

CITY COUNCIL MEETING
7:00 p.m., Tuesday, March 23, 2010

The regular City Council meeting was held at 7:00 p.m. on Tuesday, March 23, 2010 in Council Chambers of City Hall, 1207 Palm Boulevard, Isle of Palms, South Carolina. Attending the meeting were Councilmembers Bergwerf, Bettelli, Buckhannon, Duffy, Loftus, Piening, Stone and Thomas, Mayor Cronin, City Administrator Tucker, City Attorney Halversen, Assistant to the Administrator Dziuban and City Clerk Copeland. There was a quorum present to conduct business.

1. Mayor Cronin called the meeting to order and acknowledged that the press and public had been duly notified of the meeting in accordance with the Freedom of Information Act. The Mayor offered an invocation that was followed by the Pledge of Allegiance and roll call.

2. **Approval of Previous Meeting's Minutes**

MOTION: Councilmember Loftus moved to approve the revised minutes of the regular meeting of February 23, 2010; Councilmember Bergwerf seconded and the motion PASSED UNANIMOUSLY.

Mayor Cronin made the following announcements:

- Hazardous Household Materials Collection – 9 am-noon, Saturday, April 10, 2010.
- Shredding Event – 9:00-10:00 a.m., Saturday, April 10, 2010.
- Annual Yard Sale – 8:00 a.m.-Noon, Saturday, April 17, 2010.

He also reminded everyone to complete and mail in the census forms.

3. **Citizens' Comments**

Karen Thompson addressed the Council on behalf of Cycle South Carolina, a fundraising event for the United Methodist Relief Center; she was seeking permission for the cyclists to pass through the Isle of Palms. She explained that Cycle South Carolina was a week-long bike ride in June that begins in Mount Pleasant, goes to Orangeburg and returns to Mount Pleasant; there are approximately two hundred (200) cyclists signed up to participate at this time. They would travel through Isle of Palms early in the morning of Sunday, June 13; Mrs. Thompson said the cyclists should be off the island by 7 a.m.

Mayor Cronin stated that a decision would be made in the course of the Public Safety Committee report later in the meeting.

Patricia Wise, 2807 Palm Boulevard, expressed her opposition to Ordinances 2010-04, -06 and -08. She stated that she has been a resident for ten (10) years and that, although she has never rented her home, she supports the rights of other residents to rent their homes. She has been a lawyer for thirty years (30 yrs) and a legislative attorney for eight (8) of those years; as a legislative attorney, she reported that she had drafted legislation. She stated that she has read and studied the ordinances and sees "huge legal problems with them." Ms. Wise noted that, in the legislature, the first step in writing new legislation was to identify the problem; having studied the ordinances for the past thirty (30) days, she has been unable to identify the problems they

are addressing. On the subject of limiting rooftop decks to ten percent (10%) of the heated footprint of the house, she related that she had spoken with many Councilmembers for the past two (2) weeks and had received different answers about what the problems were with rooftop decks, from swimming pools to people falling. She reported that neither of these problems was mentioned in the proposed ordinance. She suggested that one (1) way to protect people from falling was to step back the deck maybe ten feet (10 ft) from the edge of the roof. Ms. Wise stated that any solution had to be reasonable, and limiting the rooftop deck to ten percent (10%) was not a reasonable answer. She said her home was five thousand square feet (5,000 sq ft) spread over three (3) floors; therefore, the footprint was relatively small. A rooftop deck on her home could be just over one hundred sixty square feet (160 sq ft) for ten (10) people and children.

On Ordinance 2010-06, limiting the daytime occupancy, Ms. Wise suggested that the more reasonable approach would be to base the maximum occupancy on the size of the rental space, rather than setting an arbitrary number.

Jody McKnight, 27 Twenty-eighth Avenue, expressed the opinion that limiting the short-term rental occupancy to ten (10) persons could “be more trouble than it was worth;” he stated that, as elected officials of a municipality, the City Council’s responsibility was “to find the right balance between unregulated activities of persons and property interests and regulations that restrict those activities and property interests.” He did grant that it could be difficult to determine which regulations would solve which problems. He said, “No one wants to be over regulated with rules that are not reasonably calculated to result in beneficial changes to the common good.” He stated that the Council needed to be certain that the regulation being enacted “is narrowly tailored to achieve” the real goal. He suggested that the final decision should be based on fact-finding and debate over the coming weeks with the members of the community.

Bill Casey, 811 Palm Boulevard, stated that he had learned the following from the FY10 fiscal budget and asked that the Council “commission a qualified study before carving on the City’s ‘cash cow,’ “ i.e. the short-term rental business:

- Property Tax Revenues are \$4,235,000;
- 66% of the properties on the island are non-owner-occupied, at a 6% assessment ratio, for \$2,795,000 of the \$4,235,000;
- 33% are owner-occupied, at a 4% assessment ratio, for \$1,004,000;

He noted that, at this point, the rental units contribute two dollars (\$2.00) for every one dollar (\$1.00) of taxes contributed by the homeowner.

From the Budget, Mr. Casey extrapolated the following figures:

Local Option Sales Taxes	530,000
Business Licenses (50% related to rental)	310,000
Insurance Licenses (50% related to rental)	320,000
Rental Licenses	430,000
Parking Lot Revenues	79,600

Parking Meter Revenues	169,000
State ATAX Administrative Fee	69,000
TOTAL	\$1,908,000
Property Tax Revenues	<u>2,795,000</u>
TOTAL	\$4,703,000

Mr. Casey then quoted the figure of total revenue for FY10 as ten million dollars (\$10,000,000); therefore the rental revenue contributes forty-five percent (45%) of the total revenue budget for the current year, according to Mr. Casey's computations. He continued that, at this rate, "rentals contribute three dollars (\$3.00) for every one dollar (\$1.00) . . . homeowners contribute" to the operational budget.

He commented to the fact that the City spends thousands of dollars each year with the Charleston Visitors Bureau each year to promote the island worldwide, "yet you (City Council) want to treat visitors as less than welcome when they arrive." Mr. Casey acknowledged that tourism is the Isle of Palms' industry. He asked City Councilmembers what had brought them here and that "now makes you think it is so misshapen and unworthy of the efforts of all who worked here and lived here before you."

Juanita Casey, 811 Palm Boulevard, stated her opposition to Ordinance 2010-08 as she believes that it will "have a negative impact on the number of visitors who support our businesses and other revenue of the City." She expressed the opinion that, when revenues are cut, expenses must be cut as well, and the City's largest expense is personnel. She noted that approximately half of the City's budget goes to personnel who provide services to the residents of the island, and these are the people who will be affected by Council's actions. She stated that Councilmembers should think of the consequences of their actions rather than their personal agendas.

Nick Sottile, Sottile & Hopkins, Attorneys at Law, stated that he was present representing Deborah Jones, the Caseys and the Davids and the three hundred (300) persons who signed the petitions he presented to Mayor Cronin, as well as the twenty-five (25) people who sent in letters, in opposition to Ordinances 2010-06 and -08. He referred specifically to Debbie Jones; Mr. Sottile described her as a full-time resident who owns no rental property on the island, but who lives in the midst of a short-term residential area and who "is adamantly opposed to these ordinances." He briefly discussed the work done by City Council and himself, serving as City Attorney, in 2007 to address citizens' concerns about short-term rentals; he stated that he thought Council had done "a very good job in weighing the divergent interests and making a calculated compromising decision and coming up with a good solution." He suggested that the general perception is that those ordinances are working well. Since none of these ordinances were being considered when he left his position as City Attorney less than three (3) months ago, he suggested that City Council was acting hastily. The petitions request that Council "withdraw these ordinances until, at the very least, an economic impact study can be made to give the information . . . alluded to earlier as to the dire economic impact this is going to have on the citizens here." He stated also "that Council should consider what Council has historically done – since before my time – and that is, when any major cultural or economic issues, they put the

vote before the voters. An advisory referendum was held on the Connector, the drainage referendum, the swimming pool referendum, the marina purchase referendum, and we believe such a referendum would be proper in this instance too. This is a major, major change in the way things have been for years and the people deserve to be heard." He added that "a delay in your (Council) action would give your legal counsel an opportunity to do further research on the matter" as he suggests there would be "serious legal ramifications" if these ordinances pass.

Charles Jones, 813 Ocean Boulevard, referred to comments Mayor Cronin had made at a meeting earlier in the month when the Mayor suggested purchasing the house at the end of the street on Hamlin Creek and had stated that the Mayor had gone to the Greenbelt Committee for funds to do so. The Mayor had also stated that he did not think the City would ever get money from the Greenbelt Committee; Mr. Jones expressed agreement with the Mayor on that comment and suggested that the City pursue whatever means were available to withdraw from the Greenbelt Committee.

Bonnie Taylor, 7 Forty-third Avenue, stated that she had been a resident of the island for seventeen (17) years, and she expressed thanks to the members of Council for their service to the citizens and expressed her respect for the roles they have taken on. She stated that the Councilmembers had "taken on the responsibility to do what is in the best interest for the future of the entire island." She challenged Councilmembers to do responsible research before making very important decisions that will impact today's residents and future generations. She expressed her opinion that "imposing the ten-person (10 person) limit on new or lapsed licenses will negatively impact property values above and beyond what the poor economy has already done, and reduce much needed revenue" on which the City depends. She asked that decisions not be made without full knowledge of the ramifications and not to make rules without knowing the consequences. Mrs. Taylor also asked the time not be wasted on problems that have already been solved.

Barbara Gobien, 5 Fifty-first Avenue, stated that she has lived on the island for over thirty (30) years and that, when she bought her home, the neighborhood was filled with full-time residents. She commented that the area between 42nd and 57th Avenues is a residential neighborhood and that it is important that the rights of these residents be considered also. She stated that she supports the right of people to rent their properties until it affects the property rights of the people next door. The voters voted to end the mini-hotels and building speculation on the island, and no one can be sure that the economy will not rebound and the building boom resume. She expressed the opinion that limiting the overnight occupancy to ten (10) people will ensure that residential areas will remain residential because it will dissuade people from constructing these huge rental structures. She remarked that the ordinances "presently on the books are ridiculous." Ms. Gobien restated that there are over fifteen hundred (1500+) rental licenses on the island and repeated that these ordinances would only affect new rental licenses; therefore, she contended that there would be no financial impact to the City. In conclusion, she questioned how many signers of the petitions were registered voters on the island.

Karla Kay, 204 Ocean Boulevard, reported that she had spoken with some members of Council and exchanged emails with others. Mrs. Kay stated that she has been a resident of the island for over twenty (20) years and that she and her husband have run a rental business property for over twenty (20) years. She expressed her opposition to the short-term rental ordinances

before Council; she voiced her agreement with previous speakers that there has not been enough research into the long-term effects of the passage of these ordinances. She stated that her greatest fear was that there was a block of five (5) members of Council who vote together and appear to have “an anti-rental policy” who will eventually “go after the grandfathered properties.” She asked for assurances from City Council that, if these ordinances pass, there will not be future action against the grandfathered properties.

Carly David, 709 Palm Boulevard, stated that she has emailed Councilmembers regarding her concerns over the proposed overnight occupancy limit of ten (10) persons. She commented that there seems to be one ordinance after another after another, etc. She expressed the opinion that it appears that attempts are being made to make the Isle of Palms a gated community.

Nadine Dief, 31 Twenty-first Avenue, stated that there appears to be a great deal of misinformation floating about the island. She noted that these ordinances are not an effort to ban short-term rentals; anyone who wants to get license is free to do so and to operate under the existing ordinance prior to passage of these new ordinances. She voiced the opinion that the only people affected would be those who want to build a house that could house forty (40) people. She stated that she would like to see the island twenty (20) years from now like it is today.

David Somers, 2 Fifty-first Avenue, indicated that he has been a resident since 1982, and he rents his home to pay for the taxes and insurance on his home. He stated that, as a member of the Board of Adjustments in the 1990s, he became very familiar with the City’s Code, and, in his opinion, the message of the founding fathers was that the Isle of Palms was intended to be primarily residential. He reported that there had been commercial misuse of vacation rentals starting around 2005 with the building of the mini-hotels, and, according to Mr. Somers, the residents who did not want these mini-hotels next door reacted by electing a City Council composed of people who live on the island but derive no income from it. This Council’s proposal to limit overnight occupancy to ten (10) for new licenses represents to him a delicate balance between residents and rental property owners.

Arnold Karig, 5102 Palm Boulevard, reported that he has been a resident for forty (40) years; he stated that the time has come to put residential back into single-family residential zoning. He cited several local realtors who have stated that there was no problem with the mini-hotels because they are primarily located on Palm and Ocean Boulevards; Mr. Karig stated that these realtors fail to recognize the fact that both Palm and Ocean Boulevards are zoned as single-family residential and that these mini-hotels are truly businesses operating in residential areas. He remarked that a group of forty (40) negatively affects the quality of life in a residential neighborhood, but he added that there are appropriate venues on the island for large crowds to gather. He repeated the statement that there will be no financial impact to the City’s revenues from the passage of these ordinances, and he urged City Council to preserve the sanctity of single-family residential zoning.

Joe Bianco, 9 Fairway Village Lane, stated that Council was attempting to solve a problem the wrong way. In his opinion, limiting overnight occupancy will not stop the construction of mini-hotels; they will continue to be built and the owners will wait until the City’s code changes again.

He agreed that he does not want a mini-hotel as his next-door neighbor. He stated that there is a rental unit on his street in Wild Dunes, but, since Wild Dunes is relatively strict with the enforcement of its rules and regulations, he has never had an unpleasant experience with his rental neighbors. He suggested that stricter enforcement of the City's laws might solve the problems without more legislation. He agreed with the idea of a referendum to allow the residents to make the final decision. Mr. Bianco indicated that he had voted for most of the members of Council, but, had he known they would have put forth an ordinance limiting nighttime short-term rental occupancy to ten (10), he would not have voted as he did.

Dr. Linda Plunkett, 3 Thirty-second Avenue, thanked the Councilmembers for their willingness to serve the residents of the island. She stated that she had been introduced to Isle of Palms' sand in 1951 and that five (5) generations of her family have enjoyed the island. She noted that change on the island in the past fifty-one (51) years has been positive in many respects. She commented that approximately one-third ($\frac{1}{3}$) of the residences are owner-occupied and paying property taxes at a rate of four percent (4%), but the full-time residents bear one hundred percent (100%) of the burden of the guests. She indicated that she welcomes guests to the island, but stated that she also takes out the recycling for rentals in the neighborhood and pickup trash from day-trippers and rentals and deals with the traffic and parking issues the renters and day-trippers generate. She asked that Council remember the one-third ($\frac{1}{3}$) that is owner-occupied who want the right to enjoy their property and their neighborhoods and remember that this is the one-third ($\frac{1}{3}$) who has the vote.

Nancy Mackey, 8 Sand Dollar Drive, reported that she is a twenty (20) year resident of the island. She quoted from a flyer placed in her mailbox in February 2007; it was from Island Realty.

"Investing in and managing a portfolio of houses: Now might be the time to look into an investment in houses; buy an extra one for rental. Buy several scattered rental houses and you have the equivalent of scattered apartment units, or, as one owner calls them, horizontal apartments. What should you look for? An owner-occupied community. You will probably be able to get higher rents in an area where the other houses are owner-occupied; owner occupied houses will usually be better maintained and the neighborhood will be more stable."

She stated that she had held onto it because it disturbed her because it appeared that there was no regard for the effect on the owner-occupied neighborhoods. She stated that, when she moved into her present neighborhood, there were full-time residents and a couple of long-term renters. She expressed the opinion that there were laws on the books to protect property owners who expect to live in owner-occupied neighborhoods.

David Fortson, 3004 Palm Boulevard, stated that he was not a full-time resident, but he has been coming here for sixty-five (65) years. He indicated that the reason he does not live in his home full-time is that he must rent it to pay the taxes and insurance on this Isle of Palms home. He said that he feels bad when he must tell his renters of all the things they cannot do when they are on the island. He stated that one thing that concerns him is that meetings like this are held, but many of the people who rent their homes are not present; he expressed his feeling that

such actions are a disservice to the people who will be affected by the actions taken at the meeting. He cautioned Council that their actions would affect the value of houses on the island.

Diane Oltorik, 15 Ocean Park Court, stated that she is known by many as the "Gift Bag Lady" because she distributes gift bags to new residents; the gift bags are filled with information about the island and coupons from the businesses on the island to get the newcomers into the restaurants and shops. She expressed her belief that "this coupling of residents and businesses together goes a long way toward creating an environment where businesses can depend on business all year long and not just the tourists who come in the summer." She continued that "the coupling of those ideas helps to preserve the residential character of the island. . ."

Bev Ballow, 3009 Waterway Boulevard, stated that she has lived on the island almost thirty (30) years and that she supports Ordinance 08 limiting the nighttime occupancy of short-term rentals. She indicated that, when she attended real estate school in 1984, she learned the highest and best use of real estate is residential real estate; it is what drives the value of houses. She stated that her interest in this "battle" was to protect the value of everyone's homes; she voiced her belief that the value of the homes that would be grandfathered for short-term rentals would increase in value.

Ann Maughon, 7 Wills Way, informed the Council that she is a high school math teacher. She stated that the realtor involved in the purchase of her home assured her that she and her husband would not have to be concerned about short-term rentals because the area was zoned for single-family residential. Since about 2000, her home is surrounded on parallel and adjoining street with short-term rental units, and, during the summer months, they get a lot of noise from rooftop decks. She supports what is proposed, but added that limiting the maximum nighttime occupancy to ten (10) violates her property rights as to what she thought she was entitled to when she purchased her property.

She also expressed a concern with persons who have a vested interest in the island telling her that she is encroaching on their property rights. She said, "They are lining their pockets; they are making money, and they are doing it at the expense of the people who purchased their homes under the assumption that, when I die, my children can move into my home and have my home and be ensured that they have the same residential neighborhoods that they enjoyed growing up here."

She continued by quoting from the SC Code of Rules and Conduct §8-13-700(B) and 8-13-700(B)(4). (A copy is attached to the historic record of this meeting.) She noted that in the past, a majority of the Councilmembers had an economic interest in the island and one could tell this by their votes; she commented that today there is one (1) member with a "very viable economic interest in what is happening," and, based on the information cited, she thought this section of the South Carolina code should be reviewed.

Jeff Evans, 3301 Hartnett, thanked Council for re-addressing the issues related to short-term rentals in single-family neighborhoods; he expressed the opinion that the solution was fair, represented a compromise and was workable. He agreed with others who had spoken before him that there would be no financial impact to the City by grandfathering those existing rental

licenses. He expressed the opinion that this action was a guideline for residential development into the future.

Bea Love, 9 Sand Dollar Court, expressed her support for controlling the rental occupancy numbers in the residentially zoned neighborhoods; she stated that this was one of the reasons she had voted for many of the Councilmembers now seated.

Sylvia Sherwood, 28 Beachwood Drive, stated that she has been a resident since 1998. She stated that she supports families and the protection of the residential neighborhoods; therefore, she supports the ordinance before Council in this meeting. She suggested that Council consider the quality of life of its residents and less about finances and taxes.

Jerry Kerns, 613 Ocean Boulevard, stated that he has been a resident of the island for over twenty-five (25) years; he indicated that, since he built his home, the island has evolved into a major league rental area. He noted that he has opted to rent his home at times and would like to know that his right to do so is preserved. He indicated that his rental license is not currently active and was told that it would need to be re-activated to operate under the occupancy levels he has used in the past.

John Ferrell, 702 Ocean Boulevard, reported that he has been a resident for eighteen (18) years, but has visited for the past forty (40) years. He stated that his experience on the island has been that full-time residents can be much noisier than renters, and he has concluded that there is no direct correlation between the number of people in a house and the disturbance created. The problem is one of behavior and will not be controlled by limiting the number of people allowed in a house. He commented that the City has a livability court that is working and that the number of persons allowed per rental unit has already been lowered based on reason and compromise. He expressed disappointment with City Council because he does not believe that they are identifying the problems then seeking the appropriate solution. Mr. Ferrell was of the opinion that the behavioral problems are addressed by the existing ordinances and the livability court. He stated that the actions before Council tonight take away property rights for no reason, do not take care of any problems not already addressed and have not been thought out; in addition, the ordinances ignore the Planning Commission's recommendation. He described the number ten to be "arbitrary and capricious" and likely to be challenged in court. Mr. Ferrell's parting request was that Council vote down these ordinances and listen to the will of the people.

Jeff Jacobs, 606 Ocean Boulevard, stated that he had contacted each member of Council upon hearing about the proposed legislation that would limit the nighttime occupancy of new short-term rental licensees to inform them of his appreciation of the goal, but not the path being taken to reach it. He stated his opinion that this legislation is directed at existing homeowners who do not currently rent and lot owners; these people are the only class of people who do not contribute in any way to the problems yet are being attacked. Mr. Jacobs expressed his understanding of the problems as (1) noise and (2) large homes that are out of character with the neighborhoods. Like others, he suggested enhanced enforcement of existing laws to reign in the bad behavior of residents and visitors alike. He contended that the larger lots on Palm and Ocean Boulevards can support the larger homes that Council is trying to eliminate. He said, "Just as the IOPNA Council members want to have the neighborhoods with family houses recognized for their character, I request you consider Front Beach as having its own unique

character by virtue of its location, size of houses and lots.” He stated that he had learned from his conversations with Councilmembers that there was support for an overlay district for Front Beach where large homes and very few lots remain and a suggested cap of twenty (20) seems a fair compromise. He asked that politics not get in the way of sound judgment based on accurate facts and figures and to consider a Front Beach overlay district.

Ray Sims, 2804 Cameron Boulevard, stated that he had grown up at Pawley’s Island and Litchfield beaches and been an Isle of Palms resident for fourteen (14) years. As such, he knew what he was getting into when he bought on Cameron Boulevard; he knew that it was a rental road. He was not opposed to big houses; he has met some wonderful renters. He expressed his opposition to the short-term rental ordinances.

MOTION: Councilmember Loftus moved to re-arrange the agenda to address Items 8 and 9 immediately; Councilmember Piening seconded and the motion PASSED UNANIMOUSLY.

8. Bills Already in Possession of Council

A. Second Reading of Ordinance 2010-01 – An Ordinance Amending Title 5, Section 5-4-44, Home Occupation, of the City of Isle of Palms Code of Ordinances to Allow for More than one Home Occupation per Dwelling unit and to Rename “Home Occupation’ as “Home Business Occupation.”

MOTION: Councilmember Bergwerf moved to waive the reading and to approve for Second Reading Ordinance 2010-01; Councilmember Loftus seconded and the motion PASSED UNANIMOUSLY.

B. Second Reading of Ordinance 2010-04 – An Ordinance Amending Title 5, Planning and Development, Chapter 4, Zoning, Article 1, General Provisions, Section 5-4-12, Additional Regulations, of the City of Isle of Palms Code of Ordinances to Limit the Size of Rooftop Decks

MOTION: Councilmember Loftus move to approve for Second Reading Ordinance 2010-04; Councilmember Duffy seconded.

Councilmember Stone asked the Administrator to read the ordinance in its entirety, which she did.

MOTION: Councilmember Duffy moved to amend Ordinance 2010-04 to specify its application only to SR1, SR2 and GC3 zoning districts; Councilmember Loftus seconded and the motion PASSED UNANIMOUSLY.

Councilmember Bettelli stated that he could not support this ordinance because he questions that problem exists with rooftop decks; he stated that he has not been informed of any accidents related to the rooftop decks. He indicated that he liked the suggestion of having a ten-foot (10 ft) setback from the edge of the roof for these decks, therefore, recommended sending the ordinance back to the Planning Commission for refinement.

Councilmember Bergwerf commented that she considered the rooftop decks to be a safety concern not so much for residents, but for renters. She described seeing renters next door whose teenagers were sunbathing on the roof after climbing up from the rooftop deck, but she added that she was not concerned with the ten percent (10%) limitation.

Councilmember Stone asked Director Kerr what issues the Planning Commission had considered in drafting the ordinance; Director Kerr reported that safety, noise and aesthetics had all been included in the discussions. The Director added that the Commission had talked with Chief Buckhannon and been told there had been no sound violations that could be directly attributed to a rooftop deck and there had been no accidents involving rooftop decks.

Councilmember Loftus continued by stating that safety had always been his primary concern with the rooftop decks and pools while noise had been secondary since Chief Buckhannon had informed him that noise emanating from a deck was hard to identify. Councilmember Loftus expressed his concern for the safety of small children on rooftop decks. He also stated that Chief Graham had indicated that, due to the weight of the pools, firemen could be endangered in the case of a fire. Director Kerr assured Councilmember Loftus that all of the issues mentioned had been considered by the Planning Commission, but the ordinance does not specify anything about pools and, by limiting the decks to ten percent (10%) of the heated footprint, there would not be space for a rooftop pool.

Councilmember Buckhannon repeated his opinion from the February meeting that, when the discussion comes to aesthetics, it get to sound like an Architectural Review Board, which is something that no one wants on the island. He agreed with Councilmember Bettelli that this ordinance should be referred back to the Planning Commission.

Councilmember Loftus agreed to withdraw his motion for approval of Second Reading asking that the Planning Commission add language about pools and some type of fencing to protect small children, and Councilmember Duffy withdrew his second.

Mayor Cronin stated that safety should be paramount in all actions and activities on the island, and he does not feel that the present ordinance addresses all of those issues.

MOTION: Councilmember Bettelli moved to refer Ordinance 2010-04 back to the Planning Commission for further study and modification; Councilmember Duffy seconded and the motion PASSED UNANIMOUSLY.

C. Second Reading of Ordinance 2010-06 – An Ordinance Amending Title 5, Planning and Development, Chapter 4, Zoning, Article 9, Short-term Rentals, Section 5-4-203, Maximum Occupancy at any Time, of the City of Isle of Palms Code of Ordinances, to Reduce the Maximum Occupancy Permitted at Short-term Rental Residences at any Time.

MOTION: Councilmember Bergwerf moved to approve Ordinance 2010-06 for Second Reading; Councilmember Loftus seconded.

Administrator Tucker read the ordinance into the minutes.

Councilmember Stone noted that he had asked that this ordinance be brought forward for consideration, but, after hearing the public comments this evening, he was unable to support it.

Councilmember Bergwerf conceded that there could be circumstances where the maximum of forty (40) persons might need to be exceeded, so she suggested that the City issues permits for such occasions. Mayor Cronin stated that he was not interested in more administrative paperwork, but that the Planning Commission was free to consider any option.

Councilmember Duffy agreed that there could be a better compromise and that lot size should be a consideration.

Councilmembers Bergwerf and Loftus withdrew the motion and second respectively.

MOTION: Councilmember Duffy moved to refer Ordinance 2010-06 back to the Planning Commission; Councilmember Bettelli seconded and the motion PASSED UNANIMOUSLY.

8. Introduction of New Bills, Resolutions and Proclamations

A. First Reading of Ordinance 2010-07 – An Ordinance Amending Title 7, Licensing and Regulations, Chapter 1, Business Licenses, Article A, General Provisions, of the City of Isle of Palms Code of Ordinances, to Provide Requirements Relating to the Transfer, Lapse and Issuance of Short-term Rental Business Licenses.

Administrator Tucker explained that she would review both Ordinances 2010-07 and 2010-08 since they were companion ordinances and stated that they had come about as a result of the February 23, 2010 City Council meeting. The goal of the ordinances is to establish a maximum overnight occupancy for new rental licenses of ten (10) persons and to establish the provisions of new licenses versus existing licenses; revision to two (2) sections of the code were required to accomplish that goal.

The Ordinance 2010-07 addresses the business license section of the code; the amendment calls for the addition of the following paragraph in Section 7-1-8:

(c) A license issued for a business within the class of businesses designated NAICS Number 53111 for short-term leasing of residential housing units belongs solely to the property owner and shall remain in the owner's name until such time that the owner allows the business license to lapse or sells the property. Upon sale of the property, a new owner shall be required to obtain a new business license to continue the use of the property as a short-term rental.

In Class 8 Rates, the following is added:

If a licensee fails to renew a license and pay the applicable license taxes on or before September 1, the license will be deemed to be lapsed. A license will not be deemed to

have lapsed upon sale of the property if the new owner acquires a new license within sixty (60) days of the transfer of the property.

No license shall be issued under this section to a lessor of a residential housing unit until the Building Official has issued a certificate of occupancy for the property.

The purposes for these changes, according to Administrator Tucker, was to ensure there is a provision for the transfer of a short-term rental license and to define what constitutes a lapse in that transfer.

MOTION: Councilmember Bergwerf moved to approve Ordinance 2010-07 for First Reading; Councilmember Duffy seconded.

Councilmember Bettelli questioned what happens to a rental license if the residence goes into foreclosure. Director Kerr explained that, if a bank forecloses on a property, the bank has sixty (60) days to acquire the license assuming that the previous owner had kept it current. The property could then be sold, and the third owner has sixty (60) days from that sale date to acquire a license. According to Director Kerr, the key is that the license is kept current by purchasing within the sixty (60) day window. Licenses could be purchased after a lapse; however, the provisions of this new ordinance would apply

Councilmember Bettelli continued by asking, if the timing of the foreclosure were to be around the time of the September 1 renewal, the owner facing foreclosure did not have the money to renew the license and the residence did not sell for a considerable period of time, would the new owner then have the ten (10) person maximum occupancy? Director Kerr agreed that would be the case. Councilmember Bettelli stated that he did not see this "as a fair and equitable way to conduct business."

Councilmember Buckhannon stated that he had been told by the Building Department that approximately twenty-five percent (25%) of the rental licenses are not renewed by the September 1 renewal date each year. Based on that information, he asked Director Kerr what action would be taken to allow these people to avoid having their licenses lapse. The Director indicated that people with occupancy levels of ten (10) or less would not be impacted by the lapsing, but, for residences with a protected occupancy above ten (10), the Building Department has discussed sending mailers to those property owners to ensure that they are aware of the consequences of not paying for their rental license in a timely manner, i.e. September 1.

Councilmember Loftus expressed his opinion of the necessity of notifying the property owners of the ramifications of this ordinance. He stated that he thought of this the same way a property owner looked at taxes and insurance on his property – these are important payments that cannot be late. Councilmember Stone countered that most property owners have taxes and insurance included in their monthly mortgage payments, held in an escrow account to be paid by the mortgage holder at the appropriate time; therefore, he thought the rental license was an entirely different matter.

Director Kerr noted that he and Attorney Halversen had studied what would happen if a property owner were caught unaware of this new requirement and determined that, since this ordinance

is a part of the Business License section of the Code, appeals would be made to and heard by City Council. Administrator Tucker clarified that this process is no different from the existing code as it relates to business license appeals.

Councilmember Stone reported that, according to Building Department records, two hundred fifty-five (255) homes in the SR1, SR2 and Wild Dunes have five or more (5+) bedrooms. If twenty-five percent (25%) of the rental licenses lapse each year, then twenty-five percent (25%) of two hundred fifty-five (255) residences with an occupancy level greater than twelve (12) could be impacted by this ordinance each year and rents reduced if they were not able to effect an appeal through this Council. Director Kerr responded that, if the owners failed to comply with the new lapsing regulation, for whatever reason, and City Council did not grant them relief, the statement is accurate.

Mayor Cronin commented that one (1) reason people may allow the rental license to lapse is that the City does not impose much of a penalty for doing so.

Councilmember Duffy repeated the fact that there is a sixty (60) day grace period, and people who are engaged in the short-term rental business are in the peak of the season when the license is due to renew. In addition, he noted that a property generating one hundred fifty thousand dollars (\$150,000) in rental revenue pays approximately five hundred fifty to five hundred seventy-five dollars (\$560-575) for the license fee and incremental increase on revenue, which Councilmember Duffy did not see as a hardship on the property owner.

Councilmember Stone reminded Councilmember Loftus about the corporations being formed on Sullivan's Island to get around the rental ordinances there. He stated that he would like to see City Council reconsider the island-wide rezoning proposal that the Planning Commission had presented. He reported that there were one hundred (100) foreclosures on the island in the past year; he also repeated his request for an economic impact study on the effect of this action before a vote is taken.

Roll call vote:

Bergwerf – yes	Loftus – yes
Bettelli – no	Piening – yes
Buckhannon – no	Stone – no
Duffy – yes	Thomas – yes
Mayor Cronin – yes	

The motion PASSED on a vote of 6 to 3.

- B. First Reading of Ordinance 2010-08 – An Ordinance Amending Title 5, Planning and Development, Chapter 4, Zoning, Article 9, Short-term Rentals, Section 5-4-202, Maximum Overnight Occupancy, of the City of Isle of Palms Code of Ordinances to Limit the Maximum Overnight Occupancy Permitted at Short-Term Rental Residences Acquiring a New Business License or Reinstating a Lapsed License after the Adoption of this Ordinance.**

Administrator Tucker explained that this ordinance does two (2) things in that it establishes occupancy on a short-term rental license prior to April 27, 2010 remains the same, because, if the ordinance passes First Reading, it would have a Public Hearing, Second Reading and Ratification on that date, and it establishes the maximum occupancy of ten (10) for short-term rental licenses purchase after that date.

MOTION: Councilmember Bergwerf moved to approve Ordinance 2010-08 for First Reading; Councilmember Loftus seconded.

Councilmember Bergwerf stated, that, after discussions with members of the community and other Councilmembers as well as reflecting on the meeting City Council had with the Planning Commission, she recalled that the occupancy level of twelve (12) had been suggested by Councilmember Buckhannon, she asked to make the following amendment to the motion:

AMENDMENT: Councilmember Bergwerf moved to amend Ordinance 2010-08 to reflect a maximum occupancy of twelve (12) persons; Councilmember Duffy seconded.

Councilmember Buckhannon commented that, at the September meeting, his discussion had been to raise the age limit to twelve years of age from two.

Councilmember Duffy related the fact that eighty-five percent (85%) of the short-term rental licenses are for an occupancy of twelve (12) persons or less; therefore, he was of the opinion that this was a viable move for the future of the island.

Councilmember Stone asked Councilmember Bergwerf if she had met with other Councilmembers; Councilmember Bergwerf stated that she had met with Mayor Cronin to discuss the change in number.

Councilmember Bettelli remarked that twelve (12) was better than ten (10), but he thought that areas of the island with big lots that could support larger houses and not affect the nature of the neighborhood. He, therefore, suggested that the Planning Commission should review this ordinance again.

Councilmember Buckhannon recalled that the Planning Committee, City Council and the community had worked on the short-term rental ordinances for months in developing the program that exists now. He noted that the program is working, and he expressed his opinion that this was a rushed ordinance, and he did not agree with it.

Vote on Amendment: The Amendment to increase the maximum occupancy to twelve (12) PASSED on a vote of 7 to 2 with Councilmembers Buckhannon and Stone casting dissenting votes.

AMENDMENT: Councilmember Bettelli moved to change the age in Section 1c to twelve (12) from two (2); Councilmember Buckhannon seconded.

Councilmember Bettelli stated that this is a residential island and, as such, should be welcoming to families; as it exists, he contended that the ordinance suggests that anyone over two (2) years of age is an adult.

Councilmember Bergwerf noted that this had been discussed when the original short-term rental ordinances were enacted unanimously, therefore, both Councilmembers Bettelli and Buckhannon had supported the age limit then and asked what had changed. She expressed the opinion that, if a person sleeps in a bed as opposed to a crib, that person must be counted in the occupancy for the house.

Councilmember Buckhannon responded that the change that has occurred is that there is a new ordinance restricting the number of people that can be in the house.

Mayor Cronin expressed his support for this change for the same reasons that had been stated by Councilmember Bettelli.

Councilmember Loftus commented that he had not heard any complaints to the age limit of two (2) years since the short-term ordinances had passed originally and appear to be working successfully.

Councilmember Buckhannon recounted that, if the short-term rental ordinances are working successfully, they should not be changed at all.

Councilmember Bettelli asked for clarification – is the concern to limit the number of people in a house or to limit the number of bedrooms in a house? He suggested that this ordinance affects everyone on the island, not just the people who are renting.

Councilmember Duffy noted that there is nothing in this ordinance that limits the size of a house that can be built on the island; he said the ordinance was an effort to foster the family renting in family neighborhoods. He stated his understanding that the Supreme Court had upheld that single family zoning was good for a community, and the existing zoning ordinance states four (4) unrelated individuals or a single family, i.e. mom, dad and kids. He expressed his opinion that this is “a rational compromise” and “working toward building a community that is family-friendly.”

Roll Call Vote on Amendment to raise minimum age of children to 12 years from 2 years of age:

Bergwerf – No	Loftus – No
Bettelli – Yes	Piening – No
Buckhannon – Yes	Stone – Yes
Duffy – No	Thomas – No
Mayor Cronin – Yes	

The Amendment was defeated on a vote of 5 to 4.

Discussion continued on the primary motion.

Councilmember Stone distributed a graph on long and short-term rentals by zoning district by year; a copy of the graph is attached to the historic record of this meeting. He said that this information is part of his on-going attempt to identify the problem and to address the issue. He reported that the rental numbers, both long and short-term, "show a decrease in overall licensing, and the livability reports from 2007, 2008 and 2009 show a continued reduction in the percent of rental noise violations." He expressed a lack of understanding in the statements that there are problems and issues with short-term rentals in the community. He stated that he could not support the overnight occupancy cap of twelve (12) and suggested consideration of the Planning Commission's recommendation of twelve (12) in the residential community and sixteen (16) in the Front Beach area.

Councilmember Duffy stated that this discussion is about a fifty-six million dollar (\$56,000,000) business on the island and that is the reason people are so passionate. He stated that the money that actually reaches the General Fund, the operating fund for the City, from accommodations taxes is only about one hundred twelve thousand dollars (\$112,000); the balance of the accommodations taxes must be used for tourist-related activities as defined by the state. For example, Councilmember Duffy noted that trash collections increase one hundred percent (100%) in the season, so accommodations taxes are used to fund the additional personnel needed to accomplish that job. The City's use of accommodations taxes is "very limited and restricted and the City works very hard to push the boundaries as to how to use that money." He noted that, indirectly, there are amenities that residents receive from accommodations taxes, "but, directly, there are none."

Councilmember Buckhannon reiterated that accommodations taxes do subsidize many programs on the island for the Recreation Department, the Fire Department, the bulkhead replacement and beach renourishment. He stated that the Council does not know what the impact of this ordinance will be on the economic infrastructure for the community in the future.

AMENDMENT: Councilmember Buckhannon moved that Second Reading of Ordinance 2010-08 be postponed until an economic impact study is completed; Councilmember Stone seconded.

Councilmember Bettelli expressed the opinion that an economic impact study would tell the Council what this ordinance would do to the City.

Mayor Cronin stated that the City did not have the resources or the personnel to do an economic impact study. To get such a study the City would have to hire an economist and utilize a series of overwhelming assumptions; he added that Council could not have predicted two (2) years ago that it would be dealing with the present economic conditions.

Councilmember Stone disagreed and expressed the opinion that the study would give the Council direction; he stated that, since this is such an emotional issue, that certain matters are being overlooked. He repeated his earlier comments that foreclosures are on the market today that will not come back on the City's books with the same rental income previously generated that have produced the level of hospitality and accommodations revenue that the City has been receiving. He commented that there are professionals in the community that could participate in a workshop to answer questions that would allow Council to have a fuller knowledge of the

future of the island if this legislation passes; he agreed with the Mayor that it would be supposition, but it would give a general ideal of the consequences.

Councilmember Duffy stated that, since this ordinance contains no changes to the short-term rental licenses that exist presently and since every property owner has the opportunity to acquire a short-term rental license under the provisions of the existing ordinance before this ordinance could become effective, that there is no economic impact to be studied.

Roll Call Vote on Amendment for Economic Impact Study:

Bergwerf – No	Loftus – No
Bettelli - Yes	Piening – No
Buckhannon – Yes	Stone – Yes
Duffy – No	Thomas – No
Mayor Cronin – No	

The Amendment failed on a vote of 6 to 3.

Discussion on the primary motion resumed.

Councilmember Piening stated that he had thought on this ordinance “long and hard;” he reported getting many emails that had been generated from misinformation. He said that the only people who would be hurt by this ordinance were those who wanted “to design, build, sell and manage mini-hotels;” he indicated that residents would be helped because they would no longer have to worry that a mini-hotel was going to built next door, thereby maintaining the residential nature of the Isle of Palms. He expressed his belief that all members of Council had given this ordinance serious consideration in order to find balance where no one is harmed.

Councilmember Stone made another plea for consideration of the Planning Commission’s overlay district proposal before acting on this ordinance.

Councilmember Loftus stated that he had a copy of the petition that has been circulated that states the City Council is trying to eliminate rentals, which he stated is a falsehood. He stated that Council is trying to find a balanced way to maintain a quality of life on the island; he added that, financially, the City “is in excellent shape.” He reiterated that the only thing this ordinance does is restrict future rentals to an occupancy maximum of ten (10) persons.

Councilmember Bergwerf asked to summarize the discussion and stated that all residents of the island have a right to rent their homes and that all residents had a right to be protected from a commercial business, mini-hotel, being built next door. She read the following quote from Councilmember Sandy Stone from last month’s meeting,

“One thing it very possibly would do that might be in the best interest is its going to dissuade builders and investors from buying properties on the island and putting up, what has been lovingly called, mini-hotels in the neighborhood.”

Roll call Vote on First Reading of Ordinance 2010-08;

Bergwerf – Yes

Loftus – Yes

Mayor Cronin - Yes

Bettelli – No

Piening – Yes

Buckhannon – No

Stone – No

Duffy – Yes

Thomas – Yes

The Motion PASSED on a vote of 6 to 3.

Mayor Cronin called for a five (5) minute recess until 10 p.m.

Mayor Cronin reconvened the City Council Meeting at 10 p.m.

4. Reports from Standing Committees

A. Ways and Means Committee

- 1. MOTION: Mayor Cronin moved to award a contract amendment to Civil Site Environmental in the amount of \$20,800 to include preparation of the bid package and technical support during construction of the 54th– 57th Avenue Drainage Project; Councilmember Bettelli seconded.**

Administrator Tucker noted that this was an amendment to an existing contract. Councilmember Duffy added that design and pre-engineering had been done, and this contract amendment was to prepare the bid package to determine if the City could proceed with the work.

VOTE: The motion PASSED on a vote of 8 to 0; Councilmember Loftus was absent for the vote.

- 2. MOTION: Mayor Cronin moved to award a contract to Sanders Brothers in an amount not to exceed \$40,089.70 for the 41st Avenue and Palm Boulevard intersection improvements with \$5,500 coming from the Tree Fund for landscaping, \$75,00 coming from Refurbish Street Print Crosswalks, \$8,000 from the General Fund and the balance of \$19,089.70 from Municipal Accommodations Fees; Councilmember Duffy seconded.**

Mayor Cronin explained that the bid had been opened on March 16 with seven (7) bidders responding; Sanders Brothers was the low bidder, and, according to the bid specifications, the work is to be completed by Memorial Day.

Councilmember Buckhannon recalled that there had been discussion of obtaining some funding from Charleston County; he asked to amend the motion to say that, if County funding did materialize, it should be applied first to the outstanding balance of the primary bid. Mayor Cronin stated that he did not think there would be money from the County for this purpose; he stated that their purpose would be work they would be responsible for anyway, i.e. the maintenance of area around the turn. The Mayor did commit to bring before Council the disposition of any funding the City might receive from Charleston County.

Vote: The motion PASSED UNANIMOUSLY.

Mayor Cronin concluded his comments on the Ways and Means Committee by stating that in April committees would have the opportunity to match up revenues to the operating and capital budgets they have reviewed previously. The budget workshop has been scheduled for Tuesday, April 20 following the regular Ways and Means Committee meeting.

B. Public Safety Committee

Councilmember Bettelli reported that the Public Safety Committee had been split on its decision regarding Cycle South Carolina that wants to traverse the island on Sunday, June 13; he presented the Committee's motion to City Council as follows:

MOTION: Councilmember Bettelli moved to approve this event and to add it to the City's list of approved annual events; Councilmember Bergwerf seconded.

Mayor Cronin expressed concern with adding the event to the list of annual events, because that would mean it is authorized every year thereafter, but he asked for clarification on why the event had to be authorized. The Mayor offered that since the City had been properly alerted and was aware of when and where, he did not think authorization was necessary. Mayor Cronin turned to Ms. Thompson asking if this authorization was something that she needed; she explained that the event was traveling through some thirty (30) jurisdictions, and she was trying to notify all entities that would be involved as much as a courtesy as anything else. Upon contacting the City, she had been put on the path of speaking to the Public Safety Committee and City Council.

Mayor Cronin expressed the opinion that the group was free to bike on the roads, that the City's Police Department had been alerted that they were coming and that no special preparation was necessary, and, through Public Safety, it had been confirmed that an insurance bond exists in the event of an accident.

Councilmember Loftus voiced concern about trash that might be generated by two hundred (200) bikers; Ms. Thompson explained that there would be riders in vehicles following the bikers responsible to remove anything they might leave behind. She added that all participating cyclists are required to watch a video that explains proper biking etiquette.

Administrator Tucker commented that, when such events take place on the island, the City's insurance carrier requires that the City obtain a certificate of insurance from the event sponsors naming the City as "an additional insured" on the event's insurance policy; she added that this certificate of insurance must be in the City's possession before the event takes place.

Mayor Cronin suggested that the City welcome Cycle South Carolina; Councilmembers Bettelli and Bergwerf withdrew the motion and second, respectively.

C. Public Works Committee

Councilmember Duffy stated that the Committee is working hard to resolve the island's drainage issues; Director Pitts had reported that trash collection had hit a new low in the month of February.

D. Recreation Committee

Councilmember Buckhannon announced that the annual Easter Egg Hunt would be held on Saturday, April 3 beginning at 10 a.m.; auditions for "Charlotte's Web" began this evening and run through Monday, March 29 with the performance to take place in May.

E. Personnel Committee

Councilmember Piening announced Employee of the Month would be deferred until next month to ensure proper recognition.

February Safety Sweepstakes Winners:

Fire Department – Trevor Speelman
Police Department – Jamey Meekins

Public Works Department – Joseph Washington
Recreation Department – Karrie Ferrell

F. Real Property Committee

Councilmember Loftus reported that Diane Oltorik of the Planning Commission had met with the Committee on ways to increase parking in the City parking lots. Business at the marina was reported to continue to be slow. The amendment to the lease for Morgan Creek Grill has been executed.

5. Reports from City Officers, Boards and Commissions

- A. Board of Zoning Appeals** – Minutes were not available because Director Kerr has been ill.
- B. Planning Commission** – Draft minutes were distributed prior to the meeting. Mayor Cronin reported that the Commission had unanimously approved the lot subdivision at 2301 Waterway Boulevard.

6. Reports from Special or Joint Committees - None

7. Petitions Received, Referred or Disposed of

The Mayor acknowledged that he was in receipt of petitions delivered earlier in the meeting; over the course of the next month, the staff will determine what they are seeking and the subject will be on the April meeting agenda.

10. Miscellaneous Business - None

11. Executive Session - None

12. Adjourn

MOTION: Councilmember Bettelli moved to adjourn the meeting at 10:18 p.m.; Councilmember Buckhannon seconded and the motion PASSED UNANIMOUSLY.

Respectfully submitted:

Marie Copeland
City Clerk