

TOWN OF SEABROOK ISLAND

PUBLIC HEARING MINUTES

September 17, 2019

Mayor Ciancio called the Public Hearing to order at 1:00 p.m.

After the pledge of allegiance, Mayor Ciancio stated that this meeting is being held to hear comments on two issues currently pending before Council:

Ordinance 2019-10

An ordinance adopting a Settlement Agreement between the Town of Seabrook Island, Atlantic Partners II, LLC, BRP Kiawah, LLC, and Balfour Beatty Construction, LLC, relating to the issuance of an encroachment permit for a proposed 200-unit Senior Living Facility on Seabrook Island Road and other matters related thereto. This ordinance relates to adoption of the Settlement Agreement between the Town of Seabrook Island, the owner of the property, the developer of the facility and the General Contractor.

A little over a year ago, Atlantic Partners II applied to the Town's Planning Commission for an encroachment permit to allow access to the proposed senior living facility from Seabrook Island Road. The Planning Commission granted the permit subject to nine conditions. Atlantic Partners II rejected those conditions and filed an appeal with the Charleston County Court of Common Pleas. Following court mandated mediation, the Town and all the parties reached an agreement on the terms of a settlement under which an Encroachment Permit would be granted. The terms of the agreement must be approved by Town Council and the Charleston County Court of Common Pleas.

The Settlement Agreement and a detailed summary of the Settlement Agreement have been available on the Town's website for public review. Mayor Ciancio stated that some of the key concepts and provisions are:

- Atlantic Partners II is to reimburse the Town for its cost of retaining a traffic engineer to complete a traffic impact analysis and to develop a traffic control plan.
 - The Developer will construct a left-hand turn lane going into the facility before construction begins. The left-hand turn lane is to be completed within 90 days of contractor mobilization.
- The Developer and General Contractor are to adhere to the recommendations of the Town's traffic consultant that will be identified in the Traffic Control Plan and to those measures set forth in the Settlement Agreement.
 - A Traffic Supervisor is to be appointed to implement the safety measures identified in the Traffic Control Plan and Settlement Agreement.
 - The Seabrook Island Road access is to be used only by vehicles with three or more axles.
 - Construction traffic using the encroachment, with limited exception, is to be spaced at least ten minutes apart.
 - All construction traffic is to adhere to Gap Acceptance Times as specified by the Town's traffic consultant.
 - The bike path will be reconfigured to improve safety; and, when construction traffic is present or anticipated, the General Contractor will station certified flagmen at either end of the encroachment at the bicycle path.
 - The Town will retain a civil engineering firm, at the expense of Atlantic, to conduct pre- and post-examinations of Seabrook Island Road to determine if any damage has been caused by

construction traffic. Atlantic and the Developer will post a \$150,000 bond to pay for the cost to repair any damage.

- The Settlement Agreement gives the Town certain remedies for violation of the terms of the temporary traffic control plan, the Settlement Agreement or Town ordinances. The remedies include fines of up to \$500 for each violation and revocation of the Encroachment Permit after a specified number of violations.

Ordinance 2019-09

An ordinance amending the Town Code for the Town of Seabrook Island, South Carolina; Chapter 32, Waterways and Beaches; Article II, Beachfront Management; Division II, Restrictions; Section 32-44, Domestic Animals/Pets; so as to amend the dates, times and locations upon which domestic household animals/pets are permitted on beaches within the Town and other matters related thereto.

Mayor Ciancio reported that, last February, a petition signed by more than 100 residents was submitted to Town Council asking that certain changes be made to the existing ordinance regarding domestic animals/pets. Council then identified several interested stakeholders – US Fish & Wildlife Services, SEADOGS, Seabrook Island Birders, Turtle Patrol, etc. – and each was given an opportunity to give a presentation and express their views on the issue. Council also conducted a detailed review of the beach rules of over 20 South Carolina beach communities and the beach patrol conducted a population census of the beach, beginning in early March and continuing through mid-September. Council consulted with Coastal Science & Engineering regarding the migration of Cap'n Sam's inlet and related beach issues.

Some of the conclusion that were reached due to Council's investigation were:

- About 2-1/2 miles of our beach has been designated by US Fish & Wildlife as a "Critical Habitat" for the loggerhead turtle and the wintering piping plover. Because of the designation, the Endangered Species Act requires the Army Corps of Engineers to consult with US Fish & Wildlife prior to granting the Property Owner's Association a permit for the relocation of Cap'n Sams Inlet. After the last permit was granted, they required the Town to amend its ordinance to designate a Restricted Area where dogs are not permitted beyond a point ½ mile northeast of boardwalk #1.
- Migrating shorebirds are on the beach at Seabrook Island pretty much all year, particularly in the area of Cap'n Sam's Inlet.
- The beach population survey showed substantial use of the beach by residents and visitors starting in March. Use of the beach picks up in April and continues through September. This data does not support dropping April, August and September from the summer month period. The April – September peak season period has been adopted by at least 5 or 6 other South Carolina coastal communities.
- The beach population survey also showed that, during April through September, there is high usage of the beach beginning around 10:00 a.m. and continuing through 6:00 p.m. The 10:00 a.m. through 5:00 p.m. summer on-leash hours, as being proposed in our ordinance, has been adopted by seven other South Carolina coastal communities.
- After each relocation of Cap'n Sam's Inlet, the Inlet migrates towards boardwalk #1 at an average of 160-feet per year and ultimately places the Inlet within the northeastern boundary of the Restricted Area.

Council has concluded the best alternative, considering all parties involved, is to divide the beach into three areas:

- The area northeast of boardwalk #1, where there would be no dogs allowed.
- The area between boardwalks #1 and #9, where off-leash rules have been relaxed.
- The area which borders St. Christopher Camp & Conference Center, where dogs must always be on a leash. There is no change in the peak season rules. The only change is that dogs must be on leash in the winter months before 10:00 a.m. and after 5:00 p.m. Considering the time of sunrise and sunset during winter months, there is only about a 3-hour difference.

The ordinance will take effect 30 days after second reading and will remain in effect for one year. The ordinance can be revisited at that time to determine if any changes should be made. The Mayor stated that the Town had received approximately 50 comments on the Town's website on the proposed ordinance. Fifty-two percent favored the proposed ordinance, forty-two percent were opposed, and the balance were unsure or expressed no opinion. The Mayor stated that the public hearing is to allow residents and property owners to share their views on the two proposed ordinances and explained requirements for being allowed to speak.

The Mayor recognized residents to speak, each for an allotted time. There were approximately 9 residents who commented about the Settlement Agreement pertaining to the encroachment permit for the proposed senior living facility. Residents were not only concerned over the public safety issue and the impact on traffic due to construction of the proposed facility but also about the impact on traffic after the facility becomes operational. Some questions raised by the residents were:

- Who will monitor and how will construction vehicle traffic be monitored? Mayor Ciancio stated that the developer will reimburse the Town for cameras and recording devices that will be used to monitor traffic during construction and the resulting records will be reviewed periodically or in response to reported apparent violations.
- Why can't the larger construction trucks be routed through Freshfields Village? Mayor Ciancio stated that, if the larger construction trucks had to get into the traffic circle, he felt this would lead to traffic backing up and would cause more disruption than the larger trucks making a left turn into the construction site from Seabrook Island Road. The streets in Freshfields Village are very narrow and he thought this would lead to backups in the circle as well as safety issues. The construction phase is estimated to last 31 months, with the last 14 months being mostly for landscaping and contractor finishing work. Since most of the vehicles during the last 14 months will be two axle vehicles, they will enter the site through FreshFields Village. The Mayor stated that the agreement is not perfect but is much better than if the issue had been resolved through litigation.
- What happens if there is a backup of construction traffic? Mayor Ciancio stated that, at the developer's expense, a left turn lane will be installed on Seabrook Island Road to be used by traffic entering the construction site from Seabrook Island Road and construction on the facility will not begin until the turn lane is completed. The Mayor stated that, under the Settlement Agreement, traffic should be scheduled to avoid stacking in the left turn lane and, if necessary, there would be staging areas outside the traffic circle to avoid congestion. There are also provisions in the Settlement Agreement by which a fine can be issued or, depending on the frequency of the violations, the Town can revoke the Encroachment Permit.
- Why will the traffic study be done at a time when Seabrook Island has the least traffic? Town Administrator Cronin explained that the baseline traffic data that will be used was done around

Memorial Day weekend, which is a busy time on Seabrook Island, and the construction traffic will be factored in with those numbers.

- If the Settlement Agreement deals with the construction phase of the senior living facility, what happens after it is operational? Is there a permanent encroachment document? Mayor Ciancio stated that there is not an encroachment document for after construction is finished. A traffic study has indicated that the traffic that would result once the senior living facility is operational would result in a minimal impact on traffic both in the morning and afternoon peak hours.
- What will happen when other property in this area is developed? Will there be other encroachment permits? Mayor Ciancio explained that there is a 300-acre parcel between the senior living facility site and the Town Hall that is in Charleston County and is zoned for four residential units per acre. Prior to development, the developer may try to get it rezoned to a mixed use. The Town's ordinance now says that encroachments must be at least ½ mile apart. As a result, the Mayor says that he believes, when that property is developed, there will have to be an access road with a shared entrance to Seabrook Island Road that will be used by the senior living facility and the owner of the 300-acre property. There are also properties on the other side of the street that could be developed as well.
- Will this facility make it more difficult to leave the island during an evacuation? Mayor Ciancio stated that all licensed senior living facilities have traffic control procedures for evacuation that have been approved by the State and such facilities evacuate 24 hours prior to the Governor ordering an evacuation.

Approximately 12 residents commented on the ordinance pertaining to "domestic animals/pets" on the beach. Below is a summary of their comments:

- Several residents commented about the need for an area where dogs that are non-social could go where dogs would always be on lead. One resident commented that the area, Boardwalk 1-9, is too large to always have dogs off leash in the non-peak season. Not only do some dogs, that are on a leash, feel threatened if a dog is running loose and runs up to him; but some people are not comfortable around dogs. Another commented that the problem with going to the area around Camp St. Christopher, where dogs will always be on a leash, is that most residents and visitors would enter the beach from one of the boardwalks, not by way of the Camp, and most would have to walk through an area where dogs could be off lead.
- One comment indicated that Seabrook Island did not need further restrictions on dog owners because they felt dogs did not interfere with turtles or shorebirds. They further commented that, if people can't take their dogs to the Camp area, this compresses dog owners into the area of the beach where most beachgoers are located and that the proposed restrictions seem to be skewed toward the petitioners.
- Several residents opposed the proposed rule for having dogs on leash at all times in the area of Camp St. Christopher because of the lack of people on the beach in that area. The Director for the Barrier Island Education Program at Camp St. Christopher, however, commented that there were around 1,500 children at the Camp on an annual basis. Children are present pretty much year-round, except for about two weeks around Christmas. Another resident, who was on the board at the Camp, stated that children visit the Camp all during the year and agreed with the rules being proposed for the area around the Camp because the children can be on the beach anytime between the hours of 8:00 a.m. and 4:00 p.m.
- A resident commented that, at high tide, there isn't much beach from Boardwalks 1-9 and that they would like to keep the current winter regulations at the Camp.

- A couple of residents commented about problems with people on the dunes and dogs being off leash when they should not have been. These comments raised the question of how the ordinance was to be enforced and what the complaint process is if there is a problem. Mayor Ciancio explained that the Town had retained Island Beach Services for several years to patrol during beach season and they are sworn in as code enforcement officers. If they are not doing their job, the Town needs to know.

Councilman Wells asked the Town Administrator to recap the hours of coverage for the beach patrol during their contracted season, which Mr. Cronin did by referring to their 2019 contract. Town Administrator Cronin also stated that, from September through March when beach patrol would not be present on the beach, the Town has a part-time code enforcement officer; and, if the situation warrants, the Charleston County Sheriff's office could be called. Councilmember Finke assured everyone that Council does investigate complaints and, if there is a problem, please call the Town Hall.

There being no further business, the meeting was adjourned at 2:30 p.m.

Date: November 19, 2019



Town Clerk