



SPECIAL CITY COUNCIL MEETING -- WORKSHOP
5:00pm, Tuesday, May 9, 2023
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, Popson, Anderson, Ward, Streetman, Pierce, and Mayor Pounds

Absent: Council members Miars and Bogosian

Staff Present: Administrator Fragoso, various department heads

2. Citizens' Comments

Al Clouse's comments are attached to these minutes.

Rich Boznik, 15 44th Avenue, gave history and clarification to the request being made by him and his neighbors to have their properties rezoned from the Wild Dunes PDD to SR-1. He said, "All we are trying to do is reach out to the City and make sure that the City puts in place restrictions for our properties so that they would coincide with our neighbors' properties."

3. Special Presentations

Presentation by Davis & Floyd – Comprehensive Drainage Master Plan

Michael Horton of Davis & Floyd presented a draft report of the Comprehensive Drainage Master Plan. The scope of the plan covers 30th Avenue to Breach Inlet and provided suggestions for improvements along with potential costs, the creation of a maintenance program, and a review of the City's current development standards and recommendations for revisions. The recommendations for infrastructure improvement "come off a 10-year storm design." Mr. Horton said improvements were ranked by importance and noted that most of them are in SCDOT's right of way.

Council Member Anderson requested an executive summary of the plan upon completion.

Director Kerr said the City has had success working with SCDOT on maintenance operations and they have been supportive of the City's grant applications for infrastructure funding, but not as supportive working with the City on improvement efforts. The Planning Commission will complete a more comprehensive review of the plan and staff will continue to analyze it as well. The Environmental Advisory Committee has also asked to review it.

4. Dashboard of City Operations

Administrator Fragoso said revenues and expenditures are tracking as expected for this time in the fiscal year. Charges and actions from the Police Department are tracking ahead of this time last year. Parking tickets are down, but that number is expected to increase as more BSOs are hired.

She pointed out the separation of calls for service and automatic aid calls for service is in the monthly Fire Department report and will appear on the dashboard next month. She noted that there was a large increase in the calls for service, but 27 of 32 automatic aid calls were cancelled in route.

The Building Department has processed 892 short-term rental applications but will need more time to go through the rest of them. Director Kerr said the previous rental year closed out with 1,791 licenses and that number is still fluid. The Building Department has implemented RentalScape, which generated an additional 40 unlicensed properties. Staff is working through those now. Director Kerr stated that RentalScape is better at identifying rental activity within a rental unit.

Administrator Fragoso reported on the few vacancies that exist throughout the City. She also said they are evaluating incentives for BSOs who work longer through the season. Upcoming events include the Disaster Expo (5/16), Bike Rodeo (5/20), Community Overdose Prevention/Narcan Training (5/24), and the Sand Sculpting Contest (6/3).

5. Department Reports – in the meeting packet

6. Strategic Plan Policy Initiatives and Priorities

A. Livability

i. Discussion of changes to the noise ordinance

Administrator Fragoso said the version of the noise ordinance in the meeting packet comes with changes approved by the Public Safety Committee. Council Member Hahn believes it is time to put the ordinance in place to see how effective it is. Council Member Ward believes the decibel levels are too high and has concerns about the 5-strike rule.

A lengthy discussion ensued about the ordinance provision that leads to possible business license revocation when 5 founded complaints are issued against a property. Concerns were expressed that the Police Department was not enforcing the current noise ordinance. Administrator Fragoso and Chief Cornett pointed out that enforcement does not always result in a ticket being issued. Many times, enforcement results in compliance with the ordinance.

Director Kerr explained “the staff’s directive is to go on founded complaints and not citations” when it comes to dealing with noise from a short-term rental. Chief Cornett also pointed out that there are different renters each week that could be causing the noise.

Administrator Fragoso stated “five [founded complaints] is the threshold for short-term rentals. So five founded complaints for the noise violations to trigger the suspension or revocation of a

business license. The ordinance just says repeated, so there is no magic number” when considering action for commercial establishments. The Sweetgrass Inn received 4-5 complaints last year, but they were generated by one event.

Of the current draft ordinance, Chief Cornett said the objectivity of the decibel readings will be key in helping the officers apply the law.

Administrator Fragoso said of the removal of “excessive noise” and “plainly audible” definitions removed from the ordinance by the Public Safety Committee: “If the goal is to eliminate any gray area and sort of subjective measures to determine whether a noise is prohibited or not, the recommendation is being made that that section in its entirety be removed. Therefore, the threshold would be the guiding principle, the decibel threshold would be the guiding principle to determine whether it’s a violation. I think we have talked about this at length at Public Safety. There are noises that will be annoying to some that may not meet that decibel threshold, so I think we have to kind of go in eyes wide open. There have been some questions and concerns about bass sound pounds being kind of reverberating. They do not exceed the 75, for example, if we are looking at a commercial establishment number for daytime hours, and it is still going to be bothersome.” She believes putting the ordinance into place for the season will identify those sorts of issues that may need further consideration.

Council Member Pierce said he is uncomfortable without the “escape hatch clause” that is in the original ordinance that said, “if a resident has an annoying or disturbing noise that they are going to be able to seek help and get that shut down depending on what it was if it is not meeting a decibel level. It is that ‘or.’ If it is disturbing me, ‘or’ we have a decibel level. Either one of those would result in a founded complaint or give you the ability to correct it.” He believes 75 decibels to be too high and would like to see 70 decibels in the ordinance. He also said he believes the noise concern on the island is between the Sweetgrass Inn and the surrounding neighbors. He would also like to see the section allowing commercial establishments to request noise ordinance exemptions five times per year removed from the ordinance.

Chief Cornett said he does not know the solution for how to deal with disruptive noise that cannot be recorded by the decibel reader. Administrator Fragoso pointed out that noise ordinances from other municipalities have the definition for disruptive or excessive noise.

Mayor Pounds would like to see the noise ordinance come before the Council for First Reading at the end of the month. Council Member Ward said he would not vote for the ordinance in its current form. He wants to see everyone treated the same.

After some discussion, the section allowing commercial establishments to request permission to exceed the noise ordinance will be removed. Commercial establishments outside of GC2 will still be able to request permission for such an exemption which would need to be approved by City Council via resolution. The resolution will establish the parameters for the noise exemption.

ii. Discussion of request from property owners on 43rd, 44th, and 45th avenues for properties to be rezoned from the PDD into SR-1

Director Kerr reexplained the request from these properties and the steps that need to be taken to make it a reality. He said, “What we are thinking would be the best plan of action if Council is of a mind to do this would be to get your rezoning very near to the goal line but not give ratification and tell those owners to come back with some kind of confirmation they are going to be successful in releasing the properties from the covenant, and we would ask that Wild Dunes not release those covenants but basically get it to a point where they can be released, and they are ready to be released, and then once all of those are aligned and they are ready, then we would want the City to rezone first so there would be a very short window while these owners would be held to both the City zoning and the Wild Dunes ARC requirements with the understanding that very shortly after that the Wild Dunes ARC could relinquish their control. So there would be this kind of transition period that they would be very shortly overlapping with control.” He believes it to be a two-month process.

Administrator Fragoso said the City Attorney will be present at the May meeting to provide legal advice about this situation in light of the current litigation with Wild Dunes.

Council Member Popson asked about the deed restrictions on the properties, to which Director Kerr answered, “They are tied to those restrictive covenants through their deeds and that is the process, again, it will be independent of the City, but we would want to have confirmation from the Wild Dunes Community Association that they have successfully gotten to a point that they have given up those ARC rights.” He said it is ultimately not a City issue, but the City will closely monitor the situation.

Administrator Fragoso said she would be reluctant to draft anything for First Reading until the homeowners have made some progress on the situation.

Council Member Hahn suggested asking the City Attorney “about the property rights that are tied up with the deed. I would expect 100% of the people would have to agree to this or it isn’t going to happen. It has nothing to do with us, but all that needs to be in place well before anything comes to us.”

iii. Discussion of proposed initiatives with Explore Charleston

Administrator Fragoso said the proposed initiatives from Explore Charleston – the walkability study and the development of a tourism management plan – are in the FY24 budget the CVB will be presenting to the ATAX Committee next week. The funding for those projects will come from the 30% funds given to the CVB.

She said the tourism management plan will be developed through the same process used by the City of Charleston. She said, “There is still a lot of conversation to be had about the process and who would be included and what would be the timeline.” She believes there is an opportunity to expand on what is being proposed if the Council has any feedback on the initiative.

The tourism management plan, also suggested by the City's lobbyists, is budgeted for \$30,000, and there is \$50,000 budgeted for the walkability study. Mayor Pounds said the City will be leading these projects, not the CVB.

Administrator Fragoso further explained the tourism management plan initiative: "The City of Charleston is the other local community that has recently done this. The City works with the consultant and the College of Charleston for the research and data on the front end. Explore Charleston is a participant just like we would anticipate having participants from our local business community, residents. Just for context, we are looking at a process that starts with a lot of surveying, focus groups, then a committee may be formed, would be formed by Council. We are looking at potentially a committee of about 20-30 people so that we make sure it is inclusive."

Council Member Pierce expressed concern about understanding the objectives and expected outcomes of such a plan. Council Member Anderson would like to see a copy of the City of Charleston's tourism management plan.

iv. Discussion of Ordinance 2023-02 – to regulate e-bikes and battery assisted motorized skateboards on the beach

Mayor Pounds said the draft ordinance in the packet is a good compromise. Chief Cornett said that while he only got the first complaint about a bike on the beach for this year today, he does get frequent calls about the safety of them on the beach. Council Member Hahn said he is in favor of the ordinance but noted that Section A implies that cars could be on the beach outside of 10am-5pm. Administrator Fragoso said she will review the language to clarify.

B. Environmental – none

Discussion of next beach renourishment project and Breach Inlet dune system

Administrator Fragoso said they have begun discussing the next beach preservation projects with Coastal Science and Engineering. Regarding Breach Inlet, she said, "I think you all have seen and maybe received comments from folks that live around that area about escarpment that is visible in that section between maybe 3A to about 1st Avenue. Typically, what we know and what we have seen in previous years is that that area usually restores itself over the summer. However, the recommendation has been made by CSE that the City pursue a general permit for minor beach renourishment, minor dune renourishment, and it is a very simple permitting process. It is really not going to cost the City anything much, if anything, and it would give us the flexibility in the event that conditions worsen and we're dealing with an emergency situation that we could act as we have done in the past after hurricanes when the dune system has been destructed. We have brought in contractors to restore the dune. What this project would look like would be trucking in sand, bringing in beach compatible sand to restore the dune to certain standards. No work can be done before the turtle nesting season ends, which is November 1."

She continued, "Long term, I think we have talked about this before, engaging CSE to identify a sand borrow area offshore closest to the Breach Inlet area. We have identified several borrow areas on the northern end of the beach in association with our beach renourishment projects. We

do not have a source identified on the other end, and the closest you can get a source of sand, the cheaper it will be.”

She also reported that the shoal that is attaching to the beach is expected to be attached with in a year and a half to two years. She said the City’s shoal management project could add time and life to the beach renourishment project done in 2018. She added, “That is the belief that we can take advantage of that sand source and redistribute it to the island to ensure we have a healthy, dry sand beach. We do have some money in the budget to pursue this shoal management permit in addition to a permit for the large offshore dredging project that we anticipate needing at some point.”

She reminded Council that the area identified as having the most compatible sand for the 2018 renourishment has been designated as an historic area and “that adds a level of complexity for us to be able to dredge and remove sand from that area.” She will be meeting with the State Historic Preservation Office next week to understand what may or may not be permitted.

C. Public Services

i. Discussion of next steps related to hiring a parking vendor for the island for 2024 beach season

After a brief discussion, Council would like to send out an RFP for the parking vendor for the 2024 beach season.

ii. Discussion of implementing “Adopt a Drain” program

Director Kerr said they have been working with the City of Charleston to implement an Adopt a Drain program on the island. The approximately 120 drains around the island will be available for adoption at the program’s launch next week at the Disaster Expo at the Recreation Center. He said this program “gives the Public Works staff and the City kind of boots on the ground. A lot of stuff is happening at times when the staff is not year to see exactly what is going on. So they can document it, report it.”

iii. Discussion of undergrounding utility projects with Dominion Energy

Administrator Fragoso said they have met with Dominion Energy staff who has recommended the City next pursue the project of undergrounding utilities at 14th Avenue from Palm to Ocean Boulevard. Dominion Energy will also be working on the design of the project at 41st Avenue, which will be a much more expensive project. They will try to have that work done concurrently with the drainage work planned for 41st Avenue. More information about both projects will be brought to City Council when available.

D. Personnel

Discussion of partnership with Law Enforcement Neighborhood Support (LENS) to establish paid internship program in the Police Department

Administrator Fragoso shared that the LENS program would like to make a donation to the City that would be used to pay an intern for the Police Department. Council Member Hahn would like

LENS to report on its use of the ATAX money it was awarded last year. He is concerned they are not spending their money as they have indicated. He said the Public Safety Committee wanted to see all of their expenditures “Because they have made expenditures that were clearly outside of what would be appropriate for ATAX or even, depending on your definition of the LENS program, the LENS program, and so we wanted to see all of that.”

Administrator Fragoso said, “This non-profit, just like any non-profit, that received grant funding, they are required to spend the money received from the City, from ATAX in a tourism-related eligible expenditures, and those are spelled out in the code. What they do with their money received from private donations, they don’t necessarily have to comply with that tourism-related expenditure definition. They would have to comply with whatever bylaws they put in place when seeking private donations and private funds.” She said LENS only has to answer to the City for the ATAX funds it received.

Council Member Ward would like a full accounting of how they spent their ATAX funds before moving forward with this donation to the City.

E. Other items for discussion

i. Discussion of 2023 surfing lessons application from Brycen Marshall DePass, IOP Surf Lessons

Mr. DePass’s program will be held at 26th Avenue. Administrator Fragoso said all surf lesson applications will be presented to Council at one time next year.

ii. Discussion of request from Outer Banks Season 4 production to film on the beach during one weekday in July

Administrator Fragoso said this will come before Council at their May 23 meeting. This request is for City-sponsored event status. They will be filming one scene at the Sea Cabins pier and will be hiring off duty officers for crowd control on a Tuesday and Wednesday in July. They do not need anything else from the City other than permission to film.

7. Financial Review

A. Financial Statements and Project Worksheets

Director Suggs said revenues and expenditures are tracking right where they should be for this time in the fiscal year. She said the “under budget condition” in the general fund is made up of “the FEMA house that is in the budget and the drainage phase three and then about \$200,000 in just general drainage contingency that we don’t think will get spent by the end of the fiscal year.”

She said general fund revenues, property taxes, local option sales taxes are trending ahead of budget. Building licenses, rental licenses and building permits are a bit behind where they were this time last year.

General Fund expenditures are expected to be approximately \$820,000 over budget, “500 plus of that relates to the one-time out-of-budget employee compensation adjustments” and some over

budget legal expenses and higher than anticipated insurance costs. Director Suggs believes the projected positive net balance at the end of FY23 will be approximately \$1 million.

The City has healthy cash balances, \$16 million of which is restricted.

The monthly receipts for Municipal ATAX funds continue to trend up, but she believes some of that is likely catch-up due to lack of staffing at the County. State ATAX is 9% up over this time last year, Hospitality Tax is 23% over last year, and Local Option Sales Tax is up 10% over last year.

There is \$1,115,000 left in the Drainage Phase 3 project. She said, “We received the final application for payment on the improvements to the bulkhead along the Intercoastal Waterway, so we are kind of done for the time being on that schedule. We will retire it for a while until construction starts on the public dock.”

8. Procurement

9. Capital Projects Update

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

Administrator Fragoso said the work at 30th Avenue is complete with the exception of some check valves and minor improvements. The work at 36th Avenue will not begin until the off season, likely mid-August after school starts.

Staff continues to work with Thomas & Hutton and the SC Department of Resiliency on the 41st Avenue project. They are still waiting for a SCDOT permit for the work at the intersection of 41st Avenue and Waterway Boulevard. Thomas & Hutton is working on the technical specifications so that the bidding process can begin “as soon as the funds are released from SCORE. We can finish the environmental assessment process, the mitigation credits can be bought, then we can go out for bid and get a contractor for actual construction.” The engineers believe construction can begin by the end of the year.

B. Comprehensive Drainage Masterplan

This was discussed earlier in the meeting.

C. Public Dock Rehabilitation and Marina Bulkhead and Boardwalk

Administrator Fragoso said the boardwalk project is complete. The public notice period has ended for the public dock project for both OCRM and the Army Corps of Engineers. ATM is now coordinating with those agencies to answer any questions or comments received during the public notice period.

D. Marina Dredging

Administrator Fragoso said an RFP is out for the engineering firm to help with the design and permitting process for this project. They hope to start this project at the start of FY24. The City will be partnering with other organizations that have dredging needs to facilitate and streamline the permitting process.

E. Breach Inlet Boat Ramp Improvements

Administrator Fragoso said the City partnered with Coastal Dredging, the company that was hired by The Boathouse Marina, to “do some minor maintenance to clear up the boat ramp and the sediment that was prohibiting or preventing boats from launching during low tide.” The cost of that project was less than \$10,000, “so now at low tide there is about five feet of water that should allow some pretty easy launching.”

ATM will be reviewing “some concerns that we have regarding the slope of the existing ramp.” There is money in the FY24 budget for some work to be done in this area.

10. Legislative Report

Mayor Pounds reported that the short-term rental bill is back in the House version of the budget. He said it is a budget proviso and “it is now going to the Senate and the conference committee,” and the lobbyists are confident that it will get pulled back out.

11. Adjournment

Council Member Ward made a motion to adjourn, and Council Member Popson seconded the motion. The meeting adjourned at 7:43pm.

Respectfully submitted,

Nicole DeNeane
City Clerk

Submitted by Al Clouse,
5/9/23

City Council Meeting 5/9/23: Clouse Comments (Meeting No. 13 since 4/13/2022 regarding NOISE ORDINANCE: NUISANCE.

After five (5) requests, this being the **sixth**, we are still waiting on written assurances regarding enforcement of **§ 9-2-5 (b)(c)**. "Amplified Music" is "unlawful" and the core of this situation.

Lack of enforcement, during 2021 and 2022, has evolved into a legal nuisance by the Sweetgrass Inn YTD. However, this does not reconcile with the Monthly Report in your packet which states "one (1)" noise violation for April YTD. Chief Cornett further stated all complaints were from one person.

PSC on 5/2/23 Chief Cornett stated four (4) complaints have been founded against Sweetgrass Inn YTD. However, this does not reconcile with the Monthly Report in your packet which states "one (1)" noise violation for April YTD. Chief Cornett further stated all complaints were from one person.

Now, Chief Cornett would not state their name, however, I will tell you, their initials are Al Clouse, one (1) of seven (7) core complainants.

On March 3, 2023 Debbie Stanley, WDCA President, publicly acknowledged WDCA does not have a fiduciary or moral obligation to aid us in our situation regarding noise abuse from the Sweetgrass Inn; thus, carving us out of their empire, except dues; further solidifying their joined at the hip bond with the resort. Subsequently, Mr. Jim Anderson was elected WDCA President and Mrs. Haack was elected as a Director. Clearly Mrs. Anderson has a conflict of interest, as Mr. Anderson's spouse. Mrs. Anderson, as you are aware, has been recently promoting the Sweetgrass Inn to the City regarding sponsorship for an event.

We respectfully request Mrs. Anderson immediately recuse herself from all further discussion and issues regarding the noise ordinance as it relates to the City, Resort and the Complainants.

It is very troubling to us Mrs. Anderson, and the Council, have not been proactive in this situation. The optics do not pass the smell test.

PSC on April 13, 2022, our very first meeting, not knowing the rules of engagement, after presenting our situation, with accompanying documents, I asked Mrs. Anderson (Chairman), "what can you do for us". Mrs. Anderson stated "we will get back to you". Never heard back from Mrs. Anderson!

PSC on November 29, 2022 Mrs. Haack, again a WDCA Director, stated "there are somethings outside of this ordinance that we need to do to help council address those items and I can certainly give you a list of all the things we are doing as owners to mitigate". Mrs. Anderson (Chairman) stated "I think that would help". Where is the list?

What is additionally interesting: Mayor Pounds lives approximately a five (5) minute walk from our property. He has never once reached out to us to realize what we are experiencing. Mayor Pounds, respectfully, we do not need a mayor who is hyped up on caffeine and jelly rolls; we need a Mayor who is willing to get into our trenches and get their hand's dirty.

The current proposed changes in the noise ordinance, all carried by a 2 to 1 vote, extinguishes our (the residents) rights to object to abuses by the Sweetgrass Inn, which are a nuisance and negatively impacts our livability. Said proposed noise ordinance is crafted in a pro-resort manner at the expense of the residents. We recommended a number of items to PSC to be include in the draft.....all were rejected.

Please do not pass said draft as it is currently written.