

COUNTY COUNCIL OF BEAUFORT COUNTY

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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

JOSHUA A. GRUBER
COUNTY ATTORNEY

SUZANNE M. RAINEY
CLERK TO COUNCIL

AGENDA COUNTY COUNCIL OF BEAUFORT COUNTY

Monday, January 9, 2012

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.

1. CAUCUS - 4:00 P.M.
Discussion is not limited to agenda items.
Executive Conference Room
2. REGULAR MEETING - 5:00 P.M.
Council Chambers
3. CALL TO ORDER
4. PLEDGE OF ALLEGIANCE
5. INVOCATION
6. REVIEW OF MINUTES – [November 14](#), [November 28](#) and [December 5](#)
7. PUBLIC COMMENT
8. COUNTY ADMINISTRATOR'S REPORT ([backup](#))
Mr. Gary Kubic, County Administrator
 - A. The County Channel / Broadcast Update
 - B. Four-Week Progress Report
 - C. Resolution Agreeing to Apply to South Carolina Department of Transportation For a Ferry Grant in an Amount Not to Exceed \$100,000 to Assist with Ferry Service to and from Daufuskie Island
 - D. Mr. Fred Washington, Chairman, Beaufort County School District

Over



9. CONSENT AGENDA – ITEMS A THROUGH F

- A. AN ORDINANCE TO AMEND AND CLARIFY BEAUFORT COUNTY ORDINANCE NO. 2005/9 AND AS SUBSEQUENTLY AMENDED WITH REGARDS TO THE DEFINITION OF ESTABLISHMENTS UNDER THE BEAUFORT COUNTY LOCAL HOSPITALITY TAX ([backup](#))
 - 1. Consideration of first reading approval to occur January 9, 2012
 - 2. Finance Committee discussion and recommendation to approve occurred December 12, 2011 / Vote 7:0
- B. RESOLUTION ADJUSTING PARKS AND LEISURE SERVICES FEES ([backup](#))
 - 1. Consideration of adoption to occur January 9, 2012
 - 2. Community Services Committee discussion and recommendation to adopt occurred December 19, 2011 / Vote 6:0
- C. ESTABLISHMENT OF AN AMNESTY MONTH FOR RETURN OF LIBRARY MATERIAL
 - 1. Consideration of approval to occur January 9, 2012
 - 2. Community Services Committee discussion and recommendation to approve occurred December 19, 2011 / Vote 6:0
- D. ESTABLISHMENT OF A COLLABORATIVE ORGANIZATION OF SERVICES FOR YOUTH (COSY) TRUST FUND
 - 1. Consideration of approval to occur January 9, 2012
 - 2. Community Services Committee discussion and recommendation to approve occurred December 19, 2011 / Vote 6:0
- E. TEXT AMENDMENTS TO THE BEAUFORT COUNTY ZONING AND DEVELOPMENT STANDARDS ORDINANCE (ZDSO), APPENDIX S. DAUFUSKIE ISLAND CODE, SECTION 3.8 (SECTION 3-CONSERVATION TRANSECT ZONE); SECTION 3.8.1 NON-CONFORMING USES (SECTION 3-CONSERVATION TRANSECT ZONE; TABLE 1.1 (SECTION 1-PROCEDURES) (THAT ADDS ADDITIONAL REQUIREMENTS IN THE APPROVAL AND PERMITTING PROCESS) ([backup](#))
 - 1. Consideration of first reading approval to occur January 9, 2012
 - 2. Natural Resources Committee discussion and recommendation to approve occurred January 3, 2012 / Vote 6:0
- F. WATER QUALITY RESTORATION PLAN ([backup](#))
 - 1. Consideration of approval to occur January 9, 2012
 - 2. Natural Resources Committee discussion and recommendation to approve occurred January 3, 2012 / Vote 6:0
- G. A RESOLUTION OUTLINING THE POLICY OF BEAUFORT COUNTY WITH REGARDS TO PUBLIC-PRIVATE VENTURES FOR USE ON PROPERTIES ACQUIRED THROUGH THE RURAL AND CRITICAL LAND PRESERVATION PROGRAM ([backup](#))
 - 1. Consideration of adoption to occur January 9, 2012
 - 2. Natural Resources Committee discussion and recommendation to approve occurred January 3, 2012 / Vote 6:0

10. ADOPTION OF 2012 REGULAR MEETING SCHEDULE ([backup](#))
11. ESTABLISHMENT OF 2012 HAWKERS' AND PEDDLERS' LICENSE FEES ([backup](#))
12. COMMITTEE REPORTS ([backup](#))
13. PUBLIC COMMENT
14. EXECUTIVE SESSION
 - A. Discussion of negotiations incident to proposed contractual arrangements
15. ADJOURNMENT

Annual Planning Meeting
February 16 – 18, 2012
B/JWSA Administration Building
6 Snake Road
Okatie

Official Proceedings
County Council of Beaufort County
November 14, 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, November 14, 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.

DISCUSSION ITEMS

Topics discussed during the caucus included: (i) Reference to the County First Quarter Report wherein the Treasurer has removed a lot of airplanes from the tax base that have not paid so that the amounts that have paid in percentage is actually slight higher this year. The number of airplanes is lower and the tax rate is lower. Therefore, the county is only going to collect about \$57,000 maximum this year. (2) The ordinance authorizing the placement of a question of the November 6, 2012 ballot concerning the issuance general obligation bonds, not to exceed \$20 million proposed land preservation received first reading approval October 24, 2011. During the regular meeting, Mr. Rodman will amend the motion to change the amount from \$20 million to \$25 million and to add language wherein at no time shall the borrowing exceed 1 mill in debt service repayment. (3) Council needs a copy of the County Administrator's view of his CIP needs for the next year or two. (4) The Federal Courthouse lease expires fall 2014. The Chairman has talked with the clerk of the federal court over the past two weeks about the building and their intentions. When that building was leased by the federal government, the federal government renovated the building to federal court specifications. In doing so, their lease payment matched the cost of the renovation. The County bonded it; the federal government paid for that. Debt service payment is approximately \$430,000 annually and approximately \$120,000 to operate the facility. It appears at the end of the lease in 2014, that the federal government is going to pull out. (4) Regarding the submitted Redistricting Plan there was a report that the Board of Education had filed a petition. Mr. Gruber said the Board issued the County a formal letter stating that they have no objections. There was an online petition that was being circulated by several individual members of the Board. The submission contained the letter that was presented on the third reading and adoption of the plan. The submission date was October 20, 2011. (5) The County needs to develop a reserve policy as well as a transfer policy. (6) Regarding the \$377,000 Commerce Park sewer line, who, why and how was it authorized? (7) In

preparation of the January 2012 Transportation Advisory Group (BTAG) meeting, Staff was asked, using the estimated \$15 million, to prioritize the remaining one-cent sales tax projects.

REGULAR MEETING

The regularly scheduled meeting of the County Council of Beaufort County was held at 5:00 p.m. 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 Herbert Glaze gave the invocation.

MOMENT OF SILENCE

World Boxing Champion Joe Frazier

Beaufort County native and former World Boxing Champion Joe Frazier died Monday, November 7, 2011 in Philadelphia of liver cancer. Joe was born to Rubin and Dolly Frazier on a 10-acre farm in Laurel Bay. At age 15 he left the Lowcountry for New York, but never forgot his humble beginnings and was a generous donor to local youth organizations.

During Smokin' Joe Frazier's amateur career, in 1962, '63 and '64, he won the Middle Atlantic Golden Gloves heavyweight championship. His only loss in three years as an amateur was to Buster Mathis. Then in the 1964 Olympics Buster Mathis was supposed to represent the US but hurt his hand. Joe got into the semi-finals and broke his left thumb fighting a six-foot-four Russian. But, he won the fight anyway without even mentioning the injury. He captured the only gold medal for the US Olympic team.

Joe declined to fight for the World Boxing Association title in protest over Mohammed Ali's suspension. But he went on to fight in a consolidation match and was crowned world champ. Frazier lost his undefeated record of 29-0 and his world championship to George Foreman in 1973 in Jamaica. He spent the rest of his life training young boxers in Philadelphia and visiting Beaufort County where he is revered for his charitable work.

Beaufort's John Trask, III nominated Frazier for the Order of the Palmetto, which he received in 2010. I was privileged to write a letter in support of that well-deserved nomination. Joe was a quiet mentor to our youth of Beaufort County and a generous donor to our Boys and Girls Clubs. John knew Smokin Jo well and says Joe was generous to a fault and knew how to be a gentleman. He also had great perseverance and was said to "always answered the bell." John and other friends of Joe Frazier are organizing a memorial celebration this Wednesday, November 16 at noon at Waterfront Park and the public is invited.

The Chairman called for a moment of silence in honor of our native son, the late, great Smokin' Joe Frazier.

Mr. Glaze remarked that Beaufort County Council honors the memory of Joe Frazier for his charitable and professional achievements, for his loyalty to his friends, for his courage in overcoming all challenges and, most of all, for his upstanding character as a man, which is his enduring legacy and gift to all of us. Mrs. Dannette Frazier, niece of Joe Frazier, accepted the proclamation.

REVIEW OF PROCEEDINGS OF THE REGULAR MEETING HELD OCTOBER 24, 2011

It was moved by Mr. McBride, seconded by Mr. Glaze, that Council approve the minutes of the regular meeting held October 24, 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.

PROCLAMATION

America Recycles Day

The Chairman proclaimed November 15, 2011 America Recycles Day and encouraged and promoted citizens to become aware of recycling in Beaufort County.

Mrs. Carol Murphy, Recycling Corridor, stated in 1997 America Recycles Day was established to promote and encourage recycling throughout the Country. It is national program. She explained why recycling is important -- the environmental benefits, conservation of resources, reduction of pollution, and less waste. The latter is important to Beaufort County since we do not have our own landfill. The economic benefits to South Carolina are incredible -- \$65 billion in our state's economy, including 15,000 jobs and 300 firms. Some of the department's 2011 accomplishments include: (i) The County Office Program, which was provided by a Department of Energy Grant in 2011 and brought 40 tons of material out of our buildings, is now recycled. We hope to see it increase. (ii) The Residential Municipalities' Curbside Program now brings in about 400 tons of recycling and that includes Hilton Head Island, which is the newest of the curbside programs. They are now up to 150 tons per month. (iii) Overall, residentially, we have recycled 8,000 tons this year and we expect that to increase in 2012. (iv) Beaufort County schools implemented a Recycling Program. They have collection bins at all schools now and are all on their system. (v) The University of South Carolina-Beaufort will also implement recycling

campus-wide in January 2012. (vi) County-sponsored quarterly collections of electronics. These are huge achievements. We hope to collect more tons of material in 2012. Mrs. Murphy introduced ReRun, the County advertising mascot.

PUBLIC COMMENT

The Chairman recognized Reverend Ed Cushingberry, speaking on behalf of the ABLE Foundation, who stated this is a wonderful opportunity for us to continue the discussion you have already had about fighting for freedom and fighting and developing youth. Recently Beaufort County was recognized as one of the best 100 best places in the country for young people in terms of education and development. It is in that spirit that we come to you tonight to present to you that the ABLE Foundation is once again trying to raise money so that we can help the disabled members of our community. We have with us tonight our annual Christmas ornament to place on your Christmas tree and to display around your homes and around the community so that others might see what we are doing here in Beaufort County to try and enable all of our citizens to live a productive life and have the kind of life all of us want to have. Thank you for your continued support of the ABLE Foundation and its efforts to help our disabled members in the community live a full and productive life.

COUNTY ADMINISTRATOR'S REPORT

The County Channel

Mr. Gary Kubic, County Administrator, announced The County Channel recently taped, and is now airing the Tax Talk Program. Our Treasurer, Doug Henderson, explains what to expect when paying your county taxes this year. The Treasurer has made several changes and hopes to create a process that has been streamlined for the public. The County Channel will once again cover the Veterans Day Celebration at the National Cemetery in Beaufort. The event will be at 11:00 a.m. This tribute to our nation's heroes will be recorded live, and played back on The County Channel, and one the web.

Two-Week Progress Report

Mr. Kubic presented his Two-Week Progress Report, which summarized his activities from October 24, 2011 through November 11, 2011. He highlighted three meetings. First, we are and have been discussing environmental concerns at the Lobeco chemical site. We are close to developing a Phase I Environmental. Our staff, through the county legal department, has been in contact with US Environmental Protection Agency (USEPA) as well as DHEC on this issue and we do expect to have some preliminary reports here soon. We have requested and our staff has reviewed over 2,000 documents relating to this site. We realize that is a very important review for us and for your communities so we are happy to do it.

The second important meeting that Mr. Kubic had that is of interest to the community deals with the Government Center. As you know, we entertained and received a single bid for the campus renovations here in the city of Beaufort. Those bids involve three-parts. The reskinning, as we

refer to it, on the County Courthouse facility. The Administration Building where we are located today. And a small portion of the Detention Center. We are carefully reviewing the bid. The major question, as Mr. Kubic has been saying along, is if we start at approximately \$13 million at the Courthouse, will we finish the completion at \$13 million. It is a very, very difficult process to unravel, particularly with the fact that we are going into walls and we have the possibility of unforeseen events as we discover them in the process. We are trying to vet that now. He expects a recommendation here shortly. In fairness to our single bidder, we need to resolve and make a decision and a recommendation to Council.

The third meeting involved Mr. Bryan Hill, Deputy County Administrator; Mr. Mark Roseneau, Facilities Management, and he, who took an afternoon and visited several sites for possible office space south of the Broad River, in conjunction with the Myrtle Park building, and the opportunities to resolve our most recent solicitation for commercial property that would be available for us to use. That report will also be forthcoming here soon.

Presentation of 2012 Calendar

Mr. Gary Kubic, County Administrator, unveiled the 2012 Beaufort County Calendar. The annual Beaufort County Photo Contest began in 2005 and it produced pictures for our first calendar in 2006 as a public information tool for our Rural and Critical Land Preservation Program. Citizens had approved funding for the program and we wanted them to know more about how it worked. Marci Tressel took the cover shot of the Old Sheldon Church for the 2006 calendar. Marci is an excellent photographer and has earned a place every year since in our annual calendar. Ed Funk won the cover with his photo Day's End in 2007. The theme was "Traditions of Beaufort County" and the picture shows oystermen coming home after a full day on the water. In 2008 a photo by Larry Coffin made the cover. It's called "Getting Ready for Shrimpin". The theme was "One Day in the Life of Beaufort County" and we asked contestants to go out on just one day - Saturday, May 12 2007 - to take their pictures. It was a beautiful spring day with a little morning fog and the entries were sublime. Winter Sunrise by Donald Schwarz was our cover shot for 2009. The theme was Photographers choice." This picture was taken on Hilton Head Island. In 2010 we thought it would be fun to challenge photographers with the theme, "Faces of Beaufort County". Barry Wright won the cover with this great shot of Roland Washington, Lowcounty Cuisine Caterer. If you haven't tasted Roland's gumbo, you should! In 2011 Peaceful Harbor at the Barringer Tract by Margery Boyle. The theme was so successful we did it again this past year and added County Boat Landings and water access sites as valid photo locations.

Mr. Kubic introduced this year's photo contest winners. The cover photo - Stony Preserve by Stan Abrahamson; January - Port Royal Boat Land by Marci Tressle; February - Swim Buddies' Bikes at Lands End by Karen M. Peluso; March - Waiting for a Friend at Stony Preserve by Paula Smith; April - Oleander and Sunset at Broad River by Nancy Promislow; May - Serene at The Green by Karen M. Peluso; June - Coosaw Island Public Access by Stan Abrahamson; July - Wallace Boat Landing by Ellen Corbett; August - Jenkins Island Dock Crab Pot by Chris Mills; September - Sunrise Kayaks at White Hall Landing by Karen M. Peluso; October - Jarvis Creek Park Walkway by Sandra Riley; November - Earl Morning View at Stony Preserve by Patricia Roche; December - Fishing at Dusk: Jarvis Creek by Hale Cherry.

The 2012 calendar was designed by Pamela Uhles Brownstein.

2011 Comprehensive Annual Financial Report (CAFR) Highlights

Mr. Kubic, County Administrator, presented the County's Annual Comprehensive Financial Report. This year's CAFR is outstanding. Mr. Kubic presented the financial highlights: general fund balance increased by \$478,946, general fund combined revenues of \$97.0 million were \$2.1 million less than in FY 2010, general fund combined expenditures of \$96.5 million were \$5.3 million less than in FY 2010, expenditures in FY 2011 were adjusted to pre-FY 2008 levels in response to declining revenues.

Not only is the financial reporting excellent, the CAFR tells the story of Beaufort County through photographs and captions depicting our way of life here in the Lowcountry. Mr. Kubic highlighted some of photographs included in the CAFR. The cover picture was taken by Stacy Bradshaw and entered in our calendar photo contest. Although it did not make the calendar; it certainly caught the eye of David Starkey, our chief financial officer. David selected it for the cover and Teri Norris of the planning department added the logo and other elements to create a beautiful design. The next photograph demonstrates our support of our DSN services and their clients. Another photograph features our outdoor natural beauty in the CAFR. This photo was taken by our own Monica Spells. Other photographs include: (i) a video shot from Coastal Kingdom. Tony Mills is holding one of his co-stars. The picture gives us the opportunity to explain our broadcasting services and its programming. (ii) A photo of a white egret was taken by Scott Quarforth and is another calendar submission. It helps us explain more about our ecology. (iii) A video shot of our Dixie Youth Boys Baseball Tournament broadcast which further reveals the service of our broadcasters and shows off our PALS activities. (iv) Readers get a glimpse of our local culture with this shot of the Huspah Baptist Church choir which performed at the dedication of the Harriet Tubman Bridge, Altamaha Town Preserve and the US 17 improvements. (v) A video shot from our Blue Angels broadcast illustrates the impact of the Marine Corps locally. (vi) A photograph of the famous Tony Hawk performing for local fans at our new County skate park at Buckwalter. (vii) The back cover was designed by Terri Norris. It depicts logos from various organizations that have presented awards to the County during the past year. They include the National Association of Counties, the Tellys, the International Association of Assessment Officers, the Government Finance Accounting Office, and the Emmys for nomination of The County Channel.

Mr. Kubic is very proud of David Starkey and his team for putting this CAFR together. We strive for exceptionalism. On behalf of County Council, the administrative staff, the community at large, all your co-workers Mr. Kubic presented a plaque as special recognition for being the leader two years in a row on our CAFR. Mr. Starkey thanked the members of the Finance Team, "You are only as good as who you have helping you out."

Mr. David Starkey, Chief Financial Officer, gave a PowerPoint presentation on the CAFR highlights for fiscal years 2007 – 2011. The presentation showed a five-year millage analysis, general fund revenue analysis, general fund expenditures analysis, fund balance analysis, challenges over the next five years, and conclusion.

Mr. Ryan Miller, CPA, audit manager, ElliottDavis, the County's third-party auditor, remarked the firm is required to issue three reports that are inserted into the CAFR issued by the Finance Departments.

First. Report on compliance with requirements that could have a direct and material effect on each major program and on internal control over compliance in accordance with the US Office of Management and Budget (OMB) Circular A-133 Supplement, *a.k.a.*, single audit report. This report is ElliottDavis' opinion on the County's schedule of expenditures of federal awards. Since the County incurred over \$500,000 in FY 2011 of federal expenditures related to its federal grants, we are required to conduct a single audit of these federal grants. Since its overall expenditures of federal grants were less than \$10 million, the major program threshold is \$300,000 in federal expenditures. The County had two major programs in FY 2011. One is the Airport Improvement Program which deals with receiving federal monies for various projects related at the Beaufort County (Lady's Island) and Hilton Head Island Airports such as tree removal, construction of the AARF building, and the resurfacing and widening of the runways. The second major program is known as the Community Development Block Grant cluster. This is a cluster of two related programs, but we have to audit them as one. Part A of this cluster is the energy efficient HVAC system that was installed at the County DSN building and Part B is the Dale water project that was sub-awarded to B/J Water and Sewer Authority and it relates to servicing homes that are in the low to-moderate income areas with sewer and water lines. Those sewer and water lines take the place of septic tanks and wells. Based on our audit of the County's federal awards, ElliottDavis had no findings.

Second. Report on internal control over financial reporting and on compliance and other matters based on an audit of financial statements performed in accordance with government auditing standards, *a.k.a.*, the yellow book report. ElliottDavis will consider the County's internal control over financial reporting for forming our audit procedures on its financial statements. However, we do not actually issue an opinion on the effectiveness of the County's internal controls over financial reporting. We only opine on the reasonableness of the financial statements as a whole. The reason is because we do gain an understanding by testing limited controls and assessing the design effectiveness of these financials, but we do not test enough controls to actually opine on these internal controls. Based our on audit of the financial statements, we did find seven findings this years. A couple items are repeat findings. These findings are effective June 30, 2011 and before.

Third. Report on the findings and questioned cost for the year ended June 30, 2011.

Item 2001 – 1: Disbursement from the Treasurer's Office

Findings: We noted that there is no approval process in place for issuing payments to employees for meal reimbursements and supplies. We noted that refunds are issued to the Emergency Medical Services department without receiving approved documentation to support the reason for the refund. We also noted a payment was issued to the Beaufort County Probate Court without receiving a payment request approved by a Department Head. These conditions increase the risk of there being unauthorized expenditures made at the Treasurer's office.

Recommendation: We recommend that the Treasurer's office issue checks through the accounts payable system used by the Finance department.

Management Response: We agree with the auditor's comments. The following has been implemented since the current Treasurer was sworn into office. The Treasurer and the two Deputy Treasurers are authorized check signers. The Treasurer's stamp is located at all times, access to the stamp is limited, and it is only used for large check runs. All other checks are signed manually. An authorized singer's signature indicated approval of the disbursement and the proper review of the supporting documentation. The supporting documentation is maintained with the corresponding journal entry. Employees are not permitted to review disbursements, such as reimbursements, from the Treasurer's office. All employee requests for disbursements are submitted to the Accounts Payable department with the proper documentation and approval. The Treasurer's office is also transitioning disbursements previously made by the Treasurer's office to the Account Payment department.

Item 2011 – 2: Supporting Documentation and Authorization for Journal Entries

Findings: Supporting documentation for journal entries initiated in the Treasurer's office was not consistently maintained. As a result, there is not adequate documentation that these journal entries were properly authorized and reviewed for accuracy. This condition increased the risk that journal entries that are erroneous or for an unauthorized purpose could be recorded in the County's general ledger and not be detected.

Recommendation: We recommend that the Treasurer's office implement a policy in which documentation is maintained to indicate the journal entries are approved and reviewed for accuracy by authorized personnel other than the individual who initiatives and/or recorded the journal entry in the general ledger.

Management Response: We agree with the auditor's comments. The following has been implemented since the current Treasurer was sworn into office. Procedures have been implemented for the generation of journal entries which required the CFO Deputy Treasurer to review all journal entries for accuracy, including the accuracy and completeness of supporting documentation. In the absence of the CFO Deputy Treasurer, the two authorized journal entry creators will review the other's journal entry. Upon the return of the CFO Deputy Treasurer, a selective review will be performed on those entries. The journal entry's approval indicates the entry's authorization.

Item 2011 – 3: Lack of Segregation of Duties at the Treasurer's office

Findings: We noted that there was a lack of segregation of duties related to printing and stamping checks issued for property tax refunds. This lack of segregation of duties subjects the County to increased risk of the misappropriation of cash since one employee has access to the Treasurer's signature stamp and the ability to print checks.

Recommendation: Responsibilities should be assigned within the Treasurer's office to allow for proper segregation of duties, particularly in key areas such as printing and signing checks.

Management Response: We agree with the auditor's comments. The following has been implemented since the current Treasurer was sworn into office. The individuals with access to the signature stamp and authorized check signers do not have the ability to generate checks. The employee generating checks does not have access to the signature stamp nor is an authorized check signer and a difference employee generates the journal entry.

Item 2011 – 4: Recording Journal Entries at the Treasurer's office

Findings: We noted a journal entry to post a bank deposit for approximately 4575,000 to the County's General Fund was recorded approximately seven weeks after the bank deposit was made. As a result, the County's general ledger cash balance in the General Fund was understated by this amount. This condition increases the risk that the County's cash balance reflected in its financial statements are materially misstated.

Recommendation: We recommend that the Treasurer's office implement a policy in which journal entries are recorded within five business days after a transaction occurs so that the County's general ledger reflects current and accurate account balances.

Management response: WE agree with the auditor's comments. The following has been implemented since the current Treasurer was sworn into office. The treasurer's office has created procedures for generating journal entries, which vary based on the journal entry type. Journal entries will be recorded consistently and on an appropriate and timely basis.

Item 2011 – 5: Lack of Segregation of Duties at the Business License department

Findings: The Director in the Business License department receipts payment into the system and prepared the bank deposit. In this situation, a view of the Director's bank deposit is not performed. This increased the risk of the misappropriation of cash...

Recommendation: We recommend that the Business License department implement a policy to allow for property segregation of duties, particularly in key areas such as receipting payments and preparing the bank deposit.

Management Response: During a large portion of fiscal year 2011, the County Business License department was understaffed due to attrition. The limited staff temporarily hampered the Business License department's ability to separate these duties. More staffing was internally moved to the Business License department during the second half of fiscal year 2011 to properly allow for the separation of these duties.

Item 2011 – 6: Lack of Approval for Property Tax Refunds

Findings: We noted abatement slips prepared at the Auditor's office for personal property and automobile property tax refunds were not approved by someone separate from the preparer. This condition heightens the risk that unauthorized property tax refunds could be issued. As a result, there is more likelihood that the County's cash could be understated.

Recommendation: We recommend that the Auditor designate an employee to approve each abatement slip before a property tax refund is issued. We also recommend that this approval be documented on the abatement slip in the form of a signature.

Management Response: Based on the above findings the County Auditor's office has established new procedures for monitoring personal property refunds that will include a review and sign-off of each individual refund by a second party prior to the issuance of the refund. Additionally, a secondary authorization will be required and signed off on all abatement slips. This change in procedure is effective immediately.

Item 2011 – 7: Supporting Documentation for Property tax Refunds

Findings: Supporting documentation for property tax refunds initiated at the Auditor's office as not consistently maintained. As a result, there is not adequate documentation that these property tax refunds were properly authorized and review for accuracy. This condition increases the risk that property tax refunds that are erroneous or for an unauthorized purpose could be recorded in the County's general ledger and not be detected.

Recommendation: We recommend that the Auditor's office implement a policy in which documentation is maintained in indicate that property tax refunds are approved and reviewed for accuracy by authorized personnel other than the individual who initiated the property tax refunds.

Management Response: Supporting documentation is maintained consistently house; based on audit findings the following change in policy is effective immediately: abatement slips and required supporting documentation will no longer be sent to the warehouse but will be maintained in a central location in our main office. Each County Auditor's office employees using the same established, detailed filing procedure will turn in his/her abatement slips and supporting documentation to a designated supervisor on the last business day of each week.

Mr. Newton commented that Council appreciates the professionalism of our Finance Department and everything they do. We have been talking for some time about the definition of essential versus non-essential services in light of the challenges that Mr. Starkey highlighted here tonight. If we could put a timeframe on Administration's definition and categorization of essential services as it relates to County services. Then, if time permits, by mid-December have an Executive Committee to begin the process of at least a more in-depth understanding of what essential vs. non-essential service means in Beaufort County in advance of not only next year's budget but the challenges associated with reassessment. He requested a December 15 dissemination date.

Mr. Kubic stated that he has asked Attorney Howell and Attorney Gruber to assist him with defining what the South Carolina statutes require as a mandatory function of County services. He would like to begin by unveiling to County Council a statute, function, outline all of the minimum requirements by statute so that you could distinguish those then from Council's definition of what then is considered to be layered on top of that as essential and so on. The process is timely and a very good idea.

Acceptance of SC Aeronautics Commission Grant Offer to Develop a Master Plan for Hilton Head Island Airport

It was moved by Mr. Rodman, seconded by Mr. Glaze, that Council accept a SC Aeronautics Commission grant award in the amount of \$6,859 to Hilton Head Island to develop as master plan for Hilton Head Island Airport per State Statutory Law 55-5-87.

Mr. Kubic, County Administrator, stated that this grant award was approved based on the County's representation of local funding availability and its ability to proceed promptly with the project. This project qualifies for the FAA grant program where 95% of the cost is funded by a federal grant and 5% by state and local government. Project cost and funding are as follows: total project cost is \$274,370; federal grant \$260,652; state grant \$6,859; and local government \$6,859.

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.

Beaufort County Magistrate / Petition to Readdress Grievances Concerning Retroactive Census-Based Compensation

The Chairman recognized State Senator Tom Davis, Clerk of Court Jeri Roseneau, Sheriff P.J. Tanner, and the three magistrates who are in the audience tonight.

Mr. Gary Kubic, County Administrator, invited Butch Bowers, Esquire, to the podium, who will explain his purpose this evening and the process to County Council.

Mr. Bowers: Thank you, Mr. Chairman and members of Council. My name is Butch Bowers, I'm an attorney with the law firm of Hall & Bowers in Columbia and I'm here on behalf of the three magistrates that the chairman just referenced, Judges Beth Prince, David Taub, and Larry McElynn. This is an issue that I believe has been percolating since July and that is the census-based compensation of, not just these three magistrates that are here with me tonight, but all of your magistrates here in Beaufort County. This issue, I'll get into it in a second, I promised the chairman I wouldn't take much time and I'll abide by that, this issue is really one that is purely a legal issue. I don't believe there are any facts in dispute. I think that the ordinance that this body passed recognizes that its statutorily mandated compensation increase based on the population based on the latest census data of the County. The issue, the sole issue here that I'm before you tonight, is when the effective date of that increase is. That's the sole issue and I'll get into my reasons why, but I'll tell you I respectfully believe that it's effective the date that the census data was issued by the Federal government to the State of South Carolina, which, as you know, is March 22, 2011, and I would respectfully ask you at the end of my presentation to take the necessary legislative action to ensure that the law is complied with and that the magistrates' compensation is, I don't like the use of the word retroactive but since it is on the screen, is retroactively corrected to recognize what the statute requires. Mr. Chairman, I have several

documents that I would like to make part of the record, would you like me to hand them up? Or hand them to the clerk?

Mr. Newton: Mr. Gruber, do you care how we're going to do this mechanically? If it's anything, Mr. Bowers, that we need to look at, do you have 11 copies?

Mr. Bowers: I do and, Mr. Chairman, I'll hand them up and in fact its, make sure I'm giving you everything.

Mr. Newton: I'll give Ms. Rainey my set of copies to put in the record.

Mr. Bowers: Ok, perfect. Actually, I've got 15 copies. Tell you what, I will. . . You've seen most of these; it's nothing new. Let me describe to you real quickly what they are as Mr. Kubic is helpful enough to hand them out. The first document is a letter dated July 21, 2011, from Judge Prince to Mr. Gruber and then contained asking, formally asking on behalf of herself and her colleagues, that the County increase the magistrates' compensation in accordance with the applicable law and attached to that letter are several exhibits: it's an email from Mr. Gruber to Judge Smith, it's a couple of Attorney General opinions, it's the applicable Code section, South Carolina Code 22-8-40, a couple of memos from the Association of Counties, a little bit of case law, and your ordinance. That's the first, that's the biggest document. The second document, you all are familiar with, is Ordinance 2011-32. It is the ordinance that recognizes the increases based on the census data. Then the third item is a, I'm introducing it to the record here, Mr. Chairman, is a memo from the Chief Justice of South Carolina Supreme Court, Jean Toal, dated April 13, 2009. By the way, as a quick aside, my law partner Kevin Hall and I also represent the South Carolina Republican Party. We were in the Supreme Court this morning with Beaufort County over the presidential primary funding issue so I am pleased to be with Beaufort County again this evening after starting off my day with Beaufort County and funding issues.

Mr. Chairman, members of Council, the relevant statute as I indicated earlier is 22-8-40 and then sub-paragraph B(2)(a) and that statute in relevant part says that "there is established a base salary for each population category as follows: for those counties with a population of 150,000 and above, which is Beaufort County, according to the latest, official United States decennial census, the base salary is 55% of a circuit judge's salary for the State's previous year." And I highlight the word "is" because that can only be read, I believe, to be concurrent with the latest census data. There is established a base salary for those counties according to the latest census data, the base salary is 55%. Mr. Gruber, in his email to Judge Smith, and I don't want to mischaracterize Mr. Gruber's own email, but he seems to agree with that. And I'm reading from his email that's identified as Exhibit 1 to Judge Prince's letter that says, it says that he's spoken with Lad, done some research, and has come to the opinion that the County would have needed to pay the salary increases as provided for under the code section at the time that the census figures became official. Now he goes on to say, had additional revenues become available to support supplemental appropriation. Nowhere in that code section that deals with magistrate's compensation, is there a contingency. Nowhere. I respectfully disagree with Mr. Gruber. I respectfully submit to Council that the statutory language is not contingent upon anything. It is effective according to the latest official United States decennial census. This conclusion is consistent with two recent Attorney General Opinions: one from 1990 and one from just June of

this year on this very precise issue. If the Attorney General's office has twice concluded in clear and unambiguous terms that the magistrate compensation is based on the census data is effective at the time that the census data is made official, is officially produced to the State of South Carolina. And again, there are no facts in dispute here. That was March 22, 2011.

I want to turn now to the Chief Justice's memo that I referenced earlier dated April 13, 2009. And this really gets to the heart of the matter of why these magistrates are here or why I am here on their behalf. They have a judicial obligation to be here, okay, and I was here for the financial report. I understand that these are very, very tough and austere fiscal times for everybody. I understand, and my clients understand, that sometimes everybody has to tighten their belt, they recognize that, but at the end of the day, according to this memo from the Chief Justice, it would violate their oath of office as well as the Canons of Judicial Conduct for them to take less than their statutorily mandated salaries. Let me read the pertinent part: "I receive reports that County officials are attempting to reduce salaries of magistrates, probate judges, clerks of court and masters-in-equity in an effort to reduce County expenditures. Any attempt to reduce the salaries of these court officials, either unilaterally or by consent, or asking them to write a check back to the County as reimbursement, is contrary to State law." Contrary to State law. I'm not talking about just an Attorney General's opinion; this is the South Carolina Supreme Court Chief Justice says it's contrary to State law for them to take less than their statutorily mandated compensation. "By statute, the salaries," the Chief Justice continues, "of magistrates, probate judges, clerks of court and masters-in-equity may not be reduced during their term or tenure in office. Further, court officials consent to a salary reduction would be considered a violation of their oath of office as well as a violation of the Canons of Judicial Conduct."

Mr. Chairman, members of Council, these judges firmly believe, and I think they're right, that as a matter of law their compensation increase was effective March 22, 2011. With that firmly held belief, these judges are obligated to bring this matter to you for a formal decision on this issue and, therefore, I respectfully – I'll be happy to answer any questions you may have – but I respectfully request, Mr. Chairman, that this body take this matter up formally for a vote and make a decision tonight whether you're going to decide to grant our request to increase the magistrate's – take the necessary legislative action – I understand there is an ordinance that may have to be passed or some mechanism, some vehicle needs to be created to recognize that the law requires for the magistrates' compensation, based on the new census data, to be effective on March 22, 2011, and I respectfully request this body to take that issue up.

Mr. Newton: Members of Council, do you all have questions for Mr. Bowers or do you want to hear from Mr. Gruber next? Mr. Gruber, you're up.

Mr. Bowers: Again, thank you for your time. I appreciate you putting me on the agenda so we could be heard. Thank you.

Mr. Newton: Absolutely.

Mr. Gruber: Good evening Mr. Chairman, members of Council. I'll be very brief since we have discussed this issue several times now. It does come before you pursuant to Statute 22-8-50 which Court requires the magistrates to formally request that you do take some action with

regards to compensation. You received that request this evening from Mr. Bowers. I would not disagree with his statements that at no time have I waived on my opinion that the effective date for the compensation was not the date that the numbers became certified, but I am still resolute in my opinion that State law dictates Council's budgetary process. That process is outlined in Section 49-140, it states in pertinent part, "County Council shall adopt annually and prior to the beginning of the fiscal year, operating and capital budgets for the operation of County government and shall identify the sources of anticipated revenue including taxes necessary to meet the financial requirements of the budget adopted." It goes on to state "the Council may make supplemental appropriations which shall specify the source of funds for such appropriations" and additionally states that for purposes of this section, "a supplemental appropriation shall be defined as an appropriation of additional funds which have come available during the fiscal year which have not been previously obligated by the current operating or capital budget." It has been my position, and remains my position, that because this obligation came up in the middle of a budget year that unless there were additional funds received in which to satisfy this obligation, you do not have the ability to make a supplemental appropriation as stated by South Carolina law. I'll be happy to answer any questions that you have but I believe those are the issues before you this evening.

Mr. Newton: Does anybody have any questions for Mr. Gruber?

Mr. Flewelling: The fact that a supplemental appropriation was less than the previous year.

Mr. Gruber: It is my understanding in my discussions with our Chief Financial Officer, that the amount that Council anticipated receiving in the State aid to subdivisions at the time of the 2010/2011 budget was set, ended up being several hundred thousand dollars less than what was actually received.

Mr. Newton: Mr. Gruber, before you go, I need to understand procedurally. The matter comes before us in two ways: the petition to address a grievance but also our internal mechanisms that comes with a Committee recommendation to take no action. The Committee recommendation is affirmed. Have you and Mr. Bowers discussed whether that is a final determination for their purposes.

Mr. Gruber: I was in discussion with Mr. Bowers and we had agreed that up until this point there had been nothing on the record formally on behalf of the magistrates making this request. There wasn't anything in the minutes; there certainly was ample discussion about this subject, but nothing from the magistrates themselves. They have come before you this evening. It would be my position that because the statutes that talks about, the 22-8-50, that talks about the redress of grievances, it states that any ruling or action by Council, the ruling to take no action, I believe, would create grounds from which they could appeal to Circuit Court. And I would defer if there is any objection to that or comment.

Mr. Bowers: Mr. Gruber and I have had discussions on that. I would tell you it would be no doubt if you were to take action as opposed to just affirming what the Committee recommended. However, it seems to me that if the County, if we take further judicial, if we seek further judicial review of this body's decision to adopt the Committee recommendation and if the County

doesn't appeal or move to dismiss on failure to exhaust administrative remedies, I think it's a moot issue.

Mr. Newton: Thank you very much.

Mr. Bowers: Sure.

Main motion (Finance Committee recommendation of September 12, 2011 and Council approval September 12, 2011): Council reaffirm the Finance Committee recommendation of September 12, 2011 and Council approval September 12, 2011 of an ordinance to amend the FY 2011/2012 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 increase for the period of July 1, 2011 to June 30, 2012.

Mr. Newton: Ms. Von Harten.

Ms. Von Harten: I'm looking at the memorandum from the South Carolina Association of Counties staff from back in March of 2011 and they're giving us fair notice and the letter from the magistrate says that they've been giving us notice since January of 2011 that this is going to impact us and it says here this means salary increases take effect once the census figures become official. That's what the Association of Counties memo says. It's followed by an "of course this is an opinion. It has not been tested." I just don't know if all this going back and forth is a good use of our time and considering the services that the magistrates render to our County, I'd like to make a motion that we, as a result of the certification of the decennial census figures, that we provide salary increases retroactive to March 22, 2011.

Mr. Newton: Thank you, Ms. Von Harten. I think as we talked about it in the caucus meeting for predicate because of the Committee's recommendation, you've got to move to amend the Committee recommendation at this point in time. Is that correct, Mr. McBride? That's what I asked Mr. McBride.

Mr. McBride: That's correct.

Mr. Gruber: Mr. Newton, you got to love *Roberts Rules of Order*. In order to make the motion to amend you had to have been in the majority voting party of the main motion that was made previously. I don't know what the record of that vote ...

Ms. Von Harten: I was in the majority.

Mr. Gruber: Just checking procedurally.

Ms. Von Harten: I was and I am moving to amend the Committee recommendation.

Mr. Newton: There's a motion made to amend the Committee's recommendation. Is there a second?

Mr. Sommerville: This is a question for the Parliamentarian. I was in the minority. Can I second, I don't think I can second. Can't make the motion or second.

Mr. McBride: If you feel so compelled to do so, you can.

Mr. Sommerville: Are you sure?

Mr. Newton: If the Parliamentarian says you can.

Mr. Sommerville: I'll second it in that event.

Motion to amend by substitution: It was moved by Ms. Von Harten, seconded by Mr. Sommerville, that Council, as a result of the certification of the decennial census figures, provide salary increases retroactive to March 22, 2011.

Mr. Newton: We're in discussion and I'm going to lead off and then see where everybody wants to go with this. You know, one of the reasons that the Committee, I think, took the position of taking no action is to avoid having to take a no vote, quite simply. And, out of deference to our magistrates, you know, we're different departments within the County but essentially we're 1100+, a family of 1100+ County employees. As explained by Mr. Gruber, we're under certain requirements to prepare our budget and while I do think this ultimately is a legal issue, I think that there are perhaps conflicting laws with regard to whether mid-stream we are required to respond to an unfunded State mandate. Are we required to deficit spend money we don't have until the next budget? So regardless of what the Association of Counties memo has, look, certainly nobody up on this dais appreciates or probably understands the hard work of our magistrates and their dedication. At the same time, given our fiscal constraints, in light of the fact that we've given no cost of living adjustment in three years to the 1100 employees, that we furloughed in the same year, that we're now talking about going back or being requested to make a supplemental appropriation that within the last few weeks we've approved an increase in health care costs to the 1100 employees that work for the County, I believe that County Council has appropriately addressed that which is required vis-à-vis the population-based State mandated salary increases with them effective July 1 and I believe that any further requirement to go prior to that date into a previous year's closed budget would be as potentially ordered by Court.

Ms. Von Harten: And mess up our CAFR.

Mr. Newton: You're messing it up already. I'm against your motion. I had hoped that we would dispose of this the way that had been done in the Committee and it still provided the vehicle if need be for a final determination, but the fact that in the history of Beaufort County I don't know that we ever furloughed employees, and we got 1100 people out there that have not gotten a cost of living adjustment in more than three years. We're about to determine what constitutes essential vs. non essential, if we don't have to engage in a discussion talking about potential furloughs next year or even a greater step than that, I'll be shocked given what's happened. And we've just effectively lowered the salary of every County employee by increasing their health care costs or at least the portion that they have to pay. As much as I would love to be able to do it, I believe that the only appropriate way that that could be done is if

it was required by Court and I'm firm in my belief in that. Others that want to speak either for or against Ms. Von Harten's motion to amend? Mr. Stewart.

Mr. Stewart: Mr. Chairman, yes, a couple of things. One, I'm like you, I tend to vote against it but I think it's very important to understand that it's not a reflection on the magistrates being stated, it's just a matter of fact of the situation that we're in and as I hear it, there's basically a conflict between what our requirements are for budgetary purposes and what the law says with respect to the salary increases. It would seem to me, and we have our State Senator in the back row back there, it seems to me again it's like the roll-up / roll-back of taxes; this is a consequence that probably wasn't anticipated because we've not encountered this kind of financial problems and issues in the past that we're encountering today. It seems like this is poor legislation again and I would like to think that regardless what the outcome of this is, that the Legislature would take a hard look at this with respect to the law and would understand that making this kind of correction in mid-year is just not conducive to managing our budgets properly and I don't think that that's appropriate. So that would be the one thing I would say. And it's not clear to me, based upon the advice that we got, Mr. Bowers said, as to what the consequences are to this body vis-à-vis the letter from the Justice of the Supreme Court, are we in violation of our oath, etc., and what is the consequences to us if we vote against this?

Mr. Newton: You can ask Mr. Gruber. The memorandum, I think, speaks to itself. It actually was issued in response to a furlough discussions and requests that members of the judicial department had. It talks about salary decreases.

Mr. Stewart: But, in essence, I'm reading into that, if I'm reading correctly, by not paying them, in essence, I think they're saying we are decreasing their salary. You disagree with that. Again, I have real concern and question, I don't know that we've had enough information but on the surface of it just from the fact what our responsibilities as I see them, I, like the Chairman, feel that if the Court declares that we have to do it there's no negative consequence to us to go that route, that's where I would like to go. If the Court declares obviously then we have to pay it but I think it needs to have a thorough review judicially and ultimately, I think the Legislature needs to seriously look at this, what I think is a flawed process.

Mr. Gruber: Certainly, I am familiar with Chief Justice Toal's memo of 2009. It was actually issued in response to the actions by Berkeley County. If any of you know my resume, you know where I was in 2009 so it's kind of apropos that I'm before you this evening as well. I disagreed with Justice Toal's opinion at that time especially as it relates to the compensation issue and to the issues of returning funds. I can tell you that I believe there were donations that were made back to the County at that point in time because there was a County-wide furlough program that was implemented and mandated. And, as Mr. Newton said, there is a family that is thought of throughout the course here. I am familiar with that opinion and I would disagree with portions of it. I think it is Justice Toal's opinion. The cases that were relied upon that dealt with funding dealt with return of funds by public officials for purposes of re-election. I don't believe that is the intent behind these issues at this point in time.

Mr. Stewart: Actually, in your opinion, we're mixing issues here and it needs to be clarified.

Mr. Gruber: Yes, sir.

Mr. Newton: Mr. Caporale.

Mr. Caporale: Josh, I just wanted to ask you, I forgot in all the discussion, what was the total amount of money involved here?

Mr. Gruber: For this particular portion that's before you this evening, I think it was just a little over \$20,000.

Mr. Caporale: To go back to March 20.

Mr. Gruber: To the effective date, the date that the census figures were certified by the Federal government.

Mr. Caporale: Thanks.

Ms. Von Harten: That's not per magistrate, that's total.

Mr. Gruber: It is total. That's correct.

Mr. Newton: Mr. Flewelling.

Mr. Flewelling: A lot of times in labor law there is a provision for damages, do we have that in here?

Mr. Gruber: I don't believe so based on the type of action that will be brought. Generally, damages are for purposes of torts. This is not a tort as far as I'm aware. I don't know if Mr. Bowers would want to speak to the case; he may be able to more fully brief you on that.

Mr. Bowers: Thank you, Josh. Very quickly, no sir. This is not a payment of wages at case. My clients are not interested in triple damages or any damages really. So I can answer your question unequivocally no, no damages here. And, Mr. Stewart, if you would allow me to clarify my comments earlier and to answer your question, I don't believe, let's assume that this Council votes against what I'm asking tonight, I don't believe any of you are violating any oaths. I think the Chief Justice's, with all due respect to Mr. Gruber, I think Chief Justice is correct but I think she was talking about judicial officers, not County Council members. I don't believe you're in any danger of violating any oath. I will, sir to your question, about the \$20,000 is an issue but I can tell you because my magistrates believe that they have a duty to see this through and to seek judicial review that there are obviously going to be litigation costs that would increase the County's cost and then there's a potential for my attorney's fees, frankly, to be paid by the County under the attorney fee provision statute. So, I'd ask you to take that in consideration in terms of when you make the overall fiscal impact. I'd ask you to take that into consideration as well. Thank you, Mr. Chairman, for the additional time.

Mr. Newton: Josh, quick question. The \$20,000 is just as it relates to the magistrates, correct?

Mr. Gruber: That is correct.

Mr. Newton: Not the probate judge, master-in-equity or any of the other adjustments that are population based.

Mr. Gruber: No, it's just the magistrates.

Mr. Newton: None of those judges have come forward asking for that.

Mr. Gruber: It's my understanding that three magistrates are the ones that are before you this evening and I have not heard of any other office or any other official that has made contact with Council regarding that issue.

Mr. Newton: The price tag as it relates to the magistrates.

Mr. Gruber: Correct, that is just for this particular period for magistrates only.
Mr. Newton: Ms. Von Harten.

Ms. Von Harten: Who is subject to the Canons of Judicial Conduct out of all the people that would be eligible for these?

Mr. Gruber: Judges are.

Ms. Von Harten: Judges are but the rest of the people

Mr. Gruber: Most elected officials are subject to the State Ethics Act.

Ms. Von Harten: But I'm talking about this Canon of ...

Mr. Gruber: Canons of Judicial Conduct.

Mr. McBride: Judges only.

Ms. Von Harten: And magistrates.

Mr. Gruber: Magistrates are judges.

Ms. Von Harten: Yeah. But the other people that would possibly be getting raises under this would not be subject to that same Canon.

Mr. Newton: No, every one of them. Every judge that would be impacted by the population statement increase theoretically would be ...

Ms. Von Harten: Okay, so the probate judge, master-in-equity. So we need to give them their money too.

Mr. Gruber: I can tell you what you have before you this evening is a request by three magistrates to grant the compensation and that's indicated on the agenda item.

Mr. Newton: Other comments? Mr. McBride.

Mr. McBride: Thank you, Mr. Chairman. In light of the severe budget restrictions that we went through several weeks ago, a couple of months ago in regard to County employees, having them to take time off without pay, I cannot bring myself to support the motion that is on the table now. I think it's a slap in the face to all the other County employees. Being perfectly honest, I believe magistrates are well paid as it is already and to me it seems like an element of greed being perfectly honest when all other County employees gave up five days of pay and obviously I'm not a lawyer, but I don't see this as a reduction in salary. A reduction in salary is once you start getting the salary and that amount is decreased, in my terminology. This is not a reduction in salary and I will not support the motion and I hope the majority of Council will vote it down.

Mr. Newton: Thank you, Mr. McBride. Mr. Flewelling.

Mr. Flewelling: I also will not support this motion. At the same time that the period in question that the magistrates potential pay increase, retroactive pay increase, is stated for, that's the same time we were asking County employees to furlough. It's exactly the same time. And then we were discussing, during that same period and since then, the fact that we won't be giving pay increases as a general rule to County employees, there are some employees that will be getting pay raises for time in service or the Sheriff's departments, but the magistrates will be getting a pay increase generally across the board based on population statistics. So, we've taken that into account for the current fiscal year. The question is whether or not we should be giving them retroactive pay raised without having received money, an increase in money, from the State that was an actual increase in dollars. We've not done that and, in fact, we got about one third of a million dollars less than we anticipated in that fiscal year. So, if we had gotten extra money from the State, I think that might have been a good use for it; however, we got less money than we had anticipated. I can't justify opening all the books and changing everything that we've done so far in order to give a pay increase that nobody else had got. Nobody else has asked for.

Mr. Newton: Thank you, Mr. Flewelling. Other comments?

Mr. Bowers: With all due respect to all County employees, I understand its tough fiscal times but with great respect, Mr. Flewelling and Mr. McBride, you're comparing apples to oranges. Magistrates have a statutorily mandated increase in pay. These folks are not greedy, these folks are hard working. These folks are not asking for something that others that are similarly situated with are not entitled to. In fact, if they didn't feel that they were obligated under the Judicial Code of Ethics, I'm not sure they'd even be here. But the fact is the statute requires it and they're obligated to be here to ask for it. And all other County employees are not similarly situated. Most County employee compensations are not based on statute. They're just not. Magistrates are. And, if Senator Davis wants to change that, introduce a bill to change that next session, he can, but as I'm here before you today that's what the State law is and therefore, with great respect, I believe you're mixing apples and oranges when you're talking about County employees. And there's no question, they had it tough and this County's had it tough but when

we're comparing those folks to the magistrates, who have a statutorily mandated compensation rate and, look, you even recognized with your ordinance that it's a statutorily mandated compensation rate but the attorney general's office agrees and, in fact, if I understood you correctly, I don't want to mischaracterize your comments, sir, but if times were better you may consider doing it.

Mr. Flewelling: Because we would have gotten an increase in State aid in that last quarter that we didn't get.

Mr. Bowers: I understand that, I understand that but that doesn't obviate the legal requirement to do it regardless of additional state aid or not. So, again, thank you for the additional time.

Mr. Flewelling: One final point if I might make. I have a question, how many of the potential people that would benefit from this do you represent, sir.

Mr. Bowers: I represent three magistrates.

Mr. Flewelling: Out of how many people who would be eligible for this increase?

Mr. Bowers: I believe, Mr. Gruber, there are seven magistrates in Beaufort County?

Mr. Flewelling: Seven magistrates and the master-in-equity and the probate judge. All who would benefit statutory requirement, is that correct?

Mr. Bowers: Sir, I'll defer to the clerk or Mr. Gruber but it is my understanding that those others, the probate judges and the master-in-equity, their compensation is already above what, and it was increased maybe a couple of years ago, by this body. And their compensation is already in excess of what the statutorily mandated minimum is. So, no, they are not affected. Literally, I'm talking about seven judges. That's it. I represent three but that's it. So, I'm not talking about the rest of the County judiciary, I'm talking about seven magistrates and that's it.

Mr. Flewelling: Thank you.

Mr. Newton: Other comments? Mr. Baer.

Mr. Baer: I have one quick question; the magistrates' salary is a percentage of the State Circuit Court Judge salary as you said. Does this State Circuit Court Judge get a cost of living increase?

Mr. Bowers: That's a good question. I'm not sure if they do or not.

Mr. Baer: Because if they do, then the magistrates would get a cost of living increase, keeping the percentage constant.

Mr. Bowers: Correct, but I'm not sure.

Mr. Baer: Again, something our employees did not.

Mr. Gruber: The statute requires that if there is a pay raise given to all employees that they're given the same proclivity as all employees. So, if you give a raise to all employees, the magistrates/the judges automatically get those raises as well.

Mr. Baer: And if we don't give one, the magistrates.

Mr. Gruber: Don't get one.

Mr. Baer: OK, thank you.

Mr. Newton: If there is a State cost of living adjustment, those folks that are paid by Beaufort County but pursuant to State statute as a percentage of a State-based compensation get a cost of living raise.

Mr. Gruber: The State does provide supplemental funding to its seven or eight different elected or appointed offices and I believe the judges, I don't know about the circuit judges, but I believe the probate judge and some of the other officials would fall under that supplemental appropriations.

Mr. Newton: Mr. Glaze.

Mr. Glaze: Yes, when you speak of apples and oranges and you have different kind of citizens who are employed by the County and as a father looking at this particular show or this meeting, the main thing is our welfare. How do we feed and protect our families. I always was told that a little of something is better than nothing. And when you look at the amount of people who have the pink slips, who have no income, no job at all, when you look at the amount of foreclosures that we have; you know when, many times people have a lot of problems and we, as individuals, think we have problems but if we all take our problems and throw it in one big pile, we'll quickly grab our problems back because we'll realize that other people have situations that are as bad as ours or worse than ours. So, although I sympathize with their plight and I heard what the attorney judge said, it's no way I could support this knowing the financial status of many of my constituents and many other people. People who are struggling, people who are trying to survive, people who are looking for the next income, where I'm going to get the next dollar from and to come and say we're going to do this when there was no tax increase that could perhaps alleviate this problem, I don't think that any of the magistrates are going hungry today and I don't think they're going hungry next week or the week after. And although we sympathize with them, we have, there's the law and there's what we call the morals, the ethical part of it. And I look at wrong vs. right. Some people may have want, don't have any kind of transportation at all, and one person may have a want - a Lamborghini - because he has a couple of Cadillacs or a Lexus but he wants a Lamborghini and here goes another individual, all he wants is a bicycle for transportation. And that's the same situation we have here. At this point, I have no intention to support this. I understand their situation, I understand their plight, but right is right and wrong is wrong. And right now that's the wrong thing to do. Thank you.

Mr. Newton: Mr. Rodman.

Mr. Rodman: Thank you, Mr. Chairman. You know this is legal issue and I hope it's one that we would settle on a very friendly basis. My understanding is that if we do nothing, it would be the same as voting no and your recourse would be go to Court, there'd be a ruling and it would fall one way or the other. If we were going to put through the increase, or if you will, change the date, we would have to go through three ordinance readings under any circumstance if I understand it and I wonder if this doesn't lend itself to essentially, on a friendly basis, going to the judge and getting a declaratory judgment, read the law and come back and tell us what the law is and if the law says you're entitled to it, I think we'd be obligated to go through the process. And if it says you're not obligated to it, end the process. But I wonder if there isn't a friendly way to somehow resolve this and move it forward and get a judge to do a declaratory judgment if I understand how those things work.

Mr. Newton: I'll speak to that Mr. Rodman.

Mr. Rodman: I always get in trouble when I do judicial things.

Mr. Newton: Having a no action in committee and then having that same vote reaffirmed by this body is not an official "denying" that to the magistrates for purposes of the way the vote has been presented and is intended to avoid any disrespect for the magistrates, but still provides them the necessary basis to go seek relief by way, perhaps, of a declaratory judgment in the Courts. But they have to have; they need to have, as a predicate to go do that, the final action of this body. And that's why we're here tonight to do. It's been correctly pointed out that the circumstances regarding the other County employees, is not a legal consideration. But it is a policy consideration for us and the conflict in the various laws at issue here; the law that has been advanced by Mr. Bowers, the law as cited by Mr. Gruber regarding our budget appropriation, and last but not least, the law that requires the State to fully fund the local government fund that in the past four or five years has been continuously reduced. There is a statute on the books that says that must be done; this percentage of total State collections shall, is the language, go back. This is a legal issue, it does lend itself to having the Court do it while the issue regarding the 1100 employees that we sit up here and have to discuss and debate is not one of the legal considerations; we can't deny it's a policy consideration for us in the context of this discussion and what these guys do as judges for Beaufort County we appreciate, we acknowledge, we have the utmost respect for the job that you all do as judges and we appreciate it. We ought not let this discussion digress or fall to a level that is not becoming us as elected officials or these judges in what they're doing. We've got policy considerations that come in play with this legal analysis and they believe they have a judicial obligation to come before us tonight and ask this and I think that Ms. Von Harten's motion should be denied, I think the Committee recommendation should be reaffirmed and then from there it would be left to the Courts to make a determination. With that, I think I'm going to call it a question. We're going to call for question on Ms. Von Harten's motion:

Vote on the motion to amend by substitution: YEAS – Mr. Rodman, Mr. Sommerville and Ms. Von Harten. NAYS - Mr. Baer, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Glaze, Mr. McBride, Mr. Newton and Mr. Stewart. The motion failed.

Mr. Newton: Mr. Gruber, the motion that's before us now is simply the Committee's recommendation; no second is required, we're in discussion on the Committee recommendation. There is no discussion I'm going to close the debate on that and we're going to move on. Yes, ma'am?

Ms. Von Harten: I just think the Committee did not realize the ethical implications when we were in Committee and if I had understood the ethical implications, I might have voted differently when I was in Committee.

Mr. Newton: At the risk of opening up the discussion completely back up, ethical consideration?

Ms. Von Harten: The magistrate's, the judges' ethical considerations and I think in a time when we're trying to build democracies in other parts of the world and trying to create a judicial system with integrity in these other countries, we've got to let our judges do what they need to do to maintain the integrity of their offices and this is part of that from what I understand.

Mr. Newton: And I think, I believe, that's what we're doing by allowing the process move forward. Any other questions?

Mr. Flewelling: I do have a question. And this is a motion to affirm the recommendation of the Finance Committee.

Mr. Newton: That is correct.

Mr. Flewelling: Thank you.

Mr. Newton: Which both of these gentlemen have acknowledged gives them the necessary final determination of this body to move forward as determined to be appropriate.

Mr. Bowers: Mr. Chairman, may I ask, do you believe that?

Mr. Newton: Do I believe what?

Mr. Bowers: That affirming the Committee's decision gives us the ...

Mr. Newton: Are you looking for my legal opinion or as the Chairman of County Council?

Mr. Bowers: As the Chairman, sir.

Mr. Newton: I'm not a very good lawyer for myself.

Mr. Bowers: Solely as the Chairman; take your lawyer hat off.

Mr. Newton: I do.

Mr. Bowers: Thank you all.

Mr. Newton: Any further comment? The Committee recommendation is what is before us:

Main motion: Council reaffirm the Finance Committee recommendation of September 12, 2011 and Council approval of September 12, 2011 of an ordinance to amend the FY 2011/2012 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 increase for the period of July 1, 2011 to June 30, 2012. YEAS – Mr. Baer, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Glaze, Mr. McBride, Mr. Newton, Mr. Stewart, and Mr. Rodman. NAYS - Mr. Sommerville and Ms. Von Harten. The motion passed.

DEPUTY COUNTY ADMINISTRATOR'S REPORT

Two-Week Progress Report

Mr. Bryan Hill, Deputy County Administrator, presented his Two-Week Progress Report, which summarized his activities from October 24, 2011 through November 11, 2011.

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF AN EASEMENT ENCUMBERING PROPERTY OWNED JOINTLY BY BEAUFORT COUNTY AND THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA

This item comes before Council under the Consent Agenda. It was discussed at the October 25, 2011 Public Facilities Committee.

It was moved by Mr. Glaze, seconded by Mr. Sommerville, that Council approve on first reading of an ordinance authorizing the execution and delivery of an easement encumbering property owned jointly by Beaufort County and the Town of Hilton Head Island. 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.

WATER QUALITY MONITORING CONTRACT FOR BEAUFORT COUNTY

This item comes before Council under the Consent Agenda. It was discussed at the November 7, 2011 Natural Resources Committee.

It was moved by Mr. Glaze, seconded by Mr. Sommerville, that Council approve a one-year extension of the Water Quality Monitoring Contract to GEL Engineering, Charleston, South Carolina in the amount of \$95,506 (north of Broad River \$58,506; south of Broad River \$36,588). The two scopes are necessary because Beaufort City and Port Royal Town will be contributing approximately 25% of the cost for monitoring north of Broad River. The source of funding is Stormwater Utility fund account 13531-51160. 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.

ELECTRONIC MONITORING SERVICES FOR THE FOURTEENTH JUDICIAL CIRCUIT COURT, SOLICITOR’S OFFICE, BEAUFORT, SOUTH CAROLINA

This item comes before Council under the Consent Agenda. It was discussed at the November 7, 2011 Governmental Committee.

It was moved by Mr. Glaze, seconded by Mr. Sommerville, that Council award a contract to Offender Management Services of Cummings, Georgia, the top ranked firm, with no cost to the County for an initial one-year contract with four, one-year annual renewals subject to approval by Council. 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 AUTHORIZING THE PLACEMENT OF A QUESTION ON THE OFFICIAL BALLOT FOR THE GENERAL ELECTION TO BE CONDUCTED NOVEMBER 6, 2012, CONCERNING A PROPOSITION AUTHORIZING BEAUFORT COUNTY TO ISSUE GENERAL OBLIGATION BONDS TO ACQUIRE LANDS FOR PRESERVATION AND TO PAY CERTAIN COSTS AND DEBT SERVICE RELATED THERETO

Main motion. It was moved by Mr. Sommerville, seconded by Mr. Flewelling, that Council approve on second reading an ordinance authorizing the placement of a question on the official ballot for the general election to be conducted November 6, 2012, concerning a proposition authorizing Beaufort County to issue general obligation bonds to acquire lands for preservation and to pay certain costs and debt service related thereto.

Motion to amend by substitution: It was moved by Mr. Rodman, seconded by Ms. Von Harten, that Council amend the referendum question, “Beaufort County, South Carolina issue general obligation bonds, not to exceed \$25,000,000, representing a borrowing that at no time shall exceed 1 mill in debt service repayment . . .”. The vote was: YEAS - Mr. Baer, Mr. Dawson, Mr. Flewelling, Mr. Glaze Mr. McBride, Mr. Newton, Mr. Rodman, Mr. Sommerville, Mr. Stewart and Ms. Von Harten. NAYS - Mr. Caporale. The motion passed.

Vote on the amended motion, which includes the motion to amend substitution. Council approve on second reading an ordinance authorizing the placement of a question on the official ballot for the general election to be conducted November 6, 2012, concerning a proposition authorizing Beaufort County to issue \$25,000,000, representing a borrowing that at no time shall exceed one mill in debt service repayment, general obligation bonds to acquire lands for preservation and to pay certain costs and debt service related thereto. The vote was: YEAS - Mr. Baer, Mr. Dawson, Mr. Flewelling, Mr. Glaze Mr. McBride, Mr. Newton, Mr. Rodman, Mr. Sommerville, Mr. Stewart and Ms. Von Harten. NAYS - Mr. Caporale. The motion passed.

MOTION TO EXTEND BEYOND 8:00 P.M.

It was moved by Mr. Glaze, seconded by Mr. Caporale, that Council extend beyond 8:00 p.m. The vote was: YEAS - Mr. Baer, Mr. Dawson, Mr. Flewelling, Mr. Glaze Mr. McBride, Mr.

Newton, Mr. Rodman, Mr. Sommerville, Mr. Stewart and Ms. Von Harten. NAYS - Mr. Caporale. The motion passed.

AIRPORT CAPITAL IMPROVEMENT PROGRAM (ACIP) PLANS

This item comes before Council under the Consent Agenda. It was discussed at the October 25, 2011 Public Facilities Committee.

Mr. Baer clarified that voting on this motion puts this Airport Improvement budget into the FAA budgeting process, but does not represent specific approval for any of those projects. That specific approval would have to come from Council and require a cost benefit analysis. We are voting on putting a placeholder in the FAA process and nothing more.

Mr. Rodman said a couple of months ago Council approved the contract for the environmental assessment and the benefit cost analysis, there was an attachment about proceeding with the land acquisition for the last 400 feet. Is this plan, now, in front of Council, just focused on the so-called Phase I, and included land, construction, environmental and everything else?

Mr. Paul Andres, Airports Director, agreed in the affirmative. The last guidance received jointly from the County and Hilton Head Island Town Councils was to implement Phase I of the master plan and this particular capital improvement plan does that – it reflects the projects within the Phase I implementation schedule.

Mr. Rodman stated there has been conversation over time about whether or not the design phase would occur in parallel with the environmental assessment and the benefit cost analysis. At our October 24, 2011 Council meeting, a comment was made that we might to going down that path. Does this provide money for doing the design portion of Phase I in parallel with the environmental?

Mr. Andres replied, “It does not.” The preliminary timeline for Phase I implementation of the master plan follows: (i) environmental assessment / cost analysis is 18 months, (ii) design phase 12 months, permitted process associated with the design, and (iii) associated land acquisition with the runway extension and relocation of the parallel taxiways. That land acquisition is currently valued at about \$8,750,000 and the FAA regulations do not allow them to fund that acquisition until the environmental documentation has been completed the approved. Therefore, accelerating the design element will do nothing to accelerate the end product, which is the construction of the additional taxiways.

It was moved by Mr. Glaze, as Public Facilities Committee Chairman (no second required), that Council approve the FY 2012 Updates and Five-Year Airport Capital Improvement Plans for both the Hilton Head Island and Beaufort County Airports for submission to the FAA. 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.

AUTHORIZING THE ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS, IN ONE OR MORE SERIES, WITH APPROPRIATE SERIES DESIGNATIONS, OF BEAUFORT COUNTY, SOUTH CAROLINA, IN THE PRINCIPAL AMOUNT OF NOT EXCEEDING \$10,000,000; FIXING THE FORM AND DETAILS OF THE BONDS; AUTHORIZING THE COUNTY ADMINISTRATOR OR HIS LAWFULLY-AUTHORIZED DESIGNEE TO DETERMINE CERTAIN MATTERS RELATING TO THE BONDS; PROVIDING FOR THE PAYMENT OF THE BONDS AND THE DISPOSITION OF THE PROCEEDS THEREOF; AND OTHER MATTERS RELATING THERETO

Mr. Newton remarked that in order to meet the five-year requirement from the time that the authorization was voted on in 2006, this matter is here tonight for first reading approval to authorize the issuance of the final \$10 million of rural and critical lands money. There will be a second reading and then there is a recommendation for a potential special meeting of Council to be held December 5, 2011.

It was moved by Mr. Flewelling, seconded by Ms. Von Harten, that Council approve on first reading an ordinance authorizing the issuance and sale of general obligation bonds, in one or more series, with appropriate series designations, of Beaufort County, South Carolina, in the principal amount of not exceeding \$10,000,000; fixing the form and details of the bonds; authorizing the county administrator or his lawfully-authorized designee to determine certain matters relating to the bonds; providing for the payment of the bonds and the disposition of the proceeds thereof; and other matters relating thereto.

Mr. Baer is going to vote against the motion in view of the millage increase that we heard about two weeks ago and the further millage increases heard about earlier today to cover other things. He is concerned about the tax millage that we are going to put on our citizens. He views this as something that can be put off a year. There are legal rulings and such that say we cannot, but we have heard legal rulings that we have to give raises to the magistrates and we worked our way around those.

Mr. Rodman does not believe we have the moral right or authority to not act on things that have been approved by the voters in a referendum.

Mr. Newton echoed Mr. Rodman's comments. This issue was approved by the voters. The risk that we run in not fulfilling the five-year requirement, means that we do not have the ability to authorize the bonds and we will never be able to sell the bonds given the fact we will be out of compliance of the bond covenants and / or applicable state law before we ever reached the point of selling. What history is going to show is that Rural and Critical Lands Program is probably one of the single-most successful programs that has ever been engaged in Beaufort County. What the citizens have done, in voting themselves a tax increase, is to preserve a little bit of Beaufort County as they remember it at different points in time when they voted for generations to come. We have two more readings to discuss whether this ought to be approved; but, to shoot this down tonight, at the preliminary stage and to make a decision of this significance to the Program, Mr. Newton thinks is a disregard to the will of the people when the referendum was approved in 2006.

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

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

COMMITTEE REPORTS

Community Services Committee

Library Board

Douglas Brown

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. Mr. Brown, representing District 8, garnered the six votes required to serve as a member of the Library Board.

Governmental Committee

Lowcountry Regional Transportation Authority

Mr. Stewart, as Governmental Committee Chairman, nominated Mrs. Barbara Childs to serve as a member of the Lowcountry Regional Transportation Authority.

Natural Resources Committee

Planning Commission

Mr. Sommerville, as Natural Resources Committee Chairman, nominated Mr. Charles Brown, Comprehensive Plan planning area / Sheldon Township, to serve as a member of the Planning Commission.

The Vice Chairman passed the gavel back to the Chairman in order to continue the meeting.

CALL FOR EXECUTIVE SESSION

It was moved by Mr. Baer, seconded by Mr. Stewart, that Council go immediately into executive session for the purpose of receiving legal advice relating to proposed contractual arrangements and proposed purchase of property, development of security personnel and devices, and the employment of a person regulated by the County Council. 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

RECOVENE OF REGULAR SESSION

Land's End Plantation Development Corporation

It was moved by Mr. McBride, seconded by Mr. Caporale, that Council acquire a conservation easement on 231 acres of Land's End Plantation, St. Helena Island, in the amount of \$471,500. 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.

William and Joyce Crosby; Zeke Jordan

It was moved by Mr. Stewart, seconded by Mr. Sommerville, that Council approve two projects through the Rural and Critical Lands Program: (i) acquire a conservation easement on the 128 acre Grimble Hill tract, SC Highway 170, Bluffton Township, in the amount of \$640,000, and (ii) acquire a conservation easement on the 40 acre Crosby tract, SC Highway 170, Bluffton Township, in the amount of \$200,000.

The Chairman passed the gavel to the Vice Chairman in order to chair the meeting.

Mr. Newton stated this is a matter that involves a client of his law firm. Specifically, one of the attorney's in his law firm represents one of the sellers. He has excused myself from any discussion on this matter in executive session, is now going to remove himself from the dais, and recuse himself from any deliberation on this matter.

Mr. Newton instructed the Clerk to Council to prepare a written recusal notice on his behalf. He will submit the letter to Vice Chairman Sommerville for incorporation into the minutes.

Mr. Newton temporarily left the room.

The vote was: YEAS - Mr. Baer, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Glaze, Mr. McBride, Mr. Rodman, Mr. Sommerville, Mr. Stewart and Ms. Von Harten. RECUSAL - Mr. Newton. (This matter involves a client of his law firm. Specifically, one of the attorney's in his law firm represents one of the sellers. Accordingly, he has excused himself from any discussion on this matter in executive session, removed himself from the dais, and recused himself from any deliberation on this matter. The motion passed.

Mr. Newton returned to the room.

The Vice Chairman passed the gavel back to the Chairman in order to continue the meeting.

217 Beach City Road, LLC

It was moved by Mr. Caporale, seconded by Ms. Von Harten, that Council approve the fee simple purchase, through the Rural and Critical Lands Preservation Program, of 1.79 acre parcel, 217 Beach City Road, Hilton Head Island, in the amount of \$257,600. Fifty percent of the funding will be provided by the Town of Hilton Head Island and the other 50% by the County.

This purchase is related to the Mitchelville project in that we now have protected front entrance to Fish Haul Park.

Mr. Newton remarked when this matter came up in executive session, he excused himself from discussion. As the public court records will reflect, Mr. Newton's involvement in the foreclosure case on behalf of a bank, and as a consequence of that foreclosure case involving, at least this property owner of this particular piece of property, he excused himself from the executive session discussion on this topic and will abstain from voting.

The Chairman passed the gavel to the Vice Chairman.

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

PUBLIC COMMENT

Senator Tom Davis remarked he ordinarily would brief Mr. Stewart's Government Affairs Committee on matters concerning the Legislature in the County. This is something that is happened today, it is pretty important, and he wanted Council to be aware of some of the background because you may get questions on it in the days to come. It has to do with the Jasper Port. A lot is happening right now. A lot happened last Thursday; a lot happened today. The past four years the Savannah River Maritime Commission, which was created by statute, has been weighing in on the deepening in the Savannah River Harbor. There are members of DHEC, DNR, Attorney General's office, Governor's Office, and the reason this entity was formed, this Maritime Commission, back in 2007, was because it was recognized at that time by the General Assembly and by the Governor that the issue of Savannah River deepening did not just involve environmental matters, it involved economic matters, political matters, interstate relations, potential dividing up of the water, potable water, a lot of other issues so it was deemed to be important that the State speak with one voice in connection with those matters. For the past four years, Dean Moss, who you all know, has chaired the Savannah Maritime Commission, has had hundreds of thousands of dollars of expert studies done, raising concerns about their dredging project and, in particular, calling attention to the fact that a much less environmentally intrusive option was available in Jasper County. The Jasper County port site is about, well not about, but exactly 14 miles closer to the ocean than the Garden City Terminal in Savannah. Substantially less cost involved a lot more efficiency for ship turn-around and not as much environmental impact. The Maritime Commission had been making great progress in the last few months and really having the Georgia Port Authority come to the table, the Corps of Engineers come to the

table, and to try to put a specific timeline on the Jasper Port. The biggest impediment to which development has on ocean terminal is the fact that the Corps of Engineers still has a spoil easement on the 1,500 acre Jasper Port site. There is 10,000 acres of land out there in Jasper County and 1,500 acres is the port site and that was bought by the two-state Ports Authority several years ago. Senator David was in the Governor's office at that time and he was part of the delegation that went to Washington and got put into the Federal Water Resource Development Act, a directive that told the Corps of Engineers to release its easement on that 1,500 acres spoil site so that a port could go forward. There are several companies that want to invest several hundred million dollars in developing that port, but they can't do it so long as that easement is in place. That wrangling has been going on for the past two or three years and something, unfortunately, happened last week in that the Georgia Ports Authority went around the Maritime Commission, with whom it had been dealing, went directly to the full DHEC Board and asked them to certify the project. Asked DHEC to go ahead and certify their so-called, it is called a water quality permit; it requires a sign-off before they can go forward. DHEC staff had turned it down and denied it based largely upon the concerns that have been voiced by the Savannah Maritime Commission but the DHEC Board went ahead and unanimously approved it last Thursday which, quite frankly, is a stunning and crippling blow for any port happening in Jasper County. The project, which they essentially green-lighted, calls for the Jasper Port to be a spoil site until the year 2050 for the SHEP project. On its face, it completely disregards the congressional directive to release the easement on that site. Not only are they not releasing the easement on that site, but they are putting spoil on it for the next 40 years, whatever it is. Today, the Savannah River Maritime Commission met and, correctly, in Senator Davis' judgment, voted to declare that decision by the DHEC Board null and void in that the statute that was passed back in 2007 gave full power of the State to speak through this Savannah River Maritime Commission. Just so something like this would not happen. You could not go to the Attorney General or to DHEC or to DNR and try to play one agency against the other. Savannah River Maritime Commission said you have gone ahead and done the very thing that the General Assembly wanted to prohibit which is to have the State speak with one voice. As a result of all that there is likely to be a lawsuit filed tomorrow on behalf of the Savannah River Maritime Commission with the Attorney General of South Carolina representing it against DHEC. A lot of people, Bill Bethea, Dean Moss, himself included, Colden Battey, his law partner, have spent a lot of time getting us to a point where we thought we were going to get that easement released, development happening, a lot of progress was being made; that has all been thrown out the window right now because Georgia feels like it has gotten what it needs from South Carolina and is going to try to proceed on that basis. You are going to have a lot of information, maybe some inquiries and some discussions in the weeks ahead, but rather than you reading about it in the paper and wondering what the heck was going on, Senator Davis wanted to come up here tonight and tell you about it so that when you read the paper you understand what was going on here. It is extremely unfortunate, it should not have happened, it does not really reflect favorably upon us as a State to have two commissions arguing with each other but it is what it is. Senator Davis just wanted you all to hear it firsthand and to give you an opportunity to ask him any questions. He knows the hour is late and you probably want to get home but if there are any questions you want to ask now, he would be happy to answer them. If you do not want to ask them now, if you want to call him, he is happy to answer them. It is going to be something that we are all going to have to work through together in the weeks ahead.

Mr. Flewelling questioned if DHEC fully advised of their lack of a position, their lack of standing in this particular issue.

Senator Davis replied the DHEC Board met with Georgia Ports Authority officials and they worked out some sort of a compromise that they thought was acceptable which involves the placement of the speiss cones, oxygen. It is sort of like the thing you put in your fish tank to make sure there is oxygen in your fish tank but on a much more massive scale in the Savannah River. Apparently the agreement that was negotiated is that Georgia promises to put up enough money for the next 50 years to keep this aeration thing going and based on that, DHEC felt like it could then say okay, the concerns the State of South Carolina had in regard to this project have been met, and we are re now going to issue this certification, which is completely counter to what this Savannah River Maritime Commission has been doing the last four years. All the research and all the studies and all the money that has been spent, it is just incredibly frustrating. He knows the members here had support the Jasper Port. We all realize that it is probably the single biggest game changer that could be for our region if we get it developed. There is no reason whatsoever that you have to dredge another 14 miles upstream when you have a site right there that is less environmentally impacted, less dredging involved, closer to the ocean and you have got private companies that have said they are willing to put up some several hundred million dollars to develop this. Senator Davis does not know why we cannot get out of our own way to make this happen. It is embarrassing to him, but anyway that is what it is. He wants to answer any questions you might have about it.

Mr. Rodman stated we have recently appointed a new DHEC Board that disregarded with the staff recommendations and did something on their own. Is that what happened?

Senator Davis replied it is. DHEC has a representative on the Maritime Commission so it knows the work that has been done, it knows it spent upwards of several hundred thousand dollars in studies and filing in connection with SHEP project (the Savannah Harbor Expansion Project). You have the Commission members, who have been working on this for years, in many instances trumped by Board members that have been involved in this for a few weeks. He does not really have a better explanation for it other than to tell you that the Commission met in an emergency session today and unanimously decided to declare what DHEC did null and void. The Attorney General is going to be representing the Commission. We are faced with the unsavory prospect of having one State agency suing another. So you have it.

Ms. Von Harten inquired of the meaning, “our relationship with Georgia and the Georgia Ports Authority”?

Senator Davis replied in regard to negotiating with them, he has been involved with this for five years. Jasper Ocean Terminal Joint Project Office, which is what Bill Bethea serves on, they have spent several million dollars the last three years doing all the permitting, doing all the studies, doing everything that is going to be necessary to file the application for a port permit when that time comes. Quite frankly, when the environmental impact statement came out from the Georgia Ports Authority Corps of Engineers, that called for the Jasper Port site to be used as a dump site for the next 40 years despite what Congress had said, despite what the Bi-State

Agreement between the two states had said, despite what all the discussions between the parties have said, he has very little faith right now in their position in this matter.

Mr. Newton questioned if it specifically called for the dumping on that particular 1500 acres?

Senator Davis replied in the affirmative. The incredible thing is, Georgia, over the last 56 years acquired about 10,000 acres on the South Carolina side and a 1,500 acre portion of it was conveyed to the two Port Authorities and designated for port development and that 1,500 acres was then targeted by Congress saying to the Corps of Engineers, release the spoilage on the 1,500 acres. It specifically takes the spoil from dredging the Savannah River and dumps it on that 1,500 acres. Not the 8,500 acres, but that 1,500 acres.

Mr. Newton asked, “The DHEC Board approved that”?

Senator Davis replied the DHEC Board issued a certification that is necessary for them to move forward with their project. They didn’t actually sanction

Mr. Newton asked, “Was their certification predicated on an application that specifically reflected that project.”

Senator Davis replied in the affirmed. The technical argument he guesses DHEC is making is that -- well sure the General Assembly formed this Commission and yes, they did say its charged with plenary power of the State in regard to all matters concerning the Savannah River deepening. But we think we still have the right to weigh in on this particular water quality certification so they are taking the position that they still have the authority. One of three actions is going to be taken, if not all three: the first will be an appeal of the DHEC Board decision to the Administrative Law Court. The question becomes does the Commission have standing to appeal that decision. Senator Davis does not know the answer to that. The second would be to seek a writ of prohibition against the DHEC executive director from formally issuing the certification. In other words not a writ of mandamus to compel an action but a writ of prohibition to prevent an action. The argument there being they acted ultra vires. They did not have the authority to weigh in on this matter. And then the last issue would be a declaratory judgment action in the State Court as to when this commission was formed back in 2007, did it in fact get all plenary power of the State in regard to these matters or was there some permitting power retained by DHEC.

Mr. Caporale asked, “Who appointed those Board members? Can they be removed”?

Senator Davis replied the Board members are appointed by the Governor with the advice and consent of the Senate. Once they are appointed, they are a protected position and they are not at will as other agency members are. They are not removable unless for cause. Cause in that sense meaning fraud or breaking the law, not necessarily a policy decision.

Mr. Caporale commented being from up north (anywhere north of Baltimore), there could only be one explanation for this kind of a situation.

Senator Davis said he has made a couple of comments on this today. He was working on a statement and has tried to focus exactly on the language of the statute, all the work that the Commission has been doing, the progress that was made and the frustrating thing is we were about there. We were about there to establish timelines in regard to Jasper coming on board, in regard to the easement being lifted which would allowed us to issue RFP's to private companies come in and bid. It's extremely frustrating. He feels like Charlie Brown trying to kick the football; every time you get close, Lucy pulls it away.

Mr. Caporale remarked somebody found a way to do it. This somebody that found a way was an internal person, someone who is supposed to be on the team.

Senator Davis replied he does not know. In the weeks ahead and that is one of the reasons he wanted to talk to Council. Council is going to see a lot of speculation on motives, a lot of talk about what the powers of the groups are. He wanted Council to have a brief outline of exactly what the issue is. He is sorry about the conundrum that you all are placed in with the magistrates. That is a no win for Council. Council got less and less money and you got more and more demands put on you. For what it is worth, he thought Council handled that really well.

ADJOURNMENT

Council adjourned at 9:45 p.m.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Wm. Weston J. Newton, Chairman

ATTEST _____
Suzanne M. Rainey, Clerk to Council

Ratified:

Official Proceedings
County Council of Beaufort County
November 28, 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, November 28, 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, Herbert Glaze, William McBride, Stu Rodman, Gerald Stewart and Laura Von Harten. Brian Flewelling absent.

DISCUSSION ITEMS

Topics discussed during the caucus included: (i) the lack of any kind of good view of what is happening on the one percent road projects. (ii) A request for more information on the capital improvement program and its impact on the millage. (iii) The establishment of a fund transfer policy. (iv) The establishment of a reserve transfer policy. (iv) The \$377,000 the County paid for a water line in the Beaufort Commerce Park as part of some sort of agreement for a developer to build or occupy a building there. (v) The possibility of extending the one percent sales tax. (vi) The possibility of locating the Lowcountry Estuarium at the former Lemon Island Marina. (vii) A request to receive the Essential vs. Non-Essential Report by December 15, 2011. (viii) Status of the penny sales tax expenditure report. (ix) Board of Education Chairman Fred Washington's letter with regard to millage calculation in the past, millage calculation in the future, student population count with the New River TIF, and calculation at anticipated reassessment. (x) A request to schedule a date for a joint meeting of County Council and Beaufort City Council for the purpose of discussing the proposed Beaufort County (Lady's Island) Airport Master Plan. (xi) Status of the County's responsibility to have a January 21 republican primary, (xii) A Beaufort City Council invitation to County Council to discuss their vision of the Boundary Street Corridor Project. (xiii) Status of the Redistricting Plan submission to the US Department of Justice. (xiv) Proposed by-laws of the Lowcountry Economic Alliance. (xv) School District fiscal autonomy.

REGULAR MEETING

The regularly scheduled meeting of the County Council of Beaufort County was held at 5:00 p.m. 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, Herbert Glaze, William McBride, Stu Rodman, Gerald Stewart and Laura Von Harten. Brian Flewelling absent.

PLEDGE OF ALLEGIANCE

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

INVOCATION

Councilman Herbert Glaze gave the invocation.

PROCLAMATION

Students Against Destructive Decisions Club (SADD)

The Chairman proclaimed November 30, 2011 as Students Against Destructive Decisions Day and called upon citizens of Beaufort County to observe this day with activities and programs honoring SADD, its mission, and the youth of the community that participate in its programs. Kris Ayers and Aja Shell Board of Directors, Battery Creek SADD Club accepted the proclamation.

PUBLIC COMMENT

The Chairman recognized Ms. Helen Daise, a resident of St. Helena Island, who stated she is before Council tonight to ask that it do the right thing and refund wrongful taxes she paid to Beaufort County from 1989 to 2009 on property she did not own. She bought five acres of land in 1963 and was paying taxes on five acres until 1989 when the County changed her acreage to 6.37 acres and said that the tax map showed her property as being located on the northern and southern side of US Highway 21 on St. Helena Island. In 2007, she had a survey done by Christian Carr and a plat showed that her property was located on the northern and southern side of US Highway 21 also. The surveyor said he surveyed what was shown on the County GIS map. The survey plat showed that she had 4.67 acres on the southern side and 2.67 acres on the northern side of the highway. In 2008 she received two tax bills. One for 4.67 acres located on the southern side of US Highway 21 and one for 2.67 acres located on the northern side of US Highway 21. She deeded the 4.67 acres to her granddaughter in August 2008 who paid the taxes on that portion. She paid on the taxes on the 2.67 acres located on the northern side of the highway in 2008. In 2009, she deeded it to my son, Danny Daise and grandson, Terrance Chaplin, and they paid the taxes in 2009. In 2010, her son and grandson were summoned to Court by the heirs of Matilda Singleton who were clearing the title on their property. Her son hired an attorney and was told that a title research showed that her deed called for five acres and it placed her property only on the southern side of US Highway 21 and not on both sides like the County map showed in 1989. She requested a refund of the County Assessor in April of this year

and was denied in September. Now, she is asking Council to refund her overpayment of taxes that she paid since 1989 based on a County error. She never told the County that she owned property on the northern side of US Highway 21. They told her that she owned it and that is why she was being charged for it. The County should go back and charge the rightful owner now that they know who they are. She thinks it is wrong for the assessor, the treasurer, and the auditor to say that she should get her money from the rightful owners. She paid her taxes to Beaufort County each year they sent a bill to her. Not once did she pay taxes to the heirs of Matilda Singleton.

Ms. Von Harten asked if this is something we can refer to the assessor and find out some more information from him.

Mr. Newton said that the survey was done by Neil Christian's son in 2007. It appears that the taxpayer had that survey done and then recorded it which would be evidence of ownership of that property and the tax office does not make determinations as to who owns property, the public records actually does that. There is more information that would be necessary to fully understand it. Mr. Kubic was asked to contact Ms. Daise and see what information she has and talk to the assessor's office about that.

Mr. McBride asked the County Administrator to give Council an update as a result of what action was taken on this matter.

Mr. Newton asked the County Administrator to investigate the matter and assemble the data. Regarding the refund request, procedurally, this is a matter that may need to go through the committee process to ask for a refund of the amount after the research has been done if that's determined to be capable of being appropriately handled.

Mr. Kubic commented this issue has several moving parts going on simultaneously and if any portion or all of the property in question is heirs' property, then we have to look at what the statute provides in terms of the assessor providing boundaries for purposes of taxation because those people, who live on that property, are receiving governmental services. We will be glad to go back and conduct all the research that is required in order to make a determination, but we cannot determine taxes and possible refunds. But it is important to know that oftentimes when you are dealing with heirs' property there is a possibility of some confusion by individuals who believe they own the property as a result of receiving a tax bill. Tax bills are not forms of ownership and the law in heirs' property requires the assessor to make a reasonable determination of boundary for purposes of taxation to generate a bill because those individuals are receiving governmental services. Oftentimes that receipt of the tax bill is converted, rightly so, in the individual gaining an impression of ownership predicated on a tax bill. That is not true. In heirs' property, as you know, a declaration of any descendancy, may have a right to that property, has a right to declare a portion of ownership. We don't do that. As she indicated, she did the right steps, it seems to Mr. Kubic, by first getting a survey; and, now we know that there was a declaration of ownership by a descendant, we need to distinguish then who owns what and then that determination has to be made through a court of law in terms of property rights. We cannot make that determination. We would be glad to look at the possibility of refund as the

Chairman indicated but we cannot get involved in purposes of declaring who owns what portion of the property.

Mr. McBride remarked the request is for the refund he paid for property that he did not own. That was the request that came before us today.

Mr. Kubic replied the reason why that occurs is what he explained. For purposes of generating a tax bill, the assessor's office creates and has the right by law to create boundaries or declarations of acreage to generate a bill. We will be glad to look at that. The first step is a survey has to be conducted to determine what those dimensions are geographically. That appears to have been done. We need to confirm that. But what happens is happens most of the time is when we get into trying to determine who owns what if that property originally was heirs' property then what we're looking at is a decision made based on whether or not it was a reasonable declaration by the assessor's office to determine those boundaries which generated the tax bill which he paid.

Mr. Glaze recalled a John Doe situation several years back in his district. Would there be any kind of receipt / check that they paid? He is pretty familiar with heirs' property and how it works. If someone is paying it for all these years and we can trace a single check or money order from that individual could we then channel the money to that individual and let them disburse it as need be?

Mr. Kubic gave the example about a generic piece of property that is roughly ten acres. Since there is no deed or fee simple deed to any particular owner because it is heirs' property, state statute provides that the assessor can reasonably determine for purposes of generating a tax bill only because those individuals who live on that property are receiving ambulance services, sheriff services, and have to pay taxes, if you cannot determine the ownership of the property because of heirs and because there is no actual deed that is clear and non-encumbered by any potential declaration, then the assessor's office over the years established these lines for purposes of generating the tax bill. So what we have to do is to go back and determine whether or not that was reasonable. And in the case that you're referring to those individuals were out of Atlanta, they went through a survey, they paid for a survey, they paid for legal services to determine a clear title and they went through the legal process. We did not help them in that process but once we had that determination we compared the actual ownership to the determination of the assessor's office over the years and then generated a refund. So it is possible.

Mr. Newton said if its determined in the research that this lawsuit is either pending or has been concluded that somebody else is determined to be the rightful owner of the property, then, perhaps, within the applicable statute of limitations among the remedies that the County has is to tax that owner of the property having been determined now by the courts if that case is closed and understand whether you can process a refund for that corresponding period of time.

Mr. Kubic replied it is a civil matter and the determination is whether or not the County has standing to go and ask for the money to be returned. You can declare it in another way. You can declare it as a moral obligation. You can pass an ordinance and say that this was a moral, is a moral obligation and that the party paid and as declaration that we feel we have a duty to restore then you pass an ordinance which is what we did in Councilman Glaze's district.

Mr. William Kinsey, a Beaufort City resident, stated he coaches various sports for Parks and Leisure Services (PALS). He asked that Council please hire a director of PALS, someone who is going to run the organization the way it should be run for the benefit of our children. We have an interim director right now, but let's get a permanent director. He does not know if the County is trying to save a little bit of money, but let's get a permanent director, who is going to run it, make decisions, and not have haphazard decisions made by various personnel who are suppose to be running the department.

COUNTY ADMINISTRATOR'S REPORT

The County Channel

Mr. Gary Kubic, County Administrator, announced The County Channel covered the Joe Frasier Memorial Ceremony from Waterfront Park on Wednesday, November 16. This event was well attended and was rebroadcast on The County Channel.

The County Channel was on hand to cover the opening of the new span of the McTeer Bridge. The dedication took place on November 18. We are rebroadcasting it on The County Channel.

Two-Week Progress Report

Mr. Kubic presented his Two-Week Progress Report, which summarized his activities from November 14, 2011 through November 25, 2011.

Resolution Appointing Beaufort County as a Qualified Local Public Agency / (Phases VI and VII / US 278 (a))

It was moved by Mr. Stewart, seconded by Mr. Glaze, that Council adopt a resolution expressing its desire to be designated as the Qualified Local Public Agency and agreeing to comply with all applicable federal law, including the rules and regulations of the Federal Highway Administration, all applicable state law and rules and regulations associated therewith, and authorizing the Beaufort County Administrator to execute all documents as may be necessary to appoint Beaufort County as a qualified local public agency. The vote was: YEAS – Mr. Baer, Mr. Caporale, Mr. Dawson, Mr. Glaze, Mr. McBride, Mr. Newton, Mr. Rodman, Mr. Sommerville, Mr. Stewart and Ms. Von Harten. ABSENT – Mr. Flewelling. The motion passed.

Resolution Approving Amendment of the Bylaws of Lowcountry Economic Alliance, Inc.

It was moved by Mr. Stewart, as Governmental Committee Chairman (no second required), that Council adopt a resolution approving amendment of the bylaws of the Lowcountry Economic Alliance so that the bylaws, as amended, shall read in their entirety in the form as set forth in Exhibit A.

Mr. Baer stated the bylaws are a good start, but based on observation of the Lowcountry Economic Network (LEN) over several years, he has the following concerns: (i) Article V, Section 5.1.6. Since the Lowcountry Economic Alliance (LEA) may engage in requesting action from, or lobbying public bodies in certain directions, the written disclosure of potential conflicts of interests should be made to those public bodies as well. (ii) Article XIII, Section 13.4. While a yearly audit is required, there also need to be standard reports available to funders (at least twice per year) showing results and how all funds were used, *e.g.*: marketing, travel, incentives, salaries, internal administration, etc. (iii) It is good that local businesses support this and are a strong part of it. But, the LEA Board sets funding levels, and Section 12.1 indicates that, based on population data, the major public funder will be Beaufort County. Section 12.2 indicates that the voting rights of any member may be suspended for failing to comply with the funding requirements sets by the bylaws and established by the Board. Hence Beaufort County taxpayers will be the major public funder, and may be the major total funder, yet have only a minimal say in affairs, including the determination of their own charges. That is like the UN, where the US pays a large share of costs and has minimal say. Mr. Baer could see taxpayers having 1/30 of the say and paying 2/30 of the costs. But the way this is heading, taxpayers may have 1/30 or less of the say and pay over half the costs. It is good that private enterprise runs this. But they should also then proportionally fund it. The decisions they make using their own money are likely to be much better than the decisions made using someone else's (taxpayer's) seemingly less painful money. These are easy changes to make. One and two are just good management practice. If funding is going to be discussed later, than Bylaws Section 12 (funding) should be removed at this time.

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

Beaufort Tourism Video

Mrs. Blakely Williams, Beaufort Regional Chamber's President and CEO, announced the Beaufort Regional Chamber of Commerce will release Tuesday on its website a video designed to provide viewers a preview of the Beaufort region -- downtown Beaufort, Hunting Island, and Penn Center. Council viewed the two-minute video.

County Responsibility to Have a January 21 Republican Primary

Mr. Kubic, County Administrator, stated Beaufort County, as a member, a party to the litigation involving the question of County responsibility to have a January 21 Republican Primary and the costs that are born as an unfunded mandate to the Counties, a 3:2 decision by the South Carolina Supreme Court was rendered. He has asked Attorney Gruber of our Law Department to set up and discuss the decision and some of the effects and we do have members of the Voter Registration aboard, as well as Scott Marshall here to answer any other questions that you may have that would impact Beaufort County, its budget, and the voting process.

Mr. Josh Gruber, staff attorney, stated that some of you may be aware late in the evening on November 22, 2011 the Supreme Court issued their opinion in the case against the State

Elections Commission regarding the conducting and authorization of the 2012 Presidential Preference Primary. Chief Justice Toal, Justice Pleicones, and Justice Kittredge voted in the majority. Justice Hearn and Justice Beatty descended in an excellently crafted opinion. If you have a chance to read it, it really does embrace all the arguments that at least the Counties had and the Court, we had wished, would have focused a little bit more on. In the majority opinion, out of the number of issues that were before the Court, they decided to focus on two. The first being that the two budget provisos that were adopted at the last budget cycle resurrected a session of State statute that was initially drafted for the 2008 Presidential Preference Primary and they have interpreted the adoption of the budget provisos as resurrecting and carrying on that statutory section thus obligating and mandating the County to conduct the Presidential Preference Primary. One of the things that they did focus on when making that decision is that that statute does provide that the Counties are encouraged to cut costs through the use of combining polling places and other means necessary in order to save money when conducting the Presidential Preference Primary. Additionally, the Court has also focused on the language that the other provisions of Article 7 are suspended so that the rules regarding the number of mandatory poll workers, the numbers and the like are suspended when conducting the Presidential Preference Primary. The second issue that the Court focused on was the sufficiency of the funds that have been appropriated in order to conduct the Presidential Preference Primary. In examining that issue, the Court determined that it was a political issue which in legal terms means they will not jump into the political arena, they will not second guess a political action that has been done by the General Assembly thus the \$680,000 that has approximately been appropriated will remain in place with the Court not taking up that issue and ruling whether that is a sufficient, not sufficient or more importantly the Counties would have preferred they take up the issue whether there was within the authority to have the Counties pick up the difference but they ruled that they would not issue an opinion on that question of law. I know Scott is here this evening, as well as members of the Board, if you have any questions, I know that they're going to be presenting different scenarios at their next Board meeting to discuss how they are going to go forward and conduct the Presidential Preference Primary in light of the Courts recent decision that's been granted. If you have questions regarding that, I could direct you to ask them of Scott. But if you have any questions about the legal opinion itself from the Supreme Court, its ramifications or any other kind of procedural issues.

Ms. Von Harten inquired if it would be legal to have one polling place for all of Beaufort County?

Mr. Gruber replied in theory, when we discussed it amongst the attorneys in reviewing this decision, that that probably would be a legal standard whether it would be in the best interest of the County to actually do that might be another decision.

Mr. Caporale asked is this the end of our legal recourse then?

Mr. Gruber replied the County, any one of the four counties that are named parties to this action are entitled to file a motion for reconsideration within 15 days that would place that deadline at this coming Friday. He does not know that that issue has been exhausted at this point. He knows what has been discussed is that all of the counsels, as well as the outside counsel, that was hired to represent the cumulative group, are all of the opinion that it would be highly unlikely for

the Supreme Court to reverse themselves given the position that they have publicly took on this matter.

Mr. Caporale inquired of projected cost of the primary.

Mr. Scott Marshall, Elections / Voters Registration Director, stated the cost will vary depending upon which scenario the Board of Elections (Board) chooses to go with as it relates to combining polling locations. They will be presented at their meeting on Wednesday with a variety of choices to include major consolidation to three or four polling places around the County to as many as the number of polling places we have during a general election and there will be several options in between that they could choose from. So the cost will vary widely. As you know, or may not know, the majority of the expense when you conduct an election is the poll worker cost. So they will be presented all this.

Mr. Gruber commented the County's legal counsel is in contact with the State Elections Commission right now. We are trying to determine of the State appropriations, that \$680,000, how much of it actually would come to Beaufort County because I think that will help give us an idea of how much we have to work with and can base some of those plans around the anticipated reimbursements at this time.

Mr. Marshall stated he will have an idea Wednesday of which option the Board chooses. He may or may not have an idea of what kind of money may be available to us at that time. Right now there are two things going on with regard to our legal process. One is our attorneys are contacting the Republican party to find out if and how much they intend to put up for the Primary and they are also, simultaneously, contacting the State Election Commission to ask the same questions. He spoke with the State Election Commission Director this morning to find out how much we were going to be allotted for reimbursement for poll managers so we could start doing some calculating. The answer he got was not definitive and the reason it was not definitive was that the State also is having a conversation according to the State Election Director with the Republican Party to ask them the same questions. Whether we will have an answer by Wednesday or not, he does not know. He does, however, anticipate by the end of the week we will know more about what kind of money will be available to us.

Mr. Baer commented Beaufort County population is about 160,000, the State is about 4 million so we are about 4% of the population. If they allocated by person, then of the \$680,000, we would get about \$25,000, if they calculated it by population. How much did the election cost us in the past?

Mr. Marshall replied \$204,000 in 2008. He anticipates, if we run a county-wide election and we do not consolidate polling locations, the cost to the County is approximately \$120,000.

Mr. Newton asked is that \$120,000 after a State reimbursement?

Mr. Marshall replied that is \$120,000 total for two primaries. He anticipates we would get approximately, if it was handled like a general election, approximately \$60,000 to \$70,000 of that back. Therefore, we are on the hook for approximately \$50,000.

Mr. Baer stated if they would give us \$60,000 is that half of our cost? How do they determine that?

Mr. Small replied they give an allowance to each County for the number of poll managers that they will allow you to be reimbursed for. That is the bulk of the money. They also reimburse for advertising for public notices up to a certain amount. If we want to advertise in more than one paper, then we bear the cost of that second paper or third paper. There are a variety of expenses which they reimburse. There are some expenses for which they never reimburse, and we do not expect to be reimbursed for this time.

Mr. Newton asked is the primary expense the poll managers.

Mr. Marshall agreed in the affirmative. That is the bulk of the expense.

Mr. Newton asked has the South Carolina Election Commission issued any pronouncements following the decision.

Mr. Marshall stated they have not. He anticipates by the end of the week we will know something a little clearer with regard to how much money we will expect to be reimbursed for poll managers.

Mr. Newton asked who decides the number of poll managers you have in each polling place during a general election.

Mr. Marshall replied the local Board of Elections and Registration collectively. They are presented with a plan for poll managers, knowing full well what we get reimbursed from the State. We know that there probably will be a delta because we like to have a quality election for the citizens of Beaufort County, they deserve that and so, ordinarily, we will pick up some of that tab but in a general election and a June Primary, we would expect to pick up part of that tab because we're installing Beaufort County officers in Beaufort County offices. This is different. We're not doing that this time.

Mr. Newton commented you begin to get into considerations of convenience to the citizens of Beaufort County. Despite what the State has or has not done and that we are required to hold the election, yet the citizens who are paying the tax bill, are not going to be very pleased if we ask them to drive half-way across the County to come to a consolidated polling place to be able vote.

Mr. Marshall said given that the Court has ruled that Section 7-11(b).2 applies to this Primary as Attorney Gruber has pointed out while that applies it also at the same time suspends most of the other requirements under Title 7 to include number of poll managers. There is also Section 7-11-20(b)2 which directs counties to institute cost saving measures so it then makes it non-optional to try to run an economic election. It really puts the Boards of Election across the State between a rock and a hard place because we are re working hard to provide the voters with a process that they know has integrity and they know following the South Carolina Elections Commission

motto, Every Vote Matters, Every Vote Counts, we want the voters to feel that way when they come to the polls and when they leave the polls. When we are directed to combine polling locations that confuses voters. We may advertise it well before the Preference Primary but a few months later in the June Primary, they get confused as to where they should vote. That is what we would like to avoid but will not be able to completely because of the directive to combine polling locations.

Mr. Newton asked is it a directive to combine polling locations or an authorization? Can you reduce the number of poll managers?

Mr. Marshall it is a directive under Section 7-11-20(b)2. The Court has ruled that that is a valid law and that does direct us to institute cost saving measures.

Mr. Gruber commented what the statute says is that the State Election Commission and the authorities responsible for conducting the elections in each County shall provide for cost effective measures in conducting the Presidential Preference Primaries including but not limited to combining polling places while ensuring that voters have adequate notice and access to the polling places.

Mr. Marshall said you can reduce the number of poll to a point. He would not recommend going to fewer than four poll managers per location because of the duties each poll manager has.

Mr. Newton asked could you operate the same number of polling locations you currently operate, just as in a general election, but reduce the number of poll managers at each. Or does this court order say you do not have a choice, and you must combine polling locations regardless of what else you do, you have got to combine polling locations.

Mr. Marshall's interpretation is you must combine polling locations where possible.

Mr. Baer inquired as to the polling locations, the number of polling managers, the number of poll managers required at each location, and their pay.

Mr. Marshall replied there are 240 polling manager. There are 60 physical polling locations in addition to the two fail-safe precincts. No fewer than four per polling managers is required at each location. There is a clerk assigned to each precinct. A clerk is paid \$180 and a poll manager \$120. Every poll manager is expected to work 12 hours at the poll on Election Day.

Mr. Baer thinks that reducing 60 polling locations to some reasonable number like 10 or 15 would not inconvenience our citizens. It might create some confusion with other elections but it should not.

Mr. Newton summarized the county should anticipate a \$50,000 expenditure if you operated every poll in the County.

Mr. Rodman remarked given that it is political and we have two parties basically, do you have the option to have the political bodies have some volunteers to help without compromising the election?

Mr. Marshall replied that certainly is an option in this case since most of Title 7 is suspended to include how poll managers should train. Of course, we would like to have trained poll managers because, again, we want it to be a process that the voters believe has a lot of integrity which it should.

PUBLIC HEARING

AN ORDINANCE AUTHORIZING THE PLACEMENT OF A QUESTION ON THE OFFICIAL BALLOT FOR THE GENERAL ELECTION TO BE CONDUCTED NOVEMBER 6, 2012, CONCERNING A PROPOSITION AUTHORIZING BEAUFORT COUNTY TO ISSUE GENERAL OBLIGATION BONDS TO ACQUIRE LANDS FOR PRESERVATION AND TO PAY CERTAIN COSTS AND DEBT SERVICE RELATED THERETO

The Chairman opened a public hearing beginning at 6:02 p.m. for the purpose of receiving information from the public on an ordinance authorizing the placement of a question on the official ballot for the general election to be conducted November 6, 2012, concerning a proposition authorizing Beaufort County to issue general obligation bonds to acquire lands for preservation and to pay certain costs and debt service related thereto. After calling once for public comment the Chairman recognized Mr. Steve Eames, South Coast Director of the Coastal Conservation League, who stated the organization has been supporting the Rural and Critical Lands Program since 2002. In 1990-1996, in preparation for the then comprehensive planning process, a questionnaire was sent to County residents. One of the key questions was, “What was the most important issue to be addressed in Beaufort County”? Sixty-five percent of respondents said that maintaining the natural beauty was the most important thing and that trumped 13 other issues including traffic and taxes. Times have changed though. In response to this, the community developed and obviously supported the Rural and Critical Lands Program. We also acknowledge that with the current fiscal environment making our continued support to the Rural and Critical Lands Program conditional on a business plan that maximizes the use of monies in difficult times and minimizes waste. We encourage the continued emphasis on conservation easements and the purchase of development rights. As we now consider another bonding authority for the program, Beaufort County residents have the opportunity to vote again on how valuable this effort and how effective it can be in protecting the natural beauty of our region. He encouraged Council approval for putting a bond referendum on the 2012 ballot.

After calling twice more for public comment and receiving none, the Chairman declared the hearing closed at 6:06 p.m.

It was moved by Mr. Sommerville, as Natural Resources Committee Chairman (no second required), that Council approve on third and final reading an ordinance authorizing the placement of a question on the official ballot for the general election to be conducted November 6, 2012, concerning a proposition authorizing Beaufort County to issue general obligation bonds to

acquire lands for preservation and to pay certain costs and debt service related thereto. The vote was: YEAS – Mr. Baer, Mr. Caporale, Mr. Dawson, Mr. Glaze, Mr. McBride, Mr. Newton, Mr. Rodman, Mr. Sommerville, Mr. Stewart and Ms. Von Harten. ABSENT – Mr. Flewelling. The motion passed.

DEPUTY COUNTY ADMINISTRATOR’S REPORT

Two-Week Progress Report

Mr. Bryan Hill, Deputy County Administrator, presented his Two-Week Progress Report, which summarized his activities from November 14, 2011 through November 25, 2011.

Job Search / Parks and Leisure Services and Animal Shelter and Control Directors

Mr. Bryan Hill, Deputy County Administrator, reported the County is in the process of filling several key positions. The first position is the Auditor’s accountant. That position opened on September 30, 2011. Twenty-four applications were received and submitted four to the Auditor for her review. The Finance Team is available to assist the Auditor in reviewing, interviewing or helping her through the process.

Regarding the Parks and Leisure Services (PALS) Director position, the County is presently in a statewide and nationwide search. Thirty-seven applications were received of which 20 meet the minimum standards. Mr. Kubic has crafted a search committee and the members should hold its first meeting next week. The salary range is \$55,000 to \$75,000.

The third search involves the Animal Control Director position. Ms. Toni Lytton has submitted her resignation effective December 31, 2011. Mr. Hill thanked Ms. Lytton for her years of service to Beaufort County government. The position search opened November 14, 2011. The County has received six applications of which three meet the minimum requirements. This is also a national, state and local search. The salary range is \$60,000 to \$80,000.

Mr. Kubic is looking for an individual who can create recreational programs, not just a manager of sports program. He wants to incorporate new ventures in our parks for our disabled children, learning programs, and coordinating educational afterschool programs in conjunction with the School District. He is looking for a qualified individual who has broad-based experience. Typically, we focus in on the most active programs – football, baseball, soccer. We have been deficient over the years and not engaging the other portion of our population who may have those types of abilities. He has a strong desire to seek an educational component that blends in with the public

General Fund Expenditure Analysis (July 1, 2011 – October 31, 2011)

Mr. Bryan Hill, Deputy County Administrator, submitted the general fund expenditure analysis report for the period July 1, 2011 – October 31, 2011.

Construction Project Updates

US Highway 278 Roadway Construction

Mr. Rob McFee, Division Director-Engineering and Infrastructure, reported this project involves widening of a total of 4.8 miles of US Highway 278 including the bridges over the Okatie River. The contractor is APAC Southeast of Savannah, Georgia. The cost is \$23,637,119. The contract completion date is November 2013. The contractor is working on erosion control items and mobilization.

New Bridge over Beaufort River / U.S. 21 / S.C. 802 Construction Project

Mr. Rob McFee, Division Director-Engineering and Infrastructure, reported the new bridge over the Beaufort River will be a 4,200-foot bridge. The contractor is United Contractors, Inc. of Great Falls, South Carolina. The cost is \$34,573,368. The completion date is August 27, 2011. The opening ceremony was held on November 18, 2011.

S.C. Highway 802 Roadway Construction Project

Mr. Rob McFee, Division Director-Engineering and Infrastructure, reported this project involves the widening of 5.2 miles of S.C. Highway 802 (two sections). The contractor is Sanders Bros. of Charleston, South Carolina. The cost is \$10,852,393. The completion date was December 2010. The contractor is working on traffic markings and punch list items.

Bluffton Parkway Phase 5A Roadway

Mr. Rob McFee, Division Director-Engineering and Infrastructure, reported this project involves construction of 2.31 miles of new four lane divided highway between Burnt Church Road and Buckingham Plantation Road. The contractor is Cleland Construction of Ridgeland, South Carolina. The cost is \$11,578,729. The contract completion date is July 2012. Placement of curb and gutter is 90% complete. Base course is underway. Paving of mainline is underway.

Disabilities and Special Needs Adult Day Care Center and Administration Center

Mr. Rob McFee, Division Director-Engineering and Infrastructure, reported this project is a 25,000 square foot multi-use facility with client activity and program areas and administrative space. The contract is Emory J. Infinger and Associates of Charleston, South Carolina. The cost is \$6,436,974. The completion date is fall 2011. Interior equipment placement and finishing is underway.

St. Helena Branch Library at Penn Center

Mr. Rob McFee, Division Director-Engineering and Infrastructure, reported this project involves the construction of utilities, access road and 25,000 square foot library facility. The contractor is Choate Construction Company of Pooler, Georgia. The cost is \$7,332,403. The completion date is October 2012. Site clearing is complete; access road is 90% complete. Foundation is 80% complete and wall construction is underway on a 25,000 square foot multi-use facility with client

activity and program areas and administrative space. The contract is Emory J. Infinger and Associates of Charleston, South Carolina. The cost is \$6,436,974. The completion date is fall 2011. Interior equipment placement and finishing is underway.

Lady's Island Community Park

Mr. Rob McFee, Division Director-Engineering and Infrastructure, reported this project is a design / build contract covering the first two phases of this facilities including two multi-use fields, playground and pavilion with bathrooms and picnic tables. The contractor is JoCo Construction of Beaufort, South Carolina. The cost is \$746,090. The contract completion date is December 2011. Both fields have been graded and both are in grass. Picnic pavilion is complete.

Burton Wells Park

Mr. Rob McFee, Division Director-Engineering and Infrastructure, reported this project involves construction of Phase II improvements including terraced lawn amphitheater, pond development and pavilion, pedestrian trails, landscaping and restrooms. The contractor is Beaufort Engineering Services of Beaufort, South Carolina. The cost is \$1,812,011. The contract completion date if January 2012. Drainage system and pond excavation is complete. Fine grading site and building pavilions is underway.

Update / Master Plans Beaufort County (Lady's Island) and Hilton Head Island Airports

Master Plan Beaufort County (Lady's Island) Airport

Mr. Paul Andres, Airports Director, reported the Master Plan draft report has been distributed to both County and City Council members and mayor, as well as to the Airports Board. A joint presentation to County and City Councils will occur January 18, 2011, beginning at 6:00 p.m. in the Performing Arts Center, USC-Beaufort. The Plan, if approved, will be submitted to the FAA and, in this case, to the State of South Carolina Aeronautics for their review and approval. Regarding the tree obstruction issue, the FAA is resolving SCE&G power pole issues, more than 600 tree obstructions remain, additional FAA grant funding is to be requested next year, and the property owner mediation held October 11, 2011 was unsuccessful.

Master Plan Hilton Head Island Airport

Mr. Paul Andres, Airports Director, reported the FAA approved the Master Plan on September 9, 2011. Contract award for the environmental assessment and benefit cost analysis occurred October 10, 2011. Regarding tree obstruction removal on Runway 21 (north end) on-airport, the contract is All Care Tree Surgery. The construction amount is \$469,848. Work commenced September 1, 2011. The clear area is complete and buffers / wetlands underway. Estimated completion is December 30, 2011. An FAA grant funding was received. Plans / specifications are ready to bid. Staff has obtained 5 out of 16 avigation easements. Tree obstruction removal on Runway 03 (south end) off airport design work is underway 24:1 slope. The project is ready

for bid June 2012. FAA grand funding will be requested. Staff has obtained 23 out of 26 avigation easements. Tentative start date if Fall 2012. Project emphasis is trimming.

Runway safety area drainage improvements include: a permit was issued by the Town of Hilton Head Island, taxiway F repairs are complete, and staff is coordinating with contractor on remaining work.

Design projects status: commercial terminal improvements are pending and runway lighted sign relocation design is underway.

Passenger Facility Change (PFC) Program status: an application preparation is underway, airline construction occurred November 2, 2011, and a target implementation date is March 1, 2012.

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF AN EASEMENT ENCUMBERING PROPERTY OWNED JOINTLY BY BEAUFORT COUNTY AND THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA

This item comes before Council under the Consent Agenda. It was discussed at the October 25, 2011 Public Facilities Committee.

It was moved by Mr. Glaze, seconded by Mr. Sommerville, that Council approve on second reading an ordinance authorizing the execution and delivery of an easement encumbering property owned jointly by Beaufort County and the Town of Hilton Head Island. The vote was: YEAS - Mr. Baer, Mr. Caporale, Mr. Dawson, Mr. Glaze, Mr. McBride, Mr. Newton, Mr. Rodman, Mr. Sommerville, Mr. Stewart and Ms. Von Harten. ABSENT – Mr. Flewelling. The motion passed.

The Chairman announced the public hearing date of Monday, December 12, 2011, beginning at 6:00 p.m. in Council Chambers of the Administration Building.

AUTHORIZING THE ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS, IN ONE OR MORE SERIES, WITH APPROPRIATE SERIES DESIGNATIONS, OF BEAUFORT COUNTY, SOUTH CAROLINA, IN THE PRINCIPAL AMOUNT OF NOT EXCEEDING \$10,000,000; FIXING THE FORM AND DETAILS OF THE BONDS; AUTHORIZING THE COUNTY ADMINISTRATOR OR HIS LAWFULLY-AUTHORIZED DESIGNEE TO DETERMINE CERTAIN MATTERS RELATING TO THE BONDS; PROVIDING FOR THE PAYMENT OF THE BONDS AND THE DISPOSITION OF THE PROCEEDS THEREOF; AND OTHER MATTERS RELATING THERETO

It was moved by Mr. Glaze, seconded by Mr. Sommerville, that Council approve on second reading an ordinance authorizing the issuance and sale of general obligation bonds, in one or more series, with appropriate series designations, of Beaufort County, South Carolina, in the principal amount of not exceeding \$10,000,000; fixing the form and details of the bonds; authorizing the county administrator or his lawfully-authorized designee to determine certain

matters relating to the bonds; providing for the payment of the bonds and the disposition of the proceeds thereof; and other matters relating thereto.

Mr. Baer is going to vote against the motion in view of the millage increase He is concerned about the tax millage that we are going to put on our citizens.

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

The Chairman announced a special meeting and public hearing date of Monday, December 5, 2011, beginning at 5:00 p.m. in Council Chambers of the Administration Building.

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

COMMITTEE REPORTS

Governmental Committee

Lowcountry Regional Transportation Authority

Barbara Childs

The vote was: YEAS - Mr. Baer, Mr. Caporale, Mr. Dawson, Mr. Glaze, Mr. McBride, Mr. Newton, Mr. Rodman, Mr. Sommerville, Mr. Stewart and Ms. Von Harten. ABSENT – Mr. Flewelling. Mrs. Barbara Childs garnered the six votes required to serve as a member of the Lowcountry Regional Transportation Authority.

Natural Resources Committee

Planning Commission

Mr. Charles Brown

The vote was: YEAS - Mr. Baer, Mr. Caporale, Mr. Dawson, Mr. Glaze, Mr. McBride, Mr. Newton, Mr. Rodman, Mr. Sommerville, Mr. Stewart and Ms. Von Harten. ABSENT – Mr. Flewelling. Mr. Charles Brown, Comprehensive Plan planning area / Sheldon Township, garnered the six votes required to serve as a member of the Planning Commission.

The Vice Chairman passed the gavel back to the Chairman in order to continue the meeting.

CALL FOR EXECUTIVE SESSION

It was moved by Ms. Von Harten, seconded by Mr. Glaze, that Council go immediately into executive session for the purpose of receiving legal advice relating to proposed contractual arrangements and proposed purchase of property as well a discussion of employment of a person

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

EXECUTIVE SESSION

RECOVENE OF REGULAR SESSION

County Administrator's Contract

It was moved by Mr. Sommerville, seconded by Mr. Glaze, that Council extend the County Administrator's contract from its current expiration date of December 31, 2013 to the maximum allowed under the contract which is December 31, 2014.

Mr. Sommerville said, "All Council members would like to say how impressed we are and how gratified we are of the professional job that you have done and continue to do since you came here in 2004." Speaking on behalf of all of his fellow Council members, Mr. Sommerville said Mr. Kubic has been a good example for all of the 1,100 employees in the County as well as County Council. Mr. Kubic has done everything Council has asked him to do in a professional manner and done it well. We are grateful to Mr. Kubic, and this is a small token of appreciation for all you have done and continue to do. Thank you, Mr. Kubic.

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

Mr. Newton said Council's vote is certainly an expression of our confidence in Mr. Kubic.

Factory Creek Vista Joint Ownership Agreement between Beaufort County and the Beaufort County Open Land Trust

It was moved by Mr. Sommerville, seconded by Mr. Caporale, that Council approve the Factory Creek Vista Joint Ownership Agreement between Beaufort County and the Beaufort County Open Land Trust regarding the operation and maintenance and ownership of the Factory Creek Landing. The vote was: YEAS - Mr. Baer, Mr. Caporale, Mr. Dawson, Mr. Glaze, Mr. McBride, Mr. Newton, Mr. Rodman, Mr. Sommerville, Mr. Stewart and Ms. Von Harten. ABSENT - Mr. Flewelling. The motion passed.

PUBLIC COMMENT

There were no requests to speaking during public comment.

ADJOURNMENT

Council adjourned at 8:00 p.m.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Wm. Weston J. Newton, Chairman

ATTEST _____
Suzanne M. Rainey, Clerk to Council

Ratified:

DRAFT

Official Proceedings
Special Meeting
County Council of Beaufort County
December 5, 2011

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

A special meeting of the County Council of Beaufort County was held at 5:00 p.m., Wednesday, December 5, 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 Gerald Dawson McBride gave the Invocation.

PUBLIC HEARING

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS, IN ONE OR MORE SERIES, WITH APPROPRIATE SERIES DESIGNATIONS, OF BEAUFORT COUNTY, SOUTH CAROLINA, IN THE PRINCIPAL AMOUNT OF NOT EXCEEDING \$10,000,000; FIXING THE FORM AND DETAILS OF THE BONDS; AUTHORIZING THE COUNTY ADMINISTRATOR OR HIS LAWFULLY-AUTHORIZED DESIGNEE TO DETERMINE CERTAIN MATTERS RELATING TO THE BONDS; PROVIDING FOR THE PAYMENT OF THE BONDS AND THE DISPOSITION OF THE PROCEEDS THEREOF; AND OTHER MATTERS RELATING THERETO

Mr. Newton commented that Council is here this evening at a special meeting of Council pursuant to the 2006 bond referendum and the authorization for County Council to borrow or bond up to \$50,000,000 for the Rural and Critical Lands Program. We have been advised by bond counsel that the remaining \$10,000,000 would have to be borrowed and the bonds issued prior to the end of the calendar year, or at least Council action approving prior to the end of the calendar year, that being five years from the date of the citizens of Beaufort County referendum

in 2006. This matter has been through two prior hearings. We are here tonight for a public hearing and then third and final reading.

Following that, pursuant to the email Mr. Newton sent to all members of Council, there is a need to add an off-agenda item regarding threatened or pending legal claims.

The Chairman opened a public hearing at 5:08 p.m. for the purpose of receiving information from the public regarding an ordinance authorizing the issuance and sale of general obligation bonds, in one or more series, with appropriate series designations, of Beaufort County, South Carolina, in the principal amount of not exceeding \$10,000,000; fixing the form and details of the bonds; authorizing the county administrator or his lawfully-authorized designee to determine certain matters relating to the bonds; providing for the payment of the bonds and the disposition of the proceeds thereof; and other matters relating thereto. After calling three times for public comment and receiving none, the Chairman declared the hearing closed at 5:09 p.m.

Mr. Sommerville referred to today's agenda wherein third and final reading is scheduled to occur December 12, 2011.

Main motion: It was moved by Mr. Caporale, as Finance Committee Vice Chairman (no second required), that Council approve on third and final reading an ordinance authorizing the issuance and sale of general obligation bonds, in one or more series, with appropriate series designations, of Beaufort County, South Carolina, in the principal amount of not exceeding \$10,000,000; fixing the form and details of the bonds; authorizing the county administrator or his lawfully-authorized designee to determine certain matters relating to the bonds; providing for the payment of the bonds and the disposition of the proceeds thereof; and other matters relating thereto.

Motion to amend by addition: It was moved by Mr. Glaze, seconded by Mr. Caporale, that Council amend Section 1, paragraph (e)(the referendum question that was submitted to the qualified electors of the County on November 7, 2006), to include "significant historical sites and structures within the County."

Mr. Newton commented the ordinance that is before Council tonight, authorizing the remaining \$10,000,000 borrowing tracks the language from the 2006 referendum. Mr. Glaze has suggested a motion to amend adding language "significant historical sites and structures. This is not the referendum question for 2012, but to complete the referendum from 2006.

Mr. Gruber stated this is not the ordinance relating to the Rural and Critical Lands Program which dictates how those monies will be spent. This is strictly the bond issuance itself. This is the ordinance that will go out to bondholders with these certificates to show that they were lawfully issued.

Mr. Newton stated the motion to amend by addition would not allow anything that is not already authorized by the voters in 2006.

Mr. Caporale withdrew his second.

Mr. Anthony Criscitiello, Deputy Director-Planning and Development, pointed out that when the Rural and Critical Lands Program was originally set up, the word “critical” addressed the historic sites. We have purchased properties under the critical portion of the Program that are historic – Greene Shell Ring and Altamaha – that were part of partial of the critical part of this question. It is built into the program, itself. It is inherent in the nature of the Program that under rural and critical that historic be taken into consideration.

Mr. Newton asked Mr. Criscitiello to provide the rural and critical lands definition to Mr. Glaze to make sure his issue, that he has identified, is adequately covered.

Mr. Glaze withdrew his motion so long as the issue is brought up during discussion of the 2012 referendum.

OFF-AGENDA ITEM

It was moved by Mr. McBride, seconded by Mr. Glaze, that Council amend the agenda to take up and off-agenda item regarding the need for an executive session. 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.

CALL FOR EXECUTIVE SESSION

It was moved by Mr. McBride, seconded by Mr. Sommerville, that Council go immediately into executive session for the purpose of receiving legal advice relative to threatened or pending legal claims. 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

Mr. Newton remarked that while in executive session, he was passed a note from bond counsel with regard the rural and critical lands vote regarding the \$10,000,000 that was originally scheduled for public hearing and third and final reading tonight. While in executive session, the Clerk to Council went back and checked the public notification that was in the newspapers and in the media pursuant to state law. That publication indicated that third and final reading would occur tonight. That was timed to match the requirements of outside bond counsel. Some of the confusion this evening is the internal printed agenda for this evening’s meeting, does not track that which was published in the newspaper as the action to be taken tonight. The publically disseminated and published agenda provided for a public hearing followed by third and final reading. In an abundance of caution, the parliamentarian and he conversed about this printed agenda and determined that waiting until December 12, 2011 Council meeting would avoid any issue of confusion relative to the printed agenda that is on the internet for our purposes and that

which was handed out tonight that reflected a third and final reading to be held December 12, 2011. However, we are on a timeframe that requires action by this evening and that tracks with the information that has been published in the newspapers pursuant to state law about not only about third reading but also the required public notice prior to the public hearing.

Mr. Gruber stated it appears Council needs to correct a scrivener's error on the agenda to reflect that third and final reading will occur tonight.

Motion to amend the scrivener's error on the agenda to match that which was published in the newspaper: It was moved by Mr. Stewart, seconded by Mr. Caporale, that Council amend the agenda to correct the scrivener's error on the agenda to reflect that third and final reading will occur tonight and to match that which was published in the newspaper. 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.

Vote on the main motion: Council approve on third and final reading an ordinance authorizing the issuance and sale of general obligation bonds, in one or more series, with appropriate series designations, of Beaufort County, South Carolina, in the principal amount of not exceeding \$10,000,000; fixing the form and details of the bonds; authorizing the county administrator or his lawfully-authorized designee to determine certain matters relating to the bonds; providing for the payment of the bonds and the disposition of the proceeds thereof; and other matters relating thereto.

Mr. Caporale will vote against the motion. He is opposed to creating additional debt in this case. He also takes exception to the way the law is written over which Council has no control. The fact that Council is forced to act, based on decisions made as many as four or five years ago that could not possibility anticipate the future, is a mistake. It is a flaw. It is not second guessing the taxpayers. We should not be creating more debt now that is not absolutely critical to keeping the county functioning.

Mr. Baer agrees with Mr. Caporale. This is discretionary. We do not have to vote for this. We could make it up in the next rural and critical lands referendum. The economic conditions are different today from what they were in 2006. The comments people make that this is only one or two or three dollars more, it builds on all the other comments. It is not essential. He is not going to vote for raising taxes on a discretionary item.

Mr. Flewelling said the alternative, in response to the referendum five years ago would have been for the entire \$50 million that the voters approved to be bonded at one time, in which we would have an additional interest payments carrying costs for that four years. It would have needed up costing the taxpayer more money in the long run. Instead, we split it up; but, the requirement to bond out the \$50 million was not discretionary that is something they asked us to do. Timing is not something that they gave us discretionary on. It was wise on previous councils, to split it up, to even out the interest costs over time, and only get the money when it was needed. Being that the Rural and Critical Lands Program is just empty of money right now, now is the time to replenish that fund. He urged Council to vote in favor of the motion.

Mr. Rodman is not sure Council has the right to second judge the electorate.

Mr. Newton voted in favor of this issue on the two previous readings that Council has had. Based on the law, we need to move forward with this tonight in order to respect the will of the taxpayer. If we do not move forward tonight, the expression of the taxpayers in 2006 is thwarted because we would have lost the opportunity to do it. We recognized the impact collectively of voted tax increases, those being rural and critical land tax increase that the citizens voted on themselves, when we approved a budget last spring that included no increase in debt even though when we went into the budget discussion there were suggestions of a possible need for an increase in debt and we gave our guidance it was none. There will be no increase in county debt and one of the reasons we understood that this was coming in the future. Did we know it had to be done by the end of this calendar year? No. Would it be better if we could delay this until sometime next year, perhaps to modulate the impact? It probably would. As Mr. Rodman points out, the taxpayers in Beaufort County voted to proceed with this program. By not proceeding tonight, to move forward with this \$10 million, we are overriding the vote of the citizens and losing 20% of that which they directed us to move forward with. Whether we like it not, that is the requirement of the bonds and law applicable to the bonds. He will vote in favor of approving the motion.

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. OPPOSED – Mr. Baer and Mr. Caporale. The motion passed.

ADJOURNMENT

Council adjourned at 6:52 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

ADMINISTRATION BUILDING
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BRYAN J. HILL
DEPUTY COUNTY ADMINISTRATOR

JOSHUA A. GRUBER
STAFF ATTORNEY

COUNTY ADMINISTRATOR'S REPORT

Monday, January 9, 2012

5:00 p.m.

County Council Chambers
Administration Building

ACTION / INFORMATION ITEMS:

- The County Channel / Broadcast Update (Enclosure)
- Four-week Progress Report (Enclosure)
- Resolution Agreeing to Apply to South Carolina Department of Transportation For a Ferry Grant in an Amount Not to Exceed \$100,000 to Assist with Ferry Service to and from Daufuskie Island (Enclosure)
- Mr. Fred Washington, Chairman, Beaufort County School District



Memorandum

DATE: January 6, 2012

TO: County Council

FROM: Gary Kubic, County Administrator

SUBJ: County Administrator's Progress Report

The following is a summary of activities that took place December 12, 2011 through January 6, 2012:

December 12, 2011

- Meeting with Frank Mead, Hilton Head Island resident re: Residential property assessment
- Finance Committee meeting
- County Council meeting

December 13, 2011

- South Carolina Transportation Infrastructure Bank Board Evaluation Committee meeting re: Beaufort County's SIB Application

December 14, 2011

- Meeting with Federal Aviation Administration officials, Chairman Weston Newton, Hilton Head Island Town Mayor Drew Laughlin and Town Manager Stephen Riley re: Hilton Head Airport

December 15, 2011

- Meeting with Manatron representatives and staff
- Meeting with Chairman Weston Newton

December 16, 2011

- Meeting with William Winn re: Special projects issues
- Lowcountry Economic Alliance Board meeting

December 19 – 21, 2011

- Personal leave

December 22 – 23, 2011

- County holidays

December 26 – 30, 2011

- Personal leave

January 2, 2012

- New Year's holiday

January 3, 2012

- Attended court hearing re: Beaufort County vs. Town Center condemnation
- Natural Resources and Governmental Committee meetings (unable to attend due to court hearing)

January 4, 2012

- Agenda review with Chairman, Vice Chairman and Executive Staff re: Draft agenda for January 9, 2012 Council meeting

January 5, 2012

- Bimonthly meeting with Chairman Weston Newton, Hilton Head Island Town Mayor Drew Laughlin and Town Manager Stephen Riley re: County / Town issues

January 6, 2012

- Meeting with Senator Tom Davis and Billy Gavigan re: Seabrook Affordable Housing development
- Staff meeting re: Construction of gas station on SC-280

RESOLUTION

WHEREAS, Daufuskie Island is a barrier island to which ingress and egress can only be attained by use of water transportation; and

WHEREAS, County Council of Beaufort County and South Carolina Department of Transportation provide funds to assist in the transportation of Daufuskie Island property owners and residents to and from the mainland; and

WHEREAS, County Council desires to assist in maintaining opportunities for Island property owners and residents to travel to and from the island in the pursuit of life-sustaining activities, *i.e.*, employment, medical services, clothing, food, etc.; and

WHEREAS, use of this service has increased significantly due to the loss of a previous provider, thus making it the primary source of transportation for most of the property owners and residents; and

WHEREAS, the County Council of Beaufort County agrees with the need to submit an application to the South Carolina Department of Transportation for a dollar-to-dollar matching grant in the amount of One Hundred Thousand Dollars (\$100,000) for ferry service for property owners and residents of Daufuskie Island.

NOW, THEREFORE, BE IT RESOLVED, that the County Council of Beaufort County does hereby agree to apply to the State of South Carolina Department of Transportation for a matching grant to assist with ferry service to and from Daufuskie Island.

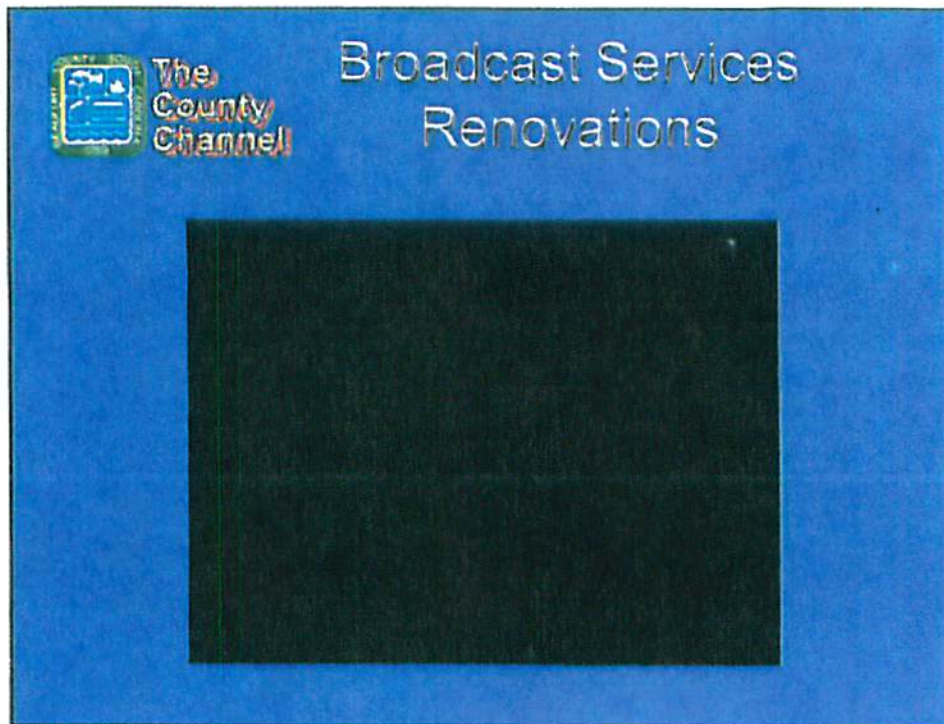
Adopted this ____ day of January, 2012.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Wm. Weston J. Newton, Chairman

ATTEST:

Clerk to Council



{Video Plays} The County Channel has finished moving into it's renovated space in the County Administration building. The mail room has been converted to master control for the channel and they have added much needed office and studio space where staff services was formerly located. Starting in January, they will begin a heavy rotation of live sports from both PALS and USCB, in addition to the normal county channel productions.

BEAUFORT COUNTY ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND CLARIFY BEAUFORT COUNTY
ORDINANCE NO. 2005/9 AND AS SUBSEQUENTLY AMENDED WITH
REGARDS TO THE DEFINITION OF ESTABLISHMENTS UNDER
THE BEAUFORT COUNTY LOCAL HOSPITALITY TAX

WHEREAS, Beaufort County desires to preserve the general health, safety and welfare of its residents and visitors, and

WHEREAS, Beaufort County desires to support tourism-related buildings including but not limited to parks, recreational facilities, civic centers, coliseums, aquariums, tourism-related cultural, recreational, or historical facilities, beach access and renourishment, highways, roads, streets and bridges providing access to tourist destinations, advertisements and promotions related to tourism development, water and sewer infrastructure to serve tourism-related demand, police, fire protections, emergency medical services and emergency-preparedness operations directly attendant to the foregoing facilities in order to promote and further encourage tourism in the County, and

WHEREAS, Beaufort County was authorized to enact Ordinance No. 2005/9 pursuant to S.C. Code §6-1-700 *et seq.*, 1976, as amended; and

WHEREAS, Beaufort County Council believes that it is in the best interest of its citizens to amend and clarify a portion of Ordinance No. 2005/9 to further clarify its intent that all businesses meeting the definition of an establishment, as defined under this Ordinance, participate in the collection of local hospitality taxes.

NOW THEREFORE, BE IT ORDAINED, by the County Council of Beaufort County, South Carolina, duly assembled and by the authority of the same does hereby amend a portion of Chapter 66 the following:

Sec. 66-532. - Hospitality tax—Definitions.

(a) Local hospitality tax is a tax imposed within the unincorporated areas of Beaufort County on the sales of prepared meals and beverages sold in establishments or sales of prepared meals and beverages sold in establishments licensed for on-premises consumption of alcoholic beverages, beer, or wine. In addition, the tax shall be imposed for all food and beverages prepared or modified by convenience stores or grocery stores within the unincorporated areas of Beaufort County.

(b) A hospitality tax equal to two percent is hereby imposed on the gross proceeds derived from the sale of prepared meals and beverages sold in establishments located in unincorporated areas of Beaufort County.

(c) Beverages shall include all beverages, including, but not limited to, alcoholic beverages, beer, wine, and any nonalcoholic beverage.

(d) Establishments shall mean any individual, partnership, corporation or business entity, regardless of form which, as a part of its business offers prepared meals, ~~for sale to the general public~~ whether for consumption on the premises or off.

(e) Establishments licensed for on-premises consumption of alcoholic beverages, beer or wine shall mean any individual, partnership, corporation or business entity, regardless of form, which is licensed by the State of South Carolina alcoholic beverage commission to offer alcoholic beverages, beer or wine for sale or consumption on its premises.

(f) Gross sales price shall mean the total charge for any prepared meal or beverage, exclusive of any other taxes, fees or gratuity.

(g) Prepared meals shall mean any prepared food item prepared or offered for sale by any establishments or establishments licensed for on-premises consumption of alcoholic beverages, beer or wine, whether consumed on the premises or off.

Adopted this _____ day of _____, 2011.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____

Wm. Weston J. Newton, Chairman

APPROVED AS TO FORM:

Joshua A. Gruber, Staff Attorney

ATTEST:

Suzanne M. Rainey, Clerk to Council

First Reading:

Second Reading:

Public Hearing:

Third and Final Reading:

RESOLUTION

WHEREAS, for years Beaufort County Council through its Parks and Leisure Services Division has provided programs and facilities for its residents at minimal cost to the participants; and

WHEREAS, in recent years the County experienced a significant increase in the use of recreational facilities, fields, and programs throughout the County; and

WHEREAS, limited resources make it more difficult to meet the increasing demands for programs, facilities and maintenance thereof; and

WHEREAS, there is the desire to offer and maintain quality programs and safe, decent facilities using various approaches to accomplish this with the minimal impact on the participants; and

WHEREAS, on November 3, 2011, Beaufort County Parks and Leisure Services Board hereby adopted the attached recommended changes in fees for programs, facilities, and fields usage to help ensure equity and continuity throughout the County in recreational programs.

NOW, THEREFORE, BE IT RESOLVED, that Beaufort County Council hereby, endorses and approves Beaufort County Parks and Leisure Services Board changes to the fee schedule to fulfill the mission of providing quality programs and facilities to Beaufort County residents; and

BE IT FURTHER RESOLVED, that Beaufort County Parks and Leisure Services Board will continue to monitor and evaluate the use of recreational programs and facilities, and when appropriate, provide additional recommendations to County Council for consideration and response.

Adopted this ___ day of January, 2012.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Wm. Weston J. Newton, Chairman

ATTEST:

Suzanne M. Rainey, Clerk to Council

**BEAUFORT COUNTY PARKS AND LEISURE SERVICES
FEE SCHEDULE AS APPROVED BY
BEAUFORT COUNTY COUNCIL ON 1-25-2010; REVISED: 4/12/2010
PROPOSED EFFECTIVE DATE: Jan 1, 2012**

ATHLETICS

Fee Type	Description	Rental Price	PROPOSED CHANGES
Youth Sports Registration	Baseball/Softball Cheerleading Soccer and basketball	\$55.00	\$65.00 \$55.00 \$60.00
Youth Football Registration	for ages 8 and up, 2009 Fee 2010 Fee Flag Football (Ages 4 – 7) Tackle Football (Ages 8 – 12)	-\$65.00 -\$75.00	Delete 2009 & 2010 Fees Post only current prices \$55.00 \$75.00
Adult Sports Registration	Baseball and Softball Leagues	\$550.00	No Change
Adult Soccer Registration	6 on 6 Adult League	\$350.00	\$400.00
Concession Rental	Per day Per week, if present each day Per season Per season	\$25.00 -\$25.00 \$300.00 \$150.00	No Change Remove New Item New Item Non profit
Gym – Athletic Event All usage fees for gym rentals must be paid in advance along with a \$200.00 refundable security deposit before the event can be placed on calendar.	Athletic sponsored events, per hour Refundable Security Fee	\$50.00 (200.00)	No Change No Change
Athletic Youth Sports Sliding Fee - Multiple Siblings	1 st child 2 nd child 3 rd child 4 th child 5 th and more Must provide long form birth certificate to prove authenticity.	Regular fee \$10.00 off \$20.00 off \$30.00 off Free	Remove Athletic Youth Sliding Scale Fee
Coaches Thank You Voucher (Head Coach Only)	Volunteer coaches that complete a full season shall receive a thank you voucher redeemable for a year.	\$10.00	(\$25.00)
Sponsorship Fees	Banner Team Team and Banner League for age group Corporate Summer Camp Sponsor Soccer cup sponsor	\$300.00 \$300.00 \$500.00 \$900.00 \$2500.00 \$400.00 \$2000.00	No Change No Change No Change No Change No Change New Item New Item
Green Shell Picnic Shelter and Old Burton Wells Picnic Area	For three hours Additional fee per hour	\$50.00 \$10.00	\$75.00 \$20.00
Parks, Facilities and Gym for Special Events Special Events – Such as large events of 100+ people, festivals, athletic tournaments, events that charge entrance fee, sell items.	Fee for one day Additional day(s) Additional Security Deposit Special Events Cleaning Fee (per day) Lessee must provide copy of permits	\$500.00 \$100.00 \$500.00 \$150.00	No Change No Change No Change New Item
Gym – Special Event	Special Events	\$500.00	Remove this line & combine with Parks, Facilities for Special Events and/or Festivals
Gym – Additional Special Event fee	Special Events Cleaning Fee	\$150.00	Remove this line & combine with Parks, Facilities for Special Events and/or Festivals
Tennis Courts (If reserved)	Up to 3 hours Additional fee per hour	\$50.00 \$10.00	New Item New Item
Racquetball Court (If reserved)	Week in advance 1 court for 1 hour per group	\$5.00	New item
Ball fields (Baseball/Softball) No security deposit for rental of ball fields except for tournaments.	With lights for up to 3 hours Without lights for up to 3 hours Additional fee per hour	\$75.00 \$50.00 \$10.00	No Change No Change No Change
Ball fields (Soccer, football, & multi-purpose) No security deposit for rental of ball fields except for tournaments.	With lights up to 3 hours Without lights for up to 3 hours Additional fee per hour	\$75.00 \$50.00 \$10.00	\$105.00 \$80.00 No Change
NO Rental Charge for Youth Sports Charge for youth teams not participating in the recreation program	Charge for Youth Field Use / Teams per 3 months		\$250.00

LATE FEES ARE \$25.00 FOR ATHLETICS, AFTER SCHOOL, & INTERSESSION

BEAUFORT COUNTY PARKS AND LEISURE SERVICES
 FEE SCHEDULE AS APPROVED BY
 BEAUFORT COUNTY COUNCIL ON 1-25-2010; REVISED: 4/12/2010
 PROPOSED EFFECTIVE DATE: Jan 1, 2012

POOLS

Fee Type	Description	Rental Price	PROPOSED CHANGES
Indoor/Outdoor Pool Rental	For up to 3 hours of use	\$200.00	No Change
Lane Rental per hour	Additional fee per hour	\$70.00	No Change
		\$3.00	\$4.00
Special	For pool sponsored events	\$1.00	No Change
Seniors daily admission	55 and over	\$2.00	\$3.00
Swim daily admission		\$3.00	\$4.00
Senior/County Individual Pass	Monthly	\$20.00	\$25.00
Individual Pass	Monthly	\$25.00	\$30.00
Senior	2 adults and up to 4 minor children Monthly	\$25.00	\$30.00
Family Pass	2 adults and up to 4 minor children Monthly	\$30.00	\$35.00
Group Swim Lesson	Per person Minimum of 3 individuals for lesson Maximum of 10 individuals per Instructor	\$30.00	\$35.00
Individual Swim Lesson	Per person (Up to 2 people)	\$45.00	\$50.00
Lifeguarding Class	Per person Includes lifeguarding, first aid, AED, and CPR certifications	\$130.00	\$160.00
CPR Lesson	Per person (CPR Certification)	\$60.00	\$80.00
Lifeguard Challenge	Per person (Updating certifications)	\$60.00	\$85.00
CPR Challenge		\$20.00	\$30.00
Water Aerobics with County instructors	Individual Fee	\$3.00	\$4.00
Water Aerobics Pass with County instructors	Individual Monthly 10 sessions and must be used within 6 month period	\$25.00	\$30.00
Scuba	Daily (For use of scuba equipment in pool)	\$4.00	No Change
Camp Admission	Admission per child with organized group Such as Boys & Girls Club, school, etc.	\$2.00	No Change

LATE FEES ARE \$25.00 FOR ATHLETICS, AFTER SCHOOL, & INTERSESSION

BEAUFORT COUNTY PARKS AND LEISURE SERVICES
 FEE SCHEDULE AS APPROVED BY
 BEAUFORT COUNTY COUNCIL ON 1-25-2010; REVISED: 4/12/2010
 PROPOSED EFFECTIVE DATE: Jan 1, 2012

RECREATION AND CENTERS

Fee Type	Description	Rental Price	PROPOSED CHANGES
After School Program	Per child per month	\$50.00	\$75.00
After School Sliding Fee - Multiple Siblings	1 st child 2 nd child 3 rd child 4 th child 5 th and more Must provide long form birth certificate to prove authenticity.	Regular fee \$10.00 off \$20.00 off \$30.00 off Free	Remove After School Sliding Fee
Summer Camp Registration • Summer Camp is 8 weeks • Hours Universally – 7:30am – 6:00pm • Additional T-Shirts - \$5.00 Summer Camp Sliding Fee - Multiple Siblings	Regular Camp Rate- 1 st Child Reduced Camp Rate – 1 st Child 2 nd child 3 rd child 4 th child 5 th and more	\$285.00 \$165.00 \$10.00 off \$20.00 off \$30.00 off Free	Remove Summer Camp Sliding Fee Regular Fee: \$325.00 Reduced Fee:- \$195.00
Intersession (All Day)	1 day per month 2 or more days per month - 3 days in a week 4-5 days in a week Non-participant fee	Free \$10.00 per day \$35.00 per week	No Charge \$10.00 per day New item - \$15.00 per day
Community Center Rentals (if available) All usage fees for recreation centers must be paid in advance along with a \$200.00 refundable security deposit before the event can be placed on calendar.	All centers (1-3 hours) Additional fee per hour Refundable Security Fee Cleanup Fee Small – Up to 3 hours (Booker T. Washington, Broomfield, Dale, Gloria Potts, Port Royal, Scott) Additional fee per hour Large – Up to 3 hours (Burton Wells, Bluffton, Charles Lind Brown) Additional fee per hour Non Profits - 1 Week (If Space Available) Non Profits - 2 Weeks (If Space Available)	\$75.00 \$250.00 -\$10.00 \$750.00 \$1,000.00	\$150.00 \$50.00 (200.00) New item - \$50.00 (Additional cleaning fees may apply if left in poor condition.) New Item New Item
Community Room Rentals – For profit Revenue based classes or meetings All usage fees for community room rentals must be paid in advance along with a \$50.00 refundable security deposit before the event can be placed on calendar. There will not be a rental charge for community rooms during regular business hours for non-profit groups.	Small Rooms Per day (1-3 hours) Large Rooms Per day (1-3 hours) Additional fee per hour Refundable Security Deposit Small, up to 3 hours Large, up to 3 hours Additional fee per hour	\$30.00 \$75.00 \$10.00	Small rooms: \$75.00 Large rooms: \$100.00 \$20.00 (\$50.00)
Parks, Facilities and Gym for Special Events Special Events – Such as large events of 100+ people, festivals, athletic tournaments, events that charge entrance fee, sell items.	Fee for one day Additional day(s) Additional Security Deposit Special Events Cleaning Fee per day Lessee must provide copy of permits	\$500.00 \$100.00 \$500.00 \$150.00	No Change No Change No Change Added
Chairs	Additional chairs needed for site rental	\$1.00	Remove line item
Tables	Additional tables	\$5.00	Remove line item

LATE FEES ARE \$25.00 FOR ATHLETICS, AFTER SCHOOL, & INTERSESSION

2012 /

AN ORDINANCE OF THE COUNTY OF BEAUFORT, SOUTH CAROLINA, TO AMEND THE BEAUFORT COUNTY ZONING AND DEVELOPMENT STANDARDS ORDINANCE (ZDSO), APPENDIX S. DAUFUSKIE ISLAND CODE, SECTION 3.8 (SECTION 3-CONSERVATION TRANSECT ZONE); SECTION 3.8.1 NON-CONFORMING USES (SECTION 3-CONSERVATION TRANSECT ZONE; TABLE 1.1 (SECTION 1-PROCEDURES) (THAT ADDS ADDITIONAL REQUIREMENTS IN THE APPROVAL AND PERMITTING PROCESS).

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

Adopted this _____ day of _____, 2012.

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:
Second Reading:
Public Hearing:
Third and Final Reading:

(Amending 99/12)

Summary: Request 1

The applicant is requesting that *Solid Waste Gathering, Transfer, and Recycling Facility (CIVIL SUPPORT USES)* and *Waste Transfer (AGRICULTURAL & INDUSTRIAL USES)* shall require a Special Use Permit in the D2 Rural Zone on Daufuskie Island. These uses are not allowed in the County’s other Community Preservation (CP) Districts. Prior to the February 14th adoption of the Daufuskie Island Code (ZDSO Appendix S), Daufuskie Island was zoned as a CP District (with Interim CP Standards). See attached documentation provided by the applicant.

Table 3.8 Specific Uses

Permitted Uses	Specific Uses	
	D1	D2
CIVIL SUPPORT		
Solid Waste Gathering, Transfer, and Recycling Facility		+ <u>By Special Use Permit</u>
Other	By Special Use Permit – Historically Significant Buildings Only	By Special Use Permit
AGRICULTURAL & INDUSTRIAL		
Waste Transfer		+ <u>By Special Use Permit</u>
Other	By Special Use Permit – Historically Significant Buildings Only	By Special Use Permit

- A Use that is listed and demarcated with a + shall be permitted “By Right”.
- A Use that is listed, but is not demarcated with a + shall be prohibited, and shall not be eligible for consideration as a Special Use.
- A Use that is not listed (Other Use) shall be eligible for a Special Use Permit.

Summary: Request 2

The applicant is requesting to amend the text in the Daufuskie Island Code (ZDSO Appendix S) Sec. 3.8.1 (d) Non-conforming Uses to read “shall” apply rather than “may” apply. See attached documentation provided by the applicant.

3.8 USE 
3.8.1 Non-Conforming Use

- a. A previously conforming Use that – as a result of this code – no longer conforms to the Use Standards for the underlying zoning district shall be permitted to continue as is.
- b. A previously conforming Use that has been abandoned for less than one (1) full year, and as a result of this code, no longer conforms to the Use Standards for the underlying zoning district shall be permitted to operate as:
 1. ...the most recent former use.
 2. ...a permitted use.
 3. ...a permitted Special Use.
- c. A previously conforming Use that has been abandoned for one (1) full year or longer, and as a result of this code, no longer conforms to the Use Standards for the underlying zoning district shall be permitted to operate as:
 1. ...a permitted use.
 2. ...a permitted Special Use.
- d. An existing non-conforming Use that wishes to continue operations, but fails to conform to the Use Standards of this Appendix, may shall apply for a Special Use permit in order to become conforming.

Summary: Request 3

The applicant is requesting to Amend **Table 1.1** (Sec. 1.0 PROCEDURES) and any other associated sections to ensure that the approval and permitting process under the Daufuskie Island Code (ZDSO Appendix S) is in compliance with state and federal laws. See attached documentation provided by the applicant (See Table 1.1 on the following page).

Table 1.1 Approvals and Permitting Process

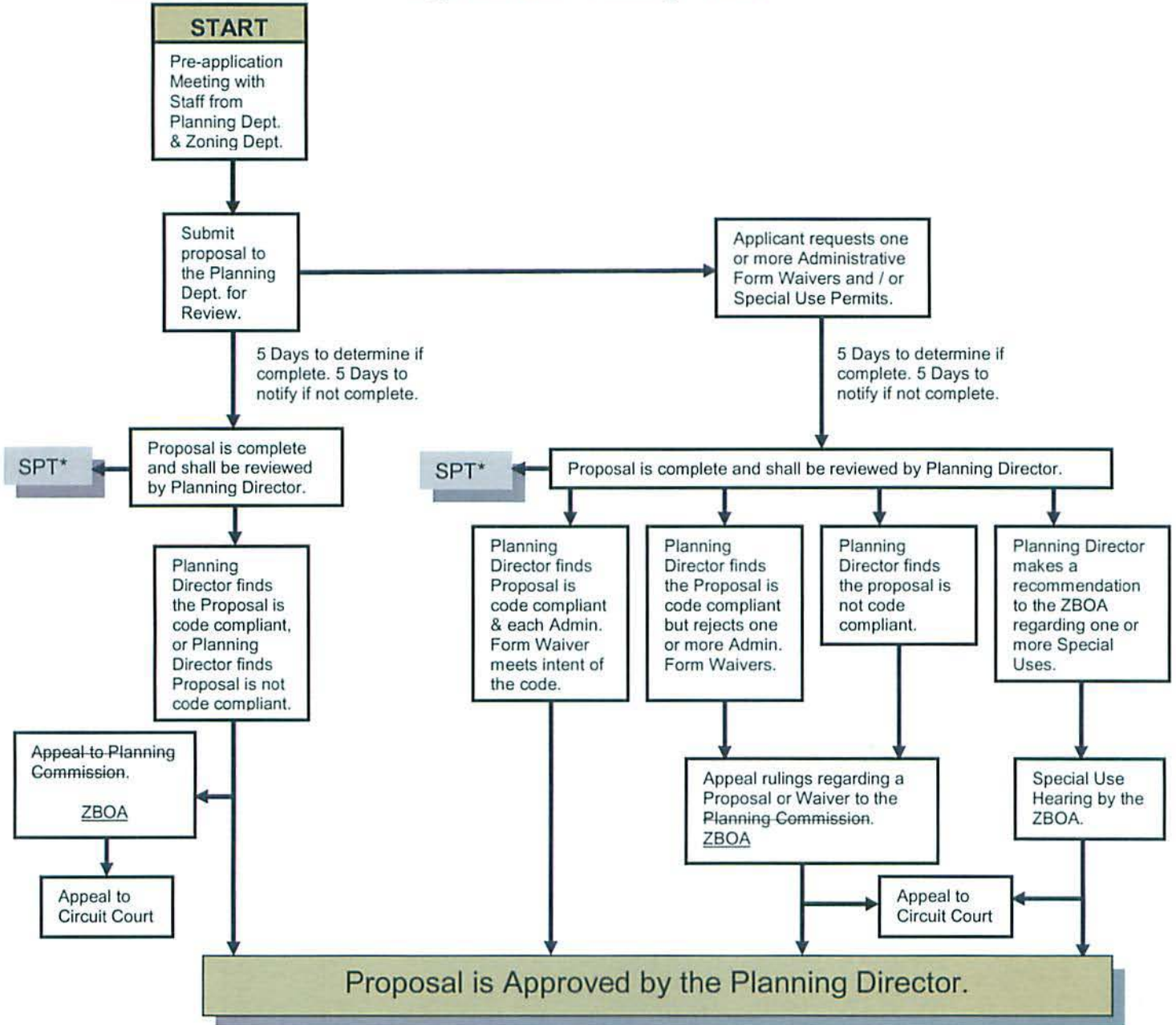


Diagram 1.1 is a general summary of the approvals and permitting process for this Appendix. However, there are additional areas where the procedures of this Appendix differ from those of the ZDSO. These are spelled out in the text, but not necessarily reflected in this Diagram.

* The Planning Director may call a meeting of the SPT in order to seek local input on a Proposal, Administrative Form Waiver, or Special Use Permit.



BEAUFORT COUNTY STORMWATER UTILITY
120 Shanklin Road
Beaufort, South Carolina 29906
Voice (843) 255-2801 Facsimile (843) 255-9478



TO: Councilman Paul Sommerville, Chairman, Natural Resources Committee

VIA: Gary Kubic, County Administrator
Bryan Hill, Deputy County Administrator
David Starkey, Chief Financial Officer
Rob McFee, P.E., Director of Engineering & Infrastructure
Robert Klink, P.E., County Engineer

FROM: Dan Ahern, P.E., Stormwater Manager

SUBJ: Water Quality Restoration Plan

DATE: December 20, 2011

BACKGROUND. The County adopted stormwater volume controls for new and redevelopment in October 2009. The County then developed stormwater volume controls for lots of record but not built in June of 2011. These controls complete the prevention measures needed to protect our water resources from future water use impairments according to our antidegradation goal of 10 percent equivalent impervious surface. There is now a need to focus our efforts on water quality retrofits to restore currently impaired waters.

PROPOSED WATER QUALITY RESTORATION PLAN. The attached action plan was developed to be the initial 5 year action plan. Restoring currently impaired waters will require considerable investment in public funds and needs to be scheduled within allowable fiscal constraints. In this light the Action Plan is the first of many 5 year plans that will address impaired waters on a watershed by watershed basis. It is proposed that unique partnerships and plans will be developed for each watershed with the goal of meeting all the designated water uses in that watershed. The Plan proposes to address two watersheds in the first 5 year plan. They will be Battery Creek and Okatie River.

The draft plan was presented to the Stormwater Utility Board in July and in final form at their December Board meeting. They passed the following resolution: "The Stormwater Utility Board approves the December 2011 Water Quality Restoration Plan and recommends that the Utility takes action to initiate implementation". Actions needed to restore watersheds will be funded with Stormwater Fees and any additional funding that can be obtained through grants. There are many variables in developing cost estimates and this will be an evolving plan. Completion of all proposed regional retrofits and funding of incentives within the watershed would cost an estimated \$5,600,000 over the five year program with most of the cost in FY 2014 and 2015. Consideration of a SW Fee increase may be necessary to complete within the 5 year timeframe. Funding program within the current rates would fund two of the four priority retrofits (one each in Battery Creek and Okatie River) and would cost \$2,400,000 over the 5 year program.

RECOMMENDATION.

Recommend that the Natural Resources Committee approve the Water Quality Restoration Plan and recommend approval to the County Council.

Attachments
December 2011 Water Quality Restoration Five Year Action Plan

Water Quality Restoration Five Year Action Plan

December 2011

Background:

Final prevention measures have been taken with adoption of on-lot controls for lots of record but not built. It is expected that these volume controls will prevent any new impairments of water uses. The 2006 Stormwater Management Plan recommended a level of effort to address water quality impairments from existing development that has not been achieved to date. There is now a need to focus our efforts on water quality retrofits to restore currently impaired waters. This focus will generally be taken on a watershed basis. The Town of Bluffton has taken the lead on the May River and this plan will first focus on two of the County's other impaired watersheds.

References:

1. 1994 – 2010 SC DHEC Shellfish Monitoring Station Data 1994-2010
2. 2006 Stormwater Management Plan
3. 2010 Okatie TMDL
4. 2010 SC DHEC 303 d list
5. 2011 Regional Stormwater Quality BMP Retrofit Project

Discussion:

The 2010 303d list has a total of 47 listed impairments in Beaufort County of which 28 are impairments to Shellfish Harvesting due to elevated Fecal Coliform levels. The other impairments are difficult to link to stormwater runoff with the possible exception of 5 copper violations.

The Stormwater Management Plan links impairments to runoff from areas that had been developed before adoption of water quality controls in 1998. The recent acknowledgement of the importance of stormwater runoff volume lead to a re-evaluation of the management plan's retrofit projects. This 2011 update identified 5 priority projects – 3 in Battery Creek and 2 in the Okatie River. These priority regional retrofits reflect the fact that SCDHEC has established a TMDL for the Okatie River and that the Battery Creek impairments appear to stem from localized sources that could be controlled by retrofit projects.

Restoring impaired watersheds is considered a public cost as opposed to private (regulatory) cost for new and redevelopment, which is expected to install protection as part of the development. Therefore impairments should be addressed on a comprehensive watershed basis with the following components considered:

1. Regional Retrofits in Watersheds
2. Incentives for voluntary upgrades (SW Fee reductions for voluntary volume reductions)

3. Multi-jurisdictional cost sharing
4. Public-private partnerships
5. Fee in lieu of options for new and redevelopment to help develop more cost effective public solutions

Plan: (Costs are total cost)

Year One – CY2012 – \$200,000

1. Set up County/Municipal Watershed Committees for Battery Creek and Okatie River to develop plans and project based IGAs
2. Jointly define and select technical support services
3. Develop proposed homeowner/commercial incentive program
4. Initiate pilot regional retrofits – Okatie East and Admin Center Parking Lot
5. Pilot a large ditch detention retrofit to see if feasible and beneficial

Year Two – CY2013 - \$1,200,000

1. Develop Watershed Plans
2. Finalize project specific IGAs on cost Sharing
3. Secure regional retrofit sites
4. Finalize potential Public/Private initiatives (e.g. Shopping center retrofit)
5. Finalize proposed incentive program and identifying revenue impact

Year Three – CY2014 - \$1,900,000

1. Possibly request for Stormwater Fee increase to fund restoration (could be linked to EOS expansion) and incentives
2. Implement two regional retrofits in watersheds
3. Implement targeted incentives

Year Four – CY 2015 - \$1,700,000

1. Implement final two regional priority retrofits

Year Five – CY 2016 - \$600,000

1. Monitor impacts of restoration program
2. Evaluate impacts of incentive program
3. If improvements documented, identify two other watersheds for targeted efforts

A RESOLUTION OUTLINING THE POLICY OF BEAUFORT COUNTY WITH REGARDS TO PUBLIC-PRIVATE VENTURES FOR USE ON PROPERTIES ACQUIRED THROUGH THE RURAL AND CRITICAL LAND PRESERVATION PROGRAM

WHEREAS, Beaufort County Council finds it is in the County's best interest to engage in Private-Public Ventures to utilize County-owned park lands acquired through the Rural & Critical Land Preservation Program, including ventures with both for profit and not for profit entities; and

WHEREAS, The public benefit derived from this policy will lead to the enjoyment of our passive park lands, and a better understanding of the environmental treasures that the parks represent to our citizens; and

WHEREAS, The County sees it as an opportunity to utilize the expertise and the willingness of private enterprise to put to productive use park lands currently under- utilized; and

WHEREAS, The Beaufort County Council wishes to find opportunities to utilize lands that represent unique environmental attributes that showcase the best qualities of our county's natural environment.

NOW, THEREFORE, BE IT RESOLVED by Beaufort County Council, that the following hereby shall outline Beaufort County's policy regarding public-private ventures for use on properties acquired through the Rural and Critical Land Preservation Program:

OBJECTIVES:

While some properties procured by Beaufort County through the Rural and Critical Lands Program should remain in their pristine condition or are unsuitable for use as parks, other properties can be utilized for limited public access and enjoyment. These limited access parks can be categorized as low impact passive parks. Only low impact passive parks should be candidates for the Private-Public Venture Policy.

STANDARDS:

The County Council should classify all the parks as to their best suitability for public access, and directs The Beaufort County Planning Department, the Rural & Critical Land Preservation Board, the program's consultant (Beaufort County Open Land Trust), and the Planning Commission to present a classification system to County Council for this task. The County Council further directs that the management and operations of the passive parks be of specific budgetary consideration (whether in the context of direct county operations or in Private-Public Ventures). The County Council also directs that a County department be identified for authorization to provide oversight and interaction regarding private-public ventures.

CRITERIA TO BE CONSIDERED FOR PRIVATE – PUBLIC VENTURES:

The County Council finds that the following may serve as a template to evaluate the appropriateness of engaging in a Private-Public Venture.

1. The entity offering its services under this arrangement shall articulate its vision of how it intends to utilize the park.
2. The entity shall explain how the proposed use of the park will enhance public enjoyment of the natural environment after development occurs.
3. A business model shall be presented to the County Council that outlines the revenues stream and how expenses will be covered. This shall be stated in context of what the business model is expected to achieve over the life of the contract.
4. The County staff will develop a park budget that outlines the county's financial responsibilities and the operational requirements for staffing and development.
5. The County procurement ordinance shall be followed in all cases where goods and services are acquired through a private-public venture.
6. Contractual language will include sufficient bonding and liability requirements to protect the County and, at the County's option, return the property to its best state at the termination of the contract.

Adopted this ____ day of _____, 2012.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Wm. Weston J. Newton, Chairman

ATTEST:

Suzanne M. Rainey, Clerk to Council

County Council of Beaufort County 2012 Meetings

Date	CAUCUS		REGULAR	
	Time	Location	Time	Location
January 9, 2012	4:00 p.m.	Executive Conference Room	5:00 p.m.	Council Chambers
January 23, 2012	4:00 p.m.	Executive Conference Room	5:00 p.m.	Council Chambers
February 13, 2012	4:00 p.m.	Executive Conference Room	5:00 p.m.	Council Chambers
February 27, 2012	4:00 p.m.	Hilton Head Island Library	5:00 p.m.	Hilton Head Island Library
March 12, 2012	4:00 p.m.	Executive Conference Room	5:00 p.m.	Council Chambers
March 26, 2012	4:00 p.m.	Executive Conference Room	5:00 p.m.	Council Chambers
April 9, 2012	4:00 p.m.	Executive Conference Room	5:00 p.m.	Council Chambers
April 23, 2012	4:00 p.m.	Executive Conference Room	5:00 p.m.	Council Chambers
May 7, 2012	4:00 p.m.	Executive Conference Room	5:00 p.m.	Council Chambers
May 21, 2012	4:00 p.m.	Hilton Head Island Library	5:00 p.m.	Hilton Head Island Library
June 11, 2012	4:00 p.m.	Executive Conference Room	5:00 p.m.	Council Chambers
June 25, 2012	4:00 p.m.	Executive Conference Room	5:00 p.m.	Council Chambers
July 23, 2012	4:00 p.m.	Executive Conference Room	5:00 p.m.	Council Chambers
August 13, 2012	4:00 p.m.	Executive Conference Room	5:00 p.m.	Council Chambers
August 27, 2012	4:00 p.m.	Executive Conference Room	5:00 p.m.	Council Chambers
September 10, 2012	4:00 p.m.	Hilton Head Island Library	5:00 p.m.	Hilton Head Island Library
September 24, 2012	4:00 p.m.	Executive Conference Room	5:00 p.m.	Council Chambers
October 8, 2012	4:00 p.m.	Executive Conference Room	5:00 p.m.	Council Chambers
October 22, 2012	4:00 p.m.	Hilton Head Island Library	5:00 p.m.	Hilton Head Island Library
November 5, 2012	4:00 p.m.	Executive Conference Room	5:00 p.m.	Council Chambers
November 26, 2012	4:00 p.m.	Executive Conference Room	5:00 p.m.	Council Chambers
December 10, 2012	4:00 p.m.	Executive Conference Room	5:00 p.m.	Council Chambers

Executive Conference Room/Council Chambers, Administration Building, Government Center, 100 Ribaut Road, Beaufort.
Hilton Head Island Library, 11 Beach City Road, Hilton Head Island.

Adopted:

Adopted:

100 Ribaut Road, Beaufort
11 Beach City Road, Hilton Head Island



COUNTY COUNCIL OF BEAUFORT COUNTY

BUSINESS LICENSE DEPARTMENT

PO DRAWER 1228, BEAUFORT, SC 29901-1228

OFFICE (843) 255-2270 FAX (843) 255-9411

www.bcgov.net

TO: Sue Rainey, Clerk to County Council

FROM: Edra Stephens, Director

DATE: January 3, 2012

SUBJECT: Hawkers and Peddlers Licenses Report

Listed below are the fees collected from the sale of hawkers and peddlers license for calendar year 2011.

During the calendar year 2011, we issued 10 hawkers and peddlers licenses @ \$75.00. The fees collected totaled \$750.00. The current fee schedule is as follows:

County Resident	\$	75.00
State Resident	\$	500.00
Out of State	\$	1,000.00

The following vendors are exempt from the licensing requirement: vendors of newspapers, magazines, vegetables, tobacco, and all agricultural products.

Committee Reports

January 9, 2012

A. COMMITTEES REPORTING

1. Community Services

- ① Minutes are provided from the [December 19](#) meeting. Action is required.
See main agenda items 9B, 9C and 9D.

2. Finance

- ① Minutes are provided from the [December 12](#) meeting. Action is required. See main agenda item 9A.

3. Governmental

- ① Minutes from the January 4 meeting provided January 23. No action is required.

4. Natural Resources

- ① Minutes from the January 4 meeting provided January 23.
Action is required. See main agenda items 9E, 9F and 9G.
② Zoning Board of Appeals

<i>Nominated</i>	<i>Name</i>	<i>Position / Area / Expertise</i>	<i>Reappoint / Appoint</i>	<i>Votes Required</i>
12.12.11	Gregory Baisch	Beaufort / Port Royal	Appoint	6 of 11

B. COMMITTEE MEETINGS

1. Community Services

William McBride, Chairman

Gerald Dawson, Vice Chairman

➔ Next Meeting – Tuesday, January 17 at 4:00 p.m., BIV#2

2. Executive

Weston Newton, Chairman

➔ Next Meeting – January 2012

3. Finance

Stu Rodman, Chairman

Rick Caporale, Vice Chairman

➔ Next Meeting – Tuesday, January 17 at 2:00 p.m., BIV #2

4. Governmental

Jerry Stewart, Chairman

Laura Von Harten, Vice Chairman

➔ Next Meeting – Monday, February 6 at 4:00 p.m., ECR

5. Natural Resources

Paul Sommerville, Chairman

Brian Flewelling, Vice Chairman

➔ Next Meeting – Monday, February 6 at 2:00 p.m., ECR

6. Public Facilities

Herbert Glaze, Chairman

Steven Baer, Vice Chairman

➔ Next Meeting – Tuesday, January 24 at 4:30 p.m., ECR

7. Redistricting

Weston Newton, Chairman

William McBride, Vice Chairman

8. Transportation Advisory Group

Weston Newton, Chairman

Stu Rodman, Vice Chairman

➔ Next Meeting – Wednesday, January 18 at 3:00 p.m., CC

COMMUNITY SERVICES COMMITTEE

December 19, 2011

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

The Community Services Committee met on Monday, December 19, 2011 at 3:00 p.m., in the Executive Conference Room, Administration Building, Beaufort, South Carolina.

ATTENDANCE

Community Services Committee Members: Chairman William McBride, Vice Chairman Gerald Dawson and members Rick Caporale, Herbert Glaze Paul Sommerville, and Laura Von Harten. Member Steven Baer was absent. Non-Committee member Brian Flewelling was also present.

County staff: Morris Campbell, Division Director – Community Services; David Starkey, Chief Financial Officer; Fred Leyda, Human Services Alliance; Joe Penale, Parks and Leisure Services Department; and Wlodek Zaryczny, Library Director.

Public: Joe Croley, Hilton Head Island Association of Realtors; Edna Cruz, Coastal Community Foundation; Natalie Daise, Collaborative Organization of Services for Youth (COSY); Tom Ertter, Parks and Leisure Services Board member; Dave Homyk, Vice President of Human Resources, Beaufort Memorial Hospital; Mark Senn, Senior Director of LifeFit Wellness Services; Gerald Schulze, Beaufort Memorial Hospital Board member; Kimberly Yawn, Manager of LifeFit Wellness Center; Cindy Coburn-Smith, Coordinator of LifeFit Community Health; George Stevens, Coastal Community Foundation; David Tedder, Secretary/Treasurer, Beaufort Memorial Hospital Board; Rick Toomey, Beaufort Memorial Hospital Chief Executive Officer.

Media: Kyle Petterson, *Island Packet/Beaufort Gazette*.

Councilman McBride chaired the meeting.

ACTION ITEMS

1. Proposal to Adjust Parks and Leisure Services Fees

Notification: To view video of full discussion of this meeting please visit http://beaufort.granicus.com/ViewPublisher.php?view_id=2

Discussion: Mr. Morris Campbell, Division Director of Community Services, introduced Mr. Tom Ertter, member of the Parks and Leisure Services Board, who presented the Committee a proposed fee structure. Due to increased participation and with the proposed fee increase, he

anticipates an additional \$250,000 annually. This new fee structure, if approved, would go into effect immediately following approval.

Motion: It was moved by Ms. Von Harten, seconded by Mr. Sommerville, that the Community Services Committee recommends Council adopt a resolution approving the proposed fee structure for Parks and Leisure Services Department. The vote was: FOR – Mr. Caporale, Mr. Dawson, Mr. Glaze, Mr. McBride, Mr. Sommerville and Ms. Von Harten. ABSENT – Mr. Baer. The motion passed.

Recommendation: Council adopt a resolution approving the proposed fee structure for Parks and Leisure Services Department.

2. Proposal to Establish an Amnesty Month for Return of Library Material

Notification: To view video of full discussion of this meeting please visit http://beaufort.granicus.com/ViewPublisher.php?view_id=2

Discussion: Mr. Wlodek Zaryczny, Library Director, presented the Committee a PowerPoint presentation regarding the proposed amnesty period for overdue fines, fees and library materials.

Motion: It was moved by Mr. Dawson, seconded by Mr. Caporale, that the Community Services Committee recommends Council approve the establishment of an Amnesty Month for Return of Library Material. The vote was: FOR – Mr. Caporale, Mr. Dawson, Mr. Glaze, Mr. McBride, Mr. Sommerville and Ms. Von Harten. ABSENT – Mr. Baer. The motion passed.

Recommendation: Council approve the establishment of an Amnesty Month for Return of Library Material.

3. Proposal to Establish a Collaborative Organization of Services for Youth (COSY) Trust Fund.

Notification: To view video of full discussion of this meeting please visit http://beaufort.granicus.com/ViewPublisher.php?view_id=2

Discussion: Mr. Fred Leyda, Human Services Alliance Director, presented the Committee a PowerPoint presentation regarding moving forward with the establishment of a panel of community members to oversee the management of a Collaborative Organization of Services for Youth (COSY) Trust Account.

Motion: It was moved by Mr. Dawson, seconded by Mr. Caporale, that the Community Services Committee recommends Council approve the establishment of a panel to oversee the management of Collaborative Organization of Services for Youth (COSY) Trust Account. The vote was: FOR – Mr. Caporale, Mr. Dawson, Mr. Glaze, Mr. McBride, Mr. Sommerville and Ms. Von Harten. ABSENT – Mr. Baer. The motion passed.

Recommendation: Council approve the establishment of a Collaborative organization of Services to oversee the management of the Collaborative Organization of Services for Youth (COSY) Trust Account.

INFORMATION ITEMS

4. Presentation – Beaufort Memorial Hospital Outreach Program

Notification: To view video of full discussion of this meeting please visit http://beaufort.granicus.com/ViewPublisher.php?view_id=2

Discussion: Mr. David Schulze, Chairman of the Beaufort Memorial Hospital Board introduced Mark Senn, Senior Director of LifeFit Wellness Services; and Cindy Coburn-Smith, Coordinator of LifeFit Community Health, who provided the Committee with a PowerPoint presentation on the Hospital's outreach services and several projects they have underway.

Status: No action was required. This item was for informational purposes only.

5. Consideration of Reappointments and Appointments

- a. Library Board**
- b. Parks and Leisure Services Board**
- c. Children's Foster Care Review Board**

Notification: To view video of full discussion of this meeting please visit http://beaufort.granicus.com/ViewPublisher.php?view_id=2

Status: This item was postponed until January 2012.

FINANCE COMMITTEE

December 12, 2011

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

The Finance Committee met on Monday, December 12, 2011 at 2:30 p.m., in the Executive Conference Room, Administration Building, 100 Ribaut Road, Beaufort.

ATTENDANCE

Finance Committee Members: Chairman Stu Rodman, Vice Chairman Rick Caporale, and members Brian Flewelling, William McBride, Paul Sommerville and Jerry Stewart were present. Member Steven Baer was absent. Non-Committee members Gerald Dawson and Herbert Glazer were also present.

County staff: Lt. Renita Barry, Sheriff's Office; Morris Campbell, Division Director – Community Services; Todd Ferguson, Director, Emergency Management; Joshua Gruber, Staff Attorney; Bryan Hill, Deputy County Administrator; David Starkey, Chief Financial Officer; Dave Thomas, Purchasing Director; David Zeoli, Deputy Director, Emergency Management; Curtis Young, Systems Administrator; Suzanne Cook, Financial Officer, Sheriff's Office.

Public: Jeffrey Holshouser, Regional Account Manager, Cassidian Communications.

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

Councilman Rodman chaired the meeting.

ACTION ITEMS

- 1. An Ordinance to Amend and Clarify Beaufort County Ordinance No. 2005/9 and as Subsequently Amended with Regards to the Definition of Establishments Under the Beaufort County Local Hospitality Tax**

Notification: To view video of full discussion of this meeting please visit http://beaufort.granicus.com/ViewPublisher.php?view_id=2

Discussion: Committee Chairman Stu Rodman reviewed this ordinance amendment with the Committee. It is a minor wording change in the second page of the ordinance. Staff Attorney Joshua Gruber went into more details regarding the amendment. He stated this amendment is categorized as a “housekeeping” matter that needs to be cleared up. The change ultimately is to provide better clarification.

Motion: It was moved by Mr. McBride, seconded by Mr. Sommerville, that the Finance Committee recommends Council approve on first reading an ordinance to amend and clarify Beaufort County Ordinance No. 2005/9 and as subsequently amended with regards to the definition of establishments under the Beaufort County Local Hospitality Tax. The vote was: FOR – Mr. Caporale, Mr. Flewelling, Mr. McBride, Mr. Rodman, Mr. Sommerville and Mr. Stewart. Absent – Mr. Baer. The motion passed.

Recommendation: Council approve on first reading ordinance to amend and clarify Beaufort County Ordinance No. 2005/9 and as subsequently amended with regards to the definition of establishments under the Beaufort County Local Hospitality Tax.

2. Request for Sole Source Purchase of One Gas Chromatograph Mass Spectrometer System for the Beaufort County Sheriff's Office

Notification: To view video of full discussion of this meeting please visit http://beaufort.granicus.com/ViewPublisher.php?view_id=2

Discussion: Mr. Dave Thomas, Purchasing Director, reviewed with the Committee the request for sole source purchases. What is being requested is approval to purchase a Gas Chromatograph Mass Spectrometer System for the Beaufort County Sheriff's Office. Lieutenant Barry with the Sheriff's Office presented the Committee a PowerPoint presentation showing the need for the Gas Chromatograph Mass Spectrometer System and funding details.

Motion: It was moved by Mr. Flewelling, seconded by Mr. Caporale, that the Finance Committee recommend Council approve the sole source purchase of one gas chromatograph mass spectrometer system in the amount of \$107,596.95 from Agilent Technologies. Funding will come from the Federal Justice Assistance Grant (JAG) 1G11027 in the amount of \$85,000, with the remaining \$22,096.95 to be funded through the existing DNA Department's FY 2012 General Fund Budget. The vote was: FOR – Mr. Caporale, Mr. Flewelling, Mr. McBride, Mr. Rodman, and Mr. Stewart. ABSENT – Mr. Baer. RECUSAL - Mr. Sommerville (recused himself from the vote and discussions due to stock ownership). The motion passed.

Recommendation: Council approve the sole source purchase of one Gas Chromatograph Mass Spectrometer System in the amount of \$107,596.95 from Agilent Technologies. Funding will come from the Federal Justice Assistance Grant (JAG) 1G11027 in the amount of \$85,000, with the remaining \$22,096.95 to be funded through the existing DNA Department's FY 2012 General Fund Budget.

3. Daufuskie Island Ferry Service Contract Extension

Notification: To view video of full discussion of this meeting please visit http://beaufort.granicus.com/ViewPublisher.php?view_id=2

Discussion: Mr. Morris Campbell, Division Director – Community Services, reviewed this item with the Committee.

J & W of Greenwood is currently our only public ferry service provider for the residents of Daufuskie Island. J & W is offering to continue to provide the service if Beaufort County will agree to a 6% increase to the current subsidies in order to supplement the increase in diesel fuel costs and to provide a cost of living increase to its employees. The price for a one way ticket per passenger to and from the Freeport Marina-Daufuskie Island and the Broad Creek Marina-Hilton Head Island is \$13.50. County officials and employees may ride for \$10.00 one way. Parking is available, but it will be the Daufuskie Island resident/property owner's responsibility to secure parking from J & W of Greenwood. Additionally, J & W will continue to provide ferry services during emergencies as noted in the contract. J & W of Greenwood is requesting the following 6% increases to total \$3,897:

- From December 15, 2011 through February 29, 2012, the vendor requests a change to the daily subsidy from \$500 to \$530. There will be 66 days of service during this period, which will total \$34,980. The increased amounts total \$1,980.
- From March 1, 2012 through May 31, 2012, the vendor requests a change to the daily subsidy from \$300 to \$318. The requested subsidy for Saturday is \$530. There will be 66 weekdays of service during this period which total \$20,988. The total increase for the weekdays is \$1,188. There are 13 Saturdays at \$530 per day, which total \$6,890. The total increase for the 13 Saturdays is \$390.
- From June 1, 2012 through June 30, 2012, the vendor requests to change the daily subsidy from \$150 to \$159 for weekdays. There are 21 weekdays during this period and 5 Saturdays. Saturdays will be charged a subsidy of \$530. The total increase amounts to \$189 for the 21 weekdays and \$150 for the 5 Saturdays.

Motion: It was moved by Mr. McBride, seconded by Mr. Sommerville, that the Finance Committee recommends Council approve the contract renewal for a total contract price of \$198,500 to J & W of Greenwood for a term beginning December 15, 2011 and ending June 30, 2012, with the option to renew for another year beginning July 1, 2012 and ending June 30, 2013. The vote was: FOR – Mr. Caporale, Mr. Flewelling, Mr. McBride, Mr. Rodman, Mr. Sommerville and Mr. Stewart. Absent – Mr. Baer. The motion passed.

Recommendation: Council approve the contract renewal for a total contract price of \$198,500 to J & W of Greenwood for a term beginning December 15, 2011 and ending June 30, 2012, with the option to renew for another year beginning July 1, 2012 and ending June 30, 2013.

4. Off Agenda Item – Patriot System

Notification: To view video of full discussion of this meeting please visit http://beaufort.granicus.com/ViewPublisher.php?view_id=2

Discussion: Deputy Administrator Bryan Hill brought this item forth as an off agenda item and introduced Emergency Management Director Todd Ferguson who presented the Committee a PowerPoint presentation which overviewed the current call handling system and the benefits of the proposed system.

Motion: It was moved by Mr. Stewart, seconded by Mr. Flewelling, that the Finance Committee approves and recommends Council award a three-year contract to Savannah Communications totaling \$1,372,740 which is a turn-key price covering installation, removal of old equipment, software, maintenance and warranty of a new call handling system. This is to be funded with account #23205-54142, E911 Regional Fund. The vote was: FOR – Mr. Caporale, Mr. Flewelling, Mr. McBride, Mr. Rodman, Mr. Sommerville and Mr. Stewart. Absent – Mr. Baer. The motion passed.

Recommendation: Council award a three-year contract to Savannah Communications totaling \$1,372,740, which is a turn-key price covering installation, removal of old equipment, software, maintenance and warranty of a new call handling system. This is to be funded with account #23205-54142, E911 Regional Fund.

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