Town of Hilton Head Island

Town Council Meeting

Tuesday, January 16, 2024, 3:00 PM
1 Town Center Court, Hilton Head Island, SC
Benjamin M. Racusin Council Chambers

The meeting can be viewed on the Town's YouTube Channel, the Beaufort County Channel, and Spectrum Channel 1304.

1. **Call to Order**
2. **Pledge to the Flag**
3. **Invocation – Rabbi Brad Bloom, Congregation Beth Yam**
4. **Adoption of the Agenda**
5. **Approval of the Minutes**
   - **a.** Regular Meeting Minutes of December 5, 2023
6. **Presentations and Recognitions**
   - **a.** Report of the Town Manager
   - **b.** Proclamation Recognizing Second Helpings - Mayor Alan Perry
   - **c.** Office of Cultural Affairs Update - Natalie Harvey, Director of Cultural Affairs
   - **d.** Town of Hilton Head Island Financial Audit Presentation for the Fiscal Year Ending June 30, 2023 - Trey Scott, Partner - Mauldin & Jenkins, LLC CPAs
   - **e.** Discussion of a South Carolina Attorney General Opinion Pertaining to Act 57 of 2023 - Josh Gruber, Deputy Town Manager
7. **Reports from Members of Town Council**
   - **a.** General Reports from Town Council
   - **b.** Report of the Lowcountry Area Transportation Study – Glenn Stanford
   - **c.** Report of the Lowcountry Council of Governments – Tammy Becker

d. Report of the Beaufort County Airports Board – David Ames

e. Report of the Southern Lowcountry Regional Board – Glenn Stanford

f. Report of the Island Recreation Association Board – Alex Brown

g. Report of the Community Services and Public Safety Committee – Tammy Becker

h. Report of the Public Planning Committee – David Ames

i. Report of the Finance and Administrative Committee – Alex Brown

8. Appearance by Citizens: Citizens who wish to speak on the matters being discussed during the meeting may do so by submitting the Request to Speak form no later than 12:00 PM the day of the meeting.

9. Executive Session

a. Discussion of Legal Advice from Town Attorney on Matters Covered Under the Attorney - Client Privledge Related to Active and Pending Litigation (Pursuant to The South Carolina Freedom of Information Act Section 30-4-70 [a][2]) related to: State of South Carolina v. Calvin Coral Hoagland

b. Discussion of Negotiations Incident to the Proposed Contractual Arrangements Related to the William Hilton Parkway Gateway Corridor Project (Pursuant to South Carolina Freedom of Information Act Section 30-4-70 [a][2])

c. Discussion of Negotiations Incident to Proposed Contractual Arrangements and Discussions for the Proposed Sale or Purchase of Property (Pursuant to the South Carolina Freedom of Information Act Section 30-4-70 [a][2]) related to:

1. William Hilton Parkway Area
2. Cordillo Parkway Area
3. Marshland Road Area
4. Wild Horse Road Area
5. Muddy Creek Road Area
6. Squire Pope Road Area

d. Discussion of Personnel Matters Relating to Town Manager Performance Review (Pursuant to South Carolina Freedom of Information Act 30-4-70 [a][1][2])

10. Action from Executive Session

11. Adjournment

FOIA Compliance: Public notification of this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act and the requirements of the Town of Hilton Head Island.

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 ("ADA"), the Town of Hilton Head Island will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities. Auditory accommodations are available. Any person requiring further accommodation should contact the Town of Hilton Head Island ADA Coordinator as soon as possible but no later than 48 hours before the scheduled event.

Municipal Association of South Carolina (MASC) Civility Pledge:
"I pledge to build a stronger and more prosperous community by advocating for civil engagement, respecting others and their viewpoints, and finding solutions for the betterment of my city or town."

Town of Hilton Head Island
TOWN COUNCIL MEETING
Tuesday, December 5, 2023 - 3:00 PM
Minutes

Call to Order

Mayor Perry called the meeting to order at 3:00 p.m.

Council Members present: Alan Perry, Mayor, David Ames, Ward 3, Mayor Pro-Tempore; Alex Brown, Ward 1; Tammy Becker, Ward 4; Steve Alfred, Ward 5; Glenn Stanford, Ward 6.

Council Members absent: Patsy Brison, Ward 2.

Invocation

Reverend John Joseph of Providence Presbyterian Church delivered the invocation.

Adoption of the Agenda

Ames moved to approve. Stanford seconded. Motion carried 6-0.

Approval of the Minutes

Regular Meeting Minutes of November 7, 2023

Stanford moved to approve. Ames seconded. Motion carried 6-0.

Workshop Meeting Minutes of November 9, 2023

Stanford moved to approve. Ames seconded. Motion carried 6-0.

Report of the Town Manager

Orlando reported that the Hilton Head Island Knights of Columbus Assembly 2280 recently presented the Jack Cavagnaro Public Service Award to Hilton Head Island Fire Rescue Captain BJ Ferguson. He stated the award is presented to an emergency services member that demonstrates a professional and personal commitment to serving and protecting our Island Community and its citizens. He congratulated Captain Ferguson and thanked him for his dedication to Hilton Head Island.

Orlando stated the South Carolina Chapter of the American Planning Association

(SCAPA) held its Annual Fall Conference at the Westin on Hilton Head Island in early November. He explained Shea Farrar, Principal Planner, is the President elect of SCAPA and she and her team organized the conference. He also recognized Missy Luick, Director of Planning, who conducted a session on the Town's commitment to workforce housing. Darrin Shoemaker and Karla Vinent, from Public Projects and Facilities, led a bicycle tour that highlighted the Island's pathways and historic areas along with Frank Babel of BikeWalk HHI. Also, a guided tour of Historic Mitchelville Freedom Park was led by Ahmad Ward, Cora Miller and Dr. Louise Cohen. He thanked all for the contributions in making the event a success.

General Reports from Town Council

Becker requested that all advisory committee members be vetted though the Community Services Public Safety Committee. She also requested that all committee meetings be live streamed, allow for citizen input, and provide reports to Council regarding their progress.

Stanford noted he attended the Christmas Tree Lighting last weekend noting it was an incredible event with great attendance.

Perry reported the recent Honored Islanders that received recognition for their contributions to Hilton Head Island included: Brenda Bruce, Chet Williams, Charlotte Sanford, Gill and Marriet Campbell, Tricia Lynch, Vince Schultz, Tim Reynolds and Steve Stauffer.

Perry reported that Town council has received a request from Beaufort County for municipal consent for the bridge. He stated no action has been taken regarding the request and Council has not had any discussions regarding the request. He said the item will be brought forward to Council in January.

Report of the Lowcountry Area Transportation Study – Glenn Stanford

Stanford reported they are currently looking at long-range planning for transportation needs in the broader Lowcountry area. He noted the projects that would directly affect Hilton Head Island in the long-term is a review of the Gumtree Road intersection for improvements. Stanford added there is a placeholder for considering a second bridge to the Island that is placed ten years out before the study would even begin. Alfred and Becker requested the study regarding a second bridge be considered sooner.

Report of the Lowcountry Council of Governments – Tammy Becker

No report.

Report of the Beaufort County Airports Board – David Ames

No report.

Report of the Southern Lowcountry Regional Board – Glenn Stanford

No report.

Report of the Island Recreation Association Board – Alex Brown

No report.

Report of the Community Services and Public Safety Committee – Tammy Becker

Becker reported the Committee met in November and received a presentation regarding environmentally friendly landscaping and ground maintenance practices. She stated it was decided a trial will be conducted to see the impacts of using a non-hazardous treatment to manage landscaping needs.

Report of the Public Planning Committee – David Ames

Ames reported the Committee met on November 9 and discussed the proposed district plans.

Report of the Finance and Administrative Committee – Alex Brown

No report.

Appearance by Citizens

Melinda Tunner addressed Council regarding the independent study of the William Hilton Parkway Gateway Corridor. She noted her concern that the placeholder for funding for the project may be jeopardized. She encouraged evaluating the options and ensuring that the guiding principles are followed when making a final decision about the design. Tunner also requested meetings be recorded for viewing.

Skip Hoagland addressed Council regarding compliance of the law and the need for a forensic audit.

Skip Hoagland addressed Council stating it was on behalf of Lynn Greeley. Perry informed him Council does not accept powers of attorney. Mr. Hoagland disregarded the Mayor's comments and continued to speak regarding the Finance and Administrative Committee.

Gray Smith addressed Council requesting all advisory committee meetings be live streamed for viewing.

Blaine Grindle addressed Council regarding noise levels in the area of the Hilton Head Island Motor Coach Resort and the negative effect they have on the residents and visitors.

Peter Kristian addressed Council requesting expedition of the William Hilton Parkway 278 Corridor Project noting he is struggling obtaining employees due to the lengthy commute over the bridge.

New Business

Consideration of a Resolution of the Town of Hilton Head Island Approving the Recommendation from the Accommodations Tax Advisory Committee for the Calendar Year 2024 Grants – Josh Gruber, Deputy Town Manager

Gruber stated the Accommodations Tax Advisory Committee spent multiple hours receiving, reviewing, vetting, and meeting with each applicant individually and has brough forward the recommendations included in the packet. He noted that in the request from Sea Turtle Patrol there was a clerical error in the application which has been corrected. Based upon the correction, staff recalculated the ability to fund them under the TERC formula. It was determined they qualified for full funding. With that in mind, the Committee recommends they receive the full request of $70,000.

Ames moved to support the Resolution by Town Council for the Town of Hilton Head Island, South Carolina, approving the 2024 Accommodation Tax Grants as presented by the Accommodations Tax Advisory Committee, with the amendment to increase the Accommodation Tax Grant for Sea Turtle Patrol Hilton Head Island from $55,040 to $70,000. Stanford seconded.

Mayor Perry asked for public comment.

Skip Hoagland addressed Council stating his opposition to the Hilton Head Island Bluffton Chamber of Commerce receiving funding.

Keith Schlegel, Accommodations Tax Advisory Committee member, addressed Council thanking them for their support. He noted the Committee spend countless hours analyzing thousands of pages before making their recommendations.

Becker noted her concern regarding next year's allocations due to the allowance of up to 15% of the funds to be allocated to workforce housing and if done, the impact it would have on the organizations that receive funding.

Motion carried 6-0.

Consideration of a Resolution to Adopt a Master Plan for Patterson Family Park - Shawn

Colin, Assistant Town Manager, Community Development

Colin conducted a presentation regarding the process, timeline and input for the park. He noted there has been a lot of input between the Town and the residents in this particular area and the comments and input received have been incorporated into the plan. He reviewed the proposed Master Plan.

Ames moved to approve. Stanford seconded. Motion carried 6-0.

Consideration of a Resolution to Adopt a Master Plan for Taylor Family Park - Shawn Colin, Assistant Town Manager, Community Development

Colin conducted a presentation regarding the process, timeline and input for the park. He noted there has been a lot of input between the Town and the residents in this particular area and the comments and input received have been incorporated into the plan. He reviewed the proposed Master Plan.

Ames moved to approve. Stanford seconded. Motion carried 6-0.

Motion carried 6-0.

Executive Session

Ames moved to go into Executive Session for the reasons stated by the Town Manager as listed below. Stanford seconded. Motion carried 6-0

Discussion of Legal Advice from Town Attorney on Matters Covered Under the Attorney - Client Privilege Related to Active and Pending Litigation (Pursuant to The South Carolina Freedom of Information Act Section 30-4-70 [a]) related to: State of South Carolina v. Calvin Coral Hoagland

Discussion of Personnel Matters Relating to Town Manager Performance Review (Pursuant to South Carolina Freedom of Information Act 30-4-70 [a])

Action from Executive Session

Ames moved to end Executive Session and return to the regular meeting. Stanford seconded. Motion carried 6-0. Ames stated there was no action taken during Executive Session and no items to be addressed as a result of Executive Session.

Adjournment

The meeting was adjourned at 5:23 p.m.

Approved:

Kimberly Gammon, Town Clerk

Alan R. Perry, Mayor

The recording of this Meeting can be found on the Town's website at www.hiltonheadislandsc.gov

The Town of Hilton Head Island

Commendation Honoring Second Helpings

WHEREAS, over 20,000 residents of Beaufort, Jasper, and Hampton counties cannot afford all the food that they need and suffer food insecurity; and

WHEREAS, Second Helpings is the only nonprofit food rescue organization striving to eliminate hunger in this area and provides food, free of charge, for our neighbors in need; and

WHEREAS, this organization was started on Hilton Head Island in 1991 by residents who were concerned with feeding the hungry; and

WHEREAS, 158 residents of Hilton Head Island (and 459 throughout the area) volunteer with Second Helpings each year; and

WHEREAS, local grocery stores and other outlets voluntarily donate food for rescue instead of filling our landfills with food that is acceptable for consumption; and

WHEREAS, the community supports Second Helpings through grants, food drives, direct donations, and other ways, and

WHEREAS, Second Helpings provides rescued and supplemental food to eight food pantries, soup kitchens and family programs on Hilton Head Island (and 54 throughout the area); and

WHEREAS, this organization has recently rescued its 50 millionth pound of food that is distributed free to our neighbors in need.

NOW, THEREFORE, I, Alan Perry, Mayor of the Town of Hilton Head Island, South Carolina, do hereby commend **Second Helpings** for rescuing its 50 millionth pound of food for the residents of our community.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused this seal of the Town of Hilton Head Island to be affixed this 16th day of January, in the year of our Lord, two thousand and twenty-four.

Alan R. Perry, Mayor

Office of Cultural Affairs

Update – July through December

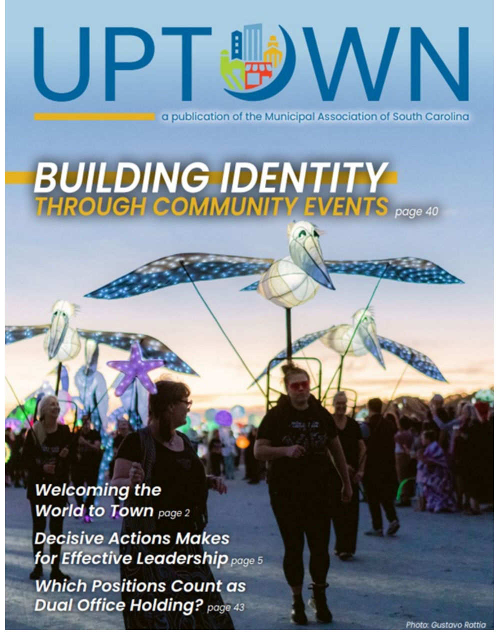
Natalie Harvey - Director

HILTON HEAD ISLAND TOWN COUNCIL
JANUARY 16, 2024

Office of Cultural Affairs

Ongoing Activities & Programs

- Promote Hilton Head Island’s Art, Culture, and History
- Increase the community’s access to cultural, historical, and artistic experiences.
- Create and implement community-oriented programs, events, and experiences connected to arts and culture.
- Public Art Projects
- Outreach, Community Engagement, and Special Events
- Crescendo and Lantern Parade

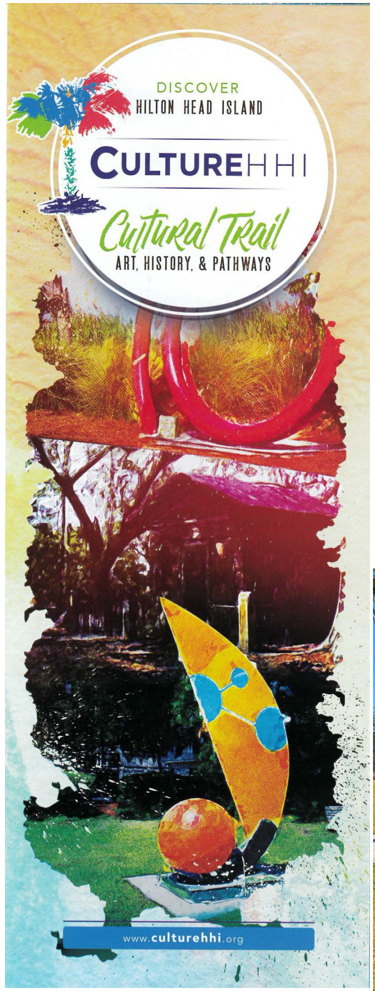

UPTOWN
a publication of the Municipal Association of South Carolina
BUILDING IDENTITY THROUGH COMMUNITY EVENTS page 40
Welcoming the World to Town page 2
Decisive Actions Makes for Effective Leadership page 5
Which Positions Count as Dual Office Holding? page 43
Photo: Gustavo Rattia


OFFICE OF CULTURAL AFFAIRS
Hilton Head Island
CULTUREHHI NEWSLETTER


Crescendo
A MONTH LONG CELEBRATION OF ARTS, CULTURE & HISTORY ON HILTON HEAD ISLAND
OCTOBER 7 - NOVEMBER 18
MITCHELVILLE


LANTERN PARADE
OFFERS CHANCE TO GET LIT UP AND ENJOY BEACH STROLL
MITCHELVILLE


THE ARTIST'S GALLERY
@ Island Rec
OFFICE OF CULTURAL AFFAIRS



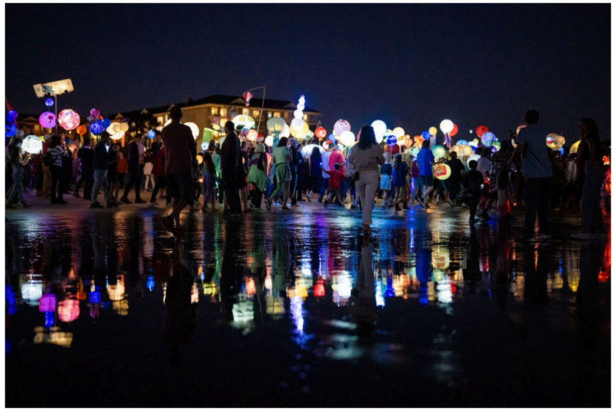
POETRY TRAIL
HILTON HEAD ISLAND
EST. 2022


HILTON HEAD
COMMUNITY
MARKET
OCTOBER 7TH — NOVEMBER 18TH
CRESCENDO
HHI'S ANNUAL CELEBRATION OF ART & CULTURE
Join us for these family-friendly
Crescendo events during the
Hilton Head Community Market:
October 14
Jevon Daly's Kids Show, 10:30am
October 28 & November 4
Mr. Puppet, 10 & 11am


Crescendo
Songwriter Series
5 - 7 pm
At Lowcountry Celebration Park
October 12th
Campfire Tyler
& Alice Gould
October 19th
Sara Burns & Friends
October 26th
Lyn Avenue
November 2nd
Pretty Darn
November 9th
Lowcountry Boil


Crescendo
Kick-off Party in the Park!
Tues, Oct 10 | 4:30 PM - 6:30 PM
Shelter Cove Community Park
Performances - Art Market - Exhibits
This free event is the annual launch to our month-long celebration and is incredible fun. At this year's event we welcome visiting musicians the Maharajah Flamenco Trio for a special performance.
Learn more at :
https://culturehhi.org/portfolio/crescendo2


Crescendo
AsiahMae
Poetry
PATRON
Eric Johnson



Town of Hilton Head Island

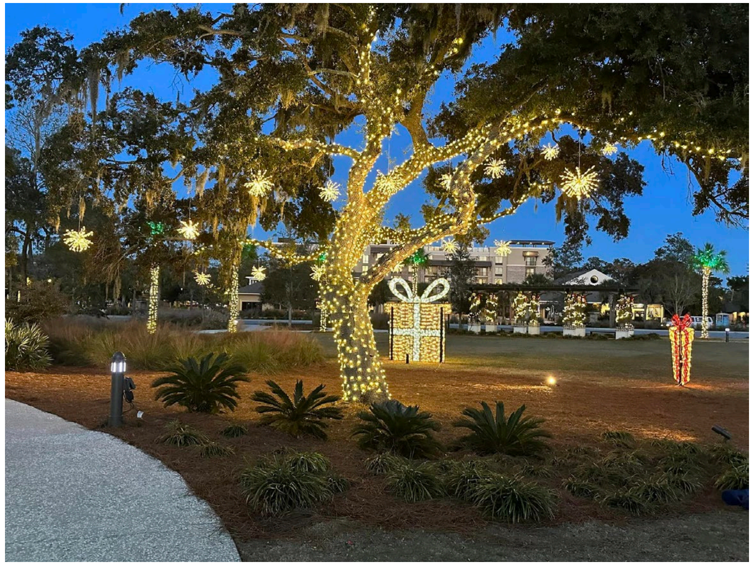
360/40 CELEBRATION

360th Sighting 40th Anniversary

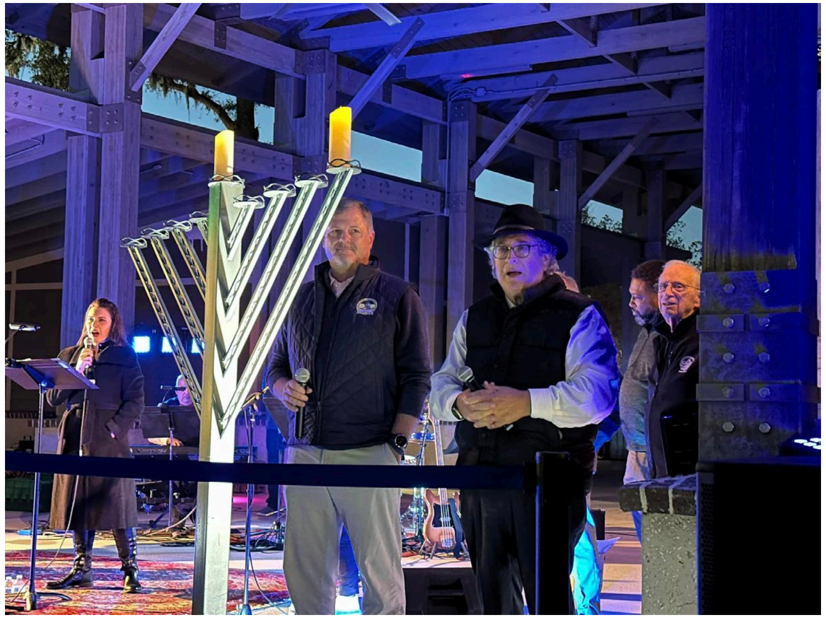
Hilton Head

island jam

2023 songwriter festival








OFFICE OF CULTURAL AFFAIRS
Hilton Head Island

2024 Projects & Events

- Crescendo Celebration and Lantern Parade
- Public Art Projects – Rowing and Sailing Center & Sculpture Trail
- Website Redesign & Upgrade
- Encouraging Partnerships, Collaborations, & Community Engagement Opportunities
- Social Media and E-Newsletter Communications
- Connecting with Residents and Visitors at Special Events

TOWN OF HILTON HEAD ISLAND · SOUTH CAROLINA
PRÆSERUARE ET PROSPERARE
1663 · 1983

TOWN OF HILTON HEAD ISLAND

Town Council

TO: Town Council
FROM: Jeff Herriman, Interim Finance Director
CC: Marc Orlando, ICMA-CM, Town Manager
Josh Gruber, Deputy Town Manager
DATE: January 3, 2024
SUBJECT: Financial Audit Presentation for Fiscal Year Ending June 30, 2023

BACKGROUND:

In accordance with South Carolina Code Section 5-7-240, the Town is required to have an independent annual audit of financial records and transactions of the Town. The Town has engaged Mauldin & Jenkins LLC CPAs to perform the independent annual audit of the Town for the Fiscal Year Ending June 30, 2023. The Fiscal Year Ending June 30, 2023, audit performed by Mauldin & Jenkins LLC was the first year of a five-year agreement to provide audit services to the Town of Hilton Head Island.

The Town has received an unmodified ("clean") opinion from Mauldin & Jenkins LLC for the year ended June 30, 2023.

The Government Finance Officers Association (GFOA) awarded a Certificate of Achievement for Excellence in Financial Reports to the Town for its Annual Comprehensive Financial Report (ACFR) for the fiscal year ended June 30, 2022. This was the thirty fourth (34) consecutive year that the Town has received this prestigious award.

SUMMARY:

Trey Scott, a Partner with the firm – Mauldin & Jenkins LLC CPAs will provide a Financial Audit Presentation for Fiscal Year Ending June 30, 2023.

ATTACHMENTS:

1. Mauldin & Jenkins CPAs – Financial Audit Presentation - June 30, 2023.

Town of Hilton Head Island, SC

Financial Audit – June 30, 2023

Presented by:

Trey Scott, CPA
Partner

Purpose of Today's Presentation

- Introduction of Mauldin & Jenkins
- Overview of:
  - Independent Auditor's Report
  - Compliance Reports
  - Financial Statements
- Required Communications
- Answer Any Questions

Introduction of Mauldin & Jenkins

ABOUT US

MAULDIN & JENKINS
CPAs & ADVISORS

Going Further

INSIDE PUBLIC ACCOUNTING TOP 100 FIRMS 2021

accountingTODAY 2022 Top 100 Firms

CONSISTENTLY RANKED AS A TOP ACCOUNTING FIRM IN THE U.S.

100+ years
HISTORY
of QUALITY SERVICE

$75M+
ANNUAL REVENUE

450+ EXPERIENCED PROFESSIONALS FIRMWIDE

PARTNERS & DIRECTORS **80+**

Located in	With
5	13
STATES	OFFICES

NATIONALLY FOCUSED

Serve 650+
GOVERNMENT CLIENTS

140+ TEAM MEMBERS DEDICATED TO SERVING THE GOVERNMENTAL INDUSTRY

135,000+
HOURS ANNUALLY PROVIDED TO GOVERNMENTAL CLIENTS

PROGRAMS TO BE PROUD OF

MJ DIVERSITY INITIATIVE

MJ MAULDIN & JENKINS WOMEN'S ALLIANCE

Audit Opinion

- **Town: responsible for financial statements.**
- **M&J: to express opinions.**
- **Auditing Standards = *Generally Accepted Auditing Standards and Government Auditing Standards***
- **Financial Audit : Unmodified (Clean) Opinion**
  - **Highest level of Assurance**
  - **Financial Statements are fairly presented in all material respects, in accordance with GAAP**

Compliance Reports

- **Yellow Book Report**
  - **Report on Town's Internal Controls and Compliance – No opinion**
- **Single Audit Report**
  - **Report on Town's internal control and compliance related to federal grant programs – No opinion on controls (ARPA CSLFRF – Major program)**
  - **Unmodified (Clean) opinion on compliance.**

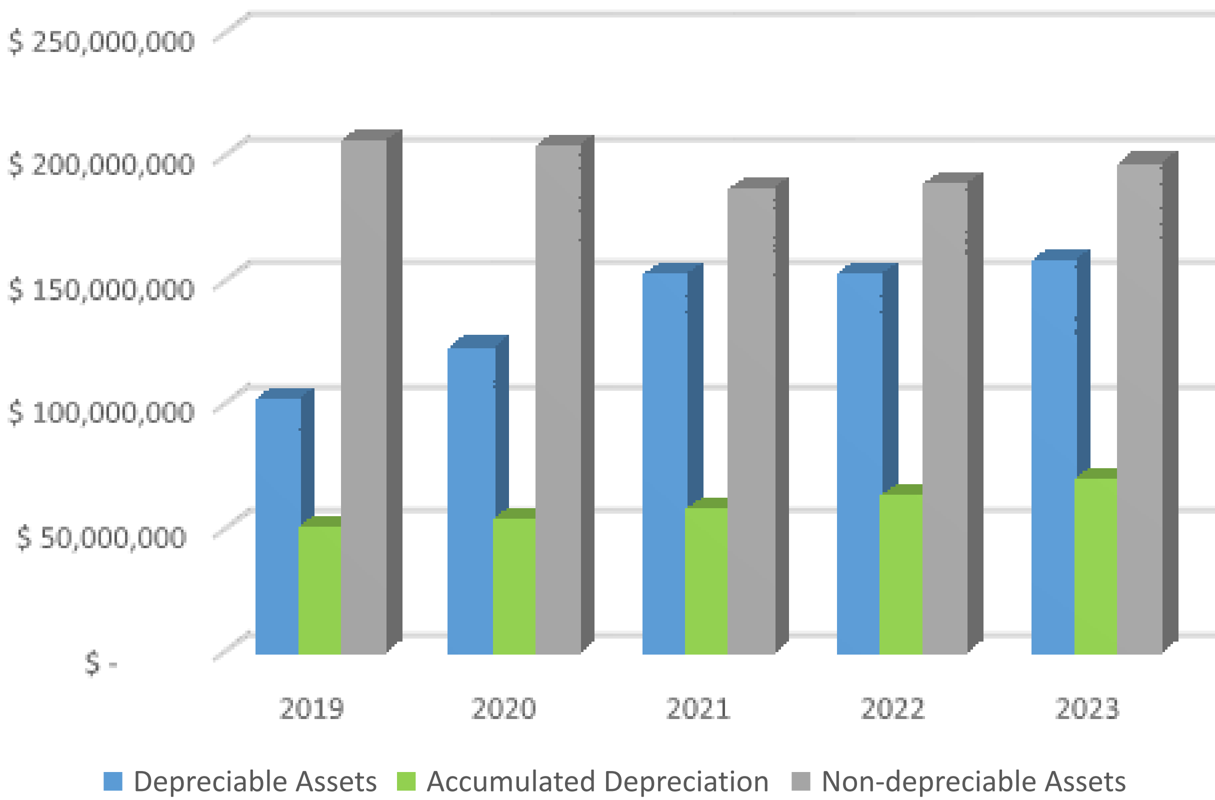
Annual Comprehensive Financial Report

- **Goes above and beyond required reporting**
- **Includes additional sections – introductory and statistical**
- **Submitted to the GFOA's Certificate of Excellence in Financial Reporting program annually**
- **FY 2022 certificate is included in the FY 2023 ACFR**

Government Wide Financial Statements

- **$524.6 Million = total assets and deferred outflows**
- **$298.3 Million = capital assets, net of A/D**
- **$205.4 Million = cash and investments**
- **$140.3 Million = total liabilities and deferred inflows**
- **$122.1 Million = noncurrent liabilities**
- **$384.3 Million = net position** ***(or equity)***
- **$122.7 M revenue, $76.5 M expense = $46.2 M inc. NP**

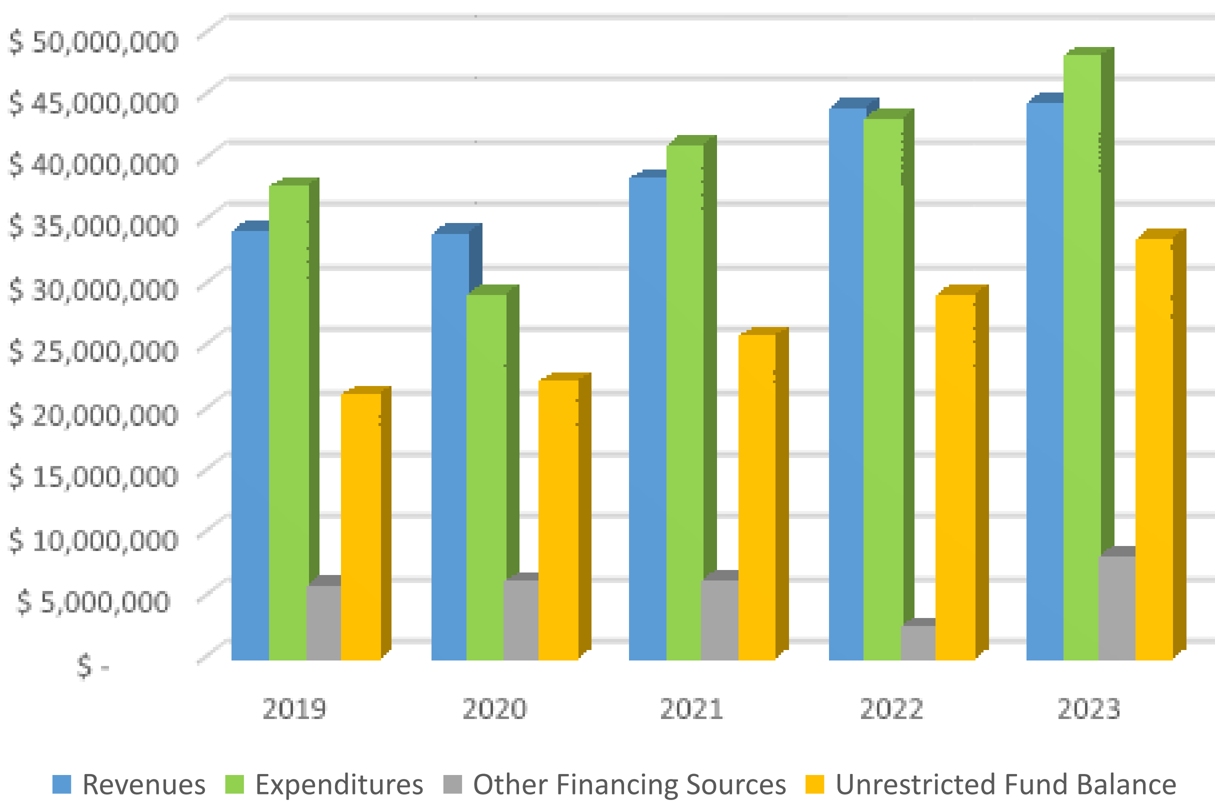
Governmental Capital Asset Activity



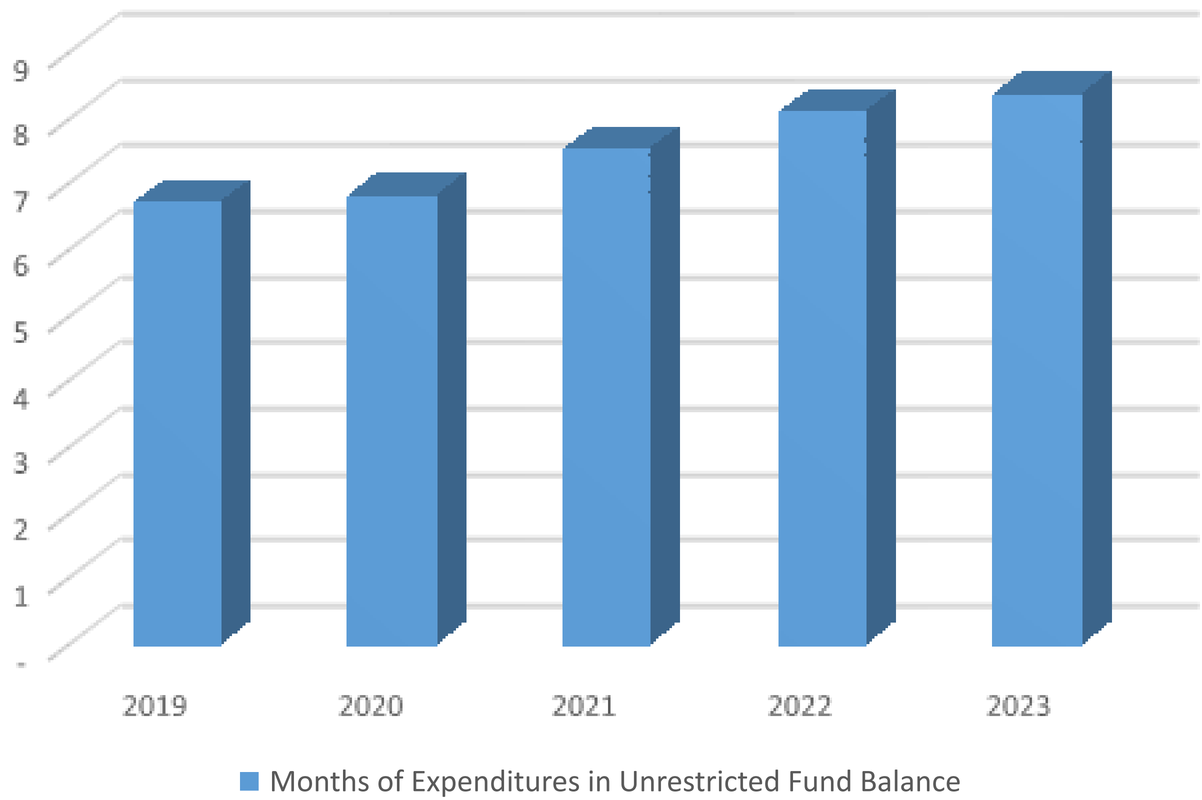
General Fund

- $49.8 Million = assets
- $16.3 Million = liabilities and deferred inflows
- $33.5 Million = fund balance ($10.3 M unassigned, $23.2 M Committed-Disaster Recovery)
- $44.4 M rev., $48.1 Million exp., $8.1 M other fin. sources
- $4.4 Million = Increase in fund balance
- ~ 2.6 months of exp in unassigned FB (8.4 months unrest.)
- Liquid ratio of 3.1:1 – good liquid position

General Fund – Revenue, Expenditures and Fund Balance History



General Fund – Fund Balance History



Stormwater Fund

- $18.1 Million = assets and deferred outflows
- $4.9 Million = liabilities
- $13.2 Million = net position ($6 M unrestricted)
- $5.1 M rev., $2.8 Million exp., $0.3 M net, non-op and transfers
- $2.6 Million = Increase in net position

Stormwater Five Year Comparison

Other Items of Note – Govt Wide

- **$14.9 Million – capital asset additions**
- **$16.1 Million – principal payments on bonds**
- **$1.2 Million new SBITA's (GASB 96 implemented this year)**
- **Net pension liability (PORS) - $18.0 Million – increase of $1.1 Million from the prior year – very long term liability**
- **No significant impact from new GASB standards anticipated in the next few years.**

Required Communications

- **Clean Opinion, No Audit Findings, No Mgmt Letter Comments**
- **FS Disclosures and Significant Estimates – Mgmt Responsibility – Integral Parts of the ACFR**
- **No Difficulties in Dealing with Management**
- **No Disagreements with Management**
- **No Uncorrected Misstatements**
- **We are Independent of the Town**

Closing

We appreciate the opportunity to serve the Town and look forward to serving you in the future.

Act 57 of the 2023 South Carolina General Assembly Legislative Session, Development of Workforce Housing

PRESENTATION OVERVIEW:

1. How are State and Local Accommodation Taxes Collected?
2. Impacts from the adoption of Act 57 of 2023.
3. Timeline on Use of State and Local Accommodation Taxes.
4. Current Uses of State and Local Accommodation Taxes.
5. Considerations on Public Funds for Private Use.
6. Critical Path Outline and Timeline for Implementation.

How are State and Local Accommodation Taxes Collected?

Local Accommodation Tax = 3% (eff. 1% on HHI) charge on individuals staying in transient sleeping accommodations and must be used for tourism related infrastructure or the operations and maintenance of public-safety related services.

State Accommodation Tax = 2% Charge on individuals staying within transient sleeping accommodations and this revenue must be distributed pursuant to statute along with discretionary appropriations that constitute a “tourism related expenditure.”

Impacts from the adoption of Act 57 of 2023.

Act 57 of 2023 amended the statutory language for both State and Local Accommodation Taxes in similar, yet distinctly different ways.

Both statutes were amended to provide that the expenditure of funds for the development of workforce housing were to be considered as an authorized tourism related expenditure. Both statutes also placed a cap of 15% on the maximum amount of both State and Local Accommodation Taxes that can be expended for this purposes. And, both statutes set a sunset of this authorization at seven (7) years from the date of its adoption.

However, in order to expend State Accommodation Taxes for this purposes, a Housing Impact Analysis must be conducted, the results of which must be distributed to several identified entities, and it must be formally incorporated into a local jurisdiction's Comprehensive Plan.

The use of Local Accommodation Taxes for this purposes does not require this same undertaking as a prerequisite action.

Timeline and Limitation on Uses of State and Local Accommodation Taxes.

In Section 6-4-10 of the South Carolina Code, State Accommodation Taxes have an identified time period for when these funds must be expended unless certain exceptions apply. Generally, these funds must be spent within two years of their receipt.

However, the time limit may be extended upon the recommendation of the local governing body of the county or municipality and approval of the oversight committee established pursuant to Section 6-4-35(TERC). However, such extension must include provisions that funds be committed for a specific project or program at the time the extension is announced.

Additionally, upon a two-thirds affirmative vote of the local governing body, a county or municipality may carry forward unexpended allocations beyond two years provided that the county or municipality commits use of the funds exclusively to the control and repair of waterfront erosion, including beach renourishment or development of workforce housing, which must include programs to promote home ownership. The county or municipality annually shall notify the oversight committee, established pursuant to Section 6-4-35(TERC), of the basic activity of the committed funds, including beginning balance, deposits, expenditures, and ending balance.

Current Uses of State and Local Accommodation Taxes.

The Town currently uses 100% of its Local Accommodation Taxes ($6,948,465) to support the following governmental services:

- Fire and Rescue Operations
- Fire and Rescue Equipment/Capital Needs
- Emergency Preparedness/Response
- 911 Communications/Dispatch
- Public Facilities Operations

The Town currently uses a portion of its State Accommodation Taxes to support the following services:

- General Fund (FY24 = $3,500,000)
- Capital Projects (FY24 = $3,000,000)
- Land Acquisition (FY24 = $2,000,000)
- Discretionary Grants (FY24 = $4,282,328)

Current Uses of State and Local Accommodation Taxes.

State Accommodation Taxes Availability

ATAX Funds Available for Calendar Year 2024 ATAX Grants and Other Possible Uses		**3,654,344**
Calendar Year 2024 ATAX Grants - Approved by Town Council 12/5/2023		**(4,282,328)**
Amounts based on (future) past revenues		**(627,984)**
Expected Activity (July - December 2023)		
State ATAX Revenues - July-September 2023 (Actual)	**5,148,616**	
State ATAX Revenues - October-December 2023 (Forecast)	**1,612,716**	
Total Revenues (July-December 2023)	**6,761,332**	
Required Distributions	**(2,382,716)**	
	4,378,616	
Expected Interest Earnings (July-December 2023)	**245,000**	
Expected ATAX Revenue and Interest Earning (July-December 2023)		**4,623,616**
Expected Available ATAX Funds at December 31, 2023		**3,995,632**
Possible Uses of Available ATAX Funds		
Planned Land Purchases	**(2,000,000)**	
Possible Workforce Housing	**(1,200,000)**	
Total Possible Uses		**(3,200,000)**
Expected Amounts on Hand for Future Decisions		**795,632**

Considerations on Public Funds for Private Use.

An elementary principle of South Carolina law is that all legislation must serve a public purpose. This comes from the requirements in Article X, Section 5 of the South Carolina Constitution which states that… [a]ny tax which shall be levied shall distinctly state the public purpose to which the proceeds of the tax shall be applied.

Although this requirement has been applied in many contexts, a precise definition of the term "public purpose" has proven elusive to the courts and is somewhat unsettled. Currently, the best guidance comes from the South Carolina Supreme Court in the case of Nichols v. South Carolina Research Authority.

That case established four questions for a local government to consider when deciding if an appropriate of public funds complies with the public purpose doctrine:

(1) the ultimate goal or benefit to the public intended by the project;
(2) whether public or private parties will be the primary beneficiaries;
(3) the speculative nature of the project; and
(4) the probability that the public interest will be served and to what degree.

Considerations on Public Funds for Private Use.

The use of State and Local Accommodations for workforce housing purposes is now specifically authorized by statute and therefore these public purpose questions are not applicable so long as all the other statutory requirements regarding the use of these funds have been met prior to their expenditure.

The Town has set aside funding in a designated “Housing Fund” which is contained within the Town’s General Fund. This funding has been identified for the development of workforce housing and could be a source of funding for private entities seeking to also develop workforce housing. However, any expenditure of these General Funds in this manner will require that the four questions identified in the Nichols case have been clearly addressed as part of the legislative record clearly and establishes that the public purpose doctrine has been satisfied.

Any future Town-lead workforce housing projects that may also seek to draw from this same funding source could be impacted by this action as well.

Critical Path and Timeline for Funding Authorization – State Accommodation Taxes

1. Complete the Housing Impact Analysis – Completed
2. Distribute Housing Impact Analysis to Required Entities – Completed
3. Adopt an Ordinance Updating/Ratifying the Town's Comprehensive Plan
    a) Planning Commission – January 17, 2024
    b) Public Planning Committee – February 8, 2024
    c) Public Hearing by Town Council
        i. First Reading – March 5, 2024
        ii. Second Reading – March 19, 2024
4. Budget Amendment Ordinance (Depending on Source of Funding)
    a) First Reading – March 5, 2024
    b) Second Reading – March 19, 2024
5. Adoption of FY24-25 Budget
    a) Affiliated Agency Presentations – March 12, 2024
    b) Finance and Administrative Committee Recommendations – April 9, 2024
    c) Town Council Approval
        i. First Reading – May 7, 2024
        ii. Second Reading – June 4, 2024