

REAL PROPERTY COMMITTEE
4:00 p.m., Thursday, February 8, 2018

The regular meeting of the Real Property Committee was held at 4:00 p.m., Thursday, February 8, 2018 in the City Hall Conference Room, 1207 Palm Boulevard, Isle of Palms, South Carolina. Attending the meeting were Councilmembers Bell, Moye and Ward, Administrator Tucker, Assistant Administrator Fragoso and City Clerk Copeland; a quorum was present to conduct business.

1. Administrator Tucker called the meeting to order and acknowledged that the press and public were duly notified of the meeting in accordance with the Freedom of Information Act. She explained that this Committee has one (1) temporary member and that the seat will be filled as a result of the Special Election on Tuesday February 13, 2018.

2. Approval of Previous Meeting's Minutes

MOTION: Councilmember Moye moved to approve the minutes of the regular meeting of January 9, 2018 as submitted; Councilmember Bell seconded and the motion PASSED UNANIMOUSLY.

3. Citizens' Comments

Chris Crolley, owner and operator of Coastal Expeditions, informed the Committee that he has operated out of the IOP Marina since 1992 and that he conducts kayak tours and provides environmental education. He stated that, along with the other marina tenants, he was looking forward to and lobbied for the marina redevelopment that was defeated in a referendum in November. He expressed his desire to continue operating his business at the marina and asked that the City consider adding his business as a tenant at the marina, in the same way that TidalWave Watersports is a City tenant. He stated that he does not wish to sour any relationships at the marina, but to become a tenant of the City makes more business sense for him. He also recalled that, with the marina redevelopment plan, the decision was made to relocate TidalWave to become Coastal Expedition's neighbor; he stated that such a move would not benefit either business, i.e. kayaks and jet skis should not be mixed. He further stated that he would consider swapping locations with TidalWave to be a quiet neighbor to the neighboring residents and to assist residents with storage and launching their kayaks. He concluded that he would also prefer not to work out of a trailer and would appreciate a permanent structure.

When Councilmember Moye asked whether Mr. Crolley was making a single request to become a City tenant and to move to a different area or was making two (2) requests.

Mr. Crolley replied that he was "simply starting the discussion;" he repeated that relocating TidalWave so close to Coastal Expeditions was not good for either business. He also stated that he thought he could have a longer term lease with the City and that, possibly, his rent would be lower and he would get more support in providing upgraded amenities and building a permanent structure.

Councilmember Bell stated that, since the referendum failed, the City has no master plan for the marina or how the City will deal with individual leases or leased dock space, etc.; he assured Mr. Crolley that the City would move forward to make the necessary repairs. And, on the subject of

a separate lease, Councilmember Bell noted that all unassigned dock space was included in Mr. Berrigan's lease.

4. Comments from Marina Tenants

Carla Pope, Operations Manager for Morgan Creek Grill, read comments from Jay Clarke, restaurant owner, into the minutes of the meeting; a copy of the comments is attached to the historical record of the meeting. Administrator Tucker took issue with the statement "it was indicated to us that alternate, convenient and similar number of spaces would be provided;" she stated that, as the minutes confirm, the City did not obligate itself to provide an equivalent number of dock spaces as were removed from the Morgan Creek Grill in its lease renewal.

With regards to the property tax bill the City has received for the marina, Michael Fiem of TidalWave asked that he be kept abreast of actions or decisions. Mr. Fiem also announced that the TidalWave safety and training handbook that was developed with the assistance of the Department of Natural Resources and the Coast Guard has been adopted by the Watersports Industry Association of America and Lloyds of London to use as a baseline for all training of watersports companies around the world.

5. Old Business

A. Consideration of a proposal from The Palms Hotel for parking in the municipal parking for their guests and employees

The text of the hotel's proposal to the City is attached to the historical record of the meeting; Administrator Tucker addressed each point in the proposal with the City's recommendations that were decided upon by Chief Buckhannon, City Treasurer Suggs, Assistant Frago and the Administrator.

On the subject of the daily rate for guest parking, the City will accept the current daily charge of eight dollars (\$8) per weekday and ten dollars (\$10) per day on the weekends and holidays from March 1st through October 31st. Parking will be on a first come, first served basis, and will not be guaranteed for hotel guests. If City Council were to increase the daily parking rates, the new rates would automatically apply to the agreement between the City and The Palms Hotel. The Hotel will provide its guests with a hangtag that has been approved by the IOP Police Department and will contain the state, vehicle registration number and the "good-through," or check-out, date.

The Administrator stressed that the daily rates were consistent with the rates paid by customers of other Front Beach shops and restaurants.

Seasonal parking passes will not be transferrable in accordance with the existing City regulations associated with the management of seasonal parking passes; the passes can be purchased by the hotel management or by individual employees at the IOP Public Safety Building at the current rate of sixty dollars (\$60).

Prior to entering into an agreement, the Hotel will provide to the City a representative monthly report showing the total number of guests who parked in the Municipal Parking Lot, and the report must include a breakdown of the usage between weekdays and weekend days and holidays. Any guests staying at the Hotel with handicap placards will park at no charge.

The City acknowledges that the parking payment will be made in arrears on a monthly basis, and discrepancies that cannot be resolved will be decided in favor of the City.

Councilmember Bell emphasized the need for consistency between all of the business on Front Beach and that he has no problem with payment in arrears.

MOTION: Councilmember Ward moved to recommend to Ways and Means that the City draw up an agreement with the terms stated above between The Palms Hotel and the City of Isle of Palms relative to the parking of guests and employees of the Hotel in the municipal parking lots; Councilmember Bell seconded.

Councilmember Moye said that he would like to see an estimate of the volume the City might expect and what kind of administrative work would be required for reconciliation on a monthly basis.

Administrator Tucker explained that the City did not have any historical records related to the volume of parking in the past since the hotel was in an agreement with Bill Schupp who was leasing the parking lot from the City.

Councilmember Moye also inquired about having a single rate across all days of the week because it could make the reconciliation easier and less time consuming.

Councilmember Bell commented that The Palms Hotel has no parking without the City lots, and the agreement would be for a year, not long-term; the City was only trying to make a deal to accommodate a business.

Mr. Cunningham, Area Manager for Charlestowne Hotels, stated that he could provide any historical data back to 2012 the City might need. He also informed the Committee that he has located another vendor who would be willing to lease both municipal lots and to manage them for the City. He stated that his goal was to make the process as easy and painless as possible for his guests and the City. The peak year for parking was 2015 when just over twelve thousand (12,000) guests' vehicles were parked in the lots at six dollars (\$6) per day for a total of seventy-two thousand five hundred dollars (\$72,500). He asked that the City allow guests to stay in the lot until the 11:00 a.m. to 12:00 p.m. check-out time on the day of departure.

After Mr. Cunningham stated that he had not experienced any discrepancies when dealing with Mr. Schupp, Councilmember Ward voiced his dislike for the stipulation that all unresolved discrepancies would be decided in favor of the City and that he wanted to see it removed from the agreement.

Amendment: Councilmember Ward moved to remove the section of the agreement on discrepancies; Councilmember Bell seconded.

VOTE on the Amendment: The amendment PASSED UNANIMOUSLY.

VOTE on the Amended Motion: The amended motion PASSED UNANIMOUSLY.

B. Update on the removal/replacement of the underground storage tanks

The Administrator stated that staff would be meeting with the affected marina business owners, Director Pitts, and the contractor tomorrow morning regarding the delay in receipt of the replacement tanks. The RFB had stressed the need to remove and replace the tanks at the marina before the start of the season; with the news of the delay, the discussion will center on replacing the tanks at the Public Works site before the season starts and delaying the installation of the tanks at the marina until after the season. This reversal would mean that the project will be spread over two (2) fiscal years, and the funds not spent in FY18 will be re-budgeted into FY19; it will also mean above ground fuel for a longer period of time.

6. New Business

A. Discussion of changes to parking at the Front Beach lots

A member of Council that does not serve on this committee asked that this item appear on the Agenda; he had a family member who worked at the parking lot in the County Park and has offered suggestions to the City for changes and/or improvements relative to the City's parking lots. He has suggested that the City might need additional staffing at the lots to increase efficiency; the City currently staffs the parking lot on peak days, i.e. Memorial Day weekend and July 4th. Employees from all departments are selected to work the lots on an overtime basis. This Councilmember also advocated for improving the lots, possibly reconfiguring them and improving the condition. The City does not have the level of irrigation that exists at the County Park.

Councilmember Bell opined that the parking lots were a piece of a bigger discussion of parking all over the island; problems exist on Palm, the marina overflow issue, directing day-trippers to the parking lots, etc. He advocated that Council stop treating individual situations, but develop a comprehensive parking plan to encompass the entire island. He recommended that a more comprehensive discussion be initiated before the start of the season.

The Administrator responded that she thought this would be a topic of the discussion at the upcoming visioning meetings.

B. Discussion of request by Michael Fiem to operate Isle of Palms Adventures

Administrator Tucker invited Director Kerr to the meeting to explain what ordinance changes would be necessary for Mr. Fiem's plan to move forward as presented.

Director Kerr recalled that, in the past year, Council passed an ordinance not to allow outdoor sales or sales from anything temporary or mobile; a permanent structure would be required. If Council were to make the ordinance changes to allow Mr. Fiem to go forward, an approval from the Board of Zoning Appeals (BOZA) would be necessary for any type of outside activities.

One (1) solution would be to operate from an existing, permitted building, which he did not think was considered as part of the business plan.

Another provision in the existing code is a temporary exception for City-sponsored events that states that the law would be suspended for a day or two (2) for events like the 50th anniversary celebration, the street fests, the tree lighting, etc. The particular situation being discussed would not be for a day or so; therefore, the statute would not apply.

According to Councilmember Bell, the discussion at the January meeting ended with the Committee charging Mr. Fiem to talk with the Front Beach businesses about space inside their businesses from which IOP Adventures could operate. He commented that he understood Mr. Fiem's concept as a way for them to gain more business and potentially to help solve the parking density issues at the marina, but he again thought that marina parking should be one (1) piece in comprehensive planning for the City. He stated that he was unclear what problem the Committee was trying to solve; he did not understand what the impact to the marina would be in terms of usage by promoting for more people to come there.

Mr. Fiem agreed that a comprehensive plan was needed, but he also thought that it would be made up of multiple, different solutions. He stated that he saw this concept as helping parking overall; he said that he thought IOP Adventures would help the City with minimal cost. As to occupying space in another business, he stated that to be successful, this business must be visible.

Councilmember Bell noted that, with the challenges in the Code, including the BOZA process, this plan could not possibly be in place for this year's beach season; he added that he had no idea if Council would want to entertain changes to ordinances.

Councilmember Ward stated that he would not be in favor of any changes to ordinances; in his opinion, the City Code was what held the island together and controlled the City's future. He also stated that he supports the "brick and mortar" businesses on the island.

Councilmember Bell indicated that Council could not support changes to the City Code for one (1) business.

Director Kerr opined that Council could change the Code to eliminate the need for outdoor activities to be approved by BOZA if they chose to do so, but the need to construct a permanent building would still exist.

Councilmember Moye commended Mr. Fiem with wanting to work with the City, but he agreed with Councilmember Bell that this new Council needed time to establish a path to the future. He also voiced agreement that changing existing City ordinances was unlikely.

Although Mr. Fiem urged the Committee to send his proposal to the Ways and Means Committee for discussion, Administrator Tucker explained that the Committee was not of a mind to do that.

C. Consideration of submitting documents regarding permitting of the IOP Marina dock replacement

Administrator Tucker stated that, from working with ATM on the marina enhancement project, staff learned that permitting from OCRM and the Corps of Engineers for the replacement of the docks could take a year to obtain. Since the docks are in poor condition and are continuing to deteriorate, staff's question to the Committee was whether to engage the services of a consultant to compile and submit the permit documents to begin the permitting process. If the Committee wants to proceed, staff would want guidance on whether the Committee wanted to continue with ATM since they have the body of work up to this point or to advertise an RFP to attract other consulting firms that do this type of work.

Responding to Councilmember Ward's question, the Administrator said that staff would need about a month to produce the RFP, bidders would be given a couple of weeks to respond, and staff would need another couple of weeks to evaluate the bids. Staff should be able to make a recommendation in about two (2) months.

Councilmember Bell opined that ATM probably already has the work done and, therefore, should come forward with a modest fee; he preferred that the City approach them first to get a price for the work.

Mr. Berrigan, marina manager, agreed the City should go to ATM for a price, but he added that he could wait for a few months for an RFP to get the right team. He also stated that he thought that ATM has done a professional job and that they know what they are doing.

Administrator Tucker stated that, if the Committee wanted her to reach out to ATM, she thought they could give her a price in time for the February Ways and Means Committee meeting.

MOTION: Councilmember Bell moved to recommend to Ways and Means that the City begin the permitting process for the replacement of the docks at the marina and should reach out to ATM for a proposal for that purpose; Councilmember Moyer seconded.

Councilmember Moyer asked how much leeway the City would have with the design of the docks once the permits were issued.

The Administrator explained that the permits could be amended, but the basic things could not be changed because they were agency regulations.

Councilmember Bell commented that the permits would be good for five (5) years, and Mr. Berrigan noted that they could also be extended.

VOTE: The motion PASSED UNANIMOUSLY.

D. Discussion on unattended Intracoastal Waterway docks

The Administrator reminded the Committee that the prior Council had removed the docks dedicated to Morgan Creek Grill (MCG) when the lease was renewed; she explained that the reason the action was taken was because the docks were not policed and were under-used. In addition, the removal of the docks from the lease gave the City more flexibility as it developed the Marina Enhancement Plan. When that action was taken, the understanding was that, as the Enhancement Project moved forward and the future of the restaurant was looked at, attempts would be made to accommodate the boating customers of Morgan Creek Grill, but that the likelihood was that fewer slips would be made available to them than were in the lease. What exists today is docks that are in an unattended section of dockage; anyone coming up in a boat could dock there which is problematic on issues of liability and maintenance. Additionally, the City has a tenant at the marina site whose business is to lease dock space, and a portion of that income comes to the City; these unattended docks mean that the City is allowing dock space for free. The Administrator continued that a decision needed to be made about these docks at least to get through the season.

Councilmember Bell recounted that he had been in attendance at meetings when the MCG docks were discussed, and there was no agreement on whether the docks were under-utilized. The docks were removed when Council renewed the lease on the contention from several Councilmembers who said the docks were not utilized properly. Discussion also took place at that time about giving the docks to Mr. Berrigan without a return to the City for them, and the statement was made that to do so would mean an amendment to the marina lease. He stated that now the City has “an Intracoastal restaurant with no definitive agreement with the marina operator to provide dock space.” He opined that the City has two (2) options;

- 1) To revert to the old lease terms with MCG for the 2018 season with the addition that the docks are to be policed and maintained by MCG or
- 2) To put the docks under the purview of the marina manager for the 2018 season.

Chris Crolley of Coastal Expedition questioned that the slip management would go to the restaurateur, and not to the marina manager.

Councilmember Bell noted that these docks would not bring additional revenue to the City unless they were addressed in a separate lease with the marina manager. His concern was for the restaurant to have an agreement in place with the marina manager to provide dock space to MCG for the summer of 2018.

Mr. Berrigan reiterated that he has not proposed for the City to give him purview over Morgan Creek docks. If he were to manage these unattended docks, he would seek a separate lease with the City for one (1) year with the City receiving a percentage of the rent. He recalled that, prior to the referendum, a topic of discussion was that residents should have access to more dock space at the marina; Mr. Berrigan said that, if these docks were his to manage, he would make them available for rent exclusively by IOP residents.

Administrator Tucker voiced a plan that would benefit all parties involved; the plan would be to craft a short-term lease, ending maybe on December 2019, with either Marina Joint Ventures or MCG, that the City receive a percentage of the rent of those docks to be used by residents and

MCG customers – possibly two (2) spaces dedicated to the restaurant; the lease could be renewed annually until such time as the City makes a decision on the configuration of all of the docks. This would accomplish having the docks managed and maintained on a short-term basis. The Administrator stressed that the docks were for the use of customers to Morgan Creek Grill and not for the restaurant owner or employees; although this did not represent a violation of the lease, it was not the intent of the lease.

Although he did not attend the Real Property Committee meeting where taking the docks out of the MCG lease was discussed, Councilmember Moye did attend the Council meeting when the action was taken, and he recalled that MCG had been late with its request to renew the lease and that the missed deadline had been used to open the door to removing the docks from the lease. He hypothesized that, if the renewal request had been made on a timely basis, the Committee would not have this discussion. He asked if MCG had received anything to compensate it for the loss of the docks, and the Administrator responded that she would need to review the lease renewal to be sure; she opined that the restaurant had been given the opportunity to renew.

For Councilmember Moye, the issue was one (1) of fairness and “what kind of city the Isle of Palms wanted to be in terms of working with the businesses that serve the residents.” He stated that he would like to see Mr. Berrigan and Mr. Clarke work together to come to a mutually beneficial agreement.

Since Mr. Clarke was unable to attend the meeting due to a bad case of flu, Ms. Pope approached the Committee stating that she thought it was important for Mr. Clarke to comment before the Committee took action on the docks. Ms. Pope added that her memory was that the marina tenants were told they would have to give up something to make the master plan work and that the restaurant gave up the docks while other tenants were being moved around. She again contended that the docks are not under-utilized from March through August and are very much an asset to MCG.

The Committee agreed to delay action until they heard from Mr. Clarke.

7. Miscellaneous Business

Administrator Tucker reported that all tenants' rent was current.

Next Meeting Date: 4:00 p.m., Thursday, March 8, 2018 in the Conference Room.

8. Executive Session – not needed

9. Adjournment

MOTION: Councilmember Ward moved to adjourn the meeting at 5:30 p.m.; Councilmember Moye seconded and the motion PASSED UNANIMOUSLY.

Respectfully submitted:
Marie Copeland
City Clerk