



SURFSIDE BEACH TOWN COUNCIL SPECIAL MEETING
COUNCIL CHAMBERS
115 US HIGHWAY 17 NORTH, SURFSIDE BEACH, SC 29575
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TOWN COUNCIL SPECIAL MEETING MINUTES
Tuesday, October 20, 2020, • 6:30 pm

11. **1. CALL TO ORDER.** Mayor Hellyer called the meeting to order at 6:30 pm. Mayor Hellyer, Mayor Pro Tempore Scoles, Councilmembers Dietrich, Drake, Holder, Pellegrino, and Keating were in attendance. Others present Interim Administrator Duckett, Town Attorney Crosby, and Town Clerk Sheri Medina.
12. **2. MINUTES APPROVAL** Councilmember Keating made a motion to accept the meeting minutes for the October 13, 2020 meeting. Councilmember Dietrich second. All voted in favor. **Motion Carried.**
13. **3. PUBLIC COMMENTS**
 14. **a. Anousha Shifleh**, 813 Ocean Blvd, I guess I'm asking you, urging you, strongly urge you to vote to waive the Executive Session confidentiality, so the details of the 30-year lease with the Atlantic Restaurant Group can be shared with the public. So, the members of the town council yourselves can explain the risks of this 30-year lease to the town of Surfside Beach and its residents, and how you plan to mitigate those risks.
 15. **b. Judy Henion**, 11th Ave North, stated Let's not mince words; tonight's agenda is for the rubber-stamping of an amended lease. The only thing different about this rush to ram the lease through is you are not taking it behind closed doors shrouded in the secrecy of an executive session. You have failed all residents to divulge the lack of market-rate negotiations for our property. But, let's be open and honest for a change. Tell us where these leases were posted for residents to review? When was a public hearing conducted as required by law with the facts divulged for open dialogue? As I'm sure, any legal mind could tell you, merely stating the words "public hearing" on the agenda does not satisfy the requirement. A resident stepping up to the podium to address the Council is NOT a discussion. Further, since only a select few on the Council were made privy to the documents, how can an informed discussion even take place? Clearly, the intent of that first reading was to keep everyone in the dark and silent. Appeals to open dialogue by your fellow Council member were ignored as you rushed to vote this through before anyone "found out." The posted ordinance referenced Exhibits A & B, yet neither were attached nor made public. Why? Contrary to some people's opinions, doing homework before a council meeting to ferret out the facts is not our job, and there can be no discussion, questions, nor comments when the audience has been denied the subject material. Despite those failures, the Council proceeded with a first reading followed by a vote, and tonight the apparent intention is to repeat the same performance. That's unacceptable! The proposed lease can quickly be deemed an unconscionable contract. The town attorney can explain the full extent of that but briefly stated an unconscionable contract is one where one party signed the contract under situations involving pressure, lack of information, or by being misled. It's not judging the subject matter but rather the circumstances surrounding it. Undue influence, unreasonable pressure, duress, threats, just to name a few. Demanding unreasonable and outrageous terms and then refusing to vacate the premises unless this lease is signed in advance is extortion plain & simple. There was no consideration that ALL the residents of Surfside Beach would continue to be cheated of the full market value of property they own. An example is the property across the street on Ocean Boulevard South that pays \$75 per square foot. What cost per square foot does this lease require? All of this is unacceptable to the residents of this town who own that Pier and those buildings!! We have circulated a petition that bears over 250 signatures of residents OPPOSED to this travesty!! Are you going to proceed with yet one more illegal and unethical move by voting anyway? Stop breaching public trust and violating your oaths of office and do the right thing and start acting in the town's best interests instead of your own.

*This agenda is published pursuant to the Freedom of Information Act Section 30-4-80(A) and (E).
The public is invited to attend all meetings and events.*

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- c. **Chris Stamey**, 715 Cedar Drive, stated I'd say, I have to agree with her. I was here last week when we had an open public hearing. I have no idea what we had a public hearing on. I'm for building the Pier. I'm for it. And I've told you that I've told everybody. But deal with this Atlantic Restaurant Group. I don't know what is in the contract; we know they've got a 30-year lease, but what are they paying in 30 years. Are we getting the best price we can get out of it? Are the other options that we can do besides sign this lease tonight? I know that's what we're here for, but to me, you need to look at other options. I'm for building the Pier. Whatever it takes to get it done, but it sounds like to me that this might have been not beneficial to the town. So, I think either let the public know what's behind the lease that you're signing with these people. I know what I've read on Facebook, I know what I hear tonight, but I have no idea of this town's benefits with this group. I hope that you all will do the best for our town.

- d. **Shaun Henderson**, 612 Cherry Drive, I don't know who this ARG is or how they ended up with this contract to begin with; I would like to know the details. It almost reminds me of, if you want to know what's in the bill, you've got to pass it first. They don't seem to have Surfside Beach's best interest in mind. I'm not sure as partial owner of this Pier and what's going to be happening on it that I even wanted to do business with a company like this; they are holding us hostage. They don't care about Surfside Beach; they don't care if that Pier gets built. They're doing business, as usual, every day; they have already been the reason for the holdup, as far as I know, or have been able to ascertain. Again, they don't give a lick about Surfside Beach, and I don't want to do business with them. I think we could probably get, from what I understand, a much better contract out of another group like Nibbles was, they were an institution, and they were also a destination. This person doesn't have our best interest in mind. They're holding us hostage. I don't like that. I don't like being up against the gun.

- e. **Harry Kohlman**, I don't understand what's going on. I know about Executive Session and this and that. Before you vote for it, maybe just one of you; give us a reason why. Dispel all the rumors, all the guesswork, tell us. Tell us why it's such a good deal. Don't tell me if he goes; some of you wasted time. This Pier has been a fiasco since you bought it. Bob Childs' kicking Nibbles off and trying to get his friends to come on the Pier. That didn't work. The storm hit the Pier, and it's not in good shape at all. Yeah, we have a contract that shouldn't have been signed, to begin with, and then renewing it. If it is so important to give it to ARG, there has to be a great reason. The rumors didn't have value; Why don't you explain it to us?

- f. **John Gilchrist**, 314 melody Lane, I can't figure it out, either; I learned tonight that we could go and start working on the pier, taking it down, stuff like that, work around this guy, and have more time to be able to figure this problem out because it is a problem. We are being held hostage by this guy, I don't know who he is, and I don't understand. That's what we put you guys in office, to work for us. Not for yourself, but for us, And I don't understand, and I think it's wrong.

Email comments read by the Town Clerk

4. BUSINESS

A. SECOND READING - ORDINANCE #20-0224 - An Ordinance of the Town of Surfside Beach authorizing amended lease. Councilmember Holder made a motion to approve Ordinance 20-0224, An Ordinance of the Town of Surfside Beach authorizing amended lease. Councilmember Pellegrino second.

Councilmember Keating stated as I mentioned at least three times in our last meeting, I think Town Council needs to waive the confidentiality of these executive sessions. Mr. Howard and ARG have now signed this agreement. They are asking for the town to commit themselves to this agreement. I think we have failed each and every one of our businesses, our property owners, and our residents if we don't disclose what we're committing the town to do before going forward with this second reading.

Town Attorney Crosby indicated that this would require a motion to table the open motion made by Mr. Holder, and also make an amendment to the agenda that would require 2/3 votes to pass to waive the confidentiality.

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Therefore, Councilmember Keating made a motion to table the motion to approve Ordinance 20-0224 to execute the amended lease with the Atlantic Restaurant Group until after a public discussion of the terms and upon adequate conclusion of that discussion will reenter the motion for approval of the said ordinance. Councilmember Drake second. Councilmembers Keating, Drake, Pellegrino, and Mayor Hellyer voted in favor. Councilmembers Scoles, Dietrich, and Holder voted against. **Motion Carried.**

Councilmember Keating made a motion to modify the agenda to add another motion to waive the confidentiality of the executive session of the Atlantic Restaurant group amended lease. Councilmember Drake second. Councilmembers Keating, Pellegrino, Drake, and Mayor Hellyer voted in favor. Councilmembers Scoles, Holder, and Dietrich Voted against. **Motion Failed.**

Councilmember Drake urged the prevailing parties in that failed motion to reconsider, and make a re-vote. The prevailing parties remained silent. The failed motion stands.

Councilmember Holder motioned to bring the original motion to approve Ordinance 20-0224 back to the table for approval. Councilmember Dietrich second.

Councilmember Keating stated, for about the fifth time that I've now said it, I think it's totally unconscionable for this Council to proceed forward, committing the town to 30 years of an agreement, that no one in this town - business owners, property owners or stakeholders whatsoever - know anything about, other than by rumor or the infamous confidential source that we don't know whether or not that is true. I think this is ridiculous that we are not willing to communicate with the people who own the Pier, that will pay for the Pier, that will support the Pier as to what exactly the town is committing to.

Councilmember Pellegrino stated there's a fair bit of misinformation on this, but we have a current contract, so we didn't have a choice, other than accepting guaranteed litigation. Who knows how long? Who knows how much money? We had to negotiate another contract. If we kicked him out, it could have been tied up for years, and it could have cost millions of dollars. I think it would have done both. That's, that's my opinion. So we, multiple people up on this dais, have been negotiating for months, back and forth with Atlantic Restaurant Group. And to me, in the end, we came up with a good agreement. Ms. Crosby worked very hard on this many, many hours, and from a liability standpoint, the town is very protected from this agreement. Then, from financial, we hired a real estate expert who does commercial rental real estate. He came back with \$34 per square foot. This contract also has incentives such as gross sales thresholds. So, there are benefits for the town as they do well, and then their sales go up, and they pass these thresholds, there are benefits to the town. So, from a financial standpoint, I still think that's a good agreement, also. I do understand that there wasn't detailed information available for the public. I get that. But that's what the Council decided, and we needed to move forward, but it's a good agreement for the town.

Councilmember Drake stated I was originally with the three of us, the Mayor, myself, and David, at meeting with the Atlantic Restaurant Group. I never thought it would come that the public would not know the contract's details in this process. But the aspect of the agreement and the money aspect in it, and the terms and the aspect of the dollar per square foot is nowhere near what it should be. And that's why I'm against it. And number two is, I think everyone in the town needs to know what it is before making a vote on this. There's a lot of things that need to be done before the restaurant being torn down.

Mayor Hellyer stated us involved in the negotiation process; we negotiated a lot. Things were running in a positive way. Toward the end of it, and all of a sudden, the negotiations broke down, and we were told that there would be no more negotiations. I don't think that the final product is in the best interests of the town. And that's why I voted against them at first reading. This is the part that's scary about it is that we asked FEMA back in August for an 18-month extension, and they gave us a year. And so, there's no way that we can finish the Pier in that year. They told us that for us to get another extension, we're going to have to be well on the way. The problem that we're having now is that if we go into litigation with ARG, that may tie us up for a number of months and jeopardize our FEMA money.

Councilmembers Holder, Dietrich, Pellegrino, and Scoles voted in favor. Councilmembers Keating, Drake, and Mayor Hellyer voted against. **Motion Carried.**

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5. **ADJOURNMENT.** Councilmember Drake made a motion to adjourn at 7:12 pm. Councilmember Dietrich second. All voted in favor. **Motion Carried.**

Bob Hellyer, Mayor

Debbie Scoles, Mayor Pro Tempore

Bruce Dietrich, Town Council

David Pellegrino, Town Council

Paul Holder, Town Council

Cindy Keating, Town Council

Michael Drake, Town Council

Attest:

Sheri Medina, Town Clerk