

AN ORDINANCE

TO DISSOLVE THE EXISTING AWENDAW SPECIAL TAX DISTRICT, THE BOONE HALL FIRE DISTRICT AND THE MCCLELLANVILLE AREA FIRE DISTRICT, AND TO SIMULTANEOUSLY CREATE THE NEW AWENDAW CONSOLIDATED FIRE DISTRICT, AND OTHER MATERS RELATED THERETO.

WHEREAS, the Awendaw Fire Department is a department of Charleston County Government, by virtue of Ordinance No. 510, enacted December 29, 1983, which, pursuant to SC Code Section 4-9-30(5), created the Awendaw Special Tax District for the purpose of providing fire protection; and

WHEREAS, The Boone Hall Fire District was created by resolution of County Council, pursuant to SC Code Section 4-19-10 et seq., adopted February 2, 1988, and

WHEREAS, the McClellanville Area Fire District was created by resolution of County Council, pursuant to SC Code Section 4-19-10 et seq., adopted September 3, 1991, and

WHEREAS, Charleston County Council wishes to undertake action to dissolve the Awendaw Special Tax District, the Boone Hall Fire District, and the McClellanville Area Fire District, and to immediately reconstitute the Districts as the Awendaw Consolidated Fire District, and

WHEREAS, Charleston County Council does not intend to abolish the East Cooper Fire District as part of these actions, and

WHEREAS, SC Code Section 4-19-20 sets forth the prerequisites to the creation of a fire protection district,

NOW, THEREFORE, BE IT ORDAINED by Charleston County Council, in meeting duly assembled, as follows.

1.0 Findings of Fact

1.01 Authority to establish fire protection districts

Pursuant to the County Council=s general police power to provide for the public health, safety and general welfare of residents of the county and to provide for fire protection services pursuant to the provisions of Chapter 19 of Title 4 of the Code of Laws of South Carolina, counties are empowered to establish, operate

and maintain a system of fire protection, through, *inter alia*, designating an area of the county where such services may be furnished.

1.02 Current Fire Protection Services

The County currently has one special tax district, created pursuant to SC Code Section 4-9-30(5), providing fire protection in the East of the Cooper area, the Awendaw Special Tax District, operating as a county department. The County also has three fire protection districts created under SC Code Section 4-19-10 et seq., the East Cooper Fire District, the Boone Hall Fire District, and the McClellanville Area Fire District. The Boone Hall Fire District and the McClellanville Area Fire District provide fire protection through contracts with the Awendaw Special Tax District. The East Cooper Fire District provides fire protection services through a contract with the Town of Mt. Pleasant.

1.03 Benefits of Consolidation

The public will benefit by the consolidation of Awendaw Special Tax District, the Boone Hall Fire District, and the McClellanville Area Fire District into one consolidated district through, *inter alia*:

- ! the opportunity for increased staffing levels.
- ! the opportunity for improved fire protection.
- ! the opportunity for reduced fire insurance rates, and
- ! the simplification of administration and elimination of confusion in fire protection in the service area.

1.04 Compliance with statute

On January 25, 2005, Charleston County Council adopted a resolution, pursuant to SC Code Section 4-19-20, directing that a public hearing be held on the question of the abolition of the Awendaw Special Tax District, the Boone Hall Fire District, and the McClellanville Area Fire District, and the establishment of the Awendaw Consolidated Fire District. On February 15, 2005 at 6:30 P.M. a public hearing was held before County Council.

2.0 Establishment of fire protection district; dissolution of existing districts

2.01 Subject to the effective date herein, the Charleston County Council, acting within the authority granted by the constitution, subject to the general law of this state, exercises its power to adopt this ordinance creating a fire protection district covering the service area defined herein, in order that fire protection services as described in this ordinance can be rendered and operations throughout the service area be created and revenues raised by appropriate measures to fund the installation and operation of such services.

2.02 It is intended that the fire protection district created herein shall be empowered to operate with the full powers and provide the full extent of fire services as such powers are now or hereafter may be defined by law, subject to decisions of County Council or its designees as to the scope of such fire protection services. The district shall operate as a department of county government, at the direction of the County Administrator or his designee(s). The district is authorized to operate under the name ~~the~~ Awendaw Consolidated Fire District[®] and may display such operating name(s) and such insignia as are approved by the County Administrator.

2.03 Subject to the effective date herein, Council hereby dissolves and abolishes the Awendaw Special Tax District, the Boone Hall Fire District, and the McClellanville Area Fire District, to be immediately reconstituted as the Awendaw Consolidated Fire District, succeeding to all rights, title and interests of the dissolved districts as set forth herein.

3.0 Service Area

3.01 The area to be included within the proposed fire protection district shall include the area formerly included in the Awendaw Special Tax District, the Boone Hall Fire District and the McClellanville Area Fire District. In addition, this area is intended to generally encompass the remaining unincorporated areas of the County in what is known as the East Cooper area of the County north of the municipal boundary of the Town of Mount Pleasant, including, but not limited to, the communities of South Santee and Germantown and surrounding areas. The specific boundaries of, and parcels of property within, the Consolidated District are as shown on a map prepared by and on file with the Charleston County GIS department, entitled ~~the~~ Awendaw Consolidated Fire District[®] attached hereto and incorporated herein by reference, along with a listing of the parcel identification numbers of all parcels of real property included.

3.02 Only those unincorporated island and marshland areas which are accessible by an all-season roadway capable of supporting fire suppression apparatus will be serviced. Service to other unincorporated island and marshland areas may be extended thereto when financially and operationally feasible, as determined by County Council.

4.0 Financing Costs of Services

4.01 There will be levied ad valorem taxes for the operation and maintenance of the consolidated district, in an amount to be determined annually by County Council. County Council may also from time to time supplement the costs of equipping and operating the consolidated district from other funding sources.

4.02 Initially there will not be imposed within the consolidated district rates and charges for operations and maintenance of the consolidated district, but that

County Council reserves the ability to impose such rates and charges in the future if deemed desirable. In addition, the County reserves the right to charge fees for fire protection services pursuant to SC Code Section 12-37-235 to properties exempt from taxation under SC Code Section 12-37-220.

4.03 The County Council shall be empowered to issue general obligation bonds of the county, payable from an ad valorem tax levied within the district, for the purpose of providing fire protection service in the district.

5.0 Advisory board--Created; composition; terms.

5.01 There is hereby created for the purpose of advising Charleston County Council of the nature and level of fire services to be provided in the Awendaw Consolidated Fire District an advisory board to be known as the Awendaw Consolidated Fire District Advisory Board. This board shall consist of nine members. Seven members of the commission shall be residents of the district appointed by the Charleston County Council for terms of two years, or until their successors are duly appointed. One member shall be a resident of the Town of McClellanville, appointed by the Town Council for a term of two years, or until his or her successor is duly appointed, provided that a contract is in effect between the County and the Town. One member shall be a resident of the Town of Awendaw, appointed by the Town Council for a term of two years, or until his or her successor is duly appointed, provided that a contract is in effect between the County and the Town. County Council may, by resolution, establish staggered terms for the members of the Advisory Board.

5.02 The advisory board shall adopt suitable bylaws, rules and regulations for its proper operation; provided however, that such bylaws, rules and regulations are not inconsistent with the general policy established by the Charleston County Council. The advisory board shall meet at such times and places as may be determined by the chairman and shall meet at least once each quarter.

5.03 Should a member appointed by County Council reside in a location which becomes annexed by the Town of McClellanville or the Town of Awendaw, the member shall continue to serve until his or her term expires or he or she chooses to resign. He or she may not serve thereafter unless appointed by the annexing town. Insofar as the District is intended to serve the unincorporated area, and the Towns of McClellanville and Awendaw by contract, if a member of the board resides in a location which is annexed by the Town of Mount Pleasant, that member shall no longer be eligible to remain on the board, and the seat shall be vacated upon such annexation.

5.04 The Awendaw Consolidated Fire District Advisory Board shall have the following powers and duties:

To confer with and advise the County Administrator and County Council on all

matters relating to fire protection services within the Consolidated District and other fire districts where Consolidated District provides fire protection service at the discretion of County Council.

To collect data and information as to the type of fire protection services best suited to the Consolidated District.

To cooperate with the fire departments, fire boards and commissions in the county and with all and any other agencies and organizations within and without the county which the advisory commission may desire to cooperate with in the furtherance in the development of efficient fire protection for the Consolidated District.

To recommend to County Council for its consideration a budget setting the level of ad valorem taxes to be collected within the district during the fiscal year. The budget shall identify all anticipated sources of revenue and expenditures of the Consolidated District for the budget year. The fiscal year of the Consolidated District shall run from July 1 and run to June 30 each successive year.

To perform other such actions as are deemed necessary by the Advisory Board to promote and enhance fire protection within the Consolidated District.

5.05 Same--Limitation of powers.

Except as may otherwise be provided by ordinance, the powers and duties of the Advisory Board are of an advisory nature only, and the Advisory Board shall not have any powers or duties which would conflict with or supersede the powers and duties of the county council or of the County Administrator, or other county commissions or boards.

6.0 Contracts

The County Administrator is empowered to enter into such contracts as are necessary or beneficial for the purposes of the Consolidated District, including, but not limited to, contracts to provide fire protection services to the Towns of Awendaw and McClellanville. Any necessary or beneficial mutual aid or automatic aid agreements, and other agreements and lawful expenditures of funds beneficial to the purpose of the District are also hereby authorized.

7.0 Transfer of Rights and Interests; Contracts Ratified

All assets, liabilities, contracts, choses in action, entitlements (including specifically, without limitation, all rights to payments from any municipality due now or to become due in the future, in connection with the annexation of any properties from the current or future districts), property, rights and responsibilities and property interests of whatever kind owned or held by the Awendaw Special Tax District, the Boone Hall Fire District and the McClellanville Area Fire District, or the County on their behalf, are hereby assigned to the new Consolidated District, to pass instantaneously with no lapse in time upon the effective date and time of the creation of the Consolidated District, which shall be as of 12:01 A.M.

July 1, 2005. All contracts in force in the former districts, with the exception of the contracts between the Boone Hall and McClellanville Area districts and the Awendaw Special Tax District for fire protection services, shall be and are hereby ratified for use of the Consolidated District, if still in effect as of the effective date of the creation of the Consolidated District, and subject to their terms and to the authority of the County to amend and/or terminate them. The Consolidated District shall assume all obligations and liabilities of, and all claims against, the districts to be dissolved under said contracts as if the Consolidated District were an original party to the contracts.

8.0 Effective date of Ordinance; effective date of dissolution of districts and creation of Consolidated District.

This ordinance shall be effective upon approval following third reading. The dissolution of the Awendaw Special Tax District, the Boone Hall Fire District, and the McClellanville Area Fire District, shall occur simultaneously, with no lapse in time, upon the effective date and time of the creation of the Awendaw Consolidated Fire District, which shall be as of 12:01 A.M. July 1, 2005. Until such time, the districts to be dissolved and consolidated shall continue to function in their separate respective capacities.

9.0 Miscellaneous.

9.01 Severability. If any one or more of the provisions or portions hereof are determined by a court of competent jurisdiction to be contrary to law, then that provision or portion shall be deemed severable from the remaining terms or portions hereof and the invalidity thereof shall in no way affect the validity of the other provisions of this Ordinance; if any provisions of this Ordinance shall be held or deemed to be or shall, in fact, be inoperative or unenforceable or invalid as applied to any particular case in any jurisdiction or in all cases because it conflicts with any constitution or statute or rule of public policy, or for any other reason, those circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable or invalid in any other case or circumstance, or of rendering any other provision or provisions herein contained inoperative or unenforceable or invalid to any extent whatever.

9.02 This Ordinance shall be construed and interpreted in accordance with the laws of the State of South Carolina.

9.03 The headings or titles of the several sections hereof shall be solely for convenience of reference and shall not effect the meaning, construction, interpretation, or effect of this ordinance.

CHARLESTON COUNTY COUNCIL
Leon E. Stavrinakis, Chairman
March 15, 2005

