
From: Myrtle Beach Minute <david@myrtlebeachsc.com>
Sent: Thursday, June 30, 2016 4:16 PM
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Subject: Re: Update---Horry County Students for Free Beach Parking Access in Myrtle Beach

Dear J.J.

As promised, our article just went live now at: <http://www.myrtlebeachsc.com/locals-protest-new-parking-fees-july-1st/>

We applaud your graduates and the Residents Rights leaders in Carolina Forest for all efforts in this matter.

We do ask all of County Council emailed here to not allow the City of Myrtle Beach to lease the county Free Beach lands south of Springmaid beach.

MyrtleBeachSC.com would also ask Chairman Lazarus and all on county council to call an immediate end to Tourist Taxes being currently charged Carolina Forest residents inside the Carolina Forest neighborhood.

As all know, by law, it is illegal to charge those taxes in Carolina Forest.

Sincerely,

David Hucks



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On Tue, Jun 28, 2016 at 3:49 PM, JJ Iagulli <JJagulli@horrycountyschools.net> wrote:

Good Afternoon,

I am e-mailing you to give you an update on the efforts of my former students (now graduates of Carolina Forest High School) regarding the City of Myrtle Beach and their beach access parking regulations. First I

want to thank you for covering this issue and the response my students. They have really appreciated it and it's motivated them to keep working on this issue.

With that in mind there are two updates I want to share with you:

1-Friday, July 1st, is the first day the Myrtle Beach parking ordinance takes effect. The students are calling that "Free the Beach Day" and they have made a Facebook event that they are asking people to take some action that day. The link is below.

<https://www.facebook.com/events/247426658972718/>

2-The students did a brief presentation to the Horry County Council on June 7th in the form of a speech that highlights key research they have done regarding the parking issues. They asked me to share that with all of you. The text of that presentation is below.

Thanks again for your coverage!

Good Evening Councilman,

As Mr. Iagulli said we have spent a lot of time researching the various aspects of the beach access parking ordinance passed by the City of Myrtle Beach in May. We have focused our research on issues that pertain to the fact that a line of access has been clearly drawn between city residents and non-residents, which is very concerning in a legal sense and directly in conflict with decades of local history. Therefore, we wanted to take the time to highlight some key points in hopes that this body will make an effort on behalf of non-residents to resolve this parking issue.

First, we understand that the city of Myrtle Beach is allowed to charge for beach access parking under laws like the Comprehensive Planning and Enabling Act. However, the city of Myrtle Beach has gone a step farther by identifying a difference between those who live in the city and those who live outside the city. They claim there is a difference due to the fact that those of us outside the city limits do not pay city property taxes. That level of scrutiny would be legally acceptable for treating people differently in regards to things like higher fees for using city recreational services or denying non-residents trash removal, but it cannot be a legal reason that differentiates between parking for beach access, especially when that beach access is paid for by state and local taxes. Our research indicates that there are actually many more reasons why we should be treated the same as city residents than why we should not. Please consider the following examples:

-Horry county residents pay property and gas taxes that help pay for law enforcement and roads both inside and outside of the city of Myrtle Beach. The city relies on the help of county and state law enforcement and roads when they have large events. Case in point is the recent Memorial Day bike weekend where many non-Myrtle Beach law enforcement and county roads were utilized in an effort to help maintain safety for an event that centralizes in the city of Myrtle Beach.

-Horry County residents pay Myrtle Beach Hospitality fees, Accommodations taxes and Local Option Tourism Taxes when purchasing goods and services in Myrtle Beach. According to state law and the 2014 South Carolina State Supreme Court case known as the *City of Myrtle Beach v. Tourism Expenditure Review Committee*, **the city takes a portion of that tax money and uses it for "public facilities and street maintenance expenditures"**. So not all of that revenue goes for advertising for tourism.

-Horry County residents pay state taxes that have been used specifically for beach access dune walk-overs. According to DHEC records the state of South Carolina gave the city of Myrtle Beach money in 2012 and

2014 for the renovation of six dune walk-overs. **Those six include 29th Avenue North, 37th Avenue North, 39th Avenue North, 62nd Avenue North, 21st Avenue South and 27th Avenue South.**

-Horry County residents pay federal taxes that have been used for beach renourishment. Recently President Obama signed into law the **Consolidated Appropriations Act of 2016 which gives the Myrtle Beach area up to \$350 million in federal funding for beachfront renourishment.**

There are other legal issues that do not focus on tax revenue and must also be considered in this case. These issues center around the discrimination of beach access that the parking fees are intended to create. Consider the following examples:

-The Public Trust Doctrine is the principle that the state government holds in **trust** for the **public** use some resources such as the shoreline between the high and low tide lines, regardless of private property ownership. According to the **South Carolina Coastal Tidelands and Wetlands Act and the 2003 case *McQueen v South Carolina Coastal Council*, the SC government holds the “public trust” for anything below the “wet line”.** We recognize beach access parking is above the “wetline” however...

- The Coastal Tidelands and Wetlands Act requires coastal municipalities to **protect and to promote increased public access to South Carolina's beaches for out-of-state tourists and South Carolina residents alike and those communities must demonstrate they provide “full and complete public access” to the beach.**

-Although the public trust in South Carolina is legally defined by the land below the “wet line” there is precedent in other states that our South Carolina supreme court may agree has “persuasive authority” in this circumstance. Two examples from other states focus on the restriction of perpendicular beach access. ---In **Thornton v Hay the Oregon state supreme court held that the public had a right of access to all of the state’s dry sand beaches by virtue of a long history of customary use.** ---And in an identical situation as the one we face now, the **New Jersey state supreme court ruled in the case *Borough of Neptune City v. Borough of Avon-by-the-Sea*, that a municipality could not charge higher fees to non-residents than to residents for use of its municipally owned beaches, and recognizing that public trust rights include recreational uses.** Please note that those New Jersey beaches were owned by the local municipality and they *still could not discriminate* by charging a different fee.

-Finally, other South Carolina coastal municipalities are charging fees for beach parking but all have free parking until those lots are full, their fees are not established to discriminate against non-residents of the city and county residents can buy a pass to park anywhere in beach access lots.

We really appreciate you allotting a moment of your time to address this topic.

JJ Iagulli
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Go Panthers!