



CITY COUNCIL MEETING
6:00pm, Tuesday, September 27, 2022
1207 Palm Boulevard, Isle of Palms, SC and
broadcasted live on YouTube: <https://www.youtube.com/user/cityofisleofpalms>

MINUTES

1. Call to order

Present: Council members Hahn, Bogosian, Anderson, Ward, Streetman, Popson, Miars, Pierce, and Mayor Pounds

Staff Present: Administrator Fragoso, Director Kerr, City Attorney Halversen, various department heads

2. Citizens' Comments

Buddy Gillam and George Page from the VFW thanked the ATAX Committee for their support of a \$30,000 grant request to help fund an elevator at their post. They spoke about the need for the elevator and asked Council for their consideration.

Glenda Nemes, a full-time resident, passed out copies of a recent *Post & Courier* article regarding ATAX. She explained why she resigned from the ATAX Committee. She believes the City should follow the "Folly" model. She is glad awareness has been raised about the spending of the CVB and believes ATAX committees should be more functional.

3. Special Presentations

A. Consideration of Spirit of the Island Award to Geoffrey Forquarean

Mayor Pounds said that Geoffrey Forquarean was nominated for the Spirit of the Island award by two different residents. He shared some of the recommendation that highlighted Mr. Forquarean's efforts to provide meals to residents in times of need.

MOTION: Council Member Ward made a motion to award Mr. Geoffrey Forquarean with the Spirit of the Island award. Ms. Anderson seconded the motion. The motion passed unanimously.

Mayor Pounds presented Mr. Forquarean with the Spirit of the Island award.

B. Recognition of Hartley DePass on his win at the Eastern Surfing Association Championships

Mayor Pounds recognized Hartley DePass for his First Place showings in the recent Eastern Surfing Association Championships.

C. Drainage Masterplan Presentation – Davis & Floyd

Ryan Phillips and Aaron Aiken of Davis & Floyd gave an overview of the work done to date on the Drainage Master Plan. They have given a conditions assessment to Asst. Director Asero who has used that information to begin some maintenance work. Locations between Breach Inlet and 29th Avenue have been identified as needing significant improvement to alleviate flooding during storms and heavy rain events. They spoke about some current improvements being done at 25th Avenue and shared details of proposed improvements at 6th and 7th Avenues for which grants are being sought. Upon completion of the project, Davis & Floyd will recommend improvements in the Phase 3 and Phase 4 areas that the City can work on and funding sources for the same.

Next steps include assembling cost estimates for major and minor projects, reviewing development standards, and developing a maintenance program to make the drainage system more efficient.

MOTION: Council Member Ward made a motion to suspend the rules of order to allow for the consideration of the recommendation from the ATAX Committee to be discussed next. Mayor Pounds seconded the motion. The motion passed unanimously.

4. New Business

B. Consideration of recommendation from the ATAX Committee to award a \$30,000 grant to the VFW for the replacement of an elevator

MOTION: Council Member Ward made a motion to approve, and Council Member Popson seconded the motion.

MOTION: Council Member Ward made a motion to suspend the rules of order to allow for Mr. Gillam and Mr. Page to speak to their request and answer questions from Council. Council Member Bogosian seconded the motion. The motion passed unanimously.

Mr. Page said 4000 people per year use their facility and that veterans from all over the country come to visit this post. He said the full cost of the elevator installation is \$42,000.

Council Member Ward asked about the validity of their request, to which Administrator Fragoso answered, “That is an assessment that the Tourism Expenditure Review Committee will make. We look at the letter of the law, and in State law where it defines tourism-related expenditures, which is what is eligible to receive ATAX funding it includes, and I am going to quote from the State statute, ‘construction, maintenance, and operations of facilities for civic and cultural level activities including construction and maintenance of access and other nearby roads and utilities for the facilities.’”

Council Member Streetman spoke highly of the new courtyard, noting the amount of foot traffic the space sees on summer weekends. Council Member Popson added that all the facilities at the post are on the second floor, so an elevator is necessary for all to access them.

Council Member Anderson spoke with concern that not all island organizations are being treated equally with regards to funding. She is concerned that this request is overstepping the bounds of private vs. public use.

Administrator Fragoso pointed out that the ATAX Committee is responsible for considering \$50,000 in sponsorships each fiscal year, and they have already awarded \$10,000 to the IOP Chamber of Commerce.

The current president of the VFW noted that the VFW supports numerous community activities and allows for public access to the beach via their courtyard.

VOTE: The motion passed unanimously.

5. Approval of previous meetings' minutes

- A. City Council Regular Meeting – August 23, 2022**
- B. Special Personnel Meeting – August 30, 2022**
- C. Special City Council Meeting – September 13, 2022**

MOTION: Council Member Ward made a motion to approve, and Council Member Popson seconded the motion.

Council Member Anderson said she would like the following to be included in the minutes of September 13, 2022 under Item C: "Council Member Anderson indicated that there were three alternative parking layouts: the first two are similar except that the lot entrance is move farther from the boat ramp at Mr. Bushnell's request. Mr. Bushnell then prepared a third plan that favors the restaurant to the detriment of the City. Mr. Bushnell wants to maximize the parking while IOP wants a usable park. In her opinion, either of the first two plans would be acceptable for the City."

Council Member Streetman asked for clarification regarding a second motion to approve Ordinances 2022-04 and 2022-05. City Clerk DeNeane said she would go back and listen to the recording so the minutes are accurate.

VOTE: The motion passed unanimously.

Upon review of the 9/13/2022 minutes, two motions were made to approve Ordinances 2022-04 and 2022-05. The second motion came after a lengthy discussion and vote to defer the parking lot configuration to the Real Property Committee.

6. Old Business

- A. Discussion of entering into Automatic Aid Agreement with Mount Pleasant for Fire Protection [*Priority 3, Goal D*]**

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

Administrator Fragoso said, "I did want to clarify for the record that the Automatic Aid Agreement would be with the Town of Mt. Pleasant, but we also wanted you to know that it

would include the City of Charleston, North Charleston, James Island, Johns Island, and St. Andrews. This is a complete regional automatic aid agreement that would be inclusive of all those communities.”

Chief Oliverius said the City will participate in this agreement for a pilot period of twelve months beginning 1/1/23. He said it would “dramatically enhance our capability to respond to emergencies by allowing us the opportunity to utilize staff from other departments and resources from other departments, and also enhance our personnel as well.”

Administrator Fragoso added that the Chief will be setting up public meetings to inform the public about the agreement and what it means for the community. She also noted that the City can pull out of the agreement at any time.

Council Member Bogosian suggested tracking and monitoring all calls answered by the department as a result of the agreement.

VOTE: The motion passed unanimously.

B. Discussion about hiring a consultant to develop conceptual design alternatives for Palm Boulevard between 21st and 41st that accommodates parking, bike path, and emergency lane

Mayor Pounds said that back in 2013 the City contracted with Stantech to create parking strategies and a conceptual design for Palm Boulevard. He reported that Secretary Hall and SCDOT have agreed to engage their consultants to develop and provide alternatives for Palm Boulevard at their expense. Council Member Hahn believes Palm Boulevard is unsafe right now and the City needs to have a study done on their behalf.

Administrator Fragoso said of the current work of SCDOT, “They are currently negotiating with RK&K, which is the consultant that they are currently working with on the connector study to increase, change their scope to include this component. This hasn’t been executed, but I think they are trying to pile on other projects with the same company. I had a meeting with them last week, and we talked about this, conveying to them our concerns with pedestrians, with golf carts and everything that we see happening all the time on Palm Boulevard and wanting to see alternatives developed that address that while maintaining parking and access.”

Council Member Bogosian said that the aesthetics of Palm Boulevard are an important consideration. Mayor Pounds said he did not believe the timing of the City hiring a consultant would be any faster than working with the current SCDOT consultant.

Administrator Fragoso agreed, “We are looking at 60-90 days before we can even have somebody engaged. This would be something that would have to prepare a request for proposals, interview several firms, and then make a selection. Additionally, it is not a budgeted item. Council can certainly approve an out-of-budget expenditure, but just knowing how this sort of process works, I would guesstimate 60 to 90 days.”

Council Member Anderson suggested using the same process and consultant the City is using now with regards to overseeing the work being done on the Connector.

Administrator Fragoso said SCDOT is slated to make their presentation of the alternatives to the Connector on November 15. She added SCDOT “indicated that they are negotiating the change order to the existing consultant contract.” She does not have a timeline on when that will be resolved, but she did not believe it would be a long process. She said, “I would expect a couple more weeks before they finalize that, and they can start working on it. It is the same consultant, so I don’t anticipate them doing any work on the 21st to 41st Avenue work until the Connector study is complete, which should be by November.”

Council Member Hahn agreed that using the City’s current consultant, Jennifer Bihl, would be a good idea. Administrator Fragoso said that there are likely enough funds in the Professional Services budget to cover the additional expenses.

C. Update on efforts to install an elevator in the new marina restaurant

Director Kerr reported on a meeting including staff, Trident Construction, and restaurant representatives had onsite recently regarding a location for an elevator. He believes they have found a feasible, albeit awkward, location for an elevator. Restaurant staff have asked for time to react to it from a functionality standpoint. They are also awaiting rough cost estimates from Trident Construction.

Administrator Fragoso and Council Member Streetman gave background information to the newer Council members on this issue as it had started under the previous council. Council Member Streetman noted that former Council Member Bell suggested the use of ATAX funds to help pay for the elevator.

D. Discussion of Council’s code of conduct and disciplinary hearing procedures

MOTION: Mayor Pounds made a motion that the Personnel Committee develop some disciplinary hearing procedures and bring them back to Council for review and approval. Council Member Anderson seconded the motion.

Council Member Bogosian said this item will be discussed at a Special Meeting of the Personnel Committee and brought back to Council at the October workshop or the regular meeting.

VOTE: The motion passed unanimously.

E. Discussion about changes to the noise ordinance

Mayor Pounds referred to a page in the meeting packet containing thoughts and ideas for consideration in an amended noise ordinance. Administrator Fragoso said the goal is “to take out as much discretion from the officer when they are responding to noise complaints and really try to have some black and white guidance for our officers and in our community and making sure that the residents know what to expect and what the limits are and what kind of resolution may be available.”

Staff has been working with decibel readers to help find reasonable levels for day and night noise. It was suggested that decibel readings be taken at the property line outside the home of a complainant.

Several Council members spoke with concern about the noise situation at 57th Avenue and believe there must be a way to mitigate that situation.

Administrator Fragoso said that Chief Cornett continues his research into how the objectivity of such noise ordinances are working in other communities. She noted that there appears to be a trend of more objective noise ordinances going into effect across the country. A high-level draft of a noise ordinance will be presented at the October workshop.

6. New Business

A. Consideration of request from Suncoast Filming for City-sponsored event status for filming scenes for feature film on October 12 and 13, 2022

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

Administrator Fragoso said the request has changed since the information was added to the meeting packet. They will only be filming on October 13. They will be renting the entire municipal parking lot on that day from 7am-7pm. The request also includes the use of some spaces on Ocean Boulevard on both days.

VOTE: The motion passed unanimously.

C. Consideration of proposal for the construction of two (2) pickleball courts and rehabilitation of two (2) existing basketball courts

Administrator Fragoso said the FY23 budget allotted \$225,000 for both of these projects. The City received one bid for the project: \$107,650 for the construction of two pickleball courts and \$187,856 for the rehabilitation of the basketball courts. This is \$70,000 over budget.

Administrator Fragoso suggested the use of some of the funds in the Recreation Building fund which is funded by donations from the community. There is currently \$98,000 in that fund. One tree will have to be removed for the completion of these projects. The recommended location of the pickleball courts will require the relocation of the batting cage. Staff recommends moving forward with these projects so they are ready for the next season.

Council Member Popson stated that Truluck is a “great company,” and he feels comfortable having them work on this project for the City.

MOTION: Council Member Streetman made a motion to approve an amount not to exceed \$300,000 to award to Truluck Construction the construction of two pickleball courts and the refurbishment and rehabilitation of the two basketball courts with the difference the budgeted amount and the bid amount to be taken from the Recreation Building Fund. Mayor Pounds seconded the motion. The motion passed unanimously.

D. Discussion about changes to the dog ordinance to add a section specific to dogs biting, chasing, or harassing

A recent dog-related attack led Chief Cornett to have conversations with the Animal Control Officer and the City Prosecutor to find ways to adjust the current dangerous animal ordinance so

that it addresses dogs biting, chasing or harassing. He said, “There was some concern about charging a dangerous dog before based off of a fight because a dog has not been deemed dangerous at that point. The bite and the conviction of the bite would be what makes it a dangerous dog. So that is why we are coming forward with this statute, this ordinance that would basically give us the tools to say that we are charging for the bite itself. Sometimes it may not be enough that makes it a dangerous dog. It might be a little barking or something like that. Chasing something around is not necessarily a dangerous dog, but something that we still need to address. So this ordinance would give us that ground to lay first so that we can make the proper charge. Upon conviction of this, if it was in fact a dangerous dog based on the judge’s ruling, it would be declared a dangerous dog for previous or future charges should any of those arrives. It would also give them the ability to designate this a dangerous dog, making them permit with the City and to meet all the requirements outlined in the dangerous dog statute or ordinance for keeping the dog around their property.”

Asked to address the chasing and harassing part of the ordinance, Chief Cornett said, “If you have a dog that doesn’t necessarily get to bite you and they are chasing you, running away from it, it’s still a dog that had the intent to do something. And if we just say biting, then we cannot do anything with it. Not saying that every dog that wants to run and play is going to be charged with this. There is still officer discretion and taking the totality of the circumstances of every call we go on before we make any charges.”

Staff will present a draft ordinance at the next meeting.

F. Workshop Midway Checkpoint

Mayor Pounds explained why there was no workshop on September 13 as scheduled.

Regarding the efficacy of the workshops, Council Member Pierce said while he likes the aggregated information on the dashboard, “I think however though sometimes without all of the committees in place what I am sensing is that by the time we do get to them either they have festered to the point of boil or in some cases they are way too early to address.” He suggested there may be a hybrid of the committee structure that could be considered. He also believes the elimination of the committees eliminated opportunities for residents to speak to Council members.

Council Member Streetman said two workshops is not enough time to properly evaluate the option. He pointed out that one of the reasons for the workshops was for Council members to hear everything all at once instead of having to attend several different meetings.

Council Member Ward said he has not changed his stance on the importance of committees, which he believes are more answerable to residents. He believes workshops last too long and are not specific enough.

Council Member Miars said she is leaning towards going back to committees while Council Member Anderson pointed out the redundancy with information sharing in committees. Council Member Popson would also like to go back to committees.

Administrator Fragoso said, “It would be helpful as you all make these decisions for Council to decide on a process of who and when issues are selected. Let’s say we go through a hybrid model. What are the issues that Council feels like need to be looked at a little bit closer, at an ad hoc or committee meeting? Because in the past what we have seen is issues would go through the committee process and by the time they got to Council, the Council members that were not part of that conversation, that were not part of the decision-making did not feel part of the process.”

Mayor Pounds said what this looks like going forward will be discussed at the next workshop. Council Member Ward noted that government is supposed to be redundant in order to give people time to hear about the issues. He said the Ways & Means Committee used to be only 3 people.

E. Report to Council per Procurement Code Section 1-10-3(c):

i. **Purchase of a de-escalation simulation training system, \$13,600 [Police Department, Hospitality Tax, \$15,000]**

ii. **Purchase of all-terrain vehicle (ATV) for beach patrol, \$20,665 [Fire Department, State ATAX, \$22,000]**

G. Financial Statements

Mayor Pounds referred to Treasurer Suggs notes about the fiscal year to date. “August revenues are generally in line with normal trends with the exception being business licenses and building permit revenues which are up significantly over the same time last year, which were up significantly over the same time the previous years...Expenditures are in line with budget targets. The City ends August with about \$33million in cash deposits” of which “\$2.7million unspent bond proceeds, about million is ARPA funding, and \$13million is restricted for tourism-related expenditures or beach preservation. All expected fiscal 22 revenues and expenditures have been recorded and the audit is prepared for October. Unaudited results indicate General Fund revenues to exceed General Fund expenditures by approximately \$3.5million.”

He continued, “Charleston County has provided property value assessments for purposes of setting the millage rate for October 22 tax bills. Total assessed values have increased 6.7% from prior year. Based on the analysis from Charleston County, the tax revenues are expected to meet or exceed the FY23 property tax budget. Therefore no millage increase will be necessary for the fiscal 23 budget.”

G. Consideration of distribution of FY22 positive net result

Regarding the distribution of the FY22 positive net result, Mayor Pounds recommended leaving 10% in the General Funds (roughly \$358,000), 5% to the Disaster Recovery Fund, and put the remainder Capital Projects. He said the monies put into Capital Projects can be used at any point in time if something comes up.

MOTION: Council Member Ward made a motion to approve the Mayor's recommendation of the distribution of the FY22 positive net result. Council Member Streetman seconded the motion.

Council Member Pierce asked about setting aside some money to create a sinking fund for City assets. Mayor Pounds said this motion would be to designate the funds so the audit can move forward. Setting up a new fund can be done at a later date.

VOTE: The motion passed unanimously.

H. Consideration of millage rate for tax year 2022

MOTION: Council Member Ward made a motion to confirm the budgeted millage rate. Council Member Streetman seconded the motion. The motion passed unanimously.

I. Capital Projects Update

i. Phase 3 Drainage – Outfalls at 30th, 36th, and 41st Avenues

Administrator Fragoso said work has restarted at the 30th Avenue outfall: "The contractor has completed the installation of the pipes up until the point that they needed to move to 36th Avenue and delay the road closure until after they complete 36th Avenue. So they started mobilizing this week to Forest Trails...41st Avenue is still waiting on permits. We did hear back from OCRM that they are very understaffed. That is why they have a huge backlog of permits. It's been over a year, so we should be at the top of the list...Last month we reported that we had requested an amendment to our grant application for funding the construction of 41st Avenue. We submitted an amendment to include \$730,000 for the piping of the section of 41st Avenue between Waterway and the end of the road. We have received official notice that the grant request has been awarded, so we will have a total of roughly \$2.7million, \$2.3million for that grant." She thanked the City's grant writer and Thomas & Hutton for helping with that application and amendment.

ii. Comprehensive Drainage Masterplan

Covered earlier in the meeting.

iii. Overhead to Underground Conversion at 21st Avenue

All equipment needed for this project is on hand. Dominion Energy is still working on getting a required easement from the church. The project is still on schedule to be completed this fall.

iv. Pickle Ball Court Construction and Basketball Courts Rehab

Covered earlier in the meeting. Once the contract is executed, a notice to proceed will be issued.

v. Public Dock Rehabilitation and "T" dock improvements

Administrator Fragoso said the RFP for the improvements to the bulkhead should be going out within a week or two. The goal is to have that work conducted in the off season. The Real

Property Committee will have a meeting next week to discuss the parking layout and how that will work alongside with the greenspace along the bulkhead.

Council Member Streetman asked if something could be done at the public dock to help kayakers get in and out more effectively and efficiently. Administrator Fragoso responded, “The challenge with that is that a kayak launching device is not included in the permit for that dock, so that would be something that we have to submit. It is mostly procedural, but we kind of have to go through the process and request approval from OCRM to get that installed. The cleats, that was something that we intentionally removed as part of the improvements that we did once we took possession of the property to avoid boats tying up to the dock.”

Council Member Miars confirmed that there were boats tied up there last weekend. Council Member Streetman pointed out that the City has the ability to keep boats from being tied up there. Administrator Fragoso said she would look into the matter further.

Council Member Miars asked about having trash and recycling containers at the public dock. Administrator Fragoso said that they were pulled off the public dock because residents were using it to dump household garbage and it became difficult monitor and maintain.

Council Member Ward asked about the possibility of counting the number of people who use the public dock.

vi. **34A Beach Access ADA-Compliant Boardwalk**

Administrator Fragoso said the contract for this work has been executed and work is expected to begin in the next month or two.

vii. **New Garbage Compactor in the small municipal parking lot**

An RFP has been issued and proposals are being evaluated. Both bids came in under budget, and staff will be prepared to make a recommendation to Council in October.

7. **Boards and Commissions Report**

- A. **Board of Zoning Appeals** – minutes attached
- B. **Planning Commission** – no meeting in September
- C. **Accommodations Tax Advisory Committee** – minutes attached
- D. **Environmental Advisory Committee** – minutes attached

8. **Ordinances, Resolutions, and Petitions**

- A. **Second Reading** – none
- B. **First Reading** – none
- C. **Resolutions and Petitions** – none

9. **Executive Session**

MOTION: Council Member Streetman made a motion to enter into Executive Session in accordance with §30-4-70(a)(2) to receive legal advice related to potential claims concerning alterations to Isle of Palms zoning districts. Council Member Popson seconded the motion.

The motion passed unanimously.

City Council moved into Executive Session at 8:28pm.

City Council returned from Executive Session at 9:22pm. Mayor Pounds said no decisions were made.

MOTION: Council Member Bogosian made a motion: “In order to further preserve and conserve significant and vital natural resources and to ensure the continued availability of recreation facilities, I move that an ordinance be prepared to amend the conservation district, Section 5-4-40 of the Isle of Palms Zoning Ordinance, to include preservation of public and private recreation facilities. Further, in order to ensure there continues to be an appropriate ratio between developed areas and conserved/preserved areas in Wild Dunes, I move that an ordinance be drafted to cap the density in the Wild Dunes PRD to reflect the current existing units and approved lots. In so doing, I move that Council engage in a plan of rezoning to protect conservation and recreation areas within Isle of Palms and to reduce the permitted density in the Wild Dunes PRD. I further move that a public hearing on the proposed ordinances be held on or about October 18, 2022, for the receipt of public comment. In so doing, I move that Council invoke the Pending Ordinance Doctrine.” Council Member Hahn seconded the motion. A vote was taken as follows:

Ayes: Ward, Anderson, Bogosian, Hahn, Pierce, Streetman

Nays: Popson, Pounds

The motion passed 7-2.

10. Adjournment

Council Member Ward made a motion to adjourn, and Council Member Hahn seconded the motion. The meeting adjourned at 9:24pm.

Respectfully submitted,

Nicole DeNeane
City Clerk