

REAL PROPERTY ADVISORY COMMITTEE

8:30 a.m., Thursday, August 7, 2008

The regular meeting of the Real Property Advisory Committee was held at 8:30 a.m. on Thursday, August 7, 2008 in Council Chambers of City Hall, 1207 Palm Boulevard, Isle of Palms, South Carolina. Attending the meeting were Vice Chairman Cronin and Committee member Raih, City Administrator Tucker, Marina Manager Berrigan, Morgan Creek Grill Owner Jay Clarke and Operations Manager Pope, Assistant to the Administrator Dziuban and City Clerk Copeland. The absence of Chairwoman Rice was excused.

1. The meeting was called to order by Vice Chairman Cronin, who acknowledged that the press and the public had been duly notified of the meeting in accordance with the Freedom of Information Act.

2. Approval of Previous Meeting's Minutes

MOTION: Mr. Raih moved to approve the minutes of the regular meeting of July 10, 2008 as submitted; Vice Chairman Cronin seconded and the motion was APPROVED UNANIMOUSLY.

3. **Citizens' Comments** - None

4. Marina Manager's Report – Manager Berrigan

The Manager's Report for the month of July 2008 is attached to the minutes; the Committee had no questions related to the report. Manager Berrigan did state for the record that he thought it was very important to replace the fuel lines that run from the bulkhead to the pumps. Vice Chairman Cronin asked if the line extended to the underground tank and should that line also be replaced. Mr. Berrigan explained that there was a shutoff valve at the bulkhead, and the portion of line from there to the pumps was the issue. Administrator Tucker added that the lines have not been breached, but they will be cut in the process of the bulkhead replacement and it would be an opportune time to replace the lines, which have been in place as long as the docks have been there. Vice Chairman Cronin agreed to get an estimate on the cost of replacement; Mr. Raih asked that an inspection be done on the existing line before the replacement were done. The Administrator expressed concern that, in order to do an inspection, the marine growth that covers the lines would have to be removed and that doing so might breach the line. She also stated that she thought the lines had been inspected after the April walk-around; she agreed to review her files to confirm that.

5. Morgan Creek Grill Report – Operations Manager Pope

Ms. Pope distributed an agenda of her talking points along with supporting materials as she began her comments; a copy is attached to these minutes. Of primary concern for

the Morgan Creek Grill representatives were the lease negotiations since the lease expires October 31, 2008; Ms. Pope and Mr. Clarke stated that they were looking for direction from the Committee on the procedure to follow. Mr. Clarke related that they were seeking legal counsel from their attorney on the proper wording for their negotiation points and that they would like their attorney to be present for the negotiations that take place.

Ms. Pope stated that, in prior meetings, she had discussed the emergency replacement of the air conditioning unit that cost in excess of ten thousand dollars (\$10,000) and that they were seeking financial assistance from the City. At the time, Vice Chairman Cronin had stated that he wanted to delay a decision until the final bill had been received; a copy of the invoice was included in Ms. Pope's handout.

The electrical invoices included were for the installation of safety lighting in the area of the greenery, where employees park, and a light in the parking lot. Ms. Pope expressed her opinion that, as part of the City's grounds, the City should consider contributing to the costs. Vice Chairman Cronin stated that the existing lease states clearly that the party "holding the lease is responsible for everything." He expressed conflicting feelings in that the lease is clear, but, on the other hand, the City, as the property owner, wants all "who experience the marina to have a good and fruitful experience."

In response to Vice Chairman Cronin's question on the City's history at the marina, Administrator Tucker recounted that early on the City may have set a bad precedent with its tenants by violating that portion of the lease on occasions in an effort to nurture the success of the marina. She noted that one difficulty for her has been that the financial requests typically have not been made in a timely fashion on the newly introduced form to go through the Committee, Ways and Means and City Council prior to the actual occurrence; of course, emergency repairs/replacements are the exception. The Administrator explained that the end result has been that the City Council loses track of the cumulative dollars invested at the marina over the course of a year; people see the improvements at the marina and assume that they have been made by the tenants without no assistance from the City. The Administrator commented that, at some point, the City needs to decide if it is going to continue the practices of the past or adhere to the letter of the leases. She suggested a compromise where the leases could specifically state in what the City was willing to financially participate.

MOTION: Vice Chairman Cronin moved to recommend to Ways and Means for the City to bear the full costs of the lighting expenses totaling \$1,318.54; Mr. Raih seconded.

Mr. Raih recounted that there was no lighting in the "greenery" area because the City had removed two (2) buildings from that corner of the property.

Call for the Question: The motion PASSED UNANIMOUSLY.

The next item on Ms. Pope's agenda was the installation of an irrigation meter in order to irrigate plantings around the restaurant. Mr. Clarke reported that he estimated that the cost, including impact fees, would be around eighteen hundred dollars (\$1,800.00), and he added that it was his understanding that landlords normally paid those charges. Ms. Pope remarked that this discussion was initiated primarily as "food for thought" by the Committee since they did not think anything should be done prior to the completion of the bulkhead replacement.

Administrator Tucker stated that the City should not be involved with irrigation at the marina for the following reasons:

- The site is prime for water line breaks;
- An irrigation meter is required to have an annual back flow test that costs approximately three hundred dollars (\$300.00);
- It will create an account and a system that the City is responsible for but does not maintain; and
- The degree of risk of a high water bill or some other type of problem is too high.

Vice Chairman Cronin stated that he would prefer to delay any decision on an irrigation meter until there was a master plan for the entire site.

The fourth item of the Morgan Creek Grill agenda was the lease renegotiation and the best way to go about accomplishing it. Ms. Pope informed the Committee that their attorney was formulating language to incorporate several points they want to have included in the lease; those points include the following:

- Reinvestment of additional rents;
- Non-compete clause;
- Parking;
- Restaurant dock;
- Designated area for additional storage; and
- Extension of terms of lease.

It was agreed that the language being prepared by the Morgan Creek Grill attorney would be sent to the City Administrator by the end of August; a meeting between the City Administrator, City Attorney, the Morgan Creek Grill representatives and attorney would be set once the Administrator has had sufficient time to thoroughly review the changes with the City's attorney. Administrator Tucker suggested that the Morgan Creek Grill attorney also include language related to the triple net lease that was discussed earlier in the meeting.

The final item for discussion was the possibility for Morgan Creek Grill, in collaboration with Aqua-Safaris, Inc., to establish a weekly sunset cruise leaving from the Isle of Palms Marina; Ms. Pope explained that this had been a part of the restaurant's business plan from the beginning of Morgan Creek Grill. Their plan is to cater to their clientele and to couple dinner with the cruise; she related that the biggest problem was space to dock a boat the size of Aqua-Safaris. She stated that the restaurant's Event Manager had approached the owner of "Blue Plantation" about the use of his spot on the dock one (1) night a week, and he had no objections to moving to accommodate the sunset cruise.

Manager Berrigan stated that he has several issues with the concept; he does believe that the cruise will become a "booze cruise" where there would be very intoxicated people maneuvering the docks on which Marina Joint Ventures holds the liability insurance, as well as additional stress on the parking situation at the marina. He was unhappy that employees of the restaurant had approached a tenant of the marina without consulting with him in advance.

Mr. Clarke commented that he intended to reconfigure the restaurant dock at restaurant expense to accommodate larger vessels. After considerable discussion, Mr. Clarke stated that he would provide the Committee with a written proposal related to the sunset cruise idea detailing exactly what Morgan Creek Grill wants to do and how they will go about it.

Administrator Tucker explained that this was not an issue that could simply be worked out between these two (2) marina tenants; the sunset cruise venture cannot take place without City approval. She stated that the docks assigned to the restaurant were to be used exclusively by boating patrons of Morgan Creek Grill.

Administrator Tucker asked that the City Clerk research prior minutes where discussions on a sunset/dinner cruise took place to ensure that the Committee not overlook anything that had already been considered in its prior deliberations on the subject.

6. Old Business

A. Update on Bulkhead Replacement

Administrator Tucker reported that the mandatory pre-bid meeting had been held on Wednesday, July 30 at the marina; there was excellent attendance by interested contractors. At that meeting, a number of questions were raised by the contractors; these questions were submitted to the engineers to be answered. On Tuesday, August

5, a meeting attended by representatives from Jon Guerry Taylor, the City Administrator, Ms. Pope and Mr. Berrigan to discuss the questions from the contractors.

One of the key issues the contractors raised was the compressed time frame the City has requested for the bulkhead replacement in order to have the project completed for the 2009 tourist season. The contractors explained that they would be hard pressed to meet the time frame because the winning contractor could not order the steel until the City issued a notice to proceed, then it would take several weeks to obtain the steel. A suggestion that was offered was for the City to remove the cost of the steel from the RFB and to purchase the steel on its own. Presently the engineers are calling steel suppliers to determine the availability and if that process would actually speed up the project as contractors believe. Lastly the City's procurement process would have to be considered. If there is only one source that could provide the steel in the time period allotted, the City could do a sole source procurement. The bid opening is scheduled for Friday, August 15, but that could be re-scheduled to a later date if the decision is made to do a materials procurement first.

Vice Chairman Cronin asked if the City would be required to take immediate delivery if it were to procure the steel. Administrator Tucker recalled that one of the parameters of the procurement would be that the steel is needed on site as quickly as possible.

B. Update of Improvements on Marina Lighting

Nothing to add over what was reported earlier.

C. Status of Contracts for Marina Tenants

1. Morgan Creek Grill – discussed earlier in the meeting
2. Marina Joint Ventures – Administrator Tucker stated that the City is actually behind and believes that an extension of the present lease will be required; an RFP must be prepared and advertised. She expressed hope that there would be more bidders because the term of the lease is now more flexible. This lease expires September 30. The Administrator noted that the Real Property Committee would need a motion to recommend to Ways and Means for a contract extension of some length of time, possibly sixty (60) days.

MOTION: Vice Chairman Cronin moved to recommend to Ways and Means a contract extension of sixty (60) days for Marina Joint Ventures in order for the City to execute an RFP, proper evaluation of the proposals and award of contract; Mr. Raih seconded and the motion PASSED UNANIMOUSLY.

3. Tidal Wave Water Sports – Administrator Tucker stated that the circumstances of this contract were the same as those of Marina Joint Ventures.

Mr. Berrigan expressed concern that Marina Joint Ventures was being given a contract extension of sixty (60) days at a time when revenue would drop off dramatically due to the work on the bulkhead; at the same time, an RFP was being issued that would be awarded to a bidder that might well not be Marina Joint Ventures. Mr. Berrigan expressed his understanding of the refinancing of the marina bond to a taxable bond as a tool whereby the Marina Joint Ventures contract could be amended rather than re-bid; Administrator Tucker assured Mr. Berrigan that she would research the matter. If, in fact, Mr. Berrigan's understanding was correct, it would remain up to the Real Property Advisory Committee and City Council to give final approval.

Amendment: Vice Chairman Cronin amended the original motion to include Tidal Wave Water Sports; Mr. Raih seconded and the motion PASSED UNANIMOUSLY.

7. New Business

- A. Consideration of Contracts in Excess of \$10,000 – None**
- B. Consideration of Requests for Cost Participation – Financial Report**

Administrator Tucker directed attention to the schedule prepared by the City Treasurer of City expenses in FY 2008 illustrating the cost participation at the marina site; she wanted the Committee to be aware that it is a significant amount for the year. She also noted that Morgan Creek Grill has received very little in cost sharing by the City, which may support consideration of participation in the cost of the air conditioner (\$10,613) if parity among tenants is a concern.

C. Termite Inspections for Restaurant and Store

The Administrator explained that the City pays for the termite bonds for all of its assets; at the most recent inspection for the restaurant and store, the inspector stated on the report that, unless changes were made underneath the properties, they would not be certified. Based on Director Kerr's research, there is considerable expense related to making the required improvements. The question is one of the City's paying to have the improvements done or reimbursing the tenants for a set amount upon presentation of receipts. Committee members were provided color photos of the underneath of the two (2) structures for the Committee to see just what the issues are, as well as a memo from Director Kerr after speaking with the inspector and viewing the situation. Despite the

fact that there was a time when the space underneath the restaurant had been cleaned out, when everything is running in the restaurant, moisture is building up and things degrade.

Mr. Clarke explained that the primary source of moisture under the restaurant was the walk-in cooler; the cooler is quite old and the seals have failed, so there is quite a bit of condensation that accumulates and drips into the underneath space. That problem will not be corrected without replacing the cooler at an approximate cost of sixty thousand dollars (\$60,000).

Regarding the Marina Market property, Administrator Tucker related that it was difficult to gain access to the crawl space under the store; there have been plumbing failures in the restrooms in the past, so it is very unpleasant there. Mr. Berrigan added that sewage from the dock also comes up under the store and there was a prior break in that line which had to be repaired; insulation is falling down.

MOTION: Vice Chairman Cronin moved to authorize the tenants of Morgan Creek Grill and Marina Market to spend up to \$2,500 each, which the City will reimburse with receipts, using licensed contractors to make the repairs necessary for the City to obtain a termite bond on each structure and the work is to be completed within thirty (30) days; Mr. Raih seconded and the motion PASSED UNANIMOUSLY.

D. Charleston County Park Parking Statistics

Administrator Tucker explained that the request to obtain these statistics had come from the July Ways and Means meeting, and Chairwoman Rice was asked to obtain the information since this Committee has purview over the City's parking lots. The Administrator noted that there has been a slight reduction in the number of visitors and vehicles, but the revenue has increased. It is assumed that the increase is a direct result of the increase in parking fees from \$5 to \$7 per day, but Vice Chairman Cronin stated that he understood that the increase only went into effect in March 2008. For the City's lots, the only figures are revenue; there are no vehicle counts.

Vice Chairman Cronin explained that the City's parking lot revenue had decreased significantly at a time when the economy was good and there was a lot of traffic on the island. The questions that were raised were if the County Park was seeing the same decline or if the City's loss was the County's gain. There was also the possibility that guests are using the meters more on Front Beach since meter revenue has increased. Administrator Tucker questioned if there was a correlation between traffic counts and the decreased revenue.

8. Miscellaneous

Next Meeting Date: 8:30 a.m., Monday, September 8, 2008

9. Executive Session – not necessary

10. Adjourn

MOTION: Mr. Raih moved to adjourn the meeting at 10:05 a.m.; Vice Chairman Cronin seconded and the motion PASSED UNANIMOUSLY.

Respectfully submitted:

Marie Copeland
City Clerk