

CITY COUNCIL MEETING

7:00 p.m., Tuesday, May 25, 2010

The regular meeting of the City Council was held at 7:00 p.m. on Tuesday, May 25, 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, Assistant to the Administrator Dziuban, Attorney Halversen and City Clerk Copeland; City Administrator Tucker was absent due to illness. 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 Pledge of Allegiance followed a brief invocation offered by the Mayor, and the City Clerk called the roll.

2. Approval of Previous Meetings' Minutes

MOTION: Councilmember Bettelli moved to approve the minutes of the Public Hearing and regular City Council meeting of April 27, 2010 as submitted; Councilmember Loftus seconded and the motion PASSED UNANIMOUSLY.

3. Citizens' Comments

Mick Smith, 20 Twenty-third Avenue, stated that he had send emails to Council relative to the City's stance not to allow professional photography on the beach; he was asking that the City Council revisit that section of the City Code. He related that, pursuant to a conversation with Mayor Cronin, he had contacted many beach communities on both coasts to learn what their positions were on the subject; he gave the follow examples:

- Sanibel Island, Florida's ordinance does not allow commercial activity on the beach except for special events permitting where a wedding planner can get a permit for photographer, musician, etc.
- Wrightsville Beach, North Carolina has no rules regarding commercial activity on the beach.
- Martha's Vineyard, Massachusetts also has not written regulations for commercial activity on the beach.
- Delmar, California also has codes that do not allow any commercial activity on the beach, but that do allow professional photography.

Mayor Cronin said that he would be interested in seeing the Delmar California code, which Mr. Smith said he would provide; the Mayor stated that he would refer the matter to the Planning Commission for review.

Barbara Ann Cass, a Greenville resident and owner of a rental unit on 25th Avenue, stated she had she been given a worthless check by her tenant and that she had tried several avenues to collect with no results – until she contacted Detective Tarr with the IOP Police Department. Ms. Cass noted that "Detective Tarr was most professional and diligent in helping" to solve the problem; she credited the Detective's work for getting a cashier's check from the tenant for the full amount. Ms. Cass concluded, "Don't mess with little ole ladies or Detective Tarr!"

Bobby Simmons, manager of the Acme Cantina, stated that he had several issues to bring before City Council. He expressed the need for better signage to direct day-trippers to the City parking lots to keep them from parking in residential neighborhoods; he suggested that the businesses in the Commercial District would possibly be willing to pay for the signage if they were allowed to have their businesses identified on the signs. He asked whether signage could be placed in the City lots to inform visitors of the businesses that were open to them on Front Beach. Mr. Simmons asked for Council to consider some changes to the sign ordinances for the City; he read a list of the type of signs that are not allowed on the island, for example banners, sandwich boards, off-premise signs, inflatable signs, signs that emit sounds or an odor, etc.

Mayor Cronin agreed to forward a review of the sign ordinance to the Planning Commission.

4. Reports from Standing Committees

A. Ways and Means Committee

Mayor Cronin recapped the Treasurer's report by stating that, through ten (10) months of the fiscal year, the City was under budget in expenditures by six percent (6%) and was at eighty-one percent (81%) of budget for revenues. He noted that Treasurer Suggs was predicting a shortfall in Local Option Sales Tax revenue that would impact all property owners in the City since the City paid of the Local Option Sales Taxes back to the County to be a credit on property taxes due to the City. He emphasized that the City had presented a balanced budget that did not require an increase in taxes to island residents. The Mayor commented that the City's tourism revenues were coming in stronger than budgeted; the budget had anticipated a fifteen percent (15%) decline from FY 2009. Mayor Cronin reported that employees would have a two percent (2%) merit pool for January 1, 2011.

The one (1) item under New Business was a change order from Sanders Brothers for milling at the 41st Avenue and Palm Boulevard intersection in order to meet the requirements of the SCDOT permit that was issued after the contract was bid, therefore, not included in the bids received.

MOTION: Mayor Cronin moved to approve the Change Order from Sanders Brothers in the amount of \$2,900 for milling; Councilmember Bettelli seconded and the motion PASSED UNANIMOUSLY.

B. Public Safety Committee

Councilmember Bettelli noted that representatives from Charleston County, Crown Castle and Motorola had attended the Public Safety meeting to discuss the problems with the digital radios and solutions to those problems. The parties involved have concluded that the solution would require additions to the tower infrastructure that will include a two hundred thirty foot (230 ft) tower on the Isle of Palms; the best location for that tower is thought to be near the water tower or in the back of the County Park. This tower is in the first phase of the infrastructure enhancements, but the plan has not yet been presented to Charleston County Council for

funding, which means that the City must endure another summer of less than perfect radio communications.

The improvements to the Palm Boulevard and 41st Avenue intersection appear to have been completed with landscaping and a raised median. Of the items remaining on the punch list for the Public Safety Building, any plumbing repairs that would have to be made beneath the floor will wait until after the Disaster Preparedness Expo on Friday, June 18. The Committee has sought a legal opinion on the request from Sea Cabins for extending the lifeguard area of the County Park to the south side of the pier. As part of a discussion on the enforcement of maximum occupancy for short-term rental residences, Chief Buckhannon reported that only four (4) citations have been written in the past three (3) years for violating this section of the City Code. Councilmember Bettelli commented that people would likely see more frequent beach patrols between the hours of 6 p.m. and sundown to prevent gatherings of young people from becoming problematic. The Fire Department reported that it had assisted the Coast Guard with the Blue Angels show and that the fundraiser for the City's injured firefighter had raised seven thousand five hundred dollars (\$7,500). The Fire Inspector, a new position within the Department, conducted twenty-nine (29) inspections during the month of April and found seventy-four (74) violations. Members of the Police Department met with the Operations Manager and the Security Director of Wild Dunes to coordinate efforts for maintaining security in Wild Dunes over the summer months; regular meetings will continue to take place. During the month of April, ten (10) noise citations were issued.

Councilmember Bettelli reminded the audience that the Disaster Preparedness Expo would be from 5 to 7 p.m. on Friday, June 18 at the Public Safety Building.

C. Public Works Committee

Councilmember Duffy reported that the Hazardous Household Materials Collection had been a great success with one hundred sixty-seven (167) families participating and over eight thousand pounds (8,000) pounds of paper were shredded. The design scope of the 54th to 57th Avenue drainage project has been expanded to include 52nd and 53rd Avenues. The Public Works Department has constructed a collection box at the end of 51st Avenue, but will delay in constructing additional ones until this one can be tested for effectiveness by heavy rains. The RFP for drainage has been advertised, bids are due in June and the recommendation for contract award is expected to be made at the July Council meeting.

Mayor Cronin asked about flooding on Sparrow Drive, and Councilmember Duffy explained that the collection box and ditch on Sparrow have been thoroughly cleaned to handle the excess standing water on the street.

D. Recreation Committee

Councilmember Buckhannon related that over one hundred sixty (160) young people had attended the last Middle School Dance. The April employee "Lunch and Learn" had a big turnout, and employees were challenged to participate in a twelve-week (12 wk) fitness program. The Easter Egg was as big a success this year as in past years with more than eight hundred (800) children looking for eggs. The Piccolo Spoleto Sand Sculpting Contest will take

place at 9 a.m. on Saturday, June 5. The procedure for acquiring sponsorships for teams and events at the Recreation Center has been given to the City's attorney for legal review. The dress rehearsal for "Charlotte's Web" is taking place tonight with performances starting tomorrow, Wednesday, May 26 and running through Saturday; all performances are sold out. With summer activities getting into full swing, the Committee scheduled its next meeting for Wednesday, July 7 at 4 p.m.

E. Personnel Committee

According to Councilmember Piening, the primary item of business for this meeting was to recommend an appointment for the vacancy left of the ATAX Committee by the untimely death of Vicki Hollingsworth. The Committee's recommendation was Jimmy Carroll, and he agreed to accept the appointment if approved.

MOTION: Councilmember Piening moved to appoint Jimmy Carroll to the vacant seat on the ATAX Committee that expires on December 31, 2010; Councilmember Buckhannon seconded and the motion PASSED UNANIMOUSLY.

In conclusion, the Safety Sweepstakes Winners for April were announced as follows:

General Government – Cathy Kennedy	Fire Department – Johnny Hall
Public Works – Bernard Gourdine	Police Department – Jessica Newman-Nelson

F. Real Property Committee

Councilmember Loftus announced that the marina and Morgan Creek Grill are in discussion about the possibility of sponsoring a fishing tournament on Saturday, October 16. Both the marina and the restaurant reported that business had picked up and was good; Morgan Creek Grill has installed new carpet in the main dining room and set-up tables outside where drinks will be served while customers are waiting for tables in the dining room. Related to the Beach Restoration project, tilling has been completed making it easier for the turtles to nest. The City is waiting for all of the stakeholders to return the executed agreements for action to be taken for the erosion on the north end of the island. Discussions are continuing related to dredging; residents of the 26th Avenue canal have expressed interest in participating with the City, Dewees Island and the Morgan Creek Harbor Association for the project. The marina management has leased space to GEM of Charleston to rent low-speed vehicles for use on the island; Councilmember Loftus explained that these vehicles are not allowed on Palm Boulevard from Breach Inlet to 41st Avenue.

5. Reports from City Officers, Boards and Commissions

- A. Board of Zoning Appeals** – no meeting in May
- B. Planning Commission** – minutes attached

6. Reports from Special or Joint Committees – None

7. Petitions Received, Referred or Disposed of

Disposition of Citizens' Petitions Received April 27, 2010

Mayor Cronin noted that additional petitions like those received in March were turned in at the April Council meeting with the same requests which were dealt with at the April meeting.

8. Bills Already in Possession of Council

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 Constructed, Altered or Reconstructed After the Adoption of this Ordinance.

Mayor Cronin noted that Attorney Halversen has provided Council with an amended version of the ordinance (the blue-lined version) that stipulates the intent of the changes made at the last Council meeting.

MOTION: Councilmember Duffy moved to approve the language of the amendment as presented in Ordinance 2010-08; Councilmember Loftus seconded.

Councilmember Bettelli stated that he thought the second "Whereas . . ." clause stated that the City did not value visitors to the island and would tend to drive people away.

MOTION: Councilmember Bettelli moved to amend the amendment on the floor by eliminating the second "Whereas . . ." clause; Councilmember Stone seconded.

Councilmember Duffy noted that the paragraph clearly references high-density use of residential property that is at issue, i.e. "lots of people in places that are designed for single family residential areas." He added that he does not see the City's zoning code as marketing tools for vacationers, but as vital to the understanding of people's property rights.

Councilmember Bettelli countered that the paragraph has nothing to do with enforcement, but was "simply verbiage."

Vote on the Amendment: The motion was defeated by a vote of 3 to 6; the "aye" votes were cast by Councilmembers Bettelli, Buckhannon and Stone.

Vote on Original Motion: The Amendment passed on a vote of 6 to 3 with the dissenting votes cast by Councilmembers Bettelli, Buckhannon and Stone.

Attorney Halversen advised Council that any further amendments should be considered before proceeding to Second Reading of Ordinance 2010-08.

MOTION: Councilmember Bergwerf moved to approve the amendments to Ordinance 2010-08 recommended by the Planning Commission; Councilmember Duffy seconded.

Councilmember Bettelli asked that Building Director Kerr review the Planning Commission's recommendations.

Director Kerr explained that the ordinance just amended establishes a cap of twelve (12) persons as the maximum overnight occupancy for any structure built after the ratification of the ordinance. He continued by saying that any existing structure, regardless of whether it has a license currently, would be allowed to get a rental license in the future under the formulas currently in place in the City's Code. The amendment proposed by the Planning Commission stipulates that the pool of properties currently built, but that do not have a rental license on the date of ratification, would not get the benefit of the formula that allows one (1) person per two hundred fifty (250) square feet of gross heated space in the residence. Complexities in the ordinance exist with the area of the ordinance related to alterations to an existing structure because the structures had to be classified as to whether they did or did not have a rental license at the time of alteration.

When questioned by the Mayor, Director Kerr admitted that the changes proposed by the Planning Commission would add a significant degree of administrative challenge; he stated that, in the future when called about an addition to a residence, he would need to research the construction date of the house as well as the rental status of the house on the date this ordinance was ratified.

An example put forth by the Mayor was a four thousand (4,000) square foot house with four bedrooms could today be licensed for a maximum overnight occupancy of sixteen (16) persons using the one (1) person per two hundred fifty (250) square feet formula. If that house were to be built next year, it could only be licensed for a maximum overnight occupancy of ten (10) persons; if another bedroom were added, it could reach the maximum allowed overnight occupancy of twelve (12) persons.

Councilmember Loftus recalled that the original short-term rental ordinance presented to City Council for approval did not include the provision of two (2) persons per two hundred fifty square feet (250 sq ft); this formula was put into the ordinance by City Council.

Director Kerr stated that one reason that this condition was added was to prevent an owner from partitioning off a large room to make more bedrooms in the residence; this partitioning was considered to less desirable and less safe.

**Vote on draft of Ordinance 2010-08 as amended by the Planning Commission:
The vote was 6 to 3 with Councilmembers Bettelli, Buckhannon and Stone voting
in opposition to the amendment.**

Based on the vote, the ordinance will be returned to the Planning Commission to ensure that the legal language is indicative of the intent of their actions, and a Public Hearing and Second Reading will take place prior to the June City Council meeting.

9. Introduction of New Bills, Resolutions and Proclamations

- A. First Reading, by Title Only, of Ordinance 2010-09 – An Ordinance to Raise Revenue and Adopt a Budget for the City of Isle of Palms, South Carolina, for the Fiscal Year Beginning July 1, 2010 and Ending June 30, 2011.**

MOTION: Mayor Cronin moved to approve First Reading, by title only, for Ordinance 2010-09; Councilmember Duffy seconded and the motion PASSED UNANIMOUSLY.

- B. First Reading, by Title Only, of Ordinance 2010-10 – An Ordinance Amending Title 6, Health and Sanitation, Chapter 4, Smoking in the Workplace, Section 6-4-7, Jurisdiction, Enforcement and Penalties of the City of Isle of Palms Code of Ordinances to Provide for Minimum and Maximum Civil Fines in Accordance with State Law and to Declare Violation as a Public Nuisance.**

Mayor Cronin related that this amendment was primarily a housekeeping matter to bring the City's fines in line with State Law.

MOTION: Councilmember Bettelli moved to approve First Reading, by title only of Ordinance 2010-10; Councilmember Bergwerf seconded.

Before a final vote was taken, Councilmember Buckhannon asked Attorney Halversen to explain the addition of paragraph (h); the City Attorney explained that this paragraph was a recommendation she was making as a result of her review of case law that does approve of establishing this infraction as a public nuisance. She noted that many municipalities are inserting this clause into their non-smoking ordinances, but it was not a requirement.

Councilmember Buckhannon read the statement from paragraph (h) that states " . . . and the City may take action to recover the costs of the nuisance abatement', " and asked for clarification. Attorney Halversen stated that such costs would be the legal costs to obtain a restraining order or permanent or temporary injunction and that it would affect commercial businesses, like restaurants.

The Attorney agreed with Mayor Cronin that, under the present Code, the violation would be a civil violation; the change seen in this amendment was that the City cannot go above and beyond fines stated in the state law, i.e. not less than ten dollars (\$10) and not more than twenty-five dollars (\$25).

VOTE: Ordinance 2010-10 passed First Reading on a vote of 8 to 1; Councilmember Buckhannon voted against passage of the amendment.

10. Miscellaneous Business

Mayor Cronin again reminded those gathered that the Disaster Preparedness Expo would be held from 5 to 7 p.m. on Friday, June 18 at the Public Safety Building. He added that he could not encourage island residents too much to prepare for disasters.

Twice a week garbage pickup will begin of June 7, 2010.

Councilmember Bergwerf announced that turtle-nesting season has begun so "lights out" on the beach; members of the Turtle Team have been distributing bumper stickers and brochures to the rental companies who assist by keeping visitors to the island informed.

11. Executive Session – Not required.

12. Adjourn/Conclusion

MOTION: Councilmember Loftus moved to adjourn the meeting at 8:15 p.m.; Councilmember Bettelli seconded and the motion PASSED UNANIMOUSLY.

Respectfully submitted:

Marie Copeland
City Clerk