

REAL PROPERTY COMMITTEE

8:30 a.m., Thursday, April 7, 2011

The regular meeting of the Real Property Committee was held at 8:30 a.m., Thursday, April 7, 2011 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 and City Clerk Copeland. A quorum was present to conduct business.

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

2. Approval of Previous Meetings' Minutes

MOTION: Councilmember Stone moved to approve the minutes of the regular meeting of March 3, 2011 as submitted; Mayor Cronin seconded and the motion PASSED UNANIMOUSLY.

3. Citizens' Comments

Presentation by SCE&G on Various Projects from Westy Westmoreland

Administrator Tucker introduced the discussion by stating that SCE&G has several projects happening on the island in efforts to strengthen the reliability of availability and sustainability of power on the island. In addition, SCE&G has a project that will allow them to communicate with their system via radio signal that will speed repairs to restore power when outages occur. This project leads into the third item which is the temporary location of a radio communications tower and where the tower will be permanently constructed. The Administrator summarized by saying that SCE&G "has several things going on that all will benefit the island with some visual sacrifice and construction activity."

Mr. Westmoreland stated that SCE&G is in Phase 3 of undergrounding the power lines in Forest Trail and has nearly completed the work at 5th, 6th and 7th Avenues; work is finalizing the fourth (4th) circuit.

Mr. Westmoreland commented that to improve the reliability on the island is the purpose for his appearing before the Committee today. He explained that the Number One circuit runs from the substation behind City Hall to 41st Avenue; the Number Three circuit runs from 41st Avenue to the end of the island, servicing Dewees, Capers and Bull Islands – approximately seventy percent (70%) of the load on the island. The new project is to put remote switching devices that would enable communication with the SCE&G system from Columbia or Charleston or whatever area was dispatching; SCE&G wants to put one (1) device at 30th and one (1) at 41st Avenue. Mr. Westmoreland said that the City would not notice any difference at the 41st Avenue location because existing switching is there and they will only be adding communications capabilities. The 30th Avenue location was selected because it is half way on the Number One circuit; 41st Avenue is where the two (2) circuits tie. He explained that, should a problem occur between City Hall and 41st Avenue, SCE&G can tie those circuits and pick up the customers in areas that are not faulted.

Mr. Westmoreland informed the Committee that presently SCE&G can only isolate the "fault," i.e. if a tree falls on a line or the underground cable fails, which may be as small as six feet by four feet (6 ft. x 4 ft.) yet disrupts service for all customers on that circuit, by dispatching technicians and line staff to the island to locate it as best they can between two (2) switches. They can turn the breaker on that will feed up to that problem area and close the switch at 41st Avenue which will back feed up to the bad area, reducing the number of customers affected - the switching could take two to three (2-3) hours. With automated switches at 30th and 41st Avenues, if a fault occurs between 13th and 30th Avenue, the switch at 30th could be opened and the switch at 41st could be closed and back feed to 30th Avenue; the number of people affected is dramatically reduced and the action takes minutes instead of hours. The process is illustrated in a drawing identified as Exhibit A attached to the historical record of the meeting.

According to Mr. Westmoreland, the only way to communicate with these switches is via radio signals, and, because of the distance across Hamlin Sound, towers are required on which to mount the antenna. The location proposed is next to the substation on 13th Avenue and is shown by a red dot on an aerial photograph marked as Exhibit B attached to the historical record of the meeting. With the structures already in-place at the end of 13th on Hamlin Creek, the pole will not be obvious to observers and is far away from residences, yet close to the substation. The pole will be metal, about the size of a typical power pole and approximately one hundred five (105) feet tall.

In the project that is currently on the drawing board that would bring another circuit to the island, the tower being discussed at this meeting would come down to be replaced by a structure referred to as a "riser" on which the antenna would be permanently placed. Mr. Westmoreland explained that the structure is called a riser because it is the location where the underground cables rise up, and, unlike the communications tower, the risers are quite large.

Chair Loftus asked what the impact of this plan was for the property the City owns behind Public Works; Mr. Westmoreland emphasized that this project is several years in the future, and the location has not been finalized. Administrator Tucker noted that the decision on the communications tower and the location of the riser are totally separate issues.

Administrator Tucker commented that this SCE&G communications tower is problematic for the City because there is no provision in the City's Code of Ordinances for a utility tower of this height. Before advising the Committee about Mr. Westmoreland's project, the Administrator has asked the City Attorney to review the franchise agreement and determine whether SCE&G would be allowed to construct this tower under the terms of that agreement; City Attorney Halversen opines that the antenna falls outside the language of the franchise agreement, but she understands that the argument could be made otherwise. If the tower is outside the parameters of the Franchise Agreement, then it must fall within the requirements of the City code, and the communications tower does comply as the code reads now or under the proposed amendment. Administrator Tucker stated that the City would be subject to fewer challenges if the Franchise Agreement were to be modified to clearly include language providing for the communications tower.

Mr. Westmoreland commented that sixty to eighty thousand dollars (\$60,000-80,000) has been budgeted for the switches and towers; he needs to complete the work in this calendar year.

Mr. Westmoreland explained this project as “a migration of technology;” he stated that SCE&G is continually upgrading its system to improve reliability to its customers. Chair Loftus noted that a power outage of a couple of hours is very significant to those residents of the island who work out of their homes.

Mayor Cronin commented that the easiest solution would be for Mr. Westmoreland to convince the City Attorney that the appropriate language exists in the franchise agreement between SCE&G and the City to allow for the communications tower, and, should that fail, the next step is to modify the Franchise Agreement. Administrator Tucker asked, if the City decides that its best alternative to dissuade other entities from trying to install towers on the island is to amend the Franchise Agreement, would that be a difficult thing for SCE&G to do.

Mr. Westmoreland replied he would have to speak to someone else. On the City’s part, modification of the franchise agreement would take a couple of readings of an ordinance that would clearly make a distinction between other towers on the island that are clearly not in compliance with the City’s ordinance and this communications tower. Administrator Tucker added that the modification of the Franchise Agreement may need to include language similar to “with approval of City Council.” Councilmember Stone suggested that the language be specific to communications towers.

According to Mr. Westmoreland, the reason for the communications tower is the distance between the mainland and the switches on Isle of Palms; therefore, the need for other communications towers does not exist.

Administrator Tucker summarized the discussion by stating that the Committee does not object to the pole with the communications antenna on 13th Avenue assuming the legalities of the Franchise Agreement can be worked out.

Mr. Westmoreland said that he expected discussions to begin in the next three (3) months regarding the addition of a fourth (4th) circuit to the island and the risers to be constructed on the island.

Responding to Mr. Westmoreland’s question, the Administrator stated that she would discuss the possibility of amending the Franchise Agreement with the City Attorney; Administrator Tucker said she would contact Mr. Westmoreland after that discussion.

Mayor Cronin recommended that Mr. Westmoreland discuss the matter with SCE&G personnel about other communications towers that have been installed where the Franchise Agreements did not have to be amended.

4. Comments from City Tenants - None

5. Old Business

A. Update on Beach Restoration

Administrator Tucker commented that the monitoring report has been read through by City staff and by the City' engineering consultant, Chris Jones, and both had comments and suggestions that have been conveyed to Coastal Science and Engineering (CSE) who are incorporating them into the final product. In the Administrator's opinion, Mr. Jones' comments made the document more useful to the average reader. When the last monitoring was done, the project area was holding and none of the triggers to initiate a new project had been reached. The Administrator remarked that she did not know what affect the recent high tides and strong winds had on the area.

Responding to Councilmember Stone's question about how many citizens had commented on the permit, Assistant Dziuban and Chair Loftus stated that there had been many, but most were positive. CSE is in the process of responding to the written comments on the permit application.

B. Update on Dredging

Administrator Tucker introduced Jack Walker and Joe Ervin with GEL who were present to update the Committee on their activities since being awarded the design and engineering contract.

Mr. Walker reported that GEL had initially met with representatives of the Corps of Engineers on March 16, 2011; one of whom was the person who has been corresponding with the City about the dike repairs at Goat Island prior to using the disposal basin. This gentleman has since retired and has been replaced by Brian Williams, who has been joined by Mark Taylor. The purpose of the meeting was to determine what repairs were necessary to use the Goat Island disposal basin; Mr. Walker and Mr. Ervin concluded from the meeting that the Corps would prefer that the City use the disposal basin that was used by 26th Avenue residents for their dredging project, because of the number of calls generated by the last dredging project, particularly from the man where the dikes were leaking. In that meeting, they were told that, for the past twenty to thirty (20-30) years, the method for compensation for the use of a Corps' basin has been a flat rate payment per cubic yard of disposal material. With the recent federal government problems, the payment now goes to Washington, DC, and the local governments see little to none of the money; therefore, the Corps of Engineers now prefers that reciprocal work be done in lieu of a monetary payment. The Corps has provided GEL with a list of work that can be done to cover the costs of using a disposal basin; the list includes everything from stockpiling riprap for future erosion protection to cutting the grass on the dikes on Goat Island.

Responding to Administrator Tucker's comments that this type of remediation was expense neutral to IOP dredging, Mr. Walker countered that, if the City were to choose to dispose of the materials at the Goat Island site, the seepage plan would be required, as well as the in-kind services trade-off. If the City were to choose the basin underneath the IOP Connector – which the Corps prefers – there would be no seepage plan and no mitigation for potential seepage, but a longer distance to move the dredging materials.

Mr. Walker noted that he had spoken with a contractor to get a ballpark cost for the additional distance; he was told one hundred to one hundred fifty thousand dollars (\$100,000-150,000),

with ninety thousand dollars (\$90,000) for fuel, for the estimated seventeen thousand (17,000) yards of disposal materials. The additional distance requires additional pipes and a booster in the line to push the materials the distance. At this moment, GEL is in possession of the list on in-kind services from the Corps of Engineers, but they do not have the specifics of the seepage plan the Corps would approve and implementation of the plan.

As pointed out by Mayor Cronin, the possibility exists of the City's investing a large sum of money into the Goat Island basin and the Corps of Engineers finding that work unacceptable and requiring more.

Administrator Tucker stated that she got the distinct impression that the Corps does not want IOP using the Goat Island site and that the City should be devising a plan to use the site under the Connector. Mr. Walker confirmed that such a plan would require a minor change to the permit, but one, in the Administrator's opinion, that would more likely receive approval.

Mr. Ervin said that the process would involve putting a seepage plan on paper and getting approval from the Corps; once that was done, the permit could be issued. He concurred that the seepage plan would have to be completed before dredging could begin.

Mr. Walker related that he and Mr. Ervin, along with the contractor for the 26th Avenue project and the City's 2003 project, had visited the Goat Island basin; they were told that the entire length of the dike is seeping, but one (1) area is worse than others. In addition, someone has mined sand at the north end, and Mr. Walker expects the Corps to require the City to repair that location as well.

The Administrator questioned that Little Goat Island had sufficient space to accommodate the spoil from the City's project, but Mr. Walker assured her that Little Goat Island had the capacity of one million (1,000,000) cubic yards. In addition, Mr. Walker stated that Little Goat Island would cost more to use but would be far less problematic; he indicated that the City could lose six to eight (6-8) months in getting a plan approved for the Goat Island basin, and the Corps could put conditions on the permit regarding future complaints by Goat Island residents.

For GEL to modify the permit is relatively minor; they could also price out several in-kind projects on the Corps' list from which the City could choose.

Administrator Tucker asked Mr. Walker what the impact would be for residents along the Intra-coastal Waterway and was told that the pipe would all be submerged and the project would be happening at a low traffic time; therefore, he did not anticipate any problems for residents.

As for the booster pump, Mr. Walker said it would, typically, be put somewhere in the line; the one (1) particular contractor prefers to put the pump directly behind the dredge, so the noise would be in one (1) location.

When Mayor Cronin asked how long it would take to dredge seventeen thousand cubic yards, (17,000 cu. yd.) Mr. Walker responded that the length of time would be determined by whether they were allowed to dredge around the clock. If around the clock, the dredging should take

thirty to forty (30-40) days, six to seven (6-7) days a week; if not around the clock, double that estimate.

Mr. Walker commented that dredging companies find they are more efficient when allowed to work around the clock; the City could see a sixty to sixty-five percent (60-65%) savings by dredging twenty-four hours a day. Mr. Berrigan indicated that the dredging did not go around the clock during the previous project.

Administrator Tucker indicated that the City had nothing to gain by having GEL cost out the Goat Island disposal basin as an option, but look to a plan using Little Goat Island. Chair Loftus agreed that the City should proceed with Little Goat Island as the disposal basin.

MOTION: Mayor Cronin moved to authorize GEL to move forward with a dredging plan for the IOP Marina using Little Goat Island as the disposal site; Councilmember Stone seconded.

Before taking a vote, Administrator Tucker asked Marina Manager Berrigan if he had any input, and Mr. Berrigan said that the City could anticipate hearing from Goat Island residents since the pipe would cross the island and run behind and down the road. In addition, Mr. Berrigan stated that seventeen thousand (17,000) cubic yards seemed to be too little to dredge to a depth of twelve (12) feet; upon checking the January 2010 updated hydrographic survey, Mr. Walker confirmed that it shows a dredging depth of ten (10) feet.

The Administrator requested that the permit be modified to indicate a dredging depth of twelve (12) feet in the marina; Mr. Walker indicated that the change should be approved by the Corps.

VOTE: The motion PASSED UNANIMOUSLY.

MOTION: Councilmember Stone moved to amend the motion to indicate a dredging depth of 12 feet; Chair Loftus seconded and the motion PASSED UNANIMOUSLY.

Mr. Walker corrected the Committee that the disposal basin is not on Little Goat Island, but an area referred to as the Connector basin.

Mayor Cronin inquired whether the City had had any comments from the Morgan Creek Association; Assistant Dziuban commented that the City learned from GEL that the Morgan Creek Association has opened negotiations with the Corps independently. Mr. Ervin added that indications are Morgan Creek Association's remediation plan for the Goat Island dike has been approved at a cost of three hundred fifty thousand dollars (\$350,000). In the past, the Corps has only allowed use of the Goat Island basin when the dredging project was a public project.

Administrator Tucker expressed concern that they must be seeking a new permit or trying to piggy-back off of someone else's permit and certainly would not want them using the City's permit. Mr. Walker expressed the opinion that that Corps would not allow Morgan Creek to use the City's permit without the City's approval.

C. Consideration of Recognition via Engraved Bricks

This item was postponed until the July meeting to allow staff to concentrate on budgets.

6. New Business

A. Discussion of Parking Lot Leases

Administrator Tucker recounted that comments have been made at recent City Council meetings that the City was not getting enough revenue from the parking lot lease; some members of Council have indicated that the City could maximize revenue by operating the lots and not leasing them. When the contract was last bid some three (3) years ago, staff generated a spreadsheet based on revenues generated by the previous contractor to determine whether the City would recognize more revenue by operating the parking lots itself or by leasing them; those calculations indicated that the best option for the City was to continue to lease. The Committee's and City Council's decision to proceed with the RFP were based on those calculations.

In addition, the Administrator reminded the Committee that, when the City first acquired the parking lots, it did operate them under the purview of the Police Department. The problem that the City ran into was unreliable help that then forced a patrol officer to be assigned to fill in, which was not the best use of personnel.

With several years of revenue data from the present vendor, staff was able to key those numbers into the same calculations done three (3) years ago to again determine the best option for the City in regards to the parking lots. Whether the revenues are coming from more vehicles or better management, the present contractor is generating more revenue from the lots, and the computations indicate that the City could see increased revenue if it were to manage them – assuming the same revenue numbers continue. These rough calculations indicate that the City could see approximately forty thousand dollars (\$40,000) in additional revenue from operating the parking lots.

Administrator Tucker explained that the City had a couple of options before it, and they are

- To take no action and wait for the present contract to expire in 2012 ; or
- To seek to amend the existing contract to extend the term, which the vendor has expressed interest in pursuing, and to increase the percentage paid to the City.

The Administrator expressed the opinion that seeking to amend the contract only made sense to the City if it planned to continue to lease the parking lots. Mayor Cronin reminded the Committee that the vendor has recently requested an extension of the contract term, which the Committee denied.

Responding to Chair Loftus' question about the number of cars that passed through the lots in the previous season, Administrator Tucker stated that she did not have that information readily available, but, based on the revenue, the vendor is maximizing the space.

Chair Loftus remarked that, assuming that the City proceeds with a parking management plan, cars will be encouraged to use the City and County parking lots; therefore, the City should see additional revenues going forward. The Chair suggested that the City has several options that include the following:

- Seek to extend the lease and more revenue for the City;
- Buyout the existing lease; or
- Take over management of the lots at the end of the present term.

Both Councilmember Stone and Mayor Cronin agreed that the City could not manage the lots as efficiently as an independent contract motivated by profit and supported the re-negotiation of the existing contract. Mayor Cronin added that the City Council had the authority to initiate a rate change from five dollars (\$5) a day to six dollars (\$6) per day.

Administrator Tucker stated that she would prefer to wait until this discussion takes place with the full Council before initiating discussions with the vendor. Chair Loftus asked that additional research into the revenue and car volumes be done prior to the Council meeting; the Administrator suggested that staff could also provide statistical data on an increase in the percentage.

Chair Loftus commented that Council should also consider increasing the daily rate to six dollars (\$6); Mayor Cronin recalled that the rate has not been increased in an effort to drive island visitors in the Front Beach area and out of the avenues. The Mayor asked the staff contact Charleston County to find out how the volume of cars in the County parking lot was affected by the increase to seven dollars (\$7) per day.

Administrator Tucker summarized the “talking points” for City Council as opening a dialogue with the contractor about extending his lease with a higher percentage coming to the City or maintaining the status quo until the existing contract expires.

B. Resolution for Greenbelt Funding

The Administrator explained that adoption of this resolution by City Council is required to submit the grant application for Greenbelt funding, and she thought it was appropriate for City Council to receive the resolution as a recommendation from this Committee. The funding is being sought in an effort by the City to acquire an undeveloped beach-front lot on Palm Boulevard.

MOTION: Councilmember Stone moved to recommend to City Council the approval of the Greenbelt resolution; Mayor Cronin seconded.

Chair Loftus asked how much money was presently available; Mayor Cronin responded that the City has approximately four hundred seventy-four thousand dollars (\$474,000). The Mayor added that Administrator Tucker has ideas for other sources of funds, and he has not given up the possibility of getting additional funds from the Greenbelt Committee.

Councilmember Stone suggested that, once the public is made aware of the efforts to buy the property, a citizen could step up to establish a non-profit that would solicit donations to acquire the remaining funds for the purchase.

Mayor Cronin assured Chair Loftus that the City would not be putting any of its money toward the purchase other than the two thousand dollars (\$2,000) for the appraisal.

Administrator Tucker noted that the property is on the market and could be sold any day.

Chair Loftus commented that a hidden cost, should the City acquire the property, is the loss of property tax revenue.

VOTE: The motion PASSED UNANIMOUSLY.

C. Review of FY 2011-2012 Marina Capital and Operating Budget

Before the budget review began, Councilmember Stone asked whether all City tenants were current with their rent payments; Administrator Tucker answered that Morgan Creek Grill remains past due with rent.

The Administrator related that no significant changes have been made in the marina budget since the Ways and Means Committee meeting.

Chair Loftus asked about ten thousand dollars (\$10,000) in legal expenses for the marina, and the Administrator responded that the legal fees related to the dredging project, the financial audit and any other legal fees related to the marina and its operations.

Chair Loftus asked about the disparity between the increase in dock insurance for Morgan Creek Grill and for Marina Operations; Administrator Tucker explained that the dock space attributable to the restaurant is quite small compared to the marina as a whole. The Administrator explained that the insurance costs are comprised of multiple coverages with the premiums apportioned out.

Administrator Tucker pointed out that this year more of the marina debt service expense has been assigned to the Marina Fund than the tourism funds. The Administrator also suggested that, as the Committee gears up for the budget workshop, the entire cost of the dredging project be completely supported by the Marina Fund.

The Administrator informed the Committee that the ATAX Committee delayed approval of their budget until after the budget workshop, because of their concerns about the use of fund balance. This Committee could relieve part of that concern by funding the dredging project from the Marina Fund.

D. Consideration of Award of Contracts in Excess of \$10,000 – None

7. Miscellaneous Business

Administrator Tucker commented that a discussion regarding the Building Department building had been inadvertently omitted from the budget. The Administrator explained that she had not entered the building since the Building Department moved in to City Hall to determine the condi-

tion of the building. The Administrator stated that, if the Committee were in agreement, the topic could be placed on the May agenda.

Councilmember Stone asked if it were premature to consider an air quality study for the building; Administrator Tucker reported that such a study was done several years back that indicated that the building has common, household molds. The Administrator stated that she would support destroying the building if it were found to contain the dangerous form of mold.

Chair Loftus was more supportive of the concept of letting a tenant handle whatever problems may or may not be in the building.

Administrator Tucker stated that she needed more time to pull old documents, such as the Morgan Creek Grill lease, which would be a good model to follow.

At the Chair's direction, Administrator Tucker reported that Morgan Creek Grill owes its March rent and some of their back payments on percentage; she indicated that, this time of year, the restaurant typically gets behind on their obligations to the City.

Councilmember Stone remarked that the City was "setting a terrible example for the other tenants" by acting as if it were alright. The Administrator explained that the City has limited actions it can take; she noted that the City does remind the tenant that the money is due, and the City continues to ask for the money. The only option the City has not taken is in executing legal remedy of terminating the lease. The Administrator stated that she has not been directed by this Committee or by City Council to execute default notices to a tenant, and she asked the Committee if that was the action they wanted her to pursue. Administrator Tucker added that a report that a tenant is behind on the rent is not an indication that the City is not trying to collect that money.

The Administrator reported that late payment penalties are being added to the lease payments, and Morgan Creek Grill is paying them; Councilmember Stone suggested the penalty was not high enough to dissuade them from being late.

Chair Loftus stated that the City needs two (2) things from Morgan Creek Grill, and they are:

- 1) To get current and
- 2) To establish a system that avoids future occurrences.

Councilmember Stone said that the City should defer to the terms of the written lease and perform the actions delineated in the lease; he stated that they should be put on notice that they are in violation of the terms of the lease.

Chair Loftus recommended that the City Administrator meet with Jay Clarke to relate to him the feelings of this Committee and the need for him to resolve the problem permanently.

Mayor Cronin suggested that the subject be visited again at the May meeting.

Next Meeting Date: 8:30 a.m., Wednesday, May 11, 2011 in 2nd floor Conference Room of City Hall.

8. **Executive Session** – not needed

9. **Adjourn**

MOTION: Chair Loftus moved to adjourn the meeting at 10:42 a.m.; Councilmember Stone seconded and the motion PASSED UNANIMOUSLY.

Respectfully submitted:

Marie Copeland
City Clerk