

REAL PROPERTY COMMITTEE
5:30 p.m., Wednesday, January 6, 2016

The regular meeting of the Real Property Committee met at 5:30 p.m., Wednesday, January 6, 2016 in the City Hall Conference Room, 1207 Palm Boulevard, Isle of Palms, South Carolina. Attending the meeting were Councilmembers Bergwerf and Harrington, Administrator Tucker, Assistant Administrator Fragoso and City Clerk Copeland; the absence of Councilmember Rice was excused. A quorum was present to conduct business.

1. Administrator Tucker 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. Election of Chair and Vice Chair

Councilmember Harrington nominated Councilmember Bergwerf for Committee Chair; Councilmember Bergwerf seconded and the nomination PASSED UNANIMOUSLY.

Councilmember Harrington nominated Councilmember Rice for Vice Chair; Chair Bergwerf seconded and the nomination PASSED UNANIMOUSLY.

3. Approval of Previous Meeting's Minutes

MOTION: Councilmember Harrington moved to approve the minutes of the regular meeting of November 5, 2015 submitted; Chair Bergwerf seconded and the motion PASSED UNANIMOUSLY.

4. **Citizens' Comments – None**

5. Comments from Marina Tenants

Chase Field, representing the Marina Outpost, asked whether the meeting time could be changed to 8:30 a.m.; Chair Bergwerf replied that a change in the meeting time would be discussed later.

6. Old Business

A. Consideration of Morgan Creek Grill Lease Amendment – Jay Clarke and Carla Pope from Morgan Creek Grill

Mr. Clarke recalled that a Special Meeting of the Real Property Committee was scheduled for late November but was cancelled by the City; Mr. Clarke opined that one (1) reason for the cancellation was a mechanics lien filed by Baker Roofing Company against Morgan Creek Grill (MCG). In the interim, MCG has reconciled its difference with Baker Roofing and they have completed the job; the lien should have been lifted today, but, at least, by tomorrow.

Administrator Tucker explained that this was a lien against the City's property, and, for it to be cleared, the City must receive the notice that the lien has been released.

Mr. Clarke reported that all items previously recorded in the lease as the City's responsibility have changed the lease to reflect that they are under the purview of the restaurant, and MCG has

added to the body of the lease and assumed full financial responsibility for the items listed on the City's long-range capital plan, i.e. the walk-in freezer, the hood ventilation system and the sprinkler system.

Ms. Pope noted that in previous versions of the request, MCG had tried to toggle down the additional rent; in the most recent version that was included in meeting packets, that change has been deleted and MCG is happy "at this time" to accept the additional rent. She stated that they have grown the business over the years to the benefit of the community, the business and the City up until this past year when there were issues with the noise ordinance that resulted in negative growth for the year. After learning of the proposed changes to the noise ordinance at the Public Safety Committee and the positive results from the new sound stage, MCG anticipates to a prosperous year.

Referring to the last page of the lease copies, Ms. Pope explained that the items in the left column that do not appear in the right column are no longer in existence or have already been replaced.

MCG's single request is to move forward with an extension of the lease, six (6) renewals of five years (5 yrs.) each for a total of thirty years (30 yrs.).

For the benefit of Councilmember Harrington, the Administrator asked the Mr. Clarke and Ms. Pope review their plan should the lease be extended.

Mr. Clarke said that they make a large investment in the building each year because the building is old and the general maintenance is high, and he referenced the roof replacement at seventeen thousand dollars (\$17,000). The walk-in refrigerator will be replaced within the coming year at a cost of about one hundred thousand dollars (\$100,000). After conferring with an engineer, he also has been advised that he will need to rebuild the Waterway Room within a very few years and anticipates it to cost two hundred thousand dollars (\$200,000).

Mr. Clarke noted that he has joined with the other marina tenants in working with ATM on the marina redevelopment plan; he is hopeful that the City will undertake parking lot improvements after getting the parking recommendations from ATM.

Chair Bergwerf asked whether there were any plans in the future to install an elevator, and Mr. Clarke responded that an elevator had been a part of his original plans for the restaurant, but it is a very expensive investment.

Ms. Pope stated that for them to make these types of investments in the restaurant, they need to know that they will be there long enough to get a return on the investment; she noted that the current lease only has four years (4 yrs.) remaining.

Mr. Clarke recalled that lease negotiations were stopped last year because of the issues with the noise ordinance; he initially came to the City with the request for a thirty-year (30 yr.) lease after the City approved the long-term lease for the marina.

When asked by Councilmember Harrington about dates in the future when the improvements would be made, Ms. Pope replied that there is no replacement date because they work hard to maintain everything so it will last as long as possible.

Chair Bergwerf suggested adding sixteen (16) years to the lease for a total of twenty (20) years and asked if that term would be sufficient to acquire bank funding, and Mr. Clarke answered in the affirmative.

As he has stated in the past, the profit margins for restaurants is very small and that MCG has experienced a serious financial setback in the past year; the long-range plan for the restaurant revolves around thirty-year (30 yr.) financing for improvements backed by a thirty-year (30 yr.) lease.

Mr. Clarke asked the Chair to explain the difference between the Marina Manager's request for a thirty-year (30 yr.) lease and MCG's request for the same.

Chair Bergwerf stated that she had not been supportive of the thirty-year (30 yr.) lease with Mr. Berrigan; in her opinion, a thirty-year (30 yr.) lease only gives Mr. Clarke something to sell.

On the topic of selling the business, Ms. Pope reminded the Committee that the City as landlord has the right to terminate the lease with proper notice, approve lease renewals and approve any sale.

Based on his past experience, Mr. Clarke stated that a restaurant is saleable with the minimum of a seven-year (7 yr.) lease. He opined that they have a good track record with the City of maintaining the building and growing the business.

By way of clarity, Administrator Tucker re-stated what she was hearing from the Committee in that they would like to see a priority list of what would be done above and beyond regular and routine maintenance which would demonstrate to the City that these improvements were going to be made to its property. This list could serve as added justification for approving a long-term lease.

Mr. Clarke concluded by inviting the Committee members to the restaurant for a guided tour and by saying that he would prepare the improvements' timeline to be presented at the February meeting.

B. Consideration of Parking Lot Lease and Future Management

The City Administrator stated that she was ready to generate and advertise it for the management of the City parking lots when she learned that there were those Councilmembers who wanted to consider the City managing the lots, at least, for this inaugural season of the beach parking management plan.

Councilmember Harrington asked whether the City had considered uses for the parking lots in the off-season, and Administrator Tucker recounted that the Council had considered using the lot for RV parking, but had decided that it was not financially feasible due to the infrastructure that

would be required to accommodate the RVs. If the lots were to be used simply for storage of boats and/or RVs, the City would need to provide added security and better lighting.

Chair Bergwerf agreed that the City should control the lots for this first year of the parking management plan.

Councilmember Harrington asked what that would mean, and the Administrator recalled that, when the City managed the lots in the past, it was staffed by off-duty fire or police personnel. Today, she would recommend placing two (2) BSOs at the lots and a supervisor that would be willing to be available seven (7) days a week.

Responding to the Chair, the Administrator said that she would have a budget drawn up for the Ways and Means Committee to consider along with the information Mr. Schupp provided related to revenue.

MOTION: Councilmember Harrington moved for the Ways and Means Committee to discuss the City's management of the municipal parking lots; Chair Bergwerf seconded and the motion PASSED UNANIMOUSLY.

C. Discussion of Off-season Use of County Park

Administrator Tucker commented that, like the City's parking lots, the County Park property is idle during the off-season, and the question has been raised regarding better utilization of it. The Administrator stated that there are restrictions as to what Charleston County Parks and Recreation can do on the property, and certain agreements exist between Charleston County PRC and the adjacent residential development. If Council is interested in pursuing this, one recommendation would be to invite a representative from PRC to attend the next meeting to talk about the property and the kinds of things that would be allowed and any restrictions that might apply.

Chair Bergwerf opined that the City is sufficiently occupied with the implementation of the beach parking management plan to take on another project at this time; she suggested that the discussion be delayed until after the coming beach season.

D. Update on Golf Cart Path between 18th and 20th Avenues

The Administrator reported that the district engineer for SCDOT has visited the site when the plan was explained to him; he gave a favorable response when asked about the possibility for a permit. The money for the design and survey has been approved by Council and purchase orders were signed today for them to be done. Once they are complete, the information will be put on an encroachment application and go to SCDOT for their consideration. Progress is slow but is happening.

Administrator Tucker acknowledged that the golf cart path will be an expensive endeavor, but one that the residents want very badly.

E. Discussion of Beach Preservation

Prior to Joaquin and the historic flooding, the City had included in the FY16 budget City and stakeholder money for another shoal management project at this time; in tandem with that, the City requested a permit modification to increase the volume of sand. The motivation behind the modification request was that the stakeholders felt they had invested a lot of money for sand to be moved and a few months later they needed sand bags or wave dissipation devices.

Since the City originally conceived shoal management projects, the City has learned ways that it could be improved, and OCRM has taken the firm stance that no sand can be placed landward of any sand bag or wave dissipation devices, meaning that the protective measures that have been deployed by endangered residents must be removed before any sand can be placed to rebuild the beach. These residents have spent a lot of money for sand that washed away much too soon; they have spent money for sand bags or wave dissipation devices; and they must spend more money to remove them and more money for sand. Unless the City is in a position to do an extremely significant project that will have stability, the City might find it difficult to have the level of participation from the stakeholders that would be needed to have the money to do another off-shore dredging project.

Then Hurricane Joaquin comes making a situation that is bad worse, and it is followed very closely by the unusually high tides.

The City has asked the engineers what would be the next, best course of action and what would be the level of participation that could be expected from all parties; everyone agrees that ideally the most effective choice would be off-shore dredging. Having seen the effectiveness over the long haul of an off-shore dredging project, the stakeholders might be more willing to participate.

The City is also dialoguing with FEMA about what level of participation they might have in either a shoal management project or in some piece of a longer term endeavor, which would mean that expenditures anticipated for a shoal management project would be re-directed to another off-shore project.

Administrator Tucker reported that the City has now engaged with the person at FEMA who has the beaches as his responsibility; this person has also connected with the City's coastal engineer and former coastal engineer, who now has the contract to update the beach management plan, Chris Jones. The Administrator has learned that the FEMA person and Mr. Jones have worked together on projects in the past and know each other well. At this time, there have been federal officials on the beach, and, subsequently, they have sent the City a list of data items they need from City staff to be able to make a decision.

Responding to Councilmember Harrington's concern about a timeline for the beach renourishment, the Administrator indicated that, if the best scenario develops, i.e. federal participation on mobilization, demobilization and the restoration of sand and motivation on the part of other funding entities to participate, and get the permit to do it, another off-shore project would be the best answer to the City and the stakeholders.

When asked about the progress of the shoal attaching on the northern end of the island, the Administrator remarked that the shoal has attached, but it is not spreading and continues to erode.

7. **New Business – None**

8. **Miscellaneous Business**

Tenant Rents Report

Administrator Tucker stated that all tenants are current.

Next Meeting Date: 3:00 p.m., Monday, February 8, 2016 in the Conference Room

9. **Executive Session – not needed**

10. **Adjourn**

MOTION: Councilmember Harrington moved to adjourn the meeting at 6:42 p.m.; Chair Bergwerf seconded and the motion PASSED UNANIMOUSLY.

Respectfully submitted:

Marie Copeland
City Clerk