

**City of Isle of Palms
Public Hearing**

6:30 p.m., Tuesday, March 23, 2010

City Council of the City of Isle of Palms held a Public Hearing at 6:30 p.m., Tuesday, March 23, 2010 in Council Chambers of City Hall, 1207 Palm Boulevard, Isle of Palms, South Carolina. Attending the hearing were Councilmembers Bergwerf, Bettelli, Buckhannon, Duffy, Loftus, Piening, Stone and Thomas, Mayor Cronin, City Administrator Tucker, Building and Planning Director Kerr, Assistant to the Administrator Dziuban and City Clerk Copeland.

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. The Mayor stated that the Public Hearing was being held on three ordinances that would be up for Second Reading at the City Council meeting to be held at 7 p.m.; the ordinances are as follows:

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.”

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.

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.

Director Kerr was asked to summarize the ordinances before citizens’ comments began. He initiated his comments by clarifying misconceptions between Ordinance 2010-06 and Ordinance 2010-08; he explained that Ordinance 2010-06 relates only to maximum daytime occupancy while Ordinance 2010-08 addresses nighttime occupancy.

According to Director Kerr, Ordinance 2010-01 amends the home occupation ordinance; in order to have a home occupation, one must appear before the Board of Zoning Appeals and be granted a Special Exception, for which nine (9) criteria must be met. Among the nine (9) criteria are issues such as the amount of space to be used in the house, if signs associated with the business will be visible, whether additional traffic will be created by the business, etc., as well as a provision that allows only one (1) home occupation per house. This proposed amendment deletes that prohibition entirely so that there can be multiple home occupations in a house as long as the remaining eight (8) criteria are met. In addition, the name by which the ordinance is known changes from “home occupation” to “home business occupation.”

Ordinance 2010-04 deals with rooftop decks, and it was developed as a result of the joint meeting between the Planning Commission and the City Council in September 2009. The impression was that these decks on top of a house could be as high as forty feet (40 ft) in the air

and could be large spaces for congregations of crowds that could potentially generate noise issues for the neighborhoods and safety issues. Aesthetics were also considered. This ordinance limits the size of rooftop decks to ten percent (10%) of the heated footprint of the structure. Director Kerr pointed out that, as currently drafted, this ordinance applies to all structures in all zoning districts, but it was the intention of the Planning Commission to only apply to houses in the SR1, SR2 and GC3 zoning districts; therefore he suggested that an amendment be made before ratification to specify those zoning districts.

At First Reading, Councilmember Buckhannon had asked about non-conforming rooftop decks; Director Kerr stated that he had researched the non-conforming statutes and had learned that, if the structure was destroyed by an unintentional act, such as a hurricane or earthquake, that structure could be rebuilt to previous specifications.

Finally, Ordinance 2010-06 addresses the maximum occupancy at any time in a short-term rental unit. The current ordinance determines the maximum nighttime occupancy based on a formula related to size and number of bedrooms, but there is a static maximum of forty (40) persons during the daytime time no matter what the size of the unit. This ordinance proposes a change to the maximum occupancy at any time to two and one half (2½) times the nighttime occupancy; therefore, maximum daytime occupancy hinges on the size of the rental unit.

Bill Casey, 811 Palm Boulevard, stated that he understands the impetus behind the home business occupation ordinance because people are fleeing the business districts in an effort to save money by moving their businesses into their homes. On the subject of Ordinance 2010-04, he related a discussion with an island resident, who has lived on the island since before Hurricane Hugo and was planning to build a new home with a rooftop deck that he planned to cover with several feet of soil to have the garden of his dreams – “he is very disgruntled with your plans.” Mr. Casey continued to Ordinance 2010-06 and stated that he thought people were still granted “the right of assembly in this country” according to the U.S. Constitution and that there is no limit on the number that may assemble. He asked, “What do you think it will be like on this island if you pass this onerous ordinance?” He noted that “the Police have a difficult job – they are to enforce the law, yet, preserve and respect the rights of our citizens.”

Juanita Casey, 811 Palm Boulevard, expressed her opposition to Ordinance 2010-06. She stated that she and her husband own a cottage at 815 Palm Boulevard that is thirteen hundred eighty square feet (1,380 sq ft), sits on a half (½) acre lot and has a maximum daytime occupancy of fifteen (15) under this new ordinance. She related that a lady from Mount Pleasant rents the home twice a year when her extended family gathers to celebrate birthdays and anniversaries; there are frequently twenty to thirty (20 to 30) people in this yard that has ample parking and no neighbors to bother. If this ordinance passes, she stated that she will be forced to tell them they cannot come, or, if they come, they will be breaking the law. She also reported of a one hundred two (102) year-old man whose family members rent homes all over the island and use the 815 Palm Boulevard cottage as a central gathering place for the gentleman’s birthday party. She asked if she was to tell him “the Isle of Palms will no longer legally allow him to celebrate his birthday here?” She indicated that there are many families that act in this manner and wanted to know if the Council really wanted to send the message that they were no longer welcomed to gather here and that the island has become mean and

unwelcoming. Mrs. Casey voiced the opinion that there are ordinances for noise and parking that, when properly enforced and administered, would address any problems the City has.

Debbie Jones, 813 Ocean Boulevard, expressed her opposition to Ordinance 2010-04 because she was concerned that porches would be next and her opinion that enforcement of the noise ordinance should be sufficient. As for Ordinance 2010-06, she related that a neighbor had suggested that the City was trying to control noise issues by limiting the number of persons in a rental unit, which do not necessarily go hand in hand.

Nadine Dief, 31 Twenty-first Avenue, stated that she supported the limiting of rooftop decks. She stated that she has a rooftop deck on her home and that she was uncomfortable using it because she ended up looking into the private lives of her neighbors.

Jack Hurley, 25 Twenty-second Avenue, stated that he has been a resident of the island since 1991. He indicated that his home was on a double lot, and, at some point, he plans to build two (2) houses. He reported that he has been collecting architectural design books because he wants the third floor to be an open bedroom and to have the remaining half of the third floor to be an open area. He thinks that Council is having a knee jerk reaction to the rooftop decks that is going to limit him architecturally because some people complain about noise that could emanate from a rooftop deck. He asked that Council not hamper his ability to be creative.

He expressed agreement with Mr. Casey on Ordinance 2010-06 that islanders do have the right to assemble.

In conclusion, he stated that he had voted for all of the Councilmembers because he thought them to be thoughtful and educated, not for a mandate for something else.

Jay Claypoole, 515 Meeting Street, stated that he was representing the Wild Dunes resort in opposition to Ordinance 2010-06. He stated that Wild Dunes has been a family resort and member of the Isle of Palms community for over thirty (30) years, and that it has been in the short-term rental business the entire time. He stated, "the entire nature of a resort is built around people coming together for a limited period of time to celebrate good times and to congregate; this ordinance is not compatible with the entire nature of the resort operation business."

Tim Oltorik, 15 Ocean Park Court, stated, simply, that he supports Ordinance 2010-06.

Lisa Alger, 1 Twelfth Avenue, stated that she grew up on the island, but had been shocked when she viewed the February Council meeting. She saw that ordinances had been proposed that were not supported by facts or statistics, and she interpreted that to mean that ordinances were proposed based more on certain Councilmembers' opinions and less on the concerns of residents they had been elected to represent. She remarked that the majority of Isle of Palms' residents are people who vacationed here, fell in love with the island and, subsequently relocated. She addressed Council stating that she did not know how many were actually from the island, but they had been welcomed and, therefore, had no right to make others feel unwelcomed.

Robert Bigerstaf, 4006 Palm Boulevard, became a resident of the island in 1993. He commented that, if the City Council “squeezed” the rental owners tight enough, they would find ways around the ordinances and the City would lose revenues it now receives from short-term rentals. He suggested that Council work with parties that do not have a vested interest in the situation to arrive at a compromise between the rental property owners and the full-time residents. He stated that he had hoped to construct a rooftop deck to have a rooftop garden, but he could not do that assuming this ordinance passes. He recommended that one way to solve the safety and privacy issues with rooftop decks was to require that the decks be ten feet (10 ft) from the edge of the roof.

3. There being no further comments from the public, Mayor Cronin adjourned the Public Hearing at 6:58 p.m.

Respectfully submitted:

Marie Copeland
City Clerk