

January 10, 2017
Charleston, SC

A regular meeting of Charleston County Council was held on the 10th day of January, 2017, in the Beverly T. Craven Council Chambers, Second Floor of the Lonnie Hamilton, III Public Services Building, located at 4045 Bridge View Drive, North Charleston, South Carolina.

Present at the meeting were the following members of Council: A. Victor Rawl, Chairman, who presided, Anna B. Johnson, Brantley Moody, Teddie Pryor, Joseph K. Qualey, Herbert R. Sass, III, J. Elliott Summey, and Dickie Schweers. Councilmember Henry Darby was absent.

County Administrator Keith Bustraan and County Attorney Joseph Dawson were also present.

The Clerk reported that in compliance with the Freedom of Information Act, notice of meetings and agendas were furnished to all news media and persons requesting notification.

Councilmember Teddie Pryor gave the invocation, and Councilmember Brantley Moody led in the pledge to the flag.

Mr. Pryor moved approval of the minutes of November 15, December 6, December 15, 2016 and January 5, 2017, seconded by Mr. Sass and carried. Mr. Moody stated that he was only voting for approval of the minutes of the January 5, 2017, meeting since he was not serving on County Council in 2016.

An ordinance approving a payment in lieu of taxes agreement with Ferry Wharf Cottages, LLC, was given third reading by title only.

Fleet Landing
Property
Reverter

Ordinance
3rd Reading

AN ORDINANCE
AUTHORIZING THE EXECUTION AND DELIVERY OF
AN AMENDMENT TO THE PAYMENTS IN LIEU OF TAX
AGREEMENT BY AND BETWEEN CHARLESTON
COUNTY, SOUTH CAROLINA AND FERRY WHARF
COTTAGES, LLC, TO PROVIDE FOR ADDITIONAL
PROPERTY TO BE SUBJECT THERETO; AND OTHER
MATTERS

WHEREAS, Patriots Point Development Authority (hereinafter, the "PPDA" and/or "Landlord") is the owner of certain real property located at Patriot's Point in the Town of Mt. Pleasant, County of Charleston, State of South Carolina, designated by TMS No. 517-00-00-118, also known as Parcel E and described in Exhibit A to the First Amendment, as hereinafter defined (being hereinafter referred to as "*Parcel E*"); and

WHEREAS, the development on the Patriot's Point parcels consists of a combination of hotel, office, retail and related uses; and

WHEREAS, Ferry Wharf IV, LLC, a South Carolina limited liability company ("*FW*

IV') is currently tenant, by assignment and assumption, under that certain Lease Agreement dated January 1, 1997 by PPDA, as landlord, with Gulf Stream Capital Associates, L.L.C., as tenant, which interest of tenant was assigned by Gulf Stream Capital Associates, L.L.C. to Charleston Harbor Partners IV Limited Partnership, as tenant, as evidenced by a Short Form Lease for Parcel E dated January 1, 1997, recorded in Book C292, at Page 805 on October 27, 1997, as amended by that certain First Amendment to Lease for Parcel E, dated October 14, 1997, recorded in Book D292, at Page 113 on October 27, 1997, as further amended by Second Amendment to Lease Agreement dated April 20, 2000; as further amended by Third Amendment to Lease Agreement dated April 11, 2001, as assigned by an Assignment of Lease by Charleston Harbor Partners IV Limited Partnership to Ginn-LA Fund IV Charleston PP Land, LLC dated December 17, 2004, recorded in Book X519, at Page 634 on December 20, 2004 as further amended by a Settlement Agreement and Lease Amendment dated May 8, 2008, recorded in Book U664, at Book 828 on July 16, 2008, as further amended by Fourth Amendment to Lease Agreement for Parcel E dated May 8, 2008, recorded in Book U 664, at Page 859 on July 16, 2008, as assigned by that Assignment of Lease by and between LRA Charleston PP Land, LLC and FW IV, dated January 20, 2016, and recorded on January 20, 2016, in Book 0530, at Page 005 in the RMC Office for Charleston County (said Lease Agreement, as amended, being hereinafter referred to as the "*Parcel E Lease*"), whereby Landlord leases to FW IV and FW IV leases from Landlord Parcel E; and

WHEREAS, Ferry Wharf Cottages, LLC, a South Carolina limited liability company ("*FW Cottages*"), as party by assignment and assumption, and Charleston County, South Carolina (the "*County*") entered into that certain "Agreement" (as assigned, hereinafter, the "*PILOT Agreement*," a copy of which is attached to the First Amendment as Exhibit B), with respect to property known as Parcel A-1 (being hereinafter referred to as "*Parcel A-1*"), lying adjacent to Parcel E, which Parcel A-1 is owned by the PPDA and leased to FW Cottages, by assignment and assumption (as assigned and amended, the "*Parcel A-1 Lease*"); and

WHEREAS, by the County's Ordinance No. 1075, enacted October 20, 1998, the County authorized the execution and delivery of the PILOT Agreement; and

WHEREAS, the PILOT Agreement provides, among other things, that: (A) the County would provide all customary County services to FW Cottages, as the tenant and occupant of Parcel A-1, including but not limited to emergency medical services, mosquito abatement, and hazardous material response expertise; and (B) despite the County's agreement to provide such services: (i) the County would not collect any ad valorem real property taxes for Parcel A-1 for the years preceding the date of the PILOT Agreement, and (ii) in lieu of collecting ad valorem real property taxes on Parcel A-1 for the year in which the PILOT Agreement was executed and the remaining years of the term of the Parcel A-1 Lease, the tenant under the Parcel A-1 Lease would make an annual PILOT Payment, as defined and to be calculated as specifically set forth in the PILOT Agreement; and

WHEREAS, the County, FW Cottages and FW IV agree that the PILOT

| | |
|----------|-----------|
| Johnson | - aye |
| Moody | - abstain |
| Pryor | - aye |
| Qualey | - aye |
| Sass | - aye |
| Schweers | - aye |
| Summey | - aye |
| Rawl | - aye |

The vote being seven (7) ayes, one (1) absent and one (1) abstention, the Chairman declared the ordinance to have received third reading approval.

Councilmember Moody cited a conflict of interest and furnished the Clerk with a Statement of Conflict of Interest for the file.

A report was provided by the Finance Committee under date of January 5, 2017, that it considered the information furnished by the Councilmembers elected in 2016 concerning the Planning Commission and the Board of Zoning Appeals appointees. It was stated that the Councilmembers have notified the Clerk of Council's office of their recommended appointments to the Planning Commission and Board of Zoning Appeals. These appointees will serve until December 31, 2020.

Planning
Commission
and BZA

Appointments

| <i>Recommended by:</i> | <u>Planning Commission</u> | <u>Board of Zoning Appeals</u> |
|------------------------|-----------------------------------|---------------------------------------|
| Summey | Eric Meyer | Sam McConnell |
| Darby | Warwick Jones | Kevin Ray |
| Rawl | Kip Bowman | Thomas Goldstein |
| Moody | Pete Paulatos | Lauri Lechner |

Committee recommended that Council:

1. Reappoint Eric Meyer, Warwick Jones, and Kip Bowman and appoint Pete Paulatos to the Charleston County Planning Commission for terms to expire December 31, 2020.
2. Reappoint Sam McConnell, Kevin Ray, and Thomas Goldstein and appoint Lauri Lechner to the Charleston County Board of Zoning Appeals for terms to expire December 31, 2020.

Mr. Summey moved approval of the committee recommendation, seconded by Mr. Pryor, and carried.

The Chairman stated that the next on the agenda was the Consent Agenda.

Mr. Summey moved approval of the Consent Agenda, seconded by Mr. Pryor, and carried.

Consent Agenda items are as follows:

A report was provided by the Finance Committee under date of January 5, 2017, that it considered the information furnished by County Administrator Keith Bustraan and Jeremy Cook, attorney for The Lutheran Homes of South Carolina regarding a request to approve the issuance of JEDA Bonds. It was stated that the proceeds of this South Carolina Jobs-Economic Development Authority ("JEDA") bond issue, which may be issued in one or more series and in an aggregate principal amount of not exceeding \$48,500,000, will be used to (i) refund the Authority's \$43,550,000 First Mortgage Health Care Facilities Refunding and Revenue Bonds (The Lutheran Homes of South Carolina, Inc.) Series 2007, (ii) refund the Authority's \$14,325,000 Economic Development Revenue Refunding Bonds (The Lutheran Homes of South Carolina, Inc.) Series 2012 and (iii) fund reserves and pay certain costs of issuance.

Lutheran
Homes JEDA
Bonds
Resolution

Request to
Adopt

Since this is a JEDA bond issue, there is no impact on any political subdivision's millage.

It was shown that Lutheran Homes and JEDA are requesting that Charleston County, pursuant to JEDA's enabling legislation and federal tax law (1) hold a public hearing relating to JEDA's issuance of bonds on behalf of Lutheran Homes for the above-described project and (2) adopt a resolution in support of the issuance of such bonds.

As with all JEDA bond issues, the issuer of the bonds is JEDA, and a county's sole role is to hold a public hearing and adopt a support resolution. There is no impact on a county's general obligation debt capacity, and no pecuniary liability for a county.

It was also shown that a public hearing on the matter was held on January 10, 2017, at 6:30 PM in Charleston County Council Chambers.

Committee recommended that Council, following a public hearing on the matter, adopt a resolution in support of the issuance of the bonds by the South Carolina Jobs-Economic Development Authority which may be issued in one or more series and in an aggregate principal amount of not exceeding \$48,500,000, will be used to (i) refund the Authority's \$43,550,000 First Mortgage Health Care Facilities Refunding and Revenue Bonds (The Lutheran Homes of South Carolina, Inc.) Series 2007, (ii) refund the Authority's \$14,325,000 Economic Development Revenue Refunding Bonds (The Lutheran Homes of South Carolina, Inc.) Series 2012 and (iii) fund reserves and pay certain costs of issuance.

The Resolution is as follows:

A RESOLUTION IN SUPPORT OF THE ISSUANCE BY THE SOUTH CAROLINA JOBS-ECONOMIC DEVELOPMENT AUTHORITY OF ITS HEALTH CARE FACILITIES REVENUE REFUNDING BONDS (THE LUTHERAN HOMES OF SOUTH CAROLINA, INC.) SERIES 2017,

PURSUANT TO THE PROVISIONS OF TITLE 41, CHAPTER 43, OF THE CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED, IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT EXCEEDING \$48,500,000.

WHEREAS, the South Carolina Jobs-Economic Development Authority (the "**Authority**") is authorized and empowered under and pursuant to the provisions of Title 41, Chapter 43, of the Code of Laws of South Carolina 1976, as amended (the "**Act**"), to utilize any of its program funds to establish loan programs for the purpose of reducing the cost of capital to business enterprises which meet the eligibility requirements of Section 41-43-150 of the Act and for other purposes described in Section 41-43-160 of the Act and thus provide maximum opportunities for the creation and retention of jobs and improvement of the standard of living of the citizens of the State of South Carolina; and

WHEREAS, the Authority is further authorized by Section 41-43-110 of the Act to issue revenue bonds payable by the Authority solely from a revenue producing source and secured by a pledge of said revenues to defray the cost of a business enterprise as defined in the Act; and

WHEREAS, the Authority and The Lutheran Homes of South Carolina, Inc. (the "**Institution**") entered into an Inducement Agreement on September 21, 2016, as amended by Resolution dated November 10, 2016 (collectively, the "**Inducement Agreement**"), pursuant to which and in order to implement the public purposes enumerated in the Act, and in furtherance thereof to comply with the undertakings of the Authority pursuant to the Inducement Agreement, the Authority proposes, subject to such approval by the State Fiscal Accountability Authority of South Carolina, Aiken County, Charleston County, Richland County and Spartanburg County, as may be required by law, to issue not exceeding \$48,500,000 aggregate principal amount of Health Care Facilities Revenue Refunding Bonds (The Lutheran Homes of South Carolina, Inc.), Series 2017 (the "**Series 2017 Bonds**") in one or more series, under and pursuant to Section 41-43-110 of the Act, for the purpose (i) refunding the Authority's \$43,550,000 First Mortgage Health Care Facilities Refunding and Revenue Bonds (The Lutheran Homes of South Carolina, Inc.) Series 2007, (ii) refunding the Authority's \$14,325,000 Economic Development Revenue Refunding Bonds (The Lutheran Homes of South Carolina, Inc.) Series 2012 (collectively, the "**Prior Bonds**") and (iii) paying costs of issuance of the Bonds (collectively, the "**Undertaking**"); and

WHEREAS, the Institution is projecting that the assistance of the Authority by the issuance of the Series 2017 Bonds will result in the maintenance of employment of those engaged in the Undertaking, by maintaining permanent employment for approximately 1,179 people in the aforementioned counties and will continue to stimulate the economy of Charleston County by maintaining payrolls, capital investment and tax revenues; and

WHEREAS, the County Council of Charleston County and the Authority have on this date jointly held a public hearing, duly noticed by publication in *The Post and Courier* on December 14, 2016, a newspaper having general circulation in Charleston County, not

less than 15 days prior to the date hereof, at which all interested persons have been given a reasonable opportunity to express their views.

NOW THEREFORE, BE IT RESOLVED by the County Council of Charleston County, South Carolina, as follows:

Section 1. It is hereby found, determined and declared that (a) the Undertaking and the refunding of the Prior Bonds will subserve the purposes of the Act; (b) the Undertaking and the refunding of the Prior Bonds are anticipated to benefit the general public welfare of Charleston County by providing services, employment, recreation or other public benefits not otherwise provided locally; (c) the Undertaking and the refunding of the Prior Bonds will give rise to no pecuniary liability of Charleston County or a charge against its general credit or taxing powers, and the issuance of the Series 2017 Bonds will not constitute an indebtedness of Charleston County of any kind or within the meaning of any state constitutional provision or statutory limitation; (d) the amount of Series 2017 Bonds required for the purposes described herein is not exceeding \$48,500,000; and (e) the documents to be delivered by the Institution and the Authority with respect to the Series 2017 Bonds will provide, among other things, (i) for the amount necessary in each year to pay the principal of and interest on the Series 2017 Bonds, (ii) whether reserve funds of any nature will be established with respect to the retirement of the Prior Bonds (and, if any such reserve funds are to be so established, the amount necessary to be paid each year into such funds), and (iii) that the Institution shall maintain the facilities and carry all proper insurance with respect thereto.

Section 2. The County Council of Charleston County supports the Authority in its determination to issue the Series 2017 Bonds to defray the costs related to the Undertaking and the refunding of the Prior Bonds.

Section 3. All orders and resolutions and parts thereof in conflict herewith are to the extent of such conflict hereby repealed, and this resolution shall take effect and be in full force from and after its adoption.

Adopted this 10th day of January, 2017.

CHARLESTON COUNTY, SOUTH CAROLINA

(SEAL)

Chairman of County Council

ATTEST:

Clerk to County Council

**Relocate and
Abandon
Easement –
Orleans Road**

**Request to
Approve**

A report was provided by the Finance Committee under date of January 5, 2017, that it considered the information furnished by County Administrator Keith Bustraan and Zoning and Planning Director Joel Evans regarding a request to abandon and relocate a drainage easement on a piece of property located on Orleans Road. It was stated that the property owner of TMS # 351-13-00-078 and 351-13-00-077 is in the process of developing these properties, located on Orleans Road in the unincorporated portion of the St Andrews area of Charleston County. The owner of these properties is requesting to abandon the existing 15-foot open ditch public drainage easement in order to facilitate their proposed development plans. The owner is proposing to dedicate and construct a relocated new 30-foot piped public drainage easement.

Committee recommended that Council approve the abandonment and relocation of the publicly dedicated drainage easement through these properties with the following conditions:

1. The property owner is responsible for the relocation and construction of the new 30-foot drainage easement.
2. Construction is to be authorized with an encroachment permit issued by Public Works Department. The encroachment permit will include scheduling of the relocation of the drainage easement prior to filling of the existing drainage way.
3. The plat along with a warranty deed, provided by the property owner, will not be recorded in the RMC office until the drainage easement has been relocated and approved by the Public Works Department.
4. Two (2) year maintenance bond for 20% of the easement related construction cost to be provided to the County.

**Rebecca
Collins Drive
Dedication**

**Request to
Approve**

A report was provided by the Finance Committee under date of January 5, 2017 that it considered the information furnished by County Administrator Keith Bustraan and Environmental Management Director Andrew Quigley regarding the dedication of the right-of-way for Rebecca Collins Drive. It was stated that as a part of the agreement with the RCRM Family Limited Partnership for the purchase of property along the Palmetto Commerce Parkway in North Charleston for a new Material Recovery Facility (MRF), the County agreed to relocate a driveway utilized by Republic Services which splits the County's property.

The relocated road, Rebecca Collins Drive, is approximately 1025 feet long with curb and gutter, a drainage system, a sidewalk and turn lanes on Palmetto Commerce Parkway. The road was built to City of North Charleston standards and they have accepted dedication of the right of way.

In October of 2015 the County Council approved construction of Rebecca Collins Drive in the City of North Charleston.

Committee recommended that Council approve the dedication of the Rebecca Collins Drive right of way to the City of North Charleston and authorize the County Administrator to sign the plat transferring the property to the City.

A report was provided by the Finance Committee under date of January 5, 2017, that it considered the information furnished by County Attorney Joe Dawson regarding the need to adopt a resolution declaring the results of the November 8, 2016, Charleston County Sales Tax Referendum.

Committee recommended that Council adopt a resolution declaring the results of the November 8, 2016, Charleston County Sales Tax Referendum.

The resolution is as follows:

**A RESOLUTION DECLARING RESULTS OF THE NOVEMBER 8, 2016,
CHARLESTON COUNTY SALES TAX REFERENDUM**

WHEREAS, on November 8, 2016, there was conducted in connection with the General Election held that day, a referendum (the "Referendum") at which the following questions were submitted to the qualified electors of Charleston County (the "County"):

Question 1: I approve a special sales and use tax in the amount of one-half (1/2) of one percent to be imposed in Charleston County for not more than twenty-five (25) years, or until a total of \$2,100,000,000 in resulting revenue has been collected, whichever occurs first. The sales tax proceeds will be used to fund the following projects:

Project (1) For financing the costs of highways, roads, streets, bridges, and other transportation-related projects facilities, and drainage facilities related thereto, and mass transit systems operated by Charleston County or jointly operated by the County and other governmental entities. \$1,890,000,000.

Project (2) For financing the costs of greenbelts. \$210,000,000.

Question 2: I approve the issuance of not exceeding \$200,000,000 of general obligation bonds of Charleston County, payable from the special sales and use tax described in Question 1 above, maturing over a period not to exceed twenty-five (25) years, to fund completion of projects from among the categories described in Question 1 above.

Sales Tax
Referendum
Results
Resolution

Request to
Adopt

WHEREAS, the managers of election appointed by the Board of Voter Registration and Elections of Charleston County, South Carolina (the "Board") conducted the Referendum and have delivered to the Board a written return of the results of the Referendum; a hearing on challenged and other provisional ballots in the Referendum was duly conducted on November 11, 2016, and disposition of such ballots has been completed in compliance with law; the written returns for each precinct in the County have been duly canvassed;

WHEREAS, the Board has certified the results of the Referendum to the County Council of Charleston County in accordance with Section 4-37-30(A)(4)(b) of the Code of Laws of South Carolina 1976, as amended;

NOW THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF CHARLESTON COUNTY, SOUTH CAROLINA, IN MEETING DULY ASSEMBLED, AS FOLLOWS:

Section 1. The first question in the Referendum resulted favorably to such question submitted therein, there being 85,866 votes in favor of the first question and 80,490 votes being cast in opposition to the first question.

Section 2. The second question in the Referendum resulted favorably to such question submitted therein, there being 87,631 votes in favor of the second question 74,591 votes being cast in opposition to the second question.

Section 3. This Resolution shall forthwith be filed in the office of the Clerk of Court of Common Pleas and General Sessions for Charleston County, South Carolina in accordance with the provisions of Section 4-15-60 of the Code of Laws of South Carolina 1976, as amended.

Section 4. This Resolution becomes effective immediately upon its adoption by the County Council.

Adopted this 10th day of January, 2017.

(SEAL)

Chairman
County Council of Charleston County, South Carolina

ATTEST:

Clerk
County Council of Charleston County, South Carolina

**Council
Comments**

The Chairman stated that he had been made aware that the State Infrastructure Bank had requested applications from other entities for funding of future projects and that he had asked staff to put together an application package on behalf of Charleston County to include the SC-41 project, the Main Road at US-17 flyover project, and any other project staff believed would be eligible for the application requirements.

The Chairman asked if any other Councilmember wished to address the Body.

Ms. Johnson stated that every community matters and she hoped to see the quality of life for all citizens of Charleston County improve in the year ahead.

Mr. Schweers said "GO TIGERS!"

There being no further business to come before Council, the Chairman declared the meeting to be adjourned.

Beverly T. Craven
Clerk, Charleston County Council