

City Council Meeting
7:00 p.m., Tuesday, June 22, 2010

The regular meeting of the City Council was held at 7:00 p.m., Tuesday, June 22, 2010, in the Palmetto Room at the Recreation Center, 24 Twenty-eighth Avenue, Isle of Palms, South Carolina. Present for the meeting were Councilmembers Bergwerf, Bettelli, Buckhannon, Duffy, Loftus, Piening, Stone and Thomas, Mayor Cronin, City Administrator Tucker, Assistant City Attorney McCullough, 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. Following a brief invocation, the Mayor led the recitation of the Pledge of Allegiance, and the City Clerk called the roll.

2. **Approval of Previous Meetings' Minutes:**

MOTION: Councilmember Loftus moved to approve the minutes of the Public Hearing and the regular meeting of May 25, 2010 as submitted; Councilmember Bettelli seconded and the motion PASSED UNANIMOUSLY.

3. **Citizen's Comments - None**

MOTION: Councilmember Bettelli moved to re-order the AGENDA to address Item 9 at this point in the meeting to allow Howard Chapman, CARTA Executive Director, who was attending tonight's meeting, to get to another meeting; Councilmember Loftus seconded and the motion PASSED UNANIMOUSLY.

9. **Introduction of New Bills, Resolutions and Proclamations**

Resolution to Approve and Support FY11 CARTA Budget

Mayor Cronin asked Administrator Tucker to read the resolution into the minutes of the meeting; a copy of the resolution is attached to the historical record of the meeting. The Administrator noted that the word "amended" was picked up inadvertently from a previous year's version of the resolution; the budget being approved tonight was not an amended budget. A copy of the corrected proclamation is attached to the historical record of the meeting.

MOTION: Councilmember Bettelli moved to approve the amended proclamation as read; Councilmember Bergwerf seconded.

Mayor Cronin confirmed that ridership had exceeded four million in 2009, and, year-to-date 2010, ridership is up nine percent (9%) over 2009.

VOTE: The motion PASSED UNANIMOUSLY.

4. **Reports from Standing Committees**

A. Ways and Means Committee

In Mayor Cronin's absence, Vice Chair Duffy had chaired the meeting of June 15, 2010; he, therefore, gave the June Committee report. Councilmember Duffy conveyed Treasurer Suggs' preliminary evaluation of the City's year-end financial position as one with a potential surplus of three hundred to four hundred thousand dollars (\$300,000-400,000) and commented to the fact that the anticipated year-end surplus was indicative of the fact that the City's money was well managed. Councilmember Duffy noted that tourism revenues were trending better than the fifteen percent (15%) decline estimated for the FY10 budget year. Councilmember Duffy announced that the City had been awarded sixty-eight thousand dollars (\$68,000) for Sparrow Drive drainage, one hundred thousand dollars (\$100,000) for the 52nd-57th Avenue Drainage Project and an additional twenty thousand dollars (\$20,000) in carryover funding for the Lauden Street drainage by the Charleston County Transportation Commission.

1. Approval of an Amendment of the Civil Site Environmental Contract in the amount of \$33,880 for the expanded scope of design and engineering for the 52nd-57th Avenues Drainage Project.

MOTION: Councilmember Duffy moved to approve the amendment to the Civil Site Environmental Contract in the amount of \$33,880; Councilmember Bettelli seconded.

Councilmember Stone asked whether the cost would come from the FY10 budget; Mayor Cronin responded that the expense would be paid from the reserves the City has set aside for the project.

Administrator Tucker thanked the City's residents who had approached City Council about the feasibility of expanding the scope of the project, which will result in more efficient drainage for all of the area being addressed.

VOTE: The motion PASSED UNANIMOUSLY.

2. Award of a contract to Bobcat in the amount of \$42,708.76 for 4 budgeted ATVs (3 for the Fire Department and 1 for the Police Department).

MOTION: Councilmember Duffy moved to approve the contract award in the amount of \$42,708.76 to Bobcat for 4 ATVs; Councilmember Bergwerf seconded and the motion PASSED UNANIMOUSLY.

3. Approval for the purchase of Victim Advocate's camera and a portion of the accessories in the amount of \$1,727.67 from the FY10 budget.

MOTION: Councilmember Duffy moved to approve the purchase of the purchase of the Victim Advocate's camera and a portion of the accessories in the amount of \$1,727.76 from the FY10 budget; Councilmember Bettelli seconded and the motion PASSED UNANIMOUSLY.

The next Ways and Means Committee meeting will be at 5:45 p.m., Tuesday, July 20, 2010.

B. Public Safety Committee

From the meeting of June 9, 2010, Councilmember Bettelli reported that representatives of Motorola, Crown Castle and Charleston County had attended the meeting to discuss again the proposed two hundred thirty (230) foot tower to be erected on the island. The City Administrator and the members of the Committee made it clear that such a tower was not wanted on the Isle of Palms and that they should again review the problems and the possible resolution with an antenna on the Mount Pleasant side of the Connector; they agreed to do additional research and come before the Committee at a later date with the results. Some problems from the punch list continue to be handled at the Public Safety Building; the plumbing problem that will require digging through the floor in the lobby area will be scheduled now that the Disaster Preparedness Expo has been held. On the request from Sea Cabins to expand the lifeguarded area of the beach to south of the pier, the Committee chose to take no action. The Committee approved the purchase of the four (4) ATVs and the Victims Advocate's camera and a portion of the accessories from the FY10 budget. A discussion was held regarding traffic enforcement on 21st Avenue; Chief Buckhannon was asked to request the placement of additional 25 mph signs on 21st Avenue and to step up enforcement of speeding on that street. The Committee provided its input for the CTC funding requests and concurred with the Public Works Committee that the projects should be the 52nd-57th Avenue Drainage Project, improvements to and expansion of the 21st Avenue handicapped parking area and paving Cassina Drive. Councilmember Loftus had suggested adding language to the CTC request stating the City's need and support for the widening of the IOP Connector to four (4) lanes to US Highway 17.

MOTION: Councilmember Bettelli moved to send a letter supporting improvements to SC 517 between the IOP Connector bridge and US Highway 17 to the proper governing authorities; Councilmember Loftus seconded.

Mayor Cronin commented that getting people safely off the island was an important issue at all times, not just on holidays and in the event of evacuation from a storm. The Mayor noted that he had spoken with the Mayor and City Administrator for Mount Pleasant on this subject in the past, but they had many other road projects that were not funded that took priority and that, through this letter, the City could demonstrate the urgency it feels in tackling this project.

Councilmember Loftus updated City Council on discussions he had with Charleston County Councilmembers Joe McKeown and Dickie Schweers to highlight the importance of this issue; he urged members of Council to keep the subject before the decision-makers.

VOTE: The motion PASSED UNANIMOUSLY.

The Committee also discussed the need for preparations should oil from the Gulf of Mexico oil spill round Florida and make its way to the East coast beaches. Administrator Tucker related discussion she had been in communication with the US Coast Guard and her hope that a meeting would take place in the coming weeks with the public safety, mayors, administrators and managers of the coastal communities and officials from DHEC and the Coast Guard.

Following the monthly reports from the Fire and Police Departments, Councilmember Bettelli stated that the request had been made by residents on the south end of the island for the annual July 4th parade.

MOTION: Councilmember Bettelli moved to approve the request for the annual 4th of July parade for residents; Councilmember Loftus seconded and the motion PASSED UNANIMOUSLY.

The next meeting of the Public Safety Committee will be at 5:30 p.m., Tuesday, July 13 in Council Chambers.

In conjunction with the discussion of additional 25 mph signs on 21st Avenue, Councilmember Duffy asked if the Public Safety Committee could investigate having 25 mph established as the speed on the island except for streets where an alternate speed limit is posted; Councilmember Bettelli agreed to do that.

C. Public Works Committee

At the June 2 meeting, the focus of discussion was the 52nd to 57th Avenues Drainage Project; Dave Stevens of Civil Site Environmental was present and reviewed the results of his study on the feasibility of expanding the scope of the project. The basin being drained has increased by two-thirds ($\frac{2}{3}$), but the outflow is better with the re-design and areas will dry quicker than with the original design. According to the Director's report, quantities of garbage declined again in May, but the Director has not pinpointed the reasons why. The annual trimming of the palm trees along Palm Boulevard is currently happening.

The next meeting of the Public Works Committee will be at 2 p.m. on Wednesday, July 7, 2010 in Council Chambers.

D. Recreation Committee

Councilmember Buckhannon noted that the Committee had not met in June, but the next meeting will be at 4 p.m. on Wednesday, July 7. AJ Basketball Camp and Camp Summershine were keeping the Recreation Center a hub of entertainment and activities.

Mayor Cronin thanked Director Page and her team for setting up the "mock" Council Chambers for this meeting.

E. Personnel Committee

Councilmember Piening stated that the Personnel Committee had not met in June and that the next meeting would be at 5:45 p.m. on Tuesday, July 6, in Council Chambers. The May Safety Sweepstakes winners were announced as follows:

Recreation Department – Nick Bako
Public Works – Willie Powell

Fire Department – Bill Pesature
Police Department – Kraig Thompson

F. Real Property Committee

Councilmember Loftus stated that, at the June 3 meeting, Marina Manager Berrigan stated that business had finally turned around having experienced a very strong May. A successful month was also reported for Morgan Creek Grill. At this time, all of the original agreement signers in the beach restoration project have responded to the amendment to the original agreement to allow the City to go forward with actions to ease the areas of focused erosion on the north end of the island; the City anticipates the work taking place before turtle season in 2011. Councilmember Loftus reported that discussions are ongoing regarding the dredging of the marina. The next meeting is scheduled for 8:30 a.m. on Friday, July 9.

5. Reports from City Officers, Boards and Commissions

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

6. Reports from Special of Joint Committees - None

7. Petitions Received, Referred or Disposed of - None

8. Bills Already in Possession of Council

- A. 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 Permitted at Short-Term Rental Residences Constructed, Altered or Reconstructed After the Adoption of this Ordinance.**

MOTION: Councilmember Duffy moved to waive the reading and to approve for Second Reading Ordinance 2010-08; Councilmember Loftus seconded.

Councilmember Duffy stated his understanding as the intent of the ordinance being to ensure that existing rental license holders should maintain that license going forward as a part of this ordinance as was stated in the original version of the ordinance.

MOTION: Councilmember Duffy moved to amend Section 5-4-202(a) to add the words “and maintains going forward” following the date of June 22, 2010.

Mayor Cronin asked Director Kerr to address Councilmember Duffy’s proposed amendment, and Director Kerr recounted that the first version of this ordinance did include such a provision stating that the ability of a homeowner to keep his/her overnight occupancy above twelve (12) persons was hinged on holding a current license at the date of ratification of Ordinance 2010-08. The first version of the ordinance also had a companion ordinance defining the changes necessary to the business license code relative to the short-term rental licenses. The second version of overnight occupancy maximum did away with that provision and the date of construction became the determining factor. The subsequent Planning Commission changes tried to achieve a balance between the previous two (2) amendments, and, according to the

Planning Director, their intention was omit the requirement for maintaining a business license because of the complications it entailed. Director Kerr stated that the intention of the Planning Commission “was to take a snapshot of what the license status is as of tonight . . . , so that if a rental property allowed their (rental) license to lapse or if they went into foreclosure and it lapsed or it was sold, that would be immaterial and they could go back to the high rental level.”

Director Kerr added that, if Council intended to put that language back into the amendment, the companion ordinance must be reintroduced to define when the term “lapse” as it relates to rental licenses.

Councilmember Bergwerf asked if Council could vote on the ordinance as is at this meeting, and reintroduce and vote on the business license amendment as a separate issue. Director Kerr stated, “The technical reading of the ordinance is that the licenses actually expire in eight (8) days [June 30, 2010} . . . there is a caveat that says you have until September 1 to renew it without penalty.” This type situation is what the companion ordinance clarified.

Mayor Cronin suggested that the ordinance have Second Reading tonight as the ordinance is currently written and, at a later date, amend it and bring the companion ordinance back for consideration.

Councilmember Duffy withdrew his amendment.

Councilmember Stone expressed his opposition to the ordinance for “numerous” reasons beginning with his opinion that the number twelve (12) is arbitrary and the ordinance does not take into consideration of the historic development of the community. Councilmember Stone stated that he understood the intent of the ordinance “to stop the development of high density rental properties, but (he) also saw it as a punishment to vacant lot owners.” Councilmember Stone expressed the opinion that the ordinance represented an erosion in property rights, and he stated that he did not understand factually what the need for the ordinance was since two hundred (200) instances of noise violations were reported annually – with some percentage of these infractions being attributable to residents. According to Councilmember Stone, of the seventy-four (74) homes with a square footage exceeding five thousand (5,000) square feet built in the last couple of years, only sixteen (16) are short-term rental residences. Councilmember Stone described the passage of this ordinance as a knee-jerk reaction to a perceived problem.

Councilmember Loftus expressed surprise at Councilmember Stone’s description of a “knee-jerk reaction” when the City has been wrestling with short-term rental issues for six or seven (6 or 7) years. Councilmember Loftus voiced his opinion that the focus should be on whether Isle of Palms is a residential or rental community. Councilmember Loftus said that the time has come to protect the individual neighborhoods and homeowners.

Councilmember Piening related that he had received a couple of e-mails following recent meetings where the writers express shock that he was supporting this ordinance; he commented that this was the single issue upon which he based his campaign when he ran for City Council. Councilmember Piening said that he ran on the issue of mini-hotels because he was “sick and tired of the cancer that they are putting into our residential community;” he also

wanted the record to reflect that he had no financial interest in the question. He then quoted from a letter sent to all members of Council from an island resident as follows:

“Large parties at neighboring rentals, late-night parties, swimming pools shrieking voices, outdoor speakers, excessive traffic and karaoke machines have been a true invasion of our space.”

Councilmember Piening commented that Council has been told multiple times that few police reports cite noise issues and the Livability Court cases indicate no real problem. Councilman Piening continued by stating that many island residents are reluctant to call the police, but will tell him that they voted for him to take care of the problem without their having to call the police. In conclusion, he stated that the people who make the island their home have property rights also.

Councilmember Duffy explained that capping the overnight occupancy in new rental construction at twelve (12) people was a number that many people who live in the single-family residential neighborhoods believe to be too high. He stated that there were two (2) purposes associated with single-family residential districts, i.e. “(1) to discourage unwarranted encroachment by prohibiting commercial uses and to prohibit other uses which would interfere with the development or continuation of single family use and (2) to encourage the cessation of non-confirming uses.” Councilmember Duffy expressed confidence that everyone present would agree that short-term rentals are a commercial activity. Continuing, Councilmember Duffy stated that the number twelve (12) was “a compromise resulting from the analysis of the make-up of the island’s residents that show that ninety-three percent (93%) of the island’s thirty-two hundred eighty three (3,283) residences – no condominiums, but single-family residential homes – are five (5) bedrooms or less.” Therefore, in his opinion, the island has developed in that fashion, which he believes supports the computation of two (2) people per bedroom plus two (2) people or twelve (12) persons total. Another contributing factor to the maximum number of twelve (12) persons is the idea that the Isle of Palms is a family-oriented island where the family is defined as two (2) parents with two (2) kids; the number twelve (12) accommodates that nicely with the grandparents with their two (2) children’s families of four (4) each and a friend for the grandchildren. Councilmember Duffy concluded his comments by stating, “A vote against this ordinance was a vote for mini-hotels.”

Councilmember Bettelli expressed offense at Councilmember Duffy’s thinking for him as he related a conversation with another grandfather recently who was “thrilled that his family was going to have a family reunion on the Isle of Palms and that they were going to have seventeen (17) people.” Councilmember Bettelli voiced his support for the Livability Court and the job that it is doing, but he also expressed his feeling sorry for those residents who were reluctant to call the police who are on the island to protect them whether they are being robbed of their possessions or robbed of their peaceful life. Councilmember Bettelli agreed with Councilmember Stone that this ordinance was unnecessary and that the number twelve (12) was arbitrary because no study had been done to support it.

Councilwoman Bergwerf supported Councilmember Duffy and the positions he had voiced. Councilmember Bergwerf noted that the very large rental units would continue to be on

the island to accommodate family reunions. In Councilmember Bergwerf's opinion, development was the issue, not livability, because the City did not have the infrastructure to support the demands of several thousand homes with seven or eight (7 or 8) bedrooms. The Councilmember stated, "going forward, this (ordinance) gives reasonable, rational control."

VOTE: The motion **PASSED** on a vote of 6 to 3 with Councilmembers Bettelli, Buckhannon and Stone dissenting.

B. Second Reading 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: Councilmember Bettelli moved to waive the reading of and to adopt for Second Reading Ordinance 2010-09; Councilmember Piening seconded.

Mayor Cronin complimented the staff for the many hours of work they put in, as well as Council for not only the hours spent in Committee and Council meetings but also for the time they spent away from City Hall considering various options open to the City. The Mayor did express his opinion that the budget was a document for which the City could be proud especially since it does not contain a tax increase for the citizens.

VOTE: The motion **PASSED UNANIMOUSLY**.

C. Second Reading 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.

MOTION: Councilmember Stone moved to waive the reading and to approve for Second Reading Ordinance 2010-10; Councilmember Bergwerf seconded and the motion **PASSED** on a vote of 8 to 1; Councilmember Buckhannon voted against the motion.

10. Miscellaneous Business

Discussion of Establishing a Joint Meeting with the Planning Commission

Receiving no objections from members of the City Council, Mayor Cronin set a joint meeting of the Planning Commission with City Council for 7 p.m., Tuesday, July 20 following the meeting of the Ways and Means Committee. The purpose of the meeting is to discuss the Planning Commissions' work product related to parking management.

Mayor Cronin announced that Bocce ball games had been scheduled for Thursday, June 24 at the Recreation Center as part of the City's Employee Wellness program.

The Mayor noted the work put in by all of the Departments of the City to make the Disaster Preparedness Expo the success that it was on Friday, June 18. He reported that citizens had expressed their thanks to the City for the efforts put forth to put the valuable information before the residents of the island.

Councilmember Bergwerf queried the Mayor about whether the issue of photography on the beach had been referred to the Planning Commission. The Mayor responded that the document from Mick Smith had been forwarded to the Commission; he noted that there was a problem with the information provided by Mr. Smith in that the one (1) community that he referenced as allowing photography on the beach required that approval be granted and a permit be issued each and every time someone wanted to take photographs. Councilmember Bergwerf admitted that such a process would be cumbersome, but she did think there had to be creative thinking to work out a way for people to be allowed to take quality photographs on the beach at the Isle of Palms.

11. Executive Session – not necessary

12. Conclusion/Adjournment

MOTION: Mayor Cronin moved to adjourn the meeting at 8:05 p.m.; Councilmember Bettelli seconded and the motion PASSED UNANIMOUSLY.

Respectfully submitted:

Marie Copeland
City Clerk