

# THE BRUNSWICK NEWS

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## Lawsuit claims county abused powers for Sea Island

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The Glynn County Commission abused its power and violated local and state laws to change an ordinance so the Sea Island Co. can complete a beach development project, a lawsuit filed this week in Superior Court claims.

The filing makes the county the target of a second lawsuit alleging it didn't follow its own rules when approving an amendment to zoning ordinances.

David Kyler, executive director of Center for a Sustainable Coast, and island resident Frances Zwenig are the plaintiffs in a complaint for declaratory judgment and injunctive relief in which they allege an amendment the county commission voted on in May to change ordinances pertaining to sand and dune protection was unlawfully approved.

Zwenig and members of the center who live on St. Simons Island and use East Beach would be negatively impacted by a beach renourishment plan proposed by Sea Island Co., the complaint alleges, and they were not given adequate notice or time to comment on the amendment. The amendment allowed the county's Community Development Department to approve the beach plan.

Sea Island's plan includes building a new rock groin south of The Beach Club and the placement of sand along the island's beach.

Taking all the alleged violations together, the complaint states the "amendment constitutes special legislation for a private entity," the Sea Island Co., and "it was prompted by and enacted on behalf of Sea Island Company to support a

beach development project by Sea Island Company to create additional beach on Sea Island for the development of eight high-end homes, among other things."

The "sole purpose" of the amendment was to allow the Sea Island Co. to get a letter from county staff certifying its beach management plan was compliant with the county's ordinances, which Sea Island would need to get a permit from the Department of Natural Resources, the complaint alleges.

Community Development Director Pamela Thompson said in May that existing ordinances could have been interpreted as prohibiting the beach management plan. Previous directors had apparently not interpreted the rules that way, she said, as the county has approved beach renourishment projects for Sea Island in the past.

The center and Zwenig are seeking an injunction "requiring Glynn County to rescind the certificate of compliance issued for the Sea Island beach development project and prohibiting the authorization of any projects or activities or the issuance of any permits under the amended ordinance."

In addition, they ask Glynn County Superior Court Judge Roger Lane to declare the ordinance amendment void and in violation of county code and state law, that its passage "constituted a manifest abuse" of the county commission's zoning power and require the county to rescind the letter of compliance given to the Sea Island Co.

“The zoning ordinance amendment was not adopted in accordance with Glynn County’s own zoning ordinance procedures, thereby rendering the amendment invalid,” the complaint states.

The two primary claims are that the “amendment was not properly initiated by Glynn County as required by the Glynn County code,” and that the “amendment was enacted without proper notice and opportunity for the public to participate in and comment on the ordinance amendment.”

Public notices in The News’ classifieds section didn’t meet the requirements for public notice laid out in the county’s ordinances and in state zoning procedures, the complaint alleges.

“The public notices given by Glynn County in The Brunswick News on April 28, 2018, and April 30, 2018, were insufficient because the proposed ordinance amendment had not yet been drafted ... Where the language of the proposed ordinance amendment being considered did not even exist at the time public notice was published there cannot be said to have been proper notice and opportunity to comment,” the complaint states.

Indeed, the first draft given to the public wasn’t available until just before the Islands and Mainland planning commissions met to make a recommendation on it. The final draft of the amendment was not made available until the day of the meeting at which the county commission approved it.

County ordinances require public notices of ordinance amendments include a description of the

amendment in question. The complaint alleges the language of the amendment didn’t exist when the public notices were given, meaning they couldn’t offer a proper description — a violation of local ordinance and state law.

The complaint alleges another violation of county code in that planning and zoning staff initiated the amendment.

The county zoning ordinance section dealing with amendments states “Ordinance amendments may be initiated by the (county commission), planning commission, or the owner(s) of property within Glynn County.”

County staff can’t initiate amendments, the complaint claims.

It also claims the county didn’t allow enough time between the planning commissions’ recommendation and the county commission’s final decision for “all papers and data pertinent to the proposal” to be collected and distributed to county commissioners, as required by local law.

Glynn County Attorney Aaron Mumford said he and his staff are reviewing the lawsuit but declined to comment on it.

Glynn County is involved in another lawsuit with nine St. Simons Island residents and one Sea Island resident. In that lawsuit, the residents claim the county committed similar violations of its zoning ordinance and state law by approving two amendments in June, which stripped the planning commissions of some of their authority.

# THE BRUNSWICK NEWS

LETTERS TO THE EDITOR

JUNE 7, 2018

## Beach ordinance amendment not properly passed

**Background:**

*The amendment under consideration would (among other things) replace – temporarily, just for this project – DNR advice for the advisory role of the planning commission. The project being accommodated by the amendment includes restoring extensively eroded portions of the Sea Island “Spit,” where a controversial 8-lot subdivision had been proposed. This development was widely opposed due to high-risk exposure to storm-surge and flooding. These apprehensions were confirmed by severe hurricane damage to the area in 2016 and again in 2017. Despite the proven unsuitability of the Spit for development and related threats to public safety, surrounding property, and the environment, project proponents persist in advancing it with the help of local political officials. State and federal permits have also been applied for.*

The Glynn County Commission recently held a public hearing on proposed amendments to the Beach and Dune Ordinance. Perplexing questions remain unanswered regarding how and why the proposal was initiated, as well as time available for public review of the final proposal.

Ordinance amendments adopted at the May 17 meeting were significantly different than the publicly posted text. Substantial revisions in the proposed amendments were recommended by the planning commission only two days before the board meeting.

The primary purpose of legal requirements for advanced public notice and circulation of applicable text for public review was undermined through the hasty action taken by the county commission. Revisions presented were made publicly available only a few minutes prior to the board adopting them. Due to this violation of the regulatory intent of notification procedures, concerned citizens were deprived of sufficient time to review and evaluate the amendments.

Furthermore, the amendments were intended to exclusively accommodate a beach renourishment project proposed on Sea Island. A portion of that scheme includes depositing sand along a 1200-foot-long fragment on the island’s south end, reviving contentious plans to develop the “Spit.”

That development proposal, previously withdrawn due to ravaging hurricanes, had been particularly controversial because of extremely high risk of flooding and storm-surge. Dangers on the Spit are deemed so extreme that federal flood-insurance is not even available.

Damage caused by hurricanes Matthew and Irma unmistakably validates precautionary deterrents.

By approving the amendments, the board disregarded procedural intent and encouraged hazardous, speculative development at the public’s expense.

David Kyler, Center for a Sustainable Coast