

CITY OF ISLE OF PALMS
Regular City Council Meeting
June 26, 2007

The regular meeting of the Isle of Palms City Council was held 7:00 p.m. on Tuesday, June 26, 2007 in Council Chambers, 1207 Palm Boulevard, Isle of Palms, South Carolina. Present were Mayor Sottile, Council members Bettelli, Buckhannon, Cronin, Hanbury, Marino, McMackin, Rice and Taylor, as well as City Administrator Tucker, City Attorney Sottile and City Clerk Copeland. There was a quorum present to conduct business.

1. Introduction of Meeting

Mayor Sottile called the meeting to order and stated that members of the press and the public had been duly notified of the meeting in accordance with State and Federal law. He reflected on the deaths of nine (9) City of Charleston Fire Department firefighters on Monday, June 18, 2007 and effects felt by the entire Charleston community. For the invocation, he asked for a moment of silence in honor of these brave and courageous public servants. The Pledge of Allegiance followed.

2. Appointments and Administration of Oath to New Employees

Mayor Sottile administered the Oath of Office to Carol Keller of the Recreation Department.

3. Reading of the Journal of Previous Minutes:

MOTION: Councilwoman McMackin moved for the approval of the minutes for the regular Council meeting of May 22, 2007 and the Public Hearing and regular Council meeting of June 19, 2007; seconded by Councilman Bettelli.

Councilwoman Hanbury presented two corrections to the minutes of May 22, 2007.

The motion to approve the corrected minutes PASSED UNANIMOUSLY.

4. Citizens' Comments:

Jim Smiley of 16-44th Avenue had called and asked to be allowed to speak at this time in the meeting. He opened his comments by quoting Section 5-4-B1 [actually 5-4-15(B)(1)], of the Isle of Palms Code of Ordinances which states the following:

“...Sea walls, revetments, bulkheads, groins, rip-rap or any other hard erosion control structures or devices are strictly prohibited. . . . Hard erosion control structures or devices shall not include bags containing beach-compatible sand

with a capacity of five (5) gallons or less per bag, . . . but shall include bags with a capacity greater than five (5) gallons per bag.”

He reminded Council that, in their regular April meeting, they had voted unanimously to suspend the code prohibiting hard erosion control devices and to allow the installation of fifty (50) gallon sand bags on the northeast end of the island. Dr. Smiley stated that today there is a continuous sandbag revetment extending from the golf course at Dewees Inlet beyond Ship Watch Condominiums. Although the emergency ordinance allowed for fifty-gallon bags, the property owners have installed sandbags that, in his opinion, have a capacity that exceeds two hundred fifty (250) gallons. Since the emergency ordinance expired on the sixty-first (61st) day (June 24, 2007), he was present to implore City Council to enforce its ordinance by requiring the immediate removal of the two hundred fifty (250) gallon sand bags and by allowing only the smaller bags to replace them.

Mayor Sottile responded that, if violations exist, they would be addressed. He added that both the Zoning Administrator and the City Administrator have visited the site, and there have been conversations with Bill Eiser of DHEC.

Administrator Tucker commented that investigations by City officials have taken place since the receipt of Dr. Smiley's e-mail over the weekend. They have discovered that some of the areas of Dr. Smiley's concerns come under OCRM's purview to enforce, such as the height, the angle, etc.

On the subject of the fifty-gallon sand bags, she allowed that, as a group, there probably should have been more research before naming the fifty-gallon bag in the emergency ordinance. What had been learned in the last couple of days was that there is no such thing as a fifty-gallon sand bag; vendors typically sold two (2) types of sand bags – the smaller ones, which did not work, and the next size which was significantly smaller still, which would likely have produced the same result as the five-gallon bag. The next product size, she learned, was referred to as a bulk bag that was normally used for grains or seeds. From the examinations by the City Administrator and the Zoning and Public Works Directors, they believe that what was in place today was the smallest bulk bag that one could purchase. These bags were not sold by volume, but by dimensions. Therefore, in order to purchase fifty-gallon bags, a conversion calculation must be performed to determine the dimensions necessary for the fifty-gallon capacity sand bag; the bags would then have to be specially manufactured. On the other hand, Administrator Tucker believed that the property owners had, in good faith, purchased the closest bag available to a fifty-gallon bag. The problem, according to the Administrator, was this information should have been learned before the passage of the emergency ordinance so that the proper size could have been specified based on what was available to purchase.

In an effort to determine the capacity of the bags in use, ten (10) five-gallon sand bags were placed inside one of the discarded bags from the problem area; the result was that the large bag was filled to just over half. Basically, the bags that are in place contain approximately twice the amount allowed by the emergency ordinance. The problem was not that City Council intended a different size, but that it named the wrong size in response to an emergency situation. By attempting to respond in an emergency vein, there was not sufficient time to adequately research the issue to ensure that the ordinance specified a readily available product.

Mayor Sottile assured Dr. Smiley that the City's staff would be working with OCRM to bring the problem area into compliance. Administrator Tucker noted that there had been communication with OCRM today and that the City was waiting to be told what OCRM believed does or does not need to be done.

Councilwoman McMackin asked if fifty-gallon sand bags had been used elsewhere along the coast of South Carolina. Mayor Sottile said that he did not think they had.

Jeff Jacobs, 606 Ocean Boulevard, congratulated City Council for protecting the north end of the island; he stated that to allow those residences to fall into the ocean would have been unconscionable. He stated also that he understood that the property owners had placed the bags there at OCRM's recommendation and at their own expense. He added that coastal residents look to OCRM as the experts; therefore, they (OCRM) should have known what they were doing. On a different subject, Mr. Jacobs suggested that a time be made available to citizens where they can get questions answered by Council members since typically questions asked during CITIZENS COMMENTS are seldom answered. He stated that he believed citizens would be willing to supply their questions in advance if that were necessary.

Mayor Sottile responded that Council was always open to concerns of the residents of the Isle of Palms; each was available by phone, e-mail, a new website, etc. Efforts were made through the website, message boards and newspaper notices to keep the citizens informed about the happenings on the island. He questioned what more the Council could do.

5. Reports from Standing Committees

A. Ways and Means Committee

Councilman Taylor reported that on June 19, 2007, in addition to the regular meeting, there had been a final budget meeting, where the budget was passed. He thanked the City Council members, the City Administrator, the City Treasurer and all department heads for their tireless work in a tough and complicated year of budget preparation. In

response to Mr. Jacobs' suggestion, he stated that he was confident that the City's Administrator could answer most questions that a resident could pose.

MOTION: Councilman Taylor moved to award a contract to GEL Engineering LLC for continued monitoring of the bulkhead at the marina in the amount of \$7,755.00; Councilman Cronin seconded.

By way of explanation, Councilman Taylor stated that funds for the bulkhead replacement were included in the FY07-08 Budget, but the actual work was not planned to begin until the next budget year. Therefore, it was critical to continue the monitoring of the bulkhead for the interim period.

Vote: MOTION PASSED UNANIMOUSLY.

MOTION: Councilman Taylor moved to approved the following recommendations from the Accommodations Tax Advisory Committee:
a) \$20,000 for repairs to gymnasium ceiling at Recreation Center and
b) \$7,500 for the Isle of Palms Connector Run and Walk for the Child;
Councilman Cronin seconded; motion PASSED UNANIMOUSLY.

Councilwoman Hanbury responded to Citizens' Comments made at the Budget Public Hearing that contained incorrect information. Fearing that these comments would be considered fact, she felt compelled to correct it by saying that the City of Isle of Palms does not have the authority to determine assessment value for any property. The State of South Carolina made the laws for assessment procedures, which were then carried out by the County assessor.

Councilwoman McMackin also wanted to clarify the motion on the bulkhead monitoring to ensure that the amendment to proceed with bid specifications and permitting this fiscal year was included. The motion as amended was passed by the Ways and Means Committee.

B. Public Safety Committee

Councilman Marino began the Committee report by stating that Fire Station 2 was proceeding on schedule; he personally believed that it will last fifty (50) years. He added that the City was close to hiring the Livability Officer. Discussions took place on the commercial vehicle ordinance that was the topic for the Public Hearing earlier. He reported that the City had acquired a new apparatus for measuring speed, as well as the number of vehicles; he anticipated that it would see a great deal of use in the future. Councilman Marino noted that there had also been discussions on the 25th Avenue and Waterway Boulevard parking issues; the Committee was waiting for a response from

DOT. With July 4th close at hand, traffic concerns were also discussed with regard to getting assistance from surrounding municipalities. There were also the monthly reports from the Police and Fire Departments.

Representatives of Cole+Russell Architects arrived late to review the preliminary sketches of the Public Safety Building. Councilman Marino related that there had been lengthy discussions on the building layout, public parking and setbacks for the building.

MOTION: At the recommendation of the Public Safety Committee, Councilman Marino moved to approve the use of the design/bid/build process for the Public Safety Building; seconded by Councilman Taylor.

Councilman Marino stated that the Committee had approached the actual construction of the Public Safety facility several different ways. Based on the design/bid/build process, the Committee believed that the building would be built quicker and effectively with just as much quality. The Public Safety Committee had generally decided on the building's design from Cole+Russell, the specifications for building would be prepared by the designer, and the building designer and contractor would work together to construct the building using this process.

VOTE: The motion PASSED UNANIMOUSLY.

MOTION: At the recommendation of the Public Safety Committee, Councilman Marino moved to award the contract for design to Cole+Russell as the sole source provider; seconded by Councilman Taylor.

By way of background, Councilman Marino related that the Committee had agreed that Cole+Russell had become intimately involved in and associated with the City of Isle of Palms through the knowledge they had acquired from the needs assessment they performed. When Cole+Russell did this study, they had truly tapped into the City's future needs. The Committee also believed that this knowledge itself would save the City both time and money on this project. Through their work at Fire Station #2, the Committee has seen the excellent work they do and has developed an excellent working relationship with them.

Councilman Cronin added that Cole+Russell had become very well known here, but his long-term concern was if the City has received a price proposal from them for the work proposed by this motion. Administrator Tucker responded in the affirmative.

VOTE: The motion PASSED UNANIMOUSLY.

Councilman Marino reported that there had been an in-depth discussion on the site plan for the Public Safety facility related to the amount of public parking space which could be saved.

Also covered in the meeting were the annual July 4th Golf Cart Parade and the Disaster Preparedness Expo which will be held in cooperation with Sullivan's Island from 5 to 7 p.m. on July 26 at the Isle of Palms Recreation Center. Councilman Marino was happy to announce that the rumble striping had been placed on the Connector, which the Council and Committee believe will provide additional protection for walkers and bikers.

Councilman Marino concluded his comments saying that there will be no meeting of the Public Safety Committee in the month of July 2007.

Additionally Councilman Cronin reported that arrests made year-to-date are up 64% over the same period in 2006; the total is 468 arrests through May, which averages 3.1 arrests every day. He reminded those present that these figures do not include traffic citations, but actual arrests for drugs, alcohol, etc. He also noted that parking tickets were up 106% over 2006 for 2,411 parking tickets through May 2007. These statistics were sure indicators that the City's Police Department was on top of the issues that were of greatest concern to Isle of Palms residents.

An additional statistic, which Councilman Taylor thought relevant, was that traffic to and from the island for the month of May 2007 has increased 17% over the last five (5) years; he thought it was time to place a sign saying "The Island is full."

C. Public Works Committee

Councilman Bettelli reported that there had been discussions on the sandbags that were washing down the beach; while grateful that residents were picking them up, he asked that the bags not be placed in the yellow cans, but beside them. The sandbags and residual sand in them were damaging the equipment that was emptying those cans. The Coastal Conservation League had contacted the City Administrator about partnering in an emergency beach sweep. The RFP for pre-disaster response/post-disaster debris removal will be completed once several issues have been resolved. Councilman Bettelli announced that the City had received a twenty thousand dollar (\$20,000) grant from CDBG for the 21st Avenue Beach Access; this is one of the handicapped beach accesses.

The Committee also discussed a letter it had received from the Isle of Palms Water and Sewer Commission on the subject of right-of-way obstructions; Administrator Tucker was researching the issue. The Public Works Committee also commented on trash can corrals; despite the fact that Council had originally encouraged the corrals, the corrals

have been found to be a cause of lost productivity, plus many were located in the rights-of-way. Councilman Bettelli asked that no more corrals be built. A newsletter was being compiled by Director Pitts and Councilman Cronin to contain more information on trash and garbage pickup.

The next meeting of the Public Works Committee was scheduled for 4:00 p.m. on Wednesday, July 11, 2007.

Councilwoman Rice asked if the number of sandbags washing back onto the beach has decreased. Councilman Bettelli responded that the number has dropped dramatically.

D. Recreation Committee

Councilwoman Rice reported that the summer programs were in full swing with the summer camps, which have waiting lists, basketball camp, etc. She was happy to report that there were 437 Isle of Palms residents participating in Camp Summershine. She also related that "RecTrac", the computer program tracking programs, participation, program use by residents, etc., was completely operational. Councilwoman Rice reported that twenty-six (26) teams had participated in the sand-sculpting contest and there were in excess of three hundred (300) persons at Spoleto events held on the island. There was a reminder that the Beach Run was scheduled for Saturday, July 21.

Committee has also decided not to meet in the month of July, but will meet at 5:00 p.m. on August 7, 2007.

E. Personnel Committee

Councilwoman McMackin stated that the Committee had discussed pending personnel recruitment, i.e. the Livability Officer and the Assistant Administrator. The contract for the salary survey would be executed soon. Councilwoman McMackin presented two (2) Committee recommended appointments for Council consideration; these appointments were to fill un-expired terms, which end December 2007.

MOTION: Councilwoman McMackin moved that the Council approve the appointment of John Wade to fill an un-expired term on the Board of Zoning Appeals; Councilman Buckhannon seconded; motion PASSED UNANIMOUSLY.

MOTION: Councilwoman McMackin moved that the Council approve the appointment of David Nelson, representing General Accommodations, to the Accommodations Tax Advisory Committee; seconded by Council Buckhannon.

Councilwoman Hanbury asked if Mr. Nelson had not been on the ATAX Committee in the past; Councilwoman McMackin responded that he had reluctantly resigned his position on the Committee in order to allow Terri Haack to be appointed.

VOTE: Motion PASSED UNANIMOUSLY.

Councilwoman McMackin informed Council that there is an opening on the Planning Commission due to the resignation of Andrew Roskill; his term will expire December 2008.

In the course of the Personnel Committee meeting, there was discussion on establishing a policy on advertising for un-expired terms on boards and commissions. The decision was to advertise for any un-expired position that has a remaining term greater than one (1) year; terms of less than one (1) year will be filled from the candidate pool.

Councilman Cronin asked if the candidate pool compiled at the end of 2006 was still viable; Councilwoman McMackin answered affirmatively and noted that those who expressed interest in the Planning Commission would be contacted about the Planning Commission vacancy.

Councilwoman McMackin reviewed the following employee suggestions, which originated from the Fire Department and were approved by the Personnel Committee:

- 1) In an effort to promote the website, Chief Graham suggested placing bumper stickers on city-owned vehicles bearing the website address;
- 2) Engineer Roger Eagle suggested the placement of a permanent flagpole on the Connector replacing the current one from WalMart (he is checking on pricing); and
- 3) Engineer Roger Eagle also suggested cleaning the turtle on front beach then placing a protective coating on it to slow corrosion.

The Safety Sweepstakes winners for the month were Kim Dyckma from the Fire Department, Kim Usry from the Police Department, Joseph Washington from Public Works and Karrie Ferrell from Recreation/Building/General Government Departments.

6. Reports from City Officers, Boards and Commissions

- A. Board of Zoning Appeals** – Meeting minutes are attached.
- B. Planning Commission** – Meeting minutes are attached.

C. Real Property Advisory Committee

Councilman Bettelli informed the Council that the Committee had not discussed the barge issue at the marina because Marina Manager Berrigan had been absent. The Committee was of the opinion that input from him was critical to that discussion.

7. Reports from Special or Joint Committees

A. Accommodations Tax Advisory Committee

Administrator Tucker reported that the Committee had approved its portion of the FY2007-2008 Budget.

B. Beach Advisory Committee – Minutes unavailable.

8. Petitions Received, Referred or Disposed of – None.

9. Bills Already in Possession of Council

Second Reading and Ratification of Ordinance 2007-11 – An Ordinance Amending Title 5, Chapter 4, Article 1, Zoning, Section 5-4-14(A)(1)f, of the City of Isle of Palms Code of Ordinances, Regarding Parking as a Residential Accessory Use.

MOTION: Councilman Bettelli moved for the approval of second reading and ratification of Ordinance 2007-11; Councilman Cronin seconded.

Councilwoman Hanbury stated that she was not ready to approve this ordinance as she felt there were still issues to be reviewed and clarified. Due to the concerns expressed by the Planning Commission, she suggested a joint meeting take place between the City Council and the Planning Commission.

Councilman Marino said he could see both sides of the issue, but that he did not think that buses parked in residential areas overnight was a good idea. Since the ordinance did not prevent the off-loading of riders in a residential neighborhood, he could support the ordinance.

Councilwoman McMackin voiced her agreement with Councilman Marino and Mr. Karig, who had spoken at the Public Hearing earlier in the evening, that buses do not belong in residential areas. She did say that she had concerns over the exception that had been added, but her concerns were not strong enough for her to oppose the ordinance.

Mayor Sottile noted his support for the ordinance; he added that he thought it was a step in the right direction.

Councilwoman Rice said that the ordinance was not perfect, but she supported it. She was curious to know just how many lots in SR-1 and SR-2 on the island fall into the one-half (½) acre category. Mayor Sottile interrupted her saying that the one-half (½) acre lot had to be owned and operated by a governmental or charitable organization to be excluded by this ordinance. She commented that the Baptist Church was in the middle of a residential neighborhood, and she was still vexed over the distinction between a bus and a bus converted into a recreational vehicle. She added that she did plan to vote in favor of the ordinance

City Attorney Nick Sottile reminded the Mayor that, with the exception noted in the last sentence, this was not the same ordinance that had received first reading approval; therefore, the motion should be to amend then to ratify the ordinance.

MOTION: Councilman Marino moved to amend Ordinance 2007-11 to allow “the parking of Passenger Buses. . .in the SR-1 and SR-2 Districts on property containing at least one-half (½) acre of land and which is owned and operated by a governmental agency or charitable organization”; Councilman Bettelli seconded.

Councilman Taylor asked Director Kerr if the Planning Commission had discussed the type of fuel used by the buses. Director Kerr answered, “No.”

Councilwoman Hanbury asked, if a bus were to deliver twenty to twenty-five persons to a rental unit, would they then be confined with no transportation? Must they walk if they wanted to go somewhere? Director Kerr stated he could not answer her question.

Vote on the Amendment: PASSED ON A VOTE OF 6 TO 3; dissenting votes were cast by Councilman Taylor and Councilwomen Hanbury and McMackin.

Vote on the Amended Ordinance: PASSED ON A VOTE OF 7 TO 2; dissenting votes were cast by Councilman Taylor and Councilwoman Hanbury.

Administrator Tucker noted that to waive the reading of the ordinance was also part of the motion.

10. Introduction of New Bills, Resolutions and Proclamations

- A. First Reading - Ordinance 2007-12 – An Ordinance Amending Title 5, Chapter 4, Zoning, Article 1, General Provisions, and Article 3, Landscaping and Tree Removal Regulations, of the City of Isle of Palms Code of Ordinances.**

MOTION: Councilman Bettelli moved to approve Ordinance 2007-12 for first reading; Councilman Marino seconded.

Clerk Copeland commented that, contrary to what appeared on the Agenda, Ordinance 2007-10 was actually 2007-12 and Ordinance 2007-12 was Ordinance 2007-13.

Director Kerr explained that there were actually three (3) changes involved in this ordinance; they were as follows:

- 1) If subdividing a lot creates a new lot and that new lot cannot be built upon without removing an historic* tree, the lot cannot be subdivided;
- 2) If a tree is illegally removed, a new tree must be planted in the same location; therefore, the buildable area is not changed; and
- 3) If a developer has a project that gets close to a tree, the developer must involve an arborist to create a Tree Preservation Plan before the construction and, prior to the City's releasing the Certificate of Occupancy, the arborist must certify that the necessary steps were taken to protect the tree and that the preservation plan was adhered to during construction.

*A historic tree is defined as any live oak larger than sixteen (16) inches in diameter or any other tree, except a pine, larger than twenty-four (24) inches in diameter.

Councilwoman Hanbury noted that Director Kerr had not reviewed Section 1 and asked that he do so. He stated that Section 1 related to the definition portion of the code, and it defined the Tree Protection Zone. She asked, when an ordinance was being updated/changed, that the Council should receive both the old one and the new one to identify the changes. Mayor Sottile stated that he would like to attach a memo when new ordinances are introduced to explain it.

Councilman Marino asked how these changes affected the tree bank. With the tree bank, the guilty party is given the option of replacing the tree or mediation by way of paying for the replacement of the tree; the tree bank is already in the code and it will not change was Director Kerr's answer. This ordinance addresses trees that were illegally removed, and the tree bank does not come into play.

Vote: First Reading of Ordinance 2007-12 PASSED UNANIMOUSLY.

First Reading – Ordinance 2007-13 – An Ordinance Amending Title 5, Chapter 4, Zoning, Article 2, District Regulations, Section 5-4-35(a)(3)

of the City of Isle of Palms Code of Ordinances, to Reduce the Minimum Frontyard Requirement in GC-1 Zoning District.

Mayor Sottile introduced this amendment by stating that it had come as a result of the new Public Safety Building. It was an effort to rebuild in the same footprint and to reduce the number of parking spaces lost.

Director Kerr explained that this amendment changed the front yard setback from twenty-five (25) feet to zero (0) feet. This change coincided with a portion of the study prepared for the Planning Commission, which stated that zoning requirements in the commercial core were too severe to make it viable; it recommended greater density and a reduction in the setbacks. With the issues of the short term rentals resolved, the Planning Commission had begun to focus on this study again, so City Council could anticipate more recommendations in the future. Director Kerr added that this amendment was necessary for the siting of the Public Safety Building, which was the first step in moving forward with the construction.

MOTION: Councilman Marino moved to approve the First Reading of Ordinance 2007-13; Councilman Cronin seconded; motion PASSED UNANIMOUSLY.

Councilwoman McMackin asked the difference between front yard and lot frontage; Director Kerr responded that lot frontage dealt with the width fronting the street. Due to the question on the amendment, the vote was retaken.

VOTE: Motion PASSED UNANIMOUSLY.

Councilman Marino had voiced reservations about this amendment at the Public Safety Committee meeting; as a result, he expressed his hope that the Planning Commission would study and have input for Council before the second reading in July. He explained that a new commercial zoning district had also been proposed that would include just the City parking lots. He did agree that this change was absolutely necessary in order to construct the Public Safety Building.

Councilwoman McMackin wanted to know at what point the Planning Commission would be brought into the development of the Public Safety Building. Director Kerr answered that they will become involved prior to construction to comment on the compatibility of the plan with the Comprehensive Plan once the conceptual plans have been drawn. Director Kerr added that the Planning Commission was required by state law to make a recommendation. Director Kerr agreed that conceptual plans had been presented by Cole+Russell at the last Public Safety Committee meeting the previous week.

11. Miscellaneous

Mayor Sottile introduced and welcomed City Attorney Sottile's sons, Nicholas and Steven, who were attending a City Council meeting for the first time.

Mayor Sottile reminded everyone of the July 4th fireworks display which were scheduled to start at approximately 9:15 p.m. on front beach. He promised that they would be as spectacular as always.

MOTION: Councilman Taylor moved that City Council approve an exchange of committee seats whereby Councilman Taylor joins the Personnel Committee and Councilman Buckhannon joins the Public Safety Committee, starting with August 2007 meetings and going through the end of the year; seconded by Councilwoman McMackin.

By way of explanation, Councilman Taylor voiced his belief that Councilman Buckhannon's expertise exceeds Councilman Taylor's in the arena of building/construction; therefore, he felt that Councilman Buckhannon would contribute more to the Public Safety Committee at this critical time related to the construction phase of the Public Safety Building than he. Councilman Taylor added that he had consulted with Councilman Buckhannon and he was agreeable with the change.

VOTE: The motion PASSED UNANIMOUSLY.

12. Executive Session. It was not called.

13. With no further business to come before the Council, the meeting was duly adjourned on a motion by Councilman Taylor and a second from Councilman Buckhannon. The meeting adjourned at 8:20 p.m.

Respectfully submitted,

Marie B. Copeland
City Clerk