



CITY COUNCIL MEETING
6:00pm, Tuesday, January 26, 2021
Virtual Meeting via Zoom call due to COVID-19 Pandemic
broadcasted live on YouTube: <https://www.youtube.com/user/cityofisleofpalms>

MINUTES

1. Call to order

Present: Council members Popson, Streetman, Moye, Ward, Bell, Pounds, Smith, Buckhannon, and Mayor Carroll

Staff Present: Administrator Fragoso, Asst. Administrator Hanna, Attorney Hinchey, various department heads

Also present:

2. Election of Mayor Pro Tempore

Council Member Moye nominated Council Member Smith as Mayor Pro Tempore, and Council Member Pounds seconded the motion.

Council Member Ward nominated Council Member Popson as Mayor Pro Tempore, and Council Member Buckhannon seconded the motion.

Council Member Popson nominated Council Member Ward as Mayor Pro Tempore, and Council Member Ward declined the nomination.

A vote for Council Member Smith as Mayor Pro Tempore was taken as follows:

Ayes: Streetman, Bell, Smith, Pounds, Moye

Nays: Buckhannon, Popson, Ward, Carroll.

Council Member Smith was elected as Mayor Pro Tempore of City Council.

3. Citizens' Comments

City Clerk DeNeane read citizens' comments into the record. They appear in full alongside this meeting's agenda on the City's website.

4. Consent Agenda

MOTION: Council Member Streetman made a motion to approve the items on the Consent Agenda, and Council Member Moye seconded the motion. The motion passed unanimously.

A. Approval of Previous Meetings' Minutes

- i. Regular Meeting – November 17, 2020
- ii. Public Hearing – December 8, 2020
- iii. Special Meeting – December 8, 2020
- iv. Special Meeting – January 5, 2021

B. Approval of purchase of two (2) Dodge Durango AWD V6 Pursuit SUVs for the Police Department in the amount of \$30,540 each [FY21 Budget, Capital Projects Fund, Police Capital Outlay - \$41,000 and State Accommodations Tax Fund, Police Capital Outlay \$41,000]

C. Approval of proposal from Insight Group to provide construction oversight services during the IOP Marina restaurant renovation in the amount of \$14,740 [FY21 Budget, Marina Fund, Professional Services - \$252,000]

5. Reports from Standing Committees

A. Ways and Means Committee

Council Member Pounds briefly reviewed the financial statements through December 31, 2020, showing overall revenues at \$6.2M, over \$6.7M from that time last year. The bulk of the difference comes from the County ATAX pass through the City will not be receiving this year. Expenditures as of 12/31/20 were \$9.5M, over \$6M from this time last year. The bulk of that difference is related to the Public Safety Building rehabilitation project and the refurbishment of the 95' ladder truck.

General Fund revenues are \$3.7M, and General Fund expenditures are at \$5.1M, which is below budget. There was an increase in overtime expenditures, but the City has been awarded a CARES grant to cover those COVID-related costs.

Closing on the bonds for the Marina rehabilitation project occurred in November, and closing on the bonds for the Phase III drainage project occurred in January. Council Member Pounds said the start date for the 30th Avenue and Forest Trails outfalls is expected to begin in September, but work on the outfall at 41st Avenue will be delayed until September 2022.

Council Member Streetman asked about the overage in legal fees. Administrator Fragoso said she would provide a detailed report to City Council. She further explained, "It was recently asked of us to run a report of the legal expenses associated with the eviction proceedings with the holdover tenant at the marina, Tidal Wave Water Sports from back since 2019 when the City issued a notice that it did not have an intention of renewing the lease, the expenses associated with that issue have exceeded the \$26,000 mark year-to-date since 2019. I can run a report and distribute that to all of Council about all of the other related legal expenses and how much overage we have associated with the marina because what we are running over right now over budget is our legal expenses associated with the marina fund, which currently we budget around \$10,000, and we far exceeded that, and that is since September."

She added, "Part of the reason, too, that the line item for legal expenses at the marina for the marina fund exceed our budget number is associated with the development of the lease document for the marina restaurant."

Council Member Ward noted that legal fees are historically over budget and he is not concerned.

B. Public Safety Committee

Council Member Bell reviewed the minutes of the January 7, 2021 meeting. Chief Cornett reported that the signs for the Front Beach loading zone have arrived and he is waiting on a start date from the painting contractor.

Council Member Smith congratulated Chief Cornett on the receipt of the grant that will pay for a new Polaris beach patrol vehicle, trailer, and digital mobile sign. Chief Cornett thanked Sgt. Storen and Lt. Forsythe for their work in preparing the grant.

Mayor Carroll thanked Chief Cornett and Public Safety for their work in a recent drug arrest.

C. Public Works Committee

Council Member Ward reviewed the minutes of the January 6, 2021 meeting. Council Member Smith briefly explained the need for the development of a citizen-led Environmental Advisory Committee. Council Member Streetman agreed that there is no shortage of qualified citizens who are willing to participate in such an initiative. He and Council Member Ward would like to see where it might fit in relation to the Strategic Plan.

D. Recreation Committee

Council Member Smith reviewed the minutes of the January 4, 2021 meeting. Director Page reported that Doggie Day at the Recreation Center has been cancelled this year as there is no veterinarian to do the vaccines and the City no longer requires that dogs be registered. A drive-in movie at the Municipal Lot will take place of this year's Front Beach Fest.

E. Personnel Committee

Council Member Moye reviewed the minutes of the January 5, 2021 meeting.

With regards to the Wage & Compensation Study, Administrator Fragoso reported "Council Member Moye, Ron, and I participated in a kickoff meeting with the Evergreen team, and after that we have since also had another meeting with the department heads and the team from Evergreen who is going to be working with us. We developed a list of our goals and coordinated with the goals that have been stated previously by the Personnel Committee and by Council when this initiative was approved. We talked about the time mostly during that kickoff meeting. They are going to be onsite next week for two and a half days conducting orientations with every department and also conducting some focus groups with different groups of folks depending on their position and rank among all departments. So we are in the process currently of scheduling those meetings with the department heads and with the staff... We will be having a discussion with the Personnel Committee next week about the development of compensation policy, which is a huge component of this process and getting Council to delineate what that is based on the vision and goal for this group."

Council Member Moye reviewed the process involved in hiring the new Fire Chief. In-person interviews will take place this week, and the Personnel Committee anticipates presenting City Council with a recommendation in February.

F. Real Property Committee

Council Member Streetman reviewed the minutes of the January 4, 2021 meeting.

Administrator Fragoso gave an update on the Marina rehabilitation project, “There have been some delays associated with the COVID closures and the manufacturers plants that have delayed somewhat the shipment of some of the dock portions. I do not have an updated schedule from the contract just yet. We just know that we are about 3-4 weeks delayed. There are still some strategies that the contractor is evaluating. Once the docks are here we think that there might be an opportunity to move pretty quickly, but the delay really in the shipment is something that obviously with COVID it is not surprising but will definitely shift the construction schedule. Something that has happened since our last meeting is the phasing of the work. The original plan was for the contractor to start with the demolition and the replacement of the docks along with the fuel hut. But in order to be able to make the schedules that will be shifted. So we will be starting in dock C and working our way back. So we are just shifting the order by which we replace those docks. We have been in constant communication with the contractor, the marina manager and also with Kirby and ATM to try to mitigate those challenges.”

She also reported that the Greenbelt Fund approved the new scope of the dual-purpose beach boardwalk at 42nd Avenue. She said, “We will proceed with a regular procurement process by getting an RFP and securing the contractor to get the work underway.”

With regards to the Marina restaurant, Director Kerr reported, “They have not yet submitted those plans. They are indicating they are backed up by their architects. I think his workload and specifically mechanical and electrical engineering services are going slow than they anticipated. They are trying to schedule the work though so they could get started on other work. I know that they were meeting internally this week to see if there was some kind of sequencing that they could manager to work out where they would work on non-structural things while they waited on permits.”

Council Member Buckhannon encouraged the Real Property Committee to continue to evaluate the need to improve some of the beach access paths with the remaining Greenbelt Fund monies.

6. Reports from City Officers, Boards, and Commissions

A. Accommodations Tax Advisory Committee – no meeting

In response to a question from Council Member Streetman, Administrator Fragoso said that this Committee is not required to have a certain number of meetings per year, and that they meet as needed. However, a meeting will be scheduled next month to introduce the new members and get them started on the budget process.

- B. **Board of Zoning Appeals** – minutes attached
- C. **Planning Commission** – minutes attached
- 7. **Reports from Special or Joint Committees** – none
- 8. **Petitions Received, Referred or Disposed of** – none
- 9. **Bills already in Possession of Council**
- A. **Consideration of Ordinance 2020-16 – An ordinance to allow for commercial surfing instruction on the beach**

MOTION: Council Member Moye made a motion to approve, and Council Member Smiths seconded the motion.

Council Member Bell said he supports surfing instruction on the beach, but he does not favor the City’s “hands-off position” with regards to registering surfing instruction. He and Council Member Ward would like to see the City mirror Folly Beach’s approach to this issue.

Council Member Smith pointed out that “Folly Beach has a franchise agreement with all these surfing instructors so that is why they are taking on liability. They are also earning income and revenue through their franchise agreement. We discussed that and decided that this was a better way for the City of Isle of Palms to go for a variety of reasons.”

Administrator Fragoso reviewed the history of the processes the Recreation Committee and City Council has gone through to secure surfing instruction on the beach.

Council Member Streetman agreed with the views expressed by Council members Bell and Ward.

Council Member Moye pointed out to Council members this is a pilot program that will sunset after the beach season. He said this is the number one request he hears from citizens and it would be a failure of City Council to not pass it when all other options brought before Council have turned down. The ordinance will require parents to make the decision as to who is qualified to instruct their children in surfing.

Director Kerr pointed out that Building Department staff does not check on the status of licenses and certifications needed by general contractors as that is a State requirement. He said any sort of “stamp of approval” from the City for a business license holder only increases the City’s liability exposure. He also reported that the City will be pivoting to a State-mandated business license renewal process administered by MASC.

Council members discussed the need for legal advice on the matter.

Administrator Fragoso said, “It seems to me that there is consensus, at least from those that have spoken out about the need for some safety regulations or some check behind to ensure that whoever is offering these services is certified in some capacity. The way to do that would not be through amending the ordinance through the business license or code. This would have to be

revisited as a franchise agreement which was not approved or embraced when the City went out for an RFP three times. So I think we need some directions if we have tried the RFP route for a franchise agreement and that did not really yield any results. I do not know that anything different could happen or we could do to change the same results we received 2-3 years ago when we went through the RFP process. So I think that I just want to make sure everybody has clear expectation because we did go through the RFP for franchise agreement, and no recommendation was made for going that route because of a number of other concerns. Then we tried it by providing it through a rec program, and that did not really work either. So we can get more creative and still think outside the box, and see what we can do, but the options are limited, and they all have pros and cons.”

MOTION: Council Member Buckhannon made a motion to defer the Ordinance to next month to receive legal advice prior to the next meeting. Council Member Moye seconded the motion.

Attorney Hinchey said that while this particular issue is not listed as an issue for a possible Executive Session, City Council could receive legal advice on it as it is covered under the request for legal advice.

Council Member Moye withdrew his original motion to approve Ordinance 2020-16, and Council Member Smith withdrew her second.

Council Member Buckhannon suggested the legal advice be received at the Committee level.

VOTE: A vote was taken on the motion to defer Ordinance 2020-16 until the next City Council meeting upon receipt of legal advice. The motion passed unanimously.

10. **Introduction of New Bills, Resolutions, and Proclamations -- none**

11. **Miscellaneous Business**

A. The next regular City Council Meeting will be held on Tuesday, February 23, 2021 at 6:00pm.

B. **Update on Strategic Planning Process**

The Strategic Plan survey garnered 660 responses, which was a 53% response rate. The response rate for business was lower. The Riley Center is preparing a summary report of the responses which staff will receive next week. Following that, another workshop will be scheduled with City Council to review the survey responses, and “based on that information to adjust or affirm the priorities that had already been set during the first budget workshop. We are planning on having a full presentation of the survey to the community in February at the Council meeting. We will also be scheduling a follow-up meeting with the leadership team for staff so we can start working on the goals and strategies that have been identified by Council and affirmed by the community.”

Council Member Pounds suggested coordinating budget meetings with the Strategic Planning workshops.

C. Update on consideration of changes to the 30% State Accommodations Tax Revenue required for tourism promotion and advertisement currently managed by the Charleston Visitors Bureau

Council Member Moye reported on a recent meeting with representatives of the CVB to discuss their level of engagement and the City's expectation of them. He said he "frankly expressed our dissatisfaction with the level of engagement that we have been receiving," learning that the CVB works more earnestly with private entities "in terms of goal setting formation and providing specific metrics to hitting those goals or not."

He said they are putting together a proposed scope of work with "a bit more rigor behind it in terms of the way that they work with us. My recommendation coming out of that meeting is we continue directing staff to consider and explore alternatives to ways that we can direct those funds." He did not believe the attitude of the CVB to be encouraging. He said that while they do good work, "I think it would be in our best interest to have more control over those funds and how they are used to promote our interests specific to the Isle of Palms." He will invite CVB representatives to make a presentation before Council next month.

Administrator Fragoso agreed it is important to know the goals of the CVB are aligned with the goals of City Council and "what tourism promotion looks like for this community."

MOTION: Council Member Ward made a motion to suspend the rules of order and add an update on the CARTA Board meeting to the agenda. Council Member Bell seconded the motion. The motion passed unanimously.

Council Member Ward reported that City Council's rejection of the CARTA budget "shook them." The beach shuttle will resume Memorial Day weekend. He will report more next month.

12. Executive Session

Mayor Carroll read the following statement prior to Executive Session: "On April 23, 2019, City Council voted to notify Tidalwave Watersports that the City was not renewing their lease or exercising the City's renewal option. The City timely sent Tidalwave a written notice of the Council's decision, as required by the lease. Despite the notice, Tidalwave has refused to leave the premises after the lease expired on September 30, 2020. Regrettably, the City was left with no other option but to start eviction proceedings.

On October 2, 2020, City Council, voted to commence eviction proceedings with the goal of taking possession of the City's property in order to proceed with the City's public dock and greenspace project. The City's Application for Ejectment was filed in the Magistrate Court.

On November 23, 2020, the Magistrate Court's Judge held a pre-trial hearing where he requested an additional brief from each party before deciding on whether the eviction case should remain under the Magistrate Court's jurisdiction or to grant Tidalwave's request that the case be moved to Charleston County Circuit Court. On January 5, 2021, Judge Lynn agreed with the City's position and ruled that the Magistrate Court was the appropriate venue for the eviction case. The City is waiting for the Judge to rule on several Pre-Trial Motions submitted to the Court including the City's Motion for Summarudgment. Tidal Wave is actively opposing the eviction

proceeding and has brought numerous claims against the City and its council members which we believe are baseless and will ultimately be dismissed.

By order of the Chief Justice of the South Carolina Supreme Court, all jury trials are suspended until further notice due to the COVID-19 pandemic. Since Tidalwave requested a jury trial, the case before the magistrate will not be conducted until the ban is lifted.

Unfortunately, the City is not able to move forward with the proposed plans for a public dock and greenspace until the Tidalwave case is adjudicated by the Court. The City is of the opinion the defenses and claims advanced by Tidalwave are without merit and will be determined in the City's favor. The City intends to vigorously advance the ejectment action against Tidalwave."

MOTION: Council Member Bell made a motion to enter into Executive Session pursuant to §30-4-70(a)(2) to receive legal update regarding the eviction proceedings against Tidal Wave Watersports. Council Member Pounds seconded the motion.

City Council moved into Executive Session at 7:43pm.

City Council returned from Executive Session at approximately 8:52pm.

MOTION: Council Member Bell made a motion "that this Council affirm by a non-binding vote" "affirmation of the mayor's reading to the public of the City's position prior to going into Executive Session." Council Member Streetman seconded the motion.

Council member discussed the appropriateness and transparency of the statement and ensuing vote as it was not clearly stated on the agenda prior to publication.

VOTE: A vote was taken as follows:

Ayes: Bell, Moye, Streetman, Popson, Smith, Pounds, Carroll

Nays: Buckhannon, Ward

The motion passed.

13. **Adjournment**

Council Member Buckhannon made a motion to adjourn, and Council Member Moye seconded the motion. The meeting was adjourned at 9:00pm.

Respectfully submitted,

Nicole DeNeane
City Clerk