

# COUNTY COUNCIL OF BEAUFORT COUNTY

ADMINISTRATION BUILDING  
100 RIBAUT ROAD  
POST OFFICE DRAWER 1228  
BEAUFORT, SOUTH CAROLINA 29901-1228  
TELEPHONE: (843) 255-2180  
FAX: (843) 255-9401  
www.bcgov.net

WM. WESTON J. NEWTON  
CHAIRMAN

D. PAUL SOMMERVILLE  
VICE CHAIRMAN

## COUNCIL MEMBERS

STEVEN M. BAER  
RICK CAPORALE  
GERALD DAWSON  
BRIAN E. FLEWELLING  
HERBERT N. GLAZE  
WILLIAM L. McBRIDE  
STEWART H. RODMAN  
GERALD W. STEWART  
LAURA VON HARTEN

GARY KUBIC  
COUNTY ADMINISTRATOR

BRYAN J. HILL  
DEPUTY COUNTY ADMINISTRATOR

LADSON F. HOWELL  
COUNTY ATTORNEY

SUZANNE M. RAINEY  
CLERK TO COUNCIL

## AGENDA FINANCE COMMITTEE Monday, September 12, 2011

3:00 p.m.

Large Meeting Room  
Hilton Head Island Branch Library  
11 Beach City Road, Hilton Head Island

### Committee Members:

Stu Rodman, Chairman  
Rick Caporale, Vice Chairman  
Steven Baer  
Brian Flewelling  
William McBride  
Paul Sommerville  
Jerry Stewart

### Staff Support

Bryan Hill, Deputy County Administrator  
David Starkey, Chief Financial Officer

1. CALL TO ORDER – 3:00 p.m.
2. 2012 ACCOMMODATIONS TAX BOARD RECOMMENDATIONS ([backup](#))
3. REQUEST TO GRANT EXTENSION / STATUTORY FILING REQUIREMENT AS REQUIRED FOR SUBMISSION OF AN APPLICATION 4% SPECIAL ASSESSMENT RATIO ([backup](#))
4. AN ORDINANCE TO AMEND THE FY2011-2012 BEAUFORT COUNTY BUDGET ORDINANCE SO AS TO PROVIDE A TRANSFER FROM THE COUNTY'S GENERAL RESERVE FUND IN THE AMOUNT OF \$260,880 IN MATCHING GRANT FUNDS FOR THE BEAUFORT COUNTY RAILS TO TRAILS PROGRAM ([backup](#))
5. AN ORDINANCE TO AMEND THE FY2011-2012 BEAUFORT COUNTY BUDGET ORDINANCE SO AS TO PROVIDE A SUPPLEMENTAL APPROPRIATION FROM THE COUNTY'S GENERAL RESERVE FUND IN THE AMOUNT OF \$72,159.83 FOR THE PURPOSE OF FUNDING CENSUS-BASED BEAUFORT COUNTY MAGISTRATE SALARY INCREASES FOR THE PERIOD OF JULY 1, 2011 TO JUNE 30, 2012 ([backup](#))
6. BEAUFORT MEMORIAL HOSPITAL – 3:30 p.m. ([backup](#))
  - A. Resolution making application to the State Budget and Control Board of South Carolina for approval of the issuance by Beaufort County, South Carolina, of its Hospital Refunding and Improvement Revenue Bonds (Beaufort Memorial Hospital) Series 2011, in an aggregate principal amount of not exceeding \$50,000,000 ([backup](#))

A quorum of Council may be in attendance at all Committee meetings.

Please silence your cell phone during the meeting.

OVER



B. An ordinance authorizing the issuance of not exceeding \$50,000,000 aggregate principal amount of Hospital Refunding and Improvement Revenue Bonds (Beaufort Memorial Hospital) Series 2011 ([backup](#))

7. ADJOURNMENT

Open Items:

Tax (hurricane) Anticipation Note

Airport Funding Initiatives

Bond issue \$10 million Rural and Critical Lands Program

Expectation of our Designated Marketing Organization

County TV Rebroadcast	
Monday	9:00 a.m.
Wednesday	1:00 a.m.
Thursday	7:00 p.m.

Finance		
<i>Date</i>	<i>Time</i>	<i>Location</i>
September 19	2:00 p.m.	BIV #2
October 17	2:00 p.m.	BIV #2
November 21	2:00 p.m.	BIV #2
December 13	2:00 p.m.	BIV #2

## 2012 ATAX Tax Board Recommendations-ATax Distribution

	Organization	Event/Project	Amount Requested	Amt. Recom	Notes	2011Atax*	%of Ask
1	Beaufort Art Assoc.	Rack cards for new gallery	\$800	\$500		N/A	62.5%
2	Art League of HHI	New fine arts guild/show	\$3,000	\$1,000	Charleston+elect.	\$1,000	33.3%
3	Main St. Youth Theatre	<i>Beauty and the Beast</i>	\$5,000	\$1,500	Gen marketing		30.0%
4	Penn Center	Heritage Days/150th Plan.	\$40,000	\$10,000	Mrktg of both	\$15,000	25.0%
5	Coastal Discovery	Cultural/Eco tourism	\$23,500	\$8,500	Mrktg/PR	\$9,500	36.2%
6	HH Symphony	Int'l Piano Comp.	\$15,300	\$4,000	Web+Advert.	\$5,000	26.1%
7	HHI Concours	Festival	\$20,000	\$9,000	Mrktg	\$13,000	45.0%
8	Independence Fund	Lt. Dan w/e	\$83,000	\$0	Poor application	N/A	0.0%
9	Community Foundation	Public Art Exhibit	\$50,000	\$10,000	Seed money	N/A	20.0%
10	CAPA/Exchange Club	Ghost Tours	\$3,000	\$1,150	Brochures+on line ads+E	\$1,500	38.3%
11	HHI Choral Society	Marketing	\$3,000	\$1,200	Web devel.	\$1,000	40.0%
	Historic Beaufort						
12	Foundation	Fall Festival Homes & Gardens	\$7,500	\$3,200	Brochures	\$2,500	42.7%
13	Arts Council of BC	Arts Destination Campaign	\$8,000	\$6,150	Trans-media	\$5,000	76.9%
14	BC Black Chamber	Cultural Tourism	\$65,000	\$25,000	Pathfinders+Grp. tours	\$35,000	38.5%
15	BC Historical Society	Historic Markers	\$9,150	\$4,000	2 new signs	\$2,000	43.7%
	Civil War Sesquicentennial,						
16	HHI/Bluffton Chamber	Mitchelville PR, Tubman	\$54,000	\$30,000	Video + net	\$35,000	55.6%
17	Heritage Library	Fort Mitchell Refurb	\$11,000	\$2,500	Lighting	\$4,500	22.7%
18	Archeology Society of SC	Archeological artifact id.	\$4,000	\$0	Doubtful tourism	N/A	0.0%
19	Main St. Beaufort	Tourism ads.	\$34,686	\$9,200	Web, brochure + print	\$17,700	26.5%
	Arts Center of Coastal						
20	Car.	Tourism marketing	\$20,000	\$8,000	Markt.	\$17,000	40.0%
	Hist. Bluffton Arts &						
21	Seafood	Festival	\$5,000	\$2,500	So. Livg. Ad	\$15,000	50.0%
22	Daufuskie Is. Found.	Daufuskie Day	\$8,000	\$1,500	Newspapers + web	\$3,000	18.8%
23	Old Village of Port Royal	Expansion of Visitors Center	\$9,500	\$3,000	web + brochures	\$3,000	31.6%
24	Literacy Volunteers	Storytelling Festival	\$10,000	\$2,500	"Seed"	\$5,000	25.0%
25	BC Open Land Trust	Maintaining "The Green"	\$7,500	\$0	Doesn't draw tourists	\$0	0.0%
26	The Sandbox	Summer fun for tourists	\$10,512	\$2,000	Ads for 3 programs	\$0	19.0%
	BC Soil & Water						
27	Conservation	BC Blueways, Phase III	\$5,000	\$1,500	30hrs of web	N/A	30.0%
28	Mitchelville Preservation	Mitchelville Freedom Park	\$50,000	\$10,000	Web, blasts, brochures	\$8,000	20.0%
29	Friends of Hunting Island	Special Events	\$20,000	\$7,500	>PR	\$5,000	37.5%
30	BGLC	Sea Island Bike Event	\$10,000	\$3,000	Seed	N/A	30.0%
	Beaufort Chamber Conv.						
31	Center	Tourism marketing	\$120,000	\$50,000	On line, SM and engine	\$83,000	41.7%
	Bluffton Historical						
32	Preserv.	Heyward House	\$25,000	\$10,000	Ops	\$15,000	40.0%
	L/C Resort & Visitors						
33	Center	Promotion of BC/LC	\$27,500	\$15,000	General collaterals	\$20,000	54.5%
34	Beaufort Film Society	Int'l Film Festival	\$15,000	\$5,000	PR	\$5,000	33.3%
35	L/C Estuarium	Student trip	\$7,547	\$3,600	Magazine ad	\$1,000	37.5%

	<b>Totals:</b>	<b>\$790,495</b>	<b>\$252,000</b>	<b>\$327,700</b>	<b>33.5%</b>
Amount Total Allowed:		<u>\$252,000</u>	<u>\$252,000</u>	<u>\$327,700</u>	
Total Remaining		\$0			

\*Atax and HTAX Combined

## **Accommodations Tax (2% State) FY 2011-2012 Application Process**

### **Quick Reference**

- **June 22, 2011** - applications mailed to 92 email addresses representing 69 organizations. Press release is sent out. Application is posted on the Beaufort County main page as an event slider.
- **July 28, 2011** – email sent out reminding the 69 organizations that applications are due August 1 (35 organizations responded)<sup>1</sup>
- **August 1** – Applications due
- **August 2** – Agenda sent out to all applicants (35 organizations)<sup>1</sup>
- **August 24** – Reminder email of A-Tax Board meeting on Monday, August 29 sent to all applicants (35 organizations)<sup>1</sup>

<sup>1</sup> Emails were sent out with a read receipt and delivery confirmation.

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

**GARY KUBIC**  
COUNTY ADMINISTRATOR

**CHERYL HARRIS**  
EXECUTIVE ASSISTANT

ADMINISTRATION BUILDING  
100 RIBAUT ROAD  
POST OFFICE DRAWER 1228  
BEAUFORT, SOUTH CAROLINA 29901-1228  
TELEPHONE: (843) 255-2026  
FAX: (843) 255-9403  
[www.beaufort.net](http://www.beaufort.net)

**BRYAN J. HILL**  
DEPUTY COUNTY ADMINISTRATOR

**LADSON F. HOWELL**  
STAFF ATTORNEY

**JOSH GRUBER**  
STAFF ATTORNEY

August 24, 2011

Charles A. Scarminach  
Novit & Scarminach, P.A.  
Post Office Drawer 14  
Hilton Head Island, SC 29938

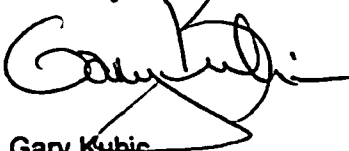
Re: Sharon Saunders Trust  
R550 017 00B 0206 0000

Dear Mr. Scarminach:

You have asked Chairman Newton and me, as County Administrator, to grant an extension to the statutory filing requirement as required for submission of an application for the 4% special assessment ratio. As stated in the statute, the extension can only be granted by the local taxing authority, which has applied to Beaufort County, will require you to appear before County Council to be granted the relief you request. However, Beaufort County Administration will be unable to recommend that County Council support of this matter based upon the information you have provided thus far.

While the statute may allow for you to appear directly before the full body of Council to request this extension, it may be more prudent for you or the property owner to present this matter first to the County's Finance Committee as this will allow you a more informal opportunity in which to present the circumstances of the 4% application not being timely filed. However, the ultimate decision as to which agenda you will be placed on will remain with Chairman Newton and your request for a preference either way should be directed to him.

Sincerely,



Gary Kubic  
County Administrator

GK:ch

cc: Weston Newton, Chairman, County Council  
Josh Gruber, Staff Attorney  
Ed Hughes, Assessor

**NOVIT &  
SCARMINACH, P. A.**

*Attorneys at Law*

CHARLES A. SCARMINACH\*  
DANIEL A. SAXON  
DUNCAN S. TEED

OF COUNSEL  
ELIZABETH B. MAYO\*  
HERBERT L. NOVIT

HILTON HEAD ISLAND:  
THE JADE BUILDING, SUITE 400  
62 NEW ORLEANS ROAD  
POST OFFICE DRAWER 14  
HILTON HEAD ISLAND, SC 29938  
(843) 785-5860  
FAX: (843) 785-2080

ALSO MEMBER NEW YORK BAR\*  
ALSO MEMBER OHIO BAR\*

Elizabeth B. Mayo  
Email: emayo@ns-lawfirm.com

**FILE COPY**

July 8, 2011

Wm. Wesley J. Newton  
Chairman  
Beaufort County Council  
PO Box 1938  
Bluffton, SC 29910

Gary Kubic  
Beaufort County Administrator  
PO Box 1228  
Beaufort, SC 29901

Re: Parcel # R550 017 00B 0206 0000  
Sharon Saunders Trust

Dear Messrs. Newton and Kubic:

Pursuant to SC Code of Laws §12-43-220(c)(2)(viii), we request the extension of the period of time to make application for the 4% Special Assessment ratio on the above property.

The above property was originally owned by Mrs. Saunders in her revocable trust. In May, 2009, the property was transferred to Atlantic Pointe, LLC, a South Carolina limited liability company of which Mrs. Saunders and her husband, Donald, were the sole equal members. Upon receipt of the County's Assessment Notice the Saunders contacted this Firm in early December, 2010 to appeal the removal of the 4% rate.

On December 17, 2010, the property was transferred by Atlantic Pointe, LLC back to Mrs. Saunders as Trustee of her revocable trust of which she is the sole grantor, trustee and beneficiary during her lifetime. The property is, and has always been, the Saunders primary residence.

Section 12-43-220(c)(2)(i) of the Code of Laws provides that if the taxpayer is entitled to the 4% rate at any time during the tax year, the 4% rate is available for the whole year. The property was entitled to the 4% rate as of December 17, 2010 as the Saunders' primary residence.

On December 20, 2011, we sent a letter to the Assessor's Office indicating that the property had been transferred from the LLC to the Trust and was the Saunders primary residence. This letter was intended to be the Saunders' timely appeal/protest of the 6% rate. The County's website

indicates that such an appeal/protest is not required to be submitted on the County's printed form.

We also filed an another appeal of the 6% rate with the Assessor dated December 30, 2010 which was subsequently denied as "late" by Notice of Denial dated January 5, 2010.

Unfortunately, the attorney handling the matter for the Saunders was out of the country from January 3 to January 19, 2011. On February 9, 2011, she sent a letter to Mr. Hughes, the Assessor, questioning the denial and he subsequently affirmed his denial.

Subsequent to Mr. Hughes' response of February 23, 2011, we have been working with the Saunders, who has been traveling extensively, to obtain the necessary information to complete the 4% Special Assessment application. The application was filed by this office on June 16, 2011.

We request an extension of the deadline pursuant to the statute for 2010 because while we attempted to comply with the requirements prior to 2010 year end, (1) the attorney handling the matter was not available to advise the Saunders after receipt of the Notice of Denial until after the January 15, 2011 deadline (2) the Saunders were not immediately available to provide the information to file the Application which was subsequently filed after other attempts to resolve the denial had failed.

If you have any questions or comments regarding any of the above, please do not hesitate to contact me.

Sincerely,

NOVI & SCARMINACH P.A.

Charles A. Scarminach

cc: Donald Saunders  
CAS:mfl

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE TO AMEND THE FY2011-2012 BEAUFORT COUNTY BUDGET ORDINANCE SO AS TO PROVIDE A TRANSFER FROM THE COUNTY'S GENERAL RESERVE FUND IN THE AMOUNT OF \$260,880.00 IN MATCHING GRANT FUNDS FOR THE BEAUFORT COUNTY RAILS TO TRAILS PROGRAM.**

**WHEREAS**, Beaufort County Council adopted the FY 2011/2012 County Operating Budget on June 27, 2011; and

**WHEREAS**, it has become necessary for Beaufort County Council to amend the budget as adopted to allow for a transfer of funds from the County's General Reserve Fund; and

**WHEREAS**, Beaufort County holds a 13.6 mile easement on the Federal Rail Banked Yemassee to Port Royal Rail Road Right-of-Way and desires to develop bicycle and pedestrian trails for use by the public and visitors as part of Beaufort County's Rails to Trails program; and

**WHEREAS**, Beaufort County applied for and was awarded a grant from the Transportation, Community, and System Preservation Program of the Federal Highway Administration in an amount of \$1,043,520.00; and

**WHEREAS**, as a condition of accepting the grant, Beaufort County must provide a local match of funds of 20% of the overall grant award, or in this case \$260,880.00; and

**WHEREAS**, Beaufort County Council believes that it is in the best interests of its citizens, and to visitors of Beaufort County, to provide them with a safe and accessible pedestrian and bicycle route that will not only become a recreational asset, but provide an alternative mode of transportation that will link people to jobs, services, and schools.

**NOW, THEREFORE, BE IT ORDAINED** by Beaufort County Council that the FY2011-2012 Beaufort County Budget Ordinance is amended only to the extent so as to provide a transfer in the amount of \$260,880.00 from the County's General Reserve Fund for the express purpose of providing matching funds for the Federal Highway Administration grant to support Beaufort County's Rails to Trails program.

**DONE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2011, AT A MEETING DULY ASSEMBLED OF BEAUFORT COUNTY COUNCIL.**

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: \_\_\_\_\_  
Wm. Weston J. Newton, Chairman



BY: \_\_\_\_\_  
Gary T. Kubic, County Administrator

Approved as to Form:

\_\_\_\_\_  
Joshua A. Gruber, Staff Attorney

Attest:

\_\_\_\_\_  
By: Suzanne M. Rainey, Clerk to Council

First Reading,  
Second Reading:  
Public Hearings:  
Third and Final Reading:

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE TO AMEND THE FY2011-2012 BEAUFORT COUNTY BUDGET ORDINANCE SO AS TO PROVIDE A SUPPLEMENTAL APPROPRIATION FROM THE COUNTY'S GENERAL RESERVE FUND IN THE AMOUNT OF \$72,159.83 FOR THE PURPOSE OF FUNDING CENSUS-BASED BEAUFORT COUNTY MAGISTRATE SALARY INCREASES FOR THE PERIOD OF JULY 1, 2011 TO JUNE 30, 2012.**

**WHEREAS**, S.C. Code of Laws Section 22-8-40(2)(a) provides that, "for those Counties with a population of one hundred fifty thousand and above, according to the latest official United States Decennial Census, the base salary (for Magistrates) is fifty-five percent of a circuit court judges salary for the state's previous fiscal year"; and

**WHEREAS**, the Decennial Census figures for Beaufort County became certified on March 22, 2011, and demonstrated that Beaufort County's population was in excess of one hundred fifty thousand people thus requiring the County to provide a salary increase to certain Beaufort County Magistrates in order to comply with the minimum funding percent indicated above; and

**WHEREAS**, by the adoption of this Ordinance, the 2011-2012 Beaufort County Budget as adopted by County Council will incorporate the necessary increases to certain Beaufort County Magistrates salaries as required by statute so as to meet the minimum salary amounts necessary to comply with the statutory funding formula.

**NOW, THEREFORE, BE IT ORDAINED** by Beaufort County Council that the FY2011-2012 Beaufort County Budget Ordinance is hereby amended so as to provide a supplemental appropriation in an amount of \$72,159.83 for the purpose of providing salary increases for certain Beaufort County Magistrates as a result of the certification of the Decennial Census figures.

**DONE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2011, AT A MEETING DULY ASSEMBLED OF BEAUFORT COUNTY COUNCIL.**

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: \_\_\_\_\_  
Wm. Weston J. Newton, Chairman

BY: \_\_\_\_\_  
Gary T. Kubic, County Administrator

Approved as to Form:

---

Joshua A. Gruber, Staff Attorney

Attest:

---

By: Suzanne M. Rainey, Clerk to Council

First Reading,  
Second Reading:  
Public Hearings:  
Third and Final Reading:

## EXECUTIVE SUMMARY

**TO:** Gary T. Kubic

**FROM:** Kathleen C. McKinney

**CC:** Ladson Howell, Esq.  
Joshua A. Gruber, Esq.

**DATE:** August 22, 2011

**FILE #:** 12904-0004

**RE:** Not Exceeding \$50,000,000 Beaufort County, South Carolina, Hospital Refunding and Improvement Revenue Bonds (Beaufort Memorial Hospital) Series 2011 (the "Bonds")

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Beaufort Memorial Hospital last issued bonds in 1997. Pursuant to the Hospital Revenue Bond Act and the legislation establishing Beaufort Memorial Hospital, Beaufort Memorial Hospital issues bonds through Beaufort County. The Bonds are not an obligation of the County but are payable solely from the revenues of the Hospital. The Act requires that the following language must be stated on the face of each Bond:

**This bond is a limited obligation of the County payable solely from and secured by a pledge of Pledged Revenues and funds provided therefor under the Bond Purchase and Loan Agreement. This bond shall never constitute an indebtedness of Beaufort County or the State of South Carolina within the meaning of any State constitutional provision or statutory limitation and shall never constitute nor give rise to a pecuniary liability of Beaufort County or the State of South Carolina or a charge against their general credit or taxing powers.**

The Bonds do not count against the debt limit of Beaufort County and the County has no liability for payment of the Bonds.

The Bonds will be issued for two purposes:

1. Refund the Series 1997 Bonds, of which \$13,365,000 is outstanding. There is a significant debt service savings to refunding the bonds since interest rates are considerably lower.
2. Defray the cost of acquiring certain land and making improvements thereto, undertaking certain additions, improvements and renovations to the Hospital's facilities in the County, including the acquisition of equipment therefor, and reimbursing the Hospital for certain prior capital expenditures .

Gary T. Kubic  
August 22, 2011  
Page 2

**Other approvals:**

1. The South Carolina Department of Health and Environmental Control has approved the projects being financed by the Hospital and has approved the refunding of the Series 1997 Bonds.
2. Upon receipt of the petition of the County, the State Budget and Control Board will place this matter on its agenda for approval at the September 20 meeting of the Board.

Because the refunding portion of the bond issue is rate sensitive, the Hospital would like to close the bond issue in October following third reading of the Ordinance.

## RESOLUTION

**A RESOLUTION MAKING APPLICATION TO THE STATE BUDGET AND CONTROL BOARD OF SOUTH CAROLINA FOR APPROVAL OF THE ISSUANCE BY BEAUFORT COUNTY, SOUTH CAROLINA, OF ITS HOSPITAL REFUNDING AND IMPROVEMENT REVENUE BONDS (BEAUFORT MEMORIAL HOSPITAL) SERIES 2011, IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT EXCEEDING \$50,000,000, PURSUANT TO THE PROVISIONS OF TITLE 44, CHAPTER 7, ARTICLE 11, CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED.**

**WHEREAS**, Beaufort County, South Carolina (the "*County*"), acting by and through its County Council (the "*County Council*"), is authorized and empowered under and pursuant to the provisions of Title 44, Chapter 7, Article 11, Code of Laws of South Carolina 1976, as amended (the "*Act*"), to promote the public health and welfare by providing for the constructing, equipping and providing of hospital facilities to serve the people of the State and to make accessible to them modern and efficient hospital facilities at the lowest possible expense to those utilizing such hospital facilities; and

**WHEREAS**, the County is further authorized to issue revenue bonds, defined in the Act to include notes, for the purpose of defraying the cost of providing hospital facilities and to refinance or to refund outstanding obligations, mortgages or advances issued, made or given by a hospital or public agency for the cost of hospital facilities; and

**WHEREAS**, the County is further authorized to make the proceeds of any revenue bonds available by way of a loan to a hospital or public agency pursuant to a loan agreement; and

**WHEREAS**, the County is further authorized to pledge or assign any money, rents, charges, fees or other revenues, including any proceeds of insurance or condemnation awards pursuant to any loan agreement to the payment of the bonds issued pursuant to such loan agreement; and

**WHEREAS**, the County proposes to issue its not exceeding \$50,000,000 aggregate principal amount Hospital Refunding and Improvement Revenue Bonds (Beaufort Memorial Hospital) Series 2011 (the "*Series 2011 Bonds*"), under and pursuant to the Act, and to make certain of the proceeds of the Series 2011 Bonds available to the Hospital by way of a loan for the purpose of (a) acquiring certain land and making improvements thereto, undertaking certain additions, improvements and renovations to the Hospital's facilities in the County, including the acquisition of equipment therefor, and reimbursing the Hospital for certain prior capital expenditures (collectively, the "*Project*"); (b) refunding the \$28,740,000 Beaufort County, South Carolina, Hospital Revenue and Refunding Bonds (Beaufort County Memorial Hospital), Series 1997 (the "*Series 1997 Bonds*"), currently outstanding in the principal amount of \$13,365,000, and together with a premium, if any, and interest then or thereafter to become due; and (c) paying certain costs of issuance of the Series 2011 Bonds, by way of a loan pursuant to a bond purchase and loan agreement; and

**WHEREAS**, the Project constitutes "Hospital Facilities" as defined in the Act; and

**WHEREAS**, the refunding of the outstanding Series 1997 Bonds will result in a debt service savings to the Hospital; and

**WHEREAS**, it is now deemed advisable by the County Council to file with the State Budget and Control Board of South Carolina, in compliance with Section 44-7-1590 of the Act, the petition of the County requesting approval of the proposed financing by the State Budget and Control Board;

**NOW, THEREFORE, BE IT RESOLVED** by the County Council of Beaufort County, South Carolina, as follows:

Section 1. It is hereby found, determined and declared as follows:

- (a) The County Council constitutes the “County Board” as that term is defined in the Act.
- (b) The Hospital is a public agency as defined in the Act with established credit and is financially responsible and capable of fulfilling its obligations and discharging its responsibilities which may be imposed under the Bond Purchase and Loan Agreement by and among the County, the Hospital, and a financial institution as purchaser with respect to the Series 2011 Bonds (the “*Purchase Agreement*”); and is financially responsible and capable of fulfilling its obligations and discharging its responsibilities which may be imposed under the Purchase Agreement with respect to the Series 2011 Bonds.
- (c) Adequate provisions shall be made for the payment of principal of, interest thereon and premium, if any, on the Series 2011 Bonds and the Series 1997 Bonds to be refunded, and any necessary reserves therefor, and for the operation, repair and maintenance of the Hospital Facilities financed or refinanced with the proceeds of the Series 2011 Bonds at the expense of the Hospital.
- (d) The public facilities, including utilities and public services necessary for the Hospital Facilities initially financed with the Series 1997 Bonds, will continue to be made available and will further be made available to the Hospital Facilities financed or refinanced with the Series 2011 Bonds.
- (e) The issuance of the Series 2011 Bonds will subserve the purposes and in all respects conform to the provisions and requirements of the Act, including without limitation Section 44-7-1560 of the Act.
- (f) Neither the Hospital Facilities financed with a portion of the proceeds of the Series 2011 Bonds nor the Series 1997 Bonds to be refunded with a portion of the proceeds of the Series 2011 Bonds, nor any documents or agreements entered into by the County in connection therewith will constitute an indebtedness of the County within the meaning of any State constitutional provision or statutory limitation and shall never constitute nor give rise to a pecuniary liability of the County or a charge against its general credit or taxing powers.
- (g) The issuance of the Series 2011 Bonds in the aggregate principal amount of not exceeding \$50,000,000 will be required in order to loan the proceeds thereof to the Hospital for the purpose of defraying the cost of the Project and refunding the outstanding Series 1997 Bonds.

Section 2. There is hereby authorized and directed to be submitted, on behalf of the County, a petition of this County Council requesting the approval of the proposed financing by the State Budget and Control Board of South Carolina pursuant to the provisions of Section 44-7-1590 of the Act, said petition to be in substantially the form attached hereto as *Exhibit A* with such changes, insertions and omissions as may be approved by the Chairman of County Council, said execution being conclusive evidence of such approval.

Section 3. The Chairman of the County Council is hereby authorized and directed to execute said petition in the name and on behalf of the County and the Clerk to County Council is hereby authorized and directed to affix the seal of the County Council to said petition and to attest the same and thereafter to submit an executed copy of this resolution along with said petition to the State Budget and Control Board in Columbia, South Carolina.

Section 4. All orders and resolutions and parts thereof in conflict herewith are to the extent of such conflict hereby repealed and this resolution shall take effect and be in full force from and after its passage and approval.

Passed and approved this 12<sup>th</sup> day of September, 2011.

**BEAUFORT COUNTY, SOUTH CAROLINA**

\_\_\_\_\_  
Chairman, County Council

(SEAL)

ATTEST:

\_\_\_\_\_  
Clerk to County Council





5. The County Board has found and determined that:

(a) A portion of the proceeds of the Series 2011 Bonds will be used to defray the cost of the Project and there is a need for the Project to be located in the County.

(b) A portion of the proceeds of the Series 2011 Bonds will also be used to refund the outstanding Series 1997 Bonds, together with any interest and premium, if any, then or thereafter to become due and certain expenses in connection therewith for the purpose of achieving a debt service savings to the Hospital.

(c) The Hospital is a public agency as defined in the Act with established credit and is financially responsible and capable of fulfilling its obligations and discharging its responsibilities which may be imposed under the Bond Purchase and Loan Agreement to be entered into by the County, the Hospital and a financial institution as purchaser with respect to the Series 2011 Bonds.

(d) Adequate provision shall be made for the payment of principal, interest, and redemption premium, if any, on the Series 2011 Bonds and the Series 1997 Bonds, and any necessary reserves therefor, and for the operation, repair and maintenance of the Hospital Facilities financed or refinanced with the proceeds of the Series 2011 Bonds at the expense of the Hospital. The Hospital is unconditionally obligated to pay, as and when they become due and payable, amounts sufficient to pay the principal, interest and redemption premium, if any, on the Series 2011 Bonds. The Hospital is also obligated to pay the operation, repair and maintenance of the Hospital Facilities.

(e) The public facilities, including utilities and public services necessary for the Hospital Facilities, will continue to be made available with respect to the Hospital Facilities refinanced with the proceeds of the Series 2011 Bonds and will be made available to the Project to be financed with the remaining proceeds of the Series 2011 Bonds.

(f) The issuance of the Series 2011 Bonds will subserve the purposes and in all respects comply with the provisions and requirements of the Act, including without limitation Section 44-7-1560 of the Act.

(g) Neither the Project, the Series 2011 Bonds, the refunding of the Series 1997 Bonds, nor any documents or agreements entered into by the County in connection therewith will constitute an indebtedness of the County within the meaning of any State constitutional provision or statutory limitation shall never constitute nor give rise to a pecuniary liability of the County or a charge against its general credit or taxing powers.

(h) The County has been informed by the Hospital that the issuance of the Series 2011 Bonds will result in a debt service savings to the Hospital.

6. Pursuant to Section 44-7-1590 of the Act, the County Board sets forth the following information:

(a) In connection with the Project, DHEC has issued its Certificates of Need with respect to any portion of the Project requiring a Certificate of Need. The issuance of the Series 2011 Bonds to refund the Series 1997 Bonds does not require a Certificate of Need.

(b) In general, the terms and conditions of the proposed Purchase Agreement for the Series 2011 Bonds provide that:

(i) The County will, at the request of the Hospital, issue its not exceeding \$50,000,000 Hospital Refunding and Improvement Revenue Bonds (Beaufort Memorial Hospital) Series 2011, to defray the cost of the Project and to refund the Series 1997 Bonds, together with any interest, premium, if any, then or thereafter to become due, and certain other expenses to be incurred in connection therewith.

(ii) The Purchase Agreement contains no provisions imposing an indebtedness on the County within the meaning of any State constitutional provision or statutory limitation and shall never constitute nor give rise to a pecuniary liability of the County or a charge against its general credit or taxing powers.

(iii) The Purchase Agreement contains provisions whereby the Hospital pledges and assigns to the County and agrees to pay to the bondholder, for the benefit of the County, certain gross revenues of the Hospital.

(iv) The Purchase Agreement contains covenants (i) obligating the Hospital to effect the completion of the Project if the proceeds of the Series 2011 Bonds prove insufficient, and (ii) obligating the Hospital to make payments which shall be sufficient (a) to pay the principal of and interest on the Series 2011 Bonds, (b) to build up and maintain any reserves deemed by the County Board to be advisable in connection therewith, and (c) to pay the costs of maintaining the Hospital Facilities financed or refinanced with the proceeds of the Series 2011 Bonds in good repair and the cost of keeping all such Hospital Facilities, including the Project, properly insured.

Upon the basis of the foregoing, the County Board respectfully prays:

That the State Budget and Control Board (i) accept the filing of the Petition presented herewith; (ii) as soon as practicable, make such review as it deems appropriate of the Project, the refunding of the Series 1997 Bonds, together with any interest then or thereafter to become due, and certain other expenses to be incurred in connection therewith, and the terms and provisions of the Purchase Agreement, as it deems advisable; (iii) thereafter make a finding that the issuance of the Series 2011 Bonds to defray the cost of the Project and to refund the Series 1997 Bonds is intended to promote the purposes of the Act and that it is reasonably anticipated the issuance of the Series 2011 Bonds will effect such results; (iv) make a finding that the proposed financing is economically feasible, and on the basis of such finding, approve the issuance of not exceeding \$50,000,000 Beaufort County, South Carolina, Hospital Refunding and Improvement Revenue Bonds (Beaufort Memorial Hospital) Series 2011, including changes in any details of the said financing as finally consummated which do not materially affect the issuance of the Series 2011 Bonds or the refunding of the Series 1997 Bonds, together with any interest and premium, if any, then or thereafter to become due, and certain other expenses to be incurred in connection therewith; and (v) give published notice of its approval in the manner set forth in Section 44-7-1590 of the Act.

Respectfully submitted,

**BEAUFORT COUNTY, SOUTH CAROLINA**

(SEAL)

By: \_\_\_\_\_  
Chairman, County Council

ATTEST:

By: \_\_\_\_\_  
Clerk to County Council

Dated: September 12, 2011

## ORDINANCE

**AN ORDINANCE AUTHORIZING THE ISSUANCE OF NOT EXCEEDING \$50,000,000 AGGREGATE PRINCIPAL AMOUNT OF HOSPITAL REFUNDING AND IMPROVEMENT REVENUE BONDS (BEAUFORT MEMORIAL HOSPITAL) SERIES 2011; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AND LOAN AGREEMENT, A REFUNDING ESCROW DEPOSIT AGREEMENT IN CONNECTION THEREWITH; AUTHORIZING PROPER OFFICERS TO DO ALL THINGS NECESSARY OR ADVISABLE; AND OTHER MATTERS INCIDENTAL THERETO.**

**WHEREAS**, Beaufort County, South Carolina (the "*County*"), acting by and through its County Council (the "*County Council*"), is authorized and empowered under and pursuant to the provisions of Title 44, Chapter 7, Article 11, Code of Laws of South Carolina 1976, as amended (the "*Act*"), to promote the public health and welfare by providing for the financing, refinancing, acquiring, enlarging, improving, constructing and equipping of hospital facilities (as defined in the Act) to serve the people of the State of South Carolina (the "*State*") and to make accessible to them modern and efficient hospital facilities at the lowest possible expense to those utilizing such hospital facilities; and

**WHEREAS**, the County is further authorized to issue revenue bonds for the purpose of defraying the cost of providing hospital facilities and to refinance or refund outstanding bonds, obligations, mortgages or advances issued, made or given by a hospital or public agency for the cost of hospital facilities; and

**WHEREAS**, the County is further authorized to make the proceeds of any revenue bonds available by way of a loan to a hospital or public agency pursuant to a loan agreement; and

**WHEREAS**, the County has heretofore issued \$28,740,000 Hospital Revenue and Refunding Bonds (Beaufort County Memorial Hospital) Series 1997, of which \$13,365,000 is currently outstanding (the "*Series 1997 Bonds*"); and

**WHEREAS**, the Hospital is organized and existing under the laws of the State, is empowered to operate and maintain hospital facilities, and is a "public agency" as defined in the Act; and

**WHEREAS**, the Hospital has deemed it necessary and desirable to acquire certain land and make improvements thereto, undertake certain additions, improvements and renovations to its hospital facilities, including the acquisition of equipment therefor, and reimbursing the Hospital for certain prior capital expenditures heretofore incurred for hospital facilities which the Hospital expressed an intent to finance (collectively, the "*Project*"); and

**WHEREAS**, the Hospital has deemed it necessary and desirable to refund the outstanding Series 1997 Bonds to achieve a savings in debt service; and

**WHEREAS**, in making the determination to refund the Series 1997 Bonds, the County has given consideration to the interest to maturity on the Series 1997 Bonds, the costs of issuance of the Series 2011 Bonds (hereinafter defined) authorized herein, a portion of the proceeds of which will be applied to refund the outstanding Series 1997 Bonds and the known earned income from the investment of a portion of the proceeds of the Series 2011 Bonds providing for refunding the Series 1997 Bonds; and

**WHEREAS**, the South Carolina Department of Health and Environmental Control has issued Certificates of Need with respect to those items of the Project requiring a Certificate of Need; and

**WHEREAS**, no certificate of need is required with respect to the refunding of the Series 1997 Bonds; and

**WHEREAS**, the Hospital, the County and a financial institution propose to enter into a Bond Purchase and Loan Agreement dated as of the first day of the month in which the Series 2011 Bonds are delivered, or such other date on or before December 31, 2011 (the "**Purchase Agreement**"), with respect to the financing of the Project and the refunding of the Series 1997 Bonds; and

**WHEREAS**, the County desires to authorize the issuance of a series of Bonds to be designated, "Beaufort County, South Carolina, Hospital Refunding and Improvement Revenue Bonds (Beaufort Memorial Hospital) Series 2011" (the "**Series 2011 Bonds**"), for the purpose of defraying the cost of the Project, including reimbursing the Hospital for certain capital expenditures heretofore made by the Hospital which it expressed an intent to finance, and refunding the Series 1997 Bonds; and

**WHEREAS**, the County and the Hospital now desire to proceed with the financing; and

**WHEREAS**, there have been prepared and submitted to the County the forms of (a) the Purchase Agreement; (b) the Refunding Escrow Deposit Agreement (the "**Escrow Agreement**") by and among the County, the Hospital and the Paying Agent for the Series 1997 Bonds; and (c) the Tax Compliance and Non-Arbitrage Agreement to be dated the date of issuance of the Series 2011 Bonds by and between the County and the Hospital;

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF BEAUFORT COUNTY, SOUTH CAROLINA, AS FOLLOWS:**

Section 1. To defray the cost of the Project, including permitting the Hospital to be reimbursed for certain capital expenditures heretofore made which the Hospital expressed an intent to finance, and to refund the Series 1997 Bonds, the issuance of hospital revenue bonds to be designated "not exceeding \$50,000,000 Beaufort County, South Carolina, Hospital Refunding and Improvement Revenue Bonds (Beaufort Memorial Hospital) Series 2011," is hereby authorized subject to the provisions of this Ordinance and the Purchase Agreement. The Series 2011 Bonds shall be dated; shall be issued in such denominations; shall be payable as to principal, interest and redemption premium, if any; shall bear interest; shall mature; shall be in the form; and shall contain provisions for execution, authentication, payment, registration, redemption and numbering as shall be set forth in the Purchase Agreement.

Section 2. The Series 2011 Bonds shall be secured by a pledge effected by the Purchase Agreement and shall be limited obligations of the County payable solely from and secured by a pledge of the gross revenues and receipts derived by the County from or in connection with the Purchase Agreement hereinafter authorized. The Series 2011 Bonds do not and shall never constitute an indebtedness of the County within the meaning of any State constitutional provision or statutory limitation and shall never constitute nor give rise to a pecuniary liability of the County or a charge against its general credit or taxing power.

Section 3. The form of the Purchase Agreement for the Series 2011 Bonds and as submitted to this meeting and appended hereto as *Exhibit A* and made a part of this Ordinance as though set forth in full herein, be and the same are hereby approved. The Chairman of the County Council (the "**Chairman**") is hereby authorized and directed to execute and deliver the Purchase Agreement with such changes, insertions and omissions as may be approved by said Chairman upon advice of counsel, said execution being conclusive

evidence of such approval; and the Clerk of the County Council (the "*Clerk*") is hereby authorized and directed to affix the corporate seal of the County to the Purchase Agreement and to attest the same.

Section 4. The form of the Escrow Agreement, as submitted to this meeting and appended hereto as *Exhibit B* and made a part of this Ordinance as though set forth in full herein, be and the same is hereby approved. The Chairman is hereby authorized and directed to execute and deliver the Escrow Agreement with such changes, insertions and omissions as may be approved by said Chairman upon advice of counsel, the execution being conclusive evidence of such approval; and the Clerk is hereby authorized and directed to affix the corporate seal of the County to the Escrow Agreement and to attest the same.

Section 5. The form of the Tax Agreement, as submitted to this meeting and appended hereto as *Exhibit C* and made a part of this Ordinance as though set forth in full herein, be and the same is hereby approved. The Chairman is hereby authorized and directed to execute and deliver the Tax Agreement with such changes, insertions and omissions as may be approved by said Chairman upon advice of counsel, the execution being conclusive evidence of such approval; and the Clerk is hereby authorized and directed to affix the corporate seal of the County to the Tax Agreement to attest the same.

Section 6. The Chairman and the Clerk, and any other proper officer of the County, be and each of them is hereby authorized and directed to execute and deliver any and all documents and instruments and to do and to cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated by this Ordinance.

Section 7. All orders, resolutions, ordinances and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 8. This Ordinance shall become effective and be in full force immediately.

**BEAUFORT COUNTY, SOUTH CAROLINA**

(SEAL)

By: \_\_\_\_\_  
Chairman, County Council

ATTEST:

\_\_\_\_\_  
Clerk to County Council

First Reading: September 12, 2011  
Second Reading: September 26, 2011  
Public Hearing: October 10, 2011  
Third Reading: October 10, 2011