



RICHLAND COUNTY COUNCIL REGULAR SESSION AGENDA

**DECEMBER 2, 2008
6:00 PM**

CALL TO ORDER

THE HONORABLE JOSEPH MCEACHERN

INVOCATION

THE HONORABLE BERNICE G. SCOTT

PLEDGE OF ALLEGIANCE

THE HONORABLE BERNICE G. SCOTT

Presentations

1. Blythewood Comprehensive Land Use Plan - John Perry

Citizen's Input

Approval Of Minutes

2. Zoning Public Hearing: October 28, 2008 **[PAGES 11-17]**
3. Regular Session: November 18, 2008 **[PAGES 18-28]**

Adoption Of The Agenda

Report Of The Attorney For Executive Session Items

4.
 - Owens Field Personnel Matter
 - Lower Richland Property Item/Potential Purchase of Property
 - Business Service Center Appeals

Report Of The County Administrator

5.
 - Project Pet Documents
 - Lower Richland Property
 - Joint City/County Ad Hoc Committee Meeting Update
 - Strategic Plan Update

Report Of The Clerk Of Council

6.
 - Invitations for Swearing-In Ceremony Reminder

Report Of The Chairman

Approval Of Consent Items

7. 08-30MA
St. John's Baptist Church
Joe Sumter
RU to OI (2.87 acres)
Family Life Center
24400-01-66 & 67
Ault Rd. & Rosa Lee Dr. [**THIRD READING**][**PAGES 51-52**]

8. 08-33MA
Tom Margle
OI/GC/OI to RM-HD (15.48 acres)
Multi-Family

19705-01-01 19706-03-01 & 02
I-77 7 Percival Rd. [THIRD READING][PAGES 53-55]

9. An Ordinance Establishing a Temporary Moratorium on the issuance of new permits within the unincorporated areas of Richland County for signs that use LED Technology [THIRD READING][PAGES 65-67]
10. An ordinance amending the Fiscal Year 2008-2009 General Fund Annual Budget to move fifty thousand dollars (\$50,000) from the Non-Departmental Budget to the Human Resources Budget due to health insurance savings [THIRD READING][PAGES 75-77]
11. Request to approve a budget amendment to the Hospitality Tax Fund in the amount of \$40,000 to provide operating capital for the Township Auditorium [THIRD READING][PAGES 78-80]
12. Request to approve a budget amendment in the amount of \$100,000 to redirect funds allocated to support the Midlands Area Commission on Homelessness to the Midlands Housing Alliance [THIRD READING][PAGE
13. 08-34MA
University Suites
HI to RM-HD (13.94 Acres)
Multi-Family Use
13607-02-01
Bluff Rd. [SECOND READING] [PAGES 91-92]
14. 08-36MA
Security Federal
NC to OI (2 Acres)
Bank
02505-02-10
Hwy. 176 & Rauch Metz Rd. [SECOND READING] [PAGES 93-94]
15. 08-37MA
Bruce Oswald
GC to RS-MD (.83 acres)
Residential
11708-06-06
5706 Fairfield Rd. [SECOND READING] [PAGES 95-96]
16. 08-38MA
Deborah Shaffer
RU to RS-LD (2.94 Acres)
Residential
01316-01-01/02/03/04/05/06/07
Summer Haven Rd. [SECOND READING] [PAGES 97-98]
17. 08-39MA
Martha Crawford
RU to OI (3 Acres)
Child Care Facility
17800-03-30 & 31
1235 Trading Post Rd. [SECOND READING] [PAGES 99-100]

18. An Ordinance Amending the Richland County Code of Ordinances, regarding lighting standards **[SECOND READING] [PAGES101-107]**
19. Sheriff: Request to approve a \$5,000 grant from Palmetto Pride (No personnel or matching funds required)
20. Emergency Services: Request to approve a contract with Walter L. Hunter Construction Company, Inc. for storage building site work
21. Emergency Services: Request to approve the purchase of a Medical Ambulance Bus from Sartin Services, Inc. in an amount not to exceed \$350,000
22. *An Ordinance amending the Richland County Code of Ordinances, Chapter 2, Administration; Article VIII, Personnel Regulations; Division 6, Conditions of Employment; so as to amend the county's holiday schedule [DENIAL] [PAGES 187-189]*
23. Request to approve the collaboration between the Planning and Community Development Departments for the purpose of leveraging resources and funds for neighborhood programs and improvements
24. Request to approve a change order with Thomas & Hutton in the amount of \$120,120 for the watershed modeling project of Gills Creek and Crane Creek
25. An Ordinance amending the Richland County Code of Ordinances, Chapter 10, Fire Prevention and Protection **[PAGES 150-154]**

Third Reading Items

26. 08-30MA
St. John's Baptist Church
Joe Sumter
RU to OI (2.87 acres)
Family Life Center
24400-01-66 & 67
Ault Rd. & Rosa Lee Dr. **[CONSENT][PAGES 51-52]**
27. 08-33MA
Tom Margle
OI/GC/OI to RM-HD (15.48 acres)
Multi-Family
19705-01-01 19706-03-01 & 02
I-77 7 Percival Rd. **[CONSENT][PAGES 53-55]**
28. 08-28MA
Sycamore Development
RU to RS-MD (36.35 acres)
Residential
20500-04-03/01(p)/04(p)
Rimer Pond Rd. **[PAGES 56-60]**

29. 08-29MA
Sycamore Development
RU to RS-MD (31.23 acres)
Residential
20500-04-01(p)
Rimer Pond Rd. **[PAGES 61-64]**

30. An Ordinance Establishing a Temporary Moratorium on the issuance of new permits within the unincorporated areas of Richland County for signs that use LED Technology **[CONSENT]**
[PAGES 65-67]

31. Request to approve the use of accrued interest from the Broad River Sewer bond issue toward the completion of the construction project **[PAGES 68-74]**

32. An ordinance amending the Fiscal Year 2008-2009 General Fund Annual Budget to move fifty thousand dollars (\$50,000) from the Non-Departmental Budget to the Human Resources Budget due to health insurance savings **[CONSENT]** **[PAGES 75-77]**

33. Request to approve a budget amendment to the Hospitality Tax Fund in the amount of \$40,000 to provide operating capital for the Township Auditorium **[CONSENT]**
[PAGES 78-80]

34. Request to approve a budget amendment in the amount of \$100,000 to redirect funds allocated to support the Midlands Area Commission on Homelessness to the Midlands Housing Alliance **[CONSENT]****[PAGE**

35. An Ordinance Amending the Richland County Code of Ordinances, so as to remove the requirement of Development Review Team review prior to PDD approval and to delete the provision for PDD expiration **[PAGES 82-85]**

Second Reading Items

36. 08-03MA
Charlie Waite
Summit Contractors, Inc.
HI to RM-HD (27.86 Acres)
Multi-Family Apartments
17400-05-30
Clemson Rd. & Longreen Parkway **[PAGES 86-87]**

37. 08-31MA
Jim Poston
M-1 to GC (.92 Acres)
Zaxby's
17400-05-40(p)
Clemson & Longtown Rd. **[PAGES 88-90]**

38. 08-34MA

University Suites
HI to RM-HD (13.94 Acres)
Multi-Family Use
13607-02-01
Bluff Rd. [CONSENT] [PAGES 91-92]

39. 08-36MA
Security Federal
NC to OI (2 Acres)
02505-02-10
Hwy. 176 & Rauch Metz Rd. [CONSENT] [PAGES 93-94]

40. 08-37MA
Bruce Oswald
GC to RS-MD (.83 Acres)
Residential
11708-06-06
5706 Fairfield Rd. [CONSENT] [PAGES 95-96]

41. 08-38MA
Deborah Shaffer
RU to RS-LD (2.94 Acres)
Residential
01316-01-01/02/03/04/05/06/07
Summer Haven Rd. [CONSENT] [PAGES 97-98]

42. 08-39MA
Martha Crawford
RU to OI (3 Acres)
Child Care Facility
17800-03-30 & 31
1235 Trading Post Rd. [CONSENT][PAGES 99-100]

43. An Ordinance Amending the Richland County Code of Ordinances, regarding lighting standards [CONSENT] [PAGES 101-107]

44. An Ordinance Amending the Richland County Code of Ordinances, so as to correctly reflect that Sexually Oriented Businesses are permitted in the HI Zoning District, as well as in the GC Zoning District [PAGES 108-111]

45. Ordinance authorizing an amendment to the Master Agreement governing the I-77 Corridor Regional Industrial Park by and between Richland County, South Carolina, and Fairfield County, South Carolina, to expand the boundaries of the park to include certain property owned by Primesouth, Inc., and other related matters [PAGES 112-115]

46. Ordinance authorizing certain economic incentives, including payment of a fee in lieu of property taxes and other related matters, pursuant to a fee agreement between Richland County, South Carolina, and Project Bay, pursuant to Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended, for a project involving an investment of not less than \$30,000,000 [PAGES 116-147]

Report Of Development And Services Committee

47. Request to approve the collaboration between the Planning and Community Development Departments for the purpose of leveraging resources and funds for neighborhood programs and improvements [**CONSENT**]
48. Request to approve a change order with Thomas & Hutton in the amount of \$120,120 for the watershed modeling project of Gills Creek and Crane Creek [**CONSENT**]
49. An Ordinance amending the Richland County Code of Ordinances, Chapter 10, Fire Prevention and Protection [**CONSENT**] [**PAGES 150-154**]
50. Alternative Dirt Road Paving Program/Ordinance to permit adoption of countywide dirt road paving program standards [**PAGES 155-175**]
51. Ozone Non-Attainment Boundary Recommendation [**PAGES 176-183**]

Report Of Administration And Finance Committee

52. Sheriff: Request to approve a \$5,000 grant from Palmetto Pride (No personnel or matching funds required) [**CONSENT**]
53. Emergency Services: Request to approve a contract with Walter L. Hunter Construction Company, Inc. for storage building site work [**CONSENT**]
54. Emergency Services: Request to approve the purchase of a Medical Ambulance Bus from Sartin Services, Inc. in an amount not to exceed \$350,000 [**CONSENT**]
55. An Ordinance amending the Richland County Code of Ordinances, Chapter 2, Administration; Article VIII, Personnel Regulations; Division 6, Conditions of Employment; so as to amend the county's holiday schedule [**CONSENT FOR DENIAL**] [**PAGES 187-189**]
56. Eastover Sewer Budget Amendment [**PAGES 190-192**]

Report Of Economic Development Committee

57. Project Loop [**PAGES 193-207**]
58. Project Coil [**PAGES 208-210**]

Other Items

59. Business License Appeal: Dick Smith Automotive Group, Inc. [**PAGES 211-222**]

60. Business License Appeal: FN Manufacturing, LLC [**PAGES 223-232**]

61. Business License Appeal: McEntire Produce [**PAGES 233-262**]

62. Lower Richland Property Purchase [**EXECUTIVE SESSION**] [**PAGE**

Old Business

Citizen's Input

Executive Session

63.

Motion Period

64. Ruth and Abraham Gold's 50th Wedding Anniversary Resolution [**JETER**]

65. Arbor Day Resolution [**HUTCHINSON**]

66. Resolution to rename Owens Field Airport [**SCOTT**]

Adjournment



Richland County Council Request of Action

Subject

Blythewood Comprehensive Land Use Plan - John Perry

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item

No

On Agenda For Public Hearing

No

Richland County Council Request of Action

Subject

Zoning Public Hearing: October 28, 2008 [**PAGES 11-17**]

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

MINUTES OF



RICHLAND COUNTY COUNCIL ZONING PUBLIC HEARING TUESDAY, OCTOBER 28, 2008 7:00 p.m.

In accordance with the Freedom of Information Act, a copy of the agenda was sent to radio and TV stations, newspapers, persons requesting notification, and was posted on the bulletin board located in the lobby of the County Administration Building.

MEMBERS PRESENT:

Chair	Joseph McEachern
Vice-Chair	Valerie Hutchinson
Member	Joyce Dickerson
Member	Norman Jackson
Member	Damon Jeter
Member	Paul Livingston
Member	Bill Malinowski
Member	Mike Montgomery
Member	L. Gregory Pearce, Jr.
Member	Bernice G. Scott
Member	Kit Smith

OTHERS PRESENT: Michielle Cannon-Finch, Anna Almeida, Amelia Linder, Joseph Kocy, Suzie Haynes, Geo Price, Jennie Sherry-Linder, Milton Pope, Rodolfo Callwood, Larry Smith, Jennifer Dowden, Stephany Snowden, Joe Cronin, Roxanne Matthews, Tony McDonald, Monique Walters, Michelle Onley

CALL TO ORDER

The meeting was called to order at approximately 7:17 p.m.

ADDITIONS/DELETIONS TO AGENDA

Ms. Almeida stated there were no deletions or additions to the agenda.

MAP AMENDMENTS

08-30MA, St. John's Baptist Church, Joe Sumter, RU to OI (2.87 Acres), Family Life Center, 24400-01-66 & 67, Ault Rd. & Rosa Lee Dr.

Mr. McEachern opened the floor to the public hearing.

The citizens signed up in favor of this item declined to speak at this time.

The floor to the public hearing was closed.

Mr. Jackson moved, seconded by Ms. Scott, to give First Reading approval to this item. The vote in favor was unanimous.

08-31MA, Jim Poston, M-1 to GC (.92 Acres), Zaxby's, 17400-05-40(p), Clemson & Longtown Rd. – Mr. Jackson moved, seconded by Mr. Malinowski, to defer First Reading and the Public Hearing on this item. The vote in favor was unanimous.

08-32MA, Fairways Development, John Bakhaus, TROS to RS-MD (15.94 Acres), Residential Subdivision, 20406-02-01(p), Longcreek Plantation – Ms. Hutchinson moved, seconded by Mr. Jackson, to defer First Reading and the Public Hearing on this item. The vote in favor was unanimous.

08-33MA, Tom Margle, OI/GC/OI to RM-HD (15.48 Acres), Multi-Family, 19705-01-01, 19706-03-01 & 02, I-77 & Percival Rd.

Mr. McEachern opened the floor to the public hearing.

The citizens signed up in favor of this item declined to speak at this time.

The floor to the public hearing was closed.

Mr. Montgomery moved, seconded by Ms. Scott, to give First Reading approval to this item. The vote in favor was unanimous.

08-35MA, Sandhills Professional Park, Mike Ray, M-1 to GC (11.24 Acres), Commercial Subdivision, 25700-04-05, Clemson & Earth Rd.

Mr. McEachern opened the floor to the public hearing.

No one signed up to speak.

The floor to the public hearing was closed.

Ms. Smith moved, seconded by Ms. Hutchinson, to deny the re-zoning request. The vote in favor was unanimous.

08-28MA, Sycamore Development, RU to RS-MD (36.35 Acres), Residential, 20500-04-03/01(p), Rimer Pond Rd. – Ms. Dickerson moved, seconded by Mr. Jackson, to defer First Reading and the Public Hearing on this item. The vote was in favor.

Mr. Pearce moved, seconded by Ms. Hutchinson, to reconsider the deferral.

<u>In Favor</u>	<u>Oppose</u>
Pearce	Malinowski
Hutchinson	Jackson
McEachern	Jeter
Smith	Livingston
Montgomery	Dickerson
	Scott

Ms. Smith requested that the vote be taken again for clarification.

<u>In Favor</u>	<u>Oppose</u>
Pearce	Jackson
Malinowski	Jeter
Hutchinson	Livingston
McEachern	Dickerson
Smith	Scott
Montgomery	

The vote for reconsideration was in favor.

Mr. Pearce moved, seconded by Mr. Malinowski, to hold the public hearing on this item.

Ms. Dickerson withdrew her motion for deferral.

Mr. Livingston moved, seconded by Mr. Jeter, to defer First Reading and the Public Hearing on this item.

<u>In Favor</u>	<u>Oppose</u>
Jackson	Pearce
Jeter	Malinowski
Livingston	Hutchinson
Dickerson	McEachern
Scott	Smith
	Montgomery

The motion for deferral failed.

POINT OF ORDER – Ms. Smith requested to move the agenda.

Mr. McEachern opened the floor to the public hearing.

Mr. Bernie Randolph, Ms. Cynthia Mathis, Mr. Ken Queen, Mr. Carl Berry, Mr. Tom Duggan, Mr. Michael Letts, Mr. Jerry Anderson, Mr. Steve Benjamin, Ms. Vanessa English, Mr. Dan Neal, Mr. Michael Watts, Mr. John Robertson, Mr. Bryan Hanna, Mr. Tom Koufman, Mr. Rodney Reid, and Ms. Tanya Reed spoke regarding this item.

The floor to the public hearing was closed.

Ms. Dickerson moved, seconded by Mr. Jackson, to give First Reading approval to this item and to hold further discussion with the community and developer before Second Reading. A discussion took place.

<u>In Favor</u>	<u>Oppose</u>
Jackson	Pearce
Jeter	Malinowski
Livingston	Hutchinson
Dickerson	McEachern
Smith	
Scott	
Montgomery	

The vote was in favor of First Reading approval.

08-29MA, Sycamore Development, RU to RS-MD (31.23 Acres), Residential, 20500-04-01(p), Rimer Pond Rd. – Ms. Dickerson moved, seconded by Mr. Jackson, to defer First Reading and the Public Hearing on this item. The vote was in favor.

Mr. Pearce moved, seconded by Ms. Hutchinson, to reconsider the deferral.

<u>In Favor</u>	<u>Oppose</u>
Pearce	Malinowski
Hutchinson	Jackson
McEachern	Jeter
Smith	Livingston
Montgomery	Dickerson
	Scott

Ms. Smith requested that the vote be taken again for clarification.

<u>In Favor</u>	<u>Oppose</u>
Pearce	Jackson
Malinowski	Jeter
Hutchinson	Livingston
McEachern	Dickerson
Smith	Scott
Montgomery	

The vote for reconsideration was in favor.

Mr. Pearce moved, seconded by Mr. Malinowski, to hold the public hearing on this item.

Ms. Dickerson withdrew her motion for deferral.

Mr. Livingston moved, seconded by Mr. Jeter, to defer First Reading and the Public Hearing on this item.

<u>In Favor</u>	<u>Oppose</u>
Jackson	Pearce
Jeter	Malinowski
Livingston	Hutchinson
Dickerson	McEachern
Scott	Smith
	Montgomery

The motion for deferral failed.

Mr. McEachern opened the floor to the public hearing.

Mr. Bernie Randolph, Mr. Ken Queen, Mr. Carl Berry, Ms. Vanessa English, Mr. Dan Neal, Mr. David Voyles, Mr. Garfield Bradshaw, Mr. Glenn Huck, Mr. Rodney Reid, Ms. Marie Byrd, Mr. Ray Thompson and Ms. Cynthia Mathis spoke regarding this item.

The floor to the public hearing was closed.

Ms. Dickerson moved, seconded by Mr. Jackson, to give First Reading approval to this item and to hold further discussion with the community and developer before Second Reading. A discussion took place.

<u>In Favor</u>	<u>Oppose</u>
Jackson	Pearce
Jeter	Malinowski
Livingston	Hutchinson
Dickerson	McEachern
Smith	
Scott	
Montgomery	

The vote was in favor of First Reading approval.

TEXT AMENDMENTS

An Ordinance Amending the Richland County Code of Ordinances; Chapter 26, Land Development; Article VII, General Development, Site, and Performance Standards; Section 26-171, General; so as to protect buffers, common areas, open space, recreation areas, and planted and/or vegetative areas on all approved site plans

Mr. McEachern opened the floor to the public hearing.

Mr. Steve Corboy and Mr. Earl McLeod spoke regarding this item.

The floor to the public hearing was closed.

Mr. Jeter requested that the ordinance be amended as outlined.

Mr. Montgomery moved, seconded by Ms. Scott, to refer the ordinance back to the Planning Commission. The vote in favor was unanimous.

ADJOURNMENT

The meeting adjourned at approximately 9:14 p.m.

Submitted respectfully by,

Joseph McEachern
Chair

The minutes were transcribed by Michelle M. Onley

Richland County Council Request of Action

Subject

Regular Session: November 18, 2008 [PAGES 18-28]

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

MINUTES OF



RICHLAND COUNTY COUNCIL REGULAR SESSION TUESDAY, NOVEMBER 18, 2008 6:00 p.m.

In accordance with the Freedom of Information Act, a copy of the agenda was sent to radio and TV stations, newspapers, persons requesting notification, and was posted on the bulletin board located in the lobby of the County Administration Building.

MEMBERS PRESENT:

Chair	Joseph McEachern
Member	Valerie Hutchinson
Member	Joyce Dickerson
Member	Norman Jackson
Member	Damon Jeter
Member	Paul Livingston
Member	Bill Malinowski
Member	Mike Montgomery
Member	L. Gregory Pearce, Jr.
Member	Bernice G. Scott
Absent	Kit Smith

OTHERS PRESENT – Michelle Cannon-Finch, Milton Pope, Roxanne Matthews, Joe Cronin, Stephany Snowden, Jennifer Dowden, Tamara King, Larry Smith, Amelia Linder, Latasha Hopper, Daniel Driggers, Lillian McBride, Mike Cinnamon, Judy Carter, Teresa Smith, Anna Almeida, Geo Price, Andy Metts, Dwight Hanna, Tammy O’Berry, Monique Walters, Michelle Onley

CALL TO ORDER

The meeting was called to order at approximately 6:02 p.m.

INVOCATION

The Invocation was given by the Honorable Mike Montgomery

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by the Honorable Mike Montgomery

PRESENTATION

EngenuitySC: Neil McLean, Executive Director – Mr. Neil McLean presented Engenuity's annual report.

Richland 101 Graduation – Ms. Dowden recognized the Richland 101 graduates and Mr. Charles Jackson, a Richland 101 participant, gave a brief speech.

CITIZENS' INPUT

No one signed up to speak.

APPROVAL OF MINUTES

Special Called: October 28, 2008 – Mr. Montgomery moved, seconded by Mr. Pearce, to approve the minutes as distributed. The vote in favor was unanimous.

ADOPTION OF AGENDA

Ms. Finch stated that bond counsel had requested that the item regarding the \$5,500,000 General Obligation Bond Anticipation Notes be removed from the agenda.

Ms. Hutchinson moved, seconded by Ms. Dickerson, to adopt the agenda as amended. The vote in favor was unanimous.

REPORT OF THE COUNTY ATTORNEY FOR EXECUTIVE SESSION ITEMS

The following items were potential Executive Session items:

- a. **Lower Richland Property Purchase Decision**
- b. **Watts vs. Richland County**
- c. **Employee Benefits: Contractual Matter**
- d. **County Administrator's Evaluation**

REPORT OF THE COUNTY ADMINISTRATOR

Smoking Ban Enforcement – Mr. Pope stated that the meeting with Sheriff Lott took place and staff is developing an enforcement program through the Business Services Department.

Joint City/County Ad Hoc Committee Meeting Updates: Bus System, Detention Center Drop Off – Mr. Pope stated the Transportation Committee has met twice and representatives from Council and the City of Columbia met this afternoon regarding the County's drop off policy. The City is to provide additional information.

Project Pet Agreement – Mr. Pope stated that the final legal review is being conducted.

Eastover Sewer Billing and Collections – Mr. Pope stated that this item will be placed on next week's A&F Committee meeting agenda.

Clerk of Court Audit Update – Mr. Pope stated that the audit is proceeding.

REPORT OF THE CLERK OF COUNCIL

December Committee and Zoning Public Hearing Meetings – Ms. Finch stated that it had been suggested that the December Committee and Zoning Public Hearing meetings be cancelled.

Farewell Reception – Ms. Finch stated that there is customarily a Farewell Reception held for outgoing Council members. The Convention Center will allow the use of their facility, at no charge, on December 11th or 18th.

Roast & Toast for Councilwoman Bernice G. Scott, November 21st, 7:00 p.m., Metropolitan Convention Center – Ms. Finch stated that Council had received a request to purchase a table and be sponsors at this event.

REPORT OF THE CHAIRMAN

Recognition of Ms. Lillian McBride, Mr. Mike Cinnamon, Ms. Judy Carter and Public Information Office—Election Assistance – Mr. McEachern recognized County employees that assisted with the Election this year.

POINT OF PERSONAL PRIVILEGE – Mr. McEachern recognized that former Council Chairman Tony Mizzell was in the audience.

PUBLIC HEARING ITEMS

Mr. McEachern opened the floor to the following public hearing:

- **An Ordinance Authorizing a Utility Easement to South Carolina Electric & Gas Company on property identified as TMS#24700-09-06** – No one signed up to speak.
- **An Ordinance Amending the Fiscal Year 2008-2009 Budget Ordinance for the Fund Balance Policy** – No one signed up to speak.

- **An Ordinance Amending the Richland County Code of Ordinances; Chapter 23, Taxation; Article VI, Local Hospitality Tax; Section 23-69, Distribution of Funds; and Section 23-71, Oversight and Accountability** – No one signed up to speak.
- **An Ordinance Establishing a Temporary Moratorium on the issuance of new permits within the unincorporated areas of Richland County for signs that use LED Technology** – No one signed up to speak.
- **Request to approve the use of accrued interest from the Broad River Sewer bond issue toward the completion of the construction project** – No one signed up to speak.
- **An Ordinance Amending the Fiscal Year 2008-2009 General Fund Annual Budget to move fifty thousand (\$50,000) from the Non-Departmental Budget to the Human Resources Budget due to health insurance savings** – No one signed up to speak.
- **Request to approve a budget amendment to the Hospitality Tax Fund in the amount of \$40,000 to provide operating capital for the Township Auditorium** – No one signed up to speak.
- **Request to approve a budget amendment in the amount of \$100,000 to redirect funds allocated to support the Midlands Area Commission on Homelessness to the Midlands Housing Alliance** – Ms. Ellen Cooper, Ms. Mary Jo Rove, and Ms. Patricia Morrison spoke regarding this item.

The public hearings were closed.

POINT OF PERSONAL PRIVILEGE – Ms. Dickerson recognized Blythewood Mayor Keith Bailey was in the audience.

POINT OF PERSONAL PRIVILEGE – Mr. Pearce recognized that Councilman-elect Kelvin Washington was in the audience.

APPROVAL OF CONSENT ITEMS

Mr. Pearce moved, seconded by Mr. Montgomery, to approve the following consent items:

- **An Ordinance Authorizing a Utility Easement to South Carolina Electric & Gas Company on property identified as TMS#24700-09-06** [Third Reading]
- **An Ordinance Amending the Fiscal Year 2008-2009 Budget Ordinance for the Fund Balance Policy** [Third Reading]
- **08-30MA, St. John's Baptist Church, Joe Sumter, RU to OI (2.87 Acres), Family Life Center, 24400-01-66 & 67, Ault Rd. & Rosa Lee Dr.** [Second Reading]
- **08-33MA, Tom Margle, OI/GC/OI to RM-HD (15.48 Acres), Multi-Family, 19705-01-01, 19706-03-01 & 02** [Second Reading]

- **An Ordinance Amending the Fiscal Year 2008-2009 General Fund Annual Budget to move fifty thousand dollars (\$50,000) from the Non-Departmental Budget to the Human Resources Budget due to health insurance savings** [Second Reading]
- **Request to approve a budget amendment to the Hospitality Tax Fund in the amount of \$40,000 to provide operating capital for the Township Auditorium** [Second Reading]

The vote in favor was unanimous.

THIRD READING ITEMS

An Ordinance Amending the Richland County Code of Ordinances; Chapter 23, Taxation; Article VI, Local Hospitality Tax; Section 23-69, Distribution of Funds; and Section 23-71, Oversight and Accountability – Ms. Hutchinson moved, seconded by Ms. Malinowski, to approve staff's recommendation. The vote was in favor.

SECOND READING ITEMS

08-28MA, Sycamore Development, RU to RS-MD (36.35 Acres), Residential, 20500-04-03/01(p)/ 04 (p), Rimer Pond Rd. – Ms. Dickerson moved, seconded Mr. Montgomery, to approve this item and an agreement be approved before Third Reading. A discussion took place.

The vote was in favor.

08-29MA, Sycamore Development, RU to RS-MD (31.23 Acres), Residential, 20500-04-01(p), Rimer Pond Rd. – Ms. Dickerson moved, seconded by Ms. Scott, to approve this item and an agreement be approved before Third Reading. A discussion took place.

The vote was in favor.

An Ordinance Establishing a Temporary Moratorium on the issuance of new permits within the unincorporated areas of Richland County for signs that use LED Technology – Ms. Hutchinson moved, seconded Ms. Dickerson, to approve this item with the inclusion of the pending doctrine ordinance. The vote was in favor.

Request to approve the use of accrued interest from the Broad River Sewer bond issue toward the completion of the construction project – A discussion took place.

Mr. Malinowski moved, seconded by Mr. Jackson, to defer this item. This motion failed.

Mr. Livingston moved, seconded by , to approve this item and to have staff contact DHEC to determine what constitutes circumstances beyond our control. The vote was in favor.

Request to approve a budget amendment in the amount of \$100,000 to redirect funds allocated to support the Midlands Area Commission on Homelessness to the Midlands Housing Alliance – Mr. Pearce moved, seconded by Mr. Montgomery, to approve this item. A discussion took place.

The vote in favor was unanimous.

REPORT OF ECONOMIC DEVELOPMENT COMMITTEE

Ordinance authorizing an amendment to the Master Agreement governing the I-77 Corridor Regional Industrial Park by and between Richland County, South Carolina, and Fairfield County, South Carolina, to expand the boundaries of the park to include certain property owned by Primesouth, Inc., and other related matters – Mr. Jeter stated that the Committee recommended approval. The vote in favor was unanimous.

Ordinance authorizing certain economic incentives, including payment of a fee in lieu of property taxes and other related matters, pursuant to a fee agreement between Richland County, South Carolina, and Project Bay, pursuant to Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended, for a project involving an investment of not less than \$30,000,000 – Mr. Jeter stated that the Committee recommended give this item First Reading by Title Only. The vote in favor was unanimous.

REPORT OF RULES AND APPOINTMENTS COMMITTEE

I. NOTIFICATION OF VACANCIES ON BOARDS, COMMISSIONS, AND COMMITTEES

- a. **Lexington/Richland Alcohol and Drug Abuse Council—2** – Mr. Montgomery stated that the committee recommended that staff advertise for these vacancies. The vote in favor was unanimous.
- b. **Planning Commission—1** – Mr. Montgomery stated that the committee recommended that staff advertise for this vacancy. The vote in favor was unanimous.
- c. **Richland Memorial Hospital Board of Trustees—3** – Mr. Montgomery stated that the committee recommended that staff advertise for these vacancies. The vote in favor was unanimous.

II. NOTIFICATION OF APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

- a. **Accommodations Tax Advisory Committee—2** – Mr. Montgomery stated that the committee recommended that staff re-advertise for these vacancies. The vote in favor was unanimous.
- b. **Airport Commission—4** – Mr. Montgomery stated that the committee recommended appointing Mr. Peter R. Mayers and to re-advertise for the remaining vacancies. The vote in favor was unanimous.
- c. **Board of Assessment Control—1** – Mr. Montgomery stated that the committee recommended that staff re-advertise for these vacancies. The vote in favor was unanimous.
- d. **Midlands Workforce Development Board—2** – Mr. Montgomery stated that the committee recommended appointing Mr. Larry C. Cooke and Mr. Bill Ellen. The vote in favor was unanimous.
- e. **Township Auditorium Board—2** – Mr. Montgomery stated that the committee recommended appointing Mr. John A. Pincelli and holding the other appointment pending further information. The vote in favor was unanimous.

III. Council Individual Discretionary Accounts – Mr. Montgomery stated that this item was held in committee.

Request to approve bus service adjustments (Central Midlands Regional Transit Authority)

- a. **Eliminate Route 37 Faraway Drive/Parklane (Weekdays)**
- b. **Eliminate Route 37 Faraway Drive/Parklane (Saturdays)**
- c. **Eliminate Route 35 Dentsville Express/Village at Sandhills (Saturdays)**
- d. **Eliminate all Sunday service**
- e. **Eliminate all service on July 4th and Labor Day**

Mr. Montgomery moved, seconded Ms. Scott, to accept the elimination of Routes 37 and 35 and to deny the elimination of all Sunday service and all service on July 4th and Labor Day. A discussion took place.

The vote in favor was unanimous.

Lower Richland Property Purchase – Mr. Montgomery moved, seconded by Mr. Jeter, to defer this item until after Executive Session. The vote in favor was unanimous.

CITIZENS' INPUT

Mr. Clinton Newell and Mrs. Newell spoke regarding property taxes.

EXECUTIVE SESSION

=====
Council went into Executive Session at approximately 7:36 p.m. and came out at approximately 9:22 p.m.
=====

- a. **Lower Richland Property Purchase** – Proceeded as discussed in Executive Session
- b. **Watts vs. Richland County** – No action taken.
- c. **Employee Benefits: Contractual Matter** – No action taken.

MOTION PERIOD

Staff review of current MOU for CMRTA and creation of wording for requirements to be “voting” board member of the CMRTA. – Mr. Malinowski referred this item to the January A&F Committee meeting.

2008 Christmas Holiday Schedule – Mr. Jackson forwarded to the November A&F Committee meeting.

December D&S and A&F Committee Meetings, Zoning Public Hearing – Mr. Montgomery moved, seconded by Ms. Scott, to cancel the December committee and Zoning Public hearings. The vote in favor was unanimous.

Dirt Road Paving Ordinance – Mr. Malinowski moved to have staff determine how H4745 (South Carolina Residential Improvement District Act) can be used to the benefit of Richland County in funding construction and maintenance of infrastructure and improvements related to new development. This motion was forwarded to the D&S Committee.

Farewell Reception for Council Members – Mr. Jackson moved, seconded by Ms. Dickerson, to hold the farewell reception on December 11th in the 4th Floor Conference Room.

Roast/Toast for Bernice Scott – Council members voted to purchase individual tickets for this event.

Motion to authorize and Ordinance Amending the Richland County Code of Ordinances, Chapter 21, Road Highways and Bridges; Article I, in general; Section

21-3, Definitions; Section 21-4 Drainage on Private Property; and 21-5 Maintenance of Unpaved Roads; so as to permit adoption of countywide dirt road paving program standards as generally described in Policy Overview Report document RC-PS-414-08 dated July 2008. The program implementation shall be administered under a special 13 member committee appointed by each county council member and two ad hoc members representing the Richland County Transportation Committee (CTC) and the SC Dept. of Transportation Richland Resident Maintenance Engineer. Funding for final design development and program management shall be programmed and initiated in winter 2009. The program implementation shall include low volume traffic roadway pavement standards and right-of-way policy as described in Policy Overview Report document RC-PS-414-08 issued and presented to Council in July 2008. A copy of the proposed ordinance changes is included herein – This item was forwarded to the November D&S Committee meeting.

Resolution for Ms. Livola Simon Taylor – Ms. Scott moved to adopt a resolution for Ms. Livola Simon Taylor for her community work.

Proposed Zoning Amendments: A change in Richland County Land Development Code is requested to require the following wording in section (31) Dwellings, Multi-Family, Not Otherwise Listed:

- a. Use districts; General Commercial
- b. Multi-family dwellings in a General Commercial (GC) zoning district shall comply with one (1) of the following requirements:
 - (1) No more than twenty-five percent (25%) of the entire parcel may be used for multi-family dwellings and related uses (such as recreational amenities, garages, storage sheds and parking spaces);
or
 - (2) Multi-family dwellings and related uses (such as recreational amenities, garages, storage sheds and parking spaces) may be developed on the parcel as a whole, provided that the entire first level (or floor) of such dwelling(s) must be used solely for general commercial purposes.

Mr. Malinowski forwarded this to the January A&F Committee meeting.

ADJOURNMENT

The meeting adjourned at approximately 9:39 p.m.

Joseph McEachern, Chair

Valerie Hutchinson, Vice-Chair

Joyce Dickerson

Norman Jackson

Damon Jeter

Paul Livingston

Bill Malinowski

Mike Montgomery

L. Gregory Pearce, Jr.

Bernice G. Scott

Kit Smith

The minutes were transcribed by Michelle M. Onley

Richland County Council Request of Action

Subject

- Owens Field Personnel Matter
- Lower Richland Property Item/Potential Purchase of Property
- Business Service Center Appeals

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

Richland County Council Request of Action

Subject

- Project Pet Documents
- Lower Richland Property
- Joint City/County Ad Hoc Committee Meeting Update
- Strategic Plan Update

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

Richland County Council Request of Action

Subject

- Invitations for Swearing-In Ceremony Reminder

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

Richland County Council Request of Action

Subject

08-30MA
St. John's Baptist Church
Joe Sumter
RU to OI (2.87 acres)
Family Life Center
24400-01-66 & 67
Ault Rd. & Rosa Lee Dr. **[THIRD READING][PAGES 51-52]**

Purpose

Committee Recommendation

Council Action (First Reading)

This item received First Reading on October 28, 2008

Council Action (Second Reading)

This item received Second Reading on November 18, 2008

Public Hearing

A public hearing was held on October 28, 2008.

On Agenda As A Consent Item No

On Agenda For Public Hearing No

Richland County Council Request of Action

Subject

08-33MA
Tom Margle
OI/GC/OI to RM-HD (15.48 acres)
Multi-Family
19705-01-01 19706-03-01 & 02
I-77 7 Percival Rd. **[THIRD READING][PAGES 53-55]**

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

Richland County Council Request of Action

Subject

An Ordinance Establishing a Temporary Moratorium on the issuance of new permits within the unincorporated areas of Richland County for signs that use LED Technology [**THIRD READING**][**PAGES 65-67**]

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

Richland County Council Request of Action

Subject

An ordinance amending the Fiscal Year 2008-2009 General Fund Annual Budget to move fifty thousand dollars (\$50,000) from the Non-Departmental Budget to the Human Resources Budget due to health insurance savings
[THIRD READING][PAGES 75-77]

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

Richland County Council Request of Action

Subject

Request to approve a budget amendment to the Hospitality Tax Fund in the amount of \$40,000 to provide operating capital for the Township Auditorium **[THIRD READING][PAGES 78-80]**

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

Richland County Council Request of Action

Subject

Request to approve a budget amendment in the amount of \$100,000 to redirect funds allocated to support the Midlands Area Commission on Homelessness to the Midlands Housing Alliance **[THIRD READING][PAGE**

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

Richland County Council Request of Action

Subject

08-34MA
University Suites
HI to RM-HD (13.94 Acres)
Multi-Family Use
13607-02-01
Bluff Rd. **[SECOND READING] [PAGES 91-92]**

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

Richland County Council Request of Action

Subject

08-36MA
Security Federal
NC to OI (2 Acres)
Bank
02505-02-10
Hwy. 176 & Rauch Metz Rd. [SECOND READING] [PAGES 93-94]

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

Richland County Council Request of Action

Subject

08-37MA
Bruce Oswald
GC to RS-MD (.83 acres)
Residential
11708-06-06
5706 Fairfield Rd. **[SECOND READING] [PAGES 95-96]**

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

Richland County Council Request of Action

Subject

08-38MA
Deborah Shaffer
RU to RS-LD (2.94 Acres)
Residential
01316-01-01/02/03/04/05/06/07
Summer Haven Rd. **[SECOND READING] [PAGES 97-98]**

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

Richland County Council Request of Action

Subject

08-39MA
Martha Crawford
RU to OI (3 Acres)
Child Care Facility
17800-03-30 & 31
1235 Trading Post Rd. **[SECOND READING] [PAGES 99-100]**

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

Richland County Council Request of Action

Subject

An Ordinance Amending the Richland County Code of Ordinances, regarding lighting standards [**SECOND READING**]
[**PAGES101-107**]

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

Richland County Council Request of Action

Subject

Sheriff: Request to approve a \$5,000 grant from Palmetto Pride (No personnel or matching funds required)

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

Richland County Council Request of Action

Subject

Emergency Services: Request to approve a contract with Walter L. Hunter Construction Company, Inc. for storage building site work

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

Richland County Council Request of Action

Subject

Emergency Services: Request to approve the purchase of a Medical Ambulance Bus from Sartin Services, Inc. in an amount not to exceed \$350,000

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

Richland County Council Request of Action

Subject

*An Ordinance amending the Richland County Code of Ordinances, Chapter 2, Administration; Article VIII, Personnel Regulations; Division 6, Conditions of Employment; so as to amend the county's holiday schedule **[DENIAL]**
[PAGES 187-189]*

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

Richland County Council Request of Action

Subject

Request to approve the collaboration between the Planning and Community Development Departments for the purpose of leveraging resources and funds for neighborhood programs and improvements

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

Richland County Council Request of Action

Subject

Request to approve a change order with Thomas & Hutton in the amount of \$120,120 for the watershed modeling project of Gills Creek and Crane Creek

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

Richland County Council Request of Action

Subject

An Ordinance amending the Richland County Code of Ordinances, Chapter 10, Fire Prevention and Protection
[PAGES 150-154]

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

Richland County Council Request of Action

Subject

08-30MA
St. John's Baptist Church
Joe Sumter
RU to OI (2.87 acres)
Family Life Center
24400-01-66 & 67
Ault Rd. & Rosa Lee Dr. **[CONSENT][PAGES 51-52]**

Purpose

Committee Recommendation

Council Action (First Reading)

This item received First Reading on October 28, 2008

Council Action (Second Reading)

This item received Second Reading on November 18, 2008

Public Hearing

This item received a public hearing on October 28, 2008

On Agenda As A Consent Item No

On Agenda For Public Hearing No

STATE OF SOUTH CAROLINA
COUNTY COUNCIL OF RICHLAND COUNTY
ORDINANCE NO. ____-08HR

AN ORDINANCE OF THE COUNTY COUNCIL OF RICHLAND COUNTY, SOUTH CAROLINA, AMENDING THE ZONING MAP OF UNINCORPORATED RICHLAND COUNTY, SOUTH CAROLINA, TO CHANGE THE ZONING DESIGNATION FOR THE REAL PROPERTIES DESCRIBED AS TMS # 24400-01-66/67 FROM RU (RURAL DISTRICT) TO OI (OFFICE AND INSTITUTIONAL DISTRICT); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Pursuant to the authority granted by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY RICHLAND COUNTY COUNCIL:

Section I. The Zoning Map of unincorporated Richland County is hereby amended to change the real properties described as TMS # 24400-01-66/67 from RU (Rural District) zoning to OI (Office and Institutional District) zoning.

Section II. If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional, or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

Section III. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section IV. This ordinance shall be effective from and after _____, 2008.

RICHLAND COUNTY COUNCIL

By: _____
Joseph McEachern, Chair

Attest this _____ day of
_____, 2008.

Michielle R. Cannon-Finch
Clerk of Council

Public Hearing: October 28, 2008
First Reading: October 28, 2008
Second Reading: November 18, 2008 (tentative)
Third Reading:

Richland County Council Request of Action

Subject

08-33MA
Tom Margle
OI/GC/OI to RM-HD (15.48 acres)
Multi-Family
19705-01-01 19706-03-01 & 02
I-77 7 Percival Rd. [**CONSENT**][**PAGES 53-55**]

Purpose

Committee Recommendation

Council Action (First Reading)

This item received First Reading on October 28, 2008

Council Action (Second Reading)

Public Hearing

This item received a public hearing on October 28, 2008

On Agenda As A Consent Item No

On Agenda For Public Hearing No

STATE OF SOUTH CAROLINA
COUNTY COUNCIL OF RICHLAND COUNTY
ORDINANCE NO. ____-08HR

AN ORDINANCE OF THE COUNTY COUNCIL OF RICHLAND COUNTY, SOUTH CAROLINA, AMENDING THE ZONING MAP OF UNINCORPORATED RICHLAND COUNTY, SOUTH CAROLINA, TO CHANGE THE ZONING DESIGNATION FOR THE REAL PROPERTIES DESCRIBED HEREIN (TMS # 19705-01-01 & 19706-03-02) FROM OI (OFFICE AND INSTITUTIONAL DISTRICT) TO RM-HD (RESIDENTIAL, MULTI-FAMILY, HIGH DENSITY DISTRICT); AND TO CHANGE THE ZONING DESIGNATION FOR THE REAL PROPERTY DESCRIBED HEREIN (TMS # 19706-03-01) FROM GC (GENERAL COMMERCIAL DISTRICT) TO RM-HD (RESIDENTIAL, MULTI-FAMILY, HIGH DENSITY DISTRICT); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE RICHLAND COUNTY COUNCIL:

Section I. The Zoning Map of unincorporated Richland County is hereby amended to change the real properties described as TMS # 19705-01-01 and 19706-03-02 from OI (Office and Institutional District) zoning to RM-HD (Residential, Multi-Family, High Density District) zoning.

Section II. The Zoning Map of unincorporated Richland County is hereby amended to change the real property described as TMS # 19706-03-01 from GC (General Commercial District) zoning to RM-HD (Residential, Multi-Family, High Density District) zoning.

Section III. If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional, or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

Section IV. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section V. This ordinance shall be effective from and after _____, 2008.

RICHLAND COUNTY COUNCIL

By: _____
Joseph McEachern, Chair

Attest this _____ day of
_____, 2008.

Michielle R. Cannon-Finch
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only.
No Opinion Rendered As To Content.

Public Hearing: October 28, 2008
First Reading: October 28, 2008
Second Reading: November 18, 2008 (tentative)
Third Reading:

Richland County Council Request of Action

Subject

08-28MA
Sycamore Development
RU to RS-MD (36.35 acres)
Residential
20500-04-03/01(p)/04(p)
Rimer Pond Rd. **[PAGES 56-60]**

Purpose

Committee Recommendation

Council Action (First Reading)

This item received First Reading on October 28, 2008

Council Action (Second Reading)

This item received Second Reading on November 18, 2008.

Public Hearing

This item received a public hearing on October 28, 2008

On Agenda As A Consent Item No

On Agenda For Public Hearing No

STATE OF SOUTH CAROLINA
COUNTY COUNCIL OF RICHLAND COUNTY
ORDINANCE NO. ____-08HR

AN ORDINANCE OF THE COUNTY COUNCIL OF RICHLAND COUNTY, SOUTH CAROLINA, AMENDING THE ZONING MAP OF UNINCORPORATED RICHLAND COUNTY, SOUTH CAROLINA, TO CHANGE THE ZONING DESIGNATION FOR THE REAL PROPERTIES DESCRIBED AS TMS # 20500-04-03/01(P)/04(P) FROM RU (RURAL DISTRICTS) TO RS-MD (RESIDENTIAL, SINGLE-FAMILY – MEDIUM DENSITY DISTRICTS); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Pursuant to the authority granted by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY RICHLAND COUNTY COUNCIL:

Section I. The Zoning Map of unincorporated Richland County is hereby amended to change the real properties described as TMS # 20500-04-03/01(p)/04(p) (described in Exhibit A, which is attached hereto), from RU (Rural District) zoning to RS-MD (Residential, Single-Family – Medium Density District) zoning.

Section II. If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional, or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

Section III. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section IV. This ordinance shall be effective from and after _____, 2008.

RICHLAND COUNTY COUNCIL

By: _____
Joseph McEachern, Chair

Attest this _____ day of
_____, 2008.

Michielle R. Cannon-Finch
Clerk of Council

RICHLAND COUNTY ATTORNEY’S OFFICE

Approved As To LEGAL Form Only
No Opinion Rendered As To Content

Public Hearing: October 28, 2008
First Reading: October 28, 2008
Second Reading: November 18, 2008 (tentative)
Third Reading:

EXHIBIT A

Boundary Description: Parcel "C"

Commencing from the centerline intersection of Longtown Road east with Rimer Pond Road, S 85°08'39" E for 4651.16' to a new #5 rebar. Said rebar being the point of beginning.

Thence from the point of beginning in a clockwise direction:

N 80°21'20" E for a distance of 286.88' to a new #5 rebar. Said line being the southern right-of-way for Rimer Pond Road.

Thence, along a curve with a radius of 5762.58' with a chord bearing and distance of N79°19'37" E, 227.96' to a new #5 rebar. Said line being the southern right-of-way for Rimer Pond Road.

Thence, N 79°37'05" E for a distance of 83.03' to a new #5 rebar. Said line being the southern right-of-way for Rimer Pond Road.

Thence, N 79°37'05" E for a distance of 1.05' to an old ¾" open. Said line being the southern right-of-way for Rimer Pond Road.

Thence, N 75°47'50" E for a distance of 49.99' to an old 1" crimp. Said line being the southern right-of-way for Rimer Pond Road.

Thence, S 02°35'47" E for a distance of 1401.85' to an old axle. Said line being bounded on the east lands of now or formerly Alexander & Vanessa English.

Thence, N 87°51'42" W for a distance of 1619.40' to a new #5 rebar. Said line being bounded on the south by lands now or formerly Fairways Development General Partnership.

Thence, N 02°08'18" E for a distance of 11.93' to a new #5 rebar. Said line being bounded on the west by lands of now or formerly David F. Adcock, II, etal.

Thence, N 44°15'27" W for a distance of 233.31' to a new #5 rebar. Said line being bounded on the west by lands of now or formerly David F. Adcock, II, etal.

Thence, N 31°04'39" W for a distance of 196.80' to a new #5 rebar. Said line being bounded on the west by lands of now or formerly David F. Adcock, II, etal.

Thence, N 44°10'01" W for a distance of 410.17' to a new #5 rebar. Said line being bounded on the west by lands of now or formerly David F. Adcock, II, etal.

Thence, N 30°32'02" E for a distance of 60.74' to a new #5 rebar. Said line being bounded on the west by lands of now or formerly David F. Adcock, II, etal.

Thence, N 88°48'08" E for a distance of 112.85' to a new #5 rebar. Said line being bounded on the north by lands of now or formerly David F. Adcock, II, etal.

Thence, S 64°03'04" E for a distance of 320.81' to a new #5 rebar. Said line being bounded on the east by lands of now or formerly David F. Adcock, II, etal.

Thence, N 66°30'00" E for a distance of 31.27' to an old 1 1/2" open. Said line being bounded on the north by lands of now or formerly David F. Adcock, II, etal.

Thence, S 35°21'49" E for a distance of 100.08' to a new #5 rebar. Said line being bounded on the east by lands of now or formerly Village Church, Inc.

Thence, S 38°21'39" E for a distance of 76.08' to a new #5 rebar. Said line being bounded on the east by lands of now or formerly Village Church, Inc.

Thence, N 71°15'56" E for a distance of 986.84' to an old 1" open. Said line being bounded on the north by lands of now or formerly Village Church, Inc.

Thence, N 04°03'58" W for a distance of 479.24' to an old 1" open. Said line being bounded on the west by lands of now or formerly Village Church, Inc. Said 1" open being the point of beginning.

Richland County Council Request of Action

Subject

08-29MA
Sycamore Development
RU to RS-MD (31.23 acres)
Residential
20500-04-01(p)
Rimer Pond Rd. **[PAGES 61-64]**

Purpose

Committee Recommendation

Council Action (First Reading)

This item received First Reading on October 28, 2008

Council Action (Second Reading)

This item received Second Reading on November 18, 2008

Public Hearing

This item received a public hearing on October 28, 2008

On Agenda As A Consent Item No

On Agenda For Public Hearing No

STATE OF SOUTH CAROLINA
COUNTY COUNCIL OF RICHLAND COUNTY
ORDINANCE NO. ____-08HR

AN ORDINANCE OF THE COUNTY COUNCIL OF RICHLAND COUNTY, SOUTH CAROLINA, AMENDING THE ZONING MAP OF UNINCORPORATED RICHLAND COUNTY, SOUTH CAROLINA, TO CHANGE THE ZONING DESIGNATION FOR THE REAL PROPERTY DESCRIBED AS A PORTION OF TMS # 20500-04-01 FROM RU (RURAL DISTRICT) TO RS-MD (RESIDENTIAL, SINGLE-FAMILY – MEDIUM DENSITY DISTRICT); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Pursuant to the authority granted by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY RICHLAND COUNTY COUNCIL:

Section I. The Zoning Map of unincorporated Richland County is hereby amended to change the real property described as a portion of TMS # 20500-04-01 (described in Exhibit A, which is attached hereto), from RU (Rural District) zoning to RS-MD (Residential, Single-Family – Medium Density District) zoning.

Section II. If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional, or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

Section III. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section IV. This ordinance shall be effective from and after _____, 2008.

RICHLAND COUNTY COUNCIL

By: _____
Joseph McEachern, Chair

Attest this _____ day of
_____, 2008.

Michielle R. Cannon-Finch
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only
No Opinion Rendered As To Content

Public Hearing: October 28, 2008
First Reading: October 28, 2008
Second Reading: November 18, 2008 (tentative)
Third Reading:

EXHIBIT A

Boundary Description: Parcel "A"

Commencing from the centerline intersection of Longtown Road east with Rimer Pond Road, S 74°58'21" E for 1779.29' to a new #5 rebar. Said rebar being the point of beginning.

Thence from the point of beginning in a clockwise direction:

S 02°28'07" W for a distance of 1071.17' to a new #5 rebar. Said line being bounded on the east by lands of now or formerly David F. Adcock, II, etal.

Thence, N 87°31'53" W for a distance of 667.53' to a new #5 rebar. Said line being bounded on the south by lands of now or formerly Fairways Development General Partnership.

Thence, N 87°31'53" W for a distance of 13.92' to a new #5 rebar. Said line being bounded on the south by lands of now or formerly Fairways Development General Partnership.

Thence, along a curve with a radius of 788.51' with a chord bearing and distance of N 35°55'37" W, 146.64' to a new #5 rebar. Said line being the eastern right-of-way for Longtown Road East.

Thence, N 30°35'29" W for a distance of 1259.70' to a new #5 rebar. Said line being the eastern right-of-way for Longtown Road East.

Thence, along a curve with a radius of 1462.40' with a chord bearing and distance of N 35°39'42" W, 258.49' to a new #5 rebar. Said line being the eastern right-of-way for Longtown Road East.

Thence, N 28°38'57" E for a distance of 33.61' to a new #5 rebar. Said line being bounded on the northwest by a 50' sight triangle.

Thence, along a curve with a radius of 1876.86' with a chord bearing and distance of S 77°54'34" E, 151.80' to a new #5 rebar. Said line being the southern right-of-way for Rimer Pond Road.

Thence, S 75°35'30" E for a distance of 1487.00' to a new #5 rebar. Said line being the southern right-of-way for Rimer Pond Road. Said rebar being the point of beginning.

Richland County Council Request of Action

Subject

An Ordinance Establishing a Temporary Moratorium on the issuance of new permits within the unincorporated areas of Richland County for signs that use LED Technology [**CONSENT**][**PAGES 65-67**]

Purpose

Committee Recommendation

Council Action (First Reading)

This item received First Reading on October 28, 2008

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

**STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. ___-08HR**

AN ORDINANCE ESTABLISHING A TEMPORARY MORATORIUM ON THE ISSUANCE OF NEW PERMITS WITHIN THE UNINCORPORATED AREAS OF RICHLAND COUNTY FOR SIGNS THAT USE LED TECHNOLOGY.

WHEREAS, Richland County permits and regulates signs in certain zoning districts under Section 26-180 of the Richland County Code of Ordinances; and

WHEREAS, Section 26-180 (a) (2) of the Richland County Code of Ordinances requires that before any sign [with certain exceptions under Subsections (c) and (d) of the Code] may be erected, constructed, enlarged, moved, or replaced a sign permit for such sign must be issued by the Planning Department; and

WHEREAS, Subsections 26-180 (g) through (k) of the Richland County Code sets forth the requirements for signs in the RU, RR, RS-E, RS-LD, RS-MD, RS-HD, RM-LD, RM-HD, MH, RC, OI, NC, GC, M-1, LI, and HI zoning districts; and

WHEREAS, in recent months Richland County has become aware of newer advanced sign technology such as Light Emitting Diode ("LED") signs; and

WHEREAS, the new technology makes it possible for a sign to display text, graphics, or images that change, scroll, flash, move or have the appearance of movement, video, and animation at very fast rates of speed; and

WHEREAS, the County's current sign regulations prohibit "signs displaying blinking, flashing, or intermittent lights, or animation, moving parts, or signs giving the illusion of movement", but do not regulate these newer technologies for static signs; and

WHEREAS, the lack of clear and specific regulations may allow for these types of signs without proper consideration as to whether they are consistent with the County's Comprehensive Plan, overall design and aesthetic development, and traffic safety; and

WHEREAS, the type of signs described above may distract drivers and thereby increase the incidents of traffic accidents; and

WHEREAS, the potential brightness levels of the newer technology signs may cause unwanted illumination from a sign into neighboring residential neighborhoods; and

WHEREAS, signs that utilize LED technology could greatly affect the aesthetic value and livability of the County; and

WHEREAS, due to the above, it would benefit the public health, safety and welfare, and the envisioned appearance and design standards for the County by studying and possibly augmenting existing sign regulations; and

WHEREAS, it is appropriate that during such period of review by Richland County Council of such regulation of signs using LED technology, the *status quo* be maintained so that the perceived problems will not increase or grow more difficult to evaluate and resolve; and

WHEREAS, a moratorium will permit time for further study into sign technology and creation of any necessary amendments to the County's Land Development Code;

NOW THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF RICHLAND COUNTY THAT:

SECTION I. Richland County Council hereby declares a moratorium on the approval or denial of any permit submitted to Richland County for a sign that uses LED technology.

SECTION II. If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION III. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are superseded during the time this Ordinance is effective.

SECTION IV. This Ordinance shall be effective immediately upon adoption by Richland County Council.

SECTION V. This Ordinance shall expire ninety (90) days following the date of adoption of this Ordinance, or until rescinded by Richland County Council, whichever is earlier.

RICHLAND COUNTY COUNCIL

BY: _____
Joseph McEachern, Chair

Attest this the _____ day of
_____, 2008

Michielle R. Cannon-Finch
Clerk of Council

First Reading: October 28, 2008
Second Reading: November 18, 2008 (tentative)
Public Hearing:
Third Reading:

Richland County Council Request of Action

Subject

Request to approve the use of accrued interest from the Broad River Sewer bond issue toward the completion of the construction project **[PAGES 68-74]**

Purpose

Committee Recommendation

Council Action (First Reading)

This item received First Reading on October 28, 2008

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

**Broad River WWTP Construction Project
Available Funds
November 12, 2008**

Project Budget (bond revenue plus \$1.2m fund balance)	\$33,600,000
Expenditure (through October 31, 2008)	<u>\$29,400,000</u>
Remaining funds @ October 31, 2008	\$ 1,300,000
Open encumbrances @ October 31, 2008	<u>\$ 1,000,000</u>
Bond funds available for additional work (10/31/08)	\$ 300,000
Accrued interest available for additional work	<u>\$ 2,800,000</u>
Total Available Funds	\$ 3,100,000

Funding Requirements

Engr. Insp. and Const. Mgt. (incl. O&M man. 6 mo.)	\$ 400,000
Chestnut Hill Pump Station	\$ 125,000
WWTP Change Order Items (est.)	\$ 450,000
Hollingshed Pump Station	\$ 600,000
Gas Line Construction	\$ 49,000
24" Force main on Kennerly Road	<u>\$ 1,061,245</u>
Total Funding Requirement	\$ 2,685,245

Available Funds less Funding Requirement \$ 414,755

Explanation of Funding Requirement Items

Engr. Insp. And Const. Mgt. (incl. O&M man. 6mo.) – The design engineering firm is providing an onsite inspector during construction. Also the design engineering team answers all questions, reviews all change order request and attends weekly construction meetings – approx. \$32,000/mo. The construction manager coordinates all requests for information, conducts the weekly construction meetings and will coordinate construction contract close out – approx. \$24,000/mo. Both the design engineer and construction manager have been paid through September 2008. An additional 6 months of funding will be required to complete the project. The development of an O&M manual will also be required. The estimated cost of developing this manual is \$65,000.00

Chestnut Hills Pump Station – The existing Chestnut Hills pump station must be upgraded to pump against an additional 70 feet of head pressure at the new WWTP. Utilities Department Staff will provide most of the labor to upgrade this station with only a small portion of the work being provided by outside contractors. The pumps and controls must be replaced. See attached map for location.

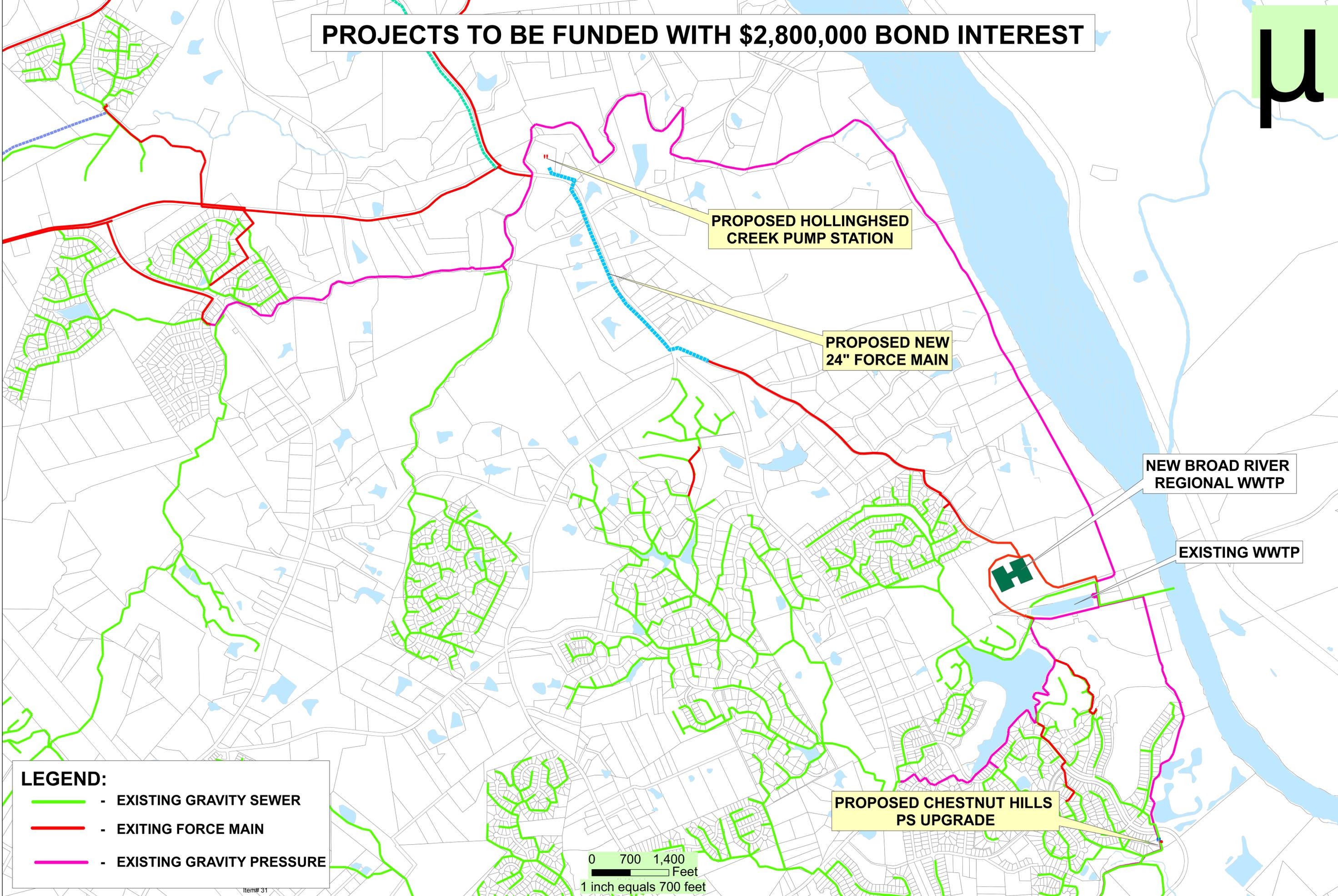
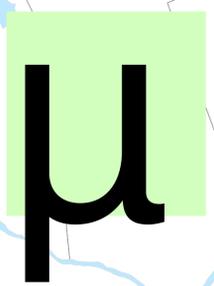
WWTP Change Order Items – There will be a change order request to provide additional electrical wiring and SCADA connection for the Sludge Dryer. The Sludge Dryer was purchased independent of the construction contract by the County and incorporated into the design of the new WWTP. The control circuitry must be linked to the sludge conveyor system to insure operator safety - estimated cost - \$90,000. Additional lighting at disconnects on SBRs – estimated cost \$15,000. Security Fence detection system – estimated cost - \$70,000. The balance of the funds requested in this line item would be available for future change orders. Any unused funds would be used to reduce debt.

Hollingshed Creek Pump Station – This is a second pump station that is required to be upgraded to pump against an additional 70 feet of head pressure. This station requires a complete pump station replacement to include new wet wells, pumps, controls, piping and generator. The estimated cost is \$2,200,000.00. One million six hundred thousand (\$1,600,000.00) has been allocated toward this construction project from the Broad River Operating budget. The \$600,000.00 will fund the balance of the construction project. This project is included in a sewer extension agreement to be constructed by a group of developers. The developers have delayed the start date of this pump station due to the downturn in the economy. This station will be required to be online once the new WWTP becomes operational. Therefore it is recommended that the County provide the funding to complete this project as soon as possible. The developers have until June 2009 to complete this portion of their commitment. See attached map for location.

Gas Line Construction – SCANA is constructing an offsite gas line to serve the new WWTP. Once operational, they will charge the County a monthly fee based on an agreed upon rate established between the County and SCANA. SCANA has offered two rates. The first rate is based on no participation in cost of construction of the offsite gas line by the County. The second rate charges the County \$49,000.00 for the construction of the offsite gas line but reduces the monthly rate significantly and removes the minimum monthly usage requirement. Comparing the two rates, the second rate will pay for the \$49,000.00 construction investment in approximately 18 month. Therefore, it is recommended that the County participate in the offsite gas line construction and therefore receive the lower monthly user rate.

24” Force Main on Kennerly Road – This force main is required to connect the new Hollingshed Creek pump station to the new WWTP. This force main is also under the same sewer extension agreement as the Hollingshed Creek pump station. Therefore, as with the pump station, timing is the critical issue. It is recommended that the County provide the funding for this project which will provide the pipeline connection within the period required by the County. This investment of County funds will also reduce the debt on the system by eliminating the issuance of additional sewer tap certificates. See attached map for location.

PROJECTS TO BE FUNDED WITH \$2,800,000 BOND INTEREST



- LEGEND:**
- - EXISTING GRAVITY SEWER
 - - EXISTING FORCE MAIN
 - - EXISTING GRAVITY PRESSURE

0 700 1,400
Feet
1 inch equals 700 feet

BOARD:
Paul C. Aughtry, III
Chairman
Edwin H. Cooper, III
Vice Chairman
Steven G. Kisner
Secretary



C. Earl Hunter, Commissioner

Promoting and protecting the health of the public and the environment

November 24, 2008

BOARD:
Henry C. Scott
M. David Mitchell, MD
Glenn A. McCall
Coleman E. Buckhouse, MD

CERTIFIED MAIL – 91 7108 2133 3933 8644 4517

Mr. Andy Metts, Director
Richland County Department of Utilities
7525 Broad River Road
Irmo, South Carolina 29063

RE: Consent Order 06-114-W
Construction Schedule Extension Request
Richland County Department of Public Works
Broad River Wastewater Treatment Facility
NPDES Permit SC0046621
Richland County

Dear Mr. Metts,

This letter is in response to your letter dated November 21, 2008, requesting an extension to the date to complete construction on the upgrade to the Broad River Wastewater Treatment Facility. Per your letter, it is our understanding that all components of the wastewater treatment facility process have been completed as designed and a Partial Certificate of Completion was issued on November 3, 2008.

The extension request is based on two conditions or circumstances.

Structural defects in the wastewater treatment facility: Cracks have occurred in the corners of the concrete walls of the Sequencing Batch Reactor (SBR) Basins. It has been determined by an independent structural engineer that there was insufficient reinforcement in the corners of the units and the structures are unsafe to operate at levels in excess of ten (10) feet in depth. The corrective action to solve this problem is to install stainless steel braces in the corners of the units. The occurrence of the cracks was beyond the control of the Richland County Department of Public Works. Therefore, an extension to the schedule will be granted to complete the necessary corrective actions.

Completion of construction of pump station upgrades: One of the pump stations serving the new wastewater treatment facility was to be completed by a group of developers. The wastewater treatment facility cannot be placed into operation until the pump station is complete. Due to a downturn in the economy, the developers have delayed construction on the pump station upgrade until their funding improves. The letter asked if the construction schedule could be extended to allow the developers to complete the upgrade of the pump station. As stated on Page 5 of the Consent Order, changed economic circumstances do not qualify as an event under Force Majeure. Therefore, a schedule

extension cannot be granted for this circumstance. Alternative funding should be identified to complete this work.

Please provide a proposed schedule by December 19, 2008, to complete the installation of the stainless steel reinforcement braces in the SBR Basins. Call me at 898-4181, if you have questions, or need additional information.



Paul F. Wise
Water Pollution Enforcement Section
Bureau of Water

Mike Montebello, Wastewater Permitting
Robin Foy, BOW Water Pollution Control Division
Harry Mathis, Region 3, Columbia EQC

Richland County Council Request of Action

Subject

An ordinance amending the Fiscal Year 2008-2009 General Fund Annual Budget to move fifty thousand dollars (\$50,000) from the Non-Departmental Budget to the Human Resources Budget due to health insurance savings
[CONSENT] [PAGES 75-77]

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. __-09HR

AN ORDINANCE AMENDING THE FISCAL YEAR 2008-2009 GENERAL FUND ANNUAL BUDGET TO MOVE FIFTY THOUSAND DOLLARS (\$50,000) FROM NON-DEPARTMENTAL'S BUDGET TO HUMAN RESOURCE'S BUDGET DUE TO HEALTH INSURANCE SAVINGS.

Pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE COUNTY COUNCIL FOR RICHLAND COUNTY:

SECTION I. That the amount of fifty thousand dollars (\$50,000) be moved from to the FY 2008-2009 Non-Departmental Budget to the FY2008-2009 Human Resources budget. Therefore, the Fiscal Year 2008-2009 General Fund Annual Budget is hereby amended as follows:

REVENUE

Revenue appropriated July 1, 2008 as amended:	\$ 138,035,934
Change in General Fund Revenue	<u> -0-</u>
Total General Fund Revenue as Amended:	\$ 138,035,934

EXPENDITURES

Expenditures appropriated July 1, 2008 as amended:	\$ 138,038,934
Decrease to Non-Departmental Budget:	(50,000)
Increase to Human Resources Budget:	<u> 50,000</u>
Total General Fund Expenditures as Amended:	\$ 138,035,934

SECTION II. Severability. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION III. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION IV. Effective Date. This ordinance shall be enforced from and after _____, 2008.

RICHLAND COUNTY COUNCIL

BY: _____
Joseph McEachern, Chair

ATTEST THIS THE ____ DAY
OF _____, 2008

Michielle R. Cannon-Finch
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only.
No Opinion Rendered As To Content.

First Reading:
Second Reading:
Public Hearing:
Third Reading:

Richland County Council Request of Action

Subject

Request to approve a budget amendment to the Hospitality Tax Fund in the amount of \$40,000 to provide operating capital for the Township Auditorium **[CONSENT]**
[PAGES 78-80]

Purpose

Committee Recommendation

Council Action (First Reading)

This item received First Reading on October 28, 2008

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

ESTIMATED INCOME & EXPENSES FOR TOWNSHIP AUDITORIUM 2008-2009

	<i>BANK BALANCE FOR OPERATIONS</i>	\$	58,000.00	
	<i>BANK BALANCE FOR FOUNDATION</i>	\$	15,000.00	
	<i>TOTAL CASH ON-HAND</i>	\$	73,000.00	
<hr/>				
<i>INCOME ESTIMATE</i>				
	<i>OCTOBER 2008</i>			
	RENT	\$	-	CHAMPIONSHIP BOXING
	RENT	\$	-	RAGGS LIVE DANCE PARTY
	PARKING	\$	-	
	<i>NOVEMBER 2008</i>			
	RENT	\$	3,000.00	STEVE HARVEY
		\$	4,000.00	NUTCRACKER
		\$	700.00	APOLLO NIGHT
		\$	900.00	CHAMBER THEATER
	PARKING	\$	500.00	
	<i>DECEMBER 2008</i>			
	RENT	\$	10,500.00	SOULFUL NOEL
	RENT	\$	1,500.00	BABES IN TOYLAND
	PARKING	\$	310.00	
	<i>TOTAL ESTIMATED INCOME</i>	\$	21,410.00	
	<i>ESTIMATED AVAILABLE CASH</i>	\$	94,410.00	
	Hospitality & Accomodation Tax Funding for FY 2008-2009	\$	22,500.00	
		\$	-	
	<i>ESTIMATED AVAILABLE FUNDS FROM CASH AND FUNDING</i>	\$	116,910.00	

EXPENSES ESTIMATE

OCTOBER 2008			
PAYROLL	\$	10,442.00	
SCE&G	\$	-	
AUDIT EXPENSE	\$	-	
PHONE	\$	-	
WATER	\$	113.60	
TERMINIX	\$	99.00	
ADT	\$	-	
GE CAPITAL/ DANKA	\$	-	
ALLIED WASTE	\$	-	
ADMISSION TAX	\$	2,617.00	
MISC	\$	-	
ADVERTISING	\$	401.20	
			\$ REMAINING BAL BOW WOW
			13,672.80
NOVEMBER 2008			
PAYROLL	\$	21,676.21	
SCE&G	\$	6,755.70	
AUDIT EXPENSE	\$	8,000.00	
PHONE	\$	764.44	
TERMINIX	\$	99.00	
ADT	\$	67.00	
GE CAPITAL	\$	153.97	
ALLIED WASTE	\$	104.00	
WATER	\$	865.61	
WORKERS COMP INS	\$	-	
POSTAGE	\$	-	
ADVERTISING	\$	5,600.00	
			\$ CHAMPIONSHIP BOXING
			43,805.93
DECEMBER 2008			
PAYROLL	\$	21,676.21	
SCE&G	\$	5,854.54	
AUDIT EXPENSE			
PHONE	\$	594.71	
TERMINIX	\$	99.00	
ADT	\$	67.00	
GE CAPITAL	\$	153.97	
ALLIED WASTE	\$	104.00	
WATER	\$	1,436.29	
WORKERS COMP INS	\$	2,524.00	
POSTAGE	\$	42.00	
ADVERTISING	\$	-	
			\$
TOTAL ESTIMATED EXPENSES	\$	90,030.75	32,552.02

ESTIMATED REMAINING BALANCE WITHOUT FUNDING	\$	4,379.25	
ESTIMATED REMAINING BALANCE WITH FUNDING	\$	26,879.25	
REMAINING HOSP. ACC.TAX FUNDING (3rd & 4th quarters)	\$	22,500.00	
COUNTY FUNDING	\$	40,000.00	
Total balance	\$	89,379.25	
Projected revenues based on confirmed shows 1/09-6/09	\$	99,942.00	based on same show profits for 2008
projected revenues based on two additional national shows	\$	12,000.00	
	\$	201,321.25	
average monthly expenses \$33,000 \$33,000 x 6 months + \$198,000.00	\$	3,321.00	remaining balance

Projected revenues are based on the same shows which played in 2008 and their profits, 2 additional shows not confirmed at this time. last year 8 additional shows were added to the schedule

Richland County Council Request of Action

Subject

Request to approve a budget amendment in the amount of \$100,000 to redirect funds allocated to support the Midlands Area Commission on Homelessness to the Midlands Housing Alliance **[CONSENT][PAGE**

Purpose

Committee Recommendation

Council Action (First Reading)

This item received First Reading on October 28, 2008

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

Richland County Council Request of Action

Subject

An Ordinance Amending the Richland County Code of Ordinances, so as to remove the requirement of Development Review Team review prior to PDD approval and to delete the provision for PDD expiration [**PAGES 82-85**]

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

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STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. ___08HR

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES; CHAPTER 26, LAND DEVELOPMENT; ARTICLE III, ADMINISTRATION; SECTION 26-34, DEVELOPMENT REVIEW TEAM; SUBSECTION (A), ESTABLISHED/DUTIES; AND ARTICLE IV, AMENDMENTS AND PROCEDURES; SECTION 26-59, PLANNED DEVELOPMENT REVIEW/APPROVAL; SUBSECTIONS (D) AND (K); SO AS TO REMOVE THE REQUIREMENT OF DEVELOPMENT REVIEW TEAM REVIEW PRIOR TO PDD APPROVAL AND TO DELETE THE PROVISION FOR PDD DISTRICT EXPIRATION.

Pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE COUNTY COUNCIL FOR RICHLAND COUNTY:

SECTION I. The Richland County Code of Ordinances; Chapter 26, Land Development; Article III, Administration; Section 26-34, Development Review Team; Subsection (a), Established/duties; is hereby amended to read as follows:

- (a) *Established; duties.* A development review team is hereby established, which shall have the following duties:
- (1) *Land development review.* The development review team shall review and comment on all major land development applications and minor land development applications as needed. Such review shall be made in accordance with the procedures set forth in Section 26-53 of this chapter.
 - (2) *Subdivision review.* The development review team shall review and comment on all major subdivision plat applications and shall comment on minor subdivision plats as needed. Such review shall be made in accordance with the procedures set forth in Section 26-54 of this chapter.
 - ~~(3) *Planned development review.* The development review team shall review and comment on all applications for planned developments. Such review shall be made in accordance with the procedures set forth in Section 26-59 of this chapter.~~
 - ~~(4)~~(3) *Assistance to the planning department.* The development review team shall review and comment on other plans or applications as requested by the planning department and shall assist the staff of the planning department with any studies or other land development matters as necessary.

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~~(5)~~(4) *Other.* The development review team shall perform such additional powers and duties as may be set forth for the development review team of Richland County elsewhere in this chapter and other laws and regulations of the county.

SECTION II. The Richland County Code of Ordinances; Chapter 26, Land Development; Article IV, Amendments and Procedures; Section 26-59, Planned Development Review/Approval; Subsection (d), Staff review; is hereby amended to read as follows:

- (d) *Staff review.* The planning department shall review the application and determine if it is complete within fifteen (15) days of its submittal. If the application is found to be incomplete, the planning department shall notify the applicant of any deficiencies. Provided the application is complete, the planning department shall schedule the matter ~~for consideration by the development review team. Within thirty (30) days of receipt from the planning department, the development review team shall review the proposed PDD. The development review team shall take action on the application within thirty (30) days of reviewing the proposed PDD.~~ Following the action by the development review team, the matter shall be scheduled for consideration by the planning commission within sixty (60) days of receipt; provided, however, the planning department may request one thirty (30) day extension, with the consent of the applicant. The planning department shall prepare a staff recommendation on the PDD application and the zoning map amendment. The schedule for meetings of the planning commission and applications ~~and deadlines for the meetings~~ shall be maintained in the planning department.

SECTION III. The Richland County Code of Ordinances; Chapter 26, Land Development; Article IV, Amendments and Procedures; Section 26-59, Planned Development Review/Approval; Subsection (k), Permit/approval validity; is hereby amended to read as follows:

- (k) *Permit/approval validity Bond requirement.* ~~The descriptive statement as approved by Richland County Council and duly recorded shall set forth the development for the project, including phasing of development of nonresidential uses in relationship to residential use.~~ The county council may require the posting of a bond with a corporate surety to guarantee that the schedule set forth in the descriptive statement will be materially adhered to in order to guarantee construction of roads, utilities, and other facilities and amenities. A bond may also be used to allow for rectification of improper development characteristics, such as failure to begin, or failure to complete, or failure to make adequate progress as agreed to in the descriptive statement. If performance differs from that set forth in the statement approved by county council, the council may:
- (1) Enforce and collect upon such bonds or sureties as described in this subsection;

DRAFT

- (2) Change the district classification of the planned development and thus terminate the right of the applicant to continue development;
- (3) Initiate action to charge the developers with specific violation of this chapter subject to the penalties set forth in Article XI. of this chapter; or
- (4) Take any appropriate combination of these actions.

~~If the planned development is not initiated within two (2) years of its establishment, the development approval shall automatically expire and the county council may initiate a rezoning to another zoning district classification.~~

SECTION IV. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION V. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION VI. This ordinance shall be effective from and after _____, 2008.

RICHLAND COUNTY COUNCIL

BY: _____
Joseph McEachern, Chair

Attest this the ____ day of
_____, 2008

Michielle R. Cannon-Finch
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only
No Opinion Rendered As To Content

First Reading: October 21, 2008
Public Hearing: November 25, 2008
Second Reading: November 25, 2008
Third Reading: December 2, 2008 (tentative)

Richland County Council Request of Action

Subject

08-03MA
Charlie Waite
Summit Contractors, Inc.
HI to RM-HD (27.86 Acres)
Multi-Family Apartments
17400-05-30
Clemson Rd. & Longreen Parkway **[PAGES 86-87]**

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

STATE OF SOUTH CAROLINA
COUNTY COUNCIL OF RICHLAND COUNTY
ORDINANCE NO. ____-08HR

AN ORDINANCE OF THE COUNTY COUNCIL OF RICHLAND COUNTY, SOUTH CAROLINA, AMENDING THE ZONING MAP OF UNINCORPORATED RICHLAND COUNTY, SOUTH CAROLINA, TO CHANGE THE ZONING DESIGNATION FOR THE REAL PROPERTY DESCRIBED HEREIN (TMS # 17400-05-30) FROM HI (HEAVY INDUSTRIAL DISTRICT) TO RM-HD (RESIDENTIAL, MULTI-FAMILY, HIGH DENSITY DISTRICT); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE RICHLAND COUNTY COUNCIL:

Section I. The Zoning Map of unincorporated Richland County is hereby amended to change the real property described as TMS # 17400-05-30 from HI (Heavy Industrial District) zoning to RM-HD (Residential, Multi-Family, High Density District) zoning.

Section II. If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional, or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

Section III. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section IV. This ordinance shall be effective from and after _____, 2008.

RICHLAND COUNTY COUNCIL

By: _____
Joseph McEachern, Chair

Attest this _____ day of
_____, 2008.

Michielle R. Cannon-Finch
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only.
No Opinion Rendered As To Content.

Public Hearing: November 25, 2008
First Reading: November 25, 2008
Second Reading: December 2, 2008 (tentative)
Third Reading:

Richland County Council Request of Action

Subject

08-31MA
Jim Poston
M-1 to GC (.92 Acres)
Zaxby's
17400-05-40(p)
Clemson & Longtown Rd. **[PAGES 88-90]**

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item

No

On Agenda For Public Hearing

No

STATE OF SOUTH CAROLINA
COUNTY COUNCIL OF RICHLAND COUNTY
ORDINANCE NO. ____-08HR

AN ORDINANCE OF THE COUNTY COUNCIL OF RICHLAND COUNTY, SOUTH CAROLINA, AMENDING THE ZONING MAP OF UNINCORPORATED RICHLAND COUNTY, SOUTH CAROLINA, TO CHANGE THE ZONING DESIGNATION FOR THE REAL PROPERTY DESCRIBED AS A PORTION OF TMS # 17400-05-40 FROM M-1 (LIGHT INDUSTRIAL DISTRICT) TO GC (GENERAL COMMERCIAL DISTRICT); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Pursuant to the authority granted by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY RICHLAND COUNTY COUNCIL:

Section I. The Zoning Map of unincorporated Richland County is hereby amended to change the real property described as a portion of TMS # 17400-05-40 (described in Exhibit A, which is attached hereto), from M-1 (Light Industrial District) zoning to GC (General Commercial District) zoning.

Section II. If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional, or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

Section III. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section IV. This ordinance shall be effective from and after _____, 2008.

RICHLAND COUNTY COUNCIL

By: _____
Joseph McEachern, Chair

Attest this _____ day of
_____, 2008.

Michielle R. Cannon-Finch
Clerk of Council

Public Hearing: November 25, 2008
First Reading: November 25, 2008
Second Reading: December 2, 2008 (tentative)
Third Reading:

EXHIBIT A

All that certain piece, parcel, lot or tract of land, with any improvements therein, situate, lying and being in the City of Columbia, County of Richland, State of South Carolina, being shown and delineated as Parcel 2A, 0.92 Acres on a plat prepared by US Design Services, Inc. dated February 13, 2008, recorded August 27, 2008 in Record Book 1458 at Page 3457, Office of the Register of Deeds for Richland County, and having the following metes and bounds as shown on said plat, to-wit: beginning at a #4 rebar located at the northeasternmost corner of the subject property at the intersection of the right-of-way of Clemson Road and the right-of-way of Chap Lane (Parcel 4) and running therefrom S37°15'31"W along the right-of-way of Chap Lane (Parcel 4) for a distance of 215.42 feet to a #4 rebar; thence turning and running N61°56'42"W along the right-of-way of Sams Crossing Drive (Parcel 4) for a distance of 13.55 feet to a #4 rebar; thence turning and running N64°09'50"W along the right-of-way of Sams Crossing Drive (Parcel 4) for a distance of 162.69 feet to a #4 rebar; thence turning and running N37°20'16"E along Parcel 2B for a distance of 250.04 feet to a #4 rebar; thence turning and running S52°39'45"E along the right-of-way of Clemson Road for a distance of 172.50 feet to a #4 rebar, being the point of beginning; be all measurements a little more or less.

TMS: 17400-05-40 (Portion)

Richland County Council Request of Action

Subject

08-34MA
University Suites
HI to RM-HD (13.94 Acres)
Multi-Family Use
13607-02-01
Bluff Rd. **[CONSENT] [PAGES 91-92]**

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item

No

On Agenda For Public Hearing

No

STATE OF SOUTH CAROLINA
COUNTY COUNCIL OF RICHLAND COUNTY
ORDINANCE NO. ____-08HR

AN ORDINANCE OF THE COUNTY COUNCIL OF RICHLAND COUNTY, SOUTH CAROLINA, AMENDING THE ZONING MAP OF UNINCORPORATED RICHLAND COUNTY, SOUTH CAROLINA, TO CHANGE THE ZONING DESIGNATION FOR THE REAL PROPERTY DESCRIBED HEREIN (TMS # 13607-02-01) FROM HI (HEAVY INDUSTRIAL DISTRICT) TO RM-HD (RESIDENTIAL, MULTI-FAMILY, HIGH DENSITY DISTRICT); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE RICHLAND COUNTY COUNCIL:

Section I. The Zoning Map of unincorporated Richland County is hereby amended to change the real property described as TMS # 13607-02-01 from HI (Heavy Industrial District) zoning to RM-HD (Residential, Multi-Family, High Density District) zoning.

Section II. If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional, or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

Section III. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section IV. This ordinance shall be effective from and after _____, 2008.

RICHLAND COUNTY COUNCIL

By: _____
Joseph McEachern, Chair

Attest this _____ day of
_____, 2008.

Michielle R. Cannon-Finch
Clerk of Council

Public Hearing: November 25, 2008
First Reading: November 25, 2008
Second Reading: December 2, 2008 (tentative)
Third Reading:

Richland County Council Request of Action

Subject

08-36MA
Security Federal
NC to OI (2 Acres)
02505-02-10
Hwy. 176 & Rauch Metz Rd. [CONSENT] [PAGES 93-94]

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

STATE OF SOUTH CAROLINA
COUNTY COUNCIL OF RICHLAND COUNTY
ORDINANCE NO. ____-08HR

AN ORDINANCE OF THE COUNTY COUNCIL OF RICHLAND COUNTY, SOUTH CAROLINA, AMENDING THE ZONING MAP OF UNINCORPORATED RICHLAND COUNTY, SOUTH CAROLINA, TO CHANGE THE ZONING DESIGNATION FOR THE REAL PROPERTY DESCRIBED AS TMS # 02505-02-10 FROM NC (NEIGHBORHOOD COMMERCIAL DISTRICT) TO OI (OFFICE AND INSTITUTIONAL DISTRICT); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Pursuant to the authority granted by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY RICHLAND COUNTY COUNCIL:

Section I. The Zoning Map of unincorporated Richland County is hereby amended to change the real property described as TMS # 02505-02-10 from NC (Neighborhood Commercial District) zoning to OI (Office and Institutional District) zoning.

Section II. If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional, or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

Section III. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section IV. This ordinance shall be effective from and after _____, 2008.

RICHLAND COUNTY COUNCIL

By: _____
Joseph McEachern, Chair

Attest this _____ day of
_____, 2008.

Michielle R. Cannon-Finch
Clerk of Council

Public Hearing: November 25, 2008
First Reading: November 25, 2008
Second Reading: December 2, 2008 (tentative)
Third Reading:

Richland County Council Request of Action

Subject

08-37MA
Bruce Oswald
GC to RS-MD (.83 Acres)
Residential
11708-06-06
5706 Fairfield Rd. **[CONSENT] [PAGES 95-96]**

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

STATE OF SOUTH CAROLINA
COUNTY COUNCIL OF RICHLAND COUNTY
ORDINANCE NO. ___-08HR

AN ORDINANCE OF THE COUNTY COUNCIL OF RICHLAND COUNTY, SOUTH CAROLINA, AMENDING THE ZONING MAP OF UNINCORPORATED RICHLAND COUNTY, SOUTH CAROLINA, TO CHANGE THE ZONING DESIGNATION FOR THE REAL PROPERTY DESCRIBED AS TMS # 11708-06-06 FROM GC (GENERAL COMMERCIAL DISTRICT) TO RS-MD (RESIDENTIAL, SINGLE-FAMILY – MEDIUM DENSITY DISTRICT); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Pursuant to the authority granted by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY RICHLAND COUNTY COUNCIL:

Section I. The Zoning Map of unincorporated Richland County is hereby amended to change the real property described as TMS # 11708-06-06 from GC (General Commercial District) zoning to RS-MD (Residential, Single-Family – Medium Density District) zoning.

Section II. If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional, or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

Section III. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section IV. This ordinance shall be effective from and after _____, 2008.

RICHLAND COUNTY COUNCIL

By: _____
Joseph McEachern, Chair

Attest this _____ day of
_____, 2008.

Michielle R. Cannon-Finch
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only
No Opinion Rendered As To Content

Public Hearing: November 25, 2008
First Reading: November 25, 2008
Second Reading: December 2, 2008 (tentative)
Third Reading:

Richland County Council Request of Action

Subject

08-38MA
Deborah Shaffer
RU to RS-LD (2.94 Acres)
Residential
01316-01-01/02/03/04/05/06/07
Summer Haven Rd. **[CONSENT] [PAGES 97-98]**

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

STATE OF SOUTH CAROLINA
COUNTY COUNCIL OF RICHLAND COUNTY
ORDINANCE NO. ____-08HR

AN ORDINANCE OF THE COUNTY COUNCIL OF RICHLAND COUNTY, SOUTH CAROLINA, AMENDING THE ZONING MAP OF UNINCORPORATED RICHLAND COUNTY, SOUTH CAROLINA, TO CHANGE THE ZONING DESIGNATION FOR THE REAL PROPERTIES DESCRIBED AS TMS # 01316-01-01/02/03/04/05/06/07 FROM RU (RURAL DISTRICT) TO RS-LD (RESIDENTIAL, SINGLE-FAMILY – LOW DENSITY DISTRICT); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Pursuant to the authority granted by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY RICHLAND COUNTY COUNCIL:

Section I. The Zoning Map of unincorporated Richland County is hereby amended to change the real properties described as TMS # 01316-01-01/02/03/04/05/06/07 from RU (Rural District) zoning to RS-LD (Residential, Single-Family – Low Density District) zoning.

Section II. If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional, or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

Section III. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section IV. This ordinance shall be effective from and after _____, 2008.

RICHLAND COUNTY COUNCIL

By: _____
Joseph McEachern, Chair

Attest this _____ day of _____, 2008.

Michielle R. Cannon-Finch
Clerk of Council

Public Hearing: November 25, 2008
First Reading: November 25, 2008
Second Reading: December 2, 2008 (tentative)
Third Reading:

Richland County Council Request of Action

Subject

08-39MA
Martha Crawford
RU to OI (3 Acres)
Child Care Facility
17800-03-30 & 31
1235 Trading Post Rd. [CONSENT][PAGES 99-100]

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

STATE OF SOUTH CAROLINA
COUNTY COUNCIL OF RICHLAND COUNTY
ORDINANCE NO. ____-08HR

AN ORDINANCE OF THE COUNTY COUNCIL OF RICHLAND COUNTY, SOUTH CAROLINA, AMENDING THE ZONING MAP OF UNINCORPORATED RICHLAND COUNTY, SOUTH CAROLINA, TO CHANGE THE ZONING DESIGNATION FOR THE REAL PROPERTIES DESCRIBED AS TMS # 17800-03-30/31 FROM RU (RURAL DISTRICT) TO OI (OFFICE AND INSTITUTIONAL DISTRICT); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Pursuant to the authority granted by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY RICHLAND COUNTY COUNCIL:

Section I. The Zoning Map of unincorporated Richland County is hereby amended to change the real properties described as TMS # 17800-03-30/31 from RU (Rural District) zoning to OI (Office and Institutional District) zoning.

Section II. If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional, or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

Section III. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section IV. This ordinance shall be effective from and after _____, 2008.

RICHLAND COUNTY COUNCIL

By: _____
Joseph McEachern, Chair

Attest this _____ day of
_____, 2008.

Michielle R. Cannon-Finch
Clerk of Council

Public Hearing: November 25, 2008
First Reading: November 25, 2008
Second Reading: December 2, 2008 (tentative)
Third Reading:

Richland County Council Request of Action

Subject

An Ordinance Amending the Richland County Code of Ordinances, regarding lighting standards [**CONSENT**] [**PAGES 101-107**]

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. ___-08HR

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES; CHAPTER 26, LAND DEVELOPMENT; ARTICLE VII, GENERAL DEVELOPMENT, SITE AND PERFORMANCE STANDARDS; SECTION 26-177, LIGHTING STANDARDS; SUBSECTION (B), STANDARDS.

Pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE RICHLAND COUNTY COUNCIL:

SECTION I. The Richland County Code of Ordinances, Chapter 26, Land Development; Article II, Rules of Construction; Definitions; Section 26-22, Definitions; is hereby amended to include the following definitions in proper alphabetical order:

Full-cutoff. With respect to lighting, a light fixture which cuts off all upward transmission of light, with zero light above 90° horizontal.

Glare. Discomfort experienced by an observer with a direct line of sight to a light source, resulting in visual impairment.

LED (Light Emitting Diode). A semiconductor diode that emits light when an electric current is applied in the forward direction of the device.

Light trespass. Light projected onto a property from a fixture not located on that property.

Lumen/photopic lumen. The measure of brightness of the illumination exiting a bulb, provided by a manufacturer.

Luminaire. The complete lighting unit, including the lamp, fixture, pole, and/or other parts.

Outdoor Retail. Commercial sales of large items, traditionally occurring outside (e.g., auto dealerships, lumber yards).

Pedestrian zone. An area where cars are prohibited, such as sidewalks, bikeways, trails, lawns and landscaped areas.

Tee Box. The area in a driving range where players stand to hit golf balls (i.e., tee shots).

SECTION II. The Richland County Code of Ordinances, Chapter 26, Land Development; Article VII, General Development, Site and Performance Standards;

Section 26-177, Lighting Standards; Subsection (b), Standards; is hereby amended to read as follows:

(b) *Standards.*

- ~~(1) *Orientation/shielding.* All light fixtures, except streetlights, shall be located, aimed, or shielded as to minimize stray light trespassing across property boundaries. No illumination in excess of one half (1/2) foot candle shall be permitted within the boundaries of any adjacent residentially developed property. The orientation of all lighting shall be downward.~~
- ~~(2) *Height of pole lighting.* Any lighting that is installed on a pole shall have a maximum height of eighteen (18) feet from the bulb to the adjacent ground. However, a maximum height of thirty (30) feet from the bulb to the adjacent ground is permitted for cut off lights in rural areas.~~
- ~~(3) *Prohibited lighting.* The following lighting features are prohibited: search lights, laser source lights, or any similar high-intensity light, except in emergencies by police and fire personnel or at their direction.~~
- ~~(4) *Parking lot and street lighting.* All outdoor lighting fixtures installed for parking lot or street lighting are permitted a maximum foot-candle reading of six (6) foot candles and a 2.5 maximum average reading.~~
- ~~(5) *Canopy lighting.* Outdoor lighting installed on canopies or drive-thru facilities is permitted an average foot candle reading of twenty (20) foot candles under any area that is illuminated.~~

(1) *Requirements for all zoning categories and applications.*

- (a) Luminaire heights are measured from ground level to the top of the luminaire.
- (b) All luminaires shall be full-cutoff certified.
- (c) All luminaires shall have internal visors/panels or external visors that control offsite light spill and glare.
- (d) Illumination from any luminaire at property lines shall not exceed .1 horizontal or .1 vertical foot-candles.

- (e) The orientation of all lighting shall be downward; provided, however, churches, temples, mosques, and other such places of worship may orient some lights upward onto specific architectural components of the structure (such as steeples or domes).
- (f) Accent lighting for sculptures, trees, landscaping features, flags, and entrances may orient light upward.
- (g) To control light spill and glare, luminaires shall be properly aimed when installed, and proper aiming shall be maintained.
- (h) All poles must be silver or grey, or a similar color, to blend into the horizon, scenery, or background. Under no circumstance may a black or brown pole be used. Provided, however, historic structures and/or historic sites may use traditional pole colors, and brown and/or green poles may be used in landscaped areas.

(2) Lighting exempt from these standards.

- (a) Lighting within swimming pools or other water features that are governed by Department of Health and Environmental Control regulations.
- (b) Exit signs, stairs, ramps, and other illumination required by building codes.
- (c) Emergency room entrances.

(3) Non-residential standards (except outdoor retail).

- (a) Parking lot lighting shall be reduced to security levels within sixty (60) minutes after the end of business hours. Luminaires near building entrances and entryways (driveways) may remain illuminated at security lighting levels.
- (b) For parking lots and driveways, luminaires may not exceed twenty-four (24) feet in height.
- (c) Parking garages:

[1] Perimeter poles are not allowed on the top floor.

[2] Interior poles may not exceed sixteen (16) feet in height.

[3] Luminaires shall be attached to perimeter walls.

(d) For pedestrian zones, luminaires on sidewalks, in landscaped areas, or adjacent to buildings may not exceed twelve (12) feet in height.

(e) Building mounted luminaires may not be mounted above the 1st floor and shall not exceed sixteen (16) feet in height.

(f) The maximum lighting per acre is 200,000 lumens per acre for business hours and 80,000 lumens per acre for security/non-business hours.

(g) The distance between luminaires on commercial properties and residential property lines must be greater than or equal to luminaire height. Provided, however, in the event of any conflict between this requirement and a requirement contained in a different provision of this chapter, the more restrictive provision shall apply.

(4) Residential standards (including hotels & motels).

(a) For parking lots and driveways, luminaires may not exceed eighteen (18) feet in height.

(b) For pedestrian zones, luminaires on sidewalks, in landscaped areas, or adjacent to buildings may not exceed twelve (12) feet in height.

(c) Building mounted luminaires may not be mounted above the 1st floor.

(d) The maximum lighting per acre is 80,000 lumens per acre.

(5) Outdoor Retail.

(a) The maximum lighting per acre is 650,000 lumens per acre for business hours and 180,000 lumens per acre for security/non-business hours.

(b) Full-power lighting shall be reduced within thirty (30) minutes after the end of business hours. Auto display areas may be illuminated, but at security levels.

(6) Athletic Lighting.

- (a) Athletic lighting is exempt from lumens per acre.
- (b) Athletic lighting shall have internal visors/panels or external visors that control offsite spill and glare.
- (c) Golf driving ranges must use elevated tee boxes with lighting below.
- (d) Light trespass requirements apply.
- (e) Lighting must be turned off by 11:00 p.m.
- (f) The distance between luminaires for athletic facilities and residential property lines must be greater than or equal to luminaire height. Provided, however, in the event of any conflict between this requirement and a requirement contained in a different provision of this chapter, the more restrictive provision shall apply.

(7) Prohibited lighting. The following lighting features are prohibited: search lights, laser source lights, or any similar high-intensity light, except in emergencies by police and fire personnel or at their direction.

(8) Canopy standards.

- (a) Shielding: All luminaires mounted on or recessed into the lower surface of service station and/or entrance canopies shall be fully shielded and utilize flat lenses.
- (b) Total Under-Canopy Output: The total light output used for illuminating service station and/or entrance canopies defined as the sum of all under-canopy initial bare-lamp outputs in lumens, shall not exceed 430 lumens per square meter (forty lumens per square foot) of canopy
- (c) All lighting mounted under the canopy, including but not limited to luminaires mounted on the lower surface or recessed into the lower surface of the canopy and any lighting within signage or illuminated panels over the pumps, is to be included toward the total at full initial lumen output.

(9) Lighting lamps.

(a) Approved lighting lamps: incandescent lamps, fluorescent lamps, metal halide lamps, LED devices, and induction lamps.

(b) Prohibited lighting lamps: high pressure sodium lamps, low-pressure sodium lamps, and mercury vapor lamps (sometimes called high-pressure mercury, as distinguished from fluorescent).

SECTION III. Severability. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION IV. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION V. Effective Date. This ordinance shall be enforced from and after _____, 2008.

RICHLAND COUNTY COUNCIL

BY: _____
Joseph McEachern, Chair

ATTEST THIS THE ____ DAY

OF _____, 2008

Michielle R. Cannon-Finch
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only
No Opinion Rendered As To Content

Public Hearing: November 25, 2008
First Reading: November 25, 2008
Second Reading: December 2, 2008 (tentative)
Third Reading:

Richland County Council Request of Action

Subject

An Ordinance Amending the Richland County Code of Ordinances, so as to correctly reflect that Sexually Oriented Businesses are permitted in the HI Zoning District, as well as in the GC Zoning District [**PAGES 108-111**]

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. ___-08HR

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES, CHAPTER 26, LAND DEVELOPMENT; ARTICLE V, ZONING DISTRICTS AND DISTRICT STANDARDS; SECTION 26-141, TABLE OF PERMITTED USES WITH SPECIAL REQUIREMENTS, AND SPECIAL EXCEPTIONS; "OTHER USES" OF TABLE 26-V-2.; AND AMENDING ARTICLE VI, SUPPLEMENTAL USE STANDARDS; SECTION 26-151, PERMITTED USES WITH SPECIAL REQUIREMENTS; SUBSECTION (B), PERMITTED USES WITH SPECIAL REQUIREMENTS LISTED BY ZONING DISTRICT; PARAGRAPH (64), SEXUALLY ORIENTED BUSINESSES; SO AS TO CORRECTLY REFLECT THAT SEXUALLY ORIENTED BUSINESSES ARE PERMITTED IN THE HI ZONING DISTRICT, AS WELL AS IN THE GC ZONING DISTRICT.

Pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE RICHLAND COUNTY COUNCIL:

SECTION I. The Richland County Code of Ordinances; Chapter 26, Land Development; Article VI, Supplemental Use Standards; Section 26-151, Permitted Uses with Special Requirements; Subsection (b), Permitted Uses with Special Requirements Listed by Zoning District; Paragraph (64), Sexually Oriented Businesses; is hereby amended to read as follows:

(64) Sexually Oriented Businesses - (GC, **HI**)

SECTION II. The Richland County Code of Ordinances; Chapter 26, Land Development; Article V, Zoning Districts and District Standards; Section 26-141, Table of Permitted Uses, Permitted Uses with Special Requirements, and Special Exceptions; "Other Uses" of Table 26-V-2.; is hereby amended to read as follows:

(ORDINANCE CONTINUES ON NEXT PAGE)

USE TYPES	TROS	RU	RR	RS-E	RS-LD	RS-MD	RS-HD	MH	RM-MD	RM-HD	OI	NC	RC	GC	M-1	LI	HI	
Other Uses																		
Sexually Oriented Businesses																		
Buildings, High Rise, 4 or 5 Stories										SR	SR			SR				SR
Buildings, High Rise, 6 or More Stories										SE	SE			SE				

SECTION III. Severability. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION IV. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION V. Effective Date. This ordinance shall be enforced from and after _____, 2008.

RICHLAND COUNTY COUNCIL

BY: _____
Joseph McEachern, Chair

ATTEST THIS THE _____ DAY

OF _____, 2008

Michielle R. Cannon-Finch
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only
No Opinion Rendered As To Content

Public Hearing: November 25, 2008
First Reading: November 25, 2008
Second Reading: December 2, 2008 (tentative)
Third Reading:

Richland County Council Request of Action

Subject

Ordinance authorizing an amendment to the Master Agreement governing the I-77 Corridor Regional Industrial Park by and between Richland County, South Carolina, and Fairfield County, South Carolina, to expand the boundaries of the park to include certain property owned by Primesouth, Inc., and other related matters [**PAGES 112-115**]

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. _____

AUTHORIZING AN AMENDMENT TO THE MASTER AGREEMENT GOVERNING THE I-77 CORRIDOR REGIONAL INDUSTRIAL PARK BY AND BETWEEN RICHLAND COUNTY, SOUTH CAROLINA, AND FAIRFIELD COUNTY, SOUTH CAROLINA, TO EXPAND THE BOUNDARIES OF THE PARK TO INCLUDE CERTAIN PROPERTY OWNED BY PRIMESOUTH, INC., AND OTHER RELATED MATTERS.

WHEREAS, Richland County, South Carolina (“Richland”), and Fairfield County, South Carolina (“Fairfield”) (collectively, “Counties”), as authorized under Article VIII, Section 13(D) of the South Carolina Constitution and Section 4-1-170 of the Code of Laws of South Carolina, 1976, as amended (“Act”), have jointly developed the I-77 Corridor Regional Industrial Park (“Park”); and

WHEREAS, in response to requests from companies seeking to invest in either Richland or Fairfield, the Counties have heretofore expanded the boundaries of the Park to include additional property, which inclusion has afforded the requesting companies additional tax benefits under South Carolina law; and

WHEREAS, the Counties have entered into separate agreements to reflect each new phase of expansion of the Park (“Phase Agreements”); and

WHEREAS, on April 15, 2003, the Counties entered into an agreement entitled “Master Agreement Governing the I-77 Corridor Regional Industrial Park” (“Master Agreement”), the provisions of which replaced all existing Phase Agreements and now govern the operation of the Park; and

WHEREAS, Primesouth, Inc., a South Carolina corporation, its corporate affiliates and assigns (collectively, “Company”), has requested that the Counties expand the boundaries of the Park to include property located in Fairfield and described in the attached **Exhibit A** (collectively, “Property”); and

WHEREAS, the Counties now desire to expand the boundaries of the Park to include the Property.

NOW, THEREFORE, BE IT ORDAINED BY THE RICHLAND COUNTY COUNCIL:

Section 1. Expansion of Park Boundaries. There is hereby authorized an expansion of the Park boundaries to include the Property. The County Council Chair, or the Vice Chair in the event the Chair is absent, the County Administrator and the Clerk to the County Council are hereby authorized to execute such documents and take such further actions as may be necessary to complete the expansion of the Park boundaries. Pursuant to the terms of the Master Agreement, the expansion shall be complete upon the adoption of this Ordinance by the Richland County Council and a companion ordinance by the Fairfield County Council.

Section 2. Removal of Property from Park. The Company may request that a portion of the Property be removed from the Park. In such case, the Counties hereby authorize removal of such portion of the Property upon receipt of a written request from the Company. No further action by either the Richland County Council or the Fairfield County Council is required. The County Council Chair, or the Vice Chair in the event the Chair is absent, the County Administrator and the Clerk to the County Council are hereby authorized to execute such documents and take such further actions as may be necessary to

complete removal of a portion of the Property from the Park. The public hearing requirement set forth in Section 1.03 of the Master Agreement is hereby waived.

Section 3. Savings Clause. If any portion of this Ordinance shall be deemed unlawful, unconstitutional or otherwise invalid, the validity and binding effect of the remaining portions shall not be affected thereby.

Section 4. General Repealer. Any prior Ordinance, the terms of which are in conflict herewith, is, only to the extent of such conflict, hereby repealed.

Section 5. Effectiveness. This Ordinance shall be effective after third and final reading.

RICHLAND COUNTY COUNCIL

By: _____
Joseph McEachern, Chair

(SEAL)

Attest this _____ day of
_____, 2008

Michielle R. Cannon-Finch
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only
No Opinion Rendered As To Content

First Reading: November 18, 2008 [Tentative]
Second Reading: December 2, 2008 [Tentative]
Third Reading: December 16, 2008 [Tentative]

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

[to be completed before third reading]

Richland County Council Request of Action

Subject

Ordinance authorizing certain economic incentives, including payment of a fee in lieu of property taxes and other related matters, pursuant to a fee agreement between Richland County, South Carolina, and Project Bay, pursuant to Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended, for a project involving an investment of not less than \$30,000,000 [**PAGES 116-147**]

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING CERTAIN ECONOMIC INCENTIVES, INCLUDING PAYMENT OF A FEE IN LIEU OF PROPERTY TAXES AND OTHER RELATED MATTERS, PURSUANT TO A FEE AGREEMENT BETWEEN RICHLAND COUNTY, SOUTH CAROLINA, AND PROJECT BAY, PURSUANT TO TITLE 12, CHAPTER 44, CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED, FOR A PROJECT INVOLVING AN INVESTMENT OF NOT LESS THAN \$30,000,000.

**A RESOLUTION
(RICHLAND COUNTY)**

IDENTIFYING A CERTAIN ECONOMIC DEVELOPMENT PROJECT TO BE LOCATED AND CONSTRUCTED IN RICHLAND COUNTY, SOUTH CAROLINA BY PROJECT BAY, A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF SOUTH CAROLINA, AND AUTHORIZING A FEE AGREEMENT BY AND BETWEEN PROJECT BAY AND RICHLAND COUNTY, SOUTH CAROLINA WHEREBY, UNDER CERTAIN CONDITIONS, RICHLAND COUNTY WILL PROVIDE CERTAIN ECONOMIC DEVELOPMENT INCENTIVES TO PROJECT BAY TO INDUCE PROJECT BAY TO EXPAND ITS EXISTING MANUFACTURING FACILITY LOCATED IN RICHLAND COUNTY, SOUTH CAROLINA.

WHEREAS, Richland County, South Carolina (the "County"), acting by and through its County Council (the "County Council"), is authorized and empowered under and pursuant to the provisions of the South Carolina Constitution (the "Constitution") and the Code of Laws of South Carolina, 1976, as amended, (the "Code") and the case law of the courts of the State of South Carolina, to offer and provide certain privileges, benefits, and incentives to prospective industries as inducements for economic development within the County; is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44 of the Code, as amended, also known as the Fee in Lieu of Tax Simplification Act (the "Act"), to acquire, or cause to be acquired, properties (which such properties constitute "projects" as defined in the Act) and to enter into agreements with any industry to construct, operate, maintain and improve such projects; to enter into or allow financing agreements with respect to such projects; and, to accept any grants for such projects through which powers the industrial development of the State of South Carolina (the "State") will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate and remain in the State and thus utilize and employ the manpower, agricultural products and natural resources of the State and benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise provided locally that provide for the exemption of such project from property taxes and provide for the payment of a fee in lieu of property taxes (a "fee agreement" as defined in the Act); and

WHEREAS, Project Bay, a corporation organized and existing under the laws of the State of South Carolina (the "Company"), desires to expand its existing manufacturing facility located within the County (the "Facility") through the expansion of an existing building(s) and the addition of machinery and equipment at the Facility (the "Project"); and

WHEREAS, based on the information provided by the Company, the County has determined that the Project would directly and substantially benefit the general public welfare of the County by providing the creation of jobs and employment, the increase of ad valorem tax base, service, employment, or other public benefits not otherwise provided locally; that the Project gives rise to no pecuniary liability of the County or incorporated municipality or a charge against the general credit or taxing power of either; that the purposes to be accomplished by the Project, i.e.,

economic development, creation of jobs, and addition to the tax base of the County, are proper governmental and public purposes; and that the benefits of the Project will be greater than the costs; and

WHEREAS, the County Council, having heard the particulars of the Project, wishes to reflect and identify the Project for purposes of §12-44-40(D), and other relevant provisions, of the Act.

NOW, THEREFORE, BE IT RESOLVED, by the County Council of Richland County, South Carolina (the "County Council") as follows:

Section 1. Identification of Project. The Project, on the terms and conditions set forth on the record and as heard by the County Council, is hereby reflected and identified for purposes of the Act.

Section 2. Fee-in-Lieu-of-Tax Arrangement. The County shall consider granting the Company a fee-in-lieu-of-tax arrangement.

Section 3. Fee Agreement. The provisions, terms, and conditions of a fee agreement (the "Fee Agreement"), under and pursuant to the Act by and between the County and the Company, shall be prescribed and authorized by subsequent ordinance of the County Council which shall be consistent with the terms of this Resolution.

Section 4. Procedural Requirements. The County Council will comply with the provisions of the Home Rule Act and the Code and Constitution regarding the procedural requirements for adopting all required ordinances and resolutions.

Section 5. Effectiveness of Resolution. All orders, resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed. This resolution shall take effect and be in full force from and after its passage by the County Council.

Section 6. Official Action. It is the intention of the County Council that this Resolution and the Fee Agreement attached hereto, the content, terms, and provisions of which are hereby incorporated by reference herein as fully as set forth verbatim, shall constitute an official action on the part of the County within the meaning of any statute or other legislative enactment relating to the provision of incentives including, without limitation, the approval of a fee-in-lieu-of-tax agreement for the inducement of economic development projects.

Adopted in meeting duly assembled this ____ day of _____ 2008.

RICHLAND COUNTY, SOUTH CAROLINA

By: _____
Joseph McEachern, Chairman, County Council of
Richland County, South Carolina

(SEAL)

ATTEST:

By: _____
Michielle Cannon-Finch, Clerk to County
Council of Richland County,
South Carolina

WHEREAS, the County, by proper action, identified the Project and indicated its intent to provide certain economic development incentives by proper resolution of the County Council (the “Inducement Resolution”);

WHEREAS, in connection with the economic development incentives hereby authorized, the County and the Company are prepared to enter into a fee agreement as set forth in the Act (the “Fee Agreement”) pursuant to which the property comprising the Project will be exempted from property tax for a period of time during which the Company shall make certain payments to the County in lieu of property taxes (“FILOT Payments”); and

WHEREAS, the County has reviewed the Fee Agreement, the form of which is attached to this Ordinance and incorporated herein, and determined that the same is appropriate in form and substance for execution by the County.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF RICHLAND COUNTY, SOUTH CAROLINA, IN MEETING DULY ASSEMBLED:

Section 1. Findings and Determinations. It is hereby declared that the facts set forth in the recitals to this Ordinance are true and correct in all respects. It further is found, determined, and declared by the County Council, based on information provided by the Company, as follows:

- (a) the Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally;
- (b) the Project gives rise to no pecuniary liability of the County or incorporated municipality or results in a charge against its general credit or taxing power; and
- (c) the purposes to be accomplished by the Project, including, without limitation, economic development, jobs creation, and expansion of the County’s tax base, are proper governmental and public purposes and the benefits of the Project are greater than the costs.

Section 2. Approval of Fee Agreement. The Fee Agreement is approved as follows:

(a) The form, terms, and provisions of the Fee Agreement presented to this meeting and filed with the Clerk to County Council (the “Clerk”) are approved and all of the terms, provisions, and conditions of the Fee Agreement are incorporated by reference. The Chairman of the County Council (the “Chairman”) and the Clerk are authorized, empowered, and directed to execute, acknowledge, and deliver the Fee Agreement in the name of the County. The Chairman and the Clerk are further authorized, empowered, and directed to cause the Fee Agreement to be delivered to the Company.

(b) The Fee Agreement to be executed on behalf of the County shall be in substantially the form now before the County Council and shall include only changes that are approved by the County officials executing the Fee Agreement. The County officials shall consult the attorney for the County (the “County Attorney”) with respect to any changes to the Fee Agreement. The execution of the Fee Agreement by County officials shall constitute conclusive evidence that they have approved all changes to or revisions of the Fee Agreement now before this meeting.

(c) If under the Fee Agreement or the Act any future actions of the Company (including, without limitation, the supplementation of the exhibits thereto and/or any assignments of the Project) require the approval of the County, such approval can be given on behalf of the County by the Chairman or the Richland County Administrator (the “County Administrator”) upon affirmative resolution of the County Council to the extent permitted by law. The County officials shall consult the County Attorney with respect to such approval. The execution of a written approval by County officials shall constitute conclusive evidence that the County has approved the respective actions of the Company.

(d) The Fee Agreement shall provide that the Company will invest at least \$30,000,000 at the Project over a period of five (5) years from the last day of the property tax year during which the Project or a portion of the Project is first placed in service.

Section 3. Execution of Document. The Chairman, the County Administrator, the Clerk, and the County Attorney are each authorized and directed to do all things reasonably necessary to effect the execution and delivery of the Fee Agreement and the County’s performance of its obligations under the Fee Agreement.

Section 4. Severability. The provisions of this Ordinance are declared to be separable. If any section, phrase, or provision shall be declared by a court of competent jurisdiction to be invalid or unenforceable for any reason, the remaining sections, phrases, and provisions of the Ordinance shall remain valid.

Section 5. Repeal of Conflicting Ordinances. All orders, resolutions, and other ordinances in conflict with this Ordinance are repealed to the extent of such conflict.

Section 6. Effective Date of Ordinance. This Ordinance shall take effect immediately upon third reading of the County Council.

First Reading:	November 18, 2008	Second Reading:	December 2, 2008
Public Hearing:	December 16, 2008	Third Reading:	December 16, 2008

AND IT IS SO ORDAINED, ENACTED AND ORDERED.

Dated this ___ day of _____, 2008.

RICHLAND COUNTY COUNCIL

Joseph McEachern, Chairman

ATTEST

Michielle Cannon-Finch, Clerk to Council

FEE AGREEMENT

by and between

RICHLAND COUNTY, SOUTH CAROLINA

and

PROJECT BAY

Effective as of _____, 2008

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PROJECT BAY
AND
RICHLAND COUNTY, SOUTH CAROLINA**

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FEE AGREEMENT

PROJECT BAY

THIS FEE AGREEMENT (the "Fee Agreement") is made and entered into effective as of the Commencement Date (as defined hereinafter) by and between RICHLAND COUNTY, SOUTH CAROLINA, a body politic and corporate and a political subdivision of the State of South Carolina (the "County"), and PROJECT BAY, a corporation organized and existing under the laws of the State of South Carolina (the "Company"). The County and the Company are sometimes jointly referred to in this Fee Agreement as the "parties," or severally referred to as a "party."

WITNESSETH:

WHEREAS, the Act, as defined herein, empowers the several counties of the State of South Carolina to enter into a fee agreement with an industry as an optional method of providing fee in lieu of property tax benefits for a project; and

WHEREAS, the County is authorized to enter into this Fee Agreement by passage of a resolution and an ordinance that summarize the fee in lieu of property tax provisions to be incorporated in a fee agreement between the Company and the County; and

WHEREAS, the Company desires to expand its existing manufacturing facility located within the County (the "Facility") through the expansion of an existing building(s) and the addition of machinery and equipment at the Facility (the "Project") and has requested the County to commit to provide certain inducements to the Company by entering into this Fee Agreement; and

WHEREAS, the parties desire to define the terms under which the Project will qualify for fee in lieu of property tax treatment.

NOW, THEREFORE, in consideration of the respective representations and agreements hereinafter contained and the mutual benefits to be derived by the parties, the receipt and adequacy of which are acknowledged by the parties, the County and the Company agree as follows:

1. DEFINITIONS

1.1 Specific Definitions

In addition to the words and terms elsewhere defined in this Fee Agreement, the following words and terms as used herein shall have the following meanings unless the context or use indicates a different meaning or intent.

"Act" means the Fee in Lieu of Tax Simplification Act of 1997, S.C. Code § 12-44-10, et seq., as amended.

"Additional Payments" shall have the meaning set forth in Section 4.3 of this Fee Agreement.

“Administrative Expenses” means the reasonable and necessary expenses incurred by the County in reviewing, implementing or amending this Fee Agreement and the Related Documents, including, without limitation, legal fees and expenses incurred by the County, but excluding the salaries and overhead of County personnel. Prior to an Event of Default, no expense shall be considered an Administrative Expense until the County has furnished to the Company a statement in writing indicating in reasonable detail the amount of such expense and the reason it has been or will be incurred. Expenses incurred in connection with a general taxpayer challenge to the validity of the Act shall not be deemed an Administrative Expense unless the Company requests the County to defend the suit on Company’s behalf.

“Authorized Company Representative” means any person or persons at the time authorized to act on behalf of the Company including, without limitation, the president, any vice president, the secretary, and the treasurer of the Company.

“Code” means the Code of Laws of South Carolina, 1976, as amended.

“Commencement Date” means the last day of the property tax year during which the Project or a portion of the Project is first placed in service, as defined in the Act.

“Company” means Project Bay, a corporation organized and existing under the laws of the State of South Carolina, and any surviving, resulting or transferee limited liability company, corporation, partnership or other business entity in any merger, consolidation or transfer of assets permitted under this Fee Agreement.

“Completion Date” means December 31, 2013, or such earlier date as may be specified by the Company pursuant to Section 3.2 hereof, or such later date, if any, that the County approves in its discretion pursuant to the extension provisions of Section 12-44-30(13) or other applicable provisions of the Act.

“Cost” or “Cost of the Project” means the cost to the Company of acquiring the Project, by construction, purchase, or lease, and shall be deemed to include, whether incurred prior to or after the Commencement Date: (a) costs incurred for architects, engineers, designers, landscape architects, attorneys, estimators, and other Project consultants; (b) costs incurred for labor, materials and other expenses to contractors, builders and suppliers in connection with the acquisition, construction and installation of the Project; (c) Project financing costs, (d) the cost of contract bonds and insurance of all kinds that may be required or necessary during the course of acquisition, construction and installation of the Project; (e) the expenses of the Company for tests, borings, surveys, test and pilot operations, estimates, plans and specifications and preliminary investigations therefore, and for supervising construction, as well as for the performance of all other duties required by or reasonably necessary in connection with the acquisition, construction and installation of the Project; (f) other costs that the Company shall be required to pay under the terms of any contract or contracts for the acquisition, construction and installation of the Project; (g) costs incurred by the Company for the acquisition and insuring of any interest in the land upon which the Project is located; (h) costs incurred for the Project by third parties on behalf of the Company; and (i) any sums required to reimburse the Company for advances made by it for any of the above items, or for any other work done and costs incurred by the Company which are for the acquisition of property of a character subject to the allowance for depreciation provided for under Section 167 of the Internal Revenue Code of 1986, as amended,

and included in the Project, all whether or not reimbursed by the County or by third parties, all as reflected on the Company's property tax return Form PT-300, with all attachments and schedules thereto, as filed with the Department of Revenue.

"County" means Richland County, South Carolina, a body politic and corporate and a political subdivision of the State of South Carolina, and its successors and assigns.

"County Council" means the governing body of the County and its successors.

"Default" means an event or condition, the occurrence of which would, after the passage of any time permitted for cure or the giving of notice or both, become an Event of Default as defined in Section 7.1 hereof.

"Department of Revenue" means the South Carolina Department of Revenue or its successor agency.

"Equipment" means all equipment, machinery, furnishings, and other personal property of Company that are made part of the Project by placing it in service in the County during the Project Period, and any other property described in Exhibit B attached hereto and made a part hereof, including all Replacement Property that is personal property of the Company.

"Event of Default" means any of those events set forth in Article 7 of this Fee Agreement.

"Fair Market Value" shall have the meaning set forth in Section 5.1(B) of this Fee Agreement.

"Fee Agreement" means this Fee Agreement as originally executed and from time to time supplemented or amended as permitted herein.

"FILOT Payments" shall have the meaning set forth in Section 5.1 of this Fee Agreement.

"Independent Counsel" means an attorney duly admitted to practice law in the State of South Carolina who does not represent either party to this Agreement.

"Inducement Resolution" means the inducement resolution passed by County Council in which County identified the Project and agreed to consider offering the economic development incentives provided for in this Fee Agreement.

"Ordinance" means the ordinance of the County Council that authorizes execution and delivery of this Fee Agreement and other applicable Related Documents by the County.

"Person" means any individual, association, corporation, partnership, limited liability company, unincorporated organization, joint venture, trust, or government or agency or political subdivision thereof.

"Project" shall have the meaning set forth in the recitals hereof, as further defined herein, and shall specifically mean the Real Property and the Equipment.

“Project Period” means the five (5) year period beginning with the Commencement Date.

“Real Property” means the real property, if any, made part of the Project during the Project Period, including any leasehold improvements or other capital expenditures of the Company that qualify as economic development property under the Act, as more fully described in Exhibit A attached hereto, as from time to time supplemented by the Company, and all Replacement Property that is real property.

“Related Documents” means this Fee Agreement, the Ordinance, and any documents to which the County and/or the Company are parties that are reasonably required for the consummation of the transactions contemplated hereby or thereby.

“Replacement Property” means all property that is placed in service as a replacement for a portion of the Project, to the maximum extent permitted by the Act.

“State” means the State of South Carolina.

“Term” means the duration of this Fee Agreement.

1.2 References to Fee Agreement

The words “hereof,” “herein,” “hereunder” and other words of similar import refer to this Fee Agreement.

2. REPRESENTATIONS AND WARRANTIES

2.1 Representations and Warranties by the County

The County warrants that:

(A) The County is a body politic and corporate and a political subdivision of the State of South Carolina and is authorized and empowered by the provisions of the Act to enter into the transactions contemplated by this Fee Agreement and to carry out the County’s obligations hereunder. Based on representations of the Company, the Project constitutes or will constitute a “project” within the meaning of the Act. By proper action by County Council, the County has been duly authorized to execute and deliver this Fee Agreement;

(B) Prior to the delivery of this Fee Agreement, the County has adopted the Inducement Resolution and enacted the Ordinance;

(C) The execution and delivery of this Fee Agreement and compliance by the County with the terms and conditions thereof, will not constitute a material breach of, or a material default under any existing law, regulation, decree, or order, or any material agreement, mortgage, lease or other instrument to which the County is subject or by which it is bound; and

(D) To the best of its knowledge, no actions, suits, proceedings, inquiries or investigations are pending or threatened against or affecting the County in any court or before any governmental authority or arbitration board or tribunal that would materially, adversely affect the validity or enforceability of this Fee Agreement.

2.2 Representations and Warranties by Company

The Company represents and warrants that:

(A) Project Bay is a corporation organized and in good standing under the laws of the State of South Carolina and has power to enter into this Fee Agreement, and, by proper action, has been duly authorized to execute and deliver this Fee Agreement;

(B) The execution and delivery of this Fee Agreement and compliance by the Company with the terms and conditions hereof, will not constitute a material breach of, or a material default under, (i) any existing law, regulation, decree, or order, or (ii) any material term, condition, or provision of any corporate restriction or any agreement or instrument to which the Company is now a party or by which it is bound; and will not result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Company that would materially restrict the Company's ability to make any payments hereunder, other than as may be permitted by this Fee Agreement;

(C) No event has occurred and no condition exists with respect to the Company that would constitute an "Event of Default" as described in Section 7.1 hereof;

(D) The Company intends to operate the Project for the purposes permitted by this Fee Agreement or the Act or other purposes expressly agreed upon in writing by the parties;

(E) The execution of this Fee Agreement by the County and the Company has been instrumental in inducing the Company to expand its Facility in the County and in the State;

(F) To the best of its knowledge, no actions, suits, proceedings, inquiries or investigations are pending or threatened against or affecting the Company in any court or before any governmental authority or arbitration board or tribunal that would materially and adversely affect the validity or enforceability of this Fee Agreement; and

(G) The Project constitutes or will constitute a "project" within the meaning of the Act.

3. CONSTRUCTION, ACQUISITION, AND PURCHASE OF PROJECT

3.1 Construction and Acquisition of Project

The Company shall construct and acquire the Project and shall do all other things deemed necessary by the Company in connection with the Project. The Company shall identify in writing, to the extent required by the Department of Revenue, any portion of the Project placed in service that is not then already adequately described in this Fee Agreement or supplements thereto as a portion of the Project. The Company shall maintain such records in connection with the construction or acquisition of the Project as are reasonably necessary to (i) permit ready identification thereof and (ii) confirm the date(s) on which the Project or portions of the Project were placed in service.

3.2 Completion Date

The Completion Date(s) shall be evidenced to the County by a written statement by an Authorized Company Representative certifying the Completion Date and stating that, to the best of his knowledge and information, the acquisition or construction of the Project, or a phase thereof, has been completed and placed in service as of the stated Completion Date and shall state the total cost as of the Completion Date. The certificate of completion may state that it is given without prejudice to any rights against third parties that exist at the date of such certificate or which may subsequently come into being.

3.3 Completion of the Project

The Company shall cause the Project to be completed and shall pay or cause to be paid all of the Cost of the Project, provided that this shall not be deemed to preclude financing of some or all of the Cost of the Project on such terms as the Company shall determine.

3.4 Amendments to Exhibits

The Company may supplement Exhibit A and Exhibit B from time to time provided that the supplements are consistent with the terms of this Fee Agreement and the Act and notice of such supplement is given to the County in accordance with the notice provisions of this Fee Agreement.

3.5 Minimum Investment Commitment

Before the Completion Date, the Company will invest at least Thirty Million Dollars (\$30,000,000) in taxable property constituting part of the Project (the "Minimum Investment Threshold").

3.6 Licenses and Permits; Assistance in Obtaining

To the extent permitted by law, the County will use its reasonable best efforts to expedite all building and construction permit applications and will use its reasonable best efforts to assist the Company in securing all other state, county and local construction, environmental and other permits, approvals and consents which may be necessary or desirable in connection with the Project on a timely basis.

If any application is made to a governmental or other agency by the Company or the County for any permit, license, or approval to do or to perform certain things necessary for the proper performance of this Fee Agreement, the Company and the County shall execute, upon the request of the other party, such applications as may reasonably be requested or required.

4. TERM, FEES AND ADDITIONAL PAYMENTS

4.1 Term

Subject to the provisions herein, this Fee Agreement shall be and remain in full force and effect for a term (the "Term") commencing on the Commencement Date, and, unless earlier terminated in accordance with this Fee Agreement, ending at midnight on December 31 of the

twentieth (20th) year after the last year during which any portion of the Project is placed in service or the last FILOT Payment hereunder, whichever is later.

4.2 *FILOT Payments*

The Company shall pay to the County all amounts due and payable as FILOT Payments pursuant to Section 5.1 hereof. Unless otherwise expressly provided in the Act, returns for the FILOT Payments shall be filed and FILOT Payments shall be payable at the same time, and subject to the same penalty assessments, that ad valorem property tax returns and tax payments for the Project would otherwise be due and payable under applicable State law and regulations in the absence of this Fee Agreement.

4.3 *Additional Payments*

In addition to the Fee Payments and other amounts payable under Section 5.1, the Company shall pay, as “Additional Payments,” to or on behalf of the County any Administrative Expenses and any other amounts payable by the Company under this Agreement. Such Additional Payments shall be payable by the Company within thirty (30) calendar days of receipt by the Company from the County of a statement in writing indicating in reasonable detail the amount of such Additional Payments and the reason they have been incurred.

4.4 *Failure to Pay in a Timely Manner*

If the Company fails to make in a timely manner any of the payments required in this Article 4, the item or installment so in default shall continue as an obligation of the Company until the amount in default shall have been fully paid, together with interest and penalties for which the Company is liable under applicable law thereon, along with Administrative Expenses, from the date the payment was due, at the rate per annum which is equal to the rate required by law for late payment of ad valorem taxes or, in the case of the FILOT Payments, an amount equal to any interest required by law for late payment of comparable ad valorem property taxes. In the event of any failure on the part of the Company to pay any such amounts, liabilities or obligations, the County shall have all rights, powers and remedies provided for herein, by law, equity or otherwise, including without limitation with respect to non-payment of FILOT Payments hereunder the imposition and enforcement of a lien against the Project for tax purposes, as provided in Section 12-44-90 of the Act and the collection of Administrative Expenses.

5. FILOT PAYMENTS AND TAX CREDITS

5.1 *FILOT Payments; Calculation and Timing*

(A) The parties acknowledge that during the Term of this Fee Agreement, the Project is exempt from ad valorem property taxes. However, in lieu of ad valorem property taxes, the Company shall make twenty (20) annual FILOT Payments for each portion of the Project placed in service each year during the Project Period.

(B) The amount of FILOT Payments due and payable shall be that which would be due in ad valorem property taxes if the Project were subject to ad valorem property taxes, but using (i) an assessment ratio of six percent (6%), (ii) a millage rate of _____ mills (which

millage rate shall remain applicable and fixed throughout the Term of this Fee Agreement), and (iii) a fair market value of the Project Property to be determined according to the Act (the “Fair Market Value”).

(C) Pursuant to Section 12-44-60 of the Act, the Company may elect to include Replacement Property as part of the Project to the maximum extent permitted by the Act.

(D) Any part of the Project subject to the fee payment may be disposed, and the Fair Market Value of the Project used to calculate FILOT Payments shall be reduced by the Fair Market Value of the disposed property.

(E) If the Act, any portion of the Act, and/or the FILOT Payments are declared invalid or unenforceable, in whole or in part, for any reason, the Company and the County intend that this Fee Agreement be reformed so as to afford the Company the maximum benefit then permitted by law. If the Project is not eligible for FILOT Payments, the Company shall be entitled to receive (i) the five-year exemption from ad valorem taxes (or fees in lieu of taxes) provided by South Carolina Constitution Article X, Section 3, and any other exemption allowed by law from time to time; (ii) all allowable depreciation, allowances and adjustments to Fair Market Value; and (iii) such other credits, abatements and exemptions from ad valorem taxes, as are allowed by law.

(F) If the Company does not meet the Minimum Investment Threshold as of the Completion Date, the Company agrees repay the County the full amount of the difference between the FILOT Payments and the amount of ad valorem property taxes that would have otherwise been due and payable by the Company if the Project were subject to ad valorem property taxes since the Commencement Date. The Company shall make any such repayment no later than ninety (90) days after the Completion Date.

5.2 Tax Deductions, Credits and Exemptions

Unless otherwise precluded by the Act, applicable law or judicial decision, the Company shall be entitled to all applicable federal, state and local investment tax credits, exemptions, allowances and deductions for depreciation and diminution in value, and other similar tax relief provisions relating to the Project. At the request of the Company, the County shall do all things as are reasonably necessary or proper to confirm and receive those benefits, provided the Company shall pay the expenses incurred in that undertaking.

5.3 Abating FILOT Payments

If the Project is damaged or destroyed, the subject of condemnation proceedings, or otherwise adversely impacted by theft, casualty, or other cause, and the damage, destruction, condemnation, or adverse impact reduces the Project’s fair market value, the FILOT Payments shall be abated in the same manner as ad valorem property taxes would be abated if the Project were subject to ad valorem property taxes to the fullest extent allowed by the Act.

6. OTHER COVENANTS

6.1 Use of Project

The Company shall have the right during the Term of this Fee Agreement to use the Project, as a project, for any lawful purpose authorized by the Act. At the time of entering into this Fee Agreement, however, it is the intent of the Company to use the Project for the primary purpose of manufacturing ball and roller bearings and related activities.

6.2 Limitation of County's Liability

Anything herein to the contrary notwithstanding, any obligation the County may incur hereunder, including an obligation for the payment of money, shall not be deemed to constitute a debt or general obligation of the County but shall be payable solely and exclusively from the revenues and receipts derived by the County from this Fee Agreement, and the Project gives rise to no pecuniary liability of the County or a charge against its general credit or taxing power.

6.3 No Liability of County Personnel

All covenants, agreements and obligations of the County contained herein shall be deemed to be covenants, agreements and obligations of the County and not of any member of the County Council or any officer, agent, servant or employee of the County in his individual capacity.

6.4 Transfer of Project; Financing

Pursuant to Section 12-44-120 (A) of the Act, (a) an interest in this Fee Agreement and the Project, or (b) an equity interest or other interest in an entity with an interest in this Fee Agreement or the Project, or both, may be transferred to another entity at any time; provided that the Company shall not be released from its obligations without the County's prior written consent. Whenever consent of the County is required under the Act or this Fee Agreement for any of the foregoing transactions, such consent shall not be unreasonably withheld.

6.5 Financing

Financing, lending, security, sale-leaseback, assignments, leases, subleases, or similar arrangements are permitted in accordance with Sections 12-44-120 (B) and (C) of the Act. The Company shall cause the County and the Department of Revenue to be notified of a financing-related transfer of the Fee Agreement or the Project within sixty (60) days of such transfer. Such notice shall be in writing and shall include the identity of each transferee and any other information required by the Department of Revenue with any appropriate returns.

6.6 Leasing of Project

The Company may at any time lease or sublease the Project or portions of the Project on such terms as the Company may determine in its sole discretion, provided that such terms are not inconsistent with this Fee Agreement. No lease or sublease shall reduce any of the obligations of the Company hereunder unless expressly approved in writing by the County.

6.7 Filing of Annual Report of Investment in Project

The Company shall provide to the County a copy of the annual return to the Department of Revenue or equivalent showing the investment of the Company in the Project (currently, Form PT-300S). The County shall accord this information the same degree of confidentiality as is required for the Department of Revenue. The Company shall also make all other filings required from time to time by Section 12-44-90 of the Act.

6.8 Waiver of Statutorily Required Recapitulation

Pursuant to Section 12-44-55(B) of the Act, the County and the Company and any Sponsors waive any and all compliance with any and all of the provisions, items, or requirements of Section 12-44-55.

6.9 Indemnification

(a) Company shall and agrees to indemnify and save the County, its County Council members, officers, employees or agents, present and future, and past County employees or agents who have worked on the Project (each, an "Indemnified Party"), harmless against and from all claims by or on behalf of any person, firm, or corporation arising from the conduct or management of, or from any work or thing done on the Project during the Term, and, Company, further, releases each Indemnified Party from and shall indemnify and save each Indemnified Party harmless against and from all claims arising during the Term from (i) any condition of the Project, (ii) any breach or default on the part of Company in the performance of any of its obligations under this Fee Agreement, (iii) any act of negligence of Company or any of its agents, contractors, servants, employees, or licensees, (iv) any act of negligence of any assignee or sublessee of Company, or of any agents, contractors, servants, employees, or licensees of any assignee or sublessee of Company, (v) any environmental violation, condition, or effect, or (vi) the administration by any Indemnified Party of this Fee Agreement or the performance by any Indemnified Party of the County's obligations hereunder. Company shall indemnify and save each Indemnified Party harmless from and against all reasonable costs and expenses incurred in or in connection with any such claim arising as aforesaid or in connection with any action or proceeding brought thereon, and upon notice from the County or any other Indemnified Party, Company shall defend it in any such action, prosecution, or proceeding.

(b) Notwithstanding the fact that it is the intention of the parties that each Indemnified Party shall not incur pecuniary liability by reason of the terms of this Fee Agreement, or the undertakings required of the County hereunder, by reason of the performance of any act requested of it by the Company, or by reason of the operation of the Project by the Company, including all claims, liabilities, or losses arising in connection with the violation of any statutes or regulations pertaining to the foregoing, nevertheless, if an Indemnified Party should incur any such pecuniary liability, then in such event the Company shall indemnify and hold that Indemnified Party harmless against all claims by or on behalf of any person, firm, or corporation, arising out of the same, and all costs and expenses incurred in connection with any such claim or in connection with any action or proceeding brought thereon, and upon notice, the Company shall defend them in any such action or proceeding.

These indemnification covenants shall be considered included in and incorporated by reference in subsequent documents after the closing which the County is requested to sign, and any other indemnification covenants in any subsequent documents shall not be construed to reduce or limit the above indemnification covenants.

7. EVENTS OF DEFAULT AND REMEDIES

7.1 Events of Default by Company

Any one or more of the following events shall constitute an “Event of Default” by Company:

(A) if default shall occur in the due and punctual payment of any Additional Payments to the County, which default shall not have been cured within thirty (30) days following receipt of written notice thereof from the County;

(B) if FILOT Payments, together with any interest or penalties thereon, shall not have been paid within the maximum time that would be permitted by law if the Project were subject to ad valorem property taxes;

(C) if the Company shall fail to perform or comply with any other terms of this Fee Agreement, other than those referred to in the foregoing Subsections (A) or (B), and such default shall (i) continue for thirty (30) calendar days after the County has given the Company written notice of such default, or (ii) in the case of any such default that can be cured, but cannot be cured with due diligence within such thirty (30) day period, if the Company shall fail to proceed promptly and with due diligence to cure the same within such additional period as may be necessary to complete the curing of the same with all due diligence not to exceed ninety (90) days;

(D) if the Company shall file a voluntary petition seeking an order for relief in bankruptcy; or shall be adjudicated insolvent; or shall file any petition or answer or commence a case seeking reorganization, composition, readjustment, liquidation or similar order for relief for itself under any present or future statute, law or regulation; or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of the Company or of the Project; or shall make any general assignment for the benefit of creditors; or shall admit in writing its inability to pay its debts generally as they become due;

(E) if a petition shall be filed or a case shall be commenced against the Company seeking an order for relief in bankruptcy or any reorganization, composition, readjustment, liquidation or similar relief under any present or future statute, law or regulation, and shall remain undismissed or unstayed for an aggregate of ninety (90) days (whether or not consecutive); or if any trustee, receiver or liquidator of the Company or of all or any substantial part of its properties or of the Project shall be appointed without the consent or acquiescence of the Company and such appointment shall remain unvacated or unstayed for an aggregate of ninety (90) days (whether or not consecutive); or

(F) if any material representation or warranty made by the Company herein proves untrue in any material and adverse respect as of the date of making the representation or warranty.

7.2 Remedies on Event of Default by Company

Upon the occurrence of any Event of Default, the County, may, at its option, take any one or more of the following actions: (i) terminate this Fee Agreement by thirty (30) days notice in writing specifying the termination date; (ii) take whatever action at law or in equity as may appear necessary or desirable to collect the sums under Article 4 then due and thereafter to become due. In all events, if the Company fails to make Fee Payments due under Section 5.1, the County shall have the same enforcement, lien, and collection rights and remedies as it would have had for the non-payment of ad valorem taxes.

7.3 Default by County

Upon the failure of the County to perform any obligation it may have under this Fee Agreement or the Related Documents in a timely manner, or if no time for performance is specified, then within ninety (90) days following written notice thereof from the Company to the County, the Company may pursue any remedy permitted by this Fee Agreement or available by law or in equity, including, but not limited to, specific performance or suit for mandamus.

8. MISCELLANEOUS

8.1 Rights and Remedies Cumulative

Each right, power and remedy of the County or of the Company provided for in this Fee Agreement shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Fee Agreement or now or hereafter existing at law or in equity, in any jurisdiction where such rights, powers and remedies are sought to be enforced, and the exercise by the County or by the Company of any one or more of the rights, powers or remedies provided for in this Fee Agreement or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the County or by the Company of any or all such other rights, powers or remedies.

8.2 Successors and Assigns

The terms and provisions of this Fee Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

8.3 Notices; Demands; Requests

All notices, demands and requests to be given or made hereunder to or by the County or the Company shall be in writing and shall be deemed to be properly given or made if (a) personally delivered by any entity which provides written evidence of such delivery, or (b) sent by United States first class mail, postage prepaid (in which event notice shall be deemed to occur two (2) calendar days after the date postmarked), or (c) sent by United States registered or certified mail, return receipt requested, postage prepaid (in which event notice shall be deemed to occur on the date on which delivery was accepted or rejected by the recipient).

Notices, demands and requests shall be addressed as follows or to such other places as may be designated in writing by such party by proper notice to the other party.

(a) As to the County:

Richland County
P.O. Box 192
Columbia, South Carolina 29202
Attention: County Administrator
Telephone: (803) 576-2054
Facsimile: (803) 576-2137

With a Copy to:

Parker Poe Adams & Bernstein LLP
1201 Main Street, Suite 1450
Columbia, South Carolina 29201
Attn: Michael E. Kozlarek
Telephone: (803) 253-8924
Facsimile: (803) 255-8017

(b) As to the Company:

[Project Bay contact person]

With a Copy to:

McNair Law Firm, P.A.
Post Office Box 11390
Columbia, South Carolina 29211
Attention: Erik P. Doerring
Telephone: (803) 799-9800
Fax: (803) 753-3277

8.4 Next Succeeding Business Day

Unless otherwise expressly provided by applicable law, in any case in which the last date for action by or notice to a party falls on a Saturday, Sunday or date that is an official state or federal holiday in the place in which the address is located, then the action required or notice to be given may be made or given on the next succeeding business day with the same effect as if given as required by this Fee Agreement.

8.5 Applicable Law; Entire Understanding

Except as otherwise provided by the Home Rule Act, the Act, and other applicable law, this Fee Agreement shall be governed exclusively by the provisions hereof and by the applicable laws of the State of South Carolina. This Fee Agreement expresses the entire understanding and all agreements of the parties hereto with each other and neither party hereto has made or shall be bound by any agreement or any representation to the other party which is not expressly set forth

in this Fee Agreement or in certificates delivered in connection with the execution and delivery hereof.

8.6 Severability

If any material provision of this Fee Agreement shall be held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provision shall not affect any of the remaining provisions hereof unless the effect thereof would render enforcement of the remaining provisions unconscionable.

8.7 Execution Disclaimer.

Notwithstanding any other provision, the County is executing this Fee Agreement as statutory accommodation to assist the Company in achieving the intended benefits and purposes of the Act. The County has made no independent legal or factual investigation regarding the particulars of this transaction and it executes in reliance on representations by the Company that this document complies with all laws and regulations, particularly those pertinent to industrial development projects in South Carolina.

8.8 Headings and Table of Contents; References

The headings of the Fee Agreement and any Table of Contents or Index annexed hereto are for convenience of reference only and shall not define or limit the provisions hereof or affect the meaning or interpretation hereof. Unless otherwise clearly indicated by the context, all references in this Fee Agreement to particular Articles, Sections or Subsections are references to the designated Articles, Sections or Subsections of this Fee Agreement.

8.9 Multiple Counterparts

This Fee Agreement may be executed in multiple counterparts, each of which shall be an original but all of which shall constitute but one and the same instrument.

8.10 Amendments

This Fee Agreement may be amended only by a writing signed by all parties hereto.

8.11 Waiver

Any party hereunder may waive compliance by the other party with any term or condition of this Fee Agreement only in a writing signed by the waiving party.

8.12 NON-DISCLOSURE OF COMPANY INFORMATION

The County, and County Council, acknowledges and understands that the Company utilizes confidential and proprietary “state-of-the-art” manufacturing processes and techniques and that any disclosure of any information relating to such processes and techniques and the economics thereof would result in substantial harm to the Company and could thereby have a significant detrimental impact on Company and its employees. Consequently, to the extent permitted by law, the County agrees to keep confidential, and to cause employees, agents and

representatives of the County to keep confidential, the nature, description and type of the machinery, equipment, processes and techniques, and financial information relating thereto (“Confidential Information”), which may be obtained from the Company, its agents or representatives, except as may otherwise expressly be required by applicable law. The County, and County Council, shall not disclose and shall cause all employees, agents and representatives of the County not to disclose such Confidential Information to any person or entity other than in accordance with the terms of the Fee Agreement and as required by law.

[End of Page; Signatures on Next Page]

IN WITNESS WHEREOF, the parties have executed this Fee Agreement effective as of the Commencement Date.

RICHLAND COUNTY, SOUTH CAROLINA

By: _____
Joseph McEachern, Chairman, County
Council of Richland County, South Carolina

ATTEST:

Michielle Cannon-Finch, Clerk to County Council
Richland County, South Carolina

PROJECT BAY

By: _____
Name: _____
Title: _____

EXHIBIT A

LEGAL DESCRIPTION OF REAL PROPERTY

None.

EXHIBIT B

DESCRIPTION OF PERSONAL PROPERTY

All trade fixtures, furnishings, equipment, machinery, facilities and other personal property owned by Company that are purchased and used in connection with the Project.

Richland County Council Request of Action

Subject

Request to approve the collaboration between the Planning and Community Development Departments for the purpose of leveraging resources and funds for neighborhood programs and improvements **[CONSENT]**

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

Richland County Council Request of Action

Subject

Request to approve a change order with Thomas & Hutton in the amount of \$120,120 for the watershed modeling project of Gills Creek and Crane Creek **[CONSENT]**

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

Richland County Council Request of Action

Subject

An Ordinance amending the Richland County Code of Ordinances, Chapter 10, Fire Prevention and Protection
[CONSENT] [PAGES 150-154]

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. _____-08HR

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF
ORDINANCES, CHAPTER 10, FIRE PREVENTION AND PROTECTION.

Pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE COUNTY COUNCIL FOR RICHLAND COUNTY:

SECTION I. The Richland County Code of Ordinances, Chapter 10, Fire Prevention and Protection; is hereby amended to read as follows:

Sec. 10-1. Compliance with chapter provisions.

No person shall kindle or maintain any open burning or authorize any such fire to be kindled or maintained within the unincorporated areas of the county, except as stated in this article.

Sec. 10-2. Open burning on the premises of private residences.

Open burning of leaves, tree branches and yard trimmings originating on the premises of private residences and burned on those premises shall be permitted within "rural" zoning districts, as defined under the Richland County Land Development Code, provided that any fire must be located not less than 75 feet from any structure, road, or property line and adequate provision has been made to prevent the fire from spreading to within 75 feet of any such structure, road or property line. Open burning of leaves, tree branches, and yard trimmings shall be prohibited on the premises of private residences within any "residential" zoning district, as defined under the Richland County Land Development Code.

Sec. 10-3. Open burning in undeveloped areas for the purpose of land clearing or right-of-way maintenance.

Open burning in undeveloped areas, including undeveloped areas within "residential" zoning districts, as defined under the Richland County Land Development Code, for the purpose of land-clearing or right-of-way maintenance shall be permitted, provided that such burning is conducted in accordance with the SC Department of Health and Environmental Control (DHEC) Air Quality Regulations 61-62.2 and 61-62.4 and S.C. Code 1976, § 48-35-10 et seq.. Open burning for the purpose of land clearing and right-of-way maintenance shall be prohibited during the ozone season (April 1 through October 30).

Sec. 10-4 Attendant and fire extinguishing equipment required; notice to state forester; adherence to state law.

The burning must be constantly attended by a competent person until such fire is extinguished. Such person shall have a garden hose connected to a water supply, or other fire extinguishing equipment readily available for use. Proper notification shall be given to the state forester or his duly authorized representative or other persons designated by the state forester. The notice shall contain all information required by the state forester or his representative. The burning must be conducted in accordance with related state laws and regulations including, but not limited to, DHEC Air Quality Regulations 61-62.2 and 61-62.4 and S.C. Code 1976, § 48-35-10 et seq.

Sec. 10-5. Fires shall be prohibited as follows.

- a. The county Fire Marshal may prohibit open burning when atmospheric conditions, local circumstances or other conditions exist that would make such fires hazardous.
- b. The following materials shall not be burned in an open fire: Asphalt and asphaltic materials, paint, plastics, metals, treated wood, paper, petroleum products, demolition debris, dead animals, construction debris, household chemicals, household garbage, tires, trade waste and cardboard.

Sec. 10-6. Criteria for determining hazards.

Reasonable criteria shall be established by the county council to assist in determining when outdoor fires may be hazardous. These criteria may include air quality standards as well as various fire danger indexes.

Sec. 10-7. Prohibited on county roads, drainage rights-of-way and adjacent areas.

Open burning shall be prohibited on all county roads and drainage rights-of-way, or within an area that may cause damage to such areas.

Sec. 10-8. Exemptions.

- a. This article does not apply to vegetative debris burning related to forestry, wildlife and agricultural burns, as authorized by the state forestry commission.
- b. This article is not meant to restrict open burning in the connection with the preparation of food for immediate consumption, or campfires and fires used solely for recreational purposes, ceremonial occasions or human warmth that are done in a safe manner.

Sec. 10-9. Restrictions; exceptions.

Smoke production must be ended and no combustible material may be added to the fire between official sunset of one day and official sunrise of the following day with the exception of fires in the connection with the preparation of food for immediate consumption, or campfires and fires used solely for recreational purposes, ceremonial occasions, or human warmth and fires where time parameters are already regulated by the Department of Environmental Control Regulation 61-62.2.

Sec. 10-10. Hazardous or toxic materials.

Hazardous or toxic materials shall not be burned.

Sec. 10-11. Permit for organized public fireworks displays--Fee.

A charge of twenty-five dollars (\$25.00) shall be made for the issuance of the public fireworks display permit required by the fire prevention code adopted in Article V of Chapter 6, to cover administrative costs.

Sec. 10-12. Same--Disposition of fee.

All fees required by section 10-2 shall be deposited in the county general fund, in accordance with the receipts and deposits policies established by county council.

Sec. 10-13. Same--Penalties.

Any person holding a fireworks display in the county without obtaining a permit as provided in the fire prevention code adopted in Article V of Chapter 6, shall be deemed in violation of S.C. Code 1976, § 23-35-60, as amended, and, upon conviction thereof, shall be punished according to law.

Sec. 10-14. Burning of structures for fire-fighting training.

A vacant, dilapidated and unsafe structure may be burned by personnel of a legally constituted fire department for fire-fighting training purposes. Before such training is commenced, the appropriate fire department official will present proof to the county building official that approval for burning the structure has been obtained, if so required, from the state department of health and environmental control and the owner of the structure. Upon presentation of the required proof, the building official will issue a permit for the burning of the structure. When the burning/training is completed, the fire department which conducted the training will remove or cause to be removed debris, burned or unburned, lying within ten feet of the perimeter wall of the structure. Necessary and appropriate seeding will be accomplished to establish vegetation to prevent transporting of soil to other people's property by way of erosion. On completion of the removal of debris and necessary seeding, the fire department official will notify the building official, so that an inspection will be made for compliance with this section and the closing out of the permit.

Sec. 10-15. Civil and criminal liability.

The authorization to conduct an open burn does not relieve the individual responsible from civil or criminal liabilities resulting from the burning.

Sec. 10-16. Conflicts of article with state law.

The provision of this chapter shall prevail and be controlling over provisions of state law if such is allowed by state law. Otherwise, if any conflict arises between the provisions of this chapter and any state law, the provisions of state law shall prevail and be controlling.

SECTION II. Severability. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION III. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION IV. Effective Date. This ordinance shall be enforced from and after _____.

RICHLAND COUNTY COUNCIL

BY: _____
Joseph McEachern, Chairperson

ATTEST THIS THE ____ DAY

OF _____, 2008

Michielle R. Cannon-Finch
Clerk of Council

First Reading:
Second Reading:
Public Hearing:
Third Reading:

Richland County Council Request of Action

Subject

Alternative Dirt Road Paving Program/Ordinance to permit adoption of countywide dirt road paving program standards [**PAGES 155-175**]

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

CHAPTER 21: ROADS, HIGHWAYS AND BRIDGES*

***Cross reference(s)**--Department of public works and utilities, § 2-192 et seq.; buildings and building regulations, Ch. 6; garbage, trash and refuse, Ch. 12; hazardous materials, Ch. 13; motor vehicles and traffic, Ch. 17; parks and recreation, Ch. 19; planning, Ch. 20; vehicles for hire, Ch. 25; drainage, erosion and sediment control, § 26-202; land development, Ch. 26.

State law reference(s)--County supervision of roads, S.C. Code 1976, § 57-17-10.

ARTICLE I. IN GENERAL

Sec. 21-1. Purpose.

The purpose of this article is to define the mission, responsibilities and limitations of the department of public works with regard to maintenance and construction of road and drainage infrastructure in the county.

(Ord. No. 005-03HR, § I, 1-21-03)

Sec. 21-2. Jurisdiction.

The provisions of this article shall apply to all lands within the jurisdiction of the county and within the jurisdiction of those municipalities that agree, through intergovernmental service contracts, to have these provisions administered within their corporate limits.

(Ord. No. 005-03HR, § I, 1-21-03)

Sec. 21-3. Definitions.

The following definitions apply to words and terms used in this article. All other words shall have their customary meanings:

(a) *"C" Construction Program.* A state program by which state gasoline tax revenues are shared with counties for transportation and road construction activities. The funds involved are commonly referred to as "C" funds and they are used at the discretion of a County Transportation Committee (CTC) appointed by the county's Legislative Delegation pursuant to section 12-28-2740 of the S.C Code of Laws.

(b) *County.* Richland County, South Carolina, its county council or its administrative staff acting on its behalf.

(c) *County road maintenance system.* All those public highways, streets and roads, paved and unpaved, that have been dedicated for public use and accepted by the county as prescribed in this chapter and which have not been accepted for maintenance by any other public entity.

(d) *Driveway.* Any paved or unpaved way located on a single parcel of property and intended for vehicular access from a highway, street or road to one or more residences located on that parcel.

(e) *Easement.* A grant to the general public, a corporation, a specific person or persons or a public entity of the right to use a strip or parcel of land for a specific purpose. Fee simple title to the land remains with the grantor.

(f) *Easement and right-of-way deed.* A legal document by which an easement or right-of-way, as defined herein, is granted by a property owner to the county. This document is executed by the property owner (grantor) and the County and recorded in the office of the Richland County Register of Deeds so that the easement or right-of-way becomes a permanent part of the public record and binds the grantor's successors in title to its provisions.

(g) *Highway, street or road.* The terms "highway", "street", and "road", as used herein, shall be general terms denoting a public way for the purpose of vehicular travel. The terms shall refer to the entire area within the right-of-way to include roadways, pedestrian facilities, bridges, tunnels, viaducts, drainage structures and all other facilities commonly considered component parts of highways, streets or roads. These terms are used interchangeably herein.

(h) *Prescriptive easement.* An easement acquired for a specific purpose by long continued enjoyment or usage of property for that purpose. To a certain extent, it resembles title by adverse possession but differs to the extent that the adverse user acquires only an easement and not title. To create an easement by "prescription", the use must have been open, continuous, exclusive and under claim of right for the statutory period, which in the state is twenty (20) years.

(i) *Private road.* As it is used in this article, a private road refers to a road that is not maintained by any public entity such as the County, the South Carolina Department of Transportation (SCDOT) or a municipality. Depending upon the granting of easements and accepted use, private roads may be used by those other than the property owners.

(j) *Public road.* A public road refers to a road that is maintained by a public entity. This would include all roads in the county road maintenance system. In this case, the public is clearly entitled to use the road.

(k) *Quit-claim deed.* A deed of conveyance that is intended to pass any title, interest or claim which the grantor may have in the premises, but not professing that such title is valid, nor containing any warranty or covenants for title.

(m) *Alternative Maintenance Paving .* A County program by which county road maintenance revenues are used for paving all qualifying light duty / low volume unpaved public roads in the County. The funds involved are commonly referred to as "Roadway Maintenance Fees" and

they are used as proportioned by normal council and finance department budgeting at the discretions of a County Dirt Road Alternative Maintenance Paving Committee appointed. The council Committee shall be organized as County Council pursuant to this ordinance Chapter 21 section 21-3.

(n) *Right-of-way.* A strip or parcel of land occupied or intended for occupancy by a street, road, railroad or other special use. Fee simple title may or may not be granted to the agency or entity acquiring the right-of-way, but the property is dedicated exclusively for the intended use and is platted separately and distinct from the adjoining lots or parcels.

(o) *Light Duty / Low Volume Pavement and Maintenance Standard.* Engineering design standard considered “maintenance” whereby unpaved roads with average daily traffic limited at 400 vehicles per day are hard surfaced under a countywide Alternative Maintenance Paving Program

(Ord. No. 005-03HR, § I, 1-21-03)

Sec. 21-4. Drainage on private property.

(a) Drainage improvements and/or maintenance will be undertaken by county forces on private property only:

(1) When the drainage system involved has been designed, approved and constructed in accordance with the county's Stormwater Management, Erosion and Sediment Control Regulations (§§26-202, 26-203) and accepted by the county, or

(2) When there is a clear and substantial public interest served in doing so and drainage easements are granted to the county on all of the property involved. For the purpose of this section, a public interest is defined as:

a. The correction of a serious health hazard, as designated by county or state health officials, affecting multiple residences and beyond the responsibility of an individual property owner.

b. The correction of a malfunction or inadequacy of the drainage system within the right-of-way of a publicly maintained street or road.

c. The correction of drainage problems associated with projects constructed by the county.

d. The maintenance of the structural integrity of the existing drainage infrastructure of the county.

e. The improvement of drainage for the benefit of the community. To benefit the community, drainage improvements must eliminate flooding that directly affects a minimum of four (4) residences and/or businesses situated on individual lots or inundates a public road. Note: Correction of minor ditch erosion problems on private property will not be considered a substantial public interest.

(b) Easements will be obtained for any existing or proposed drainage facilities on private property before any work is performed thereon by county forces. Easements for maintenance of drainage facilities constructed without the county's approval of plans or inspections will not be accepted unless the property owners hold harmless and release the county from all claims resulting from deficiencies of the facilities.

(c) Except where the county has accepted an easement for maintenance of drainage facilities on private property as provided herein, maintenance is the responsibility of the property owner.

(Code 1976, § 8-1001; Ord. No. 452-77, § 1, 10-26-77; Ord. No. 2372-93, § I, 11-16-93; Ord. No. 005-03HR, § I, 1-21-03)

Sec. 21-5. Maintenance of unpaved roads.

(a) The Department of Public Works shall maintain all unpaved roads of the county which have been dedicated for public use regardless of whether or not the dedication was by law or usage. Those roads determined to have been dedicated shall be considered to be a part of the county road maintenance system. Roadway maintenance shall include provisions to implement hard surfacing on prepared base as Low Volume Dirt Road Pave In Place Program generally described in Policy Overview document RC-PS-414-08. It shall be the Policy of the County to eliminate unpaved road surface condition and adopt the low volume road Alternative Maintenance Paving program that provide hard surface paving that provide equivalent projected service life and utility to that of standard road sections.

(b) For purposes of ascertaining dedication by usage or by maintenance by the county, all unpaved roads which have been used by the public and/or maintained by the county for a period of twenty (20) years or more shall be deemed dedicated and shall be maintained by the department of public works.

(c) The county will claim a prescriptive easement for all unpaved roads deemed to be dedicated as public roads by usage. Such easements will be considered as comprising the land actually maintained by the county as part of the road.

(d) All unpaved roads which have been marked in either red or green on the map presented to the county council on March 5, 1975, shall be brought within a systematic identification process as soon as practicable and maintained by county forces.

(e) Unpaved roads not maintained by the county under the provisions of (a) through (d) above, will be accepted for maintenance only when such maintenance will provide a substantial

public benefit. For the purpose of this section, one or more of the following characteristics will constitute "substantial public benefit:"

- (1) Provides access to a publicly owned facility, or
- (2) Comprises an integral part of the comprehensive transportation plan adopted by the county's planning agency, or
- (3) Comprises a part of an existing street/road network as of January 21, 2003 and is used by the surrounding community, or
- (4) Provides the principle access to a minimum of three (3) occupied residences situated on individually owned parcels that are lots of record for tax purposes and does not exceed one fifth (1/5) mile in length per residence served.
- (f) No work will be performed pursuant to subsection (e), above, except on the basis of a right-of-way deed for rights-of-way fifty (50) feet in width whenever possible, but in no case less than thirty (30) feet, having been executed and accepted in accordance with section 21-7.
- (g) Only established, passable roads with an unobstructed width of twelve (12) feet may be accepted pursuant to subsection (e) above. Such roads will be maintained only up to a minimum serviceable condition and will not be substantially improved by the county.
- (h) Any road in the county, including those created as a part of a private driveway subdivision pursuant to the county's land development regulations, may be accepted by the county and brought up to paved or unpaved road standards as set forth in this article; provided that eighty percent (80%) of all property owners within the subdivision agree to same and that all costs incurred by the county to bring the road up to county paved or unpaved standards are paid by the property owners. Such costs may be included as an assessment on the tax bill of the property owners, to be paid over no more than a 15 year period with an interest charge equal to that paid by the county for bonds issued to fund construction. The total costs plus interest of the improvements shall be allocated between the property owners by each lot being assessed an equal share of the costs and interest. Any unpaved road deeded to the county under these provisions may be eligible for "C" fund improvements.
- (i) The county engineer and his staff shall periodically update the existing county road map and shall add such unpaved roads which are not presently shown thereon and attempt to determine the ownership of such unpaved roads.
- (j) The department of public works shall maintain those unpaved roads determined to be dedicated under the provisions of this section. Such maintenance shall include, but not be limited to:
 - (1) **Hard surface to paved condition in general accordance with Policy Overview Report document RC-PS-414-08 (July 2008).**

- (2) Grading;
- (3) Applying crusher-run or gravel;
- (4) Installing street name and traffic control signs;
- (5) Installing driveways;
- (6) Cutting back overhanging branches;
- (7) Mowing shoulders; and/or
- (7) Drainage improvements.

(Code 1976, § 8-1025; Ord. No. 2372-93, § I, 11-16-93; Ord. No. 033-97HR, § II, 5-6-97; Ord. No. 005-03HR, § I, 1-21-03)

(k) .The Council shall appoint a 13 member Dirt Road Maintenance Paving Commission to oversee Countywide program initiative of hardsurfacing of all public, unpaved roads the commission shall report to council and shall have exclusive authority to implement the countywide **Policy Overview Report document RC-PS-414-08** dirt road paving program. Authority includes setting directions for procurement, planning and public works. The commission shall expire upon completion of hardsurface maintenance of all roads identified in the Public Works inventory and as described in the Pave-.In-Place Policy..

Sec. 21-6. Standards for streets and drainage.

(a) Except as provided for in sections 21-4 and 21-5 above, only those streets, roads, and drainage systems designed and constructed in accordance with the standards prescribed herein will be accepted for maintenance by the County.

(b) Streets: The minimum acceptable street is a paved street designed and constructed in accordance with the standards adopted by the County Engineer; provided, however, that an exception may be allowed whenever the County Council deems that the variance in design is minimal or of such nature that it will not otherwise pose an undue burden or risk upon the County. Where determined necessary and in the sole discretion of the County Council, the County, with the agreement of those property owners served by such roadway, may consent to accept a roadway with special conditions as to any particular non-conforming aspects with regard to county road standards. Only those streets located in subdivision developments where individually owned lots front directly on the street rights-of-way will be accepted by the County. This will apply to residential, commercial and industrial subdivisions. Streets and drainage systems serving group developments such as shopping centers, apartment complexes, condominiums and mobile home parks will not be accepted for maintenance by Richland County.

(c) Storm drainage: Drainage systems will be designed and constructed in accordance with Chapter 26, Article VIII, of the Richland County Code of Ordinances, and the standards adopted by the County Engineer.

(d) Specifications: Materials and construction of streets and drainage systems will be in accordance with the applicable sections of the current edition of the Standard Specifications for Highway Construction published by South Carolina Department of Transportation, except where specifically noted otherwise in the standards adopted by the County Engineer.

(e) Acceptance: County acceptance of new streets and drainage systems shall be accomplished through the acceptance of easement and right-of-way deeds. The County accepts no responsibility for the streets or drainage system until the easement documents or deeds are executed by both parties and recorded.

(f) Warranty: As a prerequisite to the County's acceptance of new streets and drainage systems, the grantor (developer) shall provide a warranty to the County for a period of one (1) year. The warranty shall pertain to the design and construction of the streets and drainage system in accordance with these standards and their satisfactory performance during the warranty period. The warranty period shall commence with the Countys formal acceptance of the roads and drainage system. The grantor is not responsible for repairing damage done to the roads subsequent to acceptance that was not a result of design or construction failure.

(g) Inspection fee: The grantor (developer) is responsible for the costs associated with providing all quality control/quality assurance testing and inspections required during construction of new roads and the associated drainage systems to ensure compliance with the applicable design and construction standards. The County Engineers office is authorized to retain independent engineering or geotechnical consultants to perform all or part of the inspections and testing on behalf of the County. An inspection fee, sufficient to cover the Countys cost for inspection and testing, will be established and collected as a prerequisite for a developers receiving construction plan approval for any new subdivision streets. All fees collected will be deposited into an account set up specifically for payment of inspection and testing costs incurred by the County.

(h) Incidental Drainage: A designated drainage improvement effort associated with Low Volume unpaved road system and conducted as part of the **Policy Overview Report document RC-PS-414-08** . This standard is considered "maintenance" to existing roads and involves incidental ditching, culverts, and catch basins within the right-of-way.

(Code 1976, § 8-1024; Ord. No. 388-77, 4-20-77; Ord. No. 2372-93, § I, 11-16-93; Ord. No. 015-98R, 5-5-98; Ord. No. 005-03HR, § I, 1-21-03; Ord. No. 095-05HR, § I, 10-3-06)

Sec. 21-7. Easement and/or right-of-way acceptance authority.

The county administrator and/or his designee(s) are hereby authorized to accept any easement or deed for rights-of-way, drainage easements, and sewer easements; emergency maintenance easements, dirt road rights-of-way, additional rights-of-way, sewer extension agreements, water line easements and other instruments authorized by the County Code of Ordinances; and is authorized to establish procedures for the acceptance and recording of such instruments.

(Ord. No. 005-03HR, § I, 1-21-03)

Sec. 21-8. Driveways.

Driveway connections from the roadway to the right-of-way line will be provided on county maintained roads by the department of public works, subject to the following limitations:

(1) Only one (1) driveway connection per residence, and a maximum of two (2) per individual parcel of property, will be provided by the county. The public works department will not install additional driveway connections.

(2) Apron finish will match the finish of the county road to which it is attached.

(3) A maximum of twenty-four (24) feet of pipe, not exceeding twenty-four (24) inches in diameter, will be provided by the county. Larger diameter pipe may be installed by the public works department provided the property owner pays the additional costs incurred for materials.

(4) Pipe diameter required will be determined by the county engineer.

(Code 1976, § 8-1002; Ord. No. 005-03HR, § I, 1-21-03)

Sec. 21-9. Surplus dirt.

Surplus dirt excavated on county projects, which must be hauled away and disposed of off-site, may be placed on private property, with the property owner's consent, provided that:

(1) Disposal there is more economical than hauling the dirt to the nearest county owned disposal site, and

(2) The property owner releases and holds the county harmless for any damages or liability resulting from placement of the dirt on his property, and

(3) All applicable permitting requirements (including the requirements of section 12-44) have been or will be met.

(4) A reasonable effort is made to insure a fair and equitable distribution among property owners who want the dirt.

(Code 1976, § 8-1003; Ord. No. 419-77, § 1, 8-2-77; Ord. No. 005-03HR, § I, 1-21-03)

Sec. 21-10. Street name signs.

(a) The department of public works shall erect and maintain street name signs on all public streets within the jurisdiction and authority of the county. Signs will be metal blanks on metal posts fabricated in a standard design established by the director of public works. They will have white reflective lettering a minimum of four (4) inches high on a reflective background. A green background will denote a public road. A blue background will denote a private road.

(b) The developer of any new subdivision constructed within the jurisdiction and authority of the county is responsible for the initial installation of street name signs in accordance with an approved signage plan. All street signs shall comply with the county's design standard for retro-reflectivity.

(c) The department of public works may erect street name signs at the intersections of private streets with public streets, at no cost to the residents, when there are residences with addresses on that private street.

(d) Overhead signs may be installed at selected intersections at the discretion of the Director of Public Works.

(e) In conjunction with subsection (a) above, the county standard for street name signs shall be included in published road design standards developed by the county engineer. The standard shall address sign material, installation, visibility, and color. The department of public works shall maintain street name signs to the county standard after acceptance of the streets.

(Ord. No. 005-03HR, § I, 1-21-03)

Sec. 21-11. Traffic engineering.

(a) Traffic engineering on county maintained highways, streets and roads shall be in accordance with the South Carolina Manual on Uniform Traffic Control Devices.

(b) Traffic control devices on county maintained highways, streets and roads shall comply with the standards contained in the South Carolina Manual on Uniform Traffic Control Devices.

(c) The developer of any new subdivision constructed within the jurisdiction and authority of the county is responsible for the initial installation of all necessary traffic control devices in accordance with an approved signage plan. The department of public works shall maintain the devices after acceptance of the streets.

(Code 1976, § 8-1005; Ord. No. 005-03HR, § I, 1-21-03; Ord. No. 052-05HR, § I, 7-12-05; Ord. No. 046-07HR, § I, 5-15-05)

Sec. 21-12. Street lighting.

The county shall not provide street lighting on any highway, street or road until such time as sufficient funds are appropriated to provide that service county-wide. Homeowners or homeowner's associations may obtain street lighting through contractual arrangements with the electric utility serving their area.

(Ord. No. 005-03HR, § I, 1-21-03)

Sec. 21-13. Emergency maintenance of roads.

(a) No work may be performed on any roadway not already maintained by the county unless the county administrator determines that access to such roadway is necessary for the performance of one or more public functions, the following conditions exist:

(1) Such a roadway is the only access for one or more property owners or residences, and

(2) Emergency medical services, sheriff department vehicles and other county vehicles cannot, in the lawful performance of their duties, gain full and immediate access to at least one (1) residence unless road scraping is performed, and

(3) At least one (1) of the properties to be accessed is used as a primary residence.

(b) Any work pursuant to this section will be done on a one-time basis only. In such cases, the county department of public works is limited to the minimum improvements that will allow full and immediate access to the affected residences. Crusher-run, gravel, pipe or other materials will not be routinely provided.

(c) This section is not applicable to roads providing access to private driveway subdivisions that were created under the county's land development regulations.

(Code 1976, § 8-1007; Ord. No. 1846-89, § I, 3-21-89; Ord. No. 2372-93, § I, 11-16-93; Ord. No. 005-03HR, § I, 1-21-03)

Sec. 21-14. Abandonment of public roads and right-of-ways.

(a) Any person or organization wishing to close an existing public street, road, or highway in the county to public traffic shall petition a court of competent jurisdiction in accordance with section 57-9-10, et seq. of the state code of laws. The petition shall name the county as a respondent (unless the county is the petitioner). The county attorney shall advise the court with regard to the county's concurrence or opposition after consultation with the county's planning, public works, and emergency services departments, and after consideration by county council. It shall be the responsibility of the petitioner to physically close the roadway if a petition is successful. The county attorney may submit such petition on behalf of the county if so directed by county council.

(b) Any person or organization wishing the county to abandon maintenance on an existing county-maintained street, road or highway shall submit to the public works department a petition to do so signed by the owners of all property adjoining the road and by the owners of all property who use the road as their only means of ingress/egress to their property. The petition shall state that the property owners release and indemnify the county from any duty to maintain the road. At the recommendation of the county engineer, the county administrator shall have the authority to act on a petition that involves a dead-end road; county council shall have the authority to approve petitions under all other circumstances. If the petition is approved, the county engineer may require the property owners to place an appropriate sign alongside or at the end of the road.

(c) Any person or organization wishing to acquire ownership of an unused road right-of-way in the county (including a public right-of-way that is dedicated either by deed, prescription, or recordation of a plat) may submit a petition for consideration by county council. If it is determined by the county's planning department and public works department that the right-of-way will not be utilized by the county for road purposes, county council may approve a quit-claim deed conveying the county's interest to the owners of the adjoining property. Unless the owners of the adjoining property agree to another division, each may acquire that portion of the right-of-way adjacent to his/her property on his/her side of the right-of-way's centerline. The grantee(s) of the quit-claim deed(s) shall be responsible for preparing the deed(s) prior to county council's consideration of the request. Upon approval and execution of the deed(s), the grantee(s) shall be responsible for recording the deed(s) in the office of the register of deeds and for returning a filed copy to the office of the county attorney. The county council may require the grantees) to pay up to the fair market value, as determined by the county assessor's office, in exchange for the conveyance of the right-of-way. Upon recordation of the deed, the county assessor's office shall adjust the appraisal of the adjoining parcels to reflect the value of the additional property.

(Code 1976, § 8-1009; Ord. No. 071-01HR, § I, 11-6-01; Ord. No. 005-03HR, § I, 1-21-03)

Sec. 21-15. Temporary closing of streets and roads.

(a) *Request.* Any party desiring to have any street or road temporarily closed in the county shall submit a written request to the county administrator.

(b) *Deadlines for requests.* All written requests must be submitted to the county administrator at least ten (10) days prior to the requested closing date.

(c) *Appointment of person accountable.* All parties requesting such temporary closure shall designate one (1) person who shall act as spokesman for the party, as well as supervise all activities for the duration of such closing.

(d) *County administrator consideration.* The county administrator shall consider, within five (5) days, all timely submitted requests made by such parties. If approved, the county administrator shall request the sheriff to take appropriate action to blockade the requested streets and/or roads and the clerk of council shall advertise to the public through the news media all

approved temporary closings. The cost of such advertising shall be borne by the parties requesting the temporary closures.

(e) *Duration.* All streets and roads closed pursuant to this section shall be blockaded for a period normally not to exceed twenty-four (24) hours. Such duration, however, may be amended by the county administrator at his/her discretion on an event basis.

(f) *Emergency closings.* Requests for temporary closing received less than ten (10) days prior to the requested closing date may be considered as an emergency closing if, in the opinion of the county administrator, such closing is warranted; provided, that such action would not conflict with the public interest and, further, that there exists sufficient time for appropriate action to blockade requested streets and/or roads. All applicants will be placed on notice that future requests must be submitted to the county administrator ten (10) days prior to the requested closing date.

(Code 1976, § 8-1009.1; Ord. No. 467-77, §§ 1--5, 12-7-77; Ord. No. 506-78, § 1, 11-15-78; Ord. No. 005-03HR, § I, 1-21-03)

Sec. 21-16. Work on private property.

The county department of public works is prohibited from performing any work on private property not specifically authorized under the provisions of this section except in emergency situations involving public health or safety and authorized, in writing, by the county administrator.

(Ord. No. 005-03HR, § I, 1-21-03)

Sec. 21-17. Cutting of roads.

No roads will be cut by the county department of public works unless specifically directed by the county council.

(Code 1976, § 8-1010; Ord. No. 005-03HR, § I, 1-21-03)

Sec. 21-18. Trees on private property.

The county department of public works may remove dead trees on private property when there is a clear danger that they will fall onto a public road.

(Code 1976, § 8-1015; Ord. No. 005-03HR, § I, 1-21-03)

Sec. 21-19. "C" construction program.

(a) All funds available to the county council through the "C" construction program will be used exclusively for maintenance design and construction, of publicly owned streets and roads in the county and the drainage facilities directly related thereto.

(b) The "C" construction program may be used to implement comprehensive countywide dirt road paving under the direction of Council appropriated oversight committee. Dirt road paving in this instance shall follow policy guidelines as generally described under Policy Overview Report document RC-PS-414-08 and/or Alternate Paving Standards.

(c) The director of public works will be responsible for implementing systematic programs for resurfacing of existing streets and new construction funded with "C" funds. New construction may include any of the following:

- (1) Paving existing unpaved roads;
- (2) Widening existing roads;
- (3) Intersection improvements;
- (4) Transportation Improvement Projects;
- (5) Traffic Safety Projects;
- (6) Drainage Improvements; or
- (7) Sidewalks.

(c) The director of public works may provide staff support to the county transportation committee as requested for coordination of the "C" construction program the county.

(d) The county finance department may provide all financial services required for administration of the county's "C" fluid allocation if requested by the county transportation committee.

(Code 1976, § 8-1023; Ord. No. 1037-83, § 1, 4-19-83; Ord. No. 1682-87, § 1, 10-20-87; Ord. No. 2372-93, § I, 11-16-93; Ord. No. 005-03HR, § I, 1-21-03)

Sec. 21-20. Road paving program.

(a) Road construction and paving projects administered by the county and funded from public funds shall be accomplished in accordance with a consistent, systematic program established and administered by the director of public works. Such program shall have the following basic characteristics:

- (1) Only county maintained roads will be paved utilizing public funds,
- (2) All county maintained dirt roads are eligible for paving, and may be paved under the Low Volume Policy Overview Report document RC-PS-414-08 Maintenance paving criteria, or, under standard duty paving as per non-maintenance status.

- (3) Paving will be accomplished in priority order at a rate permitted by availability of funding.
 - (4) Countywide dirt road paving program will be accomplished in a projected three (3) year paving cycle based on availability of funding and as generally described in the Final Report RC-PS-414-08 (July 2008).
- (b) The county engineer will acquire and maintain the following data on all roads proposed for paving:
- (1) Name;
 - (2) County road number;
 - (3) Map location code;
 - (4) Beginning and ending points;
 - (5) Length in miles and hundredths of a mile; and
 - (6) Council district.

Sec. 21-21. Transportation improvement program.

All public funds available to the county for transportation system improvements shall be expended in accordance with a comprehensive transportation improvement plan. This would apply to:

- (a) Connector roads;
- (b) Intersection improvements;
- (c) Widening;
- (d) Turn lanes; and
- (e) Alignment improvements.

(Ord. No. 005-03HR, § I, 1-21-03)

Sec. 21-22. Sidewalks.

(a) Public funds will be used by the county for construction of sidewalks only on arterial and collector streets. The director of public works shall be responsible for establishing a systematic program for identifying, prioritizing, and implementing sidewalk construction

projects. The principal focus for such program will be the safety of children walking to school, to school bus stops, or to neighborhood/ public recreation facilities.

(b) Sidewalks on local residential streets may be constructed by the county provided that all costs incurred by the county are paid by the property owners on the streets. Such costs may be included as an assessment on the tax bill of the property owners, to be paid over no more than a fifteen (15) year period with an interest charge equal to that paid by the county for bonds issued to fund construction. The county council may elect to have the total costs, plus interest, of the improvements allocated between the property owners either by a front footage assessment ration, or by each lot being assessed an equal share of the costs and interest. Establishment of this assessment shall require approval of eighty percent (80%) of the property owners.

(Ord. No. 005-03HR, § I, 1-21-03)

Sec. 21-23. Condemnation/ compensation.

(a) In general, the county will not compensate property owners for easements or rights-of-way on public works projects from which they directly benefit. Exceptions may be made, however, when:

(1) Unusual circumstances make payment of a reasonable amount of compensation more economical than resorting to condemnation;

(2) Deadlines for completion of a project preclude the expenditure of time required for condemnation; or

(3) Compensation is awarded through the condemnation process.

(b) Condemnation of easements or rights-of-way on any county public works project shall require the prior approval of the county council. An appraisal of affected property parcels shall accompany a staff recommendation to county council for condemnation of property.

(Ord. No. 005-03HR, § I, 1-21-03)

Sec. 21-24. Encroachments on county maintained roads.

(a) *Generally.*

(1) An encroachment permit, approved by the county engineer's office, shall be required for all construction, undertaken by parties other than the county public works department or it's authorized contractor, within or affecting the right-of-way of any county maintained highway, street or road. This requirement shall apply, but not be limited, to:

- a. Driveway connections involving a curb cut or pipe installation;
- b. Curb cuts;

- c. Utility taps;
- d. Utility installations;
- e. Excavations within rights-of-way;
- f. Storm drainage installation;
- g. Storm drainage discharge; and
- h. Subdivision entrance signs or gateways.

(2) The permittee shall indemnify the county for any liability incurred or damages sustained as a result of the encroachment.

(3) The permittee shall be responsible for:

- a. Notifying the county engineer's office when construction begins on an encroachment;
- b. Ensuring that a copy of the encroachment permit is on the construction site; and
- c. Ensuring that the construction and the restoration of the roadway have been approved by the county engineer's office.

(b) *Excavations in streets.*

(1) An encroachment permit shall be required for each excavation in a county road before the work is commenced. Work under such permit shall be commenced within the time specified on the permit, otherwise the permit shall become void. All permits shall be kept at the place of excavation while the work is being done and exhibited whenever called for by any person having the authority to examine the same. There shall be no more than one-half ($\frac{1}{2}$) the width of any street or alley opened or obstructed at any one time; tunneling may be allowed, provided that no authorized underground construction shall be damaged or interfered with. All portions of the street excavated shall be put in as good condition as before the excavation, was made. The trench or excavation shall be refilled, thoroughly rammed and puddled within the time specified on the permit after making the connection or repairs. When an excavation is made in any paved county road where it is necessary to remove paving, the person to whom the permit was issued for such excavation shall leave a written notice with the county department of public works and such notice shall state that the excavation has been properly filled, tamped, and is ready for repaving. Whenever any person making any excavations in the street or alley fails to refill, in the proper manner, as required by this section or fails to maintain the same for a period of one year, then the county council shall cause the work to be done and the cost thereof shall be charged against the bond as heretofore provided in section 6-68 of this code.

(2) Where such excavations occur in a state or federal highway, permission shall be obtained from the state or federal highway department before any work is commenced.

(3) Public protection requirement.

a. It is hereby required that for every excavation made on public property, proper safeguards shall be provided against injury to the public; barricades shall be provided at five (5) foot distances, and such barricades shall completely encircle all open excavations or trenches. All barricades, as required by this section, shall have at least one sign placed thereon in a conspicuous manner, indicating the name of the person causing such excavation. When approved, steel plates of sufficient strength may be used to cover excavation to prevent blocking of street.

b. From sunup to sundown there shall be placed, at a distance of not less than one hundred (100) feet, sufficient numbers of red flags to warn the public of dangerous excavation. From sunset to sunrise there shall be placed, at a distance of not less than one hundred (100) feet, sufficient red lights or flambeaux to indicate the length of the excavation in the public thoroughfare and to warn the public of dangerous excavation; in addition, there shall be placed on or by the barricades sufficient red lights or flambeaux to indicate the point of excavation and size.

(c) Anyone who encroaches on the right-of-way of a county maintained highway, street or road without securing an encroachment permit or who fails to adequately restore the road and right-of-way after an encroachment shall be deemed guilty of a misdemeanor, and shall be subject to the general penalty provisions of this code. Each day that the unauthorized encroachment exists, or that the inadequacy exists following notification, shall be considered a separate offense.

(Ord. No. 005-03HR, § I, 1-21-03)

Secs. 21-25--21-33. Reserved.

ARTICLE II. EASEMENTS ON PUBLIC STREETS

Sec. 21-34. Easements on, over, under and across public streets and property.

(a) *Generally.*

(1) Easements over, under and across public streets and property controlled by the county shall be granted only for a public purpose, convenience, necessity, or to facilitate the provision of water, sewer, electricity, transportation or other utility.

(2) The grantee of such easement shall certify the purpose of such easement, the area affected, the necessity and the fact that the area affected does or does not receive similar services from another public or private utility.

(3) Prior to the granting of such easement, the grantee shall provide a written assurance that he, she, or it will comply with all applicable local, state and federal laws and regulations including, but not limited to, public safety, job safety, wage and hour laws, health standards and such other requirements as are necessary to ensure the public's safety at any time, during

construction, repairs, or otherwise, should injury to person or property occur as a result of acts and/or omissions to act by such grantee, his, her, or its heirs, executor, successors or assigns.

(4) Prior to any construction, installation, erection or repair of any such improvements and appurtenances on, over, under or across such streets or property as may be authorized by such easement, the grantee shall notify the county department of public works, the county sheriff's department and the county administrator at least forty-eight (48) hours in advance.

(5) The grantee shall provide the director of public works or his designee with certificate(s) of insurance verifying the grantee currently has the insurance required by the county. All such insurance policies shall be issued by an insurer satisfactory to the county, and the insurer shall have a rating in the A categories of Best Insurance Reports. The certificate(s) shall include a provision that not less than thirty (30) days notice will be given to the county prior to cancellation, termination or reduction in coverage. In addition, the grantee shall also provide such prior notice to the director of public works. The term of all insurance shall be not less than any time the grantee or anyone with a contract to perform work on the grantee's projects shall be performing such work. Insurance shall consist of the following:

a. At its expense the grantee shall for the term required by the county maintain a commercial general liability policy for bodily injury, personal injury, completed operations and property damage in a coverage amount of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate, and a business auto policy for bodily injury and property damage in a coverage amount of not less than \$1,000,000 per occurrence. The forms shall be ISO (Insurance Services Office, Inc.) or comparable to them. Richland County Government shall be named an additional insured, except when the grantee is a governmental entity. Grantee shall provide its insurer a copy of any agreement with or requirement by the grantee regarding insurance.

b. At its expense the grantee shall for the term required by the county maintain the workers' compensation coverage required by S. C. law. The grantee shall provide a certificate for insurance for this coverage in the manner required by this subsection.

(6) The grantee shall indemnify and hold harmless the county, its successors and assigns, from and against all loss, costs, expenses, including attorney's fees, claims, suits and judgments whatsoever in connection with injury to or death of any person or persons or loss of or damage to property, and further claims, suits and judgments whatsoever in connection with injury to or death of any person or persons or loss of or damage to property, and further claims, suits and judgments whatsoever by third parties resulting from the interruption of traffic caused by or in any way connected with the construction, installation, erection, repair or maintenance, use or presence of any such improvements or appurtenances, however caused.

(7) The grantee shall bear all costs of furnishing flagging protection, warning devices and inspection services, as well as the costs of restoring the affected area to its original condition.

(b) *Fees, charges or water rents.*

(1) In consideration for the granting of such easements by the county, the grantee shall pay to the county such fees, charges, or portions of fees and water rents as shall be from time to time established by the county council.

(2) Initial fees, charges, water rents or portions thereof shall be those as are in force and effect at the time the easement is granted and shall be remitted to the county finance department on a monthly basis.

(3) Prior to any increase in fees, charges or water rents, at least thirty (30) days' notice prior to the effective date shall be given to those grantees so affected.

(4) Any grantee affected by any such increase may request a hearing by county council or its duly authorized representative, provided such hearing is requested in writing within twenty (20) days of the giving of notice as required in subsection (b)(3) of this division.

(5) Such request for hearing shall stay the implementation of such increase for an additional fifteen (15) days beyond the 30-day notice period, but thereafter such increase shall go into effect and so continue until such time as changed by county council, general law, or a court of competent jurisdiction.

(6) Such increase as is collected subsequent to such request for hearing shall be placed in escrow pending a ruling by county council. In the event of a reduction of the increase, such difference shall be refunded to the grantee.

(7) Only that increase collected from a grantee that has requested a hearing shall be so escrowed. Increases collected from grantees that do not request a hearing will not be escrowed.

(8) In the event county council, after hearing, refuses to reduce the increase, the funds so escrowed shall immediately revert to the general fund or such other fund as has been designated by county council.

(9) In the event the hearing provided for in subsection (b)(4) of this division is held by the duly authorized representative of county council, the representative shall report his/her findings and recommendations to county council within ten (10) working days thereafter.

(10) The failure of county council to affirmatively reduce the increase by the second meeting after a receipt of such report shall constitute a ratification of its previous action establishing such increase.

(Code 1976, § 8-1026; Ord. of 6-16-76, Arts. 1, 2; Ord. No. 005-03HR, § I, 1-21-03)

Sec. 21-35. Adoption not to constitute waiver.

(a) The adoption of this chapter shall not be deemed an acceptance of liability nor a waiver of the doctrine of sovereign immunity.

(b) The adoption of this chapter shall not be deemed a waiver of the release clause contained in the standard easement and right-of-way deed.

(Code 1976, § 8-1022; Ord. No. 005-03HR, § I, 1-21-03)

Richland County Council Request of Action

Subject

Ozone Non-Attainment Boundary Recommendation [**PAGES 176-183**]

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No



Proposed Non-Attainment Boundary for Ozone

Joseph M. Cronin
Research Manager,
Richland County Government



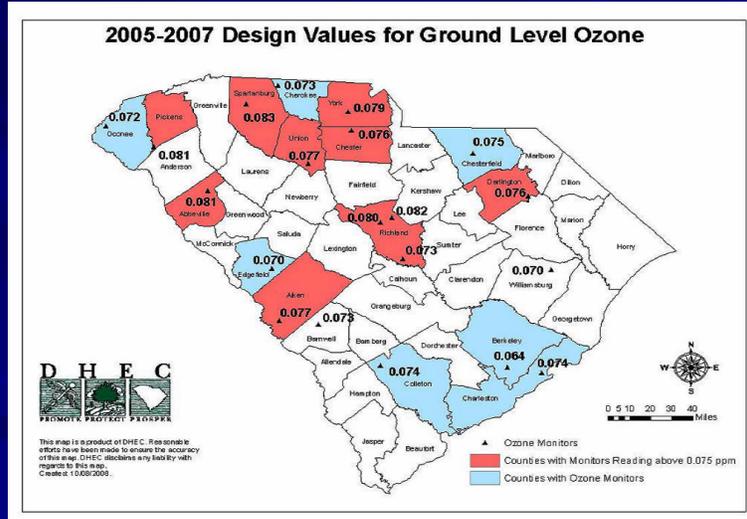
Background

Background

- Clean Air Act requires that the EPA review air quality standards every five years.
- March 12, 2008 – EPA announced new standards for ozone (0.075 ppm)
 - Former Standard – 0.080 ppm (Rounded to 0.084 ppm)
- DHEC and EPA have begun the process of recommending non-attainment boundaries.



Current Status



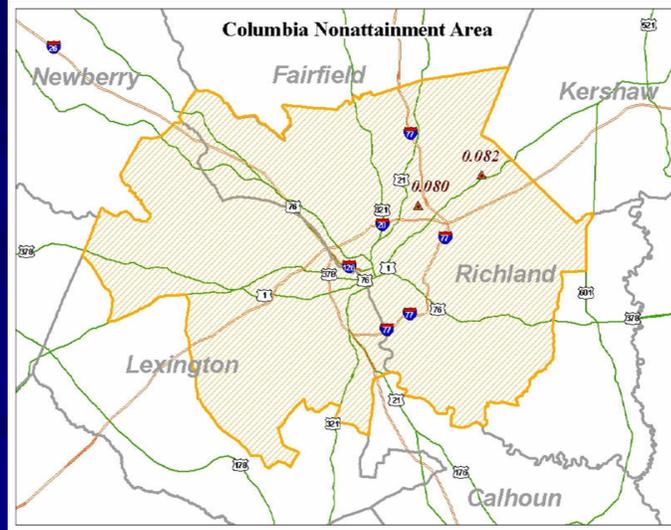
Consequences

Consequences of Non-Attainment

- **New Source Review**
 - Expensive and time-consuming review process.
 - Hinders the ability to recruit and expand industry.
- **Transportation Conformity**
 - All road projects of “regional significance” must show no adverse impact to air quality.
 - Restricts the use of federal highway funds.
- **Public Health**



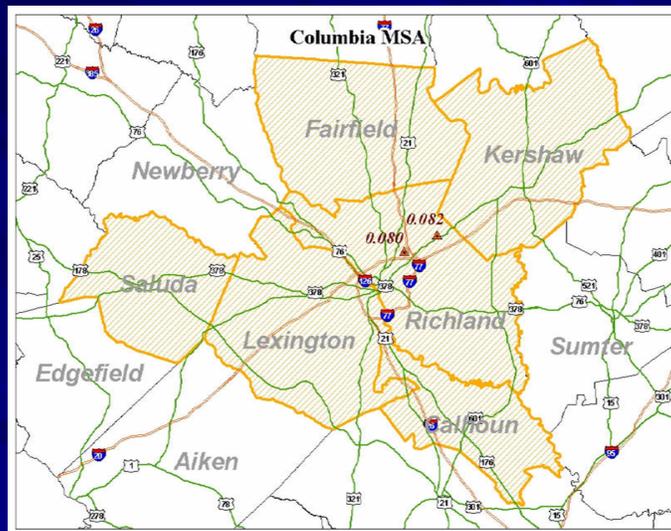
Current Boundary



SC DHEC



Presumptive Boundary



SC DHEC



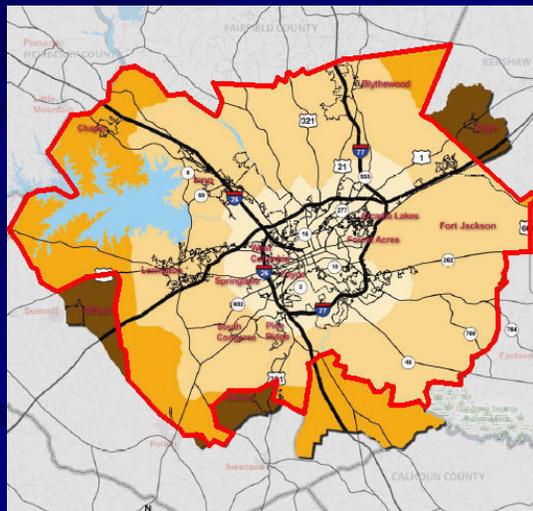
Changes to Boundary

Criteria used to determine boundaries

- 1) Emissions and air quality in adjacent areas.
- 2) Population density and degree of urbanization.
- 3) Monitoring data representing ozone concentrations.
- 4) Location of emissions sources.
- 5) Traffic and commuting patterns.
- 6) Expected and projected growth.
- 7) Climatology / Meteorology.
- 8) Geography / Topography.
- 9) Jurisdictional boundaries.
- 10) Level of control of emissions sources.
- 11) Regional / National emissions reductions.
- 12) **Education and Outreach (DHEC Factor)**
- 13) **Public Participation (DHEC Factor)**



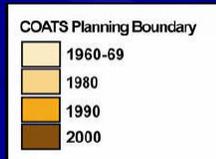
Current Boundary



CMCOG

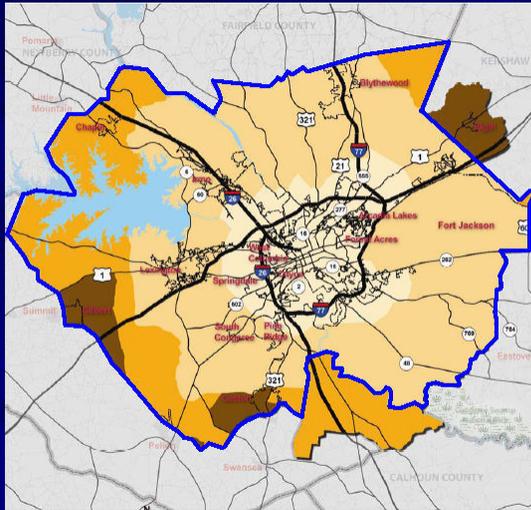
Old non-attainment boundary followed the 1990 COATS planning boundary.

Excluding:
NW Calhoun County



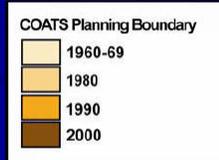


Recommended Boundary



Recommended non-attainment boundary will follow the **2000** COATS Planning Boundary

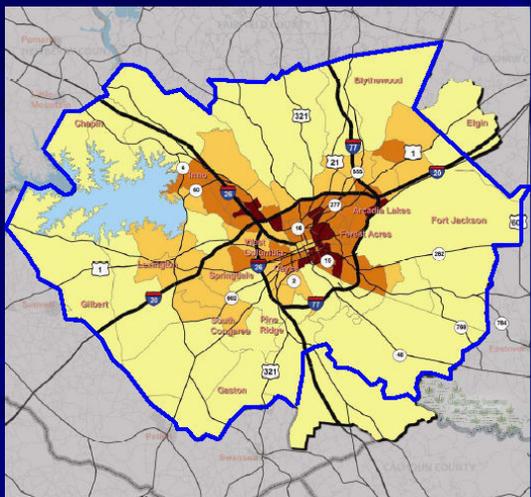
Excluding:
SW Kershaw County
NW Calhoun County



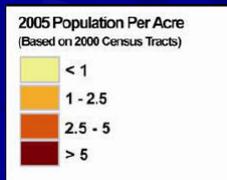
CMCOG



Population Density



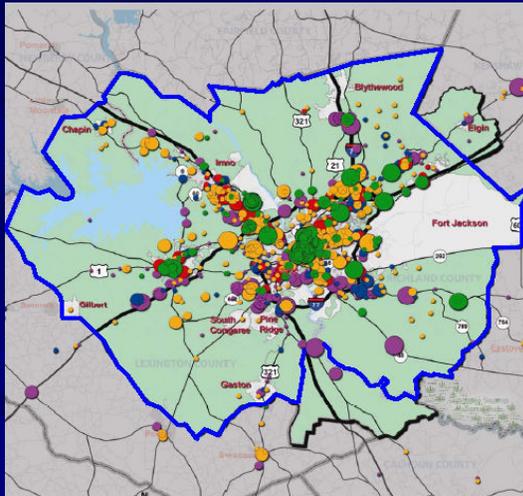
The recommended boundary will cover the areas with the highest concentration of residents within the region.



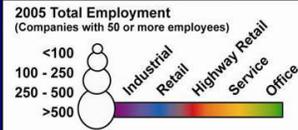
CMCOG



Major Employers



The recommended boundary will cover the areas with the highest concentration of major employers within the region.



CMCOG



Impact of New Boundary

Impact to Richland County

- **If approved by DHEC and EPA...**
 - The new boundary would cover the same geographic area within Richland County as the old boundary.
- **Part of Lower Richland would be excluded:**
 - Low density, primarily rural.
 - Low growth projections (due to infrastructure).
 - Pollution reduction measures at SCANA Wateree Plant.
 - Congaree Bluff monitor meets 0.075 ppm ozone standard.



Requested Action

Action Requested

- **Staff is requesting that council:**
 - **Endorse the proposed non-attainment boundary recommendations; and**
 - **Direct the county administrator to send a letter to DHEC with the county's recommendation during the public comment period.**

Richland County Council Request of Action

Subject

Sheriff: Request to approve a \$5,000 grant from Palmetto Pride (No personnel or matching funds required)
[CONSENT]

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

Richland County Council Request of Action

Subject

Emergency Services: Request to approve a contract with Walter L. Hunter Construction Company, Inc. for storage building site work [**CONSENT**]

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

Richland County Council Request of Action

Subject

Emergency Services: Request to approve the purchase of a Medical Ambulance Bus from Sartin Services, Inc. in an amount not to exceed \$350,000 [**CONSENT**]

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

Richland County Council Request of Action

Subject

An Ordinance amending the Richland County Code of Ordinances, Chapter 2, Administration; Article VIII, Personnel Regulations; Division 6, Conditions of Employment; so as to amend the county's holiday schedule [**CONSENT FOR DENIAL**] [**PAGES 187-189**]

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. _____-08HR

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES, CHAPTER 2, ADMINISTRATION; ARTICLE VIII, PERSONNEL REGULATIONS; DIVISION 6, CONDITIONS OF EMPLOYMENT; SO AS TO AMEND THE COUNTY'S HOLIDAY SCHEDULE.

Pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE COUNTY COUNCIL FOR RICHLAND COUNTY:

SECTION I. The Richland County Code of Ordinances, Chapter 2, Administration; Article VII, Personnel Regulations; Division 6, Conditions of Employment; is hereby amended to read as follows:

Sec. 2-434. Holidays.

(a) *Designated.* The following days shall be designated as nonworking holidays for county employees: New Year's Day, Martin Luther King Jr. Day, George Washington's Birthday, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day (and the Friday following), Christmas Day (and ~~Christmas Eve~~ or the next business day following). Christmas Eve shall be designated a nonworking holiday for county employees if the Governor declares a holiday for state government employees.

(b) Whenever a holiday falls on a Saturday, the preceding Friday shall be observed, unless the preceding Friday shall also be a holiday, in which case the next business day shall be observed. If a holiday falls on a Sunday, the following Monday shall normally be observed as a holiday, unless the following Monday shall also be a holiday, in which case the following Tuesday day shall be observed.

(c) Employees who, for reasons in the best interest of the public, are required to work on a holiday shall, in accordance with federal law or resulting regulations, be paid for or given compensatory time off in lieu of the holiday as may be required.

(d) In order for any county employee to be paid for holidays as provided in this section, such employee shall be required to work the day before and the day after said holiday, or shall be on annual leave, sick leave, or be duly excused from work by proper authority.

SECTION II. Severability. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION IV. Effective Date. This ordinance shall be enforced from and after _____.

RICHLAND COUNTY COUNCIL

BY: _____
Joseph McEachern, Chairperson

ATTEST THIS THE ____ DAY
OF _____, 2008

Michielle R. Cannon-Finch
Clerk of Council

Richland County Council Request of Action

Subject

Eastover Sewer Budget Amendment [**PAGES 190-192**]

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. __-09HR

AN ORDINANCE AMENDING THE FISCAL YEAR 2008-2009 LOWER RICHLAND SEWER SYSTEM BUDGET TO APPROPRIATE ONE HUNDRED EIGHTY-FIVE THOUSAND FIVE HUNDRED AND SIXTY-SEVEN DOLLARS (\$185,567) TO LOWER RICHLAND'S DEPARTMENTAL BUDGET.

Pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE COUNTY COUNCIL FOR RICHLAND COUNTY:

SECTION I. That the amount of one hundred eighty-five thousand five hundred and sixty-seven dollars (\$185,567) be appropriated to the Lower Richland Sewer Budget. Therefore, the Fiscal Year 2008-2009 Lower Richland Sewer Budget is hereby amended as follows:

REVENUE

Revenue appropriated July 1, 2008 as amended:	\$ 92,430
Loan from Broad River Sewer undesignated fund balance	<u>185,567</u>
Total Lower Richland Sewer Budget Revenue as Amended:	\$ 277,997

EXPENDITURES

Expenditures appropriated July 1, 2008 as amended:	\$ 92,430
Increase to Lower Richland's Department Budget:	<u>185,567</u>
Total Lower Richland Sewer Budget Expenditures as Amended:	\$ 277,997

SECTION II. Severability. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION III. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION IV. Effective Date. This ordinance shall be enforced from and after _____, 2008.

RICHLAND COUNTY COUNCIL

BY: _____
Joseph McEachern, Chair

ATTEST THIS THE ____ DAY

OF _____, 2008

Michielle R. Cannon-Finch
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only.
No Opinion Rendered As To Content.

First Reading:
Second Reading:
Public Hearing:
Third Reading:

Richland County Council Request of Action

Subject

Project Loop [PAGES 193-207]

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item

No

On Agenda For Public Hearing

No

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDUCEMENT AGREEMENT AND MILLAGE RATE AGREEMENT BY AND BETWEEN RICHLAND COUNTY, SOUTH CAROLINA, AND [PROJECT LOOP] WHEREBY, UNDER CERTAIN CONDITIONS, RICHLAND COUNTY WILL EXECUTE A FEE IN LIEU OF TAX AGREEMENT FOR A PROJECT INVOLVING NOT LESS THAN FIFTEEN MILLION DOLLARS (\$15,000,000) INVESTMENT AND WILL PROVIDE AN INFRASTRUCTURE TAX CREDIT

WHEREAS, Richland County, South Carolina (the "County"), acting by and through its County Council (the "County Council") is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended ("Act"), to enter into or allow financing agreements with respect to projects (as defined in the Act) through which powers the economic development of the State of South Carolina will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate and remain in the State of South Carolina and thus utilize and employ the manpower, agricultural products and natural resources of the State and benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally;

WHEREAS, the County is authorized by the Act to execute a fee in lieu of tax agreement, as defined in the Act, with respect to such economic development;

WHEREAS, [Project Loop] (the "Company"), has requested the County to participate in executing an Inducement Agreement and Millage Rate Agreement and a Fee in Lieu of Tax Agreement (the "Fee Agreement") ([Project Loop] Project) pursuant to the Act for the purpose of authorizing and of acquiring by purchase or construction of certain building(s), machinery, apparatus, and equipment, for the purpose of a manufacturing and production of steam generation equipment (the "Project"), all as more fully set forth in the Inducement Agreement and Millage Rate Agreement (the "Inducement Agreement") attached hereto;

WHEREAS, based on the Company's representations, the County has determined that the Project would benefit the general public welfare of the County by providing service, employment, recreation or other public benefits not otherwise provided locally; and, that the Project gives rise to no pecuniary liability of the County or incorporated municipality or a charge against the general credit or taxing power of either; and that the purposes to be accomplished by the Project, i.e., economic development, creation of jobs, and addition to the tax base of the County, are proper governmental and public purposes and that the inducement of the location or expansion of the Project within the County and State is of paramount importance and that the benefits of the Project will be greater than the costs;

WHEREAS, the Company has requested the County to provide an infrastructure tax credit (hereinafter referred to as the "Infrastructure Credit") pursuant to Section 4-1-175 of the Act for the purpose of enhancing the infrastructure for the Project all as more fully set forth in the Inducement Agreement attached hereto;

WHEREAS, the Company's project has been previously placed in a multi-county industrial/business park with Fairfield County to provide economic incentives to the Company; and

WHEREAS, the County has determined on the basis of the information supplied to it by the

Company that the Project would be a "project" as that term is defined in the Act and that the Project would subserve the purposes of the Act.

NOW, THEREFORE, BE IT RESOLVED, by the County Council as follows:

Section 1. Pursuant to the authority of the Act and for the purpose of authorizing the Fee Agreement (as described in the Act) for the Project, there is hereby authorized to be executed a Fee Agreement between the County and the Company pertaining to the project involving investment in the principal amount of not less than Fifteen Million Dollars (\$15,000,000).

Section 2. The County has previously placed the project in a multi-county industrial/business park with Fairfield County pursuant to the provisions of Section 4-1-170.

Section 3. Pursuant to the authority of the Act and for the purpose of providing infrastructure to the Project, there is hereby authorized to be issued an Infrastructure Credit pursuant to the provisions of Section 4-1-175 of the Act in the amount of twenty percent (20%) of the first five payments in lieu of taxes collected from the Project. The Infrastructure Credit is payable exclusively from payments in lieu of tax the County receives and retains (i) from the Company under the Fee Agreement authorized in Section 1 hereof and (ii) from the fee in lieu of tax due from the Project as the same will be located in a joint county industrial park existing between the County and Fairfield County. The Infrastructure Credit shall not constitute a general obligation or indebtedness of the County nor a pledge of the full faith and credit or the taxing power of the County.

Section 4. To the extent permitted by law, the County has agreed to assist the Company with and expedite the decision of all zoning and land use planning decisions necessary for the construction, occupancy and use of the Project as a manufacturing facility.

Section 5. The provisions, terms and conditions of the Fee Agreement by and between the County and the Company, and the form, details, and maturity provisions, if any, of the Fee Agreement shall be prescribed by subsequent ordinance of the County Council.

Section 6. The Chairman of County Council is hereby authorized and directed to execute the Inducement Agreement attached hereto in the name of and on behalf of the County, and the Clerk of the County Council is hereby authorized and directed to attest the same; and the Chairman of County Council is hereby further authorized and directed to deliver said executed Inducement Agreement to the Company.

Section 7. Prior to the execution of the Fee Agreement and the provision of the Infrastructure Credit, the County Council will comply with the provisions of the Home Rule Act regarding the procedural requirements for adopting ordinances and resolutions.

Section 8. All orders, resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed. This resolution shall take effect and be in full force from and after its passage by the County Council.

Section 9. It is the intention of the County Council that this resolution shall constitute an official action on the part of the County relating to the inducement of the Project.

Done in meeting duly assembled this 2nd day of December, 2008.

RICHLAND COUNTY COUNCIL

By: _____
Joseph McEachern, Chair of County Council

(SEAL)

Attest this _____ day of

_____, 2008

Michielle R. Cannon-Finch
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only
No Opinion Rendered As To Content

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. _____

AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE IN LIEU OF TAX AGREEMENT BETWEEN RICHLAND COUNTY, SOUTH CAROLINA, AND [PROJECT LOOP]; AND OTHER MATTERS RELATING THERETO INCLUDING, WITHOUT LIMITATION, PAYMENT OF A FEE IN LIEU OF TAXES

WHEREAS, Richland County, South Carolina (the "County"), acting by and through its County Council (the "County Council"), is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44 of the Code of Laws of South Carolina, 1976, as amended (the "Act"), to enter into agreements to provide for payment of a fee in lieu of taxes pursuant to the Act through which powers the industrial development of the State of South Carolina (the "State") and will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate and remain in the State and thus utilize and employ the manpower, agricultural products and natural resources of the State and benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally; and

WHEREAS, the County is authorized by the provisions of Title 4, Chapters 1 and 29 (jointly the "Credit Act") of the Code of Laws of South Carolina, 1976, as amended (the "Code") to provide an infrastructure tax credit (the "Infrastructure Credit"), secured by and payable solely from revenues of the County from payments in lieu of taxes pursuant to Article VIII, Section 13 of the South Carolina Constitution and the Act, for the purpose of defraying a portion of the cost of designing, acquiring, constructing, improving or expanding the infrastructure serving the County in order to enhance the economic development of the County; and

WHEREAS, the County and Fairfield County have established a joint county industrial and business park (the "Park") by entering into an Agreement for Development for a Joint County Industrial Park (the "Park Agreement") in which the Project (herein below defined) will be included; and

WHEREAS, [Project Loop], a corporation duly incorporated under the laws of the State of Delaware (the "Company"), has requested the County to participate in executing an Inducement Agreement and Millage Rate Agreement, and a Fee Agreement pursuant to the Act for the purpose of authorizing and of acquiring and expanding, by construction and purchase, certain land, a building or buildings, and machinery, apparati, and equipment, for the purpose of the development of a facility for the manufacturing and production of steam generation equipment in which the minimum level of investment is not less than \$15,000,000 (the "Project"), all as more fully set forth in the Fee Agreement attached hereto; and

WHEREAS, based on the Company's representations, the County has determined that the Project would benefit the general public welfare of the County by providing service, employment, recreation or other public benefits not otherwise provided locally; and, that the Project gives rise to no pecuniary liability of the County or incorporated municipality or a charge against the general credit or taxing power of either; and, that the purposes to be accomplished by the Project, i.e., economic development, creation of jobs, and addition to the tax base of the County, are proper governmental and public purposes; and, that the inducement of the location or expansion of the Project within the County and State is of paramount importance; and, that the benefits of the Project will be greater than the costs; and

WHEREAS, the County has determined on the basis of the information supplied to it by the Company that the Project would be a “project” as that term is defined in the Act and that the Project would subserve the purposes of the Act; and

WHEREAS, the County is authorized by the Act to execute a fee in lieu of tax agreement, as defined in the Act, with respect to any such project; and

WHEREAS, having determined that the Project will provide public benefits incident to conducting a facility for the manufacturing and production of steam generation equipment, and in order to implement the public purposes enumerated in the Act and in furtherance thereof, and in accordance with the Credit Act, to assist the Company in expanding and maintaining a facility within the State, the County has agreed to provide the Company with an Infrastructure Credit in an amount equal to twenty (20%) percent of the fee in lieu of ad valorem tax payments paid by the Company to the County pursuant to the Fee Agreement (defined below) for each of the first five (5) years; and

WHEREAS, the County Council has previously entered into and executed the aforesaid Inducement Agreement and Millage Rate Agreement, by its Resolution adopted on December 2, 2008; and, will by this County Council Ordinance, authorize a fee in lieu of tax agreement, to include the grant of an Infrastructure Credit in accordance with the Credit Act (the “Fee Agreement”); and

WHEREAS, the Company has caused to be prepared and presented to this meeting the form of the Fee Agreement by and between the County and the Company which includes the agreement for payment of a payment in lieu of tax and the grant of an Infrastructure Credit; and

WHEREAS, it appears that the Fee Agreement, which is now before this meeting, is in appropriate form and is an appropriate instrument to be executed and delivered by the County for the purposes intended;

NOW, THEREFORE, BE IT ORDAINED by Richland County, South Carolina, as follows:

Section 1. In order to promote industry, develop trade and utilize and employ the manpower, agricultural products and natural resources of the State by assisting the Company to expand a manufacturing facility in the State, and acquire by acquisition or construction a building or buildings and/or various machinery, apparati, and equipment, all as a part of the Project to be utilized for the purpose of a facility for the manufacturing and production of steam generation equipment, the execution and delivery of a Fee Agreement, to include the grant of an Infrastructure Credit, with the Company for the Project is hereby authorized, ratified and approved.

Section 2. Based on the Company’s representations, it is hereby found, determined and declared by the County Council, as follows:

- (a) The Project will constitute a “project” as said term is referred to and defined in the Act, and the County’s actions herein will subserve the purposes and in all respects conform to the provisions and requirements of the Act;
- (b) The Project and the payments in lieu of taxes set forth herein are beneficial to the County;
- (c) The Project will benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally;

(d) The Project gives rise to no pecuniary liability of the County or incorporated municipality or a charge against the general credit or taxing power of either;

(e) The purposes to be accomplished by the Project, i.e., economic development, creation of jobs, and addition to the tax base of the County, are proper governmental and public purposes;

(f) The inducement of the location or expansion of the Project within the County and State is of paramount importance; and,

(g) The benefits of the Project will be greater than the costs.

Section 2. Pursuant to the authority of the Act and the Credit Act, there is hereby authorized to be provided, and shall be provided, the Infrastructure Credit of the County to the Company in the amount of Twenty (20%) percent of the fee in lieu of ad valorem tax payments for the first five (5) years of fee in lieu of tax payments on the Project, up to, but not exceeding, the total cost of qualifying expenditures, as defined in the Act and the Credit Act.

Nothing in this Ordinance shall be construed as an obligation or commitment by the County to expend any of its funds other than the portion of the fee in lieu of ad valorem tax payments represented by the Infrastructure Credit derived by the County which shall be payable solely as a credit against the fee in lieu of ad valorem tax payments due by the Company to the County for the Project.

Section 3. The form, terms and provisions of the Fee Agreement presented to this meeting and filed with the Clerk of the County Council be and they are hereby approved and all of the terms, provisions and conditions thereof are hereby incorporated herein by reference as if the Fee Agreement were set out in this Ordinance in its entirety. The Chairman of County Council and the Clerk of the County Council be and they are hereby authorized, empowered and directed to execute, acknowledge and deliver the Fee Agreement in the name and on behalf of the County, and thereupon to cause the Fee Agreement to be delivered to the Company. The Fee Agreement is to be in substantially the form now before this meeting and hereby approved, or with such minor changes therein as are both: (a) not materially adverse to the County, and (b) approved by the officials of the County executing the same, upon the advice of counsel to the County, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of Fee Agreement now before this meeting.

Section 4. The Chairman of the County Council and the Clerk of the County Council, for and on behalf of the County, are hereby each authorized and directed to do any and all things reasonably necessary to effect the execution and delivery of the Fee Agreement.

Section 5. The provisions of this Ordinance are hereby declared to be separable and if any section, phrase or provisions shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions hereunder.

Section 6. All orders, resolutions, ordinances and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed and this Ordinance shall take effect and be in full force from and after its third and final reading.

RICHLAND COUNTY COUNCIL

By: _____
Joseph McEachern, Chair of County Council

(SEAL)

Attest this _____ day of
_____, 2008

Michielle R. Cannon-Finch
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only
No Opinion Rendered As To Content

First Reading: _____, 2008
Second Reading: _____, 2008
Public Hearing: _____, 2009
Third Reading: _____, 2009

**INDUCEMENT AGREEMENT
AND MILLAGE RATE AGREEMENT**

THIS INDUCEMENT AGREEMENT AND MILLAGE RATE AGREEMENT (the “Agreement”) made and entered into by and between Richland County, South Carolina, a body politic and corporate and a political subdivision of the State of South Carolina (the “County”) and [Project Loop] (the “Company”).

WITNESSETH:

ARTICLE I

RECITATION OF FACTS

Section 1.1. As a means of setting forth the matters of mutual inducement which have resulted in the making and entering into of this Agreement, the following statements of fact are herewith recited:

(a) The County is authorized and empowered by the provisions of Title 12, Chapter 44 (the “Act”) Code of Laws of South Carolina, 1976, as amended (the “Code”) through which the industrial development of the State of South Carolina will be promoted and trade developed by inducing new industries to locate in the State and by encouraging industries now located in the State to expand their investments and thus utilize and employ manpower and other resources of the State and benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally.

(b) The Company is considering the acquisition by construction, purchase or lease of facilities and capabilities to be used for a facility for the manufacturing and production of steam generation equipment (the “Project”) in the County. The Project will involve an investment of at least Fifteen Million Dollars (\$15,000,000) within the meaning of the Act and a fee in lieu of tax agreement by and between the Company and the County (the “Fee Agreement”).

(c) The Company has requested the County to assist it through the incentive of a payment in lieu of ad valorem taxes as authorized by the Act.

(d) The County has given due consideration to the economic development impact of the Project, and based on the Company’s representations, has found that the Project and the payments in lieu of ad valorem taxes set forth herein are beneficial to the Project and that the Project would benefit the general public welfare of the County by providing service, employment, recreation or other public benefits not otherwise provided locally; and, that the Project gives rise to no pecuniary liability of the County or incorporated municipality or a charge against the general credit or taxing power of either; and, that the purposes to be accomplished by the Project, i.e., economic development, creation of jobs, and addition to the tax base of the County, are proper governmental and public purposes and that the inducement of the location or expansion of the Project within the County and State is of paramount importance and that the benefits of the Project will be greater than the costs; and, has agreed to effect the issuance and delivery of this Agreement, pursuant to the Act, and on the terms and conditions hereafter set forth.

(e) The County intends to provide an infrastructure credit against payments in lieu of taxes as defined in Section 4-1-175 of the Code (the “Infrastructure Credit”) in an annual amount equal to twenty percent (20%) of the payments in lieu of taxes allocated to the County taxing entities pursuant to the County and Fairfield County, Joint County Industrial and Business Park Agreement previously

established by the County (the "Park Agreement") from the first five (5) years of fee in lieu of tax payments on the Project.

(f) The adoption of ordinances, procedures for the provision of the Fee Agreement to the Company, and the terms of the Fee Agreement itself, shall conform to the applicable provisions of the Act and the Home Rule Act.

ARTICLE II

UNDERTAKINGS ON THE PART OF THE COUNTY

The County agrees as follows:

Section 2.1. The Project will be constructed or installed by the Company on the sites now owned or hereafter acquired by the Company and will involve a capital expenditure of not less than \$15,000,000. The Fee Agreement will contain suitable provisions for acquisition and construction of the project by the Company at the completion or earlier termination of the Fee Agreement.

Section 2.2. The Fee Agreement will be issued at such times and upon such acceptable terms to the County as the Company shall request subject to Section 4.2 herein.

Section 2.3. The terms and provisions of the Fee Agreement by and between the County and the Company shall be substantially in the form generally utilized in connection with the Act as agreed upon by the County and the Company. Such Fee Agreement shall contain, in substance, the following provisions:

(a) The term of the Fee Agreement will coincide with the maximum term of the negotiated fee pursuant to the Act.

(b) The Company will maintain the Project and will (i) keep the Project insured against loss or damage or perils generally insured against by industries or businesses similar to the Company and will carry public liability insurance covering personal injury, death or property damage with respect to the Project; or (ii) self-insure with respect to such risks in the same manner as it does with respect to similar property owned by the Company; or (iii) maintain a combination of insurance coverage and self-insurance as to such risks.

(c) The Fee Agreement shall provide that, in the performance of the agreements contained therein on the part of the County, any obligations the County may incur for the payment of money shall not create a pecuniary liability of the County nor create a general obligation on its part or by the State of South Carolina or any incorporated municipality, but shall be payable solely from the payments received under such Fee Agreement and, under certain circumstances, insurance proceeds and condemnation awards.

(d) The Fee Agreement shall contain agreements providing for the indemnification of the County and the individual officers, agents and employees thereof for all expenses incurred by them and for any claim of loss suffered or damaged to property or any injury or death of any person occurring in connection with the planning, design, acquisition, construction and carrying out of the Project.

(e) The Fee Agreement shall contain a provision requiring the Company to make payments in lieu of taxes. Pursuant to the Act, such payments shall continue for a period of

up to twenty (20) years from the date of the Fee Agreement and each of, the annual capital investments made under the Fee Agreement for the first five years, not counting the initial year of the Fee Agreement, and any amendments or supplements to the Fee Agreement to the extent permitted by law. The amounts of such payments shall be determined by using an assessment ratio of 6.0%, a fixed millage rate based on the June 30, 2008, millage rate as provided in Section 30(D)(2)(a), which is 405.5, and the fair market value (which value is not subject to reassessment as provided in the Act) as determined by using original cost for any real property and original cost less allowable depreciation for any personal property in accordance with Title 12, Chapter 37, Code of Laws of South Carolina 1976, as amended.

(f) The Fee Agreement shall contain a provision for the grant of an Infrastructure Credit in an amount equal to Twenty (20%) percent of the fee in lieu of ad valorem tax payments paid by the Company to the County, pursuant to the Fee Agreement, for each of the first five (5) years.

(g) The County and the Company agree, in accordance with the Act, that the Company may dispose of property subject to fee payments, as set forth in this Section.

(1) When the Company disposes of property subject to the fee, the fee payment must be reduced by the amount of the fee payment applicable to that property.

(2) Property shall be considered disposed of for purposes of this Section only when it is scrapped or sold in accordance with the Fee Agreement.

(3) The Company will be allowed to replace personal property subject to the Fee Agreement to the full extent provided by law.

Section 2.4. Richland County Council agrees that this Agreement constitutes a Millage Rate Agreement, within the meaning of the Act, providing the Company with the millage rate legally levied and applicable on June 30, 2008.

Section 2.5. (a) Richland County Council does hereby agree, subject to the requirements of Section 4-1-175 of the Code, the Act and the Home Rule Act, to undertake the preparation and adoption of an ordinance authorizing the provision of the Infrastructure Credit which shall be made available to pay or reimburse the payment of a portion of or all of the costs of the infrastructure improvements for the Project. The Infrastructure Credit will be payable exclusively from payments the County receives and retains from the Company in lieu of taxes under the Fee Agreement authorized in Section 2.3(e) hereof. The Infrastructure Credit shall not constitute a general obligation of indebtedness of the County nor a pledge of the full faith and credit or the taxing power of the County. Provided, for so long as the Fee Agreement remains in full force and effect, the Infrastructure Credit shall be paid solely by setoff by the Company against fee in lieu of tax payments due under the Fee Agreement.

(b) The undertakings of the County hereunder are contingent upon the Company providing the County with such further evidence as may be satisfactory to the County as to compliance with all applicable statutes and regulations.

ARTICLE III

UNDERTAKINGS ON THE PART OF THE COMPANY

Section 3.1. In accordance with the Act, prior to execution of the Fee Agreement and subsequent to this Agreement, the Company may advance any acquisition or construction funds required in connection with the planning, design, acquisition, construction and carrying out of the Project including any infrastructure and be entitled to subject the constructed or acquired property to the Fee Agreement.

Section 3.2. If the Project proceeds as contemplated, the Company further agrees as follows:

- (a) To obligate itself to make the payments required by the Act including, but not limited to, payments in lieu of taxes at rates calculated in accordance with Section 2.3 (f) hereof;
- (b) To indemnify, defend, and hold the County harmless from all pecuniary liability and to reimburse it for all expenses to which it might be put in the negotiation and fulfillment of its obligations under this Agreement and in the implementation of its terms and provisions;
- (c) To perform such further acts and adopt such further proceedings as may be required to faithfully implement its undertakings and consummate the proposed financing;
- (d) To apply for, and use its best efforts to obtain, all permits, licenses, authorizations and approvals required by all governmental authorities in connection with the acquisition, construction, operation and use of the Project;
- (e) To indemnify, defend and hold the County and the individual directors, officers, agents and employees thereof harmless against any claim or loss or damage to property or any injury or death of any person or persons occurring in connection with the planning, design, acquisition, construction, leasing and carrying out of the Project. The Company also agrees to reimburse or otherwise pay, on behalf of the County, any and all expenses not hereinbefore mentioned incurred by the County in connection with the Project. This indemnity shall be superseded by a more complete expression of indemnity in the Fee Agreement;
- (f) To invest not less than Fifteen Million Dollars (\$15,000,000) in the Project by the fifth succeeding year after the year of the execution of the Fee Agreement; and

ARTICLE IV

GENERAL PROVISIONS

Section 4.1. All commitments of the County are subject to all of the provisions of the Section 4.1.175 of the Code, Act and the Home Rule Act, including, without limitation, the condition that nothing contained in this Agreement shall constitute or give rise to a pecuniary liability of the County or any incorporated municipality or a charge against the general credit or taxing powers of either.

Section 4.2. All commitments of the County and the Company hereunder are subject to the condition that the County and the Company agree on mutually acceptable terms and conditions of all documents, the execution and delivery of which are contemplated by the provisions hereof.

Section 4.3. If for any reason this Agreement is not executed and delivered by the Company on or before December 31, 2008, the provisions of this Agreement shall be cancelled and neither party shall have any rights against the other and no third parties shall have any rights against either party except:

- (a) The Company will pay the County for all expenses which have been authorized by the Company and incurred by the County in connection with the planning, design, acquisition, construction and carrying out of the Project and for all expenses incurred by the County in connection with the authorization and approval of the Fee Agreement or this Agreement;
- (b) The Company will assume and be responsible for all contracts for construction or purchase of the Project entered into by the County at the request or direction of the Company in connection with the Project; and
- (c) The Company will pay the out-of-pocket expenses of officers, agents and employees of the County and counsel for the County incurred in connection with the Project and the execution of this Agreement and the Fee Agreement, and will pay fees for legal services related to the Project as well as related to the negotiation, execution and implementation of this Agreement, the Fee Agreement and other agreements contemplated thereby or hereby.

Section 4.4. The parties understand that the Company may choose not to proceed with the Project, in which event this Agreement shall be cancelled and, subject to the Company's obligations described in Section 4.3, neither party shall have any further rights against the other, and no third party shall have any rights against either party.

Section 4.5. To the maximum extent allowable under the Act, the Company may, without the prior consent of the County, assign (including, without limitation, absolute, collateral, and other Assignments) all or a part of its rights and/or obligations under this Inducement Agreement, the Fee Agreement, or any other Agreement related hereto or thereto, to one or more other entities which are "Related Parties" within the meaning of the Internal Revenue Code without adversely affecting the benefits to the Company or its Assignees pursuant to any such Agreement or the Act.

IN WITNESS WHEREOF, the parties hereto, each after due authorization, have executed this Agreement on the respective dates indicated below.

RICHLAND COUNTY, SOUTH CAROLINA

By: _____
Joe McEachern, Chairman of County Council
Richland County, South Carolina

ATTEST:

By: _____
Michielle Cannon-Finch, Clerk to County Council
Richland County, South Carolina

Dated: _____, 2008

[PROJECT LOOP]

By: _____

Its:

Date: _____, 2008

Richland County Council Request of Action

Subject

Project Coil [**PAGES 208-210**]

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item

No

On Agenda For Public Hearing

No

RESOLUTION

AN INDUCEMENT AND MILLAGE RATE RESOLUTION IDENTIFYING A PROJECT TO SATISFY THE REQUIREMENTS OF TITLE 4, CHAPTER 12 OF THE CODE OF LAWS OF SOUTH CAROLINA, AS AMENDED OR THE REQUIREMENTS OF TITLE 12, CHAPTER 44 OF THE CODE OF LAWS OF SOUTH CAROLINA, AS AMENDED, SO AS TO ALLOW INVESTMENT EXPENDITURES INCURRED BY PROJECT COIL TO QUALIFY AS EXPENDITURES ELIGIBLE FOR A FEE IN LIEU OF TAX ARRANGEMENT WITH RICHLAND COUNTY, SOUTH CAROLINA; AND COMMITTING TO ENTER INTO AGREEMENTS WITH PROJECT COIL TO EFFECT THE INTENT OF THIS RESOLUTION; AND OTHER RELATED MATTERS.

WHEREAS, Richland County (the "County") is authorized and empowered under the provisions of Title IV, Chapter 12, and Title XII, Chapter 44, Code of Laws of South Carolina 1976, as amended (collectively, the "FILOT Statutes"), to enter into agreements with industry concerning a project, as defined in the FILOT Statutes, which requires the industry to make a payment of a fee-in-lieu of taxes, through which powers the industrial development of the State of South Carolina (the "State") and the County will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate and remain in the State of South Carolina and the County and thus to utilize and employ manpower, products, and natural resources of the State of South Carolina and the County to benefit the general public welfare of the County by providing services, employment and other public benefits not otherwise provided locally; and

WHEREAS, the County is presently recruiting an investment in the County by one or more of a particular company, a to-be-formed subsidiary and affiliated entity of such company (collectively, the "Company") in the form of a project to add or improve certain production lines and/or manufacturing capabilities and other expansion investments to be located in the County ("Project Coil"); and

WHEREAS, Richland County Council (the "Council"), in order to induce the Company to locate Project Coil in the County, has committed to the Company that the Council will take certain actions and provide certain incentives, including entering into fee-in-lieu of taxes ("FILOT") agreements providing certain benefits to the Company, if the Company were willing to locate Project Coil in the County; and

WHEREAS, it is anticipated that Project Coil will represent an investment of at least \$10 million in the County to be completed within the five year investment period provided in the FILOT Statutes.

NOW, THEREFORE, BE IT RESOLVED by the Richland County Council that:

1. If the Company decides to locate Project Coil in the County, the Council, upon request by the Company, hereby agrees to enter into one or more agreements under one of the FILOT Statutes as the Company may decide (the "Applicable Statute"), that will provide the Company with the benefits allowed pursuant to a FILOT agreement, including the calculation of such fee on the basis of an assessment ratio of 6% and the other benefits set forth below.
2. The Council agrees to enter into and execute the appropriate fee-in-lieu agreement with the Company at such time as the Company may request, which agreement will reflect the provisions

of this Resolution and such other provisions as the Company may request consistent with this Resolution and with the Applicable Statute. The appropriate fee-in-lieu agreement pursuant to the Applicable Statute shall provide the Company with a millage rate for the purpose of calculating fee payments that is fixed for the life of the FILOT arrangement and is based upon the lowest of the cumulative property tax millage rates legally levied by or on behalf of all taxing entities within which the subject property is to be located on either June 30 of the year preceding the calendar year in which a millage rate agreement or a fee agreement is executed or June 30 of the calendar year in which the millage rate agreement or fee agreement is executed, as permitted under the Applicable Statute.

3. The Council agrees, within reason and upon the advice of legal counsel, to provide the Company with the most favorable provisions allowable under the Applicable Statute with respect to the disposal and replacement of personal property.
4. This Resolution constitutes the reflection and identification of Project Coil for purposes of the FILOT Statutes with respect to the Company, and any Company affiliate.

Done in meeting duly assembled this _____ day of December, 2008.

RICHLAND COUNTY, SOUTH CAROLINA

Joseph McEachern., Chairman of County Council
Richland County, South Carolina

(SEAL)
ATTEST:

Michielle Cannon-Finch, Clerk to County Council
Richland County, South Carolina

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only
No Opinion Rendered As To Content

Richland County Council Request of Action

Subject

Business License Appeal: Dick Smith Automotive Group, Inc. [PAGES 211-222]

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No



DICK SMITH AUTOMOTIVE GROUP, INC.

Richland County
MAR 31 2008
Business Service Ctr.

March 26, 2008

Dear Pam Davis,

Re: Dick Smith Motors, Inc. Account # 2008-3523-2675

This letter is our written request for an appeal hearing regarding the amount of our business license fee for 2008.

The basis for our appeal is the amount of the increase in our business license fee is excessive. Our gross receipts increased approximately 8.25% from the previous year's fiscal year. However, our business license fee increased 167.18%. Using last year's license fee rate, we would have paid \$17,284. Instead, with the increased rate we paid \$43,016.

Due to the March 15th due date, we have paid the fee under protest.

Sincerely,

Brian K. Smith
President and CEO

4030 WEST BELTLINE BOULEVARD • COLUMBIA, SC 29204
(803) 256-6600 • 1-800-944-8570
INTERNET ADDRESS: www.dicksmith.com



DICK SMITH AUTOMOTIVE GROUP, INC.

August 7, 2008

Richland County
AUG 06 2008
Business Service Ctr.

To: Whom it may Concern
Re: Business License Appeal

I'm making my appeal based on the outrageous increase we had last year verses prior year. In my talking to board members they were told prior to approval of the increase the move would be revenue neutral and would bring Richland County in line with what other counties do in this state. We do business all over this state so I'm providing you with a list of what we paid in 2007 and 2008. As you can see Richland County has completely gotten out of line with other counties. I look forward to presenting this information and answering any questions you may have on August 28th.

Sincerely

Brian Smith

4030 WEST BELTLINE BOULEVARD • COLUMBIA, SC 29204
(803) 256-6600 • 1-800-944-8570
INTERNET ADDRESS: www.dicksmith.com



Richland County Business Service Center

2020 Hampton Street, Suite 1050
P.O. Box 192
Columbia, SC 29202

Phone: (803) 576-2287
Fax: (803) 576-2289
bsc@rcgov.us
<http://www.rcgov.us/bsc>

Richland County Business Service Center Response to the Appeal by Dick Smith Automotive Group, Inc.

Requirements to Appeal:

The Richland County Business License ordinance sets forth the requirements of a business to make an appeal, Section 16-18. These are:

- the appeal must be filed with the license official within ten (10) calendar days after the payment of the assessment,
- the notice of appeal must be in writing with the reasons for the appeal stated, and
- the appeal must be accompanied by an administrative fee.

The business has has not met these requirements.

- The date of the postmark of the envelope containing the payment of the business license fee is March 17th. The appeal must be filed no more than ten calendar days from the date of this payment, which is March 27th. See the copy of the envelope and the check stub, with the amount redacted, attached.
- The date of the postmark of the envelope containing the letter providing the notice of appeal is March 31, which is outside the ten day period. Reasons were specified as required in this notice of appeal. See the copy of the envelope and the notice of appeal attached.
- The administrative fee of \$25 was not included with the March 31 notice of appeal. The check for the administrative fee was dated April 11, and date-stamped by the office on April 14th, well outside the ten day period. See the copy of the check stub attached.

Appeal within Scope of Appeals Board:

The Richland County Business License ordinance establishes what conditions a business may make an appeal to the Business Service Center Appeals Board, Section 16-18. These include businesses that dispute:

- a final assessment,
- charge backs from an audit,
- denial of a business license, and/or

- intent to revoke a business license.
- The business is appealing something else. _____

This purpose of the appeal is is not within the scope of the Appeals Board to consider.

The reasons for the appeal of the final assessment are addressed below:

Issues and Responses:

(1) The amount of the increase in our business license fee is excessive.

The business license fee charged to this business is consistent with the rate set forth in the Business License Fee Schedule as adopted by the County Council and that is referred to by the business license ordinance in Section 16-5, Classification and Rates, for establishing business license rates.

Additionally, councils of local governments are authorized to change rates as they deem appropriate.

The business license ordinance does not include any exemptions or reductions based upon the impact to businesses.

The County Council recognizes that businesses with greater revenues pay greater business license fees. To help provide some relief to large businesses, County Council has authorized a declining rate schedule for businesses with revenues exceeding one million dollars. That declining rate schedule is shown below:

Declining rates apply in all classes for gross income over
\$1,000,000.00

Gross Income (In Millions)	Percent of Class Rate for each additional \$1,000
0.00 – 1.00	100%
1.01 – 2.00	95%
2.01 – 3.00	90%
3.01 – 4.00	85%
4.01 – 5.00	80%
5.01 – 6.00	75%
6.01 – 7.00	70%
7.01 – 8.00	65%
8.01 – 9.00	60%
9.01 – 10.00	55%
Over 10.00	50%

This discount schedule was provided in the calculation of the business license fee for this business.

Conclusion:

The County recommends that the Business Service Center Appeals Board:

- dismiss the appeal due to not meeting the requirements of an appeal.
- dismiss the appeal due to the reasons for the appeal not being within the scope of the BSC Appeals Board.
- uphold the decision of the Business Service Center for the reasons provided here.

**ATTACHMENT A:
VERBATIM MINUTES RELATING TO THE
DICK SMITH AUTOMOTIVE GROUP APPEAL HEARING**

MS. DAVIS: The next appeal is with Dick Smith Automotive group and their, their concerns are listed here. Item one the amount of the increase in our business license fee is excessive, and that's their sole issue.

MR. QUATTLEBAUM: Mr. Chairman, I had [inaudible].

MR. WEST: [Inaudible]

TESTIMONY OF BRIAN SMITH:

MR. SMITH: I'm Brian Smith, I'm CO of Dick Smith Automotive group, I won't take much of your time cause I see where this is headed. Just so you know just as a back note I certainly -

MR. WEST: You need to be sworn in.

MR. SMITH: Okay.

MR. WEST: Do you swear or affirm that the testimony that you shall give here today shall be the truth, the whole truth and nothing but the truth?

MR. SMITH: I do. I served with DHEC just like a little background. I served on the DHEC Board for six years so I know all about Executive Session and what happens in Executive Session. So it's a Freedom of Information ploy and it's just government at its finest. The, ya'll have a handout on license fees that we pay. Just as, to add to the gentleman, was it Dennis from Nexsen Pruet, you can see if you look there, we do business in, we have eight different dealerships throughout the State of South Carolina. I've listed the counties and towns and cities that we do business in. The right hand

portion is what the company paid in '07, the left hand portion is what we paid in '08. My Ford store from, from, our Richland County store, which is our Nissan store on Beltline Boulevard, you can throw a stone and hit my Ford store, which is in the City of Columbia. And you can see the difference in '08 because of the increase. So, obviously I understand this is beyond ya'lls purview. I will tell you that it's, it's not fair, it's not right. Having served on the DHEC Board if someone, if we have public hearing with stakeholders and no one showed up, it would probably be an indication to me as a Council member or Board member that staff didn't do their job in notifying the people or affected parties. So I think Mr. West made an excellent point [inaudible] when you asked Pam if anyone showed up. So my recommendation, obviously you can't, you're not gonna waive the increase and I understand it's beyond ya'lls purview. I would say that maybe it would be helpful if you're so inclined to maybe just make a recommendation to County Council from this Appeals Board to either A, increase your powers or B, disband the Appeals Board and to make a recommendation to them that they open this back up for public comment so that car dealerships, which we've been severely affected, I know Jim Hudson and the Dyar organization among others are not very happy with this. We had a meeting with Mr. Montgomery on Monday and we will continue that dialog but it might be helpful if this Appeal Board maybe make that suggestion to County Council that they maybe take that back up. The only other side note I would say and something that the county I think needs to take up is, my Beltline store is located in a Federal Empowerment zone. It's an act by the Clinton Administration in 1993, it basically, if you read the act, the, the federal statutes on it the, the whole, whole point of it is to develop a strategic plan and it's desired, desired effect

of it is to create jobs and opportunities in our nation's most impoverished and urban/rural areas. My Beltline store is located in that Empowerment zone. Federal government gives me a \$3000.00 tax credit for every employee that we hire that works in that zone. At my Beltline location we have five of those employees. So the federal, and also in that Act, if you read the federal government encourages counties and municipalities to work with those businesses to give similar incentives for these businesses to stay open. If you just drive down Beltline Boulevard on your way home, where our dealership's located you can see what happened, is happening to businesses in that area. And so I think that as maybe another suggestion to the County Council is they look at maybe these tougher areas of the county where businesses are leaving and they're all building new dealerships up in Northeast Columbia to maybe give an opportunity for some redevelopment. So with that I'll shut up and let ya'll get on to lunch and you can vote if you want to, I don't know if that, you don't have to unless that's going to maybe take away some of my future rights. But, so with that I'm done.

MR. WEST: Pam, one question I noticed on Mr. Smith's question or spreadsheet here that he's reflecting the gross income rate went from \$.34 to \$.83, is that in fact correct? I mean, obviously that's some type of blended, blended affective rate based on your volume of business.

MR. SMITH: Yeah, we, we have several, we, we get no deductions. It used to be we got a – and you understand in the car business it's a high sale business, high cost to sell business.

MR. WEST: Right cause you obviously take trade ins -

MR. SMITH: Yeah and so we're, yeah -

MR. WEST: - [inaudible] comes revenue, sell the revenue, that becomes revenue again [inaudible] I mean so you -

MR. SMITH: I mean I paid \$16,000 last year, I wish I only paid \$255 so we, we don't have any deductions and never have and we used to have a trade in deduction that we could take away the goods that came in on new cars and that would lower our license fee. But I think they did away with that a long time ago. So it's just, you know, it's not reasonable. I think the biggest, the biggest complaint I have other than no one knowing is that staff informed County Council that this was bringing Richland County in line with other counties in the state. And they used one county as an example, Charleston County. And so to me, again I'm not saying this happened, but certainly County Council was misinformed that this action that they were being asked to take by staff, which is bringing County Council in line with other counties in the state. Now I don't know about every county in the state but I do know about eight and I've given you that information. You can make your own judgment whether or not it's reasonable or not and I would, you know, I would say that it's not. So, you know, the other beef I have is that County Council was misled by staff on the reasonableness on this increase, which, you know, ticks you off, so.

MS. DAVIS: If I might clarify something. Richland County did look at Charleston County as well as Sumter County as well as all the municipalities within Richland County. With an answer to your question of the rate per thousand, that does include the declining rate discount and it does appear to be correct.

MR. WEST: Any further discussion? Motion?

MS. VITON: Dismiss, it's not within our scope.

MR. WEST: Second? Okay the motion is to dismiss as it is not within our scope to [inaudible].

MR. SMITH: Okay, thanks for ya'lls time. We'll see you.

MS. MCLEAN: Vote?

MR. WEST: For? Opposed?

[All approved – 1 abstained?]

MR. WEST: No opposed.

MR. QUATTLEBAUM: [Inaudible]

Richland County Council Request of Action

Subject

Business License Appeal: FN Manufacturing, LLC [**PAGES 223-232**]

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

2008 BUSINESS LICENSE APPEAL

FN MANUFACTURING, LLC

FN Manufacturing, LLC ("FN") employs approximately 735 people in and around Richland County, South Carolina. FN is engaged in the business of manufacturing firearms and sells its products. The vast majority of FN's sales occur in interstate commerce, with a very small portion to customers within South Carolina.

FN objects to Richland County's imposition of the 2008 business license tax for the following reasons:

1. The business license ordinance and the related rate schedule were not properly enacted by Richland County Council.

On July 24, 2007, Richland County Council adopted Ordinance No. 069-07HR (the "Ordinance") which purported to amend the Richland County business license provisions. The Ordinance did not contain a rate schedule on which fees for business licenses would be calculated. On October 16, 2007, Richland County Council approved a rate schedule. This approval did not follow the procedures required by South Carolina state law (S.C. Code § 4-9-120) which provides, among other things, that ordinances enacted by counties must receive public notice, public hearings, and three readings by the county councils.

As such, the Ordinance and the rate schedule were not properly enacted at the time FN's 2008 business license fee was purportedly due. Thus, the County's imposition of 2008 business license fees is impermissible for 2008. Very simply put, there was no valid rate schedule in effect for 2008 and, thus, the County's collection is invalid.

2. Richland County's taxation of non-South Carolina sales is not fairly apportioned and places an impermissible burden on interstate commerce.

It is a well established legal principal that a state's or municipality's taxation of sales occurring in interstate commerce is unconstitutional where the tax is not fairly apportioned and where it discriminates against interstate commerce. Richland County's imposition of the 2008 business license fee with no deduction available for sales made in interstate commerce clearly violates this rule.

3. The Ordinance violates public policy and creates a disincentive for businesses.

Even if the Ordinance and rate schedule had been valid for 2008, they place an unbelievable burden on local businesses. **FN's business license fees increased over**

NPCOL1:1462524.1-LT-(RR) 023532-00162

500-fold, from \$254.90 in 2007 to \$128,865.78 in 2008! The vast majority of this increase was due solely to changes in the Ordinance, including the removal of the deduction for sales occurring in interstate commerce. This 50,734% increase in the business license fees is unconscionable, and was imposed without notice.

FN is a good corporate citizen and significantly contributes to the County's economic benefit. As mentioned, FN employs 735 people in Richland County and recently engaged in a significant expansion project which added to its already substantial investment in the County. The Ordinance discourages future investment. In fact, other foreign companies frequently contact FN regarding the business climate in South Carolina and Richland County (one prospective business called last week). FN's future responses will have to include a discussion of this burdensome tax and the unpredictable and egregious manner in which it was imposed. Why would other large multistate companies locate in Richland County when their interstate and international sales will be so heavily taxed?



Richland County Business Service Center

2020 Hampton Street, Suite 1050
P.O. Box 192
Columbia, SC 29202

Phone: (803) 576-2287
Fax: (803) 576-2289
bsc@rcgov.us
<http://www.rcgov.us/bsc>

Richland County Business Service Center Response to the Appeal by FN Manufacturing

Requirements to Appeal:

The Richland County Business License ordinance sets forth the requirements of a business to make an appeal, Section 16-18. These are:

- the appeal must be filed with the license official within ten (10) calendar days after the payment of the assessment,
- the notice of appeal must be in writing with the reasons for the appeal stated, and
- the appeal must be accompanied by an administrative fee.

The business has has not met these requirements.

Appeal within Scope of Appeals Board:

The Richland County Business License ordinance establishes what conditions a business may make an appeal to the Business Service Center Appeals Board, Section 16-18. These include businesses that dispute:

- a final assessment,
- charge backs from an audit,
- denial of a business license, and/or
- intent to revoke a business license.
- The business is appealing something else. _____

This purpose of the appeal is is not within the scope of the Appeals Board to consider.

However, some of the reasons that the final assessment is disputed are outside the scope of the Appeals Board. The reasons for the appeal of the final assessment are addressed below:

Issues and Responses:

(1) The substantial increase in the 2008 Business License Fee as compared to the prior year's fee is made without substantial justification.

Councils, whether municipal or county, are not required to provide *any* justification for the rates they set for business license fees.

However, they do have the responsibility to ensure that the rates that are set are "reasonable." Therefore, this response will be related to the issue of "reasonableness."

In the court case *US Fidelity and Guaranty Co. v. City of Newberry* (253 SC 197, 169 S.E. 2d 599(1969)), the court held,

"If different rates are to be charged for different classifications, it necessarily follows that the ...council must use its judgment and set the different rates to be collected. In deciding whether the tax is reasonable, it has been held that the reasonableness is largely within the discretion of the ... council."

The court further added in this case,

"One can only speculate on the question of reasonableness by comparison. Reasonableness must be determined by the factual situation involved. It will be assumed, the contrary not being shown, that the council had all facts relative to each classification, including problems and ... expenses brought about by the business in the various classifications."

Consequently, according to the 2008 Business License Handbook produced by the Municipal Association of SC's Business Licensing Officials Association, "the mere fact that the rate charged a company is several times that of businesses in other classifications does not entitle the company to relief." (pg. 6)

Richland County Council exercised its right to adjust the County's business license rates on July 24, 2007 by amending the County's business license ordinance to revise the business license fee structure to be consistent with business license fee structures in cities and counties across South Carolina. This new fee structure has been successfully defended by other SC cities and counties in judicial actions.

(2) The substantial increase in the 2008 Business License Fee as compared to the prior year's fee is not authorized by the Richland County Code of Ordinances.

The 2008 business license fee is authorized by Section 16-5(1), Classification and Rates, of the Richland County Code of Ordinances, which reads as follows:

"The County Council shall establish and approve a Business License Fee Schedule providing a business license rate for each Class of businesses subject to this article."

There are two elements comprising a business license fee which can increase the business license fee: the rate itself and the deductions allowed. The interstate commerce exemption, which this business claimed for 99.77% of its revenue in 2007, is the reason for this business' substantial increase in 2008. The County Council exercised its right to remove the interstate commerce exemption by amending the business license ordinance.

This ordinance was adopted as required by state law. First reading was held on April 3, 2007 and second reading on July 10. The public hearing – advertised in accordance with State law and offering businesses the opportunity to provide comment – and third reading was held on July 24, 2007, with the minutes of that meeting approved at the following Council meeting. Therefore, this business had 99.77% more revenue on which to apply the rate in 2008. This resulted in the significant increase in the business license fee in 2008 over 2007.

(3) The County’s incorrect application of the Richland County ordinance authorizing the business license fee is incorrect.

The business license fee that is charged to this business is consistent with the fee that is set forth in the Business License Fee Schedule and was established by the business license ordinance in Section 16-5, Classification and Rates, for establishing business license rates.

This fee was calculated according to the rate specified for this type of business, which is:

Rate Class 3 for NAICS Codes beginning with 33, Manufacturing	
On the first \$2,000	\$25.00
Each additional \$1,000	\$1.20/thousand

Any revenue reported over one million dollars shall have declining rates applied to each million dollars after the first million dollars, as set forth in the Business License Fee Schedule. This declining rate schedule is shown below:

Declining rates apply in all classes for gross income over
\$1,000,000.00

Gross Income (In Millions)	Percent of Class Rate for each additional \$1,000
0.00 – 1.00	100%
1.01 – 2.00	95%
2.01 – 3.00	90%
3.01 – 4.00	85%
4.01 – 5.00	80%
5.01 – 6.00	75%
6.01 – 7.00	70%
7.01 – 8.00	65%
8.01 – 9.00	60%
9.01 – 10.00	55%
Over 10.00	50%

The tool used to determine the business license fee is the Business Service Center software, which uses this rate to calculate the fee. There is no user interaction in this calculation, thereby avoiding human error. The software was tested extensively prior to implementation to ensure accuracy.

The specified NAICS code indicated on the business’ renewal form is 332994, Small Arms Manufacturing. This NAICS code has not been disputed by the business.

(4) The ordinance itself is incorrect.

The business license ordinance accurately reflects the will of Council. It was adopted by County Council on July 24, 2007, with the minutes of that adoption also approved by Council with no corrections.

This is also addressed in Item 2.

(5) The County's incorrect application of the Richland County ordinance authorizing the business license fee violates FN Manufacturing, LLC's right to equal protection of the law.

The assertion that the application of the Richland County ordinance is incorrect is disputed in Items 2 and 3.

Making the determination that the business' right to equal protection of the law has been violated is a constitutional issue and is not within the scope of the Business Service Center Appeals Board. While the Board may hear an appeal on any basis, any relief provided on this basis must be subsequent to such a determination by a body qualified to make that determination.

(6) The County's incorrect application of the Richland County ordinance authorizing the business license fee violates FN Manufacturing, LLC's right to procedural and substantive due process.

The assertion that the application of the Richland County ordinance is incorrect is disputed in Items 2 and 3.

Making the determination that the business' right to procedural and substantive due process has been violated is a constitutional issue and is not within the scope of the Business Service Center Appeals Board. While the Board may hear an appeal on any basis, any relief provided on this basis must be subsequent to such a determination by a body qualified to make that determination.

(7) The Ordinance and the County's application thereunder further violate state and federal constitutional principals governing interstate commerce.

The 2008 Business License Handbook, produced by the Municipal Association of SC effectively addresses the issue of taxing interstate commerce. See the text below:

Taxable Interstate Commerce

Prior to 1977, a business license tax could not be levied on the privilege of carrying on a business exclusively interstate in character according to the US Supreme Court ruling in *Spector Motor Service, Inc. v. O'Connor*, 340 US 602 (1951). However, the Supreme Court overruled the *Spector* case in *Complete Auto Transit, Inc. v. Brady*, 430 US 274 (1977), and established a four-pronged test for validity of state or local taxes on interstate commerce.

Under that test, a local tax on interstate commerce is valid if:

- (1) the tax is applied to an activity with a substantial nexus [connection] with the taxing state [local government];
- (2) the tax is fairly apportioned;
- (3) the tax does not discriminate against interstate commerce; and
- (4) the tax is fairly related to the service provided by the state [local government].

Many business license ordinances in this state contained an express exemption for interstate commerce in keeping with the law prior to 1977. Where there is such a provision, interstate commerce is not subject to the business license tax. See *Carolina Manufacturing Co. v. City of Greenville*, 260 SC 580, 197 S.E. 2d 665 (1973); *North Myrtle Beach v. GEICO*, (DCSC 1991).

However, most ordinances have been amended to delete the interstate commerce exemption. Therefore, the first inquiry is whether the license ordinance contains an exemption. If it does, no tax is levied. If it does not, the tax may be levied only if all four tests in the *Complete Auto Transit* case are met. In either event, it is necessary to determine whether the activity in question is interstate commerce.

The intrastate activity of a business also engaged in interstate commerce is subject to the tax where the intrastate activity is separable, even if the ordinance exempts interstate commerce.

Richland County's business license ordinance did historically exempt interstate commerce. However, County Council exercised their right to remove this exemption by amending the business license ordinance on July 24, 2007. The exemption's removal was effective on and after January 1, 2008.

Conclusion:

The County recommends that the Business Service Center Appeals Board:

- dismiss the appeal due to not meeting the requirements of an appeal.
- dismiss the appeal due to the reasons for the appeal not being within the scope of the BSC Appeals Board.
- uphold the decision of the Business Service Center for the reasons provided here.

Richland County

MAR 26 2008

NEXSEN | PRUET

Business Service Ctr.

March 26, 2008

James Frederick Reames III
Member
Admitted in SC

VIA HAND DELIVERY

Licensing Official
Richland County Business Service Center
2020 Hampton Street, Suite 1050
Columbia, South Carolina 29201

Re: FN Manufacturing, LLC – 2008 Business License Fee Appeal

Dear Licensing Official:

Our firm represents FN Manufacturing, LLC in this matter. On March 17, 2008, FN Manufacturing, LLC timely paid the 2008 Richland County Business License Fee under protest and now wishes to appeal the assessment and licensing fee to the Business Service Center Appeals Board. An administrative fee in the amount of \$25.00 is enclosed.

Charleston
Charlotte
Columbia
Greensboro
Greenville
Hilton Head
Myrtle Beach

The basis for this appeal is that the substantial increase in the 2008 Business License Fee as compared to the prior year's fee is made without substantial justification and is not authorized by the Richland County Code of Ordinances. The County's incorrect application of the Richland County ordinance authorizing the business license fee, as well as the Ordinance itself, is incorrect, violates FN Manufacturing, LLC's right to equal protection of the law, and its right to procedural and substantive due process. The Ordinance and the County's application thereunder further violate state and federal constitutional principals governing interstate commerce. FN Manufacturing, LLC reserves the right to raise additional reasons for the appeal at a later time.

I look forward to hearing from you at your earliest convenience.

Very truly yours,



Rick Reames III

RR/shp
Enclosure
cc: Ron Vallee, FN Manufacturing, LLC
Mark Knight, Esquire

1230 Main Street
Suite 700 (29201)
PO Drawer 2426
Columbia, SC 29202
www.nexsenpruet.com

T 803.540.2055
F 803.727.1455
E RReames@nexsenpruet.com
Nexsen Pruet, LLC
Attorneys and Counselors at Law

NPCOL1:1326720.1-LT-(RR) 025532-00162

NEXSEN | PRUET

James Frederick Reames III
Member
Admitted in SC

August 13, 2008

VIA HAND DELIVERY

Pam Davis, Director
Richland County Business Service Center
2020 Hampton Street, Suite 1050
Columbia, SC 29201

Re: FN Manufacturing, LLC
Appeals Board Hearing
August 28, 2008

Dear Pam:

As instructed by your July 29, 2008 letter, enclosed please find six (6) copies of FN Manufacturing, LLC's memorandum submitted to the Appeals Board in this matter. I understand that your office will coordinate forwarding the copies to the Board members.

Charleston
Charlotte

Columbia
Greensboro
Greenville

Hilton Head
Myrtle Beach

Raleigh

As we discussed previously, I am out of town the entire week of August 25th through August 29th. I understand that it is difficult to move the hearing, so another attorney practicing in my office will likely represent FN at the hearing.

If you need anything further in advance of the hearing, please feel free to let me know.

Very truly yours,



Rick Reames III

RR/shp
Enclosure

cc: Ron Vallee
G. Marcus Knight, Esquire

1230 Main Street
Suite 700 (29201)
PO Drawer 2426
Columbia, SC 29202
www.nexsenpruet.com

T 803.540.2055
F 803.727.1455
E RReames@nexsenpruet.com
Nexsen Pruet, LLC
Attorneys and Counselors at Law

NPCOL1:1464506.1-LT-(RR) 023532-00162

Richland County Council Request of Action

Subject

Business License Appeal: McEntire Produce [**PAGES 233-262**]

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item

No

On Agenda For Public Hearing

No



Richland County Business Service Center

2020 Hampton Street, Suite 1050
P.O. Box 192
Columbia, SC 29202

Phone: (803) 576-2287
Fax: (803) 576-2289
bsc@rcgov.us
<http://www.rcgov.us/bsc>

Richland County Business Service Center Response to the Appeal by McEntire Produce

Requirements to Appeal:

The Richland County Business License ordinance sets forth the requirements of a business to make an appeal, Section 16-18. These are:

- the appeal must be filed with the license official within ten (10) calendar days after the payment of the assessment,
- the notice of appeal must be in writing with the reasons for the appeal stated, and
- the appeal must be accompanied by an administrative fee.

The business has has not met these requirements.

- The date of the postmark of the envelope containing the payment of the business license fee (did not include the payment of penalties) is June 4th. This envelope also contained the notice of appeal letter. See a copy of the notice of appeal letter, check stub (amount redacted), and the envelope attached.
- The date of the postmark of the envelope containing the payment of the business license penalties (which completed full payment) is June 11th. See a copy of the check stub (amount redacted) and the envelope attached.
- The administrative fee of \$25 was paid on June 19th. Although this administrative fee was paid within the ten days of the payment of the penalty, on June 11th, it was *not* paid within ten calendar days of the notice of appeal letter on June 4th. See the copy of the administrative fee receipt attached.
- The intent of the time limit for appeals is to have a defined period of time in which a business may submit an appeal, i.e., ten calendar days. The total period of time in which all components of the appeal were submitted by the business was fifteen (15) calendar days, from June 4th, when the notice of appeal was submitted, to the payment of the administrative fee on June 19th.

Appeal within Scope of Appeals Board:

5.01 – 6.00	75%
6.01 – 7.00	70%
7.01 – 8.00	65%
8.01 – 9.00	60%
9.01 – 10.00	55%
Over 10.00	50%

The rate for this business was calculated according to this schedule.

The tool used to determine the business license fee is the Business Service Center software, which uses this rate to calculate the fee. There is no user interaction in this calculation, thereby avoiding human error. The software was tested extensively prior to implementation to ensure accuracy.

Additionally, city and county councils are authorized to change rates as they deem appropriate. The Richland County Council changed the business license rate schedule on July 24, 2007 to standardize the rate schedule format with the business license rate schedules of cities and counties across South Carolina.

(10) This [increase] clearly is an unconstitutional taking without justification.

Making the determination that an increase in the business license fee is an unconstitutional taking without justification is a constitutional issue and is not within the scope of the Business Service Center Appeals Board. While the Board may hear an appeal on any basis, any relief provided on this basis must be subsequent to such a determination by a body qualified to make that determination.

The right of governing bodies to charge business license fees as a privilege of doing business, with the measure of the privilege being the business' gross receipts, and applied to those in business for themselves, has been upheld by courts in *Hay v. Leonard (1948)* and *Carter v. Linder (1990)*.

South Carolina Code Section 4-9-30(12) authorizes counties to charge uniform business license taxes on businesses in the county but outside the corporate limits of a municipality.

The issue of justification is addressed below:

Councils, whether municipal or county, are not required to provide *any* justification for the rates they set for business license fees.

However, they do have the responsibility to ensure that the rates that are set are "reasonable." Therefore, this response will be related to the issue of "reasonableness."

In the court case *US Fidelity and Guaranty Co. v. City of Newberry* (253 SC 197, 169 S.E. 2d 599(1969)), the court held,

"If different rates are to be charged for different classifications, it necessarily follows that the ...council must use its judgment and set the different rates to be

collected. In deciding whether the tax is reasonable, it has been held that the reasonableness is largely within the discretion of the ... council.”

The court further added in this case,

“One can only speculate on the question of reasonableness by comparison. Reasonableness must be determined by the factual situation involved. It will be assumed, the contrary not being shown, that the council had all facts relative to each classification, including problems and ... expenses brought about by the business in the various classifications.”

Consequently, according to the 2008 Business License Handbook produced by the Municipal Association of SC’s Business Licensing Officials Association, “the mere fact that the rate charged a company is several times that of businesses in other classifications does not entitle the company to relief.” (pg. 6)

Richland County Council exercised its right to adjust the County’s business license rates on July 24, 2007 by amending the County’s business license ordinance to revise the business license fee structure to be consistent with business license fee structures in cities and counties across South Carolina. This new fee structure has been successfully defended by other SC cities and counties in judicial actions.

(11) This [increase] clearly is an unconstitutional taking without due process.

Making the determination that an increase in the business license fee is an unconstitutional taking without due process is a constitutional issue and is not within the scope of the Business Service Center Appeals Board. While the Board may hear an appeal on any basis, any relief provided on this basis must be subsequent to such a determination by a body qualified to make that determination.

The right of governing bodies to charge business license fees as a privilege of doing business, with the measure of the privilege being the business’ gross receipts, and applied to those in business for themselves, has been upheld by courts in *Hay v. Leonard (1948)* and *Carter v. Linder (1990)*.

South Carolina Code Section 4-9-30(12) authorizes counties to charge uniform business license taxes on businesses in the county but outside the corporate limits of a municipality.

Conclusion:

The County recommends that the Business Service Center Appeals Board:

- dismiss the appeal due to not meeting the requirements of an appeal.
- dismiss the appeal due to the reasons for the appeal not being within the scope of the BSC Appeals Board.
- uphold the decision of the Business Service Center for the reasons provided here.



Richland County

Business Service Ctr.

Richland County Business Service Center
P.O. Box 192
Columbia, SC 29202

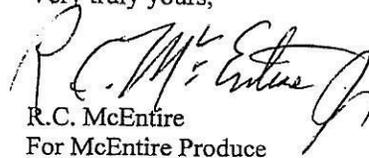
RE: Richland County Business License

Dear Sir or Madam:

Last year our business license was \$480.50. This year it has been increased to \$34,420.54. This has got to be an error. There is no possible way that the license fee could increase a hundredfold in one year. The amount charged is confiscatory and if upheld would certainly discourage any business from coming into Richland County. Why would any large business come to Richland County with these outrageous fees, when they can locate in Lexington County where there are no such fees?

We are paying under protest as provided by the rules, but ask that this matter be on appeal before the county council. By copy of this letter we are submitting it as a written request to be heard within ten (10) days with this payment under protest, as provided by the rules. This clearly is an unconstitutional taking without justification or due process. I look forward to hearing from you as to the time of the appeal requested.

Very truly yours,


R.C. McEntire
For McEntire Produce

cc: Richland County Council
Richland County Clerk
Richland County License Inspector

GRIER LAW FIRM, L.L.C.

2999 Sunset Boulevard, Suite 200
West Columbia, South Carolina 29169

Mailing Address

Post Office Box 2823
Columbia, South Carolina 29202
Telephone (803) 731-0030
Facsimile (803) 731-4059

Upstate Office

Post Office Box 18402
Spartanburg, SC 29318
Telephone (864) 342-0505
Facsimile (864) 342-9705

F. Barron Grier, III*
James C. (Trey) Cox, III
Bradford W. Cranshaw
Lauri Soles Darwin
H. Thomas Morgan, Jr.

E-mail: grier@grierlawfirm.com
Website: www.GrierLawFirm.com

* Also Certified Mediator and Arbitrator

August 5, 2008

Pam Davis, Director
Richland County Business Service Center
P.O. Box 192
Columbia, SC 29202

RE: *McEntire v. Richland County*
Our File No.: 200-019

Dear Ms. Davis:

We are herewith enclosing six (6) copies of last year's Business License Fee of \$480.50 and this year's copy totaling \$34,420.54, plus penalties. I'm also enclosing six (6) copies of this letter and ask that each member be given a copy of this letter as well.

Evidently, the business license increased more than one hundred fold in one year because Richland County at some point (the timing is unknown to us) withdrew an exception for out-of-state sales for agricultural produce. Our client was never advised ahead of time that this was going to take place, as he did not receive adequate notice, adequate opportunity for a hearing, the right to introduce evidence, or the right to confront and cross examine witnesses as required by due process under the Fifth and Fourteenth Amendments of the United States Constitution. I'm enclosing six (6) copies of that statement of law that was decided by our Supreme Court in 2008.

In addition, the law is clear that the County can only exercise powers that have been conferred upon it by the Legislature in expressed terms or by reasonable implication, and as a general rule the grant of power will be strictly construed against the county, Lomax v. City of Greenville 82 S.E.2nd. 191, Blake v. Walker 23 S.C. 517. If a local ordinance or rule is used by the county, the first step is to determine whether the county had the power to adopt the ordinance, and if no power existed, the ordinance is invalid.

August 5, 2008
Page 2

Section 6-1-315 of the South Carolina Code of Laws puts a limit on imposition or increase of business license tax. It states "by ordinance adopted by a positive majority vote, a local governing body may impose a business license tax or **increase the rate** of a business license tax, authorized by Section 4-9-30 (12) and Section 5-7-30." This year the attempted withdrawal of an exception does not meet the statutory definition of empowerment. The statute only allows the county to increase the rate. Withdrawing an exception is not an increase of the rate of the business license tax and, therefore, is invalid. Additionally, Section 5-7-30 applies to municipalities and states that "...but a wholesaler delivering goods to retailers in a municipality is not subject to the business license tax unless he maintains within the corporate limits of the municipality a warehouse or mercantile establishment for the distribution of wholesale goods." McEntire Produce is not in the municipality. Even if he were, that would be a tax by the city and not by the county.

Finally, the withdrawing of the exception for out-of-state gross sales is an Ex Post facto law which is forbidden by the constitution, Article 1 Section 10.

Respectfully submitted,



F. Barron Grter, III

FBG, III/mas
Enclosures



Richland County
 Business Service Center
 2020 Hampton Street, Suite 1050
 Columbia, SC 29202

Phone: (803) 576-2287
 Fax: (803) 576-2289
 E-mail: bsc@rcgov.us
 website: www.rcgov.us/b

PAID RECEIPT

Business License #:3635-2787

Business Location Information

R. C. MCENTIRE AND COMPANY, INC.
 1001 BLUFF Rd
 Columbia, SC 29201

11.07

Charges

<u>Ticket</u>	<u>Description</u>	<u>Fee Description</u>	<u>Fee Paid</u>
12,797	O78 - MERCHANTS WHOLESALE	Business License Fee	\$480.50
		Total Due	\$480.50

Payments

<u>TicketID</u>	<u>Payment Type</u>	<u>Check Number</u>	<u>Amount</u>
12,797	Check	65999	\$480.50
		Total Payment	\$480.50
		Balance Due	\$0.00

Deadline: March 17, 2008

Not All Sections May Apply to Your Business

Section 2: New Businesses Opened Last Year

- Month your business obtained its 2007 business license: Line 1: _____
 - Number of months left in year (including starting month): Line 2: _____
 - Revenue projected in 2007: Line 3: _____
 - Actual revenue in 2007: Line 4: _____
 - Divide Line 4 by Line 2, and multiply by 12 to get an estimated total gross income for 2008. Line 5: _____
 - Difference between Line 3 and Line 4 Line 6: _____
 - If Line 3 is greater than Line 4, subtract Line 6 from Line 5; if Line 3 is less than Line 4, add Line 6 to Line 5 Line 7*: _____
- *Put this number on Line 1 on Page 1

Section 3: Deductions

Allowed:

- Gross receipts fully reported and taxed by another jurisdiction, Revenue amount, if any
Must attach a sheet reporting all jurisdictions and revenues: No sheet – no deductions. \$ _____
- Work covered by a *Richland County* building permit \$ _____
- Gas/excise tax (for gasoline stations ONLY) \$ _____
- Lottery sales \$ _____
- Liquor sales (cannot deduct beer/wine sales) \$ _____

TOTAL*: \$ _____
 *Put this number on Line 2 on Page 1

NOT Allowed:

- Interstate commerce • Vehicle trade-ins • Operational costs • Business losses • Cigarette taxes

Section 4: Business License Fee Calculations

Subtract any deductions, above, from your gross revenue. Find the resulting revenue below. Calculate the fee on each applicable line of the ranges below. Add the amounts together and put on the "Total" line. Construction contractors: If you are located in unincorporated Richland County AND perform work outside Richland County, this section is for revenue from work performed inside Richland County

Revenue Range	Fee Calculation	Fee Due
\$ 0.00 \$ 2,000.00	\$ 20. ⁰⁰	Line 1: \$ 20. ⁰⁰
\$ 2,000.01 \$ 1,000,000.00	\$ 1. ⁰⁰ per \$1,000 or part	Line 2: \$ 998. ⁰⁰
\$1,000,000.01 \$2,000,000.00	95% of rate per \$1,000 or part	Line 3: \$ 950. ⁰⁰
\$2,000,000.01 \$3,000,000.00	90% of rate per \$1,000 or part	Line 4: \$ 900. ⁰⁰
\$3,000,000.01 \$4,000,000.00	85% of rate per \$1,000 or part	Line 5: \$ 850. ⁰⁰
\$4,000,000.01 \$5,000,000.00	80% of rate per \$1,000 or part	Line 6: \$ 800. ⁰⁰
\$5,000,000.01 \$6,000,000.00	75% of rate per \$1,000 or part	Line 7: \$ 750. ⁰⁰
\$6,000,000.01 \$7,000,000.00	70% of rate per \$1,000 or part	Line 8: \$ 700. ⁰⁰
\$7,000,000.01 \$8,000,000.00	65% of rate per \$1,000 or part	Line 9: \$ 650. ⁰⁰
\$8,000,000.01 \$9,000,000.00	60% of rate per \$1,000 or part	Line 10: \$ 600. ⁰⁰
\$9,000,000.01 \$10,000,000.00	55% of rate per \$1,000 or part	Line 11: \$ 550. ⁰⁰
Revenue over \$10,000,000.01	50% of rate per \$1,000 or part	Line 12: \$ 26,652. ⁵⁴

TOTAL*: \$ 34,720.⁵⁴
 *Put this number on Line 4 on Page 1

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which deprive individuals of liberty or property interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment of the United States Constitution.” Kurschner v. City of Camden Planning Comm’n, 376 S.C. 165, 171, 656 S.E.2d 346, 350 (2008). “Due process requires (1) adequate notice; (2) adequate opportunity for a hearing; (3) the right to introduce evidence; and (4) the right to confront and cross-examine witnesses.” Clear Channel Outdoor v. City of Myrtle Beach, 372 S.C. 230, 235, 642 S.E.2d 565, 567 (2007). Procedural due process requirements are not technical, and no particular form of procedure is necessary. Sloan v. S.C. Bd. Of Physical Therapy Exam’rs, 370 S.C. 452, 485, 636 S.E.2d 598, 615 (2006). Rather, due process is flexible and calls for such procedural protections as the particular situation demands. Id. The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner. S.C. Dep’t. of Soc. Servs. v. Beeks, 325 S.C. 243, 246, 481 S.E.2d 703, 705 (1997). To prevail on a claim of denial of due process, there must be a showing of substantial prejudice. Palmetto Alliance, Inc. v. S.C. Pub. Serv. Comm’n, 282 S.C. 430, 435, 319 S.E.2d 695, 698 (1984).

The amended permit for the Sims/McCown joint-use dock was issued in February 2004 and the Olson’s appealed the approval of the amendment the following month. A full hearing was held on the matter before the ALC, where the Olsons challenged the joint-use dock permit approved for Sims and McCown. As noted by the ALC judge, the Olsons participated extensively in the hearing by eliciting testimony, presenting evidence, and confronting witnesses. Thus, the Olsons received an opportunity to be heard at a meaningful time and in a meaningful manner. Furthermore, no prejudice resulted because the Olsons received sufficient notice of the actions of OCRM such that they were able to obtain a hearing before the ALC providing them the opportunities required by due process. We also agree with the ALC judge the fact that Sims and McCown continued construction of the joint-use dock did not violate the Olsons’ due process rights since, had the Olsons been successful in contesting the matter, the ALC could have ordered the removal of the dock. Accordingly, we find no denial of the Olsons’ due process rights.

INCREASE RATE

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Westlaw.

SC ST § 6-1-315
Code 1976 § 6-1-315

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▷

Code of Laws of South Carolina 1976 Annotated Currentness

Title 6. Local Government--Provisions Applicable to Special Purpose Districts and Other Political Subdivisions

Chapter 1. General Provisions

Article 3. Authority of Local Governments to Assess Taxes and Fees

→ § 6-1-315. Limitation on imposition or increase of business license tax.

By ordinance adopted by a positive majority vote, a local governing body may impose a business license tax or increase the rate of a business license tax, authorized by Sections 4-9-30(12) and 5-7-30.

HISTORY: 1997 Act No. 138, § 7.

LIBRARY REFERENCES

Licenses k5.5.

Westlaw Key Number Search: 238k5.5.

C.J.S. Licenses §§ 10 to 12.

Code 1976 § 6-1-315, SC ST § 6-1-315

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Westlaw

SC ST § 5-7-30
Code 1976 § 5-7-30



Code of Laws of South Carolina 1976 Annotated Currentness

Title 5. Municipal Corporations

Chapter 7. General Structure, Organization, Powers, Duties, Functions and Responsibilities of All Municipalities

→ § 5-7-30. Powers conferred upon municipalities; surtax for parking spaces.

Each municipality of the State, in addition to the powers conferred to its specific form of government, may enact regulations, resolutions, and ordinances, not inconsistent with the Constitution and general law of this State, including the exercise of powers in relation to roads, streets, markets, law enforcement, health, and order in the municipality or respecting any subject which appears to it necessary and proper for the security, general welfare, and convenience of the municipality or for preserving health, peace, order, and good government in it, including the authority to levy and collect taxes on real and personal property and as otherwise authorized in this section, make assessments, and establish uniform service charges relating to them; the authority to abate nuisances; the authority to provide police protection in contiguous municipalities and in unincorporated areas located not more than three miles from the municipal limits upon the request and agreement of the governing body of such contiguous municipality or the county, including agreement as to the boundaries of such police jurisdictional areas, in which case the municipal law enforcement officers shall have the full jurisdiction, authority, rights, privileges, and immunities, including coverage under the workers' compensation law, which they have in the municipality, including the authority to make arrests, and to execute criminal process within the extended jurisdictional area; provided, however, that this shall not extend the effect of the laws of the municipality beyond its corporate boundaries; grant franchises for the use of public streets and make charges for them; grant franchises and make charges for the use of public beaches; engage in the recreation function; levy a business license tax on gross income, but a wholesaler delivering goods to retailers in a municipality is not subject to the business license tax unless he maintains within the corporate limits of the municipality a warehouse or mercantile establishment for the distribution of wholesale goods; and a business engaged in making loans secured by real estate is not subject to the business license tax unless it has premises located within the corporate limits of the municipality and no entity which is exempt from the license tax under another law nor a subsidiary or affiliate of an exempt entity is subject to the business license tax; borrow in anticipation of taxes; and pledge revenues to be collected and the full faith and credit of the municipality against its note and conduct advisory referenda. The municipal governing body may fix fines and penalties for the violation of municipal ordinances and regulations not exceeding five hundred dollars or imprisonment not exceeding thirty days, or both.

For the purpose of providing and maintaining parking for the benefit of a downtown commercial area, a municipality may levy a surtax upon the business license of a person doing business in a designated area in an amount not to exceed fifty percent of the current yearly business license tax upon terms and conditions fixed by ordinance of the municipal council. The area must be designated by council only after a petition is submitted by not less than two-thirds of the persons paying a business license tax in the area and who paid not less than one-half of the total business license tax collected for the preceding calendar year requesting the designation of the area. The business within the designated area which is providing twenty-five or more parking spaces for customer use is required to pay not more than twenty-five percent of a surtax levied pursuant to the provisions of this paragraph.

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SC ST § 5-7-30
Code 1976 § 5-7-30

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HISTORY: 1962 Code § 47-32; 1975 (59) 692; 1976 Act No. 729; 1978 Act No. 409, § 1; 1988 Act No. 495, § 2; 1993 Act No. 171, § 1; 1999 Act No. 113, § 21.

Code 1976 § 5-7-30, SC ST § 5-7-30

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<http://web2.westlaw.com/print/printstream.aspx?sv=Split&prft=HTMLF&fn=ton&mt=S> 7/28/2008

**ATTACHMENT A:
VERBATIM MINUTES RELATING TO THE
McENTIRE PRODUCE APPEAL HEARING**

BSC APPEALS BOARD MEETING
September 29, 2008

[Present: Rhonda Willis, Patrice Viton, Teri Salane, William Quattlebaum, William West]

Called to order: 8:58 a.m.

MS. DAVIS: Okay, we'll go on get started. Elizabeth McLean overslept, so she's on her way. We'll go on and get started if you're comfortable with that? And there is one item on the Agenda, which is the next to last item, so hopefully by the time we get to that, she'll be here. If not, then ya'll can decide whether, in fact, we don't even have a copy of that yet, so we can't consider that until she gets here, or postpone it for another meeting or so or do it by email or something along those lines. For you two fellows who don't know me, I'm Pam Davis. I'm the Director of the Business Service Center and we'll go on and get started. Would you like to call the meeting?

CHAIRMAN WEST: I guess we're called to order. One item I would like to amend on the Agenda is at Item Number Four. I have drafted a letter yesterday evening to Joseph McEachern and the Board concerning those items we discussed at the prior meeting and we'll, I'll circulate it and we can discuss it and ya'll can edit it over the next several days or so. I guess the first order is to adopt the Minutes of the meeting of August 28th as mailed to us earlier. Do I have a Motion? Or any corrections?

MS. DAVIS: Hopefully future meeting Minutes won't be quite so lengthy as this one was.

CHAIRMAN WEST: I must say I think we copied down everything.

MS. SALANE: Yeah. I move the approval of Minutes.

MS. VITON: Second.

CHAIRMAN WEST: Any opposed? Any for?

[Approved: Willis, Viton, Salane, Quattlebaum, West]

CHAIRMAN WEST: Alright, the approval of the Minutes passes five to nothing. Item number Three, the Appeals Hearing for McEntire Produce.

TESTIMONY OF BARRON GRIER:

MR. GRIER: It is alright to sit or -

CHAIRMAN WEST: Well, certainly feel free to sit.

MR. GRIER: Okay.

CHAIRMAN WEST: I think, does someone have my swear to tell the whole truth and nothing but the truth and -

MR. GRIER: Well, I'm not a witness; I'm a lawyer here, okay.

CHAIRMAN WEST: We expect that out of lawyers, too, though.

MR. GRIER: I have Buddy McEntire with me. My name is Barron Grier. I thank ya'll for allowing us to be here today and for giving us the time because we had to miss the last one because I had to be in court. So, there are two prongs to my remarks today; one of which is legal that I'll get to kind of last. But the other is practical and, and common sense and I'm gonna start with that. First I'd like for you to know a little bit about my client Buddy McEntire. He, he runs McEntire Produce. His father started that

as a tomato, little stand out at the Farmer's Market back in the day. And Buddy inherited that little stand and has brought it up to a tremendous, good business. He now employs 300 people in this county and he has in a, state trucks, 18-wheelers that go all the way across the country. But I tell you that just to tell you a little background about him. Mr. McEntire kind of changed my life and I want to tell you about that. Buddy and I graduated from high school the same time and I was a young lawyer and he called me up and said that he had been charged with a very minor problem where he could be fined \$50.00 and he said Mr., he said, "Barron I want to fight that because I'm not guilty." And I said, "Oh, Buddy, \$50.00, you know, it's gonna cost you \$2,000.00 to fight the thing even through the trial level, much less appeals." He said, "I don't care about the cost, I'm not guilty." So we went down and tried the case and the jury found him not guilty, but it taught me a lesson about integrity. Sometimes you have to fight things over the principle as much as anything else in your life. And that's why we're here today. Now we are talking real money, but we're not talking millions. But Buddy didn't get to be where he is, employing 300 people, by not having integrity. As a matter of fact, almost all of my friends whose children graduated from high school and some from college that couldn't get jobs, now work for Buddy McEntire. And if he doesn't have a job for them, he creates one for them and there's nothing that builds up integrity more than having a job. And short of health problems, I cannot think of anything worse than not having a job and he provides that. Now why, what does that got to do with why I'm here today? It has everything to do with it. Mr. McEntire has been charged a business license in the past, at late as 2007 for \$480.00. Now why was it so cheap? It was so cheap because 99.9% of his business is out of state, over which this Body has no

jurisdiction. The Interstate Commerce Commission deals with that, not this Body. That's real important. For some reason and unbeknownst to Buddy or anybody in his organization, his tax went from \$480.00 to almost \$35,000.00 in 2008, without notice, without an opportunity to be heard, without an opportunity to appear before any body, without an opportunity to present witnesses, without an opportunity to show that the County Council had no authority to do that. Now the county is bound by the law to only exercise the privileges and authorities that's given to it by the Legislature. The Legislature gives the county to right to assess taxes, and that's what license fees are, or to raise rates. This is not a rate increase. What happened here was the withdrawal of the exemption from out-of-state dealings. Those are governed by the Federal Government, they're governed by PACA, Perishable Agricultural Commodity Act. This county can only tax the business it does in the State of South Carolina. So this exemption is illegal. So, or withdrawing the exemption is illegal because that's what's required by Interstate Commerce. Now, aside from the legalities, and there are Constitutional issues because, you know, due, basic due process requires that you have notice, that you have the opportunity to be heard, that you have the opportunity to confront witnesses against you, and to present evidence on your side. None of that was done. Where the County Attorney is so confused is in his letter to you all, he is saying that this was a rate increase. In no way was it a rate increase. It was a withdrawal of an exemption protected by Federal Law. And it's wrong, and I think that's what I'm here to tell you more than anything else, it's wrong. You cannot run a business by not being able to factor in and budget for increases such as this. He was planning on \$480.00 to \$500.00. Instead he got hit with \$35,000.00. Now the law does also require that if

you're going to have monumental rate increases, which this wasn't, this wasn't a rate increase, don't get confused, but the law requires that if you're gonna raise rates that way, then you have to prove that you're providing additional services. There have been no additional services to McEntire, none. The County Attorney also says, "Well, we're just doing what every other county does." Wrong, they're not, no other county has done this. I know California tried to do it because I took a deposition in California and they tried to tax me for the legal fees in California. The courts out there said no we can't do that. You got no jurisdiction. You only have jurisdiction on inter, intrastate. You don't have interstate and this is violating interstate commerce. So, you know, we can fight this thing through the courts, and I'm telling you we will if we have to, but reasonable people should see this and not feel like they've got to protect something that's wrong. Admit that it's wrong, go ahead and if you need to raise rates in the county, that's one thing. You've got all the power to do that, but you would raise them I'm sure in an incremental period. You would not go from \$500.00 to \$35,000.00 in one year. You just wouldn't do it. The County Attorney also said in his letter that other, other counties do the same. Well I'm here to tell you that's not so because I've practiced law in Richland County for 39 years, 38 years and I had a license fee that I thought was too high for a one man law firm. I later moved to a five man law firm and I moved to Lexington County because they don't have one. They have a city license, but if you're not in the municipality of the City of Lexington, there is no business tax. I don't pay a business tax at all and I'm right over there at the Lexington Hospital. I tell you that because here's a man that's taken a nothing business to employing 300 people in this county that pay taxes and he pays a lot of property taxes, believe me. But we're not

talking about just \$35,000.00, he had to pay a \$6,000.00 penalty on top of that, but we're talking about over the next 10 years almost a half a million dollars on taxes, and, and also Mr. McEntire for the first time in his career, excuse me, the second time since he's been in business, is not making a profit this year. And this comes as a double whammy. Now \$38,000.00 might not sound like a lot of money to a big outfit, but you understand all of this is based on gross income, not net, which I've never understood anyway how that's even legal. But the Supreme Court has said it's legal, so until we get them to change the law, that's it. But how is that legal? I run through my office millions of dollars for clients every year. I don't make millions. Now what if I was taxed on the millions of dollars that I run through my office for my clients? I'd be out of business. He gets a very small percentage of net income. If he didn't everybody here would be out trying to compete with his business. He doesn't make millions of dollars. He bills millions of dollars. He doesn't make millions of dollars and for some reason, and I'll never understand it, nobody can show me how it's right to be taxing somebody on their gross sales. But as I said, 99% of them are out of state, which cannot be taxed by Richland County. So, you know, like I said we can go through the court system, but I'm hoping that this group right here will just see that it's wrong. It's not right to our fellow citizens. I can guarantee you Buddy McEntire would never recommend that anybody come to Richland County to open up a business. Had he known this, he would have never built his building here. He'd have built it in Lexington County and that's terrible, that's terrible for this community. It's terrible for this county; it's shooting yourselves in the foot. So I ask you, look at it hard, look at what's been done, do the right thing. It's pretty simple, do the right thing. Thank you very much. Thank you for hearing me.

CHAIRMAN WEST: Any, any, just, well, you might as well sit down.

MR. GRIER: Alright.

CHAIRMAN WEST: Any questions from the Board? Yes, ma'am.

MS. SALANE: I have a question. Mr. Grier, would you address the timing of the filing of the appeal please, sir?

MR. GRIER: We filed the appeal at, and we paid the rate increase, I mean, the penalty, we made the payment on June 4th. We paid the penalty on June 11th, which I understand is well within the 10-day rule and frankly didn't know about the \$25.00 fee. That was something though that somebody called to our attention after the fact, but we sent that in on June 19th. So that was still within eight days of paying the penalty.

CHAIRMAN WEST: Could you elaborate as to the nature of the business? I mean, I know obviously you're, you're selling produce.

MR. GRIER: Yes, sir.

CHAIRMAN WEST: But, I mean, do you buy the produce from out of state and sell it out of state? Do you, and then the revenue is just channeled through here?

MR. GRIER: Yes sir. We buy, Buddy, you can answer it, but I think we, we buy like 90% from Florida, Georgia, California and we sell it all over the Eastern Seaboard, but very little in South Carolina.

CHAIRMAN WEST: How do you buy this produce?

MR. GRIER: They should -

CHAIRMAN WEST: In other words, in other words do you have agents out in Florida, in Georgia?

MR. GRIER: No, we -

CHAIRMAN WEST: Or is it basically long-time contacts with Mr. McEntire?

MR. GRIER: That's done primarily by the buyers who buy it over the telephone and they ship it here to us, we put it on our trucks and move it out, ship, ship it out. And we do things to the products and then send, send it out to North Carolina, Virginia, all up and down the Eastern Seaboard.

CHAIRMAN WEST: So you do actually ship the product through Richland County?

MR. GRIER: It is, it comes in here and we process it and ship it out.

CHAIRMAN WEST: So there's no incidences where you would buy it in Florida and ship to Alabama?

MR. GRIER: Now that I don't know. Buddy, could you answer that?

TESTIMONY OF BUDDY MCENTIRE:

MR. MCENTIRE: Not at this time, but we do, you know, we, some of where it comes from, theirs is about a month and half or two months, we do buy local in seasons here in South Carolina. But we primarily buy from, you know, where we go, where [inaudible] and at this time we're not doing that. We're not brokering that you're talking about where we buy produce and send it somewhere else and then it comes through here and is charged a fee. We actually take possession of the product.

MR. GRIER: But am I correct that 2%, or one percent of your business is sold here in South Carolina?

MR. MCENTIRE: Very little. Very little.

CHAIRMAN WEST: You made a reference to apparently a Federal Interstate Commerce Legislation, PACA I believe was your reference?

MR. GRIER: Yes, yes, sir.

CHAIRMAN WEST: What -

MR. GRIER: PACA controls all agricultural dealings between the partners and they have exclusive jurisdiction that is, trumps any state or local jurisdictions because, you know, the Federal Government has the exclusive rights to that. And even, even if we have a dispute with the grower and everything else, they'd have to, you can't go to our courts, it has to go to PACA.

CHAIRMAN WEST: Meaning it goes to a Federal Administrative Law Judge? Or a Federal Judge?

MR. GRIER: Yes, yes, sir it does.

CHAIRMAN WEST: Since I presume PACA does not have its own judicial branch?

MR. GRIER: Actually they do, they have their in-house arbitrators and they arbitrate it first, and then if there's an appeal, it goes through the Federal Court.

MR. QUATTLEBAUM: Now your position is though the business license is not legitimate in that PACA has to rule on it or what?

MR. GRIER: Well, they, they have exclusive jurisdiction over all things that are interstate, not intrastate. So you have the exclusive jurisdiction intrastate, Richland County does.

MR. QUATTLEBAUM: But interstate, they do not?

MR. GRIER: Interstate they do not.

MR. QUATTLEBAUM: Well, wouldn't that apply to all tax laws though? I mean, where, where are you drawing your distinction between this business license and income tax?

MR. GRIER: No the agricultural, the agricultural, yeah, well as you know, the agricultural has special laws.

MR. QUATTLEBAUM: Right.

MR. GRIER: And, and that's why, just like the insurance industry is regulated by the insurance industry, like you can't sue the insurance company for certain things, you've got to go through the Insurance Department because they have exclusive jurisdiction? Well, that's the same way it works with PACA, they have the exclusive jurisdiction.

MR. QUATTLEBAUM: And you, but your, your position is, is that this, this removal of the agricultural exemption is not, was not justifiable or, or allowed because of PACA? Is that your position?

MR. GRIER: And the agricultural laws.

MR. QUATTLEBAUM: And the agricultural laws?

MR. GRIER: And, and Interstate Commerce, it violates Interstate Commerce, which is a Constitutional issue.

MR. QUATTLEBAUM: Right.

MR. GRIER: Because -

MR. QUATTLEBAUM: I mean, I think you -

MR. GRIER: - and plus you've got, those getting there, the, excuse me for interrupting.

MR. QUATTLEBAUM: That's alright. I, I was just gonna say I think that, looking at your argument about the, you're saying it's within, it's within the county's powers to increase the rate, but your taxes went up because of the removal of the agricultural exemption?

MR. GRIER: Precisely, precisely. That's exactly right. And I think if ya'll increase the rates, which you have the power to do, you wouldn't increase from a 100% in one year? I mean, I doubt seriously if you would do that. It would be bad business and that's what happened here and this is a 100-fold increase.

CHAIRMAN WEST: Well, unfortunately this, all this legislation and increase formed before we were ever constituted to the Body.

MR. GRIER: Yes, sir. Well, I'm not blaming you, I'm just appealing to you. I think ya'll are the right group to deal with this though. I hope so. [Laughter]

CHAIRMAN WEST: Suffice it to say, we would like to be.

MR. GRIER: Yes, sir.

MS. VITON: But we're not, unfortunately we're not. Our mandate requires that we not try to interpret or change what Council has put in place. And so since they removed the exemption, Council would be the one that would have to reinstate the exemption. We don't get the opportunity to say they were wrong in what they did.

MR. GRIER: So what is ya'll's role?

MR. QUATTLEBAUM: We're still defining that.

CHAIRMAN WEST: We're working very diligently.

MR. GRIER: Do, do, do you make recommendations to them?

CHAIRMAN WEST: We intend to do that, yes, sir. I mean, we, we apparently can make decisions with regard to the classification of your business into which category it would fall under the rate. We can make classifications or decisions, I guess as to, what was that?

MR. QUATTLEBAUM: Yeah computations.

CHAIRMAN WEST: Yeah, the computational issues of the tax. In other words if the Business Service Center had just, you know, messed up computationally and you said hey this is, this isn't correct, you know, we could come in and, and fix that so to speak. Unfortunately, we're not, as it, as our charter currently exists, it does not appear that we are allowed to address Constitutional issues.

MR. GRIER: Yes, I knew that. Only the courts can do that anyway, but here's my problem. Before we can get into the courts, the courts require us to exhaust administrative remedies. So, you know, even if you would say that we can't deal with the Constitutional issue, I need that in writing that I made the argument and that you can't deal with it. That sounds silly doesn't it?

CHAIRMAN WEST: Right, right, I do understand.

MS. SALANE: Right.

MR. GRIER: But I've got to have that before I can get into the court.

MS. SALANE: Or otherwise they will send you back.

MR. GRIER: That's right, that's, that's right.

MS. SALANE: You see where we are?

MR. GRIER: I do, but I'm hoping you can make recommendations because otherwise I have wasted your time and mine.

MR. QUATTLEBAUM: We're in the process of trying to have a dialogue with County Council right now as far as what our role should or should not be or how it should or should not be expanded.

MR. GRIER: I understand, I understand. Well, I certainly appreciate ya'll's time this morning.

MS. VITON: I do believe that you have an opportunity to have a hearing in front of Council. Is that correct?

MS. DAVIS: Um-hum (affirmative).

MR. GRIER: After this hearing?

MS. VITON: After this hearing.

MR. GRIER: Okay, so -

MS. VITON: So you still have another opportunity before you actually have to go to court.

MR. GRIER: Okay, good, that's good, but if ya'll make recommendations, I hope they will be favorable that will certainly go a long way to help us get this resolved. Thank you so much.

MS. VITON: Yes, sir, thank you.

MR. GRIER: I appreciate your time.

CHAIRMAN WEST: Well hang on, hang on once second. I guess we do need to have a formal vote.

MR. GRIER: Oh, okay.

CHAIRMAN WEST: Do I have a motion concerning the appeal to reject or accept or deny?

MS. VITON: I'll make a motion to deny.

CHAIRMAN WEST: A second?

MS. WILLIS: I second.

MR. QUATTLEBAUM: I second.

MS. SALANE: Do we have our, I think we've been encouraged to state a basis for our appeal denial a little bit more than just, you know, a one line. So I, I guess I would just encourage us to say that we're denying the appeal because of the, the appeal has been made without a basis upon which we can render a decision in favor of the appellant, and we have limited authority. And I, I guess on the technical part that they didn't meet the requirements; that's the simplest thing because of the timing of the check and all that kind of stuff. So, at least that's the county's position.

MR. QUATTLEBAUM: But you did pay, but you did pay the business license tax.

MR. GRIER: And the penalty.

MR. QUATTLEBAUM: And the penalty, timely?

MR. GRIER: Yes, well actually we paid the \$25.00 fee timely if, if you look at it from the date of the penalty.

MR. QUATTLEBAUM: Right, the penalty payment. I believe, at least would like to put into the record, just kind of a new process for businesses and, and that I think some leeway should be given as far as the timing.

MS. SALANE: Right, the timing, okay.

CHAIRMAN WEST: And there were some doubts as to the efficacy of its publication and, and, and -

MS. SALANE: I, right, I, I, I remember that, I remember.

CHAIRMAN WEST: - and putting out to the community, the business community.

MR. QUATTLEBAUM: So I hate to just deny their request because they weren't timely.

MS. SALANE: Okay, we'll give it more substance than that.

CHAIRMAN WEST: I'd, I'd, I would, can we amend your, your thing to deny it based on the, the, that they've asked us to, to consider Federal Government Regulations which is outside the scope of our field?

MS. VITON: Scope of limitations.

MS. SALANE: That's perfectly fine.

CHAIRMAN WEST: Okay. Alright, we have a motion to deny the appeal based on the fact that it was submitted requesting consideration of governmental regulations, Federal Government Regulations, with which we are not familiar or capable of making a decision. Do I have a second?

MS. VITON: I second.

CHAIRMAN WEST: For? Or actually voting to reject?

[Approved to deny: Willis, Viton, Salane, Quattlebaum, West]

CHAIRMAN WEST: Okay, five to nothing rejecting the appeal for the above-stated reason.

MR. GRIER: Alright.

CHAIRMAN WEST: Sorry, sir.

MR. GRIER: Thank you so much for your time.

MR. QUATTLEBAUM: Thank you.

MR. GRIER: Have a good day.

MS. SALANE: Thank you, have a good day.

CHAIRMAN WEST: We're getting better at this I suppose.

MS. SALANE: Efficiency wise.

Richland County Council Request of Action

Subject

Lower Richland Property Purchase [EXECUTIVE SESSION] [PAGE

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

Richland County Council Request of Action

Subject

Ruth and Abraham Gold's 50th Wedding Anniversary Resolution [**JETER**]

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item No

On Agenda For Public Hearing No

Richland County Council Request of Action

Subject

Arbor Day Resolution [HUTCHINSON]

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item

No

On Agenda For Public Hearing

No

Richland County Council Request of Action

Subject

Resolution to rename Owens Field Airport [**SCOTT**]

Purpose

Committee Recommendation

Council Action (First Reading)

Council Action (Second Reading)

Public Hearing

On Agenda As A Consent Item

No

On Agenda For Public Hearing

No