

## CITY COUNCIL

7:00 p.m., Tuesday, January 25, 2011

The regular meeting of the Isle of Palms City Council was held at 7:00 p.m. on Tuesday, January 25, 2011 in Council Chambers of City Hall located at 1207 Palm Boulevard, Isle of Palms, South Carolina. Attending the meeting were Councilmembers Bergwerf, Bettelli, Buckhannon, Duffy, Loftus, Stone and Thomas, Mayor Cronin, City Administrator Tucker, Assistant to the Administrator Dziuban, City Attorney Halversen and City Clerk Copeland; Councilmember Piening's absence was excused. 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 a brief invocation followed by the Pledge of Allegiance.

### 2. Approval of Previous Meetings' Minutes

**MOTION:** Councilmember Bettelli moved to approve the minutes of the regular meeting of November 16, 2010, the Special Meeting of December 7, 2010, the Special Meeting of January 4, 2011 and the Special Meeting of January 18, 2011 as submitted; Councilmember Duffy seconded and the motion **PASSED UNANIMOUSLY**.

### 3. CONSIDERATION OF MAYOR PRO TEM

Councilmember Bergwerf nominated Councilmember Loftus to serve as Mayor Pro Tem for 2011; Councilmember Duffy seconded the nomination, and no other nominations were made. The vote was unanimous in support of Councilmember Loftus.

4. **Citizens' Comments** – None

### 5. Reports from Standing Committees

#### A. Ways and Means Committee

Mayor Cronin announced that he had been re-elected Chair, and Councilmember Duffy was elected Vice-Chair.

Through the first six (6) months of the fiscal year, the City's expenditures were at forty-three percent (43%) of budget, or seven percent (7%) lower than the target of fifty percent (50%); Mayor Cronin commended the City Administrator and Department Managers for their efforts in keeping expenditures to a minimum. Through December 31, 2010, tourism revenues generated from Municipal Accommodations fees are running nineteen percent (19%) higher than the same period in FY10, and Hospitality Taxes are running twelve percent (12%) higher than the same period in FY10. The City has not received the second quarter payment from the state for State Accommodations Taxes or a disbursement for funds referred to as the Charleston County Pass-through. During the last two (2) months of 2010, the City had no major expenditures related to the Beach Restoration, 52<sup>nd</sup> to 57<sup>th</sup> Avenue Drainage or City Hall Renovation Projects.

Related to the City Hall renovations, three (3) change orders were presented to the Committee and unanimously approved.

**MOTION: Mayor Cronin moved to approve Change Order #2 to Wilson & Associates Developers in the amount of \$3,240 to reconstitute the wiring to 12 hurricane shutters and adding 5 days to construction; Councilmember Duffy seconded.**

Mayor Cronin explained that this change order was the result of an oversight in documentation – the indication was made to remove the wiring, but no corresponding entry was made to replace it.

**VOTE: The motion PASSED UNANIMOUSLY.**

**MOTION: Mayor Cronin moved to approve Change Order #4 to Wilson & Associates Developers in the amount of \$2,228 to install the pass-through window in the offices of General Government and adding 3 days to construction; Councilmember Bergwerf seconded.**

Mayor Cronin stated that the window that had been in the Dispatcher area on the first floor of City Hall had been carefully removed to be re-installed as a pass-through window on the second floor to provide better security for personnel and to block the flow of heated or cooled air from the offices.

**VOTE: The motion PASSED UNANIMOUSLY.**

**MOTION: Mayor Cronin moved to approve Change Order #5 to Wilson & Associates Developers in the amount of \$1,258 to relocate the window in the Mayor's office and adding 5 days to construction; Councilmember Bettelli seconded; the motion PASSED UNANIMOUSLY.**

Mayor Cronin reported that the South Carolina Local Government Assurance Group (SCLGAG), the provider of health insurance benefits to the City's employees, would be dissolving as of June 30, 2011 causing the City to seek a new carrier creating the need for the City to seek a new provider. As a result of investigations into the selection of other local governments that have left or will be leaving SCLGAG and into a plan with comparable benefits, the staff has recommended that the City transition to the State Health Plan effective July 1, 2011. Mayor Cronin stated that the estimated premiums will provide a savings to both the City and employees while providing similar benefits.

**MOTION: Mayor Cronin moved to authorize City staff to proceed with the application process to enroll the City in the State Health Plan effective July 1, 2011; Councilmember Duffy seconded.**

Councilmember Stone was concerned about coverage for an employee who might have an illness or accident as the SCLGAG program is phasing out. Administrator Tucker explained that SCLGAG had, what is termed, run-out-of-claims liability coverage, whereby reserve funds would

be used to payout all claims incurred prior to the June 30, 2011 end date. Mayor Cronin added that, after one (1) year, any funds remaining in the reserve would be distributed to the plan participants on a pro-rata basis.

**VOTE: The motion PASSED UNANIMOUSLY.**

The next meeting of the Ways and Means Committee will be at 5:45 p.m., Tuesday, February 15, 2011.

**B. Public Safety Committee**

Councilmember Bettelli reported that he had been re-elected to serve as Chair of the Committee, and Councilmember Loftus was elected Vice-Chair.

Reviewing the business of the Committee, Councilmember Bettelli related that, following a discussion about the East Cooper Triathlon, the Committee voted unanimously to withdraw the City's support for the event. In the update on the Public Safety Building, the Chair reported that the smoke detectors in the elevator shaft were found to be defective and replaced, and plumbing issues related to construction have been repaired. A meeting of staff and contractors was held on January 12 addressing the HVAC issues on the Fire Department side; the construction problems and setting issues appear to be resolved, but the final test of the system will be delayed until the heat of the summer months. The Committee discussed amendments to the City's alarm ordinance related to false alarms and to the short-term rental license application related to a requirement for smoke detectors in all sleeping areas and at ingress/egress points; the Chiefs will make specific recommendations for changes at the February meeting. Chief Graham reported that Charleston County's EMS ambulance fleet has returned to the appropriate number, and she is confident that response times will improve accordingly, but the City will begin keeping records of response times. Should the City's EMS team experience a delay from Charleston County, the City can request assistance from a paramedic from Mount Pleasant.

In the month of December, the Fire Department responded to fifty-one (51) calls; twenty-three (23) of the calls were for EMS. Fourteen (14) fire inspections were performed in the month that found five (5) code violations.

City telecommunicators processed thirty-six hundred thirty-seven (3,637) total calls, and twenty-two hundred thirty-seven (2,237) were for the Police Department. On December 10, two (2) candidates from the Isle of Palms graduated from the Criminal Justice Academy; they are now involved in field training. A third officer, certified in another state, has completed his last week at the Academy; the three (3) officers should be on patrol by March 1. Patrol officers made two hundred thirty-eight (238) traffic stops in the month and issued sixty-two (62) tickets.

Administrator Tucker commended the Fire Department for their efforts at the fire at 622 Ocean Boulevard and thanked the assisting department from Sullivan's Island, Mount Pleasant, North Charleston, Awendaw and Charleston County.

The next meet of the Public Safety Committee will be at 5:30 p.m., Tuesday, February 8, 2011.

Councilmember Bettelli asked Mayor Cronin to continue with the discussion of the Special Meeting of January 18, 2011 when Charleston County staff and representatives from Crown Castle and Motorola made a presentation to Council about the digital radio system and the need for a tower on the island. Mayor Cronin stated that the presentation had been more detailed than anything the County had offered previously, which he interpreted as meaning that the County was listening to the City's issues and concerns. Mayor Cronin explained that the decision before Council at this time is whether to authorize staff to proceed with an amendment to the City's zoning ordinances to allow for a two hundred foot (200 ft.) tower for public safety purposes at the 41<sup>st</sup> Avenue tower site. The Mayor assured Council that the City was in possession of templates for an amendment with this very specific application.

**MOTION: Councilmember Stone moved to authorize City staff to proceed with an amendment to the zoning ordinances to allow for a tower height of two hundred feet at the 41<sup>st</sup> Avenue site for the purposes of public safety; Councilmember Bettelli seconded.**

Councilmember Loftus asked Administrator Tucker whether the City had received the independent consultant's report from Charleston County that has been requested on multiple occasions. The Administrator responded that the City has not received the report; she also recounted that Walt Smalls, Assistant Administrator for General Services for Charleston County, had stated that the City would be sent specific sections of the report. Councilmember Loftus expressed his opinion that the City needed all of the relevant information in order to make the best decision.

Councilmember Duffy expressed satisfaction with the information Charleston County provided in their presentation.

**VOTE: The motion PASSED UNANIMOUSLY.**

The next meeting of the Public Safety Committee will be at 5:30 p.m., Tuesday, February 9, 2011 in the Public Safety Building.

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

The Public Works Committee unanimously re-elected Councilmember Duffy as Chair and Councilmember Thomas as Vice-Chair of the Committee for 2011.

Councilmember Duffy stated that Director Pitts and the Public Works' personnel continue to do an excellent job at keeping the island clean. Through the end of 2010, garbage continued to trend down from previous years. Charleston County is proceeding with drainage improvements to Lauden Boulevard and is in the planning stages for drainage improvements to Sparrow Drive. Councilmember Duffy announced that the City has received the executed easement documents from Wild Dunes; therefore, the bid will be advertised in the newspaper over the coming weekend. A mandatory pre-bid conference has been scheduled for 10 a.m. on Friday, February 4<sup>th</sup> with the bid opening scheduled for Tuesday, February 15, anticipating a contract award at the City Council meeting in February. The Committee discussed the pending decision from Charleston County that will disallow plastic bags containing yard debris at Bees Ferry and how the City will address the change with its staff and island residents; therefore, the City staff was

charged with preparing an amendment to the City ordinance to ban the use of plastic bags for yard debris.

Responding to Mayor Cronin's question about the options open to residents, Director Pitts stated that residents could purchase biodegradable paper bags at retail outlets and that the City's existing ordinance allows for public works personnel to empty open plastic containers of yard debris into the trucks. The Mayor asked whether consideration had been given to the City's providing plastic yard debris containers to residents, and the Director said the City would not be providing containers for this use.

The next Public Works Committee will be at 4 p.m. on Wednesday, February 2, 2011 in the Public Works Offices.

#### **D. Recreation Committee**

The first order of business was the election of Chair and Vice-Chair; Councilmember Bergwerf was unanimously elected Committee Chair, and Councilmember Duffy was unanimously elected Vice-Chair. Councilmember Bergwerf reported that the Department's December production of "Miracle on 34th Street" had been a huge success; all of the seats for every performance were sold out well in advance of opening night. The same success is anticipated for the next production, "Peter Pan," in the spring; auditions will begin on March 22. The newest activities, Hoops and Hoops Basics, put to use the classic hula hoop and have attracted a large number of participants. Two hundred (200) young people attended the last Middle School Dance of 2010. Among the upcoming events are the LowCountry Blues Bash on Saturday, February 5 and Saturday, February 6, and Doggie Day at the Rec on Saturday, February 26. The Recreation Committee also discussed the City's continued participation in the East Cooper Triathlon; the Committee voted unanimously to with-draw the City's participation in the triathlon.

The next meeting of the Recreation Committee will be at 4 p.m. on Tuesday, February 1, 2011 at the Recreation Center.

Councilmember Bettelli took the opportunity to thank Jimmy Ward for his work with the Recreation Department in directing the very successful productions that have been held this past year and for which he receives no pay.

#### **E. Personnel Committee**

In Councilmember Piening's absence, Councilmember Bettelli gave the Committee's report. Since all of the members of the Committee had been unable to attend the January meeting, the election of Chair and Vice-Chair was postponed until the February meeting. Members of the Committee were reminded that the time has arrived to evaluate the City Administrator and that this year's evaluation uses the format established last year. In an effort to attract more volunteers for the ad hoc committee to study water quality, Councilmember Piening suggested that information be posted to the website and for the Committee to discuss the committee formation at the February meeting. Proper recognition of persons who have volunteered their services for extended numbers of year was also discussed.

December Safety Sweepstakes winners were announced as follows:

Recreation Department – Ben Hull                      Fire Department – Richard Hathaway  
Public Works Department – Charles Williams        Police Department – Jimmy Ryan

The next Personnel Committee meeting will be at 5:45 p.m. on Tuesday, February 1, 2011 in Council Chambers of City Hall.

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

Councilmember Loftus reported that he had been re-elected Chair, and Councilmember Stone had been elected Vice-Chair for the Committee for 2011.

Marina Manager Berrigan had reported that the marina was experiencing the seasonal slow-down, and the store would be closing between January 17 and January 20 for annual maintenance. Pursuant to a request from a resident to look into the taxation of larger boats docked on the island, the Committee concluded that taxation is a County issue and should be left to them to resolve.

The Operations Manager for Morgan Creek Grill reported that the restaurant's business had also slowed down and that they were going to be closing on Mondays for several weeks.

In other business discussed by the Committee, Administrator Tucker noted that the thirty-day (30 day) public comment period on the focused erosion project had expired on January 1, 2011, and the project is on-schedule. In response to a request to extend the term of the parking lot lease, the Committee opted to make no changes to the lease. Three (3) bids have been received and are being evaluated by the City Administrator on the permitting and engineering of a marina dredging project. The Committee discussed the value of providing electric car charging stations on the island; the Committee agreed to seek out more information and to continue discussions. The first meeting of the Farmers Market Ad Hoc Committee will be held at 6 p.m. on Monday, January 31, 2011 in Council Chambers.

The next Real Property Committee meeting will be at 8:30 a.m. on Thursday, February 3, 2011 in Council Chambers.

Councilmember Buckhannon asked about the payment status of the City's leases; Administrator Tucker responded that one (1) tenant was behind and would be catching up in February.

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

- A. Accommodations Tax Advisory Committee** – minutes attached
- B. Board of Zoning Appeals** – no meeting
- C. Planning Commission** – minutes attached

Mayor Cronin commented that the Planning Commission had set 6:30 p.m., Wednesday, February 23 as the date for the public forum on the parking plan for the island; the forum will be held in Council Chambers.

Councilmember Stone asked whether the Exchange Club would accommodate more people than Council Chambers; Mayor Cronin answered that the staff would investigate a larger venue.

7. **Reports from Special or Joint Committees – None**
8. **Petitions Received, Referred or Disposed of – None**
9. **Bills Already in Possession of Council**

Second Reading of Ordinance 2010-14 – An Ordinance Amending Title 7, Licensing and Regulation, Chapter 3, Beach and Marine Recreation Regulations, of the City of Isle of Palms Code of Ordinances to Provide for a New Article C Pertaining to Abandoned Watercraft.

Mayor Cronin commented that, included in meeting packets, were the ordinance as approved for First Reading in November and a version of the ordinance amended by the City Attorney.

**MOTION: Councilmember Bettelli moved to dispense with the reading and to amend Ordinance 2010-14 to incorporate the changes made by the City Attorney; Councilmember Stone seconded the motion.**

Councilmember Buckhannon questioned that the amended version of the ordinance mirrored the state code; Administrator Tucker responded that the language that was removed from the ordinance were those items that are covered under state law with the intent of simplifying enforcement for the City. The Administrator noted that the City does not presently have a problem that it is pursuing, but this amendment would allow the City to deal with any boats abandoned in the public right-of-way in the future.

Prior to the vote, Attorney Halversen explained that the revisions were drawn from Mount Pleasant's ordinance and track exactly the language from the state statute giving the local authority the ability, authority and procedures by which to remove these abandoned vessels. The Attorney commented that the items that were removed have to do with titling boats which is better left with the state authorities.

**VOTE: The motion to adopt the amendment PASSED UNANIMOUSLY.**

**MOTION: Councilmember Bettelli moved to dispense with the reading and to approve Ordinance 2010-14; Councilmember Stone seconded.**

At Councilmember Loftus' request, Chief Buckhannon came to the podium to answer a couple of questions. Councilmember Loftus asked how many times, over the last year, the Police Department had been faced with the problem of abandoned boats in the public right-of-way; the Chief responded that he did not recall any. Councilmember Loftus then re-phrased the question to how many times the problem had arisen in the past five (5) years; again Chief Buckhannon stated that he did not recall any abandoned boats in the past five (5) years, but would need to research historical records to be positive. The Chief added that, in his opinion, this ordinance was a proactive measure for the City to take.

Councilmember Bettelli agreed with Chief Buckhannon that the City was taking a proactive stance with this ordinance; he recounted a situation in years past related to zoning where the City Council had been criticized by residents for not being proactive. The Councilmember noted that this ordinance did not relate to private property, but to the public right-of-way; he added that this ordinance would allow the City to take the necessary actions should the island experience a severe weather event that would put boats into the public right-of-way. Councilmember Bettelli voiced his understanding that Mount Pleasant had enacted their ordinance due to the number of watercraft abandoned following a storm which had to be removed at the Town's expense.

Councilmember Stone questioned the language in §7-3-65 stating "The proceeds from such sales must be used by the City for administration of this chapter;" he asked whether this would require an additional line item in the budget and restricting the use of these funds to the removal and disposal of abandoned vessels. Administrator Tucker indicated that any funds the City were to receive for the sale of these vessels would be returned to the General Fund to reimburse the City for any expenses related to the seizure of the vessel paid from the General Fund.

Councilmember Thomas queried whether the City was able to demarcate private property from City, state, and County. Mayor Cronin answered in the affirmative,

Councilmember Loftus remarked that he would not be supporting this ordinance because it does not address a problem that the City has faced or faces presently; in addition, DHEC is in place to deal with these issues.

**VOTE: The motion failed as the result of a 4 to 4 vote; Councilmembers Buckhannon, Loftus, Stone and Thomas cast dissenting votes.**

#### **10. Introduction of New Bills, Resolutions and Proclamations**

**First Reading, by title only, of Ordinance 2011-01 – An Ordinance Amending Title 5, Planning and Development, Chapter 4, Zoning, Article 7, Signs, of the City of Isle of Palms Code of Ordinances to Provide for Regulations Pertaining to Sandwich Board Signs.**

**MOTION: Councilmember Stone moved to approve Ordinance 2011-01 for First Reading, by title only; Councilmember Buckhannon seconded.**

Councilmember Loftus asked whether there would be restrictions related to the content of the signs because he thought that the commercialization should be kept to a minimum. Mayor Cronin commented that the size of the signs – six (6) square feet – would serve to restrict the content.

**MOTION: Councilmember Loftus moved to amend the ordinance to ban commercial logos from sandwich board signs.**



Administrator Tucker and Attorney Halversen agreed that amendments would be better addressed at Second Reading; in addition, Attorney Halversen stated that she would research constitutional issues relative to signage.

The amendment died for lack of a second.

**VOTE: The motion for First Reading PASSED UNANIMOUSLY.**

### **Resolution in Support of MASC 2011-2012 Legislative Agenda for Cities and Towns**

Administrator Tucker explained that, each year prior to the beginning of the legislative session, the Municipal Association of South Carolina (MASC) listens to the member local governments about their concerns related to state law and presents suggestions to changes in legislation and positions on existing proposed legislation. As part of their legislative agenda this year, the MASC has requested that the member local governments pass a proclamation in support of its positions on legislation that will be coming up in this session. The MASC held small group meetings throughout the state to hear the concerns of the local governments prior to establishing the MASC agenda that is stated in the resolution.

The Administrator read the resolution into the record of the meeting.

**MOTION: Councilmember Loftus moved to support the resolution as read; Councilmember Bettelli seconded.**

Councilmember Stone stated that he would support the motion, but he wanted the record to reflect his opinion that, statewide, the burden of property taxes is unfairly being shifted from the individual property owner to businesses. The Councilmember added that, if this is not corrected, job creation will not take place in the state.

**VOTE: The resolution PASSED UNANIMOUSLY.**

A copy of the executed resolution is attached to the historical record of the meeting.

### **11. Miscellaneous Business**

Mayor Cronin reminded everyone present that the Exchange Club will be holding its annual Oyster Roast beginning 4:30 p.m. on Saturday, January 29, 2011.

#### **Consideration of City's Approved Annual Events**

Mayor Cronin noted that Councilmembers have been given time to study the City's list of approved events and that two (2) committees had taken action on one (1) event, the East Cooper Triathlon.

**MOTION: Mayor Cronin moved to remove the East Cooper Triathlon from the list of approved events; Councilmember Bettelli seconded and the motion PASSED UNANIMOUSLY.**

Councilmember Stone asked whether the removal of the triathlon would allow for the consideration of other events/activities in that time period; Mayor Cronin explained that the goal was to consider the balance of the list before Council. Should an event/activity come before Council that would be overwhelmingly positive for residents and the City, it would certainly be considered. The intention is to have a list of events that will guide the City for the coming year. Councilmember Stone asked whether the list of approved events would preclude holding a farmers market, and the answer from the Mayor was that it would not.

Administrator Tucker explained that one (1) reason for establishing such a list is to respond to the many persons/groups that approach the City about holding an event here by stating that the City's has a Council-approved list of events is all it can successfully manage to guarantee the safety of residents and participants. The Administrator added that she considers the list to be a tool for managing activities on the island.

Having reviewed the list with department managers, the Administrator suggested that the following events should be added to the list:

- In October, the Fire Prevention Parade, and
- A second half-rubber tournament.

Events to be removed from the list include the following:

- The Wando Warriors Track Meet,
- The Taste of the Islands, and
- Ghostly Tide Movie at the Beach.

Administrator Tucker noted that, based on Council action, a new list will be generated showing quarters of the year, rather than specific months, because events may have to be moved based on the tides, for example.

The Administrator mentioned that MS Challenge Walk, scheduled for March 2011, had not been a consideration for the list because approval was only given for two (2) years. Mayor Cronin asked to have the Challenge Walk added since the list would be re-visited next year.

**MOTION: Councilmember Stone moved to approve the list of events as modified by the City Administrator; Councilmember Bergwerf seconded and the motion PASSED UNANIMOUSLY.**

**12. Executive Session, to receive legal advice.**

**MOTION: Councilmember Loftus moved to go into Executive Session at 8:05 p.m. to receive legal advice; Councilmember Stone seconded and the motion PASSED UNANIMOUSLY.**

City Council returned to regular session at 8:16 p.m. Mayor Cronin announced that Council had not voted and had not taken any action while in Executive Session.

13. **Conclusion/Adjournment**

**MOTION: Councilmember Stone moved to adjourn the meeting at 8:17 p.m.; Councilmember Bettelli seconded and the motion PASSED UNANIMOUSLY.**

Respectfully submitted:

Marie Copeland  
City Clerk