

**NEWBERRY COUNTY COUNCIL
COUNTY COUNCIL AGENDA
May 3, 2023
6:00 P.M.**

Call to order: Todd Johnson, Chairman
Invocation and Pledge of Allegiance: Mary Arrowood, Councilperson

1. Adoption of Consent Agenda
 - a. Newberry County Council meeting minutes – April 12, 2023
 - b. Budget Work Session minutes – April 19, 2023
2. Additions, Deletions & Adoption of the Agenda
3. Appearances and Presentations
 - a. Public Defender's Office
 - b. Solicitor's Office
4. Ordinance No. 04-02-2023. An Ordinance acting on a request to amend the official zoning map established pursuant to Zoning Ordinance No. 12-24-01 as revised and amended by Zoning Ordinance No. 06-11-16 and codified in Chapter 153 of the Newberry County Code of Ordinances, establishes zoning classification and districts so as to rezone one (1) real estate parcel totaling two and eighty-five hundredths (2.85) acres designated as TMS No. 399-25 from RS-Single-Family Residential to R2-Rural.
 - a. Second Reading
5. Ordinance No. 04-05-2023. An Ordinance to provide for the issuance and sale of general obligation bonds of Newberry County, South Carolina not exceeding \$2,000,000 in aggregate principal amount, to prescribe the purposes for which the proceeds of said bonds shall be extended, to provide for the payment of said bonds, and other matters relating thereto.
 - a. Second Reading

6. Ordinance No. 05-06-2023. An Ordinance to authorize the County of Newberry, by Newberry County Council, to sell real estate located on Pine Hill Circle between TMS No. 340-1-10 and TMS No. 340-1-15, and described on Exhibit "A", which is incorporated within the ordinance by reference, to the successful bidder, upon such terms and conditions as described in the request for bid.
 - a. First Reading

7. Ordinance No. 05-07-2023. An Ordinance acting on a request to amend the official zoning map established pursuant to Zoning Ordinance No. 12-24-01 as revised and amended by Zoning Ordinance 06-11-16 and codified in Chapter 153 of the Newberry County Code of Ordinances, establishes zoning classification and districts as to rezone two (2) real estate parcels totaling three and ninety-two hundredths (3.92) acres designated as TMS No. 339-3-6-1 and TMS No. 339-3-6-2 from GC-General Commercial to RSM-Single-Family Residential.
 - a. First Reading

8. Ordinance No. 05-08-2023. An Ordinance to provide appropriations for the fiscal year beginning July 1, 2023, and ending June 30, 2024, for the Newberry County Budget for County Ordinary purposes and for other county purposes for which the County may levy a tax and receive revenues, to provide for the levy of taxes on all taxable personal and real property in Newberry County for all county purposes, including sufficient tax to pay the principal and interest on outstanding indebtedness of Newberry County payable during said fiscal year; to provide for matters relating to Newberry County; and to provide for the expenditure of said taxes and other revenues received by the County during said fiscal year, and to provide for borrowing in anticipation of tax collections by the issuance of one or more tax anticipation notes, if necessary.
 - a. First Reading

9. Ordinance No. 05-09-2023. An Ordinance to provide appropriations for the fiscal year beginning July 1, 2023, and ending June 30, 2024, for Newberry County Library, Piedmont Technical College and the Newberry Agency for Disabilities and Special Needs, to provide for the levy of taxes on all taxable personal and real estate properties in Newberry County for said purposes, to provide for the expenditure of said taxes and other revenues received by the county during said fiscal year for said purposes.
 - a. First Reading

10. Ordinance No. 05-10-2023. An Ordinance to postpone the implementation of revised values resulting from reassessment and equalization.
 - a. First Reading
11. Appointments
12. Public Comments
13. Executive Session
 - a. Personnel Matter(s):
 - i. Discussion of matters related to compensation of elected officials pursuant to SC Code of Laws Section 30-4-70(a)(1)
 - ii. Discussion of matters related to appointment and compensation of employees within County Administration pursuant to SC Code of Laws Section 30-4-70(a)(1)
14. County Council may take action following executive session on matters discussed during executive session.
15. Comments/Requests from County Administrator
16. Comments/Requests from Council
17. Future meetings
 - a. County Council meeting – May 3, 2023 at 6:00 p.m.
 - b. Budget Work Session – May 10, 2023 at 5:00 p.m.
 - c. County Council meeting – May 17, 2023 at 6:00 p.m.
 - d. Finance Committee meeting – May 22, 2023 at 6:00 p.m.
18. Adjournment

**NEWBERRY COUNTY COUNCIL
BUDGET WORK SESSION
MINUTES
APRIL 12, 2023**

Newberry County Council met on Wednesday, April 12, 2023, at 5:00 p.m. in the Conference Room at the Courthouse Annex, 1309 College Street, Newberry, SC, for a budget work session.

Notice of the budget work session was duly advertised, as required by law.

PRESENT: Todd Johnson, Chair
Les Hipp, Vice-Chair
Mary Arrowood, Council Member
Karl Sease, Council Member
Robert N. Shealy, Council Member
Johnny Mack Scurry, Council Member
Travis Reeder, Council Member
Jeff Shacker, County Administrator
Karen Brehmer, Deputy County Administrator
Debbie S. Cromer, Finance Director
Susan C. Fellers, Clerk to Council

MEDIA: Andrew Wigger, Newberry Observer

Mr. Johnson called the meeting to order at 5:00 p.m.

1. Discussion of Revenues for FY 23-24

- **Tipping Fees**
- **Watercraft Taxes**
- **Real Estate Taxes**
- **ARPA Funds**
- **Tribal Funds**

Projected revenue right now is approximately \$32,500,000. The challenge arises from the Department Head requests which total a little over \$37,000,000. To get to the \$32,500,000, there are some steps we must take.

First is projecting a 2.5% increase in the value of a mill, which would take the mill to \$164,645.

Secondly, staff recommends a 2 mill increase, which would be a \$30.00 increase on the tax bill of a \$250,000 home.

Fund balance is a dependent variable. Right now, there is a \$682,239 use of fund balance, which is in line with previous years.

Other sources of revenue include \$1 Million in ARPA funding and \$388,402 in Tribal money. Tribal money is a component of the American Rescue Plan Act. We are receiving those funds due to the acreage of US National Forest owned land located in the County. The Tribal funds are virtually unrestricted. You can't use the money toward debt service, and you can't use it to bail out a pension fund, which we don't have. The same is true of ARPA based on the final ruling issued January before last. Up to \$10 million can be claimed as a standard allowance for revenue replacement regardless of whether you actually lost money as a local government as a result of the pandemic. That money is available to fund any government service but there again the limitation with debt service and pension fund liability. Those two things cannot be funded by ARPA funds.

Watercraft tax revenue is also included in the proposed 2.5% increase in the value of a mill. This would generate approximately a \$68,000 increase in watercraft taxes. There is a steady increase in watercraft taxes.

Tipping fees at the landfill and fuel surcharges have increased above the budgeted expense. Tipping fee revenue on commercial tonnage is currently \$51 per ton for the first 1,000 tons and \$53 per ton above 1,000 tons. Staff proposes another increase in tipping fees, as follows:

\$58 per ton up to 1,000 tons

\$60 per ton for 1,000 to 2,000 tons
\$63 per ton over 2,000 tons

This proposal would generate a \$540,000 increase in revenues.

This year we budgeted expenses of approximately \$2.4 million but actual costs are approximately \$2.9 million. This results in an \$836,000 expense above what was budgeted. Revenues are tracking about \$2,325 above what was budgeted.

2. Discussion of ARPA

We have \$5.1 million available in ARPA funding. We propose \$1 million to cover expenses in the general fund. The bulk would be used for capital or one-time purchases. There is also the match for the broadband project in the County. \$3,726,997 of ARPA funding is non-committed.

Staff's proposal is to defer any decision on spending the remaining ARPA funds until we have a better handle on the CPST projects cost estimates. We recommend getting RFQs out for engineering and architectural services for the CPST projects. It may be the end of the year before decisions can be made as to the remaining ARPA funds.

3. Discussion of proposed new positions for FY 23-24

- **8 full time positions**
- **1 reclassification**
- **3 part time positions**
 - Treasurer – FT tax support technician - \$50,736 and an employee reclassification - \$2,500
 - Auditor – part time office assistant - \$16,108
 - Voter Registration – part time office assistant - \$5,000 and programmer - \$10,000
 - Sheriff – 4 FT deputies at \$75,600 each, 1 FT police accountability and accreditation officer (All 5 positions - \$387,000)

- Public Safety – FT fire marshal - \$94,773
- Recreation – FT Sports Programming and Marketing Coordinator - \$66,345

Total salary and fringe - \$632,478 for all

4. Challenges in expenditures for FY 23-24

- **Shortfall in transfer station – Fuel Surcharge \$867,900**
- **Funding new positions – Salary and fringe - \$632,478**
- **Funding rolling stock - \$3,010,000**
- **Capital Outlay - \$2,583,646**
- **Increased cost in insurance – vehicle and tort - \$41,740**
- **Increased cost of health insurance – will increase January 2024 with a load factor 1.253**
- **Cost of CPI – for hospital ambulance service, fleet services and collections - \$37,498**
- **Ambulance Service – Silverstreet to 24/7 operations - \$216,290**
- **Building Repairs - \$283,500**
- **Retirement – County portion increase 1% - \$104,476**
- **Compensation and Classification Study – this is still being worked on. The cost of payroll right now is \$8.17 million. It would take an estimated \$575,352 to move employees to the minimum pay range. If we make equity adjustments based on years of service, it will cost approximately \$475,452. It will not be possible to do all of this at one time.**

Council was given handouts on several of these items. Copies of these handouts are also on file in the County Administrator’s office.

5. Discussion of budget calendar

- **Staff would like to request Council to consider adjusting the budget calendar:**
 - **First Reading – May 3, 2023**
 - **Second Reading – May 17, 2023**

○ **Public Hearing, Third and Final Reading – June 7, 2023**

Mr. Shacker requested after tonight’s work session and the work session on April 26, that first reading not be held on April 19 as originally scheduled. By moving first reading to May 3, Council would have already had both work sessions.

It was the consensus of Council to accept these revised dates to the budget calendar.

6. Questions from Council Members

Mr. Hipp requested additional information regarding the rolling stock. If rolling stock is being replaced, how old, how many miles, value of replacement, etc. He felt a forward-looking rolling stock replacement plan should be in place.

7. Adjournment

There being no further discussions, Mr. Shealy moved to adjourn; seconded by Mr. Sease. Vote was unanimous.

Mr. Johnson declared the meeting adjourned at 7:16 p.m.

NEWBERRY COUNTY COUNCIL

Todd Johnson, Chair

**Susan C. Fellers
Clerk to Council**

Minutes Approved: _____

**NEWBERRY COUNTY COUNCIL
MINUTES
APRIL 19, 2023**

Newberry County Council met on Wednesday, April 19, 2023, at 6:00 p.m. in Council Chambers at the Courthouse Annex, 1309 College Street, Newberry, SC, for a regular scheduled meeting.

Notice of the meeting was duly advertised, as required by law.

PRESENT: Todd Johnson, Chair
Les Hipp, Vice-Chair
Mary Arrowood, Council Member
Karl Sease, Council Member
Robert N. Shealy, Council Member
Johnny Mack Scurry, Council Member
Jeff Shacker, County Administrator
Karen Brehmer, Deputy County Administrator
Joanie Winters, Interim County Attorney
Debbie S. Cromer, Finance Director
Susan C. Fellers, Clerk to Council

ABSENT: Travis Reeder, Council Member

MEDIA: Andrew Wigger, Newberry Observer

Mr. Johnson called the meeting to order at 6:00 p.m. and determined a quorum to be present.

Mr. Scurry had the invocation followed by the Pledge of Allegiance.

1. ADOPTION OF CONSENT AGENDA

a. Newberry County Council Minutes of April 5, 2023 Meeting

Mr. Scurry moved to adopt the Consent Agenda, as presented; seconded by Mr. Shealy. There being no discussion, Mr. Johnson called for the vote. Vote was unanimous.

2. ADDITIONS, DELETIONS AND ADOPTION OF AGENDA

Mr. Sease moved that Agenda Item #12 be amended to reflect the acreage as 56.72 rather than 60.50; seconded by Mr. Hipp. There being no discussion, Mr. Johnson called for the vote. Vote was unanimous to accept the amendment.

Mr. Hipp moved to adopt the Agenda, as amended; seconded by Mrs. Arrowood. There being no discussion, Mr. Johnson called for the vote. Vote was unanimous.

3. CONSIDERATION OF APPOINTMENT TO THE UPPER SAVANNAH WORKFORCE DEVELOPMENT BOARD

Ann Skinner with Upper Savannah Workforce Development requested that Council consider the appointment of Susan Godwin to the vacancy on their Board.

Mr. Hipp moved to accept the recommendation of Susan Godwin to the Upper Savannah Workforce Development Board; seconded by Mrs. Arrowood. There being no discussion, Mr. Johnson called for the vote. Vote was unanimous.

4. PROCLAMATION RECOGNIZING APRIL 30, 2023 AS NATIONAL THERAPY ANIMAL DAY

Mr. Hipp moved to adopt the Proclamation; seconded by Mr. Sease. There being no discussion, Mr. Johnson called for the vote. Vote was unanimous.

5. PROCLAMATION RECOGNIZING NATIONAL SMALL BUSINESS WEEK

Mr. Shealy moved to adopt the Proclamation; seconded by Mrs. Arrowood. There being no discussion, Mr. Johnson called for the vote. Vote was unanimous.

6. ORDINANCE #03-01-23: ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE AGREEMENT BY AND BETWEEN NEWBERRY COUNTY, SOUTH CAROLINA AND PROJECT N PROVIDING FOR A PAYMENT OF A FEE IN LIEU OF TAXES, PROVIDING SPECIAL SOURCE REVENUE CREDITS, AND AUTHORIZING AN AMENDMENT TO THE MASTER AGREEMENT GOVERNING THE GREENWOOD-NEWBERRY INDUSTRIAL PARK TO PROVIDE FOR THE ADDITION OF PROPERTY AND OTHER MATTERS RELATED THERETO.

a. Public Hearing

Mr. Johnson declared this to be the public hearing. There being no comments from the public, Mr. Johnson declared the public hearing closed.

b. Third and Final Reading

Mrs. Arrowood moved to approve third reading; seconded by Mr. Sease. There being no discussion, Mr. Johnson called for the vote. Vote was unanimous.

NOTE: Because of the number of persons signed up for public comments tonight, Mr. Johnson requested that each speaker limit their comments to 3 minutes. At some time, it is likely that most of the points about the issue will have already been made, and while we will never take your time from you, it may be beneficial that when your name is called, you simply say you join with the previous comments. This will allow your voice to be heard but also allow the meeting to continue. We also request that each of you be respectful with your comments. Emotions can get high when an issue is a personal one that affects your home and community, however, negative comments should not be used tonight. We look forward to hearing from each of you.

7. PUBLIC COMMENTS FOR ORDINANCE #04-02-23 - REZONING OF PROPERTY ON ADELAIDE STREET

Terrence Knight, owner of this property and owner of Wells Sanitation, wants the zoning changed on this property in order that he might park his trash trucks and store containers on the property. He has agreed to install a fence around the property.

Mr. Johnson requested that Ms. Winters work with Mr. Knight to add wording into the Ordinance regarding the installation of a fence.

8. ORDINANCE #04-02-23: ORDINANCE ACTING ON A REQUEST TO AMEND THE OFFICIAL ZONING MAP ESTABLISHED PURSUANT TO ZONING ORDINANCE #12-24-01 AS REVISED AND AMENDED BY ZONING ORDINANCE #06-11-16 AND CODIFIED IN CHAPTER 153 OF THE NEWBERRY COUNTY CODE OF ORDINANCES, ESTABLISHING ZONING CLASSIFICATION AND DISTRICTS SO AS TO REZONE ONE REAL ESTATE PARCEL TOTALING TWO AND EIGHTY-FIVE HUNDREDTHS (2.85) ACRES, DESIGNATED AS TMS NO. 399-25 FROM RS-SINGLE FAMILY RESIDENTIAL TO R2-RURAL.

a. First Reading

Mr. Scurry moved to approve first reading; seconded by Mrs. Arrowood.

The Planning Commission unanimously recommended in its March 21, 2023 meeting that Council consider rezoning this property.

There being no further discussion, Mr. Johnson called for the vote. Vote was unanimous.

9. PUBLIC COMMENTS FOR ORDINANCE #04-03-23 - REZONING PROPERTY ON TOM SAVAGE ROAD

Kathy Sims spoke on behalf of the property owners objecting to the rezoning in Mariners Point. Fifteen of the 18 property owners object to the rezoning of this property for a hobby farm. One of the 3 remaining property owners lives elsewhere, and we have been unable to locate him; another has not yet moved in; and then Ms. Harpool. Many of the owners who have signed the Petition are here tonight. Ms. Harpool bought this property in 2020 with the initial intent of building 3 homes, one for them, one for Ms. Harpool's sister, and one for her mother, which made sense. Over time, their plans have changed and now they want to build a barn and change it to rural and have a hobby farm. The neighbors feel that rezoning to rural and approving a hobby farm would be unacceptable for the following reasons. The zoning for Mariners Point has always been residential. Their property is in the middle of the subdivision. Their property has multiple run-off areas to the lake which would potentially allow for lake contamination if a hobby farm were built. Rezoning to rural would also allow for potential undesirable variances to the property. All properties in Mariners Point are subject to Restrictive Covenants which were filed with Newberry County in 1989. (Ms. Sims read the section of the covenants stating that all property in Mariners Point should be conveyed according to said recorded restrictions). Rezoning one property would be in violation of the Covenants. On behalf of the residents present, Ms. Sims requested that Council not approve the rezoning request or the hobby farm.

Mr. Scurry inquired as to what was considered a hobby farm. Mr. Johnson advised that Ms. Harpool signed up to speak so we would let her describe the hobby farm.

Mrs. Arrowood added that Stockman Road is a one lane dirt road. Ms. Sims said that was correct with no outlet.

Mr. Sease said the Covenants were placed on the property for 10 years, but they automatically renew each year thereafter. Ms. Sims said if there is no reason to change it at the 10 years, then it automatically renews as is. In 30 years, there

has never been an incident in which the neighbors felt the Covenants needed to be changed.

Amy Harpool said the Restrictive Covenants never showed up when they bought this property. She stated three title searches were done, and it never came up. Her lawyer says they are not enforceable, but the other residents have an attorney who says they are. That will be a lawsuit down the road.

We didn't buy the property, and then say we are changing the rule. We didn't know there was a covenant in place. They have not been active, and there are neighbors that don't want it regardless.

A hobby farm would not be out of line with our crush gravel road. We are a mile from a paved road. No sidewalks, no septic and we take our trash to the dump. We live in the country. It is 20 acres on the lake. We built a house just like everybody else's house with a beautiful dock. At the end of the property, she wants to have a hobby farm. A hobby farm is pets like cats, goats and chickens. There will be no pigs or cattle, and they will not be processing anything. It's just going to be goats and chicken and building a barn. It will be inside the woods with a big fence so that the animals will not be seen.

Mr. Hipp stated that even though she may not have been aware of the Covenants, she was aware of the zoning when the property was bought. Ms. Harpool acknowledged they were, and they had an agricultural loan at first but did find out it was residential. She didn't think it would be a big deal, and they already have an appraised value of \$1.3 million for their property so they are not trying to bring down the neighborhood.

Carl Horn stated in looking at the deeds and titles to their properties, in there it specifically refers to Restrictive Covenants. It specifically says in the deeds we have that we will abide by the Covenants. Shortly after the Harpools moved in, Mr. Horn's wife emailed them a copy of the Covenants. We never got any word back as to whether she received them. Later on, we found out that they thought they did not have to abide by the Covenants according to their sources. There are 15 families voicing their opposition to the changing of the zoning.

Mr. Scurry asked if a copy of the Covenants were mailed to Ms. Harpool. Ms. Harpool responded that a year after they moved in Mrs. Horn did email the Covenants to her. She took it to their real estate lawyer, and he said it was not binding. It was not in the title when it was searched before they got the property.

Mr. Shacker said the Planning Commission considered this at their March 21st meeting and one of their considerations was the future land map use of the property, which can be a basis for the zoning decision. It is currently designated as lake development. There were actually two motions made in the meeting. One was a motion to approve and the next was a motion to deny. Both motions did not receive the required number of votes to be approved so the Planning Commission is not making a recommendation on this request.

Mr. Johnson said his understanding was some of the members recused and some abstained, and they ended up without a majority vote.

10. ORDINANCE #04-03-23: ORDINANCE ACTING ON A REQUEST TO AMEND THE OFFICIAL ZONING MAP ESTABLISHED PURSUANT TO ZONING ORDINANCE #12-24-01 AS REVISED AND AMENDED BY ZONING ORDINANCE #06-11-16 AND CODIFIED IN CHAPTER 153 OF THE NEWBERRY COUNTY CODE OF ORDINANCES, ESTABLISHING ZONING CLASSIFICATION AND DISTRICTS SO AS TO REZONE ONE REAL ESTATE PARCEL TOTALING TWENTY AND FIFTY-NINE HUNDREDTHS (20.59) ACRES DESIGNATED AS TMS NO. 589-1-1 FROM RS-SINGLE FAMILY RESIDENTIAL TO R2-RURAL.

a. First Reading

Mr. Johnson advised that procedurally a motion and second would have to be made for Council to contemplate this. Once we have a motion and second, we will then have discussion and then the final vote will come on this first reading. There would be another reading and a public hearing and a third reading, if it should pass first reading. Just because somebody votes to make the motion that we

discuss this doesn't mean that they are necessarily going to vote in favor of it at the final vote.

There being no motion, Mr. Johnson stated that his understanding was that since this is an action matter request, it will simply show back up on our agenda again until we take some action on it.

With that being said, Mr. Shealy moved for first reading; seconded by Mr. Sease.

Mrs. Arrowood felt we would be going backwards when all the other landowners were opposed. This property has already been platted out for a subdivision. If rezoned, it would open this property to mobile homes, commercial use and even a landing or something of that nature. In a single lane gravel/dirt road, she felt it was against what we should do.

Mr. Johnson stated that short term is one thing but when something is rezoned, it becomes Pandora's box.

Mrs. Arrowood stated the attorney who did the title search should have found the Restrictive Covenants.

Mr. Sease said if rezoned. families could come in 10 to 20 years from now and do whatever they want in R2 zoning. It affects all the other property owners in that subdivision. He felt it should stay RS.

Mr. Hipp empathized with Ms. Harpool and her desire to use it as a hobby farm, which doesn't sound like an obtrusive use of it. He also understands the other landowners in that subdivision, and everybody is allowed an opinion. In this case the homeowners bought property currently zoned RS with the anticipation that it would continue to be zoned RS for as long as they owned the property. To change it for one person versus 15, he would side with the other homeowners in this subdivision and vote likewise.

Mr. Johnson felt Ms. Harpool's intent was pure and her heart noble, but his concerns were what happens to this property down the road. Once it gets rezoned, it is something we can't put back in the box.

There being no further discussion, Mr. Johnson called for the vote: All Council Members voted **against** giving this Ordinance first reading. Motion for first reading failed unanimously.

11. PUBLIC COMMENTS FOR ORDINANCE #04-04-23 - REZONING OF PROPERTY ON MT BETHEL GARMANY ROAD

Catherine Boozer does not live in this area but does own land adjoining the 56 acre tract. This property has been in her family for more than 122 years and has been a farming community for as long as she can remember. This property is on a bad highway. The highway is narrow, and the property is located on a bad curve. She requested that Council please not consider allowing a housing development on this property. Larry Cromer owns a poultry farm behind this property, and she is concerned they will ask him to move when the development comes in. It's a close community.

Josh Rowe passed out a petition with 263 names, all of whom live in Newberry County. This is a very close-knit community with middle-aged and younger people living in the area. A lot of people stay in this community because it is close-knit and safe. None of us are against development as a whole but wish it were done responsibly. The natural area will be pushed out, and the people living in this area like the rural aspect. There is not a lot of road frontage on the proposed property, which would cause a problem with egress and ingress in the proper place. It is in a dangerous location with a blind curve.

Justin Howe travels throughout North Carolina and South Carolina daily and sees what happens with subdivisions. A fire station is more than 5 miles away and there is no county water or sewer. He bought 75 acres in 2009 and built a house. He bought the land across the road from him to keep out a subdivision. He asked that Council keep this property rural.

Bruce Wilson said the traffic is terrible through there. There have been numerous wrecks on that curve. There are a lot of log trucks and farm tractors on that road. This is agricultural property, always has been and should stay that way.

Philip Wilson said there have been 3 to 4 fatalities on that curve. This will increase traffic, and he would hate to see anybody else hurt on that curve. This is rural family land in this area, and you can hear guns shooting all the time.

Johnny Wilson felt sure the DOT had been involved. There is no way to have a safe entry onto the highway.

Kara Shealy – passed.

Brent Shealy – passed.

Robert Shirey was concerned that no ordinance was in place to govern residential communities. He mentioned abandoned properties, old buildings, and old signs that should be removed. He talked about Wise Street and how the City Police refuse to go to Wise Street before at least 6 a.m.

Charlie Stuck said there was no county water or sewer in this area, and a subdivision would not fit into this area.

Lauren Armstrong is not currently a resident of Newberry County but grew up here and hopes to move back to Newberry County. It's a beautiful county with lots of things going on. She has lived in Greenville and Chapin subdivisions and not all subdivision areas are bad. There are places that have let people put in subdivisions where they should not be. Developers don't love Newberry County. It is zoned rural and should remain rural. It has been said that millennials want homes with small lots and want to stay inside. Plenty of people don't want that. There are places in Newberry County where subdivisions would be appropriate.

Tyler Johnson felt changing the zoning of this property would open Pandora's Box. This is farmland, and no one has to worry about bothering neighbors by being too loud or having bright lights. Changing it will close it forever to being

rural again. Once developed it is gone forever as being rural property in Newberry County.

Pat Redmond – passed.

Wayne Redmond – passed.

Timothy Robinson lives right across the road from this proposed subdivision. He bought 7.2 acres of property because it is not in the city and is totally against the rezoning and a housing development.

Josh Rabon is a civil engineer from Columbia. They are site development engineers working for many developers. He respects the opinions expressed tonight and appreciates their outpouring. Zoning is one of the first things you have to do. Rezoning does not mean the development will go in. Water capacity is available for this property. As to DOT, if site distances are not met, easements will have to be obtained for a clear right of way. A lot of dominos has to go into effect prior to a developer going forward. All of these issues are irrelevant to pursue if the property is not zoned properly. First reading does not mean third reading will go the same way. Additional conversations could be held with DOT as to what would be required to get access to the property. The current landowner is a Newberry County resident and would like to realize the value of his property.

Logan Creed – passed.

Jennifer Nichols grew up in this area and feels Newberry County is a special place. Her concerns include additional taxing on current infrastructure, fire and police service, and the impact on the schools. Progress does need to happen, but this is a quiet community. Plans need to be put into place for responsible development.

Amanda Moates agreed with everyone else that this is a bad area. It is going to make the school rooms bigger and its big enough now. She was born and raised in this area. She felt they were trying to make Newberry into a big city. She felt different things need to be brought to Newberry such as healthier things instead

of the fast-food businesses and things for kids. A housing development in this area would not be good.

Leon Fulmer is a part of the agricultural community of Newberry County. The continued subdivisions will cause urban sprawl, and the developers have no interest in the agricultural community. He felt there was still plenty of housing available in Newberry County.

12. ORDINANCE #04-04-23: ORDINANCE ACTING ON A REQUEST TO AMEND THE OFFICIAL ZONING MAP ESTABLISHED PURSUANT TO ZONING ORDINANCE #12-24-01 AS REVISED AND AMENDED BY ZONING ORDINANCE #06-11-16 AND CODIFIED IN CHAPTER 153 OF THE NEWBERRY COUNTY CODE OF ORDINANCES, ESTABLISHING ZONING CLASSIFICATION AND DISTRICTS SO AS TO REZONE ONE REAL ESTATE PARCEL TOTALING SIXTY AND FIFTY HUNDREDTHS (60.57) ACRES DESIGNATED AS TMS NO. 392-3 FROM R2-RURAL TO RS-SINGLE FAMILY RESIDENTIAL.

NOTE: AS AMENDED AT THE BEGINNING OF THE MEETING, THE TOTAL ACREAGE IN THIS TRACT IS 56.72.

a. First Reading

Mr. Shacker stated this was a rezoning of 56.72 acres on Mt. Bethel Garmany Road from R2-Rural to RS-Single Family Residential. The property is currently unimproved and is forest/agricultural use. The current R2 zoning requires a lot size of at least 1 acre. The requested RS zoning would permit a minimum lot size of 20,000 square feet. The parties are requesting the RS-Single Family Residential zoning to permit development of the property. They are proposing 70 single family residential lots served by culvert water and septic tanks. The developer would be responsible for bearing the expense. A site plan for the proposed development has not been submitted to our staff in Planning and Zoning. This is just the zoning stage of that process. The Planning Commission voted 9 to 1 to recommend approval of this request at its March 21st meeting.

Mr. Shealy moved for first reading; seconded by Mr. Sease.

Mr. Shealy asked if the proposal was to put 70 homes on the 56 acres. Mr. Shacker advised that was correct.

Mr. Sease felt this was not the best site for a subdivision with no county water or sewer. With it being right next to the poultry farm, sooner or later he felt they would try to put the poultry farm out of business or if he wanted to expand, there would be opposition for him expanding. There are a lot of farms and poultry farms in that area. He would vote to leave the property zoned R2.

Mr. Johnson stated growth of residential housing is absolutely necessary for the future of Newberry County with the requests for grocery stores and fire service and more public safety, as well as many other things. These things will require additional houses to spread the tax load and make it possible. However, it must be done in a healthy way. The current road has no shoulders, no access to primary roads, limited access to the interstate, and lack of water and sewer infrastructure. We could also make this vote, and it turn out not to be a housing development but something even worse. He would be opposed to rezoning.

Mr. Hipp was also opposed to this ordinance. We had a similar situation on the corner of Jolly Street Road and 773. There were homeowners in that area that opposed that development. Mr. Hipp agreed we need houses and a place to grow, but we have to choose those areas and restrictions accordingly. In this particular case Mr. Hipp feels the same way he did on the Jolly Street and 773 in that these constituents oppose it, and he will support their wishes.

Mr. Scurry traveled out to the area a few days ago and almost got hit twice on the road. This is not a good neighborhood for a subdivision.

Mrs. Arrowood stated that Newberry County does need homes, and Newberry County needs the tax base that comes with additional homes. Even though she felt this was not the right place for a subdivision, she does support growth in the County. People seem to want bigger lots, and maybe that is something we can address in the future.

There being no further discussion, Mr. Johnson called for the vote. All Council Members voted **against** giving this ordinance first reading. Motion failed unanimously.

13. ORDINANCE #04-05-23: ORDINANCE TO PROVIDE FOR THE ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS OF NEWBERRY COUNTY, SOUTH CAROLINA NOT EXCEEDING \$2,000,000 IN AGGREGATE PRINCIPAL AMOUNT, TO PRESCRIBE THE PURPOSES FOR WHICH THE PROCEEDS OF SAID BONDS SHALL BE EXTENDED, TO PROVIDE FOR THE PAYMENT OF SAID BONDS, AND OTHER MATTERS RELATING THERETO.

a. First Reading

Mr. Shacker stated this is done annually, and the proceeds of the GO Bonds provide funds the County uses to serve existing debt to include long term and lease/purchase debt. He advised that Theo DuBose was here if any Council Member had questions regarding this ordinance.

Mr. Scurry moved to approve first reading; seconded by Mr. Hipp. There being no discussion, Mr. Johnson called for the vote. Vote was unanimous.

14. APPOINTMENTS

No appointments.

15. PUBLIC COMMENTS

No additional comments from the public.

16. EXECUTIVE SESSION:

- a. Economic Development Matter(s): Discussion of matters related to Project Rubicon pursuant to SC Code of Laws, Section 30-4-70(a)(5)**

Mrs. Arrowood moved to go into Executive Session for the above-stated reasons; seconded by Mr. Shealy. There being no discussion, Mr. Johnson called for the vote. Vote was unanimous.

EXECUTIVE SESSION
7:34 PM – 8:16 PM

Mr. Shealy moved to return to open session; seconded by Mrs. Arrowood. There being no discussion, Mr. Johnson called for the vote. Vote was unanimous.

17. COUNTY COUNCIL MAY TAKE ACTION FOLLOWING EXECUTIVE SESSION ON MATTERS DISCUSSED DURING EXECUTIVE SESSION

Mr. Johnson said no action was needed based on the Executive Session.

18. COMMENTS/REQUESTS FROM COUNTY ADMINISTRATOR

Mr. Shacker stated work on the budget was continuing and looks forward to the budget work session on April 26.

19. COMMENTS/REQUESTS FROM COUNCIL MEMBERS

Mr. Shealy said tonight proved that the County needs to come up with a plan for housing development.

Mr. Sease said infrastructure needs to be in place to support housing growth. His main concern is emergency response. We are getting to the point that we need to do more with fire service such as maintaining equipment and getting more equipment. That will cost money and we need to come up with a way to provide these essential services to Newberry County.

Mrs. Arrowood stated Newberry County needs more homes. Right now, the RS zoning requires a minimum lot size of 20,000 square feet. Maybe we need to look at changing the lot size in the ordinance. The small lots seem to be a big complaint.

Mr. Hipp suggested that Planning and Zoning look into recommended changes. We need to make sure any zoning changes comply with the 10-year comp plan as required by law.

Mr. Shacker stated we are in the process of overhauling that plan. State law requires that in order to enforce zoning and to have land development regulations, you have to have a plan. There are 10 required elements at a minimum for a comprehensive plan that has to be revisited every 5 years and overhauled every 10 years. We are in an overhaul now. One of those elements is the land use element and two critical components of the land use element are a current land use map showing how the land is currently used in the county and then a future land use map. That process is underway now and we haven't gotten to the land use element yet. Six elements have been presented to the Planning Commission, which are being reviewed. Those will come to Council to review as well. Mr. Shacker recommends a more hands on approach on the future land use map. There needs to be consistency between zoning and the land use element, which is the foundation.

Mr. Johnson thanked Jeff and the staff for the outstanding job in accommodating everything tonight. He thanked Major Dennis for the extra law enforcement staff present at the meeting tonight.

20. FUTURE MEETINGS:

- a. **Public Safety Committee – April 24, 2023, 6:00 p.m.**
- b. **County Council Work Session – April 26, 2023, 5:00 p.m.**
- c. **County Council – May 3, 2023, 6:00 p.m.**
- d. **County Council – May 17, 2023, 6:00 p.m.**
- e. **Finance Committee – May 22, 2023, 6:00 p.m.**

21. ADJOURNMENT

There being no further business, Mr. Shealy moved to adjourn; seconded by Mrs. Arrowood. Vote was unanimous.

Mr. Johnson declared the meeting adjourned at 8:26 p.m.

NEWBERRY COUNTY COUNCIL

Todd Johnson, Chair

Susan C. Fellers, Clerk to Council

Minutes Approved: _____

STATE OF SOUTH CAROLINA)
)
NEWBERRY COUNTY)

ORDINANCE NO. 04-02-2023

AN ORDINANCE ACTING ON A REQUEST TO AMEND THE OFFICIAL ZONING MAP ESTABLISHED PURSUANT TO ZONING ORDINANCE NO. 12-24-01 AS REVISED AND AMENDED BY ZONING ORDINANCE NO. 6-11-16 AND CODIFIED IN CHAPTER 153 OF THE NEWBERRY COUNTY CODE OF ORDINANCES, ESTABLISHES ZONING CLASSIFICATION AND DISTRICTS SO AS TO REZONE ONE (1) REAL ESTATE PARCEL TOTALING TWO AND EIGHTY-FIVE HUNDREDTHS (2.85) ACRES DESIGNATED AS TMS NO. 399-25 FROM RS-SINGLE FAMILY RESIDENTIAL TO R2-RURAL.

WHEREAS, Zoning Ordinance, codified in Chapter 153 of the Newberry County Code of Ordinances, establishes zoning classifications and districts, as well as an Official Zoning Map; and

WHEREAS, said Zoning Ordinance provides procedures for the amendment of both the text of the Ordinance and the district boundaries shown on the Official Zoning Map; and

WHEREAS, pursuant to the procedures established by the Zoning Ordinance, application was made for a map amendment to rezone one (1) real estate parcel totaling two and eighty-five hundredths (2.85) acres located off Adelaide Street, Newberry, to R2-Rural from RS-Single Family Residential. Tax Map No. 399-25 is currently vacant. The Comprehensive Plan shows the future land use for this area to be within the economic development projected area. The Planning Staff does recommend that this real estate parcel be rezoned to R2-Rural.

WHEREAS, the Newberry County Joint Planning Commission, in case number MA01-03-21-23, had this matter on its agenda and considered this request and received comments as to both the existing and intended uses of the property. The Joint Planning Commission determined that it does concur with the recommendation of the Planning Staff. The Planning Commission has now forwarded its report on the rezoning request to

Newberry County Council, as required by law, for consideration of its actions by Newberry County Council.

WHEREAS, Newberry County Council is familiar with the site and the existing uses of the property located off Adelaide Street.

NOW, THEREFORE, Newberry County Council makes the following findings of fact and law as to the merits of the rezoning request concerning Tax Map No. 399-25, totaling two and eighty-five hundredths (2.85) acres located off Adelaide Street, Newberry, as more particularly shown on the plat accompanying the submitted "Official Zoning Map Amendment Application" included in the submitted Planning Commission report attached hereto, R2-Rural from RS-Single Family Residential:

A. That the proposed map amendment does not promote the implementation of the Comprehensive Plan in the area.

B. This amendment is needed because the proposed development cannot be accomplished by the owner under the existing zoning district regulations.

C. That traffic patterns in the neighborhood will not be adversely affected by the change in zoning.

NOW, THEREFORE, BE IT ORDAINED that:

Newberry County Council hereby determines, based on the findings set forth above, that the attached rezoning request for a map amendment for TMS No. 399-25 totaling two and eighty-five hundredths (2.85) acres real estate parcel as acted on by the Planning Commission, be:

_____ disapproved;

_____ approved; or

_____ approved with the following modifications: _____

_____.

AND IT IS SO ORDAINED by Newberry County Council this _____ day of _____, 2023 in meeting duly assembled at Newberry, South Carolina.

(SEAL)

NEWBERRY COUNTY COUNCIL

By: _____
Todd Johnson, Chairman

Attest:

Susan Fellers, Clerk to Council

1st reading: _____
2nd reading: _____
Public Hearing: _____
3rd reading: _____

Reviewed and approved as to form:

Attorney

County Administrator



Newberry County

Planning Commission Staff Report

Request: Rezoning request MA01-03-21-23 by Barry Koon. This request is to rezone one (1) property totaling two and eighty-five hundredths (2.85) acres located on Adelaide Street from RS-Single Family Residential to R2-Rural.

Application Number: MA01-03-21-23

Applicant: Barry Koon

Property Owner(s): Kathy Javier

Location Address: Adelaide Street

Tax Map Number(s): 399-25

Lot Size: 2.85 acres

Current Land Use: Vacant

Proposed Land Use: Commercial Personal Storage

Current Zoning District: RS-Single Family Residential

Proposed Zoning District: R2-Rural

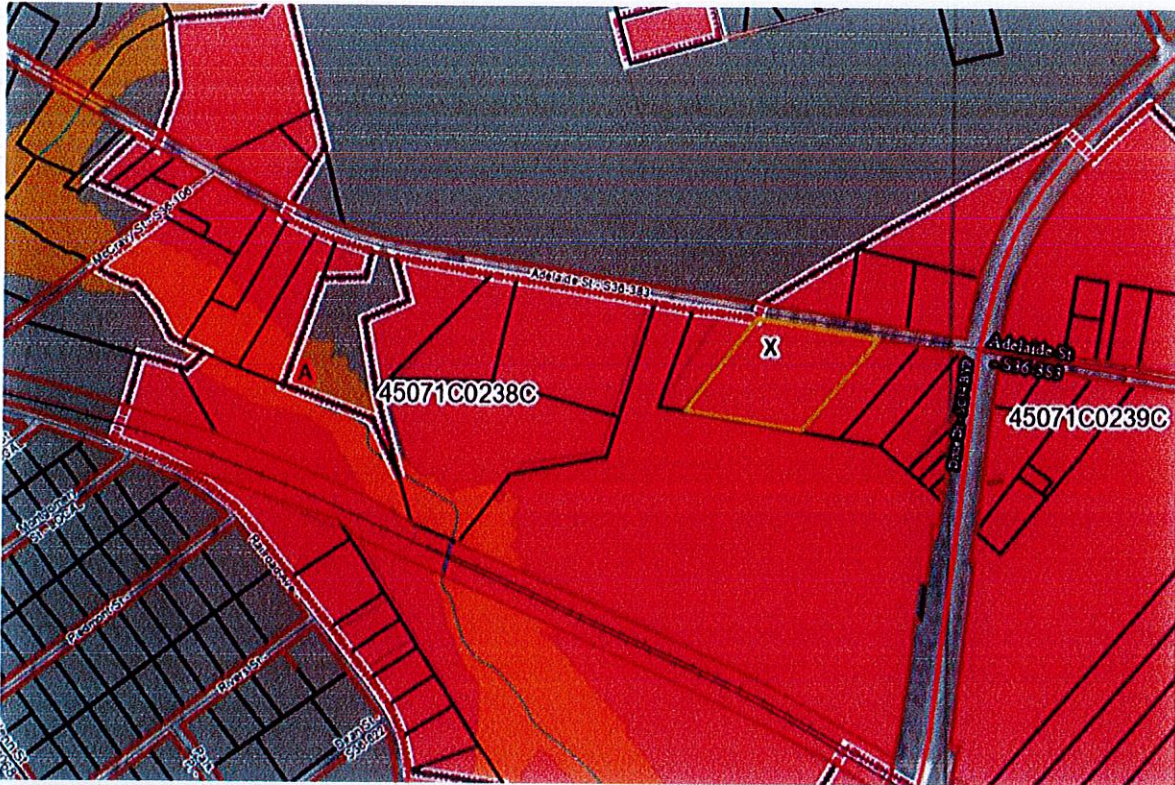
Comprehensive Plan Designation: Economic Development

Zoning Map:**Current Zoning District**

RS – Single Family Residential: The RS district is intended to be residential with single-family, site-built dwellings and low population densities. Compatible uses such as home occupations, K-12 education, limited recreation, and religious uses are also allowed. Manufactured homes and businesses are not permitted.

Proposed Zoning District

R2-Rural: The R2-Rural district is intended to be rural in nature, allowing low density residential uses including manufactured housing on individual properties, as well as home occupations, family day care, agriculture, forestry, hunting, and religious uses, but also accommodating complementary and associated uses such as recreation, government services, and appropriate service, commercial and industrial uses.

Future Land Use Map:**Future Land Use Definition**

Economic Development – Land areas that either are or have the potential to be economic development centers and include uses such as commercial, industrial, higher density residential, public and institutional, and related infrastructure. Commercial uses include businesses, trade activities, administrative activities, professional activities or services, or personal services. Industrial uses include the manufacturing, assembly, processing, fabrication, storage (warehousing), and transportation of goods. Public and institutional uses include city, county, state and federal offices; schools; churches; hospitals; congregate care facilities (nursing homes); utility offices and facilities; postsecondary institutions; communication towers; community non-profit organizations; cemeteries; and libraries.

Analysis:

This is a request by Barry Koon to rezone one (1) parcel of land totaling two and eighty-five hundredths (2.85) acres located on Adelaide Street from RS-Single Family Residential to R2-Rural. Currently the lot is vacant. Interested buyer is wanting to use the property as storage for his business. He will be fencing in the property so that no storage will be seen from Adelaide Street.

Surrounding land uses include industrial uses, residential, and City of Newberry zoned properties.

The Comprehensive Plan identifies this property and the surrounding area as Economic Development. Economic Development land is identified as land that has commercial uses.

When considering a rezoning, per Title 6, Chapter 29 of the Code of Laws of South Carolina, the decision of the Planning Commission serves as a recommendation and is forwarded to County Council for review and approval.

Recommendations:

Staff: Recommends approval of the request from RS-Single Family Residential to R2-Rural as it is supported by the Comprehensive Plan.

Planning Commission: Recommended approval of the request from RS-Single Family Residential to R2-Rural.

County Council:

AN ORDINANCE NO. 04-05-2023

TO PROVIDE FOR THE ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS OF NEWBERRY COUNTY, SOUTH CAROLINA NOT EXCEEDING \$2,000,000 IN AGGREGATE PRINCIPAL AMOUNT, TO PRESCRIBE THE PURPOSES FOR WHICH THE PROCEEDS OF SAID BONDS SHALL BE EXPENDED, TO PROVIDE FOR THE PAYMENT OF SAID BONDS, AND OTHER MATTERS RELATING THERETO.

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EXHIBIT A – NOTICE OF PUBLIC HEARING

EXHIBIT B – FORM OF BOND

EXHIBIT C – FORM OF NOTICE OF SALE

BE IT ORDAINED BY THE COUNTY COUNCIL OF NEWBERRY COUNTY, SOUTH CAROLINA, IN COUNCIL ASSEMBLED, AS FOLLOWS:

ARTICLE I

FINDINGS OF FACT

Section 1.01 Findings.

As an incident to the adoption of this Ordinance, the Newberry County Council (the "Council"), the governing body of Newberry County, South Carolina (the "County"), finds that the facts set forth in this Article exist and the statements made with respect thereto are in all respects true and correct:

1. By virtue of Chapter 15, Title 4, Code of Laws of South Carolina, 1976, as amended and supplemented by Act No. 113 of the 1999 Acts of the South Carolina General Assembly (collectively, the "County Bond Act"), the County is empowered to issue general obligation bonds for any "authorized purpose" as therein defined.

The Council has heretofore determined that it is in the best interest of the County to provide for the acquisition of certain equipment for fire, rescue and ambulance functions within the County, such equipment to include fire trucks, ambulances and other vehicles, solid waste processing equipment, and other items of personal property (collectively, the "Equipment").

The Council has further determined that the cost of purchase of the Equipment will be defrayed in each year through the proceeds of a series of lease-purchase agreements to be entered into from time to time, subject to the decision by the Council to suspend or discontinue or modify such plan at any time. Lease-purchase agreements for items such as the Equipment are expressly exempt from the provisions of Section 11-27-110, Code of Laws of South Carolina, 1976, and, accordingly, are not chargeable against the constitutional debt limit of the County as described in Section 1.02 of this Ordinance. Subject to the right of the County reserved in each lease-purchase agreement now in effect and to become effective hereafter to not appropriate funds in any fiscal year for the payment due thereunder, the County will make annual payments payable under each lease purchase agreement (collectively, "Lease Payments") in order to enjoy the use of the equipment in each fiscal year.

The County has also as of April 30, 2013 entered into with Newberry County Public Facilities Corporation, a South Carolina non-profit corporation (the "Corporation") a Facilities Purchase and Occupancy Agreement (the "Facilities Agreement"). Pursuant to the Facilities Agreement, the Corporation has provided to the County permanent financing for the construction and equipping of the County's public works administration and animal control facility, and the County has agreed, for its use and acquisition of such facility over a term of years, to make annual "Acquisition Payments" to the Corporation. Amounts payable under the Facilities Agreement are not subject to the constitutional debt limit of the County as described in Section 1.02 of this Ordinance.

The Council further intends the Lease Payments and the Acquisition Payments (collectively, the "Annual Appropriation Payments") will be paid from the proceeds of general obligation bonds of the County to be issued annually, in sufficient time to allow for the timely funding of the Annual Appropriation Payments. The payment of Annual Appropriation Payments constitutes an authorized purpose for the issuance of general obligation bonds of the County within the meaning of the County Bond Act.

The Council has determined to presently authorize the issuance of two general obligation bonds of the County, one to be issued in Fiscal Year 2023-24, and the other to be issued in Fiscal Year 2024-25, in order to provide funds with which to pay Annual Appropriation Payments in such Fiscal Years. The total estimated cost of such Annual Appropriation Payments and, additionally, costs of issuance of the bonds, will not exceed \$2,000,000.

Section 1.02 Recital of Applicable Constitutional Provisions.

Section 14 of Article X of the Constitution of the State of South Carolina (the "Constitution") provides that the counties of the State may issue bonded indebtedness in an amount not exceeding eight percent (8%) of the assessed value of all taxable property therein, and provides further that no bonded indebtedness incurred on or prior to November 30, 1977, shall be charged against such eight percent (8%) debt limitation. Paragraph (6) of Section 14 of Article X of the Constitution further provides that general obligation debt authorized by a majority of the qualified electors of the issuer may be issued without consideration of the eight percent (8%) limit otherwise imposed by Section 14 of Article X. The assessed value of all taxable property located within the County (including merchants' inventory, but net of property subject to a fee in lieu of tax) as certified by the County Auditor for the year 2021, which is the last completed assessment thereof, is a sum of not less than \$155,088,455, and thus the eight percent (8%) debt limit of the County is not less than \$12,407,076. At the time of the issuance of the first bond authorized by this Ordinance in December 2023, the County will have outstanding general obligation debt chargeable against the eight percent (8%) limit in the principal amount of not exceeding \$2,022,976. Thus, the Council may issue the general obligation debt provided for by this ordinance without the authorization required by Section 14(6) of the Constitution, provided that the County does not additional indebtedness which would, along with such general obligation debt, exceed the debt limit of the County.

Section 1.03 Holding of Public Hearing and Notice Thereof.

Pursuant to the provisions of Section 4-9-130 of the Code of Laws of South Carolina, 1976, as amended, a public hearing, after giving reasonable notice, is required to be conducted prior to the third and final reading of this Ordinance by Council. In accordance with this provision, a public hearing shall be conducted and due notice shall be provided as required by said Section 4-9-130. The form of the notice to be published shall be substantially as set forth as **Exhibit A** attached hereto.

* * *

ARTICLE II

DEFINITIONS AND AUTHORITY

Section 2.01 Definitions.

As used in this Ordinance, unless the context shall otherwise require, the following terms shall have the following respective meanings:

“Administrative Costs” means all amounts payable by the County to the Corporation under the Facilities Agreement as “Additional Payments”.

“Annual Appropriation Payments” shall have the meaning given thereto in Section 1.01 of this Ordinance.

“Authorized Investments” means any securities which are authorized legal investments for political subdivisions pursuant to the Code of Laws of South Carolina.

“Authorized Officer” means the Chairman or the Vice-Chairman of the Council, the County Administrator of the County, and any other officer or employee of the Council designated from time to time as an Authorized Officer by resolution of the Council, and when used with reference to any act or document also means any other person authorized by resolution of the Council to perform such act or sign such document. During such time as a State of Emergency exists, the Chairman (or Vice-Chairman in the absence or disability of the Chairman) is empowered to designate any officer or employee of the County as an Authorized Officer.

“Bond”, “a Bond” or “the Bond” means a Bond issued in accordance with the provisions of this Ordinance. “Bonds” means all Bonds issued hereunder.

“Bondholder” or “Holder” or “Holder of Bond” or “Owner” or similar term means, when used with respect to a Bond, any person who shall be registered as the owner of a Bond outstanding.

“Bond Payment” means the payment of principal of and interest on a Bond.

“Bond Payment Date” means each date on which a Bond Payment shall be payable.

“Code” means the Internal Revenue Code of 1986, as amended.

“Council” means the Newberry County Council, South Carolina, the governing body of said County or any successor governing body of said County.

“County” means Newberry County, South Carolina.

“County Bond Act” shall have the meaning given thereto in Section 1.01 of this Ordinance.

“Equipment” shall have the meaning given in Section 1.01 of this Ordinance.

“Facilities Agreement” shall have the meaning given in Section 1.01 of this Ordinance.

“Government Obligations” means and includes direct general obligations of the United States of America or agencies thereof or obligations, the payment of principal or interest on which is fully and unconditionally guaranteed by the United States of America.

“Holder” means the registered owner, from time to time, of a Bond as shown on the registration books of the County maintained by the Registrar.

“Ordinance” shall mean this ordinance of County Council authorizing the issuance of the Bond.

“Outstanding”, when used in this Ordinance with respect to a Bond, means as of any date, such Bond theretofore delivered pursuant to this Ordinance except:

(a) if such Bond shall have been cancelled or delivered to the Registrar for cancellation on or before such date;

(b) if such Bond deemed to have been paid in accordance with the provisions of Section 7.01 hereof; and

(c) any Bond in lieu of or in exchange for which another Bond shall have been authenticated and delivered pursuant to Section 3.11 of this Ordinance.

“Paying Agent” means the County Treasurer of Newberry County.

“Person” means an individual, a partnership, a corporation, a trust, a trustee, an unincorporated organization, or a government or an agency or political subdivision thereof.

“Record Date” means the 15th day of the month immediately preceding a Bond Payment Date.

“Registrar” means the County, acting through the Clerk to Council.

“State of Emergency” means a period during which a proclamation issued by the Governor of the State pursuant to South Carolina Code Ann. Sec. 1-3-420 (1976, as amended) remains effective in the County.

Section 2.02 Construction.

In this Ordinance, unless the context otherwise requires:

1. Articles and Sections referred to by number shall mean the corresponding Articles and Sections of this Ordinance.

2. The terms “hereby”, “hereof”, “hereto”, “herein”, “hereunder” and any similar terms refer to this Ordinance, and the term “hereafter” shall mean after, and the term “heretofore” shall mean before, the date of adoption of this Ordinance.

3. Words of the masculine gender shall mean and include correlative words of the female and neuter genders, and words importing the singular number shall mean and include the plural number and vice versa.

4. Any fiduciary shall be deemed to hold an Authorized Investment in which money is invested pursuant to the provisions of this Ordinance, even though such Authorized Investment is evidenced only by a book entry or similar record of investment.

* * *

ARTICLE III

ISSUANCE OF BONDS

Section 3.01 Ordering the Issuance of Bonds.

Pursuant to the provisions of the County Bond Act, and for the purpose of obtaining funds with which to pay Annual Appropriation Payments and Administrative Costs, there shall be issued, as two or more separate Bonds, not exceeding Two Million Dollars (\$2,000,000) aggregate principal amount general obligation bonds of the County. Each Bond issued hereunder shall bear a series designation which reflects the calendar year of issuance and sequence of issuance within such calendar year relative to other general obligation bonds, if any, of the County issued within such calendar year. The first Bond issued under the authorizations of this Ordinance shall be issued in Fiscal Year 2023-24 and in time sufficient to pay Annual Appropriation Payments and Administrative Costs due in such Fiscal Year. Likewise, the final Bonds issued under the authorizations of this Ordinance shall be issued in Fiscal Year 2024-25 and in time sufficient to pay Annual Appropriation Payments and Administrative Costs due in such Fiscal Year. The principal amount of a Bond in a given year shall be adjusted, or the issuance thereof cancelled, as appropriate, in the event the Council determines not to appropriate Annual Appropriation Payments or portion thereof for such year. The County Administrator may, in his sole discretion, determine that a Bond be issued as two or more separate series to reflect a difference in tax-exempt status, the initial source of payment therefore, or any other basis not inconsistent with this Ordinance.

Section 3.02 Maturity Schedule of Bonds.

A Bond shall be dated as of the date of its delivery and shall bear interest from its dated date. The principal amount of a Bond shall be sufficient to pay the Annual Appropriation Payment due in the Fiscal Year of such Bond's issuance, Administrative Costs, and the costs of issuance of such Bond, as determined by the County Administrator. A Bond shall mature no later than June 30 of the Fiscal Year of its issuance on such date, as determined by the County Administrator.

Section 3.03 Medium of Payment; Form and Denomination of Bonds; Place of Payment of Principal.

(a) A Bond shall be payable in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

(b) A Bond shall be issued in the form of one (1) fully registered bond.

(c) A Bond Payment shall be payable to the Person appearing as the Holder of the applicable Bond on the Record Date on the registration books of the County, which books shall be held by the County as Registrar as provided in Section 3.06 hereof, upon the presentation and surrender for cancellation of the Bond at the office of the Paying Agent, provided, however, that the Paying Agent may, upon advice of the County Administrator, waive presentment prior to the delivery of the Bond Payment to the Holder as provided in this Section 3.03(c).

Section 3.04 Execution and Authentication.

(a) A Bond shall be executed in the name and on behalf of the County by the manual signature of an Authorized Officer or Officers, with its corporate seal impressed, imprinted or otherwise reproduced thereon, and attested by the manual signature of the Clerk to County Council or an Authorized Officer (other than the officer or officers executing such Bond). A Bond may bear

the manual signature of any person who shall have been such an Authorized Officer authorized to sign such Bond at the time such Bond was so executed, and shall bind the County notwithstanding the fact that his or her authorization may have ceased prior to the authentication and delivery of such Bond.

(b) A Bond shall not be valid or obligatory for any purpose nor shall it be entitled to any right or benefit hereunder unless there shall be endorsed on the Bond a certificate of authentication in the form set forth in this Ordinance, duly executed by the manual signature of the Registrar, and such certificate of authentication upon a Bond executed on behalf of the County shall be conclusive evidence that the Bond so authenticated has been duly issued hereunder and that the Holder thereof is entitled to the benefit of the terms and provisions of this Ordinance.

Section 3.05 Exchange of a Bond.

A Bond, upon surrender thereof at the office of the Registrar with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered Holder or his duly authorized attorney, may, at the option of the registered Holder thereof, be exchanged for a new Bond of the same interest rate and maturity. So long as a Bond remains Outstanding, the County shall make all necessary provisions to permit the exchange of the Bond. Such new Bond shall reflect the principal amount thereof as then yet unpaid.

Section 3.06 Transferability and Registry.

A Bond shall at all times, when the same is Outstanding, be payable to a Person, and shall be transferable only in accordance with the provisions for registration and transfer contained in this Ordinance and in the Bond. So long as a Bond remains Outstanding, the Registrar shall maintain and keep, at its administrative office, books for the registration and transfer of the Bond, and, upon presentation thereof for such purpose at such office, the Registrar shall register or cause to be registered therein, and permit to be transferred thereon, under such reasonable regulations as it may prescribe, such Bond. So long as the Bond remains Outstanding, the Registrar shall make all necessary provisions to permit the transfer of such Bond at its administrative office.

Section 3.07 Transfer of the Bond.

A Bond shall be transferable only upon the books of the Registrar, upon presentation and surrender thereof by the Holder of the Bond in person or by his attorney duly authorized in writing, together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered Holder or his duly authorized attorney. Upon surrender for transfer of a Bond, the County shall execute, authenticate and deliver, in the name of the Person who is the transferee, a new Bond of the same principal amount and maturity and rate of interest as the surrendered Bond. Such new Bond shall reflect the principal amount thereof as then yet unpaid.

Section 3.08 Regulations with Respect to Exchanges and Transfers.

A Bond surrendered in any exchange or transfer shall forthwith be cancelled by the Registrar. For each such exchange or transfer of the Bond, the Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, which sum or sums shall be paid by the Holder requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer. The County shall not be obligated to issue, exchange or transfer a Bond during the 15 days next preceding the Bond Payment Date applicable thereto.

Section 3.09 Mutilated, Destroyed, Lost and Stolen Bond.

(a) If the Holder surrenders a mutilated Bond to the Registrar or the Registrar receives evidence to its satisfaction of the destruction, loss, or theft of a Bond, and there is delivered to the Registrar such security or indemnity as may be required by it to save it harmless, then, in the absence of notice that such Bond has been acquired by a bona fide purchaser, the County shall execute and deliver, in exchange for the mutilated Bond or in lieu of any such destroyed, lost, or stolen Bond, a new Bond of like tenor, maturity, and interest rate bearing a number unlike that of such mutilated, destroyed, lost, or stolen Bond, and shall thereupon cancel any such mutilated Bond so surrendered.

(b) Upon the issuance of any new Bond under this Section 3.09, the County may require the payment of a sum sufficient to cover any tax, fee, or other governmental charge that may be imposed in relation thereto and any other expenses, including counsel fees or other fees, of the County or the Registrar connected therewith.

(c) Each new Bond issued pursuant to this Section in lieu of any destroyed, lost, or stolen Bond, shall constitute an additional contractual obligation of the County, whether or not the destroyed, lost, or stolen Bond shall at any time be enforceable by anyone, and shall be entitled to all the benefits hereof equally and proportionately with the Bond duly issued pursuant to this Ordinance.

(d) A Bond shall be held and owned upon the express condition that the foregoing provisions are exclusive with respect to the replacement or payment of the mutilated, destroyed, lost, or stolen Bond and shall preclude (to the extent lawful) all other rights or remedies with respect to the replacement or payment of the mutilated, destroyed, lost, or stolen Bond or securities.

Section 3.10 Holder As Owner of Bond.

In its capacity as Registrar, the County may treat the Holder of a Bond as the absolute owner thereof, whether the Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the Bond Payment on the Bond and for all other purposes, and payment of the Bond Payment shall be made only to, or upon the order of, such Holder. All payments to such Holder shall be valid and effectual to satisfy and discharge the liability upon the Bond to the extent of the sum or sums so paid, and the County shall not be affected by any notice to the contrary.

Section 3.11 Cancellation of the Bond.

The Registrar shall destroy a Bond when the same shall be surrendered to it for cancellation. In such event, such Bond shall no longer be deemed Outstanding under this Ordinance and no Bond shall be issued in lieu thereof.

Section 3.12 Payments Due on Saturdays, Sundays and Holidays.

In any case where a Bond Payment Date shall be a Saturday or Sunday or shall be, at the place designated for payment, a legal holiday or a day on which banking institutions are authorized by law to close, then payment of the Bond Payment need not be made on such date but may be made on the next succeeding business day not a Saturday, Sunday or a legal holiday or a day upon which banking institutions are authorized by law to close, with the same force and effect as if made on the Bond Payment Date and no interest shall accrue for the period after such date.

Section 3.13 Tax Exemption in South Carolina.

Bond Payments shall be exempt from all State, county, municipal, school district, and all other taxes or assessments of the State of South Carolina, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except inheritance, estate, transfer or certain franchise taxes.

Section 3.14 Order to Levy Ad Valorem Taxes to Pay Principal and Interest of Bond.

For the payment of principal of and interest on a Bond as the same become due and for the creation of such sinking fund as may be necessary therefor, the full faith, credit, and taxing power of the County are hereby irrevocably pledged, and there shall be levied an ad valorem tax upon all taxable property located within the County sufficient to pay the principal of and interest on the Bond as the same become due and to create such sinking fund as may be necessary therefor. The property upon which ad valorem taxes shall be initially levied to pay principal of and interest on a Bond shall include only such property located within a special tax district if the Bond is issued for the benefit of such special tax district.

Section 3.15 Notice to Auditor and Treasurer.

The Auditor and Treasurer of Newberry County, South Carolina, shall be notified of the issuance of a Bond and directed to levy and collect annually upon all taxable property within the County ad valorem property taxes in an amount sufficient to pay the principal of and interest on such Bond as the same become due and to create such sinking fund as may be necessary therefor. The property upon which ad valorem taxes shall be initially levied to pay principal of and interest on a Bond shall include only such property located within a special tax district if the Bond is issued for the benefit of such special tax district.

Section 3.16 Form of Bond.

The form of a Bond, and registration provisions to be endorsed thereon, shall be substantially as set forth in **Exhibit B** attached hereto and made a part of this Ordinance.

* * *

ARTICLE IV

REDEMPTION OF BONDS

Section 4.01 Redemption of Bonds.

A Bond shall not be subject to redemption prior to maturity except as may be agreed to by the Holder thereof and the County.

* * *

ARTICLE V

SALE OF BONDS

Section 5.01 Sale and Award of Bonds.

A Bond shall be sold at a price of not less than par. Bids for a Bond shall be solicited by the County Administrator from not less than three (3) financial institutions with at least seven (7) days advance notice to institutions so solicited.

Unless all bids are rejected, the County Administrator is authorized to award the Bond to the bidder offering the lowest net interest cost therefor; for purposes of this paragraph, net interest cost shall be determined by computing the total dollar interest cost from the date of the Bond to maturity and deducting therefrom the amount of the premium offered, if any, over and above the principal amount. Any proposed fees of bank counsel shall be treated as additional interest cost in evaluating bids. In the case of a tie in net interest cost, the award of the Bond shall be based upon the flip of a coin. Notwithstanding the foregoing, no such award shall be effective without the approval of Council, by resolution duly adopted, if the net interest cost of such Bond exceeds 5.00% per annum.

Notwithstanding the foregoing, upon advice of Counsel, the sale of a Bond may be combined with the negotiation of a lease-purchase agreement for Equipment, and the Bond may be awarded together with such lease purchase agreement to the bidder offering to the County, in the sole discretion of the County Administrator, the best overall terms for the purchase of such items. No such award shall be effective without the approval of Council, by resolution duly adopted, if the net interest cost of such Bond exceeds 5.00% per annum.

There shall be published in a newspaper of general circulation in the County at least seven (7) days prior to the delivery of a Bond a Notice of Sale in form substantially similar to that appearing at **Exhibit C** hereto.

* * *

ARTICLE VI

DISPOSITION OF PROCEEDS OF SALE OF BONDS

Section 6.01 Disposition of Bond Proceeds Including Temporary Investments.

The proceeds derived from the sale of a Bond shall be paid to the Treasurer of Newberry County, to be deposited in a separate Bond Account, and shall be expended and made use of by the Council to defray the cost of issuing the Bond and to pay Annual Appropriation Payments and Administrative Costs. Any premium shall be placed in the sinking fund held by the Treasurer of Newberry County for payment of principal and interest on the Bond and applied to the discharge of principal on such Bond.

Pending the use of Bond proceeds, the same, but subject to the provisions of Section 8.04, shall be invested and reinvested by the Treasurer of Newberry County in Authorized Investments. All earnings from such investments shall be applied, at the direction of the Council, either (1) to defray the cost of the undertakings for which the Bond is issued and if not required for this purpose, then (2) to interest on the Bond from the proceeds of which such earnings were derived.

Neither the purchaser nor Holder of the Bond shall be liable for the proper application of the proceeds thereof.

* * *

ARTICLE VII

DEFEASANCE OF BONDS

Section 7.01 Discharge of Ordinance - Where and How a Bond is Deemed to Have Been Paid and Defeased.

If a Bond and the interest thereon shall have been paid and discharged, then the obligations of the County under this Ordinance as to such Bond and all other rights granted hereby shall cease and determine. A Bond shall be deemed to have been paid and discharged within the meaning of this Article under each of the following circumstances, viz.:

(1) A third party fiduciary, which shall be any bank, trust company, or national banking association which is authorized to provide corporate trust services (the "Fiduciary"), shall hold, in trust and irrevocably appropriated thereto, sufficient moneys for the payment of the Bond Payment due thereunder; or

(2) If default in the payment when due of a Bond Payment shall have occurred, and thereafter tender of such payment shall have been made, and at such time the Fiduciary shall hold in trust and irrevocably appropriated thereto, sufficient moneys for the payment thereof to the date of the tender of such payment; or

(3) If the County shall elect to provide for the payment of a Bond prior to its stated maturity and shall have deposited with the Fiduciary, in an irrevocable trust, moneys which shall be sufficient, or Government Obligations, the principal of and interest on which when due will provide moneys, which together with moneys, if any, deposited with the Fiduciary at the same time, shall be sufficient to pay the Bond Payment when due.

Neither the Government Obligations nor moneys deposited with the Fiduciary pursuant to this Section nor the Bond Payments thereon shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the Bond Payment on a Bond; provided that any cash received from such principal or interest payments on Government Obligations deposited with the Fiduciary, if not then needed for such purpose, shall to the extent practicable be invested and reinvested in Government Obligations maturing at times and in amounts sufficient to pay when due the Bond Payment to become due on a Bond on the Bond Payment Date thereof, and interest earned from such reinvestments not required for the payment of the Bond Payment may be paid over to the County, free and clear of any trust, lien or pledge.

* * *

ARTICLE VIII

CERTAIN TAX AND DISCLOSURE CONSIDERATIONS

Section 8.01 Covenants to Comply with Requirements of the Code.

The County hereby represents and covenants that it will comply with all requirements of the Code, and that it will not take any action which will, or fail to take any action (including, without limitation, filing the required information reports with the Internal Revenue Service) which failure will, cause interest on a Bond to become includable in the gross income of the Holder thereof for federal income tax purposes pursuant to the provisions of the Code and regulations promulgated thereunder in effect on the date of original issuance of a Bond. Without limiting the generality of the foregoing, the County represents and covenants that:

1. All property provided by the net proceeds of a Bond will be owned by the County in accordance with the rules governing the ownership of property for federal income tax purposes.

2. The County shall not permit the proceeds of a Bond or any facility financed with the proceeds of the Bond to be used in any manner that would result in (a) ten percent (10%) or more of such proceeds being considered as having been used directly or indirectly in any trade or business carried on by any natural person or in any activity carried on by a person other than a natural person other than a governmental unit as provided in Section 141(b) of the Code, or (b) five percent (5%) or more of such proceeds being considered as having been used directly or indirectly to make or finance loans to any person other than a governmental unit as provided in Section 141(c) of the Code.

3. The County is not a party to nor will it enter into any contracts with any person for the use or management of any facility provided with the proceeds of a Bond that do not conform to the guidelines set forth in Revenue Procedure 2017-13.

4. The County will not sell or lease the Equipment or any property provided by a Bond to any person unless it obtains the opinion of nationally recognized bond counsel that such lease or sale will not affect the tax exemption of the Bond.

5. A Bond will not be federally guaranteed within the meaning of Section 149(b) of the Code. The County is not a party to any leases or sales or service contracts with any federal government agency with respect to the projects and will not enter into any such leases or contracts unless it obtains the opinion of nationally recognized bond counsel that such action will not affect the tax exemption of a Bond.

Notwithstanding the foregoing, the County Administrator may determine that interest on a Bond shall be subject to federal income tax if so requested by the purchaser thereof, subject always to Section 5.01 of this Bond Ordinance. In such case, the foregoing covenants and the remainder of this Article VIII shall be inapplicable.

Section 8.02 Qualified Tax-Exempt Obligation.

The County Administrator, upon advice of Bond Counsel, is authorized to designate as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3)(B) of the Code any Bonds, provided he reasonably expects that, in the calendar year of issuance thereof, the County and entities subordinate thereto will not issue in the aggregate more than \$10,000,000 of tax-exempt obligations.

Section 8.03 Ability to Meet Arbitrage Requirements.

Careful consideration has been given to the time in which the expenditures of the proceeds of each Bond authorized hereby will be made, and it has been ascertained that all of the money received from the proceeds of each Bond will be expended within the limitations imposed by Section 148(c) of the Code, so that the Council will be able to certify upon reasonable grounds that each Bond is not an “arbitrage bond” within the meaning of Section 148(c) of the Code.

Section 8.04 Escrow Agreement.

In the event that the County Administrator is advised by Bond Counsel that it is necessary that proceeds of the Bonds to be applied to Annual Appropriation Payments be invested at a restricted yield in order to maintain the tax-exempt status of the Bonds, the County Administrator shall engage a Fiduciary to establish an escrow account for the deposit of such proceeds and shall enter into an agreement with such Fiduciary for the custody, investment, and expenditure of such proceeds in form satisfactory to Bond Counsel.

Section 8.05 Continuing Disclosure.

Pursuant to Section 11-1-85 of the Code of Laws of South Carolina 1976, as amended, the County covenants to file with a central repository for availability in the secondary bond market when requested:

- (a) An annual independent audit, within thirty days of the County’s receipt of the audit; and
- (b) Event specific information within thirty days of an event adversely affecting more than five percent of revenue or the County’s tax base.

The only remedy for failure by the County to comply with the covenant in this Section 8.04 shall be an action for specific performance of this covenant. The County specifically reserves the right to amend this covenant to reflect any change in Section 11-1-85, without the consent of any Bondholder.

Section 8.06 Taxable Obligation.

Any Bond may be issued as a taxable obligation if the County Administrator determines in his sole discretion that it is in the best interests of the County to do so.

* * *

ARTICLE IX

MISCELLANEOUS

Section 9.01 Savings Clause.

If any one or more of the covenants or agreements provided in this Ordinance should be contrary to law, then such covenant or covenants or agreement or agreements shall be deemed severable from the remaining covenants and agreements, and shall in no way affect the validity of the other provisions of this Ordinance.

Section 9.02 Successors.

Whenever in this Ordinance the County is named or referred to, it shall be deemed to include any entity, which may succeed to the principal functions and powers of the County, and all the covenants and agreements contained in this Ordinance or by or on behalf of the County shall bind and inure to the benefit of said successor whether so expressed or not.

Section 9.03 Ordinance to Constitute Contract.

In consideration of the purchase and acceptance of a Bond by those who shall purchase and hold the same from time to time, the provisions of this Ordinance shall be deemed to be and shall constitute a contract between the County and the Holder from time to time of the Bond, and such provisions are covenants and agreements with such Holder which the County hereby determined to be necessary and desirable for the security and payment thereof. The pledge hereof and the provisions, covenants, and agreements herein set forth to be performed on behalf of the County shall be for the benefit, protection, and security of the Holder of the Bond.

Section 9.04 Filing of Copies of Ordinance.

Copies of this Ordinance shall be filed in the offices of the Council and in the office of the Clerk of Court for Newberry County (as a part of the Transcript of Proceedings).

Section 9.05 Appropriation of Funds.

Notwithstanding Section 9.07 of this Ordinance, the adoption hereof shall not be construed as an appropriation of funds with which to make Annual Appropriation Payments or Administrative Costs in any Fiscal Year. Such appropriation shall be made, if ever, only in connection with the adoption of the County's annual operating budget for each Fiscal Year. The Bonds authorized hereby may be sold and delivered only to pay Annual Appropriation Payments and Administrative Costs when and to the extent so appropriated.

Section 9.06 Further Action by Officers of County.

The proper officers of the County are fully authorized and empowered to take the actions required to implement the provisions of this Ordinance and to furnish such certificates and other proofs as may be required of them, which includes but is not limited to providing the notice and conducting the public hearing described in Section 1.03 hereof. In the absence of any officer of the Council herein authorized to take any act or make any decision, the County Administrator is hereby authorized to take any such act or make any such decision.

Section 9.07 Effective Date of Ordinance.

This Ordinance shall take effect upon its third reading and shall be forthwith codified in the Code of County Ordinances and indexed under the general heading "An Ordinance To Provide For The Issuance And Sale Of General Obligation Bonds Of Newberry County, South Carolina Not Exceeding \$2,000,000 In Aggregate Principal Amount, To Prescribe The Purposes For Which The Proceeds Of Said Bonds Shall Be Expended, To Provide For The Payment Of Said Bonds, And Other Matters Relating Thereto."

DONE IN MEETING DULY ASSEMBLED, this ____ of _____, 2023.

NEWBERRY COUNTY COUNCIL

(SEAL)

Chairman

Attest:

Clerk

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Newberry County Council, State of South Carolina will conduct the following public hearing(s) at its meeting on the ____ day of _____, 2023, to be held in the Newberry County Council Chamber, 1309 College Street, Newberry, South Carolina, at _____ P.M.

Ordinance No. ____: An Ordinance To Provide For The Issuance And Sale Of General Obligation Bonds Of Newberry County, South Carolina Not Exceeding \$2,000,000 In Aggregate Principal Amount, To Prescribe The Purposes For Which The Proceeds Of Said Bonds Shall Be Expended, To Provide For The Payment Of Said Bonds, And Other Matters Relating Thereto.

[OTHER ORDINANCES RECEIVING PUBLIC HEARINGS INSERTED HERE]

At the time and place fixed for said public hearing(s), all taxpayers, residents or other interested persons who appear will be given an opportunity to express their views for or against the adoption of the Ordinance. A copy of the proposed Ordinance(s) is available for inspection in the Clerk to Council's office located in the Courthouse Annex at 1309 College Street, Newberry, South Carolina, during its regular business hours. Assistance is available for those who are visually or hearing-impaired. For assistance, call _____, Clerk to Council, (803) 321-2100.

Chairman, Newberry County Council

(FORM OF BOND)

TRANSFER OF THIS BOND IS RESTRICTED BY THAT WRITTEN CONFIRMATION OF (BANK) DATED _____, THE TERMS OF WHICH ARE INCORPORATED HEREIN BY REFERENCE AS IF FULLY SET FORTH HEREIN. TRANSFER OF THIS BOND IS OTHERWISE UNLAWFUL AND UNENFORCEABLE.

UNITED STATES OF AMERICA
STATE OF SOUTH CAROLINA
COUNTY OF NEWBERRY
GENERAL OBLIGATION BOND, SERIES 202__

No. 1

Registered Holder: _____

Principal Amount: _____

NEWBERRY COUNTY, SOUTH CAROLINA (the "County"), a public body corporate and politic and a political subdivision of the State of South Carolina (the "State"), created and existing by virtue of the laws of the State, acknowledges itself indebted and for value received hereby promises to pay, solely as hereinafter provided, to the Registered Holder named above or registered assigns, the Principal Amount stated above and interest thereon on such date and in the manner provided herein.

This bond ("Bond") is issued in the principal amount of _____ for purposes authorized by and pursuant to and in accordance with the Constitution and Statutes of the State of South Carolina, including particularly the provisions of Sections 4-15-10 through 4-15-180, Code of Laws of South Carolina, 1976, as amended, and an Ordinance duly adopted by the County Council of Newberry County (the "Ordinance") on _____, 2023. This Bond is not subject to redemption prior to maturity except as may be agreed to by the County and the Holder hereof.

The principal and interest on this Bond shall be paid on _____, 20__ upon the presentation and surrender for cancellation of this Bond at the office of the County Treasurer of Newberry County, as Paying Agent, to the person shown on the books of registration of the County as the Holder hereof on the Record Date. The Bond Payment is payable in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

Certain capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the Ordinance. Certified copies of the Ordinance are on file in the office of the Clerk of Court of Newberry County and in the office of the County Council of Newberry County.

This Bond is payable from a tax levied on all taxable property within the County. For the prompt payment of the Bond Payment as the same shall become due, the full faith, credit, and taxing power of the County are irrevocably pledged.

This Bond and the interest hereon are exempt from all State, county, municipal, school district, and all other taxes or assessments of the State of South Carolina, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except inheritance, estate, transfer, or certain franchise taxes.

The Bond is issued in the form of one (1) fully registered Bond and is transferable, as provided in the Ordinance, only upon the registration books of the County kept for that purpose at the offices of the County by the registered Holder in person or by his duly authorized attorney upon, (i) surrender of this Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered holder or his duly authorized attorney, and (ii) payment of the charges, if any, prescribed in the Ordinance. Thereupon a new fully registered Bond of interest rate and like principal amount shall be issued to the transferee in exchange therefor as provided in the Ordinance. The County may deem and treat the person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of the Bond Payment due hereon and for all other purposes.

For every exchange or transfer of the Bond, the County may make a charge sufficient to reimburse it for any tax, fee, or other governmental charge required to be paid with respect to such exchange or transfer.

It is hereby certified and recited that all acts, conditions, and things required to exist, happen, and to be performed precedent to and in the adoption of the Ordinance and in the issuance of the Bond in order to make the legal, valid, and binding general obligation of the County in accordance with its terms, do exist, have been done, have happened and have been performed in regular and due form as required by law; and that the issuance of the Bond does not exceed or violate any constitutional, statutory, or other limitation upon the amount of indebtedness prescribed by law.

IN WITNESS WHEREOF, NEWBERRY COUNTY, SOUTH CAROLINA, has caused this Bond to be signed by the manual signature of the Chairman of the Newberry County Council, attested by the manual signature of the Clerk to the Newberry County Council, and the seal of the County impressed hereon.

NEWBERRY COUNTY, SOUTH CAROLINA

(SEAL)

Chairman, Newberry County Council

ATTEST:

Clerk, Newberry County Council

CERTIFICATE OF AUTHENTICATION

This Bond is the Bond of the issue described in the within mentioned Ordinance.

Registrar

By: _____
_____, Clerk to Council

Date of Authentication: _____, 20__

The following abbreviations, when used in the inscription on the face of this Bond, shall be construed as though they were written out in full according to applicable laws or regulations.

TEN COM - as tenants in common

UNIF GIFT MIN ACT -

TEN ENT - as tenants by the entireties

_____ Custodian _____
(Cust) (Minor)

JT TEN - as joint tenants with right of survivorship and not as tenants in common

under Uniform Gifts to Minors Act _____
(state)

Additional abbreviations may also be used though not in above list.

(FORM OF ASSIGNMENT)

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto _____ the within bond and does hereby irrevocably constitute and appoint _____ attorney to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed

(Authorized Officer)

(Signature must be guaranteed by a participant in the Securities Transfer Agent Medallion Program (STAMP))

Notice: The signature to the assignment must correspond with the name of the registered owner as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever.

NOTICE OF SALE

Notice is hereby given that Newberry County, South Carolina shall deliver to (Purchaser) on (Date of Delivery) it's \$_____ principal amount General Obligation Bond, Series _____. The Bond has been sold to (Purchaser) at a price of _____ and an interest rate of ____%. The Bond matures on _____, 202__ at which time the principal thereof and interest thereon in the amount of \$ _____ shall be due and payable.

Chairman, Newberry County Council

STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

I, the undersigned, Clerk to Council of Newberry County, South Carolina, DO HEREBY CERTIFY:

1. That the foregoing is a true, correct and verbatim copy of an Ordinance adopted by the County Council of Newberry County on _____, 2023, at which a majority/all members were present. It was first introduced at the regular meeting of County Council held on _____, 2023. At that meeting, it was given first reading by the majority/unanimous vote of the County Council. Afterwards, at the regular meeting of the County Council held on _____, 2023, it was given its second reading and at the regular meeting of the County Council held on _____, 2023, it was given third and final reading by the unanimous vote of County Council. At each of said meetings, a quorum of County Council was present at all times during the proceedings pursuant to which the aforesaid Ordinance was adopted, the original of which is duly entered in the record of minutes of the aforesaid meetings of said County Council in my Custody as such Clerk.

2. As required by Title 30, Chapter 4 of the Code of Laws of South Carolina 1976, as amended, being the Freedom of Information Act, a copy of the agenda of meetings (showing the date, time and place of the meeting) of the County Council of the County is posted on a designated bulletin board in the administrative offices of the County, posted on the County's publicly-available website and supplied to news media as requested, in each case at least 24 hours prior to regularly scheduled meetings of the County Council. An agenda was posted in accordance with the foregoing sentence for each meeting at which the attached Ordinance was voted upon, and each agenda as so posted contained as an item the consideration of the attached Ordinance by the County Council.

IN WITNESS WHEREOF, I have hereunto set my Hand and the Seal of the County, this ____ day of _____ 2023.

(SEAL)

Clerk, Newberry County Council

First reading: _____

Second reading: _____

Third reading: _____

Public Hearing: _____

Enacted and approved this ____ day of _____, 2023.

DONE IN MEETING DULY ASSEMBLED, this ____ day of _____ 2023.

COUNTY COUNCIL OF NEWBERRY COUNTY

Todd Johnson
Chairman, County Council of Newberry County

ATTEST:

Susan C. Fellers
Clerk to County Council of Newberry County

Jeff Shacker, County Administrator

First Reading: _____, 2023
Second Reading: _____, 2023
Public Hearing: _____, 2023
Third Reading: _____, 2023

EXHIBIT A

The subject property is a portion of a driveway that was deeded to the County and is 139 feet in length and having a width of forty feet. The subject property is located in the Pine Hill Estate, off of Hwy US 76, Newberry, South Carolina. The subject property is identified on the Newberry County Assessor's tax maps as being in between parcel numbers 340-1-10 and 340-1-15. The property connects to a private drive, Pond Lane.

comments as to both the existing and intended uses of the property. The Joint Planning Commission determined that it does concur with the recommendation of the Planning Staff. The Planning Commission has now forwarded its report on the rezoning request to Newberry County Council, as required by law, for consideration of its actions by Newberry County Council.

WHEREAS, Newberry County Council is familiar with the site and the existing uses of the property located at 2209 & 2211 Wilson Rd., Newberry.

NOW, THEREFORE, Newberry County Council makes the following findings of fact and law as to the merits of the rezoning request concerning Tax Map No. 339-3-6-1 and Tax Map No. 339-3-6-2, totaling three and ninety-two hundredths (3.92) acres located at 2209 & 2211 Wilson Rd., Newberry, as more particularly shown on the plat accompanying the submitted "Official Zoning Map Amendment Application" included in the submitted Planning Commission report attached hereto, RSM-Single Family Residential from GC-General Commercial:

A. That the proposed map amendment does promote the implementation of the Comprehensive Plan in the area.

B. This amendment is needed because the proposed development cannot be accomplished by the owner under the existing zoning district regulations.

C. That traffic patterns in the neighborhood will not be adversely affected by the change in zoning.

NOW, THEREFORE, BE IT ORDAINED that:

Newberry County Council hereby determines, based on the findings set forth above, that the attached rezoning request for a map amendment for Tax Map No. 339-3-6-1 and Tax

Map No. 339-3-6-2, totaling three and ninety-two hundredths (3.92) acres real estate parcel as acted on by the Planning Commission, be:

_____ disapproved;

_____ approved; or

_____ approved with the following modifications: _____

AND IT IS SO ORDAINED by Newberry County Council this _____ day of _____, 2023 in meeting duly assembled at Newberry, South Carolina.

NEWBERRY COUNTY COUNCIL

(SEAL)

By: _____
Todd Johnson, Chairman

Attest:

Susan Fellers, Clerk to Council

1st reading: _____
2nd reading: _____
Public Hearing: _____
3rd reading: _____

Reviewed and approved as to form: _____

Attorney

County Administrator



Newberry County

Planning Commission Staff Report

Request: Rezoning request MA01-04-18-23 by Nick Shealy. This request is to rezone two (2) properties totaling three and ninety-two hundredths (3.92) acres located at 2209 and 2211 Wilson Road, Newberry, from GC – General Commercial to RSM- Single Family Residential.

Application Number: MA01-04-18-23

Applicant: Nick Shealy

Property Owner(s): Robert Shealy, Georganna Enlow and Christopher Shealy

Location Address: 2209 & 2211 Wilson Road, Newberry

Tax Map Number(s): 339-3-6-1 & 339-3-6-2

Lot Size: 3.92 acres

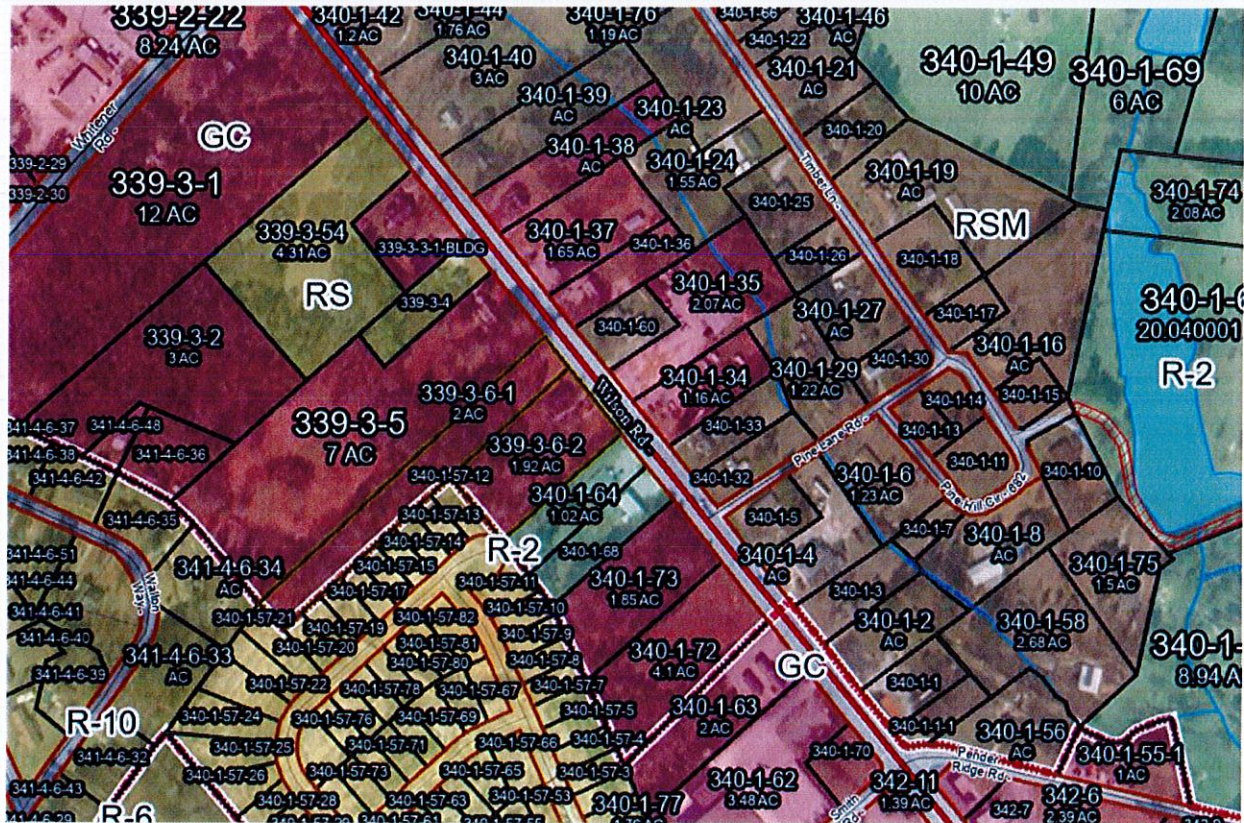
Current Land Use: Residential

Proposed Land Use: Residential

Current Zoning District: GC- General Commercial

Proposed Zoning District: RSM-Single Family Residential

Comprehensive Plan Designation: Economic Development

Zoning Map:**Current Zoning District**

GC – General Commercial: The GC district is intended to accommodate a variety of general commercial and non-residential uses characterized primarily by retail, including shopping centers; wholesale; offices; educational institutions; healthcare, including hospitals; arts and entertainment; and service establishments in commercially-oriented areas.

Proposed Zoning District

RSM – Single Family Residential: The RSM district is intended to be residential with detached single-family dwellings, including manufactured homes on individual properties, and low population densities. Compatible uses such as home occupations, K-12 education, and limited recreation and religious uses are also allowed.

Analysis:

This is a request by Nick Shealy to rezone two (2) parcels of land totaling three and ninety-two hundredths (3.92) acres located at 2209 and 2211 Wilson Road, from GC-General Commercial to RSM - Single Family Residential. Currently the lots are residentially use. Interested buyer would like the options to add other residential uses (garage/workshop) to the property.

The Comprehensive Plan identifies this property and the surrounding area as Economic Development.

When considering a rezoning, per Title 6, Chapter 29 of the Code of Laws of South Carolina, the decision of the Planning Commission serves as a recommendation and is forwarded to County Council for review and approval.

Recommendations:

Staff: Recommends approval of the request from GC-General Commercial to RSM-Single Family Residential as it is supported by the Comprehensive Plan.

Planning Commission: Voted unanimously to recommend the rezoning to RSM-Single Family Residential.

County Council:

STATE OF SOUTH CAROLINA)
)
COUNTY OF NEWBERRY)

BUDGET ORDINANCE NO. 05-08-2023

AN ORDINANCE TO PROVIDE APPROPRIATIONS FOR THE FISCAL YEAR BEGINNING JULY 1, 2023, AND ENDING JUNE 30, 2024, FOR THE NEWBERRY COUNTY BUDGET FOR COUNTY ORDINARY PURPOSES AND FOR OTHER COUNTY PURPOSES FOR WHICH THE COUNTY MAY LEVY A TAX AND RECEIVE REVENUES; TO PROVIDE FOR THE LEVY OF TAXES ON ALL TAXABLE PERSONAL AND REAL PROPERTY IN NEWBERRY COUNTY FOR ALL COUNTY PURPOSES, INCLUDING SUFFICIENT TAX TO PAY THE PRINCIPAL AND INTEREST ON OUTSTANDING INDEBTEDNESS OF NEWBERRY COUNTY PAYABLE DURING SAID FISCAL YEAR; TO PROVIDE FOR MATTERS RELATING TO NEWBERRY COUNTY; AND TO PROVIDE FOR THE EXPENDITURE OF SAID TAXES AND OTHER REVENUES RECEIVED BY THE COUNTY DURING SAID FISCAL YEAR, AND TO PROVIDE FOR BORROWING IN ANTICIPATION OF TAX COLLECTIONS BY THE ISSUANCE OF ONE OR MORE TAX ANTICIPATION NOTES, IF NECESSARY.

The complete ordinance will be forwarded on Monday, May 1, 2023.

STATE OF SOUTH CAROLINA)
)
COUNTY OF NEWBERRY)

BUDGET ORDINANCE NO. 05-09-2023

AN ORDINANCE TO PROVIDE APPROPRIATIONS FOR THE FISCAL YEAR BEGINNING JULY 1, 2023, AND ENDING JUNE 30, 2024, FOR NEWBERRY COUNTY LIBRARY, PIEDMONT TECHNICAL COLLEGE AND THE NEWBERRY AGENCY FOR DISABILITIES AND SPECIAL NEEDS; TO PROVIDE FOR THE LEVY OF TAXES ON ALL TAXABLE PERSONAL AND REAL ESTATE PROPERTIES IN NEWBERRY COUNTY FOR SAID PURPOSES; TO PROVIDE FOR THE EXPENDITURE OF SAID TAXES AND OTHER REVENUES RECEIVED BY THE COUNTY DURING SAID FISCAL YEAR FOR SAID PURPOSES.

Pursuant to Sections 4-9-140 and 4-9-39 of the South Carolina Code of Laws as amended, BE IT ENACTED by the County Council for Newberry County:

SECTION I. LEVYING OF A SUFFICIENT TAX

A tax of sufficient mills to pay the appropriations for Newberry County Library, Piedmont Technical College and the Newberry Agency for Disabilities and Special Needs in the County Budget, is hereby levied on the taxable property in Newberry County to pay these entities for the public and educational purposes as hereinafter set out and made for the fiscal year beginning July 1, 2023 and ending June 30, 2024.

SECTION II. COMMUNITY SERVICES APPROPRIATIONS

There is hereby appropriated, with provisos, if any, as attached to and incorporated into this Ordinance, and also stated in the County Operating and Capital Budgets for the fiscal year beginning July 1, 2023, and ending June 30, 2024, the following sums of money in the amounts and for the purposes set forth as follows:

COMMUNITY SERVICES APPROPRIATIONS

<u>REVENUE</u>	<u>AMOUNT</u>
PROPERTY TAXES	\$ 1,136,051
TOTAL COMMUNITY SERVICES REVENUE	\$ 1,136,051
<u>EXPENDITURES</u>	<u>AMOUNT</u>
PIEDMONT TECHNICAL COLLEGE	\$ 525,515
NEWBERRY COUNTY LIBRARY	568,311
NEWBERRY COUNTY DISABILITIES AND SPECIAL NEEDS	<u>42,225</u>
TOTAL COMMUNITY SERVICES EXPENDITURES	\$1,136,051

SECTION III. SEVERABILITY

If any phrase, clause, sentence, paragraph, appropriation, or section of this Ordinance shall be held invalid, it shall not affect the validity of the remainder of this Ordinance or of any of the remaining phrases, clauses, sentences, paragraphs, appropriations, or sections not affected by such invalidity.

SECTION IV. EFFECTIVE DATE

This Ordinance shall become effective when adopted and shall govern the revenues and expenditures for the Fiscal Year 2023-2024, which commences on July 1, 2023, including the disposition of funds carried forward from the prior Fiscal Year, unless otherwise encumbered.

AND IT IS SO ORDAINED by Newberry County Council this day June of 2023 in a meeting duly assembled at Newberry, South Carolina.

(SEAL)

NEWBERRY COUNTY COUNCIL

**By: _____
Todd Johnson, Chairman**

Attest:

Susan C. Fellers, Clerk to Council

**FIRST READING:
SECOND READING:
PUBLIC HEARING:
THIRD READING:**

Reviewed and approved as to form:

Joanie Winters, Interim Attorney

STATE OF SOUTH CAROLINA)
NEWBERRY COUNTY)

ORDINANCE NO. 05-10-2023

AN ORDINANCE TO POSTPONE THE IMPLEMENTATION OF REVISED VALUES RESULTING FROM REASSESSMENT AND EQUALIZATION.

WHEREAS, Section 12-43-217(A), Code of Laws for South Carolina, as Amended, provides that each county shall appraise and equalize those properties under its jurisdiction once every fifth year, and

WHEREAS, Section 12-43-21 (B), Code of Laws for South Carolina, as amended, provides that the county may postpone for not more than one property tax year the implementation of revised values resulting from the equalization program; and

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS:

The implementation of the revised values resulting from the next equalization program shall be postponed for one property year such that the scheduled reassessment for December 31, 2023 with implementation in 2024 shall be postponed so that reassessment will occur as of December 31, 2023, with implementation in 2025.

IT IS SO ORDAINED this _____ day of _____, 2023, by the Newberry County Council in meeting duly assembled at Newberry County

NEWBERRY COUNTY COUNCIL

(SEAL)

By: _____
Todd Johnson, Chairman

Attest:

Susan Fellers, Clerk to Council

1st reading: _____
2nd reading: _____
Public Hearing: _____
3rd reading: _____

Reviewed and approved as to form:

Attorney

Jeff Shacker, County Administrator