

REAL PROPERTY COMMITTEE

8:30 a.m., Tuesday, August 4, 2009

The regular meeting of the Real Property Committee was held at 8:30 a.m., Tuesday, August 4, 2009 in Council Chambers of City Hall located at 1207 Palm Boulevard, Isle of Palms, South Carolina. Attending the meeting were Committee members Rice and Taylor, Chairman Cronin, City Administrator Tucker, Marina Manager Berrigan, Carla Pope of Morgan Creek Grill and City Clerk Copeland.

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

2. Approval of Previous Meeting's Minutes

MOTION: Councilman Taylor moved to approve the minutes of the regular meeting of July 8, 2008 as submitted; Councilwoman Rice seconded and the motion PASSED UNANIMOUSLY.

3. Citizens' Comments

Deborah Johnson, #4 Grand Pavilion, was speaking as a member of the Grand Pavilion Property Owners Association to request the installation of sand fencing in front of Grand Pavilion as part of the preservation of the beach. She stated that the Grand Pavilion property owners were under the impression that their area would have sand fencing when they wrote their checks for the Beach Restoration Project last year; she also commented that, in areas when the fencing has been installed, there is visible evidence that the dunes are building up.

Dan Harvey, 104 Grand Pavilion, stated that he had made the request for additional sand fencing to the City Council in June and that he was appreciative of the efforts made since that time. He repeated his opinion that there was a definite need for the fencing in front of Grand Pavilion, and he agreed with Ms. Johnson that there was accelerated dune growth in the areas with sand fencing.

Larry Pierson, 22 Dune Ridge, was speaking as President of the Village of Wild Dunes Homeowners' Association; he stated that the one hundred fifteen (115) residents who live there would also encourage the installation of sand fencing in the area of Grand Pavilion. He commented that residents had been promised sand fencing when the Beach Restoration Project was initiated. Mr. Pierson reported, as representative of a homeowner at 57th Avenue, that the beach in that area has lost approximately one hundred feet (100') since the restoration project was completed a year ago; therefore, in his opinion, sand fencing is needed in that area also.

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

Mr. Berrigan stated that he wanted to know if any progress had been made toward dredging the marina; Administrator Tucker reported that the City has not taken any action on that project.

Mayor Cronin asked about the activity at the marina and was told by Mr. Berrigan that business has definitely slowed in the past week, but July was a good month. The valet service is going

very well; he noted that, when the afternoon storms come in, the valet service has been very helpful in getting boaters out of the water.

Councilwoman Rice expressed her concern over the property thefts and asked if they were continuing; Mr. Berrigan said there have been a couple more thefts and that they had been appropriately documented with the Police Department. Mr. Berrigan expressed his opinion that the perpetrators were coming into the marina on boats, tying up to the fuel dock and stealing whatever they can from boats; items being stolen include rods, reels, depth finders, VHF radios and three (3) stereos. He does not think that the thefts in the dry storage lot are being done by persons arriving via boat but maybe bicycles; Mr. Berrigan thinks these thefts are being done by young people looking for "entertainment."

Presently the security cameras are all on the front side of the marina, none toward the water-side, but there are plans to put cameras on the fuel dock.

5. Morgan Creek Grill Report – Carla Pope, Operations Manager

Ms. Pope reported that Morgan Creek Grill is doing well despite trending ten to twelve percent (10-12%) lower than last year. Specifically today, Ms. Pope stated that she wanted to discuss the procedure to be followed for renegotiation of the Morgan Creek Grill lease. Administrator Tucker responded that the procedure was delineated in the existing lease; in addition, the Administrator asked that Morgan Creek Grill take the existing lease (1) to determine if Morgan Creek Grill was in a "window" for renegotiation, (2) then to use that lease to specify any changes or modifications they would like to discuss with the Real Property Committee. Administrator Tucker did indicate that she was unsure whether an extension of the lease was contingent upon renegotiation of the lease; Ms. Pope stated that decision would be up to Mr. Clarke, but she did not think that was the case. Ms. Pope agreed to provide the information requested by the Committee well in advance of the September meeting of the Real Property Committee, and the Committee agreed to include lease renegotiation on the agenda for that meeting.

Morgan Creek Grill has begun to offer valet service for their patrons; Ms. Pope indicated that there have been a few kinks, but that the young men are averaging fifteen to twenty-five (15-25) vehicles per shift.

6. Old Business

A. Update on Beach Restoration Project – Steve Traynum, Coastal Science and Engineering (CSE)

Administrator Tucker commented that the following discussion is the result of a resident's request for additional sand fencing in the area of Grand Pavilion, as well as questions about the viability of the plantings in the restoration area. The City's consultants have assured the City that the plants' root systems are healthy. She introduced Steve Traynum of Coastal Science and Engineering who has been involved in the project from the beginning; he has done the forensic study regarding the potential for additional sand fencing and provided a cost estimate for the proposed work.

Mr. Traynum gave a brief update on the condition of the restored beach by reporting that the shoal has become completely attached, which is good news in that the sand from it will spread out; the areas of the restoration project that lost sand will begin to rebuild with the shoal attached.

Councilman Taylor asked about the beach in the area of 49th and 50th Avenues that appears to significantly curve inland; Mr. Traynum stated that this area was outside the restoration project, but he explained that sand from the project area has moved southward into that area forming the "U" shaped space. Over time, as the sand continues to move southward, the area of concern will fill in.

On the subject of additional sand fencing, Chairman Cronin referred to a letter from Coastal Science and Engineering dated February 6, 2009 that stated no sand fencing or vegetation was required in Reach A; based on this information, the City got its permit for Reaches B and C. Mr. Traynum explained that the reason CSE originally recommended fencing and vegetation for Reaches B and C was that these beaches had no dunes at the end of the restoration project; in Reach A, there was in excess of one hundred feet (100') of dunes that were completely vegetated between the buildings. Assuming the sand is stable, the natural process is for the dunes to build out and higher, and the vegetation will also build out in a couple of years – Mr. Traynum predicted vegetation on a par with Sullivan's Island in a couple of years. Sand fencing was recommended for Reach B because it was an area that needed a system in place to catch the sand and establish dune growth.

According to Mr. Traynum, the advantages to putting sand fencing in areas where the dune is already established are to eliminate the appearance of a project beach and to catch sand to build dunes. For Reach A, Mr. Traynum noted that, since there are higher dunes behind the location where sand fencing would be installed, the fencing would stop the process of building the existing dunes higher. The fencing would act as filter that would catch the sand and begin building smaller dunes in front of the higher ones behind; in terms of storm protection, a property owner would prefer the larger dune for protection against a storm surge. Mr. Traynum remarked that this was the primary reason that sand fencing was not recommended for Reach A. He did note that sand fencing in areas where it is not necessarily needed will not harm that area, and it does offer nesting habitat for turtles.

Summarizing, Mr. Traynum stated that, from an engineering standpoint, if the sand fencing is wanted in an area where it is not required, it is not a bad thing to do, but the system is already in place to build the dunes up and the vegetation will naturally spread out toward the beach.

In answer to Councilwoman Rice's question, Mr. Traynum explained that it would be several years, five to six (5-6), before there would be significant change in the dunes as a result of the forces of nature. The change would be quicker if the fencing were installed because the fencing would trap more sand. He did note that the fencing will not have a dramatic effect on keeping the project in place; sand fencing does not prevent beach erosion. Mr. Traynum explained that dunes exist for storm protection.

As to the placement of additional fencing, Mr. Traynum explained that, based on his observation of the project beach, the fencing should be placed between 57th Avenue and Beachwood East for approximately eighteen hundred feet (1,800').

Chairman Cronin expressed his understanding that CSE was not recommending sand fencing for the Grand Pavilion area of the beach; Mr. Traynum commented that fencing would not help to keep the beach there any longer, stable dunes are already there offering protection and vegetation has already begun to move onto the project beach, but it will help with dune formation further out on the beach. These smaller dunes will offer no protection in the event of a major storm; for a small storm, they will keep the erosion further out.

Administrator Tucker summarized her understanding of Mr. Traynum's comments as saying that installation of additional sand fencing would not harm the Beach Restoration Project, but it may have an adverse impact on the natural formation that is already occurring there.

The Administrator explained that the cost estimates for the additional sand fencing are based on a change order for the existing contract; if it is not possible to issue a change order, the figures may not be valid. She asked Mr. Traynum if the estimate included the permitting expense; he replied that he did not believe that to be the case, but that the permitting cost would not be material, and the permit should take only a couple of weeks to secure.

Mayor Cronin allowed citizens to ask questions of Mr. Traynum. Deborah Johnson, 4 Grand Pavilion, stated that she walks the beach in front of Grand Pavilion every morning and asked Mr. Traynum to tell her where the dunes were in that area. Mr. Traynum informed Ms. Johnson that the area had recently eroded, but, in time, it will have dunes like Beachwood East. She asked if the placement of sand fencing would make the area in front of Grand Pavilion look like Beachwood East. He answered that fencing would build the smaller dunes over time, but the same would occur without fencing but over a long period of time.

Dan Harvey, 104 Grand Pavilion, stated his opinion that the main issue was protection of their residences; therefore, he was in favor of accelerating the dune growth process with sand fencing. Mr. Harvey commented that sand fencing was easily installed and could not understand how it could cost the City ten dollars (\$10.00) per foot; he recalled that volunteers had installed fencing two (2) times in the past. He was confident that volunteers could be gotten to install fencing again with the assistance from the City for materials.

Councilman Taylor corrected Mr. Harvey's understanding that the fencing was to cost ten dollars (\$10.00) per foot; the actual fencing is quoted at three dollars eleven cents (\$3.11) per foot. The larger figure includes the vegetation at a cost in excess of ten thousand dollars (\$10,000).

Mr. Traynum explained that there are wider gaps between the fencing where there is beach access path, and, in the restoration area, yellow ropes were tied between the fences to discourage people from walking over the vegetation. Mr. Traynum added that this was another good feature to sand fencing, i.e. it restricts access to these areas leaving them less disturbed.

Mayor Cronin asked if sand fencing would increase the rise of dunes quicker than would occur naturally. Mr. Traynum responded that the fencing would increase the rise because it is further out on the beach where the sand would be moving more.

Jim Ashworth of 109 Grand Pavilion stated that, in the eight (8) years he has lived at Grand Pavilion, he has only seen the dunes decrease; therefore, he agreed with Mr. Harvey that the need was to rebuild the dunes for a strong buffer. He, too, stated that he understood that sand fencing was in the scope of the original project.

After discussion, the members of the Committee were of the opinion that installation of sand fencing in the project was in a caveat stating "as required."

Mr. Traynum noted that there is vegetation in that area of the beach; therefore, he thought that the quantity of planting in the proposal from CSE could be reduced. He also suggested that sea oats, which help to build dunes, be planted. Based on that information, Councilman Taylor suggested that the planting could be done at a later date; Mr. Traynum expressed his opinion that some planting be done in connection with the sand fencing to hold it in place and to discourage people from walking through the fenced area.

Mayor Cronin stated that the subject of additional sand fencing would be placed on the City Council Agenda for August 22, and, in the meantime, he would speak with the Wild Dunes Community Association about a volunteer effort to install sand fencing in the Grand Pavilion area.

Administrator Tucker commented that, if the sand fencing were to be placed on the beach in the area of Grand Pavilion, sand fencing would not be installed in one hundred percent (100%) of the restored beach; therefore, there may be other residents who come forward requesting sand fencing in the area of the beach where they live. The Administrator added that there would be no harm in having CSE proceed with getting the permit since Mr. Traynum said the cost would be nominal and the process would only take a couple of weeks.

MOTION: Councilwoman Rice moved for Coastal Science and Engineering proceed with obtaining a permit for sand fencing; Councilman Taylor seconded and the motion PASSED UNANIMOUSLY.

B. Discussion of Marina Management RFP Bid Proposals

Mayor Cronin stated that this item has been deferred to a Special Meeting to be held at 3 p.m. today in Council chambers; this will be the only item on the agenda.

7. New Business

A. Renewal of Commercial Lease Agreement with Marina Outpost, LLC

Mayor Cronin noted that a copy of the letter from Marina Outpost had been included in the meeting packets.

MOTION: Councilwoman Rice moved to accept the letter and confirm the renewal of the lease for Marina Outpost, LLC.; Councilman Taylor seconded.

Both Mayor Cronin and Councilwoman Rice were complimentary of Marina Outpost's running of the store at the marina.

Call for the Question: The motion PASSED UNANIMOUSLY.

B. Discussion of Concerns related to Operations of the Marina and Marina tenants.

Mayor Cronin referenced correspondence from David Belanger to the City related to marina operations; since Mr. Belanger had left before this topic was addressed, Mayor Cronin wanted the minutes to reflect that the City Council was in receipt of Mr. Belanger's communication, which was of concern to every member because of its tone and threats.

Mark Fiem of TidalWave Water Sports asked for time to rebut Mr. Belanger's comments. Mr. Fiem stated that there have been issues with Mr. Belanger and the marina's tenants prior to Mr. Fiem's purchase of TidalWave. Mr. Fiem recounted that Mr. Belanger had blocked a TidalWave boat with parasailers two hundred feet (200') in the air two (2) years ago threatening the safety of TidalWave's clients. Certain points made by Mr. Fiem were as follows:

- TidalWave has the blessing of the Coast Guard, the Department of Natural Resources (DNR, and the Federal Aviation Administration (FAA), as well as the Commissioner of Pilotage (Charleston Harbor);
- All owners are licensed U.S. Coast Guard Captains;
- TidalWave has a spot free parasailing safety record;
- TidalWave is constantly monitored by the FAA regarding flying conditions;
- In one (1) incident involving a wave runner, operator was found to be negligent and fined;
- A jet ski has an impeller, therefore, cannot inflict the type of injury to a dolphin that was described by Mr. Belanger and
- Mr. Belanger has been seen yelling profanities at boaters when using the marina ramp, yelling at bus drivers unloading children who are going on an EcoTour and even throwing things at boaters.

Mayor Cronin commented that, in the years he has been involved with the City, he has not had a complaint issued by a citizen or a customer of the marina or any of its tenants; he stated to Mr. Fiem that he was treating his customers well, obviously, for they would be the first to complain.

Having expressed his opinion that Mr. Belanger was operating illegally, i.e. his boat is not registered and he illegally blocks an estuary, Mr. Fiem asked who had issued Mr. Belanger a business license. In addition, Mr. Fiem asked what his best course of action was when forced to confront Mr. Belanger when he was ensuring that a client landed safely. Administrator

Tucker stated that Mr. Fiem should continue to report each incident to the Department of Natural Resources.

Councilman Taylor remarked that the City has received hundreds of letters in the years that he has been on City Council, but this letter from Mr. Belanger was one of the most troublesome letters that he has seen. The Councilman stated that he believed that the Administrator had made every effort to communicate with him, to invite him to meetings and provide him with schedules. In conclusion, Councilman Taylor stated that the City needs to be aware of this individual operating on City property and within the City's jurisdiction.

Councilwoman Rice expressed her agreement with Councilman Taylor. She was most sincere in reminding both Mr. Feim and Mr. Berrigan to keep records and to report every incident. She commented that Mr. Belanger does not launch at the marina and asked Mr. Berrigan what he could tell her about that; Mr. Berrigan explained that he had met with legal counsel and was limited to what he could say. He stated that Mr. Belanger had an issue with having to pay to launch his boat; he had asked Mr. Berrigan to request of the Real Property Committee that he be given free boat launch and free dry storage which Mr. Berrigan refused to do. Mr. Belanger then quit paying, the account got into arrears and finally came to a head with this situation being a consequence.

B. Schedule of Tenant Rents and Management Agreement Fees

Administrator Tucker reported the following:

- TidalWave Water Sports paid ahead on monthly rent; getting the documentation for determination of additional rent
- Schupp Enterprises current on parking lot
- Marina Outpost current; paying down additional rent due, balance <\$20,000
- Marina Joint Ventures current
- Morgan Creek Grill current on monthly rent; paying down additional rent; awaiting 6/30/09 year-end report

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

8. Miscellaneous Business

The Committee decided to wait until the 3 p.m. meeting to set the date for the next meeting.

9. Executive Session - None

10. Adjourn

MOTION: Councilwoman Rice moved to adjourn the meeting at 9:43 a.m.; Councilman Taylor seconded and the motion PASSED UNANIMOUSLY.