

REAL PROPERTY COMMITTEE

5:00 p.m., Tuesday, July 10, 2012

The regular meeting of the Real Property Committee was held at 5:00 p.m. on Tuesday, July 10, 2012 in the City Hall Conference Room, 1207 Palm Boulevard, Isle of Palms, South Carolina. Attending the meeting were Councilmembers Buckhannon and Stone, 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 in accordance with the Freedom of Information Act.

2. Approval of Previous Meeting's Minutes

Councilmember Buckhannon moved to approve the minutes of the regular meeting of May 8, 2012 as submitted; Councilmember Stone seconded and the motion PASSED UNANIMOUSLY.

3. Citizens' Comments – None

4. Comments from Marina Tenants – None

5. Old Business

A. Discussion of Charges to Committee from Joint Meeting

- 1. Parking on the Ocean-side of Ocean Boulevard**
- 2. Areas for Visitor Parking**

Administrator Tucker informed the Committee that Stantec, the consulting firm on wayfinding signs, will be making its first presentation to the Public Safety Committee on Wednesday. The Administrator reminded the Committee that the consultants were hired to provide insights into effective ways to direct visitors to the island to the municipal parking lots and the County park in an effort to mitigate on-street parking elsewhere on the island and to stop the stacking on cars on the Connector.

Councilmember Stone asked whether the signage being considered would be overhead arrows or arrows on the ground; he indicated that he preferred the overhead signs. The Administrator reported that Stantec was looking at a variety of different approaches, and Stantec has iterated that they want the City to view this as an initial step in a much larger endeavor.

Councilmember Buckhannon commented that he believes Stantec's work will be a guide in the City's overall parking management problem.

On a related subject, Chair Loftus asked for the Administrator to report on the recent meeting with SC DOT; Administrator Tucker reported that one (1) subject discussed was trying to devise a new, cooperative approach toward the problem of encroachments into the SC DOT right-of-way since the majority of rights-of-way on the island are SCDOT rights-of-way which means that DOT is the first line of enforcement. Since DOT has had some recent difficulties on the island with a specific property, they have been alerted to the seriousness of the problem and are more motivated to get some of the encroachments off the right-of-way. When the City was

considering a serious effort to get encroachments out of their right-of-way, the City prioritized encroachments that present serious safety hazards first, and DOT personnel appeared to like that idea. With that in mind, the DOT personnel were going to make the assessments of properties presenting hazards on that basis to make initial notifications to the property owners; ultimately the property owner would receive an ultimatum letter requiring that the impediment be removed by a certain date in the future and, if not removed, DOT would remove the impediment at the owner's expense. Additionally, DOT staff must determine which properties had been given encroachment permits and for what, as well as whether or not they agreed with the City's assessment that a particular encroachment did create a safety hazard.

Administrator Tucker commented that getting the encroachments out of the rights-of-way is more than a parking issue; these encroachments also eliminate room for a vehicle to get out of the roadway for an approaching emergency vehicle.

The Administrator stated that she was encouraged by the new posture being shown by SC DOT to be more proactive on the subject of encroachments into the right-of-way on the island. On the subject of enforcement, Assistant Dziuban added that the DOT staff was going to check with their legal department about a possible partnership where the City could enforce on DOT's behalf.

Since the regional director and the primary right-of-way staff member attended the meeting, Administrator Tucker voiced optimism that SC DOT will be more actively involved in resolving this issue than they have been in the past. In addition, the Administrator reported that the Surf Club, that initially identified the situation on 8th Avenue, are supporting an initiative to identify where encroachments exist because, in her opinion, there are worse situations than 8th Avenue in close proximity to 8th Avenue. According to Administrator Tucker, the ideal situation would be enforcement by SC DOT on their rights-of-way, but SC DOT is responsible for a huge number of roads and has experienced a large amount of budget cuts as have other agencies in the state. The City might be in a position where it must bond with them in some way on the same mission.

B. Report on Status of Use of City Lots in the Off-season

Administrator Tucker reported that, after the Committee decided that they were interested in having the municipal lots become a year-round revenue source, assignments were given to Chief Buckhannon, and Directors Kerr and Pitts to gather information to be assembled into a report that will include a timeline, estimated costs, pros and cons, etc. to allow this Committee to decide on the future course of the lots.

On a related subject, Chair Loftus inquired about the status of an RFP on the municipal lots; the Administrator explained that she did not want to begin work on it until the Committee decided how the lots will be used.

C. Discussion of 3/13/2012 Requested Amendments to the Marina and Marina Outpost Leases

Administrator Tucker recalled that the City had proceeded with an amendment to the leases related to the additional rent components, but several issues remain to be resolved. For the City, one (1) financially significant issue is for the City to take the responsibility for big-ticket maintenance items; the Administrator recounted to the Committee that not money had been allocated in the FY13 budget for repairs and maintenance to the marina. Should the Committee and, ultimately, City Council be inclined to take on these responsibilities, nothing could be done before the FY14 fiscal year.

When asked what items Mr. Berrigan thought should be included in the budget, he listed the coolers in the store, the land and dock fuel dispensers, the fuel lines and tanks, the HVCA, the veeder-root system, the roof, the electricity pedestals, the point-of-sale system, the docks and pilings. Additionally, Mr. Berrigan related that, by 2017, all fuel lines and the fuel tanks must be replaced, because they must be double-walled to comply with new regulations.

When asked by the Chair about the approximate cost for these items, Mr. Berrigan stated that the coolers would run approximately two hundred thousand dollars (\$200,000) and would involve the removal and re-installation of a wall; he did not have pricing on the other items. He did indicate that, if he, as tenant, had to be responsible for them, the costs would put him out of business.

Councilmember Buckhannon suggested that Mr. Berrigan prioritize these items and to determine when those replacements should take place along with an estimated cost for Council to incorporate into its own twenty (20) year capital plan. He added that Council could use that list to initiate a sinking fund from which to pay for these items when the time arrives.

Councilmember Stone stated that he understood that the City was responsible for replacement of the docks; Administrator Tucker agreed that the City must pay for replacement, but that the tenant is responsible for routine maintenance and upkeep. Mr. Berrigan said that some type of maintenance has to be done weekly.

Mr. Berrigan suggested that, once the City decides what specific items it will be responsible for, the list become a part of the lease agreement; anything not specifically identified would be the responsibility of the tenant.

Administrator Tucker related a conversation she had with Mr. Berrigan when they discussed the possibility of establishing a fund tied to the leases from which the tenants could draw, with Council approval, to get issues resolved. The tenants would be responsible for generating the bid, hiring a licensed contractor and overseeing that the work was properly done, thereby giving the tenant a vested interest in the work and the project.

Chair Loftus expressed the continued need for Council to have final approval for anything in excess of ten thousand dollars (\$10,000). Contrarily, Councilmember Stone did not want to get the City and/or the marina too bound up in RFPs and the requirement to accept the lowest bidder.

The subject then shifted to Mr. Berrigan's comments that he wants to see some type of a show of support for the construction of dry-stack storage at the marina; he referred to the presentation of a conceptual plan for the marina some eighteen (18) months ago to Council. Mr. Berrigan repeated that, should the City support the construction, he would have a private backer and would not be looking for the City to be financially involved.

Councilmember Loftus expressed concern about a possible increase in fees for residents to use the facilities at the marina or a negative impact for residents. Mr. Berrigan said that dry-stack storage would be available for all residents and guests to the marina; he did not anticipate there being any negative impact for island residents. Based on the revenue that would be generated by dry-stack storage, he would be willing to make the investment to change the whole dynamic of the marina that would only be positives for residents of the island. Administrator Tucker stated that she viewed the construction of dry-stack storage as a new service being offered to residents.

Councilmember Stone opined that Mr. Berrigan's next proposal would be for a much longer lease before making a substantial investment in the marina.

MOTION: Councilmember Buckhannon moved to recommend to City Council a statement of support to the conceptual plan for the marina presented by Brian Berrigan; Chair Loftus seconded and the motion PASSED UNANIMOUSLY.

A third request from Mr. Berrigan had been for the standardization of the lease dates for Marina Joint Ventures and Marina Outpost; the store lease expires January 31, 2015 while the Marina Joint Ventures' lease expires September 30, 2014. Administrator Tucker informed the Committee that the City Attorney had advised that the leases have a mutual date of January 31, 2015.

MOTION: Councilmember Stone moved to standardize the leases for Marina Joint Ventures and Marina Outpost to each expire on January 31, 2015 with the ability for each to extend for two (2) additional five (5) year terms; Councilmember Buckhannon seconded and the motion PASSED UNANIMOUSLY.

Additionally Mr. Berrigan has asked for clarification of the term "adult use products" that appears in the Marina Outpost lease; he assured the Committee that he has no intention of carrying anything pornographic, but he does want to sell beer, wine and cigarettes without being in violation.

MOTION: Councilmember Stone moved to authorize the City Attorney to clarify the language in the Marina Outpost lease allowing for the sale of beer, wine and cigarettes; Councilmember Buckhannon seconded and the motion PASSED UNANIMOUSLY.

Mr. Berrigan has expressed a desire to be allowed to have indoor seating for a maximum of twelve (12) people - enough space for a few patrons to escape from the elements.

Chair Loftus expressed concerns about violating the lease with Morgan Creek Grill by allowing indoor seating at Marina Outpost. Mr. Berrigan assured Chair Loftus that he will not be changing the footprint of the store; therefore, his space is limited and his hours are from 7 a.m. to 3 p.m. daily. Mr. Berrigan expressed the opinion that Marina Outpost does not compete with Morgan Creek Grill but complements Morgan Creek Grill.

MOTION: Councilmember Stone moved to allow indoor seating at Marina Outpost predicated on there being no conflict with the Morgan Creek Grill lease; Councilmember Buckhannon seconded and the motion PASSED UNANIMOUSLY.

The final request from Mr. Berrigan was the ability to establish the hours of operation, rather than have them dictated by the lease.

MOTION: Chair Loftus moved to allow Mr. Berrigan to set the hours of operation for Marina Outpost; Councilmember Stone seconded and the motion PASSED UNANIMOUSLY.

6. New Business

A. Discussion of Use of Municipal Parking Lot by IOP Water and Sewer to House Temporary Structure(s) for Placement of Antennae and the Need for the City to Apply for a Special Exception from the Board of Zoning Appeals.

Bill Jenkins, Special Projects Administrator with the IOP Water and Sewer Commission and Graham Andres from Tower Engineering Professionals were present for this discussion; Mr. Andres is representing the Water & Sewer Commission in working with the cell telephone carriers who have antennae on the water tower by handling the technical aspects. Mr. Jenkins explained that the water tank serves as a support structure for cellular communications; the water tank requires sandblasting and painting to keep it standing in good fashion to support the carriers.

In order to do this, the antennae and other items associated with the cell carriers must be removed and relocated temporarily. The Water and Sewer Commission is seeking to lease space from the City in the large municipal lot to place a temporary structure on which to relocate the antennae while the work is taking place.

Chair Loftus' initial comment was that the water tank is no longer in use, but Mr. Jenkins corrected him, stating that water is pumped out of the tank daily and is a water storage facility that augments the water storage on site.

In responding to Councilmember Buckhannon query about the timeframe for the project, Mr. Jenkins said that the work to remove the cell systems is slated to begin in September with the maintenance work to begin in October. He assured the Committee that the work would be completed and the antennae would be back in place on the tank before the 2013 tourist season begins.

Mr. Andres showed the Committee members a drawing of the two (2) temporary structures; each structure is a trailer with a tower on it with guy wires stabilizing them. The towers will be approximately one hundred fifty feet (150 ft.) tall.

Administrator Tucker explained that, since the temporary towers will exceed the height that the Zoning Administrator can approve at staff level, the City, as the property owner, with Linda Tucker as the City's agent, must request a Special Exception from the Board of Zoning Appeals. In addition, the Administrator was uncomfortable approaching the Board of Zoning Appeals for the Special Exception relative to City property without this Committee and City Council being aware of the circumstances. As well, the City has determined that a lease, defining liability and insurance issues, should exist between the City and the Water and Sewer Commission for the time period that the antennae/tower will be on City property.

Assuming Council agrees to the proposal, Administrator Tucker recalled that the instructions from the City had been that the Water and Sewer Commission will not take possession of the space in the municipal lot until after Schupp Enterprises' lease expires on September 30, 2012. The Administrator added that, assuming that the lot is not used for any other purpose in this coming off-season, a new tenant would assume responsibility for the municipal lots on March 1, 2013; therefore a failsafe should be included in the lease with the Water and Sewer Commission should the towers need to stay in place past March 1, 2013. Councilmember Stone suggested that the Water and Sewer Commission deal with the lot lessee about the continued use after March 1, 2013.

MOTION: Councilmember Buckhannon moved to recommend to City Council that the City apply for a Special Exception from the Board of Zoning Appeals for the Water and Sewer Commission to locate two (2) one hundred fifty foot (150 ft.) towers on space in the municipal parking lot leased from the City; Councilmember Stone seconded and the motion PASSED UNANIMOUSLY.

Councilmember Buckhannon asked what would happen if the Board of Zoning Appeals did not approve the Special Exception; Administrator Tucker reminded the Committee that an ordinance had been passed that allows for a two hundred foot (200 ft.) tower when that tower was for public purpose, and that ordinance could be the failsafe assuming that an argument could be made that the towers serve a public purpose.

Mr. Jenkins informed the Committee that, if the Water and Sewer Commission does not have a structure to re-locate the antennae while the maintenance work is done on the water tank, the cell systems would have to be turned, off leaving residents with no cell service until they can be replace on the tank, meaning that 911 service would not be available. Carriers with antennae on the water tank are AT&T, Sprint, Cricket and T-Mobile.

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

7. Miscellaneous Business

Administrator Tucker informed the Committee that legislation was passed related to FOIA stating that no changes can be made to an agenda once it has been printed and posted. Assistant Dziuban noted that a Committee/Council member is welcomed to contact the chair to have items added to an agenda; Administrator Tucker anticipates that this law will generate more special meetings.

Chair Loftus asked for an update on the SCE&G project; the Administrator responded that they were working doing initial surveys.

Councilmember Stone commented that some of the funding had been reinstated for the Local Government Fund.

Marina Rents

Administrator Tucker reported that all tenants were current on their rent; Marina Joint Ventures owes ten thousand seven hundred four dollars (\$10,704) in additional rent, but they are paying it down.

Next Meeting Date: 5 p.m., Tuesday, August 14, 2012 in the Conference Room.

8. Executive Session – not needed

9. Adjourn

MOTION: Councilmember Buckhannon moved to adjourn the meeting at 6:20 p.m.; Councilmember Stone seconded and the motion PASSED UNANIMOUSLY.

Respectfully submitted:

Marie Copeland
City Clerk