allows smoking on the beach and the other does not. Mayor Deaton
256 informed everyone that per State Law a fine for smoking can not be less than 10
257 dollars or more than 25 dollars. There was a ruling last night in the Sullivan's Island
258 case where this was presented. Mr. Johnson made a motion to adopt the reading of
259 the ordinance that prohibits smoking on the beach. Mr. Samples seconded the
260 motion. It was up for discussion. Mr. Truett stated that he had reviewed Section 7-
261 106D that prohibits smoking in certain outdoor areas and at the time the original
262 ordinance was passed the intent was to allow individuals to smoke in outdoor areas
263 at bars and restaurants. Mr. Truett made an amendment to the motion that Section 7-
264 106D be deleted. Mr. Samples seconded the motion. Mr. Truett withdrew the
265 motion. Mr. Samples explained that the original ordinance adopted by the past
266 council was determined by the Supreme Court to be unenforceable because it has a
267 criminal penalty. The Supreme Court ruled in favor of local governments being able
268 to regulate smoking but they agreed that it could not be considered a criminal
269 offense. The current council needs to address this and needs to change the ordinance
270 so that it reads as a civil penalty. Mr. Samples stated that the Supreme Court never
271 ruled on whether local government has the authority to regulate smoking on the
272 beach and added that this has always been a concern of his. Mr. Samples stated that
273 he does not think the town wants the Supreme Court to address the beach issue
274 because if they rule against the municipality's authority on the beach it could stop
275 the town from being able to regulate other situations on the beach such as fireworks
276 and dogs. Mr. Childs stated that he had spent a great deal of time talking to a lawyer
277 the past couple of days. The problem most people are concerned with is the litter on
278 the beach. The offense was changed to an infraction that now give the town
279 administrator the authority to appoint his designee, anyone who works for the town,
280 to catch people who litter. For those concerned with the cigarette butts being
281 discarded this new ordinance better addresses this issue. Ms. Blair asked what our
282 ability as a town to enforce no smoking on the beach; how far can we enforce this.
283 Mr. Booth answered that the town can enforce the ordinance out to one mile in the
284 ocean. Ms. Blair asked for confirmation that a private entrance such as one in front
285 of the Holiday Inn or Days Inn would not be enforceable. Mr. Booth stated that this
286 was correct. Mr. Johnson stated that he does not feel that it necessarily is an issue of
287 health but a quality of life on the beach and added that, as a former smoker, there is
288 nothing worse than cigarette or cigar smoke. Mr. Johnson added that the residents
289 informed him that this is something they wanted taken care of in their town and he is
290 voting on their behalf. There was discussion regarding appointing individuals to
291 issue tickets and discussion regarding Greenville and Sullivan's Island and how
292 neither addressed smoking outdoors. It was confirmed that the town would keep the
293 entire \$25 fine and none would be passed onto the State. Mr. Truett asked about
294 littering being added to the ordinance. Attorney Michael Smith was introduced and

295 there was some discussion regarding the littering and it was determined that a
296 littering ordinance would be a separate ordinance and would not be added to the
297 smoking ban. There was some additional discussion regarding the smoking ban.
298

299 Mayor Deaton stated that he has read the Supreme Court case on Greenville and
300 Sullivan's Island and they are very clear to include enclosed and indoor areas in their
301 ordinances. Mayor Deaton stated that he feels that we are in a gray area going
302 outdoors; smoking indoors is dangerous you have to breath the air but outdoors is
303 another case. Mayor Deaton questioned how the town could defend themselves in
304 court and asked Mr. Smith how much time and expense he thought the town would
305 go through in these "uncharted waters". Mr. Smith stated that it would be
306 speculation on behalf of anyone; if this ordinance was challenged with an infraction
307 citation they would appear before the municipal judge and if they were found liable
308 for this infraction and they wanted to appeal that civil infraction the first appeal
309 would go to the Court of Common Pleas in Conway. This court would then either
310 uphold or overturn the original ruling. If they overturn this then the town would
311 need to decide if we wanted to appeal it to the next level that is the Court of Appeals
312 and this is where it would get extremely expensive for the town. It would then go to
313 the Supreme Court. It was confirmed that the Supreme Court has determined that
314 not allowing smoking in enclosed or indoor spaces is valid. Mr. Smith stated that he
315 believes that there are approximately 7 cities that have smoking ban ordinances.
316 Mayor Deaton asked if any of them applied to outdoor areas or beaches and Mr.
317 Smith answered not to his knowledge. It was confirmed that Sullivan's Island has a
318 beach and they did not include it in their ordinance. There was discussion on the
319 town administrator designee to enforce ordinances. Mr. Smith stated that it could be
320 a fire inspector or zoning official, it is not limited to police officers. Mr. Truett
321 asked what the next step would be if someone were to not pay the 25 dollar fine. Mr.
322 Smith stated that a municipal court does not have subpoena power and it would be
323 difficult to collect. Mr. Booth added that the state has a debt collection program if an
324 individual is from South Carolina the town could go after the penalty on an
325 individual's taxes. Mr. Smith stated that the town would need to have jurisdiction
326 over the person or property; once the person leaves the jurisdiction the municipal
327 court has no recourse. Mr. Johnson asked Mr. Booth how the town would collect
328 from individuals that are from out of state. Mr. Booth stated that the town would
329 send collection letters. Ms. Blair asked how many tickets had been issued on the
330 beach and Mr. Booth answered that the town has not been able to issue tickets or
331 enforce the ordinance since our current ordinance reads as a criminal offense and this
332 is why it is being brought back to council.
333

334 Mayor Deaton stated that he has a very big concern about including the beach in the
335 town ordinance. There have been two favorable rulings by the Supreme Court that
336 include enclosed and indoor areas and none include outdoors. Mayor Deaton stated
337 that if the argument is that second hand smoke endangers the health of individuals,
338 then he agrees that it does in an enclosed or indoor areas but when an individual is in
339 an open outdoor area he questions the ability to ban smoking adding that smoking in
340 the State of South Carolina is legal and to infringe on someone's personal right when
341 they are not doing something illegal concerns him. Mayor Deaton stated that it is a
342 very gray area whether the municipality can control the beach. The State has
343 delegated the authority to impose restrictions in the lines of State authority. Mayor

344 Deaton added that in 1996 the Clean Air Act stated that businesses have the right to
345 decide whether they allow smoking, non-smoking or to designate a smoking area and
346 the Supreme Court has ruled twice that municipalities have the right to impose more
347 restriction on smoking in enclosed areas but neither case addressed outdoor areas.
348 Mayor Deaton stated that he feels that council is imposing something that they do
349 not have the authority to do. Mayor Deaton stated that he agrees with allowing
350 restaurants and bars to have smoking in outdoor areas. Mayor Deaton stated that he
351 would like to see the cigarettes on the beach be enforced as a littering issue and does
352 not want to restrict someone, who has the legal right to smoke in the State of South
353 Carolina from smoking on the beach. Mayor Deaton added that most of the smoking
354 bans that are being presented are presented by counties or states; they are not done in
355 small towns of 5,000 people. Mayor Deaton added that he is concerned about the
356 effect on our tourism industry as well.

357
358 Mr. Samples told Mayor Deaton that he is very persuasive in the argument he makes
359 and went on to explain that when the council originally adopted the ordinance a
360 majority of the members felt that it was a health issue and that is why outdoor areas
361 such as parks were included. Mr. Samples added that the town is lucky enough to
362 have a number of parks and youth activities in those parks and the council along with
363 himself felt that it was beneficial to prohibit smoking in these places to protect the
364 children. Mr. Truett had a question for Mr. Smith. He stated that he was at a
365 Pelican's game and they have a smoking section and asked if Mr. Smith would think
366 it to be advisable for the town to create such an area. Mr. Smith stated that there is
367 wording in the ordinance that would allow the town administrator to designate areas.
368 Mr. Truett stated that council must decide that if the town were to write a ticket they
369 would need to stand behind it. There was some further discussion regarding
370 individuals appealing to a higher court and that certain outdoor areas, crowded
371 venues, the court would more than likely uphold as opposed to one man standing on
372 the beach alone smoking where he is hurting his health alone. Ms. Blair stated that
373 she agrees with the effect of second hand smoking in enclosed areas but when you
374 try to enforce it in an open outdoor area like the beach it is no different than your
375 neighbor next door smoking adding that there is just as much open air around her
376 house than there is on the beach and does not feel that the town would have as much
377 of an argument for second hand smoke in an open outdoor area. Ms. Blair added that
378 she is a health official and feels that this would be difficult to defend.

379
380 Mr. Truett made a motion to delete section 7-106(d) to prohibit smoking in dining
381 areas. There was no second. MOTION FAILED. Mr. Samples made a motion to
382 delete part of section 7-106(d) keeping dining areas in encroachment areas on public
383 sidewalks, plazas and parks. This would delete dining areas on decks, balconies, and
384 patis of restaurants and bars. Mr. Martin seconded the motion. **All voted in favor.**
385 **MOTION CARRIED.** Mr. Johnson, Mr. Martin, Mr. Truett, Mr. Childs and
386 Mr. Samples voted in favor of the original motion to pass the first reading of the
387 ordinance that prohibits smoking on the beach. Mayor Deaton and Ms. Blair
388 voted against. **MOTION CARRIED.** It was confirmed that the pier would be
389 included once it was purchased it would be considered public owned property.
390

390 B. *Second Reading Ordinance #08-0642 Moby Cart Recycling*

391 Mr. Booth stated that this ordinance issues recycling moby carts to every resident in
392 town. The town currently has 75 percent issued but now it would be 100 percent.
393 The carts have been ordered and received and will be delivered to those remaining
394 25 percent. Mr. Booth stated that the town of Surfside Beach has the strongest
395 recycling program within the Grand Strand. Mr. Martin made a motion to approve
396 the ordinance as submitted. Mr. Truett seconded the motion. Mr. Childs confirmed
397 with Mr. Booth that the town has the right to add moby carts where they deem
398 necessary and he would like the sanitation foreman to get a copy of this ordinance.
399 There was discussion regarding the rental units that need recycling carts. Mr.
400 Samples had a question regarding the backdoor service and asked if it was at
401 manageable levels and Mr. Booth answered that it is. The plan is to move the mobys
402 to one side of the street for pick up. The residents will be notified. **All voted in**
403 **favor. MOTION CARRIED.**

404 C. *Resolution Pier Purchase Funding*

405 Mr. Booth explained that the town would be borrowing funds from themselves for
406 the purchase of the pier and Mr. Booth wanted to document this borrowing purchase
407 for the next council and the next town manager. This will make sure that it gets paid
408 back the way it was intended. Clerk Pinnell read the resolution for the Pier Purchase
409 Funding. Mr. Samples made a motion to suspend the rules. Mr. Truett seconded the
410 motion. **All voted in favor. MOTION CARRIED.** Mr. Samples asked if there
411 was a sense of urgency for council to pass this resolution and added that he would
412 like to have some ground rules established for the Pier Enterprise Fund. This would
413 be in terms of the revenues. Mr. Booth stated that he could set up a discussion
414 period at the next meeting to explain how it will operate. There was some additional
415 discussion regarding the fund being paid back with business money and not taxpayer
416 money. Mr. Samples made a comment on the overnight funds rate being a little less
417 than 2 percent. It was confirmed that the appraisal was for \$2,550,000 and the
418 purchase price was \$2,500,000. Mr. Martin asked if this could be discussed at the
419 budget retreat. Mr. Booth stated that the closing must be within 45 days adding that
420 there is no urgency at this time but if the closing is delayed there will be an urgency.
421 Mr. Booth stated that there is no reason this resolution needs to pass prior to closing
422 and going forward there will be much discussion on putting in place ordinances for
423 the pier. Mayor Deaton stated that he and Mr. Booth attended the Transmittal
424 Accommodations Tax Committee meeting in Columbia and the board unanimously
425 approved the allotted beach renourishment funds to be used towards the purchase of
426 the pier after the government stepped in and funded the beach renourishment project
427 in Surfside and all along the Grand Strand. The accommodations funds amounting
428 to \$880,000 would have been taken away from the town by the State and the town
429 was lucky to be able to apply these funds to the purchase of the pier. **The resolution**
430 **was approved by consensus.**

431 D. *Decision Paper: Choose Electrician from bid for Underground Wiring*

432 Mr. Booth presented the bid for an electrician to be used in the underground wiring
433 project. The low bid was DG Walker Electric in Murrells Inlet at \$12,430 and asked
434 for approval from council. Mr. Truett made a motion to accept the low bid from DG

435 Walker Electric. Mr. Martin seconded the motion. There was confirmation that the
436 scope of work described in his bid was correct. **All voted in favor. MOTION**
437 **CARRIED.**
438

439 **7. PUBLIC COMMENTS**

440 *Martha Bullard, 12 A North Myrtle Drive:* “I’m speaking tonight on behalf of 75
441 churches of the Waccamaw Baptist Association and Baptist Nurses Fellowship. We
442 operate a free sunburn care and free ice water booth down at the Surfside Beach Pier, we
443 have for the past 3 years. We offer free sunburn care, free ice water and also we provide
444 change for people to pay the parking meters with and we don’t give it to them we just
445 make change for them. Each year from Memorial Day to Labor Day we provide this
446 service. We have 75 churches in this association. This year we had 44 members from 8
447 different churches and 2 youth groups from other churches. One of the youth groups
448 came down from Tennessee to help us out and this is helping young people learn to
449 serve others and this is offered in conjunction with the churches and to let people know
450 that God loves them. Many people compliment our churches and our town for this
451 service. We always tell them, they think how wonderful this is and we always tell them
452 it is provided by the churches but it is also provided, the space that we park in, by the
453 city of Surfside because we do have it at a parking meter place for which we do
454 appreciate that. We wish to thank the town council for allowing us to park this trailer in
455 the parking lot at the Surfside Pier. The place you assigned us in the past is the best
456 possible location as it is accessible to all and provides a wonderful cross breeze and great
457 view of the ocean for those who attend and those who work there. Again we just wish to
458 thank you and we look forward to next year and hope to have your support once again
459 and we would like to request the same parking space if you could possibly do that. It is
460 very ideal, we have traffic coming from both ways and everybody really does . . . we’ve
461 had people from all over the world honestly, literally because we do keep records and we
462 have, this summer alone, we recorded contacting with and interacting with over 3,500
463 people and we’ve always received good compliments for this and we just wish to thank
464 the city of Surfside for allowing us to do this.”
465

466 *Ron Saunders, 313 6th Avenue South:* “I want to pose a question to the council as to why
467 we can’t secure the enforcement of our existing ordinances. You guys have done a
468 tremendous job in passing ordinances. The people of the town, they elected you based
469 on the fact that we thought that you would pass the laws and ordinances that we need to
470 protect us and to make our life better. You’ve done that but for some reason we can’t
471 get those enforced and I don’t know where the problem lies on the, who’s stopping the
472 flow but somebody is. It’s not happening and you could look at any of them you want to
473 but nothing’s happening. I’ve stood at the crossovers on the beach and watched police
474 officers go by with people walking dogs out there and nobody stops them and also I’d to
475 ask how many citations have been issued since say April of this year. (Mr. Saunders
476 addressed Mr. Christenson) Anybody know? “
477

478 Mayor Deaton instructed Mr. Saunders to set up a meeting with Mr. Christenson to
479 discuss this.
480

481 *Mr. Saunders:* “No, no, no this is a public forum. “
482

483 Mayor Deaton explained that the town has rules and thanked Mr. Saunders for abiding
484 by them.

485
486 *Mr. Saunders:* “I can’t address the police?”
487

488 Mayor Deaton answered “no, sir.”
489

490 *Mr. Saunders:* “But on the phone yesterday you told me to ask him.”
491

492 Mayor Deaton explained that he instructed Mr. Saunders to have a meeting with him he
493 did not mean in this forum and asked Mr. Saunders to please address the council.
494

495 *Mr. Saunders:* “I am. We’re also told that the town administrator has department heads
496 report directly to him and that he, the town administrator, takes his direction directly
497 from the council. You’ve done the hard part and passed the ordinances please cause
498 those ordinances to be enforced.”
499

500 *Ken Harbin, 322 South Willow:* “Congratulations on the smoking thing. I think we all
501 know that sooner or later it’s coming. I know the restaurant owners that I know that we
502 talk to are waiting on it to be uniform. They do not want to do it individually. When we
503 took a step out and maybe it was a bold step, maybe too bold a step, I don’t know but if
504 we repeal it we’re going to have to pass it down the road. It’s coming, I think we all
505 know it’s coming. I would rather we not live in a work of fear of lawsuit. I think you got
506 the public behind you here. When you talk about the hurricane preparedness could we
507 please look at the business who are licensed to do business in Surfside, specifically real
508 estate companies removing their signage at a voluntary evacuation notice that within so
509 many hours or by nightfall or whatever, upon a voluntary evacuation notice that real
510 estate signs be removed. Surfside Realty and Scalise Realty tried very hard to do that,
511 others didn’t. Builders who have properties under construction need to secure their
512 building materials specifically tie downs to keep them from blowing. Also to be enacted
513 when the voluntary evacuation notice is given, is a nice time frame I guess, and this is 4
514 or 5 different things just food for thought. When we accept bids or when we ask for bids
515 could we ask for and impose weekend cleanups of job sites. We depend too much on
516 tourism to have stuff sitting around all weekend and sometimes in a dangerous method
517 when we recently had the pump station redone on Dogwood and 5th, they would leave
518 stuff in the roads and we built that brick pillar on the corner, that thing is so close to the
519 road it’s hard enough to dodge it now finished, it was even harder to do under
520 construction, so just to put in some language unfortunately we do this, we make the same
521 problem when we have people working our condos, they leave all their building material
522 in the parking lots and in the hallways. They don’t clean up on Fridays; they’re gone,
523 when they come back Mondays they can pick it back up again but if we could include
524 that in a bid and Mr. Booth I congratulate you, you got your banner up. Let’s have
525 another banner for Beach Sweep. The last one we had a lot of people didn’t know about
526 it because we had it out here on 17 but we all know we avoid 17 we go the other way.
527 thank you very much.”
528

529 *Sue Wahl, 510 Poplar:* “First of all Mr. Mayor I want to commend you on what you said
530 about the outdoor thing because personally, like the guy said, you’re not bothering
531 anybody and if you are outdoors whether you’re at the beach or anywhere, there’s

532 enough room to move. It doesn't need to be such a major issue but it's the keeping this
533 ban and planning on ticketing people, I want to know who and when the people who are
534 drinking on the beach, at the parks are going to be ticketed because you're all making
535 such a big issue over this, I personally think drinking is worse. You got people out there
536 on their little golf carts with their little cups and their little huggies and all that kind of
537 thing and they all just think they're so cool and nobody knows they're drinking well
538 guess what, it's obvious and I don't care if you're driving a golf cart. I don't care if
539 you're driving a car, it's dangerous; it's still driving under the influence. I just heard
540 about a guy who got DUI for a horse, so that's illegal also, all right? So if you're
541 drinking that's worse, I personally think especially if you get drunk. I don't go to your
542 beach as I said earlier I go to Garden City and I go to North Myrtle Beaches because
543 they don't bother me when I smoke. I strongly suggest to anyone I meet to avoid
544 Surfside because of the ban. I do this personally, I come in contact with 50 to 100
545 people daily and anytime anybody mentions people coming they know to the beach I tell
546 them to avoid Surfside and then any chance I get to put on the internet I take that
547 opportunity, since you've enacted your ban last year, I have received 50 to 75 e-mails
548 from people who are tourists from out of State thanking me for the heads up and they
549 have gone elsewhere. This is costing you guys money and a couple of meetings ago you
550 mentioned about your business licenses being down, think about it, that's probably got a
551 lot to do with it and you're also talking about having more festivals and that kind of
552 thing I hope you're not planning on having any kind of vendors for your families in May
553 because if you can't have them for the bikers you can't have them for anybody because
554 of your moratorium. Thank you."

555
556 *P.L. Mabry, 15th Avenue North:* " I left my bag of rocks back there so we're back on
557 square one here. What I want to talk to you tonight about is really to commend the
558 whole town for the recycling that is going on here in this town. I think it's wonderful.
559 My grandkids have educated me and they've educated a lot of other people here in this
560 town but what I want to say to you is this, I would like to see, this is a suggestion Mr.
561 Booth but I figured I'd get the big suggestion up here, is for us to put a sign 2 foot by 4
562 foot on each side of the recycling truck and on that sign I think it should say this, let's
563 say it's 200 tons that we've collected so far through the month of September, I know it's
564 much more than that, but the point being is though, we could do it on plastic board to
565 stick it back up on the side with (sic) washers and that would let the people and the kids
566 and everyone else see how many tons that we have got through the month of September
567 2008. Now each month we update this thing here so people are able to see how many
568 tons we're picking up and going to recycling instead of going to the landfill. Now each
569 one of those tons represents \$29, now when you start the math over there you find that's
570 a lot of savings here for the citizens of this town but I think it would give then an
571 incentive so they can see the amount of tonnage each month and you do it on a piece of
572 plastic board, the tonnage and the month, the rest of the sign stays permanent and that
573 way you're able to keep the public informed as to the amount of tonnage that you've
574 picked up here in this town and I think it would be a good thing. Now that's my
575 suggestion for tonight but we'll see if you all can figure out, I know you don't get the
576 day to day operations but I figured you could shame him into it, but Mr. Booth I do think
577 that it would be beneficial for the citizens to see the tonnage and the amount of money
578 that they're saving so they can buy some more gas to pick up trash with. Thank you. I
579 appreciate your time."

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8. **COUNCIL COMMENTS**

Mr. Truett: “I just wanted to, Andy reminded me earlier, Thursday morning, 8:45 will be a 9-11 ceremony around the flagpole, if anyone is interested.

Ms. Blair: “First of all I want to thank you all for being here and for being so staunch in your belief and sharing those with us. I just want to take a minute to reiterate my personal belief that I do stand by my beliefs that second hand smoke is not really an issue on the beach, however, I do recognize the litter problem that we have there and I recognize the quality of life that we all want so badly so while I did vote for allowing it on the beach, in our efforts to work together as a team and bring this town together as one I do pledge to you to support the decision that was made here tonight. I respect you as our citizens for being here expressing your beliefs, respect my fellow councilmen for standing by their beliefs and hope that we have your respect as well and let’s move forward and make this an even better place to live.

Mr. Johnson: “First of all I would like to thank all the residents for coming out yet again tonight and I too was on the beach Saturday during that unfortunate incident and I would just like to commend Corporal Watford and all those who had anything to do with that situation, it was a very professional job and something that the people acted in a way that Surfside Beach could be very proud of and I would just like to thank you. Please send my thanks to the Corporal.”

Mr. Childs: “I would like to take this moment to thank Mr. Smith for being available as you were. It’s hard to get a lawyer on the phone the first time. I talked to him a lot and I want to thank you for the time that you spent and you didn’t rush me, you took your time and I appreciate it very much. Thank you.”

9. **EXECUTIVE SESSION**

Mr. Johnson made a motion to go into Executive Session. Mr. Truett seconded the motion. **All voted in favor. MOTION CARRIED.**

Mr. Truett made a motion to reconvene. Mr. Johnson seconded the motion. **MOTION CARRIED.**

REGULAR SESSION

Mr. Truett made a motion to have the administrator adjust the pay scale for the Associate Judge as discussed. Mr. Childs seconded the motion. **All voted in favor. MOTION CARRIED.**

Mr. Truett made a motion to appoint Ross Haseltine, Cecil Chandler and Bruxanne Hein to the Accommodations Tax Committee. Mr. Samples seconded the motion. **All voted in favor. MOTION CARRIED.**

Mr. Truett made a motion to appoint Guy Lanham and Carolyn Harbin to the Zoning Board of Appeals. **All voted in favor. MOTION CARRIED.**

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10. ADJOURNMENT

Mr. Truett made a motion to adjourn. Mr. Samples seconded the motion. The meeting was adjourned at 9:05 PM. **All voted in favor. MOTION CARRIED.**

Approved: September 23, 2008

Sharon Pinnell, Town Clerk

K. Allen Deaton, Mayor

Joseph P. Martin, Town Council

Vicki Blair, Town Council

James S. Truett, Mayor Pro Tem

Douglas F. Samples, Town Council

Mark Johnson, Town Council

Robert F. Childs, III, Town Council

Clerk's Note: This document constitutes minutes of the meeting, which was audio taped. 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.