

REAL PROPERTY COMMITTEE

5:00 p.m., Monday, October 8, 2012

The regular meeting of the Real Property Committee was held at 5:00 p.m., Monday, October 8, 2012 in the City Hall Conference Room, 1207 Palm Boulevard, Isle of Palms, South Carolina. Attending the meeting were Councilmember Stone, Chair Loftus, City Administrator Tucker, Assistant Dziuban and City Clerk Copeland. A quorum was present to conduct business, and Councilmember Buckhannon's absence was excused.

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 Meeting's Minutes

MOTION: Councilmember Stone moved to approve the minutes of the regular meeting of September 13, 2012 as submitted; Chair Loftus seconded and the motion PASSED UNANIMOUSLY.

3. **Citizens' Comments – None**

4. **Comments from Marina Tenants – None**

5. **Old Business**

A. Update on RFP for Municipal Parking Lots

Administrator Tucker noted that the Committee had indicated at the September meeting that it was interested in re-visiting the calculations relative to the income afforded the City should it decide to run the municipal lots rather than lease them. Based on that request, a confidential worksheet was included in meeting packets containing proprietary information on the revenues from the municipal lots for the three (3) most recent years and an estimate of the costs and revenues the City could attain from running the lots; if the City were to run the lots, the estimated increase in revenue is nearly forty-two thousand dollars (\$42,000) annually. Also on the financial analysis is a possible scenario for increasing revenues with a lessee by raising the base rent to one hundred thousand dollars (\$100,000) and by raising the additional rent percentage to thirty percent (30%); these actions would increase revenue to the City by approximately thirty thousand dollars (\$30,000) annually. The Administrator added that City personnel involved with the City's managing the lots in the past think that the lots are managed more efficiently by a contractor and that the City should continue to contract lot operation.

Councilmember Stone, speaking as a businessman, pointed out the fact that there are many unknown costs missing from the cost estimates for the City, for instance placing employment ads, interviewing and hiring personnel, overseeing the operation, etc. He did support the change in toggles for a new contract that would generate more revenue for the City.

Administrator Tucker commented that the RFP could be written with the new base rent and increase in additional rent percentage as minimum acceptable bids, but bidders could then simply bid that minimum; on the other hand, the RFP could state a minimum aggregate amount due to the City thereby allowing the vendor to devise the best way to accomplish that.

Past experience shows that the City gets very few bidders on this contract; Assistant Dziuban recalled that the City received two or three (2-3) bidders for the most recent RFP.

Chair Loftus agreed that the increase proposed from the City's running the lots was "not compelling enough" to indicate a change in management was in order.

On the subject of driving revenue up with an outside contractor, Chair Loftus suggested that the daily parking rate could be increased by one dollar (\$1) to six dollars (\$6). Assistant Dziuban recalled discussions with the current vendor on increasing the rate and his thought that maintaining a bank of dollar bills would be a hassle administratively.

Councilmember Stone asked whether the contract with the current vendor stated that the rate could be no higher than five dollars (\$5); Administrator Tucker remarked that she would have to review the contract to give a definitive answer. But the Administrator did indicate that the City had wanted to charge less than the County Park to drive people to the lots since, unlike the County Park, the City's lots do not offer any amenities.

Chair Loftus stated that he could not recall the rates being increased in the ten (10) or so years that he has been involved with the City; he remarked that he would prefer raising the rate for parking to increasing taxes on City residents.

Administrator Tucker summarized that the Committee was in agreement about setting minimum toggles in the RFP and establishing a minimum daily rate of six dollars (\$6).

MOTION: Chair Loftus moved to direct staff to generate an RFP to lease the municipal parking lots with a minimum acceptable base rent of \$100,000, additional rent of 30% of the excess of \$100,000 and an increase in the daily rate to \$6; Councilmember Stone seconded and the motion PASSED UNANIMOUSLY.

B. Update on 41st Avenue Ditch – Smith's Request

Chair Loftus recognized Jack Walker of GEL and Phillip Smith as being in attendance for this discussion; Mr. Smith has requested additional funds from the City to cover the costs of dredging around and under his dock.

Administrator Tucker reviewed the sequence of events that has brought Mr. Smith back to the City for reimbursement; a timeline generated by the Administrator and Assistant Dziuban is attached to the historical record of the meeting. In brief, Mr. Smith approached the City some time back stating that the drainage ditch adjacent to his property, between the Isle of Palms Marina and his property, was carrying silting that was depositing underneath his dock affecting the water level. Since the City was in the process of creating an RFP for dredging, the City requested that the dredging engineer examine that ditch; Mr. Walker confirmed that Mr. Smith was right in that the silting around and under his dock was coming from the drainage ditch. Based on that report, the City crafted a drainage project that included the IOP Marina and the areas of Mr. Smith's dock. When the permit was submitted for public comment, Mrs. Smith became concerned that the dredging would undermine, possibly, even compromise, their

pilings, and she ultimately talked with Jack Walker. Pursuant to that conversation, the area immediately underneath the Smith's docks was removed from the dredging footprint, and the footprint was revised when the project was bid. Mr. Smith became aware of the change when he spoke with the dredger on-site about the timing for dredging of his docks and was told that the work was not included in the project.

Mr. Smith interrupted to say he understood that, in a phone conversation, Mrs. Smith was reassured that the dredger "dredged around docks all the time and that . . . had nothing to worry about." The revised permit totally removed all of Mr. Smith's dock area and twenty feet (20 ft.) into the Intracoastal Waterway, resulting in Mr. Smith's problems not being addressed at all.

When the problem was discovered and Mr. Smith brought it to the City's attention, it was at a time when this Committee and City Council were dealing with several issues related to dredging with Mr. Smith's dock area being one (1). The Committee and City Council authorized twelve (12) of hours dredging for Mr. Smith's property, and the work was done. As the project was nearing completion and the permit nearing expiration, Mr. Smith requested for more dredging around and underneath his docks. Administrator Tucker communicated through Mr. Walker that, if Mr. Smith was willing to pay for the work and the disposal fees and to relieve the City of all liability via a signed agreement, the City would not object to the work. Mr. Smith is now requesting reimbursement for the dredging that was done above the twelve (12) hours authorized by the City that totals forty-eight hundred thirty-three dollars and twenty cents (\$4,833.20).

According to Mr. Smith, the twelve (12) hours authorized by the City allowed the dredger to get from the Intracoastal Waterway up to his dock, but did not allow for dredging on either side. Mr. Smith explained that the SCE&G line runs almost under the corner of his dock that impeded the depth of the dredging in that area, so the dredging went thirty to forty feet (30-40 ft.) into the dock from the Intercoastal Waterway and only on one (1) side of the dock.

When Mr. Smith questioned the decision to authorize twelve (12) hours of dredging, Administrator Tucker explained that the dredger had estimated that as the amount of time needed to address the silting at Mr. Smith's docks.

Chair Loftus recalled that the Committee and Council had been solidly behind the decision to authorize twelve (12) hours to dredge Mr. Smith's docks, but, after being asked to be responsible for additional work, he has now come back for reimbursement from the City. Mr. Smith countered that, after being told his entire area would be included in the City's dredging footprint, he got a quarter of the dredging that he expected and has paid for half.

Councilmember Stone voiced concern that he understood the scope of work awarded in December 2011 was to include around and under Mr. Smith's docks. Administrator Tucker explained that the difference was between the permit and the contract that was awarded; the permit did include the area of the Smith's dock, but the contract with Marcol did not.

The Administrator stated that the lesson she learned from this experience was to keep "wiggle room" in dredging projects especially, to keep some degree of flexibility.

Councilmember Stone reiterated the engineer's findings that the City's ditch may have contributed to the situation at Mr. Smith's docks; therefore, the City needed to assume responsibility for a problem it may have caused.

MOTION: At 5:41 p.m., Chair Loftus moved to go into Executive Session for discussion regarding a potential legal claim and settlement thereof; Councilmember Stone seconded and the motion PASSED UNANIMOUSLY.

Upon returning to regular session at 5:52 p.m., Chair Loftus announced that the Committee had not taken a vote or an action while in Executive Session.

MOTION: Chair Loftus moved to approve the Smiths' request for \$4,833.20 for supplemental dredging once Mr. and Mrs. Smith sign a waiver releasing the City from any additional financial claims relative to the 2012 dredging project; Councilmember Stone seconded.

Mr. Smith commented that no actions have been taken by the City to solve the problems that arise from the runoff from the 41st Avenue drainage ditch; therefore, the problem of buildup under and around his docks will continue. He wanted assurance from the Committee that, if the problem continues unabated, his property could be included in future dredging projects the City may have.

Councilmember Stone explained that the waiver would only be relevant to the 2012 dredging project; the City will not assist the Smith's if they receive a bill from the Corps of Engineers for use of the spoil site, for example.

Chair Loftus suggested that the City involve Charleston County to find a solution to the problems created by the 41st Avenue drainage ditch using some of the City's stormwater fee.

VOTE: The motion PASSED UNANIMOUSLY.

6. New Business

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

7. Miscellaneous Business

Marina Rents – Administrator Tucker informed the Committee that all marina tenants are current in their obligations to the City.

Next Meeting Date: 5:00 p.m., Tuesday, November 13, 2012 in the Conference Room.

8. Executive Session – held earlier in the meeting.

9. Adjourn

**MOTION: Councilmember Stone moved to adjourn the meeting at 5:57 p.m.;
Chair Loftus seconded and the motion PASSED UNANIMOUSLY.**

Respectfully submitted:

Marie Copeland
City Clerk