CITY COUNCIL MEETING
6:00pm, Tuesday, June 27, 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, Bogosian, Ward, Streetman, Anderson, Popson (via phone), Miars, Pierce, and Mayor Pounds

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

2. **Citizen's Comments**

Randy Bell, referencing Terri Haack's submitted Citizen's Comment regarding the Sweetgrass Inn's contribution to the City's ATAX funds, reminded Council that Dan Battista and Frank Fredericks said at the May 22, 2018 City Council meeting that Wild Dunes would follow the noise ordinance. He said residents did not want the hotel. He said Wild Dunes was aware of the City's noise ordinance when the hotel was built. He believes no exceptions should be made in the noise ordinance for Wild Dunes. He believes maintaining the residents' quality of life should remain a top priority of the City Council.

Christine Donovan's comments are attached to these minutes. She presented a petition to City Council.

Laura Lovins shared information about the geology of the South Carolina coastline. She said, "I would like to strongly recommend that the IOP City Council develop a plan to implement a beach renourishment project for the current affected area between 100 and 500 Ocean Boulevard." She believes hard erosion control structures "exacerbate erosion and contribute to the loss of public access and wildlife habitat" as well as negatively impact adjacent properties.

Meredith Jorgensen, 116 Ocean Boulevard, spoke to the erosion concerns at the south end of the island near her home. She said help is needed as soon as possible. She also mentioned her concern about Coastal Science & Engineering regarding a lawsuit with Pawley's Island. She encouraged City Council to vote yes to save the beach.

Brian Duffy's comments are attached to these minutes.

Al Clouse's comments are attached to these minutes.

Glenda Nemes spoke about residents' needs, ATAX money, and beach management. She supports a beach renourishment program and gave five reasons supporting beach renourishment. She asked Council to vote to put a berm in place between 100 and 500 Ocean Boulevard.

MOTION: Mayor Pounds made a motion to extend the time allotted for Citizen's Comments beyond 30 minutes. Council Member Pierce seconded the motion. The motion passed unanimously.

Renee Reddy, 118 Ocean Boulevard, said City Council's vote regarding the beach erosion will show the residents they can be decisive when action is needed. She said the coastline, dunes, homes, and wildlife need to be protected at all costs.

Cindi Solomon, 130 Ocean Boulevard, said the erosion concerns are not limited to a small number of homes and the only solution is a contiguous wall of sand from the first to the sixth block of Ocean Boulevard. She shared the significant changes to the beach near her home. She encouraged City Council to vote in favor of placing sand on the beach.

Les Kutcher, 9 Ocean Pointe Drive, said he is disappointed to see City Council in a reactive position regarding beach management. He said there needs to be standard operating procedures in place for this sort of need. He said the beach must be protected and defended "at all costs."

3. **Special Presentations**

Mayor Pounds presented the Spirit of the Island Award to Ted Kinghorn and to Bobby Simons and a business associate of the ACME Lowcountry Kitchen.

4. **Approval of previous meetings' minutes**

A. Public Hearing FY24 Budget – May 23, 2023
B. City Council Meeting – May 23, 2023
C. Special City Council Meeting – June 13, 2023
D. Special City Council Workshop – June 13, 2023

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

MOTION: Council Member Bogosian made a motion to suspend the rules of order for City Council to discuss the petition presented to them. Council Member Pierce seconded the motion.

City Attorney McQuillin said, "I don't know if that complies with FOIA. There has got to be an emergency situation, one, and approved by two-thirds vote. So I think we can address it at the next meeting or call a special meeting when it's been advertised and the media has been given proper notice, and it was on the agenda."

Council Member Bogosian withdrew his motion and Council Member Pierce withdrew his second.

A Special Meeting of City Council will be held on Tuesday, July 11, 2023 at 3pm to discuss the petition.

5. **Old Business -- none**

6. **New Business**

A. **Consideration of recommendation from the Public Safety Committee to defer action on a new noise ordinance until the City receives noise study report from Wild Dunes Resort and to consider hiring a noise consultant and/or city planner to advise the City on noise policy**

Referring to a letter she received from the State Ethics Commission (that is attached to these minutes), Council Member Anderson said, "I am just going to read one sentence from it at this point. 'Even assuming one of these entities had an 'economic interest' in the noise ordinance, recusal is not required.' So there is no reason for me to require [recuse], and I will continue to participate actively in our deliberations."

MOTION: Council Member Streetman made a motion to follow the recommendation of the Public Safety Committee and defer the vote on Ordinance 2023-08, and Council Member Hahn seconded the motion.

Council Member Bogosian does not support the idea of hiring a noise consultant. He would like to have the Public Safety Committee review the sound engineer's report from Wild Dunes and continue to work on the noise ordinance. Council Member Miars agreed that a noise consultant would not be good use of City funds.

Council Member Anderson believes the City needs expert advice on crafting a noise ordinance with acceptable decibel levels.

MOTION: Council Member Streetman made a motion to discuss the hiring of a noise consultant. Council Member Miars seconded the motion.

Council Member Bogosian said he does not see value in additional noise readings from a consultant. Council Member Hahn believes the City needs guidance on the proper noise levels. Council Member Streetman said he favors hiring a noise consultant if it will help guide the City in managing the three different areas of the island – residential, Front Beach, and Sweetgrass Inn – with regards to noise levels.

Council Member Pierce expressed concern about changing the noise ordinance in response to the situation with the Sweetgrass Inn.

Administrator Fragoso reported that she has reached out to noise consultants, noting there are not many and they are very busy. She estimates their cost to conduct a full study would be between $20,000-$40,000. She said the current draft noise ordinance is modeled after those in other communities. She reminded Council that Wild Dunes will only provide an executive summary of their noise study and not the full report. Council Member Streetman expressed concern about the perceived credibility of the report.

Administrator Fragoso said the Police Department will continue to collect noise level data. Council Member Anderson said she would prefer uniform data collection and expert advice.

MOTION: Mayor Pounds made a motion to refer the noise ordinance back to the Public Safety Committee for continued consideration and review of the noise report from Wild Dunes. Council Member Pierce seconded the motion. The motion passed unanimously.

B. **Consideration of options for a dune restoration project along the southern portion of the island as outlines by Coastal Science & Engineering and approval of an amount not to exceed $232,000 for design, coordination, monitoring, and construction of the chose project**

MOTION: Council Member Pierce made a motion to "adopt the full 1500-foot berm at the price not to exceed $232,000 and concurrently to seek the 50% funding from the State." Council Member Miars seconded the motion.

Steven Traynum of Coastal Science & Engineering said, "There is not really a great option here. These are all kind of less-than-ideal solutions for some episodic erosion that is occurring." He added that they are seeing "a good bit of recovery of the dry sand berm now. We are at a high tide condition this week, so next week we will have a little bit higher tide. So I suspect the water line could come up a little further next week."

He clarified that all the alternatives are considered minor dune restoration and not beach renourishment. He reminded Council that the Army Corps of Engineers will be completing a beach nourishment project in this same area at little cost to the City.

He reviewed the options available to help restore the dunes including the construction of a 1500-foot berm, which would involve 50-100 trucks per day coming on the island for 2-3 weeks, causing the beach to be closed during the busiest season. He said it will cause a huge impact to traffic and beachgoers. He expressed concern about the longevity of any of these projects. He said, "There is nothing we can do to design a dune to make it last longer than nature wants it to last, so if the waves come up and get it, it could be a short-term fix."

A smaller scale project would address the most severely eroded properties where the waterline is within 20 feet of a pool or house. This scale project would take about half of the time of the larger-scale project.

Mr. Traynum explained the option of scraping the sand, but said "We don't recommend scraping because you are just kind of pushing it up the hill for it to fall right back in."

Council Member Streetman said he would like the City to consider the scraping project for now and wait for the Army Corps of Engineer's beneficial use project.

Council Member Bogosian would like to see the full berm installed and for the City to pursue the monies promised by Senator Campsen. He said it is Council's job to protect the beach.

Mr. Traynum noted that the City is in a "gray area right now on what the best approach is" since none of the properties currently meet OCRM's definition of an emergency.

Mayor Pounds said, "There is some precedent and consistency that we need to be aware of because there are other areas on this island either that are probably 40 and 50 feet from the line." He questioned when is the proper time to act in these sorts of situations.

Discussion ensued about the logistics of closing and monitoring the beach if the City moves forward with the installation of the berm. Administrator Fragoso said project costs do not include the additional police support needed to close the beach while sand is being placed.

Council Member Pierce said installing the full berm is a "no brainer." He said the City has the money for the project and reminded Council of their commitment to protect the beach. Council Member Miars agreed it is the City's duty to protect the beach.

MOTION: Council Member Hahn made a motion to enter into Executive Session to receive legal advice. Mayor Pounds seconded the motion. The motion passed unanimously.

City Council entered into Executive Session at 7:53pm.

City Council returned from Executive Session at 8:27pm. Mayor Pounds said no decisions were made.

City Attorney McQuillin said, "Depending on what Council does, let's assume something gets approved tonight. That does not mean it is going to happen tomorrow. We have obviously got to wait for the permit to be issued as we did with Wild Dunes and other renourishment projects. There will be some paperwork that we will have to get the affected homeowners to sign, easement agreements, etc. So it would be realistically probably be a month, I would say, until there is any real action or anyone sees any action depending on how Council votes."

Council Member Streetman asked, "When we say affected homeowners, are we talking just about the ones that were mapped on the chart or are we talking about everybody that lives on Ocean?

City Attorney McQuillin responded, "Well, it depends on the nature and the scope of the project. But to the extent that a dune is being renourished in front of that homeowner's house, we would ask that they sign the agreement."

He continued, "The idea is we got to get the trucks on the beach. There is going to be heavy equipment, pushing stuff up on to what is currently their property. So we need to make sure we button up all that stuff.

Director Kerr clarified, "The permit distance is different than the 1500-foot distance as suggested by CSE. So it is two different reaches of the beach."

Speaking about the Public Trust Doctrine, City Attorney McQuillin said, "The law is essentially if you get a permitted structure and build it and it accretes, in other words creates additional land, think of the Sullivan's Island Maritime Forest, for example, that property after you would renourish the beach, it becomes the property of the State under the Public Trust Doctrine per statute."

Council Member Hahn asked, "So each homeowner who currently owns to the high water marks, their land would stop at the built berm?"

City Attorney McQuillin answered, "Correct, and the City would have an easement over that dune. It wouldn't be like the City could put it up and the landowner could just decide to dig it up two weeks later." He added that homeowners could not put landscaping or structures, such as a pool, on that area either.

Administrator Fragoso said, "I just want to clarify the original motion that it included the approve the project for the $232,000 and pursue grant monies to cover 50%." Council Member Pierce agreed that is the proper wording for the motion, noting that the project's implementation should not be contingent upon the award of a grant.

Council Member Streetman asked, "I've got one other point to make before we make a vote. It just seems to me there were the properties we're talking about that are close to the critical area here. It would be much more beneficial to a homeowner to have sand scraping done in the interim to replenish this without having the risk of losing their rights to the high tide mark, to the mean high tide mark in the future. So I mean if it comes in, the Army Corps of Engineers comes in and replenishes the beach in 9-12 months, nothing changes for those homeowners over and above what it, right? Is that correct? The Army Corps of Engineers' replenishment project, when they come in and do that nothing changes for the homeowner. They have the same property rights they've always had to the high tide mark."

Mr. Traynum answered, "As far as I understand, the project as they have discussed it, they would only place sand in the intertidal area. It would be up to the City to decide whether to take some of that sand and restore the dune should it be needed at that point. If you do restore the dune, at that point two potential things could happen, and this isn't legal advice, but it is if that is a constructed project, then that landward end of the at dune where it was built now becomes the public trust as far as I understand that. However, if that dune becomes the new primary dune, then OCRM will likely set the new baseline and setback lines based off of that new dune's positions, which they are going to do anyway. They update that every 8-10 years."

Administrator Fragoso added, "So I think we would be in the same position, Councilman Streetman if we decide to take advantage of that large project from the Corps and push sand to restore the dune at that time. We'd be facing the same need" to have easements.

Speaking to the Army Corps of Engineers' project, Mr. Traynum said, "As they discussed it with me, it would just be a beach fill, which eventually that sand would work itself up to the dune but to jump start that and kind of do as a comprehensive plan and design. And yes, we would look at supplementing if it is accreted naturally or if we do a project in the interim and that is still there, then we may not need to do that.

Mr. Traynum expects to receive the draft of the design soon and believes work could begin in early 2024.

VOTE: A vote was taken as follows:

Ayes: Bogosian, Hahn, Miars, Ward, Streetman, Anderson, Pierce, Pounds
Nays: Popson

The motion passed 8-1.

C. **Consideration of recommendation from the Planning Commission to approve proposal from Seamon & Whiteside for the development of a Sea Level Rise Adaptation Plan in the amount of $35,300 [FY24 Budget, Beach Preservation Fee Fund, $20,000]**

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

D. **Consideration of recommendation from the Public Services & Facilities Committee to approve proposal from Applied Technology Management for the engineering design and permitting of marina dredging project in the amount of $104,500 [Funded by $1.5M Grant]**

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

E. **Consideration and approval of purchase of 16 ballistic vests for Fire Department personnel in an amount not to exceed $28,000 to be funded by the $150,000 approved allocation to enhance emergency response and beach safety**

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

F. **Consideration and approval of purchase of four tide valves for Merritt Boulevard (two valves), Driftwood Lane, and Carolina Boulevard in an amount of $35,520 to be funded by drainage contingency**

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

G. **Consideration and approval of Public Works truck with increase towing capacity and utility body in an amount of $72,746.22 from Daniels Chevrolet to be funded by Hospitality Tas, Public Works Capital Outlay ($65,000 budgeted)**

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

Administrator Fragoso said the cost of the truck, while over budget, was found at a Georgia dealership $2,000 less than the cost provided by the State. There was also a 6-8 month wait expected for the truck if purchased in-State.

VOTE: The motion passed unanimously.

H. **Agreed Upon Procedures from marina restaurant to meet lease requirement of Sec. 3.02(c) regarding statement of Gross Sales**

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

Administrator Fragoso said Islander 71 has submitted a proposal of agreed upon procedures as their intent to meet the requirements of the lease regarding the reporting of gross sales. The proposal has been revised by the City's auditor and reviewed by a real estate attorney, and "they believe that what they are proposing would meet the intent of what we requested in the lease. We just want to make sure that Council agrees with that before we accept their intent to meet the requirements of the lease." She added that if approved, this would be the same process that will be followed each year of the lease.

VOTE: The motion passed unanimously.

7. **Boards and Commissions Report**

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

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

A. **Second Reading**

i. **Ordinance 2023-02 – to regulate e-bikes and battery assisted motorized skateboards on the beach**

MOTION: Council Member Miars made a motion to approve, and Council Member Hahn seconded the motion.

MOTION: Council Member Pierce made a motion to amend by eliminating the time restriction of 10am-5pm to ban e-bikes and battery assisted motorized skateboards from Memorial Day to Labor Day on the beach. Council Member Miars seconded the motion.

Council Member Pierce added, "We have a 10 to 5 clause in there now, and I'd like to have that eliminated so that we don't have any of these electric or e-bikes or motorized vehicles out on the beach. I'm asking for that because the time of day that we are talking about, if you go out there on any weekend before 10 o'clock, the beach is packed, the County lot is already packed. I think anybody walking up and down the beach will see that there's a lot of toddlers. There are a lot of pets, a lot of activity on the beach, and these electronic bikes now can do up to some of them at the high performance can do up to 70 miles per hour. I have definitely seen them doing 40 miles an hour on the beach. The frequency is much higher. They are a lot of fun. I ride them. I enjoy them. I just don't think they are conducive with a high season, with pedestrians and beachgoers on the beach in high density at all."

Administrator Fragoso said that all area beaches prohibit these bikes and skateboards from their beach in some capacity.

City Attorney McQuillin said, "I know we got some citizen's comments expressing concerns saying that we couldn't regulate it, but there is a State statute directly on point, 56-5-710, that allows local authorities to regulate the operation of bicycles including requiring registration, licensing, etc. So I think this is fully within your power to regulate these." He also suggested adding some of Council Member Pierce's safety concerns to the ordinances.

Council Member Ward would like the Public Safety Committee to explore licensing and or registration of e-bikes later.

Administrator Fragoso noted that the ordinance allows for an exception for golf carts with handicap exemptions and emergency vehicles.

VOTE: **A vote was taken on the amendment as follows**:

Ayes: Bogosian, Hahn, Miars, Streetman, Popson, Anderson, Pierce, Pounds
Nays: Ward

The amendment passed 8-1.

VOTE: **A vote was taken on the ordinance as amended as follows:**

Ayes: Bogosian, Hahn, Miars, Streetman, Popson, Anderson, Pierce, Pounds
Nays: Ward

The motion passed 8-1.

ii. **Ordinance 2023-08 – to adopt a new noise ordinance**

MOTION: Council Member Hahn made a motion to defer the ordinance and send it back to the Public Safety Committee for further discussion. Council Member Ward seconded the motion. The motion passed unanimously.

iii. **Ordinance 2023-09 – to clarify position of City Attorney and to include provisions for the appointment of City Prosecutor**

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

iv. **Ordinance 2023-10 – to authorize the City to enter into an intergovernmental agreement related to the South Carolina Local Revenue Services, to participate in one or more local revenue service programs, to execute and to deliver one or more participant program supplements and other matters**

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

B. **First Reading**

Ordinance 2023-11 to clarify that statements of candidacy for Mayor and Councilmembers can be filed at City Hall

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

C. **Resolutions and Petitions** -- none

9. **Executive Session --** none

10. **Adjournment**

Council Member Ward made a motion to adjourn, and Council Member Streetman seconded the motion. The meeting was adjourned at 8:57pm.

Respectfully submitted,

Nicole DeNeane
City Clerk

Citizen Comments June 28, 2023
Christine Donavan 31 26th Ave. Isle of Palms

I am here to present the very strong and compelling voices of many residents, including many long-time residents like myself, who have signed a petition asking you to **take action** to prevent our island being overwhelmed by short term rentals.

I want to stress that most of the supporters are not against short term rentals. We only want to maintain a balanced community. The ordinance proposed, would limit investment short term rental licenses to 1600, which amounts to 35% of our dwellings, does not restrict full time residents like myself, from renting their homes up to 72 days per year, and allows for the transfer of a license to an eligible family member. It simply limits investment short term rental licenses to 1600, which amounts to 35% of our dwellings.

To date we've collected 1,173 signatures of residents registered to vote on the Isle of Palms. This number represents more than 30% of our 3,795 current eligible voters, and nearly double the percentage of signatures needed (683 were required) to require you to adopt the ordinance or put it to a voter referendum. For perspective, this number exceeds the number of votes received by seven of you when you were elected to your current position. Though volunteers did not yet reach all neighborhoods, the number of STR license applications already this year necessitated early submission. Again, we have 1,173 signatures. This is 70% more than the required amount as per the Charleston County Election Board.

It's crucial to clarify that we support short-term rentals. We enjoy meeting vacationing families; we value the tax revenue generated; and we love our local businesses and want them to maintain their current level of business. We are not asking for change.

Our objective is simple: to maintain the community's balance through **strategic management.** While we value short-term rentals, we can't ignore the potential risk of them overwhelming our neighborhoods, infrastructure or resources.

If it's true, as some argue, that we have no current or future problems, then this limit will never be a concern. However, many of us believe that inaction in the face of the changing landscape of our state and nearby communities, risks rapid commercialization of our island. Will it happen? No one knows. **What we do know is that currently, no preventive mechanisms exist.**

I kindly request that the City promptly consider adoption of this ordinance. We have confirmed that the signatures are valid. You are welcome to submit it to the Charleston County Board of Election, if necessary. If you are unwilling to adopt this ordinance quickly, we request that you take all steps necessary to have this placed on the November ballot.

I firmly believe that each of you is committed to listening to and supporting the residents of this island, as well as the island businesses we all love. This ordinance supports both. Thank you for ongoing efforts to gather the facts and listen to the voices of residents.

Brian Duffy
6/27/23

Good evening Council

It's been a long time since I've been here in front of you. At that February meeting if you remember I talked about data and due diligence. It was also at that meeting that the residents of this community were called a mob, twice! All for being engaged citizens. It was sad and has no place in this chamber nor in this community. It pains me to consider that such uncivil, demeaning, and bullying behavior occurred in this chamber. Thank you for letting me get that off my chest.

The main reason I am here, speaking as president of PreserveIOPNow, is to thank all the neighbors who participated in this petition drive. Those who collected signatures, taking time from their busy schedules to engage with their neighbors to discuss the referendum, its purpose, and impacts. And thanks to all the neighbors who took their time to understand the referendum, ask insightful question, offer suggestions and of course for signing the petition. I wish I had a recorder for all the stories ~~I~~ we personally heard from the folks who have been on the island for 50 and 60 years and from the ones who were born and raised here. They have lived the island's history and know what it means to be a residential island. The number of times we heard, "thanks for what you are doing" was astounding!

Just to let you know there were many, many people who support this referendum but wish to remain anonymous. They had concerns about retaliation against their businesses. Who can blame them with the amount of bad behavior and vitriol spewed in public and online.

So, ~~I~~ we have 3 requests of council, first considering what ~~I've~~ we've been said about bullying, bad behavior and vitriol, please consider the request for redaction that was submitted with the petition; second, ~~I~~ we are am requesting a council member make a motion to schedule a special council meeting to consider the petition and attached referendum. It would provide your constituents a sense of where you stand on the issue. Lastly, we never expect to have a fire but we carry fire insurance just the same. All we are asking you as prudent stewards is to consider this as island insurance.

City Council Meeting 6/27/23; Clouse Comments (Meeting presentation No. 16 since 4/13/2022); Provided Written Comments for 5/23/23 Meeting which I did not attended. Regarding: Noise Ordinance; Nuisance.

Requesting for the tenth time (twice in writing) to provide us written assurances regarding enforcement of **§ 9-2-5 (b)(c). "Amplified Music"** is unlawful and this administration's lack of enforcement has resulted into a **"nuisance", which has taken on a life of its own.** All in real time.

We have requested Mrs. Anderson recuse herself from all issues regarding the noise ordinance as it relates to Wild Dunes LLC ("resort"), WDCA and the City. 6/13/23 Mrs. Anderson stated she has requested the Ethics commission provide an opinion on her situation and expected to receive said opinion on June 15th. It will be interesting to see if her position is consistent with her previous recusal regarding the five (5) zoning ordinances; if not, the reasons why. Looking for full transparency regarding documentation.

Our History

July 2021 under the direction of Lt. Robert Forsythe, commenced calling **843-886-6522** to **report noise violations perpetrated** and emitted by the Hyatt Sweetgrass Inn (day and night). No results.

April 7, 2022 presented to Public Safety Committee. Mrs. Anderson stated "we will get back to you"; **never did.**

Presented to City Council August 23, 2022; Councilmen Pierce, Bogosian and Ward reached out to us immediately to address our concerns and understand our situation. Site visits.

No citations issued until November 4, 2022 **"The Concert from Hell"**; five (5) in one night. So, in two years I called over forty (40) times, resulting in five (5) citations.

During the above time lines, our due diligence revealed the resort's management convinced the City Administration (absent clinical proof) that Al Clouse is unreasonable. Reason for no enforcement/citations?

We exposed IOP off-duty Police, were working events at Sweetgrass. Placing them in harms way of potential conflicts of interest, when in a position to issue a citation when on duty. **Bad Optics.**

Issued **FOIA** request 5/25/23. Administration was quick to turn request; however, **did not provide attachments**. Once receiving attachments, exposed a false narrative from the resort's legal counsel regarding our character. Still waiting on your legal counsel to approve providing us one (1) attachment. How can that be on a **FOIA** Request?

Valerie Krause, a lifetime medical professional, provided detailed information regarding **WHO** and **NIH** guidelines for decibel levels; all being ignored. Conversely, the Administration provided **OSHA** numbers which are for **construction zones**. Please let us remind everyone, we live in a residential community, not a construction zone.

We have consistently been on record; we are not the Windjammer, a commercial property located in a commercially zoned area.

We have consistently stated we are unwelcome beneficiaries of an egregious hotel which is located adjacent to a residential neighborhood, who play by their rules, not complying with the noise ordinance **§ 9-2-5**; and getting away with it. **"Amplified Music"...."Amplified Music"...."Amplified Music"....!!!**

Said hotel: Purposely designed for all noise to project towards our neighborhood.

Apparently we have some kind of "side agreement" regarding noise with Island 71; really?

We believe, had the noise violations been enforced from the start; we would not be here today. But no, we let it go and go and go. Our administration, looking for ways to not enforce; did not hit this situation head on.

We believe sustainable **LIVABILITY** in this community is not defined, or derived, from **ATAX DOLLARS.**

RE: [EXTERNAL] FW: Tuesday Beach Erosion vote,

Desiree Fragoso

Mon 6/26/2023 11:18 AM

To:Rom Reddy <romreddy@sprinturf.com>;

Cc:Nicole DeNeane <Nicoled@iop.net>;

Good morning Mr. Reddy – Thank you for your email. I've copied City Clerk DeNeane so that she may include your comments in the public record along w the minutes.

D.-

From: Rom Reddy <romreddy@sprinturf.com>
Sent: Saturday, June 24, 2023 6:01 PM
To: Desiree Fragoso <desireef@iop.net>
Subject: [EXTERNAL] FW: Tuesday Beach Erosion vote,

[EXTERNAL]

Please make this part of the public record for the June 27th Council meeting.

From: Rom Reddy <romreddy@sprinturf.com>
Sent: Saturday, June 24, 2023 5:53 PM
To: Citycouncil@iop.net
Cc: Paul Jorgensen <paulwj@me.com>; Meredith Jorgensen <meredithjorgensen@me.com>; Ronald Vanderham <Vanderhamdairy@yahoo.com>; J.T. <jt@jtscars.com>; Curtis Kay <kayrentals@aol.com>; Cindi Solomon <cindi@me.com>; krisstein18@me.com; teresaamccann@yahoo.com; Michael Mislock <mmislock@gmail.com>; Steve Mislock <smislock@gmail.com>; reddyrenee@gmail.com; Rom Reddy <romreddy@sprinturf.com>
Subject: Tuesday Beach Erosion vote,

Councilmembers, the south side of the island hopes they can count on your vote Tuesday to build a continuous berm of 1500 feet to provide an emergency short term bridge to a longer-term solution in a year or so. Failing to do this will leave the entire south side of the beach exposed to catastrophic erosion and destruction of the beach, coastline , public access paths and properties going into hurricane season while proving to be a safety hazard to anyone using the beach regularly two hours before and two hours after high tide.

In reviewing the Tuesday recommendations from the City engineers CSE, we found their advice to be contradictory, untrue and a misstatement of their own facts . We also point out that it is this sort of poor, contradictory advice that has made them vulnerable as defendants in the Pawleys Island litigation. The CSE report starts out by saying that " most of the recent erosion in mid-2023 is weather related". However, Mr. Tim Kanna , a principal at CSE in his June 4, 2023, email to us states : " IN OUR EXPERIENCE,, SUDDEN ACCELERATION OF EROSION NEAR INLETS ARE USUALLY RELATED TO A SIGNIFICANT SHIFT IN INLET SHOALS AND CHANNELS". This is obvious when you see the massive expansion of the Sullivans beaches and the " party" sand bars. We have accumulated evidence that this directly ties to the large movement of the sand from the WILD DUNES renourishment. The CSE report says that the " dune conditions in most of the areas in question is better than the condition following Irma in 2017". This is also false. **Post Irma , a large portion of the dunes (and even the vegetation on the dunes) was largely in place on our part of the island.** Comparably, there is zero dune now which has not happened

here in recent memory. **CSE provides several recommendations only one of which is practical** with the others being irresponsible and even dangerous:

CSE option 1; Do nothing, let nature take its course and wait for a long-term solution or owner paid renourishment.
This advice is both irresponsible and dangerous. Please see the attached video that shows high tide a couple of weeks ago on a normal day with no storms or no king tides. People walking on the beach cannot get through without endangering kids and pets. Some of the public access paths have been shut as they are dangerous .However, people still use them and, in some cases, use a rope to rappel down to the beach. There are literally no dunes left as protection. I quote Patrick Barraneau from CSE in an email dated June 15, 2023 " THERE IS UNANIMOUS AGREEMENT THAT SOME SORT OF WORK IS NEEDED TO REMEDY THE BEACH CONDITIONS NEAR YOUR PROPERTIES" . He further states " THE URGENCY OF THE SITUATION IS NOT LOST ON ANYONE". More data from them that contradicts their " do nothing" option. As has been pointed out, there is no way to get 1500 linear feet of dunes paid for by residents as we have no HOA and it would be unprecedented to put the burden of maintaining a public beach in the hands of a few ocean front owners.
CSE option 2; Use scaping on properties that qualify.
This is an option that CSE themselves have repeatedly said should not be done. In email and in person, they indicated (along with OCRM) that individual properties acting by scraping or trucking sand to their properties would not work as water would get behind the sand and literally wash it out in days. Why they serve this up as a legitimate option is puzzling to say the least.
CSE option 3; Truck sand for the worst hit properties.
Just as in Option 2, this was rejected by CSE and OCRM as unworkable for the same reason of washout.
CSE option 4; Truck sand to create a continuous berm of 1500 feet;
This is the only viable option to provide a legitimate short term beach renourishment. After an onsite inspection, Mr. Barrineau from CSE said this solution would not last forever but would bridge to the long-term solution expected in 9 to 12 months and gets us through the worst of the upcoming storm season by protecting the south end coastline, beaches and property. As a reference point , this involves only 6400 Cyds of sand vs the 1.7 Mcyds pumped into wild dunes, over one half of which has migrated south according to CSE.

Despite the logic of the solution, we understand certain council members express concern about setting a precedent and are even making the argument that moving the mean high tide line back gives additional property to beach owners. First, the **precedent.** The only precedent being set is doing emergency repairs to maintaining a public beach from a fund that was set up for this very purpose. **The cost of this repair would represent less than 2 months collection into this fund that currently holds approximately $ 8 M. Second, giving additional property to beach owners.** The very idea of beach renourishment is to push the water back and maintain a beach. If we are never going to push the water back, then there can never ever be renourishment anywhere. It is not like owners can now build a fence on the high tide line and incorporate the property into their yard nor does it mean the public only uses the beach seaward of the high tide line. Any beach renourishment anywhere in the world works by pushing the high tide line back thus restoring beach and protecting the shoreline along with properties along the shoreline because if those properties are destroyed, then the next set of properties are set up for destruction. Also, any destruction of any properties will ensure that insurance rates on this island skyrocket for everyone.

If the City takes the position that they will not use designated funds to protect a public beach and coastline and owners are prohibited from building retention to protect their properties due to a City ordinance, then the resident's backs are against the wall, and we would have no option other than to seek relief in the courts even though this is by no means our preference. If it can be shown that the lack of action by the City either caused beachgoers to be injured or property damaged in the next storm, then the City exposes its taxpayers to needless liability. If in the process it can be further shown that the sudden and dramatic erosion was related to Wild Dunes, the City will not be protected by insurance coverage and exposes taxpayers to unlimited liabilities. Even a small probability of this outcome would not be a good risk to take given the current estimate to fix the problem. This is not a good risk vs reward proposition for the City or its taxpayers under any circumstances.

We hope the City recognizes that the only short-term solution is a continuous 1500-foot berm and the only possible way of funding such a berm is by the City allocating funds from the monies set up for this eventuality.

Renee and Rom Reddy with copy to other concerned south side residents.

My name is Terri Haack and I represent Wild Dunes LLC. I regret that business travel conflicted with this evening's meeting and that I cannot attend in person. Respectfully, I submit the following comments for consideration:

Thank you for your continued work on the proposed noise ordinance and the many other important issues facing the community.

As you are aware, the Resort has been working diligently to mitigate noise that may impact nearby homes and conducted a base sound engineering study in February 2023. The second study was conducted on June 11-14, 2023, however, thunderstorms impacted its results, compelling us to schedule an additional the weekend of July 22. While costly, this is the only way to provide readings that are typical of the summer season to ensure accurate data. We will provide you with an executive summary of the study, which will prove vital in determining whether 75 db is an arbitrary number or an appropriate noise level for activity at Sweetgrass Inn.

Passing the noise ordinance prior to receiving the study's executive summary would be premature. Wild Dunes LLC agrees with the City's Public Safety Committee in requesting that you delay action until the Resort's study is completed, and additionally agrees with the hiring of an outside municipal sound consultant.

This proposed ordinance impacts Wild Dunes Resort and its ability to do business, and this is a decision that will undoubtedly impact the City's accommodations tax revenue. The Resort provides a significant percentage of the city's tax revenues. In 2022, the Resort paid $943,000 in accommodations taxes and $1,413,000 in other taxes. These contributions will be even higher in 2023 and 2024.

I recognize this has been an agenda item for many months but encourage you to wait until the studies are completed and the summary is presented so realistic measurement limits may be assigned. Without real data illustrating the current conditions, unintended consequences likely will result from this ordinance. I encourage you to use all of the available data to find the best solution, <u>not the quickest.</u> Thank you for the opportunity to work with you on this important issue.

State of South Carolina
State Ethics Commission

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MEGHAN WALKER DAYSON
EXECUTIVE DIRECTOR

June 20, 2023

VIA ELECTRONIC MAIL ONLY
Jan Anderson
jan@jkaengineering.com

Re: Informal Opinion Request

Dear Ms. Anderson:

Thank you for your request for an informal opinion from the State Ethics Commission (Commission). An informal opinion is the opinion of Commission staff, taking into consideration any applicable formal opinions, law, and/or judicial decisions. Please be advised that an informal opinion is not binding on the Commission. Additionally, the Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Act). This opinion is based solely on the facts relayed by you and does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation. A failure to disclose relevant information may void the opinion.

ISSUE

On June 16, 2023, you presented the following relevant information in an email:

> I am writing because a question was raised whether I should recuse myself from making a decision on a revised noise ordinance. The concern is whether there is a conflict of interest because I reside in the Wild Dunes Community on the island.
>
> 1. As an Isle of Palms City Council person and member of the Public Safety Committee I am working on updating the city's island-wide noise ordinance. The effort includes working with residents as well as local businesses to ensure that the adopted ordinance is appropriate for our needs and has included public discussions with Wild Dunes Resort, the Chamber of Commerce and other front beach merchants.

2. I was approached by the YWCA of Greater Charleston about facilitating a reception for the 2024 Martin Luther King Celebration and made a call to the Wild Dunes Resort to ask if they would be willing to work with the Y on hosting the event. The Resort agreed and is now working directly with the YWCA and the Charleston Visitors Bureau. They subsequently waived the facility rental and offered a 10% discount for any visitors staying at the resort for the event.

3. My husband is president of the Wild Dunes Homeowners Association which has no involvement with the event or the noise ordinance.

The question appears to be whether my involvement with the MLK reception causes a conflict of interest in adopting a noise ordinance. I do not stand to benefit financially either from the MLK reception or the noise regulations nor from any other activities. I would appreciate your opinion on this matter. I am attaching two emails from the complainant.

LAW

Section 8-13-700 states, in part:

(A) No [public official] may knowingly use his official [office] to obtain an economic interest for himself, a family member, an individual with whom he is associated, or a business with which he is associated. This prohibition does not extend to the incidental use of public materials, personnel, or equipment, subject to or available for a [public official's] use that does not result in additional public expense.

(B) No [public official] may make, participate in making, or in any way attempt to use his [office] to influence a governmental decision in which he, a family member, an individual with whom he is associated, or a business with which he is associated has an economic interest. A [public official] who, in the discharge of his official responsibilities, is required to take an action or make a decision which affects an economic interest of himself, a family member, an individual with whom he is associated, or a business with which he is associated shall:

(1) prepare a written statement describing the matter requiring action or decisions and the nature of his potential conflict of interest with respect to the action or decision; . . .

(4) if he is a public official, other than a member of the General Assembly, he shall furnish a copy of the statement to the presiding officer of the governing body of an agency, commission, board, or of a county, municipality, or a political subdivision thereof, on which he serves, who shall cause the statement to be printed in the minutes and require that the member be excused from any votes, deliberations, and other actions on the matter on which the potential conflict of interest exists and shall cause the disqualification and the reasons for it to be noted in the minutes.

Section 8-13-100(4) defines "business with which he is associated" as:

a business of which the person or a member of his immediate family is a director, an officer, owner, employee, a compensated agent, or holder of stock worth one hundred thousand dollars or more at fair market value and which constitutes five percent or more of the total outstanding stock of any class.

Section 8-13-100(11) defines "economic interest" as:

(a) an interest distinct from that of the general public in a purchase, sale, lease, contract, option, or other transaction or arrangement involving property or services in which a public official, public member, or public employee may gain an economic benefit of fifty dollars or more.

(b) This definition does not prohibit a [public official] from participating in, voting on, or influencing or attempting to influence an official decision if the only economic interest or reasonably foreseeable benefit that may accrue to the [public official] is incidental to the [public official's] position or which accrues to the [public official] as a member of a profession, occupation, or large class to no greater extent than the economic interest or potential benefit could reasonably be foreseen to accrue to all other members of the profession, occupation, or large class.

DISCUSSION

Section 8-13-700 of the Ethics Act prohibits public officials from participating in any matter in which they, a family member, a business with which they are associated, or an individual with whom they are associated has an economic interest. In such instances, public officials are required to recuse themselves following the procedures outlined in Section 8-13-700(B). In the scenario set forth in your email, none of the businesses you mentioned are "businesses with which you are associated" for purposes of Section 8-13-700(B). Accordingly, even assuming one of these entities had an "economic interest" in the noise ordinance, recusal is not required. Thank you for contacting the Commission. Please let us know if you have any additional questions.

Sincerely,

Courtney Laster

Courtney M. Laster
General Counsel

My name is Terri Haack and I represent Wild Dunes LLC. I regret that business travel conflicted with this evening's meeting and that I cannot attend in person. Respectfully, I submit the following comments for consideration:

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