

COMMITTEE ON REAL ESTATE

October 21, 2019

A meeting of the Committee on Real Estate was held this date beginning at 4:00 p.m. at City Hall, First Floor Conference Room, 80 Broad Street.

Notice of this meeting was sent to all local news media.

PRESENT

Chairman Moody, Councilmember White, Councilwoman Jackson, Councilmember Waring (arrived at 4:11 p.m.), and Mayor Tecklenburg (arrived at 4:09 p.m.) **Also Present:** Matt Frolich, Christopher Morgan, Leigh Bailey, Geona Shaw Johnson, Chip McQueeney and Bethany Whitaker, Council Secretary

The meeting was opened with an invocation provided by Chairman Moody.

Approval of Minutes

On the motion of Councilmember White, seconded by Councilwoman Jackson, the Committee voted unanimously to approve the minutes of the October 8, 2019 Real Estate Meeting.

Request authorization for the Mayor to execute a First Addendum to the Memorandum of Agreement (the "MOA") dated October 9, 2018, between the City of Charleston and the Lowcountry Lowline, also known as Friends of the Lowcountry Lowline (the "FLL"). The First Addendum allocates \$98,020.00 toward preliminary design, including community engagement and preparation of working drawings, for the first phase of the improvement and construction of the Lowline Park. The City will retain the funds, but the Director of Finance will be authorized to pay invoices submitted by the FLL with sufficient documentation that the funds are being utilized consistent with the First Addendum and the MOA. The funds will come from the 2018 Recreation Bond.

Mr. McQueeney stated that Ms. Wharton had asked for her title to be changed from 'Director of Finance' to the CFO. She also asked for Deputy CFO to be included. He also added the future allocation in. The original MOA was in there, but the Friends wanted it in there. Neither party was committing to future funding. The Friends would likely ask for future funding. He thought the money had already been allocated from the 2018 Recreation Bond. It was \$98,020 toward the design phase of the Lowline Park. The Friends would use that money to pay their design person. Finance would review any contracts related to using that money. That money stayed with the City and Finance would ask for any documentation needed such as invoices. If the money wasn't used in a year, there was no hold on it. The other requirements of the MOU that was entered into in October 2018 would remain in place and those governed the insurance requirements, the contractors, environmental issues, indemnification, etc. He didn't think this involved going on the property, but there were requirements for going on the property. He knew there was some nervousness about what was going on out there with both the affordable housing parcel and the Lowline park itself about the environmental issues. The Lowline had been trying to raise funds and he thought this was to go towards creating a product that they could use to raise more funds. The problem they were running into was they needed funds to create designs for a project that they wanted people to pay for, which was tough.

Councilmember White said they had closed on the ownership of the land, and they had the environmental concerns that they were trying to address on the affordable site. He asked if there were also additional environmental concerns on the actual park itself. Mr. McQueeney said the concerns were with the affordable housing site, the BCDCOG site, and the actual Lowline site. BCDCOG had started their processes and they were concerned with pesticide spray that was used in the 60's. The property was still being used. Chairman Moody asked if the City had agreed to pay for some of that. Mr. McQueeney said they had. They had started what was called the Phase 2, which was the testing. The City had approved the contract and given it to the contractor, so they would do soil sampling throughout the Lowline property and the affordable housing site to check for concentrations of different types of chemicals. Based on that, they would put together something called a media plan that they would have to comply with. That would also inform if there were environmental contaminations, it would address clean up issues, but that would be a separate contract, assuming they had to do that. Councilmember White asked if there was an estimated timeline of when the Phase 2 would be complete. Mr. McQueeney said he thought it was about six months. Councilmember White said that at this point, they didn't have any indication of what the issues would be, other than the expectation that there were issues. Mr. McQueeney said that based on what they found at BCDCOG site, there may be elevated levels of arsenic. But, they didn't know what that meant in terms of remediation or whether it would a viable property.

Chairman Moody asked where the money was coming from. Councilmember White said it was from the Recreation Bond. Mr. McQueeney said it was from the 2018 Rec Bond. They had used \$50,000 of it to fund the Phase 2 study. Chairman Moody said he probably wouldn't support this at this point. He had said it at the early points and later that the Lowline had been jumping in front of everything. It had been jumping in front of the Bikeway and the Greenway. He supported this at some point, but it needed to stay in some kind of order. It seemed like the Friends just kept coming and they weren't willing to wait. The City had not solved the problem, from his understanding, at King and Huger Streets for the flooding issue. He hadn't seen anything in their plans to relieve the problem there. They were jumping in front of a lot of other projects they had. It was a good project, but there was a lot in front of it such as Stoney Field, that could come out of that bond. Councilmember White said that recognizing they had kind of earmarked it in the Recreation Bond, his concern at this point was the environmental component. Over time, the project would move forward, but if they weren't going to know for six months what was happening with the environmental side, and for the Friends to go through the process of putting money in to design this without knowing what those implications were, depending on what they found, the design and use could change. He wasn't necessarily opposed to the project at all or the use of the proceeds in the Rec Bond, but he felt like they might be rushing a little bit without knowing the end result of the environmental study. The Friends may not want to hear that, but if it came back and it was financially unviable or would require a lot of remediation, it would be impactful to have that information before they pressed forward. Councilwoman Jackson stated that reasoning made sense to him. She didn't think she agreed with his reasons for wanting to put it off. She thought they could do both. If they went anywhere on the Peninsula, they would say that the Bikeway and Greenway had gotten in front of a lot of things. Those types of competitive arguments were counterproductive to the whole City. Waiting until the study came back, just in case they had to design differently could be okay. She could agree to put it off, but not for the reasoning

of the timeline, but to simply wait for the Phase 2. She asked who was managing the Phase 2 study. Mr. McQueeney said it was S&ME.

Mayor Tecklenburg said that they had earmarked the \$150,000 from the Rec Bond for this purpose. They had really sliced it back to the \$98,020 that was available because the environmental matter testing had come forth. He wasn't saying they would get the exact result of the BCDCOG, but they had proceeded after their testing with the contract recently to go ahead and develop their parcel. If that was any indication, he didn't think the site would be unusable. In the meantime, the Friends and the City's design team had been thinking a lot about the future of what this could be for the City and how it could connect all the areas of the City. It was exciting and transformational. Part of what was driving them in going ahead and getting the design guidelines in place was that there were some developers who were willing to pay for the improvements in their block. There had been discussion with Greystar and the Post & Courier. If they knew what the City wanted to happen there, he believed they would go ahead and budget to make those improvements in those areas. The push was to get it to the point where they could tell those companies what they wanted them to do. It was a matter of going the next step and getting the design done for what the Lowline property would become. Chairman Moody asked if they knew about King and Huger and what that plan would look like. Mayor Tecklenburg said that they had been meeting with JLA, the engineering firm that had the contract for design for the King and Huger station. They had been meeting with the Friends of the Lowline and figuring out how it all needs to fit together. This just authorized staff, with money that was earmarked by Council, to pay invoices that met the terms of the existing MOA. He would respectfully ask them to approve it, as it was in good faith.

Councilmember White said he would be willing to support it, under the auspices that the staff understood that they didn't want to spend any funds until they got to the point where they felt confident of what the environmental feedback would be. They could show good faith in moving forward with the Friends, but it made him nervous that they might be moving too fast on it. Councilmember Waring said that when it came to earmarking it in the Recreation Bond, he didn't know about that. He asked if they could get money out of the TIF for it rather than out of the Recreation Bond. They didn't finish things in West Ashley. The only thing that had been finished was the Waring Center. They fully funded it and finished it. He asked how long they had been trying to finish the Bikeway and Greenway. \$100,000 on those projects would go a long way. Money from the Rec Bond could go anywhere across the City, but TIF monies couldn't. He would more in favor if they could take the funding source from the TIF fund. He agreed that they needed to find out what the environmental damage and remediation would be. Depending on how much it would cost, they might need to use some of the money to remove it. Public Private partnership made sense on this, but they didn't have a set of plans when they were telling people and getting funding for the Gaillard. It was an idea. They had enough drawings of the Lowline right now of potentials to go to the adjacent land owners.

Mayor Tecklenburg said that the Lowline was definitely in a TIF area. The lower part was in the Gateway TIF and a portion might be in the Cooper River District. They had been reserving all the extra dollars from the Gateway TIF for drainage and other needs, but it was in the TIF district. Councilmember Waring said it would be much easier to get that funding from the TIF. Chairman Moody said that was why he was questioning the Rec Bond. Councilwoman Jackson said that she would amend her motion to change the

funding source to the TIF. Chairman Moody said that Councilmember White had said to instruct staff to do something as well. He wanted to put the amendments together. Councilwoman Jackson said she wasn't sure how she would make a motion to 'couch' the expenditures. The way she read the agreement was that they didn't get the money until they contracted with people that the City approved and sent request for payments. She thought the agreement satisfied the conversation that Councilmember White put forward that if the City wasn't ready to expend the funds, they didn't have to approve it. They were in control of when the money was delivered. Councilmember Waring said that if they got the money from the TIF, they should be clear that the money in the Recreation Bond goes towards something else. Mr. McQueeney said that the future allocation section was from the original MOA and basically said they weren't committing to anything in the future. It also stated that they would work together to identify funding mechanism. Approving the agreement would essentially commit them to the \$98,020, but where the money was coming from didn't need to be put in the agreement. That would be part of the budgeting process. Ms. Herdina asked if they were trying to make the agreement contingent on funding from a particular source. Councilmember Waring said yes. He wanted the money to come from the TIF. Ms. Herdina said they could approve the agreement, but it would be amended that the funding be contingent on TIF funding. She asked if it was eligible for TIF funding. Mr. Frohlich stated he didn't know why it wouldn't be. Chairman Moody said they were talking about making property more valuable and it was the City's property. Ms. Herdina said that she would recommend to approve it with it contingent on the funding coming from TIF sources. Councilmember Waring said he also wanted everyone to be clear that if they changed the funding to the TIF, he didn't want anyone to say they still had money earmarked in the Recreation Bond for it. Mr. Frohlich said that if they instructed that today, he would go back into the allocation and put \$98,020 back available in the Recreation Bond and the TIF would pick up the difference.

Councilmember White said that with regard to the issues of environmental problems, it stipulated in the MOA that any expenditure had to be approved by Corporation Counsel and the CFO. He was comfortable with moving forward, as long as when they communicated to the Friends, they told them that the City had a concern about the initial design beginning before environmental results came back. They should have that concern too, because they were wasting money. The City should put them on notice that that was part of this discussion and that they would be cognizant of that if they brought forward any invoices prior to having some indication from an environmental standpoint. Mayor Tecklenburg said that to summarize that, he thought the environmental testing and potential remediation should inform the design. Councilmember White said that was correct, because otherwise, they would be paying twice.

On the motion of Councilwoman Jackson, seconded by Councilmember Waring, the Committee voted unanimously to approve the above First Addendum to the Memorandum of Agreement with the amendment that the funding source would be changed from the Recreation Bond to the TIF.

Request Mayor and City Council approval of a Purchase and Sale Agreement for the acquisition of 5.41 acres of land located on Ashley Hall Drive in the West Ashley community in the amount of \$700,000. The land is being purchased for the eventual construction of affordable/attainable housing. The property is owned by Ashley Hall Development, LLC. (TMS #: 351-04-00-007)

Ms. Shaw Johnson stated that this was an opportunity to buy 5.41 acres. The goal would be to build townhomes. The previous or current owner had renderings done some time ago that would allow about 62 townhomes to be constructed. They would probably go a little smaller than what the design was. It was in an AE-13 Flood Zone. The funding would come from the fee-in-lieu funds, which were the funds garnered from the MU-2 workforce housing developers. They had John Destefano with them, who was the realtor on this for the City. He was the selected bidder from a bid put out in 2017. As they thought about the purchase price and number of units, it was a well-balanced effort. If they were building 62 units at the current price, it was about \$11,000 in land costs. This was naturally before vertical construction. Within the agreement itself, there was a due diligence period, so they would be looking at things to bring back before moving forward.

Mr. Destefano stated that the current elevation was 7-8 feet based on the contour lines. So, the units would have to be elevated. That maximized the number of units they could get on the site by virtue of parking underneath. It was AE-13 which was true in 2004, and was the same in the pre-FIRM maps. With this project, and a number of others, they were looking at it from the standpoint of a private developer.. Land was hard to find and they were trying to find locations that were left. The bulk seemed to be on James Island and West Ashley. They were taking a holistic approach. He had consultants, engineers and architects working with him so they could give Ms. Shaw Johnson a package. The land cost per unit would be considered commercially viable from a private developer. It looked like the numbers worked. He could give good numbers for construction costs at a later date, but they were figuring \$150 per foot right now. If it was built out as drawn, it was about a \$12-\$13 million project. All the planning and engineering had been done. It was almost shovel ready. Ms. Shaw Johnson said that their goal was to have this a for-sale product. They would be looking at the people from 80-120 % AMI. Mr. Destefano said they were figuring around \$200,000 for the sales price. Chairman Moody asked if it would be similar to the ones completed in Maryville/Ashleyville with the 99 year buy-back or affordability. Ms. Shaw Johnson said yes, they would have long-term affordability.

Councilwoman Jackson asked if it was a revolving loan. Ms. Shaw Johnson said that with every sale, the money would flow back to where they originated it from. Councilwoman Jackson said she noticed it had a lot of water near it. Mr. Destefano said it was a drain field out towards the Ashley River. Councilwoman Jackson asked if they would have to maintain the lake. Ms. Shaw Johnson said that her thought was that since the townhouse was fee simple, and not a condo, they could have an association. But, the individual owners would have responsibility for their land, versus a regime like they did at the Longborough development. Councilwoman Jackson said that they would need to really look at the lake and who would be responsible for it. Councilmember Waring said he wasn't sure if this was in his district. There was a former retention pond near that for Montclair Street right there, as well. He would support this, but it would be hard to put that many townhomes on that site. He asked if they had any contingencies for due diligence. It was a very sensitive area. Some of the areas on Montclair still flooded, and they were able to put a check valve in. From a flooding perspective, this one had a large question mark. Councilmember White asked if they had studied that issue on the site yet. Mr. Destefano said they hadn't other than the current engineering drawings done by the previous owner. That would be part of the due diligence period if it was determined if they would go with the prior planned density or cut it down. That would be the first

question asked. Councilmember White said that he had gotten an email regarding the TRC going into a new review timeline matrix. It would likely take upwards of a year to get through that process. The first step was determining if they were in a special protection area or not. Councilmember Waring said he thought they needed a longer due diligence. Ms. Shaw Johnson said they had the opportunity to extend it if needed. She could talk with Mr. Fountain and Mr. Holton to look at this very quickly to determine if it was a go or not. Regarding the TRC process, they were instituting a process where affordable housing are put in front of the line and advancing the cause for affordable housing because of the need. Ms. Shaw Johnson stated that anything found and determined would be brought back to them before the execution of the purchase was finalized.

On the motion of Councilwoman Jackson, seconded by Councilmember Waring, the Committee voted unanimously to approve the above Purchase and Sale Agreement.

Consider the following annexations:

- i. 320 Woodland Shores Road (TMS #: 343-11-00-117) 1.0 acre, James Island (District 11). The property is owned by Cecil K. and Janice M. Cargile.*
- ii. Property on Brickyard Road (TMS #: 311-00-00-090) 2.0 acres, Johns Island (District 5). The property is owned by Worldwide Investments, LLC.*
- iii. 0 Oakville Plantation Road (TMS #: 317-00-00-007) 10.47 acres, Johns Island (District 5). The property is owned by Keith W. Lackey. **(DEFERRED)***
- iv. 2495 River Road (TMS #: 317-00-00-012) 4.75 acres, Johns Island (District 5). The property is owned by Gail Grimball. **(DEFERRED)***
- v. 2493 Summerland Drive (TMS #: 317-00-00-075) 9.91 acres, Johns Island (District 5). The property is owned by Gary S. Worth. **(DEFERRED)***
- vi. 0 Summerland Drive (TMS #: 317-00-00-076) 8.70 acres, Johns Island (District 5). The property is owned by Gary S. Worth. **(DEFERRED)***

Mr. Morgan stated that both of the annexations were residential lots. They weren't built on and the intent was for residential construction. Councilwoman Jackson said that her concern was always water. She knew the James Island property backed up to the DR-6. The drainage system was supposedly going to be improved greatly when they got to the Muni drainage improvements and it was supposed to traverse through that whole neighborhood as far as she knew. In theory, it was better for the City to control it than the County in regards to annexation. Mr. Morgan stated that they could probably get two units on the Woodland Shores property because of the frontage requirements. Councilwoman Jackson said that she really wanted to start seeing elevations on the annexations. The Johns Island property backed up to wetlands. Mr. Morgan stated that the owners could probably put two lots on that site, as well.

On the motion of Councilmember Waring, seconded by Councilmember White, the Committee unanimously voted to approve the above two annexations.

Having no further business, the Committee adjourned at 4:58 p.m.

Bethany Whitaker
Council Secretary