

SPECIAL MEETING OF CITY COUNCIL

5:00m p.m., Monday, August 11, 2008

The Special Meeting of the City Council was held at 5:00 p.m., Monday, August 11, 2008 in Council Chambers of City Hall, 1207 Palm Boulevard, Isle of Palms, South Carolina. Present for the meeting were Council members Bettelli, Buckhannon, Cronin, Duffy, Loftus, Piening, Rice and Taylor, Mayor Sottile, City Administrator Tucker, City Attorney Sottile, Assistant to the Administrator Dziuban and City Clerk Copeland. There was a quorum present to conduct business.

1. Mayor Sottile called the meeting to order and acknowledged that the press and the public had been duly notified of the meeting in accordance with the Freedom of Information Act.

Council Chambers was filled with interested members of the community, and Mayor Sottile welcomed them and reminded them that there would be no comments from the audience since this was a Special Meeting of Council. He explained that the purpose of this meeting was for the members of City Council to voice their individual opinions on the subject, to determine if the City wanted a smoking ban and, if so, to decide how limiting such a ban should be. The Mayor also reported that he had in his possession ninety-six (96) signed statements from business employees on the Isle of Palms stating their opposition to any type of smoking ban.

2. Discussion of Proposed Smoke Free Workplace Ordinance

Mayor Sottile noted that discussion of a smoking ban started in the Public Safety Committee; they chose not to make a recommendation to City Council but to allow the Council the opportunity to discuss the issue. He asked that Administrator Tucker begin the meeting by reviewing the matrix that she and Assistant Dziuban had devised that compared non-smoking ordinances from Greenville, Aiken, Hilton Head, Mount Pleasant, Charleston, Sullivan's Island and Columbia. The Administrator explained that the matrix listed a variety of locations and the municipalities' positions on smoking in those locations indicated in the columns to the right. Columns that contain "CIAA" mean that the ordinance referenced refers to the Clean Indoor Air Act as specifically regulating the location in question. If the cell is highlighted in yellow, the location is not specifically mentioned in the applicable ordinance, but has been interpreted as banned based on the ordinance's provisions. The blank cells indicate that the intention of the ordinance is unclear because the locations are not specified in the ordinance. Items not addressed in this schedule include the municipalities' reasoning for action and the definitions of the places where smoking has been banned. In essence, the matrix has been designed to be a menu for discussion, and, for ease of discussion, the locations have been numbered down the left side for reference. Penalties vary from \$10 for an individual violation in Aiken to \$500 in Columbia. Waivers also varied; waivers were presumably granted in some communities to give a business time to make whatever physical alternations were necessary to be in compliance. Some ordinances handled

that issue by delaying the date the ordinance would be enacted for ninety (90) to one hundred twenty (120) days, or enforcement was delayed to a point in the future. Administrator Tucker stated that the Greenville ordinance is by far the most comprehensive; the Aiken ordinance mimics Greenville's.

Administrator Tucker stated that the overriding tone of all of the ordinances included here was the places of employment provision that states, if a business has employees, smoking would be prohibited in the workplace. She commented that, if this were an issue that the Council wanted to consider, it might also want to address regulating the distance from ingress and egress thereby protecting both employees and patrons from walking through heavy secondhand smoke to enter or leave the establishment.

Mayor Sottile thanked the Administrator and her staff for the work they had done to provide the information to assist Council in making its decision.

The Mayor recalled that the South Carolina Supreme Court had upheld Home Rule that allows for the local municipalities to decide this issue. In voicing his personal belief, Mayor Sottile stated that businesses need to regulate themselves and that government should not be regulating businesses – less government is better. He noted that, “on the Isle of Palms, there are only four (4) or five (5) businesses to which a smoking ban would pertain;” he reported that the majority of businesses on the island have self-imposed smoking regulations.

Councilman Cronin reported that eighteen (18) municipalities in the state have passed smoke-free ordinances and the number continues to grow. He expressed his belief that it was the responsibility of the Council to protect the health and wellbeing of all employees on the island by providing a safe and healthy environment in which to work. Councilman Cronin asked the Administrator on whom the responsibility fell to enforce the state's Clean Indoor Air Act; she responded that the City has the authority to enforce any state regulation as long as the penalties imposed are those of the Clean Indoor Air Act.

The Administrator remarked that the City of Columbia has elected to allow smoking in some drinking establishments provided the appropriate warning that the business was a smoking establishment posted at two (2) prominent locations.

Councilman Duffy stated that he agreed with Councilman Cronin. The Council should be concerned with the safety of employees because everyone knows the risks associated with secondhand smoke. He added that there was no proof that a smoking ban affected business negatively.

Councilwoman Rice maintained that banning workplace smoking was a livability issue in that it would improve life on the Isle of Palms. She noted that she had friends who smoke, but who do not smoke in their homes; rather they step outside. She noted that a smoking ban would benefit of all who breathe.

Councilman Piening related that he had relatives in both California and Ohio; both of these states have banned smoking and articles he has read indicate that the businesses have not been seriously affected by it. Councilman Piening noted that the majority of Isle of Palms voters want smoking banned in public places, and, since he was elected by those persons, he will support a ban.

Councilman Buckhannon remarked that Isle of Palms is a special island and that it was the only island not to impose a 2 a.m. bar closing. He informed the Council that he makes decisions based on liberties and freedoms. He admitted that there was undeniable evidence of the ill effects of smoking. Councilman Buckhannon voiced his opinion that the decision before Council tonight was about the rights of property owners; he added that, if the Council continued on this course, it was legislating the loss of freedoms for business on the island, rather than protecting their freedoms.

Announcing that he had quit smoking thirty (30) years ago, Councilman Bettelli stated that he sees the issue as one of personal freedom and individual liberty; he remarked that people have the choice about frequenting smoking establishments. He also noted that the eighteen (18) municipalities in the state that have adopted smoking bans actually represent a small percentage of the municipalities.

Councilman Loftus reported that this is a subject that he has studied for years and that he has taken the time to speak to bar owners in the area who all agreed they preferred having the smoking bans. He stated that people tend to linger longer in bars where there is no smoking. He commented that he was in favor of the smoking ban and protecting employees.

Councilman Taylor noted that what was before the Council was not an island-wide smoking ban, but that it focused on four (4) or five (5) businesses out of the hundreds that exist on the island. He reminded Council that a focus of the Planning Commission for several years has been what the City could do to support the businesses on Front Beach; those businesses must make as much money as possible in a few short months to ensure that they can survive until the next season. He said that, having been a business owner on the island, he would like to see the City continue to allow the business owners to make decisions for their businesses.

Mayor Sottile restated that his position was the government should not regulate business.

City Attorney suggested to the Council that he draft an ordinance for the Isle of Palms crafted along the lines of the Greenville ordinance. Following the normal process for ratification, there could be changes to the ordinance between first and second readings.

MOTION: Councilman Cronin moved for the City Attorney to craft an ordinance for the City of Isle of Palms that would prohibit smoking all businesses with one or more non-related employees; Councilman Duffy seconded. The motion PASSED on a roll call vote five (5) votes for and four (4) votes against; Council members Bettelli, Buckhannon and Taylor and Mayor Sottile voted against the motion.

The Council agreed that they would like to have the City's ordinance more like the ordinances of Sullivan's Island or Mount Pleasant than like Greenville.

3. Executive Session to Receive Legal Advice

MOTION: At 5:40 p.m. Councilman Taylor moved to go into Executive Session to receive legal advice; Councilman Bettelli seconded and the motion PASSED UNANIMOUSLY.

Council returned to regular session at 5:58 p.m.; Mayor Sottile announced that no decisions had been made and no votes taken in Executive Session.

4. Adjourn

MOTION: Councilwoman Rice moved to adjourn the meeting at 6:00 p.m.; Councilman Bettelli seconded and the motion PASSED UNANIMOUSLY.

Respectfully submitted:

Marie Copeland
City Clerk