

Charleston, S. C.
September 4, 2012

A regular meeting of County Council of Charleston County was held on the 4th day of September, 2012, at 7:00 p.m., in the Beverly T. Craven Council Chambers, Second Floor of the Lonnie Hamilton, III Public Services Building, located at 4045 Bridge View Drive, Charleston, South Carolina.

Present at the meeting were the following members of Council: Teddie E. Pryor, Sr., Chairman, who presided; Colleen Condon; Henry E. Darby; Anna Johnson; Joseph K. Qualey; Herbert R. Sass, III; Dickie Schweers and J. Elliott Summey. Council Member A. Victor Rawl was out of town and absent.

Also present were: W. Kurt Taylor, County Administrator and County Attorney Joseph Dawson.

Rev, Robert Reid gave the invocation. Council Member, Anna Johnson, led in the pledge to the flag.

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.

**Minutes
Approval**

The Chairman asked for approval of the minutes of Council's Meeting of August 21, 2012. Mr. Sass stated that the minutes of that meeting showed that he had voted aye on Item 16, "Accommodations Tax Expenditures Policy", when his vote was nay. The Clerk stated that she checked the roll call vote for that agenda item and Mr. Sass was correct, and he had indeed voted nay. Mr. Sass moved approval of the minutes, as corrected, seconded by Ms. Johnson, and carried unanimously.

**Literacy
Resolution**

A report was read from the Finance Committee under date of August 30, 2012 that it considered the information furnished by Kurt Taylor, County Administrator, and the request received from Eileen Chepenik for Council to approve a resolution proclaiming the month of September 2012 as Literacy Month and September 10-16, 2012 as Adult Education and Family Literacy Week in Charleston County.

Committee recommended that Council approve the requested resolution proclaiming the month of September 2012 as Literacy Month and September 10-16, 2012 as Adult Education and Family Literacy Week in Charleston County.

Ms. Condon moved approval of Committee recommendation, seconded by Ms. Johnson, and carried.

The Chairman requested Ms. Eileen Chepenik to come forward to accept the Resolution and the Clerk to read the Resolution into the record.

The Resolution is as follows:



A RESOLUTION OF CHARLESTON COUNTY COUNCIL

WHEREAS, the need for a highly literate citizenry increases as our community moves toward an increasingly technological future; **and,**

WHEREAS, approximately 25% of Charleston County's adults experience literacy issues that impact severely on their lives and families, their ability to work productively, and their full participation as citizens and residents of our state; **and**

WHEREAS, Trident Literacy Association provided basic skills/literacy services to more than 1,000 adults in Charleston County during the 2011-2012 program year, including those who earned their GED and WorkKeys Career Readiness Certificates; those who learned English as a Second Language; and those who learned how to use the computer; **and,**

WHEREAS, Trident Literacy Association is implementing a Family Literacy Program at one of its sites in Charleston County thanks to a generous grant from the Barbara Bush Foundation for Family Literacy; **and,**

WHEREAS, Charleston County Council deems it important to recognize and highlight the economic and societal importance of literacy.

NOW THEREFORE BE IT RESOLVED, in meeting duly assembled, that Charleston County Council does hereby proclaim September 2012 as Literacy Month and September 10-16, 2012, as Adult Education and Family Literacy Week in Charleston County, South Carolina, and urges its citizens to learn more about the importance of literacy and to become involved with literacy in our community.

CHARLESTON COUNTY COUNCIL

**Teddie E. Pryor, Chairman
September 4, 2012**

**Consolidated
Dispatch
Center
Easement**

An Ordinance granting an easement at the Consolidated Dispatch Center property was given third reading by title only

**AN ORDINANCE
APPROVING AND AUTHORIZING THE GRANT OF AN
EASEMENT TO THE COMMISSIONERS OF PUBLIC WORKS
OF THE CITY OF CHARLESTON, SOUTH CAROLINA, ON A
PORTION OF COUNTY PROPERTY KNOWN AS THE
CONSOLIDATED DISPATCH CENTER**

WHEREAS, the Commissioners of Public Works of the City of Charleston, South Carolina, (hereinafter called the "Commissioners") has requested the grant of an easement as shown on Exhibit A attached hereto and incorporated by reference across a portion of Charleston County's real property identified by parcel identification number 393-00-00-103, and known as the Charleston County Consolidated Dispatch Center, located on Palmetto Commerce Parkway, City of North Charleston, Charleston County, to allow the Commissioners to install and maintain a water system; and

WHEREAS, Charleston County Council finds that granting this easement is an appropriate public use of this property; and

WHEREAS, Charleston County Council also finds that the easement will allow the Commissioners to provide installation and maintenance of the water system at the site of the Charleston County Consolidated Dispatch Center, and it consents to the Commissioners having a utility easement across the property owned by the County; and

NOW, THEREFORE, be ordained it by Charleston County Council, in meeting duly assembled, as follows:

SECTION I. FINDINGS INCORPORATED

The above recitals and findings are incorporated herein by reference and made a part of this Ordinance.

**SECTION II. EASEMENT GRANTED; AUTHORITY TO EXECUTE
DOCUMENTS**

A. Charleston County Council grants an easement across a portion of Charleston County's real property identified by parcel identification number 393-00-00-103, and known as the Charleston County Consolidated Dispatch Center, located on Palmetto Commerce Parkway, City of North Charleston, Charleston County, to allow the Commissioners to install and maintain a water system. The location of the easement shall be located as shown on the attached drawing, which is incorporated by reference as Exhibit A.

B. The Chairman of Council is authorized to execute and deliver all documents and instruments necessary for the grant of this easement.

SECTION III. SEVERABILITY

If, for any reason, any part of this Ordinance is invalidated by a court of competent jurisdiction, the remaining portions of this Ordinance shall remain in full force and effect.

SECTION IV. EFFECTIVE DATE

This Ordinance shall become effective immediately upon approval following third reading.

ADOPTED and APPROVED in meeting duly assembled this 4th day of September, 2012.

CHARLESTON COUNTY, SOUTH CAROLINA

Teddie E. Pryor, Sr., Chairman
Charleston County Council

ATTEST:

Beverly T. Craven, Clerk
Charleston County Council

The Chairman called for third reading of the Ordinance. The roll was called and votes recorded as follows:

Ms. Condon	- aye
Mr. Darby	- aye
Ms. Johnson	- aye
Mr. Qualey	- aye
Mr. Rawl	- absent
Mr. Sass	- aye
Mr. Schweers	- aye
Mr. Summey	- aye
Mr. Pryor	- aye

The vote being eight (8) ayes and one (1) absent, the Chairman declared the Ordinance to have passed third reading.

An Ordinance regulating smoking in public places in unincorporated Charleston County, as amended, was given third reading by title only.

Smoking
Ban
Ordinance

AN ORDINANCE REGULATING SMOKING IN PUBLIC PLACES TO PROTECT THE PUBLIC FROM SECONDHAND SMOKE

AN ORDINANCE

WHEREAS, it has been shown that the smoke produced by the smoking of cigarettes, cigars and pipes is both hazardous and detrimental to the health, welfare and comfort of smokers and nonsmokers; and

WHEREAS, the United States' Surgeon General has reported that smoking is a significant cause of cancer, heart disease and lung disorders in smokers and passive smokers (those inhaling the smoke of others); and

WHEREAS, the County of Charleston ("Charleston County" or the "County") in furtherance of its duty to provide such regulations as may be necessary to protect the health of its citizens and minimize the incidents of disease of its population, and to provide a working environment for its employees and the general public which is reasonably free of hazards and distractions, such as smoke, and in furtherance of the objectives of the Clean Indoor Air Act of 1990, deems it to be in the public's interest to regulate smoking in the County;

NOW, THEREFORE, be it ordained by Charleston County Council ("County Council"), in meeting duly assembled, as follows:

SECTION 1. FINDINGS INCORPORATED

In addition to the recitals set forth above, which Charleston County Council hereby adopts as findings of fact, County Council specifically finds that the County is a political subdivision and as such possesses all powers granted to political subdivisions by the South Carolina Constitution and the laws of South Carolina, including the powers enumerated in Title 4, Chapter 9, County Government, S.C. Code Ann. Section 4-9-10, *et seq.*, Code of Laws of South Carolina, 1976, as amended, relating to regulating health and order in counties.

Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke (also known as environmental tobacco smoke) is a cause of disease in healthy nonsmokers, including heart disease, stroke, respiratory disease, and lung cancer. The National Cancer Institute has determined that secondhand smoke is responsible for the early deaths of up to 65,000 Americans annually. The Surgeon General has declared that (i) secondhand smoke causes disease and premature death in nonsmokers exposed to smoke; (ii) children exposed to secondhand smoke have an increased risk for sudden death syndrome, acute respiratory infections, ear problems, and more severe asthma; (iii) adults exposed to secondary smoke have a higher risk of coronary heart disease and lung cancer; (iv) there is no safe level of exposure to secondhand smoke; and (v) separating smoking and nonsmoking sections of indoor areas does not sufficiently remove the threats of secondhand smoke in enclosed areas.

A significant amount of secondhand smoke exposure occurs in the Workplace. Studies have shown that employees who work in smoke-filled businesses suffer a twenty-five (25) to fifty (50) percent higher risk of heart attack and higher rates of death from cardiovascular disease and cancer, as well as increased acute respiratory disease and measurable decrease in lung function.

Studies have also shown that smoke-filled Workplaces result in higher worker absenteeism due to respiratory disease, lower productivity, higher cleaning and

maintenance costs, increased health insurance rates, and increased liability claims for diseases related to exposure to secondhand smoke.

There are laws, ordinances and regulations in place that protect workers from other environmental hazards, including Class A carcinogens, asbestos, arsenic and benzene, but none which regulate exposure to environmental tobacco smoke.

Prohibiting smoking in the Workplace increases public awareness of the negative health effects of smoking, reduces the social acceptability of smoking and reduces harm to children and other nonsmokers.

The South Carolina General Assembly adopted the Clean Indoor Air Act, Title 44, Chapter 95, S.C. Code Ann. Section 44-95-10, *et seq.*, Code of Laws of South Carolina, 1976, as amended, in 1990 that imposed certain limitations on smoking. It limits smoking in government buildings (the definition of which includes county-owned buildings), except where the owner of such building shall designate smoking areas.

Prior to the adoption of the Clean Air Indoor Act by the General Assembly, Charleston County Council adopted Code of Ordinances, Chapter 6, Article 1, Section 6-1 ("Section 6-1") in 1988 prohibiting smoking in certain portions of county buildings consistent with the Clean Indoor Air Act. County Council has now determined that additional regulation of smoking in areas beyond those addressed in the Clean Indoor Air Act and Section 6-1 is appropriate to protect the health of its citizens and employees in the Workplace and therefore enacts this Ordinance.

County Council finds that it is in the best interest of the people of this County to protect nonsmokers from involuntary exposure to environmental tobacco smoke in the Workplace. Therefore, County Council declares that the purpose of this Ordinance is to preserve and improve the health, comfort and environment of the people of this County by limiting exposure to tobacco smoke.

SECTION 2. DEFINITIONS

Unless the context shall clearly indicate some other meaning, the terms defined in this Section shall, for all purposes of this Ordinance and other documents referenced herein, have the meanings specified herein. Definitions shall be equally applicable to both the singular and plural forms of any of the terms herein defined.

(1) *Business agent* means an individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.

(2) *Cigar bar* means any establishment in existence as of the date of the adoption of the ordinance from which this section derives which (a) serves alcohol for consumption by patrons on the premises; (b) either itself or in conjunction with an affiliated entity operating within the same premises derives thirty (30) percent or more of its gross revenue from the sale of tobacco products or related paraphernalia; (c) shall permit the smoking of cigars and other tobacco products by patrons on the premises; and (d)

prohibits the entry of persons under the age of twenty-one (21) at all times. For purposes of this section, affiliated entity shall be defined as a commercial entity with which the Cigar Bar has a business relationship, including but not limited to a lease or sublease, contract, service agreement or sharing of expenses and/or profits.

(3) *Employee* means any person who performs services for an employer in return for wages, profit or other valuable consideration.

(4) *Employer* means any person, partnership, association, corporation, trust, school, college, university or other educational institution, nonprofit entity or other organization, including any public or private employer that employs one (1) or more persons.

(5) *Enclosed* means a space bounded by walls (with or without windows) continuous from floor to ceiling and enclosed by doors, including but not limited to, offices, rooms, foyers, waiting areas and halls.

(6) *Environmental tobacco smoke* (ETS) or *secondhand smoke* is the complex mixture formed from the escaping smoke of a burning tobacco product (termed as "sidestream smoke") and smoke exhaled by the smoker. Exposure to ETS is also frequently referred to as "passive smoking," "secondhand smoking" or "involuntary smoking."

(7) *Public building* means any building owned, operated or leased by the County, and shall not include those buildings (or any portions thereof) which are under lease to other organizations or corporations.

(8) *Retail tobacco store* means any establishment which is not required to possess a retail food permit whose primary purpose is to sell or offer for sale to consumers, but not for resale, tobacco products and related paraphernalia, in which the sale of other products is merely incidental, and in which the entry of persons under the age of eighteen (18) years is prohibited at all times.

(9) *Sheriff's Office* means the Charleston County Sheriff's Office.

(10) *Smoking* means the inhaling, exhaling, burning, lighting or carrying of a lighted cigarette, cigar, pipe, or similar device or any other lighted tobacco product.

(11) *Smoking materials* includes cigars, cigarettes and all other manner of smoking devices intended to be used for the purpose of inhaling, burning, carrying, or exhaling lighted tobacco products.

(12) *Workplace* means any enclosed indoor area, structure, building or facility or any portion thereof at which one (1) or more employee(s) perform services for their employer, including but not limited to: offices; retail food stores; retail stores; restaurants; bars; cabarets, cafes; public or private clubs; pool halls and bowling alleys.

(13) *Work space* or *work spaces* means any enclosed area occupied by an employee during the course of his or her employment, including but not limited to: offices, customer service areas; common areas; hallways; waiting areas; restrooms; lounges and eating areas.

SECTION 3. PROHIBITION OF SMOKING IN THE WORKPLACE

- (1) It shall be the responsibility of the employer to provide a smoke free environment for all employees working in an enclosed Workplace. Each employer shall adopt, distribute and implement a written policy prohibiting smoking in the Workplace in accordance with this Section.
- (2) Smoking shall be prohibited in all work spaces in a Workplace. This includes all common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, hallways, medical facilities, cafeterias, employee lounges, staircases, restrooms and all other enclosed areas in the Workplace.
- (3) The written smoking policy shall be adopted and distributed to all employees within four weeks of the effective date of this section or within four weeks of the commencement of business operations. A copy of the policy shall be conspicuously posted in all facilities or areas of the Workplace.

SECTION 4. SMOKING RESTRICTIONS INAPPLICABLE

In providing for the inapplicability of this Section to the following subsections (1) through (7), it is specifically recognized that such locations are addressed in the Clean Indoor Air Act. Therefore, this Section shall not apply to:

- (1) Public schools and preschools where routine or regular kindergarten, elementary, or secondary educational classes are held including libraries;
- (2) All other indoor facilities providing children's services to the extent that smoking is prohibited in the facility by federal law and all other child day care facilities, as defined in S.C. Code Ann. Section 20-7-2700, which are licensed pursuant to Title 20, Chapter 7, Children's Code, Article 13, Subarticle 11, Code of Laws of South Carolina, 1976, as amended.
- (3) Health care facilities as defined in South Carolina Code Ann. Section 44-7-130;
- (4) Government buildings as defined in South Carolina Code Ann. Section 44-95-20(4), except to the extent regulation by the County is authorized therein;
- (5) Elevators;
- (6) Public transportation vehicles, except for taxicabs;
- (7) Arenas and auditoriums of public theaters or public performing art centers;

Exceptions. Notwithstanding the provisions contained herein, smoking may be permitted in the following places and/or circumstances:

- (1) Private residences;
- (2) Hotel, motel, inn, bed and breakfast and lodging home rooms that are rented to

guests, designated as "smoking rooms" ("rooms") provided that the total percentage of such rooms does not exceed twenty-five (25) percent in such establishment. A room so designated shall have signs posted indicating that smoking is allowed therein;

(3) Retail tobacco stores;

(4) Cigar bars, provided that the cigar bar has not expanded its size or changed its location from its size or location after the date of the adoption of the ordinance from which this section derives, and it or its affiliated entity operating within the same premises continues to derive thirty (30) percent or more of its gross revenue from the sale of tobacco products or related paraphernalia;

(5) Performers upon a stage, provided that the smoking is part of the theatrical production being performed;

(6) Religious ceremonies where smoking is part of the ritual; and

(7) Medical research facilities.

SECTION 5. POSTING OF SIGNS

The owner, manager or person in control of an establishment or area in which smoking is prohibited pursuant to this Ordinance shall post a conspicuous sign at the main entrance to the establishment or area. The sign shall contain the words "No Smoking" and the universal symbol for no smoking.

SECTION 6. REASONABLE DISTANCE

Smoking outside a Workplace, Work space or work spaces and any other indoor area where smoking is prohibited, shall be permitted provided that tobacco smoke does not enter the Workplace, Work space or work spaces through entrances, windows, ventilation systems or other means.

SECTION 7. ENFORCEMENT, VIOLATIONS AND CIVIL PENALTIES

(1) The Sheriff's Office shall enforce the provisions of this section. In addition, designated code enforcement employees of the County shall have the power to enforce the provisions of this Ordinance.

(2) The Sheriff's Office shall seek to obtain voluntary compliance with this section by means of publicity and education programs, and the issuance of warnings, where appropriate.

(3) Any person who desires to register a complaint under this section may initiate enforcement with the office of the director of the zoning and planning department or his designee.

(4) Any person who smokes in an area where smoking is prohibited by any provision of

this section shall be guilty of an infraction, punishable by a fine of not less than ten dollars (\$10.00) nor more than twenty-five dollars (\$25.00).

(5) Any employer, owner, manager or other person who has control of a Workplace and who fails to comply with any provision of this section shall be guilty of an infraction, punishable by a fine of not less than ten dollars (\$10.00) nor more than twenty-five dollars (\$25.00).

(6) Violation of this Ordinance is declared to be a public nuisance, which may be abated by the County by restraining order, preliminary and permanent injunction, or other means provided for by law, and the County may take action to recover the costs of the nuisance abatement.

(7) Each day of a continuing violation of this section shall be considered a separate and distinct offense.

(8) a. *Suspension or revocation of license.* In addition to the fines established by this subsection, whenever the director of the zoning and planning department or his designee determines that any employer, owner, manager or other person who has control of a Workplace has repeated violations of the provisions of this Ordinance, he/she may give written notice to the licensee or the person in control of the business by personal service or certified mail of a hearing before the Business License/User Fee Appeals Board for the purpose of determining whether the license should be suspended or revoked. The notice shall state the time and place at which the hearing is held, which shall be at a regular or special Business License/User Fee Appeals Board meeting within thirty (30) days from the date of service of the notice, unless continued by agreement. The notice shall contain a brief statement of the reasons for the proposed suspension or revocation and the applicable provisions of the Ordinance from which this Section derives.

b. *Business License/User Fee Appeals Board.* At a hearing held before the Business License/User Fee Appeals Board, all parties shall have the right to be represented by counsel, to present testimony and evidence and to cross-examine witnesses. The proceedings shall be recorded and transcribed at the expense of the party so requesting. The Business License/User Fee Appeals Board with a quorum of members in attendance shall by majority vote of members present render a written decision based on findings of fact and the application of this Ordinance which shall be mailed to the parties or their representatives within twenty (20) days from the date of the hearing.

c. *Appeal to Circuit Court.* Any person aggrieved by a final decision of the Business License/User Fee Appeals Board recommending a suspension or revocation of a business license may appeal the decision of the Business License/User Fee Appeals Board to the Circuit Court by filing with the Charleston County Clerk of Court and the director of the zoning and planning department or his designee a Notice of Appeal setting forth plainly, fully, and distinctly the basis for the appeal. The appeal must be filed within thirty (30) days after the decision of the Business License/User Fee Appeals Board is mailed.

(9) In addition to the remedies provided by the provisions of this subsection, the County

or any person aggrieved by the failure of the employer, owner, manager or other person who has control of a Workplace to comply with the provisions of this Section may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction.

SECTION 8. SEVERABILITY

If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this Ordinance, which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 9. NON-RETALIATION

No person or employer shall discharge, refuse to hire, refuse to serve or in any manner retaliate or take any adverse personnel action against any employee, applicant, customer or person because such employee, applicant, customer or person takes any action in furtherance of the enforcement of this Section or exercises any right conferred by this section.

SECTION 10. REPEAL OF OTHER ORDINANCE

This Ordinance supersedes and replaces the existing Section 6-1, which is hereby repealed.

SECTION 11. EFFECTIVE DATE

This Ordinance shall be effective thirty (30) days from and after the date of its adoption.

CAROLINA

CHARLESTON COUNTY, SOUTH

Teddie E. Pryor, Chairman
Charleston County Council

ATTEST:

Beverly T. Craven
Clerk to Charleston County Council

The Chairman called for third reading of the Ordinance. The roll was called and votes recorded as follows:

Ms. Condon	- aye
Mr. Darby	- aye

Ms. Johnson	- aye
Mr. Qualey	- aye
Mr. Rawl	- absent
Mr. Sass	- aye
Mr. Schweers	- aye
Mr. Summey	- nay
Mr. Pryor	- aye

The vote being seven (7) ayes, one (1) nay and one (1) absent, the Chairman declared the Ordinance to have passed third reading.

An Ordinance rezoning real property at 1820 First Drive was given second reading by title only.

ZREZ-4-12-13523, 1820 First Drive Ordinance
2nd Reading

AN ORDINANCE

REZONING THE REAL PROPERTY LOCATED AT 1820 1ST DRIVE, PARCEL IDENTIFICATION NUMBER 350-05-00-159, FROM THE RESIDENTIAL OFFICE (OR) DISTRICT TO THE COMMERCIAL TRANSITION (CT) DISTRICT

The Ordinance in its entirety will appear in the minutes of Charleston County Council at the time of third reading.

The Chairman called for second reading of the Ordinance. The roll was called and votes recorded as follows:

Ms. Condon	- aye
Mr. Darby	- aye
Ms. Johnson	- aye
Mr. Qualey	- aye
Mr. Rawl	- absent
Mr. Sass	- aye
Mr. Schweers	- aye
Mr. Summey	- aye
Mr. Pryor	- aye

The vote being seven (8) ayes, and one (1) absent, the Chairman declared the Ordinance to have passed second reading.

An Ordinance authorizing a fee agreement between Charleston County, TIGHITCO, Inc. and Avian Aerospace, Inc. was given second reading by title only.

TIGHITCO Financial Incentives Ordinance
2nd Reading

AN ORDINANCE

AUTHORIZING, PURSUANT TO CHAPTER 44 OF TITLE 12, SOUTH CAROLINA CODE OF LAWS, 1976, AS AMENDED, THE EXECUTION AND DELIVERY OF A FEE AGREEMENT BY AND AMONG CHARLESTON COUNTY, SOUTH CAROLINA, TIGHITCO INC. AND AVIAN AEROSPACE, INC.; PROVIDING FOR SPECIAL SOURCE REVENUE OR INFRASTRUCTURE IMPROVEMENT CREDITS; PROVIDING FOR THE ALLOCATION OF FEES-IN-LIEU OF TAXES UNDER THE AGREEMENT FOR DEVELOPMENT FOR JOINT COUNTY INDUSTRIAL PARK

BETWEEN CHARLESTON COUNTY AND COLLETON COUNTY; AND MATTERS RELATING THERETO (THE "ORDINANCE").

The Ordinance in its entirety will appear in the minutes of Charleston County Council at the time of third reading.

Mr. Summey stated that he was abstaining and furnished the Clerk with a Conflict of Interest Statement for the record.

The Chairman called for second reading of the Ordinance. The roll was called and votes recorded as follows:

Ms. Condon	- aye
Mr. Darby	- aye
Ms. Johnson	- aye
Mr. Qualey	- aye
Mr. Rawl	- absent
Mr. Sass	- aye
Mr. Schweers	- aye
Mr. Summey	- abstain
Mr. Pryor	- aye

The vote being seven (7) ayes, one (1) abstaining and one (1) absent, the Chairman declared the Ordinance to have passed second reading.

**America's
Mattress
Drainage
Easement
Request to
Approve**

A report was read from the Planning/Public Works Committee meeting of August 30, 2012 that it considered the information furnished by W. Kurt Taylor, County Administrator, and Dan Pennick, Director of Zoning and Planning, regarding a request that County Council abandon an existing 20' drainage easement, which restricts the development of a 0.41 acre lot. It was stated that the owner is proposing to dedicate and construct a relocated new 20' drainage easement that will tie into the existing drainage system and allow access to residents on Weaver Circle.

Committee recommended that Council approve and authorize the abandonment and relocation of the publicly dedicated drainage easement at 1755 Highway 17N (TMS # 558-00-00-082 with all of the following conditions:

1. The property owner is responsible for the relocation and construction of the new 20' drainage easement and to tie it into the existing drainage system;
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 general 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; and

4. The work must be completed within one year. If not completed during this time frame, the approval becomes null and void.

Ms. Condon moved approval of Committee recommendation, seconded by Mr. Sass, and carried.

**Consent
Agenda
A) 2009
Homeland
Security
Grant
B) FY2012
Justice
Assistance
Grant**

The Chairman announced that the next item on Council's agenda was the Consent Agenda.

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

The Consent Agenda is as follows:

A report was read from the Finance Committee under date of August 30, 2012 t That it considered the information furnished by County Administrator, Kurt Taylor and Jason Patno, Director of Emergency Management, regarding reverted grant funding from the U.S. Department of Homeland Security Grant Program which is available to state and local first response organizations charged with providing assistance at the local level following an attack involving weapons of mass destruction. It was stated that the Charleston Weapons of Mass Destruction Regional Response Team Program is directed by the South Carolina Law Enforcement Division (SLED) and led by the Charleston County Emergency Management Department and is comprised of volunteers who are highly skilled first responders trained and equipped with the ability to respond to incidents involving explosive, chemical, biological, or radiological weaponry. It was shown that through the above referenced program reverted grant funding in the amount of \$60,403.08 has been made available to Charleston County and these grant funds, if approved, will be used to purchase weapons of mass destruction, hazardous materials response equipment, which will aid first responders with the ability to more effectively respond to incidents involving weapons of mass destruction and hazardous materials. It was stated that matching funds on behalf of Charleston County are not required, and that there are no FTE's, reoccurring cost, or vehicles associated with the acceptance of the above referenced grant program, which runs from October 1, 2009, through September 30, 2012.

Committee recommended that Council approve the Emergency Management Department's request to receive reverted grant funding in the amount of \$60,403.08 made available through the 2009 U.S. Department of Homeland Security Grant Program, allowing for the purchase of weapons of mass destruction/hazardous materials response equipment with the understanding that matching funds on behalf of Charleston County are not required and that there are no FTE's, reoccurring costs, or vehicles associated with the acceptance of the above referenced grant program, which runs from October 1, 2009, through September 30, 2012.

A report was read from the Finance Committee under date of August 30, 2012 that it considered the information furnished by County Administrator Kurt Taylor and Charleston County Sheriff Al Cannon, regarding an Edward Byrne Memorial Justice Assistance Grant (JAG) Program which is a direct allocation grant funding program which must be used only for criminal justice initiatives. It was stated that the Bureau of Justice Statistics (BJS) calculates the yearly award amount based on a formula of crime statistics and population and based on this formula the allocation for Charleston County

for 2012 will be for \$50,289. It was shown that the Sheriff's Office will receive \$32,688 and the remaining \$17,601 will be allocated to the Solicitor's Office. It was further stated that the Sheriff's Office is requesting to use this award funding for the repair of tasers and the purchase of replacement tasers. It was also shown that the JAG program is a joint application with the City of North Charleston and the Charleston County Sheriff's Office is the subawardee. It was further shown that the grant period will run from October 1, 2012, until September 30, 2013, and there are no FTE's requested in this grant and no match is required.

Committee recommended that Council allow the Sheriff's Office to participate with the City of North Charleston and accept \$32,688 from the 2012 Edward Byrne Memorial Justice Assistance Grant Program through the U.S. Department of Justice with the understanding that:

- funding is in the amount of \$50,289, with \$32,688 allocated to the Sheriff's Office and the remaining \$17,601 distributed to the Solicitor's Office.
- the grant period will run from October 1, 2012 until September 30, 2013.
- there are no FTE's requested in this grant and no match required.

**Veterans'
Park
Greenbelt
Project**

A report was read from the Finance Committee under date of August 30, 2012 that it considered the Information furnished by Kurt Taylor, County Administrator, Cathy Ruff, Director of greenbelt programs and the recommendation of the Greenbelt Bank Board recommending approval for the Veterans Park Rural Greenbelt Project. It was stated that the Greenbelt Bank Board originally recommended disapproval of this project; however, following the recommendation, the landowner agreed to donate \$10,000 in seed money to the Carolina Homeless Veterans, Inc. for use in developing the park. It was shown that Council requested the board to reconsider this project in light of the new funding contribution and at their meeting of August 27, 2012, the board gave reconsideration and voted unanimously to recommend approval.

Applicant	Type	Project Name	Acres	Funding
Carolina Homeless Veterans	Fee Simple	Veterans Park	9.68	\$194,000

Committee recommended that Council:

1. Approve \$194,000 in rural Greenbelt funding for the Veterans Park Rural Greenbelt project provided that upon approval, grant agreements will be executed between the County and appropriate parties.
2. Authorize the County Administrator to require the execution and delivery of proper agreements and instruments to implement the conditions of the approval of the grant funds, and to effectuate the goals of the Greenbelt Program ordinances and policies.
3. Approve the use of \$194,000 to be funded from a combination of Greenbelt Operating Contingency and/or 2011 General Obligation Bonds.

Ms. Johnson moved approval of Committee recommendation, seconded by Mr. Pryor.

The Chairman called for a roll call vote. The roll was called and votes recorded as follows:

Ms. Condon	- nay
Mr. Darby	- aye
Ms. Johnson	- aye
Mr. Qualey	- nay
Mr. Rawl	- absent
Mr. Sass	- nay
Mr. Schweers	- nay
Mr. Summey	- aye
Mr. Pryor	- aye

The vote being four (4) ayes, four (4) nays, and one (1) absent, the Clerk announced that the motion failed due to a tie vote.

**Fairlawn
Greenbelt
Project**

A report was read from the Finance Committee under date of August 30, 2012 that it considered the Information furnished by Kurt Taylor, County Administrator, Cathy Ruff, Director of greenbelt programs and the letter from Hugh C. Lane, Chairman of the Charleston County Greenbelt Bank Board, requesting that Council defer action on the Fairlawn Greenbelt project for 90 days or until hunting rights and other issues are resolved, whichever comes first.

Committee recommended that Council honor the unanimous request of the Greenbelt Bank Board and defer action on the Fairlawn Greenbelt project for 90 days or until hunting rights and other issues are resolved, whichever comes first.

Mr. Summey moved approval of Committee recommendation, seconded by Mr. Sass.

A lengthy discussion was had among Council Members regarding, all issues and legal matters being resolved prior to approval/funding.

Mr. Summey requested the Clerk to read the Committee recommendation, which is as follows:

That Council honor the unanimous request of the Greenbelt Bank Board and defer action on the Fairlawn Greenbelt project for 90 days or until hunting rights and other issues are resolved, whichever comes first.

Mr. Sass withdrew his second.

Mr. Summey moved that Council honor the unanimous request of the Greenbelt Bank Board and defer action on the Fairlawn Greenbelt project for 90 days.

This motion was seconded by Ms. Johnson.

The Chairman called for a roll call vote on the motion. The roll was called and votes recorded as follows:

Ms. Condon	- aye
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Mr. Darby	- nay
Ms. Johnson	- aye
Mr. Qualey	- aye
Mr. Rawl	- absent
Mr. Sass	- aye
Mr. Schweers	- aye
Mr. Summey	- aye
Mr. Pryor	- nay

The vote beng six (6) ayes, two (2) nays, and one (1) absent, the Chairman declared the motion to have carried.

**Eminent
Domain Hwy
7/Hwy 61
Intersection**

A report was read from the Finance Committee under date of August 30, 2012 that it considered the information furnished by Kurt Taylor, County Administrator and Jim Armstrong, Assistant Administrator for Transportation, regarding right of way acquisition. It was stated that this process is the most unpredictable portion of the schedules of the Transportation Sales Tax Projects, and a negotiated purchase of right of way depends on the willingness of affected property owners to reach a mutually agreeable settlement, which means that the entire schedule can be negatively impacted by one or more individual properties, which cannot be resolved through reasonable negotiations. It was stated that in order to minimize the schedule delays caused by the failure or refusal of a few properties to reach a settlement in a reasonable length of time, Staff is requesting that at the beginning of the acquisition process Council approve the use of eminent domain on all properties where right of way acquisition is necessary for a given project. It was pointed out that Staff remains extremely sensitive to the property rights of persons affected on all of our projects, and has directed that the right of way consultants continue to exercise all due care when negotiating with each owner and actual condemnation action would be filed only in cases where it appears that a settlement is not imminent and the project schedule will be impacted.

Condemnation authority is currently requested on projects for which the right of way plans have been completed to a point where all the properties impacted by the project may be identified by their parcel ID numbers (TMS numbers). Staff intends to return to Council for future projects at the appropriate time. This authority is currently requested for the S.C. Route 7 (Sam Rittenberg Blvd.) / S.C. Route 61 (Ashley River Rd.) Intersection Improvements allocation project:

Committee recommended that Council approve a resolution which authorizes the use of eminent domain for the properties identified for the S.C. Route 7 (Sam Rittenberg Blvd.) /S.C. Route 61 (Ashley River Rd.) Intersection Improvements Project.

Ms. Condon moved approval of Committee recommendation, seconded by Mr. Sass, and carried.

The approved Resolution is as follows:

A RESOLUTION

AUTHORIZING THE EXERCISE OF EMINENT DOMAIN TO ACQUIRE TITLE TO OR INTERESTS IN REAL PROPERTY FOR THE PURPOSE OF CONSTRUCTING ROAD IMPROVEMENTS FOR THE

**S.C. ROUTE (SAM RITTENBERG BLVD.) / S.C. ROUTE 61 (ASHLEY RIVER RD.) INTERSECTION
IMPROVEMENTS PROJECT**

SECTION I. FINDINGS

**THE COUNTY COUNCIL OF CHARLESTON COUNTY, IN MEETING DULY ASSEMBLED, HEREBY
FINDS AS FOLLOWS:**

WHEREAS, as a project being undertaken as part of its Transportation Sales Tax Program, Charleston County intends to construct certain improvements to SC Route 7 a/k/a Sam Rittenberg Boulevard and SC Route 61, a/k/a Ashley River Road in West Ashley, SC (the "Project"); and

WHEREAS, the plans for the improvements are shown on the technical drawings of Florence and Hutcheson entitled "Plan, Profile and Cross Sections FY 2007 Intersection Improvement Allocation Project S.C. Route 7 (Sam Rittenberg Blvd.) / S.C. Route 61 (Ashley River Rd.) dated May 21, 2012 (the "Plans"); and

WHEREAS, the Plans depict, *inter alia*, the existing roadway, the proposed roadway and the privately-owned properties and portions of properties that the County seeks to acquire to complete the Project; and

WHEREAS, said plans are subject to refinement and revision as additional design efforts and investigations are undertaken regarding the roadway alignment and the project's components, including but not limited to sidewalks, utilities, drainage facilities and the traveling surface; and

WHEREAS, the acquisition of the privately-owned properties will be accomplished in accordance with the eminent domain laws of the State of South Carolina; and

WHEREAS, it is in the best interest of the citizens of Charleston County to acquire title to or an interest in the privately-owned properties in order to complete the Project; and

WHEREAS, public purposes, including but not limited to improved safety, the facilitation of commerce and the convenience of the traveling public will be served by acquiring the properties and completing the Project; and

WHEREAS, the properties acquired will be for a public use, including but not limited to, the improvement of a publicly-owned thoroughfare in Charleston County.

SECTION II. ACTIONS AUTHORIZED

As a result of the findings set forth above, and by virtue of the powers granted to the County under the constitution and statutes of the State of South Carolina, the Charleston County Council hereby authorizes and directs the following:

Charleston County Council hereby authorizes the exercise of eminent domain to acquire full title or a property interest in the privately-owned properties shown on the above-described Plans, as the same may be refined or revised from time to time, for the Project. The Parcel Identification Numbers of the properties involved are listed in attachment A, which is incorporated herein by reference. Council expressly authorizes

the acquisition of the parcels identified, in whole or in part, as the needs of the project so require.

**Council
Members
Comments**

The Chairman asked if any Member of Council wished to bring a matter before the Body.

Mr. Darby said that he wanted to apologize to the Veterans for Council's action tonight on the Veterans Park Greenbelt Project.

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

Beverly T. Craven
Clerk of Council

