

Real Property Committee
4:00 p.m., Wednesday, October 3, 2018
Conference Room
1207 Palm Boulevard, Isle of Palms, South Carolina

AGENDA

1. **Call to Order** and acknowledgement that the press and public were duly notified of the meeting in accordance with the Freedom of Information Act.
2. **Approval of Previous Meeting's Minutes**
Regular Meeting of September 5, 2018
3. **Citizens' Comments**
4. **Comments from Marina Tenants**
5. **Old Business**
 - A. Update regarding 1100 Palm and right-of-way on Pavilion Drive
 - B. Update on unlicensed businesses operating out of the IOP Marina with no lease with City or Marina Manager
 - C. Update on insurance documentation requested from marina tenants
 - D. Discussion of alternatives available to optimize the municipal parking lot on Pavilion Drive
 - E. Update on Marina tenant operations and financial review by McCay Kiddy and Associates
6. **New Business**
 - A. Selection of firm(s) with whom to negotiate for PSB design/build project
 - B. Discussion of RFP process relative to the marina restaurant
7. **Miscellaneous Business**
Tenant Rents Report

Next Meeting Date: 4:00 p.m., Wednesday, November 7, 2018 in the Conference Room
8. **Executive Session** – To receive legal advice concerning potential claims related to 1100 Palm and right-of-way on Pavilion Drive

Upon returning to open session, the Committee may take action on matters discussed in Executive Session.
9. **Adjournment**

REAL PROPERTY COMMITTEE
4:00 p.m., Wednesday, October 3, 2018

The regular meeting of the Real Property Committee was held at 4:00 p.m., Wednesday, October 3, 2018 in Council Chambers of City Hall, 1207 Palm Boulevard, Isle of Palms, South Carolina. Attending the meeting were Councilmembers Ferencz and Ward, Chair Bell, Interim Administrator Fragoso and Clerk Copeland; a quorum was present to conduct business.

1. Chair Bell 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.

2. **Approval of Previous Meeting's Minutes**

MOTION: Councilmember Ward moved to approve the minutes of the regular meeting of September 5, 2018 as submitted; Councilmember Ferencz seconded and the motion PASSED UNANIMOUSLY.

3. **Citizens' Comments – none**

4. **Comments from Marina Tenants**

Carla Pope, Operations Manager for Morgan Creek Grill, informed the Committee that she had spoken with Melissa Kiddy of McCay Kiddy to set a date for her to review the financial records described in the scope of the City's contract with them; Ms. Kiddy scheduled a meeting at the restaurant for Wednesday, October 10, 2018. Despite its being a dead issue, Ms. Pope wanted to clear up the confusion over the term defined in the lease they had presented to the Real Property Committee; they were seeking a fifteen (15) year extension, not a lease of thirty-three (33) years. She reported that they are gathering information for the RFP and reminded the Committee that, for the restaurant, time was of the essence.

Brian Berrigan, Marina Manager, explained to the Committee that he received an e-mail from the Interim Administrator on July 26th requesting some information in addition to what they had already sent to her. At that time, he did not open the e-mail's attachment; after receiving a follow-up e-mail from her, he opened the attachment on Tuesday of this week and immediately set about gathering the data. He apologized to the Committee about the delay.

5. **Old Business**

A. **Update regarding 1100 Palm and right-of-way on Pavilion Drive**

MOTION: Chair Bell moved to re-order the Agenda to address this item after the Executive Session at the end of the meeting; Councilmember Ward seconded and the motion PASSED UNANIMOUSLY.

B. **Update on unlicensed businesses operating out of the IOP Marina with no lease with the City or Marina Manager**

The Chair repeated his concern that these businesses, primarily charter fishing boats, should meet the same insurance requirements as other marina leases and sub-leases; he also stated

that the options are for these businesses to have a lease with the City, which he did not think was best for the City, or to have a lease with the Marina Manager.

After meeting with staff, they wanted clearer directions from the Committee. Was the Committee's intention to reduce or limit the commercial activity; if so, staff has options for consideration to accomplish it. If the intention was to ensure that the City was protected, staff also has options to consider.

Chair Bell stated that he did not want to put charter boat captains out of business.

Councilmember Ferencz offered that she wanted the City to be protected, i.e. for these entities to have the appropriate levels of liability insurance and for the City to be named as "an also insured" on the insurance policies.

In a conversation with the marina manager, he commented that he also wanted protection, and they discussed a couple of options to accomplish that goal.

C. Update on insurance documentation requested from marina tenants

Chair Bell stated that the leases with the marina tenants and the sub-leases that fall under Marina Joint Ventures are all required to have the city named as "an additional insured" and to have specific levels of insurance. He added that the Committee wants to know how to live by the terms of the leases and what processes to put into place to ensure that all parties are acting by the terms of the leases.

Interim Administrator Fragoso provided an update; as of today, Tidal Wave WaterSports has supplied all of the information the City requested; Barrier Isles LLC still needs to provide the Certificate of Insurance related to their liquor license, Marina Joint Ventures is missing two (2) documents that she expects to receive in the next couple of days, and Marina Outpost has supplied all of their documentation.

D. Discussion of alternatives available to optimize the municipal parking lot on Pavilion Drive

Chair Bell said that he would bring this topic up when he gives the Committee report at the October Council meeting.

E. Update on marina tenant operations and financial review by McCay Kiddy and Associates

Councilmember Ward reported that he, Treasurer Suggs and Interim City Administrator Fragoso met with three (3) representatives of McCay Kiddy on Tuesday, October 2 to pinpoint what procedures the City wants them to look at. They will write-up an engagement letter that will state exactly what they will do; he reminded the Committee that they will not be doing a review or an audit, but certain agreed upon procedures, i.e. testing cash, revenues and cost of goods sold.

Responding to Councilmember Ferencz' question, Interim Administrator Fragoso said that she had contacted the marina tenants and asked that they contact Melissa Kiddy this week to schedule a meeting with her to explain their processes. After these meetings are held, the City will receive the engagement letter since a lot of time will depend on those interviews and to determine the scope and how much time their work would take with each tenant.

6. New Business

A. Selection of firm(s) with whom to negotiate for PSB design/build project

Chair Bell said that the Committee held a Special Meeting where they interviewed the three (3) respondents to the Request for Qualification to spearhead the remediation of the Public Safety Building (PSB). Chair Bell noted that the full extent of the remediation needed will not be known until the walls are opened up, and many more problems might be identified then.

When Councilmember Ferencz took a tour of the building today with Chief Graham and got on the roof, her only question was “How did this happen?” and “How can it be prevented from happening again?” The interviewees all agreed that the problem was the lack of proper supervision during the construction phase of the project. The Councilmember apologized to the men and women of the Police and Fire Departments for the deterioration of the building and assured them that it would be made right.

After agreeing with both the Chair and Councilmember Ferencz, Councilmember Ward praised the administration for devising a way to distinguish the firms with objective evaluation criteria.

Chair Bell explained that a design/build project was an architect paired with a contractor, a paired team approach; with a one point eight million dollar (\$1,800,000) budget, this remediation might be a multi-year process and might turn out to be much more extensive than originally thought.

For the Chair, two (2) of the firms stood out above the third; therefore, he would like the Interim Administrator to enter into negotiations with Hill Construction Company and Trident Construction LLC.

Councilmember Ferencz felt that Trident rose to the top; they were the company on the design/build for Station 2, and the City has not encountered any of the serious problems that exist at Station 1. On the other hand, Hill Construction performed the maintenance evaluations for all of the City's buildings that was done a couple of years ago; they also produced an ongoing maintenance plan.

Councilmember Ward selected Hill and Trident as well; in his opinion, both firms stressed that the City was facing these serious problems as the result of the lack of proper supervision during construction. He stated that he was impressed by the level of detailed documentation Hill described for the remediation of buildings.

Since each member of the Committee selected the same two (2) firms, Hill Construction and Trident Construction, the negotiation process will begin.

Interim Administrator stated that she would begin negotiations with the two (2) firms and that she was hopeful of having to show the Committee at their next meeting; if she receives the information earlier than the next meeting, a special meeting could be called to expedite the process.

In explaining the contractual process, Interim Administrator Fragoso stated that the City would be looking at a two-phased process. The first phase will be the negotiation of the design fees, overhead and profit percentages; the first phase will be doing the investigative work to understand what needs to be done. She noted that the City had an assessment of the building done a couple of years ago that identifies things that need to be repaired and those that need to be replaced.

B. Discussion of RFP process relative to the marina restaurant

Chair Bell stated that the City has a piece of property on the Intracoastal Waterway, and the lease for the restaurant on the property expires in October 2020; via the RFP process, the City will come to know the fair market value for the property and restaurant. The Chair commented that the marina has a number of other issues the City needs to address; they are the over commercialization of the property, the parking issues, the impact of the implementation of the parking restrictions on 41st Avenue and Waterway Boulevard. The Committee wants to have an independent appraisal and an inspection of the property by the City's Building Inspector; the lease contains maintenance items that are the responsibility of the tenant and will remain so for the next two (2) years. In addition, the City needs to look at the structural issues when looking at any long-term lease. He opined that the concerns of Council were not a fifteen (15) year lease term as much as What would the City be signing up for? For how much money? Was it fair market value? He stressed the fact that the process was a Request For Proposal was non-binding, and the City would not be required to accept the low bid.

Councilmember Ferencz commented that the RFP process takes time, and she has been asked what Morgan Creek Grill was to do in the meantime. She added that they are going into the down season and cash flow would be impacted; therefore, they would not have extra money to put into maintenance and improvements to the property.

As the Committee was discussing how long the RFP process would take, Interim Administrator Fragoso said that staff needs to be given clearer directions to ensure that the specifications of the RFP match what the Committee and the balance of Council want. She referenced conversations about reducing the size of the restaurant; she asked if that should be a consideration in drafting the RFP.

Chair Bell stated that the loss to the City from the marina was approximately three hundred forty-seven thousand (\$347,000) per year; the three hundred thousand dollars (\$300,000) in annual debt disappears in February 2019. This means that the significant transfers of funds will not have to be made, assuming no future investments which is unrealistic; the restaurant also needs improvements that a new tenant might require before moving in. He repeated that the City needs a real estate attorney's opinion, an appraisal opinion, and to define what the City is able to do for the RFP.

The Interim Administrator stated that the starting points was to get the appraisal and the building inspection to determine its condition.

5. Old Business

A. Update regarding 1100 Palm and right-of-way on Pavilion Drive

8. Executive Session top receive legal advice concerning potential claims related to 1100 Palm and right-of-way Pavilion Drive

MOTION: Councilmember Ward moved to go into Executive Session AT 4:35 p.m. to receive legal advice on potential claims related to 1100 Palm and right-of-way on Pavilion Drive; Councilmember Ferencz seconded and the motion PASSED UNANIMOUSLY.

The Committee returned to open session at 5:17 p.m., and Chair Bell reported that the Committee did not take a vote or take any action while in Executive Session. Upon returning to open session, the Committee may take action on matters discussed in Executive Session.

MOTION: Chair Bell moved to authorize a survey and appraisal of the structure as defined by the physical foot print and 5 feet of steps in such a way that will allow for the conveyance of the property to the current owner to allow him to get a clear title; Councilmember Ferencz seconded and the motion PASSED UNANIMOUSLY.

Interim Administrator Fragoso stated that this would go before full Council at the end of the month.

7. Miscellaneous Business

The Interim Administrator informed the Committee that all tenants were current.

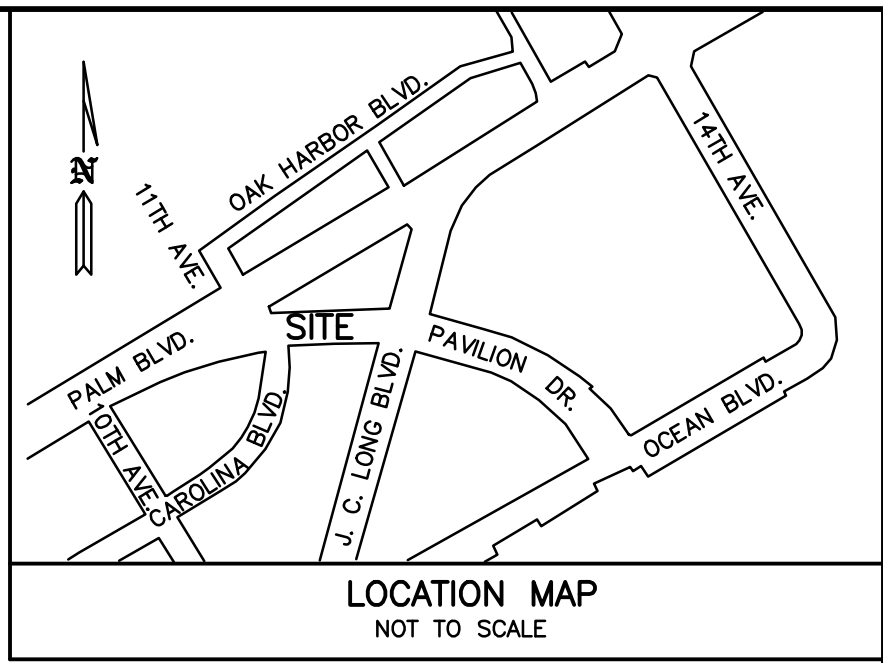
Next Meeting Date: 4:00 p.m., Wednesday, November 7, 2018 in the Conference Room

9. Adjournment

MOTION: Chair Bell moved to adjourn the meeting at 5:18 p.m.; Councilmember Ferencz seconded and the motion PASSED UNANIMOUSLY.

Respectfully submitted:

Marie Copeland
City Clerk



NOTE:
A PORTION OF PAVILION DRIVE WAS ACQUIRED BY SCDOT
BY QUITCLAIM DEED DATED NOV. 13, 1993,
RECORDED IN CHARLESTON COUNTY ROD OFFICE
IN DEED BOOK T234 PAGE 536

SHARON L. JOHNSON
KAREN L. JOHNSON
TMS 568-11-00-481

PALM BOULEVARD 100' R/W
SC HIGHWAY 703

HLM LEGACY LLC
TMS 568-11-00-174

L=122.10'
R=645.08'
T=61.23'
A=10° 50' 42"
CH=121.92'
CH B=S85° 53' 38"E

L=138.22'
R=845.08'
T=69.38'
A=12° 16' 37"
CH=137.96'
CH B=N82° 32' 43"E

PAVILION DRIVE 85' R/W
ASPHALT
20,729 SQ. FT.
0.48 ACRE

PAVILION DRIVE
(S-10-1352)

J. C. LONG BOULEVARD 85' R/W
(S-10-7)

THZ LLC
TMS 568-11-00-130

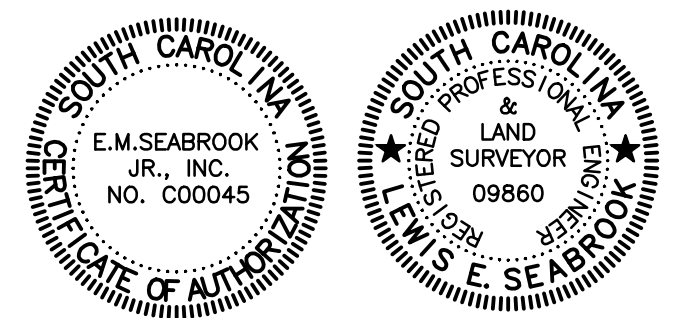
THZ LLC
TMS 568-11-00-131

- LEGEND**
- DI DROP INLET
 - EOP EDGE OF PAVEMENT
 - IPF IRON PIPE FOUND
 - IRF IRON REBAR FOUND
 - LP LIGHT POLE
 - PP POWER POLE
 - PPED PHONE PEDESTAL
 - DRMH DRAINAGE MANHOLE
 - TPED TV PEDESTAL
 - WM WATER METER
 - WV WATER VALVE
 - OHP OVERHEAD POWER LINE
 - UGC UNDERGROUND CABLE LINE
 - SS SEWER LINE
 - W WATER LINE

- TREE LEGEND**
- C CEDAR
 - O OAK
 - P PINE
 - PA PALM
 - PAL PALMETTO

- REFERENCES:**
1. PLAT BY REX G. FULLER, DATED AUG. 1928., RECORDED IN CHARLESTON COUNTY ROD OFFICE IN PLAT BOOK E PAGE 096
 2. PLAT BY J. T. KILLOCK, INC., DATED MARCH 1935. RECORDED IN CHARLESTON COUNTY ROD OFFICE IN PLAT BOOK E PAGE 086
 3. PLAT BY S. V. SOTTILE, DATED DEC. 2, 1950, RECORDED IN CHARLESTON COUNTY ROD OFFICE IN PLAT BOOK H PAGE 033
 4. OFFSITE EROSION CONTROL PLAN BY ADC ENGINEERING, INC. DATED MARCH 4, 2008, NOT RECORDED
 5. PLAT BY JOHN E. WADE, JR., DATED APRIL 15, 2008, RECORDED IN CHARLESTON COUNTY ROD OFFICE IN PLAT BOOK S08 PAGE 0097
 6. PLAT BY JOHN E. WADE, JR., DATED SEPT. 29, 2011, RECORDED IN CHARLESTON COUNTY ROD OFFICE IN PLAT BOOK S11 PAGE 0242
 7. PLAT BY JOHN E. WADE, JR., DATED APRIL 10, 2018, NOT RECORDED
 8. QUITCLAIM DEED DATED NOV. 13, 1993, RECORDED IN CHARLESTON COUNTY ROD OFFICE IN DEED BOOK T234 PAGE 536

I HEREBY STATE THAT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, INFORMATION AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE STANDARDS OF PRACTICE MANUAL FOR SURVEYING IN SOUTH CAROLINA AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS A SURVEY AS SPECIFIED THEREIN.



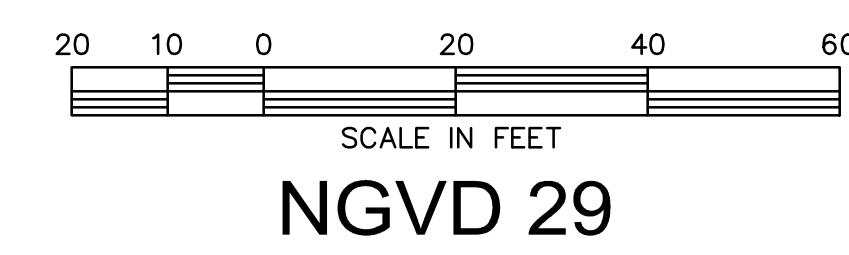
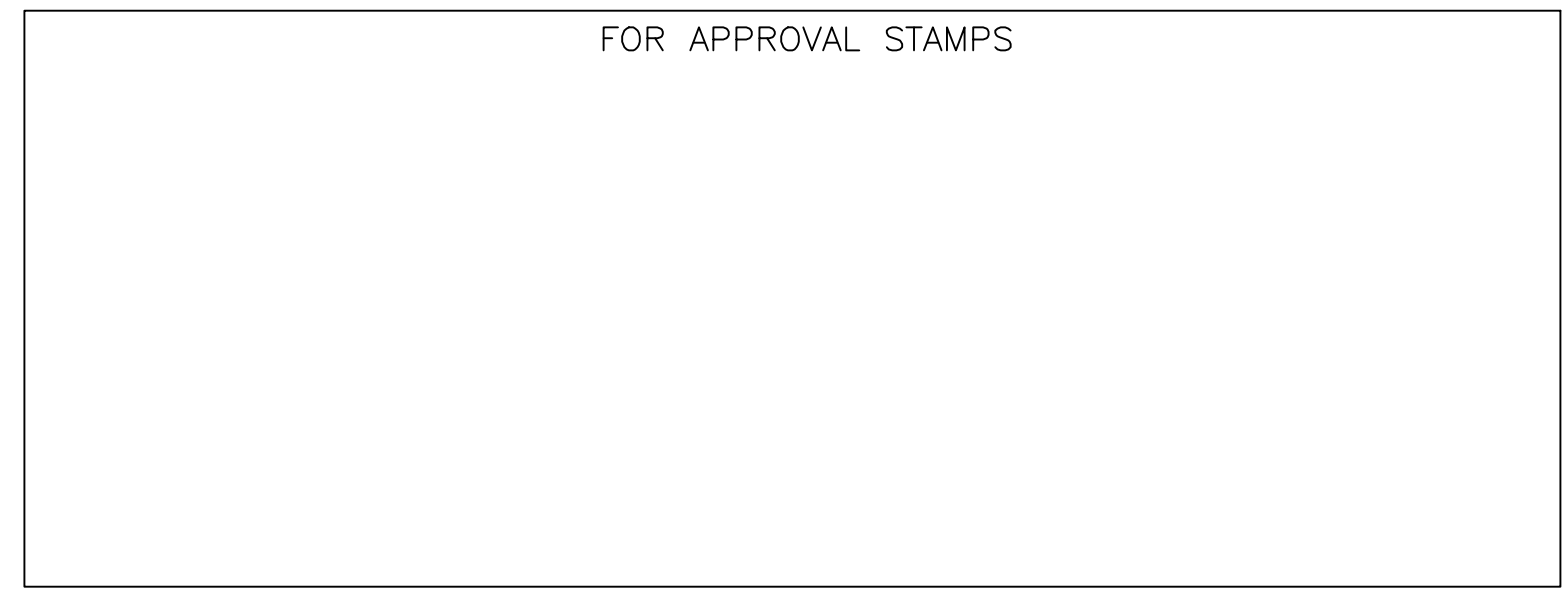
LEWIS E. SEABROOK
CIVIL ENGINEER & LAND SURVEYOR
S. C. REG. NO. 09860
P. O. BOX 96
MOUNT PLEASANT, S. C. 29465
(843) 884-4496

CITY OF ISLE PALMS
CHARLESTON COUNTY, S. C.
SURVEY OF A PORTION OF PAVILION DRIVE
CONTAINING 0.48 ACRE

SCALE: 1" = 20'

JULY 20, 2018

E.M. SEABROOK
Engineers | Surveyors
1037 Chuck Dawley Blvd.
Building F - Suite 200
Post Office Box 96
Mount Pleasant, SC 29465
Phone (843) 884-4496
www.emsedbrook.com



- NOTES:**
1. BASED ON INTERPRETATION OF FEMA FLOOD INSURANCE RATE MAP NUMBER 45019C 0541, J DATED NOVEMBER 17, 2004, THE PROPERTY SHOWN HEREON LIES IN FLOOD ZONES AE (ELEV. 16) AND AE (ELEV. 15).
 2. THE ABSENCE OR PRESENCE OF U. S. ARMY CORPS OF ENGINEERS JURISDICTIONAL WETLANDS HAS NOT BEEN DETERMINED BY THIS SURVEY.
 3. THERE IS NO OBSERVABLE EVIDENCE OF THE LOCATION OF CEMETERIES OR BURIAL GROUNDS ON THIS PROPERTY. SUBSURFACE CONDITIONS WERE NOT EXAMINED OR CONSIDERED AS PART OF THIS SURVEY. NO STATEMENT IS MADE CONCERNING ANY SUBSURFACE OBJECTS THAT MAY AFFECT THE USE OR FURTHER DEVELOPMENT OF THIS PROPERTY.

18140-10P-PAVILION DRIVE