



MINUTES

Public Hearing – Hospitality Tax
And Council Work Session Meeting
January 13, 2022 - 6:30pm
South Congaree Town Hall
119 West Berry Rd.
West Columbia, SC, 29172

Members in Attendance: Mayor Cindy Campbell, Mayor Pro-Tem Mechelle Mabry and Council Members Jim Drennan, Brian Jackson and Bobby Porter
Also in attendance: Lexington County Councilman Todd Cullum & MASC Representative Jeff Shacker

The public was duly notified of the date, time, and place of the meeting.

I. Call to Order.

Mayor Campbell called the meeting to include a public hearing to order at 6:32 PM.
A quorum was present.
Mayor Campbell led in the Pledge of Allegiance and gave the Invocation.

Mayor Campbell welcomed everyone and recognized special guests, Lexington County Councilman Todd Cullum and MASC Field Representative Jeff Shacker.

Mayor Campbell reminded Council and those in attendance of public hearing protocol and the rules for making public comments. Mayor Campbell presented background information regarding the hospitality tax to include what would be included in the 2% tax includes and what would not be taxed. Information was provided regarding the purposes for what the revenue generated by the hospitality tax can be used for.

II. Public Hearing

Mayor Campbell called the Public Hearing providing for a local hospitality tax on the sales of prepared meals and beverages in establishments of the Town of South Congaree into session.

Public Comments were received from:

Bob Gilroy
Saleh Moeman, House of Pizza
Debbie McIver
Jonathan Jones
Steve Cromer
Ted Huff
Jerry Smith

Mr. Jeff Shacker, Field Representative from the SC Municipal Association assisted with providing factual information and answered questions from the attending citizens.

Councilman Todd Cullum commented on the perspective from Lexington County.

Mayor Campbell adjourned the Public Hearing at 7:30 p.m. and returned to the regular council work session meeting.

Council took a 5-minute recess to greet guests.

Mayor Campbell made a motion to come out of recess and into public session, seconded by Councilman Jackson. The motion carried with a unanimous vote.

III. Items for Discussion

2022 Holiday Schedule

Mayor Campbell stated that two separate holiday schedules were emailed to all of council for review. One was the 2022 SC State holiday schedule, and the second was one used by SCANA. Councilman Jackson made a motion to accept 'option 2' holiday schedule, seconded by Councilman Porter. Mayor Pro-Tem Mabry asked that council go through the holidays.

Option 2:

January 3, 2022 (already observed New Year's Day)

April 15, 2022 Good Friday

May 30, 2022 Memorial Day

July 4, 2022 Independence Day

September 5, 2022 Labor Day

November 24, 2022 Thanksgiving Day

November 25, 2022 Day after Thanksgiving

December 23, 2022 Christmas Eve observed

December 26, 2022 Christmas Day observed

January 2, 2023 New Year's Day observed

Mayor Campbell stated that Option 2 is a total of ten paid holidays. Mayor Pro Tem Mabry suggested adding November 11, Veterans Day, to the holiday schedule bringing the total to eleven paid holidays. Councilman Drennan stated he thought the schedule also included Martin Luther King Day. Mayor Campbell advised that the SC State holiday schedule did include that holiday but not option 2. Councilman Jackson stated his only problem is having back-to-back holidays and that we should be more like the banks, where there are so many days that there is a gap. Councilman Drennan stated we should also provide Good Friday, and like other states in the past that lost out too, and national football leagues that pulled out because they didn't have Martin Luther King's Day. Mayor Pro Tem Mabry stated the State, because there is also Confederate Memorial Day in addition to that, so one went with the other. Mayor Campbell added that President's Day holiday is also not included on Option 2.

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Mayor Pro-Tem Mabry made a motion to amend the previous motion to accept Option 2 and to include Veterans Day totaling 11 paid holidays (below) for Town employees, seconded by Councilman Jackson. Councilman Drennan stated he thinks 11 is high enough.

January 3, 2022 New Year's Day observed
April 15, 2022 Good Friday
May 30, 2022 Memorial Day
July 4, 2022 Independence Day
September 5, 2022 Labor Day
November 11, 2022 Veterans Day
November 24, 2022 Thanksgiving Day
November 25, 2022 Day after Thanksgiving
December 23, 2022 Christmas Eve observed
December 26, 2022 Christmas Day observed
January 2, 2023 New Year's Day observed

Roll Call Vote-

Councilman Porter – Yes
Councilman Drennan – Yes
Councilman Jackson – Yes
Mayor Pro Tem Mabry – Yes
Mayor Campbell – Yes

Council voted unanimously to adopt 11 paid holidays for employees. The motion carried.

2022 Council Meeting Schedule

Mayor Campbell made a motion to accept the 2022 Regular Scheduled Council Meetings (see below) with no December 2022 work session meeting, seconded by Mayor Pro Tem Mabry:

January 18, 2022
February 15, 2022
March 15, 2022
April 19, 2022
May 17, 2022
June 21, 2022
July 19, 2022
August 16, 2022
September 20, 2022
October 18, 2022
November 15, 2022
December 13, 2022

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Councilman Drennan asked if the work session meetings could be scheduled via conference call and/or remotely. Councilman Jackson asked Mr. Jeff Shacker for his counsel and Mr. Shacker advised the work session is a public meeting and would need to have a level of public access. Councilman Drennan advised that he didn't think it was necessary for all of council to be present during work session meetings.

Council voted unanimously to adopt the 2022 Regular Scheduled Council Meeting dates (above) with the December regular scheduled meeting to be held on December 13, 2022, with no scheduled or separate work session meeting.

The motion carried with a unanimous vote.

Council Compensation Requests

Mayor Campbell stated that several members of council requested that they receive compensation for years served on council prior to 2021 specifically from 2018. This is an ordinance that council receive this compensation, this is nothing new. Mayor Campbell added that council members who previously requested that they not receive compensation are now requesting it. This request must be discussed and voted on by full council. Mayor Campbell asked if Council needs to go into executive session to discuss and Councilman Jackson stated he thought we would need to but thinks we would be good.

Councilman Jackson made a motion to pay the current council members full back pay, anything the town owes that person, for time continuously served on Council beginning 2013, Councilman Porter seconded. Mayor Pro Tem Mabry reminded that we got advice from town attorney and everybody was in that meeting and in the emails for the three years back pay. Councilman Porter stated that he personally believes that in Brian's case that he is eligible for back pay from whatever point he was elected to serve and what was in the ordinance for each elected official to receive payment and is in agreement to pay what is owed and if it exceeds the three-year period, it exceeds the three-year period. Councilman Porter added that Brian or any other councilmember can't be held obligated to a gentlemen's agreement of a prior council and in his opinion, is what we are looking at right now and that is why he is supportive in the amount that's owed and in support of Brian's position on that.

Mayor Pro Tem Mabry presented her recollection as to why council compensation was stopped in years past because the market tanked in 2004, 6, 8, and the town had two judges and they got rid of a judge and they had two municipal clerks and they got rid of a municipal clerk and the employees had to pay 20% of their benefits and the town clerk and the town administrator paid all of their benefits so the town would survive and not be crippled. Mayor Pro Tem Mabry stated that when the next council came in it was never voted on to change the ordinance, but it was voted on for that council at that time. Mayor Pro Tem added that she asked about that when she came on Council and was told it was a volunteer position and it wasn't.

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Mayor Campbell asked Councilman Jackson if he knew about the council compensation ordinance when he was the Mayor. Councilman Jackson advised that no one wanted to discuss it and added that Mayor Campbell has the luxury of running some things that he did not have even though he was the Mayor. Town Attorney, John Rakowsky, stated that he and Council have discussed this issue several times and based on the information that he was given there had been a waiver of any claim for a demand and there was no demand and now the demand is being made. Mr. Rakowsky added that there has never been a demand made until now and the demand can only go back three years; he stated that is his position and Council can vote over that. He added that he doesn't think you can go back forever when there was a clear waiver and no demand and now there is a demand.

Mayor Campbell requested Mr. Jeff Shacker to weigh in on the motion to pay Councilman Jackson compensation going back to 2013. Mayor Campbell stated that she agreed council members should be paid compensation for the current term but to pay them for years prior could result in additional past council members coming forward demanding back pay and what would prevent them from coming forward to request their compensation? Mr. Shacker stated that he's not an attorney but felt the concern's legitimate, but the final decision is a policy decision where the majority of council decides the policy but he defers to the town attorney.

Councilman Porter stated that Councilman Jackson's situation is extremely unique in that he has a continuous timeline of serving on council or as Mayor and those that served on prior councils and chose not to request pay and no longer on council or the role of Mayor, he thinks that terminates our obligation to go back and honor a request for somebody that is not on council and do the exact same thing Councilman Jackson is doing now.

Councilman Drennan stated that he has listened to the request and is thinking all the way back to slavery; hears there are people that want to be compensated back to the tenth generation and the answer needs to come from the law and doesn't know how to put his arms around this one. Councilman Drennan stated that he hears both sides; but also heard it 200 years back and he wasn't part of that 200 years ago and shouldn't have to be sacrificed for me so not sure where to stand on that. Mayor Pro Tem Mabry added that if you owe the IRS they can go back seven years to get it. Councilman Porter stated that if you fail to pay a bill it goes on your credit and can stay on your credit for seven-year period. Town Attorney, John Rakowsky, advised council the problem with the law is that these three standards that council is talking about is only applicable for that specific fact situation and, per the law, you have the right to collect, it is barred after three years if you don't make a demand. Mr. Rakowsky added that it is his opinion, but council can treat this as a policy decision and go over that. Mr. Rakowsky advised that if you want to talk about the law, you have right to demand, the demand wasn't made, it was in fact waived, and now all of a sudden it is coming back to be a demand. Mr. Rakowsky shared his opinion that since it wasn't made the only way that he thinks to make it fair is to treat it as a demand and only go back three years. Mr. Rakowsky advised council to not talk about IRS; not talk about bankruptcy;

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and not talk about slavery. He added that in our state if you don't make a demand when you had the right you are barred by statute after three years. Mayor Pro Tem added that if she can prove in the minutes or her recordings that she asked for that. Mr. Rakowsky stated that would be different but that wasn't presented that anybody made that demand prior to it coming up recently. Councilman Porter added that before this council there had been discussion before Mr. Rakowsky's time.

Councilman Jackson stated, "There is a motion on the table and a second and I call for a vote." Mayor Pro Tem Mabry added that she asked for back pay after she saw an email from the Mayor requesting guidance from Mr. Rakowsky and that made sense and she asked for hers and that's when it became a problem. Mayor Pro Tem Mabry added at that time a check had already been written to Mr. Porter and Mr. Jackson. Mr. Rakowsky advised that before council votes, the motion is unlimited back pay and then if it that motion passes it's done; if it doesn't pass there should be a second motion for back three years. Mayor Campbell requested a roll call vote:

Roll Call Vote-

Councilman Porter – Yes

Councilman Drennan – No

Councilman Jackson – Yes

Mayor Pro Tem Mabry – No

Mayor Campbell – No

The motion did not carry.

Mayor Pro Tem Mabry made a motion to pay current council members back pay for their time served on council in accordance with Ordinance 30.07, to begin November 2017 ending April 2020; and that council, at a future date, will amend the budget to include the back paid compensation, seconded by Councilman Porter.

Mr. Rakowsky stated that the original discussion was to pay council back pay for three years prior to the date of the demand which was November 2021 and apply three years to that you have already been paid for one of those.

Councilman Porter stated that he sat in on conversations with the prior Mayor and compensation was not allowed to be discussed and council members should be held as a penalty because there was no action on it. Councilman Drennan stated that was a valid remark although he wasn't here. Mayor Campbell stated that she will recuse herself from the vote because this was prior to her being elected to serve on council and that an amendment to the budget will be made to account for the additional back pay compensation.

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Mayor Campbell stated council will need to make amendments to the budget. Mayor Pro Tem Mabry added we have to amend the budget anyway because of the extra vehicle that was purchased and there have been several increases to include the cleaning people are more than we budgeted for. Mayor Pro Tem Mabry asked Mr. Shacker if we would need to have a public hearing if we moved funds around and the bottom line did not increase. Mr. Shacker advised it would depend on what is in the budget ordinance as it is related to what authority we have to do that without going through an ordinance amendment process. Mr. Shacker advised council to make a motion after the back pay is resolved with the understanding that the budget to also include some of the other expenses and do it with an ordinance. He added a public hearing is used in the process of adopting a budget and would be needed to change the budget.

Roll Call Vote-

Councilman Porter – Yes
Councilman Drennan – Yes
Councilman Jackson – Yes
Mayor Pro Tem Mabry – Yes
Mayor Campbell – Recused

The motion carried.

American Rescue Plan Act and Premium Pay

On November 1, 2021, the Town of South Congaree received the first half (\$422,840.63) of funds from the US Federal Government as a result of the American Rescue Plan Act. At a previous meeting, Council voted to transfer these funds from the General Fund into the Local Government Investment Pool.

Councilman Jackson asked if the ARPA and H-Tax revenue could be set aside primarily for sewer infrastructure. Mr. Rakowsky stated that there is no need to consolidate the funds. Mayor Pro Tem Mabry stated there is no not need to talk about H-Tax because it hasn't been approved. Councilman Jackson stated that council can leave a legacy project and the best thing we can do for the town is to run sewer through the town. Councilman Porter added that there are requirements for spending the ARPA funds and we would be in 100% good shape if the focus is on sewer infrastructure. Mayor Pro Tem Mabry stated that she had requested council discuss Premium Pay for essential employees be included on the agenda. Council continued to discuss Premium Pay and how the pay should correlate with hours worked, capping the amount to be given. Mr. Jeff Shacker advised municipalities are required to expend the funds by December 31, 2024, unless the funds were obligated and then they would not be required to be expended until the end of 2025. The final report to the Treasury Department will be April 30, 2027. Councilman Porter stated that his concern is spending the funds prior to receiving the second half. The second half of the ARPA funds are to be received September 2022. Council will discuss and identify a period of time employees are eligible for premium pay.

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Mr. Jeff Shacker advised that before council makes any decisions, municipalities were operating under an interim final rule. He advised that on January 6, 2022, a final rule was announced with significant changes. The four major funding areas with one being lost revenue and lost revenue replacement. The Treasury Department came back with a standard allowance of 10 million dollars. This means that any local government receiving 10 million dollars or less can take the standard allowance and claim their

entire American Rescue Plan allowance as lost revenue and can spend it on any government service they want (i.e., existing service, services not provided, personnel, retention bonus, etc.). He stated that this will simplify the reporting to the Treasurer's Office with the first report being due on April 30, 2022.

Council agreed to continue discussions regarding the American Rescue Plan Act at the February 10, 2022, work session meeting.

Councilman Jackson asked those in attendance if there was a clarity about the 2% tax would it put people more at ease about why it is needed. Citizens that were present responded that if someone is anti-tax it won't matter, and no one is pro-tax, but it is a way to bring revenue into the town. Councilman Jackson stated the H-Tax is a luxury tax and not a necessity.

PEBA Insurance

Mayor Campbell advised that she and Councilman Porter had spoken with PEBA Representative, Karen Rawl and were provided the rates for employees and the employer portion. Ms. Rawl advised that an application would need to be submitted for PEBA's approval with August 1, 2022, being the earliest possible date to move insurance. Councilman Porter advised that due to Covid-19 requirements Ms. Rawl is not able to come speak to Council, but she would be available via teleconference.

Councilman Porter advised by switching to PEBA it would be a cost savings for the insurance premiums paid by the town. Council agreed that a comparison is needed of the true breakdown of premiums currently being paid with PEBA's premiums. The current insurance rates being paid are age based and that is the concern for council members because with PEBA (State Plan) the rate is not based on the employee's age. Mayor Pro Tem Mabry volunteered to compile the rate information. Councilman Jackson asked bookkeeper, Marsha Harsey, what is currently being spent monthly on healthcare premiums. Ms. Harsey advised that approximately \$4,000 for healthcare premiums not to include dental, vision and life. Council agreed that the town should not be paying life insurance premiums for employees.

Council agreed to continue the insurance premiums discussion at the February work session meeting.

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Employee Handbook


Mayor Pro Tem Mabry distributed a copy of the Town's Employee Handbook and asked council to review. Mayor Pro Tem Mabry stated the disclaimer page needs to be included; the grievance policy needs to be revised or removed. Mayor Pro Tem Mabry asked council to review the handbook and be ready to discuss at February work session meeting. Mayor Pro Tem Mabry will also forward a copy of the handbook to the town attorney for his review. Council will review the strike through information to be removed prior to the February work session. Councilman Jackson requested council also discuss random drug testing for employees.

IV. Citizens Comments


No public comment was made.

V. Adjournment

Council, on the motion of Mayor Campbell and seconded by Mayor Pro Tem Mabry, voted unanimously to adjourn the meeting at 9:15 p.m.



Attested by:



Approved by:
Cindy Campbell,
Mayor

3.15.2022

Date Approved