

## **REAL PROPERTY COMMITTEE**

5:30 p.m., Wednesday, April 8, 2015

The regular meeting of the Ways and Means Committee was called to order at 5:30 p.m., Wednesday, April 8, 2015 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 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 were 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 March 4, 2015 as submitted; Councilmember Buckhannon seconded and the motion **PASSED UNANIMOUSLY**.

3. **Citizens' Comments – None**

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

5. **Old Business**

**A. Consideration of Lease Amendments for Morgan Creek Grill**

Administrator Tucker recalled from the last meeting that the Committee was waiting to learn from Morgan Creek Grill (MCG) what the City would gain for extending the term of the lease and for raising the toggle for additional rent; she noted that she has not received any documents from the tenant since that meeting.

Jay Clarke and Carla Pope were present to represent Morgan Creek Grill and offered documents to the Administrator asking whether she had ever received them – she responded that she had not. (The documents were later received and are attached to the historical record of this meeting.) The documents were their response to the request from the Committee; they stated that they planned to reach and exceed the new toggle for additional rent which would result in additional revenue for the City and asked that the City consider the value added to the City's assets due to tenant improvements both past and future. They also listed the capital improvements they would make over the next few years if the amendments were approved; the improvements totaled approximately three hundred thousand dollars (\$300,000) and included:

- Insulate the building with closed foamcell system;
- Insulate and recover the Upper Deck roof system, including the rear deck dining area;
- Modify restaurant dock to increase accessibility;
- Renovate/update Waterway dining room; and
- Replace first floor walk-in refrigerator/freezer unit and repair/replace kitchen floor.

The MCG documents also listed the items for the restaurant that had previously listed in the City capital budgets that were never purchased and ultimately dropped from the City's budget; these items were:

- Restaurant generator at \$50,000;
- Restaurant hood ventilations system at \$20,000;
- Restaurant sprinkler systems at \$20,000;
- Restaurant walk-in cooler originally budgeted at \$20,000, current estimate \$70,000; and
- Improve newer docks in Intracoastal Waterway at \$75,000.

The Administrator clarified that they were not planning to replace the items listed above that were previously in the City budget but were making the point that the City no longer carried "the burden for their replacement."

The other documents included were prepared in conjunction with their accountant to support the need for the amendments.

Ms. Pope noted that MCG would need to obtain a loan in order to make the improvements they propose, but they need a thirty-year (30 yr.) lease in order to get the loan.

Mr. Clarke added that they have not made any changes to the lease since it was presented to the Committee.

Administrator Tucker informed the Committee that a suggestion that has come forth for consideration if they were considering approving the amendment would be to add language to the lease that would address the noise issue in addition to the section saying they must be in compliance with the City Code.

Chair Loftus asked Mr. Clarke what the actual annual financial impact would be to the City, to which Mr. Clarke answered that it could be computed by extending the revenue figures out to calculate the additional rent amount. It would be the comparison of the rent terms as they are now to what the revenue stream would be with the changes proposed.

Mr. Clarke remarked that, without the lease amendments, MCG would be coming back to the City for capital improvements needs for the restaurant.

Councilmember Bergwerf stated that she did not believe that it would be in the City's best interest to change the toggle at this time, but she did not oppose a change in the term.

Mr. Clarke responded that the current lease terms were unsustainable; they would not be able to operate under the existing terms. He stated that MCG was not profitable, and he would be happy to bring his accountant to another meeting to explain the restaurant's financial position further.

Councilmember Bergwerf indicated that she was confused by the two (2) lists; she was under the impression that the docks were the City's responsibility.

The Administrator asked whether they were interested in a longer term lease with the same additional rent; Mr. Clarke responded that it was not sustainable and that the business had taken “a massive hit” financially with the noise ordinance issue.

Councilmember Buckhannon inquired about whether Attorney Halversen had reviewed the proposed lease changes.

According to the Administrator, Attorney Halversen has looked over the original changes, but she and the Attorney had not discussed what would be acceptable language for the City since no decision had been reached on what the City would receive in return. In addition, the City incurs an expense anytime it engages the City Attorney. The Administrator was unsure about what the City should fight for to make language changes.

Another question posed to Mr. Clarke was if there was an additional rent figure that he thought MCG could sustain. He stated that there would have “to be give and take;” they could not maintain the building as they have and make additional rent payments.

Ms. Pope indicated that, in the past, she had been led to believe that MCG should not come to the City to ask for improvements as they had in the beginning; she stated that, “over the years, it was made clear {they} were on their own.”

Councilmember Buckhannon recalled that, in the original agreement, the additional rent was to go into a sinking fund for building repairs, replacements and improvements; over time, it became part of the rent. He acknowledged that Mr. Clarke had spent a lot of money to make improvements to the building, but commented that he needed “more number-crunching” before making a decision.

Mr. Clarke asked how the process could move forward quickly, and Chair Loftus said that the Committee could not move forward quickly until they got a better understanding of how the changes would financially impact the City. The Chair added that he needed to see something that would motivate him to support the changes.

Mr. Clarke responded that they have given everything to the Committee.

Administrator Tucker stated that the financial assignment to MCG was to extend the current lease as structured to the same term proposed in the amendment and calculate how much money that would generate for the City and then to do the same with what they were proposing in the amendment. At the bottom of the comparison would be the list of improvements they propose to accomplish.

With Mr. Clarke insisting that the City needed to make a decision as quickly as possible, the Chair asked what was behind the rush.

Mr. Clarke explained that there were repairs that needed to be made to the building; for example, the insulation above the building is non-existent and the restaurant has incurred seven and eight thousand dollar (\$7,000-8,000) electric bills. He has been told that this work will run twelve to thirteen thousand dollars (\$12,000-13,000). In addition, the cost of repairs to the leaky rear deck

have been quoted at seven thousand dollars (\$7,000), and the work needs to be done as quickly as possible.

Administrator Tucker summarized that he needs the longer term lease to get the loan to make these repairs.

Responding to the Mr. Clarke's question about what was next, the Chair reiterated the fact that the Committee needs more sound financial comparison to compel the Committee to make a recommendation to Council.

If the financial data was provided expeditiously, Ms. Pope asked whether the Committee could hold a special meeting to review it prior to the April Council meeting.

Chair Loftus reminded Ms. Pope that negotiating the other long term leases took the City and the tenant six months (6 mos.) to work through, and that the City calendar was quite busy with additional meetings relative to budget preparation.

The Administrator recounted the sequence of events in the fall that led to a lease renewal at the end of the year for an additional three (3) years; subsequently, the restaurant has come forward with the amendments that were alluded to in the renewal process. She noted that, technically, the City has three (3) years to make the decision.

Councilmember Buckhannon repeated that the request in the amendment was for five (5) additional renewals of three (3) years each.

Councilmember Bergwerf again indicated that she has no issues with extending the term of the lease with MCG; her concerns are with the request to increase the toggle for additional rent. As for the leaking roof, she opined that would be the City's responsibility.

Mr. Clarke believed that they have addressed all of the issues the Committee brought up and have made a fair request. He noted that they have been accruing additional rent that will be due at the end of July; when that check is written each year, the restaurant's funds are depleted. He again noted that they have improved the City's asset and that fact should be a consideration when the Committee is deliberating about the amendment.

When the Administrator joined the City, she understood that the reason for the additional rent was to incorporate protections in its leases so that, as the businesses became successful, the City should be able to enjoy that success as well through the additional rent provisions.

Ms. Pope responded that the City benefits from MCG's revenues that generate more of a stream to the City; she added that restaurants, typically, find it very difficult to be profitable – the norm is between two and five percent (2-5%). MCG had experienced a couple of very good years before the noise ordinance issue came up in October 2014; currently business was off by almost twenty percent (20%) overall. Ms. Pope reported that they were working very hard to remedy the situation, but that was costing money as well. In her opinion, MCG could not be without music; it was something that patrons have come to expect.

Chair Loftus suggested that Mr. Clarke and Ms. Pope get with their accountant to work through the numbers, not including taxes paid to the City and advertising expense, and provide them to the Administrator to ascertain that they were what the Committee needed or to tweak them as necessary.

Administrator Tucker asked that Mr. Clarke and Ms. Pope be mindful that the City was very proud of Morgan Creek Grill and what it has accomplished at the marina. The Administrator added that MCG was showcased and bragged on by the City, but the City has debt to pay on the marina site that must be paid to ensure that the taxpayers are whole.

Councilmember Buckhannon asked Mr. Clarke how the sound abatement was progressing. Mr. Clarke stated that they would submit plans to the Building Department as soon as possible and hoped to begin construction in two to three (2-3) weeks; he commented that they were being careful so that the stage structure would aesthetically pleasing. He expressed confidence that this new stage would solve the noise issue for MCG.

#### **B. Further Discussion of Kiosk Replacement**

The Administrator reminded the Committee that the kiosk at Front Beach needed to be replaced, and the Committee had been presented several options to consider as a replacement, i.e. artwork, an over-sized chair, benches, informational kiosks, etc. After considering each of these ideas, she has opined that the replacement should be a piece of art; any other substitute could only be enjoyed by the walking public, while artwork would be enjoyed by walkers and riders alike.

Again, the Administrator stated that the FY15 budget has two thousand dollars (\$2,000), but artwork would cost more than that. She suggested rolling the two thousand dollars (\$2,000) into FY16 and adding five or six thousand dollars (\$5,000-6,000) more.

Administrator Tucker said that she was looking for input from the Committee to know where to focus staff's attention.

#### **C. Update on Mobi-mat at 28<sup>th</sup> Avenue**

After walking through the history of the 28<sup>th</sup> Avenue beach access, the Administrator reported that Mobi-mat was wider than the existing path and that the access path has migrated onto private property. The consensus of the Committee was to take no action at this time.

#### **D. Consideration of Replacement Chairs for Council Dais**

Staff has increased the amount in the FY16 budget to accommodate the purchase of nine (9) chairs.

#### **E. Discussion of Crosswalks**

Chair Loftus stated that he had asked that this item be placed on the *Agenda*, because several of the City's crosswalks were very worn and in need of refreshing.

Administrator Tucker explained that the reason some were more worn than others was that the crosswalks had not all been done at the same time; she noted that money was in the FY15 budget for the work to be done. Refurbishing the crosswalks has been delayed until the completion of the re-surfacing of Palm Boulevard from 41<sup>st</sup> to 57<sup>th</sup> Avenues; the re-surfacing was scheduled to begin on April 20<sup>th</sup>. But the amount budgeted has been re-budgeted into FY16.

When the Chair asked whether staff had decided which crosswalks to refurbish, the Administrator responded that the task was assigned to Director Pitts and that she would get the information and pass it along to the Committee.

#### **F. Review of FY16 Operating and Capital Budgets with Budgetary Tools**

Before reviewing the budget, Administrator Tucker commented on two (2) global issues relevant to this version of the budget; they were:

- No revenues or expenditures for the managed parking plan have been included; and
- The cumulative effect on the five percent merit pool of the one point six two percent (1.62%) COLA was a two percent (2%) merit pool.

Chair Loftus stated that he did not understand the math that would yield only a two percent (2%) merit pool after paying the COLA; logically for him, a COLA of one point six two percent (1.62%) left a three point three eight percent (3.38%) merit pool.

The Administrator tried several ways to explain the distribution to Chair Loftus, but it was decided that examples of the computations would be provided to Council at the budget workshop.

The Administrator offered to review any section of the budget that the Committee wanted, but the Committee chose to proceed with the *Agenda*.

#### **6. New Business**

##### **Discussion on How to Allocate Beach Preservation Fee**

Administrator Tucker referred to the schedule included in meeting packets and stated that it addressed an issue that has been discussed briefly but on which no decision has been made. Now that the City has the Beach Preservation Fee that is generated by all of the residential rental properties on the island, the question was how to make decisions concerning how those revenues would be distributed fairly. She asked whether the City should use all of the funds towards a problem no matter where the problem occurred or make everything fifty-fifty (50-50) since approximately fifty percent (50%) of the revenue would be generated within the gates of Wild Dunes.

The FY16 budget contemplates a shoal management project in the fall, and some money would be needed from the Beach Preservation Fee Fund to go toward that project. Since the project fell under the purview of the this Committee, it also fell to the Committee to try to make a decision as to which scenario the City should use to determine who would pay which share of the two (2) upcoming projects, i.e. the shoal management project in the fall and the permitting of the next major off-shore dredging project.

The schedule showed the cost of the two (2) projects at the top of the page that totaled one million seven hundred twenty-five thousand dollars (\$1,725,000). Administrator Tucker explained that Option 1 was in the current version of the FY16 budget; the City paying eighty-eight percent (88%) of the project and the remainder being the funds remaining in the stakeholders account.

The Administrator then posed the question of what was fair to ask the stakeholders to pay.

Councilmember Buckhannon thought that the City should do what it has done in the past, that the Administrator pointed out was Option 5.

At the bottom of the page, an analysis of what the City has contributed to projects in the past showed nineteen percent (19%) from the City. The Administrator cautioned that, because residents voted to put this fee in place, they, specifically those in the project area, think they should no longer be expected to contribute anything to the cost of renourishment. Additionally, the fee would not generate enough money in this first year for the City to bear the full cost of the project. There was also the possibility that these residents think that the City should pay a larger percentage toward the project than it has in the past because of the Beach Preservation Fee.

Councilmember Buckhannon commented that the City could face a renourishment project every year in the same area that would mean paying into the same area year after year, but, in his opinion, the City needed to be able to generate a sinking fund from the Beach Preservation Fee to apply toward the major off-shore dredging project in the near future. The City should also be able to address serious erosion problems in other parts of the island; he saw this revenue as a way to use City funds on City needs rather than on sand.

Administrator Tucker paraphrased the Councilmember's comments by saying that he saw this revenue as a replacement of funds that the City had already been spending on beach renourishment programs. The Administrator commented that this point was important as a recommended policy from this Committee to Ways and Means and City Council.

In this instance, the City needed to decide which option it was going to pick to notify the stakeholders what they were going to be expected to contribute, as well as a step in finalizing the FY16 budget.

Councilmember Bergwerf remarked that this was not to be the policy for one project but for all projects from here going forward.

Councilmember Buckhannon reiterated that he thought the City should continue to do what it has done in the past; that model has worked up to now.

The Administrator envisioned adopting that policy and having the fund accumulate revenue and become really big; with that in mind, she asked whether there should be a ceiling whereby, when reached, more funds could be allocated to future projects.

Councilmember Buckhannon responded that the City changes policies frequently, but he was opposed to depleting the fund in Year 1.

Councilmember Bergwerf remarked that many residents think the City has the money in hand from the Beach Preservation Fee, and notifying them that they will need to contribute to another project will make many unhappy.

Chair Loftus opined that the City should not establish a long-term policy, but take each project on its own and, based on Beach Preservation Funds on-hand, determine what the City could contribute. The Chair indicated that he was leaning toward Option 2 or 3 because fifty percent of the fees would be coming from Wild Dunes; looking island-wide, the Isle of Palms has a beach, and the City has to support it in every way possible.

For the project in the fall, Councilmember Bergwerf also supported Option 3 for the very reason that fifty percent (50%) of the fees collected will be generated inside the gates of Wild Dunes.

The Committee declined to make a recommendation to the Ways and Means Committee to allow an open discussion at the meeting on April 21.

**7. Miscellaneous Business**

**Tenants Rent Report**

All tenants were current.

Next Meeting Date: 5:30 p.m., Tuesday, May 6, 2015 in Council Chambers

**8. Executive Session – unnecessary**

**9. Adjourn**

**MOTION: Chair Loftus moved to adjourn the meeting at 6:50 p.m.; Councilmember Buckhannon seconded and the motion PASSED UNANIMOUSLY.**

Respectfully submitted:

Marie Copeland  
City Clerk