

Committee on Real Estate

May 10, 2021

A meeting of the Committee on Real Estate was held this date beginning at 2:37 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 (arrived at 2:43 p.m. **Also Present:** Bethany Whitaker, Andrea Derungs, Chip McQueeney, Julia Copeland, Jane Stoney, Geona Shaw Johnson, Matt Frohlich, Matt Fountain, Leigh Bailey, Stirling Halversen, Tracy McKee, Christopher Morgan

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

Approval of Minutes

On the motion of Councilmember Waring, seconded by Councilwoman Jackson, the Committee voted unanimously to approve the minutes of the April 26, 2021 meeting.

Request approval authorizing the Mayor to execute on behalf of the City three Easements to Dominion in order to construct, maintain, operate, replace, and alter thereon and thereunder one or more lines for the transmission or distribution of electric energy, a line or lines of pipe to be buried to such depth so that it will not interfere with ordinary cultivation of said land, with valves, tieovers and appurtenant facilities, for the transportation of gas, oil petroleum products or any other liquids, gases or substances which can be transported through a pipe line. The property is owned by the City of Charleston. (TMS No. 457-07-04-034) (The SW Corner of Chisolm Street), (TMS No. 457-03-01-096) (The NW corner adjacent to Ashley Avenue), (TMS No. 352-10-00-001) (The SW Corner of 1350 Orange Grove Road).

Ms. Copeland stated this was an easement request from Dominion on three separate park locations, 1350 Orange Grove Road, Southwest corner of Chisolm Street, and Calhoun/Ashley. Apparently, there were gas pipelines already under the ground and Dominion would like to go in and essentially replace the casing of those pipes with something called a sacrificial anode which was a type of metal that would prevent leaking. These would be underground so they would be able to mow and operate as normal on top of the specific sites. The request was to authorize the Mayor to execute these three separate easements. These would be permanent easements, so they could go in and repair anything that needs to be repaired.

Councilwoman Jackson asked if these three areas had already received service or if this was something brand new. Ms. Copeland said these were all in operation presently.

On the motion of Councilwoman Jackson, seconded by Councilmember Waring, the Committee voted unanimously to approve the above item. Mayor Tecklenburg was not present for the vote.

Request authorization for the Mayor to execute any necessary documents and take any necessary action to accept, on behalf of the City of Charleston, a temporary construction easement over property owned by The Citadel Trust, Inc., for the renovations to Stoney Field. The property is owned

by the Citadel Trust, Inc. (TMS No. 460-00-00-031) (Northwest corner of Hagood Avenue and Fishburne Street).

Ms. Copeland said this was the acceptance of a temporary construction easement from the Citadel, associated with Stoney Field, in order for them to go in and clear and grade the driveway so it matched the rest of the construction site.

On a motion of Councilmember Waring, seconded by Councilmember Appel, the Committee voted unanimously to approve the above item. Mayor Tecklenburg was not present for the vote.

An ordinance amending Ordinance No. 2019-128, adopted December 3, 2019, by authorizing the Mayor to execute, on behalf of the City of Charleston, that certain Fourth Amendment to Option to Lease by and among the City of Charleston, as landlord; and Flatiron Partners, LLC and Classic Development Company, LLC, as tenants, under which the Ground Lease attached to the Option is revised to include language required by lender(s) for the development of the James Lewis, Jr. Apartment site.

Ms. Stoney said this was for the James Lewis, Jr. Apartment site. They were still working through some of the last clerical issues with the documentation in order to get to a point where they had an executable ground lease. The fourth amendment to the ground lease attached revised ground lease as an exhibit. With the exception of changes made in section 13, these were largely clerical. For instance, when the ground lease first went to Council, they did not have lenders identified, so the notice provisions were blank. Also, when this document was initially approved by Council as a draft, the working name for the project was different. Section 13 were the changes requested by the lender. They had gone over them in detail as they negotiated with lender's counsel on these. She was satisfied that, as drafted, they were pretty typical market requests from the lender. She did want to note that they had two lenders at play, a conventional lender which she believed would be TD Bank, and also a Fannie Mae lender. These changes were largely requested by the Fannie Mae lender. They were asking for, one, to be notified in an event of default by the tenant under the lease. In the event of a default, they wanted to ability to step in and cure. From the City's perspective, that was actually a great thing because if the tenant wasn't going to cure, they were glad that someone else would want to. If the tenant did default under its leasehold financing, the lender wanted the ability to step into the tenant's shoes and become the ground lessee under this lease. It would be subject to the affordability covenant and that was also a good thing from the City's point of view, that they would have a successor tenant that would keep this project live.

Councilmember Waring said in the event of a foreclosure, whoever stepped in to cure it would have to adhere to the guidelines of affordability. Ms. Stoney said that was correct. Councilwoman Jackson said that was her question as well. She had been part of deals in other places where the lender who cured didn't hold themselves to affordability, so she was trusting they all felt like that was legally upholdable. Ms. Stoney said they did. Section 1.22 of the ground lease, which would remain, said that the affordability requirements shall continue in full force in effect for the full term of the ground lease and any provision or document purporting to decrease, extinguish, amend or otherwise modify the affordability requirements was void.

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

Request authorization for the Mayor to execute a Declaration of Easements and take any other necessary action to memorialize the existence of a new permanent 40' City of Charleston subsurface tunnel easement and a new permanent variable width drainage easement on property owned by the City, commonly known as Harmon Field. (201 President Street) (TMS No. 460-07-03-001).

Mr. McQueeney said this was a declaration of easement over the City's property. The City owned Harmon Field and they were building a shaft and underground stormwater conveyance system. It was very unlikely they would ever sell a portion of Harmon Field, but they liked to have something on the record in case they did. They tried to do this when they put drainage facilities within their own property. Chairman Shahid said this was very prudent on their part to do. Councilmember Waring said this went back awhile. There was a proposal once where Burke High School would give up their property to the Citadel and Burke would have gone and built on Harmon Field, but there was a provision, possibly from the Harmon family, that if it ever ceased to be used for a park, it would revert back to the family. There may be two easements on it. Mr. McQueeney said it was also subject to a joint-use agreement with the school district, where the City and the school district had the ability to use each other's facilities. Councilmember Waring asked if this allowed for additional drainage to help out that area. Mr. Fountain said this was the end of the President Street Tunnel and all the surface drainage that tied into where the shaft was located was served by the Spring Fishburne project.

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

Request authorization for the City to take all necessary actions and execute all necessary documents to accept a drainage easement from St. James Church, James Island, S.C., over property designated as Charleston County TMS No. 425-01-00-032, as shown on pertinent plat. The property is owned by St. James Church, James Island, S.C. (Camp Road; TMS No. 425-01-00-032)

Mr. McQueeney said this would be a drainage easement for the repair and maintenance of the existing area across the property. He believed it drained from Camp Road. Mr. Fountain said this was in support of the ongoing project that was a County-led project in collaboration with the County and the Town of James Island for the Camp Road sidewalk. They were working together to acquire the necessary drainage easement for the discharge of the additional water from the sidewalk. Councilwoman Jackson said they may need to make it clear for the record that this was a County-led project and the City was playing its part because the church was in the City. Mr. Fountain said it was a County project being managed by their sales tax group. The project was at the request of all three collaborators and the reason the City was taking the easement was because the church was in the City.

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

Consider the following annexation:

- *1453 S Edgewater Drive (0.47 acre) (TMS# 349-13-00-008), West Ashley, (District 11). The property is owned by Constantine D and Cherie A Liollio.*

On a motion of Councilmember Appel, seconded by Councilmember Waring, the Committee voted unanimously to approve the above annexation.

Having no further business, the Committee adjourned at 2:58 p.m.

Bethany Whitaker
Council Secretary