



CITY COUNCIL MEETING
6:00pm, Tuesday, February 23, 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: Kirby Marshall, ATM

2. Citizens' Comments

Glenda Nemis, 3006 Cameron Boulevard, said she has spoken to over 100 residents of the Isle of Palms. She/they would like to see a reasonable balance for all beachgoers and for City Council to "protect home rule." She would like for the City Attorney to send a letter to SCDOT emphasizing home rule and to continue with the managed beach parking plan. She would like SCDOT to be "put on notice that they have created an unsafe situation." Additionally, she would like to see a spreadsheet detailing the income and costs associated with parking on the island and have that presented to the residents. Lastly, she would like to have Senator Campsen address the City Council in a Special Meeting next week with regards to the parking concerns.

Bill Barber, 17 22nd Avenue, spoke with concern about the hiring process for the Fire Chief. He said, "When you know there is a decision which is going to be contentious, what is not required to be in Executive Session?" He said the process was not transparent, has created trust issues, and led to poor communication. He noted that a former City Council member wrote a Citizen's Comment about a lack of transparency.

Gary Nestler, 29 31st Avenue, also spoke with concern about the hiring process for the Fire Chief. He did not think the hiring process for the Fire Chief was as well handled as the hiring processes for the City Administrator and Police Chief. He said individuals with industry experience should have been included in the hiring process. He also expressed concern about the lack of a unanimous vote for this position. He said the vote "must be unanimous" in order to create a sense of confidence in the appointment of a new Fire Chief as well as within the department.

Mayor Carroll said the written comments received for the Council meeting appear in full alongside this meeting's agenda on the City's website.

3. Consent Agenda

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

A. Approval of Previous Meetings' Minutes

- i. Regular Meeting – January 26, 2021
- ii. Special Meeting – February 2, 2021
- iii. Special Meeting – February 10, 2021
- iv. Special Meeting – February 17, 2021

4. Reports from Standing Committees

A. Ways and Means Committee

Council Member Pounds briefly reviewed the financial statements through January 31, 2021. The City has received \$12.6M in revenues to date, \$3.5M of which is in bond proceeds. The City anticipates finishing FY21 approximately \$600,000 in revenues over expenses.

i. **Consideration of change order in the amount of \$228,505.69 to Salmon's Dredging for the construction of the marina fuel hut, re-engineered fuel hut support flotation, and other modifications to the fuel dock required for the marina dock rehabilitation project**

MOTION: Council Member Pounds made a motion to approve, and Council Member Buckhannon seconded the motion.

Council Member Pounds reviewed where the increased costs for the fuel hut portion of the project are coming from and what Mr. Berrigan, the Marina Manager, has offered to pay for. Administrator Fragoso stated that they discussed the option of moving the hut to land, and the costs associated with doing so do not result in savings. Mr. Berrigan also indicated such a move would create a need for an additional employee.

Mr. Marshall shared specifics of a prefabricated option for the fuel hut. He noted that option will still require additional work and customizations with an estimated cost of \$125,000. Additionally, Mr. Berrigan will not contribute the \$36,400 he is currently pledging if that option is selected. The prefabricated option will still require the larger platform.

Council members expressed concern about the large increase in cost and how it was missed as part of the original bid packet. Council Member Smith said that while the cost increase is concerning, delaying the project could lead to additional increased costs. Council Member Buckhannon noted that this project is addressing decades of deferred maintenance and that the City is "expanding and improving the footprint of our marina."

Mr. Marshall said, "I take exception to Council Member Bell and Council Member Moyer's comments. ATM is faithfully served the Isle of Palms on this project and others, particularly this project for five or six years now and we have endeavored at all times to treat your money as if it

was ours. This fuel hut was bid as a design bid alternate. We are marina experts. We don't design buildings. We put it out as a design bid alternate. We got three bids in. The low overall base bid was Salmon's Dredging. They had an alternate price for the fuel hut to replace it in kind of \$130,000. Based on our experience in other venues, and based on one of the other bids received from one of the other bidders on this project, we, ATM and the City, felt that that \$130,000 is too high. And we endeavored to find some ways to drive that cost down. At that point in time, the Marina manager engaged Evanson Schmidt Architects on their dime, to come up with some conceptual designs for the fuel hut that would serve the Marina manager's needs and stay within the spirit of what the existing hut provides in terms of amenities to the Marina.

We got that cost for the initial concept of that. It was priced by Salmon's and a couple of other contractors and it was too high. So we sent it back again to Salmon's and said this is too much money. You need to come back and give us a more Spartan option. And they did. Evanson Schmidt went back with Brian, gave us a more Spartan fuel hut and that's the one we're considering now. Salmon's priced it, and it came out to be the 166. The angst that was mentioned earlier we share completely.

During the design process with Evanson Schmidt, they gave us an estimated weight for the fuel hut at 7500 pounds or thereabouts. When we presented that information to the dock supplier that was selected for the project that's when they presented that 40 or \$50,000 change order that we have we all have so much consternation over right now. They admitted, the dock supplier admitted in a call with ATM and Salmon's Dredging that they assumed a very aggressive weight on the fuel hut of only 2500 pounds so that they could drive their costs for the platform to support the hut which was included in the base bid, the platform was included in the base bid so that they can drive that down to have a better shot at winning this public, competitive project. Both Salmon's and ATM condemn that type of bidding behavior. But we did not know that until we got into the formal design process for this hut. So when we were presented with the final number that you're contemplating tonight, we shared your angst, and we continue to share your angst. We have invested, ATM and Salmon's both, have invested substantial hours, time, effort, money to find alternative solutions to help drive this cost down.

I mentioned the prefabricated hut option earlier. We researched that substantially, and unfortunately, it doesn't look like it's going to provide the level of savings that that will really affect the bottom line here. We also researched at the request of Council Member Moye utilizing an alternate dock supplier to provide the platform for this hut. I reached out to Nikko Sullivan who is a national floating dock manufacturer that ATM has done numerous projects with all over the country. We recently completed a project with them in Burlington, Vermont on Lake Champlain. It included a large floating building and a small fuel, but a little bit larger than what we're contemplating here. I got a cost from them to provide a separate platform for this project, where we would not consider the \$53,000 add that we're talking about here for this enlarged platform, and we would seek a credit from Salmon's, and Structure Marine for the platform with the very aggressive weight limitations that they assumed and included in their original bids. I worked through the numbers today contemplating the preliminary pre-design information quote that I got from Nikko Sullivan and the bid numbers that we were looking at now from Structure

Marine for this larger platform, and I calculated that we could potentially achieve a \$15,000 savings based on the weight of the designed fuel hut. I mentioned this to Salmon's Dredging, and they expressed extreme reservations about integrating two different dock systems so close together, matching free boards and maintaining ADA, full ADA compliance. The dock supplier didn't quite have as much consternation, probably because they're trying to sell docks, but I trust Nikko Sullivan. We've done many projects with them very successfully. That being said, Salmon's response to that was, this could be a quote, nightmare. So, there are a lot of unknowns with regard to using a separate dock system to float the hut, matching freeboard is one, ADA is another, anchorage, calculation, availability in terms of schedule. All those things come into play. There may be some cost savings available with that. But it also doesn't appear to be dramatic. So with that, I think that's all I have."

Administrator Fragoso said, "I just wanted to say that I support and am 100% behind ATM and the work that they have been doing for the City. We have been working with them for over six years. I know they're invested in this project. I know Kirby and I are going to jump off that fuel dock when this project is done in celebration. But they have been meticulous. They have been thoughtful. And throughout this whole process, the amount of work that has gone into trying to get this number to a manageable amount is enormous. I just want to express my gratitude to the work that that ATM has done and Salmon's Dredging in pushing back to a proposal that none of us likes. And it's just a set of circumstances associated with the way that the project was bid by the low bidder that we find ourselves into here. But my experience has been nothing short of impressed with the work that ATF has done on behalf of the City and certainly stand by him, behind that.

Mayor Carroll added, "Kirby, ATM and Salmon's are stellar companies. And I can't thank you all enough for the quality work that you do. Council Member Buckhannon said, and I quote we are horrible developers and landlords. We failed miserably our city residents because this is their Marina. We took the low bid on the Public Safety building and look what we got. And we had to rebuild it. Council Member Streetman sent me some pictures this weekend of the bulkhead, the newly-coated bulkhead, and it's already rusting. So I mean, is that what we're going to get with the low bid? Are going to have to recoat it in a couple years when it's brand newly coated and rust is coming through?"

Mr. Marshall further explained the situation they find themselves in is as a result of an "overly aggressive assumption by the dock supplier." He assured Council this is "not how ATM and Salmon's does business."

VOTE: A vote was taken as follows:

Ayes: Streetman, Pounds, Bell, Moye, Smith, Buckhannon, Ward, Popson
Nays: Carroll.

The motion passed 8-1.

ii. **Consideration of an amount not to exceed \$10,000 for the development of engineered plans for building permit approvals for the marina fuel hut**

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

Council Member Popson said Salmon's should be paying for this. Mr. Marshall said he agreed. However, when the City rejected that alternate bid, it was no longer Salmon's responsibility to do so.

Mr. Marshall added, "It is kind of a weird situation here. Where after we were rejected the alternate bid that was originally included in Salmon's cost, we had a meeting with Brian at his office with Salmon's to discuss ways to drive down the cost of the fuel dock. Desiree was there in that meeting. At that time, that's when Brian offered to engage the services of the architect. He has done so as Desiree mentioned, to generate the preliminary designs, the weight calculations, the preliminary structural loads and things of that nature. This additional cost is something that Salmon's didn't include in their pricing of the actual construction of the dock. But it is required, as you know, being a contractor for the pulling the permits through the city. So it's just, it was a little bit strange how the design responsibilities for the hut came to be with Brian kind of being involved and toting the initial costs of that, and now offering the contribute \$36,400 to the physical construction. But the \$10,000, as we discussed last week, is a placeholder. The preliminary number that we got from the architect is \$6,000 for these plans. I believe that there will be a little bit additional coordination just with regard to anchoring to the floating dock system. And we want to have just that little bit of wiggle room on top of the six so that we don't have to come back and come in front of you mid-process again."

VOTE: A vote was taken as follows:

Ayes: Smith, Buckhannon, Moye, Pounds

Nays: Ward, Popson, Bell, Streetman, Carroll.

The motion failed 4-5.

B. Public Safety Committee

Council Member Bell reviewed the minutes of the February 4, 2021 meeting. He spoke about the concerns of both City staff and residents about the changes to the striping of the IOP Connector. He said SCDOT intends to move forward with the project without further input from the City.

MOTION: Council Member Bell made motion to approve City-sponsored event status for the Lowvelo 2021 Bike Ride. Mayor Carroll seconded the motion. The motion passed unanimously.

Christopher Reed and Chris Aronhalt of Lowvelo thanked the City for their support and said they were excited about the November event.

C. Public Works Committee

Council Member Ward reviewed the minutes of the February 3, 2021 meeting.

D. Recreation Committee

Council Member Smith reviewed the minutes of the February 1, 2021 meeting. She gave further clarification to the Folly Beach ordinance that allows for surfing instruction on the beach, some of which has been added to Ordinance 2020-16 to be addressed later in the meeting.

E. Personnel Committee

Council Member Moye reviewed the minutes of the February 2, 2021 meeting. He spoke about the hiring process for the Fire Chief. He said the external candidate who was offered the position had to decline due to family circumstances. Battalion Chief Hathaway was offered the position and has not formally accepted the position as of the meeting time.

F. Real Property Committee

Council Member Streetman reviewed the minutes of the February 1, 2021 meeting. Mr. Lorenz and Mr. Bushnell of the IOP Families Group gave a presentation of improvements being done to the restaurant. They shared the proposed design of the new restaurant and parking area. Council Member Streetman indicated that all City Council members have visited recently the location.

MOTION: Council Member Streetman made a motion to approve the design of the marina restaurant as presented. Council Member Bell seconded the motion.

Council members expressed their thanks to Mr. Lorenz and Mr. Bushnell for the extensive work they are doing at the Marina to make the restaurant a community asset. Pending approval, they anticipate beginning construction mid-to-late March with the outdoor area opening in July and the interior opening late August-early September. They said the extra expense they have incurred in the renovation of the building will not be felt by residents.

VOTE: The motion passed unanimously.

Council Member Smith mentioned that she reviewed beach access paths from 23rd-43rd avenues following last week's heavy rains. She said many of them were impassable without having to tread through water. She said there is \$4M in the beach renourishment fund that can be used to improve these paths.

5. Reports from City Officers, Boards, and Commissions

- A. **Accommodations Tax Advisory Committee** – minutes attached
- B. **Board of Zoning Appeals** – minutes attached
- C. **Planning Commission** – minutes attached

6. Reports from Special or Joint Committees – none

7. Petitions Received, Referred or Disposed of – none

8. 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 as amended, and Council Member Pounds seconded the motion.

Council Member Smith explained the changes to the ordinance since the previous meeting: “We were able to add in requirements around an insurance policy that we're expecting all surf instructors to have that would include the City on that policy. The requirements around a certain level of safety certification, of lifeguard certification, for at least one instructor with a group of surfing students. We have limited the amount of instruction time that any one instructor can have during the day to two hours. We have also limited specifically, the amount of instruction a student can have to two hours. So there's no potential loophole with one instructor handing off kids to another instructor to create something that we really are ready for, which would be more of a camp situation. So this is an introductory year, we will this ordinance allows for this to be evaluated at the end of the year. And it also gives city council the right to you limit the number of instructors.”

Asst. Administrator Hanna said the intent is to provide an online application process for surfing instruction that will require uploading of all required documentation. All applications will be brought to Council together for approval.

VOTE: The motion passed unanimously.

9. Introduction of New Bills, Resolutions, and Proclamations

A. Consideration of Emergency Ordinance 2021-02 – an ordinance to amend and extend the City’s COVID-19 response protocols

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

Administrator Fragoso said this ordinance refers back to the Governor’s Executive Orders requiring compliance for restaurants and retail establishments. This ordinance does not include any parking restrictions, but allows for outdoor dining, requires face masks at indoor establishments, and allows for the City to hold meetings virtually as needed.

Council members entered into a lengthy discussion about whether or not there is a need to continue holding all City meetings virtually. Some members favor resuming meeting in person while others remain uncomfortable with in-person gatherings. The ability of City Hall’s IT infrastructure to support simultaneous in-person and Zoom meetings was also discussed. Council Member Streetman said he supports the acceleration of any investment needed to better City Hall’s IT infrastructure.

Administrator Fragoso reported, “We did improve and update the live stream equipment that we currently have. Obviously, it's not what we're budgeting in FY 22 that has already been approved

by the committee. But we can certainly support live streaming much better than we had in the past. We can certainly include a component to allow folks to participate from home while still live streaming. It's not rocket science. We're prepared to do that. We have been testing the equipment for quite some time knowing that folks were getting, we were getting questions about our readiness to return to in person meetings. So we will implement and do as you all please, we're ready to do that. Obviously, I think that the public should expect a requirement to use face coverings which we have currently inside City Hall we have had since the beginning of the pandemic, and there might be some limitations on the number of people that can attend the room. But I think that the public is already used to these kinds of adjustments as a result of COVID. So I don't want you all to wait or think that you'd have to wait on the staff to be ready to execute that we would be ready to do that. While we can try to do it elegantly.”

MOTION: Council Member Bell made a motion to amend the ordinance to begin upon the expiration of Ordinance 2020-14 and expire after 60 days. Mayor Carroll seconded the motion. A vote was taken as follows:

Ayes: Smith, Pounds, Streetman, Moye, Bell, Popson, Ward, Carroll
Nays: Buckhannon.

The motion passed 8-1.

B. Consideration of Ordinance 2021-03 – an ordinance amending Title 4, Public Utilities, Chapter 4, Commissioners of Public Works

MOTION: Council Member Ward made a motion to approve, and Council Member Streetman seconded the motion. The motion passed unanimously.

10. Miscellaneous Business

- A. Discussion of restriping and changes to the IOP Connector by SCDOT
- B. Discussion of the City’s Managed Beach Parking Plan and consideration of options
- C. Discussion of eviction proceedings with holdover tenant at IOP Marina
- D. The next regular City Council Meeting will be held on Tuesday, March 23, 2021 at 6:00pm.

12. Executive Session

Mayor Carroll said the issues regarding the restriping of the IOP Connector, the City’s Managed Beach Parking Plan, and the eviction proceedings were items that required legal advice and would be discussed in Executive Session.

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 aforementioned concerns. Council Member Streetman seconded the motion. The motion passed unanimously.

City Council moved into Executive Session at 8:25pm.

City Council returned from Executive Session at approximately 9:55pm. Mayor Carroll said no decisions were made.

Mayor Carroll said a letter from SCDOT concerning the restriping of the IOP Connector will be put on the City's website tomorrow.

MOTION: Council Member Bell made a motion that “while affirming the current 2015 Parking Plan and subsequent amendments that we continue to work with SCDOT to optimize available beach parking.” Council Member Ward seconded the motion.

Council Member Moyer said, “I think the city staff and this body are working hard to build relationships and strengthen relationships that exist and look for common goals and I think we've we've demonstrated success the last couple weeks and I look forward to continuing.”

VOTE: The motion passed unanimously.

MOTION: Council Member Streetman made a motion to accept the recommendation of legal counsel and “have our counsel along with the City Administrator draft a press release that would go out for a public statement in regards to that.” Council Member Pounds seconded the motion. The motion passed unanimously.

13. Adjournment

Council Member Buckhannon made a motion to adjourn, and Council Member Popson seconded the motion. The meeting was adjourned at 9:59pm.

Respectfully submitted,

Nicole DeNeane
City Clerk