

REAL PROPERTY COMMITTEE

8:30 a.m., Thursday, May 6, 2010

The regular meeting of the Real Property Committee was held at 8:30 a.m. on Thursday, May 6, 2010 in Council Chambers of City Hall, 1207 Palm Boulevard, Isle of Palms, South Carolina. Attending the meeting were Councilmember Stone, Mayor Cronin, Chair Loftus, City Administrator Tucker, Assistant to the Administrator Dziuban, Marina Manager Berrigan, Morgan Creek Grill Operations Manager Carla Pope and City Clerk Copeland.

1. Chair Loftus called the meeting to order and acknowledged that the press and public had been duly notified in accordance with the Freedom of Information Act.

2. Approval of Previous Month's Minutes

MOTION: Mayor Cronin moved to approve the minutes of the regular meeting of April 9, 2010 as submitted; Councilmember Stone seconded and the motion PASSED UNANIMOUSLY.

3. **Citizens' Comments** - None

4. **Marina Manager's Report** – Brian Berrigan

Mr. Berrigan was late in arriving at the meeting; therefore, the report was postponed to a later time in the meeting.

5. Morgan Creek Grill Report

Trish Perrine, representing Morgan Creek Grill, announced that the restaurant would like to sponsor a Redfish Tournament and Oyster Roast at 7 a.m. on Saturday, October 16, 2010, and she was present today to get the Committee's approval to proceed with the event. She stated that the tournament would be a localized, community event limited to forty (40) boats with the roast to follow on the restaurant grounds. Ms. Perrine reported that they had contacted DNR to determine the requirements to hold such an event, which includes an application for a marine event involving more than twenty (20) boats. She indicated that the oyster roast is envisioned to be a community event marketed to bring residents to the marina in the off-season. Ms. Perrine introduced Paul Saner, the restaurant's sous chef, as the person spearheading the sponsorship for the fishing tournament.

Mayor Cronin asked whether the event had been coordinated with the marina management in order to launch forty (40) boats by 7 a.m.; Mr. Saner commented that they hoped to get many of the boats into the water the evening before the event. Mr. Saner also indicated that the marina was launching the boats and providing dock space overnight as the marina's contribution to the event. Ms. Perrine reported that she had discussed the logistics of the event with Chase Fields.

Having arrived, Mr. Berrigan stated that he was not a partner in the event, nor was the marina management endorsing the event at this time.

In response to the Administrator's query about the marina's concerns about the total event, Mr. Berrigan stated that the Marina's Master Plan included bringing both in-shore and off-shore tournaments back to the marina; implementation of the plan was waiting on dredging and the replacement of the docks at the marina before holding a major fishing tournament. He noted that in-shore tournaments could be done now because the boats could launch at the boat landing and the fishing did not require a lot of depth. In addition, Mr. Berrigan indicated that Mr. Fields had informed Ms. Perrine that the marina would not endorse the tournament.

Mayor Cronin asked for clarification of the use of the word "endorse." Mr. Berrigan expressed a problem with the execution of the event because he feels it should be a marina event; he indicated that he feels the same about the dinner cruises being sponsored by Morgan Creek Grill.

Mayor Cronin noted that the marina was not actually doing either of these things, but that Morgan Creek Grill had taken the initiative to host a fishing tournament for October. Mr. Berrigan responded that, if the Committee approved the event to be held using the restaurant's docks, then so be it.

Chair Loftus voiced support for lots of events to showcase the marina, but he also voiced the opinion that the restaurant and the marina management should be in partnership on them – the fishing business is the marina's venue and the food business belongs with the restaurant. He, therefore, asked to postpone the Committee's decision on the event in hopes that the marina and the restaurant could agree on a way to coordinate their efforts on the proposed October event.

4. Marina Manager's Report – Brian Berrigan

Mr. Berrigan stated that all was good and that he had no report to make. Chair Loftus asked about the parking lot upgrades, and Mr. Berrigan stated that it was holding up well, but could probably use two (2) additional loads of fill material. Mr. Berrigan commented that the fill had been packed down very well; therefore, he expected it to last half of the season. He added that traffic was up. In addition, Mr. Berrigan informed the Committee that he was working on a Master Plan for the marina that he anticipated presenting in the fall.

5. Morgan Creek Grill Report – Carla Pope

Ms. Pope reported that the restaurant's business continued to be very good. She noted that new carpet had been installed in the restaurant on the main floor. She informed the Committee that they were going to put pavers on the grassy areas along the sea wall to serve drinks to customers as they wait for tables in the restaurant; she offered the Committee a drawing that had been approved by the Building Department. She indicated that there would be five or six (5 or 6) tables, but no food would be served.

Chair Loftus expressed concern about guests at these tables throwing trash into the water and asked if there could be some signage urging people to put their trash into the proper receptacles.

Ms. Pope expressed her satisfaction with the work on the parking lot and reported that Mr. Clarke had placed another light in the greenery, but lighting at the entrance had been corrected and no lighting has been added.

6. Old Business

A. Update on Beach Restoration

Administrator Tucker announced that the tilling had been completed and that she was hopeful that the beach area tilled would pass the next compaction test. On the subject of the stakeholder agreements for correction to the focused erosion problems, several of them still have not been returned to the City; those not returned include Port O'Call, Tidewater, the Ellen Shaver Trust, and the Haynes' property on Summer Dunes Lane. In her opinion, the Administrator stated that the next communication with the stakeholders would be to report to them that everyone has not agreed to the project; therefore, there is no project, including the list of properties that did not agree and the fact that the next move must come from the stakeholders.

Chair Loftus asked about the time frame involved once the City has one hundred percent (100%) of the stakeholders' executed agreements. Administrator Tucker recalled that City Council had given approval to the Coastal Science and Engineering contract amendment for them to begin the permitting process, contingent upon the stakeholders' approval; permitting could take a year to complete; therefore, the work would likely begin in the spring of 2012. The Administrator pointed out the fact that the longer the delay in starting the process, the greater the possibility that the situation on the beach will become a critical one.

B. Dredging

Administrator Tucker reported that she had attended a meeting along with Marina Manager Berrigan and the Morgan Creek Harbor Association; one (1) of the topics discussed was the structure should the group go forward with permitting and preparations for dredging in the future. The Administrator described a difference of opinion on how a future project would be structured because she indicated that, assuming the City was to be the permittee on the project, the City should be in control of selecting the engineer, project management and things of that nature. The Morgan Creek Association countered that, since they would be contributing the bulk of the money because, as the Administrator had indicated that the City did not want to financially contribute to the project, they should have some measure on control. Administrator Tucker reported that she had responded to them that they could proceed with the project; she explained that she had responded in that manner, because, as the permit holder, the City would be the party held responsible in the end, therefore, had to have control of the project. In addition, the group had learned that the 26th Avenue canal needs to be dredged, and Chase Fields, with the IOP Marina, has spoken with people he knows in that area about the prospect of their becoming another partner in the Morgan Creek dredging project. Since mobilization and de-mobilization comprise the greatest part of the expense, partnership between the 26th Avenue group, the Dewees group, the Morgan Creek Harbor Association and the City could provide economies of scale. Another meeting has been scheduled because there were questions left unanswered at this meeting; one of these questions related to the problems with the spoil site

on Goat Island – What is the problem? What is it going to cost to fix that problem? Who is going to pay to fix the problem? Is there going to be too much spoil created to warrant fixing the Goat Island site? Are there other spoil sites that will accommodate the volume of spoil anticipated?

As a result of the meeting, the Administrator displayed a survey of Morgan Creek with potential dredge depths. Marina Manager Berrigan indicated at the meeting that he preferred a dredge depth of twelve feet (12 ft) in the core marina area as opposed to the eight to ten feet (8-10 ft) indicated on the survey. The Administrator noted that the discussions of the dredge depth led to discussions that the depth affected the volume of spoil material generated, therefore, impacted the spoil site.

Administrator Tucker stated that her impression upon leaving the meeting was that to move forward with the permitting process would be appropriate. The City's permit does not expire until June 30, 2010, but the City has learned that the Corps of Engineers and OCRM have not been renewing permits in recent months. There is also the fact that the existing permit does not include the 26th Avenue Canal area.

At the next meeting, the Administrator anticipates getting the answers to most of the questions that were posed at this meeting. She hypothesized that the result of that meeting, assuming that agreement is reached, would be to proceed with permitting for dredging in about eighteen (18) months, so the process of selecting an engineering firm should begin, which would mean that the City would need agreements with all of the partners in the project. Administrator Tucker related that she had been contacted by and met with representatives of GEL last week; in that meeting she had made it clear that there would be a competitive bidding process for this project.

Chair Loftus asked whether the 26th Avenue residents had an association or were just individual residents with which the City must negotiate. The Administrator and Mr. Berrigan noted that David Sykes and another resident were spearheading the activity. Mr. Berrigan added that Mr. Sykes and another gentleman have an agreement with the Corps of Engineers that expires in five (5) years; they have property in McClellanville that they allow the Corps to use as a spoil site, in return they can use the Goat Island spoil site. Mr. Berrigan stated that this was one (1) of the reasons he thought it would be important to partner with them, in addition to sharing the mobilization and de-mobilization costs.

Mr. Berrigan explained his logic behind dredging to twelve (12) feet as being based on the facts that permits are becoming harder to get and to renew and that dredging to twelve (12) feet should eliminate the need to dredge for ten (10) years. Administrator Tucker remarked that the City could be more aggressive with the depth since the bulkhead had been replaced.

Mr. Berrigan commented that the Morgan Creek Harbor Association had suggested an eighty-twenty (80%/20%) cost sharing since the Association would generate eighty percent (80%) of the spoil material; the Administrator had repeated her point that the City should have a zero percent (0%) share as the permit holder.

Administrator Tucker reported that the Morgan Creek Harbor Association has spent something over fifty thousand dollars (\$50,000) on various activities to-date related to dredging, but she added that she does not feel a sense of urgency on the part of the Association.

When the question was asked about the total cost of the dredging project, Marina Manager Berrigan stated the he remembered about half a million dollars (\$500,000) – two to three hundred thousand dollars (\$200,000 – 300,000) for dredging and about two hundred thousand dollars (\$200,000) for mobilization and demobilization.

C. Discussion of Low-Speed Vehicle Rentals at the Marina

Jane Martin, President and CEO of GEM of Charleston, recalled that the Committee, at its April meeting, had requested a copy of the written agreement between GEM of Charleston and the marina management for their review, as well as clarification from the Building Director as to whether the rental of low speed vehicles at the marina was an allowed use for the property. The agreement was sent to the City Administrator for distribution to the Committee, and Director Kerr had confirmed that this would be an allowed use for the marina property.

Administrator Tucker related to the Committee that Ms. Martin's original plan would not have passed zoning approval, because the vehicles cannot be visible, and she had envisioned having vehicles parked at various spots on the marina property as part of her marketing strategy. Director Kerr gave her the option of sheltering the vehicles at the marina site or storing them off-site for delivery to customers; Ms. Martin opted to a shelter the vehicles in the employee parking area.

The Administrator mentioned that the lease between Marina Joint Ventures and the City must be amended to allow for this business activity at the marina; Attorney Halversen has already prepared drafts of the amendment. In addition, Attorney Halversen has reviewed the agreement between Marina Joint Ventures and GEM of Charleston; the attorney did find an error in the agreement, but the Administrator did not have the document before her to explain the error.

Assuming that there are no issues with the amendment to Marina Joint Ventures' lease and the Marina Manager is satisfied with the agreement he has with GEM of Charleston, the Committee is free to vote on the proposal.

In response to Chair Loftus' question as to Director Kerr's pros and cons to the proposal, the Administrator commented that the Director's evaluation was based on determining whether the activity could legally occur under the zoning ordinances in place for the marina. Director Kerr has notified the Administrator that he has been approached by another entity wanting to rent these low speed vehicles at another venue on the island.

Administrator Tucker added that, although these vehicles are environmentally friendly, they can not legally be driven on Highway 703/Palm Boulevard. The Administrator recounted a complaint that City Hall received that an owner of a low speed vehicle had been told by the Department of Motor Vehicles that he could drive his vehicle on Highway 703/Palm Boulevard, and, apparently he had gotten a ticket when he did drive on Palm Boulevard. Subsequently, Administrator Tucker queried her contact at SCDOT, who checked with the legal department and confirmed

that the City's interpretation was correct and notified the DMV that they had given out incorrect information. Ms. Martin and any competition she may encounter need to educate their customers about where they can legally drive the vehicles on the island.

MOTION: Mayor Cronin moved to approve the sub-lease of GEM of Charleston with Marina Joint Ventures; Councilmember Stone seconded.

Administrator Tucker asked Ms. Pope if this business activity would complicate the employee parking for Morgan Creek Grill. After Mr. Berrigan answered a couple of questions, Ms. Pope responded that she was fine with the new tenant, but she noted that did not speak for Mr. Clarke, because he thinks all the parking spaces should be used by paying customers of the marina.

VOTE: The motion PASSED UNANIMOUSLY.

7. New Business

Review of Capital and Operating Budgets for FY 2010-2011

Administrator Tucker explained that the "yellow" budget incorporated the changes that had been made at the April Ways and Means meeting, and the Committee was afforded one (1) more opportunity to make changes to the budgets at this meeting. The balance of the budget schedule is for First Reading of the budget to be at the May City Council Meeting, a Public Hearing before the June Council meeting and Second Reading at the June Council meeting. The Administrator reported that the Municipal Association had announced that the City would be allowed an increase in the millage rate of six tenths of one percent (0.6%) if needed, but the staff has presented a balance budget to the City Council without a tax increase.

Reviewing the changes, Administrator Tucker directed the Committee's attention to page 32, Marina Fund Transfers, lines 22 and 24, where transfers in for dredging were reduced from one hundred thousand dollars to fifty thousand dollars (\$100,000 to \$50,000) from Municipal Accommodation Fees and from two hundred thousand dollars to fifty thousand dollars (\$200,000 to \$50,000) from State Accommodations Taxes.

On page 33, under General and Administrative, line 47 Contracted Services was reduced from three hundred thousand dollars to one hundred thousand dollars (\$300,000 to \$100,000) for design and permitting only for the dredging project. The corresponding change to the Capital Budget can be seen on page 43, line 194.

8. Miscellaneous Business

Marina Rents Report

Administrator Tucker noted that she did not have the report, but she remembered that Morgan Creek Grill continues to be catch up on the additional rent balance and associated penalties and Tidal Wave has a small amount due on the additional rent. Chair Loftus remarked that, for four (4) months the Committee has been hearing from Ms. Pope how good business has been at the restaurant; therefore, they should be making progress in getting the amount they own paid

down. The Committee agreed that a letter should be sent to them that the time has come for them to become current with the City.

Next Meeting Date: 8:30 a.m., Thursday, June 3, 2010.

9. Executive Session, if needed - None

10. Adjourn

MOTION: Mayor Cronin moved to adjourn the meeting at 9:43 a.m.; Councilmember Stone seconded and the motion PASSED UNANIMOUSLY.

Respectfully submitted;

Marie Copeland
City Clerk