

# WAYS & MEANS COMMITTEE MEETING

Municipal Center Council Chambers

October 24, 2023, 11:30 am

## Minutes

- I. Call to Order: *Chairman Moffitt called the meeting to order at 10:00 am.*
- II. Pledge of Allegiance
- III. Roll Call:

**Present at Meeting:** John Moffitt, *Chairman*  
John D. Labriola, *Mayor*  
Brad Belt, *Committee Member*  
Russell Berner, *Committee Member*  
Michael Heidingsfelder, *Committee Member*

**Also Present:** Stephanie Tillerson, *Town Administrator*  
Craig Harris, *Public Safety Director*  
Brian Gottshalk, *Public Works Manager*  
Erin Pomrenke, *Communications Manager*

**Absent:** Dorota Szubert, *Finance Director*

#### IV. Approval of Minutes:

- A. Ways and Means Committee Meeting of October 3, 2023

*Committee Member Heidingsfelder motioned to approve the minutes of the October 3, 2023, Ways and Means Committee meeting. Committee Member Berner seconded the motion, and it was unanimously approved.*

#### V. Citizens' Comments (Agenda Items Only):

##### **Maura McIlvain – 146 Blue Heron Pond Road**

Ms. McIlvain commented on the revised contract with Mr. Wilson, expressing concern that provisions in the agreement violate both State Statutes and Town Ordinances and the Town Attorney's failure to advise the Town Council of the issues.

Ms. McIlvain commented on the Law Enforcement Department Feasibility Study RFP, indicating that the way she read the documents, it seemed that the RFP was phrased for the Town getting its own Police Force rather than investigating whether it should have its own Police Force. She did not think the RFP was written in a way to obtain all the options and recommended alternatives if needed and felt there should be more investigation of the data and more study is necessary.

##### **Lance Spencer – 40 Sunlet Bend**

Mr. Spencer stated that when deliberating on whether the Town needs a police force and then what it takes to implement a police force, one of the considerations that should be thought through is the burden put on the city and the taxpayers.

Mr. Spencer spoke about conflicts of interest, ethics, public scrutiny in reporting, transparency in procurement, and setting up a good procurement process.

##### **Larry Rutkowski – 232 Sparrow Hawk Road**

Heidingsfelder, pointing out that the costs could be reduced through a competitive bidding process, which was not done. He also questioned why there was a need to hire a second attorney. *Committee Member Heidingsfelder responded by stating that at an earlier meeting, Committee Member Belt confirmed that the \$200 per hour cost was very reasonable for the market and questioned what a competitive bid would have done to change the substantial overruns incurred for legal services both in the previous and current fiscal years.*

**VI. Old Business:**  
None

**VII. New Business:**

**A. Review and Recommend to the Town Council the Approval of the Amended Town Attorney Contract Services Agreement with Joseph Wilson**

Chairman Moffitt stated the proposal addressed moving the rate of pay from a fixed to an hourly rate, along with the addition of a definite term to have a start and end date. Still at issue was who directs Mr. Wilson's activities, and a discussion of if it either needs to be reconciled by a modification to an ordinance or modifications to the way the contract is written.

***Committee Member Heidingsfelder made a motion to recommend to the Town Council the approval of the Amendment to the Town Attorney Contract Services Agreement with Joseph Wilson. Committee Member Berner seconded the motion.***

Ms. Tillerson clarified that the change to the rate of pay was previously approved; the change added was in regard to the submission of reimbursable expenses, which was not approved.

Council Member Berner began the discussion by responding to Mr. McIlvain's question on the need for two attorneys. The need arose from members of the Council adamantly stating Mr. Wilson's suggestions were wrong, and to ensure a mistake was not being made, an additional attorney was hired. He also noted that the current proposal still expires on December 31, 2023, and the reason for the rate change was due to the dramatic increase in hours expended prior to now clarifying that previous overrun hours are not going to be compensated, and this is only for going forward for the next three months.

Committee Member Heidingsfelder highlighted questions in the proposal.

1. In Paragraph 3, sub-paragraph (a) Standard Municipal Work, in the fifth line, still reads "attributed to different tasks approved by the Mayor or the Town Administrator." changing to the term "the Mayor or a majority vote of Council."
2. In Paragraph 8, the third line reads "notify the Town following the discovery of a conflict of interest," and he suggested it should say "notify the Town Council following the discovery of a conflict of interest."
3. The monthly statements under paragraph 4, all the billing from now on or when the rate change was approved, are broken down into a detail of the hours spent and on which task applied.

Committee Members engaged in an in-depth discussion of the comments made in Mr. Boney's email,

- In Section 7, individuals who may be assigned or allowed to provide professional services on behalf of the Town would not have been qualified or approved by the Town, pursuant to Section 2-504. Discussion included the addition of language in Section 7 that would require approval of the Town Council prior to the Mayor contracting with a delegate or any individual or other entity to perform on the Town's behalf and the implications of making that language change. After the discussion, Committee Members agreed to the suggested change that any subcontracting or retention of another individual has to comply with section 2-504.

- In Section 7, insert a provision that Mr. Wilson maintains all obligations and liabilities under the agreement in the event of the substitution. Discussion included the suggestion to add language in Section 10 indicating that Mr. Wilson is responsible for the performance, including litigation, of any subcontracted individual or attorney and, therefore, should be covered by Mr. Wilson's E&O policy or by their own policy.

Ms. Tillerson stated that since the changes in the language would have to be reviewed by the Labor Attorney for accuracy, approval would be delayed, or if the committee chooses, it can make a recommendation to the Council to approve with the caveat that this language is included in Section 10.

- The suggestion that there should be wording in the contract with respect to transition services upon termination of the agreement by either party. Discussion included the suggestion to add language that upon the termination of the agreement, Mr. Wilson is obligated to provide transition services.

Committee Members discussed the option presented for Paragraph 5. They decided on “The term of this Agreement shall be effective from January 1, 2023, through December 31, 2023, and year to year thereafter unless terminated by either party as specifically provided in this Agreement. Pursuant to Section 2-504, the Town Attorney holds office at the pleasure of the Town Council. Either the Town or Wilson can terminate this Agreement at any time. Notice of termination shall be provided in writing to the other party unless otherwise agreed to by the Parties. Accordingly, the Parties agree that either Wilson or the Town may terminate this Agreement at any time for any reason upon giving THIRTY (30) days written notice of termination to the other.”

Committee Member Belt stated that during the discussion, the Mayor raised an important point about the roles and responsibilities of the Mayor and the Council. Because he felt there had been a lack of clarity about those roles and responsibilities, it would be a useful conversation to have at some point.

Committee Member Belt indicated that on the proposed contract, he had broader and more fundamental concerns about the process, the language of the amended core duties, and the legality of the contract. He felt there were some constitutional issues as well and would address those more fully when and if this comes before the Council.

Committee Member Belt reviewed two other specific items for consideration.

- In Paragraph 9, Core Duties, he recommended removing the clause, “and such authorization will not be unreasonably withheld” in the third to last sentence. He also recommended removing the very last sentence of the paragraph, stating it was completely unrelated to this contract
- In the second paragraph of the Compensation Section, he recommended replacing the language “the Town agrees to pay Wilson’s monthly expenses for payment of general office expenses” with what was previously discussed, “the Town agrees to reimburse Mr. Wilson for actual reasonable expenses incurred upon submission of invoices, receipts, and appropriate documentation

Committee Members agreed to both recommended changes.

***Committee Member Berner made a motion to approve the amendments to the Town Attorney Contract Services Agreement with Joseph Wilson. Committee Member Heidingsfelder seconded the motion, and it was unanimously approved.***

**Chairman Moffitt called for a vote on the motion to recommend to the Town Council to approve the Amendment to the Town Attorney Contract Services Agreement with Joseph Wilson as amended. The motion was approved by a 4 to 1 vote, with Committee Member Belt voting “No.”**

**B. Possible Executive Session Pursuant to Section 30-4-70 (a)(1) and (2) of the South Carolina Code to Discuss the Status of Negotiations Related to the Proposed Amended Contract and Compensation for the Town Attorney - If Necessary**

**C. Review and Recommendation to Town Council for Approval of the Consultant for the Law Enforcement Department Feasibility Study**

Chairman Moffitt stated the intent was for a feasibility study to determine if the Town should or should not have a police force. And if yes, what does it look like, the size, number of people, and the timing. He also noted that since the time the sheriff pulled the Town’s contract, response time data and other data that had to do with the interaction of the sheriff’s deputies that are on the island with the general population to provide a consultant.

Mr. Harris stated that during the February Council Retreat, he was directed to prepare a police force feasibility study RFP to get an independent assessment to examine the possibility, capabilities, and likelihood of a proposed police force.

In March 2023, the Town received a 90-day written notice from the Charleston County Sheriff’s Office (CCSO) that the “permanent/full-time” deputy contract would terminate on June 1, 2023. This contract was in place for several years, starting in 2019. There were four deputies assigned to the Town, with two deputies scheduled 24/7 for the first shift.

A proposal was prepared and reviewed by the Public Safety Committee and presented at the August 1<sup>st</sup> Town Council meeting. The RFP was posted for bid, and the Town received three bids.

- Center for Public Safety Management, LLC- \$60,629.00
- Matrix Consulting Group- \$ 126,000.00
- Sumter Local Government Consultants (Except not all-inclusive)- \$36,000.00

A subcommittee was formed to review the bids and make a recommendation to the Public Safety Committee. All three firms are very capable of doing the job, and the bids are equal in terms of the work; however, after reviewing all proposals, The Public Safety Committee voted to recommend the proposal from the Center for Public Safety Management (CPSM) for \$60, 629.00 to the Ways and Means Committee. The funding for this expenditure will be from the Public Safety line item, Consultant firm, budgeted for \$80,000.

**Committee Member Berner motioned to recommend to the Town Council the approval of the proposal from CPSM to conduct the Law Enforcement Department Feasibility Study. Mayor Labriola seconded the motion.**

Committee Member Heidingsfelder stated that it was his understanding and confirmed in August that the responses from the RFP would include recommendations on the best way to move forward and also provide an answer on how the Town would manage a Police Force. He noted that the proposals submitted focus on a Town Police Force and do not mention what alternatives the Town may have available and did not address how the Town would manage a Police Force; therefore, for the moment, the project was incomplete and could not be approved.

In order to gain an understanding of why there is a need for a Police Force, Committee Member Heidingsfelder began a discussion of the Sheriff canceling the CCSO contract, which started the search for other viable options, but noted that there was never a strategic discussion of whether a police force was necessary.

Committee Member Heidingsfelder stated that the average daytime response time data showed a change from fifteen to nineteen minutes, an increase of four minutes. He then posed that there also needed to be a discussion of, as a community, how quickly the police are expected to respond to an incident.

Mayor Labriola stated that safety and security are the Town's responsibilities and that this is far more than response times. Some years ago, in responding to Community concerns, the Council at that time engaged the County, having them provide an enhanced level of service, but at that time, the Town did not have the level of activities or level of volume. The commercial development and the ER would bring on additional responsibility for safety and security in years to come, and he felt that preparations should be in place to respond to those responsibilities.

Committee Member Berner pointed out that there was some concern about the raw data being used to calculate the response times. He indicated that the data needs to be further investigated, along with the drop in police presence during the second and third shifts.

Committee Member Heidingsfelder clarified that he was not saying that the Town should not have its own Police Department or other means of making sure that the community is safe; he just urged to step back, look at the big picture, and 100% agree on the strategic objectives that want to be achieved before stepping forward.

Committee Members engaged in an in-depth discussion of the Feasibility Study RFP, the proposals submitted, the firm being recommended, and the need to reissue the RFP, which is focused on data gathering and assessment of whether or not a police force is necessary.

***Chairman Moffitt called for a vote on the motion to recommend to the Town Council the approval of the proposal from CPSM to conduct the Law Enforcement Department Feasibility Study. The motion failed by a 2 to 3 vote, with Committee Members Belt, Berner, and Heidingsfelder voting "No."***

Committee Member Heidingsfelder recommended that the Council meet in a retreat to focus on this topic and give clear advice to staff. Then, staff will determine what needs to be done, reissuing RFP or changing the existing quotes.

Mayor Labriola stated that his interest in this is far more than the here and now. In trying to envision what this community is going to be like five and ten years from now, and not the response time to the incident, but being prepared before an incident can occur. He would be agreeable to having a consultant come in to help facilitate a discussion about Safety and Security, what this community will be like in five to ten years with the facilities that are being built now, and what communities that have all of this development are like would be a great start.

Ms. Tillerson stated that she was not advocating one way or the other but wanted to provide the members with some anecdotal information. She stated that sometimes, when things happen, she receives emails from the Council asking what happened, and many times, she does not know. The Town does not have a way to manage the deputies hired for the second and third shifts, and right now, that number is dwindling.

Ms. Tillerson stated the Town and the Public Safety Committee had heard criticism from an island entity saying that it is the Town's role and responsibility to be the police, not theirs, and asking what the Town is going to do. She agreed that a good start would be a discussion to clarify what the community as a whole wants or is looking for, what the role of the Town is, and what the role of a private entity is.

**D. Review and Recommendation to Town Council for Approval of the Creation of a Video Production Specialist Position within the Communications Department**

***Committee Member Berner motioned to recommend to the Town Council the approval of the Purchase of Recycling and Solid Waste Educational Cart Stickers. Mayor Labriola seconded the motion.***

Ms. Pomrenke stated that as a follow-up to the discussion at the Fall Retreat, a job description for a Video Production Specialist was provided in the meeting materials. In addition to the position, an additional \$6,000.00 is being requested for basic video equipment to get this person started. She also provided an attachment outlining what is currently being done in-house by Communications staff with podcasting and live streaming and some of the fees associated with those.

***Committee Member Heidingsfelder motioned to recommend to the Town Council the approval of the Creation of a Video Production Specialist Position within the Communications Department. Mayor Labriola seconded the motion.***

Committee Member Belt asked for clarification on what kind of benefits there would be from the streaming standpoint, what's going to change with having this person on board separate from the podcast, and what the person is going to be doing day-to-day to enhance communications.

Ms. Pomrenke stated that the communications staff is currently doing the live streaming using a considerable amount of time, depending on how many meetings there are per month. It would be very beneficial for the department to free up Ms. Graham and herself to do additional communication outreach in addition to looking into more engagement with assisting people who need to livestream and want to provide comments as well.

Committee Member Heidingsfelder stated that the Town has been very active with communications, with two podcasts scheduled per month through the first part of next year. Since future scheduling has not been completed, he suggested postponing adding the position for a few months until after the mid-year review of the budget, in December or January. There would be a better understanding of the budget with the costs that have been added over the last couple of meetings, and maybe also a better understanding of the podcast schedule going forward throughout 2024.

***Following the discussion, the motion was unanimously passed.***

**E. Review and Recommendation to Town Council for Approval of the Proposal from Clean Harbors for the Removal of Household Hazardous Waste**

Mr. Gottschalk stated that Town staff has seen a growing need for proper disposal of household hazardous waste (HHW) on the island and continues to find items left at the public solid waste drop sites.

After doing a lot of research about how to dispose of these items safely and properly as a municipality, staff got in touch with Clean Harbors, the only interested company. Clean Harbors is based in North Carolina and will mobilize to a central location to receive, transport, and properly dispose of HHW items. The idea would be to have Clean Harbors set up their operation at the Municipal Center on a date and time determined by the Town so that residents can safely dispose of all of their household hazardous waste. Afterward, the Town will get a report on everything that was disposed of and how it was disposed of to ensure that it was done properly, and the labor and materials will be calculated and billed to the Town. Since this operation is based on weight and materials, there is no way to forecast the exact cost. However, Clean Harbors sent a quote that includes a fixed cost for mobilization with the other fees based on the items and volume collected. The quote given was a maximum amount of \$50,975.50 per pick-up, assuming that every resident on the island brings HHW items to the collection point.

Committee Members posed questions on the quote given in the proposal, discussing that the cost could be considerably less than the quote, the collection would be in conjunction with brown trash, and if the company was willing to do a test run to see how the community responds, what is collected and billed to have a better understanding before committing to a contract for 2024.

***Committee Member Heidingsfelder motioned to recommend to the Town Council the approval of the Proposal from Clean Harbors for the Removal of Household Hazardous Waste. Committee Member Berner seconded the motion.***

Committee Member Berner stated that he felt there was no other option but to approve this proposal, given what he had personally observed being disposed of in the recycling and trash containers.

***Following the comment, the motion was approved by a 4 to 1 vote, with Chairman Moffitt voting “No.”.***

**F. Review and Recommendation to Town Council for Approval of the Proposal for a Dumpster Pad at Town Hall**

Mr. Gottshalk stated that at last month’s Ways and Means Committee meeting, he presented a request to install a dumpster pad on the northwest side of the garage. The project would relocate the dumpsters that are currently occupying spaces in the parking lot and appeal to the aesthetics of visitors and staff that are coming to Town Hall every day.

Mr. Gottshalk stated the original proposal called for recycled asphalt to be used for the pad. The Committee asked staff to get pricing for a concrete pad due to the potential of the recycled asphalt failing due to the heat in the summer months. Staff received pricing as follows:

- +/- 3200 sq ft of reinforced concrete at a depth of 6”. A turnkey price for this alternative amounts to \$46,400.00
- +/- 3200 sq ft of asphalt paving with a ROC base of 6” and 3” lift of new asphalt. A turnkey price for this alternative amounts to \$33,600.00

The cost of the labor and materials for just the recycled asphalt pad and curb cut in the original proposal was \$11,635.00. After a careful review, the staff believes the recycled asphalt would hold up during the summer months and recommends moving forward with the recycled asphalt product for the dumpster pad.

***Committee Member Heidingsfelder motioned to recommend to the Town Council the approval of the proposal for a dumpster pad at Town Hall. Committee Member Berner seconded the motion.***

***Following further discussion, the motion was approved by a 4 to 1 vote, with Committee Member Berner voting “No.”***

**VIII. Chairman’s Report:**

None

**IX. Treasurer’s Report:**

**A. Monthly Budget Report**

**X. Citizens’ Comments:**

None

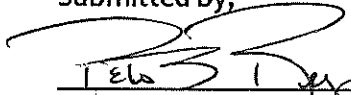
**XI. Committee Member’s Comments:**

None

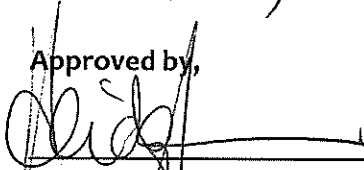
XII. ~~Adjournment:~~

*Committee Member Heidingsfelder motioned to adjourn the meeting at 1:17 pm. Committee Member Berner seconded the motion, and it was unanimously approved.*

Submitted by,

  
\_\_\_\_\_  
Petra S. Reynolds, Town Clerk

Approved by,

  
\_\_\_\_\_  
Michael Heidingsfelder, Chairman

01/03/2024  
Date