

## **CITY COUNCIL MEETING**

7:00 p.m., Tuesday, September 23, 2008

The regular meeting of the City Council was held at 7:00 p.m., Tuesday, September 23, 2008 in Council Chambers of City Hall, 1207 Palm Boulevard, Isle of Palms, South Carolina. Attending 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.

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

**MOTION: Councilman Cronin moved to approve the minutes of the regular meeting of August 26, 2008 and the Special meeting of September 3, 2008; Councilman Bettelli seconded.**

Councilwoman Rice noted that on page 2 of the minutes of the regular meeting, Matt Thiesing was listed as a person who spoke against the smoking ban when he had spoken in favor of it; Councilman Piening stated that the same was true of David Spaulding.

**Call for the Question: The amended motion to approve the corrected minutes of the regular meeting of August 23, 2008 and the minutes of the Special meeting of September 3, 2008 was UNANIMOUSLY APPROVED.**

### **3. Citizens' Comments**

Mayor Sottile introduced Cindy Hobgood and Bass Hampton as representatives of Dear John LLC, a production company interested in filming a portion of the upcoming motion picture "Dear John" that is based on the John Sparks novel of the same title. Ms. Hobgood, as location manager, stated that "Dear John" will be filmed in Charleston and the surrounding area. The director of the film is Lassa Hallstrom, who has directed such films as "Cider House Rules," "Chocolat," and "Something to Talk About," to name a few. If approved, the crew would be shooting various beach scenes on Monday, October 20, 2008; Ms. Hobgood indicated that David Crosby of Sea Cabins has given his permission to use the Sea Cabins' pier. The present plan is for most of the filming to take place on the pier, but the crew would likely want to be on the beach for some shooting, as well. The crew is expected to number approximately eighty members, so, if approved, the movie company would also like permission to park in the City's Front Beach parking lot. Ms. Hobgood added that she did not think the filming would be disruptive to the normal life on the island since it would occur on a Monday. She asked

for the City's sponsorship since the movie will be high profile and of good quality thereby promoting the City of Isle of Palms in a very positive way.

Mayor Sottile remarked that the City Council must approve City sponsorship of the movie in order for the filming to take place on the island because commercial activity is not allowed on the beach. He did state that the movie would provide the City exposure in a manner that does not often present itself. He noted that the South Carolina General Assembly had initiated incentives in the past year to bring movie companies to the state. In addition the Mayor referred to discussions held by the Planning Commission on ways to encourage business in the Commercial District in the "off-season."

Councilman Duffy inquired about the number of days the film crew would be on the beach; Ms. Hobgood responded that it would be only one (1).

Councilman Cronin asked Mayor Sottile if this would be a precedent setting event for the City and was informed that there have been other City sponsored events on Front Beach. Councilman Cronin then asked if there had been movie filming requests in the past that the City had rejected; Administrator Tucker stated that there had been some requests that were turned away, but they had primarily been related to the use of island homes, rather than the beach.

Councilwoman Rice expressed her opinion that the filming would be a win-win situation for the City because it would be on a weekday in the off-season and the production will be high end. She recalled that Nickelodeon had filmed on the beach in the last several years and that Council had approved the activity.

Councilman Bettelli reported that *Dear John* had been an excellent book and that this was the way to portray the Isle of Palms.

**MOTION: Councilman Bettelli moved to allow the filming of "Dear John" on the pier and that it be designated a City-sponsored event; Councilwoman Rice seconded and the motion PASSED UNANIMOUSLY.**

Ms. Hobgood expressed her thanks to the City Council.

Comments on Non-Smoking Ordinance

Scotty Sparks, 2086 Country Manor Drive, Mount Pleasant, encouraged those parties opposed to the ordinance to be certain that they know what they are voting against, because it is not about taking away someone's right to smoke, but it is about protecting the people who work in those environments. He then read an article he had found on the South Carolina Department of Labor, Licensing and Regulation that stated

employers are to furnish to their employees a workplace “free from recognized hazards.”

Allison Tysinger, 2086 Country Manor Drive, Mount Pleasant, spoke from written remarks that are attached to these minutes.

Bobby Simmons, 1305 Woodlock, Mount Pleasant and co-owner of “The Acme Cantina,” noted that he had no doubt that there was going to be a smoking ban on the island. He stated that he was attending “to clear some things up.” He reported that, at the Acme Cantina and many other bars, the majority of late night customers are smokers, so he hoped that the Council would review outside smoking restrictions, i.e. he asked that smokers not be required to be ten feet (10’) from entrances. He commented that many low county establishments do a good deal of their business on porches and decks. He explained that he had not encouraged his employees to attend the August meeting, but those who spoke were island residents, as well as Acme Cantina employees. Mr. Simmons reported that, of those on Council supporting the smoking ban, Councilman Loftus had been the kindest and the nicest during their conversation; he had been generous with his time. He commented on the fact that the ordinance would likely go into effect January 1, 2009 and that the ninety (90) day waiver had been eliminated; he asked that the Council consider a sixty (60) day waiver to allow businesses to get through the difficult months of January and February. Mr. Simmons quoted a recent Gallop poll that stated 45% of respondents said smoking in bars should have a separate area, 25% wanted a total ban and 20% wanted no restrictions. In conclusion, he suggested that, since the first reading vote had been 5 to 4, the public should be allowed to make the final decision on an Isle of Palms smoking ban.

Dan Carrigan, 1616 River Road, Johns Island, thanked the Council for protecting IOP “residents, visitors and workers from exposure to secondhand smoke.” He, too, read from a prepared statement that addressed issues dealing with any weakening that could occur with the original ordinance; his comments are attached to the minutes.

Dr. Matthew Carpenter, 448 Jordannaire Walk, Mount Pleasant and an assistant professor at MUSC, explained that he had been surprised by the number of people who spoke at the August meeting about the harm that would be caused to businesses by passage of this ordinance. He has gone back to research studies on the economic impact of smoke-free legislation that all used three (3) high quality standards; those standards are as follows:

- Use of objective data;
- Use of many data points, pre- and post-; and
- Control of secular economic trends.

Of the studies that used all of the above quality standards, all studies found that there was no negative economic impact; the studies that have described negative economic

impact have been funded by the tobacco industry, but none include all three (3) high quality standards. Dr. Carpenter stated that good smoke-free legislation is written in such a way as to allow businesses to comply easily and law enforcement to enforce.

Dianne Wilson, 230 Scalybark Road, Summerville, quoted the 2006 Surgeon General's Report:

"Protect all workers. Secondhand smoke is harmful for all workers; restaurant and bar workers breathe more secondhand smoke than other workers and have higher rates of lung cancer. "

She continued that the Surgeon General's report stated that some of the things that can be done are:

"Make sure employees do not breathe secondhand smoke at work. Make all indoor places smoke-free. Do not allow smoking near doorways or entrances. Offer cessation classes for those employees who do smoke."

Jennie Wilson, 616 Ocean Boulevard, stated that she strongly supported the smoking ban because she has personally suffered in the loss of her father to lung cancer and a cousin who is presently dying of the same.

Barb Herring, 523 Carolina Boulevard, also expressed her support for the smoking ban; she stated that she would be more inclined to frequent local bars where there is no smoking.

Martha Dunlap, 206 Kent Court, Ladson, stated that she works with the Health Department. She informed the Council that the Health Department would provide training on Thursday and Friday of this week; the training is for "Freedom from Smoking" for persons to lead smoking cessation classes. She added that she can be contacted at 843/953-4309.

#### 41<sup>st</sup> Avenue and Palm Boulevard Demonstration Project

Jim Raih, 3904 Cameron Boulevard, stated that the City has created a short-term problem at this intersection and he hopes the City will do away with it soon.

Mayor Sottile suggested that, with the permission of Council, he would move item 9 on the Agenda, Second Reading – Ordinance 2008-08, An Ordinance Prohibiting Smoking in the Workplace, to this time.

**MOTION: Councilman Taylor moved to insert the Second Reading of Ordinance 2008-08 at this point in the meeting; Councilman Cronin seconded and the motion PASSED UNANIMOUSLY.**

Mayor Sottile noted that Council had in its possession the original ordinance, a second that had been amended/red-lined by Attorney Sottile, and a third that had been amended/red-lined indicating the Mayor's suggested changes.

**MOTION: Councilman Bettelli moved to approve Second Reading of Ordinance 2008-08; Councilman Cronin seconded.**

Mayor Sottile asked Attorney Sottile to review the amendments the attorney had proposed to the ordinance. Attorney Sottile related that he had made the following changes after First Reading and after conversations with Administrator Tucker and Building Director Kerr; the amendments are as follows:

- 1) Section 2.D. – The meaning of “enclosed area” was expanded to be enclosed on “two (2) or more” sides by “temporary or permanent walls of any type of material including, but not limited to plastic, wood, Sheetrock, or particle board” or windows. . . “Exclusive of doorways” was excluded, and “porches” was included.
- 2) Section 2.J. – The definition of “workspace” was broadened to indicate that, if the space were occupied by an employee “at any time,” it would be included.
- 3) Section 3.C. – Added to the definition was the sentence “Furthermore, the employer, business agent and all employees shall prohibit any persons from smoking tobacco products in any workplace or workspace.” This made it the responsibility of everyone to prohibit the violation of the ordinance.

**MOTION: Councilwoman Rice moved to amend Ordinance 2008-08 to include the changes made by Attorney Sottile; Councilman Cronin seconded and the motion PASSED on a vote of 8 to 1; Councilman Buckhannon cast the negative vote.**

Attorney Sottile proceeded to review the suggested amendments made by Mayor Sottile as follows:

- 1) Section 2.D. – A further clarification to porches stating “. . . provided, however that porches which have fifty (50%) percent or more of open space or screening on all but one side shall be excluded from this definition.”
- 2) Section 7 – In this section, “any entry in” has replaced by “the primary entrance to.” This change was needed to allow for smoking on porches and

decks because there must be a door from the establishment onto the porch or deck.

- 3) Section 12 – The effective date of the ordinance was changed from “November, 2008” to “January 1, 2009” to give the affected businesses time to do whatever they must to comply with the ordinance.

**MOTION: Councilwoman Rice moved to include the amendments suggested by Mayor Sottile in Ordinance 2008-08; Councilman Taylor seconded.**

Councilwoman Rice commented that eliminating the ten-foot (10') rule would make the ordinance more enforceable.

Councilman Loftus expressed his opposition to the elimination of the ten-foot (10') rule because the purpose of this distance rule was to prevent secondhand smoke from wafting back into the business thereby endangering the employees and customers. He added that to weaken the ordinance in this way defeated its intent.

Councilman Duffy voiced his agreement with Councilman Loftus stating that the changes reduce the effectiveness of the ordinance to keep indoor air clean.

“A good compromise” were Councilman Bettelli’s words to express his support for the changes by Mayor Sottile because the Council was not only interested in protecting the health of employees, but also “interested in the health of the businesses on the island.”

**Call for the Question: The motion to adopt the amendments to Ordinance 2008-08 suggested by Mayor Sottile passed on a vote of 6 to 3; Councilmen Duffy, Loftus and Piening cast negative votes.**

**MOTION: Councilman Duffy moved to amend Ordinance 2008-08 by replacing the ten-foot (10') distance with the words “a reasonable distance” to prevent the infiltration of secondhand smoke; Councilman Loftus seconded.**

Councilwoman Rice addressed Attorney Sottile asking how this “reasonable distance” could be enforced; Attorney Sottile said it was a question of was smoke going into the building.

Attorney Sottile suggested the following language from the Sullivan's Island ordinance:

"Smoking outside a workplace, workspace or any other enclosed area where smoking is prohibited shall be permitted, provided that no such smoke enters the enclosed area through entrances, windows, doors, openings, ventilation systems or any other means."

Councilman Duffy commented that the wording would accomplish the goal of his amendment, and he changed his amendment to include the section from the Sullivan's Island non-smoking ordinance.

**Call for the Question: The motion to include "reasonable distance" PASSED on a vote of 6 to 3; Councilmen Buckhannon and Taylor and Mayor Sottile cast negative votes.**

Councilman Buckhannon asked for general discussion at this time and repeated his stance that the loss of personal freedoms are at the heart of this ordinance; the allows only a few people to choose. He accepted that this ordinance will be adopted, but he stated that he cannot support this ordinance when he believes that the justification for it is that the surrounding municipalities are doing it. He commented that, since smoking bans are controversial and the initial vote by Council had been close, the voters of Isle of Palms should decide the issue.

**MOTION: Councilman Buckhannon moved to hold a referendum on Ordinance 2008-08; Councilman Taylor seconded.**

Attorney Sottile noted that, in his opinion, there was a motion on the floor that had to be resolved before another could be offered.

Mayor Sottile remarked that the City could not be run by referendum and that he and the Council were elected to make decisions like this one.

Councilman Buckhannon related that the smoking ban had become such a "hot button" issue on the island that residents had expressed to him their desire to be involved in the decision process.

Councilman Taylor expressed agreement on the need for a referendum to decide this issue because a slim majority of Council had voted to pass First Reading of the ordinance. In addition, Councilman Taylor wanted the opportunity to clear up some misconceptions held by some island residents; Councilman Taylor is not a smoker and usually does not frequent places that allow smoking. He reported that his visits to The

Acme Cantina and the Windjammer were to support island businesses, and he noted that he intends to go to them more after this ordinance passes. Councilman Taylor concluded by asking that everyone who had supported the smoking ban that were not residents of the island to come back to support the local businesses after the first of the year.

Councilman Bettelli agreed with Councilman Taylor's request of the off-islanders who had spoken so fervently in support of the ordinance to come back to support the local businesses, but he asked one (1) additional thing – that these visitors make it known that he/she is a non-smoker who had not been into the business before because of the smoke, but he/she is here now because that business has gone smoke free. Such a statement would be a viable indicator to the business owner of the real effect of this ordinance to his business.

**Call for the Question: The motion to adopt the amended Ordinance 2008-08, Prohibiting Smoking in the Workplace, PASSED, on a vote of 7 to 2; Councilmen Buckhannon and Taylor cast the two (2) dissenting votes.**

Having acted on the primary motion, the Council could address the motion for a referendum.

**MOTION: Councilman Buckhannon moved to hold a referendum on Ordinance 2008-08; Councilman Taylor seconded and the motion FAILED on a vote of 3 to 6. The supporting votes were cast by Councilmen Bettelli, Buckhannon and Taylor.**

## **5. Reports from Standing Committees**

### **A. Ways and Means Committee**

Since Councilman Taylor had been unable to attend the meeting, Vice-Chairman Cronin, having chaired the meeting, gave the report. He noted that, in addition to the monthly financial statement, Treasurer Suggs had reported that the unaudited, preliminary result for FY2007-2008 was a slight surplus that the Council would have to address in November when the audited annual statement was made available. The Treasurer had informed the Committee that the City had received the nine hundred thousand dollars (\$900,000) from Charleston County for the beach restoration project. On the bulkhead replacement project, Councilman Cronin reported that the Misener Marine contract had been signed, and a Notice to Proceed had been issued on September 19, 2008. Under Old Business, the switch to digital radios was discussed, and it was noted that Administrator Tucker had given approval for the labor for Charleston County to affect an immediate switch to the digital system. On the subject of

revenue, Councilman Cronin announced that, if approved, the City's millage rate would go down from 22.4 to 22.2 for FY 2008-2009 as a result of the less than budgeted cost of the Public Safety Building and the rate the City received for the General Obligation Bond.

**MOTION: Councilman Cronin moved to approve a millage rate of 22.2 for FY 2008-2009; Councilman Taylor seconded and the motion PASSED UNANIMOUSLY.**

### **B. Public Safety Committee**

Councilman Buckhannon reported that there has been a lot of underground work completed at the Public Safety Building, and the walls are beginning to go up. On golf cart parking, he stated that the City is looking to expand cart parking to more beach accesses. As everyone is aware, the SC DOT demonstration project is underway at 41<sup>st</sup> Avenue and Palm Boulevard; Chief Buckhannon is monitoring it closely. Other Committee discussions included abandoned vehicles, kite boarders and the varied restrictions to parking along Palm Boulevard.

Mayor Sottile commented that there had also been discussions about seeking funding to provide additional bike lanes along Palm Boulevard.

Councilman Cronin asked Administrator Tucker about construction of the stormwater drainage system for the Public Safety Building. She reported that, as a result of the construction of the Public Safety Building, the stormwater must be directed through a portion of the City's existing system; the City is in the process of enlarging that system to accommodate the additional runoff. Construction is in the area of 11<sup>th</sup> Avenue, and it will be crossing Palm Boulevard imminently causing some traffic disruption.

Councilman Taylor expressed his opinion that the SC DOT demonstration project is a mess; he, therefore, asked Chief Buckhannon to continue to have officers on site to direct traffic. He stated that, from his observations, people are utterly confused.

### **3. Public Works Committee**

Councilman Bettelli quoted Citizens' Comments from the meeting that were made by Bev Ballow as a unofficial member of the Marine Mammal Stranding Team that was involved with the removal of the stranded pygmy whale several Saturdays ago. He quoted:

“ . . . had received an e-mail from Ms. Pate [NOAA representative who was at the site] commenting that the IOP personnel had been the nicest, most pleasant, best people she had worked with anywhere in the state when picking up marine mammals of any size.”

He noted that the 31<sup>st</sup> Avenue ditch has been cleaned and that the staff is moving forward with the debris removal RFP. In the meantime, the City has a temporary contract. Councilman Bettelli announced that the City would hold a Household Hazardous Materials Collection from 9 am until noon on Saturday, October 18 in the large parking lot on Front Beach; he stated that some of the materials that would be picked up were paints and solvents, automotive products, household cleaners and polishes, pesticides and repellants, electronic waste (keyboards and computers), etc. A key discussion under New Business was the appropriate timing for the City to go to once per week trash pickup; the Committee agreed that the change should occur the week following Labor Day the week each year. By this time, the volume of trash drops dramatically, so going to once a week would free up manpower to be used elsewhere and save on fuel costs. In discussions that Councilman Cronin was having with a Citadel civil engineering professor for another committee, the City's issues related to rights-of-way on the island came up. Councilman Cronin was asked to pursue the right-of-way issue with him on the possibility that one of his classes/students could begin the project for the City. Councilman Bettelli announced that Charleston County has changed its sign making process that will require that the City purchase its own materials; Director Pitts was asked to determine Mount Pleasant's source of signs to possibly partner with them.

Councilman Cronin expressed the desire to formalize the change from bi-weekly trash pickup to once per week as a permanent change.

**MOTION: Councilman Cronin moved to establish once per week trash pickup in the fall of the year beginning the week following Labor Day week; Councilman Loftus seconded and the motion PASSED UNANIMOUSLY.**

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

Councilwoman Rice reported that the fall activities at the Recreation Center have gotten off to an excellent start. She commented that the Employee Wellness Fair had been a huge success, and she hoped to see it become an annual event and possibly expand to include members of the community. Upcoming events include the Connector Run on Saturday, October 4, the Ghostly Tide Movie on Friday, October 10 and the annual Halloween Carnival at the Recreation Center on Friday, October 31. Councilwoman Rice thanked the owners of the Island Time Beach Shop for offering their parking lot to host the end-of-race activities.

**E. Personnel Committee**

Councilman Piening reported that the Committee had discussed the transfer of authority to manage City elections to Charleston County, which has passed the final reading by Charleston County Council. They also discussed the process for appointing interested residents to City Boards and Commission; Councilman Piening noted that eleven (11) persons had applied for positions who have never served before. In conclusion, he announced the September Safety Sweepstakes winners as Emily Dziuban from General Government, Jessica Edwards from the Police Department, Brian Bozman from the Fire Department and John Graham from Public Works.

Councilman Loftus asked that, in anticipation of a new budget year, the Personnel Committee begin to look into the City's COLA policy and consider methods to recognize the City's employees who excel.

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

- A. Board of Zoning Appeals – minutes attached**
- B. Planning Commission – minutes attached**
- C. Real Property Advisory Committee**

Councilwoman Rice reported that the Committee had heard from Rick Linville, who has leased the Front Beach parking lots for the past ten (10) years, about the major issues and most relevant facts about managing the parking lots. The Committee is moving forward with the leases that renew in the fall of the year. Councilwoman Rice informed the Committee that the bulkhead replacement is moving forward; there had been a pre-construction meeting on Friday, September 19 where it was announced that construction was scheduled to begin on Monday, October 6.

**7. Reports from Special or Joint Committees - none**

**8. Petitions Received, Referred or Disposed of - none**

**9. Bills Already in Possession of Council – earlier in the meeting**

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

Mayor Sottile reported that he had received a proclamation for National Colonial Heritage Month and asked that Administrator Tucker read it for the record. A copy is attached to the minutes.

**MOTION: Councilman Bettelli moved to approve the proclamation as read; Councilman Cronin seconded and the motion PASSED UNANIMOUSLY.**

**11. Miscellaneous Business**

Councilman Loftus made the following three (3) requests of the Planning Commission:

- 1) To review the short-term rental ordinances to determine if anything should be changed after operating under them for two (2) years;
- 2) To review lot coverage/sizes of houses to preserve the residential quality of the island; and
- 3) To review the square footage of homes; currently the ceiling is 7,000 square feet.

**MOTION: Councilman Cronin moved to send these three issues to the Planning Commission for review and study; Councilwoman Rice seconded and the motion PASSED UNANIMOUSLY.**

Mayor Sottile announced that the annual motorcycle ride was Saturday, September 27, and that it would be coming through Isle of Palms at about 9:30 a.m. or 10 a.m. Approximately nine hundred (900) to one thousand (1,000) riders are expected to come over the Connector with a police escort and proceed to Sullivan's Island.

Councilwoman Rice asked for information about the announcement that had been made earlier in the day regarding water restrictions. Administrator Tucker answered that there had been a water main break in the City of Charleston under Charleston Harbor which caused a pressure problem in the water flowing to Sullivan's Island. The IOP Water and Sewer Commission was now flowing back to Sullivan's Island to boost their pressure. In an effort to maintain adequate pressure for potable water, the Water and Sewer Commission has asked that residents avoid all unnecessary uses of water until the City of Charleston main is repaired.

**12. Executive Session - none**

**13. Conclusion/Adjourn**

**MOTION: Having concluded the business to come before the City Council, Councilman Buckhannon moved to adjourn at 8:23 p.m.; Councilwoman Rice seconded and the motion PASSED UNANIMOUSLY.**

Respectfully submitted:  
Marie Copeland, City Clerk