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**TOWN OF ATLANTIC BEACH
SPECIAL SESSION
TOWN COUNCIL MEETING**

Thursday, May 9, 2024

2:00 p.m.

The Town of Atlantic Beach Town Council meeting was held and recorded at Atlantic Beach Community Center, 1010 32nd Avenue South, Atlantic Beach, South Carolina, on the 9th day of May, 2024, and transcribed by Amanda Godfrey, Court Reporter and Notary Public in and for the State of South Carolina.



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1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / contact@creelreporting.com

APPEARANCES

COUNCIL MEMBERS:

Mayor Jake Evans, Chairman
 Councilman Edward Lamar Campbell
 Mayor Pro Tem Josephine Isom
 Councilwoman Jacqueline Gore
 Councilman John David

ADMINISTRATION:

Cheryl Pereira, Clerk

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 (803) 252-3445 / contact@creelreporting.com

1 **Call to Order:**

2 **MAYOR EVANS:** Well, good -- good evening, everyone.

3 **IN UNISON:** Good evening.

4 **MAYOR EVANS:** Before we begin tonight's Council
5 meeting, as Mayor I need to address the
6 situation regarding the contested election
7 results for the open Council seat. As you
8 know, Carla Taylor was provisionally sworn in
9 after the election but her opponent has filed
10 a legal challenge questioning the eligibility
11 of several voters. Under South Carolina law,
12 specifically Section 5-10-120 of the State
13 Code, a candidate is only entitled to take
14 office after the election is fully resolved,
15 certified by the election commission and no
16 further appeals or contests remain. The South
17 Carolina Supreme Court has held in Prior versus
18 White that an elected official cannot exercise
19 any official duties until the election is fully
20 validated and certified, which includes the
21 resolution of any pending legal challenges or
22 appeals. Therefore, while Ms. Taylor is
23 welcome to be present for today's proceedings,
24 she cannot officially participate, vote or be
25 counted towards establishing a quorum until the



1 legal contest over her election is fully
2 resolved by the courts. We are obligated to
3 allow the judicial process to take its course
4 before rendering any decisions that could be
5 viewed as premature validation of the disputed
6 election results. I know this is an
7 uncomfortable situation but we must respect the
8 rule of the law and electoral processes that
9 underpin our democracy. Once this matter is
10 conclusively decided by the courts, we will of
11 course abide by their final ruling. Until
12 then, we will proceed tonight with the
13 remaining duly-elected and certified Council
14 members. Thank you for your understanding, and
15 unfortunately, any attempts to disrupt this
16 meeting prior to a judicial decision being
17 rendered are subject to being removed by law
18 enforcement. This Town Council Executive and
19 Special Session meeting is called to order this
20 Thursday, May 9th, 2024 at 2:00 p.m. Roll
21 call.

22 **CLERK:** Councilman Edward Campbell? Mayor Pro Tem
23 Josephine Isom?

24 **MAYOR PRO TEM ISOM:** Here.

25 **CLERK:** Councilwoman Jacqueline Gore?



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1 COUNCILWOMAN GORE: Here.

2 CLERK: Councilman John David?

3 COUNCILMAN DAVID: Here.

4 CLERK: Mayor Jake Evans?

5 MAYOR EVANS: Here. Council, I seek a motion to go
6 into Executive Session for legal,
7 administrative contract for Interim Town
8 Manager and legal -- contract with legal
9 counsel and authorization to defend the Town on
10 pending legal matters. Council, seek a motion
11 to go into Executive Session for those items.

12 COUNCILWOMAN GORE: So moved.

13 MAYOR PRO TEM ISOM: Second ---

14 COUNCILMAN DAVID: I move to amend ---

15 MAYOR EVANS: Motion and a second to go into
16 Executive Session -- order.

17 COUNCILMAN DAVID: I ---

18 MAYOR EVANS: Order ---

19 COUNCILMAN DAVID: I move to amend ---

20 MAYOR EVANS: There's a motion and a second on the
21 floor ---

22 COUNCILMAN DAVID: I move to amend ---

23 MAYOR EVANS: --- to go into Executive Session for
24 the legal matters. Any other questions or
25 comments ---



1 approval of the agenda. We're down to Old
2 Business, there's none.

3 **New Business:**

4 **MAYOR EVANS:** And under our New Business ---

5 **COUNCILMAN DAVID:** I move to nominate ---

6 **MAYOR EVANS:** --- (inaudible) ---

7 **COUNCILMAN DAVID:** I move to nominate Ms. Linda
8 Cheatham as the Interim Town Manager.

9 **COUNCILWOMAN GORE:** Go ahead, Jake.

10 **COUNCILMAN CAMPBELL:** I second.

11 **COUNCILWOMAN GORE:** (Inaudible). Go ahead.

12 **COUNCILMAN DAVID:** Call for the vote.

13 (Inaudible background noise.)

14 **COUNCILMAN DAVID:** Roll call.

15 **FEMALE SPEAKER:** Roll call.

16 **CLERK:** Councilman Edward Campbell?

17 **COUNCILMAN CAMPBELL:** Yea.

18 **CLERK:** Mayor Pro Tem Josephine Isom?

19 **MAYOR PRO TEM ISOM:** Nay.

20 **CLERK:** Councilwoman Jacqueline Gore?

21 **COUNCILWOMAN GORE:** Nay.

22 **CLERK:** Councilman John David?

23 **COUNCILMAN DAVID:** Yes.

24 **CLERK:** Mayor Jake Evans?

25 **MAYOR EVANS:** Nay. The motion failed. Council,



1 consideration of contract for Interim Town
2 Manager for Orton Bellamy. Council, seek a
3 motion to enter into a contract for Interim
4 Town Manager with Orton Bellamy.

5 **COUNCILWOMAN GORE:** So moved.

6 **MAYOR PRO TEM ISOM:** Second.

7 **MAYOR EVANS:** There's a motion and a second on the
8 floor to enter into a contract with Orton
9 Bellamy for the Interim Town Manager position.

10 **COUNCILMAN DAVID:** I call for discussion ---

11 **MAYOR EVANS:** Any other questions or comments?

12 **COUNCILMAN DAVID:** I call for a discussion.

13 **MAYOR EVANS:** You've got the floor, go ahead ---

14 **(Inaudible background noise.)**

15 **COUNCILMAN DAVID:** I call for a discussion. First
16 of all, Mr. Bellamy has first shown up today
17 with a packet of information that none of the
18 Council members have had an opportunity to
19 review except for the Council members that
20 worked out the contract with him so I think
21 it's -- you know, this meeting was shoved down
22 our faces at the last -- within 24 hours after
23 canceling a meeting that was supposed to be
24 held on Monday, and I think that it -- with Ms.
25 Carla Taylor, who is the duly-elected person



1 for Atlantic Beach Councilwoman, and not Ms.
2 Josephine Isom, that I think that it is wrong
3 to appoint someone with the failure of having
4 the adequate Council members on the
5 (inaudible).

6 **MAYOR EVANS:** Thank you. Roll call.

7 **CLERK:** Councilman Edward Campbell?

8 **COUNCILMAN CAMPBELL:** No.

9 **CLERK:** Mayor Pro Tem Josephine Isom?

10 **MAYOR PRO TEM ISOM:** Yea.

11 **CLERK:** Councilwoman Jacqueline Gore?

12 **COUNCILWOMAN GORE:** Yea.

13 **CLERK:** Councilman John David?

14 **COUNCILMAN DAVID:** No.

15 **CLERK:** Mayor Jake Evans?

16 **MAYOR EVANS:** Yea. The motion is granted. We're
17 down to Item B. under New Business and this
18 consideration of a contract for Town legal
19 counsel. Council, seek a motion to enter into
20 a contract for legal counsel with Dwayne Green.
21 Council, seek that motion.

22 **COUNCILWOMAN GORE:** So moved ---

23 **MAYOR PRO TEM ISOM:** Second.

24 **MAYOR EVANS:** Motion and a second on the floor ---

25 **COUNCILMAN DAVID:** I call for discussion.



1 **MAYOR EVANS:** Motion and a second is on the floor
2 for consideration of a contract ---

3 **COUNCILMAN DAVID:** I call for discussion.

4 **MAYOR EVANS:** --- for Dwayne Green ---

5 **COUNCILMAN DAVID:** I call for a discussion.

6 **MAYOR EVANS:** Any other questions or comments?

7 **COUNCILMAN DAVID:** I call for discussion. Yes,
8 since Mr. -- again, this same contract was not
9 privy to all Council people and, again, nothing
10 against Mr. Green, I mean, fine attorney based
11 on what I read but in light of this not being
12 a truly constituted Council, and Ms. Josephine
13 Isom was not duly elected, she did not run for
14 Council, and for the Mayor to read off a
15 statement at the beginning of this meeting to
16 say that there's an appeals process, there's a
17 court process, there was a convicted felon who
18 ran for office here and he had the -- the
19 smallest amount of votes, he did not win, he
20 did -- came absolute last place, he filed an
21 appeal on the day after -- after the -- her
22 race was certified and she was sworn in. So
23 again, how does an appeal that was not filed in
24 a timely manner, 48 hours after an election,
25 and also that did not go to the Court of Common



1 Pleas, how does that (inaudible) as any type of
2 appeal as the Mayor has read out. I think it's
3 wrong, I think it's illegal and I think
4 everyone who is acting accordingly should be
5 prosecuted or looked at the right way 'cause
6 again, they're basically -- are stealing an
7 election that should not have been stolen.

8 **MAYOR EVANS:** Thank you, sir. Roll call.

9 **CLERK:** Councilman Edward Campbell?

10 **COUNCILMAN CAMPBELL:** No.

11 **CLERK:** Mayor Pro Tem Josephine Isom?

12 **MAYOR PRO TEM ISOM:** Yea.

13 **CLERK:** Councilwoman Jacqueline Gore?

14 **COUNCILWOMAN GORE:** Yes.

15 **CLERK:** Councilman John David?

16 **COUNCILMAN DAVID:** No.

17 **CLERK:** Mayor Jake Evans?

18 **MAYOR EVANS:** Yea. The motion's granted.

19 **Public Time:**

20 **MAYOR EVANS:** We're down to Public Time and I have
21 three public comment cards here. We'll start
22 with Mr. John Sketers.

23 **MR. SKETERS:** Let me ask you a favor, can I do it
24 from this position here, instead of going to
25 the ---



CERTIFICATE

This is to certify the transcript of the Atlantic Beach Town Meeting consists of twenty-two (22) pages. This transcript was prepared by me without the benefit of my being present during the meeting. Additionally, this transcript was prepared from a audio recording provided to me.

I further certify that I am neither employed by nor related to any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal this May 30, 2024.



Amanda J. Creel Godfrey
Court Reporter

Notary Public for South Carolina
My Commission Expires: May 27, 2031



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Town Of Atlantic Beach

Orton Bellamy

Intern Town Manager

Town Hall 717 30th Avenue South

Atlantic Beach SC 29582

P.O.BOX 5285

North Myrtle Beach SC 29597

Office: 843-663-2284

Fax: 843-663-0611

ortonbellamy@townofatlanticbeachsc.com

From: Derrick Stevens <bossderrick25@yahoo.com>

Sent: Wednesday, November 6, 2024 10:00

To: Orton Bellamy

<ortonbellamy@townofatlanticbeachsc.com>

Subject: Authorization to appeal

Election commissioner Carolyn Gore and election commissioner
Derrick Stevens authorized the appeal of Judge Seals' decision in
November 5, 2024 civil case number 2024-CP-26-0718
to the Swinson case.

Stephen Groves

From: Dwayne Green <dwayne@greenlawsc.com>
Sent: Monday, November 25, 2024 10:24 AM
To: Stephen Groves
Subject: Fwd: Authorization to appeal

Begin forwarded message:

From: "Orton Bellamy" <ortonbellamy@townofatlanticbeachsc.com>
Subject: Fw: Authorization to appeal
Date: November 6, 2024 at 10:01:27 AM EST
To: "dwayne@greenlawsc.com" <dwayne@greenlawsc.com>

Town Of Atlantic Beach
Orton Bellamy
Intern Town Manager
Town Hall 717 30th Avenue South
Atlantic Beach SC 29582
P.O.BOX 5285
North Myrtle Beach SC 29597
Office: 843-663-2284
Fax: 843-663-0611
ortonbellamy@townofatlanticbeachsc.com

From: Derrick Stevens <bossderrick25@yahoo.com>
Sent: Wednesday, November 6, 2024 10:00 AM
To: Orton Bellamy <ortonbellamy@townofatlanticbeachsc.com>
Subject: Authorization to appeal

Election commissioner Carolyn, Gore and election commissioner Derrick Stevens authorized the appeal of Judge Seals Order of November 5, 2024 civil case number 2024-CP-26-07182 in regards to the Swinson case.

Derrick Stevens
Carolyn Gore

[Sent from Yahoo Mail for iPhone](#)

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Town of Atlantic Beach
Town Council Executive Session Meeting – 7:00 p.m.
Town Council General Session Meeting - 8:00 p.m.
Wednesday, November 6, 2024
Atlantic Beach Community Center
1010 32nd Avenue South, Atlantic Beach, SC 29582
A G E N D A

FOIA: This meeting was posted at least 24 hours in advance at the Town Hall and Community Center, faxed to the following media North Myrtle Beach Times, Sun News, WBTW, WMBF, WPDE, WMIR, TOAB WEBSITE:

: <https://boxcast.tv/channel/hriov7yurwsygzbggzi>

Executive Session – 7:00 p.m.

1. Call to Order
2. Roll Call
3. Executive Session
 - a. Legal - Motion to adjourn General Meeting and enter Executive Session pursuant to Section 30-4-70 (a)(1)
 - b. Legal – Administrative Contract for Interim Town Manager
 - c. Legal – Discussion Contract with Legal Counsel and Authorization to defend the Town on pending legal matters.
 - d. Legal – Election Matters
 - e. Legal – SCDOT
 - f. Legal - Grants
 - g. Personnel - Discussion of Personnel Matters related to the Town of Atlantic Beach Mayor Pro Tem, Planning and Election Commission.
 - h. Legal Matters Update.

General Session – 8:00 p.m.

1. Call To Order and Welcome.
2. Invocation, Moment of Silence/Prayer.
3. Ceremonial Matters.
 - a. Tribute to Diane Hill
 - b. Welcome Councilwoman Carla Taylor
4. Approval of the Agenda.

Council may make motion(s) and take action on matters related to Executive Session.

5. Old Business

- A. Town Council Meeting Minutes. – Minutes from Town Council Meeting Held on October 7, 2024.
- B. **Ordinance No. 8-2024** - Amendment to Ordinance No. 11-2023. An Ordinance Establishing and Adopting the Operational Procedures for the 2025 Atlantic Beach Memorial Day Black Pearl Cultural Heritage and Bike Festival. ***Second Reading.***
- C. Election Updates

6. New Business

- A. Consideration of contract for Interim Town Manager.
- B. Consideration of contract for Town Legal Counsel.
- C. Consideration of Nomination for Mayor Pro Tem
- D. Consideration to re/appoint a member's to the Town of Atlantic Beach Municipal Planning and Election Commission.
- E. Consideration of matters discussed in executive session
- F. Nomination of the Town of Atlantic Beach as a Historic District on the National Registry of Historic Places: November 15, 2015/Grants Update
- G. Town Council Meeting Schedule 2025.

7. Manager's Report

1. Veteran's Recognition.
2. New Construction Update – upcoming projects
3. 30th Ave Road paving project
4. SCDOT Hwy 17 update

8. Upcoming Events and Activities

1. Thursday, November 7, 2024, 6:00 p.m. 101 New Construction Seminar.
2. Tuesday, November 12 2024 7:00 p.m. Horry County Transportation Committee Meeting.
3. Tuesday, December 3, 2024, 6:00 p.m. Christmas Tree Lighting.
4. Friday, December 20, 6:00 p.m. - 8:30 p.m. Police Department Children Christmas party.

9. Public Time

*Individuals wishing to speak during public time must sign in and fill out a speaker's card before the meeting is called to order at 5:00 p.m. The cards will allow us to respond in writing if necessary. More than one speaker for the same subject may be consolidated. Time Limit: 3 Minutes Per Person. Sec. 9-1-2 Disruption of Court or Council: It shall be unlawful for any person to interrupt the proceedings of the municipal court, or any meeting of the council, or be guilty of disorderly conduct therein, or to commit any contempt of either.

10. Adjournment.

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Town of Atlantic Beach

717 30th Avenue South
Atlantic Beach, SC 29582
Mailing Address: PO Box 5285
North Myrtle Beach, SC 29597
Phone: 843 663-2284 Fax: 843-663-0601

Town Council

Mayor, Jake Evans
Mayor Pro Tem, Josephine Isom
Councilmember, Jacqueline Gore
Councilmember, Edward Campbell
Councilmember, John W. David, Jr.

Interim Town Manager, Orton Bellamy

TOWN COUNCIL MEETING
CANCELLATION AND RESCHEDULED NOTICE
TOWN COUNCIL GENERAL SESSION MEETING
WEDNESDAY, NOVEMBER 6, 2024

At 7:00 p.m.

HAS BEEN CANCELLED

THE NEXT TOWN COUNCIL MEETING
WILL BE
MONDAY, DECEMBER 2, 2024

At :5:00 p.m.

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TOWN OF ATLANTIC BEACH
TOWN COUNCIL MEETING

**TRANSCRIPT OF
VIDEO RECORDING**

Wednesday, November 6, 2024

KNOWN ATTENDEES:

Councilman Carla Taylor

Councilman John David

Councilman Edward Lamar Campbell



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1 **COUNCILMAN TAYLOR:** So this is not the typical
2 format that we have our monthly town council
3 meeting but we are working with what we have.
4 Okay, so it's 7 p.m. We're going to get
5 started. This is not our normal format for
6 conducting our monthly town council meetings,
7 but considering the circumstances, we thought
8 was important that we greet the public and make
9 them aware of what is going on here. And to do
10 that, we'll begin by introducing ourselves,
11 calling this meeting to order, and then
12 Councilman David will read a statement. And if
13 you have any questions following that, then
14 we'll be more than happy to answer them. So,
15 I'm Councilman Carla Taylor.

16 **COUNCILMAN DAVID:** Councilman John David.

17 **COUNCILMAN CAMPBELL:** Councilman Edward Lamar
18 Campbell.

19 **COUNCILMAN DAVID:** We were notified today, just as
20 the media and everybody else was probably
21 around 5:50, 6:30, 6:00, something like that,
22 that the meeting was canceled. I talked to the
23 town ma- -- interim town manager and the clerk
24 earlier today. They didn't notify us of
25 anything of sorts. We have heard rumblings



1 that different members of the council's, Mayor
2 Jake Evans and Josephine I- -- not Josephine
3 Isom, and Josephine Isom and Jacqueline Moore,
4 former councilman lady Jacqueline -- Josephine
5 Isom, wanted this meeting canceled. And they
6 have worked all day to try to make sure it's
7 canceled. When they didn't get a stay from the
8 Judge, who ordered that Ms. Taylor was a member
9 of council on Monday, that they canceled the
10 meeting on Monday, they canceled the meeting
11 this afternoon without notice to a lot of
12 folks, especially the citizens that are here
13 now. And we've come to the conclusion that for
14 dereliction of duty and that Orton Bellamy and
15 Duane Green are relieved of their duties for
16 cause, again, dereliction of duties, first.
17 Secondly, mishandling -- misleading and lying
18 to the town of Atlantic Beach regarding the
19 SLED investigation, which SLED said there was
20 no investigation. Number three, for failure to
21 have legal representation at a Court case,
22 Josephine Isom versus the town of Atlantic
23 Beach. No lawyer showed. The town manager did
24 not make sure that a lawyer showed. And that
25 is dereliction of duty. And number four, there



1 parliamentary opening and closing of the
2 meeting in order for it to be considered an
3 actual council meeting since you do have a
4 quorum with the three of you?

5 **COUNCILMAN DAVID:** We can. I move that this
6 meeting per the agenda is now in session.
7 Do I have a second?

8 **COUNCILMAN TAYLOR:** I second.

9 **COUNCILMAN DAVID:** Can we have a vote. All in
10 favor?

11 **COUNCILMAN TAYLOR:** Aye.

12 **COUNCILMAN CAMPBELL:** Aye.

13 **UNKNOWN 1:** Do you have to have the roll call that
14 we generally hear?

15 **COUNCILMAN DAVID:** There's only three of us, but
16 Lamar Campbell, do you approve?

17 **COUNCILMAN CAMPBELL:** Yes.

18 **COUNCILMAN DAVID:** Carla Taylor?

19 **COUNCILMAN TAYLOR:** Yes.

20 **COUNCILMAN DAVID:** And John David as well. The
21 motions that we have -- do -- I seek a motion
22 to remove the town attorney, Duane Green, and
23 the interim town manager from their roles and
24 capacity within the Town of Atlanta Beach for
25 cause. Do I have a second?



1 COUNCILMAN CAMPBELL: Second.

2 COUNCILMAN DAVID: Councilman Campbell?

3 COUNCILMAN CAMPBELL: Yay.

4 COUNCILMAN DAVID: Councilman Taylor?

5 COUNCILMAN TAYLOR: Yay.

6 COUNCILMAN DAVID: And I vote yes as well. With

7 that, we'll have questions from the audience or

8 if anybody has any comments.

9 UNKNOWN 2: You have a, you have a -- make a motion

10 to move ---

11 COUNCILMAN DAVID: I did both. Any questions from

12 anyone?

13 UNKNOWN 1: Just give me a minute.

14 UNKNOWN 3: I have a question.

15 COUNCILMAN DAVID: Yes, sir.

16 UNKNOWN 3: How do we record this?

17 COUNCILMAN DAVID: It's recorded by our recorder,

18 Paul and Jay, and the news media. And we, we

19 can upload this or post it as well.

20 UNKNOWN 3: So the minutes can be ---

21 COUNCILMAN DAVID: Pulled from that, yes.

22 UNKNOWN 3: Did I hear you say that Carla was a

23 council person effectively Monday of this week?

24 COUNCILMAN DAVID: She was. The -- Judge Seales

25 actually ordered her to be a council person



1 effectively October 30th. He said immediately
2 in his email to the town. His order actually
3 states November 1st, but it was signed on
4 November 4th. So I take it immediately was
5 October 30th when he said immediately. I take
6 him at his word, and we have been thwarted from
7 having everything since then. And again, I can
8 read off the reasons that we have for cause for
9 the folks that are being removed. If you want
10 to have it officially for the meeting. They're
11 relieved of their duties due to dereliction of
12 duties, mishandling, mishandling and lying to
13 the town in regarding of a SLED investigation
14 that was not, and SLED said it was not. Both
15 of them. Both of them failed to have legal
16 representation at the case of Josephine Isom
17 versus the Town of Atlantic Beach. We had no
18 legal representation for that case. If there
19 wouldn't have been a lawyer from another side,
20 the Town of Atlantic Beach elections commission
21 would have lost that case. Number, let's see,
22 the next one is submitted legal filings on
23 behalf of the MEC without a formal notice of
24 the MEC. They also did not notice the --
25 notify the chairman of such meeting or



CERTIFICATE

This is to certify the transcript of the hearing consists of fourteen (14) pages. This transcript was prepared by me without the benefit of my being present during the hearing. Additionally, this transcript was prepared from a audio recording provided to me.

I further certify that I am neither employed by nor related to any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal this November 12, 2024.



M. Sean Cary
Court Reporter

Notary Public for South Carolina
My Commission Expires: May 2, 2033



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E X H I B I T A L

TOWN OF ATLANTIC BEACH TOWN COUNCIL MEETING

Friday, November 8, 2024

The Town of Atlantic Beach Town Council meeting was held and recorded at Atlantic Beach Community Center, 1010 32nd Avenue South, Atlantic Beach, South Carolina, on the 8th day of November, 2024, and transcribed by M. Sean Cary, Court Reporter and Notary Public in and for the State of South Carolina.



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APPEARANCES

COUNCIL MEMBERS:

John David, Chairman
Edward Lamar Campbell
Carla Taylor

Also Present:

Linda Cheatham, Interim Town Manager
William Booker
Cheryl Pereira

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MOTION FOR TOWN COUNCIL MEETING**SCHEDULE 2025:**

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UPCOMING EVENTS AND ACTIVITIES:

Ms. Cheatham.	15
Officer Castillo.	16

ADJOURNMENT:

Motion by Councilman David.	20
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EXHIBITS

(No exhibits were marked during the board meeting.)

STIPULATIONS

It is stipulated and agreed that this hearing is being taken pursuant to the Administrative Procedures Act, the Practice Act and Regulations of the Board.



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MOTION:

COUNCILMAN DAVID: ... to come out of the executive session and into general session.

COUNCILMAN TAYLOR: I second.

COUNCILMAN DAVID: Roll call.

UNKNOWN SPEAKER: Councilman Edward Campbell.

COUNCILMAN CAMPBELL: Yea.

UNKNOWN SPEAKER: Councilwoman Carla Taylor.

COUNCILMAN TAYLOR: Yea.

UNKNOWN SPEAKER: Councilman John David.

CALL TO ORDER

COUNCILMAN DAVID: Yes. With that, we're moved into general session. We'd first like to welcome the public and ask everyone to turn off your phones or turn them down. And, let's see, okay. Next we would like to call this meeting to order and welcome everyone, and we'll stand for a moment of silence and then Pledge of Allegiance.

(Moment of silence.)

COUNCILMAN DAVID: Now Pledge of Allegiance

(Pledge of Allegiance was pledged.)

TRIBUTE TO DIANE HILL

COUNCILMAN DAVID: We'd like to start with ceremonial matters. First of all, we'd like to



1 **COUNCILMAN TAYLOR:** Yea.

2 **UNKNOWN SPEAKER:** Councilman John David.

3 **COUNCILMAN DAVID:** Yes.

4 **ELECTION UPDATES**

5 **COUNCILMAN DAVID:** Item number C is Election
6 Updates. We have Carla Taylor, who was seated
7 thanks to Judge Seals' order that was declared
8 on October 30th. On that same day, there was
9 a hearing for the mayoral race. The judgment
10 came back that there would be a new election
11 per what the Election Commission did say back
12 from previously. The order has -- the language
13 for the order has been submitted, it's being
14 weighted -- it's waiting for Judge Seals to
15 sign off on it, and once that is set -- once
16 that is approved or ordered, we will then work
17 with the Election Commission to set a new date
18 for the mayoral election.

19 **COUNCILMAN DAVID:** New business. First, we'll move
20 into consideration of matters in executive
21 session and we'll move down to B, consideration
22 for the contract for interim town manager.

23 **MOTION FOR CONTRACT OF INTERIM TOWN MANAGER:**

24 **COUNCILMAN TAYLOR:** I would like to make a motion to
25 reaffirm hiring Mrs. Linda Cheatham as the



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1 interim town manager in accordance to the
2 agreed upon contract to include granting that
3 her the authority to revise the current bank
4 signature by adding or removing signatures as
5 needed.

6 **COUNCILMAN DAVID:** Second. Roll call.

7 **UNKNOWN SPEAKER:** Councilman Edward Campbell.

8 **COUNCILMAN CAMPBELL:** Yea.

9 **UNKNOWN SPEAKER:** Councilwoman Carla Taylor.

10 **COUNCILMAN TAYLOR:** Yea.

11 **UNKNOWN SPEAKER:** Councilman John David.

12 **COUNCILMAN DAVID:** Yes.

13 **MOTION FOR CONTRACT OF TOWN LEGAL COUNSEL:**

14 **COUNCILMAN DAVID:** Next, we seek a motion for
15 consideration of a contract for town legal
16 counsel.

17 **COUNCILMAN TAYLOR:** I would like to make a motion to
18 authorize Mrs. Cheatham to obtain a contract
19 for legal counsel for the Town of Atlantic
20 Beach.

21 **COUNCILMAN DAVID:** Second. Roll call.

22 **UNKNOWN SPEAKER:** Councilman Edward Campbell.

23 **COUNCILMAN CAMPBELL:** Yea.

24 **UNKNOWN SPEAKER:** Councilwoman Carla Taylor.

25 **COUNCILMAN TAYLOR:** Yea.



1 **UNKNOWN SPEAKER:** Councilman John David.

2 **COUNCILMAN DAVID:** Yes.

3 **MOTION FOR NOMINATION OF MAYOR PRO TEM:**

4 **COUNCILMAN DAVID:** Next on the agenda, we seek a
5 motion for a nomination for Mayor Pro Tem.

6 **COUNCILMAN CAMPBELL:** Yes, Councilman John David. I
7 would like to nominate you for Mayor Pro Tem.

8 **COUNCILMAN TAYLOR:** Second.

9 **COUNCILMAN DAVID:** Roll call.

10 **UNKNOWN SPEAKER:** Councilman Edward Campbell.

11 **COUNCILMAN CAMPBELL:** Yea.

12 **UNKNOWN SPEAKER:** Councilwoman Carla Taylor.

13 **COUNCILMAN TAYLOR:** Yea.

14 **UNKNOWN SPEAKER:** Councilman John David.

15 **COUNCILMAN DAVID:** Yes. Next we move down to item
16 E, consideration for re- and appointments to
17 for members to the Municipal Planning
18 Commission.

19 **MOTION TO RE/APPOINT MUNICIPAL PLANNING**

20 **COMMISSION:**

21 **COUNCILMAN CAMPBELL:** Yes, I'd like to make a motion
22 to remove Angela Metts and Jameer Woods, Titus
23 Leaks from the Planning Commission and
24 reappoint Kathryn Allen and appoint Titus Leaks
25 and Stephen Fara to the Planning Commission.



TOWN OF ATLANTIC BEACH

14

1 **COUNCILMAN DAVID:** Second. Roll call.

2 **UNKNOWN SPEAKER:** Council- -- councilman Edward
3 Campbell.

4 **COUNCILMAN CAMPBELL:** Yea.

5 **UNKNOWN SPEAKER:** Councilwoman Carla Taylor.

6 **COUNCILMAN TAYLOR:** Yea.

7 **UNKNOWN SPEAKER:** Councilman John David.

8 **COUNCILMAN DAVID:** Yes. Next, I seek a motion in
9 regards to the Municipal Election Commission.

10 **MOTION**

11 **COUNCILMAN CAMPBELL:** Yes, I make, like to make a
12 motion to remove Derek Stephens of the MEC, and
13 I would like to add Joe Montgomery to the MEC.

14 **COUNCILMAN TAYLOR:** Second.

15 **COUNCILMAN DAVID:** Roll call.

16 **UNKNOWN SPEAKER:** Councilman Edward Campbell.

17 **COUNCILMAN CAMPBELL:** Yea.

18 **UNKNOWN SPEAKER:** Councilwoman Carla Taylor.

19 **COUNCILMAN TAYLOR:** Yea.

20 **UNKNOWN SPEAKER:** Councilman John David.

21 **COUNCILMAN DAVID:** Yes.

22 **MOTION FOR TOWN COUNCIL MEETING**

23 **SCHEDULE 2025:**

24 **COUNCILMAN DAVID:** Next, I seek a motion for the
25 Town Council Meeting scheduled for 2025.



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CERTIFICATE

This is to certify the transcript of the Atlantic Beach Town Meeting consists of twenty (20) pages. This transcript was prepared by me without the benefit of my being present during the meeting. Additionally, this transcript was prepared from a audio recording provided to me.

I further certify that I am neither employed by nor related to any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal this December 2, 2024.



M. Sean Cary
Court Reporter

Notary Public for South Carolina
My Commission Expires: May 2, 2033



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AM



Town of Atlantic Beach
Town Council Executive Session Meeting – 7:00 p.m.
Town Council General Session Meeting – 8:00 p.m.
Friday, November 8, 2024
Atlantic Beach Community Center
1010 32nd Avenue South, Atlantic Beach, SC 29582
A G E N D A

FOIA: This meeting was posted at least 24 hours in advance at the Town Hall and Community Center, faxed to the following media North Myrtle Beach Times, Sun News, WBTW, WMBF, WPDE, WMIR, TOAB WEBSITE:

: <https://boxcast.tv/channel/hriov7yurwsygzbggzi>

Executive Session – 7:00 p.m.

1. Call to Order
2. Roll Call
3. Executive Session
 - a. Legal - Motion to adjourn General Meeting and enter Executive Session pursuant to Section 30-4-70 (a)(1)
 - b. Legal – Administrative Contract for Interim Town Manager
 - c. Legal – Discussion Contract with Legal Counsel and Authorization to defend the Town on pending legal matters.
 - d. Legal – Election Matters
 - e. Legal – SCDOT
 - f. Legal - Grants
 - g. Personnel - Discussion of Personnel Matters related to the Town of Atlantic Beach Mayor Pro Tem, Planning and Election Commission.
 - h. Legal Matters Update.

General Session – 8:00 p.m.

1. Call To Order and Welcome.
2. Invocation, Moment of Silence/Prayer.
3. Ceremonial Matters.
 - a. Tribute to Diane Hill
 - b. Welcome Councilwoman Carla Taylor
4. Approval of the Agenda.

Council may make motion(s) and take action on matters related to Executive Session.

5. Old Business

- A. Town Council Meeting Minutes. – Minutes from Town Council Meeting Held on October 7, 2024.
- B. **Ordinance No. 8-2024** - Amendment to Ordinance No. 11-2023. An Ordinance Establishing and Adopting the Operational Procedures for the 2025 Atlantic Beach Memorial Day Black Pearl Cultural Heritage and Bike Festival. ***Second Reading.***
- C. Election Updates

6. New Business

- A. Consideration of matters discussed in Executive Session.
- B. Consideration of contract for Interim Town Manager.
- C. Consideration of contract for Town Legal Counsel.
- D. Consideration of Nomination for Mayor Pro Tem.
- E. Consideration to re/appoint a member's to the Town of Atlantic Beach Municipal Planning and Election Commission.
- F. Town Council Meeting Schedule 2025.

7. Manager's Report

8. Upcoming Events and Activities

1. Friday, December 20, 6:00 p.m. - 8:30 p.m. Police Department Children Christmas party.

9. Public Time

*Individuals wishing to speak during public time must sign in and fill out a speaker's card before the meeting is called to order at 5:00 p.m. The cards will allow us to respond in writing if necessary. More than one speaker for the same subject may be consolidated. Time Limit: 3 Minutes Per Person. Sec. 9-1-2 Disruption of Court or Council: It shall be unlawful for any person to interrupt the proceedings of the municipal court, or any meeting of the council, or be guilty of disorderly conduct therein, or to commit any contempt of either.

10. Adjournment.

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AN

November 8, 2024

Stephen Groves, Sr., Esquire
25 Calhoun Street, Suite 250
Charleston, South Carolina 29401

Dear Attorney Groves,

This letter is to inform you that you are not authorized to represent the Atlantic Beach Municipal Election Commission in any legal matters. It appears that you filed an appeal of Judge William H. Seals decision in case No. 2024-CP-26-07182 at the request of Attorney Dwayne Green. The Atlantic Beach town council voted to terminate Mr. Green's contract with the town on November 6, 2024. Further, the Atlantic Beach Municipal Election Commission has not voted, in a legal meeting, to allow Attorney Green to appeal the November 4, 2024 decision of Judge William Seals in case No. 2024-CP-26-07182.

In this regard, you are asked to withdraw the appeal that you filed on November 7, 2024 with the Supreme Court of South Carolina in the above mentioned case. In addition, you will not be compensated by the Town of Atlantic Beach for this unauthorized work. Your prompt attention to this matter is appreciated.

Respectfully

William U Booker, Jr.

Town of Atlantic Beach

Interim Assistant Town Manager

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November 11, 2024

Dear Attorney Dwayne Green,

You were notified by letter, dated November 6, 2024, that your contract to provide legal services for the Town of Atlantic Beach was terminated by a vote of the Atlantic Beach Town Council on November 6, 2024. On November 5, 2024, you filed an appeal of Judge William H. Seals' decision in case No. 2024-CP-26-07182 with the South Carolina Supreme Court on behalf of the Atlantic Beach Municipal Election Commission.

There is no evidence that the Municipal Election Commission legally and formally met and voted to request that you pursue an appeal of Judge Seals' decision. In fact, the chairman of the MEC, Kenneth McIver, is responsible for scheduling, posting, advertising and conducting such meetings and he has not done so. There are no records that a meeting was held or that a vote was taken in a MEC meeting on any such appeal.

In this regard, you are asked to withdraw any appeal(s) immediately. Additionally, it appears that Attorney Stephen Groves has filed an amended appeal on November 7, 2024 for this same case. Stephen Groves sent a letter to Supreme Court Clerk Howard on November 10, 2024 concerning a motion for stay and for expedited appeal. On November 8, 2024, he was asked to withdraw his appeal and therefore, should not be providing legal representation for the Atlantic Beach MEC.

As of November 6, 2024, you were no longer contracted to provide legal services for the Town of Atlantic Beach. In addition, you have not been authorized to file an appeal on behalf of the Atlantic Beach Municipal Election Commission. As a result, the Town of Atlantic Beach will not be financially liable for any unauthorized legal work done by you or your associates.

Respectfully,

William Booker

Interim Assistant Town Manager

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AP

Stephen Groves

From: Dwayne Green <dwayne@greenlawsc.com>
Sent: Wednesday, November 13, 2024 2:53 PM
To: Cheryl Pereira
Cc: John David; Carla Taylor; Edward Campbell; Linda Cheatham; Stephen Groves; supctfilings@sccourts.org
Subject: Re: Letter - Legal Services

Cheryl:

Please find my response to Mr. Booker's correspondence below. I will send another copy shortly for yours and council's benefit.

November 13, 2024

RE: Appeal in Taylor v. McIver, et al. - Authority to Represent MEC

Dear Mr. Booker:

I respectfully disagree with your characterization of my authority to represent the Municipal Election Commission (MEC) in this appeal. Please note:

1. My representation of the MEC stems from the proper authorization of Commissioners Gore and Stevens, who constitute a majority of the Commission and who provided written approval for the appeal prior to November 5, 2024.
2. The appeal was properly filed on November 5, 2024, while I was counsel of record and with majority Commission authorization. The termination of my town contract on November 6, 2024, does not retroactively invalidate properly authorized actions taken before that date.
3. The validity of the appeal and any questions about ongoing representation are now properly before the South Carolina Supreme Court. Having timely raised these issues with the Court, it is within their jurisdiction, not yours, to determine how to proceed.
4. The underlying issue remains the MEC's statutory duty to investigate credible evidence of voter fraud that could affect election outcomes, as authorized by S.C. Code Ann. § 7-13-810 and Gecy v. Bagwell.

As this matter is now pending before the Supreme Court, any questions about the appeal's status should be directed to that forum.

Respectfully,

Dwayne M. Green

SC Bar #9559

On Nov 13, 2024, at 10:34 AM, Cheryl Pereira <cheryl@townofatlanticbeachsc.com> wrote:

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STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY) FOR THE FIFTEENTH JUDICIAL CIRCUIT

Civil Action No. 2024-CP-26-02537

Josephine Isom,

Appellant,

v.

Town of Atlantic Beach Municipal
Election Commission,

Respondent.

ORDER

Before the Court is Josephine Isom’s Appeal of the decision of the Town of Atlantic Beach Municipal Election Commission (“MEC”) to invalidate the November 7, 2023, mayoral election.

The Court conducted a hearing on this matter on October 30, 2024. The Court has carefully considered the MEC’s Record of Proceedings (the “Record”), including the MEC’s written Decision (Record § 6), the law, and arguments of counsel.

For the reasons discussed below, the decision of the MEC is **AFFIRMED**.

PROCEDURAL BACKGROUND

“The Town of Atlantic Beach employs a council-manager form of government,” as provided for in S.C. Code Ann. § 5-13-10, *et seq. Cole v. Town of Atl. Beach Election Comm’n*, 393 S.C. 264, 267, 712 S.E.2d 440, 442 (2011). Under this system of government, the mayor is elected. S.C. Code Ann. § 5-13-20. The most recent mayoral election in Atlantic Beach took place on November 7, 2023, and two candidates ran for office—Appellant Josephine Isom and Intervenor John David.¹

¹At the beginning of the Court’s hearing on October 30, 2024, hearing no objection from Appellant, John David’s Motion to Intervene was granted. No counsel filed briefs or appeared on behalf of the Town of Atlantic Beach Municipal Election Commission in this Appeal challenging the MEC’s decision.

During the election, several ballots were challenged on the grounds that certain voters did not meet the residency requirements to vote in the Town of Atlantic Beach's municipal election. *See generally* S.C. Const. Art. II, § 5 (a voter in municipal elections "must have resided in the municipality in which he offers to vote for thirty days next preceding the election.").

On November 9, 2023, the MEC held a hearing to resolve these challenges and received testimony and other evidence as required under S.C. Code Ann. § 7-13-830. ("At the [provisional ballot hearing] the [MEC] must hear all objections to these votes [i.e., provisional ballots], and when no person appears or offers evidence before the meeting to sustain an objection made at the polls, the ballot is no longer a provisional ballot. When the challenger appears or produces witnesses or evidence in support of the challenge, the authority in charge must proceed to hear and determine the question. Its decision is final.").

A transcript of the November 9, 2023, is appended to the Record at § 5(f). As the Record and Decision reflect, at the conclusion of the November 9, 2023, hearing, the challenge to most of the provisional ballots "w[ere] decided in favor of the voter[s]" and the provisional ballots were "mingled, and counted and the totals added to the previously counted regular ballot total." S.C. Code Ann. § 7-13-830. According to the count at the end of the November 9, 2023, hearing, John David received 65 votes while Josephine Isom received 64. *See* Decision at 5, ¶ 4; Record § 5(f) at 112:18.² Following the count, the MEC recessed, apparently intending to meet the following day to conduct a recount of the votes. *Id.*³

² The Record also reflects two votes cast for write-in candidates and as such, the MEC contemplated a likely run-off election. *See* Record §5(f) at 117:9-17 ("Neither candidate has the majority because of the two write-ins. So we will probably have a runoff; and we're going to do a recount also."); S.C. Code Ann. § 5-15-62(b) ("[i]f no candidate for a single office receives a majority of the votes cast . . . a runoff election shall be held.").

³ S.C. Code Ann. § 7-17-280 requires a mandatory recount of votes when the results are less than 1% apart.

Following the MEC's meeting on November 9, 2023, Josephine Isom filed her protest of the MEC's decision later that afternoon. *See* S.C. Code Ann. § 5-15-130 ("Within forty-eight hours after the closing of the polls, any candidate may contest the result of the election as reported . . . by filing a written notice of such contest . . .").

Ms. Isom's protest, Record § 1, asserts that several votes were cast by someone "not a resident of the Town of Atlantic Beach" and therefore "improperly changed the outcome of the election." As such, Ms. Isom's protest asserted that she should "be declared the winner of the Election for the Mayor of the Town of Atlantic Beach." *Id.*⁴

S.C. Code Ann. § 5-15-130 required the MEC to "[w]ithin forty-eight hours after the filing of" Isom's protest, "conduct a hearing on the contest, decide the issues raised, file its report together with all recorded and testimony and exhibits . . . notify the parties concerned of the decisions made, and when the decision invalidates the election the [Town] [C]ouncil shall order a new election as the parties concerned."

However, the MEC did not proceed to conduct a hearing on Ms. Isom's protest under § 5-15-130 until April 3, 2024. The decision of the MEC was memorialized in a written ruling on or about May 2, 2024, (i.e. the Decision). The Decision found that several ballots for the November 7, 2023, Mayoral Election were cast by those "not residents in the Town of Atlantic Beach and therefore not qualified to vote in the Election." *See* Decision at 9-10.

Accordingly, the MEC "decline[d] to include these votes in the final count for the Mayoral Election" Decision at 9. Even so, because "[t]he ballots cast . . . were inextricably commingled with the other remaining and validly cast ballots in the Election" and "[b]ecause the challenged [and later rejected] provisional ballots d[id] not entirely overlap with the voters challenged by

⁴ The voters named in Ms. Isom's protest did not completely line up with the provisional ballots considered in the November 9, 2023, MEC hearing. *See, e.g.,* Decision at 5, ¶ 6.

Isom” the MEC concluded “that the prior stated results of the Election are, in the least, significantly doubtful, and are likely to be completely inaccurate.” *Id.*

As such, relying on S.C. Code Ann. § 5-15-130, the MEC “declare[d] the [Mayoral] Election invalid and request[ed] that Town Council order a special election, specific to Mayoral Candidates Josephine Isom and John David, as soon as such a special election can be scheduled in accordance with state law.” Decision at 10. Thereafter, Isom’s Appeal was timely filed.

STANDARD OF REVIEW

S.C. Code Ann. §5-15-140 provides that “[w]ithin ten days after notice of the decision of the municipal election commission, any party aggrieved thereby may appeal from such decision to the court of common pleas.” “The circuit court, in this situation, is by statute an appellate court.” *Butler v. Town of Edgefield*, 328 S.C. 238, 248, 493 S.E.2d 838, 843 (1997).

In considering an appeal from an election commission, “[t]he circuit court, sitting in an appellate capacity, does not conduct a *de novo* hearing or take testimony. The circuit court must examine the decisions for errors of law, but it must accept the factual findings of the commission unless they are wholly unsupported by the evidence.” *Taylor v. Town of Atl. Beach Election Comm’n*, 363 S.C. 8, 14, 609 S.E.2d 500, 503 (2005). “If there is any evidence that supports the commission’s finding, [a reviewing court] must uphold the finding.” *Odom v. McBee Mun. Election Comm’n*, 440 S.C. 367, 372, 891 S.E.2d 663, 665 (2023) (“*Odom II*”) (citing *Odom v. Town of McBee Election Comm’n*, 427 S.C. 305, 307, 831 S.E.2d 429, 430 (2019) (“*Odom I*”). ““The Court will employ every reasonable presumption to sustain a contested election, and will not set aside an election due to mere irregularities or illegalities unless the result is changed or rendered doubtful.”” *Cole v. Town of Atl. Beach Election Comm’n*, 393 S.C. 264, 271–72, 712 S.E.2d 440, 444 (2011) (quoting *George v. Mun. Election Comm’n of the City of Charleston*, 335 S.C. 182, 186, 516 S.E.2d 206, 208 (1999)).

ANALYSIS

Isom has explained that her Appeal relies on the MEC's factual finding that "[t]he poll managers initially determined that, excluding the provisional ballots, Isom received sixty-two (62) votes and David received forty-nine (49) votes." *See* MEC Decision at 5, ¶ 3. After additional votes were accepted and counted at the provisional ballot hearing on November 9, 2023, the MEC first concluded David was at 65 votes, while Isom was at 64. Following Isom's logic, when the MEC subsequently rejected 14 votes around six months later, she calculates that would leave her with (at a minimum) 62 votes, while, on the other hand, John David, the other mayoral candidate, could not have received more than 53. *See* Isom Brief at 4.⁵

The Court "must examine the decisions" of the MEC "for errors of law." *Taylor*, 363 S.C. at 14, 609 S.E.2d at 503 (2005). Moreover, "[t]here was no right to contest an election under the common law." *Id.* "In South Carolina, the right to contest an election exists only under our constitutional and statutory provisions, and 'the procedure proscribed by statute must be strictly followed.'" *Odom I*, 427 S.C. at 307-308, 831 S.E.2d at 430 (quoting *Taylor v. Roche*, 271 S.C. 505, 509, 248 S.E.2d 580, 582 (1978)); *see also* S.C. Const. art. II, § 10 ("The General Assembly shall . . . establish procedures for contested elections, and enact other provisions necessary to the fulfillment and integrity of the election process."). "Statutes which are in derogation of the common law must be strictly construed." *Odom I*, 427 S.C. at 308, 831 S.E.2d at 430 (citing *Doe v. Brown*, 331 S.C. 491, 496, 489 S.E.2d 917, 920 (1997)).

Under South Carolina law it is the "Municipal Election Commission" that "shall . . . supervise and conduct all municipal, special and general elections" and the MEC alone is granted the authority to "declare the results" of an election. S.C. Code Ann. § 5-15-100. However, S.C.

⁵ The Court notes that neither the Decision nor Isom's calculations in her Appeal refer to the two write-in votes for the mayoral seat.

Code Ann. § 5-15-120 does contemplate a vote counting role for the poll managers—in that they shall, among other things, make a “statement of the . . . number of votes cast for each candidate for mayor . . . and transmit this information to the [MEC].” Even still, the Court is not aware of, and the parties have not suggested any authority specifically discussing the Court’s ability to rely on a necessarily “unofficial” count by a manager under S.C. Code Ann. § 5-15-100. And, by virtue of its decision, the MEC elected not to rely on this initial vote total by the managers in directing a new election.

However, even if a manager’s count could be used in the way Isom suggests, the Court must also consider whether there is a reliable factual record to support Isom’s assertions, which, as noted above, rely on a specific factual finding by the MEC of the results of the poll manager’s count under § 5-15-120. “While corruption-free elections are imperative to the very survival of the republic, it is equally essential that, where corruption is charged, *a documented record be established upon which alleged wrongdoing may receive appellate review.*” *Fielding v. S.C. Election Comm’n*, 305 S.C. 313, 318, 408 S.E.2d 232, 235 (1991) (emphasis added).

The “evidence” on the record required to support a “finding” by the MEC is very low. But it cannot be said that a “finding” *is* “evidence.” This is because, as the Supreme Court has held, a court “must uphold [a] finding” of the MEC “if there is any evidence that supports the commission’s finding,” *Odom I*, 440 S.C. at 372, 891 S.E.2d at 665, but, on the other hand, a court cannot “accept the factual findings of the commission” that “are wholly unsupported by the evidence.” *Taylor*, 363 S.C. at 14, 609 S.E.2d 503.

Here, to be sure, the Record relied on by the MEC in reaching its factual findings is extensive. Totaling over six hundred pages, it includes transcripts of both the November 9, 2023,

and April 2, 2024, MEC hearings, along with extensive documentary evidence introduced by both Isom and David, and significant investigative records obtained directly at the MEC's behest.⁶

But within this extensive Record, Isom does not cite (nor does the Court's review discern) evidence supporting the MEC's specific finding as to what the poll managers "initially determined." In its appellate capacity, the Court cannot go outside the bounds of the Record presented and "may not consider issues which were not raised to the [MEC]." *Armstrong v. Atl. Beach Mun. Election Comm'n*, 380 S.C. 47, 49, 668 S.E.2d 400, 401 (2008) (citing *Taylor*, 363 S.C. 8, 609 S.E.2d 500 (2005)).

Indeed, the only count of votes evidenced in the Record occurred on November 9, 2023, when at the conclusion of the provisional ballot hearing, after *all* the ballots cast in the election were "inextricably commingled," John David was determined to have received 65 votes and Josephine Isom 64 votes, Record § 5(f) at 112:15-19, along with two apparent votes for write-in candidates. Record § 5(f) at 117:9-17. Such close results would have required a recount and assuming the count remained the same, a runoff election. *See* S.C. Code Ann. §§ 7-17-280; 5-15-62(b).

Naturally, had there been no manager's count on election night, when later, on April 2, 2024, fourteen of the votes counted on November 9, 2023, were determined to be invalid, "there was no way to tell for whom the disputed votes were cast; consequently, the only conceivable conclusion was that the results of the election were in doubt, and **the only remedy. . . was a new election.**" *Odom I*, 427 S.C. at 314, 831 S.E.2d at 434 (citing *Gecy v. Bagwell*, 372 S.C. 237, 642

⁶ According to the MEC's Decision, on February 28, 2024, it "authorized its legal counsel to issue subpoenas to challenged voters . . . and . . . obtain information that would assist in reaching a determination during a forthcoming protest hearing." The material obtained during this process included property, tax, and voter registration information, along with the Facebook page of a student at American University and the on-line biography and several images of a football player at Brown University. *See* generally Record at §5(a) "Agency Exhibit."

S.E.2d 569 (2007); *Broadhurst v. City of Myrtle Beach Election Comm'n*, 342 S.C. 373, 537 S.E.2d 543 (2000); *Easler v. Blackwell*, 195 S.C. 15, 10 S.E.2d 160, 162-64 (1940) (emphasis added)).

To be sure, a “Court will employ every reasonable presumption to sustain a contested election, and will not set aside an election due to mere irregularities or illegalities unless the result is changed or rendered doubtful.” *Cole*, 393 S.C. at 271–72, 712 S.E.2d at 444 (2011) (citations omitted); see also *Trapp v. South Carolina Bd. of State Canvassers*, 273 S.C. 163, 169, 255 S.E.2d 670, 673 (1979) (holding that where evidence presented in an election challenge hearing allows for two reasonable inferences, one of which would invalidate the election, and the second of which would sustain the election, “the choice between the two inferences must be made in favor of the validity of the contested election.”).

But it is unclear how “employ[ing] every reasonable presumption to sustain a contested election” applies in this case. In *Cole*, the Town of Atlantic Beach election commission initially certified an election, but then “de-certified the election results and ordered a new election.” *Cole*, 393 S.C. at 271, 712 S.E.2d at 444. After unacceptable delays in the MEC’s handling of the election, the Supreme Court ultimately “vacate[d] the MEC’s decision to de-certify, and order[ed] the original certification . . . restored.” *Id.* at 275, 712 S.E.2d at 446. But here, there is not an “original certification” contained in the record at all. In other words, it can hardly be said that this election should continue to be “sustained” when nearly a year after votes were cast, no winner or reliable vote total has yet been declared by the MEC.

Still, even though the votes declared valid could not be segregated from the “invalid” votes, here, in calling for a new election, the MEC correctly relied on the Supreme Court’s holding in *Broadhurst*, that “[i]n determining whether an irregularity in the conduct of an election is sufficient to render the result doubtful, the rule deducible from the decisions is that all illegally cast ballots

shall be deducted from the total number counted for the declared winning candidate . . .” Decision at 9 (citing *Broadhurst*, 342 S.C. at 382, 537 S.E.2d at 547).

While it is true that the Supreme Court’s “longstanding method of determining whether an irregularity has affected the outcome of an election” and “the best method to safeguard the purity of election is to add the irregular votes to the losing side,” *Broadhurst*, 342 S.C. at 382, 537 S.E.2d at 547, this is not the same as actually awarding these votes to the other side and directing, as Isom requests here, that a candidate be declared the winner of an election on an uncertain vote total.

“Section 5–15–130 requires the municipal election commission to take a number of actions within forty-eight hours of the candidates filing protests—conduct a hearing, decide the issues, file a report that includes the transcribed testimony and exhibits with the county clerk, notify the parties of the decision, and order a new election, if necessary.” *Cole*, 393 S.C. at 274, 712 S.E.2d at 446. Now, nearly a year later, it is disappointing that the “main purpose” of the laws impacted by this protest—“realizing the voters’ will and seamlessly transitioning governmental offices”—continue to be frustrated by no clear winner of the November 7, 2023, mayoral election. *Id.* But, unlike in *Cole*, here, despite substantial delay in the electoral protest process, there still is not an “initial certification” that can be “restored.” *Cole*, 393 S.C. at 272, 712 S.E.2d at 444. Accordingly, it is with great hope that the Court issues this Order today so that the Town of Atlantic Beach can “order a new election as to the parties concerned” in the mayoral election, Josephine Isom and John David, without delay. S.C. Code Ann. § 5-15-130.

In sum, the Court having determined that sufficient factual evidence exists justifying the MEC’s Decision to invalidate the mayoral election and finding no error of law that would justify disturbance of the MEC’s ruling, the Decision of the Atlantic Beach Municipal Election Commission is **AFFIRMED**.

AND IT IS SO ORDERED.

William H. Seals, Jr.
Circuit Court Judge

November __, 2024



Horry Common Pleas

Case Caption: Josephine Isom VS Town of Atlantic Beach Election Commission
Case Number: 2024CP2602537
Type: Order/Other

IT IS SO ORDERED

s/ The Honorable William H. Seals Jr. #2157

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Stephen Groves

From: Reese Boyd III <reese@davisboydlaw.com>
Sent: Thursday, November 21, 2024 12:42 PM
To: dwayne@greenlawsc.com; Stephen Groves
Cc: Cathy Plocinik; Linda Cheatham
Subject: ABMEC / Taylor v McIver et al. (SC Sup Ct Appeal)
Attachments: Client Ltr Dwayne Green 11-11-2024.pdf



This message could be suspicious

- The sender's email address couldn't be verified.
- This is their first mail to some recipients.

Gentlemen:

Please be advised that I have been retained as of yesterday afternoon to represent the Town of Atlantic Beach and its Municipal Election Commission ("MEC") regarding the implementation of Judge Seals' recent Order of 11-13-2024, calling for a special election to be held in the Town for the office of Mayor.

Obviously, I am just beginning to get up to speed on this case, but I'm having a hard time understanding how the Town has retained me to implement an Order that it is also (ostensibly, at least) appealing.

My clients have provided me with a letter that was sent to Dwayne Green on December 11 directing that the above appeal be withdrawn. Is the Appeal being withdrawn, or what is its status?

Obviously, I'd like to understand this better before I take any further actions. If either of you have some time to discuss where this matter is exactly, please advise. I'm getting ready for a Zoom conference at 2pm, but I have some time to discuss later today if either of you are available.

Please let me know your availability and I look forward to speaking with you.

Regards,
Reese Boyd

We've moved! Please Note our Updated Contact Information Below:

Reese R. Boyd, III

Attorney at Law
Boyd Law Group, PC
4605 Oleander Dr., Suite 301
Myrtle Beach, SC 29577
(843) 315-3525
(843) 315-3526 (fax)
(843) 455-9889 (cell)

The information contained in this electronic message and any attachments is confidential and may also contain privileged attorney-client information or work product. The information is intended only for the use of the individual or entity to which it is addressed. If you are not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any use, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this message in error, please delete it from your computer and immediately notify the sender by telephone at 843-315-3525. Thank you.

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Stephen Groves

From: Dwayne Green <dwayne@greenlawsc.com>
Sent: Thursday, November 21, 2024 1:22 PM
To: Reese Boyd III
Cc: Stephen Groves
Subject: Re: ABMEC / Taylor v McIver et al. (SC Sup Ct Appeal)

Reese:

This matter is still pending before the South Carolina Supreme Court.

Among the issues to be decided, based on challenges raised by the respondents, is whether the appeal was timely filed and whether the MEC had to the authority to appeal Judge Seals decision by majority request.

I will be discussion the current status of the various appeals with Stephen this afternoon. If you are available later this afternoon, I would be happy to answer any question you might have at that time.

Kind regards,

Dwayne Green
(843)647-7774

GREENLAW

Dwayne Green, Esquire
Green Law Offices
(843)266-2626 | dwayne@greenlawsc.com
www.greenlawsc.com
P.O. Box 20009, Charleston SC 29413



On Nov 21, 2024, at 12:41 PM, Reese Boyd III <reese@davisboydlaw.com> wrote:

Gentlemen:

Please be advised that I have been retained as of yesterday afternoon to represent the Town of Atlantic Beach and its Municipal Election Commission ("MEC") regarding the implementation of Judge Seals' recent Order of 11-13-2024, calling for a special election to be held in the Town for the office of Mayor.

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Please let me know your availability and I look forward to speaking with you.

Regards,

Reese Boyd

<Client Ltr Dwayne Green 11-11-2024.pdf>

We've moved! Please Note our Updated Contact Information Below:

Reese R. Boyd, III

Attorney at Law

Boyd Law Group, PC

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**Town of Atlantic Beach
Municipal Election Commission Meeting – 11:00 a.m.
Monday, November 25, 2024
Atlantic Beach Community Center
1010 32nd Avenue South, Atlantic Beach, SC 29582
A G E N D A**

FOIA: This meeting was posted at least 24 hours in advance at the Town Hall and Community Center, faxed to the following media North Myrtle Beach Times, Sun News, WBTW, WMBF, WPDE, WMIR, MyHorryNews, TOAB WEBSITE:
: <https://boxcast.tv/channel/hriov7yurwsygzbggzi>

1. Call to Order.
2. Invocation.
3. Approval of Agenda.
4. **Old Business** - None
5. **New Business**
 - Review: Orders of Judge William Seals, Court of Common Pleas.
 - Review: Notice of Appeals to Court of Common Pleas and the State Supreme Court, Attorney Dwayne Green.
 - Respond to Appeals of Dwayne Green.
6. Adjournment.

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BOYD LAW GROUP, PC

Attorneys & Counselors at Law

4605 Oleander Drive, Suite 301
Myrtle Beach, SC 29577

Mailing Address:
Post Office Box 7738
Myrtle Beach, SC 29572

Telephone: (843) 315-3525
Facsimile: (843) 315-3526

November 26, 2024

via e-mail only: dwayne@greenlawsc.com
Stephen.Groves@butlersnow.com

Dwayne M. Green, Esq.
PFLUG Law Firm
211 Scott St.
Mount Pleasant, SC 29464

Stephen P. Groves, Sr., Esq.
Butler Snow LLP
25 Calhoun St., Suite 250
Charleston, SC 29401

Re: Atlantic Beach Municipal Election Commission Consult
Our File Number: 024.065.a

Counsel:

I will try to give both of you a call this afternoon to discuss this matter, but wanted to bring you up to date on the following:

- (1) Pursuant to their request, I attended a meeting of the Atlantic Beach Municipal Election Commission yesterday, which was held at the Atlantic Beach Community Center in Atlantic Beach;
- (2) While I have not yet received formal meeting minutes of the meeting, I can report that at the meeting, the Council voted unanimously to withdraw the present appeal captioned Kenneth McIver, et al., Appellants, vs. Carla Taylor, Respondent (Amended Notice filed Nov. 7, 2024) (herein, the "Appeal");
- (3) There was various discussion on the record at yesterday's meeting that there had never been a meeting of the Commission nor any

Dwayne M. Green, Esq.
Stephen P. Groves, Sr., Esq.
November 26, 2024
Page 2

formal action of the Commission to approve the filing of the Appeal, and a general lack of understanding of how this Appeal was (apparently) being prosecuted with out the authorization or support of the Atlantic Beach Municipal Election Commission.

I have been authorized, in keeping with the above, to instruct you both that the Appeal, as described above, should be WITHDRAWN, and without delay. Again, I will give you a call to follow up on these matters, but I felt it prudent and appropriate to convey this communication to you in writing before attempting to communicate it verbally. I will, however, give you a call to follow up.

If you have any questions about this matter, certainly I am happy to discuss. Please do not hesitate to contact me at any time. I look forward to hearing from you when you have confirmation that the Appeal has been withdrawn, if we have not spoken beforehand. Thank you for your assistance.

With kind regards, I am

Yours sincerely,

A handwritten signature in dark ink, appearing to read "Reese R. Boyd, III". The signature is fluid and cursive, with a long horizontal stroke at the end.

Reese R. Boyd, III

RRB/pw

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AV



Town of Atlantic Beach
Town Council Executive Session Meeting – 5:00 p.m.
Town Council General Session Meeting - 6:00 p.m.
Monday, December 2, 2024
Atlantic Beach Community Center
1010 32nd Avenue South, Atlantic Beach, SC 29582
A G E N D A

FOIA: This meeting was posted at least 24 hours in advance at the Town Hall and Community Center, faxed to the following media North Myrtle Beach Times, Sun News, WBTW, WMBF, WPDE, WMIR, TOAB WEBSITE:

: <https://boxcast.tv/channel/hriov7yurwsygzbggzi>

Executive Session – 5:00 p.m.

1. Call to Order
2. Roll Call
3. Executive Session
 - a. Legal - Motion to adjourn General Meeting and enter Executive Session pursuant to Section 30-4-70 (a)(1)
 - b. Legal – Contracts with Legal Counsel and Authorization to defend the Town on pending legal matters.
 - c. Legal – Election Matters
 - d. Legal Matters Update.

General Session – 6:00 p.m.

1. Call To Order and Welcome.
2. Moment of Silence/Prayer.
3. Ceremonial Matters.
4. Approval of the Agenda.

Council may make motion(s) and take action on matters related to Executive Session.

5. Old Business

- A. Town Council Meeting Minutes. – Minutes from Town Council Meeting Held on September 23, 2024 November 6, 2024 and November 8, 2024.
- B. **Ordinance No. 6-2024.** An Ordinance to Amend the Land Management Ordinance to Require only one Front Setback per Property. (*Second Reading*).
- C. Election Updates.

6. New Business

- A. Consideration of matters discussed in Executive Session.
- B. Approval with Travis Avant for Appraisal Services to spend \$3,875.00.
- C. Report from Municipal Election Commission and setting of Mayoral Election.

7. Manager's Report

1. Budget Report.
2. EV Charger.
3. Holiday Closing.

8. Upcoming Events and Activities

1. Monday, December 2, 2024 - Atlantic Beach Town Council Meeting Welcome Reception for Councilwoman Carla Taylor – immediately following the meeting.
2. Wednesday, December 4, 2024 6:00 p.m. – Energy Workshop sponsored by The Gullah Geechee Chamber of Commerce and Santee Cooper.

3. Tuesday, December 17, 2024 – Highway 17 Improvements sponsored by SCDOT.
4. Friday, December 20, 2024 6:00 p.m. - 8:30 p.m. Police Department Children Christmas party.
5. Tuesday, December 24, Wednesday, December 25, Thursday, December 26 and Friday, December 27, 2024 - Town Hall Closure.
6. Thursday, January 16 -17, 2025 – South Carolina Beach Advocates (Isle of Palms, South Carolina).
7. January 21-22, 2025 - Municipal Association of South Carolina.

8. Public Time

*Individuals wishing to speak during public time must sign in and fill out a speaker's card before the meeting is called to order at 5:00 p.m. The cards will allow us to respond in writing if necessary. More than one speaker for the same subject may be consolidated. Time Limit: 3 Minutes Per Person. Sec. 9-1-2 Disruption of Court or Council: It shall be unlawful for any person to interrupt the proceedings of the municipal court, or any meeting of the council, or be guilty of disorderly conduct therein, or to commit any contempt of either.

9. Adjournment.