



**Minutes**  
**Sumter County Council**  
**Regular Meeting**  
**March 8, 2011 - Held at 6:00 p.m.**  
**County Administration Building County Council Chambers**  
**13 E. Canal Street, Sumter, SC**

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**COUNCIL MEMBERS PRESENT:**

1. Chairman Eugene Baten, Council District #7
2. Councilwoman Vivian Fleming McGhaney, Council District #5
3. Councilwoman Naomi D. Sanders, Council District #1
4. Councilman Artie Baker, Council District #2
5. Councilman Jimmy Byrd, Council District #3
6. Councilman Charles T. Edens, Council District #4

**COUNCIL MEMBERS ABSENT:**

1. Vice Chairman Larry Blanding

**STAFF MEMBERS PRESENT:**

Mary W. Blanding, Clerk to Council  
Johnathan Bryan, County Attorney  
Mr. George McGregor

William T. Noonan, County Administrator  
Gary Mixon, Deputy Administrator  
Lorraine Dennis, Deputy Administrator

**MEDIA PRESENT:**

None

**THE PUBLIC PRESENT:**

Approximately 42 members of the public were in attendance.

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**CALL TO ORDER:** Chairman of Council, Eugene R. Baten, called the meeting to order.

**INVOCATION:** Councilwoman Vivian Fleming McGhaney gave the invocation.

**PLEDGE OF ALLEGIANCE:** All in attendance repeated the Pledge of Allegiance.

**APPROVAL OF AGENDA:** Chairman Baten stated that he would entertain a motion to approve the March 8, 2011, agenda with any additions, deletions, or as printed.

**ACTION ON AGENDA:** MOTION was made by Councilman Byrd, seconded by Councilman Edens, and unanimously carried by Council to approve the March 8, 2011, agenda as presented.

**APPROVAL OF MINUTES:** Chairman Baten stated that he would entertain a motion to approve the regular meeting minutes of Sumter County Council which was held on February 22, 2011.

**ACTION:** MOTION was made by Councilman Byrd, seconded by Councilwoman Sanders, and unanimously carried by Council to approve the minutes of February 22, 2011, as prepared by the Clerk to Council.

## LAND USE MATTERS AND REZONING REQUESTS

### Development/Rezoning Request -

- (1) **RZ-11-02 -- Eagle Road at Broad Street -- Joe B. Davis - First Reading -- Request To Rezone A 12 Acre Portion Of A +/- 21 Acre Parcel Located On Eagle Rd. At Broad St. From General Residential (GR) To Light Industrial-Warehouse (LI-W). The Property Is Represented By Tax Map #155-00-01-003(P).**

Mr. George McGregor stated that this is a fairly simple rezoning application. The applicant is requesting to rezone a 12 acre portion of a larger parcel of land located at the corner of Eagle Road and Broad Street. Mr. Davis hopes to change the rezoning from General Residential (GR) to Light Industrial Warehouse (LI-W).

The property, located across from Shaw AFB, lies at the corner of Broad Street and Eagle Road in a mixed-use area bordered on the east side by a residential neighborhood. There is a utility ROW that bisects the property from east to west along the south-central portion.



Mr. McGregor further stated that the proposal is to rezone the property, currently for sale, to Light Industrial/Warehouse (LI-W) in order to market the property for uses that would be more compatible with the surrounding uses and with its proximity to Shaw AFB. There is a nonconforming mobile home park directly across the street on property that is zoned General Residential, but placing mobile homes on this property is not feasible because of military overlay restrictions. Part of the property lies within DNL-2 and the remainder is within DNL-1A. Therefore, manufactured homes would not be permitted as stated in Article 3(r)11, concentrations of persons per acre would be subject to the limitations in Exhibit 6, and residential structures would have to be noise attenuated according to the standards in Exhibit 7.



*The property lies on the west side of Eagle Road at Broad Street.*

With the northern portion of the property within the County Highway Protection District, standards in Article 3, Section V would apply. Mr. McGregor also stated that with heavy industrial uses immediately to the west and south, and the western portion of the parcel currently zoned Heavy Industrial as well, the associated perceptions of dust, noise, and truck traffic make it difficult to market this property for residential uses. Article 3(r) contains further specifications for building permits, signage, height and size. These regulations place further limitations as to the practicality of residential homes and other uses allowed in GR in this location. The Planning staff and Planning Commission recommended approval.

After all discussions on this matter, Council took action on first reading.

**ACTION:** MOTION was made by Councilman Byrd, seconded by Councilwoman McGhaney, and unanimously carried by Council to grant first reading approval.

*Street Name Change - None*

*Grant Awards- None*

**OTHER PUBLIC HEARINGS: None**

**NEW BUSINESS CONTINUED:**

- (1) **11-727 - First Reading -- An Ordinance Amending Ordinance No. 10-714 To Allow Mobile Home Parks To Be Treated As Commercial Property For Purposes Of Determining Stormwater Service CHARGE RATES.**

The County Attorney, Mr. Johnathan Bryan, presented the proposed ordinance for first reading approval. Mr. Bryan stated that the purpose of this ordinance is to allow mobile home parks to be treated as commercial property in determining stormwater service charge rates. He asked Council members to look at page eight as he reviews this matter. (See information below).

*Mobile Home Park shall mean the real property, which may be one or more contiguous tax parcels, with space, improvements and utilities for the long-term parking of three (3) or more mobile homes which may include services and facilities for the residents. For purposes of this Ordinance, the mobile homes and real property must be owned by the same person(s) or legal entity in order to qualify for treatment as Commercial Property, as defined above. Mobile Home Park owners whose property is treated as Residential Property, as defined below, may apply to the Sumter County Assessor for Commercial Property treatment within 60 days of the effective date of this ordinance amendment for tax year 2011 and by March 1 of the tax year in subsequent years. (Note: Special Development Standards for Mobile Home Parks are listed in section 3.d.7. of the Zoning and Development Standards Ordinance.)*

Mr. Bryan further stated that in order for someone or entity to qualify for treatment as a commercial property must apply for this designation within sixty days after the ordinance is approved. After this period, if someone or an entity wants to apply for commercial designation, they must do it by March 1 of the subsequent tax year.

People who own land and own mobile homes on the land can qualify as a mobile home park and be treated as a commercial property.

Residential property was also changed to read as follows:

*Residential properties shall include, but shall not be limited to, the following structures for purposes of this Ordinance.*

*Single-family residences*

*Duplexes*

*Individually taxed units of townhouses*

*Individually taxed units of condominiums*

*Mobile homes not ~~included in mobile home parks~~ not eligible for treatment as commercial property*

Councilman Baker asked what happens if someone has already paid their tax bill for the year and they have paid \$15 per mobile home within the mobile home park. Can this person now go back and apply for the commercial designation fee of \$45, and do they get a refund or credit for the following year?

The Attorney stated that as this ordinance is written, 2010 will not be a consideration for a refund for this tax bill year. However, for anyone that wants to qualify for 2011 tax year, the person or entity could apply to qualify within 60 days after the passage of this ordinance; in subsequent years it would be by March 1.

Councilman Baker said that this was not his understanding that Council was not going to help those who paid their tax bills early. He added that he thought there would at least a credit.

Councilman Edens also added that he remembered that when the original ordinance was discussed, that staff talked to Council about an appeal process to get the credit. Those that had not paid already, they would apply for the \$45 commercial fee.

*Councilman Edens further stated that it should be worded in the ordinance that if someone or an entity has already paid their taxes for this year on individual mobile homes, then they should apply for a credit which would be available to the person or entity on their tax bill for next year.*

Mr. Noonan stated that he agreed that we must be clear on how to handle the credit, but that there would be no refund. He also stated that it will be up to the individual owner or entity to initiate the process for applying for a credit. Without the person initiating the appeal process to get a credit; there would be not credit given.

Councilman Baker asked, will the County send each park a letter asking them to come in to apply for a credit. The Administrator stated that it would be up to the individual or entity to come to the County to apply through the Assessor's Office.

It was restated that if the owner or entity has not paid their taxes, the commercial designation would be automatic; however, if a person has already paid their taxes, they will have to come to the County to apply for credit.

The Administrator stated that he and the staff will work on the "process for applying for credit."

**ACTION:** MOTION was made by Councilman Byrd, seconded by Councilwoman Sanders, and unanimously carried by Council to grant first reading approval.

- (2) It May Be Necessary To Hold An Executive Session To Discuss A Personnel Matter, Receive A Legal Briefing, Or Discuss A Contractual Matter And Appropriate Actions May Be Required And Taken Thereafter.

No executive session was held during this meeting.

**OLD BUSINESS: None**

**COMMITTEE REPORTS:**

- (1) Public Safety Committee Meeting Held On **Tuesday, March 8, 2011, at 4:00 P.M.** In County Council's Conference Room at the County Administration Building - (Baker, Sanders, and Baten).

The Chairman of the Committee, Councilman Baker, gave the following report and recommendation from the Committee meeting.

- ◆ **Law Enforcement Center:** The Committee received information from staff and Sheriff Anthony Dennis concerning the construction of the impending Law Enforcement Center. The Center, once constructed, will house the Sheriff's Department and Emergency Management. The group discussed the location of the Center on the site of

the Old Correctional Center property. The projected square footage for the facility is 20,000 to 25, 000 square feet. The staff, along with the Sheriff, will continue to work on developing the project since the funds for this construction are coming from the Recovery Zone Economic Bonds. The staff will also follow-up on the possibility of allowing the building to be constructed closer to North Main Street which will allow for the footage and the parking lot to fit on the existing property.

- ◆ **Executive Session Matter:** The Committee discussed a contractual matter during executive session. After the executive session, the Committee directed the Administrator to write a letter to the City of Sumter Concerning the Dispatch Office.

- (2) Public Works and Solid Waste Committee Meeting Held on **Tuesday, March 8, 2011, at 4:30, 2011**, In County Council's Conference Room at the County Administration Building - (Sanders, Baker, Edens).

The Committee Chairman, Councilwoman Naomi D. Sanders, gave the following report and recommendations.

- ◆ **Amendment To County Road Policy:** The Committee received a report from staff concerning citizens making changes to County roads which may negatively affect the road and or the neighbors on the same street. It was noted by staff that there are laws already in existence which will not allow for someone to maliciously do something to or on an existing road in the State or County. However, as of yet, the Attorney has not found any law which would prohibit a citizen from trying to improve the County's road without the County's permission but may actually cause problems for or to others on the same street or road. The staff will continue to follow-up on this matter and if there are existing laws on this matter, the staff will bring a recommendation back to the Committee. (See attached memo and State Law information)
- ◆ **Roads To Be Let:** The Committee received a report from the Public Works Director and the Deputy Director, Karen Hyatt, which showed a list of roads that will be resurfaced. The total bid award is for \$811,000.

**Lot A:**

Summer View & Planters Point Subdivisions: Approximately 2.3 miles (August - .4 mile, September - .6 mile, Planters - .9 mile, Kilpatrick - .1 mile, Richland - .2 mile, and Turnrow - .1 mile)

Winter Park & Hidden Bay Subdivisions: Approximately 1.8 miles (Joyce - .7 mile, Hidden Bay - .5 mile, Katydid - .3 mile, Naomi - .1 mile, and Belvedere Circle & Travis Court - .2 mile)

**Total Miles for Lot A: 4.1 Bid Award: \$497,000**

**Lot B:**

Crowndale Subdivision: Approximately 1.4 miles (Crowndale - .7 mile, Saffron -.2 mile, Wilton - .2 mile, Prescott - .1 mile, and Crowndale Court - .2 mile)

Rainbow Falls Subdivision: Approximately 1.1 miles (Rainbow - .6 mile, Hope - .2 mile, Lucky - .1 mile, Gold - .1 mile, and Janie - .1 mile)

**Total Miles for Lot B: 2.5 Bid Award: \$314,000**

**ACTION:** Received as information.

- (3) Fiscal, Tax, and Property Committee Meeting Held on **Tuesday, March 8, 2011, at 5:00 p.m.** In County Council's Conference Room at the County Administration Building - (Baten, Blanding, and Edens).

The Chairman of the Committee, Chairman Baten, gave the following report and recommendation.

- ◆ **Report Concerning Shortage From State Government Fund:** It was reported to the Committee that the State has announced that the shortage of State Government Funds for Sumter County during the 2011-2012 year is \$917,898. In preparing for the County's upcoming budget, this shortage must be figured into the equation to balance the budget.
- ◆ **Fireworks Stands:** This matter was discussed and forwarded to the Planning Director to process this matter as discussed. *(See attached letter from the Planning Director.)*
- ◆ **Executive Session Matter:** The Committee received a request from the County Administrator and the County Attorney to continue negotiations on a legal matter. It was recommended by the Committee to authorize the Administrator and County Attorney to negotiation on behalf of the County.

**ACTION:** MOTION and second were received from the Committee to authorize the Administrator and the County Attorney to continue discussions concerning the settlement with Eastern Health Care.

- (4) Report From Council Members On Other Meetings, Trainings, and/or Conferences.

- ◆ **Rural Summit:** Councilwoman Vivian Fleming McGhaney reported that she (and Councilman Edens) attended the Rural Summit.
- ◆ **Sumter Volunteers-Women History Month:** Chairman Baten participated in this event on March 1, 2011.
- ◆ **Women Of Excellence:** Chairman Baten attended this function on March 5, 2011. Staff members from Sumter County that were recognized were: Mary Blanding, LaTrelle Chambers, Dorothy Edwards, Rose Ford, and Denise McLeod.
- ◆ **Santee Lynches Regional Council On Government - Transportation Committee:** Councilwoman McGhaney and Councilman Edens reported on the many projects that are being requested through the COG's funding process. The funding for

transportation comes from the Federal Government and covers Sumter, Lee, Clarendon, and Kershaw Counties.

#### **MONTHLY REPORTS:**

- ◆ Open House -- Military Appreciation Night - March 18-19, 2011
- ◆ Festival on the Avenue - April 9, 2011
- ◆ South Carolina General Assembly Women's Caucus
- ◆ NACO News Release - Counties Officials To Address Jobs And Economic Recovery
- ◆ VitaMin

#### **ADMINISTRATOR'S REPORT:**

The Administrator reported on the following projects:

- ◆ **SCAC Mid Year Conference** was held in Columbia on February 23, 2011, Vice Chairman Blanding, Councilman Edens, and the County Administrator, William T. Noonan, attended the Conference. During the Conference, it was announced that the imminent information concerning the budget cuts would come to the Counties soon. Mr. Noonan, stated that the figure that the administrator presented to Council of \$917,000 worth of cuts to Sumter County did not reflect the fact that of the 46 counties in this State, with Sumter being the 14<sup>th</sup> largest by population, yet Sumter is the 5<sup>th</sup> most seriously affected by these cuts. He further stated that he is not sure how this body will address this significant of a shortage without a rippling effect of impacting the services to the community. Mr. Noonan asked Council to talk to the Legislators to help them understand the effect these cuts are having on Sumter County.
- ◆ **Legislative Day:** Councilwoman Sanders, Mary W. Blanding, Johnathan Bryan, Lorraine Dennis, and Gary Mixon attended the Legislative Day on behalf of the County.
- ◆ **Special Meetings On April 12, 2011** - Kimley Horn And Associates, Inc., would like to talk about the Lafayette Intersection Project with County Council and staff on April 12, 2011. Additionally on this date, the Construction Team will bring to Council some rendering of the Judicial Center. An hour will be set aside for each of these projects.
- ◆ **Joint Meeting with City and County** - The Administrator and the Chairman meet with the City Manager and the County Administrator on March 7, 2011. It was agreed that a joint meeting will be held on March 29, 2011, for the first joint meeting between both Councils. It was also agreed to that a joint meeting between City and County Councils be held every fifth Tuesday of the year. The first item for discussion will be joint funding of Fire Services.

#### **PUBLIC COMMENT:**

The Chairman asked if anyone wished to speak to Council during Public Comment. The following persons spoke during public comment.

- ◆ **Steve Schmidt** stated that he is the owner of Caroline Mobile Court on Highway 441. He thanked Council for saving his business. Mr. Schmidt said it is his understanding that there would be no refund, but the amount of taxes that he paid this year, would it allow for him to get a seven or eight year tax credit. Mr. Schmidt was informed that the particulars of the matter will be addressed at the next meeting of Sumter County Council.

- ◆ **Gardner Gore** stated that he is speaking for the *Committee For Responsible Government (CFRG)*. He thanked Chairman Baten for attending one of their first meetings. Mr. Gore also invited all other Council members to attend CFRG's meetings. Prior to the meeting, Mr. Gore gave the Clerk some information that he wanted each member to receive. The Clerk had given the information to Council members so they were able to follow along. Mr. Gore made reference to two tax bills; one from North Carolina and one from Sumter. He stated that from the information on the tax bills, Council should be able to see why Sumter's population is decreasing. People always look at the tax base before they move. Mr. Gore said that as people view Sumter County's taxes, they are moving away from Sumter or not coming to Sumter to live. He said that the taxes of Sumter County anger many people including him. Mr. Gore said that in his opinion, Sumter County is broke, and it is just a matter of recognizing that Sumter is broke.

**ADJOURNMENT:**

There being no further business and no additional comments from the public, the meeting was adjourned at 6:52 p.m. after a motion by Councilman Byrd, second by Councilwoman Sanders, and unanimously carried by Council.

Respectfully submitted,

*Eugene Baten*

Chairman or Vice Chairman  
Sumter County Council

*Mary W. Blanding*

Clerk to County Council  
Sumter County Council

Approved: March 22, 2011



I certify that public and media notification of the above-mentioned meeting was given prior thereto as follows:

Public Notified: Yes

Manner Notified: Agendas posted on bulletin board on third floor of the Administration Building.

Date Posted: February 16, 2011

Media Notified: Yes

Manner Notified: Agendas were sent to most radio stations, television stations, and newspapers in the Sumter, Columbia, Manning, and Florence communities. Also, E-Mail notification was sent to Sumter County's Home Page, WIBZ, The Item, The Chamber, and Time Warner Cable.

Date Notified: February 16, 2011

Respectfully submitted,

*Mary W. Blanding*

Mary W. Blanding

Memorandum

To: William T. Noonan, Sumter County Administrator

From: Johnathan W. Bryan, County Attorney

Date: Tuesday, March 08, 2011

Subject: State law concerning maintenance of county roads

Enclosures: (1) Applicable state statutes

1. Damaging public roads is illegal and punishable in accordance with S.C. Code Section 57-7-10:

**§ 57-7-10. Negligent, willful or wanton damage to highways**

Any person who shall negligently, willfully or wantonly damage a highway, highway facility, highway structure or trees or shrubs on a highway shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than one hundred dollars or imprisoned for not more than thirty days. Any such person shall also be liable to the proper highway authorities in charge for the cost of such injury or damage in a civil action.

2. Voluntary maintenance of county roads is not so clearly a violation of state law. § 57-7-20 gets close with its prohibition of foreign substances but I am not entirely certain that the section addresses the behavior about which we are concerned. Other sections shown on the enclosure hit around the issue but I am not entirely comfortable that voluntary maintenance of county roads is punishable.
3. If Sumter County Council wants to make that specific behavior punishable, Sumter County Council may enact a separate ordinance making voluntary maintenance of county roads without the approval of someone, such as the Administrator or Public Works Director or a designee. I do not believe that merely amending the County Road Policy will make voluntary maintenance punishable.

**South Carolina Statutes**

**Title 57. Highways, Bridges and Ferries**

*Current through 2011 Act No. 1*

**Chapter 3. DEPARTMENT OF TRANSPORTATION**

**Article 2. GENERAL PROVISIONS**

**§ 57-3-120. Definitions**

For the purposes of this title, the following words, phrases, and terms are defined as follows:

- (1) "Highway", "street", or "road" are general terms denoting a public way for the purpose of vehicular travel, including the entire area within the right-of-way, and the terms shall include roadways, pedestrian facilities, bridges, tunnels, viaducts, drainage structures, and all other facilities commonly considered component parts of highways, streets, or roads.
- (2) "Highway district" means the geographic area established by Section 57-3-50.
- (3) "Mass transit" shall mean every conveyance of human passengers by bus, rail, or high-speed rail, van, or any other ground surface vehicle which is provided to the general public, or selected groups thereof, on a regular and continuing basis.
- (4) "Roadway" shall mean that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the shoulder or berm. In the event a highway includes two or more separate roadways, the term "roadway" as used herein shall refer to any such roadways separately but not to all such roadways collectively.

**Chapter 7. OBSTRUCTION OR DAMAGE TO ROADS OR DRAINAGE**

**Article 3. OBSTRUCTIONS AND DRAINAGE**

**§ 57-7-10. Negligent, willful or wanton damage to highways**

Any person who shall negligently, willfully or wantonly damage a highway, highway facility, highway structure or trees or shrubs on a highway shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than one hundred dollars or imprisoned for not more than thirty days. Any such person shall also be liable to the proper highway authorities in charge for the cost of such injury or damage in a civil action.

**§ 57-7-20. Putting foreign substances on highways**

- (A) No person may place, throw, or deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans, or any other substance or object likely to injure any person, animal, or vehicle upon the highway. Any person who drops or permits to be dropped or thrown upon any highway any destructive or injurious material shall remove it immediately or cause it to be removed. Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from the vehicle. A violation of any of the provisions of this section is punishable by a fine of not more than one hundred dollars or imprisonment for not more than thirty days.
- (B) If any person knowingly, with malicious intent, violates subsection (A), he must be punished by a fine of not less than two hundred nor more than one thousand dollars or imprisoned for not less than ten nor more than sixty days.
- (C) If any person knowingly, with malicious intent, violates the provisions of subsection (B) and causes personal injury, upon conviction, he must be punished by a fine of not less than five hundred nor more than two thousand dollars or imprisoned for not less than one nor more than three years, or both.

- (D) If any person knowingly, with malicious intent, violates the provisions of subsection (C) and a death results, upon conviction, he must be punished as provided in Section 16-3-20.

**§ 57-7-60. Excavating in highways not in State highway system; permit**

Any person desiring to make any excavation for any purpose in or across any road outside any incorporated city or town, not in the State highway system, shall make and file with the county supervisor an application in writing for permission to make such excavation. Such application shall state fully the nature, purpose, extent and depth of the proposed excavation and shall contain such further information as may be required by the supervisor. Before such permission shall be granted the applicant shall execute and deposit in the office of the supervisor a good and sufficient bond of indemnity, or cash, in such sum as may be required to repair the road and restore it to as good condition as to foundation and surface as it was before being excavated. When such excavation is to be made by a solvent public utility, such bond may be executed by the utility without additional surety.

**§ 57-7-210. Obstructions in highways**

It shall be unlawful for any person willfully to obstruct ditches and drainage openings along any highway, to place obstructions upon any such highway or to throw or place on any such highway any objects likely to cut or otherwise injure vehicles using them. A violation of this section shall be punishable by a fine of not more than one hundred dollars or imprisonment for not more than thirty days.

**Chapter 17. COUNTY ROADS, BRIDGES AND FERRIES GENERALLY**

**Article 1. GENERAL PROVISIONS**

**§ 57-17-10. County supervision of public roads, highways, bridges and ferries**

All roads, highways and ferries that have been laid out or appointed by virtue of an act of the General Assembly, an order of court or an order of the governing body of any county are declared to be public roads and ferries, and the county supervisor and the governing body of the county shall have the control and supervision thereof. The county supervisor and governing body of the county may order the laying out and repairing of public roads where necessary, designate where bridges, ferries or fords shall be made, discontinue such roads, bridges and ferries as shall be found useless and alter roads so as to make them more useful.

**§ 57-17-70. Repairs to county highways and bridges**

The governing body of each county shall take charge of and superintend the repair of the highways in the county. The bridges shall be repaired under its supervision, and the expense thereof shall be paid out of the money in the county treasury raised and appropriated for this purpose.

**§ 57-17-80. Neglect of work on county highways and bridges**

If the members of the governing body of any county neglect to have repaired any of the highways and bridges which by law are required to be kept in repair, they shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined in a sum of not less than one hundred nor more than five hundred dollars, in the discretion of the court.

**§ 57-17-130. Unauthorized diversion of highways**

The county supervisor of the county in which any part of a highway has been diverted from its original course without authority of law, on information of any two persons, shall commence a suit against any such person so offending in order to compel him, as soon

as may be, to restore, at his own expense, the highway in its course, as established by law.

#### **Title 4. Counties**

### **Chapter 9. COUNTY GOVERNMENT**

#### **Article 1. GENERAL PROVISIONS**

##### **§ 4-9-25. Powers of counties**

All counties of the State, in addition to the powers conferred to their specific form of government, have authority to enact regulations, resolutions, and ordinances, not inconsistent with the Constitution and general law of this State, including the exercise of these powers in relation to health and order in counties or respecting any subject as appears to them necessary and proper for the security, general welfare, and convenience of counties or for preserving health, peace, order, and good government in them. The powers of a county must be liberally construed in favor of the county and the specific mention of particular powers may not be construed as limiting in any manner the general powers of counties.

##### **§ 4-9-30. Designation of powers under each alternative form of government except board of commissioners form**

Under each of the alternate forms of government listed in Section 4-9-20, except the board of commissioners form provided for in Article 11, each county government within the authority granted by the Constitution and subject to the general law of this State shall have the following enumerated powers which shall be exercised by the respective governing bodies thereof:

(1) .....

(5)(a) to assess property and levy ad valorem property taxes and uniform service charges, including the power to tax different areas at different rates related to the nature and level of governmental services provided and make appropriations for functions and operations of the county, including, but not limited to, appropriations for general public works, including roads, drainage, street lighting, and other public works; water treatment and distribution; sewage collection and treatment; courts and criminal justice administration; correctional institutions; public health; social services; transportation; planning; economic development; recreation; public safety, including police and fire protection, disaster preparedness, regulatory code enforcement; hospital and medical care; sanitation, including solid waste collection and disposal; elections; libraries; and to provide for the regulation and enforcement of the above.

(6) to establish such agencies, departments, boards, commissions and positions in the county as may be necessary and proper to provide services of local concern for public purposes, to prescribe the functions thereof and to regulate, modify, merge or abolish any such agencies, departments, boards, commissions and positions, except as otherwise provided for in this title. ...

(14) to enact ordinances for the implementation and enforcement of the powers granted in this section and provide penalties for violations thereof not to exceed the penalty jurisdiction of magistrates' courts. Alleged violations of such ordinances shall be heard and disposed of in courts created by the general law including the magistrates' courts of the county. County officials are further empowered to seek and obtain compliance with ordinances and regulations issued pursuant thereto through injunctive relief in courts of competent jurisdiction. No ordinance including penalty provisions shall be enacted with regard to matters provided for by the general law, except as specifically authorized by such general law; and .....

(17) to exercise such other powers as may be authorized for counties by the general law. ...

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DERON MCCORMICK  
CITY MANAGER

GEORGE K. MCGREGOR, AICP  
PLANNING DIRECTOR

WILLIAM T. NOONAN  
COUNTY ADMINISTRATOR

CHAIRMAN

**MEMORANDUM**

TO: Sumter County Council

FROM: George K. McGregor

CC: William Noonan  
Mary Blanding

DATE: March 3, 2011

RE: **Temporary Use Permitting - Fireworks Stands**

*This memo addresses the costs of fire work stand permitting and signage option.*

**Temporary Use Permit**

Fireworks stands are considered to be a Temporary Use in the Sumter County Zoning & Development Standards Ordinance and are subject to the regulations outlined in Article 5, Section C: Temporary Uses. Section 5.c.1 through 5.c.6 outline the criteria under which temporary uses may operate—these criteria deal with permitting, public safety, time limitations, and parking requirements. Specifically, fireworks stands are permitted on a temporary basis in the Neighborhood Commercial (NC), Limited Commercial (LC), General Commercial (GC) and in both Heavy Industrial and Light Industrial-Warehouse zoning districts for up to 30 days at a time.

On sites where there is a permanent power pole, the only fee associated with a temporary use that is charged under the County Zoning Ordinance approved fee schedule is \$30.00. This \$30.00 fee covers the zoning permit for the temporary location. The \$30.00 fee is charged for each temporary use occurrence—for example, if a fireworks stand is operated for 30 days during the 4<sup>th</sup> of July and for an additional 30 days at New Year, the business owner would have to pay the Temporary Use Permit fee twice. Zoning review entails determining proper zoning, access, setbacks, location and signage, among other items.

For new locations where no power pole exists but is required, a one-time fee will be charged by the Building Department for the electrical permit to erect a permanent

power pole at the proposed location. This fee is based on the cost of the permit and covers the required inspections performed by the Building Department. The only time a new electric permit would be required is if the pole were to be damaged and additional electrical work is required to bring the power pole into safe operating condition. If a pole is removed, a new permit would be required to install a new power pole.

Any other fees and inspections associated with operating a temporary fireworks stand are regulated through the South Carolina Department of Labor, Licensing, and Regulations (LLC) and The State Board of Pyrotechnic Safety (we understand the state rate is \$100 for a temporary fireworks stand). This covers permitting and fire inspection. The state does not (and cannot) perform a zoning review.

### **Firework Stand Signs**

The County Zoning Ordinance does not permit any freestanding signs for temporary uses, including firework stands. Signage is allowable typically on the structure (painted--the firework stands are often bright yellow in nature). So, temporary signage, such as banners, pennants, flags, etc...is likewise not permitted under the current County Zoning Ordinance. An amendment to Article 8 would be necessary.

I recommend careful consideration of an amendment such as this. It may open the door to other temporary uses asking for freestanding signs and banners. It would seem that the bright color of the stands, most in highly visible corridor location, combined with the on structure signage, is sufficient and maintains a quality community design aesthetic.

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