Town of Hilton Head Island
TOWN COUNCIL MEETING
Tuesday, January 16, 2024, 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; Patsy Brison, Ward 2; Alex Brown, Ward 1; Tammy Becker, Ward 4; Steve Alfred, Ward 5; Glenn Stanford, Ward 6.

Invocation – Rabbi Brad Bloom, Congregation Beth Yam

Rabbi Bloom delivered the invocation.

Adoption of the Agenda

Mr. Ames moved to approve. Mr. Alfred second. Motion carried.

Approval of the Minutes

Regular Meeting Minutes of December 5, 2023

Mr. Stanford moved to approve. Mr. Alfred seconded. Motion carried 6-0-1 (Ms. Brison abstained as she was not at said meeting.)

Report of the Town Manager

Marc Orlando reported the consultant for the Land Management Ordinance (LMO) overhaul is under contract. He stated the name of the firm is Code Studio. He stated Code Studio and staff will be assisting in undertaking a significant review and amendment process for the LMO that will result in a full rewrite of the code including an applications manual.

Mr. Orlando commended the Martin Luther King Committee on organizing the Martin Luther King Jr. Walk. He thanked staff for their participation and all who contributed to the success of the event.

Mr. Orlando reported he is close to identifying a Finance Director for the Town.

Commendation Recognizing Second Helpings - Mayor Alan Perry

Representatives of Second Helpings were on hand to accept the Commendation. Mayor Perry noted what an asset the group is to the community and surrounding areas. He thanked them for their efforts.

Office of Cultural Affairs Update - Natalie Harvey, Director of Cultural Affairs

Natalie Harvey conducted a detailed update regarding the Office of Cultural Affairs Strategic Plan and past, present and future events. She noted they continue to 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; and the Crescendo an Lantern Parade. She highlighted the marketing that took place, public art locations throughout the Town and where the pieces are art are located; she stated the poetry trail is completed with 26 sites which are businesses, not-for-profit organizations and sculptures being highlighted. She informed Council the long-awaited kiosk is going to be installed at the Rowing & Sailing Center at Squire Pope Community Park in the near future. She hesitated to give a date at this time but said they are getting closer every day. Ms. Harvey reviewed the activities held throughout the Crescendo and stated the Lantern Parade was a resounding success and meetings are being held on how to improve it for next year. She reviewed the 360/40 Celebration and the Hilton Head Jam noting next year's plans are in process. Ms. Harvey explained the year ended with the annual tree-lighting ceremony at Lowcountry Celebration Park. She further reviewed events and projects planned for 2024.

Town of Hilton Head Island Financial Audit Presentation for the Fiscal Year Ending June 30, 2023 - Trey Scott, Partner - Mauldin & Jenkins, LLC CPAs

Jeff Herriman introduced Mr. Scott noting the FY23 audit was the first year of a five-year contract with the firm. He thanked Mr. Scott and his staff for their work on the audit and comprehensive plan report.

Mr. Scott conducted a presentation regarding the following: introduction of Mauldin and Jenkins, and overview of the Independent Auditor's Report, Compliance Reports, and Financial Statements; a summary of required communications and offered to answer any questions from Council. He stated the Town goes above and beyond in required reporting, which includes additional sections – introductory and statistical and submitted to the GFOA;s Certificate of Excellence in Financial Reporting program annually. Mr. Scott reported the firm issued the Town an Unmodified (Clean) Opinion which means the financial statements present fairly the financial position and the results of the Town's operations as of June, 2023. He stated it is the highest level of assurance the firm can present to the Town as the auditor. He continued with detailing some of the reports contained within the audit.

Discussion of a South Carolina Attorney General Opinion Pertaining to Act 57 of 2023 - Josh Gruber, Deputy Town Manager

Mr. Gruber conducted a presentation regarding the following:

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 purpose. 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 purpose, 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 purpose 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)

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.

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(3) the speculative nature of the project; and
(4) the probability that the public interest will be served and to what degree.

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

Clarification was made regarding the timeline to utilize funds from currently available Accommodations Taxes which can be concluded as early as March 19, 2024.

Reports from Members of Town Council

Mayor Perry recognized Darrin Shoemaker for his efforts in traffic control on the Island. He noted Darrin's mother recently passed away at the age of 99 and on the day she passed Darrin still assisted in solving a problem with traffic control. He extended his appreciation to Darrin and conveyed Council's thoughts and prayers regarding the loss of his mother. Mayor Perry also extended condolences to the families of Signe Gardo, Doug Corkern and Josephine Wright noting each one's significant contributions to the Community.

Ms. Brison thanked the Martin Luther King Committee for Justice for their efforts and celebration of Martin Luther King Day. She also thanked Congregation Beth Yam and Queens Chappel for the Community Services that were held.

Report of the Lowcountry Area Transportation Study – Glenn Stanford

No report.

Report of the Lowcountry Council of Governments – Tammy Becker

No report.

Report of the Beaufort County Airports Board – David Ames

Mr. Ames reported the Airport is in the first stage of construction on the planned renovations with a completion date earmarked for January of 2026.

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

At its meeting on January 8, 2024, the Community Services and Public Safety Committee proposed a recommendation to the Town Council concerning the Town's adoption and implementation of an Integrated Pest Management policy. The proposed Integrated Pest Management policy, as subsequently amended by the Committee, would address how the Town would implement a least toxic pest management strategy on its properties and facilities and how it would manage these efforts in an environmentally responsible manner that is protective of human health, economically viable, and accepted aesthetically. The Committee supported this recommendation on a 4-0 vote.

Report of the Public Planning Committee – David Ames

At its meeting on January 11 2024 staff presented the status and schedule of the LMO Overhaul and introduced the Conditions and Trends Assessment Report. At the same meeting the Committee voted to approve a 0.45 FAR in the Forest Beach area and forward it to Town Council for consideration of approval.

Report of the Finance and Administrative Committee – Alex Brown

At its meeting on November 14, 2023, the Finance and Administrative Committee adopted a resolution recommending Town Council approve a Memorandum of Understanding with the Island Recreation Association.

The proposed Memorandum of Understanding would provide for a new agreement between Town and the Island Recreation Association for the purposes of providing public recreational services and management of Town-owned recreational facilities. This recommendation was made by the Committee with a 4-0 vote.

At its meeting on December 19, 2023, the Finance and Administrative Committee adopted a resolution recommending Town Council approve a Memorandum of Understanding with the University of South Carolina Beaufort. The proposed Memorandum of Understanding would provide for a new agreement between the Town and the University of South Carolina Beaufort to continue providing the Island Ambassador program and other similar related services. This recommendation was made by the Committee with a 4-0 vote.

At its meeting on January 11, 2024, the Finance and Administrative Committee adopted the following items:

A resolution recommending the approval of Sponsorship Agreement with the Heritage Classic Foundation for the 2024 RBC Heritage Golf Tournament. The recommended

Sponsorship Agreement provides for a financial commitment from the Town of $400,000 and would allow the Town to continue and enhance its participation within the event's promotional materials, televisions broadcast, and would now include the use of designated space within the event area. The Committee made this recommendation with a 4-0 vote.

A resolution recommending Town Council approve a Memorandum of Understanding with the Coastal Community Development Corporation and provide $600,000 in funding as a FY24 Affiliated Agency. The proposed Memorandum of Understanding would outline the roles and responsibilities of both the Town and the Coastal Community Development Corporation in using State Accommodation taxes to support the purchase and acquisition of workforce housing units located on Hilton Head Island. The Committee made this recommendation with a 4-0 vote.

At the same meeting, the Committee also considered a request by the Coastal Community Development Corporation to recommend funding as a FY24 Affiliated Agency with a recommended funding amount of $600,000. The Committee made this recommendation with a 4-0 vote.

A resolution recommending Town Council approve a Memorandum of Understanding with the Hilton Head Regional Habitat for Humanity and provide $500,000 in funding as a FY24 Affiliated Agency. The proposed Memorandum of Understanding would outline the roles and responsibilities of both the Town and the Hilton Head Regional Habitat for Humanity in using State Accommodation Taxes to support the purchase of land and the corresponding design, layout, and development of workforce housing units under Habitat for Humanity's charitable programming. The Committee made this recommendation with a 4-0 vote.

At this same meeting, the Committee also considered a request by the Hilton Head Regional Habitat for Humanity to accept its request for funding as a FY24 Affiliated Agency with a recommended funding amount of $500,000. The Committee made this recommendation with a 4-0 vote.

Appearance by Citizens

Melinda Tunner addressed Town Council regarding the William Hilton Parkway Gate Corridor Independent Review Committee meeting broadcast stating it is money well spent. She expressed concern with the scope of the project and stated it would be helpful to have clear understanding of what is and is not in the scope.

Skip Hoagland addressed Town Council regarding his opinion of the need for a full-time Mayor and his concern regarding misuse of funds inclusive of funds appropriated to the Hilton Head Island-Bluffton Chamber of Commerce.

Skip Hoagland spoke on behalf of Lynne Greeley. The Mayor told Mr. Hoagland Council does not accept power of attorney for speaking and Mr. Hoagland would be fined if he continued. Mr. Hoagland disregarded the Mayor and continued to speak expressing his opinion for the need of an independent State Audit to ensure all tax funds are used for the public good.

Executive Session

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 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])

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]) 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

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

Mayor Perry asked the Town Manager if there was a need to enter Executive Session. Mr. Orlando stated there was a need regarding the items listed above.

At 4:00 p.m. Mr. Ames moved to enter into Executive Session for the reasons cited by the Town Manager. Mr. Alfred seconded. Motion carried 7-0.

Action from Executive Session

At 5:40 p.m. Council returned to the dais and Mr. Ames moved to end the Executive Session and return to the regular meeting. Mr. Stanford seconded. Motion carried 7-0.

Mr. Ames moved that Town Council approve First Reading of an Ordinance authorizing the execution and delivery f a termination of a drainage easement for real property located at 316 Squire Pope Road, Hilton Head Island, South

Carolina. Ms. Brison seconded. Motion carried 7-0

Mr. Ames moved to approve a Resolution authorizing execution and delivery of a third amendment to the employment contract by and between the Town of Hilton Head Island and Marc A. Orlando as follows:

1. **The term of the contract shall be amended to terminate on February 21, 2028, unless otherwise extended by the parties.**
2. **The current base compensation shall be increased by 4% effective as of December 5, 2023.**
3. **A one-time bonus of $15,000 is authorized to be paid on the first pay period following the execution of this amendment.**

Mr. Stanford seconded. Motion carried 7-0.

Adjournment

The meeting was adjourned at 5:42 p.m.

Approved: February 20, 2024

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