

## City Council

7:00 p.m., Tuesday, April 27, 2010

The regular meeting of the City Council for the City of Isle of Palms was held at 7:00 p.m. on Tuesday, April 27, 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, 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 at 7:26 p.m. and acknowledged that the press and public had been duly notified of the meeting in accordance with the Freedom of Information Act.

### 2. Reading of the Journal of Previous Meetings

**MOTION: Councilmember Bettelli moved to approve the minutes of the Public Hearing and regular meeting of March 23, 2010 as submitted: Councilmember Bergwerf seconded and the motion PASSED UNANIMOUSLY.**

### 3. Citizens' Comments

#### **Request from Ruckus Film for Video/Still Shoot in and around the Windjammer, May 9 and 10, 2010.**

Mayor Cronin commented that information had been included in meeting packets regarding a request from Ruckus Film to do video and still shots in and around the Windjammer, but no one was in attendance to present the information. The Mayor indicated a possibility existed that the shooting could extend onto the beach, and, in order to take shots on the beach, it must be a City-sponsored event. When the topic was opened for discussion, no members of Council voiced concern about the event.

**MOTION: Councilmember Bergwerf moved to approve the video/still shoot by Ruckus Film in and around the Windjammer on May 9 and 10, 2010; Councilmember Bettelli seconded and the motion PASSED UNANIMOUSLY.**

Barb Gobien, 5 Fifty-first Avenue, stated that City Council was finally acting on issues that were important to her, particularly, the flooding problems on the northern end of the island. She added that it was good to have a Council that listened to all of the residents.

Pat Wise, 2807 Palm Boulevard, stated her opinion that Ordinance 2010-08, which was up for Second Reading later in the meeting, was not well thought out and did not do what it was intended to do. She indicated that passage of the ordinance would be a reckless action without proper study and that there were likely residents of the island who were qualified to perform the analysis necessary. In addition, she confirmed the effectiveness of the Livability Court to resolve problems she had experienced with neighboring rental units. On the question of the Constitutionality of the law, Ms. Wise expressed concern that it was; she noted that it was not reasonable in that the ordinance treated a five thousand square foot (5,000 sq ft) home the same as a fifteen hundred square foot (1,500 sq ft) home. She commented that she wanted to

see an end to mini-hotels as many of the other speakers had expressed, but she noted that goal was not accomplished “by attacking the number of people who can rent.” The goal is reached by limiting the size of the home, which many vacation islands have done. She ended by stating that she does not want to see the City spend thousands of dollars to defend what she does not feel is an appropriate ordinance.

Ann Hines, 3 Fifty-first Avenue, reported that, before Hurricane Hugo, the island did not experience serious flooding problems; she explained that many lots on the island were built up before construction of a replacement home. She indicated that the Public Works Department had been most helpful, but their efforts did not “fix” the problem. She stated that, if she were to sell her home, she would have to advertise it as a lovely home that you can’t get to.

Bob Bigerstaf, 4006 Palm Boulevard, asked for stepped up enforcement of parking ordinances along Palm Boulevard; he reported that one in four (1 in 4) vehicles is parked too close to the pavement. He suggested that a sidewalk along the ocean side of Palm would curb parking on that side of the street.

With no further citizens opting to speak, Mayor Cronin sought a motion to re-order the agenda to take up Item 8 next.

**MOTION: Councilmember Duffy moved to re-order the agenda as requested by the Mayor; Councilmember Bettelli seconded and the motion PASSED UNANIMOUSLY.**

## **8. Bills Already in Possession of Council**

- A. Second 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.**

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

Mayor Cronin offered the following amendment:

**Amendment: Mayor Cronin moved to amend Ordinance 2010-08 by inserting the following:**

- a. The maximum overnight occupancy of a residence *constructed prior to* \_\_\_\_\_ *shall be limited to . . .***

- b. The maximum overnight occupancy of a residence constructed after \_\_\_\_\_, 2010 shall be the same as prescribed in Section 5-4-202(a) or twelve (12) people, whichever is less.*
- c. An existing residence that is altered or reconstructed after \_\_\_\_\_, 2010 shall have the same maximum overnight occupancy as permitted prior to the alteration or reconstruction or twelve (12) people, whichever is greater.*
- d. Children under two (2) years of age shall not be included in determining the maximum overnight occupancy.

**Councilmember Bergwerf seconded the amendment.**

Mayor Cronin commented that the changes from this amendment would mean that only houses constructed after ratification of this ordinance would be limited in overnight occupancy of twelve (12) persons. This change also removes any and all of the issues surrounding lapsing of licenses.

Councilmember Duffy noted that the proposed amendment takes a burden from short-term rental licenses and will be less burdensome to manage.

**VOTE: The Amendment PASSED UNANIMOUSLY.**

Mayor Cronin asked City Council to delay action on the amended motion until the May meeting for the changes to be incorporated into the ordinance. In the meantime, the amended ordinance will go back to the Planning Commission for review in May and another Public Hearing before the May Council meeting.

**MOTION: Councilmember Bettelli moved to defer action on the Second Reading of Ordinance 2010-08 until the May 2010 City Council meeting; Councilmember Buckhannon seconded and the motion PASSED UNANIMOUSLY.**

**B. Second 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.**

With the unanimous approval of the amendment to Ordinance 2010-08, Ordinance 2010-07 becomes irrelevant.

**MOTION: Councilmember Duffy moved to postpone action on Second Reading of Ordinance 2010-07 indefinitely; Councilmember Bettelli seconded and the motion PASSED UNANIMOUSLY**

#### 4. Reports from Standing Committees

##### A. Ways and Means Committee

Mayor Cronin briefly reviewed the financial state of the City along with the potential end-of-year picture as presented by Treasurer Suggs; the Treasurer's conservative, preliminary projections are that the City will end the year with a surplus of one hundred to two hundred thousand dollars (\$100,000-200,000) and possibly more.

1. Approval of Liollo Contract Amendment in the amount of \$5,092.

**MOTION: Mayor Cronin moved to approve an amendment to the Liollo contract in the amount of \$5,092 for additional design work to replace exterior doors, repair the leaking roof and to replace the windows in City Hall; Councilmember Bettelli seconded and the motion PASSED UNANIMOUSLY.**

2. Award of contract to 4SE for Structural Engineering in the amount of \$3,000.

**MOTION: Mayor Cronin moved to approve a contract to 4SE in the amount of \$3,000 for structural engineering relative to the renovation of City Hall; Councilmember Duffy seconded.**

Mayor Cronin explained that this work would be done to determine the level of work that would be necessary to eliminate the sagging floor in the offices of General Government above Council Chambers.

**VOTE: The motion PASSED on a vote of 8 to 1; Councilmember Buckhannon voted in opposition to the motion.**

3. Award of Contract to Civil Site Environmental in the amount of \$12,700 for Analysis of Outfall at Wild Dunes Lakes.

Mayor Cronin explained that this contract is for work in conjunction with the existing design contract for drainage issues between 54<sup>th</sup> and 57<sup>th</sup> Avenues. He reported that he, the Administrator, Dave Stevens and Dave Kynoski of the Wild Dunes Community Association had met the previous afternoon to discuss the possibility of constructing a second outfall in Wild Dunes using the lagoon system as a buffer; the Mayor stated that he was cautiously optimistic that Mr. Stevens has found a way to work the outfall without interfering with the 54<sup>th</sup>-57<sup>th</sup> Avenue project and including 52<sup>nd</sup> and 53<sup>rd</sup> Avenues.

**MOTION: Mayor Cronin moved to award a contract to Civil Site Environmental in the amount of \$12,700 for analysis of an outfall at Wild Dunes Lakes; Councilmember Bettelli seconded.**

Councilmember Buckhannon asked whether the City knew what the cost of the second outfall was going to be; Mayor Cronin responded that cost was one (1) of the factors that Mr. Stevens' work would determine. The Mayor continued that, if Mr. Stevens were to conclude that the outfall he is envisioning will work, he will not have to construct the emergency outfall; this option may be a farther distance, but that will only entail additional pipe.

Councilmember Buckhannon's second question was whether this additional design work would interfere with the schedule for the 54<sup>th</sup> to 57<sup>th</sup> Avenue project; Mayor Cronin responded that it would not interfere.

**VOTE: The motion PASSED UNANIMOUSLY.**

4. Approval of Expenditure up to \$2,000 from the Drainage Contingency to Clean the Collections Boxes at 41<sup>st</sup> Avenue and Sparrow Drive.

**MOTION: Mayor Cronin moved to approve the \$2,000 expenditure from the Drainage Contingency Fund to clean collection boxes at 41<sup>st</sup> Avenue and at Sparrow Drive; Councilmember Bettelli seconded.**

Responding to Councilmember Stone's concern over the accuracy of the cost, the Mayor informed Council that an exact cost had been quoted since the Public Works Committee met.

**VOTE: The motion PASSED UNANIMOUSLY.**

5. Award of a Contract to Lifeguard Medical Solutions in the Amount of \$2,837.50 for one (1) AED with wall-mounted storage, replacement batteries and replacement pads for youth and adults.

**MOTION: Mayor Cronin made the previously stated motion; Councilmember Bergwerf seconded and the motion PASSED UNANIMOUSLY.**

The Mayor commented that the AED device would be mounted on the first floor of the Public Safety Building.

6. Approval of Expenditure up to \$7,000 in State ATAX funds for Anti-exposure suits for the Fire Department.

Mayor Cronin explained that these are suits to be used in cold weather for water rescues to protect personnel against hypothermia.

**MOTION: Mayor Cronin moved to approve the expenditure of up to \$7,000 from State ATAX funds to purchase anti-exposure suits for the Fire Department; Councilmember Bergwerf seconded and the motion PASSED UNANIMOUSLY.**

7. Approval of Amendment 1 to Coastal Science and Engineering Contract in the amount of \$53,540 to add additional monitoring and surveys of the beach.

Mayor Cronin noted that this contract was to monitor the entire beach from Breach Inlet to Dewees to look at conditions on the beach at six (6) month intervals. He added that these monitorings and surveys were protection for the City should the island experience a major storm event where the City sought FEMA funding to return the beach to its pre-storm condition. Council was also informed that the cost for monitoring the section of the beach inside the 2008 project area would be funded from the remaining Beach Restoration Fund, and the City would finance only the portion outside of the project area.

**MOTION: Mayor Cronin moved to approve Amendment 1 to Coastal Science and Engineering Contract as stated; Councilmember Loftus seconded and the motion PASSED UNANIMOUSLY.**

8. Approval of Amendment 2 to Coastal Science and Engineering Contract in the amount of \$58,860 for Planning and Permit Application for Remedial Nourishment of Erosion Hot Spots Contingent upon the Approval of the Stakeholders.

Mayor Cronin noted that the majority of the stakeholders have returned the executed agreements to the City for this project that will be funded entirely from the Beach Restoration Fund.

**MOTION: Mayor Cronin moved to approve Amendment 2 to Coastal Science and Engineering Contract as stated above; Councilmember Loftus seconded and the motion PASSED UNANIMOUSLY.**

Mayor Cronin concluded the Ways and Means Committee report by stating that the City Council had been presented with a balanced budget; some changes were made at the meeting, but the citizens of the City of Isle of Palms will not have a tax increase this year. Plans are to present a budget for formal approval at the May meeting.

## **B. Public Safety Committee**

Councilmember Bettelli reported that Gary Griffin of WEZL appeared before the Committee seeking permission for a group of motorcyclists to ride through the island as part of a fundraiser for the North Charleston Recreation Center. Despite the fact that the ride had a worthy cause, the group planned to be on the island on Sunday, May 2 at a time when the beach would be full of people and the Connector full of vehicles; for those reasons, the Public Safety Committee declined the request. The Committee decided to seek volunteers to install the new bike rack at the Public Safety Building. In repairing a drain on Palm Boulevard, the County paved a portion of the curve as one approaches the curve from the south at the intersection at 41<sup>st</sup> Avenue; this work can be attributed to the efforts of the City Administrator. By way of an update on the Public Safety Building, Councilmember Bettelli reported that approximately forty (40) items on the warranty list have been completed and task completion dates exist for those items that are yet incomplete. Problems continue with the digital radios that will likely result in a tower, significantly taller than the water tower, to be erected on the island. Sea Cabins submitted a request for lifeguards in front of their units that generated a lot of discussion; the Committee decided to defer any action until the May meeting. Chief Buckhannon reviewed the City's policy

on raccoons; the Chief explained that the Animal Control officer would assist a homeowner with closing any openings that could provide entrance for raccoons. The Committee reviewed the Operating and Capital Budgets for FY 2010-2011. Chief Buckhannon noted that the laws regarding raccoons have changed so that captured raccoons cannot be let loose into the forest, but must be taken to the veterinarian to be euthanized. In conclusion, Councilmember Bettelli reminded those present that the Disaster Expo will be held from 5 to 7 p.m. on Friday, June 18, 2010 at the Public Safety Building; the event will be a joint effort between Sullivan's Island and the Isle of Palms.

### **C. Public Works Committee**

Councilmember Duffy reported that the Committee had spent a good deal of the meeting discussing drainage and the possible solutions presented by Dave Stevens of Civil Site Environmental which were voted on earlier in this meeting. In the ongoing efforts of the Public Works Department to assist the residents with flooding problems, they are installing collection boxes on 51<sup>st</sup> and 53<sup>rd</sup> Avenue; in the process, Public Works personnel uncovered seventy-five feet (75 ft) of pavement at the end of 51<sup>st</sup> Avenue. The Hazardous Household Materials collection was a huge success; according to Director Pitts, one hundred sixty-seven (167) households participated. The accompanying shredding activity removed eight thousand pounds (8,000 lbs) of shredded materials from the island. The Committee also gave another review to the Capital and Operating Budgets for FY 2010-2011. Twice a week garbage collections will begin on the Monday after Memorial Day, June 7, 2010.

### **D. Recreation Committee**

Councilmember Buckhannon reported that nineteen (19) young people had participated in the babysitting training event offered by the American Red Cross. Of the sixty-five (65) potential actors who auditioned for "Charlotte's Web," forty (40) were given roles in the upcoming production. The play will be offered on Wednesday, May 26 through Saturday, May 29; tickets are on sale for five dollars (\$5.00) with children six (6) and under at no charge. Keenagers will hold their last meeting in May before the summer break. The last middle school dance for this school year will be on Friday, April 30 and will have the theme of "Woodstock at the Rec." The Recreation staff is soliciting sponsors for the Isle of Palms Beach Run that will take place July 17; Piccolo Spoleto Sand Sculpting will take place on Saturday, June 5. The Committee also reviewed the FY 2010-2011 Capital and Operating Budgets in preparation of the Ways and Means Committee meeting.

### **E. Personnel Committee**

Councilmember Piening reported that the beginning of the meeting was spent reviewing certain factors of the City Administrator's evaluation for 2010; he reminded Council that the City has moved to an objective evaluation process with defined goals and objectives and away from the more subjective process used in the past. He indicated that the City had been seeking an Assistant City Attorney since Attorney Halversen is due to have her second child in a few weeks and will need time off; the Assistant City Attorney will serve in her absence. Councilmember Piening introduced Clayton B. McCullough, an attorney with Pratt-Thomas Walker, as the candidate selected for that position.

**MOTION: Councilmember Piening moved to appoint Clayton B. McCullough as Assistant City Attorney; Councilmember Bettelli seconded and the motion PASSED UNANIMOUSLY.**

Councilmember Piening continued his report by naming Sergeant Kim Usry as the February Employee of the Month for her efforts in ensuring that the Mock Disaster Preparedness Drill was a success, and, at the same time, a learning experience for the City. In addition, Councilmember Piening read the recommendation from Director Pitts awarding the Recreation Department as Department of the Month for April for their work in painting palm trees on the yellow barrels; the Director stated that the Recreation Department had “rescued” this project for the Public Works Department.

In conclusion, Councilmember Piening read into the record a letter from Bea and Dana Love to Director Pitts regarding employees Willie Powell and Kim Tapply; the letter read as follows:

“We wish to commend you and your workers for the great job they did today cleaning up all of the tree limbs we placed on the side of the road. We hope you can identify the truck driver and claw man by our address and date. Thanks for the great job you do.”

With the volume of rain that the City has experienced this year and debris, Councilmember Piening reported that City Council has heard only compliments for the fantastic jobs done by Director Pitts and all of the entire Public Works Department personnel.

In conclusion, Councilmember Piening reported that the Committee had reviewed the Capital and Operating budgets for General Government and the Building Department for FY 2010-2011.

The March Safety Sweepstakes winners were:

General Government – Laura McLellan  
Public Works – John Graham

Fire Department – Eric Bolen  
Police Department – Bobby Jimenez

#### **F. Real Property Committee**

Councilmember Loftus reported that eight (8) truckloads of fill had been placed the marina parking lot, and the marina staff has been adding to the landscaping. According to the marina manager, business has been good of late. Morgan Creek Grill reported that their business was better than it has been in a couple of years; Councilmember Loftus encouraged residents to enjoy a Tuesday dinner cruise from the Morgan Creek docks. Due to the time involved in permitting, dredging will likely occur in the fall and winter of 2011-2012. Jane Martin appeared before the Committee seeking approval to operate a low-speed vehicle rental business from the marina; since there were certain questions that could not be answered at the meeting, the process is ongoing. The Committee discussed the amendments to the Coastal Science and Engineering contract that were acted upon earlier in the meeting and concluded with the review of the Marina and Front Beach Capital and Operating Budgets for FY 2010-2011.

#### **5. Reports from City Officers, Boards and Commissions**

**Board of Zoning Appeals** – minutes attached  
**Planning Commission** – minutes attached



**6. Reports from Special or Joint Committees**  
**Accommodations Tax Advisory Committee** – minutes attached

**7. Petitions Received, Referred or Disposed of**

**Disposition of Citizens' Petitions Received March 23, 2010**

Mayor Cronin recounted that citizens presented City Council with petitions at the March City Council meeting; the petitions were taken to the Charleston County Board of Elections for them to determine if the petitions met the legal requirements. The determination from the Board of Elections was that, in order for the petition to be considered legal, it must contain the signatures of five hundred six (506) registered voters; the petitions presented to City Council held two hundred eighty-five (285) signatures.

Mayor Cronin noted that there were three (3) issues cited in the petitions to which City Council has opted to respond; they are as follows:

- 1) A request to withdraw the pending ordinances – Mayor Cronin noted that two (2) of the ordinances had been re-submitted to the Planning Commission for further study, and the third had been amended at this meeting and referred to the Planning Commission also.
- 2) A request to delay action until an economic impact study could be done – Mayor Cronin restated that the Council voted against a study at the March meeting.
- 3) A request for a City-wide vote on an advisory referendum – Mayor Cronin noted that such a referendum could only be called by an action of Council, and no call for an advisory referendum was made by Council at this meeting.

Mayor Cronin expressed his opinion that the City had met its obligation as it related to these petitions.

The petitions submitted at this meeting will be reviewed tomorrow and reported on at the May City Council meeting.

**9. Introduction of New Bills, Resolutions or Proclamations**

Pursuant to a request from the Mayor, City Administrator Tucker read the Proclamation in Support of National Beach Week into the record. City Council voted unanimously to support the proclamation as read.

Mayor Cronin announced that there would be a parents' meeting for the Island Swim Team at the Windjammer at 6 p.m. on Wednesday, April 28.

**10. Miscellaneous Business - None**

**11. Executive Session** to receive legal advice regarding Ordinance 2010-08

**MOTION: Councilmember Loftus moved to go into Executive Session to receive legal advice at 8:30 p.m.; Councilmember Bettelli seconded and the motion PASSED UNANIMOUSLY.**

City Council returned to regular session at 8:54 p.m.; Mayor Cronin announced that Council had not taken any action or any votes while in Executive Session.

**12. Adjourn**

**MOTION: Councilmember Bettelli moved to adjourn the City Council meeting at 8:55 p.m.; Councilmember Duffy seconded and the motion PASSED UNANIMOUSLY.**

Respectfully submitted:

Marie Copeland  
City Clerk