

**TOWN OF SEABROOK ISLAND**  
**Town Council Emergency Meeting of April 1, 2020**

**MINUTES**

Mayor Gregg called the Emergency Town Council meeting to order at 2:00 p.m. Councilmembers Crane, Finke, Fox and Goldstein, Town Administrator Cronin and Town Clerk Allbritton attended the meeting. The meeting was advertised according to the SC Freedom of Information Act; and, because of COVID-19 requirements, the public could dial in and listen by telephone.

Mayor Gregg indicated that the purpose for this meeting was to consider a proposed ordinance that would undertake some regulation of short-term rentals within the Town and address other matters in response to the spread of COVID-19. Council developed the ordinance with consideration given to comments that were received on the Town's website from members of the community, pro and con, regarding short-term rentals.

Town Administrator Cronin stated that he had opened a comment portal on the Town website on Monday afternoon, March 31<sup>st</sup>, to allow residents and property owners to review and provide comments on the proposed ordinance. About two hours prior to the meeting, 161 comments had been received on the website. Of the total number of comments, 159 indicated a preference – 89 were in favor, 57 opposed, 12 unsure and 1 had no opinion. Some were in favor of some parts of the ordinance but not others. A copy of the responses was provided to Council before the meeting. Since this is an emergency ordinance, there would not be a typical public hearing, therefore, all comments were made through the website.

Mayor Gregg read the first paragraph which describes the purpose of the Emergency Ordinance No. 2020-01:

*“An Emergency Ordinance to adopt the provisions of the Mayor’s Executive Order Nos. 2020-01 and 2020-02 to adopt emergency provisions related to certain types of business establishments; to adopt emergency provisions related to Short-Term Rental Units; to adopt emergency provisions related to Town Meetings; to provide for enforcement and penalties of emergency provisions; and other matters related thereto.”*

The Mayor stated that he recognizes that short-term rentals were an exercise of rights of property owners who elect to enjoy that right associated with ownership of their property, to receive income from that property. However, Council recognizes the concern of our residents that the spread of this disease, COVID-19, creates unusual circumstances and anything the Town can do to try to reduce the spread and help to prevent the spread of the disease to the Town is worthy of consideration. Mayor Gregg stated that he considers this to be a matter of trying to strike a reasonable balance of the interest of property owners – those who are not undertaking to rent their property and those who are. Councilman Crane made a motion to approve adoption of the Emergency Ordinance as it has been presented to members of Council. Councilwoman Finke seconded the motion.

Mayor Gregg asked for comments or amendments to the Emergency Ordinance as presented. Councilwoman Finke made a motion to amend Section 1(b). She stated that she thought the ordinance, as drafted, did nothing to further the safety of the residents of Seabrook Island. The only effective way to mitigate transmission of the disease and flatten the curve is to follow the distancing and hygiene protocol. She proposed to amend Section 1(b) and impose a self-quarantine on everyone arriving on Seabrook Island from outside South Carolina. If the motion is approved, the section would read:

*1(b) The provisions of Executive Order No. 2020-02, which was issued by the Mayor of the Town of Seabrook Island on March 30, 2020, are hereby adopted by reference as if fully set forth herein. **In addition to those areas specified in Sections 1 and 2 of Executive Order No. 2020-02, persons arriving from any***

*location outside the State of South Carolina, whether such persons are residents of such other locations or are residents of the Town who are returning from travel to such locations, shall isolate and self-quarantine in accordance with the Governor of South Carolina's Executive Order No. 2020-14 by following guidance for isolation or self-quarantine issued by SC DHEC.*

Councilman Crane seconded the motion. The Town Administrator explained that the existing Order states that individuals coming from locations where there is a higher concentration of disease would be isolated or self-quarantined upon arrival for a period of 14 days or for the duration of their stay, whichever is shorter. If this addition is approved, any individual coming to Seabrook Island, from any location other than South Carolina, would be isolated or quarantined for 14 days or for the duration of their stay, whichever is shorter. Councilwoman Fox inquired if it was legal to impose these restrictions since it was not in the Governor's Order. Mayor Gregg stated that the SC Attorney General expressed the gratuitous view that municipalities or other subdivisions of the State government that act contrary to the preemptive authority vested in the Governor expose themselves to the risk of litigation by private citizens. The Town's Executive Order 2020-02 was drawn to be in conformance with the Governor's Order and it was expressly limited to the same states and cities that the Governor addressed in his Executive Order as well as including a reference to the CDC Level 3 Travel Notice countries as having been designated as areas of substantial community spread. While the Governor did not address expressly that travelers from those countries were subject to his Order, it did state in his order that areas of substantial community spread were locations of concern. Councilwoman Finke stated that, if this amendment were adopted, the Town would not be contrary to the Governor's order but would just be more restrictive on our self-quarantine or isolation. The Mayor stated that, reading the Attorney General's opinion, it is not that we are somehow allowed to be more restrictive, but it is a concern as to who has the authority to act. The Governor's authority is preemptive in the Attorney General's opinion. Councilwoman Finke pointed out that it is not just this motion that does not follow the Governor's Order, there are other instances that are inconsistent. The Mayor agreed. The Town Administrator added that typically an action of Council, or legislature, is presumed valid until a court of competent jurisdiction overturns that decision and anything Council does today would be presumed valid unless someone were to challenge it. Councilwoman Fox commented that, from comments given on the website, there are several people opposed to this and feel that it is illegal. Mayor Gregg agreed that there were several comments against this amendment, and some indicated they would consider acting on it. Councilwoman Finke added that there was no economic disadvantage for someone coming from another state to have to self-quarantine but, with short-term rentals, there was an economic disadvantage for not being able to rent your property. Councilman Crane made a motion to amend Councilwoman Finke's pending amendment to the Ordinance. He moved to extend the enhanced, positive effects of social distancing to all owners, guests and visitors. Anyone coming to Seabrook Island, would start a 14-day self-quarantine protocol. The beginning date of the protocol would be established as the date of arrival. In addition, anyone already on Seabrook Island, would start a 14-day self-quarantine, with no exceptions. Due to lack of a second, the motion for the proposed amendment to the amendment failed. Councilman Goldstein commented that we, as the local authority, have the best understanding of our citizens; and, out of an abundance of caution, it seems to be pertinent that we take the action as described by Councilwoman Finke in her motion. Councilman Goldstein and Councilwoman Finke voted for the amendment and Mayor Gregg, Councilman Crane and Councilwoman Fox voted against the amendment. The motion for the amendment to the ordinance was defeated by a vote of 3-2, and the amendment to the ordinance will not be made. The wording will remain:

*1(b) The provisions of Executive Order No. 2020-02, which was issued by the Mayor of the Town of Seabrook Island on March 30, 2020, are hereby adopted by reference as if fully set forth herein.*

Town Administrator Cronin stated that Executive Order 2020-17 had been issued by the Governor's office yesterday afternoon, Monday, March 31, relating to the operation of non-essential businesses. Up until this

point, when the Governor had Orders that Council felt directly related to the Town, the Mayor had issued an Executive Order to apply those requirements to the Town. With the Governor's Order coming out yesterday afternoon and because this Ordinance puts in ordinance form the Mayor's Executive Orders 1 and 2, we would be taking the Governor's latest Executive Order and incorporating it into this Ordinance as Section 2. The Town Administrator read the part of the Governor's Executive Order 2020-17 pertaining to businesses that were "non-essential" that would remain closed as of April 2, 2020, at 5:00 p.m. The three types of business included were:

1. Entertainment venues and facilities
2. Recreational and athletic facilities and activities
3. Close contact service providers

The Town Administrator remarked that a paragraph was included in the Ordinance stating that an individual or entity can submit requests for clarification for a specific business, venue, etc. as provided in the Governor's Executive Order 2020-17. He also stated that the Seabrook Island Club had sent in a request for clarification as to how the Governor's Order might impact some of their facilities and are awaiting an answer. Another paragraph encourages the practice of "social distancing" and other recommendations that have been made to curb the spread of the virus for those businesses that are permitted to remain open within the Town. Councilman Crane made a motion to amend the draft ordinance to include the recommended provision regarding the Governor's Executive Order 2020-17. Councilwoman Finke seconded the motion. The Mayor commented that, in response to the Seabrook Island Club's request for clarification as provided in the Governor's Order 2020-17, they have been informed by the Department of Commerce that the Club will not be prohibited from continuing to operate their amenities. When the Mayor called for a vote on the motion to include the latest Governor's Order in the Emergency Ordinance, the vote to approve was unanimous.

Councilwoman Finke stated that she would make a motion pertaining to the beginning date and ending date on Section 3(a)(1) pertaining to the dates that short-term rentals may not be allowed to check in but, as Council moves through Section 3, she would offer amendments to try to improve it to address various situations on the island and property owners' concerns. Councilwoman Finke made a motion to begin the prohibition of check-in's on April 5, 2020, through April 30, 2020. She stated that she feels the April 5, 2020, date would give enough time for visitors to be notified so that they would not be travelling to Seabrook Island and not be able to check in. Councilwoman Finke said that she does not feel this will make Seabrook Island any safer; but, based on some of the comments sent to the website, it will probably give some property owners some level of comfort. Councilman Goldstein asked to make an amendment to that amendment. He moved to begin prohibiting check-in's on April 3, 2020, and end on April 30, 2020. He stated that he saw no reason to delay the beginning date because the President's guidelines, that were issued over 15 days ago, said to avoid discretionary travel; and, if someone has taken a vacation under those circumstances, we have no responsibility to them and should not delay the beginning date. Councilman Crane seconded the motion. Councilmen Goldstein and Crane voted in favor of the motion and Mayor Gregg and Councilwomen Finke and Fox voted against the motion. The motion failed by a vote of 3-2. Since Councilman Goldstein's motion failed, the motion to permit no "check-in's" or otherwise occupy a short-term rental unit beginning on April 5, 2020, and ending on April 30, 2020, was back on the table. Mayor Gregg, Councilman Crane and Councilwomen Finke and Fox voted to approve the motion and Councilman Goldstein voted against. The vote to approve the motion was 4-1.

Mayor Gregg stated that a time period must be decided for Section 3(a)(3). Council must decide the beginning date and ending date during which owners and managers of all short-term rental units within the Town are prohibited from accepting new reservations for stays. Councilwoman Finke made a motion

to make the start date April 2 and the end date April 30, 2020. Councilman Crane seconded the motion and the vote to approve was unanimous.

The Mayor stated that dates must be decided for Section 3(a)(4), which pertains to dates during which short-term rental units may not be advertised as being available and dates during which online booking calendars for such units must indicate that the unit is not available. Councilman Crane made a motion that the dates in both instances should be consistent with dates approved for Section 3(a)(3), April 2 through April 30, 2020. Councilwoman Finke seconded the motion and the vote to approve was unanimous.

Mayor Gregg stated that Section 3(a)(2) is the next Section with a suggested amendment. Councilman Crane made a motion to accept the proposed amendment:

*(2) Rental guests who are currently occupying any rental property in the Town including, but not limited to, Short-Term Rental Units as of the effective date of this Ordinance may remain in that unit until the expiration of their existing rental agreement. Existing rental agreements shall not be renewed or extended following the effective date of this Ordinance; provided, however, rental guests whose existing agreement commenced on or before March 15, 2020, and who have continuously occupied that rental unit since March 15, 2020, may:*

- a. Extend their existing rental agreement for additional periods to remain within that unit; or*
- b. Enter into a new rental agreement for an alternate rental unit within the Town as long as the rental guest occupies the alternate unit on the same date they vacate the original rental unit.*

Councilwoman Finke seconded the motion. Councilwoman Finke explained that this amendment is being proposed to accommodate specific situations in which individuals have been on Seabrook for several months, but their rental cannot be extended on a month to month basis but is being extended week to week. This would allow them to leave that property and move to an alternate unit as long as they occupy that unit on the same date they vacate the original rental unit. The vote to approve the amendment to the Ordinance was unanimously approved.

Mayor Gregg stated that the next suggested amendment to the Ordinance is to Section 3(a)(5). Councilwoman Finke moved to amend the ordinance as follows:

*(5) The Town Administrator shall be authorized to grant a reasonable accommodation from the restrictions contained herein in the following circumstances:*

- (a) Any resident who can demonstrate the need for a non-resident caregiver due to illness or disability.*
- (b) Any owner of real property within the Town, including members of that property owner's immediate family, who is/are occupying a Short-Term Rental Unit on a temporary basis during construction of a new home or renovation or repair of an existing home on the owner's property within the Town.*

Councilman Crane seconded the motion. Councilwoman Finke explained that she is recommending this amendment to the Ordinance to address a situation where property owners have been renting a property on Seabrook Island while their house is being built. The owner of the rental has changed their rental unit from month to month to week to week. If the property owners, who are renting during construction had to move to another rental unit, this amendment is to give the Town Administrator some flexibility in such situations. The vote to approve the amendment was unanimous.

Mayor Gregg stated that the next suggested amendment to the Ordinance is for Section 3(a)(6). The suggested amendment reads as follows:

*(6) The Provisions of this section shall not apply to members of the property owner's immediate family.*

*(7) For the purpose of this section, the term "immediate family" shall be defined as a parent; sibling; child by blood, adoption or marriage; spouse; grandparent or grandchild.*

Councilwoman Finke moved for the adoption of the proposed amendment to the ordinance. Councilman Crane seconded the motion. Councilwoman Finke stated that we are only deleting the word "non-paying" in the section that reads "The provisions of this section shall not apply to *non-paying* members of the property owner's immediate family." Section 5(a)(7), which is being added, defines the term "immediate family." The vote to approve the motion to amend the Ordinance was unanimous.

Mayor Gregg stated that the next proposed amendment is for Section 4(a) which addresses emergency provisions relating to cancellation of Town meetings through a date to be determined. Councilman Crane made a motion to cancel Town meetings through May 31, 2020. Due to lack of a second, the motion failed. Mayor Gregg made a motion that Town meetings be cancelled through April 30, 2020. Councilwoman Finke seconded the motion and the vote to approve was unanimous.

Mayor Gregg stated that the next amendment to the Ordinance is to add a new Section 5 and renumber the remaining Sections. If the amendment is adopted, the new Section 5 will read as follows:

*Section 5. Emergency Provisions Related to Temporary Use Permits*

*(a) All temporary use permits for events and activities taking place between the effective date of this Ordinance and \_\_\_\_\_ are hereby repealed.*

*(b) The Zoning Administrator shall not issue any new temporary use permits for events and activities taking place between the effective date of this Ordinance and \_\_\_\_\_.*

Councilman Crane moved to amend the ordinance and add the new Section 5 and renumber the Sections that follow accordingly. Councilwoman Finke seconded the motion. The Mayor asked for discussion that would specify the end dates for (5)(a) and (b). The Town Administrator recommended that, since Town meetings through April have been cancelled and some Temporary Use Permits must go to the Planning Commission and Town Council, the date be set at May 15 or even later. The Town Administrator stated that he had already approved the Dolphin Slam at Bohicket Marina; but, if Section 5 were adopted as part of the Emergency Ordinance, that approval would be repealed. The Billfish Tournament has been approved by the Planning Commission but has not come to Town Council; and, since Town Council meetings have been cancelled through April, the earliest possible date for that approval would be May 26 unless a special meeting was held. Mayor Gregg called for approval of the new Section 5 as presented with the date being set, in two places, as May 31, 2020. The vote to approve the amendment to the Ordinance to add a new Section 5 and set the date, in two places, as May 31, 2020, was unanimous.

The Town Administrator commented that an Emergency Proclamation was issued by Mount Pleasant which had a provision that, if a Governor's Order is issued, it modifies and takes precedence over Mount Pleasant's Order. Mayor Gregg stated that he felt, if the Governor issues an Executive Order, that has an impact on this Emergency Ordinance, Council will respond to the Governor's Order, at that time, as appropriate.

Town Administrator Cronin remarked that an Emergency Ordinance requires a 2/3 vote (4 out of 5 members of Council) in the affirmative for the Ordinance to pass and take effect immediately and the Ordinance would automatically expire on the 61<sup>st</sup> day after adoption. Councilwoman Finke stated that this was a difficult vote for her because she does not think the rental restrictions make us any safer and opens the

Town up to litigation. Council has been in touch with all major rental agencies and they have seen massive cancellations and there are few renters coming to the security gate. The majority of the out of state license plates belong to property owners. Councilwoman Finke again stated that the only way to avoid the Coronavirus is to follow the protocol that has been outlined for safety. Mayor Gregg agreed that there is one recognized measure to avoid the spread of this disease and that is social distancing since the disease is spread through contact. The Mayor commented that the measures contained in this Ordinance do not relieve anyone from their responsibility of maintaining social distancing. Since the Town has not limited access to the beach and other municipalities have, it might make coming to Seabrook Island more attractive to some individuals.

Councilman Goldstein commented that social distancing is the most effective way to avoid spread of COVID-19, as well as handwashing; but, by saying that excluding renters from the island will not affect social distancing is incorrect. If more people go to Harris Teeter, this increases the density and will cause social distancing to become less effective. Councilman Goldstein stated that he feels it is somewhat irresponsible to say that we do not want to infringe on someone else's rights when the President and the CDC have said that discretionary travel is to be avoided. Councilwoman Finke stated that property owners may think staying at their property on Seabrook Island is safer than being at their primary residence and they would not consider coming to Seabrook Island a vacation. Not everyone that is coming to Seabrook Island is coming for vacation. It is not up to Council to determine their reason for being on Seabrook Island. Councilman Goldstein stated that, considering the average age of the people residing on Seabrook Island, we should be using an abundance of caution to provide safety and security for our residents.

Councilwoman Fox asked how this Ordinance would be enforced. Mayor Gregg stated that the Town has two part-time Code Enforcement Officers who will enforce the Ordinance. If there is a violation of Town ordinances, Code Enforcement Officers can issue citations; and, if the person comes to Municipal Court and is found to be guilty, they can be subject to a fine. Councilwoman Fox asked how Code Enforcement would know if a rental unit were being occupied by someone that owns the unit or if they were renting. Town Administrator Cronin stated that he would be sending the Ordinance, if adopted, to the Executive Director and the President of the Seabrook Island Property Owners Association; and, hopefully, they would be willing to help the Town with enforcement. The Ordinance will also be sent to all rental property managers. The Town Administrator commented that there is another provision of the Ordinance that says you can not only be fined but your business license can be suspended or revoked. If someone is found in violation of the Ordinance, we can not only issue a citation to the renter, but the owner of the unit can be issued a citation and their ability to rent the unit can be suspended or revoked. A management company could also be fined or potentially lose their ability to operate within the Town. We are hoping that the penalties will be a deterrent, but we do have tools at our disposal and will be requesting help from SIPOA. The Sheriff's Department will not set up a check point without a declaration of martial law from the Governor. The Town Administrator added that the members of the Beach Patrol, some of whom are Code Enforcement Officers, can carry out the Governor's Order to disburse groups on the beach and can call the Sheriff's Department, if necessary, to carry out the Governor's Executive Order. Councilwoman Finke commented that, since there was so much responsibility placed on the management companies pertaining to rental restrictions, one of the reasons she wanted the rental restrictions to begin on April 5 was, not so much to avoid inconvenience to the travelers, but to give the rental management companies time to remove ads, make phone calls and cancel reservations before the Town had rental restrictions in place.

The vote to adopt the Ordinance as amended was unanimous.

The Town Administrator reported that the pathway to Freshfields was open again. Everything is done except one section on the crosswalk at the Marina. The pathway can be used but remember to practice social distancing.

Mayor Gregg thanked Council for all the work they had put into getting the Emergency Ordinance in place. With no further business to discuss, the meeting was adjourned at 3:54 p.m.

Date: May 26, 2020



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Town Clerk