

## **REAL PROPERTY COMMITTEE**

8:30 a.m., Thursday, June 3, 2010

The regular meeting of the Real Property Committee was held at 8:30 a.m., Thursday, June 3, 2010 in Council Chambers of City Hall, 1207 Palm Boulevard, Isle of Palms, South Carolina. Attending the meeting were Councilmember Stone, Mayor Cronin, Chair Loftus, City Administrator Tucker, Carla Pope of Morgan Creek Grill, Brian Berrigan of Marina Joint Ventures and City Clerk Copeland.

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

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

**MOTION: Mayor Cronin moved to approve the minutes of the regular meeting of May 6, 2010 as submitted; Councilmember Stone seconded and the motion PASSED UNANIMOUSLY.**

3. **Citizens' Comments - None**

4. **Marina Manager's Report – Brian Berrigan**

Manager Berrigan was pleased to announce that business has turned around at the marina and was quite good for the month of May; he indicated that both the store and the dock had set record numbers. In the way of maintenance at the marina, personnel are in the process of painting the handrails along the seawall. Mr. Berrigan commented that, at the meeting on dredging the previous afternoon, Ray Dennis of the Morgan Creek Harbor Association had reported that the painting of their bulkhead had run into problems as pinholes had been found in the bulkhead; Mr. Berrigan stated that he would be checking the new bulkhead at the Isle of Palms marina regularly. He also suggested that the cost of painting the bulkhead be added to the budget in future years, Administrator Tucker agreed that the suggestion was a good one.

5. **Morgan Creek Grill Report – Carla Pope**

Ms. Pope reported that the restaurant continued to trend four to five percent (4-5%) higher than 2009. She stated that the valet parking had started over the Memorial Day weekend, and the valets were parking about fifty (50) cars per night. The new carpet has been laid in the dining room, and staff continues to correct small maintenance items.

Administrator Tucker queried Ms. Pope about the plan discussed at the May meeting about putting tables outside to serve guests drinks as they wait for a table; Ms. Pope indicated that, before moving forward, Mr. Clarke wanted to put pavers down over the grass, and he was looking into the cost.

Chair Loftus asked Manager Berrigan how the low-speed rental car business was going. Mr. Berrigan responded that the business had actually opened late the previous week and, to his knowledge, had rented only two (2) vehicles.

Mr. Berrigan expressed concerns over putting pavers down over the grass; he explained that pavers had been used in the past and caused some of the issues with the previous bulkhead; he noted that the grass acts as a natural filtration system. Ms. Pope stated that Mr. Clarke was looking at a wicking system, but she would mention Mr. Berrigan's concerns to Mr. Clarke.

Mayor Cronin stated that, in the area of the fuel dock where the cabling was located, he had noticed some washout; Mr. Berrigan confirmed the Mayor's observations. The Mayor questioned that the product behind the bulkhead had not been properly compacted when installed and asked if the product behind the wall was leaking out and creating a void. Mr. Berrigan stated that there were "weep holes" in the bulkhead; therefore, the fine grain sand that was put behind the bulkhead is seeping through. When the fill material is replaced, in the future, he suggested that small pebbles would be a better fill material.

## **6. Old Business**

### **A. Update on Beach Restoration**

Administrator Tucker reported that all but one (1) of the stakeholders have signed the amendment to the original agreement that would allow the City to proceed with the project to correct the focused erosion; a meeting with the board of the group that has not signed is scheduled for this afternoon in an attempt to allay their concerns and to persuade them to sign the amendment. This stakeholder's concerns is the original agreement was structured with the advantage going to the City, which it had to be to ensure that unanticipated additional costs would not fall entirely on the City. The amendment states, generally, that if there is a need for additional work in the project area and there are funds remaining available, the City would be in a position to proceed with the work.

The Administrator continued that, if the she and Mayor were to be unsuccessful in this endeavor, this Committee and City Council would have to decide what the next step would be. Should there be an amendment to the amendment, it would have to be sent to all of the stakeholders for signatures, and the delay would be months. What has occurred over the past two (2) years is that the members of the various boards have changed, and, when they read both the original agreement and the amendment, some of the newer members have reasoned that the entity they represent is "on the hook" for an undetermined period of time for an unknown financial liability, which makes them nervous. The same circumstances are true for the City; therefore, language was put into the agreement that future costs would be shared. At the same time, the Administrator has worked to reassure the stakeholders that the City could not go forward with a project – unless it was the City's project alone – without the funds available to pay for it; therefore, there are safeguards in place, and they would always be kept informed about what is going on with the beach in the project area.

According to the Administrator, another change in the amendment is that the situation is not as critical as it was in 2008; two (2) areas of the beach are being affected, and owners of property not adjacent to affected areas are being very cautious, reading all of the fine print and becoming nervous. Administrator Tucker noted that many of the stakeholders expressed the same concerns, but signed the amendment. The one (1) holdout has stated that the City may use its money, but they will not sign the agreement – which is not an option for the City.

Chair Loftus posed the question to the Administrator as to what the City's next step would be should this group refuse to sign the agreement after today's meeting. To which the Administrator responded that was a decision that this Committee and City Council would have to make, and she thought the options were as follows:

- There is no project, and the City continues to adhere to the terms of the original project's permit using the remaining funds;
- Those persons in the problem areas would be forced to figure out how to deal with the problem with their own resources;
- Another option is to craft an alternate amendment to go to all of the stakeholders; and
- Finally, the City could go back to the parties that have signed the amendment and suggest that they approach the "holdout," because there would be no project without full participation.

Chair Loftus suggested that, based on the amount of time involved in the process of contacting stakeholders and getting the signed agreements, the City begin structuring the next agreement, because the situation will come up again. Administrator Tucker explained that this agreement accomplished that goal; it could be described as a "living" agreement.

Mayor Cronin explained that the only complication he could foresee was that this agreement has a defined set of members; a problem in another section of the beach would bring an entirely new set of stakeholders to the table. Councilmember Stone added that the Coastal Council has established a new set of rules to which the City must adhere.

## **B. Dredging**

Administrator Tucker stated that a meeting of the interested parties, including Marina Manager Berrigan, had been held the day before and that she had left this meeting encouraged, because the meeting was more than informal conversation, but involved actual work on the part of some of the stakeholders.

The work product that was brought to the meeting contained six (6) different options in terms of project scope. The least expensive project costs one million two hundred thousand dollars (\$1,200,000) and includes Dewees, Morgan Creek Harbor Association and the Isle of Palms Marina; the maximum expense of one million seven hundred thousand dollars (\$1,700,000) includes going to the depths that Mr. Berrigan prefers of twelve feet (12 ft). The Administrator stated that she thought these were well thought-out cost estimates that include a fifteen percent (15%) contingency, the dredging, the disposal site repair on Goat Island, the cost for the consent agreement, the cost for the owner agreement, the Corps of Engineers fee, mosquito abatement fees, mobilization, demobilization and the permits. Craig Pawlyck, permitting specialist, and Braxton Kaiser, an ex-Corp employee who is knowledgeable about dredging, were present representing Jon Guerry Taylor, who has done the work for the Morgan Creek Harbor Association. From the estimates quoted above, calculations were done to extract the portion that would fall to the City if it were to undertake the dredging project on its own, without Dewees and the Morgan Creek Association; that figure was in the range of five hundred to six hundred thousand dollars (\$500,000-600,000).

Administrator Tucker stated that the Morgan Creek Harbor Association had spoken “very frankly” about its financial position and stated that they have approximately seven hundred thousand dollars (\$700,000) in reserve in anticipation of the dredging project. They expressed concern for this reserve due to the issues they are facing related to their bulkhead, to which Mr. Berrigan had referred; because the painting of their bulkhead is a work in progress, they are reluctant to commit their entire reserve to dredging.

On the subject of a timeframe for the dredging project, two periods of time were discussed – the fall of 2011 to 2012 or the fall of 2012 to 2013. The Morgan Creek Harbor Association appeared to think their need for dredging was not as dire as those of the City, therefore, indicated that the most practical time for them would be 2012 to 2013. As Mr. Berrigan has stated before this Committee, he would like to see more aggressive action taken and indicated to the Morgan Creek group that they may find their circumstances more critical if the project is postponed.

On behalf of the Morgan Creek Association, Mr. Dennis indicated that they would like to see the City contribute three hundred to four hundred thousand dollars (\$300,000-400,000) toward the project costs. They stated that they have not increased their assessments and were trying to avoid a special assessment due to the economic conditions.

George Hilton, who was involved in the last dredging project, and three (3) others represented Dewees in the discussions; they reported that they had based their savings toward dredging on a sixteen (16) year window and were only about half way to that point. Administrator Tucker stated that she got the impression that they would find a way to partner in this project because their piece of the project was so small that they could not finance a dredging project on their own.

No one from the 26<sup>th</sup> Avenue canal was in attendance; the Administrator hypothesized that one (1) reason might have been a conflict between engineering firms since 26<sup>th</sup> Avenue residents have been conferring with GEL Engineering.

The last topic for discussion was permits; the existing Corps of Engineers’ permit that the City holds expires on March 31, 2013; the OCRM permit expires June 30, 2010. New legislation has recently been passed that allows for extensions of OCRM permits that otherwise would not be allowed to be extended, i.e. the City’s permit has been extended once and should fall into that category; one reason for the legislation allowing these permits to renew is that, due to the economy, people have been delaying projects because they would have to apply for new permits.

At the end of the meeting, the Morgan Creek Harbor Association and Jon Guerry Taylor were going to look into extending the City’s OCRM permit through this new legislation. Despite the fact that both the OCRM and Corps permits would have to be modified for the desired depths, the project would more easily move forward with permits in-hand.

Another positive result, in the Administrator’s opinion, was that discussion took place about structuring the project in phases, for instance, one phase being the permitting and modifications to the permit with a cost; the group would then return to the table to determine the best way to fund that particular piece. In this scenario, the City might decide to pay for the design and

engineering costs, while the other stakeholders pay for the dredging costs; another meeting has been scheduled where the other partners are to have that cost estimate. Administrator Tucker stated that the City's funding the design and engineering would give the City a degree of control and could make progress on the project without involving the other partners. Once the modified permits have been acquired, the City could go back to the stakeholders to find out if they have gotten their finances in order to proceed with the project.

At the next meeting, the participants are to bring "to the table," information about extending the City's OCRM permit under the new legislation, their cost to research the permit renewal and the costs involved in the permitting and design component of the project. Should the City decide to embrace that portion of the project, it would then need to decide whether to go for competitive bids for the engineering work.

Mr. Berrigan added that Mr. Dennis had indicated that the City should also pay for the remediation of the Goat Island site; Jon Guerry Taylor, in their work for the Morgan Creek Association, have developed a remediation plan with a cost estimate of approximately one hundred thousand dollars (\$100,000). The plan has been submitted to the Corps of Engineers for approval; personnel from Jon Guerry Taylor and the Corps of Engineers have gone to the Goat Island site in an effort to get the Corps to sign-off of the remediation plan, but that has not yet happened.

When asked what had occurred at the spoil site to require the remediation, according to Mr. Berrigan, someone was digging there, without permission, to transport sand or mud to the north end of the island when the track hoe fell off the berm into the spoil site damaging the piping. Neither the City nor the Morgan Creek Association is responsible for the problem, but, because the City wants to re-use the location, the cost for remediation has fallen to the party asking to use it.

Mayor Cronin asked whether the City's marina would actually contribute one-third ( $\frac{1}{3}$ ) of the materials to the spoil site; Mr. Berrigan thought the quantity was overstated. Administrator Tucker noted that the primary expenses in dredging were mobilization and demobilization, not the dredging.

Mr. Berrigan commented that he thought it was important to include the people on the 26<sup>th</sup> Avenue canal to share in the costs, plus the fact exists that this group has a permit with the Corps of Engineers to use the spoil site that does not expire for a couple of years.

Chair Loftus suggested to the City Administrator that she meet with the 26<sup>th</sup> Avenue representatives, separately and before the next group meeting, to provide them with the information that has been shared up to this time. The Administrator agreed to arrange such a meeting.

In response to Councilmember Stone's query about the degree of financial involvement in the dredging project, Administrator Tucker stated that it was unknown, but that one hundred thousand dollars (\$100,000) was in the FY11 budget for design and engineering.

Chair Loftus requested that figures be estimated and put on paper for planning purposes for the next Committee meeting.

**7. New Business - None**

**8. Miscellaneous Business**

**Marina Rents Report**

Administrator Tucker stated the rent reports were provided for the tenants yesterday to give them an opportunity to be aware of their status and take whatever action that they was appropriate. Both Marina Joint Ventures and Morgan Creek Grill had brought checks when they arrived for the meeting. Morgan Creek Grill continues to reduce the slightly less than fifty thousand dollars (\$50,000) owed to the City that includes additional rent and a month's late rent; they brought several checks, as well as financial information for which the City has been waiting to calculate additional rent on a prior year. Marina Joint Ventures was current and Marina Outpost owed a very small amount. Tidal Wave has a four thousand dollar (\$4,000) past due amount, and City is still waiting for financial data on which additional rent would be calculated. Schupp Enterprises is current.

**Next Meeting Date: 8:30 a.m., Friday, July 9, 2010.**

**9. Executive Session – Not necessary**

**10. Adjourn**

**MOTION: Mayor Cronin moved to adjourn the meeting at 9:22 a.m.; Councilmember Stone seconded and the motion PASSED UNANIMOUSLY.**

Respectfully submitted:

Marie Copeland  
City Clerk