



CITY COUNCIL MEETING
6:00pm, Tuesday, April 23, 2024
1207 Palm Boulevard, Isle of Palms, SC and
broadcasted live on YouTube: <https://www.youtube.com/user/cityofisleofpalms>

MINUTES

1. Call to order

Present: Council members Hahn, Bogosian, Anderson, Ward, Miars, Pierce, Campsen, Carroll, and Mayor Pounds

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

2. Citizen's Comments

Terri Haack thanked City Council for recognizing the effort of Jeff Minton in Proclamation 2024-04. She reiterated her previous comments about the Wild Dunes Resort's commitment to noise mitigation efforts. She would like have the daytime decibel level limit be no less than 75 decibels.

Julie Nestler shared a story about a recent police response to her home. She expressed her gratitude for all the officers who responded and feels retention of City officers is crucial. She would like City Council to consider them for commendation. She presented a letter to Chief Cornett to be included in their files.

Tom Schmidt, 50 Ocean Point Drive, said punishment for violating short-term rental rules should be well-defined and punitive and be reported to City Hall immediately. He asked why special interest groups are not interested in improving the quality of life on the island. He shared his neighborhood's proposed mission statement.

Henry Hagerty read from a message he sent previously to City Council and shared a "Quiet Island" sticker. He asked why anyone should be able to profit on noise when others are trying to enjoy quiet. He asked why "the rest of us" should suffer when others make noise.

Keith Rogerson shared pictures of Breach Inlet with Council members and stated that he believes the problem there is a flow problem that needs to be addressed.

Maryann Chalmers shared a recent experience of her dog being attacked and chased by coyotes. She asked City Council to work with DNR on this issue.

3. **Approval of previous meetings' minutes**
 - A. **City Council Meeting – March 26, 2024**
 - B. **Special City Council Meeting Workshop – April 9, 2024**
 - C. **Committee meeting minutes**

Council Member Carroll said, “I just wanted to edit one thing [in the April 9, 2024 minutes]...The comments on noise, the discussion of noise. Council Member Carroll says most noise issues are resolved upon the appearance of a police officer. I just wanted to clarify that just for a minute because I want to make sure that the public understands that I was making that comment because Chief Cornett had said it moments earlier, and so I don't want the public to think that I made that statement just out of thin air or without professional input. And then regarding it says I would like property managers to address Council about their concerns. What I was trying to get across, and I apologize if it didn't come across that way, but I was just trying to insinuate that it would be a great thing to engage with that community. Everyone could learn about the practices already in place or suggest new ones or come up with new ideas, and resolve the issue at the root of the problem rather than changing the ordinance.”

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

4. **Special Presentations**

Presentation from the Environmental Advisory Committee

Dr. Sandra Brotherton, Chair of the Environmental Advisory Committee, shared a presentation on the past, current, and planned future activities of the Committee.

5. **Old Business -- none**
6. **New Business**
 - A. **Consideration of proposal in the amount of \$122,400 from Thomas & Hutton for the design, engineering, and permitting of drainage improvement project at Palm Boulevard between 39th and 41st avenues**

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

Administrator Fragoso said this is the next project on the list for drainage improvements. The City will work with the Water & Sewer Commission on this project to leverage their knowledge of the area. Thomas & Hutton was the sole consideration for this project due to their work with the Water & Sewer Commission and the data they have collected. There is \$250,000 in FY25 budget for this expense, and the construction is slated for FY26.

VOTE: A vote was taken with all in favor.

7. **Boards and Commissions Reports**

- A. **Board of Zoning Appeals** – minutes attached
- B. **Planning Commission** – minutes attached
- C. **Accommodations Tax Advisory Board** – minutes attached
- D. **Environmental Advisory Committee** – minutes attached

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

A. **Second Reading**

Ordinance 2024-02 – an ordinance to amend Section 1-3-13 Public Participation

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

Mayor Pounds reminded Council of what is being codified in this ordinance, “We codified that a speaker may not pass his or her allotment of time to another speaker, that the speakers must identify themselves by providing name, address, and conduct themselves in accordance with the rules set forth in this section. Speakers who reside, own property, or maintain a business license with the Isle of Palms should speak first. And we took out the items that said speakers should focus and limit the remarks to the matter then under discussion, which means it doesn’t have to be on the agenda.”

VOTE: A vote was taken with all in favor.

B. **First Reading**

i. **Ordinance 2024-03 – an ordinance to amend Section 5-4-128 Temporary Signs and Section 5-4-141 Prohibited Signs**

MOTION: Council Member Pierce made a motion to approve, and Council Member Bogosian seconded the motion.

MOTION: Council Member Ward made a motion to suspend the rules of order and allow for discussion at First Reading. Council Member Bogosian seconded the motion. The motion passed unanimously.

Administrator Fragoso said, “This legislative session a bill was introduced in the House, and the goal of the bill was to preempt communities or municipalities from regulating political signs, and I think that’s all in light of the Town of Gilbert case in the Supreme Court that was ruled a few years ago in trying to ensure that sign ordinances are consistent with that, and the issue is regulating signs by content is an unconstitutional ordinance. So I think that in light of that, we asked Mac to opine on the changes that are being proposed for the political signs as it’s being presented right now, which would prohibit the placement of political signs on the right of way. Currently, that is an exception that we allow because they are political signs. I think that the advice has been that the City consider eliminating any sign from the public right of way to avoid any challenges regarding the Gilbert case.”

City Attorney McQuillin said, “The big thing, too, is there is State law that says signs, regardless of content, can’t be in the highway right of way, and many of the roads out here are either primary or secondary highways. So, what this really does is it makes your ordinance consistent with State law, number one, and then number two, it’s number 14 where we added the political sign, it says signs within a public right of way, public beach or public beach access are prohibited including campaign signs promoting a candidate or a party. So it treats all of the signs the same as opposed to saying well, if your sign is political, we are going to let you put it in the public right of way, but if it is a religious sign, we are not going to let you do that for the Easter church service or whatever. So that is where you get into trouble is by regulating signs solely based on their content. So as written, what we have in front of us is in line with the court case. It is in line with State law. There are potentially other ordinances that we may need to fix down the road that, depending on how they are enforced, could be problematic, but this is not aimed at fixing all the issues. This fixes the political sign issue on highway right of ways and makes their treatment equal with all other signs.”

Administrator Fragoso said she does not expect this bill to get much traction this session since the session ends soon. She said the next draft of the ordinance will include findings of fact to include the existing prohibition on State highways for the placement of political signs.

VOTE: A vote was taken as follows:

Ayes: Campsen, Pierce, Anderson, Bogosian, Miars, Hahn, Pounds

Nays: Ward, Carroll

The motion passed 7-2.

ii. Ordinance 2024-04 – an ordinance to adopt a budget for Fiscal Year beginning July 1, 2024 and ending June 30, 2025

MOTION: Council Member Miars made a motion to suspend the rules of order and discuss Ordinance 2024-04 at First Reading. Mayor Pounds seconded the motion.

Mayor Pounds reviewed the major changes to the budget from draft 2 to draft 3, including: a \$50,000 placeholder for the IT budget, design and planning costs for City Hall in the amount of \$250,000, and splitting the cost of the new playground equipment and flooring between FY25 and FY26. Mayor Pounds asked the Public Services & Facilities Committee to review its recommendation to split that project up.

Administrator Fragoso said there is nothing in the budget about revenue generation as there was no clear guidance from Council on exactly what to pursue. Changes to building permit and business license fees can be pursued via changes to the code. She said, “I didn’t get clear direction of whether or not we needed to change our assumptions for revenue in FY25 taking into consideration those increases.”

Council Member Miars asked to see the impact of those proposed fee changes on the budget. Council Member Pierce expressed his concern about not seeing corresponding revenue increases along with increased expenditures. He said he cannot support a budget that does not address

future shortfalls. He added, “We have definitely pulled back on our beach renourishment out in 27. I don’t know what the basis for that is except for we are just putting in a plug number to make the books balance. I think we should take a hard look at that requirement and flush out that conversation. I don’t want to hand a problem to a future Council. So I think we got to just face the reality and really address what is in front of us or what is potentially in front of us and try to cross the bridge where our revenues are not growing while our expenses are growing substantially.”

Administrator Fragoso said FY25 does not include a tax increase, but there will be a millage increase in the debt service in FY26 for City Hall renovations and equipment purchases. Council Member Ward said he would not support a tax increase since the City’s cash balance has increased \$8 million in the last year.

MOTION: Mayor Pounds made a motion to approve, and Council Member Hahn seconded the motion. A vote was taken as follows:

Ayes: Campsen, Anderson, Ward, Bogosian, Miars, Hahn, Carroll, Pounds

Nays: Pierce

The motion passed 8-1.

C. Emergency Ordinance 2024-02 – an emergency ordinance amending Section 1 and Section 6 of Emergency Ordinance 2024-01

MOTION: Mayor Pounds made a motion to discuss. Council Member Hahn seconded the motion. The motion passed unanimously.

Director Kerr said Emergency Ordinance 2024-01 expired last week. He knows there are several homeowners working on plans for seawalls, but the City has received no plans to date.

Emergency Ordinance 2024-02 does not include a certification statement requiring an engineer’s signature. He said, “The City Attorney has advised if that certification statement goes away that in its place there should be an agreement required that would hold the City harmless and indemnify the City in the event that a future seawall did cause damage to the surrounding area.”

He also shared that seven homeowners are appealing to OCRM to move the OCRM jurisdiction line seaward. He believes it could be 90 days before OCRM shifts the line, and by that time the USACE project should have started. He added that the erosion situation in the area is not as dire as it was several months ago.

City Attorney McQuillin said, “In an ideal world, the engineers could certify that the wall they are about to build isn’t going to accelerate erosion or affect owners on either side, and they couldn’t do that. Then we, as Douglas mentioned, we tried to amend that and change it to say well, under normal conditions, it wouldn’t do that, and they still were not willing to sign the certification, which is an issue. So we’ve tried to deal with that in the ordinance with the indemnity agreements and hold harmless. That is just an agreement though. That doesn’t mean we are not going to get sued, that doesn’t mean we are not going to have to try to enforce the agreements and spend a bunch of legal costs. So with these changes, it is not ideal. I think what

we had before was better, but the engineers are telling us they are not willing to sign it, and so we are sort of in a predicament and have drafted this the best way we can to deal with the current situation we are in.”

Council Member Hahn said he could not support this ordinance because he believes it will create litigation in the future. Council Member Miars said she also will not support the ordinance in this form.

When asked if Council needed to do anything with the ordinance tonight, City Attorney McQuillin replied, “The fact that you are asking that suggests that it is probably not an emergency like currently where we are right now. But nothing prevents you all from three weeks from now if a big storm comes, we know there are going to be some tides and there are issues to enact this emergency ordinance or enact the prior one we had where we allowed the cubic yard sandbags as opposed to five-gallon sandbags, there are all sort of things we can do to help them in the event of an emergency.”

Mayor Pounds said he would like to defer any action on this ordinance tonight. City Attorney McQuillin reiterated that Emergency Ordinance 2024-01 expired on April 19.

C. Resolutions and Petitions

i. Proclamation 2024-04 – to recognize Jeff Minton for his contributions to the Prostate Cancer Foundation

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

Mayor Pounds read the proclamation.

ii. Proclamation 2024-05 – to proclaim May 18-24, 2024 as National Safe Boating Week

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

iii. Proclamation 2024-06 – to proclaim May 20-27 as National Beach Safety Week

MOTION: Council Member Ward made a motion to approve and waive the reading. Council Member Hahn seconded the motion. The motion passed unanimously.

iv. Proclamation 2024-07 – to proclaim April as Autism Awareness Month

MOTION: Council Member Bogosian made a motion to approve and waive the reading. Council Member Pierce seconded the motion. The motion passed unanimously.

v. Amendment to Resolution 2022-04 – authorizing change order approved by City Council to extend pipe at 41st Avenue drainage project

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

9. **Executive Session** -- in accordance with South Carolina Code Section 30-4-70(a)(2) to receive a legal update on pending claims.

MOTION: Mayor Pounds made a motion to enter into Executive Session in accordance with South Carolina Code Section 30-4-70(a)(2) to receive a legal update on pending claims. Council Member Ward seconded the motion. The motion passed unanimously.

City Council entered into Executive Session at 7:16pm.

City Council returned from Executive Session at 7:29pm.

Mayor Pounds said no decisions were made.

10. **Adjournment**

Council Member Ward made a motion to adjourn, and Council Member Campsen seconded the motion. The meeting was adjourned at 7:29pm.

Respectfully submitted,

Nicole DeNeane
City Clerk