

From: Skiphoagland <skiphoagland@yahoo.com>
To: Hulbert Brianbrianh@hiltonheadislandsc.gov
CC: T. Micah Leddymicah@leddylaw.com
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peter b peter bpeterb@mediafeedia.com
Haley, NikkiNikkiHaley@gov.sc.gov
Date: 5/19/2014 8:44:46 PM
Subject: Re: Apply to be DMO

Brian, first your choice of words like threatening are uncalled for. I did not threaten you, I simply stated a fact that this current law wherever it came from or how it was created to intentionally lock out others from opportunity and offering better representation for tax payers will need to be changed, or we will file a lawsuit. This is called fact, not threat. Like the attempt by you and the town to charge me and other tax payers 13k to make copies for a Foia / subpoena was stopped. This was against the law and you should have known better as a lawyer. You seem to keep being in denial and take this lightly. This was a huge victory to stop abuse to tax payers.

The only way I see to stop all abuses and force others to do what's right are lawsuits. Asking nicely does not work and was tried with you and this current extremely abusive chamber. All abuse and corruption is coming to an end and additional lawsuits, not threats will be filed if others like you attempt to not abide by the law. If local courts also do not enforce the law and rule against what's right, it will go to the supreme court.

Drew , as the town mayor and a lawyer yourself where do we go from here? Will town council allow others to bid or do we need to resolve this through the courts? This is very wrong and in fact totally abusive and perhaps against the law. The other point is to shut out free enterprise from bidding, which as we all know can and would invest our tax dollars much better than Bureaucrats with zero track record of success and building a company. As you can see, we have set up ourselves to totally

comply to become DMO under the current abusive guidelines. Drew, as we discussed earlier this year, you now have a great option to what we now have. Honestly this process should open up not just to us or other non profits, but others in the ad agency business like BFG who was hired by SC PRT. The current code / State law etc is totally wrong and needs to be changed or challenged by me and others. We who are in the for profit business who pay taxes, can not allow big government, big chamber to attempt to dilute, deny opportunity or worse as Chambers/CVBs are doing, putting many small local business out of business with great harm to the owners, employees and their families. Government, Chambers, non profits must not be in any business regardless that can be done by tax paying for profit free enterprise. Perhaps when peoples's business, living and families are affected by unfair business practices, people will start threatening much more and take action. I am lucky to be able to afford lawsuits if common sense and all else fails. Thanks

Sent from iPhone excuse all typos / misspellings 80% mobile

Skip Hoagland / CEO
Domains New Media LLC
US cell 843-384-7260
Off. Buenos Aires , Argentina
USA 1-404-478-6388 ext 1
Argen. 011-54-9-11-5942-3202

> On May 19, 2014, at 5:02 PM, Hulbert Brian <brianh@hiltonheadislandsc.gov> wrote:

>

> Mr. Hoagland,

>

> All I can say is that the Town does not have an application process for becoming a Designate Marketing Organization (DMO) with the Town. Consequently, If you wish to be considered by Town Council for appointment as the new DMO, or as an additional DMO, I would suggest that you might consider sending a letter to the Mayor or Town Council detailing your request and explaining how you comply with statutory guidelines. If Town Council will decide whether to grant your request or to have a hearing on the topic. It is not up to me to decide whether to accept a bid from an entity to become the Designated Marketing Organization for ATAX, it is within the sole discretion of the Town Council.

>

> The Town is required to abide by all statutory requirements. We will follow all current Codes and State Laws related to the DMO and ATAX.

>

> The Town did not lose any FOIA case, as it was not the subject of any litigation. In your litigation with the Chamber, you issued a subpoena for materials from the Town. The Town believed it appropriate to charge a reasonable fee for the gathering and copying of the materials, all of which had been previously requested under FOIA, and this was the subject of a motion in your litigation. The court determined it appropriate for the Town to make the materials requested under the SUBPOENA available for inspection at no cost for gathering the materials, and that the Town could charge for any copies made. Thus, to state that the Town just lost a FOIA case against you is an inaccurate statement.

>

> Please do not call my phone and leave threatening voice messages. The Town is not attempting to hide any information or to preclude your organization from requesting consideration from becoming a DMO.

>

>

> Brian Hulbert

> Staff Attorney and Town Prosecutor

> Hilton Head Island, SC 29928

> 843 341-4633

>

>

> -----Original Message-----

> From: Skiphoagland [mailto:skiphoagland@yahoo.com]

> Sent: Monday, May 19, 2014 10:05 AM

> To: Hulbert Brian

> Cc: T. Micah Leddy; Smith Faidra; Fitz Mcaden; Mary Mayle; Rob Martin; drew laughlin; Lee Edwards; Jeff Bradley; Weston Newton

> Subject: Re: Apply to be DMO

>

> You answer is not sufficient on the DMO. I fully read and understood what you sent me last time . You did not need to repeat and send this long email again attempting to justify abuse and in my mind an illegal action and code . What you are saying is and attempting is to lock out any competitive bid by anyone to become DMO . I repeat your current DMO is not the Hilton Head island Chamber of Commerce they are the Hilton Head Bluffton Chamber of commerce yes or no ? The town code is being violated here . We are the new official virtual non profit Hilton Head Island Chamber and DMO has nothing to do with the local Chamber and by design formed we formed a totally separate Hilton Head Cvb /VCB to apply as it should be and many other cities do nationwide including Charleston, Savannah as an example . Brian two things must happen code is changed or amended to allow others to bid and stop this attempt to lock out competitive bids which in my mind is again more abuse and against the law . Brian are you saying you will not accept a competitive bid from the legal sc registered Non profit Hilton head Cvb /VCB ? Are you saying you will go by current codes drafted by design by someone to abuse and lock out others including for profits like hired by the SCPRT to bid in a fair and open bidding process to invest tax payers monied ? Do you feel this is illegal ? Brian you just lost your Foia case against me , do you feel we need to have this case heard by a judge as well , or better for you and the town to fix this abusive code ? Let's be clear any attempt to shut out me or others from a fair bidding process will be met with litigation . I never imagined I would have discovered so much abuse and corruption on HHI and SC from my ongoing investigations . Thanks

>

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>> On May 19, 2014, at 9:16 AM, Hulbert Brian <brianh@hiltonheadislandsc.gov> wrote:

>>

>> Mr. Hoagland,

>>

>> I will attempt to answer your question on the DMO again. I previously sent this information to you in April of this year. If you have any questions, I encourage you to speak with your attorney regarding this topic.

>>

>> We are currently working on gathering the information requested by the subpoena. I am still awaiting a copy of the signed Court Order, to ensure the Town fully understands the content of what the Judge has ordered in this case. Once we have the signed Court Order, we will work to make the materials requested in your subpoena available for your inspection pursuant to the Judicial Order.

>>

>> Please understand that any requests that you or anyone on your behalf submits requesting materials by email or letter are considered by our office to be a request for public information under FOIA. These requests will continue to be processed pursuant to FOIA and the Town is permitted under law to charge a reasonable fee for staff time to research and collect the records, as well for copies of any records made.

>>

>> At this time, the Town does not have an application or formal process for applying to be a DMO for the Town of Hilton Head Island. Municipal Code Sections 4-12-10-20 addresses this topic. For another organization to be named as the replacement DMO, or as an additional DMO, it would take an amendment to these Town ordinance sections.

>>

>> Sec. 4-12-10. Authority.

>>

>> (a) This chapter is enacted pursuant to the authority of Title 6, Code of Laws, of South Carolina (Supp. 1997), including, without limitation, S.C. Code Ann. Section 6-4-10(3), which provides in part that the funds received by a municipality collecting more than fifty thousand dollars (\$50,000.00) from a local accommodations tax must be allocated with thirty (30) percent of the balance submitted to a special fund and used for advertising and promotion of tourism to develop and increase tourist attendance through the generation of publicity. The municipality shall select an organization to manage and direct the expenditure of the thirty (30) percent of the special fund for tourism promotion. This designated organization must be a non-profit organization and have an existing, ongoing tourism promotion program.

>> (Ord. No. 98-03, § 1, 2-3-98)

>>

>> Sec. 4-12-20. Management of the special fund for tourism promotion.

>>

>> (a) The visitor and convention bureau of the Hilton Head Island chamber of commerce shall be the designated non-profit organization to manage and direct the expenditures of the thirty (30) percent special fund as designated by S.C. Code Ann. section 6-4-10(3) (Supp. 1997) for tourism promotion.

>> (b) Immediately upon receipt to the special fund, the town shall distribute the tourism promotion funds to the visitor and convention bureau of the Hilton Head Island chamber of commerce.

>> (c) On or by April 1 of each calendar year, the visitor and convention bureau shall submit to the town's accommodations tax advisory committee for review its proposed budget. At the end of each fiscal year, the visitor and convention bureau shall submit to the town an accounting of the expenditures.

>> (d) On or by May 15 of each calendar year, the town's accommodations tax advisory committee shall submit a formal recommendation for the visitor and convention bureau's proposed budget to the town council for approval.

>> (Ord. No. 98-03, § 1, 2-3-98; Ord. No. 99-07, § 1, 3-16-99)

>>

>> Additionally, South Carolina Code of Laws 6-4-10 addresses the selection of a DMO and expenditure of the ATAX funds.

>>

>> SECTION 6 4 10. Allocation to general fund; special fund for tourism; management and use of special fund.

>>

>> The funds received by a municipality or a county in county areas collecting more than fifty thousand dollars from the local accommodations tax provided in Section 12 36 2630(3) must be allocated in the following manner:

>> (1) The first twenty five thousand dollars must be allocated to the general fund of the municipality or county and is exempt from all other requirements of this chapter.

>> (2) Five percent of the balance must be allocated to the general fund of the municipality or county and is exempt from all other requirements of this chapter.

>>

>> (3) Thirty percent of the balance must be allocated to a special fund and used only for advertising and promotion of tourism to develop and increase tourist attendance through the generation of publicity. To manage and direct the expenditure of these tourism promotion funds, the municipality or county shall select one or more organizations, such as a chamber of commerce, visitor and convention bureau, or regional tourism commission, which has an existing, ongoing tourist promotion program. If no organization exists, the municipality or county shall create an organization with the same membership standard in Section 6 4 25. To be eligible for selection the organization must be organized as a nonprofit organization and shall demonstrate to the municipality or county that it has an existing, ongoing tourism promotion program or that it can develop an effective tourism promotion program. Immediately upon an allocation to the special fund, a municipality or county shall distribute the tourism promotion funds to the organizations selected or created to receive them. Before the beginning of each fiscal year, an organization receiving funds from the accommodations tax from a municipality or county shall submit for approval a budget of planned expenditures. At the end of each fiscal year, an organization receiving funds shall render an accounting of the expenditure to the municipality or county which distributed them. Fees allocated pursuant to this subsection must not be used to pledge as security for bonds and to retire bonds. Also, fees allocated pursuant to this subsection must be allocated to a special fund and used only for advertising and promotion of tourism to develop and increase tourist attendance through the generation of publicity, and not used to pledge as security for bonds and to retire bonds.

>>

>> (4)(a) The remaining balance plus earned interest received by a municipality or county must be allocated to a special fund and used for tourism related expenditures. This section does not prohibit a municipality or county from using accommodations tax general fund revenues for tourism related expenditures.

>>

>> (b) The funds received by a county or municipality which has a high concentration of tourism activity may be used to provide additional county and municipal services including, but not limited to, law enforcement, traffic control, public facilities, and highway and street maintenance, as well as the continual promotion of tourism. The funds must not be used as an additional source of revenue to provide services normally provided by the county or municipality but to promote tourism and enlarge its economic benefits through advertising, promotion, and providing those facilities and services which enhance the ability of the county or municipality to attract and provide for tourists.

>>

>> "Tourism related expenditures" include:

>>

>> 1. advertising and promotion of tourism so as to develop and increase tourist attendance through the generation of publicity;

>> 2. promotion of the arts and cultural events;

>> 3. construction, maintenance, and operation of facilities for civic and cultural activities including construction and maintenance of access and other nearby roads and utilities for the facilities;

>> 4. the criminal justice system, law enforcement, fire protection, solid waste collection, and health facilities when required to serve tourists and tourist facilities. This is based on the estimated percentage of costs directly attributed to tourists;

>> 5. public facilities such as restrooms, dressing rooms, parks, and parking lots;

>> 6. tourist shuttle transportation;

>> 7. control and repair of waterfront erosion;

>> 8. operating visitor information centers.

>>

>> (c) Allocations to the special fund must be spent by the municipality or county within two years of receipt. If the allocations are not spent within two years, the municipality or county is subject to the provisions of Section 6 4 30(6). However, the time limit may be extended upon the recommendation of the county or municipality and approval of the South Carolina Accommodations Tax Oversight Committee in Section 6 4 30. An extension must include provisions that funds be committed for a specific project or program.

>>

>> (d) In the expenditure of these funds, counties and municipalities are required to promote tourism and make tourism related expenditures primarily in the geographical areas of the county or municipality in which the proceeds of the tax are collected where it is practical.

>>

>> HISTORY: 1990 Act No. 612, Part II, Section 74B; 1991 Act No. 147, Section 1; 2010 Act No. 284, Section 2, eff upon approval (became law without the Governor's signature on June 28, 2010).

>>

>>

>> Sections 2-7-10-50 address how our Municipality may introduce and pass an ordinance.

>> Sec. 2-7-10. Codification of ordinances.

>>

>> (b) All ordinances of a permanent and general nature relating to general government and administration, public safety, health and welfare, traffic regulation and motor vehicles, crimes and offenses, municipal court, streets (except franchises and encroachments), description of annexed areas and any other ordinances or portions of ordinances so required by council shall be codified in a looseleaf Code of Ordinances and updated annually.

>>

>> (c) Any standard code or technical regulations adopted by council may be cited in this Code by reference; and copies thereof shall be made available by the municipal clerk for distribution or for purchase at a reasonable price.

>> (Ord. No. 83-5, 9-26-83)

>>

>> State law reference- Codification of ordinances required, S.C. Code 1976, § 5-7-290.

>>

>> Sec. 2-7-20. Acts to be done by ordinance.

>>

>> In addition to other acts required by law to be done by ordinance, the following acts of council shall be done by ordinance:

>> (1) Adopt or amend an administrative code or establish, alter or abolish any municipal department, office or agency;

>> (2) Provide for a fine or other penalty or establish a rule or regulation in which a fine or other penalty is imposed for violations;

>> (3) Adopt budgets and appropriate funds;

>> (4) Authorize the borrowing of money or the issuance of bonds;

>> (5) Levy taxes, assess property for improvements or establish charges for services;

>> (6) Grant, renew or extend franchises, licenses or rights in public streets or property;

>> (7) Sell or lease or contract to sell or lease any lands belonging to the town;

>> (8) Extend the corporate boundaries of the town by annexation;

>> (9) Amend or repeal any ordinances described in items (1) through (8) above. In other matters, council may act either by ordinance or resolution.

>> (Ord. No. 83-5, 9-26-83)

>>

>> State law reference- Acts required to be done by ordinance, S.C. Code 1976, § 5-7-260.

>>

>> Sec. 2-7-30. Form of ordinances and written resolutions.

>> Every proposed ordinance shall be introduced in writing and in the form required for enactment which shall include:

>> (1) A title describing the content;

>> (2) A preamble, if appropriate, citing reasons for the ordinance;

>> (3) An enacting clause which shall be styled as follows: "Be it Ordered and Ordained by the Town of Hilton Head Island, South Carolina, and it is ordained by the authority of the said Council";

>> (4) The date of the first reading of the ordinance;

>> (5) The effective date of the ordinance;

>> (6) The name of the council member introducing the ordinance;

>> (7) The introduction number, which shall be in the form of the last two (2) digits of the year of introduction followed by the numerical order in time of the proposed ordinance for each year;

>> (8) The assignment of an ordinance number, which shall become applicable after passage, if available;

>> (9) Space for the signatures of the mayor or presiding member of council and the municipal clerk attesting notice, if required, and adoption.

>> Written resolutions shall be introduced and in a form similar to that of ordinances.

>> (Ord. No. 83-5, 9-26-83)

>>

>> Sec. 2-7-40. Introduction and enactment of ordinances.

>>

>> (a) An ordinance may be proposed by any member of council. A proposed ordinance shall be referred to the municipal clerk for the assignment of an introduction number. The municipal clerk shall give notice, if required, and shall place the proposed ordinance on a regular or special agenda, as appropriate. An ordinance shall be deemed to be introduced when it appears on an agenda for a public meeting of council and its title is read; provided, however, that any member of council may request a full reading of a proposed ordinance at its introduction and first reading.

>> (b) No ordinances shall be adopted and have the force of law until it shall have been read two (2) times on two (2) separate days with at least six (6) days between each reading. An ordinance may be amended either on its first or second reading; provided, however, that if an ordinance is amended on

second reading, it shall be carried over for a third reading on a separate day at least six (6) days after the second reading. Proposed ordinances shall remain on file with the municipal clerk for public inspection.

>> (c) To meet public emergencies affecting life, health, safety or the property of the people of the town, council may adopt emergency ordinances on one reading without regard to any public hearing, publication requirements or public notice requirements. Every emergency ordinance shall be enacted by the affirmative vote of two-thirds of the members of council present and shall expire automatically on the sixty-first day following the day of enactment. Emergency ordinances shall not levy taxes, grant, renew or extend a franchise or impose or change a service rate.

>> (d) Upon request by two (2) or more members of council, a public hearing shall be held on any proposed ordinance at a time and date set by council prior to final enactment.

>> (e) Upon enactment, an ordinance shall be signed by the mayor or presiding member of council and attested to by the municipal clerk. The municipal clerk shall assign a final ordinance number and file the original ordinance with the minutes of the council meeting at which the ordinance was enacted and shall file a copy of the ordinance in this Code.

>> (Ord. No. 83-5, 9-26-83)

>>

>> Sec. 2-7-50. Introduction and adoption of resolutions.

>> (a) Resolutions may be proposed in writing or by voice motion of a member of council. A resolution shall be deemed to be introduced when a member of council moves for the adoption of the resolution.

>> (b) Written or oral resolutions may be adopted on one reading. If

>> a written resolution is adopted, the municipal clerk shall file it with the minutes of the meeting. If an oral resolution is adopted, the municipal clerk shall make a notation in the minutes of the meeting reflecting the contents of the resolution.

>> (Ord. No. 83-5, 9-26-83)

>>

>> Again, once I receive the guidance from our Town attorney regarding the Judicial Order, we will work to produce the documents requested by your attorney in the subpoena. Additionally, please understand that the requirement that a DMO be a nonprofit organization is imposed by the state legislature. For this to change, state law would have to be amended.

>>

>> Sincerely,

>>

>> Brian Hulbert

>> Staff Attorney and Town Prosecutor

>> Hilton Head Island, SC 29928

>> 843 341-4633

>>

>>

>> -----Original Message-----

>> From: Skipphoagland [mailto:skipphoagland@yahoo.com]

>> Sent: Saturday, May 17, 2014 11:18 AM

>> To: jeff north; Hulbert Brian; drew laughlin; T. Micah Leddy

>> Cc: Lee Edwards; mike mcdonnell; tom gardo; peter b peter b; Duane

>> Parrish; mark@marksanford.com; Tim Scott; Jeff Bradley; Weston Newton;

>> Fitz Mcaden; Will Folks; Thenerve.org Rick; P.J. Browning; David Wren;

>> Mark Lett; Mary Mayle; Chuck Scarminach; Terry Finger

>> Subject: Apply to be DMO

>>

>> Brian can you please respond on the new non profit Hilton Head island Chamber filing as our local DMO ? Also please explain why only non profits qualify ,not for profits ? Who drafted these guidelines ?

>>

>> SC PRT hired a local for profit with 57 m of our tax monies versus a non profit for good reason . The Hilton Head Bluffton Chamber hired a for profit in Canada to do their website with our local USA tax dollars . Will the town allow a non USA company to apply as DMO ? Why would the town allow any company to apply as DMO that does not fully support local companies ? Do you not think we are all in a mess here ?

>>

>> Brian if I have not heard from you in 30 days I will file a lawsuit seeking a ruling on this ? Perhaps Town Council and ATax can get involved to help settle this versus another court case ? My history in SC has been I have won every court case I have entered with City government and Chambers . Myrtle beach and most recent the Town of Hilton Head you represent .

>>

>> FYI ,I have asked my attorneys as soon as my Foia lawsuit is decided to file additional lawsuits for unfair trade , business and competitive practices as well as damage claims to local media against the HHIBChamber .

>>

>> The IRS Whistle blower case is ongoing and SC IRS will at some point
>> need to be involved in some of these lawsuits . Thanks

>>

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