

MINOR, HAIGHT & ARUNDELL, P.C

ATTORNEYS and COUNSELORS AT LAW

JOHN W. MINOR, JR. (1940-2003)
EHRICK K. HAIGHT, JR.‡
ROBERT J. ARUNDELL*

1000 WILLIAM HILTON PARKWAY, SUITE 203
CLARENDON BUILDING - VILLAGE AT WEXFORD
POST OFFICE DRAWER 6067

TELEPHONE (843) 785-8040
FACSIMILE (843) 785-3506
MHALAWFIRM.COM

STACEY S. COLLINS

HILTON HEAD ISLAND, SOUTH CAROLINA 29938

‡ CERTIFIED CIRCUIT COURT MEDIATOR AND ARBITRATOR
* ALSO A MEMBER OF THE NORTH CAROLINA BAR

MEMBER, AMERICAN BAR ASSOCIATION
MEMBER, HHI CHAMBER OF COMMERCE

March 13, 2018

Ms. Deborah Smith
Daufuskie Island Council
2 Sea Island Lane
Daufuskie Island, SC 29915

Re: County Land donation

Dear Josh:

After meeting with you, I was able to hold a brief meeting with Josh Gruber and Tabor Vaux and was able to confirm the prior discussion I had with Tom Keaveny. Here is a summary:

1. They believe the building meets current building codes. I asked them if they could get their building inspector out there just to confirm their belief and they agreed to follow up.
2. I told them that we are still waiting for a copy of the plat that shows the new boundary line that will divide the current parcel into two new parcels. I explained that the new line would have to be placed such that the building and its patios, etc. will meet all county set-back requirements. They did not think this would be a problem.
3. They confirmed that the deed from the County will include the necessary non-exclusive easement for use of the dock, parking areas, and rest room facilities. They have no problem working with us to ensure the easement language addresses our needs.
4. While neither Mr. Gruber nor Mr. Vaux had specific knowledge as to what valuation would be placed on the new parcel by the Assessor's office, both were confident based on their general knowledge that the property taxes would not be an issue about which the Council needs to be concerned.
5. Neither Mr. Gruber nor Mr. Vaux say any problem placing the property into a limited liability company solely owned by the Council to provide the Council some liability protection.

Both of them agreed that the County will work hand-in-hand with the Council to make this a win-win proposition.

Based on our previous meetings, here is what I think the Council needs to consider:

A. Will the Council have the financial ability to maintain the building and property? If the Council rents out the property, that will provide a source of income. If the Council chooses to convert the property into a community center, some kind of membership dues might be necessary.

B. What is the current condition of the property? While the assurance of a building code inspector is useful, the Council may still want to engage a private inspector (like the Home Inspection companies people use before buying a home) and get an independent evaluation of the condition of the building, HVAC systems, etc. Such an inspection would run about \$400-\$500 but you could always try to negotiate a special price.

C. What are the long-term considerations of owning the property? Certainly, maintenance of the property is key. Even with the liability protection that an LLC may provide, I still recommend that the Council maintain some kind of umbrella liability protection. Any lease should also require the tenant to carry liability insurance as well as pay for insurance on the building itself. If the needs of the Council change over time, the incidents of ownership would allow the Council to change the uses to which the building is put.

A second key is the control that ownership affords. You get to decide to what uses the building is put, who the tenants will be, and it gives a physical location “identity” to the Council. While ownership usually includes the right to sell the property, the County may want a right-of-first-refusal or right-of-reversion if the Council no longer wanted to own the property.

If you have any questions, please do not hesitate to contact me. If you would like to meet to discuss the matter, I am available to do so.

With kind regards, I remain

Sincerely,

Robert J. Arundell