



The Town of Hilton Head Island Special Public Safety Committee Meeting

January 20, 2016

10:00 a.m. – Benjamin M. Racusin Council Chambers

AGENDA

As a Courtesy to Others Please Turn Off All Cell Phones and Pagers during the Meeting

1. **Call to Order**
2. **Freedom of Information Act Compliance**
Public notification of this meeting has been published, posted, and mailed in compliance with the Freedom of Information Act and the Town of Hilton Head Island requirements.
3. **Approval of Minutes**
 - a. Regular Public Safety Committee Meeting of January 4, 2016
4. **Unfinished Business**
 - a. Background Regarding Lockouts and Crime Statistics
 - i) Presentation by Town Staff
 - ii) Public Comment
5. **New Business**
None
6. **Adjournment**

Please note that a quorum of Town Council may result if four (4) or more of Town Council members attend this meeting.

TOWN OF HILTON HEAD ISLAND
PUBLIC SAFETY COMMITTEE REGULAR MEETING

Date: January 4, 2016

Time: 10:00 a.m.

Members Present: Marc A. Grant, *Chairman*; Bill Harkins and Lee Edwards, *Council Members*

Members Absent: None

Town Staff Present: Greg DeLoach, *Assistant Town Manager*; Brian Hulbert, *Staff Attorney*; Charles Cousins, *Director of Community Development*; Bob Klein, *Building Official*; Teri Lewis, *LMO Official*; Chris Yates, *Chief Building Inspector*; and Lynn Buchman, *Senior Administrative Assistant*

Others Present: David Bennett, *Mayor*; Tom Lennox, *Council Member*; Capt. Joey Woodward and Lt. Jason Covington, *Beaufort County Sheriff's Office*; various residents of South Forest Beach area, Xanadu, and Ocean Walk; and Eleanor O'Key, *Lowcountry Inside Track*

Media Present: Zack Murdock, *The Island Packet*

1. Call to Order

2. Freedom of Information Act Compliance

Public notification of this meeting has been published, posted, and mailed in compliance with the Freedom of Information Act and the Town of Hilton Head Island requirements.

3. Approval of Minutes

a. Regular Public Safety Committee Meeting of December 7, 2015

A motion to approve the minutes of the December 7, 2015 meeting of the Public Safety Committee was made by Mr. Harkins and seconded by Chairman Grant. The motion was approved by a vote of 2-0. Mr. Edwards was not in attendance for the entire meeting and abstained from voting.

4. Unfinished Business

None

5. New Business

a. Crime (Prostitution, Drugs and Robberies): Threat to Tourism and Island's Reputation

b. Safety (Building Practices)

Chairman Grant stated this would be an informal meeting to receive input from the community about their concerns in a question and answer format, including suggestions from the community about what the Town can do to assist.

Jack Daly from the Forest Beach Association pointed out the issues with crime and safety are intertwined, with the basic problem being the illegally subdivided housing, both condos and residential

houses that are unsafe and against code. The cheap housing provided by the lockout units attracts those involved in criminal activities due to untraceable power, water, or cable bills that makes them virtually invisible. He stated there are lockout units in Xanadu and in Ocean Walk, and these illegally subdivided units are unsafe and breed crime and prostitution. He suggested that if the residents and Town Staff cannot agree on the definition of a legal unit and access to an electrical panel as required by law, the State Fire Marshal should be invited to visit, investigate, and provide a clear definition.

Captain Joey Woodward from the Beaufort County Sheriff's Office explained the physical locations of Ocean Walk and Xanadu and presented crime statistics for the period January 1 to December 20, 2015, breaking down by type the 31 calls for service from Xanadu, resulting in only 1 written report with no arrests, and the 98 calls for service from Ocean Walk during this period. In response to questions about what calls for service were attributable to lockouts, Capt. Woodward indicated there were none for lockouts in Xanadu, and most calls were in connection with the lockouts in Ocean Walk.

Mr. Harkins determined there were 14 lockout units in Xanadu compared to 41 lockout units in Ocean Walk, with both utilizing the same management company, and the rents for the split units, including utilities, being the lowest on Hilton Head Island.

Various owners appeared before the Committee to offer comments, as follows:

Fred Carty, a Xanadu owner for over 30 years, presented research and a spreadsheet indicating Xanadu has always been a safe community, whether there were lockouts or not, but noted the Ocean Walk statistics from 2012 forward indicated enforcement issues and crime problems. As to the electrical panel issue, he stated his research indicates these are not illegal, as Town Staff has determined. As a member of the Code Committee for ANSI for 10 to 15 years, he outlined the definitions of accessible panels and readily accessible panels, which has been interpreted to mean it can be locked. He noted the Appeals Board had denied the appeal by Forest Beach Association President Jack Daly and Xanadu owners, Mr. Sanders and Mr. Weatherhead, determining it was an enforcement issue for Ocean Walk, while Xanadu has dealt with enforcement through their bylaws. He stated it would be impossible to know who is renting units or to legislate to gather that information and in his opinion this is an enforcement problem that must be dealt with by Ocean Walk. Mr. Carty refuted the claims that had been made that 3-bedroom lockouts were fire hazards or traps, noting there are separate exits and in the event of a fire, the occupants should get out and not run to the electrical panel. He referenced the November 23, 2015 letter from Shawn Stickle, Chief Deputy State Fire Marshal, in which the local officials were recognized as authorized to make a determination.

Mr. Harkins questioned if there was a master external electrical panel at Xanadu and Ocean Walk and admission criteria or selection process for renters. Mr. Carty indicated he thought there was a master external electrical panel at Xanadu, but all units are individually owned and a management company only manages the property, with many owners using local rental agencies to advertise, vet and contract renters, and a few owners who handle rentals directly, either long or short term. However, he stated there are rules and regulations that are monitored and enforced by Xanadu owners.

Gary Reynolds, owner of 3 Dogwood Lane, South Forest Beach, pointed out that not all of the crime problems are related to the 3-bedroom lockout units at Xanadu and Ocean Walk. He outlined other criminal activities that have been increasing in the residential areas of South Forest Beach, beginning at Alder Lane and Grande Ocean towards Sea Pines, with crimes extending beyond the summer into the fall.

Jack Daly clarified that the CBAA meeting was a discussion only of whether the Xanadu units were 1 or 2 units, with the determination being it is 1 unit because the lockout did not meet the minimum standards for a legal dwelling unit. He pointed out that Ocean Walk was also discussed, but since

ready access to electrical panels was not addressed as to Ocean Walk units, that issue can still be brought before the CBAA. He also noted that the State Fire Marshal's letter stated he could not decide on something he had not seen, but he offered to help if needed and just needed an invitation.

Leonard Vender, a 14-year resident of a 2-bedroom Xanadu unit, noted there is a separate electrical room in each building that is locked, but is accessible by fire and police personnel at any time.

Linda Ward, Vice-President of the Ocean Walk Board, noted improvements made over the 6 years she has been there and the reduction in crime that has occurred because of more owner-occupied units. However, she stated there are many renters in the split units and crimes are occurring, even though the Board has worked diligently with the owners to encourage background checks, and the Police have helped as much as they can. Ms. Ward asked for the Town's assistance with the sealed walls in the B-Units with no access to electrical panels, and the renters that these units attract. She noted the Xanadu Bylaws allows the Board to do very little, and she asked for the Town's assistance. Mr. Edwards asked about the possibility of changing the Bylaws, but Ms. Ward indicated that the owners renting the split units are not interested in making changes. Mr. Harkins confirmed with Ms. Ward that out of the 79 units at Ocean Walk, only 20 are owner-occupied.

Carl Joyner, owner of 17 Sea Oat Lane, noted the 1955 covenants for Forest Beach identify the 90 lots in Lawton Beach (from Grande Ocean to Sea Pines, from S. Forest Beach Drive to the ocean) as being for single family dwellings, and the covenants have been violated by duplexes and triplexes. He asked that the Town to enforce the 1955 covenants, as he thought they were allowed to do so.

Bruce Bartow, former Board President of Ocean Walk, reviewed the crime activities reported by the BCSO, which he noted is reflective of a report from a mid-size community, small town or city, rather than a 79 unit community in the heart of a premiere resort destination. He apologized for bringing Xanadu into the discussion, but he noted the disparity between the 2 properties of similar size, and how one operates well and the other doesn't. He noted different positions taken by Town Staff going back to 2007, which he felt supported their position that the lockouts are not in compliance with the national electric code. He stated it was just common sense that if you don't have access to the panel, it is a danger and a violation of NEC ready access, which he felt was confirmed by phone conversation with the Deputy State Fire Marshal and meetings with the Mayor and certain Council Members. However, he suggested an invitation be extended to the State Fire Marshal to review the matter instead of relying on a letter that simply confirmed the authority of the local authorities.

Mr. Bartow reported that the Board at Ocean Walk had asked the owners at a special meeting last year to eliminate lockout units, as Ocean Walk continues to have the lowest property values of any complex based on square footage and the highest rate of criminal activity of any community in South or North Forest Beach. He attributed the decrease in calls for service this year from 3 years ago to the decrease in split rentals from 60 to 40. He reported incidents of drug use and an incident that was called in to 911 by a short-term guest with family from Ohio staying in the Board President's personal unit. He questioned what effect this has on tourism, and the creeping spread of such activities to other areas in S. Forest Beach. He requested that the State Fire Marshal be called in, and once a determination is made that the locked door is a violation of National Electric Code (NEC) that needs to be corrected, then the Board of Ocean Walk would have a tool to police this violation and issue fines, which would eventually lead to compliance. He warned about problems in South Forest Beach that are not insurmountable, but they can get worse if nothing is done.

Henry Sanders, a retired attorney living in Xanadu, who has served in various offices on the Board, voiced his concurrence with the concerns about split units as outlined by Mr. Bartow, stating this is a violation of the LMO. He expressed his concerns about locks and ready access to the electrical panels and urged a common sense interpretation of the code sections.

Chairman Grant noted the meeting is not intended to require Town Staff to answer every question, but to take all the information received at today's meeting and review it with Town Staff and Town Attorney in order to develop possible solutions and a plan of action for the future, including the possibility of formation of a Committee to deal with future issues, with another meeting to be held later this month.

Janice Gravelin, an Ocean Walk owner since 1996, indicated talks had been held with the Town and Fire Department when she was a Board Member, and Ocean Walk was informed the doors should not be locked, and that separating the units would create more than the 79 units they are allowed. She indicated Ocean Walk had been built for mother-in-law suites to allow privacy for family members on a temporary basis the lockouts were not intended for full-time use.

Tom Weatherhead, a Xanadu owner for 16 years and President of the Board in 2014, reported changing opinions from Town Staff as to access required to the breaker boxes and violation of the LMO by creating new units. He stated there is no mention in the Master Deed or Bylaws of lockout units, but owners seeking additional rental income began splitting units, and the lockouts were not originally wired for kitchen appliances. Mr. Weatherhead noted there are only a few issues needing correction, and the dangers should be addressed before something major happens. He reported insurance issues have arisen regarding the locked units, as well as increase in crime. He suggested that the BCSO conduct a surge program with additional officers policing the area as they did in the past, and possibly stationing deputies in the Coligny area of Hilton Head Island.

Brian Hulbert, Staff Attorney, addressed a few points including the misconception that a municipality has the authority to enforce covenants. To the contrary, he indicated municipalities are not allowed to enforce them. If aware of existing covenants, the Town has to take those into consideration and may not issue permits that might be contrary to the covenants.

Mr. Hulbert suggested the claims of changing opinions from Town Staff, was simply a misinterpretation. He stated the Town does not regulate short term or long term rentals anywhere on the Island. He further noted that the units at Ocean Walk and Xanadu were constructed prior to the Town's existence, and they were permitted and authorized to have lockout units under the Code in existence at that time by Beaufort County. Mr. Hulbert and Mr. Edwards briefly discussed what a lockout unit was, the fact that lockouts exist in other areas of the Island and throughout the Country, such lockouts are still being built, and the effect the locked door or paneled wall has on creating a separate unit.

Chairman Grant reminded everyone that this meeting is simply to gather information and not intended to rebuke what is said by any person, but intended to focus on how it can be made better. Using the facts gathered, he stated a plan can be developed for going forward.

Mr. Harkins discussed elevating the discussion to policy level so as to determine where we are, where we would like to be, and perhaps where we should be in the future, thereby defining in a futuristic way a community that wants to appeal to a strong tourism base with strong economic means to enjoy the Island at its fullest. He noted this will tease out the fact that we want to attract people to the Island that have an embedded respect for social order and the wellbeing of others, with a value system that cherishes the environment and public safety, and an economic climate that says to an owner his property is appreciating. Based on discussions today, he stated we clearly have a problem with no solution right now.

Mr. Harkins outlined steps he felt needed to be taken, including differentiating fact from fiction and obtaining a clear legal review of the situation from the State Fire Marshal. Since this situation is probably not unique, he stated he would like to learn how other communities have dealt successfully

with these issues. He also would like greater detail from the Sheriff's department, including comments on what they would like to see happening in the area that is not happening, and what's being done and not being done. Acknowledging again that there is a problem, he stated the Committee, working together with Town Council, the Mayor, and the community would address the issues.

Chairman Grant indicated the Committee wanted more discussions with Mr. Hulbert and Town Staff to come up with a plan of action. He called for another public meeting this month for input and an opportunity for the public to get involved in solving this situation. Chairman Grant stated he would brief Town Council at tomorrow's meeting so they would be fully informed, could provide input, and move forward from there.

In response to Mr. Edward's inquiry about Staff's views from an LMO standpoint as to whether these are separate units and increase density, Charles Cousins, Director of Community Development, reported that lockout units were permitted and being built prior to the Town coming into existence, were being built all over the country today, and have been and are still allowed under the LMO. He explained they are counted as ¼ of a unit, are not true units as they typically don't have a full kitchen and do not meet the 5 criteria of a separate eating, sleeping, living, sanitation and cooking areas. They are considered a resort accommodation unit that has the ability for the owner to lock out one of the bedrooms and rent it out separately.

Chet Williams noted the new Code adopted October of 2015 provides for lockouts. The definition is a divisible dwelling unit, which is a dwelling unit in a multi-family residential development that includes 1 or more lockout bedrooms and bathroom that can be physically closed or locked off from the remainder of the dwelling, with the size limited to 50% of the square footage of the remaining base unit. Mr. Williams agreed with Mr. Hulbert that municipalities do not enforce covenants, and cited various misrepresentations of previous speakers. He suggested that the real crux of the matter is that this is an internal Ocean Walk governance issue, not a Town code enforcement issue. He also suggested that a security guard be hired by Ocean Walk, and that if changes to the bylaws were needed that lobbying of owners could be done by the Regime. He also addressed the issue of the lockout being a separate unit, and argued that renting out a lockout unit does not make it a dwelling unit. Acknowledging there is a problem at Ocean Walk, he stated it was not the Town's responsibility to take on enforcement.

David Ames thanked Mr. Harkins for bringing this up to the policy level, and stated this is a quality issue for this community. He noted the lockout units are basically hotel rooms intended for short-term rental, not places for permanent residence, and such substandard housing should not be allowed to exist. He stated the very fundamental qualities of these communities are being sacrificed.

Adjournment

Chairman Grant thanked everyone for their attendance and comments and indicated a plan of action would be developed. The meeting was adjourned at 11:35 AM.

Respectfully submitted:

Lynn W. Buchman
Senior Administrative Assistant

Approved by:

_____/Approved _____
Marc A. Grant, Chairman