

**ISLE OF PALMS
REGULAR CITY COUNCIL MEETING
March 27, 2007**

The regular meeting of the Isle of Palms City Council was held at 7:00 p.m. on Tuesday, March 27, 2007 in the Palmetto/Magnolia Rooms, Recreation Center, #24 Twenty-eighth Avenue, Isle of Palms, all requirements of the Freedom of Information Act having been satisfied. Present were Mayor Sottile, Council Members Bettelli, Buckhannon, Cronin, Hanbury, McMackin, Rice, and Taylor; City Administrator Tucker, City Attorney Sottile, and Building Director Kerr. Councilman Marino's absence was excused.

A. INTRODUCTION OF MEETING

Mayor Sottile called the meeting to order and stated that members of the press and public were duly notified of the meeting in accordance with State Law. He asked everyone to stand for the invocation and to remain standing for the pledge of allegiance. Mayor Sottile asked for everyone to remember the two fallen police officers in Moncks Corner, and their families.

B. APPOINTMENT AND ADMINISTRATION OF OATH TO NEW EMPLOYEES.

MOTION: Councilwoman McMackin made a motion to appoint Kraig Thompson and Robert Nelson to the Police Department; seconded by Councilman Bettelli; MOTION UNANIMOUSLY PASSED.

C. READING OF THE JOURNAL OF PREVIOUS MINUTES.

Special City Council Meeting – February 22, 2007
Regular City Council Meeting – February 27, 2007

Councilman Bettelli offered the following correction to the February 27, 2007 Regular City Council Meeting Minutes, page 19: In the motion to approve the phone number for the Livability Hot Line, the number should read (843) 886-8282.

MOTION: Councilman Buckhannon made a motion to approve the following minutes: February 22, 2007 Special City Council Meeting, and February 27, 2007 Regular City Council Meeting, with corrections referenced herein by Councilman Bettelli; seconded by Councilwoman Hanbury; MOTION UNANIMOUSLY PASSED.

D. CITIZENS' COMMENTS

Mayor Sottile asked for citizens' comments other than those concerning the beach management plan and short-term rentals, as discussed at the previous special meeting.

Jim Raih, 3906 Cameron Avenue

Mr. Raih commented how fortunate the City of Isle of Palms is to have a great staff.

Linda McClennen 110 Sparrow Drive

Ms. McClennen noted she would like to see Police Officers slow down on the beach early in the morning unless responding to a call, as she has seen them rapidly moving down the beach as she walks in the morning.

Jimmy Carroll,

Mr. Carroll commented regarding the boating accident over the weekend, and would like the City to address safety issues with appropriate regulatory agencies.

Arnold Karig, 5102 Palm Boulevard

Mr. Karig stated he hoped Council was paying close attention to Senator Campsen's legislation and how it would affect the tax base of Isle of Palms.

E. REPORTS FROM STANDING COMMITTEES

1. **Ways and Means Committee**. Councilman Taylor, Committee Chairman, reported on the March 20, 2007 regular meeting. Councilman Taylor made the following motions, which came from the meeting:

A. Recommendation from Accommodations Tax Advisory Committee.

There was no meeting of this committee in March.

B. Recommendations from Public Safety Committee:

MOTION: Councilman Taylor made a motion to approve the purchase of new public safety digital radios for approximately \$270,000 to have compatible communication with Charleston County, from funds reserved; seconded by Councilman Bettelli; MOTION UNANIMOUSLY PASSED.

MOTION: Councilman Taylor made a motion to approve to spend \$2,700 from Municipal Accommodations Tax to purchase a new traffic counter to move from location to location, tracking speed, time of day and quantity of vehicles; seconded by Councilman Bettelli; MOTION UNANIMOUSLY PASSED.

C. Recommendations from Public Works Committee:

MOTION: Councilman Taylor made a motion for the City to partner with Charleston County on NPDES Storm water compliance, unfunded mandate; the City will charge residents \$36 annually for Charleston County to manage the storm water project; seconded by Councilwoman McMackin; MOTION UNANIMOUSLY PASSED.

D. Recommendation from Real Property Advisory Committee:

MOTION: Councilman Taylor made a motion to approve up to \$3,200 from Municipal Accommodations Tax to install irrigation in the large public parking lots; seconded by Councilman Bettelli.

Discussion:

Councilwoman Hanbury inquired about the possible use of the public well. The Public Works Director is looking into all options.

Call for the question: MOTION UNANIMOUSLY PASSED.

E. Recommendation of Award of Contract for Re-codification and Digitizing of Code.

MOTION: Councilman Taylor made a motion to award the contract to MuniCode for re-codification and digitizing of the Code, not to exceed \$15,000; seconded by Councilman Bettelli.

Discussion:

Councilwoman McMackin inquired about the timeline of the project. Administrator Tucker stated she did not have the contract in-hand, but would advise Councilwoman McMackin.

Call for the question: MOTION UNANIMOUSLY PASSED.

F. Request from Tidal Wave for Bulk Payments.

MOTION: Councilman Taylor made a motion to allow Tidal Wave to make bulk payments to coincide with the company's income stream; with payments being made ahead of schedule; seconded by Councilman Bettelli; MOTION UNANIMOUSLY PASSED.

Councilman Taylor noted a work session would be held for the budget next month, with first reading of the budget at the April Regular Council meeting; followed by Second Reading and Ratification at the May Regular Council Meeting.

2. **Public Safety Committee.** In the absence of Committee Chairman Marino, Councilman Taylor reported on the March 13, 2007 regular meeting. He noted that he was impressed with the attention the new portable crosswalk warning signs were receiving as a traffic-calming device, and noted his appreciation to the Police Chief and his staff. Councilman Taylor reported that the City is working with the Town of Mount Pleasant and transportation officials concerning ease of congestion for traffic exiting the Isle of Palms on the weekends.

3. **Public Works Committee.** Committee Chairman Bettelli reported on the March 12, 2007 regular meeting. He stated that the houses owned by the City on Thirteenth Avenue have been removed, and that wildflowers will be planted to hold the soil in place until the City makes a determination for the use of the property. As discussed earlier, Charleston County will implement the NPDES Water Management Plan for Isle of Palms, as it is the most economical option at this point. The drainage area at Hartnett Boulevard and Twenty-ninth Avenue is being studied for possible solutions.

4. **Recreation Committee.** Committee Chairwoman Rice reported on the March 6, 2007 regular meeting, noting that an adult CPR class was being offered on March 31, 2007 and that the Annual Doggie Day was a huge success. Upcoming events include the Easter Egg Hunt on April 7, 2007, and registration for various sports. The Committee is reviewing more economically feasible plans for the ball fields, and is working on a ten-year capital plan and next year's budget.

5. **Personnel Committee.** Committee Chairwoman McMackin reported on the March 1, 2007 regular meeting. She stated that progress continues to be made on the website redesign. A motion was made and approved at the meeting to approve Archer Company to conduct a comprehensive compensation study. The proposed budget also was reviewed. Councilwoman McMackin announced the Safety Sweepstakes Winners for February 2007.

Safety Sweepstakes Winners for February 2007

Fire Department - **Brian Bozman**

Police Department – **Victoria Cook**

Public Works Department – **Joseph Washington**

Recreation, Building and General Government Departments – **Kerrie Ferrell**

F. REPORTS FROM CITY OFFICERS, BOARD AND COMMISSIONS

1. **Board of Zoning Appeals** – Minutes of the March 13, 2007 meeting attached.
2. **Planning Commission** – Minutes of the March 14, 2007 meeting attached.
3. **Real Property Advisory Committee** – Minutes of the March 1, 2007 meeting attached.

Councilman Bettelli mentioned that SCE&G has staged equipment at the marina in order to place a redundant line to Goat Island. He also stated that the trailer and rusty building at the end of Forty-first Avenue had been removed, which has greatly enhanced the marina area. Councilwoman Hanbury inquired where the recycle bin had been moved; Chairman Bettelli stated it has been moved behind the huge eliagnus bush at the marina

G. REPORTS FROM SPECIAL OR JOINT COMMITTEES

1. **Accommodations Tax Committee** – No meeting was held in March.

2. **Beach Advisory Committee** – Minutes of the February 21, 2007 meeting attached.

H. PETITIONS RECEIVED, REFERRED OR DISPOSED OF

Mayor Sottile noted there were no petitions to report.

I. BILLS ALREADY IN THE POSSESSION OF COUNCIL

Second Reading and Ratification of Ordinance 2007-1, an Ordinance to Amend Title 5, Chapter 4, Zoning, Article 2, District Regulations, Section 54-33 (1)(a) and Section 5-4-33(5)(a), of the City of Isle of Palms Code of Ordinances, to adjust the lot sizes for SR-2 zoned properties to require a minimum lot size of 12,000 square feet.

MOTION: Councilwoman Rice made a motion to have Second Reading and Ratification of Ordinance 2007-1, an Ordinance to amend Title 5, Chapter 4, Zoning, Article 2, District Regulations, Section 54-33 (1)(a) and Section 5-4-33(5)(a), of the City of Isle of Palms Code of Ordinances, to adjust the lot sizes for SR-2 zoned properties to require a minimum lot size of 12,000 square feet; seconded by Councilman Cronin.

Discussion:

Councilwoman Hanbury stated she would not support this ordinance. Councilman Bettelli stated it was a poor ordinance done in haste. It applies to only approximately six lots. Councilman Cronin stated he supports the ordinance. He is concerned about people combining lots, and then subdividing.

MOTION TO AMEND: Councilman Cronin made a motion to require any lots between 8,000 sq ft to 12,000 sq ft to meet a setback of twenty five (25) feet front and back, seconded by Councilwoman Rice.

Discussion:

Councilwoman Rice stated she supports the ordinance, as less density is needed in the residential neighborhoods. Councilwoman McMackin stated that she supports the ordinance and the amendment. She stated she had questions as asked at previous meetings regarding the protection of trees if subdivision is allowed, and was concerned about the covenant restrictions when people purchased property, as with the Hartnett Boulevard covenant that there would be no subdivision of the property. The covenant has expired, but the intent is there. She also inquired as to how many of the lots are affected. Planning Director Kerr stated that approximately thirty lots in addition to the other six, which could add thirty-six more lots. Councilwoman McMackin asked Councilman Cronin how he views the comprehensive plan relating to this. Councilman Cronin stated the comprehensive plan did not address subdivision in the plan, but discussed density. A homogenous 8,000 square foot house is not keeping with the plan.

Mayor Sottile stated there is too much nonconformity, and he would vote against the ordinance. Councilman Buckhannon stated this deals with personal property rights. He believes the Commission should be allowed to do more concerning this.

Call for the question:

All those in favor: Council members Cronin, McMackin, and Rice

All those opposed: Council members Bettelli, Buckhannon, Hanbury, Taylor, and Mayor Sottile

MOTION TO AMEND FAILED FIVE (5) TO THREE (3)

Call for the question:

All those in favor: Council members Cronin, McMackin, and Rice

All those opposed: Council members Bettelli, Buckhannon, Hanbury, Taylor, and Mayor Sottile

MAIN MOTION FAILED FIVE (5) TO THREE (3)

Councilman Cronin stated that a mechanism needs to be put in place to move a lot line that will solve not having to subdivide.

Second Reading and Ratification of Ordinance 2007-2, an Ordinance to Amend Title 5, Chapter 4, Zoning, of the City of Isle of Palms Code of Ordinances to Create Article 9, Short Term Residential Rentals.

MOTION: Motion was made by Councilman Taylor to have Second Reading and Ratification of the attorney amended version received March 16, 2007 of an Ordinance 2007-2, an Ordinance to Amend Title 5, Chapter 4, Zoning, of the City of Isle of Palms Code of Ordinances to Create Article 9, Short Term Residential Rentals; seconded by Councilwoman McMackin.

MOTION TO AMEND: Motion was made by Councilman Taylor to withdraw Section 5-4-205 from Ordinance 2007-2; seconded by Councilman Bettelli.

Discussion: Councilwoman Hanbury commented that rather than fix the number of roll carts, let the Public Works Director determine the appropriate number as is the current procedure. Councilwoman McMackin agreed. It should be enforced what is on the books now, and the Livability Officer can be trained on this subject

Call for the question: MOTION TO AMEND UNANIMOUSLY PASSED.

Discussion on Main Motion:

MOTION TO AMEND: Councilman Bettelli made a motion to amend Section 5-4-202 to remove the square footage requirements in its entirety, and go by the International Code; seconded by Councilman Taylor.

Discussion:

Councilman Cronin inquired if the Building Code stated eighty (80) square feet for bedrooms. The whole purpose is to not get a home with a lot of tiny bedrooms. Planning Director Kerr stated he does not know the exact figure, but believes it is alarmingly small. It might be possible, for example, for a 7,000 sq ft house to have twenty five (25) bedrooms. Councilwoman Hanbury agreed that the actual building requirements need to be known on this.

Attorney Sottile stated that he would need to research this subject further. He recommended at this point for Council to come up with a square footage number to be used for this spring and summer season, and the number can be amended at a later date. Councilwoman McMackin stated she submitted this week to the Town Administrator the formula that Kiawah Island uses. Their specifications for bedrooms are based on Charleston County records. Planning Director Kerr stated if Charleston County's records are used, any disputes are decided at the discretion of the Building Official. Director Kerr stated he does think there is a potential for abuse to build small bedrooms. Attorney Sottile also offered the suggestion to remove the definition of a bedroom entirely right now.

RESTATEMENT OF AMENDED MOTION:

Section 5-4-202 Maximum Overnight Occupancy.

A. The maximum overnight occupancy of a residence shall be limited to the greater of:

- 1) Two (2) people per bedroom, plus two (2) people;**
- 2) One (1) person per 250 sq ft of gross heated floor area in the entire house; or**
- 3) Six (6) people**

B. Children under two (2) years of age shall not be included in determining the maximum overnight occupancy.

Call for the question: MOTION TO AMEND UNANIMOUSLY PASSED.

Councilwoman Rice noted she was disappointed that there were not any safety standards in the ordinance such as proof of working smoke detectors, fire extinguishers, etc. Councilwoman Hanbury stated she had re-read all the correspondence received and suggestions made concerning maximum occupancy at any time, and suggested perhaps requiring a permit for an event for more people than bedrooms would allow. Mayor Sottile stated that it would be worked through the Livability Officer. Councilman Bettelli offered that a person applying for a permit could say there would only be thirty five (35)

people there, even if the party were for a larger group. Councilwoman McMackin commented that some residents think this ordinance should not pass because there are ordinances on the books already; that the current laws should be enforced. She noted that she would support the ordinance, as short-term rentals are being defined so the City can track things that happen, and written notice will be posted in homes so renters will know the rules. Councilwoman Hanbury stated there needs to be an appeals process with these new rules. Attorney Sottile stated there is already a built-in mechanism in the Zoning Ordinance that a variance can be applied for to appeal Mr. Kerr's decision. Councilman Buckhannon expressed concern over Section 5 that states the ordinance would take place immediately, as arrangements have probably been made for some summer rentals. Attorney Sottile stated they could address this in executive session.

MOTION: Councilman Buckhannon made a motion to defer the main motion and go into executive session after the end of the meeting; seconded by Councilman Taylor; MOTION UNANIMOUSLY PASSED.

Second Reading and Ratification of Ordinance 2007-3, an Ordinance to Amend Title 1, Chapter 3, Article D, of the City of Isle of Palms Code of Ordinances, Regarding Violations of City Ordinances and Penalties Therefore.

MOTION: Councilman Bettelli made a motion to approve Second Reading and Ratification of Ordinance 2007-3, an Ordinance to Amend Title 1, Chapter 3, Article D, of the City of Isle of Palms Code of Ordinances, Regarding Violations of City Ordinances and Penalties Therefore; seconded by Councilwoman Rice.

Discussion:

Councilwoman McMackin asked Attorney Sottile to explain the ordinance, as some residents have concerns regarding the words "knowingly" and "habitually." Attorney Sottile stated that the first part deals with what he would analogize to an aiding and abetting offense, where the owner knows that a violation is occurring at the property right then and there. Habitual violations concern problem landlord who consistently allows violations of the City ordinances to occur.

Call for the question: MOTION PASSED BY A VOTE OF 7-1.

Second Reading and Ratification of Ordinance 2007-4, an Ordinance to Amend Title 7, Chapter 1, Section 7-1-15, Suspension or Revocation of License, of the City of Isle of Palms Code of Ordinances.

MOTION: Councilwoman McMackin made a motion to approve Second Reading and Ratification of Ordinance 2007-4, an Ordinance to Amend Title 7, Chapter 1, Section 7-1-15, Suspension or Revocation of License, of the City of Isle of Palms Code of Ordinances; seconded by Councilwoman Rice.

Discussion:

Councilwoman McMackin stated the only part of this ordinance she has an issue with is the statement “The application shall provide a written acknowledgement by the licensee that a violation of the City’s Short Term Residential Rental Zoning Ordinance, either by the licensee, licensee’s property manager, or licensee’s rental guests, may result in the suspension or revocation of the license.” There are some topics that are not included in the Residential Rental Zoning Ordinance of which habitual violations could occur. She requested to add the phrase, “other applicable ordinances.” Attorney Sottile suggested to consider changing it to “City’s Code of Ordinances.”

MOTION TO AMEND: Councilwoman McMackin made a motion to amend Ordinance 2007-4 Section 2, paragraph 4 to read: The application shall provide a written acknowledgement by the licensee that a violation of the City’s Code of Ordinances, either by licensee, licensee’s property manager, or licensee’s rental guests, may result in the suspension or revocation of the license; seconded by Councilwoman Rice, MOTION TO AMEND PASSED by a vote of 7-1.

Call for the question: MAIN MOTION PASSED BY A VOTE OF 7-1.

Second Reading and Ratification of Ordinance 2007-5, an Ordinance to Amend Certain Sections of Title 5, Chapter 4, and Zoning, of the City of Isle of Palms Code of Ordinances, in Furtherance of the City’s Local Comprehensive Beach Management Plan.

MOTION: Councilman Taylor made a motion to approve Second Reading and Ratification of 2007-5, as amended, an Ordinance to Amend Certain Sections of Title 5, Chapter 4, Zoning, of the City of Isle of Palms Code of Ordinances, in Furtherance of the City’s Local Comprehensive Beach Management Plan; seconded by Councilman Buckhannon.

Discussion:

Administrator Tucker stated there is no change of policy with this amendment. Attorney Sottile added that it is clearing up a lot of mistakes.

Call for the question: MOTION UNANIMOUSLY PASSED.

Second Reading and Ratification of Ordinance 2007-6, an Ordinance to Amend Title 5, Chapter 5, Land Development Regulation, of the City of Isle of Palms Code of Ordinances, in Furtherance of the City’s Local Comprehensive Beach Management Plan.

MOTION: Motion was made by Councilman Taylor to approve Second Reading and Ratification of Ordinance 2007-6, an Ordinance to Amend Title 5, Chapter 5, Land Development Regulation, of the City of Isle of Palms Code of Ordinances, in Furtherance of the City's Local Comprehensive Beach Management Plan; seconded by Councilman Bettelli.

Discussion:

Attorney Sottile stated this ordinance has been on the books for sometime; however, the language needs to be clarified. Mr. Kerr stated the old language said the City discourages the use of hard erosion control devices; however, in another section it stated that the City prohibited the use of hard erosion control devices. Chris Jones noted the original language said the Isle of Palms City Council, at the time of the approval of this plat, strongly opposes the issuance of any permits for any kind of beach hard erosion control structure or device in the City. However, section 5-4-15 of the code had a prohibition of within two hundred fifty (250) feet of mean high water. The language was changed to make it consistent with the Code. Councilwoman Hanbury stated she thought OCRM would allow large sandbags in an emergency. Administrator Tucker noted that OCRM has allowed large sandbags on the Isle of Palms where the water and sewer infrastructure might be threatened. The sandbags are in their jurisdictional area.

Call for the question: MOTION UNANIMOUSLY PASSED.

Second Reading and Ratification of Ordinance 2007-7, an Ordinance to Amend Title 7, Chapter 3, of the City of Isle of Palms Code of Ordinances, in Furtherance of the City's Local Comprehensive Beach Management Plan (Regarding beach restrictions).

MOTION: Councilman Bettelli made a motion to approve Second Reading and Ratification of Ordinance 2007-7, an Ordinance to Amend Title 7, Chapter 3, of the City of Isle of Palms Code of Ordinances, in Furtherance of the City's Local Comprehensive Beach Management Plan (Regarding beach restrictions); seconded by Councilman Cronin.

Discussion:

Councilwoman Rice inquired if this prohibits kite boarding. Councilwoman McMackin stated it does not unless it has wheels.

Call for the question: MOTION UNANIMOUSLY PASSED.

Second Reading and Ratification of Ordinance 2007-8, an Ordinance to Amend Title 5, Chapter 4, Zoning, Article 2, District Regulations, of the Isle of Palms City Code of Ordinances, to Clarify the Description of the Area Included Within the Conservation (CO) District.

MOTION: Councilman Taylor made a motion to approve Second Reading and Ratification of Ordinance 2007-8, an Ordinance to Amend Title 5, Chapter 4, Zoning, Article 2, District Regulations, of the Isle of Palms City Code of Ordinances, to Clarify the Description of the Area Included Within the Conservation (CO) District; seconded by Councilman Bettelli.

STATEMENT OF AMENDMENT: Section 1. That 5-4-40 (2), Conservation District boundary, is hereby amended in its entirety to read as follows:

“(2) District boundary. The CO District consists of a strip or band of water, beaches, marshlands, and pieces of natural and man-made highland areas in the marshlands which contain less than two acres up to the mean high water mark or abutting the primary highland, which surrounds the entire perimeter of the Isle of Palms, as generally shown on the official zoning map.”

Section 2. That Section 5-4-40 (3), Permitted Uses, is hereby amended to add the following subsection e:

“e. Beach renourishment.”

Discussion:

Councilwoman McMackin questioned why “highland” needs to be defined. Director Kerr stated the difficulty with the definition of the boundary previously was that if it was not highland, it was in the CO District. The primary goal of this district change was to capture pieces of island; isolated spits of land. There is now a definitive line of when an island would or would not be in the CO District.

Call for the question: MOTION PASSED UNANIMOUSLY.

J. INTRODUCTION OF NEW BILLS, RESOLUTIONS AND PROCLAMATIONS

Resolution: To Adopt the Local Comprehensive Beach Management Plan

MOTION: Councilman Bettelli made a motion to approve the Resolution to Adopt the Local Comprehensive Beach Management Plan, as amended, and to submit it to OCRM for approval; seconded by Councilman Taylor; MOTION UNANIMOUSLY PASSED.

Proclamation: American Red Cross Month

MOTION: Councilwoman Rice made a motion to approve Proclamation of March as American Red Cross Month; seconded by Councilman Bettelli; MOTION UNANIMOUSLY PASSED.

K. MISCELLANEOUS BUSINESS

Councilwoman Hanbury inquired why one organization that solicited funds was not given funds, while another organization was given \$10,000. Administrator Tucker clarified that one of the stipulations is the City can provide funds to organizations that provide some service back to the City, such as turtle rehabilitation.

Councilwoman McMackin inquired about the status for the search of property for Fire Station #1. Administrator Tucker stated that the appraiser has completed his work and has submitted it to the United States Postal Service.

MOTION: Councilman Cronin made a motion to go into executive session; seconded by Councilman Bettelli; MOTION UNANIMOUSLY PASSED.

Council went into executive session at approximately 8:35 p.m. and returned to general session at approximately 8:50 p.m.

Mayor Sottile noted that Council returned from executive session where Council received legal advice pertaining to short term rentals; however, no votes were taken and no motions or decisions made.

Mayor Sottile stated there was a motion on the floor to pass Ordinance 2007-2, as amended, with a second.

Call for the question: MOTION PASSED BY A VOTE OF 6-2.

M. CONCLUSION/ADJOURN:

MOTION: Councilman Taylor made a motion to adjourn; seconded by Councilwoman McMackin; MOTION UNANIMOUSLY PASSED.

The meeting was adjourned at 8:55 p.m.

Respectfully submitted,

Ellen McQueeney, Acting City Clerk

To be approved at the April 24, 2007 Regular Council meeting.