

**THE TOWN OF HILTON HEAD ISLAND
REGULAR TOWN COUNCIL MEETING**

Date: Tuesday, August 14, 2018

Time: 4:00 P.M.

Present from Town Council: David Bennett, *Mayor*; Kim Likins, *Mayor Pro Tempore*; John McCann, Bill Harkins, Marc Grant, Tom Lennox, David Ames, *Council Members*

Present from Town Staff: Steve Riley, *Town Manager*; Joshua Gruber, *Assistant Town Manager*; Charles Cousins, *Director of Community Development*; Brian Hulbert, *Staff Attorney*; Brad Tadlock, *Fire Chief*; John Troyer, *Finance Director*; Jenn McEwen *Director of Cultural Affairs*; Carolyn Grant, *Communications Director*; Jeff Buckalew, *Town Engineer*; Shawn Colin, *Deputy Director of Community Development*; Teri Lewis, *LMO Official*; Jennifer Ray, *Planning & Special Projects Manager*; Steven Markiw, *Deputy Finance Director*; April Atkins, *Revenue Services Supervisor*; Cindaia Ervin, *Finance Assistant*; Andrew Nicholls, *Systems Analyst*; Krista Wiedmeyer, *Executive Assistant/Town Clerk*

Present from Media: Alex Kincaid, Katherine Kokal, *Island Packet*

1. Call to Order

Mayor Bennett called the meeting to order at 4:00 p.m.

2. FOIA Compliance - Public notification of this meeting has been published, posted and distributed in compliance with the Freedom of Information Act and the Town of Hilton Head Island requirements.

3. Executive Session

Mr. Riley stated that he needed an Executive Session for: (a) Legal Advice; receipt of legal advice related to pending, threatened, or potential claim related to; (i) ArborNature, LLC vs. the Town of Hilton Head Island, et. al., (ii) Hoagland v. Bennett, Harkins, Likins, Edwards, McCann, Lennox, and Grant, and (iii) Sea Cabin Racquet Club II HPRV v. Town of Hilton Head Island; and (b) Personnel/Employment Matters; discussion of appointments to boards and commissions.

At 4:02 p.m. Mrs. Likins moved to go into Executive Session for matters mentioned by the Town Manager, Mr. Harkins seconded. The motion to go into Executive Session was approved by a vote of 7-0.

Town Council returned to the dais at 5:01 p.m. to begin the Regular portion of the meeting.

4. Pledge to the Flag

5. Invocation

6. Proclamations & Commendations – NONE

7. Approval of Minutes

a. Town Council Meeting, July 17, 2018

Mrs. Likins moved to approve the minutes from the July 17, 2018 Town Council meeting. Mr. Harkins seconded, the motion was approved by a vote of 7-0.

8. Report of Town Manager

a. Parks & Recreation Bi-Annual Update – Ray Kisiah

Ray Kisiah, Chairman, provided an update to Council concerning the items that have taken place over the last six months. He said that the Commission is working on recommending upgrades for inclusion of the 2020 Capital Improvement Plan. He continued by stating that they continue to meet with citizens and service providers to determine where the needs are programmatically and where the Town can assist to meet these needs.

Report of the Town Manager (cont.)

b. Gullah-Geechee Preservation Task Force Quarterly Update – Palmer Simmons

Palmer Simmons, provided an update to Council concerning the items that have taken place over the last three months. Mr. Simmons said that the Task Force has been working with Town staff to develop a resource center within Town Hall and the Town's website. He said they continue to work with the Town and the County to identify property which have been delinquent on their taxes and bring the bill current as to not lose the land. Working with the Town, the Task Force is working on an RFP to identify a consultant to assist with Heirs Property identification. Mr. Simmons stated that the Gullah community is still trying to build its trust within Town Hall. He said that the Task Force doesn't feel as though time frames are being met, which is beginning to hurt the communications and relationship between the Task Force and Town Hall. Mr. Harkins asked what the timeframe is on the RFP for the consultant and the hiring of the liaison, as did the Mayor. Mr. Riley said that updates concerning both of the matters would be provided to the Task Force at their next meeting on August 20, 2018. He noted that the Town's Human Resources' and Legal departments have been reviewing the job description for the liaison, and the August 20th Task Force meeting was the first meeting since the development of the job description to report back any findings. Mr. Grant said that he met with some of his constituents about these two matters. He said it was his understanding that the last three Task Force meetings have been cancelled, and that it may have been because of these two matters have not been finished. Mr. Grant said that as Council, he thinks that an update should be provided about the status of the consultant and the liaison. He said that if there are serious hold ups, then there needs to be more communication, and provide a better understanding as to what is holding things up.

c. Annual Report of the Hazard Mitigation Plan – Marcy Benson

Marcy Benson, Senior Grants Administrator, discussed the Annual Report of the Hazard Mitigation Plan with the members of Town Council. She noted that Council does not take any formal action with this report, but an annual report evaluating the progress towards implementing the hazard mitigation plan objectives and goals must be prepared by communities that participate in maintaining the credit in the Flood Management Planning section of the National Flood Insurance Program Community Rating System. Ms. Benson stated that another requirement is that the report is submitted to Council for review and consideration. She went over the highlights of the report asking if there were any questions from the members of Council. With no questions, Ms. Benson, concluded her presentation.

d. Bid Results for Coligny Project

Mr. Riley provided an update on the bid results for the upcoming Coligny Project. He said that the Town had gone out to bid for the road and pathway improvements component of the Lowcountry Community Park. Mr. Riley said these improvements will start in early September, moving into the park improvements in early spring. He said the bids for this project have come in under budget, and the bid that has been accepted is going through the approval process, and that information cannot be released at this time until after the approval has been finalized, that includes releasing the numbers for the bid. Mr. Riley said at the same time, the Town bid out the resurfacing of Pope Avenue, which is part of the State "C" Fund program, and that bid came in over budget. He said the County has made a recommendation to the Town, and there will be continued conversations concerning this project, but wanted to note there is a shortfall with this project. Mr. Riley said that he wanted to also take the opportunity to provide an update on the Office Park Road project. He said that it has been a project that has provided a number of lessons learned, with site issues, contractor issues, and the like. After giving a brief update on the project, Mr. Riley said that he hoped to have the road work wrapped up by the end of the week.

Report of the Town Manager (cont.)

e. Municipal Court Update

Mr. Riley reminded the members of Council that the former Municipal Judge returned to private practice in July. He noted that there are currently two options for Council to consider with regards to the Municipal Court. He said the first option is to go to an RFQ and contract with a South Carolina licensed Attorney who has previous trial experience. In the meantime, the Beaufort County Magistrates would continue to provide coverage for the Town. Mr. Riley said the second option is to consider dissolving the Municipal Court. Mr. Riley noted that the Court has run in the red for a number of years, stating that ticket volume is down for a many reasons, but also due to some recent changes because of the State Supreme Court. He stated that at this time, the Court is down one staff person, and the Court Administrator has submitted their resignation to move onto the private sector as well, only further creating challenges to maintain the Court. Mr. Riley said that his suggestion is to give the Courts back over to the County Magistrates, primarily because it has been an expensive operation to maintain. After discussion from the members of Council and Town staff, the Mayor asked the members of Council if there were any objections with Mr. Riley directing Town staff to begin the process of dissolving the Municipal Court, and bringing back a formal recommendation to the next meeting. All the members of Town Council concurred that Mr. Riley should begin to take the necessary steps.

f. Proposed Town Council Meeting Dates for 2019

Mr. Riley reviewed the proposed meeting dates for 2019 with the members of Town Council, recommending one change, moving the April 16th meeting to the following week April 23rd due to the Heritage Golf Tournament. Mrs. Likins moved to approve the Proposed Town Council Meeting Dates for 2019 with the change recommended by the Town Manager. Mr. Harkins seconded, the motion was approved by a vote of 7-0.

g. Items of Interest

- i. Town News**
- ii. Noteworthy Events**

Mr. Riley introduced Josh Gruber, Assistant Town Manager who is replacing the retiring Greg DeLoach, and Angie Stone, Human Resources Director, replacing the retiring Nancy Gasen. He reviewed the Items of Interest, including, Town news, upcoming meetings, and current events taking place throughout the Island over the coming weeks.

9. Reports from Members of Council

a. General Reports from Council

Mr. Ames recognized and thanked the members of Turtle Trackers for redefining sustainability, a pillar of the Vision. He said that they are protecting the turtle habitat on the Island, and increasing the odds that the Loggerhead turtles will have a sustained population returning to the Island.

Mrs. Likins recognized and thanked Jenn McEwin, Director of Cultural Affairs for her work towards bringing the Gullah posters together in one place within Council Chambers. She thanked her for working towards turning Town Hall into a public art display.

Mayor Bennett reported about a meeting that he, Mr. McCann, and Mr. Ames had with members from the Chamber. He said that was a follow-up to the request he made to both Councilmen's Committees. He said it was a good meeting and was encouraged by the discussion that took place by all the participants. The Mayor said that he would best characterize the meeting as an ongoing discussion. He said that after a follow-up call with Mr. Miles of the Chamber, there will be additional correspondence to come.

Reports from Members of Council (cont.)

General Reports from Council (cont.)

Mayor Bennett reported that he, Mr. Ames, and Alan Wolfe from the Workforce Coalition traveled to Columbia, where they met with the South Carolina Housing, Finance, and Development Authority. He said that the specific discussion was about the whitepaper produced by Town Council. Mayor Bennett said that they were in support of the document submitted, and that they answer to a board of Commissioners. Mayor Bennett said that a follow-up meeting took place with Ms. Horne from the Chamber and members from the Governor's office. Issues discussed were about how Hilton Head Island is not able to access this particular tax credit program. Mayor Bennett stated that they had been assured that the matter would be looked into and the inability would be corrected. Mayor Bennett said that while in the meeting, they were asked how else they could help the Town. He mentioned the submission of the SIB application letter, and the lack of response. He said while there, the asked many questions of the Governor's legal counsel, and have asked Mr. Riley and Mr. Gruber if they would participate in a conference call with the Governor's legal counsel to move this along and hopefully get a good response.

b. Report of the Intergovernmental & Public Safety Committee – Bill Harkins, Chairman

Mr. Harkins reported that at their last Committee on August 6, 2018, Senator Davis provided an update regarding the Jasper Port, which shows some strong indication of delay. Mr. Harkins noted that the Senator would like to have a letter of endorsement from the Town on this matter. He said that the Senator is currently drafting a letter for the Mayor to review. Mr. Harkins reported that during the same meeting, the Sheriff's Office gave a report on the crime statistics including dangerous crossing areas on the Island.

c. Report of the Community Services Committee – Kim Likins, Chairman

Mrs. Likins reported that due to recent resignations on some boards and commissions, the Committee will begin meeting again to start filling those open positions.

d. Report of the Public Planning Committee – David Ames, Chairman

Mr. Ames stated that he had not report at this time.

e. Report of the Public Facilities Committee – Marc Grant, Chairman

Mr. Grant stated that he had not report at this time.

f. Report of the Finance & Administrative Committee – John McCann, Chairman

Mr. McCann stated that he had not report at this time.

10. Appearance by Citizens

George Paletta: Addressed the members of Council about their previous approval of the funding for the community center at Cordillo Courts.

Dr. Sharma: Addressed the members of Council about their previous approval of the funding for community center at Cordillo Courts. Mayor Bennett asked Mr. Riley if he could look into arranging a meeting with Dr. Sharma and Mrs. Van der Meer about the community center.

Tai Scott: Addressed the members of Council about his property and establishment at 15 Marshland Road. He raised questions about policy and procedures related to code enforcement, the LMO, and other such Town Code matters.

Joe Izzo: Addressed the members of Council about the Town's pedestrian walkways and bike paths. He expressed his concerns regarding what he felt was a lack of lighting in and around the walkways and bike paths.

11. Unfinished Business

a. Consideration of a Recommendation – Accommodations Tax Advisory Committee

Consideration of a Recommendation from the Accommodations Tax Advisory Committee for the Chamber of Commerce Visitor and Convention Bureau's proposed 2018-19 "30 Percent" Budget.

Mayor Bennet stated that he had a discussion with the Chamber a couple of weeks back, and while the budget has been working its way through all the various committees, and on its way to Council, the State Supreme Court ruled that DMO's or VCB's are not subject to the Freedom of Information Act. He went on to say that with this ruling, it probably puts a greater level of burden, responsibility and expense on the Town to ensure that our citizens have every benefit entitled to them by the Freedom of Information Act to understand how these public funds are being expended. Mayor Bennett said as part of the discussion, he felt it was important to understand that, and wrestle what obligation the Town has to ensure that our citizens know how the funds are being spent. He said that all of the ATAX recipients are required to submit receipts on a quarterly basis, but as the VCB, the Chamber does not. He said that he didn't think the statute denies the Town or Town Council from obtaining the receipts from the Chamber to then allow the citizens to then obtain. Mayor Bennett said that he would like to see all the organizations that benefit from the ATAX dollars treated the same.

Mrs. Likins said to add on to what the Mayor said, throughout the community, there has been a lot of discussion about transparency. She said, that she supports the DMO, and feels that they do an excellent job. Mrs. Likins said that our citizens are asking for information, and she wants to make sure that they receive the information they are asking for. She said that she would like the motion for this item to be that Council does approve the Chamber of Commerce Visitor and Convention Bureau's proposed 2018-19 30 percent budget, and that they submit to the Town on a quarterly basis all receipts associated with the expenditure of these funds. Mr. Ames seconded the motion.

Mr. McCann stated that under the leadership of the Mayor, Council developed and executed a contract with the Chamber, and while he agrees with what is being suggested, feels that the Town needs to see the current contract out through 2020, and add this language into a new contract which will go out to bid at that time. He said that while the rules currently set up in the contract are not perfect, the contract was set-up and signed in good faith, and to change it in mid-stream is not fair.

Mr. Lennox said that he echoes what Mr. McCann said. He said that it was just about four years ago that the construction of the contract was started. One last element that was inserted into this agreement, unlike any other arrangement that we have with other ATAX recipients, is that the opinion of outside counsel, that all of the funds have been spent in compliance with State ATAX regulations. While others may submit receipts for funding, none of the others have a requirement of an outside legal opinion which holds responsible the recipient responsible to be in compliance. If there were a violation or noncompliance, our recourse would be to go back to that legal opinion. He said that he felt that was the intent of the agreement, and would be the intent of going forward with or without receipts.

Mr. Harkins said that he doesn't have a problem with the product, but with the process. He said that the Town has a contractual relationship with the Chamber, and good partners come together to have dialog to discuss changes first before making the changes. Mr. Harkins said that he would like the Chamber to have some time to reflect on this type of change before any action like this is made.

Mr. Ames said that so often we speak of transparency as one of our highest values, but here we have an organization where they are receiving funds from the Town. He said that because of a State Supreme Court ruling does not have to respond to FOIA request, and that responsibility has now been put back on the Town. He said that it seems to him so clearly that it is in the best interest of the citizens of the Town and of the Chamber that this kind of decision be made for a couple of reasons. For transparency and to calm the rhetoric about the Chamber that we have had to endure for the last couple of years.

Mr. Grant said that he felt this was a bold move to bring this up at the meeting, but that he agrees with this matter. He said that he thinks the public has a right to know where this money is going, and this has been going on for almost four years. Mr. Grant said his question is, how communications will take place between staff and the Chamber. There will need to be a process put into place before this change takes place.

Unfinished Business (cont.)

Consideration of a Recommendation – Accommodations Tax Advisory Committee (cont.)

Upon the conclusion of Council's discussion Mayor Bennett opened the discussion up to the public at large where several members of the public spoke in favor of the motion made by Mrs. Likins. Also addressing the members of Council concerning this item were several staff members of the Hilton Head Island-Bluffton Chamber of Commerce who spoke in opposition of the current motion.

As the public discussion came to a close, Mayor Bennett asked the members of Council if there was any further discussion. Mr. Grant stated that he felt that further discussion concerning the quarterly receipts from the Chamber as the Town's DMO needed to take place with a committee. He went on to say that this particular committee and the Chamber could collectively come up with a decision that is also good for the community. Mr. Grant said that he felt that the committee should involve stakeholders, members of Council, the community, and the Chamber. But that, this discussion cannot be finalized tonight, and needs more time to be discussed. Mayor Bennett asked for clarification sake, was Mr. Grant making a motion. Mr. Grant indicated that he was making a motion to form a committee to further this discussion that would include members of the community and of the Chamber, Mr. McCann seconded the motion. There was some discussion amongst Council regarding the second motion made by Mr. Grant. With no further discussion from the public at large, or of Council, the motion made by Mr. Grant, and seconded by Mr. McCann passed by a vote of 6-1, Mayor Bennett opposing. The initial motion made by Mrs. Likins was withdrawn.

A short recess was called at 7:18 p.m., the meeting was called back to order at 7:27 p.m.

b. Second Reading of Proposed Ordinance 2018-07

Second Reading of Proposed Ordinance 2018-07 to amend Chapter 1 of Title 10, (Business and Professional Licenses), of the Municipal Code of the Town of Hilton Head Island, South Carolina, to amend Section 10-1-20, Definitions; to amend Section 10-1-30, Purpose and Duration; to amend Section 10-1-40, License Fee; to amend Section 10-1-50, Registration Required; to amend Section 10-1-80, Display and Transfer; to amend Section 10-1-120, Delinquent License Fees; to repeal Section 10-1-190, Classification Rates Schedules (Exhibit "A"); to amend Chapter 9 of Title 4, (Beach Preservation Fee), Section 4-9-100, Violations and Penalty (Exhibit "B"); to amend Chapter 10 of Title 4, (Local Accommodation Tax), Section 4-10-50, Collections of Local Accommodation Tax (Exhibit "C"); and to amend Chapter 13 of Title 4 (Local Hospitality Tax), Section 4-13-100, Violations and Penalty (Exhibit "D"); and providing for severability and effective date.

Mrs. Likins moved to approve, Mr. Harkins seconded. Upon no discussion from the dais or public at large, the motion passed by a vote of 7-0.

c. Second Reading of Proposed Ordinance 2018-10

Second Reading of Proposed Ordinance 2018-10 to amend the budget for the Town of Hilton Head Island, South Carolina, for the fiscal year ending June 30, 2018; to provide for the expenditures of certain funds; to allocate the sources of revenue for the said funds; and providing for severability and an effective date.

Mrs. Likins moved to approve, Mr. Harkins seconded. Upon no discussion from the dais or public at large, the motion passed by a vote of 7-0.

12. New Business

a. First Reading of Proposed Ordinance 2018-11

First Reading of Proposed Ordinance 2018-11 of the Town of Hilton Head Island, South Carolina, authorizing the execution of a Right-of-Way and Easement Agreement with the South Carolina Public Service Authority to encumber property owned by the Town of Hilton Head Island, South Carolina, pursuant to the authority of S.C. Code Ann. § 5-7-40 (Supp. 2012), and § 2-7-20, *Code of the Town of Hilton Head Island, South Carolina, (1983)*; and providing for severability and effective date.

Mrs. Likins moved to approve, Mr. Harkins seconded. Upon no discussion from the dais or public at large, the motion passed by a vote of 7-0.

New Business (cont.)

b. First Reading of Proposed Ordinance 2018-12

First Reading of Proposed Ordinance 2018-12 of the Town of Hilton Head Island, South Carolina, authorizing the execution of a Utility Easement Agreement with Hilton Head Public Service District to encumber property owned by the Town of Hilton Head Island, South Carolina, pursuant to the authority of S.C. Code Ann. § 5-7-40 (Supp. 2012), and § 2-7-20, *Code of the Town of Hilton Head Island, South Carolina, (1983)*; and providing for severability and effective date.

Mayor Bennett noted, this agenda item should also include a fifth Town-owned property, R511 007 000 0070 0000, located at the intersection of U.S. 278 and Adrianna Lane. He stated that this parcel has been added to the Utility Agreement, Exhibit A, and will be added to the Proposed Ordinance 2018-12 before the second reading.

Mrs. Likins moved to approve, Mr. Harkins seconded. Upon no discussion from the dais or public at large, the motion passed by a vote of 7-0.

c. Consideration of a Recommendation – Town Dirt Roads Policy

Consideration of a Recommendation from the Public Facilities Committee that Town Council direct Town staff to pursue the acquisition of public road rights of way on the private, unpaved roads, Mitchelville Lane and Pine Field Road.

Mrs. Likins moved to approve, Mr. Harkins seconded. Upon no discussion from the dais or public at large, the motion passed by a vote of 7-0.

d. Discussion of a Request from Walter Nester, Attorney, on behalf of the Owner of 407 William Hilton Parkway

Walter Nester, Attorney, on behalf of the owner of 407 William Hilton Parkway, requests that Town Council provide permission to allow a curb cut onto William Hilton Parkway as required in Article III, Paragraph 6, Subparagraph (a) of the Covenants, Easements, Conditions and Restrictions for Block A, Phase I, Northridge Park.

Mayor Bennett opened the discussion up by asking Mr. Riley about the history of this matter. Mr. Riley discussed the history of this matter with the members of Council. He discussed the process of the DPR application, and why Town staff was not aware of the covenants existence. Mr. Riley explained that in order to waive any part of the covenants and restrictions that Council would have to take a vote and approve the waiver.

Mayor Bennett opened the discussion up to the members of Council, where the consensus was that there needed to be further review and discussion on this matter beyond this one meeting. Council was in agreement that by allowing the curb cut, there was a potential for safety implications for pedestrians, bike riders, and those driving across the road. Mr. Harkins pointed out that during his Safety Committee earlier in the month, this area could possibly be one of the worst areas for accidents on the Island. Upon the conclusion of discussion from the members of Council, Mayor Bennett opened the discussion to the public at large.

Walter Nester, the attorney for the owner of the building made a presentation to the members of Council. Mr. Nester showed a timeline that outlined the steps that his client took to submit the DPR application all the way to obtaining the building permits. Indicating that from the time the DPR application was submitted, the curb cut always existed. Mr. Nester contended the wording which required the applicant to state whether the tract or parcel of land is restricted by any recorded covenant. Stating that permitted activity is not defined in State law or the LMO. Further contending that the statement permitted activity would refer to the use of the property in a general manner, not some other specific use such as size of or existing buffers. Mr. Nester discussed the harm that has been caused to the applicant due to the stop work on the property, and that he has a strict delivery date to the lease holder. He implored the members of Council to stand by the agreement that both the Town and the SCDOT had which was to approve the curb cut prior to the applicant's agreement with the Dollar General.

New Business (cont.)

Discussion of a Request from Walter Nester, Attorney, on behalf of the Owner of 407 William Hilton Parkway (cont.)

The members of Council continued the discussion, asking Mr. Nester and the applicant questions concerning their understanding of the process and how things were progressing since December 2016. Some members seemed really surprised that they would grant a curb cut in this area, but then tell other citizens how dangers these curb cuts are. There was discussion about whether or not the applicant had received the appropriate Waiver of Right of First Refusal. Mr. Nester said he would look through the closing file, and send a copy of the document over. Upon the closing of the discussion Council made the decision that further discussion was needed, and a Special Meeting was called for Tuesday, August 21, 2018 at 9:00 a.m. where they would further discuss this matter and consider the request again.

13. Possible actions by Town Council concerning matters discussed in Executive Session.

Mrs. Likins moved to appoint Julie Smith to the Accommodations Tax Advisory Committee to replace Steward Brown as a Hospitality member with term ending June 30, 2021. Mr. Harkins seconded, the motion was approved by a vote of 7-0.

14. Adjournment

Mayor Bennett adjourned the meeting at 8:29 p.m.

Krista M. Wiedmeyer,
Executive Assistant/Town Clerk

Approved: 09/18/2018

David Bennett, Mayor