

October 18, 2022 IOP ATAX/LAC Meeting:

Re: Agenda item – discussion of recent Post and Courier articles and editorial relative to Local accommodation taxes *vis a vis* DMO accountability and transparency.

Although not intended to be all- inclusive, what follows are my essential comments. They are in writing so as to be respectful of my fellow committee members, to help efficiently expedite the process and aid in resolution of existing problems:

I adopt and incorporate by reference the two news articles dated September 23, 2022, as well as the ensuing editorial dated September 30. I ask that they, as well as this comment, be made a part of our committee record of minutes.

The news articles have been thoroughly investigated and generated by a Pulitzer prize award winning anti-corruption reporter and a respected up-and-coming young journalist. The reputation and thoughtfulness of the Post and Courier and its Editorial staff also speak volumes. I concur with their respective concerns and conclusions. They have provided a public service to both taxpayers and our community, for which they are due a debt of gratitude.

A fair reading of the newspaper reporting appears complimentary of Isle of Palms in context as the sole regional municipality whose Accommodations Tax Advisory Committee, after years of neglect and lack of governmental oversight, has sought transparency and accountability relative to the expenditure of the public's accommodations "heads on beds" tax funds. It is no excuse that other municipalities have shown an inattention to detail, often for obvious reasons. After all, IOP's accommodations tax funds are being used to subsidize them others (such as the DMO's "stakeholder/investors") – to the prejudice of IOP.

For the purposes of this discussion, it is not necessary to refer to the history of how IOP came to this crossroad, with the caveat that history is often studied as a predictor of future conduct and consequences.

The basic question for discussion and resolution is what IOP will do going forward. My belief is that IOP must have a better, more transparent and accountable process. Secondly, IOP owes to its DMO, the taxpayers, and many others a duty to communicate more effectively.

There are essentially two sides of the DMO tourism promotion analysis equation: One is beneficial and meaningfully measured results. The other side is an analysis of expenditures. Both of these aspects are required to be considered, although for these purposes, the region's tourism successes are more or less evident. They do not need to be necessarily addressed herein at this time. That said, they do need more careful analysis in the future, particularly relevant to IOP and especially if IOP desires to envision what the future of tourism and tourism needs hold for IOP residents, its infrastructure, its tourists, and day trippers.

For expenditures, the public has a right to know how its accommodation taxes are being spent so as to promote integrity, adherence to the law and confidence in the process.

I am not necessarily saying the current DMO is doing it, but knowing, for example, if a theoretical DMO was avoiding public scrutiny by imprudently placing the public's money in hidden off-shore bank accounts or flying to Europe on junkets or paying for others to do so and staying in lavish hotels and spending unreasonable sums on meals and alcohol consumption without full public disclosure would be a legitimate concern for purposes of forensic accountability and a consequent evaluation of whether to continue with the same DMO or to chart a new course of action.

Travel and entertainment expenses are notably missing from IOP's DMO's tax returns. Legitimate questions have been posed. Complete answers are due. Stated another way, we don't know what we don't know, but we need to know. The public deserves nothing less. IOP's DMO claims to have no travel and entertainment expenses. Specific reference is made to its 990 documentation required to be filed with the government. Members of this committee uncovered the documentation. The DMO's claim to have no travel and entertainment expense is not accurate. IOP's DMO does have substantial travel and entertainment expenses, however, the precise details are unknown. When asked, the DMO replied to the effect that it "does not keep records that way". Nothing meaningful was thereafter produced. There must be a better reporting mechanism employed in this instance. IOP deserves and is entitled to greater transparency.

Investigative journalists have exposed numerous instances where tax funds have been inappropriately paid by and to others in a variety of circumstances involving a variety of business and governmental activities. If a governmental entity engages in deliberate indifference and approves of the misspending of the public's money, the penalty may be severe. This committee owes it to our IOP administration and Council to be vigilant. At the same time, we owe it to IOP's DMO to verify that expenditures are both legitimate and productive. Otherwise, serious questions will continue to fester. Finally, IOP taxpayers deserve to be assured that all its affiliate's activities are completely aboveboard.

And, if there is nothing amiss with the expenditure of millions of accommodation tax funds paid to IOP's DMO, there is nothing to hide from the taxpayers' representatives. The expenditures are not "secret sauce" to be hidden from the taxpayers' view. They are far from it. IOP is not a competitor of its DMO. IOP is not the enemy of its DMO. The relationship is more akin to a partnership or strategic alliance. The analogy to Pepsi not wanting to share its marketing plan with Coca Cola has been grossly misplaced. It is a lame excuse. It is insulting. A partner being entitled to know how another partner is spending their money would be a more apropos analogy in the business world. The same holds true with those engaged in a strategic alliance for purposes of tourism advertising. The reasons are even more compelling in this instance because IOP's money is commingled with those of other municipalities and the current DMO's "stakeholders". In the professional world, a client would always be entitled to know how a lawyer was spending the client's trust account money. If the lawyer could not fully document how and why the client's funds were expended, he would be at risk of losing his license or

worse. In the government world, accountability is one of the primary tenants of best practices. DMOs in cities as disparate as Ashville and Las Vegas have been transparent and accountable for years without harming their tourism programs. The same is true for Raleigh, Savannah, Miami, Boston, Nashville and Washington DC. None of them have been harmed by being open and honest relative to expenditures of their taxpayers' money. None of them have been harmed by providing tangible results of their advertising and promotion activities.

To its credit, IOP has since 2021 sought greater transparency and accountability because, *inter alia*, there have been concerns that its accommodations taxes were not being beneficially spent on or for IOP, much less for those on IOP who have generated the majority of the revenue. Instead, there were obvious concerns that IOP tax funds were being allocated elsewhere to subsidize other municipalities and favored providers of short term rentals to the detriment of those generating accommodations tax money on IOP. That has been considered taxation without representation.

On a promising note, IOP's current DMO has indicated that it plans to be more transparent in the future, but that remains to be seen.

The South Carolina Supreme Court made clear in 2018 that the first/primary entity responsible for due diligence so as to ensure financial transparency and accountability is the local accommodations tax advisory committee. IOP's oversight committee "TERC" has also made this abundantly obvious and the same is corroborated by a simple reference to the clear language of the local accommodations tax enabling statutes. This committee can no longer be a mere "rubber stamp".

Progress is being made incrementally, though not as quickly as many would prefer. It is a work in progress. Our IOP ATAX committee chair has been diligently working. He is to be commended. Notably, on September 21, 2021, he reported relevant DMO findings and substantial problems to Council. He advised Council of good alternatives such as following the paradigm of Folly Beach. In turn, Council said it was the best presentation ever made to it. Since then, however, resolution of the problem has come to a standstill as a new Council was inaugurated into office in January, 2022. This committee has twice rejected its DMO's expenditure proposals. Nonetheless, millions of dollars are still being allocated to it without meaningful oversight, transparency or accountability.

Members of current IOP council have been quoted in the newspaper as saying that Council has no alternatives and "no choice", other than to continue to turn millions of its taxpayer funds over to the current DMO (without oversight). That claim is demonstrably not true. It is circular reasoning at best - no choice because of no planning or meaningful decisions and ergo no planning or choice. IOP has alternatives, such as to follow the paradigm shift productively pursued by Folly Beach and many others. However, IOP would be required to strategically plan for the future and implement a reasonable course of action. Otherwise, its' claim to have no choice because it has no plan, much less foresight, is unfortunately accurate. Regardless, it is

reemphasized that IOP is the leader among neighboring communities in bringing the problem to light, though its failure to now act in a positive, proactive manner is more than disappointing.

A fair and final takeaway from the news articles and editorial is that communication with IOP's DMO has been a problem for years on end. It is stressed that this conclusion is not intended as a criticism *per se* of the DMO. After all, it is a regional organization and it cannot necessarily be faulted for spending IOP's funds as it sees fit, given its mission to serve others. That said, IOP knew or should have known of this dichotomy from the inception and prepared. It has not done so. **Moreover, and more immediately concerning - the fact remains that, excepting for this committee's efforts, IOP has never effectively expressed to the DMO precisely how it envisions that IOP's tax money be spent, nor has it ever meaningfully examined expenditures.** That might arguably be understandable, given the phenomenal tourism successes realized by the region, but it is nonetheless inexcusable. Being lulled into a sense of complacency remains unacceptable. In a strategic alliance involving taxpayer funds, the public deserves better; The taxpayers deserve better; IOP deserves better; IOP's DMO deserves better.

IOP's DMO has indicated that it is open minded and willing to accept suggestions from IOP as to how IOP's tax money should be spent going forward. That is encouraging. IOP needs to be more proactive and accountable as it envisions the future for the island.

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IOP ATAX Committee Member