

Real Property Committee
5:30 p.m., Tuesday, May 6, 2014

The regular meeting of the Real Property Committee was held at 5:30 p.m., Tuesday, May 6, 2014 in the City Hall Conference Room, 1207 Palm Boulevard, Isle of Palms, South Carolina. Attending the meeting were Councilmembers Bergwerf and Buckhannon, Chair Loftus, Administrator Tucker, Treasurer Suggs, Assistant to the Administrator Dziuban and Clerk Copeland. A quorum was present to conduct business.

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

2. **Approval of Previous Meeting's Minutes**

MOTION: Councilmember Bergwerf moved to approve the minutes of the regular meeting of April 8, 2014 as submitted; Chair Loftus seconded and the motion PASSED UNANIMOUSLY.

3. **Citizens' Comments – None**

MOTION: Chair Loftus moved to re-order the *Agenda* to address New Business items A and B at this point in the meeting; Councilmember Bergwerf seconded and the motion PASSED UNANIMOUSLY.

5. **New Business**

A. **Update on Mayor Carmen R. Bunch Park**

Administrator Tucker reported that the work to remove the heavy vegetation has been completed and the next step is to get the access road constructed; Charleston County has agreed to do that work at no cost to the City. The City should begin to think about a dedication; the City needs to get a sign made meeting Greenbelt requirements and consider having a ceremony to unveil the sign officially dedicating it to Mayor Carmen R. Bunch.

B. **Update on Watersports Dock Rehabilitation**

Consideration of Change Order 3 for Ocean and Coastal Consultants

Assistant Dziuban noted that the final walk-through has been postponed until the City's Building Inspector has finished the electrical inspection, but the City considers the dock to be substantially completed. There are a couple of minor outstanding work items, but Tidal Wave is up and running for another season.

On the subject of the change order included in meeting packets, Assistant Dziuban related that she and the City Administrator were contacted some weeks back by John Shaffer saying that he was no longer employed with Ocean and Coastal Consultants (OCC); OCC retained Mr. Shaffer as a contract employee to complete this project for the City. The City's contract is with OCC, not John Shaffer; in the change order, OCC is trying to close out the contract and think about the best way for the City to deal with the money allotted for this project.

Assistant Dziuban recounted from the last meeting that the idea was to capture some of that and re-direct it toward the preliminary marina development plan. OCC explains that, in the process of rehabilitating the watersports dock, the decision was made to bid it in two (2) components, i.e. the actual dock work and the electrical work. When the project was split, the change effect-tively doubled the work to prepare the bid, two separate bid packages, double the number of meetings on site as well as attendance at multiple IOP Committee and Council meetings.

This change order is OCC's reallocation of funds to the tasks that were actually performed; a gap of seventeen hundred fifty dollars (\$1,750) remains. If the City was still interested in doing the preliminary marina development plan, the City could assign the gap to John Shaffer to use it toward that project, and the City should contract that work directly with Mr. Shaffer since he is no longer affiliated with OCC.

MOTION: Councilmember Bergwerf moved to approve Change Order #3 for a final contract amount for Ocean and Coastal Consultants in the amount of \$30,300 and to re-direct the funds allocated for the project that were not spent, \$1,750, to John Shaffer; Councilmember Buckhannon seconded.

Chair Loftus asked for clarification of the deliverables for this money. Mr. Shaffer said he would provide the same deliverables that were discussed; the deliverable will be a preliminary redevelopment plan for the marina. He noted that he, as an independent contractor, would be able to do more with seventeen hundred fifty dollars (\$1,750) than a larger firm.

Administrator Tucker summarized saying that Mr. Shaffer was offering the City fifty-five hundred dollars (\$5,500) of work for seventeen hundred fifty dollars (\$1,750); Mr. Shaffer confirmed that to be correct. He said that he wanted to maintain his relationship with the City and to see the project through. He noted that he has the professional and general liability insurance that the City requires in professional services contracts.

VOTE: The motion PASSED UNANIMOUSLY.

4. Comments from Marina Tenants

Presentation from Marina Consultants, John Tarkany and John Shaffer

John Tarkany recalled his original contact with the City in 2009 as he and Mr. Berrigan presented a conceptual plan for marina redevelopment. A key feature for that plan was a dry stack as the initial step in the plan. Today, the plan has been flipped around with a decision that the dry stack could be another phase, and the first phase would be creating a sense of arrival, organizing and improving parking and the site to be more efficient and attractive. The improvements must work with what is currently at the marina and with future redevelopment plans.

An initial design was shown to the Committee that included a gated entry with a gate house, nice paving, landscaping and signage; parking for boat trailers has to be provided now, but in the future, that same area could become parking for cars. Another goal is to simplify and

organize the circulation with nice landscaping and better drainage, relocate some utilities, an organized lighting system, and, possibly, incorporate some sustainable things like permeable pavers, LED lighting, enviro-swails, native plants, and keep the stormwater runoff on the site.

The original conceptual drawing included relocating the boat ramp, but that has become unrealistic; therefore its location must be embraced as a fact. The dry stack area is preserved and still inter-changeable with the future master plan.

Chair Loftus commented that many residents like to drive their golf carts to the marina and asked what provisions were being made for cart parking. Mr. Tarkany pointed to locations that would be suitable to both golf carts and bicycles near the store.

The Chair then asked about a plan for the drainage ditch; Mr. Tarkany indicated that the plan was to plant trees and native grasses along the marina side of the ditch, but there is no plan to fill in the ditch. OCRM is not receptive to piping the ditch since the ditch does not represent a hardship and piping it does not benefit the public; Chair Loftus stated that the City would not support piping the ditch; piping the ditch would mean surface flooding because it could not handle the water from a big rainfall.

Chair Loftus said that the marina will have to provide trailer parking even after the dry stack is built; many off-island residents bring their boats to the IOP Marina for launching. Mr. Tarkany responded that the dry stack is to become more of a community asset first and visitors second. The Chair noted that Wild Dunes does not allow residents to leave a trailer visible; therefore the dry stack will be an advantage for those resident boat owners.

Councilmember Bergwerf voiced her opinion that the dry stack will create a need for even more parking; a dry stack built to store two hundred fifty (250) boats could bring five hundred (500) vehicles each needing a parking space.

Mr. Tarkany added that another thing they wanted to encourage was boat owners driving their golf carts or riding their bikes to the marina to use their boat stored in the dry stack or being dropped off at the marina.

Councilmember Buckhannon suggested that a shuttle could be run to get residents to the marina, meaning that vehicles are left at home. The Chair opined that to charge for parking at the marina would encourage carpooling.

Administrator Tucker asked the purpose of a gate house. Mr. Berrigan replied that the gate house was a welcoming feature. The Administrator asked if people would need to have something in order to get through the gate; Mr. Berrigan responded that there are no requirements to enter.

Mr. Berrigan noted that a fee of five dollars (\$5) is charged for single car parking for daily parking and has been since 1999. He explained that companies renting a boat or taking people on environmental tours pay a percentage of their gross revenue to cover parking for their clients; people going into the store or dining at Morgan Creek Grill do not pay to park.

Mr. Berrigan commented that he has spoken with other tenants at the marina, and they are willing to share in the expense of the gate house attendant.

Councilmember Bergwerf asked about the estimated cost for the gate house; Mr. Tarkany indicated that the gate house would cost approximately thirty thousand dollars (\$30,000) and the automated gates would be an additional twenty thousand dollars (\$20,000). The Councilmember asked why gates were needed. Mr. Berrigan explained that the gates would function like the gates of an unattended parking garage in downtown Charleston.

Mr. Tarkany stated that signage, lighting, pavers, Palms, gates and gatehouse are estimated to cost ninety thousand dollars (\$90,000); he also voiced concern about what they might encounter in the renovation.

Acknowledging that this effort was not being funded by the City and possibly not doable, the Administrator strongly encouraged Mr. Tarkany and Mr. Berrigan that they should mesh the things that are still undone and add those things mentioned today. Additionally, the Administrator voiced the fact that she thought they might have trouble "selling" the gate, because some people have problems with gates; she thought that something gated is unpleasant and stops being community and starts being privileged. Fire Station 2 is basically at the entrance to the marina fire apparatus must be able to get out; if vehicles begin to stack up at the gate and a fire truck is blocked in, there is a need for two (2) people, i.e. one person to wave people in and a second to give instruction on where to go.

Mr. Tarkany ceded that a problem with gates is stacking, bailing out and turning around.

Administrator Tucker stated that people could get stuck and a lot of the good things being tackled might be shutdown based on the notion of a gate. Mr. Tarkany noted that there are many ways to make a good sense of arrival occur.

Chair Loftus reminded Mr. Tarkany that the marina was purchased with City taxpayers, and, if residents felt that it was inaccessible to them, there would be a problem.

Mr. Berrigan noted that he and Mr. Tarkany need to rethink the gate, but he wanted to know the next step with available funding. He said that Mr. Tarkany would be putting together drawings that are more inclusive, but he was interested to know the next step in the budget process.

The Administrator reported that there was nothing in the FY15 budget directed toward this plan; if it was the will of Council to move forward with this project, the budget must be altered if it is the intent for the City to pay for some or all it. The Administrator noted that the budget is in a stage where changes can be made.

Chair Loftus commented that Council has been trying to cut back and not to add to the budget.

Referring the most recent version of the FY15 budget, Administrator Tucker stated that the budget includes in Capital Projects, Special Projects one hundred thousand dollars (\$100,000) for the design of new docks on the Intracoastal Waterway and seventy-five thousand dollars (\$75,000) for consulting and designs fees for the marina site enhancement project.

The Chair added, "but no money for execution."

In the Administrator's opinion, the money in the budget was more directed at the docks than at the site, but it could be redirected or reconfigured if that is what this Committee, the Ways and Means Committee and City Council chooses to do so. Before making a decision, Administrator Tucker indicated that the Committee should also look at Mr. Shaffer's work. At issue is how many things are going to be done at the marina and at what point is the City going to do which things within the available money.

Councilmember Bergwerf asked Mr. Tarkany if he had a figure for the parking changes being proposed for the marina; Mr. Tarkany quoted a figure of five hundred fifty thousand dollars (\$550,000) with the gate and with a contingency for engineering and soft costs of ten percent (10%) for a total project cost of six hundred thousand dollars (\$600,000). Mr. Berrigan said that he did not want to completely abandon the gate house.

Chair Loftus asked Mr. Berrigan when the marina experienced its peak hours; to which Mr. Berrigan responded 10:00 a.m. to 2:00 p.m. and the restaurant has its peak hours between 4:30 p.m. and 9:00 p.m.

John Shaffer stated that he started some preliminary sketches for the overall master plan, but the Committee wanted to begin the review with the plans for the Intracoastal docks. (A copy of the sketch and cost estimates are attached to the historical record of the meeting.) He noted that the orientation and the dimensions of the existing docks make docking challenging; therefore, his goal was to reconfigure and repurpose the docks to make them more of a benefit to the marina. He displayed the conceptual drawing which involves the removal of the fingers, moving the dock out closer to the Intracoastal Waterway channel and using the existing concrete pilings at the end of the fingers for the back side of the dock and internal pile guides. Mr. Shaffer believes that this reconfiguration will provide linear, side-tie docking around the entire dock which is nearly five hundred fifty (550) linear feet; the dock will be shortened a little to improve access behind the dock between the existing restaurant dock and existing watersports dock. He commented that an option he had investigated was the possibility of shore power on the dock to make it more attractive to larger boats; Mr. Shaffer stated that he had consulted three (3) marine contractors for cost estimates and overall construction feasibility. The projected cost for the dock reconfiguration of the docks is seventy-three thousand six hundred dollars (\$73,600) using the existing piles. Costs associated with the electrical upgrade add considerably to the budget; the two (2) costs varied widely at one hundred twenty-seven thousand dollars (\$127,000) and one hundred ninety-three thousand dollars (\$193,000).

Responding to the Chair question, Mr. Shaffer stated that the plan is to re-use the entirety of the dock.

Mr. Shaffer also has included the Boating Infrastructure Grant (BIG) application in the soft costs, which are thirty thousand five hundred thousand dollars (\$30,500); he assured the Committee that he could handle the project for that amount, but a larger firm may be higher since the project will have to go through the City's procurement process.

Again Mr. Shaffer said that he has used as much of the existing infrastructure as possible, but the electrical upgrade is a new element that he believes will add value to the dock and increase revenue for the marina.

Mr. Shaffer also included a schedule that details what he envisions the amount to be recuperated from the Boating Infrastructure Grant, and that figure is fifty-seven thousand seven hundred seventy-five dollars (\$57,775) based on the lower price estimate, leaving the City to fund one hundred seventy-three thousand three hundred twenty-five dollars (\$173,325). Mr. Shaffer stated that he met with Scott Meister from DNR last week, and he suggested that the City apply for a Tier 2 grant, which has a ceiling of one and a half million dollars (\$1,500,000); whereas the state has a total of one hundred thousand dollars (\$100,000) to award to Tier 1 projects in the state. Mr. Shaffer and Mr. Berrigan were considering sending two (2) grant applications to Mr. Meister and his staff at DNR for an opinion of which is more competitive. Mr. Shaffer indicated that, in his opinion, the City could fund between one-third ($\frac{1}{3}$) to one-half ($\frac{1}{2}$) of the project through a Boating Infrastructure Grant if the City is successful with the award, depending on how much is dedicated to transient usage.

Administrator Tucker said she did not know how much of the costs on Mr. Shaffer's schedule would fall into the category of the seventy-five thousand dollars (\$75,000) already budgeted.

Chair Loftus commented that the budget contains one hundred seventy-five thousand dollars (\$175,000) toward a total project of two hundred thirty-one thousand dollars (\$231,000) resulting in a net of fifty-six thousand dollars (\$56,000). If the City were to get that much from the grant, it will nearly break even.

The Administrator noted that to do that leaves no money to be spent on the project discussed earlier; a decision must be made about which project takes priority for FY15.

Mr. Shaffer said that a permit could be designed for these docks for much less than one hundred thousand dollars (\$100,000). He stated that the FY16 budget would include funds for construction of the docks and design for new docks on Morgan Creek.

Administrator Tucker cautioned that those capital plans are assuming that the City can afford them, and, until the projects are bumped against the available fund balance, the City does not know if it can afford to do the project.

Mr. Shaffer remarked that Mr. Meister said that the grant funds would not be available until a year from now; if the grant is awarded, then the money is obligated, and the City could move into construction.

The Administrator reminded the Committee that the City must front the money

Mr. Berrigan noted that the City would have five (5) years to complete the project, so, if it is not budgeted for this year and the City applies for the grant this year to be awarded this time next year, the City has five (5) years to complete the project which is included in the ten (10) year capital plan. Again the Administrator cautioned that it assumes the City has the money.

According to the Administrator, one thing the City would want to examine carefully is that the City would not want to apply for a grant, get that grant award and then not be able to follow through with the matching funds. Once the project is designed and the City looks at what is to be applied for, a decision must be made about whether the City can front one hundred percent (100%) of the project to be reimbursed fifty percent (50%) of the portions which are eligible.

Mr. Shaffer explained that, if the City wants to apply for a grant this year, the applications are due July 1st.

Administrator Tucker questioned whether any elements of the parking project would be grant eligible; Mr. Shaffer responded that none are eligible.

Chair Loftus said that the City could do one (1) project, the Intracoastal docks, and come out even with the grant money using the funds budgeted in FY15 or use part of the budgeted funds to start the gateway project, knowing that the entire project will not be completed in FY15. He noted that the City is reaching the ninth hour; First Reading was in April and Second Reading is planned for May 27th.

Responding to Jay Clarke's comments, the Chair stated that the plan presented by Mr. Tarkany at six hundred thousand dollars (\$600,000) is a big ticket item, and he did not think anyone on the Committee thought the City had the money to spend on it. The City has other critical needs that must be addressed, such as the replacement of the public restrooms on Front Beach, which will hit the budget in FY16.

Mr. Clarke suggested that the entrance and parking improvements could be done in phases, and the Chair asked him what could be done for seventy-five thousand dollars (\$75,000).

Mr. Shaffer said that, if the City were to proceed with applying for the grant, the cost is small and at no risk to the City, and the process will take about a year to know if the City has been approved with five (5) years to implement the project. Since the grant runs for five (5) years, any of the other projects could be put ahead of the Intracoastal docks in Mr. Shaffer's opinion.

Chair Loftus voiced his concern over the condition of the Morgan Creek docks; he noted that the Intracoastal docks do not function well, but are in good shape. The marina docks are in poor condition and deteriorating every day.

The Administrator explained that if the City were to accept the grant award, the City would be committing to front one hundred percent (100%) of the expense of the project until reimbursed for the part of the project that is eligible expense. In her understanding, for FY15 the only amount the City would have to front that is grant eligible for reimbursement later is the soft costs for design; if the City receives and accepts a grant award, in FY16, the City would have to budget for the balance of the expense and also show potential for a corresponding grant income. But the City would have to have the cash to do it, meaning that Council would have to vote on funds for FY15 and identify funds for FY16 to move forward.

From looking at the fund balances, the Administrator said that the City is still in a place where it must decide whether to go forward with the Intracoastal docks or what portion of the site improvements to be pursued in FY15 or FY16.

Chair Loftus summarized that forty thousand dollars (\$40,000) needs to be identified for the soft costs of the Intracoastal docks, leaving one hundred thirty-five thousand dollars (\$135,000) in the FY15 budget to be applied to parking lot improvements.

Mr. Tarkany said that the improvements could be done by line items, getting rid of the utility blights or doing by category, site prep and cleanup or by area, concentrating beautification to those areas that will have the greatest impact.

The Chair suggested that Mr. Tarkany and Mr. Shaffer come to the Ways and Means Committee meeting on May 20th to explain how the re-direction of FY15 budgeted funds will start the Intracoastal docks and use the balance towards the parking lot upgrades. Mr. Tarkany said that, if they knew the amount they had to work with, they could figure out what they could do.

Administrator Tucker recalled from Mr. Tarkany's overview a lot of environmentally friendly elements relative to runoff and drainage and asked Mr. Tarkany if he was familiar with NPDES requirements. The Administrator stated that the City has funds in its NPDES fund, some of which have been earmarked, but she believes that funds remain. The Administrator suggested that there may be a component of the six hundred thousand dollars (\$600,000) that would be related to friendly filtering of stormwater runoff. Mr. Tarkany stated that a significant portion of the total that was dedicated to infrastructure and drainage.

In Mr. Tarkany's view, parking and drainage were a real need at the marina, and he thought that should be the first phase.

The Administrator stated that she did not hear a member of the Committee ask to increase the amount of money, but she did hear a desire to reallocate the money proposed in the FY15 budget.

Treasurer Suggs informed that Committee that seventy-five thousand dollars (\$75,000) has been earmarked in the FY15 budget as a Professional Services line item, which does not need to change; the description is somewhat vague currently as it reads "consulting and design fees at the marina site." The budget does not need to be changed for that, and decisions could be made later as to which project it is applied or the breakdown between the two (2) projects. The one hundred thousand dollars (\$100,000) is labelled "design new docks on Intracoastal Waterway" that could be changed to parking lot improvements or marina improvements. By doing this no budget number has to be changed.

MOTION: Chair Loftus moved to change the definition of line 163 in Marina Special Projects in the FY15 budget to Marina Site Enhancements; Councilmember Bergwerf seconded and the motion PASSED UNANIMOUSLY.

MOTION: Councilmember Bergwerf moved to change the definition of line 164 in Marina Special Projects in the FY15 budget to Consulting and Design Fees; Chair Loftus seconded and the motion PASSED UNANIMOUSLY.

5. Old Business

C. FY15 Budgets and Long Range Capital Plan as it relates to Leases

Administrator Tucker stated that the pink budget included in meeting packets contains all of the changes from the Ways and Means Committee meeting, i.e. the transfers-in and the items selected from the menu. The Administrator wanted to start the discussion with the Capital Plan and the way things on are the plan. Related to that, the Administrator related having received input on the Capital Plan from one (1) of the marina tenants concerning the order they thought should appear on the Capital Plan in terms of when they should be replaced; that input has not been incorporated into the latest version of the budget.

A second issue for discussion concerns the four (4) leases at the marina and what the tenant's responsibilities are based on the terms of that lease; Administrator Tucker referred to the schedule in meeting packets that details that information in the lease for each tenant, and what the City's responsibilities are. Each lease has a listing of the City's personal property, and this is part of the ongoing debate about whose responsibility is it to replace what. Some of the items that appear on the City's personal property list also appear on the City's Capital Plan because they are "big ticket" items, and, when they roll forward for the year that the City was planning to replace them, staff looks at them and makes a decision between the need to replace in this year or to defer to another year. The situation is different with the marina tenants because, when something rolls forward on the plan to be replaced sometimes, according to the lease, it is tenant's responsibility to replace that item. The conflict for this Committee is that the staff has pulled it forward on the plan because that is the City's general practice, but the question arises about whose responsibility is it. If the City wanted to take the hardline approach in the interpretation of all the leases, clearly the City is not obligated to replace any of those things except those that appear in the column labelled "City Responsibility." This puts the City in the position that, if something rolls forward for replacement and, in fact, it is beyond its useful life and needs to be replaced, is the City then in a position to approach the tenants and tell them that the time has come to replace that item?

The Administrator's goal on this subject is to get feedback from the Committee as to whether to take these items off the Capital Plan so that they do not come up because the City is sending something of a mixed message to tenants when these things roll forward in the Capital Plan, are discussed as part of the budget, and put in the budget to fund. Some of these items, according to the lease, would not be the City's responsibility to do.

The Administrator continued the problem with administration of the leases and the City's expense is twofold, one (1) being the historic practice, that does not obligate the City going forward, but, in the early stages of the City's relationship with its tenants at the marina, there was a desire to nurture and to help them be successful. As time has passed, the City has reined in that, but mixed messages remain in the language of the leases versus the way the City treats its capital plan and replacements. The issue is not simply a matter of yes or no when a

tenant come forward and request something, the City is providing information that may be sending a mixed message to tenants in that the City is saying it may have some responsibility to replace these things because the Capital Plan has said that they are worn out and will come forward on the Capital Plan.

When one looks at the Capital Plan, one sees a list of things identified to roll forward in the City's budget for replacement, and, in fact, it may not be the will of the Committee to do that, but to remove them from the Capital Plan because they are not designated in the lease as the City's responsibility is a direction the City Administrator needs from this Committee. The City's typical practice has been to weigh the requests as they come in and determine if the City wants to participate or not although it is clear in the lease the City does not have to. The City has also kept these items on the Capital Plan and, at budget time, has made decisions about whether or not the City wants to replace them. Staff requests input from the tenant, which again sends a mixed message to the tenant who might say that they do not need the item that has rolled forward, but requests another item.

The Administrator stated that she will administer the leases however the City wants them administered.

Chair Loftus asked what is customary that a landlord will cover on these leases, and he referenced a convenience store. The Chair agreed that it is important for these businesses do well because he sees them as part of the fiber of the island; on the other hand is the question of what is fair.

Councilmember Bergwerf agreed that it was confusing, and, from her experience as a tenant, she stated that things built-in the store – the HVAC, roof, windows, or a walk-in cooler that was in place when the lease was signed – are clearly the landlord's responsibility. A point-of-sale/cash receipts system seems the tenant's responsibility, in her opinion.

Administrator Tucker said that she thinks the City has replaced a point-of-sale system at the dock at the City's expense; again a mixed message because, when the point-of-sale system is needed for the store, the City has replaced it for another business. This is an example of the type of dilemma the Administrator faces in administering the leases and trying to be fair. The Administrator will take the hard line if that is what the City wants and take these items off the Capital Plan or tell her what items fall into the City Personal Property that should remain on the Capital Plan. The Administrator recalls hearing a tenant say, in a meeting, "If this fails, I cannot afford to replace it."

Chair Loftus said that there are items that he feels the City should replace and there are others which should be considered a cost of doing business. He commented that the responsibilities between tenant and landlord should be clearly stated in the leases.

Having reviewed the listing for Morgan Creek Grill, Mr. Clarke stated that there are items on the list that do not exist anymore; he offered to clarify the list for the restaurant. In addition, he reported that the walk-in refrigerator is failing, and he wants to relocate it in the restaurant. The Administrator noted that the cost of a new walk-in refrigerator will be around seventy-five thousand dollars (\$75,000).

According to the Administrator, Mr. Clarke has communicated with her about the refrigerator, but the item is not included in the FY15 budget.

Chair Loftus suggested that each tenant should identify its needs for consideration and for the City to come back with research about what is customary for the landlord and tenant to do. He indicated that he needs more information before making any decisions at this meeting.

Brian Berrigan, the marina manager, stated that, when the City purchased the marina in 1999, it was City's first venture as a landlord, and City Attorney Sottile and a couple of Councilmembers developed these leases; he agreed that it is a triple net lease. He commented that he has learned over time that it is not the best thing for the tenants at the marina; he stated that both he and Mr. Clarke have invested a considerable amount of money on the City's property. Mr. Berrigan estimated that he believes the value of the City's property today has doubled from when purchased in part because of the efforts he and Mr. Clarke have made. He continued that as the landlord of a four and a half million dollar (\$4,500,000) property with structures on it, the City's Capital Plan has money to put back into that property, and that is what he is asking for. He said that he had stated in a meeting, "If this fails, I will go out of business." He commented that he has spent the past seven (7) years paying his marina store investors back, and, if one (1) of the coolers fails, he will be "in a heap of trouble." Mr. Berrigan stated that, between business license fees, local option sales taxes, rent, etc., he has paid one hundred thousand dollars (\$100,000) from the store last year; over twenty (20) years, that is two million dollars (\$2,000,000). He expressed the opinion that the City should be putting some of that money back into the marina.

Mr. Berrigan noted that he has requested to have some lease amendments because he has been getting mixed messages; in January, the City paid to replace the fuel dispensers for several thousand dollars. That is the City's assets, therefore, something for which the City should pay. He believes that the City should be responsible for the walk-in cooler, the walk-in freezer, and the point-of-sale system, which is listed as a City asset in the lease; he said that there are certain items on the marina side that are listed as City assets that he has paid for over the years. Mr. Berrigan stated that he and Mr. Clarke are asking for the City to be responsible for major pieces of equipment, and there is money in the marina fund to put back into the marina. He offered to come back to the Committee with similar leases to show the commercial tenant/landlord relationship.

Councilmember Buckhannon agreed with Mr. Berrigan since he, too, has had experiences with triple net leases. He indicated that he has had a problem for several years in getting the information provided in the schedule they have been discussing.

Mr. Berrigan stated that there is ambiguity in the lease, and he hopes to eliminate that element in his lease renewal.

Administrator Tucker said that Mr. Berrigan has indicated that the replacement of the non-functioning walk-in freezer should be moved to FY15 and that the replacement of the point-of-sale/cash receipt system is important to do. The Administrator commented that included in the FY15 budget is thirty-five thousand dollars (\$35,000) for the replacement of the fuel dispensers at the dock, only with failure; in an effort to keep the bottom line the same and to leave money to

get that started. If the Committee is in agreement, a change could be made to move the ten thousand dollars (\$10,000) to replace the non-functioning store walk-in freezer to FY15 and reduce the fuel dispensers at the dock to twenty-five thousand dollars (\$25,000). If the fuel dispensers at the dock fail, the City will be ten thousand dollars (\$10,000) short, but these changes will accomplish the goal of responding to some of the things Mr. Berrigan has requested and leaving the bottom line the same.

MOTION: Chair Loftus moved to move the replacement of the non-functioning store freezer from FY16 to FY15 at \$10,000 and to reduce by \$10,000 the replacement of fuel dispensers at the dock; Councilmember Bergwerf seconded and the motion PASSED UNANIMOUSLY.

On the subject of the FY15 budget, Chair Loftus referred to the schedule staff prepared showing the expense increases since 2011 and the percentage associated with the increases, he asked that the following lines to be researched before the Ways and Means Committee meeting:

Non-Capital Tools and Equipment with a 117% increase
Maintenance with a 47% increase
Advertising with a 45% increase
Employee Training with a 56% increase
Miscellaneous with a 97% increase

With a very tight budget, the Chair wants to study these categories with significant increases.

6. New Business

A. Discussion of Lease Renewal and Prospective Changes

Administrator Tucker stated that the lease for Marina Outpost is up for renewal; the tenant has indicated that he wants to exercise the option to renew, but would like to have amendments to the lease to clarify the financial responsibilities related to the walk-in freezer, the built-in merchandise coolers, the ice machine, the bait cooler, point-of-sale system, fuel dispensers and monitoring and the HVAC units.

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

7. Miscellaneous Business

Tenant Rents Report

The Administrator reported that all tenants are current, and Morgan Creek Grill is ahead.

Next Meeting Date: 5:30 p.m., Tuesday, June 10, 2014 in Council Chambers.

8. Executive Session – not needed

9. Adjourn

MOTION: Councilmember Buckhannon moved to adjourn the meeting at 7:25 p.m.; Councilmember Bergwerf seconded and the motion PASSED UNANIMOUSLY.