

## Committee on Real Estate

January 25, 2021

A meeting of the Committee on Real Estate was held this date beginning at 2:05 p.m. over video conference call.

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

**Present:** Councilmember Shahid, Chair, Councilmember Appel, Councilwoman Jackson, Councilmember Waring, and Mayor Tecklenburg **Also Present:** Chip McQueeney, Capers Barr, Susan Herdina, Geona Shaw Johnson, Adam Barr, Bill Craver, Leigh Bailey, Julia Copeland, Jason Kronsberg, Ed Bell

The meeting was opened with an invocation provided by Councilmember Waring.

### Approval of Minutes

On the motion of Councilwoman Jackson, seconded by Councilmember Appel, the Committee voted unanimously to approve the minutes of the December 14, 2020 and January 11, 2021 meetings.

### Approval to authorize the Mayor to execute, on behalf of the City, the Transfer Agreement conveying 36 Cooper Street to Charleston County Human Services Commission dba Palmetto Community Action Partners for \$68,449 for the development of a minimum of four affordable rental housing units subject to the Affordable Rental Housing Restrictive Covenant Agreement. [Ordinance]

Geona Shaw Johnson stated that they were asking for approval of a transfer of 36 Cooper Street to Palmetto Community Housing. This was an organization that had worked previously to build affordable rental housing and that would be the goal of this site. They would transfer it for the amount that the City had invested in acquisition and costs related to that acquisition. Right now, the thought was they could build at least four units and it would likely be more once they got through the due diligence. The goal would be to have 50% of those units at 80% AMI and the other half at 60% or below AMI. They would have the timeframe with the affordability covenant and a 90-year restrictive covenant.

Chairman Shahid said that this was a pretty good swap. Ms. Johnson stated that they purchased this property out of foreclosure. It was about \$50,000 and there were some other costs associated with that. Based on what they had here, and the fact that there was a structure there now that would likely be demolished, but the lot itself was linear. So, the return on their dollar would be well spent. Chairman Shahid said it sounded like a good project with the number of units they could include. Councilwoman Jackson said she supported this. She was losing track of the process and asked if it had already come before Community Development. Ms. Johnson stated that it had not. Councilwoman Jackson asked if that was the next step. Ms. Johnson stated it could be. Typically, with acquisitions or purchases, they came directly to Real Estate. They did share later with Community Development who was being serviced, but usually this was the process they followed. Councilwoman Jackson said that she was a process averse person, as most of them had figured out. She did think it would be good for them to have some understanding of the consistency of the process. For example, they were sending the changes to the King Street parking to Community Development and that was very tangential to any residential or community development, compared to an item like this. She wanted to have some sort of agreement or understanding of what items went to what committees and why/when. She would be happy to be part of a question/answer group to do that. Mayor Tecklenburg thanked Ms. Johnson and staff for being

mindful of what was going on. This was a property that had been sold under their affordable housing covenants. They had the ability to get in line to buy the property when it went under foreclosure. The owner did not take good care of the property. But, they were now taking what was one affordable unit and making it four and extending the life of affordability over the whole property. Councilmember Waring said he agreed with Councilwoman Jackson about taking this before the Community Development Committee, as well.

On the motion of Councilmember Waring, seconded by Mayor Tecklenburg, the Committee voted unanimously to approve the above item.

**Approval of Market Horlbeck Surface Parking Lot Lease Agreement. (To be sent under separate cover by the Real Estate and Legal Departments)**

Mr. McQueeney asked for this item to be deferred. They were still trying to work out the terms of an extension. It was an expiring 40-year lease with two or three property owners.

On the motion of Councilmember Waring, seconded by Councilmember Appel, the Committee voted unanimously to defer this item.

**Discussion and action regarding request for easement to Dominion Energy to relocate utility switch gear boxes along 179 Nassau St. (Property owned by the City of Charleston: TMS# 4590503001). [Ordinance]**

Julia Copeland stated that since the last time they talked about this, they had come to an agreement about where they would put these boxes in order to allow the linear park more freedom without any of the gear boxes. Dominion went to the site on Nassau and discovered that AT&T had already claimed it. So, in the interim, in an effort to not hinder the development of the affordable housing project in that area, they were asking them to authorize the Mayor to execute an easement once they settled in on an actual location for the gear box, to be worked out with Dominion and staff.

Chairman Shahid asked if they needed to do anything or if this was just for discussion. Ms. Copeland stated they had an ordinance authorizing the Mayor to execute any future easement documents that would be presented to him once they had a location. Mayor Tecklenburg said that either way, on either side of the street it would be on the City's property. He would work with staff and Dominion to put it in the best place. Councilwoman Jackson said that for clarification, it may not necessarily be at 179 Nassau Street. Ms. Copeland stated the transformer would be on the park site, as close to the street as they could, and the gear box would be somewhere on 179 Nassau Street.

On the motion of Councilwoman Jackson, seconded by Councilmember Appel, the Committee voted unanimously to approve the above item.

**A Resolution authorizing the Mayor to take all necessary action and execute all necessary documents on behalf of the City of Charleston to accept from the South Carolina Department of Transportation that certain real property currently designated as Charleston County TMS No. 459-05-04-214 and shown as "Parcel H" on that certain plat recorded on January 25, 2012 in Plat Book I12 at page 0029 in the ROD Office for Charleston County, South Carolina.**

Mr. McQueeney stated this was really the extension of Cooper Street. The City entered into a mitigation agreement with SCDOT in 2005 that required SCDOT to transfer four or five pages worth of properties

over a certain period of time at the City's request. This was one of the parcels, known as Parcel H, of the Cooper River Bridge Redevelopment Authority. It would allow Cooper Street to be extended into Meeting Street. There was a little bit of excess property there that would be put to other public use. This allowed the Mayor to sign whatever he needed to accept it. It was for no consideration.

Mayor Tecklenburg said they were picking up this piece of property for no consideration. SCDOT was giving it to the City and it would help complete the redevelopment with mostly affordable housing they had been working on in the area and improve their connectivity. He was glad they were able to work it out after so long.

On the motion of Councilwoman Jackson, seconded by Councilmember Appel, the Committee voted unanimously to approve the above item.

**Request authorization for the Mayor to execute a Resolution approving the submission of an application for greenbelt funds for the purchase of the property commonly known as the Griffith Lane tract on Johns Island bearing TMS No. 313-00-00-063. (Exhibit A to be sent under separate cover by the Real Estate and Parks Departments)**

Jason Kronsberg stated that this was a request for permission to submit an application for a parcel of land on Johns Island. It was approximately 26.5 acres. The site was comprised of highland and natural looking lakes with many fishing opportunities. The application was for the purchase of this land to serve as a future park for the citizens.

Councilmember Waring asked where this was located. Mr. Kronsberg stated it was on Maybank Highway between River and Main Roads. It was across from an apartment complex where some new restaurants were popping up. It went between Maybank Highway and Cane Slash Road so there would be access from both roads. Mayor Tecklenburg stated that most of the acreage was water. This would be very different than any other park they had and would provide opportunities not only for fishing, but also for kayaking and canoeing. It was very beautiful. This property had come to the Greenbelt Committee with an application by an independent group of citizens. Currently, it was in the County. If they submitted the application and were successful, the property owner would have to agree to annex the property into the City. The preliminary conversation with him had been that he would be more than glad to do that. He was willing to work with that group of citizens. They had plans of making a community center there and some other community functions that he thought were all in the spirit of making the property available to the public. The Greenbelt Committee had turned that group down. They didn't have as much funding in the County portion of the fund as there was in the City portion. He viewed this as an opportunity to add this beautiful property to the public realm, but he also wanted to convey that they would be willing to work with those same citizens who had been interested in preserving the property for the public all along.

Chairman Shahid said it sounded like a first step in a long process. He had always advocated anytime they could give citizens water access, it was always a good thing. Councilmember Waring asked how much they were asking for the property. Mayor Tecklenburg said that was another interesting twist unlike any other application they had done. The asking price was \$800,000, but they were only asking for \$500,000 at closing with a payment schedule to follow because the owner of the property wanted to maintain his residence on a small portion of the property as a life estate.

On the motion of Councilmember Waring, seconded by Councilwoman Jackson, the Committee voted unanimously to approve the above item.

**An ordinance authorizing the Mayor to execute on behalf of the City of Charleston ("City") a Real Property Exchange Agreement and other documents necessary to convey to America Street Ventures, LLC, or its assigns, the City's property designated as a portion of TMS No. 459-05-04-209 and TMS No. 459-05-04-220, subject to affordable housing restrictions, in exchange for the conveyance to the City of property designated as TMS Nos. 459-05-04-001, 459-05-04-002, 459-05-04-048, 459-05-04-114, and 459-05-04-115, as shown on the attached map. (AS AMENDED) (See also City Council Agenda Item #L-4) (To be provided under separate cover by the Legal and Housing and Community Development Departments)**

Chairman Shahid asked if they were ready to proceed on this item. Ms. Herdina stated they had been working diligently with the Humanities Foundation on trying to bring this agreement to them. They did have one or two wrinkles in the deal. They were very close to bringing it forward, but they did want to go into executive session and provide them with some legal advice on the issues they had run into and they could come out and give direction. Chairman Shahid said he thought they would also be going into Executive Session for the last item and asked if they could go into session for two items. Ms. Herdina said it was probably better to go into session individually for each item.

On the motion of Councilmember Waring, seconded by Councilwoman Jackson, the Committee voted unanimously to go into Executive Session at 2:27 p.m. to receive legal advice on this item.

On the motion of Councilmember Waring, seconded by Councilwoman Jackson, the Committee voted unanimously to come out of Executive Session at 3:10 p.m.

Chairman Shahid stated that no action was taken in Executive Session.

On the motion of Councilmember Waring, seconded by Councilwoman Jackson, the Committee voted unanimously to move this issue forward, predicated on their Legal Staff being able to negotiate two aspects which consisted of the Estoppel provision, as well as an offer for cash in lieu of the property exchange.

Chairman Shahid said that they weren't approving this item. They were making a motion to give Legal Counsel the opportunity to further explore those two issues that Councilmember Waring stated, and they would bring it up to full Council approval at the Ways and Means meeting the next day.

**Consider the following annexations:**

*(i) 3486 Maybank Highway (9.62 acres) (TMS# 279-00-00-055), Johns Island, (District 5). The property is owned by St. Johns Center, LLC.*

*(ii) 2181 Wappoo Hall Road (0.37 acre) (TMS# 343-01-00-032), James Island, (District 11). The property is owned by Hurley Living Trust.*

On the motion of Councilwoman Jackson, seconded by Councilmember Appel, the Committee voted unanimously to approve the above annexations.

**An ordinance authorizing the Mayor to execute on behalf of the City a Quit Claim Deed and elimination of possibility of reverter, such possibility of reverter contained in Deed recorded in Book J-543, at page 031 for the property located at the corner of Meeting and Wolfe Streets bearing TMS # 459-09-01-049 in the**

**City and County of Charleston, State of South Carolina and to ratify and adopt any and all modifications or amendments to Ordinance # 2004-150.**

Chairman Shahid said that this had come before them at their last Real Estate meeting. They had all received a large amount of paperwork from Capers Barr. He appreciated that information being forwarded to them. Mayor Tecklenburg stated that he would be recusing to avoid any semblance of conflict. His son had a minority interest in the listing company for the transaction.

Ms. Herdina stated that before them was the ordinance authorizing the Mayor to execute, on behalf of the City, the quit-claim deed and the elimination of the possibility of the reverter. The ordinance did include the closing sheet which would indicate what the City would be receiving in exchange for releasing the reverter and executing the quit-claim deed. They had also attached, as an exhibit, the proposed quit-claim deed. There was a chronology and several exhibits supporting that chronology that Capers Barr distributed to all members of the Committee. They were all happy to answer questions they may have. One of the issues that came up at the last meeting was the fact that there was nothing in the 2017 agreement, which she felt was the operative agreement, that stated clearly the intent of the Law School to remain on the Peninsula. That was an important point because that was the intent of the parties entering into this agreement originally back in 2004-2005. The plan was that the Law School would be on the Peninsula and would be an institution that would be an engine for economic development for the area and also be a Law School that spent a significant portion of time dedicated to public service and pro-bono work which could be an asset for the community. They had conversations with Mr. Bell and Mr. Craver, and they were certainly willing to include in the 2017 agreement or execute a different agreement that firmly indicated their obligation/willingness to be a part of the Peninsula community in the future.

Chairman Shahid said that he did appreciate the information and chronology that was sent to them. He asked if they wanted to comment on Ms. Herdina's statement about the commitment to stay on the Peninsula. Ed Bell, President of the Charleston School of Law, thanked them for allowing them to attend the meeting. He couldn't tell them the number of developers who had contacted the School asking them to go somewhere else off the Peninsula. He had not looked at, nor entertained, the idea of leaving the Peninsula. They loved the City of Charleston. They thought their students benefited tremendously and it gave them an educational opportunity that other Law Schools didn't have. They could imagine the recruitment asset they had, and they could tell students they could work with companies like Blackbaud, Boeing, and MUSC, etc. That was one of their biggest draws and they had no qualms in amending the 2017 agreement committing them to stay on the Peninsula and in the City. They hoped they weren't kicked out. Chairman Shahid said they wanted the School to stay. That was the intent in 2004 when this was being discussed. Mr. Bell said he always thought it was the intent of the School to do so, and when he became President in 2015 the intent hadn't changed.

Councilmember Waring stated that it had been three years since the 2017 agreement. He asked where they planned to relocate on the Peninsula. Mr. Bell said they were in the middle of a huge boom in the economy which caused the land and possible sites to escalate in value. They had two locations in mind and were working with both when the Pandemic hit. Both locations were still on hold and they were negotiating with the current owner of the building to purchase the building, so that if they didn't find a ready site immediately, they had a permanent site until they did. Councilmember Waring asked if they

had a site set up that was tied to this agreement, subject to the sale, where they would do an exchange and buy the alternative property on which to build on. Mr. Bell said they didn't.

Chairman Shahid said the other part they could answer was what the School's needs were square footage and building wise. Mr. Bell said they would need between 80,00-100,000 square feet. They had a sufficient space where they were now if they could finalize the purchase of the building. They had recently been back in touch with the owner and part of his desire to do something now was the zoning restrictions placed around the area made it look like he would not be able to turn the property into another hotel site. It made it a little bit more available to them. They loved where they were located close to the College and downtown. As soon as they got back to work and all of their students were back, they would work more on this. They had a couple more years on the lease and the ability to renew the lease if they wished. They were in good shape on the location. One of the things they were able to do once the sale took place was turn the School into a 'not-for-profit' school which would allow them to raise the money to purchase land. They needed to do that. The amount of money they were getting after they paid taxes and paid the City out of the sale would go to help them become a non-profit. He wasn't getting any of the money out of the sale. Once they went non-profit, then the fundraising would help them purchase the property. They couldn't raise money as a for-profit institution. Chairman Shahid asked if they could explain how this sale may be tied into the School going to non-profit. Mr. Bell said that one of the requirements of the ABA was to make sure the School was financially stable. The property was booked at less than \$1 million in value. It was surprising to him that all they could claim on that property was around \$850,000 on their financial statement. Since they had to use the gap guidelines, once they sold the property and the financial statement looked better they could show to the Department of Education and the ABA that going non-profit, which wouldn't have the backing of a private citizen, they could do it without that. Chairman Shahid said the sale of the property would give them financial stability and that would allow them to become a non-profit. Mr. Bell said that would be the next step and it was one of the easiest ways to raise money was for building projects and especially if people got a tax break for donating the money. Frances Marion raised \$83 million a few years ago for building projects in Florence. A lot of the financial institutions really loved a school that was non-profit. They financed much easier.

On the motion of Councilmember Waring, seconded by Councilmember Appel, the Committee voted unanimously to go into Executive Session at 3:28 p.m. to discuss legal aspects of this transaction.

On the motion of Councilmember Waring, seconded by Councilmember Appel, the Committee voted unanimously to come out of Executive Session at 5:04 p.m.

Chairman Shahid stated that no action was taken in Executive Session.

On the motion of Councilwoman Jackson, seconded by Chairman Shahid, the Committee considered approval of the above item. The motion failed 0-4. The item was disapproved.

Mayor Tecklenburg recused himself from this item and completed a Conflict of Interest Form which is on file in the Clerk of Council's Office.

Capers Barr asked if it would be appropriate to ask for some guidance. Chairman Shahid said he had no problem with them talking with Ms. Herdina and Mr. McQueeney. They would be glad to talk to them to

the point they could. They couldn't disclose what happened in Executive Session, but there were no reservations in continuing to talk.

Having no further business, the Committee adjourned at 5:06 p.m.

Bethany Whitaker  
Council Secretary