

## **SPECIAL MEETING OF CITY COUNCIL**

5:30 p.m., Monday, February 8, 2010

A Special Meeting of City Council was held at 5:30 p.m., Monday, February 8, 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, Planning and Building Director Kerr, Planning Commission Chair Denton, 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.
2. **Second Reading of Ordinance 2010-03 – An Ordinance Granting Consent to Application for Franchise for Cable Service and Setting Franchise Fee.**

At Mayor Cronin's request, Administrator Tucker informed the audience that Council's action tonight was in response to a change in state law regarding cable franchise agreements. In the past, individual municipalities have negotiated franchise agreements with cable providers; under the new law, the state negotiates the agreement and the local municipalities set the franchise fee up to a maximum of five percent (5%). The franchise fee represents the rent the municipality charges the cable provider for the use of the City's rights-of-way; at a previous meeting, Council had first reading on an amended ordinance granting consent to the state to negotiate cable franchise agreements and leaving the franchise fee for the Isle of Palms at three percent (3%).

**MOTION: Councilmember Loftus moved to waive the reading and to approve Second Reading of Ordinance 2010-03 – An Ordinance Granting Consent to Application for Franchise for Cable Service and Setting Franchise Fee; Councilmember Duffy seconded and the motion PASSED on a vote of 7 to 2 with Councilmember Piening and Mayor Cronin cast the dissenting votes.**

3. **Consideration of Planning Committee Recommendations for new Zoning Districts and Associated Requirements for Each**

Mayor Cronin invited Building Director Kerr to the podium to present the Planning Committee recommendations.

Director Kerr stated that tonight's presentation was a conceptual plan developed by the Planning Commission after several years' consideration of issues referred to it by the City Council. Should the Council decide there is merit in the concept, before implementation, there would be a considerable amount of Administrative time in legal drafting, the creation of new maps, advertising and postings, public hearings and several readings before City Council.

The Director explained that the Planning Commission has spent considerable time discussing the issues of maximum house size, requirements for floor-to-area minimums, rental occupancy and, specifically, from a joint Council – Planning Commission workshop held in the fall, establishing new occupancy limits of twelve (12) persons for new rental units. He noted that the Commission has consistently been unable to find a "one size fits all" solution to the entire island.

Director Kerr noted that, outside of Wild Dunes, the existing zoning code is structured so that the zoning criteria are identical, with only small differences, like setbacks; the primary differences are the minimum lot size to create new lots, which occurs most infrequently. In all zoning districts on the island the floor-to-area ratio, occupancy limits and lot coverage limits are identical; it was these similar criteria that the planning Commission saw as obstacles when looking at the lots on Forest Trail versus the lots on Ocean Boulevard.

The Planning Commission did not concur with the Council's proposal that occupancy for all rental units be limited to twelve (12) persons and, instead, has developed a zoning strategy intended to mirror the way the island has "naturally developed." In general the first row, or oceanfront, consists of large lots with large houses and has a high percentage of rental units. The second and third rows are among the smallest lots on the island and have been under a lot of pressure for development in the past ten (10) years. The lots that are one thousand feet or more (1,000+ ft.) from the ocean, generally, are larger, have smaller homes and have a higher percentage of fulltime residents. The proposed scheme follows this pattern and establishes it into requirements that will maintain the pattern into the future.

Director Kerr noted that two (2) residential zoning districts are presently on the island, SR1 and SR2; SR1 is, by and large, the oceanfront and waterway while SR2 is the smaller lots in the middle of the island.

The Planning Commission's proposal has three (3) districts defined as follows:

1. Ocean District – Oceanfront properties and Waterway Island;
2. 2<sup>nd</sup> Row District – Properties that are less than one thousand feet (1,000 ft) from the ocean, but not oceanfront; and
3. Waterway District – all other properties.

Specific recommendations for each district include the following;

1. Ocean District – Maximum house size – 7,000 sq. ft.  
Floor-to-area ratio – 40%  
Lot coverage – 40%  
Maximum occupancy – 2/bedroom + 2, or 1/250 sq. ft.; 24 max  
(currently there is no maximum occupancy)
2. 2<sup>nd</sup> Row District – Maximum house size – 5,000 sq. ft.  
Floor-to-area ratio – 40%  
Lot coverage – 40%  
Maximum occupancy – 2/bedroom + 2 or 1/250 sq. ft.; 16 max
3. Waterway District – Maximum house size – 5,000 sq. ft.  
Floor-to-area ratio – 35%  
Lot coverage – 30%  
Maximum occupancy – 2/bedroom, 1/250 sq. ft.; or 12 max

The changes are primarily in the proposed Waterway District because the majority of fulltime residents live in this area of the island, and the Planning Commission thought that, with the larger lots, the area was open to large development the way the ordinance now reads, therefore, in need of limits.

Director Kerr concluded his prepared comments stating that he and the City Administrator had agreed that the Planning Commission needed input and feedback from City Council prior to investing time and money into legal drafts and new maps, hence, this meeting.

In response to comments from Mayor Cronin, Director Kerr stated that there would also be three (3) ordinances presented to Council at the February meeting related to the workshop in the fall; the ordinances concern rooftop decks, maximum occupancy and lot vegetation.

Mayor Cronin thanked the Planning Commission for the time and thought that had gone into the zoning proposal presented tonight and opened the floor to questions from Councilmembers.

Responding to Councilmember Bettelli's query, Ron Denton, Chair of the Planning Commission, stated that Waterway Island was included in the Ocean District because of the size lots and not because it was considered to be a large rental area. He indicated that to put Waterway Island into one of the other districts would immediately put the homes into non-compliance.

**MOTION: Councilmember Duffy moved to reject the proposed zoning scheme; Councilmember Loftus seconded.**

Councilmember Thomas expressed his opinion that the proposal should be rejected because he had understood from attending a previous meeting that Council requested the Planning Commission to develop a vision of the island as a family-oriented, residential community and that allowing twenty-four (24) persons in a house went against that vision.

Councilmember Duffy read into the minutes the Vision Statement from the City's Comprehensive Plan as follows:

*Isle of Palms has developed into a premier barrier island residential community with a variety of housing styles, commercial uses and recreational facilities. Despite the extensive development of the island, the natural resources that make Isle of Palms such a wonderful place to live and visit remain intact and in good condition. Measures that will enhance the existing character of the island as a quality place to live, and protect the environment both on and around the island, must be taken to guide development and preserve the quality of life for generations to come.*

He continued his comments stating that, in his opinion, the Planning Commission's proposal did not build a residential island and that the argument that the proposed scheme followed the pattern of natural development was baseless. Councilmember Duffy stated that he wanted to know more about the data analyzed by the Planning Commission for it to decide to eliminate the SR1 zoning district. As Chair of the Public Works Committee, he referred to the drainage problems on the island and the fact that drainage was impacted by development as was the entire infrastructure of the island, but the impact on the infrastructure has not been discussed.

Councilmember Bergwerf stated that she lived in an area with a depth of six (6) homes that, according to the proposed zoning scheme, would fall into of three (3) zoning districts; in her opinion, the scheme was too complicated and would not control growth.

Councilmember Loftus asked for the Director to detail the re-zoning process and the expense to the City to accomplish it. Director Kerr stated that he estimated the cost to be approximately one thousand dollars (\$1,000) before legal expenses; signage could be handled in one of two ways – three (3) very large signs on major thoroughfares alerting the public to the changes at a cost of two hundred fifty dollars (\$250.00) each or sixty to seventy (60-70) little signs, costing six dollars each (\$6.00/ea) that would delineate each time someone goes from one district into another. In addition to the signs, there would be advertising expense of approximately four hundred dollars (\$400.00) and the legal expense to draft the ordinances; new maps would be generated by the Council of Governments (COG) at no cost to the City.

Mayor Cronin voiced concern that there would be unintended consequences created in the 2<sup>nd</sup> Row District that would contain lots that are now both in the SR1 and SR2 zoning districts based on minimum lot size. He also thought it would be extremely controversial to begin re-zoning the core of the island and that the same basic results could be attained through other means.

Councilmember Piening thanked the Planning Commission for the work they had put into this re-zoning proposal, but stated that he could not support it because he did not think it supported his view of the Isle of Palms as a residential community. He reflected on the fact that the people who had elected him wanted their personal property rights protected and would not think that was happening if a structure advertising an occupancy of sixteen (16), but housing twenty (20), were built next door.

Councilmember Bettelli echoed his thanks to the Planning Commission, but expressed his dislike for these wholesale changes. He voiced agreement with the Mayor that the desired results could be reached in another manner. In addition, Councilmember Bettelli noted that very few septic tank permits were being issued as a result of changes in testing; therefore, he thought the capacity of the City's sewage system should be considered.

After thanking the Planning Commission for their efforts, Councilmember Loftus reflected on the fact that his first foray into City government had been on the Planning Commission when there were twelve hundred ten (1,210) rental units on the island and today there are seventeen hundred nine (1,709) rental licenses. He referenced the Comprehensive Plan as it discusses rental units that fit into neighborhoods; he voiced the opinion that this proposal violated the Comprehensive Plan in terms of neighborhood capacity. He stated that he was an advocate of growing residents not rentals.

Councilmember Buckhannon remarked that this was not the first time that the Planning Commission had come before the City Council with a proposal only to be "shot down;" he opined that there needed to be more collaboration between the City Council and the Planning Commission.

**Call for the Question:            The motion PASSED UNANIMOUSLY.**

Councilmember Bergwerf commented that the message had clearly been sent to the Planning Commission about what the island's residents want and there was no need for more meetings.

**MOTION: Councilmember Bergwerf moved to limit all new rental licenses issued by the Isle of Palms to a maximum occupancy of ten (10) persons; to “grandfather in” the occupancy limits of all existing rental licenses as long as the license is kept current, but, if the license lapses, the new occupancy regulations would apply; and, to apply for a rental license, the applicant must have a Certificate of Occupancy at the time of the application; Councilmember Loftus seconded.**

Councilmember Bettelli called a point of order that this item was not on the agenda; therefore, a vote could not be taken.

Councilmember Duffy countered that, since the new zoning scheme had addressed changing occupancy maximums, the motion did fall within the parameters of the agenda. Mayor Cronin asked if Councilmember Duffy were implying that this motion fell within the Planning Commission’s recommendations as stated on the agenda.

Responding to the Mayor’s request for counsel, Attorney Halversen stated that there would be no problem with discussing the issues, but a motion on such a detail should be on an agenda for a future meeting.

Mayor Cronin stated that Councilmember Bergwerf’s motion would be worded for inclusion in the February Council meeting.

**4. Adjourn**

**MOTION: Councilmember Buckhannon moved to adjourn the meeting at 6:55 p.m.; Councilmember Bettelli seconded and the motion PASSED UNANIMOUSLY.**

Respectfully submitted;

Marie B. Copeland  
City Clerk