

**ADD-ONS**

**ADD-ONS**



## **County Council Meeting Beaufort County, SC**

This meeting will be held in person at the County Council Chambers, 100 Ribaut Road, Beaufort, and virtually through Zoom.

**Monday, August 08, 2022  
6:00 PM**

### **AGENDA**

#### **COUNCIL MEMBERS:**

**JOSEPH F. PASSIMENT, CHAIRMAN  
LOGAN CUNNINGHAM  
BRIAN FLEWELLING  
CHRIS HERVOCHON  
MARK LAWSON  
STU RODMAN**

**D. PAUL SOMMERVILLE, VICE-CHAIR  
GERALD DAWSON  
YORK GLOVER  
ALICE HOWARD  
LAWRENCE MCELYNN**

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE AND INVOCATION- Council Member Mark Lawson
3. PUBLIC NOTIFICATION OF THIS MEETING HAS BEEN PUBLISHED, POSTED, AND DISTRIBUTED IN COMPLIANCE WITH THE SOUTH CAROLINA FREEDOM OF INFORMATION ACT
4. APPROVAL OF AGENDA
5. APPROVAL OF MINUTES- May 9, 2022, May 23, 2022, June 13, 2022, June 27, 2022 and July 11, 2022
6. ADMINISTRATOR'S REPORT

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#### **CITIZEN COMMENTS**

7. **CITIZEN COMMENTS - (ANYONE who wishes to speak during the Citizen Comment portion of the meeting will limit their comments to no longer than three (3) minutes ( a total of 15 minutes ) and will address Council in a respectful manner appropriate to the decorum of the meeting, refraining from the use of profane, abusive, or obscene language)**

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#### **COMMITTEE REPORTS**

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8. LIASION AND COMMITTEE REPORTS

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**PUBLIC HEARINGS AND ACTION ITEMS**

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9. PUBLIC HEARING AND THIRD READING OF AN ORDINANCE FOR A 2022 COUNTY GREEN SPACE SALES TAX REFERENDUM

*Vote at First Reading by Title Only on June 27, 2022: 11/0*

*Vote at Second Reading on July 11, 2022: 8/2*

10. PUBLIC HEARING AND THIRD READING OF AN ORDINANCE TO APPROPRIATE FUNDS IN ORDER TO ESTABLISH PUBLIC OWNERSHIP OF THE REAL PROPERTY WITH TMS NO. R552 010 000 0648 0000 AND R552 010 000 0649 0000, LOCATED ON HELMSMAN WAY, HILTON HEAD ISLAND - *FISCAL IMPACT: Funds from use of General Fund – Fund balance account. Funding not to exceed \$3,400,000 plus closing costs and legal fees*

*Vote at First Reading on June 27, 2022: 7/4*

*Vote at Second Reading on July 11, 2022: 8/2*

11. SECOND READING OF AN ORDINANCE TO APPROPRIATE FUNDS IN ORDER TO ESTABLISH PUBLIC OWNERSHIP OF THE REAL PROPERTY WITH TMS NO. R800 021 000 006C 0000 AND R800 021 000 006B 0000 COLLECTIVELY COMMONLY KNOWN AS MELROSE LANDING. *FISCAL IMPACT: Funds from use of General Fund – Fund balance account. Funding not to exceed \$800,000 plus closing costs and legal fees*

*Vote at First Reading by Title Only on June 27, 2022: 7/4*

*Vote at Second Reading- postpone Second Reading until August 8, 2022: 10/1*

*Public Hearing and Third Reading on September 12, 2022*

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**CITIZEN COMMENTS**

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**12. CITIZEN COMMENTS - (ANYONE who wishes to speak during the Citizen Comment portion of the meeting will limit their comments to no longer than three (3) minutes ( a total of 15 minutes ) and will address Council in a respectful manner appropriate to the decorum of the meeting, refraining from the use of profane, abusive, or obscene language)**

**13. ADJOURNMENT**

**TO WATCH COMMITTEE OR COUNTY COUNCIL MEETINGS OR FOR A COMPLETE LIST OF AGENDAS AND BACKUP PACKAGES, PLEASE VISIT:**

<https://beaufortcountysc.gov/council/council-committee-meetings/index.html>



## Caucus Beaufort County, SC

This meeting was held in person at the County Council Chambers, 100 Ribaut Road, Beaufort, and virtually through Zoom.

**Monday, May 09, 2022  
5:00 PM**

### MINUTES

*Please watch the video stream available on the County's website to hear the Council's entire discussion of a specific topic or the complete meeting. <https://beaufortcountysc.new.swagit.com/videos/171354>*

#### 1. CALL TO ORDER

Chairman Passiment called the meeting to order at 5:00 PM.

#### PRESENT

Chairman Joseph F. Passiment  
 Vice Chairman D. Paul Sommerville  
 Council Member Logan Cunningham  
 Council Member Gerald Dawson  
 Council Member Brian Flewelling  
 Council Member York Glover  
 Council Member Chris Hervocho (arrived late)  
 Council Member Alice Howard  
 Council Member Mark Lawson  
 Council Member Lawrence McElynn  
 Council Member Stu Rodman

#### 2. PLEDGE OF ALLEGIANCE

Council Member McElynn led the Pledge of Allegiance.

#### 3. FOIA

Chairman Passiment noted that the Public Notification of this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act.

#### 4. APPROVAL OF THE AGENDA

**Motion:** It was moved by Council Member Rodman, Seconded by Council Member Cunningham to approve the agenda.

**The Vote** - the motion was approved without objection.

#### 5. AGENDA REVIEW

Council Member Glover requested that item number 17 on the Council agenda, approval of a resolution to name the Lind Brown Recreation Center outdoor pool in honor of Mr. Alvin Settles, be moved to item number 10 because Mrs. Settles will be present.

Council Member McElynn discussed his presentation of a Proclamation recognizing Emergency Medical Services Week and highlighted National Fentanyl Awareness Day.

**6. COUNCIL MEMBER DISCUSSION**

To see the full Council Member discussion, please watch the video stream available on the County website. <https://beaufortcountysc.new.swagit.com/videos/171354?ts=332>

**7. ADJOURNMENT**

Adjournment: 5:25 PM

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: \_\_\_\_\_  
Joseph F. Passiment, Jr., Chairman

ATTEST:

\_\_\_\_\_  
Sarah W. Brock, Clerk to Council  
Ratified:



## County Council Meeting Beaufort County, SC

This meeting was held in person at the County Council Chambers, 100 Ribaut Road, Beaufort, and virtually through Zoom.

Monday, May 09, 2022  
6:00 PM

### MINUTES

*Please watch the video stream available on the County's website to hear the Council's entire discussion of a specific topic or the complete meeting. <https://beaufortcountysc.new.swagit.com/videos/171382>*

#### 1. CALL TO ORDER

Chairman Passiment called the meeting to order at 6:00 PM.

#### PRESENT

Chairman Joseph F. Passiment  
Vice Chairman D. Paul Sommerville  
Council Member Logan Cunningham  
Council Member Gerald Dawson  
Council Member Brian Flewelling  
Council Member York Glover  
Council Member Chris Hervocho  
Council Member Alice Howard  
Council Member Mark Lawson  
Council Member Lawrence McElynn  
Council Member Stu Rodman

#### 2. PLEDGE OF ALLEGIANCE AND INVOCATION

Council Member McElynn led the Pledge of Allegiance and Invocation.

#### 3. FOIA

Chairman Passiment stated that this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act.

#### 4. APPROVAL OF AGENDA

**Motion to Amend:** It was moved by Council Member Glover, Seconded by Council Member Dawson, to move item number 17 to item number 10.

**The Vote** - The motion was approved without objection.

**Motion:** It was moved by Council Member Dawson, Seconded by Council Member Cunningham, to approve the agenda as amended.

**The Vote** - The motion was approved without objection.

**5. APPROVAL OF MINUTES**

**Motion:** It was moved by Council Member Rodman, Seconded by Council Member Howard, to approve the minutes from March 28, 2022.

**The Vote** - The motion was approved without objection.

**6. ADMINISTRATOR'S REPORT**

To see the Administrator's full report, please watch the video stream available on the County's website.

**7. PRESENTATION OF A PROCLAMATION RECOGNIZING MAY 15TH - MAY 21ST AS EMERGENCY MEDICAL SERVICES WEEK**

Council Member McElynn presented the Proclamation recognizing May 15th - May 21st as Emergency Medical Services Week.

- National Fentanyl Awareness Day, Tuesday, May 10th.

**8. PRESENTATION OF A PROCLAMATION RECOGNIZING MR. ROLAND GARDNER FOR HIS SERVICE TO BEAUFORT, JASPER, HAMPTON COMPREHENSIVE HEALTH SERVICES**

Chairman Passiment presented the Proclamation recognizing Mr. Roland Gardener for his service to Beaufort, Jasper, and Hampton Comprehensive Health Services.

**9. CITIZEN COMMENTS**

Inez Miller

Anita Prather

J. Edward Allen

Mitch Mitchell

**10. LIASION AND COMMITTEE REPORTS**

To see the full Liaison and Committee Reports, please watch the video stream available on the County's website.

<https://beaufortcountysc.new.swagit.com/videos/171382?ts=2557>

- Hunting Island State Park Presentation online for viewing: Community Services and Public Safety Committee

- Sands Boat Landing will remain open: Natural Resources Committee

- One penny transportation referendum: Public Facilities Committee

- Sheriff's office presentation: Finance Committee

**11. APPROVAL OF A RESOLUTION TO NAME THE LIND BROWN RECREATION CENTER OUTDOOR POOL IN HONOR OF MR. ALVIN SETTLES**

**Item was moved to # 10**

**Motion:** It was moved by Council Member McElynn, Seconded by Council Member Dawson, to approve a resolution to name the Lind Brown Recreation Center outdoor pool in honor of Mr. Alvin Settles.

**The Vote** - The motion was approved without objection.

**12. APPROVAL OF CONSENT AGENDA**

**Motion:** It was moved by Council Member Rodman, Seconded by Council Member Howard to approve the consent agenda.

**The Vote** - The motion was approved without objection.

**13. PUBLIC HEARING AND SECOND READING OF AN ORDINANCE TO ALLOCATE 2018 ONE CENT SALES TAX ADDITIONAL REVENUE TO THE SIDEWALKS AND MULTI-USE PATHWAYS PROGRAM (\$15,449,734.75)**

**Motion:** It was moved by Council Member Lawson, Seconded by Council Member Cunningham, to approve the public hearing and second reading of an Ordinance to allocate 2018 one-cent sales tax additional revenue to the sidewalks and multi-use pathways program.

The Chairman opened the floor for public comment.

No one came forward.

The Chairman closed the public comment.

**The Vote:** The motion was approved without objection.

**14. FIRST READING OF AN ORDINANCE FOR A TEXT AMENDMENT TO THE COMMUNITY DEVELOPMENT CODE (CDC): SECTIONS IN DIVISION 3.2 (TRANSECT ZONES) AND SECTIONS IN DIVISION 3.3 (CONVENTIONAL ZONES) TO CORRECT AND CLARIFY PARKING SPACE REQUIREMENT CONFLICTS BETWEEN ZONING DISTRICTS AND THE PARKING SPACE REQUIREMENTS TABLE IN SECTION 5.5.40.B.**

**Motion:** It was moved by Council Member Howard, Seconded by Council Member Rodman, to approve the first reading of an ordinance for a text amendment to the community development code (CDC): sections in division 3.2 (transect zones) and section in division 3.3 (conventional zones) to correct and clarify parking space requirement conflicts between zoning districts and the parking space requirements in section 5.5.40.B

**The Vote** - The motion was approved without objection.

**15. FIRST READING OF AN ORDINANCE FOR A TEXT AMENDMENT TO THE COMMUNITY DEVELOPMENT CODE (CDC): APPENDIX A.13.50.D (GUEST HOUSES) TO CLARIFY THE STANDARDS FOR MINIMUM LOT SIZE REQUIREMENTS FOR GUEST HOUSES LOCATED IN THE MAY RIVER COMMUNITY PRESERVATION DISTRICT**

**Motion:** It was moved by Council Member Howard, Seconded by Council Member Lawson, to approve the first reading of an ordinance for a text amendment to the community development code (CDC): appendix A.13.50.D (guest houses) to clarify the standards for minimum lot size requirements for guest houses located in the May River Community Preservation District

**The Vote** - The motion was approved without objection.

**16. FIRST READING OF AN ORDINANCE FOR A TEXT AMENDMENT TO THE COMMUNITY DEVELOPMENT CODE (CDC): SECTION 6.1.40.G (BASE SITE AREA CALCULATIONS) TO CLARIFY THAT BOTH JURISDICTIONAL AND NON-JURISDICTIONAL WETLANDS MUST BE SUBTRACTED FROM THE GROSS SITE AREA TO DETERMINE BASE SITE AREA FOR DEVELOPMENT**

**Motion:** It was moved by Council Member Howard, Seconded by Council Member Dawson, to approve the first reading of an ordinance for a text amendment to the community development code (CDC): section 6.1.40.G (base site area calculations) to clarify that both jurisdictional and non-jurisdictional wetlands must be subtracted from the gross site area to determine base site area for development

**The Vote** - The motion was approved without objection.

**17. FIRST READING OF AN ORDINANCE FOR A TEXT AMENDMENT TO THE COMMUNITY DEVELOPMENT CODE (CDC): SECTION 5.11.100.F.1 (TREE REMOVAL ON DEVELOPED PROPERTIES) TO CLOSE A LOOPHOLE WHICH ALLOWS SPECIMEN AND MITIGATION TREES TO BE REMOVED POST-CONSTRUCTION OF SINGLE-FAMILY HOMES**

**Motion:** It was moved by Council Member Howard, Seconded by Council Member Cunningham, to approve the first reading of an ordinance for a text amendment to the community development code (CDC): section 5.11.100.F.1 (tree removal on developed properties) to close a loophole which allows specimen and mitigation trees to be removed post-construction of single-family homes

**The Vote** - The motion was approved without objection.

**18. A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE THE NECESSARY DOCUMENTS AND FUND THE PURCHASE OF REAL PROPERTY CONSISTING OF APPROXIMATELY 2.1 ACRES OWNED BY THE TECHNICAL COLLEGE OF THE LOWCOUNTRY (FISCAL IMPACT: Purchase price is \$1,215,000 plus closing costs for all 5 properties)**

**Motion:** It was moved by Council Member Cunningham, Seconded by Council Member Howard, to approve a resolution authorizing the County Administrator to execute the necessary documents and fund the purchase of real property consisting of approximately 2.1 acres owned by the Technical College of the Lowcountry.

**The Vote** - Voting Yea: Chairman Passiment, Vice Chairman Sommerville, Council Member Cunningham, Council Member Dawson, Council Member Glover, Council Member Howard, Council Member Lawson, Council Member McElynn, and Council Member Rodman. Voting Nay: Council Member Flewelling and Council Member Hervochon. The motion was approved 9:2.

**19. CITIZEN COMMENTS**

**20. ADJOURNMENT**

Adjourned: 7:22 PM

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: \_\_\_\_\_  
Joseph F. Passiment, Jr., Chairman

ATTEST:

\_\_\_\_\_  
Sarah W. Brock, Clerk to Council  
Ratified:



## Caucus Beaufort County, SC

This meeting was held at Burton Wells Recreation Center, 1 Middleton Recreation Dr.,  
Beaufort, SC 29906

Monday, May 23, 2022  
5:00 PM

### MINUTES

*Please watch the video stream available on the County's website to hear the Council's entire discussion of a specific topic or the complete meeting. <https://beaufortcountysc.new.swagit.com/videos/174578>*

#### 1. CALL TO ORDER

Vice-Chairman Sommerville called the meeting to order at 5:00 PM.

#### PRESENT

Vice Chairman D. Paul Sommerville  
Council Member Logan Cunningham  
Council Member Gerald Dawson  
Council Member Brian Flewelling  
Council Member York Glover  
Council Member Chris Hervocho  
Council Member Alice Howard  
Council Member Mark Lawson  
Council Member Stu Rodman

#### ABSENT

Chairman Joseph F. Passiment  
Council Member Lawrence McElynn

#### 2. PLEDGE OF ALLEGIANCE

Council Member Rodman led the Pledge of Allegiance.

#### 3. FOIA

Vice-Chairman Sommerville noted that the Public Notification of this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act.

#### 4. APPROVAL OF THE AGENDA

**Motion:** It was moved by Council Member Flewelling, Seconded by Council Member Rodman to approve the agenda.

**The Vote** - The motion was approved without objection.

**5. AGENDA REVIEW**

**6. COUNCIL MEMBER DISCUSSION**

Please watch the video stream available on the County's website to view the full discussion.

<https://beaufortcountysc.new.swagit.com/videos/174578?ts=188>

Discussion on item number 19: Ordinance to allocate 2018 One Cent Sales Tax additional revenue to the sidewalk and multi-use pathways program.

Discussion on item number 18: Ordinance for 2022 Transportation Sales Tax Referendum.

Discussion on item number 20: Approval of a Resolution to Adopt all Recommendations regarding the implementation of the future programs as recommended by the transportation advisory committee (TAC).

**7. ADJOURNMENT**

Adjournment: 5:34 PM

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: \_\_\_\_\_  
Joseph F. Passiment, Jr., Chairman

ATTEST:

\_\_\_\_\_  
Sarah W. Brock, Clerk to Council

Ratified:



## County Council Meeting Beaufort County, SC

This meeting was held at Burton Wells Recreation Center, 1 Middleton Recreation Dr.,  
Beaufort, SC 29906

Monday, May 23, 2022  
6:00 PM

### MINUTES

*Please watch the video stream available on the County's website to hear the Council's entire discussion of a specific topic or the complete meeting. <https://beaufortcountysc.new.swagit.com/videos/174303>*

#### 1. CALL TO ORDER

Council Member Rodman called the meeting to order at 6:00 PM.

##### PRESENT

Vice Chairman D. Paul Sommerville  
Council Member Logan Cunningham  
Council Member Gerald Dawson  
Council Member Brian Flewelling  
Council Member York Glover  
Council Member Chris Hervocho  
Council Member Alice Howard  
Council Member Mark Lawson  
Council Member Stu Rodman

##### ABSENT

Chairman Joseph F. Passiment  
Council Member Lawrence McElynn

#### 2. PLEDGE OF ALLEGIANCE AND INVOCATION

Council Member Rodman led the Pledge of Allegiance and Invocation.

#### 3. FOIA

Council Member Rodman stated that this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act.

#### 4. APPROVAL OF AGENDA

Item number 20 moved to item number 18

**Motion:** It was moved by Council Member Howard, Seconded by Council Member Cunningham, to approve the agenda with item number 20 being moved to item number 18.

**The Vote** - The motion was approved without objection.

**5. APPROVAL OF MINUTES**

**Motion:** It was moved by Council Member Dawson, Seconded by Council Member Howard, to approve the minutes from April 11, 2022.

**The Vote** - The motion was approved without objection.

**6. ADMINISTRATOR'S REPORT**

Please watch the video stream available on the County's website to view the full report.

<https://beaufortcountysc.new.swagit.com/videos/174303?ts=217>

**7. PRESENTATION OF A PROCLAMATION RECOGNIZING CARLA ANDERSON SMITH**

Council Member Howard presented the Proclamation Recognizing Carla Anderson Smith.

**8. CITIZEN COMMENTS**

Riley Clark

Mike Gorrell

Mack Wiggins

Bernadette Hampton

Roy Green

Lauren Borasky

John Abney

**9. LIASION AND COMMITTEE REPORTS**

Please watch the video stream available on the County's website to view the full report.

<https://beaufortcountysc.new.swagit.com/videos/174303?ts=2445>

Council Member Howard: Stormwater Board

Council Member Rodman: Public Facilities consent agenda items

**10. APPROVAL OF CONSENT AGENDA**

**Motion:** It was moved by Council Member Glover, Seconded by Council Member Cunningham to approve the consent agenda.

**The Vote** - The motion was approved without objection.

**11. PUBLIC HEARING OF A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE THE NECESSARY DOCUMENTS AND FUND THE PURCHASE OF REAL PROPERTY CONSISTING OF APPROXIMATELY 2.1 ACRES OWNED BY THE TECHNICAL COLLEGE OF THE LOWCOUNTRY (*FISCAL IMPACT: Purchase price is \$1,215,000 plus closing costs for all 5 properties*)**

Please watch the video stream available on the County's website to view the full discussion and citizen comments.

<https://beaufortcountysc.new.swagit.com/videos/174303?ts=2565>

County Administrator Greenway provided background information on item number 11 and highlighted the Community Meeting to be held on June 2<sup>nd</sup> at 6:00 PM in Council Chambers.

Council Member Rodman opened the floor for public comment.

Robert Swartz

Brian Stephens

Matthew Hanks

Council Member Rodman closed the public comment.

**12. PUBLIC HEARING AND SECOND READING OF AN ORDINANCE FOR A TEXT AMENDMENT TO THE COMMUNITY DEVELOPMENT CODE (CDC): SECTIONS IN DIVISION 3.2 (TRANSECT ZONES) AND SECTIONS IN DIVISION 3.3 (CONVENTIONAL ZONES) TO CORRECT AND CLARIFY PARKING SPACE REQUIREMENT CONFLICTS BETWEEN ZONING DISTRICTS AND THE PARKING SPACE REQUIREMENTS TABLE IN SECTION 5.5.40.B.**

Please watch the video stream available on the County's website to view the full discussion and citizen comments.

<https://beaufortcountysc.new.swagit.com/videos/174303?ts=3646>

**Motion:** It was moved by Council Member Flewelling, Seconded by Council Member Hervochoch to approve the public hearing and second reading of an ordinance for a text amendment to the community development code (CDC): sections in division 3.2 (transect zones) to correct and clarify parking space requirement conflicts between zoning districts and the parking space requirements table in section 5.5.40 B.

Council Member Rodman opened the floor for public comment.

Council Member Howard read a letter from the Coastal Conservation League regarding items number 12, 13, 14, and 15. This letter has been included in the agenda as an "add-on" under number 14.

**The Vote** - The motion was approved without objection.

**13. PUBLIC HEARING AND SECOND READING OF AN ORDINANCE FOR A TEXT AMENDMENT TO THE COMMUNITY DEVELOPMENT CODE (CDC): APPENDIX A.13.50.D (GUEST HOUSES) TO CLARIFY THE STANDARDS FOR MINIMUM LOT SIZE REQUIREMENTS FOR GUEST HOUSES LOCATED IN THE MAY RIVER COMMUNITY PRESERVATION DISTRICT**

**Motion:** It was moved by Council Member Flewelling, Seconded by Council Member Hervochoch to approve the public hearing and second reading of an ordinance for a text amendment to the community development code (CDC): appendix A.13.50.D (guest houses) to clarify the standards for minimum lot size requirements for guest houses located in the May River Community Preservation District.

Council Member Rodman opened the floor for public comment.

No one came forward.

Council Member Rodman closed the public comment.

**The Vote** - The motion was approved without objection.

**14. PUBLIC HEARING AND SECOND READING OF AN ORDINANCE FOR A TEXT AMENDMENT TO THE COMMUNITY DEVELOPMENT CODE (CDC): SECTION 6.1.40.G (BASE SITE AREA CALCULATIONS) TO CLARIFY THAT BOTH JURISDICTIONAL AND NON-JURISDICTIONAL WETLANDS MUST BE SUBTRACTED FROM THE GROSS SITE AREA TO DETERMINE BASE SITE AREA FOR DEVELOPMENT**

**Motion:** It was moved by Council Member Flewelling, Seconded by Council Member Hervochoch to approve the public hearing and second reading of an ordinance for a text amendment to the community development code (CDC): Section 6.1.40.G (base site area calculations) to clarify that both jurisdictional and non-jurisdictional wetlands must be subtracted from the gross site area to determine base site area for development.

Council Member Rodman opened the floor for public comment.

No one came forward.

Council Member Rodman closed the public comment.

**The Vote** - The motion was approved without objection.

**15. PUBLIC HEARING AND SECOND READING OF AN ORDINANCE FOR A TEXT AMENDMENT TO THE COMMUNITY DEVELOPMENT CODE (CDC): SECTION 5.11.100.F.1 (TREE REMOVAL ON DEVELOPED PROPERTIES) TO CLOSE A LOOPHOLE WHICH ALLOWS SPECIMEN AND MITIGATION TREES TO BE REMOVED POST-CONSTRUCTION OF SINGLE-FAMILY HOMES**

**Motion:** It was moved by Council Member Flewelling, Seconded by Council Member Hervocho, to approve the public hearing and second reading of an ordinance for a text amendment to the community development code (CDC): section 5.11.100.F.1 (tree removal on developed properties) to close a loophole which allows specimen and mitigation trees to be removed post-construction of single-family homes.

Council Member Rodman opened the floor for public comment.

No one came forward.

Council Member Rodman closed the public comment.

Planning and Zoning Department Director Robert Merchant and Council discussed the text amendment for the removal of specimen and mitigation trees.

**The Vote** - The motion was approved without objection.

**16. FIRST READING OF AN ORDINANCE TO MAKE APPROPRIATIONS FOR COUNTY GOVERNMENT, SPECIAL PURPOSE DISTRICTS FOR BEAUFORT COUNTY FOR THE FISCAL YEAR BEGINNING JULY 1, 2022, AND ENDING JUNE 30, 2023**

Deputy County Administrator Whitney Richland discussed the budget recommendation.

**Motion:** It was moved by Council Member Lawson, Seconded by Council Member Howard, to approve the first reading of an ordinance to make appropriations for county government, special purpose districts for Beaufort County for the fiscal year beginning July 1, 2022, and ending June 30, 2023.

**The Vote** - The motion was approved without objection.

**17. FIRST READING OF ORDINANCE TO PROVIDE FOR THE LEVY OF TAX FOR SCHOOL PURPOSES FOR BEAUFORT COUNTY FOR THE FISCAL YEAR BEGINNING JULY 1, 2022, AND ENDING JUNE 30, 2023, AND TO MAKE APPROPRIATIONS FOR SAID PURPOSES**

Tonya Crosby, Chief Financial Officer of Beaufort County School District, provided Council with a summary of the School District's budget.

**Motion:** It was moved by Council Member Howard, Seconded by Council Member Dawson, to approve the first reading of an Ordinance to provide for the levy of tax for school purposes for Beaufort County for the fiscal year beginning July 1, 2022, and ending June 30, 2023, to make appropriations for said purposes.

**The Vote** - The motion was approved without objection.

**18. FIRST READING OF AN ORDINANCE FOR A 2022 TRANSPORTATION SALES TAX REFERENDUM**

Please watch the video stream available on the County's website to view the full discussion.

<https://beaufortcountysc.new.swagit.com/videos/174303?ts=8472>

Council and County Administrator Greenway discussed the possible postponement of the first reading of the transportation sales tax ordinance.

**Motion:** It was moved by Council Member Hervochon, Seconded by Council Member Howard, to postpone the first reading of an Ordinance for a 2022 Transportation Sales Tax Referendum to the next County Council meeting on June 13, 2022.

**The Vote** – Voting Yea: Council Member Hervochon. Voting Nay: Vice Chairman Sommerville, Council Member Cunningham, Council Member Dawson, Council Member Flewelling, Council Member Glover, Council Member Howard, Council Member Lawson, and Council Member Rodman. The motion failed 1:8.

**Motion:** It was moved by Council Member Cunningham, Seconded by Council Member Howard, to approve the first reading of an Ordinance for a 2022 Transportation Sales Tax Referendum.

**The Vote** – Voting Yea: Vice Chairman Sommerville, Council Member Cunningham, Council Member Dawson, Council Member Flewelling, Council Member Glover, Council Member Howard, Council Member Lawson, Council Member Rodman. Voting Nay: Council Member Hervochon. The motion passed 8:1.

**19. THIRD READING OF AN ORDINANCE TO ALLOCATE 2018 ONE CENT SALES TAX ADDITIONAL REVENUE TO THE SIDEWALKS AND MULTI-USE PATHWAYS PROGRAM (\$15,449,734.75)**

**Motion:** It was moved by Council Member Flewelling, Seconded by Council Member Dawson, to approve the third reading of an ordinance to allocate 2018 one-cent sales tax additional revenue to the sidewalks and multi-use pathways program.

**The Vote** - The motion was approved without objection.

**20. APPROVAL OF A RESOLUTION TO ADOPT ALL ADDITIONAL RECOMMENDATIONS REGARDING THE IMPLEMENTATION OF THE FUTURE PROGRAM AS RECOMMENDED BY THE TRANSPORTATION ADVISORY COMMITTEE (TAC)**

**Motion:** It was moved by Council Member Howard, Seconded by Council Member Cunningham, to extend past 8:00 PM.

**The Vote** – Voting Yea: Vice Chairman Sommerville, Council Member Cunningham, Council Member Dawson, Council Member Glover, Council Member Howard, Council Member Lawson, and Council Member Rodman. Voting Nay: Council Member Flewelling and Council Member Hervochon. The motion passed 7:2.

**ITEM WAS MOVED TO NUMBER 18**

Please watch the video stream available on the County’s website to view the full discussion.

<https://beaufortcountysc.new.swagit.com/videos/174303?ts=6330>

Assistant County Administrator Jared Fralix, Dean Moss, and Council discussed the Transportation Advisory Committee’s recommendation.

**Motion:** It was moved by Council Member Flewelling, seconded by Council Member Glover, to approve a resolution to adopt all additional recommendations regarding the implementation of the future program as recommended by the Transportation Advisory Committee (TAC).

**The Vote** - The motion was approved without objection.

**21. APPROVAL OF A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE ANY AND ALL NECESSARY DOCUMENTS FOR THE ACQUISITION OF ADDITIONAL RIGHT OF WAY NEEDED FOR THE SIGNALIZATION OF BLUFFTON PARKWAY AT RIVER RIDGE DRIVE AND FLAT CREEK DRIVE**

**Motion:** It was moved by Council Member Cunningham, Seconded by Council Member Howard, to approve a resolution authorizing the county administrator to execute any and all necessary documents for the acquisition of additional right of way needed for the signalization of Bluffton Parkway at River Ridge Drive and Flat Creek Drive.

**The Vote** - The motion was approved without objection.

**22. CITIZEN COMMENTS**

**23. ADJOURNMENT**

Adjournment: 8:33 PM

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: \_\_\_\_\_  
Joseph F. Passiment, Jr., Chairman

ATTEST:

\_\_\_\_\_  
Sarah W. Brock, Clerk to Council  
Ratified:



## Caucus Beaufort County, SC

This meeting was held at the County Council Chambers, 100 Ribaut Road, Beaufort, and virtually through Zoom.

**Monday, June 13, 2022  
4:30 PM**

### MINUTES

*Please watch the video stream available on the County's website to hear the Council's entire discussion of a specific topic or the complete meeting. <https://beaufortcountysc.new.swagit.com/videos/175431>*

#### 1. CALL TO ORDER

Chairman Passiment called the meeting to order at 4:32 PM.

#### PRESENT

Chairman Joseph F. Passiment  
 Vice Chairman D. Paul Sommerville (arrived late)  
 Council Member Logan Cunningham (arrived late)  
 Council Member Brian Flewelling  
 Council Member York Glover (arrived late)  
 Council Member Chris Hervocho  
 Council Member Alice Howard  
 Council Member Mark Lawson  
 Council Member Lawrence McElynn  
 Council Member Stu Rodman

#### ABSENT

Council Member Gerald Dawson

#### 2. PLEDGE OF ALLEGIANCE

Chairman Passiment led the Pledge of Allegiance.

#### 3. FOIA

Chairman Passiment noted that the Public Notification of the meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act.

#### 4. APPROVAL OF THE AGENDA

**Motion:** It was moved by Council Member Rodman, Seconded by Council Member McElynn, to approve the agenda.

**The Vote** - The motion was approved without objection.

**5. AGENDA REVIEW**

Chairman Passiment confirmed that Council Member McElynn would present the Mosquito Control Awareness Week Proclamation.

**6. COUNCIL MEMBER DISCUSSION**

Council Member Howard said she will comment on the Stormwater Utility Board meeting on Wednesday, June 15, 2022.

Council Member McElynn asked if an accommodation was being made for Senator Tom Davis’s presentation. Chairman Passiment stated that Senator Davis’s comments would take place before the citizen comments section of the agenda.

**7. EXECUTIVE SESSION**

PURSUANT TO S.C. CODE SECTION 30-4-70 (A)(2): RECEIPT OF LEGAL ADVICE WHERE THE LEGAL ADVICE RELATES TO MATTERS COVERED BY THE ATTORNEY-CLIENT PRIVILEGE (SCRATCH GOLF)

PURSUANT TO S.C. CODE SEC. 30-4-70 (A)(2): RECEIPT OF LEGAL ADVICE WHERE THE LEGAL ADVICE RELATES TO PENDING LITIGATION AND MATTERS COVERED BY THE ATTORNEY-CLIENT PRIVILEGE (BUCKINGHAM LANDING LITIGATION)

PURSUANT TO S.C. CODE SEC. 30-4-70 (A)(2): DISCUSSION OF NEGOTIATIONS INCIDENT TO PROPOSED CONTRACTUAL ARRANGEMENTS AND PROPOSED PURCHASE/ACQUISITION OF REAL PROPERTY (DAUFUSKIE ISLAND FERRY)

PURSUANT TO S.C. CODE SEC. 30-4-70 (A)(2): DISCUSSION OF NEGOTIATIONS INCIDENT TO PROPOSED CONTRACTUAL ARRANGEMENTS AND POTENTIAL SALE OF REAL PROPERTY (KING STREET & WILMINGTON STREET)

**Motion:** It was moved by Council Member Flewelling, Seconded by Council Member Glover, to go into executive session at 4:38 PM.

**The Vote** - The motion was approved without objection.

**8. ADJOURNMENT**

Adjournment: 5:57 pm

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: \_\_\_\_\_  
Joseph F. Passiment, Jr., Chairman

ATTEST:

\_\_\_\_\_  
Sarah W. Brock, Clerk to Council

Ratified:



## County Council Meeting Beaufort County, SC

This meeting was held at the County Council Chambers, 100 Ribaut Road, Beaufort, and virtually through Zoom.

**Monday, June 13, 2022  
6:00 PM**

### MINUTES

*To view the Council's entire discussion of a specific topic or the complete meeting, watch the video stream available on the County's website. <https://beaufortcountysc.new.swagit.com/videos/175439>*

#### 1. CALL TO ORDER

Chairman Passiment called the meeting to order at 6:03 PM.

##### PRESENT

Chairman Joseph F. Passiment  
Vice Chairman D. Paul Sommerville  
Council Member Logan Cunningham  
Council Member Brian Flewelling  
Council Member York Glover  
Council Member Chris Hervocho  
Council Member Alice Howard  
Council Member Mark Lawson  
Council Member Lawrence McElynn  
Council Member Stu Rodman

##### ABSENT

Council Member Gerald Dawson

#### 2. PLEDGE OF ALLEGIANCE AND INVOCATION

Chairman Passiment led the Plead of Allegiance and Invocation.

#### 3. FOIA

Chairman Passiment stated that this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act.

#### 4. APPROVAL OF AGENDA

**Motion:** It was moved by Council Member McElynn, Seconded by Council Member Cunningham to approve the agenda.

**The Vote** - The motion was approved without objection.

**5. APPROVAL OF MINUTES**

**Motion:** It was moved by Council Member McElynn, Seconded by Council Member Cunningham, to approve the minutes from April 25, 2022.

**The Vote** - The motion was approved without objection.

**6. ADMINISTRATOR'S REPORT**

Please watch the video stream available on the County's website to view the full report.

<https://beaufortcountysc.new.swagit.com/videos/175439>

Senator Tom Davis updated Council on South Carolina Legislature budget appropriations, the 278 Corridor project status, and the County Greenspace Sales Tax Act.

County Administrator Greenway updated the Council on receipt of ARPA funds, bid solicitation for the Hilton Head Island Airport expansion, and the Spanish Moss Trail crossing at Ribaut Road. He also highlighted four Beaufort County employees.

**7. PRESENTATION OF A PROCLAMATION RECOGNIZING JUNE 19TH - JUNE 25TH AS NATIONAL MOSQUITO CONTROL AWARENESS WEEK**

Council Member McElynn presented the Proclamation recognizing June 19th - June 25th as National Mosquito Control Awareness Week to Deputy Director of Mosquito Control Robert Cartner and Assistant County Administrator Phil Foot.

**8. CITIZEN COMMENTS**

Please watch the full video stream available on the County's website to view all the Citizen Comments.

<https://beaufortcountysc.new.swagit.com/videos/175439?ts=3194>

Jessie White, Coastal Conservation League, discussed the County Greenspace Sales Tax Act.

Karen Erwin commented on the school budget ordinance and staffing issues.

Dawn Peebles commented on the recruitment and retention of teachers.

Chris Marsh expressed his support for the leadership of Superintendent Frank Rodriguez.

Heather Reynolds commented on the cost of living in Beaufort County.

Sarah Owen commented on retention issues with Beaufort County Teachers and the low salary rate compared to other counties in South Carolina.

Lauren Borasky urged Council to support the budget ordinance for Beaufort County teachers.

**9. LIASION AND COMMITTEE REPORTS**

Please watch the video stream available on the County's website to view the full report,

<https://beaufortcountysc.new.swagit.com/videos/175439?ts=4013>

Council Member Howard highlighted the Stormwater Utility Board meeting on Wednesday, June 15<sup>th</sup> and the Technical College of the Lowcountry Board meeting on Tuesday, June 21<sup>st</sup>.

Council Member Cunningham provided an update on golf cart access on bike paths, sidewalk repairs, and discussions on the addition of golf cart access in neighborhood building agreements.

**10. MATTERS ARISING OUT OF CAUCUS EXECUTIVE SESSION**

**Motion:** It was moved by Council Member McElynn, Seconded by Council Member Howard, to authorize the County Administrator to enter into negotiations with the owners of the property that was discussed

in the executive session to consider purchasing those properties for the purpose of relocating the Daufuskie Island Ferry Services.

**Discussion:** Council Member Lawson noted the patience of the Buckingham Landing residents and his support for determining a more permanent solution.

Council Member Rodman commented on the benefits of an adequate ferry system and the ongoing discussions about ferry service between Savannah, Hilton Head, and Daufuskie.

**The Vote** - The motion was approved without objection.

**Motion:** It was moved by Council Member Glover, Seconded by Council Member Howard, to authorize the County Administrator to negotiate with Wheeler & Wheeler Properties terms for the sale of two County-owned properties, 600 Wilmington Street and 1407 King Street, both of which must be used for the purpose of establishing workforce or affordable housing as discussed in executive session.

**Discussion:** Council Member Glover and Council Member Cunningham supported the motion.

Council Member Flewelling asked questions about the sale of the properties.

**The Vote** - The motion was approved without objection.

#### 11. APPROVAL OF CONSENT AGENDA

**Motion:** It was moved by Council Member Rodman, Seconded by Council Member Glover to approve the consent agenda.

**The Vote** – The motion was approved without objection.

#### 12. PUBLIC HEARING AND SECOND READING OF AN ORDINANCE TO MAKE APPROPRIATIONS FOR COUNTY GOVERNMENT, SPECIAL PURPOSE DISTRICTS FOR BEAUFORT COUNTY FOR THE FISCAL YEAR BEGINNING JULY 1, 2022, AND ENDING JUNE 30, 2023

Please watch the video stream available on the County's website to view the full discussion.

<https://beaufortcountysc.new.swagit.com/videos/175439?ts=4506>

**Motion:** It was moved by Council Member Howard, Seconded by Council Member Glover, to approve the public hearing and second reading of an Ordinance to make appropriations for the County Government, Special Purpose Districts for Beaufort County for the Fiscal Year beginning July 1, 2022, and ending June 30, 2023.

**Motion to Amend:** It was moved by Council Member Howard, Seconded by Council Member Flewelling, to amend the budget in the amount of four hundred thousand dollars for the Spanish Moss Trail crossing at Ribaut Road; this will be matched with money from the State plus private donations and the Town of Port Royal for a total of approximately one million dollars for the total crossing.

**The Vote** – The motion was approved without objection.

**Discussion:** Council Member McElynn discussed his proposal for an amendment to the 14th Circuit Solicitor's Office, referencing the pilot program to address DUI cases in Magistrate Court, and suggested a budget reduction by one hundred eighty-seven thousand (187,000) dollars.

**Motion to Amend:** It was moved by Council Member McElynn, Seconded by Council Member Cunningham, to reduce the Solicitor's budget by 187,000 dollars for the Fiscal Year 2023, with the caveat that the Solicitor and the Sheriff will get together to come up with a new plan of how they wish to address DUI in Beaufort County.

**Discussion:** Council Member Glover commented on his issue with the timing of the proposed amendment.

Council Member Lawson commented that taking away money could further delay the resolution of DUI cases and that he plans to vote against the motion.

Council Member Rodman asked if the Solicitor could provide his input on the DUI case processing backlog.

Council Member Cunningham commented on the lack of presence of the Solicitor's Office at the budget readings.

**The Vote** – Voting Yea: Council Member McElynn, Council Member Cunningham, Council Member Glover, Council Member Rodman, Council Member Howard, Vice Chairman Sommerville, and Chairman Passiment. Voting Nay: Council Member Hervochon, Council Member Lawson, and Council Member Flewelling. The motion passed 7:3.

Chairman Passiment opened the floor for public comment.

No one came forward.

Chairman Passiment closed the public comment.

**The Vote** – The motion, as amended, was approved without objection.

**13. PUBLIC HEARING AND SECOND READING OF AN ORDINANCE TO PROVIDE FOR THE LEVY OF TAX FOR SCHOOL PURPOSES FOR BEAUFORT COUNTY FOR THE FISCAL YEAR BEGINNING JULY 1, 2022, AND ENDING JUNE 30, 2023, AND TO MAKE APPROPRIATIONS FOR SAID PURPOSES**

**Motion:** It was moved by Council Member Howard, Seconded by Council Member Lawson, to approve the public hearing and second reading of an Ordinance to provide for the levy of tax for school purposes for Beaufort County for the Fiscal Year beginning July 1, 2022, and ending June 30, 2023, and to make appropriations for said purposes.

**Discussion:** Council Member Flewelling asked about possible budget reconfiguration with the provision of additional state funding.

Council Member Glover commented on the inclusion of the local supplement into teachers' salaries.

Council Member Cunningham asked about current vacancies and contract length.

Chairman Passiment opened the floor for public comment.

Superintendent Rodriguez, Tonya Crosby, and Jill McAden discussed the prioritization of employee compensation and recruitment and addressed Council Members' questions.

Council Member Rodman and Tonya Crosby discussed starting salaries and the millage increase.

Council Member Howard commented on the median income for Beaufort County.

Council Member Cunningham and Tonya Crosby discussed efforts towards \$50,000 starting salaries.

**The Vote** – The motion was approved without objection.

**Motion to Extend:** It was moved by Council Member Rodman, Seconded by Council Member McElynn, to extend beyond the 8 o'clock hour.

**The Vote** – The motion was approved without objection.

**14. SECOND READING OF AN ORDINANCE FOR A 2022 TRANSPORTATION SALES TAX REFERENDUM**

Please watch the video stream available on the County's website to view the full discussion.

<https://beaufortcountysc.new.swagit.com/videos/175439?ts=6908>

**Motion:** It was moved by Council Member Glover, Seconded by Council Member McElynn, to approve the second reading of an Ordinance for a 2022 Transportation Sales Tax Referendum.

**Discussion:** Chairman Passiment highlighted that the transportation committee's proposals were about repairing or replacing existing roads and not creating new road systems.

Council Member Howard commented on the provision for sidewalks, bike paths, and greenways in the ordinance and the possible need to change the wording to better communicate what the referendum covers.

Council Member McElynn suggested an eighty-twenty split, with eighty percent of the funding towards roads and twenty percent towards green initiatives.

Vice Chairman Sommerville proposed, and Council discussed, a two-year extension of the sales tax to provide additional funding for greenbelt initiatives.

Council Member Cunningham expressed his concerns over the longevity of the proposed referendum and the potential for funding to be used to build new roads in Bluffton.

Council and County Administrator Greenway discussed the percentage of funding for roads and greenbelt initiatives, the money remaining from the bond referendum for the Rural and Critical Lands Program, the expected funds to be received for the greenbelt initiatives, the penny amount of the referendum, development agreements, and the postponement of the second reading.

**Motion to Postpone:** It was moved by Council Member Flewelling, Seconded by Council Member Glover, to postpone the second reading of an Ordinance for a 2022 Transportation Sales Tax Referendum to the next County Council meeting on June 27th.

**The Vote** – The motion was approved without objection.

15. **FIRST READING OF AN ORDINANCE AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE THE NECESSARY DOCUMENTS AND PROVIDE FUNDING FOR THE PURCHASE OF REAL PROPERTY IDENTIFIED AS 36 HUNTER ROAD FOR THE HILTON HEAD ISLAND AIRPORT EXPANSION PROJECT (FISCAL IMPACT: PROPOSED PURCHASE PRICE \$947,500; FAA VIA BIL AIG GRANT REIMBURSEMENT \$814,500; AIRPORT IS RESPONSIBLE FOR \$133,000 WHICH WILL BE PAID WITH ARPA FUNDS)**

**Motion:** It was moved by Council Member Rodman, Seconded by Council Member Howard, to approve the first reading of an Ordinance authorizing the County Administrator to execute the necessary documents and provide funding for the purchase of real property identified as 36 Hunter Road for the Hilton Head Island Airport Expansion Project.

**The Vote** - The motion was approved without objection.

16. **APPROVAL OF A RESOLUTION TO ALLOCATE HOSPITALITY TAX FUNDS FOR THE EMERGENCY REPAIR OF THE SANDS BOAT LANDING (FISCAL IMPACT: HOSPITALITY TAX REVENUES NOT TO EXCEED \$177,000)**

Please watch the video stream available on the County's website to view the full discussion.

<https://beaufortcountysc.new.swagit.com/videos/175439?ts=8879>

**Motion:** It was moved by Council Member Howard, Seconded by Council Member Glover, to approve a Resolution to allocate Hospitality Tax Funds for the Emergency Repair of the Sands Boat Landing.

**Discussion:** Council, County Administrator Greenway, and Brittany Ward discussed the process for approval of the allocation of A-Tax funds, budget language allowing for fund allocations to be made through resolutions, and the emergency purpose exception for item 16.

**The Vote** – The motion was approved without objection.

**Motion to Reconsider:** It was moved by Council Member Flewelling, Seconded by Council Member Hervochon, to reconsider the second reading of item 12.

**Discussion:** Council Member Flewelling, County Administrator Greenway, and County Attorney Kurt Taylor discussed the change to the budget to allow A-Tax and H-Tax fund expenditures to be made through a resolution and one reading instead of through an ordinance and three readings.

Council discussed the motion to reconsider item 12.

**The Vote** –The motion was approved without objection.

Council Member Flewelling proposed an amendment that any language regarding changing the procedure of approving expenditures in Beaufort County contained within the budget ordinance be removed.

Brittany Ward read Section 21 of the budget ordinance that allowed for the appropriation of accommodation and hospitality tax funds through a Council resolution.

**Motion to Amend:** It was moved by Council Member Flewelling, Seconded by Council Member Hervochoch, to remove Section 21 from the ordinance.

Chairman Passiment clarified that the other amendments to the budget ordinance still stand.

**The Vote** – The motion was approved without objection.

**The Vote** – Item number 12, with the three amendments, was approved without objection.

**17. CITIZEN COMMENTS**

William Smith discussed community involvement in funding decisions and the need to fund activities for Beaufort County’s youth.

**18. ADJOURNMENT**

Adjournment at or around 8:52 PM.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: \_\_\_\_\_  
Joseph F. Passiment, Jr., Chairman

ATTEST:

\_\_\_\_\_  
Sarah W. Brock, Clerk to Council  
Ratified:



## Caucus Beaufort County, SC

This meeting was held in person at the County Council Chambers, 100 Ribaut Road, Beaufort, and virtually through Zoom.

**Monday, June 27, 2022  
5:00 PM**

### MINUTES

*To hear the Council's full discussion of a specific topic or the complete meeting, watch the video stream available on the County's website. <https://beaufortcountysc.newswagit.com/videos/176250>*

#### 1. CALL TO ORDER

Vice-Chairman Sommerville called the meeting to order at 5:00 PM.

#### PRESENT

Chairman Joseph F. Passiment  
 Vice Chairman D. Paul Sommerville  
 Council Member Logan Cunningham  
 Council Member Gerald Dawson (arrived late)  
 Council Member Brian Flewelling  
 Council Member York Glover (arrived late)  
 Council Member Chris Hervocho  
 Council Member Alice Howard  
 Council Member Mark Lawson  
 Council Member Lawrence McElynn  
 Council Member Stu Rodman (arrived late)

#### 2. PLEDGE OF ALLEGIANCE

Vice-Chairman Sommerville led the Pledge of Allegiance.

#### 3. FOIA

Vice-Chairman Sommerville noted that the Public Notification of this meeting had been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act.

#### 4. APPROVAL OF THE AGENDA

**Motion:** It was moved by Council Member McElynn, Seconded by Council Member Cunningham to approve the agenda.

**The Vote** - The vote was approved without objection.

**5. AGENDA REVIEW**

Vice-Chairman Sommerville requested item 12 be removed from the Council Meeting agenda and a greenspace ordinance be added to the agenda.

Council Member Flewelling noted his hesitation about the removal of item 12.

Tom Keaveny discussed the language and procedure for removing or postponing an agenda item.

Council Member Cunningham suggested the new motion go between items 11 and 12 on the agenda.

Vice-Chairman Sommerville confirmed the plan to insert the greenspace ordinance as the new item number 12 and to renumber the subsequent items.

**6. COUNCIL MEMBER DISCUSSION**

Council Member Flewelling asked for a public update on the house at Chesterfield and the County's intentions. Assistant County Administrator, Chuck Atkinson, provided a brief history of the issues at the house at Chesterfield, outlined the actions the County took in accordance with the unfit dwelling ordinance, and discussed the current state of the property.

**7. EXECUTIVE SESSION**

PURSUANT TO S.C. CODE SEC. 30-4-70 (A)(2): DISCUSSION OF NEGOTIATIONS INCIDENT TO PROPOSED CONTRACTUAL ARRANGEMENTS AND PROPOSED PURCHASE/ACQUISITION OF REAL PROPERTY (DAUFUSKIE FERRY, MELROSE LANDING ROAD)

PURSUANT TO S.C. CODE SEC. 30-4-70 (A)(2): DISCUSSION OF NEGOTIATIONS INCIDENT TO PROPOSED CONTRACTUAL ARRANGEMENTS AND PROPOSED PURCHASE/ACQUISITION OF REAL PROPERTY (HELMSMAN WAY)

PURSUANT TO S.C. CODE SEC. 30-4-70(A)(2): RECEIPT OF LEGAL ADVICE WHERE THE ADVICE RELATES TO PENDING CLAIMS WHICH ARE COVERED BY THE ATTORNEY-CLIENT PRIVILEGE (MOLLOY LITIGATION)

**Motion:** It was moved by Council Member Rodman, Seconded by Council Member Howard, to go into executive session at 5:15 PM.

**The Vote** - The vote was approved without objection.

**10. ADJOURNMENT**

Adjournment at or around 6:00 PM.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: \_\_\_\_\_  
Joseph F. Passiment, Jr., Chairman

ATTEST:

\_\_\_\_\_  
Sarah W. Brock, Clerk to Council  
Ratified:



## County Council Meeting Beaufort County, SC

This meeting was held in person at the County Council Chambers, 100 Ribaut Road, Beaufort, and virtually through Zoom.

**Monday, June 27, 2022  
6:00 PM**

### MINUTES

*Watch the video stream available on the County's website to hear the Council's full discussion of a specific topic or the complete meeting. <https://beaufortcountysc.new.swagit.com/videos/176273>*

#### 1. CALL TO ORDER

Vice-Chairman Sommerville called the meeting to order at 6:02 PM.

#### PRESENT

Chairman Joseph F. Passiment  
Vice Chairman D. Paul Sommerville  
Council Member Logan Cunningham  
Council Member Gerald Dawson  
Council Member Brian Flewelling  
Council Member York Glover  
Council Member Chris Hervocho  
Council Member Alice Howard  
Council Member Mark Lawson  
Council Member Lawrence McElynn  
Council Member Stu Rodman

#### 2. PLEDGE OF ALLEGIANCE AND INVOCATION

Council Member Flewelling led the Pledge of Allegiance and Invocation.

#### 3. FOIA

Vice-Chairman Sommerville stated that this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act.

#### 4. APPROVAL OF AGENDA

**Motion:** It was moved by Council Member Cunningham, Seconded by Council Member Lawson to approve the agenda.

**Motion to Amend:** It was moved by Council Member McElynn, Seconded by Council Member Cunningham, to insert at item number twelve a motion to include on the agenda a discussion regarding the proposed Green Space Ordinance and to renumber all of the items flowing after the new number 12 in a succeeding fashion.

**The Vote** - The motion to amend was approved without objection.

**Main Motion:** It was moved by Council Member Rodman, Seconded by Council Member Howard to approve the amended agenda.

**The Vote** - The motion was approved without objection.

## 5. ADMINISTRATOR'S REPORT

Please watch the video stream available on the County's website to view the full report.

<https://beaufortcountysc.new.swagit.com/videos/176273?ts=284>

County Administrator Eric Greenway recognized employees David Lilly, Terry Geitner, and Corporal Catrina Wilson.

## 6. CITIZEN COMMENTS

Please watch the video stream available on the County's website to view the public comments.

<https://beaufortcountysc.new.swagit.com/videos/176273?ts=755>

Jessie White, Coastal Conservation League, expressed support for the green space sales tax referendum.

Cathy Robine, Beaufort County School District, urged Council to pass the School District's budget.

Paula Brown, newly elected Council Member, expressed her excitement to join the Council in January 2023.

Senator Tom Davis discussed the Road Fees Bill and thanked Council Member Hervochon, Council Member Rodman, and Vice-Chairman Sommerville for their service on the Council.

## 7. LIASION AND COMMITTEE REPORTS

Council Member Rodman highlighted items from the Public Facilities Committee and the continued collaboration to develop an access plan for Beaufort High School.

## 8. MATTERS ARISING OUT OF CAUCUS EXECUTIVE SESSION

Please watch the video stream available on the County's website to view the full discussion.

<https://beaufortcountysc.new.swagit.com/videos/176273?ts=1423>

**Motion:** It was moved by Council Member Lawson, Seconded by Council Member McElynn, to authorize the County Administrator to continue negotiations and initiate legal action to establish public ownership of the real property with TMS No. R800 021 000 006C 0000 and R800 021 000 006B 0000, collectively commonly known as Melrose Landing.

**Discussion:** Council Member Hervochon, Council Member Glover, and Council Member Cunningham opposed the motion.

**The Vote** - Voting Yea: Chairman Passiment, Vice Chairman Sommerville, Council Member Dawson, Council Member Flewelling, Council Member Howard, Council Member Lawson, Council Member McElynn, and Council Member Rodman. Voting Nay: Council Member Cunningham, Council Member Glover, and Council Member Hervochon. The motion passed 8:3.

**Motion:** It was moved by Council Member Lawson, Seconded by Council Member Rodman, to approve the first reading by Title Only of an Ordinance to appropriate funds in order to establish public ownership

of real property with TMS No. R800 021 000 006C 0000 and R800 021 000 006B 0000, collectively commonly known as Melrose Landing.

**Discussion:** Vice-Chairman Sommerville commented on the Daufuskie Island Ferry.

Council Member Flewelling objected to the motion and discussed the funding source with County Administrator Greenway.

Council Member Rodman expressed his view that proceeding with condemnation may allow for the possibility of negotiations.

**The Vote** - Voting Yea: Chairman Passiment, Vice Chairman Sommerville, Council Member Dawson, Council Member Flewelling, Council Member Howard, Council Member Lawson, Council Member McElynn, and Council Member Rodman. Voting Nay: Council Member Cunningham, Council Member Flewelling, Council Member Glover, and Council Member Hervochon. The motion passed 7:4.

**Motion:** It was moved by Council Member Lawson, Seconded by Council Member Rodman, to authorize the County Administrator to continue negotiations and initiate legal action to establish public ownership of real property with TMS No. R552 010 0000 0648 0000 and R552 010 000 0649 0000, located on Helmsman Way, Hilton Head Island.

**Discussion:** Council Member Cunningham objected to the motion and expressed his view that other options, such as Pickney Island, have not been fully explored.

Council Member Hervochon expressed concerns about the project's expense and highlighted Pinckney Island as a more optimal ferry location.

Council Member Rodman discussed ferry service issues and opportunities and his opposition to the Pinckney Island landing suggestion.

Council Member Lawson commented on the promise to relocate from the Buckingham Landing location and concerns about ferry costs and service limitations.

**The Vote** - Voting Yea: Chairman Passiment, Vice-Chairman Sommerville, Council Member Dawson, Council Member Lawson, Council Member Howard, Council Member Rodman, and Council Member McElynn. Voting Nay: Council Member Cunningham, Council Member Flewelling, Council Member Hervochon, and Council Member Glover. The motion passed 7:4.

**Motion:** It was moved by Council Member Lawson, Seconded by Council Member Howard, to approve the first reading by Title Only of an Ordinance to appropriate funds in order to establish public ownership of the real property with TMS No. R552 010 000 0648 0000 and R552 010 000 0649 0000, located on Helmsman Way, Hilton Head Island.

**The Vote** - Voting Yea: Chairman Passiment, Vice-Chair Sommerville, Council Member Dawson, Council Member Lawson, Council Member Howard, Council Member Rodman, and Council Member McElynn. Voting Nay: Council Member Cunningham, Council Member Flewelling, Council Member Hervochon, and Council Member Glover. The motion passed 7:4.

## 9. APPROVAL OF CONSENT AGENDA

**Motion:** It was moved by Council Member Howard, Seconded by Council Member McElynn, to approve the consent agenda.

**The Vote** - The motion was approved without objection.

## 10. THIRD READING OF AN ORDINANCE TO MAKE APPROPRIATIONS FOR COUNTY GOVERNMENT, SPECIAL PURPOSE DISTRICTS FOR BEAUFORT COUNTY FOR THE FISCAL YEAR BEGINNING JULY 1, 2022, AND ENDING JUNE 30, 2023

**Motion:** It was moved by Council Member Lawson, Seconded by Council Member McElynn, to approve the third reading of an Ordinance to make appropriations for County Government, Special Purpose Districts for Beaufort County for the fiscal year beginning July 1, 2022, and ending June 30, 2022.

**Discussion:** Council Member Rodman referenced the second reading discussion on funds for the Solicitor's Office and his view that the DUI program should continue.

Council Member McElynn commented on the DUI backlogs, the willingness of the Sheriff's Department to prosecute DUI cases, and the possible redirection of funds away from the Solicitor's Office pilot program.

Council Member Glover asked a series of questions about fund allocations.

**The Vote** - The motion was approved without objection.

**11. THIRD READING OF AN ORDINANCE TO PROVIDE FOR THE LEVY OF TAX FOR SCHOOL PURPOSES FOR BEAUFORT COUNTY FOR THE FISCAL YEAR BEGINNING JULY 1, 2022, AND ENDING JUNE 30, 2023, AND TO MAKE APPROPRIATIONS FOR SAID PURPOSES**

**Motion:** It was moved by Council Member Howard, seconded by Council Member Rodman, to approve the third reading of an ordinance to provide for the levy of tax for School Purposes for Beaufort County for the fiscal year beginning July 1, 2022, and ending June 30, 2022, and to make appropriations for said purposes.

**Discussion:** Council Member Rodman commented on competitive salaries, consideration of a tax increase, the cost of living in Beaufort County, and his support for the budget.

Superintendent Frank Rodriguez and Tonya Crosby discussed budget expenditures, including provisions for increased employee compensation.

Council Member Lawson and Superintendent Rodriguez discussed school security.

Council Member Cunningham, Superintendent Rodriguez, Tonya Crosby, and Patricia Fidrych addressed School Board budget discussions and recruiting and retention benefits.

**The Vote** - The motion was approved without objection.

**12. FIRST READING OF AN ORDINANCE FOR A 2022 GREENSPACE SALES TAX REFERENDUM**

Please watch the video stream available on the County's website to view the full discussion.

<https://beaufortcountysc.new.swagit.com/videos/176273?ts=5157>

**Motion:** It was moved by Council Member McElynn, Seconded by Council Member Rodman, to introduce an ordinance by title only to levy and impose a sales and use tax subject to a referendum within Beaufort County in support of the County Greenspace Sales Tax Act recently enacted by the South Carolina General Assembly.

**Discussion:** Senator Davis urged consideration of a ten-year half-penny sales tax for 350 million dollars to address development pressures and protect fragile ecosystems.

Council Member Glover and Senator Davis discussed the differences between the rural and critical lands program and the proposed greenspace program.

Council Member Cunningham voiced his preference for four years at a half or full penny sales tax.

Council Member McElynn and Senator Davis discussed the potential of postponing the transportation referendum to 2024 to allow time to secure federal and state funding for road projects.

Council Member Howard and Senator Davis discussed leases with options to purchase.

Council Member Glover raised concerns about two referendums on the ballot and funding limitations.

Council Member Hervochon, Vice Chairman Sommerville, Senator Davis, and County Administrator Greenway discussed the financial benefits of development and the interplay between the proposed greenspace program and rural and critical lands program.

Council Member Rodman noted his support for a full penny sales tax, the political feasibility of a half-penny tax, and potential state and federal transportation funding.

**The Vote** - The motion was approved without objection.

**Motion to Extend Meeting:** It was moved by Council Member Rodman, Seconded by Council Member Cunningham, to extend the meeting beyond 8 PM.

**The Vote** - The motion was approved without objection.

**13. SECOND READING OF AN ORDINANCE FOR A 2022 TRANSPORTATION SALES TAX REFERENDUM**

**Motion to Postpone:** It was moved by Council Member Cunningham, Seconded by Council Member Flewelling, to postpone the approval of the Second Reading of an Ordinance for a 2022 Transportation Sales Tax Referendum until July 11th meeting.

**The Vote** - The motion was passed without objection.

**14. PUBLIC HEARING AND SECOND READING OF AN ORDINANCE AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE THE NECESSARY DOCUMENTS AND PROVIDE FUNDING FOR THE PURCHASE OF REAL PROPERTY IDENTIFIED AS 36 HUNTER ROAD FOR THE HILTON HEAD ISLAND AIRPORT EXPANSION PROJECT (FISCAL IMPACT: PROPOSED PURCHASE PRICE \$947,500; FAA VIA BIL AIG GRANT REIMBURSEMENT \$814,500; AIRPORT IS RESPONSIBLE FOR \$133,000 WHICH WILL BE PAID WITH ARPA FUNDS)**

**Motion:** It was moved by Council Member Glover, Seconded by Council Member Lawson, to approve the Public Hearing and Second Reading of an Ordinance authorizing the County Administrator to execute the necessary documents and provide funding for the purchase of real property identified as 36 Hunter Road for the Hilton Head Island Airport Expansion Project.

Vice-Chairman Sommerville opened the floor for public comment.

No one came forward.

Vice-Chairman Sommerville closed public comment.

**The Vote** - The motion was approved without objection.

**15. APPROVAL OF A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO SIGN NECESSARY DOCUMENTS WITH BEAUFORT MEMORIAL HOSPITAL (BMH) FOR THE FUNDING AND LAUNCH OF A PILOT PROGRAM TO ENHANCE THE NURSING WORKFORCE (FISCAL IMPACT: THIS PROGRAM IS FUNDED BY ARPA FUNDS- TWO YEAR PROGRAM COST OF \$700,000)**

**Motion:** It was moved by Council Member Cunningham, Seconded by Council Member Hervochon, to approve a Resolution to authorize the County Administrator to sign necessary documents with Beaufort Memorial Hospital (BMH) for the funding and launch of a pilot program to enhance the Nursing Workforce.

**The Vote** - The motion was approved without objection.

Council Members voted on and approved items 15, 16, 17, and 18 as a package.

**16. APPROVAL OF A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO SIGN NECESSARY DOCUMENTS WITH BEAUFORT MEMORIAL HOSPITAL FOR MENTAL HEALTH SERVICES AT THE DETENTION CENTER (FISCAL IMPACT: \$1,000,000 OF ARPA FUNDS; 3-YEAR INITIAL TERM CONTRACT WITH ANNUAL RENEWALS BY CONSENT OF THE PARTIES- BUDGETING \$250,000 ANNUALLY)**

**Motion:** It was moved by Council Member Cunningham, Seconded by Council Member Hervochon, to approve a Resolution to authorize the County Administrator to sign necessary documents with Beaufort Memorial Hospital for Mental Health Services at the Detention Center.

**The Vote** - The motion was approved without objection.

- 17. **APPROVAL OF A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A LEASE AGREEMENT BETWEEN BEAUFORT COUNTY AND BEAUFORT-JASPER-HAMPTON COMPREHENSIVE HEALTH SERVICES, INC. FOR THE PROPERTY AT 6315 JONATHAN FRANCIS, SR. ROAD (\$90,000: \$18,000 ANNUALLY FOR A PERIOD OF FIVE YEARS)**

**Motion:** It was moved by Council Member Cunningham, Seconded by Council Member Hervochon, to approve a Resolution authorizing the County Administrator to execute a Lease Agreement between Beaufort County and Beaufort-Jasper-Hampton Comprehensive Health Services, Inc. for the property at 6315 Jonathan Francis, Sr. Road.

**The Vote** - The motion was approved without objection.

- 18. **RECOMMEND APPROVAL OF A RESOLUTION TO ACCEPT THE 2022 PALMETTO PRIDE LITTER ENFORCEMENT GRANT AWARD (\$3,200)**

**Motion:** It was approved by Council Member Cunningham, Seconded by Council Member Hervochon to approve a Resolution to accept the 2022 Palmetto Pride Litter Enforcement Grant Award.

**The Vote** - The motion was approved without objection.

- 19. **CITIZEN COMMENTS**

Paula Brown commented on the sale of Melrose Place.

- 20. **ADJOURNMENT**

Adjournment: 8:17 PM.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: \_\_\_\_\_  
Joseph F. Passiment, Jr., Chairman

ATTEST:

\_\_\_\_\_  
Sarah W. Brock, Clerk to Council  
Ratified:



## Caucus Beaufort County, SC

This meeting was held in person at the County Council Chambers, 100 Ribaut Road, Beaufort, and virtually through Zoom.

**Monday, July 11, 2022  
5:00 PM**

### MINUTES

*Watch the video stream available on the County's website to hear the Council's full discussion of a specific topic or the complete meeting. <https://beaufortcountysc.new.swagit.com/videos/176852>*

#### 1. CALL TO ORDER

Chairman Passiment called the meeting to order at 5:00 PM.

#### PRESENT

Chairman Joseph F. Passiment  
 Vice Chairman D. Paul Sommerville  
 Council Member Logan Cunningham  
 Council Member Gerald Dawson  
 Council Member Brian Flewelling  
 Council Member York Glover  
 Council Member Chris Hervocho  
 Council Member Alice Howard  
 Council Member Mark Lawson  
 Council Member Lawrence McElynn  
 Council Member Stu Rodman

#### 2. PLEDGE OF ALLEGIANCE

Chairman Passiment led the Pledge of Allegiance.

#### 3. FOIA

Chairman Passiment noted that the Public Notification of this meeting had been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act.

#### 4. APPROVAL OF THE AGENDA

**Motion to Amend:** It was moved by Council Member Rodman, Seconded by Council Member Cunningham, to amend the agenda to switch the order of items 5 and 6.

**The Vote** - The motion to amend was approved without objection.

**Main Motion:** It was moved by Council Member Rodman, Seconded by Council Member Cunningham to approve the amended agenda.

**The Vote** - The vote was approved without objection.

## 5. DISCUSSION WITH SENATOR DAVIS REGARDING EVACUATION ROUTES

Please watch the video stream available on the County's website to view the full discussion.

<https://beaufortcountysc.new.swagit.com/videos/176852?ts=185>

Senator Tom Davis and Representative Shannon Erickson discussed the transportation and green space tax referendum proposals.

Council Member Howard, Senator Davis, and Representative Erikson discussed the use of tax dollars for lease agreements and the advisory committee.

Council Member Sommerville and Senator Davis discussed equal distribution language within the statute.

Senator Davis agreed to provide a written opinion from the Attorney General that describes the intent and meaning of the legislation in response to Council Member Rodman's request.

Senator Davis clarified for Council Member Hervochon that Beaufort County would not have annex property purchased in another county.

Council Member Glover commented on the planned unit development in Bluffton and concerns about purchase funds.

Council Member Cunningham expressed his support for the green space program as a tool to slow down the growth of Beaufort County and addressed the need to improve current roads.

Council Member McElynn commented on the need for action and the opportunity to limit growth and resource strains.

Chairman Passiment provided a wrap-up of the discussion and raised a question about the Department of Revenue's authority to determine if a procurement action is for land preservation.

## 6. AGENDA REVIEW

Chairman Passiment indicated he will ask for a motion to postpone item number 17 to provide time to evaluate received input and further discuss the Melrose Landing issue.

## 7. COUNCIL MEMBER DISCUSSION

Council Members did not discuss any additional items.

## 8. ADJOURNMENT

Adjournment: 5:59 PM.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: \_\_\_\_\_  
Joseph F. Passiment, Jr., Chairman

ATTEST:

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Sarah W. Brock, Clerk to Council  
Ratified:



## County Council Meeting Beaufort County, SC

This meeting was held in person at the County Council Chambers, 100 Ribaut Road, Beaufort, and virtually through Zoom.

Monday, July 11, 2022  
6:00 PM

### MINUTES

Watch the video stream available on the County's website to hear the Council's full discussion of a specific topic or the complete meeting. <https://beaufortcountysc.new.swagit.com/videos/176902>

#### 1. CALL TO ORDER

Chairman Passiment called the meeting to order at 6:13 PM.

#### PRESENT

Chairman Joseph F. Passiment  
Vice Chairman D. Paul Sommerville  
Council Member Logan Cunningham  
Council Member Gerald Dawson  
Council Member Brian Flewelling  
Council Member York Glover  
Council Member Chris Hervochon  
Council Member Alice Howard  
Council Member Mark Lawson  
Council Member Lawrence McElynn  
Council Member Stu Rodman

#### 2. PLEDGE OF ALLEGIANCE AND INVOCATION

Chairman Passiment led the Pledge of Allegiance. Council Member Cunningham led the Invocation.

#### 3. FOIA

Chairman Passiment stated that this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act.

#### 4. APPROVAL OF AGENDA

Please watch the video stream available on the County's website to view the full discussion.

<https://beaufortcountysc.new.swagit.com/videos/176902?ts=133>

**Motion to Amend:** It was moved by Council Member Rodman, Seconded by Council Member Lawson, to flip items 7 and 8 on the agenda.

**The Vote** - The motion was approved without objection.

**Motion to Approve the Amended Agenda:** It was moved by Council Member Rodman, Seconded by Council Member Lawson to approve the amended agenda.

**The Vote** - The motion was approved without objection.

**Motion to Amend:** It was moved by Council Member Lawson, Seconded by Council Member Howard, to postpone item number 17 to the next Council Meeting on August 8th.

**Discussion:** Council Member Rodman discussed the potential purchase by Beaufort County of two landings, possible issues with the postponement of item number 17, and his recommendation for staff on how to address Melrose Landing.

Council Member Cunningham objected to the postponement of item number 17.

Council Member Hervochon and Chairman Passiment discussed the reasoning for the postponement.

**The Vote** – Voting Yea: Council Member Lawson, Council Member Glover, Council Member Hervochon, Council Member Howard, Council Member McElynn, Council Member Dawson, Council Member Flewelling, Vice Chairman Sommerville, and Chairman Passiment. Voting Nay: Council Member Rodman and Council Member Cunningham. The motion to postpone was approved 9:2.

**Main Motion:** It was moved by Council Member McElynn, Seconded by Council Member Rodman, to approve the amended agenda, which flipped items 7 and 8 and removed item 17.

**Discussion:** Council Member Cunningham objected to the amended agenda.

**The Vote** – Voting Yea: Council Member Lawson, Council Member Rodman, Council Member Glover, Council Member Hervochon, Council Member Howard, Council Member McElynn, Council Member Dawson, Council Member Flewelling, Vice Chairman Sommerville, and Chairman Passiment. Voting Nay: Council Member Cunningham. The motion was approved 10:1.

## 5. APPROVAL OF MINUTES

**Motion:** It was moved by Council Member McElynn, Seconded by Council Member Glover to approve the minutes.

**The Vote** - The minutes are approved without objection.

## 6. ADMINISTRATOR'S REPORT

Please watch the video stream available on the County's website to view the full report.

<https://beaufortcountysc.new.swagit.com/videos/176902?ts=757>

County Administrator Eric Greenway discussed the Daufuskie Island Ferry and the Technical College of the Lowcountry (TCL) Property Committee. Greenway introduced Kyle Jackson, Director of Risk Management and Safety, and Neil Desai, Director of Public Works.

## 7. PRESENTATION BY JIM NEAL OF THE AMERICAN PUBLIC WORKS ASSOCIATION (APWA) ACCREDITATION

Please watch the video stream available on the County's website to view the full report.

<https://beaufortcountysc.new.swagit.com/videos/176902?ts=1233>

Jim Neal, Director of Engineering and Technology for APWA, presented the accreditation plaque to the Beaufort County Department of Public Works Director Neil Desai, Disaster Recovery Manager Pamela Cobb, Assistant County Administrator Jared Fralix, County Administrator Greenway, and Council Chairman Passiment.

## 8. PROCLAMATION RECOGNIZING GULLAH/GEECHEE NATION APPRECIATION WEEK

Please watch the video stream available on the County's website to view the full report.

<https://beaufortcountysc.new.swagit.com/videos/176902?ts=1496>

Council Member Glover presented Queen Quet, Marquette Goodwine, with a Proclamation recognizing July 30th - August 6th, 2022, as Gullah/Geechee Nation Appreciation Week.

**9. PRESENTATION OF A POCKET PARK PROJECT BY ROLAND GARDNER AND LARRY ROWLAND**

Please watch the video stream available on the County's website to view the full report.

<https://beaufortcountysc.new.swagit.com/videos/176902?ts=2020>

Marly Rusoff, Founding Director at the Pat Conroy Literary Center, presented on behalf of Rowland Gardner to advocate for a passive pocket park for an ancient live oak tree on the lot near Bladen and King Street.

Dr. Lawrence Roland, President of the Beaufort County Historical Society, shared a story and slideshow about the 29th Connecticut Infantry and asked that Beaufort County assist with the preservation of the live oak tree.

**10. CITIZEN COMMENTS**

Please watch the video stream available on the County's website to view the full report.

<https://beaufortcountysc.new.swagit.com/videos/176902?ts=2623>

Solicitor Duffy Stone introduced members of his staff and discussed the DUI pilot program.

Board President Bill Werkheiser, Melrose Cottage Owners Association, requested Council not to proceed with the condemnation process for the Melrose Landing dock.

Scott Smith discussed his opposition to the condemnation proceedings of the Melrose Landing dock.

Grant McClure, Coastal Conservation League, asked for consideration of a half penny for green space tax to expand on the Rural and Critical Lands program successes and balance out regional growth pressures.

Chuck Newton discussed the Lady's Island Plan, the 2018 30-million-dollar referendum for traffic improvements and delays in project completion, and possible voter reactions to the referendum process.

Mike Tomey discussed the need to resolve issues with access roads from Highway 21 and strongly consider the transportation referendum.

Laura Smith expressed her hope for continued conversations on Melrose Landing between Beaufort County and the developer.

**11. LIASION AND COMMITTEE REPORTS**

No committee reports.

**12. APPROVAL OF CONSENT AGENDA**

**Motion:** It was moved by Council Member Rodman, Seconded by Council Member Howard to approve the consent agenda.

**The Vote** - The motion was approved without objection.

**13. PUBLIC HEARING AND APPROVAL OF A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY TO ACCEPT CONVEYANCE OF THE REAL PROPERTY IDENTIFIED AS TMS NO. R200 014 000 0139 0000 (WHITE HALL)**

**Motion:** It was moved by Council Member Glover, Seconded by Council Member Howard, to approve a resolution authorizing the County Administrator to execute any and all documents necessary to accept conveyance of the real property identified as TMS No. R200 014 000 0139 0000 (White Hall).

Chairman Passiment opened the floor for public comment.

No one came forward.

Chairman Passiment closed public comment.

**The Vote** - The motion was approved without objection.

#### 14. APPROVAL OF A RESOLUTION TO CORRECT A SCRIVENER'S ERROR IN AN EXISTING ORDINANCE

**Motion:** It was moved by Council Member Lawson, Seconded by Council Member Cunningham, to approve a resolution to correct a scrivener's error in an existing ordinance.

**The Vote** - The motion was approved without objection.

#### 15. SECOND READING OF AN ORDINANCE FOR A 2022 COUNTY GREEN SPACE SALES TAX REFERENDUM

Please watch the video stream available on the County's website to view the full discussion.

<https://beaufortcountysc.new.swagit.com/videos/176902?ts=4050>

**Motion:** It was moved by Council Member Cunningham, Seconded by Council Member Hervochon, to approve the second reading of an ordinance for a 2022 County Green Space Sales Tax Referendum.

**Discussion:** Council Member Cunningham voiced his approval of the green space referendum, opposition to the transportation referendum, and preferences for tax duration and penny percentage.

Council Member Hervochon voiced his support for the referendum, referencing the rural and critical lands program and his view that the referendum will act in part as a tax reduction strategy.

Council Member Lawson expressed his support for the referendum and the view of the referendum as a tax reduction.

Council Member Howard voiced her opposition to the referendum, highlighting implementation concerns, other tools at the County's disposal, and Charleston's success with greenbelt initiatives.

Council Member Glover expressed his support for the green space and transportation referendums.

Council Member Rodman stated his support for the green space and transportation referendums, preference for a full penny, and the need to determine the timeline of the sales tax.

Vice Chairman Sommerville discussed transportation infrastructure issues, uncertainty about funding for transportation projects, and a two-year, full penny green space referendum proposal.

Council Member Flewelling supported Vice Chairman Sommerville's two-year referendum suggestion.

Council Member Dawson commented on timing issues with the referendums.

Council Member McElynn voiced his support for the green space referendum and the opportunity for Beaufort County to serve as a model for other counties.

Chairman Passiment discussed his support for the green space referendum.

Tom Keaveny commented on ordinance requirements.

**Motion to Amend:** It was moved by Vice-Chairman Sommerville, Seconded by Council Member Flewelling, to amend the motion to reflect a two-year, full penny referendum, with a cap at 140 million and a bond up to 140 million.

Council Member Dawson left the Council meeting.

**The Vote** - Voting Yea: Chairman Passiment, Vice Chairman Sommerville, Council Member Flewelling, Council Member Glover, and Council Member Howard. Voting Nay: Council Member Cunningham, Council Member Hervochoon, Council Member Lawson, Council Member McElynn, and Council Member Rodman. The motion to amend failed 5:5.

**Motion to Amend:** It was moved by Council Member Cunningham, Seconded by Council Member Hervochoon, to change the referendum from ten years to four years and from a half penny to a full penny, with a cap at 300 million and the option to bond.

**The Vote** - Voting Yea: Chairman Passiment, Vice Chairman Sommerville, Council Member Cunningham, Council Member Flewelling, Council Member Hervochoon, Council Member Lawson, Council Member McElynn, and Council Member Rodman. Voting Nay: Council Member Glover and Council Member Howard. The motion to amend passed 8:2.

**Motion to Extend Meeting:** It was moved by Council Member Cunningham, Seconded by Council Member Hervochoon, to extend the meeting beyond 8 PM.

**The Vote** - The motion was passed without objection.

**16. SECOND READING OF AN ORDINANCE FOR A 2022 STREETS, ROADS, BRIDGES, AND GREENBELTS SALES TAX REFERENDUM**

Please watch the video stream available on the County's website to view the full discussion.

<https://beaufortcountysc.new.swagit.com/videos/176902?ts=7120>

**Motion:** It was moved by Council Member Howard, Seconded by Council Member Glover, to approve the second reading of an ordinance for a 2022 Streets, Roads, Bridges, and Greenbelts Sales Tax Referendum.

**Discussion:** Council Member Howard, Council Member Glover, Council Member Lawson, and Vice Chairman Sommerville voiced their support for the transportation referendum.

Council Member McElynn advocated for the ordinance to move forward to allow the SC Secretary of Transportation and Legislative Delegation to determine the allocation of federal funding.

Council Member Flewelling stated his concerns about the referendum being premature.

Council Member Hervochoon, Council Member Rodman, and Council Member Cunningham voiced their opposition to the transportation referendum.

Chairman Passiment commented on duplication concerns, his belief that County citizens should not pay taxes for major roads that are the State's responsibility, and lessons learned from past referendums.

County Administrator Greenway discussed funding challenges.

**The Vote** - Voting Yea: Vice Chairman Sommerville, Council Member Glover, Council Member Howard, Council Member Lawson, and Council Member McElynn. Voting Nay: Chairman Passiment, Council Member Cunningham, Council Member Flewelling, Council Member Hervochoon, and Council Member Rodman. The motion failed 5:5.

Council Member Glover discussed the need for support, given his district's challenges.

**17. SECOND READING OF AN ORDINANCE TO APPROPRIATE FUNDS IN ORDER TO ESTABLISH PUBLIC OWNERSHIP OF THE REAL PROPERTY WITH TMS NO. R800 021 000 006C 0000 AND R800 021 000 006B 0000 COLLECTIVELY COMMONLY KNOWN AS MELROSE LANDING. FISCAL IMPACT: Funds from use of General Fund – Fund balance account. Funding not to exceed \$800,000 plus closing costs and legal fees**

This item was postponed to the next Council meeting on August 8th.

**18. PUBLIC HEARING AND THIRD READING OF AN ORDINANCE TO APPROPRIATE FUNDS IN ORDER TO ESTABLISH PUBLIC OWNERSHIP OF THE REAL PROPERTY WITH TMS NO. R552 010 000 0648 0000 AND R552 010 000 0649 0000, LOCATED ON HELMSMAN WAY, HILTON HEAD ISLAND - FISCAL IMPACT: Funds from use of General Fund – Fund balance account. Funding not to exceed \$3,400,000 plus closing costs and legal fees**

**Motion:** It was moved by Council Member Rodman, Seconded by Council Member McElynn, to approve the second reading of an ordinance to appropriate funds in order to establish public ownership of real property located on Helmsman Way, Hilton Head Island.

**Discussion:** Council Member Hervochon and Council Member Cunningham objected to the motion.

**The Vote** - Voting Yea: Chairman Passiment, Vice Chairman Sommerville, Council Member Flewelling, Council Member Glover, Council Member Howard, Council Member Lawson, Council Member McElynn, and Council Member Rodman. Voting Nay: Council Member Cunningham and Council Member Hervochon. The motion passed 8:2.

**19. APPROVAL OF UPDATED 2022 COUNCIL AND COMMITTEE MEETING SCHEDULE**

**Motion:** It was moved by Council Member Cunningham, Seconded by Council Member Hervochon, to approve the updated 2022 Council and Committee Meeting Schedule.

**The Vote** - The motion was approved without objection.

**20. CITIZEN COMMENTS**

Please watch the video stream available on the County's website to view the public comments.

<https://beaufortcountysc.new.swagit.com/videos/176902?ts=8186>

Leanne Coulter expressed her support for Beaufort County acquiring the Melrose Landing Dock.

**21. ADJOURNMENT**

Adjournment: 8:33 PM.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: \_\_\_\_\_  
Joseph F. Passiment, Jr., Chairman

ATTEST:

\_\_\_\_\_  
Sarah W. Brock, Clerk to Council  
Ratified:

# ADD-ONS

The document(s) herein were provided to Council for information and/or discussion after release of the official agenda and backup items.

# CITIZEN COMMENTS

## PUBLIC FACILITIES COMMITTEE

August 8, 2022

Public Hearing

FULL NAME

PHONE # or EMAIL ADDRESS

1. Deborah Smith (virtual)

debdaufuskie@gmail.com

2. Scott Smith

scottsmithesg@earthlink.net

3. Leanne M Coulter

leannecoulter555@gmail.com

4. John Schaiter

843-684-0914

5. Roberts Vaux

843 757-2888

6. Ann Ubelis

843-263-4919

7. Carmen AvondHennig

973-727-0361

8. ~~Jesse White~~

~~jessiew@scott.org~~

9. ~~Laura Davi~~

10.

11.

13.

14.

15.

16.

# PUBLIC HEARING COMMENTS REGARDING AGENDA ITEMS:

By signing below, you agree to adhere to the following decorum in speaking:

- 1) address the Chairman and, in speaking, avoid disrespect to Council and any personalities
- 2) Confine themselves to questions under the jurisdiction of the council
- 3) be mindful and respectful of those present and others who may be watching.

## TOPICS

#9: PUBLIC HEARING AND THIRD READING OF AN ORDINANCE FOR A 2022 COUNTY GREEN SPACE SALES TAX REFERENDUM

#10: PUBLIC HEARING AND THIRD READING OF AN ORDINANCE TO APPROPRIATE FUNDS IN ORDER TO ESTABLISH PUBLIC OWNERSHIP OF THE REAL PROPERTY WITH TMS NO. R552 010 000 0648 0000 AND R552 010 000 0649 0000. LOCATED ON HELMSMAN WAY, HILTON HEAD ISLAND

### August 8, 2022

	FULL NAME	TOPIC	PHONE # or EMAIL ADDRESS
1.	TIMOTHY PITCHER	# 110	317-488-8896
2.			
3.	Sallie Robinson	# 10	
4.			
5.	Ron Angle	# 10	843-997 0062
6.	Jessie White	# 9	jessiew@secl.org
7.	Grant McClune	# 10	grantm@secl.org
8.			
9.			
10.			
11.			
13.			
14.			



# BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

<b>ITEM TITLE:</b>
<b>AN ORDINANCE FOR A 2022 COUNTY GREEN SPACE SALES TAX REFERENDUM</b>
<b>MEETING NAME AND DATE:</b>
County Council July 11, 2022
<b>PRESENTER INFORMATION:</b>
Administration 20 minutes
<b>ITEM BACKGROUND:</b>
On June 27, 2022, Council gave first reading, by title only, to an ordinance calling for a county green space sales tax referendum pursuant to S. C. Code Sec. 4-10-1010 et seq. If adopted by the voters, County Council will impose a sales tax of a specified amount (1% or less) for a specified period to raise a specified amount of money to be used exclusively for preservation procurements.
<b>PROJECT / ITEM NARRATIVE:</b>
The funds raised over the period specified in the ordinance may be used for preservation procurements only as set forth in the referendum.
<b>FISCAL IMPACT:</b>
If adopted, the ordinance/referendum will not result in any out-of-pocket expenses to Beaufort County Government, itself. The funds for the program will be raised through sales taxes over the period specified.
<b>STAFF RECOMMENDATIONS TO COUNCIL:</b>
Administration presents this ordinance/referendum for Council's consideration and debate without recommendation.
<b>OPTIONS FOR COUNCIL MOTION:</b>
Approve or deny an ordinance calling for a referendum on the question of imposing a sales and use tax for preservation procurements.

**South Carolina General Assembly**  
124th Session, 2021-2022

**A166, R166, S152**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Davis, Campsen, Goldfinch, Senn, M. Johnson, Hutto, Malloy, Harpootlian, Cromer, Matthews, K. Johnson, Rice, Hembree, Scott, Climer and Kimpson

Document Path: I:\s-res\td\003gree.sp.td.docx

Introduced in the Senate on January 12, 2021

Introduced in the House on May 13, 2021

Last Amended on May 11, 2022

Passed by the General Assembly on May 12, 2022

Governor's Action: May 16, 2022, Signed

Summary: County Green Space Sales Tax Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date	Body	Action Description with journal page number
12/9/2020	Senate	Prefiled
12/9/2020	Senate	Referred to Committee on <b>Finance</b>
1/12/2021	Senate	Introduced and read first time ( <a href="#">Senate Journal-page 193</a> )
1/12/2021	Senate	Referred to Committee on <b>Finance</b> ( <a href="#">Senate Journal-page 193</a> )
5/5/2021	Senate	Committee report: Favorable with amendment <b>Finance</b> ( <a href="#">Senate Journal-page 7</a> )
5/6/2021		Scrivener's error corrected
5/6/2021	Senate	Committee Amendment Adopted ( <a href="#">Senate Journal-page 28</a> )
5/6/2021	Senate	Amended ( <a href="#">Senate Journal-page 28</a> )
5/6/2021	Senate	Read second time ( <a href="#">Senate Journal-page 28</a> )
5/6/2021	Senate	Roll call Ayes-43 Nays-1 ( <a href="#">Senate Journal-page 28</a> )
5/7/2021		Scrivener's error corrected
5/12/2021	Senate	Amended ( <a href="#">Senate Journal-page 31</a> )
5/13/2021	Senate	Amended ( <a href="#">Senate Journal-page 15</a> )
5/13/2021	Senate	Read third time and sent to House ( <a href="#">Senate Journal-page 15</a> )
5/13/2021	Senate	Roll call Ayes-41 Nays-3 ( <a href="#">Senate Journal-page 15</a> )
5/13/2021	House	Introduced and read first time ( <a href="#">House Journal-page 53</a> )
5/13/2021	House	Referred to Committee on <b>Ways and Means</b> ( <a href="#">House Journal-page 53</a> )
4/28/2022	House	Committee report: Favorable with amendment <b>Ways and Means</b> ( <a href="#">House Journal-page 9</a> )
5/2/2022		Scrivener's error corrected
5/4/2022	House	Requests for debate-Rep(s). Brawley, Hill, Howard, KO Johnson, Gilliard, Murray, Magnuson, Nutt, Allison, McGarry, Hart, Jefferson, McCabe ( <a href="#">House Journal-page 117</a> )
5/5/2022	House	Requests for debate removed-Rep(s). Allison, McGarry, Gilliard, KO Johnson, Howard ( <a href="#">House Journal-page 100</a> )
5/10/2022	House	Requests for debate removed-Rep(s). Jefferson, Murray, Hart, Nutt ( <a href="#">House Journal-page 596</a> )
5/11/2022	House	Amended
5/11/2022	House	Read second time
5/11/2022	House	Roll call Yeas-67 Nays-28

5/12/2022 House Read third time and returned to Senate with amendments ([House Journal-page 6](#))  
5/12/2022 Senate Concurred in House amendment and enrolled ([Senate Journal-page 43](#))  
5/12/2022 Ratified R 166 ([Senate Journal-page 200](#))  
5/16/2022 Signed By Governor  
5/31/2022 Effective date 05/16/22  
5/31/2022 Act No. 166

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## **VERSIONS OF THIS BILL**

[12/9/2020](#)

[5/5/2021](#)

[5/6/2021](#)

[5/6/2021-A](#)

[5/7/2021](#)

[5/12/2021](#)

[5/13/2021](#)

[4/28/2022](#)

[5/2/2022](#)

[5/11/2022](#)

(A166, R166, S152)

**AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “COUNTY GREEN SPACE SALES TAX ACT”; BY ADDING ARTICLE 10 TO CHAPTER 10, TITLE 4, SO AS TO CREATE THE COUNTY GREEN SPACE SALES TAX, TO IMPOSE THE TAX, TO PROVIDE FOR THE CONTENTS OF THE BALLOT AND THE PURPOSE FOR WHICH TAX PROCEEDS MAY BE USED, TO PROVIDE FOR THE IMPOSITION AND TERMINATION OF THE TAX, TO PROVIDE THAT THE DEPARTMENT OF REVENUE SHALL ADMINISTER AND COLLECT THE TAX, TO PROVIDE FOR DISTRIBUTIONS TO COUNTIES AND CONFIDENTIALITY, AND TO PROVIDE FOR UNIDENTIFIED FUNDS, TRANSFERS, AND SUPPLEMENTAL DISTRIBUTIONS.**

Whereas, South Carolina is blessed with a broad array of natural resources, from the Blue Ridge Escarpment in the Upstate, to the sandhills of the Midlands, to the farmland and woodlands of the Pee Dee, and to the iconic shoreline and marshes of the coastal plain; and

Whereas, South Carolina’s coastal geography consists of 187 miles of oceanfront shoreline and 2,876 miles of tidal shorelines, and includes 500,000 acres of salt marshes that represent twenty percent of all the salt marshes on the United States’ Atlantic coast, all of which underpin extensive recreational and commercial fisheries, thriving coastal tourism, important maritime industries, and critical natural defenses for people against storms; and

Whereas, South Carolina’s Upstate consists of the 10,000-acre Mountain Bridge Wilderness Area that encompasses the Blue Ridge Escarpment and its vast array of waterfalls, hardwood forests, headwaters, and mountain streams, as well as a diversity of plant and animal life, including the exceptionally rare and endangered bunched arrowhead; and

Whereas, South Carolina’s Midlands region is home to the sandhills and longleaf pine habitat, which supports over 30 threatened or endangered plant and animal species, including the red-cockaded woodpecker; and

Whereas, South Carolina’s Pee Dee is a region with rich geographic variations, including deep woodlands, a patchwork of timber forests and

agricultural fields, black-water swamps and creeks that intermingle with red rivers and high bluffs, historic sites, and one of the most productive agricultural areas in the State; and

Whereas, the quality of life of all South Carolinians is tied to conservation, with homes, businesses, and recreation being drawn to areas with abundant and accessible green space and natural areas; and

Whereas, according to the Census Bureau, South Carolina is the tenth-fastest-growing State in the nation, and in particular, the State contains a number of the fastest-growing metropolitan areas in the nation, including Myrtle Beach, York County, and Charleston, and is projected in the coming years to continue experiencing steady population growth and the expansion of urban and suburban land uses; and

Whereas, studies conducted by City Explained suggest that the amount of developed land in some regions of South Carolina will increase by 250% by 2040 if current development trends continue; and

Whereas, although this rapid growth will bring prosperity and new opportunities to South Carolina, it will also put additional pressures on our state's lands and waters, in that the development and the accompanying infrastructure will result in the destruction of natural wetlands, marshes, headwaters, and other waterways, thereby hampering the functioning of these systems and eliminating valuable and effective natural storm protection and flood abatement, and fish and wildlife habitat; and

Whereas, this growth increases the amount of impervious surfaces throughout our State, which in turn creates new runoff and carries pollutants into our waterways. For example, a 2019 study found that development in the Town of Bluffton has increased levels of fecal coliform in the May River 3,150% since 1999 and Upstate studies found that sediment from land development is a leading cause of water quality degradation, resulting in flooding, increased costs for drinking water treatment, and harm to aquatic life; and

Whereas, there are significant economic benefits that result from protecting land, including tourism and recreation; and

Whereas, farmland protection helps promote agritourism and boosts the local food economy, as demonstrated by a 2013 SC Department of Agriculture study that found that if every South Carolina resident

purchased \$5 worth of food each week directly from a farmer in the State the potential impact would be about \$1.2 billion; and

Whereas, the Southeast United States coast has experienced some of the highest rates of sea level rise and coastal flooding in the world, with some areas losing as much as three feet of bank each year, and additional sea level rises and coastal flooding will adversely impact existing residential and commercial uses on our state's coast and has been cited by the United States Department of Defense as a threat to the viability of the Marine Corps Recruit Depot Parris Island, which employs 6,100 people and has an annual economic impact of \$739.8 million; and

Whereas, flooding has significantly affected South Carolina's inland communities, with over 80 dam failures from 2015 to 2018 resulting from extreme weather and flooding that our riverine systems and floodplains were unable to attenuate, leading to significant impacts on transportation and drinking water infrastructure and the loss of homes, livelihoods, and lives; and

Whereas, the topography of our State, whether the low-lying topography of our coastal areas or the small incised streams of the Upstate prone to flash flooding and erosion, our state's development patterns makes our communities highly vulnerable to inland and riverine flooding if the flow of rainwater runoff is greater than the carrying capacities of the natural drainage systems, and over the past six years, major flooding and storm events have caused over one billion dollars in total damages to residential and commercial properties and have imposed substantial burdens on South Carolina taxpayers through general fund disbursements; and

Whereas, an effective way to avoid incurring such liabilities is to limit development within the floodplain and in areas that are at significant risk from sea level rise and flooding, and there is a need to empower local governments to undertake land preservation efforts that are supportive of, respectful to, and consistent with the principle of private property rights, as opposed to limiting them to the use of traditional land use regulations, which, in order to attain the necessary level of relief, could give rise to inverse condemnation claims; and

Whereas, counties in South Carolina have implemented local land conservation programs including, but not limited to, Beaufort County's Rural and Critical Lands Program, Charleston County's Greenbelt Program, Greenville County's Historic and Natural Resources Trust Initiative, the Oconee County Conservation Bank, and extensive parks

and greenspace funding efforts in York County, indicating that such programs enjoy overwhelming public support in all corners of the State. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

**Citation**

SECTION 1. This act must be known and may be cited as the “County Green Space Sales Tax Act”.

**County Green Space Sales Tax**

SECTION 2. Chapter 10, Title 4 of the 1976 Code is amended by adding:

“Article 10

County Green Space Sales Tax

Section 4-10-1010. (A) For the purposes of this article, ‘preservation procurements’ means procuring open lands or green space for preservation, by and through the acquisition of interests in real property, including:

- (1) the acquisition of fee simple titles;
- (2) conservation easements;
- (3) development rights;
- (4) rights of first refusal;
- (5) options;
- (6) leases with options to purchase; and
- (7) any other interests in real property.

(B)(1) Subject to the requirements of this article, a county’s governing body may impose a sales and use tax by ordinance, subject to a referendum, within the county area for preservation procurements.

(2) Revenues collected pursuant to this article may be used to defray debt service on bonds issued to pay for preservation procurements authorized in this article. This authorization is in addition to any other locally imposed sales and use taxes.

Section 4-10-1020. (A) A county governing body may impose a sales and use tax up to one percent authorized by this article, by ordinance, subject to a referendum. An enacting ordinance must specify:

(1) the purpose for which the proceeds of the tax are to be used, which may include preservation procurements located within or without, or both within and without, the boundaries of the local governmental entities, including the county, municipalities, and special purpose districts located in the county area;

(2) if the county proposes to issue bonds to provide for the payment of any costs of the preservation procurements, the maximum amount of bonds to be issued, whether the sales tax proceeds are to be pledged to the payment of the bonds and, if other sources of funds are to be used for the preservation procurements, a list of the other sources;

(3) the maximum cost of the preservation procurements, to be funded from the proceeds of the tax or bonds issued as provided in this article and the maximum amount of net proceeds expected to be used to pay the cost or debt service on the bonds, as the case may be; and

(4) the fact that preservation procurements may pertain to real property situated outside of the boundaries of the taxing jurisdiction.

(B) Upon receipt of an ordinance, a county's election commission must conduct a referendum on the question of imposing the sales and use tax in the area of the county that is to be subject to the tax. A referendum for imposition or reimposition of the tax must be held at the time of the next general election in an even-numbered year. Two weeks before a referendum, a county's election commission must publish in a newspaper of general circulation the question that is to appear on the ballot, with a description of the methods by which the county's governing body intends to procure open lands and green space for preservation. If the proposed question includes the use of sales taxes to defray debt service on bonds issued to pay the costs of any preservation procurements, then the notice must include a statement indicating the principal amount of the bonds proposed to be issued for the purpose and, if the issuance of the bonds is to be approved as part of the referendum, stating that the referendum includes the authorization of the issuance of bonds in that amount. This notice is in lieu of any other notice otherwise required by law.

(C) The referendum question to be on the ballot must read substantially as follows:

'Must a special [percent] sales and use tax be imposed in [county] for not more than [time] to raise the amounts specified for preservation procurements for the purpose of procuring open lands and green space by and through the acquisition of interests in real property, such interests to include:

- (a) the acquisition of fee simple titles;
- (b) conservation easements;
- (c) development rights;

- (d) rights of first refusal;
- (e) options;
- (f) leases with options to purchase; or
- (g) any other interests in real property?

Yes

No

If the referendum includes the issuance of bonds, then the question must be revised to include the principal amount of bonds proposed to be authorized by the referendum and the sources of payment of the bonds if the sales tax approved in the referendum is inadequate for the payment of the bonds.

(D) All qualified electors desiring to vote in favor of imposing the tax for the stated purposes shall vote ‘yes’, and all qualified electors opposed to levying the tax shall vote ‘no’. If a majority of the votes cast are in favor of imposing the tax, then the tax is imposed as provided in this article and the enacting ordinance. Any subsequent referendum on this question must be held on the date prescribed in subsection (B). The election commission shall conduct the referendum under the election laws of this State, mutatis mutandis, and shall certify the result no later than November thirtieth to the county governing body and to the Department of Revenue. Expenses of the referendum must be paid by the governmental entities that would receive the proceeds of the tax in the same proportion as those entities would receive the net proceeds of the tax.

(E) Upon receipt of the returns of a referendum, a county’s governing body must, by resolution, declare the results thereof. In such event, the results of the referendum, as declared by resolution of the county’s governing body, are not open to question except by a suit or proceeding instituted within thirty days from the date such resolution is adopted.

(F) The provisions of this section are not available to a county with more than two existing sales and use taxes currently in effect.

Section 4-10-1030. (A) If the sales and use tax is approved in a referendum, then the tax shall be imposed on the first of May following the date of the referendum. If the reimposition of an existing sales and use tax imposed pursuant to this article is approved in a referendum, then the new tax is imposed immediately following the termination of the earlier imposed tax, and the reimposed tax terminates on the applicable thirtieth of April, not to exceed seven years from the date of reimposition.

If the certification is not timely made to the Department of Revenue, then the imposition is postponed for twelve months.

(B) The tax terminates the final day of the maximum time period specified for the imposition.

(C) Amounts collected in excess of the required net proceeds must first be applied, if applicable, to complete the preservation procurements for which the tax was imposed.

(D) If the sales and use tax is approved in a referendum, then the Department of Revenue must make available to the public, upon request, all information regarding the amount of the tax that is collected, expenditures, and any remaining funds at the time of the information request to ensure transparency and accountability.

Section 4-10-1040. (A)(1) The tax levied pursuant to this article must be administered and collected by the Department of Revenue in the same manner that other sales and use taxes are collected. The Department of Revenue may prescribe amounts that may be added to sales prices because of the tax.

(2) The county in which a referendum is passed shall assemble an advisory committee to assist the Department of Revenue with directing the distribution of the taxes collected to ensure a transparent and equal distribution within the county. The advisory committee shall include seven members:

- (a) one member who is a member of the county council;
- (b) one member who is a member of the legislative delegation;
- (c) one member who is knowledgeable about the geography and condition of the county's land; and
- (d) four citizen members, each representing the northern, southern, eastern, and western portions of the county.

(B) The tax authorized by this article is in addition to all other local sales and use taxes and applies to the gross proceeds of sales in the applicable area that is subject to the tax imposed by Chapter 36, Title 12 and the enforcement provisions of Chapter 54, Title 12. The gross proceeds of the sale of items subject to a maximum tax in Chapter 36, Title 12 are exempt from the tax imposed by this article. Unprepared food items eligible for purchase with United States Department of Agriculture food coupons are exempt from the tax imposed pursuant to this article. The tax imposed by this article also applies to tangible personal property subject to the use tax in Article 13, Chapter 36, Title 12.

(C) A taxpayer required to remit taxes under Article 13, Chapter 36, Title 12 must identify the county in which the personal property purchased at retail is stored, used, or consumed in this State.

(D) A utility is required to report sales in the county in which the consumption of the tangible personal property occurs.

(E) A taxpayer subject to the tax imposed by Section 12-36-920, who owns or manages rental units in more than one county, must separately report in his sales tax return the total gross proceeds from business done in each county.

(F) The gross proceeds of sales of tangible personal property delivered after the imposition date of the tax levied under this article in a county, either under the terms of a construction contract executed before the imposition date, or a written bid submitted before the imposition date, culminating in a construction contract entered into before or after the imposition date, are exempt from the sales and use tax provided in this article if a verified copy of the contract is filed with the Department of Revenue within six months after the imposition date of the sales and use tax provided for in this article.

(G) Notwithstanding the imposition date of the sales and use tax authorized pursuant to this chapter, with respect to services that are billed regularly on a monthly basis, the sales and use tax authorized pursuant to this article is imposed beginning on the first day of the billing period beginning on or after the imposition date.

Section 4-10-1050. The Department of Revenue shall furnish data to the State Treasurer and to the county treasurers receiving revenues for the purpose of calculating distributions and estimating revenues. The information that must be supplied to counties and municipalities upon request includes, but is not limited to, gross receipts, net taxable sales, and tax liability by taxpayers. Information about a specific taxpayer is considered confidential and is governed by the provisions of Section 12-54-240. A person violating this section is subject to the penalties provided in Section 12-54-240.

Section 4-10-1060. Annually, and only in the month of June, funds collected by the Department of Revenue from the county green space sales tax, which are not identified as to the governmental unit due the tax, must be transferred, after reasonable effort by the Department of Revenue to determine the appropriate governmental unit, to the State Treasurer's Office. The State Treasurer shall distribute these funds to the county treasurer in the county area in which the tax is imposed, and the revenues must be only used for the purposes stated in the enacting ordinance. The State Treasurer shall calculate this supplemental distribution on a proportional basis, based on the current fiscal year's county area revenue collections."

**Time effective**

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 12<sup>th</sup> day of May, 2022.

Approved the 16<sup>th</sup> day of May, 2022.

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ORDINANCE NO. 2022 / \_\_\_\_

AN ORDINANCE TO LEVY AND IMPOSE A \_\_\_\_\_(ONE-HALF OF ONE (1) PERCENT) SALES AND USE TAX, SUBJECT TO A REFERENDUM, WITHIN BEAUFORT COUNTY PURSUANT TO SECTION 4-10-1010 ET SEQ. OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED; TO DEFINE THE SPECIFIC PURPOSES AND DESIGNATE PROJECTS FOR WHICH THE PROCEEDS OF THE TAX MAY BE USED; TO PROVIDE THE MAXIMUM TIME FOR WHICH SUCH TAX MAY BE IMPOSED; TO PROVIDE THE ESTIMATED COST OF THE PROJECTS FUNDED FROM THE PROCEEDS OF THE TAX; TO PROVIDE FOR A COUNTY-WIDE REFERENDUM ON THE IMPOSITION OF THE SALES AND USE TAX AND THE ISSUANCE OF GENERAL OBLIGATION BONDS AND TO PRESCRIBE THE CONTENTS OF THE BALLOT QUESTIONS IN THE REFERENDUM; TO PROVIDE FOR THE ADMINISTRATION OF THE TAX, IF APPROVED; TO PROVIDE FOR THE PAYMENT OF THE TAX, IF APPROVED; AND TO PROVIDE FOR OTHER MATTERS RELATING THERETO.

WHEREAS, South Carolina is the tenth-fastest-growing State in the nation, and Beaufort County is the eighth-fastest growing county in the State and has continued to experience a high rate of growth during the last decade; and

WHEREAS, the Town of Bluffton in southern Beaufort County in 2001 consisted of one square mile; today, the town’s footprint exceeds 54 square miles with 92 percent of the area under PUD zoning, and in the past decade its population increased by 156 percent; and

WHEREAS, the population of the City of Hardeeville in southern Beaufort and Jasper counties has increased by 212 percent in the past decade, and the city is processing applications for the development of a 231-acre tract adjacent to the Broad River known as Chelsea South and a 2,200-acre tract at the headwaters of the New River known as Karrh Tract; and

WHEREAS, A 2018 joint study of Lady’s Island by the city of Beaufort and Beaufort County concluded new measures were needed to manage growth on the island, with the anticipated amount of growth exceeding the capacity of the island’s infrastructure; and

WHEREAS, Beaufort and Jasper counties and their municipalities contain many legacy planned-unit developments (PUDs) dating back to the early 2000s in which significant development densities were vested, and many of these PUDs remain unbuilt, and new PUDs and/or large-tract rezonings are approved on a regular basis; and

WHEREAS, this rapid growth puts environmentally unsustainable pressures on our lands and waters, in that the development and the accompanying infrastructure result in the destruction of natural wetlands, marshes, headwaters, and other waterways, thereby hampering the functioning of these systems and eliminating valuable and effective natural storm protection and flood abatement, and fish and wildlife habitat; and

WHEREAS, this growth increases the amount of impervious surfaces throughout the low-lying portions of Beaufort and Jasper counties, which in turn carries pollutants into our waterways; e.g., a study completed in 2019 found that development in the Town of Bluffton had increased levels of fecal coliform in the May River by 3,150 percent in the previous decade; and



(1) For ‘preservation procurements,’ as defined herein this ordinance to mean procuring open lands or green space for preservation, by and through the acquisition of interests in real property, including:

- (i) the acquisition of fee simple titles;
- (ii) conservation easements;
- (iii) development rights;
- (iv) rights of first refusal;
- (v) options;
- (vi) leases with options to purchase; and
- (vii) any other interests in real property.

(2) Preservation procurements may pertain to real property situated outside of the boundaries of the taxing jurisdiction.

(All of the above are referred to herein collectively as the “projects.”)

For a period not to exceed \_\_\_\_\_ (ten (10) )years from the date of imposition of such tax, to fund the projects at a maximum cost not to exceed \_\_\_\_\_ (\$350,000,000) to be funded from the net proceeds of a sales and use tax imposed in Beaufort County pursuant to provisions of the Act, subject to approval of the qualified electors of Beaufort County in referendum to be held on November 8, 2022. The imposition of the sales and use tax and the use of sales and use tax revenue if approved in the referendum, shall be subject to the conditions precedent and conditions or restrictions on the use and expenditure of sales and use tax revenue established by the Act, the provisions of this Ordinance, and other applicable law. Subject to annual appropriations by County Council, sales and use tax revenues shall be used for the costs of the projects established in this Ordinance, as it may be amended from time to time, including, without limitation, payment of administrative costs of the projects, and such sums as may be required in connection with the issuance of bonds, the proceeds of which are applied to pay costs of the projects. All spending shall be subject to an annual independent audit to be made available to the public.

(d) County Council finds the imposition of a sales and use tax in Beaufort County for the projects and purposes defined in this Ordinance for a limited time not to exceed \_\_\_\_\_ (ten (10)) years to collect a limited amount of money will serve a public purpose, to provide for and protect natural areas and open space in the watersheds of Beaufort and Jasper counties, to protect water quality, to preserve land for recreational activities, to preserve farm and forest land, to preserve contiguous landscapes and habitat corridors, and to protect other environmentally sensitive areas such as wetlands, marsh lands and headwater areas, all of which enhance quality of life in Beaufort County, promote public health and safety, and prepare Beaufort County to meet its citizens’ present and future needs.

**Section 2. Approval of Sales and Use Tax Subject to Referendum.**

(a) A sales and use tax (the “Sales and Use Tax”), as authorized by the Act, is hereby imposed in Beaufort County, South Carolina, subject to a favorable vote of a majority of the qualified electors

voting in a referendum on the imposition of the tax to be held in Beaufort County, South Carolina on November 8, 2022.

(b) The Sales and Use Tax shall be imposed for a period not to exceed 10 years from the date of imposition.

(c) The maximum cost of the projects to be funded from the proceeds of the Sales and Use Tax shall not exceed, in the aggregate, the sum of \_\_\_\_\_ (\$350,000,000) and the maximum amount of net proceeds to be raised by the tax shall not exceed \_\_\_\_\_ (\$350,000,000) which includes administrative costs and debt service on bonds issued to pay for the projects. The estimated principal amount of initial authorization of bonds to be issued to pay costs of the projects and to be paid by a portion of the Sales and Use Tax is \_\_\_\_\_ (\$350,000,000).

(d) The Sales and Use Tax shall be expended for the costs of the following projects, including payment of any sums as may be required for the issuance of and debt service for bonds, the proceeds of which are applied to such projects, for the following purposes:

(1) For preservation procurements, to mean procuring for preservation open lands or green space located within or without, or both within and without, the boundaries of the local governmental entities, including the county, municipalities, and special purpose districts located in the county area, by and through the acquisition of interests in real property, including:

- (i) the acquisition of fee simple titles;
- (ii) conservation easements;
- (iii) development rights;
- (iv) rights of first refusal;
- (v) options;
- (vi) leases with options to purchase; and
- (vii) any other interests in real property.

(2) Preservation procurements may pertain to real property situated outside of the boundaries of the taxing jurisdiction.

The amount of the maximum total funds to be collected which shall be expended for these projects and purposes shall be no more than \_\_\_\_\_ (\$350,000,000).

(e) If the Sales and Use Tax is approved in a referendum, then the tax shall be imposed on the first of May following the date of the referendum. If the reimposition of an existing sales and use tax imposed pursuant to this article is approved in a referendum, then the new tax is imposed immediately following the termination of the earlier imposed tax, and the reimposed tax terminates on the applicable thirtieth of April, not to exceed seven years from the date of reimposition. If the certification is not timely made to the Department of Revenue, then the imposition is postponed for twelve months.

(f) The Sales and Use Tax, if approved in a referendum, terminates the final day of the maximum time period specified for the imposition.

(g) Amounts collected in excess of the required net proceeds must first be applied, if applicable, to complete the preservation procurements for which the Sales and Use Tax was imposed.

(h) If the sales and use tax is approved in a referendum, then the Department of Revenue must make available to the public, upon request, all information regarding the amount of the tax that is collected, expenditures, and any remaining funds at the time of the information request to ensure transparency and accountability.

### **Section 3. Administration of the Funds.**

(a) The tax levied pursuant to this article must be administered and collected by the Department of Revenue in the same manner that other sales and use taxes are collected. The Department of Revenue may prescribe amounts that may be added to sales prices because of the tax.

(b) The county in which a referendum is passed shall assemble an advisory committee to assist the Department of Revenue with directing the distribution of the taxes collected to ensure a transparent and equal distribution within the county. The advisory committee shall include seven members:

- (1) one member who is a member of the county council;
- (2) one member who is a member of the legislative delegation;
- (3) one member who is knowledgeable about the geography and condition of the county's land; and
- (4) four citizen members, each representing the northern, southern, eastern, and western portions of the county.

(c) The Sales and Use Tax authorized herein, subject to a referendum, is in addition to all other local sales and use taxes and applies to the gross proceeds of sales in the applicable area that is subject to the tax imposed by Chapter 36, Title 12 and the enforcement provisions of Chapter 54, Title 12. The gross proceeds of the sale of items subject to a maximum tax in Chapter 36, Title 12 are exempt from the tax imposed by this article. Unprepared food items eligible for purchase with United States Department of Agriculture food coupons are exempt from the tax imposed pursuant to this article. The tax imposed by this article also applies to tangible personal property subject to the use tax in Article 13, Chapter 36, Title 12.

(d) A taxpayer required to remit taxes under Article 13, Chapter 36, Title 12 must identify the county in which the personal property purchased at retail is stored, used, or consumed in this State.

(e) A utility is required to report sales in the county in which the consumption of the tangible personal property occurs.

(f) A taxpayer subject to the tax imposed by Section 12-36-920, who owns or manages rental units in more than one county, must separately report in his sales tax return the total gross proceeds from business done in each county.

(g) The gross proceeds of sales of tangible personal property delivered after the imposition date of the tax levied under this article in a county, either under the terms of a construction contract executed before the imposition date, or a written bid submitted before the imposition date, culminating in a construction contract entered into before or after the imposition date, are exempt from the sales and use tax provided in this article if a verified copy of the contract is filed with the Department of Revenue within six months after the imposition date of the sales and use tax provided for in this article.

(h) Notwithstanding the imposition date of the sales and use tax authorized pursuant to this chapter, with respect to services that are billed regularly on a monthly basis, the sales and use tax authorized pursuant to this article is imposed beginning on the first day of the billing period beginning on or after the imposition date.

(i) The Department of Revenue shall furnish data to the State Treasurer and to the county treasurers receiving revenues for the purpose of calculating distributions and estimating revenues. The information that must be supplied to counties and municipalities upon request includes, but is not limited to, gross receipts, net taxable sales, and tax liability by taxpayers. Information about a specific taxpayer is considered confidential and is governed by the provisions of Section 12-54-240. A person violating this section is subject to the penalties provided in Section 12-54-240.

(j) Annually, and only in the month of June, funds collected by the Department of Revenue from the county green space sales tax, which are not identified as to the governmental unit due the tax, must be transferred, after reasonable effort by the Department of Revenue to determine the appropriate governmental unit, to the State Treasurer's Office. The State Treasurer shall distribute these funds to the county treasurer in the county area in which the tax is imposed, and the revenues must be only used for the purposes stated in the enacting ordinance. The State Treasurer shall calculate this supplemental distribution on a proportional basis based on the current fiscal year's county area revenue collections.

#### **Section 4. Sales and Use Tax Referendum; Ballot Question.**

(a)(1) Upon receipt of an ordinance, a county's election commission must conduct a referendum on the question of imposing the sales and use tax in the area of the county that is to be subject to the tax. A referendum for imposition or reimposition of the tax must be held at the time of the next general election in an even-numbered year. Two weeks before a referendum, a county's election commission must publish in a newspaper of general circulation the question that is to appear on the ballot, with a description of the methods by which the county's governing body intends to procure open lands and green space for preservation. If the proposed question includes the use of sales taxes to defray debt service on bonds issued to pay the costs of any preservation procurements, then the notice must include a statement indicating the principal amount of the bonds proposed to be issued for the purpose and, if the issuance of the bonds is to be approved as part of the referendum, stating that the referendum includes the authorization of the issuance of bonds in that amount. This notice is in lieu of any other notice otherwise required by law.

(2) The Board of Voter Registration and Elections of Beaufort County shall conduct a referendum on the question of imposing a Sales and Use Tax in the area of Beaufort County on Tuesday, November 8, 2022, between the hours of 7 a.m. and 7 p.m. under the election laws of the State of South Carolina, *mutatis mutandis*. The Board of Voter Registration and Elections of Beaufort County shall publish in a newspaper of general circulation the question that is to appear on the ballot, with the list of projects and purposes as set forth herein, and the cost of projects, and shall publish such election and other notices as required by law.

(b) The referendum question to be on the ballot of the referendum to be held in Beaufort County on November 8, 2022, must read substantially as follows:

OFFICIAL BALLOT, REFERENDUM  
SPECIAL SALES AND USE TAX TO PROTECT OPEN LAND AND GREEN SPACES  
NOVEMBER 8, 2022

‘Shall a special \_\_\_\_\_ (one-half of one cent) sales and use tax be imposed in Beaufort County for not more than \_\_\_\_\_ ten (10) years to raise up to \_\_\_\_\_ (\$350,000,000) for preservation procurements for the purpose of procuring open lands and green space by and through the acquisition of interests in real property, located within or outside the boundaries of Beaufort County, such interests to include:

- (a) the acquisition of fee simple titles;
- (b) conservation easements;
- (c) development rights;
- (d) rights of first refusal;
- (e) options;
- (f) leases with options to purchase; or
- (g) any other interests in real property?’

YES In favor of the question [ ]  
NO Opposed to the question [ ]

If the referendum includes the issuance of bonds, then the question must be revised to include the principal amount of bonds proposed to be authorized by the referendum and the sources of payment of the bonds if the sales tax approved in the referendum is inadequate for the payment of the bonds.

(c) All qualified electors desiring to vote in favor of imposing the tax for the stated purposes shall vote ‘yes’, and all qualified electors opposed to levying the tax shall vote ‘no’. If a majority of the votes cast are in favor of imposing the tax, then the tax is imposed as provided in this article and the enacting ordinance. Any subsequent referendum on this question must be held on the date prescribed in subsection (a). The election commission shall conduct the referendum under the election laws of this State, *mutatis mutandis*, and shall certify the result no later than November thirtieth to the county governing body and to the Department of Revenue. Expenses of the referendum must be paid by the governmental entities that would receive the proceeds of the tax in the same proportion as those entities would receive the net proceeds of the tax.

(d) Upon receipt of the returns of a referendum, a county’s governing body must, by resolution, declare the results thereof. In such event, the results of the referendum, as declared by resolution of the county’s governing body, are not open to question except by a suit or proceeding instituted within thirty days from the date such resolution is adopted.

IT IS SO ORDAINED.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2022.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: \_\_\_\_\_  
Joseph Passiment, Chairman

ATTEST:

\_\_\_\_\_  
Sarah Brock,  
Clerk to Council

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

ORDINANCE NO. 2022 / \_\_\_\_

AN ORDINANCE TO LEVY AND IMPOSE A **ONE (1) PERCENT** SALES AND USE TAX, SUBJECT TO A REFERENDUM, WITHIN BEAUFORT COUNTY PURSUANT TO SECTION 4-10-1010 ET SEQ. OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED; TO DEFINE THE SPECIFIC PURPOSES AND DESIGNATE PROJECTS FOR WHICH THE PROCEEDS OF THE TAX MAY BE USED; TO PROVIDE THE MAXIMUM TIME FOR WHICH SUCH TAX MAY BE IMPOSED; TO PROVIDE THE ESTIMATED COST OF THE PROJECTS FUNDED FROM THE PROCEEDS OF THE TAX; TO PROVIDE FOR A COUNTY-WIDE REFERENDUM ON THE IMPOSITION OF THE SALES AND USE TAX AND THE ISSUANCE OF GENERAL OBLIGATION BONDS AND TO PRESCRIBE THE CONTENTS OF THE BALLOT QUESTIONS IN THE REFERENDUM; TO PROVIDE FOR THE ADMINISTRATION OF THE TAX, IF APPROVED; TO PROVIDE FOR THE PAYMENT OF THE TAX, IF APPROVED; AND TO PROVIDE FOR OTHER MATTERS RELATING THERETO.

WHEREAS, South Carolina is the tenth-fastest-growing State in the nation, and Beaufort County is the eighth-fastest growing county in the State and has continued to experience a high rate of growth during the last decade; and

WHEREAS, the Town of Bluffton in southern Beaufort County in 2001 consisted of one square mile; today, the town’s footprint exceeds 54 square miles with 92 percent of the area under PUD zoning, and in the past decade its population increased by 156 percent; and

WHEREAS, the population of the City of Hardeeville in southern Beaufort and Jasper counties has increased by 212 percent in the past decade, and the city is processing applications for the development of a 231-acre tract adjacent to the Broad River known as Chelsea South and a 2,200-acre tract at the headwaters of the New River known as Karrh Tract; and

WHEREAS, A 2018 joint study of Lady’s Island by the city of Beaufort and Beaufort County concluded new measures were needed to manage growth on the island, with the anticipated amount of growth exceeding the capacity of the island’s infrastructure; and

WHEREAS, Beaufort and Jasper counties and their municipalities contain many legacy planned-unit developments (PUDs) dating back to the early 2000s in which significant development densities were vested, and many of these PUDs remain unbuilt, and new PUDs and/or large-tract rezonings are approved on a regular basis; and

WHEREAS, this rapid growth puts environmentally unsustainable pressures on our lands and waters, in that the development and the accompanying infrastructure result in the destruction of natural wetlands, marshes, headwaters, and other waterways, thereby hampering the functioning of these systems and eliminating valuable and effective natural storm protection and flood abatement, and fish and wildlife habitat; and

WHEREAS, this growth increases the amount of impervious surfaces throughout the low-lying portions of Beaufort and Jasper counties, which in turn carries pollutants into our waterways; e.g., a study completed in 2019 found that development in the Town of Bluffton had increased levels of fecal coliform in the May River by 3,150 percent in the previous decade; and

WHEREAS, the Southeast United States coast has experienced some of the highest rates of sea level rise and coastal flooding in the world, with some areas losing as much as three feet of bank each year, and additional sea level rises and coastal flooding will adversely impact existing residential and commercial uses on our state’s coast and has been cited by the United States Department of Defense as a threat to the viability of the Marine Corps Recruit Depot Parris Island, which employs 6,100 people and has an annual economic impact of \$739.8 million; and

WHEREAS, development patterns within the low-lying topography of Beaufort and Jasper counties makes our communities highly vulnerable to flooding, and over the past six years, major flooding and storm events have caused over one billion dollars in total damages to residential and commercial properties and have imposed substantial burdens on taxpayers; and

WHEREAS, in recognition of the negative consequences associated with environmentally unsustainable levels of development, the South Carolina General Assembly passed on May 12, 2022, and South Carolina Governor Henry McMaster signed on May 16, 2022, a bill (S. 152, Section 4-10-1010, et seq/ of the Code of Laws of South Carolina 1976, as amended; herein, the “County Green Space Sales Tax Act,” or the “Act”) to empower counties to undertake land preservation efforts supportive of, respectful to, and consistent with the principle of private property rights, as opposed to limiting them to the use of traditional land use regulations, which, to attain meaningful relief, could give rise to inverse condemnation claims; and

WHEREAS, the Beaufort County Council recognizes the need to preserve land that has scenic, natural, recreational, rural, and open space character which is deemed essential to the County’s quality of life and is desirous of exercising the new preservation alternative provided to it by the Green Space Sales Tax.

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

**Section 1. Recitals and Legislative Findings.** incident to the enactment of this Ordinance, the County Council of Beaufort County, South Carolina has made the following findings:

(a) The South Carolina General Assembly has enacted the County Green Space Sales Tax Act pursuant to which the county governing body may impose a sales and use tax by ordinance, subject to a referendum, in an amount not to exceed one percent, within the county area for a specific purpose or purposes and for a limited amount of time to collect a limited amount of money.

(b) The County Governing Body finds that a Green Space Sales and Use Tax imposed solely for the purposes provided herein to pay directly and, or, through payment of debt service issued or upon issue of general obligations bonds, if any, and subject to referendum, to pay for all reasonable and necessary expenses incidental to the purchase and acquisition of open lands and green spaces, including without limitation the costs and expenses of studies, land title and mortgage title policies, engineering and construction management services, legal, accounting organizational, marketing or other special services related to the financing of the purchase and the issuance of bonds, if any, financial or underwriting fees and expenses incurred in connection with issuing of

bonds if any, rating agencies' fees, initial trustee and paying agent fees, recording and filing fees and any and all other necessary and incidental expenses related to preservation procurements, as set for the below, all of which serve a necessary and proper public and corporate purpose of the County and its municipalities, enhance the safety, efficiency and aesthetics of the County and its municipalities, thereby promoting the public health, safety and welfare, desirable living conditions and economic development of the County and municipalities and addresses the needs of the County and municipalities now and in the future.

(c) Pursuant to the terms of Section 4-10-1010(B)(2) of the County Green Space Sales Tax Act (“Act”), revenues collected under this authorization may be used to defray debt service on bonds issued for the specific purposes described herein.

(d) The County Council finds that a **one percent (1%)** sales and use tax should be levied and imposed within Beaufort County, for the following projects and purposes:

(1) For ‘preservation procurements,’ as defined herein this ordinance to mean procuring open lands or green space for preservation, by and through the acquisition of interests in real property, including:

- (i) **the acquisition of fee simple titles;**
- (ii) **conservation easements;**
- (iii) **development rights;**
- (iv) **rights of first refusal;**
- (v) **options;**
- (vi) **leases with options to purchase; and**
- (vii) **any other interests in real property.**

(2) Preservation procurements may pertain to real property situated outside of the boundaries of the taxing jurisdiction.

(All of the above are referred to herein collectively as the “projects.”)

For a period not to exceed **four (4)** years from the date of imposition of such tax, to fund the projects at a maximum cost not to exceed **\$300,000,000** to be funded from the net proceeds of a sales and use tax imposed in Beaufort County pursuant to provisions of the Act, subject to approval of the qualified electors of Beaufort County in referendum to be held on November 8, 2022. The imposition of the sales and use tax and the use of sales and use tax revenue if approved in the referendum, shall be subject to the conditions precedent and conditions or restrictions on the use and expenditure of sales and use tax revenue established by the Act, the provisions of this Ordinance, and other applicable law. Subject to annual appropriations by County Council, sales and use tax revenues shall be used for the costs of the projects established in this Ordinance, as it may be amended from time to time, including, without limitation, payment of administrative costs of the projects, and such sums as may be required in connection with the issuance of bonds, the proceeds of which are applied to pay costs of the projects. All spending shall be subject to an annual independent audit to be made available to the public.

(e) County Council further finds the imposition of a sales and use tax in Beaufort County for the projects and purposes defined in this Ordinance for a limited time not to exceed **four (4)** years to collect **\$300,000,000 which** will serve a public purpose, to provide for and protect natural areas and open space in the watersheds of Beaufort, Jasper and other counties, to protect water quality, to preserve land for recreational activities, to preserve farm and forest land, to preserve contiguous landscapes and habitat corridors, and to protect other environmentally sensitive areas such as wetlands, marsh lands and headwater areas, all of which enhance quality of life in Beaufort County, promote public health and safety, and prepare Beaufort County to meet its citizens’ present and future needs.

**Section 2. Approval of Sales and Use Tax Subject to Referendum.**

(a) A sales and use tax (the “Sales and Use Tax”), as authorized by the Act, is hereby imposed in Beaufort County, South Carolina, subject to a favorable vote of a majority of the qualified electors voting in a referendum on the imposition of the tax to be held in Beaufort County, South Carolina on November 8, 2022.

(b) The Sales and Use Tax shall be imposed for a period not to exceed **4** years from the date of imposition.

(c) The maximum cost of the projects to be funded from the proceeds of the Sales and Use Tax shall not exceed, in the aggregate, the sum of **\$300,000,000** and the maximum amount of net proceeds to be raised by the tax shall not exceed **\$300,000,000** which includes appropriate administrative costs including, but not limited to those set forth above, and debt service on bonds issued to pay for the projects. The estimated principal amount of initial authorization of bonds to be issued to pay costs of the projects and to be paid by a portion of the Sales and Use Tax is **\$300,000,000**. **If the Sales and Use Tax revenues are inadequate for the payment of the bonds, the County intends to pledge its full faith, credit and taxing power for the payment thereof.**

(d) The Sales and Use Tax shall be expended for the costs of the following projects, including payment of any sums as may be required for the issuance of and debt service for bonds, the proceeds of which are applied to such projects, for the following purposes:

(1) For preservation procurements, to mean procuring for preservation open lands or green space located within or without, or both within and without, the boundaries of the local governmental entities, including the county, municipalities, and special purpose districts located in the county area, by and through the acquisition of interests in real property, including:

- (i) the acquisition of fee simple titles;
- (ii) conservation easements;
- (iii) development rights;
- (iv) rights of first refusal;
- (v) options;
- (vi) leases with options to purchase; and
- (vii) any other interests in real property.

(2) Preservation procurements may pertain to real property situated outside of the boundaries of the taxing jurisdiction.

The amount of the maximum total funds to be collected which shall be expended for these projects and purposes shall be no more than **\$300,000,000**.

(e) If the Sales and Use Tax is approved in a referendum, then the tax shall be imposed on the first of May following the date of the referendum. If the reimposition of an existing sales and use tax imposed pursuant to this article is approved in a referendum, then the new tax is imposed immediately following the termination of the earlier imposed tax, and the reimposed tax terminates on the applicable thirtieth of April, not to exceed seven years from the date of reimposition. If the certification is not timely made to the Department of Revenue, then the imposition is postponed for twelve months.

(f) The Sales and Use Tax, if approved in a referendum, terminates the final day of the maximum time period specified for the imposition **or upon collection of the maximum total funds specified, whichever occurs first.**

(g) Amounts collected in excess of the required net proceeds must first be applied, if applicable, to complete the preservation procurements for which the Sales and Use Tax was imposed.

(h) If the sales and use tax is approved in a referendum, then the Department of Revenue must make available to the public, upon request, all information regarding the amount of the tax that is collected, expenditures, and any remaining funds at the time of the information request to ensure transparency and accountability.

### **Section 3. Administration of the Funds.**

(a) The tax levied pursuant to this article must be administered and collected by the Department of Revenue in the same manner that other sales and use taxes are collected. The Department of Revenue may prescribe amounts that may be added to sales prices because of the tax.

(b) The county in which a referendum is passed shall assemble an advisory committee to assist the Department of Revenue with directing the distribution of the taxes collected to ensure a transparent and equal distribution within the county. The advisory committee shall include seven members:

- (1) one member who is a member of the county council;
- (2) one member who is a member of the legislative delegation;
- (3) one member who is knowledgeable about the geography and condition of the county's land; and
- (4) four citizen members, each representing the northern, southern, eastern, and western portions of the county.

(c) The Sales and Use Tax authorized herein, subject to a referendum, is in addition to all other local sales and use taxes and applies to the gross proceeds of sales in the applicable area that is subject to the tax imposed by Chapter 36, Title 12 and the enforcement provisions of Chapter 54,

Title 12. The gross proceeds of the sale of items subject to a maximum tax in Chapter 36, Title 12 are exempt from the tax imposed by this article. Unprepared food items eligible for purchase with United States Department of Agriculture food coupons are exempt from the tax imposed pursuant to this article. The tax imposed by this article also applies to tangible personal property subject to the use tax in Article 13, Chapter 36, Title 12.

(d) A taxpayer required to remit taxes under Article 13, Chapter 36, Title 12 must identify the county in which the personal property purchased at retail is stored, used, or consumed in this State.

(e) A utility is required to report sales in the county in which the consumption of the tangible personal property occurs.

(f) A taxpayer subject to the tax imposed by Section 12-36-920, who owns or manages rental units in more than one county, must separately report in his sales tax return the total gross proceeds from business done in each county.

(g) The gross proceeds of sales of tangible personal property delivered after the imposition date of the tax levied under this article in a county, either under the terms of a construction contract executed before the imposition date, or a written bid submitted before the imposition date, culminating in a construction contract entered into before or after the imposition date, are exempt from the sales and use tax provided in this article if a verified copy of the contract is filed with the Department of Revenue within six months after the imposition date of the sales and use tax provided for in this article.

(h) Notwithstanding the imposition date of the sales and use tax authorized pursuant to this chapter, with respect to services that are billed regularly on a monthly basis, the sales and use tax authorized pursuant to this article is imposed beginning on the first day of the billing period beginning on or after the imposition date.

(i) The Department of Revenue shall furnish data to the State Treasurer and to the county treasurers receiving revenues for the purpose of calculating distributions and estimating revenues. The information that must be supplied to counties and municipalities upon request includes, but is not limited to, gross receipts, net taxable sales, and tax liability by taxpayers. Information about a specific taxpayer is considered confidential and is governed by the provisions of Section 12-54-240. A person violating this section is subject to the penalties provided in Section 12-54-240.

(j) Annually, and only in the month of June, funds collected by the Department of Revenue from the county green space sales tax, which are not identified as to the governmental unit due the tax, must be transferred, after reasonable effort by the Department of Revenue to determine the appropriate governmental unit, to the State Treasurer's Office. The State Treasurer shall distribute these funds to the county treasurer in the county area in which the tax is imposed, and the revenues must be only used for the purposes stated in the enacting ordinance. The State Treasurer shall calculate this supplemental distribution on a proportional basis based on the current fiscal year's county area revenue collections.

#### **Section 4. Sales and Use Tax Referendum; Ballot Question.**

(a)(1) Upon receipt of an ordinance, a county’s election commission must conduct a referendum on the question of imposing the sales and use tax in the area of the county that is to be subject to the tax. A referendum for imposition or reimposition of the tax must be held at the time of the next general election in an even-numbered year. Two weeks before a referendum, a county’s election commission must publish in a newspaper of general circulation the question that is to appear on the ballot, with a description of the methods by which the county’s governing body intends to procure open lands and green space for preservation. If the proposed question includes the use of sales taxes to defray debt service on bonds issued to pay the costs of any preservation procurements, then the notice must include a statement indicating the principal amount of the bonds issued or proposed to be issued for the purpose and, if the issuance of the bonds is to be approved as part of the referendum, stating that the referendum includes the authorization of the issuance of bonds in that amount. This notice is in lieu of any other notice otherwise required by law.

(2) The Board of Voter Registration and Elections of Beaufort County shall conduct a referendum on the question of imposing a Sales and Use Tax in the area of Beaufort County on Tuesday, November 8, 2022, between the hours of 7 a.m. and 7 p.m. under the election laws of the State of South Carolina, *mutatis mutandis*. The Board of Voter Registration and Elections of Beaufort County shall publish in a newspaper of general circulation the question that is to appear on the ballot, with the list of projects and purposes as set forth herein, and the cost of projects, and shall publish such election and other notices as required by law.

(b) The referendum question to be on the ballot of the referendum to be held in Beaufort County on November 8, 2022, must read substantially as follows:

OFFICIAL BALLOT, REFERENDUM

LOCAL QUESTION NUMBER IA  
AUTHORIZATION TO IMPOSE A ONE PERCENT (1%) SPECIAL SALES AND USE TAX  
TO FINANCE THE PROTECTION OF OPEN LAND AND GREEN SPACES  
NOVEMBER 8, 2022

‘QUESTION 1. Shall a special **one percent (1%)** sales and use tax be imposed in Beaufort County for not more than **four (4)** years to raise up to **\$300,000,000** for preservation procurements for the purpose of procuring open lands and green space by and through the acquisition of interests in real property, located within or outside the boundaries of Beaufort County, such interests to include:

- (a) the acquisition of fee simple titles;
- (b) conservation easements;
- (c) development rights;
- (d) rights of first refusal;
- (e) options;
- (f) leases with options to purchase; or

(g) any other interests in real property?’

YES In favor of the question [ ]

NO Opposed to the question [ ]

If you are in favor of the question, place a check or cross-mark in the square after the words "Yes, in favor of the question". If you are opposed to the question, place a check of cross-mark in the square after the words "No, opposed to the question.'

**LOCAL QUESTION NUMBER IB**

I approve the issuance of not exceeding \$\_\_\_\_\_ in principal amount of general obligation bonds of Beaufort County maturing over a period of not to exceed Four (4) years to fund the procurement of open lands and green space identified in Beaufort County Local Referendum Question IA? If the Sales and Use Tax revenues are inadequate for the payment of the bonds, the County intends to pledge its full faith, credit and taxing power for the payment thereof.

YES In favor of the question [ ]

NO Opposed to the question [ ]

If you are in favor of the question, place a check or cross-mark in the square after the words "Yes, in favor of the question". If you are opposed to the question, place a check of cross-mark in the square after the words "No, opposed to the question.'

(c) All qualified electors desiring to vote in favor of imposing the tax for the stated purposes shall vote ‘yes’, and all qualified electors opposed to levying the tax shall vote ‘no’. If a majority of the votes cast are in favor of imposing the tax, then the tax is imposed as provided in this article and the enacting ordinance. Any subsequent referendum on this question must be held on the date prescribed in subsection (a). The election commission shall conduct the referendum under the election laws of this State, mutatis mutandis, and shall certify the result no later than November thirtieth to the county governing body and to the Department of Revenue. Expenses of the referendum must be paid by the governmental entities that would receive the proceeds of the tax in the same proportion as those entities would receive the net proceeds of the tax.

(d) Upon receipt of the returns of a referendum, a county’s governing body must, by resolution, declare the results thereof. In such event, the results of the referendum, as declared by resolution of the county’s governing body, are not open to question except by a suit or proceeding instituted within thirty days from the date such resolution is adopted.

IT IS SO ORDAINED.

Adopted this \_\_\_ day of \_\_\_\_\_, 2022.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: \_\_\_\_\_  
Joseph Passiment, Chairman

ATTEST:

\_\_\_\_\_  
Sarah Brock,  
Clerk to Council

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

# ADD-ONS

**The document(s) herein were provided to Council for information and/or discussion after release of the official agenda and backup items.**



ALAN WILSON  
ATTORNEY GENERAL

August 8, 2022

The Hon. Tom Davis  
South Carolina Senate  
L. Marion Gressette Building, Suite 203  
Columbia, SC 29201

Dear Senator Davis:

We received your request for an opinion on certain questions related to the County Greenspace Sales Tax Act. This expedited opinion sets out our Office's understanding of your questions and our response.

**Issue (as quoted from your letter):**

1. Does the Act provide a county with the authority to set up a preservation procurement process and to reserve unto itself the specific identification of the procurements to be made?
2. Does the Act limit the role of the advisory committee and the SCDOR to that of ensuring a county's procurements meet the requirements of the statute, or does the Act provide them with the substantive policymaking power to identify specific procurements to be made?
3. Does the Act require a county, in making preservation procurements, to lease real property?
4. Does the Act confer upon the municipalities within the county a right to receive any of the green space sales tax funds collected by the SCDOR?

**Law/Analysis:**

Your request letter also provided to us two memoranda. The first memorandum was authored by Kenneth M. Moffit, Assistant Clerk of the South Carolina Senate and Assistant Director, Senate Research. The second memorandum was authored by Jason P. Luther, Chief Legal Officer for the South Carolina Department of Revenue. Based on these memoranda and your communications with our Office, it appears that there is broad consensus on how this law is

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intended to operate, and your constituents simply want an advisory opinion of this Office either affirming or disagreeing with that construction.

For the reasons described below, we join the consensus of the Senate and the Department of Revenue. Our Office has expedited this opinion in order to provide timely advice for your constituents.

The County Green Space Sales Tax Act was signed into law on May 16, 2022 and is codified as Title 4, Chapter 10, Article 10 of the South Carolina Code. *See* S.C. Code Ann. § 4-10-1010 *et seq.* In relevant part, the Act provides as follows:

(A) For the purposes of this article, “preservation procurements” means procuring open lands or green space for preservation, by and through the acquisition of interests in real property, including:

- (1) the acquisition of fee simple titles;
- (2) conservation easements;
- (3) development rights;
- (4) rights of first refusal;
- (5) options;
- (6) leases with options to purchase; and
- (7) any other interests in real property.

(B)(1) Subject to the requirements of this article, a county's governing body may impose a sales and use tax by ordinance, subject to a referendum, within the county area for preservation procurements.

(2) Revenues collected pursuant to this article may be used to defray debt service on bonds issued to pay for preservation procurements authorized in this article. This authorization is in addition to any other locally imposed sales and use taxes.

S.C. Code Ann. § 4-10-1010.

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(A) A county governing body may impose a sales and use tax up to one percent authorized by this article, by ordinance, subject to a referendum. An enacting ordinance must specify:

(1) the purpose for which the proceeds of the tax are to be used, which may include preservation procurements located within or without, or both within and without, the boundaries of the local governmental entities, including the county, municipalities, and special purpose districts located in the county area;

(2) if the county proposes to issue bonds to provide for the payment of any costs of the preservation procurements, the maximum amount of bonds to be issued, whether the sales tax proceeds are to be pledged to the payment of the bonds and, if other sources of funds are to be used for the preservation procurements, a list of the other sources;

(3) the maximum cost of the preservation procurements, to be funded from the proceeds of the tax or bonds issued as provided in this article and the maximum amount of net proceeds expected to be used to pay the cost or debt service on the bonds, as the case may be; and

(4) the fact that preservation procurements may pertain to real property situated outside of the boundaries of the taxing jurisdiction.

(B) Upon receipt of an ordinance, a county's election commission must conduct a referendum on the question of imposing the sales and use tax in the area of the county that is to be subject to the tax. . . .

S.C. Code Ann. § 4-10-1020(A)&(B).

(1) The tax levied pursuant to this article must be administered and collected by the Department of Revenue in the same manner that other sales and use taxes are collected. The Department of Revenue may prescribe amounts that may be added to sales prices because of the tax.

(2) The county in which a referendum is passed shall assemble an advisory committee to assist the Department of Revenue with directing the distribution of the taxes collected to ensure a transparent and equal distribution within the county. The advisory committee shall include seven members:

(a) one member who is a member of the county council;

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- (b) one member who is a member of the legislative delegation;
- (c) one member who is knowledgeable about the geography and condition of the county's land; and
- (d) four citizen members, each representing the northern, southern, eastern, and western portions of the county.

S.C. Code Ann. § 4-10-1040(A).

Annually, and only in the month of June, funds collected by the Department of Revenue from the county green space sales tax, which are not identified as to the governmental unit due the tax, must be transferred, after reasonable effort by the Department of Revenue to determine the appropriate governmental unit, to the State Treasurer's Office. The State Treasurer shall distribute these funds to the county treasurer in the county area in which the tax is imposed, and the revenues must be only used for the purposes stated in the enacting ordinance. The State Treasurer shall calculate this supplemental distribution on a proportional basis, based on the current fiscal year's county area revenue collections.

S.C. Ann. § 4-10-1060.

We address each of your presented questions in turn, reiterating that this is an expedited opinion on a new statute and should be read in the context of other relevant prior opinions and generally-applicable law.

Questions 1 and 2 ask essentially the same question, in that they center on the authority to identify lands for preservation procurements:

1. Does the Act provide a county with the authority to set up a preservation procurement process and to reserve unto itself the specific identification of the procurements to be made?
2. Does the Act limit the role of the advisory committee and the SCDOR to that of ensuring a county's procurements meet the requirements of the statute, or does the Act provide them with the substantive policymaking power to identify specific procurements to be made?

We believe that the county retains the authority to identify what property it wishes to target for preservation procurements and to elect what type of interest in real property it seeks to

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acquire. Ultimately, it is the county governing body that is levying the tax and procuring the property interests. S.C. Code Ann. § 4-10-1020. The Department of Revenue and the statutory Advisory Committee each have a role in this process: the stated role of the Advisory Committee under the statute is to “to assist the Department of Revenue with directing the distribution of the taxes collected to ensure a transparent and equal distribution within the county.” S.C. Code Ann. § 4-10-1040(A)(2). The role of the Department is to administer and collect the tax “in the same manner that other sales and use taxes are collected.” S.C. Code Ann. § 4-10-1040(A)(1).

We quote here from the Memorandum of the Assistant Clerk of the South Carolina Senate, which describes the role of Advisory Committee within the statutory framework and generally applicable law:

The procedures established in the Act are fairly standard with other similar sales taxes authorized in the S.C. Code - with one exception.

Unlike other similar sales and use taxes, the Act requires that upon a successful referendum a County “shall assemble” an Advisory Committee . . . . The Advisory Committee plays an important role in making sure that the tax revenue raised pursuant to the additional levy is spent on appropriate projects because unlike other special sales and use tax levies for specific projects the referendum does not have to list the particular projects that are to be funded with the additional sales and use tax. . . .

Therefore, the Act does not result in a County ceding all control over the Advisory Committee’s functions. County governing bodies have the authority to enact ordinances “not inconsistent with the Constitution and general law of this State” that are “necessary and proper for the security, general welfare, and convenience of the counties or respecting or for preserving the health, peace, order and good government in them.” (S.C. Code Ann. § 4-9-25) Given the limited scope of authority vested with the Advisory Committee in the “general law,” the Counties have wide latitude to affect the activities of an Advisory Committee so long as the County does not attempt to change the composition of an Advisory Committee or interfere with the Advisory Committee’s interactions with the Department of Revenue.

Therefore, it is my opinion that Beaufort County has the statutory authority to establish a procedure or protocol for identifying and recommending which open lands or green spaces should be procured for preservation. The Advisory Committee can play a role in making those recommendations if County

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Council so chooses - but County Council is not compelled to use the Advisory Committee for that purpose.

Memorandum of Kenneth M. Moffit. Similarly, the Memorandum from the Department of Revenue describes how the Department intends to administer this program:

In [DOR's] view, the Department's primary role is to collect the tax revenues and distribute them to the county. The Department does not interpret [the County Greenspace Sales Tax Act] to require the agency to delve into the details of which properties a county should purchase for purposes of green space usage, nor does the Department intend to take an active role in the selection process. . . . [T]he Department will rely on the advisory committee to provide a transparent plan that equally distributes the funds within the county; once that plan is approved by the county council, the Department will acknowledge the plan and the county may move forward with expending the funds.

Memorandum of Jason P. Luther. The Department goes on to note it retains general audit authority as with other taxes it administers and collects.

Reading the two Memoranda together, we believe that a court would find that the statutory construction set out in the quoted portions is consistent with the plain language and obvious legislative intent of the Act. Furthermore, because the Department is the agency tasked by statute with administering this statute, a court would likely grant deference to the Department's interpretation of the Act. *See Kiawah Development Partners, II v. South Carolina Department of Health & Environmental Control*, 411 S.C. 16, 34, 766 S.E.2d 707, 718 (2014) (“[W]e give deference to agencies both because they have been entrusted with administering their statutes and regulations and because they have unique skill and expertise in administering those statutes and regulations.”).

Beyond this, for the purpose of this expedited opinion we will simply observe the following: the underlying purpose of this advisory committee is to promote transparency and fairness in the process – in essence, to ensure the Greenspace Sales Tax funds do not become a “slush fund” that is used inappropriately. Within the statutory framework set out in the Act, many of the details of exactly how this purpose is accomplished – for example, what role the advisory committee plays in identifying possible acquisitions – might be decided on a local level, consistent with Home Rule. *See* S.C. Code Ann. § 4-9-25.

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**3. Does the Act require a county, in making preservation procurements, to lease real property?**

A lease is one option given to a county by the Act. However, a county may well choose another option instead.

Section 4-1-1010(A) defines a preservation procurement for purposes of the Act:

For the purposes of this article, “preservation procurements” means procuring open lands or green space for preservation, by and through the acquisition of interests in real property, including:

- (1) the acquisition of fee simple titles;
- (2) conservation easements;
- (3) development rights;
- (4) rights of first refusal;
- (5) options;
- (6) leases with options to purchase; and
- (7) any other interests in real property.

S.C. Ann. § 4-10-1010(A). The evident intent here is to give counties a “toolbox” with a variety of options, any one of which a county may elect to use in a particular situation if deemed appropriate. Under this statute, open lands could be preserved through a lease with an option if appropriate. But a county may be deemed that counterproductive, and instead pursue a conservation easement or acquiring the fee simple title. Any interest in real property might be acquired as a preservation procurement; no one type of interest in particular is required over another by this statute.

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**4. Does the Act confer upon the municipalities within the county a right to receive any of the greenspace sales tax funds collected by the SCDOR?**

Ultimately, it is the county governing body that is levying the County Greenspace Sales Tax and procuring the property interests. S.C. Code Ann. § 4-10-1020. The revenues are only to be used for preservation procurements made pursuant to the county ordinance. S.C. Code Ann. § 4-10-1020(A)(1), -1030(C), -1060. Therefore, it appears that a municipality within the county would only receive County Greenspace Sales Tax funds incidental to a county preservation procurement.

Municipalities are entitled to specific information pursuant to section 4-10-1050, which reads in full:

The Department of Revenue shall furnish data to the State Treasurer and to the county treasurers receiving revenues for the purpose of calculating distributions and estimating revenues. The information that must be supplied to counties and municipalities upon request includes, but is not limited to, gross receipts, net taxable sales, and tax liability by taxpayers. Information about a specific taxpayer is considered confidential and is governed by the provisions of Section 12-54-240. A person violating this section is subject to the penalties provided in Section 12-54-240.

S.C. Code Ann. § 4-10-1050 (emphasis added).

**Conclusion:**

In conclusion, we reiterate that this is an expedited opinion. With that caveat, we answer your questions as follows in this expedited opinion:

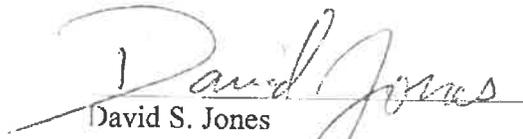
First, the county retains the authority to identify what property it wishes to target for preservation procurements and to elect what type of interest in real property it seeks to acquire. Ultimately, it is the county governing body that is levying the tax and procuring the property interests. S.C. Code Ann. § 4-10-1020. The Department of Revenue and the statutory Advisory Committee each have a role in this process: the stated role of the Advisory Committee under the statute is to “to assist the Department of Revenue with directing the distribution of the taxes collected to ensure a transparent and equal distribution within the county.” S.C. Code Ann. § 4-10-1040(A)(2). The role of the Department is to administer and collect the tax “in the same manner that other sales and use taxes are collected.” S.C. Code Ann. § 4-10-1040(A)(1).

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Second, a lease is one of several options under the Act that a county may pursue, in the discretion of the county, to establish a preservation procurement. Any interest in real property might be acquired as a preservation procurement; no one type of interest in particular is required over another by the Act. S.C. Ann. § 4-10-1010(A).

Finally, it appears that a municipality within the county would only receive County Greenspace Sales Tax funds incidental to a county preservation procurement. Ultimately, it is the county governing body that is levying the County Greenspace Sales Tax and procuring the property interests. S.C. Code Ann. § 4-10-1020. The revenues are only to be used for preservation procurements made pursuant to the county ordinance. S.C. Code Ann. § 4-10-1020(A)(1), -1030(C), -1060. Municipalities are entitled to specific information pursuant to section 4-10-1050.

Sincerely,

  
David S. Jones  
Assistant Attorney General

REVIEWED AND APPROVED BY:

  
Robert D. Cook  
Solicitor General



# BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

Item 10.

<b>ITEM TITLE:</b>
<b>AN ORDINANCE TO APPROPRIATE FUNDS IN ORDER TO ESTABLISH PUBLIC OWNERSHIP OF THE REAL PROPERTY WITH TMS NO. R552 010 000 0648 0000 AND R552 010 000 0649 0000, LOCATED ON HELMSMAN WAY, HILTON HEAD ISLAND</b>
<b>MEETING NAME AND DATE:</b>
County Council; July 11, 2022
<b>PRESENTER INFORMATION:</b>
Brittany Ward, Deputy County Attorney 10 Minutes
<b>ITEM BACKGROUND:</b>
Vote at First Reading by Title Only on June 27, 2022: 7/4
<b>PROJECT / ITEM NARRATIVE:</b>
Beaufort County provides residents of the County with a ferry transportation service from the mainland to Daufuskie Island. A permanent embarkation location and public parking on the mainland is required to continue providing the ferry service. County staff has reviewed all available options and has identified the properties consisting of approximately 4.98 acres located on Helmsman Way on Hilton Head Island as the best option.
<b>FISCAL IMPACT:</b>
Funds from use of General Fund – Fund balance account. Funding not to exceed \$3,400,000 plus closing costs and legal fees
<b>STAFF RECOMMENDATIONS TO COUNCIL:</b>
Approve
<b>OPTIONS FOR COUNCIL MOTION:</b>
Approve/Deny Move forward for Third Reading

**ORDINANCE 2022/\_\_\_\_\_**

**AN ORDINANCE TO APPROPRIATE FUNDS IN ORDER TO ESTABLISH PUBLIC OWNERSHIP OF THE REAL PROPERTY WITH TMS NO. R552 010 000 0648 0000 AND R552 010 000 0649 0000, LOCATED ON HELMSMAN WAY, HILTON HEAD ISLAND**

**WHEREAS**, Beaufort County (“County”) provides the residents of the County with a ferry transportation service from the mainland to Daufuskie Island (“Ferry Service”) which requires an embarkation location on both the mainland as well as on Daufuskie Island; and

**WHEREAS**, in order for the County to continue providing the Ferry Service, the County must establish a permanent mainland embarkation location with public parking to serve the residents of Beaufort County now and in the future; and

**WHEREAS**, the best site for the Ferry Service mainland embarkation location has been identified as the real property consisting of approximately 4.98 acres on Helmsman Way on Hilton Head Island, and further identified with TMS NO. R552 010 000 0648 0000 and R552 010 000 0649 0000, collectively hereinafter referred to as the “Property”; and

**WHEREAS**, the purchase price for the Property must be at the current fair market value which will be determined by a licensed appraiser and by way of negotiating with the current Property owner; and

**WHEREAS**, funding for the purchase of the Property will be appropriated from use of General Fund – Fund balance in an amount not to exceed \$3,400,000 plus closing costs and legal fees; and

**WHEREAS**, County Council finds that it is in the best interest of the citizens and residents of Beaufort County to appropriate funds as described herein for the purchase of the Property.

**NOW, THEREFORE, BE IT ORDAINED** by Beaufort County Council, duly assembled, authorization to appropriate funds from General Fund – Fund balance in an amount not to exceed \$3,400,000 plus closing costs and legal fees in order to establish public ownership of the real property with TMS NO. R552 010 000 0648 0000 and R552 010 000 0649 0000, located on Helmsman Way on Hilton Head Island.

Adopted this \_\_\_\_ day of \_\_\_\_\_ 2022.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: \_\_\_\_\_  
Joseph Passiment, Chairman

ATTEST:

\_\_\_\_\_  
Sarah W. Brock, Clerk to Council



# BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

<b>ITEM TITLE:</b>
<b>AN ORDINANCE TO APPROPRIATE FUNDS IN ORDER TO ESTABLISH PUBLIC OWNERSHIP OF THE REAL PROPERTY WITH TMS NO. R800 021 000 006C 0000 AND R800 021 000 006B 0000 COLLECTIVELY COMMONLY KNOWN AS MELROSE LANDING</b>
<b>MEETING NAME AND DATE:</b>
County Council; July 11, 2022
<b>PRESENTER INFORMATION:</b>
Brittany Ward, Deputy County Attorney 10 Minutes
<b>ITEM BACKGROUND:</b>
Vote at First Reading by Title Only on June 27, 2022: 7/4
<b>PROJECT / ITEM NARRATIVE:</b>
Beaufort County provides residents of the County with a ferry transportation service from the mainland to Daufuskie Island. A permanent embarkation location and public parking on Daufuskie Island is required to continue providing the ferry service. County staff has reviewed all available options and has identified the properties consisting of approximately 4.01 acres located on Melrose Landing Road on Daufuskie Island as the best option.
<b>FISCAL IMPACT:</b>
Funds from use of General Fund – Fund balance account. Funding not to exceed \$800,000 plus closing costs and legal fees
<b>STAFF RECOMMENDATIONS TO COUNCIL:</b>
Approve
<b>OPTIONS FOR COUNCIL MOTION:</b>
Approve/Deny Move forward for Third Reading

**ORDINANCE 2022/\_\_\_\_\_**

**AN ORDINANCE TO APPROPRIATE FUNDS IN ORDER TO ESTABLISH PUBLIC OWNERSHIP OF THE REAL PROPERTY WITH TMS NO. R800 021 000 006C 0000 AND R800 021 000 006B 0000 COLLECTIVELY COMMONLY KNOWN AS MELROSE LANDING**

**WHEREAS**, Beaufort County (“County”) provides the residents of the County with a ferry transportation service from the mainland to Daufuskie Island (“Ferry Service”) which requires an embarkation location on both the mainland as well as on Daufuskie Island; and

**WHEREAS**, in order for the County to continue providing the Ferry Service, the County must establish a permanent Daufuskie Island embarkation location with public parking to serve the residents of Beaufort County now and in the future; and

**WHEREAS**, the best site for the Ferry Service Daufuskie Island embarkation location has been identified as the real property consisting of approximately 4.01 acres on Melrose Landing Road on Daufuskie Island, and further identified with TMS NO. R800 021 000 006C 0000 AND R800 021 000 006B 0000, collectively hereinafter referred to as the “Property”; and

**WHEREAS**, the purchase price for the Property must be at the current fair market value which will be determined by a licensed appraiser and by way of negotiating with the current Property owner; and

**WHEREAS**, funding for the purchase of the Property will be appropriated from use of General Fund – Fund balance in an amount not to exceed \$800,000 plus closing costs and legal fees; and

**WHEREAS**, County Council finds that it is in the best interest of the citizens and residents of Beaufort County to appropriate funds as described herein for the purchase of the Property.

**NOW, THEREFORE, BE IT ORDAINED** by Beaufort County Council, duly assembled, authorization to appropriate funds from General Fund – Fund balance in an amount not to exceed \$800,000 plus closing costs and legal fees in order to establish public ownership of the real property with TMS NO. R800 021 000 006C 0000 AND R800 021 000 006B 0000, located on Melrose Landing Road on Daufuskie Island.

Adopted this \_\_\_\_ day of \_\_\_\_\_ 2022.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: \_\_\_\_\_  
Joseph Passiment, Chairman

ATTEST:

\_\_\_\_\_  
Sarah W. Brock, Clerk to Council