



Minutes
Sumter County Council
Regular Meeting
March 22, 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
1. Vice Chairman, Larry Blanding, Council District #6
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: None

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 22, 2011, agenda with any additions, deletions, or as printed.

The Clerk to Council asked for Council to consider the following:

- a. Delete Items #1 and #2 under New Business
- b. Add Under Executive Session (a) Appointment To Building Codes Board Of Appeals, (b) Two Personnel/Employment Matters.

ACTION ON AGENDA: MOTION was made by Councilman Byrd, seconded by Councilman Baker, and unanimously carried by Council to approve the March 22, 2011, agenda as amended through recommendation of the Clerk to Council.

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 March 8, 2011.

ACTION: MOTION was made by Councilman Baker, seconded by Councilman Edens, and unanimously carried by Council to approve the minutes of March 8, 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 - Second Reading/Public Hearing - 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). (Prior To Action On Second Reading, Council Will Hold A Public Hearing On This Rezoning Request.)**

Mr. George McGregor, the Planning Director, presented this request to Council for second reading and Public Hearing. The request is to rezone a 12 acre-portion of a 21 acre parcel from General Residential to Light Industrial-Warehouse. Mr. Joe Davis, Jr., was present on behalf of the request.

Mr. McGregor stated that the current General Residential zoning is constrained by the proximity to Shaw AFB. The Land Use Plan calls for a Military Protection Designation in this area; the property is in the Accident Protection Zone as well as the Noise Contours. Because of these constraints, both the Planning staff and Planning Commission recommend approval of this rezoning request.

PUBLIC HEARING:

Then the Chairman convened a public hearing on this matter. He asked if anyone wished to speak in favor of or opposition to this rezoning request. The following person spoke in support of the request.

- ◆ Mr. Joseph B. Davis, Jr. spoke in support of the request and informed Council that he would be glad to answer any question from Council or the public about this property.

Then the Chairman asked if anyone would like to speak in opposition. No one spoke in opposition, therefore, the Chairman closed the public hearing and Council took action on second reading.

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

ACTION: MOTION was made by Councilman Byrd, seconded by Councilman Baker, and unanimously carried by Council to grant second reading approval.

Street Name Change - None

Grant Awards- None

OTHER PUBLIC HEARINGS:

- (1) 10-717 -- An Ordinance To Regulate Outdoor Burning In Sumter County Within All Residential Zoning Districts Except The Agricultural Conservation Zoning District And Within Two Hundred Feet Of A Residential Subdivision. (Council Will Take Action On Second Reading, Immediately After The Public Hearing Or During Old Business.)

Chairman Baten convened a public hearing on this proposed ordinance. He asked if anyone wished to speak in favor of or opposition to the ordinance as presented. The following persons spoke concerning this ordinance.

- ◆ Sheryl Edwards stated that this is a responsible ordinance and she is in support of the ordinance. It will give the public an avenue to work within the law concerning burning and to report those that are not doing what the law outlines. She stated that her neighborhood has had ongoing problems with this matter, especially with unattended fires burning all night long.
- ◆ Marilyn Moore spoke in support of the ordinance. She said that some people in the neighborhood had no problem with the ordinance, while others had a problem with it and any ordinance that would be put before them.
- ◆ Mercedes Holmes stated that her neighbor works for a local company and he burns installations, carpet and other materials which is very toxic. She shared pictures of a barrel that is very close to a tree and that is where one of her neighbors has illegal burning.
- ◆ Ken Edwards spoke concerning this matter. He said that Mercedes Holmes could have called DHEC, however, most citizens will have a rough time calling DHEC. The County needs this ordinance to augment what the State currently has in place.

The Chairman then asked if anyone would like to speak against this ordinance. The following persons spoke on this matter.

- ◆ Mr. Ralph Baker stated that he empathizes with the people that are having the problems; however, he said he cannot understand how the people who are in favor of this ordinance think that another ordinance would make any real difference if the existing laws are not working. General Forestry Laws Title 48, Chapter 33 clearly defines outdoor burning. Also, Department of Health and Environmental Control (DHEC) regulations Title 61-62.2 concerning open burning. He repeated that he does not understand why another layer of laws are needed. How will the County laws merge with DHEC laws?

- ◆ Thomas Conyers spoke in opposition of this ordinance and he said that he agrees with Mr. Ralph Baker's comments. Currently he routinely burns and if the current laws were enforced, there would be no need for another ordinance.
- ◆ Robert Turner stated that he is in agreement with the previous two gentlemen; he stated that common sense must play into burning. He also asked if the ordinance is approved will Council pick up yard debris in these areas.
- ◆ Pat Hudson said that she agrees with the three gentlemen before her and she asked that Council not pass this ordinance. She said that this is an idiot law. She said that she will pray for all Council members to do whatever Council feels is right. She also said that she feels for the persons that are having the problem, but the passage of this ordinance would cause problems for others. Then she said a prayer for Council.

After all comments, the Chairman closed the public hearing and Council took action on second reading as listed under Old Business.

- (1) 11-727 -- 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. (Council Will Take Action On Second Reading, Immediately After The Public Hearing Or During Old Business.)

The Chairman convened a public hearing on this matter and asked if anyone wished to speak in favor of or opposition to this proposed ordinance. The following persons spoke.

- ◆ Steve Schmidt asked if he would be responsible to measure every street in his mobile home park. He also stated that the County, City, and State runs water in his mobile home park. The Attorney stated that Commercial Property and Industrial property will be able to engage in mediation because they are capturing property on their property; they may be able to reduce their fee because they have a Carolina Bay and it is not going into a ditch. If that is happening with Mr. Schmidt's property, then he could apply for mediation.
- ◆ Eddie Richardson stated that he owns Scenic Lake Mobile Home Park in Rembert. He added that \$15 per mobile home is not bad because it is only \$1.00 per month. Mr. Richardson said that his concern is other unforeseen expenses such as sewer, water, electric, etc.

After all comments, the Chairman closed the public hearing and Council took action on second reading as listed under Old Business.

NEW BUSINESS:

- (1) Project Infrastructure Agreement Among Sumter County, South Carolina And Project Edge.

This matter was removed from Council's agenda.

(2) Sumter County Fiscal Year 2009-2010 Audit Report.

This matter was discussed in Fiscal, Tax, and Property earlier during the day and was removed from Council's regular agenda.

(3) A Request For Approving A Resolution Recognizing April As Fair Housing Month In Sumter County, South Carolina.

This resolution was introduced by the Chairman; after its introduction, Council took action on its adoption.

ACTION: MOTION was made by Councilman Byrd, seconded by Councilwoman McGhaney, and unanimously carried by Council members to adopt this resolution and directed the Chairman and the Clerk to execute and deliver this resolution on behalf of the County.

WHEREAS, Sumter County Council desires that its citizens be offered the opportunity to attain a decent and sanitary living environment; and,

WHEREAS, Sumter County Council recognizes that 2011 marks the 42nd anniversary of the passage of the Fair Housing Act, the federal law that prohibits discrimination in housing; and in 1989, South Carolina passed a Fair Housing Law that provides rights and remedies substantially equivalent to those found in the Federal Fair Housing Act; and

WHEREAS, Sumter County Council rejects discrimination on the basis of race, color, sex, national origin, religion, ancestral status, and disability; and,

WHEREAS, Sumter County desires that every citizen be offered the opportunity to live in the home of his or her choice; hence, Sumter County Government does not discriminate in its housing practices;

NOW THEREFORE BE IT RESOLVED, that we the members of Sumter County Council do hereby designate **April** as **FAIR HOUSING MONTH** in the County of Sumter, South Carolina and recognize the importance of Fair Housing benefits for its citizenry; Council will continue to promote and advocate fair housing for all of its citizens.

(4) Request For Approving A Memorandum Of Understanding Between Sumter County And Central Carolina Technical College.

Mr. Johnathan Bryan presented this matter before Council. He stated that Central Carolina Technical College has been using the building which is owned by the County and more commonly known as the Shaw Campus. The Memorandum Of Understanding before Council is basically the same, but the dates have changed from March 2011 to March 2016.

After all comments, Council took action on adopting the Memorandum Of Understanding.

ACTION: MOTION was made by Councilman Baker, seconded by Councilman Edens, and unanimously carried by Council to approve the Memorandum Of Understanding as presented and directed the staff to execute and deliver the document on behalf of the County.

(5) 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.

a. Add Under Executive Session (a) Appointment To Building Codes Board Of Appeal, (b) Two Personnel/Employment Matters.

The Chairman stated that he would entertain a motion to enter executive session.

ACTION: MOTION was made by Councilman Byrd, seconded by Councilman Edens, and unanimously carried by Council to enter executive session to discuss Board Appointments and two Personnel/Employment Matters.

At the conclusion of executive session, motion was made by Councilman Byrd, seconded by Councilman Baker, and unanimously carried by Council to enter open session.

REPORT FROM EXECUTIVE SESSION:

Building Codes Board Of Appeals: The Chairman reported that the Council will take action on setting up the Building Codes Board of Appeals membership at the March 29, 2011, meeting. Council members concur that the appointment of the President for the Home Builders Association will be the joint appointment contingent upon concurrence by City Council. Also, since there are two architects on the Board, each Council will appoint an architect to serve on the Board. Lastly, the remaining eight seats will be selected by having the Mayor and the Chairman of Council to draw positions (as outlined in the ordinance) on an alternating basis until all eight positions are drawn. County Council members agreed to this process by consensus.

First Personnel Matter. The County Administrator reported out on the first personnel matter. Mr. William T. Noonan announced that he will retire effective June 30, 2011. He stated that it has been 21 wonderful years and he presented a letter to Council through the Clerk to Council which outlined his retirement.

Each Council member thanked Mr. Noonan for his work during the past years and former Chairman Vivian Fleming McGhaney thanked him especially for the work he did while she was Chairman. It was also noted that the proper retirement function will be held for him so that Council can properly honor the Administrator.

Second Personnel Matter. Councilman Edens then stated that with the announcement from the County Administrator, he would like to offer the following motion.

ACTION: MOTION was made by Councilman Edens, seconded by Councilwoman Sanders, and unanimously carried by Council to offer the position of County Administrator to Mr. Gary Mixon effective July 1, 2011, with a three year contract with the final agreement of the contract to be worked out between Council and Mr. Mixon through the County Attorney.

NOTE: Councilman Blanding was not in attendance at this point of the meeting.

Council members and the Administrator also made comments about the selection of Mr. Mixon as the incoming County Administrator. Mr. Noonan stated that Mr. Mixon has been a Deputy County Administrator for four and one half years and he has done an extremely great job. He also stated that Mr. Mixon will do a great job.

Mr. Mixon thanked stated that he really is appreciative of Mr. Noonan and the work he has done for the County over the past 25 years. He also thanked Council for placing their support and confidence in him to allow him to carry the County forward.

OLD BUSINESS:

- (1) **Second Reading -- 10-717 -- An Ordinance To Regulate Outdoor Burning In Sumter County Within All Residential Zoning Districts Except The Agricultural Conservation Zoning District And Within Two Hundred Feet Of A Residential Subdivision.**

The County Attorney, Johnathan Bryan presented this proposed ordinance to Council for second reading and public hearing. He gave the following particulars about the ordinance.

- ◆ The ordinance will govern residential property which is located in R-15, R-9, R-6, General Residential Districts, and Multifamily Districts.
- ◆ This ordinance does not include residential property in the Agricultural Conservation Zoning District. However, it does include any area within 200 Feet of a Residential Property.
- ◆ For the areas covered in this ordinance, the rules would be that to burn, you would have to be 50 feet from a residential structure.
- ◆ The fire must be attended by a competent person.
- ◆ The fire must be extinguished by sunset; there would be no burning from sunset to sunrise.

Councilwoman Sanders asked if she is burning something and the sun goes down, does the ordinance require that she put the fire out or can she finish what she is doing? According to the ordinance the fire would need to be extinguished by sunset. However, because Councilwoman Sanders lives in an area which is exempted from these requirements, could burn longer than sunset.

Then the Chairman convened a public hearing, which is listed above. After all comments from the public, the Chairman closed the public hearing and said that he would receive further comments from Council. Councilman Baker said that he brought this ordinance before Council and he believes it is still a necessary ordinance. He also said that this ordinance is not telling anyone they cannot burn; but that they should burn in a reasonable manner.

Council members discussed this matter further with concerns about the Fire Chief ensuring that this ordinance is carried out, that DHEC and the Forestry Commission does its part, and that the County law enforcement officers take care of their part in this problem. After all comments, Council took action on second reading.

ACTION: MOTION was made by Councilman Baker, seconded by Councilwoman Sanders, and carried by Council to grant second reading to this proposed ordinance. Vice Chairman Blanding and Councilman Byrd voted in opposition. The motion carried.

NOTE: Staff was asked to find out about the "ticket writing authority" of the Fire Chief and report to Council at the next meeting.

NOTE: Councilman Blanding left the meeting at this time, due to a family commitment.

(2) **Second Reading -- 11-727 -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 purpose of this ordinance is to change the County's Stormwater service charge rates so that people who own mobile home parks will be allowed to have the mobile home parks as a commercial business. See attached ordinance for more details.

Mr. Bryan further stated that someone that has paid the 2010 taxes and wants their property to be treated as commercial property can apply for a tax reimbursement of those stormwater fees. This matter would be handled through the County's finance department. It will be processed after July 1, 2011.

Mr. Mixon mentioned that the County will provide the calculations for the total impervious surface, but the County will not supply the credit calculations. The County can give Mr. Schmidt and Council an estimate of his impervious service if he chooses to move from individual residential units or change to commercial property.

The Administrator stated that the fee structure system must be implemented by the County

which will take place. The idea for the business owner to decide whether or not his business is commercial or residential will cut down on the work of the staff and allow for stability in operations.

The Chairman convened a public hearing on this matter. After the public hearing, Council took action on second reading.

ACTION: MOTION was made by Councilman Baker, seconded by Councilman Edens, and unanimously carried by Council to grant second reading to this ordinance.

NOTE: Council members asked that staff complete an evaluation of Mr. Schmidt's property to help Mr. Schmidt make a more informed decision as to whether or not he should claim his property as residential or as commercial.

COMMITTEE REPORTS:

- (1) Fiscal, Tax, and Property Committee Meeting Held on **Tuesday, March 22, 2011, at 4:30 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 recommendations.

- **Economic Development Matter:** Received as information.
- **Legal Briefing:** No action required.
- **Sumter County 2009-2010 Audit:** Mr. Roger Long provided Council with a report on the 2009-2010 Fiscal Year Audit. He reported that Sumter county had a balance of over \$600,000 at the end of that fiscal year which was transferred to the General Fund. The Chairman thanked Pam Craven, Keysa Rogers, and the Administrator for their work to keep the budget balanced and intact.
- **S. C. Parks And Recreation Department Grant.** The Committee received a request to use \$16,124 from the County's Hospitality Fund to use for the development of recreation enhancement at Shaw Park.

ACTION: MOTION and a second were received from the Committee, and unanimously carried to secure \$16,124 from the County's Hospitality Fund to use as a match for grant funds for this recreation project.

- **Stormwater (Mobile Home Parks):** The Committee received a report from staff concerning those persons who have paid the Mobile Home Stormwater Fund could apply for a reimbursement which would be handled through the Finance Department.

ACTION: MOTION and a second were received from the Committee, and unanimously carried to allow for reimbursement instead of refund to those

mobile home park owners who decide to apply for a reimbursement by declaring their mobile home park a commercial park instead of residential units.

- **Nettles Road:** Action was deferred on this request (to place a “no through truck traffic” sign on this road) until the Administrator talks to the Development Board about the residual effects this may have on industry in this area.
 - **Financial Report:** Received as information.
- (2) **Report From Council Members On Other Meetings, Trainings, and/or Conferences.**
1. Report On Action Taken By Sumter County Forfeited Land Commission Meeting Held On March 22, 2011, at 5:30 p.m. – No report was necessary since this is a standalone Commission. However, for historical purposes, it is noted that the Commission received a bid for \$500 to purchase the property at 16 Brent Street, Sumter, South Carolina. Council made a counter offer of \$1,000. The bidder, Ms. Barbara Richburg, will get back in touch with the County Attorney concerning this matter.

MONTHLY REPORTS:

- **Firefighters and EMS Banquet:** This event will be held at 7:00 p.m. at the Civic Center.
- **Mayor’s Prayer Breakfast:** This event will be held on May 2, 2011.
- **Greater Sumter Chamber of Commerce Annual Luncheon:** This event will be held at 12:00 on April 27, 2011.
- **School District Interview Of The Three Finalists:** Council members are asked to attend this function.

ADMINISTRATOR’S REPORT:

The Administrator reported on the following projects:

- **Jail Status Report:** Council members are asked to continue to review this report as it is presented to them. There is a Criminal Justice Coordinating Council which includes the Chief of Police, Sheriff, the Solicitor, Public Defender, the Detention Center Director, and eventually the Judges will attend the meetings. The Council will talk about how the County manages the numbers at the Detention Center.
- **Landfill Fire:** On Sunday, March 20, 2011, there was a spontaneous ignition of the limb and leaf debris at the Landfill. It is still smoldering.

PUBLIC COMMENT:

The Chairman asked if anyone wished to speak to Council during Public Comment. No comments from the public.

ADJOURNMENT:

There being no further business and no additional comments from the public, the meeting was adjourned at 8:12 p.m. after a motion by Councilman Baker, second by Councilman Byrd, 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: April 12, 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: March

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:

Respectfully submitted,

Mary W. Blanding

Mary W. Blanding

SUMTER COUNTY, a body politic,
and
CENTRAL CAROLINA TECHNICAL
COLLEGE

**MEMORANDUM OF
UNDERSTANDING**

This is a Memorandum of Understanding between Sumter COUNTY, a body politic, hereinafter "THE COUNTY" and Central Carolina Technical College, hereinafter, "CCTC".

WHEREAS, THE COUNTY transferred all of its right title and interest in certain property, known as the "Shaw Center," to CCTC; and

WHEREAS, CCTC took possession of the property and maintains the property and has put the improvements to good use;

WHEREAS, THE COUNTY has used the property in support of the Community Oriented Policing Services, known as the COPS program, and other civic organizations and services; and

WHEREAS, this facility will be used primarily for providing educational services to service members stationed at Shaw Air Force Base and their families, as well as educational services to citizens of Sumter COUNTY who are located in the surrounding vicinity,

NOW THEREFORE, For and in consideration of the foregoing recitals and mutual promises herein, this Memorandum of Understanding in Anticipation of Transfer, hereinafter "MOU," is made and entered into this 1st day of March, 2011, by and between THE COUNTY, and CCTC for the use of part of the building known as "The Shaw Center," located at the intersection of Peach Orchard Road and Edgehill Road in Sumter COUNTY, South Carolina, identified as Tax Parcel Number 133-02-03-003, (Premises) subject to the following terms and

conditions.

1. TERM/RENEWAL. CCTC, in consideration of the recitals and mutual promises herein between the CCTC and THE COUNTY, and the covenants, agreements and conditions hereinafter contained to be kept, performed and observed by THE COUNTY, does hereby consent to THE COUNTY using certain rooms at the Shaw Center for the term of five (5) years beginning March 1, 2011, and ending February 28, 2016. THE COUNTY shall have the option to renew this Memorandum of Understanding on a yearly basis on the same terms. During the period of occupancy, THE COUNTY will have exclusive use of Room S911 (currently occupied by the Sumter County Sherriff's Office). Additionally, THE COUNTY will have use of Room S903 on Mondays and Wednesdays after 5:00 p.m. THE COUNTY may, upon request, use other classrooms, on a case by case basis, if the desired space is then currently available. All classroom furniture will be provided by and shall remain the property of CCTC.

2. CONDITIONS OF PREMISES. THE COUNTY hereby accepts the Premises in its present condition.

3. MAINTENANCE OF PREMISES. THE COUNTY shall be responsible for the cleanliness of the space it occupies. Furthermore, THE COUNTY agrees to keep and maintain the premises in good condition, except for reasonable wear and tear, and to make no alterations or additions thereof without the prior written consent of the CCTC or CCTC's agent. Any alterations or additions made by THE COUNTY shall remain a part of the premises and CCTC shall not be liable to THE COUNTY for repayment or reimbursement.

4. RIGHT OF INSPECTION THE COUNTY shall not unreasonably withhold consent to CCTC to enter into the demised Premises in order to inspect the Premises. CCTC shall give

THE COUNTY reasonable notice of their intent to enter the Premises, and may enter the Premises only at reasonable times.

5. DESTRUCTION OR LOSS OF PREMISES, PERSONAL PROPERTY. If during the initial or any renewal term of this MOU the Premises are wholly or partially destroyed by fire or other casualty, CCTC shall make whole any damage to the structure with all reasonable diligence and without interruption of the tenancy. If, however, the Premises sustain a fire or other casualty that render the Premises not habitable, then this MOU shall terminate. In the event of fire or other casualty, THE COUNTY is to notify CCTC or his agent immediately. CCTC shall not be responsible for or liable to THE COUNTY for any loss or damage to THE COUNTY's personal property maintained on the leased Premises. THE COUNTY shall, at its sole option, maintain such amount of insurance as it may deem proper or necessary to insure against personal property loss or damage.

6. USE OF PREMISES. The Premises shall be used for the purposes of business offices and educational facility. THE COUNTY shall not permit the Premises to be used for any purpose that will injure the reputation of the building of which they are a part. THE COUNTY will not use or keep the Premises in any way which would affect the terms and conditions of a standard fire insurance policy or increase the premium rates thereof.

7. SIGN. Any sign on the exterior of the building or premises shall be proposed to and approved in writing by CCTC before erection. THE COUNTY shall be responsible for obtaining approval for the sign from the planning commission and insuring the sign complies with the zoning laws concerning signs.

8. SUBLEASE. THE COUNTY shall not assign or sublet the Premises, or any part thereof,

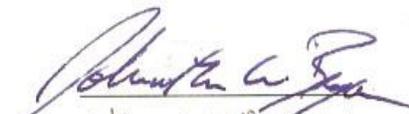
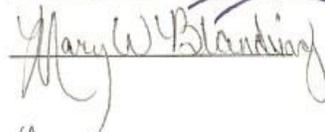
without the prior written consent of CCTC, but such consent shall not be withheld without good cause.

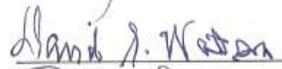
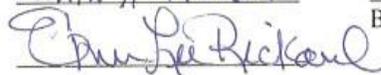
9. CLEANING PREMISES. Upon vacating the demised Premises, THE COUNTY shall thoroughly sweep out and clean the rooms used, remove all trash and other debris from those rooms, lock and fasten all doors and windows and return all keys, including all copies, to CCTC.
10. HOLD HARMLESS/INSURANCE. THE COUNTY covenants and agrees to indemnify, save and hold harmless the CCTC against any and all losses, damages, and expense incurred or sustained, including attorney's fees because of or in consequence of THE COUNTY's negligence, or that of its agents or servants from the destruction of and/or injury or damage to any life, person, or property, in or upon the demised premises or any portion thereof, or growing out of its existence, use or occupation, it being intended that THE COUNTY, when negligent through its agents or servants, shall indemnify said CCTC from any and all injuries, damages, claim and liabilities for which said CCTC might be held or claimed to be responsible. THE COUNTY shall obtain a general liability policy in an amount not less than Six Hundred Thousand (\$600,000.00) Dollars, with the interest of CCTC thereon shown, providing CCTC with the right of indemnification for any claim asserted against the CCTC by reason of THE COUNTY's operation. THE COUNTY shall provide a certificate of such insurance on or before March 1, 2011 and annually for the term of the agreement.
11. PAYMENT OF FEES/COSTS FOR ENFORCEMENT. THE COUNTY agrees to pay to CCTC the court costs and incurred attorney's fees paid by CCTC in enforcing any provision of this agreement.
12. ENTIRE AGREEMENT/AMENDMENT. This MOU contains the entire understanding

of the parties, and there are no other promises or conditions or any other agreements whether oral or written. This MOU may be modified or amended only in writing, and only if the writing is signed by the party obligated under the Amendment.

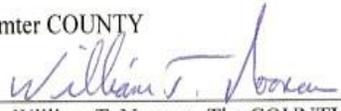
13. SEVERABILITY. If any portion of this MOU shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this MOU is invalid or unenforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

IN WITNESS WHEREOF, Sumter COUNTY and Central Carolina Technical College have executed this Memorandum of Understanding on the date first above written.

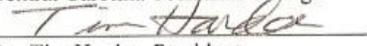

Robert A. Egan

Mary W. Bland


David J. Weston

Charles Lee Rickard

Sumter COUNTY


William T. Noonan
By: William T. Noonan, The COUNTY Administrator

Central Carolina Technical College


Tim Hardee
By: Tim Hardee, President

ORDINANCE NO. 11-727

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.

WHEREAS, Sumter County Council adopted Ordinance 10-714 on September 14, 2010 establishing the Sumter County Stormwater Utility and the Service Charges relating thereto; and

WHEREAS, that original ordinance, as written, provides that all mobile homes will be treated as Residential Property in determining the applicable Stormwater Utility Fees; and

WHEREAS, Sumter County Council now desires to create a new category of property, specifically, Mobile Home Parks, which may be charged storm water utility fees as Commercial Property; and

WHEREAS, the foregoing reasons constitute a public purpose for amending Ordinance No. 10-714.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF SUMTER COUNTY, SOUTH CAROLINA, AT ITS REGULAR MEETING DULY ASSEMBLED AND BY THE AUTHORITY THEREOF:

That Sumter County Council hereby amends Ordinance 10-714 as follows:

1. The words “and any mobile home park” shall be added to the definition of *Commercial Properties* so that the definition will now read:

Commercial properties shall include all properties developed initially for the retail of goods and services, or other business activities, office buildings or property otherwise assessed as commercial use, any multi-family residential structure with 3 or more dwelling units which structure is taxed as only one structure and any mobile home park.

2. A new definition of Mobile Home Park shall be added which will read:

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 years 2010 and 2011 and by March 1 of the tax year in subsequent years. No further applications are necessary once the real property and mobile homes for which the initial application was made are treated a Commercial Property pursuant to this section. Adding

one or more new mobile homes to an existing Mobile Home Park will require a new application in order for the new mobile home(s) to be included in the Mobile Home Park and treated as Commercial Property in accordance with this section. Once a Mobile Home Park is treated as Commercial Property pursuant to the owner's application, it shall be treated as Commercial Property as long as it is used as a mobile home park. (Note: Special Development Standards for Mobile Home Parks are listed in section 3.d.7. of the Zoning and Development Standards Ordinance.)

- 3. The words "not included in any mobile home park" shall be added to qualify the term "Mobile homes" in the definition of Residential properties which will now read:

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 treated as Commercial Property.

- 4. As amended, the Stormwater Utility Ordinance will read as shown in Attachment A hereto.
5. This amendment applies to tax year 2011 and subsequent years.

This Ordinance is done, ratified and adopted _____, 2011.

THE COUNTY COUNCIL FOR SUMTER COUNTY, SOUTH CAROLINA (SEAL)

BY: _____
Eugene R. Baten
ITS: Chairman

ATTEST:

Mary W. Blanding
Its: Clerk of County Council

First Reading: _____, 2011.

Second Reading: _____, 2011.

Public Hearing: _____, 2011

Third Reading and Adoption: _____, 2011.

If a change in ownership or use occurs, the owner who had qualified for the Commercial Property treatment allowed by this section shall notify the assessor of the change in within six months of the change.

Attachment A

Sec. 14-111. Findings.

The Sumter County Council, South Carolina makes the following findings of fact:

- (1) The county council finds that a schedule of stormwater utility service charges is an appropriate means of allocating the cost of stormwater management services and stormwater management systems and facilities throughout the county. Such charges can be complemented by other funding methods which address specific needs, including but not limited to allocations of other revenues available to the county, special service fees, special assessments, and other revenues as deemed appropriate by the county council.
- (2) The county council finds that credits against stormwater utility service charges are an appropriate means of adjusting fees, rates, rentals, and charges in certain cases, and should be granted for properties providing on-site or off-site services, systems, facilities, activities, or assets which reduce or otherwise mitigate the impact of said property on the county's cost of providing stormwater management services and/or stormwater management systems and facilities, and that such credits should be conditional upon continuing provision of such services, systems, facilities, activities, or assets in a manner complying with the standards and codes as determined by the county administrator or designee. Credits for on-site stormwater management systems and facilities shall be generally proportional to the effect that such systems reduce the peak rate of runoff from the property and increase the volume of on-site storm water retention.
- (3) The county council finds that a stormwater utility rate fee has been defined and determined which accurately addresses the current financial needs to manage, maintain, protect, regulate and enhance the stormwater systems and facilities of Sumter County.
- (4) The county council finds that the application of the utility shall be countywide, in that the stormwater program provides stormwater drainage system maintenance beneficial to all county residents, in addition to the portions of the county that are currently regulated under the coverage of a state or federal stormwater permit, or maintain an intergovernmental agreement with the county to provide stormwater services.
- (5) The county council finds that it is imperative that all revenues raised or otherwise allocated specifically to stormwater management services and stormwater management systems and facilities be dedicated solely to those purposes and therefore directs that such revenues shall be deposited into the accounting fund of the stormwater utility and shall remain in that fund and be dispersed only for stormwater management capital, operating, and non-operating costs and debt service of bonds for stormwater management purposes. As said revenues shall be used solely for stormwater purposes, the county shall publically disclose and publish all stormwater related revenue allocations and expenditures annually in the audited Annual Financial Report.

Sec. 14-112. Authority.

This article shall be cited as the Stormwater Utility Ordinance and is adopted pursuant to S.C. Code Ann. § 48-14-10, *et seq.*, the Home Rule Act, Section 4-9-30(5), *Code of Laws of South Carolina*, Section 6-1-330, *Code of Laws of South Carolina* and S.C. Land Resources Conservation Commission Regulations 72-300 to 72-316.

Sec. 14-113. Establishment of utility and enterprise fund.

Rules of language and interpretation.

- (1) The word "shall" is mandatory; the word "may" is permissive.
- (2) The particular shall control the general.
- (3) Words used in present tense shall include the future, and words used in the singular include the plural, and plural the singular, unless the context clearly indicates the contrary.

The county council hereby establishes a stormwater utility within the stormwater department under the direction of public services which shall be responsible for stormwater management throughout the county's unincorporated limits, or incorporated areas agreed to by intergovernmental agreement, and shall provide for the management, maintenance, protection, control, regulation and enforcement, use, and enhancement of stormwater systems and facilities.

The county council directs that a stormwater fund be established in the county budget and accounting system for the purpose of dedicating and protecting all funding applicable to the purposes and responsibilities of the utility, including but not limited to rentals, rates, charges, fees, and licenses as may be established by the county council. All revenues and receipts of the stormwater utility shall be placed in the stormwater fund and all expenses of the utility shall be paid from the stormwater fund, except that other revenues, receipts, and resources not accounted for in the stormwater utility fund may be applied to stormwater management operations and capital investments as deemed appropriate by the county.

The county council hereby transfers to the stormwater utility the existing stormwater systems and facilities owned and operated by the county and other interests and assets including but not limited to easements, rights-of-entry and access, and certain equipment. The county council declares that the economic value to the county of the stormwater systems, facilities, and other interests and assets hereby transferred to the utility is equal to the economic value to the county of the utility assuming future responsibility for the management, maintenance, protection, control, regulation, use, and enhancement of the stormwater systems, facilities, and programs.

Sec. 14-114. Boundaries and jurisdiction.

The boundaries and jurisdiction of the stormwater utility shall extend to the unincorporated limits of the county and incorporated areas of the county as agreed to

through the establishment of an intergovernmental agreement to provide stormwater services.

Sec. 14-115. Limitation of the Stormwater Utility System

The stormwater system shall be limited to those drainage ways, channels, ditches, swales, storm sewers, culverts, inlets, catch basins, head walls and other structures which control and/or convey stormwater and which:

Are located within public streets, rights-of-way, and easements except in case those facilities are owned by the South Carolina Department of Transportation or are within the South Carolina Department of Transportation's right-of-way;

Are subject to rights-of-entry, rights-of-access, rights-of-use, or other permanent provisions for adequate access for operation, maintenance, and/or improvement of systems and facilities; or

Are located on public lands to which the county has adequate access for operation, maintenance, and/or improvement of systems and facilities.

Stormwater systems and facilities which are located on private or public property not owned by the county and which are not subject to public dedication of the systems, facilities, easements, rights-of-way, or other adequate access for operation, maintenance, and/or improvement of the systems and facilities shall be and remain the responsibility of the property owner, except as that responsibility may be affected by the laws of the State of South Carolina and the United States of America.

Sec. 14-116. Requirements for on-site stormwater systems; enforcement methods and inspections.

(1) All property owners and developers of real property to be developed within the county shall provide, manage, maintain, and operate on-site stormwater systems and facilities sufficient to collect, convey, detain, control, and discharge stormwater in a safe manner consistent with all county development regulations and the laws of the State of South Carolina and the United States of America. Any failure to meet this obligation shall constitute a nuisance if the owner fails to properly abate within such reasonable time as allowed by the court, the county may enter upon the property and cause such work as is reasonably necessary to be performed, with the actual cost thereof charged to the owner in the same manner as a stormwater service charge.

(2) The county shall have the right, pursuant to the authority of this article, for its designated officers and employees to enter upon private property and public property owned by other than the county, upon reasonable notice to the owner thereof, to inspect the property and conduct surveys and engineering tests thereon in order to assure compliance with this article.

Sec. 14-117. Definitions.

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

Agricultural use properties shall include all properties assessed by the county as agriculture and include farming, livestock, poultry houses, swine activities and other property assessed as pertaining to agriculture. Processing and distribution facilities associated with these activities are considered industrial properties and are not covered under this definition.

Credit shall mean a conditional reduction in the amount of a stormwater service charge or other fees, rates, rentals, charges, fines, and penalties to an individual property based on: the provision and continuing presence of an effectively maintained and operational on-site stormwater system or facility; and/or continuing provision of a service or activity that reduces the stormwater utility's cost of providing stormwater management services and stormwater management systems and facilities; and/or on the direct discharge of runoff to a receiving water that is not operated, maintained, improved, and regulated, now or in the future, by the county.

Commercial properties shall include all properties developed initially for the retail of goods and services, or other business activities, office buildings or property otherwise assessed as commercial use, any multi-family residential structure with 3 or more dwelling units which structure is taxed as only one structure and any mobile home park.

Customers of the stormwater utility shall include those persons, properties, and entities served by and/or benefiting from the utility's acquisition, management, maintenance, extension, and improvement of the public stormwater systems and facilities and regulation of public and private stormwater, stormwater systems, facilities, and activities related thereto, and persons, properties, and entities which will ultimately be served or benefited as a result of the stormwater management program.

Developed land shall mean property altered from its natural state by construction or installation of more than two hundred (200) contiguous square feet of impervious surfaces as defined in this division.

Equivalent Drainage Unit (EDU) is the basis of assessment for the stormwater utility fee, currently defined as 8,000 square feet of impervious surface.

Impervious surfaces are those areas which prevent or impede the infiltration of stormwater into the soil as it entered in natural conditions prior to development. Common impervious areas include, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, compacted gravel and soil surfaces, awnings and other fabric or plastic coverings, and other surfaces which prevent or impede the natural infiltration of stormwater runoff which existed prior to development.

Industrial Properties shall include all properties developed for uses other than residential and commercial properties, as defined in this article.

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 years 2010 and 2011 and by March 1 of the tax year in subsequent years. No further applications are necessary once the real property and mobile homes for which the initial application was made is treated a Commercial Property pursuant to this section. Adding one or more new mobile homes to an existing Mobile Home Park will require a new application in order for the new mobile home(s) to be included in the Mobile Home Park and treated as Commercial Property in accordance with this section. Once a Mobile Home Park is treated as Commercial Property pursuant to the owner's application, it shall be treated as Commercial Property as long as it is used as a mobile home park. (Note: Special Development Standards for Mobile Home Parks are listed in section 3.d.7. of the Zoning and Development Standards Ordinance.)

Non-Profit properties shall include churches, government buildings or property otherwise assessed as non-taxable due to its use for a non-profit activity.

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 treated as commercial property**

Stormwater management services are those activities and functions conducted by the county that together result in the collection, conveyance, and disposal of stormwater runoff, including support activities and functions necessary to accomplish the mission of the stormwater management program, and shall include but not be limited to the administration, engineering, operation and maintenance, regulation and enforcement, and improvement of systems and facilities, review of development proposals and of the installation and maintenance of stormwater systems on private properties, provision of stormwater quality management programs to eliminate or mitigate the impact of pollutants contained in stormwater runoff, and flood emergency response and recovery measures.

Stormwater management systems and facilities include, but are not limited to, rivers, streams, creeks, lakes, ponds, channels, ditches, swales, gutters, other drainage ways, storm sewers, culverts, inlets, catch basins, headwalls, dams, reservoirs and other impoundments, flumes, stormwater detention and retention storage areas, filters, riparian areas, plants, works, instrumentalities, properties, and other structural and nonstructural components that control, capture, collect, convey, route, restrict, store, detain, retain, infiltrate, cleanse, or otherwise affect or influence the flow of stormwater within the county and the quality of stormwater discharged from the county.

Stormwater service charges shall mean the periodic service charge imposed pursuant to this division by the county for the purpose of funding costs related to stormwater management services and stormwater management systems and facilities. The use of the area of impervious surface on each property as a stormwater service charge rate parameter shall not preclude the use of other parameters, or of grouping of properties having similar characteristics into classes or categories, grouping of properties having similar characteristics through the use of ranges or rounding up or down to a consistent numerical interval, or the use of flat-rate charges for one (1) or more classes of similarly-situated properties whose impact on county's cost of providing stormwater management services and stormwater management systems and facilities is relatively consistent. Stormwater service charges may also include special charges to individual properties or persons for services, systems, or facilities related to stormwater management, including but not limited to charges for development plan review, inspection of development projects and on-site stormwater control systems, and enhanced levels of stormwater service above and beyond the levels normally provided by the county.

Sec. 14-118. Stormwater service charge rates.

Stormwater service charge rates may be determined and modified from time to time by the county council so that the total revenue generated by said charges and any other sources of revenues or other resources allocated by the county council to the stormwater utility shall be sufficient to meet the cost of stormwater management services, systems, and facilities, including but not limited to the payment of principal and interest on debt obligations, operating expense, capital outlays, non-operating expense, provisions for prudent reserves, and other costs related to stormwater as deemed appropriate by the county council. The basis of the service charge rate is one (1) EDU as defined in this ordinance. The stormwater service charge for one (1) EDU is \$30.00 per year. The initial stormwater service charge rates shall apply:

- (1) *Residential properties.* Residential properties, as defined by this ordinance, shall be billed for the stormwater service charges, as defined in this article, of .50 EDU, equivalent to \$15.00 per year. This represents a flat rate for all county residential properties relative to their average contribution to, and use of, roads which are served by the stormwater drainage system.
- (2) *Commercial properties and Non-Profit properties.* Commercial properties, as defined by this ordinance, and Non-Profit properties, as defined by this ordinance, shall be billed for the

stormwater service charges, as defined in this article, of 1½ EDU, equivalent to \$45.00 per year. Commercial properties will be evaluated during the initial 2-year implementation of the program to define final EDU values based on actual impervious cover, which may result in either an increase or decrease of the EDU value of the individual property. To initiate immediate assessment of a commercial property, see Section 14-120 of this ordinance.

- (3) *Industrial properties.* Industrial properties, as defined by this ordinance, shall be billed for the stormwater service charges, as defined in this article, of 3 EDU, equivalent to \$90.00 per year. Industrial properties will be evaluated during the initial 2-year implementation of the program to define final EDU values based on actual impervious cover, which may result in either an increase or decrease of the EDU value of the individual property. To initiate immediate assessment of an industrial property, see Section 14-120 of this ordinance.
- (4) *Agricultural use properties.* Poultry houses, swine farrowing and confinement operations and gin operations shall be billed for the stormwater service charges, as defined in this article, of 1½ EDU, equivalent to \$45.00 per year. Poultry houses, swine farrowing and confinement operations and gin operations will be evaluated during the initial 2-year implementation of the program to define final EDU values based on actual impervious cover, which may result in either an increase or decrease of the EDU value of the property. All other agriculture use properties as defined by this ordinance shall be exempt from a stormwater service charge. Processing, production and distribution facilities associated with agriculture activities are considered industrial facilities and shall be subject to the stormwater service charge as identified in (3).
- (5) *Developed land.* The minimum stormwater service charge for developed land, as defined in this article, shall be billed for .50 EDU, equivalent to \$15.00 per year, except where exempt from a stormwater service charge as defined in Section 14-118 (4) of this ordinance.

Sec. 14-119. Stormwater service charge billing, delinquencies and collections.

A stormwater service charge bill may be sent though the United States mail or by alternative means, notifying the customer of the amount of the bill, the date the payment is due, and the date when past due. These fees shall be levied, collected and paid in the same manner as user fees applied to annual tax bills. The stormwater service charge bill may also be billed and collected along with other charges, including but not limited to other county assessments, or property taxes, as deemed most effective and efficient by the county council. Failure to receive a bill is not justification for nonpayment. Nevertheless, if a customer is underbilled or if no bill is sent for developed land, the county may back bill for a period of up to one-year.

Sec. 14-120. Appeals.

Any commercial, industrial or agricultural use customer aggrieved by a final assessment of the provisions of this division may appeal the decision in the following manner and sequence.

- (1) An appeal must be filed in writing with the county administrator (or designee). At the discretion of the county, the appeal may require a survey prepared by a registered land surveyor or professional engineer containing information on the total property area, the impervious surface area, and any other features or conditions that influence the hydrologic response of the property to rainfall events. During the 2-year initial implementation of the program, the county will assist in the assessment of impervious cover and EDU calculations for commercial, industrial, or agricultural use customers.
- (2) Using information provided by the appellant, a technical committee comprised of the Stormwater Department Director and two (2) other persons appointed by the county administrator shall conduct a technical review of the conditions on the property and respond to the appeal in writing within thirty (30) days. In response to an appeal, the Stormwater Department Director or designee may adjust the stormwater service charge applicable to the property in conformance with the general purposes and intent of this division. During the 2-year initial implementation of the program, the county may waive the technical review requirement.
- (3) A decision of the technical committee that is adverse to an appellant may be further appealed to the county administrator within thirty (30) days of the adverse decision. Notice of the appeal shall be delivered to the county administrator by the appellant, stating the grounds for further appeal. The county administrator shall issue a written decision on the appeal within thirty (30) days. All decisions by the county administrator shall be served on the customer personally or by registered or certified mail, sent to the billing address of the customer. All decisions of the county administrator shall be final, except that this provision shall not abridge the right of any person to seek relief in a court of competent jurisdiction.

Sec. 14-121. Unlawful damage to, alteration of, or tampering with county's stormwater system.

Misdemeanor to damage, alter or tamper with stormwater system. It shall be unlawful and a violation of this chapter for any person to damage, deface, alter, change, or tamper with the county's stormwater system; and upon conviction, said person shall be guilty of a misdemeanor and punished by a fine of up to \$500.00 and/or sentenced to serve up to 30 days; and such person shall be subject to paying full costs incurred by the county as a way of restitution.