

## **REAL PROPERTY COMMITTEE**

9:00 a.m., Wednesday, July 3, 2019

The regular meeting of the Real Property Committee was called to order at 9:00 a.m., Wednesday, July 3, 2019 in the City Hall Conference Room, 1207 Palm Boulevard. Attending the meeting were Councilmembers Ferencz and Ward, Chair Bell, Administrator Fragoso, Attorney Copeland and City 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 Ferencz moved to approve the minutes of the regular meeting of June 5, 2019 as submitted; Councilmember Bell seconded and the motion **PASSED UNANIMOUSLY**.

3. **Citizens' Comments** – none

### **4. Comments from Marina Tenants**

Jay Clarke of Morgan Creek Grill asked that the docks on the Intracoastal Waterway and leased to the restaurant until June 1, 2019 be re-assigned to it until the end of their lease, October 31, 2020.

**MOTION:** Councilmember Ward moved to suspend the rules of order and to take up Item C under New Business at this time; Councilmember Ferencz seconded.

Chair Bell said that he had purposely put that item at the end of the Agenda.

Councilmember Ward stated that the decision could potentially cost a tenant a significant amount of money.

**VOTE:** The motion **PASSED** on a vote of 2 to 1 with Chair Bell dissenting.

### **6. New Business**

#### **C. Consideration of unassigned docks located on the Intracoastal Waterway**

Administrator Fragoso stated that these docks have not been under a lease since May 31, and the City now has two (2) requests for the use of the docks. At the Council meeting, Tidalwave Watersports asked to lease one (1) of the docks for its jet dock, and the restaurant has asked that they be leased back to Morgan Creek Grill until the end of its lease in October 2020.

**MOTION:** Chair Bell moved to go into Executive Session at 9:06 a.m. in accordance with SC Code Section 30-4-70(a)(2) to receive legal advice related to a marina tenant lease; Councilmember Ward seconded and the motion **PASSED UNANIMOUSLY**.

The Committee returned to open session at 9:18 a.m., and Chair Bell stated that the Committee did not take action or a vote while in Executive Session.

The Administrator asked that Michael Fiem of Tidalwave come forward to explain how he would use the dock if given purview over one (1).

Earlier in the summer, the Army Corps of Engineers advised the City that the jet dock was encroaching into the one hundred twenty-five foot (125 ft.) setback on the Intracoastal Waterway and that it must be removed. The jet boat Tidalwave owns must be lifted out of the water at night to be flushed correctly; they have recently been given permission to leave the jet boat at Goat Island at night. If allowed, Tidalwave would use the dock for the jet boat.

The Chair asked Mr. Clark if he would work with Mr. Fiem at Tidalwave and would enter into an arrangement with Tidalwave to use one (1) dock; Mr. Clarke said that he would abide by the wishes of the Committee.

Chair Bell stated that the boat was outside the length defined in the lease between Tidalwave and the City.

Mr. Clarke told the Committee that he has continued to carry insurance on the docks.

**MOTION: Chair Bell moved to lease the docks to Morgan Creek Grill with the stipulation that they work with Tidalwave Watersports to allow them the use of one (1) dock.**

The motion DIED for lack of a second.

**MOTION: Councilmember Ward moved to assign 3 docks to Morgan Creek Grill and 1 dock to Tidalwave Watersports; Councilmember Ferencz seconded and the motion PASSED UNANIMOUSLY.**

Attorney Copeland said that she could draw up addenda to the leases for Tidalwave and Morgan Creek Grill assigning one (1) dock to the watersports company and three (3) to the restaurant.

The City has made it a practice to approve leases and lease addenda through the ordinance process; therefore, Attorney Copeland will draft two (2) ordinances for first reading at a Special Meeting with a date and time to be announced.

The Chair commented that the Committee has decided how to use the Intracoastal docks, but July 4<sup>th</sup> is on Thursday, and no decision has been made about their immediate use. Although the Mayor stated at the Council meeting he would make this happen as soon as possible, the City has processes that must be followed; the document cannot be drafted and approved on Friday.

Staff was charged by the Committee to create the documents and to gain approval as quickly as possible.

## **5. Old Business**

### **A. Status of marina docks rehabilitation project and permitting process**

Kirby Marshall of ATM reported that they were ready to submit the final documents in the permitting process for the marina docks to DHEC/OCRM and the Corps of Engineers including the updated maintenance and operations manual for the marina; these documents were submitted to the Administrator yesterday for her final review and she has approved them. Once her signature is affixed, the application and supporting documentation will be submitted. Mr. Marshall said that ATM has begun to solicit quotes for geotechnical investigations to facilitate style and design for the pilings.

The Administrator told the Committee that the Dewees dock rehabilitation project was twenty-two (22) months in getting its permits.

#### **B. Status of Tidalwave Watersports dock permitting process**

Mr. Marshall reminded the Committee that the City received a letter from the Army Corps of Engineers that the floating dock on the outside of the Tidalwave dock encroached slightly into their construction offset in the Intracoastal Waterway. Working with ATM, the Administrator and Attorney Copeland, the City sent a letter to the Corps requesting a variance for the minor encroachment of the floating dock. Mr. Marshall reported receiving verbal comment from the Corps that they were not inclined to grant the variance due to the uncertain timing for the overall dock rehabilitation to occur. When the rehabilitation work gets to the Tidalwave dock, the City plans to pull the dock back toward the marina so that it no longer encroaches. He stated that when talking with the Army Corps of Engineers, he asked that the City be given until October to submit amendments to the permit to them; the Corps is currently considering that request, and he is expecting to get their feedback in a few weeks. He has also asked if the City would need a permit to move the floating Tidalwave dock back to be in compliance; they responded that the City should submit an amendment to the 1986 permit to bring the dock into compliance. Mr. Marshall told the Corps that the 1986 permit contains other things that are not similar to what is at the marina now; he was then told to issue a modification request to pull back the dock and to permit what else is at the marina currently. He told the Corps that, ultimately, the City would like to add an ADA gangway to access that dock and asked if it would need a separate permit; the Corps' response was to add the ADA gangway to the modification permit. Based on ATM's authorization for work, they plan to present the Corps of Engineers a permit modification request to the 1986 permit that would pull the existing timber, floating dock out of the centerline, authorize the configuration of the T-head, the roof and others and incorporate the ADA gangway for the Tidal Wave dock as approved by City Council. His wish is that the modification request can be approved administratively meaning no requirement for public comment period.

Councilmember Ferencz asked if ATM has considered just cutting off the two feet (2 ft.) that is encroaching; she added that the pilings are back enough to do it.

Mr. Marshall responded that the pilings are located in such a manner that he does not think pulling the dock back would require the extraction of the pilings but would need the reframing of the pile guides to push the dock back. The portion of the floating dock that is immediately in front of the fixed pier head would need to be shortened by a few feet; work that could be done by a good carpenter.

In talking about the ADA gangway, he told the Committee that it would begin at the mid-point of the fixed pier. He stated that permitting the gangway now does not mean that the City must construct it now.

On the matter of a lease for that dock, Administrator Fragoso was aware that citizens were interested in knowing, if and when, the City would open negotiations with Tidalwave or look for a new tenant. In the best interests of the City, her advice was to wait to take any action until the City got the responses from the Army Corps of Engineers and DHEC/OCRM about what would be permitted for that dock to insure that any lease the City might enter into would be consistent with the permit.

Councilmember Bell added that the results of the RFP for the marina restaurant would also be a factor in deciding the use of City-controlled property at the marina; he would be opposed to “giving away space without knowing what space will be required” for the tenant of the restaurant.

According to Mr. Marshall, at times permits indicate how the dock can be used or what operation would be allowed.

Councilmember Ferencz asked if the City’s lease with Tidalwave was illegal because it allows uses outside the permit.

The Administrator noted that this was a discussion she had with the City’s legal counsel. She commented that the City bought the marina after the permit was issued; she stated that OCRM would evaluate the dock-able space, the number of vessels, the impact to the neighborhood, the safety and the navigation of the channel before they would make a determination.

Councilmember Bell stated that a legal answer could not be provided at this time and that the City sent a request to OCRM to evaluate all of the non-compliant items and to come back to the City. He estimated that the request was sent in late May, and the waiting period for a response was typically one hundred twenty (120) days; therefore, the City will be looking for their response maybe in September or October.

**MOTION: Chair Bell moved to suspend the rules of order and to move Item A under New Business for discussion at this time; Councilmember Ward seconded and the motion PASSED UNANIMOUSLY.**

## **6. NEW BUSINESS**

### **A. Presentation and discussion of proposed development of 1100 Palm Boulevard**

Jeremy Graves was invited to come forward with his presentation; he distributed three (3) sets of documents he said were representative of this project, a boutique hotel.

Chair Bell stated that Mr. Graves has worked with Director Kerr and Administrator Fragoso on a redevelopment proposal for 1100 Palm Boulevard. He said that he plans a twenty-five (25) room beach and club style hotel. The first floor would have a club-like space that would consist of shared workspace, a space to congregate during the day and meeting; the hotel would have a large family pool and a smaller adults-only pool. The hotel will have weekly events year-round drawing from the two (2) island communities, for instance, a chef coming in to demonstrate how to make a low-country boil; he expressed the desire to create a community-based, club-like atmosphere. He indicated that he would consider this concept a winner if he could get community participation. The second, third and fourth floors would be rooms. He also had conceptual drawings of the exterior of the hotel. Mr. Graves stated that a major challenge was getting the necessary parking for the number of rooms planned; because no reference was made to a hotel

in the zoning ordinance, they have no guidelines to follow. He said that they went back into old records to develop a parking plan that would meet and exceed the needs of the project. He also distributed some preliminary revenue calculations that the City would receive from the project.

Councilmember Bell commented that he had thought about available parking that would not take anything away from existing public parking. How many spaces would be taken from the municipal lots to accommodate this project? Could the empty lot next to City Hall be used for this purpose? Could the land owned by the City next to the post office be made available for hotel parking?

Councilmember Ward asked if the treed area of the lot contained several historic live oak trees.

Rhett Reidenbach with the Revere Group, a civil engineering firm, agreed with the Councilmember adding that they must be mitigated. He reiterated that what was being presented was a concept at this point, and they were seeking no approvals.

Administrator Fragoso explained that the purpose for this item being on the Agenda was to present the idea and vision for the lots. If this concept agrees with Council's overall vision for the City, issues the City would address were zoning, parking and the limitations of the lots. She noted two (2) positives for the City as an opportunity for economic development and an additional revenue contributor to the City.

Councilmember Bell described the concept as a high-end gateway to the beach; he quoted Mr. Graves that he "wants to make Sullivan's Island jealous."

When asked about parking at the site, Mr. Graves replied that they have designed for sixty-four (64) spaces including the lot adjacent to the Public Works site; additional parking could be found in the right-of-way on Pavilion Drive, the City-owned property next to the post office, and possibly spaces in the vacant lot next door.

Mr. Reidenbach corrected an earlier statement saying that a permit has been acquired to remove trees necessary to develop the site, but at this point, they have not done a tree survey in the right-of-way on Pavilion Drive, owned by the City, to see what trees they might have to be worked around.

Councilmember Ward stated that he was "interested and intrigued" by the concept, but he knew it would be a "hot topic" with residents.

Councilmember Ferencz asked if this project would extend the commercial district down Palm Boulevard.

Mr. Graves stated that the land was currently zoned GC-1, general commercial; he said that the ordinance would have to be tweaked to allow this use in the zoning district.

Councilmember Bell indicated that he has discussed the proposal with Administrator Fragoso, particularly about the ordinance changes, and he understood the reluctance around ordinance changes was overdevelopment. In his opinion, development was naturally limited by the amount of parking available. He stated that Council should consider how any type of development of that property will look fully understanding the shortage of parking on the island; he asked the City to work with these guys to develop a reasonable parking plan.

Councilmember Ferencz stated that, for years, Council has struggled with finding enough beach parking, and she questioned that now the City has sixty-four (64) parking spaces for this project.

Councilmember Bell explained that he introduced the idea of using the lot next door since it was not used for beach parking or paid parking or Public Works parking. He noted that many young people use UBER to get to the beach; he stated that the City has ordinances that conform to the way everybody has done things and not how things are done today.

He asked how to take the properties that are now not in use to generate additional revenue.

The Administrator reported that this was the first time this concept has been presented to anyone.

Mr. Graves quoted some statistics that identify hotels as being the least intense density for parking.

Councilmember Ferencz wanted to be updated on the prior discussions and to learn how the property went from one (1) house to now a small hotel with workspaces and a restaurant; she said that she would need all of that information before she would be comfortable making any kind of decision related to this project. She noted that it was not what she thought that mattered but what the residents thought since they would be impacted by the project.

The Administrator wanted Mr. Graves to make his presentation to City Council at their meeting on July 23<sup>rd</sup>.

Chair Bell stated that their estimate of revenue to the City was approximately two hundred seven thousand dollars (\$207,000) annually.

## **5. Old Business**

### **C. Status of Public Safety Building rehabilitation project**

The Administrator reported that staff, Trident and legal counsel were working on the contract documents for the second phase of work; the costs will be paid from the five million two hundred thousand dollars (\$5,200,000) budgeted for the project as directly related to the repairs and replacements recommended by the contractor. She stated that she expects the contract to go before Council at the end of the month. Items not included in the five point two million dollars (\$5,200,000) are the contingency funds and costs associated with the relocation of personnel. Staff was getting additional quotes for what staff is calling an owner's representative; this person would work for the City to insure that the City's interests are protected, perform special inspections and reviews throughout the design and construction processes. Trident estimates six (6) months to complete the design process and to begin construction in mid-February.

Since all of the personnel housed in the Public Safety Building (PSB) must be relocated, staff is working on a logistics plan. The City has asked to maintain access to the IT room and the evidence room; personnel will be moved to trailers in the small municipal lot for the ten to twelve (10 – 12) months of construction.

### **D. Status of marina restaurant RFP process from Jon Chalfie of Lee and Associates**

According to the Administrator, the Call for Offers was made public on June 12<sup>th</sup> and the offers are due by the end of the workday on August 31, 2019. She has been told that the restaurant has generated a lot of interest; Lee and Associates are conducting tours of the building for interested parties and handling questions.

When Councilmember Ferencz asked if Council would get a report on the proposals at the September meeting, the Administrator said that Mr. Chalfie expected the evaluation process to take two to three (2 – 3) weeks.

**E. Discussion of rent abatement for Marina tenants**

Administrator Fragoso stated that she has received documentation from Morgan Creek Grill, and City staff is working with them to insure that they can present documentation that correlates the loss of sales attributable to the underground storage tank installation.

The Administrator explained that the thirteen thousand five hundred dollars (\$13,500) included in the FY20 budget will be used for the marina's loss of revenue from the dock collapse.

In discussing fuel sales, Mr. Berrigan reported that the above ground tanks serviced only the docks, not cars, and he added that the store was without diesel fuel much longer than anticipated resulting in a lot of diesel sales lost.

Councilmember Ferencz asked that staff look at other tenants at the marina to determine if they suffered similar losses of business due to the inordinate amount of time the contractor needed to complete the installation of the underground storage tanks.

**MOTION: Chair Bell moved to suspend the rules of order to move up Item B under New Business for discussion at this time; Councilmember Ferencz seconded and the motion PASSED on a vote of 2 to 1 with Councilmember Ward casting the dissenting vote.**

**6. New business**

**B. Review of insurance policies in place for City property and the applicability at the IOP Marina**

Administrator Fragoso distributed a schedule of the various insurance coverages the City has that includes the type of insurance, the premium, the deductible amount, the value of the property insured and the company that issued the policy.

Councilmember Ferencz was interested in knowing if the City's insurance covered any damages to the docks and loss of revenue to the City from the Morgan Creek Grill or Marina Joint Ventures. She also asked if the City had liability insurance if someone was injured from falling off the City's docks.

The Administrator said that she needed to review the policies to know if the City had coverage for loss of revenue; she commented that the City does have protection for damages sustained from flood, earthquake, a named windstorm, wave action with the windstorm, etc. She recalled that, in 2018, one of the docks collapsed and a claim was sent to the insurance company; the claim was denied because the failure was attributed to high tide wake, which is not covered by

insurance. In the most recent event, when the Osprey hit and damaged the dock, the City is pursuing reimbursement for repairs from the Osprey and its insurance company.

Since no one was certain that wake did or did not cause the dock to collapse, Councilmember Bell proposed installing a camera at the end of the dock. Mr. Berrigan agreed that a camera was needed and indicated that he has spoken with Mr. Marshall about it; as ATM gets into the design phase of the dock rehabilitation project the marina manager wanted ATM to know that other cameras at the marina are hard-wired.

The Administrator told Committee members that the Treasurer, Mr. Berrigan and she would evaluate the amount of coverage and deductibles once the new docks were in place.

**5. Old Business**

**F. Discussion of next steps related to findings by McKay Kiddy on Agreed Upon Procedures report**

- 8. MOTION: Chair Bell moved to go into Executive Session at 10:36 a.m. in accordance with SC Code, Section 3-4-70(a)(2) to receive legal advice related to the McKay Kiddy report.**

Councilmember Ward suggested that issues to be discussed in Executive Session should be stated more concisely on the Agenda.

Chair Bell responded that he was instructed by City staff to word the item as it was.

**Councilmember Ferencz seconded and the motion PASSED UNANIMOUSLY.**

The Committee returned to open session at 11:27 a.m., and the Chair announced that the Committee did not take an action or a vote while in Executive Session.

**7. Miscellaneous Business**

**Next Meeting Date: 9:00 a.m., Wednesday, September 4, 2019 in the Conference Room**

**9. Adjournment**

**MOTION: Chair Bell moved to adjourn the meeting at 11:28 a.m.; Councilmember Ferencz seconded and the motion PASSED UNANIMOUSLY.**

Respectfully submitted:

Marie B. Copeland  
City Clerk