
R2019-7: RESOLUTION TO AUTHORIZE THE CITY MANAGER TO EXTEND HYBRID PARKING SPACE LEASE AGREEMENTS FOR A 10 YEAR PERIOD WITH ONE AUTOMATIC FIVE YEAR RENEWAL AT THE OPTION OF THE LEASE.

Applicant/Purpose: Staff/ to extend the hybrid parking program under the existing terms.

Brief:

- A “hybrid” parking space is one in which a portion of the property is privately owned, & a portion is within the public rights-of-way.
- In February 2004 Council approved R2004-12 which included the “City of Myrtle Beach Hybrid Parking Plan” to allow the City to lease of the public portion of a hybrid parking space to the contiguous property owner when, at the time of the lease, there is no public need for that public property.
- This Plan has met the needs of many properties initially developed prior to the imposition of current regs which now require private transient accommodations structures to provide adequate parking for their guests on private property.
- R2004-12 set the term of the leases at 10 years w/ an automatic 5-year renewal.

Issues:

- The extension of the Plan supports Council economic development & downtown redevelopment policy goals & authorizes the City Manager to renew such leases for a 10-year period w/ an automatic 5-year extension.
- That all other provisions of R2004-12 would remain in effect.

Public Notification: Normal meeting notification.

Alternatives:

- Renew the leases under different terms and conditions.
- End the hybrid parking program.

Financial Impact:

- There are ~60 hybrid parking leases is totaling ~\$95,000.
- Tier 1 parking spaces (east of Ocean Boulevard) are valued at \$220/year.
- Tier 2 parking spaces (b/w the Boulevard & Withers/York) are valued at \$110/year.
- Tier 3 parking spaces (b/w Withers/York & Chester) are valued at \$55/year.
- If >50% of the space is public the lease rate is 75% of the fair market value.
- If <50% of the space is public the lease rate is 25% of the fair market value.

Manager’s Recommendation: I recommend approval as presented.

Attachment(s): Proposed resolution, R2004-12, & list of current hybrid parking leases.

CITY OF MYRTLE BEACH
COUNTY OF HORRY
STATE OF SOUTH CAROLINA

RESOLUTION AUTHORIZING THE CITY
MANAGER TO EXTEND HYBRID PARKING
SPACE LEASE AGREEMENTS FOR A 10 YEAR
PERIOD WITH ONE AUTOMATIC FIVE YEAR
RENEWAL AT THE OPTION OF THE LEASEE.

WHEREAS, a "hybrid" parking space is one in which a portion of the property is privately owned, and a portion is within the public rights-of-way; and

WHEREAS, on February 4, 2004 the City Council approved the R2004-12 which included the "City of Myrtle Beach Hybrid Parking Plan" to allow the City to lease of the public portion of a hybrid parking space to the contiguous property owner when, at the time of the lease, there is a determination that there is no public need for that public property; and,

WHEREAS, this Plan has meet the needs of many properties initially developed prior to the imposition of current regulations which now require private transient accommodations structures to provide adequate parking for their guests on private property; and,

WHEREAS, R2004-12 set the duration of such leases at 10 years with an automatic five-year renewal; and

WHEREAS, the majority of the leases entered into pursuant to this policy expire in 2019.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF MYRTLE BEACH HEREBY RESOLVES THAT:

1. The extension of these lease hybrid parking space agreements supports City's Council policy goals with respect to enhancing economic development and downtown redevelopment.
2. The City Manager is hereby authorized to renew such leases for a 10-year period with an automatic five-year extension.
3. That all other provisions of R2004-12 shall remain in effect.

SIGNED, SEALED and DATED, this 22nd day of January, 2019.

BRENDA BETHUNE, MAYOR

ATTEST:

JENNIFER STANFORD, CITY CLERK

R2004-12

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)
)
CITY OF MYRTLE BEACH)

PARKING RESOLUTION

Be it resolved that the following parking plan and policy is adopted pursuant to the City's police powers, and is not inconsistent with the constitution and general laws of this State including the just and discretionary exercise of the City's power in relation to roads and streets and is further found necessary and proper for the general welfare, economic vitality and convenience and reduction of confusion of its citizens and visitors in regards to parking.

FINDINGS

City of Myrtle Beach Hybrid Parking Plan

Since the turn of the 20th Century, Myrtle Beach has evolved into a major east coast tourist destination. Motels and hotels have developed over the past 100 years, some large, some small, some on spacious land parcels and some in smaller, more intimate settings. The variety of accommodation facilities in Myrtle Beach and along the Grand Strand has enhanced the vacation experience of our annual guests.

As downtown Myrtle Beach has grown, downtown parking needs have changed. Parking takes various forms, including private parking facilities reserved for customers of private establishments, private parking facilities available to the general public for a fee, public spaces along public rights-of-way offered to the general public free of charge, metered spaces in public parks and some oceanfront streetends, and hybrid spaces that are located partially on private property and partially in the public right-of-way.

As both the tourism industry and the automobile industry have grown, demand for downtown parking has also grown. Although there are approximately 5,000 parking spaces contiguous to the right-of-way east of Kings Highway, there is no comprehensive plan to adequately manage those spaces. The result has been the perception that there is not enough downtown parking, the under-utilization of some parking facilities, and confusion about the ownership, availability, enforcement and allowable uses of some parking spaces.

In a joint meeting of Myrtle Beach City Council, the Myrtle Planning Commission and the Myrtle Beach Downtown Redevelopment Corporation on January 31, 2002, the DRC was directed to draft a parking management plan for the area bounded by 16th Avenue

North, 7th Avenue North, Kings Highway and the Atlantic Ocean, and for all the oceanfront commercial streetends in the city. The Downtown Redevelopment Corporation formed a Parking Subcommittee for the purpose of drafting the parking management plan. The subcommittee met for eleven months, and invited input and active participation from the Myrtle Beach Area Hospitality Association and local motel owners.

The first step in managing downtown parking is the establishment of control of each parking space, particularly the hybrid parking spaces. To that end, the DRC Parking Subcommittee presented a Hybrid Parking Plan to the Downtown Redevelopment Corporation at its meeting on November 13, 2002. The DRC Board of Directors voted at that time to recommend that City Council adopt the Hybrid Parking Plan. City Council subsequently made technical revisions to the DRC plan, including application of the plan citywide, instead of limiting application to the study area.

The goals of the Hybrid Parking Plan, as pertains to City streets, are as follows:

- To establish clear control, either public or private, over every downtown parking space contiguous to the right-of-way.
- To lessen uncertainties as to future policies regarding hybrid parking spaces.
- To clarify and simplify enforcement associated with hybrid parking spaces.
- To create and present to the user a sense of order.
- To maintain adequate public access to the beach.
- To establish parking policies that are fair to private property owners, business owners, and the general public.
- To reduce traffic congestion associated with the "search for the space."
- To adequately meet the public's need for parking.
- To eliminate as much hybrid parking as possible.

Parking spaces that are located entirely within the private property lines are "private."

Parking spaces that are partially located inside the property line are "hybrid."

Parking spaces that are located entirely within a street or alley right-of-way are "public."

City of Myrtle Beach Draft Parking Inventory

During the summer of 2002, Myrtle Beach City staff conducted a comprehensive inventory of all the parking spaces contiguous to, or encroaching within, the public rights-of-way in the commercial districts of Myrtle Beach between Kings Highway and the Atlantic Ocean. To compile the data, staff acquired aerial photographs taken by Horry County in 1998 and digitally overlaid property line maps on top of those aerial photos. The photographs are of sufficient quality to show the painted lines of parking spaces, and the property line overlay was used to determine the relationship of each parking space to each property line. Staff took the photographs into the field, physically counted each parking space, and noted any changes that had occurred since the photographs were taken in 1998. The inventory documents the best information available at the time of the count. Resolution of disagreements regarding the ownership status of

individual parking spaces would require further field observation or a survey of the property in question by a certified land surveyor.

The parking inventory tabulates a total of 2,589 marked public parking spaces, 1,980 hybrid parking spaces, and 280 private parking spaces. Included in these figures are 43 handicap parking spaces in various forms of ownership.

The New Orleans Case

In 1987 the City of New Orleans, Louisiana, leased a street to a private school after rerouting traffic. Property owners and neighborhood associations brought an action to stop the city's closure and lease of a city block to a school, which was the abutting landowner. The Civil District Court dismissed the suit and plaintiffs filed an appeal. The Court of Appeal affirmed the trial court's dismissal. On original submission to the Supreme Court, the Supreme Court reversed the dismissal and ruled that a public street cannot be leased. On rehearing, the Supreme Court reversed itself and held that: (1) the city had authority to lease one block of a public street to a private school, and (2) the city's decision to lease the street was not arbitrary and capricious. In doing so, the court set a precedent that a municipality may have statutory authority to lease for private use a street, or a portion of a street, no longer being used for a public purpose.

Parallels can be drawn between the New Orleans case and the Myrtle Beach hybrid parking situation. Louisiana has home rule, as does South Carolina. The Louisiana Constitution does not specifically forbid the leasing of a temporarily closed street, nor does the South Carolina constitution. The Louisiana statutes contemplate absolute street control by the legislative body. South Carolina common law, state statutes and case law likewise give the city certain broad powers in regards to streets.

Proposal

It is DRC's recommendation that Myrtle Beach adopt a parking space leasing policy based on the New Orleans model. Through this policy, property owners will be allowed to lease the public interest in hybrid or public parking spaces contiguous to their properties. Likewise, in instances where the public need is greater than the private need, the City could lease the private interest in hybrid spaces. To implement such a policy, the public need will have to be assessed, the fair market value estimated for each parking space, and the terms of a lease agreement established.

Public Need:

In most cases, rights-of-way are held by the City to meet the needs of the public. In order to lease a portion of the right-of-way to a private entity, common law requires that there must first be an examination of the public need for, and public benefits of that right-of-way. Multiple public hearings were held to gather data on the public need in specific areas.

The public need for parking is difficult to quantify. No matter how many public parking spaces are available, the public wants more. However, "need" and "want" are two separate issues, and it is a goal of this plan to provide adequate parking spaces to meet the

public need. The City of Myrtle Beach Draft Parking Inventory suggests that the current number of parking spaces available to the public and the geographic distribution of those spaces adequately meet the public need.

The South Carolina Department of Health and Environmental Control, Office of Ocean and Coastal Resource Management (OCRM) regulates that a minimum of six public parking spaces be available at public beach access points every 1/8-mile (660'). Meeting this standard is a requirement of several federal and state funding sources. In Myrtle Beach, OCRM prefers that these spaces be located east of Ocean Boulevard, although spaces directly across the street from a public access point could be included as long as they have adequate signage. Data derived from the City of Myrtle Beach Draft Parking Inventory indicates that this OCRM standard is currently being met. The OCRM regulations allow the required parking spaces to be offered to the public for a reasonable fee. OCRM staff is hesitant to approve privately owned spaces offered to the public without assurances that the spaces will be made available in the long term.

The City recognizes the need to provide adequate handicap parking. In locations where the City determines public handicap spaces are needed, an adequate number of public spaces will be withheld from the leasing program and reconfigured according to ADA standards.

In order to continue to meet or exceed the public need for parking spaces, ideally there should be no net loss of the total number of public parking spaces within the study area, and, in no event should the OCRM standard of six public parking spaces every one-eighth mile be compromised. Although the lease policy outlined in this plan will effectively remove hybrid parking from all city owned streets, and in some case public parking spaces from the public realm, there are several methods through which a "no net loss" requirement may be met:

- Limiting the number of parking spaces that can be leased as described below in the section titled *Leaseable Spaces*.
- Leasing hybrid parking spaces *from* the private sector. Because property owners are limited in the number of spaces that they can lease, remaining hybrid spaces can be leased by the city and clearly marked for use by the general public.
- Converting unleased angled hybrid parking spaces to parallel public parking spaces.
- Installing new public parking spaces where no parking spaces are currently delineated. There is the potential to install an additional 474 on-street public parking spaces within the study area.
- Installing off-street public parking lots.

Fair Market Value

There are several standard methods of establishing real estate value. As compared to other land parcels, a single parking space is restricted in development potential by its small size and, in this application, by its inclusion in the public right-of-way. For this reason, the DRC has used the income approach, as opposed to the sales comparison approach, to establish the value of parking spaces in Myrtle Beach.

Since 1994 the City has managed 73 parking meters in three oceanfront locations: 28th Avenue North, 24th Avenue North and 20th Avenue South. A summary of the revenues generated by those meters can be viewed in Appendix E. Annual revenues increased substantially in the first two years of operation, and then leveled off. The average annual income per space between July 1997 and June 2002 is \$219.20.

It would be unrealistic to assume that parking income potential remains constant throughout the city. Property values decrease as one moves away from the first tier properties east of Ocean Boulevard. Based on interviews with Myrtle Beach commercial real estate brokers, second tier properties (those between Ocean Boulevard and Withers Drive or York Street) are worth approximately 50% of the value of similar properties on the oceanfront, and third tier properties (those between York Street or Withers Drive and Chester Street) are worth approximately 25% of the value of similar properties on the oceanfront.

Therefore it is concluded that:

- The current fair market value of a first-tier parking space is \$220 per year.
- The current fair market value of a second-tier parking space is \$110 per year.
- The current fair market value of a third-tier parking space is \$55 per year.

Lease Terms

The following terms are subject to City Council approval of all legal documents.

Lease Amounts:

There are potentially two types of parking spaces that could be managed through a New Orleans-style lease agreement: hybrid parking spaces, which consist partially of private property and partially of public right-of-way; and public spaces that consist entirely of public right-of-way and are contiguous to private property. Each hybrid space is unique in its percentage of private property. A precise method of determining the lease amount of each hybrid space would include conducting a land survey of each space, determining the exact square footage of public right-of-way included within the boundary of that space, and pro-rating the value of the space for each square foot of public land. Although precise, this method of determining the lease amount is costly and time consuming.

As a more practical method, a more general determination is made based on the approximate percentage ownership of each parking space:

- If 50% or more of the hybrid parking space consists of public right-of-way, the lease amount will be 75% of the fair market value of the entire parking space.
- If less than 50% of the hybrid parking space consists of public right-of-way, the lease amount will be 25% of the fair market value of the entire parking space.
- If the parking space is entirely public, the lease amount will be 100% of the fair market value of the entire parking space.
- If the approximate percentage of ownership cannot be agreed upon, the private property owner may, at his or her expense, have a certified land survey conducted within six months of the lease date that demonstrates exact percentage ownership. In this case, the lease amount will be the exact percentage of public ownership times the fair market value of the entire parking space.

The following two examples illustrate the lease amount valuation process:

Example 1: A hybrid parking space with more than ½ of its square footage falling in an oceanfront streetend:

Fair Market Value	X	% Ownership Factor	=	Lease Amount
\$220	X	.75	=	\$165.00

Example 2: A hybrid parking space with less than 1/2 of its square footage falling in the Chester St. ROW:

Fair Market Value	X	% Ownership Factor	=	Lease Amount
\$55	X	.25	=	\$13.75

Swapping Spaces:

Consideration exchanged for the lease amount does not necessarily have to be monetary. The city's interest in a block of hybrid spaces could be "swapped" for private parking spaces or private interest in hybrid parking spaces of equal market value, or on a pro rata basis similar to the lease amount formula.

Lease Duration:

It is not the intention of the City of Myrtle Beach to provide parking for private businesses in perpetuity. Leases will be for a 10 years, with a five-year automatic renewal. Property owners are encouraged to develop adequate parking on private property before the end of the lease period. If non-conforming properties are brought into compliance with the parking code before the end of the lease period, the lease shall be terminated.

As stated earlier, the right-of-way is held in trust by the City to meet the needs of the public. Lease agreements will be based on the determination at the time of the lease that there is no public need for the land being leased. If, during the lease period, the City Council identifies a public need for any particular leased right-of-way, the lease will be terminated at the request of the City and prorated lease amounts refunded.

Lease Assignability:

Parties to the parking space leases will be limited to the City of Myrtle Beach and the contiguous property owner. Parking space leases may be assigned to the new property owner in the event that the contiguous property is sold during the lease period. Under no circumstances shall the lease be assigned, nor leased spaces sub-leased, to a party not in ownership of the contiguous property.

Lease Payments:

Lease payments will be made in the amount of one half upon the signing the lease, which shall be no later than May 15 of the year, and one half shall be due on September 15 of

each year. Failure to pay the promised amounts by September 15 shall result in an automatic cancellation of the lease, with no possibility of renewal. For the year 2004 only, one half of the total amount shall be paid by September 15, 2004 and that amount shall be accepted by the City as payment in full for that year.

Maintenance and Liability:

Maintenance of the parking space, including painting, paving and cleaning, will be the responsibility of the Lessee. In addition, the Lessee will be required to insure the leased parking space and fully indemnify the City of Myrtle Beach against any and all liability claims.

Parking Requirements

Compliance requirements spelled out in Article VII of the Zoning Code of the City of Myrtle Beach are in no way over-ridden by any parking space lease agreements entered into as a result of this parking management plan. There are various properties in the downtown area that do not meet the current parking requirements mandated by the Zoning Code. Non-conforming properties redeveloped as indicated in section 703.4 of the Zoning Code must include, within the property boundary lines, the number of parking spaces required by code.

Unleased Spaces

In situations where a property owner cannot or will not lease the public portion of the contiguous hybrid parking spaces, the city may either:

- A. Lease the private portion of the hybrid spaces from the contiguous property owner and treat those spaces as public spaces; or
- B. Install a curb with parallel public spaces or other streetscape improvements on the public side of the property line. In this case the property owner may develop the private portion of the space according to City Code.

Lease Revenues

Revenues generated by the parking space lease program should be used for the following improvements:

- Installing new public parking spaces, lots and garages.
- Leasing of hybrid spaces from private property owners.
- Placing overhead utilities underground.
- Installing sidewalks where there are none.
- Improving roadways and sidewalks where needed.
- Installing lighting to increase the safety of the roadways and sidewalks.
- Providing new or enhanced public services and facilities.

Provided, however, that revenues generated from within the DRC jurisdiction area be used by the DRC for parking improvements.

Alternative to a Lease Agreement

On a case-by-case basis, the City is open to the possibility of swapping ownership of city property, including the city's portion of a hybrid parking space, for private property of

equal public value. Property owners interested in proposing such an arrangement should present their offer to the Myrtle Beach City Council.

THEREFORE, BE IT RESOLVED that the following standards shall apply.

Leasable Space in regards to City owned streets:

1. All hybrid non-streetend spaces may be leased, regardless of code requirements, based upon the standard of contiguity and appearance / reduction of visitor confusion;


Then:

2. Maintain a minimum of 4 public spaces in each streetend. All remaining hybrid spaces in the streetend may be leased, based upon the standards of contiguity & appearance / reduction of visitor confusion. Meter poles in streetends will be removed in the off season.
3. All remaining public spaces may be leased, based upon the standard of contiguity, up to the minimum number of spaces required by code. Council will entertain proposals of land swap, purchase or lease.
4. City will not put meters on hybrid spaces on state roads.

Resolved this 24th day of February, 2004 by the Mayor and City Council of the City of Myrtle Beach.



Mark S. McBride, Mayor

Attest: 

Joan Grove, City Clerk

Hotel Name	Annual Hybrid Parking Lease Amount	Hotel Name	Annual Hybrid Parking Lease Amount
7 Brothers Motel	\$ 577.50	Jamaican Motor Inn	\$ 2,200.00
Admiral Inn/I & I Corporation	\$ 1,815.00	Kingston Inn	\$ 220.00
Aqua Beach Inn	\$ 55.00	Lazy G Motel	\$ 440.00
Aquarius I & III/Landlubber LLC	\$ 866.25	Low Tide Bar/Red Hotte Shop	\$ 220.00
Aquarius IV	\$ 1,100.00	Mid-Town Cottages	\$ 605.00
Aquarius Motel V	\$ 343.75	Mid-Town Motor Inn & Cottages	\$ 220.00
Aquarius Motel, Landlubber LLC	\$ 96.25	Mystic Sea Motel	\$ 742.50
Atlantic View Court	\$ 783.75	Mystic Sea Resort	\$ 220.00
Bermuda Sands	\$ 1,210.00	Oasis Motel	\$ 440.00
Best Western Grand Strand 1	\$ 756.25	Olympic Flame Restaurant	\$ 880.00
Best Western Grand Strand 2	\$ 3,960.00	Plantation Inn, dba Super 8	\$ 1,155.00
Blake Motel	\$ 1,430.00	Polynesian Beach & Golf Resort	\$ 2,310.00
Boardwalk Motel LLC	\$ 5,500.00	Quality Inn & Suites	\$ 715.00
Boulevard Group LLC	\$ 440.00	Roxanne Towers	\$ 880.00
Breakers	\$ 1,540.00	Sail Inn Motel	\$ 3,685.00
Budget Inn	\$ 1,210.00	Sand Bucket Motel Corp.	\$ 137.50
Calypso Motor Inn	\$ 948.75	Sea Dip Motel	\$ 770.00
Carolina Tar Heel	\$ 893.75	Sea Dunes Oceanfront	\$ 2,145.00
Coastal Breeze	\$ 55.00	Sea Echo Motel	\$ 220.00
Coral Sands Motel	\$ 2,585.00	Sea Hawk of Myrtle Beach, LLC	\$ 3,300.00
Court Capri Motel	\$ 2,365.00	Sea Mist Oceanfront Resort	\$ 18,892.50
Diplomat Motel	\$ 1,650.00	Sea Nymph Motel	\$ 1,210.00
El Dorado Motel	\$ 1,320.00	Sun Fun Motel	\$ 495.00
First Presbyterian Church	\$ -	Sunrise Motel	\$ 330.00
Fountainbleau Inn	\$ 495.00	Super 8	\$ 3,960.00
Happy Holiday Hotel, RIN LLC	\$ 1,485.00	Towers Motel	\$ 302.50
Holiday Pavilion	\$ 550.00	Vancouver Motel	\$ 3,520.00
Holiday Sands North, Inc.	\$ 1,540.00	Viking Hotel, LLC	\$ 1,237.50
Holiday Sands South, Inc.	\$ 825.00	Waikiki Village, Inc.	\$ 1,100.00
Indigo Inn	\$ 3,520.00	Windsurfer Hotel	\$ 2,750.00

Current Hybrid Parking Leases