

COUNTY COUNCIL OF BEAUFORT COUNTY

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COUNTY ADMINISTRATOR

BRYAN J. HILL
DEPUTY COUNTY ADMINISTRATOR

LADSON F. HOWELL
COUNTY ATTORNEY

SUZANNE M. RAINEY
CLERK TO COUNCIL

AGENDA COUNTY COUNCIL OF BEAUFORT COUNTY Monday, June 13, 2011 4:00 p.m. Council Chambers Administration Building

Citizens may participate in the public comment periods and public hearings from telecast sites at the Hilton Head Island Branch Library as well as Mary Field School, Daufuskie Island.

- 4:00 p.m.** 1. **CAUCUS**
Executive Conference Room, Administration Building
- 5:00 p.m.** 2. **REGULAR MEETING**
Council Chambers, Administration Building
3. CALL TO ORDER
4. PLEDGE OF ALLEGIANCE
5. INVOCATION
6. REVIEW OF MINUTES – [May 9, 2011](#)
7. PUBLIC COMMENT
8. COUNTY ADMINISTRATOR'S REPORT ([backup](#))
Mr. Gary Kubic, County Administrator
- The County Channel / Broadcast Update ([backup](#))
 - Three-Week Progress Report ([backup](#))
9. DEPUTY COUNTY ADMINISTRATOR'S REPORT
Mr. Bryan Hill, Deputy County Administrator
- Three-Week Progress Report ([backup](#))
 - The Independence Fund Veterans / The Lt. Dan Weekend
Mr. Steve Danyluk

Over



- Recognition / 2011 State Track and Field Champions
- Construction Project Updates
 - Mr. Robert McFee, Division Director, Engineering and Infrastructure
 - One Cent Sales Tax Referendum Projects:
 - New Bridge over Beaufort River / U.S. 21 / S.C. 802 Construction Project
 - S.C. Highway 802 Roadway Construction Project
 - S.C. Highway 46 and Simmonsville Road
 - Bluffton Parkway 5A
 - Capital Improvement Projects:
 - Disabilities and Special Needs Adult Day Care Center
 - Tire-Baler Building

CONSENT AGENDA

Items 10 through 16

10. AN ORDINANCE BASED ON THE REQUEST FROM THE BEAUFORT COUNTY BOARD OF EDUCATION TO AMEND THE SCHOOL DISTRICT 2010-2011 GENERAL FUND BUDGET TO ACCOMMODATE THE CHANGE IN STATE FUNDING SOURCES PURSUANT WITH PROVISIO 1.79 OF THE GENERAL APPROPRIATIONS ACT OF 2010 ([backup](#))
 - Consideration of second reading June 13, 2011
 - Public hearing announcement – Monday, June 27, 2011, beginning at 6:00 p.m. in Council Chambers of the Administration Building, 100 Ribaut Road, Beaufort
 - First reading approval occurred May 23, 2011 / Vote 11:0
 - Finance Committee discussion and recommendation to approve occurred May 16, 2011 / Vote 6:0
11. AN ORDINANCE OF THE COUNTY OF BEAUFORT, SOUTH CAROLINA, TO AMEND COUNTY COUNCIL STIPEND ([backup](#))
 - Consideration of second reading June 13, 2011
 - Public hearing announcement – Monday, June 27, 2011, beginning at 6:00 p.m. in Council Chambers of the Administration Building, 100 Ribaut Road, Beaufort
 - First reading approval occurred May 23, 2011 / Vote 10:1
 - Finance Committee discussion and recommendation to approve occurred May 16, 2011 / Vote 6:1
12. BURTON WELLS REGIONAL PARK PHASE 2 CONSTRUCTION ([backup](#))
 - Contract award: Beaufort Engineering Services, Beaufort, South Carolina
 - Contract amount: \$1,812,011
 - Funding sources: Burton Wells Phase II CIP, Account 11437-54451, \$1,666,015.40; and PALS Impact Fees (Port Royal), Account 09050-54450, \$181,381.87 (which includes a \$35,386.27 contingency)
 - Public Facilities Committee discussion and recommendation to approve occurred May 24, 2011 / Vote 6:0

13. HILTON HEAD ISLAND AIRPORT RUNWAY 03 TREE OBSTRUCTION REMOVAL IDENTIFICATION OF PENETRATIONS / OBSTRUCTIONS ([backup](#))
 - Contract award: Talbert, Bright and Ellington, Inc., Columbia, South Carolina
 - Contract amount: \$42,873
 - Funding sources:
 - Existing FAA Grant (95%), Account 13480-54293, remove obstructions south end design, which has a current balance of \$97,391
 - Existing State Grant (2.5%)
 - Local contribution 2.5% match of \$1,071.83, which will come from the airport's operating budget
 - Public Facilities Committee discussion and recommendation to approve occurred May 24, 2011 / Vote 6:0

14. SCRAP METAL AND WHITE GOOD SERVICES ([backup](#))
 - Contract award: Charleston Steel and Metal Company, Charleston, South Carolina
 - Contract amount: Services are paid to the firm through the sale of the scrap metal material. The firm shares proceeds with Beaufort County based on a published market rate specified by the contract minus their service fees.
 - Revenues: Revenues received will be deposited into account 10001-47440, Sale of Recyclables
 - Public Facilities Committee discussion and recommendation to approve occurred May 24, 2011 / Vote 6:0

15. HAULING SERVICES FOR BEAUFORT COUNTY SOLID WASTE CONTINGENT UPON RESOLUTION OF PROTEST ([backup](#))
 - Contract award: Waste Pro, Inc., Hardeeville, South Carolina
 - Contract amount: Services are paid to the firm through Account 33390-51165, Solid Waste Hauling Services
 - Public Facilities Committee discussion and recommendation to approve occurred May 24, 2011 / Vote 6:0

16. ABANDONMENT OF A PORTION OF BOSTICK ROAD, BEAUFORT ([backup](#))
 - Recommendation: Council quit claim a 10--foot wide strip of land running the entire length of Bostick Road to the owners of Lots 1-D and 2D
 - Public Facilities Committee discussion and recommendation to approve occurred May 24, 2011 / Vote 6:0

PUBLIC HEARINGS
Items 17 through 23

17. TEXT AMENDMENT TO THE BEAUFORT COUNTY ZONING AND DEVELOPMENT STANDARDS ORDINANCE, ADDING A NEW ARTICLE: ARTICLE XVII. TRANSFER OF DEVELOPMENT RIGHTS (TDR) ([backup](#))
 - Consideration of third and final reading June 13, 2011
 - Second reading approval occurred May 23, 2011 / Vote 11:0
 - First reading approval occurred May 9, 2011 / Vote 10:1
 - Natural Resources Committee discussion and recommendation to approve occurred May 2, 2011 / Vote 5:0

18. AN ORDINANCE OF THE COUNTY OF BEAUFORT, SOUTH CAROLINA, TO AMEND THE ZONING AND DEVELOPMENT STANDARDS ORDINANCE (ZDSO), TO ALLOW FOR CONTROL OF STORMWATER VOLUME FROM “LOTS OF RECORD BUT NOT BUILT.” THESE CONTROLS WILL MITIGATE WATER RESOURCE IMPACTS FROM CONSTRUCTION IN PREVIOUSLY APPROVED DEVELOPMENTS THAT DO NOT HAVE VOLUME CONTROLS ([backup](#))
 - A. SECTION 106-7. EXEMPTIONS OF DEVELOPMENT TYPES
 - B. SECTION 106-8. EXEMPTION FROM SUBDIVISION REVIEW
 - C. SECTION 106-18. DEFINITIONS. (ADDING NEW DEFINITION—BEST MANAGEMENT PRACTICES, ON-SITE)
 - D. SECTION 106-732. ZONING PERMIT
 - E. SECTION 106-2857. EXEMPTIONS FROM SITE RUNOFF CONTROL AND DRAINAGE PLANNING/DESIGN.
 - F. SECTION 106-2861. RETENTION/DETENTION FACILITIES
 - G. SECTION 106-2865. ON-SITE SINGLE FAMILY LOT, BEST MANAGEMENT PRACTICES (BMP) (ADDING NEW SECTION)
 - Consideration of third and final reading June 13, 2011
 - Second reading approval occurred May 23, 2011 / Vote 11:0
 - First reading approval occurred May 9, 2011 / Vote 10:1
 - Natural Resources Committee discussion and recommendation to approve occurred May 2, 2011 / Vote 5:0
 - Natural Resources Committee discussion occurred February 1, 2011

19. TEXT AMENDMENT TO THE BEAUFORT COUNTY COMPREHENSIVE PLAN, APPENDIX L. BUCKWALTER PARKWAY ACCESS MANAGEMENT PLAN, WITH A NEW FIGURE 5 THAT ALLOWS THE INSTALLATION OF A TEMPORARY LIGHT AT PARKER DRIVE WHICH SHALL BE REMOVED UPON COMPLETION OF PHASE 5B OF THE BUCKWALTER PARKWAY, AND THE MEDIAN OPENING AT PARKER DRIVE WILL BE CLOSED UPON COMPLETION OF PHASE 5B, AND PHASE 5B ALIGNMENT SHALL REMAIN AS IS, AND AS PART OF PHASE 5B CONSTRUCTION, TWO ADDITIONAL RESIDENTIAL ACCESS POINTS WILL BE

SIMULTANEOUSLY BUILT TO PROVIDE ADDITIONAL RESIDENTIAL ACCESS POINTS FOR ADJACENT RESIDENTS (backup)

- Consideration of third and final reading June 13, 2011
 - Second reading approval occurred May 23, 2011 / Vote 11:0
 - First reading approval occurred May 9, 2011 / Vote 11:0
 - Natural Resources Committee discussion and recommendation to approve occurred May 2, 2011 / Vote 4:0
20. **AN ORDINANCE TO ESTABLISH, PURSUANT TO SECTION 4-1-170 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED, A MULTI-COUNTY INDUSTRIAL/BUSINESS PARK, TO BE KNOWN AS THE RIVERPORT MULTI-COUNTY PARK, IN CONJUNCTION WITH JASPER COUNTY, SOUTH CAROLINA, SUCH PARK TO BE GEOGRAPHICALLY LOCATED IN JASPER COUNTY, SOUTH CAROLINA; TO PROVIDE FOR A WRITTEN AGREEMENT WITH JASPER COUNTY AS TO THE SHARING OF THE REVENUES AND EXPENSES OF THE PARK; TO PROVIDE FOR THE DISTRIBUTION OF REVENUES FROM THE PARK AMONG TAXING ENTITIES HAVING JURISDICTION OVER THE PARK; TO PROVIDE FOR A FEE IN LIEU OF AD VALOREM TAXATION; AND OTHER MATTERS RELATED THERETO (backup)**
- Consideration of third and final reading June 13, 2011
 - Second reading approval occurred May 23, 2011 / Vote 11:0
 - First reading approval occurred May 9, 2011 / Vote 11:0
 - Governmental Committee discussion and recommendation to approve occurred May 2, 2011 / Vote 3:0 (lack of quorum)
21. **BEAUFORT COUNTY ORDINANCE FOR REGULATION OF TOWING FROM PRIVATE PROPERTY IN BEAUFORT COUNTY (backup)**
- Consideration of third and final reading June 13, 2011
 - Second reading approval occurred May 23, 2011 / Vote 11:0
 - First reading approval occurred May 9, 2011 / Vote 11:0
 - Governmental Committee discussion and recommendation to approve occurred May 2, 2011 / Vote 3:0 (lack of quorum)
 - Governmental Committee discussion occurred February 7, 2011
22. **FY 2011 / 2012 SCHOOL DISTRICT BUDGET PROPOSAL (backup)**
- Third and final reading has been postponed at the request of the School District and recommendation of the Finance Committee
 - Public hearing– Monday, June 27, 2011 beginning at 6:00 p.m. in Council Chambers of the Administration Building, Beaufort
 - Finance Committee discussion June 6, 2011
 - Second reading approval occurred May 23, 2011 / Vote 7:4
 - First reading, by title only, approval occurred May 9, 2011 / Vote 10:1

- Finance Committee discussion and recommendation to approve on first reading, by title only, occurred May 5, 2011 / Vote 7:0

23. FY 2011 / 2012 COUNTY BUDGET PROPOSAL ([backup](#))

- Consideration of second reading June 13, 2011
- Finance Committee discussion June 6, 2011
- First reading approval occurred May 23, 2011 / Vote 11:0
- Finance Committee discussion and recommendation to approve the FY 2012 budget on first reading with no millage increase on operations, no millage increase on debt service and no use of reserves occurred May 16, 2011 / Vote 7:0
- Finance Committee discussion and recommendation to approve the fire districts' FY 2012 budget with a no mill increase (Bluffton, Burton, Daufuskie, Lady's Island/St. Helena Island, Sheldon) occurred April 25, 2011 / Vote 6:0
- FY 2012 Budget Workshop / Elected Officials presentations and discussion occurred April 27, 2011
- FY 2012 Budget Workshop / Reserve Policy presentation, discussion and budget guidance occurred April 5, 2011
- FY 2012 Budget Workshop / Allocations to Municipality for Public Safety, Employee Buy-Out Options, GASB 45 and 54, Myrtle Park Lease / Buy Option, Professional Service Agreements presentations and discussion occurred April 4, 2011
- FY 2012 Budget Workshop / Solid Waste and Recycling, Library, and Parks and Leisure Services Departments presentations and discussion occurred March 29, 2011
- Executive Committee discussion and staff direction to prepare a list of mandated versus non-mandated internal and external expenditures, as well as a definition of essential versus non-essential items occurred January 24, 2011
- Executive Committee discussion of essential versus non-essential items occurred February 28, 2011 and October 11, 2010
- Executive Committee discussion of smart decline contingency plan occurred March 1, 2010, August 23, 2010, September 13, 2010 and September 27, 2010

24. [COMMITTEE REPORTS](#)

25. PUBLIC COMMENT

26. ADJOURNMENT

County TV Rebroadcast	
Monday	4:00 p.m.
Wednesday	9:00 p.m.
Saturday	12:00 p.m.
Sunday	6:30 a.m.

Cable Casting of County Council Meetings <i>The County Channel</i>	
Charter Cable	CH 20
Comcast	CH 2
Hargray Cable	CH 9 & 252
Time Warner Hilton Head Cable	CH 66
Time Warner Sun City Cable	CH 63

Official Proceedings
County Council of Beaufort County
May 9, 2011

The electronic and print media was duly notified in accordance with the State Freedom of Information Act.

CAUCUS

A caucus of the County Council of Beaufort County was held at 4:00 p.m. on Monday, May 9, 2011, in the Executive Conference Room of the Administration Building, 100 Ribaut Road, Beaufort, South Carolina.

ATTENDANCE

Chairman Weston Newton, Vice Chairman D. Paul Sommerville and Councilmen Steven Baer, Rick Caporale, Gerald Dawson, Brian Flewelling, Herbert Glaze, William McBride, Stu Rodman, Gerald Stewart and Laura Von Harten.

PLEDGE OF ALLEGIANCE

The Chairman led those present in the Pledge of Allegiance to the Flag.

DISCUSSION ITEMS

Mr. Stewart remarked tonight Council will consider third and final reading of the Cypress Ridge MCIP with Jasper County. Be Green is a business locating there. Council will also consider first reading on the RiverPort MCIP with Jasper County. Representatives of Stratford Land are in the audience and they are prepared to make a presentation on the proposed MCIP. The MCIP Agreements with Jasper County are very important and positive from a regional perspective in economic development. Council will hear the presentation during the 5:00 p.m. regular meeting.

Mr. Newton commented on the hospitality tax one-time special distribution grant in the amount of \$100,000. He is probably the last person on Council to be too concerned with parochial interest. However, it is worthy of note that 73% to date in 2011 and 77% in 2010 of the hospitality tax revenues that are generated come from Daufuskie Tax District 800, Bluffton Tax District 600, and Windmill Harbor Tax District 501, yet less than 10% of the allocation of those funds goes back to those districts.

Mr. Rodman touched on two items. Insofar as the County budget, this is a discussion topic at the May 16 Finance Committee. Staff will present the major pieces that they view as changes (dollars) from FY 2011 to FY 2012. Consideration of first reading would then occur May 23 along with second and third readings during June. School District representatives presented an overview of their budget proposal at the May 5 Finance Committee. The District is holding expenditures in FY 2012 the same as it FY 2011, but they were looking for a 3% tax increase to

compensate for the shortfall in anticipated collections. Finance Committee passed that by first reading, by title only. The District will be sending the actual budget to Council members. Mr. Caporale has agreed to serve as the collection point for questions that Council may have. The other piece that we struggle with a little bit from last year is that Council approved the appropriation for the maximum spending, and then in August, a discussion was had about the tax rate. There are a lot of moving pieces and we do not necessarily understand exactly what the situation is going to look like until August. We have to make sure we avoid the assumption that, because we approve a budget, we have agreed to fund that amount even if it involves a tax increase. Regarding this year's FY 2011 County budget, Council has talked about what might happen in order to balance the budget. Staff is hard at work on that and we would expect that they would come back to Council on any issue(s) that would have any kind of major impact – employees and services -- on the county.

Mr. Newton noted the School District presentation budget is identified on today's agenda as first reading, by title only. He had clarified at the May 9 Finance Committee meeting, held earlier today, that that was what was approved. There is, however, a budget ordinance that was included in today's data package. He understands that may have been premature or included in error. Nonetheless, that is what appears on the website. He is guessing that particular item reflects the request of the School District with the 3% increase included. At the March 2011 Council retreat, Mr. Newton shared with the County Administrator that he was to come forward with a no tax increase FY 2012 budget. In order to avoid any confusion with whether the School District budget ordinance is or is not being presented for approval and in keeping with our unanimous vote at our budget workshop held April 5, 2011, Mr. Newton may likely seek to amend, by title only, the recommendation today -- just to clarify, in order to avoid the issue of last year that post approval discussion about funding expenditures, not revenues -- that with this ordinance at first reading, by title only, approval there is no tax increase being approved. Mr. Newton's comment is an effort to try to avoid a repeat of discussions from last year as well as confusion relative to the ordinance that is in today's data package by error.

Mr. Baer commented the School District is going to provide a budget detail May 16. Mr. Baer asked to see an equivalent detail of the County budget May 16. The School District budget includes a Section 7, Authorization to Transfer Funds. The County budget, too, should include the same language. Mr. Newton replied the County budget ordinance includes transfer limitations that are subject to the same limitation language that is in the School District budget. At the April 25 workshop Council confirmed the County Administrator's authority to take whatever steps are necessary to explore and to take such actions as are appropriate to protect and cover budget shortfalls in FY 2011. If the County Administrator needs a supplemental appropriation, he has to request Council.

Mr. Caporale asked Council to focus on the discussion of how to react swiftly to shortfalls in revenue. Revenues keep falling and we have not caught up to it yet. He has been saying that for two years. He does not know if we are going to catch up with it in FY 2012, but in fiscal years 2010 and 2011 we certainly did not catch up with it. That is the issue, not if anyone is overspending, but how quickly, by what means, and whose authority to respond to those shortfalls in revenue.

Mr. Flewelling stated when Council approved this year's budget (FY 2011) it gave the County Administrator authority to spend up to an amount. Mr. Kubic is choosing to save County money by spending less money now and preventing us from losing so much fund balance, which is completely within his authority. We know we are going to collect significantly less money than anticipated.

Ms. Von Harten would like Council to do what it can to get fund balance money, as much as possible, into the unassigned category.

Mr. Newton stated after the FY 2012 budget is adopted, the Executive Committee will discuss, in anticipation of the FY 2014 reassessment challenge, staff recommendations as to what constitutes an essential versus non-essential service. This discussion is beyond that January 21, 2011 memorandum of the first marginal level of cuts so that Council has the necessary tools at reassessment to make much more in-depth decisions than is making this year. If the trend holds, the tax base could go from \$45 billion in FY 2007 to perhaps as low as \$30 billion in FY 2013. Reassessment begins December 31, 2012. The first budget is FY 2013; the first tax bill is FY 2014.

Mr. Baer presented sample graphs as a way of conveying a tremendous amount of key financial insight to Council monthly or quarterly, without putting any significant new load on staff. He suggested each month or quarter that Council we receive three simple graphs: Figure 1 - revenue projections vs. actual; Figure 2 - expense projections vs. actual; and Figure 3 - projected and actual fund balance derived from the data in Figures 1 and 2.

Mr. Stewart amplified the motion as written in the May 2, 2011 minutes of Natural Resources Committee "Council approves, on first reading, the text amendment to the Beaufort County Comprehensive Plan, Appendix L, Buckwalter Parkway Access Management Plan, Figure 5 (add new future signal location on Buckwalter Parkway) with the understanding it be amended to go forward with installing a temporary light and the median strip with a legally binding understanding that it will come out when the Parkway is complete." What Council is voting on is what he really said at committee -- that there would be a temporary light allowed until 5B of the Parkway is completed. At that time the temporary light would go as well as the median crossing would be closed. Also as part of that, which amplifies and adds to that statement, is that the path that we originally planned, or we currently have planned for the Parkway, would remain as it is as far as the alignment of Buckwalter Parkway and the path of 5B going forward. And in order to facilitate that median cut closing, that simultaneous with the construction of the Parkway, there would be two additional access roads from the developments one through the Parkway, that would built at the same as well as an access road that has never been built which was part of the Development Agreement that would allow access out of the back of the development (Mr. Stewart is not exactly sure what the path is). That would add three additional access points for those residents as opposed to one access point currently out onto Buckwalter Parkway. All of that is to be done simultaneously such that that is accomplished. The key part is that this maintains the footprint or pathway for 5B and the intersection that will change with the Buckwalter Parkway or the Bluffton Parkway as we currently have it per the ordinance or

resolution that Council passed earlier, giving the County Administrator the directive to go forward.

REGULAR MEETING

The regularly scheduled meeting of the County Council of Beaufort County was held at 5:00 p.m. on Monday, May 9, 2011, in Council Chambers of the Administration Building, 100 Ribaut Road, Beaufort, South Carolina.

ATTENDANCE

Chairman Weston Newton, Vice Chairman D. Paul Sommerville and Councilmen Steven Baer, Rick Caporale, Gerald Dawson, Brian Flewelling, Herbert Glaze, William McBride, Stu Rodman, Gerald Stewart and Laura Von Harten.

PLEDGE OF ALLEGIANCE

The Chairman led those present in the Pledge of Allegiance to the Flag.

INVOCATION

Councilman William McBride gave the Invocation.

REVIEW OF PROCEEDINGS OF THE REGULAR MEETING HELD APRIL 25, 2011

It was moved by Mr. Rodman, seconded by Mr. Flewelling, that Council approve the minutes of the regular meeting held April 25, 2011. The vote was: YEAS - Mr. Baer, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Glaze, Mr. McBride, Mr. Newton, Mr. Rodman, Mr. Sommerville, Mr. Stewart and Ms. Von Harten. The motion passed.

PROCLAMATIONS

Foster Care Month

The Chairman proclaimed May 2011 as Foster Care Month throughout the County of Beaufort and encouraged all citizens to recognize and honor foster families for their many contributions to the well-being of our children. Ms. Theresa Greene, Department of Social Services, accepted the proclamation.

Public Works Week

The Chairman proclaimed May 15 through 21, 2011 as Public Works Week to be celebrated throughout Beaufort County and urge citizens to take the time this week to acquaint themselves with Public Works' daily contributions to improve their lives. Mr. Eddie Bellamy, Public Works Director, accepted the proclamation.

PUBLIC COMMENT

The Chairman recognized Ms. Lula Chisolm, a Burton resident, who addressed some issues she has been experiencing for quite a while. She is seeking the return of property taken from her boundary lines by Beaufort County surveyor Mr. Robert D. Trogdon, IV and others. At the Beaufort County Courthouse she was assaulted by Mr. Trogdon at the elevator January 2007. Since then Mr. Trogdon has sicced a multitude of friends and associates on her. Her grievances are in response to ongoing criminal acts of violence against her property, home, vehicle and daughter by Mr. Trogdon. She is in need of assistance to stop the insanity of the constant, continuous stalking, harassment, intimidation, etc. Ether and other harsh, deadly chemicals have recently been sprayed / dumped on her home, vehicle and personally and different pickups and small private planes and helicopters on the road as well as on top of her home, shed, and trees in Sheldon. Liquid meth has been made by her neighbor, Mr. Gordon, an associate of Mr. Trogdon. He seems to be sanctioned. Fumes are entering her home overpowering her. She has to leave her home overnight to seek medical attention. When Bray's Island smells the fumes, they get in the helicopter and spray everybody. Stalking to MUSC trying to slam and jam her from behind. They paid a doctor to have her involuntarily committed. All her personal business detailed in Sheldon community. Zero help from the Sheriff's Department. Refuses to write up reports and notify SLED. No response. No response to her issues. Some activities / organizations put in place to help folks like her also were paid to turn the other cheek. All of this to prevent her from getting her issues into court. Stalking has occurred from Beaufort County to and from other states. Paid mechanics to plant tracking and listening devices in her car. All five were found. Illegally preinstalled listening devices in her direct TV boxes within her home. Phone tapings. Past attorneys are redialing her family, associate attorneys offering them huge sums of money to sabotage her. The attorneys contact the employees to help them drop and not take her case. Paying everyone, everywhere, anywhere to help keep her issues from reaching the courts. Present attorney is from Charleston, South Carolina. Illegally taping her business.

Ms. Ruby Francis, representing Amateur Athletic Union (AAU) Basketball Program, stated AAU is a national organization that offers amateur sport programs for all people to have physical, mental and moral development of amateur athletics and to promote good sportsmanship and citizenship. For more information please visit the website aausports.org. This unit is a 501(c)3 organization. It is comprised of young men ages 16 and under from Beaufort, Lady's Island, Port Royal and St. Helena Island. The unit will travel this summer to various east coast cities for tournament play. One major advantage of playing AAU basketball is the opportunity to compete against the best players in the country and be seen by NCAA scouts from major colleges and universities which may lead to scholarship opportunities. Last year's team won third place in the National Division II held at Disney ESPN Wide World of Sports. AAU is not just about basketball. Winning increases players' confidence and causes them to work harder to achieve more. Playing basketball keeps the young men of Beaufort County focused on something positive which leads to greater futures for each of them. Tournament play allows each individual player to do his best work on the court causing the team to be greater. Learning to work as part of a team fosters camaraderie, sharing of ideas for improvement since no one player is good at everything, and creating opportunities for good communication. The young men selected to play

as part of the team are excited about this opportunity and they have been selected because there is greatness in each of them. To accomplish these goals, however, it is important that they have a place to practice and transportation to and from tournaments in various cities. We have approached Beaufort County gyms and School District gyms and find no gym will allow practice times for them in the evenings. We are asking Council to assist us with these matters. Please consider use of County facilities as we, too, are residents of Beaufort County. We work here. We play here. We pay taxes here. We go to school here. We shop here. This is a plea, on behalf of the young men of the unit, their parents and volunteer coaches. Thank you for moving quickly into action as tournament play has already begun. Thank you for your time and for your consideration of the young men of Beaufort County to keep them off the streets and engaged in positive, possibly life-changing opportunities.

Mrs. Jane Frederick, AIA, a Lady's Island resident, is a local architect and has been in business for 22 years and throughout those years her projects have been residential projects. She is here to support the County's amendment to the ZDSO for stormwater management one hundred percent. It is shortsighted not to adopt this amendment. Not only does this protect our rivers, it addresses the international problem of lack of access to freshwater. The freshwater situation worldwide is not encouraging. A 2009 study by Columbia University determined that the water shortages from the 2007 / 2008 drought in the southeast were due to the explosive population growth in the region and that this will happen again. As population grows, the availability of clean water becomes scarcer and scarcer. In the rain-rich southeast we may not understand the implications on how this affects us and the importance of conserving water. *The Atlantic*, in a November 2010 article, named the top ten United States cities that face the risk of running out of water in the next decades. Our neighbors, Atlanta and Orlando, were number nine and ten respectively. Orlando's main source of water is the Floridian aquifer, which is the same aquifer that well water in Beaufort County is drawn from. Atlanta's main water supply is from Lake Lanier. Georgia, Alabama and Florida have been engaged in a bitter 20-year battle over this freshwater reservoir. If the federal judge's ruling that Atlanta's withdrawals are illegal is upheld, this city will lose almost 40% of its water supply. In 2008 Georgia engaged Tennessee in a legal battle over their mutual boundary and control of the Tennessee River. One can only imagine that Atlanta will go after our water supply, the Savannah River, if they do, indeed, lose 40% of their water supply. It is imperative that we make smart decisions in conserving water. One of the easiest methods is to retain and use the rainwater that falls on our property.

Mr. Jim Bequette, a Lady's Island resident, commented the County used a 97% collection rate in its budget and 98.6% in the School District budget. He assumes people are going to pay part of their tax bill, but not all of it. Big tax collections are December and January. Hurricane season is August, September and October. By then the School District has spent most of that money. The School District increased by a favorable ruling so they got more tax revenue. That ruling was the State Revenue Department audited the break between owner-occupied and non owner-occupied and they increased the owner-occupied percent that had used in estimating. The School District did get more sales tax revenue, but less from the other side. There was no windfall. The reason the fund balance was build up because once Mr. Truesdale was hired, she started getting rid of a lot of the people who were not performing. The bulk of it is because of positions that Dr. Truesdale eliminated starting right after she got here. Regarding reserves, the balance at the

beginning of 2011 was \$31.1 million. The County budgeted using \$2.18 million of it. Right now he is estimating the School District is going to be short between \$4.5 million and \$5.0 million because of the phony 98.6% collection ratio. That will leave \$24 million in that fund. The County states it wants to have a two-month reserve with a goal of three. If the School District uses those targets, it is going to be way behind at the end of this year and at three months it has never been anywhere near it. He hopes these same mistakes are not made when the School District budget is considered this year.

Mr. Henry Sanders, a Hilton Head Island resident and owner of a rental home on St. Helena Island, spoke in favor of the County's amendment to the ZDSO for stormwater management. He has read the newspaper articles that builders are complaining about the amendment. They say it is too many rules. It is too stringent. It costs too much. It has not been studied enough. They claim \$2,000 to \$6,000 per house of extra cost to bring these lots, roofs, driveways, roadways into compliance with the standard updated stormwater rules is too high. He has a hard time accepting all of these cost complaints from builders and developers when they are too eager to sell their customers granite counters, stainless steel appliances, tray ceilings, flooring, etc. The truth is there is plenty of evidence right now that our waterways are endangered. They have been endangered. They urgently need protection from the excessive runoff that they have been experiencing. We now see frequent and extensive fishing area closures on all of our major local rivers. We have increasing of chemicals and toxins in them that are hardly consistent with the idea of pristine waterways. The key issue here boils down to the ratio of hard surfaces to pervious / softer surfaces and this determines how much rainfall goes right off these roofs and surfaces, carrying toxins with them and going roaring into these rivers in volumes that are too quick and too large for them to handle. This ratio is already dangerously high and growing. It is getting worse. It is clear that we need stringent rules to deal with the runoff in any area that is going to undergo development. The runoff and wildlife do not care whether it is unincorporated Beaufort County, the City of Beaufort, Bluffton or Hardeeville. These systems are all interconnected. All of our vehicles that brought us here today run on either gasoline or maybe diesel fuel. Our environment and the natural assets of the Lowcountry run on water. That water has to be kept clean enough and pure enough to do its job, to renew itself, and to free the wildlife. He asked Council to pass this ordinance as quickly as possible because the rivers and wildlife cannot afford it.

Mr. Jimmy McIntire, a Bluffton resident, is before Council to ask members to continue its diligent work protecting our estuaries so far and passing the County's amendment to the ZDSO for stormwater management. About a week ago the Natural Resources Committee met and there were quite a few educated people (Mr. Chris Marsh, Lowcountry Institute; Dr. Fred Holland, National Oceanic and Atmospheric Administration retiree; and Dr. Geoff Scott) who were there to answer any questions that the Committee might have about what this proposed text amendment was about. It became quite apparent that what Council is doing is very, very important. The next major step that needs to be done is to try to get our estuaries back. As everyone knows, there is not one river south of the Broad River that is not impaired and it is continuing to go bad. He hopes Council will vote to approve the text amendment.

Mr. Brandon Waring, who lives on May River Road, thanked Council for taking up the amendment to the ZDSO for stormwater management. He has lived here a long time. His children were born in Bluffton. He has talked about people cleaning up the river for a very long time. But, it seems like Council is going to do it. That is good. If not, Council is going to kill the goose that laid the golden egg. He does not know why people would come here, other than the beauty that is here. Who wants to swim in a polluted river? Who wants not to be able to eat the oysters that we were so famous for? Thank you, Council.

Mr. Reed Armstrong, representing the Coastal Conservation League, Beaufort Office, stated tonight Council will be considering first reading of the stormwater ordinance which is our second step at directing further degradation of our waterways. There has been a good deal of focus on the most expensive options for lots of records, but not yet built. But this ordinance amendment provides numerous other options which can be much less expensive and equally viable to protect our waterways. This may add some costs to construction, but it is worth it to protect our waters with a far better chance of success and nothing like the cost for trying to clean up later. In the Chesapeake Bay, after more than 25 years of combined federal and multi-state efforts and over \$6 billion spent, a successful outcome is still uncertain. Let's talk preventive action now.

Mr. Merritt Patterson, a City of Beaufort resident, is here today to give moral and strong intellectual support in holding the line on the School District budget. In these times when we have to make decision, Council sits at the pinnacle of having to tell the School District, "you need to hold the line on a budget", and that is a difficult stance to take particularly if you feel you do not have support from the citizens on that -- Council has citizen support. The fund balance of \$32 million is the largest unreserved fund balance in the state according to the South Carolina Education Act. There are a lot of businesses that are paying all of the operating expenses of the School District. Residents pay none of the operating expenses of the School District. Basically, if you increase 3%, you are saying to businesses, "we are increasing you 3% so we can operate your schools" while residents get a free ride on the operating side. On the debt service side, businesses pay 6% rate versus 4%. Basically, all businesses and commercial owners pay 50% more taxes toward debt service. That is an extraordinarily unfair burden on businesses and is somewhat reflected in what we generally call the "unfriendly business environment in Beaufort". When you hear the statement, "our bonding agent says we must maintain a good balance to keep our bond rating," there is not any amount of bond reserves that the bonding company would not like you to have. Certainly, having the largest one in the state must meet some sort of standard. There will be a lot of conversation, as we address the School District budget that they desperately need 2% or 3%. But turn to the legal section of the newspaper and look at the number of foreclosures. As a youth, a couple of people would show up and make comment, but now it would take you hours to go through the four and five pages of foreclosures. This is hard times for everyone and to put this extra burden, when the School District has a \$32 million fund balance, is inappropriate. Dr. Truesdale is doing a great job and Council is doing a good job. We need to hold the line on the School District budget this year. As an aside, the stormwater amendment affects 22,000 homes and at \$4,000 per home it is an \$88 million cost to the citizens to pick up whether Council passes the ordinance or not.

Mrs. Arlene Flick, a new resident of Bluffton, addressed the County's amendment to the ZDSO that allows for the control of stormwater volume from lots of record, but not built. While reading the local news online, she noticed an article about this issue and was appalled after reading a comment made by Annie Hansen, who is part of the builder network against stormwater recapture. Her argument against stormwater control was, "How do future homes affect a problem that is happening now"? What we do today and tomorrow greatly affects current or future problems. It is what we did not do yesterday that compounds the problem and makes it more costly to rectify. What drew her and her husband out of northern California into the marshes of the Lowcountry, was the beauty of the natural environment. After attending a lecture at the Conservancy at Palmetto Bluff, she was disturbed to find out that the salinity level is being lowered greatly due to stormwater runoff, thus, affecting the natural habitat of the marches. If not controlled now, the oyster industry will decrease. She has seen this happen in her town of Half Moon Bay, California outside San Francisco where salmon is no longer thriving and the crab season has been reduced to every few years. The argument by the building industry of an additional cost of \$1.00 to \$2.00 per square foot is not valid for two reasons. First, the initial cost of implementing stormwater strategies would be fairly reasonable to the new homeowner by the reduction in water cost monthly over the life of the structure. Second, if zoning is regulated, these strategies would then reduce the cost of implementing them would then decrease. Coming from the construction industry she knows that once the learning curve has been overcome, costs are significantly reduced going forward. She urged Council to rule in favor of stormwater control for her generation as well as future generations of Beaufort County.

Dr. Chris Marsh, Executive Director, LowCountry Institute, expressed support for passing the second phase of the stormwater ordinance on undeveloped lots as well as to address a couple of issues that have been of concern. First, how will it impact vacant lots as infill. Many of the areas that were built in Bluffton and in Beaufort were in areas that were laid out before flood insurance. If you are in one of those areas, then you have quite a bit of sand. Using the County on-line stormwater retention worksheet for single family lots staff developed, for his modest-size lot in Port Royal it showed that he would have no changes even if he were required to retrofit his house to meet the criteria. There are 22,000 lots that are platted, but have not been developed. Of those 15,600 are in Planned Unit Developments (PUDs). When we are talking about its impact, we are not trying to fix the impairments that have already occurred. We are talking about a preventive approach and that is the key issue. There are two main reasons to do this for economic reasons. First, it is far more cost effective to make these adjustments before a house is built on the site and in low-lying areas adding several feet of sand so that you have soil for infiltration. Second, if we are looking at the long-term economics of the area, we have to maintain Beaufort County's environmental quality because that gives us an edge of why people would want to move to our area and maintain the quality of life that we have gotten spoiled to. Another factor that has not been discussed and as a scientist he thinks needs to be brought forward, is the fact that scientists have revised their rates of rising sea level. Rather than talking 24 inches over the next 100 years, they are talking about 56+ inches. When you are talking about a rise of sea level of five feet, then you need to very concerned, as a County, providing services in low-lying areas. What we do in terms of stormwater maintenance also addresses some of those same issues -- how we do our construction or lack of construction in low-lying areas. In summary Dr. Marsh complimented staff who have done due diligence, have sought

feedback at the direction of the Natural Resources Committee, and have had on-going conversation with those who have concerns.

Mr. David Tedder, a Lady's Island resident and lawyer, spoke to the Transfer of Development Rights Program. He served with the technical advisory committee for approximately one year putting this ordinance together. He supports the ordinance. He thanked staff, MCAS Beaufort, and Department of Defense-Office of Economic Adjustment that assisted in bringing this ordinance together. He has commented at the Planning Commission and other times about his support for this ordinance. Referring to Section 106-3306(c)(3), he understands the words "30 days of issuance" were to be deleted from the ordinance. Mr. Tedder referred to Section 106-2205(a)(4) "The Planning Director shall develop and implement procedures, if needed to reduce the TDR allocation to reflect existing non-conforming or non-residential improvements if the owner declines to remove them." What is implicit in that, but is not explicit, there ought to be an increase for non-conformity if the owner does agree to permanently remove it. He suggested adding a comma as well as the words "and increased by one TDR for each existing improvement which the owner agrees to permanently remove" at the end of the sentence. That then gets us the residential units that we are trying to get out of the AICUZ area out of there by providing for the TDR Program. He mentioned this at the Planning Committee. It is implicit, but when it comes to an ordinance, it is better to be explicit and to say this is how it works one way or the other. He urged Council to pass ordinance. It provides some equity to the small landowners under AICUZ, specifically, in the Burton area.

Mr. J. Allen Patterson, President, Homebuilders of the Lowcountry, thanked Council and staff for their efforts in trying to resolve the stormwater management problem. Maybe one solution will not fit the whole County. What might happen at the Okatie River and May River might not apply to St. Helena Island. He is concerned about the \$60 million to \$100 million it will add to the building industry. Will this cost to the building industry resolve the problem? He has been an advocate for affordable housing for more than 13 years. He is concerned about the rising cost of housing hurting the building industry and ability to attract industry here. He is also very concerned about the rivers. He is here to try to understand the real problem and how the building industry can actually achieve it. This is not a water conservation issue. This is a protecting the estuaries issue. It needs to stay like that. Maybe a better option would be to handle it development by development. Regionally. This is a three-phase project. Phase I dealt with commercial. Phase II deals with control of stormwater volume from lots of record, but not built. Phase III will deal with roads and new subdivisions. A lot more work is needed on this issue.

Ms. Ann Ubelis, a Lady's Island resident and Chairman of the Beaufort Tea Party, thanked the Finance Committee and Governmental Committee members who met earlier today for their thoughtful debate on the Beaufort Commerce Park purchase and the appraisal value consideration pertaining to the purchase of \$2.5 million. Her personal observation of the joint committees in that debate has shown that its members did perform due diligence and our government will work if it does that for the economic welfare of the community as well as the protection of its people. Should the finding of today's joint session be brought before Council tonight, she urged Council to vote in agreement for the denial of purchase and return any consideration as to the future disposition of the Beaufort Commerce Park back to square one.

She also urges a full review of the Beaufort Commerce Park potential and detrimental properties as well as the appraisal values and recommendations before presenting any new proposals.

COUNTY ADMINISTRATOR'S REPORT

The County Channel / Broadcast Update

Mr. Gary Kubic, County Administrator, announced The County Channel partnered with the Marine Corps Air Station and their "Combat Camera" unit to provide complete coverage of this year's Air Show. The County Channel, along with the marines, were there in full force with our broadcast truck, four cameras to catch all the angles, and even some ride-alongs with some of the most talented pilots in the world. We will re-air the entire show, along with interviews and behind-the-scenes footage on Memorial Day. We want to thank our partners, the Marine Corps and especially, Col. Snider, who, with his help, developed a strong working relationship with The County Channel and to his credit we are now partners with the military.

The County Channel has also been working with the folks at Traffic Management Department to produce a video about their capabilities. Using the traffic cameras they can assist motorists in distress, as well as law enforcement during traffic stops. This video also highlights the State of South Carolina's new 5-1-1 system to check road and traffic conditions over the phone by dialing 5-1-1.

The County Channel will be running a new series of anti-meth public service announcements (PSAs). These were acquired from the Marathon County Sheriff's Office in Wisconsin, and will be played on The County Channel intermittently.

Solicitor Duffie Stone stated several years ago he attended a National District Attorney's Conference and every prosecutor in the room wanted to talk about methamphetamine. At that point there was very little methamphetamine in the Fourteenth Circuit, which is Beaufort, Jasper, Allendale, Hampton and Colleton Counties. There was a project at the time called, The Montana Meth Project. Their videos were very detailed and graphic, but delivered high-impact type advertisements that were being aired in the State of Montana. Solicitor Stone hired two lawyers from Arizona. One was a prosecutor who processed nothing but drug cases. The other prosecutor focused on sexual assault crimes. Both of those prosecutors told Solicitor Stone that in their time in Arizona, which, at this point was only a couple of years ago, 90% of all of their cases where methamphetamine and 100% of their sexual assault cases were somehow related to the use of meth. Solicitor Stone and Chairman Newton have been working on this for some time and with the help of The County Channel will air some meth videos. Fortunately, we do not have a lot of methamphetamine in Beaufort County. Unfortunately, for the last several months there have been methamphetamine arrests and labs that were being seized and people were arrested in other counties that are attached to Beaufort County in the Fourteenth Circuit.

Mr. Newton remarked methamphetamine is reported to be the most addictive substance known to man.

Solicitor Stone replied the people who have prosecuted in other state say exactly that – it is reduces your inhibitions. It increases any type of sociopathic personality that is already there. It is a tremendously additive substance. It is easy to produce. It is extremely important to get this message out now before meth becomes a problem in Beaufort County the way it has in so many other places in the country and, unfortunately, in the state as well.

Mr. Newton commented we are fortunate not have a methamphetamine problem in Beaufort County yet. Through Solicitor Stone's and Sheriff Tanner's efforts and education like these PSAs, hopefully, we will do an effective job of communicating how dangerous this substance is with the young people in Beaufort County. Some of the statistics are terribly alarming.

Mr. Rodman commented this past weekend, at the South Carolina Republican Convention, Solicitor Stone and Sheriff Tanner were presented an award for outstanding government service for initiatives that enforce federal immigration laws and keep violent, repeat offenders off the streets.

Two-Week Progress Report

Mr. Gary Kubic, County Administrator, submitted his Two-Week Progress Report, which summarized his activities from April 25, 2011 to May 6, 2011.

Introduction / Joshua Gruber, New Staff Attorney

Mr. Gary Kubic, County Administrator, introduced Joshua Gruber, the new staff attorney. Joshua was born in Greenville, Ohio. He is married to Ashley and has one son, Tyler, who is 23 months. Joshua graduated Clemson University with a BA in Political Science, Georgia State University with a Master of Public Administration degree with a concentration in Urban Planning Economic Development, Capital University Law School with a Juris Doctor and certificate in Governmental Affairs. He has previously worked for the Ohio Attorney General Office, a private practice with a focus on civil litigation, and most recently, as the Assistant County Attorney for Berkeley County.

Litigation / Hilton Head Island Airport

Attorney Ladson Howell stated his task tonight is to advise Council of the pending litigation we have in connection with the tree removal process at the Hilton Head Island Airport (Airport). The County has had much controversy over this and we have been involved in litigation for several months now. He is pleased to advise Council the appeal, that was taken from the Town of Hilton Head Island's action in granting the County a permit to remove the trees from the our own Airport, that the Zoning Board of Appeals for the Town ruled in our favor. Subsequently, the plaintiff, St. James Baptist Church, has appealed it to Circuit Court level. Judge Marvin Dukes, III, Master-in-Equity, heard us about two weeks ago in connection with a full hearing on the merits of the appeal from the Zoning Board of Appeals. Judge Dukes has advised us in writing that he is going to rule in the County's favor. There is a three-day waiting period this week for comments from the other side that they may make regarding an Order that we have

already submitted to Judge Dukes for approval. We feel very confident that we are going to prevail in that particular action. The next step in the state action is to go to the Court of Appeals or the Supreme Court of South Carolina and that is probably where we are headed. The most recent action, and he thinks that probably spurred Mr. Kubic to ask him to discuss this matter with Council, is the filing of a federal Complaint in our Federal District Court in Charleston. Basically, the Complaint has only been filed. It has not been served on County Council. We feel that is probably some strategy of providing as much delay as possible in our process in order to effectuate the removal of those trees. We feel, from the legal standpoint, that the Complaint is without merit as far as the County is concerned. It states that the County has somehow violated the Constitutional rights of the Plaintiff in a due process argument. Keep in mind, that we are only a permit holder. We have not affected the due process rights of anyone so we feel that is “out of the window.” The same is true of a 1983 action for a violation of civil rights. We do feel that Complaint is without merit. It probably will be served in the near future. We will probably make appropriate motions to dismiss it. The only good thing that can come about, it will run a parallel course in the timeframe that we expect in the state code action. Hopefully, they will come to a conclusion relatively at the same time. Mr. Howell has available a handout of the timeframes involved in handling a case in federal court at the different levels – service level, motion level, answer level, and how long it generally takes a case to move through the federal system. Keep in mind it takes 120 days in order for the Plaintiff to serve us. They may delay for quite some time before we actually get served with the pleadings.

Mr. Flewelling asked, “At the federal level is there any ability for the winning side to collect attorney’s fee?” Mr. Howell replied, “No sir, not in this type of case.”

Mr. Flewelling stated in other words the cost of this is being borne by the citizens of Beaufort County. Mr. Howell replied that is partly true, but we do have some good news. Since they have chosen the avenue of suing us for a violation of Constitutional rights, our insurance policy does kick in and they will hire an attorney to defend us.

Mr. Baer asked, “Haven’t there been FAA reimbursements for legal fees in cases like this?” Mr. Howell replied he has no knowledge of that. It is possible, but he is not aware of it.

Mr. Baer recalls seeing fund flows and budgeted items for the airports that were reimbursements for legal fees.

Mr. Caporale replied he thought it had to do with the aviation agreements on trees.

Mr. Howell said normally he does not think the FAA or any other federal agent would reimburse us for defending ourselves in court for violations in state or federal. Maybe in some takings issues, they may provide some legal fees.

Mr. Caporale said there is somewhere between \$150,000 and \$200,000 that was spent on legal fees at the Beaufort County (Lady’s Island) Airport.

Mr. Howell replied that issue dealt with condemnation of the air rights easements. This is a different kind of issue because the FAA wanted us to acquire those easements.

Mr. Newton asked if we can preempt the four-month delay by filing a Motion to Dismiss based on the fact that we know the lawsuit has been filed.

Mr. Howell replied we are currently researching that issue. We did not know it was filed until, obviously, someone alerted the media that it had been filed. Of course, with modern technology in the court system, you can now pull it up on the internet. That is what we did.

Ms. Von Harten inquired of 1983 action for a violation of civil rights.

Mr. Howell replied it was a violation of the Plaintiff's civil rights. There are three causes of action -- due process, the 1983 violation, and also an inverse condemnation which alleges that if we cut the trees then it effectually takes away some of their rights at the church. That cannot happen because we have not cut any trees.

Mr. Rodman learned today that there is some legislation pending at the state level, which would, if he understood it correctly, give the aeronautics folks in Columbia jurisdiction over zoning at the various airports. If that is the case, we need to make sure we understand that in case we need to have input back to our Delegation in terms of that particular legislation.

Mr. Howell has not seen the legislation.

Mr. Newton commented the South Carolina Association of Counties is opposed to the legislation and is working against giving the state aeronautics folks, as an invasion of Home Rule, authority.

Mr. Baer remarked considering the amount of money we may be spending on legal fees, has an effort been made at sitting down with the other side in attempting to negotiate?

Mr. Howell agreed in the affirmative. It is a non-negotiable issue according to the other side. They say we can trim the trees, but we need to remove them so we do not have this issue in the glide slope on airport property. Our consultants' feel and FAA feel that the trees need to be removed from the glide path on our airport property.

Mr. Baer stated the issue was trees having to come out of the glide slope. Trees can be trimmed out of the glide slope or trees can be cut out of the glide slope. If they are cut, it is cheaper for us in the long run. It could always be stated that we are trying to save money in the long run by putting the church's property at a detriment. It seems to Mr. Baer that this is something that could be negotiated, especially, if we are incurring substantial legal fees.

Mr. Newton stated we have a permit to cut trees. The legal issue is relative to a permit to cut trees, not trim trees. Mr. Howell agreed in the affirmative.

Mr. Newton is hopeful Mr. Howell's response to the litigation can be expedited. Hopefully, the research finds that you can file a Motion to Dismiss sooner rather than later rather than let the clock run on 120 days before requiring service to be done.

Mr. Rodman commented it is mindboggling that these folks are going down this path. Maybe we should be figuring what the cost penalty is and, perhaps, go ahead and trim them all and then come back, when we win the case, and remove those, but a lot of them are going to die anyway.

Mr. Newton remarked maybe this is an issue that would need to be taken up. The interesting thing we were in the permitting process for more than two years, if recall is correct, with the Town of Hilton Head Island (Town) to result in a permit to allow trees to be cut predicated on their change in the ordinance. Now, it appears, we are looking at another year or more delay based on the permit that was issued and granted. How long will it take to process a permit for approval to trim? We need to try to understand what that cost differential is recognizing that we do not have the ability to recover that cost differential from the party that is interposing the delay on public safety for the folks who come in and out of that airport.

Mr. Rodman replied perhaps it makes sense to start that process in parallel not knowing where all of that is going to end up.

Mr. Caporale's recollection of the advice we received from the Town Manager was that no permit was required, only a statement of intention to trim.

Mr. Howell commented that is not his interpretation of the Town Land Management Ordinance (LMO).

Mr. Newton remarked we can all see through what this is. This is an effort to make the cost of removing those trees so burdensome on the Airport that we finally reach a point, as some groups would like, to have to shut down and close this Airport. Or, that we are forced into a trimming situation because the delay is so extensive and the cost associated with continuing trimming of those trees every year is beyond that which any of us have. The FAA has said they are willing to pay reimbursement one time and they are not going to pay the trimming. The Airport is in the crosshairs of those folks who want it shut down. This most recent activity is to try to cause it to be shut down. We have heard that time and time again. It may make some sense to try to look at a parallel permit, but we do not have the capability of doing that and we have been told that we are not going to get a FAA reimbursement for it. It seems to Mr. Newton that the Town spent a lot of time working on its LMO. The County spent a lot of time working with the Town on their ordinance in a way that would address all of the various concerns. Who is to believe if trimming was the approach that would be taken, we are not going to get the same level of objection, just from a different front. Overall it is frustrating to try to move forward with a public safety project.

Mr. Rodman stated perhaps administration could come forward with some kind of a recommendation and analysis to tell us whether it does or does not make sense to look at the tree trimming permitting.

Mr. Baer reminded Council this issue is the tip of the iceberg. This is the on-Airport trees in the glide slope. There are a total of six areas of potential work. This is but one of the six. Some of the other ones will be more controversial because they are in other peoples' property. Again, the issue will be trimming versus cutting. Some think cutting is a cheap and dirty approach that the FAA will pay for and that we are not willing to pay the ongoing costs of running that Airport in a safe way by trimming trees.

Mr. Sommerville asked if abuse of process would be a fruitful topic for Council to discuss or is this simply a matter if you get free, *pro bono*, legal help you can file all the frivolous lawsuits you want. Is there is threshold for abuse of process in South Carolina?

Mr. Howell replied it is pretty liberal in this state and other states right now with respect to filing lawsuits. There may be a threshold for abuse of process, but this is not it.

Approval of Consortium Agreement between the Lowcountry Council of Governments, the Lowcountry Workforce Investment Board, and the Counties of Beaufort, Colleton, Hampton and Jasper

Mr. Gary Kubic, County Administrator, stated the relationship between Beaufort, Colleton, Hampton and Jasper Counties is a process established under the Workforce Investment Act of 1998. It involves our Chief Elected Officials. It involves a partnership with four counties and also develops a Workforce Investment Board with an administrative entity attached to that Board. This Agreement has been approved by three out of the four counties so far. Beaufort County is the last county to entertain this. One of the requirements here is that we wanted Beaufort County Council to have the privilege of seeing this resolution in total. The law under the Act of 1998 provides that it can be entered into by the designated Chairperson of County Council. The Workforce Investment Program is to basically move people from unemployment, no matter how they got there, to become a part of the viable workforce. It has a lot of opportunities for reinvention. It has opportunities for a Youth Council to be approved.

It was moved by Ms. Von Harten, seconded by Mr. McBride, that Council approve a Consortium Agreement between the Lowcountry Council of Governments, the Lowcountry Workforce Investment Board, and the Counties of Beaufort, Colleton, Hampton and Jasper. The vote was: YEAS - Mr. Baer, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Glaze, Mr. McBride, Mr. Newton, Mr. Rodman, Mr. Sommerville, Mr. Stewart and Ms. Von Harten. The motion passed.

Retreat Materials

Mr. Gary Kubic, County Administrator, reported staff sent the edits and comments that were supplied to us by Council to Mr. Lyle Sumeck. Hopefully, the final report will be coming forward soon.

DEPUTY COUNTY ADMINISTRATOR’S REPORT

Two-Week Progress Report

Mr. Bryan Hill, Deputy County Administrator, submitted his Two-Week Progress Report, which summarized his activities from April 25, 2011 to May 6, 2011.

Aerial Maps / Buckwalter Regional Park Soccer Field III addition; Lady’s Island Community Park Phase 1 Design-Build Project

Mr. Bryan Hill, Deputy County Administrator, reported the County is making some major improvements to Lady’s Island Community Park. This Park will offer a shelter, parking, all purpose fields, restrooms and perimeter fencing. Scheduled completion for the construction should occur spring 2012. The funding source for this project is regionalized impact fees and does not affect the general fund or capital improvement program. The cost to complete Phase 1 and Phase 2 is approximately \$450,000.

Mr. Bryan Hill, Deputy County Administrator, reported the County is adding a soccer field to Buckwalter Park. There are six soccer fields at this Park. However, we use three locations for soccer in the Bluffton area. That is causing increased activity on the other fields obviously. With this change it will allow Buckwalter Park to become the soccer complex. It will provide relief for the Bluffton Recreation Center which is where football is played as well as soccer in the afternoon. That field is taking a beating with over usage at this Center. That will allow the Center for football and some soccer play. It also allows Oscar Frazier Park to have two new baseball fields because we are under capacity in baseball fields. The funding source for this project is regionalized impact fees and does not affect the general fund or capital improvement program. The cost to finish the fields is approximately \$500,000.

Update / Beaufort County (Lady’s Island) and Hilton Head Island Airport Master Plans

Mr. Paul Andres, Airports Director, presented an update on the Airports since the last update of April 11, 2011. At the Beaufort County (Lady’s Island) Airport, the consultant has indicated he expects to complete the draft Master Plan Report by the of this month at which time those documents will be provided to all County Council and City Council members for review and opportunity to comment and ask questions. The consultant will then schedule a joint presentation to a joint session of County and City Councils as was held for County Council and Town Council for the Hilton Head Island Airport Master Plan. Following input and decisions of the elected officials regarding the recommendation of the Master Plan, we will incorporate those and forward those to the FAA for their review and approval. Regarding the tree obstruction issues, there has not been any change with the exception that apparently SCE&G is, on their own initiative, relocating the distribution lines that are on the three poles closest to the end of the runway. That will help eliminate 3 of the 13 utility pole obstructions at the Airport, but the FAA is still working with the Air Traffic Branch on resolving the remaining high transmission line power pole issues.

At the Hilton Head Island Airport the requested data that the FAA has asked to be added to the Airport Layout Plan drawing sets has been made. Those documents, multi-copies, will be provided to the FAA within this week with the exception of the tree obstructions. They have also asked that the tree obstructions on the north end of Airport be identified in those drawing sets because previously they had said there was no need to because they expected to have those tree obstructions removed, but they are still there. The consultant is still working on that, but the FAA has indicated that they, in turn, will start the formal staffing process without that data. It will be provided at a later date. They expect to get that formal review underway this week and complete it within a matter of months rather than the normal six months to one year that it normally takes to review the Master Plan. Of positive note, they have indicated also that they anticipate possibly issuing two grants this year to the Hilton Head Island Airport – one for construction activities which will involve trees and that type of thing and another for planning which will involve the follow-on plan that is associated with the Master Plan. Regarding tree obstructions, the Staff Attorney updated Council on the litigation that is ongoing right now. US Airways officials are carefully monitoring that situation. There was a conference call with their executives with the local station manager today. They had asked him, in turn, to come and speak with Council this evening to convey the concerns that US Airways has regarding the tree obstructions, the safety implications as well as the impacts on their operation, limitations and restriction as well. He fully intended to do so, however, he was involved in the multi-car accident in route here. He will not be with us tonight. He has asked that he be afforded the opportunity to speak with Council at the next meeting. Insofar as the Aircraft Rescue and Firefighting Facility, the punch list items are now complete. A certificate of compliance has been issued. The Certificate of Occupancy is pending connection of the range hood to the fire alarm monitoring system. We are in the process of ordering the remaining specialized firefighting equipment for that building and our MIS Department will be finishing the installation of the telephone and data equipment.

Regarding the Runway Safety and Drainage Improvement projects, there have been no changes.

Regarding the Design Projects, there have been no changes. We anticipate that we will be getting those design projects shortly.

Regarding Passenger Facilities Charge Program, that application preparation process is now underway. Mr. Andres met with the consultants last week to get that process started. He is meeting again with them tomorrow to further that process along as we move forward.

Mr. Baer remarked Runway 21 off-Airport 1,000 trees is part of the six areas he has mentioned in the past. We are going to have exactly the same problem here. It is his gut feeling that the people there would be willing to negotiate. He cannot speak for them. The issue there is trimming versus clear cutting and mitigation once trimming has happened.

Mr. Andres stated what is occurring with the off-Airport component, the Town of Hilton Head Island Land Management Ordinance (LMO) has indicated that every effort will be made to trim all of those trees off-Airport and they will only be removed if they cannot be saved. All

specimen trees are only to be trimmed one foot below the designated slope and that applies to all off-Airport property. There will be no clear cutting off-Airport.

Mr. Baer said the residents want some assurance of mitigation, too. He thinks there is a feeling that funds may run out of the trimming, but before the mitigation.

Mr. Anders replied the issue there will become if we trim the trees, there is no mitigation for trimming. There is only mitigation if trees are completely removed. That will be a topic for later discussion among members of Council.

Mr. Baer said that one seems negotiable. He always prefers negotiations to lawyers.

Mr. Caporale asked about the issue of replanting. Have we made any progress?

Mr. Andres replied the FAA has expressed their concerns, verbally, that they do not concur with planting of anything other than grass in the runway safety area. The Town of Hilton Head Island (Town) is stipulating that we plant other materials there. We seem to be at an impasse right now. By definition the runway safety area is an area that is supposed to be available with a smooth, level surface with no obstructions that if an airplane were to go off the end of the runway, the pilot has an opportunity to come to a safe stop.

Mr. Caporale questioned how we get over that impasse? Mr. Andres replied he is working with the FAA on the particular issue and, hopefully, will come to some kind of a recommendation.

Mr. Rodman said it seems we are at a point where we ought to write a letter to the Town and say the FAA is recommending the runway safety area be grass and give us an application why you want something else.

Mr. Andres replied that letter has gone out, under Mr. Kubic's signature, previously.

Ms. Von Harten suggested planting switchgrass, the grass Be Green uses to manufacture its material. It could also be educational so people can see what switchgrass looks like.

Mr. Newton said it might be a little difficult to harvest underneath the aircraft taking off and landing.

BUILDING CODES WORKFLOW SOFTWARE AND SERVICES FROM MANATRON FOR THE BEAUFORT COUNTY BUILDING CODES DEPARTMENT

This item comes before Council under the Consent Agenda. It was discussed at the April 25, 2011 Finance Committee.

It was moved by Mr. Rodman, seconded by Mr. Flewelling, that Council award a contract to Manatron in the amount of \$204,300 for Building Codes software, installation, data conversion, training and services to be funded from account 11435-56000. The vote was: YEAS - Mr. Baer,

Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Glaze, Mr. McBride, Mr. Newton, Mr. Rodman, Mr. Sommerville, Mr. Stewart and Ms. Von Harten. The motion passed.

SOUTH CAROLINA AERONAUTICS COMMISSION (SCAC) GRANT OFFER 11-002 FOR HILTON HEAD ISLAND AIRPORT

This item comes before Council under the Consent Agenda. It was discussed at the April 26, 2011 Public Facilities Committee.

It was moved by Mr. Rodman, seconded by Mr. Flewelling, that Council accept the South Carolina Aeronautics Commission Grant Offer 11-002 in the amount of \$32,718 for projects at the Hilton Head Island Airport. FAA Grant #30 (\$1,243,296) and the associated State Grant #11-002 (\$32,718) will pay 97.5% of the cost for the following projects at the Hilton Head Island Airport: Runway 21 On-Airport Tree Obstruction Removal and Mitigation, Design Services for Lighted Sign Relocation, Reimbursement of Legal Expenses (Avigation Easements), and Preparation of Disadvantaged Business Enterprise. The vote was: YEAS - Mr. Baer, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Glaze, Mr. McBride, Mr. Newton, Mr. Rodman, Mr. Sommerville, Mr. Stewart and Ms. Von Harten. The motion passed.

BUCKWALTER REGIONAL PARK SOCCER FIELD III ADDITION

This item comes before Council under the Consent Agenda. It was discussed at the April 26, 2011 Public Facilities Committee.

It was moved by Mr. Rodman, seconded by Mr. Flewelling, that Council award a contract to JS Construction Services, Inc. in the amount of \$494,695 for the Buckwalter Regional Park Soccer Field III addition. This project is to be funded from Bluffton PALS Impact Fees account 09030-54451. The vote was: YEAS - Mr. Baer, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Glaze, Mr. McBride, Mr. Newton, Mr. Rodman, Mr. Sommerville, Mr. Stewart and Ms. Von Harten. The motion passed.

LADY'S ISLAND COMMUNITY PARK PHASE 1 DESIGN-BUILD PROJECT

This item comes before Council under the Consent Agenda. It was discussed at the April 26, 2011 Public Facilities Committee.

It was moved by Mr. Rodman, seconded by Mr. Flewelling, that Council award a change order to add bathrooms to the pavilion, construct a second multi-purpose field, and fence the remaining perimeter of the park to JoCo Construction, Inc., in the amount of \$231,290 from the Lady's Island PALS Impact Fees account 09060-54450. The vote was: YEAS - Mr. Baer, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Glaze, Mr. McBride, Mr. Newton, Mr. Rodman, Mr. Sommerville, Mr. Stewart and Ms. Von Harten. The motion passed.

HOSPITALITY TAX FUNDS / ONE-TIME APPROPRIATION OF \$101,000

This item comes before Council under the Consent Agenda. It was discussed at the April 25, 2011 Finance Committee.

It was moved by Mr. Rodman, seconded by Mr. Flewelling, that Council award a one-time appropriation of \$101,000 hospitality tax funds, as recommended by the Accommodations Tax Board as follows: Penn Center, Inc. - \$10,000; Beaufort County Black Chamber of Commerce - \$5,000; Main Street Beaufort, USA - \$3,000; Arts Council of Beaufort County - \$2,500; Bluffton Historical Preservation Society - \$7,000; Concours d'Elegance - \$3,500; Friends of Fort Freemont - \$4,000; Hilton Head Symphony Orchestra - \$1,000; Gullah Festival of South Carolina - \$8,000; Historic Beaufort Foundation - \$1,000; Coastal Discovery Museum - \$2,000; Lowcountry Estuarium - \$1,000; Daufuskie Island Historical Foundation - \$2,000; Mitchelville Preservation - \$8,000; Arts Center of Coastal Carolina - \$7,000; The Sandbox - \$1,000; Friends of Hunting Island State Park - \$5,000; Literacy Volunteers of the Lowcountry - \$5,000; Lowcountry Tourism - \$4,000; Hilton Head Island Chamber of Commerce - \$10,000; Main Street Youth Theater - \$1,000; and Beaufort Regional Chamber of Commerce - \$10,000. The vote was: YEAS - Mr. Baer, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Glaze, Mr. McBride, Mr. Newton, Mr. Rodman, Mr. Sommerville, Mr. Stewart and Ms. Von Harten. The motion passed.

TEXT AMENDMENT TO THE BEAUFORT COUNTY COMPREHENSIVE PLAN, APPENDIX L. BUCKWALTER PARKWAY ACCESS MANAGEMENT PLAN, WITH A NEW FIGURE 5 THAT ALLOWS THE INSTALLATION OF A TEMPORARY LIGHT AT PARKER DRIVE AND A MEDIAN CROSSOVER MODIFICATION WITH THE UNDERSTANDING THAT THE TRAFFIC LIGHT WILL BE REMOVED WITH THE CONSTRUCTION OF PHASE 5B OF THE PARKWAY

This item comes before Council under the Consent Agenda. It was discussed at the May 2, 2011 Natural Resources Committee.

It was moved by Mr. Rodman, seconded by Mr. Flewelling, that Council approve on first reading a text amendment to the Beaufort County Comprehensive Plan, Appendix L. Buckwalter Parkway Access Management Plan, with a new Figure 5 that allows the installation of a temporary light at Parker Drive which shall be removed upon completion of Phase 5B of the Buckwalter Parkway, and the median opening at Parker Drive will be closed upon completion of Phase 5B, and Phase 5B alignment shall remain as is, and as part of Phase 5B construction, two additional residential access points will be simultaneously built to provide three residential access points for adjacent residents. The vote was: YEAS - Mr. Baer, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Glaze, Mr. McBride, Mr. Newton, Mr. Rodman, Mr. Sommerville, Mr. Stewart and Ms. Von Harten. The motion passed.

TEXT AMENDMENT TO THE BEAUFORT COUNTY ZONING AND DEVELOPMENT STANDARDS ORDINANCE, ADDING A NEW ARTICLE: ARTICLE XVII. TRANSFER OF DEVELOPMENT RIGHTS (TDR)

Mr. Glaze concern is the lack of due diligence vetting this proposed ordinance with the public. The ordinance as proposed does not address heirs' property. This ordinance is designed for the small landowner, but it appears developers are actually benefiting. According to the TDR options, the receiving area property owner needs to purchase TDRs to increase density, once he increases density that is an advantage of that particular developer. His concerns involve the sending units, the areas in which the property has already been downzoned as well as property owner who has no chance of enhancing their zoning. The only way they can benefit is that the developer purchasing the receiving unit, negotiate and compromise to make sure the individuals who are selling their property get their maximum worth since they are receiving it to benefit more. We have talked about options, but it is not written in the ordinance. It was his understanding if heirs property was involved, then they would not consider it. Is that correct?

Mr. Sommerville replied what was said was unless you can get a clear title, then it would not qualify.

Mr. Glaze remarked heirs' property does not have clear title. If the county is going to adopt an ordinance, due diligence should have occurred prior to consideration of first reading approval. This item needs to go back to committee for further discussion. The people, who are most affected, will not benefit. He will not support the motion.

Ms. Von Harten stated the heirs' property situation is a problem all over Beaufort County. There are a lot people who cannot do what they want to do with their land because of the heirs' property situation. There are several organizations trying to address heirs' property. We need to continue to work with those organizations. This is not the ordinance to do that.

Mr. Tony Criscitiello, Division Director-Planning and Infrastructure, gave a little background on this issue. When the Planning Commission met, Mr. David Tedder made some comments and the comments were taken into consideration. The Planning Commission gave to the staff the opportunity to review Mr. Tedder's comments; and if we felt that the comments were minor, that they could go on to Council without further referral back to the Planning Commission. Staff has had the opportunity to do that. In regard to Section 106-3306, Sending Area Easements, paragraph (c)(3), it was felt that Mr. Tedder had a point in regard to the 30-days of issuance and it should have defaulted back to the original language “. . . within an allotted time period.” It gives the staff an opportunity, based on a case-by-case situation, to determine whether or not that time of 30 days, which is hard and fast, would create a problem. We concur with Mr. Tedder on that point.

Mr. Criscitiello talked about Section 106.3305(a)(4), “The maximum permitted density shall be reduced by one TDR for each existing dwelling unit on the property. The Planning Director shall develop and implement procedures, if needed, to reduce the TDR allocation to reflect existing non-conforming or non-residential improvements if the owner declines to remove these improvements from the sending site.” This is somewhat difficult for some to put their hands around. How much of a universe is the non conformities in terms of the total potential units that would be created in addition to the ones that we have identified as a result of non-conforming

uses. We felt that this is something that we leave alone. This is a pilot project to span the universe by 1,403 TDRs to some unknown number would be probably be unwise, given the fact that this is pilot project. We are, as staff and including MCAS Beaufort and other folks as well, in agreement that we should bring Section 106-3306(c)(3) into conformance with the original language, but leave the language in Section 106.3305(a)(4) alone.

Mr. Flewelling is concerned about Mr. Glaze's question concerning heirs' property. Is there anything we can do to resolve the issue specifically within the sending areas? Is there any program that we might be able to access, from statewide sources, to get funds to help people who own heirs property in that specific area.

Mr. Criscitiello is willing to do some further investigation and research on that point. Ms. Von Harten made an excellent point that there are organizations that are set up for that purpose. He does not have that answer this evening. He understands fully the point. He would only add that with the TDR Program, clear title is an absolute must.

Main motion.

It was moved by Mr. Sommerville, as Natural Resources Committee Chairman, that Council approve on first reading text amendment to the Beaufort County Zoning and Development Standards Ordinance, adding a new article: Article XVII. Transfer of Development Rights.

Motion to table.

It was moved by Mr. Glaze, seconded by Mr. Flewelling, that Council table the motion. The vote was: YEAS - Mr. Caporale, Mr. Flewelling, Mr. Glaze and Mr. Rodman. NAYS – Mr. Baer, Mr. Dawson, Mr. McBride, Mr. Sommerville, Mr. Stewart and Ms. Von Harten. The motion failed.

Motion to postpone.

It was moved by Mr. Dawson, seconded by Mr. Caporale, that Council postpone the motion until Mr. Criscitiello has concluded his research and reports back to the Natural Resources Committee.

Ms. Von Harten remarked we have been working on this proposed ordinance for years. Heirs' property is a problem and it is something that has dogged us for many, many years. It is something we need to resolve. She does not want this ordinance to get hung up on the heirs' property issue. She would like to see this pilot program that so many entities have been involved in, move forward. We can move forward with the heirs' property situation in parallel if we decide it is a priority. Heirs' property issues did not come up as one of the top priorities at our retreat. It is not a good reason to delay something that has been so long in coming before Council.

Mr. Glaze replied we need to deal with the heirs' property situation. It is a serious problem in certain areas of the County.

Mr. Dawson said the issue of heirs' property in this TRD process certainly deserves the research Mr. Criscitiello has been asked to provide Council. He will support the motion.

Mr. Flewelling will support the motion because Mr. Glaze deserves the answer to his question. We should try to find a way to help some of the people in that sending area, specifically, to resolve title issues on their property. If the answer is "no, there is nothing we can do", we should then move forward and he will then support the motion to approve on first reading the TDR ordinance. He supports the TRD Program. It is a good idea, but a little more information can help in the process that has already taken two years to get here. Is another month going to hurt the process?

Mr. Criscitiello answered Mr. Flewelling question. We have a substantial sum of money to fund the bank. These funds are not offered to us for an indefinite period of time. Staff could probably finish its research before second reading. If Council moves it forward for first reading, we will not lose a month, we preserve our opportunity to avail ourselves of the seed money for the bank, and then we also have an opportunity to come back to Council before second reading / or at second reading with the information that will address the question. This is not something that is so foreign to us, in terms of heirs' property that we cannot move on this relatively quickly.

Mr. McBride stated in light of what Mr. Criscitiello said, this is first reading and we still have an opportunity to make changes at second reading. Development of this ordinance has been in process for more than two years. This is a pilot program. It is not going to be perfect. We want to see what works. We have to do something before you know what you can do at all. He will vote in opposition of the motion to postpone.

Mr. Sommerville shares Mr. McBride's view. The money is not available indefinitely. It is available for a finite period of time. We have been pushing our luck on that one by having this issue go on as long as it has. He is a co-owner of heirs' property. It is a problem he had years ago and it is a problem he expects to have years from now. It is a problem, but he does not see it being solved in the timeframe we are talking about moving this ordinance forward. It does not mean he does not encourage staff to come forward with any thoughts they have, but that is a huge problem that has been going on for many, many years and it is going to be going for a lot of years in the future.

Mr. Dawson, as maker of the motion, and Mr. Caporale, who seconded the motion, seconded the motion, withdrew the motion to postpone.

Vote on the main motion: Council approve on first reading text amendment to the Beaufort County Zoning and Development Standards Ordinance, adding a new article: Article XVII. Transfer of Development Rights. YEAS - Mr. Baer, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. McBride, Mr. Newton, Mr. Rodman, Mr. Sommerville, Mr. Stewart and Ms. Von Harten. NAYS – Mr. Glaze. The motion passed.

AN ORDINANCE OF THE COUNTY OF BEAUFORT, SOUTH CAROLINA, TO AMEND THE ZONING AND DEVELOPMENT STANDARDS ORDINANCE (ZDSO), TEXT AMENDMENTS TO THE BEAUFORT COUNTY ZONING AND DEVELOPMENT STANDARDS ORDINANCE (ZDSO) THAT ALLOW FOR CONTROL OF STORMWATER VOLUME FROM “LOTS OF RECORD BUT NOT BUILT.” THESE CONTROLS WILL MITIGATE WATER RESOURCE IMPACTS FROM CONSTRUCTION IN PREVIOUSLY APPROVED DEVELOPMENTS THAT DO NOT HAVE VOLUME CONTROLS. SECTION 106-7. EXEMPTIONS OF DEVELOPMENT TYPES; SECTION 106-8. EXEMPTION FROM SUBDIVISION REVIEW; SECTION 106-18. DEFINITIONS. (ADDING NEW DEFINITION—BEST MANAGEMENT PRACTICES, ON-SITE); SECTION 106-732. ZONING PERMIT; SECTION 106-2857. EXEMPTIONS FROM SITE RUNOFF CONTROL AND DRAINAGE PLANNING/DESIGN; SECTION 106-2861. RETENTION/DETENTION FACILITIES; AND SECTION 106-2865. ON-SITE SINGLE FAMILY LOT, BEST MANAGEMENT PRACTICES (BMP (ADDING NEW SECTION))

It was moved by Mr. McBride, seconded by Mr. Baer, that Council approve on first reading text amendments to the Beaufort County Zoning and Development Standards Ordinance (ZDSO) that allow for control of stormwater volume from “lots of record but not built.” These controls will mitigate water resource impacts from construction in previously approved developments that do not have volume controls. Section 106-7. Exemptions of Development Types; Section 106-8. Exemption from Subdivision Review; Section 106-18. Definitions. (adding new definition—Best Management Practices, On-Site); Section 106-732. Zoning Permit; Section 106-2857. Exemptions from Site Runoff Control and Drainage Planning/Design; Section 106-2861. Retention / Detention Facilities; Section 106-2865. On-Site Single Family Lot, Best Management Practices (BMP) (adding new section). The vote was: YEAS - Mr. Baer, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Glaze, Mr. McBride, Mr. Newton, Mr. Rodman, Mr. Sommerville, Mr. Stewart and Ms. Von Harten. The motion passed.

AN ORDINANCE TO ESTABLISH, PURSUANT TO SECTION 4-1-170 OF THE CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED, A MULTI-COUNTY INDUSTRIAL/BUSINESS PARK, TO BE KNOWN AS THE RIVERPORT MULTI-COUNTY PARK, IN CONJUNCTION WITH JASPER COUNTY, SOUTH CAROLINA, SUCH PARK TO BE GEOGRAPHICALLY LOCATED IN JASPER COUNTY, SOUTH CAROLINA; TO PROVIDE FOR A WRITTEN AGREEMENT WITH JASPER COUNTY AS TO THE SHARING OF THE REVENUES AND EXPENSES OF THE PARK; TO PROVIDE FOR THE DISTRIBUTION OF REVENUES FROM THE PARK AMONG TAXING ENTITIES HAVING JURISDICTION OVER THE PARK; TO PROVIDE FOR A FEE IN LIEU OF AD VALOREM TAXATION; AND OTHER MATTERS RELATED THERETO

Mr. Stewart, as Governmental Committee Chairman, this is a multi-county industrial park (MCIP) with Jasper County. This MCIP is for Riverport. He is pleased that Jasper County has asked Beaufort County Council to cooperate with them in another MCIP. This MCIP will divide

one percent (1%) of the fee in lieu revenues to Beaufort County. There is no liability of our part. Jasper County and the City of Hardeeville are responsible for all infrastructures and any cost associated. Beaufort County is simply a partner in the process to allow them to meet the state requirements for a MCIP.

It was moved by Mr. Stewart, seconded by Mr. Dawson, approve on first reading an ordinance to establish, pursuant to Section 4-1-170 of the Code of Laws of South Carolina, 1976, as amended, a multi-county industrial/business park, to be known as the Riverport Multi-county Park, in conjunction with Jasper County, South Carolina, such park to be geographically located in Jasper County, South Carolina; to provide for a written agreement with Jasper County as to the sharing of the revenues and expenses of the park; to provide for the distribution of revenues from the park among taxing entities having jurisdiction over the park; to provide for a fee in lieu of ad valorem taxation; and other matters related thereto.

Mr. Ed Blakely gave a presentation about Riverport and the company developing the site, Stratford Land. Stratford Land Company is a land acquisition company based out of Dallas, Texas. To date, in eight states from Arizona to the Southeast Coast, Stratford invested more than \$1 billion in land. All of the acquisitions are paid for with cash raised from investors. None of the assets, including Riverport, have any debt on the property. Investments in South Carolina are in excess of \$120 million and over 20 assets that stretch between Myrtle Beach and Hardeeville. Riverport, with 5,100+, is the largest of those assets in the state. This MCIP designation will open the door for businesses that will locate in Riverport to qualify for all South Carolina Department of Commerce employer incentives. These are essential in order for Stratford to compete for the large companies that are the large job providers. By becoming a part of the Riverport MCIP Beaufort will also become an active member in the process of creating jobs for our region. Being a member of the Park will provide financial benefits to the County as well. Stratford purchased the Riverport property in March 2008. The master plan was put on the property in 2009. Planned Development District (PDD) / Development Agreement (DA) amendments occurred in October 2009. Phase I included 342 business park permits was ready in 2009. Given the proximity to the Savannah Port there is a great chance to make a business park, not a residential area. All of the permitting activities have been completed. There are contractors on the property this week doing some of the initial land work. About a year ago, Stratford engaged the services of Jones Lang LaSalle out of Long Beach, California as an international brokerage firm for port-related matters. A surprisingly number of the large global players see Savannah, like it, like the efficiency and the markets served. Stratford is pushing through the wetlands permit and today are working to get the MCIP fully approved – Beaufort County and City of Hardeeville. Mr. Blakely said they anticipate breaking ground in mid-2011, pending the MCIP full approval. Mr. Blakely then walked the Governmental Committee members through several maps showing the Riverport location relative to the Savannah Port and other important transportation corridors, and then the master plan. The Riverport MCIP is a 5,136-acre park with 1,700 acres of business park/light industrial and 900 acres of commercial village. Another 2,536 acres remain residential or civic uses to be removed from MCIP. Mr. Blakely briefly went over the estimated job creation over the course of building out. Road construction is expected to create 3,602; building construction 7,047 jobs. Regarding the 17 million-square feet of industrial

facilities, 900 acres of commercial and two adjacent neighbors, the small corner of Jasper County is expected to provide 24,118 permanent / ongoing jobs.

Mr. Lamar Mercer said Stratford Land has worked with the City of Hardeeville to put together a municipal improvement district that consists approximately 1,200 acres encapsulating Phase I, II and III with the idea of going out to the municipal bond market in the very near future and obtaining approximately \$22 million of infrastructure funds to put the park in place. Phase I and Phase II area, located at the southern end of the property, consist of approximately 500 acres. Phase I is permit ready. The list of initial capital improvements are: (i) Exit 3 – Riverport Parkway North Interchange Justification Report / NEPA Permitting - \$0.97 million, (ii). Riverport Parkway South Design / Permit \$0.17 million, (iii) Phase 2 Road / Drainage / Earthwork / SCDOT access - \$1.1 million, (iv) Phase 1A Road / Drainage / Earthwork / SCDOT Access - \$5.73 million, (v) 500,000 gallon elevated water tank - \$1.8 million, (vi) Phase I Water / Sewer System - \$3 million, (vii) Phase 2 Water / Sewer System - \$0.7 million, (viii) Fire Station - \$3.56 million, and (ix). Other improvements - \$3.7 million. The total is \$21 million. The initial interchange permitting and all infrastructure necessary for the Phase I and Phase II business park areas to become shovel ready is reactivation of the CSX rail line which is a primary component of businesses looking to relocate to this area. Stratford Land began working with the City of Hardeeville in 2009 for the bid process. The first part of this year to the middle of the year they worked through the funding process, and establish the MCIP district and are working on design and permitting with the anticipation that Phase II will be fully designed by the middle of 2011. Construction should begin on Phase I and II with infrastructure construction sometime in 2011. While this is going on, any prospects that come along in the late part of this year can begin building.

The vote was: YEAS - Mr. Baer, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Glaze, Mr. McBride, Mr. Newton, Mr. Rodman, Mr. Sommerville, Mr. Stewart and Ms. Von Harten. The motion passed.

PRESENTATION / FY 2011 / 2012 SCHOOL DISTRICT BUDGET PROPOSAL

Mr. Rodman, as Finance Committee Chairman, explained at the May 5, 2011 Finance Committee meeting, members received the preliminary presentation by the School District (District). It was not detailed in the sense of a final budget. It was agreed that that would be forthcoming for those who want to look at it in greater detail. We also agreed that Council questions would channel through Mr. Caporale. It is clear to everybody, but it was highlighted again, that if we were to compare the two budgets, the County and the District, the District's initial proposal, which the Board of Education (Board) will finalize May 17, 2011, would be characterized as being flat and being the same expenditure level as last year FY 2011, but asking for approximately three (3%) percent increase to offset the amount of decline in collections. Whereas the County budget FY 2012, which Council is anticipating at a level tax rate, with the fall in collections actually being a deduction. As we are aware, there are differences in terms of how the two budgets are impacted by things like 4% versus 6%, on the other hand we all have the same taxpayers. What Mr. Rodman had suggested at the meeting was, that for talking purposes, the District has come forward with a Plan A, but we would clearly want to request that

the District advise us what the impacts would be if they hold the tax rate level and that could come from either reductions in the operating expenses and / or whatever they might do in using funds out of fund balance – Plan B.

We have two issues here to struggle with tonight. One, we cannot solve tonight, but we need to be understanding of it as we work forward and make sure we are on the same wavelength. Last year FY 2011 -- Council typically approves the expenditure budget in the June timeframe and finalizes the tax rate / level at the end of August. Some of us kind of thought that Council was really approving the expenditures budget, recognizing that the tax rates would be set in the future and some looked at it as if Council approved the expenditure budget then we were obligated to adjust the tax rate accordingly which could, in fact, have an increase. We are not going to resolve that one tonight, but it is something as we move into the June timeframe we have got to make sure we are on the same wavelength and do not have that kind of disconnect between the two bodies. Perhaps where we are tonight, and members of Council are very interested in is what the impact is if the tax rate was to be held at zero and perhaps that may be something Council would formally consider. Mr. Rodman views the issue on the table as follows: (i) whether we move the budget process along at first reading, recognizing that we are moving it along, (ii) not approving what the District has put forward or, (iii) Council is only interested in a flat tax. How do we go forward and look at Plan A and Plan B in parallel?

Mr. Newton stated we have a committee recommendation for approval of first reading, by title only, of the District FY 2012 budget proposal. We are challenged somewhat by the fact that the information that went to the media and the information that was linked on the internet, disseminated in Council data package, and otherwise does have a budget ordinance prepared that includes a millage increase as reflected by the numbers. The information that has been disseminated, as being considered by Council tonight, is Plan A, as described by Mr. Rodman.

Mr. Fred Washington, Chairman of the Board, is here tonight to seek Council support for public education in Beaufort County. That is difficult during these times. Think about illiteracy and ignorance. If we do not educate the first time around, you do not get a second chance. We are not a perfect district. But the record of the Board and this District during the past four to five years proves or shows that there have been significant improvements and we are trending in the right direction.

Illiteracy and ignorance will result in higher law enforcement costs, higher health costs, higher welfare costs, and higher other social costs. Education helps prevent the increase in those areas. Mr. Washington does not mind being challenged for the dollars that are entrusted to him to spend to improve education in Beaufort County. He welcomes people challenging the decisions that he makes. He deals with the cards that are dealt. He cannot go back and change what happened 30 years ago. He can deal with what the Board does now. In closing it is not just about money. While money is important, we need support in getting the state to act on early education. We need to do a better job as Judge Thomas Cooper said, "The state is not doing a good job in preparing child to come to school. We are suggesting some basic things can be done without additional dollars to help us prepare child to come to school so that we do not have to spend as much of our resources on remediation." That is what the District is doing. Not just the academic

or intellectual remediation, but the lack of socialization that becomes disruptive to learning and the process. Something simple that can be accomplished without more money, but it does require us to work together. The District has worked very well with County agencies. Mr. Washington would like to see more Council involvement, as policy makers, to help promote that even more. Regarding taxes, Mr. Washington does not like paying taxes either, but he has to. However, if he knows he is going to get a return on his payment, he does not mind doing it. He asked Council to get involved in ROAR. We need true tax reform in this state including addressing Act 388.

Mrs. Phyllis White, Chief Operational Services Officer, presented fundamental information, as requested by the Finance Committee. The School District's FY 2011/2012 is a preliminary budget. It will not be voted on until May 17, 2011. In 2007 the School District lost \$16 million in state revenue, Education Finance Act (EFA), per pupil funding. Beaufort County has the only District that does not receive EFA funding. Also, Act 388 was imposed and provides an incentive for taxpayers to switch from 6% to 4%. The District has also had the loss of revenue due to a recent reassessment and a decrease in local revenue due to poor tax collection rate. When we rolled back during reassessment, the District lost over \$4.0 million. It does qualify, under Act 388, as deficit when speaking with State Department of Revenue. This had a significant impact on some of the decisions of the Board regarding the tax increase. It has an impact in our current year as well as previous year. This allowed our citizens to experience a tax decrease over the last two years. Current year collections are very significant. The County, too, is experiencing poor collections. The projected FY 2011 collection rate has a shortfall of \$10.8 million for collections as of March, and projected year ending collections could be short \$4.9 million. The District is looking at end the year, including July and August, receivable collection rate of 94.5%. The budget ordinance proposed stated the District will be using \$2.8 million of fund balance and it is looking more like the District will use \$6.2 million. This will draw the fund balance to a level that is below 60 days. The District's preliminary operating budget for FY 2011/2012 is \$175,270,150. It is flat over the previous year.

The District was given the directive by the Board to bring in a flat budget which has been done. It is preliminary because there are still things that are not decided upon by the State. These things include teacher step increase, changes in state revenue and local revenue. The public needs some input. The last public hearing will be held May 10. The budget is scheduled to be certified by the Board on May 17, 2011. The District is also awaiting some information from the state. What has been discovered since the May 5 Finance Committee meeting, is that the state is given discretion to waive / or not have the step increase for teachers.

District expenditures have increased every year expect for proposed budget FY 2012. The reason why we increase every year is that we have mandated increases from the state – teacher salary step, cost of living increases, and benefits. We do not have an opportunity to choose another benefit as other organizations may do that. We have our usual contractual increases. There was an increase in operating costs which totaled \$5.5 million. The most significant increases are as follows: (i) Mandated state benefit increases - \$2 million; (ii) Mandated teacher step increase - \$1.4 million; (iii) Operational contract increases - \$.8 million; (iv) Utility increases - \$.3 million; (v) Workers' compensation - \$.3 million; (vi) Substitute teachers \$.2 million; and (vii) Riverview Charter School - \$.1 million for additional 38 students. The District

has absorbed these increases. Over the last three years, the District has been making reductions in its budget. For FY 2012, the District will be eliminating 80 positions, 35 of those were teaching positions by raising class size. The District has eliminated 169 positions in the last three years even though student enrollment has increased by 205. The two items that have the most significant impact on the schools and instructions are reducing coaching positions in math, science and literacy and increasing class sizes in grades K-12. Other reduction include: (i) No cost of living increase for employees for the past three years, (ii) Eliminating International Baccalaureate program at three schools, (iii) Reducing 10% in non-salary District-level departmental budgets, (iv) Reducing energy consumption (kwh usage lower than 2006), (v) Freezing administrator step increases, (vi) Reducing athletic and academic stipends, (vii) Reducing athletic and supply allocations to schools, (viii) Renegotiating contracts with vendors, and (ix) Reducing contract days. The District is still increasing in enrollment. The District's external auditor cautioned the Board that if we continue to cut at the District level staff we are compromising our internal controls. She presented the Committee with a graph demonstrating the seven-year enrollment comparison which showed both actual and projected, based on a 45-day count. There was an increase from prior year actual of 320 in FY 2010, 56 in FY 2011 and are anticipating 113 for FY 2012. She presented staffing decreases with the Committee. 169 positions have been eliminated in the last three years. She also presented the efficiency ratios which demonstrate that the District is serving more students with fewer people. The efficiency ratio is increasing.

Dr. Valerie Truesdale, Superintendent, stated the District is making steady progress in the right direction and trending. Regarding academic achievements at the national level, the District uses a nationally norm referenced test, MAP, one grade (grade 5) was above the national average in 2007 in mathematics. In 2010, all six grades 3 to 8 were above the MAP national average. On college admissions tests, the SAT average increased 30 points to 1,416 although as a District, we are still below national average of 1497. The national average on ACT is 21; Beaufort County's graduating seniors' composite in 2010 was 20.7. At federal level, schools are measured by making Adequate Yearly Progress (AYP). The District have grown from four schools meeting AYP in 2008 to 13 in 2009 to 16 schools meeting all federal measures in 2010.

The District has an extremely large number of objectives to meet because we are so diverse: there are 33 objectives. The percent of objectives, called the compliance index, has grown from meeting 63% of objectives to 91% in four years. South Carolina grades schools as Excellent, Good, Average, Below Average or At Risk. Beaufort County has improved from 50% of schools in 2007 to 90% of schools in 2010 with rating of average, good or excellent. Only one school is still rated At Risk; two are rated Excellent. The district's rating has improved from Below Average in 2007 to Average in 2010.

Duke Talent Identification Program (TIP) students qualifying in middle school as high potential scholars has increased 65% in three years. The state recognizes schools for improved academic achievement by Gold, Silver and Closing Achievement Gap awards. Beaufort County has increased from 7 awards in 2007 to 22 awards in 2010. A learning school is an orderly school. By training staff in all schools to set high expectations for positive behavior, out of school suspensions have decreased 53% in three years.

Six new schools have been opened in the last several years with no increase in taxes. The District has demonstrated and will continue to demonstrate that we can achieve more student academic growth with fewer resources. Dr. Truesdale wishes we could hold the line. If we held the line, it would mean adding back 189 positions. But, the growth that we have experienced in our academics is thanks to dedicated and committed efforts of students, teachers and school leaders who tighten their belts beyond anything she could possibly have imagined. We are very, very proud of them and we are asking Council for its support for our schools and for our children. The poor collections rate has put the County and the District in a precarious position. Dr. Truesdale agrees with Mr. Merritt Patterson who shared that Act 388 is unfair to all citizens. We need comprehensive tax reform. We are asking for a flat budget from last year so that we can sustain the academic improvement that we are experience. She appreciates the kind comments from Council regarding the efficient use of our budget and the academic progress of our schools. But, respectfully she would ask Council this evening not to approve the District approved budget by the Board, unless it also appears the funding to support it. It is very difficult to try to manage with a \$10 million shortfall this school year. We already have contracts out. If we move further beyond that, we are going to be having to figure out how to RIF (reduction in force) some of those positions. We would ask that Council consider it approval, what budget you decide, as a County Council, as a promissory note, once we make a decision in June, the District act upon Council decision. By changing in August not to fund that budget, Council is putting the District is a very, very serious management challenge. Dr. Truesdale asked Council to support the schools and to also fund the budget.

MOTION TO EXTEND BEYOND 8:00 P.M.

It was moved by Mr. Glaze, seconded by Ms. Von Harten, that Council extend beyond 8:00 p.m. The vote was: YEAS - Mr. Baer, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Glaze, Mr. McBride, Mr. Newton, Mr. Rodman, Mr. Sommerville, Mr. Stewart and Ms. Von Harten. The motion passed.

Mr. Newton asked if the District had made its budget presentation to the Legislative Delegation.

Mr. Washington replied in the negative. The only communication Mr. Washington has had is from Senator Tom Davis appraising on his work in the Senate trying to get a little money.

Mr. Newton understood the McNair Law Firm, who is analyzing the Education Funding Act and monitoring any changes in state funding, has information to report. Dr. Truesdale replied the District has not received an update regarding the McNair engagement. The only call that we have had lately in talking with our Legislative Delegation has been Senator Davis who was working last week on the floor to Beaufort's benefit.

Mr. Newton commented the biggest problem for Beaufort Council lies with the state and unfunded mandates and inequities in education funding. That is the root of our problem.

Ms. Von Harten stated during the budget presentation, the 98.6% collection rate approved by County Council was mentioned. It was her recollection of the FY 2011 budget presentations that was the collection the District chose to use in its calculations.

Mr. Washington replied the District recommended the same collection rate as the County.

Mrs. White remarked a 97% collection would have yielded a use of the District fund balance of \$4.1 million. Now it is \$6.2 million.

Main motion.

It was moved by Mr. Rodman, as Finance Committee Chairman, that Council approve on first reading, by title only, the School District FY 2012 budget.

Mr. Rodman noted were Council to pass this tonight, under any circumstance, before we would come back to second reading, we would be able to look at Plan A and Plan B. Plan A could get modified based on some of the things the District has talked about. It seems the options tonight are to either move the process along by passing the ordinance by title only tonight. Secondly, Council could reject it and send it back to committee after the Board finishes its work. Thirdly, Council could modify it in some form. Fourthly, Council could postpone it.

Mr. Newton wants to be clear on the first reading, by title only, because Dr. Truesdale has commented on last year's approval process and the difference of expenditures and fully funding. Council talked about this during the caucus. Dr. Truesdale says this creates a problem for the District. Mr. Rodman commented on that. Also at our budget workshop some weeks ago, Council unanimously recognized the economic times we are in and facing its own budget and said that we were not in favor of a millage increase this year. For purposes of clarification, he is perfectly willing to support first reading, by title only, tonight with a clarification that he will seek by amendment that says, "first reading, by title only, of the FY 2011 – 2012 budget to include no increase in mills." The District needs to hear from Council the certainty of what that is. We need to avoid the confusion that was generated last year. We need to avoid and correct the confusion that we are on agenda with a first reading, by title only, yet we have a budget ordinance that reflects a tax increase or a proposal.

The Chairman passed the gavel to the Vice Chairman in order to make a motion.

Motion to amend by addition.

It was moved by Mr. Newton, seconded by Ms. Von Harten, amend the motion to clarify that at this juncture the FY 2012 District budget is with no tax increase. YEAS - Mr. Baer, Mr. Flewelling, Mr. Newton, Mr. Sommerville, Mr. Stewart and Ms. Von Harten. NAYS – Mr. Caporale, Baer, Mr. Dawson and Mr. Glaze. ABSTAIN - Mr. McBride. The motion passed.

The Vice Chairman returned the gavel to the Chairman in order to continue the meeting.

Vote on the amended motion, which is now the main motion: Council approve on first reading, by title only, the School District FY 2012 budget which includes no tax increase. The vote was: YEAS - Mr. Baer, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. McBride, Mr. Newton, Mr. Rodman, Mr. Sommerville, Mr. Stewart and Ms. Von Harten. NAYS – Mr. Glaze. The motion passed.

BEAUFORT COUNTY ORDINANCE FOR REGULATION OF TOWING FROM PRIVATE PROPERTY IN BEAUFORT COUNTY

Mr. Stewart, as Governmental Committee Chairman, stated the purpose of this ordinance is to set a maximum rate for various forms of towing, only for towing of vehicles in parking violations. This does not include towing for accidents for other types of occurrences that would happen. There are major issues in this ordinance: (i) no boots used in towing; (ii) if the vehicle is being towed from a residence or a community that has a security group as part of their service, that the security must accompany the tow truck driver to the scene and be there while the towing is in process; and (iii) within a community the Sheriff has responsibility for patrolling. Regarding fees if the owner comes up before the vehicle is hooked up to the tow truck, there will be one charge of \$75. If the person was able to pay that at the scene, the tow truck operator would not tow the vehicle. If the tow truck had actually hooked up to the vehicle and owner appeared and was willing to pay up to the maximum fee of \$100, again the tow truck operator would disconnect the automobile and would not tow the vehicle. In the case where the vehicle would actually be towed, the maximum fee to be charged would be \$200. If this is an excessive towing situation, outside a reasonable distance or in the outskirts of the County and they exceeded the one hour tow operation, there would be an additional charge of up to \$125 or a maximum of \$125 per additional hour. The storage fee for storing a vehicle that is towed would be \$40 per day after the first 24 hours.

It was moved by Mr. Stewart, seconded by Mr. Dawson, that Council approve on first reading an ordinance for regulation of towing from private property in Beaufort County. The vote was: YEAS - Mr. Baer, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Glaze, Mr. McBride, Mr. Newton, Mr. Rodman, Mr. Sommerville, Mr. Stewart and Ms. Von Harten. The motion passed.

PUBLIC HEARINGS

BEAUFORT COUNTY ZONING MAP AMENDMENT FOR R100 015 0000 0051 AND R100 015 0000 015A (KNOWN AS THE VILLAGE AT LADY'S ISLAND PLANNED UNIT DEVELOPMENT (PUD), APPROXIMATELY 35+ ACRES TOTAL, BORDERED BY SAM'S POINT AND OYSTER FACTORY ROADS); FROM PUD TO LADY'S ISLAND COMMUNITY PRESERVATION DISTRICT (LICP) AND LADY'S ISLAND EXPANDED HOME BUSINESS (LIEHB) ZONING DISTRICTS

Mr. Sommerville, as Natural Resources Committee Chairman, stated this Planned Unit Development did not meet the requirement for being built out by a certain percentage by the end of 2010. Under the Zoning and Development Standards Ordinance (ZDSO) it reverts back to its underlying zoning which is Community Preservation.

The Chairman opened a public hearing at 6:04 p.m. for the purpose of receiving information from the public regarding a Beaufort County Zoning Map amendment for R100 015 0000 0051 and R100 015 0000 015A (known as the Village at Lady's Island Planned Unit Development (PUD), approximately 35+ acres total, bordered by Sam's Point and Oyster Factory Roads); from PUD to Lady's Island Community Preservation District (LICP) and Lady's Island Expanded Home Business (LIEHB) Zoning Districts. After calling three times for public comment and receiving none, the Chairman declared the hearing closed at 6:05 p.m.

It was moved by Mr. Sommerville, as Natural Resources Committee Chairman (no second required), that Council approve on third and final reading a Beaufort County Zoning Map amendment for R100 015 0000 0051 and R100 015 0000 015A (known as the Village at Lady's Island Planned Unit Development (PUD), approximately 35+ acres total, bordered by Sam's Point and Oyster Factory Roads); from PUD to Lady's Island Community Preservation District (LICP) and Lady's Island Expanded Home Business (LIEHB) Zoning Districts. The vote was: YEAS - Mr. Baer, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Glaze, Mr. McBride, Mr. Newton, Mr. Rodman, Mr. Sommerville, Mr. Stewart and Ms. Von Harten. The motion passed.

TEXT AMENDMENTS TO THE DISASTER RECOVERY AND RECONSTRUCTION ORDINANCE

Mr. Stewart, as Governmental Committee Chairman, stated the text amendments update the ordinance to conform to FEMA regulations. It corrects some errors in the previous ordinance and some additional changes dealing with temporary housing that would occur in the event of a disaster.

The Chairman opened a public hearing at 6:06 p.m. for the purpose of receiving information from the public regarding text amendments to the Disaster Recovery and Reconstruction Ordinance, Section 104(1) Section 105(1), Section 106(1), Section 106(2)(g), Section 109(6), Section 109(8)(b), Section 109(13), Section 109(16)(c), Section 109(24)(b), Section 109(24)(c), Section 111(2), Section 111(4) and Section 115(1). After calling three times for public comment and receiving none, the Chairman declared the hearing closed at 6:07 p.m.

It was moved by Mr. Stewart, as Governmental Committee Chairman (no second required), that Council approve on third and final reading text amendments to the Disaster Recovery and Reconstruction Ordinance, Section 104(1) Section 105(1), Section 106(1), Section 106(2)(g), Section 109(6), Section 109(8)(b), Section 109(13), Section 109(16)(c), Section 109(24)(b), Section 109(24)(c), Section 111(2), Section 111(4) and Section 115(1). The vote was: YEAS - Mr. Baer, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Glaze, Mr. McBride, Mr. Newton, Mr. Rodman, Mr. Sommerville, Mr. Stewart and Ms. Von Harten. The motion passed.

AN ORDINANCE TO ESTABLISH A MULTI-COUNTY INDUSTRIAL/BUSINESS PARK, TO BE KNOWN AS THE CYPRESS RIDGE MULTI-COUNTY PARK, IN CONJUNCTION WITH JASPER COUNTY, SOUTH CAROLINA; TO PROVIDE FOR A WRITTEN AGREEMENT WITH JASPER COUNTY AS TO THE SHARING OF THE

REVENUES AND EXPENSES OF THE PARK; TO PROVIDE FOR THE DISTRIBUTION OF REVENUES FROM THE PARK AMONG TAXING ENTITIES HAVING JURISDICTION OVER THE PARK; TO PROVIDE FOR A FEE IN LIEU OF AD VALOREM TAXATION; AND OTHER MATTERS RELATED THERETO

Mr. Stewart, as Governmental Committee Chairman, stated the County is pleased to be asked by Jasper County to join in this multi-county park. The announcement of the new company going in there, Be Green. This company is doing some manufacturing in China and will now be moving some of that back to the United States, using the natural resources in our area to produce environmental-friendly packages for various industries. The company will bring numerous jobs and quality jobs to the area. All of the jobs, approximately 200, except one, will be people hired from this area. Regionally, it is very important to Jasper County and Beaufort County as well.

The Chairman opened a public hearing at 6:08 p.m. for the purpose of receiving information from the public regarding an agreement between Beaufort County, South Carolina and Jasper County, South Carolina for the establishment of a multi-county industrial / business park; and an ordinance to establish a multi-county industrial park to be known as Cypress Ridge Multi-County Industrial Park in conjunction with Jasper County, South Carolina. After calling three times for public comments for public comment, the Chairman recognized Mrs. Kim Statler, Director of the Lowcountry Economic Network and speaking on behalf of Jasper County, to thank Council for being the partner in the multi-county industrial park. This is almost 200 jobs for the region. We have just learned the Jasper County One-Stop Shop will be taken those applications. Be Green will be hiring soon. Job training will commence soon. They hope to open their manufacturing facility in the fourth quarter of 2011. They have demands from the clients to start manufacturing right away.

The Chairman declared the hearing closed at 6:09 p.m.

It was moved by Mr. Stewart, as Governmental Committee Chairman (no second required), that Council approve on third and final reading an agreement between Beaufort County, South Carolina and Jasper County, South Carolina for the establishment of a multi-county industrial / business park; and an ordinance to establish a multi-county industrial park to be known as Cypress Ridge Multi-County Industrial Park in conjunction with Jasper County, South Carolina. The vote was: YEAS - Mr. Baer, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Glaze, Mr. McBride, Mr. Newton, Mr. Rodman, Mr. Sommerville, Mr. Stewart and Ms. Von Harten. The motion passed.

The Chairman passed the gavel to the Vice Chairman in order to receive committee reports.

COMMITTEE REPORTS

Finance Committee

Beaufort Commerce Park

Mr. Rodman, as Finance Committee Chairman, reported members received information from the two appraisers who conducted the Beaufort Commerce Park appraisals. There is a motion forthcoming that Council should make final consideration of rejecting the prior ordinance that received first and second reading approvals to purchase for \$2.5 million. It is fair to say that it was unanimous opinion of the nine Council members at the meeting, that that was an appropriate action. The discussion centered on whether we would be better to reject the ordinance in total and then, if there is recommendation forthcoming from the Lowcountry Economic Network (LEN) to purchase it at a lesser amount, we would start from scratch. The other option was to essentially take it back to first reading and then, if there was reconsideration at a lower amount, that that would then come back to committee and Council would take it up at second reading. It is fair to say it was pretty much unanimous of the members that the former was the better way to go – to reject the \$2.5 million and then we will see whatever happens and where we go from here.

Mr. Stewart, as Governmental Committee Chairman, stated from the LEN perspective what this does is make it very clear to the bank that because of the appraisals, etc. that Council is not considering purchasing the Beaufort Commerce Park at the full amount or value that is due on the note of \$2.5 million. This then leaves a clear decision to the bank to either move forward with accepting the deed in lieu of foreclosure. It is really not the LEN then that would be coming back to Council if there was any indication the Governmental Committee might recommend and bring forward. It would really then be up to negotiations between the County and the banks since the LEN would be out of the process, which really has sort of cluttered the process by the fact that it was still an issue between the LEN and the bank that the County was also looking to negotiate something. We have cleared the air on some of the issues; and in that sense, he will support the process going forward.

It was moved by Mr. Rodman, seconded by Mr. Stewart, that Council deny further consideration regarding the purchase of the Beaufort Commerce Park. The vote was: YEAS - Mr. Baer, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Glaze, Mr. McBride, Mr. Newton, Mr. Rodman, Mr. Sommerville, Mr. Stewart and Ms. Von Harten. The motion passed.

Natural Resources Committee

Planning Commission

Mr. Sommerville, as Natural Resources Committee Chairman, reported that Mr. Robert Semmler was appointed by Council as a representative for Port Royal Island, but he recently moved from Port Royal Island to St. Helena Island. Mr. Ron Petit, appointed originally by Council as at-large, lives in the City of Beaufort, which is on Port Royal Island. The proposal is brought forward to ensure there are no grounds for challenging the legality of future votes Mr. Semmler's appointment would change to at-large and Mr. Petit to representative from Port Royal Island.

Mr. Sommerville, as Natural Resources Committee Chairman (no second required), that Council approve the appointment status of Mr. Robert Semmler to at-large representative and Mr. Ron Petit to representative of Port Royal Island on the Planning Commission. Terms of office follow

the individual. The vote was: YEAS - Mr. Baer, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Glaze, Mr. McBride, Mr. Newton, Mr. Rodman, Mr. Sommerville, Mr. Stewart and Ms. Von Harten. The motion passed.

The Vice Chairman returned the gavel back to the Chairman to continue the meeting.

PUBLIC COMMENT

There were no requests to speak during public comment.

CALL FOR EXECUTIVE SESSION

It was moved by Mr. Caporale, seconded by Mr. Glaze, that Council go immediately into executive session for the purpose of negotiations incident to proposed contractual arrangements and proposed purchase of property. The vote was: YEAS - Mr. Baer, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Glaze, Mr. McBride, Mr. Newton, Mr. Rodman, Mr. Sommerville, Mr. Stewart and Ms. Von Harten. The motion passed.

EXECUTIVE SESSION

RECONVENE OF REGULAR SESSION

It was moved by Dawson, seconded by Mr. Caporale, that Council purchase the conservation easement on Coosaw Plantation totaling 1,584 acres of rural land, including more than 10 miles of waterfront, in partnership with the Marine Corps Air Station, and contingent upon the County being able to use this as a debris site in the event of a natural disaster. The purchase price is \$2,493,000. The Rural and Critical Lands Program is contributing \$833,000 and the Department of Defense \$1,660,000. The vote was: YEAS - Mr. Baer, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Glaze, Mr. McBride, Mr. Newton, Mr. Rodman, Mr. Sommerville, Mr. Stewart and Ms. Von Harten. The motion passed.

ADJOURNMENT

Council adjourned at 8:49 p.m.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Wm. Weston J. Newton, Chairman

ATTEST: _____
Suzanne M. Rainey, Clerk to Council

Ratified:

**OFFICE OF THE COUNTY ADMINISTRATOR
COUNTY COUNCIL OF BEAUFORT COUNTY**

GARY KUBIC
COUNTY ADMINISTRATOR

CHERYL HARRIS
EXECUTIVE ASSISTANT

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BRYAN J. HILL
DEPUTY COUNTY ADMINISTRATOR

LADSON F. HOWELL
STAFF ATTORNEY

COUNTY ADMINISTRATOR'S REPORT

**Monday, June 13, 2011
5:00 p.m.
Council Chambers**

INFORMATION ITEMS:

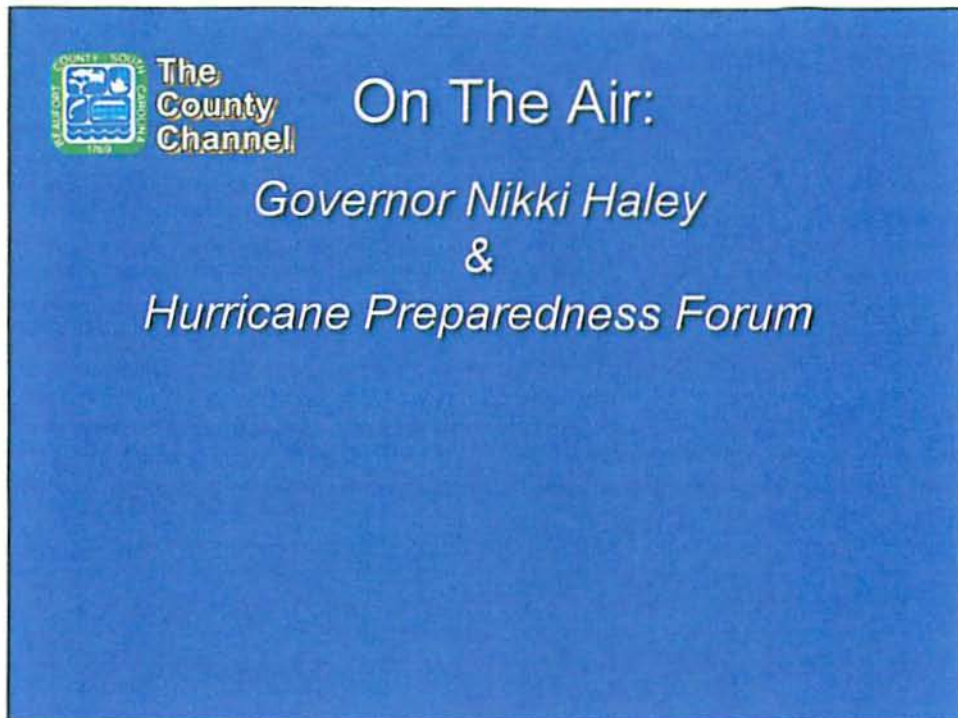
- **The County Channel / Broadcast Update (Enclosure)**
- **Three-week Progress Report (Enclosure)**



On the Air:

*Beaufort County School's
Senior Showcase*

{Video Plays} The County Channel, in partnership with the Beaufort County School District, produced a “round-table” style television show highlighting the top seniors from each high school. Students talked with Dr. Valerie Truesdale - Superintendent of Schools, about being a leader, participating in school activities, and where they will attend college next year. We hope that this production helps foster our partnership with Beaufort County Schools, and showcases some of the most outstanding students in our community.



{VIDEO PLAYS} The County Channel was also busy last week working with Todd Ferguson, William Winn, and the folks over at our Emergency Operations Center. Governor Nikki Haley stopped by, and gave a press conference about Hurricane procedures. The Governor talked about the State of South Carolina's response, and about working closely with County officials in the event of a major disaster. THEN, The County Channel, in partnership with the Hilton Head Chamber of Commerce, hosted a Hurricane Preparedness Forum. The Panel included Public Safety Director William Winn, and WSAV's Russ Riesinger and Kris Posman. The show featured call-in questions from viewers. It aired live on the County Channel, and on WSAV, and will be rebroadcast during the upcoming storm season.



Memorandum

DATE: June 10, 2011
TO: County Council
FROM: Gary Kubic, County Administrator
SUBJ: County Administrator's Progress Report

The following is a summary of activities that took place May 23, 2011 through June 10, 2011:

May 23, 2011

- On-site meeting at Atrium Building, Hilton Head Island
- Finance Committee meeting
- County Council Caucus meeting
- County Council meeting

May 24, 2011

- Meeting with Treasurer-elect Doug Henderson re: Treasurer's FY 2012 Budget
- Public Facilities Committee meeting
- Redistricting Committee – Public Hearing

May 25, 2011

- Monthly meeting with County Assessor Ed Hughes
- Follow-up Beaufort County Government Campus meeting with Josh Martin, City of Beaufort, Dick Stewart, 303 Associates, Rob McFee, Division Director, Engineering and Infrastructure, and Tony Criscitiello, Division Director, Planning and Development

May 26, 2011

- Meeting with Charles Young, Interim Director, Native Island Business and Community Affairs Association, Inc. re: office space at Hilton Head Government Center
- Conference call with Economic Development Task Force Members

COUNTY COUNCIL
June 10, 2011
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May 27, 2011

- **Meeting with Tony Criscitiello, Planning and Development Division Director re: Crystal Lake**
- **Staff meeting re: Library Hours**

May 30, 2011

- **Memorial Day holiday**

May 31, 2011

- **Staff meeting re: SCDOT Title VI Compliance Review Assessment**
- **Conference call with J. L. Goodwin, Mayor of Yemassee**
- **Meeting with Chris Marsh, Director of Lowcountry Institute re: Coastal Kingdom**

June 1, 2011

- **Staff meeting re: Building Inspections**
- **Meeting with Tony Criscitiello, Grace Cordial and Ian Hill re: historical grants**
- **Lake Linden Board of Directors meeting**

June 2, 2011

- **Greater Island Council of Hilton Head Island and Bluffton monthly meeting at First Presbyterian Church, Hilton Head**

June 3, 2011

- **Governor Nikki Haley's visit at Emergency Operations Center**

June 6, 2011

- **New River TIF meeting with members of County Council and School officials**
- **Finance Committee meeting**
- **Governmental Committee meeting**

June 7, 2011

- **Lobeco transfer facility staff meeting**
- **Meeting with Gary Horn, Chairman of Economic Development Task Force**

June 8, 2011

- Lowcountry Economic Network Final Board Meeting
- Agenda Review (unable to attend)

June 9, 2011(Bluffton office)

- No scheduled meetings

June 10, 2011

- Furlough day



Memorandum

DATE: June 10, 2011
TO: County Council
FROM: Bryan Hill, Deputy County Administrator
SUBJECT: Deputy County Administrator's Progress Report

The following is a summary of activities that took place May 23, 2011 through June 10, 2011:

May 23, 2011 (Monday):

- Prepare for Joint Finance & County Council Meetings
- Finance Committee Meeting
- County Council

May 24, 2011 (Tuesday):

- Work on Budget
- Meet with William Winn, Director of Public Safety

May 25, 2011 (Wednesday)--Bluffton:

- Bluffton Hours
- Work on Budget

May 26, 2011 (Thursday)--Bluffton:

- Bluffton Hours
- Work on Budget

May 27, 2011 (Friday):

- Meet with William Winn, Public Safety Director and Donna Ownby, EMS Director
- Meet with Gary Kubic, Wlodek Zaryczny re: Libraries
- Work on Budget

May 30, 2011 (Monday)--MEMORIAL DAY:

- CLOSED

May 31, 2011 (Tuesday):

- Work on Budget
- Meet with David Starkey and Alicia Holland re: Budget

June 1, 2011 (Wednesday):

- Work on Budget
- Prepare for Finance Committee Meeting
- Bluffton Hours P.M.

June 2, 2011 (Thursday):

- Meet with David Starkey and Alicia Holland re: Budget
- Continue Work on Budget

June 3, 2011 (Friday):

- Furlough Day

June 6, 2011 (Monday):

- Finance Committee Meeting A.M. with School Board at Old Battery Creek School
- Finance Committee Meeting P.M. in ECR

June 7, 2011 (Tuesday):

- Work on Budget
- Meet with Suzanne Gregory, Employee Services
- Meet with David Starkey, Chief Financial Officer
- Meet with Duffie Stone, Solicitor
- Meet with Steve Murphy re: Electronic Monitoring

June 8, 2011 (Wednesday):

- Agenda Review
- Work on Budget

June 9, 2011 (Thursday):

- Work on Budget
- Meet with Mark Roseneau, Public Facilities Director
- Meet with William Winn, Public Safety Director and Dan Morgan, MIS/GIS Director

June 10, 2011 (Friday):

- **Furlough Day**

2011 /

AN ORDINANCE BASED ON THE REQUEST FROM THE BEAUFORT COUNTY BOARD OF EDUCATION TO AMEND THE FY 2010-2011 GENERAL FUND BUDGET TO ACCOMMODATE THE CHANGE IN STATE FUNDING SOURCES PURSUANT WITH PROVISIO 1.79 OF THE GENERAL APPROPRIATIONS ACT OF 2010.

WHEREAS, Proviso 1.79 of the General Appropriations Act of 2010 consolidated three Education Improvement Act (EIA) funding sources into one fund in the current year;

WHEREAS, the State changed the funding from EIA to general fund;

WHEREAS, the revenue allocation from the state must be reported in the general fund which also means the related expenditures must be reported in the general fund;

WHEREAS, this change requires an amendment to the School District FY 2010-2011 General Fund budget to include both the additional revenue and the additional expenditures associated with this change. Without said amendment to the budget, the appropriated amount listed in the local budget ordinance will be exceeded without authorization.

WHEREAS, the EIA funding sources combined were: Credits for High School Diploma; Principal Salary Supplement; and Middle School Initiative for a total of \$589,018.

NOW, THEREFORE, the County Council of Beaufort County hereby amends the School District FY 2010-2011 General Fund budget as follows:

Total Revenue and Other Financing Sources from \$175,270,150 to \$175,859,168
Total Expenditures and other Financing Uses from \$175,270,150 to \$175,859,168

to accommodate the change in state funding sources pursuant to Proviso 1.79 of the General Appropriations Act of 2010.

Adopted this _____ day of _____, 2011.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Wm. Weston J. Newton, Chairman

APPROVED AS TO FORM:

Ladson F. Howell, Staff Attorney

ATTEST:

Suzanne M. Rainey, Clerk to Council
First Reading: May 23, 2011
Second Reading:
Public Hearing:
Third and Final Reading:

AN ORDINANCE OF THE COUNTY OF BEAUFORT, SOUTH CAROLINA, TO AMEND COUNTY COUNCIL STIPEND.

WHEREAS, Chapter 9, Section 4-9-100, 1982 Supplement of the *Code of Laws of South Carolina*, 1976, as amended, specified that ". . . after the initial determination of salary, Council may, by Ordinance, adjust such salary but the Ordinance changing such salary shall not be effective until the date of commencement of terms of at least two members of Council elected at the next general election following the enactment of the Ordinance affecting such salary changes at which time it will become effective for all members," and "members may also be reimbursed for actual expenses incurred in the conduct of their official duties;" and

WHEREAS, the base annual pay incorporates payment for all scheduled regular Council meetings; and

WHEREAS, a member of Beaufort County Council is authorized payment of a stipend for certain other meetings attended by said member, while acting in his/her official capacity as a member of Council, in addition to the base annual pay established for said position; and

WHEREAS, the County Council of Beaufort County deems it advisable to establish an Ordinance outlining the policy for the payment of the base annual pay and the stipend as referenced above.

A. Base Annual Pay. The members of Council shall receive base annual pay for each fiscal year as follows:

1. Council Member. Each member of Council, with the exception of the Chairman, shall receive \$11,039; and
2. Council Chairman. The Chairman of Council shall receive \$14,349; and
3. Cost of Living. Each member of Council shall receive the County's annual cost of living adjustment.

B. Council Stipend. In addition to the base annual pay received for service on Council, members and/or the Chairman may be paid a stipend of \$40 per meeting for his/her attendance at 120 meetings for the fiscal year of any Council committee meetings and other Council related business meetings.

C. Maximum Amount of Payment. Payment for the Council stipend shall be allowed up to the maximum amount authorized per fiscal year, as follows:

1. Council Member. Payment of base annual pay in the fiscal year plus stipend (120 meetings x \$40 per meeting) for the fiscal year shall not exceed ~~Thirteen Thousand Eight Hundred Thirty and No/100 (\$13,830)~~ Fifteen Thousand Eight Hundred Thirty Nine Dollars & 00/100 (\$15,839) Dollars per fiscal year; and

2. Council Chairman. Payment of base annual pay in the fiscal year plus stipend (120 meetings x \$40 per meeting) for the fiscal year shall not exceed ~~Seventeen Thousand Twenty Five and No/100 (\$17,025)~~ Nineteen Thousand One Hundred Forty Nine & 00/100 (\$19,149) Dollars per fiscal year; and

1. A specially called (unscheduled) meeting of the County Council of Beaufort County; and

2. A specially called (unscheduled) work session of the County Council of Beaufort County; and

3. Any other business meeting at which the Council member is in attendance in his/her official capacity as a member of Council, i.e., an official meeting with an industrial prospect, an official meeting with another governmental entity, a meeting with a county committee, board, district, agency, authority, or commission, i.e., the Beaufort Memorial Hospital Board, the Solid Waste Advisory Council, the Beaufort-Jasper Water and Sewer Authority, any fire district, etc., or an organized meeting held within his/her district that he/she is attending in his/her official capacity as a member of Council. These meetings are limited to 24 districts meetings per year. This would not include attendance at parades, ribbon cutting ceremonies, or any other non-required functions; and

C. Mileage Reimbursement. Each member of Council shall be reimbursed mileage to and from their residences for all scheduled meetings, i.e., regular meetings, work sessions, public hearings; and

D. Method of Payment. Base annual pay shall be divided into twenty-six equal payments and made biweekly through the normal payroll cycle. Payment of the stipend will be made on the second scheduled pay date of each month following the month in which the stipend was claimed; i.e., for meetings attended in January, payment would be made on the second payroll check paid in the month of February, etc.; and

E. Required Documentation. An Affidavit of Attendance form must be completed and signed by the Council member, and submitted to the Finance Department in order for payment of the stipend to be made. The Affidavit provides for the recording of the date, time spent, location, and the purpose of the meeting, i.e., LCOG mileage, etc.; and

F. Dual Payment. No member of Council shall receive a stipend for attendance at any unscheduled meeting if any form of payment for attendance at said meeting is received by the member from another source; and

G. Expenses. Members may also be reimbursed for actual expenses incurred in the conduct of their official duties, *Code of Laws of South Carolina*, Chapter 9, Section 4-9-100, 1982 Supplement.

This Ordinance shall be reviewed in two years (2013).

This Ordinance shall become effective on the first full pay period in July 2011 ~~January~~ 2005.

Adopted this _____ day of _____, 2011.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Wm. Weston J. Newton, Chairman

REVIEWED AS TO FORM:

Ladson F. Howell, Staff Attorney

ATTEST:

Suzanne M. Rainey, Clerk to Council

First Reading: May 23, 2011

Second Reading:

Public Hearing:

Third and Final Reading:



COUNTY COUNCIL OF BEAUFORT COUNTY
BEAUFORT COUNTY ENGINEERING DIVISION
102 Industrial Village Road, Building #3, Beaufort, SC 29906
Post Office Drawer 1228, Beaufort, SC 29901-1228
Telephone: 843-255-2700 Facsimile: 843-255-9420

TO: Councilman Herbert N Glaze, Chairman, Public Facilities Committee

VIA: Gary Kubic, County Administrator *GKubic*
Bryan Hill, Deputy County Administrator *BHill*
David Starkey, Chief Financial Officer *DStarkey*
Robert McFee, Director of Engineering and Infrastructure *RMcFee*
Dave Thomas, Purchasing Director *DThomas*

FROM: Bob Klink, County Engineer *REK*

SUBJ: **BURTON WELLS REGIONAL PARK PHASE II**
IFB# 2971/110437

DATE: May 16, 2011

BACKGROUND. Burton Wells Regional Park is a 313 acre park located at 1 Middleton Recreation Drive. Phase I, completed in 2004, is composed of active facilities which include racquetball courts, a fitness room, a basketball court, activity rooms, soccer, football and baseball fields. In January 2009, a 2,200-sqft Senior Center was constructed adjacent to the main facility.

In FY07, County Council approved CIP funding for Phase II "passive" improvements to the park.

On April 18, 2011, Beaufort County received bids for the construction of Burton Wells Regional Park Phase II project from the ten following firms:

Company Name	Location	Total Bid Price
BES, Inc.	2712 Bull Street, Beaufort, SC	\$1,812,011.00
J.H. Hiers Const., LLC	715 Green Pond Hwy Walterboro SC	\$1,880,000.00
Sierra Design Build CMG	2011 Mills B. Lane, Savannah, GA	\$2,001,276.00
Cleland Site Prep, Inc.	2894 Argent Blvd, Ridgeland, SC	\$2,035,465.00
J. R. Wilson Const. Co., Inc.	4984 Savannah Hwy, Hampton, SC	\$2,083,750.00
Complete Building Systems	1525 Ashley River Dr, Charleston, SC	\$2,102,178.00
United Contractors	5562 Pendergrass Blvd, Great Falls, SC	\$2,165,900.00
JS Construction Services, Inc.	388 Browns Cove Rd, Okatie, SC	\$2,183,694.00
Boykin Contractors	167 Lott Court, Columbia, SC	\$2,240,134.00
L-J Inc.	220 Stoneridge Dr, Columbia, SC	\$2,454,553.35

The recommended scope and bid price is composed of the base bid and alternates 1, 2, 3 and 5. The base bid includes picnic shelters, an amphitheater (terraced lawn), pedestrian trails, restroom facilities, development of existing pond and construction of a pond pavilion, dock installation for canoes and kayaks, internal roads, landscaping, irrigation, parking and signage. Alternates 1 & 2 are for additional pond excavation depth and disposition of soil materials from the pond. Alternate 3 is construction of the picnic pavilion, and Alternate 5 is additional landscape/irrigation for the project. Alternate 4 is for parking lot and pedestrian trail lighting.

Beaufort Engineering Services (BES) submitted the lowest qualified/responsible bid of \$1,812,011.00, their bid was reviewed and found to be reasonable and is in compliance with the County's SMBE Ordinance. There is no apparent cause for rejecting their bid.

FUNDING. The funding budget for this project is recommended from the following accounts.

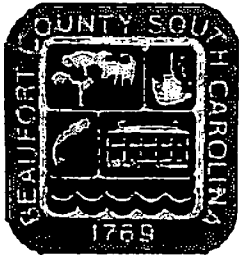
<u>Account Name</u>	<u>Account #</u>	<u>Balance on 5/16/11</u>	<u>Requested Funds</u>
Burton Wells Phase II CIP	11437-54451	\$1,666,015.40	\$1,666,015.40
PALS Impact Fees(Port Royal)	09050-54450	\$ 181,381.87	\$ 145,995.60
Total Contract Award			\$1,812,011.00
Project Contingency	09050-54450		\$ 35,386.27
Total Project Budget		\$1,847,397.27	\$1,847,397.27

RECOMMENDATION. The Public Facilities Committee approve and recommend to County Council the award of a contract to Beaufort Engineering Services (BES) for the construction of Burton Wells Phase 2 for \$1,812,011.00 with funding as recommended above.

REK/DC/mjh

Attachments: 1) Bid Certification
2) SMBE Documents

cc: Joe Penale
Cris Roberson



County Council of Beaufort County
Hilton Head Island Airport – www.hiltonheadairport.com
Beaufort County Airport – www.beaufortcoairport.com
Post Office Box 23739 – 120 Beach City Road
Hilton Head Island, South Carolina 29925-3739
Phone: (843) 689-5400 - Fax: (843) 689-5411

RECEIVED
MAY 16 2011
COUNTY
ADMINISTRATOR

TO: Councilman Herbert Glaze, Chairman, Public Facilities Committee

VIA: Gary Kubic, County Administrator *GKubic*
Bryan Hill, Deputy County Administrator *BHill*
David Starkey, Chief Financial Officer *DStarkey*
Rob McFee, Director, Engineering and Infrastructure Division *Rob McFee*

FROM: Paul Andres, Director of Airports *PA*

SUBJ: Hilton Head Island Airport Runway 03 Tree Obstruction Removal Design

DATE: May 11, 2011

BACKGROUND. Talbert, Bright, and Ellington, Inc. is currently under contract to provide professional consulting and engineering services in support of Beaufort County airport projects. Attached is the proposed scope of work to prepare preliminary tree obstruction survey data regarding the 34:1 slope for Runway 03 at the Hilton Head Island Airport. This preliminary survey will determine the extent of existing obstructions in the 34:1 approach slope. Follow on detailed survey work as well as project plans and specifications will still need to be developed. The Airports Board favorably endorses the tree obstruction removal projects at the airport.

FUNDING. Funding for this project will come from an existing FAA Grant (95%), Account #13480-54293, Remove Obstructions South End Design, which has a current balance of \$97,391.00; an existing State Grant (2.5%); and the local 2.5% match of \$1,071.83 which will come from the Airports Operating Budget.

RECOMMENDATION. That the Public Facilities Committee approve awarding a contract in the amount of \$42,873.00 to Talbert, Bright, and Ellington, Inc. to prepare preliminary survey data regarding obstructions in the 34:1 approach slope for Runway 03 at the Hilton Head Island Airport.

PAA/paa

Attachment: TBI Work Authorization 10-05



BEAUFORT COUNTY PUBLIC WORKS

120 Shanklin Road
Beaufort, South Carolina 29906
Phone (843) 255-2800



TO: Councilman Herbert N. Glaze, Chairman, Public Facilities Committee

VIA: Gary Kubic, County Administrator
Bryan Hill, Deputy County Administrator
David Starkey, Chief Financial Officer
Robert McFee, Division Director, Engineering and Infrastructure
Eddie Bellamy, Public Works Director
Dave Thomas, Purchasing Director

Handwritten signatures and initials: G. Kubic, B. Hill, D. Starkey, R. McFee, E. Bellamy, D. Thomas, and JSM.

FROM: James S. Minor, Jr., Solid Waste Manager

SUBJ: RFP # 9998/110333; SCRAP METAL AND WHITE GOODS SERVICES

DATE: May 10, 2011

BACKGROUND. Beaufort County issued a Request for Proposals (RFP) to solicit proposals from qualified firms to provide for the collection of scrap metals and white goods from certain designated County convenience centers, removal of Freon as appropriate, and marketing of the material to a processing facility. Proposals from five (5) firms were received (see Attachment 1) and the list was narrowed to two firms by the evaluation committee based on experience, performance capability, and potential revenue generation. The two firms met with the committee on April 20, 2011: (1) Action A1 Demolition, Inc. with offices in Dallas, NC and Clover, SC (2) Charleston Steel & Metal Co. located in Charleston, SC. The committee received presentations from both firms and asked a series of questions to each.

The evaluation committee comprised of the Public Works Director, the Solid Waste Manager, the General Support Superintendent of Public Works, and a representative from the Solid Waste and Recycling Advisory Board evaluated the firm's proposals, presentations and responses to their questions. Oversight of the process was provided by the Purchasing Director and the Compliance Officer. The panel ranked the firm's according to the RFP selection criteria. Charleston Steel and Metal Co. received the highest ranking by the committee, based on a long term history of providing outstanding service over the last nine years to Beaufort County, demonstrated ability to perform the work and a competitive revenue sharing strategy.

FUNDING. Services are paid to the firm through the sale of the scrap metal material. The firm shares proceeds with Beaufort County based on a published market rate specified by the contract minus their service fees. Revenues received will be deposited into account 10001-47440. Sale of Recyclables.

RECOMMENDATION.

We recommend that the Public Services Committee approve and recommend to County Council the award of the contract to provide scrap metal and white goods services to Charleston Steel and Metal Company, the top ranked firm. The agreement is for an initial three year contract with two one-year renewal options.

Cc: Monica Spells, Compliance Officer
Richard Hinceline, Contract Specialist

JSM/jsm





BEAUFORT COUNTY PUBLIC WORKS
 120 Shanklin Road
 Beaufort, South Carolina 29906
 Phone (843) 255-2800



TO: Councilman Herbert N. Glaze, Chairman, Public Facilities Committee

VIA: Gary Kubic, County Administrator *GK*
 Bryan Hill, Deputy County Administrator *BH*
 David Starkey, Chief Financial Officer *DS*
 Robert McFee, Division Director, Engineering and Infrastructure *RM*
 Eddie Bellamy, Public Works Director *EB*
 Dave Thomas, Purchasing Director *DT*
 Monica Spells, Compliance Officer *MS*

FROM: James S. Minor, Jr., Solid Waste Manager *JSM*

SUBJ: RFP # 3962/110442; HAULING SERVICES FOR BEAUFORT COUNTY

DATE: May 17, 2011

BACKGROUND. Beaufort County issued a Request for Proposals (RFP) to solicit proposals from qualified firms to provide for the hauling of solid waste from County convenience centers and to provide necessary containers at those centers for waste collection. Proposals from the following three (3) firms were received; Waste Management of South Carolina, Inc. (WM), Republic Waste Services of Hilton Head (Republic), and Waste Pro USA, Inc. (Waste Pro). The evaluation committee comprised of the Public Works Director, the Solid Waste Manager, the General Support Superintendent of Public Works, the Solid Waste Operations Superintendent, a representative from the Solid Waste and Recycling Advisory Board and the Solid Waste Data Analyst evaluated the firm's proposals according to the RFP evaluation criteria. To aid in the evaluation, a spreadsheet was developed to project annual cost based on each firm's proposal. Oversight of the process was provided by the Purchasing Director and the Compliance Officer.

Annual projected cost for each firm was as follows: Waste Pro (\$812,438); Republic (\$910,412); and WM (\$1,003,088). Waste Pro received the highest ranking by the committee, based on strong recommendations by current customers, ability of to perform the work and the lowest projected cost to the County. The firm met with the committee on May 17, 2011. The committee asked a series of questions to the firm to clarify their proposal and a contract agreement was negotiated.

FUNDING. Services are paid to the firm through the budget account 33390-51165, Solid Waste Hauling Services. Sufficient funds are budgeted to cover the annual projected cost of this service.

RECOMMENDATION. We recommend that the Public Services Committee approve and recommend to County Council the award of the contract to provide solid waste hauling services to Waste Pro, Inc., the top ranked firm. The agreement is for an initial three year contract with two one-year renewal options.

Cc: Richard Hinline, Contract Specialist

JSM/jsm



MEMBER
 NATIONAL SAFETY COUNCIL





COUNTY COUNCIL OF BEAUFORT COUNTY
BEAUFORT COUNTY ENGINEERING DIVISION
102 Industrial Village Road, Building #3, Beaufort, SC 29906
Post Office Drawer 1228, Beaufort, SC 29901-1228
Telephone: 843-255-2700 Facsimile: 843-255-9420

TO: Councilman Herbert Glaze, Chairman, Public Facilities Committee

VIA: Gary Kubic, County Administrator
Robert McFee, Director Engineering and Infrastructure
Lad Howell, County Staff Attorney

FROM: Robert Klink, County Engineer

SUBJ: Abandonment of a Portion of Bostick Road, Beaufort

DATE: February 22, 2011

BACKGROUND. Bostick Road is a County-owned right-of-way located in Salem Plantation Subdivision. Although shown on numerous plats as a 60' r-o-w, the street itself was never constructed.

A recent survey by David Gasque, RLS, has brought to light an error or omission in the original subdivision surveys that have resulted in a misrepresentation of Bostick Road, the misrepresentation being that the r-o-w is 60' wide. In reality, the r-o-w width varies and is less than 60'.

Bostick Road is situated between Blocks C and D of Salem Plantation Subdivision. These Blocks were surveyed at different times by different surveyors. While each survey labels Bostick Road as a 60' r-o-w, neither surveyor actually surveyed the r-o-w area. In reality, the space between the two blocks, which would correspond to the r-o-w, is less than 60'.

Additional factors contributing to the confusion over r-o-w width are the survey changes applied to Lot 15-C. This is the only lot in Block C adjacent to Bostick Road. The lot was originally surveyed as being 144.71' wide at its widest point. A subsequent survey reduced this figure to 114.7'. A third survey restored the lot to its original width.

As a result of the error(s) outlined above, contemporary surveys of Lots 1-D and 2-D are shown with "Areas of Confusion". These areas reflect the fact that the Bostick Road r-o-w varies in width, much of it being less than 60'. Obviously, any potential purchaser of either lot would have reservations about these "Areas of Confusion". To remedy this situation the owners of Lots 1-D and 2-D, Alan Williams, Melanie Williams and Mildred Simpson, have proposed three alternative solutions:

1. The County quitclaim the platted "Areas of Confusion" to the property owners
2. The County quitclaim a 10'-wide strip along the entire length of Bostick Road, thus reducing the County's r-o-w to 50'
3. The County quitclaim a 13.38'-wide strip of land along the entire length of Bostick Road, the 13.38' corresponding to the widest point of the "Areas of Confusion"

The County Staff Attorney has recommended Solution #2: that the County quitclaim a 10'-wide strip of land running the entire length of Bostick Road to the owners of Lots 1-D and 2-D.

RECOMMENDATION. That the Public Facilities Committee consider the property owners' request and recommend to County Council that Solution #2 be approved.

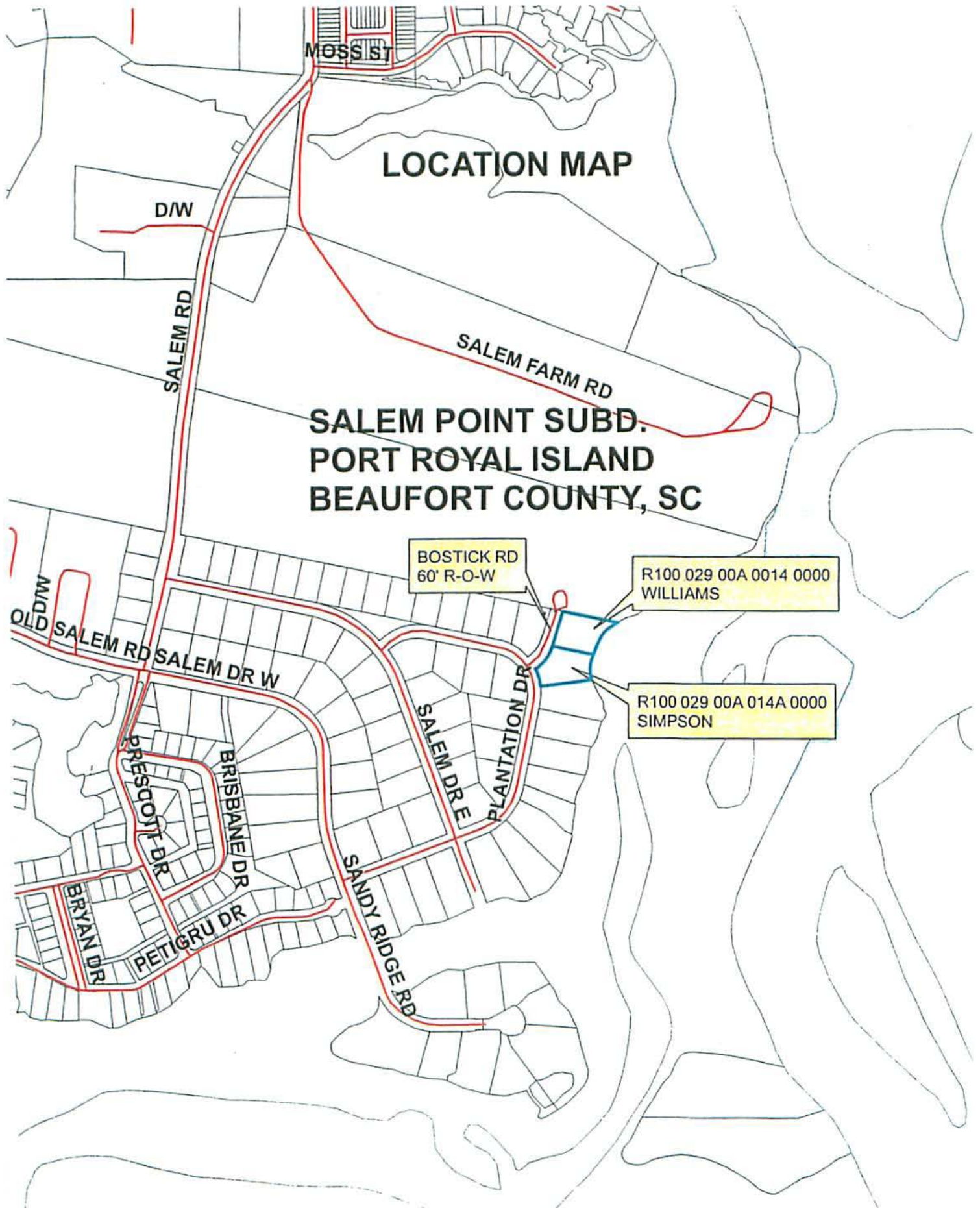
REK/EWK/mjh

- Attachments:
- 1) Location Map
 - 2) Plat of Bostick Rd. R/W, Petitioners' Lots, and "Areas of Confusion"
 - 3) 11/14/10 Letter from Petitioner Williams
 - 4) Plat of Williams' Lot Showing "Area of Confusion" and Proposed Remediation
 - 5) 11/12/10 Letter from Simpson
 - 6) Plat of Simpson's Lot Showing "Area of Confusion" and Proposed Remediation

Rd/QuitClaim/11-01

LOCATION MAP

SALEM POINT SUBD. PORT ROYAL ISLAND BEAUFORT COUNTY, SC



BOSTICK RD
60' R-O-W

R100 029 00A 0014 0000
WILLIAMS

R100 029 00A 014A 0000
SIMPSON

2011 /

AN ORDINANCE OF THE COUNTY OF BEAUFORT, SOUTH CAROLINA, TO AMEND THE BEAUFORT COUNTY ZONING AND DEVELOPMENT STANDARDS ORDINANCE, ADDING A NEW ARTICLE: ARTICLE XVII. TRANSFER OF DEVELOPMENT RIGHTS (TDR).

Whereas, Standards that are underscored shall be added text and Standards ~~lined through~~ shall be deleted text.

Adopted this _____ day of _____, 2011.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Wm. Weston J. Newton, Chairman

APPROVED AS TO FORM:

Ladson F. Howell, Staff Attorney

ATTEST:

Suzanne M. Rainey, Clerk to Council

First Reading: May 9, 2011
Second Reading: May 23, 2011
Public Hearing:
Third and Final Reading:

Beaufort County Zoning and Development Standards Ordinance

Article XVII. Transfer of Development Rights

Sec. 106-3298. Purpose

The purpose of the Transfer of Development Rights (TDR) program is to support County efforts to reduce development potential near the Marine Corps Air Station Beaufort (MCAS—Beaufort) and to redirect development potential to locations further from the Air Station, consistent with the Beaufort County Comprehensive Plan. This preferred development pattern is intended to reduce hazards associated with aircraft operations near MCAS—Beaufort in a way that respects the rights of property owners and utilizes a free market system to achieve planning objectives. The TDR program is also intended to work in concert with other regional, County, and local programs that promote good land use planning and to facilitate inter-jurisdictional cooperation between Beaufort County, the Lowcountry Council of Governments (LOCG), the City of Beaufort, and the Town of Port Royal.

Sec. 106-3299. Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Affordable Housing Units means dwelling units that comply with Article IX (Affordable Housing Incentives) of the Zoning and Development Standards Ordinance.

Air Installations Compatible Use Zone (AICUZ) means the area surrounding MCAS - Beaufort as identified in Appendix A1 (Airport Overlay District/MCAS – Beaufort)

AICUZ Buffer means the quarter-mile area surrounding the AICUZ for MCAS - Beaufort.

Baseline Density means the maximum density allowed on a Receiving Area property under baseline zoning and applicable overlay districts without participation in the TDR program.

Baseline Zoning means the zoning in effect on a receiving area property as of the adoption of this article (insert date).

Cash In-lieu means the fee rate identified by Beaufort County that can be paid for increased density above Baseline zoning.

TDR Bank means an intermediary authorized by Beaufort County to act on its behalf in the TDR Program.

TDR Certificate means the official document issued by the County identifying the number of TDRs owned by the holder of the TDR certificate.

TDR Option means the option of a Receiving Area property owner to increase density above baseline zoning through participation in the TDR Program.

TDR Program means the rules and requirements of this article for the transfer of development rights from Sending Areas to Receiving Areas.

TDR Receiving Area means properties on which upzonings trigger the establishment of the TDR overlay district.

TDR Sending Area means areas within unincorporated Beaufort County that are eligible to sell TDRs.

Intermediary means any individual or group, other than a Sending Area landowner or Receiving Area developer, which buys and sells TDRs.

Sec. 106-3300. Voluntary Nature of Program

The participation of property owners in the TDR program is voluntary. Nothing in this article shall be interpreted as a requirement for Sending Area property owners to sell TDRs, for Receiving Areas property owners to purchase TDRs, or for any property owner or County resident to otherwise participate in the TDR program

Sec. 106-3301. Establishment of TDR Sending and Receiving Areas

(a) *Sending Areas.* TDR Sending Areas shall include all properties within unincorporated Beaufort County that are:

- (1) Located within the Airport Overlay District and AICUZ Buffer for MCAS-Beaufort; and
- (2) Zoned Rural (R), Rural Residential (RR), Rural - Transitional Overlay (R-TO), Rural Residential - Transitional Overlay (RR-TO), or Suburban (S).

(b) *Receiving Areas.*

- (1) TDR Receiving Areas shall include all properties within unincorporated Beaufort County that are located:
 - a. Outside of Airport Overlay District for MCAS-Beaufort and the AICUZ Buffer; and
 - b. Within the boundaries of Port Royal Island.
- (2) The cities of Beaufort and Port Royal may also participate in the TDR Program by designating TDR Receiving Areas and submitting a complimentary ordinance and interjurisdictional agreement

Sec. 106-3302. TDR Bank

(a) *Purpose.* The County may choose to contract with an outside agency, hereto referred to as a TDR Bank, to assist or manage TDR program administration, buying, holding, and selling TDRs as well as performing other functions as directed by the County Council. The purpose of the TDR Bank is to facilitate a well-functioning TDR market by performing these tasks. The County is ultimately responsible for managing and administering the TDR program and the TDR Bank.

(b) *TDR Bank Description.*

- (1) The TDR Bank is an intermediary specifically authorized by the County Council to perform functions assigned to it by agreement by the TDR Bank and the County Council. These functions may include the acquisition and sale of TDRs as well as TDR program promotion and facilitation.
- (2) The County Council is not required to form a TDR Bank. The County Council may instead elect to use County personnel to perform TDR Bank functions.
- (3) The establishment of a TDR Bank shall not preclude direct buyer-seller transactions of TDRs.

(c) *TDR Purchase Priorities.* The TDR Bank will prioritize the purchase of TDRs from small landowners over large landowners in the following way:

- (1) The TDR Bank will purchase TDR Certificates from Sending Area landowners based on the number of TDRs they hold, from smallest to largest. Landowners with one TDR will be bought out first, followed by landowners with two or more TDRs.
- (2) The TDR Bank will establish a time window during which it will accept letters of interest from Sending Area landowners. At the close of the time window, the TDR Bank will create a rank-order list of sellers whose TDR Certificates it will buy.
- (3) The TDR Bank will purchase TDR Certificates starting at the top of the list from landowners who have TDR Certificates. For example, if the landowner at the top of the list does not have a TDR Certificate, the TDR Bank will go down the list until it reaches a landowner with TDR Certificates.
- (4) Notwithstanding this prioritization, this subsection shall not prevent a specific funding of a purchase outside of this prioritization on a case by case basis when requested by a funding entity or organization.

(d) *TDR Bank Operation.* The duties and operating procedures of the TDR Bank, if established, shall be specified in an agreement between the TDR Bank and the County Council. These procedures shall reflect the TDR program goal of reducing development potential within Sending Areas.

Sec. 106-3303. Transfer of Development Rights (TDR) Overlay District

(a) *Purpose.* The purpose of the Transfer of Development Rights (TDR) overlay district is to allow Receiving Area properties to exceed Baseline Density through compliance with TDR program requirements.

(b) *Establishment of TDR Overlay Districts.* TDR overlay districts shall be established concurrently with the approval of any rezoning that increases residential density **or commercial intensity** potential within a TDR Receiving Area. As part of the rezoning, the new zoning designation shall include a TDR overlay district suffix indicating the need to comply with TDR Program requirements in the event that the property owners choose to use the TDR Option and exceed Baseline Density.

(c) *Rezoning Procedure.*

- (1) Establishment of a TDR overlay district shall occur as part of the County's standard rezoning process and shall not require separate application or approval procedures. The approval or denial of a TDR overlay district shall be dependent upon the approval or denial of the requested zoning district.
- (2) The TDR overlay district does not affect County procedures for placing conditions on rezoning approvals to implement County plans and policies. The TDR program does not affect the authority of the County to initiate amendments to the Zoning and Development Standards Ordinance or County procedures for responding to rezoning applications submitted by property owners

Sec. 106-3304. TDR Certificates

(a) *General.* A TDR Sending Area property owner may choose not to participate in the TDR Program or, alternatively, may choose to participate by applying for a TDR Certificate.

(b) *TDR Certification Application Submittal, Review, and Issuance.*

- (1) To request a TDR Certificate, a property owner shall submit to the Planning Department an application that includes the information and materials required by the County for TDR Certificate applications, together with all required application fees.
- (2) The property owner shall submit to the Planning Department proof of clear title of ownership. The application shall include written approval of the TDR Certificate application from all holders of liens on the subject property.
- (3) TDR Certificate applications shall include draft easement language as required by Section 106-3306 (Sending Area Easements). At the property owner's option, this easement may preclude one, some, or all of the allowable TDRs not foregone by previous TDR easements or similar deed restrictions.

(a) For purposes of this section, the term "fair use" shall mean the limited copying of copyrighted material for private study, scholarship, or research.

(b) In determining whether the copying is for private study, scholarship, or research, the following factors shall be considered: (1) the purpose and character of the copying, including whether it is for commercial purposes or for non-profit educational, scientific, or scholarly purposes; (2) the nature of the copyrighted work; (3) the amount and substantiality of the portion copied; and (4) the effect of the copying upon the market for or value of the copyrighted work.

(c) This section shall not apply to copying for the purpose of advertising, promotion, or other self-interest.

(d) This section shall not apply to copying for the purpose of reproduction, distribution, or performance of a copyrighted work for profit.

(e) This section shall not apply to copying for the purpose of creating a new work that is based on the copyrighted material.

(f) This section shall not apply to copying for the purpose of parody or satire.

(g) This section shall not apply to copying for the purpose of criticism, comment, or news reporting.

(h) This section shall not apply to copying for the purpose of illustration or teaching.

(i) This section shall not apply to copying for the purpose of library or archival preservation.

(j) This section shall not apply to copying for the purpose of performing a copyrighted work in a classroom or similar educational setting.

(k) This section shall not apply to copying for the purpose of creating a new work that is based on the copyrighted material.

- (4) The Planning Department shall calculate the number of allowable TDRs for a Sending Area property using the methodology described in Section 106-3305 (Calculation of TDRs in Sending Areas).
- (5) Upon recordation of the easement, the Planning Director shall issue a TDR Certificate documenting the number of TDRs generated by the recorded easement, the serial numbers of all TDRs created by the easement, the Sending Area that generated these TDRs, the identity of the property owner/certificate holder, and any other documentation required by the Planning Director. For purposes of this program, only TDR Certificates issued by the Planning Director shall be available for sale to a Receiving Site developer or to any intermediary.

(c) *Sale and Tracking of TDRs.*

- (1) Once a Sending Area property owner receives a TDR Certificate, the property owner may sell or give one, some, or all of the TDRs documented in that TDR Certificate directly to the developer of a Receiving Site property or to any intermediary.
- (2) In accordance with procedures approved by the Planning Director, upon the sale or gift of any or all TDRs, the holder of a TDR Certificate shall notify the Planning Director, who will void the original TDR Certificate and issue one or more new TDR Certificates documenting the new owners of the TDRs.
- (3) The Planning Director shall maintain a TDR registry, publicly accessible via the internet, documenting current TDR Certificate holders and the serial numbers of the TDRs contained within all TDR Certificates. The Planning Director shall develop and implement procedures to ensure that the transfer process is accurate and transparent.
- (4) The property owner holding a TDR Certificate may sell his property reflecting the reduced development potential resulting from the participation in the TDR program; or may turn in the TDR Certificate to restore the development potential on the property prior to the sale of the property.

Sec. 106-3305. Calculation of TDRs in Sending Areas

(a) *Methodology.*

- (1) The Planning Department shall calculate the number of allowable TDRs for a TDR Sending Area property using the methodology for calculating residential use capacity of a parcel as outlined in Table 106-1815(1). The calculation shall be based on the baseline zoning classification, not on the limitations, if any, imposed by the airport overlay district.
- (2) When 50 percent or more of a parcel is located within a Sending Area, the calculation of maximum allowable TDRs shall be based on the entire land area of the parcel.

(3) The maximum number of allowable TDRs shall be the permitted dwelling units minus any reduction in this calculation created by the recordation of previous TDR easements or similar deed restrictions.

(4) The maximum permitted density shall be reduced by one TDR for each existing dwelling unit to remain on the property. The Planning Director shall develop and implement procedures, if needed, to ~~reduce~~ determine the TDR allocation to reflect existing non-conforming or non-residential improvements ~~if the owner declines to remove these improvements from the sending site.~~

(b) *Fractional Development Rights.* Any fractional development right exceeding 0.5 shall be rounded up to the nearest whole number. Only whole TDRs shall be issued and sold.

(c) *Appeals.* The Planning Director's calculation of allowable TDRs may be appealed to the ZBOA in a manner consistent with Article III, Division 6 (Appeals).

Sec. 106-3306. Sending Area Easements.

(a) *Maximum Residential Density.* Owners of TDR Sending Area properties that choose to participate in the TDR program shall record an easement that reduces the permitted residential density by one, some, or all allowable TDRs on the property.

(b) *County Review.* The Planning Department and County Attorney shall review and approve easement language as part of its review of a TDR Certificate application as specified in Section 106-3304.

(c) *Required Language.* At a minimum, easements shall specify the following information:

(1) Serial numbers for all allowable TDRs to be certified by the Planning Department for the parcel.

(2) Written consent of all lien holders and other parties with an interest of record in the sending parcel.

(3) At the request of the property owner, a reversibility clause can be included to allow for the removal of the easement if the property owner does not sell the associated TDR certificates, chooses to not participate in the TDR program, and returns all TDR certificates to the County Planning Department within an allotted time period. All TDR Certificates issued to a property partially within the TDR Sending Area as allowed by Section 106-3304 (TDR Certificates) may only be reversed together at the same time and shall not be unbundled.

(4) A statement that the easement shall be binding on successors in ownership and shall run with the sending parcel in perpetuity.

(d) *Easement Monitoring and Enforcement.* The County shall be responsible for monitoring of easements or may select any qualified person or organization to maintain the easements on its behalf.

Sec. 106-3307. Development Options within TDR Overlay District

(a) *Baseline Development Option.* Owners of properties within a TDR overlay district may choose to not participate in the TDR Program and to develop the property at or below the Baseline Density. Properties developed under this option shall be subject to the requirements of the baseline zoning district before the property was upzoned and received the TDR overlay district designation as well as all applicable development standards and procedures specified in the ZDSO.

(b) *TDR Development Option.* In addition to the requirements imposed by the underlying zoning district, developers who choose to exceed Baseline Density within a TDR overlay district shall satisfy TDR requirements in the following ways:

- (1) One TDR shall be retired for every three dwelling units of residential development in excess of baseline density.
- (2) One TDR shall be retired for every 5,000 additional square feet of commercial development beyond the maximum permitted by the baseline zoning.
- (3) Developers have the option of paying cash in lieu of each TDR that otherwise would be required in an amount specified in the County Fee Schedule.

Sec. 106-3308. Exceptions to the TDR Requirement.

(a) *Affordable Housing Projects.* Affordable Housing Units shall not be counted when calculating the extent to which a proposed development project exceeds baseline density.

(b) *Commercial Density.* The County may approve an additional 250 square feet of commercial development for each proposed residential unit that is part of a traditional neighborhood development without the use of TDRs. This exception is intended to promote mixed-use, traditional neighborhood developments in a manner consistent with the goals of the TDR program.

(c) *Industrial Development.* Industrial development shall be excluded from the TDR requirement. However, in order to be excluded from the TDR requirement, industrial development must be proposed in such a way that its floor area can be easily calculated separately from any other uses.

Sec. 106-3309. TDR Compliance

(a) *Purchase Price.* All TDR Certificate purchase prices shall be open to negotiation between the buyer and seller, except that public funds shall not be used to purchase TDRs for an amount

greater than their market value. The TDR Bank shall publicly post and update the dates and sale prices of all TDR Certificate transactions.

(b) *Timing of Compliance.* A Receiving Area property owner shall transmit TDR Certificates containing the required number of TDRs, or make a cash payment in lieu of TDRs, before final subdivision plat approval of a project involving land division or prior to final development plan approval for a project that does not involve land division.

Sec. 106-3310. Development Project Procedures

(a) *Identification of TDRs.* Project applicants that propose to exceed baseline density in a TDR overlay district shall acknowledge in all official development applications the number of TDRs that must be retired prior to final project approval.

(b) *Final Approval.* The Development Review Team shall grant final approval of a project utilizing TDRs for additional development only after the applicant has transmitted TDR Certificates containing the required number of TDRs to the Planning Department or has made the required cash in lieu payment. The serial numbers of all TDRs to be retired for Receiving Area projects shall be recorded on the final plat or the development permit.

Sec. 106-3311. In-Lieu Payment Option

(a) *General.* The developer of a property in the TDR overlay district who chooses to exceed Baseline Density may satisfy TDR requirements through a cash in-lieu payment rather than, or in combination with, the retirement of TDRs.

(b) *Fee Amount.*

(1) The fee amount shall be established by the County Council.

(2) The Planning Director shall submit an annual report on the TDR program to the Rural and Critical Lands Board, the Beaufort County Planning Commission, and County Council. The annual report shall include recommendations on potential changes to the cash-in-lieu amount. This recommendation shall reflect changes in the assessed value of Sending Area properties, actual TDR sales prices experiences, and general real estate trends.

(c) *Use of Revenue.*

(1) Revenue from cash in-lieu payments shall be applied exclusively to the TDR program unless the potential supply of TDRs has been depleted and/or Sending Area landowners decline to sell their TDRs at full market value. In this event, the County Council may choose to expand the TDR program by adopting additional TDR Sending Areas.

(2) Other than TDR acquisition, revenue from cash in-lieu payments shall only be used for costs incurred in administering the TDR program, including but not limited to facilitating

TDR transactions, preparing/recording TDR easements, monitoring/enforcing easements, and maintaining records.

- (3) The County Council may authorize County staff to use cash-in-lieu proceeds in accordance with procedures adopted by the Council. Alternatively, if the County Council chooses to enter into an agreement creating a TDR Bank, the Council may transmit cash in-lieu proceeds to the TDR Bank for the purposes specified by agreement between the Council and the TDR Bank. This agreement may direct the TDR Bank to combine the cash in-lieu proceeds to create a general TDR acquisition fund. All TDRs purchased with such a general TDR acquisition fund shall be offered for sale to Receiving Area developers.
- (4) The TDR program may operate with federal or other land preservation programs.

AN ORDINANCE OF THE COUNTY OF BEAUFORT, SOUTH CAROLINA, TO AMEND THE ZONING AND DEVELOPMENT STANDARDS ORDINANCE (ZDSO), TO ALLOW FOR CONTROL OF STORMWATER VOLUME FROM “LOTS OF RECORD BUT NOT BUILT.” THESE CONTROLS WILL MITIGATE WATER RESOURCE IMPACTS FROM CONSTRUCTION IN PREVIOUSLY APPROVED DEVELOPMENTS THAT DO NOT HAVE VOLUME CONTROLS.

- A. SECTION 106-7. EXEMPTIONS OF DEVELOPMENT TYPES
- B. SECTION 106-8. EXEMPTION FROM SUBDIVISION REVIEW
- C. SECTION 106-18. DEFINITIONS. (ADDING NEW DEFINITION—BEST MANAGEMENT PRACTICES, ON-SITE)
- D. SECTION 106-732. ZONING PERMIT
- E. SECTION 106-2857. EXEMPTIONS FROM SITE RUNOFF CONTROL AND DRAINAGE PLANNING/DESIGN.
- F. SECTION 106-2861. RETENTION/DETENTION FACILITIES
- G. SECTION 106-2865. ON-SITE SINGLE FAMILY LOT, BEST MANAGEMENT PRACTICES (BMP) (ADDING NEW SECTION).

Whereas, Standards that are underscored shall be added text and Standards ~~lined through~~ shall be deleted text.

Adopted this ____ day of _____, 2011.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Wm. Weston J. Newton, Chairman

APPROVED AS TO FORM:

Ladson F. Howell, Staff Attorney

ATTEST:

Suzanne M. Rainey, Clerk to Council

First Reading: May 9, 2011
Second Reading: May 23, 2011
Public Hearing:
Third and Final Reading:

Sec. 106-7. Exemptions of development types.

The following development types are exempt from certain requirements of this chapter as follows:

- (1) *Exemption 1:* Single-family development and places of worship on lots of record. Any single-family development or place of worship sited on a lot created through recording of a subdivision, prior to the effective date of the ordinance from which this chapter derives, and conforming to the applicable zoning at the time of creation is exempt from minimum lot size (area and dimensions) standards and setbacks for its respective zoning district (this does not apply to setbacks from the OCRM critical line). Where single-family development or places of worship on lots of record cannot meet the setbacks for their respective zoning districts, these lots shall adhere to the following minimum setbacks:
 - a. Single-family development: front—25 feet; side—10 feet; rear—10 feet.
 - b. Places of worship: front—50 feet (major thoroughfare); ½ ROW (all other roads); side and rear—20 feet with a 10-foot buffer.
- (2) *Exemption 2:* Planned unit developments (PUDs).
 - a. A PUD, including conditional use PUD, approved prior to July 1, 1999, is exempt from this chapter if:
 1. The PUD has more than 50 percent of the lots platted and recorded, e.g., "lots of record," or more than 50 percent of the utilities and infrastructure for the entire project completed as of January 1, 2010; or
 2. The PUD is deemed a "low-impact" development, which develops less than 25 residential dwelling units, or sells less than 25 lots per year and/or less than 10,000 square feet of commercial area and the rates provided herein are not exceeded. The entire project must be completed as of January 1, 2010.
 - b. Notwithstanding the above, all PUDs, including conditional use PUDs, are subject to current tree and landscaping standards, fire safety standards, engineering and stormwater management standards, environmental quality standards, parking standards, fee adjustments, and impact fees unless otherwise provided for in a development agreement or in an ordinance that created or amended a particular PUD. On-site stormwater BMPs will be required for new dwellings if approved PUD stormwater management standards do not include current runoff volume controls. In no case will the imposition of storm water volume controls for lots of record result in the lots becoming un-buildable. The Zoning Administration shall be empowered to make this determination at his or her discretion without recourse to the Zoning Board of Appeals for hardship.

(Note: The remainder of Sec. 106-7 is unchanged.)

Sec. 106.8. Exemption from subdivision review.

(Note: The remainder of Sec. 106-7 is unchanged except subparagraph (2)—see below)

- (2) *Minor subdivision exemption.* These subdivisions shall be exempt from certain review requirements that larger subdivisions must comply with. Individual homes in these subdivisions are required to meet on-site stormwater requirements (Section 106-2865) unless the subdivision waives exemption. All other appropriate standards of this chapter shall be adhered to. The ZDA shall review and approve minor subdivisions complying with the specific requirements explained as follows:

Sec. 106-18. Definitions

Best management practices, on-site means mandated individual dwelling stormwater practices determined by the amount of impervious surface on lot. Used when not covered in a community or regional stormwater management for both volume and quality.

Sec. 106-732. Zoning permit.

A zoning permit shall be required prior to receiving a development permit, when applicable, or a building permit for all uses permitted by right. This permit ensures the proposed development complies with this chapter's standards and has any other required permits for access, water, sewer, or other required permits. Unless a subdivision has been approved as meeting current stormwater volume requirements, on-site dwelling best management practices (Sec 106-2865) will be required under this section.

Sec. 106.2857. Exemptions from site runoff control and drainage planning/design.

- (a) Exemptions from site runoff control and drainage planning/design are as follows:
 - (1) Any maintenance, alteration, renewal use or improvement to an existing drainage structure as approved by the county engineer which does not create adverse environmental or water quality impacts and does not increase the temperature, rate, quality, or volume or location of stormwater runoff discharge;
 - (2) Developments where adequate drainage exists ~~of~~ for four or fewer than four residential dwelling units that are not part of a phase of a larger development, not involving a main drainage canal, however, homes in these areas will meet on-site requirements under this exemption;
 - (3) Site work on existing one-acre sites or less where impervious area is increased by less than two percent;

- (4) Site work on existing one-acre sites or less where impervious area is increased by less than two percent, and any earthwork that does not increase runoff and/or eliminate detention/retention facilities and/or stormwater storage or alter stormwater flow rates or discharge location(s);
 - (5) Agricultural activity not involving relocation of drainage canals; or
 - (6) Work by agencies or property owners required to mitigate emergency flooding conditions. If possible, emergency work should be approved by the duly appointed officials in charge of emergency preparedness or emergency relief. Property owners performing emergency work will be responsible for any damage or injury to persons or property caused by their unauthorized actions. Property owners will restore the site of the emergency work to its approximate pre-emergency condition within a period of 60 days following the end of the emergency period.
- (b) Golf courses are required to comply with the latest version of the county's manual for stormwater BMPs and all site runoff volume and water quality control and drainage planning and design requirements; however, both golf courses and private lagoons shall be exempt from the flood control requirements of section 106-2859 subject to clear demonstration by the design engineer that no damaging flooding will occur during the 100-year/24-hour storm and that all other safety concerns are addressed.

Sec. 106-2861. Retention/detention facilities.

(a) *Design criteria for developments.* Retention/detention facility design criteria for developments are as follows:

- (1) *Peak attenuation.* The peak discharge as computed from the design storm for post development shall not exceed the peak discharge for the design storm for predevelopment or existing conditions.
- (2) *Total retention.* Developments which are unable to secure a positive outfall for discharge shall retain all runoff resulting from the design storm as computed for the developed condition. As an alternate, the design engineer can comply with section 106-2859.
- (3) *Water quality control.* All proposed development and redevelopment shall comply with the latest version of the county's manual for stormwater BMPs.
- (4) *Total volume control.* Facility design criteria will control and retain total volume by retention and other methods so stormwater runoff levels will not exceed predevelopment levels. On-site volume controls, where applicable, will be applied as stated in Sec. 106-2865.

(Note: The remainder of Sec. 106-2861 is unchanged.)

Sec. 106-2865 – On-site Single Family Lot, Best Management Practices (BMP)

- (a) Where stormwater runoff is not addressed in an approved community runoff volume control system, construction of new or single family homes that are renovated in excess of 50% of their taxable appraised value, will need to employ and utilize on-site stormwater run-off volume control BMPs.
- (b) The actual BMPs to be utilized can be either determined from Stormwater Utility’s On-lot Volume Program (Attachment in BMP Manual and web-based program) or other volume practices as described in Beaufort County Best Management Practice Manual. Both manual and web-based program will be available on the County’s web site.
- (c) Required practices will be sized based on impervious surface on the property and can be reduced by employing practices that reduce impervious surface like:
1. Pervious driveways
 2. Pervious walkways
 3. Smaller roof surface
- (d) In no case will the imposition of storm water volume controls for lots of record result in the lots becoming un-buildable. The Zoning Administration shall be empowered to make this determination at his or her discretion without recourse to the Zoning Board of Appeals for hardship.

2011 /

TEXT AMENDMENT TO THE BEAUFORT COUNTY COMPREHENSIVE PLAN, APPENDIX L. BUCKWALTER PARKWAY ACCESS MANAGEMENT PLAN, WITH A NEW FIGURE 5 THAT ALLOWS THE INSTALLATION OF A TEMPORARY LIGHT AT PARKER DRIVE ~~AND A MEDIAN CROSSOVER MODIFICATION WITH THE UNDERSTANDING THAT THE TRAFFIC LIGHT WILL BE REMOVED WITH THE CONSTRUCTION OF PHASE 5B OF THE PARKWAY. WHICH SHALL BE REMOVED UPON COMPLETION OF PHASE 5B OF THE BUCKWALTER PARKWAY, AND THE MEDIAN OPENING AT PARKER DRIVE WILL BE CLOSED UPON COMPLETION OF PHASE 5B, AND PHASE 5B ALIGNMENT SHALL REMAIN AS IS, AND AS PART OF PHASE 5B CONSTRUCTION, TWO ADDITIONAL RESIDENTIAL ACCESS POINTS WILL BE SIMULTANEOUSLY BUILT TO PROVIDE THREE RESIDENTIAL ACCESS POINTS FOR ADJACENT RESIDENTS.~~

Adopted this ____ day of _____, 2011.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Wm. Weston J. Newton, Chairman

APPROVED AS TO FORM:

Ladson Howell, Staff Attorney

ATTEST:

Suzanne M. Rainey, Clerk to Council

First Reading: May 9, 2011
Second Reading: May 23, 2011
Public Hearing:
Third and Final Reading:

NOT TO SCALE

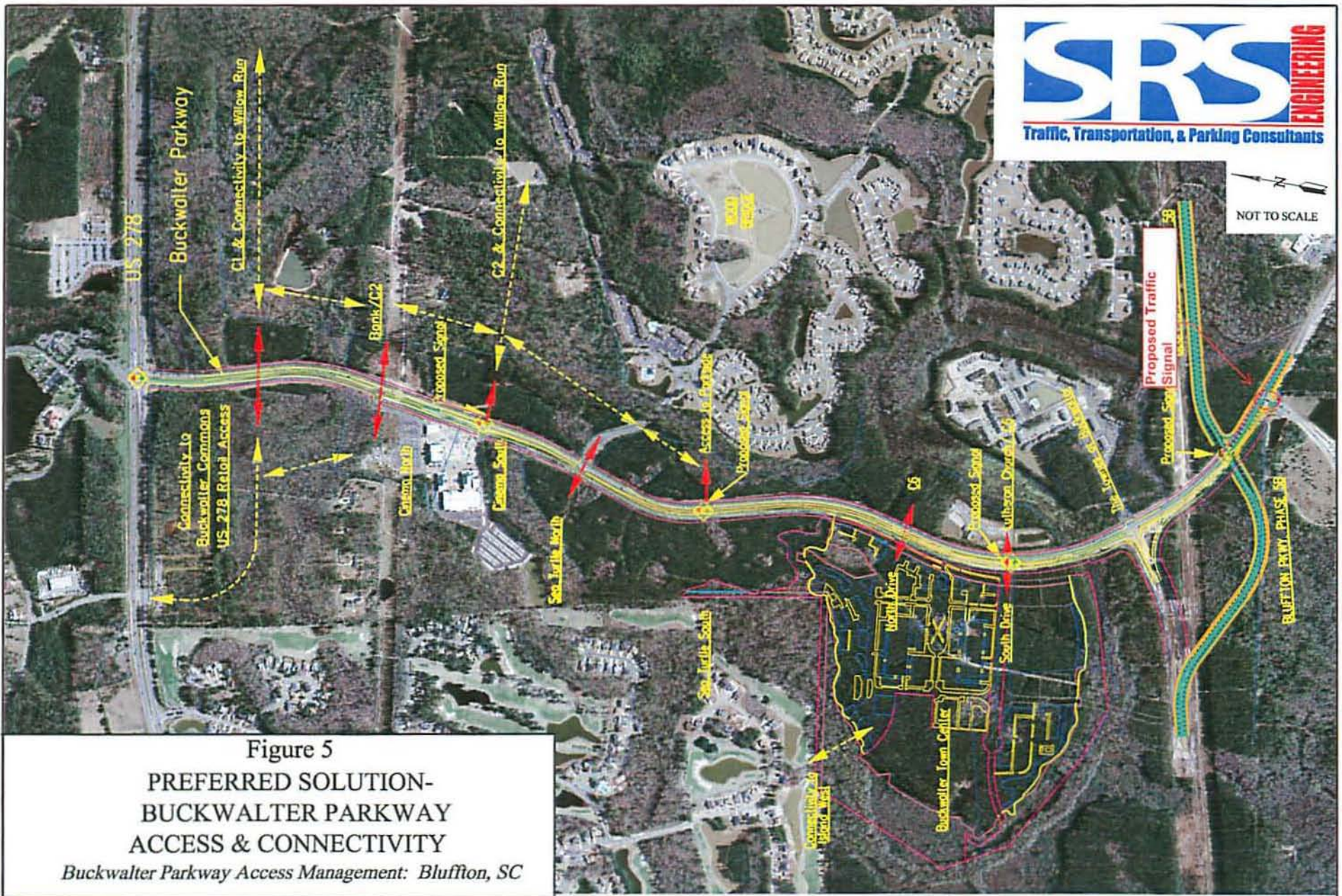


Figure 5
PREFERRED SOLUTION-
BUCKWALTER PARKWAY
ACCESS & CONNECTIVITY
Buckwalter Parkway Access Management: Bluffton, SC

2011 /

RIVERPORT MULTI-COUNTY PARK

AN ORDINANCE TO ESTABLISH, PURSUANT TO SECTION 4-1-170 OF THE CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED, A MULTI-COUNTY INDUSTRIAL/BUSINESS PARK, TO BE KNOWN AS THE RIVERPORT MULTI-COUNTY PARK, IN CONJUNCTION WITH JASPER COUNTY, SOUTH CAROLINA, SUCH PARK TO BE GEOGRAPHICALLY LOCATED IN JASPER COUNTY, SOUTH CAROLINA; TO PROVIDE FOR A WRITTEN AGREEMENT WITH JASPER COUNTY AS TO THE SHARING OF THE REVENUES AND EXPENSES OF THE PARK; TO PROVIDE FOR THE DISTRIBUTION OF REVENUES FROM THE PARK AMONG TAXING ENTITIES HAVING JURISDICTION OVER THE PARK; TO PROVIDE FOR A FEE IN LIEU OF AD VALOREM TAXATION; AND OTHER MATTERS RELATED THERETO.

WHEREAS, Beaufort County, South Carolina ("Beaufort County") and Jasper County, South Carolina ("Jasper County") (collectively, the "Counties"), as authorized under Article VIII, Section 13(D) of the South Carolina Constitution and Section 4-1-170 of the Code of Laws of South Carolina, 1976, as amended (the "Act"), propose to establish jointly a multi-county industrial/business park (the "Park"); and

WHEREAS, in order to promote the economic development of Beaufort County and surrounding areas, including Jasper County, Jasper County and Beaufort County have agreed to include in the Park properties now or hereafter comprising RiverPort (the "RiverPort Property"), as further described in Exhibit A to that certain Agreement for the Establishment of Multi-County Industrial/Business Park (RiverPort) to be entered into by the Counties as of such date as may be agreed to by the Counties (the "MCP Agreement"); and

WHEREAS, the Park shall be known as the RiverPort Multi-County Park; and

WHEREAS, the Counties have agreed to the specific terms and conditions of such arrangement as set forth in the MCP Agreement; and

WHEREAS, the Counties now desire to establish the Park to include the RiverPort Property.

NOW, THEREFORE, BE IT ORDAINED BY THE BEAUFORT COUNTY COUNCIL AS FOLLOWS:

Section 1. Establishment of Multi-County Park; Approval of MCP Agreement.
There is hereby authorized to be established, in conjunction with Jasper County, a multi-county

industrial/business park to be known as the RiverPort Multi-County Park and to include therein the RiverPort Property. The form, provisions, terms and conditions of the MCP Agreement now before this meeting and filed with the Clerk to County Council be and they are hereby approved, and all of the provisions, terms and conditions thereof are hereby incorporated herein by reference as if the MCP Agreement were set out in this Ordinance in its entirety.

The MCP Agreement is to be in substantially the form now before this meeting and hereby approved, or with such changes therein as shall not materially adversely affect the rights of Beaufort County thereunder and as shall be approved by the officials of Beaufort County executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of the MCP Agreement now before this meeting.

The Chairman of County Council, for and on behalf of Beaufort County, is hereby authorized, empowered, and directed to do any and all things necessary or proper to effect the establishment of the Park and the execution and delivery of the MCP Agreement and the performance of all obligations of Beaufort County under and pursuant to the MCP Agreement and to carry out the transactions contemplated thereby and by this Ordinance.

Section 2. Payment of Fees. SLF III-Hardeeville, LLC and any other industries/businesses located in the Park will pay a fee in lieu of *ad valorem* taxes as provided for in the MCP Agreement. The fee paid in lieu of *ad valorem* taxes shall be paid to the Treasurer of Jasper County. That portion of the fee allocated pursuant to the MCP Agreement to Beaufort County shall, upon receipt by the Treasurer of Jasper County, be paid to the Treasurer of Beaufort County in accordance with the terms of the MCP Agreement. Payments of fees in lieu of *ad valorem* taxes will be made on or before the due date for taxes for a particular year. Penalties for late payment will be at the same rate as late tax payment. Any late payment beyond said date will accrue interest at the rate of statutory judgment interest. The Counties, acting by and through the Treasurer of Jasper County, shall maintain all liens and rights to foreclose upon liens provided for counties in the collection of *ad valorem* taxes. Nothing herein shall be construed to prohibit Jasper County from negotiating and collecting reduced fees in lieu of taxes pursuant to Title 4, Chapter 29 or Chapter 12, or Title 12, Chapter 44 of the Code of Laws of South Carolina 1976, as amended, or any similar provision of South Carolina law.

Section 3. Sharing of Expenses and Revenues. Sharing of expenses and revenues of the Park by Beaufort County and Jasper County shall be as set forth in the MCP Agreement.

Section 4. Distribution of Revenues to Taxing Entities. Revenues from the Park shall be distributed to and within the Counties as set forth in the MCP Agreement.

Section 5. Governing Laws and Regulations. The ordinances of the City of Hardeeville, South Carolina (the "City") and Jasper County, as applicable, concerning zoning, health and safety regulations, and building code requirements will apply for the entire Park. Henceforth, in order to avoid any conflicts of law or ordinances, the City Code of Ordinances and the Jasper County Code of Ordinances, as applicable, will be the reference for regulation or laws in connection with the Park. The Beaufort County Code of Ordinances shall in no way apply to the Park.

Section 6. Savings Clause. If any portion of this Ordinance shall be deemed unlawful, unconstitutional or otherwise invalid, the validity and binding effect of the remaining portions shall not be affected thereby.

Section 7. General Repealer. Any prior Ordinance, the terms of which are in conflict herewith, is, only to the extent of such conflict, hereby repealed.

Section 8. Effectiveness. This Ordinance shall be effective after third and final reading

DONE IN MEETING DULY ASSEMBLED ____ DAY OF _____, 2011.

BEAUFORT COUNTY, SOUTH CAROLINA

By: _____
Wm. Weston J. Newton, Chairman of County
Council, Beaufort County, South Carolina

ATTEST:

Suzanne M. Rainey, Clerk to County Council
Beaufort County, South Carolina

First reading: May 9, 2011
Second reading: May 23, 2011
Public hearing: _____, 2011
Third reading: _____, 2011

2011/

**BEAUFORT COUNTY ORDINANCE FOR REGULATION OF
TOWING FROM PRIVATE PROPERTY IN BEAUFORT
COUNTY**

ARTICLE IV. TOWING AND WRECKER SERVICES

Sec. 70-70. Purpose.

The purpose of this article is to provide adequate control over wrecker service operations within the unincorporated private property sections of Beaufort County to ensure:

- (1) The general health, safety and welfare of the public.
- (2) That wrecker services are conducted in such a manner that is fair and equitable, which mutually protect the interests of residents of and visitors to Beaufort County.

Sec. 70-71. Definitions.

The following words or phrases, as used in this article, shall have the following respective meanings as set out in this section, unless a different meaning clearly appears from the context:

After normal business hours, with the exception of the wrecker service rotation program, means between the hours of 5:00 p.m. and 9:00 a.m., weekends, and state and national holidays, or those days and hours other than during which towing is made available by the wrecker business, whichever period is shorter. For purposes of the wrecker service rotation program, "after normal business hours" means between the hours of 5:30 p.m. and 9:00 a.m. seven (7) days a week.

Motor vehicle means any motorized device in, upon, or by which any person or property is, or may be transported or drawn upon any public highway, public right-of-way or public or private property. Motor vehicle shall not include any device propelled solely by human power to which is used exclusively upon stationary rails or tracks.

Operator/attendant means the person driving the wrecker or any person assisting with the operation of the wrecker or storage lot.

Operating zone shall mean the geographic limits of areas of Beaufort County, which are unincorporated within which a wrecker or towing service must meet criteria set forth herein to qualify to operate within that geographic area.

Owner means any person owning or having any financial interest in a wrecker business licensed by the county.

Wrecker means any vehicle built and equipped for the purpose of towing, lifting, pulling or otherwise transferring motor vehicles from place to place including, but not limited to, those vehicles that are commonly referred to as "roll-back" or "flatbed" type tow trucks.

Sec. 70-72. Business license required.

Business license. No person or business shall engage in the business of recovering, towing, removing and storing of vehicles from within unincorporated sections of Beaufort County without first obtaining a county business license by filing an application, upon a form provided by the county, with the county business license office, together with paying the appropriate license fee as set forth in this Code. Attached to the application shall be the following information:

- (1) *Business identity:* Indicate whether a sole-proprietorship, partnership or corporation. List all individuals or entities having a financial interest in the company including names, addresses and telephone numbers. If the business was in operation prior to application, provide the number of years in operation and each individual's or entity's years of affiliation or ownership.
- (2) *Business location:* Provide the street location, mailing address and telephone number of the wrecker service's primary business location and the hours of operation.
- (3) *Storage lot:* Provide the street location, address and telephone number of the wrecker service's storage lot and hours of operation. The capacity of storage shall be indicated together with the method employed to screen the stored motor vehicles from public view as well as security measures employed.
- (4) *Records and other services:* List all procedures and attach copies of forms used to keep records and any auxiliary services which will ensure delivery of a high level of service to the public.
- (5) *Vehicle identification:* Provide the year, make, model, vehicle identification number, gross vehicle weight class, type and South Carolina license plate number for each vehicle to be used in the towing company's business.
- (6) *Liability insurance:* Provide proof of automobile liability insurance in full compliance with South Carolina financial responsibility laws.

An Owner under this article shall procure and keep in full force and effect a policy of liability and property damage insurance issued by a casualty insurance company authorized to do business in South Carolina.

Sec. 70-73. Special requirements.

- (a) Each wrecker shall display the owner or company name and business telephone number in at minimum two-inch high letters on both vehicle doors. Temporary lettering, magnetic or otherwise, is strictly prohibited.
- (b) Each wrecker shall display a current South Carolina license plate to the extent required by South Carolina law.
- (c) Every operator shall have the appropriate level of driver's license for the vehicle that is being operated.
- (d) Each wrecker business which stores towed vehicles shall have a storage lot in close proximity to its principal place of business. It shall be the responsibility of the wrecker company for ensuring that stored vehicles and their contents are kept safe from pilferage and theft.
- (e) The tow truck company will permit the owner of personal property located within, but not attached to, the vehicle a one-time removal of such personal property from the vehicle without charge and without regard to any towing or storage charge owed on the vehicle. A reasonable timeframe shall be given of at least one hour to the tow truck company for removal of emergency items such as medicine or life affecting items. If the tow truck company has removed personal property from the vehicle, it will return it to the vehicle owner when requested without charge and without regard to any towing or storage charge owed on the vehicle. Should the tow truck operator or storage lot attendant have reasonable belief that such requested property constitutes contraband or other item(s), possession of which is unlawful, notification will be given to the appropriate law enforcement agency prior to release of the property.
- (f) Any loss, cost, damage or other expense occasioned by negligence of the wrecker company shall be the sole and entire responsibility of the wrecker company and not the county. All and total liability shall be upon the towing company from initial hook-up to a vehicle until release of said vehicle.

Sec. 70-74. Booting.

No booting will be allowed under the terms of this Ordinance.

Sec. 70-75. Property Owner's Associations.

No property owners' association rules or private covenants filed in the Beaufort County Register of Deeds Office will apply to any private roads in a subdivision, which has been dedicated under appropriate legal requirements to authorize state or county law enforcement to enforce traffic statutes under Title 56 of the Code of Laws of South Carolina 1976, as amended.

Sec. 70-76. Non-consensual towing from private property.

(a) It shall be unlawful to remove any motor vehicle from private property without authorization from the owner of the motor vehicle, the county, or authorized law enforcement agencies, except under the following circumstances:

(1) The property owner has proprietary ownership and discretion as to who is authorized to be on said property; and

(2) If the property owner is a commercial entity or other like entity which has shared parking spaces, the following conditions have been met:

a. The property owner, or designated manager, has posted the property with signs clearly stating that parking is prohibited or restricted;

b. The posted signs were in place and clearly visible and legible to any driver approaching the property where parking is prohibited or restricted at the time the vehicle was parked; and

c. The posted signs contain a clear warning that violators' vehicles will be towed, at the vehicle owner's expense, and contain the telephone number to call to obtain release of the towed vehicle.

(b) If a vehicle has been requested to be towed from private property where security is maintained, security shall be required to accompany the towing company to the vehicle requested to be towed and remain until the vehicle has been removed from the property.

(c) The owner of the vehicle towed from private property shall be responsible for paying all applicable towing and storage charges provided that the private property owner has complied with all of the requirements contained in subsection (a) above. If a vehicle is towed as a result of a property owner's request and the property owner has not complied with the requirements of subsection (a) above, or if the vehicle towed is shown to have been legally parked, the property owner shall be guilty of a misdemeanor and may, in the discretion of the county magistrate as provided in S.C. Code, Section 14-25-75, be required to reimburse the owner of the vehicle for all towing and storage charges which the owner of the vehicle paid.

(d) (1) A wrecker service and private property owner may enter into a written agreement authorizing towing from that property, which agreement shall be filed with the Beaufort County Sheriff's Office. Before towing a vehicle from private property without authorization from the vehicle owner, the wrecker service operator shall obtain from the property owner, or designated manager, a written authorization which shall set forth the name and signature of the property owner or his/her agent or a statement that the tow occurred pursuant to an agreement filed with the Beaufort County Sheriff's Office, the address from which the motor

vehicle is being towed, the reason for the removal, and the year, make, model vehicle identification number, state and license plate number of the motor vehicle being towed.

(2) These authorization forms shall be provided by each wrecker service providing such towing services and will be kept on file by the wrecker service for inspection by the county for not less than three (3) years.

(3) In addition, any wrecker service removing a motor vehicle from private property without the consent of the owner of the vehicle shall, within One (1) hour of its removal, telephone the Beaufort County Sheriff to verbally report the tow by providing the information on the authorization form as well as the location where the motor vehicle may be claimed by its owner.

(e) At any time a vehicle is towed without the authorization of the vehicle owner or person lawfully in possession of the vehicle (hereinafter the "vehicle owner"), the fee schedule herein shall be the maximum to be charged by any wrecker operator or company and no other fees or charges of any kind shall be required to be paid by the vehicle owner in order to recover the vehicle.

(f) No wrecker service operator shall tow a vehicle from private property without the consent of the vehicle owner unless the wrecker service shall have an operator/attendant on call at all times other than after normal business hours capable of responding to requests for release of the vehicle. The operator/attendant will be capable of and will respond to a request for release of a vehicle within forty-five (45) minutes of being called during any of these times, and shall release the vehicle upon payment of the fee as set forth in the fee schedule herein, and upon proper identification, unless the operator/attendant has reasonable belief that operation of the vehicle will be in violation of the law and in that instance will notify the appropriate law enforcement agency prior to release of the vehicle. No other fees or charges may be required, and no fees or charges shall be assessed or accrued after forty-five (45) minutes from the request for release of a vehicle.

(g) Each wrecker business shall have posted at its storage lot and at its principal place of business signs clearly indicating the procedure for release of vehicles, including the on-call number for release of vehicles, such posted signs to be in place and clearly visible and legible to any driver approaching the storage lot or place of business.

(h) If a vehicle owner returns to reclaim his or her vehicle while the tow truck is on the scene but before the vehicle is physically connected to the tow truck, the tow truck operator may charge no more than Seventy-five Dollars (\$75.00) to release the vehicle. If the owner refuses or is unable to pay, the vehicle may be towed.

(i) If the vehicle is connected to the tow truck when the vehicle owner returns to reclaim the vehicle, the tow truck operator shall disconnect the vehicle and return it to the

vehicle owner without further charge upon payment of One Hundred Dollars (\$100.00). If the owner refuses to or is unable to pay, the vehicle may be towed.

Sec. 70-77. Maximum towing charges.

(a) The attached (Appendix A) schedule of fees shall be adhered to in establishing the maximum that can be charged for a tow, except as otherwise provided by an authorized governmental agency having competent jurisdiction, and except when the owner/operator of a towed vehicle makes special arrangements with a wrecker service of his/her own choosing. These fees may be exclusive or cumulative in nature dependent upon the circumstances involved in the call for service.

(b) The schedule of fees shall be reviewed by the Beaufort County Governmental Committee, upon recommendation of the committee, the director of the division of public safety, or the program administrator. Adjustment of fees may be accomplished by simple resolution of County Council after public review in the event of any significant change in economic conditions affecting the towing industry, e.g., cost of fuel.

(c) Storage fees will not begin until twelve (12) hours after the motor vehicle has entered into the business' storage lot. Thereafter, storage fees shall accrue on a per day basis for any one (1) day or portion thereof.

(d) All entities engaged in a towing business shall adopt a fair business model which only utilizes and charges for the services and/or equipment necessary to accomplish the task under consideration. Those businesses that are found to unnecessarily utilize equipment in such a manner as to exaggerate towing charges will be found to be in violation of this article.

(e) Each business engaged in non-consensual (without the prior consent or authorization of the owner or operator of the vehicle) or wrecker service rotation program towing will post, in a prominent place, a placard which references this section and clearly identifies the current schedule of fees. Said placard will be no less than twelve (12) by eighteen (18) inches and clearly visible to vehicle owners who will be paying a towing bill.

(f) Each vehicle owner will be given an itemized invoice or receipt for the bill they have paid which details all charges that have been applied to the bill.

Sec. 70-78. Emergencies or special events.

Whenever the county determines that a state of emergency exists in Beaufort County, or during special events so designated by the county, the county administrator may request that all wrecker services engage in the towing of vehicles deemed as interfering with efforts to deal with the emergency or special event. Towing charges incurred during such times shall be in accordance with the established towing fee schedule and such charges shall remain the responsibility of the towed vehicle's owner.

Sec. 70-79. Penalties.

Unless otherwise provided herein, violation of any of the provisions of this article is a misdemeanor punishable in a court of competent jurisdiction of a fine of One Hundred Dollars (\$100) or thirty (30) days in jail.

Appendix A. Schedule of Fees

TABLE INSET:

Description	Fee
Carrier	\$200.00
Light-medium wrecker	\$200.00
No-tow (arrival only)	\$75.00
No-tow (attached)	\$100.00
Tow exceeding one hour	\$125.00 per hr.
Storage (per day) (after first 24 hours)	\$40.00

Adopted this _____ day of _____, 2011.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Wm. Weston J. Newton, Chairman

APPROVED AS TO FORM:

Ladson F. Howell, Staff Attorney

ATTEST:

Suzanne M. Rainey, Clerk to Council

First Reading: May 9, 2011
Second Reading: May 23, 2011
Public Hearing:
Third and Final Reading:

2011 /

FY 2011-2012 BEAUFORT COUNTY SCHOOL DISTRICT BUDGET

To provide for the levy of tax for school purposes for Beaufort County for the fiscal year beginning July 1, 2011 and ending June 30, 2012, to make appropriations for said purposes, and to provide for budgetary control of the County's fiscal affairs.

BE IT ORDAINED BY COUNTY COUNCIL OF BEAUFORT COUNTY:

SECTION 1. TAX LEVY

The County Council of Beaufort County hereby appropriates the funds as detailed in Sections 3 and 4 of this Ordinance and establishes the millage rates as detailed in Section 2 of this Ordinance. The County Council of Beaufort County reserves the right to modify these millage rates at its August 22, 2011 meeting.

SECTION 2. MILLAGE

In Fiscal Year 2011-2012 and in accordance with the laws of South Carolina, the County Auditor is hereby authorized and directed to levy a tax on the following mills on the dollar of assessed value of property within the County.

School Operations	90.26
School Debt Service	28.00

These taxes shall be collected by the County Treasurer, as provided by law, and distributed in accordance with the provisions of this Ordinance and subsequent appropriations hereafter passed by the County Council of Beaufort County.

SECTION 3. SCHOOL OPERATIONS APPROPRIATION

An amount of \$175,270,150 is appropriated to the Beaufort County Board of Education to fund school operations. This appropriation is to be spent in accordance with the school budget approved by County Council of Beaufort County, and will be funded from the following revenue sources:

- A. \$111,193,370 to be derived from tax collections;
- B. \$ 54,311,312 to be derived from State revenues;
- C. \$ 400,000 to be derived from Federal revenues;
- D. \$ 1,100,000 to be derived from other local sources;
- E. \$ 3,013,067 to be derived from inter-fund transfers;
- F. \$ 1,091,589 to be derived from adjustment to the New River TIF;
- G. \$ 2,860,812 to be derived from the District's fund balance.

The Beaufort County Board of Education is responsible for ensuring that school expenditures do not exceed appropriations other than as provided for in this Ordinance. As revenues are based on projections, the Board of Education must make every effort to reduce the approved budget to allow for overestimated revenues, should this situation occur. Should the Board of Education be unable to sufficiently reduce the approved budget to allow for overestimated revenues, the Board of Education must appear before the County Council in an effort to resolve the problem. Any transfer of funds between programs as herein enacted must be in compliance with Section 7 of this Ordinance.

SECTION 4. SCHOOL DEBT SERVICE APPROPRIATION

The revenue generated by a 28.00 mill levy is appropriated to defray the principal and interest payments of school bonds.

SECTION 5. BUDGETARY ACCOUNT BREAKOUT

The Beaufort County Board of Education, as described in Section 3 of this Ordinance, line-item budgets are under separate cover but are also part and parcel of this Ordinance.

SECTION 6. OUTSTANDING BALANCE APPROPRIATION

The balance remaining in each fund at the close of the prior fiscal year, where a reserve is not required by State or Federal law, is hereby transferred to the Unreserved Fund Balance of that fund.

SECTION 7. AUTHORIZATION TO TRANSFER FUNDS

In the following Section where reference is made to "School Superintendent" it is explicit that this refers to those funds under the particular auspices of the School Superintendent requiring his approval.

Transfers of funds among operating accounts or among capital accounts within a department may be authorized by the School Superintendent or his designee, upon the written request of the Department Head. The School Superintendent, or his designee, may also transfer funds from any departmental account to their respective Contingency Accounts.

Transfer of monies/budgets between funds or programs must be authorized by the Board of Education, except amounts less than \$10,000, which may be authorized by the School Board Chairman, and/or the Finance Chairman of the respective bodies, upon the written request and consent of the School Superintendent. Transfers of less than \$5,000 may be authorized by the School Superintendent, and/or his designee.

SECTION 8. ALLOCATION OF FUNDS

The School Superintendent is responsible for controlling the rate of expenditure of budgeted funds in order to assure that expenditures do not exceed funds on hand. To carry out this responsibility, the School Superintendent is authorized to allocate budgeted funds.

SECTION 5. MISCELLANEOUS RECEIPTS ABOVE-ANTICIPATED REVENUES

Revenues other than, and/or in excess of, those addressed in Sections 3 of this Ordinance, received by the Beaufort County School District, which are in excess of anticipated revenue as approved in the current budget, may be expended as directed by the revenue source, or for the express purposes for which the funds were generated without further approval of County Council. All such expenditures, in excess of \$10,000, shall be reported, in written form, to the County Council of Beaufort County on a quarterly basis. Such funds include sales of products, services, rents, contributions, donations, special events, insurance and similar recoveries.

SECTION 6. TRANSFERS VALIDATED

All duly authorized transfers of funds heretofore made from one account to another, or from one fund to another during Fiscal Year 2012 are hereby approved.

SECTION 7. ADDITIONAL APPROPRIATIONS

This Ordinance provides that maximum school operations appropriations authorized for spending by the Beaufort County School District for Fiscal Year 2011-2012. The maximum school operations appropriation is set forth herein in Section 3. Any request to expend funds over the maximum school operations appropriation as provided in Section 3 must be approved by the Beaufort County Council by amendment to this Ordinance.

SECTION 8. EFFECTIVE DATE

This Ordinance shall be effective July 1, 2011. Approved and adopted on third and final reading this ____ day of _____, 2011.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Wm. Weston J. Newton, Chairman

APPROVED AS TO FORM:

Ladson F. Howell, Staff Attorney

ATTEST:

Suzanne M. Rainey, Clerk to Council

First Reading, By Title Only: May 9, 2011

Second Reading: May 23, 2011

Public Hearings:

Third and Final Reading:

2011 /

FY 2011-2012 BEAUFORT COUNTY BUDGET

To provide for the levy of tax for corporate Beaufort County for the fiscal year beginning July 1, 2011 and ending June 30, 2012, to make appropriations for said purposes, and to provide for budgetary control of the County's fiscal affairs.

BE IT ORDAINED BY COUNTY COUNCIL OF BEAUFORT COUNTY:

SECTION 1. TAX LEVY

The County Council of Beaufort County hereby appropriates the funds as detailed in Sections 4, 5 and 6 of this Ordinance. Further, that the County Council of Beaufort County hereby establishes the millage rates as detailed in Sections 2 and 3 of this Ordinance. However, the County Council of Beaufort County reserves the right to modify these millage rates at its August 22, 2011 meeting.

SECTION 2. MILLAGE

The County Auditor is hereby authorized and directed to levy in Fiscal Year 2011-2012 a tax of 47.54 mills on the dollar of assessed value of property within the County, in accordance with the laws of South Carolina. These taxes shall be collected by the County Treasurer, as provided by law, and distributed in accordance with the provisions of this Ordinance and subsequent appropriations hereafter passed by the County Council of Beaufort County.

County Operations	40.21
Purchase of Real Property Program	2.76
County Debt Service	4.57

SECTION 3. SPECIAL DISTRICT TAX LEVY

The County Auditor is hereby authorized and directed to levy, and the County Treasurer is hereby authorized and directed to collect and distribute the mills so levied, as provided by law, for the operations of the following special tax districts:

Bluffton Fire District Operations	19.67
Bluffton Fire District Debt Service	.38
Burton Fire District Operations	55.87
Burton Fire District Debt Service	5.53
Daufuskie Island Fire District Operations	30.71
Daufuskie Island Fire District Debt Service	0.00
Lady's Island/St. Helena Island Fire District Operations	31.00
Lady's Island/St. Helena Island Fire District Debt Service	1.50
Sheldon Fire District Operations	32.22
Sheldon Fire District Debt Service	2.18

SECTION 4. COUNTY OPERATIONS APPROPRIATION

An amount of \$96,303,492 is appropriated to the Beaufort County General Fund to fund County operations and subsidized agencies. The detailed Operations budget containing line-item accounts by department and/or agency is hereby adopted as part of this Ordinance. This appropriation will be funded from the following revenues sources:

- A. \$72,130,243 to be derived from tax collections;
- B. \$ 2,567,500 to be derived from fees for licenses and permits;
- C. \$ 7,422,875 to be derived from Intergovernmental revenue sources;
- D. \$11,226,774 to be derived from charges for services;
- E. \$ 753,000 to be derived from fines and forfeitures' collections;
- F. \$ 141,000 to be derived from interest on investments;
- G. \$ 705,600 to be derived from miscellaneous revenue sources;
- H. \$ 1,156,500 be derived from inter-fund transfers;

Additional operations of various County departments are funded by Special Revenue sources. The detail of line-item accounts for these funds is hereby adopted as part of this Ordinance.

SECTION 5. PURCHASE OF DEVELOPMENT RIGHTS AND REAL PROPERTY PROGRAM

The revenue generated by a 2.76 mill levy is appropriated for the County's Purchase of Development Rights and Real Property Program.

SECTION 6. COUNTY DEBT SERVICE APPROPRIATION

The revenue generated by a 4.57 mill levy is appropriated to defray the principal and interest payments on all County bonds and on the lease-purchase agreement authorized to cover other Capital expenditures.

SECTION 7. BUDGETARY ACCOUNT BREAKOUT

The foregoing County Operation appropriations have been detailed by the County Council into line-item accounts for each department. The detailed appropriation by account and budget narrative contained under separate cover is hereby adopted as part of this Ordinance. The Fire Districts, as described in Section 3 of this Ordinance, line-item budgets are under separate cover but are also part and parcel of this Ordinance.

SECTION 8. OUTSTANDING BALANCE APPROPRIATION

The balance remaining in each fund at the close of the prior fiscal year, where a reserve is not required by State or Federal law, is hereby transferred to the Unreserved Fund Balance of that fund.

SECTION 9. AUTHORIZATION TO TRANSFER FUNDS

In the following Section where reference is made to "County Administrator" it is explicit that this refers to those funds under the particular auspices of the County Administrator requiring his approval.

Transfers of funds among operating accounts or among capital accounts within a department may be authorized by the County Administrator or his designee, upon the written request of the Department Head. The County Administrator, or his designee, may also transfer funds from any departmental account to their respective Contingency Accounts.

Transfer of monies/budgets between funds or programs must be authorized by County Council, except amounts less than \$10,000, which may be authorized by the Council Chairman, and/or the Finance Chairman, upon the written request and consent of the County Administrator. Transfers of less than \$5,000 may be authorized by the County Administrator, and/or his designee.

SECTION 10. ALLOCATION OF FUNDS

The County Administrator is responsible for controlling the rate of expenditure of budgeted funds in order to assure that expenditures do not exceed funds on hand. To carry out this responsibility, the County Administrator is authorized to allocate budgeted funds.

SECTION 11. AUTHORIZATION OF TAX ANTICIPATION NOTES

(A) The Council hereby finds and determines that:

(i) The monies necessary to fund this budget will come primarily from ad valorem property taxes levied against property located in the County (the "Local Taxes").

(ii) Notices for the collection of Local Taxes will be prepared and mailed by the County Auditor sometime after September 1, 2011, and the Local Taxes are payable without penalty on or before January 15, 2012.

(iii) Local Taxes represent a substantial portion of the County's revenues for its operations. Payment of the operating costs of the County, especially for wages, salaries and a number of other expenses cannot be delayed pending receipt of Local Taxes. The County's fund balance and other sources of revenue are not sufficient cash to provide for current payment of all operating costs pending receipt of Local Taxes.

(iii) The Council has been advised that the cash requirements to pay currently the costs of operation of the County during the period of July 1, 2011 to January 15, 2012, will exceed the amount of cash available.

(B) The Council intends hereby to provide for the issuance of *tax anticipation notes* (the "Notes") authorized by Article X, Section 14 of the Constitution of the State of South Carolina, 1895, as amended, and Chapter 27, Title 11 of the *Code of Laws of South Carolina*,

1976, as amended. The Administrator, with the advice and consent of Council, is hereby authorized and directed to take such action as the Administrator deems necessary to issue the Notes without further Council action, whenever the current or projected cash position of the County requires such interim financing, subject to the following:

(i) The Administrator shall prepare schedules showing the projected cash requirements of the County and the funds that will be available to meet such requirements, including the general fund balance and receipts from all sources.

(ii) The Administrator, with the advice and consent of Council, may provide for the issuance of Notes in an amount sufficient to provide the County with sufficient cash to meet its projected needs and to maintain on hand an amount not less than 5% of the actual operating expenditures for the fiscal year ending June 30, 2011 (the "2011-2012 Fiscal Year"); provided, however, that in no event shall the principal amount of the Notes exceed 75% of the amount of Local Taxes to be levied for the 2011-2012 Fiscal Year without further authorization from the Council.

(iii) The Administrator, with the advice and consent of Council, may provide for the issuance of the Notes at one or more times and may provide for such Notes to be fully funded at the time of issuance or to be drawn against a stated principal amount over time.

(iv) The Administrator may provide for the Notes to mature at any time up to and including 90 days after January 15, 2012, and may provide for the prepayment of the Notes under such terms as are deemed desirable.

(v) The Notes may be sold at public sale or by invitation limited to local financial institutions or any particular kind of investor at the discretion of the Administrator; provided that the Administrator shall seek offers to purchase or fund the Notes from at least three sources. The Administrator shall exercise discretion in the manner of offering the Notes after considering the total amount to be funded and all costs in connection therewith, and shall endeavor to select that method of offering the Notes which is expected to provide the funding needed at the lowest total cost to the County.

(vi) The Administrator is further directed to obtain the advice of bond counsel as to the details of the Notes and the manner of offering thereof and to observe any limitations required under Federal tax laws to maintain the tax-exemption of interest thereon.

C) For payment of the Notes and the interest thereon, there shall be pledged the ad valorem taxes levied for operating purposes for the 2011-2012 Fiscal Year and the full faith, credit and taxing power of the County and the Administrator is hereby authorized to provide for such pledge and security in the Notes.

(D) The Administrator and all other officials of the County are hereby authorized and *directed* to take all action necessary or desirable to arrange for the issuance and placement or sale of the Notes and to enter into such agreements as are customary in connection therewith.

SECTION 12. MISCELLANEOUS RECEIPTS ABOVE-ANTICIPATED REVENUES

Revenues other than, and/or in excess of, those addressed in Sections 4, 5 and 6 his Ordinance, received by Beaufort County, and all other County agencies fiscally responsible to Beaufort County, which are in excess of anticipated revenue as approved in the current budget, may be expended as directed by the revenue source, or for the express purposes for which the funds were generated without further approval of County Council. All such expenditures, in excess of \$10,000, shall be reported, in written form, to the County Council of Beaufort County on a quarterly basis. Such funds include sales of products, services, rents, contributions, donations, special events, insurance and similar recoveries.

SECTION 13. TRANSFERS VALIDATED

All duly authorized transfers of funds heretofore made from one account to another, or from one fund to another during Fiscal Year 2012, are hereby approved.

SECTION 14. EFFECTIVE DATE

This Ordinance shall be effective July 1, 2011. Approved and adopted on third and final reading this _____ day of _____, 2011.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Wm. Weston J. Newton, Chairman

APPROVED AS TO FORM:

Ladson F. Howell, Staff Attorney

ATTEST:

Suzanne M. Rainey, Clerk to Council

First Reading: May 23, 2011
Second Reading:
Public Hearings:
Third and Final Reading:

Committee Reports

June 13, 2011

A. COMMITTEES REPORTING

1. Community Services

- ① Disabilities and Special Needs Board

<i>Nominated</i>	<i>Name</i>	<i>Position / Area / Expertise</i>	<i>Reappoint / Appoint</i>	<i>Votes Required</i>
05.23.11	David J. Green	At-Large	Appoint	6 of 11
05.23.11	Murray S. Weiner	At-Large	Appoint	6 of 11

2. Finance

- ① Minutes are provided from the [May 23](#) meeting. No action is required.
② Minutes provided June 27 from the June 6 meeting. Action is required. See main agenda items 22, 23.

3. Governmental

- ① Minutes are provided from the [June 6](#) meeting. No action is required.
② Lady's Island / St. Helena Island Fire District

<i>Nominate</i>	<i>Name</i>	<i>Position / Area / Expertise</i>	<i>Reappoint / Appoint</i>	<i>Votes Required</i>
06.13.11	Gordon Bowers	Lady's Island	Reappoint	10 of 11
06.13.11	Roosevelt McCollough	St. Helena Island	Reappoint	10 of 11

4. Natural Resources

- ① B/J Water and Sewer Authority

<i>Nominated</i>	<i>Name</i>	<i>Position / Area / Expertise</i>	<i>Reappoint / Appoint</i>	<i>Votes Required</i>
02.14.11	James O'Neal *	At-Large	Reappoint	10 of 11
02.14.11	Skeet Von Harten *	At-Large	Reappoint	8 of 11

*Section 2-193, Membership. "No reappointment can be considered more than 30 days prior to the expiration of a particular term."

5. Public Facilities

- ① Minutes are provided from the [May 24](#) meeting. Action is required. See main agenda items 12, 13, 14, 15, 16.
② Seabrook Point Special Purpose Tax District

<i>Nominate</i>	<i>Name</i>	<i>Position / Area / Expertise</i>	<i>Reappoint / Appoint</i>	<i>Votes Required</i>
06.13.11	Don Smith	At-Large	Reappoint	8 of 11
06.13.11	Frank Emminger	At-Large	Reappoint	8 of 11
06.13.11	Steve Jones	At-Large	Reappoint	8 of 11
06.13.11	Judy Daigle	At-Large	Reappoint	8 of 11
06.13.11	Bill Waldron	At-Large	Reappoint	8 of 11

6. Redistricting

- ① Minutes are provided from the [May 24](#) public hearing. No action is required.

B. COMMITTEE MEETINGS

1. Community Services

William McBride, Chairman

Gerald Dawson, Vice Chairman

➔ Next Meeting – Monday, June 20 at 4:00 p.m., BIV #2

2. Executive

Weston Newton, Chairman

3. Finance

Stu Rodman, Chairman

Rick Caporale, Vice Chairman

➔ Next Meeting – Monday, June 20 at 2:00 p.m., BIV #2

4. Governmental

Jerry Stewart, Chairman

Laura Von Harten, Vice Chairman

➔ Next Meeting – Monday, August 1 at 4:00 p.m., ECR

5. Natural Resources

Paul Sommerville, Chairman

Brian Flewelling, Vice Chairman

➔ Next Meeting – Monday, July 11 at 2:00 p.m., ECR

6. Public Facilities

Herbert Glaze, Chairman

Steven Baer, Vice Chairman

➔ Next Meeting – Tuesday, June 28 at 4:30 p.m., ECR

7. Redistricting

Weston Newton, Chairman

William McBride, Vice Chairman

➔ Next Meeting – Thursday, June 16 at 8:30 a.m., ECR

➔ Next Meeting – Wednesday, July 20 at 10:00 a.m., ECR

➔ Public Hearings

- May 23, 2011, 6 p.m., Council Chambers, 100 Ribaut Road
- June 15, 2011, 6 p.m., Hilton Head Island Branch Library, 11 Beach City Road
- July 18, 2011, 6 p.m., Bluffton Branch Library, 120 Palmetto Way
- August 8, 2011, 6 p.m., Council Chambers, 100 Ribaut Road
- August 22, 2011, 6 p.m., Council Chambers, 100 Ribaut Road

8. Transportation Advisory Group

Weston Newton, Chairman

Stu Rodman, Vice Chairman

➔ Next Meeting – August 2011

FINANCE COMMITTEE

May 23, 2011

The electronic and print media were duly notified in accordance with the State Freedom of Information Act.

The Finance Committee met on Monday, May 23, 2011 at 2:00 p.m., in the Large Meeting Room, Hilton Head Island Branch Library.

ATTENDANCE:

Finance Committee members: Chairman Stu Rodman, Vice Chairman Rick Caporale, and members Steven Baer, Brian Flewelling, William McBride, and Jerry Stewart attended. Committee member Paul Sommerville was absent. Non-committee member Gerald Dawson was also present. Weston Newton, Council Chairman, is a voting member of each Committee and attended the meeting.

County Staff: Bryan Hill, Deputy County Administrator; Gary Kubic, County Administrator; and David Starkey, Chief Financial Officer;.

Media: Richard Brooks, *Bluffton Today*; Joe Croley, Hilton Head Association of Realtors; and Kyle Petterson, *Beaufort Gazette / Island Packet*.

School District: Tonya Crosby, Chief Financial Officer; Valerie Truesdale, Superintendent; Fred Washington, Board of Education Board Chairman; Phyllis White, Chief Operational Services Officer; George Wilson, Board of Education member.

Finance Chairman Stu Rodman chaired the meeting.

Mr. Rodman led those present in the Pledge of Allegiance to the Flag.

INFORMATION ITEMS

1. April 2011 Standard Operating Procedures Report

Discussion: Committee Chairman Stu Rodman spoke before the Committee. He spoke about County services such as that of EMS, sheriff deputies, etc. who cannot be cut do to houses reducing in value. People are going to expect their tax rates to go down, but at the same time some of it is independent of what the homes happen to be worth. They rode the market up and now have to ride the market down.

Mr. Baer said it is not the rate that is important but is the total dollars.

Mr. Rodman said if someone had a \$.5 million home and were paying \$10,000 in taxes; not the home is only worth \$300,000, they might ask why they should still pay the same \$10,000 in taxes. We are going to get some push back from the real estate community.

Mr. Starkey reviewed the Standard Operating Procedures Report with the Committee. Staff had not received a complete set of data from the Auditor's Office. Once it is received, it will be forwarded to Council. The Treasurer's section has been provided by the Finance Department. Tax Year 2010 real and personal billed, as of April 30, was \$178,000. The General Fund has, in net of TIFs, \$68.3 million billed, of which \$65.5 has been collected. Regarding Autos billed there has been \$1.2 million to date, of which \$880,000 has been collected. Since January 18, which is when penalties begin being assessed on property that has not been paid, the County has collected \$3.6 million. That shows the stresses in our economy. We also have \$3.8 million, net of TIFs, still outstanding for tax year 2010. That will change based on appeals being processed through and any further 4% applications being put through. Not only collections can bring the real and personal numbers down, but any appeals being processed after that date.

Mr. Baer said the tax sale for tax year 2010 has not happened yet, but it has for 2009. What is the percentage for collections in 2009? Mr. Starkey stated it is around 99% and can provide Council with the exact number.

Mr. Starkey stated as of April 30, there is \$73.7 million budgeted for FY 2011, of which we have collected \$70.3 million. That leaves the general fund at \$3.4 million in ad valorem taxes budgeted. Net revenues over expenditures, comparing FY 2010 and FY 2011, we have \$1.5 million for FY 2010, as of April 30 and \$4.7 million as of FY 2011. That is a difference of \$3.2 million. That difference is only about \$750,000 because of the \$1.1 million credit card problems that was not resolved until June of last year and there was approximately \$1 million of year-end entries we have been making progressively through this year, based on the fact of having more staffing in the Finance Department and are better able to budget and manage our projections and revenues. Essentially we are virtually flat to where we were last year at this time.

Mr. Baer said we are \$750,000 in the green. Mr. Starkey stated compared to last year. You must keep in mind that at June 30 of last year we were down \$2.7 million. Extrapolating the same revenues and the same expenditures, that is to where we will be. As you have seen and heard, administration and finance have started to do items to reduce expenditures in which a lot of which will take effect in the next couple of months. Revenue wise, we are virtually where we were last year. There are some areas where we are behind, and some areas where we are ahead, but net we are virtually the same.

Mr. Baer said FY 2011 – April 30, there is \$4.68 million more in revenues than expenditures. Mr. Starkey stated that is correct.

Mr. Baer said that is not in comparison to previous years. Mr. Starkey stated part of last year is actually artificially deflated because there was \$1.1 million extra in expenditures due to the credit card problem and there are several year-end expenditures that we have been doing on a quarterly basis rather than hit the end of the year and flush everything through at once. We do

not know what our health insurance will be due to it being billed on a calendar year basis. Therefore, we will know what half of the year is at budget time and true at the end of a fiscal year. This fiscal year we began truing the number up at December 31. In years' past we would do all of these year-end entries at the end of the year. This year will be a harder comparison year for that very reason, but going forward we will be able to tell a lot earlier for areas other than ad valorem taxes.

Mr. Rodman stated last year when going through the School Board budget there was a lot of discussion about the collection rates, there was not an easy way to look at breaking monthly collections out as to what year they fell. Therefore, in any particular year the month's collection might have span two to three years.

Mr. Starkey commented the way our general ledger is set up it is easy to tell until you hit March 15, because all current year tax collections are in one line item. Once you hit March 15, all collection goes to an item called delinquent tax. We all know that the majority of that collection is the current tax year, however if there is a large bankruptcy that took a couple years to get through and all of a sudden goes through it will show up and become mingled. That is something that with the new treasurer coming on board, we would like to expand our general ledger to counteract that problem. Mr. Rodman says it gets difficult to understand the true collection rates because as you go into a downed economy and have bankruptcies and people not paying, his sense is that we walk away from some boat and car taxes. Property taxes though get picked up. It is more a timing issue rather than not collecting them.

Mr. Starkey stated there is another problem we had found after the Comprehensive Annual Financial Reports (CAFRs) were issued. After going through a lot of the raw data and having the time to delve into it, the numbers that were provided to finance, the School District (District), and other entities were the original amounts billed, not net of TIFs or net of any appeals. So therein you will never get close to 99%. What we have learned is that we really have to look at the amount billed at the tax sale, by that point in time, which would cover appeals 6% - 4% shifts and TIFs. We can then say, of that number, what was collected. That information has since been provided to the District to show that we do collect around 99%, however, the appeals factors and the 6% to 4% shift really has a detriment.

Mr. Rodman wanted to know if the interest and penalties accrue as an offset to the shortfall or does that fall somewhere else. Mr. Starkey stated the interest and penalties really are not part of the ad valorem taxes. The later someone pays the more penalties we collect which has become more over budget in the last few years.

Mr. Rodman inquired as to whether or not that accrues to the same account. Mr. Starkey stated that it is a different account. There are separate penalty accounts.

Mr. Rodman gave an example: someone has not paid their taxes and there is a penalty and interest; does the District get their piece and does the County receive their piece? Mr. Starkey replied there is a separate general ledger line. If you look at an actual Beaufort County tax bill, there are a bunch of items that say if paid after this date, pay this amount, etc. Everyone

gets their net amount of what they are owed. If it is a \$100 bill and paid on time, what it will do is show the penalties and interest in a separate line item.

Mr. Baer stated he gave the Deputy County Administrator a memorandum with some questions he has relative to the budget.

Status: No action required. Information only.

2. School District FY2012 Budget: Plan B – Flat Budget as Certified; and Plan C – Flat Tax as Requested.

Discussion: Committee Chairman Stu Rodman gave an overview of the status of the School District (District) budget. At Council we talked about a Plan A and Plan B, which became Plan B and Plan C. Plan B being Plan A, modified, from what the Board of Education (Board) had certified. Secondly, we were interested in understanding what the budget would look like in order to hold the taxes flat.

Mr. Fred Washington, School Board Chairman, stated the District is prepared to make their presentation, but when you talk about Plans, Plan A was always \$175 million and Plan B was a document that reduced the Plan A amount and was certified, and Plan C was with a flat budget. He introduced Mrs. Phyllis White, Chief Operations Officer, to give the details of those plans.

Mrs. White stated over the past three years, the District has reduced 169 positions and reduced costs by over \$10 million. The District also utilized \$1.2 million of the fund balance in FY 2010 and Plan to utilize as much as \$6.2 million of the fund balance for FY 2011. That would result in a fund balance of \$25 million that is less than 60 days which is best practices from the Government Financial Officers Association (GFOA). She presented staffing decrease in detail with the Committee. In review of the FY 2012 budget we have faced major increase of \$5 million due to the following: \$2 million in mandated benefits, \$1.3 million teacher step increase; \$.8 million operational contracts; \$.3 million in utility costs, \$.3 million for workers' compensation; \$.2 million for substitute teachers, and \$.1 million for the Riverview Charter School. In order to have a flat budget we have to take some cuts that amount to \$6.4 million to include the following: \$4.1 million – elimination of 80 positions (raising class size and decreasing instructional coaching positions), \$1.3 million – elimination of teacher step, \$.5 million – cuts in school supply allocations, and \$.5 million – cuts in district level departments.

Plan A

Plan A was the preliminary budget as approved by Board on April 15, 2011 that included expenditures at \$175.3 million, a 3% tax increase. This was a flat budget over the current year, FY 2011. She presented projections for future years, assuming there are no increases in future years. Every year, however, we are faced with increases. We will have to find a way to offset any increases that the State brings down to the District. Is that going to be easy to do? No. What happens, even if the District tries to keep the budget flat for the next few years, is disturbing in

FY 2014, due to the 20% projected reduction in the assessed value. It also assumes that there would be no future tax increase.

Plan B

This plan was approved by the Board and was to reduce the preliminary budget to exclude teacher step increase. This total budget is \$174 million. The District will be pursuing discussions with the County regarding TIF adjustments for New River. This request requires a 1.5% tax increase. She presented the outcome over future years. It showed no tax increases beyond FY2012 and does show that at the end of FY 2013, if the budget was kept the same with no tax increase, the District would be at 12.7% of fund balance. In FY 2014, unless we had an 18 mil increase, the District would have a fund balance of \$.7 million.

Plan C

Plan C is County Council's action at the May 9, 2011. It does have a deficit budget for FY 2014. If we were able to hold our expenditure budget flat, which is challenging, the District would go below 10% of the fund balance in FY 2013.

All of the plans include the additional New River TIF money the District should be receiving in FY 2014. She stated she did not include any DOE case money in there, which really would not matter for FY 2014. Any settlement that would be applied would not help in any meaningful way. She pointed out that the issue of the rollback that occurred. It has an impact on the District. She presented a graph of the comparative revenue information relative to both the District and the County. Between the years 2009 and 2010 the District went back so the rollback probably should not have been 12 mils. The District went backwards in the revenue. She believes the intent of the law is for it to be revenue neutral. The County's budgeted revenue considerably the same, even with the actual budgeted versus actual.

Mrs. White stated the District is asking to look at the actual yield of mill values. Mr. Rodman brought it up on collections. She presented Council with a graph which gave an overview of the mill values. The mill value that has been presented to the District to be used within the budget does not yield significant amount of revenue to allow the District to not utilize the fund balance on a regular basis. She asked that this year we establish a mill value that will actually deliver that amount of revenue generated. The revenue she presented of \$112.9 million reflects a 1.5% increase in revenue based on the current year projected revenue that ought to be the same as FY 2010. The mill rate is the same – 90.26 in FY 2010 and 90.26 in FY 2011. The revenue it generates is going to be approximately the same. A 1.5% increase on that would yield \$112.9 million. It is unrealistic to think the District will receive \$116.1 million on the same mill rate. It did not generate that the last two years. The District is asking for a reasonable mill rate to be established that is going to generate the revenue needed to support the District's budget. She said Mr. Rodman had asked her to bring three slides, which she has done and distributed to Council. He also requested that the District bring revenue and expenditure information for all funds, which will also be provided. She reminded Council that when you put all funds together,

it does not mean they can be used for operations. All funds will have the student activities money which the District cannot use, and also food service.

Mr. Rodman stated in the reassessment years the District is showing a \$2.5 million difference and the County a \$6 million difference. Mrs. White stated that was the actual. When the ordinance is done with the mill rate, the one that was set did not generate sufficient revenue. She stated the information she presented came from the County's CAFR and only includes tax revenue – current, delinquent and auto.

Mr. Rodman stated the difference in 2009 was \$2.2 million for the District and \$2.9 for the County. Mrs. White stated it was a decrease for the District, but an increase for the County.

Mrs. White stated we are getting ready to go through reassessment again. Her understanding is that it should be revenue neutral. That is based on the letter that the County Administrator, Gary Kubic, wrote the Attorney General relative to sufficient revenue needed to support the expenditure budget. You can see that the District did not have the same advantage. The District is digging itself out of a hole that was created in 2010. In FY 2012, the District is asking for less revenue than received in FY 2009.

Mr. Caporale inquired as to the dollar amount for 2010. Mrs. White stated \$4.4 million between the budgeted revenue in FY 2009 and the actual revenue in FY 2010. It is the difference between \$113.6 million and \$111 million is \$2.5 million.

Mr. Caporale suggested that if this cannot be resolved today that Council take it up as a point of discussion. He does not believe it should be left on the table. The District says we did something to materially harm them, while we protected ourselves from the same affects.

Mr. Caporale stated a teacher called him and suggested that the difference in teachers receiving their step increases as opposed to not increasing it would be the elimination of one of the eight days when teachers have no students. She said if one of those days were eliminated, that would take care of that shortfall. Mrs. White stated that would be a one time. Mrs. Truesdale said what the teacher is referring to or suggesting is that a furlough of teachers would be preferable to having a step increase lost. Many of the teachers felt that a furlough is a one year stop gap, which a step increase could never be put back in. There was a long conversation relative to that with the principals. The recommendation that the Board took was to eliminate the step increase for this year as opposed to the furlough. The principals and the administrative group feel if the general assembly made an incorrect methodology of funding public schools (Act 388) we should not be allowed to balance the error of our elected officials on the backs of teachers. You cannot furlough fire fighters or car dealers, why would you cut the pay of a teacher. The District feels that furloughs are not an avenue that is a reasonable approach.

Mr. Caporale said the same argument has been made in regards to County employees who are being furloughed. We are now balancing the budget on their backs. Financially wouldn't each teacher be better off with a one day furlough and getting their step increase. At the end of the year wouldn't they have made more money? Mrs. Truesdale stated it depends on the

individual case. In the case of the District, one-third of our teachers are already at the top of their step increase and realize no gain from a step increase. If you furlough a teacher, you have to furlough two days – teachers one day and all administrators two days. It would affect a lot more people. Most districts when they furlough, also furlough classified staff. It is a bigger conversation than just one particular teacher.

Mr. Baer stated it appears to him that all three of the plans spend \$175.3 million. Is that correct? Mrs. Truesdale said the certified budget is \$174 million. Mrs. White added into the future yes.

Mr. Baer said slide 7, Plan C is \$175.3 million. Mrs. White stated that is the amount before the Board voted to eliminate to step increase.

Mr. Baer stated there is Plan A at \$175.3 million, and Plans B and C at \$174 million. The variation is how aggressive the District's been in using the fund balance. Mrs. Truesdale stated that is correct.

Mr. Wilson stated the Board learned when taking an extra 20 days and added it to the school year, with the kids that were struggling, we say increased performance. Education is an important aspect of schools. Our function is to educate the children.

Mr. Newton wanted to know if the District has any updates on additional funding from the state budget predicated on the McNair efforts, and those of Senator Davis. Mrs. Truesdale replied she did not. She believes what Mr. Newton is referring to is that the General Assembly, this past week, decided to increase the base student cost for other schools in the state. That does not include Beaufort County. The District did call to confirm that the increase in the base student costs, which was about \$100 million, allocated to other school districts, but not for Beaufort. Mrs. White added it was \$105 million and she did contact the Finance Director who said that zero is still zero for Beaufort County, regardless of the base student costs.

Mr. Newton stated there is additional money in the budget, as it exists today, according to McNair. It was \$4.2 million to \$4.8 million, will be revenues for Beaufort County that is in the budget today based on a formula. Those are additional monies that were not in any legislation last year that Beaufort County would have gotten. Mrs. White stated they are not hearing that dollar amount. She called the state department finance director. Senator Davis had a proposal that was to ask that Beaufort or any school district that receives zero funding. 70% of the lowest EFA amount out there. That was verified with the finance director who calculates the EFA funding and it is in between \$600,000 and \$650,000 and has yet to be approved.

Mr. Newton asked that Mrs. White step out in the hallway to make that call. He made the call on the way over here and was informed that it was in between \$4.2 million and \$4.8 million. It was based on the County and the District together engaging the McNair Law Firm. It is in the budget. He suggested they send the page that shows that it is in the budget. Mrs. Truesdale stated that would be great.

Mrs. Truesdale stated what Council has in the packet before them is overview of where the District is. In 2007, our District was designated as a corrective action school district. When the District met with the community members, they were told over and over that if the District could make academic progress, this community would get behind its public schools. We met with teachers and principals and developed a laser like focus on student achievement. We are very lean and have been very productive. We have been able to reduce 169 positions without having to give pink slips. It has been able to be managed through nutrition despite opening six new schools. The District has proven the ability to make dramatic progress with fewer resources, but there are miles to go still. She presented documentation on the Bluffton cluster Elementary School. She pointed out that the blue represents all grades and subjects above the national average. Yellow represents all grades that are above the state average. For the Hilton Head cluster, you will see strong steady progress. Beaufort is also making steady progress. There are still two clusters with few above the national or state average, which include the Battery Creek cluster and Whale Branch cluster. There are miles to go before we are at the point where all of our schools are able to top national and state averages. That is goal one of the strategic plan. The District needs to sustain the momentum. We are in this difficult position because of three major events: (1) Five years ago the State of South Carolina the District lost \$16 million; (2) The 2010 Reassessment caused the District to lose \$4.4 million of annual revenues coming in; and (3) Projections. Mrs. Truesdale presented Council with a list of all of the school districts of South Carolina. Beaufort County is still, despite double digit gains in most areas, 61st out of 85 school districts in ranking. The presented Council with documentation relative to the collections issue. In 2009, Council approved \$116.8 million in the budget, but millage was set at \$113.6 million. The District lost \$1.3 million. The following year, the Council approved a budget of \$113.6 million, but millage was received at \$111.1 million. The District lost \$2.5 million. This year the District is projecting to lose \$4.5 million due to the collection rate. Those three events: the State's cutting, the rollback, and the collections have resulted in where we are today. The District stresses Council to approve the \$112.9 million and set millage to cover it. We would not be having an increase this year or last year, if collections had come in where the County thought they would. Council has an opportunity to make a big difference, just by setting the collection rates. If Council chooses not to grant this request, what happens? We have met with the principles at length and have asked what to do if we had to find \$1 million. After many laborious hours of conversation the list we would have to go to because we have cut as many teachers as we can and have cut every item thought of, the District will have to take another 5-10% across the board to generate \$900,000. That is all of the programs and consumables, such as student consumables, athletics, gifted and talented programs, and supplies. The District has scaled it back to bare bone and is asking for Council's help and support.

Mr. Rodman said the difference between Plan B and Plan C is \$1.3 million. Our ordinance shows a flat mil rate, for the ordinance purposes we need to stick in the \$173.97 million. Mrs. Truesdale stated that was done earlier in the day and copies were emailed to Council.

Mr. Rodman stated the District is assuming the tax increase in the ordinance they have provided. If we do not do the tax increase, the monies must either come from the programs previous spoken about or the fund balance. Would the District cut expenditures or use the fund

balance? Mrs. Truesdale stated it is already scheduled that the fund balance would be cut \$6.4 million from this year and an additional \$1.2 million next year.

Mr. Rodman stated for Council's purpose, since we have on the table the ordinance from Plan C; can the District provide the numbers that would make up Plan C? He asked that they pencil it in. The District brought up the point of what happened at the last reassessment and the County should be prepared to go back and revisit that. At the same time, he stated he is not interested in carving out one particular item and looking at it. If we do go back and take a look at it, then we should take a look at everything. Certainly on the table should be the understanding of how the fund balance went up \$20 million over the last few years. That will be left at the District's discretion or whether or not we want to focus on where we are today going forward or if we want to go back.

Mr. Washington stated in regard to the fund balance, the District was historically given the rise in that and the reason for it. He has not problem going back and seeing it a fifth time.

Mr. Rodman added that meeting will be scheduled. He stated he looks at the fund balance as a checkbook. There are a lot of things that happen over the course of a year, and he feels the fund balance shows where everything is. It went up more than anticipated.

Mr. Newton stated in an effort to understand the District's budget and the bigger picture of what is happening, has the District made this presentation to the Legislative Delegation? We go back to the issue of \$16 million which was a year where Beaufort County cut expenditures and lowered our millage rate to allow the District to raise their, to make up for what was being visited upon us by the State. We both engaged the McNair Law Firm this year to try to help bring about legislative change. The County is in the middle of discussions relative to furloughing County employees. As he looks at other school districts in the state; Charleston is closing schools, Savannah has layoffs and school closures, but has not heard any of that discussion relative to this. It seems that we start from a position of the local folks have to do more, regardless of what happens in Columbia. That vary difference is what led to Act 388. The very fact that along the coast, property taxes went up so fast that the legislature responded by passing Act 388. The argument today suggests that we perpetuate that even further. He stated he has received a lot of phone calls and emails over the last few days. He believes the District has done a good job in engaging our teachers and parents. He however is wondering if that same level of energy and enthusiasm as directed to Columbia. As we get to this point, we start the discussion of the education budget in Beaufort County from how much we have to increase taxes, but don't worry it is not the voters. We do not start from here is what we have done and committed to do with our Legislative Delegation in Columbia. We do not work to fix that before putting this burden on anyone else in Beaufort County. He said he is left with that sense of frustration in this overall discussion. Mrs. Truesdale stated in regard to closures; when Mr. Caporale made the suggestion last year at this particular time that the District consider closing schools and when Mrs. Deery made that recommendation at the September 2010 meeting, the District began immediately to begin studying that. The Board made a decision this year not to close schools for FY 2011/2012. Three public meetings are begin held to gather input on that, and the Board will made a decision on closing schools this summer. It is fully expected that it will be a robust

dialogue around the issue of closing one or more schools. Our seats that are open are almost all in K8 and almost all north of the Broad River. Most of the energy around that will be in the schools in the northern part of the County. To the Delegation, the District has not made this specific presentation because Council is the funding body. The District is asking that Council join with the school system. The energy being seen is due to us being at the point where everything we could do has been done and are not sure what to do now. She asks that Council join with the educators in this County. We need to say enough is enough. The \$105 million last week being deployed to other school district, made us noisy about the issue. It needs to be in some form other than the EFA, so that there could be some opportunity for Beaufort County. The District lost that discussion.

Mr. Newton stated he is delighted to hear that Council led the effort to engage McNair in lobbying and in the circles he is involved with the Chamber of Commerce, etc. there has been nobody that has talked louder about the inequities of the education funding formulas than County Council. The suggestions has been made that the District take a group to Columbia on a teachers day off and lobby on the state house's grounds. We may end up having one here in the parking lot today, but none in front of our legislatures. When watching how Charleston and Savannah start their budget discussion, and then in looking at our in it starting with a tax increase, it leads him to believe that there is not enough being done or enough attention being focused where the real route of the problem is. Despite the County's budget challenges and having to furlough employees, the District spent \$37,500 in order to help find the District additional monies.

Mrs. Truesdale stated this is not a "we" and a "you". This is "us". That is the problem. It is all of Beaufort County whom are getting shafted.

Mr. Washington stated to his knowledge, the District has not started the budget process with we have to have a tax increase and it only impacts those 6% business folks. He stated he is acutely aware of the impact that the taxes have on folks. He is dealing with the numbers of properties his parents own that with his lack of revenue cannot maintain. He is subject to losing some of those properties. He stated he has heard Mr. Sommerville on several occasions talk about that. He does not want to do anything that jeopardizes himself or his grandchild that was just recently brought into this world. He does not begin with the premise that we start with a tax increase. He asks what is needed to do the job. Then what can be done to reduce costs so that we do not need to go further than what we are going now. He stated he does not like to spend money, particularly when it comes out of his pocket. When it comes to school closings and the other options available, he hears what is needed to do. His approach is taking an orderly approach in addressing those issues. What do we do this fiscal year? The District is going to moth ball some areas and earnestly get into the discussion that we know we'll have to address seriously. We know we will impact folks in closing schools. He does not believe in taking the clever approach to it. He believes in letting people know the issues and give enough time for it to soak in. He will outline a process that brings as many people as possible to understand the reasons behind why we are doing what we are doing so we get greater buy-in. Buy-in is important, particularly in a community as diverse as our community. Some of the things we are going to do will impact one part of the community more so than other parts of the community. He does not want to see us regress – academically nor socially. This County has done a good job

in dealing with some tough social issues in a manner that should be the envy of other areas. He stated he would like to continue that tradition in Beaufort County. It is about "we." Even though we are different in many ways, we have more things in common. The District shares the County's concerns. Maybe it is the difference in approach. Sometimes maybe we need to have more conversations outside of the public arena to be on common ground.

Mr. Washington stated he has spoken with the Legislative Delegation on numerous times in regard to Education Reform. Reform is not always money. Some of the things we have in place create additional costs because some people are not addressing problems in another arena. He distributed handouts on Early Childhood Call for Action and a document regarding comprehensive tax reform. A lot of effort has been put into trying to get the state to change some practices on that level that would make a difference. Yes we use our School Boards Association and he stated he is a member of a couple of committees in the state level that have been trying to get the state level people to make some changes. All of it is not about money. Some of it is about preparation of kids coming to school that we in Beaufort County have to spend so much money (too much) on remediation.

Mr. George Wilson stated he is the Legislative Chairman. We talk about what is happening in Columbia. It is a tough situation just keeping status quo. Look at this year we started out the year with people wanting to give the charter schools more money. Where was that money to come? It was to come from our funds. He stated he does not care if the charter schools get more money. When they started out, they agreed to a certain thing and a certain playing field, but now someone else is in charge of the State Department of Education feels that the charter schools are not getting a fair share. There is a lot of political pressure from a lot of wealthy people involved in charter schools to get more money. The first thing was to take it from the public school system. Rather than doing that it was finally beaten down to it coming out of the state funds. That probably came from EFA funds which we are not getting. That is what is happening. Then we take a look at Point of Sale Legislation; if the Point of Sale Legislation went in we would be down another \$3 million. That again is very powerful people, with lots of money, going against school boards and school associations, etc. Most of our Delegation support it. Now what happened was that they stopped the retro activeness and make the adjustments during the reassessment period. So what happens is that it gets tied in and will cost other taxpayers, but will not come out of the hide of the District. These things are out there and there are all kinds of pressures and how much clap you have. The tax credit bill; that bill supported by most of our legislatures overtime will be costing local school districts lots of money that will go into the hands of the people who want to send their kids to private schools. It is not even trying to make the changes. It is trying to fight the changes that are being made. We all need to be looking at this. There are a lot of powerful forces out there. He stated his first thing is not to raise taxes, but we have gone four years now and are \$5 million below where we were then. We had to build six new schools, because of uncontrolled growth which increased costs over the years. We also added a charter school where the students get more money per student than that in regular schools, because we have to give them EFA Funds, which we do not get. Again, another pressure. The District has made a lot of cuts. We are now down to a point where if we go further down all of the efforts we made to give a school system that can stand up to economic development. Four years ago, when they talked about economic development, they talked about

the marines retiring and the skills they had, because they could not talk about our school system. Our school system, we have improved over the last four years more so than anyone in this state has ever done. There is a good track record there and our costs have come down. When you look at it that way, we have done our job and are still \$5 million less than we were four years ago, are still making improvements, but are now taking away the tools that were used to get that improvement. If we keep going this way every year, we will have a few years of the bad old days. Everyone in the school system is proud of what has been accomplished academically. If we start going backwards and they start losing hope, then this school system is in for some real troubled times in the future. The County will be a healthier community with educated kids.

Mr. Newton wanted to know if the District has put a potential cost savings on consolidation. Is there a consolidation plan? Is there various tiers?

Mr. Wilson said what looks like a simple process is not. We have so many schools and various components to keep one growing. If we consolidate we would be at 99%. It makes no sense, because we are still expecting growth as the economy comes down, to shut a school down. Most of the problems lie north of the Broad River. Mrs. Truesdale has some preliminary numbers. The Board has to have six board members to agree upon, which we may. Some Board members do not believe any schools should ever be closed down.

Mr. Newton wanted to know if consolidations would jeopardize academic progress. Mr. Wilson said his personal opinion is that if you are combining schools into a better building, you are bringing good teachers in there and still have a good principal; all you are doing is saving more money to educate them by taking overhead out.

Mr. Newton stated there is not one person on this Council that would not like to fully fund the District's budget today, but we do have challenges relative to tax increases. Council would like to fully fund the County Administrator's request and not be talking about furloughing County employees. Do not think that Council is not 100% in support of public education. When it is reported that County Council is bullying the District again, which is what the media reports, emails and telephone calls, it appears to be an orchestrated theme from somewhere.

Mr. Wilson stated when he made the motion to put consolidation on the board again, he commented that it has nothing to do with County Council in regard to the budget, but has to deal with what the School Board has to do as responsible Board members. He stated he does not want anyone thinking that the Board is doing their authority and making someone else take the blame. It is this economy. We have to be responsible.

Mr. Washington stated the School Board has not taken an official position saying that County Council has bullied us into taking action.

Mrs. Truesdale stated she will send Council the presentation to be presented in two days so that Council can see the costs for each possible closing. In January 2008, the Board directed staff to address making sure seats were being filled north of the Broad River in the schools that were challenged. The District went about consolidating programs and people into places. Lady's

Island Middle School is now two schools -- Lady's Island Intermediate and Lady's Island Middle Schools. Davis Elementary has been consolidated into Whale Branch Elementary. Daufuskie has been consolidated into the School for Creative Arts. Those consolidations have been done, quietly and effectively. Now we are at the point where we are going to have to make some major consolidations or closures if the community input is going to be giving us great deal of creative ideals in the next couple of open sessions. Throughout June, there will be a citizen committee to study those options. All have been cost out and are there for the world to see.

Mr. Rodman stated we have a Plan B and a Plan C on the table. The difference is \$1.3 million. We are doing ourselves a disservice in this whole process. As he looks back at his six to seven years on the combination of School Board and Council, we have approved the last six years exactly what was requested insofar as expenditures. Secondly, with the exception of last year, Council approved the millage rates that were requested. Last year was the first time we did not give the tax increase. It turned out that the fund balance came in a couple million over what was forecasted. In his mind "no harm, no foul". What is happening in the community is that the District is doing a great job, but if anyone were looking at locating a business here and read the paper or listened to these meetings, they would say that we have a terrible school system. It is just the opposite. It is one of the things we should be promoting and need to figure out a way of not going through this nonsense. He stated he received a call today saying that kids came home backpacked to tell County Council what they are doing wrong. All of these comments that take place regarding the reason for not closing schools were because Council did not approve the money last year. We are hurting ourselves with all of that stuff going on. Of the two plans he will vote for Plan C with the flat tax. As we look back at the budgets, the fund balance has increase by \$20 million over 5-6 years. We can find \$1.3 million out of that as we go forward. That money built up faster than expected.

Mr. Washington stated he feels it is Mr. Rodman's last comments that make it difficult for the District to understand. His interpretation would not quite characterize the development of the reserve fund and the funding as the budget the same way. He stated there are two years involved, not just one year. Instead of making those statements publicly, put the position side by side and see who is right. He stated if he is wrong he will admit he is wrong. We need to sit down and find out where we disagree and then the facts should drive us to the conclusion He wants to get the facts straight. Let's make sure that the timeline and the figures are accurate.

Mr. Rodman said if we added up projected versus actual the last three years it is about \$18 million to \$20 million. He would be happy to go back and revisit that and would be happy to move forward.

Mrs. Truesdale stated Council did approve the budget, but did not fund them. If the County would set the millage where it needs to be, we would not have this disagreement.

Mr. Rodman said it was funded according to the District's calculation last year, but the fund balance came in by an offsetting amount.

Status: No action required. Information only.

GOVERNMENTAL COMMITTEE

June 6, 2011

The electronic and print media was duly notified in accordance with the State Freedom of Information Act.

The Governmental Committee met on Monday, June 6, 2011 at 4:00 p.m., in the Executive Conference Room, Administration Building, 100 Ribaut Road, Beaufort, SC.

ATTENDANCE

Governmental Committee Members: Chairman Jerry Stewart, Vice Chairman Laura Von Harten and Committee members Rick Caporale, Gerald Dawson, Brian Flewelling, Herbert Glaze and Stu Rodman attended the meeting. Non-Committee members Steven Baer and William McBride also attended.

County Staff: William Winn, Division Director – Public Safety.

Media: Joe Croley, Hilton Head Island Association of Realtors; Kyle Peterson, *Beaufort Gazette/Island Packet*.

Legislative Delegation: Senator Tom Davis.

Public: Emerson Dixon, Beaufort County resident; Jayson Garden, Beaufort Regional Chamber of Commerce; Martin Goodman, Beaufort Area Manager for University of South Carolina Small Business Development Center; Larry Holman, Beaufort County Black Chamber of Commerce.

Mr. Stewart chaired the meeting.

ACTION ITEM

1. Consideration of Reappointment and Vacancies / Lady's Island/St. Helena Island Fire District Commission

Discussion: Mr. Stewart informed the Governmental Committee there are two appointments for the Lady's Island / St. Helena Island Fire District to be considered, Mr. Gordon Bowers for Lady's Island and Dr. Roosevelt McCollough for St. Helena Island.

It was moved by Mr. Glaze, seconded by Mr. Caporale, that the Governmental Committee recommends to Council for reappointment to the Lady's Island / St. Helena Island Fire District Mr. Gordon Bowers, Lady's Island representative, and Dr. Roosevelt McCollough, St. Helena Island representative. The vote was: FOR – Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Glaze, Mr. Rodman, Mr. Stewart and Ms. Von Harten. The motion passed.

Recommendation: Council approves the reappointment of Mr. Gordon Bowers, Lady's Island representative, and Dr. Roosevelt McCollough, St. Helena Island representative, to the Lady's Island / St. Helena Island Fire District.

INFORMATIONAL ITEMS

2. Presentation / Small Business Administration Program

Discussion: Mr. Stewart introduced Mr. Martin Goodman, who is the Beaufort Area Manager for the University of South Carolina Small Business Development Center. The center locally covers Beaufort, Hilton Head Island, Okatie and Bluffton.

Mr. Goodman handed out a sheet of paper outlining the performance for 2010. 2010 was a pretty active year with 135 citizens who attended nine workshops offering professional educational opportunities on various business subjects. There were 219 clients in 2010. This number is fairly average with an annual range between 200 and 230 clients, Mr. Goodman said. 853 hours were spent with 219 clients on one-on-one counseling at no charge. The Small Business Development Center clients received \$608,000 worth of business loans and injected \$1,422,400 in equity to the capital formation. Last year's capital formation total was \$2,030,400. Capital formation is the amount of money the Small Business Development Center helps clients generate through loans and equity. Clients reported 88 jobs were created or saved. At \$39,308 per capita (2005 per capital personal income per South Carolina Statistical Abstract/ income/ table 28) this represents \$3,459,104 in annual wages to the local economy. Mr. Goodman noted the capital markets and banks are extremely tight with funding right now. Where there is normally \$10 million to \$12 million in that area, it is reduced. Banks' lending is extremely tight, but one of the things the Small Business Development Center has been very pleased with, in terms of the economy, is that 17 new businesses started up in 2010. Maybe three or four years ago when those businesses were started, they would have gone out, borrowed a few thousand dollars and started on a larger scale. With lending as tight as it is those businesses are now finding their own money, family or private investors willing to assist, and starting businesses on a smaller scale with the idea the business will be built up. The Small Business Development Center sees activity with new businesses starting and people who are interested in businesses. Over the past two years, client activity has dwindled a lot in terms of clients looking strictly for help finding funding, Mr. Goodman noted. Word is out that funding is just not available. Mr. Goodman said the creation of 88 new or saved jobs is great, and this continues on with the small business being a generator of jobs across the country and here. He said he went back and looked at jobs and what the Small Business Development Center had done in the past. Since 2001, the clients the Small Business Development Center worked with in Beaufort County have created 785 jobs. Many of the businesses worked with are the mom-and-pop businesses making the job creation remarkable, Mr. Goodman said.

Mr. Goodman then handed out details of the First Quarter results for the Small Business Development Center. To date, clients have created 15 jobs thus far this year with 9 jobs created or saved in the first quarter. 7 businesses have started up in 2011, five within the first quarter.

Mr. Goodman said the Capital Formation looks better this year. First quarter reports put it at \$403,000. He noted some clients have been able to secure some financing. Through today, there is \$1,503,600 in capital formation recorded for 2011. These number, Mr. Goodman reminded the Committee, are not all that is out there but they are simply the figures that are reported. He said often businesses will get their businesses up and running and forget about the Small Business Development Center, which is understandable. To some degree, this means they do not accurately capture success numbers.

Mr. Stewart said he periodically gets letters or emails from individuals helped by the Small Business Development Center and they are always positive and appreciative. He asked when looking at equity if it is equity from outside sources or from mostly family. Mr. Goodman answered that for the most part the equity is internal. Mr. Stewart asked as far as loans, what role the Small Business Development Center plays.

The Small Business Development Center's program is a loan guarantee program, Mr. Goodman answered. There is only direct lending in one program, the 504 Program, which is used to purchase fixed assets such as buildings, land or equipment that would be amortized over 10 years. For the most part, if there was Small Business Development Center assistance where they were guaranteed it happened mostly when the federal government had active stimulus programs. Now the Small Business Development Center is not in loan guarantees as much. It went back to 80% guarantee to a bank if the loan is up to \$150,000, but for any loan over \$150,000 it is a 75% maximum guarantee. That was changed and the Small Business Development Center will guarantee up to \$5 million.

Mr. Stewart asked if there are any businesses in Beaufort County participating in the 504 Program, and Mr. Goodman replied there were none last year but there is one potential right now.

Mr. Goodman said one area picking up is the federal government spending a lot of money on government contracting. In Beaufort County there are some clients who have been able to get government contracts. Mr. Goodman said they are working with those clients, who are mostly in construction trades. There are consultants in the Charleston and Columbia Small Business Development Center offices who specialize in Procurement Technical Assistance Program (PTAC) and link clients to help them become certified to be listed in all the places for PTAC. This gives them the ability to become government contractors. Mr. Flewelling said this answered his question before he had a chance to ask. Mr. Goodman added they also have workshops where procurement representatives from the military bases attend as well as business representatives, and they outline processes for procuring government contracts.

Mr. Stewart said there are other groups: the Lowcountry Small Business Hub, the Lowcountry Virtual Business Incubator, a group working with franchisees and he assumes all these groups work together. He asked how that participation works.

Mr. Goodman said they work with "the Hub," which has brought referrals to the Small Business Development Center and the Small Business Development Center paired up. He said

unfortunately most of this occurs outside of Beaufort County, in Hampton County or in Jasper County. The Small Business Development Center functions as a resource, Mr. Goodman said.

Ms. Von Harten said at one point last year (April 2010) the Beaufort Regional Chamber of Commerce sent Beaufort County Council a white paper recommending it consider starting a microloan program for small businesses. She asked what the status is of small business help and microloans.

Mr. Goodman said the small business microloan program was presented for the Small Business Development Center through the Beaufort Regional Chamber of Commerce. He said what happened was the two were banking on the Lowcountry Council of Governments (LCOG) to be the fiduciary agent that would do the lending, collecting and administration of the loan program. Mr. Goodman said they found out from Chris Brinkley that LCOG is getting out of that type of work, so one of the problems of starting up a microloan program is that someone must extend the credit, collect and do the accounting for. The concern is that even if the program was started, too much of the money would be eaten up just trying to set up the administration, he said.

Mr. Flewelling suggested going back out to LCOG because he believes the organization reassessed its stance on the situation.

Mr. Goodman said he believes there is a true need for a microloan program as a lot of the businesses have fewer resources. For example, the Small Business Assistance Corporation of Savannah stopped doing microloans. There is not really a source of microloans. Microloans are generally below \$50,000.

Mr. Stewart said that speaking from the economic development perspective, the Lowcountry Economic Network (LEN) and the Lowcountry Economic Alliance also note a tremendous need for a microloan program. That is one of the biggest downfalls in this area – no investment capital or mechanism. Mr. Stewart said hopefully the groups can work together to build a microloan program; build a better relationship with the banks and lending community, etc.

Mr. Glaze asked what the dominant small businesses are that start up in this geographical area. Mr. Goodman answered that it is mostly service industry businesses right now. For awhile it was a lot of retail, but once the economy began slowing down it shifted to more service industry businesses. He said the businesses seem to be doing okay. He did note that some clients have failed during this economic time.

Discussions were interrupted to receive an update from Senator Tom Davis on matters being discussed by the state Legislature. Those follow on the next informational item. An update on the Small Business Development Center recommenced following the Legislature discussion.

Ms. Von Harten's comments related to Beaufort County's overall approach to economic development with regard to form-based codes and planning. She said she does not recall meeting

Ed Starkey, one of the consultants with Opticos. She asked if he had consulted with the Small Business Development Center. In what sense has Opticos approached the Small Business Development Center to understand what is going on from the form-based code standpoint and how it relates to place-based economics?

Mr. Goodman said he has not been asked, but he said he serves on the City of Beaufort's Redevelopment Commission. He said he knows that entity is working with certain areas to develop form-based codes as a redevelopment effort. He said no one has talked to him as to how affects economic development; form-based code can affect economic development because it certainly gives property owners the ability to get expedited permitting and so forth. He added he chairs the Economic Development Subcommittee of the City of Beaufort's Redevelopment Commission. One thing heard often is that the permitting process, especially in core commercial areas and historic districts, seems to be difficult. He cited Bladen Street Redevelopment and property owners there who are saying they will take advantage of building properties and remodeling.

Ms. Von Harten said Mr. Goodman has a pivotal role and as far as place-based economics he knows Beaufort area very well.

Mr. Stewart said the Governmental Committee asked the Natural Resources Committee to brief on activities as much of the permitting and form-based code is vetted through Natural Resources. He said he has not heard of any activities thus far, but hopes the County picks up and acknowledges. He noted there is some discussion going on right now about annexation. He elaborated to explain that the idea is if the property is annexed into the City of Beaufort it could take advantage of the expedited permitting, whereas in the County that is not possible and it is "a miserable situation and people want to get out of the County." Mr. Stewart said that needs to be worked on.

Ms. Von Harten said she is concerned that the Economic Development Task Force wants to spend \$50,000 on more studies when there are international experts looking at these matters for the City of Beaufort and Beaufort County already. She said local resources are not being utilized and there is a huge disconnect.

Mr. Stewart pointed out the setup of the Economic Development Task Force was a County Council vote.

Status: No action necessary by Committee. Discussion was for informational purposes only.

3. Discussion / Issues Currently Before the Legislature

Discussion: Mr. Stewart initially deferred this discussion at the beginning of the meeting as no members of the Delegation were present. When Senator Tom Davis entered the room, the Governmental Committee broke from the Small Business Development Center update to discuss matters currently before the state Legislature.

Senator Tom Davis said the Legislature may reconvene on June 7, 2011, and the South Carolina Supreme Court is supposed to decide whether Governor Haley has the authority to call the Legislature in. If they Legislature is not in June 7, it will be in session the following Tuesday to reconcile the South Carolina House of Representatives' and South Carolina Senate's versions of the budget. He said he is very optimistic about receiving additional funding for Beaufort County education this time around. There is about \$45 million in new, one-time funds rescued from the "[Education Fund Act] thresher." This will be distributed on a weighted per-pupil basis. Beaufort County should get about \$1.3 million to \$1.4 million of that. In regard to the Education Fund Act (EFA), if a Senate-adopted proviso can be kept in, Beaufort County should get an additional \$750,000 of EFA funds. Hopefully that money will come in and hopefully cause some relief down here. Senator Davis said he knows the Beaufort County School District was short some money and he knows there has been a tussle about whether or not to raise taxes. Hopefully this will render that moot. The Aid to Subdivision money is on the line on the Senate version of the budget at about a 4% to 5% reduction from last year. The reduction will stay in the budget, which is quite frankly disappointing given the fact that there was a General Fund increase from \$5.1 billion last year to more than \$6 billion this year, Senator Davis said. That is an 18% increase in General Fund spending at a time when South Carolina's state income is per capita rising at 3.5%. He said he does not know how the state will sustain that rate of spending growth. One piece of good news is that out of those additional revenues the state carved out \$146 million to go toward paying down a \$1 billion loan to the federal government that the State Unemployment Trust had. Senator Davis said that to the extent they could take that revenue and pay down the debt, South Carolina will not have to go ahead and increase premiums as greatly against small businesses. Those small businesses have received bills for premium renewals in the last few weeks. Senator Davis said it is important to note those businesses that paid their insurance for this year will get a rebate for the overpayment once the \$146 million is factored in. Signed by Governor Haley, the reform legislation changes the tiers and amounts of money collected. He added hopefully that will provide some relief for small businesses.

Mr. Stewart asked Senator Davis to speak on the ATI/ Point of Sale matter (H.3713).

Senator Davis told the Governmental Committee the Point of Sale passed and said as a component of that legislation is not only the relief in regard to the adjustment upward. But also another thing the counties and municipalities asked for was the ability to cap the cost of living adjustment (COLA) increase on millage. He said it will set up sort of a banking, whereby it would not be necessary to raise the millage but then subsequently take the damage of that non-taken millage increase in the future.

Mr. Stewart said it is tied to the ATI (assessable transfer of interest); it is not across-the-board and has to be justified by what has happened with the ATI portion. Senator Davis concurred and added there is some mitigating factor there to address the concerns the local governments had about the loss of revenues. Mr. Stewart said another issue that came up during the Finance Committee meeting prior to this was that there are some additional monies included for libraries. He asked about that. Senator Davis said, to be honest, he is not sure how the various versions differ on that. He added that the Senate appropriates substantially more money than the

House for two reasons. (i) There was another DEA projection in between when the House and Senate pass budgets meaning there are several hundred million dollars appropriated by the Senate by virtue of that fact alone. (ii) There is always a philosophical difference between the House and the Senate in regard to what is called enhanced collection. The Senate always appropriates an additional amount of money to the Department of Revenue (DOR) based on projects that by enhanced enforcement will yield X-dollars of taxes collected and the Senate appropriates that. The House then refuses to adopt that approach and reconcile it in favor of appropriating the money to the DOR so they can spend the additional anticipated revenues. Senator Davis said he suspects that will happen again this year. Whether or not the library line item survives through reconciliation, Senator Davis said he did not know.

Mr. Rodman said Senator Davis made an interesting point during lunch that Beaufort County benefited from Act 388. Senator Davis said he thinks it is important because there is a lot of talk about school funding and that Beaufort County does not get EFA funding because of the assessed tax base relative to other counties. This means the public perception is that Beaufort County does not get state money. As a practical matter, Beaufort County actually gets more money per student from the state than Charleston does, for instance, and about the same amount as Horry County. The reason for that is twofold. One, along with the EFA there is another funding source called Education Improvement Act (EIA), which is the penny tax Dick Riley had passed and is distributed on a per pupil basis as opposed to an allocated basis like the EFA. What Mr. Rodman refers to is that in 2006 when Act 388 was passed. Senator Davis digressed to say he does not think Act 388 is a good law. He said one of the unintended consequences of Act 388 was a financial windfall for Beaufort County. He further went on to explain Act 388. He said local governments could no longer tax primary residences for school operating costs, but imposed a statewide penny tax increase to go ahead and hold the districts harmless for all the revenues they had to forgo. At that time, Beaufort County relative to other counties was assessing primary residences to a greater degree and therefore has an income stream coming down from the Act 388 reimbursement that is disproportionately larger than most other counties in South Carolina. So while it is true that Beaufort County does not get EFA funding, and he said he thinks that is unfair, the county does get Act 388 reimbursement funding, which is predicated on making the county whole from the taxes forgone when it could no longer tax primary residences. When taking all streams of money – EIA, EFA and Act 388 reimbursements – that is where the per-pupil spending comes from. Senator Davis said on a statewide basis it comes out to \$3,400 per child. That is slightly more than in Charleston and right about what Horry County gets. The good news is those two counties are in the same boat as Beaufort County in regard to EFA, Senator Davis said. They also benefit under Act 388 reimbursement stream. The counties are also prejudiced by the EFA formula. One the one hand, Senator Davis said he has allies in regard to preserving Tier III Act 388 reimbursement stream. On the other hand there are strong allies in regard to trying to bring equity to the EFA funding formula, Senator Davis said. He explained as they move forward in this debate, it is becoming increasingly apparent that Beaufort County's interests are lock-step with some other, very powerful, regions of the state.

Mr. Flewelling said Beaufort County does fund a greater share locally than any other county in the state. At 66% Beaufort County funds its own education higher than anyone else in

the state. That should be very clear. The next highest is Charleston County or Richland County, he said.

Senator Davis clarified that he does not think Beaufort County is treated equitably relative to other counties in the state. He said it is worthwhile realizing the only source of state revenues for education are not EFA, but there are also Act 388 reimbursements and EIA distributions, as well as federal dollars. He noted that any money moved to Beaufort County is money taken from another so it is difficult politically.

Mr. Glaze said looking at the news and considering the tough economic times, it costs about \$43,000 daily to have the Legislature in session, plus there is additional pay if the Legislature goes into special session. Senator Davis confirmed and said he has told the Governor he would honor her request to not get paid any reimbursement. He said it is supposed to be about \$250 per day for special session.

Status: No action necessary by Council. Discussion was for informational purposes only.

4. Update / Status of Burning Ordinance

Discussion: Mr. Stewart explained at the last meeting Chief Rountree and Chief Kline presented the idea of a burning ordinance and asked the Committee to determine whether or not to pursue such an ordinance. The Governmental Committee told Chief Rountree and Chief Kline to go ahead and pursue an ordinance. Neither could attend today's meeting, but Mr. William Winn, Public Safety Division Director, give a status update.

Mr. Winn passed out a draft of the Beaufort County Open Burning Ordinance provided by Chief Rountree and Chief Kline to Mr. Winn on Sunday. The submitted ordinance is a recommendation of what the fire chiefs recommended to the County Council. He asked for the Committee members' feedback to allow the ordinance to move forward. He said he would not go through the submitted ordinance individually but if members had questions he would attempt to answer those. Mr. Winn emphasized this is the recommendation from the fire chiefs and their concept of what the Beaufort County burning ordinance would look like. He noted the chiefs discussed this ordinance with the State Forestry Commission and had the Beaufort County Sheriff's Office review.

Mr. Stewart said he realizes people just received this submitted ordinance. Mr. Flewelling said the ordinance proposal was sent by email to at least some members of the Governmental Committee on Sunday. Mr. Stewart gave the members a chance to review the proposed ordinance.

Mr. Flewelling said the ordinance looks good. He added he is a little concerned about the penalty at the end being \$110; he wants to see it structured so it might be a warning the first time, a fine of \$110 the second, and a higher escalation of that for third and subsequent penalties. As submitted the ordinance reads, "Failure to follow the guidelines of this ordinance and other applicable codes and laws, as outlined, will result in penalties and/or fines up to \$110 plus court

cost, as well as other consequences allowed by law.” He said the ordinance talks about burning being “prohibited on County roads, drainage right-of-ways and adjacent areas,” and that it should include state roads within the County’s jurisdiction. He noted the process of ditch burning is something seen a lot in residential areas. This paragraph could be talking about something other than classic ditch burning, too. Mr. Flewelling read, “Open burning shall be prohibited on all County roads and drainage right-of-ways, or within an area that may cause damage to such areas.” He said if only County roads are referenced, it could be referencing clearing roads with weeds.

Mr. Winn said he thinks it refers to people who put garbage in a ditch to burn.

Mr. Flewelling suggested adding state roads to that specific section of the burning ordinance.

Mr. Stewart added that the document basically lists the South Carolina Department of Health and Environmental Control (DHEC) Air Quality Regulations and South Carolina Code of Laws with reference, but neither is spelled out. He said he thinks that needs to be elaborated upon and added into the ordinance. People will not look at the ordinance then take the effort to go to those other sources to get the information. Mr. Stewart read from the South Carolina Code of Laws Section 48-35-10 (Title 48 – Environmental Protection and Conservation, Chapter 35 – Regulation of Fires on Certain Lands).

“It shall be unlawful for any owner or lessee of land or any employee of such owner or lessee or other person to start, or cause to be started, a fire in any woodlands, brushlands, grasslands, ditchbanks, or hedgerows or in any debris, leaves or other flammable material adjacent thereto, except under the following conditions...”

Mr. Stewart noted the read state legislation does not spell out whether it is a state or county road. He suggested looking, from the County’s perspective, of what can be done in rural zoning versus in residential or higher-density areas. He said he thinks those were some of the issues Mr. McBride previously highlighted. There needs to be definitions and one size does not necessarily fit all, Mr. Stewart said.

Mr. Flewelling asked about the stipulation that burns be at least 75 feet from any structure, road or property line.

Mr. Stewart answered, yes and further went on to say that the state legislation talks about burning in rural areas having a 500-foot clearance as it concerns residential construction, etc. He said that would cover many of the matters up for discussion by the Governmental Committee right now. He said there are many things to look at and for the sake of completeness not add them, but to clarify for people add definitions and specificity. Mr. Stewart moved to another matter – conditions when there is a red flag alert announced by the South Carolina Forestry Commission. It does not address that burning cannot occur then, nor does it talk about the various wind conditions affecting when burning may occur, Mr. Stewart said. Those would be

beneficial additions to the ordinance, as well as the specification that a person must get permission from the Forestry Commission in order to burn during those periods of time. Mr. Stewart said he picked up on those items when looking at the South Carolina and DHEC guidelines.

Mr. Flewelling asked if Mr. Stewart proposes delaying the ordinance to get consent from the state level. Mr. Stewart said no, but that Beaufort County has the right to set up its own ordinance and the two should advise each other on ways to improve what he said was a lax document.

Mr. Glaze referenced the paragraph beginning, “attendant and fire extinguishing equipment required...” He said at the bottom it states that “all persons wishing to conduct open burning must/shall call [South Carolina] Forestry for permission...” He said it implies if a person does not call this number, they would incur a fine. He suggested replacing “must/shall” with “will.”

Mr. Stewart said Richland County and others also specify calling the county. There is some concern that if a person calls the county instead of South Carolina Forestry it creates additional problems.

Mr. Winn said he thinks what is being said is that there is a desire for a person to call the South Carolina Forestry Commission in order to notify burning will occur. The Forestry Commission will not issue a permit, but they must be notified under state regulations. Then intent is to enforce to ordinance that if the South Carolina Forestry Commission is notified and a person then goes out to burn, it is the regulation in Beaufort County. If a person violates that ordinance, then the fire departments can legally say they will put the fire out, issue a warning, etc.

Mr. Stewart said he understands that the County is tied into the South Carolina Forestry Commission so the County is notified if there is a burn.

Mr. Winn said he would take what the Governmental Committee discussed and return it to the fire chiefs for incorporation to the ordinance. Then, he would set up a meeting with the County Attorney to put it into format and for review. After review by the County Attorney, Mr. Winn said the ordinance would then come back before the Governmental Committee.

Mr. Rodman asked how widespread burning is in Beaufort County. Does a lot go on in the rural areas? Mr. Winn said during the spring it is traditional in Beaufort County to burn, especially in the rural areas. Mr. Rodman asked if people burn anything other than vegetation. Is anything else allowed? He pointed out in the proposed ordinance many other items are listed as excluded. Mr. Winn answered that this ordinance is trying to confine what can be burned, and Mr. Rodman suggested if that is the case the ordinance should list what is allowed for burning.

Ms. Von Harten recited some lines written from “Sky of Ash, Earth of Ash: A Brief History of Fire in the United States” by Arizona State University fire historian Stephen Pyne.

Mr. Dixon, a Beaufort County resident who lives on Broad River Boulevard, said he supports this ordinance's creation and commented that it helps protect people's health and comfort.

Status: For information only. No action necessary by Council at this time. A revised Beaufort County Open Burning Ordinance, incorporating today's recommended changes, will be presented at the August Governmental Committee meeting.

DRAFT

PUBLIC FACILITIES COMMITTEE

May 24, 2011

The electronic and print media were duly notified in accordance with the State Freedom of Information Act.

The Public Facilities Committee met on Tuesday, May 24, 2011 at 4:30 p.m., in the Executive Conference Room of the Administration Building, Beaufort, South Carolina.

ATTENDANCE

Public Facilities Committee Members: Chairman Herbert Glaze, Vice Chairman Steven Baer and members Gerald Dawson, Brian Flewelling, William McBride, and Jerry Stewart were present. Non Committee members Rick Caporale and Stu Rodman were also present.

County staff: Paul Andres, Airports Director; Eddie Bellamy, Public Works Director; David Coleman, Engineering; Joshua Gruber, County Attorney; Bob Klink, County Engineer; Rob McFee, Division Director – Engineering and Infrastructure; Jim Minor, Solid Waste Director; Monica Spells, Compliance Officer and Dave Thomas, Purchasing Director.

Public: Howard Fischer, Waste Management; Robert, APAC; Mildred Simpson; Alan Williams.

Steven Baer chaired the meeting.

ACTION ITEMS

- 1. Consideration of Contract Award**
 - Burton Wells Regional Park Phase 2 Construction**

Discussion: Committee Chairman, Herbert Glaze gave an update on the Burton Wells Facility. Burton Wells Regional Park is 313 acres, located in Milton Recreation Drive. We have completed Phase I in 2004 composed of active facilities, racquet courts, fitness room, basketball, activity room, soccer, football, baseball fields, etc. Now we are at the second phase. Mr. Rob McFee reviewed this item with the Committee. Burton Wells Regional Park is a 313 acre park located at 1 Middleton Recreation Drive. Phase I, completed in 2004, is composed of active facilities which include racquetball courts, a fitness room, a basketball court, activity rooms, soccer, football and baseball fields. In January 2009, a 2,200 square foot Senior Center was constructed adjacent to the main facility. In FY07, County Council approved CIP funding for Phase II “passive” improvements to the park. On April 18, 2011, Beaufort County received bids for the construction of Burton Wells Regional Park Phase II project from the ten following firms:

<u>Company Name</u>	<u>Location</u>	<u>Total Bid Price</u>
BES, Inc.	2712 Bull Street, Beaufort, SC	\$1,812,011.00
J.H. Hiers Const., LLC	715 Green Pond Hwy Walterboro SC	\$1,880,000.00
Sierra Design Build CMG	2011 Mills B. Lane, Savannah, GA	\$2,001,276.00
Cleland Site Prep, Inc.	2894 Argent Blvd, Ridgeland, SC	\$2,035,465.00
J. R. Wilson Const. Co., Inc.	4984 Savannah Hwy, Hampton, SC	\$2,083,750.00
Complete Building Systems	1525 Ashley River Dr, Charleston, SC	\$2,102,178.00
United Contractors	5562 Pendergrass Blvd, Great Falls, SC	\$2,165,900.00
JS Construction Services, Inc.	388 Browns Cove Rd, Okatie, SC	\$2,183,694.00
Boykin Contractors	167 Lott Court, Columbia, SC	\$2,240,134.00
L-J Inc.	220 Stoneridge Dr, Columbia, SC	\$2,454,553.35

The recommended scope and bid price is composed of the base bid and alternates 1, 2, 3 and 5. The base bid includes picnic shelters, an amphitheater (terraced lawn), pedestrian trails, restroom facilities, development of existing pond and construction of a pond pavilion, dock installation for canoes and kayaks, internal roads, landscaping, irrigation, parking and signage. Alternates 1& 2 are for additional pond excavation depth and disposition of soil materials from the pond. Alternate 3 is construction of the picnic pavilion, and Alternate 5 is additional landscape/irrigation for the project. Alternate 4 is for parking lot and pedestrian trail lighting. Beaufort Engineering Services submitted the lowest qualified/responsible bid of \$1,812,011.00, their bid was reviewed and found to be reasonable and is in compliance with the County's SMBE Ordinance. There is no apparent cause for rejecting their bid

Funding for this project is recommended to come from the following accounts: Burton Wells Phase II CIP Account 11437-54451 \$1,666,015.40; PALS Impact Fees (Port Royal) Account 09050-54450 \$145,995.60, with a total contract award of \$1,812,011.00. The project has contingency in the amount of \$35,386.27, making the total project budget \$1,847,397.27.

Staff recommends the Committee approve and recommend to County Council the award of a contract to Beaufort Engineering Services for the construction of Burton Wells Phase 2 for \$1,812,011 to be funded from the following accounts: Burton Wells Phase II CIP Account 11437-54451 \$1,666,015.40; PALS Impact Fees (Port Royal) Account 09050-54450 \$145,995.60.

It was moved by Mr. Flewelling, seconded by Mr. McBride, that the Public Facilities Committee approve and recommend to Council the award of a contract to Beaufort Engineering Services for the construction of Burton Wells Phase 2 for \$1,812,011 to be funded from the following accounts: Burton Wells Phase II CIP Account 11437-54451 \$1,666,015.40; and PALS Impact Fees (Port Royal), Account 09050-54450, \$181,381.87 (which includes a \$35,386.27 contingency).

Mr. Baer stated the exact amount of money in these two funds to drain them is the exact amount in the contract. Where is the contingency coming from? Mr. McFee stated insofar as the exactness is from he asked Mr. Coleman who said it was just coincidence. Mr. McFee stated he can get an exact answer, but does not have it right now.

Mr. Baer wanted to know if there will be any money left in the contingency. Mr. McFee stated it will only be used if required. He will confirm before this gets to Council the exactness of funding.

Mr. Stewart wanted to know what we are buying. What is included in the \$1,812,011? Mr. McFee replied the recommend scope and the bid price is the base bid and alternates 1, 2, 3 and 5. The base bid includes picnic shelters, the dog-park, terrace law, amphitheatre, pedestrian trails, restroom facilities, development of the existing pond construction, pond pavilion, dock installation, canoes and kayaks, internal roads, landscaping, irrigation, parking and signage. Alternates 1 and 2 include the additional pond excavation depth and the deposition of the soil material from the pond by use of Beaufort County. Alternate 3 is construction of the picnic pavilion. Alternate 5 include the additional landscaping and irrigation for the project. Alternate 4 is for parking lot lighting and pedestrian lighting which staff is not advocating doing so at this time.

The vote was: FOR – Mr. Baer, Mr. Dawson, Mr. Flewelling, Mr. Glaze, Mr. McBride, and Mr. Stewart. The motion passed.

Recommendation: Council awards a contract to Beaufort Engineering Services (BES) for the construction of Burton Wells Phase 2 for \$1,812,011 to be funded from the following accounts: Burton Wells Phase II CIP Account 11437-54451 \$1,666,015.40; PALS Impact Fees (Port Royal) Account 09050-54450 \$145,995.60.

2. Consideration of Contract Award

- **Hilton Head Island Airport Runway 03 Tree Obstruction Removal Design**

Discussion: Mr. Paul Andrew, Airports Director, reviewed this item with the Committee. Talbert, Bright, and Ellington, Inc. is currently under contract to provide professional consulting and engineering services in support of Beaufort County airport projects. The proposed scope of work to prepare preliminary tree obstruction survey data regarding the 34:1 slope for Runway 03 at the Hilton Head Island Airport was provided. The preliminary survey will determine the extent of the existing obstructions in the 34:1 approach slope. Follow

on detailed survey work as well as projected plans and specifications will still need to be developed. The Airports Board favorably endorses the tree obstruction removal projects at the airport.

Funding for this project will come from an existing FAA Grant (95%), Account 13480-54293, Remove Obstructions South End Design, which has a current balance of \$97,391; an existing State Grant (2.5%); and the local 2.5% match of \$1,071.83 which will come from the Airports Operating Budget.

Staff recommends the Committee to approve awarding a contract in the amount of \$42,873 to Talbert, Bright, and Ellington, Inc. to prepare preliminary survey data regarding obstructions in the 34:1 approach slope for Runway 03 at the Hilton Head Island Airport.

Mr. Baer stated it says that the existing runway 03 threshold 34:1 approach slope, but yet existing is 20:1. Mr. Andres stated it says the existing obstructions in the 34:1 approach. The approach has been cleared to 20:1. They have to identify the remaining obstructions to the 34:1 slope.

Mr. Baer wanted to know a rough idea of the schedule of completion. Mr. Andres stated they will start within a short time frame of the notice to proceed. It is anticipated to only take a couple months to do this preliminary survey work. The intent is to identify the magnitude of the problem we are dealing with, which parcels are affected, etc.

Mr. Baer said on Page 1 there is something in parenthesis that is not the FAA standard 150. Mr. Andres replied the FAA requires for the detailed survey work that we have to survey the height of the obstructions plus or minus two feet. This will not get it to that detail; it will be a bigger picture of where the trees are. It will not break out each individual tree, but will break out clusters of trees.

Mr. Baer asked, "Will another survey be needed"? Mr. Andres replied yes. The Town of Hilton Head Island requires a tree by tree survey.

Mr. Baer stated in the document there are things about 62.5:1 slopes and 40:1 slopes. We are not going to build to those slopes. Mr. Andres replied no, but they have to identify what those slopes are and where we stand in relation to that.

It was moved by Mr. Baer, seconded by Mr. Flewelling, that the Public Facilities Committee award a contract in the amount of \$42,873 to Talbert, Bright, and Ellington, Inc. to prepare preliminary survey data regarding obstructions in the 34:1 approach slope for Runway 03 at the Hilton Head Island Airport. Funding for this project will come from an existing FAA Grant (95%), Account 13480-54293, Remove Obstructions South End Design, which has a current balance of \$97,391; an existing State Grant (2.5%); and the local 2.5% match of \$1,071.83 which will come from the Airports Operating Budget. The vote was: FOR – Mr. Baer, Mr. Dawson, Mr. Flewelling, Mr. Glaze, Mr. McBride, and Mr. Stewart. The motion passed.

Recommendation: Council awards a contract in the amount of \$42,873 to Talbert, Bright, and Ellington, Inc. to prepare preliminary survey data regarding obstructions in the 34:1 approach slope for Runway 03 at the Hilton Head Island Airport. Funding for this project will come from an existing FAA Grant (95%), Account 13480-54293, Remove Obstructions South End Design, which has a current balance of \$97,391; an existing State Grant (2.5%); and the local 2.5% match of \$1,071.83 which will come from the Airports Operating Budget.

3. Consideration of Contract Award
• **Scrap Metal and White Good Services**

Discussion: Mr. Jim Minor, Solid Waste and Recycling Director, reviewed this item with the Committee. Beaufort County issued a Request for Proposals (RFP) to solicit proposals from qualified firms to provide for the collection of scrap metals and white goods from certain designated County convenience centers, removal of Freon as appropriate, and marketing of the materials to a processing facility. Proposals from five firms were received and the list was narrowed to two firms by the evaluation committee based on experience, performance capability, and potential revenue generation. The two firms met with the committee on April 20, 2011: (1) Action A1 Demolition, Inc. with offices in Dallas, NC and Clover, SC and (2) Charleston Steel and Metal Company located in Charleston, SC. The Committee received presentations from both firms and asked a series of questions to each.

The Evaluation Committee comprised of the Public Works Director, the Solid Waste Manager, the General Support Superintendent of Public Works, and a representative from the Solid Waste and Recycling Advisory Board evaluated the firm's proposals, presentations and responses to their questions. Oversight of the process was provided by the Purchasing Director and Compliance Officer. The panel ranked the firm's according to the RFP selection criteria. Charleston Steel and Metal Company received the highest ranking by the committee, based on a long term history of providing outstanding service over the last nine years to Beaufort County, demonstrated ability to perform the work and a competitive revenue sharing strategy.

Services will be paid to the firm through the sale of the scrap metal material. The firm shares proceeds with Beaufort County based on a published market rate specified by the contract minus their service fees. Revenues received will be deposited into Account 10001-47440, Sale of Recyclables.

Staff recommends the Committee approve and recommend Council approve the award of a contract to provide scrap metal and white goods services to Charleston Steel and Metal Company, the top ranked firm. The agreement is for an initial three year contract with two one-year renewal options.

It was moved by Mr. Flewelling, seconded by Mr. Baer, that the Public Facilities Committee approve and recommend Council award contract to provide scrap metal and white goods services to Charleston Steel and Metal Company, the top ranked firm for an initial three year contract with two one-year renewal options. Revenues received will be deposited into Account 10001-

47440, Sale of Recyclables. The vote was: FOR – Mr. Baer, Mr. Dawson, Mr. Flewelling, Mr. Glaze, Mr. McBride, and Mr. Stewart. The motion passed.

Mr. Baer wanted to know where the money in the Sales of Recyclables Account goes. Mr. Minor said he believes it goes to the General Fund.

Recommendation: Council awards a contract to provide scrap metal and white goods services to Charleston Steel and Metal Company, the top ranked firm for an initial three year contract with two one-year renewal options. Revenues received will be deposited into Account 10001-47440, Sale of Recyclables.

4. Consideration of Contract Award

- **Hauling Services for Beaufort County Solid Waste**

Discussion: Mr. Jim Minor, Solid Waste and Recycling Director, reviewed this item with the Committee. Beaufort County issued a Request for Proposals (RFP) to solicit proposals from qualified firms to provide for the hauling of solid waste from County convenience centers and to provide necessary containers at those centers for waste collections. Proposals from the following three firms were received: Waste Management of South Carolina, Inc, Republic Waste Services of Hilton Head, and Waste Pro USA, Inc. The evaluation committee comprised of the Public Works Director, the Solid Waste Manager, the General Support Superintendent of Public Works, the Solid Waste Operations Superintendent, a representative from the Solid Waste and Recycling Advisory Board and the Solid Waste Data Analyst evaluated the firm's proposals according to the RFP evaluation criteria. To aid in the evaluation, a spreadsheet was developed to project annual cost based on each firm's proposal. Oversight of the process was provided by the Purchasing Director and the Compliance Officer.

Annual projected cost for each firm was as follows: Waste Pro USA, Inc. \$812,438; Republic Waste Services of Hilton Head \$910,412; and Waste Management of South Carolina \$1,003,088. Waste Pro received the highest ranking by the committee, based on strong recommendation by current customers, ability to perform the work and the lowest projected cost to the County. The firm met with the committee on May 17, 2011. The committee asked a series of questions to the firm to clarify their proposal and a contract agreement was negotiated.

Services are paid to the firm through the budget Account 33390-51165, Solid Waste Hauling Services. Sufficient funds are budgeted to cover the annual projected cost of this service.

Staff recommends the Committee to approve and recommend to County Council the award of a contract to provide solid waste hauling services to Waste Pro, Inc, the top ranked firm. The agreement is for an initial three year contract with two one-year renewals options.

It was moved by Mr. Stewart, seconded by Mr. Flewelling, that the Public Facilities Committee to approve and recommend to County Council the award of a contract to provide solid waste hauling services to Waste Pro, Inc., the top ranked firm. The agreement is for an initial three-year contract with two one-year renewals options. Services will be paid to the firm through the budget

Account 33390-51165, Solid Waste Hauling Services. The vote was: FOR – Mr. Baer, Mr. Dawson, Mr. Flewelling, Mr. Glaze, Mr. McBride, and Mr. Stewart. The motion passed.

Recommendation: Council awards a contract to provide solid waste hauling services to Waste Pro, Inc, the top ranked firm. The agreement is for an initial three year contract with two one-year renewals options. Services will be paid to the firm through the budget Account 33390-51165, Solid Waste Hauling Services.

5. Abandonment of a Portion of Bostick Road, Beaufort

Discussion: Chairman Glaze reviewed this item with the Committee. Bostick Road is a County-owned right-of-way located in Salem Plantation Subdivision. Although shown on numerous plats as a 60 foot right-of-way (r-o-w), the street itself was never constructed.

A recent survey by David Gasque, RLS, has brought to light an error or omission in the original subdivision surveys that have resulted in a misrepresentation of Bostick Road, the misrepresentation being that the r-o-w is 60 foot wide. In reality, the r-o-w width varies and is less than 60’.

Bostick Road is situated between Blocks C and D of Salem Plantation Subdivision. These Blocks were surveyed at different times by different surveyors. While each survey labels Bostick Road as a 60 foot r-o-w, neither surveyor actually surveyed the r-o-w area. In reality, the space between the two blocks, which would correspond to the r-o-w, is less than 60 foot.

Additional factors contributing to the confusion over r-o-w width are the survey changes applied to Lot 15-C. This is the only lot in Block C adjacent to Bostick Road. The lot was originally surveyed as being 144.71 foot wide at its widest point. A subsequent survey reduced this figure to 114.7 foot. A third survey restored the lot to its original width.

As a result of the error(s) outlined above, contemporary surveys of Lots 1-D and 2-D are shown with “Areas of Confusion”. These areas reflect the fact that the Bostick Road r-o-w varies in width, much of it being less than 60 foot. Obviously, any potential purchaser of either lot would have reservations about these “Areas of Confusion”. To remedy this situation the owners of Lots 1-D and 2-D, Alan Williams, Melanie Williams and Mildred Simpson, have proposed three alternative solutions:

1. The County quit claim the platted “Areas of Confusion” to the property owners.
2. The County quit claim a 10 foot-wide strip along the entire length of Bostick Road, thus reducing the County’s r-o-w to 50 foot.
3. The County quit claim a 13.38 foot-wide strip of land along the entire length of Bostick Road, the 13.38’ corresponding to the widest point of the “Areas of Confusion”.

Mr. Joshua Gruber gave an overview of this item to the Committee. He stated he reviewed meeting minutes from the last time this item came up. It appears Mr. Flewelling had some questions at the time as to why option number 2 was the option recommended by the legal

department. Of the three that were provided, Solution #2 is the most reasonable compromise between the situations. The County was given a 60 foot r-o-w. That we are certain of, however, it is the question of where does that r-o-w go. All parties can agree that we do not know where that line might be drawn. There are several surveying issues that come into play. If there is 16 feet that is in question, the County could give up 10 of them and still maintain the 50 feet necessary by our current ordinance to install any kind of future road should that area be implemented? It is currently undeveloped, but if at any time in the future it were to be developed, we would need a minimum of those 50 feet. If we retain the 50 and give up the 10, then property owners at most will only be giving up 3.38 feet.

Mr. Flewelling asked for an original of the plats. Mrs. Simpson provided that document to the Committee.

Mr. Gruber stated in all three of the different surveys that were done, they indicated that there was a 60 foot r-o-w, but none of the three matched up with one another.

Mr. Glaze wanted to know if Solution #2 is what the property owners want.

Mr. Gruber said should any other alternative be accepted, that is less than 50 feet, we should turn over all of the r-o-w to the property owners. There really is no point in the County keeping a r-o-w less than 50 feet because there is nothing we can do with it if it does not meet our current standards. In looking at options, from the legal standpoint, he suggests Solution #2 or an alternative option that has not been listed here to abandon the right of way.

Mr. Flewelling feeling is that we do not want to abandon a r-o-w if we can avoid it. Potentially this property could get developed. We want to be able to maintain a r-o-w if required at some point in time, at least for emergency access. The Planning Department harps over and over again about having interconnectivity for emergency evacuation, etc. He says these kinds of errors happen all of the time. Comparing one plat to another could be very difficult proposition for a surveyor. To have small variations like this is not unheard of. He understands the need to have this cleaned up and to have a regular line put in.

Mr. McBride wanted to know if there was an official plat in the Courthouse. Mr. Flewelling replied yes there is, however, the discrepancy comes from surveying methods. If you take a survey line and walk the line it is longer due to going up and down. When you do a large scale property, the dimensions will be different than they are on the ground. When each lot gets subdivided, those lines tend to move around, unless there are pins put in the ground for every lot in the subdivision. Now everything is done by GPS so they can lock in spot in accordance with a GPS marker that is more regular throughout time. The ability of the surveyor is also occasionally an issue.

Mr. Baer wanted to know if anyone has a reason not to accept the recommendation of Solution #2. Mr. Flewelling stated he intended to contact Mr. Martin that lives next door. Mrs. Simpson said he seems to be ok with it. She also stated the confusion came with the Trask's quit claim the r-o-w to the County in 2005.

Mr. Flewelling wanted to know if we are contemplating exchanging deeds to regularize this so that there is not confusion about the boundary lines. Mr. Williams said not if it is a straight line.

It was moved by Mr. Flewelling, seconded by Mr. Dawson, that the Public Facilities Committee approve and recommend Council quit claim a 10 foot-wide strip along the entire length of Bostick Road, thus reducing the County's right-of-way to 50 foot in order to remedy this situation with the owners of Lots 1-D and 2-D, Alan Williams, Melanie Williams and Mildred Simpson.

The vote was: FOR – Mr. Baer, Mr. Dawson, Mr. Flewelling, Mr. Glaze, Mr. McBride, and Mr. Stewart. The motion passed.

Recommendation: Council quit claim a 10 foot-wide strip along the entire length of Bostick Road, thus reducing the County's right-of-way to 50 foot, in order to remedy this situation with the owners of Lots 1-D and 2-D, Alan Williams, Melanie Williams and Mildred Simpson.

6. Consideration of Appointments and Reappointments
• **Seabrook Point Special Purpose Tax District**

It was moved by Mr. Flewelling, seconded by Mr. McBride, that the Public Facilities Committee approve and recommend Council nominate for reappointment Judy Daigle, Frank Emminger, Steve Jones, Don Smith, and Bill Waldron to serve as members of the Seabrook Point Special Purpose Tax District. FOR – Mr. Baer, Mr. Flewelling, Mr. Glaze, Mr. McBride, and Mr. Stewart. ABSENT – Mr. Dawson. The motion passed.

Recommendation: Council nominate for reappointment Judy Daigle, Frank Emminger, Steve Jones, Don Smith, and Bill Waldron to serve as members of the Seabrook Point Special Purpose Tax District.

INFORMATION ITEMS

7. Compliance Update

Discussion: Ms. Monica Spells, Compliance Officer, reviewed this item with the Committee. We are all anxious to get the Compliance Program running at full speed. To best address the matters of greatest concern related to local small and minority business, she feels a few housekeeping items need to be taken care of. She quoted Winston Churchill, "The further backward you can look, the farther forward you can see." Along those lines to begin taking Beaufort County where we need to go in the terms of compliance matters, she stated she spend a lot of time looking at where we have been. She stated she feels we have a lot of potential to enhance our internal operations for better end-use results. The presented a photo of runners at the starting line which she says serves as a visual of the thought that stepping back gives you greater

momentum when you begin to run forward. In this instance we needed to step back and better position ourselves for the important compliance task at hand by first revising two of Purchasing key documents. She spoke about the Vendor Application, in which Council had received the original and new application. In addition to updating the look and layout of the application, she felt it necessary to set guidelines ensuring the vendor information on file is current. Consequently the new application asks for vendors to select the type of application being submitted – new or annual update. Secondly, she felt it necessary to expand the content of the application to better review the validity of companies through questions regarding ownership and licensing, as well as allowing for a clear determination of those businesses which are local small and/or minority owned. In going forward, she will be the person securing the applications as they are received, rather than our Buyers.

The County has a new direct email address that vendors can use to communicate with the entire Purchasing Team which is bcvendors@bcgov.net. To get the application out to the business community and to ensure cross coverage, the County will be doing a direct mailing to vendors currently on file, posting the application online, and asking our Chamber partners to share it with those on their contact list. We will also ensure that hard copies are available at our two Business License office locations, as well as the forms are outside of Council Chambers. Once the new applications start coming in, she plans to rebuild the County's Vendor Database and reintroduce it in the form of an online business directory, rather than an alphabetized list, and make quarterly updates to it. The sister guide to the application is the Vendor Guide. The original and new guide has been provided to Council. The Vendor Guide was redesigned to inform the public about the County's Purchasing provisions, but also to help attract businesses to the area by providing flattering information about Beaufort County in general as a means of doing more to support economic development in the area. For example: new informational sections include attributes and population statistics about Beaufort County, as well as the mention about the County being recognized as the great small town to operate a business. In addition to the new vendor email previously mentioned, there is an email in which she stated she will be monitoring for compliance matters which is compliance@bcgov.net. To get this guide out, it will be distributed in the same manner planned for the Vendor Application, but it will also be distributed to certain target groups based on trades. The purpose of revising the Guide and Application was to ensure that the vendor information on file is current, that we know the demographics of those firms that we know whether those firms are legitimate and licensed business and that we are providing vendors with a guide that gives them clear information about doing business with the County.

She continued in saying we need to address certain matters specifically related to the local small and minority business participation in Beaufort County procurement. She will provide a second update next month to go over the Local Small and Minority Business Program and where we are with some current and upcoming projects. She will also go over some changes to expand our business partners which is necessary to promote involvement in our procurement process and spread the word in our community. For example: current in house documents at the County notifying four organizations of our procurement opportunities to include the Native Islander Business and Community Affairs Association, the Beaufort Black Chamber of Commerce, the Beaufort Regional Chamber of Commerce, and the Hilton Head Island-Bluffton Chamber of Commerce. She stated she has expanded the County's partners by adding an

additional four: the Governor's Office of Small and Minority Business Assistance, DOT's Disadvantage Business Enterprise Program, the South Carolina Minority Business Enterprise Center, and the Small Business Administration. She stated she feels it important for us to notify the *Gullah Sentinel*, the local paper aimed at minorities, of procurement opportunities. She would also like to begin running PSA's on The County Channel for notable projects. She presented Council with an example of a PSA.

Mr. Dawson applauded Ms. Spells for adding the *Gullah Sentinel*. He did not realize we were not advertising in all of the local papers. He stated there is also a *Beaufort Tribune*.

Mr. Flewelling added there is a *Bluffton Today* as well.

Mr. Thomas stated the plan is to provide the information to those organizations. The costs can be expensive, so if it is a project that might be worth putting in the *Gullah Sentinel*, we will. The main things we do have to be published in the South Carolina Business Opportunities and our local paper to keep the costs down.

Mr. Flewelling added in most cases it is a newspaper of general circulation which in this case is the *Island Packet/Beaufort Gazette*.

Mr. Dawson stated he got a letter from a concerned citizen regarding whether we are complying with the competitive bid process regarding the contract we awarded for the Building Permit Software.

Mr. Thomas replied we did follow our procedures under the code. Basically Manatron is the company that supports the Blue Price Software. All of the other permitting software were not supported by Manatron. When we go out and look for our needs, we have to look at whether we should do it for competitive bid or is it not worth the time and the solution is not there if we put it out for bid for permitting software that will not work with Manatron or be supported by the maintenance software program that Manatron supports. In the cost of doing the project, the better solution was to go with the Manatron solution. A Request for Invitation (RFI) was solicited and 20+ responses were received, but none were workable or tested with Manatron.

Mr. Dawson inquired as to whether or not a response had been provided to the concerned citizen with that information. Mr. Thomas stated he had not because he did not know who it was.

Status: No action required. Information only.

8. Consideration of Contract Award

- **County Road Resurfacing 2011**

Discussion: Chairman Glaze reviewed this item with the Committee. In April 2011, Beaufort County issued an invitation for bids to resurface various Beaufort County roads. The road names and locations are listed below:

<u>Beaufort Roads</u>	<u>Length</u>	<u>Location</u>
Braeburn Lane	0.2 miles	Lady's Island
Chesterfield Drive	0.4 miles	Burton
Chesterfield Lake Drive	0.4 miles	Burton
Sheridan Park Circle	0.5 miles	Bluffton
Sherington Drive	0.1 miles	Bluffton
Pennington Drive	0.2 miles	Bluffton
Bluffton Parkway Ph 1 & Paths	1.8 miles	Bluffton
Bluffton Parkway Ph 2 & Paths	<u>3.5 miles</u>	Bluffton
Total Miles	7.1 miles	

The Engineering Division received the following two bids on May 12, 2011:

REA Contracting, LLC Beaufort, SC	\$620,967.80
Oldcastle Southern Group (dba APAC) Savannah, GA	\$618,124.33
Engineer's Estimate	\$730,000.00

Review of the REA bid indicated that they altered the original bid form, rendering their bid non-responsive. Both bidders were found to have irregularities in their County SMBE documentation in that, neither firm met the ten day notice to potential subcontractors. APAC documented a nine day notice to potential local SMBE firms and intends to utilize two SMBE firms. This solicitation is unique in that both bidders are the only two area SCDOT certified asphalt producers and there is limited potential for subcontracting on a resurfacing project. If this project were to be rebid, there is limited probability of improving local SMBE participation and a re-bid will delay resurfacing without the probability of cost savings. Also, the bid is below the Engineers Estimate and very good/competitive bids.

APAC submitted the lowest qualified bid, and their bid prices were reviewed. The APAC written total bid amount was \$618,124.33 but was determined during certification to be corrected to \$618,124.23, a variance of ten cents (\$0.10). Based on the bid analysis, and over-all good faith effort for local SMBE solicitations, the Engineering Division recommends award of this contract to Oldcastle Southern Group dba APAC Southeast, Inc. This project will be funded by TAG funds, Acct #3322T-54901.

Staff recommends the Committee approve and recommend to County Council award of a construction contract to Oldcastle Southern Group, dba APAC Southeast, Inc. in the amount of \$618,124.23 for the road resurfacing project.

Mr. Stewart wanted to know if this includes both the roads and the paths. Mr. McFee said yes. Mr. Stewart commented that the roads are relatively new. Mr. McFee replied the roads are

11 years old. It is not common, but not unheard of that a road would need resurfacing at this point. The Parkway Phase I was built under a development agreement. He does not believe there to be an issue of any latent defections. It is a heavily used roadway. The recommended resurfacing work is not a function of original construction.

Mr. Stewart said he drives the road daily and it does not seem to be in that bad of shape. There are a lot of roads in a lot worse shape such as U.S. 46, Hwy 170, and others.

Mr. Dawson said in this contract REA is a non responsive because of a change in the bid, but APAC did not meet the 10-day requirement for notification. At the same time APAC is the lowest bidder. This is not a local contract, nor are they utilizing local small businesses in the contract. He recommends the proposal go back out for bid.

It was moved by Mr. Dawson, seconded by Mr. Mr. Flewelling, that Committee send this item back out for bid.

Mr. Flewelling feels it to be within Council's limits to trigger the opportunity by a lower bid opportunity by REA because they are a local bid. Mr. Thomas stated if they were responsive that would be so, but they altered the bid.

Mr. Flewelling inquired as to what was unresponsive about their bid. Mr. Kink said it is against the ordinance. Mr. Thomas said they added an additional item that made their bid higher.

Mr. McFee stated they changed the specs of the contract and the bid performed. They added a line item unilaterally which is an eradication of the existing stripping. That element, by the contract, is not only against our ordinance, but is inherent in the work. They are changing the spec, the contract, and the bid performed.

Mr. Rodman wanted to know if they had been the low bid whether or not we would have accepted it. Mr. Thomas stated it would have been okay.

Mr. Klink said the ordinance and procurement law specifically says you cannot alter the bid. That is what they did. It was a mistake, but they altered the bid. Staff cannot recommend a bid their bid because it is against the ordinance to alter the bid.

Mr. Glaze stated the question was asked previously whether or not it would have been ok if they were the lowest bid and had altered the bid. Mr. Thomas replied no.

Mr. Stewart said they are within the 5% and are local. Could we not go back and ask them to match the bid and the scope of work. Mr. Thomas stated there was a mistake in their bid form. He would not recommend it.

Mr. Dawson stated that was not the argument put forth. He understands the REAS irregularity forfeited his bid. The motion was predicated on the fact that APAC, the lower bidder, did not meet the 10 day qualification of posting the bid for small and minorities. He said his motion still stands to send this contract back out for rebid.

Mr. Rodman said APAC, as he remembers, has a plant in Jasper County and has done a lot of work in the County. Mr. Dawson said event at that the subs listed as being utilized are in neither Beaufort, nor Jasper Counties.

Mr. Flewelling inquired as to whether or not Mr. Thomas sees a problem doing this. Mr. Thomas replied we can defend it.

The vote was: FOR – Mr. Baer, Mr. Dawson, Mr. Flewelling, Mr. Glaze, Mr. McBride, and Mr. Stewart. The motion passed.

Mr. Caporale wanted to know where the Compliance Officer is in regard to finalization of bid awards. What is her role? Ms. Spells said in terms of bid awards, this is one that she was not made aware of. She was not copied on it. She will speak to Mr. Bryan Hill to make sure all departments are aware of her role. In terms of the compliance documents that we have, she has been following up with awards that have been brought to her attention. She has a new packet which she intends to present at the next meeting.

Mr. Thomas said as we move forward we will have Ms. Spells' name on the recommendation with her signing off on contracts.

Status: Committee approved for this contract to go back out for bid.

DRAFT

REDISTRICTING COMMITTEE

May 24, 2011

The electronic and print media was duly notified in accordance with the State Freedom of Information Act.

The Redistricting Committee met on Tuesday, May 24, 2011 at 6:00 p.m., in the Council Chambers, Administration Building, 100 Ribaut Road, Beaufort, South Carolina.

ATTENDANCE

Redistricting Members: Chairman Weston Newton, Vice Chairman William McBride and members Gerald Dawson, Brian Flewelling, Herbert Glaze, Stu Rodman and Jerry Stewart attended. Non-committee members Steven Baer and Rick Caporale also attended.

County Staff: Morris Campbell, Division Director – Community Services; Ian deNeeve, GIS; Josh Gruber, County Attorney; Bryan Hill, Deputy Administrator; Ladson Howell, County Attorney; Gary Kubic, County Administrator; Suzanne Larson, Public Information Officer; Scott Marshall, Beaufort County Elections and Voter Registration; Dan Morgan, Division Director – Information Technology; Suzanne Rainey, Clerk to Council; Monica Spells, County Compliance Officer.

Media: Richard Brooks, *Bluffton Today*; Kyle Peterson, *Island Packet / Beaufort Gazette*.

Public: Alison J. Davidow, Committeewoman Beaufort County Democratic Party; Edie Rodgers, Beaufort Resident; David White, a resident of Hilton Head Island, Executive Board member of the Hilton Head Island-Bluffton National Association for the Advancement of Colored People (NAACP) Chapter, Executive Board for the Baygall-Mitchelville Property Owners Association; Francetta J. White, Baygall Property Owners Association and NAACP Hilton Head Island-Bluffton representative. There were nine members of the public present. Those named above were the ones who spoke during public comment. The remaining did not speak.

Mr. Newton chaired the meeting.

REPORT ON CENSUS DATA

Chairman Newton thanked those who attended for their presence at the public hearing on the Beaufort County redistricting process. Mr. Newton outlined as follows where the County is procedurally and what the schedule is moving forward as it relates to redistricting. Pursuant to the 2010 Census, Beaufort County is required by law to redistrict the 11 County Council districts. This also takes with it the 11 School Districts. As a result of the 2010 Census, the population in Beaufort County has grown by 34.15% to approximately 157,000 people. As a consequence, the target district in 2000 was roughly 11,000 people per district. The target per district at this juncture is about 14,750 people in order to adhere to the adopted redistricting

criteria. Mr. Newton explained the redistricting criteria are also the legal mandates relative to the redistricting. Mr. Newton said he would review the criteria for redistricting adopted by County Council, then review the schedule, the schedule of public hearings announced, the timeframe and then turn the presentation over to Mr. Dan Morgan, Division Director – Information Technology. Mr. Newton explained tonight is not a public hearing simply for the purpose of saying, “I like Plan 1, Plan 2 or Plan 3.” This is an evolutionary process at this time.

Mr. Newton explained the three plan maps on display in the Council Chambers have been formally accepted by the Redistricting Committee of County Council for the purposes of consideration. It does not mean any one of those three maps will be the ultimate district boundaries moving forward. It means the three versions displayed on the maps are in the mix for formal consideration. Pursuant to the Voting Rights Act of 1965, any and all plans reviewed formally by County Council are required to be submitted to the United States Department of Justice. Mr. Newton clarified that is why he explained the distinction that the maps on display in the Council Chambers were formally submitted to the County process for consideration. It means the maps for Plan 2, Plan 2 and Plan 3 will be either, as some variant, adopted, and these as proposals with justification will be submitted to the Department of Justice explaining why the County either did or did not adopt these plans or a variant thereof. The criteria adopted by Beaufort County for the redistricting process were listed by Mr. Newton. (i) Adhere to the court ordered constitutional requirement of one person, one vote (ii) Adhere to the 1965 Voting Rights Act, as amended. (iii) Ensure that parts of districts are contiguous (iv) Respect communities of interest (v) Attempt to maintain constituent consistency (vi) Avoid splitting voting precincts (vii) Solicit public input, and (viii) Work with data provided by Public Law 94-171. The second criterion related to the 1965 Voting Rights Act is primarily with regard to retrogression, Mr. Newton explained. Retrogression is the dilution of a minority group’s ability to represent a member of that minority group to an elected office. Obviously, policy retrogression is expressly prohibited by Federal Law, but natural retrogression is one of the issues presenting a challenge in Beaufort County, Mr. Newton said. He further explained the natural retrogression challenge. Under the 1965 Voting Rights Act, the County is required to do everything it can to ensure and protect against retrogression. To the extent natural retrogression occurs or has occurred in Beaufort County, the County must be able to justify to the Department of Justice that the County has done everything virtually, mathematically possible to protect the minorities’ interests ability to be able to elect a member of one of their peers. Mr. Newton restated: that the County has protected minority majority districts to the best extent possible.

Mr. Newton then explained the schedule to those present. As this juncture, the County has five public hearings noticed. In addition to tonight, there will be public hearings:

- June 15, 2011 at 6:00 p.m. in the Hilton Head Island Branch Library, 11 Beach City Road on Hilton Head Island
- July 18, 2011 at 6:00 p.m. in the Bluffton Branch Library, 120 Palmetto Way in Bluffton
- August 8, 2011 at 6:00 p.m. in Council Chambers, Administration Building, 100 Ribaut Road in Beaufort

- August 22, 2011 at 6:00 p.m. in Council Chambers, Administration Building, 100 Ribaut Road in Beaufort

Mr. Newton said the intention is for the Redistricting Committee to have a redistricting plan submitted to the Council no later than July 31, 2011. Then, that redistricting plan would move forward so by the end of September County Council will have adopted and approved a redistricting plan. All of the meetings are publicized, televised and the information is disclosed on the County's website under the Redistricting Committee's page. The next meeting of the Redistricting Committee will be June 16, 2011 at 8:30 a.m. in the Executive Conference Room, Administration Building, 100 Ribaut Road in Beaufort. After that, a Redistricting Committee meeting is scheduled for July 20, 2011 at 10:00 a.m. in the Executive Conference Room, Administration Building, 100 Ribaut Road in Beaufort.

Mr. Dan Morgan, Division Director – Information Technology briefly described the three plans. Mr. Morgan explained the three maps prepared are the ones requested by the Redistricting Committee – Plan 1, Plan 2 and Plan 3. Plan 1 was the original map Mr. Bobby Bowers, of the S.C. Budget and Control Board Division of Research and Statistics, submitted to the Redistricting Committee. The total deviation for that plan, Plan 1, was (+/-) 3.13%. Plan 2 and Plan 3 are exactly the same. Plan 2 was the plan Mr. Herbert Glaze and Mr. Gerald Dawson worked on. In that plan, the changes are focused on Council District 6. Plan 3 came forward from Mr. Brian Flewelling. This plan has the strong area, trying to keep a minority majority, but once again there are still two districts with a minority majority. Plan 3 pushes a little more into the southern portion of the County and combines Council Districts 11 and 9. Mr. Morgan noted the various plans are available on the website. The GIS Department has had two additional meetings with Council members to look at the maps and other areas. This brings us up to today, Mr. Morgan concluded.

Mr. Newton asked those present if they wish to speak, to fill out a public comment card with Ms. Rainey. He also asked for speakers to identify their name and where they live. Public comments were four minutes each and limited to matters under the jurisdiction and purview of this public hearing.

PUBLIC HEARING

The Chairman opened a public hearing at 6:19 p.m. for the purpose of receiving information from the public regarding Plan 1, Plan 2 and Plan. After calling once for public comment, the Chairman recognized Mrs. Alison Davidow, a resident of Lady's Island and Committeewoman for the Beaufort County Democratic Party, thanked the Redistricting Committee for the opportunity to offer her views. She said she is a relatively recent returnee to South Carolina, and was born here 67 years ago. She returned seven years ago. She said South Carolina was quite a different state in 1943. In 1943 she said she would not have been able to enjoy the friendships and close associations she now does with people of different ethnic groups and religions. On the other hand, her father who was a textile engineer would not have had a job today. When preparing for the public comments, she said she looked to the extent she could at the various maps. Mrs. Davidow digressed to say the *Beaufort Gazette* published maps that were

very tiny. She said she also looked at the State and Senate plans for redistricting. She said she was struck by the similarities among them. She said she is sure Beaufort County and South Carolina will respond to the requirements for mathematical distribution of populations and that the Committee has many, many data points to consider. However, [redistricting] is so much more important than numbers. Mrs. Davidow explained it has to do with the interest of the people in the districts. Interests are things such as those issues that affect income, who is retired and who is working, educational achievements within the districts, etc. Mrs. Davidow commented that the educational achievements “by the way, tend to keep us in the mode of keeping, hoping for tourism to lift all the boats instead of having industry.” Mrs. Davidow questioned how involved each district is in the civic effort. What is the voting rate? What is the pattern of communication within each district? Is it really working if one district is “mute” while another is filled with commentators? What is the role of the Council member when it comes to constituent services? Mrs. Davidow said when she saw the maps, she saw there seems to not be a lot given to the interests she just described. She said it could even be a conflict. For example, she said St. Helena Island would be represented by the same Council member who represents the relatively urbanized part of the City of Beaufort. She asked whose voice would be heard the most. She said as a Lady’s Island representative she is currently represented by someone who certainly is a very pleasant man, but who also lives across the Beaufort River from her. Water is so important in Beaufort County until it comes to districts, when apparently it is no longer important. Mrs. Davidow noted the only interest she saw in these maps was that of diversity. She said it seems so terribly important and she referenced Mr. Newton’s earlier comments about retrogression. Mrs. Davidow countered that retrogression could indeed have more aspects. She concluded by saying she does not believe Beaufort County helps itself by creating two safe African-American districts and there are many more things in common; those should be explored and shared.

Mr. David White, a resident of Hilton Head Island, Executive Board member of the Hilton Head Island-Bluffton National Association for the Advancement of Colored People (NAACP) Chapter, and Executive Board for the Baygall-Mitchelville Property Owners Association, said he is a native of South Carolina, left the area after high school and returned about seven years ago. Upon his return to Beaufort County he said he became actively involved with several aspects of public service such as voter registration and working at the polls on Election Day. He said that means he has a particular affinity for looking at the process and how the process impacts the various populations served in Beaufort County. He said he wants to say to the Redistricting Committee they appreciate the efforts, but in an environment he worked in, if he had to make an assessment on where Beaufort County is right now he would recommend the old adage: “We need to revisit the drawing board.” Perusing Plan 1, Plan 2 and Plan 3 this evening he said he sees gaps in each of the plans. He acknowledged this is the early stage of the process and he fully appreciates it. He asked the Committee to be fully cognizant of, as the County looks at redistricting, it should look at ways, processes in which to better serve a community. He explained when he said “community” he meant all aspects of the community. Beaufort County is on an upward spiral and needs to continue working on an upward spiral perspective. He said there is a reason Beaufort County has to submit its redistricting plans to the Department of Justice and he does not need to get into that. “But, we can do better,” Mr. White said. He suggested as the Redistricting Committee is having this public forum there should be more of these to give the public an opportunity to participate.

Mr. Steve Baer, Council member District 2 Hilton Head Island, read from the following prepared message. He also submitted a document to be included in this meeting; that document is included at the bottom of these minutes.

I'm here tonight to formally submit a redistricting plan for Hilton Head (called Baer_051611), that will prevent minority dilution. This plan deserves fair consideration by this Committee, which acts as a gateway to plan review. I will leave a complete paper and electronic copy, including map and statistics with Ms. Rainey. To date we have seen 3 plans: Bowers Plan 1, and Committee Plans 2 and 3. All those 3 plans have exactly the same structure on Hilton Head - the Bowers view. That view dilutes minority representation below existing levels.

The Common Bowers HH Plan Sets Too Low a Threshold for Minority Representation on Hilton Head. In the largest minority District the Bowers view makes:

- NHB (Non Hispanic Black) drop from 14.81% existing to 13.07%
- NHB + Hispanic drop from 39.39% existing to 33.83%.

I am concerned that all of the plans for Districts [north of the Broad River] use that diluting Bowers view of [Hilton Head Island]. We need to set in place a way of preserving minority representation and repairing this before the concrete hardens. The New Plan Variation for [Hilton Head Island] (Baer 051611) Enhances Minority Representation. To repair this, I have developed a new [Hilton Head Island] plan variation that preserves communities of interest, meets all qualitative and quantitative criteria, and raises rather than lowers minority representation: In the largest minority District (2):

- NHB increases to 15.59% from 14.81% existing and 13.07% Bowers
- NHB + Hispanic increases to 42.74% from 39.39% existing and 33.83% Bowers

Figure 1 shows a graph of this, and Figure 2 a table for all 3 Districts. This plan is independent of Plans 2 and 3 (since its impact is only in Districts 2 and 3), and hence can be used as a [Hilton Head Island] component of the overall other plans, in effect making them 2a and 3a. I have reviewed this plan with members of the [Hilton Head Island] African American community, and they are supportive. **It is important that this plan be considered, as a minimum [Hilton Head Island] variation of the other plans.** (Figures 1 and 2 contain [Hilton Head Island] summary

statistics, Figures 3 and 4 the full County map and statistics.) There may be some additional fine tuning that could be done by carefully interchanging a few streets with other Districts. That however impacts the adjacent Districts in order to stay within deviation criteria for all. This has the potential to trigger a domino effect among 3-4 Districts or more, extending off-island. This can be dealt with, but to do that efficiently, it is important that those Districts representatives participate in any fine tuning GIS sessions. That is presently not permitted within the guidelines of this Committee. Until this can be resolved, we should not let the Bowers view for [Hilton Head Island] (presently incorporated in Plans 2, 3) be used to set too low a standard for minority representation. The new plan variation (Baer_051611), should be included (as opposed to the Bowers [Hilton Head Island] view) as a minimum baseline for improved [Hilton Head Island] minority representation. **Note: The GIS Map for this plan is available from Beaufort County GIS as Plan Baer_051611, and is also included in Fig. 3 and the disc that I submitted to Ms. Rainey for the official public record.”**

Mr. Newton explained to Mr. Baer that obviously the plan is not accepted for formal consideration by County Council until such time as the Redistricting Committee reviewed and voted upon it. Mr. Newton encouraged Mr. Baer to attend the Redistricting Committee meetings. Mr. Baer said he came before the Committee and presented his plan today; Mr. Newton said it is not a substitute for the process. Commenting during public comment does not allow the plan to be considered as part of formal consideration through a backdoor mechanism. The Redistricting Committee is still formally voting on plans to be considered. Mr. Newton said he wanted to be clear.

Mrs. Francetta White, Baygall-Mitchelville Property Owners Association, NAACP Hilton Head Island-Bluffton Branch Executive Board Member and St. James Baptist Church representative, thanked the Redistricting Committee for the opportunity to speak about the plans under consideration. Mrs. White said she reviewed all three plans as they related to Hilton Head Island and she is afraid none of them are sufficient for the minority population on Hilton Head Island, South Carolina. The Baygall-Mitchelville Property Owners Association has gone on record about concerns that precincts are split. The minority precincts on Hilton Head Island are represented by too many representatives. Mrs. White said their vote is diluted even further in these three plans. She explained that essentially there is not much difference among the three when it comes to Hilton Head Island. She said she would like for the Redistricting Committee to give full consideration to the plan her councilman, Mr. Baer, spoke on beforehand. She said she thinks it is a front-door manner and she does not believe they are required to go through the backdoor anymore. She urged the Redistricting Committee again to consider Mr. Baer's plan for Hilton Head Island because it consolidates the minority interests and districts in a much better fashion than any of the others under consideration. She explained the plans will put some of the members of the St. James Baptist Church in a district with no commonality with the issues involving the church and the community. She urged the Committee to try to avoid splitting the church's voting precincts and to protect the minority areas to the greatest extent possible. Please

do not dilute further the representation the community has by approving any of the three plans under consideration for Hilton Head Island, Mrs. White asked. The NAACP has not considered what Mr. Baer's proposed plan would do to the Bluffton Branch constituents, but she said she is sure there will be comments at the later meeting in Bluffton. The Redistricting Committee's public hearing for Bluffton is scheduled for July 18, 2011 beginning at 6:00 p.m.

Edie Rodgers, Beaufort resident, said about 10 or 11 years ago she was very much involved in the redistricting process and the Committee has her sympathy. She asked if assuming all the lines for every district will change to some degree, does not every Council member and School Board member then have to run for re-election when their lines have changed even if they still live in the district as redesigned. She said she thought that was the case, but asked someone to check on it. Second, she asked the Committee to remember whatever it decides on finally to bear in mind the community of interest. She said she lives in the City of Beaufort and knows the City and the Town of Port Royal have many joint commissions and boards at this point. It is very important that those entities have representation so they feel everyone is together, not a community of different interests. Sometimes when having to jump and expand to different, rural areas that seems to happen or at least people perceive that has happened. She asked the Committee to try to keep the community of interest in mind as it does its work, and good luck.

Mr. Newton answered Mrs. Rodgers' question. He said he does not think it is the alteration of any of the district lines that causes the re-election cycles for the people who are in those districts as they come up for re-election.

After call once more for public comment and receiving none, the Chairman declared the hearing closed at 6:39 p.m.

Mr. Baer submitted the following documents May 25, 2011 for inclusion in the Redistricting Committee May 24, 2011 minutes.

I'm Steven Baer - a resident of District 2 and County Council Representative for that District.

I'm here tonight to formally submit a redistricting plan for Hilton Head (called Baer_051611), that will prevent minority dilution. This plan deserves fair consideration by this Committee, which acts as a gateway to plan review. I will leave a complete paper and electronic copy, including map and statistics with Ms. Rainey.

To date we have seen 3 plans: Bowers Plan 1, and Committee Plans 2 and 3. All those 3 plans have exactly the same structure on Hilton Head - the Bowers view. That view dilutes minority representation below existing levels.

The Common Bowers HH Plan Sets Too Low a Threshold for Minority Representation on Hilton Head

In the largest minority District the Bowers view makes:

- NHB (Non Hispanic Black) drop from 14.81% existing to 13.07%
- NHB + Hispanic drop from 39.39% existing to 33.83%.

I am concerned that all of the plans for Districts NOB use that diluting Bowers view of HH. We need to set in place a way of preserving minority representation and repairing this before the concrete hardens.

The New Plan Variation for HH (Baer 051611) Enhances Minority Representation

To repair this, I have developed a new HH plan variation that preserves communities of interest, meets all qualitative and quantitative criteria, and raises rather than lowers minority representation: In the largest minority District (2):

- NHB increases to 15.59% from 14.81% existing and 13.07% Bowers
- NHB + Hispanic increases to 42.74% from 39.39% existing and 33.83% Bowers

Figure 1 shows a graph of this, and Figure 2 a table for all 3 Districts.

This plan is independent of Plans 2 and 3 (since its impact is only in Districts 2 and 3), and hence can be used as a HH component of the overall other plans, in effect making them 2a and 3a.

I have reviewed this plan with members of the HH African American community, and they are supportive. **It is important that this plan be considered, as a minimum HH variation of the other plans.** (Figures 1 and 2 contain HH summary statistics, Figures 3 and 4 the full County map and statistics.)

There may be some additional fine tuning that could be done by carefully interchanging a few streets with other Districts. That however impacts the adjacent Districts in order to stay within deviation criteria for all. This has the potential to trigger a domino effect among 3-4 Districts or more, extending off-island. This can be dealt with, but to do that efficiently, it is important that those Districts representatives participate in any fine tuning GIS sessions. That is presently not permitted within the guidelines of this Committee.

Until this can be resolved, we should not let the Bowers view for HH (presently incorporated in Plans 2, 3) be used to set too low a standard for minority representation. The new plan variation (Baer_051611), should be included (as opposed to the Bowers HH view) as a minimum baseline for improved HH minority representation.

Note: The GIS Map for this plan is available from Beaufort County GIS as Plan Baer_051611, and is also included in Fig. 3 and the disc that I submitted to Ms. Rainey for the official public record.

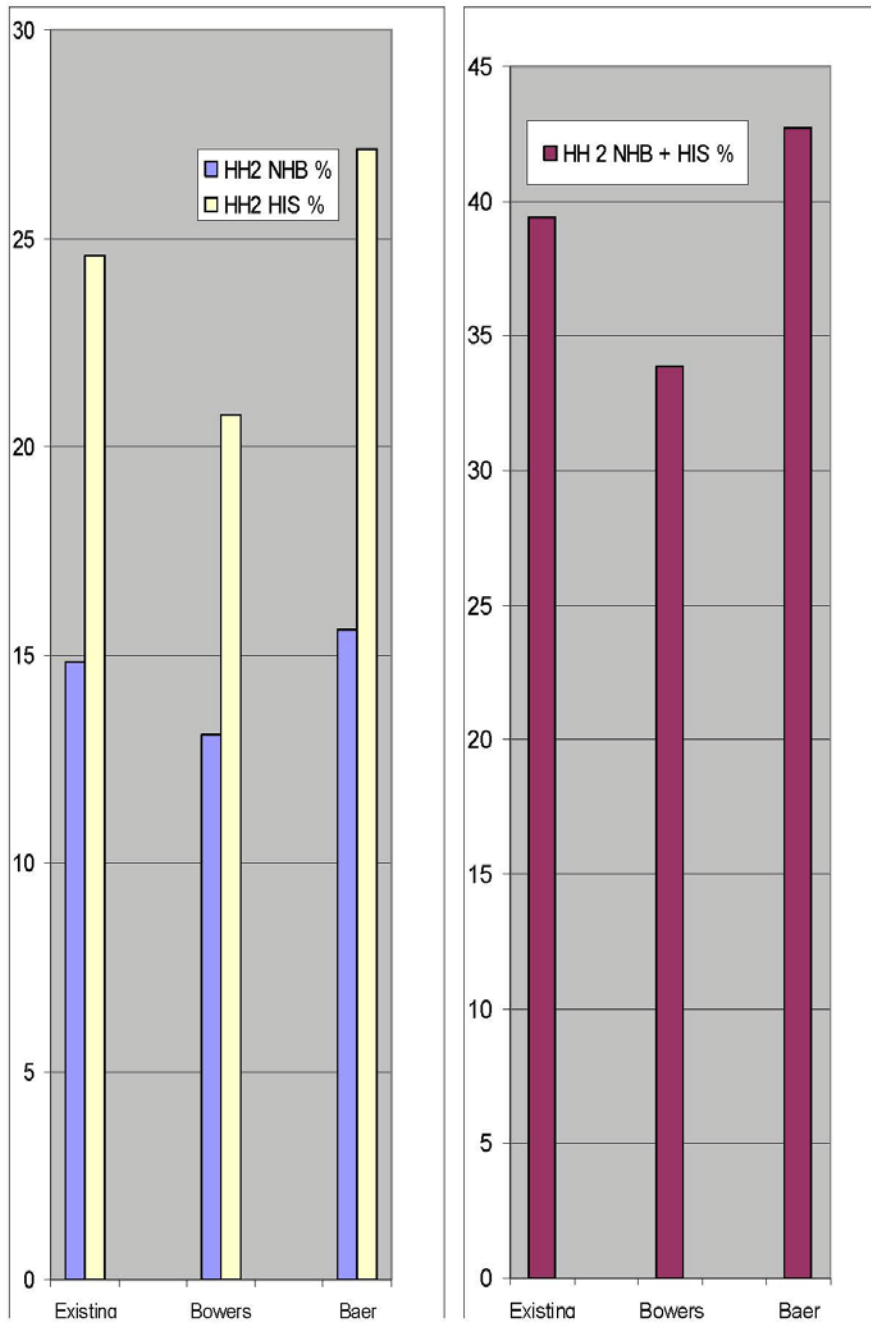


Figure 1 - Data for County Council District 2. This is the largest minority District on Hilton Head.

The new proposed plan (Baer_051611) has minority representation far exceeding the Bowers plan, even exceeding existing ratios. Numeric data for all 3 HH Districts is shown on the next page in Figure 2.

Plan	District 1 - Caporale				District 2 - Baer				District 3 - Rodman			
	Dev. %	NH B %	His. %	NHB +His	Dev. %	NH B %	His. %	NHB +His	Dev. %	NH B %	His. %	NHB +His
Existing	-18.56	3.35	9.52	12.87	-3.28	14.81	24.58	39.39	-26.61	2.5	11.19	13.69
Bowers Plan 1	-1.08	3.53	8.59	12.12	1.83	13.07	20.76	33.83	0.21	4.64	17.05	21.69
Baer 051611	-1.08	3.53	8.59	12.12	1.57	15.59	27.15	42.74	0.47	2.11	10.6	12.71

Figure 2 - Overall Statistics for Districts 1, 2 and 3 on Hilton Head.

The data for District 2 in this table is graphed in Figure 1.

There is no change for the statistics of District 1 between Bowers Plan 1 and Baer_051611 since no changes were made to the boundaries of District 1, and most of the opportunities could be dealt with between Districts 2 and 3. Current rules make dealing with the domino effect of rearranging parts of District 1 extremely difficult, since that will likely also impact several other off-island districts.

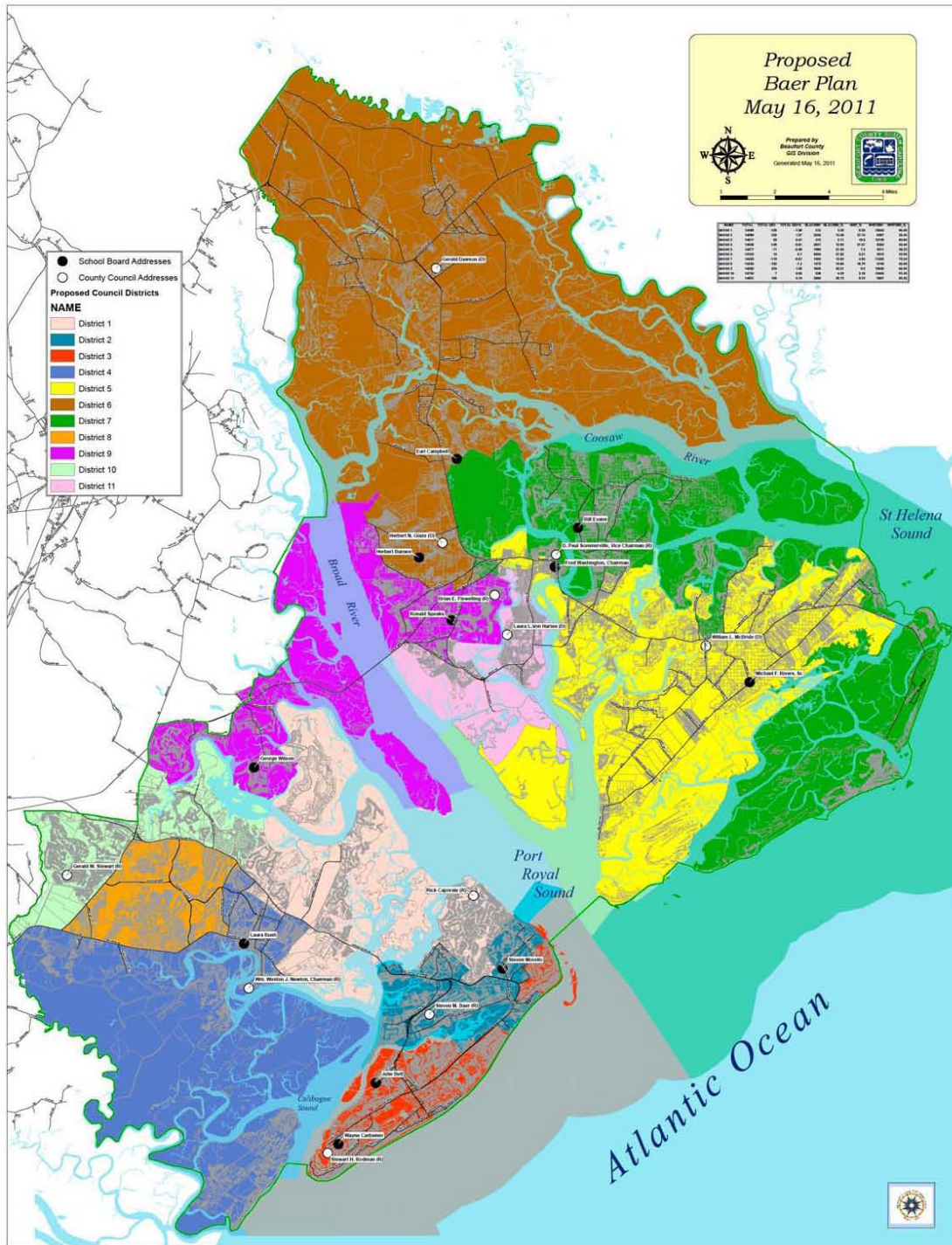


Figure 3 - Full GIS Map of Plan Baer_051611

Figure 4 - Full District Statistics Report of Plan Baer_051611

User: ldeneve22
Plan: baer_051611

Date: Wed May 18 09:35:59 GMT-0400 2011

District Statistics Report

District No.	Total Population	Deviation	Deviation (%)	Non-Hispanic white (%)	Non-Hispanic black (%)	Hispanic (%)
1	14,589	-159	-1.08	12,043 (86.66%)	515 (3.53%)	1,253 (8.59%)
2	14,900	232	1.57	8,207 (55.45%)	2,338 (15.59%)	4,067 (27.15%)
3	14,817	69	0.47	12,720 (85.85%)	313 (2.11%)	1,571 (10.60%)
4	14,828	-120	-0.81	8,263 (56.49%)	2,037 (13.93%)	4,018 (27.47%)
5	14,877	-71	-0.48	5,811 (39.23%)	7,580 (51.69%)	1,101 (7.50%)
6	14,763	15	0.10	5,013 (33.96%)	8,536 (57.82%)	917 (6.21%)
7	14,829	-119	-0.81	11,592 (79.24%)	1,906 (13.03%)	706 (4.83%)
8	14,556	-192	-1.30	9,749 (66.98%)	1,579 (10.85%)	2,735 (18.79%)
9	14,902	234	1.59	10,000 (66.95%)	3,028 (20.21%)	1,424 (9.50%)
10	14,755	7	0.05	13,494 (91.45%)	638 (4.32%)	469 (3.18%)
11	14,857	109	0.74	9,857 (66.35%)	3,080 (20.73%)	1,308 (8.79%)

